

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

Coordinated Proceeding	)	CASE NO.
Special Title (Rule 3.550)	)	JCCP 4674/BC497665
	)	
LAOSD ASBESTOS CASES	)	
	)	
	)	
ALBERT FOX, an individual; and JANE)	)	
FOX, an individual;	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
ABB, Inc., et al.,	)	
	)	
Defendants.	)	
	)	

DEPOSITION OF:

ROGER CUTLER

Wednesday, June 19, 2013

9:09 A.M. - 1:13 P.M.

VOLUME 1

PAGES 1 - 117

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INDEX

PAGE:

EXAMINATION BY MR. SANDOVAL	9
EXAMINATION BY MR. KATERNDAHL	110

PLAINTIFFS' and DEFENDANTS' EXHIBITS

Exhibit	Description	Marked
1	Plaintiffs' Notice of Videotaped Deposition for Defendant Graybar Electrical Company, Inc., Lexis Nexis File Stamped March 20, 2013, at 4:45 P.M.	16
2	Letter Dated June 10, 2013, from Leonard Sandoval to "All Counsel of Record," Lexis Nexis E-Service Stamped June 10, 2013, at 2:21 P.M.	16
3	1967 Graybar Electric Catalog.	40
4	Graybar Electric Records Retention Policy, Dated June 13, 2002. Graybar Electric Records Retention Policy, Dated March 23, 2012. (Later re-marked as Exhibits 4A and 4B)	41
4A	2002 Graybar Document Retention Policy.	88
4B	2012 Graybar Document Retention Policy.	88
5	Graybar Corporate History Document.	64
6	Defendant Graybar Electric Company, Inc.'s Response to Standard Interrogatories.	64

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

8	Graybar Electric Company Inc.'s Responses to Standard Interrogatories.	109
8A	Face Page of Defendant Graybar Electric Company, Inc.'s Response to Standard Interrogatories and Verification Page.	109
9	Graybar's Written Objections to the Notice of Deposition, Lexis Nexis No. 51559340.	109

1 THE VIDEOGRAPHER: Good morning, everyone. My name is
2 Daniel Schloss, legal video specialist, here on behalf of
3 Southwest Legal Videographers, 73844 Two Mile Road, Twenty-Nine
4 Palms, California 92277. I'm a notary public; however, I'm not
5 financially interested in this action, nor am I a relative of
6 any of the employees, attorneys or parties for the action.

7 Your court reporter today is Tamara Blakely,
8 representing HG Litigation Services, 915 Wilshire Boulevard,
9 Suite 150, Los Angeles, California 90017.

10 The date is Wednesday, June 19th, 2013. The time is
11 approximately 9:09 A.M. This deposition is taking place at 333
12 Bush Street, Suite 1100, San Francisco, California 94101.

13 This is the -- this begins Videotape 1, Volume 1, in
14 the video deposition of Graybar Electric Company's person most
15 qualified, Roger Cutler.

16 This is case number JCCP 4674-BC497665, in the Superior
17 Court of the State of California, for the County of Los Angeles,
18 entitled Albert Fox, et al., versus ABB, Incorporated, et al.

19 This deposition is being taken on behalf of Plaintiffs'
20 counsel, Weitz and Luxenberg, PC, 1880 Century Park East,
21 Suite 700, Los Angeles, California 90067.

22 At this time, if I could have counsel please identify
23 yourself, starting with the attorney across from me.

24 MR. FOLEY: Patrick Foley for Graybar Electric.

25 MR. SCHWARTZ: Todd Schwartz for Graybar Electric.

1 MS. NELSON: Connie Nelson for Cooper Industries.

2 MR. TANDBERG: Good morning, everybody. Gary Tandberg,
3 K&L Gates, San Francisco, for Schneider Electric, USA.

4 MS. BACK: Good morning. Mary Katherine Back on behalf
5 of CBS Corporation.

6 THE VIDEOGRAPHER: Thank you. And if I could have the
7 attorneys on the phone identify yourselves.

8 MS. KHARE: Hi. This is Viuu --

9 MR. SANDOVAL: This is Leonard Sandoval for Plaintiffs.

10 MS. KHARE: -- Khare for CalPortland Company.

11 MR. MARTIN: Good morning. This is Nick Martin for
12 Okonite.

13 MR. SIGLER: Good morning. Dan Sigler on behalf of the
14 J-M Manufacturing Company, Inc.

15 MR. SCHWARTZ: Good morning. Colin Schwartz on behalf
16 of Eaton Corporation.

17 MR. GREENSLADE: Good morning. Joseph Greenslade on
18 behalf of Union Carbide and CertainTeed Corporation.

19 MR. CHUSID: Bruce Chusid for ABB, Inc., and Ericsson,
20 Inc.

21 MR. KATERNDAHL: Good morning. John Katerndahl for
22 General Cable.

23 THE VIDEOGRAPHER: Thank you. If there's no one else
24 on the phone to identify themselves, I'll have the court
25 reporter swear in the witness.

1 ROGER CUTLER,
2 the deponent herein, having been first duly and regularly sworn
3 by the Certified Shorthand Reporter, was deposed and testified
4 as follows:

5
6 EXAMINATION BY MR. SANDOVAL

7 MR. SANDOVAL: Q. Good morning, Mr. Cutler. How are
8 you doing?

9 A. I'm doing well, thanks.

10 Q. Great. My name's Leonard Sandoval. Could you please
11 state and spell your full name?

12 A. Roger, R-O-G-E-R, Milton, M-I-L-T-O-N, Cutler,
13 C-U-T-L-E-R.

14 Q. Thank you, Mr. Cutler.

15 Have you ever been deposed before?

16 A. Yes.

17 Q. How many times?

18 A. Three -- four.

19 Q. Okay. I'll get back to this area in a few. I'm sorry.

20 Okay. Well, since you've been deposed before, but only
21 four times, I'm going to go through a few admonitions, if you
22 don't mind. Is that all right?

23 A. All right.

24 Q. Okay. The deposition is a question and answer format,
25 not a conversation, so we want to make sure that we're talking

1 -- we're doing our best to talk in turn so the court reporter
2 can maintain a clean record. We want oral responses, no nods or
3 head shakes, one, because I can't see them; and two, because it
4 makes it difficult for the court reporter to keep a clean
5 record. Also, we want to avoid answers like uh-huh or uh-uh, it
6 just makes for a muddy -- muddy written record.

7 I'll do my best to allow you to finish -- to finish
8 your answer before I start asking the next question. I would
9 just ask if you do -- if you could please do the same.

10 A. Okay.

11 Q. And also, there may be an objection here and there
12 after I ask a question. If we can just try our best to wait for
13 the objections to be made before you start answering, that would
14 be really helpful as well. Do you understand?

15 A. I'll try.

16 Q. Okay. Today we're entitled to your best knowledge and
17 recollection. But we don't want you to guess. An example that
18 counsel often use is the idea that the table, you can probably
19 give me a good estimate of the table that you're sitting at, of
20 the length of the table you're sitting at, but if I asked you to
21 give me the length of the table in my home, you wouldn't be able
22 to do that because you've never seen that. Correct?

23 A. Right.

24 Q. Okay. So that's -- you understand the difference
25 between a guess and an estimate?

1 A. Yes.

2 Q. Okay. I want you to be -- fully understand the
3 questions that I'm asking you. I can talk -- I can tend to talk
4 kind of fast sometimes, so if you don't understand a question,
5 either because I'm -- I said it too fast or if you just don't
6 understand the way I worded it, please let me know, and I'll do
7 my best to either repeat it or reword it. Do you understand?

8 A. Yes.

9 Q. Okay. And if you do answer a question, we're assuming
10 that you understood the question as asked. Do you understand?

11 A. Yes.

12 Q. Okay. We're -- like I mentioned before, we're
13 transcribing this. The court reporter -- and we may request
14 repeats from the court reporter. You may request repeats from
15 the court reporter if you don't understand a question.

16 After this deposition is completed, you'll have an
17 opportunity to review and change your responses in the
18 transcript. However, if you do change any substantive -- if you
19 do make any substantive changes to your responses, we are
20 allowed -- we are allowed to discuss that with regard to your
21 credibility at trial. Do you understand?

22 A. Yes.

23 Q. Okay. If you need a break for any reason, go to the
24 restroom or just any other -- any other reason, let me know, and
25 I'll do my best to give you a break as soon as we're done with

1 the question pending.

2 Do you understand these admonitions, Mr. Cutler?

3 A. Yes.

4 Q. Any reason that you cannot give your best testimony
5 today?

6 A. No.

7 Q. Okay. Are you taking any medications that you believe
8 may affect your ability to recall or testify today?

9 A. No.

10 Q. Okay. All right. What's your age, Mr. Cutler?

11 THE VIDEOGRAPHER: I'm sorry. This is the
12 videographer. Before we get started, I run one-hour tapes, and
13 I will let you know audibly, since there's people on the phone,
14 when we're down to ten minutes and five minutes, so -- so we can
15 go off the record for a short period.

16 MR. SANDOVAL: Okay. I really only -- I only need five
17 minutes, a five-minute warning.

18 THE VIDEOGRAPHER: Real good. Thank you. Thank you.

19 THE WITNESS: I'm 77.

20 MR. SANDOVAL: Q. And what's your date of birth?

21 A. December 27th, 1935.

22 Q. Okay. And what's your current address?

23 A. 256 Turnstone, one word, Court, Foster City, California
24 94404.

25 Q. Did you say Placer City?

1 A. FOS -- F-O-S-T-E-R.

2 Q. Oh. And are you currently employed?

3 A. No.

4 Q. You're retired?

5 A. Yes.

6 Q. And are you being offered today as Graybar Electric
7 Company's person most knowledgeable and custodian of records?

8 A. Yes.

9 MR. FOLEY: Actually, this is Patrick Foley. He's
10 being produced as the person most knowledgeable, not as the
11 custodian of records.

12 MR. SANDOVAL: Q. Okay. And I just used the term
13 "person most knowledgeable." I think we noticed it as person
14 most qualified to testify. Do you understand that you're being
15 offered today as the person most qualified to testify with
16 regard to Graybar Electrical Company?

17 A. Yes.

18 MR. SANDOVAL: I guess this question is more for your
19 counsel. Are there any categories for which the witness is not
20 being offered today?

21 MR. FOLEY: I'll take another look, but I believe he's
22 being produced on all categories.

23 MR. SANDOVAL: Okay.

24 MS. KHARE: This is Khare. While he's looking, can we
25 just get a stipulation that an objection and motion to strike by

1 one is for all?

2 MR. SANDOVAL: All present, yeah. So stipulated.

3 MR. FOLEY: Leonard, I don't think there's any category
4 he's not being produced on. Maybe as we go through it, one
5 might come up. But looking through it again, I believe he's
6 being produced on all categories.

7 MR. SANDOVAL: Okay. Sounds good. Thank you.

8 MR. FOLEY: With the exception of probably Category 16,
9 just because that's more of a legal category on affirmative
10 defenses, but we can address that when we get there.

11 MR. SANDOVAL: Okay.

12 Q. I'm going to refer to Graybar Electrical Company as
13 Graybar throughout this deposition. If -- if I just refer to it
14 as Graybar, just to make things a little bit more simple, will
15 you understand that I'm referring to Graybar Electrical Company?

16 A. Yes.

17 Q. Okay. Has Graybar Electrical Company gone by any other
18 names?

19 A. No.

20 MR. FOLEY: Objection. Lacks foundation, calls for
21 speculation.

22 THE WITNESS: No.

23 MR. SANDOVAL: Q. Are you familiar with Graybar
24 Electrical Company's corporate history?

25 A. Somewhat.

1 Q. Based on your understanding of Graybar's corporate
2 history, has Graybar always gone by Graybar?

3 A. Yes.

4 Q. Okay. When was Graybar first incorporated?

5 A. I think it was about 1928. I'm not miss -- I'm not
6 sure.

7 Q. What makes you believe that it was about 1928?

8 A. Because it was before the employees bought the company
9 out.

10 Q. Is there some document that reflects the 1928 year,
11 that you're aware of?

12 MR. FOLEY: Object. It lacks foundation, calls for
13 speculation.

14 THE WITNESS: No. It was strictly an estimate.

15 MR. SANDOVAL: Q. Do you know how long Graybar has
16 been doing business in California?

17 A. No.

18 Q. Do you have any estimate as to when Graybar first
19 started doing business in California?

20 A. Probably in the '30s, but I'm not sure.

21 Q. What makes you believe that Graybar started doing
22 business in California in the '30s?

23 A. Just the time period of when electrical products were
24 being consumed readily in this area.

25 MR. SANDOVAL: Okay. Before we move -- go any further,

1 I'll -- I'm going to print a couple of exhibits. First, can we
2 mark as Exhibit -- Plaintiffs' Exhibit 1, Plaintiffs' deposition
3 notice, dated March 20th, with the Lexis Nexis stamp of
4 March 20th at 4:45 P.M.

5 MR. FOLEY: Lenny, give us one second.

6 MR. SANDOVAL: Sure.

7 MR. FOLEY: So, Lenny, the depo notice is
8 Plaintiffs' 1.

9 MR. SANDOVAL: Okay. Great. And then I believe I sent
10 Madam Court Reporter two meet -- two letters updating --
11 actually, I'll just attach the June 10th letter from Plaintiffs'
12 counsel notifying all counsel of the change in the deposition
13 date making it today. Mark that as Exhibit -- Plaintiffs'
14 Exhibit 2.

15 MR. FOLEY: Okay.

16 MR. SANDOVAL: And there was one that I -- there was
17 another letter, I'll mark it also as just -- include it with
18 Exhibit 2, that I have yet -- I have to e-mail the court
19 reporter. It's a subsequent meet and confer -- or notification
20 letter with the dial-in and pass code for today's deposition.

21 MR. FOLEY: And what's the date of that letter?

22 MR. SANDOVAL: You know, I don't have it in front of
23 me. I'm going to pull that up.

24 MR. FOLEY: Okay.

25 MR. SANDOVAL: I'll grab it when we go on a break.

1 Q. Okay. Mr. Cutler, you mentioned that you've been
2 deposed four times previously?

3 A. Yes.

4 Q. When was your first deposition?

5 A. Probably about 1988.

6 Q. And I guess was -- was this an asbestos-related matter?

7 A. No.

8 Q. Okay. When was your first -- have you ever been
9 deposed with regard to any asbestos-related matters?

10 A. Yes.

11 Q. How many times?

12 A. Twice.

13 Q. Okay.

14 A. Three -- oh, three times. Three times.

15 Q. Okay. Is that including this -- this deposition?

16 A. No.

17 Q. Okay. When was your first deposition in any
18 asbestos-related matter?

19 A. Probably three years ago.

20 Q. Was that about 2010?

21 A. Approximately.

22 Q. Do you recall the name of the case?

23 A. No.

24 Q. Do you recall the plaintiff's name?

25 A. No.

1 Q. Do you recall the court and where -- in which that
2 first case -- asbestos case you were deposed on was located, the
3 jurisdiction?

4 A. San Francisco.

5 Q. Do you recall the name of Plaintiff's attorney or
6 Plaintiff's firm in that matter?

7 A. No.

8 Q. In what capacity did you testify in this first asbestos
9 case?

10 A. The same as I am today.

11 Q. Was that as a corporate representative?

12 A. Yes.

13 Q. And that first deposition was an asbestos-related
14 matter. Correct?

15 A. Yes.

16 Q. How long did that deposition last?

17 A. Nine until five.

18 Q. Was it a one-day deposition?

19 A. Yes.

20 Q. Did you testify at trial in that matter?

21 A. No.

22 Q. Have you ever testified at trial?

23 A. Yes -- no. I'll take that back. Not at trial.

24 Q. For -- and again, I'm just asking about
25 asbestos-related matters.

1 A. Okay. No.

2 Q. Okay. I guess now, then, the reverse of that. Have
3 you ever testified at trial in any non-asbestos-related matters?

4 A. No.

5 Q. Do you know the outcome of the case, of that first case
6 you were deposed on?

7 A. No.

8 Q. Okay. Do you carry away any impressions from any of
9 the testimony from that first deposition that you think affects
10 your testimony today?

11 MR. FOLEY: Object. Vague and ambiguous, overbroad.

12 THE WITNESS: No.

13 MR. SANDOVAL: Q. What about the second
14 asbestos-related deposition? When was that?

15 A. Two years ago, approximately.

16 Q. Was that approximately at some point in 2011?

17 A. Yes.

18 Q. Do you remember if it was the beginning or end of the
19 year? Middle?

20 A. I don't remember.

21 Q. Do you remember the name of that case?

22 A. I think it was Huffman.

23 Q. Do you remember the court in which that case was filed?

24 A. It -- I gave the deposition in San Francisco.

25 Q. Do you know if that was a California case or if that

1 was a case that had been filed in another state?

2 A. I don't recall.

3 Q. Actually, let me go back to the first deposition. You
4 mentioned that -- that -- San Francisco for where that case was
5 filed. Was that just where you took -- where you gave that
6 deposition testimony?

7 A. You're talking about the asbestos?

8 Q. The first -- the first asbestos case, yeah.

9 A. I -- I just know it was held here. I don't know what
10 court it was.

11 Q. Okay. And in the Huffman matter, did you testify as
12 the corporate representative, just like today?

13 A. Yes.

14 Q. And the Huffman matter was also an asbestos matter.
15 Correct?

16 A. Yes.

17 Q. How long did that deposition last?

18 A. All day.

19 Q. Was it a one-day deposition?

20 A. Yes.

21 Q. Given the fact that you've testified you have not
22 testified at trial on any asbestos-related matters --

23 A. No.

24 Q. -- I assume you did not testify at trial in the Huffman
25 matter, either?

1 A. Correct.

2 Q. Do you know the outcome of that case?

3 A. No.

4 Q. Do you carry any impressions away from the testimony
5 that you gave in the Huffman matter that you think affects the
6 testimony that you're giving today?

7 MR. FOLEY: Objection. Vague and ambiguous, overbroad.

8 THE WITNESS: No.

9 MR. SANDOVAL: Q. Okay. And you mentioned -- there
10 was one more deposition. When was your third deposition in an
11 asbestos-related matter?

12 A. Yesterday.

13 Q. Do you know the name of the case?

14 A. Yes.

15 Q. What was the name of the case?

16 A. Rubino.

17 Q. Do you know where that case was filed?

18 A. No.

19 Q. And am I correct in that you testified -- saying that
20 you testified as a corporate representative in the Rubino
21 deposition as well?

22 A. Yes.

23 Q. Did the Rubino matter also involve asbestos?

24 A. Yes.

25 Q. How long did that deposition last?

1 A. 9:00 until 1:15.

2 Q. Okay. Given that that deposition took place yesterday,
3 I assume you have not testified at trial in the Rubino matter.
4 Correct?

5 A. Correct.

6 Q. All right. And I'm probably correct in assuming that
7 between yesterday and today that there has been no outcome in
8 that matter. Correct?

9 A. Yes.

10 Q. All right. Or that you're aware of, at least.

11 A. Right.

12 Q. Okay. Let me get a little bit into your background,
13 Mr. Cutler. Did you graduate high school?

14 A. Yes.

15 Q. Where did you go to high school?

16 A. West High School in Salt Lake City, Utah.

17 Q. And did you go to college?

18 A. Yes.

19 Q. Let's start from the beginning. Where did you go
20 first? Or where did you go?

21 A. I've been to Westminster College in Salt Lake City and
22 the University of Utah in Salt Lake City.

23 Q. Did you receive any degrees from either of those
24 colleges or universities?

25 A. No.

1 Q. Did you go to graduate school anywhere?

2 A. No.

3 Q. Any other trade or specialty training that you've
4 received?

5 A. No.

6 Q. Any apprenticeships or journeyman training that you've
7 received?

8 A. No.

9 Q. When did you first work for Graybar?

10 A. 1956.

11 Q. Okay. When did you stop working for Graybar?

12 A. 1999.

13 Q. Did you work for Graybar continuously from 1956 to
14 1999?

15 A. Yes.

16 Q. Okay. And when you left the company in 1999, what was
17 your job title with Graybar?

18 A. Sales representative.

19 Q. When did you first become a sales representative?

20 A. 1977. I mean, 1997.

21 Q. Okay. Where did you work when you were a sales
22 representative between 1997 and 1999?

23 A. Hayward, California.

24 Q. And what were your job duties at that time?

25 A. To call on electrical contractors.

1 Q. What do you mean by "call on electrical contractors"?

2 A. Trying to get -- trying to get orders out of electrical
3 contractors.

4 Q. Okay. What would you do to try and get these orders
5 out of electrical contractors?

6 MR. FOLEY: Objection. Vague and ambiguous, overbroad,
7 incomplete hypothetical.

8 THE WITNESS: Call on them, trying to get blueprints
9 that I could take quotes off of and everyday supplies, trying to
10 get the orders for them.

11 MR. SANDOVAL: Q. Did you have any other duties as a
12 sales representative?

13 MR. FOLEY: Same objections.

14 THE WITNESS: No.

15 MR. SANDOVAL: Q. Before you were a sales
16 representative -- before you became a sales representative in
17 1997, what was your job title with Graybar?

18 MR. FOLEY: Vague as to time.

19 THE WITNESS: I believe --

20 MR. SANDOVAL: Q. Immediately before.

21 A. I believe I was the manager of warehouses for the
22 Seattle district.

23 Q. And when did you first become manager of warehouses for
24 the Seattle district?

25 A. Probably about 1990 or '92.

1 Q. Am I correct in assuming that this work took place in
2 the Seattle area?

3 A. I was still stationed in south -- in South San
4 Francisco.

5 Q. Okay.

6 A. But I worked out of the Seattle district.

7 Q. Okay. So did you have an office in -- in South San
8 Francisco --

9 A. Yes.

10 Q. -- but your territory, your area was in Seattle?

11 A. Yes.

12 Q. From the -- in the Seattle area?

13 A. I didn't have an office in the Seattle area.

14 Q. Okay. What were your duties as manager of warehouses
15 for the Seattle district?

16 A. I would visit all of the branches in the Seattle
17 district and try to find out if I could help them with their
18 warehousing or improve their operation.

19 Q. Any other duties?

20 A. No.

21 Q. What -- what types of things would you do to try and
22 help with the warehousing and operations?

23 MR. FOLEY: Objection. Vague and ambiguous.
24 Overbroad.

25 THE WITNESS: I would try to see if we could do a

1 better layout of the warehouse or better schedules for trucking.

2 MR. SANDOVAL: Q. Immediately before you became
3 manager of warehouses in the Seattle district for Graybar, what
4 was your job title?

5 A. District manager of safety for the Seattle district.

6 Q. Was this also -- were you also working out of the San
7 Francisco -- out of a San Francisco office at this point?

8 A. Yes.

9 Q. And when did you first become district manager of
10 safety for Graybar out of the Seattle district?

11 A. Approximately two years before I was manager of
12 warehousing.

13 Q. So were you -- in 1988 -- between -- at some point
14 between 1988 and 1990?

15 A. Yes.

16 Q. And what were your duties as district manager of
17 safety?

18 A. I would visit the locations and make sure they were
19 following all the safety procedures that were set down by OSHA
20 and our company.

21 Q. What types of things would you do to make sure that
22 they were following OSHA and company safety procedures?

23 MR. FOLEY: Objection. Overbroad, vague and ambiguous.

24 THE WITNESS: Watch the operation, verify they were
25 using the lift trucks and the -- wearing the correct apparatus

1 for the warehouse.

2 MR. SANDOVAL: Q. Any other types of things that you
3 would look out for?

4 A. Anything that had to do with safety.

5 Q. Before you became district manager of safety,
6 immediately before you became district manager of safety, what
7 was your job title with Graybar?

8 A. Assistant to the district operating manager in San
9 Francisco.

10 Q. When did you start as the assistant to the district
11 operating manager in San Francisco?

12 A. Oh, I probably would say maybe 19 -- let's see. '76 --
13 '80. No. Make it '82.

14 Q. Okay.

15 MR. FOLEY: That's your best estimate?

16 THE WITNESS: That's my best estimate.

17 MR. SANDOVAL: Q. Okay. And you did this work until
18 approximate -- fro -- at some point between 1988 and 1990, when
19 you became the district manager of safety for the Seattle
20 district. Is that correct?

21 A. Yes.

22 Q. And were you also working out of the San Francisco
23 office while you were working as the assistant to the district
24 operating manager?

25 A. Yes.

1 Q. What were your duties as assistant to the district
2 operating manager?

3 A. I would visit the branches on behalf of the operate --
4 district operating manager and make sure they were conforming to
5 all of the rules and policies and try to train people how to do
6 jobs.

7 Q. What types of things or how would you train -- who
8 would you be training?

9 A. Anybody. Any -- any person working at Graybar.

10 Q. Now, were you the primary training person --

11 MR. FOLEY: Objection.

12 MR. SANDOVAL: Q. -- during this time period --

13 MR. FOLEY: I'm sorry.

14 MR. SANDOVAL: Q. -- for the San Francisco area?

15 MR. FOLEY: Vague and ambiguous.

16 THE WITNESS: Not necessarily.

17 MR. SANDOVAL: Q. Were there other people that would
18 train people along with you?

19 A. Not with me.

20 Q. Who were the other people that would do the same type
21 of work?

22 A. The operating managers in each location would do the
23 same thing.

24 Q. Okay. Do you recall the names of any other operating
25 managers who did the same type of work during the 1982 to 19 --

1 roughly 1990 time period?

2 A. I'll have to think a minute.

3 Q. Sure.

4 A. Right off -- I can't come up with a -- a name.

5 Q. If throughout the course of this deposition, you -- a
6 name pops into your head, please let me know.

7 A. Okay.

8 Q. Okay. Great.

9 A. Don Bennett was one.

10 Q. Okay. Do you know if Mr. Bennett's still alive?

11 A. I think he is.

12 Q. Do you know where Mr. Bennett lives, city, state?

13 A. He lives in California. I -- I don't know exactly
14 where.

15 Q. Okay. Do you remember what district he worked out of?

16 A. San Francisco.

17 Q. Okay. Before you became assistant to the district
18 operating manager, what was your job title?

19 A. Operating manager.

20 Q. When did you become operating manager?

21 A. 1976 or '77.

22 Q. Until -- until approximately 1982?

23 A. Yes.

24 Q. Where did you work as operating manager?

25 A. San Francisco -- South San Francisco.

1 Q. What were your duties as operating manager?

2 A. I had charge of all the customer service
3 representatives, the warehouse, the stock maintenance
4 department, and the office service.

5 Q. And were you also involved in training employees?

6 A. Yes.

7 Q. As an operating manager?

8 A. Yes.

9 Q. Any particular types of employees that you trained as
10 an office manager?

11 A. All of those in that -- those categories.

12 Q. Okay. Service representatives, warehouse employees,
13 stock maintenance employees, and office employees?

14 A. Yes.

15 Q. Any other duties you had as an operating manager?

16 A. Control expenses. Do the hiring. And firing.

17 Q. Would you be -- that's probably less fun than the
18 hiring part, I would imagine.

19 A. Yeah.

20 Q. I guess it depends on who -- who you're firing, huh?

21 A. I tried to de-hire.

22 Q. There you go. All right.

23 And before you became an operating manager in '76, what
24 was your job title?

25 A. District trainer.

1 Q. And when did you become a district trainer?

2 A. 1974.

3 Q. Was this also out of South San Francisco?

4 A. Yes.

5 Q. What were your duties as a district trainer?

6 A. To go around to the branches and train anybody that
7 needed training.

8 Q. So in addition to operating managers, district trainers
9 also trained employees -- trained Graybar employees?

10 A. Yes.

11 Q. What types of things would you train Graybar employees
12 on?

13 MR. FOLEY: Objection. Vague and ambiguous, overbroad.

14 THE WITNESS: The customer service duties, mail clerk
15 duties, warehousing duties, every aspect of the business, except
16 sales.

17 MR. SANDOVAL: Q. Before you became a district trainer
18 in '74, what was your job title?

19 A. Operating manager.

20 Q. When -- when did you first become operating manager
21 this time?

22 A. 1970.

23 Q. And where -- where did you work while you were
24 operating manager this time?

25 A. Boise, Idaho.

1 Q. Did you have the same duties in Boise, Idaho, that you
2 had in San Francisco when you were an operating manager?

3 A. Yes.

4 Q. Okay. And before you became an operating manager in
5 Boise in 1970, what was your job title?

6 A. Supervisor of customer service.

7 Q. Was that also in Boise?

8 A. No. That was in South San Francisco.

9 Q. Oh, okay. And when did you first start doing that?

10 A. 1970.

11 Q. Okay. How long did -- how long were you working as a
12 supervisor of customer service?

13 A. Eleven months.

14 Q. Okay. So did this -- did you start in the beginning of
15 1970 as a customer service supervisor and then at the end of
16 1970 at some point you became an operating manager?

17 A. Correct.

18 Q. What were your duties as customer service supervisor?

19 MR. FOLEY: Objection. Overbroad, vague and ambiguous.

20 THE WITNESS: I supervised all the customer service
21 people.

22 MR. SANDOVAL: Q. Makes sense.

23 A. Yeah. Duh.

24 Q. What did that involve?

25 A. Trained them on how to do the paperwork, enter orders,

1 return material, find material, and follow the policies of the
2 company.

3 Q. Okay. And this didn't involve training any sales
4 staff, did it?

5 A. Not as -- not as sales representative, no.

6 Q. Okay. Before your 11-month turn as a supervisor of
7 customer service in South San Francisco, what was your job
8 title?

9 A. Supervisor of customer service.

10 Q. All right. Where was this?

11 A. Salt Lake City.

12 Q. Okay. And when did you start doing this?

13 A. Probably 1962 or three. Probably '63.

14 Q. Until approximately 1970?

15 A. Yes.

16 Q. Same duties in Salt Lake City that you had in South San
17 Francisco as a customer service supervisor?

18 A. Yes.

19 Q. And before you became a supervisor of customer service
20 in 1963, what was your job title with Graybar?

21 A. Customer service representative.

22 Q. When did you first become a customer service
23 representative for Graybar?

24 A. Approximately two years before that.

25 Q. Thinking about -- are we talking about 1963?

1 A. Yes.

2 Q. I'm sorry. 1961?

3 A. Yeah. Yes.

4 Q. Okay. And where were you a customer service
5 representative?

6 A. Salt Lake City.

7 Q. And what were your duties as a customer service
8 representative?

9 A. I processed orders from independent telephone
10 companies, electrical contractors, appliance dealers, both small
11 and large.

12 Q. What was your job title before you became a customer
13 service representative in 1961?

14 A. Disbursing clerk.

15 Q. What was that?

16 A. A disbursing clerk.

17 Q. When did you first become a disbursing clerk?

18 A. '58.

19 Q. And where did you work as a disbursing clerk for
20 Graybar?

21 A. Salt Lake City.

22 Q. And was this a branch that you were working out of as a
23 disbursing clerk?

24 A. Yes.

25 Q. Were you also working out of a branch as a customer

1 service representative in Salt Lake City, Utah?

2 A. Yes.

3 Q. Were you also working out of a branch as a supervisor
4 of customer service in Salt Lake City, Utah?

5 A. Yes.

6 Q. And were you working out of a branch as a supervisor of
7 customer service when you were in South San Francisco?

8 A. Yes.

9 Q. Okay.

10 A. That was a district office.

11 Q. Oh, okay. That was a district office?

12 A. Yes.

13 Q. And what were your duties as the disbursing clerk?

14 A. To keep a record of our perpetual inventory of incoming
15 and outgoing goods on orders.

16 Q. Any other duties?

17 A. No.

18 Q. Okay. Before you became a disbursing clerk in 1958,
19 what was your job title with Graybar?

20 A. Counter service person, representative.

21 Q. When did you first become a counter service person or
22 representative?

23 A. '58.

24 Q. So I take it you didn't -- you didn't do this for very
25 long?

1 A. You're right.

2 Q. Okay. Where -- where did you do this work?

3 A. Salt Lake City.

4 Q. The branch?

5 A. Yes.

6 Q. What were your duties as a counter service rep?

7 A. To give customers their will-call orders that were
8 already assembled and to take orders from contractors and the
9 public sector and independent telephone people and assemble the
10 goods and deliver them to them over the counter.

11 Q. And what was your job title before you were a counter
12 service representative?

13 A. I -- I guess it was just classified as warehouseman.

14 Q. Okay. And when did you first become a warehouseman for
15 Graybar?

16 A. When they hired me in '56.

17 Q. Okay. And where -- where did you do this work?

18 A. Salt Lake City.

19 Q. At the branch in Utah -- I mean, at the branch in Salt
20 Lake City?

21 A. Yes.

22 Q. What were your duties as a warehouseman?

23 A. Housekeeping, receiving, shipping, packing, and
24 assembling orders.

25 Q. And warehouseman was the first job -- I think you said

1 -- warehouseman -- warehouseman was the first job that you had
2 for Graybar?

3 A. Yes.

4 Q. Did you have any other jobs anywhere else before you
5 became a warehouseman for Graybar?

6 A. I was in the National Guard.

7 Q. Oh, okay. For how long were you in the National Guard?

8 A. Eight years.

9 Q. Okay. Was that a full-time service or part-time or --

10 A. No. It was one weekend a month.

11 Q. Okay.

12 A. Plus summer camp. For two weeks.

13 Q. And was this concurrent with some -- with the time you
14 spent with Graybar, or was it before?

15 A. I think I went in the National Guard when I was 18, and
16 I got out eight years later.

17 Q. Okay. Making me do some math.

18 THE VIDEOGRAPHER: This is the videographer. We have
19 five minutes left on the tape.

20 MR. SANDOVAL: Okay.

21 Q. Did you do any other jobs while you were working for
22 the National Guard?

23 A. No.

24 Q. Did you do any other jobs between the time you spent
25 work -- with the National Guard and when you started with

1 **Graybar?**

2 A. No.

3 Q. Have you had any other jobs since you left Graybar?

4 A. This one.

5 Q. What is your current job now? What would you consider
6 your current job?

7 A. Retired.

8 Q. Okay. How are you enjoying retirement?

9 A. I love it.

10 Q. I'm sure you do.

11 A. Took me 30 seconds to get used to it.

12 MR. SANDOVAL: I think we're at a good stopping point,
13 given that we've got a couple minutes left on the tape. So is
14 it all right if we take a ten-minute break?

15 THE WITNESS: Okay.

16 THE VIDEOGRAPHER: The time is 10:04 A.M., and we're
17 off the record.

18 (Recess at 10:04 A.M. until 10:13 A.M.)

19 THE VIDEOGRAPHER: This is tape number two of the video
20 deposition of Roger Cutler. The time is 10:13 A.M. We're back
21 on the record.

22 MR. SANDOVAL: Q. Good morning, Mr. Cutler. Are you
23 okay to continue with your deposition?

24 A. Yes, I am.

25 Q. All right. Kind of prior to your deposition, one very,

1 very large document was produced in response -- or as a
2 responsive document to Plaintiffs' deposition notice and request
3 for documents. It was a -- started with -- I'm pulling it up
4 again. Very large, 1967 Graybar catalog.

5 A. Yes.

6 Q. Have you seen this document?

7 A. Yes.

8 MR. SANDOVAL: Counsel, can we get a stipulation that
9 the document produced is authentic?

10 MR. FOLEY: Yes.

11 MR. SANDOVAL: Okay. And I believe, Counsel, you
12 mentioned that you were going to get me a corporate history
13 document?

14 MR. FOLEY: Yeah. I will send it over to you, Leonard.
15 I thought it had gone.

16 MR. SANDOVAL: Okay. Yeah. I don't think it was
17 included with the other ones.

18 MR. FOLEY: It's not a formal corporate history, just
19 so you know. It's something off the internet or something that
20 explains some of the predecessor companies to Graybar and some
21 of the founding activities back in the 1800s and early 1900s.
22 So I don't believe it will be relevant to this deposition. But
23 since you asked for some corporate history, I'll get it for you
24 as we sit here. I'll send it over to you.

25 MR. SANDOVAL: Great. That would be great. Thanks.

1 Okay. Can we go ahead and mark the catalog as -- the
2 1967 catalog as Plaintiffs' Exhibit 3.

3 MR. FOLEY: Well, let me ask you this question: Do you
4 want to mark the whole thing or just parts of it? Because it is
5 over 1100 pages, and I don't know that everybody would want it.
6 If you want to mark it as an exhibit, I suggest that we mark it
7 as a separate volume of exhibits or some other way, so people
8 can order what they want.

9 MR. SANDOVAL: Yeah. Let's do that.

10 MR. FOLEY: So we'll mark Exhibit 3 as its own exhibit
11 volume, and it will be bound separately. So that if people
12 don't want to spend the money to order an 1,100-page catalog,
13 they can do that.

14 MR. SANDOVAL: It's a very nice catalog. Very well put
15 together.

16 MR. FOLEY: I'm sure people will appreciate that.

17 MR. SANDOVAL: I guess, can I get a general stipulation
18 from you that all documents produced in response to this
19 deposition were maintained in the ordinary course of business?

20 MR. FOLEY: With the exception of that corporate
21 history document. It wouldn't have been kept in the ordinary
22 course of business. It came off the internet or some other
23 source that I'm not exactly clear on, so we can't say that that
24 is a corporate document. But the catalog and the two document
25 retention policies, those were kept in the normal course and

1 scope of business activities of Graybar.

2 MR. SANDOVAL: Okay.

3 MR. FOLEY: Which, do you have those, Leonard?

4 MR. SANDOVAL: No. I don't have the document retention
5 policies, either.

6 MR. FOLEY: All right. You'll get them shortly.

7 MR. SANDOVAL: Okay. Can we mark the document
8 retention policies as Exhibit 4?

9 MR. FOLEY: Okay. You want them marked together? One
10 is 2002, one is 2012.

11 MR. SANDOVAL: Yeah. I'll just mark them together.

12 MR. FOLEY: Okay.

13 MS. BACK: Counsel, is the catalog produced to all
14 parties or --

15 MR. SANDOVAL: And with regard to the catalog, the '67
16 catalog, which categories of the deposition notice is that being
17 produced as responsive to?

18 MR. FOLEY: I think it covers a bunch of different
19 categories. We can go through them all. Or is it your intent
20 to go through them all in this deposition and we'll identify it?
21 Or do you want us to go through all the categories now?

22 MR. SANDOVAL: Might as well just go through the
23 categories now.

24 MR. FOLEY: Okay. So you're talking page nine of your
25 notice of the deposition?

1 MR. SANDOVAL: Yes. Okay. Okay.

2 MR. FOLEY: Wait one minute here.

3 MR. SANDOVAL: Sure.

4 MR. FOLEY: Well, how do you want to do this? You want
5 to go through all the categories now, tell us -- and we'll tell
6 you what we're producing or -- this is your depo, so tell us how
7 you want to do this.

8 MR. SANDOVAL: You know, I'll go through -- I'll just
9 go through it all at the end.

10 MR. FOLEY: Okay.

11 MR. SANDOVAL: Probably better use of our time.

12 MS. BACK: Counsel, if I may, is there any way you
13 could e-mail us the --

14 MR. FOLEY: Give me your e-mail. It went out to a
15 number of people. I don't know if you got it. But --

16 MS. BACK: Yeah, I didn't get it. Since we appear to
17 be doing it electronically. Thank you.

18 MR. SANDOVAL: Actually, I have a Bates stamped version
19 of the -- of the catalog that I can send out, if that -- if that
20 helps.

21 MR. FOLEY: Your link on Dropbox?

22 MR. SANDOVAL: Yeah.

23 MR. FOLEY: I'll just send it out. I have it in front
24 of me, so I'll send it.

25 MR. SANDOVAL: Okay. All right.

1 Q. And Mr. Cutler, have you reviewed the 1967 catalog in
2 preparation for your deposition?

3 A. No.

4 Q. When -- have you reviewed it before?

5 A. Years ago.

6 Q. For what purpose did you review it?

7 A. Perhaps one of our customers wanted something out of it
8 and I wasn't quite sure about the product.

9 Q. Okay. What was the purpose -- what are the purpose of
10 these types of catalogs, the 1967 catalog and other -- and other
11 catalogs?

12 MR. FOLEY: Objection. Vague, ambiguous, overbroad,
13 incomplete hypothetical, lacks foundation, calls for
14 speculation.

15 THE WITNESS: We would give it to our largest customers
16 for a reference guide.

17 MR. SANDOVAL: Q. And Mr. Cutler, do you have the 1967
18 catalog available to you now?

19 A. Yes.

20 Q. And where did you get that catalog from?

21 A. It's online with one of our representatives here.

22 MR. FOLEY: So Leonard, he has the version that you
23 just sent us, the Bates number. We have it on a computer in
24 front of us.

25 MR. SANDOVAL: Oh, okay. Great.

1 Q. Do you have any reason to believe that any information
2 in a published Graybar catalog would be incorrect?

3 A. No.

4 Q. Are you aware of any retractions or corrections that
5 Graybar ever issued with regard to any Graybar catalogs?

6 A. No.

7 Q. You mentioned that Graybar would give these catalogs to
8 their largest customers for a reference guide. Would they also
9 make these catalogs available in -- at Graybar branch locations?

10 A. Yes.

11 Q. So if a customer went into a Graybar branch location,
12 the customer could thumb through the catalog to -- to see the
13 different types of products that Graybar sold. Is that correct?

14 A. Yes.

15 Q. The 1967 catalog is pretty voluminous, but were there
16 additional products that the customers could purchase from
17 Graybar that were not included in the catalog?

18 MR. FOLEY: Objection. Lacks foundation, calls for
19 speculation, vague as to time.

20 THE WITNESS: Yes.

21 MR. SANDOVAL: Q. Okay. And is that true when you
22 first started with the company?

23 MR. FOLEY: Same objections.

24 THE WITNESS: Yes.

25 MR. SANDOVAL: Q. Was that true throughout the '60s?

1 MR. FOLEY: Same objections.

2 THE WITNESS: Yes.

3 MR. SANDOVAL: Q. Was that true throughout the '70s?

4 MR. FOLEY: Same objections.

5 THE WITNESS: Yes.

6 MR. SANDOVAL: Q. Was that true throughout the '80s?

7 MR. FOLEY: Same objections.

8 THE WITNESS: Yes.

9 MR. SANDOVAL: Q. Okay. And with regard to the
10 products that were listed in the Graybar catalogs, were all of
11 those products available to customers for purchase from Graybar?

12 MR. FOLEY: Objection. Lacks foundation, calls for
13 speculation, vague as to time and location.

14 THE WITNESS: As far as I know they were, yes.

15 MR. SANDOVAL: Q. Okay. Was that true from the time
16 you first started with the company?

17 MR. FOLEY: Same objections.

18 THE WITNESS: Yes.

19 MR. SANDOVAL: Q. Was that true until the time you
20 left with the -- left the company?

21 MR. FOLEY: Same objections.

22 THE WITNESS: Well, the catalog was way outdated by
23 then.

24 MR. SANDOVAL: Q. Oh, the -- the current -- so that's
25 -- that actually brings me to a good point.

1 The current catalog, at -- at any given point, was the
2 current -- were all products in the current Graybar catalog
3 available for purchase from Graybar?

4 MR. FOLEY: Objection. Vague and ambiguous, lacks
5 foundation, vague as to time and location and scope.

6 THE WITNESS: I'm not sure.

7 MR. SANDOVAL: Q. Okay. If it's 19 -- just for an
8 example, if it's 1967 and I'm looking at a 1967 catalog, would
9 there be any reason that I could not purchase something that was
10 listed in the 1967 catalog from Graybar?

11 MR. FOLEY: Objection. Incomplete hypothetical, lacks
12 foundation, assumes facts.

13 THE WITNESS: It's possible a branch was not franchised
14 for a specific product.

15 MR. SANDOVAL: Q. Okay. And if it wasn't available
16 from one branch, would you be able to purchase it from a
17 different branch that did have it?

18 MR. FOLEY: Same objections.

19 THE WITNESS: Not necessarily, if they had an agreement
20 with -- for that.

21 MR. SANDOVAL: Q. What do you mean by that?

22 A. Well, there was franchised merchandise that was only
23 available at a specific branch and not -- they would take an
24 oath not to ship it to a Graybar customer or to a Graybar
25 location.

1 Q. Okay. Are there any particular products that you're
2 aware of that that was the case?

3 A. I can think of one.

4 Q. What's that?

5 A. Allen Bradley.

6 Q. Okay. Where was this?

7 MR. FOLEY: Objection. Vague and ambiguous.

8 MR. SANDOVAL: Q. I guess a better question: What
9 branch would not ship Allen Bradley?

10 A. I think it was a branch back in Pennsylvania, if I'm
11 not mistaken. I don't know the exact one.

12 Q. Okay. Was that something that happened often, or was
13 that something that would happen every once -- every once in a
14 while with certain branches?

15 A. Once in a while.

16 Q. It wasn't a regular occurrence?

17 A. No.

18 Q. Okay. Would it be fair to say that generally the
19 products that were listed in the catalog would be available for
20 purchase from Graybar, as long as you're looking at a current
21 catalog?

22 A. Yes.

23 Q. Okay. Technical difficulty.

24 We marked Plaintiffs' deposition notice as Exhibit 1.
25 Mr. Cutler, have you ever seen that deposition notice before?

1 A. Yes.

2 Q. And when did you first see it?

3 A. Yesterday.

4 Q. Okay.

5 A. Last night.

6 Q. Okay. Did you do anything to find any information or
7 documents responsive to that deposition notice?

8 MR. FOLEY: Objection. Attorney-client privilege.

9 THE WITNESS: I don't understand the question.

10 MR. SANDOVAL: Q. Did you do anything to prepare for
11 this deposition or to -- strike that.

12 Did you do anything to -- did you look for any
13 documents responsive to this deposition notice?

14 A. No.

15 MR. FOLEY: And Counsel, I'll represent to you as
16 counsel for Graybar and the individual producing the witness
17 here today, we were involved in producing documents that are
18 responsive on behalf of Graybar, as Mr. Cutler, even though he's
19 a person most knowledgeable or most -- person most qualified, is
20 a retired individual. So we undertook efforts to locate and
21 produce documents for his deposition and as a corporate
22 representative.

23 MR. SANDOVAL: Q. Did you make any efforts to locate
24 any information responsive to Plaintiffs' deposition notice?

25 MR. FOLEY: Objection. Vague and ambiguous, overbroad.

1 THE WITNESS: No.

2 MR. SANDOVAL: Q. And I'll preface this next question,
3 I'm not asking about any conversations you've had with your
4 attorney or with attorneys for Graybar. But have you spoken
5 with anyone besides your attorney, or any attorneys for Graybar,
6 in preparation for your deposition today?

7 A. No.

8 Q. Is there anyone you would have liked to speak to in
9 preparation for your deposition that you were unable to speak
10 with?

11 A. No.

12 Q. Did you review any documents at all in preparation for
13 your deposition today?

14 A. Yes.

15 Q. Which documents did you review?

16 A. Mr. Fox's deposition.

17 Q. Any other documents?

18 A. Not that I can think of.

19 MR. FOLEY: Just so the record's clear, he was also
20 provided a copy of the document retention policies dated 2002
21 and 2012. He was also provided a copy of the deposition notice.
22 And I believe that is it.

23 MR. SANDOVAL: Q. Mr. Cutler, you were provided with a
24 copy of the deposition notice yesterday, but is it true that you
25 did not review that deposition notice in preparation for today's

1 deposition?

2 MR. FOLEY: Objection. Vague and ambiguous.

3 THE WITNESS: No.

4 MR. SANDOVAL: Q. Did -- did you review it in
5 preparation for the deposition?

6 A. Yes. I reviewed the deposition.

7 Q. But the deposition notice for today's deposition.

8 A. Which is that?

9 MR. FOLEY: This is this notice that we looked at a
10 couple days ago.

11 THE WITNESS: Yes. Yes.

12 MR. SANDOVAL: Q. The one you were sent last night.

13 A. Yes. We've looked at it.

14 Q. Okay. How much time did you spend reviewing
15 Plaintiff's deposition in this matter?

16 A. Perhaps an hour and a half.

17 Q. Given the length of the Plaintiff's deposition
18 transcript, am I safe to assume that you did not review the
19 entire deposition?

20 A. Correct.

21 Q. Were you given any excerpts of the deposition to
22 review?

23 A. No.

24 Q. Did you review any specific portions of the deposition
25 in depth?

1 A. Yes.

2 Q. Which portions?

3 A. Volume one and two and eight and nine.

4 Q. And I believe you referenced it as Plaintiff's
5 deposition. Did you -- or maybe you mentioned -- prefaced it as
6 Mr. Fox's deposition. Did you review Mrs. Fox's deposition in
7 preparation for your deposition today?

8 A. No.

9 Q. Okay. Did you review the deposition of Ken Bridgeman
10 in preparation for today's deposition?

11 A. No.

12 Q. Did you review the deposition transcript of Mr. Joe Fox
13 in preparation for today's deposition?

14 A. No.

15 Q. Okay. Were there any other documents that you would
16 have liked to review in preparation for today's deposition that
17 you were unable to review?

18 MR. FOLEY: Objection. Vague and ambiguous.

19 THE WITNESS: No.

20 MR. SANDOVAL: Q. Mr. Cutler, have you ever suffered
21 from any asbestos-related disease personally?

22 A. No.

23 MR. FOLEY: A belated objection that it's irrelevant
24 and invades his personal medical history, beyond the scope of
25 this deposition.

1 MR. SANDOVAL: Q. When did you first learn of the
2 hazards of asbestos?

3 MR. FOLEY: Objection. Irrelevant, lacks foundation,
4 beyond the scope of this deposition. But I'll let the witness
5 answer.

6 THE WITNESS: I believe I heard about it because of --
7 I was changing brake shoes on a car.

8 MR. SANDOVAL: Q. When was that?

9 A. I don't recall.

10 Q. Do you have an estimate as to the decade?

11 A. '70s.

12 Q. What was --

13 A. Perhaps early '80s, I don't know.

14 Q. -- going on?

15 A. Well, I was changing the brake shoes on my car, and
16 they -- they told me about it at the place where I bought the
17 new shoes.

18 MR. FOLEY: And Lenny, I just want to have the last
19 answer read back, because he over spoke when he was -- or spoke
20 over him as he was still answering. So I just want to make sure
21 that the record is clear as to what his testimony was. So if we
22 could have that answer read back, please.

23 (The reporter read the record.)

24 MR. FOLEY: Thank you.

25 MR. SANDOVAL: Q. And where were you where they told

1 you about the dangers of asbestos, the hazards -- strike that --
2 the hazards of asbestos?

3 MR. FOLEY: Just object. It lacks foundation, calls
4 for speculation, assumes facts, misstates prior testimony.

5 THE WITNESS: I think California.

6 MR. SANDOVAL: Q. Were you at a store?

7 A. Yes.

8 Q. Do you recall what store?

9 A. I think it was Kragen Auto or maybe -- it was not
10 called that originally. I can't remember what it was called.

11 Q. And was it a sales associate at Kragen Auto that told
12 you about the dangers of asbestos related to brake shoes?

13 A. Yes.

14 Q. Are you aware of any training policies at Graybar in
15 which branch employees were ever trained to warn any customers
16 of the dangers of asbestos?

17 MR. FOLEY: Objection. Vague and ambiguous.

18 THE WITNESS: No.

19 MR. SANDOVAL: Q. Did any -- are you aware of any
20 Graybar employees ever warning any Graybar customers of the
21 dangers of asbestos?

22 MR. FOLEY: Same objections.

23 THE WITNESS: No.

24 MR. SANDOVAL: Q. What are your -- what's your
25 understanding of the hazards of asbestos?

1 MR. FOLEY: Objection. Lacks foundation, calls for
2 speculation, assumes facts, beyond the scope of this deposition,
3 irrelevant, not reasonably calculated to lead to the admissible
4 -- admissibility of evidence.

5 THE WITNESS: Dust or parts of that, something breaking
6 off, flies in the air and a person breathes it, and it does
7 something to their lungs so they can't absorb oxygen.

8 MR. SANDOVAL: Q. And outside of the -- besides the
9 Kragen or wherever -- whatever Kragen used to be, that employee
10 informing you of the dangers of asbestos associated with
11 brakes --

12 A. I remember the name.

13 Q. -- any other sources?

14 A. I remember the name.

15 Q. What's that?

16 A. It was Scherba's.

17 Q. Oh, okay. How do you spell that?

18 A. Your guess is as good as mine.

19 Q. Outside of that -- that interaction, were there any
20 sources where you learned information regarding the hazards of
21 asbestos?

22 A. Yes.

23 Q. What other sources?

24 A. I don't recall what it was, but it had to do with the
25 asbestos in popcorn ceilings.

1 Q. Okay. Any other sources where you learned information
2 about the dangers of asbestos?

3 A. No.

4 Q. I take it that you never received -- you've never
5 personally received any -- throughout your life or career, you
6 never received any training regarding asbestos. Correct?

7 A. Correct.

8 Q. And Graybar never offered any training or education
9 regarding the dangers of asbestos to any of its employees. Is
10 that correct?

11 MR. FOLEY: Object that it lacks foundation, calls for
12 speculation.

13 THE WITNESS: Yes.

14 MR. SANDOVAL: If we could take a quick break so I can
15 review the documents that Mr. Foley e-mailed me.

16 THE VIDEOGRAPHER: The time is 10:42 A.M., and we're
17 off the record.

18 (Recess at 10:42 A.M. until 10:58 A.M.)

19 THE VIDEOGRAPHER: This is tape number three of the
20 video deposition of Roger Cutler. The time is 10:58 A.M., and
21 we're back on the record.

22 MR. SANDOVAL: Q. Good morning, Mr. Cutler. How are
23 you doing?

24 A. I'm doing very well.

25 Q. All right. Are you okay to proceed with your

1 deposition?

2 A. I am.

3 Q. All right. Let's try -- I'll try and move things along
4 so you can get back to your retirement.

5 MR. FOLEY: No objection.

6 MR. SANDOVAL: Q. When you first started with Graybar,
7 were there different departments of the company?

8 MR. FOLEY: Objection. Vague and ambiguous.

9 THE WITNESS: Yes.

10 MR. SANDOVAL: Q. What were those departments?

11 A. Sales --

12 MR. FOLEY: Objection. Overbroad.

13 THE WITNESS: Sales and operations, and management --
14 corporate management.

15 MR. SANDOVAL: Q. Okay. Was sales one department,
16 operations another department, and corporate management another
17 department?

18 A. Yes.

19 Q. Okay. And was -- I guess up until -- well, let me -- I
20 lost something. Sorry.

21 Did you ever work in the sales department --

22 A. My last two --

23 Q. -- for Graybar?

24 A. My last two years.

25 Q. How about operations?

1 A. All the rest of the time.

2 Q. Okay. Were you ever in corporate management for
3 Graybar?

4 A. No.

5 Q. Did Graybar have a corporate headquarters while you
6 worked for Graybar?

7 A. Yes.

8 Q. Where was that when you first started?

9 A. New York, New York.

10 Q. Did that corporate headquarters ever move?

11 A. Yes.

12 Q. Where did it move or when did it move?

13 A. In the '80s, I believe. I'm not quite sure.

14 Q. Early, middle, late '80s?

15 A. Middle.

16 Q. Where did it move to?

17 A. Clayton, Missouri.

18 Q. Not as exciting as New York, New York.

19 Did it -- did Graybar's corporate headquarters move
20 anywhere else?

21 A. No.

22 Q. Okay. Is it -- do you know if it's still in Clayton,
23 Missouri?

24 A. Yes.

25 Q. Okay. Are you still in touch with any of your old

1 supervisors from Graybar?

2 A. Only by way of an annual retirees' luncheon at
3 Christmas time. And we also have a company-wide alumni at Las
4 Vegas every year.

5 Q. Where is the annual retirees' luncheon?

6 A. Usually at the -- at a country club in Pleasanton, crow
7 -- Crow Canyon Country Club.

8 Q. Are there any of your old supervisors that you make it
9 a point to talk to every year at these events?

10 A. Just happens.

11 Q. Okay. Can you recall any of their names?

12 A. Dave Maxwell, Bob Orcutt, Gene Nunziati, who, by the
13 way, was an operating manager, now that I recall, Doug -- Doug
14 Beck. That's all I can think of right now.

15 Q. Okay. Do you know if any of these gentlemen still work
16 for Graybar?

17 A. No, they don't. I'm sorry. One of them still does.

18 Q. Which one?

19 A. Dave Maxwell.

20 Q. What's his current position for Graybar?

21 A. He's the --

22 MR. FOLEY: Lacks foundation, calls for speculation.

23 THE WITNESS: The California area manager, and he's a
24 director in the company.

25 MR. SANDOVAL: Q. He's on the board?

1 A. Yes.

2 Q. Have you ever spoken to any of these gentlemen in
3 preparation for any asbestos-related deposition?

4 A. No.

5 Q. When you started with Graybar in 1956, what type of
6 company was it?

7 MR. FOLEY: Objection. Vague and ambiguous.

8 THE WITNESS: Same as it is today.

9 MR. SANDOVAL: Q. And what is that?

10 MR. FOLEY: Same --

11 THE WITNESS: A distributor of electrical goods and
12 tele -- telecommunication items. And data.

13 MR. SANDOVAL: Q. All right. When you started in
14 1956, was Graybar also selling telecommunication items and data
15 items, as well?

16 A. Yes. I also have to add that we were also the Hotpoint
17 distributor and we were a small appliance distributor.

18 Q. Does Graybar no longer distribute Hotpoint items and
19 small appliances?

20 A. Correct.

21 Q. What is a Hotpoint item?

22 A. Major appliances, ranges, refrigerators, disposals,
23 dishwashers, freezers, water heaters.

24 Q. And what would you consider small appliances?

25 A. Items like Sunbeam, Hamilton Beach, Proctor,

1 Farberware.

2 Q. What types of products do those companies make?

3 A. Coffee pots.

4 Q. I see.

5 A. Blenders, toasters.

6 Q. When you first started with Graybar in 1956, how many
7 offices did Graybar -- or how many branch locations did Graybar
8 have?

9 MR. FOLEY: Object. Lacks foundation, calls for
10 speculation.

11 THE WITNESS: I don't know how many there were.

12 MR. SANDOVAL: Q. Do you have an estimate?

13 A. 250.

14 Q. Did that number increase over time?

15 A. I don't know. It decreases, increases, close up
16 places, open up places. I don't recall the numbers.

17 Q. Did -- did it stay approximately 250 throughout the
18 time you were with Graybar, or did it go up or down
19 significantly?

20 MR. FOLEY: Objection. Lacks foundation, calls for
21 speculation, vague and ambiguous.

22 THE WITNESS: Probably went up.

23 MR. SANDOVAL: Q. Okay. Are you aware of how many
24 branch locations Graybar currently has?

25 A. No.

1 Q. Do you have an estimate?

2 A. 285.

3 Q. Okay. That's a good estimate.

4 And when you first started with the company, where did
5 it do business? Where -- geographic location.

6 A. Salt Lake City, southern Idaho, western Wyoming, and
7 all of Utah and the west -- eastern Nevada.

8 MR. FOLEY: And a belated objection, vague and
9 ambiguous. Are you referring to just where Mr. Cutler was
10 involved or the corporation as a whole?

11 MR. SANDOVAL: Thank -- thanks for that. I'm actually
12 referring to the whole -- corporation as a whole.

13 THE WITNESS: Oh. When I first started, it was the
14 continental United States.

15 MR. SANDOVAL: Q. From the time you started until the
16 time you left, did that change?

17 A. Yes.

18 Q. How did it change?

19 A. We've added Hawaii, Alaska, some parts of eastern
20 Canada, I think Nova Scotia, and Puerto Rico, I believe.

21 Q. Throughout the time, did Graybar continue to sell -- or
22 continue to maintain branches throughout the continental United
23 States, as well?

24 A. I don't know.

25 Q. Are you aware of any regions where Graybar pulled up --

1 pulled up shop or stopped -- or closed up branches?

2 A. Yes.

3 Q. What regions would those be?

4 A. Well, in the western -- or San Francisco district, we
5 closed up San Carlos, Oakland, and then reopened it in a
6 different place; San Jose, closed it and opened it up in a
7 different place; Martinez, closed it up and opened up in a
8 different place.

9 Q. I guess my -- my question wasn't super clear.

10 Were there any regions, entire regions where Graybar
11 ceased doing business? I understand that at times branches will
12 open or close or move, but there were -- were there any regions
13 in the continental United States where Graybar stopped --

14 A. Not that I --

15 Q. -- doing business?

16 A. Excuse me. Not that I know about.

17 Q. Okay. When you started with Graybar, who was in charge
18 of the company at that time?

19 MR. FOLEY: Objection. Overbroad, vague and ambiguous.

20 THE WITNESS: Walter -- wasn't Haggin, but it was a
21 name similar -- similar to that.

22 MR. SANDOVAL: Q. Okay. And when you started with
23 Graybar, how many employees did Graybar have?

24 MR. FOLEY: Objection. Lacks foundation, calls for
25 speculation.

1 THE WITNESS: I can estimate.

2 MR. SANDOVAL: Q. Okay.

3 A. 6,500.

4 Q. Decent sized company.

5 And when you started with Graybar in 19 -- 1958 --

6 A. Six.

7 Q. '56. Thank you.

8 Graybar was, at that time, selling asbestos-containing
9 products. Correct?

10 MR. FOLEY: Objection. Lacks foundation, calls for
11 speculation.

12 THE WITNESS: I don't know.

13 MR. SANDOVAL: Q. Who would know?

14 MR. FOLEY: Objection. Argumentative, lacks
15 foundation, calls for speculation, vague, ambiguous.

16 THE WITNESS: I don't know.

17 MR. SANDOVAL: Q. Okay. I'm going to mark an exhibit
18 -- actually, marking exhibits. As Exhibit 6 -- or I'm not sure
19 if I marked as Exhibit 5 the corporate history document. But if
20 I didn't, I'll do that now.

21 MR. FOLEY: So 5 is the -- --

22 MR. SANDOVAL: -- as Plaintiffs' Exhibit --

23 MR. FOLEY: I'm sorry. Five is the --

24 MR. SANDOVAL: -- as Plaintiffs' Exhibit 6.

25 MR. FOLEY: And what do you want as six?

1 MR. SANDOVAL: Plaintiffs' responses to -- I mean,
2 Defendant's Responses to Standard Interrogatories.

3 MR. FOLEY: So I'm not going to --

4 MR. SANDOVAL: I know the one we have -- the court
5 reporter has currently is kind of funky. I don't think the
6 substance has been changed except for -- the only thing I'm --
7 I've been made aware of is the signature page on the proof of
8 service, and Mrs. Perfetto. I believe that's incorrect.

9 MR. FOLEY: There's a number of items throughout this
10 whole document. So I will mark it because that's what you're
11 requesting to do remotely. But I will tell you, for example,
12 page nine to ten, there's all kinds of spacing issues. I can't
13 verify that this copy is full and complete. But if you are,
14 then we'll move forward. But we reserve our right to object to
15 the use of this document as it presently exists, in the form it
16 exists, as not being a complete and accurate document of what
17 was served. But --

18 MR. SANDOVAL: Just for the record, this is just
19 exactly what was pulled off of Lexis Nexis electronic service.
20 It was -- nothing was done to the document at any point between
21 the time it was downloaded and sent to Madam Court Reporter. So
22 that's all I have. If -- if there is a different version of the
23 document that -- that counsel would like to provide me via
24 e-mail that doesn't have the strange formatting errors, I think
25 that might be better. That might help from -- at least make --

1 make sure we have a clean record. I don't want to be
2 referencing two separate documents.

3 MR. FOLEY: We don't presently have it, but I will work
4 on getting a different version of it.

5 MR. SANDOVAL: Actually, if we could go off the record
6 for a second, I'm going to -- I'll try and download it again off
7 of Lexis and see if it does anything different.

8 THE VIDEOGRAPHER: The time is 11:17 A.M. We're off
9 the record.

10 (Recess at 11:17 A.M. until 11:27 A.M.)

11 THE VIDEOGRAPHER: The time is 11:27 A.M. We're back
12 on the record.

13 MR. SANDOVAL: Q. Are you okay to continue,
14 Mr. Cutler?

15 A. I'm great.

16 Q. All right. Good.

17 Have you ever verified any standard interrogatory
18 responses on behalf of Graybar?

19 A. What's that mean?

20 Q. Where you review discovery responses to ensure they're
21 correct and then sign it and verify that these discovery
22 responses are correct.

23 A. I haven't done any -- no. No.

24 Q. Okay. Do you know who would do that on behalf of
25 Graybar?

1 MR. FOLEY: Just object that it's vague as to time and
2 overbroad.

3 If you know.

4 THE WITNESS: I have no idea.

5 MR. SANDOVAL: Q. Okay. Have you ever seen any
6 discovery responses on behalf -- that Graybar has -- has served
7 on any party to any type of litigation?

8 A. No. Did I?

9 MR. FOLEY: I'll --

10 THE WITNESS: Excuse me.

11 MR. FOLEY: I'll represent that he has in various cases
12 in the past. The discovery responses are the interrogatories --

13 THE WITNESS: Oh. These.

14 MR. FOLEY: -- or the questions that are posed --

15 THE WITNESS: Yes, I have.

16 MR. FOLEY: -- and the answers that are provided.

17 THE WITNESS: Okay. I don't know what these are all
18 the time.

19 MR. SANDOVAL: Okay. Yeah. No. And I -- I used a
20 term of art. And I forget sometimes. I meant -- by "discovery
21 responses," I meant things like standard interrogatory
22 responses.

23 MR. FOLEY: Questions and answers that are provided on
24 behalf of Plaintiffs and also on behalf of Graybar.

25 THE WITNESS: Okay. Yes, I have.

1 MR. SANDOVAL: Q. Have you reviewed -- okay. Have you
2 ever verified any of those types of documents before?

3 A. No.

4 MR. SANDOVAL: Okay. As Plaintiffs' Exhibit 6, we have
5 Standard Interrogatory Responses. Just so the record's clear,
6 we do -- there is a current issue with the version that we're
7 entering. So I'll -- for -- let's -- let's keep the version
8 that the court reporter has in front of her as Exhibit 6.

9 MR. FOLEY: And then we've agreed to make a copy that
10 has no typographical errors available to you, and hopefully
11 we'll have that shortly. It's being sent to me.

12 MR. SANDOVAL: Great.

13 Q. And if I can direct you, Mr. Cutler, to page three of
14 this document, of the interrogatory responses. Actually, I'll
15 first direct you to page two, the bottom of page two.

16 A. I'm there.

17 Q. Okay. And it reads, "Have you --" and it's in
18 reference to Graybar, and these are interrogatories that were --
19 that have been propounded onto Graybar. "Have you at any time
20 engaged in processing, marketing and sale of products containing
21 asbestos fibers?"

22 And then on page three in the response, it lists,
23 "Graybar is a distributor of electrical related products
24 manufactured by others. Beginning in 1926, through the mid
25 1980s, Graybar offered for sale some products manufactured by

1 others which may have contained some form of asbestos."

2 Do you have any reason to believe that that's not true?

3 A. No.

4 Q. Okay. Is it your testimony that Graybar may have sold
5 asbestos-containing products, you just aren't aware of them, or
6 which ones they were?

7 A. Correct.

8 Q. And you don't have any training in asbestos -- with
9 regard to any -- you don't have any type of asbestos training.
10 Correct?

11 MR. FOLEY: Objection. Vague and ambiguous.
12 Overbroad.

13 THE WITNESS: No.

14 MR. SANDOVAL: Q. And Graybar never -- and you were
15 never given any training in how to identify or -- you were never
16 given any training or information with regard to which products
17 Graybar sold that contained asbestos.

18 MR. FOLEY: Objection. Lacks foundation, calls for
19 speculation, misstates prior testimony.

20 You can go ahead and answer.

21 THE WITNESS: No.

22 MR. SANDOVAL: Q. If there was evidence that a product
23 that is located -- that was located in a Graybar catalog that
24 was -- contained asbestos, you wouldn't have any information
25 that would refute that. Correct?

1 A. Correct.

2 Q. And if an ob -- if an item was available -- or if an
3 item was listed in a Graybar catalog, generally it -- and it was
4 a current catalog, it would generally be available to the public
5 for purchase. Correct?

6 MR. FOLEY: Objection. Lacks foundation, calls for
7 speculation, vague as to time.

8 THE WITNESS: Not the public.

9 MR. SANDOVAL: Q. To customers for purchase.

10 MR. FOLEY: Same objections.

11 THE WITNESS: Yes.

12 MR. SANDOVAL: Q. And that actually brings us to a
13 good point. Graybar didn't generally sell to the public?

14 A. Correct.

15 Q. Who did it sell to? Who were Graybar's -- or I think
16 we were -- discussed it somewhat. Who were gray -- Graybar's
17 primary customers?

18 A. Electrical contractors, the public sector, industrials,
19 commercials, independent telephone companies, telephone
20 installers. That's all I can think -- that's the biggest share
21 of it.

22 Q. Okay. And when you started with the company, how would
23 one become a Graybar customer?

24 A. Probably have an electrical license.

25 Q. Okay.

1 A. Or was part of a public sector.

2 Q. I see. And did Graybar seek out these customers, or
3 did these customers seek out Graybar, or was it a little of
4 both?

5 A. All of the above.

6 Q. Okay. Have you made any efforts to find out whether or
7 not Graybar ever sold any asbestos or asbestos-containing
8 products?

9 A. No.

10 MR. FOLEY: Well, belated objection. It's vague and
11 ambiguous and overbroad.

12 MR. SANDOVAL: Q. Is there anyone who you could speak
13 to in order to find out whether or not Graybar ever sold any
14 asbestos-containing products or what -- when or any information
15 regarding any asbestos-containing products Graybar may have
16 sold?

17 MR. FOLEY: Same objections.

18 THE WITNESS: No.

19 MR. SANDOVAL: Q. Where did Graybar get its products
20 that it sold?

21 MR. FOLEY: Objection.

22 MR. SANDOVAL: Q. Did they buy them directly from the
23 manufacturers or --

24 MR. FOLEY: Lacks foundation, calls for speculation,
25 vague as to time, overbroad.

1 THE WITNESS: From the manufacturers.

2 MR. TANDBERG: Pardon me. Could I get the question and
3 answer read back.

4 (The reporter read the question and answer.)

5 MR. SANDOVAL: Q. Did Graybar ever use any -- any
6 middlemen or other -- other suppliers besides the manufacturer
7 to purchase its products from?

8 MR. FOLEY: Objection. Lacks foundation, vague and
9 ambiguous.

10 THE WITNESS: I don't know -- I don't really understand
11 the question.

12 MR. SANDOVAL: Q. I guess would -- did Graybar ever
13 use any -- during the time that you worked at Graybar, did
14 Graybar ever use any middlemen or distributors to supply them
15 with prod -- with electrical equipment or products?

16 MR. FOLEY: Same objections.

17 THE WITNESS: We had representatives that had stock of
18 the manufacturers' product that we bought.

19 MR. SANDOVAL: Q. And would that be a representative
20 of the individual manufacturing companies, or would that be an
21 independent representative, a third party?

22 A. They would represent the manufactured product.

23 Q. Okay. So did -- so is it your testimony that Graybar
24 purchased products directly from the manufacturers, and at times
25 they went through representatives, I guess, warehousing

1 companies? Is that type --

2 A. Yes.

3 Q. -- what you're describing?

4 A. The manufacturer would have the representative stock
5 the merchandise locally for us.

6 Q. Okay.

7 A. But we would enter the order to the manufacturer.

8 Q. I see. That was my next question.

9 Did Graybar ever purchase products from General
10 Electric?

11 A. Yes.

12 Q. Did -- while you worked for Graybar?

13 A. What was that?

14 MR. FOLEY: Vague and ambiguous.

15 MR. SANDOVAL: I guess, let me -- let me make this a
16 little more temporal.

17 Q. When you started working for -- when you first started
18 working for Graybar, did Graybar purchase and sell General
19 Electric products?

20 A. Yes.

21 Q. Did Graybar ever stop purchasing and selling General
22 Electric products from the time that you were with Graybar?

23 A. No.

24 Q. Okay.

25 A. Not to my knowledge.

1 Q. When you first started in 1956 with Graybar, did
2 Graybar sell Westinghouse products?

3 MS. BACK: Vague, overbroad.

4 THE WITNESS: Not where I was located or that I had
5 been in any other warehouse.

6 MR. SANDOVAL: Q. Okay. Were you aware of any other
7 warehouses or branches that sold Westinghouse products?

8 A. No.

9 Q. Graybar -- Graybar branches that sold Westinghouse
10 products?

11 A. I don't know of any.

12 Q. Is that true throughout the time you worked for
13 Graybar?

14 A. Yes.

15 Q. When you first started in 1956 with Graybar, did
16 Graybar purchase and sell Square D products?

17 MR. TANDBERG: Objection. Outside the scope, leading,
18 assumes facts, vague, ambiguous, overbroad.

19 THE WITNESS: Yes.

20 MR. TANDBERG: Lacks foundation.

21 MR. SANDOVAL: Q. At any point throughout the time
22 that you worked for Graybar, did Graybar ever stop selling
23 Square D products?

24 MR. TANDBERG: Same objections.

25 THE WITNESS: No.

1 MR. SANDOVAL: Q. When you started with Graybar in
2 1956, did Graybar sell any -- or sell Cutler-Hammer products?

3 MR. COLIN SCHWARTZ: Objection. Vague and ambiguous,
4 assumes facts.

5 THE WITNESS: No.

6 MR. SANDOVAL: Q. At any point -- is that -- is that
7 true of Graybar as a company, or is that true of the areas in
8 which you worked or --

9 MR. COLIN SCHWARTZ: Objection. Vague.

10 MR. SANDOVAL: Q. -- only in the areas in which you
11 worked?

12 A. It's true of the areas that I worked, but I knew of no
13 location that stocked Cutler-Hammer.

14 THE REPORTER: There was an objection again spoken at
15 the same time as the last question. Could I have you repeat
16 that, please?

17 MR. COLIN SCHWARTZ: Yes. It was just vague.

18 THE REPORTER: Thank you.

19 MR. SANDOVAL: Q. And we briefly mentioned this
20 earlier, but when you began working with Graybar in 1956, did
21 Graybar, as a company, sell Allen Bradley products?

22 A. Only one branch that I know about.

23 Q. And where was that branch?

24 A. I thought it was somewhere in Pennsylvania. I'm not
25 sure of the exact location.

1 Q. Okay. I think I may have misunderstood you before. So
2 one branch that you're aware of did sell at that -- when I asked
3 you about it earlier, I thought it was that one branch did not
4 sell --

5 A. Yeah.

6 Q. -- Allen Bradley products.

7 A. Yes. It did sell.

8 Q. Okay. When you began working for Graybar in 1956, did
9 Graybar sell any ITE electrical products?

10 MR. CHUSID: Objection. Vague, ambiguous, compound.

11 THE WITNESS: Yes.

12 MR. SANDOVAL: Q. At any point between the time you
13 worked for Graybar between 1956 and 1999, did Graybar ever stop
14 selling ITE products?

15 MR. CHUSID: Same objections.

16 THE WITNESS: I don't recall any being stocked in South
17 San Francisco. Or any other location.

18 MR. SANDOVAL: Can I get the -- not the last question,
19 but the question before that read back, please, the question and
20 answer.

21 (The reporter read the record.)

22 MR. CHUSID: Can you read the next question and answer
23 back, please?

24 (The reporter read the record.)

25 MR. SANDOVAL: Respectfully move to strike as

1 nonresponsive.

2 Q. Is it your testimony that when you first started,
3 Graybar did sell ITE products?

4 A. Yes.

5 Q. And at some point, did Graybar stop selling ITE
6 products?

7 A. I'm not for sure, but I don't recall any.

8 Q. I see. So is it your testimony that when you first
9 started, you were aware that Graybar sold ITE products, but they
10 didn't happen to sell them in the district that you were
11 working?

12 A. I don't know if they stopped stocking it or not. I
13 don't recall any merchandise.

14 Q. Okay. When you first started with Graybar in 1956, did
15 Graybar sell Crouse-Hinds products?

16 MS. NELSON: Objection. Lacks foundation, calls for
17 speculation, vague and ambiguous, overbroad, and beyond the
18 scope.

19 THE WITNESS: Yes.

20 MR. SANDOVAL: Q. At any point in the time that you
21 worked for Graybar between 1956 and 1999, did Graybar ever stop
22 selling Crouse-Hinds products?

23 MS. NELSON: Same objections.

24 THE WITNESS: No.

25 MR. SANDOVAL: Q. When did Graybar, as a company,

1 first learn about the hazards of asbestos?

2 MR. FOLEY: Objection. Lacks foundation, calls for
3 speculation.

4 THE WITNESS: I don't know.

5 MR. SANDOVAL: Q. Is there anyone you would be able to
6 ask that would know?

7 MR. FOLEY: Same objections.

8 THE WITNESS: Not that I know of.

9 MR. SANDOVAL: Q. Did Graybar make any -- ever make
10 any efforts, as a company, to learn about the hazards -- health
11 hazards of asbestos?

12 MR. FOLEY: Same objections.

13 THE WITNESS: I don't know.

14 MR. SANDOVAL: Q. Is there anyone that you can think
15 of that you would be able to ask that would know?

16 A. No.

17 Q. Did Graybar ever do any research with regard to the
18 hazards its employees could encounter?

19 MR. FOLEY: Objection. Vague and ambiguous, overbroad,
20 lacks foundation.

21 MR. SANDOVAL: And I'll clarify a little bit.

22 Q. Did Graybar ever do any research with regard to the
23 hazards that its employees could encounter in working for
24 Graybar?

25 MR. FOLEY: Same objections.

1 THE WITNESS: I don't know.

2 MR. SANDOVAL: Q. Do you know anyone who would know?

3 A. No.

4 Q. Did Graybar have any system to research issues
5 regarding worker safety?

6 MR. FOLEY: Objection. Overbroad, lacks foundation,
7 calls for speculation.

8 THE WITNESS: I don't know.

9 MR. SANDOVAL: Q. In your capacity as a trainer of
10 employees throughout your time with Graybar, did you ever --
11 were you ever -- did you ever take any measures to train
12 employees with regard to worker safety?

13 MR. FOLEY: Same objections.

14 THE WITNESS: Yes.

15 MR. SANDOVAL: Q. What types of measures?

16 MR. FOLEY: Overbroad.

17 THE WITNESS: OSHA regulations and general safety and
18 -- and fire and health, as it was.

19 MR. SANDOVAL: Q. What types of measures would you
20 undertake to -- when you were training employees with regard to
21 general safety?

22 MR. FOLEY: Overbroad.

23 THE WITNESS: That they were observing the lift truck
24 or the -- the Hyster's abilities and how to operate it, and that
25 they were wearing the appropriate clothing, like steel-toed

1 shoes, and gloves.

2 MR. SANDOVAL: Q. What about with regard to fire and
3 health?

4 A. That they knew where the exits were, where the fire
5 extinguishers were, and that they used the proper compound when
6 they were sweeping and cleaning shelves off.

7 Q. What about with regard to OSHA regulations?

8 A. I don't recall ever learning the OSHA regulations, but
9 it had to do with anything that was unsafe. That's all I can
10 tell you. That I deemed to be unsafe.

11 Q. Okay. And by the mid '70s, Mr. Cutler, you were
12 already a district trainer with Graybar Electric. Correct?

13 A. Yes.

14 Q. And actually, in the early '70s, you were already an
15 operating manager with Graybar Electric. Correct?

16 A. Yes.

17 Q. Did Graybar ever make you go through any OSHA training?

18 A. No.

19 Q. Did Graybar ever offer you any OSHA training?

20 A. No.

21 Q. Did any Graybar employee safety manuals ever mention
22 asbestos?

23 MR. FOLEY: Objection. Lacks foundation, calls for
24 speculation, beyond the scope of this deposition.

25 THE WITNESS: Not that I know of.

1 MR. SANDOVAL: Q. Were you ever present -- did Graybar
2 -- let me go back.

3 Did Graybar ever hold safety meetings?

4 MR. FOLEY: Objection. Lacks foundation, calls for
5 speculation, vague and ambiguous.

6 THE WITNESS: Yes.

7 MR. SANDOVAL: Q. Did you ever go to any of those
8 safety meetings?

9 A. Say that again.

10 Q. Did you ever go to any of those safety meetings?

11 A. Yes.

12 Q. At any safety meetings that you went to, did you ever
13 hear anyone mention asbestos at any Graybar safety meetings?

14 A. No.

15 Q. While you worked for Graybar, did Graybar ever have any
16 system for ensuring that it was complying with California or
17 federal employment laws?

18 MR. FOLEY: Objection. Compound, vague and ambiguous,
19 overbroad.

20 MR. SANDOVAL: All right. We'll start with California.

21 Q. Did Graybar -- while you worked for Graybar, did
22 Graybar ever have a system for ensuring that it was complying
23 with California employment laws?

24 MR. FOLEY: Objection. Over --

25 THE WITNESS: No.

1 MR. FOLEY: -- broad.

2 MR. SANDOVAL: Q. Did Graybar ever have a system to
3 ensure that it was complying with federal employment laws?

4 MR. FOLEY: Same objections. Lacks foundation, calls
5 for speculation, beyond the scope of this deposition.

6 THE WITNESS: Not that I know of.

7 MR. SANDOVAL: Q. Okay. Are you aware of any attempts
8 Graybar ever made to comply with California OSHA laws?

9 MR. FOLEY: Same objections.

10 THE WITNESS: Nope.

11 MR. SANDOVAL: Q. Do you know what a threshold value
12 -- limit value is?

13 A. No.

14 Q. Or a TLV?

15 A. As what?

16 Q. Or a TLV?

17 A. No.

18 Q. Then that probably makes the next answer -- or next
19 question an easy one. Are you aware of any attempts Graybar
20 made to determine if levels of asbestos dust at any of Graybar's
21 locations ever exceeded TLVs?

22 MR. FOLEY: Objection. Lacks foundation, calls for
23 speculation, beyond the scope of this deposition.

24 THE WITNESS: No.

25 MR. SANDOVAL: Q. Are you aware of any air sampling

1 that Graybar ever did at any of its branch locations?

2 MR. FOLEY: Same objections.

3 THE WITNESS: No.

4 MR. SANDOVAL: Q. Are you aware of any air sampling
5 that Graybar did with any of the products that it sold?

6 MR. FOLEY: Same objections.

7 THE WITNESS: No.

8 MR. SANDOVAL: Q. And earlier we talked about
9 documents that you reviewed, and you mentioned that you reviewed
10 volumes one, two, eight, and nine of Mr. Albert Fox's
11 deposition. Is that correct?

12 A. Correct.

13 Q. And through that review -- through your review of
14 Mr. Fox's deposition, did you learn that Mr. Fox worked as an
15 electrician throughout his career?

16 A. Yes.

17 Q. Did you also learn that Mr. Fox -- from approximately
18 1972 to 1985, Mr. Fox was an electrical contractor?

19 A. Yes.

20 Q. And did -- have you ever spoken to Mr. Fox?

21 A. No.

22 Q. As an electrical contractor between 1972 and 1965
23 [sic], would Mr. Fox have been the type of customer that Graybar
24 would regularly have?

25 MR. FOLEY: Object that it's vague and ambiguous.

1 MR. TANDBERG: Lacks foundation.

2 MR. FOLEY: Join.

3 MR. TANDBERG: Join.

4 THE WITNESS: Yes.

5 MR. SANDOVAL: Q. And are you also aware that prior to
6 1972, Mr. Fox worked for another electrical contractor by the
7 name of Tom Jordan?

8 A. Yes.

9 Q. And that was from approximately 1963 to 1972?

10 MR. FOLEY: Objection. Lacks foundation, calls for
11 speculation, assumes facts.

12 THE WITNESS: I don't remember the dates.

13 MR. SANDOVAL: Q. Would an electrical contractor like
14 Mr. Tom Jordan also be the type of customer that Graybar would
15 -- would regularly have?

16 MR. FOLEY: Objection. Lacks foundation, assumes
17 facts, incomplete hypothetical, vague and ambiguous.

18 THE WITNESS: Yes.

19 MR. SANDOVAL: Q. Would -- would customers like --
20 like Mr. Fox and Mr. Jordan, customers like them, electrical
21 contractors, would they maintain an account with Graybar while
22 they were customers?

23 MR. FOLEY: Objection. Assumes facts, lacks
24 foundation, vague and ambiguous, compound.

25 THE WITNESS: Probably, if they had credit.

1 MR. SANDOVAL: Q. And how did that work?

2 MR. FOLEY: Objection. Overbroad, vague and ambiguous.

3 THE WITNESS: Credit department would research their
4 application.

5 MR. SANDOVAL: Q. Okay. And what would happen next?

6 MR. FOLEY: Same objections.

7 THE WITNESS: Either open up an account or tell them
8 they weren't welcome.

9 MR. SANDOVAL: Q. Okay. When -- when companies -- or
10 when electrical contractors did open -- when their credit did
11 pass muster and they were -- they did open accounts, how would
12 that account information be maintained by Graybar?

13 MR. FOLEY: Objection. Lacks foundation, calls for
14 speculation, overbroad, incomplete hypothetical.

15 THE WITNESS: They would just be put on the books as a
16 potential customer.

17 MR. SANDOVAL: Q. And would it be specific to a
18 particular branch, or would that information be available to
19 other branches from Graybar?

20 MR. FOLEY: Same objections.

21 THE WITNESS: Generally stayed in the branch, unless
22 they were a national customer.

23 MR. SANDOVAL: Q. Okay. And in the 1960s, 1970s, and
24 1980s, Graybar had a branch in the Santa Barbara area. Correct?

25 A. I believe they did.

1 Q. Do you know how long Graybar maintained customer
2 information -- customer account information at these branches?

3 MR. FOLEY: Objection. Vague and ambiguous, overbroad,
4 vague as to time.

5 THE WITNESS: Sales records were held for six years.

6 MR. SANDOVAL: Q. Okay.

7 THE VIDEOGRAPHER: This is the video --

8 MR. SANDOVAL: Q. And would this -- would this type of
9 information fall under sales records?

10 MR. FOLEY: Objection. Vague and ambiguous as to "this
11 type of information."

12 THE WITNESS: Please explain.

13 MR. SANDOVAL: Q. Sure. That first credit check,
14 would that fall under sales records?

15 A. No.

16 Q. What would that fall under?

17 MR. FOLEY: Lacks foundation, calls for speculation.

18 THE WITNESS: It was up to the credit department to
19 maintain, and if the customer didn't buy for a while, they were
20 just kind of dropped. There was no list made.

21 MR. FOLEY: And Leonard, we have five minutes, or less
22 now.

23 MR. SANDOVAL: Okay. Let's take a break, then. Want
24 to take a lunch break? Probably have like another hour.

25 MR. FOLEY: Let's go off the record and talk.

1 THE VIDEOGRAPHER: Time is 12:02 P.M. And we're off
2 the record.

3 (Recess at 12:02 P.M. until 12:14 P.M.)

4 THE VIDEOGRAPHER: This is tape number four of the
5 continuing video deposition of Roger Cutler. The time is
6 12:14 P.M. We're back on the record.

7 MR. SANDOVAL: Q. Yes. Good afternoon now,
8 Mr. Cutler. How are -- are you okay to continue with your
9 deposition?

10 A. Raring to go.

11 Q. Okay. We were briefly discussing credit check
12 documents that customers would have to fill out before getting
13 an account set up. Do you know how Graybar maintained those
14 documents?

15 A. In a file cabinet.

16 Q. Do you know how long Graybar kept those types of
17 documents?

18 A. No.

19 Q. Do you know who would know?

20 A. No.

21 Q. Does Graybar have a custodian of records?

22 MR. FOLEY: Object. Lacks foundation, calls for
23 speculation, beyond the scope of this witness's knowledge.

24 We -- I will make the representation that we do not
25 have a formal custodian of records, and I would invite you to

1 meet and confer after this deposition as to the authenticity or
2 admissibility or use of any particular Graybar historical
3 documents that may be at issue in this case.

4 THE WITNESS: I don't know of any.

5 MR. SANDOVAL: And just so we're clear, the catalog
6 produced, you did stipulate to the admissibility and authen --
7 or authenticity of that document. Correct?

8 MR. FOLEY: Correct.

9 MR. SANDOVAL: The same goes for the two document
10 retention policy documents?

11 MR. FOLEY: Yes.

12 MR. SANDOVAL: But the very well written history of
13 Western Electric -- actually, before I forget, I think we listed
14 it as Plaintiffs' Exhibit 5.

15 Q. Mr. Cutler, have you ever seen that document?

16 A. Just a moment.

17 MR. FOLEY: The corporate history? Let me just grab it
18 so it's in front of him.

19 THE WITNESS: I've seen it.

20 MR. SANDOVAL: Q. Do you have any reason to dispute
21 any part of that document?

22 A. I've not read everything on it, but I would think that
23 it's pretty accurate.

24 Q. Okay. Do you know if Graybar would still have in their
25 possession any documents relating to customers from the '70s and

1 '80s?

2 A. No --

3 MR. FOLEY: Lacks foundation, calls for speculation.

4 THE WITNESS: No.

5 MR. SANDOVAL: Q. Why is that?

6 A. They would have been destroyed long ago.

7 Q. Why is that?

8 A. That was company policy.

9 Q. And what types of company -- what types of documents
10 did you associate with customer accounts?

11 MR. FOLEY: Objection. Vague and ambiguous, overbroad.

12 THE WITNESS: Quotations, sales receipts, I can't think
13 of anything else.

14 MR. SANDOVAL: Q. What about written agreements?

15 A. Isn't that a quotation?

16 Q. Well, I'm looking at, I guess, 2002 document retention
17 policy produced. Let's actually refer to that as 4A and the
18 2012 document retention policy as 4B.

19 MR. FOLEY: Okay. Is there a specific section or
20 portion that you want him to look at?

21 MR. SANDOVAL: Yeah. One sec.

22 Q. On the third page of the 2002 document, it lists sales
23 and general operation.

24 A. I'm looking at it.

25 Q. 3.1 lists quotations, and 3.5 lists written agreements.

1 Do you -- would you be able to tell me the differences between a
2 quotation and a written agreement? As far as Graybar is
3 concerned.

4 A. A quotation was a list of products that they wanted to
5 purchase for competitive purposes. I don't know what a written
6 agreement is. It may have to do with suppliers. I don't think
7 it had a thing to do with customers.

8 Q. Okay.

9 MR. FOLEY: By "suppliers," do you mean manufacturers?

10 THE WITNESS: Manufacturers. Right.

11 MR. SANDOVAL: Q. Are you aware of any occupational
12 injury claims that any employees have made, any Graybar
13 employees have made regarding asbestos-related injuries?

14 A. No.

15 MR. FOLEY: Object. Lacks foundation, assumes facts.
16 Go ahead and answer.

17 THE WITNESS: No.

18 MR. SANDOVAL: Q. Is that a "no," you're not aware one
19 way or the other?

20 A. I'm not aware of any claims.

21 Q. Is there anyone that you can think of that would be
22 more knowledgeable on this subject?

23 A. No.

24 Q. So is it your testimony that any documents that would
25 show purchases made by Mr. Fox, Mr. Fox's electrical company, or

1 Mr. Tom Jordan or Mr. Tom Jordan's electrical company would have
2 been destroyed per Graybar's document retention policies?

3 A. They would have all been destroyed.

4 Q. Okay. We've talked about this briefly, but the
5 catalogs that were available through Graybar were generally
6 reflective of products that were available for purchase --
7 strike that.

8 The products listed in the Graybar catalogs were
9 generally reflective of the products available at the time the
10 catalog was available. Right?

11 A. Yes.

12 Q. And Graybar sold a very, very broad variety of
13 electrical products. Correct?

14 MR. FOLEY: Objection. Vague and ambiguous.

15 THE WITNESS: I would think so.

16 MR. SANDOVAL: Q. Throughout the time you worked for
17 Graybar?

18 A. Yes.

19 Q. And in actuality, there -- there -- is it -- isn't it a
20 Graybar slogan, isn't "Everything Electrical" Graybar's slogan?

21 A. "Number One Resource," in addition to that.

22 Q. Okay. So it's -- so there's "Everything Electrical"
23 and "Number One Resource"?

24 A. Yes.

25 Q. Did Graybar ever sell any asbestos-containing wire?

1 MR. FOLEY: Objection. Lacks foundation, calls for
2 speculation, vague as to time, overbroad.

3 THE WITNESS: Not that I know of.

4 MR. SANDOVAL: Q. Or did Graybar sell any wire or
5 cable, in general?

6 A. Yes.

7 Q. All types?

8 MR. FOLEY: Overbroad, vague and ambiguous.

9 THE WITNESS: When you say "all types," I don't know
10 whether they did all types.

11 MR. SANDOVAL: Q. Many different types?

12 A. Many different types.

13 Q. The wire and cable that Graybar sold, how was that
14 branded? Would they -- would they sell wire from other
15 manufacturers? Or was it Graybar specific?

16 MR. FOLEY: Objection. Compound, overbroad, vague and
17 ambiguous.

18 THE WITNESS: Other manufacturers.

19 MR. SANDOVAL: Q. Would Graybar put that wire on their
20 own reels?

21 MR. FOLEY: Objection. Vague as to time, overbroad.

22 THE WITNESS: Only if we bought the reels empty.

23 MR. SANDOVAL: Q. I guess we'll step back. So Graybar
24 purchased wire from other manufacturers. Correct?

25 A. Yes.

1 Q. Wire and cable?

2 A. Yes.

3 Q. And just -- just so we're clear, if I use "wire" and
4 "cable" interchangeably, is that correct, or am I -- am I -- am
5 I being -- am I somehow incorrect?

6 A. It's okay with me.

7 Q. Okay. Do you recall the manufacturers of any of the
8 wire or cable that -- that Graybar sold?

9 MR. FOLEY: Objection. Lacks foundation, overbroad.

10 THE WITNESS: I remember a few.

11 MR. SANDOVAL: Q. What are those?

12 A. General Cable, Triangle, Hatfield, Carol Cable --

13 THE REPORTER: I'm sorry?

14 THE WITNESS: Carol. Whitney Blake. Multiple types of
15 telephone cable bought from -- we had even some we bought from
16 -- from Western Electric.

17 MR. SANDOVAL: Q. Okay. Did Graybar ever sell any
18 Anaconda wire or cable?

19 MR. FOLEY: Objection. Lacks foundation, calls for
20 speculation.

21 A DEFENSE ATTORNEY: Could I have the answer read back,
22 please.

23 (The reporter read the answer.)

24 A DEFENSE ATTORNEY: Thank you.

25 MR. KHARE: Khare. I did not get his response with

1 regard to the Anaconda.

2 THE WITNESS: Haven't answered yet.

3 MR. KHARE: That's why I didn't get it, I guess.

4 MR. FOLEY: And I don't know that we have our
5 objections. Lack -- object. Lacks foundation, calls for
6 speculation, vague as to time.

7 THE WITNESS: Yes. I do recall Anaconda.

8 MR. SANDOVAL: Q. Do you recall whether -- did Western
9 -- or strike that.

10 Did Graybar sell Anaconda wire when you first started
11 working there in 1956?

12 MR. FOLEY: Same objections.

13 THE WITNESS: I don't remember it that -- that soon.

14 MR. SANDOVAL: Q. When is the first time you recall
15 seeing -- or Graybar selling Anaconda wire or cable?

16 MR. FOLEY: Same objections.

17 THE WITNESS: Probably mid '80s. And I do recall we
18 sold Okonite and ROHM.

19 MR. FOLEY: Move to strike as non-responsive and no
20 question pending.

21 MR. MARTIN: Join that.

22 MR. SANDOVAL: You're one step ahead of me on that one.

23 Q. Do you recall Okonite as a brand of wire and cable that
24 Graybar sold when you first started working there?

25 MR. FOLEY: Objection. Lacks foundation, calls for

1 speculation.

2 MR. MARTIN: Leading, overbroad, lacks foundation,
3 calls for speculation, and move to strike the speculative,
4 nonresponsive portions. This is Martin for Okonite.

5 THE WITNESS: Not when I started.

6 MR. SANDOVAL: Q. When do you recall the first sale of
7 Okonite?

8 MR. MARTIN: Same objections, same motions.

9 Counsel, may I have a running motion and objection to
10 the Okonite questioning to avoid interrupting?

11 MR. SANDOVAL: Sure.

12 MR. MARTIN: Thank you very much. Accepted.

13 THE WITNESS: It was in the '71 or '72, '73 era.

14 MR. SANDOVAL: Q. Okay. What about American
15 Insulated? Are you aware of Graybar ever selling American
16 Insulated brand of asbestos -- or wire or cable?

17 MR. FOLEY: Objection. Lacks foundation, calls for
18 speculation, vague as to time.

19 THE WITNESS: Don't recall it.

20 MR. SANDOVAL: Q. Okay. Let's use General Cable as an
21 example. If -- if I were a customer and I wanted to purchase
22 General Cable or -- and I was purchasing General Cable wire or
23 cable from Graybar, normally, or generally, how would it come
24 shipped? Would it come shipped on a General Cable spool, or
25 would it come on a Graybar spool?

1 MR. FOLEY: Objection. Lacks foundation, calls for
2 speculation --

3 MR. KATERNDAHL: Excuse me.

4 MR. FOLEY: -- incomplete hypothetical.

5 MR. KATERNDAHL: Excuse me. I'm sorry. This is
6 Katerndahl. Objection. Vague and ambiguous, overbroad as to
7 time, no foundation.

8 Go ahead.

9 THE WITNESS: It would come on the manufacturer's reel
10 or spool.

11 MR. SANDOVAL: Q. What types of cable would come on a
12 Graybar spool or reel?

13 MR. FOLEY: Objection. Assumes facts, misstates prior
14 testimony. Vague and ambiguous.

15 THE WITNESS: None.

16 MR. SANDOVAL: Q. Is it your testimony that -- that
17 Graybar never sold any wire or cable on Graybar spools or reels?

18 MR. FOLEY: Objection. Misstates prior testimony,
19 misrepresentation of the prior question and answer, lacks
20 foundation, calls for speculation.

21 THE WITNESS: No. We -- no. We didn't -- we didn't
22 have reels. We had -- we had reels that we needed to buy
23 because we needed to re-spool reels that we bought on our own,
24 but they are not necessarily Graybar spools. Does that make
25 sense?

1 MR. SANDOVAL: Q. I believe so.

2 A. We would sometimes send out a reel with a -- a Graybar
3 tag showing the length of that wire.

4 Q. Would that tag also include the manufacturer
5 information?

6 MR. FOLEY: Objection. Lacks foundation, calls for
7 speculation.

8 THE WITNESS: No.

9 MR. SANDOVAL: Q. Would that tag include any rating
10 information with regard to the wire?

11 MR. FOLEY: Same objections.

12 THE WITNESS: No.

13 MR. SANDOVAL: Q. Would the tag include any
14 information with regard to what type of wire it was?

15 MR. FOLEY: Same objections.

16 THE WITNESS: No.

17 MR. SANDOVAL: Q. There was just basically a sticker
18 or tag that just had the amount of feet or meters?

19 A. Correct.

20 MR. SANDOVAL: I'm sorry. Can we go off the record for
21 a minute? I'm just trying to find something.

22 THE VIDEOGRAPHER: The time is 12:33 P.M., and we're
23 off the record.

24 (Recess at 12:33 P.M. until 12:38 P.M.)

25 THE VIDEOGRAPHER: And it's 12:38 P.M., and we're back

1 on the record.

2 MR. SANDOVAL: I e-mailed counsel for Graybar two
3 photographs or two doc -- yeah -- two photographs of a spool of
4 cable or wire. It's -- it's flexible radio automotive, and it
5 lists Graybar and the Whitney Blake logo on the wire -- on the
6 end of the spool, on the flange of the spool. Based on my
7 looking at the spool, it looks like it's two -- it's pictures of
8 the same spool.

9 Q. Mr. Cutler, have you had a chance to review those
10 photographs?

11 A. Yes.

12 MR. SANDOVAL: And can I go ahead and enter those
13 photographs as -- or those pictures as Exhibit -- Exhibit 7?

14 MR. FOLEY: You're going to send them to the court
15 reporter or something? Because I don't have the ability to
16 print color.

17 MR. SANDOVAL: Yeah. I'll send them to the court
18 reporter.

19 Q. Now, Mr. Cutler, on those -- these two photographs,
20 they're two photographs of -- or they're photographs of a spool.
21 Correct?

22 A. Correct.

23 Q. And there's wire or cable around the spool?

24 A. Yes.

25 Q. And the end of the spool lists -- or says "Graybar

1 **Electric Company, Inc."** Correct?

2 A. Yes. I think it does.

3 MR. FOLEY: Objection. Lacks foundation, misstates the
4 term as you represented.

5 MR. SANDOVAL: Q. Is that the Graybar logo on the end
6 of the spool as you -- as you know it?

7 A. Yes, it is.

8 Q. It also lists the Whitney Blake Company or the Whitney
9 Blake Co., and that was one of the brands of -- or manufacturers
10 of wire and cable that you listed earlier. Correct?

11 A. Yes.

12 Q. Is this how Graybar normally sold Whitney Blake wire or
13 cable --

14 MR. FOLEY: Objection.

15 MR. SANDOVAL: Q. -- on reels that look like this?

16 MR. FOLEY: Objection. Vague and ambiguous, overbroad,
17 lacks foundation.

18 THE WITNESS: No.

19 MR. SANDOVAL: Q. Have you ever seen any reel that
20 looks like this?

21 A. Only in the picture.

22 Q. Before -- before this picture?

23 A. No.

24 Q. And, I guess, what is your basis for saying that
25 Graybar did not normally sell wire or cable in this manner?

1 MR. FOLEY: Objection. Vague and ambiguous, overbroad,
2 argumentative.

3 THE WITNESS: Because I don't ever recall seeing one in
4 our warehouse or handling one.

5 MR. SANDOVAL: Q. After looking at this photograph,
6 does your answer with regard to whether or not Graybar ever had
7 any reels with gray -- marked with "Graybar," does that change
8 your answer to that question?

9 MR. FOLEY: Objection. Misstates prior testimony,
10 lacks foundation, assumes facts.

11 THE WITNESS: These aren't reels, they're spools.

12 MR. SANDOVAL: Q. Okay. So if I would have asked the
13 question earlier does Graybar ever sell any products that -- any
14 spools that had the name "Graybar" on them, would that be a
15 different -- would that get a different answer?

16 MR. FOLEY: Objection. Lacks foundation, calls for
17 speculation.

18 THE WITNESS: I've never seen any of these -- this
19 product myself in person.

20 MR. SANDOVAL: Q. Okay. If I can direct you to the
21 catalog, the 1967 catalog.

22 MR. FOLEY: Okay. What page?

23 MR. SANDOVAL: Page two of the catalog, Bates stamped
24 number eight.

25 MR. FOLEY: I'm sorry. So Bates number eight?

1 MR. SANDOVAL: Yeah. Eight through ten.

2 Q. Mr. Cutler, are you looking at pages eight through ten?

3 MR. FOLEY: Not yet.

4 THE WITNESS: Not yet. We're on two.

5 MR. SANDOVAL: Okay.

6 MR. FOLEY: So this is the abbreviation list for types
7 of wire and cable?

8 MR. SANDOVAL: Yes.

9 MR. FOLEY: Okay. What do you want him to look at?

10 MR. SANDOVAL: Just the list in general.

11 Q. Did -- did Graybar sell all those types of wire and
12 cable in 1967?

13 MR. FOLEY: Objection. Lacks foundation, calls for
14 speculation.

15 THE WITNESS: I don't know if we sold it all.

16 MR. SANDOVAL: Q. Directing -- direct you to page 11.

17 MR. FOLEY: Bates number 11 or document number 11?

18 MR. SANDOVAL: Bates number 11. Wire, cable, cord
19 index, where, in the middle of the page, toward the top, where
20 it says "leads and fixture wires," there's a reference to
21 asbestos wire, pages 49 to 51.

22 THE WITNESS: Got it.

23 MR. SANDOVAL: Q. Do you see that?

24 A. Yes.

25 Q. And then also, on the left side of the page, where it

1 says "control cables" --

2 A. Yes.

3 Q. -- it also lists asbestos cable.

4 A. Yes.

5 Q. Towards the center of the page, in the middle, under
6 power cables, it lists asbestos cable on pages ten and 11,
7 asbestos cable on page 14 --

8 MR. FOLEY: Wait. Where are you talking, Leonard?

9 MR. SANDOVAL: It's Bates stamp number 11, bottom
10 center of the page, where it says "power cables."

11 MR. FOLEY: Okay.

12 THE WITNESS: I see it.

13 MR. SANDOVAL: Q. Yeah. Do you see -- do you see
14 where it says "asbestos cable," pages ten and 11, asbestos
15 cable, under single conductor, 5,000 volts, asbestos cable, 14?

16 A. Right. I see it.

17 Q. And earlier you testified if the product was available
18 -- if the product was listed in the catalog, it was generally
19 available for customers to purchase. Correct?

20 A. Yes.

21 Q. So based on reviewing -- just reviewing the table of
22 contents listing the sections of this 1967 catalog, would it be
23 your testimony that generally these asbestos wires and cables
24 were available for purchase from Graybar in -- at least in 1967?

25 A. Yes.

1 Q. Okay.

2 MR. MARTIN: Vague, ambiguous, overbroad, leading.
3 Move to strike speculative and non-responsive portions. And
4 lacking foundation. This is Martin.

5 MR. SANDOVAL: Q. Are you aware of a product called
6 Chico-X?

7 MS. NELSON: Lacks foundation, calls for speculation,
8 leading, beyond the scope, vague and ambiguous, overbroad as to
9 time.

10 THE WITNESS: Yes.

11 MR. SANDOVAL: Q. What's your understanding of what
12 Chico-X is?

13 MS. NELSON: Same objections.

14 THE WITNESS: Could have been one of two things, either
15 a fiber or a putty.

16 MR. SANDOVAL: Q. Okay. Is Chico-X the type of
17 product that -- or did Graybar sell Chico-X when you first
18 started working there?

19 MS. NELSON: Same objections.

20 MR. FOLEY: Lacks foundation, calls for speculation.

21 THE WITNESS: Yes.

22 MR. SANDOVAL: Q. Did Graybar stop selling Chico-X at
23 any point during your employment at Graybar?

24 MS. NELSON: Same objections.

25 THE WITNESS: I don't know.

1 MR. SANDOVAL: Q. Are you aware that at least in 1967
2 -- or actually -- sorry. Are you aware that until 1975, Chico-X
3 contained asbestos?

4 MR. FOLEY: Objection. Lacks foundation, assumes
5 facts.

6 THE WITNESS: I didn't know.

7 MR. SANDOVAL: Q. Are you aware of any type of warning
8 that Graybar issued to any customers who were purchasing Chico-X
9 prod -- the Chico-X product at any point?

10 A. No.

11 Q. Any warning with regard to asbestos?

12 MR. FOLEY: Same objection. Vague and ambiguous,
13 incomplete hypothetical.

14 THE WITNESS: No.

15 MR. SANDOVAL: Q. Any warning with regard to cancer?

16 MR. FOLEY: Same objections.

17 THE WITNESS: No.

18 MR. SANDOVAL: Q. Any warning with regard to any
19 safety equipment, such as a respirator or mask?

20 MR. FOLEY: Objection. Vague and ambiguous.

21 THE WITNESS: No.

22 MR. SANDOVAL: Q. When you first started working with
23 Graybar, were you aware of any products that Graybar sold that
24 contained heat resistant Bakelite material?

25 MR. FOLEY: Objection. Lacks foundation, assumes

1 facts.

2 THE WITNESS: No.

3 MR. SANDOVAL: Q. Are you aware of any equipment or
4 products Graybar sold that contained any kind of Bakelite
5 material when you first started working there?

6 MR. FOLEY: Same objections.

7 THE WITNESS: No.

8 MR. SANDOVAL: Q. Are you familiar with what Bakelite
9 is?

10 A. Vaguely.

11 Q. What's your understanding of what Bakelite is?

12 A. Some kind of a compound that they made receptacles and
13 sockets out of.

14 Q. Okay. Just so I'm clear, is it your testimony that
15 Graybar did not sell products that contained Bakelite, or is it
16 your testimony that you're not aware of -- of whether or not
17 they sold products --

18 MR. TANDBERG: Asked and answered.

19 MR. SANDOVAL: Q. -- that contained Bakelite?

20 MR. TANDBERG: Asked and answered.

21 THE WITNESS: I'm not aware that they contained
22 asbestos.

23 MR. SANDOVAL: Q. If I can again direct you to the
24 standard interrogatory responses that have been attached as
25 Exhibit 6, Plaintiffs' Exhibit 6. And it lists at the top of

1 page three -- or begins the response to Interrogatory Number 14,
2 it says that through the mid 1980s, Graybar offered some -- for
3 sale some products manufactured by others which may have
4 contained some form of asbestos.

5 Do you know which products Graybar may have sold
6 through the mid 1980s that contained asbestos?

7 MR. TANDBERG: Asked and answered.

8 THE WITNESS: No.

9 MR. SANDOVAL: Q. Do you know who would know?

10 A. I don't know.

11 Q. Do you have any information to counter the assertion
12 that Mr. Albert Fox purchased asbestos-containing products from
13 Graybar?

14 MR. FOLEY: Objection. Lacks foundation, assumes
15 facts.

16 THE WITNESS: I don't know.

17 MR. SANDOVAL: Q. Besides the two documents that have
18 been produced regarding the Graybar records retention policy,
19 are you aware of any other documents that -- pertaining to
20 Graybar's document retention policy?

21 A. No.

22 Q. Are you aware of any documents pertaining to Graybar's
23 corporate history and structure --

24 MR. FOLEY: Objection. Lacks foundation --

25 MR. SANDOVAL: Q. -- including, but not limited to,

1 the identities of any predecessors in interest?

2 MR. FOLEY: Objection. Lacks foundation, calls for
3 speculation.

4 Go ahead and answer.

5 THE WITNESS: There was a write-up in American
6 Scientific Magazine about us, years ago.

7 MR. SANDOVAL: Q. Have you reviewed that at any point
8 in the recent past?

9 A. No.

10 Q. What was the content of that write-up?

11 MR. FOLEY: Objection. Lacks foundation, overbroad,
12 document speaks for itself.

13 THE WITNESS: Talked about Elisha Gray and Enos Barton
14 and the invention of the telephone and how Graybar came about,
15 as far as I recall.

16 MR. SANDOVAL: Q. Is that the same document that's
17 been produced in this -- during this deposition?

18 A. No.

19 Q. Oh. It's a -- is it a different document --

20 A. It's a magazine.

21 Q. -- than Exhibit 5?

22 I'm sorry. Did we get an answer?

23 MR. FOLEY: It's a magazine.

24 THE WITNESS: It was a magazine.

25 MR. SANDOVAL: Q. Okay. Are you aware of any

1 asbestos-related Workers' Compensation claims filed by any
2 Graybar employees at any point?

3 MR. FOLEY: Objection. Lacks foundation, assumes
4 facts.

5 THE WITNESS: No.

6 MR. SANDOVAL: Q. I'm sorry. I'm going through the
7 deposition notice. I'm going through a bunch of areas that
8 we've covered, so I don't -- and I don't want to repeat my
9 questions. So I'm sorry for the silence.

10 Are you aware of any membership Graybar has ever had
11 with the National Safety Council?

12 A. No.

13 Q. How about the Industrial Hygiene Foundation?

14 A. No.

15 Q. The Asbestos Textile Institute?

16 A. No.

17 Q. Asbestos Information Association of North America?

18 A. No.

19 Q. Friction Materials Safety Institute?

20 A. No.

21 Q. American Society of Mechanical Engineers?

22 A. Not that I am aware of.

23 Q. Are you aware of any regional or statewide industrial
24 organization for which Graybar has been a member of?

25 A. No.

1 Q. Are you aware of any information or documents relating
2 to any decision to include or not include any warnings with
3 regard to, either at any branch locations or with -- associated
4 with any products sold by Graybar?

5 MR. FOLEY: Objection. Lacks foundation, assumes
6 facts.

7 THE WITNESS: No.

8 MR. SANDOVAL: Q. Are you aware of any information or
9 any documents discussing or relating to Graybar's decision to
10 stop selling asbestos-containing products?

11 MR. FOLEY: Same objections.

12 THE WITNESS: No.

13 MR. SANDOVAL: Q. Are you aware of any information or
14 any documents relating to the availability of non-asbestos
15 alternatives to any asbestos-containing products sold by
16 Graybar?

17 MR. FOLEY: Assumes facts.

18 THE WITNESS: No.

19 MR. SANDOVAL: Q. Are you aware of any information or
20 documents -- strike that.

21 Have you ever met Kathie Bullerick?

22 A. No.

23 Q. Do you know who Kathie Bullerick is?

24 A. No.

25 MR. SANDOVAL: I think at this point I have no

1 additional questions. I know defense -- Defendant has extended
2 the invitation to review catalogs at Defendant's repository, and
3 Plaintiffs still reserve the right to do so. But at this time,
4 I have no further questions. I'm still reserving all
5 Plaintiffs' rights to reopen this deposition should additional
6 documents become available.

7 MR. FOLEY: And my silence on that issue does not mean
8 that we agree with that position or consent to it. We'll deal
9 with it in the future if it becomes an issue.

10 At this point in time, I'll mark as Exhibit 8 to the
11 deposition a copy of Defendant Graybar Electric Company Inc.'s
12 Responses to Standard Interrogatories, which is a different
13 version of the copy that was marked as Exhibit 6 to the
14 deposition.

15 We will also mark as Exhibit 9 to this deposition
16 Graybar's Written Objections to the Notice of Deposition, which
17 has a Lexis Nexis number of 51559340.

18 MR. SANDOVAL: Okay. And can we mark the verification
19 that you just sent me as part of exhibit -- as 8A?

20 MR. FOLEY: Sure. Just the verification page?

21 MR. SANDOVAL: Might as well mark the whole
22 document 8A.

23 MR. FOLEY: It's two pages. The first is the face
24 sheet for the responses, and page two of 8A is the actual
25 verification.

1 And why don't we go off the record for a minute?

2 MR. SANDOVAL: Sure.

3 THE VIDEOGRAPHER: The time is 1:04 P.M., and we're off
4 the record.

5 (Recess at 1:04 P.M. until 1:07 P.M.)

6 THE VIDEOGRAPHER: The time is 1:07 P.M. We're back on
7 the record.

8

9 EXAMINATION BY MR. KATERNDAHL

10 MR. KATERNDAHL: Q. Hi, Mr. Cutler. John Katerndahl.
11 Good afternoon.

12 A. Good afternoon to you.

13 Q. I just have a couple questions for you.

14 Previously, in response to Plaintiffs' counsel's
15 questions, you listed, I'll represent to you, nine different
16 manufacturers of wire and/or cable that you recalled from your
17 days with -- with the company, Graybar. And I want to just ask
18 you, number one, are those the only nine manufacturers of wire
19 and cable that you believe Graybar supplied, or are those just
20 the nine you can recall off the top of your head today?

21 A. Only the ones that I can recall off the top of my head.

22 Q. Okay. Do you believe that there were others, at least
23 during the years that you worked for Graybar Electric?

24 A. I don't recall. There probably was, but I don't recall
25 them.

1 Q. Okay.

2 MR. SANDOVAL: Foundation, speculation.

3 MR. KATERNDAHL: Q. And you didn't -- in preparing for
4 giving your testimony in today's deposition, did you review any
5 documents or old catalogs to try to refresh your memory about
6 all of the manufacturers of wire or cable that Graybar supplied
7 during your years of employment?

8 A. No, I didn't.

9 Q. Okay. With regard to General Cable, you mentioned that
10 name as one of the nine that you recalled today. Do you
11 remember what year or years Graybar Electric supplied General
12 Cable wire and cable?

13 A. My recollection says all the time that I was in Salt
14 Lake City.

15 Q. Okay. What about after you left Salt Lake City?

16 A. I don't recall.

17 Q. And just for the record, can you remind us what years
18 you worked for Graybar in Salt Lake City?

19 A. '56 through '70.

20 Q. Okay. Can you recall or can you specify for us the
21 type or types of wire and cable that Graybar Electric supplied
22 that was made by General Cable during your time in Salt Lake
23 City?

24 MR. FOLEY: Just object. It lacks foundation, calls
25 for speculation.

1 THE WITNESS: I think TW and THW.

2 MR. KATERNDAHL: Q. Okay. Any others that you can
3 recall, or are those the two that you associate with that
4 company?

5 MR. SANDOVAL: Incomplete hypothetical. Misstates.

6 THE WITNESS: That's all I recall.

7 MR. KATERNDAHL: Q. What does TW stand for, sir?

8 A. Thermoplastic.

9 Q. That's thermoplastic wire?

10 A. Insulation.

11 Q. It's the thermoplastic insulation on wire and/or cable?

12 A. On --

13 Q. That's a terrible question.

14 A. On copper cable. On copper wire. However you want to
15 say it.

16 Q. I got it. Okay. We've used -- I mean, counsel asked
17 you about wire and cable, and I understand that you were using
18 those terms interchangeably today. Is that correct?

19 A. Yes.

20 Q. Okay. So when -- when you talk about TW in connection
21 with General Cable, are you saying that you recalled some
22 General Cable wire and cable that came insulated with a
23 thermoplastic covering?

24 A. Yes.

25 Q. Okay. And that's the TW that you referenced a moment

1 ago?

2 A. I don't remember the difference between TW and THW. I
3 think it was just the fact that the one had a higher temperature
4 rating.

5 Q. Okay. Do you know what the -- so let's see. So the --
6 do you know if the "T" in "TW" stands for "thermoplastic," or
7 does it have some other meaning?

8 A. That was what I knew it by.

9 Q. And do you know if the "W" stands for "wire"?

10 A. No, I don't.

11 Q. Okay. Do you -- you also referenced THW. Was that
12 another wire or cable product that came with a thermoplastic
13 covering?

14 A. To my knowledge, it was.

15 Q. Okay. Do you have any idea what the "H" stands for in
16 those three letters?

17 A. No.

18 MR. SANDOVAL: Asked and answered.

19 MR. KATERND AHL: Q. And sir, is it true that you have
20 no information that any of the TH wire or the THW wire that
21 we've been talking about contained any asbestos at all?

22 MR. SANDOVAL: Foundation, speculation.

23 THE WITNESS: To this day, I don't think it did.

24 MR. SANDOVAL: Speculative, move to strike, based on
25 speculation and lack of foundation.

1 MR. KATERNDAHL: Q. Why do you say that you don't
2 believe that it did, sir?

3 A. I don't know. We always knew it as plastic covering.

4 MR. KATERNDAHL: Okay. Those are all the questions I
5 have for you today. Thank you.

6 MR. SANDOVAL: Same objections. Same motions to
7 strike.

8 MR. FOLEY: Anybody else? All right. And the witness
9 does want to review and sign the transcript.

10 MR. SANDOVAL: Okay. Can we get a shortened notice or
11 -- given that we have -- or shortened period, since we have
12 trial coming up?

13 MR. FOLEY: How much time do you need? A week, two
14 weeks to read it?

15 THE WITNESS: A week.

16 MR. FOLEY: So he will need a week from the time that
17 we get it. So when we get it, we'll send it to him, and he'll
18 have a week. And then I'll need a couple days to turn it
19 around, so why don't we say ten days from the date we receive
20 it.

21 MR. SANDOVAL: All right. Sounds good. Yeah, let's do
22 that.

23 MR. FOLEY: Okay.

24 MR. SANDOVAL: All right.

25 THE VIDEOGRAPHER: Want to close out my tape. I'm

1 going to close things out here. This concludes Volume 1 of the
2 deposition of Roger Cutler on Wednesday, June 19, 2013, which
3 consists of four videotapes.

4 The original recordings will be retained by Southwest
5 Legal Videographers, 73844 Two Mile Road, Twenty-nine Palms,
6 California 92277.

7 The time is 1:13 P.M., and we're off the record.

8 (Deposition concluded at 1:13 P.M.)
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CHANGES AND SIGNATURE

PAGE/LINE	CHANGE	REASON
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I, ROGER CUTLER, have read the foregoing deposition
and hereby affix my signature that the same is true and correct,
except as noted above.

ROGER CUTLER

REPORTER'S CERTIFICATE

I, TAMARA L. BLAKELY, CSR No. 5806, Certified
Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at
the time and place therein set forth, at which time the witness
was put under oath by me;

That the testimony of the witness, the questions
propounded, and all objections were recorded stenographically by
me and were thereafter transcribed;

That the foregoing is a true and correct transcript of
my shorthand notes so taken;

I further certify that I am not a relative or employee
of any attorney of the parties, nor financially interested in
the action.

I declare under penalty of perjury under the laws of
California that the foregoing is true and correct.

Dated: June 27, 2013

TAMARA L. BLAKELY

Certified Shorthand Reporter for the State of California

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