

Bernice Elders Rough Draft
2-6-2009

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NO. 2008-41366

JOHN A. PHILLIPS and) IN THE DISTRICT COURT OF
spouse, CYNTHIA PHILLIPS,)

)
)
) HARRIS COUNTY, TEXAS

VS.

ANCHOR PACKING COMPANY,) 11TH JUDICIAL DISTRICT
ET AL,)

Transferred From
NO. 2008-41366

JOHN A. PHILLIPS and) IN THE DISTRICT COURT OF
spouse, CYNTHIA PHILLIPS,)

)
)
) HARRIS COUNTY, TEXAS

VS.

ANCHOR PACKING COMPANY,) 270th JUDICIAL DISTRICT
ET AL.)

ORAL AND VIDEOTAPED DEPOSITION
OF BERNICE ELDER
FEBRUARY 6, 2009

ORAL DEPOSITION OF BERNICE ELDER, produced as
a witness at the instance of the Defendant and duly
sworn, was taken in the above styled and numbered cause

APPEARANCES

FOR THE PLAINTIFFS:

TROY D. CHANDLER
Williams Kherkher Hart Boundas, LLP
8441 Gulf Freeway
Ste. 600
Houston, Texas 77017

FOR THE DEFENDANT GARLOCK:

PETER J. STRELITZ
Segal McCambridge Singer & Mahoney
100 Congress Avenue
Ste. 800
Austin, Texas 78701

FOR THE DEFENDANT TRIPLEX:

BARBARA J. BARRON
FRANK A. DOMINO
Mehaffy Weber
2615 Calder Street
Ste. 800
Beaumont, Texas 77702

ALSO PRESENT:

Doug Overstreet
CLS Legal Video

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on FEBRUARY 6, 2009, from 12:59 p.m. to 3:58 p.m., before KATERI A. FLOT-DAVIS, CSR, CCR, in and for the State of Texas, reported by machine shorthand, at the home of Bernice Elder, 14210 Sandhill Crane Drive, Houston, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record herein.

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BERNICE ELDER

Examination by Mr. Strelitz.....

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2-6-2009

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1	EXHIBITS		1		
2	NO. DESCRIPTION	PAGE	2	THE VIDEOGRAPHER: We're on the record,	
3			3	February 6, 2,0009. It's 1259 p.m., beginning of Tape	
4			4	1. Would the court reporter please swear in the	
5	1 Affidavit of Bernice Elder.....		5	witness.	
6			6	BERNICE ELDER,	
7			7	having been first duly sworn, testified as follows:	
8			8	EXAMINATION	
9	2 Industrial Accident Board Claim		9	BY MR. STRELITZ	
10	# F-21723 for James E. Welborn		10	Q. Ms. Elder, my name is Peter Strelitz, we just	
11			11	had a chance to meet a little bit earlier today. I	
12			12	thank you for taking the time to talk with us today.	
13	3 St. Elizabeth Hospital Request and		13	A. Uh-huh.	
14	Consent to Treatment and/or		14	Q. You understand that you're here for the	
15	Operation of Ted Paderas, 12/30/65		15	deposition in the case that's been fueled by John	
16			16	fulfill?	
17	4 Letter to Lumberman's Mutual Casualty		17	A. Yes.	
18	Co. of Illinois, dated January 16,		18	Q. Okay. And I'm sure that maybe Ms. Barron has	
19	1945, Re: Vera Clemons vs. Garlock		19	told you, but I want today go over a little things that	
20	Packing Company, from M. J.		20	might help us make the record a little more complete and	
21	Moskowitz, M.D.		21	the record a little more smoother in this case. Okay.	
22	5 Minutes of the Asbestos Textile		22	A. Yes.	
23	Institute Air Hygiene Committee		23	Q. Whenever I ask you questions, sometimes our	
24	Meeting, dated March 7, 1956		24	tendency is to give an uh-huh, an huh-uh or a nod or	
25			25	shake of the of head.	

Page 6			Page 8		
1			1	For the record, could you please give us a	
2	6 Ontario Department of Health		2	verbal yes or no, and if you forget, I might just nudge	
3	Environmental Health Branch, Field		3	you to do so. I'm not trying to be rude --	
4	Visit Report, Part-I, dated		4	A. Feel free because I know I do that.	
5	March 12, 1968		5	Q. Great. And another thing that you might find	
6			6	is that as we're having this type of a conversation, the	
7	7 Ontario Department of Health		7	tendency is you'll know where my questions are going,	
8	Environmental Health Branch, Field		8	and the tendency is you'll answer my question before I I	
9	Visit Report, Part, I, dated		9	finish and and I might at times consult you off when	
10	September 30, 1969		10	you're giving your answer.	
11			11	And I'll give you the courtesy of making	
12	8 Ministry of Health Occupational		12	sure that you fully answer your question, if you'll a	
13	Health Protection Branch Field		13	lot me fully answer my question so the court reporter	
14	Visit Report, 965-4066,		14	doesn't have to take two of us talking over each other.	
15	Dated April 8, 1975		15	Okay?	
16			16	A. Yes.	
17			17	Q. If at you in time you need to take a break,	
18	9 Defendant Garlock Sealing		18	stretch your legs, get a glass of water. Just let us	
19	Technologies LLC's Original Answer		19	know and we'll be happy to accommodate you.	
20	And Motion to Dismiss Based on		20	A. Yes.	
21	Forum Non Conveniens		21	Q. From time to time, some of the.	
22			22	That's just something we need to do to	
23			23	preserve a record.	
24			24	Unless Ms. Barron instructs you not to	
25			25	answer, you'll still have the answer the questions	

2 (Pages 5 to 8)

Page 9	Page 11
1 that's been asked. Okay? 2 A. Yes. 3 Q. Did you do anything to pre fair for your 4 deposition today? Are view any documents or anything 5 like that? 6 A. No. 7 Q. And you understand that Mr. Phillips has filed 8 a lawsuit against a couple defendants, correct? 9 A. Yes. 10 Q. And you know that I represent Garlock, and I'm 11 one of the defendants in that lawsuit or Garlock is, 12 correct? 13 A. Yes. 14 Q. And you understand that my my has filed a 15 lawsuit also against Triplex; correct? 16 A. Yes. 17 Q. And as I understand it, you are a former 18 employee of Triplex? 19 A. Yes. 20 Q. Have you ever given a deposition prior to the 21 one we're here for today? 22 A. Not in regards to this. 23 Q. Okay. 24 A. I've given depositions before. 25 Q. What other kind of of cases have you given	1 strike that have. 2 Have you ever been -- he I'll strike that. 3 Tell me: When did you start working for 4 Triplex? 5 A. 1960. 6 Q. And when you started working for Triplex in 7 '9160, what was your job title? 8 A. Office manager. 9 Q. How did you come to start working for Triplex 10 in 19 of 0? 11 A. I had a friend that was working there and she 12 was leave leaving to go back to Mexico and so she called 13 me and I came to Triplex for an interview. 14 Q. And your friend who was leaving -- do you 15 recall her name? 16 A. Chico is what we called her but I don't know 17 that. 18 Q. And when you came to interview at Triplex in 19 had 1960 do you recall who you interviewed with? 20 A. Mr. Wimberly. 21 Q. And you obviously got that job in 1960 and 22 became an office manager; right? 23 A. That's right. 24 Q. What were your job duties as office manager in 25 1960?
Page 10	Page 12
1 depositions in? 2 A. In a private matter that I gave a deposition, 3 another company and that. 4 Q. Was that related to a business dispute? 5 A. Yes. 6 Q. Okay. And that private matter did not involve 7 Triplex, did it? 8 A. Oh, no. 9 Q. Okay. 10 A. That's long after Triplex days. 11 Q. And I don't want to pry into anything private 12 or make you uncomfortable. When was that deposition 13 that took place in that private matter? 14 A. Probably in '98. 15 Q. Were you a party to that case or were you -- 16 A. No. 17 Q. Just a witness? 18 A. Just a witness. 19 Q. Okay. Other than that matter in 1998 have you 20 give not any other depositions? 21 A. No. 22 Q. Okay. Have you ever been asked to testify in 23 any case at trial? 24 A. No. 25 Q. Have you ever been asked to testify or -- I'll	1 A. At one time it was a one girl office, so I did 2 all the clerical work. 3 Q. What sort of clerical work was there for you to 4 do? 5 A. I did the accounting. I did the billing. I 6 did paying of the bills. Accounts payable. Accounts 7 receivable. 8 Q. Payroll, I assume was another one of your 9 responsibilities? 10 A. Yes. 11 Q. How long did you hold that title of office 12 manager at Triplex? 13 A. Until 1974. 14 Q. So from 1960 to 1974 as the office manager at 15 Triplex did your clerical duties remain consistent 16 throughout that time? 17 A. No. We hired another person in the office that 18 took some of those responsibilities. 19 Q. Who did you hire? 20 A. Her name was Bishop. 21 Q. Bishop -- is that a first or a last name? 22 A. Last name. 23 Q. Do you recall her first name? 24 A. No, I don't -- we called her Ms. B. 25 Q. When did you all hire Ms. B?

Page 13	Page 15
1 A. 5 5 -- 66. Somewhere's -- 2 Q. So from 1960 to 6 of you maintained all those 3 clerical duties that you described to me earlier, 4 correct? 5 A. Yes. 6 Q. And when Ms. B came on in 1966, what clerical 7 duties did she assume for you that you didn't have to do 8 any long are? 9 A. We worked together. She did the filing. 10 Q. So you still -- 11 A. She did some of the billing. 12 Q. Okay. And I'm sorry. I didn't mean to cut you 13 off. 14 So from 1966 forward, would you share most 15 of the duties with Ms. B, rather than you had some 16 distinct duties and she had some distinct duties? 17 A. That's right. 18 Q. So from 1966 forward, you still had clerical 19 duties that related to the accounting program at 20 Triplex, correct? 21 A. Correct. 22 Q. You still had clerical duties with regards to 23 accounts receivable? 24 A. Yes. 25 Q. You had clerical duties regarding purchasing or	1 Q. Do you recall in the period from 1966 through 2 of '68 who had that responsibility at Triplex? 3 A. Rudy. 4 Q. And do you know Rudy's last name? 5 A. Phillips. 6 Q. Do you know whether or not Rudy Phillips is 7 living today? 8 A. No. He's not living. 9 Q. Okay. Let's back it up. 10 From 1960 through 1970, was Rudy Phillips 11 the gentleman in charge of purchasing at Triplex? 12 A. No. Rude Rudy was not there at that time. All 13 that time. He probably came to work in '66, '67. 14 Q. And do you recall who was in charge of 15 purchasing prior to Rudy Phillips arriving at Triplex? 16 A. Mr. Wimberly. 17 Q. Is Mr. Wimberly living today? 18 A. No. 19 Q. Did they ever discuss, either Mr. Wimberly or 20 Rudy Phillips discuss purchasing of products by Triplex 21 with you at all? 22 A. No. 23 Q. Do you recall in any specifics, any of those 24 purchasing records that you reviewed for filing back in 25 the 1960s at Triplex?
Page 14	Page 16
1 -- I'm sorry. Payment? Payroll records? 2 A. Yes. 3 Q. Did you ever -- in the office where you worked, 4 was that where they maintained their purchase records 5 for Triplex -- 6 A. Yes. 7 Q. -- or was that a different office? It was? 8 Did you have any responsibilities in terms of 9 maintaining the purchasing records from Triplex? 10 A. Yes. 11 Q. What were your responsibilities with regard to 12 that? 13 A. To see that it was done. 14 Q. And when you say to see that that was done, 15 what do you mean? 16 A. If, you know, there was filing to be done, if 17 that wasn't done, I would see to it that either I did it 18 or Ms. B did it, but it was still my responsibility. 19 Q. So it was your responsibility with regard to 20 purchasing to maintain the filing of those purchasing 21 records? 22 A. Yes. 23 Q. Did you have any responsibilities to actually 24 fill out or conduct any of those purchase orders? 25 A. No.	1 A. Yes. 2 Q. What sort of purchasing records were they that 3 you had the charge of keeping filed? 4 A. They he -- they were all confirmations -- to 5 place the order verbally, and then they'd write the 6 Purchase Order to confirm. And we kept all the 7 documents regarding purchases. 8 Q. At did Triplex maintain any type of document 9 retention policy for how long you needed to keep those 10 purchase orders? 11 A. We had -- our CPA provided us a copy of some 12 specific, probably, primarily the government 13 requirements, like bank statements. 14 Q. Do you recall in the '60s, how long you all 15 kept or maintained those purchasing records from the 16 1960s? 17 A. I don't recall it. 18 MR. STRELITZ: You know, that is a lovely 19 chime. I really love it, but it's going to get on the 20 video. Do you mind if we take it down just during your 21 deposition? 22 THE DEPONENT: What? 23 MR. DOMINO: The wind chime outside. Your 24 wind chime, ma'am. 25 THE VIDEOGRAPHER: Off the record.

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1 (Brief recess taken.) 2 THE VIDEOGRAPHER: We're on the record at 3 112. 4 Q. (BY MR. STRELITZ) Ms. Elder, we're back on the 5 record now. I think we've sorted out some of the noise 6 problems from your lovely chimes and we'll continue. 7 When we were last talking before we took 8 that short break you had mentioned some government 9 records that your CPA had told you or some government 10 regulation with regard to keeping some documents. 11 Do you know back in the 1960s? How long 12 Triplex maintained their purchasing records in the 13 files, before he destroying them? 14 A. No. 15 Q. Is it your recollection that at some time the 16 purchasing records would eventually have been destroyed 17 after a period of time? 18 A. Yes. 19 Q. Do you know whether or not -- were you 20 responsible for destroying any of the records as they 21 became older and older? 22 A. Yes. 23 Q. Do you recall whether or not you personally 24 destroyed purchasing records that reflected any 25 purchases by Triplex during the 1960s?	1 hose of every kind. Metal hose. 2 Q. Anything else? 3 A. A lot more that I wouldn't recall. 4 Q. And all I want to know is what you can recall. 5 I understand we're talking about a time period that was 6 over 40 years ago and I can barely remember what I did 7 last week. So if you don't know the answer to one of my 8 questions, I'm perfectly okay with that answer. 9 The rubber gaskets that you mentioned -- do 10 you remember who those rubber gaskets were purchased 11 from? 12 A. No. 13 Q. How about the rubber hoses -- do you recall who 14 those were purchased from? 15 A. Mostly Goodyear. 16 Q. And the metal hoses? 17 A. Flexonics. 18 Q. Do you remember any other companies or 19 distributors that Triplex purchased products from in the 20 1960s? 21 A. No. 22 Q. As you know, I represent Garlock. 23 Do you recall in those purchasing records 24 recall ever seeing any records reflecting Triplex 25 purchases from Garlock?
Page 18	Page 20
1 A. Yes. 2 Q. Based on your experience as the office manager 3 during that time period through 1974, would you believe 4 that all the purchasing records from Triplex from the 5 periods 1966 through 68 have been destroyed? 6 A. I don't know. 7 Q. You don't have any specific recollection of 8 destroying an actual records, say, from 1967, do you? 9 A. I don't have the dates that we -- we usually 10 went a period of time, let's say five years, and then we 11 destroyed -- we just -- 12 Q. Would you should red the documents or just 13 throw them in the trash? 14 A. Shred them. 15 Q. Was there a shredder in that office? 16 A. Yes. 17 Q. In recalling the 1060s, what sorts of purchases 18 did those purchasing records relate to, as best you can 19 recollect. 20 A. Any of the products that we handled. 21 Q. Do you recall the products that were being 22 handled in the 1960s at Triplex? 23 A. I remember some. 24 Q. Which products can you remember? 25 A. We handled rubber gaskets. We handled rubber	1 A. Yes, I do. 2 Q. What time period do you recall that being? 3 A. I can't be positive. 4 Q. Do you recall will it was the '60s or the '70s 5 or -- 6 A. '60s. 7 Q. Do you recall any specifics about those 8 purchasing records as they relate to Garlock? 9 A. No. 10 Q. Do you recall what products were being 11 purchased from Garlock? 12 A. We purchased gasket material and do you recall 13 that gasket material will it was purchased directly from 14 Garlock or through any sort of distributor. 15 A. From Garlock. 16 Q. How about Johns-Manville, do you recall any 17 Johns-Manville Purchase Records? 18 A. Yes. 19 Q. What do you recall about the Johns-Manville 20 Purchase Records from the 1960s? 21 A. We handled packing some gaskets, primarily what 22 we handled was to direct ship to customers and it came 23 packaged, but we'd also buy sheets from them. 24 Q. Do you know whether or not during the 1960s 25 Triplex maintained a distributorship relationship with

Page 21	Page 23
1 Johns-Manville? 2 A. They were our distributor -- you know, we'd buy 3 directly from them. 4 Q. Did you ever deal with any of the folks at 5 Johns-Manville? 6 A. Yes, I did. 7 Q. Who did you deal with? 8 A. With a gentleman by the name of Bill Whitmarsh. 9 He was in the office and we worked together on the 10 invoices. 11 Q. Do you know whether or not Mr. Whitmarsh is 12 still living? 13 A. No, he's not. 14 Q. And was he your contact there at Johns-Manville 15 throughout the 1960s? 16 A. He was the contact for the clerical work. He 17 was office manager in their office. 18 Q. How often would you talk with Mr. Whitmarsh? 19 A. Maybe once a month. 20 Q. Do you recall the volume of materials that were 21 purchased -- 22 A. No. 23 Q. -- by Triplex from Johns-Manville? 24 A. No. 25 Q. In your mind do you consider it to be a	1 Q. And I assume in terms of your maintaining of 2 the files of the accounts receivable that records 3 related to Garlock and Johns-Manville were in those 4 records as well that you filed; is that correct? 5 A. Yes. 6 Q. Were you responsible for collecting on those 7 accounts receivable or is that somebody else's job duty? 8 A. That was my job. 9 Q. Do you recall who you would call from Garlock 10 if you were trying to collect on an account receivable? 11 A. No, I don't. 12 Q. It was Whitmarsh who you would contact from 13 Johns-Manville? 14 A. Yes, he was. 15 Q. And do you recall whether or not in terms of 16 the volume of accounts receivable in the 1960s between 17 Johns-Manville and Garlock, what was the bigger account? 18 A. I don't know. 19 Q. In maintaining the files in the office as in 20 your duties as office manager, is it your recollection 21 that there were more documents or files that related to 22 Johns-Manville or more documents that related to 23 Garlock? 24 A. I don't know. I'm sorry. 25 Q. That's okay. We'll just wait and give it a
Page 22	Page 24
1 significant amount of products? 2 MS. BARRON: Objection. Form. 3 MR. DOMINO: Objection. Form. 4 THE DEPONENT: Yes. 5 Q. (BY MR. STRELITZ) What do you base that opinion 6 on? 7 A. Because I saw the paperwork go back and forth. 8 Q. Do you recall any of the style or model numbers 9 of the materials that were purchased from 10 Johns-Manville? 11 A. No. 12 Q. Okay. 13 Q. (BY MR. STRELITZ) And I know you know exactly 14 where I'm going with the question. If you'll just let 15 me finish it so she can get the record down. 16 A. I'll try. 17 Q. And I'm not trying to get on you because I'm 18 about as guilty as anybody. 19 A. I'll certainly try. 20 Q. How about Garlock -- do you recall anybody that 21 you dealt with specifically from Garlock? 22 A. No. 23 Q. Do you recall any of the specifics related to 24 the products from Garlock that were being purchased? 25 A. No.	1 second. 2 Did you have any responsibilities as office 3 manager with working with Triplex to advertise in any 4 publications? 5 A. No. 6 Q. Who was responsible for placing advertisements, 7 any publications or in the Yellow Pages for Triplex back 8 then? 9 A. It would have been Mr. Wimberly and 10 Mr. Phillips. 11 Q. Do you recall whether or not Triplex advertised 12 other than in the yellow pages? 13 A. No. 14 Q. Do you recall that Triplex advertised in the 15 Yellow Pages? 16 A. No. 17 Q. You don't recall ever seeing advertisements 18 from Triplex in the Yellow Pages in the periods from 19 1960 through 1970s? 20 A. No. I remember they did because I paid the 21 bills and I kept up with the billing. 22 Q. Okay. So other than the billing records you 23 don't have any other knowledge with regard to any 24 advertisements? 25 A. No.

Page 25	Page 27
1 Q. Now, you know we're here today in a lawsuit 2 that's been filed by John Phillips. Did you know 3 Mr. Phillips? 4 A. Yes, I did. 5 Q. Okay. When was the last time you seen 6 Mr. Phillips? 7 A. I suppose when he quit working vacations at 8 Triplex. 9 Q. So other than the -- the last time you saw him 10 was in the 1960s when you worked for Triplex? 11 A. Right. 12 Q. And I'll represent to you that the discovery in 13 this matter has showed that Mr. Phillips worked some 14 summers and some other times during the periods of 1960 15 through '68. Is that your recollection? 16 A. Yes. 17 Q. '66 through '68? 18 A. Uh-huh. 19 Q. Is that your recollection? 20 A. Yes. 21 Q. Do you recall seeing Mr. Phillips on the job at 22 Triplex in that time? 23 A. Yes. 24 Q. Would any of your job responsibilities have you 25 on occasion go out to the gasket shop where Mr. Phillips	1 were cutting gaskets out of the sheets or if they were 2 cutting Johns-Manville, he would -- in a conversation, 3 not specifically. 4 Q. So Frank would tell you we were cutting Garlock 5 and JM gaskets out in the gasket shop? Is that the 6 extent of your conversations? 7 A. It wasn't the accident tents of the 8 conversation can, but the extent of the conversation 9 regarding what they were doing. 10 Q. And did you observe them as they were cutting 11 these gaskets? 12 A. Yes. 13 Q. Did you observe whether or not that that was a 14 dusty process, cutting the gaskets? 15 A. It wasn't. It wouldn't appear to be. 16 Q. And tell me in that gasket shop, the condition 17 of that gasket shop -- was it a clean shop? Was it a 18 dirty shop? What were the working conditions like out 19 there? 20 A. It it was clean. 21 Q. Do you recall any safety regulations related to 22 how often the gasket shop would need to be cleaned up at 23 Triplex in the 1960s? 24 A. No. 25 Q. Do you recall new of the other co-workers of
Page 26	Page 28
1 worked? 2 A. Yes. 3 Q. Did you ever observe him working out in the 4 gasket shop? 5 A. No. 6 Q. In the 1960s did you ever have occasion to 7 observe anybody out in the gasket shop where Mr. 8 Phillips worked conducting their daily responsibilities? 9 A. I went out in the gasket shop and I would talk 10 to some of the older employees, you know. 11 Q. Which employees were those? 12 A. Like Frank Rodriguez. 13 Q. Did you ever have -- while you were out there 14 in the gasket shop did you actually see them performing 15 their responsibilities out there? 16 A. Yes. 17 Q. Tell me what you would observe in the 1960s 18 when you would he see somebody working out in the gasket 19 shop. 20 A. They would -- they were cutting gaskets. 21 Q. Were you automobile to determine who the 22 manufacturer of any of those gaskets were when you were 23 out there? 24 A. I was told in talking to Frank that if they 25 were cutting Garlock gaskets, you know, sheets, they	1 Mr. Phillips other than Mr. Rodriguez out in the gasket 2 shop in the '60s? 3 A. Norman Miksch, Billy Kelly. 4 Q. When was the last time you seen Mr. Miksch? 5 A. About two years ago. 6 Q. Did you know the Welborn brothers? 7 A. Yes, I did. 8 Q. When was the last time you'd seen either James 9 or Tommy Welborn? 10 A. Whether I retired. 11 Q. When did you retire from Triplex? 12 A. '92. 13 Q. And after 1974, which I believe you told me was 14 the last year where you served in the role of office 15 manager, is that when you moved over to secretary, 16 treasurer? 17 A. Correct. 18 Q. And did you do that job consistently from 1974 19 until your retirement in 1992? 20 A. That's right. 21 Q. Are there any employees from Triplex who worked 22 there in the 1960s that you currently are in contact 23 with? 24 A. No. 25 Q. Is Norman Misksch the last person from Triplex

Page 29	Page 31
1 that you spoke to when you spoke to him a couple years 2 ago? 3 A. No. 4 Q. Who else have you spoken to? 5 A. I spoke to several of the girls. 6 Q. Do you recall any of their names? 7 A. Yes. Toni. 8 Q. Toni's last name? 9 A. Tricka. 10 Q. Tricka? 11 A. Yes. 12 Q. When did you speak with Toni Tricka? 13 A. Six months ago. 14 Q. Who else? 15 A. Because you asked, he don't remember. 16 MS. BARRON: Who else? 17 MR. STRELITZ: She says she doesn't 18 remember. 19 Q. If at some point a name pops up in your mind, 20 would you let me know? 21 A. I will. 22 Q. Okay. Great. 23 When were you first contacted, and I don't 24 want to get into any specifics about any conversations 25 you had, but when were you first contacted in regard to	1 MS. BARRON: Objection. Form. 2 You can go ahead and answer. 3 THE DEPONENT: A lot of them were 4 procedures that we put in place. Maybe I was the author 5 of the procedure that we'd write up and maybe Norman 6 was. 7 Q. (BY MR. STRELITZ) Do you recall writing up 8 safety procedures in the 1960s? 9 A. Not writing them up, but we got them from a lot 10 of the manufacturers. 11 Q. What sorts of safety procedures are you 12 referring to? 13 A. They sent us, along with the spec sheets, they 14 mind send us some safety procedure for the material. 15 Q. And then how would those safety materials or 16 safety procedure be communicated to the employees at 17 Triplex? 18 A. By Norman or Billy Miksch or even Jim Welborn. 19 Q. Do you remember any of the specifics with 20 regard to any of the safety procedures that were 21 communicated by these gentlemen? 22 A. No, I don't. 23 Q. Were you responsible for any sort of safety 24 training? 25 A. No.
Page 30	Page 32
1 Mr. Phillips' case that we're here for the deposition at 2 today? 3 A. When I got that Subpoena. 4 Q. And the Subpoena for your deposition today? 5 A. Yes. 6 Q. Do you recall prior to that giving an affidavit 7 with regard to Workers' Compensation? 8 A. Yes. 9 Q. Do you recall when you were contacted about 10 that Affidavit? 11 A. No. 12 Q. Have you ever seen your designation that the 13 attorneys for Triplex filed in this case that we're here 14 for today? 15 A. No. 16 Q. And I just want to briefly -- it's a short 17 designation, but I want to ask you a couple questions 18 about it. 19 In their Discovery Responses, Triplex 20 states that Ms. Elder may have personal knowledge of the 21 policies and procedures implemented at Triplex, as well 22 as working conditions and safety procedures. Okay? 23 What knowledge do you have with regard to 24 policies and procedures and safety procedures 25 specifically at Triplex?	1 Q. Were there any safety policies or procedures in 2 writing at Triplex in the 1960s that you can recall? 3 A. Yes, we had some. 4 Q. What kind of procedures were in writing that 5 you recall? 6 A. I don't recall. Norman and Billy kept that up, 7 but I... 8 Q. Where would those safety procedures and 9 policies be kept? 10 A. In the shop where Norman's office was or 11 Billy's office. 12 Q. That would be a shop that was different from 13 the office where you kept your files? 14 A. Yes. 15 Q. Who was responsible for those files regarding 16 the safety procedures? 17 A. That was Norman. 18 Q. Do you recall Triplex catalogs -- where those 19 were can kept in the 1960s? 20 MS. BARRON: Objection. Form. 21 THE DEPONENT: At their office, the sharp 22 office. 23 Q. (BY MR. STRELITZ) Did you have any 24 responsibilities as it related to the Triplex catalogs 25 in the 1960s?

Page 33	Page 35
1 MS. BARRON: Objection. Form. 2 THE DEPONENT: No. 3 MR. STRELITZ: What's the basis of the 4 objection? 5 MR. DOMINO: Foundation. Assumes facts not 6 in evidence. 7 MR. CHANDLER: I'll join in the objection 8 of form to every single question. 9 MR. STRELITZ: I'm not giving anybody 10 grief. I'm just asking the basis for it. 11 Q. (BY MR. STRELITZ) Do you recall seeing Triplex 12 catalogs in the 1960s? 13 A. Yes. 14 Q. When was the first year you recall seeing a 15 Triplex catalog? 16 A. I don't remember. 17 Q. Do you know whether or not there was any type 18 of retention policy with regards to Triplex catalogs? 19 How long they were kept in files? 20 A. I did not believe so. 21 Q. And that wasn't your responsibility correct? 22 A. If they would have come to me, it would have 23 been my responsibility to see that it got to the proper 24 parties. 25 Q. Huh were your job duties and responsibilities	1 A. No. 2 Q. Just you? 3 A. Mine. 4 Q. Okay. Were you responsible for reviewing 5 Workers' Compensation claims? 6 A. Yes. 7 Q. Do you recall any Workers' Compensation claims 8 during the 1960s, specifically? 9 A. No. 10 Q. Ms. Elder, I'm going to hand you a copy of the 11 Affidavit that you have signed in this case, and I want 12 you to take a second to review it. 13 Do you recognize that document that would 14 probably be the one that I got in -- I thought it was 15 Novemberbut in December? 16 Q. Okay. And it's the one that you signed on Page 17 2, correct? 18 A. I'd have to read it now. It's my signature. 19 Q. Okay. If you need the chance to review it, 20 because I'm going to ask you a few questions about it. 21 Please take your time and do so. 22 A. Okay. 23 Q. I want to make sure that you recall this 24 document. 25 A. Okay.
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1 with regard -- when did you start to have job duties and 2 responds with regard to the maintenance of Workers' 3 Compensation insurance at Triplex? 4 A. From day one. 5 Q. What were your responsibilities with regard to 6 Workers' Compensation insurance? 7 A. To be sure that he we had Workmen's Comp. 8 There were several things that they went over with me 9 when I first went to work, and that was one of them. 10 Q. And when you say there were several things that 11 they went over with you, who are you referring to? 12 A. I'm talking about, say, I made the are deposit, 13 make sure that the money was in the bank. Made sure 14 that we made all the bills in a timely manner. 15 Q. These are things -- Mr. Wimberly -- is that who 16 communicated this to you? 17 A. Yes. 18 Q. And he communicated to you the need to make 19 sure that the Workers' Compensation insurance policy 20 were kept maintained? 21 A. All insurances. 22 Q. Was that your sole responsibility or did 23 anybody else have any job duties as it relates to 24 keeping and maintaining the Workers' Compensation 25 insurance?	1 Q. Have you had a chance to review the document, 2 which is Exhibit 1 to your deposition? 3 A. Yes. 4 Q. Okay. You mentioned in your Affidavit that the 5 company purchased Workers' Compensation insurance for 6 its employees through Cominskey Insurance. 7 Were you responsible for purchasing the 8 Workers' Compensation insurance through Cominskey? 9 A. Yes, I was. 10 Q. Do you recall who who your contact person at 11 Cominskey was? 12 A. Ross Cominskey. 13 Q. Do you know whether or not Cominskey Insurance 14 is still a viable company today? 15 A. I don't know. 16 Q. Do you hold was Ross Cominskey at the time you 17 were dealing with him? 18 A. Probably 55. 19 Q. Do you know whether or not he's living today or 20 not? 21 A. He's not. 22 Q. Okay. When was the first time you recall 23 purchasing workers comp through Ross Cominskey and 24 Cominskey Insurance Company? 25 A. From the day that I went to work there, if

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1 there was anything up for renewal. 2 Q. And you mentioned in Paragraph 3 of your 3 Affidavit that one of your responsibilities was ensuring 4 that the company's Workers' Compensation insurance did 5 not lapse. 6 A. That's right. 7 Q. Was there any time during the 1960s that you 8 can recall that the Workers' Comp. insurance for Triplex 9 lapsed? 10 A. No. 11 Q. During the 1960s was Triplex covered by 12 Workers' Compensation insurance continuously from the 13 time you were there in 1960 through 1970? 14 A. Yes. 15 Q. How do you know that? 16 A. Because I'm the one that kept the records, and 17 I'm the one that made sure that our policies did not 18 expire. 19 Q. Do you recall whether or not those policies had 20 any sorts of exclusions to them? 21 A. Not -- no. They didn't. 22 Q. And in Paragraph 3, you say that you personally 23 recall handling paperwork for workers comp. Claims by 24 patient employees. 25 I think I might have asked you this all	1 Q. Do you recall any long of a period of time that 2 they -- 3 A. No, I don't. 4 Q. Did you also maintain ledger sheets for the 5 Workers' Compensation policies? 6 A. Yes. We had spreadsheets for insurance, and 7 other things that were kept. 8 Q. Do you know how long those ledger sheets were 9 maintained? 10 A. No, I don't. 11 Q. Were you ever asked to -- well, strike that 12 have. 13 During the period, 66 through '68 that John 14 Phillips worked at Triplex, is it your belief that 15 Triplex maintained Workers' Compensation insurance 16 during that time? 17 A. Yes. 18 Q. Would Mr. Phillips be considered an employee of 19 Triplex at that time that would be covered by the 20 Workers' Compensation insurance? 21 A. Yes. 22 Q. And that policy would not exclude any claims 23 for asbestos exposure? 24 A. No. 25 Q. Do you recall from the time that you started at
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1 right already. . Do you know any of the names of any of 2 those employees? 3 A. Jim Welborn. 4 Q. And was that for the claim regarding his 5 fingers? 6 A. Yes. 7 Q. And you recalled reviewing the Workers' 8 Compensation policy during that time? 9 A. Yes. 10 Q. How about any others? 11 A. No. Not that I recall. 12 Q. Do you recall other than Mr. Welborn any other 13 company employees receiving Workers' Compensation been 14 fits in the 1960s? 15 A. No. 16 Q. In your Affidavit you discuss reading those 17 Workers' Compensation policies. Are you referring to 18 reading them back in the 1960s? 19 A. Yes. 20 Q. Did you maintain any Workers' Compensation 21 files in the office at Triplex during the 1960s? 22 A. Yes. 23 Q. Do you know what happened to those files? 24 A. Probably after a period of time they were 25 destroyed to make room for some others.	1 Triplex in 1960 through 1992, whether or not Triplex 2 received any Workers' Compensation claims related to 3 asbestos exposures? 4 A. Yes. I think it was in '98 that we received 5 one. 6 Q. Do you know who that was for? 7 A. Mr. Harris. 8 Q. Do you know Mr. Harris' first name? 9 A. No, I don't recollect, Doyle Harris. 10 Q. Doyle, D O Y L E? 11 A. Uh-huh. 12 Q. And did you personally handle that Workers' 13 Compensation claim or was that handled by somebody else? 14 A. I did. 15 Q. Do you recall what injury or disease Mr. Harris 16 was complaining about in that claim? 17 A. Initially they didn't know what was wrong with 18 him, maybe a year or -- because he was sick for a very 19 long time, and I'll retract the statement that I handled 20 the claim. 21 I had an insurance department, and Joyce 22 Varnell is the one that handled the paperwork for the 23 claim. 24 Q. Do you know whether Mr. Harris worked for 25 Triplex? What years he worked there?

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1 A. No. He worked there 20 years, I believe, best 2 guess, and he retired just at the time that he became 3 ill. 4 Q. Do you know whether or not Mr. Harris worked at 5 Triplex in the 1960s? The late '60s? 6 A. I don't remember. 7 Q. What was Mr. Harris' job title at Triplex? 8 A. He was just a shop worker. 9 Q. Do you know whether or not he filed any sort of 10 lawsuit against Triplex? 11 A. Yes, he did. 12 Q. Did you have any involvement with the defense 13 of that lawsuit that was filed by Mr. Harris? 14 A. No. 15 Q. Has Mr. Harris passed away since that time? 16 A. Yes, he did. 17 Q. Do you do you know whether or not Triplex in in 18 your working with the purchasing records and the 19 accounts receivable records, whether or not Triplex 20 purchased any raw asbestos fibers during the 1960s? 21 A. No. 22 Q. No, you don't know or no they didn't? 23 A. No, I don't know because I don't know that -- 24 I don't know that there's such a thing as asbestos 25 fibers.	1 Q. What kind of sales records were there? 2 A. The sales record was what we sold the customer. 3 Q. Do you recall the customers that were commonly 4 sold to by Triplex? 5 A. Exxon. Enron. All the larger companies we 6 sold. Up and down the channel. I don't remember the 7 names. 8 Q. And some of the products that would be sold, 9 for example, were the Johns-Manville products that you 10 mentioned to me earlier? 11 A. Yes. 12 Q. Is that correct? 13 MS. BARRON: Objection. Form. 14 Q. (BY MR. STRELITZ) Do you know whether in the 15 1960s, whether or not Triplex was a Johns-Manville 16 distributor? 17 A. I don't recall. 18 Q. Do you have a specific recollection of sales 19 records from the period -- from 1960 to 1970, that 20 reflected Triplex selling Johns-Manville products to 21 different refineries in Texas? 22 A. I don't recall. 23 Q. You just generally recall those types of 24 records being present; is that correct? 25 A. Yes.
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1 Q. And in the records that you maintained in that 2 office, were there also sales records to the different 3 plants and that sort of thing that were maintained in 4 there? 5 A. Yes. 6 Q. Did you have duties and responsibilities with 7 regard to maintaining those sales records? 8 A. Yes. It was my ultimate responsibility, but I 9 had other people doing it. I had 18 girls in the 10 office. 11 Q. Understood, but you had the ultimate oversight 12 over those folks -- 13 A. Yes. 14 Q. -- that were dealing with the sales records? 15 A. Yes. 16 Q. And were those sales records to different 17 refineries and different end users of the products that 18 were manufactured -- 19 A. Yes. 20 Q. At Triplex? 21 A. We didn't manufacture anything at Triplex. 22 Q. Were those the end users of the products at 23 Triplex, the hoses and the rubber gaskets that you 24 mentioned to me? 25 A. What did -- what is your question?	1 Q. Ms. Elder, I'm going to review my notes. I 2 might have a few more questions for you after the other 3 attorneys ask you some questions. 4 A. Well, do you mind if we take a break? 5 Q. No, ma'am. 6 MS. BARRON: Good time. 7 (Brief recess taken.) 8 THE VIDEOGRAPHER: We're on the record at 9 2:07. 10 EXAMINATION 11 BY MS. BARRON: 12 Q. Ms. Elder, my name is Barbara Barron, and I 13 represent Triplex, and I've got a few questions for you, 14 too. 15 A. Okay. 16 Q. I thought we might want to first explain to the 17 jury where we are today, and where are we all sitting 18 today? 19 A. We're sitting at 14210 Sandhill Crane. 20 Q. And is that house are house? 21 A. That is my home. 22 Q. And you had mentioned being subpoenaed. Were 23 you subpoenaed to give testimony today? 24 A. Yes. 25 Q. And is it your understanding that it was

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1 Garlock that subpoenaed you for your deposition? 2 A. At first I didn't, at first I didn't quite 3 understand it. I had to read it it over because I 4 wasn't expecting anything look that, and then I realized 5 it was. 6 Q. And we're in your house. I know you have a 7 shoulder problem that makes it difficult for driving; is 8 that correct? 9 A. Yes. 10 Q. And you're particularly going to downtown 11 Houston; correct? 12 A. Well, I'm not driving be, but just to the 13 beauty shop would be all right if I drive, but I'm not 14 automobile to drive. 15 Q. And I know your husband has some health 16 problems, as well, is that correct? 17 A. Yes. He's got Alzheimer's. 18 Q. And normally, you help to take care of your 19 husband here at the house; is that correct? 20 A. Yes. 21 Q. And is he with your son today? 22 A. Yes, he is. 23 Q. I want to talk you back to the '60s, and as you 24 told the first lawyer that asked you questions, you you 25 started at Triplex in 1960, right?	1 A. Direct ship, yes. 2 Q. Would you explain to the ladies and gentlemen 3 of the jury what direct ship means. 4 A. We'd place an order with Johns-Manville or 5 anybody, not particularly them, but anybody, that we 6 placed an order with them, that we had for the customer. 7 And instead of shipping to our warehouse, 8 they would ship it directly to the customer. 9 Q. So for those products, no matter who it came 10 from, if it was shipped directly to the company that 11 ordered it, would it come -- would the product itself 12 come through Triplex's warehouse? 13 A. Not necessarily. 14 Q. And I've heard the term called drop shipped. 15 A. Uh-huh. 16 Q. Have you ever heard that term? 17 A. Yes. 18 Q. And is this a direct ship or drop ship -- are 19 they pretty synonymous terms? 20 A. Yes. 21 Q. Are you okay? I saw you make a face? Are you 22 okay? 23 A. I'm okay. 24 Q. In terms of the gasket shop -- in the '60s, do 25 you know whether rolls of gaskets or the sheets of
Page 46	Page 48
1 A. Right. 2 Q. And then you worked as an office manager to 3 1974; is that correct? 4 A. Yes. 5 Q. And then from '74 until your retirement, you 6 were secretary treasurer, is that correct? 7 A. Yes. 8 Q. And you retired in 1992? 9 A. Yes he. 10 Q. Back in the 1960s, can you give us a rough 11 estimate of how many employees Triplex had, you know, in 12 like the mid '60s. 13 A. 20, 25, maybe. 14 Q. You had you mentioned Johns-Manville earlier, 15 and you had mentioned Garlock. 16 A. Yes. 17 Q. Do you know whether or not Triplex ever sold 18 Garlock gaskets? 19 A. Yes. 20 Q. And do you know whether or not Triplex ever 21 sold Johns-Manville gaskets? 22 A. Yes. 23 Q. You had mentioned to the first lawyer that a 24 lot of the Johns-Manville gaskets were shipped to 25 another location.	1 gaskets would come into the Triplex gasket shop? 2 A. Yes. 3 Q. As you mentioned, you occasionally went into 4 the gasket shop, correct? 5 A. Frequently. I handed out the paychecks, so I 6 went once a week without fail. 7 Q. And you mentioned that sometimes you would stay 8 and talk to the older employees that you knew. 9 A. Yes. 10 Q. When you talked to them, would they stop 11 working? 12 A. Yes. 13 Q. And in terms of going through the gasket shop, 14 was it -- did you find the gasket shop generally clean 15 or was it fill think? 16 A. It was always clean and sometimes cleaner than 17 others. 18 Q. And these years that you told us that you 19 walked through the gasket shop -- is that manage that 20 you would do through the entire time that you worked at 21 Triplex? 22 A. Yes. 23 Q. And you mentioned paycheck, so about what 24 period of time would you walk through the gasket shop? 25 Would it be like every week or about every two weeks?

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1 A. To start with, when they there was just a few 2 employees, it was every week. They got paid every week. 3 Later on, every two weeks. 4 Q. And the every week -- would that have been 5 during the 1960 to 1969 timeframe? 6 A. Yes. 7 Q. Do you know whether the gasket shop was 8 supposed to be cleaned on a daily basis? 9 A. Yes. If they started in the -- afternoon, 10 before they left work, and financed up in the morning 11 what they hadn't finished the night before. 12 Q. There was testimony in this case that the 13 gasket shop had, and I'm quoting, deplorable 14 housekeeping conditions. Would you agree with that 15 testimony? 16 A. No. That would be perfectly ridiculous. 17 Q. Triplex is located, the area where Mr. John 18 Phillips worked and where you worked is in Houston, 19 Texas, correct? 20 A. Yes. 21 Q. And I have been to the office before, and it is 22 located in a fairly residential neighborhood; is that 23 correct? 24 A. Yes. 25 Q. Do you recall any neighbors or property owns	1 A. Yes. 2 Q. How did you become aware of OSHA? 3 A. OSHA came to the shop, and would go through the 4 shop and do whatever they had to do and I'd always hear 5 from Norman what had transpired. 6 Q. Do you recall OSHA coming to the Triplex 7 location? 8 A. Yes. 9 Q. In Houston? 10 A. Uh-huh. 11 Q. That's a yes? 12 A. Yes. 13 Q. And do you recall OSHA coming to Triplex to 14 inspect in the '70s? 15 A. Yes. 16 Q. How did Triplex view its relationship with 17 OSHA? 18 A. They were always a benefit to us because they 19 helped us keep up with the things that were necessary. 20 Q. Do you know whether Triplex ever called OSHA to 21 come in and inspect them? 22 A. Yes, we he did. 23 Q. So a lot of employers sometimes run from OSHA. 24 When you say it's a benefit, did Triplex try and have 25 OSHA help them keep up with safety?
Page 50	Page 52
1 ever complaining about the dust there? 2 A. No. 3 Q. Did any of the neighbors ever complain to you 4 as the office manager about anything that Triplex was 5 doing? 6 A. The only thing was the radio's too loud. 7 Q. Did Triplex try to be a good neighbor? 8 A. Yes. We turned the radio down. 9 Q. When you started working at Triplex in 1960 10 were you aware that asbestos could be hazardous to your 11 health? 12 A. No. 13 Q. When did you first hear that asbestos could be 14 hazardous to your health? 15 A. When Harris on got sick we heart about his 16 condition, kept up with him long before the lawsuit. 17 Q. And Harrison -- where did he work? 18 A. In Shreveport. 19 Q. He he did not work in the Houston gasket shop? 20 A. No. 21 Q. Is that correct? 22 A. Yes. 23 Q. And at some point in time were you aware that 24 OSHA had some regulations with regard to asbestos and 25 other safety issues?	1 A. Yes. 2 Q. Do you recall air monitoring taking place at 3 Triplex? 4 A. Through OSHA, yes. 5 Q. Do you recall will any of the insurance 6 companies ever did air monitoring as well for Triplex? 7 A. No. 8 Q. Did you receive any of the results of that air 9 monitoring? 10 A. Only through Norman. 11 Q. And what were you told with regard to the air 12 monitoring results? 13 A. That we were always in compliance with whatever 14 we needed to be. 15 Q. And, of course, this is in the '70s, correct? 16 A. Uh-huh, yes. 17 Q. And, again, in the '70s, did you see Triplex 18 employees wearing respiratory protection? Something 19 over their nose and mouth? 20 A. In the '70s -- some of them did. 21 Q. And I think we've been told by Mr. Welborn that 22 it was optional? 23 A. It was. 24 Q. Was there any particular Triplex employ you in 25 the '70s that was responsible for making masks available

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1 in the gasket shop? 2 A. Norman or Mr. Welborn. 3 Q. When you're saying Norman, that's Norman 4 Miksch? 5 A. Miksch, uh-huh. 6 Q. To your knowledge, was it ever mandatory for 7 employees to wear respiratory protection or something 8 over their nose and mouth in the gasket shop? 9 A. Not that I recall. 10 Q. And do you have an understanding of why it 11 wasn't mandatory? 12 A. It was nothing that we wer required because 13 OSHA came in and always said we were below. 14 Q. If a witness testified that Triplex did not 15 make masks available in their gasket shop before the 16 '80s, would you disagree with that? 17 A. I'd disagree with that. 18 Q. To your knowledge would was there ever an 19 occasion that the air monitoring that took place after 20 OSHA came into effect ever indicate that the asbestos 21 levels at Triplex were unsafe? 22 A. No. 23 Q. I want to talk a minute about a Texas 24 Department of Health regulation that came out in the 25 '58, '59 time period.	1 Q. Do you recall the names of any of the salesmen 2 or would they have been dealing with somebody else? 3 A. They would have been dealing with somebody 4 else. 5 Q. Do you know whether anyone, a salesman from job 6 Johns-Manville ever came to Triplex? 7 A. Yes. 8 Q. Do you know whether a salesman from Garlock 9 ever came to Triplex? 10 A. Yes. 11 Q. Did the Garlock sales people ever provide you 12 or anyone else at Triplex, to your knowledge, with the 13 1958 regulation? 14 A. No. 15 Q. Do you know whether Garlock had a warehouse or 16 any other type of operation in the State of Texas? 17 A. No. 18 Q. Did JM, Johns-Manville -- you mentioned their 19 sales people came. Did they ever provide you with a 20 copy of a State of Texas regulation? 21 A. No. 22 Q. To usual knowledge, did Johns-Manville have any 23 operations within the State of Texas? 24 A. Yes. 25 Q. And where was their location?
Page 54	Page 56
1 Did you ever receive a copy of that 2 regulation? 3 A. No. 4 Q. If a regulation like that would have come in 5 would it have come into you as the office manager? 6 A. It would have come to me as the office manager 7 plus opening the mail. 8 Q. And then if you saw a 1958 regulation dealing 9 with anything that Triplex was supposed to comply with, 10 who would you have given it to? 11 A. I would have gone to Mr. Phillips with it, I.W. 12 Phillips, and then he would have instructed me on what 13 the next step was. 14 Q. And during the entire 1960s time period did you 15 ever receive any type of regulation dealing with 16 asbestos or other dusts? 17 A. No. 18 Q. Was Triplex in the '60s ever cited by anybody 19 with the State of Texas about any problems with dust? 20 A. No. 21 Q. And to your knowledge did anyone from the State 22 of Texas ever come to inspect Triplex in the '60s? 23 A. No. 24 Q. Did Triplex have salesmen that called on them? 25 A. Yes.	1 A. Houston. 2 Q. Did any -- Triplex is a distributor of 3 products; is that correct? 4 A. Yes. 5 Q. Did any manufacturer of any of the asbestos 6 products that we sold in the '60s, to your knowledge, 7 ever tell anyone at Triplex that asbestos was hazardous? 8 MR. STRELITZ: Objection. Form. 9 THE DEPONENT: No. 10 MS. BARRON: 11 Q. Did any manufacturer of any of the products 12 that Triplex sold ever tell you that asbestos was 13 hazardous in the '60s? 14 A. No. 15 Q. If manufacturer knew that asbestos was 16 hazardous in the '60s would you have wanted them to tell 17 you or someone else at Triplex? 18 A. Sure. 19 Q. And why is that? 20 A. Well, that would have given us something to go 21 further and look into and we certainly didn't want to be 22 suppliers of something that was hazardous to our health. 23 Q. If there were written warnings on purchase 24 orders or literature, would those written warnings have 25 come through your office?

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1 A. I would say yes. 2 Q. In the '60s, did you ever see any written 3 warnings from any manufacturer of any 4 asbestos-containing products? 5 A. No. 6 Q. If you as the office manager would have 7 received information that asbestos could be dangerous, 8 what would you have done with that information in the 9 '60s? 10 A. Gone to Mr. Phillips. 11 MS. BARRON: 12 Q. And when we're talking about I.W. Phillips, who 13 is he? 14 A. He is one of the founders of Triplex, as 15 billion as metal hose. 16 Q. Do you know whether I.W. Phillips was related 17 to Mr. John Phillips that is in this lawsuit? 18 A. Yes. 19 Q. And do you know what their family relationship 20 is? 21 A. His butch -- John Phillips is Rudy's son and 22 Rudy and Mr. Phillips were first cousins. 23 Q. And you had mentioned Rudy Phillips. We have 24 the dates when John Phillips worked, Phillips worked at 25 Triplex. Whatever those dates were, were Mr. Rudy	1 Q. And during the '60s, was Mr. I.W. Phillips the 2 owner of the company? 3 A. Yes, he was one of the owners. 4 Q. And what kind of person was I.W. Phillips? 5 A. He was the greatest. 6 Q. From your numerous years of working with him do 7 you believe he was a person that was concerned about 8 safety? 9 MR. STRELITZ: Objection. Form. 10 THE DEPONENT: Absolutely. Absolutely. 11 Q. (BY MS. BARRON) And have you had an occasion to 12 see Mr. I.W. Phillips over the years tell somebody to do 13 something or not to do something because of a safety 14 issue? 15 A. No. 16 Q. Over the years did Mr. -- to your knowledge, 17 over the years, did you ever see Mr. Phillips, I.W. 18 Phillips, tell an employee to do anything unsafe? 19 A. No. 20 Q. There were a lot of family members of Mr. 21 Phillips, I.W. Phillips, that had worked at Triplex over 22 the years, is that correct? 23 A. Yes. 24 Q. And not only Rudy and John Phillips, the 25 plaintiff in this case, but I.W. Phillips' own son
Page 58	Page 60
1 Phillips already there at Triplex? 2 A. Yes. 3 Q. And you had mentioned that Mr. Rudy Phillips, 4 whatever time he was there at Triplex, he was the one 5 that actually ordered some of the products; is that 6 correct? 7 A. Yes. 8 Q. And did Mr. Rudy Phillips, John Phillips' 9 father -- did he order gaskets? 10 A. Yes. 11 Q. How many years did you work with Mr. Rudy 12 Phillips? About? Rough guess? 13 A. About 25 years. 14 Q. And is it about the same amount of time with 15 I.W. Phillips? 16 A. What is your question? 17 Q. How long did you work with I.W. Phillips and 18 how long did you work with Rudy Phillips? 19 A. I worked with Mr. Phillips from 1960 till he 20 retired. I don't know the year. 21 Q. Did you enjoy working with Mr. I.W. Phillips? 22 A. Absolutely. 23 Q. He was the owner of the company for a period of 24 time; is that correct? 25 A. Yes.	1 worked there, correct? 2 A. Yes. 3 Q. Do you believe Mr. I.W. Phillips was concerned 4 about the safety of his family? 5 MR. STRELITZ: Objection. Form. 6 THE DEPONENT: Yes. 7 Q. (BY MS. BARRON) And was he a family man? 8 A. Yes, very much. 9 Q. And how do you know he was someone that was 10 interested in his familiar will you and a family man? 11 A. Because I was very close to him. He talked a 12 lot about his family. His wife came. His children came 13 to the office. My son worked there, too. 14 Q. Your son worked at Triplex? 15 A. Uh-huh. 16 Q. That's a yes? 17 A. Yes. 18 Q. And where did your son work? 19 A. In the gasket shop. 20 Q. If you had thought there was something 21 dangerous in the gasket shop would you have allowed your 22 son to work in the gasket shop? 23 A. No. 24 Q. What years did your son work in the gasket 25 shop?

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1 A. 196 -- 68, '70. 2 Q. How old is your son? 3 A. Now is '57. He worked there during -- he went 4 to Steve Stephen F. Austin and worked in the summer. 5 Q. If you had been told that there was no safe 6 level of asbestos, would you have let your son work in 7 the gasket shop? 8 MR. STRELITZ: Objection. Form. 9 THE DEPONENT: I'd have to -- 10 Q. (BY MS. BARRON) Let me rephrase. 11 A. Uh-huh. 12 Q. If you had known that there was -- that 13 asbestos was in the gasket shop and it could be 14 hazardous to your sons health, would you have allowed 15 him to work there? 16 A. No. 17 Q. At the time that your son worked there, if 18 manufacturers knew that asbestos was hazardous, would 19 you have wanted them to tell you? 20 A. Yes. 21 Q. And and the same thing, even for Rudy's son, 22 John Phillips -- during the time that he worked there if 23 the manufacturers knew, would you have wanted them to 24 tell you? 25 A. Sure.	1 after the 1960s, is that correct? 2 A. Yes. 3 Q. And did she work understand you when she 4 started? 5 A. Yeah. 6 Q. When you were working in the 1960s, were there 7 18 girls there to help you? 8 A. No. 9 Q. It started out as a one woman shop, and that 10 was you; right? 11 A. Yes. 12 Q. And were there 18 girls helping you when you 13 retired? 14 A. Yes. 15 Q. And so that would have been in 1992? 16 A. Yes. 17 Q. John Phillips' dad, Rudy Phillips is deceased, 18 like you told us; correct? 19 A. Yes. 20 Q. Did you enjoy working with Rudy Phillips? 21 A. Yes. 22 Q. Did you ever observe him doing anything unsafe? 23 A. No. 24 Q. What type of employee was Rudy Phillips? 25 A. Very conscientious employee.
Page 62	Page 64
1 Q. Currently -- when Mr. I.W. Phillips retired, at 2 some point in time the Triplex became an ESOP. 3 A. Long before then. 4 Q. Okay. When did Triplex become an ESOP? 5 A. '75, I believe. 6 Q. And what is an ESOP? 7 A. An employee stock ownership plan. 8 Q. Does that mean that the employees own the 9 company? 10 A. Uh-huh. 11 Q. Is that a "yes"? 12 A. Yeah. At that time they owned a part of the 13 company. And as the stock changed, they owned now, I 14 think it's full you owned by the employees. 15 Q. And I know that you had mentioned that the 16 girls call you sometimes. Even today, you know, once in 17 a while, you get a call from someone at Triplex for some 18 of your historical knowledge; is that correct? 19 A. No. . Not for any historical -- just of to 20 chat. Somebody that I'm familiar with or they may ask 21 -- Toni might have asked something, regarding records. 22 Q. And again, into into, we're talking about into 23 into Tricka? 24 A. Yes. 25 Q. And it's my understanding that she started	1 Q. And did you consider Rudy to be a nice person? 2 A. Yes. 3 Q. From your observing Rudy over the years, was he 4 a family person? 5 A. Yes, he was. 6 Q. And did husband family come out to Triplex 7 occasionally, as well? 8 A. Yes. 9 Q. And we know that John obviously worked out 10 there those summers; is that correct? 11 A. Yes. 12 Q. You had mentioned Norman Miksch? 13 A. Uh-huh. 14 Q. Do you know Norman? 15 A. Yes. 16 Q. And did you enjoy working with him, as well? 17 A. Yes. 18 Q. And how long did you know Norman? 19 A. Until '92 it, when I retired. 20 Q. And was Norman during some of the years when he 21 worked out there in charge of safety? 22 A. Yes. 23 Q. And did you ever see Norman doing anything 24 unsafe? 25 A. No.

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1 Q. There was awe time period when Triplex -- 2 scratch that. 3 Who at Triplex would have been 4 responsibility, responsible for forwarding any lawsuits 5 filed against Triplex to Triplex's attorneys? 6 If a lawsuit got filed, who would it go to 7 at Triplex? 8 A. It would come to me. 9 Q. During the '60s did you ever receive any 10 asbestos lawsuits? 11 A. No. 12 Q. During the '70s did you ever receive any 13 lawsuits where someone was claiming injury due to 14 asbestos? 15 A. No. 16 Q. And was your first lawsuit, as you told the 17 first lawyer that dealt with asbestos or what people 18 thought was asbestos in 1988? 19 A. Uh-huh, yes. 20 Q. And that was Mr. Doyle Harris you mentioned? 21 A. Yes. 22 Q. And do you know what the outcome of of that 23 lawsuit was? 24 A. At the end, they didn't charge -- they couldn't 25 decide that it was an asbestos. It was never...	1 why he quit selling asbestos-containing products. 2 A. Yes. 3 Q. And what did he tell you? 4 A. It had become common knowledge within Triplex, 5 so we decided that the insurance didn't want to sell us 6 any insurance, an exclusion. 7 We talked about it, and he said, well, if 8 there's any possibility to, injury our customers, you 9 don't want to have anything to do with it. We're going 10 to quit all together. And we notified the customers. 11 Q. If Mr. I.W. Phillips had gotten that 12 information earlier, from all your years of working with 13 him, do you think he would have quit selling asbestos 14 containing products earlier? 15 MR. STRELITZ: Objection. Form. 16 THE DEPONENT: Yes. 17 Q. (BY MS. BARRON) Let's change tapes real quick. 18 THE VIDEOGRAPHER: Off the record 2:41. 19 (Brief recess taken.) 20 THE VIDEOGRAPHER: We're on the record at 21 2:42. Beginning of Tape 2. 22 Q. (BY MS. BARRON) If in the 1960s you received a 23 warning or any information that asbestos was hazardous 24 would you have passed it to management? 25 A. Yes, I would have.
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1 Q. Mr. Doyle Harris did not have mesothelioma, 2 though, correct? 3 A. No, he did not. 4 Q. Were you involved in the decision to quit 5 selling asbestos related products? 6 A. No. 7 Q. Was that decision to quit selling relayed to 8 you? 9 A. Mr. Phillips -- it was his decision. He talked 10 to me about it. 11 Q. And when was it, approximately, if you can 12 recall, did Triplex stop selling asbestos-containing 13 products? 14 A. '87. Something like that. 15 Q. Is it your recollection that we had quit 16 selling before the Doyle Harris lawsuit came in? 17 A. Yes. 18 Q. And when Triplex quit selling 19 asbestos-containing products do you know what we did 20 with the inventory of whatever products we had there? 21 A. We scrapped it. 22 Q. And when you say scrapped it, did we have 23 people coming in and remove those products? 24 A. We bagged it, Norman called someone at, and had 25 him pick it up did I.W. ever tell you, I.W. Phillips,	1 Q. And did you receive any warnings warnings or 2 information prior to OSHA come into effect in the '72 or 3 '73 time period? 4 A. No. 5 Q. In terms of the of products that we sold, if 6 there was a hazard with those products who would you 7 have expected to get information from about those 8 products? 9 A. Initially, Mr. Phillips would have gone to the 10 supplier. 11 Q. And you're talking about the manufacturer? 12 Q. The ones? 13 A. The ones that supplied it to us. 14 Q. And we were talking about Johns-Manville. 15 A. Uh-huh. 16 Q. To your knowledge did you ever see any 17 information at all in any of the specifications that 18 you've -- le me back up. 19 The products that we sold -- did we get 20 some specifications and other information on those 21 products? Like technical information? 22 A. Yes. 23 Q. Did we get that type of information from 24 Johns-Manville? 25 A. I don't know.

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1 Q. Do you know if we got that information from 2 Garlock? 3 A. I don't know. 4 Q. If did anyone at Triplex, from 1960 to 1970, 5 ever tell you that they received any information from 6 any manufacturers about the hazards of any type of 7 asbestos? 8 A. No. 9 Q. If one type of asbestos was more dangerous than 10 another type, is that something else you would have 11 wanted to know? 12 A. Yes. 13 Q. And, again, was that protect the employees? 14 A. The customers. 15 Q. And I keep on talking about employees, and 16 you're reminding me that Triplex was -- was Triplex 17 concerned not only about our employees but also about 18 the customers that he we sold to? 19 A. Yes. 20 Q. If you don't mind me asking -- how old a woman 21 are you? 22 A. 81. 23 Q. You look great for your age. I hope my skin 24 looks as good as yours. 25 A. That's okay. You can have all the cookies you	1 A. That's right. 2 Q. And was there Workers' Compensation insurance 3 in 1958 and 1960, '58 and '59. I'm sorry. 4 A. Yes. There was. 5 Q. And when you came to work at Triplex did 6 someone at Triplex introduce you to who we bought 7 insurance from? 8 A. Yes. 9 Q. And was that man Frank Cominsky? 10 A. No. It was Ross Cominsky. 11 Q. Ross Cominsky. At some point did Frank 12 Cominsky take over? 13 A. Yes. 14 Q. And was it your responsibility once you started 15 working there to make sure that the Workers' 16 Compensation was maintained? 17 A. Yes. 18 Q. Did that responsibility ever get passed to 19 anyone else or was it something that you kept on 20 yourself? 21 A. Yes. 22 Q. And do you have personal knowledge that Triplex 23 had Workers' Compensation insurance from the time that 24 you started until when you retired in 1992? 25 A. Yes.
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1 want. 2 Q. Your deposition is being taken which will 3 preserve this testimony for the future, and so there's a 4 few questions that I want to ask just to preserve the 5 testimony in the future. It may not be shown in this 6 particular lawsuit, and apologize to Peter and Troy for 7 taking just a few minutes. 8 Peter, the first lawyer that asked you 9 questions went through your Affidavit, and I've just got 10 a few other questions so that we've kind of got it all 11 in awe neat box. 12 When you first came to Triplex in 1960, was 13 one of your responsibilities to acquire Workers' 14 Compensation insurance? 15 A. Yes. 16 Q. And -- 17 A. Not necessary -- it was already acquired. 18 Q. And that was my other question. When you came 19 in 1960, you know that Workers' Compensation was already 20 in place for the years before, correct? 21 A. Yes. 22 Q. And do you know, what year Triplex started? 23 A. 1958. 24 Q. And that's only two years before you started, 25 correct?	1 Q. Did Triplex, in fact, have insurance in place, 2 from what you knew from being in the office in '60, from 3 1958, until 1992? 4 A. Yes. 5 Q. Did you over the years write checks to the 6 Cominsky Insurance that paid the premiums for the 7 Workers' Compensation insurance? 8 A. Yes. 9 Q. To your knowledge, did we ever not write a 10 check for insurance in any year? 11 A. No. 12 Q. Did the Workers' Compensation insurance ever 13 lapse? 14 A. No. 15 Q. And, again, you know that because that was your 16 job responsibility, correct? 17 A. Yes. 18 Q. And who at Triplex was responsible for handling 19 the paperwork for the Workers' Comp. claims? If a 20 lawsuit came in? Would that have come to you? 21 A. Yes. 22 Q. And you had mentioned to Peter earlier that 23 there was a Worker's Comp. Claim that Mr. Welborn had 24 filed, and if you would -- this is hard to read, but if 25 you would take a look at this document and see he if

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1 this this shows Mr. Welborn's claim that was filed in 2 1967, I believe. 3 A. Yes. 4 Q. And I've marked that as Elder Exhibit 2. 5 (Deposition Exhibit 2 Marked) 6 Q. (BY MS. BARRON) When you were mentioning to 7 Peter earlier that Mr. Welborn had filed a claim 8 earlier, is this the claim that you were referencing? 9 A. Yes. That was the claim. 10 Q. And does that look like a correct copy of one 11 of the documents that you would have received? 12 A. Yes, this is the handwriting. 13 Q. You had mentioned to Peter that you weren't 14 aware of any other Workers' Compensation claims, and 15 there was another claim in -- he that was filed in 1965 16 by a Mr. Paderas. 17 Do you remember a Mr. Paderas. 18 A. I remember him. I don't remember -- I remember 19 him. 20 Q. And do you remember him ever filing a Worker's 21 Comp. Claim? 22 A. No. 23 Q. And I'm going to hand you what I've marked as 24 Elder three, to see if that refreshes your memory in 25 materials of a prior claim.	1 A. Yes. 2 Q. And you understand with Mr. Paderas, that is 3 not something that you're familiar with; is that 4 correct? 5 A. I recall him working there, and I recall him 6 being -- husband mother working there, as well but I 7 don't remember the injury. 8 Q. You were mentioning that Mr. Paderas' mother 9 worked there. 10 A. Yes. 11 Q. Your son worked at Triplex, correct? 12 A. Yes. 13 Q. I.W.'s son and first cousin worked at Triplex? 14 A. Yes. 15 Q. And his first cousin was Rudy Phillips, 16 correct? 17 A. Yes. 18 Q. And his son worked at Triplex; correct? 19 A. Yes. 20 Q. There appears to, that a lot of family members 21 like in the summers or after school would be able to get 22 a job at Triplex? 23 A. Right, yes. 24 Q. Is that something that I.W. Phillips had in 25 place to help the kids out of employees?
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1 (Deposition Exhibit 3 Marked) 2 THE DEPONENT: I don't see where it says 3 St. Elizabeth -- he what happened to him. I don't 4 remember. 5 Q. (BY MS. BARRON) Is Exhibit 3 the type of form 6 that's completed for Workers' Compensation cases? 7 A. This is different. 8 Q. Is it different than Mr. Welborn's, that's 9 right there? 10 A. Yes. 11 Q. Do you know if the forms changed with the 12 Workers' Compensation people over the years? 13 A. I don't recall. 14 Q. With Mr. Welborn we have heard testimony with 15 how he got injured. Do you know the piece of equipment 16 that he got injured on -- was it fixed right after the 17 injury? 18 A. I don't know if it was fixed or taken out of 19 service. 20 Q. It's your understanding that Triplex attempted 21 to correct the problem that caused Mr. Welborn's injury 22 immediately, though; is that correct? 23 A. Yes. 24 Q. And do you know if Mr. Welborn was paid for his 25 injury?	1 A. No. 2 Q. Why was that in place? How did you get your 3 son to work there? 4 A. I knew the right people. 5 Q. And did lewd Rudy know the right people? 6 A. Yes. 7 Q. What was Mrs. Paderas' job? 8 A. Mrs.? 9 Q. Ms. Paderas? 10 A. Uh-huh, she worked in the office. 11 Q. Did she work with you? 12 A. No. She was in Beaumont. 13 Q. Okay. Mr. Paderas that we were talking about, 14 in Elder 3, was a Beaumont employee? 15 A. Yes. 16 Q. And were you responsible to make sure all eof 17 the offices had insurance? 18 A. Yes. 19 Q. And so when you were talking about 1960 -- 1960 20 to 1992, when you retired about Workers' Compensation 21 insurance, all locations of Triplex had insurance during 22 those years; is that correct? 23 A. They were all included in the same policy. 24 Q. That's all the questions I have. 25 THE VIDEOGRAPHER: Off the record.

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1 THE VIDEOGRAPHER: We're on the record at 2 3:02. 3 EXAMINATION 4 BY MR. CHANDLER: 5 Q. Good afternoon, Ms. Elder, how are you? 6 A. Okay. 7 Q. My name is Troy Chandler. I represent John and 8 Cynthia, or she goes by Denise Phillips, Rudy's boy. 9 A. Uh-huh. 10 Q. Do you remember John coming to the plant, 11 specifically, while he was a high school student? 12 A. Yes. 13 Q. Somebody -- 14 A. But at first... 15 Q. I'm sorry? 16 A. I thought he was just coming to see his dad. 17 Q. Okay. . 18 Q. Somebody told me he had a nickname? 19 A. Butch. 20 Q. You would know him by Butch, as well? 21 A. Un. 22 Q. Do you know how he got that nickname? 23 A. No. 24 Q. And if Mr. Phillips described I.W. Phillips -- 25 John Phillips or Butch described I.W. Phillips from time	1 Q. So no former Triplex employee has any financial 2 interest anymore or any reason to say anything that they 3 think might hurt the company financially because they 4 don't have any ownership? 5 A. Oh, no huh-uh. 6 Q. Now, was it a regular practice of Triplex to 7 have employees children's come work if the child wanted 8 to work hard during the summer and earn money? 9 A. Yes. 10 Q. Okay. And Mr. Phillips or John Phillips or 11 Butch as you remember him -- do you remember him being a 12 hard, conscientious worker? 13 A. Yes. 14 Q. John said that he didn't want to embarrass his 15 father, and a lot of times he went the extra mile and 16 extra effort just because he was I.W. Phillips' nephew 17 or second cousin. 18 Does that make sense to you? 19 A. Yeah. I think that all the school kids that we 20 hired, our kids, mostly, did do that. I know my son 21 did. 22 Q. He didn't want to embarrass you by being a 23 slacker, did he? 24 A. Exactly. 25 Q. I see. Okay.
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1 to time as his uncle, would that be consistent with the 2 kind of relationship they had back in the '60s? 3 A. Yes. Yes. 4 Q. As a second cousin, Mr. Phillips would have 5 been much older than John, right? 6 A. Yes. 7 Q. Okay. I want to talk to you, basically, just 8 about three things, and it's a little bit about your 9 history with the company, a little bit about John 10 Phillips' work there and the work conditions at Triplex, 11 and then a little bit about the kind of a company 12 Triplex was and what they would do with information 13 about safety. Okay? 14 A. Uh-huh. 15 Q. First of all, I know that you used to own the 16 company because all employees at Triplex owned part of 17 the company. Today do you own any of the company? 18 A. No. When you retire, you have to sell your 19 companies stock. 20 Q. Okay. So no former employee of Triplex owns 21 any part of the company anymore? 22 A. No. 23 Q. And they don't get retirement because their 24 benefit was in stock that they sold out? 25 A. Yes.	1 Now, I wanted to -- he that's really all I 2 want to talk to you about, about Triplex because 3 Ms. Barron, who represents your former company talked to 4 you a lot about it. 5 A. Un-huh. 6 Q. Because I just want to make sure what your 7 status was with the company today, other than being one 8 of its senior states men they call from time to time. 9 A. Uh-huh. 10 Q. Let's talk about the kind of products that went 11 to Triplex. 12 Now Triplex did not manufacture any 13 gaskets, did they? 14 A. Anything, no. 15 Q. They just ordered from the company who 16 manufactured them and forwarded them on to the people 17 who needed, them; right? 18 A. Right. The only thing that they would -- 19 sheets of gasket material they did cut gaskets from. 20 Q. And Mr. Welborn and John Phillips described 21 them coming in in big rolls. 22 Do you remember that? 23 A. Yes. 24 Q. Now, do you know what a Unishear is, the 25 electric device that would cut the gaskets?

Page 81 1 A. Yes. 2 Q. Now, John Phillips and Jim Welborn said that 3 when the Unishear was cut, dust would come off the 4 gasket so that at the end of the nights, there would 5 have to be some sweeping. 6 Does that make sense to you? 7 A. Yes, it does. 8 Q. Okay. 9 A. But there wouldn't be much. It doesn't -- it 10 -- maybe it sounded like a whole bunch of dust. That 11 wasn't the case. 12 Q. Okay. But when a man is on his hands and knees 13 cutting a roll of gaskets with Unishears and he's on his 14 hands and knees down there, if he described it, because 15 he's that close to the roll, cutting it, as a dusty 16 process, you wouldn't disagree with that, would you? 17 A. No. 18 Q. Okay. Now, at the end of the night or rather 19 in the mornings when clean up was done, the reason that 20 clean up had to be done every day is because the day 21 before, they had spent all day cutting gaskets, right? 22 A. They didn't finish up their cleaning. 23 Q. Now, John Phillips or Butch said that more 24 often than not at the end of the day the shift would be 25 over for him, and he'd get on out and wouldn't do his	Page 83 1 decade of the 1970s or later; is that right? 2 A. And there at the -- what the -- the distributor 3 gave us. We didn't print any material ourselves. 4 Q. Okay. So even the Triplex catalog -- did you 5 get them from the distributors? 6 A. Yeah. They send them on their products, they 7 send them to us. 8 Q. Okay. 9 A. And that's what made the catalog. 10 Q. So what Triplex said about a Garlock gasket 11 would come from information that Garlock gave to 12 Triplex? 13 A. Yes. 14 Q. Triplex didn't make up what they wanted to say 15 about Garlock, they had to take what Garlock told them? 16 A. Yes. 17 Q. Now, if Garlock would have given you safety 18 information, Triplex, go there are gaskets and hazards 19 when cutting -- is that something that Triplex would 20 have made sure went into their catalogs? 21 A. Yes. 22 Q. Okay. Now, if we see a catalog from Triplex 23 and it discusses Garlock blue asbestos or dark gray 24 rolled asbestos gaskets and there is no safety 25 information about those gaskets, is that because Garlock
Page 82 1 sweep up every day. 2 Would that be unusual for one of the high 3 school kids? 4 A. No. 5 Q. Okay. Thank you. 6 Now, once in a while at Triplex in the 7 gasket shop, would they do what's kind of like a spring 8 cleaning or a major cleaning, we where they would clean 9 out all the bins and sweep up the whole shop, top to 10 bottom, so that it was one bigger clean day versus the 11 every day common stuff? 12 A. Yes. 13 Q. So as Mr. Phillips described a big clean up job 14 that would be once a month, would that be kind of like 15 the spring cleaning? I call it spring cleaning, but I 16 mean just one kind of big clean up job? 17 A. Yes. 18 Q. Now, my understanding from Triplex's products 19 that they sold is that Triplex itself didn't issue 20 catalogs until the 1970s but that the catalogs that they 21 had were the manufacturer's catalogs that they kept. Is 22 that right? 23 A. That's right. 24 Q. So if we see any catalog from Triplex in this 25 case, that is a document that must have been made in the	Page 84 1 didn't forward it to Triplex some? 2 MR. STRELITZ: Objection. Form. 3 THE DEPONENT: That's right. 4 MR. CHANDLER: 5 Q. All right. May we conclude, Ms. Elder, that 6 because there's no safety information about a Garlock 7 gasket in the 1970s, the reason for that is Garlock did 8 not pass that information to Triplex? 9 MR. STRELITZ: Objection. Form. 10 A. 11 A. That's right. 12 MR. CHANDLER: 13 Q. Okay. Do you remember that the Safety Meetings 14 at Triplex were mostly held on over time to try to 15 incentivize the employees to say? Do you remember 16 whether that happened? 17 A. I don't remember. 18 Q. Okay. Now, Mr. Frank Rodriguez -- did you ever 19 keep track of Mr. Rodriguez and how he passed away? 20 A. No. I didn't. 21 Q. Okay. Do you know how Mr. Frank Rodriguez 22 passed away? 23 A. No. 24 Q. Was Jim Welborn a good employee? 25 A. Yes.

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1 Q. Was he an honest employee? 2 A. Yes. 3 Q. Was he a dedicated, hard-working man? 4 A. Very much so. 5 Q. You wouldn't have any reason to dispute 6 anything Jim Welborn says about his working conditions, 7 would you? 8 A. No. I might not remember the same as he does, 9 but -- 10 Q. After 40 years, that's pretty normal, isn't it? 11 A. Yep. 12 Q. Yes, ma'am. Okay. When you discuss 13 Johns-Manville with the Garlock lawyer, you were asked 14 did Triplex order Johns-Manville and you said, quote, 15 some, and a lot of it was direct shipped and came 16 packaged. 17 Do you remember that? 18 A. Yes. 19 Q. What did you mean by came packaged? 20 A. We had asbestos -- we'd buy asbestos rope from 21 them, and they were packaged in large box and we'd ship 22 them directly. 23 Q. Do you remember a lot of pre-cut gaskets? That 24 is, gaskets that Triplex wouldn't have to cut from a 25 roll, coming from Johns-Manville?	1 You told us Garlock didn't have a Houston 2 location; right? 3 A. That's right. 4 Q. Johns-Manville did have a Houston location, 5 didn't they? 6 A. Yes. 7 Q. They were kind of competitors for you for their 8 very own products? 9 A. Okay. If I said that Garlock didn't have a 10 Houston location -- I don't know if Garlock did or not. 11 Q. Okay. You don't know of a Houston location for 12 Garlock? 13 A. Huh-uh. 14 Q. Is that right? 15 A. Yeah. That's right. 16 Q. You do know of a location in Houston for 17 Johns-Manville; right? 18 A. Yes. 19 Q. But does it make sense to you that if Garlock 20 did have a Houston location the way that Johns-Manville 21 did because of what you did for Triplex, that's 22 something you more likely than you would have known 23 about? 24 A. They could. 25 Q. Is that right?
Page 86	Page 88
1 A. Yes. 2 Q. And if Johns-Manville sent pre-cut gaskets, 3 there's nothing for Butch Phillips or John Phillips to 4 do with it, is it? 5 A. No. Huh-uh. 6 Q. Is it fair to say that Johns-Manville sent to 7 Triplex more pre-cut gaskets than Garlock did or do you 8 remember? 9 A. I don't remember. 10 Q. Okay. Whoever sent pre-cut gaskets, whether it 11 was Garlock or Johns-Manville, those didn't have to be 12 cut? 13 A. No. 14 Q. Unishears never touched those? 15 A. No. 16 Q. And the press never touched those? 17 A. No. 18 Q. All right. Do you have an understanding as you 19 sit here today whether Triplex sold more Garlock than 20 Johns-Manville or do you just not know? 21 A. I don't know, except -- well, you didn't ask 22 the question. I don't answer. I don't know. 23 Q. Okay. Well, let me ask you this because it 24 kind of makes sense to me. I want to see if it's 25 consistent with your history at try Triplex.	1 A. Yes. 2 Q. Okay. Now, because Johns-Manville had a 3 location in Houston, were they selling to plants, 4 refineries or customers, too? 5 MR. STRELITZ: Objection. Form. 6 THE DEPONENT: No. 7 MR. CHANDLER: 8 Q. Okay. They were selling through you? 9 A. Yes. 10 MS. BARRON: And others? 11 MR. CHANDLER: 12 Q. And others? I mean, Triplex wasn't the only 13 Johns-Manville distributes or in town, were they? 14 MR. STRELITZ: Objection. Form. 15 MR. CHANDLER: 16 Q. Or do you know? 17 A. Yes, they were the only distributor. They 18 should have been the only -- we should have been the 19 only distributor for Johns-Manville. 20 Q. Well, for your customers or for the whole area? 21 A. The whole area. 22 Q. If there are other Johns-Manville distributes 23 oars in the phone book for the years 1965 or so through 24 1970, would that surprise you? 25 A. Yes.

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1 Q. Okay. All right. Now, Johns-Manville because 2 they had a warehouse in Houston -- is it true that many 3 times they would just ship directly from their Houston 4 warehouse to the customer in? 5 MR. STRELITZ: Objection. Form. 6 THE DEPONENT: Yes. 7 MR. CHANDLER: 8 Q. There wouldn't be any reason for Johns-Manville 9 to ship from a Houston location to Triplex in Houston, 10 right? 11 MR. STRELITZ: Objection. Form. 12 A. No. 13 MR. CHANDLER: 14 Q. Okay. So is this following statement true: 15 More often than not when Triplex placed an order for 16 Johns-Manville products, Johns-Manville shipped them 17 directly from their Houston warehouse to the customers 18 location? 19 A. That's right. 20 Q. All right. Now, Garlock, because they didn't 21 have a Houston location that you were aware of in the 22 '60s, and you feel like you would have known; right? 23 A. Uh-huh, I think so. 24 Q. Okay. Is this a true statement: More often 25 than not when Garlock products were ordered for	1 A. Maybe two hours. 2 Q. Okay. 3 A. One hour to two hours. 4 Q. One hours to two hours a week out of the 60 5 hour work week is when you would actually go to the 6 gasket shop, right? 7 A. Yes. 8 Q. And general speaking because you had the guys 9 money, they'd stop what they were doing and get it for 10 you; right? 11 A. Yes. 12 Q. So generally speaking whether you went back to 13 the gasket shop, you're not back there sticking a 14 paycheck down on Mr. John Phillips while he's using a 15 Unishear on the floor, are you? 16 A. No. 17 Q. John's stopping what he's doing, saying thank 18 you, Ms. Elder, I appreciate it very much and he goes 19 back to work, right? 20 A. Yes. 21 Q. So is it a true statement that you never really 22 had an opportunity to see up close in, and personal a 23 guy on his hands and knees cutting with a Unishear; is 24 that fair? 25 A. Up close, meaning, what? 10, 12 feet?
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1 customers, their Garlock products first came to Triplex 2 and then Triplex distributed them, is that fair? 3 MR. STRELITZ: Objection. Form. 4 THE DEPONENT: Triplex cut the gaskets to 5 distribute. 6 MR. CHANDLER: 7 Q. From Garlock to the customers? 8 MR. STRELITZ: Objection. Form. 9 MR. CHANDLER: 10 Q. Is that yes? 11 A. Yes. 12 Q. I'm sorry. Thank you. 13 Now, I know back in the '60s when John 14 Phillips was working there you would go into the gasket 15 shop from time to time to give the men their paychecks; 16 right? 17 A. Yes. 18 Q. Did you work a 40-hour work week or did you 19 work longer than that? 20 A. Longer than that. 21 Q. Okay. About 60 hours? What's fair? 22 A. I'd say 60 hours. 23 Q. All right. Out of the 60 hour work week, Ms. 24 Elder, about how many hours a week do you feel like you 25 spent back in the gasket shop?	1 Q. Okay. Is that fair? 2 A. Yeah. 3 Q. So your view of a guy on his hands and knees 4 using a Unishear to cut Garlock gaskets is from 10 to 12 5 feet away versus one foot away if I'm on my hands and 6 knees using it. 7 A. Right. 8 Q. Okay. Fair enough. 9 There came a time at Triplex when 10 Johns-Manville Phillips worked there, Butch, he was on a 11 facility on Kress Street; is that right? 12 A. Yes he. 13 Q. And there came a time in about the early 1970s 14 when Triplex moved locations and they had a new building 15 and the gasket shop was in a new building; is that 16 right? 17 A. Yes he. 18 Q. And when that new building was put in, my 19 understanding is that I.W. had it designed so that it 20 had more ventilation in that building; true? 21 A. Yes. 22 Q. They were specific systems or engineering 23 controls in place in the new building to remove dust 24 from the workplace, true? 25 MR. STRELITZ: Objection. Form.

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1 THE DEPONENT: Yes. 2 MR. CHANDLER: 3 Q. Now, I guess that was probably a lot of money 4 to do that? Wasn't cheap, was it? 5 A. No. 6 Q. You paid the bills for that? 7 A. Yes, I did. 8 Q. That's not just something that anybody would 9 think, spend a hundred bucks and do it? It was a 10 significant investment for Triplex, wasn't it? 11 A. Large investment. 12 Q. Large investment, is Mr. Phillips, the kind of 13 guy, I.W. who owned the company, who had known a large 14 investment in engineering controls to control dust was 15 necessary 10 years earlier, say, the mid 1960s, would he 16 have done it? 17 MR. STRELITZ: Objection. Form. 18 THE DEPONENT: Not -- 19 MR. CHANDLER: 20 Q. Would he have put in the same thing knowing 21 asbestos was dangerous in earlier? 22 MR. STRELITZ: Objection. Form. 23 THE DEPONENT: No. 24 MR. CHANDLER: 25 Q. Let me make sure I understand what you're	1 A. Yes. 2 Q. His had competitors who sold gaskets would say 3 nice things about him? 4 A. Yes. 5 Q. That's quite a testament. I hope we can all 6 have people say that about us. 7 A. I won't. I'm quite sure. 8 Q. You won't? 9 A. Very -- most admired person around the Triplex 10 area that I've ever done business with. 11 Q. That is neat. 12 A. He was wonderful. 13 Q. Weren't there other companies called Triplex in 14 different locations? Wasn't there one in Louisiana, a 15 company called Triplex? 16 A. We had a Triplex Rubber & Supply Company of 17 Beaumont. Of Baton Rouge. Of Shreveport. 18 Q. When did those all come in? The '70s? 19 A. Different years. The '70s. 20 Q. When John Phillips worked at Triplex between 21 1966 and 1968 you all were still pretty much a Houston 22 location area place, right? 23 A. Yeah. 24 Q. Do you know, and maybe you don't know, and tell 25 me -- were there other companies that use used the name
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1 saying: Mr. I.W. put in safety controls in the new 2 buildings right? 3 A. Right. 4 Q. Now, Mr. Phillips would have put in safety 5 controls in the first building if he thought there was a 6 reason to do it; right? 7 A. Yes. 8 MR. STRELITZ: Objection. Form. 9 MR. CHANDLER: 10 Q. Okay. If you said no, you misunderstood my 11 question? 12 A. I is did. I certainly misunderstood. 13 Q. And if the Garlock lawyers try to say at the 14 trial, Ms. Elder said Mr. Phillips would not have done 15 it, that would be misleading, and false and just down 16 right deplorable. 17 MR. STRELITZ: Objection. Form. 18 THE DEPONENT: If somebody knew 19 Mr. Phillips would never say that. 20 Q. Okay. 21 A. Even his enemies. 22 Q. Even Mr. Phillips enemies would say nice things 23 about him? 24 A. Absolutely. 25 Q. I.W. Phillips?	1 Triplex in Louisiana before the 1960s that weren't owned 2 by you you? Do you know? 3 A. I believe there was one in Beaumont that had 4 the name of Triplex but not the other part. 5 Q. Okay. 6 A. We were Triplex Rubber & Supply Company. 7 Q. So there was a Triplex in Beaumont but that's 8 not you guys; right? 9 A. That's right. 10 Q. Do you know whether there was I a Triplex in 11 Louisiana, too, that was a Triplex but wasn't you guys? 12 A. No. 13 Q. You don't know? 14 A. I'm saying there there wasn't supposed to be. 15 Q. Okay. 16 A. We had the name -- the name was protected. 17 Q. Okay. 18 A. Shouldn't have been anybody else. 19 Q. So the only one you know of is a Triplex in 20 Beaumont wasn't you? 21 A. That's right. 22 Q. Ms. Elder, when Triplex quit selling 23 asbestos-containing gaskets on or around 1987 or so, 24 that was still a time when Triplex was doing the -- was 25 doing a lot of cutting for customers, right? They were

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1 cutting a lot of gaskets still or do you know? 2 A. And selling gaskets? 3 Q. Yeah. What I want to know is this: In the 4 1996 to '68 timeframe, if a customer bought pre-cut 5 gaskets from Triplex, the reason they would buy them is 6 so they'd show up on the job site and not have to be 7 cut; right? 8 A. Yes. 9 Q. You guys would do the work for them, right? 10 A. Yes. 11 Q. The '80s, was that still the same way, they'd 12 order pre-cut gaskets so they wouldn't have to cut them 13 in the field? 14 A. Yes. 15 Q. So the people who were doing a lot of cutting 16 every day were the Triplex employees; true? 17 A. Yes. 18 Q. So if there was dust from asbestos being 19 created in the cutting of rolled sheet gaskets, it would 20 have been the Triplex employees exposed to it more than 21 anybody; true? 22 A. Yes. 23 Q. But I understood you to say that Mr. Phillips, 24 even though the customers who bought from him wouldn't 25 have to be cutting the gaskets said that if there was	1 as as Exhibit No. 4, is a January 16, 1945 letter from 2 the Lumberman's Mutual Casualty Company of Illinois, 3 actually out of Rochester, New York, to the Garlock 4 folks. 5 Is that the date on the top? 6 A. That's the date. 7 Q. And it's signed by a M.J. Moskowitz, M.D., 8 who's a doctor. 9 A. Yes. 10 Q. I want to direct your attention to just the 11 opening paragraph and then the conclusion. And you just 12 let the ladies and gentlemen of the jury know whether 13 I've read it correctly and then I'll have a question for 14 you. 15 This 42-year old married woman entered the 16 employ of Garlock Company May 20, 1918 and worked there 17 steadily until July 3, 1928 in the textile room 18 operating a loom and a creel. 19 Did I read that correctly? 20 A. Yes. 21 Q. Now, for the ladies and gentlemen of the jury 22 will see what's marked as Elder Exhibit 4. I want to 23 direct your attention to the conclusion. And it's on 24 the second page. And I've highlighted it on your page. 25 Wherein Dr. Moskowitz concludes, quote, it
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1 quote, a possibility, unquote, of danger to our 2 customers, we're not going to sell it. Is that fair? 3 A. That's what he -- that was how he felt. 4 Q. Okay. Now and is that the way Triplex ran 5 their business, that if there was a risk at harm to 6 people, they would do whatever they could to minimize 7 harm? 8 A. Exactly. 9 Q. And if that meant to longer showing a product, 10 they would do that? 11 A. Exactly. 12 Q. Have you ever learned how long Garlock 13 continued to sell asbestos containing gaskets even after 14 Triplex quit selling them? 15 A. No. 16 Q. I'm going to hand you an exhibit, Ms. Elder, 17 and this, I anticipate will be an exhibit in this 18 lawsuit, and Garlock had Workers' Compensation claims a 19 lot like Triplex did, I guess because they're an 20 industry. That wouldn't surprise you, would it? 21 A. No. 22 Q. And this is marked as Elder Exhibit No. 3, and 23 it's a January 16, 1945. Exhibit 4. 24 (Deposition Exhibit 4 Marked)? 25 Q. (BY MR. CHANDLER) Ms. Elder, what I've given	1 is my opinion in which Drs. Popoff, MacMillan and 2 Whipple, tell me they concur that this woman died of a 3 pneumothorax, associated with pulmonary fibrosis and 4 asbestosis. 5 That this process began at some time after 6 she first went to work for the Garlock Packing Company 7 and steadily progressed. 8 That she was clinically an advanced case of 9 asbestosis when she returned to work for the Garlock 10 Company in December, 1942, and that the process would 11 undoubtedly have gone on to a fatal termination, even if 12 she had not worked during the period from December 1942 13 to 1943. 14 Did I read that correctly? 15 A. Yes. 16 Q. Now my question for you you is this: As a 17 person who handled Workers' Compensation claims for 18 Triplex, if you found out that there was a claim of a 19 Triplex employee who had died because of their work with 20 asbestos, is that something you would have brought to 21 the attention of I.W. Phillips? 22 A. Yes. 23 Q. And is I.W. Phillips the kind of a man who 24 would have taken seriously his employees being injured 25 from asbestos?

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1 A. Yes. 2 Q. And because you're the person who handled the 3 Workers' Compensation insurance and paying the bills and 4 I guess you you're probably the most direct line at 5 Triplex to the owner, weren't you? 6 A. Yes. 7 Q. I mean, you're the woman behind the power? 8 A. I was definitely the first line of 9 communication for him. 10 Q. You blocked people from going into the office? 11 You led them? You were the gate keeper, weren't you? 12 A. Yes. 13 A. Uh-huh. 14 Q. As the gate keeper to Mr. Phillips, would my am 15 my wanted to have known that Garlock had Workers' 16 Compensation claims for -- let me not ask you what he 17 would? 18 A. Wanted to have known. Let me ask you what your 19 company would have done. 20 What would Triplex have done if it had 21 known or if Garlock had told it, we have death cases 22 from our plant due to asbestos? What based on your 23 personal knowledge of Mr. Phillips would he have done? 24 MR. STRELITZ: Objection. Form. 25 THE DEPONENT: That's my personal	1 Q. Not just gaskets because I know that the safety 2 of gaskets was never brought to Mr. Phillips' attention; 3 right? 4 A. No. 5 Q. Is that correct? 6 A. That's correct. 7 Q. Now, think about the whole line of products Mr. 8 Phillips sold and Triplex sold. 9 Was there ever a product where Mr. Phillips 10 said, you know what, I'm not going to put my companies 11 name behind that product because I don't believe in it, 12 and even though it costs of money we're not going to 13 sell it. That happened, didn't it? 14 A. That happened. 15 Q. Do you know what kind of a product that might 16 be? 17 A. Yes. We he had a stain less hose that he 18 didn't feel was right for the application and he refused 19 to sell it to Shell. 20 Q. And is that, and is the reason Mr. Phillips 21 felt -- let me back up. 22 The hoses that you sold to the refineries 23 that were stain less hoses -- if those failed, there 24 could be a catastrophic injury; right? 25 A. Very much so.
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1 knowledge. He would have called Garlock in and 2 discussed it with their people that handled that, you 3 know, top echelon. 4 And he would not -- same thing could happen 5 to us, our employees. He wouldn't have used the 6 gaskets. 7 MR. CHANDLER: 8 Q. That would have caused Triplex money, wouldn't 9 it? 10 A. Yes. 11 Q. That would have cost Garlock money? 12 A. Yes. 13 Q. Did you ever know Mr. Phillips to say, you know 14 what, this is a product, I don't believe in? That I so 15 we're not going to sell it? 16 A. No. 17 Q. That never had to come up where he had safety 18 issues with the product and he had to stop selling it? 19 A. That's the only -- yeah, there was. Not 20 necessarily just Garlock. 21 Q. Okay. 22 A. I mean -- sorry. Not necessarily gaskets. 23 Q. Okay. Thank you because -- let's talk about 24 all the product line Mr. Phillips had. 25 A. Uh-huh.	1 Q. So Mr. Phillips took seriously his obligation 2 to maybe sure he was selling products that he felt like 3 he could stand behind? 4 A. Yes. 5 Q. Now, and was the stain less hose that he 6 refused to sell I.W. -- did he refuse to sell it because 7 he was worried there might be a safety issue down the 8 road? 9 A. Yes. 10 Q. Did he lose money because he refused to sell 11 that hose? 12 A. Yes. 13 Q. All right. So does that lead you to believe or 14 would it be consistent with Mr. Phillips' behavior at 15 Triplex that if he had known there was safety issues 16 with Garlock blew asbestos gaskets, he would have 17 stopped selling those, too? 18 MR. STRELITZ: Objection. Form. 19 THE DEPONENT: Exactly. 20 MR. CHANDLER: 21 Q. Now, let me show you what I'll mark ads Elder 22 Exhibit No. 5, ma'am, and it is a March 7, 1956 letter, 23 and it's minutes of the asbestos textile institute. 24 (Deposition Exhibit No. 5 Marked) 25 MR. CHANDLER:

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1 Q. Now, Triplex wasn't an asbestos manufacturer, 2 were they? 3 A. No. 4 Q. They didn't make asbestos gaskets, they didn't 5 make asbestos cloth, did they? 6 A. No. 7 Q. But if you look at guest, you'll see that mouse 8 Mr. Houghton, from the Garlock Packing Company in 9 Elmyra, New York was present at this meeting at the 10 Asbestos Packing Institute. 11 Do you see that? 12 A. Yes. 13 Q. And the title is "Asbestos and Cancer, a 14 Discussion Relative to Compensation," isn't it? 15 A. Yes. 16 Q. Now, you Ms. Elder, in the '60s you recognized 17 and just because of commonsense, that cancer is a very 18 serious disease; right? 19 A. Yes. 20 Q. Even back in the '60s, you knew that, didn't 21 you? 22 A. Yes. 23 Q. And was Triplex in the business of selling 24 products they thought might even, if there was a 25 possibility cause cancer?	1 Q. Did Triplex ever have international locations? 2 A. No. 3 Q. Back in the '60s, did Triplex have any 4 out-of-state locations? 5 A. No. 6 Q. If you will look for me, on the first paragraph 7 -- you let me know if I read this correctly, and I've 8 highlighted on your copy, ma'am. 9 A. Yes. 10 Q. It says the above-mentioned company uses 11 asbestos at several operations, and that's Garlock of 12 Canada. 13 Now, in the 1960s, is it fair to say that 14 the use of asbestos at Triplex in such a way that it 15 actually had to be cut was limited to gaskets and 16 packing? 17 A. That that would be the only thing -- 18 Q. That would be the only thing they used in the 19 '60s that actually had to be cut that was made from 20 asbestos was gaskets and packing? 21 A. Yeah. 22 Q. Now, there's been some suggestion by the 23 Garlock Company in in case that Triplex had asbestos 24 cement pipe that was cut at the Triplex facility. 25 Would that be a correct statement or would
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1 A. No. 2 MR. STRELITZ: Objection. Form. 3 MR. CHANDLER: 4 Q. If Barbara was at a meeting where they were 5 told that Dr. Heuper from the National Cancer Institute 6 found that asbestos and asbestosis, the disease 7 asbestosis would lead to cancer -- is that something 8 that you were ever told at Garlock in the decade of the 9 1960s or even the 1970s? 10 A. No. 11 Q. All right and. And if am Mr. Phillips would 12 have known that Garlock attended a meeting in the '50s, 13 even before you went to go work at Triplex, wherein 14 Dr. Heuper from the National Cancer Institute discussed 15 the risks of cancer from asbestos -- is that a product 16 Mr. Phillips would have ever sold, ma'am? 17 MR. STRELITZ: Objection. Form. 18 THE DEPONENT: No. 19 MR. CHANDLER: 20 Q. Okay. Now, let me show you a document that 21 we've marked as Elder Exhibit No. 6, and it is a Field 22 Visit Report, dated March 12, 1968, to Garlock of Canada 23 in Toronto. 24 (Deposition Exhibit No. 6 Marked) 25 MR. CHANDLER:	1 that be false? 2 A. I would not know of any. I'd -- I'd say it 3 would be false based on my knowledge. 4 Q. Well, did you ever visit the pipe shop of 5 Triplex? 6 A. Oh, yes yeah. 7 Q. You delivered them their paychecks in the pipe 8 shop, too? 9 A. Oh, yeah. 10 Q. Did you ever in your history at Triplex -- 11 well, let's say in the 1960s, just when Mr. Phillips was 12 there in the 1960s when John Phillips was working at 13 Triplex, did you ever see cement pipe being cut at a 14 Triplex location anywhere? 15 A. No. At that time we didn't have a pipe shop. 16 Q. Now, does this make sense to you consistent 17 with the pay Triplex operated, if they ordered cement 18 pipe -- first of all, that's kind of a heavy product? 19 It's not like a roll of gaskets, is it? 20 A. Uh-huh. 21 Q. Is that right? 22 A. I've never seen cement pipe. 23 Q. Fair enough. Fair enough. We'll just leave it 24 at that at that then. 25 The first paragraph of Elder Exhibit No.

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1 6, directions were suggested in June of 1966 for 2 improving conditions. There has been no apparent change 3 in operations since they were issued. The directions 4 were reissued in December 1967, and now a time limit to 5 May 15, 1968 has been placed on them. 6 One of exposures in question is the South 7 African Blue, Blue Crocidilite asbestos and is 8 considered extremely serious. 9 Did I read that correctly? 10 MR. STRELITZ: Objection. Form. 11 THE DEPONENT: Yes. 12 MR. CHANDLER: 13 Q. Ms. Elder, did you ever see anything come in 14 from Garlock to Triplex, that said that working with 15 Blue African asbestos is extremely serious? 16 A. No. 17 Q. If Mr. Phillips had been told by any state or 18 government agency to fix problems at his plant -- is he 19 the kind of guy that would do it the first time without 20 having to be told again? 21 MR. STRELITZ: Objection. Form. 22 THE DEPONENT: Yes. He would. 23 MR. CHANDLER: 24 Q. Okay. All right. 25 Let me show you what I've marked as Elder	1 correctly? 2 MR. STRELITZ: Objection. Form. 3 THE DEPONENT: Yes. 4 MR. CHANDLER: Now, your son in 1969 was 5 working working at Triplex, wasn't he? 6 A. Yes. 7 Q. He was working in the gasket shop, wasn't he? 8 A. Yes. 9 Q. If you had known as a mother that there was a 10 zero T.L.V. that quote, any exposure is considered to be 11 potential my dangerous, end quote, would you have as a 12 mother have allowed your son to work in that gasket 13 shop? 14 A. No. 15 Q. And would Rudy Phillips as a father if he had 16 known that working with blue asbestos was considered to 17 be potentially dangerous and an exposure for which there 18 was no T.L.V., would Rudy Phillips have allowed John 19 Phillips to have worked in his gasket slop? 20 MR. STRELITZ: Objection. Form. 21 THE DEPONENT: No. 22 MR. CHANDLER: 23 Q. Would I.W. have allowed any of your kids to 24 work in the gasket shop had he known that there was a 25 zero T.L.V. around blue asbestos and that any exposure
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1 Exhibit 7, ma'am, and it's another filed visit report 2 for Garlock of Canada, but this one is dated September 3 30, 1969. 4 (Deposition Exhibit 7 Marked) 5 MR. CHANDLER: 6 Q. You can put that aside. 7 Here's Elder Exhibit No. 7, and it's the 8 Field Visit Report for September 30, 1969. 9 And I want to direct your attention to the 10 comments on the second page and just ask you if this 11 information was ever communicated to you and it's 12 Comment No. 1, on the bottom of the page, ma'am. 13 And it says, "as mentioned earlier in this 14 report, I have a feeling that the company use the blue 15 asbestos crocidolite more often than they admit. 16 Mr. Nelson has found them using the blue asbestos on 17 three previous occasions. 18 I was told during the visit that the blue 19 asbestos was not being used that day when I found it 20 being used at one of the of braiding machines. 21 Furthermore, that braiding machine was not 22 fitted with any local exhaust. It should be noted here 23 that the T.L.V. for blue asbestos is zero and any 24 exposure is considered to be potentially dangerous. 25 Ms. Elder, first, did I read that	1 was potentially dangerous? 2 MR. STRELITZ: Objection. Form. 3 THE DEPONENT: No. 4 MR. CHANDLER: 5 Q. Okay. Have you ever seen anything from Garlock 6 where they describe blue asbestos to anybody at Triplex 7 as quote highly toxic material unquote? 8 A. No. 9 MR. STRELITZ: Form. 10 MR. CHANDLER: 11 Q. And just for the record so that somebody in the 12 future can see this, I'll attach Exhibit 8, the April 8, 13 1975 Field Visit Report for Garlock of Canada limited 14 and just so you know, I'm not exaggerating to you, Ms. 15 Elder. Here it is. 16 (Deposition Exhibit 8 Marked) 17 MR. CHANDLER: 18 Q. It says the blue asbestos bobbins have been 19 left in the work area uncovered, and thus exposing the 20 employees to this highly toxic material since October, 21 1974. 22 Did I read that correctly? 23 MR. STRELITZ: Objection. Form. 24 THE DEPONENT: Yes. 25 MR. CHANDLER:

28 (Pages 109 to 112)

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1 Q. Now, highly toxic -- that would be -- let me 2 back up. 3 Would a phrase like any exposure being 4 potentially dangerous -- is that the kind of a phrase 5 that would have gotten Triplex's attention? 6 MR. STRELITZ: Objection. Form. 7 THE DEPONENT: Absolutely, it's like a red 8 light. 9 MR. CHANDLER: 10 Q. And highly toxic -- two that be something 11 that's like a red light. 12 MR. STRELITZ: Objection. Form. 13 THE DEPONENT: Yes. 14 MR. CHANDLER: 15 Q. And highly toxic and zero T.L.V. and any 16 exposure being potentially dangerous -- he are those 17 strong warning words that would have grabbed your 18 attention. 19 MR. STRELITZ: Objection. Form. 20 THE DEPONENT: Yes. 21 MR. CHANDLER: 22 Q. Let me show you what I'll mark finally in this 23 case, ma'am another exhibit, and this one is the answer 24 of the Garlock Company, we are on Exhibit No. 9, and 25 it's the answer of the Garlock Company to the	1 what he did, was not -- he certainly wouldn't have known 2 that -- if he would have known it was a problem, he 3 would not have done it. 4 MR. CHANDLER: 5 Q. Thank you. Did you see any evidence that John 6 Phillips failed to exercise ordinary care for his own 7 safety when working at Triplex. 8 MR. STRELITZ: Objection. Form. 9 THE DEPONENT: No. 10 MR. CHANDLER: 11 Q. Did you see any evidence that John Phillips 12 failed to use safety equipment when he knew he should 13 have? 14 A. No. 15 MR. STRELITZ: Objection. Form. 16 MR. CHANDLER: 17 Q. Did you see any evidence that John Phillips 18 improperly used a Garlock gasket? Like he was doing 19 something with it that it wasn't meant to be done. 20 MR. STRELITZ: Objection. Form. 21 THE DEPONENT: No. 22 MR. CHANDLER: 23 Q. Okay. Did you know in this case that Garlock 24 is saying that the employer or Triplex knew or should 25 have known that asbestos was dangerous at a time when
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1 allegations in this lawsuit. 2 In other words, this is the companies 3 position on matters in the case. That's the Garlock 4 companies position. 5 MR. STRELITZ: Objection to the sidebar. 6 (Deposition Exhibit 9 Marked) 7 MR. CHANDLER: 8 Q. I want to ask you if you have any evidence for 9 the following affirmative defenses issued by Garlock. 10 Let me ask the question for the record. 11 Ms. Elder do you have any evidence that 12 John Phillips or Butch because of his own care lessness 13 would have caused himself injury with asbestos? 14 MR. STRELITZ: Objection. Form. 15 THE DEPONENT: No. 16 MR. CHANDLER: 17 Q. If Garlock alleges in this case that Mr. 18 Phillips, John Phillips or Butch as you knew him, its 19 his fault he's sick, what would you say to that? 20 A. Well, he can't be. 21 MR. STRELITZ: Objection. Form. 22 MR. CHANDLER: 23 Q. Why is that? 24 MR. STRELITZ: Objection. Form. 25 THE DEPONENT: Because what he did was --	1 Mr. Phillips was working there? Did you know they were 2 doing that? 3 MS. BARRON: Objection. Form. 4 MR. STRELITZ: Objection. Form. 5 THE DEPONENT: No. 6 MR. CHANDLER: 7 Q. If Garlock -- 8 A. Which Exhibit? 9 MS. BARRON: She's looking for your 10 exhibit. 11 MR. CHANDLER: 12 Q. I'm sorry. I'm looking at this one right here. 13 You don't have a copy of it. But it's affirmative 14 defenses and it says plaintiff's own negligence and I 15 just ran down the list of all the things they accuse Mr. 16 Phillips of. Just take a look at that list real quick. 17 MR. STRELITZ: Objection. Form. 18 THE DEPONENT: Okay. 19 MR. CHANDLER: 20 Q. And when you're done looking at that, just tell 21 me. 22 A. Okay. 23 Q. Now, on the list of affirmative defenses that 24 Garlock has, do you have any evidence that John Phillips 25 did any of that stuff?

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1 A. No. 2 Q. All right. 3 MR. STRELITZ: Objection. Form. 4 MR. CHANDLER: 5 Q. And do you have any evidence that the employer 6 or Triplex knew Triplex knew or should have known of the 7 hazards incident to the work being performed in their 8 gasket shop? 9 MR. STRELITZ: Objection. Form. 10 THE DEPONENT: No. 11 MR. CHANDLER: 12 Q. Does it kind of offend you that Garlock would 13 be pointing the finger at you as the employer. 14 MR. STRELITZ: Objection. Form. 15 THE DEPONENT: Yes. 16 MR. CHANDLER: 17 Q. Now, you I know you've spoken to Ms. Barron and 18 she represents Triplex in had case; right? 19 A. Yes. 20 Q. Have you found Ms. Barron to be an honest and 21 truth worthy woman? 22 MR. STRELITZ: Objection. Form. 23 THE DEPONENT: Yes. 24 MR. CHANDLER: 25 Q. Just for your client, Barbara.	1 MR. CHANDLER: Object to the form. 2 THE DEPONENT: This is what I believe 3 Mr. Phillips stance would be: Butch would do what he 4 thinks is right. 5 Q. (BY MR. STRELITZ) And if in the petition that 6 Butch filed in this lawsuit alleges that he believes 7 that Triplex acted with gross negligence and conscious 8 disregard for his safety and well being, would 9 Mr. Phillips believe that Butch was doing what he 10 thought was right by alleging those allegations? 11 THE DEPONENT: Well. 12 A. Well, he would believe that Butch would have 13 knowingly said these things. 14 Q. And based on your observations of Mr. Phillips, 15 you believe him to be trustworthy and believable; 16 correct? 17 A. Very much, so. 18 Q. And if he made those allegations in a lawsuit, 19 you would believe that he firmly believes those 20 allegations? 21 MR. CHANDLER: Object to the form of the 22 question. 23 MS. BARRON: Same objection. 24 THE DEPONENT: I don't know. 25 Q. (BY MR. STRELITZ) Does it surprise you that
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1 Ms. Elder, I have very much appreciated 2 your time. I'm sorry you got a Subpoena dropped on you 3 you by the Garlock Company. I know you have better 4 things to do than to sit here and talk to us. It's 5 very, very nice to meet you. Pass the witness. 6 7 EXAMINATION 8 BY MR. STRELITZ 9 Q. Ms. Elder, Peter Strelitz again and I have some 10 questions for you. 11 Mr. Chandler and Ms. Barron were asking you 12 some questions about I.W. Phillips and Rudy Phillips and 13 the environment over at Triplex and you've described to 14 us some of the familial relationships there; correct? 15 A. Yes. 16 Q. And Mr. Chandler just asked you whether or not 17 it offended you that Garlock in his answers had alleged 18 that Triplex was -- that Garlock alleged that Triplex 19 act negligently towards Mr. Phillips. 20 Do you remember that question? 21 A. Yes. 22 Q. Okay. Based on the familial relationship that 23 you've described for us, how do you think I.W. Phillips 24 would react that John Phillips his second cousin has 25 sued Triplex.	1 Butch Phillips sued Triplex. 2 MR. CHANDLER: Object to the form of the 3 question. 4 THE DEPONENT: I can't say. 5 Q. (BY MR. STRELITZ) Why can you you say. 6 MR. CHANDLER: Object to the form of the 7 question. 8 THE DEPONENT: Because -- I don't know the 9 circumstances. I don't know that maybe Butch had to go 10 first through Triplex to get to Garlock or whoever. So 11 I don't know what the procedure was. I don't know what 12 he was told. I don't know anything that -- you know, I 13 don't know. 14 Q. (BY MR. STRELITZ) If in his Petition filing 15 this lawsuit Mr. Phillips stated that he believed that 16 or he alleged that Triplex had subjective or actual 17 awareness of the dangers associated with asbestos -- 18 wrote would that surprise you? 19 A. Yes, but, again, I don't know his reasoning. 20 Q. You mentioned that your son worked at Triplex 21 shortly -- did they ever overlap, Mr. Phillips and your 22 son when they were working in the gasket shop at Triplex 23 that you know of? 24 A. No. They didn't overlap. 25 Q. And your son worked directly after him?

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1 A. Yes. 2 Q. For those three summers? 3 A. Yes. 4 Q. Has your son ever filed a lawsuit against 5 Triplex? 6 A. No. 7 Q. Did you ever talk to your son about the types 8 of products that he worked with in the gasket shop? 9 A. We talked a little bit about it because he'd 10 come home so dirty. I'd ask him what he did that day. 11 Q. What did he tell you he did? 12 A. Mother, I worked all different places. They'd 13 send him around different parts of the shop. 14 Q. When you were talking with both Mr. Chandler 15 and Ms. Barron about Johns-Manville and this direct 16 shipments from the Johns-Manville company -- that's not 17 to say that Triplex didn't purchase or didn't distribute 18 gaskets from Johns-Manville directly from the Triplex 19 facility, correct? 20 A. You mean that --. 21 MR. DOMINO: Objection. 22 THE DEPONENT: You mean, they purchased 23 gasket materials and cut gaskets? Is that what you 24 said? 25 MR. STRELITZ: Correct.	1 A. No. -- not -- I do know they cut more gaskets 2 from Garlock sheet than they did Johns-Manville just 3 because we dropped ship more from Johns-Manville than we 4 did Garlock. 5 Q. When -- earlier you asked about a Department of 6 Health guideline from 1958 to 1959 and you'd said you'd 7 never seen that, correct? 8 A. No. 9 Q. Had you had heard of the Department of Health 10 guideline prior to today? 11 A. No. 12 Q. Was it at your deposition -- was that the first 13 time you heard about it or did you hear about it prior 14 to your deposition? 15 A. Yes. That was the first time. 16 Q. And I believe when Mr. Chandler was talking to 17 you about Johns-Manville, you stated that Johns-Manville 18 had annex clue sieve distributorship relationship with 19 Triplex? 20 A. We had were Johns-Manville. 21 Q. And that Triplex was the only shop in town that 22 was going to be selling Johns-Manville gaskets; is that 23 correct. 24 MR. DOMINO: Objection. Form. 25 THE DEPONENT: Yes.
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1 A. No. I'm. 2 Q. (BY MR. STRELITZ) No. I'm not saying that 3 they didn't. I'm saying they? 4 A. No. I'm not saying they didn't. I'm saying 5 they did -- maybe not very many. Not very much, but 6 they did. 7 Q. They did; correct? 8 A. Uh-huh. 9 Q. And those gaskets would be cut out in the 10 gasket shop, correct? 11 A. Yes. 12 Q. And a person like John Phillips would have cut 13 those gaskets out in the gasket shop just the way that 14 Mr. Chandler described him doing; correct? 15 A. Yes. 16 Q. And you're not in the gasket shop more than a 17 couple hours of eye week, so you wouldn't know how many 18 gaskets Mr. Phillips cut that were Johns-Manville or how 19 many he cut that were Garlock, correct? 20 A. No. 21 Q. You'd have to rely on Mr. Phillips for that? 22 A. No. I'd have to rely on what paperwork I saw 23 because we'd be billing somebody for the gaskets we cut. 24 Q. And you can't recall the paperwork? What that 25 break down was as of now, could you?	1 Q. (BY MR. STRELITZ) That was for the period of 2 the 1960s. 3 MR. DOMINO: Objection. Form. 4 THE DEPONENT: Yes. 5 Q. (BY MR. STRELITZ) Do you recall situations when 6 Johns-Manville would object to Triplex selling other 7 gaskets or purchasing other gaskets from other companies 8 based on that distributorship had agreement? 9 A. Not that I know of. 10 Q. Mr. Chandler showed you some exhibits, and he 11 showed you a Workers' Compensation claim from Garlock in 12 1945. That was the first time you'd seen that document, 13 correct? 14 A. Yes. 15 Q. And you're unfamiliar with the circumstances of 16 that claim, aren't you? 17 A. Yes. 18 Q. And there's nothing that you've seen in that 19 claim that indicates that that claim in any way resulted 20 from somebody who was exclusively fabricating or cutting 21 gaskets, correct? 22 A. That -- okay. Which -- you say that claim. 23 Q. An in Elder Exhibit No. 4, that Mr. Chandler 24 showed you -- you don't know what the circumstances of 25 that person's exposure to asbestos was, do you?

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1 A. No. 2 Q. And you don't know whether that person was 3 exposed to raw asbestos fibers or was an end user of a 4 gasket product, correct? 5 A. Don't mow. 6 Q. Okay. And with the other exhibits that Mr. 7 Chandler showed you which were Elder of, 7, and 8, which 8 were the field visit exhibits -- that dealt with Garlock 9 of Canada, correct? 10 A. Yes. 11 Q. You don't flow whether or not any of the 12 gaskets that were purchased from Garlock by Triplex came 13 from Garlock of Canada, do you? 14 A. No. 15 Q. Do you know whether or not all of the gaskets 16 came from Garlock in the in their United States 17 distribution centers? 18 A. I don't know. 19 Q. Did your son ever complain about the working 20 conditions in the gasket shop to you? 21 A. No. 22 Q. Did he complain when his clothes came back 23 dusty? 24 A. No. 25 Q. All right.	1 THE DEPONENT: Well, what material would it 2 say that they sold? 3 MR. STRELITZ: Objection. Form. 4 MS. BARRON: 5 Q. Gaskets. 6 MR. STRELITZ: Objection. Form. 7 THE DEPONENT: Well, there's metal gaskets. 8 There's other types of gaskets besides asbestos. 9 Q. (BY MS. BARRON) What I'm getting at, though, is 10 in terms of if there are other -- we have JM testimony 11 deposition, as well. 12 A. Uh-huh. 13 Q. From long ago. 14 A. Uh-huh. 15 Q. If Johns-Manville says that they had other 16 distributors in Houston, you wouldn't disagree with 17 them? That's just something you're not aware of, 18 correct? 19 MR. STRELITZ: Objection. Form. 20 THE DEPONENT: I'm not aware of. 21 Q. (BY MS. BARRON) The name Triplex that was 22 protected is Triplex Rubber, Inc.? 23 A. Triplex Rubber & Supply Company, Inc. 24 Q. And that became Triplex; correct? 25 A. Yes.
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1 You talked about cleaning up and that it 2 was in the gasket shop, that you believe that they did 3 clean up every of day; correct? 4 A. Yes. 5 Q. You read or have you -- have you read any of 6 Mr. Phillips' testimony in this case? 7 A. No. 8 Q. Mr. Phillips would incident best position to 9 say how often he was involved in cleaning up at the 10 gasket shop, isn't he? 11 A. Yes. 12 Q. All right, ma'am. I think that's all the 13 questions I have. I thank you for your time and 14 inviting us to your home today. 15 MS. BARRON: I got three more. 16 17 EXAMINATION 18 BY MS. BARRON 19 Q. The Garlock lawyer was just talking to you 20 about Johns-Manville and us being a distributor. 21 A. Uh-huh. 22 Q. If the phone books from 64 to 68 show other 23 people selling JM in Houston, would you say that the 24 phone book is wrong? 25 MR. STRELITZ: Objection. Form.	1 Q. Triplex rubber was a -- were you aware that 2 there are other companies by the name of Triplex, like 3 Triplex Construction Company? 4 A. Yes. 5 Q. How about Triplex Plumbing? 6 A. Yes. 7 Q. Triplex Breathing Air Services? 8 A. No, I don't know that one. 9 Q. Triplex Marine? 10 A. Yes. 11 Q. Triplex Industrial & Supply Company? 12 A. Don't know that one. 13 Q. What I'm -- 14 A. It's just that I don't know that. I just heard 15 of them. 16 Q. And what I'm getting at, what Mr. Chandler was 17 talking to you about: There were a lot of Triplex 18 companies, companies with the name Triplex that started 19 their company name that was out there in Texas and in 20 the United States, correct? 21 A. Uh-huh, yes. 22 Q. And over the years you all would hear about 23 that because you occasionally get phone calls to the 24 wrong company; right? 25 A. Right.

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1 Q. And that was throughout the time period that 2 you worked for Triplex? You'd occasionally get wrong 3 phone numbers right? 4 A. Right. 5 Q. And as you'd mentioned earlier, the college 6 kids, sometimes like Butch Phillips -- he might leave 7 when his shift was up, and the cleaning would occur 8 after he was gone; right? 9 A. Yes. 10 Q. And if that happened, that's not something that 11 Mr. Butch Phillips would have known happened, correct? 12 A. That's right. 13 Q. That's all the questions I have. 14 15 EXAMINATION 16 BY MR. CHANDLER 17 Q. We're going to be out of your hair in just a 18 moment, ma'am, and only because I'm going to ask one of 19 the same questions bash bash did, but only because the 20 Garlock lawyer objected to her, and sometimes when -- 21 MS. BARRON: I didn't hear it. 22 MR. CHANDLER: He said object to form on 23 the JM question so I'm going to ask the same one because 24 of a leading issue that the judge will deal with so it 25 doesn't matter to you.	1 Workers' Compensation claim, mostly because Garlock 2 never told you anything about it; right? 3 MR. STRELITZ: Objection. Form. 4 THE DEPONENT: No. We didn't know anything 5 about it. 6 MR. CHANDLER: 7 Q. Okay. And whatever the circumstances are, none 8 of those circumstances were ever brought to the 9 attention of the Triplex company who was selling 10 Garlock's asbestos containing gaskets, true? 11 MR. STRELITZ: Objection. Form. 12 THE DEPONENT: True. 13 MR. CHANDLER: Thank you, Ms. Elder. 14 THE DEPONENT: They should have told us 15 because that is something that is concerning. 16 MR. CHANDLER: Yes, ma'am. Off the record. 17 MR. STRELITZ: Objection non-responsive. 18 THE VIDEOGRAPHER: Off the record 3:58. 19 End of deposition. End of tape Tape 2. 20 21 22 23 24 25
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1 Here was the question: If there were other 2 distributors of Johns-Manville John gaskets or other 3 products in Houston, and that's backed up by phone book 4 records or anything, what you're telling the ladies and 5 gentlemen of the jury I didn't know about that if it 6 existed; right? 7 A. That's right. 8 Q. Okay. 9 A. Because we had what we called protected area. 10 And that's -- you know, we had these, like 11 Johns-Manville that we had a protected area. They 12 didn't sell to anybody else, so... 13 Q. And you don't know what Johns-Manville really 14 did on the inside of their company, though, did you? 15 A. No, I don't. 16 Q. Okay. Now, the reason -- now, your son 17 wouldn't have had a reason to know to complain about the 18 dust in the gasket shop because the hazards of gasket 19 dust or asbestos dust isn't anything he would have ever 20 been told, right? 21 MR. STRELITZ: Objection. Form. 22 THE DEPONENT: No. Totally unknown. 23 MR. CHANDLER: 24 Q. Okay. And you didn't know -- you don't know 25 anything about the circumstances of Garlock's 1947	1 CHANGES AND SIGNATURE 2 WITNESS NAME: BERNICE ELDER 3 DATE: 02/05/2009 4 PAGE LINE CHANGE REASON 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____

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1 I, BERNICE ELDER, have read the foregoing 2 deposition and hereby affix my signature that same is 3 true and correct, except as noted above. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 BERNICE ELDER THE STATE OF _____) COUNTY OF _____) Before me, _____, on this day personally appeared BERNICE ELDER, known to me (or proved to me under oath or through (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this _____ day of _____, _____. NOTARY PUBLIC IN AND FOR THE STATE OF _____ COMMISSION EXPIRES: _____	1 That the witness, BERNICE ELDER, was duly sworn by 2 the officer and that the transcript of the oral 3 deposition is a true record of the testimony given by 4 the witness; 5 6 That the deposition transcript was submitted on 7 February 10, 2009 to the witness or to the attorney for 8 the witness for examination, signature and return to me 9 by March 10, 2009; 10 11 That the amount of time used by each party at the 12 deposition is as follows: 13 14 MR. STRELITZ 1 HOUR:51 MINUTE(S) 15 16 MS. BARRON 17 18 MR. CHANDLER 19 20 That pursuant to information given to the 21 Deposition officer at the time said testimony was taken, 22 the following includes counsel for all parties of 23 record: 24 25 MR. CHANDLER, Attorney for Plaintiffs
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1 NO. 2008-41366 2 3 JOHN A. PHILLIPS and _____) IN THE DISTRICT COURT OF 4 spouse, CYNTHIA PHILLIPS, _____) 5 6) HARRIS COUNTY, TEXAS 7 8 VS. _____) 9 10) 11 ANCHOR PACKING COMPANY, _____) 11TH JUDICIAL DISTRICT 12 ET AL, _____) 13 14) 15 16 Transferred From 17 NO. 2008-41366 18 19 JOHN A. PHILLIPS and _____) IN THE DISTRICT COURT OF 20 spouse, CYNTHIA PHILLIPS, _____) 21 22) 23) HARRIS COUNTY, TEXAS 24 25 VS. _____) 26 27) 28 ANCHOR PACKING COMPANY, _____) 270th JUDICIAL DISTRICT 29 ET AL, _____) 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 REPORTER'S CERTIFICATION DEPOSITION OF BERNICE ELDER FEBRUARY 6, 2009 I, Kateri A. Flot-Davis, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:	1 GARLOCK 2 MS. BARRON, MR. DOMINO, Attorneys for Defendant 3 TRIPLEX 4 5 I further certify that I am neither counsel for, 6 related to, nor employed by any of the parties or 7 attorneys in the action in which this proceeding was 8 taken, and further that I am not financially or 9 otherwise interested in the outcome of the action. 10 11 Further certification requirements pursuant to Rule 12 203 of TRCP will be certified to after they have 13 occurred. 14 15 Certified to by me this _____ of _____, _____. 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 Kateri A. Flot-Davis, Texas CSR 8462 Expiration Date: Dec 31, 2009 Stratos Legal Services LP Firm Registration No. 484 1001 West Loop South, Ste. 809 Houston, Texas 77027 (713) 481-2180 (800) 971-1127

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FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the
deposition officer on _____;

If returned, the attached Changes and Signature
page contains any changes and the reasons therefor;

If returned, the original deposition was delivered
to _____, Custodial Attorney;

That \$ _____ is the deposition officer's
charges to the Defendant for preparing the original
deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance
with Rule 203.3, and that a copy of this certificate was
served on all parties shown herein on and filed with the
Clerk.

Certified to by me this _____ day of

Kateri A. Flot-Davis,
Texas CSR 8462
Expiration Date: December 31, 2009
Stratos Legal Services LP
Firm Registration No. 484
1001 West Loop South, Ste. 809
Houston, Texas 77027
(713) 481-2180
(800) 971-1127

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