

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CAUSE NO. BC 374718

-----X

JIMMIE WHITMIRE and

BARBARA WHITMIRE,

Plaintiffs,

-against-

ALFA LAVAL, INC., et al.,

Defendants.

-----X

VIDEOTAPED DEPOSITION OF:

CARLO F. MARTINO

Friday, February 8, 2008

Somerset, New Jersey

Reported in stenotype by:

Rich Germosen, CCR, CRCR, RPR, CRR, CLR

Page 2	Page 4
1 2 Videotaped Deposition of CARLO F. MARTINO, 3 taken in the above-entitled matter before RICH 4 GERMOSSEN, Certified Court Reporter, (License No. 5 XI01847), Certified Realtime Court Reporter-NJ, 6 (License No. XR00168), NCRA Registered Professional 7 Reporter, NCRA Certified Realtime Reporter, 8 Certified LiveNote Reporter, and a Notary Public 9 within and for the States of New York and New 10 Jersey, taken at MARRIOTT COURTYARD SOMERSET, 250 11 Davidson Avenue, Somerset, New Jersey 08873, on 12 Friday, February 8, 2008, commencing at 9:20 a.m. 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 A P P E A R A N C E S: (CONTD.) 3 4 MCKENNA LONG & ALDRIDGE, L.L.P. 5 BY: KELVIN T. WYLES, ESQ., 6 (appearing via speakerphone) 7 444 South Flower Street 8 Suite 800 9 Los Angeles, California 90071-2901 10 (213) 688.1000 / (213) 243.6330 (FAX) 11 kwyles@mckennalong.com 12 Attorneys for FMC Corporation and 13 Union Carbide Corporation 14 15 GORDON & REES, L.L.P. 16 BY: HOLLY L. KERSHELL, ESQ., 17 (appearing via speakerphone) 18 275 Battery Street 19 Suite 2000 20 San Francisco, California 94111 21 (415) 986.5900 / (415) 986.8054 (FAX) 22 hkershell@gordonrees.com 23 Attorneys for 3M Company 24 25
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2 (Pages 2 to 5)

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18
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20
21
22
23
24
25

1
2 INDEX
3 WITNESS EXAMINATION
4 CARLO F. MARTINO
5 BY MR. GALERSTON 20 142
6
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1
2 EXHIBITS
3 DESCRIPTION PAGE LINE
4 (Exhibit 1 for 25 6
5 identification, multi page
6 document entitled Notice of
7 Continuance of Taking
8 Videotaped Deposition of
9 Defendant Union Carbide
10 Corporation's Person Most
11 Knowledgeable, not bearing
12 Bates stamps.)
13
14 (Exhibit 2 for 25 10
15 identification, multi page
16 document entitled Notice of
17 Taking Deposition of Carlo
18 Martino, not bearing Bates
19 stamps.)
20
21 (Exhibit 3 for 41 5
22 identification, handwritten
23 notes prepared by the
24 witness, not bearing Bates
25 stamps.)

1
2 EXHIBITS (CONT'D.)
3 DESCRIPTION PAGE LINE
4 (Exhibit 4 for 57 15
5 identification, multi page
6 document entitled History of
7 Bakelite, not bearing Bates
8 stamps.)
9
10 (Exhibit 5 for 58 13
11 identification, multi page
12 document on Bakelite Company
13 letterhead entitled Phenolic
14 Resins and Molding Materials
15 by R.K. Louis, not bearing
16 Bates stamps.)
17
18 (Exhibit 6 for 95 14
19 identification, multi page
20 document entitled Phenolic
21 Molding Material dash
22 Asbestos Consumption Year
23 1969, bearing Bates stamps
24 UCASB00916496 and
25 UCASB00916497.)

1
2 EXHIBITS (CONT'D.)
3 DESCRIPTION PAGE LINE
4 (Exhibit 7 for 114 2
5 identification, multi page
6 document on Union Carbide
7 Corporation letterhead dated
8 February 29th, 1972, not
9 bearing Bates stamps.)
10
11 (Exhibit 8 for 121 13
12 identification, two-page
13 document dated October 5th,
14 1972, not bearing Bates
15 stamps.)
16
17 (Exhibit 9 for 131 19
18 identification, two-page
19 document on William R.
20 Bradley and Associates
21 letterhead, dated November
22 28th, 1972, not bearing Bates
23 stamps.)
24
25

1
2 EXHIBITS (CONT'D.)
3 DESCRIPTION PAGE LINE
4 (Exhibit 10 for 137 6
5 identification, multi page
6 document on Union Carbide
7 letterhead, dated March 14th,
8 1973, bearing Bates stamps
9 UCASB01929086 through
10 UCASB01929087.)
11
12 (Exhibit 11 for 139 12
13 identification, multi page
14 document bearing Bates stamps
15 A03192 through A03206.)
16
17 (Exhibit 12 for 187 12
18 identification, two-page
19 Union Carbide internal memo
20 dated May 29, 1973, not
21 bearing Bates stamps.)
22
23
24
25

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1 2 EXHIBITS (CONTD.) 3 DESCRIPTION PAGE LINE 4 (Exhibit 13 for 194 24 5 identification, multi page 6 document entitled Bakelite 7 Corporation Raw Material 8 Code, Number 1, RM-1 and up, 9 bearing Bates stamps A11948 10 through A11956.) 11 12 (Exhibit 14 for 202 2 13 identification, three-page 14 document bearing Bates stamps 15 UCASB01875903, UCASB0187675 16 and UCASB00924626.) 17 18 19 20 21 22 23 24 25	1 2 PRODUCTION OF DOCUMENTS AND/OR INFORMATION 3 Page Line 4 (none) 5 6 7 DIRECTION TO WITNESS NOT TO ANSWER 8 Page Line 9 229 23 10 230 23 11 12 13 QUESTIONS MARKED FOR LATER RULING 14 Page Line 15 (none) 16 17 18 19 20 21 22 23 24 25
Page 15	Page 17
1 2 EXHIBITS (CONTD.) 3 DESCRIPTION PAGE LINE 4 (Exhibit 15 for 243 11 5 identification, multi page 6 document entitled Federal 7 Register, Volume 55, Number 8 30, Tuesday, February 13, 9 1990 slash Notices, not 10 bearing Bates stamps.) 11 **original exhibits returned with original 12 transcript by HG Litigation Services to 13 Waters & Kraus 14 (exhibit index concluded) 15 16 17 18 19 20 21 22 23 24 25	1 2 IT IS HEREBY STIPULATED AND AGREED, by 3 and between the attorneys for the respective parties 4 herein, that filing and sealing be and the same are 5 hereby waived. 6 IT IS FURTHER STIPULATED AND AGREED 7 that all objections, except as to the form of the 8 question, shall be preserved to the time of trial. 9 IT IS FURTHER STIPULATED AND AGREED 10 that the within deposition may be signed and sworn 11 to before any officer authorized to administer an 12 oath, with the same force and effect as if signed 13 and sworn to before the officer before whom the 14 within deposition was taken. 15 16 17 18 19 20 21 22 23 24 25

5 (Pages 14 to 17)

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1 CARLO F. MARTINO
 2 PROCEEDINGS
 3 THE VIDEOGRAPHER: Stand by,
 4 please.
 5 Today is February 8th, 2008, and
 6 the time is approximately 9:20 a.m.
 7 The location is the Marriott
 8 Courtyard, 250 Davidson Avenue, Somerset, New
 9 Jersey.
 10 My name is David Sanders, video
 11 specialist of Legal Eyes, Inc., Denton, Texas.
 12 This Case No. BC374718 entitled
 13 Whitmire versus Alfa Laval, et al. and the
 14 deponent is Carlo Martino.
 15 The video deposition is requested
 16 by the Plaintiff's counsel Waters & Kraus.
 17 Counsel and all present will please
 18 identify themselves for the record.
 19 MR. GALERSTON: Yes, this is Billy
 20 Galerston here on behalf of Waters & Kraus and the
 21 Whitmires.
 22 MS. CLARK: Katherine Clark from
 23 Mayer Brown on behalf of Union Carbide and
 24 Mr. Martino.
 25 THE WITNESS: Carlo Martino.

1 CARLO F. MARTINO
 2 THE VIDEOGRAPHER: Counsel on the
 3 phone?
 4 MR. MICHEL: Jean Michel for
 5 Rockwell Automation, Inc.
 6 MS. NELSON: Connie Nelson for
 7 Crouse-Hinds.
 8 MR. ENDICK: Barry Endick for
 9 Bechtel Construction and Bechtel Corp.
 10 MR. KINSEY: Jeff Kinsey for Square
 11 D Company and Crane Co.
 12 MS. ALMQUIST: Kristina Almquist
 13 for BW/IP.
 14 MR. TUANN: Peter Tuann for IMO
 15 Industries, Inc. and Eaton Electronic,
 16 Incorporated.
 17 MR. GALERSTON: Whoever appeared
 18 for IP, please state your appearance again.
 19 MS. ALMQUIST: Kristina Almquist.
 20 THE VIDEOGRAPHER: Are there any
 21 other counsel on the phone?
 22 (No response.)
 23 THE VIDEOGRAPHER: The deponent may
 24 now be sworn in.
 25 COURT REPORTER: (Complies.)

1 CARLO F. MARTINO
 2 (Whereupon, the court reporter
 3 administers the oath to the witness.)
 4
 5 CARLO F. MARTINO,
 6 residing at 125 River Road, Branchburg, New Jersey
 7 08876, having been first duly sworn or affirmed by
 8 a Notary Public within and for the States of New
 9 York and New Jersey, was examined and testified as
 10 follows:
 11 EXAMINATION BY MR. GALERSTON:
 12 Q. Good morning, Mr. Martino. How
 13 are you today, sir?
 14 A. Yeah, fine. Thank you.
 15 Q. We are here taking your videotaped
 16 deposition in the Whitmire case.
 17 You understand that, sir?
 18 A. Yes.
 19 Q. I have been provided with some
 20 documents which have been represented to me as
 21 your notes from your review of material in
 22 preparation for this case, is that correct, sir?
 23 A. That's correct.
 24 Q. Okay.
 25 MS. CLARK: Well, sorry, just for

1 CARLO F. MARTINO
 2 the record that's also notes on the Baker
 3 transcripts.
 4 MR. GALERSTON: Okay.
 5 MS. CLARK: Did them together in
 6 preparation for today.
 7 MR. GALERSTON: Okay.
 8
 9 BY MR. GALERSTON:
 10 Q. Sir, could you please state your
 11 full name for the record.
 12 A. Carlo Francis Martino.
 13 Q. How old a man are you, sir?
 14 A. I'll be eighty-one next month.
 15 Q. Okay.
 16 Mr. Martino, what is your home
 17 address?
 18 A. 125 River Road, Branchburg, New
 19 Jersey 08876.
 20 Q. Okay.
 21 And if I understand you correctly
 22 that is very close to here in Somerville, New
 23 Jersey?
 24 A. About twenty, thirty minutes away,
 25 yes.

Page 22 1 CARLO F. MARTINO 2 Q. And if I understand you correctly 3 based upon my drive in from the airport we are 4 near Bound Brook, New Jersey, correct? 5 A. Yes. 6 Q. Bound Brook, New Jersey was the 7 place that you were employed for many years by 8 Union Carbide in its Bakelight Corporation, 9 correct? 10 A. Well, that was the mailing 11 address. The location was actually Piscataway 12 Township just outside of Bound Brook. 13 Q. Okay. 14 And that's all in this general 15 area of New Jersey, correct? 16 A. Yes. 17 Q. Sir, the Whitmire case is set for 18 trial beginning next week. 19 Do you understand that, sir? 20 A. Yes. 21 Q. Do you know whether arrangements 22 have been made for you to testify live at trial 23 if the case does go to trial? 24 A. None that I'm aware of. 25 Q. Pardon me.	Page 24 1 CARLO F. MARTINO 2 prevent you from being able to testify in the 3 Baker case either here or in some other location 4 in the next couple of weeks or so? 5 A. In the next couple of weeks if it 6 does take place I would prefer it to be here. 7 Q. Okay. 8 A. Because I'm not sure what the 9 situation will be with my wife. 10 Q. Okay. Fair enough. 11 But as far as the deposition going 12 forward in terms of your schedule, there is 13 nothing limiting -- limitation in terms of your 14 daytime schedule, it's just that because of your 15 wife's health situation you need to be near home? 16 A. That's right. 17 Q. Okay. Very fair. 18 Hopefully we'll get clarification 19 whether or not our counsel has been able to work 20 out an arrangement for us to go forward in one or 21 both between now and the conclusion of this 22 deposition. 23 Pardon me. 24 (Whereupon, multi page document 25 entitled Notice of Continuance of Taking
Page 23 1 CARLO F. MARTINO 2 I understand that your wife 3 currently has some health issues and it makes it 4 difficult for you to travel, is that correct? 5 A. Yes. 6 Q. Other than your wife's health 7 concerns are there any other limitations on your 8 ability to travel for trial or for deposition? 9 A. On me, no. 10 Q. Okay. 11 As I understand the notes that 12 have been provided are in two cases, the Whitmire 13 and the Baker case and that's what you're 14 prepared to testify, is that correct, sir? 15 A. Yes. 16 Q. There is a dispute between your 17 counsel here and I, but between our California 18 cohorts as to whether or not the case is going to 19 go, this deposition is going forward in two cases 20 or in just one. 21 Do you understand that? 22 A. Yes. 23 Q. Okay. 24 Do you know of any reason physical 25 or schedule-wise for you personally that would	Page 25 1 CARLO F. MARTINO 2 Videotaped Deposition of Defendant Union Carbide 3 Corporation's Person Most Knowledgeable, not 4 bearing Bates stamps, is received and marked as 5 UCC Exhibit 1 for Identification.) 6 (Whereupon, multi page document 7 entitled Notice of Taking Deposition of Carlo 8 Martino, not bearing Bates stamps, is received 9 and marked as UCC Exhibit 2 for Identification.) 10 11 BY MR. GALERSTON: 12 Q. Sir, I'm going to mark for you 13 what I'm labeling Exhibits 1 and 2 to your 14 deposition which are notices of deposition. 15 Exhibit 1 is for a corporate representative and 16 Number 2 is for you personally. 17 A. (Reviews.) 18 Q. And ask you, sir, have you had an 19 opportunity to review those exhibits? 20 A. To read this? 21 Q. Have you had an opportunity to see 22 them before just now? 23 A. I was shown some documents last 24 night. 25 MS. CLARK: Do you have copies of

7 (Pages 22 to 25)

1 CARLO F. MARTINO
2 that, counsel?
3 MR. GALERSTON: I have a copy for
4 witness and a copy for me to work with.
5 MS. CLARK: Let me see that, Carlo,
6 this one.
7 When was the individual notice
8 sent? I don't believe I've seen this. Do you
9 know?
10 MR. GALERSTON: It was dated
11 February 1st and the proof of service states that
12 it was served on February 1st.
13 MS. CLARK: Well, okay. I'll have
14 to speak to our local about that. Maybe there is
15 some confusion. I have not seen it.
16 MR. GALERSTON: Okay.
17 MS. CLARK: I think he has seen the
18 other one.
19 A. This keeps referring to my
20 electrical, your electrical equipment. Your
21 electrical equipment. I don't understand that.
22 MS. CLARK: Just answer the
23 questions.
24 MR. GALERSTON: Okay.
25 THE WITNESS: What's that?

1 CARLO F. MARTINO
2 MS. CLARK: He's not asking you
3 anything about that.
4 THE WITNESS: Okay.
5 MR. GALERSTON: Okay.
6
7 BY MR. GALERSTON:
8 Q. Sir, have you had an opportunity
9 to review Exhibit Number 1?
10 A. I've skimmed it.
11 Q. Okay.
12 A. Yeah.
13 Q. Had you been provided with a copy
14 of Exhibit Number 1 prior to today?
15 A. No.
16 Q. Okay.
17 Are you in a position to testify
18 whether you would be the person most
19 knowledgeable regarding the various areas that
20 are asked for in this Notice of Deposition?
21 A. At this stage too.
22 Q. Okay.
23 Are you the person most
24 knowledgeable at Union Carbide to testify with
25 regards to Union Carbide's document retention

1 CARLO F. MARTINO
2 policy?
3 A. Only with regard to the area I was
4 working in.
5 Q. Okay.
6 And by that you mean the Bakelite
7 division?
8 A. The Bakelite division and the
9 research and development department.
10 Q. Okay.
11 And I understand that the division
12 changed its name in reference over the years from
13 1948 until 1996 your date of retirement.
14 A. Yes.
15 Q. But when we talk about the
16 Bakelite Corporation, the Bakelite division or
17 the department, we're all, you and I understand
18 we're talking about Union Carbide's business of
19 manufacturing and marketing phenolic resin
20 materials that were trademarked under the
21 Bakelite trademark, correct?
22 A. Yes.
23 Q. Okay.
24 You are the person most
25 knowledgeable with regards to Union Carbide's

1 CARLO F. MARTINO
2 acquisition and mergers with related
3 phenolic-type corporations, correct?
4 MS. CLARK: Okay.
5 Vague.
6 A. I was not involved in those
7 activities, but I cannot give you the name of
8 anyone that is alive today that could provide any
9 more information than I could.
10 Q. Okay.
11 Other than Union Carbide
12 purchasing Bakelite Corporation and trying to get
13 into its own entity --
14 A. Uh-huh.
15 Q. -- are you aware of any other
16 corporate acquisitions or mergers that Union
17 Carbide had with other phenolic resin companies?
18 A. Domestic?
19 Q. Domestic or international.
20 A. Domestic, no. International, we
21 did have affiliates that were partially owned or
22 fully owned.
23 Q. Okay.
24 What companies are you thinking of
25 when you say that there were affiliates to Union

Page 30 1 CARLO F. MARTINO 2 Carbide? 3 A. There was a Bakelite in Canada, 4 one in England, one in Mexico. I believe for a 5 time there was an association with a Japanese 6 company. 7 Q. Now, do you know if these were 8 acquisitions or mergers or were these companies 9 that were set up by Union Carbide? 10 A. That I don't know. 11 Q. Okay. 12 We'll talk more specifically with 13 regards to Bakelite Canada later, but do you know 14 whether or not Bakelite Canada, Bakelite Japan or 15 Bakelite Mexico ever marketed in the United 16 States? 17 A. Directly, no. 18 Q. If directly no, but indirectly 19 yes, what does that mean? 20 MS. CLARK: Objection. 21 Form. 22 A. If there -- there are times we 23 obtained Canadian product and we sold it, but 24 they did not directly market themselves. 25 Q. Okay.	Page 32 1 CARLO F. MARTINO 2 Q. If I understand your previous 3 testimony correctly Union Carbide's Bakelite 4 division never manufactured any finished phenolic 5 products, is that correct? 6 A. Yes. 7 Q. Would that be true for both 8 thermosetting and thermoplastic products? 9 A. True for thermosetting products. 10 For thermoplastic products, we did for a time 11 have a blow molding business, blow molding 12 containers, industrial containers out of 13 polyethylene. 14 Q. Okay. 15 And what kind of containers were 16 they? 17 A. Industrial drums. 18 Q. Okay. 19 A. And other large containers. 20 Q. Like the large plastic trash bins? 21 A. Yeah. 22 Q. Or garbage bins? 23 A. Yeah. 24 Q. Okay. 25 When was Union Carbide in that
Page 31 1 CARLO F. MARTINO 2 And I think we'll -- like I 3 indicated a moment ago, we'll talk a little bit 4 more about Canada. 5 At one point in time certain 6 product lines you ceased to manufacture them in 7 the United States, you sent them to the Canadian 8 company, they manufactured it and then sold it 9 back to you, Bakelite United States for 10 distribution in the United States, is that 11 correct? 12 A. That was done on occasion. It 13 wasn't common practice. 14 Q. To the best of your knowledge it 15 never happened with Mexico? 16 A. No. 17 Q. Did Union Carbide Bakelite 18 division acquire any other companies in the 19 United States that were manufacturing and 20 marketing phenolic products? 21 A. How far back do you want to go on 22 that? 23 Q. Let's go back to Union Carbide's 24 acquisition of Bakelite Corporation in 1937? 25 A. Yeah, none that I'm aware of.	Page 33 1 CARLO F. MARTINO 2 business, that line of manufacturing? 3 MS. CLARK: Objection. 4 Foundation. 5 A. It was during the time I was 6 there. I don't recall the exact dates. 7 Q. Other than these blow molding 8 plastic containers, did Union Carbide ever market 9 any other finished products either I guess in the 10 thermoplastics division? 11 A. We also had a film division that 12 manufactured Glad products. 13 Q. And those are consumer products, 14 correct? 15 A. Pardon? 16 Q. Those are consumer products, 17 correct? 18 A. Yes. Plastic wrap, bags, food 19 bags. 20 Q. Okay. 21 Any other plastics the 22 thermoplastic division sold? 23 A. We also had a straw business, you 24 know, straw to be used in soda cans, that sort of 25 thing.

Page 34 1 CARLO F. MARTINO 2 Q. Like Dixie? 3 A. (Indicating.) 4 Q. Like Dixie straws? 5 A. Yeah. That was a short period of 6 time. 7 Q. Okay. 8 Anything else you can recall? 9 A. For a time we also manufactured 10 vinyl upholstery. 11 Q. Okay. 12 Anything else? 13 A. If there are, were any others, I 14 don't recall them. Those are the big ones. 15 Q. Okay. 16 We previously discussed and we'll 17 get to it in a moment about the thermosetting 18 products that contained asbestos. 19 Did any of the thermoplastics 20 products that Union Carbide manufactured and sold 21 or even compounded even contain asbestos? 22 A. None that I was aware of. 23 Q. The third area of inquiry in the 24 Notice of Deposition which is attached as Exhibit 25 Number 1 to your deposition asks for a person	Page 36 1 CARLO F. MARTINO 2 Vague. 3 Over -- 4 A. The power what? 5 MS. CLARK: Wait. 6 Q. Power generation? 7 MS. CLARK: Vague. Overly broad. 8 Just give me a chance. 9 THE WITNESS: I'm sorry. 10 MS. CLARK: If I'm making an 11 objection, don't answer until I make it. Thank 12 you. 13 THE WITNESS: Okay. 14 A. Not aware of any sales to power 15 generators at all. 16 Q. Okay. 17 Thermosetting products is not 18 something that would be normally sold to power 19 generators because power generators would be an 20 end user of thermosetting products, correct? 21 MS. CLARK: Objection. 22 Vague. 23 Overly broad. 24 A. They would be users of equipment 25 that had thermosetting products in them. Direct
Page 35 1 CARLO F. MARTINO 2 knowledgeable regarding sales catalogs, brochures, 3 spec sheets, et cetera, with regards to Union 4 Carbide's materials that were sold to Pacific Gas 5 & Electric. 6 Are you the person most 7 knowledgeable with regards to Union Carbide 8 Bakelite division sales to Pacific Gas & 9 Electric? 10 A. If they -- I had never -- I guess 11 I am the most knowledgeable at this point, yes. 12 Q. Okay. 13 What knowledge, if any, do you 14 have of sales made by Union Carbide to Pacific 15 Gas & Electric? 16 A. I'm not -- 17 MS. CLARK: Objection. 18 Vague. 19 Overly broad. 20 A. I'm not aware of any sales to 21 them. 22 Q. Are you aware of sales by Union 23 Carbide to the power production industries in 24 general? 25 MS. CLARK: Objection.	Page 37 1 CARLO F. MARTINO 2 purchase of parts, of individual parts, I don't 3 think so. 4 Q. Okay. 5 If I understand you correctly, and 6 please correct me where I'm wrong, Union Carbide 7 would compound and create the thermosetting 8 materials which would be in various states be 9 they granular or in powder form or whatever that 10 would be sold to equipment manufacturers who 11 would then use the raw material or the compounded 12 material that Union Carbide had made, they would 13 then inject it into their molds and their presses 14 creating fittings which would then be used in 15 electrical equipment and products that may have 16 been sold to end users, correct? 17 MS. CLARK: Objection. 18 Vague. 19 Overly broad. 20 Assumes facts. 21 A. Well, Union Carbide made resins 22 and molding materials and they were both sold to 23 companies that would use those resins to make 24 products. In the case of resins, they make 25 laminates. In the case of molding materials it

10 (Pages 34 to 37)

1 CARLO F. MARTINO

2 would go to molders who would make whatever was
3 required, whatever business they were in.

4 Q. Okay.

5 And I guess the point that I'm
6 getting to is companies like Pacific Gas &
7 Electric which were in the power generation
8 business, they would not be in a situation to use
9 the semi raw materials that Union Carbide was
10 selling for thermosetting, correct?

11 A. Yeah, I'm not aware of a company
12 like that doing their own manufacturing of parts.

13 Q. Okay.

14 So the Number 4 area of inquiry
15 which is information pertaining to model number,
16 model name, symbol of Union Carbide's materials
17 sold to Pacific Gas & Electric would be, nobody
18 would be knowledgeable of that because they
19 weren't being sold to Pacific Gas & Electric,
20 right?

21 A. That's right.

22 Q. Likewise for area Number 5 with
23 regards to packaging and logos associated with
24 sales to Pacific Gas & Electric, no one would be
25 knowledgeable about that because those sales did

1 CARLO F. MARTINO

2 not take place?

3 A. That's correct.

4 Q. Assume with me Section 6, 7, 8, 9,
5 10 and 11 all pertain to various aspects of sales
6 to Pacific Gas & Electric. There would be no one
7 knowledgeable with regard to those areas because
8 Union Carbide did not make those type of sales,
9 correct?

10 A. That's, that's correct.

11 Q. Section 12 calls for information
12 pertaining to persons including but not limited
13 to Oneida Rostone Corporation, Rostone
14 Corporation, Allen-Bradley, Eaton Corporation,
15 Rockwell Automation, Cutler-Hammer, Inc. and/or
16 Square D, involved in supplying, molding,
17 forming, fabricating and/or assembly of any and
18 all of Union Carbide's equipment and/or
19 asbestos-containing products which Union Carbide
20 manufactured, assembled, sold or distributed
21 prior to and during the relevant time period.

22 A. (Reviews.)

23 Q. Would you be the person most
24 knowledgeable with regard to those sales, sir?

25 MR. CLARK: Just for completeness,

1 CARLO F. MARTINO

2 it says the relevant time period to Pacific Gas &
3 Electric again.

4 A. The reference says your electrical
5 equipment. I don't understand that.

6 Q. Okay.

7 You are familiar with sales of
8 Union Carbide's Bakelite materials to Rostone,
9 Allen-Bradley, Eaton, Rockwell, Cutler-Hammer and
10 Square D, are you not?

11 A. I'm aware of material sales,
12 plastic material sales to Allen-Bradley,
13 Cutler-Hammer and Square D. Rockwell, I would
14 have to check the records. Same with the others.

15 Q. Okay.

16 Is there anyone who would be more
17 knowledgeable with regard to those issues of
18 sales than you with Union Carbide now?

19 MR. CLARK: Objection.

20 Misstates the description in the
21 notice.

22 A. At this stage I can't think of
23 anyone else.

24 Q. Pardon me.

25 (Whereupon, handwritten notes

1 CARLO F. MARTINO

2 prepared by the witness, not bearing Bates
3 stamps, is received and marked as UCC Exhibit 3
4 for Identification.)

6 BY MR. GALERSTON:

7 Q. Sir, I'd like to mark your notes
8 as Exhibit Number 3 to the deposition. If you
9 would be so kind as to mark those.

10 A. Sure. You have a copy, don't you?

11 Q. I do. I do. But I'd like to get
12 a copy -- I'd like to attach it to your original
13 notes.

14 A. The original.

15 Q. Yes, sir, because in all
16 likelihood it's probably going to be much easier
17 to read than what I have here.

18 A. Okay.

19 Q. All right, sir.

20 What we've now marked as Exhibit 3
21 which I understand are your handwritten notes
22 from your review of materials in preparation for
23 today's deposition, correct?

24 A. Yes.

25 Q. Okay.

1 CARLO F. MARTINO
2 What did you review in preparation
3 for the deposition?
4 A. There were I believe ten volumes
5 of Whitmire depositions.
6 Q. You mean Mr. Whitmire?
7 A. Yes.
8 Q. Okay.
9 A. I think there were three volumes
10 of Nance, yes, Donald Nance depositions.
11 Q. Okay.
12 That would be again related to a
13 co-worker of Mr. Whitmire's?
14 A. Yes.
15 Q. Okay.
16 A. There were three volumes. And
17 then two volumes of the Baker depositions.
18 Q. Okay.
19 You have not reviewed any Union
20 Carbide documents related to Union Carbide sales
21 to any of the relevant Defendants in this case.
22 Is that fair to say?
23 MS. CLARK: Objection.
24 Overly broad.
25 Vague.

1 CARLO F. MARTINO
2 Beyond the scope of the notice.
3 A. What do you mean by Defendants?
4 Q. Square D, Union Carbide, General
5 Electric, Westinghouse.
6 A. Oh, the others in the case.
7 MS. CLARK: Same objections.
8 A. No, I have not.
9 Q. Okay.
10 Is it safe to assume that you
11 haven't reviewed any documents relative to the
12 case other than the depositions?
13 A. That's correct. Other than these,
14 I saw this one.
15 Q. Okay.
16 The Notice of Deposition?
17 A. Yes.
18 Q. Okay.
19 You have not reviewed any Union
20 Carbide materials or any documents from the Union
21 Carbide Bakelite repository, correct?
22 A. No.
23 Q. Okay.
24 Last time you and I met was in, I
25 deposed you on -- oops. Wrong deposition. July

1 CARLO F. MARTINO
2 11th, 2007.
3 Do you remember that, sir?
4 A. Yes.
5 Q. Okay.
6 That was in the Donald Eubanks
7 case, remember?
8 A. Yes.
9 Q. We were talking about Union
10 Carbide's Bakelite products being sold to
11 Square D, Cutler-Hammer, Eaton electric,
12 Allen-Bradley, very similar cast of characters as
13 we have in this case.
14 Do you recall that, sir?
15 A. Yes.
16 Q. Okay.
17 In that deposition we discussed
18 generally the, your recollections of sales to
19 those companies.
20 Do you recall that?
21 A. Uh-huh, yes.
22 Q. Okay.
23 Since that time of your deposition
24 have you reviewed any additional materials
25 related to Union Carbide sales, marketing

1 CARLO F. MARTINO
2 activities of its Bakelite products to Square D,
3 Allen-Bradley or Cutler-Hammer?
4 A. No.
5 Q. Okay.
6 Is it -- would it be fair for me
7 to rely upon the testimony that you gave in the
8 Donald Eubanks case in understanding what you
9 know about Union Carbide sales to Square D,
10 Allen-Bradley and Cutler-Hammer?
11 MS. CLARK: Objection.
12 Vague.
13 A. Yes.
14 Q. Okay.
15 When is the last time that you
16 reviewed Union Carbide documents from the
17 Bakelite repository?
18 A. Gee, I, I don't recall.
19 Q. Okay.
20 You went to work for Union Carbide
21 in 1948, correct?
22 A. Yes.
23 Q. You retired in 1996?
24 A. Yes, yes.
25 Q. In 1996 shortly thereafter you

1 CARLO F. MARTINO
 2 began testifying on behalf of Union Carbide?
 3 A. Yes.
 4 Q. As a consultant, correct?
 5 A. Yes.
 6 Q. In the last eleven years you have
 7 given how many depositions on behalf of Union
 8 Carbide?
 9 A. Over a dozen, yeah.
 10 Q. Okay.
 11 A. Some are between a dozen and a
 12 dozen and a half.
 13 Q. And I believe you testified two or
 14 three times at trial, is that correct?
 15 A. Two times.
 16 Q. Since you retired from Union
 17 Carbide can you tell me how many times you have
 18 gone to Chicago and reviewed documents in the
 19 Union Carbide Bakelite repository?
 20 A. I have not been in the repository.
 21 Q. I --
 22 A. When I first started I requested
 23 certain documents and was given those documents
 24 to review when it pertained to a case that I was
 25 involved in.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 You understand the repository is
 4 really just forty-six boxes of material?
 5 A. Yeah, yes.
 6 Q. Okay.
 7 They're kept at counsel's office
 8 in Mayer Brown's office?
 9 A. Uh-huh.
 10 Q. When is the last time you
 11 requested to see documents that were stored in
 12 the repository?
 13 A. None within the past few years
 14 that I recall.
 15 Q. So in the last few years you have
 16 relied on your memory for your basis for your
 17 testimony.
 18 Is that fair to say?
 19 MS. CLARK: Objection.
 20 Vague.
 21 Misstates testimony.
 22 A. Some of the information was
 23 attached to some of the documents that I had
 24 given that I could make reference to.
 25 Q. When was the last time you

1 CARLO F. MARTINO
 2 referred to or went back and reviewed attachments
 3 to your depositions?
 4 A. Before the last deposition.
 5 Q. In Eubanks?
 6 A. Yeah, I did refer to the
 7 documents, I refreshed my memory on certain
 8 information.
 9 Now, those were more, those were
 10 documents I'd gotten from literature.
 11 I can't really give you a date
 12 when was the last time.
 13 Q. Okay.
 14 And when you say -- in the Eubanks
 15 case we rightly or wrongly focused in on arc
 16 chutes.
 17 Do you recall that?
 18 A. That's right.
 19 Q. And as I recall, you had a couple
 20 of documents I think you pulled up off the
 21 Internet --
 22 A. That's right.
 23 Q. -- with regards to arc chutes?
 24 A. That's right.
 25 Q. Okay.

1 CARLO F. MARTINO
 2 And when you say that you looked
 3 at some literature, is that what you were
 4 referring to?
 5 A. That and I think I refreshed my
 6 memory on the testing procedure for asbestos
 7 fibers. That's about it.
 8 Q. When you were requesting -- early
 9 on you had indicated that you would request
 10 documents for review.
 11 Do you recall that, sir?
 12 A. Yes.
 13 Q. Did you have an index to the
 14 documents that were in the repository and that
 15 you could then select documents to review?
 16 A. No.
 17 Q. Okay.
 18 How was it that you determined
 19 what documents you wanted to review?
 20 A. It was primarily when I needed a
 21 formulation on a particular product I couldn't
 22 remember, you know, what the components were, and
 23 I would ask if they had it and if I could see it.
 24 Q. So like BM-5020, if you didn't
 25 recall it you'd say send me what you have on

Page 50	Page 52
1 CARLO F. MARTINO 2 5020? 3 A. Yes. In some cases it wasn't even 4 sent. I would ask whoever was getting it for me 5 to tell me what I wanted to know from the 6 document. 7 Q. Has counsel for Union Carbide sent 8 you documents unsolicited from the repository? 9 A. I've been sent sales scrolls to 10 review. 11 Q. Have you seen sales scrolls for 12 Union Carbide sales to Square D? 13 A. Not recently, no. 14 Q. Okay. 15 Have you seen them in the past? 16 A. I don't recall. 17 Q. Okay. 18 I'll represent to you yesterday 19 was my first day with the repository. 20 A. Uh-huh. 21 Q. And I saw documents which appeared 22 to be sales lists or runs which had Square D, 23 then it had a bunch of redacted information. 24 A. Yeah. 25 Q. And then there was some other	1 CARLO F. MARTINO 2 scrolls in the repository. 3 Have you reviewed those? 4 A. Not recently. 5 Q. Okay. 6 There are Cutler-Hammer sales 7 scrolls. 8 Have you reviewed those? 9 A. Not recently. 10 Q. What about the ones for General 11 Electric? 12 A. Not recently. 13 Q. Westinghouse? 14 A. Not recently. 15 Q. You previously testified that the 16 high temperature thermosettings were ones that 17 contained asbestos and were sold to companies 18 such as Square D, Cutler-Hammer and 19 Allen-Bradley, correct? 20 MS. CLARK: Objection. 21 Compound. 22 Overly broad. 23 Misstates testimony. 24 A. We sold some product that would 25 withstand high temperatures to Square D. I don't
Page 51	Page 53
1 CARLO F. MARTINO 2 information that I couldn't understand, but I 3 don't have copies of it to ask you about so I'm 4 going to refer to it in this general manner. 5 A. Yeah. 6 Q. Would that be the type of document 7 that you're talking about when you talk about 8 sales scroll, does that sound like it? 9 A. Yes. 10 Q. Okay. 11 Because it says Square D, would 12 have a year and it would have some product years 13 on the left and there would be some numbers 14 indicating I believe pounds and dollars. 15 Is that a sales scroll? 16 A. Yes. 17 Q. Okay. 18 So I'll represent to you that 19 there are Square D sales scrolls in the 20 repository. 21 You don't know whether or not you 22 reviewed those? 23 A. Not recently, no. 24 Q. Okay. 25 There are Allen-Bradley sales	1 CARLO F. MARTINO 2 recall if Allen-Bradley or Cutler-Hammer bought 3 that product. I'd have to check the scrolls. 4 Q. Okay. 5 The same materials, the same types 6 of Bakelite products were also sold to General 7 Electric, were they not? 8 MS. CLARK: Objection. 9 Vague. 10 Overly broad. 11 Ambiguous. 12 A. General Electric was not -- was a 13 competitor. We did sell to some of their molding 14 locations on occasion, but I don't know exactly 15 what we sold to them without going to the sales 16 scrolls and checking. 17 Q. Do you recall selling to General 18 Electric atomic phenolics division? 19 MS. CLARK: Objection. 20 Foundation. 21 A. Phenolics division? 22 Q. GE atomic phenolics. 23 A. Atomic? 24 Q. (Indicating.) 25 A. Doesn't sound familiar, no.

1 CARLO F. MARTINO
 2 MS. CLARK: Same objection.
 3 Q. Okay.
 4 G.E. lamp division?
 5 A. No, I did not.
 6 Q. G.E. insulating materials
 7 department?
 8 A. No.
 9 Q. G.E. medium transformer
 10 department?
 11 A. Not familiar.
 12 Q. G.E. chemical materials
 13 department?
 14 A. No.
 15 Q. G.E. laminated products
 16 department?
 17 A. If we did I'm not aware of any of
 18 the sales.
 19 Q. G.E. semiconductors?
 20 A. Semiconductors?
 21 Q. Yes, sir.
 22 A. I'm not aware of any sales to
 23 them.
 24 Q. G.E. power tools?
 25 A. No.

1 CARLO F. MARTINO
 2 Q. G.E. silicon department?
 3 A. Not familiar with any sales to
 4 them either.
 5 Q. G.E. wiring cable department?
 6 A. No.
 7 Q. G.E. warehouse division?
 8 A. No.
 9 Q. G.E. housewares division?
 10 A. No.
 11 Q. G.E. service shops department?
 12 A. No.
 13 Q. G.E. missile and space vehicle
 14 department?
 15 A. No.
 16 MS. CLARK: I'm just going to
 17 object to this whole line as completely beyond the
 18 scope of the notice.
 19 Q. Sir, I'll represent to you those
 20 are all names of divisions that I took from the
 21 G.E., the Union Carbide sales scrolls to General
 22 Electric.
 23 A. Yeah.
 24 Q. You're not aware of any of these
 25 divisions of General Electric purchasing Union

1 CARLO F. MARTINO
 2 Carbide's Bakelite.
 3 Is that fair to say?
 4 MS. CLARK: Objection.
 5 Overly broad.
 6 Misstates testimony.
 7 A. Yeah, I'm not aware of any sales
 8 to them. I'd have to check the scrolls to be
 9 sure if we did sell anything to them.
 10 Q. I'll represent to you that -- the
 11 documents will speak for themselves, but there
 12 are substantially more G.E. sales than the rest
 13 of the sales scrolls that I could find combined.
 14 G.E. sold a phenolic product
 15 called Textolite, correct?
 16 A. Yes.
 17 Q. Are you aware of any agreement
 18 between Union Carbide to provide phenolic
 19 materials to G.E. for Textolite?
 20 MS. CLARK: Objection.
 21 Foundation.
 22 Beyond the scope.
 23 A. If there was there wouldn't be the
 24 phenolic resin, but I don't know if we did sell
 25 them phenolic resin.

1 CARLO F. MARTINO
 2 Q. Were you ever involved in
 3 negotiating an agreement to license General
 4 Electric to resell G.E. phenolic products under
 5 the name of Textolite?
 6 MS. CLARK: Objection.
 7 Foundation.
 8 A. No, I'm not.
 9 MS. CLARK: Vague.
 10 THE WITNESS: Sorry.
 11 (Whereupon, multi page document
 12 entitled History of Bakelite, not bearing Bates
 13 stamps, is received and marked as UCC Exhibit 4
 14 for Identification.)
 15
 16 BY MR. GALERSTON:
 17 Q. Sir, I'm going to hand you a
 18 document that I'm marking as Exhibit Number 4 and
 19 ask you to take a look at it and see if you're
 20 familiar with it.
 21 A. I have seen portions of this. I
 22 have not seen the entire document.
 23 Q. Okay.
 24 How is it that you've seen
 25 portions of this before?

1 CARLO F. MARTINO
 2 A. It looks similar to a document I
 3 was shown when I first, on my first deposition of
 4 some submission to, with regard to our use of
 5 asbestos. I don't recall what the document was
 6 called. It was not this many pages.
 7 Q. Okay.
 8 (Whereupon, multi page document on
 9 Bakelite Company letterhead entitled Phenolic
 10 Resins and Molding Materials by R.K. Louis, not
 11 bearing Bates stamps, is received and marked as
 12 UCC Exhibit 5 for Identification.)
 13
 14 BY MR. GALERSTON:
 15 Q. I'm going to hand you also what
 16 I've marked as Exhibit 5 which is a reprint of a
 17 presentation by R.K. Louis, okay, sir?
 18 A. Yes.
 19 Q. Exhibits -- are you familiar with
 20 Exhibit 5?
 21 A. I have not seen this before, no.
 22 Q. Okay.
 23 MR. CLARK: Can I see it?
 24 THE WITNESS: Sure.
 25

1 CARLO F. MARTINO
 2 BY MR. GALERSTON:
 3 Q. And I want to make sure that I
 4 don't confuse you --
 5 A. Yeah.
 6 Q. -- with these two documents
 7 because they do have some similarity in their
 8 content and their design so Exhibit 4 you believe
 9 you've seen portions of it in a legal document
 10 prepared by Union Carbide's attorneys, correct?
 11 A. Yes.
 12 MS. CLARK: Objection.
 13 Misstates testimony.
 14 Q. And Exhibit 5 which is a reprint
 15 of a presentation is a document you've not seen
 16 before, correct?
 17 A. If I did I don't recall it.
 18 Q. Okay.
 19 Exhibit Number 4 on the first page
 20 it says history of Bakelite, correct?
 21 A. Yes.
 22 Q. And in the top right corner it
 23 says Union Carbide business confidential,
 24 correct?
 25 A. Yes.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 Is that stamp a stamp that you're
 4 familiar with?
 5 A. Yes, we used it frequently.
 6 Q. Okay.
 7 And your familiarity with that is
 8 from your work within Union Carbide?
 9 A. Yes.
 10 Q. Okay.
 11 Since you have only seen a portion
 12 of Exhibit Number 4, is it safe to say you don't
 13 know who the author of it is?
 14 A. That's correct.
 15 Q. Okay.
 16 When you say a portion of it, do
 17 you recall which portions you might have seen?
 18 A. The listing of the products that
 19 contain asbestos filler look familiar.
 20 Q. Okay.
 21 That's a portion on Page 3?
 22 A. Yes.
 23 Q. Okay.
 24 A. All the rest, you know, what I saw
 25 was a summary. It wasn't presented as a history.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 You, I assume you don't know who
 4 prepared this, you don't know what the date of
 5 preparation is, do you?
 6 A. No.
 7 Q. Okay.
 8 Let me ask you about that section
 9 that you identified on Page 3.
 10 In the middle of the page there is
 11 a paragraph that says asbestos was used as a
 12 filler by Union Carbide in its plastics which
 13 were to be used as electrical switch boxes,
 14 plug-in receptacles and radio components,
 15 phenolic molding materials produced by Union
 16 Carbide which contained asbestos filler were,
 17 then listing BMZ-5250, BMM-5303, BMMC-2035,
 18 BMRS-2035, BMRS-5305, BMMA-5353, BMMA-5440 and
 19 BMMA-5441.
 20 A. (Reviews.)
 21 Q. Did I read that correctly, sir?
 22 A. Pardon?
 23 Q. Did I read that correctly?
 24 A. Yes.
 25 Q. Okay.

1 CARLO F. MARTINO
 2 To the best of your knowledge are
 3 those the only eight formulations that Union
 4 Carbide ever sold of Bakelite that would have
 5 contained asbestos?
 6 A. No, they are not.
 7 Q. Okay.
 8 I believe you previously testified
 9 that the number of Union Carbide Bakelite
 10 products that contained asbestos would change
 11 over time as low as ten percent at one point in
 12 time and then at a high around 1970 of forty
 13 percent of Union Carbide's formulations contained
 14 asbestos, correct?
 15 MS. CLARK: Object. Wait.
 16 Objection.
 17 Vague.
 18 Overly broad.
 19 Misstates testimony.
 20 A. Not formulations. I said forty
 21 percent of our volume.
 22 Q. Okay. Of sales?
 23 A. Of sales, yes.
 24 Q. Fair enough. I appreciate that
 25 distinction.

1 CARLO F. MARTINO
 2 In terms of the formulations,
 3 could you give me an idea of the percentage of
 4 the formulations of the Bakelites that were
 5 asbestos-containing?
 6 MS. CLARK: Objection.
 7 Foundation.
 8 A. I don't recall. That changed, as
 9 I told you before, it changed over a period of
 10 time.
 11 The only time I looked at the
 12 number of formulations with regard to which
 13 contained asbestos and which did not was
 14 somewhere in '73 when we were making, putting
 15 together the phenolic molding material handbook.
 16 And as I recall, it was roughly thirty to forty
 17 percent of the number formulations listed, but
 18 that doesn't mean anything as far as I'm
 19 concerned. It's the volume that you produce that
 20 I think is significant.
 21 Q. Which of these formulations that
 22 used asbestos contained crocidolite?
 23 MS. CLARK: Objection.
 24 Assumes facts.
 25 A. The BMZ-5250 at one point, and I

1 CARLO F. MARTINO
 2 think it was with the document I was referring to
 3 that I'd seen, in there it said that it had, was
 4 made with African Blue asbestos which is
 5 crocidolite fiber and there were no formulations
 6 available at that time for me to look at to
 7 confirm that and I assumed that was correct.
 8 When the formulation sheets did
 9 become available, I did have an opportunity to
 10 check out what we had on 5250 and in those
 11 formulation sheets it was a chrysotile long fiber
 12 asbestos that was shown, not the African, the
 13 Blue, African Blue crocidolite fiber. So from
 14 that point on, you know, I changed my testimony
 15 whenever I was asked about what was in 5250.
 16 Q. Have you reviewed Mary Jane Teta's
 17 testimony with regard to the use of crocidolite
 18 in Union Carbide Bakelite?
 19 A. Whose testimony?
 20 Q. Mary Jane Teta, an expert for
 21 Union Carbide?
 22 MS. CLARK: Objection.
 23 Misstates facts.
 24 A. I haven't seen that, no.
 25 MR. GALERSTON: Which fact is

1 CARLO F. MARTINO
 2 inaccurate? That she's an expert or that she
 3 works for Union Carbide?
 4 MS. CLARK: I stated my objection,
 5 counsel.
 6 MR. GALERSTON: Okay.
 7
 8 BY MR. GALERSTON:
 9 Q. Sir, have you seen the testimony
 10 that Mary Jane Teta has given indicating that the
 11 incidents of mesothelioma at Union Carbide's
 12 Bound Brook facility is related to the use of
 13 crocidolite asbestos?
 14 A. No.
 15 MS. CLARK: Carlo, wait.
 16 THE WITNESS: Sorry.
 17 MS. CLARK: Objection.
 18 Misstates facts and the study.
 19 A. I haven't seen it, no.
 20
 21 BY MR. GALERSTON:
 22 Q. Okay.
 23 Have you seen the Union Carbide
 24 submissions to the EPA with regards to the use of
 25 crocidolite in its Bakelite products?

1 CARLO F. MARTINO
 2 A. No.
 3 Q. I take it likewise you've not seen
 4 the information contained in the United States
 5 Federal Register indicating that Union Carbide
 6 used crocidolite in some of its Bakelite
 7 products?
 8 MS. CLARK: Objection.
 9 Misstates testimony.
 10 A. That was the document that I saw
 11 during my first deposition, and that showed that,
 12 that stated that 5250 contained the African Blue
 13 asbestos.
 14 Q. And based upon your review of the
 15 documents in the repository, you believed that to
 16 be inaccurate?
 17 A. Yes.
 18 Q. How many formulation sheets did
 19 you look at for 5250 to determine that?
 20 A. There was only one there.
 21 Q. Do you know what the basis of the
 22 filing with the federal government in publication
 23 in the Federal Register that would cause them to
 24 believe that crocidolite was in that product?
 25 MS. CLARK: Objection.

1 CARLO F. MARTINO
 2 Foundation.
 3 Calls for speculation.
 4 A. No, that's what I was hoping to
 5 find out when I looked, when I asked for the
 6 information.
 7 Q. Have you pressed further with
 8 counsel to come up with the information and the
 9 source of the information that was the basis of
 10 the federal filing?
 11 A. No.
 12 Q. Have you attempted to determine
 13 whether or not Union Carbide Bakelite division
 14 ever purchased crocidolite?
 15 A. No.
 16 Q. Have you looked in the repository
 17 for records that would indicate the purchase of
 18 crocidolite?
 19 A. No.
 20 Q. Have you -- since you weren't
 21 aware of Ms. Teta's testimony, I assume that
 22 you've not discussed it with Ms. Teta?
 23 A. That's correct.
 24 Q. Therefore, you have not had an
 25 opportunity to explore the basis for her

1 CARLO F. MARTINO
 2 opinions, correct?
 3 A. That's correct.
 4 Q. Do you know whether or not Union
 5 Carbide has filed a retraction with the federal
 6 government to indicate that the statement that
 7 was published in the Federal Register was
 8 inaccurate?
 9 A. I'm not aware of it.
 10 Q. Other than your independent
 11 investigation, have you done anything to make
 12 Union Carbide officials aware that you believe
 13 that the publication in the Federal Register is
 14 inaccurate?
 15 A. No, I haven't.
 16 Q. If the Federal Register
 17 publication was in 1990, that would have been
 18 during your tenure over the research and
 19 development division of Bakelite, correct?
 20 A. Well, we -- I was no longer in the
 21 Bakelite business. I was in the thermoplastic
 22 business.
 23 Q. Fair enough.
 24 Union Carbide had sold off and
 25 discontinued its thermoplastic --

1 CARLO F. MARTINO
 2 A. Yes.
 3 Q. -- I mean its thermosetting
 4 division, right?
 5 A. That's right.
 6 Q. Bakelite was -- it was sold, was
 7 it not?
 8 MS. CLARK: Objection.
 9 Misstates facts.
 10 A. The molding material business was
 11 not sold. We went out of the phenolic resin
 12 business I think around 1990 and I don't think
 13 that was sold either.
 14 Q. Okay. Just allowed it to lapse?
 15 A. That's right.
 16 Q. I take it since you've not
 17 reviewed Exhibit Number 4 extensively and only in
 18 part before, you do not rely upon it in providing
 19 any of your testimony with regards to industrial
 20 hygiene work that was done at the laboratory
 21 there in Bound Brook?
 22 A. No.
 23 Q. You to the best of your knowledge
 24 did not provide any information or the basis for
 25 any of the information that's in here.

1 CARLO F. MARTINO
2 Is that fair to say?
3 A. That's correct. Well, I --
4 MS. CLARK: There is no question.
5 Oh, okay, unless you need to clarify something.
6 A. Will I get an opportunity to read
7 this thoroughly?
8 Q. That will be up to your counsel.
9 A. Okay.
10 Q. It will be an attachment to your
11 deposition.
12 A. Okay.
13 Q. If you get it, you should be able
14 to have an opportunity at that time.
15 A. Okay.
16 Q. I would like to draw your
17 attention to Page 9 of this document. There is a
18 section called Development of an Asbestos-Free
19 Product. It's hard to read that part.
20 A. (Reviews.)
21 Q. Do you see that, sir? That's the
22 title there.
23 A. Yeah, yes. Uh-huh. Yes.
24 Q. Okay.
25 And, like I said, I'm filling in

1 CARLO F. MARTINO
2 the blank there that it says Development of an
3 Asbes, and then it's all blurred out, but I
4 believe it's to say an Asbestos-Free Product.
5 A. (Reviews.)
6 Q. Do you see that?
7 A. Yes.
8 Q. Okay.
9 And when you read the first
10 sentence that appears to be what it says. It
11 says by 1972 Union Carbide realized that it would
12 be desirable to develop an asbestos-free molding
13 compound?
14 A. Yes.
15 Q. Okay.
16 It's the next sentence I want to
17 ask you about.
18 The next sentence says this
19 decision received added impetus toward the end of
20 1977 when it was discovered that General Electric
21 was planning to discontinue their manufacture of
22 asbestos-containing heat-resistant phenolics by
23 substituting an asbestos-free product.
24 A. (Reviews.)
25 Q. Do you see that, sir?

1 CARLO F. MARTINO
2 A. Yes.
3 Q. That's a typographical error
4 there --
5 A. Yes.
6 Q. -- in the date?
7 A. It must be because we were out of
8 the business then.
9 Q. Right.
10 General Electric, I think we had
11 the document here and we'll talk about it in a
12 second, they announced that they were getting out
13 of the asbestos-containing phenolics in 1972 I
14 believe, is that correct?
15 A. Yeah, that's about right.
16 Q. Okay.
17 So you would agree with me that
18 this appears to be a typographical error?
19 A. Yes.
20 Q. Okay.
21 I think the next paragraph
22 indicates as you've testified before that by 1974
23 Union Carbide had successfully eliminated
24 asbestos from all of its products, but in 1975
25 the Bakelite phenolic resins were dropped from

1 CARLO F. MARTINO
2 the Union Carbide product, correct?
3 A. Yes.
4 Q. Following that is a chronology of
5 acquisition of Bakelite Corporation and it has
6 the dates of purchase 1939 and then some of the
7 different name changes that the company went
8 through.
9 There is no indication of any
10 purchases of additional companies.
11 That's consistent with your
12 recollection of Union Carbide's business,
13 correct?
14 A. Yes.
15 Q. I'd like to turn your attention to
16 the last two pages of the exhibit which are part
17 of the appendix.
18 A. (Reviews.)
19 Q. Do you see in the middle it says
20 description of Union Carbide products, excuse me,
21 it says description of Union Carbide produced
22 products containing asbestos.
23 Do you see that, sir?
24 A. Description of powder properties,
25 is that what you're referring to?

1 CARLO F. MARTINO
2 Q. No, sir. In the middle of the
3 page.
4 A. Oh, yes, okay.
5 Q. Okay.
6 Description of Union Carbide
7 produced products containing asbestos.
8 A. Yes.
9 Q. Okay.
10 Do me a favor if you would, would
11 you read through these. I'm going to ask you if
12 you generally agree with those descriptions of
13 those products.
14 MS. CLARK: Mr. Martino, I'd look
15 to see that before you answer.
16 THE WITNESS: Sure.
17 MS. CLARK: Counsel didn't give me
18 a copy and I need to look at that. Thanks.
19 Okay.
20 Do you want to re-ask the question?
21 MR. GALERSTON: Let me make sure
22 he's finished.
23 A. Yes, would you repeat that?
24
25 BY MR. GALERSTON:

1 CARLO F. MARTINO
2 Q. Absolutely.
3 Have you had an opportunity to
4 read the description, sir?
5 A. Yes.
6 Q. Okay.
7 The first description pertains to
8 BMM-5303.
9 Do you see that, sir?
10 A. Yes.
11 Q. Okay.
12 Do you agree with the description
13 that it is a low dust, two-step material
14 formulated for appliance in electrical insulation
15 parts?
16 A. Those are generalized
17 descriptions, yes.
18 Q. Okay.
19 Do you agree that it was
20 especially recommended for mechanical automotive
21 applications?
22 A. Yes.
23 Q. Okay. Next is BMMC-2035.
24 A. (Reviews.)
25 Q. If I understand it correctly based

1 CARLO F. MARTINO
2 upon your testimony and the information contained
3 in this when I read this the 2 indicates that
4 that's a one step phenolic, correct?
5 A. That's correct.
6 Q. Okay.
7 And that's what it says there in
8 this description as well.
9 This looks like it was something
10 that was used for consumer goods, is that
11 correct?
12 A. Yes.
13 Q. Okay.
14 Next is BMRS-2035. Similar --
15 it's a repeat, is it not? Yes, it is. We have
16 2035 listed twice, correct?
17 A. One is BMRS. The other one is
18 BMMC.
19 Q. Okay.
20 A. The BMRS version is used for
21 injection molding process.
22 Q. Okay.
23 Because it's a resin, correct?
24 A. (Indicating.)
25 Q. So -- and it's a liquid form?

1 CARLO F. MARTINO
2 A. No, no, no. They're both molding
3 materials.
4 Q. Okay.
5 A. The BMRS is a coarser granulation
6 for use in an ejector molding process for molding
7 parts.
8 Q. The last page of the document we
9 see listing BMMA-5440/5441 which it describes as
10 a general purpose compound, correct?
11 A. Yes.
12 Q. Is that your description of 5440?
13 A. Yes.
14 Q. Okay.
15 Then it goes on to say since
16 Bakelite products were no longer produced, a
17 product description was not available for
18 BMZ-5250, BMRS-5305 and BMMA-5353.
19 A. (Reviews.)
20 Q. Do you see that, sir?
21 A. Yes. Now, the 5305 is not a
22 familiar number to me. That could be a
23 typographical error.
24 Q. Okay.
25 We did see BMRS-5305 listed on

1 CARLO F. MARTINO
2 Page 3.
3 A. Yes.
4 Q. Do you recall that, sir?
5 A. Yes.
6 Q. So if it was a mistake it's been
7 picked up and carried forward?
8 A. Carried forward to --
9 Q. Throughout this document?
10 A. Just to be sure that number should
11 be checked with what we have in the repository.
12 I don't recall any 5305.
13 Q. Are there any products that you
14 recall that Union Carbide manufactured that
15 contained asbestos that are not listed here?
16 MS. CLARK: Objection.
17 Foundation.
18 A. Again, it depends on the time
19 frame.
20 Q. Okay.
21 And this doesn't tend to limit to
22 a specific time frame. So if you're aware of
23 another product that Union Carbide manufactured
24 that contained asbestos from any time, could you
25 identify that for me, please?

1 CARLO F. MARTINO
2 MS. CLARK: Objection.
3 Foundation.
4 Vague.
5 A. There would be a 5314 I believe.
6 Q. Okay.
7 What about --
8 A. If you go back in time, you know,
9 there could be many. I don't recall all the
10 numbers.
11 Q. Okay.
12 You would agree with me that this
13 is not an exhaustive list of Union Carbide
14 Bakelite formulations that contained asbestos?
15 A. That's right.
16 Q. And I'll represent to you that in
17 your Eubanks deposition you did identify 5314 as
18 well as another formulation.
19 A. Uh-huh.
20 Q. I believe you also identified that
21 5250 was a general formulation as well, was it
22 not?
23 MS. CLARK: Objection.
24 Vague and ambiguous.
25 A. 5250 was a what?

1 CARLO F. MARTINO
2 Q. Was -- it was a very poorly-worded
3 question. I apologize and I'll withdraw it.
4 A general use formulation,
5 correct?
6 MS. CLARK: Same objections.
7 A. The BMZ-5250.
8 Q. No, a 5250 formulation.
9 MS. CLARK: Same objections.
10 A. I don't recall a general purpose
11 5250.
12 Q. Okay.
13 What was the general purpose Union
14 Carbide Bakelite formulation that contained
15 asbestos?
16 MS. CLARK: Objection.
17 Vague.
18 Overly broad.
19 A. It would be the 353 -- the 5440
20 was the one that we -- that contained asbestos we
21 considered as a general purpose material.
22 Q. Okay.
23 A. There was at one time a 5498 that
24 contained some asbestos, but then that was
25 obsolete.

1 CARLO F. MARTINO
2 Q. So my recollection was and I'll
3 admit, I'm looking for it in the deposition, but
4 was going from my recollection, if I'm recalling
5 that there was what I thought was a BMMA-5250
6 which is a general purpose Bakelite that
7 contained asbestos, my recollection would be
8 incorrect?
9 A. The 5250 number does not sound
10 right.
11 Q. Okay.
12 A. We would not have a BMZ-5250 and a
13 BMM-5250.
14 Q. Why not?
15 A. Well, the 5250, BMZ-5250 had long
16 fiber asbestos. So if it was -- we would not be
17 using a long fiber asbestos in a granulated
18 molding material.
19 MS. CLARK: Counsel, would this be
20 a good time for a break?
21 MR. GALERSTON: Absolutely.
22 MS. CLARK: We've been going for
23 awhile.
24 MR. GALERSTON: Absolutely.
25 MS. CLARK: And he has to change

Page 82 1 CARLO F. MARTINO 2 the tape. 3 MR. GALERSTON: Absolutely. 4 THE VIDEOGRAPHER: The time is 5 10:31. 6 This ends Tape 1 of the videotaped 7 deposition of Carlo Martino, we are off the 8 record. 9 (Whereupon, a short recess is 10 taken.) 11 THE VIDEOGRAPHER: Stand by, 12 please. 13 The time is 10:46. 14 This begins Tape 2 of the 15 videotaped deposition of Carlo Martino. 16 We are on the record. 17 MR. GALERSTON: Thank you, sir. 18 19 BY MR. GALERSTON: 20 Q. Are you ready to go forward, sir? 21 A. Yes. 22 Q. Okay. 23 We discussed briefly your Exhibit 24 Number 3 which are your notes that relate to your 25 review of the deposition transcripts.	Page 84 1 CARLO F. MARTINO 2 compensated different rates for different things. 3 Seventy-five dollars for travel, correct? 4 A. Yes. 5 Q. A hundred and fifty dollars for 6 review? 7 A. Yes. 8 Q. And then two hundred dollars for 9 deposition? 10 A. Deposition and testifying at the 11 trial. 12 Q. Okay. Very good. 13 So you spent somewhere around nine 14 to ten hours including the time that we spent 15 here so far, correct? 16 A. Yes. 17 Q. Fair. 18 I believe I'm finished with my 19 questions regarding Exhibit Number 4. 20 If you would could you turn to 21 Exhibit Number 5, sir. 22 Exhibit Number 5 is the 23 presentation of Mr. Louis. 24 A. (Reviews.) 25 Q. Do you see that?
Page 83 1 CARLO F. MARTINO 2 Can you tell me about how long 3 you've spent preparing for your deposition today. 4 A. I did it in sections. Each volume 5 took anywhere from twenty minutes to thirty 6 minutes, so there were fifteen. Around seven, 7 eight hours. 8 Q. Okay. 9 In addition you had an opportunity 10 to meet with counsel before the deposition too? 11 A. Yes. 12 Q. Okay. 13 And how long did you speak in 14 talking with counsel before the deposition? 15 A. Oh, probably a couple of hours. 16 Q. Okay. Would that have been this 17 morning? 18 A. No, last night. 19 Q. Okay. 20 Other than last night, had you 21 spoke with anyone else in preparation for the 22 deposition substantively, not scheduling? 23 A. No. 24 Q. Okay. 25 If I recall correctly you're	Page 85 1 CARLO F. MARTINO 2 A. Yes. 3 Q. Okay. 4 It states that this was based, 5 this is part of a presentation that he made to 6 the Milwaukee section of the Society of Plastic 7 Engineers on May 14th, 1957. 8 Do you see that? 9 A. Yes. 10 Q. Okay. 11 You are an employee of Bakelite, 12 correct? 13 A. Yes. 14 Q. In 1957 I should say? 15 A. Yes. 16 Q. Do you know Mr. Louis? 17 A. I heard the name. I don't think I 18 knew him personally. 19 Q. Okay. 20 It indicates that he is a 21 technical representative. 22 Do you know what a technical 23 representative of Bakelite company is or meant in 24 1957? 25 MS. CLARK: Can I see that?

22 (Pages 82 to 85)

1 CARLO F. MARTINO
 2 A. That --
 3 MS. CLARK: Wait, Carlo.
 4 Okay. Sorry. Go ahead.
 5 A. That generally referred to the
 6 salesperson who called on customers.
 7 Q. Okay.
 8 In 1957 what was your position
 9 with Bakelite?
 10 MS. CLARK: Object to form.
 11 A. I -- let's see. I was in the -- I
 12 believe I was still in the polystyrene business
 13 in R and D.
 14 Q. Okay.
 15 A. Let's see. '48. As best my
 16 recollection that's where I was.
 17 Q. Okay.
 18 Is it safe to assume that you
 19 didn't have anything and were not involved in the
 20 preparation of this document?
 21 A. That's correct.
 22 Q. In looking at it does it appear to
 23 be a document that Union Carbide and Bakelite
 24 company would have prepared in and around the
 25 time 1957?

1 CARLO F. MARTINO
 2 MS. CLARK: Objection.
 3 Foundation.
 4 Calls for speculation.
 5 A. Okay.
 6 Q. Okay.
 7 Is there any reason for you to
 8 believe that this is not a Union Carbide Bakelite
 9 document?
 10 MS. CLARK: Objection.
 11 Foundation.
 12 Calls for speculation.
 13 A. No.
 14 Q. I'm not interested in the entirety
 15 of this document, but I did want to ask you a
 16 couple of things about the section where it deals
 17 with the phenolic resin asbestos composition
 18 which is found on Page 11 of the document.
 19 If you could look at that, sir.
 20 A. (Reviews.)
 21 Yes.
 22 Q. At the top of Page 11 at that
 23 first full paragraph do you see where it says
 24 phenolic resin dash asbestos composition?
 25 A. Yes.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 It says a phenolic resin asbestos
 4 composition, open paren, quote, Haveg, capital
 5 H-a-v-e-g, close paren, comma, Haveg Corp., close
 6 paren, has been developed which makes possible
 7 the economic production of large, complex pieces
 8 of equipment through simplified molding
 9 techniques.
 10 What -- I'm confused by this
 11 reference to the Haveg or Haveg Corporation in
 12 that first sentence.
 13 Do you understand what that
 14 refers --
 15 MR. CLARK: Wait.
 16 Q. -- to, sir?
 17 MS. CLARK: Wait, Carlo.
 18 Okay. Go ahead.
 19 A. Haveg was not part of Union
 20 Carbide or Bakelite.
 21 Q. Okay.
 22 A. My interpretation of this was that
 23 Haveg developed this composition and Louis is
 24 presenting it as an advance in the industry.
 25 Q. Okay.

1 CARLO F. MARTINO
 2 Is this -- in 1957 was Union
 3 Carbide marketing phenolic resin asbestos
 4 composition materials?
 5 A. Like this?
 6 Q. Correct.
 7 A. No.
 8 Q. When did Union Carbide start to
 9 market materials like that's referred to here?
 10 MS. CLARK: Objection.
 11 Misstates testimony.
 12 Assumes facts.
 13 Calls for -- well, that's it.
 14 Vague and ambiguous also.
 15 THE WITNESS: Yeah.
 16 A. Would you repeat that question
 17 again?
 18
 19 BY MR. GALERSTON:
 20 Q. When did Union Carbide's Bakelite
 21 Corporation begin to market its own phenolic
 22 resin asbestos composition material?
 23 MS. CLARK: Objection.
 24 Vague.
 25 Assumes facts.

1 CARLO F. MARTINO
2 A. Now, you're referring to marketing
3 this product?
4 Q. No, sir. Its own version.
5 A. Its own version?
6 Q. Yes, sir.
7 MS. CLARK: Same objection.
8 A. I -- I'd have to go back to the
9 records as to when they first made an asbestos
10 phenolic compound. It would be before I got into
11 the business.
12 Q. Okay.
13 So prior to 1948 Union Carbide's
14 Bakelite division was already marketing
15 asbestos-containing phenolics, correct?
16 A. Molding materials, yes.
17 Q. Okay.
18 And what we're -- if I understand
19 it correctly what we see here on Page 11 this
20 reference to the Haveg Corporation is that this
21 is a special process that's different from what
22 Union Carbide's Bakelite division was using,
23 correct?
24 A. Yes.
25 Q. Okay.

1 CARLO F. MARTINO
2 The next paragraph on Page 11
3 talks about asbestos filler and the use of
4 asbestos within the phenolic product.
5 A. (Reviews.)
6 Q. Do you see that, sir?
7 A. Yes.
8 Q. Okay.
9 Following that it says that in
10 addition to the basic types discussed, phenolics
11 may be classified according to their intended use
12 in commercial and industrial applications. And
13 then it goes on to list general purpose
14 phenolics, general purpose phenolics with
15 improved water resistance, general purpose
16 materials with improved impact strength and then
17 special high impact resistant phenolics.
18 A. (Reviews.)
19 Q. Do you see those, sir?
20 A. Yes.
21 Q. Okay.
22 Is it your understanding that all
23 of those classes of phenolics would contain
24 asbestos?
25 A. No.

1 CARLO F. MARTINO
2 Q. Okay.
3 Which ones would not?
4 MS. CLARK: Wait. Let me see
5 Carlo.
6 THE WITNESS: Here.
7 MS. CLARK: I'm just going to
8 object to vague as to time and overly broad.
9 A. The general purpose phenolic
10 materials would not have asbestos at that time.
11 I would have to check records to
12 determine for sure whether general purpose
13 phenolic would improve water resistance with
14 closure material contained asbestos or not. I
15 don't think it did.
16 I don't think the general purpose
17 material with improved impact strength had
18 asbestos in it.
19 The special high impact resistant
20 phenolic material described here I don't think we
21 made at all. Particularly the cord filled fabric
22 pulp, I mean fiber, well, fabric and cord filled.
23 Fiber would have to be defined better.
24
25 BY MR. GALERSTON:

1 CARLO F. MARTINO
2 Q. On Page 13 we say the
3 classifications for heat resistance phenolics?
4 A. Yes.
5 Q. The heat resistance phenolics,
6 would they contain asbestos?
7 MS. CLARK: Objection.
8 Overly broad.
9 Vague.
10 A. I would have to check the records
11 at that time as to whether the mineral filler
12 they're referring to is asbestos or not.
13 Q. You would agree with me at some
14 time during Union Carbide's manufacture of
15 Bakelite that its general purpose Bakelite did
16 contain asbestos, correct?
17 MS. CLARK: Objection.
18 Overly broad.
19 Vague.
20 A. We had the 5440 which we called
21 general purpose that contained some asbestos, but
22 we also had large volume products called VMG5000
23 which did not contain asbestos.
24 Q. And the 5440, what was the years
25 it was manufactured with asbestos?

1 CARLO F. MARTINO
 2 MS. CLARK: Objection.
 3 Foundation.
 4 A. Would you repeat that question,
 5 please?
 6 Q. What years did Bakelite sell its
 7 5440 formulation containing asbestos?
 8 MS. CLARK: Objection.
 9 Foundation.
 10 A. I'd have to check the records as
 11 when we started selling it.
 12 Q. Okay.
 13 Would you agree with me that the
 14 formulation had asbestos in it through the early
 15 nineteen-seventies before it was discontinued?
 16 MS. CLARK: Objection.
 17 Foundation.
 18 A. It was reformulated during the
 19 seventies and the asbestos was removed. That
 20 would -- so it would only be part of the
 21 seventies where it contained asbestos.
 22 Q. Well, there would be a short
 23 period of time before Union Carbide got out of
 24 the Bakelite --
 25 A. Yes.

1 CARLO F. MARTINO
 2 Q. -- product line, correct?
 3 A. Uh-huh.
 4 Q. In 1969 what was your title with
 5 Union Carbide?
 6 A. I was the group manager of the
 7 phenolic molding material group.
 8 Q. Okay.
 9 (Whereupon, multi page document
 10 entitled Phenolic Molding Material dash Asbestos
 11 Consumption Year 1969, bearing Bates stamps
 12 UCASB00916496 and UCASB00916497, is received and
 13 marked as UCC Exhibit 6 for Identification.)
 14
 15 BY MR. GALERSTON:
 16 Q. I'm going to hand you now what
 17 I've marked as Exhibit Number 6 to your
 18 deposition.
 19 A. (Reviews.)
 20 Q. I ask you to review that. I'll
 21 ask you some questions about that.
 22 A. Yes.
 23 Q. Okay.
 24 I've handed you now what's been
 25 marked as Exhibit Number 6.

1 CARLO F. MARTINO
 2 The title on this document is
 3 Phenolic Molding Material - Asbestos Consumption
 4 year 1999, correct, sir?
 5 A. Yes.
 6 Q. It's a two-page document.
 7 Have you had an opportunity to
 8 review this document prior to today?
 9 A. Yes.
 10 Q. Okay.
 11 When did you last review this
 12 document?
 13 A. Oh, about six years ago.
 14 Q. Okay.
 15 Was it in connection with a
 16 deposition?
 17 A. It was after a deposition.
 18 Q. Okay.
 19 A. When I saw -- well, I saw it
 20 during a deposition.
 21 Q. Okay.
 22 Prior to that time when was the
 23 last time you saw it?
 24 A. Prior to that time?
 25 Q. Yes, sir.

1 CARLO F. MARTINO
 2 A. I don't recall.
 3 Q. Okay.
 4 The phenolic molding material
 5 division is, department or division, whatever you
 6 want to call it --
 7 A. Yeah.
 8 Q. -- that was under your direction
 9 and control in 1969, correct?
 10 A. The customer service and R and D
 11 group were.
 12 Q. Okay.
 13 Do you know who prepared this
 14 document?
 15 A. Manufacturing.
 16 Q. Okay.
 17 If you look at Page 2 in the lower
 18 right-hand corner?
 19 A. Yes.
 20 Q. Appears to be some initials and a
 21 date.
 22 Do you see that?
 23 A. Yes.
 24 Q. HEK 1 slash 29 dash 70?
 25 A. Yes.

1 CARLO F. MARTINO
 2 Q. Okay. Do you know who that would
 3 be?
 4 A. Yes, Herve Kipp, H-e-r-v-e Kipp,
 5 K-i-p-p.
 6 Q. Okay.
 7 What was Mr. Kipp's title in 1969?
 8 A. I don't know. He -- he worked in
 9 manufacturing. I don't recall what the title
 10 was.
 11 Q. Okay.
 12 The document here relates and
 13 reports asbestos consumption for the year of 1969
 14 the phenolic molding materials and there is a
 15 list of various formulations on both pages that
 16 use asbestos, correct?
 17 A. Yes.
 18 Q. Across the top of Page 1 we see
 19 the product name in the far left column. Then we
 20 see 1969 sales and pounds, correct?
 21 A. Yes.
 22 Q. And then we see one, two, three,
 23 five columns that have references to RM-18-B,
 24 RM-18-O, RM-18-P, RM-18-Q and RM-18-S.
 25 A. (Reviews.)

1 CARLO F. MARTINO
 2 Q. Do you see those, sir?
 3 A. Yes.
 4 Q. Those are references to different
 5 classes, classifications of asbestos fibers,
 6 correct?
 7 A. Not necessarily classifications,
 8 but suppliers.
 9 Q. Okay.
 10 Do you know who Union Carbide's
 11 supplier was of the RM-18-B fibers?
 12 A. 18-B?
 13 Q. Well, let me ask it this way: Do
 14 you know who -- can you identify any supplier
 15 with any of these classifications?
 16 MS. CLARK: Objection.
 17 Foundation.
 18 Beyond the scope.
 19 A. I don't recall who each of these
 20 designations refer to.
 21 Q. Okay.
 22 Do you know within a range of who
 23 they would be in 1969?
 24 MS. CLARK: Objection.
 25 Vague and ambiguous.

1 CARLO F. MARTINO
 2 Foundation.
 3 Beyond the scope.
 4 A. One would be Carey mines.
 5 Q. Are you aware of anyone else in
 6 the 1969, 1970 time frame that was supplying
 7 asbestos fiber to Union Carbide Bakelite
 8 division?
 9 MS. CLARK: Objection.
 10 Foundation.
 11 A. I think we purchased some product
 12 from a Vermont asbestos company as well. I don't
 13 recall the name of it.
 14 Q. Okay.
 15 In looking at the chart we see the
 16 first listing for BMG-0500 BK25.
 17 A. (Reviews.)
 18 Q. Do you see that, sir?
 19 A. Yes.
 20 Q. Okay.
 21 I don't recall us ever discussing
 22 a 0500 formulation before.
 23 What does that refer to?
 24 A. It's just a product.
 25 Q. Okay.

1 CARLO F. MARTINO
 2 In the past we discussed that the
 3 first number indicates what type of process is
 4 used in creating if it's a single stage or a
 5 double stage.
 6 A. Yes.
 7 Q. What does zero stand for?
 8 A. That I don't recall.
 9 Q. Okay.
 10 If we look through further down on
 11 the list we see that there is a BMG-0500, a
 12 BMM-0500, BMMA-0500.
 13 A. Uh-huh.
 14 Q. The first line indicates that in
 15 1969 Union Carbide sold ten thousand five hundred
 16 pounds of BMG-500, correct?
 17 A. Of the 0500, yes.
 18 Q. Correct. 0500. Thank you.
 19 The BK stands for the color,
 20 right, black?
 21 A. Yes.
 22 Q. The 25 refers to its packaging, is
 23 that correct?
 24 A. No.
 25 Q. What does the 25 refer to?

1 CARLO F. MARTINO
2 A. 25 is the colorant that's used.
3 Q. Okay.
4 The vast majority of these are 25,
5 correct?
6 A. Yes.
7 Q. There is a few that are 35. What
8 is -- but they're all BKs, correct?
9 A. Yes.
10 Q. So what's the difference between
11 BK25 and BK35?
12 A. BK is black. 25 is nigrosine. I
13 don't recall what 35 is.
14 Q. Okay.
15 What about, there's, I see a 15
16 and a 45 as well.
17 Do you recall what those are?
18 A. The 15 I think is carbon black. I
19 don't recall what 45 is.
20 Q. Okay.
21 In reading this chart, correct me
22 if I'm wrong, it indicates in the first row that
23 BMG-0500 was thirty-eight percent RM-18-B, is
24 that correct?
25 A. Yes.

1 CARLO F. MARTINO
2 Q. Okay.
3 So of ten thousand five hundred
4 pounds of that product that Union Carbide sold,
5 three thousand nine hundred and ninety pounds of
6 that were asbestos, correct?
7 A. Yes.
8 Q. Okay.
9 As we go down the list we can see
10 the variation of the asbestos content in the
11 price that contained asbestos. Not all of
12 these --
13 Strike that.
14 All of these did contain some
15 asbestos, correct?
16 A. All of these, yes.
17 Q. Okay.
18 In looking at this the highest
19 asbestos content that I can see is in BMGA-5430
20 BK45 which was fifty-nine point six percent
21 RM-18-Q.
22 A. (Reviews.)
23 Q. Do you see that, sir?
24 A. What was the number again?
25 Q. BMGA-5430. It's about ten down.

1 CARLO F. MARTINO
2 A. 54.
3 Q. BK45. Follow it across to the
4 right and you'll see it's fifty-nine point six
5 percent asbestos.
6 A. Oh, I see. Yes.
7 Q. You only sold one thousand nine
8 hundred pounds of that. Do you know what that
9 application is?
10 MS. CLARK: Can I get that back?
11 What's the number you said it was?
12 MR. GALERSTON: BMGA --
13 MR. CLARK: B --
14 MR. GALERSTON: -- 430.
15 MS. CLARK: 50?
16 MR. GALERSTON: BK45.
17 MS. CLARK: Right, but you said 59?
18 I see a 5 --
19 THE WITNESS: Over here
20 (indicating.)
21 MS. CLARK: Oh, sorry. I'm looking
22 at the one right above it. I can't tell where
23 counsel is reading.
24 Okay.
25

1 CARLO F. MARTINO
2 BY MR. GALERSTON:
3 Q. More importantly though the
4 witness and I are on the same page.
5 Are we not, sir?
6 A. Yes, we are.
7 MS. CLARK: Counsel, it is more
8 difficult since you didn't give me a copy of your
9 exhibits. So I'm kind of peering over his
10 shoulder to see what you're doing.
11 MR. GALERSTON: Counsel, you have
12 your own copy in front of you. You brought it --
13 they made copies for you yesterday when I made a
14 copy at the office.
15 Did they not give them to you?
16 MS. CLARK: Pardon me? Yeah, they
17 gave us copies of what you --
18 MR. GALERSTON: They gave you
19 copies of everything I made, right.
20 MS. CLARK: Right, but as you've
21 been going through marking your exhibits some I
22 have and some I don't.
23 MR. GALERSTON: But you do have
24 this one, do you not?
25 MS. CLARK: I do now, yes.

1 CARLO F. MARTINO
 2 MR. GALERSTON: Well, you had it
 3 before today. You had it from yesterday.
 4 MS. CLARK: Counsel, that's not the
 5 point.
 6 When you're referring to exhibits
 7 and pointing him to things, it would be nice to
 8 have copies of what you're -- anyway, move on.
 9 MR. GALERSTON: Well, my point is
 10 that you have it so.
 11
 12 BY MR. GALERSTON:
 13 Q. Sir, before we got sidetracked, do
 14 you see that BMGA-5430 BK45 is a fifty-nine point
 15 six percent asbestos content, sir?
 16 A. Yes.
 17 Q. It was a very small product. One
 18 thousand nine hundred pounds of it was sold in
 19 1969.
 20 Do you have any recollection of
 21 what that application is for?
 22 A. No.
 23 Q. Okay.
 24 I assume you don't have any idea
 25 of whether or not the sales were greater or less

1 CARLO F. MARTINO
 2 than that of that product years before or year
 3 after?
 4 A. Not without checking the records.
 5 Q. Looking about, oh, three-quarters
 6 of the way down do you see a reference to
 7 BMMB-5020 BK25, sir?
 8 A. Yes.
 9 Q. Okay.
 10 You see there there was two
 11 million three hundred ninety-one thousand seven
 12 hundred pounds sold of that product.
 13 Do you recall that product
 14 formulation?
 15 A. How much -- you're looking at
 16 BMMB?
 17 Q. Correct, 5020.
 18 A. Right.
 19 Q. Two million three hundred
 20 ninety-one thousand seven hundred pounds sold?
 21 A. Yes.
 22 Q. Okay.
 23 Do you recall what that
 24 formulation was used for or who that customer
 25 would be?

1 CARLO F. MARTINO
 2 A. Customer, no. But that amount --
 3 I don't know what customers bought that, no.
 4 Q. Okay.
 5 Do you remember what that
 6 formulation was used for primarily?
 7 A. It would be a general purpose type
 8 of product.
 9 Q. Okay.
 10 That product has a three point
 11 eight percent asbestos content, correct?
 12 A. Yes.
 13 Q. Looking at the bottom of that page
 14 you see the line where it says forward?
 15 A. Yes.
 16 Q. Okay.
 17 Correct me if I'm wrong, but it
 18 indicates that in 1969 sales on this page alone
 19 represented fifteen million four hundred and
 20 thirty-two thousand pounds of Union Carbide
 21 products, correct?
 22 A. Yes.
 23 Q. And we would have to go across the
 24 row and do the addition to figure out exactly how
 25 much asbestos content was in each of those, but

1 CARLO F. MARTINO
 2 we see that 18-B there was one point zero nine
 3 one million pounds of asbestos and one point two
 4 million pounds of 18-Q, correct?
 5 A. Yes.
 6 Q. So we're looking at somewhere
 7 around two point five million pounds of asbestos
 8 represented on Page 1, correct?
 9 A. Yes.
 10 Q. Okay.
 11 On Page 2 we see the rest of the
 12 products that contained asbestos, the majority of
 13 them requiring that RM-18-Q, you see that, sir?
 14 A. Would you repeat that again?
 15 Q. Page 2.
 16 A. Yes.
 17 Q. When we look at the asbestos
 18 content of these products these, I don't know,
 19 forty, forty-five different products, on Page 2
 20 the vast majority of them called for the RM-18-Q,
 21 correct?
 22 A. Yes.
 23 Q. We see 1969 RM-18-B the total was
 24 one million one hundred and fifty-one thousand
 25 eight hundred and seven pounds, correct?

1 CARLO F. MARTINO
 2 A. Yes.
 3 Q. RM-18-O, twenty-five thousand one
 4 hundred and sixteen pounds, correct?
 5 A. Yes.
 6 Q. RM-18-P, fifty-three thousand
 7 seven hundred and ninety pounds?
 8 A. Yes.
 9 Q. RM-18-Q one million five hundred
 10 and seventy-six thousand one hundred and nineteen
 11 pounds?
 12 A. Yes.
 13 Q. And then RM-18-S sixty-seven
 14 thousand five hundred and sixty-three pounds,
 15 correct?
 16 A. Yes.
 17 Q. Do you know was this type of chart
 18 prepared for every year that Union Carbide
 19 manufactured asbestos-containing phenolic
 20 moldings?
 21 A. No. This was done for a study to
 22 determine if all of these products could be put
 23 on one production line.
 24 Q. Okay.
 25 If I understand it in the

1 CARLO F. MARTINO
 2 nineteen-seventies there was a question of
 3 whether or not you could mechanize the
 4 production?
 5 A. Yeah.
 6 Q. Is that correct?
 7 A. Yes.
 8 Q. At the same time there was a study
 9 as to whether or not to go, to leave the Carey
 10 Canadian which had been the primary asbestos
 11 fiber supplier to Manville or possibly start
 12 using the Union Carbide Calidria, correct?
 13 MS. CLARK: Objection.
 14 Vague.
 15 Misstates facts.
 16 A. The Calidria was considered
 17 because of a pelleted product that they were
 18 making, and also I think they were delivering it
 19 in closed containers or were planning to anyway.
 20 As far as I know we did not leave Carey, at least
 21 during the time I was there.
 22 Q. Okay.
 23 Carey had been the primary
 24 supplier, but there was a look to see whether or
 25 not you would leave --

1 CARLO F. MARTINO
 2 A. Yes, yes.
 3 Q. Do you have a recollection as to
 4 the asbestos consumption between 1968 and '69
 5 whether or not this would have been higher or
 6 lower?
 7 MS. CLARK: Objection.
 8 Foundation.
 9 Calls for speculation.
 10 A. Would you repeat that again,
 11 please?
 12 Q. Sure.
 13 Do you recall whether or not Union
 14 Carbide's Bakelite's division consumption of
 15 asbestos would have increased or decreased in
 16 1969 from its 1968 levels?
 17 MS. CLARK: Objection.
 18 Foundation.
 19 Calls for speculation.
 20 A. There was a gradual increase. I
 21 don't have any figures for '68, but there was a
 22 gradual increase up to this. This was the peak.
 23 Q. Okay.
 24 '69 was the high watermark for the
 25 asbestos consumption?

1 CARLO F. MARTINO
 2 A. Yes.
 3 Q. And then it tapered off until it
 4 barely dropped quickly and then ended, correct?
 5 A. Yes.
 6 Q. And that would have been '74?
 7 A. Yes.
 8 Q. In 1969 at the peak of Union
 9 Carbide's use of asbestos in its phenolic molding
 10 materials, Union Carbide and Bakelite were not
 11 putting any warnings on any of its materials as
 12 to the hazards associated with asbestos, correct?
 13 A. That's right.
 14 Q. The first warning on any Bakelite
 15 product appeared in what year?
 16 A. I think it --
 17 MS. CLARK: Objection.
 18 Vague and ambiguous.
 19 A. I think it was 1973.
 20 Q. Okay, sir.
 21 (Whereupon, multi page document on
 22 Union Carbide Corporation letterhead dated
 23 February 29th, 1972, not bearing Bates stamps, is
 24 received and marked as UCC Exhibit 7 for
 25 Identification.)

1 CARLO F. MARTINO
2
3 BY MR. GALERSTON:
4 Q. I'm going to hand you what I've
5 now, marked as Exhibit Number 7 to your
6 deposition.
7 A. (Reviews.)
8 MR. GALERSTON: If you want to look
9 at mine while he looks at that one and you can
10 pass it back to me.
11 MS. CLARK: Thanks.
12 A. Okay.
13
14 BY MR. GALERSTON:
15 Q. Okay.
16 Sir, what I've handed you there is
17 Exhibit Number 7.
18 Is that a document you're familiar
19 with?
20 A. Yes.
21 Q. Okay.
22 It's a multi page document with
23 several attachments to it.
24 Does it appear to be a complete
25 document to the best of your knowledge?

1 CARLO F. MARTINO
2 Well, let me ask it this way.
3 MS. CLARK: I'm going to object to
4 foundation.
5 Q. The documents that are attached,
6 do you believe those are properly attached to
7 that letter?
8 MS. CLARK: Objection.
9 Foundation.
10 Calls for speculation.
11 MR. GALERSTON: Thank you.
12 A. And what was your question?
13
14 BY MR. GALERSTON:
15 Q. Do the attachments to this
16 document, do these appear to be related to the
17 subject matter that are Page 1 of Exhibit 7?
18 A. Yes.
19 Q. Okay.
20 Exhibit 7 is a February 29th, 1972
21 Union Carbide memo which was directed to you,
22 correct?
23 A. Yes.
24 Q. We see your name in the top left
25 where it says C.F. Martino.

1 CARLO F. MARTINO
2 That would be you, correct?
3 A. Yes.
4 Q. This is talking about the transfer
5 of certain formulations BMMA-5440/5441 BK25DC,
6 BMRS-5440/5441 BK25DC. Then I think it says
7 some, some or one in handwriting.
8 A. What was that again?
9 Q. Pardon?
10 See where it says BMRS-5440?
11 A. Okay, I see where you mean.
12 Q. Slash 5441?
13 A. Yes.
14 Q. BK25DC?
15 A. Right.
16 Q. And then it says one or some. I'm
17 not sure. Do you know what that says there?
18 A. Looks like someone's initials.
19 Q. Okay.
20 And then BMMA-5138 BK25DC,
21 correct?
22 A. Yes.
23 Q. These are products that are being
24 transferred to Canada, correct?
25 A. No.

1 CARLO F. MARTINO
2 Q. Where are they being transferred
3 to?
4 A. This is a transfer to the
5 manufacturing organization.
6 Q. Oh, okay.
7 I think I've got it confused with
8 another letter.
9 So these are formulations that
10 have been finalized and approved by R and D for
11 actual usage?
12 A. Yes.
13 Q. Okay.
14 Eight pages into this document
15 there is the sideways chart (indicating).
16 A. This one? Yes.
17 Q. I believe so.
18 It's -- this is the materials unit
19 grade for BMMA-5440/5441, correct?
20 A. Yes.
21 Q. Okay.
22 In looking at this document and
23 correct me where I'm wrong, this on the top
24 indicates that this is a reformulation that
25 replaced a former formulation of January 17th.

1 CARLO F. MARTINO
2 1972, correct?
3 A. Yes.
4 Q. Okay.
5 Looking at this we see listings of
6 the various components that are in this and we
7 see on Line 1, 2, 3, 4, 5, 6 we see material code
8 Number 18176 RM-18-Q which we understand is a
9 type of asbestos, correct?
10 A. Yes.
11 Q. Okay.
12 THE WITNESS: (Indicating.)
13 MS. CLARK: Okay.
14
15 BY MR. GALERSTON:
16 Q. It indicates in the -- well, after
17 we have the RM-18-Q three hundred and sixty is a
18 number that carries forward.
19 Is that three hundred and sixty
20 pounds per batch?
21 A. That's, yes, pounds per mix.
22 Q. Okay.
23 So if the total weight is
24 forty-two hundred pounds, this is somewhere
25 around eight or nine percent of the total

1 CARLO F. MARTINO
2 product, correct?
3 A. Yes.
4 Q. Okay.
5 If you go to the next material
6 sheet which is about five pages from the end
7 which pertains to MR -- BMRS-5440/5441.
8 You see that one, sir?
9 A. Yes.
10 Q. Okay.
11 We see the same formulation here,
12 the RM-18-Q asbestos, three hundred and sixty
13 pounds for a forty-two hundred pound batch,
14 correct?
15 A. Yes.
16 Q. Again, approximately eight to nine
17 percent of the total weight, correct?
18 A. Yes.
19 Q. And then the last page of the
20 exhibit which is BMMA-5138 we see again the
21 RM-18-Q asbestos three hundred and sixty pounds
22 in a forty-two hundred pound batch, correct?
23 A. Yes.
24 Q. I want to go back to the first
25 page of this exhibit.

1 CARLO F. MARTINO
2 The second paragraph it states
3 that BMMA-5441 BK25DC nomenclature was
4 established to identify this type product when
5 additional testing is required for the government
6 specification MIL-M-14F, comma, type CFG.
7 A. (Reviews.)
8 Q. Do you see that, sir?
9 A. Yes.
10 Q. Okay.
11 Do you recall Union Carbide's
12 Bakelite division having its BMMA-5441 placed on
13 the government's qualified products list?
14 A. I don't recall if we ever got
15 that. I'd have to check the records.
16 Q. Clearly according to this there
17 was some attempt to get it on there, correct?
18 A. Yes, yes.
19 Q. Are you aware of any products that
20 Union Carbide's Bakelite division had
21 successfully placed on the military's qualified
22 products list?
23 A. Yes. There was a 05 -- 0750 I
24 believe.
25 Q. Okay. What kind of product was

1 CARLO F. MARTINO
2 that?
3 A. That was a mica-filled product.
4 Q. Was that the only one to the best
5 of your knowledge?
6 A. I don't recall others. There may
7 be others. I'd have to check the records.
8 Q. Okay.
9 (Whereupon, two-page document
10 dated October 5th, 1972, not bearing Bates
11 stamps, is received and marked as UCC Exhibit 8
12 for Identification.)
13
14 BY MR. GALERSTON:
15 Q. I'm going to hand you now what
16 I've marked as Exhibit Number 8 which is an
17 October 5th, 1972 Union Carbide memo regarding
18 General Electric.
19 A. (Reviews.)
20 Q. You're familiar with this
21 document, are you not, sir?
22 A. Familiar with this document?
23 Q. Yes, sir.
24 A. Yes.
25 Q. Okay.

1 CARLO F. MARTINO
 2 We discussed this tangentially
 3 earlier when we talked about the typographical
 4 error in the exhibit when it says that G.E. got
 5 out of or removed asbestos from its phenolics in
 6 1972.
 7 Do you remember that?
 8 A. Yes.
 9 Q. Okay.
 10 This is an October 5th, 1972 memo
 11 that states that General Electric had announced
 12 that it was going to eliminate asbestos from its
 13 phenolics in 1972, correct?
 14 A. Yes.
 15 Q. Okay.
 16 This decision by General Electric
 17 to remove asbestos from its phenolics helped to
 18 move Union Carbide away from the use of asbestos.
 19 Would you agree?
 20 MS. CLARK: Objection.
 21 Foundation.
 22 Calls for speculation.
 23 A. Not initially. General Electric
 24 just immediately stopped producing product and
 25 introduced asbestos-free product which was not

1 CARLO F. MARTINO
 2 accepted very well.
 3 At this stage the decision as to
 4 what we should do had not been made. It
 5 certainly pushed us in that direction.
 6 Q. You see in the last partial
 7 sentence of Paragraph 1 it talks about one of
 8 General Electric's locations which was molding
 9 asbestos materials was cited for violations of
 10 OSHA regulations specifying the minimum asbestos
 11 content in the air.
 12 A. (Reviews.)
 13 Q. Do you see that, sir?
 14 A. Yes.
 15 Q. Do you recall hearing about that
 16 in 1972?
 17 A. No. Well, I'm on the distribution
 18 of the letter. When I received the letter I
 19 became aware of it.
 20 Q. Okay.
 21 In October of 1972 what was your
 22 position at Union Carbide?
 23 A. What was what?
 24 Q. What was your position?
 25 A. Oh, the general, the group manager

1 CARLO F. MARTINO
 2 of the molding R and D group.
 3 Q. Okay.
 4 Was manufacturing part of your
 5 responsibility?
 6 A. No.
 7 Q. Okay.
 8 So if General Electric's
 9 manufacturing facility was being cited for
 10 asbestos problems, that would not be something
 11 that would raise alarm bells in your mind for
 12 your operations, correct, because you weren't
 13 over manufacturing?
 14 A. We monitored our own operation.
 15 So we knew whether or not we met the OSHA
 16 regulations or not.
 17 Q. You weren't responsible for
 18 manufacturing, correct?
 19 A. No.
 20 Q. Okay.
 21 You weren't responsible for seeing
 22 that OSHA rules and regulations were followed as
 23 for the manufacturing facility, correct?
 24 A. I was not responsible for that,
 25 no.

1 CARLO F. MARTINO
 2 Q. You were responsible for the lab,
 3 correct?
 4 A. Right, that's correct.
 5 Q. In the third paragraph in the
 6 middle of it there is a discussion with regards
 7 to what I understand to be one of Union Carbide's
 8 customers Texas Instruments.
 9 A. (Reviews.)
 10 Q. Do you see that, sir?
 11 A. Yes.
 12 Q. Okay.
 13 It states there, it says Texas
 14 Instruments which uses about seven hundred and
 15 fifty million pounds annually of Genal 4300, open
 16 paren, asbestos filled, comma, is preparing to
 17 begin a full scale evaluation of G.E. heat
 18 resistant materials using other fillers instead
 19 of asbestos.
 20 A. (Reviews.)
 21 Q. Did I read that correctly, sir?
 22 A. Yes.
 23 You said seven hundred and fifty
 24 million. I think that -- that's an awfully large
 25 figure. I think it's seven hundred and fifty

1 CARLO F. MARTINO
2 thousand.
3 Q. Okay.
4 It says seven hundred and fifty M,
5 capital M, right?
6 A. Yeah, yeah. I don't think the
7 total volume of molding materials was that high.
8 Q. Okay.
9 A. Anyway that --
10 Q. Well, I appreciate what you're
11 saying. I have seen other times when people say
12 that one M means thousands and two Ms means --
13 A. Yeah.
14 Q. -- millions which I think must be
15 something related to Roman numerals. I'm not
16 certain.
17 A. Yeah.
18 Q. But it's your understanding that's
19 seven hundred and fifty thousand pounds of Genal
20 4300, correct?
21 A. Yes.
22 Q. Genal 4300, what type of product
23 is that?
24 A. That was a G.E. molding material.
25 Q. Okay.

1 CARLO F. MARTINO
2 This is a G.E. customer, not a
3 Union Carbide customer, is that correct?
4 A. Yes.
5 Q. Okay.
6 Genal, is it a phenolic?
7 A. Genal is the name they use to
8 designate their molding materials.
9 Q. Okay.
10 Is that different from Textolite?
11 A. Yes.
12 Q. What is your understanding of the
13 difference between Textolite and Genal?
14 A. Textolite is a laminate.
15 Q. Okay.
16 A. The Genal is the molding material.
17 Q. The letter Exhibit Number 8 is
18 signed by Mr. S.B. Nelson, correct?
19 A. Yes.
20 Q. Mr. Nelson is an industrial
21 hygienist, is that correct?
22 A. Is the what?
23 Q. Industrial hygienist?
24 A. I don't recall what his title was.
25 I don't know.

1 CARLO F. MARTINO
2 Q. Page 2, Exhibit 8, the second to
3 last paragraph, recommendations for Mr. Nelson as
4 to what should be done.
5 The second line of that paragraph
6 says, first, it should immediately be determined
7 with the existing OSHA requirements whether the
8 molder risks any possible repercussions in OSHA
9 violations by using asbestos filled molding
10 materials.
11 A. (Reviews.)
12 Q. Do you see that, sir?
13 A. Yes.
14 Q. Okay.
15 You see off to the right it says
16 can't do.
17 Do you see that handwritten over
18 there?
19 A. Yes.
20 Q. Okay.
21 Do you know of any reason why
22 Union Carbide could not determine whether or not
23 the molder risks any possible repercussions in
24 OSHA violations by using asbestos filled molding
25 materials?

1 CARLO F. MARTINO
2 MS. CLARK: Objection.
3 Assumes facts.
4 Calls for speculation.
5 Foundation.
6 A. I don't know why he said can't do
7 and I don't know who said it either.
8 Q. Let me ask you this: In looking
9 at Page 1 you see the handwritten note to
10 E.A. Lawrence dash urgent?
11 A. Yes.
12 Q. And it's signed by E., is it
13 Krummel?
14 A. Krummel, yes.
15 Q. Would you agree with me the "can't
16 do" appears to be the same handwriting as
17 Mr. Krummel's on Page 1?
18 MS. CLARK: Objection.
19 Calls for speculation.
20 A. I don't know.
21 Q. Okay.
22 I assume you never discussed this
23 letter or the notations on it with Mr. Krummel?
24 A. That I what?
25 Q. Discussed this letter?

Page 130 1 CARLO F. MARTINO 2 A. Yes. 3 Q. Or the notations on it with 4 Mr. Krummel? 5 A. There was some discussion as what 6 he meant by problem or opportunity. 7 Q. Those would have been discussions 8 that would have been contemporary in 1972? 9 A. Yes. 10 Q. Okay. 11 Did you ever go back and discuss 12 with him since you started testifying in asbestos 13 cases with regards to any matters related to this 14 letter? 15 A. No, he's dead. 16 Q. Okay. 17 How long has he been dead? 18 A. Oh, I guess fifteen, twenty years. 19 Q. So he would have died prior to 20 your retirement? 21 A. Yes. 22 Q. What about Mr. Nelson, is 23 Mr. Nelson alive? 24 A. I don't know. 25 Q. Do you know if anybody at Union	Page 132 1 CARLO F. MARTINO 2 Q. Are you familiar with this 3 exhibit? 4 A. I have not seen it before. 5 Q. Okay. 6 Exhibit Number 9 as I indicated is 7 a November 28th, 1972 letter from William R. 8 Bradley to -- we can't see exactly to who it is 9 because it's covered up by a Union Carbide 10 routing slip, correct? 11 A. It is to D.R. Albright. 12 Q. Okay. 13 Well, sir, I'll represent to you 14 that what we see here in the top left on the 15 squiggly lines -- 16 A. Yes. 17 Q. -- appears to be something that 18 was taped on, posted or something like that 19 because you see it covers up part of the 20 letterhead from Mr. Bradley's, from William R. 21 Bradley and Associates? 22 A. Oh, yes. 23 Q. Okay. 24 You see right below that squiggly 25 line it says dear Mr. Neal?
Page 131 1 CARLO F. MARTINO 2 Carbide has made an effort to contact Mr. Nelson 3 to discuss this letter or anything else he's done 4 related to asbestos at Union Carbide's Bakelite 5 division? 6 A. No. 7 MS. CLARK: Objection. 8 Foundation. 9 A. No. 10 Q. Was Mr. Nelson still with Union 11 Carbide when you retired in 1996? 12 MS. CLARK: Foundation. 13 A. I don't recall. 14 (Whereupon, two-page document on 15 William R. Bradley and Associates letterhead, 16 dated November 28th, 1972, not bearing Bates 17 stamps, is received and marked as UCC Exhibit 9 18 for Identification.) 19 20 BY MR. GALERSTON: 21 Q. Sir, I'm going to hand you now a 22 November 28th, 1972 letter marked as Exhibit 23 Number 9 and ask you if you're familiar with this 24 document? 25 A. And what was your question?	Page 133 1 CARLO F. MARTINO 2 A. (Reviews.) 3 Q. And you can see off to the 4 squiggly lines it says something about "ation," 5 it looks like corporation and then something 6 about looks like probably in New Jersey 08805. 7 It appears that a portion of this 8 letter is covered up? 9 A. Yeah, I see what you mean. 10 Q. Okay. 11 You would agree with me that what 12 is within the squiggly lines in the top left 13 appears to be routing copies of this letter to 14 various Union Carbide employees, correct? 15 A. Yes. 16 Q. Okay. 17 One of those would include 18 yourself, correct? See Mr. C.F. Martino? 19 A. Okay. I did get a copy. 20 Q. And you see there's an arrow 21 written within that little square? 22 A. Yes. 23 Q. Indicating that this copy that 24 we're looking at would have been sent to 25 J.M. Swalm?

Page 134 1 CARLO F. MARTINO 2 A. Uh-huh. 3 Q. Bound Brook, BB stands for Bound 4 Brook, Bound Brook, correct? 5 A. Yes. 6 Q. Not so easy for me to say. 7 So are you familiar with William 8 Bradley's work that he did where he came in and 9 did an industrial hygiene survey of the Bound 10 Brook facility? 11 A. I have to read this just to see, 12 to recall whether I, you know -- 13 Q. Certainly. 14 A. I'm on the distribution list so I 15 must have read it, but I just don't recall it. 16 Q. Fair enough. Take your time. Let 17 me know when you've finished looking at it. 18 A. Objection. 19 MS. CLARK: Thanks. 20 MR. GALERSTON: Certainly. 21 22 BY MR. GALERSTON: 23 Q. So my question, sir, was were you 24 aware of Mr. Bradley's work at the Bound Brook 25 plant in 1972?	Page 136 1 CARLO F. MARTINO 2 MS. CLARK: Objection. 3 Foundation. 4 A. They're both chrysotile asbestos. 5 Q. You don't have any comment, do 6 you, with regards to the exposure levels that 7 Mr. Bradley found at the facility, do you? 8 MS. CLARK: Objection. 9 Vague and ambiguous. 10 Foundation. 11 A. No. I wasn't aware that that high 12 a fiber content was found. At least I don't, 13 didn't recall it. 14 Q. Okay. 15 A. But I'm sure that there was rapid 16 reaction to this. 17 Q. Okay. 18 You're not -- you're not in a 19 position to dispute Mr. Bradley's report? 20 A. No. 21 Q. Or to dispute the accuracy of the 22 Exhibit Number 9, are you? 23 A. No. 24 Q. Okay. 25 (Whereupon, multi page document on
Page 135 1 CARLO F. MARTINO 2 A. Not in this detail, no. 3 Q. Okay. 4 You don't recall the reporting 5 with regards to the handling of the asbestos 6 material in the plant? 7 A. No. 8 Q. You'll notice in the review of the 9 report it does not indicate what type of asbestos 10 is being used, does it? 11 A. No, it doesn't. 12 Q. It doesn't mention who the 13 supplier was as well. 14 Do you know what type of asbestos 15 would be used in 1972 and who the supplier was? 16 MS. CLARK: Objection. 17 Foundation. 18 A. Carey Mines was one of our biggest 19 suppliers, but there was one other. So I don't 20 know which he was doing the tests on. 21 Q. The Vermont supplier? 22 A. Yes. 23 Q. Do you recall what type or grade 24 that the Vermont supplier was providing that 25 Carey could not?	Page 137 1 CARLO F. MARTINO 2 Union Carbide letterhead, dated March 14th, 1973, 3 bearing Bates stamps UCASB01929086 through 4 UCASB01929087, is received and marked as UCC 5 Exhibit 10 for Identification.) 6 7 BY MR. GALERSTON: 8 Q. Sir, I'm going to hand you now 9 what I've marked as Exhibit Number 10 to your 10 deposition which is a March 14th, 1973 Union 11 Carbide internal memo regarding product labeling 12 asbestos. 13 A. (Reviews.) 14 Q. Okay? 15 A. Uh-huh, yes. 16 Q. Are you familiar with this 17 document, sir? 18 A. Well, I was on the distribution 19 list so I must have read it at the time. I don't 20 recall the details. Okay. Okay, yes, this was 21 the response to that experiment we ran. 22 Q. Okay. Okay. 23 I forgot to write the number down. 24 Exhibit Number 10, have you 25 reviewed that prior to today's deposition not

35 (Pages 134 to 137)

1 CARLO F. MARTINO
 2 contemporaneous with the publication of this
 3 document?
 4 Let me re-ask that question. It's
 5 a very, very bad question, okay.
 6 MR. GALERSTON: Kate, you're not
 7 doing your job. You didn't object to that as
 8 being stupid.
 9 MS. CLARK: I was trying to come up
 10 with the --
 11 A. I don't give her a --
 12 MR. CLARK: -- right descriptor.
 13 A. I didn't give her a chance.
 14
 15 BY MR. GALERSTON:
 16 Q. Mr. Martino, have you reviewed
 17 Exhibit Number 10 in connection with your
 18 testifying on behalf of Union Carbide in asbestos
 19 litigation?
 20 A. You mean before this?
 21 Q. Yes, sir. Before today.
 22 A. The experiment that this refers to
 23 was discussed in some previous depositions, yes.
 24 This particular letter I don't think -- well, it
 25 could have been included in some of the previous

1 CARLO F. MARTINO
 2 depositions too.
 3 Q. Okay.
 4 MR. GALERSTON: Do you have some
 5 more labels?
 6 COURT REPORTER: (Indicating.)
 7 MR. GALERSTON: I thought so.
 8 (Whereupon, multi page document
 9 bearing Bates stamps A03192 through A03206, is
 10 received and marked as UCC Exhibit 11 for
 11 Identification.)
 12
 13 BY MR. GALERSTON:
 14 Q. Sir, I'm going to hand you now
 15 what I'm marking as Exhibit Number 11.
 16 A. (Reviews.)
 17 Q. And ask you if these appear to be
 18 pages related to what you called the experiment.
 19 A. Yes, uh-huh.
 20 Q. Okay.
 21 Exhibit 11 which is, the first
 22 page says W.D. Neal, industrial hygiene
 23 measurements 9/72 dash 12/73.
 24 A. Yes.
 25 Q. This is an industrial hygiene

1 CARLO F. MARTINO
 2 study, or I guess study would be the right word,
 3 that Mr. Neal did in the laboratory, is that
 4 correct?
 5 A. Yes, he did it with us.
 6 Q. With us meaning research and
 7 development?
 8 A. I was involved, yes.
 9 Q. Okay.
 10 And when we look at Exhibit 10 and
 11 we see reference to, excuse me, Paragraph 1 of
 12 Exhibit 10 when it talks about Mr. Neal's
 13 findings as to the hazard of exposure to airborne
 14 asbestos in the handling of our present
 15 asbestos-containing molding material products by
 16 downstream users, that's referring to Exhibit 11?
 17 A. Yes, but it's not a complete
 18 statement.
 19 Q. Which part is not complete?
 20 A. The one in the letter.
 21 Q. Okay.
 22 There is portions or information
 23 that you believe that's relevant that's found in
 24 Exhibit 11 that do not find their way into
 25 Exhibit 10?

1 CARLO F. MARTINO
 2 A. Yes.
 3 Q. Okay.
 4 Well, we can talk about that in
 5 more detail.
 6 MR. GALERSTON: I would suggest
 7 we're about to run out of time on the tape, we're
 8 at a good breaking point. Let's break for lunch
 9 and we can come back and talk about that.
 10 MS. CLARK: Okay.
 11 THE VIDEOGRAPHER: The time is
 12 11:54.
 13 This ends Tape 2 of the videotaped
 14 deposition of Carlo Martino.
 15 We are off the record.
 16 (Whereupon, the witness is
 17 excused.)
 18 (Whereupon, a luncheon recess is
 19 taken at 11:54 a.m.)
 20
 21
 22
 23
 24
 25

1 CARLO F. MARTINO
 2 AFTERNOON SESSION
 3 (1:04 p.m.)
 4 THE VIDEOGRAPHER: Stand by,
 5 please.
 6 The time is 1:04.
 7 This begins Tape 3 of the
 8 videotaped deposition of Carlo Martino.
 9 We are on the record.
 10 MR. GALERSTON: Thank you, sir.
 11
 12 CARLO F. MARTINO,
 13 residing at 125 River Road, Branchburg, New Jersey
 14 08876, having been previously duly sworn or
 15 affirmed by a Notary Public within and for the
 16 States of New York and New Jersey, resumed and
 17 continued to testify further as follows:
 18 CONTINUED EXAMINATION BY MR. GALERSTON:
 19 Q. Mr. Martino, you're prepared to
 20 continue?
 21 A. Yes.
 22 Q. Okay.
 23 Did you have a nice lunch?
 24 A. Yes, I did.
 25 Q. Okay.

1 CARLO F. MARTINO
 2 We were discussing Exhibits 10 and
 3 Exhibit 11 which relate to some industrial
 4 hygiene testing done by Mr. Neal at Union
 5 Carbide, correct?
 6 A. Yes.
 7 Q. Okay.
 8 According to Exhibit 11 it states
 9 there that the documents contained therein are
 10 industrial hygiene measurements taken September
 11 1973 through December of 1973.
 12 A. (Reviews.)
 13 Q. Do you see that, sir?
 14 A. Yes.
 15 Q. What we have here I don't believe
 16 extends into 1973, does it? I think we may have
 17 an incomplete file? I take that back. These
 18 earlier ones are 1973, are they not? 5/30/02.
 19 Let me ask you this, sir: Do you
 20 see anything that says December 1972, '3 on it?
 21 A. No.
 22 Q. Okay.
 23 MS. CLARK: Other than on the cover
 24 you mean?
 25 MR. GALERSTON: Yes, other than the

1 CARLO F. MARTINO
 2 cover, right.
 3
 4 BY MR. GALERSTON:
 5 Q. Okay.
 6 Sir, if we look at the second page
 7 of Exhibit Number 11 which is Bates numbered
 8 UCASB01875409.
 9 A. (Reviews.)
 10 Q. Do you see that, sir?
 11 A. Yes.
 12 Q. It indicates testing done on
 13 August 10th I assume 1991.
 14 Do you see that, sir?
 15 A. Where do you see the date?
 16 Q. 8/10-1?
 17 A. Oh, yes. It says 5, May 25th.
 18 5/25.
 19 Q. 5/25. Where do you see that, sir?
 20 A. Right here (indicating).
 21 Q. Okay.
 22 The previous page.
 23 A. Okay.
 24 Q. The second page of the exhibit,
 25 you see that one now? It's -- if you look at the

1 CARLO F. MARTINO
 2 bottom it should be Page 409.
 3 A. (Indicating.)
 4 Q. Still -- go --
 5 MS. CLARK: It's the second --
 6 MR. GALERSTON: Right. He
 7 hadn't --
 8
 9 BY MR. GALERSTON:
 10 Q. Forward one more. No, not
 11 backwards. Go back. I should say backwards, not
 12 forwards. Excuse me. That one.
 13 A. That one, okay.
 14 Q. Okay.
 15 Does it say 409 in the lower
 16 right?
 17 A. Yes.
 18 Q. Okay.
 19 When you look at the top it says
 20 13 colon 40.
 21 A. (Reviews.)
 22 Q. Do you see that?
 23 A. Yes.
 24 Q. Okay.
 25 And right below that you see it

1 CARLO F. MARTINO
2 says asbestos testing?
3 A. Yes.
4 Q. To the left of that it says
5 8/10/1, correct?
6 A. Yes.
7 Q. It says August 10th, 1991?
8 MS. CLARK: Objection.
9 Misstates facts.
10 Q. What does that mean to you, sir,
11 8/10-1?
12 A. I don't know.
13 Q. Okay.
14 It says it's asbestos testing.
15 Then the product that appears is BMM-5303, is
16 that correct?
17 A. Yes.
18 Q. Okay.
19 MS. TAYLOR: Excuse me, one second.
20 I would like to confirm with the court reporter or
21 any counsel that this deposition only applies to
22 Whitmire and not Baker.
23 This is Gordon & Rees calling.
24 MS. CLARK: Who is speaking?
25 MR. GALERSTON: Who is speaking?

1 CARLO F. MARTINO
2 MS. TAYLOR: This is Elizabeth
3 Taylor from Gordon & Rees to confirm that this is
4 only -- this deposition only applies to Whitmire
5 and not Baker.
6 MR. GALERSTON: That has not been
7 concluded. That's an open issue.
8 MS. CLARK: Yes, and just to be
9 clear, it's our position, Union Carbide's position
10 that it applies to both, but there's an ongoing
11 dispute about that.
12 MS. TAYLOR: Okay. Thank you very
13 much.
14 MR. GALERSTON: All right.
15 BY MR. GALERSTON:
16 Q. All right, sir.
17 We're looking at Page 2 of Exhibit
18 Number 11 and I'm trying to understand the
19 information that's contained in this exhibit.
20 You have had an opportunity to
21 review the documents contained in Exhibit 11
22 before, correct?
23 A. Yes, I have.
24 Q. And have you actually testified by

1 CARLO F. MARTINO
2 deposition or at trial regarding the contents of
3 these documents?
4 A. No.
5 Q. Okay.
6 Looking at the second page which
7 ends in Bates Number 409 we see 8-10-1 asbestos
8 testing of BMM-5303.
9 Right underneath testing it
10 appears to be the word damaged? Do you know?
11 MS. CLARK: Objection.
12 Misstates the document.
13 A. I can't make that out.
14 Q. Okay.
15 It says thirteen and a half and
16 then it looks like bags equals six hundred and
17 seventy-five pounds.
18 A. (Reviews.)
19 Q. Do you see that?
20 A. Yes.
21 Q. Okay.
22 A. Yeah. That's about right.
23 Q. Okay.
24 A. That should be fifty pound bags.
25 So that would be -- yeah.

1 CARLO F. MARTINO
2 Q. Okay.
3 A. Would be right.
4 Q. And I believe it says in unit B
5 following the six hundred and seventy-five
6 pounds. That's the unit that was mixing the
7 product?
8 A. Now, this -- the tests were run in
9 our laboratory where we made our experimental
10 materials. I'm not sure that this is the
11 experiment that I was involved with.
12 Q. Okay.
13 Let me go ahead and let's go to
14 the next page and see if this helps clarify.
15 We're now looking at Bates number
16 ending in 410 which is the third page of Exhibit
17 Number 11.
18 You see where it says 5/31?
19 A. Yes.
20 Q. On the left?
21 A. Uh-huh.
22 Q. And it says started at 8:20. It
23 says personnel Bernie Greenbaum or some --
24 A. Looks like Graebert.
25 Q. Okay. Is that a name that you

1 CARLO F. MARTINO
 2 recognize?
 3 A. Graebert, yes. He used to be the
 4 department head there.
 5 Q. Okay.
 6 Department head in laboratory or
 7 in manufacturing?
 8 A. Manufacturing.
 9 Q. Okay.
 10 Again, it says it -- it makes a
 11 reference to unit B. That's a manufacturing
 12 unit, correct?
 13 A. Yes.
 14 Q. Okay.
 15 A. I take that back. I see personnel
 16 G-r-a-e-b-e-i-a. Doesn't look like Graebert.
 17 Q. Okay. Maybe Graebeia or something
 18 like that?
 19 A. Yeah, yeah. I don't recognize
 20 him.
 21 Q. Not somebody that worked in your
 22 lab?
 23 A. No.
 24 Q. Okay.
 25 Unit B, of course, we said you

1 CARLO F. MARTINO
 2 indicated that would still be manufacturing,
 3 right?
 4 A. Unit B is one of the manufacturing
 5 units.
 6 Q. Okay.
 7 Then it says time four minutes.
 8 It says dumped six and a half bags Calidria,
 9 correct?
 10 A. Yes.
 11 Q. And then it says 200X.
 12 Do you know if that's for two
 13 hundred pounds?
 14 MS. CLARK: Foundation.
 15 A. Calidria SG two hundred is a
 16 designation of the pelleted asbestos.
 17 Q. Okay.
 18 So you read that to mean this is a
 19 test of the pelleted Calidria?
 20 A. Yes.
 21 Q. Okay.
 22 Then it goes on, it says rather
 23 dusty conditions, correct?
 24 A. I don't see the dusty condition.
 25 Q. Following the Calidria 200X rather

1 CARLO F. MARTINO
 2 dusty conditions.
 3 MS. CLARK: It's up (indicating).
 4 THE WITNESS: Oh, over there?
 5 A. Okay, yes.
 6
 7 BY MR. GALERSTON:
 8 Q. Okay.
 9 It says due to dropping full bags
 10 on floor prior to discharging --
 11 A. Uh-huh.
 12 Q. -- in north chute.
 13 A. Yeah.
 14 Q. Also visible dust from dispersed
 15 drum which was nearly filled with previously
 16 emptied bags, correct?
 17 A. Yes.
 18 Q. Okay.
 19 We go on and then we see that
 20 there is some more testing done on 6/1 in two
 21 locations, 6/1-1 and then 6/1-2?
 22 A. Yes.
 23 Q. Then summary it says OSHA sample
 24 Carey two point five fibers per millimeter and
 25 then right below it says Calidria 200X some

1 CARLO F. MARTINO
 2 numbers and then off to the right it says average
 3 2.0, correct?
 4 A. Yeah, yes.
 5 Q. Were you involved in this testing?
 6 A. No.
 7 Q. Okay.
 8 This is part of that study that
 9 was done to see whether or not Union Carbide was
 10 going to go to Calidria from the Carey that it
 11 had been using?
 12 A. Yes.
 13 Q. Carey fibers?
 14 A. Yes, the pelleted Carey --
 15 Calidria.
 16 Q. Was this testing that was done at
 17 your request or was this testing that was done at
 18 someone else's request?
 19 A. Not my request.
 20 Q. So when we look at Exhibit 10
 21 which talks about Mr. Neal doing some studies or
 22 tests at the request of Mr. Martino and
 23 Mr. Ealer, these are -- what we looked at so far
 24 in Exhibit 11 are not those tests, right?
 25 A. That's right.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 Let's continue with Exhibit 11.
 4 Looking at Bates number ending
 5 413.
 6 I'm sorry, 412, I skipped ahead,
 7 do you see that one ending in 412, sir?
 8 A. Yes.
 9 Q. Okay.
 10 It appears to be 3/27/73 at the
 11 top left.
 12 Do you see that?
 13 A. Yes.
 14 Q. Okay.
 15 And over to the right it says bay
 16 4 CB dust sampling.
 17 A. (Reviews.)
 18 Q. Did I read that correctly?
 19 A. Bay 4 would be a manufacturing
 20 area.
 21 Q. Okay.
 22 CB dust sampling, do you know what
 23 that refers to?
 24 A. No.
 25 Q. Okay.

1 CARLO F. MARTINO
 2 Does this appear -- what's
 3 reported here also below that is 3/29/73 building
 4 4 MM lab asbestos testing.
 5 A. (Reviews.)
 6 Q. Do you see that, sir?
 7 A. Yes.
 8 Q. Okay.
 9 A. That's molding material lab.
 10 Q. Okay. That would be your lab?
 11 A. No.
 12 Q. Okay.
 13 A. Manufacturing.
 14 Q. So again what we see on Bates
 15 Number 412 would not be the studies that you had
 16 requested being done?
 17 A. That's right.
 18 Q. Have you reviewed this document
 19 before?
 20 A. No.
 21 Q. Okay.
 22 Let's look at 413. The same
 23 question, if you recognize this and does this
 24 appear to be related to the testing that you
 25 requested being done?

1 CARLO F. MARTINO
 2 A. It is not.
 3 Q. Okay.
 4 This appears to be dated 3/30/73.
 5 CB sampling Line 9, DFD 0144.
 6 Do you know what that refers to?
 7 A. That would not be a phenolic
 8 molding material. I don't know what it is.
 9 Q. Okay.
 10 Over to the right about halfway
 11 down the writing there, there appears to be a
 12 calculation and then to the right it says 4.1
 13 something slash --
 14 A. On Page 413?
 15 Q. Yes, sir.
 16 A. Yeah.
 17 Q. I'll show you here.
 18 A. Yeah.
 19 Q. I've highlighted it on mine.
 20 A. Okay.
 21 Q. Right up there. See it says 4.1
 22 something.
 23 A. Yes.
 24 Q. Can you make out what that is? Do
 25 you have any idea what that is?

1 CARLO F. MARTINO
 2 A. No.
 3 MS. CLARK: Foundation.
 4 Q. Okay. All right.
 5 Let's go ahead and turn to the
 6 next page which is, ends, Bates number ending in
 7 414.
 8 A. (Reviews.)
 9 Q. This appears to be dated 3/26/73.
 10 A. Yes.
 11 Q. Dust building 105 mezzanine.
 12 Do you see that, sir?
 13 A. Yes.
 14 Q. Okay.
 15 Are you familiar with building
 16 105?
 17 A. This is not even the phenolic
 18 area.
 19 Q. Okay.
 20 A. It's one of the manufacturing
 21 buildings.
 22 Q. There's a reference to a name
 23 Weiss, W-e-i-s-s.
 24 Do you know who Mr. Weiss is?
 25 A. Don't know.

1 CARLO F. MARTINO
2 Q. Soltis, S-o-l-t-i-s right below
3 Weiss?
4 A. No. W-e-i-s-s? Yeah.
5 Q. Correct.
6 A. No, no, I don't know him.
7 Q. Soltis, S-o-l-t-i-s?
8 A. No, I don't know him.
9 Q. Okay.
10 Let's turn to the next page Bates
11 number ending in 415, date 2/26/73.
12 A. Yes.
13 Q. Canadian Pacific Railroad.
14 A. (Reviews.)
15 Q. Do you see that, sir?
16 A. Yes.
17 Q. Have you reviewed this document
18 before, sir?
19 A. No.
20 Q. Okay.
21 In looking at this can you tell if
22 this is with regards to delivery of asbestos or
23 some other products?
24 MS. CLARK: Foundation.
25 A. I can't tell.

1 CARLO F. MARTINO
2 Q. Did Union Carbide receive its
3 Carey asbestos by rail?
4 MS. CLARK: Foundation.
5 A. I don't, I don't remember.
6 Q. Okay.
7 Let's turn to the next Bates
8 number ending in 416.
9 A. (Reviews.)
10 Q. It appears to be a date of 2/22
11 and it says asbestos, I can't make out the next
12 word.
13 Can you make that out, sir?
14 A. No, I can't.
15 Q. Asbestos something samples. It
16 looks like it's dated 2/16.
17 Have you reviewed this document
18 before, sir?
19 A. No.
20 Q. Towards the bottom of the writing
21 on that Page 416 there are some calculations with
22 some times.
23 Do you recall seeing reports
24 indicating exposure levels in the point six one
25 five, point four one, point three three or the

1 CARLO F. MARTINO
2 eight point two levels?
3 A. No.
4 Q. Okay.
5 Staying on Page 416, it appears to
6 be sample 1, open paren, it says JM Number 3.
7 Do you see that?
8 A. Yes.
9 Q. Do you recall studying
10 Johns-Manville fibers?
11 A. No.
12 Q. Okay.
13 Let's look at the next page Bates
14 number ending in 417.
15 A. (Reviews.)
16 Q. This seems to say something about
17 a parallel sample with Elliott Mason, New Jersey
18 Department of Labor.
19 Do you see that?
20 A. Yes.
21 Q. Okay. Unit B, bin, excuse me,
22 BMM-5303 BK25 seems to be what's being studied,
23 correct?
24 A. Yes.
25 Q. It appears it says changes. Then

1 CARLO F. MARTINO
2 it says something bag slash 7RF9 at fifty pounds
3 equals three hundred and fifty pounds?
4 A. Yes.
5 Q. Okay.
6 A. That adds up.
7 Q. Seven bags?
8 A. Yes.
9 Q. Seven bags of 7RF9 at fifty pounds
10 equals three hundred and fifty pounds. Okay.
11 Do you know whose asbestos product
12 was referred to as 7RF9?
13 MS. CLARK: Objection.
14 Foundation.
15 A. No, I don't.
16 Q. Okay.
17 Would it surprise you to find out
18 that that's a Johns-Manville product?
19 A. It is?
20 Q. I believe it is.
21 A. Oh, okay.
22 Q. Appears to be start at 14:16:30.
23 Left until -- it says start at 14:16:30. Stop at
24 14:26:30. Equals ten minutes at twenty -- at
25 twenty-one milliliters per minute equals twenty

Page 162 1 CARLO F. MARTINO 2 liters. 3 Does that appear to be what it 4 says there, sir? 5 MS. CLARK: Foundation. 6 Calls for speculation. 7 THE WITNESS: Yeah. 8 A. I don't know what that means. 9 10 BY MR. GALERSTON: 11 Q. Okay. 12 Below that it says millipore 2 13 dash 8 dash 3 and then there is a chart that has 14 some countings. 15 A. Yeah. 16 Q. Which you'd agree with me it 17 appears to be the asbestos fibers that whoever is 18 doing this prepared this document found, correct? 19 MS. CLARK: Objection. 20 THE WITNESS: Yeah. 21 MS. CLARK: Calls for speculation. 22 Misstates facts. 23 A. I am not familiar with what he has 24 there. 25	Page 164 1 CARLO F. MARTINO 2 would be asbestos? 3 A. I don't -- 4 MS. CLARK: Objection. 5 Foundation. 6 A. Is that 41 -- 7 Q. 8. 8 A. -- 8? It says carbon here. 9 Q. In the middle you see where it 10 says dump six bags carbon in two minute? 11 A. Yes. 12 Q. Okay. 13 I see that as well. 14 I also see something about a dead 15 battery. 16 Carbon, was that an additive used 17 in phenolics? 18 A. Some -- 19 MS. CLARK: Vague as to time. 20 Go ahead. 21 A. Some carbon black was used for the 22 black 15, but this doesn't appear to be the 23 phenolic molding area. They're talking about 24 Banbury operator here. 25 Q. A what kind of operator?
Page 163 1 CARLO F. MARTINO 2 BY MR. GALERSTON: 3 Q. Okay. 4 You have not reviewed this 5 document prior to today? 6 A. No. 7 Q. Okay. 8 Next Bates number ending in 418. 9 It says weighted millipore filter for gravimetric 10 dust sampling. 11 A. (Reviews.) 12 Q. Do you see that, sir? 13 A. Which -- 14 Q. 418. 15 A. 418? 16 Q. No, no, the same document. 17 A. Oh, okay. 18 Q. Bates number ending in 418. 19 A. Yes. 20 Q. Okay. 21 Do you recall reviewing this 22 document prior to today? 23 A. No, I do not see it. 24 Q. Do you know whether or not the 25 material that's being studied in this document	Page 165 1 CARLO F. MARTINO 2 A. Banbury. 3 Q. What's a Banbury? 4 A. That's way down in the bottom. 5 Q. Okay. Yeah. I see that there by 6 A03202? 7 A. Yes. 8 Q. What does a Banbury operator do? 9 A. A Banbury is like a big kneader. 10 Q. Measuring device? 11 A. Yeah, a mixing device, yeah. It's 12 like a machine that, a big dome machine. 13 Q. Okay. 14 A. That's used for thermoplastics. 15 Q. Next is a document ending in Bates 16 Number 419 dated 12/6/72, dust samples for G.E., 17 Ealer or Martino? 18 A. Yes. 19 Q. Okay. 20 Does this appear to be related to 21 the studies that we talked about in Exhibit 10? 22 A. Yes. 23 Q. Okay. 24 It has four runs listed on the 25 left. It says Run 1, BMM-5303 BK25 with external

1 CARLO F. MARTINO
 2 additive.
 3 A. Yes.
 4 Q. What does that mean?
 5 A. It had some additive to keep the
 6 dust down.
 7 Q. Okay.
 8 G.E. Ealer dumped five bags in
 9 five minutes, five-minute intervals. Then it
 10 says 2, dump on light dusting, is that correct?
 11 A. Yes.
 12 Q. Okay.
 13 Have you reviewed this document
 14 prior to today?
 15 A. I've seen the document that
 16 summarizes this experiment. I haven't -- this
 17 looks like the notebook sheet that was used
 18 during the time it was running the experiment.
 19 Q. This appears to be Mr. Neal's
 20 notes from the time that he did this?
 21 A. This is a notebook page.
 22 Q. Okay.
 23 Do you understand what that means
 24 when he dumped five bags in five-minute intervals
 25 2 dump on light dusting?

1 CARLO F. MARTINO
 2 A. No.
 3 Q. The next line it says Run 2,
 4 BMG-2080 BK25, very dusty to exemplify wood
 5 cellulose fibers?
 6 A. Yes.
 7 Q. Filter black?
 8 A. Yes.
 9 Q. Number 2 pump 68?
 10 A. Can't tell what that is. It could
 11 be on.
 12 Q. I think above it was Number 2 pump
 13 on --
 14 A. On.
 15 Q. -- colon, light dusting.
 16 A. Uh-huh.
 17 Q. This just says Number 2 pump on.
 18 Okay.
 19 BMG-2080, do you recall whether or
 20 not that is an asbestos-containing product?
 21 MS. CLARK: Vague. Vague,
 22 ambiguous.
 23 A. At the time of this test -- I'd
 24 have to check the formula for, at this particular
 25 date. It did not normally have asbestos in it.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 5303 did contain asbestos, right?
 4 A. Yes.
 5 Q. Run 3 states that BMM-5303 black
 6 as is unmodified filter clean Number 2 pump
 7 something reduced found blue paper spacer between
 8 filter and mat. Okay.
 9 A. (Reviews.)
 10 Q. Did I read that correctly?
 11 A. Yes.
 12 Q. Okay.
 13 Run Number 4, BME-5000 BK.
 14 Another asbestos-containing product, correct?
 15 A. Yes. No, not, not BMG-5000. That
 16 was all wood flower fill.
 17 Q. Okay.
 18 As is dusty, but readily settled
 19 Number 1 pump like 5303?
 20 A. Yes.
 21 Q. Okay.
 22 Then it says Run 1, Slide 1, two
 23 point nine fibers per milliliter. Then there is
 24 a calculation three point three I believe it says
 25 above.

1 CARLO F. MARTINO
 2 Can you tell?
 3 MS. CLARK: Objection.
 4 Misstates document.
 5 Q. Can you tell what that says, sir?
 6 A. Yeah. I don't know what that
 7 means.
 8 Q. Okay.
 9 Then it says slide 2, three point
 10 seven fibers per milliliter. Range three to four
 11 fibers per milliliter.
 12 Do you see that?
 13 A. Yes.
 14 Q. Okay.
 15 Then right below that it says
 16 something nine point zero. It appears that there
 17 is some whiting out there.
 18 Do you see that?
 19 A. Yeah.
 20 MS. CLARK: Objection.
 21 Misstates document.
 22 A. You know, these are all notes of
 23 how he -- referring to the equipment he was using
 24 I believe.
 25 Q. Okay.

1 CARLO F. MARTINO
2 The next line says Run Number 2,
3 too dense to see fibers. Many tiny particles,
4 right?
5 A. Yes.
6 Q. Run 3, no sample collected, due to
7 inter --
8 A. Leaf.
9 Q. -- leaf in filter?
10 A. Right.
11 Q. Number 4, too dense to accurately
12 count. All fibers characterized of wood?
13 A. Uh-huh.
14 Q. Okay?
15 A. Yes.
16 Q. Okay.
17 This is the first time that you've
18 actually reviewed these notes from this test that
19 Mr. Neal did?
20 A. Yes.
21 Q. Okay.
22 Let's turn to the next page Bates
23 number, ending in Bates Number 420 dated
24 11/10/72.
25 Test for asbestos in finished

1 CARLO F. MARTINO
2 products material BMM-5303 BK25 for G. Ealer,
3 correct?
4 A. Yes.
5 Q. Okay.
6 This is again continuing in the
7 study that is referenced in Exhibit 10?
8 A. Yes.
9 Q. Okay.
10 Sample 1, personal, five minutes
11 at two liters per minute. Dumping from fifty
12 pound bags, open paren, one per minute, close
13 paren, into fiber drum.
14 A. (Reviews.)
15 Q. Did I read that correctly?
16 A. Yes.
17 Q. Okay.
18 Number 2, area sample four feet
19 away from drum, approximately one foot above and
20 away from natural draft.
21 A. (Reviews.)
22 Q. Did I read that correctly?
23 A. Yes.
24 Q. And in between those two, that one
25 and two there appears to be something written

1 CARLO F. MARTINO
2 there, it says to R.W. --
3 A. Cope.
4 Q. -- Cope?
5 A. Yes.
6 Q. 11/13/71 confir --
7 A. Confirmation.
8 Q. Confirmation. Okay.
9 Do you know who Mr. R.W. Cope is?
10 A. No.
11 Q. Okay.
12 All right.
13 Sample 3, repeat run of sample 1
14 with J. Sanderson.
15 A. Yes.
16 Q. Close -- open paren, more dust,
17 close paren. Pump disconnected in last minute,
18 close paren.
19 Am I reading that correctly?
20 A. (Reviews.)
21 Q. Then right below that it says 2,
22 open paren, some dust noticed blowing from drain
23 into filter, right?
24 A. Yes.
25 Q. Okay.

1 CARLO F. MARTINO
2 Number 5, repeat of Run 1
3 except --
4 A. Material.
5 Q. -- material. Thank you -- was
6 sprinkled?
7 A. Repacked.
8 Q. Repacked -- thank you -- from drum
9 to used bags, then bags again dumped for tests.
10 Note, dust appeared just as severe as when fresh
11 material was first dumped from bags.
12 A. Uh-huh.
13 Q. Number 6, repeat of Number 2.
14 Then it appears to be number
15 slides 1, 2 and 3 which all have numbers 6.9,
16 10.6, 10.8, 7.1 which then is divided by four for
17 9.0 fibers per cc, correct?
18 A. Yes.
19 Q. Exhibit ending Bates Number 420,
20 this is the first time that you've had an
21 opportunity to review these notes too, sir?
22 A. Yes.
23 Q. Okay.
24 This appears to be two separate
25 studies that Mr. Neal was undertaking at your and

Page 174 1 CARLO F. MARTINO 2 Mr. Ealer's, Ealer's request? 3 A. Why do you -- 4 MS. CLARK: Assumes facts. 5 A. Why do you say separate? 6 Q. Are these continuation the same? 7 A. They're different dates. Okay. 8 Q. One appears to be studying the 9 handling of a finished product as stated at the 10 top of Bates number ending in 420 and the page 11 that's 419 appears to be the original mixing? 12 MS. CLARK: Objection. 13 Assumes facts. 14 A. They're both finished products. 15 Q. Okay. 16 419 is also studying the finished 17 product? 18 A. Yes. That's the BMM-5303. Plus 19 the others that are there too are finished 20 products. 21 Q. The next page is a page ending in 22 Bates Number 421 which is 10/11/72 nuisance dust 23 study done in building 105. 24 A. (Reviews.) 25 Q. Do you see that, sir?	Page 176 1 CARLO F. MARTINO 2 prepared by Mr. Swalm which is his response to 3 Mr. Neal's work, correct? 4 A. Yes. 5 Q. Okay. 6 Mr. Swalm's memo is dated March 7 14th, 1973. 8 Do you know the date of Mr. Neal's 9 report regarding his study? 10 MS. CLARK: Foundation. 11 Calls for speculation. 12 A. I don't remember the number -- the 13 date. 14 Q. Okay. 15 Would have preceded this one, 16 correct? 17 A. Yes. 18 Q. Have you reviewed Mr. Neal's 19 original report and findings since you have 20 retired from Union Carbide? 21 A. I did see it, yes. 22 Q. Did you see it in a deposition? 23 A. It was part of a deposition, yes. 24 Q. Okay. 25 I have not had an opportunity to
Page 175 1 CARLO F. MARTINO 2 A. Yes. 3 Q. This is not related to the work 4 that Mr. Neal was doing at your request, correct? 5 A. No. 6 Q. And page ending in Bates Number 7 422 appears to be a continuation of the previous 8 page, correct? 9 A. No. 10 MS. CLARK: Speculation. 11 Foundation. 12 A. No, it does not. 13 Q. Okay. 14 It says unit C continued. That 15 doesn't mean continued from the previous page? 16 MS. CLARK: Same objections. 17 Q. I agree with you, sir. They don't 18 appear to be related to me either now that I look 19 at them a little more closely. Okay. 20 So the two pages in Exhibit 11 21 which related to the work that Mr. Neal did at 22 your request were 419 and 420, correct? 23 A. Yes. 24 Q. Okay. 25 Exhibit Number 10 is a memo	Page 177 1 CARLO F. MARTINO 2 find it. 3 Can you describe to me the length 4 of the report? 5 A. Oh. I don't recall how many 6 pages. I just recall, you know, what was in it. 7 Q. Okay. 8 And what was Mr. Neal's findings? 9 A. As I recall -- 10 MS. CLARK: Objection. 11 Foundation. 12 A. As I recall the 5303 that 13 contained thirty percent asbestos did not meet 14 OSHA regulation, minimum limits. Products that 15 contained less, fifteen percent or less asbestos 16 did. This was on a -- we were not allowed -- we 17 didn't finish the test. The OSHA regulation 18 allows you to go to a time weighted average over 19 an eighty-hour period which we didn't do. 20 It also allows you to analyze the 21 fibers and determine which are asbestos and which 22 are cellulosic fibers which we didn't do. 23 At that point we were told it 24 didn't make any difference what we came up with. 25 We're going to put labels on the bags and on

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1 CARLO F. MARTINO
 2 everything. So that was the extent of it. I
 3 don't think we did any more work.
 4 Q. The statement that we find in
 5 Exhibit Number 10 in the last paragraph on Page 1
 6 where it says that Mr. Neal took samples of
 7 artificially created dust clouds which showed
 8 that airborne concentrations well above the ten
 9 fibers per cc ceiling exposure limit could,
 10 comma, indeed, comma, be generated from products
 11 containing high amounts of regular, open paren,
 12 Carey, close paren, asbestos, period.
 13 A. Yes.
 14 Q. That's consistent with what you
 15 were just describing, correct?
 16 A. Yes, yes. This was done under the
 17 worst possible conditions that we could think of.
 18 Q. Prior to this testing that
 19 Mr. Neal did in late 1972 or early 1973 to
 20 determine the asbestos released from the handling
 21 of Union Carbide's Bakelite materials, had any
 22 other testing been done to determine whether or
 23 not the end product would release asbestos fibers
 24 when handled or mishandled?
 25 MS. CLARK: Foundation.

1 CARLO F. MARTINO
 2 Calls for speculation.
 3 A. It was -- the routine testing was
 4 done in manufacturing at the finished end of the
 5 line to determine if there were, you know, if it
 6 meant OSHA regulations and, you know, that's
 7 before it went into the bags or Gaylords and as
 8 far as I know we always passed.
 9 Q. Prior to 1972 when OSHA was
 10 enacted or late 1971 when the emergency standards
 11 went into effect --
 12 A. Yeah, yeah.
 13 Q. -- had Union Carbide undertaken
 14 any efforts to study whether or not asbestos
 15 fibers released from its Bakelite
 16 asbestos-containing products?
 17 MS. CLARK: Foundation.
 18 Calls for speculation.
 19 Beyond the scope of the notice.
 20 A. This is prior to when the OSHA
 21 test was introduced?
 22 Q. Correct.
 23 A. Prior?
 24 MS. CLARK: Same objections.
 25 A. If there was I don't know.

1 CARLO F. MARTINO
 2 Q. Okay.
 3 You're not aware of any such
 4 studies?
 5 A. No.
 6 Q. Correct?
 7 A. No.
 8 MR. GALERSTON: Do you know what,
 9 I'm sorry, I'm going to have to take a break.
 10 MS. CLARK: Okay.
 11 THE VIDEOGRAPHER: The time is
 12 1:45.
 13 We are going off the record.
 14 (Whereupon, a short recess is
 15 taken.)
 16 THE VIDEOGRAPHER: Stand by,
 17 please.
 18 The time is 1:53.
 19 We are on the record.
 20 MR. GALERSTON: All right.
 21
 22 BY MR. GALERSTON:
 23 Q. Sir, looking at Exhibit 10, the
 24 second paragraph starting with OSHA 1910.93A.
 25 A. (Reviews.)

1 CARLO F. MARTINO
 2 Q. Do you see that, sir?
 3 A. Yes.
 4 Q. Okay.
 5 The paragraph starts off with a
 6 recitation of the OSHA rule regarding labeling of
 7 products containing asbestos. And it says except
 8 where asbestos fibers have been modified by a
 9 bonding agent, coating, binder or other material
 10 so that during any reasonable foreseeable use,
 11 handling, storage, disposal, processing or
 12 transportation, no airborne concentration in
 13 excess of the exposure limits prescribed will be
 14 released.
 15 The writer goes on to state that
 16 under these terms effective July 7th, 1972 we,
 17 meaning Union Carbide, chose to not label our,
 18 Union Carbide's, asbestos-containing molding
 19 materials presuming that with reasonable usage no
 20 hazardous levels would be reached with our
 21 products. We did not find high levels in final
 22 product handling areas of our own production
 23 operations, although dusty conditions were
 24 encountered.
 25 A. (Reviews.)

1 CARLO F. MARTINO
 2 Q. Do you agree with that statement,
 3 sir?
 4 A. Yes.
 5 Q. Okay.
 6 What study had Union Carbide done
 7 of its asbestos-containing Bakelite materials to
 8 determine that the asbestos in it was bonded and
 9 not readily released?
 10 MS. CLARK: Objection.
 11 Foundation.
 12 Calls for speculation and an expert
 13 opinion.
 14 Beyond the scope.
 15 A. Prior to this, these experiments,
 16 as I mentioned before, was the measuring the
 17 release from the product before it went into the
 18 final package.
 19 Q. Okay.
 20 In 1972 when the OSHA standards
 21 went in effect, Union Carbide understood that its
 22 Bakelite materials that it was manufacturing and
 23 selling were materials that were going to be used
 24 by electrical equipment manufacturers to prepare
 25 component parts for other materials that they

1 CARLO F. MARTINO
 2 were going to sell to consumers, right?
 3 A. Yes.
 4 MS. CLARK: Objection.
 5 Overly broad.
 6 Ambiguous.
 7 Q. Union Carbide knew that its
 8 Bakelite materials would be molded into hard
 9 plastic-type materials that would then be sent
 10 into the field and used by third parties,
 11 correct?
 12 A. Yes.
 13 MS. CLARK: Overly broad.
 14 Ambiguous.
 15 Give me a chance.
 16 THE WITNESS: Sorry.
 17
 18 BY MR. GALERSTON:
 19 Q. With that understanding what did
 20 Union Carbide do to determine whether or not
 21 asbestos fiber would be released when that
 22 finished hardened plastic was used in the field?
 23 MS. CLARK: Objection.
 24 Beyond the scope.
 25 Calls for expert opinion.

1 CARLO F. MARTINO
 2 Calls for speculation.
 3 A. The finished molded part was made
 4 to specifications with holes and attachments so
 5 that it did not need to be machined or drilled.
 6 It just could be attached or put into wherever it
 7 was supposed to be put. That was not -- we did
 8 not consider that a potential problem.
 9 We did run tests where we did our
 10 own machine grinding on a molded plaque to
 11 determine that in the event that it was done,
 12 what was released be unsafe and as I recall, we
 13 were well within OSHA limits, very low, but I
 14 have not been able to find the documentation that
 15 was made at that time and even though I've asked
 16 for it, nobody seems to be able to locate it.
 17 Q. Object to the non-responsive
 18 nature of the answer.
 19 When is it your recollection that
 20 this testing of the plaque was done?
 21 A. Probably in the same time frame as
 22 this.
 23 Q. Okay.
 24 This being the 1992 -- '72, '73
 25 study?

1 CARLO F. MARTINO
 2 A. Yes.
 3 Q. Okay.
 4 Would the study have been done by
 5 Mr. Neal?
 6 MS. CLARK: Foundation.
 7 Calls for speculation.
 8 A. Somebody would be there to take
 9 the samples and run them, but I don't recall
 10 whether it was Mr. Neal or not.
 11 Q. Okay.
 12 Prior to the studies which, the
 13 1972, 1973 studies including the grinding of the
 14 molded plaque and the studies done by Mr. Neal
 15 which are reflected in Exhibits 10 and 11, is it
 16 correct to assume that Union Carbide had not
 17 attempted to study asbestos fiber release from
 18 its Bakelite asbestos-containing products?
 19 MS. CLARK: Objection.
 20 Foundation.
 21 Calls for speculation.
 22 Beyond the scope.
 23 A. Prior to the introduction of the
 24 test?
 25 Q. Yes. The ones that we just talked

Page 186 1 CARLO F. MARTINO 2 about in Exhibits 10 and 11 and the plaque 3 grinding. 4 A. Oh, prior to that? 5 MS. CLARK: Same objections and 6 misstates testimony. 7 A. Tests were run in our laboratory 8 as soon as the OSHA test was made available to 9 determine whether the environment was safe for 10 people working there. 11 Q. Okay. 12 A. That was done in all the 13 laboratories and repeated periodically. 14 Q. So as of '71, '72 time period, 15 correct? 16 A. Yeah, yeah. 17 Q. Prior to 1971 the enactment of the 18 emergency standards of OSHA and the studies that 19 we've seen reflected in Exhibits 10, 11 and the 20 molded plaque grinding study done by your lab, is 21 it fair to assume that Union Carbide did not 22 study asbestos fiber release from either its 23 finished products or the materials that it sold 24 to its customers? 25 MS. CLARK: Objection.	Page 188 1 CARLO F. MARTINO 2 Q. This is a multi materials meeting 3 that was held May 18th, 1973, correct? 4 A. Yes. 5 Q. The memo was prepared by 6 F.A. Schillinger? 7 A. Yes. 8 Q. Is that correct? 9 A. Yes. 10 Q. And he was reporting to you, 11 Mr. Potter and Mr. Stringer, correct? 12 A. Yes. 13 Q. Okay. 14 The first section is with regards 15 to the movement of several product lines to 16 Canada, correct? 17 A. Yes. 18 Q. It makes reference to 2080, 2035, 19 0750, 3001 and 5418 and -- 5418, correct? 20 A. Yes. 21 Q. Were any of those 22 asbestos-containing formulas? 23 MS. CLARK: Foundation. 24 A. I'm not sure about -- I'd have to 25 look at the sheets to determine that.
Page 187 1 CARLO F. MARTINO 2 Assumes facts. 3 Calls for speculation. 4 Foundation. 5 Beyond the scope. 6 A. Prior to that time, if anything 7 was done I was not aware of it. 8 (Whereupon, two-page Union Carbide 9 internal memo dated May 29, 1973, not bearing 10 Bates stamps, is received and marked as UCC 11 Exhibit 12 for Identification.) 12 13 BY MR. GALERSTON: 14 Q. Sir, I'm going to hand you now 15 what I'm going to mark as Exhibit Number 12 to 16 your deposition. 17 A. (Reviews.) 18 Q. I ask you if you're familiar with 19 that document, sir. 20 A. Okay. 21 Q. Okay, sir. 22 Exhibit Number 12 appears to be a 23 Union Carbide internal memo dated May 29th, 1973, 24 correct? 25 A. Yes.	Page 189 1 CARLO F. MARTINO 2 Q. Okay. 3 A. I don't recall. 4 Q. When several of these, several of 5 these and other formulations were ultimately 6 successfully transferred to Canada or to Bakelite 7 Canada, correct? 8 A. Yes. I'm trying to recall why we 9 did this. 10 Q. Well, sir, my question is is that 11 when Union Carbide in the United States, the 12 Bakelite Corporation stopped creating and selling 13 phenolics in 1974, '75 time period, did Bakelite 14 Canada continue selling them? 15 MS. CLARK: Objection. 16 Foundation. 17 A. I left the area in 19, mid 1973 I 18 think to go to a new assignment. So I don't know 19 what happened after that. They were still in 20 business when I was there and we were still in 21 business. 22 I could understand this if these 23 were low volume products and some of them are. 24 0750 was. 5418 was. 2080 -- 25 MS. CLARK: There is no question

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Page 190 1 CARLO F. MARTINO 2 pending, Carlo. 3 THE WITNESS: Yeah, yeah, okay. 4 THE VIDEOGRAPHER: Counsel, can we 5 go off the record for a minute? 6 MR. GALERSTON: We certainly may. 7 THE VIDEOGRAPHER: The time is 8 2:07. 9 We are going off the record. 10 (Whereupon, a short recess is 11 taken.) 12 THE VIDEOGRAPHER: Stand by, 13 please. 14 The time is 2:08. 15 We are on the record. 16 MR. GALERSTON: All right. 17 18 BY MR. GALERSTON: 19 Q. I believe that we have 20 successfully solved our technical issues. 21 We were discussing Exhibit Number 22 12. 23 I want to ask you specifically on 24 Page 2 of Exhibit 12 -- 25 A. Yeah.	Page 192 1 CARLO F. MARTINO 2 3 BY MR. GALERSTON: 4 Q. What is a standard Gaylord? 5 A. That would refer to a standard 6 size. 7 Q. Okay. 8 Standard size box? 9 A. Yes. 10 Q. Is that a standard size electrical 11 box? 12 A. No. 13 MS. CLARK: Objection. 14 Misstates testimony. 15 A. No. A Gaylord is a package that 16 multi material was put into a barge and shipped. 17 Q. Okay. 18 So if I understand you correctly 19 Union Carbide's Bakelite materials would be 20 shipped out in bags? 21 A. (Indicating.) 22 Q. In drums? 23 A. (Indicating.) 24 Q. In boxes, correct? 25 A. Yes.
Page 191 1 CARLO F. MARTINO 2 Q. -- Number 10 talks about obsolete 3 twenty-nine inch Square D boxes. 4 A. (Reviews.) 5 Q. Do you see that? 6 A. Yes. 7 Q. It says F.A. Schillinger was 8 supplying F.E. Potter or is it P.E. Potter? 9 A. P.E. Potter. 10 Q. P.E. Potter the specification on 11 these boxes versus standard Gaylords. 12 A. Uh-huh. 13 Q. Potter will determine if they can 14 be used for other customers to avoid the two 15 thousand six hundred and forty dollar write off. 16 What kind of boxes are you talking 17 about there, twenty-nine inch Square D boxes? 18 MS. CLARK: Objection. 19 Foundation. 20 Calls for speculation. 21 MR. KINSEY: Let me join. 22 A. No, I don't know. 23 COURT REPORTER: Who was that on 24 the phone? 25 MR. KINSEY: This is Jeff Kinsey.	Page 193 1 CARLO F. MARTINO 2 Q. Boxes I take it then came in 3 different sizes? 4 A. No. The box is the Gaylord. 5 Q. Okay. 6 How big is a Gaylord? 7 A. Oh, about roughly four-by-four. 8 Oh, actually more than that. Maybe 9 five-by-five-by-five. 10 Q. Okay. 11 Does the reference here to the 12 obsolete twenty-nine inch Square D boxes indicate 13 to you that Square D was a supplier of boxes to 14 Union Carbide? 15 MS. CLARK: Objection. 16 Foundation. 17 Calls for speculation. 18 MR. KINSEY: Join. 19 A. No, they did not supply Gaylords 20 to us. 21 22 BY MR. GALERSTON: 23 Q. Can you make any sense of what's 24 there in reference 10? 25 MS. CLARK: Just wait.

Page 194 1 CARLO F. MARTINO 2 A. I-- 3 MS. CLARK: Carlo, wait a minute, 4 please. 5 THE WITNESS: Yeah. 6 MS. CLARK: Same objections. 7 A. If there was a twenty-nine inch 8 size Gaylord I was not aware of it. 9 10 BY MR. GALERSTON: 11 Q. Item Number 8 asbestos warning 12 label, new bags had been ordered with an asbestos 13 warning statement, delivery expected in June. 14 Is that consistent with your 15 recollection that the first warnings went out in 16 '73? 17 A. Yes. 18 Q. Okay. 19 (Whereupon, multi page document 20 entitled Bakelite Corporation Raw Material Code, 21 Number 1, RM-1 and up, bearing Bates stamps 22 A11948 through A11956, is received and marked as 23 UCC Exhibit 13 for Identification.) 24 MR. GALERSTON: Okay. 25	Page 196 1 CARLO F. MARTINO 2 Q. And this appears to be a 3 follow-up. There is a Number 2 of the raw 4 material codes, correct? 5 A. Yes. 6 Q. I believe it says copy and has a 7 date 6/87 on it? 8 A. On which page? 9 Q. Oh, actually I guess all of them 10 have it. The first page says 6/87, does it not? 11 See up where it says copy 6/87? 12 A. Yes. 13 Q. Okay. 14 A. There are different dates on each 15 of the pages. 16 Q. Okay. 17 So when we look at the second page 18 of this exhibit which is ending in Bates Number 19 400 it's revised 12/12/61, correct? 20 A. Yes. 21 Q. And then we see a definition of 22 the various asbestos fibers used by Union Carbide 23 in the Bakelite division for the reference of 24 RM-18. 25 RM-18-A means fibers grade 6-D
Page 195 1 CARLO F. MARTINO 2 BY MR. GALERSTON: 3 Q. Sir, I'm going to hand you what 4 I'm marking as Exhibit Number 13 to your 5 deposition. 6 A. (Reviews.) 7 Q. Are you familiar with Exhibit 13, 8 sir? 9 A. Yes. 10 Q. Okay. 11 Exhibit 13 is titled Bakelite 12 Corporation raw material code Number 1, RM-1 and 13 up, correct? 14 A. Yes. 15 Q. Then following we have I guess 16 some excerpts from a document. We have RM-18 17 which is asbestos, correct? 18 A. Yes. 19 Q. And then we have following that 20 RM-85-Talc, correct? The next page, the third 21 page? 22 A. The next page? 23 Q. The third page of the document, 24 yeah. RM-85-Talc? 25 A. Yes. Yes.	Page 197 1 CARLO F. MARTINO 2 from Asbestos Fiber Distributors considered 3 obsolete as of 1961, correct? 4 A. Yes. 5 Q. RM-18-A would be floats grade 6 7RF-4 obtained from asbestos fiber distributors, 7 correct? 8 A. Yes. 9 Q. It doesn't say obsolete following. 10 Does that mean that they would be 11 a current supplier of those and as of 1961? 12 MS. CLARK: Objection. 13 Foundation. 14 A. Yes. 15 Q. Next would be RM-18-C which would 16 be long fibers. 17 What does pound 30 mean? Is that 18 a length or is that just a class? 19 MS. CLARK: Objection. 20 Foundation. 21 Calls for speculation. 22 A. I don't know. 23 Q. Okay. 24 If we look down the list B does 25 not have obsolete following it.

Page 198 1 CARLO F. MARTINO 2 The next one that doesn't have 3 obsolete following it is O, RM-18-O, asbestos 4 fiber KB-653-6D, Asbestos Corporation, Limited, 5 correct? 6 A. Yes. 7 Q. And that's followed by P which is 8 asbestos floats 7TF from Johns-Manville, correct? 9 A. Yes. 10 Q. We go to Bakelite Corporation raw 11 material codes Number 2 which starts at Bates 12 document ending in 402 and we look on the second 13 page. This appears not to be limited to 14 asbestos, does it? This has a lot of other 15 things in it, does it not? 16 MS. CLARK: Are you looking at 402 17 or 3? 18 MR. GALERSTON: Following 402, 19 looking at 403. 20 MS. CLARK: Okay. 21 A. What was your question? 22 23 BY MR. GALERSTON: 24 Q. The products listed on Page 403 25 don't all appear to be asbestos, do they?	Page 200 1 CARLO F. MARTINO 2 Q. The next page Bates number ending 3 405 we see another grade of asbestos from Lake 4 Asbestos 5449, correct? 5 A. Yes. 6 Q. That's as of 1964. 7 The next page Bates number ending 8 406 you see reference to 5563 asbestos grade 9 7RF-9. This is from Carey Canadian mines, 10 correct? 11 A. Yes. 12 Q. That's the asbestos that you're 13 most familiar with, sir, is that correct? 14 A. Yes. 15 Q. The last page of Exhibit Number 13 16 states that asbestos was referenced to RM-18, 17 correct? 18 A. Yes. 19 Q. Okay. 20 So whenever we see a reference to 21 RM-18 we know that's an asbestos component, 22 correct? 23 A. Yes. 24 Q. In terms of the formulation with 25 regards to those asbestos floats that we saw on
Page 199 1 CARLO F. MARTINO 2 A. One is. 3 Q. 2383 are asbestos floats? 4 A. Yes, yes. 5 Q. Which also I assume that 6 references RM-18-P? 7 A. Yes. 8 Q. The rest of the materials on that 9 would not be asbestos, correct? 10 A. No, they're not. 11 Q. Okay. 12 The next page Bates number ending 13 404 we see product 5417 asbestos fiber grade 7D4 14 as supplied by Lake Asbestos division, correct? 15 A. Yes. 16 Q. Lake Asbestos, would that be the 17 crocidolite asbestos? 18 MS. CLARK: Objection. 19 Misstates the evidence and the 20 testimony. 21 A. I don't know. 22 Q. Are you familiar with the Lake 23 Asbestos? 24 A. I don't recall much about Lake 25 Asbestos.	Page 201 1 CARLO F. MARTINO 2 Page 403, Bates Number 403 the fourth or fifth 3 page of the exhibit, the reference code is 2383? 4 A. Yes. 5 Q. I'm confused. If asbestos is 6 normally referred to by product code RM-18, would 7 it also be possible to find a reference to 2383 8 that would refer to asbestos? 9 MS. CLARK: Objection. 10 Foundation. 11 Calls for speculation. 12 A. During the time I was in the 13 business the RM-18 was the common way to 14 designate the materials. I don't -- I'm not 15 familiar with this other method of describing 16 them. 17 Q. Okay. 18 MR. GALERSTON: We don't have a 19 stapler, do we? 20 COURT REPORTER: No. 21 MR. GALERSTON: Okay. 22 (Whereupon, three-page document 23 bearing Bates stamps UCASB01875903, UCASB0187675 24 and UCASB00924626, is received and marked as UCC 25 Exhibit 14 for Identification.)

1 CARLO F. MARTINO
2
3 BY MR. GALERSTON:
4 Q. Sir, I'm going to hand you what
5 I'm marking as Exhibit Number 14 to your
6 deposition which I will represent to you are
7 exhibits taken from your Eubanks deposition
8 related to the Square D Company.
9 A. (Reviews.)
10 Q. Okay.
11 You can see that they're marked
12 down the lower right with the Martino Exhibit
13 Numbers 6, 7 and 8 from your July 11th, 19 --
14 excuse me, 2007 deposition.
15 Do you see that, sir?
16 A. Yes.
17 Q. Okay.
18 As you'll recall we discussed that
19 these were formulations -- well, the first two
20 were formulations of asbestos-containing
21 phenolics that Union Carbide prepared for
22 Square D, correct?
23 MS. CLARK: Objection.
24 Assumes facts.
25 A. The first one is.

1 CARLO F. MARTINO
2 Q. What about the second one?
3 A. That was invention Square D on the
4 sheet, but 6935 was sold to anyone who wanted it.
5 Q. Okay.
6 So it wasn't exclusively for
7 Square D?
8 A. No.
9 Q. But this was a product that Union
10 Carbide was selling to Square D, correct?
11 MS. CLARK: Objection.
12 Foundation.
13 MR. KINSEY: I will join.
14 A. I would have to look at the sales
15 records to determine when it was sold and if it
16 was replaced by something else.
17
18 BY MR. GALERSTON:
19 Q. Well, there is no dispute that
20 Square D was a consumer of Union Carbide's
21 asbestos-containing Bakelite --
22 A. Yes.
23 MS. CLARK: Objection.
24 Vague and ambiguous.
25 Q. We see Exhibit 3, excuse me, Page

1 CARLO F. MARTINO
2 3 of what's been marked as Exhibit 14 is where
3 even certain formulations were retired which had
4 been associated with a Square D Company, correct?
5 A. Yes.
6 Q. And if we had an opportunity to go
7 through the entirety of the Bakelite repository,
8 we would find additional materials related to the
9 Union Carbide Square D relationship, correct?
10 MS. CLARK: Objection.
11 Vague and ambiguous.
12 Assumes facts.
13 MR. KINSEY: I join.
14 A. I don't know.
15
16 BY MR. GALERSTON:
17 Q. Well, you do know that there is a
18 sales scroll related --
19 A. Yeah.
20 Q. -- to Square D, correct?
21 A. Oh, that's right. Sales scroll
22 would show what we did sell them.
23 Q. Okay.
24 You and I both -- you've seen it
25 before and I've seen it now too?

1 CARLO F. MARTINO
2 A. Yeah, yeah.
3 Q. And you know that there is
4 additional documentation in the Bakelite
5 repository showing the Union Carbide
6 Cutler-Hammer relationship, correct?
7 MS. CLARK: Objection.
8 Vague and ambiguous.
9 A. It would show if we had and when.
10 Q. Well, you've testified already
11 today --
12 A. Yeah.
13 Q. -- and previously that there was a
14 commercial relationship between --
15 A. Yeah.
16 Q. -- Union Carbide's Bakelite
17 division and Cutler-Hammer, correct?
18 A. Yeah.
19 MS. CLARK: Vague as to time.
20 Q. You're aware that there is a sales
21 scroll in the repository relating to the sales of
22 Union Carbide's asbestos-containing Bakelite
23 materials to Cutler-Hammer, correct?
24 A. Yeah.
25 MS. CLARK: Objection.

Page 206 1 CARLO F. MARTINO 2 Vague. 3 Assumes facts. 4 Q. You're aware that there is 5 documentation in the Bakelite repository 6 regarding the commercial relationship between 7 Union Carbide's Bakelite division and the 8 Allen-Bradley company for asbestos-containing 9 Bakelite, correct? 10 MS. CLARK: Objection. 11 Objection. 12 Vague. 13 Assumes facts. 14 MR. GALERSTON: I will ask that you 15 let me get my question out -- 16 MS. CLARK: Sorry. 17 MR. GALERSTON: -- before you start 18 your objection too. 19 A. In answering those questions I 20 know there are sales scrolls there. I don't know 21 in relation to those customers whether there is a 22 sales relationship without looking at those sales 23 scrolls. 24 25 BY MR. GALERSTON:	Page 208 1 CARLO F. MARTINO 2 to sales to General Electric? 3 MS. CLARK: Objection. 4 Vague and ambiguous. 5 You can answer if you know. 6 THE WITNESS: Yeah. 7 A. Yes, but the point I'm trying to 8 make is that we also sold chemicals and General 9 Electric was probably a good chemical purchaser. 10 So when you say numerous, we're talking about 11 everything Carbide sold, not just molding 12 materials. 13 Q. Okay. 14 MR. GALERSTON: I tell you what, 15 let's go ahead and take a break for the 16 videographer so he can change out his tapes. 17 THE VIDEOGRAPHER: The time is 18 2:28. 19 This ends Tape 3 of the videotaped 20 deposition of Carlo Martino. 21 We are off the record. 22 (Whereupon, a short recess is 23 taken.) 24 THE VIDEOGRAPHER: Stand by, 25 please.
Page 207 1 CARLO F. MARTINO 2 Q. You've previously looked at those 3 sales scrolls, correct, for those three entities? 4 A. Well, Cutler-Hammer, 5 Allen-Bradley, Square D, they're familiar. 6 This last one, what was that one? 7 Q. Allen-Bradley was the last one. 8 A. Oh, Allen-Bradley, yeah. 9 Q. Okay. 10 As you sit here I represented to 11 you that those are there. 12 A. Yes. 13 Q. I've seen them as well. 14 A. Yes. 15 Q. I've represented to you that there 16 is voluminous records relating to General 17 Electric, but you're not familiar with those, 18 correct? 19 MS. CLARK: Objection. 20 Misstates the evidence. 21 A. Voluminous with regard to 22 everything we sold to them or molding materials? 23 Q. That would be a fair distinction. 24 Are you aware that there are sales scrolls in the 25 Bakelite repository relating to sales, relating	Page 209 1 CARLO F. MARTINO 2 The time is 2:41. 3 This begins Tape 4 of the 4 videotaped deposition of Carlo Martino. 5 We are on the record. 6 7 BY MR. GALERSTON: 8 Q. Sir, in reviewing documents in the 9 repository I saw references to Union, excuse me, 10 yeah, Union Carbide's sale of Bakelite materials 11 to Square D in reference to BMG-5498. 12 I don't recall, is that one of the 13 asbestos-containing phenolics that we saw 14 referenced in one of the earlier documents that 15 listed those, is 5498 one of them? 16 MS. CLARK: Objection. 17 Q. Do you recall? 18 MS. CLARK: Objection. 19 Foundation. 20 Vague. 21 A. 5498 was made with and without 22 asbestos. It's a question of what, the time. 23 Q. Okay. 24 A. The time frame. 25 Q. What's the line of demarcation?

1 CARLO F. MARTINO
 2 MS. CLARK: Objection.
 3 Foundation.
 4 A. Well, we took asbestos out, began
 5 taking it out in 1970. I don't remember when we
 6 started putting it in.
 7 Q. So it would -- 5498 would become
 8 asbestos-free some time when the natural process
 9 of removing asbestos occurred?
 10 A. Right.
 11 Q. But prior to that it was
 12 manufactured with asbestos?
 13 A. For a period of time and then
 14 prior to that it had no asbestos. So somewhere
 15 in the late sixties there was another transition
 16 to asbestos and then later out of asbestos.
 17 Q. The document I saw made a
 18 reference to moving Square D to BMG-5498.
 19 Do you recall some reason or some
 20 rationale for moving Square D to BMG-5498?
 21 MS. CLARK: Foundation.
 22 Calls for speculation.
 23 MR. KINSEY: Join.
 24 A. What was the date that that was to
 25 be done?

1 CARLO F. MARTINO
 2
 3 BY MR. GALERSTON:
 4 Q. You know, I don't know. My note
 5 does not say that.
 6 A. It would depend on the date.
 7 Q. Okay.
 8 A. Otherwise I don't know.
 9 Q. As you sit here there is no --
 10 that has no recollection or reference for you?
 11 A. No.
 12 Q. Okay.
 13 Sir, I've had an opportunity to
 14 ask you questions about many of the documents
 15 related to Union Carbide's Bakelite products.
 16 I want to ask you about any
 17 opinions that you may have formulated after your
 18 review of materials in this case, okay?
 19 A. Material in the what?
 20 Q. In this case.
 21 A. In this case?
 22 Q. Have you formulated any opinions
 23 as to whether or not you believe that
 24 Mr. Whitmire would have been exposed to asbestos
 25 from Union Carbide's Bakelite products while

1 CARLO F. MARTINO
 2 working for PSE&G?
 3 A. He would have -- the depositions
 4 focus on the use of Bakelite to describe sheet
 5 material, and that was lumped together with
 6 Micarta which is a trademark for Westinghouse
 7 laminate and Textolite which is a trademark for
 8 G.E. laminates, and then he also calls a phenolic
 9 a laminate.
 10 So based on that, my conclusion
 11 would be that he would have been exposed to
 12 laminate-type materials and, therefore, if there
 13 was any Union Carbide product in there, it could
 14 only be the resin. And I can't -- from the --
 15 from the comments made I have no way of knowing
 16 whether our resin was made to make those
 17 laminates or Westinghouse used its own resin or
 18 where it came from. And the resin would not
 19 contain asbestos.
 20 Q. Union Carbide's
 21 asbestos-containing Bakelite materials were made
 22 for manufacturing electric components by several
 23 companies such as Square D, Allen-Bradley and
 24 Cutler-Hammer, correct?
 25 MS. CLARK: Objection.

1 CARLO F. MARTINO
 2 Assumes facts.
 3 Overly broad.
 4 Vague.
 5 MR. KINSEY: Join.
 6 A. Our phenolic molding materials was
 7 one of the products used to make electrical
 8 switch gear and that type, but it was not the
 9 only product thermosetting resin that these
 10 companies bought.
 11
 12 BY MR. GALERSTON:
 13 Q. You --
 14 A. There are also melamine molding
 15 materials, silicone molding materials, polyesters
 16 and there are also many other, and some
 17 thermoplastics.
 18 So, you know, what a particular
 19 molded part was made from could be any of those.
 20 Q. I object to the non-responsive
 21 nature of the answer.
 22 Sir, my question was simply that
 23 you were aware in the nineteen-fifties,
 24 nineteen-sixties and through the seventies until
 25 Union Carbide stopped selling Bakelite that Union

Page 214 1 CARLO F. MARTINO 2 Carbide's asbestos-containing Bakelite was used 3 by companies such as Square D, Cutler-Hammer and 4 Allen-Bradley to manufacture electrical 5 components such as switch gears, correct? 6 MS. CLARK: Objection. 7 Overly broad as to time. 8 Assumes facts. 9 Foundation. 10 A. It was used to make some of their 11 products. 12 Q. You, I believe you testified in 13 the Eubanks case that it was your belief that 14 Union Carbide's asbestos-containing phenolic 15 could not be used to manufacture arc chutes, is 16 that correct? 17 A. Yes. 18 Q. Okay. 19 Have you had an opportunity since 20 then to review deposition testimony of any of the 21 witnesses who testified in this case that they 22 did use asbestos-containing phenolics to 23 manufacture arc chutes? 24 A. No. 25 MS. CLARK: Objection.	Page 216 1 CARLO F. MARTINO 2 asbestos-containing phenolics? 3 MS. CLARK: Objection. 4 Misstates evidence. 5 MR. KINSEY: Join. 6 A. I don't -- I'd have to review 7 those depositions. I don't recall that part. 8 9 BY MR. GALERSTON: 10 Q. Electrical boxes were frequently 11 outfitted with a plastic board in the back of 12 them. 13 Are you familiar with what I'm 14 referring to, sir? 15 A. Yes. 16 Q. The plastic board in the back of 17 electrical boxes, motor controllers or whatever 18 their purposes are would not be laminates, 19 correct? 20 MS. CLARK: Objection. 21 Misstates facts. 22 Calls for speculation. 23 A. It could be laminates. 24 Q. Sir, you have seen I assume on 25 numerous occasions electrical boxes with Bakelite
Page 215 1 CARLO F. MARTINO 2 Misstates facts. 3 A. The statements made with regard to 4 arc chutes in those depositions stated that they 5 did not use phenolic arc chutes. 6 Q. Have you seen the testimony of 7 industrial hygienist Kenneth Cohen with regard to 8 testing of arc chutes to determine and to prove 9 that they had asbestos content in them? 10 MS. CLARK: Objection. 11 Misstates evidence. 12 A. Whose testimony? 13 Q. Ken Cohen. 14 A. Tim Cohen? 15 Q. Ken. 16 A. Oh, Ted? 17 Q. Ken, K-e-n, Ken Cohen? 18 A. Ken Cohen, was that one of the 19 depositions? 20 Q. In the Eubanks case. 21 A. Oh, in the Eubanks case? 22 Q. Yes, sir. 23 A. And would you repeat again what? 24 Q. His testimony with regards to his 25 testing to establish that arc chutes were	Page 217 1 CARLO F. MARTINO 2 boards in the back? 3 MS. CLARK: Objection. 4 Q. Correct? 5 MS. CLARK: Objection. 6 Vague and ambiguous. 7 A. Bakelite boards as described in 8 the depositions were laminates. 9 Q. Sir, I'm not talking about what 10 was described in the deposition. 11 I'm talking about your personal 12 experience dealing with customers such as 13 Square D, Cutler-Hammer and Allen-Bradley and 14 their use of phenolic resins as boards in the 15 back of control boxes. 16 MS. CLARK: Is there a question 17 there? 18 Q. Are you familiar with that, sir, 19 that usage? 20 MS. CLARK: Objection. 21 Overly broad. 22 Vague. 23 Assumes facts. 24 MR. KINSEY: Join. 25 A. I'm hesitating because of the use

55 (Pages 214 to 217)

1 CARLO F. MARTINO
2 of Bakelite boards. I don't call them Bakelite
3 boards. I call them laminates. We didn't make
4 boards.

5 Now, some people in the industry
6 may call them Bakelite.

7
8 BY MR. GALERSTON:

9 Q. Union Carbide didn't make
10 anything, any products with it. They just made a
11 material for others to make into other things,
12 correct?

13 A. That's correct.

14 Q. So Union Carbide didn't make
15 laminates or boards or anything. They just
16 provided it to others who then used it as they
17 saw fit, correct?

18 A. Correct.

19 Q. Have you reviewed the testimony of
20 any representatives from Cutler-Hammer,
21 Allen-Bradley or Square D in connection with
22 their use of Union Carbide's Bakelite materials?

23 MS. CLARK: Objection.

24 Misstates facts.

25 A. In these depositions?

1 CARLO F. MARTINO

2 Q. In any deposition. Have you ever
3 reviewed any testimony of corporate
4 representatives from those companies regarding
5 their use of Union Carbide's Bakelite materials?

6 MS. CLARK: Same objections.

7 A. Volume 9 in this deposition was --
8 were questions directed to Mr. Whitmire with
9 regard to what he -- whether or not he drilled,
10 cut, sanded any non-metallic part in a Square D
11 product and his testimony was that he did not.
12 That's one deposition, I assume that was by a
13 Square D attorney, an attorney representing
14 Square D who was asking the questions.

15 Any others, I don't recall
16 anything in the Eubanks case, but that was a long
17 time ago. I know Square D was involved there,
18 but I don't recall any Square D testimony that I
19 saw there. I can't remember any others.

20 Q. Okay.

21 And I apologize if my question was
22 not direct, but my question is, it's not
23 questioning by Square D lawyers or testimony by
24 men like Mr. Whitmire and their use of Square D
25 products.

1 CARLO F. MARTINO

2 My question is have you ever seen
3 corporate representatives testifying as to
4 Square D's use of Union Carbide's Bakelite in
5 Square D control boxes in other Square D
6 equipment?

7 MS. CLARK: Objection.

8 Vague.

9 Overly broad.

10 Ambiguous.

11 A. By testify that would have to be
12 at a trial, is that correct?

13 Q. No, I'm talking about you
14 reviewing it. Reading it.

15 A. Oh, reading it.

16 Q. Their deposition, their trial
17 testimony, their sworn Answers to Interrogatories
18 from Square D.

19 MS. CLARK: Same objections.

20 A. I don't remember seeing any of
21 that.

22 Q. Okay.

23 Have you -- likewise I assume
24 you've never seen sworn testimony or Answers to
25 Interrogatories from anyone at Allen-Bradley

1 CARLO F. MARTINO

2 regarding Allen-Bradley's use of Union Carbide's
3 phenolics in Allen-Bradley control boxes in other
4 Allen-Bradley electrical equipment, correct?

5 MS. CLARK: Assumes facts.

6 Overly broad.

7 Ambiguous.

8 A. That's correct.

9 Q. Likewise I assume that you have
10 not seen any sworn testimony, deposition, trial,
11 arbitration, Answers to Interrogatories from
12 Cutler-Hammer regarding Cutler-Hammer's use of
13 Union Carbide's Bakelite phenolics in its
14 electrical control boxes, motor controllers and
15 other electrical equipment, correct?

16 A. Yes.

17 MS. CLARK: Same objections.

18 THE WITNESS: Sorry, Kate.

19

20 BY MR. GALERSTON:

21 Q. Because Union Carbide's
22 asbestos-containing Bakelite was in an unfinished
23 form when it was shipped out, you would not
24 expect the final product that is actually
25 appearing in the field to have any Bakelite stamp

1 CARLO F. MARTINO
2 on it, would you?
3 MS. CLARK: Objection.
4 Vague and ambiguous.
5 A. That's correct.
6 Q. Bakelite was a trademark name,
7 correct?
8 A. Yes.
9 Q. Anyone who used Bakelite in their
10 promotional materials for their equipment would
11 have to be authorized by Union Carbide to do so
12 or subject to injunction, correct?
13 MS. CLARK: Objection.
14 Calls for speculation.
15 Beyond the scope.
16 A. During the period of time I was
17 there, yes.
18 Q. And is it safe to assume that
19 Union Carbide did allow its customers to use its
20 trademark Bakelite name in its promotional
21 materials if they were actually using Bakelite?
22 MS. CLARK: Objection.
23 Misstates facts.
24 Vague and ambiguous.
25 A. You're saying that they would

1 CARLO F. MARTINO
2 advertise a part and say made from Bakelite BMG
3 something?
4 Q. They may reference that they use
5 Bakelite in their equipment.
6 MS. CLARK: Same objections.
7 Also calls for speculation.
8 Foundation.
9 A. I don't recall seeing anything
10 like that.
11 Q. Okay.
12 Were you aware of any efforts made
13 by Union Carbide in the nineteen-fifties and
14 nineteen-sixties to prevent its customers or
15 competitors from improperly using the Bakelite
16 term?
17 MS. CLARK: Objection.
18 Foundation.
19 Beyond the scope.
20 A. The use of the Bakelite term in
21 advertising by somebody other than Bakelite I
22 don't recall ever seeing.
23 The use of Bakelite verbally to,
24 with regard to a certain part or a certain
25 product, that I encountered frequently, but I

1 CARLO F. MARTINO
2 don't think that was considered. No action was
3 taken with regard to that.
4 Q. If I understand you correctly,
5 it's your opinion that Mr. Whitmire's use of
6 Bakelite may very well be incorrect, is that
7 correct?
8 MS. CLARK: Objection.
9 Unintelligible.
10 Ambiguous.
11 A. His use of the word Bakelite?
12 Q. Correct.
13 MS. CLARK: Same objections.
14 A. No, it's commonly -- in the
15 laminate industry Bakelite was commonly used to
16 refer to a laminate whether it was ours or not.
17 So I would not say that it was incorrect.
18 Incorrect as far as that we didn't make it, but
19 it was a Bakelite type of product.
20 Q. Okay.
21 And that's my point. Is it your
22 opinion that it wasn't Union Carbide's Bakelite,
23 correct?
24 A. Yes.
25 Q. But you do know that Mr. Whitmire

1 CARLO F. MARTINO
2 distinguishes between Bakelite, Micarta and
3 Textolite, right?
4 A. With regard to color. Well, let's
5 see. Bakelite he said was black and he said
6 Textolite was black so he didn't distinguish
7 between those two. I think he said he or was it
8 Nance said that the Micarta was gray in color and
9 he said the phenolic was brown in color, but he
10 said they were all sheet materials.
11 Q. Mr. Whitmire discussed working
12 around more than just sheet materials that
13 required --
14 Strike that.
15 You agree with me that
16 Mr. Whitmire described working around other
17 plastic materials such as arc chutes and switch
18 gears in addition to the sheet material, correct?
19 MS. CLARK: Objection.
20 Misstates facts.
21 A. He -- in his testimony he
22 mentioned arc chutes and so did Nance.
23 The deposition was very unclear as
24 to what if any molded parts he had any contact
25 with. It was very unclear. And my

1 CARLO F. MARTINO
2 interpretation was that when he was drilling or
3 sanding or so forth it was the laminate that was
4 used as an insulation that he was talking about,
5 not the molded part. I'd need more information
6 to be convinced that it was a molded part.
7 Q. Okay.
8 You've never worked in a
9 powerhouse, correct?
10 A. No.
11 Q. You've never worked as an
12 electrician maintaining and repairing electrical
13 equipment in a powerhouse, correct?
14 A. No.
15 Q. You're not in a position to
16 testify that the only materials that Mr. Whitmire
17 worked around would have been laminates, are you?
18 MS. CLARK: Objection.
19 Calls for speculation.
20 Overly broad.
21 A. All I can testify is that based on
22 what I read here I can't say what else he worked
23 with.
24 Q. You can't rely upon any external
25 expertise for you to say that the only thing that

1 CARLO F. MARTINO
2 he would have worked on or around would have been
3 laminates, are you?
4 MS. CLARK: Objection.
5 Overly broad.
6 A. That the only thing that he worked
7 on -- I wouldn't say that that's the only thing
8 that he worked on. I can only say that based on
9 the testimony I read that's the only thing that I
10 have that convinces me that there was work on
11 laminates.
12 If there was work on molded
13 products, that is not clear in the deposition and
14 I don't know whether he did or not.
15 Q. Okay.
16 Other than the testimony that he
17 worked on arc chutes which is a molded product,
18 correct?
19 A. Well, no. I think we went into
20 that in the Eubanks case. We thought it was a
21 laminate, a melamine glass laminate.
22 Q. Okay.
23 With regards to -- strike that.
24 With regards to other than his
25 testimony that he worked with Bakelite --

1 CARLO F. MARTINO
2 A. Yes.
3 Q. -- you're discounting that part,
4 correct?
5 MS. CLARK: Objection.
6 Misstates facts.
7 Argumentative.
8 A. I'm discounting what?
9 Q. When Mr. Whitmire testifies that
10 he worked with Bakelite --
11 A. Yes.
12 Q. -- you're saying that it really
13 wasn't Bakelite, it was a resin, right?
14 MS. CLARK: Objection.
15 Misstates fact and testimony.
16 A. What I'm saying is that based on
17 his testimony he convinced me that he was working
18 with laminates and if so and if our product was
19 used anywhere, then it would be as a resin for
20 one of those laminates, but even that is not
21 certain because you can't, you can't prove
22 whether it's ours or somebody else's.
23 Q. And it's your -- oh.
24 A. With regard to anything else he
25 was working with, he did not make that clear in

1 CARLO F. MARTINO
2 his deposition. So I don't know what else he
3 worked with other than the reference to the arc
4 chute.
5 Q. If I understand it correctly too
6 is that it's your opinion that if it were a resin
7 that was used to create a laminate, that would be
8 a non-asbestos, non-mineral containing product,
9 correct?
10 A. Yes.
11 Q. Assume with me if you would that
12 Mr. Whitmire did work with a Bakelite product and
13 that it was an asbestos-containing product, do
14 you have an opinion that Mr. Whitmire could not
15 have been exposed to asbestos from working with
16 that product in the manner that he describes in
17 his deposition?
18 MS. CLARK: Objection.
19 Totally inadequate hypothetical.
20 Beyond the notice.
21 Calls for expert opinion.
22 Don't answer that.
23 (Direction not to answer the
24 question.)
25 MR. GALERSTON: What's the basis of

Page 230 1 CARLO F. MARTINO 2 not answering the question if he has an opinion? 3 I asked him if he has an opinion. 4 MS. CLARK: He's not testifying as 5 to exposure as a corporate representative of Union 6 Carbide. That's not in the notice and we object 7 to that it is totally beyond that. You know that 8 calls for an expert opinion. 9 10 BY MR. GALERSTON: 11 Q. Sir, is it correct that you are 12 not able to testify one way or the other as to 13 whether or not Bakelite products that contain 14 asbestos could release asbestos in the field as 15 described in use by Mr. Whitmire? 16 MS. CLARK: Objection. 17 Beyond the scope. 18 Misstates the testimony. 19 Counsel, he's not here to discuss 20 exposure questions -- 21 THE WITNESS: Well, I -- 22 MS. CLARK: Don't answer that. 23 (Direction not to answer the 24 question.) 25	Page 232 1 CARLO F. MARTINO 2 whether or not it was necessary to modify those 3 components in the fields when they were put in 4 the application? 5 MS. CLARK: Objection. 6 Misstates testimony. 7 A. All I can say is I have not seen 8 it done and I would like to see one of the 9 molders take a position on that, the one who does 10 make the molded part as to whether they would 11 tolerate someone modifying the part that they 12 design for a particular application and warranty 13 its performance if it was. 14 Q. You would -- 15 A. I haven't seen it, but I'd like to 16 see that. 17 Q. Okay. 18 You've seen testimony from 19 electricians indicating that they have cut, 20 sanded and drilled in Bakelite components in the 21 field, have you not? 22 MS. CLARK: Objection. 23 A. There -- in the cases I saw that 24 it was always when they were describing a 25 laminate and they called it Bakelite. It was not
Page 231 1 CARLO F. MARTINO 2 BY MR. GALERSTON: 3 Q. Sir, do you have an opinion as to 4 whether or not Bakelite could be cut, sawed, 5 drilled or sanded in the field? 6 MS. CLARK: Objection. 7 Vague and ambiguous. 8 A. If it is a molded part it is not 9 common practice to sand, drill or machine the 10 part. It's already made so the dimensions that 11 are required by the applications and its 12 performance is based on not only the product it's 13 made from, but the design. So any modification 14 of that part interferes with its performance. So 15 molded parts are not sanded, drilled and 16 machined. 17 Q. Sir, have you ever seen any 18 instructions from any of the Bakelite customers 19 to the end users with regards to how to work with 20 the Bakelite components in their products? 21 A. No. 22 Q. Sir, would you agree with me that 23 because Union Carbide and you were not involved 24 in the manufacturing of the Bakelite components, 25 you don't really have firsthand knowledge of	Page 233 1 CARLO F. MARTINO 2 a molded part. 3 Q. You've seen testimony of 4 electricians testifying that they cut, drilled 5 and sanded Bakelite, correct? 6 MS. CLARK: Objection. 7 Asked and answered. 8 A. Bakelite as -- and the product 9 they described as Bakelite was a laminate. 10 Q. You have seen testimony of 11 electricians describing cleanup after a Bakelite 12 component has been destroyed by either fire, 13 excessive arcing and other wear and tear, have 14 you not, sir? 15 MS. CLARK: Objection. 16 Vague and ambiguous. 17 A. In the Eubanks case he claimed 18 that he was cleaning up dust as a result of wear 19 and tear on the arc chute, but -- and in that 20 particular case I took the position that that 21 wasn't even a phenolic material. And the 22 literature that I found showed that in most cases 23 it's a laminate that's used to make the arc chute 24 so, but that's the one case I can think of. 25 Others, most others when they

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1 CARLO F. MARTINO
2 called it Bakelite it was a laminate and that is
3 very common practice to cut -- it's like plywood
4 versus a finished wooden dining room table.
5 Plywood you can cut, you know, to size and put it
6 anyplace else. That's analogous to a laminate.

7 A molded piece is more analogous
8 to a finished table. You buy the table. You
9 don't cut it. You buy a table to the size you
10 need it. And that's the way I see just the
11 molded part. You've gone to the trouble of
12 designing it to a certain shape, size and
13 dimensions. Why should you have to modify it
14 further to put it in? You wasted that mold, that
15 expensive mold to make this part that you're
16 going to cut anyway. So make it the right time,
17 the correct dimensions in the first place so it
18 doesn't have to be cut and save on the labor. It
19 doesn't make sense to me and I'd like to see a
20 molder say the same thing.

21 Q. I object to the non-responsive
22 nature of the answer.

23 You would agree that if field
24 conditions change --

25 A. If what?

1 CARLO F. MARTINO

2 Q. If field conditions change or if
3 there is a change in the box or if there is a
4 change in the equipment that are being run
5 through a box, it may be necessary to add or
6 remove components.

7 Does that seem unreasonable?

8 MS. CLARK: Objection.

9 Overly broad.

10 Vague.

11 A. No, that's not unreasonable.

12 Q. Have you ever studied the effect
13 of fire on the ability of a phenolic,
14 asbestos-containing phenolic material to release
15 asbestos?

16 MS. CLARK: Objection.

17 Beyond the scope.

18 A. No.

19 Q. Did you see the testimony of
20 Mr. Whitmire where he discusses how sometimes a
21 piece of a part would become fried I believe was
22 his word and it would have to be pulled and
23 replaced?

24 A. He said the insulation, phenolic
25 insulation or Bakelite insulation, whatever term

1 CARLO F. MARTINO

2 he used, burned and I think what he meant is it
3 carbonized. Phenolics does not support
4 combustion, but it does carbonize under intense
5 heat and then it conducts electricity. And my
6 interpretation of what he said was that he was
7 talking about the insulation, the insulation
8 board. He didn't say that a molded part
9 carbonized and had to be replaced. At least I
10 didn't see it.

11 Q. Did you see where he said that
12 that would result in the creation of dust in the
13 boxes?

14 A. Yes.

15 Q. Do you know of any efforts ever
16 made by Union Carbide or anyone in industry to
17 determine whether or not the carbonization of an
18 asbestos-containing phenolic component would
19 allow release of asbestos fibers?

20 MS. CLARK: Objection.

21 Foundation.

22 Beyond the scope.

23 Calls for speculation.

24 A. No. The situation never came up.

25 Q. When you say the situation never

1 CARLO F. MARTINO

2 came up, it's a subject that was never considered
3 for study by Union Carbide?

4 MS. CLARK: Same objections.

5 A. It was not a situation that ever
6 required our attention.

7 Q. You're not aware of anyone in
8 industry such as Cutler-Hammer, Square D,
9 Allen-Bradley, Rostone or anyone else who
10 manufactured asbestos-containing phenolic
11 components studying whether or not a carbonized
12 phenolic part would release asbestos fiber, have
13 you?

14 A. No.

15 MS. CLARK: Objection.

16 Overly broad.

17 Calls for speculation.

18 A. No.

19 Q. Have you reviewed any other
20 opinions other than the one that you stated with
21 regards to Mr. Whitmire that it was unlikely that
22 he used an asbestos-containing phenolic when what
23 he described was a laminate, do you have any
24 other opinions with regards to Mr. Whitmire's
25 claims in this case?

1 CARLO F. MARTINO

2 A. No. Those are the main issues,
3 the main points I came away from. I don't recall
4 any -- there was, of course, an inconsistency at
5 the beginning in Volume 1. He said that he had
6 to cut, drill, sand the Bakelite in the Square D
7 box, and then in Volume 9 when I think the lawyer
8 from Square D questioned him, he was asked if he
9 had to cut, modify or drill any non-metallic part
10 in the Square D equipment and he said no. So
11 there's an inconsistency there that if that's
12 important, you know, needed to be clarified. I
13 didn't understand why the difference unless he
14 forgot.

15 Q. Okay.

16 A. You know, that he took one
17 position one time and not another.

18 Q. Okay.

19 The Baker case, I'm not familiar
20 with the Baker case, but I understand that you
21 are prepared to testify with regards to
22 Mr. Baker's claims, is that correct?

23 A. Yes.

24 Q. The information that we discussed
25 generally relating to Union Carbide's Bakelite,

1 CARLO F. MARTINO

2 manufacture, sell, distribution, used by
3 companies in general that we've talked about in
4 the Whitmire case, that would all be applicable
5 to Mr. Baker as well?

6 A. That was even more clear that he
7 was very specific if that he used sheet material
8 and he gave the dimensions I believe was eighteen
9 by twenty-four and he described the thickness and
10 he said it was light brown in color and he used
11 it, as I recall, as insulation board, electrical
12 insulation board. So the same thing would apply
13 with regard to we -- our resin could have been
14 used as the, to make the laminate and it did not
15 contain asbestos.

16 Now, he also stated that he worked
17 with these sheet materials from '76 I believe
18 to -- I'd have to check my notes as to the final.

19 Q. Sure.

20 Your notes are Exhibit 3 I
21 believe, correct?

22 MS. CLARK: I think they were
23 marked as an exhibit in that stack.

24 THE WITNESS: What was that?

25 MS. CLARK: They were marked as an

1 CARLO F. MARTINO

2 exhibit so they're in that stack.

3 THE WITNESS: My notes?

4 MS. CLARK: Your notes, we marked
5 them as Exhibit 3. There you go.

6 THE WITNESS: Okay.

7 A. Until 1983, 1976 to 1983. We were
8 not -- although it's not -- we were making resin
9 at that time. We were not making any molding
10 materials. He said he could see asbestos fiber
11 in the components and that all Bakelite had
12 asbestos in it which is not correct. It would
13 come in sheets, cut off what was needed.
14 Exterior was smooth. Did not cut or drill into a
15 controller.

16 He also said he worked with
17 circuit boards which are laminates with the
18 circuitry on, printed on it. So to me that's
19 another laminate case with all that applies to
20 such cases.

21
22 BY MR. GALERSTON:

23 Q. Okay.

24 Do you have any other opinions,
25 observations of the Baker matter?

1 CARLO F. MARTINO

2 A. We didn't -- he described the
3 laminate as light brown. We did not make a
4 phenolic molding material light brown and we were
5 not in the color business in 1968. So wasn't
6 even a remote chance that a molding material
7 would even be used there.

8 Q. Is it possible for a purchaser and
9 user of Union Carbide's asbestos-containing
10 Bakelite phenolics to alter or change it in the
11 molding process to affect its color?

12 MS. CLARK: Objection.

13 Vague.

14 Calls for speculation.

15 A. Black, that's hard to change. You
16 can make it dull so that it looks gray or you
17 burn the material. Well, even then it will turn
18 black. It's still black.

19 Brown, that's a pretty dark brown.
20 Most dark browns you'd hardly see the difference
21 if you heated it too much.

22 Some of the colors that we used to
23 make it's possible to take a red, change the
24 color of the red, but that was unlikely because
25 molders knew what ranges they could use to make

1 CARLO F. MARTINO
2 the part.
3 Q. You indicated that Union Carbide
4 got out of the coloration -- if I understand you
5 correctly Union Carbide did offer customized
6 coloring of its phenolics up to 1968, is that
7 correct?
8 A. Yes.
9 Q. And when did that practice start?
10 MS. CLARK: Foundation.
11 A. We just shut it down.
12 Q. But when did it start?
13 A. Oh, when did it start?
14 MS. CLARK: Foundation.
15 A. I don't know how far back.
16 Q. As far as you can recall?
17 A. They were in the color business
18 when I started there in '48.
19 Q. Okay.
20 And that wasn't limited one way --
21 the fact that it was colored something other than
22 black was not indicative of whether or not the
23 phenolic material would have been
24 asbestos-containing or not, is that correct?
25 A. That's correct.

1 CARLO F. MARTINO
2 Q. Any other opinions in the Baker
3 matter?
4 A. No, that's about it.
5 Q. Okay, sir.
6 (Whereupon, multi page document
7 entitled Federal Register, Volume 55, Number 30,
8 Tuesday, February 13, 1990 slash Notices, not
9 bearing Bates stamps, is received and marked as
10 UCC Exhibit 15 for Identification.)
11
12 BY MR. GALERSTON:
13 Q. I'm going to mark and ask you to
14 follow up on something we talked about earlier,
15 the Federal Registry. I know we got a copy of
16 the Federal Register from 1990.
17 I'm going to hand you what's been
18 marked as Exhibit Number 15 to your deposition.
19 A. (Reviews.)
20 MR. GALERSTON: And I do have an
21 extra copy.
22 MS. CLARK: Thank you.
23 MR. GALERSTON: It's hard to find
24 the clip when it's sitting on your tie.
25

1 CARLO F. MARTINO
2 BY MR. GALERSTON:
3 Q. Okay.
4 Sir, I've handed you what I've
5 marked as Exhibit Number 15.
6 A. (Reviews.)
7 Q. As you can see on the top this
8 purports to be Page 5144 from the Federal
9 Register, Volume 55, Number 30, dated Tuesday,
10 February 13th, 1990.
11 Do you see that, sir?
12 A. Yes.
13 Q. Okay.
14 I'd asked you earlier about
15 certain representations made by Union Carbide
16 with regards to its asbestos-containing products.
17 Do you recall that testimony, sir,
18 or my questioning I should say?
19 A. That was a document that you
20 showed me I believe.
21 Q. I believe when we're talking about
22 the crocidolite --
23 A. Yes, yes.
24 Q. -- and I'd asked you about that,
25 do you remember that testimony?

1 CARLO F. MARTINO
2 A. Yes.
3 Q. And my questioning on that?
4 A. (Indicating.)
5 Q. And I indicated to you that there
6 was documentation that reflected that Union
7 Carbide did use crocidolite in some of its
8 products?
9 A. Yes.
10 Q. You testified that based upon your
11 subsequent review you found that BMZ did not
12 contain crocidolite, correct?
13 A. BMZ-5250, yes.
14 Q. I have gotten a copy of this
15 portion of the Federal Register which I've now
16 marked as Exhibit Number 15.
17 You have not previously seen this
18 document, have you, sir?
19 A. Not in its entirety, no.
20 Q. Okay.
21 You believe that you have seen the
22 portion starting on 5157 related to Union Carbide
23 Corporation, would that be correct?
24 A. The content is very similar to
25 what I had seen before. I can't say whether it's

1 CARLO F. MARTINO
2 exactly what I was shown without taking this and
3 comparing it to the attachment to my original
4 deposition which I think I still have.

5 Q. All right.

6 Well, regardless, in 1990 what was
7 your position with Union Carbide?

8 A. I was in the polyethylene
9 business. I was I believe group manager of the
10 molding area for polyethylene.

11 Q. Okay.

12 In 1990 or shortly before that in
13 1989, were you consulted in any way, shape or
14 form with regards to this EPA filing that Union
15 Carbide is making with the EPA regarding its
16 asbestos-containing products that it had sold in
17 the past?

18 A. No.

19 Q. Okay.

20 Do you know who at Union Carbide
21 would have been responsible for preparing the
22 information that is contained on Pages 5157 and
23 5158 related to Union Carbide's
24 asbestos-containing products?

25 MS. CLARK: Foundation.

1 CARLO F. MARTINO

2 Calls for speculation.

3 A. I don't know who prepared it and I
4 don't recall seeing any correspondence with a
5 name on it. What I saw previously, I don't
6 remember seeing any correspondence with a name on
7 it.

8 Q. As I indicated Union Carbide --
9 Exhibit 15 is a section of the Federal Register
10 which is titled asbestos publications of
11 identifying information, correct, sir?

12 A. Yes.

13 Q. It states under the summary, it
14 says this notice provides summaries of the
15 information submitted to EPA by manufacturers?

16 MS. CLARK: Wait. He's on the
17 first page.

18 A. Oh, on the first page? Okay.

19 Yeah. Okay.

20 Q. Sir, you see it says under -- on
21 the first page of Exhibit 15 under summary it
22 says this notice provides summaries of the
23 information submitted to EPA by manufacturers and
24 processors of certain asbestos products in
25 accordance with the Asbestos Information Act of

1 CARLO F. MARTINO

2 1988.

3 A. Uh-huh.

4 Q. It also explains how individuals
5 may obtain more or all of the information
6 submitted to EPA.

7 A. (Reviews.)

8 Q. Do you see that, sir?

9 A. Yes.

10 Q. Okay.

11 The document starts on Page 5144
12 and the first company listed is the Amtico
13 division of American Biltrite, Inc.

14 Do you see that, sir, Number 1?

15 A. 51?

16 Q. No, no, on the first page.

17 A. Oh, yeah.

18 Q. You see the first company as you
19 go down it has 1 background, Roman 2 summaries
20 and then it has Number 1?

21 A. Yes.

22 Q. It says the Amtico division of
23 American Biltrite, Inc.? That's the first
24 company listed here, correct? Right there in the
25 middle of Column 2?

1 CARLO F. MARTINO

2 A. Yes.

3 Q. Okay.

4 And then if we turn to Page 5157
5 which is where I tabbed we see Number 25 Union
6 Carbide Corporation, correct?

7 A. Yes.

8 Q. Okay.

9 If you would, sir, why don't you
10 take a moment and read the entirety of the
11 information under Union Carbide Corporation,
12 okay?

13 A. Okay. Okay.

14 Q. Sir, is it your recollection that
15 you had an opportunity to review this in its
16 entirety before today?

17 A. This sounds similar to what I saw
18 about six years ago.

19 Q. Okay.

20 Have you had an opportunity to --
21 Strike that.

22 Having read through this I'm going
23 to ask you if you see any information that you
24 believe that is inaccurate or mistaken?

25 A. Well --

1 CARLO F. MARTINO
 2 MS. CLARK: Objection.
 3 Overly broad.
 4 A. The reference to the African Blue
 5 asbestos, and we mentioned this earlier, I assume
 6 that this was correct, but then as I told you
 7 when we looked at the sheet, formula sheets, the
 8 one that we found, that did not designate African
 9 Blue asbestos. So I've assumed that that is the
 10 correct one because it's the formula sheet. I
 11 have not yet found a formula sheet which shows
 12 the African Blue.
 13 Q. The formula sheet that you recall
 14 reviewing, do you recall what the date was for
 15 that?
 16 A. Okay.
 17 Q. Okay.
 18 You see it says here in the middle
 19 of Page 5158 the middle column, second paragraph,
 20 it says high impact heat resistant. Then it says
 21 only manufactured until the mid nineteen-sixties.
 22 A. (Reviews.)
 23 Q. Do you see that, sir?
 24 A. Yes.
 25 Q. That's why I was asking you do you

1 CARLO F. MARTINO
 2 recall the formula sheet that you saw.
 3 Did you find the formula sheet or
 4 was it provided to you by counsel?
 5 A. I asked for it. It was -- I
 6 obtained it from the files.
 7 Q. So counsel for Union Carbide
 8 provided you with a single formula sheet for
 9 BMMZ-5250?
 10 A. Yes.
 11 MS. CLARK: Object.
 12 Belated objection.
 13 Misstates facts.
 14 Q. You don't have any personal
 15 knowledge as to whether or not a thorough
 16 investigation of all of the Bakelite repository
 17 was made to find any additional references to
 18 BMMZ-5250, do you, sir?
 19 MS. CLARK: Objection.
 20 Argumentative.
 21 A. I asked for all and got the one.
 22 So I had no reason to believe that there were any
 23 others.
 24 Q. Okay.
 25 You see the reference there to the

1 CARLO F. MARTINO
 2 asbestos content as being fifty percent of
 3 BMMZ-50 -- BMMZ-5250.
 4 Do you recall what the asbestos
 5 content was in the formulation that you saw?
 6 A. No, no, I don't.
 7 Q. At fifty percent that would put it
 8 on the high end of the asbestos content for Union
 9 Carbide's asbestos-containing Bakelite, correct?
 10 A. Yes.
 11 Q. Do you recall which customers were
 12 purchasing Union Carbide's BMMZ-5250?
 13 A. No.
 14 Q. Okay.
 15 It says here that this would be
 16 for very high voltage industrial electrical
 17 switch gear, correct?
 18 A. Yes.
 19 Q. Okay.
 20 Who were Union Carbide's
 21 asbestos-containing Bakelite customers who are
 22 manufacturing very high voltage industrial
 23 electrical switch gear?
 24 MS. CLARK: Objection.
 25 Vague.

1 CARLO F. MARTINO
 2 MR. KINSEY: This is Mr. Kinsey,
 3 calls for speculation.
 4 MS. CLARK: Vague and ambiguous.
 5 Foundation.
 6 A. This product was not made.
 7 In the same equipment that the
 8 molding equipment was made. It consisted of the
 9 long fiber asbestos ballmilled with resin so that
 10 in its final form it was more like a mat. So it
 11 would not be normally used in the typical
 12 automated molding machines. Whoever used it
 13 would have to use a molding method where they
 14 could load this material by hand into the molding
 15 machine.
 16 The reason I give you that
 17 background is it does limit who would use it
 18 because it is, you know, a more labor intensive
 19 product to handle.
 20 Who of our customers would do that
 21 I don't know at this stage.
 22
 23 BY MR. GALERSTON:
 24 Q. Okay.
 25 A. So I can give you the name of the

1 CARLO F. MARTINO
 2 customer. Whether they would bother to use it or
 3 not I don't know and the customers are the ones
 4 that you already, we already talked about.
 5 Q. Okay. Sir.
 6 My other question is, is slightly
 7 different, is just with regard to Union Carbide's
 8 asbestos-containing Bakelite customers which ones
 9 were manufacturing very high voltage industrial
 10 electrical switch gear?
 11 MS. CLARK: Objection.
 12 Overly broad.
 13 Calls for speculation.
 14 A. In the early sixties I don't
 15 recall who they were. We would have to go to the
 16 records to find out.
 17 Q. Is it safe to say that it would be
 18 Cutler-Hammer, Square D and Allen-Bradley?
 19 A. I--
 20 MS. CLARK: Objection.
 21 Asked and answered.
 22 Foundation.
 23 MR. KINSEY: Join.
 24 A. I don't know. I don't remember
 25 when Square D became a very good customer of ours

1 CARLO F. MARTINO
 2 or what our relationship was with the other two
 3 or if we were selling to other customers who we
 4 lost to our competitors. So we'd have to go
 5 through the scrolls and the sheets and to get a
 6 very definitive answer we would have to look at
 7 who bought BMZ-5250 during that time period.
 8
 9 BY MR. GALERSTON:
 10 Q. Sir, my question was not related
 11 to BMMZ-5250.
 12 My question, sir, was isn't it
 13 true that Cutler-Hammer, Square D and
 14 Allen-Bradley were high voltage industrial switch
 15 gear manufacturers in the nineteen-sixties?
 16 MS. CLARK: Objection.
 17 Foundation.
 18 Overly broad.
 19 MR. KINSEY: Also calls for
 20 speculation.
 21 Assumes facts not in the evidence.
 22 Vague and ambiguous.
 23 MR. TUANN: I join, Howard Rome.
 24 COURT REPORTER: I'm sorry, and
 25 what?

1 CARLO F. MARTINO
 2 MR. GALERSTON: I think it was I
 3 joint, Howard Rome.
 4 A. I would have to go to the records
 5 to answer that question.
 6
 7 BY MR. GALERSTON:
 8 Q. You've previously testified, have
 9 you not, that the high temperature phenolic
 10 resins were the ones that contained asbestos and
 11 they were primarily marketed to Cutler-Hammer,
 12 Square D and Allen-Bradley?
 13 A. Yes.
 14 MS. CLARK: Objection.
 15 Misstates testimony.
 16 MR. KINSEY: We join.
 17
 18 BY MR. GALERSTON:
 19 Q. In looking at this is there any
 20 other statements that you would disagree with
 21 that are contained in the federal registry?
 22 MS. CLARK: If you need more time
 23 to read it to answer that, feel free.
 24 A. No.
 25 Q. Absolutely.

1 CARLO F. MARTINO
 2 A. I don't see anything else other
 3 than what we mentioned before. These are not all
 4 of asbestos-containing resins that we made.
 5 Q. Right. Under the general purpose
 6 section --
 7 A. No, the heat resistant Bakelite
 8 list, we list a number here. There were others.
 9 Q. Right.
 10 And same under the general
 11 purpose, is that an exhaustive list of the
 12 asbestos-containing general purpose formulas?
 13 MS. CLARK: Foundation.
 14 A. The 5330 is not familiar to me. I
 15 would have to look to see if that is correct or a
 16 typo. Those, of the asbestos-containing
 17 materials those were the largest volume products.
 18 5498 might fall into that category during the
 19 period of time where we did add four percent
 20 asbestos to it, but that was for a limited time.
 21 Q. Okay.
 22 The last paragraph of this section
 23 says any asbestos-containing general purpose
 24 Bakelite or heat resistant Bakelite was fully
 25 encapsulated by the resin in the Bakelite sold by

1 CARLO F. MARTINO
 2 Union Carbide.
 3 A. (Reviews.)
 4 Q. Do you see that, sir?
 5 A. Yes.
 6 Q. You oversaw research and
 7 development in the fifties and sixties, correct?
 8 A. Yes.
 9 Q. What studies did research and
 10 development do to determine the percentage of
 11 encapsulated asbestos fibers in the general
 12 purpose or the high impact heat resistant
 13 Bakelite?
 14 MS. CLARK: Vague.
 15 Overly broad.
 16 Foundation.
 17 A. That conclusion -- I thought --
 18 I'll give you my opinion. Well, I don't know of
 19 any test specifically directed at proving that
 20 all of the particles were completely
 21 encapsulated. The amount of compounding that the
 22 material got on the rolls and the way that the
 23 resin was melted, there are usually no, nobody
 24 questioned whether that was not, and it didn't
 25 become an issue.

1 CARLO F. MARTINO
 2 Q. Are you familiar with fiber
 3 bundles?
 4 A. Fiber bundles?
 5 Q. Yes.
 6 A. Clumps?
 7 Q. Asbestos fiber bundles?
 8 A. Yeah.
 9 Q. Have you ever seen those?
 10 A. Only if the material as not
 11 properly compounded or we saw that when we used
 12 the Calidria pelleted asbestos, but the molded,
 13 molded plaques were made during the manufacture
 14 of all our materials and they were carefully
 15 examined to determine whether the dispersion of
 16 the fillers was adequate.
 17 Q. When Mr. Neal did the study
 18 regarding asbestos fiber release from the molded
 19 plaque, in 1972, '73 time frame, you testified
 20 before that the exposures were below the OSHA
 21 limit, correct?
 22 A. That was my recollection. I don't
 23 know that Mr. Neal was involved.
 24 Q. Okay.
 25 We'll take out Mr. Neal and if I

1 CARLO F. MARTINO
 2 understand it correctly it's that when Union
 3 Carbide studied the fiber release from its
 4 asbestos-containing phenolics by grinding an
 5 asbestos-containing plaque, the results were that
 6 the fiber release was below the OSHA limits,
 7 correct?
 8 A. Yes.
 9 Q. I take it that your recollection
 10 is that there was some detectable fiber released,
 11 but it was -- it was detectable, but it was below
 12 the limits?
 13 MS. CLARK: Foundation.
 14 Assumes facts.
 15 A. My recollection was it was very
 16 low.
 17 Q. What is very low to the best of
 18 your recollection?
 19 A. Oh, well --
 20 MS. CLARK: Same objections.
 21 A. Just detectable.
 22 Q. Okay.
 23 And just so I'm clear, this is a
 24 study that you recall that you have requested
 25 that counsel find for you, but to date you have

1 CARLO F. MARTINO
 2 never seen the results of this testing, correct?
 3 A. Yes.
 4 MS. CLARK: Objection.
 5 Misstates facts.
 6 Argumentative.
 7 Q. Sir, did I misstate the facts?
 8 A. I've asked if anything was in the
 9 files, yes.
 10 Q. And you were not given anything?
 11 A. No.
 12 Q. Correct?
 13 A. No, no.
 14 Q. Okay.
 15 And when you asked that, you asked
 16 that of Union Carbide's counsel, correct?
 17 A. Yes.
 18 MS. CLARK: Objection.
 19 Argumentative.
 20 Q. And prior to 1972 you're not aware
 21 of any other similar testing done on any
 22 asbestos-containing phenolic product, correct?
 23 A. No.
 24 Q. And since Union Carbide was out of
 25 that business by 1974, 1975, I assume no

1 CARLO F. MARTINO
2 additional testing was done?
3 A. Not by Union Carbide.
4 MS. CLARK: I think if you're going
5 awhile longer we should take a break.
6 MR. GALERSTON: Well, I was going
7 to say, I was going to suggest --
8 MS. CLARK: We've been going for a
9 long time.
10 MR. GALERSTON: Why don't we go
11 ahead and take a break. I'll review my notes and
12 we'll come back and see what I have for you.
13 Want to take ten?
14 MS. CLARK: Okay.
15 MR. GALERSTON: If you want to take
16 five, five is fine with me.
17 THE VIDEOGRAPHER: The time is
18 3:52.
19 This ends Tape 4 of the videotaped
20 deposition of Carlo Martino.
21 We are off the record.
22 (Whereupon, a short recess is
23 taken.)
24 THE VIDEOGRAPHER: Stand by,
25 please.

1 CARLO F. MARTINO
2 The time is 4:02.
3 This begins Tape 5 of the
4 videotaped deposition of Carlo Martino.
5 We are on the record.
6 MR. GALERSTON: All right.
7 Mr. Martino, I believe that I've
8 asked all the questions that I have at this time.
9 And at this point I'll pass the
10 witness.
11 Thank you, sir.
12 THE WITNESS: Oh, thank you.
13 MS. CLARK: Does anyone on the
14 phone have any questions?
15 (No response.)
16 MR. GALERSTON: Okay.
17 MS. CLARK: Okay.
18 I have no questions.
19 Thank you very much, Mr. Martino.
20 MR. GALERSTON: We're done.
21 THE WITNESS: Okay.
22 MR. GALERSTON: Thank you.
23 THE VIDEOGRAPHER: The time is
24 4:03.
25 This concludes the videotaped

1 CARLO F. MARTINO
2 deposition of Carlo Martino consisting of five
3 videotapes.
4 We are off the record.
5 (Whereupon, a short recess is
6 taken.)
7 MR. GALERSTON: Let's go on the
8 record.
9 This is counsel for the Plaintiffs.
10 I propose that we agree to stipulate that the
11 court reporter is relieved of any statutory duty
12 to maintain the original of this deposition.
13 Is that agreeable with you?
14 MS. CLARK: Yes. I think -- isn't
15 the way it usually works, I'm not from California
16 either, you send the copy to me and if we don't
17 return it within a certain amount of time then
18 it's -- isn't it something like that? I mean we
19 still get the chance to review it is all I'm
20 saying.
21 MR. GALERSTON: No, no, I agree
22 with that. I don't believe that -- this has
23 nothing to do with our use of the transcript. I
24 think this says that the court reporter doesn't
25 have to maintain original for the future, that the

1 CARLO F. MARTINO
2 original will be sent to me, a copy to you for
3 reading and reviewing and changes.
4 MS. CLARK: Okay.
5 MR. GALERSTON: And I will now take
6 possession of the original.
7 MS. CLARK: That's fine.
8 MR. GALERSTON: Anybody have an
9 objection on the phone?
10 (No response.)
11 MR. GALERSTON: Hearing none, all
12 done.
13 Thank you, sir.
14 All right.
15 Now we're off.
16 (Time noted: 4:06 p.m.)

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1
2 STATE OF _____) Pg. of Pgs.
3) ss.:
4 COUNTY OF _____)
5 I wish to make the following changes, for
6 the following reasons:
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22
23 I, CARLO F. MARTINO, have read the
24 foregoing deposition and hereby affix my signature
25 that same is true and correct, except as noted

1
2 above.
3
4
5 _____
6 CARLO F. MARTINO
7 STATE OF _____)
8 COUNTY OF _____)
9
10 Before me, _____, on
11 this day personally appearing CARLO F. MARTINO,
12 known to me to be the person whose name is
13 subscribed to the foregoing instrument and
14 acknowledged to me that they executed the same for
15 the purposes and consideration therein expressed.
16 Given under my hand and seal of office
17 this _____ day of _____ 2008.
18
19
20 Subscribed and sworn to before me
21 this _____ day of _____ 2008.
22
23 _____
24
25

1
2 CERTIFICATE
3 STATE OF _____)
4) ss.:
5 COUNTY OF _____)
6 I, RICH GERMOSEN, a Certified Court
7 Reporter, (License No. XI01847), Certified Realtime
8 Court Reporter-NJ, (License No. XR00168), NCRA
9 Registered Professional Reporter, NCRA Certified
10 Realtime Reporter, Certified LiveNote Reporter, and
11 Notary Public within and for the States of New York
12 and New Jersey, do hereby certify:
13 That CARLO F. MARTINO, the witness
14 whose deposition is hereinbefore set forth, having
15 been duly sworn by a Notary Public of the States of
16 New York and New Jersey, and that such deposition is
17 a true record of the testimony of said witness.
18 I further certify that I am not related
19 to any of the parties to this action by blood or
20 marriage, and that I am in no way interested in the
21 outcome of this matter.
22 IN WITNESS WHEREOF, I have hereunto set
23 my hand this _____ day of _____ 2008.
24
25 _____
RICH GERMOSEN, CCR, CRCR, RPR, CRR, CLR
LICENSE NO. XI01847
LICENSE NO. XR00168

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1 2 SUPERIOR COURT OF THE STATE OF CALIFORNIA 3 FOR THE COUNTY OF LOS ANGELES 4 CAUSE NO. BC 374718 5 -----x 6 JIMMIE WHITMIRE and 7 BARBARA WHITMIRE, 8 Plaintiffs, 9 -against- 10 ALFA LAVAL, INC., et al., 11 Defendants. 12 -----x 13 14 15 16 17 REPORTER'S CERTIFICATION 18 DEPOSITION OF: CARLO F. MARTINO 19 Friday, February 8, 2008 20 21 22 23 24 25	1 2 Ms. Katherine M. Clark - (00:00:00) 3 Mr. Kelvin T. Wyles - (00:00:00) 4 Ms. Holly L. Kershell - (00:00:00) 5 Ms. Kristina F. Almquist - (00:00:00) 6 Mr. Jean Christian Michel - (00:00:00) 7 Mr. Jeffrey N. Kinsey - (00:00:00) 8 Mr. Kenneth J. McCarthy - (00:00:00) 9 Mr. Peter Tuann - (00:00:00) 10 Mr. Barry N. Endick - (00:00:00) 11 Ms. Constance S. Nelson - (00:00:00) 12 13 That pursuant to information given to 14 the deposition officer at the time said testimony 15 was taken, the following includes counsel for all 16 parties of record: 17 18 WATERS & KRAUS, L.L.P. 19 BY: WILLIAM A. GALERSTON, ESQ. 20 3219 McKinney Avenue 21 Dallas, Texas 75204 22 (214) 357.6244 / (214) 357.7252 (FAX) 23 bgalerston@waterskraus.com 24 Attorneys for the Plaintiffs 25
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1 2 3 4 5 6 7 I, RICH GERMOSEN, a Certified Court 8 Reporter, (License No. XI01847), Certified Realtime 9 Court Reporter-NJ, (License No. XR00168), NCRA 10 Registered Professional Reporter, NCRA Certified 11 Realtime Reporter, Certified LiveNote Reporter, and 12 Notary Public within and for the States of New York 13 and New Jersey, do hereby certify: 14 That the witness, CARLO F. MARTINO, was 15 duly sworn by the officer and that the transcript of 16 the oral deposition is a true record of the 17 testimony given by the witness; 18 That the deposition transcript was 19 submitted on _____ to the witness or 20 to the attorney for the witness for examination, 21 signature and return to me by 22 _____; 23 That the amount of time used by each 24 party at the deposition is as follows: 25 Mr. William A. Galerston - (04:44:20)	1 2 A P P E A R A N C E S: (CONT'D.) 3 4 MAYER BROWN, L.L.P. 5 BY: KATHERINE M. CLARK, ESQ. 6 71 South Wacker Drive 7 Chicago, Illinois 60606 8 (312) 701.7790 / (312) 706.8609 (FAX) 9 kclark@mayerbrown.com 10 Attorneys for Union Carbide Corporation and 11 Carlo F. Martino 12 13 McKENNA LONG & ALDRIDGE, L.L.P. 14 BY: KELVIN T. WYLES, ESQ., 15 (appearing via speakerphone) 16 444 South Flower Street 17 Suite 800 18 Los Angeles, California 90071-2901 19 (213) 688.1000 / (213) 243.6330 (FAX) 20 kwyles@mckennalong.com 21 Attorneys for FMC Corporation and 22 Union Carbide Corporation 23 24 25

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