IN THE CIRCUIT COURT OF THE 11TH

JUDICIAL CIRCUIT IN AND FOR DADE

COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 04-16237 CA 42

JOSEPH MALLIA, and
GALE MALLIA, his wife,

Plaintiffs,

v. David M. Lipman: 280054

BENNETT AUTO SUPPLY, et al,

Defendants.
_____/

The Videotaped Deposition of DAVID HAY, GARABRANT, M.D., taken pursuant to Notice in the above-entitled cause, at 623 W. Huron, in the City of Ann Arbor, Michigan, on July 8, 2005, commencing at or about 1:12 p.m., before Barbara J. Turner, CSR, RPR, a Notary Public in and for the County of Oakland, acting in Washtenaw.

APPEARANCES:

THE RUCKDESCHEL LAW FIRM LLC
By: Mr. Jonathan Ruckdeschel
1635 Webster Street
Baltimore, Maryland 21230
443 286-8858

Appearing by phone on behalf of the Plaintiffs.

Appearances continued on page two

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DICKINSON WRIGHT, PLLC
By: Mr. Robert S. Krause
500 Woodward Avenue, Ste. 4000
Detroit, MI 48226-3425
313 223-3670

Appearing on behalf of Ford/General Motors.

HOLLAND & KNIGHT LLP
By: Mr. Chris N. Kolos
200 South Orange Avenue, Ste. 2600
Orlando, FL 32801
404 244-11656

Appearing on behalf of Mac Trucks.

BLAKE KIRCHNER SYMONDS LARSON KENNEDY SMITH
By: Mr. Michael D. Cummings
535 Griswold Street, Ste. 1432
Detroit, MI 48226
313 961-7321

Appearing on behalf of Pneumo Abex, LLC.

WILCOX & SAVAGE
By: Mr. Kevin P. Greene
One Commercial Place, #1800
Norfolk, VA 23510
757 628-5566

Appearing by phone on behalf of Pneumo Abex, LLC.

SALAS, EDE, PETERSON & LAGE, L.L.C.
By: Mr. Gustavo D. Lage
6333 Sunset Drive
South Miami, Florida 33143
305 663-0000

Appearing by phone on behalf of Ford and General Motors.

CLARKE SILVERGLATE CAMPBELL WILLIAMS & MONTGOMERY
By: Mr. Craig Salner
799 Brickell Plaza, Ste. 900
Miami, FL 33131
305 377-0700

Appearing by phone on behalf of Bennett Auto Supply.

I N D E X

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Ann Arbor, Michigan

July 8, 2005

At or about 1:12 p.m.

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VIDEOGRAPHER: We are now on the record. Today's July 8, 2005. The time is 1:12 p.m. We're here today for the videotaped deposition of Dr. David Garabrant. We are located at Huron Reporting in Ann Arbor, Michigan, at 623 West Huron Street, Ann Arbor. My name is George Larkins, videotape technician.

We are here today in the matter of Joseph Mallia and Gale Mallia, his wife, versus Bennett Auto Supply, et al., in the Circuit Court for the 11th Judicial Circuit, in and for Dade County, Florida, case number 04 dash 16237 CA 42.

Will counsel briefly identify themselves and the court reporter swear the witness in?

MR. RUCKDESCHEL: This is Jonathan Ruckdeschel representing the Plaintiff, Joseph Mallia.

MR. SALNER: This is Craig Salner on behalf of Bennett Auto Supply.

MR. LAGE: This is Gus Lage on behalf of Ford and General Motors.

MR. GREENE: This is Kevin Greene on behalf Pneumo Abex.

MR. KOLOS: This is Chris Kolos for Defendant, Mac Trucks.

MR. KRAUSE: Robert Krause for Defendants, Ford and General Motors.

MR. CUMMINGS: Michael Cummings for Pneumo Abex.

DAVID HAY GARABRANT, M.D.,

a witness herein, was first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows:

EXAMINATION

MR. RUCKDESCHEL:

Q. Good afternoon, Dr. Garabrant.

A. Good afternoon.

Q. I apologize, if you have difficulty hearing me at any time today, please let me know. I am calling from the airport and so I don't know whether I'm going to come through loud and clear all the time.

Would you please state your name and your business address for the record?

A. Yes. David Hay Garabrant, University of Michigan, 1420 Washington Heights, Ann Arbor, Michigan 48109.

Q. Are you employed by the University?

A. I am.

Q. Who gets paid for your work today; is it you or the

University?

A. I do.

Q. Okay. So this is separate from your work at the University?

A. Yes.

Q. Okay. What other types of professional activities do you do in addition to being an expert witness?

MR. KOLOS: Excuse me. Mr. Ruckdeschel, we need to take a break for a moment?

MR. RUCKDESCHEL: Okay.

MR. KOLOS: We need to go off the record.

VIDEOGRAPHER: Off the record at 1:15.

(Whereupon a brief discussion was had off the record.)

VIDEOGRAPHER: We are back on the record at 1:16.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Doctor, part of your professional activities involves being an expert witness, is that right?

A. Yes.

Q. Doctor, I'm sorry. I didn't hear your response.

A. I said yes.

Q. Okay. Thank you. What other professional activities do you do?

A. I am Professor of Occupational Medicine and Epidemiology

at the University of Michigan.

Q. Do you see patients in that capacity?

A. I do.

Q. What type of patients?

A. I have an occupational medicine clinic. I see patients who have occupational diseases or who have been exposed to chemicals and are concerned about future health effects; I do return to work evaluations; that sort of thing.

Q. Do you see individuals with asbestos disease in your clinical practice?

A. I have.

Q. Have you seen patients with mesothelioma?

A. I believe I have.

Q. When you say you believe you have, can you tell me why you say you believe instead of something definitive?

A. Because I do not recall having seen any in recent memory but I believe over the years I have seen a few cases of mesothelioma.

Q. Okay. Approximately what proportion of your professional activities are related to your work as an expert witness?

A. Probably twenty to twenty-five percent of my time.

Q. Okay. Has that number been fairly constant over the last several years?

A. No. It fluctuates.

Q. Okay. Now, as an average over the last three or four years, is twenty to twenty-five percent the reasonable estimation of the proportion of your time as an expert witness?

A. To the best of my knowledge, I think that's a reasonable estimate.

Q. Okay. What rate do you bill at for your expert witness services?

A. Five hundred and twenty-five dollars an hour.

Q. And is that rate the same for all of the different things you may do as an expert?

A. It's the same for everything I do, except testimony by deposition or testimony in court. I bill that at a different rate.

Q. What rate is that?

A. Two thousand two hundred and fifty dollars for a half day.

Q. Twenty-two fifty for four hours?

A. For three and a half hours of testimony, which usually works out to four to five hours of professional time.

Q. Okay. Is it fair to say, Doctor, that while your work as an expert may encompass twenty to twenty-five percent of your professional time, it makes up a larger proportion of your professional income?

A. Yes.

Q. Can you tell me approximately what proportion of your professional income is generated from your services as an expert witness?
A. I don't know offhand and that also varies year-by-year.
Q. I understand. Can you approximate for me?
A. I don't have an estimate. I'd be happy to tell you how much income I derived last year if that would help.
Q. Sure.
A. I believe my income was from professional activities other than the University in the range of three hundred to three hundred and fifty thousand dollars.
Q. And were those activities all related to your services as an expert witness?
A. No.
Q. Okay. What else made up that three hundred to three hundred and fifty thousand?
A. I had other consulting commitments.
Q. Generically what type of consulting?
A. Service on government panels and consultation not related to litigation.
Q. Okay. What panels?

COURT REPORTER: I'm sorry. Would you repeat that, please?

BY MR. RUCKDESCHEL, CONTINUING:

Q. Yes, ma'am. What panels?

A. I was on one or two review panels for, I'm not sure I recall last year, either the NIH or the Centers for Disease Control or the National Institute for Occupational Safety and Health.
Q. And what did those panels involve?
A. Typically reviewing grant proposals.
Q. Were you compensated for that work by the government?
A. Yes.
Q. At what rate?
A. I don't recall.
Q. Can you approximate for me?
A. It's typically a few hundred dollars a day.
Q. Were there any other panels that you served on?
A. I served on the Scientific Advisory Panel to a nonprofit foundation.
Q. Are you at liberty to tell me what that foundation is?
A. Yes.
Q. Will you do so, please?
A. The Mickie Leland National Urban, let's see, NUATRC, National Urban Toxics Research Center.
Q. Are you compensated for that work?
A. Yes.
Q. At what rate?
A. Again, I don't recall but it's less than a thousand dollars a day.

Q. Okay. What types of consultation did you perform last year outside of your litigation-related services?
A. I provide consultation in areas related to long-term health effects of chemicals.
Q. Is that work primarily for companies that manufacture or use the chemicals?
A. It varies. It's for different people who request my services.
Q. Is any of that work for groups of individuals who are suffering from adverse health effects from exposure to substances?
A. I'm not sure what that means.
Q. Well, at the most basic level I'm asking you are you doing work for sick people?

MR. KOLOS: Object to the form.

THE WITNESS: I still don't quite understand the question. As I understand it I would say yes.

BY MR. RUCKDESCHEL, CONTINUING:
Q. Okay. Who?
A. All of my work.
Q. I'm not asking for names, I'm asking for a description of the types of people.
A. I'm not at liberty to discuss for whom I do consultation.
Q. Okay. When were you first contacted regarding being an expert in the Joseph Mallia case?

A. I'm not sure I recall exactly but I believe it was in the spring of 2005.
Q. Okay. The spring continues up through June 21st. Can you be any more definitive?
A. Again, I think perhaps, I'd have to look, I think probably in February or March. I'm not sure. Somewhere in there.
Q. Okay. Do you have records or documents that would help us narrow that down?
A. I believe the earliest correspondence I have is dated January 7, 2005.
Q. And who was that from?
A. That was from Sara Lockhart at the firm of Rasmussen, Willis, Dickey & Moore.
Q. Okay. And who did Ms. Lockhart represent?
A. It doesn't say.
Q. Okay. What, what did Ms. Rasmussen communicate to you in that letter?
A. The letter says --
Q. Ms. Lockhart.
A. Ms. Lockhart says please find enclosed materials.
Q. What materials were enclosed?
A. I don't recall. I believe it was materials about this case.
Q. Have you prepared a report in this case?

A. Yes.

MR. RUCKDESCHEL: Chris, I was unable to find a report on Verilaw. Do you know why it might not have been filed?

MR. KOLOS: My understanding it was filed.

MR. RUCKDESCHEL: Okay. If you could check on that, please, as I do not have a copy of it, his report, it may be because I couldn't find it because I wasn't looking in the right place but I checked the, I checked the docket there several times and did not see it.

MR. KOLOS: Okay.

MR. RUCKDESCHEL: Doctor, I would like to mark as Exhibit 1 to this deposition your report.

(Whereupon Deposition Exhibit Number 1 was marked for identification by the Notary Public and is attached to the transcript.)

COURT REPORTER: Okay.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Doctor, how many pages is your report?

A. The pages aren't numbered but I believe it is sixteen.

Q. And what is the date of the report?

A. April 18, 2005.

Q. Does your report set forth the opinions that you hold in this matter?

A. Yes.

Q. Does it describe the factual basis for those opinions?
A. I believe it does.
Q. Does it list the materials that you have reviewed in connection with this case?
A. Yes.
Q. How much time have you spent on the Joseph Mallia case since being contacted?
A. I'm not sure I know exactly but I would estimate eight hours, give or take two.
Q. How long did it take for you to prepare your report?
A. Reading the materials and preparing the report was probably six or seven hours.
Q. What else have you done in this case?
A. I have had telephone discussions with attorneys and I met with Mr. Kolos this morning.
Q. Okay. With whom have you had telephone discussions?
A. With Mr. Kolos and I believe with Kurt Rasmussen.
Q. And what did you discuss with Mr. Kolos on the telephone?
A. I don't recall anything other than the logistics of this deposition, arranging a date, and a place to have the deposition, and discussing with him the materials that I would bring to the deposition.
Q. What did you discuss with Mr. Rasmussen?
A. I don't recall exactly but I believe I discussed the case with him sometime around when he first contacted me or

when Ms. Lockhart first contacted me.

Q. Do you know what company Mr. Rasmussen or Ms. Lockhart represent?

A. My recollection is that they represent Genuine Parts.

Q. Have you performed expert witness work for Genuine Parts prior to this case?

A. Not to my knowledge but I don't claim to know accurately on whose, on whose behalf I have testified in every instance.

Q. Okay. On whose behalf are you testifying today?

A. Mac Truck and Bennett Auto Parts.

Q. Have you testified as an expert on behalf of Mac Truck before?

A. No.

Q. What about Bennett Auto Parts?

A. I don't believe so.

Q. Okay. When was the last time you were deposed, sir?

A. A week ago today.

Q. What type of case was that?

A. It was a mesothelioma and friction products case.

Q. On whose behalf were you testifying in that matter?

A. I don't recall to be honest. I'm sorry. I don't remember.

Q. Do you recall the name of the lawyer that appeared for the defendants at the deposition?

A. I'm drawing a blank to be honest with you. I'll have to think. It will probably come up, come to mind if we go on, and I'll come back to it.

Q. Okay. Do you recall who the lawyers for the Plaintiff was?

A. I do not.

Q. What was the name of the case?

A. I -- it's not coming to mind at the moment but as soon as I think of it I will tell you. I apologize.

Q. Okay. Were your opinions in that case substantially the same as your opinions in this case?

A. I believe so.

Q. Okay. Did any of the material that you reviewed in this case affect your opinions?

MR. KOLOS: Object to the form.

BY MR. RUCKDESCHEL, CONTINUING:

Q. You can answer, Doctor.

A. I'm not sure I understood. Was the question -- I thought you were cut off. It wasn't clear.

Q. I may have had bad intonation but my question was did any of the materials that you reviewed specifically to this case have an affect on your opinions in this case?

A. Did any of the opinions I reviewed in this case have an affect on my opinions?

Q. Any of the materials that you reviewed in this case,

Doctor.

A. The materials I reviewed in this case have any affect on my opinion. I'm reviewed and considered all the materials in this case in reaching my opinions and my opinions are based on those considerations.

Q. I understand, Doctor. Let me try and get at this a different way. You have testified in cases involving individuals with mesothelioma and allegations that their mesothelioma was caused by or contributed to by their exposure to asbestos from friction products, is that correct?

A. I have.

Q. Have your opinions regarding the ability of working with asbestos-containing friction products to cause or contribute to the development of mesothelioma been the same in all of the cases that you testified?

A. My opinions are always based on consideration of the individual case and the circumstances of exposure as well as based on the scientific literature and my opinions consider all of that in each and every instance before I reach them.

Q. Okay. Have the opinions been the same in each of the cases in which you testified with respect to the issue of whether the individual's alleged exposure to asbestos from working with friction products caused or contributed

to their mesothelioma?

A. The answer would have to be no.

Q. Okay. Have you ever opined that an individual's exposure to asbestos from working with friction products caused or contributed to the development of an individual's mesothelioma?

A. I have not yet seen a case in which I believed that that was correct.

Q. Okay. So, the answer to my question is no, you have never testified that exposure to asbestos-containing friction products has caused or contributed to the development of an individual's mesothelioma?

A. Under the circumstances of the individual cases that I have reviewed that is correct.

Q. Okay. Now, if Joe Mallia had done four times as much work with asbestos-containing friction products as he testified, four times more than what he testified to, would your opinion regarding whether that exposure to asbestos caused or contributed to the development of his mesothelioma change?

A. I would have to know the circumstances of that work and the specifics of what he did and when he did it before I could answer that.

Q. Have you reviewed his deposition?

A. I have.

Q. Are you familiar with his testimony regarding the nature and frequency of his work with asbestos-containing friction materials?

A. Yes.

Q. Okay. I want you to assume that his testimony regarding the nature of his work with asbestos-containing friction materials remained exactly the same but that the frequency increases by a factor of four, would your opinions change?

MR. KOLOS: Object to the form of the question.

THE WITNESS: I'm going to have to ask you to be more specific about which aspects of his work changed by a factor of four.

BY MR. RUCKDESCHEL, CONTINUING:

Q. He did four times more brake repair and replacements, four times more clutch repair and replacements, four times more work with gaskets. He performed those -- that work in exactly the same manner as he described, would your opinions change?

MR. KOLOS: Object to the form of the question. Overbroad. Vague and ambiguous. Calls for speculation.

THE WITNESS: My recollection of his deposition testimony was that he didn't quantify exactly how many brake jobs he did. He did quantify how many clutch jobs he did each year. So it's a little bit hard to give an

answer to your question since it's not explicit exactly how many brake jobs he did.

BY MR. RUCKDESCHEL, CONTINUING:

Q. I want you to assume for purposes of this question that Mr. Mallia testified that over the course of his career working with vehicles and working with brakes, he performed a thousand brake repair and replacements. Make that assumption.

A. Okay.

Q. All right. I'd like you to assume that that's what he testified to. To incorporate that into my previous hypothetical. So we now filled in that missing data point.

A. Okay.

Q. Would your opinions change with respect to whether his work with asbestos-containing friction products caused or contributed to his mesothelioma?

MR. KOLOS: Object to the form of the question. Calls for speculation. Lacks foundation. Is vague and ambiguous.

THE WITNESS: If the circumstances under which he did those brake jobs was identical to what he testified to, I would say I would have the same opinion that it did not contribute to his risk of mesothelioma.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. Thank you, Doctor. I'd like you now to change the hypothetical to assume that he did ten times more work than he described. Would that change your opinion?

MR. KOLOS: Object to the form of the question. Vague and ambiguous. Overbroad. Lacks foundation. Calls for speculation.

MR. RUCKDESCHEL: Chris, I will give you a standing objection to this hypothetical.

MR. KOLOS: Okay.

THE WITNESS: I, I don't believe that that hypothetical has any factual basis to, to it. What you're asking me is if he did ten thousand brake jobs?

BY MR. RUCKDESCHEL, CONTINUING:

Q. That's correct.

A. I don't believe that that's a realistic assumption given Mr. Mallia's occupational history.

Q. Okay. And that's why it is called a hypothetical question, Doctor. I'm entitled to explore your opinions and how far your opinions go and this part of it; so, I would appreciate it if you would answer my hypothetical question.

A. Well, I can't answer a question about a hypothetical that is based on a scenario that I believe has never been known to occur.

Q. Okay. I asked Dr. Craighead in his deposition whether it

would make a difference if Joe Mallia had performed a hundred thousand brake jobs with respect to his opinion as to whether exposure to that level of dust could cause or contribute to the development of his mesothelioma, and I will represent to you that Dr. Craighead said for him it did not make a difference.

What I'm really trying to get at, Doctor, is is it a question of dose or is it a question of biological possibility with respect to whether working with asbestos-containing friction materials can cause or contribute to the development of mesothelioma?

MR. KOLOS: Object to the form of the question. Vague and ambiguous. Lacks foundation.

THE WITNESS: It's a question of what the science will support; and when we look at the available scientific evidence about mesothelioma risks among brake mechanics, there is no evidence that they're at increased risk of mesothelioma no matter how many brake jobs they do. Your hypothetical about doing a hundred thousand brake jobs I believe exceeds the number that a brake mechanic could do in a lifetime or at least that they are known to do in a lifetime; and so what you're asking me to do is extrapolate well beyond the existing data, and I don't know what the data would say if there was a population of people who did that.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Can exposure to chrysotile asbestos cause mesothelioma in humans by itself?

A. I believe that the scientific community is unable to give a definitive yes/no answer to that question. The evidence as I see it supports a conclusion that chrysotile asbestos either does not cause mesothelioma or that the risks are so dramatically below those seen for amphibole forms of asbestos that it's not possible to differentiate between no risk or very, very low risk.

So my answer is I don't think the scientific community can answer that other than to say that the risks of mesothelioma from chrysotile asbestos are either very, very low or not elevated above having no exposure.

Q. Okay. Thank you, Doctor. I would like -- we were talking a while back about when the last time you were deposed. You said it was a week ago today?

A. Yes.

Q. Can you tell me how many times you have been deposed in 2005?

A. I would estimate probably four times, give or take one or two.

Q. Have all of those cases involved friction products?

A. I don't believe so.

Q. Okay. What other types of cases have you been involved

in this year where you were deposed?
A. I don't recall offhand the other cases.
Q. Okay. Let's, let's go through the ones you do remember. There was the case last week with an individual with mesothelioma who had been exposed to friction products. What other depositions do you recall giving this year in 2005?
A. I believe there was one or two other depositions in friction products cases.
Q. Okay. What diseases were at issue in those cases?
A. Mesothelioma.
Q. And are there any other depositions that you recall giving this year?
A. Not from memory but put it this way I can't identify what they were but I think there was one or two others.
Q. Okay. And what would those cases, what's the realm of possibilities about what those cases involved?
A. The realm of responsibilities is long-term health effects of chemicals.
Q. Okay. Are any of those cases still ongoing to your knowledge?
A. Yes.
Q. Okay. Can you tell me what those cases are?
A. I still don't remember the names of them. I'm sorry.
Q. Okay. What do they involve? What chemical?

A. I don't remember.
Q. Okay. I'm just trying to see if at coming at this a different way will refresh your recollection.
A. It, it will come to the surface but at the moment I can't recall.
Q. I understand. If it comes to you, please just interject it wherever we are in the deposition.
A. I will.
Q. Thank you.

Last year in 2004 can you approximate for me how many depositions you gave?

A. Probably eight.
Q. And can you tell me, Doctor, what types of cases you were deposed in last year?
A. They were all, to the best of my recollection, about long term health effects of chemicals. I know some of them were mesothelioma and friction products cases. I recall one that involved a case involving Ibuprofen, a pharmaceutical.
Q. That was a Motrin case?
A. Yes.
Q. Right. Okay.
A. I don't recall offhand the others.
Q. Okay. In 2004 or 2005 have you testified in trial in any case?

A. Yes.
Q. When and where?
A. I testified in a trial in Indianapolis, Indiana in January. Now my memory is doing better. I testified in a trial in Brazoria County, Texas in I think it was January. I -- that was a case involving welding and Parkinson's disease. I recall a deposition in either late January or early February in Houston, Texas involving, I'm blocking out the issue, but I remember it now, it will come in a minute. At any rate, those, those are the things I recall.
Q. Okay. That's both January of 2005?
A. Yes.
Q. Okay. And the trial in Indianapolis involved what?
A. Mesothelioma and friction products.
Q. And for whom were you working -- I'm sorry. That's the wrong question. Let me withdraw that.

On whose behalf were you testifying?

A. I'm not sure I know all of the parties. I testified on behalf of defendants. I believe it included Ford and General Motors and Bendix.
Q. Okay. And what about the Brazoria County trial, for lack of a better phrase, a welded fume case?
A. Yes.
Q. And at whose request did you testify?

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A. Defendants.
Q. Was it the manufacturer of the welding rods?
A. It was manufacturers of welding consumables including welding rods, yes.
Q. Okay. Did, did you testify in trial in 2004 in any case?
A. I don't recall. I don't remember testifying at trial -- no. I believe I did in a welding case involving welding consumables and Parkinson's disease.
Q. Do you recall where that trial was?
A. In Brazoria County, Texas. I'm not sure I have the dates right. That was the same case -- you know what; that was in 2005. That was the same case. That was the Pressler case, and it was a mistrial the first time, and I think that was January of 2005 and then testified again in April of 2005.
Q. Okay.
A. Same case. Same place.
Q. One case two trials?
A. Yes.
Q. Okay. Can you think of the time in 2004 when you testified in trial?
A. I don't recall offhand. I'm not sure which things were in 2004 from memory.
Q. Do you maintain a list of trial and deposition testimony?
A. I do.

Q. Do you have that list with you?
A. Yes.
Q. Would you get it out?
A. Sure.
Q. Doctor, if you would then give it to the reporter to mark as Exhibit 2, please.
A. Okay.

(Whereupon Deposition Exhibit Number 2 was marked for identification by the Notary Public and is attached to the transcript.)

BY MR. RUCKDESCHEL, CONTINUING:
Q. How far back does the list go, Doctor?
A. January of 2001.
Q. And to your knowledge is the list complete?
A. The list is complete to my knowledge up to February of 2005. I have not updated it since then.
Q. Okay. And have we discussed today the depositions and trials that you may have testified in since February of 2005?
A. To the best of my recollection, yes, but I believe I have been deposed a couple of times since February 2005 but I can't name the cases offhand.
Q. I understand and I appreciate that. How many pages is your list?
A. Two.

Q. How many proceedings, trial and deposition, are there total?
A. I will have to count them. Just a minute.
Q. Please do.
A. Forty-three.
Q. Does your list reflect what the case involved, for example, whether it was a mesothelioma case?
A. No.
Q. Are you able to look at the list and ascertain from memory or from any other source whether any particular case on the list involved mesothelioma?
A. I think I can. I might make a small number of mistakes but I think I can.
Q. Okay. Would you please put, if you have a pen, would you please put a M next to, in whatever appropriate place you think works, a M next to each one that you recall was a mesothelioma case, understanding that your recall may not be perfect.
A. Okay. That will take me a minute.
Q. Take your time.
A. Okay. I've done it.
Q. Would you count the number for me, please?
A. Six. I said six.
Q. Six?
A. Yes.

Q. Okay. Now, have you been retained as an expert witness and reviewed cases involving allegations of mesothelioma and exposure to friction products in addition to the cases on your list?

A. Yes.

Q. Can you approximate for me how many?

A. I would estimate a few dozen.

Q. Okay. And is a few dozen three dozen or ten dozen?

A. I would estimate in the range of three dozen.

Q. I'm sorry. That cut out. Could you say that again?

A. I would estimate in the range of three dozen.

Q. Okay. And when were you first retained to evaluate a mesothelioma friction product case?

A. I'm not sure but I believe two and a half years ago.

Q. Which would put us at the start of 2003 or thereabouts?

A. Roughly.

Q. Okay. When was the first time that you testified in a case involving mesothelioma in deposition or trial?

A. To the best of my knowledge 2004.

Q. And what case did that involve?

A. I believe that was Tommy Joe Thompson versus General Motors.

Q. And when in 2004 was that?

A. I don't recall exactly.

Q. Is it on the list?

A. It is.
Q. Okay. Does the list say?
A. The list says 2004.
Q. I understand. Okay. At the time that you testified in the Thompson case had you developed opinions regarding the ability of working with asbestos-containing friction products to cause mesothelioma?
A. I had opinions regarding that case at the time I testified, yes.
Q. And that was a mesothelioma case?
A. To the best of my recollection I believe it was.
Q. Okay. And it involved exposure to friction products?
A. To the best of my recollection, I believe it did.
Q. Okay. And you had developed opinions at that point regarding whether working with asbestos-containing friction products could cause or contribute to the development of mesothelioma?

MR. KOLOS: Object to the form. Overbroad.

THE WITNESS: I had developed opinions that were specific to that case, yes.

BY MR. RUCKDESCHEL, CONTINUING:
Q. Okay. And I'm trying to see whether we can streamline this proceeding, Doctor; and what I'm trying to get at is are your basic opinions regarding the ability of working with asbestos-containing friction products to cause or

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contribute to the development of mesothelioma the same as they were when you testified in the Thompson case?

MR. KOLOS: Object to the form. Overbroad.

THE WITNESS: Well, I don't have a basic opinion that fits all cases. I consider the specifics of each and every case in reaching my opinions.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Can working with asbestos-containing friction products cause mesothelioma?

A. It depends on the circumstances.

Q. Okay. Describe for me a circumstance in which it could.

A. Well, if someone were manufacturing friction products that contained amphibole asbestos and the exposures were high enough, I would be concerned about the mesothelioma risk in that setting.

Q. Okay. I want you to assume that the asbestos-containing friction products that we are discussing do not contain commercial amphibole asbestos. Would you make that assumption?

A. Okay.

Q. Can working with asbestos-containing friction products that do not contain commercial amphibole asbestos cause or contribute to the development of mesothelioma?

MR. KOLOS: Object to the form. Overbroad.

THE WITNESS: I can't answer it as to whether

they can. All I can say there is no evidence that they do.

BY MR. RUCKDESCHEL, CONTINUING:

Q. What's the difference?

A. Well, one is a hypothetical. The other is based on scientific evidence.

Q. Okay. Scientific evidence.

I looked at your testimony in the Tommy Thompson case. Will the basis for your opinions, other than the material that you reviewed that was specific to Tommy Thompson, be the same as your basis for your opinions in the Mallia case other than the material that you reviewed specific to Joe Mallia?

A. No.

Q. Okay. Tell me what's different.

A. Well, there have been some additional scientific publications in the roughly year or year and a half since the Tommy Joe Thompson case that I have considered in forming my opinions.

Q. Okay. Can you tell me what those publications are?

A. I can't recall them all from memory. Certainly the META analysis by Dr. Michael Goodman and myself and colleagues is an important piece of the scientific literature.

The updated analysis of the National Cancer Institute cohort that was originally published by

Dr. Robert Spirtas and more recently analyzed by Dr. Patrick Hessel is an important contribution.

Q. Okay.

A. There have been a number of publications documenting the circumstances of exposure to brake mechanics, including the review article by Dr. Paustenbach, the article by Butnor, and I know there's been one other one. I don't remember the citation.

Q. The Blake article?

A. The Blake article. Thank you.

There's also been a new publication by Dr. Roggli on his experience with roughly fourteen hundred or fifteen hundred mesothelioma cases.

So that's some of the literature in the past year and a half.

Q. Okay. Was your opinion in the Thompson case -- let me start over.

Was one of your opinions in the Thompson case that there was no scientific evidence that individuals working with brakes were at an increased risk for development of mesothelioma?

A. I don't recall what I wrote in that case or what I testified to. I believe, to the best of my recollection, that my opinion was that doing auto repair and brake repair work is not known to be associated with increased

risk of mesothelioma; and that whatever the circumstances of Tommy Joe Thompson's exposure, I felt that the epidemiologic literature applied to his particular instance.

Q. Okay. Doctor, when you say increased risk, increased when compared to what?

A. Typically in each of the epidemiology studies there is a referent group. In the case control studies it would be controls; and in the cohort and registry studies it would be a referent population.

Q. Doctor, can you describe for me what your participation in the publication of the Goodman paper was?

A. Yes.

Q. Please do.

A. I discussed the literature to be included in the paper. I contributed some of the literature. I reviewed the papers. I discussed them with Dr. Goodman. I reviewed the rating system that was developed for evaluating the literature and I participated in writing the paper and then developing the conclusions.

Q. Were you a substantial participant in the authorship of the paper?

A. Yes.

Q. Okay. Were you paid for your time?

A. No.

Q. Who asked you to participate?
A. To the best of my recollection, Dr. Goodman.
Q. How many times was the paper submitted before it was accepted for publication?
A. I don't know. I am only aware of one submission.
Q. Do you know if it was submitted to more than one journal before it was submitted for publication?
A. I do not. As I said I'm only aware of one submission.
Q. Okay. Doctor, is there a copy of the deposition with you?
A. There is.
Q. I would like to mark that as the next exhibit and if you will let me know when that is finished.
A. All right.

(Whereupon Deposition Exhibit Number 3 was marked for identification by the Notary Public and is attached to the transcript.)

THE WITNESS: Okay. Ready.

BY MR. RUCKDESCHEL, CONTINUING:

Q. I'd like you to turn to Exhibit A of the notice.
A. Yes.
Q. It requests that you bring a copy of your curriculum vitae current. Did you do so?
A. Yes.
Q. Let's mark that as -- was the notice 3?

A. Yes.
Q. Okay. So we will mark -- we will go through them and then we can have the reporter mark them at the end. We will mark your CV as 4.
Have you brought with you documents in your possession regarding this case?
A. Yes.
Q. Okay. I'd like you to catalog those documents for me, Doctor.
A. All right. I have a letter dated January 7, 2005 from Sara Lockhart at the law firm Rasmussen Willis Dickey & Moore to me.
Q. Okay.
A. I have records from the Social Security Administration regarding Joseph Mallia.
Q. What records?
A. It is a four-page document that gives itemized statement of earnings.
Q. Okay. What else?
A. I have a letter from Sara Lockhart dated April 25, 2005 with enclosed materials, and the materials are medical records from the H. Lee Moffitt Cancer Institute, from -- not all of the pages identify their source. In fact most of them do not.
Q. Okay.

A. But to the best of my knowledge they are from the Moffitt Cancer Center. Well, no. At the back some of them are from Memorial Hospital West and some are from Memorial Health Care System.

Q. Doctor, what I would ask that you do is that you take the April 25, 2005 letter and the medical records that go with it, whatever they are, and set those aside to be marked as Exhibit 5.

A. All right.

Q. Thank you. What's the next item that you have?

A. I have a letter dated December 9, 2004 from Roseanne Greaves at the law firm Clark Silverglate Campbell Williams & Montgomery addressed to the Records Custodian of the International Union of Operating Engineers Local 487.

Q. Okay.

A. And that has five pages.

Q. Okay. I would like you to set that aside to be marked as Exhibit 6.

A. All right.

I have the videotaped deposition of Joseph Mallia dated October 12, 2004; the continued deposition of Joseph Mallia dated October 13, 2004; the continued deposition of Joseph Mallia dated October 14, 2004.

Q. Okay.

A. I have the deposition of Frank Mallia dated December 13th, 2004.

I have a document called Amended Exposure Sheets for Mallia, Joseph.

Q. Okay.

A. And that appears to be ten pages or so.

I have Notice of Service of Plaintiffs' Answers to Defendants' Master Set of General Interrogatories.

Q. Does that also have the answers?

A. It does.

Q. Okay.

A. I have Notice of Service of Supplement to Plaintiffs' Response to Defendants' Request for Production.

Q. All right.

A. I have Notice of Service of Plaintiffs' First Amended Answers to Defendants' Master Set of General Interrogatories.

I have Notice of Filing Expert Report of Frederick W. Bolter.

Q. Do you also have Dr. Bolter's -- Mr. Bolter's report?

A. It does.

Q. Okay.

A. I have an expert report by Steve Malnarek, M A L N A R E K.

I have the expert opinion letter by Dr. Dennis

Paustenbach.

I have the expert witness report of Frederick Toca.

I have a letter from Francis Weir, Ph.D.

Q. I apologize.

A. It's quite all right.

I don't know if you heard my answer. A letter from Francis Weir, Ph.D.

And I have a Notice of Filing Expert Report of I. A. Finegold, M.D. with the attached report. And that's --

Q. Is that complete what you have regarding this case?

A. Yes.

Q. Okay. Have you reviewed all those materials?

A. I have.

Q. Turning to the next page of Exhibit A of the deposition notice, we covered 4 which are a list of prior cases and that's been marked as an exhibit, correct?

A. Just a minute. Yes.

Q. And number 5, are there any documents reflecting payment to you in this matter?

A. No.

Q. Are you aware of any payments that were made to Exponent for services provided by you in the past?

A. No.

Q. Do you have with you copies of publications authored by you?

A. No.

Q. Are there any publications related to asbestos that you have published, I'm sorry, that you have authored in whole or in part that have been published since 2000 other than the Goodman article?

A. I would have to look at my CV to check.

Q. Would you do so, please?

A. I will. Thank you.

The answer is no.

Q. Okay. Are there any articles that you've authored in whole or in part that relate to asbestos that have not yet been published but that are in progress or have been submitted for publication?

A. Yes. Wait. I'm sorry. No. Forgive me. Would you repeat the question?

Q. Are there any articles that have been authored in whole or in part by you that relate to asbestos that are either in progress or have been submitted for publication but have not been published?

A. No.

Q. Looking at number eight, studies of articles or publications upon which you rely in this matter, have you brought those materials with you?

A. Yes.
Q. Okay. Can you tell me what they are?
A. They are all of the articles that are listed in the bibliography attached to my report numbered one through two hundred and seventy-six.
Q. And you have brought with you copies of all two hundred and seventy-six?
A. I have.
Q. Okay. We do not need to attach those. When I get a copy of your report, I may request that you provide me with copies of references that I do not have.

Is that acceptable to you?

A. Yes.
Q. Great. Thank you.

With regard to the work that you performed at the request of General Motors or Ford, have you ever had a written contract with General Motors, Ford or their lawyers?

MR. KRAUSE: Objection. Relevance.

BY MR. RUCKDESCHEL, CONTINUING:

Q. You can answer, Doctor.
A. I don't recall ever having a written contract with Ford or General Motors.
Q. What about with their lawyers?

MR. KRAUSE: Objection.

THE WITNESS: I don't recall having a written contract with their lawyers either.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. Have you ever met with lawyers for Ford, General Motors or Chrysler and gone through a question and answer session to stimulate questioning by a plaintiff's attorney?

MR. LAGE: Question. Form.

MR. KRAUSE: Objection.

COURT REPORTER: Who was that on the phone that said objection first?

MR. LAGE: Lage.

BY MR. RUCKDESCHEL, CONTINUING:

Q. You can answer, Doctor.

A. One of your words was garbled. Would you ask it again, please?

Q. Sure. Have you ever gone through a question and answer session with lawyers for Ford, General Motors or Chrysler?

MR. LAGE: Same objection.

MR. KRAUSE: Same objection.

BY MR. RUCKDESCHEL, CONTINUING:

Q. In order to simulate questioning by a plaintiff's lawyer at deposition or trial?

A. I have met with attorneys for Ford, GM or Chrysler; and

we have discussed upcoming trials and discussed the types of questions that might be asked.

Q. Okay. Have you ever done so in a format that was recorded by any means?

MR. KRAUSE: Same objection.

BY MR. RUCKDESCHEL, CONTINUING:

Q. You can answer.

A. No.

Q. They were never videotaped or audiotaped to your knowledge?

A. That's correct.

Q. Have you ever provided lawyers for whom you were serving as an expert witness with a list of questions to ask you ahead of trial?

MR. KOLOS: Object to the form.

THE WITNESS: The question is a bit overbroad. Do you mean in my lifetime or limited to friction products?

BY MR. RUCKDESCHEL, CONTINUING:

Q. I'm going to start with your lifetime and then we will move narrow.

A. I don't believe I'm at liberty to discuss work I've done throughout my lifetime.

Q. Okay. Are you refusing to answer?

A. No. I believe that some of the work I've done in the

past has been covered under attorney-client privilege; and I'm not sure that I have the right to answer those questions without other attorneys being present.

Q. Well, Doctor, I'm not asking you about for whom you may have done it, I'm asking you whether you have ever did it.

A. Okay. And the question is have I ever prepared questions?

Q. Questions for lawyers to ask you at a trial.

A. I have discussed with lawyers areas of testimony that I am competent to answer.

Q. Have you ever actually written out questions for the lawyers?

A. I don't recall writing out questions for lawyers.

Q. Have you ever instructed lawyers regarding what questions to ask?

MR. KOLOS: Object to the form of the question.

THE WITNESS: I don't recall ever instructing lawyers on any topic. I have certainly discussed with lawyers my areas of testimony and the details of the testimony.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Have you reviewed any depositions of individuals in this case other than the depositions that you listed?

A. No.

Q. Okay. Your report is dated what date?
A. April 18, 2005.
Q. And your opinions in this case were formed as of that date, is that fair to say?
A. The opinions in my report were formed as of that date. I have read additional materials since April 18 and have considered them.
Q. Have they changed your opinions?
A. No.
Q. Thank you. Regarding number eleven, Doctor, you are requested to bring with you communications between yourself and Ford, General Motors and Chrysler regarding asbestos brakes or occupational disease.

Are there such documents?

MR. KRAUSE: Objection.

BY MR. RUCKDESCHEL, CONTINUING:

Q. You can answer.
A. I have no such documents relevant to the Mallia case. There I believe are letters and correspondence on other litigation where I was retained by Ford, GM or Chrysler but those documents are specific to those other cases.
Q. Are all of the cases which you have worked for Ford, General Motors or Chrysler been asbestos cases?

MR. KRAUSE: Objection. Relevance.

BY MR. RUCKDESCHEL, CONTINUING:

Q. You can answer.
A. When you say worked for Ford, GM or Chrysler you mean on behalf of them, working for?
Q. At their request or the request of their lawyers?
A. No.
Q. Okay. What other types of cases have you worked on?

MR. LAGE: Objection. Form.

MR. KRAUSE: Objection.

THE WITNESS: I have been asked to evaluate employees of General Motors at various times regarding other illnesses such as asthma, other pulmonary diseases, I think dermatitis, and other health complaints not related to the respiratory tract, and I've done that on behalf of General Motors.

BY MR. RUCKDESCHEL, CONTINUING:
Q. Did you meet or discuss, meet with lawyers for General Motors, Ford or Chrysler during the drafting of the Goodman article?
A. Do you mean did I meet with them and discuss with them the drafting of the Goodman article?
Q. No. I mean did you meet with them during the drafting of the Goodman article?

MR. LAGE: Objection. Form.

MR. KOLOS: Objection.

MR. KRAUSE: Objection.

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MR. KOLOS: Overbroad. Involves speculation.

THE WITNESS: I don't know what you mean by the term during the drafting. Do you mean during the same historic period?

BY MR. RUCKDESCHEL, CONTINUING:

Q. Yes.

A. I may have.

Q. Did you ever discuss the Goodman article while it was being written with lawyers for Ford, General Motors or Chrysler?

A. No.

MR. LAGE: Objection. Form.

MR. KRAUSE: Objection.

THE WITNESS: No. The answer is no.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Do you have any documents that reflect communications between you and other authors of the Goodman article that relate to the Goodman article?

A. I don't believe I do.

Q. Do you have any documents that are drafts or precursors of the Goodman article?

A. I don't believe so.

Q. Have you looked?

A. I have not looked but I typically throw those things out once an article is published; and I believe, I believe I

did so in this instance.

Q. Okay. Are there any confidentiality agreements between you, Ford, General Motors or Chrysler that you are aware of?

MR. KRAUSE: Objection.

MR. KOLOS: Object to the form. Overbroad.

THE WITNESS: Not that I'm aware of.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. Do you have copies of your testimony in other cases that relate to asbestos and friction products?

A. No.

Q. Have you given any speeches, presentations, courses or other addresses that relate to the topic of asbestos in friction products?

A. Yes.

Q. When and where?

A. I gave a talk at the American Industrial Hygiene Association Conference in Anaheim, California in May of 2005.

Q. And what did that relate to?

A. I discussed the uses of META analysis in the assessment of asbestos-related diseases.

Q. Were there written materials that went along with your presentation?

A. There was a PowerPoint presentation.

Q. Did you bring a copy of that with you today?
A. No.
Q. Do you maintain a copy of that?
A. I have copy of that, yes.
Q. Okay. Would you produce that?

MR. KOLOS: Object to form.

THE WITNESS: I believe that that presentation is freely available through the AIHA, the AMERICAN Industrial Hygiene Association. I believe that I gave them the right to reproduce that and that they sell that to people who wish to obtain it.

BY MR. RUCKDESCHEL, CONTINUING:

Q. No. I understand. But request number twenty-two to the deposition notice requests that you bring with you any PowerPoint presentations, course materials, handouts or any visual aids that you used in speeches that relate to asbestos and brakes, clutches and automobile parts; and as you are the deponent in this case I'm requesting that you produce a copy of that PowerPoint presentation; and I'm just asking you whether you will agree to do so or not?

MR. KOLOS: On behalf of Dr. Garabrant, he's already testified that he believes he has signed over the rights to that presentation and that's freely available for you to obtain and does not feel comfortable with just

giving it to you directly.

MR. RUCKDESCHEL: Counsel, you're not representing Dr. Garabrant, are you?

MR. KOLOS: Well, I think for purposes of this deposition I am.

MR. RUCKDESCHEL: Are you his lawyer?

MR. KOLOS: I'm Mac Trucks' lawyer and Mac Trucks has retained Dr. Garabrant in this case.

MR. RUCKDESCHEL: I'm just asking whether you are representing Dr. Garabrant?

MR. KOLOS: I think for purposes of this deposition I am.

MR. RUCKDESCHEL: Okay. Are you refusing to produce that PowerPoint presentation?

MR. KOLOS: Yes.

MR. RUCKDESCHEL: Okay. Thank you.

Doctor, let's stop now and have the court reporter mark now Exhibits 4, 5 and 6; which are the January 7, 2005 letter, the April 25, 2005 letter with the enclosed materials, and the December 9, 2004 letter to the union respectively.

COURT REPORTER: I thought the CV was 4?

MR. KOLOS: I have the CV as 4.

COURT REPORTER: We have two number 4s.

MR. RUCKDESCHEL: Okay. Then let's make them

5, 6 and 7 then. So 5 will be the January 7, 2005 letter, 6 will be the April 25, 2005 letter with the attached medical records and 7 will be the December 9, 2005 letter, the materials from the union.

(Whereupon Deposition Exhibit Numbers 4, 5, 6 and 7 are marked for identification by the Notary Public and are attached to the transcript.)

COURT REPORTER: Okay. We're all set.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Doctor, I would like to ask you some questions regarding the Goodman paper. Do you have a copy of it?

A. I do. It will take me a moment to get it.

Okay. I'm ready.

Q. Doctor, the Goodman paper is a META analysis, is that correct?

A. Yes.

Q. And you and your co-authors collected a number of articles and then you broke them out into three tiers, correct?

A. Among other things, yes.

Q. Okay. I'm just working bit by bit here. Tier one involved four studies; MacDonald, MacDonald, Teta, Hessel and Teschke, correct?

A. Just a moment.

Q. Take your time.
A. Yes.
Q. Tier two would include the Woitowitz, Agudo and Hansen studies?
A. That's correct.
Q. And tier three included a number of other studies that were not included in the META analysis calculation, is that correct?
A. Yes.
Q. And those were not included for various reasons?
A. That's correct.
Q. And the reasons are set forth in the paper?
A. Yes.
Q. Would you agree, Doctor, that for the studies in tier one and tier two no information is provided regarding the work practices of the mechanics?
A. I'm not sure what you mean by the work practices of the mechanics.
Q. Okay. Well, if we -- are you familiar with studies like the Blake study?
A. I have read the Blake study.
Q. And are you familiar with, from your review of studies like the Blake study, the fact that there are various opportunities for exposure to asbestos when performing brake repair and replacement work?

A. Well, I'm aware that doing brake repair work generates particulates and that low levels of Chrysotile fiber have been measured in some of the particulates generated in the course of doing brake repair.

Q. Okay. And particulates can be generated at various stages of brake repair jobs, would you agree?

MR. KOLOS: Hold on second.

THE WITNESS: Hold on a second. I'm trying to get the Blake study out if we are going to talk about it. I need to be able to see it.

Okay. And your question was again, please?

BY MR. RUCKDESCHEL, CONTINUING:

Q. That there are different opportunities during the performance of a brake job, different stages in the performance of a brake job where particulate matter may be produced?

A. There are tasks which can produce particulate matter.

Q. Okay. And Chrysotile asbestos has been measured when boxes containing asbestos containing brake pads have been opened and undusted brake pads have been handled, would you agree?

A. I don't recall that. Could you direct me to that?

Q. I'm not sure if it's contained in the Blake study. I'm just asking generally whether you have read or are aware of studies that have measured release of

asbestos-containing dust during the opening of a box and handling of undusted brake pads?

MR. KRAUSE: Do you mean peer-reviewed studies?

MR. RUCKDESCHEL: I'm just asking.

THE WITNESS: You would have to direct me to such studies.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. Are you aware of the opportunity for release of asbestos dust when edges of brake shoes are beveled?

A. Again, you'd have to direct me to the studies to which you're referring. I don't see that in the Blake study.

Q. I'm not asking you about the Blake study, Doctor.

All right. Let's take this a different way. Doctor, do we know how the mechanics in the MacDonald study performed any brake work that they may have prepared -- performed?

A. We know that they were garage workers.

Q. Okay. And to the extent that they performed brake work, you would agree that we don't have a videotape or any other record that shows how they did it?

A. That's correct.

Q. And there's no information in the MacDonald study about how they did it?

A. The MacDonald study does not describe how brake repair work was done. It simply includes garage workers who

were believed to do brake work.

Q. And we don't know whether the garage workers in the MacDonald study opened the boxes of brakes themselves, correct?

A. The MacDonald study does not say anything in response to that issue.

Q. And we don't know whether the mechanics in the MacDonald study ground the brakes, correct?

A. We -- all we know is that they were garage workers and that they were either cases or controls.

Q. Yeah. We don't know whether they filed the edges of the brakes or they sanded the surface of the brakes or whether they worked on cars or trucks, whether they did blow out with compressed air, or whether they cleaned up after themselves, correct?

A. That, that is not stated explicitly in the MacDonald study.

Q. Okay. We don't know whether they used any dust control methods or wore a respirator in the MacDonald study, correct?

A. The MacDonald study does not provide information on that issue.

Q. And it provides no information regarding the level of dust in the garages --

COURT REPORTER: I'm sorry. I didn't get the

end of that question.

BY MR. RUCKDESCHEL, CONTINUING:

Q. It provide -- it doesn't provide any information regarding the level of dust at the garages where these mechanics work, correct?

A. There are no measurements of exposure in the MacDonald study. There are measurements of airborne exposures.

Q. And, and we don't know how often the mechanics in the MacDonald study may have performed any brake work, correct?

A. The MacDonald study does not provide any information on that point.

Q. We don't know how long the individuals in the MacDonald study worked as garage workers?

A. The MacDonald study does not provide information on that point.

Q. Okay. And we don't know whether those mechanics performed any other activities that may have involved the release of asbestos dust such as clutch replacements, correct?

A. There's no information in the MacDonald study on the tasks that the garage workers performed. They were garage workers, and the information in the MacDonald study indicates that, I'm trying to find the section, the MacDonald paper indicates that the authors believed that

these garage workers were certainly exposed to chrysotile from brake linings, but it does not tell the tasks they performed that created those exposures.

Q. And it doesn't tell us whether that was one day or fifteen years in which they were exposed, correct?

A. It does not.

Q. Okay. And looking at the Teta study we don't know any of that information either?

MR. KRAUSE: T E T A.

THE WITNESS: We know from the Teta study that they were automobile repairs and related service workers.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. And we don't know whether any of those individuals performed brake work, they opened the boxes themselves, whether they ground the brakes, whether they filed the edge or sanded the surface, whether they were working on cars or trucks, whether they did blow out with compressed air, whether they swept up after themselves, whether they used dust controls or wore a respirator, what the dust level was, what the frequency of any brake work was, what the duration of their employment was, or whether they did any other work that potentially involved exposure to asbestos, correct? We don't know any of that information in the Teta study?

MR. KOLOS: Object to form.

THE WITNESS: None of that information is reported explicitly in the publication. What we know is that these were people who were auto repair and related service workers, both cases in controls, and it is a reasonable assumption that they did what is typical in those occupations.

BY MR. RUCKDESCHEL, CONTINUING:

Q. What is related services?

A. I would have to go back to the coding of the Teta study. I do not recall it from memory. I believe she used the Census Industry and Occupation Coding and I do not have that with me. The term I believe she used was automobile mechanics and garage workers and gas station attendants.

Q. Okay.

A. And I would have to go back and, and review the Bureau of Census publications to know all of the job titles that fell within those categories. I believe from memory that that included car, bus and truck repair workers.

Q. And do you also believe it included individuals that were not performing mechanical work such as gas station attendants?

A. It included gas station attendants but it is my understanding that in many instances they do perform mechanical work.

Q. Okay. But we don't know anything about how or how often

they may have done that?
A. This study does not give those details in the publication.
Q. Okay. And if you look now at the Hessel study, Hessel reanalyzed the Spirtas data from the Spirtas' 1985 article and 1994 article, is that correct?
A. Yes. I believe that's correct.
Q. And in the Spirtas data we know that some of these individuals, both cases and controls, actually performed brake work?
A. I believe that's correct.
Q. Okay. But with respect to all of the other factors that we've just listed regarding the MacDonald and Teta cases, the Spirtas study does not contain any information, would you agree?
A. No. I would not.
Q. Okay. Do we know whether the individuals in the Hessel study opened the box that contained the brakes?
A. I don't recall that that is mentioned in the study.
Q. Do we know whether they ground the edge of the brakes?
A. I don't believe that's mentioned in the study.
Q. Do we know whether they filed the edge of the brakes?
A. I don't believe that's mentioned in the study.
Q. Do we know whether they sanded the surface of the brakes?
A. I don't believe that's mentioned in the study.

Q. Do we know whether they were working on cars or trucks?
A. It will take me a minute to address that. Just hold on.
Q. Sure.
A. The publication does not report that information.
Q. And do we know whether the individuals in the Hessel study blew out wear dust with compressed air?
A. I do not know that. That's not mentioned in the published version.
Q. Do we know whether the individuals in the Hessel study swept up after themselves?
A. We do not know that. We do know that these were people that did brake work both occupationally and non-occupationally; and I think it's a reasonable presumption is that they did what is typical in doing brake work.
Q. Do we know whether they used any dust controls?
A. I don't believe that's mentioned in the publication.
Q. Do we know whether any of them wore a respirator?
A. That's not mentioned in the publication.
Q. Do we know what the level of the asbestos dust was?
A. That's not mentioned in the publication.
Q. Do we know what the duration of their employment as a mechanic was in the Hessel study?
A. Well, there is information on the duration of brake work in the paper, yes.

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Q. And that information is whether they were performing that work for more or less than ten years, correct?
A. That's correct.
Q. All right. Do we know the frequency that any of the individuals performed brake work?
A. It's not contained in the paper.
Q. Do we know whether the individuals examined in the Hessel study performed any other activities in their work as a mechanic that could have involved asbestos dust such as working with clutches?
A. I'll have to look too before I can answer that.
Q. Okay. Please do.
A. I don't believe it mentions whether they did clutch work.
Q. Okay. And Doctor, the Hessel study did not account for latency, is that correct?

COURT REPORTER: I'm sorry. Would you repeat that?

BY MR. RUCKDESCHEL, CONTINUING:

Q. The Hessel study did not account for latency?
A. It will take me a moment to answer that.
Q. I think if you look at page four of the Goodman article, table one.
A. The Goodman article indicates that there was not an analysis by latency in the Hessel article. I believe that is correct.

Q. And in fact the only study that is in tier one or tier two of the Goodman article that accounts for latency is the Teschke study?

A. I believe that's correct.

Q. Okay. Would you agree that none of the studies included in the META analysis and including the META analysis reached conclusions that were statistically significant?

MR. KOLOS: Object to the form.

THE WITNESS: I don't understand the question. I'm sorry. Could you rephrase that?

BY MR. RUCKDESCHEL, CONTINUING:

Q. Sure. All of the studies that are calculated in tier one or tier two, all of the studies either calculated a relative risk or you and your authors calculated a relative risk for them?

A. I don't -- is that a question? I don't understand. I'm sorry.

Q. Yes, it is.

A. What is the question?

Q. The question is, let's just break it out, the MacDonald study calculated a relative risk in the Goodman article?

A. The MacDonald study did calculate a relative risk and that is represented in table two of the Goodman article.

Q. Okay. And for each of the studies we can look at table two and we can see what the relative risk estimate was?

A. Yes.
Q. Okay. And the estimate for each spans one, correct?
A. I don't -- I can't answer the question the way you have asked it. Do you mean the confidence interval spans one?
Q. That's right.
A. Yes. That is true.
Q. Okay. And in epidemiological terms when the confidence interval includes the value of one the results are not statistically significant, is that correct?
A. Assuming that you're using the same value for the alpha error that would be true.
Q. And in each of the studies in tier one and tier two that is true, correct?
A. That is correct.
Q. And the results of the META analysis itself the confidence interval spans one?
A. You're talking about the META analysis now for mesothelioma, is that correct?
Q. Correct.
A. The answer is yes.
Q. Okay. Doctor, we went through with the Hessel study a list of factors, a list of things factor by factor that you don't know, and with the Teschke study would you agree that in addition to not knowing whether any of the individuals performed brake work, we don't know whether

they performed any of the activities may have released asbestos dust if they did perform brake work?

MR. KOLOS: Object to form.

THE WITNESS: Let me look back at the Teschke study for a moment before I answer.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Sure.

A. The Teschke study comments that a history of brake-lining installation or repair had a risk estimate below one; and so the Teschke article actually does contain information that these, some of these people did brake lining installation or repair; and as you pointed out earlier it does have an analysis that accounts for latency.

Q. Okay. And actually if we turn back to page four of the Goodman article on table one, that's the second line, Teschke is study number three, and it notes asbestos exposure is specific?

A. Yes.

Q. Okay. And there are three studies of the eleven studies considered in the META analysis that have specific information about exposure to asbestos; the Hessel study, the Teschke study and the Woitowitz study, correct?

A. They had specific exposure meaning either brake repairmen or industrial hygiene based estimates of asbestos exposure.

Q. Right.
A. That's correct.
Q. And the others did not?
A. That's correct.
Q. Doctor, in order to have a meaningful answer as to whether Joe Mallia's work --

COURT REPORTER: Would you start over again?

BY MR. RUCKDESCHEL, CONTINUING:

Q. Absolutely.

Doctor, in order to have a meaningful answer to the question of whether Joe Mallia's work with asbestos-containing friction products caused or contributed to his mesothelioma, don't we have to have a study that looks at workers that did what Joe Mallia did?

A. The answer is yes and what that means is it is widely accepted in the scientific literature that the epidemiology studies that estimate risks in occupations and industries are applicable to people who work in those occupations and industries provided that the individual, the person at issue performs the tasks that are typical in that occupation, and provided that the epidemiologic study looks at workers who are typical workers in that occupation or industry; and I believe that both of those conditions are satisfied in this instance.

Q. Okay. You would agree that in order for those conditions

to be satisfied there has to be a typical worker, in other words, the variety of work practices among workers has to be relatively small?

A. No. I would say that the workers included in a scientific study should represent the distribution of tasks and exposures and durations and frequencies of exposure that are typical in that occupation or that industry.

Q. Okay.

A. It's not, it's not a reasonable presumption to say that all the workers should be identical and that in order for the scientific literature to be relevant to any individual case, all of the people in the scientific literature should be identical to the individual case.

It's more appropriate, and I think widely accepted, that exposures occur with some distribution of frequency, intensity and duration; and that epidemiology studies that include people that fairly characterize those distributions are applicable to individuals who fall within those distributions.

Q. Okay. I'd like to pose for you a hypothesis, Doctor. I'd like for you to consider the hypothesis that the only way that one can get mesothelioma from an exposure to asbestos contained in the friction products is if the individual manipulates the friction products in their new

state, in other words, performs grinding, beveling or sanding of the new friction materials. Are you with me so far?

A. I, I hear your hypothetical, yes.

Q. Okay. Now, if we have the hypothetical situation where it is only the work with new friction products that is capable of causing mesothelioma in brake mechanics, don't we have to study brake mechanics who manipulate new friction material to get a meaningful answer to the question of whether those individuals are at increased risk for mesothelioma?

MR. KRAUSE: Objection. Form and foundation.

THE WITNESS: Well, the assumption in your hypothetical that new friction products caused mesothelioma is not supported by the large body of literature that has looked at risks of mesothelioma among brake repair workers and auto repair workers who routinely handle new friction materials. And so your hypothetical as far as I am aware has absolutely no factual basis.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Well, Doctor, that's the hypothetical that -- the hypothesis, if we were to seek to test that hypothesis, the study that you would design as an epidemiologist involves looking at mechanics that manipulated new

friction materials, correct?

MR. KOLOS: Object to form.

THE WITNESS: Well, are you asking me how to design an epidemiologic study that would test the hypothesis that handling new friction materials causes mesothelioma?

BY MR. RUCKDESCHEL, CONTINUING:

Q. Not handling them, manipulating them; filing them, grinding them or sanding them?

A. Okay. Are you asking me to design an epidemiologic study that would test the hypothesis that sanding, filing and/or grinding new friction materials causes mesothelioma?

Q. Yes.

A. Well, I could do that for you. That would take some thought.

Q. Okay. How would you do it?

A. I'm not sure it is feasible to do so. I would want to identify a cohort of people whose only exposure to asbestos was from sanding, filing or grinding new friction materials; I would want to follow that cohort over a sufficient period of time, probably a minimum of forty years; and I would want to calculate the incidence rate of mesothelioma in that group; and then I would want to compare it to a referent population that did not sand,

file or grind friction products but who were otherwise just like the exposed population.

Q. Okay. Has that study been done?

A. I am -- I do not recall that study offhand. Is there one that you are thinking of?

Q. Absolutely not. Doctor, are there ways, if you had a cohort of workers who you knew had sanded, ground or filed new friction materials who had mesothelioma, that you could develop a study to test the hypothesis; whether that activity, specifically sanding, grinding and filing, put them at increased risk for mesothelioma?

A. I don't understand the question as you have asked it. I'm sorry.

Q. Okay. I'd like you to assume that you had a population of individuals with mesothelioma, and that you knew for those individuals that they had sanded, ground and filed and/or filed asbestos-containing friction materials, is there a way that you could design an epidemiology study with a known positive population, mesothelioma victims, who performed those specific activities so that you could test the hypothesis of whether those activities put those individuals at increased risk?

A. Not the way you've stated it. You can't do that. You've, you've already designed a study that's hopelessly flawed.

Q. Okay. Why?

A. Because all of your people have mesothelioma and they all have the exposure of interest. The way you have designed it the two are perfectly correlated.

VIDEOGRAPHER: Excuse me. We are going to need to change videotape.

MR. RUCKDESCHEL: Okay. How much time do we have left?

VIDEOGRAPHER: About one to two minutes.

MR. RUCKDESCHEL: Okay. Go ahead and change it now, please.

VIDEOGRAPHER: This is end of the videotape number one. Off the record at 3:11.

MR. KOLOS: Take a five-minute break?

MR. RUCKDESCHEL: If we need to take a five-minute break, let's do it. I have probably fifteen minutes left. If we could push through that would be better for me but I don't want anybody to be uncomfortable because they have to go to the bathroom.

MR. KRAUSE: I'm going to be uncomfortable.

MR. RUCKDESCHEL: If people are getting uncomfortable let's take five.

(Whereupon a recess was taken.)

VIDEOGRAPHER: Okay. Stand by. This is video tape number two of Dr. David Garabrant's deposition. We

are back on record at 3:22.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Dr. Garabrant, do you agree that Joe Mallia has mesothelioma?

A. Yes.

Q. Do you agree that in all likelihood that Joe Mallia will die from his mesothelioma?

A. I believe the probability is very high that that will occur.

Q. There is no cure for mesothelioma, would you agree?

A. Not to my knowledge, there is not.

Q. Do you have any factual information that Joe Mallia was exposed to asbestos while doing anything other than performing mechanic work?

A. I believe Mr. Mallia testified that he had been involved in activities such as building demolition in which he believed there was asbestos exposure.

Q. Do you have any factual information that any of the buildings that may have been demolished had asbestos in them when they were demolished?

A. I do not know.

Q. Okay. I'd like to run through with you, Doctor, four medical conditions: Pleural plaques, asbestosis, lung cancer and mesothelioma; and the four types of asbestos: Chrysotile, Amosite, Crocidolite and Tremolite; and ask

you whether it is your opinion that those different types of fiber can cause each of those conditions. So let starts with Crocidolite. Can Crocidolite cause pleural plaques?

A. I believe under circumstances of adequate exposure it can.

Q. Okay. Let's assume that -- I'll phrase the questions that way.

In sufficient dose can Crocidolite cause asbestosis?

A. Yes. I believe it can.

Q. In sufficient dose can Crocidolite cause lung cancer?

A. I believe it can.

Q. In sufficient dose can Crocidolite cause mesothelioma?

A. I believe it can.

Q. In sufficient dose can Amosite cause all four of those conditions?

A. Yes.

Q. Can Tremolite in sufficient dose cause all four of those conditions?

A. I would say literature on Tremolite is not as clear by far as the literature on Amosite and Crocidolite.

Q. Okay. Let's skip Tremolite. Let's got to Chrysotile.

Can Chrysotile cause pleural plaques in sufficient dose?

A. I didn't prepare today on the issue of pleural disease or pleural plaques and diffuse pleural thickening in relation to the different forms of asbestos; and I would have to say I'm not prepared to give a final opinion on that issue as I sit here today because I simply didn't prepare for it.

Q. Okay. Can Chrysotile in sufficient dose cause asbestosis?

A. I believe it can.

Q. Can Chrysotile in sufficient dose cause lung cancer?

A. I believe it can.

Q. All right. I think we are moving right along.

Would you agree with the statement, Doctor, that it would be preferable to classify workers according to the operations they perform when conducting a study to determine whether work with brakes was capable of causing or contributing to disease?

MR. KOLOS: Object to the form.

THE WITNESS: I'm not -- I don't quite understand the question as asked.

MR. RUCKDESCHEL: Okay. Well, unfortunately we have an alarm that is going off here.

MR. KRAUSE: Somebody just died.

MR. RUCKDESCHEL: Bear with me, please.

MR. KOLOS: Go off the record.

VIDEOGRAPHER: Off the record at 3:27.

(Whereupon a brief break was had off the record.)

VIDEOGRAPHER: We are back on the record at 3:28.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Doctor, we were talking about Chrysotile in sufficient dose. In sufficient dose can Chrysotile cause asbestosis?

A. Yes.

Q. In sufficient dose can Chrysotile cause lung cancer?

A. I believe it can.

Q. In sufficient dose can Chrysotile cause mesothelioma?

A. I think you've already asked me for my opinion on that and I believe I stated that the scientific evidence does not answer definitively in a yes or no format. The scientific evidence supports a conclusion that Chrysotile is far less potent than Crocidolite and Amosite in causing mesothelioma and that the data is reasonably compatible with it not causing that disease at all. In other words, the risk of mesothelioma from pure Chrysotile exposure is either very low, either very low, or the same as among people who have no exposure.

Q. In the individuals who have exposure to mixed fiber types does their exposure to Chrysotile tile increase their

risk to mesothelioma?

MR. KOLOS: Object to the form. Overbroad.

THE WITNESS: I would give the same answer. It's not clear that Chrysotile increases the risk of mesothelioma under any circumstances of exposure with or without other types of asbestos being present.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. If we were to perform a study in an attempt to determine whether individuals who worked with asbestos-containing friction materials were at increased risk of developing asbestos-related diseases, would you agree that it would be preferable to classify the workers according to the operations they performed and not simply according to their job titles?

MR. KOLOS: Object to form.

THE WITNESS: There's no easy answer to do that. It's always desirable to classify people with respect to exposure in the most accurate manner possible. The basis of good science is making good measurements and making reliable classifications. And so to the extent that that's feasible to do it's always desirable.

There are many instances in epidemiology where the best available evidence is a job title or an industry title in which people have worked, that is, exposure classifications at the level of job title or industry

title are commonly used in epidemiology and data of that type has formed the basis for the discovery that chemicals cause all sorts of diseases, including the evidence that some types of asbestos cause lung cancer in mesothelioma. And so while I'd say we always want to use the best available exposure information and exposure classification, we're stuck with what exists, and in the instance of motor vehicle mechanics and brake repair workers what exists I believe is adequate to address the question of whether work in that occupation or those occupations is a risk factor for mesothelioma.

BY MR. RUCKDESCHEL, CONTINUING:

Q. Okay. Thank you for that answer, Doctor. I'd like to ask you to assume that a one in one thousand risk of mesothelioma existed for individuals who work with brakes in the manner that Joe Mallia worked with brakes, would the MacDonald study be able to detect that risk?

A. I can't answer the question as asked. There are a lot of other assumptions that would have to be made before that assumption would be answered.

Q. What assumptions?

A. I'd have to have some estimate of the risk among controls; I'd have to have an estimate of the prevalence of exposure; I'd have to know what alpha error we were willing to accept; and I'd have to know what beta error

we were willing to accept before that could be answered.
Q. Well, what, what are the conventions for levels of alpha and beta error that we are willing to accept?
A. Well, for alpha it is easy. Typically .05 is --
Q. Okay.
A. -- customarily assumed.
Q. For beta error?
A. Typically for beta error often we use a value of .2.
Q. Okay. Let's assume both of those. So five for the alpha, .2 for the beta?
A. I'm sorry. Did you mean .05 for the alpha?
Q. Yes. Whatever the convention is. It is easy, right? And then for the rate of exposure we know that individuals who work with brakes the way that Joe did have a hundred percent rate of exposure, correct?

MR. KOLOS: Object to form.

THE WITNESS: You, you didn't understand my previous answer and --

BY MR. RUCKDESCHEL, CONTINUING:
Q. Okay.
A. -- and I don't understand your question.
Q. All right. What, what rate of exposure are you talking about?
A. The prevalence of exposure in the source population from which the cases and controls are drawn.

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Q. Okay. And can we use the population of the United States as the source population in our study?

Doctor, let's abandon this line of questioning.

A. Okay.

Q. At least abandon my hypothetical. Let me ask you a different hypothetical along the same lines.

If we assume that there was a one in ten thousand risk of mesothelioma amongst brake mechanics, would the MacDonald study be capable of detecting that risk?

A. Well, it's the same answer as before. You can't -- I can't answer that without defining those other parameters.

Q. Is the information in the MacDonald study sufficient to allow you to define those parameters?

A. I don't believe it is.

Q. Okay. What about the Teta study, same answer?

A. I think the answer is the same. The Teta study does not allow me to estimate, as you've asked it, the probability or actually didn't ask it, estimate whether this study would detect a risk of one in one hundred thousand if it existed.

Q. Your information is deficient for us to know that we could detect it or not?

A. Not the way you asked it, no.

Q. Doctor, I appreciate your time. I wish I had more time but I don't. So, I have no further questions. I understand Mr. Salner has some questions.

I actually do have one more question for you, Doctor.

Have you been asked to come to trial in this matter?

A. I don't -- I'm not aware that trial has been scheduled. If I am asked to come to trial I will certainly do my best to appear.

Q. Okay. Trial in this case is set to begin on June 18th.

MR. KOLOS: July.

MR. RUCKDESCHEL: It's a week from next Monday.

MR. KOLOS: July.

MR. RUCKDESCHEL: In Miami. The defense case would likely be put on the following case which is the week, I'm sorry, the week that begins July 25. Would you be able to come to Miami if asked during the week of July 25 to testify?

THE WITNESS: Yes.

MR. RUCKDESCHEL: Okay. Thank you. I have no further questions.

MR. SALNER: This is Craig Salner. Chris, I don't know if you want to ask them, I can ask them, it doesn't matter. I got five minute's worth.

MR. KOLOS: Go ahead, Craig.

EXAMINATION

BY MR. SALNER:

Q. Dr. Garabrant, good afternoon, I'm Craig Salner, I'm here on behalf of Bennett Auto.

A. Hi. Good afternoon.

Q. If you wouldn't mind if you could please give us the benefit of your educational history starting with college in terms of the schools you went to and the degrees you received and the years you received them.

A. Yes. I received my undergraduate degree form Tufts University in 1972. My degree was in chemical engineering. I graduated with high honors.

I then went to medical school at Tufts University, School of Medicine, and I graduated in 1976 receiving a Doctor of Medicine Degree.

I was a student at the Harvard School of Public Health from 1978 to 1980. I received a Master of Public Health Degree in 1979 and a Master of Science in Physiology in 1980.

Q. Thank you, Doctor. Also, if you could just tell us a little bit about your work history in terms of internships and residencies.

A. Yes. Upon graduating front medical school in 1976 I served as an intern in internal medicine at the

Georgetown University Hospital in Washington, D.C. That was from 1976 to 1977.

I then served as a medical resident in ambulatory care within internal medicine at Georgetown University Hospital from '77 to '78.

As I mentioned, I was then in -- I was enrolled at the Harvard School of Public Health from '78 to '80 and completed a residency in occupational medicine during that time.

From 1980 to '81 I was a senior resident in internal medicine as Boston University Medical Center in Boston.

Upon completing my residency in 1981 I was appointed as an assistant professor in the Department of Preventive Medicine at the University of Southern California School of Medicine. I held that position until 1988 when I was promoted to associate professor with tenure at the University of Southern California School of Medicine. In that same year I was asked to join the faculty of the University of Michigan as associate professor of occupational medicine with tenure; and I assumed my responsibilities at Michigan in December of 1988.

I was at that time associate professor of occupational medicine and Director of the Occupational

Medicine Program. I've been at the University of Michigan for almost seventeen years; and over those seventeen years I've held various titles including Director of Occupational Medicine; Director of Occupational Health; Director of the Educational Resource Center in Occupational Health and Safety, Engineering; Director of the Cancer Training Program; Director of the Occupational Environmental Epidemiology Curriculum and currently Director of the Center for Risk Science and Communication.

I was promoted to professor in 1996 and was appointed as professor of epidemiology in 2003, and I think that brings us up-to-date.

MR. SALNER: All right, Doctor. That's all I have. Thank you for your time.

THE WITNESS: Thank you.

MR. RUCKDESCHEL: Doctor, this is John Ruckdeschel. I have one further question.

RE-EXAMINATION

BY MR. RUCKDESCHEL:

Q. Have you ever attempted to determine what level of risk the studies that aren't considered in the META analysis of the Goodman paper would detect?

A. I don't understand the question as asked.

Q. Okay. Have you ever attempted to determine whether any

of the studies considered in the Goodman META analysis would detect the level of risk of one in a thousand?

A. I think that's the same question that you've already asked, and it cannot be answered unless you make a number of other assumptions.

Q. Doctor, I'm asking have you ever attempted to do so?

A. No. I have not attempted to answer that question. I don't think it's even a valid question the way it's asked.

MR. RUCKDESCHEL: Fair enough. I have nothing further. Thank you.

MR. KRAUSE: Thank you.

MR. RUCKDESCHEL: You have the right to read and sign this transcript. You have the right to waive that right.

THE WITNESS: I'll read and sign, please.

MR. RUCKDESCHEL: Great. Madam reporter, I've sent you an e-mail with what we would like. Call me if you have any questions. I'm available. And with that let's go off the record. Thank you very much, gentlemen.

VIDEOGRAPHER: Deposition concluded at 3:45.

MR. RUCKDESCHEL: Thanks.

COURT REPORTER: Anybody else want to order on the phone?

MR. LAGE: Ms. Reporter, this is Gus Lage on

behalf of Ford and GM. We would like a copy with a mini. No ASCII. And we want a copy of the DVD of the video itself. You need my address?

COURT REPORTER: Yes, please.

MR. LAGE: The address is 6333 Sunset Drive, South Miami, Florida 33143 and my name is spelled L A G E is the last name. G U S T A V O.

COURT REPORTER: And your phone number, please?

MR. LADA: 305 663-0000.

COURT REPORTER: Anybody else on the phone?

MR. SALNER: Ms. Turner, this is Craig Salner, we would like a mini and an ASCII, no video, and we do not need it expedited.

MR. GREENE: Ms. Turner, this is Kevin Greene. I would like an ASCII, mini, and a copy of the DVD at Willcox & Salvage. 757 628-5686.

(Deposition concluded at 3:47 p.m.)

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

CERTIFICATE OF NOTARY PUBLIC

I certify that this transcript is a complete, true and correct record of the testimony of the deponent to the best of my ability taken on July 8, 2005.

I also certify that prior to taking this deposition the witness was duly sworn by me to tell the truth.

I also certify that I am not a relative or employee of a party, or a relative or employee of an attorney for a party, have a contract with a party, or am financially interested in the action.

_____
Barbara J. Turner, CSR-2343, RPR
Notary Public, Oakland County
State of Michigan
Commission Expires February 14, 2008