Dana acquired all of the outstanding shares of stock of Warner Electric Brake & Clutch Company in 1985.

Dana merged Warner Electric Brake & Clutch Company into Dana effective December 31, 1986. The U.S. business operated as a division of Dana until the year 2000 when assets, including related subsidiary operations, facilities and product lines of the Warner Electric Division (as modified from time to time by Dana acquisitions and reorganizations), were sold. At the time of sale, most of the business records and employees associated with the sale effectively transferred to the company that purchased the assets ("Buyer"). International subsidiaries' employees and records remained with the subsidiaries.

Historically, Warner Electric Brake & Clutch Company manufactured electric clutches, electric brakes, electric wheel brakes, and other products. Some clutches, brakes and wheel brakes contained friction materials. Friction material historically contained asbestos. The friction materials never were manufactured by Warner Electric Brake & Clutch Company. Rather, they were purchased by Warner Electric Brake & Clutch Company from friction suppliers. Any asbestos was encapsulated or bonded into the friction materials.

Because the conversion from asbestos-containing friction materials to non-asbestos friction materials was complete for most products before the merger, Dana has limited knowledge about the history of Warner Electric Brake & Clutch Company's products containing asbestos.

Since entry of the October 20, 2003 order, Buyer permitted access to certain Buyer facilities in Illinois for the purpose of inspecting and copying documents stored by Buyer. Buyer