

(1) IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 (2) IN AND FOR THE COUNTY OF SAN FRANCISCO  
 (3) ---oOo---  
 (4)  
 (5)  
 (6) BILLY S. JOHNSON,  
 (7) Plaintiff,  
 (8)  
 (9) vs. No. CGC-10-275528  
 (10) ADVOCATE MINES, LIMITED;  
 (11) ET AL.,  
 (12) Defendants.  
 (13) \_\_\_\_\_/  
 (14)  
 (15)  
 (16) VIDEOTAPED DEPOSITION OF THOMAS JOHN SLAVIN  
 (17)  
 (18)  
 (19) Taken before DIANE DEARMORE  
 (20) CSR No. 12736  
 (21) October 7, 2010  
 (22)  
 (23)  
 (24)  
 (25)

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(1) DEPOSITION OF THOMAS JOHN SLAVIN  
 (2)  
 (3) BE IT REMEMBERED, that pursuant to Notice, and on the 7th day of October, 2010, commencing at the hour of 9:36 a.m., before me, DIANE DEARMORE, a Certified Shorthand Reporter, State of California, personally appeared THOMAS JOHN SLAVIN, produced as a witness in said action, and being by me first duly sworn, was thereupon examined as a witness in said cause.  
 (4)  
 (5) ---oOo---  
 (6) APPEARANCES:  
 (7) For the Plaintiff:  
 (8) SIMONA A. FARRISE  
 (9) CARLOS J.E. GUZMAN (via phone)  
 (10) Farrise Law Firm  
 (11) 11900 West Olympic Boulevard  
 (12) Suite 580  
 (13) Los Angeles, California 90064  
 (14)  
 (15) For Defendant Navistar, Inc.:  
 (16)  
 (17) JAMES J. OSTERTAG  
 (18) Nixon Peabody, LLP  
 (19) One Embarcadero Center  
 (20) 18th Floor  
 (21) San Francisco, California 94111  
 (22) For Defendant Navistar, Inc.:  
 (23) JAMES T. SEIGFREID, JR.  
 (24) Baker Sterchi Cowden & Rice, LLC  
 (25) 2400 Pershing Road, Suite 500  
 Kansas City, Missouri 64108

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(1) APPEARANCES CONTINUED:  
 (2) For Defendant Borg-Warner Corporation:  
 (3) JOHN K. KIRBY  
 Burnham Brown  
 1901 Harrison Street, 11th Floor  
 Oakland, California 94612  
 (5) For Defendant CSK Auto, Inc.:  
 (6) SHAHRAD MILANFAR  
 (7) (via phone)  
 Becherer, Kannett & Schweitzer  
 1255 Powell Street  
 Emeryville, California 94608  
 (9) For Defendants Dana Companies, LLC; Pneumo Abex LLC:  
 (10) CHRISTINA CINCO  
 (11) (via phone)  
 Brydon, Hugo & Parker  
 135 Main Street, 20th Floor  
 San Francisco, California 94105  
 (13) For Defendants ArvinMeritor, Inc.; Maremont  
 Corporation:  
 (15) MARK P. EPSTEIN  
 McKenna, Long & Aldridge  
 101 California Street, 41st Floor  
 San Francisco, California 94111  
 (17) For Defendants Carlisle Corporation;  
 Motion Control Industries, Inc.:  
 (19) DUSTIN BECKLEY  
 (20) (via phone)  
 The Rasmussen Law Firm, LLP  
 6033 West Century Boulevard  
 Suite 375  
 Los Angeles, California 90045  
 (22)  
 (23)  
 (24)  
 (25)

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(1) PROCEEDINGS  
 (2) VIDEOGRAPHER: Good morning. Here begins  
 (3) Media Number 1. Deposition of Tom Slavin, Volume I.  
 (4) The caption of this case is Billy S. Johnson versus  
 (5) Advocate Mines Limited, et al. This case is in the  
 (6) Superior Court of California, in the County of San  
 (7) Francisco, Case Number CGC-10-275528. Today's date is  
 (8) October 7, 2010, and the time is approximately 9:36 a.m.  
 (9) The deposition is taking place at 180  
 (10) Montgomery, Suite 1520, in San Francisco, California.  
 (11) The videographer is Brittany Roemer, and the court  
 (12) reporter is Diane Dearmore, both appearing on behalf of  
 (13) Aiken & Welch Court Reporters. Would the Counsel please  
 (14) identify yourselves and state whom you represent?  
 (15) MS. FARRISE: Simona Farrise on behalf of  
 (16) Billy Johnson, the Plaintiff.  
 (17) MR. KIRBY: John Kirby on behalf of  
 (18) Borg-Warner Corporation.  
 (19) MR. EPSTEIN: Good morning. Mark Epstein of  
 (20) McKenna, Long & Aldridge, LLP, in San Francisco for  
 (21) ArvinMeritor, Inc., and Maremont Corporation.  
 (22) MR. SEIGFREID: Tom Seigfreid also appearing  
 (23) for Navistar.  
 (24) MR. OSTERTAG: Jim Ostertag for Navistar.  
 (25) VIDEOGRAPHER: And the people on the phone?

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(1) APPEARANCES CONTINUED:  
 (2) For Defendant PACCAR, Inc.:  
 (3) MADELINE BUTY  
 (4) (via phone)  
 Buty & Curliano, LLP  
 555 12th Street, Suite 1280  
 Oakland, California 94607  
 (6) Also present:  
 (7) Brittany Roemer  
 Aiken Welch Court Reporters  
 Videographer  
 (8)  
 (9)  
 (10)  
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(1) MS. BUTY: This is Madeline Buty from Buty &  
 (2) Curliano on behalf of PACCAR, Inc.  
 (3) MS. CINCO: Good morning. Christina Cinco of  
 (4) Brydon, Hugo & Parker on behalf of Pneumo Abex, LLC, and  
 (5) Dana Companies, LLC.  
 (6) MR. BECKLEY: Good morning. This is Dustin  
 (7) Beckley on behalf of Carlisle Corporation and Motion  
 (8) Control Industries, Inc.  
 (9) MR. MILANFAR: Good morning. This is Shahrads  
 (10) Milanfar on behalf of CSK Auto, Inc.  
 (11) VIDEOGRAPHER: Anyone else?  
 (12) MS. FARRISE: They said there were seven  
 (13) people on the phone. We didn't hear seven people. Who  
 (14) else is there?  
 (15) THE REPORTER: I believe I might be the  
 (16) seventh person.  
 (17) MS. FARRISE: Did you get six people? I don't  
 (18) think you did. You got PACCAR. You got Abex. You got  
 (19) Carlisle. You got --  
 (20) MS. BUTY: Just -- and this is Madeline Buty.  
 (21) I was hearing just music for a while, so I hung up and  
 (22) rejoined. I don't know if that mattered.  
 (23) MS. FARRISE: I am sure it was you, Madeline.  
 (24) Okay. Let's get the witness sworn -- actually, I have a  
 (25) question. Mr. Seigfreid, who is also here for Navistar,

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(1) are you licensed to practice law in California?  
 (2) MR. SEIGFREID: No.  
 (3) MS. FARRISE: Okay. So I would object to you  
 (4) being here. You are not a party to this lawsuit.  
 (5) You're not a lawyer who has applied pro hoc vice and  
 (6) gotten permission to attend any deposition, so I would  
 (7) ask you to leave the deposition room. I would consider  
 (8) it to be an unlawful practice of law for you to appear  
 (9) in the case where you have not applied pro hoc vice to  
 (10) the court that have rules like that and where you are  
 (11) not a corporate representative. So --  
 (12) MR. OSTERTAG: He's here on behalf -- this is  
 (13) Jim Ostertag. He is here on behalf of the corporation  
 (14) Navistar. He's not making an appearance for the  
 (15) deposition. He's not going to defend the deposition.  
 (16) He's not going to make any objections or any statements  
 (17) on the record. He's simply identified himself as being  
 (18) present in the room when asked by the videographer.  
 (19) He's entitled to be here.  
 (20) MS. FARRISE: He's not entitled to be here in  
 (21) accordance with the State Bar. He needs to apply pro  
 (22) hoc vice. But with that, we're wasting time.  
 (23) THOMAS JOHN SLAVIN,  
 (24) sworn as a witness  
 (25) testified as follows:

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(1) EXAMINATION BY MS. FARRISE:  
 (2) Q. Sir, would you state your full name and spell  
 (3) it for the record, please?  
 (4) A. First name Thomas, T-h-o-m-a-s. Middle John,  
 (5) J-o-h-n. Last name Slavin, S-l-a, V as in Victor, i-n.  
 (6) Q. Mr. Slavin, have you ever had your deposition  
 (7) taken before?  
 (8) A. Yes.  
 (9) Q. Okay. On how many occasions?  
 (10) A. Twice that I can recall.  
 (11) Q. Okay. Did either of those occasions have  
 (12) anything to do with the claim of asbestos property  
 (13) damage or personal injury, to your knowledge?  
 (14) A. No.  
 (15) Q. Okay. When were you deposed?  
 (16) A. 1978, I believe. It's in that time frame.  
 (17) Q. Okay. And also the second time?  
 (18) A. And the second time was about 10 years ago.  
 (19) Q. Okay. And that would be 2000?  
 (20) A. About 2000 approximately, yes.  
 (21) Q. Okay. And were both of those depositions  
 (22) taken in connection with your employment with Navistar  
 (23) formerly known as International Harvester?  
 (24) A. No.  
 (25) Q. Okay. Were either of those depositions

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(1) taken --  
 (2) A. Yes.  
 (3) Q. -- in that context?  
 (4) A. Yes, more recently.  
 (5) MR. OSTERTAG: You've got to let her finish  
 (6) her question before you respond.  
 (7) THE WITNESS: Okay.  
 (8) Q. (By Ms. Farrise) The 2000 deposition?  
 (9) A. That is correct.  
 (10) Q. Okay. And what was the nature of the case  
 (11) where you were deposed in 2000 which in some ways  
 (12) implicated your employment with Navistar?  
 (13) MR. OSTERTAG: Argumentative, implicated.  
 (14) Q. (By Ms. Farrise) What kind of case?  
 (15) A. You've asked -- at least -- I don't understand  
 (16) what the implicated by employment means.  
 (17) MS. FARRISE: Actually, let me strike the  
 (18) question.  
 (19) Q. (By Ms. Farrise) Sir, you were deposed in  
 (20) 2000?  
 (21) A. That's correct.  
 (22) Q. That's your testimony to this point. Would  
 (23) you mind telling us what type of case it was that you  
 (24) were deposed in?  
 (25) A. That was a construction case where a

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(1) contractor was injured.  
 (2) Q. Okay. A contractor was injured on a facility  
 (3) that was owned or operated by Navistar, Inc.?  
 (4) A. That was being constructed by Navistar --  
 (5) being constructed for Navistar.  
 (6) Q. Okay.  
 (7) MS. FARRISE: Let me mark for the record  
 (8) Plaintiff's Exhibit Number 1, which is Plaintiff's  
 (9) Notice of Taking Videotaped Trial Preservation Testimony  
 (10) and Deposition of Navistar, Inc., Employee and Managing  
 (11) Agent Tom Slavin, S-l-a-v-i-n.  
 (12) I would mark as Plaintiff's Exhibit Number 2  
 (13) the Declaration of Thomas J. Slavin, S-l-a-v-i-n,  
 (14) submitted in the Nasseem Farag, F-a-r-a-g, versus  
 (15) Advanced Auto Parts action, County of Los Angeles, Case  
 (16) Number BC431525.  
 (17) (EXHIBIT NOS. 1-2 MARKED.)  
 (18) Q. (By Ms. Farrise) Mr. Slavin, given that  
 (19) you've only had your deposition taken twice, I would  
 (20) like to go over with you and make sure that we move  
 (21) forward with a clearer understanding of at least a  
 (22) couple of what I think are the more important rules.  
 (23) Okay?  
 (24) You understand -- well, you should understand  
 (25) that despite being here in a court reporter's office,

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(1) which is a relatively informal setting as compared to a  
 (2) court of law, that the testimony that you will give and  
 (3) the oath that you just took is testimony that will be  
 (4) given under oath. It will be given under penalty of  
 (5) perjury of law. It has the same force and effect and  
 (6) legal consequences were you not to tell the truth or  
 (7) withhold information that you know, and as though you  
 (8) were giving that testimony in a court of law. Do you  
 (9) understand that?

(10) A. Well, I guess that's --

(11) MR. OSTERTAG: Well, I'll object. That  
 (12) misstates the law, but go ahead.

(13) Q. (By Ms. Farrise) I'm sorry? You do, Mr.  
 (14) Slavin?

(15) A. I'm sorry. I --

(16) MR. OSTERTAG: You can go ahead and answer  
 (17) even if I object.

(18) A. I understand.

(19) Q. (By Ms. Farrise) Yes. Your lawyer, I would  
 (20) imagine, will be objecting from time to time. So the  
 (21) way that sort of a traffic cop goes in the deposition at  
 (22) an intersection, if I ask my question, he may or may not  
 (23) have an objection. And then after that it's your turn  
 (24) to answer. And we will try not to speak over each  
 (25) other. Okay?

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(1) Even if he objects, you are still to answer  
 (2) the question. You are only to not answer the question  
 (3) if he gives you an instruction not to answer the  
 (4) question, and you are going to follow that instruction.  
 (5) We can take that matter up later with the court. Do you  
 (6) understand that?

(7) A. Yes.

(8) Q. Okay. The second rule of deposition I just  
 (9) want to make sure we're clear on before we move forward  
 (10) is that this court reporter over here is taking down  
 (11) every word that everyone says. Hopefully we won't speak  
 (12) over each other, and she will get everyone's words.

(13) At the end of this process, very shortly, she  
 (14) will produce in a written form a deposition transcript.  
 (15) You will have an opportunity to review that deposition  
 (16) transcript. And you can make written changes to that  
 (17) transcript of whatever nature you deem you would like to  
 (18) make. However, what I want to caution you about, and  
 (19) what I want to warn you about and what I want to make  
 (20) sure we are clear about, is that if you make changes to  
 (21) that deposition transcript after this deposition is  
 (22) concluded, those changes if they are of a substantive  
 (23) nature are changes which will be commented upon at trial  
 (24) or any proceeding where your testimony is offered,  
 (25) perhaps to negative effects or embarrassment of yourself

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(1) if you are called as a witness, or as a negative effect  
 (2) or embarrassment of Navistar, Inc., for whom you are  
 (3) employed today. Do you understand that?

(4) A. Yes.

(5) Q. Is there any reason you cannot give your best  
 (6) testimony today?

(7) A. No.

(8) Q. Okay. I understand that you have had some  
 (9) health problems in the past. Is there any reason based  
 (10) on your health or anything else that you can be anything  
 (11) other than entirely truthful today?

(12) A. Nothing that impacts the accuracy or truth of  
 (13) what I'm saying.

(14) Q. Okay. Can we agree, Mr. Slavin, that your  
 (15) normal residence is in the state of Illinois, correct?

(16) A. Yes, that is correct.

(17) Q. Okay. You do not live nor work in the state  
 (18) of California today, correct?

(19) A. That is correct.

(20) Q. Okay. I also understand, for instance, that  
 (21) your office, wherever it happens to be, for Navistar,  
 (22) Inc., is located in the state of Illinois as well.  
 (23) Correct?

(24) A. That is correct.

(25) Q. Okay. And what is your current position --

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(1) A. As --

(2) Q. -- at -- strike that. How are you currently  
 (3) employed?

(4) A. I work for Navistar -- Navistar Corporation.

(5) Q. Is Navistar Corporation different than  
 (6) Navistar, Inc.?

(7) A. I'm sorry. I work for Navistar, Inc., which  
 (8) is part of Navistar Corporation.

(9) Q. Okay.

(10) A. We've changed names a couple of times. It's  
 (11) hard to keep track of the names.

(12) Q. Yes, I understand you have changed names a  
 (13) couple of times. Let's see. So how about we agree  
 (14) right at the outset that when I refer to Navistar,  
 (15) Navistar, Inc., that those terms are synonymous, number  
 (16) one, with each other, and that they are also referring  
 (17) to the same entity which has also been formerly known as  
 (18) International Harvester Company, which has also formerly  
 (19) been known as Navistar -- let's see -- strike that.

(20) Can we agree that when I refer to Navistar,  
 (21) which I probably will do throughout this deposition, I  
 (22) am referring to the company that is today known as  
 (23) Navistar, Inc., that has formerly been known from  
 (24) approximately 1902 to 1986 as International Harvester  
 (25) Company, that has been known from 1986 to 1987 as

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(1) Navistar International Corporation, that was known from  
 (2) 1987 to 2000 as Navistar International Transportation  
 (3) Corp., and from 2000 to 2008 as International Truck &  
 (4) Engine Corporation, and finally February 2008 through  
 (5) today as Navistar, Inc.? All of those -- when I refer  
 (6) to Navistar I'll be referring to all of those companies,  
 (7) no matter what the formal name was at the various  
 (8) periods that I've described. Is that okay with you?

(9) A. I'm not sure of the dates, but I'm okay with  
 (10) the concept.

(11) Q. Okay. You have heard all of those names, for  
 (12) instance, International Harvester Company, correct?

(13) A. Yes, that's correct.

(14) Q. That is what the company was known by when you  
 (15) first had any employment with any entity related to  
 (16) Navistar, Inc.?

(17) A. Yes.

(18) Q. Okay. Now -- let's see. Can you tell me what  
 (19) your current position is?

(20) A. I'm currently the global manager of safety and  
 (21) health.

(22) Q. Okay. Your -- well, not your. The lawyers  
 (23) for Navistar, Inc., have submitted sworn interrogatories  
 (24) which is a written form of sworn testimony where they  
 (25) have indicated that you are the corporate industrial

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(1) hygienist. Is that also a title that you hold?

(2) MR. OSTERTAG: Object to the form, of course,  
 (3) the lawyers submitted.

(4) A. It's a title that I held at one point and is  
 (5) also a function.

(6) Q. (By Ms. Farrise) Okay. Is industrial --  
 (7) corporate industrial hygienist a function that you have  
 (8) today?

(9) A. Yes.

(10) Q. Okay.

(11) MS. FARRISE: I'm going to mark as Plaintiff's  
 (12) Exhibit Number 3 to this deposition the Navistar, comma,  
 (13) Inc.'s Verified Third Amended Responses to Standard --  
 (14) Standard Interrogatories To Friction Defendants, which  
 (15) is dated -- at least signed by the lawyers on September  
 (16) 11, 2008, verified on behalf of Navistar, Inc., by Mr.  
 (17) Bruce Patterson, P-a-t-t-e-r-s-o-n, on September 11,  
 (18) 2008, in Warrenville, Illinois. And Mr. Patterson's  
 (19) position is stated as -- I guess it's not here.  
 (20) Somewhere else.

(21) (EXHIBIT NO. 3 MARKED.)

(22) Q. (By Ms. Farrise) Are you familiar with Mr.  
 (23) Patterson, Bruce Patterson, Mr. Slavin?

(24) A. Yes, I know Mr. Patterson.

(25) Q. Okay. I understand his position today to be

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(1) vice president of the company, as well as having a  
 (2) responsibility for corporate compliance. Is that your  
 (3) understanding as well?

(4) MR. OSTERTAG: Objection. Assumes facts. Go  
 (5) ahead.

(6) A. I'm not sure what his title is.

(7) Q. (By Ms. Farrise) Okay.

(8) A. But his -- I think that's the right function,  
 (9) yes.

(10) Q. Okay. Do you understand that Mr. Patterson  
 (11) who has verified on behalf of Navistar, Inc., in 2008 to  
 (12) be -- hold the position of vice president of Navistar,  
 (13) Inc., at that time and also today?

(14) A. I'm not sure what his position -- what his  
 (15) title was then or is now.

(16) Q. Uh-huh. If he swears under penalty of perjury  
 (17) that that is his position, you wouldn't dispute that,  
 (18) would you?

(19) A. I wouldn't have any reason to dispute that.

(20) Q. Okay. So in Exhibit Number 3 -- let me hand  
 (21) that to your lawyer for Navistar -- there is listed  
 (22) interrogatory response number 2 that Mr. Patterson --  
 (23) page 5 at line 21 -- verifies in response to the  
 (24) interrogatories on behalf of Navistar in his capacity  
 (25) as, quote, vice president and corporate compliance

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(1) officer. Do you need me to direct that -- direct you to  
 (2) it or can you find it? It's page -- line 21. Your  
 (3) lawyer is pointing you to it. So can we agree that it's  
 (4) consistent with your understanding that that's the  
 (5) position that Mr. Patterson, who has provided and  
 (6) verified this information, holds today?

(7) MR. OSTERTAG: Objection. Asked and answered.  
 (8) Lacks foundation. Calls for speculation.

(9) A. I have no way of disputing that.

(10) Q. (By Ms. Farrise) Okay. Let me ask you to  
 (11) turn to page 8 of what is now marked as Plaintiff's  
 (12) Exhibit Number 3. And I would direct your attention to  
 (13) Navistar, Inc.'s, verified under penalty of perjury by  
 (14) Mr. Patterson -- Patterson's response to interrogatory  
 (15) number 11, where he indicates -- where Navistar  
 (16) indicates at line 26 that, quote, Mr. Tom Slavin, his  
 (17) manager, comma, occupational safety and health. Do you  
 (18) see where I'm reading, Mr. Slavin? Do you need me to  
 (19) direct it to you? Oh, your counsel is. Great.

(20) A. I see that.

(21) Q. Okay. And is that your correct -- first of  
 (22) all, was that your correct title in September of 2008  
 (23) when these sworn discovery responses were submitted?

(24) A. Yes.

(25) Q. Okay. And is that the title that you hold

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(1) today, quote, manager of occupational safety and health  
(2) within Navistar, Inc.?

(3) A. No, it is not.

(4) Q. Okay. And when did that title change?

(5) A. I believe it was in 2009.

(6) Q. Okay. Let me refer you to what I have marked  
(7) as Plaintiff's Exhibit Number 2. It is your  
(8) declaration, Declaration of Tom Slavin.

(9) First of all, sir, if I could ask you to turn  
(10) to the last page of that three-page document, there's a  
(11) signature over a typewritten line that says Thomas J.  
(12) Slavin. Is that your signature?

(13) A. Yes, that is my signature.

(14) Q. Okay.

(15) A. Or appears to be.

(16) Q. Sure. Well, if you take a look at -- well,  
(17) you, and not me, which is why we go through this, can  
(18) verify or not that it's your signature.

(19) Please take a look at that, take a look at the  
(20) document which I presume you have seen before. And if  
(21) you can verify for me that the signature which is on  
(22) page 3 of your Exhibit 2, the Declaration of Thomas J.  
(23) Slavin, is one that is your signature and you placed it  
(24) there?

(25) A. This is a photocopy, so it's not -- it's not

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(1) A. As I recall, yes.

(2) Q. Okay. And having placed your signature on  
(3) what is Exhibit Number 2, you confirmed then and can you  
(4) confirm for me now that the information contained within  
(5) your declaration, Exhibit Number 2, is information that  
(6) is true and correct to the standard of being under  
(7) penalty of perjury of law?

(8) A. Yes.

(9) Q. Okay. Is there anything incorrect in your  
(10) declaration?

(11) A. I do not see anything incorrect.

(12) Q. Okay. Prior to signing the declaration, you  
(13) had an opportunity to confer and consult, if you would,  
(14) with the lawyers representing Navistar, Inc., in the  
(15) Nasseem and Sanna Farag case, correct?

(16) MR. OSTERTAG: It's vague and ambiguous.

(17) A. Would you repeat that?

(18) Q. (By Ms. Farrise) Sure. Prior to placing your  
(19) name under penalty of perjury on what is now Exhibit  
(20) Number 2 you had an opportunity to, if you desired to  
(21) take advantage of that, to consult with the lawyers  
(22) representing Navistar, Inc., in that particular case.  
(23) Listed on this document is James Ostertag and Margarita  
(24) Gevondyan. Correct?

(25) MR. OSTERTAG: Vague and ambiguous.

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(1) the original that was signed. It appears that it is the  
(2) way I sign my name.

(3) Q. Okay. Why don't you review then the three  
(4) pages which I have now marked as Plaintiff's Exhibit  
(5) Number 2. My first question is going to be whether or  
(6) not you have seen that document before.

(7) MS. FARRISE: Do you have Exhibit 2, Mr.  
(8) Ostertag?

(9) MR. OSTERTAG: No, I don't have one yet.

(10) MS. FARRISE: Well, Mr. Seigfreid is not  
(11) participating in the deposition, and the record should  
(12) reflect that, but I have another copy. Do you need a  
(13) copy?

(14) MR. OSTERTAG: I'm okay.

(15) MS. FARRISE: Okay.

(16) A. Yes, I recall this document.

(17) Q. (By Ms. Farrise) Okay. And the document  
(18) which is now marked as Plaintiff's Exhibit Number 2,  
(19) Declaration of Thomas J. Slavin, it indicates on page 3,  
(20) quote, I declare, last paragraph, under penalty of  
(21) perjury under the laws of the state of California that  
(22) the foregoing is true and correct. Do you see where I'm  
(23) reading?

(24) A. I see that.

(25) Q. Okay. And I read that correctly, right?

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(1) A. I don't know what you mean by opportunity to  
(2) consult with.

(3) Q. (By Ms. Farrise) Okay. For instance, if  
(4) there was something unclear, something you wanted to  
(5) change, something that was incorrect in the document  
(6) that is now Exhibit Number 2, you had an opportunity to  
(7) ask for, if need be, legal advice, consultation,  
(8) clarification, what have you, before you placed your  
(9) name under penalty of perjury on what is now Exhibit 2.  
(10) Right?

(11) A. I could have amended the information if it was  
(12) incorrect.

(13) Q. Uh-huh. Right. And you read it, and it was  
(14) all to your knowledge entirely, correct?

(15) A. As it is now.

(16) Q. Okay. So, sir, I was just trying to figure  
(17) out what the various titles were. Your declaration  
(18) which is now marked as Plaintiff's Exhibit Number 2, at  
(19) paragraph 2, lists your current -- or lists your -- yes,  
(20) lists your current position at Navistar, Inc., as the  
(21) global safety and health director for Navistar, Inc.,  
(22) formerly known as International Truck & Engine  
(23) Corporation. Do you see where I'm reading on paragraph  
(24) 2?

(25) A. Yes, I do.

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(1) Q. Okay. And in that position, as I understand  
 (2) it, you directly report to Navistar's vice president of  
 (3) health, safety, security and productivity. Correct?  
 (4) A. Yes, I see that.  
 (5) Q. Who is the -- well, is that correct that you  
 (6) directly report today in that capacity to the -- to  
 (7) Navistar's vice president of health, safety, security  
 (8) and productivity?  
 (9) A. Yes.  
 (10) Q. Okay. Who is that person, please?  
 (11) A. Dr. William Bunn.  
 (12) Q. I'm sorry?  
 (13) A. Dr. William Bunn.  
 (14) Q. Okay. And where does Dr. Bunn work as part  
 (15) of -- in terms of his primary place of business?  
 (16) A. Chicago.  
 (17) Q. Okay. What is your primary business address,  
 (18) please?  
 (19) A. Chicago.  
 (20) Q. Okay. Is that Chicago proper, or is that the  
 (21) suburb Warrenville, Illinois, or something else that  
 (22) I've seen referred to in the various documents?  
 (23) A. It is Chicago proper.  
 (24) Q. Okay. Is the location where you and now Dr.  
 (25) William Bunn primarily work, is that known -- is that

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(1) essentially the corporate or world headquarters of  
 (2) Navistar, Inc., today?  
 (3) A. No.  
 (4) Q. Okay. Where is that located?  
 (5) A. The world headquarters?  
 (6) Q. Yes, uh-huh.  
 (7) A. The headquarters is in Warrenville, Illinois.  
 (8) Q. Uh-huh. And for how long have you worked in  
 (9) Chicago?  
 (10) A. For 30 years.  
 (11) Q. Okay. Is the Chicago location in downtown  
 (12) Chicago, is it a commercial office building, or is it  
 (13) some sort of campus location?  
 (14) A. Commercial office building.  
 (15) Q. Okay. What -- in Warrenville, Illinois, is  
 (16) there essentially a campus, if you will, type facility  
 (17) of International Harvester?  
 (18) MR. OSTERTAG: Objection. Vague and  
 (19) ambiguous.  
 (20) Q. (By Ms. Farrise) Now known as Navistar, Inc.?  
 (21) A. It is a headquarters building --  
 (22) Q. Uh-huh.  
 (23) A. -- with Navistar as the primary tenant.  
 (24) Q. Okay. Is there a research facility in  
 (25) Warrenville, Illinois?

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(1) MR. OSTERTAG: Vague and ambiguous.  
 (2) A. No, there is not.  
 (3) Q. (By Ms. Farrise) Okay. Is there an  
 (4) engineering department housed at the Warrenville,  
 (5) Illinois, facility?  
 (6) MR. OSTERTAG: Same objection.  
 (7) A. No, there is not.  
 (8) Q. (By Ms. Farrise) Okay. At the downtown  
 (9) Chicago location where you work, what departments or  
 (10) portions of Navistar, Inc., are housed there today?  
 (11) A. Part of the health, safety, security and  
 (12) productivity and the environmental affairs department.  
 (13) Q. And approximately how many people work in that  
 (14) Chicago -- downtown Chicago location of Navistar?  
 (15) A. Approximately 10.  
 (16) Q. Okay. And is it a fair statement, Mr. Slavin,  
 (17) that you are considered part of the management of  
 (18) Navistar, Inc.?  
 (19) MR. OSTERTAG: Vague and ambiguous.  
 (20) A. I would consider myself as a management-level  
 (21) employee.  
 (22) Q. (By Ms. Farrise) Okay. And Dr. Bunn, who you  
 (23) report to, he is also a man -- corporate  
 (24) management-level employee, correct?  
 (25) MR. OSTERTAG: Same objection.

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(1) A. That is correct.  
 (2) Q. (By Ms. Farrise) Okay. Does he rise to the  
 (3) level of corporate officer or director?  
 (4) MR. OSTERTAG: Same objection. Foundation.  
 (5) A. I do not know what the meaning of officer,  
 (6) director -- there are titles. There are levels. There  
 (7) are people that show up on the 10-K report, so I don't  
 (8) know what your reference is.  
 (9) Q. (By Ms. Farrise) Okay. And you do not hold a  
 (10) position where you show up on the company's 10-K, do  
 (11) you?  
 (12) A. No.  
 (13) Q. And you've mentioned in your sworn  
 (14) declaration, at the second part of paragraph 3, that on  
 (15) a monthly basis you report to the executive committee of  
 (16) the board of directors on global health and safety for  
 (17) Navistar, Inc. Do you see that?  
 (18) A. I see that.  
 (19) Q. Okay. And is the executive committee of the  
 (20) board of directors of Navistar, Inc., essentially what  
 (21) is the top level of management of that corporation, or  
 (22) is there another layer?  
 (23) A. That's -- that executive committee -- I see  
 (24) this now.  
 (25) Q. Uh-huh.

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(1) A. And actually that's a little incorrect. The  
 (2) executive committee is the direct reports to the CEO.  
 (3) So it is not directly reporting to the board of  
 (4) directors. It directly reports to the CEO.  
 (5) Q. Okay. Who comprises the executive committee  
 (6) of Navistar, Inc., that you report to on a monthly basis  
 (7) about issues of global health and safety?  
 (8) A. I report to the members of the executive  
 (9) committee.  
 (10) Q. Uh-huh.  
 (11) A. So that would be to the CEO and the CEO's  
 (12) direct reports.  
 (13) Q. I understand that. So my question is, who are  
 (14) the CEO's direct reports that make up this executive  
 (15) committee?  
 (16) A. I'm not physically at that meeting. I don't  
 (17) know all of the direct reports that are -- that are in  
 (18) that meeting.  
 (19) Q. But you know some of them?  
 (20) A. They would be people that would show up on the  
 (21) 10-K report.  
 (22) Q. Okay. What positions, even if you can't  
 (23) recall the names of those people, do you report to on a  
 (24) monthly basis who make up the executive committee that  
 (25) are the direct reports to the CEO of Navistar?

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(1) Q. (By Ms. Farrise) Okay. Going back for a  
 (2) moment to your regular job and given some of the issues  
 (3) which have been raised having to do with your health,  
 (4) are you currently on any kind of leave of absence for  
 (5) health or other reasons?  
 (6) A. No, I am not.  
 (7) Q. Okay. And when did you travel to California?  
 (8) A. Saturday, October 2nd.  
 (9) Q. Okay. And today is Thursday. Were you able  
 (10) to travel directly for four hours straight on the  
 (11) airplane, or did you have to break it up for health  
 (12) reasons as part of the trip?  
 (13) A. It's pretty hard to break up when you're on an  
 (14) in-line flight.  
 (15) Q. I meant a stopover of two hours, stay a day or  
 (16) something like that; or did you have a direct itinerary  
 (17) from Chicago to California?  
 (18) A. I had a direct flight.  
 (19) Q. Okay. Did you come to San Francisco or did  
 (20) you go somewhere else?  
 (21) A. Went to San Diego.  
 (22) Q. And as I understand it, sir, in the last month  
 (23) or two you have been engaging in your regular work  
 (24) activities, whether they be traveling to do  
 (25) presentations for the company or business meetings, what

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(1) A. The positions would be group presidents,  
 (2) senior vice presidents. Not necessarily all senior vice  
 (3) presidents, not necessarily everyone that has a title of  
 (4) president of different business groups, but there would  
 (5) be, again, the direct reports to the CEO.  
 (6) Q. And who is the CEO today?  
 (7) A. Mr. Dan Houston.  
 (8) Q. Okay. And is it actually then true, Mr.  
 (9) Slavin, that on an annual basis at least once a year you  
 (10) make some sort of direct report on issues of global  
 (11) health and safety to the board of directors of Navistar,  
 (12) Inc.?  
 (13) A. That is correct.  
 (14) Q. Okay. And your reporting, just to be clear,  
 (15) is very narrowly focused in terms of issues of health  
 (16) and safety that concern the company nationally and  
 (17) internationally, correct?  
 (18) MR. OSTERTAG: Objection. Vague and  
 (19) ambiguous.  
 (20) A. I -- as I understand your question -- and I'm  
 (21) not sure that I do understand your question. But if I  
 (22) understand the question, that's -- we report a summary  
 (23) of safety and health information, performance reports,  
 (24) statistical reports, as well as safety and health  
 (25) strategies for the coming year.

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(1) have you, correct?  
 (2) MR. OSTERTAG: Vague. Ambiguous. Overbroad.  
 (3) A. No, that's not -- that is not correct.  
 (4) Q. (By Ms. Farrise) Okay. Can we agree that at  
 (5) least in September you appeared as a speaker at a  
 (6) conference that was held in Nashville, Tennessee, on  
 (7) behalf of the American Foundry Association.  
 (8) A. No, that is not correct.  
 (9) Q. Okay. Did you have to cancel?  
 (10) A. Yes.  
 (11) Q. Okay. Have you done any public speaking on  
 (12) behalf of Navistar, Inc., in the last 60 days?  
 (13) MR. OSTERTAG: Vague and ambiguous.  
 (14) A. Yes.  
 (15) Q. (By Ms. Farrise) Okay. What have you done?  
 (16) A. I had a presentation to the Northwestern  
 (17) University Medical School.  
 (18) Q. On what topic?  
 (19) A. Occupational safety and health.  
 (20) Q. Sir, are you a certified industrial hygienist?  
 (21) A. Yes, I am.  
 (22) Q. Okay. When did you receive your certification  
 (23) in industrial hygiene?  
 (24) A. It was in 1978 or '79.  
 (25) Q. Okay. And when you received your

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(1) certification in industrial hygiene, were you employed  
(2) by Navistar or a company then likely known as  
(3) International Harvester?

(4) A. No, I was not.

(5) Q. Okay. When did you first start in employment  
(6) with any entity that is in any way related to Navistar,  
(7) Inc., International Harvester Company, International  
(8) Truck and the various entities that I've described  
(9) earlier?

(10) A. In September of 1979.

(11) Q. Okay. And where did you work prior to that?  
(12) MR. OSTERTAG: Overbroad.

(13) A. Prior to that I worked in Detroit.

(14) Q. (By Ms. Farrise) Okay. For what company?

(15) A. For the Motor Vehicle Manufacturer's  
(16) Association.

(17) Q. And what kind of organization is the Motor  
(18) Vehicle Manufacturer's Association, sir?

(19) MR. OSTERTAG: Vague.

(20) A. It was a trade association.

(21) Q. (By Ms. Farrise) Okay. And what was your  
(22) position there?

(23) A. My title was coordinator, industrial hygiene.

(24) Q. Was International Harvester Company a member  
(25) of the Motor Vehicle Manufacturer's Association?

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(1) MR. OSTERTAG: Vague. Speculation.  
(2) Foundation.

(3) A. Multiple purposes as trade associations  
(4) represent their members.

(5) Q. (By Ms. Farrise) Okay. Other than  
(6) International Harvester, who were the other members of  
(7) the Motor Vehicle Manufacturer's Association when you  
(8) were employed there?

(9) MR. OSTERTAG: Vague. Foundation.  
(10) Speculation.

(11) A. There were relatively few members. The  
(12) original equipment automotive and truck companies.

(13) Q. (By Ms. Farrise) Okay. Ford Motor Company, I  
(14) take it, was a member of the Motor Vehicle  
(15) Manufacturer's Association when you worked there?

(16) A. Yes, it was.

(17) Q. Chrysler Corporation was a member of the Motor  
(18) Vehicle Manufacturer's Association when you worked  
(19) there?

(20) A. Yes, it was.

(21) Q. General Motors Corporation was a member of the  
(22) Motor Vehicle Manufacturer's Association when you were  
(23) employed there?

(24) A. Yes, it was.

(25) Q. Okay. Other than International Harvester,

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(1) A. Yes, it was.

(2) Q. Okay. And is it in the context of your work  
(3) as the coordinator of industrial hygiene for the Motor  
(4) Vehicle Manufacturer's Association that you became aware  
(5) of International Harvester Company, which may have  
(6) eventually lead to your employment with that company?

(7) MR. OSTERTAG: Vague. Compound.

(8) A. I became aware of International Harvester  
(9) Company when I was four years old.

(10) Q. (By Ms. Farrise) Okay. And why is that?

(11) A. Because of the agricultural equipment and  
(12) International Harvester tractors.

(13) Q. Okay. Did anybody in your family or friends  
(14) or your area own those products? Is that what you're  
(15) saying?

(16) A. That's correct.

(17) Q. Have you ever owned an International Harvester  
(18) truck before you became employed by that company?

(19) A. No.

(20) Q. Okay. Back to your work, however, in Detroit  
(21) with the Motor Vehicle Manufacturer's Association, what  
(22) was the -- it was a trade association that existed, to  
(23) your understanding as an employee, in fact, a  
(24) coordinator of industrial hygiene, what was the purpose  
(25) of that trade association?

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(1) what other manufacturers, if you can recall, were  
(2) original equipment trucks -- were members of the Motor  
(3) Vehicle Manufacturer's Association when you worked  
(4) there?

(5) A. Honda.

(6) Q. Okay. How about Mack Truck, Peterbilt or  
(7) PACCAR?

(8) MS. BUTY: Objection. Madeline Buty.  
(9) Compound. Speculation. Foundation.

(10) MR. OSTERTAG: Join.

(11) A. There were 11 or 12 members, but they were not  
(12) active on the committees that I serviced, and so I did  
(13) not -- so I'm not familiar with all of those -- with  
(14) those members. The Big 3 were the primary active people  
(15) that I interfaced with.

(16) Q. (By Ms. Farrise) Okay. For what period of  
(17) time were you employed by the Motor Vehicle  
(18) Manufacturer's Association in Detroit, Michigan?

(19) A. Between 1977 and 1979.

(20) Q. Okay. And prior to 1977 who were you employed  
(21) by?

(22) A. Liberty Mutual Insurance Company.

(23) Q. Okay. And what was your position with Liberty  
(24) Mutual Insurance Company?

(25) A. I had several positions over the years with

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(1) Liberty Mutual.  
 (2) Q. Okay. Well, was one of them industrial  
 (3) hygienist?  
 (4) A. Yes, it was.  
 (5) Q. Okay. When did you start with Liberty Mutual?  
 (6) A. 1969, I believe.  
 (7) Q. Okay. Okay. Can you recall, other than  
 (8) industrial hygienist, any other positions that you held  
 (9) with Liberty Mutual Insurance Company from 1969 to 1977?  
 (10) A. Yes.  
 (11) Q. Okay. What was that?  
 (12) A. One of them was loss prevention manager.  
 (13) Another was senior loss prevention manager. Another was  
 (14) senior loss prevention manager with a fire protection  
 (15) designation.  
 (16) Q. Okay. Can you describe for me what the  
 (17) chronology was? For instance, what was your first  
 (18) position, what was your next position, and how you were  
 (19) promoted while you were employed for eight years  
 (20) approximately at Liberty Mutual Insurance Company?  
 (21) MR. OSTERTAG: It's compound.  
 (22) A. I started as loss prevention manager, was  
 (23) promoted to senior loss prevention manager, acquired a  
 (24) fire protection specialty, and then became an industrial  
 (25) hygienist.

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(1) weeks of classroom training, and then there is  
 (2) additional mentoring on the field -- in the field with  
 (3) training.  
 (4) Q. Did you work in the field, for instance, with  
 (5) a certified industrial hygienist as part of your  
 (6) training?  
 (7) A. Yes, I believe I did.  
 (8) Q. And just so that I make sure we're on the same  
 (9) page, your role as an industrial hygienist for the  
 (10) Liberty Mutual Insurance Company was to perform  
 (11) industrial hygiene work, if you will, for various  
 (12) insureds or people who had insurance through Liberty  
 (13) Mutual Insurance Company, correct?  
 (14) MR. OSTERTAG: Vague and ambiguous.  
 (15) A. The role of the industrial hygiene activity  
 (16) was part of a service to clients in the loss prevention  
 (17) department. Excuse me. I need to take a break.  
 (18) MS. FARRISE: Certainly. Let's go off the  
 (19) record. It's 10:18.  
 (20) VIDEOGRAPHER: We're going off the record at  
 (21) 10:18.  
 (22) (Recess taken at 10:18.)  
 (23) VIDEOGRAPHER: We're back on the record. The  
 (24) time is 10:22 a.m.  
 (25) Q. (By Ms. Farrise) Mr. Slavin, I have a

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(1) Q. (By Ms. Farrise) Okay. And can you estimate  
 (2) for me when you became an industrial hygienist for  
 (3) Liberty Mutual Insurance Company?  
 (4) A. Approximately 1973.  
 (5) Q. And, sir, is it your understanding that  
 (6) industrial hygienists in the context of industry  
 (7) recognize, evaluate and protect workplace -- workers in  
 (8) the workplace from workplace hazards?  
 (9) MR. OSTERTAG: Vague and ambiguous.  
 (10) Overbroad.  
 (11) A. The standard terminology is recognize,  
 (12) evaluate and control occupational health hazards.  
 (13) Q. (By Ms. Farrise) And how by 1973, what  
 (14) background, experience, education, training have you had  
 (15) that would prepare you to serve as an industrial  
 (16) hygienist for the Liberty Mutual Insurance Company?  
 (17) MR. OSTERTAG: Overbroad. Vague.  
 (18) A. Liberty Mutual has a training program that  
 (19) prepares industrial hygienists.  
 (20) Q. (By Ms. Farrise) Okay. And how long is the  
 (21) training program that you -- and I take it you  
 (22) participated in that Liberty Mutual training program?  
 (23) A. That is correct.  
 (24) Q. Okay. And how long was it?  
 (25) A. I seem to think it was three weeks. Three

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(1) question slightly off topic. When you go to work in  
 (2) downtown Chicago in a commercial office building for  
 (3) Navistar, Inc., do you typically wear a tie?  
 (4) A. No, I do not.  
 (5) Q. Okay. You typically wear an open-collared  
 (6) shirt like you're wearing today?  
 (7) A. That's correct.  
 (8) Q. Now, back to your work at Liberty Mutual, you  
 (9) told me that in 1973 you got the title of industrial  
 (10) hygienist for that insurance company, correct?  
 (11) A. That is correct.  
 (12) Q. All right. And you described the role of  
 (13) industrial hygiene -- or the industrial hygiene activity  
 (14) at Liberty Mutual was part of a service to Liberty  
 (15) Mutual clients in the loss prevention department,  
 (16) correct?  
 (17) A. That is correct.  
 (18) Q. Okay. What does that mean? What did you  
 (19) actually do?  
 (20) A. I would help clients recognize, evaluate and  
 (21) control occupational exposures.  
 (22) Q. Okay. And the clients of Liberty Mutual were  
 (23) people who had -- people or companies who had purchased  
 (24) insurance from Liberty Mutual Insurance Company,  
 (25) correct?

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(1) A. That is correct.

(2) Q. So your role as an industrial hygienist would

(3) be to go out to the corporate -- corporate clients'

(4) facilities, whether they be manufacturing facilities or

(5) whatever kind of facilities they had, and help them

(6) assess, recognize, evaluate and control occupational

(7) hazards, correct?

(8) A. That's -- yes, that's correct. That's what I

(9) did.

(10) Q. Okay. And when you started later then with

(11) International Harvester Company, did your role

(12) essentially as an industrial hygienist, was it

(13) essentially the same within that company as it had been

(14) for the clients of the Liberty Mutual Insurance Company

(15) or --

(16) MR. OSTERTAG: Vague and ambiguous.

(17) Q. (By Ms. Farrise) -- or was it different?

(18) MR. OSTERTAG: Vague and ambiguous.

(19) A. In the general sense of recognize, evaluate

(20) and control, it was similar. Obviously the makeup of

(21) International Harvester was much different from the

(22) makeup of the clientele of Liberty Mutual.

(23) Q. (By Ms. Farrise) In what way?

(24) A. Liberty Mutual insured food manufacturers,

(25) beer manufacturers, dynamite manufacturers, a whole

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(1) range of industries. I think at one point they insured

(2) 15 percent of the Fortune 500. So there were a number

(3) of clothing manufacturers, clothing distributors,

(4) clothing retailers, a number of occupations.

(5) Q. When you worked at the Liberty Mutual --

(6) strike that. Can we -- strike that.

(7) When you were trained by the Liberty Mutual

(8) Insurance Company in industrial hygiene, were you

(9) trained as to hazards caused by exposure to asbestos?

(10) MR. OSTERTAG: Vague and ambiguous.

(11) A. Asbestos was one of the occupational exposures

(12) that was covered.

(13) Q. (By Ms. Farrise) Okay. And what can you

(14) recall about your training at or about 1973 by the

(15) Liberty Mutual Insurance Company in industrial hygiene

(16) having to do with the hazards caused by exposure to

(17) asbestos?

(18) A. I don't recall the specific training as to the

(19) hazards. There was training in how to measure.

(20) Q. Training on how to measure whether or not

(21) there was an exposure to asbestos to human beings in a

(22) certain work environment?

(23) A. How to measure the exposure level.

(24) Q. Air samples? Were you trained in air sampling

(25) techniques?

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(1) A. That is correct.

(2) Q. Okay. What air sample techniques for asbestos

(3) and other substances did you learn how to use as a

(4) result of the training that you got from the Liberty

(5) Mutual Insurance Company in industrial hygiene?

(6) MR. OSTERTAG: Vague. Ambiguous. Overbroad.

(7) A. There were a number of techniques for -- which

(8) included radiation. There were instruments to measure

(9) ionizing and non-ionizing radiation for noise. There

(10) were Octaband analysis as well as sound level meters for

(11) certain solvents. There were -- there were direct

(12) reading tubes. There were grab samples using glass

(13) bottles for later analysis.

(14) For metals -- there were filters and pumps

(15) that were used to collect metals for respirable dust.

(16) There were filters with re -- recyclings that would

(17) screen out respirable versus nonrespirable dust. For

(18) asbestos at the time it was an open-face 37-millimeter

(19) filter cassette that was used to collect dust with a

(20) pump.

(21) Q. And as part of your work at Liberty Mutual

(22) Insurance Company, you did air sampling for asbestos,

(23) did you not?

(24) A. Yes, I did.

(25) Q. You went out to actual facilities, and you

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(1) observed and identified workers who were working with or

(2) around asbestos products, and you measured the air that

(3) they were breathing to determine whether and if they

(4) were being exposed to asbestos at whatever level,

(5) correct?

(6) MR. OSTERTAG: Vague and ambiguous. Excuse

(7) me.

(8) A. I did monitor exposures to asbestos --

(9) Q. (By Ms. Farrise) Yes.

(10) A. -- or potential exposures to asbestos, not --

(11) depending on the results.

(12) Q. You understood by 1973 when you were an

(13) employee as an industrial hygienist of the Liberty

(14) Mutual Insurance Company that asbestos was a substance

(15) that was regulated in the workplace by the Occupational

(16) Safety and Health Administration, correct?

(17) MR. OSTERTAG: Vague and ambiguous.

(18) A. That is correct.

(19) Q. (By Ms. Farrise) You understood that by 1973

(20) as an industrial hygienist for the Liberty Mutual

(21) Insurance Company that the Occupational Safety and

(22) Health Administration had identified asbestos exposures

(23) to employees as an exposure which could cause serious

(24) health consequences if it were not controlled, correct?

(25) MR. OSTERTAG: Vague and ambiguous.

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(1) Overbroad.

(2) A. The training at Liberty Mutual was that there  
(3) was exposure response in thresholds, and that too much  
(4) of almost anything could be a -- could cause a toxic  
(5) problem. And asbestos, like other materials, could be  
(6) evaluated to determine whether that -- whether the  
(7) exposure was excessive or whether the exposure was one  
(8) that was -- an employee could work in the case of  
(9) the -- many of the exposure limits that we used for 40  
(10) hours a week without adverse effect.

(11) Q. (By Ms. Farrise) Okay. Sir, you understood  
(12) by 1973 that exposures to asbestos at certain levels to  
(13) human beings could cause serious health consequences,  
(14) correct?

(15) MR. OSTERTAG: Vague and ambiguous.  
(16) Overbroad.

(17) A. By 1973 it was understood that excessive  
(18) levels of asbestos or silica or any other material could  
(19) have adverse health consequences, yes. The key is what  
(20) level.

(21) Q. (By Ms. Farrise) Yes. And you also  
(22) understood that by 1973 that in order to determine what  
(23) the level of exposure to asbestos was to an individual  
(24) worker that measurements, evaluation, air sampling and  
(25) other techniques would need to be used to determine what

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(1) you received your certification in industrial hygiene  
(2) you were capable to determine the presence of asbestos  
(3) as an ingredient in a material by taking bulk samples,  
(4) correct?

(5) MR. OSTERTAG: Vague and ambiguous. Assumes  
(6) facts. Lacks foundation.

(7) A. The technology to determine fiber type, let's  
(8) say, evolved. And I'm not sure where the key in that  
(9) continuum was where the year it became possible to use  
(10) techniques to distinguish fiber type. I don't know  
(11) what -- where that was.

(12) It wasn't something that I did because the  
(13) standard didn't distinguish fiber type, and meant much  
(14) of what I did was to evaluate according to the OSHA  
(15) standard, and fiber was fiber as far as the standard was  
(16) concerned.

(17) Q. (By Ms. Farrise) And when you refer to the  
(18) standard, that was what you were referring to, the OSHA  
(19) standard specifically dealing with asbestos that was  
(20) already in existence by 1953, correct? That's what you  
(21) mean by the standard?

(22) A. Right. Most of -- most of the activity  
(23) that -- or the requests from clients for evaluation were  
(24) in relation or relative to the -- to the OSHA standard.

(25) Q. Sir, when you were employed by Liberty Mutual

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(1) the exposure levels were, correct?

(2) MR. OSTERTAG: It's vague.

(3) A. In some cases measurement was the best way to  
(4) determine. There were other ways to determine exposure  
(5) or to determine whether a given exposure was  
(6) problematic. It didn't always require air samples.

(7) Q. (By Ms. Farrise) Okay. By 1973, sir, had you  
(8) been trained how to take and send for evaluation a bulk  
(9) sample of material to determine whether or not asbestos  
(10) was a part of the -- part of the ingredients in that  
(11) sample?

(12) A. I don't recall specific training on bulk  
(13) samples for asbestos. We did bulk samples for quartz to  
(14) determine percent quartz which was a key to the -- key  
(15) to the regulatory formula. But as far as asbestos, I  
(16) don't recall the need for a bulk sample.

(17) Q. Were you capable by 1973, Mr. Slavin, as part  
(18) of your training or from some other source of taking a  
(19) bulk sample of material to determine whether asbestos  
(20) was part of the ingredients of that material?

(21) MR. OSTERTAG: Well, that's vague and  
(22) ambiguous.

(23) A. If there was a need, I suppose that I would  
(24) have been.

(25) Q. (By Ms. Farrise) And certainly by 1979 when

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(1) as a loss prevention manager -- senior loss prevention  
(2) manager, fire protection specialist, and then industrial  
(3) hygienist by 1973, did the Liberty Mutual Insurance  
(4) Company offer insurance to its clients to -- for  
(5) workers' compensation to cover what would be sort of  
(6) health and safety claims that might arise from those  
(7) clients' employees?

(8) MR. OSTERTAG: Objection. Vague and  
(9) ambiguous. Lacks foundation. Speculation. Irrelevant.

(10) A. I don't know what you mean by health and  
(11) safety claim.

(12) Q. (By Ms. Farrise) Okay. Well, let me ask it a  
(13) different way. What kind of coverage did the Liberty  
(14) Mutual Insurance Company that you worked for offer to  
(15) its clients that you were providing industrial hygiene  
(16) services to by 1973?

(17) MR. OSTERTAG: Objection. Vague and  
(18) ambiguous. Overbroad. Lacks foundation. Calls for  
(19) speculation.

(20) A. You've got a date in there when you say by  
(21) 1973. And I think you said I didn't become an  
(22) industrial hygienist until after that date or around  
(23) that date.

(24) Q. (By Ms. Farrise) At approximately 1973, with  
(25) that modification, what kind of coverage did the Liberty

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(1) Mutual Insurance Company offer to its clients for which  
 (2) you were conducting industrial hygiene surveys?  
 (3) MR. OSTERTAG: Objection. Speculation.  
 (4) Foundation. Vague and ambiguous. Overbroad.  
 (5) A. Most of the industrial hygiene activity was  
 (6) focused on work -- a client with workers' compensation  
 (7) coverage.  
 (8) Q. (By Ms. Farrise) So Liberty Mutual Insurance  
 (9) Company was offering to clients who you would go out to  
 (10) their workplace insurance coverage for their work force  
 (11) for workers' compensation, correct?  
 (12) MR. OSTERTAG: Foundation. Lacks -- excuse  
 (13) me. Lacks foundation. Speculation.  
 (14) A. Liberty Mutual offered a number of coverages.  
 (15) And I believe that most of my activity was in connection  
 (16) with workers' compensation claims.  
 (17) Q. (By Ms. Farrise) For instance, you weren't an  
 (18) automobile collision claims adjuster for that company,  
 (19) correct?  
 (20) A. That's correct.  
 (21) Q. Right. And in terms of your role in loss  
 (22) prevention, you would be at the site of the client or  
 (23) the insured of Liberty Mutual to try to help them reduce  
 (24) hazards so that they would have less claims, less  
 (25) losses, less injury, if you will, to their employees,

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(1) employed with Liberty Mutual in 1977, that was knowledge  
 (2) that became part of your professional background when  
 (3) you later became a certified industrial hygienist,  
 (4) correct?  
 (5) MR. OSTERTAG: Vague and ambiguous.  
 (6) A. I believe that's a fair statement.  
 (7) Q. (By Ms. Farrise) For instance, the knowledge  
 (8) that we've discussed in the capacity to conduct an air  
 (9) sample for the presence of asbestos, that was knowledge  
 (10) and capability that you took with you when you began  
 (11) your employment with International Harvester Company,  
 (12) correct?  
 (13) A. That's correct.  
 (14) Q. Now, you worked as I understand it -- strike  
 (15) that.  
 (16) When you worked for Liberty Mutual Insurance  
 (17) Company, you did do some industrial hygiene surveys and  
 (18) evaluation for automotive companies including the Ford  
 (19) Motor Company, correct?  
 (20) A. I'm sorry. Would you repeat that question?  
 (21) MS. FARRISE: Sure. I'll ask the court  
 (22) reporter to read it back.  
 (23) (Requested material was read back.)  
 (24) A. I don't recall doing industrial hygiene  
 (25) surveys for -- there are several questions that you're

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(1) correct?  
 (2) MR. OSTERTAG: Vague. Ambiguous. Foundation.  
 (3) Speculation.  
 (4) A. The idea was to reduce -- was loss prevention.  
 (5) Q. (By Ms. Farrise) Uh-huh.  
 (6) A. And so that was -- if we could help clients  
 (7) reduce losses, that was our objective.  
 (8) Q. And the other part of your work for Liberty  
 (9) Mutual Insurance Company was to determine for that  
 (10) insurance company, through an industrial hygiene survey,  
 (11) the nature and extent of the hazards which might be  
 (12) posed for purposes of helping the Liberty Mutual  
 (13) underwriters determine how much they should charge to  
 (14) their clients, correct?  
 (15) MR. OSTERTAG: Speculation. Foundation.  
 (16) Vague and ambiguous. Overbroad.  
 (17) A. No, that's not correct.  
 (18) Q. (By Ms. Farrise) Your role in terms of doing  
 (19) industrial hygiene surveys was merely to help the  
 (20) clients, the insured, of Liberty Mutual to reduce the  
 (21) workplace hazards. Is that accurate?  
 (22) A. That's correct.  
 (23) Q. And whatever knowledge you obtained by virtue  
 (24) of your training -- and it sounds like field experience  
 (25) doing industrial hygiene surveys -- while you were

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(1) asking here. You're making some assumptions, in the  
 (2) first place. Many of the automotive companies were  
 (3) self-insured, which meant they didn't -- Liberty Mutual  
 (4) was not -- did not have them as clients. There --  
 (5) having said that with regard to Ford, there was a  
 (6) certain area -- certain part of the Ford business that  
 (7) Liberty insured, but I don't remember doing industrial  
 (8) hygiene for that client specifically.  
 (9) Q. (By Ms. Farrise) Okay. Do you recall a  
 (10) coworker of yours at the Liberty Mutual Insurance  
 (11) Company Roland G. Rossli?  
 (12) A. Roland Rossli, yes.  
 (13) Q. Okay. And who was Mr. Rossli in relation to  
 (14) you and your position there?  
 (15) A. Mr. Rossli, at one point, was an assistant  
 (16) office manager and would have been a supervisor. He was  
 (17) also an account manager for the Ford account.  
 (18) (EXHIBIT NO. 4 MARKED.)  
 (19) Q. (By Ms. Farrise) Okay. Let me hand you --  
 (20) first your counsel is going to likely want to look at  
 (21) what I have marked as Plaintiff's Exhibit 4. I actually  
 (22) have a copy for him so that he can see the document.  
 (23) Exhibit 4, for the record, is a document dated  
 (24) December 23, 1975, produced in litigation by the Ford  
 (25) Motor Company as the designation in the lower right-hand

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(1) corner indicates.  
 (2) So first of all, Mr. Slavin, why don't you  
 (3) take a moment and familiarize yourself with what I have  
 (4) marked as Plaintiff's Exhibit Number 4.  
 (5) A. Okay. I've read it.  
 (6) Q. Okay. Exhibit Number 4, for the record, is a  
 (7) document on Liberty Mutual Insurance Company letterhead  
 (8) from the Detroit, Michigan, location. It is from Roland  
 (9) G. Rossli, R-o-s-s-l-i-p, to Mr. S.F. Svoboda, Ford  
 (10) Service Research Center also in Dearborn, Michigan.  
 (11) And it starts Dear Stan, quote, on 12/15/75,  
 (12) Tom Slavin and I met with you to discuss the status of  
 (13) the project involving the vacuum cleaner to be used for  
 (14) asbestos. That's the first sentence. Do you see where  
 (15) I was reading, sir?  
 (16) A. I do.  
 (17) MR. OSTERTAG: Well, I'm going to object to  
 (18) the preface of the question regarding the Liberty Mutual  
 (19) document. But go ahead. Lacks foundation.  
 (20) Q. (By Ms. Farrise) Mr. Slavin, are you the Tom  
 (21) Slavin who met with Mr. Rossli, your coworker, with Mr.  
 (22) Svoboda of the Ford Service Research Center at or about  
 (23) December of 1975?  
 (24) A. I believe so.  
 (25) Q. Okay. There was no other Tom Slavin who was

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(1) employed by Liberty Mutual Insurance Company, to your  
 (2) knowledge?  
 (3) A. To my knowledge.  
 (4) Q. Okay. And the document indicates that -- or  
 (5) suggests that by December of 1975 some part of what you  
 (6) were concerned with in terms of your work for Liberty  
 (7) Mutual was asbestos exposure and utilizing vacuum  
 (8) methods to reduce exposures. Is that consistent with  
 (9) your recollection?  
 (10) MR. OSTERTAG: Objection. Misstates. Lacks  
 (11) foundation. Assumes facts.  
 (12) A. I'm going to ask that the question be  
 (13) repeated, if that's all right.  
 (14) MS. FARRISE: Oh, sure.  
 (15) (Requested material was read back.)  
 (16) MR. OSTERTAG: Let me add argumentative.  
 (17) A. And by 19 -- the document is consistent with,  
 (18) my understanding, that by 1975 we recognized that vacuum  
 (19) methods were a way to control dust.  
 (20) Q. (By Ms. Farrise) And is it also true that by  
 (21) 1975, Mr. Slavin, you were aware that the exposure to  
 (22) asbestos from automotive products was among the concerns  
 (23) for asbestos hazards and exposures to employees in  
 (24) occupational settings?  
 (25) MR. OSTERTAG: Objection. Vague and

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(1) ambiguous. Argumentative. Assumes facts. Lacks  
 (2) foundation.  
 (3) A. I wouldn't necessarily --  
 (4) MR. MILANFAR: Join.  
 (5) MS. CINCO: Cinco. Join.  
 (6) MR. OSTERTAG: Go ahead, Tom.  
 (7) A. I think you're -- there's a chain of questions  
 (8) there. I kind of got lost in the progression. So let's  
 (9) start -- let's do that over.  
 (10) Q. (By Ms. Farrise) Sure. Mr. Slavin, by  
 (11) 1975 -- December of 1975 as part of your work at the  
 (12) Liberty Mutual Insurance Company, you were evaluating  
 (13) asbestos exposures in the context of automotive  
 (14) dealerships. Let's start there. Correct?  
 (15) A. I don't believe that's what this is about.  
 (16) Q. Let me ask you to turn to the second page of  
 (17) what has now been marked as Plaintiff's Exhibit Number  
 (18) 4, the first full paragraph -- let me just first read it  
 (19) to you.  
 (20) Quote: You also inquired as to any  
 (21) information that we have experienced with above-ground  
 (22) vehicle lifts, period. I am aware of one dealership in  
 (23) New Orleans that has this type of equipment. Several  
 (24) years ago we were concerned about the operation and  
 (25) maintenance of these lifts. I believe there was one

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(1) accident in which a vehicle fell off. There was --  
 (2) there were no injuries as a result, period.  
 (3) Next paragraph, quote: You indicated that  
 (4) there are future plans for incorporating a, quote,  
 (5) safety and health section into the Rotunda manual. I  
 (6) most certainly think this is a good idea with the  
 (7) ever-increasing need for dealerships to comply with the  
 (8) various federal and state codes and other safety  
 (9) requirements. I believe it would be most helpful for  
 (10) them to be able to easily pinpoint various items that  
 (11) are needed through the use of their Rotunda manual, end  
 (12) of paragraph. First of all, did I read that correctly,  
 (13) sir?  
 (14) A. I think you read the words correctly, yes.  
 (15) Q. Okay. And having read the words correctly and  
 (16) together from Exhibit Number 4, Mr. Slavin, by 1975 in  
 (17) December, some part of your work with Liberty Mutual  
 (18) Insurance Company concerned exposure to asbestos that  
 (19) would occur to people working in automotive dealerships.  
 (20) Correct?  
 (21) MR. OSTERTAG: Objection. Misstates the  
 (22) document. Lacks foundation. Calls for speculation.  
 (23) Vague and ambiguous. Assumes facts.  
 (24) A. I don't get there from this document.  
 (25) Q. (By Ms. Farrise) Okay. From your memory --

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(1) sir, you were there and we were not. Can you tell us  
 (2) whether you recall as some part of your work in 1975 as  
 (3) the industrial hygienist for Liberty Mutual Insurance  
 (4) Company included looking at exposures to asbestos to  
 (5) individuals who were exposed to asbestos in the context  
 (6) of working in automotive dealerships?

(7) MR. OSTERTAG: Argumentative "you were there"  
 (8) Assumes facts.

(9) A. I don't get there -- I don't get to that  
 (10) point. There's several -- there's a chain of  
 (11) assumptions in your question. And I am -- I don't  
 (12) arrive at the end.

(13) Q. (By Ms. Farrise) As part of your work for the  
 (14) Liberty Mutual Insurance Company, one of the clients of  
 (15) Liberty Mutual that you did some work on industrial  
 (16) hygiene work for was the Ford dealerships, correct?

(17) MR. OSTERTAG: Misstates the record.

(18) A. Was the Ford Dealer Development program, which  
 (19) included some dealerships.

(20) Q. (By Ms. Farrise) And Mr. Svoboda, are you  
 (21) saying he was with the Ford Dealer Development program  
 (22) within the Ford Motor Company? Is that your  
 (23) recollection?

(24) MR. OSTERTAG: Foundation. Speculation.

(25) A. That's my understanding and assumption.

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(1) where automotive repair work -- and by this I'm going to  
 (2) specifically say automotive brake, engine and clutch  
 (3) repair work was done?

(4) MR. OSTERTAG: Speculation. Foundation.

(5) A. The dealerships -- the Ford Dealer Development  
 (6) Dealerships that -- my understanding is that they  
 (7) performed service like many other automotive  
 (8) dealerships.

(9) Q. (By Ms. Farrise) Okay. To your knowledge,  
 (10) did the Ford Motor Company, the Ford Dealer Development  
 (11) group or any of the Ford dealers, ever conduct any  
 (12) health study to determine the health effects of people  
 (13) who were working in Ford dealerships doing automotive  
 (14) repair to vehicles on asbestos containing brakes,  
 (15) clutches or engine gaskets?

(16) MR. OSTERTAG: Objection. Lacks foundation.  
 (17) Calls for speculation. Assumes facts.

(18) A. I don't know what research Ford would have  
 (19) done.

(20) Q. (By Ms. Farrise) As the industrial hygienist  
 (21) and/or loss prevention manager at Liberty Mutual in the  
 (22) 1970s where the Ford Motor Company Dealer Development  
 (23) department was among the clients of Liberty Mutual, you  
 (24) did not become aware that the Ford Motor Company was  
 (25) conducting any sort of study to determine whether or not

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(1) Q. (By Ms. Farrise) And did the Liberty Mutual  
 (2) Insurance Company, who you were employed as an  
 (3) industrial hygienist for by 1975 insure Ford -- some  
 (4) Ford dealerships where automotive repair work was being  
 (5) done?

(6) MR. OSTERTAG: Foundation. Lacks -- or excuse  
 (7) me. Compound. Lacks foundation. Calls for  
 (8) speculation. Assumes facts.

(9) A. I'd like to go back to the question with Mr.  
 (10) Svoboda. I don't recall meeting Mr. Svoboda. I've  
 (11) answered your question on the basis of this letter, but  
 (12) I don't want to indicate that I had any personal  
 (13) acquaintance with Mr. Svoboda -- Svoboda.

(14) MS. FARRISE: There's a question pending. Ms.  
 (15) Court Reporter, could you read it for me?

(16) (Requested material was read back.)

(17) MR. OSTERTAG: Lacks foundation. Calls for  
 (18) speculation. Assumes facts not in evidence.

(19) A. Liberty Mutual -- my understanding is Liberty  
 (20) Mutual insured the Ford Dealer Development program,  
 (21) which included certain dealerships.

(22) Q. (By Ms. Farrise) And is it also your  
 (23) understanding that the Ford dealerships, which were  
 (24) included in the Liberty Mutual Insurance of the Ford  
 (25) Dealer Development program, were dealerships that --

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(1) there were negative health effects to people who were  
 (2) doing automotive repair where they would be exposed to  
 (3) asbestos from automotive brakes with asbestos, clutches  
 (4) and engine gaskets, correct?

(5) MR. OSTERTAG: The question is compound.  
 (6) Vague and ambiguous. Overbroad. Lacks foundation.  
 (7) Calls for speculation.

(8) MR. EPSTEIN: Join. Epstein.

(9) A. I don't know what research it was doing.

(10) Q. (By Ms. Farrise) And since you were employed  
 (11) by Liberty Mutual through today, you follow the  
 (12) publicly-available literature which is published in the  
 (13) area of industrial hygiene, don't you?

(14) MR. OSTERTAG: Overbroad. Vague and  
 (15) ambiguous.

(16) A. I do read literature when -- I think when --  
 (17) I'm not sure what you mean by follow because that can --  
 (18) that can mean a lot of things. I do try to stay abreast  
 (19) of the general sense of literature, that's correct.

(20) Q. (By Ms. Farrise) Okay. And more  
 (21) particularly, can we agree, sir, that you have stayed  
 (22) abreast of industrial hygiene literature because that's  
 (23) your professional field, correct?

(24) MR. OSTERTAG: Well, that's overbroad. It's  
 (25) vague and ambiguous.

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(1) A. It's also a very broad field. I do try to  
 (2) stay on top of industrial hygiene developments and do  
 (3) read industrial hygiene journals, but I don't read every  
 (4) article, and I don't -- I don't necessarily stay  
 (5) entirely current on every issue. Sometimes if an issue  
 (6) comes up, I have to do the research and go back and look  
 (7) at those journals. So I don't have those off the top of  
 (8) my head.

(9) Q. (By Ms. Farrise) You've personally published  
 (10) in the industrial hygiene literature that's publicly  
 (11) available, correct?

(12) A. That's correct.

(13) Q. How many scientific publications on industrial  
 (14) hygiene topics have you authored or co-authored that you  
 (15) can estimate for me?

(16) A. Ballpark estimate might be two dozen.

(17) Q. For instance, I became aware that you were a  
 (18) co-author I guess with Mr. Bunn, William -- Dr. Bunn,  
 (19) who is your current -- strike that.

(20) You were a co-author with Dr. Bunn, who you  
 (21) report to today at Navistar, on a paper published in the  
 (22) Journal of Occupational and Environmental Medicine in  
 (23) 2001 titled Health, Safety and Productivity in a  
 (24) Manufacturing Environment. Correct?

(25) A. I believe that is correct.

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(1) Q. And Dr. Bunn, who you directly report to  
 (2) today, is listed on that article in terms of his credit  
 (3) as not only being a doctor, but a lawyer as well and  
 (4) holding a JD. Is that your understanding as well?

(5) A. That is my --

(6) MR. OSTERTAG: Objection. Go ahead --

(7) THE WITNESS: I'm sorry.

(8) MR. OSTERTAG: Objection. Lacks foundation.

(9) A. That is my understanding.

(10) Q. (By Ms. Farrise) Now, have you or Dr. Bunn --  
 (11) strike that.

(12) Dr. Bunn, as I understand it, also holds a  
 (13) master's in public health. Is that your understanding  
 (14) as well?

(15) MR. OSTERTAG: Foundation. Speculation.

(16) A. That is my understanding.

(17) Q. (By Ms. Farrise) So Dr. Bunn is trained in  
 (18) medicine, law and occupational safety and health.  
 (19) That's a fair statement, correct?

(20) MR. OSTERTAG: Again, assumes facts -- or  
 (21) excuse me. Lacks foundation. Calls for speculation.

(22) A. He's trained in medicine, law and public  
 (23) health.

(24) Q. (By Ms. Farrise) And to your knowledge, Mr.  
 (25) Slavin, having worked at Navistar formerly known as

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(1) International Harvester Company for more than 30 years,  
 (2) has Dr. Bunn, yourself or anyone else to your knowledge  
 (3) ever conducted an asbestos survey to determine the --  
 (4) whether or not individuals working at International  
 (5) Harvester dealerships were exposed to asbestos from the  
 (6) repair work that they did on International Harvester  
 (7) vehicles?

(8) MR. OSTERTAG: Vague and ambiguous.  
 (9) Overbroad.

(10) A. That's a fairly long question. I guess I'd  
 (11) like to hear that again and the time following.

(12) THE REPORTER: Would you like for me to read  
 (13) it back?

(14) MS. FARRISE: Yes, please.

(15) (Requested material was read back.)

(16) A. I do not recall such a survey.

(17) Q. (By Ms. Farrise) And if, in fact, a survey in  
 (18) industrial hygiene study or survey evaluation of any  
 (19) kind had been done by anyone at International Harvester  
 (20) to determine asbestos exposures to people working at  
 (21) International Harvester dealers to asbestos, that would  
 (22) have been work that would have been directed by the  
 (23) industrial hygiene department of Navistar, correct?

(24) MR. OSTERTAG: Assumes facts. Calls for  
 (25) speculation. Lacks foundation. Overbroad.

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(1) A. I don't believe that's necessarily true.

(2) Q. (By Ms. Farrise) Would the industrial hygiene  
 (3) department of Navistar formerly known as International  
 (4) Harvester Company likely be aware if there was a study  
 (5) or an evaluation to determine whether, and to what  
 (6) extent, someone was exposed to asbestos at an  
 (7) International Harvester dealer from doing repair work on  
 (8) International Harvester vehicles that was being  
 (9) undertaken?

(10) MR. OSTERTAG: Foundation. Lacks -- excuse  
 (11) me. Speculation.

(12) A. Many of the International Harvester dealers --  
 (13) most -- were independent dealerships. And as such, the  
 (14) department that I worked for would not be involved in  
 (15) activities. So it's likely -- it's possible that work  
 (16) could be done, and there would be no reason that we  
 (17) would be involved or aware of that work.

(18) Q. (By Ms. Farrise) And that would be industrial  
 (19) hygiene surveys that dealers who were International  
 (20) Harvester dealers that were independent from the company  
 (21) might be conducting on their own, correct?

(22) A. It could also be -- it could also be accurate  
 (23) for dealers that were not independent.

(24) Q. First of all, the department that you just  
 (25) referred to that you worked within for most of the 30

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(1) years that you have been employed at International  
 (2) Harvester has included the department that had the  
 (3) corporate responsibility for industrial hygiene and  
 (4) safety, correct?  
 (5) MR. OSTERTAG: Compound. Overbroad. Vague  
 (6) and ambiguous.  
 (7) A. That's not exactly accurate, no.  
 (8) Q. (By Ms. Farrise) Have you worked for most of  
 (9) your career at Navistar in a department who had as its  
 (10) responsibility on a corporate basis industrial hygiene  
 (11) and safety?  
 (12) MR. OSTERTAG: Vague and ambiguous.  
 (13) A. The department that I've worked for assists  
 (14) operations in safety and industrial hygiene matters.  
 (15) Q. (By Ms. Farrise) And has that been true for  
 (16) the duration of your more than 30-year career at  
 (17) Navistar formerly known as International Harvester  
 (18) Company?  
 (19) A. It has been true that we have -- that my  
 (20) department that I've worked in has provided and  
 (21) continues to provide assistance to operations for safety  
 (22) and industrial hygiene matters. We're not the only ones  
 (23) that provide that service.  
 (24) Q. Okay. There's another department in --  
 (25) A. No --

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(1) among other hazards, correct?  
 (2) MR. OSTERTAG: Vague and ambiguous.  
 (3) A. I need to hear that question again.  
 (4) (Requested material was read back.)  
 (5) A. I don't understand the meaning or implication  
 (6) of the term "effectuate" in this context.  
 (7) Q. (By Ms. Farrise) The department that you have  
 (8) worked at for the 30-plus years when you have been  
 (9) employed by Navistar, Inc., formerly known as  
 (10) International Harvester Company is the department within  
 (11) that company that is responsible for setting, if their  
 (12) people did, corporate policy for employee safety and  
 (13) health as it relates to asbestos and other workplace  
 (14) hazards. Correct?  
 (15) MR. OSTERTAG: Overbroad. Vague and  
 (16) ambiguous.  
 (17) A. That's generally correct.  
 (18) Q. (By Ms. Farrise) Okay. And generally  
 (19) speaking today, the position that you hold is the  
 (20) director of the global health -- global safety and  
 (21) health department for Navistar on a worldwide basis,  
 (22) correct?  
 (23) A. I'm the global safety and health director for  
 (24) Navistar, that's correct.  
 (25) Q. Yes. So if today and in the past there has

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(1) Q. Sorry. There's another department within  
 (2) Navistar that also provides on a corporate basis service  
 (3) to that company for industrial hygiene and safety and  
 (4) health?  
 (5) A. No. There is -- well, as far as I know  
 (6) there's not another department that has that  
 (7) responsibility.  
 (8) Q. Okay. So can we agree, sir, that for most of  
 (9) the -- strike that.  
 (10) For the 30-plus years that you have been  
 (11) employed by Navistar formerly known as International  
 (12) Harvester Company, you have worked within the department  
 (13) that has had the primary corporate responsibility for  
 (14) industrial hygiene and employee safety and health?  
 (15) MR. OSTERTAG: Vague and ambiguous.  
 (16) Overbroad. Misstates.  
 (17) A. I've worked for the department that has been  
 (18) most primarily -- let's say responsible for assisting,  
 (19) for developing policies on safety and health.  
 (20) Q. (By Ms. Farrise) So, for instance, the  
 (21) department that you have worked in for the most of --  
 (22) what, for the 30-plus years that you have been employed  
 (23) by Navistar is the department that would determine and  
 (24) effectuate policy to address any hazards that any  
 (25) employees might experience from exposure to asbestos,

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(1) been a corporate-level policy that addressed safety and  
 (2) health to Navistar employees, it would be generated from  
 (3) the department that you now work in and have worked in  
 (4) for 30 years --  
 (5) MR. OSTERTAG: Vague and ambiguous.  
 (6) Q. (By Ms. Farrise) -- right?  
 (7) MR. OSTERTAG: Overbroad.  
 (8) A. If there were a corporate policy on an  
 (9) occupational safety and health matter, it would most  
 (10) likely be generated from our department.  
 (11) Q. (By Ms. Farrise) Is there a department or has  
 (12) there been a department within Navistar formerly known  
 (13) as International Harvester, during the 30-plus years  
 (14) that you've been employed there, that had as its  
 (15) responsibility the safety and health of people who  
 (16) purchased or used or repaired International Harvester  
 (17) products?  
 (18) MR. OSTERTAG: Vague and ambiguous. It's  
 (19) overbroad.  
 (20) A. We had engineering and -- we had -- I was not  
 (21) involved in those areas, but I do believe that there was  
 (22) someone who had -- there was some areas that had -- that  
 (23) had -- was involved in -- in the engineering and --  
 (24) product reliability for international products.  
 (25) Q. (By Ms. Farrise) Is it your testimony then,

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(1) sir, that your understanding having worked at Navistar  
(2) for more than 30 years is that the health and safety  
(3) protection or concerns, if you will, to people who were  
(4) owners, product users or who would do maintenance on  
(5) International Harvester vehicles has rested with the  
(6) engineering and product reliability department within  
(7) that company?

(8) MR. OSTERTAG: Objection. Misstates  
(9) testimony. Assumes facts. Lacks foundation. Calls for  
(10) speculation from this witness.

(11) A. I'm not sure how -- particularly over that  
(12) period of time how those functions were organized. The  
(13) only thing that I can tell you is that I was not  
(14) involved in that area of the business.

(15) Q. (By Ms. Farrise) And do you know anyone who  
(16) over the course of your 30 years at that company that  
(17) you could identify, either by name or title or place  
(18) within the company, who you understood had the  
(19) responsibility to determine and protect owners, users  
(20) and people who would maintain International Harvester  
(21) vehicles so that they would not be exposed to asbestos?

(22) MR. OSTERTAG: It's argumentative. Lacks  
(23) foundation. Calls for speculation. It's overbroad.  
(24) Vague and ambiguous.

(25) A. I'm not sure who had what responsibility in  
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(1) that organization. And I think you're taking the  
(2) question a little further than my understanding of any  
(3) specific person's responsibility or job description.

(4) MS. FARRISE: Move to strike the last part as  
(5) nonresponsive.

(6) Q. (By Ms. Farrise) Mr. Slavin, I just want to  
(7) know if we can agree that as you sit here today under  
(8) oath having worked for this company for more than 30  
(9) years that you cannot tell me what department, what  
(10) person or what position within International Harvester,  
(11) now known as Navistar, Inc., was responsible to protect  
(12) people on a health and safety level from exposure to  
(13) asbestos. And the people I mean are owners of  
(14) International Harvester vehicles, users of International  
(15) Harvester asbestos products, and people who would work  
(16) maintaining those vehicles who are not International  
(17) Harvester employees. Is that true?

(18) MR. OSTERTAG: It's compound. It's overbroad.  
(19) It's vague and ambiguous. It lacks foundation. It  
(20) assumes facts not in evidence. Misstates testimony.

(21) A. There are about 15 questions in your inquiry,  
(22) and each of the questions kind of depends on another. I  
(23) can't answer -- I cannot respond to all of those series  
(24) of questions with a coherent answer. There are just too  
(25) many elements that conflict, don't agree with each

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(1) other.

(2) Q. (By Ms. Farrise) Sir, tell me what department  
(3) within the International Harvester Company, now known as  
(4) Navistar, Inc., during the 30 years that you have been  
(5) employed there had the responsibility to protect the  
(6) health and safety of people who would repair  
(7) International Harvester vehicles from exposure to  
(8) asbestos.

(9) MR. OSTERTAG: Lacks foundation. Calls for  
(10) speculation. Assumes facts not in evidence. Vague and  
(11) ambiguous. Overbroad. Compound.

(12) A. Again, there are -- you're chaining together a  
(13) number of things. There were -- I know that there were  
(14) people --

(15) MR. OSTERTAG: Excuse me.

(16) A. -- people at Navistar/International Harvester  
(17) that worked to -- that worked in this area to -- but I  
(18) don't -- I can't characterize them in the full  
(19) description that you're applying to that question.

(20) Q. (By Ms. Farrise) I'll take a partial  
(21) description. Where did they work? What location? What  
(22) department? What was their job?

(23) MR. OSTERTAG: Same objections.

(24) A. When you say "they," can you -- can we get to  
(25) that?

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(1) Q. (By Ms. Farrise) Sure. Can you tell me  
(2) anybody, either by their location that they worked in,  
(3) the department that they worked in or the job title or  
(4) even the name, if you can recall that, anybody who since  
(5) you've been at International Harvester for more than 30  
(6) years who you understood to have a responsibility to  
(7) protect people who would be exposed to asbestos from  
(8) doing service work on International Harvester vehicles  
(9) in the field?

(10) MR. OSTERTAG: Assumes facts not in evidence.  
(11) Lacks foundation. Calls for speculation. Compound.

(12) A. The issue of responsibility is not -- there  
(13) are -- again, your question draws -- I can't get from A  
(14) to B based on the number of assumptions that you're  
(15) including in your question.

(16) Q. (By Ms. Farrise) And my question then, very  
(17) simply, during the 30 years that you've worked at  
(18) Navistar, Inc., can you name a single department that  
(19) had the responsibility to protect people who would be  
(20) exposed -- who would be servicing vehicles that  
(21) contained asbestos-containing components during that  
(22) time period?

(23) MR. OSTERTAG: Assumes facts not in evidence.  
(24) Speculation. Foundation.

(25) A. I can't -- cannot name a specific department

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(1) because I'm not familiar with the organization of the  
 (2) engineering products reliability areas of the company.  
 (3) Q. (By Ms. Farrise) Since you are currently  
 (4) employed by Navistar, who would be the individual who  
 (5) would be knowledgeable about the engineering and product  
 (6) reliability portions of Navistar today and going back  
 (7) historically, if you know?

(8) MR. OSTERTAG: Well, that calls for  
 (9) speculation. Lacks foundation. Assumes facts.

(10) A. The only person that I am aware of that may  
 (11) fit that description would be James Shuman.

(12) Q. (By Ms. Farrise) So you know Mr. Shuman, do  
 (13) you?

(14) A. I do know Mr. Shuman and I know of him.

(15) Q. Uh-huh. And so you understand that Mr. Shuman  
 (16) does not today work for Navistar, Inc., formerly known  
 (17) as International Harvester, correct?

(18) A. I believe he's retired.

(19) Q. Do you understand that Mr. Shuman has not been  
 (20) an employee of Navistar, Inc., formerly known as  
 (21) International Harvester Company for some years? That's  
 (22) your understanding, correct?

(23) MR. OSTERTAG: Vague and ambiguous.

(24) A. I do not know when Mr. Shuman retired.

(25) Q. (By Ms. Farrise) You understand it was some

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(1) years ago, right? It wasn't yesterday?

(2) MR. OSTERTAG: Same objection.

(3) A. It was more than one, I believe.

(4) Q. (By Ms. Farrise) More than five, correct?

(5) A. I don't know that.

(6) Q. And other than Mr. Shuman who is no longer  
 (7) employed by Navistar, Inc., Mr. Slavin, is there anyone  
 (8) who you would identify who still works for Navistar,  
 (9) Inc., formerly known as International Harvester Company  
 (10) today who could -- who you would think would have some  
 (11) knowledge about International Harvester's work, if any,  
 (12) to protect people who were working on International  
 (13) Harvester vehicles from exposure to asbestos? Anybody  
 (14) within the company today?

(15) A. I do not know of anyone still working for the  
 (16) company that fits that description.

(17) Q. Who's the head of engineering and product  
 (18) reliability today?

(19) A. I'm not sure.

(20) Q. Where is that department located?

(21) A. There are different divisions within the  
 (22) company that have reliability -- that have that  
 (23) function.

(24) Q. Do any of the divisions -- strike that.

(25) You mentioned that you weren't sure who was

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(1) the head of that department today. Do you have any idea  
 (2) of anyone who works in the engineering and product  
 (3) reliability department at Navistar and International  
 (4) Harvester today who has any part of their  
 (5) responsibility -- well, strike that.

(6) Do you know of anybody in the whole company  
 (7) who works in engineering and product reliability today?

(8) MR. OSTERTAG: It's overbroad. It's vague and  
 (9) ambiguous. Not calculated to lead to the discovery of  
 (10) admissible evidence.

(11) A. Today who works in engineering and products  
 (12) liability -- or product reliability, yes, there are  
 (13) people that I do know of who work in the general area  
 (14) for engineering and product reliability.

(15) Q. (By Ms. Farrise) And do any of those people  
 (16) work in the same building location that you work in in  
 (17) Chicago?

(18) A. No.

(19) Q. Okay. Do they work in Warrenville, Illinois?

(20) A. No.

(21) Q. Where is that department today?

(22) MR. OSTERTAG: Asked and answered. Go ahead.

(23) A. Some of that activity would be in Melrose  
 (24) Park, and some of that activity would be in Fort Wayne,  
 (25) Indiana.

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(1) Q. (By Ms. Farrise) Melrose Park, Illinois?

(2) A. That's correct.

(3) Q. And why would some of that activity be in  
 (4) Melrose Park, Illinois? What kind of operation does  
 (5) Navistar conduct at that location?

(6) MR. OSTERTAG: That's a compound question.  
 (7) It's vague and ambiguous. Calls for speculation. Lacks  
 (8) foundation.

(9) A. Navistar conducts engine engineering in that  
 (10) facility.

(11) Q. (By Ms. Farrise) Okay. And how about Fort  
 (12) Wayne, Indiana? What kind of Navistar operation is  
 (13) conducted there?

(14) A. Truck design and truck engineering.

(15) Q. Okay. And so do you know, sir, if there were  
 (16) records of Navistar which exist today as to whether or  
 (17) if at any time anybody did any survey to determine  
 (18) whether people who were working on International  
 (19) Harvester vehicles were being exposed to asbestos  
 (20) whether or not where those records would be today?

(21) MR. OSTERTAG: Assumes facts. Lacks  
 (22) foundation. Calls for speculation.

(23) A. Your question -- I have a hard time following  
 (24) your questions. It's got a lot of elements to it.

(25) Q. (By Ms. Farrise) I'm going to strike the

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(1) question.  
 (2) (EXHIBIT NO. 5 MARKED.)  
 (3) Q. (By Ms. Farrise) Let me show you what I've  
 (4) marked as Plaintiff's Exhibit Number 5. Here's a copy  
 (5) of it for your counsel.  
 (6) For the record, it's a December 29, 1975,  
 (7) letter on the letterhead of Liberty Mutual with a  
 (8) typewritten indication that it was prepared by a Mr.  
 (9) Rossliip, R-o-s-s-l-i-p, a loss prevention account  
 (10) representative, and a T.J. Slavin, industrial hygienist,  
 (11) to, quote, Ford Dealer Development Dealership  
 (12) Presidents. Take a moment, Mr. Slavin, and familiarize  
 (13) yourself with what I have marked as Plaintiff's Exhibit  
 (14) Number 5.  
 (15) A. Okay.  
 (16) Q. Have you had a chance to review Exhibit Number  
 (17) 5?  
 (18) A. Yes, I have.  
 (19) Q. Okay. Exhibit Number 5, further for the  
 (20) record, is a document produced by Ford Motor Company  
 (21) that bears the Bates stamp of FAFD007110 through the  
 (22) same series ending in 7111 found in the files of Ford  
 (23) Motor Company.  
 (24) Mr. Slavin, does Exhibit Number 5 appear to  
 (25) you to be consistent with the type of document that you

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(1) A. The document does contain information about  
 (2) the hazards of asbestos as produced or published by  
 (3) NIOSH, the National Institute for Occupational Safety  
 (4) and Health. And so the document does represent a  
 (5) summary of information from NIOSH as it was known at  
 (6) that time.  
 (7) It does also contain some important  
 (8) qualifications of that information that indicates that  
 (9) it provides information about preliminary assessments  
 (10) and that further research is ongoing.  
 (11) Q. (By Ms. Farrise) So can we agree then, Mr.  
 (12) Slavin, that the document prepared by you and Mr.  
 (13) Rossliip and sent to various people in the Ford Dealer  
 (14) Development Dealership Presidents network reflects  
 (15) information that you had available to you, and that you  
 (16) understood to be the state of information regarding  
 (17) exposures to asbestos dust to people who were doing  
 (18) repair work on automotive products containing asbestos  
 (19) at that time?  
 (20) MR. OSTERTAG: It's argumentative. It's  
 (21) overbroad. It's vague and ambiguous.  
 (22) A. This document would summarize the information  
 (23) that was available or was understood at that time, I  
 (24) think it's reasonable to say.  
 (25) Q. (By Ms. Farrise) And I think, sir, that we

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(1) prepared in your position with the Liberty Mutual  
 (2) Insurance Company as you were -- let me just stop there.  
 (3) MR. OSTERTAG: Objection. It's vague and  
 (4) ambiguous. Lacks foundation.  
 (5) A. Yes. This appears to be a document that I  
 (6) had -- that I participated in developing.  
 (7) Q. (By Ms. Farrise) Okay. And we agree, sir,  
 (8) that Exhibit Number 5 is a document that indicates T. J.  
 (9) Slavin, industrial hygienist, is one of the people  
 (10) sending -- who has prepared and is transmitting this  
 (11) document to a variety of recipients categorized as the  
 (12) Ford Dealer Development Dealership Presidents.  
 (13) MR. OSTERTAG: Assumes facts. Vague and  
 (14) ambiguous. Speculation.  
 (15) A. This would appear to be a document that I  
 (16) participated in developing.  
 (17) Q. (By Ms. Farrise) Can we agree, sir, that the  
 (18) document Exhibit 5 and the information contained within  
 (19) Exhibit 5 reflects the information that you had by  
 (20) December 29, 1975, regarding the hazards of exposure to  
 (21) asbestos dust from doing repair work on automotive  
 (22) products containing asbestos and ways to prevent that  
 (23) exposure?  
 (24) MR. OSTERTAG: Argumentative. Misstates the  
 (25) document.

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(1) can probably agree based on the testimony that you just  
 (2) gave that the information that was available, as  
 (3) indicated in Exhibit Number 5, is information that you  
 (4) received from government agencies and other sort of more  
 (5) publicly-available information sources, correct?  
 (6) MR. OSTERTAG: Objection --  
 (7) Q. (By Ms. Farrise) NIOSH and, perhaps, others.  
 (8) MR. OSTERTAG: Objection. It's vague and  
 (9) ambiguous. It's overbroad. Misstates the document.  
 (10) A. The information that is contained in here  
 (11) is -- I think reflects the practice which is to be  
 (12) proactive, if you will, and alert clients of Liberty  
 (13) Mutual of potential informations and precautions that is  
 (14) advisable to take. I hesitate to draw certain  
 (15) conclusions from the -- from the document that clearly  
 (16) indicates that there's still some unsettled issues and  
 (17) questions being researched.  
 (18) Q. (By Ms. Farrise) The information, for  
 (19) instance first paragraph, in this document, which has as  
 (20) its heading and underlined Exposure to Asbestos Dust,  
 (21) quote, brake linings, comma, pads and clutch assemblies  
 (22) are made of asbestos which has long been recognized as a  
 (23) material producing a hazard to the health of those who  
 (24) inhale its dust in excessive amounts over a long period  
 (25) of time. During the last few years, however, attention

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(1) has been focused on the development of cancer of the  
 (2) lung and other body areas following exposure to asbestos  
 (3) dust. That was information that was available from  
 (4) public sources that you had available to you and you  
 (5) were passing on to Liberty Mutual customers by 1975,  
 (6) correct?

(7) MR. OSTERTAG: Vague and ambiguous.

(8) MS. CINCO: Objection. Lacks foundation.

(9) A. There are several elements to your question.

(10) The reading of the first sentence, it is fair to say  
 (11) that asbestos was long recognized as a material  
 (12) producing hazards to health to those who inhaled its  
 (13) dust. That is not necessarily true in the -- let's say  
 (14) the automotive or brake work. You know, there are  
 (15) asbestos workers in mines.

(16) And so asbestos had been known to produce  
 (17) asbestos. So it's fair to say asbestos was known to be  
 (18) recognized as a material producing hazard to the health  
 (19) of those who inhaled its dust in excessive amounts over  
 (20) a long period of time. That's certainly an accurate  
 (21) statement.

(22) The second statement that attention has been  
 (23) focused on the development of cancer of the lung and  
 (24) other body areas following the exposure to asbestos dust  
 (25) is also a fair statement. There were questions,

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(1) inquiries. There were -- it was a source of interest  
 (2) in question. Similar to today we have a question about  
 (3) cell phones. And there are studies that show that there  
 (4) may be an issue, and certainly there is a lot of  
 (5) interest in cell phone exposure.

(6) Similarly, there are at this time research  
 (7) that indicates there's a question and that as a result  
 (8) of that research, and out of interest in being  
 (9) protect -- protective and proactive, that we're trying  
 (10) to alert customers that there is a question that there  
 (11) is an issue out there that they should be aware of.

(12) Q. (By Ms. Farrise) In Exhibit 5, sir, can we  
 (13) agree that you in your capacity as an industrial  
 (14) hygienist at Liberty Mutual are passing on to the  
 (15) customers at Liberty Mutual, in this case the Ford  
 (16) Dealer Development Dealership Presidents, that NIOSH had  
 (17) cited four cases of a rare mesothelial tumor in persons  
 (18) who were employed in jobs involving brake servicing?  
 (19) That's the information that you passed on to those Ford  
 (20) Dealer Development Dealership Presidents, correct?

(21) MS. CINCO: Cinco. Lacks foundation.

(22) A. The NIOSH report, which is -- which I believe  
 (23) is -- you know, at that time can cite those cases. I'm  
 (24) not familiar with that report at this point, but that  
 (25) would be my reading of this, that there was a report

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(1) that cited four cases and that that was a cause for  
 (2) concern at that time.

(3) Q. (By Ms. Farrise) You also in your Exhibit 5,  
 (4) you and your -- Mr. Rossliip, report to Ford Dealer  
 (5) Development Presidents that the full extent of  
 (6) asbestos-related disease in brake servicing personnel is  
 (7) not known because this group has never been  
 (8) systematically studied, correct? That's what he's  
 (9) passed on.

(10) A. That's what the letter says. That's correct.

(11) Q. You also pass on to Ford Dealer Development  
 (12) Dealership Presidents, quote, Excessive dust  
 (13) concentrations measured at operations such as blow-out  
 (14) of automobile drum brake assemblies, grinding of used  
 (15) truck brake linings, bevelling of new truck brake  
 (16) linings and arcing of new auto brake linings, together  
 (17) with mesothelial tumors in persons so employed, affirms  
 (18) the necessity for effectively controlling the exposure.  
 (19) First of all, did I read correctly from Exhibit Number 5  
 (20) what you and Mr. Rossliip wrote?

(21) A. I believe you read this memorandum correctly.

(22) Q. And that is information, as I've just read it,  
 (23) that you and Mr. Rossliip was passing along -- you as an  
 (24) industrial hygienist at Liberty Mutual was passing on to  
 (25) Ford Dealer Development Dealership Presidents at or

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(1) about December 29, 1975, correct?

(2) MR. OSTERTAG: Objection. Assumes facts.  
 (3) Lacks foundation.

(4) MS. CINCO: Join. Cinco. Lacks foundation.

(5) MR. MILANFAR: Milanfar. Join.

(6) MS. BUTY: Buty. Join.

(7) MR. EPSTEIN: Epstein joins.

(8) A. Would you repeat the question?

(9) Q. (By Ms. Farrise) Sure. The question is, as I  
 (10) have just read that, that information is information  
 (11) that you as an industrial hygienist at Liberty Mutual  
 (12) was passing on or communicating to Ford Dealer  
 (13) Development Dealership Presidents at that time, correct?

(14) A. It's --

(15) MR. OSTERTAG: Argumentative. Misstates the  
 (16) document. Go ahead.

(17) A. This -- that language is contained in this  
 (18) document, yes.

(19) Q. (By Ms. Farrise) And the language is language  
 (20) that you approved, if you will, in a letter that is  
 (21) signed by you and Mr. Rossliip, correct?

(22) A. That's correct. I would have participated in  
 (23) the development of this language.

(24) Q. Can we agree, Mr. Slavin, that during the  
 (25) entire time that you have been employed by Navistar

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(1) formerly known as International Harvester, Inc., you are  
 (2) not aware of that company ever communicating to people  
 (3) who would do repair work on automotive brakes performing  
 (4) operations such as blow-out of automobile drum brake  
 (5) assemblies, grinding of truck brake linings, that that  
 (6) activity needed to be, quote, effectively controlled for  
 (7) asbestos exposure, end quote. Correct?

(8) MR. OSTERTAG: It's compound. Vague and  
 (9) ambiguous. Overbroad. Go ahead.

(10) A. That's a long question. I need to hear that  
 (11) again. I have a hard time following the multi -- I  
 (12) have --

(13) Q. (By Ms. Farrise) Sure. Let me ask a  
 (14) different question. Sir, can we agree that the  
 (15) information that control of exposure to asbestos was  
 (16) necessary when brake service work was done on  
 (17) International Harvester vehicles is not information that  
 (18) you are aware that International Harvester communicated  
 (19) to any people who would be doing repair work on  
 (20) International Harvester vehicles where the brake work --  
 (21) where the brakes were asbestos containing?

(22) MR. OSTERTAG: Compound. Argumentative.  
 (23) Foundation. Speculation.

(24) MR. EPSTEIN: Join. Epstein.

(25) A. I'm having a very difficult time following

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(1) some of these questions. They're -- there is a  
 (2) multitrail here, and I think I have some issues with --  
 (3) there's some linkages that don't work in there, and so I  
 (4) can't really get to the end of the question and give you  
 (5) a yes-or-no answer because of all of those pieces that  
 (6) don't always end together.

(7) MS. FARRISE: Let me try a simpler one.

(8) VIDEOGRAPHER: I need to change my tapes.

(9) Q. (By Ms. Farrise) In the 30-plus years that  
 (10) you have worked at International Harvester, to your  
 (11) knowledge, has International Harvester ever warned  
 (12) anyone who was doing brake repair work on an  
 (13) International Harvester vehicle that they should be  
 (14) concerned about exposure to asbestos?

(15) MR. OSTERTAG: Objection. Argumentative.

(16) Q. (By Ms. Farrise) Have you ever seen that?

(17) MR. OSTERTAG: Object. Speculation.  
 (18) Foundation. Argumentative.

(19) A. You're asking in the 30 years that I have been  
 (20) with --

(21) Q. (By Ms. Farrise) (Nods head up and down).

(22) A. My understanding is that I have not directly  
 (23) seen that -- I won't say warning, but my understanding  
 (24) is that there is information that there was information.

(25) In fact, there was information that was -- that was

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(1) provided, passed on, disseminated, whatever. So if you  
 (2) limit it to my personal experience and limit it to the  
 (3) 30 years where I've been with International Harvester  
 (4) and Navistar, if you limit it to that very narrow  
 (5) sphere, then the answer may be that I'm not aware of  
 (6) personally doing that. If you asked if the company did  
 (7) that, that's a different question. My understanding is  
 (8) that the company did provide information along that  
 (9) line.

(10) MS. FARRISE: Thank you. We need to go off  
 (11) the record.

(12) VIDEOGRAPHER: This marks the end of Media  
 (13) Number 1. We are off the record at 11:42.

(14) (Recess taken at 11:42.)

(15) VIDEOGRAPHER: We're back on the record. This  
 (16) is the beginning of Media Number 2, video-recorded  
 (17) deposition of Tom Slavin. The time is 11:51 a.m.

(18) Q. (By Ms. Farrise) Mr. Slavin, do you feel well  
 (19) enough to continue, or is there any reason that you  
 (20) cannot give your best testimony right now?

(21) A. I'm prepared to continue for the moment, yes.

(22) Q. Okay. Before we changed tapes, we were  
 (23) talking about Exhibit Number 5. And you referred to a  
 (24) NIOSH publication that is also referenced in Exhibit 5.  
 (25) It's the August 8, 1975, NIOSH letter.

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(1) (EXHIBIT NO. 6 MARKED.)

(2) Q. (By Ms. Farrise) Let me hand you what I have  
 (3) marked as Plaintiff's Exhibit Number 6.

(4) THE WITNESS: Do you want to look at it?

(5) MR. OSTERTAG: It -- I wrote on --

(6) THE WITNESS: Oh, I'm sorry.

(7) Q. (By Ms. Farrise) And ask you to take a look  
 (8) at and review Exhibit Number 6.

(9) MR. OSTERTAG: Is that the only copy?

(10) MS. FARRISE: Well, that's the only copy I  
 (11) have to offer. I have my own.

(12) MR. OSTERTAG: I'm just trying to find where  
 (13) it was, trying not to lose track here.

(14) MS. FARRISE: And for the record, Exhibit  
 (15) Number 6 was a document produced by the Ford Motor  
 (16) Company. It bears a Bates number FAFD0006365 and 6366.  
 (17) It is a letter on the letterhead of the Department of  
 (18) Health, Education and Welfare, Public Health Service,  
 (19) Center For Disease Control, dated August 8, 1975, and  
 (20) signed by J. William Lloyd, comma, Sc.D., Director,  
 (21) Office of Occupational Health Surveillance and  
 (22) Biometrics. And it's addressed to Dear Colleague.

(23) (Witness and counsel confer.)

(24) A. Okay -- oh, sorry.

(25) Q. (By Ms. Farrise) Mr. Slavin, having reviewed

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(1) now Exhibit Number 6, the August 8, 1975, letter from  
 (2) the Department of Health, Education and Welfare and also  
 (3) National Institute for Occupational Safety and Health,  
 (4) can you tell me whether or not this is the information  
 (5) that your letter, which is Exhibit Number 5, refers to  
 (6) in the second paragraph where it refers to the August 8,  
 (7) 1975, letter?

(8) MR. OSTERTAG: If you know.

(9) A. There would appear to be a connection. And  
 (10) whether -- and certainly the information in here is very  
 (11) similar to what's in -- the information in Exhibit 5 is  
 (12) very similar to what's in Exhibit 6. What I can't tell  
 (13) you is whether it was direct or whether it was conveyed  
 (14) through Liberty Mutual people in Hopkinton that might  
 (15) have passed that information on. So I don't know  
 (16) whether there was a secondary document in between here,  
 (17) but it does seem to be closely related.

(18) Q. (By Ms. Farrise) Okay. Can I -- let me  
 (19) direct you to the last paragraph of Exhibit 6. It  
 (20) indicates -- first I'm going to read it. Quote: The  
 (21) full extent of asbestos-related disease in brake  
 (22) servicing personnel is not known at present because this  
 (23) particular occupational group has not been studied  
 (24) systematically up to now, period. Do you see where I'm  
 (25) reading?

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(1) A. Yes, I do.

(2) Q. I read that correctly, right?

(3) A. Yes, you read that.

(4) Q. Okay. And that is substantially the same  
 (5) information that you communicate on to Ford Dealer  
 (6) Development Dealership Presidents in your December 29,  
 (7) 1975, letter which we have labeled as Exhibit 5,  
 (8) correct?

(9) A. It appears to be substantially the same, yes.

(10) Q. Going back to Exhibit 6, it states, quote:  
 (11) However, a review of the scientific literature on the  
 (12) association between asbestos exposure and mesothelial  
 (13) tumors of the pleura and peritoneum has revealed at  
 (14) least four cases of these rare tumors in persons who  
 (15) were employed in jobs involving automobile brake  
 (16) servicing. And then there are references 4 to 6. First  
 (17) of all, did I read that correctly?

(18) A. Yes, you read from Exhibit 6 correctly.

(19) MR. OSTERTAG: I would just object that the  
 (20) document is incomplete.

(21) Q. (By Ms. Farrise) And Exhibit Number 5, which  
 (22) is your letter to Ford Dealer Development Dealership  
 (23) Presidents, relays substantially that same information  
 (24) that four cases of the rare tumor mesothelioma had been  
 (25) noted in people who were doing automobile brake

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(1) servicing, correct? Second paragraph of your letter,  
 (2) which is Exhibit 5.

(3) A. My Exhibit 5 appears to summarize information  
 (4) in NIOSH Exhibit 6.

(5) Q. (By Ms. Farrise) Can we agree then, Mr.  
 (6) Slavin, that the information that you were communicating  
 (7) on to the Ford Dealer Development Dealership Presidents  
 (8) was information that was more widely available and known  
 (9) from NIOSH? It wasn't, for instance, confined within --  
 (10) internal within Liberty Mutual, correct?

(11) MR. OSTERTAG: That calls for speculation.  
 (12) Lacks foundation. Argumentative.

(13) A. I think you're overstating -- I'm not sure  
 (14) that the information was known to NIOSH. I mean, it's  
 (15) the information that NIOSH was putting together based on  
 (16) preliminary information. So to characterize it as known  
 (17) by either myself or by NIOSH I think may be pushing just  
 (18) a little bit beyond what the data says.

(19) Q. (By Ms. Farrise) Well, you were communicating  
 (20) the information in Exhibit 5 on to other people outside  
 (21) of Liberty Mutual by 1975, correct?

(22) A. I was communicating the information, yes, that  
 (23) NIOSH -- contained in Exhibit 6, I was communicating  
 (24) that to other people. And, again, I have to state I'm  
 (25) not sure whether I was communicating directly from this

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(1) document or through an intermediate document that  
 (2) Liberty Mutual may have sent out to its people.

(3) Q. And, Mr. Slavin, in your capacity as an  
 (4) industrial hygienist at Liberty Mutual in December of  
 (5) 1975, you were also communicating to Ford Dealer  
 (6) Development Dealership Presidents, clients of Liberty  
 (7) Mutual, ways that exposure to asbestos from brake  
 (8) servicing operations could be prevented, correct?

(9) A. I was communicating methods to reduce the  
 (10) exposure -- the potential exposure during those  
 (11) operations, yes.

(12) Q. And what you were communicating specifically  
 (13) in that regard by December of 1975 as an industrial  
 (14) hygienist at Liberty Mutual to its clients, including  
 (15) Ford Dealer Development Dealership Presidents, was that  
 (16) exposure could be reduced by wearing a respirator, using  
 (17) a vacuum, avoiding grinding operations, cleaning areas  
 (18) with a HEPA industrial vacuum cleaner where those  
 (19) operations occurred, and minimizing clothing  
 (20) contamination that could result from that work.  
 (21) Correct?

(22) MR. OSTERTAG: Objection. Overbroad.  
 (23) Foundation. Compound. Argumentative.

(24) MR. EPSTEIN: Join. Also misstates.

(25) A. I think we need to go over those -- again,

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(1) it's a long --

(2) MS. FARRISE: Why don't I ask the court

(3) reporter to read it back?

(4) (Requested material was read back.)

(5) MR. OSTERTAG: Same objections. It does

(6) misstate.

(7) THE WITNESS: Okay. I'm going to ask you to

(8) read that again, but I want to look at this first.

(9) MS. FARRISE: Okay. Sure. Take your time.

(10) (Requested material was read back.)

(11) MR. OSTERTAG: It's compound. Vague and

(12) ambiguous. Overbroad.

(13) A. Yeah, the document states that those practices

(14) that are contained in that question were recommended

(15) practices for improving control.

(16) Q. (By Ms. Farrise) Those practices -- wearing a

(17) respirator, using a vacuum, cleaning with a HEPA vacuum

(18) and avoiding clothing contamination -- those are and

(19) were by 1975 basic industrial hygiene practices to

(20) reduce exposures to hazardous substances, including

(21) asbestos, correct?

(22) MR. OSTERTAG: Vague and ambiguous.

(23) Argumentative. Overbroad.

(24) A. I wouldn't want to overstate. Those are

(25) methods of reducing exposure. Whether those methods are

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(1) Q. Okay. When did you first become familiar with

(2) the existence in any way of Dr. Irving Selikoff?

(3) A. Well, I believe it's covered in the NIOSH

(4) document. Whether that was the first I was aware of Dr.

(5) Selikoff or not, I'm not certain.

(6) Q. Are you familiar with a gentleman who at one

(7) time worked for Navistar/International Harvester Company

(8) as an employee and later as a consultant named Edward

(9) Alpaugh?

(10) MR. OSTERTAG: I'm going to object to the

(11) question. Assumes facts not in evidence with regard to

(12) consulting.

(13) Q. (By Ms. Farrise) Did you know Mr. Alpaugh who

(14) worked for International Harvester Company?

(15) A. It's not Edward.

(16) Q. Edwin?

(17) A. Edwin.

(18) Q. I've seen it referred to in two ways. So

(19) Edwin Alpaugh. When did you first meet Mr. Edwin

(20) Alpaugh?

(21) A. It would have been in about 1977 after joining

(22) NVMA.

(23) Q. And what was your understanding of Mr.

(24) Alpaugh's position with International Harvester in 1977

(25) when you joined the company?

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(1) necessary or not depends on what the exposure is. And

(2) in this case, we're making recommendations for those

(3) methods without knowing fully what the exposure actually

(4) is or whether those methods are, in fact, necessary or

(5) not.

(6) Q. (By Ms. Farrise) Sir, have you ever seen any

(7) information from International Harvester that was meant

(8) for people who were doing automotive or vehicle repair

(9) to International Harvester vehicles that indicated that

(10) they might wear a respirator, use a HEPA vacuum, avoid

(11) clothing contamination and undertake other methods to

(12) reduce exposures to asbestos?

(13) A. I may have -- I don't want to speculate

(14) necessarily. I don't recall seeing a specific document

(15) with all of those elements in it.

(16) Q. Okay. Do you recall seeing a document with

(17) any of those elements in it going out to any persons who

(18) would be repairing International Harvester vehicles in

(19) doing automotive brake, clutch or engine repair?

(20) A. I do recall some communication on that topic.

(21) I don't remember when the document was, whether it was

(22) before or after I joined the company.

(23) Q. Mr. Slavin, do you know who Dr. Selikoff is?

(24) A. I don't know Dr. Selikoff personally, but I do

(25) know in general terms who he is.

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(1) A. My understanding was that he was the manager

(2) of industrial hygiene.

(3) Q. And did you work under his supervision?

(4) A. After I joined International Harvester in, I

(5) think, '79, I did work under his supervision.

(6) Q. Okay. For how long?

(7) A. About three or four years.

(8) Q. Where -- what location did you work out of?

(9) A. Out of the Chicago office.

(10) Q. The same office that you work in today?

(11) A. No.

(12) Q. Okay.

(13) A. That -- it was the -- at that time the world

(14) headquarters office was 401 North Michigan, and that was

(15) the location where I worked with Mr. Alpaugh.

(16) Q. So in 1977 when you started with the company

(17) you worked under Mr. Alpaugh, A-I-p-a-u-g-h, who was the

(18) manager of industrial hygiene. And the two of you had

(19) your primary offices at International Harvester

(20) Company's corporate office in downtown Chicago, correct?

(21) A. In -- you said 1977.

(22) Q. Yes.

(23) A. 1979.

(24) Q. Oh, 1979. I'm sorry. With that correction is

(25) that correct?

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- (1) A. Yes.
- (2) Q. Okay. At that time was the medical
- (3) department -- in 1979 when you started with the company,
- (4) was the medical department of International Harvester
- (5) Company also located at the world headquarters of
- (6) International Harvester in downtown Chicago?
- (7) MR. OSTERTAG: Vague and ambiguous. Assumes
- (8) facts.
- (9) A. I believe it was.
- (10) Q. (By Ms. Farrise) And when you started with
- (11) the company in 1979, was the medical department -- did
- (12) the medical department have oversight over the
- (13) industrial hygiene department at the corporate
- (14) headquarters in Chicago?
- (15) A. No --
- (16) MR. OSTERTAG: Vague and ambiguous. Go ahead
- (17) and answer. Sorry.
- (18) A. No, it did not.
- (19) Q. (By Ms. Farrise) Okay. Who was head of the
- (20) corporate medical department in downtown Chicago in 1979
- (21) when you started working there?
- (22) A. I'm not sure who was the head of the
- (23) department in 1979.
- (24) Q. Okay. Who do you believe it was?
- (25) MR. OSTERTAG: Well, speculation.

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- (1) any industrial hygiene surveys for Navistar formerly
- (2) known as International Harvester, like what time frame
- (3) are we talking about?
- (4) MR. OSTERTAG: Speculation. Lacks foundation.
- (5) A. I can't be precise, but I think it's around
- (6) the 1990 time frame.
- (7) Q. (By Ms. Farrise) And the industrial -- did
- (8) you do industrial hygiene surveys of Navistar formerly
- (9) known as International Harvester Company's facilities
- (10) when you started with the company?
- (11) A. Yes, I did.
- (12) Q. Okay. And did you prepare reports of your
- (13) findings of your industrial hygiene surveys that you
- (14) conducted while you've been employed with the company?
- (15) A. Yes, I would have.
- (16) Q. And where would you have submitted your report
- (17) from the industrial hygiene surveys that you conducted?
- (18) Where would they -- who would they have been submitted
- (19) to and where would they have been kept?
- (20) MR. OSTERTAG: Vague and ambiguous.
- (21) Overbroad.
- (22) A. Typically they would be submitted to the plant
- (23) manager, the operation manager for the facility where we
- (24) did the industrial hygiene work.
- (25) Q. (By Ms. Farrise) Mr. Slavin, would your

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- (1) A. I believe it's Dr. Paul Eggum.
- (2) Q. (By Ms. Farrise) Okay. And that's E-g-g-u-m?
- (3) A. That is correct.
- (4) Q. Okay. And at some point Mr. Edwin Alpaugh, I
- (5) guess, retired from Navistar, correct?
- (6) A. That is correct.
- (7) Q. Okay. And do you have an understanding that
- (8) after his formal retirement from Navistar that Mr.
- (9) Alpaugh continued to provide industrial hygiene services
- (10) to Navistar formerly known as International Harvester,
- (11) including undertaking asbestos surveys?
- (12) MR. OSTERTAG: I'm sorry. I missed something.
- (13) Can you read it back? I apologize.
- (14) (Requested material was read back.)
- (15) Q. (By Ms. Farrise) Do you have an understanding
- (16) that after Mr. Alpaugh, who was employed as the
- (17) industrial hygienist of Navistar formerly known as
- (18) International Harvester, retired he continued to do
- (19) industrial hygiene work as a consultant, including
- (20) undertaking asbestos surveys?
- (21) MR. OSTERTAG: That's vague and ambiguous.
- (22) Lacks foundation. Calls for the witness to speculate.
- (23) A. Yes, that is my understanding.
- (24) Q. (By Ms. Farrise) And do you -- can you tell
- (25) me or estimate for me when Mr. Alpaugh last conducted

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- (1) industrial hygiene survey have also -- a copy of it have
- (2) also been kept in the corporate industrial hygiene
- (3) department that Mr. Alpaugh was the manager of when you
- (4) started the company, in addition to the files at the
- (5) plant?
- (6) A. Yes, they would.
- (7) Q. And starting in 1979, who or what department
- (8) within Navistar -- I guess it was International
- (9) Harvester Company then -- maintained the industrial
- (10) hygiene surveys from Navistar facilities that you and
- (11) perhaps Mr. Alpaugh conducted?
- (12) MR. OSTERTAG: Vague and ambiguous. Assumes
- (13) facts.
- (14) A. Could you repeat the question, please?
- (15) Q. (By Ms. Farrise) Sure. Who or what
- (16) department within the company maintained the copy, other
- (17) than on a plant level, of the industrial hygiene surveys
- (18) that industrial hygienists like yourself and Mr. Alpaugh
- (19) conducted of the company's facilities?
- (20) A. It would have been my department.
- (21) Q. Okay. Your current department?
- (22) A. The department that I was in -- which although
- (23) the name has changed -- is my current department, yes.
- (24) Q. And who within your current department today
- (25) is responsible to maintain industrial hygiene surveys

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| <p>(1) that have and had been conducted of Navistar facilities?</p> <p>(2) A. The industrial hygiene surveys that would have</p> <p>(3) been conducted by my department and myself would be</p> <p>(4) maintained by myself or by -- under -- in some cases,</p> <p>(5) they are maintained off-site for record storage reasons,</p> <p>(6) but they would be essentially maintained by me.</p> <p>(7) Q. Okay. And how are the industrial hygiene</p> <p>(8) surveys which have been conducted at Navistar facilities</p> <p>(9) maintained by you? File cabinets? Electronically?</p> <p>(10) What?</p> <p>(11) A. In many cases in boxes in a storage --</p> <p>(12) off-site storage facility, like many corporate records,</p> <p>(13) to save space at a premium -- where space is premium in</p> <p>(14) some of our offices, those records are stored off-site</p> <p>(15) if they're not used continuously.</p> <p>(16) Q. Are the records that are stored off-site</p> <p>(17) including industrial hygiene surveys sent to some other</p> <p>(18) department within Navistar for, for instance, indexing</p> <p>(19) or cataloguing in some way so that if you need those</p> <p>(20) documents back, someone would have an idea of where</p> <p>(21) they've been stored?</p> <p>(22) MR. OSTERTAG: Vague and ambiguous.</p> <p>(23) A. Ah --</p> <p>(24) MR. OSTERTAG: Speculation.</p> <p>(25) A. There is a system to maintain those records.</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p> | <p>(1) that?</p> <p>(2) MR. OSTERTAG: Vague and ambiguous. Assumes</p> <p>(3) facts.</p> <p>(4) A. Responsible for the system of records or</p> <p>(5) responsible for the boxes?</p> <p>(6) Q. (By Ms. Farrise) Both. Let's start with the</p> <p>(7) system of records.</p> <p>(8) A. There's --</p> <p>(9) MR. OSTERTAG: Calls for speculation. Lacks</p> <p>(10) foundation.</p> <p>(11) A. I'm not sure who it is in the corporation that</p> <p>(12) develops, monitors, revises the system.</p> <p>(13) Q. (By Ms. Farrise) Do you know which department</p> <p>(14) it is that develops, monitors and changes the system?</p> <p>(15) A. No, I do not know that either.</p> <p>(16) Q. Is there an information department or records</p> <p>(17) management department within Navistar Corporation?</p> <p>(18) MR. OSTERTAG: Speculation. Foundation.</p> <p>(19) A. I understand there are people in records</p> <p>(20) management. I'm not sure what department they report to</p> <p>(21) or what their function is in terms of arranging for</p> <p>(22) other areas.</p> <p>(23) Q. (By Ms. Farrise) Okay. And within your</p> <p>(24) department, the second part, not the corporation as a</p> <p>(25) whole, how are the boxes maintained, catalogued or</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p>                         |
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| <p>(1) They do not -- they are not sent to another department,</p> <p>(2) no.</p> <p>(3) Q. (By Ms. Farrise) Okay. You could send them</p> <p>(4) directly to service -- I mean, to storage -- to off-site</p> <p>(5) storage?</p> <p>(6) A. That is correct.</p> <p>(7) Q. And who makes the determination as to which</p> <p>(8) records remain on-site in your department, and which</p> <p>(9) records are sent off-site for long-term storage?</p> <p>(10) A. Of the records I'm speaking of, I would.</p> <p>(11) Q. Okay. And is there a list or some sort of</p> <p>(12) index of records which have been created over the years</p> <p>(13) but sent for storage purposes to some off-site storage</p> <p>(14) location other than your department?</p> <p>(15) A. There is a list of boxes.</p> <p>(16) Q. Okay. And how is that list maintained? Is it</p> <p>(17) maintained electronically? Is it searchable?</p> <p>(18) A. I believe it is now maintained electronically.</p> <p>(19) Q. Okay. And who is responsible for the</p> <p>(20) electronic maintenance of the list of boxes of documents</p> <p>(21) that have come from your department that are now housed</p> <p>(22) off-site?</p> <p>(23) A. I'm not sure I understand the question.</p> <p>(24) Q. Is it a person? Is it a department? Is it a</p> <p>(25) secretary within your group? Who is responsible for</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p>                                                                | <p>(1) otherwise tracked for the ones that have been sent off</p> <p>(2) storage -- off-site for storage?</p> <p>(3) A. I maintain those.</p> <p>(4) Q. Is that a list?</p> <p>(5) A. I'm not entirely certain. I think there is a</p> <p>(6) list. I think it's -- I think there's an electronic</p> <p>(7) list.</p> <p>(8) Q. Uh-huh.</p> <p>(9) A. I think I've created a -- you know, a list</p> <p>(10) of -- for my own use which the electronic system may</p> <p>(11) have been evolved, I'd say. So -- but I do have a</p> <p>(12) number of, say, a list of numbers.</p> <p>(13) Q. Okay. You have a list of box numbers that you</p> <p>(14) maintain at your office in Chicago. Is that what you're</p> <p>(15) saying?</p> <p>(16) A. I don't maintain that at my office. I</p> <p>(17) maintain them off-site.</p> <p>(18) Q. The box list for the boxes that are off-site,</p> <p>(19) the list and the boxes are off-site? Is that what</p> <p>(20) you're saying?</p> <p>(21) A. The list I maintain in my office.</p> <p>(22) Q. Right. I was just focusing on the list. So</p> <p>(23) you have at your office in Chicago a list of the boxes</p> <p>(24) which were created in your department, industrial</p> <p>(25) hygiene, and at some point taken off-site for off-site</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p> |



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(1) storage; is that correct?

(2) A. That's correct.

(3) Q. Okay. And how detailed is the description of

(4) the boxes on your list?

(5) A. Not as detailed as I would like it in the

(6) sense that some of those boxes contain magazines, some

(7) are references. And it doesn't say which references.

(8) And some -- an example may be a box that says plant

(9) files, and would have information about plants, but

(10) would not necessarily say which plants were there.

(11) Q. Okay. And have you been asked or, to your

(12) knowledge, has anyone been asked to conduct a search of

(13) the off-site boxes to determine whether or not there's

(14) information in those boxes about industrial hygiene

(15) surveys at International Harvester Company plants for

(16) the presence or not of asbestos?

(17) A. Yes.

(18) Q. Okay. And when, can you recall, such an

(19) inquiry being made of you or someone who you know to

(20) have had that inquiry made of them?

(21) A. It's been a number of years -- four or five,

(22) six, seven years -- since that inquiry.

(23) Q. How many pages is the list of boxes that you

(24) maintain at your office in Chicago?

(25) A. I don't think all of them are on -- I don't

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(1) think the entire list is on necessarily one piece of

(2) paper. So there may be three or four pieces of paper

(3) that contain the universe of boxes that I maintain.

(4) Q. Okay. And the boxes, we've talked about them,

(5) containing industrial hygiene surveys, you've also

(6) mentioned that there's vaguely described plants of

(7) documents.

(8) Can you tell me what other kinds of documents

(9) are included in the boxes that are now kept off-site

(10) which were part of the documents of the industrial

(11) hygiene department of International Harvester Company?

(12) A. There would be some OSHA records. We've had

(13) OSHA citations where we've had court cases, let's say,

(14) in some of those proceedings. There would be

(15) correspondence. There would be some files that were

(16) general information files. And as I said, there would

(17) be specific plant and operation files.

(18) Q. Okay. Mr. Slavin, based on your work and

(19) based on these files which you now directly or

(20) indirectly maintain, is there information which

(21) indicates what the function was of the various

(22) Navistar/International Harvester Company plants? For

(23) instance, the Memphis, Tennessee, parts distribution

(24) center dealt with parts, but some other facility

(25) assembled, you know, medium-duty trucks. Is that

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(1) information part of the information which is indicated

(2) in the documents which are kept off-site in boxes, to

(3) your knowledge?

(4) MR. OSTERTAG: Let me object to the question.

(5) Lacks foundation. Calls for speculation. The preface

(6) assumes facts not in evidence. It's vague and

(7) ambiguous.

(8) A. That information might be inferred from the

(9) documents that were contained in those files.

(10) Q. (By Ms. Farris) And to resolve Mr.

(11) Ostertag's concern, the Memphis, Tennessee, plant was a

(12) parts distribution center for International Harvester

(13) Company, correct?

(14) MR. OSTERTAG: Vague and ambiguous.

(15) Q. (By Ms. Farris) When it was operational.

(16) A. No, that's not correct.

(17) (EXHIBIT NO. 8 MARKED.)

(18) Q. (By Ms. Farris) Okay. Let me ask you then

(19) to take a look at what I've marked as Plaintiff's

(20) Exhibit 8.

(21) Exhibit 8, for the record, is Defendant

(22) Navistar, Inc.'s, Responses to Plaintiff's Premises

(23) Interrogatories in the matter of In Re: Asbestos

(24) Litigation, Marsha Gross versus American Crane &

(25) Equipment Corporation in the State -- Superior Court of

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(1) the State of Delaware in and for New Castle County

(2) lodged by Navistar on August 12, 2010, according to the

(3) LexisNexis transmission receipt.

(4) So take a moment and familiarize yourself,

(5) although I'm going to direct you to a couple of things.

(6) And further as a description for the record,

(7) these are interrogatory responses signed by Counsel on

(8) August 12, 2010. And they are verified, I believe --

(9) there is a verification somewhere.

(10) MR. OSTERTAG: Can I just take a look at that?

(11) How many pages are here? Sorry. Okay.

(12) MS. FARRISE: And actually, while you're at

(13) it, why don't I mark --

(14) MR. OSTERTAG: For the record, I don't see a

(15) verification.

(16) MS. FARRISE: Okay. Let me mark for the

(17) record as Plaintiff's Exhibit Number 9 Defendant

(18) Navistar, Inc.'s, Responses to Plaintiff's Premises

(19) Requests To Produce in the Superior Court of the State

(20) of Delaware in and for New Castle County, In Re:

(21) Asbestos Litigation, indicates as Marsha Gross,

(22) G-r-o-s-s, versus American Crane & Equipment Company,

(23) with a signature of August 12, 2010, by the lawyer of

(24) Navistar and with verifications which are notarized,

(25) prepared by Bruce J. Patterson and also signed on August

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(1) 11, 2010. So here's Exhibit Number 9, which is the  
(2) request for production of documents and attached  
(3) documents which are being produced.

(4) MR. OSTERTAG: Well, for the record, let me  
(5) just say that the verification here of Exhibit 9 doesn't  
(6) appear to reference what it's verifying, but I'll just  
(7) note that for the record. I'm not sure what you want  
(8) the witness to do, but --

(9) (EXHIBIT NO. 9 MARKED.)

(10) Q. (By Ms. Farrise) Okay. Mr. Slavin, I will  
(11) refer you to, first of all, the interrogatories, Exhibit  
(12) Number 8. If you will turn to Navistar's answer to  
(13) interrogatory number 14, which is on page 12 of Exhibit  
(14) Number 8, I'm going to have a couple of questions for  
(15) you.

(16) MR. OSTERTAG: Did you read it?

(17) THE WITNESS: Yeah, I'm not there yet.

(18) MR. OSTERTAG: Okay.

(19) VIDEOGRAPHER: Are all of the cell phones off?  
(20) I'm getting a little feedback.

(21) MR. OSTERTAG: Sorry.

(22) VIDEOGRAPHER: Thanks.

(23) MR. OSTERTAG: Diane, can you tell me what was  
(24) the last question?

(25) MS. FARRISE: It was turn to the answer to

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(1) question number 14.

(2) THE REPORTER: Page 12 of Exhibit Number 8.

(3) MR. OSTERTAG: Thank you. Have you read it?  
(4) You need to.

(5) Q. (By Ms. Farrise) I'm sorry, sir. Are you  
(6) pointing to something on page 22?

(7) A. Yes. There's a reference to materials  
(8) attached hereto and incorporated herein, and the  
(9) reference I'm not sure --

(10) Q. We're going to get to that. Right now I want  
(11) you to turn to page 12 and Navistar's answer to  
(12) interrogatory number 14, and then we're going to talk  
(13) about the documents that were attached to the request  
(14) for production of documents.

(15) A. Okay. Before we get to that, I want to make  
(16) sure I answered the previous question correctly. So  
(17) could you repeat the previous question?

(18) Q. Is this the one about what the Memphis plant  
(19) did, or is it something else? Because the current  
(20) question is could you turn to the page.

(21) A. Right. I'm sorry.

(22) Q. It sounds like you wanted to clarify.

(23) A. It's the one about Memphis parts.

(24) Q. Okay. Well, let me just ask you a new  
(25) question. Would you like to clarify your understanding

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(1) of what the operation was in the Memphis, Tennessee,  
(2) International Harvester Company operation?

(3) A. I want to make sure that I answered the  
(4) previous question correctly.

(5) Q. Okay. What --

(6) MR. OSTERTAG: What do you want to do? Go  
(7) back to the previous question?

(8) THE WITNESS: Right, before --

(9) MR. OSTERTAG: Can we just do that real  
(10) quickly? The question and the answer before the  
(11) question --

(12) A. I think I answered it correctly, but I want to  
(13) make sure.

(14) (Requested material was read back.)

(15) Q. (By Ms. Farrise) Mr. Slavin, I'm happy to  
(16) just ask you a new question which hopefully clarifies  
(17) that question.

(18) MS. FARRISE: Would that work? Was that his  
(19) understanding, even if it's inconsistent with the other  
(20) question.

(21) Q. (By Ms. Farrise) My question was -- I can  
(22) tell you what it was. Did you have an understanding  
(23) that the Memphis, Tennessee, facility was a parts  
(24) distribution center?

(25) A. Oh. And the answer to that is no.

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(1) Q. Okay. What was your understanding of what  
(2) kind of operation occurred at the Memphis, Tennessee,  
(3) Navistar formerly known as International Harvester  
(4) facility?

(5) A. There were three facilities.

(6) Q. Okay. There were three Memphis, Tennessee,  
(7) locations, correct?

(8) A. Correct, at least three.

(9) Q. At least three. One of which was a foundry;  
(10) is that right?

(11) A. That's correct.

(12) Q. One of which was a parts distribution center,  
(13) correct?

(14) A. Correct.

(15) Q. And what was the third, if you can recall?

(16) A. A combine plant.

(17) Q. A combine plant?

(18) A. Excuse me. A cotton picker.

(19) Q. A cotton picker plant, which is a type of  
(20) machinery that International Harvester manufactured and  
(21) sold, correct?

(22) A. Right.

(23) Q. Okay. And your department in Chicago, the  
(24) industrial hygiene department, would have responsibility  
(25) when those plants were operational for the occupational

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| <p>(1) safety and health of all of the employees who worked at</p> <p>(2) those International Harvester Company locations, right?</p> <p>(3) MR. OSTERTAG: Objection. Misstates</p> <p>(4) testimony. Vague and ambiguous.</p> <p>(5) A. We would have assisted those operations with</p> <p>(6) safety issues.</p> <p>(7) Q. (By Ms. Farrise) So your department in</p> <p>(8) Chicago would have had overall responsibility. But are</p> <p>(9) you also saying that the plants' safety people, people</p> <p>(10) who worked at the plants, would also share some</p> <p>(11) responsibility for safety and health of people who work</p> <p>(12) at those locations?</p> <p>(13) MR. OSTERTAG: Misstates his testimony.</p> <p>(14) Argumentative.</p> <p>(15) A. Neither is the case.</p> <p>(16) Q. (By Ms. Farrise) Okay. I'm going to leave</p> <p>(17) that for the moment because I actually would like to ask</p> <p>(18) you about Navistar's form response to interrogatory</p> <p>(19) number 14. Are you at page 12?</p> <p>(20) A. I am at -- there.</p> <p>(21) Q. Thank you.</p> <p>(22) A. I haven't read the complete document, but I am</p> <p>(23) at that --</p> <p>(24) Q. Well, the question of interrogatory number 14</p> <p>(25) asks, quote, identify any and all officers, employees</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p>                                                                                                                                                                                                          | <p>(1) Environmental Health &amp; Safety with R.J. Black as</p> <p>(2) manager. Mr. Black retired in 1980 and was succeeded by</p> <p>(3) William Nichols, period. In 1970 Edwin Alpaugh was</p> <p>(4) assigned to the Department of Environmental Health &amp;</p> <p>(5) Safety until his retirement in 1982, period.</p> <p>(6) Additional hygiene personnel supervised by Mr.</p> <p>(7) Alpaugh in the 1970s included Ken Phillippo, Dan</p> <p>(8) Janetka, Rick Moscato and Jeff Bacci, period.</p> <p>(9) Navistar's current industrial hygienist is Mr. Tom</p> <p>(10) Slavin, period.</p> <p>(11) So, first of all, did I read the second</p> <p>(12) portion of the answer correctly?</p> <p>(13) A. You read what's stated here as close as I</p> <p>(14) could track it, yes.</p> <p>(15) Q. Now, you are Mr. Tom Slavin who is the current</p> <p>(16) industrial hygienist, correct? Right?</p> <p>(17) A. What's the date of this?</p> <p>(18) Q. August of 2010, less than 60 days ago.</p> <p>(19) A. That's -- I'm responsible for industrial</p> <p>(20) hygiene. My position is not industrial hygienist.</p> <p>(21) Q. Okay. The Department of Environmental Health</p> <p>(22) &amp; Safety, is that a department which continues to exist</p> <p>(23) within Navistar formerly known as International</p> <p>(24) Harvester Company today?</p> <p>(25) A. It does not currently exist in that form.</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p> |
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| <p>(1) and/or agents, corporate level and/or plant level, who</p> <p>(2) had responsibility in each of the following areas at or</p> <p>(3) relating to the/each facility in question during any and</p> <p>(4) all times at which you or any predecessor/related entity</p> <p>(5) owned, operated or leased said facility.</p> <p>(6) And then they have a list of things,</p> <p>(7) occupational health and/or safety, A. B, construction</p> <p>(8) health and/or safety. C, compliance with federal,</p> <p>(9) state, local safety regulators, et cetera. I've marked</p> <p>(10) the document so -- the question.</p> <p>(11) And then you get to sub O, and it asks about</p> <p>(12) medical director, physician, nurse, health technician.</p> <p>(13) And then P, industrial hygiene. And Q, asbestos</p> <p>(14) abatement.</p> <p>(15) And the answer of Navistar to interrogatory</p> <p>(16) number 14 of Exhibit 8 on page 12 from August of 2010</p> <p>(17) has some objections. And then in the middle it</p> <p>(18) indicates, quote: Navistar states that beginning in the</p> <p>(19) 1950s industrial hygiene was addressed and supervised by</p> <p>(20) Eugene Walsh, M.D., Corporate Medical Director. Dr.</p> <p>(21) Walsh retired in 1970. He was succeeded by Paul Eggum,</p> <p>(22) M.D. Edwin Alpaugh began work as an industrial</p> <p>(23) hygienist in 1961 and reported to corporate medical</p> <p>(24) directors, period.</p> <p>(25) In 1970, Navistar created the Department of</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p> | <p>(1) Q. What was the function of that department now</p> <p>(2) included within the department that you are in charge of</p> <p>(3) today?</p> <p>(4) A. The function of that department is me.</p> <p>(5) Q. Okay. So to the extent there's a department,</p> <p>(6) you're it?</p> <p>(7) A. Yes.</p> <p>(8) Q. Okay. And how about Ken Phillippo? Did you</p> <p>(9) know -- do you know or did you know Ken Phillippo?</p> <p>(10) A. I have met Mr. Phillip -- Phillippo, I guess</p> <p>(11) it is.</p> <p>(12) Q. And to your knowledge, is Mr. Phillippo still</p> <p>(13) employed by Navistar today?</p> <p>(14) A. No, he is not.</p> <p>(15) Q. When was he last employed by Navistar, to your</p> <p>(16) knowledge?</p> <p>(17) A. He has not been employed by Navistar as long</p> <p>(18) as I have been employed. So he was gone before 1979.</p> <p>(19) Q. Okay. And how about Dan Janetka? Do you know</p> <p>(20) if Mr. Janetka is still employed by Navistar today?</p> <p>(21) A. No, he is not.</p> <p>(22) Q. When did he leave the company, to your</p> <p>(23) knowledge?</p> <p>(24) A. In -- sometime in the early '80s.</p> <p>(25) Q. And how old would Mr. Janetka be today?</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p>                                                                                                                                                                                                                |

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(1) A. Mr. -- I believe Mr. Janetka is deceased.  
 (2) Q. And why do you believe that?  
 (3) A. My -- it's my understanding that he had health  
 (4) problems and that -- you know, I'm not certain about  
 (5) that, but it's -- I know people that knew him, worked  
 (6) with him at his subsequent employer. And it's my  
 (7) understanding that he passed away.  
 (8) Q. Okay. Who was his subsequent employer?  
 (9) A. Caterpillar.  
 (10) THE REPORTER: Pardon me?  
 (11) THE WITNESS: Caterpillar.  
 (12) Q. (By Ms. Farrise) Rick Moscato, M-u-s-c-a-t-o  
 (13) (sic), do you know if Mr. Moscato is still employed by  
 (14) Navistar today?  
 (15) A. Mr. -- Rich.  
 (16) Q. Rich.  
 (17) A. R-i-c-h. He doesn't like Rick.  
 (18) M-o-s-c-a-t-o.  
 (19) Q. I'm sorry. Can you give us the correct  
 (20) spelling of his last name?  
 (21) A. M-o-s-c-a-t-o.  
 (22) Q. Okay.  
 (23) A. Is not currently employed by Navistar and was  
 (24) not an industrial hygienist and did not work for Mr.  
 (25) Alpaugh. Other than that --

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(1) are actually employed by Navistar versus individuals who  
 (2) might use or purchase or repair a Navistar product?  
 (3) MR. OSTERTAG: Vague and ambiguous.  
 (4) A. Could you restate the time period in your  
 (5) question?  
 (6) Q. (By Ms. Farrise) It's actually okay. Mr.  
 (7) Moscato, M-o-s-c-a-t-o -- I'm going to withdraw that  
 (8) question -- who was the safety manager and counterpart  
 (9) to Mr. Alpaugh, when did he leave Navistar?  
 (10) A. About 1984, '85.  
 (11) Q. Did he retire or go to another company?  
 (12) MR. OSTERTAG: Assumes facts. Speculation.  
 (13) Foundation.  
 (14) A. Neither.  
 (15) Q. (By Ms. Farrise) Okay. What happened to him?  
 (16) MR. OSTERTAG: Same objections.  
 (17) Q. (By Ms. Farrise) To your knowledge.  
 (18) A. During this period International Harvester  
 (19) went from 100,000 employees to 12,000 employees.  
 (20) Q. So he was laid off or there was a reduction in  
 (21) force of some kind?  
 (22) A. I assume.  
 (23) Q. There was plant closings, as I understand it?  
 (24) A. That's correct.  
 (25) Q. Today how many employees does International

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(1) Q. Was Rich -- sorry, Moscato -- short for  
 (2) Richard, if you know?  
 (3) A. That's correct.  
 (4) Q. And what did Mr. Moscato do at Navistar, to  
 (5) your understanding?  
 (6) A. Mr. Moscato --  
 (7) MR. OSTERTAG: Let me just object. Lacks  
 (8) foundation. Calls for speculation. Overbroad. Vague  
 (9) and ambiguous. Go ahead.  
 (10) A. Mr. Moscato was the safety manager, was the  
 (11) counterpart to Mr. Alpaugh, the industrial hygiene  
 (12) manager.  
 (13) Q. (By Ms. Farrise) And what department did Mr.  
 (14) Moscato work in or head up when he was employed at  
 (15) Navistar formerly known as International Harvester?  
 (16) A. Same -- the same department.  
 (17) Q. Okay. Was that the Environmental Health &  
 (18) Safety Department?  
 (19) A. It was the employee Environmental Health &  
 (20) Safety Department.  
 (21) Q. Okay. And I understand -- you've mentioned  
 (22) that in your declaration, sir, is the employee  
 (23) Environmental Health & Safety Department. Can you  
 (24) clarify that that department as it existed, or as it  
 (25) exists today, concerns itself only with individuals who

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(1) Harvester/Navistar have?  
 (2) MR. OSTERTAG: Objection. Lacks foundation.  
 (3) Calls for speculation.  
 (4) A. About 17,000 worldwide.  
 (5) Q. (By Ms. Farrise) And you mentioned in your  
 (6) declaration, which we've previously marked as Exhibit 2,  
 (7) your responsibility is for the occupational safety and  
 (8) health of all 17,000 Navistar employees worldwide, you  
 (9) and your -- and the department that you head, correct?  
 (10) A. I provide services -- safety and health  
 (11) consultation services and policy for those employees,  
 (12) that's correct.  
 (13) Q. Okay. Do you know where Mr. Alpaugh is  
 (14) today -- I'm sorry. Strike that. Do you know where Mr.  
 (15) Moscato is today?  
 (16) A. No, I do not.  
 (17) Q. When you last had any awareness of where Mr.  
 (18) Moscato lived or worked, where was that?  
 (19) A. In the Chicago area.  
 (20) Q. How old would Mr. Moscato be today?  
 (21) A. I do not know.  
 (22) Q. Was he older or younger than Mr. Alpaugh?  
 (23) MR. OSTERTAG: If you know.  
 (24) A. I don't know for sure.  
 (25) Q. (By Ms. Farrise) Okay. Do you have an

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(1) estimate?

(2) A. If I had to guess, I would say younger.

(3) Q. Okay. And if you were estimating how old Mr.

(4) Moscato would be today, what would be your estimate?

(5) MR. OSTERTAG: Objection. Assumes -- or

(6) excuse me. Calls for speculation.

(7) A. I'm not very good at estimation, but if I had

(8) to pick a number, perhaps 70.

(9) Q. (By Ms. Farrise) And when you last had any

(10) understanding of Mr. Moscato that he lived in the

(11) Chicago land area north, south or west?

(12) MR. OSTERTAG: Vague and ambiguous.

(13) A. The last that I knew of would have been

(14) northwest.

(15) Q. (By Ms. Farrise) Okay. Was he in a suburb or

(16) in the city proper?

(17) A. Suburb, I believe.

(18) Q. Okay. Which one do you think it was?

(19) MR. OSTERTAG: Speculation.

(20) A. I'm not sure.

(21) Q. (By Ms. Farrise) Okay. What's your -- when

(22) you last had an understanding of where in the northwest

(23) suburbs of the Chicago area Mr. Moscato lived,

(24) geographically what area was that?

(25) A. Would have been northwest of the O'Hare

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(1) probably -- that's possible. But, again, I don't recall

(2) any specific documents with Mr. Bacci's name on it.

(3) Q. Okay. Does International Harvester --

(4) MR. OSTERTAG: Hold on. Let me interject for

(5) a moment. I have this at three hours. Can you -- Ms.

(6) Videographer, can you tell us what the total time on the

(7) record is?

(8) VIDEOGRAPHER: I think that's what it is.

(9) MS. FARRISE: Okay. And?

(10) MR. OSTERTAG: And we have a three-hour limit

(11) according to the judge's order.

(12) MS. FARRISE: Okay. What we have is an

(13) appointment with the judge at 1:30. Apparently the

(14) judge is available to talk with us. His three-hour

(15) limit was because your office and your defendant

(16) represented that Mr. Slavin's health was so precarious

(17) that he could not travel and he could not be deposed.

(18) He has certainly demonstrated that he is

(19) capable of travelling no less than four hours on an

(20) airplane and whatever time it takes to get to and from

(21) the airport and other things. If for some reason he

(22) can't continue today, that is different.

(23) I also have your email, which I would like to

(24) mark as Plaintiff's next in order, where you indicate

(25) that Mr. Slavin's radiation treatments have been

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(1) Airport somewhere.

(2) Q. Schaumburg? Des Plaines? Arlington Heights?

(3) That area or somewhere else?

(4) A. In that general area.

(5) Q. Okay. Jeff Bacci, B-a-c-c-i. Did Mr. Bacci,

(6) first of all, work in the industrial hygiene department?

(7) A. Yes, he did.

(8) Q. Is he still employed by Navistar today?

(9) A. No, he is not.

(10) Q. Okay. When was he last employed?

(11) A. I don't know. I can tell you that he was not

(12) employed at the time that I joined the company.

(13) Q. Okay. By 1979 he was -- he had left?

(14) A. He had left.

(15) Q. And how are you aware then that Mr. Bacci, in

(16) fact, was employed in the industrial hygiene department

(17) at Navistar then known as International Harvester

(18) Company?

(19) A. I had heard -- being in the department I was

(20) aware that he had been a member of that department.

(21) Q. Have you, since you've been employed by that

(22) company, seen documents of industrial hygiene surveys

(23) and other documents that he created as part of his work

(24) there?

(25) A. I don't recall specifically, but that's

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(1) prematurely ceased and, thus, he is no longer

(2) undergoing -- currently undergoing any cancer treatment.

(3) So under those circumstances where you asked

(4) for, represented and obtained an order limiting the

(5) deposition based on the health of the deponent, and with

(6) a representation, which is clearly false, that the

(7) deponent had no relevant information, basically there

(8) were a number of misleading and false representations.

(9) The judge did make the three-hour order. And

(10) he indicated that we should call him if, in fact, there

(11) was any intervention which was necessary. I have his

(12) order here -- his written, signed order which I am going

(13) to mark as Plaintiff's next in order. I guess that's

(14) Exhibit 10 to the deposition.

(15) (EXHIBIT NO. 10 MARKED.)

(16) MS. FARRISE: It is, for the record, Order

(17) Granting Plaintiff's Motion to Compel Deposition of

(18) Navistar, Inc., Employee Tom Slavin. The motion is

(19) granted. Subpart F on page 2 indicates, quote: If at

(20) the conclusion of three hours of testimony Plaintiffs

(21) believe he needs additional time deposing Mr. Slavin,

(22) the parties shall meet and confer. And if no agreement

(23) is reached, the court will entertain an ex parte

(24) application for additional time, including

(25) telephonically from the deposition location.

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(1) Given the court's order, we have contacted the  
 (2) court and he is available. If we cannot agree about the  
 (3) terms and parameters of his order and whether or not it  
 (4) should go forward, talk with us at 1:30.

(5) (EXHIBIT NO. 11 MARKED.)

(6) MS. FARRISE: I would also mark as Plaintiff's  
 (7) Exhibit Number 11 -- let's see -- an email dated  
 (8) September 30, 2010, from James Ostertag to Carlos Guzman  
 (9) indicating, quote: Mr. Guzman, Mr. Slavin's radiation  
 (10) treatments have ended prematurely. He is able to travel  
 (11) and we are offering him for a deposition in San Diego on  
 (12) the morning of 10/7, which would be easier travel for  
 (13) you folks. Please let me know if you will take his  
 (14) deposition.

(15) And certainly on this record now looks like he  
 (16) is at least healthy enough to travel to this deposition  
 (17) location, and thus three hours under the circumstances  
 (18) and given the extent of his knowledge, which has been  
 (19) demonstrated this morning, is unreasonable.

(20) So I would ask that we continue the deposition  
 (21) as though it were to occur under the regular rules under  
 (22) a properly-served notice because the limitations are  
 (23) without any justification and they should not be  
 (24) instituted.

(25) MR. OSTERTAG: Well, let me just --

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(1) is the expected duration -- remaining duration of the  
 (2) examination of Mr. Slavin?

(3) MS. FARRISE: I would have at least an  
 (4) additional three hours of Mr. Slavin. It is now 12:56.  
 (5) I'm happy to take a lunch break. I'm also happy to come  
 (6) back tomorrow because he is here, has flown all the way  
 (7) up to California just to have his deposition taken.

(8) And it is not a question of whether or not you  
 (9) get ex parte notice. Judge Kahn signed an order which  
 (10) sits before you, less than two feet away from you, says  
 (11) in black and white that he has already ordered an ex  
 (12) parte notice is sufficient; and that if we cannot agree,  
 (13) we should call him from the deposition location. We  
 (14) have made arrangements to do that. The court is  
 (15) available to talk with us in this matter, and it should  
 (16) be taken up at 1:30.

(17) I intend to appear either in person or by  
 (18) phone, depending on what we're doing here, to San  
 (19) Francisco Superior Court and ask the judge to order that  
 (20) Mr. Slavin's deposition continue because he does have  
 (21) relevant information about witnesses, about topics which  
 (22) are related. And Navistar does not get to choose who we  
 (23) can talk to and who we cannot. The sworn discovery  
 (24) responses of Navistar sworn by the corporate compliance  
 (25) officer, which this witness has indicated are, in fact,

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(1) THE WITNESS: While you're sorting that out,  
 (2) would it be all right if I --

(3) MR. OSTERTAG: Sure, sure. I object to -- I  
 (4) mean, I disagree with just about everything you have  
 (5) said there. There have been no representations to the  
 (6) court. I was at the hearing when the court made the  
 (7) ruling. The ruling was the court understood this to be  
 (8) somewhat of a fishing expedition, but he was going to  
 (9) grant the three hours certainly in part -- or limit it  
 (10) to three hours certainly in part because of that.

(11) The scope of this deposition has been  
 (12) examination of Mr. Slavin regarding issues that don't  
 (13) cut to the chase. You asked him extensively about  
 (14) issues that appear to pertain to Ford Motor Company and  
 (15) other things like that. You've asked him a number of  
 (16) questions about things that you could easily get from a  
 (17) corporate PMK witness about who's employed there, who's  
 (18) no longer employed there. That's pretty clear.

(19) There is no -- the court invited us on an ex  
 (20) parte basis to go and talk to him, but ex parte  
 (21) procedure in the San Francisco Superior Court requires a  
 (22) 24-hour notice. I didn't receive any notice. My office  
 (23) didn't receive any notice. I'm not going to agree to ex  
 (24) parte communications with the court unless within a  
 (25) 24-hour notice. At this time I will ask, though, what

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(1) not even accurate, demonstrates the need for us to talk  
 (2) to actual people who now have information like James  
 (3) Shuman who is no longer working for the company, hasn't  
 (4) worked for the company in years; and allow us to talk  
 (5) with actual employees who may continue to work for the  
 (6) company and who, in fact, have responsibility to  
 (7) maintain corporate records of which are highly relevant  
 (8) to this litigation.

(9) So I intend to ask Mr. Slavin what are  
 (10) otherwise appropriate questions, given the change in  
 (11) what was thought to be his health treatment situation,  
 (12) which allowed him to travel and sit for a deposition.

(13) Having said all that, as I said, I am willing  
 (14) to come back tomorrow. We can do additional time  
 (15) tomorrow to accommodate the witness. But I do not agree  
 (16) that three hours is reasonable under the circumstances,  
 (17) and I agree with the order because there were several  
 (18) knowing misrepresentations made to the court about the  
 (19) state of his health and the state of his knowledge.

(20) MR. OSTERTAG: Well, we take issue with that.  
 (21) Obviously we take strong issue with that. And there's  
 (22) been no representation here as to how much time is  
 (23) needed. Do you need 45 minutes or an hour? Do you want  
 (24) to agree to something like that?

(25) MS. FARRISE: The representation --

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(1) MR. OSTERTAG: But you're saying -- hold on.  
 (2) You basically said I need at least three hours, and you  
 (3) haven't given us a time limit.  
 (4) MS. FARRISE: And the law, since you're so  
 (5) familiar with the law, Counsel, does not require me to  
 (6) give a time limit.  
 (7) MR. OSTERTAG: Well, under these circumstances  
 (8) I think it does.  
 (9) MS. FARRISE: The time -- well, that's what we  
 (10) should talk with the judge about at 1:30.  
 (11) MR. OSTERTAG: Well, we're going to go off the  
 (12) record.  
 (13) MS. FARRISE: Okay. We're off the record.  
 (14) And consider yourself on notice that we intend to appear  
 (15) at 1:30 for additional court orders.  
 (16) VIDEOGRAPHER: We're going off the record at  
 (17) 12:58 p.m.  
 (18) (Lunch recess taken at 12:58 p.m.)  
 (19) VIDEOGRAPHER: This is the beginning of Media  
 (20) Number 3 of the video-recorded deposition of Tom Slavin.  
 (21) We're back on the record at 2:37 p.m.  
 (22) Q. (By Ms. Farrise) Good afternoon, Mr. Slavin.  
 (23) You realize you're still under oath, correct?  
 (24) A. Yes.  
 (25) Q. Okay. Now, when we took our break I was

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(1) A. Yes, I do.  
 (2) Q. Okay. This is part now of Exhibit 9. If you  
 (3) turn to the next page there is a blank document that  
 (4) indicates, as its title, Industrial Hygiene Survey  
 (5) Asbestos, May 21, 1988, Memphis Parts Distribution  
 (6) Center. And that's the cover page. And then there are  
 (7) 30 additional pages that go with that report. Do you  
 (8) see that?  
 (9) MR. OSTERTAG: Objection. Assumes facts not  
 (10) in evidence. Document speaks for itself.  
 (11) A. I think I see the report you're referring to.  
 (12) Q. (By Ms. Farrise) Okay. Well, let me do it  
 (13) this way. I'm going to hand you what I'm going to just  
 (14) mark separately as Plaintiff's Exhibit Number 7.  
 (15) Exhibit Number 7 is a one-page document with a  
 (16) LexisNexis File & Serve E-Service stamp on it. It is  
 (17) part of Exhibit 9, but we'll just take them separately.  
 (18) It is a black-and-white photograph which has at the top  
 (19) Memphis Plant. Okay? And so we'll mark that 7.  
 (20) (EXHIBIT NO. 7 MARKED.)  
 (21) Q. (By Ms. Farrise) Next I'm going to mark as  
 (22) Plaintiff's Exhibit 12, which was next in order of what  
 (23) we had, a -- one -- four-page document which has a  
 (24) blank -- a cover sheet that says Industrial Hygiene  
 (25) Survey Asbestos, May 21, 1988, Memphis Parts

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(1) asking you --  
 (2) MR. OSTERTAG: Do you need the jacket?  
 (3) THE WITNESS: Yeah.  
 (4) A. Okay.  
 (5) Q. (By Ms. Farrise) -- we were talking about the  
 (6) sworn discovery responses of Navistar, Inc., now known  
 (7) as -- formerly known as International Harvester. And I  
 (8) had marked Plaintiff's Exhibits 8 and 9 --  
 (9) MS. FARRISE: Do you have those?  
 (10) THE REPORTER: I --  
 (11) MS. FARRISE: Mr. Ostertag has them. The  
 (12) discovery responses, can I have the rest of those  
 (13) exhibits back? They all have green tags on them.  
 (14) Q. (By Ms. Farrise) So let me hand you Exhibit  
 (15) Number 9, which is the discovery -- Navistar, Inc.'s,  
 (16) Responses to Plaintiff's Premises Requests to Produce.  
 (17) And I'm going to ask you to turn to the back  
 (18) of the doc -- of that document where there are documents  
 (19) attached, which were produced by the other lawyers  
 (20) representing Navistar.  
 (21) MR. OSTERTAG: Objection. Argumentative.  
 (22) Q. (By Ms. Farrise) And the first page of the  
 (23) attachments is a black-and-white photograph that is  
 (24) labeled Memphis Plant, 3003 Harvester Street, Memphis,  
 (25) Tennessee. Do you see that?

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(1) Distribution Center. There are three pages that follow  
 (2) that. And the last page is denoted page 3 signed by E.  
 (3) L. Alpaugh, PE, CIH, Industrial Hygiene Consultant.  
 (4) (EXHIBIT NO. 12 MARKED.)  
 (5) Q. (By Ms. Farrise) Can you take a look at  
 (6) Exhibit Number 12, sir? And can you confirm for me that  
 (7) this is the kind of document that an industrial  
 (8) hygienist would prepare when undertaking an industrial  
 (9) hygiene survey?  
 (10) MR. OSTERTAG: Objection. Vague. Ambiguous.  
 (11) Overbroad. Calls for opinion testimony. Lacks  
 (12) foundation. Calls for speculation.  
 (13) A. The central results seem to be missing here as  
 (14) a reference to a table -- tables 1 through 4.  
 (15) Q. (By Ms. Farrise) Okay. You recognize Mr.  
 (16) Alpaugh there? We were talking about him earlier in the  
 (17) deposition. He was the one -- he was the manager of the  
 (18) industrial hygiene department when you started at  
 (19) Navistar, then known as International Harvester Company,  
 (20) correct?  
 (21) A. Correct.  
 (22) Q. Okay. Mr. Slavin, let me hand you what I'm  
 (23) going to mark as Plaintiff's Exhibit 13. It's, again,  
 (24) something that is attached to Exhibit 9, but I'm going  
 (25) to break it out as a separate document. It's a document

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(1) dated July 23, 1973. It's marked at the top as  
 (2) Confidential. It is a letter-type report from E. L.  
 (3) Alpaugh, Industrial Hygiene Manager, to A. B. Lang,  
 (4) Plant Manager, Memphis Plant. I want you to take a look  
 (5) at that three-page document.  
 (6) (EXHIBIT NO. 13 MARKED.)  
 (7) A. Okay.  
 (8) Q. (By Ms. Farrise) Okay. There is a reference  
 (9) in the -- well, first of all, it indicates that it's to  
 (10) A. B. Lang, Plant Manager, Memphis Plant. Did you have  
 (11) any familiarity with Mr. Lang as being associated with  
 (12) the Memphis plant or one of the Memphis plants of  
 (13) Navistar/International Harvester?  
 (14) A. No.  
 (15) Q. Okay. If --  
 (16) A. I did not know Mr. Lang.  
 (17) Q. Okay. It says Subject, Final Report, Annual  
 (18) Industrial Hygiene Survey, April 9 to 13, 1973. And I  
 (19) wanted to direct your attention to the second paragraph  
 (20) of Exhibit 13, this document from Mr. Alpaugh to Mr.  
 (21) Lang.  
 (22) It indicates, quote: The samples for airborne  
 (23) lead and chromium in the annealing section of Department  
 (24) 1S (sic) gave results below the Threshold Limit Value,  
 (25) period. One sample for airborne asbestos fibers from a

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(1) milling job on brake shoes was below the TLV, but a  
 (2) second sample had so many fibers on the filter that it  
 (3) couldn't be counted, indicating that the TLV was  
 (4) probably exceeded. It is recommended that this  
 (5) particular milling job be discontinued. If this is not  
 (6) possible, it is mandatory that the milling machine  
 (7) operator wear a respirator approved for protection  
 (8) against asbestos fibers until local exhaust ventilation  
 (9) can be designed and installed. The local exhaust system  
 (10) installed will have to be, for all practical purposes,  
 (11) 100 percent efficient.  
 (12) And then at the bottom of that same paragraph  
 (13) it says, quote: It was my understanding that the brake  
 (14) shoe milling operation was to be discontinued soon,  
 (15) which would solve the problem. First of all, did you  
 (16) see where I was reading?  
 (17) A. Yes.  
 (18) Q. Okay. Mr. Slavin, in the -- or within the  
 (19) plant of Navistar then known as, I guess, International  
 (20) Harvester Company you are aware, aren't you, that there  
 (21) were people who were working with brake shoes in a plant  
 (22) setting, correct?  
 (23) MR. OSTERTAG: Let me just object to the  
 (24) preface of the question, reading of the document and  
 (25) nothing to do with the question. Irrelevant.

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(1) Foundation. Speculation.  
 (2) A. I'm aware that in many of the products that  
 (3) International makes that brakes are an important  
 (4) component.  
 (5) Q. (By Ms. Farrise) What kind of products are  
 (6) you aware of as brakes -- brake shoes -- brakes with  
 (7) brake shoes being an important component?  
 (8) A. Mobile equipment that needs to stop. And also  
 (9) within the plants: Forklifts, hoists, punch presses.  
 (10) There may be a number of pieces of equipment that  
 (11) require brakes.  
 (12) Q. And as part of your work with 30 or more years  
 (13) at International Harvester, now known as Navistar, did  
 (14) you go out to International Harvester plant locations or  
 (15) International Harvester facilities or their  
 (16) manufacturing plants or parts distribution centers or  
 (17) something else, as part of that work?  
 (18) A. Yes, I visited several plants.  
 (19) Q. Okay. How many plants would you estimate of  
 (20) International Harvester that you have personally  
 (21) visited?  
 (22) A. Possibly 20.  
 (23) Q. Okay. For what purpose?  
 (24) A. Various purposes. Consulting on industrial  
 (25) hygiene issues such as noise, chemicals, paint, a

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(1) variety of many occupational issues that could come up.  
 (2) Q. Have you participated in industrial hygiene  
 (3) activities at any Navistar location where any evaluation  
 (4) for asbestos was conducted?  
 (5) A. I believe so, yes.  
 (6) Q. Okay. When -- on how many occasions?  
 (7) A. I recall three.  
 (8) Q. Okay. Which three do you recall?  
 (9) A. One was an asbestos survey in a power house at  
 (10) Melrose Park where insulation work may have been done  
 (11) from time to time. And so there was an opportunity to  
 (12) measure the air for asbestos exposure. Another was a  
 (13) review of an operation in the agricultural tractor  
 (14) plant. And another was a review of an operation in a  
 (15) truck assembly plant --  
 (16) Q. Okay.  
 (17) A. -- where brake shoes were handled as part of  
 (18) the assembly of the rear axles.  
 (19) Q. Okay. I'm going to -- when did you  
 (20) participate in an asbestos survey at the Melrose Park,  
 (21) Illinois, facility?  
 (22) MR. OSTERTAG: Objection. It's beyond the  
 (23) scope of what the judge ordered. I think it's  
 (24) irrelevant.  
 (25) A. I don't recall the exact time. I have a hard

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(1) time recalling even a general time. I believe that it  
(2) was sometime in the 1980s. I'm not sure I can narrow it  
(3) down much further.

(4) Q. (By Ms. Farrise) Okay. And when did you  
(5) participate in industrial hygiene activities at the  
(6) tractor facility?

(7) A. That would have been between 1979 when I  
(8) joined the company and 1984 when we -- when that  
(9) facility was closed.

(10) Q. Okay. Which facility was that?

(11) A. That was Rock Island.

(12) Q. Rock Island, Illinois?

(13) A. That's correct.

(14) Q. Okay. And as part of your industrial hygiene  
(15) work at the tractor facility at Rock Island, Illinois,  
(16) would you have prepared to -- you or someone working  
(17) with you have prepared a writing or document a report of  
(18) the work that you did there?

(19) A. Yes.

(20) Q. Okay. And would that document of the survey  
(21) or the industrial hygiene work that was done there,  
(22) would that be among the documents which would be  
(23) included in the boxes in -- that are under, I guess,  
(24) your management either on-site or at an off-site  
(25) location?

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(1) A. Yes, it would be.

(2) Q. Okay. At the tractor facility in Rock Island,  
(3) tractors have brakes with brake linings that at one  
(4) point contained asbestos as well, correct?

(5) MR. OSTERTAG: Objection. Foundation.  
(6) Speculation.

(7) A. I'm not -- I don't have personal knowledge of  
(8) that.

(9) Q. (By Ms. Farrise) Okay. You've never -- you  
(10) don't know one way or another whether or not tractors  
(11) have friction linings that are made of the same or  
(12) substantially the same asbestos-containing lining  
(13) material that are used on vehicles which have wheels?

(14) MR. OSTERTAG: Objection. Vague. Ambiguous.  
(15) Overbroad. Lacks foundation. Calls for speculation.

(16) MR. EPSTEIN: Epstein joins.

(17) A. I don't have personal knowledge of that.

(18) Q. (By Ms. Farrise) Uh-huh. Okay. I'm going to  
(19) move on to the truck assembly plant. First of all,  
(20) where was the truck assembly plant where you can recall  
(21) participating in industrial hygiene activities that  
(22) evaluated asbestos at that site?

(23) A. Springfield, Ohio.

(24) Q. What kind of vehicles, trucks were  
(25) manufactured at Springfield, Ohio?

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(1) A. Medium-duty trucks. I'm not sure if there  
(2) were heavy-duty trucks in the plant at that time.

(3) Q. Okay. And when were you there?

(4) A. That would have -- approximately later '80s.  
(5) I'm guessing that that's between '85 and '90. That's  
(6) kind of as close as I can tie that time.

(7) Q. Okay. And in terms of the activities --  
(8) industrial hygiene activities that you either conducted  
(9) or participated in at the Springfield, Ohio, truck  
(10) assembly plant of Navistar, you would -- you or someone  
(11) who you worked with would have prepared or written a  
(12) report of what you did there, correct?

(13) A. That's correct.

(14) Q. Okay. And the written report of what the  
(15) activity was to evaluate asbestos at that site, that  
(16) report is something that would exist today under your  
(17) management either on-site at your office or as part of  
(18) the boxes which you manage at an off-site location,  
(19) correct?

(20) A. That is correct.

(21) THE WITNESS: Excuse me. I need to take a  
(22) short break.

(23) MR. OSTERTAG: Sure.

(24) MS. FARRISE: Let's go off the record.

(25) VIDEOGRAPHER: We're going off the record at

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(1) 2:54 p.m.

(2) (Recess taken at 2:54 p.m.)

(3) VIDEOGRAPHER: We're back on the record. The  
(4) time is 2:56 p.m.

(5) Q. (By Ms. Farrise) Mr. Slavin, can you recall  
(6) as you sit here today whether or not the work that you  
(7) and -- well, first of all, did you do the asbestos  
(8) evaluation work at the Springfield, Ohio, truck assembly  
(9) plant yourself or as part of a group of people who were  
(10) evaluating hazards?

(11) A. As I recall, I did that myself.

(12) Q. Okay. And can you describe what you did?

(13) A. Looked at the operation where we had  
(14) subassembled brake shoes that came in on pallets. And  
(15) those shoes, then some employee would take those shoes  
(16) and attach them to an axle to start building up the  
(17) truck axles. The shoes were -- the friction materials  
(18) was preattached. I mean, it was already assembled when  
(19) it came in to our operation. And the focus of the  
(20) investigation was whether there was loose asbestos  
(21) material that might have come along with those shoes  
(22) that may have been an issue.

(23) Q. Okay. So you were looking at the issue of  
(24) whether or not brake shoes that already had  
(25) asbestos-containing linings attached as part of the

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(1) transportation activity to the Springfield, Ohio, plant  
(2) which dislodged some of the asbestos fibers from those  
(3) linings?

(4) MR. EPSTEIN: Misstates. Vague and ambiguous

(5) A. That's not exactly correct. In the first  
(6) place, I'm not sure that the shoes -- that the brake  
(7) shoes at that time contained asbestos.

(8) Q. (By Ms. Farrise) Uh-huh.

(9) A. There was a transition to move to non-asbestos  
(10) brakes over time. There was a concern that a material  
(11) that -- not from the brake shoes themselves necessarily,  
(12) but was associated with the packaging, or products may  
(13) have come from a plant where asbestos may have been  
(14) used. And so the question was whether some of the dust  
(15) or residue that was in -- or associated with the  
(16) packaging contained asbestos.

(17) Q. And as you sit here today, sir, do you recall  
(18) whether or not the brake shoes which were being added to  
(19) the axle as part of the truck assembly, whether or not  
(20) the linings contained asbestos when you did the survey  
(21) at Springfield, Ohio?

(22) MR. OSTERTAG: Lacks foundation. Calls for  
(23) speculation.

(24) MR. EPSTEIN: Join. Epstein.

(25) A. I don't recall whether there was any asbestos

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(1) as part of that.

(2) Q. (By Ms. Farrise) Uh-huh.

(3) A. My recollection is there was no need for  
(4) additional controls to follow up, that there was no  
(5) airborne exposure.

(6) Q. But can we agree, sir, that whatever the  
(7) situation was you prepared a report. And there is some  
(8) documentation of what you did there, what the scope of  
(9) the job was and what your findings were that exist  
(10) today, correct?

(11) A. Yes, I think I said that.

(12) Q. Okay. And where, if you can recall -- well,  
(13) strike that.

(14) Would you expect in your report that there  
(15) would be noted where the brake shoes were being supplied  
(16) from that caused the concern that at that other supplier  
(17) location there may have been some asbestos residue?

(18) MR. EPSTEIN: Vague and ambiguous. Epstein.  
(19) Misstates.

(20) MR. OSTERTAG: Join -- join.

(21) A. I don't recall that that information was --  
(22) was available, I gather.

(23) Q. (By Ms. Farrise) Okay. And you don't know as  
(24) you sit here today one way or another whether or not  
(25) your report reflects, for instance, who the supplier of

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(1) the brake shoe was to International Harvester where this  
(2) concern about residue from a supplying plant got  
(3) created, correct?

(4) A. My --

(5) MR. OSTERTAG: Misstates again.

(6) THE WITNESS: Oh, sorry.

(7) MR. OSTERTAG: Go ahead. Misstates. Vague  
(8) and ambiguous.

(9) MR. EPSTEIN: Join.

(10) A. My belief is that it does not create -- it  
(11) does not contain information.

(12) Q. (By Ms. Farrise) Did you review that  
(13) document, or any of the other surveys that you may have  
(14) conducted, to determine whether or not you measured for  
(15) asbestos?

(16) MR. OSTERTAG: Vague and ambiguous.

(17) MR. EPSTEIN: Join. Epstein.

(18) MS. FARRISE: Strike that. Let me withdraw  
(19) the question.

(20) Q. (By Ms. Farrise) Mr. Slavin, in preparation  
(21) for your deposition or within the last, say, month or  
(22) so, did you review any of the industrial hygiene surveys  
(23) which you managed -- the documents which you managed  
(24) which were created in the industrial hygiene department  
(25) to prepare for your testimony?

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(1) A. No, I did not.

(2) Q. Okay. So, for instance, no one directed you  
(3) to and you didn't on your own look through your index to  
(4) figure out whether or not there existed industrial  
(5) hygiene surveys at various Navistar facilities that  
(6) concerned asbestos that you personally would have been  
(7) involved in, correct?

(8) A. Not in the last month or so.

(9) Q. Okay. When -- have you ever done that?

(10) A. At the time that I gathered or that I reviewed  
(11) those documents several -- maybe 5, 10 years ago, I  
(12) would have -- I would have looked at those documents. I  
(13) don't know that my looking at them would rise to the  
(14) level of examination.

(15) Q. Sir, do you have an estimate of how many boxes  
(16) of documents exist in off-site storage which are  
(17) documents that were the files created within the  
(18) industrial hygiene department or the environmental  
(19) health and safety department which -- that you now have  
(20) management responsibilities for?

(21) A. Somewhere between 40 and 60.

(22) Q. Okay. And are they the standard-size business  
(23) boxes or something else, if you know --

(24) A. I think they're the standard-size Iron  
(25) Mountain storage boxes.

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| <p>(1) Q. And is that where they exist, in Iron Mountain</p> <p>(2) storage, or somewhere else?</p> <p>(3) A. I believe the vendor we use now is Iron</p> <p>(4) Mountain.</p> <p>(5) Q. Is who?</p> <p>(6) A. Iron Mountain.</p> <p>(7) Q. Okay. And do you know if the documents</p> <p>(8) contained within the 40 to 60 boxes, which are documents</p> <p>(9) which were created within the industrial hygiene</p> <p>(10) department of Navistar, formerly known as International</p> <p>(11) Harvester, have they ever been scanned or electronically</p> <p>(12) imaged in any way to your knowledge?</p> <p>(13) A. Some of them have.</p> <p>(14) Q. And can you tell me under what circumstances</p> <p>(15) some of them have been scanned to an electronic image</p> <p>(16) and others have not?</p> <p>(17) A. A law department request to review the</p> <p>(18) documents and pull out certain relevant documents.</p> <p>(19) Q. Okay. And do you have any estimate of how</p> <p>(20) much of the volume of the 40 to 60 boxes has been</p> <p>(21) converted at some point in time to an electronic format?</p> <p>(22) A. By electronic format, you mean copied?</p> <p>(23) Q. Copied, scanned, imaged -- electronically</p> <p>(24) imaged in some way.</p> <p>(25) A. Possibly a box.</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p>                                                                                                    | <p>(1) which resulted in approximately a box of documents which</p> <p>(2) you did maybe as long as 10 years ago, correct?</p> <p>(3) A. Correct.</p> <p>(4) Q. Okay. And in the last 10 years or since</p> <p>(5) you've done that, whenever it happened to be, do you</p> <p>(6) know if there's been any further review of the 40 to 60</p> <p>(7) boxes of documents which you maintain off-site and which</p> <p>(8) were the industrial hygiene department boxes from</p> <p>(9) Navistar, formerly known as International Harvester?</p> <p>(10) MR. OSTERTAG: Object. This is well beyond</p> <p>(11) the scope of the judge's order.</p> <p>(12) A. On occasion I pulled documents -- pulled boxes</p> <p>(13) back for specific issues. There's a lot of material</p> <p>(14) there, a lot of reference material. And occasionally I</p> <p>(15) have had a reason to request a box delivered and review</p> <p>(16) those, and then return them to storage.</p> <p>(17) Q. (By Ms. Farrise) And when you say reference</p> <p>(18) material, can you describe for me a little more what you</p> <p>(19) mean by whatever you would include in the description of</p> <p>(20) reference material?</p> <p>(21) A. That would include journals. That would</p> <p>(22) include books. It would include publications that I do</p> <p>(23) not have room to keep in my office, but that</p> <p>(24) occasionally I find use for in my work.</p> <p>(25) Q. Okay. Mr. Slavin, do you know whether at the</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p>                       |
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| <p>(1) Q. One box of the 40 to 60 boxes?</p> <p>(2) A. Possibly a boxfull.</p> <p>(3) Q. A boxfull. Okay. Do you know if the 40 to 60</p> <p>(4) boxes of documents from the industrial hygiene</p> <p>(5) department of Navistar, formerly known as International</p> <p>(6) Harvester, that collection has ever been indexed or</p> <p>(7) catalogued more specifically than your three to</p> <p>(8) four-page list which we discussed earlier?</p> <p>(9) A. Not by me.</p> <p>(10) Q. Okay. Do you know if it has been indexed or</p> <p>(11) catalogued by -- more specifically than your three to</p> <p>(12) four-page list by anyone?</p> <p>(13) A. I don't know that for sure.</p> <p>(14) Q. Okay. Do you suspect for some reason --</p> <p>(15) suspect there's been an indexing or cataloguing of the</p> <p>(16) documents containing the 40 to 60 boxes which you manage</p> <p>(17) either, I guess, off-site but which came from the</p> <p>(18) industrial hygiene department of Navistar formerly known</p> <p>(19) as International Harvester?</p> <p>(20) A. I gather those documents were the law</p> <p>(21) department. I'm not sure what the law department did</p> <p>(22) with them. Whatever law departments do with those</p> <p>(23) documents.</p> <p>(24) Q. Okay. And the gathering, which you indicate,</p> <p>(25) that was the task or the activity in gathering documents</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p> | <p>(1) truck assembly plant in Springfield, Ohio, there was</p> <p>(2) any -- at any time, whether when you were there or at</p> <p>(3) other times, there was any operation to mill or grind</p> <p>(4) the linings of brake shoes?</p> <p>(5) A. I am not aware of any such operation.</p> <p>(6) Q. And do you know whether contained in the files</p> <p>(7) that you maintain, for instance, there was ever any</p> <p>(8) survey by either yourself, an industrial hygienist, or</p> <p>(9) any of the other people who worked in the industrial</p> <p>(10) hygiene department at the same time as you or prior to</p> <p>(11) you being there, that looked at exposure -- that looked</p> <p>(12) at whether or not there was any grinding or milling or</p> <p>(13) other manipulation of brake linings at that location?</p> <p>(14) MR. OSTERTAG: Vague. Ambiguous. Overbroad.</p> <p>(15) Beyond the scope of the court's order.</p> <p>(16) A. The industrial hygiene review process that was</p> <p>(17) in place would likely have uncovered such an operation</p> <p>(18) if it existed. And, to my knowledge, no such finding</p> <p>(19) has been made.</p> <p>(20) Q. (By Ms. Farrise) Okay. Now, did the</p> <p>(21) industrial hygiene department, which you now have the</p> <p>(22) records for, did they keep records by plant location in</p> <p>(23) terms of what the surveys or evaluation or information</p> <p>(24) was from those locations?</p> <p>(25) MR. OSTERTAG: Objection. Beyond the scope of</p> <p>Aiken Welch Court Reporters T. Slavin 10-07-10</p> |

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(1) the court's order again.  
 (2) A. Yes.  
 (3) Q. (By Ms. Farrise) Okay. So, for instance, you  
 (4) were able to tell me that the Springfield, Ohio, plant  
 (5) was a truck assembly plant where the medium-duty trucks  
 (6) were made, correct?  
 (7) A. Correct --  
 (8) MR. OSTERTAG: Objection -- well, let me just  
 (9) object that one question doesn't follow from the other.  
 (10) Lacks foundation. Calls for speculation.  
 (11) Q. (By Ms. Farrise) And so let me ask you to  
 (12) take a look at, if you would -- let's see here. I'm  
 (13) going to mark as -- I'm going to mark as Plaintiff's  
 (14) Exhibit Number 15 -- it's part of 9, but I'll pull it  
 (15) out. It's a three-page document. It's dated on  
 (16) International Harvester stationery dated October 20,  
 (17) 1976, from R. J. Black to a variety of people. And then  
 (18) it has two attachments. And let me ask you to take a  
 (19) look at the very (phonetic) Hazardous Materials Control  
 (20) Program. So take a look at that, if you would.  
 (21) (EXHIBIT NOS. 14-15 MARKED.)  
 (22) A. Okay.  
 (23) Q. (By Ms. Farrise) Okay. Can you take the  
 (24) second page -- well, let me see. Let's look at the  
 (25) first page. There's a number of recipients starting  
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(1) A. Yes.  
 (2) Q. (By Ms. Farrise) Okay. And can you describe  
 (3) what that interaction would have been?  
 (4) MR. OSTERTAG: Same objection.  
 (5) Q. (By Ms. Farrise) If you can, generally  
 (6) speaking.  
 (7) MR. OSTERTAG: Overbroad. Vague. Ambiguous.  
 (8) Beyond the scope of -- excuse me -- scope of the court's  
 (9) order.  
 (10) A. Some of those people can appreciate that --  
 (11) the interaction with those people isn't necessarily a  
 (12) capacity that they're listed here.  
 (13) Q. (By Ms. Farrise) Ah --  
 (14) A. So, for example, Mr. Meuser --  
 (15) Q. Uh-huh.  
 (16) A. -- was at the Farmall Plant in 1976, but was  
 (17) at the world headquarters in 1979 or '80.  
 (18) Q. And what was his job at -- and that was in  
 (19) Chicago, which is where you worked, correct?  
 (20) A. That's correct.  
 (21) MR. OSTERTAG: Same objection.  
 (22) Q. (By Ms. Farrise) Okay. And what was his job  
 (23) at world headquarters in Chicago in 1979 or '80?  
 (24) MR. OSTERTAG: Same objection. Beyond the  
 (25) scope of the court's order.  
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(1) with a T. W. Hansen, Canton Plant, and ending with W. P.  
 (2) Kendig in the Springfield Plant. Would you mind  
 (3) reviewing that list of recipients and telling me whether  
 (4) any of those people are familiar to you?  
 (5) MR. OSTERTAG: I'm going to object. Beyond  
 (6) the scope of the court's order again.  
 (7) A. Yes, some of those people I recognize.  
 (8) Q. (By Ms. Farrise) Okay. Which ones?  
 (9) MR. OSTERTAG: Same objection.  
 (10) A. Mr. Hansen, Mr. Meuser, Mr. Hennigan, Mr.  
 (11) Kendig. The others -- I recognize some names, but I'm  
 (12) not -- I don't know the people.  
 (13) Q. (By Ms. Farrise) Okay. And before that you  
 (14) recognized with more familiarity Mr. Hansen, Mr. Meuser,  
 (15) Mr. Hennigan and Mr. Kendig. How did you become  
 (16) associated with those men, I take it, in connection with  
 (17) your work?  
 (18) MR. OSTERTAG: Same objection.  
 (19) A. Those individuals are human resource managers  
 (20) at various operations.  
 (21) Q. (By Ms. Farrise) Okay. And did you work --  
 (22) did some part of your work cause you to interact with  
 (23) those gentlemen at the various Navistar/International  
 (24) Harvester plant operations?  
 (25) MR. OSTERTAG: Same objection.  
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(1) A. He was the labor relations manager.  
 (2) Q. (By Ms. Farrise) And does he -- do any of  
 (3) these folks, to your knowledge, do they still work for  
 (4) Navistar, Inc.?  
 (5) MR. OSTERTAG: Beyond the scope of the court's  
 (6) order, which was specifically his -- pursuant to a  
 (7) percipient witness regarding certain things --  
 (8) MS. FARRISE: Okay. I've noted your  
 (9) objection.  
 (10) MR. OSTERTAG: Well, I'm making it.  
 (11) MS. FARRISE: No, you're not. You're making a  
 (12) speaking objection and wasting time.  
 (13) MR. OSTERTAG: I am making my objection.  
 (14) MS. FARRISE: Please don't do that.  
 (15) Q. (By Ms. Farrise) Sorry. Mr. Slavin, can you  
 (16) tell me whether on Exhibit 15, the people who that is  
 (17) directed to, whether any of those people, to your  
 (18) knowledge, are still employed by Navistar today?  
 (19) MR. OSTERTAG: Same objections.  
 (20) A. Only one name on here that I recognize that's  
 (21) still employed.  
 (22) Q. (By Ms. Farrise) Okay. And who is that?  
 (23) A. Mr. Hennigan.  
 (24) Q. Okay. And he's listed on Exhibit 15 in 1976  
 (25) as being at the Shadyside Plant. Do you know where Mr.  
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(1) Hennigan today works for Navistar?  
 (2) MR. OSTERTAG: Same objection. Beyond the  
 (3) scope.  
 (4) A. He's the director of labor relations for the  
 (5) company.  
 (6) Q. (By Ms. Farrise) And does he work at the  
 (7) Chicago location where you work?  
 (8) MR. OSTERTAG: Same objections.  
 (9) A. When he's not negotiating contracts, yes.  
 (10) Q. (By Ms. Farrise) And --  
 (11) A. I'm sorry. He doesn't work in Chicago. He  
 (12) works at world headquarters in Warrenville.  
 (13) Q. Okay. And it says T. E. Hennigan. Can you  
 (14) tell me what the T or the E stand for?  
 (15) MR. OSTERTAG: Same objections. Beyond the  
 (16) scope of the court's order.  
 (17) A. The T is Tom. I have no idea what the E is.  
 (18) Q. (By Ms. Farrise) I want you then to go to the  
 (19) next page. At the top it says Hazardous Materials  
 (20) Committee Chairmen, and it has at the top right-hand  
 (21) corner 12/1979. Do you see that? I think it's 12/4.  
 (22) A. I see that.  
 (23) Q. Okay. The first one it has a punch in it, and  
 (24) it just says something Diac Plant, they do not have a  
 (25) committee. Do you -- from your background and

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(1) experience, would the company have any idea what the  
 (2) actual location is of the plant there where half the  
 (3) name is punched through?  
 (4) MR. OSTERTAG: Objection. Calls for  
 (5) speculation. Lacks foundation. Beyond the scope of the  
 (6) court's order here.  
 (7) A. That is Candiatic.  
 (8) Q. (By Ms. Farrise) Is that C-a-n-d-i --  
 (9) A. -- a-c.  
 (10) Q. And what state is that in?  
 (11) MR. OSTERTAG: Same objection.  
 (12) A. That is in Canada.  
 (13) Q. (By Ms. Farrise) Okay. And can you tell me  
 (14) in the decade of when you started in 1979 and into the  
 (15) '80s what was made at the Candiatic, Canada,  
 (16) Navistar/International Harvester plant?  
 (17) MR. OSTERTAG: Same objection. Beyond the  
 (18) scope of the court's order here, deliberately.  
 (19) A. I have not -- I have never been to that plant.  
 (20) I do not know what they make.  
 (21) Q. (By Ms. Farrise) Okay. And whether you have  
 (22) ever personally been there or not, do you have any  
 (23) experience as part of your career at Navistar where you  
 (24) have come by information or been told what Navistar  
 (25) produced at the Candiatic plant in Canada in the 1980s?

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(1) MR. OSTERTAG: Asked and answered. Beyond the  
 (2) scope.  
 (3) A. I do not recall at this time. I may have come  
 (4) across knowledge somewhere in my 30 years, but at this  
 (5) time I do not recall what they did.  
 (6) Q. (By Ms. Farrise) Okay. The Canton Plant is  
 (7) the next one listed. Is that Canton, Ohio?  
 (8) A. No.  
 (9) MR. OSTERTAG: Same objections.  
 (10) Q. (By Ms. Farrise) Okay. What state is that?  
 (11) MR. OSTERTAG: Same objections.  
 (12) A. Illinois.  
 (13) Q. (By Ms. Farrise) And what was made in the  
 (14) decade of the 1980s in the Canton, Illinois,  
 (15) Navistar/International Harvester plant?  
 (16) MR. OSTERTAG: Same objections.  
 (17) A. Agricultural equipment, plows, seed.  
 (18) MR. OSTERTAG: Overbroad.  
 (19) Q. (By Ms. Farrise) And were there brakes which  
 (20) had -- of some sort which had friction lining as part of  
 (21) that equipment which was produced at Canton, Illinois?  
 (22) MR. OSTERTAG: Vague and ambiguous.  
 (23) MR. EPSTEIN: Overbroad.  
 (24) MR. OSTERTAG: Lacks foundation. Calls for  
 (25) speculation. Beyond the scope.

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(1) MR. EPSTEIN: Join. Epstein.  
 (2) A. I do not know.  
 (3) Q. (By Ms. Farrise) What I'm going to ask you to  
 (4) do for the rest of the list on that page is can you tell  
 (5) me by looking at it, from your background and knowledge  
 (6) at Navistar, which of the listed Navistar locations made  
 (7) trucks or anything having to do with vehicles?  
 (8) MR. OSTERTAG: Same objections.  
 (9) A. The Chatham plant --  
 (10) MR. OSTERTAG: Hold on. I want you to tell  
 (11) her the ones -- could you read back the question?  
 (12) (Requested material was read back.)  
 (13) MR. OSTERTAG: That's the question.  
 (14) MS. FARRISE: Yes. Please limit your comments  
 (15) to leading objections, and stop coaching the witness and  
 (16) wasting time.  
 (17) Q. (By Ms. Farrise) Go ahead, Mr. Slavin,  
 (18) please.  
 (19) A. The Chatham, Fort Wayne plants.  
 (20) MR. OSTERTAG: Same objections. Beyond the  
 (21) scope of the court's order.  
 (22) A. And Springfield plant.  
 (23) Q. (By Ms. Farrise) And so is it your testimony  
 (24) that the rest of the Navistar locations listed there  
 (25) made something other than something with a wheel, like

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(1) tractors or farm equipment, that sort of thing?  
 (2) MR. OSTERTAG: Same objection.  
 (3) A. You asked about vehicles.  
 (4) Q. (By Ms. Farrise) Uh-huh.  
 (5) A. If they made something other than vehicles.  
 (6) Q. Okay. At any of these other locations other  
 (7) than Chatham, Fort Wayne and now Springfield, were there  
 (8) any brakes or brake assemblies or brake shoes, to your  
 (9) knowledge, used, handled or manipulated in any way?  
 (10) MR. OSTERTAG: Same objections. Foundation.  
 (11) Speculation.  
 (12) MR. EPSTEIN: Join. Epstein.  
 (13) MR. OSTERTAG: Overbroad. Vague as to time.  
 (14) A. I would -- I would gather that most, if not  
 (15) all, of these operations have forklift trucks.  
 (16) Q. (By Ms. Farrise) Uh-huh.  
 (17) A. And forklift trucks with -- with brakes.  
 (18) Q. Other than forklift trucks, which I gather  
 (19) would have been used in connection with the operations  
 (20) of that plant, were there any other pieces of equipment  
 (21) or reason that anyone would handle or otherwise  
 (22) manipulate brakes or brake shoes with linings attached  
 (23) at any of the locations other than Chatham, Fort Wayne  
 (24) and -- oh, and the Springfield plant?  
 (25) MR. OSTERTAG: Vague. Ambiguous. Overbroad.

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(1) Beyond the scope of the court's order. Lacks  
 (2) foundation. Calls for speculation.  
 (3) A. Yeah, I'm not sure I understand the question  
 (4) or the type of material -- hoists might be involved.  
 (5) Many of them might have had hoists.  
 (6) Q. (By Ms. Farrise) Okay. Understood. The  
 (7) Memphis plant we discussed earlier, one of the three  
 (8) that were there, would have been a parts distribution  
 (9) center. Do you recall that?  
 (10) A. That's not correct.  
 (11) Q. Okay. There was not a parts distribution  
 (12) center at the Memphis location?  
 (13) A. The --  
 (14) MR. OSTERTAG: Beyond the scope.  
 (15) A. There would have been a parts distribution  
 (16) center in Memphis.  
 (17) Q. (By Ms. Farrise) Uh-huh.  
 (18) A. This is not that.  
 (19) Q. Okay. So -- okay. Other than Memphis, can  
 (20) you tell me where there would have been parts  
 (21) distribution centers?  
 (22) MR. OSTERTAG: Same objection. Beyond the  
 (23) scope of the court's order.  
 (24) A. Other than Memphis -- Columbus, Ohio.  
 (25) Broadview, Illinois. Dallas. Baltimore. Atlanta.

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(1) West Chicago, Illinois. Richmond, California.  
 (2) Burlington, Ontario. Edmonton. Alberta. Those are the  
 (3) ones that I remember.  
 (4) Q. (By Ms. Farrise) Okay. And can you just  
 (5) describe then generally the operations of a parts  
 (6) distribution center as you understand that operation in  
 (7) the context of Navistar formerly known as International  
 (8) Harvester Company?  
 (9) MR. OSTERTAG: It's vague. It's ambiguous.  
 (10) It's overbroad. Vague as to time. Lacks foundation.  
 (11) Calls for speculation. Beyond the scope of this court's  
 (12) order in this last hour of deposition.  
 (13) A. Those operations would distribute parts to  
 (14) after-market customers, to the warehouses.  
 (15) Q. (By Ms. Farrise) Okay. And were those  
 (16) International Harvester warehouses, or were they other  
 (17) types of warehouses or both?  
 (18) MR. OSTERTAG: Vague and ambiguous. Same  
 (19) objections.  
 (20) MR. EPSTEIN: Epstein joins.  
 (21) A. The ones I mentioned were all International  
 (22) Harvester warehouses.  
 (23) Q. (By Ms. Farrise) Okay. And did the parts  
 (24) that were distributed from the parts distribution  
 (25) centers that you have listed starting in Memphis,

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(1) Tennessee, and ending in Alberta, Canada, did they  
 (2) manufacture after-market brake parts which would be used  
 (3) for servicing International Harvester vehicles?  
 (4) MR. OSTERTAG: Same objection. Vague and  
 (5) ambiguous after-market.  
 (6) MR. EPSTEIN: Epstein. Join.  
 (7) MR. MILANFAR: Milanfar. Join.  
 (8) MR. OSTERTAG: Vague as to time.  
 (9) MR. EPSTEIN: Overbroad as well.  
 (10) A. Not all of them, no.  
 (11) Q. (By Ms. Farrise) And the time frame would  
 (12) have been in the 1980s after you joined the company?  
 (13) MR. OSTERTAG: No. That's vague and  
 (14) ambiguous. Overbroad.  
 (15) A. I believe that -- I believe all of those  
 (16) locations were after 19 -- operated at least sometime  
 (17) after 1980 -- or 1979.  
 (18) Q. (By Ms. Farrise) And you mentioned that not  
 (19) all of the parts distribution centers would have  
 (20) distributed brake parts or brake shoes with linings.  
 (21) Which ones did and which ones did not, if you can  
 (22) recall?  
 (23) MR. OSTERTAG: Same objection. Vague as to  
 (24) time. Overbroad. And beyond the scope of the court's  
 (25) order.

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(1) MR. EPSTEIN: Epstein joins.  
 (2) A. That's not exactly what I said.  
 (3) Q. (By Ms. Farrise) Okay.  
 (4) A. Your question related to vehicles. So then  
 (5) not all of them distributed brakes for vehicles.  
 (6) Q. Okay. And by vehicles you mean something that  
 (7) has a wheel?  
 (8) A. No.  
 (9) Q. Okay.  
 (10) A. By vehicles I mean something that has -- that  
 (11) drives on the road.  
 (12) Q. Okay. So that would include trucks from the  
 (13) light variety all the way up to the heavy-duty, correct?  
 (14) A. That's right.  
 (15) Q. But could it also include other kinds of  
 (16) things like tractors? Is that what you're saying?  
 (17) A. Ah --  
 (18) MR. OSTERTAG: Same objections.  
 (19) A. A vehicle -- I would not consider a bulldozer  
 (20) a vehicle.  
 (21) Q. (By Ms. Farrise) Okay. Okay. So -- but it  
 (22) still has wheels, correct?  
 (23) A. A bulldozer?  
 (24) Q. Uh-huh.  
 (25) A. No. It has tracks.

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(1) Q. So you're considering -- are you considering  
 (2) when you say vehicles things that have wheels that can  
 (3) go down a road? I thought that's what you were saying,  
 (4) but then you said no.  
 (5) A. It --  
 (6) MR. OSTERTAG: Objection. Vague and  
 (7) ambiguous.  
 (8) A. I consider vehicles something that would  
 (9) travel on a road and be licensed as a vehicle.  
 (10) Q. (By Ms. Farrise) Okay. That would include  
 (11) the heavy-duty trucks, medium-duty, and what  
 (12) International Harvester made in the early years, the  
 (13) lighter trucks, correct?  
 (14) A. That's correct.  
 (15) Q. Does it include anything else?  
 (16) A. Not in my understanding of a vehicle.  
 (17) Q. Okay. So as to those vehicles that we've just  
 (18) described and these parts distribution centers, which of  
 (19) them distributed parts for vehicles in the '80s and  
 (20) after you started working for Navistar?  
 (21) MR. OSTERTAG: Same objections.  
 (22) A. Baltimore. Atlanta. Dallas. West Chicago.  
 (23) Richmond, California. Burlington. Edmonton.  
 (24) Q. (By Ms. Farrise) And is there somewhere  
 (25) documentation still in existence today, if you know, or

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(1) documentation from which you can confer, such as  
 (2) industrial hygiene surveys, what kinds of after-market  
 (3) parts were carried in the various parts distribution  
 (4) centers?  
 (5) MR. OSTERTAG: I'm going to object. It's  
 (6) vague and ambiguous. It's overbroad. It's beyond the  
 (7) scope of the court's order here. Overbroad -- vague as  
 (8) to time. Lacks foundation. Calls for speculation.  
 (9) A. I'm not sure I understand the question. I  
 (10) wonder if you could rephrase that.  
 (11) Q. (By Ms. Farrise) Sure. You mentioned that  
 (12) the various parts distribution centers in Dallas,  
 (13) Edmonton, Burlington, Baltimore, Atlanta, West Chicago  
 (14) and Richmond, California, supplied -- carried parts for  
 (15) vehicles, things that have wheels that go on the road.  
 (16) And my question is, are there -- to your  
 (17) knowledge, is there documentation that exists today as  
 (18) to, for instance, what companies or entities supplied  
 (19) those parts distribution centers with the products which  
 (20) they then sold or sent to International Harvester  
 (21) warehouses?  
 (22) MR. OSTERTAG: Lacks foundation. Calls for  
 (23) the witness to speculate. Beyond the scope of the  
 (24) court's order. Vague and ambiguous. Overbroad as to  
 (25) time.

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(1) MR. EPSTEIN: And Epstein joins also. Assumes  
 (2) facts.  
 (3) VIDEOGRAPHER: Everyone speak up a little bit.  
 (4) It's kind of --  
 (5) MR. OSTERTAG: Sure.  
 (6) VIDEOGRAPHER: -- loud outside.  
 (7) A. I do not have that knowledge -- knowledge of  
 (8) whether that exists.  
 (9) THE WITNESS: I need to take a break. Excuse  
 (10) me.  
 (11) MS. FARRISE: Oh, sure. Go ahead.  
 (12) VIDEOGRAPHER: We're going off the record at  
 (13) 3:30 p.m.  
 (14) (Recess taken at 3:30.)  
 (15) VIDEOGRAPHER: We're back on the record. The  
 (16) time is 3:32 p.m.  
 (17) Q. (By Ms. Farrise) Okay, Mr. Slavin. Can you  
 (18) tell me what Navistar, formerly known as International  
 (19) Harvester, what kind of trucks were made at the Chatham  
 (20) plant?  
 (21) MR. OSTERTAG: Same objections as before.  
 (22) A. Chatham made heavy-duty trucks and vocational  
 (23) trucks, large trucks for cement mixers or whatever.  
 (24) Q. (By Ms. Farrise) And is that Chatham,  
 (25) Illinois, or some other location?

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(1) MR. OSTERTAG: Same objections.  
 (2) A. Chatham, Ontario.  
 (3) Q. (By Ms. Farrise) In Canada?  
 (4) A. Yes.  
 (5) Q. Okay. The Fort Wayne, Indiana, plant, what  
 (6) size trucks did that location make?  
 (7) A. They made heavy-duty trucks.  
 (8) Q. Okay. And then there was the Springfield,  
 (9) Ohio, plant, which we already discussed which made the  
 (10) medium-duty trucks, correct?  
 (11) MS. FARRISE: And let the record reflect that  
 (12) Mr. -- the other Navistar lawyer who is not here is  
 (13) passing notes to Mr. Ostertag --  
 (14) MR. OSTERTAG: Sure.  
 (15) MS. FARRISE: -- since he is not participating  
 (16) in the deposition. And Mr. Ostertag is reading it.  
 (17) Q. (By Ms. Farrise) Anyway, strike that. So is  
 (18) that three plants --  
 (19) A. I'm sorry --  
 (20) MR. OSTERTAG: Hold on. There is no question  
 (21) pending.  
 (22) THE WITNESS: I need to clarify -- oh, all  
 (23) right.  
 (24) Q. (By Ms. Farrise) Sure -- let me just ask a  
 (25) question. What was made at the Springfield, Ohio,  
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(1) plant?  
 (2) A. Both medium and heavy-duty trucks.  
 (3) Q. Okay. And in terms of where Navistar made  
 (4) medium-duty trucks, other than Springfield, Ohio, to  
 (5) your knowledge is there any other location within the  
 (6) United States where that operation occurred?  
 (7) MR. OSTERTAG: Same objections.  
 (8) A. I'm sorry. Which -- I don't understand what  
 (9) operation you're referring to.  
 (10) Q. (By Ms. Farrise) Medium-duty truck  
 (11) manufacturer.  
 (12) A. I don't recall any other operation of  
 (13) medium-duty trucks that were made.  
 (14) Q. Okay. You mentioned that the parts  
 (15) distribution centers distributed parts to International  
 (16) Harvester warehouses. Did I understand that correctly?  
 (17) MR. OSTERTAG: Misstates his testimony.  
 (18) A. No, that is not correct.  
 (19) Q. (By Ms. Farrise) Okay. To where did the  
 (20) International Harvester parts distribution centers --  
 (21) where were the parts distributed to, if you know?  
 (22) MR. OSTERTAG: Beyond the scope of the court's  
 (23) order. Vague. Ambiguous. Overbroad.  
 (24) A. Primarily to dealers.  
 (25) Q. (By Ms. Farrise) Okay. International  
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(1) Harvester dealers or --  
 (2) A. Yes.  
 (3) Q. To your knowledge, sir -- well, first of all,  
 (4) how do you know that the International Harvester parts  
 (5) distribution centers distributed parts primarily to  
 (6) International Harvester dealers?  
 (7) MR. OSTERTAG: Same objection.  
 (8) A. That's what they do. That's what they still  
 (9) do today.  
 (10) Q. (By Ms. Farrise) And you mentioned earlier  
 (11) that there were International Harvester dealers which  
 (12) were other than independently owned. Do you recall  
 (13) that?  
 (14) MR. OSTERTAG: Same objections.  
 (15) A. I may have said that, yes.  
 (16) Q. (By Ms. Farrise) Okay. And it is true, isn't  
 (17) it, that after you started working with Navistar  
 (18) formerly known as International Harvester Company, you  
 (19) became aware that International Harvester Company had  
 (20) dealerships for International Harvester vehicles,  
 (21) correct?  
 (22) MR. OSTERTAG: Same objection.  
 (23) A. Yes, there were some.  
 (24) Q. (By Ms. Farrise) Okay. And you've mentioned  
 (25) that there were some. Do you have any estimate within  
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(1) the United States of how many International Harvester  
 (2) dealers there were in the early 1980s before the company  
 (3) kind of went through some reconfiguration?  
 (4) MR. OSTERTAG: Same objection.  
 (5) A. No, I didn't.  
 (6) Q. (By Ms. Farrise) And at the International  
 (7) Harvester dealer, were there mechanics who were engaged  
 (8) in International Harvester vehicle repair such as  
 (9) working on brakes and engines and clutches?  
 (10) A. I do not have any direct knowledge about that.  
 (11) Q. Okay. Well, do you have any indirect  
 (12) knowledge or basis of experience with the company that  
 (13) would allow you to have a basis of information other  
 (14) than where you get that information?  
 (15) MR. OSTERTAG: Vague. Calls for speculation.  
 (16) A. I would speculate that those dealers would  
 (17) perform functions like other kinds of automobile and  
 (18) truck dealers.  
 (19) Q. (By Ms. Farrise) Were the employees of  
 (20) International Harvester dealerships, which service  
 (21) International Harvester vehicles, were they under the  
 (22) responsibility of the Navistar industrial hygiene  
 (23) department where you have worked during your career?  
 (24) MR. OSTERTAG: It's overbroad. Vague.  
 (25) A. I think we've been around this issue before.  
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(1) We provided -- we meaning the industrial hygiene  
 (2) department, the safety department -- provided  
 (3) consultation service for people throughout the --  
 (4) throughout the company.

(5) Q. (By Ms. Farrise) Okay. And did that include  
 (6) the International Harvester dealerships which were not  
 (7) independently owned, but which were International  
 (8) Harvester Company now known as Navistar, Inc.,  
 (9) dealerships?

(10) MR. OSTERTAG: It's asked and answered.

(11) A. We would have provided policy, program support  
 (12) for those operations.

(13) Q. (By Ms. Farrise) Okay. As you sit here  
 (14) today, do you know one way or another whether or not  
 (15) there were any industrial hygiene evaluations done at  
 (16) any International Harvester dealerships where  
 (17) International Harvester vehicles were repaired and  
 (18) maintained?

(19) A. I do not have any knowledge of any surveys.

(20) Q. Okay. And my question was do you know -- can  
 (21) you confirm, for instance -- one way or another, can you  
 (22) confirm that they were never done? Can you confirm that  
 (23) some were done? Or do you just not know one way or  
 (24) another?

(25) A. I cannot confirm one way or another.

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(1) Q. Okay. Would you be able to confirm or at  
 (2) least -- strike that. Would -- strike that.

(3) Would a review of the records, which you  
 (4) maintain either at the Chicago location or as part of  
 (5) the off-site 40 to 60 boxes which we have discussed  
 (6) earlier, contain any records of whether or not there  
 (7) were any industrial hygiene surveys -- or industrial  
 (8) hygiene evaluations done at any International Harvester  
 (9) dealer where repair work was done to International  
 (10) Harvester vehicles?

(11) MR. OSTERTAG: Calls for speculation. Lacks  
 (12) foundation.

(13) A. If the corporate industrial hygiene department  
 (14) had done any such surveys, they would be in those  
 (15) records.

(16) Q. (By Ms. Farrise) Okay. And have you or  
 (17) anyone, to your knowledge, undertaken a search of any  
 (18) kind to determine whether or not any person who is  
 (19) affiliated with the corporate industrial hygiene  
 (20) department of International Harvester ever undertook  
 (21) such an evaluation of International Harvester dealers  
 (22) where International Harvester vehicles were repaired?

(23) A. In the search for asbestos-related documents,  
 (24) if such an occurrence, if there were such a document, it  
 (25) would have surfaced in that search.

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(1) Q. And when you mentioned the search for --

(2) MR. OSTERTAG: I have us at one hour. Can I  
 (3) ask a quick --

(4) MS. FARRISE: I'm sorry -- no, no --

(5) MR. OSTERTAG: We -- we had a one-hour time  
 (6) limit. I would like to ask the videographer --

(7) MS. FARRISE: No one anointed you the  
 (8) timekeeper. I'm in the middle of a question. The  
 (9) videographer --

(10) MR. OSTERTAG: We had a one-hour --

(11) MS. FARRISE: -- has not indicated that there  
 (12) is -- at the end of one hour. And I'm simply getting  
 (13) ready to ask something that you don't want me to ask.

(14) MR. OSTERTAG: Have we been on the record for  
 (15) an hour?

(16) MS. FARRISE: You have wasted time with your  
 (17) objections, vague and ambiguous and other things, and I  
 (18) have some questions. Okay?

(19) MR. OSTERTAG: Are we at -- are we at one  
 (20) hour?

(21) VIDEOGRAPHER: I have 1 hour and 30 seconds.

(22) MR. OSTERTAG: Okay.

(23) MS. FARRISE: The videographer, who has gone  
 (24) on and off the record, is not the timekeeper here. I  
 (25) have some follow-up questions as to what the information

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(1) is in the documents. You will not let this witness  
 (2) answer 10 more questions?

(3) MR. OSTERTAG: I will say that.

(4) MS. FARRISE: Okay --

(5) MR. OSTERTAG: The court gave you one hour.  
 (6) You've wasted that hour asking your questions.

(7) MS. FARRISE: No. You wasted that hour with  
 (8) your nonsense objections. So we will go off the record  
 (9) because you are obviously suspending the deposition.  
 (10) And we will ask the court, sending a rough transcript,  
 (11) to resume the deposition at the cost of Navistar and  
 (12) Navistar, Inc. I'm sorry, Mr. Slavin, that the court  
 (13) may order you to come back here and answer a few more  
 (14) questions.

(15) VIDEOGRAPHER: This marks the end of the  
 (16) video-recorded deposition of Tom Slavin on October 7,  
 (17) 2010, consisting of three videotapes. We are off the  
 (18) record at 3:42 p.m.

(19) (The deposition was concluded at 3:42 p.m.)

(20)

(21)

(22)

(23)

(24)

(25)

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(1) SIGNATURE OF DEPONENT

(2)

(3) I, the undersigned, THOMAS JOHN SLAVIN, do hereby  
 (4) certify that I have read the foregoing deposition and  
 (5) find it to be a true and accurate transcription of my  
 (6) testimony, with the following corrections, if any:

(7)

(8) PAGE LINE CHANGE

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(24)

THOMAS JOHN SLAVIN

(25)

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(1) STATE OF CALIFORNIA )

(2) ) ss.

(3) COUNTY OF SONOMA )

(4)

(5)

(6) I, DIANE DEARMORE, a Shorthand Reporter, State of  
 (7) California, do hereby certify:

(8) That THOMAS JOHN SLAVIN, in the foregoing  
 (9) deposition named, was present and by me sworn as a  
 (10) witness in the above-entitled action at the time  
 (11) and place therein specified;

(12) That said deposition was taken before me at said  
 (13) time, and was taken down in shorthand by me, a  
 (14) Certified Shorthand Reporter of the State of California,  
 (15) and was thereafter transcribed into typewriting, and  
 (16) that the foregoing transcript constitutes a full,  
 (17) true and correct report of said deposition and of  
 (18) the proceedings that took place;

(19) IN WITNESS WHEREOF, I have hereunder subscribed  
 (20) my hand this 15th day of October, 2010.

(21)

(22)

DIANE DEARMORE,  
 CSR NO. 12736, State of California  
 CSR NO. 4947, State of Texas

(23)

(24)

(25)

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