

CAUSE NO. 2002-4218

DIANE MATHIAS, Individually) IN THE COUNTY COURT
and as Personal Representative)
of the Heirs and Estate of)
GEORGE MATHIAS, Deceased,)
BRIAN CHARLES MATHIAS and)
PATRICIA ANN KADAMUS,)
Plaintiffs,) AT LAW NO. 6
-vs-)
ACandS, INC., et al.,)
Defendants.) EL PASO COUNTY, TEXAS

CAUSE NO. 35116-0203

CHRISTOPHER STOECKLER and) IN THE DISTRICT COURT
WENDY STOECKLER,)
Plaintiffs,)
vs.) ANGELINA COUNTY, TEXAS
AMERICAN OIL COMPANY,)
(sued individually and as)
successor-in-interest to)
AMOCO OIL COMPANY and)
AMOCO, INC.); et al.,)
Defendants.) 159th/217th JUDICIAL DISTRICT

ORAL TELEPHONIC DEPOSITION OF GARY AUSTIN,
produced as a witness at the instance of the
Plaintiffs, and duly sworn, was taken in the
above-styled and numbered cause on the 26th of
September, 2003, from 9:11 a.m. To 11:55 a.m., before
SHEILA K. FAIRCHILD, a notary public in and for the
State of Wisconsin, reported by machine shorthand, at
11500 Brown Deer Road, Milwaukee, Wisconsin, pursuant
to the Texas Rules of Civil Procedure and the
provisions stated on the record or attached hereto.

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 ALSO PRESENT:
 MR. GARY AUSTIN,
 The Witness; and
 MS. SHEILA FAIRCHILD,
 The Court Reporter.

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TRANSCRIPT OF PROCEEDINGS

GARY AUSTIN, called as a witness herein,

having been first duly sworn on oath, was examined
 and testified as follows:

EXAMINATION

BY MR. VALLAS:

Q Good morning, Mr. Austin.

A Good morning.

Q This is Charles Vallas, of course, with Waters & Kraus. I've had the opportunity to take your deposition, I think this is the third time, the last time being as recently as last week or the week before in the Gerald Pyle case. It's my understanding that you are appearing this morning on behalf of the Dana Corporation in both the Christopher Stoeckler case and the George Mathias case. Is that your understanding?

A Yes, it is.

Q Here's what I'm going to try to do this morning, I'm not going to try to be extremely repetitive of the questions that I asked you in the Gerald Pyle case. I'm going to try to cover some different kind of territory with you here this morning, although I guess there's going to be some overlap to some extent. Let's do this though, before we get started,

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1 of course, you've had your deposition taken before.
 2 If you don't understand any of my questions or you
 3 can't hear me for any reason today, just let me know.
 4 I'll try to fix the problem, okay?
 5 A Yes, sir.
 6 Q If you do answer my question, I'm going to assume
 7 that you heard the entire thing and that you
 8 understood it, okay?
 9 A I understand.
 10 Q Can you tell me, Mr. Austin, if you have reviewed any
 11 materials today in preparation for this deposition or
 12 if you have brought with you to the deposition today
 13 any materials?
 14 A I have brought with me some materials today.
 15 Q Okay. Have you had an opportunity to review those
 16 materials-- Did you have an opportunity to review
 17 those materials prior to the deposition today?
 18 A Yes, I did.
 19 Q Okay. I don't want to know what you all talked
 20 about, but did you also have the opportunity to visit
 21 with your lawyers prior to your deposition today?
 22 A Yes, I did.
 23 Q Okay. Let's talk a little bit about the materials
 24 that you had the opportunity to review that you have
 25 brought with you to the deposition today; and if you

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1 can, just kind of start I guess at the top of your
 2 stack or however they're organized there in front of
 3 you. Start at the top and tell me what you have.
 4 A I have a letter regarding asbestos labeling for
 5 Caterpillar DDAD and Roger Moss dated January 8,
 6 1985.
 7 Q I'm sorry, a letter regarding Caterpillar, could you
 8 run that by me again?
 9 A The title is Asbestos Labels For Caterpillar, DDAD,
 10 and Roger Moss, dated January 8, 1985.
 11 MR. CELBA: Charles, if we can shortcut
 12 this, these are essentially the same documents that
 13 were presented and filed.
 14 BY MR. VALLAS:
 15 Q Okay. Roger Moss is the author of the letter or the
 16 recipient?
 17 A No. Roger Moss is part of the subject.
 18 Q Okay. What was the purpose of you reviewing that
 19 letter this morning or in preparation for this
 20 deposition, whether it was this morning?
 21 A The asbestos labeling seems to be a matter that is
 22 brought up in most of the depositions that I have
 23 given.
 24 Q Okay.
 25 A The documents are here to accurately depict the

1 information I present.
 2 Q And in your, I guess, opinion, how do you-- How does
 3 that letter-- What does that letter tell you about
 4 asbestos labeling? I guess why is it significant as
 5 far as you understand it?
 6 A This was the initial labeling, request for labeling
 7 from our customers, and it demonstrates a label that
 8 was used to-- on products that was produced for
 9 Caterpillar in the Detroit Allison division and the
 10 label that was used on materials by Roger Moss.
 11 Q Okay. I think you said this was the initial request
 12 for labeling from your customers; and if you can,
 13 just kind of explain exactly what that means. I
 14 guess what kind of label, what are your customers
 15 asking you, what kind of label are they asking for,
 16 etc., as far as you can tell from the letter?
 17 A Detroit Diesel and Caterpillar had requested that we
 18 identify product that might contain asbestos with a
 19 label on the outside of the package, and that is--
 20 That label is shown here in a reduced format.
 21 Q Okay. Is this letter of January 8, 1985 that you are
 22 looking at, is that the-- Prior to that date, did
 23 Dana label any of its asbestos containing products
 24 with some type of label or some type of other
 25 designation informing the customer or the user that

1 the product contained in the package or however it
 2 was contained, might have asbestos in it?
 3 MR. CELBA: I'm going to object to the
 4 form.
 5 BY MR. VALLAS:
 6 Q Let me strike the question, it was probably-- It's a
 7 bad question. Prior to January 8, 1985 did Dana
 8 label any of its products with some indication, to
 9 give some indication that the product may contain
 10 asbestos?
 11 A To the best of my knowledge, in approximately January
 12 of 1985 was the first labeling that was done.
 13 Q Okay.
 14 MR. VALLAS: Let's go ahead if we can,
 15 Ms. Court Reporter, and mark the deposition notice or
 16 notices, I don't remember if it was one or two, for
 17 the cases. But even if it was two deposition
 18 notices, we can just mark them collectively as
 19 Exhibit No. 1. Let's go ahead and mark this letter
 20 as Deposition Exhibit No. 2.
 21 (Discussion off the record.)
 22 (Exhibit Nos. 1 and 2 were marked.)
 23 BY MR. VALLAS:
 24 Q Mr. Austin, what's the next item you have with you at
 25 your deposition?

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1 A I have a letter from-- or to J.D. Buescher regarding
2 Detroit Diesel warning labels, dated December 18,
3 1980-- I'm sorry, December 12, 1984.
4 Q And is that a long letter or short letter?
5 A A very short letter.
6 Q Can you just read it to me very quickly?
7 A "To J.D. Buescher, I have approached DDAD Purchasing
8 with our proposed warning label for asbestos
9 containing parts. The label was reviewed with their
10 Hazardous Material Committee and I have been advised
11 we may start labeling DDAD product whenever we want.
12 Will you please implement this if that is the
13 Division policy?" It's signed John Feldmann.
14 Q Mr. Feldmann was an employee of Victor at the time,
15 of Dana Victor?
16 A Yes, he was.
17 Q What's DDAD, I'm sorry?
18 A Detroit Diesel Allison Division.
19 Q Thank you. Okay. Is there a proposed warning label
20 attached to that letter or included in that letter?
21 A No, there is not.
22 Q All right.
23 MR. VALLAS: Let's go and mark that as the
24 next exhibit if we can.
25 (Exhibit No. 3 was marked.)

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1 BY MR. VALLAS:
2 Q Mr. Austin, do you know when it was that, the first
3 date that Dana started-- Dana considered putting some
4 type of asbestos warning label in or on its asbestos
5 containing products or started the process of
6 drafting a label, something along those lines? In
7 other words, I'm not asking-- I'm trying not to ask
8 when is the first date that such a warning label
9 started accompanying the product, but when was it
10 that Dana first started thinking about the fact that
11 they may need to include one in their products?
12 MR. CELBA: Object to form.
13 THE WITNESS: I have no knowledge of that.
14 BY MR. VALLAS:
15 Q Do you have any information to the effect that it was
16 at any time prior to December of 1984, the month and
17 year of this letter that we've just marked as an
18 exhibit?
19 MR. CELBA: Object to form.
20 THE WITNESS: No, I do not.
21 BY MR. VALLAS:
22 Q Let's go ahead and talk about the next item that you
23 have.
24 A It's a letter, subject matter being Mack Truck. It's
25 addressed to Galora Bailey and Bill Oliver.

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1 Q From who?
2 A From John Feldmann.
3 Q Okay. Is it a long letter, short letter?
4 A Short.
5 Q What's the date of that letter, please?
6 A August 23, 1985.
7 Q If you can, just read that letter to me quickly, I'd
8 appreciate it?
9 A "Confirming phone of 8/22, please be sure that all
10 asbestos product shipped Mack, Production and Service
11 is properly labeled with our asbestos warning
12 labels.
13 Gary Austin: Please take appropriate
14 action for Chicago plant.
15 Mack is the target of an asbestos liability
16 suit, and these warning labels are a must." Signed
17 John Feldmann.
18 BY MR. VALLAS:
19 Q So you were copied on this letter?
20 A Yes, I was.
21 Q All right. Does a copy of the warning label
22 accompany that letter that they're talking about?
23 A Yes, there is a copy of a warning label on here.
24 Q Okay. Just one?
25 A Yes.

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1 Q And what does it say?
2 A Well, it's very reduced, and it's in four languages.
3 It appears to say, Caution-- If I may, I'm going to
4 try to read it off this other copy here where it
5 appears bigger. Caution, may contain-- I'm sorry, I
6 can't make it out off of this copy.
7 Q Can you make out the word either cancer are
8 mesothelioma off the copies that you do have?
9 MR. CELBA: Object to form.
10 THE WITNESS: No, I really can't.
11 BY MR. VALLAS:
12 Q Okay. Can you make out any words off the copy that
13 you have?
14 A The caution at the top.
15 Q Okay.
16 A I can make out the word asbestos.
17 Q Okay.
18 A And that's about it.
19 Q All right. I appreciate it. That-- When we attach
20 that letter from Mr. Feldmann to Bailey and Oliver,
21 was that label attached with it as an exhibit, or is
22 that label contained in that letter? I'm just trying
23 to figure out if I need to mark that as a separate
24 exhibit or if we already did.
25 A It's-- The label appears to be identical to the

Page 14 1 Exhibit 2. 2 Q Okay. I'm just trying to figure out if that label 3 has been marked as an exhibit with the 8-23 letter or 4 if I need to mark it as a separate exhibit. 5 MR. VALLAS: Ms. Court Reporter, was it 6 marked-- 7 BY MR. VALLAS: 8 Q I guess, Mr. Austin, is a part of the 8-23-85 letter, 9 is it an attachment or an accompaniment to that 10 letter, or do you know? 11 A No. It just appears at the bottom of the letter. 12 That is a Xerox copy. 13 MR. CELBA: Charles, you want it marked. 14 MR. VALLAS: I guess, yeah. I'm just 15 trying to figure out if I've marked it or if I 16 haven't marked it. If I haven't marked it, let's 17 mark it. 18 MR. CELBA: You haven't marked it. 19 MR. VALLAS: Okay. Let's mark it. Thanks. 20 (Exhibit No. 4 was marked.) 21 BY MR. VALLAS: 22 Q Mr. Austin, I think that letter that you just 23 mentioned, the 8-23-85 letter, on which you were 24 copied and that we marked as an exhibit, I think it 25 mentioned-- I think it used warning labels in the	Page 16 1 asbestos containing gaskets, correct? 2 A Yes, sir. 3 Q I'm just wondering, is that over all of the decades 4 that Dana Victor was making asbestos containing 5 gaskets, or do you know? 6 A No, I do not know. 7 Q Do you know-- The one label that you are familiar 8 with that we've marked here, do you know the first 9 year that it was used, the last year that it was 10 used? 11 A The label would have been used beginning in 12 approximately January of 1985. 13 Q Okay. 14 A And would have been used until we ceased the use of 15 asbestos in our product. 16 Q Okay. It's my understanding, correct me if I'm 17 wrong, from taking your deposition previously, that 18 initially Dana would only place those warning labels 19 on its asbestos containing gasket products at the 20 request of the customer; is that correct? 21 A Yes, that's correct. 22 Q Was there-- I don't remember if I've asked you this 23 question previously. Was there a point in time where 24 Dana started placing an asbestos warning label on 25 every one of its asbestos containing gasket products
Page 15 1 plural, if I'm not mistaken, did it? 2 A This is the last one we discussed? 3 Q Yes, sir, Bailey and Oliver. 4 A It refers to with our asbestos warning labels. 5 Q Okay. Let me explore that a little bit with you. 6 I'm wondering if you know whether or not as of August 7 of 1985 was there-- I guess what I'm wondering, if 8 you know, was there one-- Was Dana-- Did Dana have 9 available to put on its products one warning label, 10 or were there different versions of it, or do you 11 know? 12 A There was only one warning label that went on the 13 gaskets. 14 Q And that's the one that we have a copy of that it's 15 kind of illegible; is that right? 16 A Yes, sir, that's correct. 17 Q Okay. When you say there was only one warning label 18 that went on the gasket, is that at any time to your 19 knowledge that Dana Victor was making asbestos 20 containing gaskets? Is there only one that you're 21 aware of over those decades? 22 A I'm sorry, Mr. Vallas, I don't understand your 23 question. 24 Q Okay. It was a poor question, sorry. You mentioned 25 there was one asbestos warning label that went on the	Page 17 1 whether or not it was requested by the customer? 2 A Yes, that is correct. 3 Q And when was that date? 4 A It appeared to me that it was in early 19-- well, 5 late 1985, possibly early 1986. 6 Q And what is the-- How do you know that, or why do you 7 think that? 8 A I was involved in the manufacturing operation at the 9 time, and part of my responsibility would have been 10 to be certain that the labels were appropriately put 11 on the boxes. 12 Q Is that the only manner in which asbestos warning 13 labels accompanied Dana Victor's asbestos containing 14 gaskets, meaning on the boxes? Was there ever-- And 15 the question is was there any other type of package 16 insert or ever any other type of warning label on the 17 product itself that you're aware of on the boxes? 18 A Not that I am aware of. 19 Q Okay. What is the next item that you have with you? 20 A I have a copy of a testimony of a Dr. William 21 Longeau. 22 Q Okay. 23 A In a Verta Sutton and P.D. Sutton versus, I believe 24 it's Acands, A-C-A-N-D-S, Incorporated. 25 Q Okay. Have you read that deposition?

Page 18 1 A I've read portions of it. 2 Q How did you select the portions that you wanted to 3 read versus those that you didn't read? 4 A In scanning through the documents looking for things 5 that would have been of particular interest to me in 6 my knowledge. 7 Q Okay. Did you see anything in there that you just 8 disagreed with? Do you have any criticisms of the 9 deposition as far as those excerpts of it that you 10 did read? 11 A No, I do not. 12 Q Any highlighting or underlining or turned down 13 corners or anything along those lines in that 14 deposition? 15 A Yes. 16 Q Which pages, a lot of pages or a few pages? 17 MR. CELBA: I just want to voice an 18 objection to the previous question, the form of it. 19 THE WITNESS: Just a few pages. 20 BY MR. VALLAS: 21 Q Can you look in there and tell me who was the 22 plaintiff's firm that took that deposition? Should 23 be in the first couple pages. 24 A Appearances, Mr. Brent Coon. 25 Q Okay. That's all I need to know. I appreciate it.	Page 20 1 A Louis Forbes and Diana Forbes versus Acands, 2 A-C-A-N-D-S, Inc. 3 Q Okay. If you could just pop open the first couple 4 pages and tell me who the plaintiff's lawyer was on 5 that one? 6 A Appearances, Clapper & Patty. 7 Q Can you tell me who the name, what the name of the 8 lawyer was that appeared for the plaintiff's firm, if 9 you can tell? 10 A Represented by Steven Patty, attorney at law. 11 Q Does it have the phone number of his law firm there? 12 A No, it does not. 13 Q Okay. Does it have the city where they were? 14 A Yes, sir. 15 Q Where is that? 16 A Sausalito, California. 17 Q Okay. I appreciate it. Pages 22 through 26, if you 18 can, just kind of give me an idea of why those pages 19 were of interest to you from that deposition, I would 20 appreciate it. 21 A Discusses tests that were done and conclusions in 22 regard to asbestos or asbestos air monitoring. 23 Q Having anything to do with gaskets or no? 24 A It specifically relates to Victor. 25 Q Okay. Any disagreements or criticisms of any
Page 19 1 And-- Excuse me just one second. What pages of that 2 deposition did you either mark or highlight or turn 3 down? Just give me the page numbers. 4 A Page 97 and 98. 5 Q Okay. If you can-- Obviously, I don't want you to 6 read them. Were those the only two pages? 7 A Yes, they were. 8 Q I don't want you to read me all of it, but just kind 9 of tell me the gist of why you selected those pages, 10 what you saw on those pages that was of interest to 11 you? 12 A It dealt with the release of asbestos fibers in the 13 installation and removal of engine gaskets. 14 Q All right. What else have you brought with you to 15 the deposition? 16 A I have a second deposition by Dr. Longeau. 17 Q Okay. Did you just read again selected excerpts of 18 that deposition? 19 A Yes, I did. 20 Q Do you know which pages you read? 21 A Yes, I do. 22 Q Which pages were those? 23 A Portion of 22, 23, 24, 25 and 26. 24 Q Okay. What's the name of that case or the 25 plaintiff's name in that case?	Page 21 1 portions of that testimony that you read of 2 Dr. Longeau from that second deposition that you 3 we're talking about? 4 MR. CELBA: Object to form. 5 THE WITNESS: No, sir. 6 BY MR. VALLAS: 7 Q What's the next item that you brought with you to the 8 deposition? 9 A I don't have it with me but I did review the med tox 10 study and the Spencer study. 11 Q I'm sorry, I heard med tox study and then your voice 12 dropped or the speaker phone dropped or something. 13 A Spencer. 14 Q Spencer? 15 A Right. 16 Q Let me back up just a little bit and get back to that 17 just one second. You mentioned a little while ago 18 that Dana Victor asbestos containing gaskets started 19 all containing asbestos warning labels, you believe 20 in late 1985, perhaps early 1986, and I was 21 wondering-- I think you told me the basis for the 22 belief was just a position that you had with the 23 company at the time, correct? 24 MR. CELBA: Object to form. Go ahead. 25 THE WITNESS: Yes, sir, that is correct.

Page 22 1 BY MR. VALLAS: 2 Q Let me visit with you about that a little bit. It's 3 my understanding that during the taking of your 4 deposition previously that at least during the 1970s 5 Dana Victor was also manufacturing asbestos 6 containing gaskets in plants in St. Thomas, Ontario; 7 Robinson, Illinois; Havana, Illinois; and the one 8 that you worked out of in Chicago; is that correct? 9 A Yes, sir, it is. 10 Q Okay. I'm going to-- Let me talk with you a little 11 bit about each one of those, and, of course, if you 12 don't know the answer to any of my questions 13 concerning these other facilities, just let me know. 14 Do you know the first year that that St. Thomas, 15 Ontario facility started manufacturing or-- started 16 manufacturing asbestos containing gaskets? 17 A No, I don't know exactly. 18 Q Do you know the last year? 19 A I believe it was the same time that the Chicago plant 20 ceased the production of asbestos containing gaskets. 21 Q Have you ever reviewed any documents to that effect, 22 or are you just guessing? 23 A No, I'm not guessing, but I have not reviewed 24 documents to that effect. 25 Q Okay. Did you ever have any type of management	Page 24 1 mandated that we would not produce any asbestos 2 containing gaskets after June 30, 1988. 3 BY MR. VALLAS: 4 Q At least in the United States, correct? 5 MR. CELBA: Object to form. 6 BY MR. VALLAS: 7 Q Is that correct? 8 A Well, all the plants that he had responsibility for. 9 Q Did he have any responsibility-- Did he have any 10 responsibility as far as you know for plants outside 11 the United States? 12 MR. CELBA: Object to form. 13 BY MR. VALLAS: 14 Q If you know. 15 A No, I don't know. 16 Q Do you know that he did not? 17 MR. CELBA: Object to form. 18 THE WITNESS: No, I do not know that 19 either. 20 BY MR. VALLAS: 21 Q Do you know if he had responsibility for every plant, 22 every Dana Victor plant that was manufacturing 23 asbestos containing gaskets in the 1980s? 24 MR. CELBA: Object to form. 25 THE WITNESS: I guess I don't understand
Page 23 1 responsibilities or oversight over the St. Thomas, 2 Ontario facility as far as anything? 3 A No, I did not. 4 Q Do you know the first year that the St. Thomas, 5 Ontario facility started placing asbestos warning 6 labels on its asbestos containing gaskets either at 7 customer request or as a matter of course? 8 MR. CELBA: Object to form. 9 BY MR. VALLAS: 10 Q If you know. 11 A No, I do not. 12 Q Okay. The Robinson, Illinois facility, do you know 13 the first year or the last year that it manufactured 14 asbestos containing gaskets? 15 A I only know that it would not have been later than 16 the Chicago facility. 17 Q Which is what year? 18 A It was 1988. 19 Q Okay. And have you ever reviewed any documents from 20 the Robinson, Illinois facility to confirm that, or 21 how do you know that? 22 MR. CELBA: Object to the form. Go ahead. 23 THE WITNESS: The vice-president and 24 general manager of the division at that point in time 25 was a Mr. Chuck McNamara, and he is the gentleman who	Page 25 1 the difference between your last two questions. 2 BY MR. VALLAS: 3 Q Sure. Let me back up. I'll get there another way in 4 just a second. Do you know is Mr. McNamara still 5 employed by the company? 6 A No. Mr. McNamara has passed away. 7 Q Did you ever have any type of management 8 responsibilities or oversight over the Robinson, 9 Illinois facility? 10 A Yes, he did. 11 Q I'm sorry, did you? 12 A I'm sorry. No, I did not. 13 Q Okay. Do you know the first year that the Havana, 14 Illinois facility manufactured asbestos containing 15 gaskets? 16 A No, I'm sorry, I don't. 17 Q Do you know the last year that it did? 18 A 1980, I believe. 19 Q What's the basis for that belief? 20 A I was involved in the closure of that facility. 21 Q Okay. It closed down in 1980? 22 A Yes, it did. 23 Q Were the manufacturing-- What was the reason for its 24 closure? 25 A Too much capacity in the division.

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1 Q I don't understand that question, I mean that answer,
2 too much capacity in the division. What does that
3 mean?
4 A Too much floor space, too many machines, insufficient
5 business to support all of the facilities.
6 Q Okay. I gotcha. Do you know the first year that
7 asbestos containing gaskets manufactured in the
8 Havana, Illinois facility contained any type of
9 asbestos warning label either at the request of the
10 customer or as a matter of course?
11 A No, I do not.
12 Q Okay. We've talked about the fact that all four of
13 these plants, St. Thomas, Robinson, Chicago and
14 Havana were all manufacturing asbestos containing
15 gaskets at some point in the 1970s, correct?
16 A Yes, sir, that's correct.
17 Q Do you know if they were all manufacturing asbestos
18 containing gaskets for all ten years of the 1970s, or
19 do you know?
20 A No, I don't know.
21 Q Do you know that all-- Do you know whether or not
22 all-- Well, okay, bad question. During the 1960s did
23 Dana Victor manufacture asbestos containing gaskets
24 out of any other plants other than-- Well, strike
25 that question. Were all four of the plants that

1 used; is that correct?
2 A Or the part number that was assigned to it.
3 Q Or the part number. In those instances, and correct
4 me if I'm wrong, that-- in those instances in which a
5 Dana Victor gasket was being used for some type of
6 high heat application, would you agree that more
7 likely than not that the gasket would have been an
8 asbestos containing gasket?
9 MR. CELBA: Object to form.
10 THE WITNESS: No, not necessarily.
11 BY MR. VALLAS:
12 Q Okay. What's the basis for that belief?
13 A We made a large number of beaded steel head gaskets
14 during the 1960s and 1970s. Those obviously
15 contained no asbestos.
16 Q They were beaded head steel gaskets?
17 A We referred to them as beaded steel head gaskets.
18 Q Beaded steel, okay, head gaskets. What was the first
19 year-- I guess tell me what kinds of temperatures
20 those gaskets were-- Actually, strike the question.
21 Other than those, the beaded steel head gaskets you
22 just mentioned, manufactured in the 1960s and 1970s--
23 Let me ask you this, do you know whether or not they
24 were manufactured for high heat applications in the
25 1950s or in the 1980s?

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1 we've talked about manufacturing asbestos containing
2 gaskets sometime in the 1960s?
3 MR. CELBA: Object to form.
4 THE WITNESS: I can only testify to the
5 period of time from when I started with the company;
6 but in those years, yes, they were.
7 BY MR. VALLAS:
8 Q And you started with the company in I think February
9 of 1968; is that right?
10 A Yes, sir, that's correct.
11 Q So as of February 1968 we know that all four of those
12 facilities, St. Thomas, Robinson, Chicago and Havana,
13 were all manufacturing asbestos containing gaskets,
14 true?
15 A That's correct. I suppose for point of clarification
16 I should say that they were all producing asbestos
17 containing gaskets, but we were producing lots of
18 gaskets that did not contain asbestos as well.
19 Q But I think you have mentioned to me-- I think we've
20 talked about that previously in your prior deposition
21 and whether or not-- I think it was your testimony,
22 correct me if I'm wrong, previously, that for you to
23 know whether or not a particular type of gasket, Dana
24 Victor gasket, had asbestos in it, you would probably
25 have to know the application for which it was being

1 MR. CELBA: Object to form.
2 BY MR. VALLAS:
3 Q Do you know?
4 A I'm sorry, I don't understand the question.
5 Q Sure. It's probably a bad question. You mentioned
6 that these beaded steel head gaskets were
7 manufactured for high heat applications in the 1960s
8 and 1970s, correct?
9 A Yes.
10 Q Do you know whether or not they were manufactured for
11 high heat applications in the '50s and/or the '80s?
12 I guess all I'm trying to do is figure out was it
13 just sometime in the '60s and '70s, or was it also
14 sometime outside of that time period, or do you know?
15 A I can't testify to the 1950s. I don't know when that
16 design came into being. There were still
17 applications as early as-- or as late as the 1980s.
18 Q Okay. Do you know the first year that Dana Victor
19 started manufacturing these beaded steel head gaskets
20 for high heat applications?
21 MR. CELBA: Object to form.
22 THE WITNESS: No, I do not.
23 BY MR. VALLAS:
24 Q Do you know-- Other than the fact that it was in the
25 1960s sometime, correct?

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1 A I only know that they were being produced in the
 2 1960s. I have no idea whether that was the initial
 3 time or not.
 4 Q Okay. I'm with you. Do you know the last year that
 5 Dana Victor manufactured beaded steel head gaskets
 6 for high heat applications?
 7 A We still make beaded steel gaskets.
 8 Q For high heat applications?
 9 A Cylinder head gaskets, I would consider to be high
 10 heat applications.
 11 Q During the 1960s and the 1970s, other than the beaded
 12 steel head gaskets, was there any other asbestos—
 13 Was there any other non-asbestos gaskets that Dana
 14 Victor was manufacturing that could be used in a high
 15 heat application, or was that the only one?
 16 MR. CELBA: Object to form.
 17 THE WITNESS: Exhaust manifold gaskets were
 18 often steel construction.
 19 BY MR. VALLAS:
 20 Q Any others you can think of?
 21 MR. CELBA: Same objection.
 22 THE WITNESS: No, nothing else I can
 23 recall.
 24 BY MR. VALLAS:
 25 Q Okay. Do you know the first year that Dana Victor

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1 made an exhaust manifold gasket of steel construction
 2 that could be used in a high heat application? Do
 3 you know the first year?
 4 A No, sir, I do not.
 5 Q I'm sorry, with steel construction that did not
 6 contain asbestos— Let me back up and ask the
 7 question again. Do you know the first year that Dana
 8 Victor manufactured the exhaust manifold steel
 9 construction gasket that you just mentioned without
 10 asbestos, do you know the first year?
 11 A No, I do not.
 12 Q Do you know the last year?
 13 A There are still some applications that are
 14 manufactured to this date.
 15 Q Okay. These— Why don't we do this, we've been going
 16 almost an hour. Why don't we take about a
 17 five-minute break? Is that okay?
 18 A That's fine.
 19 MR. VALLAS: We'll be back with you in just
 20 a second, all right? Thanks.
 21 (Off the record.)
 22 BY MR. VALLAS:
 23 Q Mr. Austin, just prior to the break we were talking
 24 about non-asbestos containing gaskets that Dana
 25 Victor made that you're familiar with that were

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1 compatible with high heat applications, and I wanted
 2 to explore that a little bit more with you. We were
 3 talking about two types, the beaded steel head gasket
 4 as well as the steel construction exhaust manifold
 5 gasket. And I think that you mentioned that those
 6 were the only two high heat application non-asbestos
 7 containing Dana Victor gaskets that were manufactured
 8 at any time during the '60s and '70s; is that
 9 correct?
 10 MR. CELBA: Object to form.
 11 THE WITNESS: I guess the question I would
 12 have beyond that, those are what I consider to be the
 13 two highest heat applications in an internal
 14 combustion engine or diesel engine, so beyond that
 15 I'm unclear as to what other areas of an engine you
 16 would consider to be high heat applications.
 17 BY MR. VALLAS:
 18 Q Okay. Well, let me ask you that question because
 19 you're probably more familiar with internal
 20 combustion engines and where Dana Victor gaskets
 21 might be used inside of an engine than I am. Let's,
 22 if we can, run through the different types, the
 23 different places within an engine that you are
 24 familiar with where heat would be a concern. Just
 25 generically speaking, head gaskets intake gaskets,

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1 exhaust gaskets, whatever the case may be, if you can
 2 just kind of list them for me, that would be great.
 3 I'll figure out where I'm going to go from there.
 4 MR. CELBA: I'm going to object to the
 5 form. Go ahead.
 6 THE WITNESS: In general the head gaskets
 7 and exhaust gaskets I would consider to be the
 8 highest heat portions of an engine. Many of the
 9 gaskets beyond that become more what I would describe
 10 as secondary or ancillary gaskets. They would be
 11 mounting gaskets, that type of gasket, and that would
 12 be strictly dependent upon where on the engine that
 13 gasket was being used.
 14 BY MR. VALLAS:
 15 Q Okay. Let's go through— let's go through what kind
 16 of— I'm going to kind of make a list here. I'm
 17 going to put heat gaskets and exhaust gaskets. I'm
 18 sorry, not heat gaskets, head gaskets and exhaust
 19 gaskets kind of in a category by themselves. We'll
 20 just kind of refer to them for purposes of this
 21 deposition as high heat gaskets. Let's visit a little
 22 bit about this second category that you're talking
 23 about, these mounting gaskets. Where might those be
 24 used in an internal combustion engine where heat was
 25 a concern?

Page 34 1 MR. CELBA: I'm going to object to the 2 form. 3 THE WITNESS: I'm a little confused by what 4 you're asking. 5 BY MR. VALLAS: 6 Q Okay. You said that-- You mentioned mounting 7 gaskets, for example, and you said that those might-- 8 I guess did you say that heat might be a concern 9 depending on where those were used inside the engine? 10 MR. CELBA: Object to the form. Go ahead. 11 THE WITNESS: I guess I'm saying that the 12 significance of heat would be different depending on 13 where they happened to be mounted, maybe even 14 different from engine design to engine design. 15 BY MR. VALLAS: 16 Q Okay. Is there an area across the board? And what I 17 mean by that is notwithstanding how a particular 18 engine might be designed, is there an application 19 where one of these mounting gaskets would be used or 20 might be used where heat would be a concern? 21 MR. CELBA: Object to the form. 22 MR. VALLAS: What's the basis of the 23 objection? 24 MR. CELBA: You're calling for him to 25 speculate.	Page 36 1 BY MR. VALLAS: 2 Q Okay. How about intake gaskets? 3 A An intake gasket will certainly run cooler than an 4 exhaust gasket, and I would say the determination 5 there would be largely based upon particular engine 6 design. 7 Q Okay. Is there a temperature above which regardless 8 of the location of the application-- Is there a 9 temperature above which a gasket either is going to 10 have to contain asbestos or is going to have to be of 11 steel construction? 12 MR. CELBA: Object to form. 13 THE WITNESS: I have no idea. 14 BY MR. VALLAS: 15 Q Okay. So there is not from your many years working 16 in this industry if I were to say, Mr. Austin, I've 17 got a situation with an engine where I'm going to put 18 a gasket in such and such a place in an engine and 19 it's going to be subject to XYZ temperature, there's 20 not going to be a temperature that I'm going to be 21 able to tell you where you're going to say I can tell 22 you that at over XYZ temperature you're going to 23 either have to have an asbestos containing gasket or 24 some type of steel gasket? 25 MR. CELBA: Object to form.
Page 35 1 MR. VALLAS: Well, if he doesn't know, he 2 can tell me. 3 MR. CELBA: And it's a vague and ambiguous 4 question. Go ahead. 5 MR. VALLAS: Well, if he don't understand 6 it, he can tell me. 7 THE WITNESS: I'm sorry, I don't even 8 remember the question now. 9 BY MR. VALLAS: 10 Q Mr. Austin, any time today if you don't understand 11 any of my questions or you don't know, just tell me 12 you don't understand my question or you don't know, 13 okay? 14 A That's what I'm attempting to do. 15 Q What I'm trying to figure out is this, where else in 16 the-- Tell me all the different areas inside an 17 internal combustion engine other than the head-- I'm 18 sorry, other than the head gaskets and the exhaust 19 gaskets where heat would be a concern-- where heat 20 would be a concern such that you might need to 21 consider using an asbestos containing gasket? 22 MR. CELBA: I'm going to object to form. 23 THE WITNESS: Possibly a carburetor spacer 24 gasket. I guess that would be what comes to mind 25 right off.	Page 37 1 THE WITNESS: No, I'm not in a position to 2 tell you that. 3 BY MR. VALLAS: 4 Q Do you know whether or not-- Let me ask you this, let 5 me get back if I can to the beaded steel head gasket 6 and the steel construction exhaust manifold gaskets 7 that you mentioned a few minutes ago. If you can, 8 when you say this beaded steel head gasket-- I'm 9 trying to picture in my mind what this looks like. 10 Is it literally just steel and that's it? 11 A It's normally an embossed steel contoured to the 12 shape of the particular engine application. 13 Q Okay. So this isn't something that after use a steel 14 gasket-- this beaded head-- Bad question, sorry. 15 This beaded head steel gasket, the composition of it 16 is such that it doesn't have any type of soft 17 material also attached to it such that during the 18 removal of it you would have to scrape or use a wire 19 brush on it or anything along these lines; is that 20 correct? 21 MR. CELBA: Object to form. 22 THE WITNESS: Yes, sir, that's correct. 23 BY MR. VALLAS: 24 Q It's just an embossed steel gasket? 25 A Yes, sir.

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1 Q Let me talk to you a little bit about the description
 2 of the exhaust-- the steel construction exhaust
 3 manifold gasket that you mentioned earlier. My
 4 question there is kind of the same question.
 5 Describe to me what that thing looks like.
 6 A It would normally be an embossed or formed part,
 7 solid metal in nature with perhaps a coating of some
 8 sort on it.
 9 Q What kind of coating, like some other type of
 10 embossment you've been talking about?
 11 A No.
 12 Q Some other soft material?
 13 A No, neither. More like a paint type application.
 14 Q Okay. What was the purpose of the paint?
 15 A Rust prevention in some cases.
 16 Q Okay. So with regard to that steel construction
 17 exhaust manifold gasket, there wouldn't be any type
 18 of portion or part of that that after it had been in
 19 use and subject to the temperatures that exhaust
 20 gaskets are subjected to, that anybody would need to
 21 get in there and scrape anything out with a wire
 22 brush or anything along those lines; is that correct?
 23 MR. CELBA: Object to form.
 24 BY MR. VALLAS:
 25 Q If you know.

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1 A Not to the best of my knowledge.
 2 Q With regard to both the beaded steel head gasket and
 3 steel construction exhaust manifold gaskets that Dana
 4 Victor made that you're familiar with, when those--
 5 when-- after use, when you wanted to remove them,
 6 they would just pop off intact?
 7 A Yes, sir.
 8 Q So if-- So my next question is this, Christopher
 9 Stoeckler, he's one of our clients here that we're
 10 talking about here today, if he testified that he
 11 used-- I'm sorry? I thought there was an objection.
 12 If he testified that you used Victor gaskets in an
 13 exhaust manifold and Victor head gaskets between 1977
 14 and 1987, and when he removed them, he had to scrape
 15 them off, part of it off, assume that he said that,
 16 if you would, we know for sure that he wasn't using
 17 the beaded steel head gasket or exhaust manifold
 18 steel construction Victor gaskets.
 19 MR. BLIZZARD: Objection, form.
 20 BY MR. VALLAS:
 21 Q Is that correct, Mr. Austin?
 22 A No, sir, I don't believe that you can definitely say
 23 that. Once again, as we've talked in the past,
 24 particular applications have particular nuances to
 25 them; and if you could relate that to a part number

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1 or an application, then we might be able to more
 2 clearly address the issue.
 3 Q But you've told me that the only two types of high
 4 heat application non-asbestos containing Dana Victor
 5 gaskets that you're familiar with from the 1960s and
 6 1970s are the beaded steel head gaskets that you
 7 wouldn't have to scrape off and the exhaust manifold
 8 steel construction gasket that you wouldn't have to
 9 scrape off, correct?
 10 MR. CELBA: Object to form.
 11 THE WITNESS: I'm unclear as to what your
 12 point is.
 13 BY MR. VALLAS:
 14 Q My point is that the only two types of high heat
 15 application gaskets that you're familiar with that
 16 Dana Victor made in the 1960s and the 1970s was the
 17 beaded steel head gasket and the exhaust manifold
 18 steel construction gasket that we've talked about,
 19 correct?
 20 MR. CELBA: Object to form.
 21 THE WITNESS: Those are the ones that come
 22 to mind and I'm familiar with, yes.
 23 BY MR. VALLAS:
 24 Q I appreciate it. Let me ask you this too, let me
 25 visit with you a little bit about the following as

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1 well, Mr. Austin, during the 1980s other than
 2 asbestos containing gaskets-- I'm sorry, yes, bad
 3 question. During the 1980s-- Strike the question.
 4 During the 1980s tell me, if you can, list for me the
 5 different-- Just like we did for the '60s and '70s,
 6 tell me the high heat application non-asbestos
 7 containing gaskets that you're familiar with that
 8 were manufactured by Dana Victor?
 9 MR. CELBA: Object to form.
 10 THE WITNESS: In the 1980s there was an
 11 evolution away from asbestos containing parts, so it
 12 would be very difficult for me to be specific about
 13 that. The late 1970s we began to introduce
 14 non-asbestos containing head gaskets that were of the
 15 composition variety.
 16 BY MR. VALLAS:
 17 Q Okay. What I'd like for you to do is just list for
 18 me the ones that you're familiar with, the
 19 non-asbestos containing high heat application gaskets
 20 manufactured by Dana Victor in the 1980s?
 21 MR. CELBA: I'm going to object to the
 22 form.
 23 THE WITNESS: We began to use what we call
 24 coramic style materials.
 25 BY MR. VALLAS:

1 Q Can you spell that for me?
 2 A C-O-R-A-M-I-C. We began to use engineered facing
 3 materials with different designations that were
 4 similar in appearance and nature to the asbestos
 5 containing facings.
 6 Q I'm sorry, I dropped part of your answer, similar in
 7 what?
 8 A Similar in general appearance to the asbestos
 9 containing gaskets.
 10 Q Let me visit with you-- Any others you can think of
 11 besides those two categories?
 12 A In the 1980s we would have begun to see some graphite
 13 material as well, I believe.
 14 Q Okay. Let's talk about each one of those categories
 15 if we can. First of all, the coramic style material,
 16 if you can explain to me what that is and what it has
 17 to do with gaskets in high heat applications.
 18 MR. CELBA: Object to form.
 19 THE WITNESS: When we discussed composition
 20 style gaskets, those were gasket materials or facing
 21 materials that were mounted to some sort of a steel
 22 core. Could have been a perforated steel core or
 23 what we called an upset steel core with an adhesive
 24 used to bond the facing to the core. The facing
 25 materials, as we moved away from asbestos, the

1 stuck, if there is such a term, to the head and block
 2 surfaces.
 3 BY MR. VALLAS:
 4 Q Do you know when the first year is that Dana Victor
 5 started using anti-stick coating on its high heat
 6 application gaskets?
 7 MR. CELBA: Object to form.
 8 THE WITNESS: We used a number of different
 9 coatings over the years from the time I started with
 10 the company.
 11 BY MR. VALLAS:
 12 Q Okay. Were any of those used in-- Were any of those
 13 used for exhaust manifold head gaskets or intake
 14 gaskets that were-- Strike the question. Were-- I
 15 guess in what application? Were those anti-stick
 16 coatings, were they used on every gasket product you
 17 all put out or during certain years or only some
 18 during certain years, or how did you all--
 19 A They were used on many different applications over
 20 the years.
 21 Q Were there exhaust manifold asbestos containing
 22 gaskets manufactured without the anti-stick coating
 23 between 1977 and 1987?
 24 A Once again, we'd have to look at individual
 25 applications. I can't tell you that every

1 asbestos content was removed and was replaced by
 2 other materials.
 3 BY MR. VALLAS:
 4 Q All right. Would the facing materials for high heat
 5 applications, would they be soft or hard, or what
 6 were the facing materials like?
 7 MR. CELBA: Object to form.
 8 THE WITNESS: They were basically a soft
 9 paper like facing that was combined with a steel
 10 core.
 11 BY MR. VALLAS:
 12 Q Okay. Would that be something that after use in a
 13 high heat application setting might need to be, in
 14 other words, scraped off or wire brushed off? In
 15 other words, when you were to take that gasket off,
 16 might there be some of it sticking to the face or
 17 whatever it had been applied to, and you'd have to
 18 kind of take it and clean it off, or would those come
 19 off intact?
 20 MR. CELBA: Object to form. Go ahead.
 21 THE WITNESS: Most gaskets have an
 22 anti-stick coating of one sort or another that's
 23 placed on them. Here again, we get back to the
 24 individual application as to whether it might be
 25 removed fairly easily or whether it would be more

1 application and every part number would have used a
 2 coating.
 3 Q So there were some without it, you just wouldn't be
 4 able to say yes or no without particular part
 5 numbers; is that right?
 6 MR. CELBA: I'm going to object to the
 7 form. Go ahead.
 8 BY MR. VALLAS:
 9 Q Or if you can tell me.
 10 A Without knowing the individual part numbers, I cannot
 11 be assured that it did or did not have an anti-stick
 12 coating.
 13 Q How was the decision made to put an anti-stick
 14 coating on this gasket over here and not on this
 15 gasket over here?
 16 A That would have been an application engineering
 17 decision.
 18 Q From your years in working with Dana Victor are there
 19 at least general guidelines that you can point me
 20 to? Like could I mention a particular application
 21 for any type of gasket in a high heat setting, and
 22 you can tell me, yes, it would have or no, it
 23 wouldn't have had some type of anti-stick coating on
 24 it, or it would have this year or wouldn't have this
 25 year, or are we absolutely at a place where we would

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1 have to know the specific part number to know the
 2 answer to that question?
 3 MR. CELBA: Object to form.
 4 THE WITNESS: We would have to have
 5 specific part numbers to deal with to assure
 6 ourselves that they had an anti-stick coating.
 7 BY MR. VALLAS:
 8 Q Tell me your understanding of the engineering
 9 standards, if you know, I guess that decision making
 10 process as to whether or not an anti-stick coating
 11 went on them or an anti-stick coating didn't go on
 12 them as far as you understand how that decision was
 13 made?
 14 MR. CELBA: Object to form.
 15 THE WITNESS: It would have been made by
 16 the application engineer at Victor in conjunction
 17 normally with the gasket engineer or assigned
 18 engineer at the customer.
 19 BY MR. VALLAS:
 20 Q Okay. And if you can just tell me, do you have an
 21 understanding as to-- Other than what you just told
 22 me, do you have an understanding as to why or not an
 23 anti-stick coating might have been used?
 24 A In general the purpose for an anti-stick coating was
 25 to prevent the surfaces from sticking to the gasket

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1 in the case of a necessity of removal.
 2 Q Okay. I appreciate that. I'm trying to figure out,
 3 do you have an understanding as to when that would be
 4 a problem, in other words, that sticking such that an
 5 anti-stick coating might be used and an understanding
 6 as to when that wouldn't be a concern and an
 7 anti-stick coating probably wouldn't be used? If you
 8 don't know, you just tell me.
 9 A I can't be specific without a particular application.
 10 Q Okay. Head gaskets manufactured by-- Well, asbestos
 11 containing head gaskets manufactured by Dana Victor
 12 during, let's say, between 1977 and 1987, can you--
 13 Just knowing that, that it was a head gasket, any
 14 understanding, assuming it was an asbestos containing
 15 gasket, any understanding as to whether or not that
 16 would have an anti-stick coating on it or not? Can
 17 you say one way or another?
 18 A I really hate to talk in general terms, but head
 19 gaskets in general contained anti-stick coatings.
 20 Q How about-- Let's say from 1977 again to 1987,
 21 asbestos containing exhaust manifold gaskets, any
 22 general understanding again as to whether or not
 23 those would have had anti-stick coating or not?
 24 A Once again, talking in general terms, the answer
 25 would be that they did have some sort of anti-stick

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1 coating.
 2 Q Okay. I think we kind of started talking about-- We
 3 were talking a few moments ago before we got on the
 4 anti-stick discussion, we were talking about these
 5 coramic style materials. Let me bring you back a
 6 little bit to that discussion if I can. We were
 7 talking specifically about the facing material, and I
 8 think you described it as a soft paper like facing;
 9 is that correct?
 10 A Yes.
 11 Q Okay. Is that something-- To the extent that you're
 12 familiar with those-- Well, actually, strike the
 13 question. Do you know the first year that coramic
 14 style materials as you described them started being
 15 used-- Strike the question. Do you know the first
 16 year that coramic style materials started being used
 17 in head gaskets manufactured by Dana Victor?
 18 MR. CELBA: Object to form.
 19 THE WITNESS: Coramic materials in general
 20 came into being in the 1970s or early 1980s. That's
 21 about as close as I can get.
 22 BY MR. VALLAS:
 23 Q Okay. Do you have an understanding through the time
 24 period 1977 to 1987 of what percentage of Dana
 25 Victor's exhaust manifold gaskets would have been

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1 coramic style as opposed to asbestos containing-- or
 2 just coramic style?
 3 A I don't understand the comparison you're asking for,
 4 sir.
 5 Q Probably a bad question. Do you have an
 6 understanding through, from the late 1970s through
 7 the late 1980s, do you have an understanding as to
 8 what percentage of Dana Victor's exhaust manifold
 9 gaskets would have been asbestos containing versus
 10 non-asbestos containing?
 11 MR. CELBA: Object to form.
 12 BY MR. VALLAS:
 13 Q If you know.
 14 A It would have varied every year, as I've stated
 15 before. Beginning in the late 1970s we began to move
 16 away from asbestos containing materials, so it would
 17 have been a different percentage at different times
 18 during that decade.
 19 Q Okay. Let's talk about-- Let me kind of do that.
 20 Let's say as of the time that-- Let's say starting in
 21 1977 or in the late-- Let's say 1977, what percentage
 22 of exhaust manifold gaskets, Dana Victor exhaust
 23 manifold gaskets in 1977, if you know, would have had
 24 asbestos versus non-asbestos?
 25 MR. CELBA: Object to form.

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1 THE WITNESS: Are we speaking only of
 2 exhaust gaskets that contained asbestos?
 3 BY MR. VALLAS:
 4 Q Yes. What percentage would have had asbestos, of
 5 exhaust gaskets would have had asbestos versus the
 6 percent of those that would not have had asbestos in
 7 1977?
 8 A Excluding the metallic?
 9 MR. CELBA: Objection.
 10 BY MR. VALLAS:
 11 Q Excluding the metallic that we talked about.
 12 A A very large percentage in 1977.
 13 Q And large percentage, if you can, just kind of tell
 14 me what that means. I'm trying to figure out what
 15 you consider large?
 16 A I guess I'm looking-- You know, if we exclude
 17 metallics and we're only talking about the other
 18 materials, 90 percent maybe.
 19 MR. CELBA: I'm going to object. That
 20 calls for speculation.
 21 THE WITNESS: Are you still there?
 22 (Off the record.)
 23 BY MR. VALLAS:
 24 Q Let's go back on. I think just prior to-- I
 25 completely missed whatever answer you might have

1 it would have at least been 50 percent?
 2 A I really don't want to get into trying to guess.
 3 Q Okay. Let me ask you this, from 1977 to 1987 is it
 4 safe that-- for me to just ask you the question about
 5 that-- same question about all of those years
 6 collectively that you wouldn't be able to give me a
 7 specific percentage of the gaskets that were asbestos
 8 containing versus non-asbestos containing exhaust
 9 gaskets excluding the metal ones; is that right?
 10 A All I can tell you is that the number would have
 11 continued to a downward trend over that period of
 12 time.
 13 Q Okay. At what point, if you have an understanding,
 14 would you have characterized the percentage as
 15 something-- As those years went by, if you know, or
 16 if you feel comfortable saying, at what point as
 17 those years went by, would you reach a point where
 18 you can comfortably say, well, it wouldn't be large,
 19 it would be some other word that you want to use?
 20 MR. CELBA: Object to form. Go ahead.
 21 THE WITNESS: Once again, I'm just
 22 speculating.
 23 BY MR. VALLAS:
 24 Q Okay. Can we say that in 1987 the-- Can we say that
 25 as late as 1987 that the percentage of gaskets being

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1 given to that last question, Mr. Austin. My end of
 2 the phone went dead. We were talking about 1977,
 3 excluding-- We were talking about exhaust gaskets,
 4 exhaust manifold gaskets. We're excluding the steel
 5 gaskets. What percentage of exhaust gaskets in 1977
 6 would have had asbestos in them? You said it was a
 7 large percentage, and I was trying to get a better
 8 idea of what that was.
 9 A You want the reporter to--
 10 MR. CELBA: Object to form. No.
 11 BY MR. VALLAS:
 12 Q Go ahead and answer.
 13 A It was a large percentage. It just becomes
 14 speculation. I'm just very reluctant to just hang a
 15 number out there for the sake of hanging a number out
 16 there.
 17 Q I certainly don't want you to guess.
 18 A That's where I'm at.
 19 Q When you say large, I'm just trying to get an
 20 understanding of what the most specific answer you
 21 can give me, and so that's all I'm trying to do, but
 22 I don't want you to guess.
 23 A That's what it would be at this point in time.
 24 Q Okay. By large can you say it would have been more
 25 than 50 percent? Do you have an understanding that

1 manufactured by Dana Victor for exhaust, other than
 2 the metal gaskets that we talked about, would you
 3 still characterize it as a large percentage, or can
 4 you say?
 5 A I think I can say that it would not have been a large
 6 percentage.
 7 Q Okay. Can you be any more specific than that?
 8 A I really don't want to be, Mr. VALLAS.
 9 Q Okay. You couldn't say whether or not it would have
 10 been-- You can't say that it would have been less
 11 than 50 percent?
 12 A Once again, I'm back to speculating, and I don't want
 13 to do that.
 14 Q Okay. I appreciate that. With regard to that series
 15 of questions that I just asked you during that time
 16 period, would your answer be the same with regard--
 17 We were just talking about the exhaust gaskets a
 18 minute ago. Would your answer be the same with
 19 regard to head gaskets?
 20 MR. CELBA: Object to the form.
 21 THE WITNESS: Once again, it would be
 22 largely speculation.
 23 BY MR. VALLAS:
 24 Q Okay. Well, could you-- Would you at least say that
 25 as of 1977 that the percentage of gaskets

1 manufactured by Dana Victor other than steel gaskets
2 that were head gaskets, could you still characterize
3 that percentage as being large? In other words, can
4 you give me the same answer for the head gaskets as
5 you gave me for the exhaust gaskets, or can you not?

6 MR. CELBA: Same objection.

7 THE WITNESS: In general, the rules that
8 applied were that in '77 we were beginning the
9 evolution away from asbestos gaskets, or in the late
10 '70s, and by 1988 we were 100 percent asbestos
11 free.

12 MR. VALLAS: Let me object to the
13 responsiveness.

14 BY MR. VALLAS:

15 Q I understand that. But I'm wondering, I've asked you
16 the questions with regard to the exhaust gaskets, and
17 I appreciate it. I'm just trying to clear it up with
18 the head gaskets for that time period between 1977
19 and 1987, other than telling me that the percentage
20 of asbestos containing gaskets manufactured by Dana
21 Victor that were head gaskets, that were not metal
22 gaskets, in 1977 was a large percentage, could you be
23 any more specific than that?

24 MR. CELBA: Object to form.

25 THE WITNESS: No, I don't want to be any

1 Q Okay. With regard to any of the years between 1977
2 and 1987 can you be any more specific than that?
3 Would your answer change in any manner?

4 MR. CELBA: Object to form.

5 THE WITNESS: My answer is the same. It was
6 evolutionary over that period of time. I'm not in a
7 position to try to speculate as to what the numbers
8 were at any given time during that period.

9 BY MR. VALLAS:

10 Q Okay. Let me go back to the coramic style material a
11 little bit. I think you mentioned you don't know the
12 first year that those were actually used-- Strike
13 that. Were the coramic style materials used in
14 exhaust manifold applications as well as head gasket
15 applications at some point?

16 A I don't have a clear recollection, to be perfectly
17 honest with you.

18 Q Okay. From what you know about these coramic style
19 materials that we discussed earlier, if you can't
20 answer the question, let me know. It may be a
21 question I've got to ask one of you all's engineers.
22 Could they have been used in an exhaust manifold
23 application or a head gasket application, if you
24 know?

25 MR. CELBA: Object to form.

1 more--

2 MR. CELBA: That was with respect to
3 exhaust gaskets, I thought.

4 MR. VALLAS: That was the first category we
5 were talking about. I'm just trying to see if he can
6 tell me the same thing with regard to the head
7 gaskets.

8 MR. CELBA: That's been asked and
9 answered. You phrased your last question improperly.
10 You referred to him giving that testimony to you with
11 respect to heads rather than exhaust. That was the
12 basis for my objection.

13 MR. VALLAS: Let me strike it and just try
14 to clean it up.

15 BY MR. VALLAS:

16 Q In 1977 can you say that the percentage of asbestos
17 containing gaskets, head gaskets that were being
18 manufactured by Dana Victor, other than the metal
19 gaskets, was a large percentage?

20 MR. CELBA: Same objection.

21 THE WITNESS: Yes, I can say that.

22 BY MR. VALLAS:

23 Q Can you be any more specific than that with respect
24 to the year 1977?

25 A No, I will not be.

1 BY MR. VALLAS:

2 Q Is there anything about the composition of that
3 gasket that either made it compatible with or not
4 compatible with application to either a head gasket
5 or an exhaust manifold gasket?

6 MR. CELBA: Same objection.

7 THE WITNESS: I think that's a question
8 better asked of the materials engineers.

9 BY MR. VALLAS:

10 Q I appreciate that. I'll move on then. I think kind
11 of the second-- You mentioned something else other
12 than coramic style materials. You also mentioned a
13 little while ago-- I think you just referred to it as
14 engineering facing materials similar in appearance to
15 asbestos containing gaskets. Do you remember that?

16 A Yes.

17 Q Okay. Do you know whether or not that-- those
18 materials that we're kind of-- that I'm kind of
19 referring to there, do you know if there was anything
20 about those materials that would have either made
21 them compatible with or incompatible with exhaust
22 manifold application or head gasket application from
23 1977 to 1987, or would I have to ask an engineer
24 that?

25 MR. CELBA: Object to form.

1 THE WITNESS: Many of those materials were
 2 specifically designed for particular applications.
 3 Whether they were appropriate for use in different
 4 applications really falls into the application
 5 engineering area.
 6 BY MR. VALLAS:
 7 Q Okay. That would be a question I would need to ask
 8 of them, true?
 9 A Yes, I believe so.
 10 Q Okay. Do you know the first year-- With regard to
 11 those engineering materials, do you know the first
 12 year that Dana Victor started manufacturing that
 13 product as a gasket?
 14 A I can't be absolutely specific as to year.
 15 Q Okay. Do you know the last year, or do they still?
 16 A Some of those materials are still in use today.
 17 Q Okay. I think the other thing you mentioned-- that
 18 you mentioned that at some-- at some point there was
 19 some graphite containing product or graphite-- that
 20 graphite was used in gaskets. Do you remember
 21 mentioning that as well?
 22 A Yes, I do.
 23 Q That graphite at some point was used in gaskets that
 24 had applications-- in gaskets? Actually, did I just
 25 say gaskets twice? Strike the question. Tell me as

1 you understand it what the graphite brought to the
 2 gasket, so to speak? Why was the graphite added to
 3 the gasket, if you know?
 4 MR. CELBA: Object to form.
 5 THE WITNESS: Graphite gaskets have great
 6 conformability and good heat resistance.
 7 BY MR. VALLAS:
 8 Q Okay. Do you know when the first year is that Dana
 9 Victor started manufacturing gaskets for high heat
 10 application that contained graphite?
 11 MR. CELBA: Object to form.
 12 THE WITNESS: No, I can't be specific as to
 13 the year the first one came out.
 14 BY MR. VALLAS:
 15 Q Okay. Do you know whether it came out at any time
 16 prior to 1987?
 17 A No, I can't be certain.
 18 Q Okay. I don't know if I asked you that same question
 19 with regard to the engineering facing materials. Do
 20 you know if those engineering facing materials that
 21 we were talking about a couple minutes ago, do you
 22 know if Dana Victor was manufacturing gaskets made of
 23 those materials for high heat applications at any
 24 time prior to 1987?
 25 MR. CELBA: Object to form.

1 THE WITNESS: Yes, they were.
 2 BY MR. VALLAS:
 3 Q They were, okay. I'm sorry, let me bounce back to
 4 the graphite containing gaskets once again. Do you
 5 happen to know, or do you know whether or not those
 6 graphite containing gaskets were compatible with or
 7 not compatible with exhaust manifold applications or
 8 head gasket applications, or, again, would that be a
 9 question for the engineer?
 10 A They are used extensively in head gasket
 11 applications. Beyond that, I think you probably
 12 ought to ask an application engineer.
 13 Q All right. Would there be anything about the
 14 graphite containing gaskets that when removed, would
 15 any part of them perhaps have to be scraped off or
 16 wire brushed off, or were they such that they came
 17 off intact?
 18 MR. CELBA: Object to from.
 19 THE WITNESS: There again, it would be very
 20 much specific to the particular application.
 21 BY MR. VALLAS:
 22 Q Okay. So I'm just trying to figure out here-- So the
 23 graphite it was-- Let's see, do you know what
 24 percentage graphite it was, those gaskets were?
 25 A Nearly 100 percent.

1 Q Okay. If you just held it in your hand and played
 2 with it, was it a soft material, or was it an
 3 extremely hard material?
 4 A No, it was a soft material.
 5 Q Okay. Let me get back to where we were a little
 6 while ago. We were talking about the material that
 7 you had reviewed in the case and what other materials
 8 prior to your deposition today or you brought with
 9 you today, other than those that we've already
 10 attached, what else do you have with you?
 11 A Nothing.
 12 Q Okay.
 13 A I'm sorry, I did mention the depositions, correct?
 14 Q Yes, the two Longeau depositions?
 15 A Yes. That's all I have.
 16 Q Okay. You're right, we did not attach those, but we
 17 discussed them. Other than those, there is nothing
 18 else we haven't either attached or discussed, true?
 19 A That's correct.
 20 Q You haven't reviewed the deposition-- You haven't
 21 reviewed any other depositions in this case, correct;
 22 is that right, Mr. Austin?
 23 A That's correct.
 24 Q Let me ask you this question, when I took your
 25 deposition in the Gerald Pyle case last week or a

Page 62 1 couple weeks ago we talked about a gentleman who, I 2 guess sold some Dana Victor asbestos containing 3 product kind of through his own company. Do you 4 remember talking about that guy? I asked you where 5 he was in the country if you knew. You said you 6 didn't know. Do you remember that guy? 7 A Yes, I do. 8 Q Do you happen to recall what his name was? 9 A Roger Moss. 10 Q Okay, that's him. Do you know-- If you can, just 11 tell me again what your understanding of his 12 relationship was with Dana Victor. 13 A I understood him to be a materials broker 14 representative. 15 Q Okay. By that he bought-- Is it your understanding 16 that he bought asbestos containing gasket products 17 from Dana Victor and then marketed them to whoever 18 his customers were? 19 MR. CELBA: Object to form. 20 THE WITNESS: He purchased materials and 21 then sold them to other individuals or companies. 22 BY MR. VALLAS: 23 Q Okay. To your knowledge, does Dana Victor-- Did Dana 24 Victor ever have any type of say-so as to the 25 customers that he could sell to? In other words, was	Page 64 1 that? 2 A I have no idea. 3 Q Do you know the last year that he did it? 4 A No, I do not. 5 Q Do you know any years that he was doing it, that you 6 can tell me for sure? In other words, Mr. Vallas, I 7 can't tell you the first year or the last year, but I 8 can tell you in this year or during these years that 9 he had that type of relationship with Dana Victor? 10 A Only that he was referred to in one of the exhibits, 11 whatever the date of that particular exhibit would 12 have been. 13 Q Okay. Do you have an understanding as to the volume 14 of product Dana Victor asbestos containing gasket 15 products he sold or distributed for-- 16 A No, sir. 17 MR. CELBA: I'm going to object to the 18 form. 19 THE WITNESS: No, sir, I do not. 20 MR. VALLAS: What's the basis of the 21 objection? 22 MR. CELBA: You're assuming it's asbestos 23 containing gasket material. That has never been in 24 evidence whatsoever. 25 BY MR. VALLAS:
Page 63 1 there a particular market? Was he restricted, or 2 were there a particular group of customers? Was he 3 restricted geographically? Did Dana Victor have any 4 type of noncompete contract with him such that he 5 couldn't sell to this guy or that guy or whatever the 6 case may be? Do you have any understanding of those 7 types of issues? 8 MR. CELBA: Object to form. 9 THE WITNESS: I have no knowledge of the 10 business arrangements with Mr. Moss. 11 BY MR. VALLAS: 12 Q Did you ever have an opportunity to speak with him? 13 A No, I did not. 14 Q Do you know of anyone else other than Mr. Moss that 15 had a relationship similar to that with Dana Victor 16 at any time such that they took Dana Victor's 17 asbestos containing gaskets products and sold them to 18 customers unbeknownst to Dana Victor? 19 MR. CELBA: Object to form. 20 THE WITNESS: I have no knowledge of any 21 other individuals involved. 22 BY MR. VALLAS: 23 Q Okay. Do you know the first year that Mr. Moss began 24 that type of relationship that you've discussed with 25 Dana Victor? In other words, when did he start doing	Page 65 1 Q Okay. Mr. Austin, do you have an understanding as to 2 what type of products-- what type of Dana Victor 3 products Mr. Moss bought from Dana Victor and resold 4 or whatever he did do with it? 5 A The only recollection I have is that he bought a 6 number of different types of materials from us. 7 Q Were any of those asbestos containing gasket product 8 materials? 9 MR. CELBA: Object to form. 10 THE WITNESS: I can't be certain. 11 BY MR. VALLAS: 12 Q Okay. Do you have any understanding, Mr. Austin, as 13 to whether or not Dana Victor or anybody else, 14 Mr. Moss or anybody, sold Dana Victor asbestos 15 containing gaskets or any other type of Dana Victor 16 gaskets to the Navy at any time? 17 A I have no idea. 18 Q Let me ask you this if I can, during the years that 19 you have worked with Dana Victor, at any time have 20 you ever heard or seen anything or made an assumption 21 for whatever reason-- if you have, we'll talk about 22 it, that any other company other than the company 23 that you have worked for has ever at any time 24 manufactured any type of gasket with the Victor name, 25 under the Victor brand name?

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1 MR. CELBA: Object to form.
 2 THE WITNESS: I have no knowledge of that.
 3 BY MR. VALLAS:
 4 Q Okay. In other words, let me ask you this, do you
 5 think after spending 35 years with Dana corporation
 6 that if there was another company manufacturing or
 7 distributing gaskets under the name Victor for at
 8 least the years that you've been with the company
 9 here in the U.S. that you would have known about it,
 10 or do you-- Would you have been in a position with
 11 the company to know about that?
 12 MR. CELBA: Object to form.
 13 THE WITNESS: I really wouldn't have
 14 necessarily been in a position to know that.
 15 BY MR. VALLAS:
 16 Q Never heard of another company doing it?
 17 A No, sir.
 18 Q If Mr. Mathias in this case testified that he saw and
 19 worked with Victor gaskets in the Navy at some time
 20 between 1961 and 1965, would you have any reason to
 21 dispute it?
 22 MR. CELBA: I'm going to object to the
 23 form.
 24 THE WITNESS: I guess the only thing I can
 25 say is that we are in the internal combustion engine

1 form.
 2 BY MR. VALLAS:
 3 Q If that's not what you're telling me, just say no,
 4 Mr. Vallas, you misunderstood me.
 5 MR. CELBA: I still object.
 6 MR. VALLAS: He can answer the question. I
 7 appreciate that.
 8 THE WITNESS: Once again, you've asked the
 9 question in a manner that I guess--
 10 BY MR. VALLAS:
 11 Q Okay.
 12 A You're saying anywhere in the Navy, then we're back
 13 to internal combustion engines and diesel engines.
 14 Q Let me withdraw the question and ask this, Mr.
 15 Mathias and a coworker of his testified that they
 16 worked as boiler technicians, when they were working
 17 as boiler technicians in the U.S. Navy, on U.S. Naval
 18 vessels, between 1961 and 1965, that they worked with
 19 Victor gaskets, do you have any reason to dispute
 20 that the Victor gaskets they said they were working
 21 with were anyone else's other than you all's?
 22 MR. CELBA: Object to the form.
 23 THE WITNESS: In the context that it was in
 24 their normal duties of working with boilers, I would
 25 find it very unusual that they would have encountered

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1 and diesel engine business, so if he were taking
 2 apart an engine, that's about all I can, you know, I
 3 can say.
 4 BY MR. VALLAS:
 5 Q Okay. So, well, if he wasn't working on an engine--
 6 I'll give a-- Let's look at my notes, and I'll tell
 7 you what he was doing. He was a boiler technician on
 8 a couple of ships in the Navy between 1961 and 1965,
 9 and both he and a guy he worked with in the Navy said
 10 that they worked with Victor gaskets during that time
 11 period on U.S. Naval vessels as boiler technicians.
 12 You got any reason to dispute that it wasn't you
 13 all's product that they were working with?
 14 MR. CELBA: Object to form.
 15 THE WITNESS: I don't know. Since--
 16 Certainly since I've been with the company I don't
 17 recall ever having applications that I would
 18 anticipate you're speaking of. I guess that would be
 19 what I would say to that.
 20 BY MR. VALLAS:
 21 Q Okay. So I guess from 1968 through the present you
 22 don't have any understanding of any Dana Victor
 23 gaskets being used in naval applications; is that
 24 what you're telling me?
 25 MR. CELBA: I'm going to object to the

1 Victor gaskets.
 2 BY MR. VALLAS:
 3 Q What's the basis for that understanding?
 4 A I can't recall an application that we had made that
 5 was that type of application. Once again, we're in
 6 the engine business.
 7 Q Okay. When you got there in 1968 have you ever gone
 8 back and reviewed all the documents to try to get an
 9 understanding of all the different applications
 10 that-- of all the different applications that Dana
 11 Victor gaskets either were intended to be used for or
 12 could have been used for prior to the time that you
 13 started there?
 14 MR. CELBA: Object to form.
 15 THE WITNESS: I've reviewed a number of
 16 documents in relationship to our applications of
 17 gaskets.
 18 BY MR. VALLAS:
 19 Q Yes, sir.
 20 A And I do not see anything there in my review that
 21 would indicate a boiler type of application.
 22 Q You have reviewed what you consider to be-- You
 23 reviewed documents that preexisted or that predate
 24 the commencement of your employment with Dana Victor?
 25 A I've reviewed some documents. There are literally

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1 hundreds of thousands of documents. Obviously, I've
 2 not reviewed hundreds of thousands of documents.
 3 Q Okay. So what you're telling me is from the
 4 materials-- based on the information that you know,
 5 having not reviewed I guess the world of documents
 6 that predates your employment with Dana Victor as far
 7 as asbestos containing gaskets are concerned, you're
 8 limiting your answer to what you know from your
 9 review of the records that you've reviewed and from
 10 the years that you've worked in the Chicago facility
 11 with Dana Victor, true?

12 MR. CELBA: Object to form.

13 THE WITNESS: I'm testifying based on my
 14 knowledge and the review of the document, if that's
 15 your question.

16 BY MR. VALLAS:

17 Q Do you know if I wanted to find out whether or not
 18 Dana Victor sold gaskets to the Navy, asbestos
 19 containing gasket products to the Navy at any time
 20 prior to your employment with Dana Victor, or let's
 21 say if you wanted to find that out, how would you try
 22 to start that investigation? Who would you initially
 23 go start talking to?

24 A It would be in the sales group someplace.

25 Q Is there a particular person that there that you

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1 then we're going to wrap up, or at least I am. We'll
 2 see if anybody else has anything to say. I can't
 3 remember if I've asked you this question or not. If
 4 I have, I apologize. We've talked about the four
 5 facilities that you're aware were up and running and
 6 manufacturing asbestos containing gaskets in the '70s
 7 at least, the St. Thomas, Robinson, Chicago and
 8 Havana. I can't remember if I asked you this
 9 question, do you know whether at any other time Dana
 10 Victor ever had any other facility other than those
 11 four that manufactured asbestos containing gasket
 12 products at any time, in the United States?

13 A Not to the best of my recollection.

14 Q Have you ever served in the military, Mr. Austin?

15 A No, I have not.

16 Q Do you consider yourself to be at all familiar with
 17 the type of equipment that might have been found or
 18 that would have been found on United States Naval
 19 vessels or ships in the early 1960s and-- Well, let
 20 me ask you that question.

21 MR. CELBA: Object to form.

22 THE WITNESS: No, I don't believe I have
 23 any expertise in that area.

24 BY MR. VALLAS:

25 Q Would you know whether or not-- Do you know enough

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1 would try to first make contact with?

2 A Not for information that's that old.

3 Q Okay. Then I guess how would you go about it?

4 A You'd probably just begin talking to the sales
 5 department and see if there was any direction they
 6 could offer you.

7 Q Okay. Anybody over there in particular you would
 8 talk to?

9 MR. CELBA: Object to form. Go ahead.

10 THE WITNESS: It would probably be one of
 11 the sales directors.

12 BY MR. VALLAS:

13 Q Okay. Any particular name you can think of or names?

14 A Denny Jones.

15 Q Okay. Any others you can think of, sales directors?

16 A He would be my first choice.

17 MR. VALLAS: Okay. Why don't we go off the
 18 record for just a second. I'm going to check my
 19 notes, then we will see if there's anything else I
 20 need to talk to Mr. Austin about. I'm sure there's
 21 going to be a few extra things, but let's take a
 22 five-minute break.

23 (Recess taken.)

24 BY MR. VALLAS:

25 Q Mr. Austin, I've just got a few more questions, and

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1 about naval equipment on U.S. ships in the 1960s to
 2 say one way or the other whether or not Victor
 3 asbestos containing gasket products were compatible
 4 or incompatible in any application, in any naval
 5 application in the 1960s?

6 MR. CELBA: Object to form.

7 BY MR. VALLAS:

8 Q If you know.

9 A I don't see any compatibility, but I'm not an expert
 10 on naval equipment.

11 Q Okay. Can you tell me, as far as equipment that
 12 might have been on ships, naval vessels in the early
 13 1960s, can you name any piece of equipment that might
 14 have required, or name any application that you're
 15 familiar with that might have required the use of an
 16 asbestos containing gasket on board a ship in the
 17 1960s?

18 MR. CELBA: Objection.

19 BY MR. VALLAS:

20 Q If you can say.

21 A Once again, we make internal combustion engines, so
 22 if there was some sort of an application with
 23 internal combustion engines, that would be the place
 24 that I would look I guess or a diesel engine.

25 MR. VALLAS: Okay. I guess let me object

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1 to the responsiveness.

2 BY MR. VALLAS:

3 Q I know you've told me that a couple times, Mr.
4 Austin. I'm just again trying to figure out the
5 scope of your knowledge, make sure that I'm crystal
6 clear on that to the extent that I can be. I guess
7 what I'm wondering is can you tell me any
8 application-- Well, let me ask you this, do you know
9 whether or not there would have been any internal
10 combustion engines on U.S. Naval vessels in the
11 1960s?

12 MR. CELBA: Object to form.

13 BY MR. VALLAS:

14 Q Do you know one way or the other?

15 A No, I don't.

16 Q Do you know one way or the other whether or not
17 Victor asbestos containing gaskets-- Do you have any
18 reason to believe that Victor asbestos containing
19 gaskets, that they just would have been incompatible
20 with naval applications in the-- on board vessels in
21 the 1960s?

22 MR. CELBA: Object to form.

23 BY MR. VALLAS:

24 Q Do you have any basis for any understanding one way
25 or the other?

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1 A The gaskets that we make go to particular
2 applications.

3 Q Okay.

4 A So if, you know, if that application were present on
5 a ship, then there would be Victor gaskets there. If
6 those applications weren't--

7 Q I'm sorry, were you finished?

8 A Yeah.

9 Q Let me just explore that with you a little bit. You
10 said that they go to particular applications. I know
11 that there was a-- You've told me several times in
12 this deposition and in previous depositions that
13 there were certain markets to which you guys-- for
14 which you guys, you know-- You keep talking to me
15 about certain markets, those being the internal
16 combustion engines, you know, that's not really my
17 question. What I'm asking you is do you have any
18 reason to believe that Victor asbestos containing
19 gaskets would have been incompatible with naval
20 applications, on board U.S. Naval vessels in the
21 early 1960s?

22 MR. CELBA: Object to form.

23 THE WITNESS: That's really a question you
24 would have to ask of an application engineer.

25 BY MR. VALLAS:

1 Q I appreciate that. Do you know of any non-asbestos--
2 Sorry, are you familiar with any Dana Victor
3 non-asbestos containing high heat application gaskets
4 that were manufactured by Dana Victor in the 1960s?

5 MR. CELBA: Object to form.

6 THE WITNESS: I don't understand the
7 question, I'm sorry.

8 BY MR. VALLAS:

9 Q Sure. We talked about the fact-- We talked about two
10 products earlier that you were familiar with that
11 were manufactured by Dana Victor for high heat
12 applications-- No, I think I've already asked the
13 question. I think we discussed it earlier.

14 MR. CELBA: That was my objection.

15 BY MR. VALLAS:

16 Q I just didn't realize that discussion had encompassed
17 the question I was asking. Let me move on. Can you
18 tell me all of the Victor asbestos containing gaskets
19 or just Victor gaskets-- just Victor gaskets to the
20 extent that they had any type of logo on the box, on
21 the packaging on the products itself, tell me the
22 extent you're familiar with that, the different
23 varieties of logos, if there were one, you're
24 familiar with?

25 MR. CELBA: Object to form.

1 THE WITNESS: There were a few different
2 ones that I'm familiar with.

3 BY MR. VALLAS:

4 Q There are a few, is that what you said?

5 A Yes, sir.

6 Q Let's just kind of take them in order wherever you
7 want to start, describe the first one for me.

8 A The name Victor.

9 Q Okay.

10 A Why don't we run through the list and I'll come back
11 and visit with you about each one of them. What's
12 the next one?

13 A V, period, G, period.

14 Q Okay.

15 A And a logo that had a sort of interlocking VG inside
16 of a circle.

17 Q VG inside of a circle, okay.

18 A Those are the three that come to mind.

19 Q All right. Might there have been others that you
20 don't recall?

21 MR. CELBA: I'm going to object to form.

22 THE WITNESS: Those are the three that come
23 to mind, sir.

24 BY MR. VALLAS:

25 Q I appreciate that. Might there have been others

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1 that-- Might there have been other logos on Dana
 2 Victor's gaskets that you're not familiar with?
 3 MR. CELBA: Object to form.
 4 THE WITNESS: I only know of those three.
 5 BY MR. VALLAS:
 6 Q Okay. I'm probably asking a poor question. I
 7 appreciate that. I understand your answer. I guess
 8 what I'm trying to get at is can you tell me for sure
 9 that during the entire time that Dana Victor was
 10 manufacturing gaskets that those were the only three
 11 logos that would have appeared either on the gasket
 12 itself or on the box or on the packing, or do you
 13 know for sure?
 14 MR. CELBA: Object to form.
 15 THE WITNESS: No, I don't know for absolute
 16 certainty.
 17 BY MR. VALLAS:
 18 Q Let me ask you this if I can, let's just talk about
 19 the first one, the Victor logo, V-I-C-T-O-R, the name
 20 spelled, was it on the box or on the product itself,
 21 or-- and I'm just going to limit these questions to--
 22 let's limit the questions to asbestos containing
 23 gaskets. Actually, let me think about that. Let me
 24 back up and strike the question. Let's limit the
 25 questions to just Victor gaskets. To the extent that

1 imprint in the gasket material itself?
 2 DEFENSE COUNSEL: Objection.
 3 THE WITNESS: It was an impression in the
 4 gasket, yes.
 5 BY MR. VALLAS:
 6 Q Do you know what years that logo was used, the first
 7 year and the last year?
 8 A No, I do not.
 9 Q Do you know-- Can you tell me any of the years that
 10 it was used? In other words, Mr. Vallas, I can't
 11 tell you the first year or the last year, but I can
 12 tell you during this year or during these years that
 13 that particular logo was used, if you know.
 14 A I can't be specific because it would have been called
 15 out for an individual part number, and it could have
 16 continued to be used for a number of years.
 17 Q The three different logos that you've mentioned, the
 18 Victor, the VG, and the interlocking VG, did any of
 19 their years of use overlap, or did you kind of move
 20 from one logo to the next logo to the next logo?
 21 A There was some overlapping.
 22 Q Okay. Let's talk about the next one, if we can, the
 23 V, period, G, period.
 24 A That's my recollection, yes.
 25 Q Do you know the first year that that logo was used

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1 Dana Victor made any other types of products, I'm not
 2 concerned about the logos. Do you know if that first
 3 logo we're talking about, just the V-I-C-T-O-R, was
 4 it used on Victor gaskets?
 5 A On the gasket itself?
 6 Q Or on the box?
 7 A Yes.
 8 Q Was it on the gasket or on the box or both?
 9 A The Victor was used on the gasket.
 10 Q Okay. Was it used on asbestos containing gaskets?
 11 A I believe-- yes, I think-- Yes, I can say it was.
 12 Q Was it used on non-asbestos containing gaskets?
 13 A Yes, it was.
 14 Q How did the logo appear? Was it all in cursive? Was
 15 it all in block letters? Did it vary? Tell me I
 16 guess all the different varieties, so to speak, of
 17 that particular logo as far as the lettering is
 18 concerned that you're familiar with.
 19 A My recollection was all block letters.
 20 Q Any particular color? Do you recall other colors, or
 21 do you recall colors?
 22 A On the gaskets it would have been stamped in with a
 23 metal stamp in most cases.
 24 Q Stamped in with a metal stamp, okay. So it wasn't
 25 some type of ink on the gasket, it was some type of

1 and the last year that that logo was used?
 2 A No, I do not.
 3 Q Can you tell me any years that it was used?
 4 A No, not specifically, I can't.
 5 Q Was it used on the gasket itself, or was it on the
 6 box or the packaging?
 7 A It would have been on the gasket itself.
 8 Q Okay. Was it used on asbestos containing gaskets?
 9 A Yes, I believe it was.
 10 Q Was it used on non-asbestos containing gaskets?
 11 A Yes, I believe it was.
 12 Q Okay. I assume that the different facilities that
 13 we've talked about that manufactured asbestos
 14 containing gaskets, the four that you're familiar
 15 with in the U.S., that one of them didn't use one
 16 logo and then another one used another logo, and
 17 another one; is that correct? In other words, what
 18 I'm asking is if I see an old Victor gasket with a
 19 particular logo on it, that logo's not going to tell
 20 me from which plant that came from; is that right?
 21 A That is correct.
 22 Q Then the interlocking VG, do you know the first year
 23 that it was used or the last year that it was used?
 24 A No, I do not.
 25 Q Do you know, was it on the box or on the gasket

1 material itself or both, if you recall?
 2 A I know it was used on the gasket, and I believe it
 3 was also used on the box. I have a recollection of
 4 that.
 5 Q Are there particular years during which you can tell
 6 me that you know that the interlocking VG logo was in
 7 use?
 8 A No, I can't.
 9 Q If I asked this question, I apologize. I know you
 10 can't tell me the first year and the last year with
 11 regard to the V, period, G, period, but are there
 12 some years which you can tell me that you know that
 13 that particular logo was in use?
 14 A I'm sorry, which logo was in use?
 15 Q The V, period, G, period.
 16 A No, I can't.
 17 Q Was the interlocking VG, was it used on asbestos
 18 containing gaskets?
 19 A Yes, it was.
 20 Q Was it used on non-asbestos containing gaskets?
 21 A Yes, it was.
 22 Q I'm sorry to keep bouncing back and forth. I'm not
 23 trying to confuse you. I'm confusing myself. Let's
 24 talk about the V, period, G, period. Was it also
 25 stamped into the gasket material itself?

1 With regard to the cartons that contained the gaskets
 2 with the V, period, G, period, was there any type of
 3 name or anything like that on the carton itself?
 4 A It would have contained the current name of the
 5 division.
 6 Q And then with regard to the interlocking VG, would
 7 the carton-- same answer, it would have contained the
 8 name of the division?
 9 A I have less of a clear recollection of that.
 10 Q Okay. Do you recall any-- To the extent that any of
 11 these were stamped in a particular color, do you have
 12 any particular recollection as to what colors were
 13 used or--
 14 A My only recollection is that we used white or black.
 15 Q Okay. Mr. Austin, I appreciate your time-- No, a
 16 couple more, one or two more questions. If you can,
 17 tell me the different ways that you recall Dana
 18 Victor asbestos containing gaskets coming packaged.
 19 In other words, in a cardboard box, not in a
 20 cardboard box, paper carton, not in a paper carton,
 21 wrapped in paper, not wrapped in paper. Kind of tell
 22 me if you could all of the variations that you recall
 23 for Dana Victor asbestos containing gaskets over the
 24 years?
 25 MR. CELBA: Object to form.

1 A Yes, I believe it was.
 2 Q Okay. Was it-- I guess it wasn't a particular color
 3 or anything along those lines?
 4 A No. Once again, it was an impression. Let me just
 5 clarify that normally it was an impression. There may
 6 have been particular instances where it was stamped
 7 in a color, but in general the vast majority of it
 8 was an impression.
 9 Q And the interlocking VG, was it also an impression?
 10 A Yes, it was.
 11 Q Okay. You mentioned that the Victor logo,
 12 V-I-C-T-O-R, let me just ask you about that one.
 13 With regard to the Victor logo, V-I-C-T-O-R, you
 14 mentioned that the logo was on the gasket material
 15 itself. Was there any type of name or anything on
 16 the box or the packaging?
 17 A The boxes would have had whatever our current
 18 division name was imprinted on it, at least in most
 19 cases.
 20 Q Okay. Would that be the same with respect to the VG,
 21 V, period, G, period as well?
 22 A Are we talking about on the cartons?
 23 Q Yes, sir.
 24 A I don't remember that ever being used on the cartons.
 25 Q I'm sorry, that was a bad question. I misspoke.

1 THE WITNESS: Normally product would have
 2 been shipped in corrugated cartons.
 3 BY MR. VALLAS:
 4 Q Do you recall what color they would have been? Are
 5 we talking just like brown cardboard?
 6 A Right, we're talking about typical brown packing
 7 boxes.
 8 Q Okay. Do you recall any kind of cartons other than
 9 the corrugated material you just spoke of?
 10 A We had some kit packaging.
 11 Q Some what packaging?
 12 A Kit packaging.
 13 Q What did that look like?
 14 A My recollection would have been orange and white.
 15 Q An orange and white box?
 16 A Well, we call it chip board box.
 17 Q Okay.
 18 A And later on there was some, I believe some blue and
 19 white packaging of that sort.
 20 Q Okay. Any others that you remember other than the
 21 two that you've described here as far as, you know,
 22 the packaging of asbestos containing gaskets?
 23 A No. I'm sure there may have been an exception, but
 24 those were the primary things.
 25 Q Okay. All right. Once we get inside the carton of

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1 the asbestos containing gasket products, would the
 2 gaskets be wrapped in anything, or was the gasket
 3 just down in the box kind of free?
 4 MR. CELBA: Object to form.
 5 BY MR. VALLAS:
 6 Q If you recall.
 7 A They would be bulk packed in general with possibly
 8 dividers or something like that between the piles.
 9 Q Okay. Any type of wrapping around them when they
 10 were inside the box or anything along those lines?
 11 A Not in general, no.
 12 MR. VALLAS: Mr. Austin, I appreciate your
 13 time. Subject to any questions anyone else has, I'll
 14 pass the witness. Anybody got anything?
 15 EXAMINATION
 16 BY MR. CELBA:
 17 Q I have some. Was a boiler and assorted steam pipes
 18 an application within the intended purpose for a
 19 Victor Dana asbestos containing gasket, to your
 20 knowledge and experience?
 21 MR. VALLAS: Object to the form.
 22 THE WITNESS: No.
 23 BY MR. CELBA:
 24 Q Are you aware of any law or regulation today that
 25 says one can't make asbestos containing gaskets?

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1 A No, I'm not.
 2 MR. VALLAS: Object to the form.
 3 BY MR. CELBA:
 4 Q Do you believe that all gaskets made by Victor Dana
 5 were safe for their intended purpose?
 6 A Yes, I do.
 7 MR. VALLAS: Object to the form.
 8 BY MR. CELBA:
 9 Q Do you believe Victor Dana asbestos containing
 10 gaskets to be dangerous, hazardous or unsafe?
 11 A No, I do not.
 12 FURTHER EXAMINATION
 13 BY MR. VALLAS:
 14 Q Just a couple more. Mr. Austin, I think you
 15 testified earlier that you're not familiar-- you
 16 don't know one way or the other whether or not prior
 17 to your arrival at Dana Victor in 1968, whether or
 18 not Dana Victor sold any asbestos containing gasket
 19 products to the United States Navy; is that correct?
 20 A Yes, sir, that's correct.
 21 Q Have you ever removed an asbestos containing gasket
 22 with a wire brush or an electric wire brush?
 23 A No, I have not.
 24 MR. CELBA: Object to form.
 25 BY MR. VALLAS:

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1 Q Would you do so without some type of respiratory
 2 protection?
 3 MR. CELBA: Object to form.
 4 THE WITNESS: With what I would know today,
 5 no. I'd probably wear a face mask.
 6 MR. VALLAS: Okay. Subject to any
 7 questions anyone else has, that's-- I'll pass the
 8 witness again. Anybody else?
 9 EXAMINATION
 10 BY MR. CARTER:
 11 Q This is Keenan Carter. I have a couple questions.
 12 Mr. Austin, can you hear me?
 13 A Yes, I can.
 14 Q I represent Borg Warner. Have you ever spoken with
 15 anyone from Borg Warner Corporation or one of its
 16 divisions?
 17 A Not that I recall.
 18 Q Okay. Do you have any knowledge of clutch
 19 assemblies, or have you ever installed a clutch?
 20 A No, I have not.
 21 Q Okay. Can you speak to whether it would be proper to
 22 sand or grind the surface of a new clutch prior to
 23 installing it on a vehicle?
 24 MR. VALLAS: Object to the form.
 25 THE WITNESS: No, I can't.

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1 BY MR. CARTER:
 2 Q What was the largest diameter of clutch disk that
 3 Dana made during the 1970s through the '90s?
 4 MR. CELBA: Object to form.
 5 THE WITNESS: I have no idea.
 6 BY MR. CARTER:
 7 Q The previous question was the largest diameter of
 8 clutch disks that Dana made during the years 1970
 9 through the 1990s. The answer was you didn't know,
 10 correct?
 11 A Yes, sir.
 12 Q The same question with the smallest diameter of a
 13 clutch disk.
 14 MR. CELBA: Same objection.
 15 THE WITNESS: I have no idea.
 16 BY MR. CARTER:
 17 Q Okay. Do you know if Dana manufactured more
 18 passenger vehicle clutches or more large truck
 19 clutches?
 20 A I have no idea.
 21 MR. CARTER: Thank you. That's all I
 22 have.
 23 MR. CELBA: I want a short break.
 24 (Recess taken.)
 25 FURTHER EXAMINATION

23 (Pages 86 to 89)

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1 BY MR. CELBA:
 2 Q Mr. Austin, following up on a question that Charles
 3 asked you, if you were wire brushing or power
 4 brushing a non-asbestos gasket, would you wear a mask
 5 today?
 6 A Yes, I would.
 7 MR. CELBA: That's all I have.
 8 FURTHER EXAMINATION
 9 BY MR. VALLAS:
 10 Q Just one follow-up question. Mr. Austin, we came
 11 back from a break. I don't want to know what you
 12 said, but did you have the opportunity to visit with
 13 your lawyer during that break?
 14 A Yes, I did.
 15 Q You mentioned earlier that if you were removing an
 16 asbestos containing gasket with a wire brush or
 17 electric wire brush today that you would use some
 18 type of respiratory protection, correct?
 19 MR. CELBA: Object to form.
 20 BY MR. VALLAS:
 21 Q Okay. Let me ask you this, I think before the break
 22 that you said that if you were-- Correct me if I'm
 23 wrong, that if you were removing an asbestos
 24 containing gasket with a wire brush or an electric
 25 wire brush today that you would use some type of

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1 respiratory protection, correct?
 2 MR. CELBA: Object to form.
 3 THE WITNESS: I said that I would wear a
 4 mask.
 5 BY MR. VALLAS:
 6 Q Okay. You'd wear a mask, fair enough. Why?
 7 A Because I've been in manufacturing for 35 years, and
 8 I wear a lot of safety gear on a very regular basis.
 9 I do woodworking. I wear a mask when I do that. I
 10 wear safety glasses when I do that. It's part of the
 11 culture.
 12 Q I think a minute ago you were asked the question that
 13 even if you were removing a non-asbestos containing
 14 gasket, you would wear a mask, right, with a wire
 15 brush or electric wire brush?
 16 A In those cases, yes, I would.
 17 Q I think your lawyer just asked you that, right?
 18 A Yes.
 19 Q You said that you would, right?
 20 A Yes.
 21 Q And it's because you don't want to inhale any dust,
 22 right?
 23 A It's because it's part of my culture of being safe,
 24 yes.
 25 Q Being safe and as part of being safe, you're trying

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1 to be safe by not inhaling dust, right?
 2 MR. CELBA: Object to form.
 3 BY MR. VALLAS:
 4 Q Or is there another reason that you're wearing the
 5 mask?
 6 A As I say, I wear a mask when I do woodworking as
 7 well.
 8 Q And I appreciate that. I'm just talking about
 9 gaskets though now. When you're removing gaskets,
 10 you wear a mask regardless of whether or not it
 11 contains asbestos because you don't want to inhale
 12 dust?
 13 MR. CELBA: I'm going to object to form.
 14 He said he had never removed gaskets with a wire
 15 brush, so what are you asking him? Object to the
 16 form now. Now it's becoming argumentative.
 17 BY MR. VALLAS:
 18 Q Okay. All I'm trying to do is-- Let me back up and
 19 ask the question again. If you were to remove an
 20 asbestos or non-asbestos gasket with a wire brush or
 21 an electric wire brush, you would wear a mask
 22 because you don't want to inhale dust, true? If
 23 there's another reason, tell me.
 24 MR. CELBA: Object to form.
 25 THE WITNESS: I would wear a mask because

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1 it would be part of my normal operations. I wear
 2 safety glasses. I wear hearing protection, and I'd
 3 be wearing a mask. Sparks, anything along that
 4 line.
 5 MR. VALLAS: I'm going to object to the
 6 responsiveness.
 7 BY MR. VALLAS:
 8 Q I appreciate it, but I'm not concerned-- I don't want
 9 you to lose your hearing, and I don't want you to get
 10 something in your eye certainly, but I'm not really
 11 concerned about that for purposes of this question.
 12 I'm only concerned about why you're wearing the
 13 mask. Tell me the reason you wear the mask.
 14 MR. CELBA: Object to form. This has been
 15 asked three or four times now.
 16 MR. VALLAS: And it hasn't been answered
 17 yet, sir.
 18 MR. CELBA: Yes, it was. You just don't
 19 like the answer.
 20 MR. VALLAS: The reason-- I don't like the
 21 answer that the reason he wears a mask is because he
 22 wants to protect his ears or his eyes. I don't think
 23 that's a responsive answer.
 24 MR. CELBA: I don't think that was the
 25 answer. The answer was it's part of his industrial

Page 94 1 culture. It's what they do. 2 BY MR. VALLAS: 3 Q And why do they do it, Mr. Austin? That's what I'm 4 asking. If you don't know, you can tell me. 5 A I guess I don't know what you're trying to get at. 6 Q Okay. Okay. Let me back up then. If you're 7 removing a gasket today, asbestos or non-asbestos 8 gasket with a wire brush or an electric wire brush, 9 what reason is there to-- Tell me all the reasons you 10 can think of for wearing a mask? 11 MR. CELBA: I'm going to object to the 12 form. 13 MR. VALLAS: It's a different question. 14 THE WITNESS: I'd be concerned with sparks. 15 I'd be concerned with anything that could be 16 dislodged. I'd be concerned with pieces of wire from 17 the brush, all those sorts of things. 18 BY MR. VALLAS: 19 Q So you wouldn't include dust on that list? 20 A That would probably be my least concern. 21 Q Okay. Fair enough. 22 MR. VALLAS: I pass the witness. Thank 23 you, Mr. Austin. 24 FURTHER EXAMINATION 25 BY MR. CELBA:	Page 96 1 MR. CELBA: That's all I have. Thank you. 2 (Proceedings concluded at 11:55 a.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 95 1 Q I just had one more question following up on that 2 last point. To your knowledge is there any dust to 3 any effect that comes off with wire brushing a 4 gasket? 5 A No. 6 Q Is it a dusty process? 7 A Well, I wouldn't use a wire brush to remove a gasket. 8 Q Is it a dusty process, to your knowledge, to remove a 9 gasket? 10 A Not particularly, no. 11 MR. CELBA: That's all I have. 12 FURTHER EXAMINATION 13 BY MR. VALLAS: 14 Q Mr. Austin, if you remove a gasket with a wire brush, 15 do you have any understanding as to whether or not it 16 can be a dusty process? 17 A Based on the studies I've seen, it doesn't appear to 18 be a problem. 19 Q Can you tell me what studies you've seen? 20 A The two we talked about, the med tox study and the 21 Spencer study. 22 Q Other than those? 23 A Other than those, I have no additional knowledge. 24 Q Okay. I appreciate it. 25 MR. VALLAS: Pass the witness.	Page 97 1 STATE OF WISCONSIN) 2) SS. 3 COUNTY OF MILWAUKEE) 4 I, SHEILA K. FAIRCHILD, a Notary Public in 5 and for the State of Wisconsin, do hereby certify 6 that the above deposition of GARY AUSTIN was recorded 7 by me on the 26th day of September, 2003, and reduced 8 to writing under my personal direction. 9 10 I further certify that I am not a relative 11 or employee or attorney or counsel of any of the 12 parties, or a relative or employee of such attorney 13 or counsel, or financially interested directly or 14 indirectly in this action. 15 16 In witness whereof I have hereunto set my 17 hand and affixed my seal of office at Milwaukee, 18 Wisconsin, this 1st day of October, 2003. 19 20 21 22 Notary Public 23 In and for the State of Wisconsin 24 My Commission expires: February 21, 2005 25

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