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DEPOSITION

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PHILIP G. PARATORE, JR.	X	
	X	
VS.	X	C. A. NO. H-84-2871
	X	
MONSANTO COMPANY, ET AL	X	

DEPOSITION OF PHILIP G. PARATORE, JR.

November 13, 1984

Houston, Texas

Boland, O'Neal, Richer, Barnhart & Probst, Inc.

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HOUSTON, TEXAS 77002
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THE WITNESS: Philip G. Paratore, Jr.

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EXHIBITS:
No exhibits marked

1 A p p e a r a n c e s :

2

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4

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By: Stephen M. Vaughan

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By: Russell W. Pike

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By: Britt Davis

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1 On the 13th day of November, 1984,
2 at the offices of Mandell & Wright, 806 Main, Suite
3 2100, Houston, Harris County, Texas, Philip G.
4 Paratore, Jr. appeared before us, Vickie Probst and
5 Diane S. Richer, Certified Shorthand Reporters and
6 Notaries Public in and for the State of Texas, and
7 being first duly sworn, testified by his oral
8 deposition as hereinafter set out, pursuant to notice
9 and agreement, and under the following agreement of
10 counsel for the respective parties that:

11 Without making any objection at the
12 time of taking, any party to the suit should have the
13 right at the time of trial to urge objections to
14 questions or answers appearing in the deposition;

15 The deposition may be signed before
16 any Notary Public or other officer authorized to
17 administer oaths.

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1 EXAMINATION BY MR. PIKE:

2 Q Sir, would you please state your name for the record?

3 A Philip George Paratore, Jr.

4 Q Have you had an opportunity to discuss this
5 deposition with your attorney so you understand the
6 procedure we're going to be following?

7 A Yes.

8 Q You realize that you are under oath and your answers
9 are just as though you had been sworn in, sitting in
10 the courtroom giving your testimony?

11 A Yes.

12 MS. BARRON: Could you speak up? We are
13 sitting way down here, and it's difficult to hear
14 you.

15 MR. VAUGHAN: He's going to have some
16 problem doing that because of his disease. That his
17 normal voice. I don't want to ask him to strain
18 himself.

19 Q (By Mr. Pike) If at any time I should ask you a
20 question that you don't understand and because of
21 that you can't answer it, please let me know that you
22 don't understand it, and I'll try to rephrase it so
23 we have a common understanding before you answer.

24 A Okay.

25 Q If you don't tell me that you don't understand the

1 question, I'll assume that you do understand it and
2 your answer is the truth under the circumstances.

3 A All right.

4 Q One other agreement we have to have is when I ask a
5 question, wait for me to finish before you answer.
6 Likewise, when you answer a question, I'll wait for
7 you to complete your answer. Do you understand that?

8 A I understand.

9 Q When you give an answer, it's got to be a verbal
10 answer. We can't record shakes of the head or
11 whatever.

12 A Yes.

13 Q At the current time are you taking any medication?

14 A Taking chemotherapy at the University of Texas
15 Medical Branch in Galveston.

16 Q Other than the chemotherapy, are you taking any
17 medication for any other condition; any prescription
18 medication?

19 A No.

20 Q When is the last time you had the chemotherapy
21 administered?

22 A The first week of November.

23 Q Is it in any way affecting your memory or your
24 ability to answer questions truthfully today?

25 A I think my memory has been somewhat clouded, and I

1 imagine it's from the strength of the chemotherapy
2 drugs.

3 Q As we sit here today, are you thinking as clear as
4 you can, or do you think the medicine is having an
5 effect on how you would answer the questions?

6 A No. I'm thinking clearly. It's remembering
7 things -- people's names and stuff like that. As far
8 as thinking clearly, I do that.

9 Q What was your date of birth?

10 A 26th of May, 1937.

11 Q You're currently married?

12 A Yes.

13 Q What is your wife's name?

14 A Mary Gay.

15 Q How old is she?

16 A Forty-four.

17 Q When did you get married to Mary Gay?

18 A August the 12th, 1961.

19 Q Were you married to anyone prior to marrying Mary
20 Gay?

21 A No.

22 Q Have you been separated at any time during your
23 marriage?

24 A No.

25 Q What does your wife do as an occupation?

- 1 A Housewife.
- 2 Q Has she ever been employed outside the home?
- 3 A Yes.
- 4 Q When is the last time she worked outside the home?
- 5 A She taught art at Alvin Community College. She was
- 6 head of the art department there in 1970 -- eight
- 7 years ago. Now she has art lessons at home and still
- 8 teaches at the college at night in continuing
- 9 education just once a week.
- 10 Q So, she's currently working out of your home, except
- 11 for the one night a week?
- 12 A Right. She's just a housewife at home.
- 13 Q What is the condition of her health at the current
- 14 time?
- 15 A As far as I know, she's all right.
- 16 Q Has she seen any doctors within the last five years
- 17 for any major illness or disease?
- 18 A Not that I can recall anything unusual.
- 19 Q How many children do you have?
- 20 A Four.
- 21 Q Is Philip Paratore the oldest?
- 22 A Yes. Philip, III.
- 23 Q How old is he?
- 24 A He's 21. He was born in 1963.
- 25 Q Does he still live with you?

- 1 A Right now he's going to Fordham University in New
2 York, but he's going to come back to the University
3 of Texas here in January. He's been accepted back at
4 UT and wants to complete his senior year at UT.
- 5 Q He's a junior in college then?
- 6 A Right.
- 7 Q Is he on a scholarship?
- 8 A No.
- 9 Q Does he finance his own college education?
- 10 A Yes. We pay his tuition, and he works part time and
11 pays his room and board.
- 12 Q Do you know offhand approximately how much the
13 tuition is per semester, per year?
- 14 A Gosh, I really don't know up there at Fordham. My
15 wife takes care of most of the finances. I have no
16 idea really how much Fordham costs.
- 17 Q Is Philip married?
- 18 A No.
- 19 Q Does he receive any support at all from you other
20 than his college tuition?
- 21 A Yes. I think my wife sends him \$50 a month spending
22 money.
- 23 Q Has he worked during the summers while he's been
24 going to college?
- 25 A Yes.

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- 1 Q Does he use that money towards his college expenses
2 then?
- 3 A Yes.
- 4 Q You expect once he graduates from Fordham, he'll be
5 able to support himself financially?
- 6 A Well, he's going to transfer to the University of
7 Texas in Austin and graduate from there.
- 8 Q Assuming he graduates in another year from the
9 University of Texas, he'll be going out on his own
10 and you won't be providing any support. Is that your
11 understanding?
- 12 A Yes. I think he has probably three semesters left to
13 go.
- 14 Q Then you have a son named Patrick?
- 15 A Yes.
- 16 Q How old is he?
- 17 A He's 19.
- 18 Q Is he working?
- 19 A No. He's going to college.
- 20 Q Where does he go to school?
- 21 A St. Edward's University in Austin.
- 22 Q What year is he in?
- 23 A His sophomore year.
- 24 Q Are you providing for his support in any way?
- 25 A Yes. Paying his tuition and room and board at St.

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- 1 Edward's University.
- 2 Q Do you know what his tuition is or the cost of his
- 3 room and board?
- 4 A All total, it's about \$3,000 a semester. I know that
- 5 one, but I'm not sure about Fordham.
- 6 Q You're paying the full \$3,000 yourself?
- 7 A My mother has paid his tuition and room and board for
- 8 the last -- since he was a freshman and this
- 9 sophomore year.
- 10 Q Is it your understanding that she's going to continue
- 11 to pay for it while he's in college?
- 12 A I hope she does. As long as she will.
- 13 Q You have a daughter, Angela?
- 14 A Yes.
- 15 Q How old is she?
- 16 A She's eight.
- 17 Q She lives at home with you?
- 18 A True.
- 19 Q You have a daughter, Amber?
- 20 A Correct.
- 21 Q How old is he?
- 22 A She's six.
- 23 Q So, Angela and Amber are both financially dependent
- 24 on you and your wife?
- 25 A Yes. They are at home.

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- 1 Q Do you have any brothers or sisters who reside in the
2 state?
- 3 A I have no brothers and sisters.
- 4 Q You have none at all?
- 5 A Right.
- 6 Q Do you have any relatives who are involved in the
7 insulation trade or that is a pipe fitter, some type
8 of profession that would deal with asbestos
9 insulation?
- 10 A No.
- 11 Q If I understand correctly, you completed two years of
12 college?
- 13 A Just about, yes.
- 14 Q Where did you go to college at?
- 15 A I went to the University of Texas for a semester.
16 That was right out of high school. Then Lamar Tech
17 in Beaumont for a year, then at night up to the
18 university of Houston just occasionally then.
- 19 Q What type of courses were you studying when you went
20 to college?
- 21 A General business courses.
- 22 Q Have you taken any technical courses or any other
23 vocational courses except the three colleges you have
24 named?
- 25 A Since 1978, I have had some specialized courses at

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1 Rice University.

2 Q What were those courses for?

3 A For the job that I have now. They were courses in
4 nondestructive testing.

5 Q You said nondestructive testing?

6 A Yes.

7 Q Can you tell me what nondestructive testing is?

8 A It's a manner of testing a piece of equipment or
9 machinery or something without destroying it either
10 by x-ray or magnetism, or a chemical spot test or
11 some other way which you don't ruin the equipment.
12 It is nondestructive to the piece of equipment.

13 Q What do you do in your employment that relates to
14 nondestructive testing? Do you supervise it? Do you
15 personally get involved with it?

16 A I'm a corrosion inspector at Monsanto in Texas City.
17 So, I get personally involved.

18 Q Is your father alive?

19 A No.

20 Q When did he die?

21 A 1969.

22 Q Do you know the cause of his death?

23 A I believe it was -- not specifically -- but I believe
24 he had a gallbladder operation, and his kidneys never
25 did start refunctioning again due to whatever cause;

1 lead poisoning, I believe.

2 Q How old was he when he died?

3 A Oh, gosh, I guess 55.

4 Q Had he ever suffered from any lung or respiratory
5 problems that you are aware of?

6 A Not that I know of.

7 Q Did he ever have a heart attack?

8 A No -- well, I'm not really sure. I don't think so.
9 Yes, he did. I'm sorry. He had some kind of heart
10 problem, but I don't recall. I don't think it was
11 very serious or anything.

12 Q Did he have high blood pressure or any other heart
13 related conditions that you are aware of?

14 A Not that I'm aware of.

15 Q Did he ever have any type of cancer?

16 A No.

17 MR. VAUGHAN: Did you say the heart problem
18 was not serious?

19 THE WITNESS: Yes. I don't recall him
20 being hospitalized for a long time or in bed for a
21 long time or anything like that.

22 Q (By Mr. Pike) Is your mother still alive?

23 A Yes.

24 Q How old is she?

25 A She was born in 1915, whatever that would be;

- 1 whatever that would be to now.
- 2 Q Does she receive any kind of financial support from
- 3 you?
- 4 A From me?
- 5 Q From you.
- 6 A No.
- 7 Q Does she, other than what you have told me about --
- 8 providing for your son's college tuition -- does she
- 9 provide any financial support to you or your wife?
- 10 A I think she has paid some of our medical bills.
- 11 Q Do you have any idea what dollar amount of medical
- 12 bills she has paid for you?
- 13 A No, I sure don't.
- 14 Q These medical bills that she's paid, do they relate
- 15 to one particular doctor? Are they applied to
- 16 several doctors or hospitals?
- 17 A No. I think she paid some. I went to a chiropractor
- 18 to flex out my back. I think she paid some of that.
- 19 I think she paid a little bit on the hospital bill,
- 20 but I'm not really sure how much it was. I don't
- 21 think it was very much.
- 22 Q What is your mother's full name?
- 23 A Mary K. Paratore.
- 24 Q Where does she live?
- 25 A In Galveston.

- 1 Q Do you know what street, or do you know her address?
- 2 A I think it's 1823 24th Street.
- 3 Q What is the condition of her health, as far as you
- 4 know?
- 5 A The only thing I'm aware of is that she has
- 6 arthritis.
- 7 Q Has she ever had any heart problems?
- 8 A A long time ago, not too long after my father died,
- 9 she had a little bit of heart problems and took some
- 10 medication. And she hasn't had any that I recall
- 11 lately.
- 12 Q Has she ever had any lung problems, pneumonia;
- 13 anything like that?
- 14 A Not that I know of.
- 15 Q Has she ever been diagnosed as having cancer?
- 16 A Not that I know about, no.
- 17 Q Is your grandfather still alive?
- 18 A No.
- 19 Q Do you know what he died of?
- 20 A My mother's father died of a stroke when he was --
- 21 that was a long time ago. That was just right after
- 22 we was first married or right before we got married.
- 23 It was back in the early sixties. And my father's
- 24 father, he died way back then, too.
- 25 Q Did either your mother's father or your father's

- 1 father ever have any type of lung cancer?
- 2 A Not that I know about, no.
- 3 Q Did they ever have any other type of cancer other
- 4 than lung cancer?
- 5 A Not that I know about, no. I think my father's
- 6 father may have had some kind of colon problem. That
- 7 was so long ago, I'm not sure. Being younger, it
- 8 wasn't really a big stand-out thing about my
- 9 grandfather because they lived in Houston and we
- 10 lived in Galveston. So, there was, more or less, a
- 11 separation there.
- 12 Q Are you still working at the current time?
- 13 A Yes.
- 14 Q What do you do for activities when you are not
- 15 working?
- 16 A Not at all, if I understand your question. What do
- 17 you mean, "activities"?
- 18 Q When you are not at work, what do you do at home on
- 19 the evenings or on the weekends?
- 20 A Mostly lay down.
- 21 Q You own your own home?
- 22 A Yes.
- 23 Q Do your kids take care of the yardwork?
- 24 A Yes. My son comes home from college and mows the
- 25 grass.

- 1 Q Then I guess your wife takes care of the housework?
- 2 A Yes.
- 3 Q Do you drink at all?
- 4 A Very little. I haven't -- I don't even recall the
- 5 last time I had a beer or a mixed drink.
- 6 Q Do you and your wife go to church?
- 7 A Yes.
- 8 Q What church do you go to?
- 9 A To Our Lady of Lourdes in Hitchcock, Texas.
- 10 Q Would you classify yourself and your wife as regular
- 11 attendees of church?
- 12 A Yes.
- 13 Q And you still do that today?
- 14 A I go sporadically now. I don't go every Sunday like
- 15 I should.
- 16 Q What is your current either salary or hourly wages
- 17 that you are making?
- 18 A I don't know the exact number, but it's around
- 19 \$30,000 a year.
- 20 Q Is that an hourly wage or salary?
- 21 A Salary.
- 22 Q Do you still smoke?
- 23 A Occasionally; not very much.
- 24 Q How much do you smoke at the current time, say, on a
- 25 daily basis or weekly, whatever is easiest for you to

1 tell me?

2 A Two or three a day, maybe five. Just now and then;
3 before I go to bed, say, or in the morning or the
4 middle of the day. No particular amount, and
5 sometimes none at all.

6 Q How long would you say you have been smoking two or
7 three per day?

8 A I guess about the last year, probably.

9 Q Prior to the last year, you had been smoking for a
10 long period of time, maybe 30 years. Is that about
11 right?

12 A Yes, since I was in high school.

13 Q This 30-year period, except for the last year, what
14 was your daily consumption of cigarettes?

15 A It would probably be close to a pack a day.

16 Q Thirty years ago when you first started smoking, can
17 you remember what brands you used to smoke?

18 A Oh, gosh. No, I can't recall any particular brands;
19 you know, sticking to one back in those days.

20 Q Back in the first part of your smoking history, there
21 were primarily unfiltered cigarettes, weren't there?

22 A Yes.

23 Q Do you still smoke unfiltered cigarettes?

24 A On the occasions I do smoke, it's mostly Kools, the
25 mentholated Kools.

1 Q Do you recall sometime in the sixties seeing warnings
2 on cigarette packages concerning possible health
3 hazards from smoking?

4 A I recall seeing advertisement about them going to be
5 put on cigarettes, but I don't recall looking for a
6 pack of cigarettes and looking for the warning on it
7 before I opened it or anything.

8 Q Well, as we sit here today, have you seen the
9 warnings that are on packages of cigarettes?

10 A I have now, yes.

11 Q About how long ago did you first see them?

12 A I can't imagine a time.

13 Q Would it have been before 1970?

14 A Let's see. What is this? This is '84. I imagine it
15 probably was since then, after 1970.

16 Q Sometime between 1970 and 1980, at least; right?

17 A Yes.

18 Q After reading the warning on that cigarette package,
19 did this change your habits at all concerning
20 smoking?

21 A It probably did, but I don't recall it jumping out
22 and slapping me in the face and really making me
23 afraid.

24 Q Do you smoke anything besides cigarettes?

25 A No.

1 Q Do you use any other tobacco products?

2 A No.

3 Q Have any of your doctors ever told you that for
4 health reasons you should quit smoking?

5 A I have had a doctor tell me that I should cut back on
6 my smoking because it was a good idea and because he
7 was in the process of stopping smoking himself. So,
8 he was trying to get all his patients to stop
9 smoking, too.

10 Q What doctor told you you should quit smoking for
11 health reasons?

12 MR. VAUGHAN: He didn't testify anybody
13 told him to quit smoking for health reasons. He
14 testified a doctor told him to cut down.

15 A He didn't tell me not to smoke. He said, "You should
16 cut back on your smoking."

17 Q (By Mr. Pike) Did he give you any reason why you
18 should cut back?

19 A Not any specific reason. Just that it would be for
20 my better health.

21 Q Could you tell me what doctor told you to quit
22 smoking?

23 MR. VAUGHAN: Nobody told him to quit
24 smoking.

25 MR. PIKE: Recommended that he quit.

1 MR. VAUGHAN: Nobody recommended that he
2 quit smoking.

3 MR. COOK: To clarify, is it your testimony
4 that no doctor has ever told you you should stop
5 smoking? No doctor has ever said that to you?

6 THE WITNESS: Not that I recall. You know,
7 specifically sit there and say, "Don't smoke
8 anymore." I have never had one tell me that.

9 MR. COOK: Which doctor was it that told
10 you to cut down?

11 MR. VAUGHAN: We're going to go in
12 sequence.

13 MR. COOK: There is no reason to get this
14 lost at this point.

15 MR. VAUGHAN: Then counsel can ask him.

16 Q (By Mr. Pike) Which doctor told you to cut down on
17 your smoking?

18 A The family doctor, Dr. Bill Wilson.

19 Q Bill Wilson is your family doctor?

20 A He's in charge of Family Practice in Galveston, and
21 before that he was in private practice. I had gone
22 to him then because he was a friend of my father's.
23 So, I have just stayed with him all these years. Now
24 he's in Family Practice out there at UTMB.

25 Q Do you remember when it was he told you to cut back?

1 A No. I have no idea.

2 Q Prior to Dr. Wilson being your family doctor, was Dr.
3 Doyle your family doctor?

4 A I think Dr. Doyle may have been one assigned to me in
5 Family Practice because they have a pool of doctors.
6 They practice their Family Medicine. They move on.
7 You're reassigned a new doctor. I think Dr. Doyle
8 may have been one of them I was assigned to back in
9 '82 or '81; something like that.

10 Dr. Dan Smith was with them there, too.
11 There were all kinds of doctors. There were probably
12 20 doctors down there in that Family Practice thing.

13 Q Did you serve in the military service?

14 A Just in the reserves, six-month reserve.

15 Q What branch of the service was that?

16 A In the Marines.

17 Q What did you do while you were in the Marines?

18 A I went to regular Marine boot camp for three months.
19 Then I went to combat training for a month, I think;
20 yes. Then was assigned to a regular unit in
21 Coronado, California. I think it was until that
22 six-month period was up. Then I was released and
23 came on home.

24 Q What type of unit were you assigned to in Coronado?

25 A Amphibious tractor units; amtracks.

1 Q What were your actual duties while you were serving
2 there?

3 A Just a crewman aboard an amtrack.

4 Q What does a crewman aboard an amtrack actually do?

5 A Let's see. That was a long time ago. He'll operate
6 the radio or maybe he'll drive it sometimes, or just
7 whatever assistance the driver and co-driver need.

8 Q Would he ever do repair or maintenance work on the
9 amtrack?

10 A We checked the oil and the water, but we didn't work
11 on the vehicles themselves.

12 Q They had somebody else who did that kind of work?

13 A Yes.

14 Q Did you work prior to going into the military
15 service?

16 A I worked just for my dad after school, and during the
17 summertime at an office that International Creosote
18 Company had there. I worked there for six or seven
19 months right before I went into boot camp.

20 Q Was there any reason you didn't go into the military
21 service when you first got out of school?

22 A No. The thing to do was to go to college, and that's
23 where I went; the University of Texas.

24 Q When you got out of college, were they still drafting
25 individuals at that time?

- 1 A I don't know whether they were or not. That was
2 1959, '58, I went. I don't know if they were
3 drafting or not. I think if you were in college
4 then, you could get out. I'm not sure.
- 5 Q While you were serving in the Marines, did you ever
6 suffer any injuries?
- 7 A Not that I recall.
- 8 Q Did you have any injuries?
- 9 A Oh, yes.
- 10 Q Go ahead.
- 11 A Well, just in boot camp I twisted my knee was about
12 all. It worked out; never had any problem with it
13 since.
- 14 Q Prior to the time you did enter the Marines, was
15 there any physical reason you couldn't have joined
16 the Marines?
- 17 A No.
- 18 Q While you were attending college -- and I don't know
19 which college it was -- did you ever suffer any back
20 injuries?
- 21 A At the University of Texas in PE class, I had
22 gymnastics. I was doing back flips, and I hurt --
23 what is it -- the lumbar thorax section of my back.
24 It lasted a couple of weeks, and it was gone. It
25 never bothered me again, because the next semester I

1 lifted weights for PE.

2 Q First of all, did you see a doctor when you injured
3 your back?

4 A Yes, but I don't recall who it was.

5 Q What kind of treatment did they give you for it?

6 A None that I recall.

7 Q You weren't hospitalized?

8 A No.

9 Q Have you ever had since the time in college recurring
10 back problems?

11 A No.

12 (Discussion off the record.)

13 A Well, back problems now, yes. Not from that injury,
14 but since I have been in the chemotherapy and all
15 since 1982, my back has bothered me and my chest.
16 It's hard to sit still in one position. A nice soft
17 back on a chair is real important.

18 Q But no recurring back problems from your college
19 injuries is what you're saying?

20 A No. That's true.

21 Q Have you settled this case with any defendants?

22 MR. VAUGHAN: No.

23 A Not that I know about.

24 Q (By Mr. Pike) Can you remember what year you
25 finished college and first started working?

1 A I didn't finish college.

2 Q I mean, finished attending college.

3 A Probably it was the fall semester of 1958 because I
4 went to Marine boot camp in January of '58 or '59. I
5 don't remember what year it was.

6 Q While you were attending school, did you ever work
7 for your dad?

8 A While attending, yes.

9 Q Was this during high school and college?

10 A During high school.

11 Q Did you work for him at all while you were going to
12 college?

13 A I probably was down there, but I never did really
14 have a job to work. You might say it was something
15 for me to do for him to pay me money, you know.

16 Q You never actually did any work when you were down
17 there?

18 A Not take a job from completion; you know, from start
19 to completion.

20 Q What kind of business did your father have?

21 A He was in the automobile business.

22 Q Automobile repair?

23 A Yes.

24 Q When you would go down and spend time at your dad's
25 place, what are some of the things that you would do?

- 1 A Oh, I might help just clean up, sweep up. If the
2 body man needed some help holding something or
3 straightening out a fender or something, I would help
4 him do that. When the mechanics were lifting
5 something heavy, I might help them lift something
6 heavy or move it or clean a part. Just a go-for,
7 general do nothing.
- 8 Q Was this a complete service repair shop?
- 9 A Yes.
- 10 Q They had tune-ups, oil change?
- 11 A Yes.
- 12 Q Would they do things like front-end alignments?
- 13 A Yes.
- 14 Q Brake work?
- 15 A Yes.
- 16 Q Most of the time you spent down there, was that
17 during the summers or was that after school or both?
- 18 A Both.
- 19 Q So, would you say you spent off and on time down
20 there for about a three-year period while you were in
21 high school?
- 22 A Well, if I had something else to do, it wasn't a job
23 I had to go to. If I wanted to go someplace else, I
24 would. I played in the band, and we practiced after
25 school. So, I would go there maybe an hour before he

1 closed in the afternoon. That's where my mother and
2 father were, and that's where I would go after
3 school.

4 Q Then the next place you worked was International
5 Creosote?

6 A Creosote telephone poles.

7 Q How long did you work for them?

8 A Six or seven months.

9 Q This was before you went in the Marines or after?

10 A Yes, before.

11 Q What was your job title or job description while you
12 were there?

13 A They had just an office in Galveston, and I was a
14 clerk in the office there in Galveston.

15 Q So, you were doing filing, bookkeeping type work?

16 A Yes. They had had a fire at their plant in
17 Texarkana. All the records were there, and I was
18 balancing what was left and what was burned. I
19 mostly did that one job the whole time I was there.

20 I was going to be a permanent employee or steady
21 employee until I decided to go into the Marines.

22 Q While you were working for them prior to going into
23 the Marines, do you think you were ever exposed to
24 any asbestos products at that time?

25 A I have no idea.

BOLAND, O'NEAL, RICHER, BARNHART & PROBST, INC.

C 003584

- 1 Q What kind of business is this that you were working
2 for? What did they do?
- 3 A This International Creosote Company?
- 4 Q Yes.
- 5 A As far as I knew, they had a plant in Beaumont where
6 the telephone poles were loaded on a car and were
7 impregnated with creosote and shipped to wherever
8 they were sold to.
- 9 Q They didn't do any manufacturing type work where you
10 were at?
- 11 A No. It was just an office.
- 12 Q After you got out of the Marines, you went to work
13 for Monsanto?
- 14 A Yes.
- 15 Q Was there any employer between the Marines and
16 Monsanto?
- 17 A No. It was just at my daddy's shop, just hanging
18 around mostly.
- 19 Q What was the first job you had when you went to work
20 for Monsanto?
- 21 A I was a production clerk in the styrene department.
- 22 Q This would have been around 1959?
- 23 A February 1959.
- 24 Q What were your job duties or what did you actually do
25 during the day while you were working as the

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C 003585

1 production clerk?

2 A Took care of personnel, keeping track of the overtime
3 the men worked and their salary and their vacation --
4 how much vacation they had taken -- copying reports,
5 and getting figures for reports that supervision
6 turned in, and filing and general office work done in
7 the units.

8 Q This was office work inside a building?

9 A It was inside a building down in the operating area;
10 inside of several buildings.

11 Q Tell me what they did in the operating area.

12 A I don't understand.

13 Q You said it was a styrene plant at Monsanto?

14 A Yes.

15 Q You said you were near the operating area. The
16 people who you consider in the operating area, what
17 type of work were they doing?

18 A Okay. Let me see. The operators worked in the
19 control house and out amongst the equipment; out in
20 the equipment itself -- the pumps. The operators
21 controlled the flow of the material wherever they
22 wanted it to go, wherever supervision had them direct
23 it and at whatever rate they wanted to direct them.

24 Q Was this fluids going through various systems that
25 you're talking about?

1 A It was fluids going through pipelines.

2 Q So, basically anything that they were working with
3 was enclosed in a pipe?

4 A Yes.

5 Q And the operating area itself was inside the
6 building?

7 A No. Just the controls were inside the building.

8 Q Was it the controls you worked near, or was it the
9 operating area that you worked near?

10 A It was a little of each. The control house was built
11 inside the units, you might say. The units was built
12 around the control house. So, you were down inside
13 the unit, but in a building inside the unit. There
14 were three different units that I had control of. I
15 worked on three different blocks.

16 Q Was the area that you were working in somewhat like
17 an accounting area? Is that how you would describe
18 it, or is there a better term to use?

19 A No. It was not like an accounting area. It was an
20 office, usually with a manufacturing supervisor or
21 foreman right in the control house with the
22 operators. My door to my office was usually open to
23 the control room with the operators, and they would
24 come in and out. It was just an office inside of a
25 big building.

BOLAND, O'NEAL, RICHER, BARNHART & PROBST, INC.

C 003587

1 Q Did your job change at all between 1959 and 1978?

2 A No. I don't think it changed any. The scope of it
3 didn't change any. It may have gotten more complex
4 because the number of people that I worked with went
5 up. There were more men working down there in 1978
6 than there were in 1959.

7 Q But other than complexity, the general location and
8 the type work you were doing was the same over the
9 entire period?

10 A Yes.

11 Q Where you were working, were there occasions where
12 there were ever any odors or fumes or anything coming
13 from the materials they were using in the operating
14 area?

15 A Occasionally, but not very often.

16 Q Do you know what kind of materials were used in the
17 operating areas as far as what is going through the
18 pipes?

19 A They used ethylbenzene and benzene to make styrene, I
20 believe.

21 Q In your particular area there were very few occasions
22 that you ever got the odor from that?

23 A That's true.

24 Q In the operating area was there an odor that was
25 present most of the time?

BOLAND, O'NEAL, RICHER, BARNHART & PROBST, INC.

C 003588

1 A We were in the same building, and they may have more
2 occasion to -- the operators may have been around it
3 because that's their work -- than I would have
4 because my work was inside the office building and
5 not outside in the operating unit itself.

6 Q Other than what you have described to me, were there
7 any other types of liquids or chemicals that would
8 flow through the pipes that you are aware of?

9 A Water and salt water are the only other two liquids I
10 could think of. There was natural gas. Those are
11 about the only ones I can think of that I know about.

12 Q Do you know if there were any furnaces or boilers in
13 the operating area?

14 A In one of the units I worked in, the control house
15 was completely surrounded by furnaces that were
16 burning natural gas. You had to walk between them to
17 get into the control house.

18 Q You say in one of the units you worked in. Is that
19 someplace different than the styrene unit?

20 A The styrene unit was like it covered three blocks.
21 There was an ethylbenzene and styrene and
22 dehydrogenation, which all together makes styrene.

23 Q Were the furnaces you have described to me in one of
24 these three areas?

25 A Yes.

1 Q Which area were they in?

2 A In the dehydrogenation units, Department 16. It was
3 Department 6. Then they built some more stuff. So,
4 they called it Department 16.

5 MR. VAUGHAN: 6 and then 16.

6 Q (By Mr. Pike) Did you have to spend much time in the
7 dehydrogenation units as a part of your job?

8 A Probably half of my time was spent down there, and
9 the other half of the time it was back and forth
10 continuously. You could never say that I spent more
11 time one place than I did the other.

12 Q The time you did spend down there is when the system
13 was fully operational?

14 A Most of the time it was, yes.

15 Q To get to your office everyday, did you have to go
16 through one of these areas to reach it, either
17 styrene or ethylbenzene or the dehydrogenation?

18 A Well, the styrene area is all of those that you said.
19 It's just a general name for that area because all
20 three of those units make styrene. They all work
21 together to make one end product.

22 Q Of those three units, was there one you had to go
23 through to get to and from your office each day?

24 A Through Department 5 and 7. When they rebuilt it, it
25 was Department 15 and 16.

1 Q Can you tell me what Department 5 and 7 is?

2 A It's the old numbers for the styrene units. That
3 whole area, we just kind of call it the styrene
4 units.

5 MR. VAUGHAN: May I interject? I believe
6 he testified that he works in several buildings. I'm
7 not sure that you got that clearly.

8 A Yes.

9 Q (By Mr. Pike) Okay. You worked in several buildings
10 between '59 and '78. Is that correct?

11 A Yes.

12 Q I'm just talking about that time period.

13 A Yes. It's like in the east end of the plant, that
14 east end made styrene. I worked down in there. It
15 was offices in 5 and 7. It was offices down in 16
16 and another office there in 2 and 3.

17 Q Between 1959 and 1978, do you feel that you were
18 around asbestos products during that period of time?

19 A I imagine that I was because everything around there
20 was hot and was insulated. Then they built the new
21 unit which was built right there in among the whole
22 thing. It was all insulated, too. So, it came up
23 from scratch.

24 Q Were individuals actually insulating various piping
25 and heating and cooling systems during the day while

- 1 So, I have no idea where they would be.
- 2 Q Did you ever on any occasion get near them while they
3 were doing insulation work?
- 4 A Occasionally probably walking back and forth
5 between -- there's three buildings I worked in. They
6 were building new units and insulating in the pipe
7 racks. We would stop and talk. They would be
8 insulating and here you see somebody you knew you
9 were working with, you would stop to say hi, you
10 know.
- 11 Q How close would you estimate you were to the
12 insulators on occasion?
- 13 A Just right up beside them while there are working.
- 14 Q But this wasn't the major portion of your work, that
15 you would be out with the insulators; correct?
- 16 A That's true.
- 17 Q Most of yours was keeping the various reports and
18 filing, accounting reports, et cetera?
- 19 A Yes. There were 52 operators that I had to keep
20 track of how much vacation they had left and how much
21 they had taken and their pay, their overtime. I was
22 to make out the overtime when people were missing due
23 to sickness or vacation or whatever, that their
24 eight-hour period was covered, somebody was working
25 in their place.

1 you were out in those areas?

2 A Oh, yes. I have seen them out there.

3 Q Did they have the areas roped off where they were
4 insulating?

5 A Not that I recall, no.

6 Q Do you ever recall seeing them wearing any kind of
7 protection while they were doing this work?

8 A No. They would be fitting the pieces together. And
9 they had saws, and they would saw it up and make it
10 fit in there and use wire to twist it and hold it on.

11 Q When you were noticing insulators doing this work,
12 were there any other trades working nearby?

13 A Usually after all the other trades were finished, the
14 insulation goes on last. So, there probably wouldn't
15 be any other trades working on the same area as the
16 insulator. But I don't recall an occasion like
17 you're talking about.

18 Q During these periods of time that you actually saw
19 the people installing insulation, how far away would
20 the other workers be from them? Would it be a few
21 feet? Would it be a hundred feet? What is the
22 closest you have seen other workers while they were
23 actually doing insulation work?

24 A I can't think of an answer to that question. You
25 know, I didn't schedule people to work among them.

BOLAND, O'NEAL, RICHER, BARNHART & PROBST, INC.

C 002593

1 Q During the period of time you were production clerk,
2 did you ever have any responsibility for ordering any
3 products that were used in the facility?

4 A No, sir.

5 Q In 1978 you changed positions with Monsanto; correct?

6 A Yes.

7 Q You were an engineering technician after that time?

8 A That's true.

9 Q What does an engineering technician do that is
10 different from what a production clerk did?

11 A An engineering technician in the inspection
12 department, we worked with metallurgists in
13 inspection and corrosion. It's a completely
14 different line of work. The other work was inside
15 work all the time working with people. An
16 engineering technician in the inspection and
17 corrosion department is working with the equipment.

18 Q Is this what you had to go to school for to learn how
19 to do?

20 A Yes, and learn through on-the-job training, too.

21 Q What about your duties to inspect the equipment? Did
22 you ever have to do cooling water treatment testing?

23 A I never -- I did it maybe for about a week when one
24 of our men was on vacation, but it wasn't part of my
25 duties. Someone else in the inspection department

1 keeps track of that.

2 Q Can you describe to me what acoustic emission testing
3 is?

4 A It's a way to detect flaws in a pipe or a column made
5 out of steel or fiberglass without cutting it in half
6 to see if there is a crack in it or something like
7 that or without shutting down the process. You can
8 do it without making the unit quit producing the
9 product. It listens for -- we raise the pressure.
10 It's like blowing up a paperbag. You crumple up the
11 paperbag, blow it up. It will make you increase the
12 pressure inside the bag. It will make noise. You
13 can hear it.

14 You hold the pressure, and the noise should
15 stop if there is not a crack in it. Then we increase
16 the pressure a little more, and these sensors pick up
17 the noise that the metal is making. And if there is
18 a crack, it will pick up the noise of the crack
19 propagating as it moves. And we can triangulate
20 where it is pretty close, and if we do find a flaw,
21 then they will shut a unit down to look at this place
22 particularly.

23 Q That is part of your job now in the duties you
24 perform?

25 A That's one of them.

1 Q Do you have any responsibilities for the receiving
2 area?

3 A No.

4 Q Do you have any responsibility for safety?

5 A For myself and for my co-workers just being safe. We
6 have to give a safety -- I think we're assigned to
7 give a safety talk or lecture demonstration, each one
8 of us, once a month. And you have to do it maybe
9 once a year, once ever year and a half, two years, as
10 your turn comes back around again to give a safety
11 talk.

12 Q What is involved in the plant maintenance work that
13 you do?

14 A I'm not sure about what you mean by "plant
15 maintenance work" that I do? I don't do plant
16 maintenance work.

17 Q Do you supervise it at all?

18 A Yes. If we have a repair for maintenance to do or
19 they are welding something, we will watch it being
20 done. But we don't do it or we don't give them
21 instructions. Supervision may give them instructions
22 on how it should be done, and the craftsman does the
23 work. We look at it to see that it's done according
24 to the wishes of supervision.

25 Q So, since 1978, your work has been primarily

1 inspection or supervision of others working. Is that
2 correct?

3 A And inspection of new equipment before it's brought
4 into the plant.

5 Q Are there any areas of responsibility since 1978 that
6 you have been performing which I haven't mentioned?

7 A Well, let's see. No. Not that I can think of, no.

8 Q Have you ever at any time while you have been working
9 at Monsanto become either nauseous or dizzy because
10 of some kind of fumes that you were inhaling?

11 A No. I can't recall that.

12 Q Have you filed any other lawsuits or claims because
13 of personal injury on the job or because of the
14 subject matter on which this lawsuit is filed?

15 A Never before; none at all.

16 Q Do you have a worker's compensation claim filed for
17 your alleged respiratory illnesses?

18 A I think we do, yes.

19 Q Has that worker's compensation claim been resolved,
20 or is it pending?

21 A I have no idea.

22 Q You were never a union member, were you?

23 A No.

24 MR. PIKE: Off the record a minute.

25 (Short recess.)

1 Q (By Mr. Pike) Sir, you mentioned earlier you own
2 your house at the present time?

3 A Yes.

4 Q Do you have any income-producing property?

5 A No.

6 Q Since the time that you first had seen a medical
7 practitioner for the injury on which you base this
8 lawsuit, do you have any idea what your medical
9 expenses have been?

10 A I have absolutely no idea.

11 Q Do you have any records at home that would refresh
12 your recollection as to what they have been?

13 A I don't believe there is any more records at home
14 than what we have here, you know, on display here at
15 the time.

16 Q Would those records, if you reviewed them, tell you
17 what you have spent on medical expenses to date?

18 A I guess they might if you went through there and
19 added all the numbers together.

20 Q The first time that you ever missed any work for your
21 respiratory problems was back in the period September
22 '82 to January '83?

23 A Would you say that again? I didn't understand
24 exactly.

25 Q Talking now only about your respiratory problem or

1 lung problem which you made the basis of this
2 lawsuit, in your answer to interrogatories you stated
3 you were off work in September 1982 through January
4 4th, '83.

5 A I understand.

6 Q What other times have you been off work and not been
7 paid for it that would relate to your current lung
8 problem?

9 A I have not been off work and not been paid at any
10 time by Monsanto Company.

11 Q So, for the days that you have missed from work to
12 see doctors, to take a deposition, whatever, you have
13 been paid for that because you are on salary. Is
14 that correct?

15 A True.

16 Q So, you have not lost any earnings to date because of
17 your respiratory problems?

18 A Not any earnings. I have lost time because, like for
19 today, for a deposition like this, I took a vacation
20 day.

21 Q But you get paid for today; it's just taken as a
22 vacation day?

23 A Yes.

24 (Discussion off the record.)

25 A Okay. To clear up that lost earnings, since 1982 the

1 period you are talking about, my regular salary has
2 not been interrupted. But the amount of overtime
3 that has come up and that I haven't been able to work
4 has been a great deal. There has been several
5 shutdowns since that time, 1982 and the present, that
6 I haven't worked overtime which I normally would have
7 worked overtime on; shutdowns and special jobs that
8 come up.

9 Q Would the overtime work have become available
10 primarily since you have become an engineering
11 technician?

12 A Yes.

13 Q Was there overtime work available in 1979 and 1980?

14 A Yes.

15 Q Did you work overtime during 1979 and 1980?

16 A Yes. I'm sure I did. I can't recall a specific
17 instance five years ago or six years ago that I
18 worked, but I'm sure sometime during '79 and sometime
19 during 1980 I did work overtime because I worked some
20 overtime every year that I have been in the
21 inspection department. A lot of overtime each year.

22 Q During 1981, did you also work overtime?

23 A Yes.

24 Q Now, it was in 1982 -- I think it was September of
25 that year -- that you first took some time off work

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C 003600

1 for your respiratory problem. Is that correct?

2 A I believe it was, because I was having difficulty
3 catching my breath.

4 Q During 1982 -- I'm excluding the periods which you
5 have identified in your interrogatories as being off
6 work -- did you work overtime during January through
7 September 1982?

8 A I'm sure I did, yes.

9 Q Can you tell us approximately how many hours of
10 overtime you worked in any of the years from '79
11 through '82?

12 A How many hours? I really didn't keep track of it so
13 much in hours as so much in how much more money that
14 I made. Say, in a year's time, I might work \$5,000
15 worth of overtime, whatever that would be; maybe 200
16 or 300 hours overtime. I really don't know the hours
17 involved.

18 Q In 1982 do you remember what your salary was?

19 A No. Probably in '82, probably around \$27,000,
20 \$28,000; normal salary, plus the overtime. I would
21 probably be bringing in close to \$30,000, maybe.

22 Q Does \$28,000 sound about right?

23 A It's in those numbers, yes.

24 Q So, you earned approximately \$2200 in 1982 from
25 overtime work?

1 A \$2200?

2 Q Your answer to interrogatories states \$30,277 was
3 your earnings. In 1982 did you have any source of
4 income other than your job at Monsanto?

5 A No -- And my wife's salary from teaching school.

6 Q I'm just referring to your salary.

7 A To myself, no. Just that one.

8 Q So, prior to September of 1982 you were still working
9 overtime; correct?

10 A Yes.

11 Q After September of 1982, did you ever work overtime
12 at all from that time forward?

13 A A very little bit. Maybe right after I came back to
14 work in the first part of '83, I have worked a little
15 bit of overtime on a shutdown one time. It was just
16 sitting and watching. It wasn't really doing
17 anything. It wasn't really physical work, because I
18 can't do much physical work now. But I did a little
19 bit of overtime then. But I haven't done any in a
20 long time now. It's been over a year, I guess.

21 Q Were there times prior to 1982 that you were offered
22 overtime, and you turned it down?

23 A I don't recall ever turning down overtime, no.

24 Q In 1984 out at the Monsanto plant where you are
25 working, is there still overtime available?

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C 003602

- 1 A Yes. There has been several shutdowns this year, and
2 my fellow workers, the guys I work with, have made an
3 extra \$3,000 to \$4,000 so far this year. And there
4 is still another shutdown scheduled here in November
5 and December. This has been an exceptional year.
- 6 Q Is it correct that you have never personally worked
7 with asbestos-containing insulation products?
- 8 A Not that I know about.
- 9 Q Tell me exactly how you allege you were exposed to
10 asbestos-containing products?
- 11 A There was asbestos being used around the plant to
12 cover columns with and cover the equipment with, be
13 it operating equipment or piping. And I was in this
14 area where all of this was happening and going on all
15 around me. From 1959 to 1978 is when I was stationed
16 there in that area eight hours a day.
- 17 Q Is there any other time that you think you would have
18 been exposed to asbestos-containing products?
- 19 A I can't think of any other place I would come in
20 contact with the material.
- 21 Q And you don't know from your own personal knowledge
22 what products you were exposed to, do you?
- 23 A No.
- 24 Q In response to defendants' interrogatories, you
25 provided us a list of various manufacturers and

1 products. In preparing that list, did you rely on
2 the knowledge or information of other individuals?

3 This is the list right here.

4 A Yes. I'm sure all of these names and companies were
5 names known to the insulator crafts and everybody
6 else, and were passed on from that knowledge to this
7 list here.

8 Q The list which you have provided us there, did you
9 type that yourself or did someone else type it for
10 you?

11 A No, sir. I did not type it. I don't know who typed
12 it.

13 Q Did you make up that list?

14 A No, sir. I didn't.

15 Q Have you ever seen it before?

16 A Yes, sir. I have.

17 Q Have you reviewed it, and do you have any personal
18 knowledge of whether it's correct or not?

19 A No, sir. I sure don't know whether it's correct or
20 not. I know it's a list probably from talking with
21 the insulators. It's a list probably of all of the
22 insulating material that's used in the plant.

23 MR. VAUGHAN: He knows it's correct in the
24 sense that others have told him it's correct.

25 A I have been told, but I don't know what is used in

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1 the plant.

2 Q (By Mr. Pike) Prior to this list being prepared, did
3 you talk to insulators in the plant who told you what
4 products were used in the plant?

5 A Prior to that list being made? I talked to
6 insulators, and they told me asbestos was being used
7 in the plant.

8 Q Did the insulators tell you what products were being
9 used in the plant?

10 A No. What companies, you mean, or what products such
11 as asbestos as compared to something else?

12 Q What companies; what brand names?

13 A Brand names? No brands names other than asbestos as
14 a general cover-all for all covering.

15 Q In preparing this list, did you have insulators where
16 you work give the information directly to your
17 attorney?

18 A I didn't have them give it directly to my attorney.
19 My attorney arranged to get the information.

20 Q Do you know the individuals who provided the input to
21 this list?

22 A There is a list of individuals in that questionnaire
23 you have there, in the interrogatories, that I know
24 most of them.

25 Q Okay. The list of individuals which you have

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1 ~ identified as witnesses who were exposed to the
2 products, did they all work at Monsanto?

3 A As far as I know, they did or do at the present time.

4 MR. VAUGHAN: Do or did work at Monsanto.

5 Q (By Mr. Pike) Are there any individuals on this list
6 who never worked in the styrene plant while you were
7 working there?

8 A I'm not sure of the question.

9 Q You have identified 28 witnesses who can tell us what
10 products were being used at Monsanto. Did all these
11 witnesses work in the styrene plant where you worked?

12 A I have no idea if all of them worked there
13 individually, other than they were assigned to go
14 different places at different times. They weren't
15 assigned to an area. They may work in styrene today,
16 this morning, and this afternoon work someplace else.
17 So, they probably just throughout the years have all
18 been everywhere.

19 Q Can you tell me the first time you were hospitalized
20 for any reason?

21 A Oh, gosh. That was probably when I had my tonsils
22 out when I was a little-bitty child.

23 Q Other than your tonsils, what was the first time you
24 were hospitalized for an injury?

25 A In 1965 I had a lung collapse. I was hospitalized

1 for, I guess, four or five days; not very long. Then
2 I was home for two weeks, two or three weeks. Then I
3 went back to work. I recovered from then.

4 Q Where were you hospitalized at?

5 A In Galveston at St. Mary's Hospital.

6 Q Who was your doctor at that time?

7 A Dr. Bill Wilson and Dr. Dan Smith. They were
8 together then.

9 Q What other times have you been hospitalized other
10 than what might relate to your current condition?

11 A None other.

12 Q Did you at one time suffer from a broken leg?

13 A I broke the small bone in the bottom half of my
14 leg -- the fibula, I think it is -- playing football
15 with some teenagers.

16 Q Were you hospitalized for that?

17 A No. Just went to the emergency room, and they put a
18 cast on it.

19 Q You were playing football with teenagers?

20 A Yes.

21 Q Do you remember what year that was?

22 A Let's see. About 1972, along there. My children
23 were still too small. The boys were small.

24 Q Do you remember the doctor's name who treated that?

25 A No. At the emergency room was whoever was on call at

1 Galveston County. That was the Galveston County
2 Memorial Hospital. We went there. Then I went to a
3 doctor in Alta Loma there by the name of Dr. Anders.
4 He just looked at it. There was nothing he could do
5 with it. He took the cast off and took the x-rays
6 was about all.

7 Q Have you ever seen a doctor for any medical problems
8 other than the problems relating to your lungs?

9 A Nothing but the flu or sinus trouble or some minor
10 difficulty like that that I can't think of right now.

11 Q Have you ever had pneumonia?

12 A No, not that I know of.

13 Q Have you ever had bronchitis?

14 A I'm sure I have, yes, which is just, you know, a cold
15 to me. It's not a big deal.

16 Q Has any doctor told you that you have had bronchitis
17 at some time?

18 A Not specifically that I can recall.

19 Q Have you ever had any heart problems or any problems
20 relating to your circulation or --

21 A At one time about in 1976, '77, '78 -- something like
22 that -- my blood pressure was a little high. And the
23 doctor put me on some blood pressure pills. I took
24 them for a while. And my wife put me on a diet, and
25 they cut back on my salt and watched the food I was

1 eating. And my blood pressure stabilized, and the
2 doctor didn't give me the pills anymore because my
3 blood pressure was good.

4 Q You said this was around 1976?

5 A '76 or '77. I don't recall the exact date.

6 Q Which doctor was that?

7 A Dr. Bill Wilson.

8 Q Have you ever seen a Dr. Stiglich?

9 A Stiglich? She was one of the physicians that was in
10 training in Family Practice training at the time I
11 was in the hospital. She has since passed through
12 that phase of her career and moved on to some other
13 location. I have no idea where she is.

14 Q Was she actually treating you, or was she observing
15 someone else treating you?

16 A She was more or less under Dr. Wilson's direct
17 command. He was her teacher, observer, and she was
18 the one right below him taking care of me at the
19 time. You might say Dr. Wilson was the doctor, and
20 she was doing his work for him.

21 Q You told me about your lung collapse in 1965.

22 A Right.

23 Q How long were you hospitalized with that?

24 A It wasn't very long. Four or five days, at the most.
25 I think it seems like I can remember like after four

1 days it was back up like 80 percent of what it should
2 have been; you know, full capacity. He sent me on
3 home. I was home a couple of weeks. It was all back
4 up.

5 Q While you were in the hospital, can you tell me what
6 kind of treatment they gave you?

7 A No. I can't recall any treatment.

8 Q Was there any medication that they gave you?

9 A I have no idea. I don't recall.

10 Q When you left the hospital, did they give you any
11 specific instructions or prescribe any medications
12 for you?

13 A I don't recall any specific medications. Just take
14 it easy; don't lift anything heavy; you know,
15 exercise a little bit; do some walking. I walked
16 around the pasture. My mother's got ten acres of
17 land there. I just walked around it; walked to the
18 road and back.

19 Q Did Dr. Wilson ever give you any reason why this
20 occurred?

21 A Yes. I remember my wife asking him what caused it.
22 It happened to me one morning. I just sat up on the
23 edge of the bed and had this pain in my chest. I
24 thought it was a heart attack. So, I didn't tell
25 her. I just drove on to the hospital.

1 She talked to him, and he said it was a
2 lip, is what he called it. It was like a little air
3 bubble that popped and over-pressured the lung and
4 forced it down. He said it was not uncommon in men
5 at that age for it to happen.

6 Then after I got back to work, I found out
7 it happened to my boss when he was helping his wife
8 hanging clothes. To one of the operators, it
9 happened out there at the plant. Not from any blow
10 or anything else, it just popped, collapsed.

11 Q About the time that you had the lung collapse, did
12 you also receive any treatment for hypertension?

13 A No.

14 MR. VAUGHAN: That's blood pressure.

15 A No.

16 Q (By Mr. Pike) As we sit here today, what are your
17 present complaints as far as any problems relating to
18 your respiratory system or your lungs?

19 A Well, I get short of breath. My lung capacity is
20 probably, from viewing the x-rays myself, I can see
21 that the left side is less capacity than the right
22 side.

23 Q What I'm asking you is to just tell me what physical
24 complaints you have as we're sitting here today.

25 A Okay. Shortness of breath, my chest and my back hurt

1 all the time. My chest tingles like the same feeling
2 as you have when your foot is asleep, but in my
3 chest. It's just a feeling of pain in my chest in
4 back all the time. Weakness from not being able to
5 exercise or keep my strength built up physically.
6 And, of course, all of this weighing on my mind. You
7 know, of course, my head being bald, too, I'm cold
8 all the time. And this is caused from the
9 chemotherapy; loss of the hair. That's probably why
10 I have got the jacket on, because I'm cold.

11 Q Do you have a cough at all?

12 A No, not caused from my chest.

13 Q Do you have any headaches or dizziness that you
14 attribute to your chest problems?

15 A No.

16 Q Shortness of breath, chest pain, weakness. Is that
17 correct?

18 A And back pain.

19 MR. VAUGHAN: His chest tingles, and also
20 he mentioned knowing of the illness and the problems
21 he has.

22 A Yes. I just think about it. I try to think
23 positively, of course.

24 Q (By Mr. Pike) The shortness of breath, can you tell
25 me when you first noticed that you had some shortness

1 of breath?

2 A That was in September 1982, the first time it really,
3 I guess, where I noticed it.

4 Q Prior to September of 1982, you hadn't noticed any
5 shortness of breath; correct?

6 A Not any shortness of breath that I recall, other than
7 noticing it at work. You get out of breath from
8 climbing up a ladder or going somewhere, and you sit
9 down and recover in a minute or two and then you're
10 ready to go again.

11 Q Back in September of 1982, were you required to do
12 any climbing on your job?

13 A Yes.

14 Q What did you have to climb?

15 A On the day I noticed the shortness of breath, I was
16 climbing up the side of a tall column on the ladder,
17 on the side of the column. I climbed up. It's
18 probably 80 or 90 feet high, I guess, in two or three
19 sections.

20 When I got to the top, I was out of breath
21 that little bit from climbing. I just couldn't catch
22 my breath as quickly as I should have, and I was just
23 tuckered out. But I was already up there. So, I
24 went ahead and did the job I was supposed to do with
25 this other technician. Then we finished, and I came

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1 on down the ladder.

2 Q In your current job as an inspector, do you still
3 have to do climbing?

4 A I haven't lately. They have been assigning that type
5 of work to someone else and letting me do the easy
6 stuff, you might say; stuff on the ground.

7 Q How long was it ago that you had to do some climbing
8 in your job?

9 A Oh, gosh. I guess it's been seven or eight or nine
10 months since I even climbed stairs out there. It's
11 been a long time. I can go up stairs, but I have to
12 rest up at each level, catch my breath and go ahead
13 on.

14 Q Seven to nine months ago when you had to do it, were
15 you able to do it?

16 A Pretty well.

17 Q With resting?

18 A With resting in between. It would be harder now than
19 it was then.

20 Q When did the chest pain first start that you complain
21 of today?

22 A The pain I complain of today started after I was
23 operated on for the exploratory surgery, I guess you
24 would call it.

25 Q This was sometime late in 1982?

1 A In November.

2 Q Prior to that time, did you have any chest pain that
3 you noticed?

4 A Yes. I had been to the doctor, I guess, before
5 that -- I don't remember when -- telling him that I
6 just didn't feel good. My chest and my back felt
7 funny. He gave me some muscle relaxant pills at
8 first. It was a young doctor out there at Family
9 Practice. It wasn't Dr. Wilson. It was one that had
10 been assigned to me. I think that was the Dr. Doyle
11 that you were talking about earlier.

12 I went out there a couple of times. I
13 said, "No. Those pills didn't help." He changed
14 prescriptions. I think he gave me some other
15 prescription for muscle relaxants. I think I went
16 there twice before I went down there and they put me
17 in the hospital.

18 Q The chest pain that you had prior to the surgery, was
19 that a dull pain or sharp pain, or how would you
20 describe it?

21 A It felt like a bruise. It felt like I had been hit
22 in the chest with a fist. And what happens
23 afterwards -- not being out of breath from the hit --
24 but after the hit, you might say, just a dull pain
25 just right close to the surface, it felt like.

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1 Q Was this pain on the front of the chest or was it
2 near your back?

3 A It seems like it was in the back part of my shoulders
4 along this left side.

5 Q Was there one side in particular it was on or any
6 general location?

7 A It was mostly on my left side is where it bothered
8 me.

9 Q This is still prior to your surgery, was it in the
10 upper portion of your chest or was it in the lower
11 portion?

12 A Just generally the whole side just kind of felt a
13 slight stinging. I don't know how you describe it.
14 Almost like you would imagine pleurisy or something
15 like that when you cough real hard or something, how
16 your chest just kind of feels funny.

17 Q Prior to your surgery in November of 1982, were you
18 suffering from any back pain?

19 A Just from what I thought was back pain that I had
20 seen a doctor about before that he gave me the muscle
21 relaxants for. It turned out to be, you know, that
22 wasn't the back pain. It was the chest, the lining,
23 that was causing the pain.

24 Q The back pain that you describe, is that similar to
25 the way you describe your chest pain as a bruised

1 area, dull, or was there some difference in the type
2 of pain?

3 A No. It felt about the same, front and back. It felt
4 like you had been hit.

5 Q Was this also on the left side?

6 A Yes.

7 Q So, prior to your surgery, you didn't have any pain
8 in your chest or in your back on the right side. Is
9 that correct?

10 A That's true.

11 Q Now --

12 A On the right side, yes.

13 Q The chest tingling that you're talking about, this
14 occurred after the surgery in November of '82?

15 A Yes.

16 Q Prior to the time you had the surgery in November of
17 1982, did you notice any fatigue or weakness at that
18 time?

19 A Prior to the surgery, you say?

20 Q Yes.

21 A Yes. That's why I went to the doctor, because I
22 climbed up that ladder and was out of breath and was
23 tired and couldn't catch my breath. My wife took me
24 to the doctor.

25 Q You say "going to the doctor." This is the time

1 prior to the surgery that the doctor gave you muscle
2 relaxants?

3 A No. It was right near the end of September when I
4 went.

5 Q In September what doctor did you see; September of
6 1982?

7 A I think Dr. Wilson and another doctor came out there;
8 Dr. Howard and Dr. Stiglich. Just whoever was
9 working with him at the hospital that day.

10 Q Dr. Wilson, he was in private practice?

11 A At one time he was in private practice.

12 Q In 1982 was he in private practice, or was he
13 associated with a group?

14 A He was associated. He was a director of Family
15 Practice medicine and the teaching end of it.

16 Q Was that at the University of Texas --

17 A Medical Branch in Galveston.

18 Q Was Dr. Barbara Thompson also associated with Family
19 Practice at UTMB?

20 A I think I remember Barbara, Dr. Thompson, yes.

21 Q When you first went to see Dr. Wilson in September of
22 1982, what kind of examination did he perform on you?

23 A I think we met him -- I don't remember if we met him
24 and went to his office or went to the emergency room
25 or where. But it seems like he looked at me and

1 talked to me and asked me how I felt, and you know
2 how they thump on your back and stuff like that. I'm
3 sure he had me put in the hospital. I went in the
4 hospital that same day I went in.

5 Q Did he take a medical history from you at that time?

6 A He was my family doctor. So, he had a back history
7 on me.

8 Q Did he give you x-rays at that time?

9 A I'm sure they did at St. Mary's so they could see if
10 there was fluid in between the pleuras on the left
11 side.

12 Q At the time you went to see him in September of 1982,
13 did he put you in the hospital immediately, like
14 within a day or the next day?

15 A I believe it was the same day, yes.

16 Q In 1982 when you went to see Dr. Wilson, you had a
17 chest pain on the left side. Is this correct?

18 A Well, I was out of breath. It was like on a
19 Wednesday I climbed this column and had trouble
20 catching my breath. And Thursday I stayed home from
21 work because I just didn't feel good. I had a
22 tingling in my chest, a slight pain in my chest and
23 back.

24 I was laying on the couch. I went out to
25 my mother-in-law's car that morning to get her

1 laundry out and bring it in the house. I was
2 tuckered out when I brought it back in. I just
3 walked and got it from the car. My wife said,
4 "Something is the matter," and put me in the car and
5 brought me to Galveston to the doctor's office. And
6 he put me in that same time.

7 Q Didn't you tell me earlier that prior to seeing Dr.
8 Wilson you had seen another doctor and you had chest
9 pain on one side?

10 A That wasn't in September. That was, I think, in
11 August; maybe the first week in September.

12 Q Between August and September when you did see Dr.
13 Wilson, did the chest pain go away or was it still
14 present when you first went to see Dr. Wilson?

15 A It was still present.

16 Q Was there any difference between the chest pain you
17 had in September of '82 when you saw Dr. Wilson and
18 the type of chest pain you had when your lung
19 collapsed in 1965?

20 A Yes. The chest pain I had in 1965 was a very severe
21 pain. I always described it to someone as if you
22 drove a stake through your chest and out your back.
23 It was at this kind of an angle down from here to
24 just below your shoulder blade and back on the left
25 side.

1 Q If you can remember, did Dr. Wilson ask you to
2 describe the kind of chest pain you had when your
3 lung collapsed when he saw you in September of '82?

4 A Say that again. I didn't understand.

5 Q In September of '82 you had some kind of chest pain
6 at the time you went to see Dr. Wilson. Did he ask
7 you at all what kind of chest pain you had back when
8 your lung collapsed?

9 A No. I went to see Dr. Wilson in September of '82
10 more because I was having shortness of breath than
11 because my chest hurt.

12 Q When you actually went into St. Mary's in September
13 of 1982, was Dr. Wilson your physician or was there
14 another doctor who treated you in the hospital?

15 A Dr. Wilson is the administrator of this Family
16 Practice, and he has very few private patients of his
17 own. So, I'm sure -- well, he did show up there.
18 And Dr. Dan Smith was there.

19 I'm sure there were several other doctors
20 who I don't recall there at the same time. The whole
21 group, as they were in their learning time, they all
22 came through there.

23 Q When you were admitted in September of '82, how long
24 did you stay in the hospital at that time?

25 A I think it was about a week the first time I was in

1 there, and they drained fluid off the left side.

2 Q Other than draining the fluid, the first time you
3 were hospitalized at the end of September of 1982,
4 did they do anything else to you, perform any other
5 procedures that you can remember?

6 A Yes. I think they -- it was either the first time I
7 went in or the second time I went in -- they gave me,
8 they called it, inhalation therapy where they had me
9 breathe through my mouth a particular type of
10 medicine or concoction and gas and tried to make me
11 cough something up. And I wouldn't cough up any
12 phlegm or anything else.

13 Q When you actually went into St. Mary's, did someone
14 take a medical history from you again at that time?

15 A I'm sure they did just for their entrance permission
16 or whatever you call it.

17 Q Would this have been a Dr. Thompson who would have?

18 A It could have been, yes.

19 Q Was Dr. Thompson the primary physician who treated
20 you while you were in the hospital?

21 A No. It would probably be a combination of several
22 doctors with Dr. Stiglich, and Dr. Wilson as the
23 overseer. And there would be Dr. Stiglich, and I
24 think there is a Dr. Howard over there, too. He may
25 be gone. I'm not sure. Dr. Thompson may have been

1 there. There was always several doctors in there
2 together at the same time.

3 Q Did any of the doctors at the time you were admitted
4 in 1982 ask you any questions about the type of work
5 you did?

6 A Not that I can recall, no.

7 Q Did they ask you about any chemicals that you might
8 have been exposed to while working?

9 A Not that I can specifically recall.

10 Q Did they ask you if you were ever exposed to any
11 welding or sandblasting operations or anything like
12 that?

13 A No, not that I can recall specifically asking me
14 about things like that.

15 Q Were you ever asked about any exposure to asbestos at
16 that time?

17 A No.

18 Q Did you tell the doctors anything about possible
19 exposure to asbestos when you were admitted in
20 September 1982?

21 A I hadn't. No, I didn't. I had no idea about
22 asbestos.

23 Q The first time you were admitted in September of
24 1982, did they do any type of surgery at all on you
25 other than draining the fluid?

1 A Not any surgery, no. But to drain the fluid, they
2 stuck a needle between my ribs and back, and fluid
3 drained out into a vacuum bottle right there beside
4 the bed. That was the only thing they entered my
5 body with, you know, as surgery would be an entry
6 into your body.

7 Q At the time you left the hospital, a week, two weeks
8 later, did the doctor verbally tell you any diagnosis
9 of what your problem was?

10 A No. I asked Dr. Wilson what caused the fluid. He
11 said he didn't know. I had a cold, you know, a
12 couple of weeks before. He said maybe it's from that
13 cold; you just built up some fluid in your lungs, in
14 your linings, that didn't absorb. As far as I know,
15 he was as surprised as I was when it came back when I
16 had to go back to him two weeks later for another
17 liter and a half of fluid in my left side.

18 Q Did you ever receive any written report from Dr.
19 Thompson or Dr. Wilson, any of the doctors who
20 treated you at that time?

21 A No. I never received any written report.

22 Q When was the next time after you left the hospital in
23 early October of 1982 that you went back to see one
24 of the doctors, either Thompson or Wilson or whoever
25 treated you?

1 A The first time I went into the hospital and they
2 drained the fluid. I stayed about a week. They sent
3 me home. It was about two weeks after that that I
4 went back to the doctor complaining about my side
5 again. They x-rayed, and sure enough, there was
6 fluid back on that side again. And then that time
7 they cut into my side and surgically put a tube
8 inside to let it drain. I stayed in a week with a
9 tube in.

10 Q When you went back to the doctor --

11 A It was from there to the hospital.

12 (Short recess.)

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2 1 Q Between the period of time when you first went in
 2 the hospital and the second time when you went in
 3 the hospital, did you go back to work during that
 4 period of time?

5 A No. I don't believe I did. No, I didn't. I stayed
6 home for that two week -- about two week period, or
7 week and a half, whatever it was.

8 Q Okay. Did your physical complaints change any
9 between September of '82 and November of '82 when
10 you went back in the hospital?

11 A My physical?

12 Q You described certain complaints that you had prior
13 to the end of September 1982 when you went in the
14 hospital.

15 A Oh, well, my shortness --

16 Q Were they any different in November when you were
17 rehospitalized?

18 A After the first time I was in and they drained the
19 fluid off my lungs, naturally I felt better because
20 I could breathe better. And I felt pretty good for
21 a couple of weeks.

22 Then I got back to where I was feeling
23 that same way again is why I went back to him the
24 second time. And they x-rayed me and found the
25 fluid had built back up again on the left side.

- 1 Q At the time you went back -- excuse me.
- 2 A That was, say, sometime in October because it was at
- 3 the end of the September that I went to him, I
- 4 think.
- 5 Q At the time you went back and the fluid had built up
- 6 again, did any doctor that you saw give you any
- 7 reason for the fluid buildup?
- 8 A The first time when I went to visit him, I asked him
- 9 when they drew the fluid out. Like I said awhile
- 10 ago, he didn't know why the fluid had built up. And
- 11 he thought maybe it was something from a cold I had
- 12 had from a couple of weeks before, but he didn't
- 13 have any -- he didn't know what caused it himself.
- 14 Q Okay. At this time you had some weakness, I think
- 15 you told us. Were you suffering from shortness of
- 16 breath at this time?
- 17 A That's why I went to the doctor because I was short
- 18 of breath, yes.
- 19 Q So, when you went back to see Dr. Wilson, you told
- 20 him you were short of breath?
- 21 A Yes, and I was feeling like I was before.
- 22 Q When you went in the hospital the second time in
- 23 November of 1982, did they drain your chest of fluid
- 24 again?
- 25 A I went in, say, right at the end of September, and

1 they drained fluid with a needle. Then a couple of
2 weeks later, I went back in feeling the same way and
3 they -- he put me in the hospital and put a tube in
4 my side and drained fluid then.

5 Then in November when I went in with fluid
6 again, that's when they decided -- Dr. Wilson
7 decided to operate and find out what's causing this
8 to happen. And he called in Dr. Derrick to operate
9 and see what's causing the fluid to build up in
10 there.

11 Q So, by the time Dr. Derrick did his surgery, you had
12 been in the hospital two previous times and this was
13 the third time?

14 A I really don't know who inserted the tube in my
15 side, whether it was Dr. Derrick or Dr. Wilson or
16 whether that comes under Family Practice medicine or
17 not.

18 Q You went in the hospital, and they did the
19 biopsies -- was that the third time in the hospital
20 or the second?

21 A The third time I went into the hospital is when Dr.
22 Derrick took the biopsies off my pleura.

23 Q When you went in the hospital for the third time,
24 did they do anything other than take the biopsies?

25 A Inserted a tube in my side to drain the fluid with.

1 And then just after about a week after that, then
2 they decided to put -- oh, I forget what it is;
3 sulfur -- put in a chemical that seared the lining
4 of my pleuras together.

5 MR. VAUGHAN: Nitrogen --

6 MS. QUATTLEBAUM: Nitrogen and mustard.

7 Q (By Mr. Pike) Okay. Prior to your leaving the
8 hospital, did anyone tell you a diagnosis of what
9 they had found or anything?

10 A No. That was like the early part after November;
11 9th or 10th of November, something like that. And
12 he didn't give me any diagnosis. He said they took
13 a biopsy of the pleura and sent it off and that they
14 would let me know what it was. I don't know where
15 they went. To the UTMB or --

16 MR. VAUGHAN: Just answer the question.

17 THE WITNESS: Okay.

18 Q (By Mr. Pike) After you left the hospital, did you
19 get any kind of written report or letter from one of
20 the doctors informing you of what they had found?

21 A No. I never got a written report that they mailed
22 to my house.

23 Q When was the first time that you were told what they
24 had found when they had done the biopsies on you in
25 the hospital in November of 1982?

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1 A I think it was Thanksgiving Day or the day before
2 Thanksgiving of 1982; November.

3 Q Did you go see a doctor on that day, or did they
4 call you, or how did you find out what the results
5 were?

6 A Dr. Wilson called my house and told my wife.

7 Q Okay. And it stands out in your mind because it was
8 the day before Thanksgiving as to when he called
9 you?

10 A Well, it stands out in my mind because that's when
11 he told me that I had a -- that's when we knew or he
12 said I had a malignancy.

13 Q At the time he called you, did he tell you what
14 treatment that they would be giving you?

15 A No. I think he didn't -- he doesn't deal in
16 chemotherapy. I think he said he would give me an
17 appointment with Dr. Constanzi who is an oncologist
18 at UTMB, and that he would take over from there.

19 Q When Dr. Wilson told you what the results of the
20 biopsy were, can you remember exactly what he told
21 you? You said there was a malignancy. Did he tell
22 you anything else they had found?

23 A He talked to my wife on the phone. Actually he
24 didn't really talk to me. He told my wife I had --
25 that the biopsies did turn up malignant, and that it

1 was a cancer on my pleuras of my lung.

2 But defining it further than that, I don't
3 know whether he actually did then or whether it was
4 in his reports later or whether he told her it was
5 mesothelioma over the telephone. I think he may
6 have told her over the telephone that it was
7 mesothelioma and that he was -- would get me an
8 appointment with Dr. Constanzi.

9 Q Up to the time that you learned of the results of
10 that examination, had Dr. Wilson or any other doctor
11 ever told you what the cause of this malignancy
12 might be?

13 A Until after the operation and they had the biopsies
14 done, Dr. Wilson probably didn't know that it was,
15 you know, a malignancy.

16 Q Okay. But you told me that the evening before
17 Thanksgiving or the day before Thanksgiving in 1982
18 you learned that the results showed there was a
19 malignancy; is that correct?

20 A True, yes.

21 Q Up to and including the time that you learned that,
22 had any doctor told you that your condition was in
23 any way related to exposure to asbestos?

24 A I may have been asked had I worked around asbestos.

25 MR. VAUGHAN: Answer the question. Don't

1 answer any other question. The question is: Had
2 you been told?

3 A No. I hadn't been told.

4 Q (By Mr. Pike) Up to this period of time, can you
5 recall any doctors you had been treated by who you
6 had told that you had been exposed to asbestos?

7 A I'm sorry. I was disturbed.

8 Q Okay. Any of the doctors who had treated you for
9 your lung condition up to this time, had you
10 discussed any exposure to asbestos with any of them?

11 A I'm sure that in taking their history of me, one of
12 them may have asked me or they did ask me probably
13 all questions about what kind of work I did, trying
14 to -- you know, trying to figure out what it was.
15 And I'm sure that they asked me if, you know, in
16 their searching had I ever been around asbestos.
17 And there's no telling (indicating).

18 Q Did Dr. Wilson tell you if the biopsies revealed any
19 asbestos fibers or any asbestos-containing bodies in
20 the sample that had been taken?

21 A No. He told my wife that I had -- that the cells --
22 the thing was positive that I had cancer cells in
23 there. But I don't know anything about him saying
24 anything about asbestos at that time.

25 Q Okay. Prior to the time of this passing of

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1 information concerning the results of the biopsy and
2 the time you first saw Dr. Constanzi --

3 A Constanzi.

4 Q -- there was about a one month period. Did you go
5 back and see any doctors during that period?

6 A I'm sure I went -- well, of course, after the
7 surgery I went back, say, a week or so or ten days
8 later to have him look at my side and see how it
9 looked and just for that purpose, but not for
10 feeling bad or anything. Not for being sick, you
11 might say; just to check on my surgery, see how it
12 was coming along.

13 Q When did you first see Dr. Constanzi?

14 A I think it was in January of '83 because it seemed
15 like a long time.

16 Q Would it perhaps have been closer to the middle of
17 December '82?

18 A No. I don't really recall the first day I went to
19 see him. I'm thinking January of -- it was January,
20 but I couldn't say for sure the date.

21 Q What did Dr. Constanzi tell you about the type of
22 treatment they would be giving you?

23 A He told me I would be taking chemotherapy and told
24 me about the different drugs that they put in. And
25 he took, of course, a chest x-ray at the time so he

1 would have his beginning record of how my chest
2 looked and just what he thought about it and
3 everything else.

4 Q He put you on a treatment program then?

5 A Yes.

6 Q How frequently since December of '82 have you had to
7 go see Dr. Constanzi?

8 A Well, I don't know that it was December. It still
9 seems like it was January. Whenever.

10 Q Okay. January; whenever your best memory is.

11 A Yes. It was at first every three weeks I would go
12 in for a treatment, and then it extended out to
13 every four weeks. After, oh, six or seven months I
14 guess they extended out to every four weeks. And I
15 have been going since then every four weeks for a
16 treatment.

17 Q Okay. Since you started this treatment, have you
18 noticed any change in your fatigue or weakness?

19 A Not being able to exercise, I notice I'm not as
20 strong as I was. And it affects the -- you know,
21 how much I feel like doing things, or how much I
22 don't feel like doing things.

23 Q Has your shortness of breath improved or stayed the
24 same since you started this treatment?

25 A The shortness of breath is probably -- I have

1 probably become more affected by shortness of breath
2 since the treatment started.

3 Q Okay. You described earlier it was either a chest
4 or a back tingling. Did that start after you
5 started the treatment with Dr. Constanzi?

6 A Well, it started after the surgery.

7 Q Prior to the time you went on the treatments with
8 Dr. Constanzi?

9 A As much as I can remember, yes.

10 Q At the current time you continue to see him every
11 four weeks or --

12 A Four weeks, yes.

13 Q Has he given you any indication of how much longer
14 you will take the treatment?

15 A No, he hasn't.

16 Q Have you had any other illnesses or surgery since
17 you started the treatment with Dr. Constanzi?

18 A No, I haven't other than a cold. I had a real bad
19 cold the summer after I started treatment. It was
20 just a summer cold, real bad cold. That's about
21 all.

22 Q Did you go see a doctor for that cold?

23 A Yes.

24 Q Which doctor did you see?

25 A I think I went to Dr. Wilson. And they're at Family

- 1 Practice.
- 2 Q Have you ever seen a Dr. Fuller?
- 3 A Fuller?
- 4 Q Yes.
- 5 A I may have at Family Practice.
- 6 Q Have you had any other surgery since you started the
- 7 treatment?
- 8 A No.
- 9 Q Other than treatments with Dr. Constanzi, do you
- 10 have scheduled any other appointments with any other
- 11 doctors at the current time?
- 12 A Just occasionally -- maybe once a week or so -- I'll
- 13 go to a chiropractor that helps my back. She rubs
- 14 the muscles in my back and pops my back and my neck
- 15 to try to help me walk up-straight, keep my back
- 16 straight, because I tend to favor this left side.
- 17 Q How long have you been going to the chiropractor?
- 18 A Well, I guess -- I'm really not sure. Maybe six or
- 19 seven months, something like that.
- 20 Q So, it's basically recent?
- 21 A Yes.
- 22 Q What is the chiropractor's name you have been
- 23 seeing?
- 24 A Glasin. Dr. Glasin, in Alto Loma.
- 25 Q Where is he located?

1 A It's a she. She is located in Alta Loma or in Santa
2 Fe really is the name of the town.

3 Q Has any doctor that you have ever seen told you what
4 the cause is of the malignancy that was diagnosed in
5 November of 1982?

6 A I believe I heard it from Dr. Wilson that it's
7 caused from asbestos or it is an asbestos-related or
8 only caused by asbestos.

9 Q Do you remember when Dr. Wilson told you this?

10 A No. I sure don't. It just seemed like it's in my
11 mind that I heard it.

12 Q Did he tell you that your malignancy was caused by
13 an asbestos exposure or that that was one of the
14 causes of the type malignancy you have?

15 A It seems as if I can recall that it was just
16 asbestos is the cause of this type of a malignancy.
17 Just one for one.

18 Q How long have you been married to your wife now?

19 A Since 1961, August.

20 Q Would you describe your marriage as a good one?

21 A Oh, absolutely.

22 Q Have you had any problems in your marriage that you
23 attribute to your respiratory problem?

24 A I have no problems in my marriage at all.

25 Q Okay.

1 A And, you know, the relationship between husband and
2 wife has been perfect.

3 MR. VAUGHAN: I don't think he understands
4 the question, Counselor. If you are talking about
5 loss of consortium, you better ask him about that
6 more specifically.

7 A Yes, emotionally I mean -- you know, in love-making
8 and playing around with your wife and wrestling with
9 your children. We made love frequently before I was
10 operated on, and now it's seldom because it hurts my
11 chest and I'm out of breath.

12 Q (By Mr. Pike) If there is any difference in your
13 relationship with your wife or your children, is
14 your surgery in November 1982 somewhat the date that
15 you can tell a difference prior to that time and
16 after it?

17 A That would -- of course, being sick and in the
18 hospital would be a time lag when you would be able
19 to have relations with your wife and then the
20 recovery period you have more frequently or, you
21 know, more frequently than the time when you were
22 sick in the hospital. And then as time goes on, you
23 get -- the frequency slows down.

24 Q How frequently would you and your wife have
25 intercourse prior to the time of your surgery in

1 November of 1982?

2 A Oh, gosh. Probably three or four times a week.

3 Q Okay. After your surgery in 1982 was there an
4 immediate drop off, or was there a gradual decline
5 in the frequency of your relations?

6 A Let's see. It was probably a gradual decline from
7 seldom to -- I mean from few to seldom, you might
8 say, you know. As time goes on it's becoming less
9 and less.

10 Q Okay. What is the frequency at the current time?

11 A Oh, gosh. I guess it's -- in fact, she was telling
12 me the other day it's been a month now since we've
13 made love. So, it's gone say from beforehand three
14 or four times a week to less than once a month now.

15 Q What kind of activities did you do with Angela and
16 Amber prior to your surgery?

17 A Oh, gosh, just have fun with -- they were four and
18 six years old at the time; and just playing,
19 wrestling. I haven't been able to literally pick
20 them up and hold them in my arms since I have been
21 operated on and sit down on the couch and hug them
22 or something like that.

23 I can't get down in the floor and play
24 them with their doll house and their furniture like
25 we did when they were little or ride the tricycle

1 and swing them.

2 Q Do you still take them to movies?

3 A No. I haven't taken them to a movie in a long, long
4 time. Their mother took them to see a movie here a
5 couple of months ago.

6 Q Do you ever watch television with them?

7 A Yes, we watch TV.

8 Q Do you read to them?

9 A No. They read to me.

10 Q Do they go to church with you on Sundays?

11 A Yes.

12 MR. PIKE: Your witness.

13 MS. QUATTLEBAUM: Would you like to take a
14 break before we start?

15 MR. VAUGHAN: We better not. We're going
16 to have to break at 6:00 anyway.

17 (Discussion off the Record)

18

19 EXAMINATION BY MS. QUATTLEBAUM:

20 Q My name is Michelle Quattlebaum. I represent
21 Armstrong of Houston Corp, but it's Armstrong World
22 Industries now.

23 And it's my understanding that you cannot
24 give any testimony about what products that were
25 used there at Monsanto; is that correct?

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1 A I didn't work with the products myself. That's
2 true. I have no idea what brand names were used.

3 Q Earlier you said that you were walking by the men
4 when they were insulating the pipes; is that
5 correct?

6 A Yes.

7 Q You said you got close to them, or I can't exactly
8 remember the phrase. Can you give me an amount of
9 feet or distance that you were actually from these
10 men?

11 MR. VAUGHAN: I think he has already
12 answered that, Counselor. He said he talked to
13 them. He was just as close as you are when talking
14 to people.

15 Q (By Ms. Quattlebaum) As close as you and I?

16 A Sometimes.

17 Q Did you ever get any any dust or anything on your
18 clothes?

19 A Occasionally I assume. I imagine that I did, you
20 know, brush it off as you do --

21 Q The dust I'm referring to is the dust from the
22 products that they were using, insulating.

23 A Yes. I can see them overhead and dust coming down
24 and -- you know, not all the time. But I can
25 remember dusting it off my arms and stuff like that.

1 Q Before you were diagnosed to have the condition that
2 you have back in 1982, were you aware that people
3 claim that asbestos or asbestos in these insulating
4 products had some effect on your health?

5 A Not really, no. I noticed that some of the --
6 working in the inspection department since 1978, I
7 noticed that more precautions were being taken
8 before we could look at something and insulators
9 were all of a sudden coming out with face masks and
10 gloves and sealing up and everything else. And they
11 would cut the insulation for us and then seal it
12 off, and then we'd go look at the piece of metal
13 that was under it.

14 Q Did you talk with any of the insulators about the
15 asbestos and whether it could cause any injury to
16 their health or to your health?

17 A I don't believe I asked, not before I was sick.

18 Q What about: Had you ever seen any newspaper
19 articles or any shows on TV about asbestos?

20 A Not that I can recall. It just wasn't something --
21 you know, I didn't have any imagination about it.

22 Q What about: Did anyone at Monsanto ever warn you
23 that you should wear a respirator or any type of
24 breathing mask when you were near these insulating
25 products?

1 A No, not that I can recall. Not when I first went to
2 work in the inspection department. As time went on
3 between '77 or '78 and '82 when I got sick, they
4 told us -- you know, you could see the insulators
5 taking more precautions. And they told us to let
6 the insulators cut the insulation off.

7 Q So, approximately 1977 you started noticing masks.
8 Is that what you said?

9 A Later than that, after that. After I went to work
10 in the inspection department.

11 Q What was explained to you about the purpose for
12 these masks? Did someone explain to you why these
13 workers were wearing their masks?

14 A Not to me. "What are you wearing the masks for?"
15 "Well, they said the stuff was dangerous to breathe
16 in." I'd just ask the operators, the insulators.

17 Q And they would tell you this?

18 A Yes. And evidently -- well, go ahead.

19 Q When you used to watch the insulators or when you
20 were there, did you know that the products that they
21 were containing contained asbestos?

22 A No, I didn't. I didn't know it.

23 Q When did you become aware that these products
24 contained asbestos?

25 A Oh, I guess it wasn't until the last couple or three

1 or four years. I guess it's been -- bulletins have
2 been put out at the plant and around the world about
3 the danger of asbestos.

4 And now at the plant where I work down in
5 all these units and everything else for those 19
6 years have stencilled on the outside of the
7 insulation dangerous; danger, asbestos. And
8 everything now that has asbestos in it is labelled
9 at the plant, and it wasn't in the past years. I've
10 just noticed that the last year or so.

11 Q Can you be a little more specific about where you
12 have seen these signs stencilled?

13 A Throughout the plant at Texas City. Just about any
14 unit you go in, you can see it on it if you look up
15 on the insulation.

16 Q Can you give me any estimate or time when you first
17 started seeing these signs stencilled on?

18 A Yes.

19 MR. VAUGHAN: He has already answered
20 that. He said in the last three or four years.

21 Q (By Ms. Quattlebaum) I don't recall whether you
22 have been asked this. But have any of your
23 employers in the past couple of years complained
24 that you were not able to perform your job as well?

25 A Well, I've only had one employer.

1 Q Right.

2 A Since 1959.

3 Q What I mean is your supervisors or any of the
4 management.

5 A On, no. Since 1978 I've been working in the
6 inspection department and been having a great time
7 doing it. And I've had good reports as far as I can
8 tell from my bosses.

9 Q So, you haven't had any complaints from any of them
10 that you have not been keeping up or doing what you
11 are supposed to?

12 A That's right. Been getting good ...

13 Q Good reviews?

14 A Good reviews, yes.

15 Q Have you only had one session of chemotherapy, or
16 have you had several?

17 A (No Response).

18 Q Do you know what I mean?

19 A Well, once every three months -- I mean once every
20 three weeks and then once every four weeks since we
21 started back in '83.

22 Q In your answers to interrogatories you had mentioned
23 that you were having the usual side effects from
24 chemotherapy. Could you get a little more specific
25 about what kind of side effects personally you have

1 experienced?

2 A Well, the nurses and the technicians up there tell
3 you, you usually have this kind of side effects.
4 That's where I get the usual side effects since
5 everybody is a little bit different. It makes you
6 feel nauseous and weak. You know, you just feel
7 tired and run down, and you just don't feel good for
8 about a week after you have it. And then you
9 gradually get to feeling better.

10 Q I have noticed you have had a loss of hair; is that
11 correct?

12 A Yes.

13 Q Did you have a full head of hair beforehand, or were
14 you kind of like a few of these gentlemen here?

15 A Oh, yes.

16 MR. VAUGHAN: Diarrhea.

17 A Yes. Oh, I had a lot of hair. It was getting a
18 little bit thin on top in a little spot. But the
19 chemical causes your hair to fall out, and it makes
20 you feel weak. And it gives you a little diarrhea.
21 And it acts as an appetite suppressant. So, you
22 know, there's all kind of side effects that you
23 usually have. "Usually" is just what happens to
24 about a number of people over a time.

25 Q Have you had a weight loss?

1 A Oh, yes.

2 Q How much has that been?

3 A Oh, gosh, I guess it's been 30 pounds or so. I must
4 have weighed a 175 pounds, I guess.

5 Q Since when?

6 A Since '82, 1982. Since I had the operation.

7 Q When was the last time that you had x-rays to see
8 how your condition was progressing?

9 A Let's see. It was chemo -- just about ever other
10 time I have chemotherapy I get a chest x-ray. Then
11 I came up here to Houston and had a chest x-ray and
12 a test done up here about a month ago.

13 Q What did the doctor tell you at that time how your
14 x-rays looked?

15 A I looked at them, and they were essentially
16 unchanged since back at the beginning when they
17 started taking them.

✓ 18 Q Has the doctor indicated that your condition has
19 gotten any worse?

20 A Not that the condition has gotten worse, no.

21 Q Well, we have asked you a little bit about your sex
22 life. And how about the effect -- of course, there
23 is more to a marriage than sex obviously?

24 A Oh, yes.

25 Q What about as far as affection between you and your

1 wife? Have you seen any decrease in the love and
2 affection that you feel for your wife and or your
3 wife feels for you since your condition has been
4 diagnosed?

5 A No loss of love and affection mind to mind, you
6 know. But I don't pat her and touch her and fool
7 around and just lay hands on her, you might say.
8 How it just feels good to hug someone; I don't do
9 that hardly anymore.

10 Q Is that a physical inability to do so, or is it an
11 emotional inability?

12 A Well, it hurts my chest. Like if I hold her close
13 to me, it hurts. It hurts my chest; it hurts my
14 side and my chest and everything else. And that
15 makes me afraid to touch her, you might say, because
16 I'm afraid it will go on from there, you know.

17 Q Okay. Your wife was working, and she works part
18 time some now. Has she had to take off any time
19 from work or anything to care for you any more than
20 she had, say, prior to 1982?

21 A No.

22 Q Have her duties around the house increased any as
23 far as things that you would have normally done that
24 now she has to do?

25 A Oh, gosh, yes. All the little things around the

1 house that you need to have done. Raking the grass,
2 or putting up a swing set for the children, or
3 nailing a board up, or mopping the house -- well,
4 she has to do all of that herself. And

5 Q Okay. What is it that you cannot do now that you
6 could before? Have you noticed any decrease in
7 things you like to do as a hobby?

8 A Yes. Physically, I can't do physical things. I
9 used to like to run. I used to like to shoot a
10 high-powered rifle in matches. I was a very good
11 shot. Hunt and fish and things like that.

12 Q Let's start with your running. Are you talking
13 about like jogging like people go --

14 A Yes, just fooling around running.

15 Q Did you do that on a regular basis prior to 1982?

16 A No, not as a sport of any kind.

17 Q Well, I mean like every morning did you go out and
18 run five miles or anything like that?

19 A No, no regimentation at all.

20 Q You said you competed with a high-powered rifle?

21 A Yes, a long time ago.

22 Q How long has it been since you were in a
23 competition?

24 A Oh, gosh, I guess ten years maybe.

25 Q Have you done any competing at that, say, in the

- 1 past ten years of any frequency?
- 2 A Not in the past ten years, no.
- 3 Q What about hunting and fishing? How often, say,
- 4 back in the late 1970s or 1980s did you go fishing
- 5 and hunting?
- 6 A During the deer season I would probably be gone
- 7 every weekend to the hill country, and during the
- 8 summer we'd go fishing all the time. We have a boat
- 9 and motor. It hasn't been in the water -- we
- 10 stopped going fishing, I guess, when our oldest
- 11 daughter was born in 1975 because Gay was pregnant
- 12 and she couldn't go in the boat anymore. Then the
- 13 baby was born, and it was too little. And then the
- 14 next one came along, and it was too little to take
- 15 out in a boat.
- 16 Q So, since Amber was born you really have not gone
- 17 fishing much?
- 18 A Right. We've gone offshore. We had a trip given to
- 19 us to go offshore last year. And we went -- just my
- 20 wife and I went offshore, and we went in one of the
- 21 big party boats.
- 22 Q Where was this located?
- 23 A Out of Galveston on one of those offshore -- RANGER.
- 24 Wherever it went, I don't know.
- 25 Q That was sometime last year?

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- 1 A That would have been a year ago.
- 2 Q What about hunting, deer hunting?
- 3 A Yes. We have some land in the hill country, a
- 4 hundred miles northwest of San Antonio.
- 5 Q Is that property that you and your wife own?
- 6 A Yes.
- 7 Q Is it like a deer lease or farm or what?
- 8 A It's just out in a remote area of the hills out
- 9 there.
- 10 Q What do you use it for other than hunting?
- 11 A Nothing. I built a cabin on it in 1980, '81. And
- 12 it's just a hill country retreat. It's where we go
- 13 in the summertime.
- 14 Q When was the last time that you went hunting?
- 15 A I haven't hunted since I have been sick.
- 16 Q You did not go in 1983 at all?
- 17 A No.
- 18 Q Or 1984?
- 19 A No.
- 20 Q How about 1982? Did you go any that year?
- 21 A No. I asked him if I could hunt because I was
- 22 operated on in November, and the season started.
- 23 And he said he wasn't sure I should shoot a
- 24 high-powered rifle with a fresh cut in my side. I
- 25 shoot right-handed, but it's still the kick from the

1 rifle.

2 Q I'm not a deer hunter. Is that the only time of the
3 year you can go hunting is November?

4 A Yes.

5 Q Do you have any plans to go -- I would assume deer
6 season is about this time of year.

7 A It's about to start.

8 Q Do you have any plans to go this year?

9 A We're going to try to. I don't like to go up there
10 when it's cold. I don't like the cold weather. She
11 asked me if we were going deer hunting. I said:
12 I'll let you know Thursday. It depends how cold
13 it's going to be. I'm not going to drive 350 miles
14 to freeze my ears off.

15 Q Do you have a lease that you go to?

16 A No. We hunt on our land.

17 Q Do your sons come and hunt with you? I guess
18 they're off at college.

19 A They have occasionally, but not very often.

20 Q But your wife likes to hunt with you?

21 A She started to hunt just the last couple of years.
22 Well, last -- she's hunted with me up there a couple
23 of years before we got -- before I got sick.

24 Q What about anything else? Is there anything else --
25 any other regular activities -- that you used to

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- 1 enjoy that you are not able to do right now?
- 2 A Oh, yes. We used to take the little ones swimming
3 all the time, to the beach. And they haven't been
4 to the beach since I have been sick, which is two
5 years. And we were scuba diving. I'm certified.
- 6 Q You are a certified scuba diver?
- 7 A Yes. Of course, I haven't been able to do that
8 since I have been sick.
- 9 Q When was the last time that you went?
- 10 A Oh, gosh, it was probably '81. 1981 maybe.
- 11 Q Where did you used to go diving?
- 12 A Just in the Gulf and bayou and Galveston. And
13 there's different pits, sand pits, around here.
- 14 Q Have the doctors said anything about the pressure,
15 that you are not physically able to go as far as the
16 pressure on your lungs or --
- 17 A No. No one has ever mentioned -- none of the
18 physicians have mentioned it and said not to do it.
19 I don't feel like doing it.
- 20 Q Anything else? Any other activities?
- 21 A Well, I used to travel a lot for fun. You know, I'd
22 travel to -- we took the boys and everything, and we
23 all went to Colorado for two weeks camping out, you
24 know. And we was planning on doing that with the
25 girls when they got to this age; camping. They're

1 six and eight years old. And I can't see camping
2 out for two weeks now. It would be too hard on
3 me.

4 Let's see. I used to camp. I'd travel
5 for the company a whole lot in 1980 and '81. And I
6 can't. I haven't been asked to travel since I have
7 been sick.

8 Q You said they have not asked you to travel, or you
9 have turned them down and said you felt like you
10 could not travel?

11 A No. I -- they haven't asked me to travel because
12 they can see that I don't feel good, you know.

13 Q What about other aspects of your job? Is there
14 anything else that you normally used to do in your
15 job that you cannot do now? Any other types of
16 activities, like traveling or --

17 A No. I can probably do most of what I did before.
18 It would just take a whole heck of a lot longer. I
19 probably couldn't climb as high or as fast or go up
20 as many stairs as fast. And I just have lost
21 strength in the last two years from not feeling like
22 exercising.

23 Q Did you ever used to help your wife with the
24 housework?

25 A Oh, yes. I'd help her mop mostly because that's

1 hard work; mopping. And she would clean up and dust
2 and sweep and everything. And I would mop the house
3 for her and, of course, do all the the home repairs.

4 Q Are you able to help her mop now?

5 A No. I haven't mopped in a long time.

6 Q Has she had to hire outside housekeeping help to
7 help her with the house in the past couple of years?

8 A Yes. She asked a girl to help her, and they kind of
9 traded off art lessons for helping her with the
10 house.

11 Q And how long has she been doing this with that girl?

12 A She's not doing it anymore. It was just for a
13 little while there she had her helping her. It's
14 been about six months, I guess, since that girl has
15 been there.

16 Q How long did she do it for? How many months or
17 weeks?

18 A Once a week for about three or four months, I guess,
19 she came to help her.

20 Q And she would just give her an art lesson in
21 exchange for her helping her?

22 A Yes, just the barter system.

23 Q Alta Loma is down by Galveston, isn't it?

24 A It's on Highway 6 between Galveston and Alvin, you
25 might say, off the freeway at say Dickinson.

- 1 Q I don't believe I have ever been in Alta Loma. But
2 is it an industrial area?
- 3 A No. It's a bedroom community.
- 4 Q Where is the nearest -- I guess there are refineries
5 obviously near there?
- 6 A Well, in Texas City.
- 7 Q Right.
- 8 A Which from my house it's probably twelve or thirteen
9 miles to where I work in Texas City.
- 10 Q Are there any other plants or refineries around
11 there other than Texas City?
- 12 A Up here around Houston and then south toward
13 Freeport.
- 14 Q But not in this area?
- 15 A Nothing in the city. Nothing close.
- 16 MS. QUATTLEBAUM: I think I'll pass the
17 witness.
- 18 Thank you.
- 19 THE WITNESS: Okay.
- 20 MS. BICKLEY: I'll pass.
- 21 MR. TOLIN: I have questions.
- 22 MR. COOK: What about me?
- 23 MS. QUATTLEBAUM: I'm sorry.
- 24
- 25 EXAMINATION BY MR. COOK:

1 Q Mr. Paratore, my name is Ron Cook, and I have a few
2 questions for you, sir.

3 A Yes, sir.

4 Q When was the last year that you worked in your
5 father's automobile repair shop?

6 A I guess after when I started to work at Monsanto
7 which is 1959, and before that for six months I was.
8 It was probably 1958 or so.

9 Q Who is Paul Bailey?

10 A At one time he was our head supervisor in the
11 inspection department.

12 Q Has he been replaced by Mr. B. J. Sanders?

13 A No. He's been replaced by -- yes, by -- not B. J.
14 Sanders, but another Sanders. B. J. Sanders is one
15 of the metallurgists -- not metallurgists, but
16 mechanical engineers who worked for Paul Bailey.

17 Q Okay. What about Mr. Trelevin? Who is he?

18 A Trelevin; he's a mechanical engineer that works in
19 our area.

20 Q Do you work for these fellows?

21 A Yes, there are several. There is one, two, three --
22 there's probably five or six metallurgists and
23 mechanical engineers who are our supervision, you
24 might say. And we report to one.

25 We report to a Danny Gibbs. We all report

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1 to him, and he reports to B. J. Sanders. And B. J.
2 Sanders in turn reports to a guy named Saunders who
3 has taken Paul Bailey's place.

4 Q Okay. So, your present supervisor is Mr. Gibbs?

5 A Yes.

6 Q Who was your supervisor in November of 1982?

7 A Gibbs.

8 Q So, if I wanted to talk to your supervisor since
9 before the onset of your injury until today, it
10 would be Mr. Gibbs that I would talk to?

11 A He's been in charge of us since I have been there in
12 '78.

13 Q Have you customarily received pay raises on April
14 1st of each year?

15 A Yes.

16 Q I have your payroll records here, and I don't plan
17 to burden you with them, sir. But it appears that
18 you have had at least since 1981 an increase in pay
19 on every April 1st. Have there been any other pay
20 adjustments in that time period, or is it just done
21 annually?

22 A Just done annually. We have a mid-year review.

23 Q You don't get pay adjustments then. You just get a
24 performance evaluation; is that right?

25 A True.

- 1 Q What is your present salary, sir? Annual?
- 2 A It's about thirty thousand. I'm not sure exactly of
- 3 the amount.
- 4 Q Okay. If I multiplied it correctly, is your monthly
- 5 salary now \$2595 gross pay?
- 6 A It's pretty close to that. Yes, I was thinking
- 7 twenty-two to 2495. Yes.
- 8 Q Is the work that you do presently as an inspector
- 9 strenuous work, or is it a matter of just going
- 10 around in the plant checking things?
- 11 A It's not strenuous work once you get to where the
- 12 work is. You may have to work your tail off to get
- 13 to where the work is. Like we have one column out
- 14 there that is 265 feet high, and you have got to
- 15 inspect the top. Once you get there -- it's really
- 16 not all that much work to do once you get there.
- 17 There's no physical
- 18 Q As I understand your present working situation, they
- 19 do not schedule you to do that kind of work; is that
- 20 right?
- 21 A I haven't been since I have been sick, yes.
- 22 Q Have they been able to schedule you so that you are
- 23 inspecting things that are relatively accessible
- 24 that you can get to with relative ease?
- 25 A Yes.

1 Q Do you have to carry tools along with you or
2 anything like that?

3 A Yes, we have measuring tools for measuring metal and
4 stuff that we take with us.

5 Q Do you have a tool box that you carry around with
6 you, or how do you --

7 A Just a little bag.

8 Q Okay.

9 A Cloth bag.

10 Q Do you have any idea what that weighs?

11 A Three or four pounds.

12 Q So, the toughest part of your job is the walking,
13 bending, stooping, climbing?

14 A Yes.

15 Q To the extent possible, they schedule that part of
16 your job down so that you do not have any difficulty
17 doing it?

18 A Right.

19 Q I believe you have told us already you have not had
20 any complaints at all about your capacity to do your
21 work. No one has complained that you are not doing
22 your job?

23 A I haven't heard any complaints.

24 Q You say you walked through areas on occasion where
25 people were doing insulation work. That wasn't a

1 daily occurrence in the time that you have worked at
2 Monsanto, is it, sir? It is something that happened
3 cyclically or on different occasions?

4 A Well, every day I would make the trip between these
5 three offices. And at different times during -- you
6 know, not every day I would walk by guys insulating.
7 But every day I would make the trip.

8 Q Sure.

9 A And if anybody was working around that area, I'm
10 bound to see them.

11 Q But you didn't mean to leave the impression with us
12 or with the jury that every day you walked through
13 an area where someone was actually doing insulation
14 work?

15 A Well, someone may have been, and I just didn't see
16 them. Every day I made this trip through this area.

17 Q Sure. Okay.

18 A Several -- you know, several times a day I would
19 walk through this area.

20 Q Who is Dr. K. G. Christian? Is that someone known
21 to you?

22 A I don't recall the name.

23 Q Have you ever talked to a doctor on the Monsanto
24 medical staff about your condition?

25 A Oh, yes, when I came back in January we had a doctor

1 there on staff; a retired physician. But I don't
2 recall his name. It may be the doctor you refer to.
3 I don't recall.

4 Q But you do recall talking to some doctor at Monsanto
5 about your condition?

6 A Yes. Just telling him about it, what I knew about
7 it at the time.

8 Q If the medical records we have from Monsanto said --
9 if there is a report in there signed by Dr.
10 Christian, you don't know one way or the other
11 whether that is the fellow you talked to?

12 A I can't recall his name. No.

13 Q Is he still there?

14 A I haven't been to the nurse's office in I don't know
15 how long. I don't know whether he still is or not.

16 Q Okay. You said earlier, sir, that one time your
17 chest hurt and you felt like you had pleurisy. How
18 did you know what pleurisy felt like? Have you had
19 it before?

20 A No. I never had pleurisy. Just from the
21 description that people would give you: My chest
22 hurts. My doctor said I had pleurisy.

23 It's just a catch-all phrase, I guess you
24 would say.

25 Q Yes, sir. Do you have any friends or acquaintances

1 who have had problems with asbestos-related
2 diseases?

3 A Not that I knew about until I had it and then found
4 out that my friends at the plant who were insulators
5 had problems with it.

6 Q Have you had anybody who is close to you in any way
7 who has had any serious illnesses that have been
8 related or attributed to asbestos exposure?

9 A No.

10 Q You have spent six years in the Marine Corps
11 Reserve; is that right?

12 A That's true.

13 Q Did you have to give up vacation time every summer
14 to do two weeks of active duty some place?

15 A No. Monsanto Company gives you time off to do their
16 two weeks' military duty, plus you get your
17 vacation.

18 Q How much vacation do you get, sir?

19 A Now, after being there 25 years I get five weeks of
20 vacation.

21 Q How much did you get before you had been there 25
22 years?

23 A You get four weeks up to 20 years -- I think after
24 20 years.

25 Q This may be a hard question for you to answer, sir,

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1 and if you can't answer it, just tell me so. Do you
2 have any idea what percentage of the amount of money
3 that you make on a monthly basis goes to support
4 your wife and your two daughters as opposed to your
5 own consumption and the things you need for your own
6 personal needs?

7 A Oh, gosh. Probably the most part of it goes for --
8 the children go to private school. There's tuition
9 to pay. There's lunch for them every day and
10 transportation back and forth for them to school.

11 Q Do you have any idea what percent? Would it be as
12 much as 80 percent that you think that goes to the
13 support of your wife and children compared to your
14 own personal consumption?

15 A Gosh, I don't know how you would even make an
16 estimate like that.

17 Q You are not prepared to do that?

18 A No.

19 Q Have you seen -- you've talked with Mr. Pike, and I
20 think you have said you have seen a number of
21 doctors and you have given their names. Have you
22 seen any other doctors that you have not talked
23 about today about your chest problems?

24 A No, sir.

25 Q Do you have any plans to see any doctors that you

1 have not talked about today? Do you have any
2 present plans to see any doctor?

3 A I have no future plans.

4 Q Are you happy with the work that Dr. Constanzi is
5 doing with you? Do you think that he is doing a
6 good job for you?

7 A I imagine it's the best job that can be done.

8 Q Do you have any complaints about the quality of the
9 medical care that you are receiving at this time?

10 A No. The care of the nurses up there is very fine.

11 Q Pardon me, sir?

12 A The care from the nurses when I go get my treatment
13 is very good.

14 Q Have you seen any other psychiatrists,
15 psychologists, or any other person about any
16 emotional discomfort you may have as a result of
17 your illness?

18 A Dr. Constanzi referred me to a psychologist to help
19 me with what is biofeedback, to help me try to
20 mentally reduce the effects of the drugs that
21 chemotherapy has on my body. I went to him for six
22 or seven months, and then I haven't -- it's been a
23 year now, I guess, since -- about a year; more than
24 a year since I have been to him.

25 Q Do you remember what his name was?

- 1 A No. I couldn't even -- I had trouble with it then.
2 He's in Galveston. Leonard -- I can't recall his
3 last name.
- 4 Q Dr. Derrick?
- 5 A No. Dr. Derrick is a surgeon.
- 6 Q Dr. Brumbaker?
- 7 A No.
- 8 Q Okay. If you can find out the name of that doctor,
9 sir, would you give it to your attorney, Mr.
10 Vaughan, so that we can learn who he is?
- 11 A Yes.
- 12 Q You saw him strictly for biofeedback training and
13 therapy?
- 14 A Basically we did, yes. With the little computer I
15 could control brain waves and raise the temperature
16 between my finger tips and --
- 17 Q Does that therapy seem to work?
- 18 A I have a tape that we made that would relax me when
19 I'd listen to it.
- 20 Q Do you ever talk with him about depression or
21 anything of that nature, or is that any medical
22 problem that you have had?
- 23 A No. My attitude has always been high.
- 24 Q Yes, sir. It seems that's true. I'm just wondering
25 if you had any reason to or occasion to talk with

1 any doctor about any sort of emotional problem
2 related to this illness. Other than the biofeedback
3 training, I think you have told me you haven't; is
4 that right?

5 A That's true.

6 Q In the plant that you work in, sir, how is it
7 ventilated? Are there exhaust fans there or fans to
8 blow air through or air conditioning?

9 A I don't understand really the question.

10 Q Okay. I wasn't paying as much attention as I should
11 have been awhile ago when you were talking -- I
12 think you talked about Areas 15 and 16 and 5 and 6.
13 Have I got the numbers wrong?

14 A They're all mixed up.

15 Q Let's just take one of those areas that you walked
16 through there. What would be one of the areas that
17 you would walk through in your normal day?

18 A Well, now since I'm in the inspection department
19 it's liable to be any place in the plant.

20 Q Okay.

21 A But from 19- --

22 Q '78?

23 A -- '78 I was in the styrene department. I was
24 confined to that -- not confined, but that's where
25 my work area was.

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- 1 Q Yes, sir. What I'm wondering: How did they provide
2 for ventilation or air conditioning in that area?
- 3 A Of course, the whole plant is outside in the open.
4 And there's no ventilation required, you might say.
5 It would just be like -- you know, everything is
6 outside.
- 7 Q I understand now.
- 8 A It's not inside of buildings. These are things that
9 are outside.
- 10 Q This is equipment that is physically located
11 outside, and you walk from piece of equipment to
12 piece of equipment; no roof?
- 13 A True, no roof. I didn't do this -- you know, I
14 would walk down the street or cut between the
15 equipment to go to the other building when I was
16 working in the styrene department.
- 17 Q Why would you have the occasion to go into a
18 building?
- 19 A Well, the offices and the controls are in a
20 building -- what they call a control house; just a
21 one-story building.
- 22 Q That building didn't have insulation or insulating
23 workers in it, did it, sir? The control room?
- 24 A It was for the operators, the operators. And
25 anybody could walk in or out of the building.

1 Q I misspoke. Let me clear that up.

2 You did not have insulators working in
3 that area ordinarily, did you, sir? The people you
4 talked about seeing on a day-to-day basis were
5 insulating outside.

6 A Yes, mostly.

7 Q I think you mentioned inhalation therapy where you
8 breathe something in, and then could see if you
9 could spit or otherwise bring up phlegm?

10 A Yes.

11 Q Did that help you at all? Did it work?

12 A No. It never did bring anything up.

13 MR. COOK: Thank you, Mr. Paratore.

14 That's all the questions I have, sir.

15

16 EXAMINATION BY MR. TOLIN:

17 Q Mr. Paratore, my name is David Tolin. I represent
18 Fibreboard Corporation.

19 A Hello.

20 Q I have narrowed my questions down to five areas. I
21 will try to be brief in each area and tell you what
22 I'm going into in advance because I realize you have
23 been here all afternoon. Fair enough?

24 A Okay.

25 Q First of all, I want to ask a couple of questions

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- 1 about recent activities outside of your job. You
2 said a few minutes ago that last year you went on
3 one of the big party boats down at Galveston and
4 went deep sea fishing. It was a trip that was given
5 to you and your wife?
- 6 A Yes.
- 7 Q About what time of the year was that?
- 8 A It was in June of -- what would that be? '83. Last
9 year, I guess. It was a year ago.
- 10 Q What was the duration of that trip? That is,
11 approximately when did you depart, and when did you
12 arrive back at Galveston?
- 13 A It was a 7:00 o'clock in the morning until 7:00
14 o'clock at night trip; twelve hours.
- 15 Q How was the catch? Did you personally fish and
16 catch anything?
- 17 A Yes. I was wondering how I was going to do that,
18 but I was able to lay the rod on the railing or
19 whatever you call it on the boat and wind with my
20 right hand. And, of course, deep sea fishing, you
21 just let it all the way down and pull it up. You
22 don't really have to fight the fish. And we didn't
23 catch that many fish either.
- 24 Q Caught some, but not too many?
- 25 A Yes. They were small.

- 1 Q When was the last time that you went up to your
2 place in the hill country?
- 3 A In July; this last July. The 4th weekend.
- 4 Q Did you drive on that trip?
- 5 A Yes.
- 6 Q Did you and your wife share the driving, or did you
7 drive?
- 8 A No. I drove.
- 9 Q And, of course, you can drive your automobile and
10 transport yourself to and from work?
- 11 A Yes.
- 12 Q The second area that I'd like to ask some questions
13 about has to do with your late father's automobile
14 repair business. What was the name of his business
15 where you sometimes worked during the summers and
16 after school?
- 17 A It was called Downtown Motors.
- 18 Q Where was it located, sir?
- 19 A At 2202 Avenue G in Galveston.
- 20 Q Is that business still in operation today?
- 21 A No. My mother sold it. She sold off everything
22 when he died in 1969. The building is still there,
23 but there's no business in it.
- 24 Q How large a building is it?
- 25 A Oh, it's a half a block long and whatever -- let's

1 see. Whatever a block is in Galveston. It's maybe
2 60 feet by a hundred feet maybe.

3 Q Was there a particular part of that building where
4 brake jobs were done during the time you were
5 familiar with it in high school?

6 A There were like two sections; a mechanical section
7 and then where they did the painting. And it was
8 just anywhere in that mechanical section.

9 Q Did that comprise about half the building, would you
10 say, or less?

11 A Probably two-thirds of the building, mechanic and
12 body work.

13 Q And you said that after school you went there
14 because both your father and mother worked in the
15 business. And, of course, you had no brothers or
16 sisters so you naturally went there after school?

17 A Right.

18 Q As I understood it during those high school years
19 when you did go there in the afternoon, you would do
20 some of the work yourself; right?

21 A Well, I never was -- I never learned to do auto
22 mechanics, no. I can change the spark plugs, but I
23 can't put points in your car or my car or brake jobs
24 or overhauling the engine or taking a carburetor
25 apart. No, I can't. I was always helping by going

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1 to get something; a go-for them.

2 Q You never did brake work yourself?

3 A No, not even on my own car.

4 Q You were at times around the work being done on
5 changing brake linings and that sort of thing
6 during the summer and after school?

7 A I'm sure I was. But not doing any of the work.

8 Q I don't suppose that you knew at the time who it was
9 that made those brake linings or supplied them to
10 your father's business. Is that the type of thing
11 your curiosity ever prompted you to learn or find
12 out?

13 A No. We would just send to the parts house for a new
14 set of brakes, and they would come in a box. I
15 might go to the parts house to get it and bring it
16 back and give it to the mechanic. I don't guess it
17 was a brand that I could think of.

18 Q When a mechanic worked on brakes, at times were you
19 personally side by side or fairly close maybe
20 holding a tool or observing the operation he was
21 conducting at any time?

22 A That could be. In all those years there's no
23 telling.

24 Q The next area I have some questions concerning is
25 your work actually at Monsanto. First of all, from

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1 1959 to 1978 when you were a production clerk, you
2 said you worked in three offices during that period
3 of time. So, you had to get from one office to the
4 other; right?

5 A Yes.

6 Q And when you were in the office, that is by
7 definition inside work; correct?

8 A Right, yes.

9 Q Now, I take it you did not wear work clothes like
10 the people -- the insulators outside. You dressed
11 in more or less civilian attire?

12 A Yes, just casual, like blue jeans or whatever, you
13 know.

14 Q Sport shirt, that sort of thing?

15 A Yes.

16 Q If you approached a group of insulators who were
17 actually applying the insulation outdoors and there
18 was dust flying around in the area, I take it you
19 would not go right up to them at a time like that
20 and visit with them. Is that a fair statement?

21 If there was dust flying around in the air
22 and they were actually applying or stripping off
23 insulation, you would wait to some other time to go
24 up side by side and talk to these men?

25 A Well, probably just whatever occasion arose. If I

1 had something to say to him or say I wanted to say
2 "hi" or ask him about something, I may go up while
3 he is working because you can work and talk at the
4 same time.

5 Q What I was really trying to find out, because you
6 had an office job and you wore fairly nice clothes
7 to work, whether you would go into a dusty area or
8 just kind of avoid that kind of an area so you did
9 not go back to the office covered up with dust?

10 A I doubt if that ever occurred to me what I had on.
11 If I got dust on my clothes, I just dusted it off.

12 Q Whatever you got on your clothes was just easily
13 dusted off?

14 A I'm sure it was because I don't recall having to
15 pick things off. Just dust off your clothes.

16 Q You don't recall it covering you like snow?

17 A Oh, no.

18 Q Now, after 1978 when you went in to work with an
19 engineering technician, by that time you said
20 precautions were being taken when the asbestos was
21 removed from the lines or from the tanks or the
22 vessels out there; correct?

23 A After --

24 Q 1978.

25 A After 1978 I noticed, because as I have been working

1 the precautions have become more. There were no
2 precautions, say, when I first started. And
3 precautions are from zero to a hundred percent, you
4 might say.

5 Q Would you say that in that first year from 1978 to
6 1979 that the plant began to really implement those
7 precautions when asbestos was being removed? Would
8 that be roughly the period of time?

9 A Probably after '80 or '81, somewhere along in
10 through there because we had a big show on asbestos,
11 you know, all of a sudden it seemed like.

12 Q Correct me if I am wrong. I understood you earlier
13 to tell Mr. Pike that you believed your asbestos
14 exposure occurred in the earlier phase of your
15 career. That is from 1959 to 1978 rather than from
16 1978 forward?

17 A Most of my -- of course that covers two-thirds or
18 three-fourths of the time that I have been working
19 in Monsanto that first 19 years.

20 Q Yes, sir.

21 A And that was all in one place.

22 Q Yes, sir.

23 A And since 1978 we've been -- I've been moving
24 around, you know, in the inspection department. We
25 go to all the departments, and it seems like the

- 1 precautions have become more ever since I started
2 working there. At first there were no precautions.
3 Then "Watch that stuff. Stay downwind from it.
4 Be sure you are downwind from it." Just precautions
5 have become more ever since.
- 6 Q So, whatever the exposure since 1978, you believe it
7 to have been less in the plant generally because of
8 these precautions. Would that be a fair statement?
- 9 A Since 1978?
- 10 Q Yes, sir.
- 11 A Probably.
- 12 Q Did you learn at some time or do you know at the
13 present time that insulation in the new products
14 that were being applied from 1972 or '73 forward was
15 free of asbestos? That is, the products that
16 started coming out on the market for new insulating
17 around 1972 were asbestos-free? Is this something
18 you know of?
- 19 A No. I had no knowledge of what is or when it is.
- 20 Q This is the first time that you have heard anyone
21 suggest that?
- 22 A About products being asbestos-free?
- 23 Q From 1972 or 1973 forward?
- 24 A First time I've ever heard that date.
- 25 Q All right, sir. I promised five areas, and I'm to

1 the fourth one. So, we are moving along pretty
2 good.

3 Does your attorney have the product list
4 that was referred to earlier?

5 MR. TOLIN: And could you show it to him
6 for a moment, please?

7 Q One of the lawyers has just handed you some papers
8 that are answers to interrogatories in this lawsuit.
9 And just for background, you recall after filing
10 your lawsuit that someone in your attorney's office
11 told you these were questions that needed to be
12 answered as a part of your lawsuit; these
13 interrogatories?

14 A Yes.

15 Q And you understood that providing information or
16 helping your attorney seek out information to answer
17 these interrogatories would be an important part of
18 your lawsuit, sir?

19 A Yes.

20 Q Now, are you looking at the page that is headed
21 "Answer to Interrogatory No. 8"?

22 A Yes.

23 Q That page and the two pages that follow is a list of
24 products you believe you were exposed to at sometime
25 during the years you worked at Monsanto; correct? A

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1 list both of manufacturers and products that you
2 believe you were exposed to based on what others
3 have told you?

4 A Yes.

5 Q And the manufacturers and the product names that are
6 listed on these three pages came to your attorney
7 from insulators or from coworkers out at Monsanto
8 who actually worked with insulation products;
9 correct?

10 A That's what I believe.

11 Q And those would be the 28 people that are listed in
12 the page that is styled "Answer to Interrogatory No.
13 13"?

14 A Yes.

15 Q And simply because you never worked with a product
16 personally, you will have to rely upon those people
17 who worked at Monsanto or some others to tell the
18 jury in this case what insulation products were out
19 there and what insulation dust you might have been
20 exposed to; correct?

21 A Right.

22 Q Now, one of the insulation manufacturers identified
23 on your list is Johns Manville. It's No. 15. Do
24 you have that before you?

25 A Yes.

1 Q And several Johns Manville products are listed under
2 that name; correct?

3 A Yes.

4 Q Now, using Johns Manville as an example, Mr.
5 Paratore, even if those products were out at
6 Monsanto during the time that you worked there, you
7 would have been exposed to the dust from the
8 products only if you went through an area where the
9 insulation was being cut or hammered or beaten on or
10 some other operation of that type was going on; is
11 that correct?

12 MR. VAUGHAN: If you know.

13 A If I knew or what -- I don't know what causes the
14 insulation to come apart or flake off or whatever it
15 does to hold itself together.

16 Q (By Mr. Tolin) Do you know if any of these 28
17 people who are listed in your answer to
18 Interrogatory No. 13 can actually place you at a
19 particular location on a particular date when a
20 specific type of insulation was being used, or would
21 we have to ask them about that?

22 A You'd probably have to ask them because I don't -- I
23 would know a man was working on -- you know, was
24 working on some insulation or something or working
25 on a pump, and I'd stop and talk to him for a minute

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1 and go on. And I don't know what product he is
2 using. He might remember I was there at that
3 particular time, and he might not.

4 Q I understand.

5 A It's chasing star dust.

6 Q But those are the 28 people that you would rely on
7 at trial to tell the jury -- some of them at least,
8 to tell the jury the specific products that you were
9 specifically exposed to at Monsanto?

10 A Yes.

11 Q Take a look, if you would, sir, to Interrogatory No.
12 8, your answer to Interrogatory No. 8, concerning
13 the products you believe you were exposed to at
14 Monsanto. Do you still have that in front of you?

15 A In a minute.

16 MR. VAUGHAN: Go ahead.

17 A Yes, I do.

18 Q (By Mr. Tolin) Now, this three-page list contains a
19 total of 15 manufacturers' names, and they're
20 numbered; correct?

21 A Yes.

22 Q And then beneath those manufacturers' names are
23 numerous product names; correct.

24 MS. BARRON: Excuse me. You stated 15.
25 It looks like there is a skip from 8 to 10. There

- 1 is not a No. 9 as far as I can see.
- 2 A That's true.
- 3 Q (By Mr. Barron) 1 through 8 and 10 through 15;
- 4 correct?
- 5 A She caught it.
- 6 Q And beneath those manufacturers' names that are
- 7 listed there are several product names or a number
- 8 of product names; correct? Trade names or brand
- 9 names?
- 10 A Yes.
- 11 Q I didn't hear the answer, sir.
- 12 A Yes.
- 13 Q The name Fibreboard Corporation does not appear on
- 14 that list, does it?
- 15 A I don't see it. It may be one of the --
- 16 MR. VAUGHAN: It's probably No. 9.
- 17 A Yes. It may be one of the product lines. I don't
- 18 know what it is. I don't know what Fibreboard is.
- 19 Q (By Mr. Tolin) In reviewing the list, you do not
- 20 see the name Fibreboard Corporation, do you agree?
- 21 A No.
- 22 Q So, at this particular time you have no basis to say
- 23 that you were exposed to any product manufactured by
- 24 Fibreboard Corporation; is that correct?
- 25 A I don't know what I was exposed to.

1 Q The list gives you no basis to say that you were
2 exposed to Fibreboard products although the list
3 gives you some basis to believe you were exposed to
4 certain other products; is that correct?

5 A I don't know what Fibreboard is.

6 Q Okay. I'm not trying to trick you.

7 A Now, Fibre-

8 Q Let me rephrase it one more time and give you a
9 question, and if you cannot answer it, just tell me.
10 But from both the list and then from your personal
11 knowledge, you would have no basis on this
12 particular day to swear to a jury that you had any
13 belief of exposure to Fibreboard Corporation
14 insulation products?

15 A I can't really answer.

16 Q Okay. I'll do this one more time and try to keep it
17 brief in just a slightly different direction.

18 Can you look through the list for us? And
19 take your time.

20 MR. VAUGHAN: We'll stipulate Fibreboard
21 is not listed in the document that he is looking at.

22 MR. TOLIN: That's not the question. It's
23 a different question.

24 MR. VAUGHAN: Good.

25 Q (By Mr. Tolin) Could you look through the list?

1 And take your time -- perhaps your attorney will
2 stipulate to this -- and find if Pabco or Caltemp or
3 Super Caltemp appears anywhere in the product list?

4 A Kaltone with a "K."

5 Q It starts with a "C." C-A-L-T-E-M-P.

6 A Caltemp. I didn't understand.

7 Q Let me strike the question.

8 We'll move on.

9 A I don't see it on the list.

10 Q I know where it will take is.

11 The final area, Mr. Paratore, that I have
12 some questions in has to do with your condition and
13 what doctors have told you about it. I don't think
14 I'll be repetitious because you have answered a lot
15 of questions in that area already.

16 Based on what doctors have told you, what
17 is your understanding of the outlook for your
18 future? And first of all, let me ask you in terms
19 of how long you might continue working; if any
20 doctor has given you some opinion or some prognosis
21 in that particular area?

22 A No. I have no estimate on life expectancy or the
23 time working expectancy given to me.

24 Q You anticipated an answer in the other area on that
25 question as well. No doctor has given you a

1 prognosis or a prediction that your condition will
2 shorten your life expectancy measurably or anything
3 of that sort?

4 A No.

5 Q Has any doctor ever specifically told you that you
6 have a condition called mesothelioma?

7 A Yes.

8 Q What doctor was that, sir?

9 A Dr. Wilson when he called back in November or before .
10 Thanksgiving -- he told my wife I had it. And then
11 talking with Dr. Constanzi who is a oncologist.
12 That's what he calls it.

13 Q Has either of these doctors or any other doctor ever
14 told you that your condition might be a cancer other
15 than mesothelioma?

16 A That's what I've heard it called.

17 Q And only that?

18 A As far as I can recall, that's the only thing I've
19 heard it called.

20 Q No doctor has ever told you that your condition
21 could be something called an adenocarcinoma or
22 adenocarcinoma?

23 A I don't recall those words being used. It may be
24 that it past through my head, and I didn't hear it.
25 Or it may be written down somewhere that I didn't

1 read. But I don't recall it being said, you know,
2 specifically.

3 Q Yes, sir.

4 A I remember mesothelioma.

5 Q Has Dr. Wilson or Dr. Constanzi or any other doctor
6 told you that in your particular case it was
7 difficult for them to make the diagnosis because
8 they had to rule out some other conditions, and it
9 was a close call, or any words to that effect, or
10 anything along those lines?

11 A No.

12 Q You said a few moments ago that you kept your
13 feelings and attitude up, and you pointed toward the
14 ceiling at that time?

15 A I have to.

16 Q From all appearances and from your demeanor and the
17 way you have answered our questions this evening, it
18 appears to me at least that you are a person who is
19 at peace with yourself and has a good frame of mind.
20 Would you describe yourself using those sorts of
21 words?

22 A I try to keep myself that way. It's -- you have to
23 think good to feel good, you know.

24 Q Yes, sir. You have physical discomfort, I'm sure,
25 from time to time?

1 A Yes.

2 Q That is true particularly with chemotherapy;
3 correct?

4 A Yes.

5 Q But despite that and knowing of your condition
6 because of your personal attitude and outlook on
7 life, you are not a man who is living in constant
8 fear of death or immobilized by your condition.
9 Would that be a fair statement?

10 A I try not to think about dying, you know. I think
11 about: Everything is going to be all right. That's
12 what -- the chemotherapy is supposed to fix it.

13 Q Yes. Would you attribute peace of mind to your
14 religious faith and to your family in part?

15 A I surely would, yes.

16 Q Strong foundation in that area?

17 A (Witness nods head).

18 Q I see you nodding your head for the record.

19 A Yes.

20 MR. TOLIN: Okay. That's it. Thank you
21 very much, sir.

22 MR. VAUGHAN: Counsel, we're going to have
23 to start tomorrow. If you want to start again
24 tomorrow morning, that's fine but I have got to
25 leave. I have got about thirty-five people that are

1 going to be at my house in either five minutes or
2 thirty-five minutes, depending on when I told them
3 to be there.

4 MR. DAVIS: I just want to ask him whether
5 he was ever in a union and when he is eligible for
6 retirement. He has not answered about retirement.
7 Could I ask it very quickly?

8 MR. VAUGHAN: Go ahead.

9

10 EXAMINATION BY MR. DAVIS:

11 Q Mr. Paratore, my name is Britt Davis, and I
12 represent Owens Corning Fiberglas. I have just
13 perhaps two questions.

14 Number one: When are you eligible for
15 retirement with your present employer?

16 A I think it's at age 55.

17 Q All right, sir. Currently you are receiving no
18 other income besides that which you earn and perhaps
19 that which your wife brings in occasionally; is that
20 correct?

21 A That's true.

22 MR. DAVIS: Pass the witness.

23

24 EXAMINATION BY MS. BARRON:

25 Q I am Barbara Barron.

1 Have you ever been arrested?

2 MR. VAUGHAN: Don't answer that question.

3 I'll permit him to answer the question
4 which is admissible at trial, which is has he been
5 convicted of a felony or a misdemeanor or a
6 conviction of moral turpitude. And the answer to
7 that question is: No.

8 Q (By Ms. Barron) Is that the correct answer?

9 A That's true.

10
11
12 PHILIP G. PARATORE, JR.

13
14 THE STATE OF TEXAS :

15 SUBSCRIBED AND SWORN TO BEFORE ME, the
16 undersigned authority, by the witness, Philip G.
17 Paratore, Jr., on this the _____ day of
18 _____, 1984.

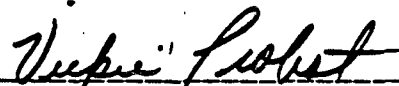
19
20
21 Notary Public in and for
22 the State of T e x a s

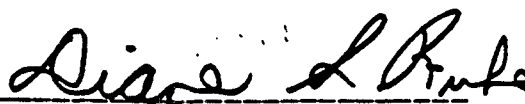
23
24 My Commission Expires:
25 _____

1
2 THE STATE OF TEXAS :

3
4 We, the undersigned Certified Shorthand
5 Reporters and Notaries Public in and for the State
6 of Texas, certify that the caption to this deposition
7 correctly states the facts set forth herein; that the
8 examination of the witness named in said caption was
9 correctly reported in shorthand by us at the time and
10 place and under the agreement set forth in said caption
11 and has been transcribed from shorthand under our
12 supervision in the foregoing transcript; and that said
13 transcript contains a correct record of the proceedings
14 had at said time and place.

15 Given under my hand and official seal of
16 office this the 13th day of November, 1984.

17
18
19 
20 Vickie Probst, CSR and
21 Notary Public in and for
the State of T e x a s

22 
23 Diane S. Richer, CSR
24 Notary Public in and for
the State of T e x a s
25