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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

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CERTIFIED
ORIGINAL

DAVID SPRINGER and DOROTHY)
SPRINGER,)

Plaintiffs,)

vs.)

ASBESTOS COMPANIES, et al.,)

Defendants.)

Case No. CGC-20-276849

VIDEOTAPED VIRTUAL DEPOSITION OF

LAWRENCE J. GIRLING

Friday, January 29, 2021

9:31 a.m.

REPORTED BY:

GISELLE GIRARD

CSR #12901

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1 VIRTUAL APPEARANCES: 2 For Plaintiffs: 3 GOLD LAW FIRM 4 BY: H.W. TREY JONES, ESQ. 5 555 Montgomery Street 6 Suite 605 7 San Francisco, California 94111 8 415-986-1338 9 415-373-4579 Fax 10 trey@treyjoneslaw.com 11 For Defendant Kerr Corporation and the Witness: 12 OIUM REYEN & PRYOR 13 BY: KEITH REYEN, ESQ. 14 220 Montgomery Street 15 Suite 910 16 San Francisco, California 94104 17 415-392-8300 18 415-421-1254 Fax 19 keith@orplaw.com 20 SWANSON, MARTIN & BELL, LLP 21 BY: RICHARD P. TAURAS, ESQ. 22 330 North Wabash 23 Chicago, Illinois 60611 24 312-321-9100 25 312-321-0990 Fax rtauras@smbtrials.com For Defendant 84 Lumber Company: HAWKINS PARNELL & YOUNG, LLP BY: SOLOMON PANTUCH, ESQ. 1 Post Street Suite 2400 San Francisco, California 94104 415-766-3218 415-766-3250 Fax spantuch@hpylaw.com	1 VIRTUAL APPEARANCES (Continued): 2 For Defendant Hill Brothers Chemical Company: 3 MORGAN LEWIS & BOCKIUS, LLP 4 BY: MARISA R. CHAVES, ESQ. 5 One Market Street 6 Spear Street Tower 7 San Francisco, California 94105 8 415-442-1141 9 415-442-1001 Fax 10 marisa.chaves@morganlewis.com 11 For Defendant New Coleman Holdings, Inc.: 12 HAWKINS PARNELL & YOUNG, LLP 13 BY: JEFFREY T. THAYER, ESQ. 14 1 Post Street 15 Suite 2400 16 San Francisco, California 94104 17 415-766-3204 18 415-766-3250 Fax 19 jthayer@hpylaw.com 20 For Defendant Patterson Dental and True Value Company: 21 WALSWORTH FRANKLIN BEVINS & MCCALL, LLP 22 BY: HILLARY H. HUTH, ESQ. 23 601 Montgomery Street 24 Ninth Floor 25 San Francisco, California 94111 415-781-7072 415-391-6258 Fax hhuth@wfbm.com For Defendant Ransom & Randolph Company: GOODELL, DEVRIES, LEECH & DAMN, LLP BY: THOMAS J.S. WAXTER, III, ESQ. One South Street 20th Floor Baltimore, Maryland 21202 410-783-4000 410-783-4040 Fax tjw@gdldlaw.com
Page 3	Page 5
1 VIRTUAL APPEARANCES (Continued): 2 For Defendant BASF Catalysts LLC: 3 LITTLETON PARK JOYCE UGHETTA & KELLY, LLP 4 BY: JASON SCHMITZ, ESQ. 5 141 West Front Street 6 Suite 120 7 Red Bank, New Jersey 07701 8 732-530-9100 9 732-530-9115 Fax 10 jason.schmitz@littlettonpark.com 11 For Defendant DAP, Inc. k/n/a La Mirada Products Co., 12 Inc., erroneously sued as DAP, Inc., and Champion Home 13 Builders: 14 TUCKER ELLIS, LLP 15 BY: NICOLE E. GAGE, ESQ. 16 201 Mission Street 17 Suite 2310 18 San Francisco, California 94105 19 415-617-2105 20 415-617-2409 Fax 21 nicole.gage@tuckerellis.com 22 For Defendant Darby Dental Supply: 23 SMITHAMUNDSEN AEROSPACE 24 BY: MICHAEL MCGRORY, ESQ. 25 150 North Michigan Avenue Suite 3300 Chicago, Illinois 60601 312-894-3200 312-894-3200 Fax mmcgrory@salawus.com For Defendant Henry Schein, Inc.: HARRIS BEACH, PLLC BY: SYED K. RIZVI, ESQ. 100 Wall Street New York, New York 10005 212-687-0659 212-687-0659 Fax srizvi@harrisbeach.com	1 VIRTUAL APPEARANCES (Continued): 2 For Defendant The Scotts Company, LLC: 3 HAWKINS PARNELL & YOUNG, LLP 4 BY: ANA T. REEG, ESQ. 5 1 Post Street 6 Suite 2400 7 San Francisco, California 94104 8 415-766-3221 9 415-508-1816 Fax 10 areeg@hpylaw.com 11 HUNTON ANDREWS KURTH, LLP 12 BY: EMILY MORDECAI, ESQ. 13 Riverfront Plaza, East Tower 14 951 East Byrd Street 15 Richmond, Virginia 23219 16 804-788-8200 17 804-788-8218 Fax 18 emordecai@huntonak.com 19 For Defendant SS White: 20 SCHIFF HARDIN, LLP 21 BY: JILL BERRY, ESQ. 22 1185 Avenue of the Americas 23 Suite 3000 24 New York, New York 10036 25 212-745-9557 212-753-5044 Fax jberry@schiffhardin.com For Defendant University of Southern California: POLSINELLI, LLP BY: JOSEPH L. GREENSLADE, ESQ. 2049 Century Park East Suite 2900 Los Angeles, California 90067 310-556-1801 310-556-1802 Fax jgreenslade@polsinelli.com

Page 6 1 VIRTUAL APPEARANCES (Continued): 2 For Defendant Whip Mix Corporation: 3 SELMAN BREITMAN, LLP 4 BY: SUZANNE E. RISCHMAN, ESQ. 5 33 New Montgomery Street 6 Sixth Floor 7 San Francisco, California 94105 8 415-979-2004 9 415-979-2099 Fax 10 srischman@selmanlaw.com 11 12 Also Present: 13 SPENCER BENVENISTE, VIDEOGRAPHER 14 15 16 17 18 19 20 21 22 23 24 25	Page 8 1 EXHIBITS 2 LAWRENCE J. GIRLING 3 David Springer, et al. vs. Asbestos Companies, et al. 4 Friday, January 29, 2021 5 6 PLAINTIFFS' DESCRIPTION PAGE 7 EXH 1 JADA Hazards of Asbestos in 37 8 Dentistry (2 pgs.) 9 10 EXH 2 Federal Register 6/7/72 Volume 37 84 11 No. 110 Part 1 (10 pgs.) 12 13 EXH 3 Kerr Document Production (52 pgs.) 99 14 15 16 17 ---cOo--- 18 19 20 21 22 23 24 25
Page 7 1 EXAMINATION INDEX 2 3 January 29, 2021 4 5 WITNESS EXAMINATION BY PAGE 6 LAWRENCE J. GIRLING MR. JONES 10, 124 7 MR. REYEN 121 8 9 10 11 12 13 14 15 WITNESS INSTRUCTED NOT TO ANSWER 16 17 PAGE LINE 18 128 21 19 20 21 22 23 24 25	Page 9 1 Friday, January 29, 2021 2 3 4 MR. JONES: The parties have stipulated that the 5 court reporter can swear in the witness remotely, as she 6 is not at the same location as the witness. The parties 7 have also stipulated that an objection by any defense 8 counsel is good for all present; that includes motions 9 to strike. 10 Counsel need not opt out of an objection or a 11 motion; should they choose to do so, they can make that 12 election at trial. So stipulated? 13 MR. REYEN: So stipulated. 14 MR. JONES: The parties also agree that the 15 stipulations can be on the written and not the video 16 record. All right. Let's go on the record, the video 17 record. 18 THE VIDEOGRAPHER: We are going on the record. 19 The time is 9:32 a.m., and the date is January 29, 2021. 20 This is the video deposition of Lawrence Girling, 21 Volume I, in the matter of David Springer, et al., 22 versus Asbestos Companies, et al. 23 This deposition is being held via Zoom (sic), and 24 my name is Spencer Benveniste from Asbestos Reporters of 25 California, a GPS Partner. The court reporter is

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1 Giselle Girard. Counsel's appearance will be reflected 2 in the written record. 3 Will the court reporter please swear in the 4 witness. 5 6 LAWRENCE J. GIRLING, 7 having been first duly affirmed, was examined and 8 testified as follows: 9 10 MR. JONES: He said yes; right? 11 THE WITNESS: Yes. 12 MR. JONES: Just making sure. 13 14 EXAMINATION 15 BY MR. JONES: 16 Q. Mr. Girling, thank you for being with us this 17 morning, though it may be this afternoon where you are. 18 Where are you today? 19 A. I'm in Brighton, Michigan. 20 Q. What is your full name? 21 A. Lawrence Jay Girling. 22 Q. And where in Michigan do you live? 23 A. I live in Brighton. 24 Q. Okay. So you're near your home? 25 A. Yes.	1 Q. Okay. You started working at Kerr Corporation in 2 1967; is that true? 3 A. Correct. 4 Q. What was Kerr when you started working there? 5 MR. REYEN: Objection; vague. 6 THE WITNESS: I -- I don't know. What do you 7 mean, what was Kerr? 8 BY MR. JONES: 9 Q. Was it called Kerr Corporation then? 10 A. Kerr Dental. 11 Q. It was called Kerr Dental. Was it a corporation? 12 A. I can't speak to that for sure. 13 Q. Okay. When you were hired, you were hired by Bob 14 Kerr? 15 A. I was interviewed by Bob Kerr. 16 Q. Bob Kerr was the president of Kerr Dental at the 17 time? 18 A. Yes. 19 Q. What did Kerr Dental do, meaning what did they 20 make, what did they sell -- what was their business? 21 A. They made dental supplies. 22 Q. Like? 23 A. Impression materials, filling materials, 24 endodontic materials, investment materials. 25 Q. And we'll talk about it a little more. But the
Page 11	Page 13
1 Q. The reason I wanted to speak to you today is that 2 you are retired from working at Kerr Corporation; is 3 that correct? 4 A. Correct. 5 Q. And when you were at Kerr Corporation, you had 6 some responsibility for ordering asbestos products that 7 went into Kerr products; correct? 8 A. Correct. 9 Q. And you also had some involvement in the process 10 of removing asbestos from Kerr products; is that 11 correct? 12 MR. REYEN: Objection; misstates facts not in 13 evidence; misleading. 14 You can answer, Larry. 15 THE WITNESS: What do you mean by removing 16 asbestos? 17 BY MR. JONES: 18 Q. I just mean that generally speaking, there was a 19 period of time where Kerr decided that they didn't want 20 to put asbestos with their products anymore, and you 21 were somehow involved in it. And we'll talk about that 22 involvement in a minute. Okay? 23 A. Okay. 24 Q. Is that basically correct, what I said? 25 A. Yes.	1 investment materials, that's the product that was sold 2 with an asbestos tape; true? 3 A. Yes. 4 Q. Did Kerr, as part of its business, work with 5 chemicals? 6 A. Chemicals, yes. 7 Q. Tell me a little bit about that. 8 A. They manufactured an impression paste made from 9 chemicals. 10 Q. Did Kerr, when you started in nineteen -- strike 11 that. 12 When you started in 1967, did Kerr have a 13 laboratory where they worked with chemicals? 14 A. They had, I believe -- I can't speak for sure. 15 But they had quality control departments, yes. 16 Q. They also had a research and development 17 department? 18 A. Yes. 19 Q. You started in Detroit. What facilities did Kerr 20 have in Detroit? 21 A. Well, they had a plant on 12th Street in Detroit. 22 And they had a refractories plant on Milwaukee Street in 23 Detroit. 24 Q. When you started, which -- which one of those 25 plants did you work at?

Page 14 1 A. Both. 2 Q. What did they do at the plant on 12th Street? 3 A. They made endodontic files and reamers, 4 impression materials, filling materials, cavity liners. 5 Q. So that's one of the places where they worked 6 with different chemicals to make the impression 7 materials? 8 A. Yes. 9 Q. What did they do at the refractories plant on 10 Milwaukee Street? 11 A. They made gypsums and investments. 12 Q. Did Kerr have any other offices or plants, 13 factories, anything like that, when you started working 14 for them in 1967? And by that, I mean worldwide. 15 A. No -- well, not that I'm aware of at '67, no. 16 Q. What different divisions did they have at Kerr 17 when you started in 1967? 18 A. I don't know what you mean by divisions. 19 Departments or divisions? 20 Q. Departments. 21 A. Production department, finance, sales and 22 marketing, quality control and research. 23 MR. JONES: Giselle, can you read that back real 24 quick, please. 25 (Record read.)	Page 16 1 A. Safety, I know in the '80s and perhaps the 2 '70s -- but I'm not too sure what they handled when I 3 joined the company. 4 Q. Got it. So later on when you got more involved, 5 you knew that human resources handled safety? 6 MR. REYEN: Objection to the extent that it is 7 vague as to what is referred to by safety. I would 8 expect that HR safety meant employee safety issues. 9 MR. JONES: Just stick to legal objections, 10 please. 11 Do you have the question in mind, Mr. Girling? 12 THE WITNESS: Do I have a question? 13 BY MR. JONES: 14 Q. The same objection will apply. The way I 15 understand your answer was that when you started in 16 1967, you weren't really sure who was in charge of 17 safety; but later on, you learned it was the human 18 resources department. Is that fair? 19 MR. REYEN: I will object that the question is 20 vague and ambiguous as to what is referred to by safety. 21 MR. JONES: Go ahead. 22 THE WITNESS: The HR department, as I recall, in 23 the '80s, '90s, dealt with HR resource issues as well as 24 responsibility for health and safety in the plant. 25 ///
Page 15 1 BY MR. JONES: 2 Q. When you say research, is that the research and 3 development? 4 A. Yes, that was called research. 5 Q. Did they have human resources? 6 A. Yes, they did. 7 Q. Human resources was the department in charge of 8 safety at Kerr when you started in 1967; is that true? 9 A. I don't know that for a fact. 10 Q. So you've -- you first testified on behalf of 11 Kerr Corporation in 1996, I believe? 12 A. I -- I can't -- I can't recall the dates. That's 13 probably true. 14 Q. It was a case in Louisiana in the mid '90s. Does 15 that sound about right? 16 A. Yes. 17 Q. And then you've given several other depositions 18 on behalf of Kerr Corporation over the years; true? 19 A. True. 20 Q. And I've read several of those depositions, so a 21 lot of this is going to be kind of going through some of 22 the things that I've read in your previous testimony. 23 And one of the things I've read was that human 24 resources handled safety. Is that not your recollection 25 today?	Page 17 1 BY MR. JONES: 2 Q. Kerr had a -- someone that was in charge of 3 regulatory issues. Was that the quality control people? 4 A. That's where it was. 5 Q. So later on in the '70s, there was a gentleman 6 named Ken Kovac, I believe? 7 A. Yes. 8 Q. What was his job? 9 A. I believe he was -- I can't define his job, but 10 he was head of the quality control department called 11 quality and regulatory. 12 Q. And he was a vice president, I believe; is that 13 true? 14 A. At some point he became a vice president, yes. 15 Q. Now, I've seen some testimony where you said that 16 Bob Kerr was president of Kerr, and he interviewed you; 17 but that when you started, Russ Nelson was the president 18 of Kerr in 1967. Was there more than one entity, or did 19 Bob Kerr step aside -- or help me with this, please. 20 A. Bob Kerr sold the business. 21 Q. When did he do that? 22 A. '68, I believe it was. 23 Q. Okay. So not long after Mr. Kerr sold the 24 business, a gentleman named Russ Nelson became the 25 president of Kerr?

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1 A. Correct. 2 Q. Mr. Nelson's background was in finance. It 3 wasn't in dentistry; is that right? 4 A. Correct. 5 Q. So Kerr -- 100 percent of -- well, maybe not 6 100 percent. Almost all of Kerr's business in the '60s 7 and '70s was the sale of products for the use of the 8 dental -- I don't want to call it industry. I'm going 9 to try it again. 10 When you started in 1967, almost all of Kerr's 11 business was related to the sale of dental products; 12 true? 13 A. I can't say for sure because we also sold jewelry 14 investment products. 15 Q. Did you sell enough jewelry investment products 16 that it was more than 50 percent of the sales of the 17 company? 18 A. No. 19 Q. Was it more than 20 percent of the sales of the 20 company? 21 A. I can't guess. I have no idea. 22 Q. But most of the sales had to do with dental 23 products; right? 24 A. Right. 25 Q. Okay. Did Kerr employ any dentists?	1 A. When? 2 Q. When you started. 3 A. I can't tell you when I started who was on there. 4 I was just a production control clerk. 5 Q. All right. When you first became familiar with 6 who was on the management team, who was on it? 7 A. The head of -- the head of each of the functional 8 departments. 9 Q. Had a production, had a finance, sales and 10 marketing -- all those? 11 A. Yes. 12 Q. Okay. And at some point in your career, you 13 became the head of one of those departments; right? 14 A. Yes. 15 Q. Who did the heads of those different departments 16 report to? 17 A. The president. 18 Q. So when Mr. Kerr sold the company, the heads of 19 the departments reported to Russ Nelson? 20 MR. REYEN: Objection; lacks foundation. 21 BY MR. JONES: 22 Q. Is that right? 23 A. Yeah. While he was president, correct. 24 Q. Is the management team the group that made 25 decisions for Kerr Corporation?
Page 19	Page 21
1 A. I'm speaking from memory. At one point in time, 2 we had a dentist on the staff who had a dental chair set 3 up in the research department. 4 Q. Around when was that? 5 A. I can't recall. That's my -- that's too long 6 ago. That's 40, 50 years ago. 7 Q. Fair enough. So at some point in time, Kerr had 8 a dentist on staff, but not all the time you worked 9 there; is that fair? 10 A. That's fair. 11 Q. Okay. We talked about some of the different -- 12 I'm going to need somebody to mute. 13 All right. We talked about some of the different 14 departments. Did Eaton also have a management team? 15 A. I didn't catch the question. Did who? 16 Q. Did -- oh, my brain is on another case right now 17 and something snuck out. 18 When you were at Kerr, did Kerr have a management 19 department? 20 A. I -- yeah, yes. Yes, they did. 21 Q. Like a management team, I guess, is a better way 22 of putting it. 23 A. Yes. 24 Q. Who -- who was the management team? Who was on 25 that team?	1 MR. REYEN: Objection; overbroad as to time; 2 lacks foundation. 3 THE WITNESS: I don't -- I don't think decisions 4 were made by the management team. I think Russ Nelson 5 made the primary decisions. 6 BY MR. JONES: 7 Q. Got it. Russ Nelson is where the proverbial buck 8 stopped; true? 9 A. Yep. 10 Q. Did the management team have meetings? 11 A. Yes. 12 Q. How often? 13 MR. REYEN: Overbroad as to time. 14 THE WITNESS: I can't -- when I attended, it was 15 once a month. 16 MR. JONES: Okay. 17 THE WITNESS: That was in the '80s, late '80s. 18 BY MR. JONES: 19 Q. Well, we're going to talk about a 20 particular -- well, actually let me -- was there a 21 management meeting separate from the group of the 22 department heads and the president? 23 A. No. 24 Q. Okay. When the management team got together to 25 make decisions for the corporation, how did they

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1 communicate those decisions to the other departments? 2 MR. REYEN: Objection; overbroad. 3 THE WITNESS: Yeah, I have no idea what -- that's 4 huge. 5 BY MR. JONES: 6 Q. Well, when you guys had those management 7 meetings, did someone keep track of what you talked 8 about? 9 A. I don't know. 10 Q. Did you guys have minutes of meetings so you'd 11 know what decisions you made? 12 A. I can't say for sure there was, and no one sat in 13 the meeting and took minutes. 14 Q. Okay. Did -- did people take notes? 15 A. I took notes. 16 Q. Okay. And then if there was some decision, it 17 would have to be communicated outside of that management 18 team; right? 19 MR. REYEN: Objection; lacks foundation; 20 misstates facts not in evidence; overbroad. 21 THE WITNESS: I think that you're -- the 22 management committee meetings were mainly reporting 23 meetings, what's going on in your departments, what's 24 going on in the sales area -- that's the style of 25 meetings the monthly meetings were.	1 Q. And you wrote memos? 2 A. I'm not saying I took -- wrote memos about the 3 meetings. I don't think so. I took notes and went back 4 and reviewed them by departments heads. 5 Q. I'm not asking about the meetings, but while you 6 worked at Kerr from 1967 -- until 2003; right? 7 A. Yes. 8 Q. At some point during that time, you wrote a memo. 9 A. Yes. 10 Q. And at some point during that time, people wrote 11 memos to you. 12 A. Correct. 13 Q. And one of the ways that Kerr Corporation 14 communicated its policies and procedures to its 15 employees was through memos. 16 A. I think you're stretching it but... 17 Q. How many people worked at Kerr when you were 18 there in the '60s and '70s? 19 A. I can't tell you. I'd be guessing. 20 Q. Roundabout. 21 A. I still can't tell you. I'd be -- there was less 22 than 100 people when I joined in '67. 23 Q. Okay. 24 A. A little less than a hundred. 25 Q. So you're saying that everything that worked in
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1 BY MR. JONES: 2 Q. Okay. But at some point, the president of Kerr 3 or the department heads made decisions that would affect 4 the rest of the corporation -- like, you know, no 5 more -- 6 A. Yes. 7 Q. -- overtime this year or stop parking in the back 8 parking lot, or we're going to change the color on the 9 box of the Kerr products -- or something like that; 10 right? 11 A. They made decisions, correct. 12 Q. And they had to communicate those decisions to 13 the people that were going to carry them out; right? 14 A. The managers that were at the meeting did that. 15 Q. And they would communicate those decisions 16 through memos? 17 A. Not necessarily -- 18 MR. REYEN: Objection. 19 BY MR. JONES: 20 Q. Not necessarily, but that was one way that they 21 would communicate things; correct? 22 A. Possible. 23 Q. Well, you know for sure that you personally wrote 24 memos; right? 25 A. I took notes.	1 this corporation -- that had a production department and 2 had a finance department, a sales and marketing 3 department, a quality control department, a research and 4 development department and a human resources 5 department -- that in order to communicate with all 6 those departments, Kerr just used word of mouth? 7 A. No, I didn't say that. 8 Q. That would be a bad policy to use word of mouth 9 to communicate all your policies, wouldn't it? 10 A. I didn't say that. 11 Q. Well, I'm saying it would be a bad policy if you 12 relied on word of mouth, wouldn't it? 13 MR. REYEN: Objection; calling for lay opinion. 14 BY MR. JONES: 15 Q. Right? 16 A. Right on what? 17 Q. Why would it be a bad idea to rely on word of 18 mouth to communicate the policies and procedures of Kerr 19 to the employees? 20 MR. REYEN: Objection; calls for lay opinion. 21 THE WITNESS: I don't know. Policies and 22 procedures can be communicated many ways, in verbal, 23 written -- whatever you're talking about, I don't know 24 where you're going with it. 25 ///

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1 BY MR. JONES: 2 Q. Okay. My point is that at Kerr Corporation, 3 people wrote stuff down; right? 4 MR. REYEN: Objection; overbroad. 5 THE WITNESS: Some things were written down, 6 correct. 7 BY MR. JONES: 8 Q. Okay. In 1967, you started as a production 9 planner in the chemical division; true? 10 A. Yes. 11 Q. Is that another department, chemical, or is that 12 part of production? 13 A. It's part of production. 14 Q. So at Kerr Corporation, when you started, we had 15 the departments we'd talked about, and then we had 16 divisions within those departments? 17 A. Divisions within production, yes. 18 Q. And your job as the planner was to determine what 19 had to be produced and what materials were needed to 20 produce those things. 21 A. Correct. 22 Q. How would you do that? 23 A. Based on analyzing sales requirements, forecasts 24 that marketing would provide. 25 Q. So how would -- so marketing would send you sales	1 Q. Roundabout late '60s/early '70s, something like 2 that? 3 A. Probably true. 4 Q. All right. 5 A. My deposition would show it, probably. 6 Q. And then in 1973, you were promoted to the 7 materials manager? 8 A. Okay. 9 Q. Does that sound about right? 10 A. Yes, somewhere in that area. 11 Q. Fair enough. When you were a materials manager, 12 that's the first thing you ever had anything to do with 13 asbestos; is that right? 14 A. Yes, that was the purchasing end of it. 15 Q. So in 1973, it became your responsibility to 16 purchase the asbestos tape that was used with Kerr's 17 investment products; true? 18 A. I can't speak to the exact date I took that on. 19 Q. Fair enough. Around -- we'll say around 1973. 20 Is that okay? 21 A. It's close probably. I'm not sure the dates. 22 Q. Fair enough. Whenever you became the materials 23 manager at Kerr, that's when you first had 24 responsibility for purchasing the asbestos products that 25 were used with Kerr's products; right?
Page 27	Page 29
1 forecasts? 2 A. Every year. 3 Q. And as a planner, you would have to plan how to 4 make enough product to meet the sales that marketing 5 forecast? 6 A. Correct. 7 Q. And then who did you work with as a planner? 8 A. Oh, I was there 35 years. I worked with a lot of 9 people. 10 Q. I mean what job titles, I would say. Like, as 11 the planner, who did you report to? 12 A. I reported to, at that time, manager of 13 production control in '67. 14 Q. And did he report to the vice president of 15 production? 16 A. I think he did. 17 Q. So when you were planning out what -- what 18 products needed to be made and what materials Kerr 19 needed to make those products, how did you communicate 20 that information to other people in the company? 21 A. We made out schedules that got delivered to the 22 department managers. 23 Q. In 1969 you were promoted to supervisor in 24 planning for the chemical division; is that true? 25 A. I can't recall the dates.	1 A. Correct. 2 Q. How was asbestos used with Kerr's products? 3 A. I don't know. What -- what do you mean use? How 4 was it used? 5 Q. Yeah. Why did -- 6 A. By a dentist, you mean -- or by a dentist or 7 what? 8 Q. Sure. Why -- why did Kerr have to put an 9 asbestos product with its products? 10 A. It was part of the casting procedure. 11 Q. How so? 12 A. I'm not a chemist, but it was used in the 13 investment casting process to line the flasks. 14 Q. And the crucible? 15 A. Could be crucibles. I wasn't that familiar with 16 the crucibles. 17 Q. So the asbestos product that Kerr used with its 18 investment products was an asbestos tape; true? 19 A. The asbestos product that Kerr used with the 20 investment was an asbestos tape, yes. 21 Q. Okay. And Kerr bought that asbestos tape from 22 other companies; right? 23 A. Yes. 24 Q. Those companies were Nicolet and Celotex? 25 A. Yes.

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1 Q. When the asbestos tape came to Kerr -- well, 2 let's start here. If a customer of Kerr's bought a 3 product that included asbestos tape, that asbestos tape 4 would be in either a bag or a box; right? 5 A. Correct. 6 Q. And the bag or the box of asbestos tape would be 7 put into a box with the investment powder? 8 A. No, the box was never put into the container with 9 investment powder. 10 Q. Okay. If I -- if someone bought investment 11 powder that came with asbestos tape, how would the 12 asbestos tape come with it? 13 A. In bags. 14 Q. Okay. So if someone bought Kerr investment 15 powder in the late 1960s/early 1970s, they would get a 16 box with packets of investment powder; right? 17 A. Are you -- are you asking what containers that we 18 sold investment in? 19 Q. Yeah. 20 A. We sold it in three-and-a-half-pound cans, 21 ten-pound cans, 20-pound boxes, 35-pound pails and 22 hundred-pound drums. 23 Q. Did it ever come in a box where there were little 24 packets of individually -- individual -- I want to call 25 them servings, but individual-use packets of investment	1 Q. Sure -- 2 A. -- say that again. 3 Q. When Kerr sold the kit you talked about with the 4 individual packets of investment powder... 5 A. Yes. 6 Q. The Kerr employee would just take a package of 7 the asbestos strips and put it in the Kerr box with the 8 powder; right? 9 A. Correct, yes. 10 Q. Meaning there was nobody at Kerr that had to cut 11 the asbestos tape to the right size; right? 12 A. Correct. 13 Q. There was nobody at Kerr that had to take -- if 14 it was an asbestos strip that was precut, nobody had to 15 gather up the ten or 12 strips to put it in a separate 16 package. They were already packaged when you got it 17 from the supplier; right? 18 A. Correct, correct. 19 Q. So at Kerr in the manufacturing facility, 20 generally speaking the workers didn't handle the 21 asbestos tape; it was in a package? 22 A. Correct. 23 Q. Okay. So Kerr had asbestos tape that it sold in 24 rolls, it had asbestos tape strips that were sold with 25 those kits you described, and it had asbestos tape
Page 31	Page 33
1 material? 2 A. Yes, we had a kit that we sold to universities. 3 Q. So if you got that kit, you got precut strips of 4 asbestos; right? 5 A. Correct. 6 Q. If you got one of the boxes or the other packages 7 you talked about, you got a roll of asbestos tape in a 8 bag? 9 A. Correct. 10 Q. You could also buy asbestos tape on its own from 11 Kerr? 12 A. Yes. 13 Q. And that would be in a box? 14 A. Correct. 15 Q. When the asbestos tape got to Kerr's factory, it 16 was either in a bag or a box? 17 A. Correct. 18 Q. It was already packaged to be put in the Kerr 19 package, if that makes sense? 20 A. Yes. 21 Q. Meaning if someone had the Kerr kit with the 22 packets of investment, all they'd need to do would be to 23 grab a prepackaged thing of asbestos strips and put it 24 in the Kerr box; right? 25 A. I didn't follow that one --	1 strips sold as crucible liners; true? 2 A. I can't speak to the crucible liners because I 3 believe those were gone when we -- when I joined the 4 company. 5 Q. Okay. In 1977 you became the operations manager, 6 roundabout. 7 A. Okay. 8 Q. Is that true? 9 A. Sounds true. My deposition would tell me. 10 Q. Yeah. At some point in the late '70s, you became 11 the operations manager; correct? 12 A. Yes. 13 Q. And what was your job as the operations manager? 14 A. Not only materials but also production. 15 Q. Couple three years later, around 1980, you became 16 the director of manufacturing? 17 A. Yes. 18 Q. And then a few years after that, you became the 19 vice president of manufacturing? 20 A. Yes. 21 Q. And you were the vice president of manufacturing 22 for Kerr Corporation from the mid 1980s until you 23 retired in 2003? 24 A. Correct. 25 Q. At one point you owned stock in Kerr Corporation.

Page 34 1 Is that still true? 2 MR. REYEN: Objection. Seeking financial 3 information from the witness. 4 I don't know that you have to answer that, 5 Mr. Girling. 6 THE WITNESS: Yeah. 7 MR. JONES: He's already answered it before, and 8 it goes to bias. 9 MR. REYEN: It -- it doesn't show bias if he 10 doesn't presently own it and -- 11 MR. JONES: I agree. 12 MR. REYEN: -- it's not your business. 13 MR. JONES: Let's find out. You can instruct him 14 not to answer. You can't suggest he shouldn't answer. 15 That's -- that's a speaking objection, and we'll have to 16 take it up later. If you want to instruct him, you can 17 instruct him. I'll ask the question again, and then you 18 can make your decision what to do. 19 Q. Mr. Girling, do you own stock in Kerr 20 Corporation? 21 A. No, I do not. 22 Q. Do you still have a pension from Kerr 23 Corporation? 24 A. Yes. 25 Q. Now, at one point in your career, did you start	Page 36 1 asbestos in dentistry. 2 A. I saw an article on asbestos, Hazards of Asbestos 3 in Dentistry. 4 Q. All right. Give me one second, and I'm going to 5 pull that document up and put it on the screen. Kerr 6 produced in this case, I think, 52 pages of documents. 7 Do you have those documents with you today? 8 A. I do not. 9 Q. Okay. Do you know if the lawyer sitting next to 10 you has them? 11 A. He does not. 12 Q. That's all right. I can put it up. Okay. If 13 this worked right, then something popped up on your 14 screen, and it should be the 1976 hazards in dentistry 15 article. 16 MR. REYEN: I'm not seeing an exhibit myself 17 right now, Trey. 18 THE WITNESS: I don't see it either. Now I see 19 it. 20 MR. JONES: Boom. 21 MR. REYEN: Okay. Larry, it's smaller than it 22 appears. I don't know -- up in the right-hand corner, 23 you can make it larger if need be. 24 THE WITNESS: Right. Whoops. It went away. I 25 lost it. It went away.
Page 35 1 attending these monthly management meetings? 2 A. When I became vice president. We actually -- I 3 think -- well, my memory escapes me, but it may have 4 been before that, too, as a director. 5 Q. Well, I know that you were at one particular 6 meeting of Kerr executives, and that's one in 1976 where 7 they talked about the American Dental Association 8 article; right? 9 A. Yes. 10 Q. Now, by 1976 Kerr had been selling investment 11 products with investment tape for decades; true? 12 A. I know they were selling it when I joined the 13 company. 14 Q. In 1967? 15 A. Yes. 16 Q. And you know that they were selling it before you 17 got there; right? 18 A. I don't -- I don't know for sure but -- I believe 19 they were but I -- 20 Q. I think you've seen price lists that go back to 21 the '50s and maybe before for investment products with 22 asbestos tape; right? 23 A. I didn't see any price lists in the '50s. 24 Q. Okay. In 1976 you're familiar with the article 25 in the American Dental Association journal about	Page 37 1 MR. JONES: Okay. I'm going to mark this as 2 Girling No. 1. 3 (Plaintiffs' Exhibit 1 was marked for 4 identification and attached hereto.) 5 MR. JONES: It went away? 6 THE WITNESS: There it is. 7 BY MR. JONES: 8 Q. All right. On the bottom left-hand side, I put a 9 little sticker that says Exhibit Girling No. 1. Do you 10 see that? 11 A. Let me make it bigger here. Yes, I see that. 12 Q. Excellent. What is Exhibit 1? 13 MR. REYEN: Larry, make sure you can see it fully 14 and read it before answering. 15 THE WITNESS: Yeah, I can't see it. It's just a 16 bunch of lines. 17 MR. JONES: And it's -- for your reference, it's 18 Kerr -51 and Kerr -52; that's the Bates numbers. 19 THE WITNESS: It's from the Council of 20 Dental Therapeutics, is that -- 21 BY MR. JONES: 22 Q. Council of dental -- at the top it says Hazards 23 of Asbestos in Dentistry -- 24 A. Yes. 25 Q. -- do you see that?

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1 A. I got that. 2 Q. All right. And then under it, it says Council on 3 Dental Therapeutics, Council on Dental Materials and 4 Devices. Do you see that? 5 A. I got that, yep. 6 Q. What is Exhibit 1? 7 A. It looks like a letter they put out. 8 Q. How are you familiar with Exhibit 1? 9 A. I saw this letter in a meeting we had with 10 Ken Kovac. 11 Q. Okay. And you called it a letter. It's really 12 an article that was published in the Journal of the 13 American Dental Association; true? 14 A. I don't know that -- 15 Q. Can you -- 16 A. -- where it was published. 17 Q. Can you look at the bottom right of the first 18 page. 19 A. It says Reports -- 20 MR. JONES: Hey, can -- Spencer, let's go off the 21 record. 22 THE VIDEOGRAPHER: Okay. The time is 10:19 a.m. 23 We are off the record. 24 (Recess from 10:19 a.m. to 10:38 a.m.) 25 THE VIDEOGRAPHER: Okay. We're back on the	1 Q. Okay. And what the bottom of this page indicates 2 is that this was published in the April 1976 Journal of 3 the American Dental Association; right? 4 MR. REYEN: The document speaks for itself. 5 MR. JONES: Just wait till I'm done. Is this 6 like a moot court thing? Are you trying to show off 7 your objection skills? I'm just trying to identify the 8 document we're looking at. All right. I get it, you 9 know how to object; you're very talented at it. 10 Q. All right. Mr. Girling. 11 A. Yes. 12 Q. The bottom of the first page indicates this 13 document was published in the Journal of American Dental 14 Association in April of 1976 -- 15 MR. REYEN: Same objections. 16 BY MR. JONES: 17 Q. -- true? 18 You've got to wait till I'm done, Keith. Don't 19 speak over me. 20 MR. REYEN: I thought you were done. 21 MR. JONES: Well, you'll know because there'll be 22 silence. Same objection applies; you don't need to make 23 it again. 24 MR. REYEN: Okay. Larry, just make sure you wait 25 after he finishes a question so that I have a chance to
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1 record, and the time is 1:38 p.m. (sic). 2 BY MR. JONES: 3 Q. Okay. Mr. Girling, while we were off the record, 4 did you get a chance to look at Exhibit 1? 5 A. Yes. 6 Q. Okay. And when you looked it over, did you 7 confirm that this was something that was published in 8 the journal of the American Dental Association? 9 MR. REYEN: Objection; lacks foundation; calls 10 for speculation. 11 THE WITNESS: That's what it says down on the 12 bottom. 13 BY MR. JONES: 14 Q. I didn't think that was a controversial thing. I 15 thought your interrogatories said that, but okay -- 16 MR. REYEN: All right. He's not here to 17 authenticate this document. 18 MR. JONES: Well, he's here to answer whatever 19 question I have, but I don't know why you care. 20 MR. REYEN: I don't -- I don't care, but he's -- 21 MR. JONES: All right. Well, let me do it -- 22 MR. REYEN: -- I'm just -- I made an objection. 23 You wanted me to make an objection. I made an 24 objection. 25 MR. JONES: All right.	1 object. 2 THE WITNESS: Okay. 3 BY MR. JONES: 4 Q. Mr. Girling, you can see from the bottom of the 5 first page, it indicates that this was published in the 6 April 1976 Journal of the American Dental Association. 7 A. Correct. 8 Q. When did you first see this document, the first 9 time ever? 10 A. In a meeting with Kovac in the fall of -- I 11 believe it was the fall, somewhere around that 12 timetable. 13 Q. Do you think it's around when this document was 14 published in April, or do you think it was later in the 15 year closer to 1977? 16 A. I can't speak to the specific exact timeline. 17 Q. Fair enough. And the meeting you were in was a 18 meeting with Kerr executives; right? 19 A. Yes. 20 Q. Ken Kovac was there; true? 21 A. True. 22 Q. And Ken Kovac at the time was the vice president 23 of what? 24 A. I can't speak to his title. I don't know if he 25 was vice president in '76.

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1 Q. What you've said in the past was that Ken Kovac 2 was in charge of regulatory and QA. Does that sound 3 right? 4 A. Yes. 5 Q. What is QA? 6 A. Quality assurance. 7 Q. Okay. That's maybe what we called quality 8 control before? 9 A. Yes. 10 Q. All right. So it was Mr. Kovac's job to monitor 11 regulatory developments that affected Kerr Corporation; 12 right? 13 A. I don't know that for sure. 14 Q. Well, if he's in charge of regulatory, what was 15 he in charge of? 16 A. I -- I don't know his job description -- 17 Q. All right. 18 A. -- I didn't see it. 19 Q. All right. So Mr. Kovac was there. Also Bob 20 Probst was there? 21 A. Yes. 22 Q. Who is Bob Probst? 23 A. He was the director of research at the time. 24 Q. Bob Ransdell was in the meeting. What was Bob 25 Ransdell's job?	1 A. I can't speak for others. I just -- I was 2 surprised to see that, the hazards of asbestos in 3 dentistry. 4 Q. And actually the first sentence of this article 5 in the Journal of the American Dental Association in 6 1976 discusses a product sold by Kerr at that time; 7 true? 8 MR. REYEN: Objection; document speaks for 9 itself. 10 THE WITNESS: That is not true. We did not sell 11 binders for periodontal dressings. 12 BY MR. JONES: 13 Q. The whole sentence is, "Asbestos is chiefly used 14 in dentistry as a binder in periodontal dressings and as 15 a lining material for casting rings and crucibles." 16 A. The second part is correct. 17 Q. Did I read the entire sentence correctly? 18 A. Yes. 19 Q. And Kerr certainly sold asbestos lining material 20 for casting rings and crucibles in 1976 when this 21 document was published? 22 A. Correct. We did not sell the periodontal 23 dressings. 24 Q. Fair enough. So this was important to Kerr 25 Corporation because Kerr Corporation was selling one of
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1 A. I can't be -- I'm not certain, positive. He was 2 either head of the marketing or he was president at the 3 time; I don't remember which. 4 Q. You previously testified in a deposition that 5 Mr. Ransdell was the president of Kerr at the time of 6 this meeting. Does that sound right? 7 A. That's probably right, if I just testified to it 8 back in -- 20 years ago. 9 Q. All right. Do you want me to pull that up? I 10 can show it to you so you don't have -- 11 A. Nope. I believe you. I believe it. 12 Q. Okay. Okay. So -- and then you were there. And 13 in the late '70s, your job was the materials manager or 14 Operations Manager 1. Does that sound right? 15 A. Probably correct, yes. 16 Q. Why did Mr. Kovac bring this article to the 17 executive meeting in 1976? 18 MR. REYEN: Calls for speculation. 19 THE WITNESS: I have no idea. He -- that was 20 part of his presentation at the meeting. 21 BY MR. JONES: 22 Q. So why did he present that at the meeting? 23 A. Informative to the group. 24 Q. And why was this article important to the group 25 of executives at Kerr Corporation?	1 the products that this article talks about; right? 2 A. Correct. 3 Q. And then if you look at the second paragraph, it 4 says that, "It has been documented that airborne 5 asbestos is related causally to the development of 6 pulmonary asbestosis and fibrosis, lung cancer and 7 pleural and peritoneal mesotheliomas." 8 MR. REYEN: Document speaks for itself. 9 BY MR. JONES: 10 Q. Did I read that correctly? 11 A. Correct. 12 MR. JONES: You can have a running objection to 13 document speaks for itself. That's not a legal 14 objection, though, unless you can cite me the 15 Evidence Code. Maybe it's in there. 16 MR. REYEN: I don't know -- 17 MR. JONES: In moot court -- you would lose 18 points in moot court for that objection; that's all I'm 19 saying. 20 MR. REYEN: All right. Well, you'd probably lose 21 points for just demonstrating that you can read. 22 MR. JONES: I don't know because I read it 23 correct. 24 Q. Now, Mr. Girling, that sentence is significant 25 because it indicates that asbestos can cause really bad

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1 diseases; right? 2 A. That's what it says. 3 Q. So in 1976, Mr. Kovac brought this article to an 4 executive meeting of Kerr Corporation informing those 5 executives that the article says that a product sold by 6 Kerr includes an ingredient that can cause cancer; true? 7 A. True. 8 Q. If someone at Kerr Corporation was going to make 9 a decision about whether Kerr should keep selling that 10 product, the asbestos liner, or should stop selling it 11 or should put a warning on the product or should change 12 the product to nonasbestos, that decision would 13 ultimately be made by the president of Kerr Corporation, 14 who was Bob Ransdell at the time; true? 15 A. I don't know the process. Kovac might have made 16 that, the president might have done it -- I'm not sure 17 who. 18 Q. One of the executives in that management meeting 19 would have made the decision; right? 20 A. To exit the business, you're saying? 21 Q. Correct. 22 A. I don't think -- well, not based on this letter, 23 just on the letter. 24 Q. Well, what I'm saying is you told us at the 25 beginning -- I kind of asked you how did the structure	1 Q. Okay. So Mr. Kovac, the head of regulatory and 2 quality assurance, brings this article informing the 3 executives of Kerr that they are selling a product that 4 this article says includes a cancer causing ingredient. 5 What does Kerr do? What do those executives do? 6 MR. REYEN: Okay. I'm going to object just to 7 the extent that this line of questioning in its 8 entirety -- I won't make it again -- is not reasonably 9 calculated to the lead to the discovery of admissible 10 evidence based upon Mr. -- Dr. Springer's testimony that 11 he didn't use the product after 1974. 12 But you can go ahead and answer, Larry. I'm just 13 putting that on the record. 14 THE WITNESS: I need -- I need the question 15 again, sir. 16 BY MR. JONES: 17 Q. Sure. So Mr. Kovac, the head of regulatory 18 issues and quality assurance, brings this article into 19 the executive meeting informing the executives that Kerr 20 is selling a product that this article says includes a 21 cancer causing ingredient; right? 22 A. Correct. 23 Q. What do those executives do? What happens in 24 that meeting? 25 A. The article was discussed. The article primarily
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1 work, who made the decisions, and you told me that the 2 president made the corporate decisions. And I even 3 asked you, I said, so that means the proverbial buck 4 stops at Mr. Nelson. That's who we were talking about 5 in the beginning. Do you remember that? 6 A. Correct. 7 Q. So if anybody in that executive meeting was going 8 to make a decision for Kerr Corporation, it would be the 9 president, who was Mr. Ransdell, at that time; right? 10 A. Or someone make a recommendation to him. 11 Q. But ultimately Mr. Ransdell would make the 12 decision? 13 A. He would have to agree on a course of action. 14 Q. Okay. If somebody said let's stop selling this 15 stuff and Mr. Ransdell disagreed, then Kerr would not 16 stop selling it; true? 17 A. I can't speak to that. I'm not sure how that 18 process would work. 19 Q. Well, you know -- 20 A. He may -- 21 Q. You know that the president makes the decision. 22 You know that; right? 23 A. Ultimately. 24 Q. The buck stops there; right? 25 A. Yes.	1 referred to periodontal paste and the ADA pulling their 2 recognition of periodontal paste, they would not -- no 3 longer consider eligible to be accepted by the ADA. 4 Okay. The ADA made acceptance decisions on a lot of 5 different products. They did not -- they did not drop 6 acceptance on the asbestos rolls. 7 They cautioned that they should be used under 8 controlled conditions by the laboratory or the dentist, 9 and they should be removed, they should be cut -- they 10 should be used in a wet manner. The key thing that we 11 took away from that meeting was that we potentially 12 could have -- potentially could have -- a problem with 13 asbestos. 14 Q. So what you're saying is that when Kerr's 15 executives read this article published in the American 16 Dental Association called Hazards of Asbestos in 17 Dentistry, their takeaway was that the problem was not 18 with Kerr's products? 19 A. No. There is a potential for asbestos exposure 20 if the product is not used properly; that's what was the 21 takeaway. 22 Q. What the article says -- and if you look on the 23 first page, the right-hand column, the first complete 24 sentence beginning with "Also"... Do you see that? 25 A. Yes.

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1 Q. It says, 2 "Also exposure to airborne fibers may 3 occur in dental laboratories where asbestos 4 is used to line casting rings or crucibles 5 for casting machines and in general is kept 6 in the laboratory in large rolls. Here the 7 danger lies in the tendency for personnel to 8 carelessly cut sections off these rolls and 9 thus release asbestos into the ambient air." 10 Did I read that correctly? 11 A. That's correct. 12 Q. They are talking about a product sold by Kerr; 13 true? 14 A. Correct. 15 Q. Kerr sold asbestos tape in rolls for use by 16 dentists; true? 17 A. True. 18 Q. For a dentist or a lab technician to use that 19 tape, they had to tear the tape to a piece -- 20 A. No, they did not have to tear it. They were 21 supposed to cut the tape. 22 Q. Oh, I'm sorry. Did -- did Kerr Corporation put a 23 warning on their asbestos tape boxes saying to cut the 24 tape, not to tear it? 25 A. No.	1 agree? 2 A. I don't know that he said yea, yea, you've got 3 the stamp of approval. We set about trying to find a 4 substitute. 5 Q. Okay. And there was a lot of work involved in 6 finding a substitute for asbestos; correct? 7 A. Correct. 8 Q. Several different departments were involved; 9 correct? 10 A. Yes. 11 Q. Mr. Kovac was in charge of the program; true? 12 A. I don't know that he maintained responsibility 13 throughout the whole program, no. 14 Q. At some point Jack Everard, the manager of 15 purchasing, got involved? 16 A. Correct. 17 Q. So the purchasing department got involved because 18 they had to find an alternative, some sort of product 19 that could be used as a liner that didn't have asbestos; 20 right? 21 A. Correct. 22 Q. Once the manager of purchasing got that material, 23 it had to be sent to the research and development people 24 so they could test it; right? 25 A. Correct.
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1 Q. Was there any -- 2 A. In the directions for inlay, I think, 3 Cristobalite inlay, it said that the tape was cut. 4 Q. Okay. So are -- are you saying that there's an 5 important difference to Kerr between cutting or tearing 6 the tape? 7 A. Well, that's what they're saying here. If it's 8 carelessly cut or torn, there's a chance for asbestos to 9 be released in the air, if it's done carelessly. 10 Q. What they're saying is that that's what people 11 are doing in the labs; right? 12 A. If they do it carelessly, correct. 13 Q. Okay. So are you suggesting that if people would 14 have just followed Kerr's instructions and cut the tape, 15 then there wouldn't have been a problem? 16 A. No. 17 Q. Okay. What did people in that meeting recommend 18 when they got this information? 19 A. The recommendation from Kovac was that this isn't 20 going in the right direction, it looks like asbestos has 21 got a hazardous problem with it, and we need to get a 22 replacement. 23 Q. Anything else? 24 A. Not that I can recall. That's 50 years ago. 25 Q. Okay. Did the president of Kerr Corporation	1 Q. And I believe it's been your testimony that it 2 took some time for research and development to find a 3 suitable replacement for the asbestos tape; true? 4 A. Correct. 5 Q. When the -- part of the decision in finding a 6 replacement for the asbestos tape was how much to charge 7 for the replacement; right? 8 A. I have no idea about that decision process. 9 Q. Well, you know that the cost of materials is 10 something taken into account when setting the price of a 11 product; right? 12 A. True. 13 Q. You can't sell the product for less than the cost 14 of the materials or you won't make money; right? 15 A. True. 16 Q. So if the asbestos tape is more or less expensive 17 than the replacement, that's something that has to be 18 taken into account when setting the price of the 19 product; right? 20 MR. REYEN: Objection; argumentative; lacks 21 foundation. 22 THE WITNESS: That wasn't the goal, to find a 23 more economical solution. The goal was to replace 24 asbestos. 25 ///

Page 54 1 BY MR. JONES: 2 Q. I'm not suggesting it was the goal to find a more 3 economical solution. I'm suggesting that whatever the 4 solution was had to be taken into account in the pricing 5 of the product; true? 6 A. True. 7 Q. If the replacement costs two bucks and you're 8 charging \$1 for the product, you're not going to make 9 money like that; right? 10 A. Correct. 11 Q. So we've got purchasing involved, research and 12 development. Who would handle pricing issues? Is that 13 marketing or is that finance? 14 A. Marketing. 15 Q. So marketing is involved. Whenever they find a 16 replacement, they got to change all the price sheets and 17 all the catalogs; right? 18 A. Correct. 19 Q. Is that marketing also? 20 A. Yes. 21 Q. Whenever Kerr R&D finds that one of the materials 22 purchasing sends them isn't working, they have got to 23 communicate that to purchasing; right? 24 A. Correct. 25 Q. When they find the thing that does work, they	Page 56 1 that are working to replace asbestos; true? 2 MR. REYEN: Objection; lacks foundation; calls 3 for speculation. 4 THE WITNESS: It was communication by taking -- I 5 can tell you what happened. Jack Everard would get a 6 sample in, and he would walk it down to technical 7 research and say, "Here, try this one." And then they 8 would cast it and see if it worked or not. And they'd 9 say to Jack, "No, lousy." 10 BY MR. JONES: 11 Q. Did they -- this is research and development; 12 right? 13 A. Yeah, it's one or two people. 14 Q. And the research and development department hired 15 people that were trained in the scientific method; 16 right? 17 A. I don't know what their criteria was for hiring 18 people. 19 Q. Well, when you're doing research and development, 20 research means looking into stuff; right? 21 A. Correct. 22 Q. Development means developing something based on 23 your research; right? 24 A. Your products, yep. 25 Q. Yep. And then you're telling me they're doing
Page 55 1 have to communicate that to purchasing; right? 2 A. Right. 3 Q. And then that's got to be communicated to the 4 marketing people; right? They're the ones that are 5 going to sell it. 6 A. They weren't in the loop during the development 7 process. During the sampling and testing process, 8 marketing wasn't even involved in that process at that 9 time. 10 Q. They find out at the end? 11 A. Exactly. 12 Q. Okay. Now, the executives, the people that were 13 in that meeting, they're staying apprised of the 14 development of the nonasbestos replacement; right? 15 A. Yes. 16 Q. So the president of Kerr Corporation is keeping 17 tabs on it; right? 18 A. I don't know if he was directly keeping tabs; I 19 can't speak to that. 20 Q. Well, he was in the meetings where you're talking 21 about it; right? 22 A. He was in the meeting, but I don't know what he 23 did after that. I can't speak to his -- what he did. 24 Q. I agree. During this time period, there's a lot 25 of communication between these different departments	Page 57 1 testing of these different products; right? 2 A. Actual casting. 3 Q. Yeah. And you're saying that the research and 4 development department at Kerr Corporation didn't write 5 things down? 6 A. I can't speak to that. 7 Q. Well, I mean, so they never kept notes, they 8 didn't have log books or journals or anything like that? 9 A. I have -- 10 MR. REYEN: Objection -- 11 THE WITNESS: -- no idea. That's not -- that was 12 not my responsibility. I don't know. 13 BY MR. JONES: 14 Q. None of these different departments sent 15 memoranda to each other about how the process was going? 16 A. I can't speak for other departments. I know what 17 happened within purchasing and production; that's it. 18 Q. Okay. You're off to the side a little bit on 19 your video. I need you to -- 20 A. Okay. I just got this thing in front of me. I 21 can't see the picture. 22 Q. That's all right. That's all right. 23 Okay. So are you telling me that there was a 24 meeting where someone brought in an article published in 25 the American -- I mean your -- almost all of Kerr's

Page 58 1 business in 1976 is selling dental products; right? 2 A. Correct. 3 Q. It's got dental in the name; right? 4 A. Correct. 5 Q. So -- 6 A. Not all the products that they recommended, 7 correct. 8 Q. So -- 9 A. Periodontal paste was the main focus of the 10 article. 11 Q. We talked about that. In one sentence, the first 12 thing it says is periodontal paste. The second thing it 13 says is the asbestos products sold by Kerr Corporation, 14 which is asbestos liner for casting rings and crucibles; 15 right? 16 A. Correct. But my point was that the only product 17 that they decertified was the periodontal paste. They 18 did not say anything about asbestos rolls 19 decertification. 20 Q. Okay. Meaning you could keep selling it if you 21 wanted to. 22 A. They did not tell us to stop selling it, correct. 23 Q. And Kerr in 1976 did not stop selling it; true? 24 A. True. 25 Q. So is it your testimony that a vice president	Page 60 1 A. Just in general, anything that we bought -- 2 correct. 3 Q. Yeah. 4 A. Yes. 5 Q. And you had to keep -- if you wanted to buy 6 something new, you had to have a record of how much that 7 cost; right? 8 A. Correct. 9 Q. So if you wanted to get some material different 10 from asbestos, you would have to have something written 11 down saying how much it cost in comparison to asbestos; 12 right? 13 A. I don't know at that point whether they even 14 looked at cost. They were looking for materials that 15 would work. 16 Q. At some point they had to look at cost because 17 they had to know how much to charge for the thing; 18 right? 19 A. Only when they found a material that would work. 20 Q. Fair enough. So if they were charging \$2 with 21 the asbestos, and the nonasbestos thing was more 22 expensive, they might have to change that price; right? 23 A. I'm sure. I don't make those decisions. Okay. 24 Q. I agree. But at some point, there would be 25 something written down about this is the cost of
Page 59 1 brings an article into an executive meeting with other 2 vice presidents and the president of the company -- 3 A. They weren't -- 4 MR. REYEN: Asked and answered. 5 MR. JONES: Wait till I'm done. 6 Q. Is it your testimony that the head of regulatory 7 and quality assurance brings an article to an executive 8 meeting that includes the president of the company, that 9 that article says that an ingredient in one of Kerr's 10 products has the ability to cause cancer; in that 11 meeting, the suggestion is made to change the product, 12 the management committee puts the wheels in motion to 13 change the product; they involve purchasing, research 14 and development, quality assurance to change the 15 product, and there were no memoranda or notes or other 16 documents written down involved in that process? 17 MR. REYEN: Objection; compound question. 18 THE WITNESS: I cannot speak to that. I know 19 what we did in purchasing, and that's -- I don't know 20 what other departments did in terms of notes, 21 departments, whatever. 22 BY MR. JONES: 23 Q. Well, in purchasing, you for sure had records. 24 You had to keep track of how much you were paying for 25 stuff; right?	Page 61 1 asbestos, this is the cost of the new product, this is 2 the cost that it's going to be for us to make it, this 3 is what we should charge for the new product -- right? 4 MR. REYEN: Lacks foundation; calls for 5 speculation; compound; argumentative. 6 THE WITNESS: I can't speak to that. 7 BY MR. JONES: 8 Q. What do you mean you can't speak to it? You were 9 in the planning department. You were in production -- 10 A. I don't -- 11 Q. -- this was your job. 12 A. I don't decide when to change prices, when to 13 mark up products; that's not my role. 14 Q. But you do communicate the information about the 15 cost of production to the people that do set prices; 16 true? 17 A. Communicate -- individual products, no. 18 Q. Okay. So is it your testimony that nobody wrote 19 anything down about this article that says the Kerr 20 product has an ingredient that causes cancer? Nobody 21 wrote that down? 22 A. I can't speak to that. Like I said, I don't 23 know. 24 Q. Okay. In 1976 -- 25 A. Are we done with the article? Can I take it down

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1 now or? 2 Q. No, we're not. 3 A. Okay. 4 Q. In 1976 -- well, yeah, you can take it down. 5 Yeah, go ahead and take it down. 6 A. Okay. 7 Q. Why did Kerr want to -- why did the Kerr 8 executives in 1976 decide to change the tape from 9 asbestos to nonasbestos? 10 A. Because the asbestos had the potential to become 11 airborne, be hazardous. 12 Q. They were worried about dentists or dentist lab 13 technicians getting hurt? 14 A. I can't -- I don't know what -- I can't say that 15 they were. 16 Q. I mean -- 17 A. Dentists -- 18 Q. I mean, was the -- in the meeting, were they 19 concerned that, oh, no, our product might hurt people? 20 A. I can't say that. I don't think that was... 21 Q. Well, when they got this article, they weren't 22 worried that someone might work with Kerr asbestos tape 23 that's discussed in the article and that they might get 24 the diseases discussed in the article like lung cancer 25 or mesothelioma?	1 Q. What was the hazard? 2 A. Exactly what we just read. 3 Q. Cancer; right? Right? 4 A. Pardon me? 5 Q. Cancer. 6 MR. REYEN: Calls for expert opinion. 7 MR. JONES: Cancer was a hazard. 8 THE WITNESS: It was hazardous; let's put it that 9 way. 10 BY MR. JONES: 11 Q. Well, but you knew. This article said it's 12 hazardous because it can cause asbestosis and fibrosis, 13 lung cancer and pleural and peritoneal mesotheliomas; 14 true? 15 A. That's what the article said, but I don't -- I 16 didn't -- I didn't say that. 17 Q. I understand. So did somebody in that room say: 18 We should test our tape and find out if it releases 19 asbestos? 20 A. I don't know if they did or not, quite frankly. 21 Q. Did somebody say: We need to do some more 22 research and find out how bad this asbestos is? 23 A. I don't know. I can't speak to that. 24 Q. If dentists using Kerr's asbestos tape got hurt 25 from it after this article came out, that would be a
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1 MR. REYEN: Lacks foundation; calls for 2 speculation; calls for the state of mind of other 3 persons. 4 THE WITNESS: Again, I can't -- I can't speak for 5 others. I don't know what their thinking was. 6 BY MR. JONES: 7 Q. Well, I'm asking you what they did. Did anybody 8 in the room say something to the effect of: Oh, no, our 9 product might hurt people, we better do something about 10 it? 11 MR. REYEN: Objection; calls for hearsay. 12 THE WITNESS: The only thing that was said in 13 that vein was that our product did have a potential for 14 fibers being exposed and looks -- didn't look very good 15 for the future and let's get out of it; let's get it 16 replaced. 17 BY MR. JONES: 18 Q. What do you mean it didn't look good for the 19 future? 20 MR. REYEN: Objection; misstates testimony. 21 THE WITNESS: There was a potential for the 22 asbestos tape to give off fibers; that's what we meant. 23 BY MR. JONES: 24 Q. And what does -- why is that bad? 25 A. Because it was showing that it could be a hazard.	1 problem for Kerr; right? 2 MR. REYEN: Objection; calls for speculation. 3 MR. JONES: What was the answer? 4 THE WITNESS: Could be. 5 BY MR. JONES: 6 Q. Why would that be a problem? 7 A. Just what you said, they got exposed to 8 something. 9 Q. And why would that be a problem for Kerr? 10 A. I don't know where you're going. What do you 11 want? 12 Q. You seem to be looking off to the side. And I 13 don't have a video on the other attorney, so I don't 14 know if you're looking at him or -- 15 A. No, I'm not. I'm not looking at Richard or 16 anybody -- 17 Q. -- anything like that going on, this is going -- 18 A. No -- 19 Q. -- big problem. I'm just letting you know. 20 You're kind of pausing and looking off -- 21 A. No. 22 Q. -- it's going to be a big problem if that's 23 what's going on. 24 MR. REYEN: Okay. Ask a question, and you can 25 talk about big problems later.

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1 MR. JONES: Now, where was I... 2 MR. REYEN: You were asking him to speculate on 3 what could happen if something happened after your 4 client stopped using the product. 5 MR. JONES: That Keith is just so smart. I can't 6 come up with a comeback for him. I wish I had something 7 snappy. 8 Q. Kerr understood that it could be liable for 9 people that got hurt from this asbestos product; right? 10 A. I don't know. That's way beyond my scope. 11 Q. Well, you personally knew about lawsuits back 12 then; right? 13 A. No, this -- no. 14 Q. You'd never heard of a lawsuit before? 15 A. Kerr lawsuits on asbestos, no. 16 Q. I agree, there weren't any then. But you'd heard 17 of lawsuits; right? 18 A. Lawsuits are common knowledge. 19 Q. Yeah. And Kerr has been sued before, not for 20 asbestos but for other things -- 21 A. Not aware -- 22 Q. -- right? 23 A. -- of it. I was not aware of it. 24 Q. You'd never heard of Kerr being sued about 25 anything?	1 true? 2 A. The asbestos was not our expertise area. That 3 was supplied by vendors, other companies that 4 manufactured the asbestos. We were not -- 5 Q. Okay. 6 A. We were not experts in asbestos. 7 Q. Well, Kerr was experts in chemicals; right? 8 MR. REYEN: Objection; overbroad. 9 MR. JONES: Right? 10 THE WITNESS: No, I don't -- I wouldn't call us 11 experts in chemicals. 12 BY MR. JONES: 13 Q. Your first job was a planner in the chemical 14 division; right? 15 A. Correct. 16 Q. Employees at Kerr Corporation worked with 17 dangerous chemicals every day; right? 18 A. I don't -- I don't believe that's totally true. 19 Q. Kerr knew how to protect its employees from 20 chemicals; right? 21 A. It's so vague, I don't know what you're referring 22 to. What chemicals, what -- how to protect from what? 23 Q. Any chemicals. 24 A. Fire hazards, tornadoes, or what? It's vague. 25 Q. Did Kerr work with chemicals that caused
Page 67	Page 69
1 A. No, I did not. 2 Q. Okay. But you had heard of lawsuits; right? 3 A. Correct. 4 Q. I mean, you'd heard that if somebody slips and 5 falls in a grocery store, they might bring a lawsuit; 6 right? 7 A. Correct. 8 Q. And you'd heard maybe if somebody got in a car 9 accident and rear-ended somebody else, there could be a 10 lawsuit; right? 11 A. Correct. 12 Q. And you knew if somebody sold a product that hurt 13 somebody, there could be a lawsuit; right? 14 A. Correct. 15 Q. And in 1976, Kerr knows that it's selling a 16 product that the American Dental Association says could 17 hurt somebody; right? 18 A. Possibly. 19 Q. Okay. So in 1976, there's a possibility that 20 Kerr can be sued if people get sick from the asbestos in 21 the tape; right? 22 A. Correct. 23 Q. And Kerr didn't do anything to make dentists or 24 dental technicians or anything else aware of the 25 asbestos hazards of the asbestos tape that Kerr sold;	1 tornadoes? 2 A. No. I mean, you said Kerr works to protect their 3 people with chemicals. I don't know -- 4 Q. No. I'm sorry -- 5 A. -- it's so vague -- it's so vague, I don't know 6 what you're referring to. 7 Q. Kerr knew how to protect its employees from the 8 dangerous chemicals they worked with; true? 9 A. True, if they worked with any. 10 Q. Right. And Kerr had people whose job was to make 11 sure that Kerr's employees weren't hurt by the chemicals 12 they worked with; right? 13 A. Someone was responsible, correct. 14 Q. So Kerr Corporation was familiar with working 15 with chemicals that could be dangerous; right? 16 A. I don't know if I would classify any of the 17 chemicals we made for impression materials to be 18 dangerous -- 19 Q. Okay. 20 A. -- quite frankly. 21 Q. Well, the only way they would know is if they 22 looked up information about the chemical to find out if 23 it was dangerous or not; right? 24 A. Or the supplier provided that information, 25 correct.

Page 70 1 Q. Okay. Kerr certainly had the ability to research 2 the hazards of different chemicals; right? 3 A. I can't say they did. I was in manufacturing. 4 Q. Well, when you started, Kerr was in Detroit, 5 Michigan? 6 A. Yes. 7 Q. Detroit, Michigan is near two major universities; 8 right? 9 A. Correct. 10 Q. Detroit, Michigan has libraries; right? 11 A. Correct. 12 Q. Kerr could have sent someone to a library to do 13 research on a chemical if they wanted to; right? 14 A. If they needed to, correct. 15 Q. Okay. The reason Kerr decided to stop selling 16 asbestos is because it did not want to be sued; true? 17 MR. REYEN: Misstates testimony; lacks 18 foundation. 19 THE WITNESS: I don't know that that's the reason 20 we stopped selling asbestos. We just wanted to make 21 sure we didn't expose the company to potential hazardous 22 material. 23 MR. JONES: Well -- go ahead. 24 THE WITNESS: It always said it was a potential 25 for hazard.	Page 72 1 its customers, the dentists and dental technicians 2 working with them; true? 3 MR. REYEN: Lacks foundation; calls for 4 speculation. And when you say what Kerr did, it makes 5 it sound like you're asking for his testimony as a 6 person most knowledgeable about what Kerr thought, which 7 is not what this deposition is today. 8 THE WITNESS: I just can't -- I can't speak to 9 that whole -- the logic of what you're just saying why 10 we -- why we stopped asbestos. 11 BY MR. JONES: 12 Q. Well, if Kerr was really worried about the health 13 of its customers, the dentists and the dental 14 technicians, then they would have done more to protect 15 them; right? 16 MR. REYEN: Objection -- 17 THE WITNESS: I can't speak to that. 18 BY MR. JONES: 19 Q. What's that? 20 A. That's not my knowledge base. 21 Q. Well, you know that when the asbestos tape came 22 from the suppliers to Kerr, it was in packaging already 23 marked with Kerr's name on it; right? 24 A. Yes. 25 Q. Kerr's the one that decided what to write on the
Page 71 1 BY MR. JONES: 2 Q. Your employees in the factory didn't really 3 handle it, though. It was in a package whenever they 4 handled it. They -- it was in a package in one box, and 5 then they moved it in a package to another box; right? 6 A. Yes. 7 Q. The people that were working with this hazardous 8 thing were the dentists and the dental technicians; 9 right? 10 A. Yes. 11 Q. And Kerr was worried that one of those dentists 12 could get sick and sue Kerr; right? 13 A. I don't know if that was in the forefront of 14 their thinking all the time. 15 Q. But it was part of it? 16 A. Could be. 17 Q. We know that Kerr didn't do it to protect 18 dentists and dental technicians; true? 19 A. Didn't do what, now? 20 Q. Kerr didn't -- Kerr didn't do anything because it 21 was worried about dentists and dental -- dental -- 22 strike that. When Kerr found out -- strike that. 23 When Kerr made the decision to stop using 24 asbestos with its investment materials, it did not make 25 that decision because it was worried about the health of	Page 73 1 boxes of asbestos tape or the bags; true? 2 A. Yes. 3 Q. In 1976, when Mr. Kovac brought the article into 4 the executive meeting, Kerr didn't start putting 5 warnings on the asbestos tape that went out to 6 customers; true? 7 A. True, we did not, nor did the vendors. 8 Q. And I'm asking about Kerr. The meeting we're 9 talking about is in 1976 with Kerr executives; true? 10 A. True. 11 Q. In 1976 the president of Kerr had the ability, if 12 he wanted to, to start putting warnings on the asbestos 13 tape; true? 14 A. That would -- I can't speak for him. If that was 15 his goal, yes. 16 Q. He did not do that; true? 17 A. True. 18 Q. From 1976 until asbestos was phased out, Kerr 19 never put a warning on the product about asbestos; true? 20 A. True. 21 Q. In fact Kerr made no effort, Kerr didn't do 22 anything, to inform its customers that the asbestos tape 23 could hurt you; true? 24 A. True. 25 Q. Kerr dealt with suppliers to sell its products;

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1 true? 2 A. Manufacturers, yes. 3 Q. Well, it dealt with suppliers like Henry Schein 4 or Patterson or Buffalo Dental, those kind of companies; 5 right? 6 A. Distributors, yes. 7 Q. And Kerr would train those distributors about 8 Kerr's products so that they would be able to sell them; 9 right? 10 A. I don't -- that's not my job. I don't know. 11 Q. You've previously testified that Kerr trained the 12 distributors about the products. Do you recall that? 13 A. I don't recall that. 14 MR. JONES: Okay. 15 MR. REYEN: As far as I know, there's no question 16 pending. 17 MR. JONES: That's correct. 18 Q. Mr. Girling, I want to refresh your recollection 19 about this, if I can. So I've put up -- hopefully you 20 can see it -- a copy of your deposition taken in the 21 Witkowski case. That was a California case out of 22 San Francisco County July 15, 2004. Do you see it? 23 A. Yes. 210 pages. 24 Q. Yes, sir. And it says Deposition of Larry 25 Girling. That's you; right?	1 products. It didn't say -- it's not specific to the 2 asbestos products. 3 Q. I agree. 4 A. I think that was your question before, was we 5 provided training on the asbestos products to the 6 dealers, and I -- I don't recall that. 7 Q. My question did not have to do with asbestos, but 8 I appreciate the confusion. 9 My question is Kerr provided training about its 10 products to distributors and salespeople; right? 11 A. Correct. 12 Q. Kerr wanted its distributors and salespeople to 13 know their products so that they could sell them; right? 14 A. I assume that's why they did it. 15 Q. And Kerr for sure wanted to sell products; right? 16 A. Always. 17 Q. Yeah. And the distributors and salespeople are 18 the ones that actually met with the people that bought 19 the products; right? 20 A. Correct. 21 Q. So they were in between you, Kerr and the 22 dentists; right? 23 A. Correct. 24 Q. Kerr never provided any training to its 25 distributors about the asbestos hazards associated with
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1 A. Correct. 2 MR. REYEN: Is it large enough for you to read, 3 Larry? 4 THE WITNESS: I'm going to make it a little 5 bigger now. Okay. 6 BY MR. JONES: 7 Q. So this is your testimony in a prior case; right? 8 A. Okay. 9 Q. Is that true? 10 A. I -- yes. If I said it in a deposition as 11 testimony, then I default to the testimony, quite 12 frankly. 13 Q. Fair enough. Can you go to Page 161 of the 14 deposition. You're going to have to scroll down. Let 15 me know when you're there. 16 A. I'm at 150. 17 Q. Keep going. 18 A. There, 161. 19 Q. 161 around Line 15, you talk about Kerr providing 20 training to the distributors. Do you see that? 21 A. Yes. 22 Q. Okay. Does that reflect your recollection that 23 Kerr provided training about its products to its 24 distributors? 25 A. Yeah, a -- we did train sales reps on our	1 tape; true? 2 A. I can't speak to that. I'm not aware of any. 3 Q. Kerr went to the American Dental Association 4 trade show every year in Chicago? 5 A. They did attend it. I don't know if every year 6 or what but... 7 Q. Had a booth? 8 A. Correct. 9 Q. The idea was at the American Dental Association 10 trade show that they would interact with people that 11 might buy their dental products; right? 12 A. I don't -- I can't say the motive for the show, 13 but they were there. 14 Q. It's a trade show; right? 15 A. Trade -- yes, competitors were there. 16 Q. Right. And the idea was that Kerr would be at 17 this trade show to hopefully trade their products; 18 right? 19 A. Correct. 20 Q. Kerr never informed anyone at these ADA trade 21 shows about what it learned about the hazards of 22 asbestos in its products; right? 23 A. I don't know. I don't know. 24 Q. Did Kerr ever take the asbestos tape off the 25 shelves whenever it found a replacement?

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1 A. Can you say that again. 2 Q. Yeah. Did Kerr ever take the asbestos tape off 3 the shelves whenever it found a replacement? 4 A. Take -- 5 Q. Like recall it. 6 A. Not that I'm aware of. 7 Q. So whenever Kerr came up with the nonasbestos 8 tape, did they take all the rest of their asbestos tape 9 in inventory and throw it away? 10 A. It was -- the new tape was phased in as we ran 11 out of -- as the new tape became available, it was put 12 into production right away because it then took time 13 to -- for the developers to get the tape process down 14 pat. 15 Q. So the new tape was phased in, and the old 16 asbestos tape was phased out? 17 A. Correct. 18 Q. And the way the old -- so the new tape was sold 19 once the old tape was gone? 20 A. No. The new tape was put into production as soon 21 as we could get it available by size. 22 Q. So did you throw away the asbestos tape that 23 hadn't been sold yet? 24 MR. REYEN: Objection -- 25 THE WITNESS: I -- I can't speak to that. We	1 BY MR. JONES: 2 Q. Do you know what the Federal Register is? 3 A. Federal Register for what? 4 Q. The Federal Register where the federal government 5 prints laws and notifications and requests for hearing 6 in the Federal Register. 7 A. I'm not familiar with it, no. 8 Q. Okay. Who in Kerr had responsibility to review 9 the Federal Register to determine whether there were any 10 labeling requirements with respect to 11 asbestos-containing products? 12 A. I don't know. 13 Q. Mr. Girling, I've just displayed your deposition 14 in the Girling -- pardon me -- in the Blackledge case. 15 That -- I think this is the first deposition you ever 16 gave in an asbestos case out of Louisiana. Can you see 17 it? 18 A. I see it. 19 Q. Okay. And then at the top, it says the 20 deposition of Larry Girling. Do you see that? 21 A. Yeah, it's handwritten in. 22 Q. Yeah. And that's you; right? 23 A. Correct. 24 Q. Okay. And this is your testimony? 25 A. Yes.
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1 only -- it wouldn't be very much if it was thrown away 2 because it got delivered every month, every 30 days, so 3 the quantities would be very small. 4 Q. Did you -- did Kerr call its distributors and 5 tell them to take the asbestos tape off the shelves and 6 start selling the new nonasbestos tape? 7 A. I don't know. 8 Q. There would be some record of that; right? 9 A. I don't know. 10 Q. Back to Ken Kovac. You would agree with me that 11 one of the roles of the quality assurance group was to 12 stay abreast of all the Federal Regulations; true? 13 A. True. 14 Q. One of the ways that Kerr's quality assurance 15 group stayed abreast of Federal Regulations was to read 16 the Federal Register; correct? 17 MR. REYEN: Objection; lacks foundation; calls 18 for speculation -- 19 THE WITNESS: I can't -- 20 MR. REYEN: -- calls -- 21 THE WITNESS: -- speak to that. I don't know how 22 they did their job. 23 MR. REYEN: Larry, you've got to let me finish my 24 objection. 25 THE WITNESS: I'm sorry.	1 MR. REYEN: Why don't -- you want him to read the 2 whole thing? You know, assuming, Trey, that it is an 3 accurate thing, we will testify as to -- we will 4 stipulate to the authenticity of it. We won't waive any 5 relevant objections, but we'll stipulate to the 6 authenticity of it but... 7 MR. JONES: Okay. I'm just -- look at the first 8 page, it asks the full name, and I'm just asking the 9 witness -- I'll do it. 10 Q. If you look at the second page of the document, 11 the beginning of the questioning, you can see that this 12 is a deposition of you; true? 13 A. True. 14 Q. Okay. And you're testifying on behalf of Kerr 15 Corporation. You can see that at the bottom of that 16 page; right? 17 A. You mean as a person of knowledge or what? 18 Q. Actually when this is taken, you're still 19 employed by Kerr Corporation. Do you see that? You're 20 still working at Kerr Corporation when this deposition 21 took place. 22 A. What's the date on it? 23 Q. '96. But at the bottom, you're asked who you're 24 employed, and you say Kerr Corporation. 25 A. Okay.

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1 Q. If you can please go to page -- it's going to be 2 the 24th page of the PDF; the deposition page will say 3 26. So scroll down to 24. 4 A. Okay, I've got 24. 5 Q. And at the top -- you see the number 26 in the 6 top right? 7 A. Yes. 8 Q. Okay. Around Line 6, you're asked about OSHA 9 requiring warnings. Do you see that? 10 A. Yes. 11 Q. At Line 9 you're asked: 12 "Q. What, if anything, did you do to 13 determine whether OSHA did have any such 14 requirements?" 15 Your answer at Line 11: "We were never 16 notified by OSHA or any other federal agency 17 that we would have to label asbestos 18 differently. Normally the notification 19 process is through the Federal Register, 20 which it would have come out in there." 21 Did I read that correctly? 22 A. Correct. 23 Q. So that was your testimony; right? 24 A. Correct. 25 Q. The next question is what I asked you a moment	1 say Girling -- Exhibit Girling No. 2. 2 (Plaintiffs' Exhibit 2 was marked for 3 identification and attached hereto.) 4 BY MR. JONES: 5 Q. Okay. Can you see what I've marked as 6 Exhibit No. 2? 7 A. Yes. 8 Q. What is Exhibit No. 2? 9 A. It says it's a Federal Register, Highlights of 10 This Issue. 11 Q. And what's the date on it? 12 A. June 7th, 1972. 13 Q. So it was Ken Kovac's job at Kerr to monitor this 14 publication; right? 15 A. Correct. 16 Q. And in 19 -- on June 7, 1972, Kerr Corporation is 17 selling asbestos tape to dentists and dental technicians 18 to use in casting gold; true? 19 A. Yeah, whatever they were casting. I'm not sure 20 what they were casting. 21 Q. And in 1972, Kerr is buying rolls of asbestos 22 tape and strips of asbestos tape, and its employees are 23 taking that tape and putting it in individual packages 24 to ship to customers; right? 25 A. Correct.
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1 ago: "Well, who in Kerr had responsibility to review 2 the Federal Register to determine whether there were any 3 labeling requirements with respect to 4 asbestos-containing products?" 5 Your answer at Line 20: "The QA group, Kovac's 6 group, basically." Did I read that correctly? 7 A. Correct. 8 Q. Okay. So does that refresh your recollection 9 that it was Ken Kovac's job, as the vice president of 10 quality assurance, to monitor the Federal Register? 11 A. Correct. 12 Q. Okay. So if there was something in the Federal 13 Register talking about one of Kerr's products, Kerr had 14 someone employed to find that stuff and communicate it 15 to the company; right? 16 A. It -- yes. 17 Q. And that person was -- in the '70s was Ken Kovac; 18 true? 19 A. True. 20 Q. I'm going to show you -- 21 Giselle, this -- I've only marked one exhibit; 22 right? 23 THE REPORTER: Right. 24 MR. JONES: I'm going to show you what I'll mark 25 as Exhibit No. 2, and the sticker is actually going to	1 Q. Okay. So if the Federal Register had some 2 requirement that Kerr was to warn about asbestos, it was 3 Ken Kovac's job to communicate that to the company; 4 right? 5 MR. REYEN: Objection; over -- well, if Ken Kovac 6 was in that position at this time. 7 THE WITNESS: Yeah, it -- 8 BY MR. JONES: 9 Q. If not him, somebody. Whoever is in charge of 10 quality assurance is supposed to make sure that Kerr is 11 following regulations; right? 12 A. Correct. 13 MR. JONES: Can you please go to the sixth page 14 of the document. 15 MR. REYEN: Well, Mr. -- Mr. Girling, before 16 today have you ever seen this document? 17 MR. JONES: Wait. No, no, no. You'll do that on 18 redirect. 19 MR. REYEN: No, but you're -- this is improper 20 cross-examination -- 21 MR. JONES: You can do that on redirect. You're 22 not examining him during my examination. Now, if you 23 want to suspend the deposition, you can suspend it. And 24 that's exactly what I'm going to do if you start 25 interrupting my examination.

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1 MR. REYEN: Well, you can do what you want, but 2 this is not the proper use -- this is not the proper use 3 of a document, and it's not the proper -- it's not 4 proper cross-examination. 5 MR. JONES: Well, make your objection. 6 MR. REYEN: I just made it. Go ahead. 7 MR. JONES: All right. Thank you. 8 Q. Okay. Are you on the sixth page, Mr. Girling? 9 A. Yes. 10 Q. On the left-hand column about the middle, it says 11 Title 29 Labor Chapter XVII Occupational Safety and 12 Health Administration, Department of Labor, Part 1910 13 Occupational Safety and Health Standards, and then it 14 says Standard for Exposure to Asbestos Dust. Did I read 15 that correctly? 16 A. Correct. 17 Q. And Kerr -- 18 A. This was OSHA's guidelines for inspection; right? 19 Q. For asbestos. It's the standard for exposure to 20 asbestos -- 21 A. For -- 22 Q. -- do you see that? 23 A. -- anybody -- anybody that manufactured asbestos. 24 Q. Well, you hadn't seen this before; right? 25 A. No. But is that what this is for, is OSHA's	1 published in the Federal Register on 2 January 12, 1972." 3 Did I read that correctly? 4 A. Correct. 5 Q. So what they're saying is two things were 6 published in the Federal Register about asbestos before 7 this, the emergency standard, and then they asked for 8 comments; right? 9 MR. REYEN: Lacks foundation; calls for 10 speculation; beyond the scope of this person's presence 11 here -- 12 THE WITNESS: I can't speak to what they're 13 doing, what OSHA's -- what -- what their sequence was. 14 BY MR. JONES: 15 Q. Well, this is my point. If Kerr had someone 16 whose job it was to monitor the Federal Register for 17 regulations that applied to it, this is saying that 18 there were two other things published about asbestos in 19 the Federal Register; right? 20 A. Two other things published -- 21 Q. Yeah. 22 A. -- that they -- they -- OSHA was establishing 23 their OSHA limits for exposure to asbestos fibers in the 24 dental laboratories, also, by the way, who are subject 25 to that and in the dental office.
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1 guidelines for the manufacturers of asbestos? 2 Q. Not just manufacturers but people that use it 3 also. 4 MR. REYEN: I don't know that that's correct. I 5 object to that. Ask a question, but, you know, again, I 6 don't think this is a proper line of questioning. And 7 you're not -- it's an improper use of the document. 8 BY MR. JONES: 9 Q. Okay. So Kerr was familiar with OSHA; right? 10 A. OSHA came out in 1972. 11 Q. And Kerr was familiar with that; right? 12 A. We worked with OSHA, yes. 13 Q. Okay. And Kerr had employees that were subject 14 to OSHA regulations; right? 15 A. Correct. 16 Q. Okay. And if you look at the -- under the title, 17 it says: 18 "On December 7, 1971, an emergency 19 temporary standard concerning exposure to 20 asbestos fibers was published in the Federal 21 Register. In accordance with the Section 6 22 (C)(3) of the Williams-Steiger Occupational 23 Safety and Health Act of 1970, a notice of 24 proposed rulemaking regarding a permanent 25 standard for exposure to asbestos fibers was	1 Q. Which -- 2 A. And -- and the manufacturer also. 3 Q. What's your point? 4 A. We were not a manufacturer. That's what it -- 5 this OSHA spec did not apply to our plants. 6 Q. Are you saying it's the dentists' fault? 7 A. No. I'm saying the dentist was under the same 8 OSHA guidelines -- 9 Q. So -- 10 A. -- to make sure -- make sure that the fiber 11 exposure was not above the limits when he -- when he 12 made his castings in his lab. 13 Q. Okay. So what you're saying is that it's the 14 dentists' fault if they're exposed to asbestos while 15 working with asbestos tape -- 16 A. I did not say that. I did not say that. I 17 said -- 18 Q. -- follows -- 19 A. -- the dentist could be subject to OSHA 20 guidelines the same way any manufacturer was. 21 Q. Okay. So what you're saying is that it's -- the 22 dentist had a responsibility to protect themselves from 23 Kerr's asbestos tape? 24 A. I'm not saying that. I'm saying they'd have to 25 abide by -- abide by OSHA guidelines as well as any

Page 90 1 other manufacturer. 2 Q. Okay -- 3 MR. REYEN: Okay. If that's the question, we're 4 going to take a break here for five minutes. 5 MR. JONES: Sure. 6 THE VIDEOGRAPHER: 2:50 p.m., we are off the 7 record. 8 (Recess from 11:50 a.m. to 12:06 p.m.) 9 THE VIDEOGRAPHER: Okay. We're back on the 10 record, and the time is 3:06 p.m. 11 BY MR. JONES: 12 Q. Okay. Mr. Girling, did you have a chance to talk 13 to your lawyers over the break? 14 A. I talked to Richard. 15 Q. Did you get a chance to look at this OSHA exhibit 16 any further? 17 A. No, I did not. 18 Q. Okay. Can you scroll over to the middle column, 19 the bottom paragraph of that same page, starts with "No 20 one"... 21 MR. REYEN: Okay. I'm going to object. This is 22 improper cross-examination. You have not established 23 that he ever saw this document before today. You've not 24 established that he is an expert on OSHA regulations. 25 If you want to ask a question, you can ask a	Page 92 1 duration is causally related to asbestosis and cancers." 2 MR. REYEN: Same objections. 3 MR. JONES: I'm not done. 4 Q. "The dispute is as to the determination of a 5 specific level below which exposure is safe." 6 Did I read that correctly? 7 A. Yes. 8 Q. Okay. If you go to the right column, second full 9 paragraph, so it's kind of toward the middle, it says 10 "In view of"... Do you see that? 11 A. Yes. 12 Q. "In view of the undisputed grave consequences 13 from exposure to asbestos fibers, it is essential that 14 the exposure be regulated now, on the basis of the best 15 evidence available now, even though it may not be as 16 good as scientifically desirable." 17 Did I read that correctly? 18 A. Correct. 19 Q. And then at the bottom of the paragraph, it says, 20 "Lives of employees are at stake." 21 Did I read that correctly? 22 A. Correct. 23 Q. Kerr didn't put a -- well, strike that. 24 Can you go to the next to last page of the 25 document.
Page 91 1 question, but you're not going to introduce this 2 document, which is a hearsay document, through the 3 cross-examination. 4 MR. JONES: I actually established that he had 5 never seen it before today. 6 MR. REYEN: Yeah, so why do you keep asking him 7 questions about it? 8 MR. JONES: You know why. If you didn't know, 9 you wouldn't care. 10 MR. REYEN: Well, you know, he is not -- he is 11 not here as an expert witness. He is not here as a PMK 12 for Kerr. You have not established that he is familiar 13 with OSHA or who it applied to and under what 14 circumstances it applied. 15 But go ahead. I reserve -- those objections will 16 relate to this entire line of questioning, which I think 17 is harassing and wasting time. 18 MR. JONES: I will stipulate to a running 19 objection. 20 Q. All right. Mr. Girling, are you with me? 21 A. Yes. 22 Q. Okay. So this document published in the Federal 23 Register on June 7, 1972, that middle column at the 24 bottom says, "No one has disputed that exposure to 25 asbestos of high enough intensity and long enough	Page 93 1 A. Yep. 2 Q. On the right-hand column, kind of toward the 3 upper middle, there's something that says Caution 4 Labels. Do you see that? 5 A. Yes. 6 Q. Okay. It says Caution Labels, Labeling: 7 "Caution labels shall be affixed to all 8 raw materials, mixtures, scrap, waste debris 9 and other products containing asbestos 10 fibers or to their containers except that no 11 label is required where asbestos fibers have 12 been modified by a bonding agent, coating, 13 binder or other material so that during any 14 reasonably foreseeable use, handling, 15 storage, disposal, processing or 16 transportation, no airborne concentrations 17 of asbestos fibers in excess of the exposure 18 limits prescribed in Paragraph B of this 19 section will be released." 20 Did I read that correctly? 21 A. Yes. 22 Q. And then under that -- well, let me ask you, so 23 the asbestos tape, I mean, it wasn't -- it wasn't dipped 24 in rubber or plastic or anything. It wasn't covered in 25 cement. It was just a tape; right?

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1 MR. REYEN: Objection; lacks foundation; calls 2 for speculation. 3 THE WITNESS: I don't know the formulation that 4 the manufacturers used to make the tape. 5 BY MR. JONES: 6 Q. Well, I'm not asking you the formulation. You 7 saw it with your own two eyes; right? 8 A. Well, I -- 9 MR. REYEN: Objection -- objection. He doesn't 10 have an -- electron microscope eyes. 11 MR. JONES: I just -- I'm just asking about his 12 regular old eyeballs, not his Superman eyeballs. 13 MR. REYEN: He is not here -- you can establish 14 whether or not he is familiar with the chemical 15 composition, the constituents, the binders that were 16 used with it if he knows; but if he doesn't know, he 17 doesn't know. 18 MR. JONES: I can really ask anything I want. 19 MR. REYEN: Well, you -- you are proving that. 20 You're not necessarily asking things that are admissible 21 or proper, but you are. 22 MR. JONES: We'll find out. We'll find out. 23 Q. All right. Are you with me -- 24 A. Yes. 25 Q. -- Mr. Girling? Keith Reyen is wasting our time.	1 Assumes facts not in evidence. Can you hear that? 2 MR. JONES: Yes. 3 THE REPORTER: Yes. 4 MR. TAURAS: Okay. Thank you. Sorry about that. 5 BY MR. JONES: 6 Q. All right. Do you have my question in mind 7 because I forgot it? 8 A. No, I don't know. 9 Q. All right. The same objection will apply. 10 Mr. Girling, you would agree with me that Kerr 11 never put the warning in this Federal Register OSHA 12 document on its asbestos tape products; right? 13 A. We never put warnings, correct. 14 Q. So after this was published in the Federal 15 Register in 1972, Kerr didn't do anything different; 16 right? 17 A. Correct. 18 Q. Kerr kept selling asbestos tape; true? 19 A. Yes. 20 Q. It didn't put a warning on it; true? 21 A. True. 22 Q. And it didn't do anything to tell dentists or 23 dental technicians that the asbestos could hurt people; 24 true? 25 A. True.
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1 I just want to get this done. All right? 2 A. Okay. 3 Q. Now, my question to you is you personally saw 4 with your own two eyes the asbestos tape; right? 5 A. I saw some tape, yes. 6 Q. And it wasn't covered in rubber or cement or 7 plastic; right? 8 A. Correct. 9 Q. Okay. Now, if you look below, there's a caution. 10 It says: "Caution, Contains Asbestos Fibers, Avoid 11 Creating Dust, Breathing Asbestos Dust May Cause Serious 12 Bodily Harm." 13 Did I read that correctly? 14 A. Correct. 15 Q. Did Kerr ever put that warning on its products 16 that included asbestos tape? 17 MR. TAURAS: I'm going to object... 18 THE REPORTER: I'm sorry. Is there an objection? 19 MR. JONES: It sounds like an objection was made 20 under water. 21 MR. TAURAS: I'm objecting. Assumes facts... 22 THE REPORTER: I can't hear. 23 MR. JONES: It sounds like the attorney is 24 getting a swirly while trying to object. 25 MR. TAURAS: All right. Note my objection:	1 Q. Okay. Now, Kerr was first sued in asbestos 2 litigation in around 1990 or 1991; right? 3 A. I don't know for a fact. 4 Q. Well, it's around -- 1990 or 1991 is around when 5 lawyers asked you to do a search in Kerr Corporation's 6 files to find documents about asbestos; right? 7 A. Yes. 8 Q. Okay. And you knew that the reason that you were 9 doing that was because Kerr had been sued; right? 10 A. Correct. 11 Q. Okay. The search was for sales records, purchase 12 records, specifications, brochures or anything dealing 13 with asbestos products; right? 14 A. It was very broad. 15 Q. And you were one of the people that did that 16 search. You personally worked on it; right? 17 A. Or the purchasing department, correct. 18 Q. Well, my understanding is that Kerr went to each 19 department and asked for them to search for all the 20 records; right? 21 A. Anything that said something to do with asbestos, 22 correct. 23 Q. And whatever you found, you packaged up and sent 24 to Sybron; right? 25 A. No. We gave it to Kovac.

Page 98 1 Q. My understanding of your testimony is that all 2 the documents were forwarded to Sybron's legal counsel. 3 A. I believe Kovac forwarded them. 4 Q. Okay. And Sybron was the parent company of Kerr 5 Corporation at that time in 1990 or '91? 6 A. Correct. 7 Q. Okay -- 8 MR. REYEN: Actually can I have that question 9 read back. 10 (Record read.) 11 MR. REYEN: Okay. Your question lacks 12 specificity as to what Sybron entity but... 13 MR. JONES: You can tell me. 14 MR. REYEN: It was Sybron International, I 15 believe, at that time. 16 MR. JONES: All right. All I know is I sent them 17 a subpoena, and they didn't respond to it, and I moved 18 to compel. 19 MR. REYEN: I understand. But you sent a 20 subpoena to Sybron Dental Specialties, not to Sybron 21 International. 22 MR. JONES: All right. I'll send another one. 23 Sybron International. 24 MR. REYEN: The other -- the response on the 25 other one will come, but there is a distinction.	Page 100 1 are the documents you located in 1990 or '91 or whenever 2 it was. Okay? 3 A. Okay. 4 MR. JONES: All right. We'll go off the record. 5 So what -- however much -- about how much time you think 6 you need? 7 THE WITNESS: 15 minutes. 8 MR. JONES: All right. We'll give you 15 minutes 9 and come back. 10 THE VIDEOGRAPHER: Okay. The time is twelve -- 11 I'm sorry -- 3:20 p.m. We are off the record. 12 (Recess from 12:20 p.m. to 12:30 p.m.) 13 THE VIDEOGRAPHER: Okay. We're back on the 14 record, and the time is 12:30 -- or I'm sorry -- 15 3:30 p.m. 16 BY MR. JONES: 17 Q. Mr. Girling, I have attached 52 pages of 18 documents as Exhibit 3 to the deposition. Can you tell 19 me what is Exhibit 3. 20 A. Exhibit 3, where -- all 52 are Exhibit 3? 21 Q. Yes. Collectively what is -- what is it? 22 A. Documents found at Kerr Corporation. 23 Q. Okay. Are these the documents that you found in 24 your search in 1990 or 1991? 25 A. I found the first two.
Page 99 1 MR. JONES: I can subpoena all day. 2 Q. Okay. Mr. Girling, I'm going to show you what 3 was represented to me to be everything you found when 4 you searched for asbestos documents in 1990 or 1991. 5 All right. 6 A. Okay. 7 MR. JONES: I am going to mark this as Exhibit 3; 8 right? 9 (Plaintiffs' Exhibit 3 was marked for 10 identification and attached hereto.) 11 MR. JONES: Giselle, does that sound right? 12 THE REPORTER: Oh, yes, yes. 13 MR. JONES: All right. You've been around me 14 enough. You know you've got to watch this kind of 15 thing. I might switch to letters or symbols if you 16 don't monitor the situation. 17 Q. All right. Mr. Girling, this is a total of 52 18 pages. What I'd like to do -- and actually we'll go off 19 the record to do it. But what I'd like you to do is 20 just scroll through it to become generally familiar with 21 what's in there. Okay. I'm not -- you don't -- I'm not 22 going to ask you any questions about it. If I do, I'll 23 show it to you. 24 So I'm not asking you to memorize it. I'm just 25 asking you to scroll through it and confirm that these	Page 101 1 Q. Okay. The first two pages, you mean? 2 A. First two pages. 3 Q. Okay. 4 A. First two documents. 5 Q. Okay. It was represented to me by Kerr's lawyers 6 that these are all of the documents that Kerr has 7 dealing with its sale of asbestos products; is that 8 true? 9 A. I can't speak to that. I know what I found, and 10 that's what I provided. 11 Q. Okay. So when you were involved in this search 12 for documents and you gathered everything up, about how 13 many pages did everybody find in total? 14 A. I don't know. I found two. 15 Q. Okay. Now, in this deposition earlier, we talked 16 about all of Kerr's efforts to find a substitute for 17 asbestos; right? 18 A. Yes. 19 Q. It took many different people and several 20 different divisions a while to do that; right? 21 A. Yes. 22 Q. Correct me if I'm wrong, but there are only 23 two -- well, pardon me. There's only one page in this 24 document production related to Kerr's efforts to replace 25 asbestos tape with a nonasbestos product; true?

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1 A. I don't know. I haven't gone -- I haven't 2 counted to see what's in there but... 3 Q. Scroll through. The only thing I see is your 4 memo dated October 19, 1978. That's all I see. But do 5 me a favor: Please scroll through the documents and let 6 me know if you see any other documents dealing with 7 Kerr's efforts to replace asbestos tape with a 8 nonasbestos product. 9 A. I see that one memo requesting a replacement. 10 Q. Okay. That's the only one you see in there; 11 right? 12 A. Correct, yes. 13 Q. Now, if you look at your memo -- first of all, 14 this does show that Kerr sent memos about this project; 15 right? 16 A. My memo was at the end of the project, correct. 17 Q. Do you think that's the only memo they ever sent 18 about the project? 19 MR. REYEN: Objection; calls -- 20 THE WITNESS: I don't -- 21 MR. REYEN: Calls for speculation. 22 THE WITNESS: I don't know. 23 BY MR. JONES: 24 Q. Well, the first thing you say is to -- so your 25 memo is the 50th page. At the bottom right, it says	1 Q. There's no memos from marketing about this in the 2 documents you've produced; right? 3 A. I don't know. I didn't search marketing memos. 4 Q. Well, if this is everything, it would be here; 5 right? 6 MR. TAURAS: Objection. 7 THE WITNESS: I can't say. 8 BY MR. JONES: 9 Q. So I'm not -- so I'm not asking you if this is 10 everything. I don't know. I filed a motion to compel 11 Kerr to produce everything, and we'll find out if a 12 judge grants it and if they comply with the order. 13 My question to you is -- I'll start over. Do you 14 see anywhere in these 52 pages any documents discussing 15 marketing's agreement to market the new Carborundum 97-A 16 material under the Kerr name of Flask Liner? 17 A. No. 18 Q. There's no documents from purchasing talking 19 about buying the new material; right? 20 A. I don't see any, yes. 21 Q. There's no documents from research and 22 development talking about their tests of the material; 23 right? 24 A. I didn't search research. 25 Q. I'm asking you about in these pages. In these
Page 103	Page 105
1 Kerr zero-zero-zero-zero-zero-five-zero, Kerr -50. You 2 see that? 3 A. No. I've got to make it bigger. Yes. 4 Q. Okay. The first thing you say is, "Please 5 circulate a PPL to discontinue supplying asbestos rolls 6 in our investment packages and also individual sale of 7 boxed asbestos rolls." 8 Did I read that correctly? 9 A. Yes. 10 Q. What is a PPL? 11 A. Product planning log. 12 Q. And what does that mean? 13 A. It's usually initiated to discontinue a product 14 or add a new product to the -- to the system. 15 Q. Okay. Your -- your memo mentions a PPL, but the 16 PPL itself is not in these documents; right? 17 A. It is not. 18 Q. What happened to it? 19 A. I have no idea. 20 Q. The next paragraph says, "Marketing has agreed to 21 market the new Carborundum 97-A (sic) material in boxes 22 of 50 and 100 feet lengths under the Kerr name of Flask 23 Liner." 24 Do you see that? 25 A. Yes.	1 pages, there's no documents from research and 2 development talking about their tests of the new 3 material; true? 4 A. True. 5 Q. There's no documents from finance talking about 6 how much the material costs and how that will affect the 7 price of the products; true? 8 A. Yes. 9 Q. There's no documents -- no memoranda at all from 10 Kerr's executives; right? Correct? 11 A. Yes. 12 Q. Ken Kovac, the person whose job it was to monitor 13 things like the Federal Register, there's no memos from 14 Mr. Kovac; true? 15 A. Yes. 16 Q. There are no memos or any other documents talking 17 about the 1976 American Dental Association document; 18 true? 19 A. True. 20 Q. And we have the document, but nobody wrote a 21 memo -- there's no -- well, I don't know. 22 Do you think somebody wrote a memo about it? 23 A. I don't know -- 24 MR. REYEN: Objection; calls for speculation. 25 THE WITNESS: I can't guess about that.

Page 106 1 BY MR. JONES: 2 Q. All right. But, I mean, in your experience at 3 the company, is that something that would just spread by 4 word of mouth, that they would get this article and then 5 just kind of talk about it down the hall? 6 A. A lot of that did go on. 7 Q. Okay. So -- so you think the reason we're not 8 finding these documents is because Kerr got this 9 information that the product they sell could cause 10 cancer, and then they found a replacement for the 11 product, after testing several different candidates and 12 then found the replacement, and then informed marketing 13 to change the marketing materials to include the 14 place -- the replacement, and they did all of this by 15 word of mouth? 16 MR. REYEN: Objection -- 17 THE WITNESS: No -- 18 MR. REYEN: Hold on a second, Larry. 19 That is compound; it is argumentative; it calls 20 for speculation; and lacks foundation. 21 You can answer if you understand the question. 22 Go ahead, Larry. 23 THE WITNESS: What was the question, now? 24 BY MR. JONES: 25 Q. Is it your -- is it your testimony that this	Page 108 1 regulatory affairs that are discussing asbestos hazards; 2 true? 3 A. Yes. 4 Q. There's no documents from manufacturing 5 discussing the switchover from asbestos to nonasbestos; 6 true? 7 A. No. My -- I'm representing manufacturing. I 8 sent the document out to Probst. 9 Q. One page. 10 A. Summary of all of -- of everything, yeah. 11 Q. You're right. It's a summary of everything, but 12 the everything -- all the documents that go into the 13 everything are not in these 52 pages; right? 14 A. Yes. 15 Q. The PPL's not in there; right? 16 A. Yes. 17 Q. Okay. There's no documents from marketing 18 talking about changing the price lists or marketing the 19 new nonasbestos product, anything like that; right? 20 A. Yes. 21 Q. You told me that every year, Kerr's sales team 22 did marketing forecasts; right? 23 A. Yes. 24 Q. The way you do marketing forecasts is you figure 25 out how much you sold the year before, and then you make
Page 107 1 entire process involved with identifying the hazard of 2 the product and replacing the product was done through 3 word of mouth? 4 A. No. 5 Q. If there were memos about it, they're not here. 6 They're not in these 52 pages; right? 7 MR. REYEN: Objection; calls for speculation; 8 lacks foundation. 9 THE WITNESS: I didn't search all the 10 departments. I don't know. 11 MR. JONES: I'm not -- 12 THE WITNESS: -- this is 18 years after the 13 fact -- 14 BY MR. JONES: 15 Q. I'm not asking about all the departments. I'm 16 asking about in the 52 pages you have in front of you, 17 you would agree with me that in those 52 pages, there 18 are no documents discussing asbestos hazards with Kerr's 19 asbestos tape other than the ADA article; true? 20 A. Yes. 21 Q. There are no documents discussing Kerr's efforts 22 to replace the asbestos tape with a nonasbestos tape; 23 true? 24 A. Yes. 25 Q. There are no documents from quality assurance and	Page 109 1 a guess about if you're going to sell more or less; 2 right? 3 A. Yes. 4 Q. Educated guess, we'll call it; right? 5 A. Yes. 6 Q. And a company keeps track of its sales to see how 7 it's doing year over year; right? 8 A. As far as I know. 9 Q. And Kerr kept records of its sales; true? 10 A. I don't know about kept records. I know they 11 track sales, correct. 12 Q. Well, and the reason they track sales is for 13 accounting; right? You have to know how much you sold; 14 right? 15 A. I can't speak to that. I'm a manufacturing guy. 16 Q. Well, I mean, you know generally that the company 17 you worked at -- when you were in meetings with the 18 marketing people and the other executives, you knew that 19 they kept track of how much stuff they sold; right? 20 A. Yes. 21 Q. And they wanted to do better than the year 22 before; right? 23 A. I can't speak to that. 24 Q. Wait. You're saying that when you were at the 25 corporation, there were years where you'd be in a

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1 management meeting and somebody would say, you know, I 2 hope we don't sell as much this year? That never 3 happened, did it? 4 A. No. 5 Q. You always wanted to sell more; right? 6 A. I assumed they did. I'm not the -- I'm not the 7 person making that decision. What I'm saying, I'm a 8 manufacturing person; that's not my decision process. 9 Q. And you had to keep track of your customers 10 because you wanted to know who bought before so you 11 could make sure to sell them stuff again; right? 12 A. I can't speak to that. Again, I don't know. 13 Q. You don't -- you do know that Kerr kept sales 14 records; true? 15 A. I knew they had some sales records. 16 Q. And you know that all of the sales records 17 related to the sale of asbestos products have been 18 destroyed. 19 A. I guess. Couldn't find them. 20 Q. And what you've previously testified is that the 21 sales invoices, shipment invoices were destroyed and we 22 couldn't locate them, any of them in 1990, '91 on our 23 asbestos products; true? 24 A. That's what I said in a deposition, correct. 25 Q. So at some point between Kerr getting that 1976	1 October 19 of 1978; true? 2 A. True. 3 Q. So that means you sold the asbestos tape through 4 almost all of 1978; right? 5 A. Right. 6 Q. And you never took the product off the shelf; 7 right? 8 A. I can't say that we did or didn't. 9 Q. You never did a product recall; right? 10 A. I don't know if we did or not. 11 Q. You know what a product recall is? 12 A. Yes, I do. 13 Q. What is a product recall? 14 A. Asking for product back. 15 Q. Why? 16 A. Defective. 17 Q. Maybe it could hurt somebody; right? 18 A. Possible. 19 Q. When you were at Kerr, do you ever remember Kerr 20 doing a product recall of asbestos tape? 21 A. I don't remember. 22 Q. The search for records in 1990 or 1991 did not 23 include a search for corporate board of director meeting 24 minutes; true? 25 A. I don't know.
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1 article in the American Dental Association journal and 2 1990, when you searched for records, at some point in 3 between, Kerr's sales/shipment invoices were destroyed; 4 true? 5 A. Can't speak to that. I don't know. 6 Q. Well, you know they existed, and you know they 7 were destroyed; right? 8 A. I don't know -- 9 MR. REYEN: Objection; lacks foundation. 10 BY MR. JONES: 11 Q. Well, you know in 1976, Kerr sold asbestos tape; 12 right? 13 A. Yes. 14 Q. Those records are destroyed; correct? 15 A. I don't know if they're destroyed or missing or 16 lost or what. 17 Q. You said destroyed. 18 A. Okay. That's what it was told me. 19 Q. Okay. 1977 Kerr sold asbestos tape. Those 20 records are destroyed; true? 21 A. We couldn't find them, correct. 22 Q. 1978 Kerr sold asbestos tape. Those records are 23 destroyed? 24 A. We stopped selling asbestos in 1978. 25 Q. Well, according to your memo, it was sent in	1 Q. Let me show you your testimony from the Witkowski 2 case -- Witkowski. I'm sorry. Apologize to the 3 Witkowski family. 4 Can you please go to Page 63 of this deposition. 5 A. Okay. 6 Q. You were asked -- this is your testimony, again; 7 right? 8 A. I believe so. 9 Q. You were asked at Line 13: "Back in '90/'91, 10 when this search was conducted for documents, did anyone 11 look through the corporate board of director meeting 12 minutes?" 13 Your answer at Line 16: "I know our plant 14 response wouldn't require that. I don't know about the 15 corporate level." 16 Did I read that correctly? 17 A. Yes. 18 Q. We know that the documents you've produced don't 19 include the meeting minutes for any of the managerial 20 meetings that you attended where they discussed 21 asbestos; true? 22 A. Yes. 23 Q. And we know those documents don't include any 24 board meeting minutes; true? 25 A. Yes.

Page 114 1 Q. In fact there are no documents from an executive 2 of Kerr except for your one page; true? 3 A. Yes. 4 Q. And at that time, you weren't the person that 5 would make the decision to phase out asbestos. You were 6 the person that would carry out that decision; right? 7 A. Yes. 8 Q. Someone would have to communicate that decision 9 to you; right? 10 A. Not necessarily. The reason for the PPL was to 11 get people to sign off to make that decision. 12 Q. What does that mean? 13 A. That means that each of the functions had to sign 14 off: The president, vice president, sales, marketing 15 finance. By signing off, they gave the authorization to 16 make the change. 17 Q. So there would be communications about that 18 decision. 19 A. Only on a PPL, yes. 20 Q. Everything else would be word of mouth? 21 A. I don't know. 22 Q. We don't have the PPL or anything talking about 23 the PPL except for your one page; right? 24 A. As far as I know. 25 Q. Other than the sales records, do you know if Kerr	Page 116 1 of time required in the policy, it can then be thrown 2 away; right? 3 A. That's -- if that's what it says, correct. 4 Q. And the first document retention policy you're 5 aware of was in the 1980s at some time; right? 6 A. My memory says '80 sometime -- 7 Q. Okay. 8 A. -- after the merger. 9 Q. What merger is that? 10 A. Kerr was merged with Ormco and moved -- moved to 11 California basically. 12 Q. Did those -- did the Detroit office, where the 13 marketing files and the R&D files and the executive 14 files and purchasing files, did all of that move? 15 A. I don't know. I was in charge of the 16 manufacturing group, so I don't know what everything -- 17 got done with everything. 18 Q. Well, I mean, did anything move from Michigan to 19 California with the merger? 20 A. I know some offices and desks got moved there. 21 Q. Okay. Do you know if that document retention 22 policy in the '80s instructed people to keep documents 23 dealing with asbestos? 24 A. I can't remember what -- I'd have to look at it. 25 I can't remember what it said.
Page 115 1 has destroyed any other records dealing with its sale of 2 asbestos products? 3 A. I don't know. 4 Q. Okay. Did Kerr, while you were there, have a 5 policy that you should keep any records related to its 6 sale of asbestos products? 7 A. No. 8 Q. Did Kerr destroy any records relating to its sale 9 of asbestos products in the normal course of business? 10 A. I don't know. 11 Q. Did Kerr have a document retention policy? 12 A. No. 13 Q. When's the first time Kerr had a document 14 retention policy? 15 A. You're asking memory, and I -- it's after some of 16 the mergers we had. Maybe in '87, in the '80s or 17 something. 18 Q. Okay. And what is a document retention policy? 19 A. It's specific guidelines on documents, I believe, 20 from what I can recall. 21 Q. A document retention policy is a corporate policy 22 that tells people in the corporation what documents to 23 keep and how long to keep them; right? 24 A. Yes. 25 Q. And once a document has been kept for the amount	Page 117 1 Q. Do you know if any documents related to asbestos 2 were destroyed according to that document retention 3 policy in the 1980s? 4 A. Repeat that one. We weren't in asbestos in the 5 '90s. 6 Q. Well, I know, but did the -- I'm asking about the 7 '80s. And my question is were any documents related to 8 Kerr's sale of asbestos products destroyed in the 1980s 9 pursuant to a document retention policy. 10 A. Oh, I don't know. 11 Q. When's the first -- so is '90 or '91 the first 12 time anyone ever told you that we need to find all the 13 asbestos documents and keep them? 14 A. Yes. 15 Q. And you don't know what happened to those 16 documents before you looked for them; right? 17 A. Yes. 18 Q. Did you have a file cabinet in your office? 19 A. I did. 20 Q. How many file cabinets did you have? 21 A. I can't remember. 22 Q. Roundabout. 23 A. Couple -- maybe a couple. 24 Q. Two or three? 25 A. Probably.

Page 118 1 Q. What did you keep in the file cabinets? 2 A. I, quite frankly, can't tell you everything I 3 kept in there. I know I had personnel performance 4 appraisals. 5 Q. Probably had different folders with documents for 6 different projects you worked on; right? 7 A. I could have. I don't know. It's a long time 8 ago. 9 Q. Okay. Other people had file cabinets; right? 10 You weren't the only person at Kerr in the '70s and '80s 11 that had a file cabinet; right? 12 A. Sure. 13 Q. Probably almost every office you went into had 14 file cabinets; right? 15 A. Possible. 16 Q. And in those file cabinets, people kept records 17 related to the stuff they were working on; right? 18 A. I don't know what they kept in them. 19 Q. Well, that's what you did; right? You kept in 20 file cabinets records of the stuff you worked on; right? 21 A. In purchasing, we did. 22 Q. All right. And so in 1990, did you search 23 through all -- everybody's file cabinets to find 24 asbestos stuff? 25 A. Yes.	Page 120 1 and the powders were in individual envelopes; right? 2 A. Yes. 3 Q. One serving per envelope; right? 4 A. Correct. 5 Q. And then it had a package of strips of asbestos 6 so that the dental students wouldn't have to tear them; 7 right? 8 A. Yes. 9 Q. So you know that Kerr marketed its investment 10 products with asbestos tape to dental schools because it 11 had a product specifically for dental schools; right? 12 A. Yes. 13 Q. You would expect that one of the dental schools 14 Kerr marketed its products to would be the University of 15 Southern California School of Dentistry; true? 16 MR. REYEN: Objection; lacks foundation; calls 17 for speculation. 18 THE WITNESS: I -- I can't say that we shipped to 19 California for sure. No idea. 20 BY MR. JONES: 21 Q. Is there any reason they wouldn't want to sell 22 products to the University of Southern California School 23 of Dentistry? 24 A. There was many other competitors out there. I'm 25 not sure. I don't know. Some of them were done on big
Page 119 1 Q. And by 19 -- 2 A. In purchasing, we did. 3 Q. By 1990, out of all those file cabinets at Kerr, 4 the only documents left about asbestos are the 52 pages 5 we attached as Exhibit 3 to this deposition; true? 6 A. I can't speak to that. I know the two that I 7 found. 8 Q. All right. Well, do you know -- are there any 9 other documents you remember finding that aren't in 10 these 52 pages? 11 A. No. 12 Q. The last thing I want to ask you about is Kerr's 13 marketing of products to dental schools at universities. 14 You know that Kerr marketed products to universities; 15 true? 16 A. Yes. 17 Q. That included the investment products with 18 asbestos tape; true? 19 A. I can't say for sure that they bought those. But 20 we did have a product that was just -- was made for the 21 universities, correct. 22 Q. Yeah. Kerr actually had a product specific for 23 university dental students; right? 24 A. Yes. 25 Q. And that product was a box of investment powders,	Page 121 1 basis. 2 Q. I get it. But if USC would buy it, Kerr would 3 sell it; true? 4 A. I don't know if we had them as a customer. 5 Q. I'm not asking you if you did. I'm saying if 6 they would buy it, Kerr would sell it; right? 7 A. If we offered -- if it would be offered, sure. 8 MR. JONES: Okay. All right. Mr. Girling, 9 that's all my questions. Thank you so much. 10 THE WITNESS: Wow. Thank you. 11 MR. REYEN: Mr. Girling, before you go, I have a 12 couple questions. Keith Reyen. 13 THE WITNESS: Yes. 14 15 EXAMINATION 16 BY MR. REYEN: 17 Q. Mr. Girling, when did Kerr stop selling 18 investment? 19 A. It was in the mid '80s, early '80s. 20 Q. Why did Kerr stop selling investments? 21 A. We were losing market share rapidly. The 22 Fiber Frax material really did not work very well. 23 Q. Okay. In your role in procurement, did you ever 24 receive any information about any factors which limited 25 Kerr's presence selling investment on the West Coast?

Page 122 1 MR. JONES: Lacks foundation; calls for 2 speculation. 3 THE WITNESS: Yes, I was approached numerous 4 times by people in Kerr about our Cristobalite 5 investment being uncompetitive on the West Coast because 6 we shipped it all the way from Michigan, and the freight 7 would make it unattractive to the -- to the labs or the 8 dealers. 9 MR. JONES: Move to strike on the same basis. 10 BY MR. REYEN: 11 Q. Okay. Is it correct, sir, that the -- that the 12 investment was sort of the main course, and the strip 13 asbestos was something that was needed to be used in 14 conjunction with that use? 15 A. That's correct. 16 Q. Okay. And is it correct that there are different 17 manufacturers of investment, and there's different 18 formulations of investment within companies? 19 A. Yes. 20 Q. And is it correct that -- 21 MR. JONES: Move to strike -- I'm sorry. Move to 22 strike as lacking foundation; and calling for 23 speculation. 24 BY MR. REYEN: 25 Q. Is it correct --	Page 124 1 A. Yes. 2 Q. And the plastic bags were the ones that were put 3 into the containers of investment; is that correct? 4 A. That's correct. 5 Q. Okay. And which form -- or which form of 6 packaging did Kerr receive more of, the boxes or the 7 bags? 8 A. The bags -- the bags were the high volume items. 9 We sold fewer boxed rolls than we did the bagged 10 material. 11 Q. Okay. Do you know of any reason that a consumer 12 of investments and strip asbestos would have a 13 preference for one brand of strip asbestos over another? 14 MR. REYEN: Lacks foundation; calls for 15 speculation. 16 THE WITNESS: They were identical in my eyes and 17 everybody else's eyes. 18 MR. REYEN: All right. Thank you, sir. 19 THE WITNESS: You're welcome. 20 21 EXAMINATION 22 BY MR. JONES: 23 Q. So, Mr. Girling, one of Whip Mix's -- pardon me. 24 Mr. Girling, one of Kerr's competitors was Whip 25 Mix; right?
Page 123 1 MR. JONES: Speculative -- 2 BY MR. REYEN: 3 Q. Is it your understanding that those investments 4 had different properties? 5 MR. JONES: Move to strike -- oh, pardon me. 6 Object; it lacks foundation; calls for speculation. 7 THE WITNESS: Yes, yes, they were made for 8 different specific purposes. 9 MR. JONES: Move to strike on the same grounds. 10 BY MR. REYEN: 11 Q. And do you have any understanding as to whether 12 or not the strip asbestos that was used in the lost wax 13 process had similar differences or whether it was more 14 of a generic product? 15 MR. JONES: Lacks foundation; calls for 16 speculation. 17 THE WITNESS: We were told it was generic because 18 our supplier told us he supplied everybody. 19 BY MR. REYEN: 20 Q. Okay. And which suppliers were those? 21 A. Celotex, Nicolet. 22 Q. Okay. Kerr received strip asbestos from Nicolet 23 and Celotex in boxes; is that correct? 24 A. Yes. 25 Q. Okay. And it received it in plastic bags?	Page 125 1 A. That was one. 2 MS. RISCHMAN: Calls for speculation. 3 BY MR. JONES: 4 Q. Whip Mix had to ship their product all the way 5 from Kentucky; right? 6 MS. RISCHMAN: Same objections. 7 THE WITNESS: I don't know for sure. We 8 understood there was some people that had distribution 9 warehouses in California. 10 BY MR. JONES: 11 Q. Well, you had distribution in California; right? 12 You distributed through Patterson; true? 13 A. No, no. I'm telling you that they shipped 14 investment products in bulk in carloads to distribution 15 centers in California. 16 Q. Well, if Kerr sells their product to Patterson or 17 Henry Schein or Darby Dental in Michigan, and then Darby 18 Dental or Henry Schein or whoever shipped it to 19 California to a warehouse, then that product is in a 20 warehouse in California; right? 21 A. Correct, at a higher cost. 22 Q. And it's a lower cost than Whip Mix coming from 23 Kentucky; right? 24 A. I don't think so. Kentucky was closer to the 25 West Coast than Michigan.

Page 126 1 Q. Well, I don't -- Mr. Girling, I don't want to 2 insult your geographic knowledge, but Kentucky is on the 3 East Coast, and Michigan is in the Midwest; right? 4 A. Kentucky is below Michigan. 5 Q. But it's east of Michigan? 6 A. I -- 7 Q. To go from Kentucky to California, you have to go 8 past Michigan; right? 9 A. No, no, no. 10 Q. Now, you told me before that you really didn't 11 have much knowledge of what the marketing people did. 12 Do you remember that? 13 A. I do not. 14 Q. And you said you were in manufacturing; marketing 15 wasn't your job. Right? 16 A. Correct. 17 Q. How is it that all of a sudden you know they had 18 all these troubles selling stuff to the West Coast? 19 A. Because my sales guys, when they would come into 20 the home office, would say, "You guys got to do 21 something; we can't compete." 22 Q. Okay. But all of the other competing companies 23 were on the East Coast. Baker was in New Jersey; Whip 24 Mix was in Kentucky. 25 A. Pat supply was in Los Angeles.	Page 128 1 Q. You said that you went through a search and that, 2 quote, The sales invoices, shipment invoices were 3 destroyed, and we couldn't locate any of them in 1990, 4 '91 on our asbestos products; true? 5 A. That's correct, that's correct. I searched the 6 purchasing department. 7 Q. So we don't have the records of sales which have 8 been destroyed. So now you're telling us that through 9 word of mouth from salespeople that they didn't really 10 sell much to the West Coast; true? 11 A. We were not a factor in the West Coast like 12 Whip Mix. 13 Q. So you're saying Whip Mix from Kentucky was much 14 more of a factor in the West Coast than Kerr in 15 Michigan? 16 A. To my understanding -- 17 MS. RISCHMAN: I'm going to object. Calls for 18 speculation; lacks foundation. This is Suzanne -- 19 MR. JONES: Suzanne, you've got to go next on 20 this. 21 Q. I mean, maybe I got the geography wrong, but I'm 22 pretty sure if you're going from Kentucky to the 23 Kentucky Derby, you've got to go past Michigan and The 24 Big House to get to the Rose Bowl. Right? Did Kerr's 25 lawyers explain this geography to you when they told you
Page 127 1 Q. What's that? 2 A. Other companies were on the West Coast, other 3 competitors. 4 Q. Which one? 5 A. I can't say for sure. I've heard other 6 competitors had distribution or production on the West 7 Coast. 8 Q. Okay. So do you mean to suggest that if 9 David Springer testified that he purchased Kerr asbestos 10 tape in California that that was not possible? 11 A. No, I'm not testifying that way. 12 Q. In fact you know that Kerr sold asbestos tape in 13 California; true? 14 A. True, yes, we did. 15 Q. And if Kerr still had its asbestos tape sales 16 records, we would know exactly where Kerr sold its tape; 17 true? 18 A. 12 years later, I don't know. 19 Q. But Kerr does not have its asbestos sales 20 records. They have been destroyed; true? 21 A. I don't know. 22 Q. You've previously testified that Kerr's asbestos 23 sales records have been destroyed; true? 24 A. I was told -- I was told. I don't have personal 25 knowledge that they were.	Page 129 1 to tell this story in the deposition? 2 MR. REYEN: Objection. 3 Don't answer that question. You know... 4 MR. JONES: It's just a question. 5 MR. REYEN: No, it's not a just a question. Go 6 ahead. You're kind of losing it, but go ahead. Ask 7 a -- ask a proper -- 8 MR. JONES: -- if you're going to come up with a 9 phony-bologna story and feed it to your witness, you've 10 got to make sure the geography works out. All right. 11 That's all I'm saying. 12 MR. REYEN: I'm going to reserve my right to take 13 your comments to the court. 14 MR. JONES: Okay. 15 Q. Do you have any other evidence that Kerr wasn't 16 selling products on the West Coast other than what 17 you've just described? 18 A. We didn't say we weren't selling products on the 19 West Coast. We had a lower market share on the 20 West Coast. 21 BY MR. JONES: 22 Q. Okay. And you don't have any documents saying 23 that? 24 A. Absolutely not. 25 Q. And you're -- you don't have any meeting minutes

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1 talking about that; right?	1 DECLARATION UNDER PENALTY OF PERJURY
2 A. No, no.	2
3 Q. And your job was production 100 percent of the	3 I, LAWRENCE J. GIRLING, do hereby certify under
4 time at Kerr; true?	4 penalty of perjury that I have read the foregoing
5 A. True.	5 transcript of my deposition taken on January 29, 2021;
6 Q. It was never in sales; true?	6 that I have made such corrections as appear noted on the
7 A. True.	7 Deposition Errata Page, attached hereto, signed by me;
8 Q. It was never in marketing; true?	8 that my testimony as contained herein, as corrected, is
9 A. True.	9 true and correct.
10 MR. JONES: Pass the witness.	10
11 MR. REYEN: No further questions. That's it,	11 Dated this _____ day of _____,
12 then.	12 20____, at _____, California.
13 MR. JONES: All right. Thank you.	13
14 MR. TAURAS: Under California...	14
15 THE REPORTER: What's that?	15
16 MR. TAURAS: Under California law, do we read and	16 LAWRENCE J. GIRLING
17 reserve or?	17
18 MR. JONES: Just do it to the Code. If you want	18
19 to, you can. You don't have to.	19
20 MR. TAURAS: Yeah, we'll reserve. We'll read it.	20
21 MR. JONES: We'll just do it whatever the law	21
22 says. All right. Signing off.	22
23 THE VIDEOGRAPHER: Off the record, Counsels?	23
24 MR. REYEN: Yeah, thank you.	24
25 THE VIDEOGRAPHER: Okay. The time is 4:11 p.m.	25
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1 This is the end of the videotaped deposition of Lawrence	1 DEPOSITION ERRATA SHEET
2 Girling, Volume I, dated January 29, 2021. We are off	2 Page No. ____ Line No. ____
3 the record.	3 Change: _____
4 (Whereupon, at the hour of 1:11 p.m., the	4 Reason for Change: _____
5 deposition was adjourned.)	5 Page No. ____ Line No. ____
6	6 Change: _____
7	7 Reason for Change: _____
8	8 Page No. ____ Line No. ____
9	9 Change: _____
10	10 Reason for Change: _____
11	11 Page No. ____ Line No. ____
12	12 Change: _____
13	13 Reason for Change: _____
14	14 Page No. ____ Line No. ____
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16	16 Reason for Change: _____
17	17 Page No. ____ Line No. ____
18	18 Change: _____
19	19 Reason for Change: _____
20	20 Page No. ____ Line No. ____
21	21 Change: _____
22	22 Reason for Change: _____
23	23
24	24 _____
25	25 LAWRENCE J. GIRLING DATED

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1 STATE OF CALIFORNIA)
2)
3 COUNTY OF LOS ANGELES)
4
5 I, Giselle Girard, a Certified Shorthand
6 Reporter, do hereby certify:
7 That prior to being examined, the witness in
8 the foregoing proceedings was by me duly sworn to
9 testify to the truth, the whole truth, and nothing but
10 the truth;
11 That said proceedings were taken before me
12 at the time therein set forth and were taken down by me
13 in shorthand and thereafter transcribed into typewriting
14 under my direction and supervision;
15 I further certify that I am neither counsel
16 for, nor related to, any party to said proceedings, nor
17 in any way interested in the outcome thereof.
18 In witness whereof, I have hereunto
19 subscribed my name.
20 Dated: February 10, 2021
21
22 
23 _____
24 Giselle Girard
25 CSR No. 12901

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1 Asbestos Reporters, a GPS Partner February 10, 2021
2 7119 West Sunset Boulevard
3 Suite 440
4 Los Angeles, California 90046
5 LAWRENCE J. GIRLING
6 C/O: KEITH P. REYEN, ESQ.
7 OIUM REYEN & PRYOR
8 220 Montgomery Street
9 Suite 910
10 San Francisco, California 94104
11
12 Re: David Springer, et al. Vs. Asbestos Companies, et
13 al.
14
15 Date of Deposition: January 29, 2021
16
17 Dear Mr. Girling,
18
19 The original transcript of your deposition taken
20 in the above-referenced matter is available at this
21 office for your review. If it is more convenient to
22 read a copy of the transcript and waive signature of the
23 original transcript, please notify our office by letter
24 sent certified or registered mail of any changes made,
25 with copies sent to all counsel.
In the event you have not read, corrected and
signed your deposition within thirty (30) days of the
receipt of this letter, it may be used with the full
force and effect as though it had been read, corrected
and signed.
If you wish to arrange an appointment to review
the original transcript, please contact this office at
(888) 779-9974.

Sincerely,

Asbestos Reporters/GPS
Production Department

Cc: All counsel
The deponent
Original: Original transcript

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