

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

SHIRLEY ANDERSON, Executor of
the Estate of LESTER ANDERSON,
et al.,

Plaintiffs,

vs.

THE BFGOODRICH COMPANY, et al.,

Defendants.

Discovery deposition of RICH KOZERSKI,
called as a witness herein, pursuant to the applicable
provisions of the Code of Civil Procedure of the State
of Illinois and the rules of the Supreme Court thereof
taken before Lori Doman Didrickson, CSR No. 84-2456,
CSR, on 11-20-01, at 2:00 p.m. at 1945 Ohio Street,
Lisle, Illinois.

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1 PRESENT:

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MR. ANTHONY ANIAS, ESQ.,
10360 Northfield Road,
Northfield, OH 44067,
(330) 467-8571,

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appeared telephonically on behalf of the
Bevin Group 7;

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VORYS, SATER, SEYMORE & PEASE, LLP, by
MR. RICHARD D. SCHUSTER, ESQ. and
MR. KURT SIEGFRIED,
52 E. Gay Street,
Columbus, OH 43215,

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appeared telephonically on behalf of
Dana Corporation;

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CHURCH, LOKER, RADCLIFFE & SILVER, P.A., by
MR. R. THOMAS RADCLIFFE, JR.,
2 North Charles Street, Suite 600,
Baltimore, MD 21201,
(410) 539-3900,

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appeared on behalf of Dana Corporation.

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WITNESS:

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RICH KOZERSKI

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EXAMINATION BY:

PG LN

MR. ANIAS

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MR. RADCLIFFE

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MR. ANIAS

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EXHIBITS:

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1 (Witness sworn.)

2 MR. RADCLIFFE: Before we begin, my name is Tom
3 Radcliffe.

4 Mr. Ania, I am here with Mr. Kozerski. I am
5 representing Dana Corporation with Mr. Schuster.

6 MR. ANIA: No problem.

7 MR. RADCLIFFE: I want to go ahead and mark as an
8 exhibit to the deposition the affidavit of
9 Mr. Koshers which was signed on the 16th of November
10 by a notary public. And it is my understanding
11 that --

12 MR. ANIA: I have a copy of that in front of me.

13 (WHEREUPON, Kozerski Deposition
14 Exhibit 1 was marked for
15 identification.)

16 MR. RADCLIFFE: It is my understanding that that's
17 why we're here. I just want to make certain we're all
18 on the same page. I know that you've been provided
19 access to a number of documents which you requested,
20 but notwithstanding those documents were produced to
21 you, Mr. Kozerski doesn't really know much about those
22 documents at all. He hasn't reviewed them. He didn't
23 participate in the selection of those documents, and
24 he's really just here to follow up or answer your

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1 questions about the affidavit.

2 I do have a copy of your November 19th, 2001
3 letter that this is a 30(b)5 deposition of the Dana
4 corporate representative. And Mr. Kozerski has
5 appeared as a corporate representative, corporate
6 witness in the past, but we don't have a deposition
7 notice that comports with the Ohio rules, as I
8 understand them, so we have not been provided the
9 opportunity to review a deposition notice and
10 designate Mr. Kozerski as a corporate witness, so I
11 don't know where that puts us under the rules. He's
12 here to answer your questions; he will do so to the
13 best of his ability, but I think it's perhaps a
14 misstatement, incorrect statement, to say that this is
15 a 30(b)5 deposition, technically speaking.

16 MR. ANIA: Okay.

17 MR. SCHUSTER: This is Rick Schuster. I wanted to
18 emphasize also that we are providing Mr. Kozerski, but
19 Pursuant to Civil Rule 30(a), plaintiff was obligated
20 to provide us with a notice of examination prior to

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21 the deposition that complied with division (b) of Rule
22 30, and division (b) sub-part (d)(5) indicates that
23 you may ask a corporation to designate someone to
24 testify with respect to reasonably -- matters that are

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1 set forth with reasonable particularity, and that has
2 not been done. However, because of the discussions
3 that had been had prior to this with my partner, Brent
4 Taggert, and Mr. Ania, we have provided the witness so
5 that he might speak to the affidavit that was filed in
6 the Cook and the Waldron cases, which are part of
7 Bevin Group 7.

8 MR. ANIA: First of all, only one of you is going
9 to be able to object during this deposition.
10 According to Ohio rules you can't have two attorneys
11 representing people and both objecting.

12 Secondly, I was not under the impression that
13 this deposition was going to be limited solely to his

14 affidavit. I had talked to Brent and we literally
15 were able to get this deposition scheduled very, very
16 late yesterday. I found Brent to be very, very
17 amenable towards that. You know, had I had known he
18 was only going to testify to things in this affidavit,
19 I certainly wouldn't be looking to go forward with
20 this.

21 If we're looking at, you know, if we're going
22 to be looking at a lot -- if I ask him any questions
23 that are not within this affidavit, am I hearing that
24 there's going to be an objection made to that?

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1 MR. RADCLIFFE: This is Tom Radcliffe. And the
2 answer is, I really don't know. I'll have to hear
3 your questions. I think that you'll find out after
4 you get into it and find out his background that
5 Mr. Kozerski has knowledge, but he's had a focused
6 career, I'll put it that way. So you can ask
7 questions, but my concern is this: I don't want -- if

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8 you had filed a 30(b)5 deposition notice with ten
9 categories, say, we might have designated Mr. Kozerski
10 for four of those categories and somebody else for the
11 others. So if you get into a topic area that I think
12 is beyond Mr. Kozerski's personal experience and
13 knowledge, I'm certain he'll say that to you, but I'm
14 also going to object to the extent that there's any
15 implication that this is a 30(b)5 deposition. I do
16 not want Mr. Kozerski to answer a question and to have
17 that question attributable to my client, the
18 corporation, if it's beyond his knowledge and
19 experience.

20 MR. ANIA: That's fair enough. So you will allow
21 him to answer anything that's within his knowledge and
22 experience.

23 MR. RADCLIFFE: Sure. I mean, we're not trying to
24 prevent you from asking questions and getting the

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1 information to which you're entitled, we're just kind
2 of caught in the middle of things in not having
3 something specific to which we can respond.

4 MR. SCHUSTER: Tony, this is Rick. I want to make
5 sure it's clear. This is the first time I've been
6 involved on a deposition like this where I've not
7 received long in advance a notice pursuant to 30(b)5
8 that sets out the particular areas in which the
9 deponent is to testify, and I think, as noted, we want
10 you to be able to ask all the questions you can.
11 However, Mr. Kozerski will not be an appropriate
12 person to talk on every area that conceivably would be
13 involved in this litigation, and we'll just have to
14 wait and see what you ask him. And Tom will be making
15 the objections on behalf of Dana.

16 MR. ANIA: I understand. That's fair enough.

17 Just so you guys know, I mean, this was
18 something that Brent and I, we've been working on, and
19 it all came together late yesterday, or certainly we
20 would have had a much more specific 30(b)5 actual
21 notice.

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22 MR. RADCLIFFE: Again, I am not trying to give you
23 a hard time or to say that you did anything wrong, I'm
24 just -- I just want this record to be clear. These

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1 depositions live on for a long time, and I want this
2 particular record to be clear about the circumstances
3 under which we're producing Mr. Kozerski. You and
4 Mr. Taggert, I understand, did work, and we are
5 producing him today, we don't have any problem with
6 that. We need to make it all clear.

7 MR. ANIA: Okay. So I can assume that if you
8 don't object to something, a question that's asked,
9 that it is within his knowledge and experience to
10 answer it.

11 MR. RADCLIFFE: I think that if I don't -- well,
12 there may be a couple reasons why I don't object to a
13 question, including that I really like what I think
14 the response is going to be, but why don't we take
15 that as the areas come up. And I don't know what

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16 you're going to ask, so you go ahead and go through
17 your questions, and if there's a problem --

18 MR. ANIA: What I don't want to get into, I don't
19 want to get into taking an hour or two-hour deposition

20 and all of a sudden it will come up that the
21 deposition can't be used at all without one objection
22 being uttered during the questioning. That's what I'm
23 afraid of.

24 MR. RADCLIFFE: Well, I certainly see why you

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1 are -- your point. I hadn't considered that. I
2 guess -- okay. I will be very vigilant in making
3 clear those areas that I think are outside of
4 Mr. Kozerski's experience and knowledge, or those
5 areas where the company, Dana, would not ask him or
6 designate him to be a witness.

7 MR. ANIA: Okay, fair enough. Then what I'll try
8 to do is I will try to -- actually I'm going to be
9 referring to his affidavit, and I just looked at the

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10 document, so, I mean, I don't even have copies of the
11 document, so we don't have to worry about that issue.

12 MR. RADCLIFFE: I can tell you that Mr. Kozerski
13 would not be the person to authenticate the documents.

14 MR. ANIA: Fair enough.

15 Okay. Any other comments anybody's got to
16 make on the record before we begin?

17 MR. SIEGFRIED: This is Kurt Siegfried. About the
18 affidavit, I don't know how that was circulated, but I
19 do not have a copy of that.

20 MR. ANIA: Okay. I can certainly, you know, I'm
21 sure we can get a copy of that to you. That's not a
22 problem.

23 MR. SIEGFRIED: Could you have your office fax me
24 a copy?

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1 MR. ANIA: What's your fax number?

2 MR. SIEGFRIED: 216 -- hang on just a second.
3 I'll get it to you afterwards, Tony.

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4 MR. ANIA: Okay. No problem.

5 Okay. Is everybody ready?

6 MR. RADCLIFFE: I think so.

7 RICH KOZERSKI,

8 called as a witness herein, having been first duly

9 sworn, was examined and testified as follows:

10 EXAMINATION

11 BY MR. ANIA:

12 Q Mr. Kozerski, can you hear me okay?

13 A. Yes, I can.

14 Q I just want to explain a little bit to you.

15 My name is Anthony Ania, and I represent numerous

16 plaintiffs in a lawsuit that's been filed in Cuyahoga

17 County in which Dana as a corporation has been named

18 as one of the defendants.

19 Now, I'm going to be asking you a series of

20 questions today, and I want to give you a few ground

21 rules. It's a little different today because we're

22 doing this by telephone. Obviously since I can't see

23 you, you can't make any gestures because I can't see

24 those and the court reporter can't take those down.

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1 You must be verbal with your answers. In other words,
2 you can't shake your head or say "uh-uh" or "uh-huh,"
3 you must say "yes" or "no."

4 If you do not understand a question that I ask
5 you, please ask me to rephrase it. I'm not here to
6 try to trick you, we just want to find out what you
7 can tell us about the information that I'm going to be
8 seeking.

9 If at any time you want to take a break and
10 confer with your counsel, let us know. I have no
11 problem with that, just so long as you've answered the
12 last question that has been posed to you.

13 Lastly, if you don't know something, please do
14 not guess. It's perfectly fine for you to tell me
15 that you don't know, because we're going to assume
16 that if you do tell us something that it is to the
17 best of your knowledge and it is within your
18 experience.

19 Do you understand those instructions?

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20 A. Yes, I do.
21 Q Okay. Can you please state your name,
22 spelling the last for the record?
23 A. My name is Rich Kozerski, K-o-z-e-r-s-k-i.
24 Q And Mr. Kozerski, what is your home address?

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1 A. 6018 Rickert Court, that's R-i-c-k-e-r-t,
2 Lisle, L-i-s-l-e, Illinois, 60532.
3 Q Your date of birth?
4 A. The 25th of November, 1949.
5 Q Are you married or single?
6 A. Married.
7 Q And how long have you been married?
8 A. For twenty-nine years and three months, I
9 believe.
10 Q Congratulations.
11 A. Thank you.
12 Q How long have you worked with Dana
13 corporation?
14 A. I started with Dana Corporation on January

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15 17th, 1972, so in a couple months it will be 30 years.
16 Q Can you give me -- just tell me a little bit
17 about -- take me through your work history from 1972
18 to present, telling me, you know, what job titles you
19 were involved in and what your duties were?

20 A. Yeah, okay. In 1972 I started with the
21 company. I started in the engineering department of
22 the Victor Division of Dana. At that time it was
23 located in a building in Chicago, Illinois. I was
24 with the division for about 14 years in various jobs

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1 within engineering, both as an engineer and as an
2 engineering manager.

3 And then in March of '86 I was transferred to
4 the frame division and located in Reading,
5 Pennsylvania. I went there as director of
6 engineering, and then became a plant manager in one of
7 their manufacturing operations about three and a half
8 years after that. In 1993, I think it was September,
9 I came back to the Victor Division in my current job.

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10 Q Just so I can get this straight, from '72 to
11 sometime in '86 you were with the Victor Division?

12 A. Yes.

13 Q And then in '86 you went to the Frame
14 Division?

15 A. Yes.

16 Q Let's start with in '72 when you were with the
17 Victor Division. Can you tell me what your job
18 duties --

19 MR. SCHUSTER: We didn't hear the end of that
20 question.

21 BY MR. ANIAS:

22 Q I'm sorry. In '72 when you first started with
23 the Victor Division, what were your job duties?

24 A. Specifically in 1972?

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1 Q Correct.

2 A. Okay. I started with the company, I think my
3 title at that time was senior draftsman, and sometime

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4 later in the year, I don't know the exact month, but
5 maybe after -- in the fall of the year I became an
6 application engineer.

7 Q Can you tell me what an application engineer
8 is?

9 A. Sure. Basically the role of the application
10 engineer is to be the technical liaison between the
11 Victor Division and its OE customers, and part of
12 being the technical liaison would be to visit
13 customers, understand what their needs were from an
14 application standpoint, and then also be responsible
15 for the product design.

16 Q So you actually did have some hands-on
17 experience in designing products?

18 A. As an application engineer, yes.

19 Q What type of products did you design as an
20 application engineer, if you can give me some
21 examples?

22 A. Gaskets for internal combustion engines for OE
23 customers.

24 Q And what is an OE customer?

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1 A. Original equipment manufacturer. That would
2 be companies such as Ford, General Motors, you know,
3 companies that are original equipment manufacturers.

4 Q And how long were you in the application
5 engineer department?

6 A. It would have been until the late '70s. I
7 don't know the exact year, but it was several years.

8 Q Now, during that time period that you were an
9 application engineer, did your duties remain the same?

10 A. Yes.

11 Q Did they change at all?

12 A. Well, the basic duties remained the same. I
13 mean, there was shifting of which customers I was
14 responsible for, but the basic duties were the same.

15 Q And were the only customers that you -- or OE
16 customers that you were dealing with were customers
17 that were utilizing gaskets for internal combustion
18 engines?

19 A. Yes, they were manufacturers of internal
20 combustion engines, yes.

21 Q Now I'm going to ask you some questions and I

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22 want to limit these to a time period so that we don't
23 all get confused here. And the time period I'm going
24 to limit this to is going to be while you were an

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1 application engineer, which I believe you told me was
2 1972 to the late '70s, roughly?

3 A. Okay.

4 Q Can you tell me what type of materials did you
5 utilize in designing and manufacturing these gaskets
6 for the internal combustion engines?

7 MR. RADCLIFFE: Do you mean raw materials?

8 MR. ANIA: Raw materials, yes.

9 A. The types of materials that were used at that
10 time frame were really dependent on the specific
11 engine requirements and the applications, so we worked
12 with several different types of materials.

13 Q Was temperature an important consideration
14 when determining what kind of material to make a
15 gasket out of during that time period?

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16 A. It was one of the parameters, yes.

17 Q Why don't you tell me what the parameters were
18 in determining what type of material to manufacture a
19 gasket out of during that time period?

20 A. I can list some of them. The load factor of
21 the clamping force, the surface finish of the mating
22 surfaces, the internal pressure of the, you know, the
23 media you're trying to seal, the specific media you're
24 trying to seal, whether that was lubricant or coolant.

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1 Q Was asbestos utilized in manufacturing these
2 gaskets during that time period?

3 A. Well, we used materials, some of which
4 contained asbestos and some of which did not contain
5 asbestos.

6 Q Okay. Which material did you use, to your
7 knowledge, that contained asbestos?

8 A. They would have been beater addition-type
9 materials that we would purchase from suppliers.

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10 Q I'm sorry, I didn't hear the first part of
11 your answer. You said some --

12 A. They would have been beater addition-type
13 materials that we would have purchased from our
14 suppliers.

15 Q And do you recall any of the suppliers that
16 you purchased these materials from?

17 A. Not all of them. I know Armstrong was one of
18 them.

19 Q Armstrong Quartz Company?

20 A. I tell you, the companies' names have changed
21 over time. I don't know really what exactly was the
22 correct name in the time frame we're talking.

23 Q Okay. Any other suppliers that you recall?

24 A. Maybe Hollingsworth and Bose Company.

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1 Q Okay. Any others?

2 A. Not that I recall. Those were probably the
3 largest.

4 Q Okay. And, again, the questions I'm going to

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5 be asking you still are going to be limited to that
6 time period while you were an application engineer
7 from 1972 to 1979.

8 Can you tell me, have you ever heard of a
9 material called Corbestos?

10 A. Could I stop and ask a question about your
11 question?

12 Q If you don't understand the question,
13 certainly.

14 A. Yeah. You said something about 1979. I don't
15 think I said '79.

16 Q I am sorry, to the late '70s.

17 A. Okay. Sorry. Could you repeat the question,
18 then?

19 Q Okay. Again, until I tell you differently,
20 the questions that I'm going to be asking you are
21 going to be from the time that are relating to the
22 time that you were an application engineer, okay?

23 A. Um-hum, yes.

24 Q During that time period had you ever heard of

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1 a material called Corbestos?

2 A. Yes.

3 Q Can you tell me what Corbestos is and what it
4 was used for?

5 A. Corbestos, the construction of Corbestos is
6 basically a millboard material that was used in
7 conjunction with a metal perforated core, and
8 typically Corbestos was used for exhaust applications.

9 Q Exhaust applications in --

10 A. In engines.

11 Q In internal combustion engines?

12 MR. RADCLIFFE: You got to wait until he finishes.

13 Go ahead.

14 A. Yes.

15 MR. ANIA:

16 Q Okay. And you said it was a millboard, I
17 believe?

18 A. Yes.

19 Q Was that manufactured by Victor, that
20 millboard?

21 A. To my knowledge, I think at that time frame we
22 purchased that material.

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23 Q Okay. Do you know who it would have been
24 purchased from?

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1 A. No.

2 Q Was there any time in your knowledge that
3 Victor or Dana manufactured their own millboard,
4 Corbestos millboard?

5 MR. RADCLIFFE: Well, we've gone from the time he
6 was an application engineer to any time?

7 MR. ANIA: Any time.

8 MR. RADCLIFFE: And you're saying Victor, I
9 guess -- this is a time where I'm saying we're
10 potentially outside of Mr. Kozerski's experience. We
11 need to limit it to his experience.

12 MR. ANIA: Okay.

13 Q Let's handle this question this way: I'm
14 going to switch gears and I want to go to your
15 affidavit. Do you have your affidavit in front of
16 you, sir?

17 A. Yes.

18 Q Okay. And can you read to me paragraph 2 of
19 your affidavit?

20 A. "I am currently employed by Dana Corporation
21 as the Director of Engineering and Technology" --

22 MR. RADCLIFFE: Slow down.

23 A. "-- "Victor Reinz Division. I have personal
24 knowledge or have acquired knowledge during the years

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1 that I have served in my positions with Dana
2 Corporation regarding the history of products
3 manufactured and sold by Dana's Victor Products
4 Division as well as the Victor Manufacturing and
5 Gasket Company."

6 Q Okay. So is that a truthful statement?

7 A. Yes.

8 Q So do you have knowledge of products that were

9 manufactured and sold by Dana's Victor Products
10 Division as well as Victor Manufacturing and Gasket
11 Company; correct?

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12 A. Yes.

13 Q Okay. Let me ask you the question again. To
14 the best of your knowledge, has Dana Corporation,
15 Victor Products Division, or Victor Manufacturing and
16 Gasket Company ever manufactured an asbestos
17 millboard? An asbestos-containing millboard?

18 MR. RADCLIFFE: I need you to break that down into
19 two questions.

20 MR. ANIA: Okay.

21 MR. RADCLIFFE: And the distinction I would like
22 you to draw is that Dana Victor Reinz is not the same
23 as the Victor Manufacturing and Gasket Company.

24 MR. ANIA: Okay.

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1 Q Well, let's start first with Dana Victor
2 Reinz.

3 To the best of your knowledge, did Dana Victor
4 Reinz Division ever manufacture a product or an
5 asbestos-containing millboard, to your knowledge?

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6 A. I think I have to explain. On the Victor
7 Reinz name, that name has only been used for the last
8 maybe two years.

9 MR. RADCLIFFE: But what we will do is we'll agree
10 that when we say Victor Reinz, we're meaning Victor
11 Division of Dana.

12 THE WITNESS: Okay.

13 MR. ANIA: That's fine.

14 MR. RADCLIFFE: Can you answer that question?

15 THE WITNESS: Could you repeat it? Sorry.

16 MR. ANIA: Okay, guys. We've all agreed now that
17 when we refer to the Victor Division of Dana, that
18 includes Victor Reinz; correct?

19 MR. RADCLIFFE: Yes.

20 MR. ANIA: Okay.

21 Q Again, to the best of your knowledge, at any
22 time did the Victor Products Division, or Dana's
23 Victor Products Division ever manufacture an
24 asbestos-containing millboard?

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1 A. I don't know.

2 Q You do not know?

3 A. I do not know.

4 Q Do you know of anybody who would be able to
5 answer that question?

6 A. Yes.

7 Q Who is that person?

8 A. John Damusis.

9 Q Can you spell his last name, please?

10 A. Yes. D-a-m-u-s-i-s.

11 Q And what position is he, or what position does
12 he have with the company?

13 A. Currently?

14 Q Yes.

15 A. He is the director of engineering and support
16 services.

17 Q Okay, thank you.

18 Now I want to go forward from when you were an
19 application engineer. You said that sometime in the
20 late '70s you left that job; correct?

21 A. Yes.

22 Q And then you went to, I believe -- where did
23 you go next after that?

24 A. From an application engineer I became a

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1 manager in the development department.

2 Q What did your job duties include in the
3 development department?

4 A. I was responsible for the operation of the
5 engine dynamometer cells.

6 Q Can you break that down into English for me,
7 what the engine dynamometer cells were?

8 A. Yes. A dynamometer cell is basically a cell
9 that's used to set up the testing of internal
10 combustion engines driven by an engine dynamometer.

11 Q Okay. Did you have anything to do with
12 developing or testing gaskets or gasket material at
13 that time?

14 MR. RADCLIFFE: Object to the form.

15 Go ahead and answer.

16 A. Well, yes. As part of the, you know, the
17 operation of the engine test cells we were testing our

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18 products in those engine tests.

19 BY MR. ANIA:

20 Q And how long were you in that particular job?

21 A. That was a fairly short tenure. Maybe about a
22 year. No more than a year.

23 Q Okay. And where did you go -- what job did
24 you then go to after that?

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1 A. Then I became the manager of the application
2 engineering department.

3 Q And can you tell me a little bit about what
4 your duties were as the manager of the application
5 department?

6 A. Basically to manage the application engineers
7 that we already kind of went over what their
8 responsibilities are.

9 Q Did you have anything to do at that time with
10 developing new products or testing existing products?

11 A. Not directly.

12 Q Was it more of a supervisory position, then?

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13 A. Well, okay, the application engineer, as we
14 spoke before, really was responsible for the design of
15 the products, not developing new products or testing
16 products.

17 Q Okay. Who would have been -- to your
18 knowledge, first, who would have or what job
19 description would have designed new products? Or
20 department, I guess.

21 A. Could you give me your definition of a new
22 product?

23 Q Certainly. When you went -- designing new
24 types of gasket material.

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1 A. At that time I believe the department that
2 would have done that would have been the materials
3 engineering department.

4 Q Okay. Now, how long were you the supervisor
5 of the application engineers?

6 A. I would say from maybe 19 -- early '80s, I

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7 don't know the exact year, early '80s until the time I
8 left the division.

9 Q Okay. And then you went -- is that when you
10 went to the Frame Division?

11 A. Yes.

12 Q What was the Frame Division, what did you do
13 there?

14 A. I went to the Frame Division as director of
15 engineering.

16 Q And can you tell me exactly what the Frame
17 Division did?

18 A. The Frame Division designed and manufactured
19 frames for cars and trucks, and they also provide --
20 designed and manufactured heat-treated side rails for
21 Class 8 trucks.

22 Q And I believe you told me that you were there
23 until approximately 1993?

24 A. Yes.

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1 Q And then in 1993 you went back to the Victor

2 Division?

3 A. Yes.

4 Q And what did you do when you went back in
5 1993?

6 A. In my current job.

7 Q Okay. Now, I would like to ask you some
8 questions that are going to be specifically pointed
9 towards the corporate history of Victor -- the Victor
10 Products Division.

11 Can you tell me -- and, again, this is to your
12 own personal knowledge, can you tell me when Victor
13 became part of Dana Corporation?

14 MR. RADCLIFFE: That's an area that's outside of
15 Mr. Kozerski's own personal knowledge and experience.

16 MR. ANIA: I'm sorry, I didn't hear that.

17 MR. RADCLIFFE: I said that's an area that is
18 outside of Mr. Kozerski's own personal knowledge and
19 experience.

20 MR. ANIA: Okay.

21 Q Mr. Kozerski, on paragraph 4 of your affidavit
22 it says, "Since its creation in 1967 until 1988,
23 Dana's Victor Products Division manufactured many
24 gaskets," and then the paragraph goes on.

1 Can you tell me what you meant by saying,
2 "since its creation in 1967?"

3 A. I believe that was the time frame that Dana
4 acquired or somehow -- there was some sort of merger
5 with -- between the Victor Company and Dana
6 Corporation, and I'm not sure if it took the form of
7 an acquisition or not.

8 Q So sometime in '67, according to your
9 affidavit --

10 A. Um-hum.

11 MR. RADCLIFFE: Wait for a question.

12 BY MR. ANIA: ..

13 Q -- Victor Corporation became part of Dana
14 somehow?

15 MR. RADCLIFFE: Well, again, this is an area that
16 is outside of Mr. Kozerski's experience and knowledge.

17 It says since its creation in '67, and it's talking
18 about Dana's Victor Products Division. It's not

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19 talking about anything else. The affidavit is very
20 specific about the creation of the Victor Products
21 Division in '67. It doesn't say anything about how it
22 was formed, created, acquired, or whatever. And I'll
23 note that, as Mr. Kozerski has already stated, he
24 didn't start with Dana's Victor Division until 1972.

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1 BY MR. ANIA:

2 Q Okay. Mr. Kozerski, did you draft this
3 affidavit?

4 A. No.

5 Q Who drafted this affidavit?

6 A. I really don't know.

7 Q How did you -- who gave you the affidavit to
8 review?

9 A. Janet Hales.

10 Q I'm sorry, I didn't hear that.

11 A. Janet Hales.

12 Q And who does Janet Hales work with?

13 A. She works for a law firm named Cooper &

blevin7

14 Wolinski.

15 Q And how long ago were you given this
16 affidavit?

17 A. I believe it was last week Thursday, the 15th.
18 I don't have a calendar in front of me, but I think it
19 was the 15th.

20 Q Did you review all of the material or all of
21 the allegations on this affidavit prior to signing it?

22 A. Yes.

23 Q Do you know how this -- the information was
24 compiled for this affidavit?

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1 A. I don't understand what you mean.

2 Q Did you sit down with anybody to compile and
3 answer questions to compile this affidavit?

4 A. I reviewed the contents, if that's what you
5 meant.

6 Q When was the first time that you became aware
7 of the fact that it was going to be necessary for you

blevin7

8 to sign an affidavit in this case?

9 A. Sometime last week.

10 Q Was it before the affidavit was provided to
11 you or after?

12 That's a bad question, I'm sorry.

13 Was it before the affidavit was actually
14 provided to you for review that you became aware of
15 the fact that you were going to be asked to sign an
16 affidavit?

17 A. No, I think I was told that there would be an
18 affidavit needed before there was, you know, the
19 document you see in front of you.

20 Q When you were first given the affidavit to
21 review did you make any changes to it, or did you
22 execute it --

23 MR. RADCLIFFE: Is this the first document you
24 were given, or were you given --

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1 A. No, there was a change. This is -- yes, there

blevin7
2 was a change from a review of it.

3 BY MR. ANIA:

4 Q Can you tell me what you changed?

5 A. I believe it was paragraph 5.

6 Q Okay. And what did you change in paragraph 5?

7 A. I think the first phrase in paragraph 5 was
8 added.

9 Q Prior to reviewing and signing this affidavit
10 did you meet with anybody to discuss the drafting of
11 this affidavit?

12 A. Well, I had phone conversations. I didn't
13 meet face-to-face.

14 Q And who did you have these phone conversations
15 with?

16 A. Janet Hales.

17 Q The same person that presented the affidavit
18 to you?

19 A. Yes.

20 Q And one thing I want to make very certain is,
21 and I'm sure your counsel would let you know, is I'm
22 not going to ask any questions that I don't want to
23 know anything about what you discussed with her, just
24 so we have that straight.

1 I want to go back to paragraph 4, because this
2 isn't as clear to me as perhaps it is to counsel.

3 "Since its creation in 1967," that is
4 referring to Dana Victor Products Division?

5 A. Yes.

6 Q And can you tell me what Dana Victor Products
7 Division manufactured in 1967?

8 A. I think the main product, main business were
9 gaskets for internal combustion engines.

10 Q Did they manufacture any type of gasket, and,
11 again, let's stick with 1967. Did they mention any
12 type of gaskets for pumps or tubing or anything like
13 that?

14 MR. RADCLIFFE: I object to the form of your
15 question. I think you need to be more specific about
16 what kind of pumps, what do you mean by tubing.

17 MR. ANIA: Okay.

18 MR. RADCLIFFE: There are pumps on an internal
19 combustion engine.

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20 BY MR. ANIA:

21 Q Besides gaskets for internal combustion
22 engines, based on your knowledge, what other types of
23 gaskets -- what other industries did Victor Products,
24 or Dana's Victor Products Division manufacture gaskets

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1 for?

2 A. Based on my personal experience, I was really
3 only involved with the gaskets for internal combustion
4 engines.

5 Q Now, are you aware of the fact -- are you
6 telling me that you're not aware of any other
7 applications, or that they only manufactured gaskets
8 for internal combustion engines?

9 A. What I said was based on my knowledge and
10 experience, my area that I was working in was working
11 in gaskets for internal combustion engines.

12 Q I understand. Is there anybody else that you
13 know that would be able to tell us if there were any

blevin7
14 other types of gaskets besides those used in internal
15 combustion engines that were manufactured by Dana's
16 Victor Products Division?

17 A. I can't think of anybody right now.

18 Q If you do think of somebody, would you be
19 able -- would you be kind enough to give that to your
20 counsel so they could provide that to me?

21 A. Yes.

22 MR. RADCLIFFE: And just so the record is clear,
23 Mr. Kozerski, to the extent that this is a 30(b)5
24 deposition, I represent the corporation and he's a

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1 witness on behalf of the corporation, but he knows and
2 is aware that I am not his personal counsel.

3 MR. ANIA: Understood.

4 Q Okay. So would it be fair to say,
5 Mr. Kozerski, that your area of expertise and your
6 area of knowledge as to the products that Dana's
7 Victor Products Division manufactured lies solely with

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8 gaskets used in internal combustion engines?

9 A. I would say it lies very much primarily with
10 that, yes.

11 Q Okay. What other areas do you have knowledge
12 in of products manufactured by Dana's Victor Products
13 Division besides gaskets for internal combustion
14 engines?

15 A. Another product line that we had were molded
16 rubber oil seals.

17 Q Did those molded rubber oil seals contain any
18 form of asbestos?

19 A. No.

20 Q So the only two areas that you have personal
21 knowledge in pertaining to products manufactured by
22 Dana's Victor Products Division would that be the
23 internal combustion gaskets and also these molded
24 rubber oil gaskets?

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1 A. Oil seal gaskets, yes.

2 Q Oil seal gaskets?

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3 A. They are not oil seal gaskets, oil seals.

4 Q Oil seals, I'm sorry.

5 A. So am I.

6 Q Are those the only two products?

7 A. Yes.

8 Q Do you know if there were any other products
9 besides those two that Dana's Victor Products Division
10 manufactured?

11 A. I do have knowledge, but that we sold
12 materials on the outside.

13 Q What type of materials did you sell that you
14 have knowledge of?

15 A. Various types. Beater addition materials,
16 cork rubber materials.

17 MR. RADCLIFFE: Gaskets, right?

18 THE WITNESS: Gasket materials, yes.

19 BY MR. ANIA:

20 Q Now, I want to talk a little bit about
21 internal combustion engine gaskets, okay?

22 A. Yes.

23 Q Can you tell me when you first started with
24 working in the -- excuse me.

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1 In the Dana Victor Products Division, can you
2 tell me approximately how many different types of
3 internal combustion gaskets they manufactured?

4 A. I really don't understand the nature of the
5 question, what you mean by that.

6 Q Okay, let me rephrase it, then. Let's start
7 with -- do you have any knowledge of the products that

8 were -- the gaskets that were manufactured in the
9 1950's by Victor gasket?

10 MR. RADCLIFFE: By Victor Manufacturing and Gasket

11 Company?

12 MR. ANIA: Yes.

13 A. Not a very good one.

14 Q Not a very good one?

15 A. No. Not back to the '50s.

16 Q Okay. What about in the '60s?

17 A. Well, that would be, you know, the '50s and
18 the '60s, I would have some sketchy knowledge of maybe

19 being aware of some of the type of parts they would

blevin7
20 make, but not firsthand experience.

21 Q Okay. Can you tell me do you know anybody who
22 would have knowledge in the '50s and '60s?

23 A. I don't think there's anybody left that was
24 working in the '50s.

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1 Q Okay. What about the '60s?

2 A. Maybe toward the tail end there might be a
3 couple guys left.

4 Q Do you know any names that you can give me?

5 A. John Damusis.

6 Q Okay. Now, when would you say that you can
7 confidently say that you have good personal knowledge
8 pertaining to the internal combustion gaskets
9 manufactured by either Victor Products or Dana
10 Division of Victor Products?

11 A. From 1972 to 1986, and from 1993 to the
12 present.

13 Q Okay. 1972 to 1986?

14 A. Um-hum, yes.

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15 Q Okay. Let's take that period of time first.
16 Starting in 1972, can you tell me was asbestos
17 utilized in the manufacture of any internal combustion
18 engine gaskets?
19 A. Well, when you say "any," let's limit that to
20 the ones produced by the Victor Division of Dana.
21 Q Correct.
22 A. Okay. I would say during that time frame the
23 gaskets we made, some gaskets contained asbestos and
24 some didn't.

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1 Q Okay. Can you tell me why it is that some
2 would contain asbestos and some did not?
3 A. I'm not really sure of the background of why
4 some did and why others did not contain asbestos,
5 other than the fact that the requirements of the
6 applications in which different materials are used are
7 different.

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8 Q Can you give me based on your engineering
9 knowledge and your own personal knowledge that you've
10 obtained over the years, can you tell me what
11 application would come to mind, again, the period of
12 1972 to 1986, where an asbestos gasket would be the
13 preferred type of gasket to be used?

14 MR. RADCLIFFE: Object to the form of the
15 question.

16 A. Yeah. I don't think that there ever was any
17 kind of preferred design for any of the applications
18 we had, you know. Every part we made for our
19 customers, designed and made for our customers at that
20 point were all highly engineered for that specific
21 application so we didn't have any materials that were
22 really used across the board.

23 Q Well, based on your knowledge, what made
24 asbestos a material that was useful to make gaskets

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1 out of?

2 A. Well, we didn't really make gaskets out of

3 asbestos. We made gaskets out of materials that
4 contained asbestos.

5 Q Okay. Well, same question. Why were -- why
6 did you utilize materials that contained asbestos in
7 manufacturing gaskets, what was the reason for that?

8 A. Temperature resistance, crush extrusion
9 properties, and tensile strength.

10 Q Let's talk about that first. When you say
11 temperature, how high -- during the period, the decade
12 of the 1970s, were the asbestos-containing materials
13 the highest temperature rated?

14 A. I'm trying to think for a second. You know,
15 we had embossed steel designs that may have had higher
16 temperature resistance. I just can't remember at this
17 point.

18 Q Okay. If I gave you like maybe some trade
19 names or names of some products, would that perhaps
20 help you?

21 MR. RADCLIFFE: Help what?

22 MR. ANIA: The products that were manufactured by
23 Dana's Victor Division.

24 A. But I don't understand, help me with what?

1 Would that be to rank temperature resistance?

2 Q Correct, yes.

3 A. I don't know.

4 Q Okay. Well, I'm going to give you a few names

5 of some products, and tell me if you recognize the

6 product and tell me if it's an asbestos-containing

7 product or if it's not an asbestos-containing product.

8 Victopac. And if you need me to spell it --

9 A. I am familiar with the name.

10 MADAM REPORTER: I need you to spell it.

11 THE WITNESS: V-i-c-t-o-p-a-c.

12 MR. RADCLIFFE: I think we need to define some
13 time frame to determine whether or not it contained
14 asbestos.

15 MR. ANIA: Let's start with -- well, let me ask
16 you this question before you answer.

17 Did Victopac in 1972 contain asbestos?

18 A. Yes.

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19 Q Okay. Do you have knowledge as to when, if
20 ever, Victopac stopped containing asbestos?

21 A. I believe it was in the mid to late '80s when
22 it was changed to a non-asbestos material.

23 Q Do you remember what material replaced
24 asbestos in the mid to late '80s in that product?

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1 A. In that product I believe it was an Aramid
2 fiber.

3 Q Now, I wrote down several Victopacs. There's
4 Victopac 1, Victopac 14, Victopac 60, Victopac 65 and
5 Victopac 70. Would all of those contained asbestos up
6 until the mid to late '80s?

7 A. Yes.

8 Q Can you tell me those numbers that I gave you
9 afterwards, like, for example, Victopac 1, what do
10 those numbers after Victopac, what does that signify?

11 A. All the materials that you went through were
12 basically, you know, members of a family of materials,

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13 and the specific material designations had to do with
14 specific formulas for different properties for
15 different applications.

16 Q Okay. Now, the Victopac, do you know what its
17 temperature range was, that material?

18 A. I believe it would have been in the 3 to
19 400-degree Fahrenheit range.

20 Q Now, another product, and if I'm pronouncing
21 this wrong, please correct me, Asbestoprene 33, have
22 you ever heard of that product?

23 A. Yes.

24 Q Now, again, in 1972 did that contain asbestos?

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1 A. Excuse me. I need to spell Asbestoprene for
2 the reporter.

3 Q I am sorry.

4 A. A-s-b-e-s-t-o-p-r-e-n-e.

5 Okay, I am sorry, could you ask the question
6 again?

7 Q In 1972 did that contain asbestos?

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8 A. Yes.

9 Q And same question I asked you before, did that
10 continue to contain asbestos until the mid to late
11 '80s?

12 A. Yes.

13 Q And what was that particular product, was that
14 another gasket material?

15 A. Yes.

16 Q And do you remember what the temperature
17 rating on that was?

18 A. In the same range as the Victopac family.

19 Q Okay. Now, the next product I would like to
20 ask you about is Asbestopac, which is
21 A-s-b-e-s-t-o-p-a-c.

22 Again, in 1972, did that contain asbestos?

23 A. Yes.

24 Q And, again, did that continue to contain

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1 asbestos until the mid to late '80s?

2 A. Yes.

3 Q The next product that I would like to ask you
4 about, I believe it's Victolex. The spelling is
5 V-i-c-t-o-l-e-x.

6 Are you familiar with that product?

7 A. Yes.

8 Q Okay. Did that product in 1972 contain
9 asbestos?

10 A. No.

11 Q What did that product -- what was its
12 composition?

13 A. I believe that was a combination of a rubber
14 binder -- I am sorry, a rubber, some binders, and
15 cellulose fibers.

16 Q And the information I have indicates that that
17 was a much lower temperature, around 250 degrees; is
18 that correct?

19 A. It would have been a lower temperature than
20 the other materials we have been talking about, yes.

21 Q And how long was the Victolex, to your
22 personal knowledge, how long was that manufactured?
23 Or is it still manufactured today?

24 A. I don't believe we ever manufactured -- we

1 didn't manufacture the material, we manufactured
2 gaskets that were made from the material.

3 Q Okay. How long were gaskets made from the
4 material manufactured, to your knowledge?

5 A. During the time frame from '72 to '86?

6 Q Yes.

7 A. Probably throughout that time frame.

8 Q Okay. Did there ever come a time when they
9 discontinued, to your knowledge, manufacturing gaskets
10 out of that material?

11 A. I don't know of any current -- any new current
12 business that we have with that material, but that
13 doesn't mean that we don't have some that are, you
14 know, some old jobs that are still in production.

15 Q Okay. Now, do you have any knowledge about
16 brake lining and shim stock?

17 A. No.

18 Q None at all?

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19 A. None.

20 Q Okay. Do you have any knowledge about a
21 product called Corbestos?

22 A. Yes.

23 Q Can you tell me what Corbestos is?

24 A. Corbestos was a material that we used in the

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1 production of exhaust gaskets.

2 Q Did that in 1972 contain asbestos?

3 A. Yes.

4 Q And, again, did that continue to contain
5 asbestos until the mid to late '80s --

6 A. Yes.

7 Q -- to your knowledge?

8 A. Yes.

9 Q The next thing that I would like to ask you
10 about is do you have any knowledge as to whether or
11 not -- and, again, this is during your entire tenure
12 with Dana and the Victor Division, do you have any
13 knowledge whether or not Victor Company while it was a

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14 part of Dana manufactured an asbestos millboard for
15 making gaskets?

16 A. Could you repeat it? You talked about the
17 Victor Company there.

18 Q Okay. This would have been -- and when I say
19 Victor Company, just so that we don't have any
20 misunderstanding, I understand that you don't have any
21 knowledge pertaining to the Victor Company when it was
22 a separate entity from Dana; correct?

23 A. No personal knowledge.

24 Q Okay. So if I say Victor Company, let's just

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1 from now on, what I mean is while it was part of Dana
2 and while you had personal knowledge, so --

3 MR. RADCLIFFE: Can we just call that the Victor
4 Division? You've been doing a very good job so far of
5 calling it the Victor Division. I think that makes it
6 clearer.

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7 MR. ANIA: Certainly.

8 MR. RADCLIFFE: There really is no Victor Company
9 after 1967.

10 MR. ANIA: Okay.

11 Q The Victor Division. Do you have any personal
12 knowledge whether or not the Victor Division
13 manufactured an asbestos millboard sheet that could be
14 utilized by companies to cut gaskets to their own
15 specifications?

16 A. I just don't remember.

17 Q Do you know of anybody who might be able to
18 provide me with that information?

19 A. John Damusis.

20 Q Do you know if the Victor Division ever
21 manufactured or sold any asbestos report or pump
22 packing?

23 A. I really wasn't involved in that part of the
24 business.

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1 Q Fair enough.

2 Now, getting back to your affidavit, you
3 stated that it looks like -- paragraph 5, and I want
4 to read this to you, it says, "Based upon a review of
5 available engineering specifications and formula
6 cards, prior to Dana Corporation's purchase of its
7 stock, Victor Manufacturing and Gasket Company during
8 the 1950s and 1960s manufactured many gasket products,
9 some of which did not contain asbestos, some of which
10 did contain asbestos."

11 Is that a correct statement of paragraph 5 of
12 your affidavit?

13 A. Yes.

14 Q Now, I want to ask you a couple questions on
15 that. Did you review these engineering specifications
16 and formula cards?

17 MR. RADCLIFFE: Object to the form.

18 Go ahead.

19 A. I guess this is based on general knowledge
20 over the years, you know, when the situations would
21 arise for me to go back to the records to check
22 something, I haven't sat down to review them
23 specifically just to review them, but over the years

24 of just being in the business I have come across them.

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1 Q So you did not specifically sit down and
2 review the specifications and formula cards for the
3 purpose of preparing this particular affidavit, which
4 is dated November 16th, 2001?

5 A. No, I didn't.

6 Q Now, paragraph 5 also states, seems to state
7 that you had knowledge of products that were
8 manufactured by Victor Manufacturing and Gasket
9 Company during the 1950s and '60s. Is that correct?

10 MR. RADCLIFFE: It doesn't say that at all. You
11 read verbatim what paragraph 5 says. It doesn't
12 say -- paragraph 5 does not say that Mr. Kozerski has
13 knowledge about the products.

14 Well, let me do it this way. Can you restate
15 that?

16 BY MR. ANIA:

17 Q Mr. Kozerski, could you please read paragraph
18 5 to me?

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19 A. "Based on a review of available engineering
20 specifications and formula cards, prior to Dana
21 Corporation's purchase of its stock, Victor
22 Manufacturing and Gasket Company during the 1950s and
23 '60s manufactured many gasket products, some of which
24 did not contain asbestos, some of which did contain

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1 asbestos."

2 BY MR. ANIA:

3 Q Okay. Now, I believe earlier in this
4 deposition I asked you how Dana -- or how Victor
5 Manufacturing became part of Dana Corporation. Do you
6 remember that question?

7 A. Not specifically that question.

8 Q Paragraph 5 indicates that you do in fact know
9 that at some time Dana Corporation purchased Victor
10 Manufacturing and Gasket Company's stock; correct?

11 A. I believe that's paragraph 4.

12 MR. RADCLIFFE: Right here he's talking about

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13 (indicating).

14 MR. ANIA: Paragraph 5.

15 A. Well, I do know that prior to me starting with
16 the company that Victor Manufacturing was a separate
17 company that through a merger or acquisition of some
18 sort became part of Dana Corporation. Yes, I know
19 that. Is that what you meant?

20 Q That's what I was asking.

21 A. Okay.

22 Q Okay. Now, again referring to paragraph 5, it
23 talks about the 1950s and '60s that Victor
24 Manufacturing and Gasket Company manufactured many

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1 gasket products, some of which did not contain
2 asbestos, some of which did contain asbestos; correct?

3 A. Yes.

4 Q Where are the documents that you reviewed that
5 pertain to the products manufactured by Victor

blevin7
6 Manufacturing and Gasket Company during the 1950s and
7 '60s?

8 A. Where were they then, or where are they now?

9 Q Well, where are they now, is what I would like
10 to know.

11 A. The documents that are referred to in
12 paragraph 5 are located in our technical center in
13 Lisle, Illinois.

14 Q When was the last time that you would have
15 looked at those?

16 A. Probably not until -- not since, you know,
17 this time period from '72 to '86.

18 Q So you haven't looked at those documents since
19 1986?

20 A. Not the specific documents saying, you know,
21 that refer back to the '50s and '60s.

22 Q What I'm referring to, and I want to be very
23 clear about it, is I'm referring to the document that
24 you make reference to in paragraph 5 of your

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1 affidavit. When was the last time that you would have
2 physically reviewed and looked at those documents?

3 A. Probably not since the time frame from '72 to
4 '86.

5 Q Okay. So about 15 years ago would have been
6 the earliest that you would have looked at those
7 documents, or physically reviewed those documents?

8 MR. RADCLIFFE: Object to the form. You mean the
9 most recent he would have looked?

10 MR. ANIA: Recent time.

11 A. Yes.

12 Q So paragraph 5 of your affidavit is based upon
13 a memory that is 15 years old?

14 A. Yes, but if you look at -- look to the point
15 of No. 5, all it says is that through, you know, the
16 general knowledge and general review of these
17 documents over that time that that's where I learned
18 that some of the products --

19 Q I don't mean to interrupt you, but I don't see
20 "general review" or "general knowledge," I see, "Based
21 on a review of available engineering specifications

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22 and formula cards prior to Dana Corporation's purchase
23 of stock, Victor Manufacturing and Gasket Company
24 during the 1950s and 1960s manufactured many gasket

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1 products, some of which did not contain asbestos, some
2 of which did contain asbestos." Correct?

3 A. Yes.

4 Q And you said that this was actually a
5 paragraph that you made a change to?

6 A. Um-hum, yes.

7 Q Correct?

8 A. Yes.

9 Q And there's nowhere in that paragraph that
10 says anything about general knowledge, is there?

11 A. No.

12 Q So I am correct in saying that paragraph 5 is
13 based on information that you would have physically
14 reviewed most recently 15 years ago?

15 A. Yes.

blevin7

16 Q Can you tell me how many products in the 1950s
17 were asbestos containing that were manufactured by the
18 Victor Gasket Company?

19 A. I could not quantify that.

20 Q Can you tell me how many were not asbestos
21 containing?

22 A. Couldn't quantify that, either.

23 Q Could you tell me if there were more
24 asbestos-containing products than non-asbestos-

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1 containing products produced by Victor Manufacturing
2 and Gasket Company during the 1950s and 1960s?

3 A. That would just be speculation, and I just
4 can't do that, no.

5 Q So all you're saying by paragraph 5 is there
6 was at least one product that was not asbestos
7 produced during the 1950s and '60s?

8 MR. RADCLIFFE: I object to the form. It says
9 "some," not "one."

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10 BY MR. ANIA:

11 Q How many is some?

12 A. Several.

13 Q What is several? Name some for me.

14 A. There was a family of cork-rubber materials.
15 There was a family of cylinder head gaskets that were
16 embossed steel with a sealing coating on them. There
17 were several soft gasket materials that were not
18 asbestos containing.

19 Q Those --

20 A. There were -- excuse me.

21 Q Go ahead, I don't want to interrupt you.

22 A. There were the family of oil seals that did
23 not contain asbestos.

24 Q Okay. And I'm not interested in oil. As far

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1 as I understand, the oil seals never contained
2 asbestos; correct? To your knowledge?

3 A. To my knowledge, that's correct.

4 Q So I'm not interested in oil seals. We're

blevin7
5 going to deal strictly with gaskets.

6 Let's talk a little bit about some of those
7 products that you just stated. I believe first you
8 said the cork products in the '50s and '60s; correct?

9 A. More correctly, cork-rubber.

10 Q Would the cork-rubber products in the '50s and
11 '60s, would they have had a higher temperature
12 tolerance than the asbestos-containing products?

13 A. No.

14 Q What are the other products that you had
15 mentioned in the '50s and '60s that were non-asbestos
16 containing?

17 A. Embossed steel.

18 Q Okay. Would the -- what is the embossed
19 steel?

20 A. Embossed steel was basically a thin sheet of
21 either carbon steel or stainless steel with, just as
22 it states, with embossments on it that would provide a
23 load distribution pattern to concentrate forces where
24 you needed to seal combustion, oil, and coolant.

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1 Q Now, would that have had a higher or equal
2 temperature rating to the asbestos products?

3 A. I would say it would have been a lot closer.
4 I just can't recall right now what the temperature
5 ratings would have been.

6 Q Okay, fair enough.

7 Would you agree with this statement; that is,
8 asbestos is excellent -- had excellent conformability
9 and heat resistance?

10 A. No.

11 Q Why would you not agree with that?

12 A. I would agree from the standpoint of heat
13 resistance, but not conformability.

14 Q Have you ever reviewed the documents that
15 Victor Gasket or Victor Division put out regarding
16 their gaskets, their engineering reference manuals?

17 A. I don't know which specific ones you're
18 talking about. I have reviewed manuals over the
19 years.

20 Q Have you ever had anything to do with writing
21 those manuals or making changes to them?

22 A. No.

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23 Q To your knowledge, when did the Victor
24 Division discontinue using any asbestos in their

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1 product line?

2 A. As I said before, I believe that was the
3 middle to the late '80s, but I was not part of the
4 division at the time.

5 Q Okay. And, again, so we're fair to you, you
6 can only tell me about the internal combustion gasket
7 and nothing else; correct?

8 A. Yes.

9 Q Can you tell me if there was ever, to your
10 knowledge, any warning placed on the packaging of the
11 internal combustion gasket that contained asbestos?

12 A. I was aware that warnings were placed on some
13 of the products.

14 Q Can you tell me when you first became aware of
15 the fact that those warnings were placed on the
16 products?

17 A. It probably would have been just at the end of

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18 my first tenure. So I left in '86, that would have
19 been the mid '80s sometime.

20 Q So that would have been right around the time
21 when they were trying to -- and if I'm incorrect, tell
22 me, but that would have been right around the time
23 when they were starting to phase out using asbestos in
24 their products?

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1 MR. RADCLIFFE: Object to the form. If we're
2 going to talk about the phase-out of asbestos from the
3 products, that is not an area where Mr. Kozerski will
4 be offered to testify.

5 MR. ANIA: He's already testified that in the mid
6 to late '80s they stopped using asbestos in their
7 products. That's within his personal knowledge.

8 MR. RADCLIFFE: Well, he did say that. That is
9 completely different than the phase-out of asbestos
10 which began at an entirely different time and in which

11 he was not involved -- with which he was not involved.

12 BY MR. ANIA:

13 Q Mr. Kozerski, do you recall what that warning
14 said?

15 A. No.

16 Q Mr. Kozerski, this affidavit that I have
17 that's dated November 16th, 2001, is that the first
18 time you've ever been asked to execute an affidavit
19 pertaining to a litigation for Dana Corporation?

20 A. Tell you the truth, I don't remember.

21 Q So it's possible that you may have executed
22 other affidavits?

23 A. I don't remember.

24 Q Have you ever had your deposition taken

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1 before?

2 A. Yes.

3 Q How many times have you had your deposition
4 taken?

5 A. Once.

6 Q All right. I won't hold you to it, if you can
7 approximate for me.

8 A. I'm sorry, I said once.

9 Q I'm sorry. Sometimes I'm not catching you for
10 some reason.

11 A. Okay. I will try to speak up.

12 Q No, I think it's the speakerphone. It is not
13 anything you're doing.

14 When was that?

15 A. It was January of this year.

16 Q Do you remember what state the litigation was
17 taking place in?

18 A. I remember where the deposition was taken.

19 Q Okay. Where was it taken?

20 A. In Houston, Texas.

21 Q Did you ever have to testify live in a trial?

22 A. No.

23 Q That January, 2001 deposition, maybe this
24 might have jogged your memory, did you sign any

1 affidavits for that particular piece of litigation?

2 A. I don't remember.

3 Q Now, can you refresh my memory just for a
4 second, the woman that -- Janet Hale, I believe you
5 said, is the one who was giving you the affidavit to
6 sign?

7 A. I believe her name is Hales with an S.

8 Q How long have you known her?

9 A. I believe I met Janet Hales in January of this
10 year.

11 Q Is she an attorney or is she a paralegal, or
12 do you know?

13 A. I believe she's an attorney.

14 Q Do you remember when -- strike that.

15 Can you tell me if you know what this material
16 is, and I'm going to spell it first for the court
17 reporter, C-o-r-a-m-i-c, I believe it's Coramic. Do
18 you know what that material is?

19 A. Yes.

20 Q Can you tell me what that is?

21 A. It's pronounced Coramic, and it's a material

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22 that was used for exhaust applications that contained
23 ceramic fiber.

24 Q So that it did not contain any asbestos?

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1 A. Not to my knowledge.

2 Q Do you know when that particular ceramic fiber
3 was first used by the Victor Division?

4 A. You mean the ceramic fiber or the Coramic
5 material?

6 Q Coramic material.

7 A. This was a material that was used in the late
8 '80s -- late '70s, early '80s, I believe.

9 Q And did that particular material, did that
10 replace any product, to your knowledge?

11 A. Not to my knowledge. It was just added to our
12 product line.

13 Q And do you know what its temperature range
14 was?

15 A. That would have been at the high end of

blevin7

16 temperature resistance, probably well in excess of
17 1,000 to 1200 degrees Fahrenheit.

18 Q So was it higher than what a comparable
19 asbestos product could handle?

20 A. It's hard to answer that question because the
21 products that contained asbestos took many forms.
22 Some had steel cladding on them, you know. It's just
23 hard to answer that. Coramic was a gasket material
24 with good temperature resistant properties.

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1 Q And how long had that ceramic -- to your
2 knowledge, when did that ceramic technology first come
3 onto the forefront?

4 A. As I said a couple minutes ago, I think this
5 was a material that was used in the late '70s and
6 early '80s.

7 Q I'm sorry, what I meant was, not with Dana
8 Corporation or the Victor Division, but when was it
9 first commercially available, to your knowledge?

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10 A. I don't have any knowledge of that.

11 Q Okay. Now let's talk a little bit about the
12 asbestos gaskets or asbestos-containing gaskets that
13 were manufactured or sold by Victor Products Division.

14 You said that they had taken -- they took several
15 different types of forms; correct?

16 A. I don't know what you mean by "forms."

17 Q Well, I think you said some were metal clad,
18 or they had metal around them?

19 A. Okay. Could you repeat the question in its
20 entirety?

21 Q Certainly.

22 A. Thanks.

23 Q A moment ago we were just talking about the
24 ceramic material and you had stated that -- we were

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1 talking about comparing it to asbestos material, and
2 you said that the asbestos-containing products, there
3 were many different forms of asbestos gaskets;
4 correct?

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5 A. Yes.

6 Q And you said that there were some that were I
7 believe it was either metal or steel clad gaskets?

8 A. Yes.

9 Q Can you tell me, can you explain to me what
10 those were?

11 A. Well, for gaskets in general, there are soft,
12 what we call soft gaskets with no metal reinforcement.

13 Q Okay.

14 A. There are some gaskets that have a perforated
15 core, inner core with the soft materials on the
16 outsides, the top and bottom of that, and then there
17 is -- there are some that have a soft filler material
18 with a metal outer member or metal cladding.

19 Q Okay. And what were the soft gaskets, what
20 kind of applications would those have?

21 A. Soft gaskets in general would be used on, you
22 know, front covers, water pumps, sometimes intake
23 manifolds, sometimes oil pan and valve cover
24 applications.

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1 Q Now, are these all with internal combustion
2 engines?

3 A. Yes.

4 Q What about the hard gaskets?

5 A. Hard gaskets primarily would be used for the
6 cylinder head and exhaust manifold.

7 Q Now, do you know anything or have any personal
8 knowledge about Chevron packing? That would be
9 spelled C-h-e-v-r-o-n?

10 A. Could you spell it once more?

11 Q Yes, certainly. C-h-e-v-r-o-n, Chevron
12 packing.

13 A. Well, I guess I know what they would be, but I
14 don't have any personal knowledge. I never worked
15 with them or designed them.

16 Q Okay. Do you know of anybody that does have
17 knowledge of them, about Chevron packing?

18 A. No.

19 Q Okay. Now, I would like to get back to your
20 affidavit again, and we're going to go to paragraph 4.

21 Do you have that in front of you?

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22 A. Yes.

23 Q Okay. And then again I would just like to
24 read that. It says, "Since its creation in 1967 until

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1 1998, Dana's Victor Products Division manufactured
2 many gasket products, some of which did not contain
3 asbestos, some of which did contain asbestos." Okay?

4 A. No, it's not okay. You said 1998. The
5 affidavit says 1988.

6 Q I am sorry, I apologize. Okay. Now, unlike
7 paragraph 5, which states that you reviewed some
8 engineering specifications and formula cards,
9 paragraph 4 doesn't say anything like that. Was there
10 any kind of engineering specifications or formula
11 cards that you reviewed to make the statement that you
12 did in paragraph 4 of your affidavit?

13 A. Yes, it would have been a very similar manner
14 that I, you know, that I'm stating that, you know, the

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15 knowledge of the materials at that time fame.
16 Q Now, I don't want to -- you know, I want to be
17 very clear and understand you. Are you saying similar
18 to what you went through in drafting paragraph 5?
19 A. Yes.
20 Q So there would have been similar engineering
21 specifications and formula cards?
22 A. Yes.
23 Q Okay. And, again, let's forget about
24 paragraph 5 for a second and go just strictly

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1 paragraph 4. When did you review those documents to
2 make the assertions that you made in paragraph 4?
3 A. It was probably, you know, during my time as
4 an application engineer.
5 Q All right. So are we back to the same time
6 period we talked about in paragraph 5, which would
7 have been between 1972 and 1986?
8 A. In general, yes.

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9 Q Okay. So you didn't -- so it's been several
10 years since you have actually reviewed physically the
11 engineering specifications and formula cards?

12 A. Yes.

13 Q And any of your assertions on your affidavit
14 in paragraphs 4 and 5 are based on a review of the
15 engineering specifications and formula cards that was
16 done between 1972 and 1986?

17 MR. RADCLIFFE: Well --

18 BY ANIA:

19 Q Is that a fair statement?

20 MR. RADCLIFFE: I object to that question because
21 you're ignoring his testimony that from '72 to '86 he
22 was working with these products as well.

23 MR. ANIA: Well, but paragraph 5 doesn't say that
24 he was working with it. It says, "Based on a review

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1 of available engineering specifications and formula
2 cards."

3 MR. RADCLIFFE: That's right. That's talking

blevin7
4 about the '50s and '60s before Mr. Kozerski started at
5 Dana. You were talking about paragraph 4 --
6 MR. ANIA: Let's go paragraph 4.
7 Q You drafted paragraph 4 based on two things:
8 One would have been a review of documents, or review
9 of engineering specifications and formula cards that
10 was done between 1972 and 1986, and your knowledge and
11 experience of working with these products between 1972
12 and 1986?
13 A. Well, yeah, I guess the fact that I have
14 knowledge of the products that were used during this
15 time frame that some contain asbestos and some didn't
16 contain asbestos, it was my general knowledge of
17 working in this field with materials, and some of the
18 materials were, you know, carryovers from the period
19 of 1967 to when I started with the company. So there
20 were a lot of the materials that were used during that
21 time, those few years before I started with the
22 company.
23 Q Okay. Now, you are a engineer; correct?
24 A. Yes.

1 Q And would you agree with me that in
2 engineering it's extremely important to be precise?

3 A. Yes.

4 Q Now, paragraph 4 of your affidavit, again it
5 says that some of the products or some of these
6 gaskets contained asbestos, some did not contain
7 asbestos; correct?

8 A. That's correct.

9 Q How many contained asbestos?

10 A. I can't quantify that.

11 Q How many did not contain asbestos?

12 A. I can't quantify that either.

13 Q Can you tell me if there were more
14 asbestos-containing gaskets than
15 non-asbestos-containing gaskets during 1967 to 1988?

16 A. No, I couldn't.

17 Q You have no idea?

18 A. Well, you are asking me to be -- give you a
19 precise number, and I can't, you know. I can't give
20 you a precise number.

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21 Q So it's possible that there could have been --
22 that the vast majority of the gaskets produced could
23 have contained asbestos; correct?
24 MR. RADCLIFFE: Objection. You're asking him to

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1 speculate. Don't speculate.

2 BY MR. ANIA:

3 Q I guess what I'm asking you, you can't tell us
4 with any definitive knowledge how many asbestos
5 gaskets -- how many types of asbestos gaskets were
6 produced between 1967 until 1988 when compared to
7 non-asbestos gaskets; correct?

8 A. That's correct, I cannot do that.

9 Q If you would have reviewed records, would you
10 have been able to do that?

11 A. No.

12 Q Are there any other -- and going back to
13 paragraph 5 of your affidavit, you talked about
14 reviewing engineering specifications and formula

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15 cards. Are there any other documents from Victor
16 Manufacturing and Gasket Company that you reviewed or
17 looked at during your tenure with Dana Corporation?

18 MR. RADCLIFFE: Well, that is an impossibly
19 open-ended question. Do you mean documents that he
20 reviewed during his time with Victor Division upon
21 which he's relying to give the statement in paragraph
22 number 5?

23 MR. ANIA: That's correct.

24 A. I'm sorry, could you repeat that, then?

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1 MR. ANIA: Okay. Bad question, sorry.

2 Q Paragraph 5 states that you had reviewed
3 engineering specifications and formula cards prior to
4 Dana Corporation's purchase of the stock of Victor
5 Manufacturing and Gasket Company; correct?

6 A. Yes.

7 Q Okay. Besides engineering specifications and
8 formula cards, were there any other documents from
9 Victor Manufacturing and Gasket Company that you

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10 reviewed to compile paragraph 5 of your affidavit?

11 A. To help me do my job at the time when I was an
12 application engineer the primary documents that I
13 would be using would be the engineering
14 specifications.

15 MR. ANIA: Okay. Gentlemen, if we could just take
16 a break for a quick second.

17 MR. RADCLIFFE: Sure. That's fine.

18 MR. ANIA: I am just about done. I want to look
19 at a couple things. I will be right back with you.

20 (WHEREUPON, a recess was taken.)

21 MR. ANIA: Mr. Kozerski, I do not have any other
22 questions for you.

23 I would like to thank you for your time. I'm
24 sure that counsel will explain something known as

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1 signature to you.

2 MR. RADCLIFFE: I'm going to ask a couple
3 questions. This is Tom Radcliffe.

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4 EXAMINATION

5 BY MR. RADCLIFFE:

6 Q Mr. Kozerski, you said that you met Janet
7 Hales in January. Have you had discussions with her
8 since January, 2001 about your knowledge of gaskets
9 made in the past?

10 A. Not specifically though questions.

11 Q Have you had general discussions with her
12 about Victor gaskets?

13 A. Yes.

14 Q In 1972 when you started with Victor Division,
15 do you know how many different gasket products,
16 product numbers were being manufactured at that time?

17 A. No.

18 Q Was it 10, 100, 1,000? Can you estimate?

19 A. The only estimate I can give you is the number
20 of part numbers that we made in a year must have been
21 into the thousands.

22 Q In order for you to be able to count up how
23 many were asbestos and how many were non-asbestos,
24 would you have to go back and research each and every

1 one of those part numbers?

2 A. I wouldn't even know how to find those records
3 going back to that time period.

4 Q If you were able to find the records, would it
5 require you to look through each and every part
6 number, determine if it was made in that year, and
7 then try to figure out if it contained asbestos?

8 A. Yes.

9 Q Is that something that you could do in a
10 month?

11 A. This would be probably dozen of months, you
12 know.

13 Q Prior to the time that you started in 1972, do
14 you know how many -- again, this was before your time,
15 but do you know how many part numbers were in use
16 prior to that time?

17 A. No.

18 Q Was it again on the order of probably
19 thousands?

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20 A. I would say thousands.

21 Q You mentioned that some of the gasket material
22 that you were working with in 1972 as an engineer in
23 the design had been used prior to when you started?

24 A. Yes, some were carryover materials, yes.

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1 Q And carryover materials from 1967?

2 A. Some were.

3 Q And those carryover materials, did some of
4 them contain asbestos?

5 A. Yes.

6 Q And did some of them not contain asbestos?

7 A. Yes.

8 Q As an engineer in 1972 did you know what was
9 in the gaskets that you specified or worked with?

10 A. I wasn't as interested in the --

11 MR. ANIA: I am going to object to all this
12 questioning based on the fact that, first of all, it's
13 very leading. Second of all, this is your own

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14 witness. You didn't notice this deposition, so I'm
15 going to object to any line of questioning and any use
16 of this testimony in court. But you can go ahead, for
17 what it's worth.

18 A. Could you repeat it?

19 BY MR. RADCLIFFE:

20 Q In 1972 the gaskets that you were working with
21 at the time as an engineer --

22 A. Yes.

23 Q -- did some of them contain asbestos?

24 A. Yes.

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1 Q Did some of them not contain asbestos?

2 A. Yes.

3 Q Was the fact that it did or did not contain
4 asbestos a determining factor for you in whether you
5 used the material?

6 A. No. I was more interested in the material

blevin7
7 properties.

8 Q Are you aware that some of the Victopac gasket
9 material did not contain asbestos as early as 1980?

10 A. I'm not really sure on the time frame. I know
11 that we developed an asbestos-free family of Victopac
12 materials, I just don't know when they were
13 introduced.

14 Q When you said that Victopac contained asbestos
15 until the mid to late '80s, did you mean to say that
16 all Victopac contained asbestos until the mid to late
17 1980s?

18 A. No, I meant the numbers that he referred to
19 before.

20 Q Okay. And in terms of the phase-out of
21 asbestos from gasket materials, that's not really an
22 area where you were involved; is that true?

23 A. I was -- when the conversion finally took
24 place, I really was not part of the division at the

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1 time.

2 Q So if we wanted to know who could tell us when
3 asbestos was removed from various products, we should
4 talk to somebody else about that?

5 A. I believe so, yes.

6 Q In your affidavit are you referring to any
7 specific product part number?

8 A. No.

9 Q Is your affidavit -- you say some did contain
10 asbestos, some did not contain asbestos. To you does
11 that just mean generally some did and some did not?

12 A. Some products did, and some products did not.

13 Q And based on the information that's been given
14 to you in this deposition -- strike that.

15 In order for you to determine if a specific
16 gasket did contain asbestos, would you need a part
17 number or other identifying information?

18 A. Well, the part number would be the best.

19 Q And then would you have to do some research to
20 figure out if it did contain asbestos?

21 A. Yes.

22 Q So sitting here now -- sitting here right now

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23 with an allegation that someone in the '50s or '60s or
24 '70s worked with Victor gaskets, if you assume that to

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1 be true, is it possible for you to say whether or not
2 those gaskets contained asbestos?

3 MR. ANIA: Objection.

4 A. No.

5 BY MR. RADCLIFFE:

6 Q Is it possible for anybody to say that
7 without a part number?

8 MR. ANIA: Objection.

9 BY MR. RADCLIFFE:

10 Q Or a specific description of the product?

11 MR. ANIA: Objection.

12 A. No.

13 MR. RADCLIFFE: No other questions.

14 MR. ANIA: No other questions? Did you say that?

15 MR. RADCLIFFE: Yes.

16 MR. ANIA: I have several questions.

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EXAMINATION FURTHER

17

18 BY MR. ANIA:

19 Q Back to this affidavit, Mr. Kozerski. Do you
20 find litigation to be a serious matter?

21 A. Yes.

22 Q Do you believe that this affidavit -- strike
23 that.

24 Anywhere in this affidavit does it say that

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1 you -- that it would have taken several months to
2 compile the exact numbers of asbestos-containing
3 products as compared to non-asbestos containing
4 products?

5 A. No.

6 Q And, again, paragraph 5 was based upon records
7 that you reviewed between 1972 and 1986; correct?

8 A. It was based on -- let's be more specific than
9 just records, because that's quite general.

10 Q Engineering specifications and formulas?

blevin7

11 A. Yes.

12 MR. ANIA: Give me a minute. I think we're done.

13 I have nothing further.

14 MR. RADCLIFFE: Okay. You want to --

15 MR. SCHUSTER: You want to advise the witness he
16 needs to read and review the transcript?

17 MR. RADCLIFFE: I think you should read and review
18 the transcript to make certain the court reporter
19 transcribed everything correctly. So we'll do that.

20 MR. ANIA: Off the record.

21 (WHEREUPON, discussion was had
22 outside the record.)

23 MR. RADCLIFFE: Counsel in Ohio have been kind
24 enough to inform us that the time for the witness to

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1 read and sign is seven days from the date that the
2 transcript is delivered to him; is that correct?

3 MR. ANIA: That's correct.

4 MR. SCHUSTER: It's specifically seven days from
5 its submission to the witness.

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6 MR. RADCLIFFE: Okay. What I will ask the court
7 reporter to do is when she has prepared the
8 transcript, if you will call Mr. Kozerski to make
9 certain that he is available and in town before you
10 send it to him, we don't want you to send it to him
11 the first day of his 14-day vacation. But if you will
12 call him and make certain that he is available to read
13 and sign before you submit it.

14 MR. ANIA: That's not the way it works. We have
15 the ability under our local rules to agree as parties
16 to a period longer than seven days, but not exceeding
17 twenty-eight, so I would ask -- I mean, Rick, we can
18 work it out. I would ask that we just agree on the
19 record with the court reporter that he have up to the
20 28 days to review it.

21 MR. ANIA: I will give you 14, but I won't agree
22 to 28. I got trials coming up. That's the only
23 reason I can't do it.

24 MR. RADCLIFFE: Are you going to order the

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1 transcript?

2 MR. ANIA: Yes.

3 MR. SCHUSTER: 14 days, then, we'll accept.

4 MR. ANIA: Okay.

5 (WHEREUPON, the deposition was concluded.)

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1 Shirley Anderson, et al, vs. BFGoodrich, et al

2 ERRATA SHEET

3 I, RICH KOZERSKI, have read the foregoing
4 transcript of my deposition taken on 11-20-01, and
5 except for any corrections noted below, it is a true
6 and correct transcript of my deposition given on the
date aforesaid.

CORRECTIONS BASED ON ERRORS IN

7 PAGE LINE REPORTING OR TRANSCRIPTION

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Rich Kozerski

21

STATE OF ILLINOIS)

22

COUNTY of)

Subscribed and sworn to before me
this day of , 2001.

23

[Seal]

24

Notary Public

EFFICIENCY REPORTING 630.682.8887

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1

STATE OF ILLINOIS)

2

COUNTY OF DU PAGE)

SS.

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I, Lori Doman Didrickson, CSR No. 84-2456,

4

do hereby certify that RICH KOZERSKI was first duly

5

sworn by me to testify the truth; that the foregoing

6

deposition, Pages 1 through 80, was recorded

7

stenographically by me and computer-transcribed under

8

my personal direction; and that the said deposition

9

constitutes a true record of the testimony given by

10

the deponent at the time and place aforesaid.

11

I further certify that I am not counsel

blevin7
12 for nor in any way related to any of the parties to
13 this suit, nor am I in any way, directly or
14 indirectly, interested in the outcome thereof.

15 This certification applies only to those
16 transcripts, original and copies, produced under my
17 direction and control; and I assume no responsibility
18 for the accuracy of any copies which are not so
19 produced.

20 IN WITNESS WHEREOF I have hereunto set my
21 hand this 7th day of December, 2001.

22

23 Certified Shorthand Reporter

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