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DATE: 1986 Oct 23

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DOCUMENT DESCRIPTION: Legal - Deposition of James Morgan

1 SUPERIOR COURT OF NEW JERSEY
2 LAW DIVISION - CAMDEN COUNTY
3 DOCKET NO. L-27251-79

4 WILLIAM B. MILLISON,

5 PLAINTIFF,

6 VS.

7 E.I. DU PONT DE NEMOURS &
8 COMPANY, ET AL,

9 DEFENDANTS.

ORAL DEPOSITION OF

JAMES F. MORGAN

asbestos only

ORIGINAL

10 * * * * *
THURSDAY, OCTOBER 23, 1986
11 * * * * *

12 TRANSCRIPT IN THE ABOVE MATTER TAKEN
13 AT THE HOTEL DU PONT, 1007 MARKET STREET, ROOM
14 7150, WILMINGTON, DELAWARE, COMMENCING AT 10:00
15 A.M.

16 A P P E A R A N C E S:

17 TOMAR, SELIGER, SIMONOFF, ADOURIAN &
18 O'BRIEN, ESQUIRES
19 BY: DAVID JACOBY, ESQUIRE
20 ATTORNEYS FOR THE PLAINTIFF

21 CARPENTER, BENNETT & MORRISSEY, ESQUIRES
22 BY: ROSEMARY ALITO, ESQUIRE
23 ATTORNEYS FOR E.I. DU PONT

24 CERTIFIED SHORTHAND REPORTING SERVICES
25 ARRANGED THROUGH
MASTROIANNI & FORMAROLI, INC.
SUITE 310
2201 ROUTE 38
CHERRY HILL, NEW JERSEY 08002
(609) 964-3440

[]morgan OF MR. MORGAN BY MR. JACOBY:)
3,11

OF MR. MORGAN BY MS. ALITO:)
120,21

[]morgan (REQUEST)

(OBJECTION)

16, 4	28, 7	37, 24	38, 22	39, 5
43, 3	45, 12	46, 18	47, 16	48, 10
53, 19	57, 1	58, 1	60, 22	67, 11
70, 4	73, 1	76, 18	89, 9	89, 25
94, 4	100, 7			

(DIRECTION)

E X H I B I T S

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4

P MORGAN-1 THROUGH P MORGAN-18:

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DOCUMENTS 3, 7

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1 (IT IS AGREED BY AND BETWEEN
2 COUNSEL THAT THE READING AND SIGNING
3 OF THE DEPOSITION BE WAIVED AND THAT
4 ALL OBJECTIONS, EXCEPT AS TO THE
5 FORM OF THE QUESTION, BE RESERVED
6 UNTIL THE TIME OF TRIAL.).

7 (EXHIBITS P MORGAN-1 THROUGH P
8 MORGAN-18 ARE MARKED FOR IDENTIFICATION)
9 (JAMES F. MORGAN, HAVING BEEN DULY SWORN, WAS
10 EXAMINED AND TESTIFIED AS FOLLOWS:)

11 (EXAMINATION OF MR. MORGAN BY MR. JACOBY:)

12 Q. GOOD MORNING, MR. MORGAN. MY NAME IS DAVE
13 JACOBY AND I'M HERE TODAY TO TAKE YOUR
14 DEPOSITION. MY OFFICE REPRESENTS A NUMBER OF PAST
15 AND PRESENT DUPONT EMPLOYEES WHO HAVE FILED A
16 LAWSUIT ALLEGING VARYING DEGREES OF
17 ASBESTOS-RELATED DISEASE.

18 HAVE YOU EVER HAD YOUR DEPOSITION TAKEN
19 BEFORE, SIR?

20 A. YES, I HAVE.

21 Q. HAVE YOU EVER HAD IT TAKEN AS A REPRESENTATIVE
22 OF THE DUPONT COMPANY?

23 A. NO.

24 Q. IN WHAT CONTEXT HAVE YOU HAD A DEPOSITION
25 TAKEN?

MORGAN - JACOBY

1 A. AS AN EXPERT WITNESS.

2 Q. IS THAT PART OF YOUR PRIVATE CONSULTING
3 PRACTICE THAT THAT WAS DONE?

4 A. YES, IT IS.

5 Q. I WILL GO OVER WITH YOU BRIEFLY, SIR, SOME
6 INSTRUCTIONS, OKAY?

7 I'M GOING TO ASK YOU A SERIES OF QUESTIONS.
8 IF YOU DON'T UNDERSTAND ANY QUESTION THAT I MAY
9 ASK YOU, SIR, PLEASE ASK ME TO REPEAT THE
10 QUESTION. I'D BE MOST HAPPY TO DO SO. IF YOU
11 THINK A QUESTION IS SUSCEPTIBLE TO MORE THAN ONE
12 INTERPRETATION, PLEASE TELL ME THAT THE QUESTION
13 IS NOT CLEAR TO YOU AND AGAIN I'LL REPHRASE THE
14 QUESTION. IF YOU DO ANSWER A QUESTION, I'M GOING
15 TO ASSUME THAT YOU UNDERSTOOD THE QUESTION THAT I
16 ASKED YOU.

17 I REMIND YOU, SIR, YOU ARE UNDER OATH AND
18 ANY TESTIMONY YOU GIVE HERE THIS MORNING IS
19 SUBJECT TO THE SAME PENALTIES AS IF YOU WERE IN A
20 COURTROOM.

21 DO YOU UNDERSTAND MY INSTRUCTIONS?

22 A. YES, I DO.

23 Q. ANY QUESTIONS?

24 A. THANK YOU.

25 Q. ALL RIGHT. DID YOU REVIEW ANY MATERIAL,

MORGAN - JACOBY

1 SIR, IN PREPARATION FOR THIS DEPOSITION THIS
2 MORNING?

3 A. I SAW SOME LETTERS, CORRESPONDENCE THAT HAD
4 MY NAME ON THEM AND I SAW THEM BRIEFLY LIKE I JUST
5 SAW YOURS, THE ONES THAT YOU HANDED ME.

6 MS. ALITO: ALL OF THE DOCUMENTS THAT
7 MR. MORGAN REVIEWED YESTERDAY IN PREPARATION FOR
8 THE DEPOSITION YOU HAVE BEEN PRODUCED.

9 MR. JACOBY: OKAY. ARE THESE THE --

10 MS. ALITO: IT'S THE STACK OF
11 DOCUMENTS THAT I HANDED TO YOU SEVERAL MONTHS
12 AGO.

13 BY MR. JACOBY:

14 Q. OKAY.

15 A. THERE WERE A COUPLE THAT YOU HANDED ME THIS
16 MORNING THAT I HAD NOT SEEN.

17 Q. DID YOU REVIEW ANY DOCUMENTS, TO THE BEST OF
18 YOUR MEMORY, THAT YOU WERE NOT ON AS EITHER THE
19 SENDER OF THE DOCUMENT, THE RECEIVER OF THE
20 DOCUMENT OR SOMEONE WHO WAS COPIED WITH A
21 DOCUMENT?

22 A. NO, I DID NOT.

23 Q. DID YOU REVIEW ANY MATERIALS BY DR. STOPPS?

24 A. ONLY THOSE LETTERS OF HIS WHICH HAD ME
25 MARKED FOR A COPY.

MORGAN - JACOBY

1 Q. WHAT ABOUT KEN KEUPER?

2 A. SAME THING.

3 Q. SIR, AT THE PRESENT TIME YOU ARE
4 SELF-EMPLOYED; IS THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. AND I'M LOOKING NOW AT WHAT WE'VE MARKED P
7 MORGAN-18, WHICH IS YOUR RESUME. I JUST WANT TO
8 GO THROUGH IT BRIEFLY. YOU'VE BEEN SELF-EMPLOYED
9 AS A CONSULTANT IN INDUSTRIAL HYGIENE SINCE 1981;
10 IS THAT CORRECT?

11 A. 1980.

12 Q. 1980. ~~IT WAS IN 1980 THAT YOU LEFT THE~~
13 ~~DUPONT COMPANY?~~

14 A. ~~THAT'S CORRECT.~~

15 Q. ~~AND YOU BEGAN YOUR EMPLOY AT THE DUPONT~~
16 ~~COMPANY IN 1961; IS THAT CORRECT?~~

17 A. ~~THAT'S CORRECT.~~

18 Q. ~~WHEN YOU BEGAN YOUR EMPLOY AT THE DUPONT~~
19 ~~COMPANY, DID YOU HAVE A JOB CLASSIFICATION,~~
20 ~~JOB TITLE?~~

21 A. ~~THE TITLE WAS ASSISTANT TO THE DIRECTOR OF~~
22 ~~HASKELL LABORATORY.~~

23 Q. DURING THE COURSE OF YOUR EMPLOYMENT AT
24 DUPONT DID THAT JOB TITLE EVER CHANGE?

25 A. IT CHANGED. AT ONE POINT I WAS DESIGNATED A

MORGAN - JACOBY

1 CONSULTANT IN INDUSTRIAL HYGIENE.

2 Q. YOUR FIRST TITLE WAS ASSISTANT TO THE
3 DIRECTOR OF HASKELL LAB?

4 A. THAT'S CORRECT.

5 Q. WHO WAS THE DIRECTOR IN 1961?

6 A. JOHN ZAPP.

7 Q. . OKAY. WITH YOUR CHANGE IN JOB TITLE DID
8 YOUR DUTIES CHANGE AT ANY TIME THROUGHOUT THE
9 COURSE OF YOUR NINETEEN YEARS OR SO AT DUPONTS?

10 A. WELL, THERE WAS ANOTHER CHANGE THAT -- I WAS
11 PROMOTED TO A CLASS THEY CALL STAFF CONSULTANT.

12 Q. AND WHAT EXACTLY --

13 A. AND I BEGAN TO TAKE ON MORE RESPONSIBLE
14 ASSIGNMENTS, I GUESS. THERE'S NO CHANGE IN
15 FORMATION, THOUGH. I STILL REPORTED TO THE
16 ASSISTANT DIRECTOR OF HASKELL LABORATORY.

17 Q. WHEN YOU STARTED YOU WERE THE ASSISTANT --

18 A. ASSISTANT TO THE DIRECTOR.

19 Q. YES.

20 A. BUT ADMINISTRATIVELY I REPORTED TO THE
21 ASSISTANT DIRECTOR.

22 Q. AND WHO WAS THAT IN 1961?

23 A. IN 1961 IT WAS WESLEY CLAYTON.

24 Q. COULD YOU TELL ME, SIR, AS BEST YOU CAN,
25 GOING BACK OVER YOUR NINETEEN YEARS AT DUPONTS,

MORGAN - JACOBY

1 YOUR IMMEDIATE SUPERVISORS? YOU BEGAN WITH
2 CLAYTON IN 1961.

3 A. IT BEGAN WITH CLAYTON. I THINK HE WAS
4 SUCCEEDED BY STOPPS, GORDON STOPPS.

5 Q. YOU REPORTED DIRECTLY TO DR. STOPPS?

6 A. AT SOME POINT IN THERE THERE WAS A DR.
7 MC CUSICK WHO WAS MADE MY SUPERIOR. HIS TITLE WAS
8 MANAGER OF ENVIRONMENTAL AFFAIRS OR SOME SUCH
9 THING AS THAT. HE WAS A MEDICAL DOCTOR.

10 Q. ANYONE ELSE, SIR?

11 A. IN LATER YEARS IT WAS DR. MC CUSICK WHO
12 BECAME ASSISTANT DIRECTOR OF THE LABORATORY AND I
13 REPORTED TO HIM. BUT I ALSO REPORTED NOT DIRECTLY
14 TO MC CUSICK BUT TO AN INTERMEDIATE WHO WAS AGAIN
15 A MANAGER OF ENVIRONMENTAL AFFAIRS. HIS NAME WAS
16 FRANK BOWER.

17 Q. DID YOU EVER REPORT DIRECTLY TO DR.
18 D'ALONZO?

19 A. NO.

20 Q. DID YOU EVER REPORT DIRECTLY TO DR. ZAHN?

21 A. NO.

22 Q. WHAT ABOUT DR. REINHARDT?

23 A. NOT DIRECTLY.

24 Q. DID YOU KNOW --

25 A. YES, I DID REPORT DIRECTLY TO DR.

MORGAN - JACOBY

1 REINHARDT. WHEN HE BECAME DIRECTOR OF HASKELL
2 LABORATORY HE SERVED FOR A TIME AS A MANAGER OF
3 ENVIRONMENTAL AFFAIRS. WE HAD A WHOLE SUCCESSION
4 OF THEM, MANAGERS OF ENVIRONMENTAL AFFAIRS THAT
5 DIDN'T STAY VERY LONG. AND ANOTHER ONE WHOM I
6 FORGOT TO MENTION WAS BRUCE CARR.

7 Q. YOU REPORTED DIRECTLY TO DR. CARR AT SOME
8 POINT?

9 A. YES.

10 Q. WAS YOUR ENTIRE EMPLOY AT DUPONTS RELEGATED
11 TO THE HASKELL LABORATORY?

12 A. YES.

13 Q. AND THE EMPLOYEE RELATIONS DEPARTMENT; IS
14 THAT CORRECT?

15 A. UNTIL THE LATER YEARS WHEN HASKELL
16 LABORATORY BECAME A PART OF THE CENTRAL RESEARCH
17 AND DEVELOPMENT DEPARTMENT.

18 Q. OKAY. DOCTOR, LOOKING AT YOUR -- EXCUSE ME,
19 MR. MORGAN --

20 A. YOU CAN CALL ME JIM.

21 Q. LOOKING AT YOUR RESUME, I SEE THAT YOU
22 RECEIVED YOUR EDUCATION AT LOYOLA UNIVERSITY IN
23 NEW ORLEANS IN 1933 TO '36; IS THAT CORRECT?

24 A. THAT'S WHEN I STARTED COLLEGE.

25 Q. AND THEN GEORGE WASHINGTON UNIVERSITY, '37

MORGAN - JACOBY

1 TO '39 AND THEN GEORGETOWN, '39 TO '42. IN 1942,
2 SIR, ~~YOU ATTENDED THE HARVARD SCHOOL OF PUBLIC~~
3 ~~HEALTH;~~ IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. DID YOU GRADUATE FROM THE HARVARD SCHOOL OF
6 PUBLIC HEALTH?

7 A. THIS WAS A SPECIAL SCHOOL WHICH THE SCHOOL
8 OF PUBLIC HEALTH PUT ON FOR A SUCCESSION OF NAVY
9 OFFICERS AND I WAS IN THE LAST COURSE IN THAT
10 SUCCESSION. I DID NOT GET A DEGREE. I WAS
11 AWARDED A CERTIFICATE IN INDUSTRIAL HYGIENE.

12 Q. WHERE HAD YOU RECEIVED YOUR SPECIALIZED
13 TRAINING IN INDUSTRIAL HYGIENE?

14 A. AT THE HARVARD SCHOOL OF PUBLIC HEALTH.
15 THAT'S WHAT I WAS SENT THERE FOR.

16 Q. PRIOR TO GOING -- HOW LONG WAS THIS COURSE
17 THAT YOU TOOK?

18 A. ABOUT FOUR MONTHS.

19 Q. ALL RIGHT. PRIOR TO THE FOUR MONTHS IN 1942
20 AT THE HARVARD SCHOOL OF PUBLIC HEALTH HAD YOU
21 RECEIVED ANY SPECIALIZED TRAINING IN INDUSTRIAL
22 HYGIENE AT ANY TIME?

23 A. NO. I HAD BEEN WORKING IN BIOLOGICAL
24 CHEMISTRY.

25 Q. WAS THAT YOUR MAJOR COURSE OF STUDY IN

add
in

MORGAN - JACOBY

1 COLLEGE?

2 A. I MAJORED IN CHEMISTRY IN COLLEGE AND AT
3 GEORGETOWN I TOOK GRADUATE WORK IN BIOCHEMISTRY.

4 Q. DID YOU GET A DEGREE IN BIOCHEMISTRY?

5 A. NO. I WENT INTO THE NAVY SHORT OF GETTING
6 MY DEGREE FROM GEORGETOWN.

7 Q. IN THE FORM OF DEGREES YOU HAVE A BACHELORS
8 DEGREE?

9 A. BACHELORS OF SCIENCE AND CHEMISTRY.

10 Q. THE FOUR-MONTH TRAINING SCHOOL AT HARVARD
11 WAS FOR INDUSTRIAL HYGIENE; IS THAT CORRECT?

12 A. THAT'S RIGHT.

13 Q. NOW, SIR, I'M NOT GOING TO GO OVER WITH YOU
14 YOUR VARIOUS EMPLOYMENT AS INDICATED IN YOUR
15 RESUME. I'LL JUST ASK YOU IS THIS RESUME, TO THE
16 BEST OF YOUR KNOWLEDGE, AN ACCURATE REFLECTION OF
17 YOUR EMPLOYMENT HISTORY?

18 A. IT IS ACCURATE.

19 Q. AND IF ANYTHING HAPPENS IN THE FUTURE THAT
20 SHOULD BE ADDED TO THE RESUME, IF YOU'LL BE GOOD
21 ENOUGH TO LET ME KNOW, OKAY?

22 A. ALL RIGHT.

23 Q. IF YOU GET APPOINTED TO A PRESIDENTIAL
24 COMMISSION OR WHATEVER. OKAY?

25 IS IT SAFE TO SAY, SIR, THAT UPON YOUR

MORGAN - JACOBY

1 ~~CONSIDERED THE FOUR-MONTH COURSE THAT YOU~~
2 ~~DID NOT REMEMBER -- THAT YOU DEVOTED YOUR~~
3 ~~WHOLE DU PONT CAREER TO AREAS RELATING TO~~
4 ~~INDUSTRIAL HYGIENE?~~

5 A. I WORKED IN INDUSTRIAL HYGIENE AS LONG AS I
6 WAS IN THE NAVY. AND THAT ENDED EARLY IN 1946.

7 Q. OKAY.

8 A. AT WHICH TIME I WENT BACK TO MY CIVILIAN JOB
9 IN BIOCHEMISTRY. BUT AFTER A SHORT PERIOD OF TIME
10 I REALIZED THAT I PREFERRED WORKING IN INDUSTRIAL
11 HYGIENE. AND STARTING IN 1947 I DEVOTED THE REST
12 OF MY CAREER TO INDUSTRIAL HYGIENE.

13 Q. CULMINATING IN THE LAST SIX YEARS OR SO, AND
14 I DON'T MEAN TO HOLD YOU TO THE YEARS. I'M JUST
15 USING APPROXIMATIONS AS TO YOUR SELF-EMPLOYMENT AS
16 A PRIVATE CONSULTANT; IS THAT CORRECT?

17 A. YES. IMMEDIATELY UPON LEAVING DUPONT I
18 JOINED A CONSULTING FIRM WITH HEADQUARTERS IN
19 MINNEAPOLIS AND I OPENED AN EAST COAST BRANCH.
20 BUT I HAD A HEALTH PROBLEM THAT YEAR AND WAS NOT
21 ABLE TO WORK UP THE BUSINESS AND I RESIGNED AFTER,
22 OH, ABOUT FOUR MONTHS.

23 Q. WHY DID YOU LEAVE DUPONT, SIR?

24 A. I WAS OLD ENOUGH TO RETIRE.

25 Q. AND HOW OLD IS THAT?

MORGAN - JACOBY

1 A. WELL, I RETIRED JUST SHORTLY BEFORE MY
2 SIXTY-FIFTH BIRTHDAY. I'M SEVENTY-ONE NOW.

3 Q. OKAY.

4 A. I DON'T JOG. THAT'S WHY I LOOK YOUNG.

5 Q. IF I WOULD HAVE GUESSED I WOULD HAVE BEEN
6 WAY OFF, MR. MORGAN.

7 I WANT TO TALK WITH YOU FOR JUST A FEW
8 MINUTES ABOUT YOUR FORMAL TRAINING IN INDUSTRIAL
9 HYGIENE. WHAT IS INDUSTRIAL HYGIENE, SIR?

10 A. INDUSTRIAL HYGIENE IS AN ART AND SCIENCE
11 THAT DEALS WITH THE PROTECTION OF THE HEALTH OF
12 WORKERS.

13 Q. DOES IT INVOLVE, SIR, THE IDENTIFYING OF
14 VARIOUS CLASSIFICATIONS OF WORKERS WHO MAY BE AT
15 RISK OF BEING EXPOSED TO OCCUPATIONAL AGENTS?

16 A. YES. IT CONSISTS OF THE IDENTIFICATION OF
17 HAZARDS AND PEOPLE AT RISK AND THE EVALUATION OF
18 THE RISK AND CONTROL OF IT.

19 Q. AND THE INDUSTRIAL HYGIENE IN THIS COUNTRY,
20 SIR, IS A VERY STRUCTURED OCCUPATION, IS IT NOT,
21 IN TERMS OF PROFESSIONAL ASSOCIATIONS AND
22 PERIODICALS RECEIVED AND SO ON; WOULD THAT BE
23 CORRECT?

24 A. YEAH, THAT IS CORRECT. IT HAS BEEN FOR A
25 NUMBER OF YEARS.

MORGAN - JACOBY

1 Q. AND YOU HAVE BEEN A MEMBER, AS YOUR RESUME
2 INDICATES, OF ANY NUMBER OF PROFESSIONAL
3 ASSOCIATIONS DEVOTED TO INDUSTRIAL HYGIENE; IS
4 THAT CORRECT?

5 A. THAT'S CORRECT.

6 Q. INCLUDING THE ACGIH, AMERICAN CONFERENCE OF
7 GOVERNMENTAL AND INDUSTRIAL HYGIENE?

8 A. I WAS ELIGIBLE FOR MEMBERSHIP WHEN I WAS IN
9 THE U.S. NAVY.

10 Q. AND AS A MEMBER OF THESE VARIOUS
11 PROFESSIONAL ASSOCIATIONS DID YOU GET THEIR
12 PERIODICALS?

13 A. YES, I GOT THE PERIODICALS OF THE AMERICAN
14 INDUSTRIAL HYGIENE ASSOCIATION AND HAD ACCESS TO
15 MANY OF THE PERIODICALS AND SPECIAL PUBLICATIONS
16 OF THE ACGIH AND NATIONAL SAFETY COUNSEL AND --

17 Q. DID YOU GET THE AMERICAN JOURNAL OF
18 INDUSTRIAL HYGIENE?

19 A. YES, THAT WAS THE FIRST ONE THAT I
20 MENTIONED.

21 Q. THROUGHOUT THE COURSE OF YOUR CAREER, I
22 DON'T SAY READ RELIGIOUSLY, BUT DID YOU READ THESE
23 PERIODICALS THAT YOU RECEIVED, DID YOU LOOK AT
24 THEM?

25 A. I REVIEWED THEM AND I READ CERTAIN ARTICLES

1 THAT WERE OF CONCERN TO ME. AND THE EXTENT OF MY
2 JOURNAL READING AND REVIEWING VARIED WITH MY
3 EMPLOYMENT AT THE TIME. FOR EXAMPLE, IN THE YEARS
4 I WAS AT MELLON INSTITUTE IN THE INDUSTRIAL
5 HYGIENE FOUNDATION I HAD DIRECT ACCESS TO
6 EVERYTHING THAT WAS PUBLISHED IN THE FIELD. AND
7 PART OF MY DUTY WAS TO REVIEW THEM AND ABSTRACT
8 CERTAIN ARTICLES. LATER IN THE PENNSYLVANIA
9 RAILROAD COMPANY WE DIDN'T HAVE ACCESS TO SUCH A
10 GOOD LIBRARY AND IT WAS MORE LIMITED.

11 Q. LET'S TALK ABOUT YOUR EMPLOYMENT AT DUPONT,
12 SIR. IT'S BEEN ESTABLISHED THAT DUPONT HAS
13 SUBSCRIBED TO ANY NUMBER OF JOURNALS OF INDUSTRIAL
14 HYGIENE AND HEALTH. DID YOU HAVE ACCESS TO THESE
15 WHILE YOU WERE EMPLOYED?

16 A. YES.

17 Q. DID YOU, IN FACT, GO AHEAD AND READ THOSE ON
18 OCCASION?

19 A. FREQUENTLY.

20 Q. YOU KEPT UP WITH YOUR FIELD; IS THAT
21 CORRECT?

22 A. THAT'S CORRECT.

23 Q. NOW, SIR, IS IT ALSO NOT CORRECT THAT PART
24 OF INDUSTRIAL HYGIENE IS TO PHYSICALLY SEE THE
25 PLANTS THAT YOU'RE RESPONSIBLE FOR, TO UNDERSTAND

MORGAN - JACOBY

1 WHAT'S MADE IN THOSE PLANTS, TO UNDERSTAND THE
2 DIFFERENT STRATA OF EMPLOYEES AND WHAT THEY DO AND
3 TO BE THERE PHYSICALLY? IS THAT --

4 (OBJECTION)

5 MS. ALITO: I OBJECT TO THE QUESTION
6 ON THE GROUND THAT IT'S NOT CLEAR WHETHER WE'RE
7 SPEAKING ABOUT INDUSTRIAL HYGIENE IN GENERAL OR
8 MR. MORGAN'S RESPONSIBILITIES AS AN INDUSTRIAL
9 HYGIENIST.

10 MR. JACOBY: I'LL REPHRASE IT.

11 BY MR. JACOBY:

12 Q. ~~AS PART OF YOUR RESPONSIBILITIES WHILE AT~~
13 ~~THE DUPONT COMPANY DID YOU HAVE OCCASION TO MAKE~~
14 ~~PHYSICAL INSPECTIONS OF THE PLANTS THAT YOU WERE~~
15 ~~RESPONSIBLE FOR?~~

16 A. YES, I DID.

17 Q. ~~AND DID YOU HAVE OCCASION TO GO TO THE~~
18 ~~CHAMBERS WORKS PLANT IN DEEPWATER?~~

19 A. ~~I VISITED CHAMBERS WORKS ON SEVERAL~~
20 ~~OCCASIONS OVER THE 1964 PERIOD. I CAN'T GIVE YOU~~
21 ~~THE EXACT NUMBER OF TIMES I WAS THERE.~~

22 Q. CAN YOU GIVE ME AN APPROXIMATION?

23 A. I'D SAY THREE OR FOUR TIMES.

24 Q. WHAT ABOUT THE REPAUNO PLANT?

25 A. NO, I DIDN'T SEE REPAUNO.

add
in

1 Q. DID YOU KNOW WHAT WAS MADE AT CHAMBERS
2 WORKS?

3 A. I KNEW SOME OF THE PRODUCTS AT CHAMBERS
4 WORKS.

5 Q. DID YOU KNOW THAT ASBESTOS WAS BEING USED AT
6 THE CHAMBERS WORKS PLANT AS INSULATION?

7 A. MY VISITS TO CHAMBERS WORKS DID NOT CONCERN
8 ITSELF WITH THE USE OF ASBESTOS BUT I WAS AWARE
9 THAT IT WAS THERE BECAUSE --

10 Q. YOU WERE AWARE GENERALLY THAT IT WAS USED
11 THROUGHOUT THE DUPONT COMPANY?

12 A. YES.

13 Q. I THINK IN ONE OF THE DOCUMENTS WE'LL
14 DISCUSS IN A FEW MINUTES YOU CALLED IT UBIQUITOUS?

15 A. THAT'S A GOOD WORD.

16 Q. IT'S YOUR WORD, NOT MINE. BUT I LIKE IT.

17 YOU'RE AWARE THAT ASBESTOS WAS USED AS PIPE
18 INSULATION; IS THAT CORRECT?

19 A. YES.

20 Q. AND WERE YOU AWARE, SIR, BEGINNING WITH YOUR
21 EMPLOY IN 1961 WITH DUPONT THAT THERE ARE
22 CLASSIFICATIONS OF PEOPLE WHO WORKED WITH ASBESTOS
23 ON A DAILY BASIS? I'M TALKING SPECIFICALLY ABOUT
24 THE INSULATORS.

25 A. I KNEW FROM MY PREVIOUS EXPERIENCE IN

MORGAN - JACOBY

1 CHEMICAL PROCESSING AND OIL REFINING THAT IN ORDER
2 TO USE ASBESTOS INSULATION IN A LARGE PLANT YOU
3 ALMOST HAD TO HAVE INSULATING SHOPS TO FABRICATE
4 PIECES AND YOU HAD OTHER PEOPLE TO INSTALL THEM.

5 Q. AND WHEN YOU SAY FABRICATE THEM, CUT TO SIZE
6 AND DO MECHANICAL PROCESSES INVOLVING IT AND
7 CUTTING TRANSITE, SHAPING, THAT TYPE OF THING?

8 A. THAT TYPE OF THING, YES.

9 Q. ALL RIGHT. AND TO YOUR KNOWLEDGE, SIR, AS
10 AN INDUSTRIAL HYGIENIST IS THAT NORMALLY A DUSTY
11 PROCEDURE?

12 A. SOME OF THE PROCESSES DO PRODUCE DUST AND
13 REQUIRE DUST CONTROL.

14 Q. WHAT ABOUT TEAR-OUT WORK OR RIP-OFF WORK, TO
15 YOUR KNOWLEDGE WAS THAT A DUSTY PROCESS?

16 A. IT CAN BE, YES. AND I DON'T RECALL EVER
17 HAVING WITNESSED IT AT CHAMBERS WORKS OR ANY
18 DUPONT PLANT.

19 Q. DO YOU RECALL HAVING RECEIVED DOCUMENTS
20 TALKING SPECIFICALLY ABOUT HOW DUSTY THESE
21 OPERATIONS WERE AND DO YOU RECALL YOUR HAVING
22 AUTHORED DOCUMENTS TALKING SPECIFICALLY ABOUT HOW
23 DUSTY THESE OPERATIONS WERE?

24 A. AT THE MOMENT I DON'T RECALL THOSE THINGS.

25 Q. OKAY. WE'LL DISCUSS THEM IN A FEW MINUTES.

MORGAN - JACOBY

1 NOW, IN 1961, SIR, I KNOW I'M ASKING YOU TO
2 ~~CONFIRM~~ WAYS, WHEN YOU BEGAN YOUR EMPLOY DID YOU
3 HAVE ANY KNOWLEDGE OF ASBESTOS? DID YOU KNOW WHAT
4 IT WAS?

5 A. YES.

6 Q. DID YOU KNOW THEN WHAT IT WAS USED FOR?

7 A. YES.

8 Q. AND DID YOU ACQUIRE THAT KNOWLEDGE WHILE
9 ATTENDING YOUR COURSE AT THE HARVARD SCHOOL OF
10 INDUSTRIAL HYGIENE?

11 A. THAT'S THE HARVARD SCHOOL OF PUBLIC HEALTH.

12 Q. I'M SORRY.

13 A. THAT'S WHEN I FIRST LEARNED ABOUT THE
14 POSSIBILITY OF OCCUPATIONAL DISEASE FROM THE USE
15 OF PROCESSING OF ASBESTOS.

16 Q. AND DID YOU LEARN, SIR, THAT WHAT NEEDED TO
17 BE CONTROLLED IN THE CONTROL OF THE
18 ASBESTOS-RELATED DISEASES WAS THE DUST, THAT WAS
19 THE ~~ELEMENT~~ THAT HAD TO BE CONTROLLED?

20 A. YES, I LEARNED THAT.

21 Q. DID YOU KNOW THAT IN 1961?

22 A. YES.

23 Q. ALL RIGHT. YOU KNEW ASBESTOS WAS INHALED
24 AND IT WAS THE DUST THAT WAS INHALED?

25 A. THAT'S CORRECT.

MORGAN - JACOBY

1 Q. DID YOU HAVE AN OPINION, SIR, IN 1961, AS TO
2 WHETHER OR NOT ASBESTOS CAUSED CANCER OF THE LUNG?

3 A. IN 1961 I HAD SEEN SOME SCATTERED REPORTS OF
4 THE OCCURRENCE OF LUNG CANCER IN PEOPLE WHO HAD
5 THE DISEASE OF ASBESTOSIS. BUT I DID NOT HAVE ANY
6 CAUSE-AND-EFFECT RELATIONSHIP BEFORE ME.

7 Q. WELL, YOU'RE NOT A MEDICAL DOCTOR AND I'M
8 NOT ASKING FOR AN EXPERT OPINION OR ANYTHING LIKE
9 THAT IN TERMS OF DOES IT OR DID IT. I JUST WANT
10 TO KNOW WHAT YOU BELIEVED. WHETHER IT'S TRUE OR
11 NOT IS NOT FOR TO US WORRY ABOUT HERE TODAY. I
12 JUST WANT TO KNOW WHAT YOU BELIEVED ABOUT
13 ASBESTOS.

14 A. I WAS TAUGHT THAT YOU MUST CONTROL EXPOSURE
15 TO ASBESTOS FIBERS IN ORDER TO PREVENT
16 ASBESTOSIS. AT THAT POINT IN 1961 I HAD NOT YET
17 BEEN TOLD THERE IS A CAUSE-AND-EFFECT RELATIONSHIP
18 WITH LUNG CANCER FROM ASBESTOS.

19 Q. BUT YOU WERE FAMILIAR WITH THE DISEASE
20 ASBESTOSIS; IS THAT CORRECT?

21 A. I WAS.

22 Q. ASBESTOSIS IS REGARDED BY EXPERTS IN YOUR
23 FIELD AS AN AGENT SPECIFIC DISEASE THAT CAN ONLY
24 BE CAUSED BY ONE THING, IT CAN ONLY BE CAUSED BY
25 ASBESTOS; IS THAT CORRECT?

MORGAN - JACOBY

1 A. YES, THAT'S CORRECT.

2 Q. NOT LIKE PNEUMONIA OR WHATEVER ELSE YOU WANT
3 TO THINK OF?

4 A. NO. YOU CAN EXTRACT THE FIBERS FROM THE
5 LUNGS AND IDENTIFY THEM.

6 Q. NOW, IN ~~THESE~~ PROFESSIONAL JOURNALS THAT YOU
7 HAD ~~BEGUN~~ RECEIVING, YOU SAID, I THINK, BACK IN
8 THE LATE '40'S, DO YOU RECALL READING THROUGH ANY
9 OF THOSE, ANY NUMBER OF STUDIES THAT HAD BEEN,
10 GOING ON INVOLVING ASBESTOS-RELATED DISEASES SUCH

11 AS ~~ASBESTOSIS, CANCER OF THE LUNG, MESOTHELIOMA~~

12 A. JUST ~~ASBESTOSIS~~.

13 Q. DO YOU RECALL READING ANYTHING ABOUT LUNG
14 CANCER OR MESOTHELIOMA PRIOR TO 1961?

15 A. THERE WERE A FEW SCATTERED REPORTS OF THE
16 OCCURRENCE OF LUNG CANCER IN PEOPLE WITH
17 ~~ASBESTOSIS~~. BUT I DIDN'T KNOW OF ANY ONGOING
18 EPIDEMIOLOGY STUDY TO ESTABLISH A RELATIONSHIP.

19 Q. ~~FOR~~ YOUR OPINION, SIR, IN 1961 THAT TO
20 ~~CONTROL THE~~ DISEASE ASBESTOSIS YOU HAD TO CONTROL
21 THE DUST?

22 A. YES.

23 Q. OKAY. AND AGAIN, SIR, YOU SAID YOU WERE
24 AWARE THAT THERE WAS OPERATIONS THAT WERE BEING
25 CONDUCTED THAT WERE DUSTY; IS THAT CORRECT?

MORGAN - JACOBY

1 A. POTENTIALLY DUSTY, YES.

2 Q. POTENTIALLY DUSTY, RIP-OUT WORK, THE
3 MECHANICAL PROCESS, AND YOU WERE AWARE ALSO IN
4 1961 WHEN YOU STARTED YOUR EMPLOY AT DUPONT THAT
5 THERE WERE PEOPLE AT DUPONT WHOSE JOB IT WAS WHO
6 EARNED A LIVING BY WORKING WITH ASBESTOS EVERY DAY
7 OF THE WEEK? WERE YOU AWARE OF THAT, SIR?

8 A. I GUESS I MIGHT HAVE ASSUMED THAT.

9 Q. DID YOU KNOW THAT THEY WERE INSULATORS
10 EMPLOYED BY THE DUPONT COMPANY?

11 A. YES.

12 Q. YOU KNOW WHAT INSULATORS DO FOR A LIVING,
13 DON'T YOU? THEY INSULATE?

14 A. THE REASON I HESITATE IN RESPONDING DIRECTLY
15 TO THAT QUESTION OF YOURS IS THAT MY WORK IN
16 DUPONT IN 1961 DID NOT PUT ME IN IMMEDIATE
17 CONTACT --

18 Q. I UNDERSTAND. I JUST REALLY -- AND I KNOW
19 I'M PUTTING YOU IN KIND OF A TOUGH SPOT SITTING
20 HERE IN 1986 AND GOING BACK TO YOUR STATE OF MIND
21 TWENTY-FIVE YEARS AGO. OKAY. I DON'T WANT TO BE
22 UNFAIR TO YOU. BUT WHAT I'M DRIVING AT IS NOT
23 WHAT YOU KNEW, WHERE YOU HEARD IT FROM OR WHERE
24 YOU SAW IT. WE'LL DISCUSS THAT LATER. BUT I JUST
25 WANT TO KNOW WHAT YOUR ATTITUDES AND WHAT YOUR

MORGAN - JACOBY

1 OPINIONS WERE AT THE TIME THAT YOU STARTED WITH
2 THE DUPONT COMPANY. DO YOU UNDERSTAND ME?

3 A. YES, I DO.

4 Q. OKAY. AFTER YOU BEGAN YOUR EMPLOY WITH
5 DUPONT DID YOU COME TO KNOW GORDON STOPPS?

6 A. YES, I DID.

7 Q. AND IF YOU CAN RECALL, WHEN DID YOU FIRST
8 COME TO KNOW HIM?

9 A. SOMETIME BETWEEN 1961 AND 1964.

10 Q. OKAY.

11 A. I DON'T RECALL WHETHER HE WAS AT THE HASKELL
12 LABORATORY WHEN I JOINED IN 1961. HE MAY HAVE
13 BEEN.

14 Q. WHEN YOU CAME TO KNOW HIM WHAT WAS HIS JOB
15 TITLE, DO YOU REMEMBER?

16 A. YEAH. HE WAS WORKING -- THE WORK OF THE
17 LABORATORY WAS DIVIDED UP INTO SEVERAL SECTIONS.
18 AND HE WAS IN THE SECTION THAT DEALT WITH
19 PHYSIOLOGICAL --

20 Q. PHYSIOLOGY SECTION?

21 A. YES.

22 Q. IN FACT, HE BECAME A HEAD OF THE PHYSIOLOGY
23 SECTION, DID HE NOT? IF YOU DON'T KNOW, TELL ME.
24 I DON'T WANT TO PUT WORDS IN YOUR MOUTH.

25 A. I DON'T RECALL WHETHER HE WAS HEAD OF IT OR

MORGAN - JACOBY

1 PAUL SMITH WAS HEAD OF IT.

2 Q. OKAY. DID YOUR JOB REQUIRE YOU TO HAVE ANY
3 PROFESSIONAL CONTACT WITH DR. STOPPS IN THE EARLY
4 '60'S, LET'S SAY '61, WHEN YOU STARTED, TO '64?
5 DID YOU WORK ON PROJECTS TOGETHER?

6 A. NO.

7 Q. DID YOU HAVE OCCASION -- HOW WAS IT THAT YOU
8 CAME TO KNOW HIM?

9 A. WELL, HASKELL LABORATORY WAS RATHER SMALL AT
10 THE TIME AND I GOT TO KNOW PEOPLE IN ALL THE
11 SECTIONS.

12 Q. SO -- I'M SORRY.

13 A. I DID HAVE A FEW CONTACTS WITH THE
14 PHYSIOLOGY SECTION IN CONNECTION WITH MY WORK.

15 Q. I SEE.

16 A. AND PERHAPS HE WAS THERE AT MEETINGS AND
17 DISCUSSIONS.

18 Q. WERE YOU WORKING --

19 A. I DON'T HAVE ANY DISTINCT RECOLLECTION OF
20 HOW I GOT TO KNOW HIM OR WHAT MY RELATIONSHIP WAS
21 WITH HIM.

22 Q. DID YOU GET TO KNOW HIM WELL? DID YOU SIT
23 AND TALK OR WAS IT JUST HELLO IN THE HALL?

24 A. WELL, HELLO IN THE HALL.

25 Q. DURING THESE EARLY YEARS, LET'S SAY, '61 TO

MORGAN - JACOBY

1 '64 AT DUPONT, DID ANY OF YOUR ASSIGNMENTS INVOLVE
2 ASBESTOS, CONTROL OF ASBESTOS DUST?

3 A. NO.

4 Q. YOU WERE WORKING ON THINGS OTHER THAN THAT?

5 A. YES.

6 Q. DID DR. STOPPS EVER TELL YOU THAT HE
7 ATTENDED THE NEW YORK ACADEMY OF SCIENCE IN
8 OCTOBER OF 1964?

9 A. YES, I DO RECALL HIS RETURN FROM THAT
10 MEETING AND DISCUSSION.

11 Q. AND THAT WAS OTHERWISE KNOWN AS THE SELIKOFF
12 CONFERENCE?

13 A. YES, NEW YORK ACADEMY OF SCIENCE.

14 Q. AND DID HE TELL YOU ABOUT THE CONFERENCE?

15 A. I HEARD ABOUT IT. IT WAS PROBABLY IN STAFF
16 MEETINGS.

17 Q. TO YOU, SIR, AT THAT TIME, WHEN YOU HEARD
18 ABOUT IT, WHAT WAS THE SIGNIFICANCE OF THAT
19 CONFERENCE?

20 A. AT THAT TIME I WITHHELD JUDGMENT ON WHETHER
21 THINGS WERE AS BAD AS DR. SELIKOFF SEEMED TO THINK
22 THAT THEY WERE. IT WAS ONE PERSON WHO SPOKE OUT,
23 RATHER ONE UNIT OF INVESTIGATION. AND USUALLY YOU
24 WAIT FOR CONFIRMATION --

25 Q. IT WAS EIGHTEEN THOUSAND PEOPLE, THOUGH,

MORGAN - JACOBY

1 WASN'T IT, THAT WAS IN THE STUDY?

2 A. BUT THEY WERE THERE LISTENING TO DR.
3 SELIKOFF.

4 Q. SO YOU WEREN'T CONVINCED YET?

5 A. NO, NO, I WASN'T.

6 Q. WERE YOU AWARE, SIR, BACK IN 1964 THAT DR.
7 SELIKOFF AND PROMINENT MEDICAL PEOPLE FROM AROUND
8 THE COUNTRY STATED AT THIS CONFERENCE THAT
9 INSULATORS AND PEOPLE THAT ARE NOT EXPOSED
10 DIRECTLY TO ASBESTOS IN THE CONTEXT OF MINING IT,
11 IN THE, IN THE FACTORY, IN FACT, WERE AT THE RISK
12 OF CANCER AND MESOTHELIOMA, ASBESTOS-RELATED
13 DISEASE?

14 A. THAT WAS AN OPINION THAT HAD BEEN HELD FOR
15 MANY YEARS. IF IT'S ASBESTOS IT DOESN'T MATTER
16 WHETHER IT'S IN A MINE OR A FACTORY THAT'S USING
17 ASBESTOS.

18 Q. AND THAT WAS INDICATED IN MANY OF THE
19 ADDRESSES THAT YOU HAD BEEN READING IN THE
20 JOURNALS?

21 A. SURE.

22 Q. IS ONE OF THE COMMON BELIEFS, DON'T FOCUS ON
23 THE FIBER, FOCUS ON THE LUNG; HOWEVER IT GOT
24 THERE, IT GOT THERE, LOOK AT WHAT IT DOES?

25 A. I WOULD FOCUS ON THE FIBER AND THE CONTACT

1 OF THE LUNG REGARDLESS OF THE SOURCE OF THE FIBER.

2 Q. THE AMOUNT OF FIBER IS CERTAINLY OF --

3 A. THE AMOUNT AND THE LENGTH OF EMPLOYMENT IN
4 THE DUSTY AIR.

5 Q. ~~BUT YOU HAD SEEN THINGS WELL BEFORE 1964~~
6 ~~INDICATING THAT INSULATORS AND PEOPLE WITH~~
7 ~~INDIRECT EXPOSURES TO ASBESTOS HAD CONTRACTED~~
8 ~~ASBESTOSIS, LUNG CANCER, MESOTHELIOMA AND SO ON?~~

9 A. I DIDN'T KNOW ABOUT MESOTHELIOMA AND --

10 Q. ~~LET'S CONFINE IT TO ASBESTOSIS AND LUNG~~
11 ~~CANCER.~~

12 A. ~~ASBESTOSIS, YES. IN MY WORK IN THE NAVY AND~~
13 ~~SHIPYARDS WE ATTEMPTED TO CONTROL THE DUSTINESS IN~~
14 ~~PLACES WHERE ASBESTOS WAS BEING USED FOR THE VERY~~
15 ~~PURPOSE OF PREVENTING CAUSATION OF ASBESTOSIS.~~

16 Q. DID YOU EVER HEAR OF MEREWETHER?

17 A. YES.

18 Q. HE WAS THE CHIEF INSPECTOR OF FACTORIES IN
19 ENGLAND; IS THAT CORRECT?

20 A. YES.

21 Q. KIND OF AN INDUSTRIAL -- TOP DOG INDUSTRIAL
22 HYGIENIST IN THAT COUNTRY; IS THAT CORRECT?

23 A. YES.

24 Q. HE WROTE A PAPER IN 1935, DIDN'T HE?

25 A. 1930. IT WAS PUBLISHED IN '30. THE WORK

MORGAN - JACOBY

1 WAS IN '29.

2 Q. AND IN THAT PAPER HE TALKS ABOUT LOW LEVELS
3 OF ASBESTOS BUT FOR LONGER PERIODS OF TIME AND HE
4 SAID, OH, MY GOD, EVEN THOUGH THE EXPOSURE MAY BE
5 VERY LIMITED, IF YOU WORK A LITTLE LONGER YOU'RE
6 GOING TO GET THE DISEASE; IS THAT CORRECT?

7 (OBJECTION)

8 MS. ALITO: I HAVE TO OBJECT TO THE
9 FORM OF THESE QUESTIONS. THEY'RE SUMMARIZING
10 REPORTS FOR THE DOCTOR AND IF YOU AGREE WITH EVERY
11 WORD THAT MR. JACOBY IS STATING IN HIS
12 SUMMARIZATION, THEN YOU CAN GO AHEAD AND ANSWER
13 THAT YOU AGREE. BUT I WANT TO MAKE CLEAR THAT YOU
14 UNDERSTAND THAT A YES ANSWER TO THESE QUESTIONS
15 MEANS THAT YOU'RE AGREEING TO THESE LONG SUMMARIES
16 OF THE STUDIES.

17 THE WITNESS: WELL, I WOULDN'T AGREE
18 WITH THE WORDING OF THE LAST STATEMENT THAT YOU
19 MADE, BUT I AM AWARE OF DR. MEREWETHER'S WORK AND
20 THE ASSOCIATION OF EXPOSURE TO ASBESTOS IN THE AIR
21 AND THE OCCURRENCE OF LUNG CANCER AND SOME KIND OF
22 A QUANTITATIVE RELATIONSHIP OF CONCENTRATIONS IN
23 THE AIR AND DURATION OF EXPOSURE.

24 BY MR. JACOBY:

25 Q. AND EXCUSE ME, WERE YOU AWARE OF ONE OF DR.

MORGAN - JACOBY

1 MEREWETHER'S CONCLUSIONS THAT LESSER EXPOSURE OVER
2 A LONGER PERIOD OF TIME IS CAPABLE OF CAUSING
3 DISEASE?

4 A. I THINK HE SAID HE DIDN'T KNOW AT THAT TIME.

5 Q. OKAY.

6 A. THAT'S MY RECOLLECTION OF IT.

7 Q. ALL RIGHT. DID YOU EVER HEAR OF LYNCH AND
8 AND SMITH?

9 A. GIVE ME THE FIRST NAMES.

10 Q. JOE AND TED. I DON'T KNOW. I REALLY DON'T
11 KNOW. WE'LL HAVE TO LOOK. AND NOT TO PLAY GAMES
12 WITH YOU, I'M TAKING NAMES FROM ATTACHMENTS THAT
13 YOU HAVE SENT TO OTHER PEOPLE WHERE THESE STUDIES
14 ARE INCLUDED.

15 A. IS THAT SO?

16 Q. YEAH. AND WE'LL GO OVER THEM AGAIN.

17 A. I DON'T REMEMBER EVERYTHING.

18 Q. YEAH. WELL, THEY DID A STUDY, NOT A STUDY
19 -- IN 1935 THEY WROTE A CASE REPORT THAT THEY
20 FOUND TWO INCIDENCES OF LUNG CANCER WITH ASBESTOS
21 WORKERS AND FELT THERE WAS AN ASSOCIATION.

22 A. THE REASON I ASK FOR THE FIRST NAME IS THAT
23 LATER I BECAME ACQUAINTED WITH JEREMIAH LYNCH.

24 Q. I BELIEVE IT IS JEREMIAH.

25 A. HE DID EXTENSIVE WORK IN ASBESTOS, BUT I

MORGAN - JACOBY

1 THINK HIS WORK WAS MUCH LATER THAN THAT.

2 Q. NO, THEY'RE NOT THE SAME INDIVIDUAL.

3 A. NO.

4 Q. ALL RIGHT. WITHOUT BELABORING THE POINT,
5 YOU WERE, AS EVIDENCED BY YOUR TESTIMONY THIS
6 MORNING, YOU WERE AWARE GENERALLY OF WHAT WAS
7 HAPPENING IN THE LITERATURE AND THE STUDIES AND SO
8 ON AND SO FORTH; IS THAT CORRECT?

9 A. YES.

10 Q. ALL RIGHT. NOW, I'D LIKE TO HAVE YOU LOOK
11 AT WHAT WE MARKED, MR. MORGAN, AS P MORGAN-1,
12 OKAY.

13 A. OH, I SEE. I'D LIKE TO GET A DRINK OF
14 WATER.

15 MR. JACOBY: OKAY. FINE.

16 (BRIEF RECESS)

17 BY MR. JACOBY:

18 Q. BEFORE WE GET TO THAT, I WANTED TO COMPLETE
19 ANOTHER THOUGHT. YOU SAID YOU HEARD ABOUT DR.
20 STOPPS' TRIP TO THE NEW YORK ACADEMY CONFERENCES
21 AND SO ON. DID HE EVER TALK TO YOU DIRECTLY ABOUT
22 IT?

23 A. I DON'T REMEMBER.

24 Q. WHAT DID YOU HEAR ABOUT THE TRIP AT THESE
25 CONFERENCES OR MEETINGS THAT YOU ATTENDED?

1 A. WELL, I HEARD A SUMMARY OF THE PROCEEDINGS
2 THAT HAD BEEN DISCUSSED, THE RECORDING OF THE
3 NUMBER OF CASES OF DISEASES, INCLUDED AT THAT TIME
4 SOME LUNG CANCER.

5 Q. NOW, LOOKING AT THIS DOCUMENT, SIR, I DIRECT
6 YOU -- THIS IS A LETTER THAT APPARENTLY WAS SENT
7 FROM DR. STOPPS TO A J.R. MC CLEAN IN THE MAYDOWN
8 WORKS IN LONDONDERRY; IS THAT CORRECT?

9 A. YES.

10 Q. YOU ARE NOTED AS A CARBON COPY RECIPIENT?

11 A. YES.

12 Q. IN THE SECOND PARAGRAPH, SIR, IF I CAN
13 DIRECT YOUR ATTENTION THERE, WHERE IT SAYS THERE
14 ARE MANY FACETS TO THIS SUBJECT BUT THE TWO MOST
15 IMPORTANT ARE THE QUESTIONS, WHAT ARE THE RISKS TO
16 MEN WHO ARE EXPOSED TO ASBESTOS PRIOR TO THE
17 RECOGNITION OF THE POSSIBLE RISK OF CANCER.

18 NOW, WAS THERE A RECOGNITION, SIR, AS FAR AS
19 YOU WERE CONCERNED, THAT PEOPLE EXPOSED TO
20 ASBESTOS HAD A RISK OF GETTING CANCER OF THE LUNG?

21 A. MY RECOLLECTION IS THAT THE RISK WAS TO
22 GETTING ASBESTOSIS. AND THE POSSIBILITY OF
23 GETTING LUNG CANCER BECAUSE OF ASBESTOS INHALATION
24 HAD SIMPLY NOT YET BEEN ESTABLISHED.

25 Q. OKAY. BUT YOU WERE AWARE THAT THERE WAS

MORGAN - JACOBY

1 DISCUSSIONS THAT THERE MAY BE A CAUSAL
2 RELATIONSHIP?

3 A. I'VE MENTIONED EARLIER THAT THERE WERE
4 ISOLATED REPORTS OF CASES. THAT WAS ABOUT THE
5 LIMIT OF IT.

6 Q. AND --

7 A. SOME OF THEM WERE QUITE EARLY BUT THEY DID
8 NOT STIR UP A LOT OF CONCERN BECAUSE LUNG CANCER
9 OCCURS IN ALL LEVELS OF THE POPULATION. AND IF A
10 PERSON WHO HAD ACQUIRED ASBESTOSIS ALSO HAD LUNG
11 CANCER IT DID NOT IMMEDIATELY ESTABLISH A
12 RELATIONSHIP.

13 Q. I UNDERSTAND. MY QUESTION WAS JUST THAT THE
14 RELATIONSHIP WAS BEING DISCUSSED IN THE MEDICAL
15 AND SCIENTIFIC COMMUNITY.

16 A. IT PROBABLY WAS, YES.

17 Q. SIR, RIGHT AFTER WHAT I JUST READ TO YOU,
18 AGAIN IN THE SECOND PARAGRAPH, APPARENTLY DR.
19 STOPPS' SECOND CONCERN IS WHAT STEPS SHOULD BE
20 TAKEN TO PROTECT THE MEN WHO ARE NOW POTENTIALLY
21 EXPOSED TO ASBESTOS.

22 ~~IN NOVEMBER OF 1965 WHEN THIS LETTER WAS~~
23 ~~WRITTEN, DID YOU HAVE A CONCERN FOR THE DUPONT~~
24 ~~EMPLOYEES WHO WERE EXPOSED TO ASBESTOS AND THE~~
25 ~~POTENTIAL FOR DISEASE, BASED UPON EVERYTHING THAT~~

MORGAN - JACOBY

1 ~~YOU KNEW AT THAT TIME?~~

2 A. I ~~WOULD SAY THAT, YES, ASBESTOS WAS LISTED~~

3 ~~ASBESTOS OF THE CAUSES OF OCCUPATIONAL DISEASES AND~~

4 I HAD A CONCERN. THAT WAS MY LINE OF WORK. BUT

5 MY DUTIES DID NOT REQUIRE THAT I IMMEDIATELY

6 RESPOND TO SOMETHING LIKE THIS.

7 Q. DID YOU HAVE ANY IDEA AT THAT TIME, SIR, HOW

8 MUCH ASBESTOS WAS BEING USED BY DUPONT?

9 A. NO.

10 Q. DR. STOPPS SAYS IN THE FIRST PARAGRAPH AS

11 YOU CORRECTLY SUSPECT A CONSIDERABLE AMOUNT OF

12 ASBESTOS IS USED IN DUPONT PLANTS LARGELY IN THE

13 FORM OF PIPE LAGGING. DO YOU SEE THAT?

14 A. YES, I SEE THAT.

15 Q. WERE YOU AWARE OF IT AT THAT TIME, THAT

16 DUPONT WAS USING A LARGE AMOUNT?

17 A. I ASSUME THAT WAS CORRECT IF HE SAID IT WAS.

18 Q. THAT WASN'T REVELATORY AS FAR AS --

19 A. I HAD NOT MADE AN INVESTIGATION TO DETERMINE

20 HOW MUCH. NO, IT WAS NOT A SURPRISE.

21 Q. NOW, SIR, ON THE LAST PARAGRAPH OF THIS

22 FIRST PAGE DR. STOPPS TALKS ABOUT A STUDY THAT

23 WILL BE DONE OF MEDICAL RECORDS. DO YOU SEE THAT,

24 SIR?

25 A. IN LINE WITH THEIR SUGGESTION WE HOPE TO

MORGAN - JACOBY

1 START A STUDY OF THE HEALTH AND OF PIPE COVERERS
2 COMPARED WITH THE HEALTH OF NON-ASBESTOS EXPOSED
3 GROUP WITHIN THE NEXT FEW WEEKS.

4 Q. WERE YOU AWARE THAT DR. STOPPS IN 1965 HAD
5 REQUESTED THAT RECORDS, OF FIFTY-TWO PIPE COVERERS
6 BE PULLED, MEDICAL RECORDS FOR REVIEW?

7 A. I HAD NO KNOWLEDGE OF HIS STEPS THAT HE TOOK
8 IN HIS INVESTIGATION. IT WAS INDEPENDENT OF MY
9 WORK AT THAT TIME.

10 Q. AND YOU WERE NOT INVOLVED DIRECTLY WITH
11 ASBESTOS AT THIS TIME?

12 A. AT THAT TIME, NO.

13 Q. DO YOU KNOW, SIR, WHY YOU WOULD HAVE
14 RECEIVED A COPY OF THIS LETTER?

15 A. IN MY PREVIOUS ANSWERS TO YOU I'VE INDICATED
16 TO YOU THAT I HAD CONSIDERABLE EXPERIENCE IN THE
17 OCCUPATIONAL DISEASE, ASBESTOSIS AND ITS
18 PREVENTION.

19 Q. RIGHT.

20 A. AND STOPPS RECOGNIZED THAT AND SOMETIMES
21 DISCUSSED THINGS AND INFORMED ME OF WHAT WAS GOING
22 ON.

23 Q. WHAT DID HE INFORM YOU? WHAT DID HE TELL
24 YOU?

25 A. THIS LETTER, FOR EXAMPLE, IS AN EXAMPLE.

MORGAN - JACOBY

1 Q. THIS IS THE WAY HE WOULD INFORM YOU, HE
2 WOULD COPY YOU ON A LETTER?

3 A. YES.

4 Q. ~~SO WITHOUT BELABORING THE POINT YOU~~
5 ~~DISCUSSED WITH STOPPS AT THIS POINT IN TIME YOUR~~
6 ~~KNOWLEDGE OF ASBESTOS IN 1965 AND WHAT IT COULD~~
7 ~~CAUSE AND SO ON AND SO FORTH; IS THAT CORRECT?~~

8 A. YES.

9 Q. ~~YOU ALSO KNEW THAT THERE WERE PEOPLE AT~~
10 ~~DUPONT WHO WERE EXPOSED DIRECTLY TO ASBESTOS?~~

11 A. YES.

12 Q. NOW, IF YOU'LL TURN THE PAGE, SIR, THE FIRST
13 PARAGRAPH OF THE SECOND PAGE TALKS ABOUT DUST
14 CONTROL; IS THAT CORRECT?

15 A. LET ME SEE.

16 Q. TAKE WHATEVER TIME YOU NEED TO READ IT
17 OVER.

18 A. THIS IS THE TYPE OF THING THAT STOPPS MAY
19 HAVE DISCUSSED WITH ME BECAUSE THESE ARE SOME OF
20 THE STEPS THAT WE TOOK TO CONTROL IT IN THE
21 SHIPYARDS.

22 Q. WOULD I BE CORRECT TO SAY THAT YOUR END OF
23 THINGS AS AN INDUSTRIAL HYGIENIST WAS DUST
24 CONTROL?

25 A. IT WOULD INCLUDE DUST CONTROL, YES.

MORGAN - JACOBY

1 Q. YOU WEREN'T INVOLVED IN THE MEDICAL PART OF
2 THINGS --

3 A. NO.

4 Q. -- BUT THE INDUSTRIAL HYGIENE PART OF
5 THINGS?

6 A. CORRECT.

7 Q. TO MAKE THIS PLACE SAFE, WOULD THAT BE
8 CORRECT, SIR?

9 A. YES.

10 Q. AND YOU RECOGNIZED -- DID YOU AGREE WITH DR.
11 STOPPS' STATEMENT THAT THE CONTROL OF THE DISEASE
12 LIES IN THE CONTROL OF DUST?

13 A. I THINK I INDICATED THAT WHEN I TOLD YOU
14 THAT HE PROBABLY DISCUSSED THIS WITH ME, YES.

15 Q. NOW, HE TALKS, THE LAST COUPLE OF SENTENCES
16 ON THAT PARAGRAPH, HE TALKS ABOUT REDUCING THE
17 DUST EXPOSURE OF WORKERS WITH ASBESTOS AND HE
18 TALKS ABOUT A COUPLE OF WAYS THAT CAN BE DONE.

19 ONE, THAT SUITABLE EXHAUST VENTILATING
20 SYSTEMS WHERE ASBESTOS IS HANDLED AND ANOTHER IS
21 THE USE OF DUST RESPIRATORS WHERE EXHAUST
22 VENTILATION IS NOT PRACTICAL AS IS OFTEN THE CASE
23 IN HANDLING INSULATION IN THE PLANT.

24 DO YOU SEE IT, SIR?

25 A. YES.

1 Q. WERE PEOPLE AT DUPONT IN 1965 WHO WORKED
2 WITH ASBESTOS ON A DAILY BASIS, TO YOUR KNOWLEDGE,
3 SIR, GIVEN RESPIRATORS TO WEAR?

4 A. I WAS NOT DIRECTLY IN TOUCH WITH WHAT
5 PREVENTIVE MEASURES WERE BEING USED IN VARIOUS
6 PLANTS IN DUPONT.

7 Q. I'M NOT TRYING TO MAKE YOU CULPABLE, SIR. I
8 JUST WANT TO KNOW WHAT YOU KNEW.

9 A. I'M JUST TRYING TO TELL YOU THE LIMIT OF MY
10 KNOWLEDGE. IF I WERE TO MAKE A PLANT SURVEY
11 SPECIFICALLY TO DETERMINE WHAT PROTECTION WAS
12 BEING AFFORDED AGAINST DUST INHALATION, I WOULD
13 HAVE INQUIRED INTO THOSE THINGS. IT HAD NOT
14 FALLEN INTO MY --

15 Q. AT THE PRESENT TIME LET'S LOOK AT IT IN
16 RETROSPECT FOR A MINUTE. LET'S ASSUME THERE'S A
17 MAN NAMED BILL MILLISON WHO STARTED HIS EMPLOY AT
18 THE CHAMBERS WORKS IN 1951 AS AN INSULATOR AND
19 WORKED WITH ASBESTOS ON A DAILY BASIS. IN YOUR
20 OPINION, SIR, IN 1965 BASED UPON WHAT YOU KNEW AND
21 BASED UPON THIS DOCUMENT, SHOULD HE HAVE BEEN
22 WEARING A RESPIRATOR OR GIVEN A RESPIRATOR WHEN HE
23 WORKED WITH ASBESTOS DUST?

24 (OBJECTION)

25 MS. ALITO: I HAVE TO OBJECT TO THE

1 QUESTION ON THE GROUNDS THAT IT ASKS MR. MORGAN
2 FOR AN EXPERT OPINION. HE'S BEEN PRODUCED HERE
3 TODAY NOT AS AN EXPERT WITNESS BUT AS A FACT
4 WITNESS. IT'S A HYPOTHETICAL QUESTION CALLING FOR
5 AN EXPERT OPINION AND ASSUMING FACTS WITH RESPECT
6 TO MR. MILLISON, WHO'S A REAL PERSON, WHICH FACTS
7 HAVEN'T YET BEEN PROVED.

8 NOW, IF YOU CAN ANSWER THE QUESTION,
9 AS IT'S STATED, YOU CAN.

10 THE WITNESS: MY COMMENT WOULD BE
11 THAT IN ORDER TO ANSWER THAT QUESTION I WOULD HAVE
12 HAD TO MAKE AN INVESTIGATION OF HIS EMPLOYMENT,
13 THE KIND OF TASKS THAT HE WAS ASSIGNED, WHAT MEANS
14 OF PROTECTION WAS AFFORDED TO HIM, WHETHER HE
15 COULD HAVE BEEN FULLY PROTECTED BY OTHER MEANS
16 OTHER THAN RESPIRATORS, ALL THOSE THINGS. I DON'T
17 KNOW. SO I CAN'T ANSWER THAT.

18 BY MR. JACOBY:

19 Q. BASED UPON YOUR KNOWLEDGE IN 1965 AND YOUR
20 POSITION AS AN INDUSTRIAL HYGIENIST, SHOULD HE
21 HAVE BEEN PROTECTED?

22 (OBJECTION)

23 MS. ALITO: SAME OBJECTION.

24 THE WITNESS: YEAH, I THINK I'D
25 RATHER NOT COMMENT ON THAT.

MORGAN - JACOBY

1 BY MR. JACOBY:

2 Q. I APPRECIATE YOU MAY NOT RATHER COMMENT ON
3 IT, BUT MY QUESTION TO YOU, SIR, IS SHOULD HE HAVE
4 BEEN PROTECTED.

5 (OBJECTION)

6 MS. ALITO: CAN YOU CLARIFY -- I HAVE
7 TO ADD AN ADDITIONAL OBJECTION TO THAT QUESTION,
8 SHOULD HE HAVE BEEN PROTECTED, PROTECTED IN WHAT
9 WAY?

10 MR. JACOBY: FROM ASBESTOS DUST.

11 THE WITNESS: I'VE INDICATED EARLIER
12 THAT, ACCORDING TO MY KNOWLEDGE, THAT THERE WAS A
13 RISK OF GETTING ASBESTOSIS, SERIOUS LUNG DISEASE,
14 IF ONE WORKED IN DUST CONTAINING ASBESTOS WITHOUT
15 ADEQUATE PROTECTION. THE SAME WOULD APPLY TO THE
16 MAN YOU JUST NAMED, AS TO ANY OTHER WORKER.

17 BY MR. JACOBY:

18 Q. I SEE. SO, OKAY, LET'S NOT BELABOR IT.

19 IN POINT OF FACT, SIR, DO YOU HAVE PERSONAL
20 KNOWLEDGE AS TO WHEN RESPIRATORS WERE GIVEN OUT TO
21 PEOPLE THAT WORKED WITH OR AROUND ASBESTOS DUST?

22 A. IN THE DUPONT COMPANY?

23 Q. YES SIR.

24 A. NO, I DO NOT.

25 Q. NOW, I'D LIKE TO REFER YOUR ATTENTION TO P

MORGAN - JACOBY

1 MORGAN-2 AND IT'S A DOCUMENT DATED NOVEMBER THE
2 7TH OF 1966. DO YOU SEE THAT, SIR?

3 A. YES. I HAVE THAT HERE. FROM DARBY TO --

4 Q. WHO WAS R.A. DARBY?

5 A. I DON'T REMEMBER HIM SPECIFICALLY. HIS
6 ADDRESS IS GIVEN AS THE EXPERIMENT STATION. FROM
7 TIME TO TIME I DEALT WITH SEVERAL PEOPLE THERE.

8 Q. NOW, SIR, FROM THE TIME OF THE FIRST
9 DOCUMENT THAT YOU RECEIVED, NOVEMBER THE 29TH,
10 1965, UNTIL NOVEMBER THE 7TH, 1966, APPROXIMATELY,
11 A YEAR ELAPSED; IS THAT CORRECT, A LITTLE LESS
12 THAN A YEAR, A COUPLE WEEKS LESS THAN A YEAR?

13 A. YES.

14 Q. HAD YOU INVOLVED YOURSELF DURING THIS
15 ONE-YEAR PERIOD OF TIME, NOVEMBER, '65 THROUGH
16 NOVEMBER '66, WITH THE CONSEQUENCES OF EXPOSURE TO
17 ASBESTOS DUST?

18 A. I HAVE DIFFICULTY RECALLING THE EXTENT OF MY
19 INVOLVEMENT. IT WAS IN LINE WITH MY DUTIES AT
20 HASKELL LABORATORY TO RECEIVE INQUIRIES FROM
21 PEOPLE THROUGHOUT THE COMPANY IN DIFFERENT
22 DEPARTMENTS AND PLANTS. SOME OF THEM -- WELL,
23 THEY NEARLY ALL DEALT WITH POTENTIAL HEALTH
24 PROBLEMS AND ASBESTOS COULD HAVE BEEN AMONG THOSE
25 THAT I WAS HANDLING.

MORGAN - JACOBY

1 Q. ALL RIGHT. SIR, IF YOU'LL TAKE A MINUTE AND
2 REVIEW THIS DOCUMENT.

3 A. I'VE FINISH READING IT.

4 Q. NOW, SIR, AM I CORRECT THAT THIS DOCUMENT
5 ADDRESSED TO YOU SPEAKS OF A VISIT THAT YOU MADE
6 ON NOVEMBER 3RD; IS THAT CORRECT?

7 A. IT SPEAKS OF IT. UNTIL I READ THIS I HAD NO
8 RECOLLECTION OF THAT VISIT.

9 Q. ALL RIGHT. NOW, IT'S ENTITLED TOXICITY OF
10 ASBESTOS; IS THAT CORRECT?

11 A. YES.

12 Q. WHAT DOES TOXICITY MEAN?

13 A. WELL, THAT'S A TITLE CHOSEN BY MR. DARBY AND
14 IT MEANS THE EXERTION OF A TOXIC EFFECT.

15 Q. OKAY.

16 A. HARMFUL.

17 Q. POISONOUS TO THE BODY?

18 A. IT'S ANOTHER WAY OF STATING IT.

19 Q. NOW, IN THIS DISCUSSION, SIR, HE THANKS YOU
20 FOR ATTENDING AND SO ON. AND CAN YOU RECALL AS
21 YOU SIT HERE TODAY WHAT YOU TALKED ABOUT AT THIS
22 VISIT?

23 A. HE DISCUSSED A PROCESS THAT WAS UNDER
24 CONSIDERATION FOR EXTRUDING SOME MATERIAL. I
25 ASSUME, ALTHOUGH I DON'T HAVE ANY DEFINITE

MORGAN - JACOBY

1 RECOLLECTION, THAT IT WAS SOME FORM OF
2 THERMO-PLASTIC MATERIAL, INTO WHICH ASBESTOS HAD
3 BEEN MIXED FOR SOME PURPOSE OR OTHER.

4 Q. I SEE.

5 A. AND MY OPINION WAS ASKED ON THE POTENTIAL
6 HAZARDS IN THAT OPERATION.

7 Q. IF YOU KNOW, WHY WAS IT YOU THAT WENT DOWN
8 TO SPEAK TO THEM, TO MR. DARBY'S GROUP?

9 A. BECAUSE I WAS AN INDUSTRIAL HYGIENIST ON THE
10 STAFF OF HASKELL LABORATORY AND THAT'S WHERE THEY
11 WOULD TURN TO FOR ADVICE ON A MATTER LIKE THIS.

12 Q. ON A MATTER LIKE ASBESTOS? WHEN YOU SAY A
13 MATTER LIKE THIS WHAT DO YOU MEAN?

14 A. TOXIC EFFECTS OF CHEMICALS.

15 Q. AGENTS?

16 A. YEAH, ANY AGENTS.

17 Q. TO YOUR KNOWLEDGE, SIR, AT THIS TIME WHEN
18 YOU WENT DOWN ON NOVEMBER 3RD, 1966 AND GAVE THIS
19 TALK, WERE THERE OTHERS IN THE DUPONT COMPANY MORE
20 INVOLVED WITH THE ASBESTOS SITUATION?

21 A. I DON'T KNOW.

22 Q. WOULD DR. STOPPS HAVE BEEN MORE INVOLVED
23 WITH THE ASBESTOS SITUATION, IF YOU KNOW?

24 A. MY RECOLLECTION IS THAT HE WAS. WHEN HE
25 CAME BACK FROM THE NEW YORK CONFERENCE HE BEGAN TO

MORGAN - JACOBY

1 DEVOTE LOTS OF TIME TO IT.

2 Q. ALL RIGHT.

3 (OBJECTION)

4 MS. ALITO: I HAVE TO BELATEDLY
5 OBJECT TO THE LAST QUESTION CHARACTERIZING MR.
6 MORGAN'S VISIT AS A TALK.

7 MR. JACOBY: I AGREE. WHATEVER YOU
8 WANT TO CALL IT. YOU CAN CALL IT VISIT.

9 THE WITNESS: DISCUSSION.

10 BY MR. JACOBY:

11 Q. INTERFACE IS THAT WHAT THEY SAY TODAY.

12 SIR, LOOKING AT PARAGRAPH THREE OF THIS
13 MEMORANDUM, WHERE IT BEGINS IN VIEW OF YOUR
14 COMMENTS, DO YOU SEE THAT, SIR?

15 A. YES, I SEE IT.

16 Q. IT SAYS WE WILL NOT PURCHASE OR WORK WITH
17 CROCIDOLITE, A FORM OF ASBESTOS, PENDING FURTHER
18 CLASSIFICATION OF THIS MATERIAL.

19 DO YOU RECALL DISCUSSING CROCIDOLITE, A FORM
20 OF ASBESTOS?

21 A. I DON'T RECALL DISCUSSING IT BUT SINCE HE
22 SAYS WHAT HE DOES IN THIS PARAGRAPH, I ASSUME THAT
23 WE DID DISCUSS IT.

24 Q. CAN YOU REMEMBER WHAT YOU DISCUSSED ABOUT
25 IT?

1 A. I DON'T EVEN REMEMBER WHAT HE LOOKED LIKE,
2 BUT THE CONFERENCE IN NEW YORK DID RAISE SOME
3 WARNINGS ABOUT CROCIDOLITE. THAT WAS THE FIRST
4 THAT I KNEW OF ANY PECULIAR PROPERTIES ASCRIBABLE
5 TO CROCIDOLITE. PERHAPS THAT WAS A BASIS OF SOME
6 DISCUSSION.

7 Q. CROCIDOLITE IS A FORM OF ASBESTOS; IS THAT
8 CORRECT?

9 A. YES.

10 Q. A TYPE OF FIBER?

11 A. YES.

12 Q. AND HAD YOU SEEN IN 1966 ANY STUDIES THAT
13 WERE DONE THAT WOULD SUGGEST A CONNECTION BETWEEN
14 CROCIDOLITE ASBESTOS AND MESOTHELIOMA?

15 A. I DON'T RECALL THAT I HAD.

16 Q. THE REASON I SAY THAT TO YOU, AGAIN, NOT TO
17 TRY TO DECEIVE YOU, BUT YOU REFER TO THAT STUDY ON
18 SEVERAL OCCASIONS ON YOUR OTHER DOCUMENTS.

19 A. IS THAT SO? I'D SIMPLY SAY I DON'T
20 REMEMBER.

21 Q. ALL RIGHT. THAT'S ACCEPTABLE. YOU DON'T
22 REMEMBER AS YOU SIT HERE TODAY WHETHER OR NOT YOU
23 SUGGESTED THAT CROCIDOLITE NOT BE USED?

24 A. THIS MENTION IN HIS LETTER OF DISCUSSION OF
25 CROCIDOLITE, IT IS NEWS TO ME. I DIDN'T HAVE ANY

MORGAN - JACOBY

1 DEFINITE RECOLLECTION OF IT UNTIL I READ THAT.

2 Q. TO YOUR KNOWLEDGE, SIR, DID DUPONT STOP
3 PURCHASING CROCIDOLITE ASBESTOS PRODUCTS?

4 A. I DON'T KNOW.

5 Q. TO YOUR KNOWLEDGE DID YOU EVER RECOMMEND
6 THAT CROCIDOLITE ASBESTOS PRODUCTS NO LONGER BE
7 USED?

8 A. I DON'T REMEMBER.

9 Q. AND YOU DON'T REMEMBER WHETHER OR NOT YOU
10 TOLD MR. DARBY TO STOP USING CROCIDOLITE ASBESTOS
11 PRODUCTS?

12 (OBJECTION)

13 MS. ALITO: OBJECTION. ASKED AND
14 ANSWERED.

15 BY MR. JACOBY:

16 Q. YOU DON'T HAVE TO ANSWER THAT, MR. MORGAN.

17 NOW, ON PARAGRAPH FOUR, SIR, TO YOUR
18 KNOWLEDGE WAS ANY EMPLOYEE OF DUPONT TOLD THAT
19 THERE WAS A SUSPICION THAT ONE TYPE OF ASBESTOS
20 FIBER WAS MORE POTENTIALLY HARMFUL THAN OTHER
21 TYPES OF ASBESTOS FIBER?

22 A. THEY VERY DEFINITELY WERE. I CAN'T TELL YOU
23 THE DATE ON WHICH IT WAS DONE OR TO WHOM IT WAS
24 DONE.

25 Q. CAN YOU GIVE ME A ROUGH APPROXIMATION OF

MORGAN - JACOBY

1 TIME?

2 A. I KNOW FOR A FACT THAT IN 1970 A
3 COMPANY-WIDE CONFERENCE WAS HELD FOR THE PURPOSE
4 OF DISSEMINATING INFORMATION.

5 Q. WE'LL GET THERE.

6 A. ALL RIGHT. AND CROCIDOLITE WAS MENTIONED.

7 Q. ALL RIGHT. PRIOR, BACK IN '66 --

8 A. I DON'T KNOW.

9 Q. YOU DON'T KNOW WHETHER OR NOT ANY EMPLOYEE
10 OF DUPONT WAS TOLD THAT THERE WAS A SUSPICION
11 AMONG HIGHER-UPS, LET'S SAY, THAT IT MAY BE MORE
12 DANGEROUS THAN OTHER FIBERS?

13 A. IN ANSWERING THAT I'M NOT GOING TO SAY I
14 DON'T REMEMBER. I'M GOING TO SAY I HAD NO REASON
15 TO KNOW. I WAS NOT IN DIRECT CONTACT WITH THE
16 PEOPLE WHO WERE WORKING WITH ASBESTOS.

17 Q. SHOULD THEY HAVE BEEN TOLD?

18 (OBJECTION)

19 MS. ALITO: OBJECTION ON THE GROUNDS
20 THAT IT CALLS FOR AN EXPERT OPINION.

21 MR. JACOBY: WELL, I DON'T THINK THAT
22 IT REQUIRES AN EXPERT OPINION. THE MAN HAD A HIGH
23 JOB CLASSIFICATION, A HIGH JOB TITLE WITH DUPONT
24 AND I'M JUST ASKING HIM IF THEY SHOULD HAVE BEEN
25 TOLD. IT'S NOT SUBJECT TO AN EXPERT WITNESS --

MORGAN - JACOBY

1 MS. ALITO: I MAINTAIN MY OBJECTION
2 AND I ALSO OBJECT ON THE GROUND THAT IT'S NOT
3 SPECIFIC ENOUGH. YOU'RE USING THE TERM
4 "EMPLOYEE". THERE ARE THOUSANDS AND THOUSANDS OF
5 DUPONT EMPLOYEES.

6 MR. JACOBY: I'LL REPHRASE THE
7 QUESTION.

8 BY MR. JACOBY:

9 Q. IF AN INDIVIDUAL WERE WORKING WITH ASBESTOS
10 AS AN INSULATOR ON A DAILY BASIS IN 1966, BASED
11 UPON YOUR DISCUSSIONS WITH MR. DARBY AND
12 EVERYTHING ELSE THAT YOU KNEW, EVERYTHING ELSE
13 THAT WAS IN YOUR HEAD IN 1966, WOULD YOU HAVE TOLD
14 THAT MAN THAT HE WAS WORKING WITH A DANGEROUS
15 SUBSTANCE?

16 (OBJECTION)

17 MS. ALITO: SAME OBJECTION, BUT YOU
18 CAN ANSWER THE QUESTION, MR. MORGAN.

19 THE WITNESS: I DON'T RECALL THE DATE
20 AT WHICH I BECAME CONVINCED THAT CROCIDOLITE WAS,
21 INDEED, A DISTINCT FORM OF ASBESTOS WHICH WAS MORE
22 DANGEROUS THAN OTHER FORMS.

23 BY MR. JACOBY:

24 Q. I DON'T MEAN TO ARGUE WITH YOU, SIR, BUT I
25 HAVE THIS DOCUMENT AND I WANT TO GET TO THE BOTTOM

MORGAN - JACOBY

1 OF IT. THIS MAN IS SAYING TO YOU BASED ON YOUR
2 COMMENTS, OKAY, IN VIEW OF YOUR COMMENTS, WE HAD
3 NOT PURCHASED OR WORKED WITH CROCIDOLITE. AND I
4 AM ASSUMING THAT YOU MADE SOME COMMENT SAYING
5 DON'T PURCHASE OR WORK WITH CROCIDOLITE OR
6 SOMETHING HAVING TO DO WITH CROCIDOLITE. AND ALL
7 I WANT TO KNOW IS WHAT YOUR FEELINGS ABOUT
8 CROCIDOLITE WERE THAT PROMPTED THIS MAN TO SAY
9 THIS TO YOU.

10 (OBJECTION)

11 MS. ALITO: OBJECTION ON THE GROUND
12 THAT MR. MORGAN HAS ALREADY TESTIFIED THAT HE HAS
13 NO INDEPENDENT RECOLLECTION OF WHAT HAPPENED AT
14 THE TIME THAT THIS DOCUMENT WAS WRITTEN. HE
15 HASN'T DISPUTED THE AUTHENTICITY OF THE DOCUMENT.
16 HE'S STATED THAT HE DOESN'T RECALL SPECIFICALLY
17 AND INDEPENDENTLY FROM THE DOCUMENT WHAT WENT ON.
18 BY MR. JACOBY:

19 Q. IS THAT CORRECT, SIR?

20 A. THAT'S CORRECT. AND I MIGHT ADD THAT IN
21 DISCUSSING POTENTIAL HEALTH RISKS WITH DUPONT
22 PEOPLE WHO CAME TO US FOR ADVICE, WE WOULD
23 FREQUENTLY TAKE THE CONSERVATIVE APPROACH. AND AT
24 THAT TIME IN 1966 IN MY MIND THAT MAY HAVE BEEN --
25 THERE ARE SUSPICIONS ABOUT CROCIDOLITE, WE BETTER

MORGAN - JACOBY

1 BE CAREFUL, IN ORDER TO BE COMPLETELY SAFE. OR I
2 MAY HAVE TAKEN SOME OTHER ATTITUDE THAT I'M
3 THOROUGHLY CONVINCED. I DON'T RECALL THE TIMING.

4 Q. ALL RIGHT. SO LET'S GO ON THE WORDS. WHEN
5 HE SAID TO YOU WE WILL NOT PURCHASE OR WORK WITH
6 THE CROCIDOLITE FORM OF ASBESTOS PENDING FURTHER
7 CLASSIFICATION OF THIS MATERIAL, DID YOU WRITE HIM
8 BACK ANYTHING SAYING THAT'S TOO STRONG, THAT'S NOT
9 WHEN I SAID, YOU MISUNDERSTOOD OR ANYTHING LIKE
10 THAT?

11 A. I WOULD NOT HAVE DONE THAT.

12 Q. YOU COULD LIVE WITH HIS STATEMENT TO YOU WE
13 WILL NOT PURCHASE OR WORK WITH THE CROCIDOLITE
14 FORM?

15 A. YES.

16 Q. NOW, SIR, IN PARAGRAPH FOUR IT SAYS -- LET
17 ME GIVE YOU A CHANCE TO LOOK IT OVER.

18 A. I SEE IT.

19 Q. HASKELL LABORATORY WILL KEEP US INFORMED OF
20 FUTURE DEVELOPMENTS IN THEIR STUDY OF THE
21 TOXICOLOGY OF ASBESTOS, THE FIRST SENTENCE THERE.

22 IN FACT, WAS HASKELL LABORATORY CONDUCTING
23 STUDIES ON THE TOXICOLOGY OF ASBESTOS?

24 A. I CAN'T RECALL WHAT SPECIFICALLY WAS BEING
25 DONE AT THAT DATE. STOPPS DIDN'T SUDDENLY LOSE

MORGAN - JACOBY

1 ALL INTEREST IN IT. I KNOW THAT. BUT I DON'T
2 KNOW THE EXTENT OF THE PLANS THAT WERE GOING ON
3 DEVELOPING THE STUDY.

4 Q. ALL RIGHT. NOW, SIR, THE NEXT TO THE LAST
5 PARAGRAPH ON PAGE TWO, IN RECALLING OUR
6 DISCUSSION --

7 A. YES.

8 Q. NOW, THAT'S A DISCUSSION BASICALLY, SIR,
9 WOULD YOU AGREE WITH ME, OF THESE TYPES OF
10 ASBESTOS DISEASE, ASBESTOSIS, CANCER OF THE LUNG
11 AND MESOTHELIOMA?

12 A. YES.

13 Q. NOW, WHEN MR. DARBY SAYS TO YOU ON NOVEMBER
14 THE 7TH, 1966 IN RECALLING OUR DISCUSSION I
15 BELIEVE YOU MENTIONED -- AND I'M NOT GOING TO READ
16 THE REST OF IT INTO THE RECORD, IT SAYS WHAT IT
17 SAYS. DID YOU TELL HIM THESE THINGS?

18 A. I ASSUME FROM WHAT HE HAS WRITTEN HERE THAT
19 WE DID MENTION IN THE COURSE OF OUR DISCUSSING
20 THESE THINGS.

21 Q. DID YOU MENTION IN THE COURSE OF YOUR
22 DISCUSSION THAT ASBESTOSIS CAN LEAD TO CANCER IN
23 LOWER LOBES OF THE LUNG?

24 A. I DON'T KNOW THAT I DID. IT WAS A
25 POSSIBILITY THAT WAS RECOGNIZED AT THAT TIME.

MORGAN - JACOBY

1 Q. AND DO YOU RECALL IF YOU DISCUSSED THE
2 DISEASE MESOTHELIOMA?

3 A. I HAVE NO DISTINCT RECOLLECTION THAT I DID.

4 Q. SO, IN NOVEMBER OF 1966, ON THE 3RD OF
5 NOVEMBER, YOU WENT TO MR. DARBY, WHEREVER HE WAS,
6 YOU HAD A DISCUSSION WITH HIM AND AM I CORRECT
7 THAT YOU DON'T RECALL IF ALL OF THE THINGS THAT
8 WE'VE NOW DISCUSSED IN THIS MEMORANDUM WERE, IN
9 FACT, DISCUSSED?

10 A. I DON'T LIKE TO ANSWER THAT QUESTION IN THE
11 FORM IN WHICH YOU'VE GIVEN IT TO ME. I DON'T
12 DOUBT THAT MR. DARBY GAVE A TRUE RECOLLECTION OF
13 -- A TRUE DESCRIPTION ACCORDING TO HIS
14 RECOLLECTION OF WHAT WAS DISCUSSED. I WOULDN'T
15 QUIBBLE WITH HIS WORDS.

16 Q. BUT IN TERMS OF AN INDEPENDENT RECOLLECTION
17 TODAY, REALLY WHAT I'M GETTING AT IS CHAPTER AND
18 VERSE. DO YOU REMEMBER THE ROOM YOU WERE IN, DO
19 YOU REMEMBER THE TIME OF DAY, DO YOU REMEMBER
20 WHERE YOU WERE SITTING? I'M TRYING TO FIND OUT
21 WHAT YOU REMEMBER.

22 A. I DO NOT REMEMBER THOSE THINGS.

23 Q. SIR, IS THIS SECOND, NEXT TO THE LAST
24 PARAGRAPH ON PAGE TWO, WOULD THAT BE AN ACCURATE
25 REFLECTION OF WHAT YOU BELIEVED ASBESTOS COULD DO

MORGAN - JACOBY

1 IN 1966?

2 A. THAT DOES NOT ESTABLISH ANY CERTAINTY IN MY
3 MIND ABOUT ANY OF THESE EFFECTS OCCURRING. I
4 SIMPLY ASSUMED FROM READING IT THAT WE DID DISCUSS
5 THESE THINGS. THEY CERTAINLY HAD COME UP IN TERMS
6 OF THAT NEW YORK CONFERENCE AND HAD BEEN WIDELY
7 DISCUSSED ELSEWHERE AFTER THAT.

8 Q. IT WAS DISCUSSED IN ASSOCIATION WITH
9 CROCIDOLITE OR WAS IT A SEPARATE, IF YOU KNOW, IF
10 YOU REMEMBER, DISCUSSION?

11 A. I DON'T REMEMBER WHETHER IT WAS SEPARATE.

12 Q. AND AT THIS TIME, SIR, IN 1966, DO YOU KNOW
13 IN TERMS OF QUANTITY HOW MUCH ASBESTOS WAS BEING
14 PURCHASED BY THE DUPONT COMPANY?

15 A. NO.

16 Q. OKAY. ONWARD. I'D LIKE TO SHOW YOU WHAT'S
17 BEEN MARKED P MORGAN-3 AND IT'S A ONE-PAGE
18 DOCUMENT, SIR. IT'S DATED JANUARY THE 10TH,
19 1968. IT PURPORTS TO BE FROM DR. STOPPS TO A MR.
20 KENNETH KEUPER AND YOU ARE NOTED AS A CARBON COPY
21 RECIPIENT. DO YOU SEE THAT?

22 A. YES.

23 Q. DO YOU AGREE WITH HIS STATEMENT, SIR, IN THE
24 THIRD PARAGRAPH?

25 A. LET ME READ THAT.

MORGAN - JACOBY

1 Q. I'M SORRY. GO AHEAD. READ THE WHOLE
2 DOCUMENT, NOT ONLY THE THIRD PARAGRAPH.

3 A. I'M FINISHED READING IT.

4 Q. OKAY. NOW, IN THE FIRST PARAGRAPH, SIR, IT
5 STATES I WAS PLEASED TO HEAR FROM YOU YESTERDAY
6 THAT CONSIDERATION IS BEING GIVEN TO MONITORING OF
7 THE DUST LEVELS AT TWENTY-ONE CONSTRUCTION SITES
8 AROUND THE COUNTRY.

9 DID YOU BELIEVE THAT IT WAS APPROPRIATE AT
10 THAT TIME TO BEGIN DUST MONITORING FOR ASBESTOS
11 DUST?

12 A. I'M NOT FAMILIAR WITH THAT SUGGESTION THAT
13 IT BE DONE AND I CERTAINLY WOULD NOT HAVE OPPOSED
14 IT IF I HAD EVER BEEN ASKED ABOUT IT.

15 Q. FOR HOW LONG, IF YOU CAN TELL ME, PRIOR TO
16 JANUARY 10TH, 1968, WERE YOU OF THE OPINION THAT
17 MONITORING FOR DUST WAS SOMETHING THAT SHOULD HAVE
18 BEEN DONE?

19 (OBJECTION)

20 MS. ALITO: I OBJECT TO THE FORM OF
21 THAT QUESTION. HE HASN'T STATED THAT HE BELIEVED
22 PRIOR TO '68 THAT THERE SHOULD HAVE BEEN DUST
23 MONITORING.

24 MR. JACOBY: WELL, WE'LL ASK THAT
25 QUESTION, FIRST.

MORGAN - JACOBY

1 BY MR. JACOBY:

2 Q. DID YOU BELIEVE PRIOR TO 1968 THERE SHOULD
3 ~~BE MONITORING~~ FOR ASBESTOS DUST BASED UPON
4 EVERYTHING THAT YOU KNEW ABOUT ASBESTOS AND
5 DISEASE?

6 A. I'M GOING TO ANSWER THAT THIS WAY: IF I HAD
7 BEEN CALLED UPON AND GIVEN THE ASSIGNMENT OF
8 MAKING AN INVESTIGATION OF A POTENTIALLY HAZARDOUS
9 ASBESTOS OPERATION, MONITORING OF CONCENTRATION
10 WOULD HAVE BEEN ONE OF THE THINGS THAT I WOULD
11 HAVE RECOMMENDED.

12 Q. WHAT ELSE WOULD YOU HAVE RECOMMENDED?

13 A. A LOT WOULD DEPEND UPON THE RESULT OF THE
14 MEASUREMENTS OF DUST CONCENTRATIONS, THAT
15 INDUSTRIAL HYGIENE, SIR, BY THE PURPOSE OF THE
16 MEASUREMENTS IN THOSE DAYS, PRIOR TO OSHA, WERE TO
17 FIND OUT WHAT THE EXTENT OF THE HAZARD WAS AND
18 WHAT PARTS OF THE OPERATION GAVE RISE TO HAZARDOUS
19 CONCENTRATION OF DUST IN THE AIR. THAT WOULD BE A
20 GUIDELINE THEN TO CONTROL MEASURES, IF THE DUST
21 CONCENTRATIONS INDICATED THAT THEY WERE NECESSARY.

22 Q. WHEN YOU SAY THE DUST CONCENTRATION, SIR,
23 ARE YOU TALKING ABOUT TLV'S?

24 A. WELL, AT THAT TIME WE DID HAVE A RECOMMENDED
25 TLV AND THE DUST MEASUREMENTS WOULD HAVE BEEN MADE

MORGAN - JACOBY

1 WITH THAT IN MIND, BUT THAT WOULD NOT HAVE BEEN
2 THE ONLY CRITERIA.

3 Q. NOW, A TLV, SIR, IS THAT SPEAKING AS AN
4 INDUSTRIAL HYGIENIST, IS THAT AN ABSOLUTE STANDARD
5 OR IS THAT MORE ALONG THE LINES OF A PROPOSAL, A
6 GUIDELINE?

7 A. IT'S NOT AN ABSOLUTE STANDARD. FOR YEARS
8 THE PREFACE TO THE ANNUAL PUBLICATION OF THE TLV'S
9 CARRIED THE STATEMENT THAT THESE VALUES ARE NOT
10 INTENDED TO BE SHARP DIVIDING LINES BETWEEN SAFE
11 AND UNSAFE. THAT'S WHY I QUALIFIED MY ANSWER BY
12 SAYING THAT WOULD HAVE BEEN ONE OF THE CRITERIA.
13 OTHERS WOULD HAVE BEEN SINCE IT'S NOT A SHARP LINE
14 BETWEEN SAFE AND UNSAFE, IF YOU FIND AN AVERAGE
15 CONCENTRATION OF SIX AND THE TLV IS FIVE, YOU'RE
16 GOING TO RECOMMEND DUST CONTROL. IT'S TOO CLOSE.

17 Q. WHAT IF YOU FIND CONCENTRATIONS BELOW THE
18 TLV? COULD YOU AS AN INDUSTRIAL HYGIENIST COME TO
19 THE CONCLUSION THAT IT WAS THEN SAFE?

20 A. VERY OFTEN WE HAD TO DO THAT. IN
21 INVESTIGATING A COMPLETE PROCESS WE'D RULE OUT
22 CERTAIN PARTS OF THE PROCESS THAT CONTAINED NO
23 RISK.

24 Q. WELL, YOU WERE A MEMBER OF THE ACGIH; IS
25 THAT CORRECT, AMERICAN CONFERENCE OF GOVERNMENTAL

1 AND INDUSTRIAL HYGIENISTS?

2 A. I WAS WHEN I WAS IN THE U.S. NAVY. LATER ON
3 I WAS SIMPLY A CONSULTANT TO THEM.

4 Q. A LIFETIME MEMBER; IS THAT NOT CORRECT?

5 A. I AM NOW, YES.

6 Q. IT WAS THE ACGIH THAT ESTABLISHED THE TLV'S;
7 IS THAT NOT CORRECT?

8 A. CORRECT.

9 Q. ISN'T IT TRUE THAT THE ACGIH WENT OUT OF ITS
10 WAY ON MANY OCCASIONS TO SAY THESE AREN'T
11 STANDARDS, THEY'RE JUST GUIDELINES, JUST
12 PROPOSALS?

13 A. THAT'S RIGHT.

14 Q. AND ISN'T IT TRUE, AND I'M TALKING ABOUT
15 ASBESTOS NOW, NOT TLV'S FOR OTHER SUBSTANCES, THAT
16 DON'T THINK THAT IF YOU HAVE CONCENTRATIONS BELOW
17 THIS THAT IT'S SAFE, THAT'S NOT WHAT WE'RE SAYING;
18 ISN'T THAT CORRECT?

19 A. I GUESS THAT'S A LOGICAL SEQUENCE TO THE
20 STATEMENT THAT THEY'RE NOT SHARP DIVIDING LINES
21 BETWEEN SAFE AND UNSAFE.

22 Q. NOW, ARE YOU FAMILIAR WITH DREESSEN, THE
23 DREESSEN STUDY?

24 A. YES.

25 Q. AND DREESSEN --

MORGAN - JACOBY

1 (OBJECTION)

2 MS. ALITO: I HAVE TO OBJECT TO THIS
3 LINE OF QUESTIONING BECAUSE I THINK WE'RE GOING
4 BACK HEAVILY INTO THE AREA OF EXPERT TESTIMONY AND
5 I HAVE TO REITERATE THAT MR. MORGAN IS HERE AS A
6 FACT WITNESS. AND IT IS APPROPRIATE TO QUESTION
7 HIM ABOUT HIS STATE OF KNOWLEDGE AT CERTAIN
8 PERIODS RELEVANT TO THE DOCUMENTS AND HIS
9 INVOLVEMENT IN WORK AT DUPONT, BUT TO START GOING
10 INTO THESE BROAD AREAS THAT ARE CLEARLY EXPERT
11 TESTIMONY AREAS, I THINK IS INAPPROPRIATE.

12 MR. JACOBY: LET ME STATE, AGAIN,
13 THAT I AM NOT HERE TO ASK FOR ANY EXPERT WITNESS
14 TESTIMONY. I'M HERE FOR ONE PURPOSE AND ONE
15 PURPOSE ONLY, TO FIND OUT THE STATE OF YOUR MIND
16 AND THE STATE OF YOUR KNOWLEDGE. IT JUST SO
17 HAPPENS THAT MR. MORGAN WAS AN EXPERT AND THE
18 STATE OF HIS MIND IS AN AREA THAT TO, WE LAYMEN,
19 ARE EXPERT AREAS. I'M NOT ASKING HIM TO EXPRESS
20 ANY OPINIONS, JUST TO TELL ME WHAT HE KNOWS.
21 THOSE AREAS ARE AREAS OF EXPERTISE. I JUST CAN'T
22 SAY IT ANY OTHER WAY.

23 BY MR. JACOBY:

24 Q. DREESSEN ESTABLISHED A TLV, DIDN'T HE?

25 A. I WOULDN'T USE THAT TERM.

MORGAN - JACOBY

1 (OBJECTION).

2 MS. ALITO: I HAVE TO REITERATE THE
3 OBJECTION. MR. MORGAN'S CURRENT KNOWLEDGE WITH
4 RESPECT TO DREESSEN OR ANYBODY ELSE, I THINK, IS
5 TOTALLY IRRELEVANT TO THIS CASE. I THINK IT'S
6 APPROPRIATE IF YOU -- NOT TO TELL YOU HOW TO
7 CONDUCT YOUR EXAMINATION, I'M SURE YOU WOULDN'T
8 LET ME EVEN IF I TRIED, BUT HIS KNOWLEDGE OF
9 DREESSEN AT THE TIME THAT THIS EXHIBIT WAS WRITTEN
10 OR THE STATE OF HIS KNOWLEDGE AT THAT TIME,
11 CERTAINLY YOU'RE FREE TO GO INTO THAT, BUT TO SIT
12 HERE RIGHT NOW AND ASK HIM TO RECALL THE VARIOUS
13 AUTHORS, I THINK IS TOTALLY OUT OF BOUNDS.

14 MR. JACOBY: WELL, IF YOU LET ME JUST
15 ASK A FEW MORE QUESTIONS YOU'D SEE THAT MR. MORGAN
16 HAS ANY NUMBER OF DOCUMENTS WHERE HE TALKS ABOUT
17 TLV'S AND TLV'S ARE THE SUM AND SUBSTANCE OF WHAT
18 THE MAN DID. HE WAS AN EXPERT IN THIS AREA. HE
19 WORKED WITH THRESHOLD LIMIT VALUES. HE
20 RECOMMENDED THRESHOLD LIMIT VALUES. HE DID AIR
21 MONITORING TO SEE IF THRESHOLD LIMIT VALUES WERE
22 COMPLIED WITH. AND ALL I'M ASKING HIM IS IF HE
23 KNEW WHAT THE THRESHOLD LIMIT VALUE WAS AT ONE
24 POINT IN TIME OF EMPLOYMENT. I'M NOT GOING TO ASK
25 HIM ANY OPINIONS, DID HE AGREE OR DISAGREE OR ANY

MORGAN - JACOBY

1 OF THAT. I'M JUST ASKING HIM DID HE KNOW THAT
2 THEY EXISTED AND EITHER HE DID OR DIDN'T.

3 MS. ALITO: OKAY. OUR POSITIONS HAVE
4 BOTH BEEN STATED. I CONTINUE WITH MY OBJECTION TO
5 THIS LINE OF QUESTIONING BUT WE SHOULD GO
6 FORWARD. IF YOU COULD READ BACK THE QUESTION OR
7 RESTATE IT.

8 BY MR. JACOBY:

9 Q. SIR, YOU CAN SEE WHERE IN P MORGAN-3. THE
10 DOCUMENT WE'VE BEEN DISCUSSING, IT SAYS IN LINE
11 WITH THIS CURRENT FEELING, I AM ENCLOSING THE
12 TENTATIVE VALUES BEING SUGGESTED BY THE ACGIH FOR
13 THE TLV FOR ASBESTOS. OKAY?

14 A. YES.

15 Q. THE RECOMMENDATION MADE IS NOTHING BUT A
16 PROPOSAL AT THIS TIME BUT IT IS INDICATIVE OF THE
17 TRENDS OF THE INDUSTRIAL HYGIENE THINKING.

18 MY ONLY REAL QUESTION TO YOU, SIR, IS DO YOU
19 AGREE WITH THAT? THAT'S ALL I'M TRYING TO ASK
20 YOU.

21 A. THERE WAS A VALUE OF FIVE MILLION PARTICLES
22 PER CUBIC FOOT OF AIR, WHICH ORIGINALLY WAS
23 SUGGESTED BY DREESSEN AS A TENTATIVE VALUE. AND
24 IT REMAINED IN THE TLV LIST UNTIL ABOUT THIS YEAR,
25 1968, AT WHICH TIME THE COMMITTEE BEGAN TO

1 CONSIDER A CHANGE.

2 Q. I UNDERSTAND.

3 A. AND I THINK THAT'S WHAT STOPPS IS TALKING
4 ABOUT HERE.

5 Q. ALL RIGHT. OBVIOUSLY, I THINK THAT'S WHAT
6 HE IS TALKING ABOUT. WHEN DREESSEN RECOMMENDED
7 THAT TLV, IN YOUR MIND, SIR, WAS THAT A PROPOSAL,
8 A GUIDELINE OR AN ABSOLUTE STANDARD IN INDUSTRIAL
9 HYGIENE?

10 A. I THINK FOR AN ANSWER TO THAT YOU SHOULD GO
11 TO THE DREESSEN PAPER ITSELF AND THE WORDS THAT HE
12 USED IN RECOMMENDING THAT.

13 Q. AND THE WORDS THAT HE USED WERE PROPOSAL?

14 A. EXACTLY.

15 Q. AND MY QUESTION IS -- I KNOW WHAT DREESSEN
16 SAID. I WANT TO KNOW WHAT MORGAN SAYS, DID YOU
17 AGREE WITH THAT?

18 A. I HAVE A DEFINITE OPINION ON THAT.

19 Q. I DON'T WANT YOUR EXPERT OPINION.

20 A. IT HAS NOTHING AT ALL TO DO WITH THE DUPONT
21 PLANT, PER SE.

22 (OBJECTION) MS. ALITO: WELL, I HAVE TO OBJECT.
23 YOU JUST ASKED MR. MORGAN, A FACT WITNESS, WHETHER
24 HE AGREES WITH WHAT DREESSEN STATED AND THAT'S AN
25 EXPERT OPINION.

1 MR. JACOBY: ALL RIGHT.

2 BY MR. JACOBY:

3 Q. DID YOU BELIEVE, SIR, AT THE TIME OF THIS
4 DOCUMENT, JANUARY 10TH, 1968, THAT THERE WAS A
5 LEVEL OF EXPOSURE TO ASBESTOS THAT WAS SAFE?

6 A. I BELIEVE IN PRINCIPLE THAT IT'S TRUE OF ANY
7 TOXIC MATERIAL, THE TOXICITY DEPENDS ON THE DOSE.

8 Q. AND THAT THERE ARE LEVELS THAT ARE SAFE?

9 A. SURE.

10 Q. OKAY. NOW, TOWARDS THE END OF THAT LARGE
11 PARAGRAPH THERE, DR. STOPPS TALKS ABOUT SMOKING AS
12 IT RELATES TO ASBESTOS EXPOSURE. DO YOU SEE THAT,
13 A FURTHER STRAW IN THE WIND IS WHERE IT STARTS?

14 A. YES, I SAW THAT.

15 Q. HAD YOU RECEIVED ANY INFORMATION BACK IN THE
16 1964 TO '68 PERIOD OF TIME HAVING TO DO WITH
17 ASBESTOS EXPOSURE AND SMOKING, CIGARETTE SMOKING?

18 A. I HAD NO FIRSTHAND KNOWLEDGE OF ANY
19 RELATIONSHIP. I DID HEAR OF RELATIONSHIPS THAT
20 HAD BEEN INVESTIGATED BY OTHERS.

21 Q. AND WHAT DID YOU HEAR, SIR?

22 A. THAT THERE SEEMED TO BE AN INCREASED
23 INCIDENT OF LUNG CANCER IN PEOPLE WHO HAD
24 ASBESTOSIS AND SMOKED OVER THOSE WHO HAD
25 ASBESTOSIS AND DID NOT SMOKE.

MORGAN - JACOBY

1 Q. DID YOU KNOW WHETHER OR NOT DUPONT HAD IN
2 ITS EMPLOY INDIVIDUALS WHO WERE EXPOSED TO
3 ASBESTOS AND SMOKED?

4 A. ABSOLUTELY NOT, I DIDN'T KNOW.

5 Q. DID YOU MAKE ANY EFFORT TO FIND OUT?

6 A. NO. IN MY POSITION I DIDN'T TAKE THE
7 INITIATIVE IN GOING OUT AND LOOKING FOR THINGS. I
8 WAS -- WE DIVIDED THE TASKS AMONG THE AVAILABLE
9 PERSONNEL.

10 Q. WHO WAS THAT THAT TOLD YOU --

11 A. I WAS NOT SENT OUT TO INVESTIGATE SMOKING.

12 Q. WHO WAS IT THAT TOOK THE INIATIVE, IF YOU
13 KNOW?

14 A. IN THIS PARTICULAR MATTER OF SMOKING AND
15 ASBESTOS?

16 Q. WELL, SMOKING -- ASBESTOS GENERALLY, THE
17 HEALTH EFFECTS OF ASBESTOS. WAS THERE AN
18 INDIVIDUAL IN THE DUPONT COMPANY THAT YOU KNEW
19 THAT TOOK THE INIATIVE IN THIS INQUIRY?

20 A. WELL, I THINK IT'S EVIDENT FROM THE
21 CORRESPONDENCE THAT YOU SHOWED ME THAT STOPPS WAS
22 QUITE ACTIVE IN DOING THAT. I DON'T KNOW THE
23 EXACT ASSIGNMENT ON WHICH HE WAS WORKING.

24 Q. AND IN TERMS OF YOUR DIRECT COMMUNICATION
25 WITH DR. STOPPS, WHICH WENT BACK TO -- EXCUSE ME,

MORGAN - JACOBY

1 I MISCHARACTERIZED THAT, NOT YOUR DIRECT
2 COMMUNICATION WITH DR. STOPPS, BUT IN TERMS OF DR.
3 STOPPS' COMMUNICATION OF WHICH YOU RECEIVED A COPY
4 IN 1965 HE HAD ALREADY BEEN TALKING ABOUT ASBESTOS
5 DISEASE AND WATCHING PEOPLE AND PULLING HEALTH
6 RECORDS AND SO ON; ISN'T THAT CORRECT, IN '65?

7 A. I ASSUME THAT'S CORRECT.

8 Q. WELL --

9 A. IT STARTED AFTER 1964.

10 Q. AND WE DISCUSSED THAT IN SOME DETAIL AND I'M
11 TALKING ABOUT P MORGAN-1, THE NOVEMBER 29, '65
12 LETTER WHERE DR. STOPPS RAISED ALL OF THESE
13 ISSUES.

14 NOW, SIR, TURNING YOUR ATTENTION TO P
15 MORGAN-4 AND THAT'S DATED NOVEMBER THE 5TH OF
16 1968. DO YOU SEE THAT?

17 A. YES.

18 Q. AND THAT IS FROM YOU TO DR. J.A. ZAPP AND
19 YOU TOLD US A LITTLE WHILE AGO THAT HE'S ONE OF
20 THE PEOPLE YOU REPORTED DIRECTLY TO; IS THAT
21 CORRECT?

22 A. AND HE WAS THE DIRECTOR OF HASKELL
23 LABORATORY. I REPORTED TO AN INTERMEDIARY TO HIM
24 AND I WAS FREE TO CORRESPOND DIRECTLY WITH HIM.

25 Q. AND ON THIS OCCASION YOU DID?

MORGAN - JACOBY

1 A. I DID, YEAH.

2 Q. AND YOU TALK ABOUT A NEW YORKER ARTICLE ON
3 ASBESTOS. OKAY.

4 A. OH, YEAH.

5 Q. AM I CORRECT, SIR, THAT YOU READ THE NEW
6 YORKER ARTICLE ON ASBESTOS?

7 A. I SUPPOSE I MUST HAVE.

8 Q. I GOT TO TAKE IT ONE STEP AT A TIME. AND
9 APPARENTLY YOU SENT A COPY OF THAT ARTICLE TO --

10 A. TO ZAPP.

11 Q. TO DR. ZAPP; IS THAT CORRECT?

12 A. RIGHT. I THINK I DID.. I SAID SO.

13 Q. I'M NOT ASKING YOU TO GO WAY OUT ON A LIMB
14 HERE OR ANYTHING.

15 WHAT WAS CONTAINED IN YOUR ARTICLE, THE NEW
16 YORKER ARTICLE?

17 A. I DON'T REMEMBER.

18 Q. WELL, YOU THOUGHT ENOUGH OF IT TO CUT IT OUT
19 AND SEND IT TO HIM?

20 A. YES. AND AT THE TIME I MUST HAVE BEEN
21 INTERESTED IN ITS EFFECT OF WHAT WAS SAID IN IT,
22 BUT AT THIS DATE I DON'T RECALL WHICH ARTICLE THAT
23 WAS. I REMEMBER A SERIES OF ARTICLES IN THE NEW
24 YORKER MAGAZINE ON ASBESTOS, BUT I DON'T RECALL
25 THAT THEY CAME AS EARLY AS 1968.

MORGAN - JACOBY

1 Q. AS OF THIS TIME, THE TIME THAT YOU SENT THE
2 NEW YORKER ARTICLE TO ZAPP, DO YOU KNOW WHAT WAS
3 BEING DONE BY DR. STOPPS AND HIS COLLEAGUES IN
4 TERMS OF PROTECTING EMPLOYEES FROM THE POTENTIAL
5 HEALTH HAZARDS OF ASBESTOS?

6 A. I'VE SEEN HERE TODAY IN SOME OF THESE ITEMS
7 OF CORRESPONDENCE THAT STOPPS WAS ACTIVE IN
8 TALKING ABOUT, AT LEAST IN PROMOTING, VARIOUS
9 LINES OF INVESTIGATION.

10 Q. AND DID YOU BELIEVE THAT THAT INQUIRY WAS A
11 PROPER INQUIRY IN LIGHT OF WHAT YOU KNEW ABOUT
12 ASBESTOS?

13 A. YES.

14 Q. DID YOU BELIEVE THAT INDIVIDUALS SHOULD BE
15 TOLD?

16 A. WELL, AS A SCIENTIST, IT WOULD BE MY
17 JUDGMENT THAT INVESTIGATION OF THE RISKS CAUSED BY
18 ASBESTOS IN THE WORK PLACE SHOULD BE PURSUED,
19 BECAUSE THE KNOWLEDGE WAS CERTAINLY NOT FULL AND
20 COMPLETE AND CUT AND DRY AT THAT TIME.

21 Q. NOW, MR. MORGAN, ON THE NEXT EXHIBIT, OKAY,
22 AND THAT'S DATED OCTOBER 2ND, 1969 --

23 MS. ALITO: FOR THE RECORD, THIS IS P
24 MORGAN-5.

25 BY MR. JACOBY:

MORGAN - JACOBY

1 Q. DO YOU SEE THAT, SIR? IT SAYS OLD HICKORY,
2 TENNESSEE AND IT SAYS ON THE LEFT PERSONAL AND
3 CONFIDENTIAL, J.P. MORGAN, HASKELL LABORATORY. DO
4 YOU SEE THAT, SIR?

5 A. YEAH. I ASSUME THAT WAS TO ME, NOT TO MY
6 DAD, J.P.

7 Q. YOU SEE THAT, SIR? TAKE A MINUTE AND LOOK
8 THROUGH IT. NOW, THIS WAS A DOCUMENT THAT YOU
9 SENT; IS THAT CORRECT?

10 A. NO. IT WAS ADDRESSED TO ME.

11 Q. I'M SORRY, A DOCUMENT THAT YOU RECEIVED.

12 A. YES, AND SIGNED BY CHARLES CROOK.

13 Q. RIGHT. I'M SORRY. DO YOU KNOW WHY IT WOULD
14 HAVE BEEN MARKED PERSONAL AND CONFIDENTIAL?

15 MS. ALITO: CAN THE WITNESS HAVE A
16 MINUTE TO LOOK THROUGH THE DOCUMENT FIRST?

17 MR. JACOBY: OH, YES, I'M SORRY. GO
18 AHEAD.

19 THE WITNESS: YOU ASKED ME WHY IT WAS
20 SENT PERSONALLY AND CONFIDENTIALLY?

21 BY MR. JACOBY:

22 Q. IF YOU KNOW.

23 A. A DOCUMENT LIKE THIS IS WRITTEN IN THE
24 COURSE OF SOME CONSIDERATIONS OF A LINE OF ACTION,
25 IN THIS CASE, REPORTING ON DUST CONCENTRATIONS.

1 SEVERAL OPTIONS WERE STILL OPEN IN THEIR
2 CONSIDERATIONS. AND THOSE QUESTIONS ARE NOT
3 USUALLY PUBLICIZED UNTIL SOME DECISION HAS BEEN
4 MADE ON WHICH WAY TO GO. OTHERWISE, THERE COULD
5 BE A MISUNDERSTANDING. SO THESE KINDS OF
6 DOCUMENTS ARE ALWAYS KEPT TO THE PEOPLE WHO NEEDED
7 TO KNOW AND WERE DIRECTLY INVOLVED IN THE DECISION
8 MAKING.

9 Q. SO, IN 1969 A DECISION HADN'T BEEN MADE YET
10 AS TO WHICH WAY TO GO WITH THIS ASBESTOS PROBLEM?
11 (OBJECTION)

12 MS. ALITO: I OBJECT TO THE FORM.

13 THE WITNESS: THAT'S A
14 GENERALIZATION. THAT IS NOT CORRECT.

15 BY MR. JACOBY:

16 Q. OKAY. WELL, WHAT DECISIONS HAD BEEN MADE?

17 A. OBVIOUSLY, A DECISION HAD BEEN MADE TO
18 MEASURE ASBESTOS DUST LEVELS.

19 Q. THAT HAD NOT YET BEEN DONE?

20 A. THEY MAY HAVE BEEN ONGOING BEFORE THAT. I
21 DON'T KNOW.

22 Q. DO YOU KNOW --

23 A. BUT AT THIS PARTICULAR TIME THEY'RE
24 CONSIDERING DIFFERENT MEANS OF REPORTING THESE
25 VALUES. AS YOU SEE IN THE LETTER THE CONSTRUCTION

MORGAN - JACOBY

1 DIVISION ADOPTED ONE PARTICULAR LEVEL AND THESE
2 PEOPLE IN THE TEXTILE FIBER DEPARTMENT ARE TRYING
3 TO DECIDE WHETHER THEY SHOULD GO ALONG WITH THE
4 CONSTRUCTION DIVISION'S RECOMMENDATION.

5 Q. IN 1969, SIR, DO YOU HAVE PERSONAL KNOWLEDGE
6 AS TO WHETHER OR NOT ANY AIR MONITORING HAD BEEN
7 CONDUCTED?

8 MS. ALITO: EXCUSE ME, I THINK THE
9 DATE IS '68.

10 MR. JACOBY: I'M SORRY --

11 MS. ALITO: OH, NO, I'M WRONG.

12 MR. JACOBY: GOOD.

13 THE WITNESS: NO. I THINK I
14 MENTIONED BEFORE THAT I WAS NOT PERSONALLY
15 INVOLVED IN MEASURING DUST IN THE PLANTS, SO --
16 BY MR. JACOBY:

17 Q. I UNDERSTAND. MY QUESTION TO YOU IS DID YOU
18 KNOW WHETHER, IN FACT, IT WAS GOING ON OR NOT.

19 A. I DON'T RECALL WHETHER I DID OR DID NOT KNOW
20 DEFINITELY WHETHER IT WAS GOING ON AT THAT TIME.

21 Q. SHOULD IT HAVE BEEN GOING ON AT THAT POINT?

22 A. IT SHOULD HAVE AND IT PROBABLY WAS BUT I
23 DON'T HAVE A DEFINITE RECOLLECTION.

24 Q. YOU KNOW, BACK IN '66 STOPPS TALKED ABOUT
25 PULLING THE MEDICAL RECORDS OF FIFTY-TWO PIPE

MORGAN - JACOBY

1 COVERERS SO THEY COULD LOOK TO SEE IF THERE WAS
2 ANY DISEASE OR ANYTHING AND SO ON. DID YOU EVER
3 ASK FOR THE RESULTS OF THAT INQUIRY?

4 A. I DON'T RECALL.

5 Q. DO YOU RECALL EVER THINKING ABOUT PAYING ANY
6 ATTENTION TO THAT ASPECT OF IT, ACTUALLY WATCHING
7 INDIVIDUALS WHO WORKED WITH ASBESTOS? DOES THAT
8 QUESTION MAKE SENSE?

9 A. THE QUESTION IS AIMED AT MY COMMON SENSE,
10 KNOWING THAT ASBESTOS CAN CAUSE DISEASE, DID I
11 HAVE ANY FEELING THAT IT SHOULD BE CONTROLLED.

12 Q. LET'S BREAK IT DOWN.

13 A. YES, IT SHOULD BE CONTROLLED.

14 Q. DR. STOPPS WROTE A LETTER AND YOU RECEIVED A
15 COPY. AND IN THAT LETTER P MORGAN-1 IT SAYS I'M
16 PULLING THE RECORDS OF FIFTY-TWO PIPE COVERERS
17 BECAUSE I WANT TO SEE WHAT THEIR MEDICAL RECORDS
18 SHOW. AND YOU RECEIVED A COPY OF THAT. DID YOU
19 EVER ASK DR. STOPPS, HEY, WHAT DID YOU FIND OUT
20 ABOUT THESE GUYS?

21 A. YOU ASKED THAT QUESTION IN A DIFFERENT FORM
22 JUST A COUPLE MINUTES AGO AND I SAID I DON'T
23 RECALL.

24 Q. OKAY. SO WOULD IT BE CORRECT, SIR, THAT IN
25 1969 IN TERMS OF YOUR OWN KNOWLEDGE AND IN YOUR

MORGAN - JACOBY

1 OWN PARTICIPATION, NO POSITIVE STEPS HAD BEEN
2 TAKEN YET IN TERMS OF MONITORING ASBESTOS DUST IN
3 THE AIR OR REDUCING ASBESTOS DUST?

4 (OBJECTION)

5 MS. ALITO: OBJECTION. ASKED AND
6 ANSWERED. YOU CAN ANSWER IT AGAIN. I ALSO OBJECT
7 TO THE FORM.

8 THE WITNESS: WILL YOU REPEAT, IT
9 PLEASE.

10 (DESIGNATED QUESTION IS READ)

11 THE WITNESS: THE QUESTION QUALIFIES
12 THE ANSWER TO THE EXTENT OF MY OWN KNOWLEDGE AND
13 PARTICIPATION. THAT WOULD HAVE LED ME TO CONCLUDE
14 EITHER ONE OF TWO THINGS; THINGS WERE NOT BEING
15 DONE OR THINGS WERE BEING DONE.

16 BY MR. JACOBY:

17 Q. YOU DIDN'T KNOW ONE WAY OR THE OTHER?

18 A. I DON'T RECALL ANY SPECIFIC KNOWLEDGE OF
19 THINGS THAT WERE BEING DONE. I DON'T RECALL -- I
20 DON'T HAVE ANY SPECIFIC KNOWLEDGE THAT THINGS WERE
21 NOT BEING DONE.

22 Q. AGAIN, I'M NOT TRYING TO ARGUE WITH YOU --

23 A. I'D LIKE TO ASSUME AND I WOULD ASSUME, YES,
24 CERTAINLY THERE WERE THINGS BEING DONE. AND I
25 BELIEVE THAT.

MORGAN - JACOBY

1 Q. I'M NOT TRYING TO ARGUE WITH YOU BUT BASED
2 ON THE DOCUMENTS THAT WE'RE REVIEWING YOU HAD SOME
3 LEVEL OF PARTICIPATION WITH THIS ASBESTOS
4 SITUATION. YOU RECEIVED DOCUMENTS, YOU AUTHORED
5 DOCUMENTS HAVING TO DO WITH ASBESTOS; IS THAT
6 CORRECT?

7 A. YES.

8 Q. AND ALL I'M TRYING, AS I'VE TRIED TO DO WITH
9 EVERY WITNESS, IS FIND OUT THE LEVEL OF YOUR
10 PARTICIPATION.

11 A. IT IS LIMITED.

12 Q. THAT'S WHAT I'M TRYING TO FIND OUT.

13 A. BUT I DON'T LIKE TO BE PUT IN THE POSITION
14 OF AGREEING WITH YOUR CONCLUSION --

15 Q. NO, I DON'T WANT YOU TO.

16 A. -- THAT SOMETHING WAS OR WAS NOT DONE.

17 Q. ONLY IF YOU KNOW. IF YOU THINK IT WAS DONE
18 YOU TELL ME. IF YOU DON'T KNOW YOU TELL ME. THE
19 LAST THING I WANT TO DO IS PUT WORDS IN YOUR
20 MOUTH. OKAY? YOU'RE FREE TO SAY I DISAGREE AT
21 ANY TIME.

22 NOW, SIR, THIS MEMORANDUM, LET'S CALL IT, OF
23 OCTOBER 2ND, 1969, HAS A SERIES OF ATTACHMENTS.
24 DO YOU SEE THAT?

25 A. YES.

MORGAN - JACOBY

1 Q. I HAD QUESTIONED YOU ABOUT A LOT OF THAT
2 EARLIER, TALKING ABOUT DREESSEN, MEREWETHER, LYNCH
3 AND SMITH, SOME OF THE AUTHORS THAT WE HAD TALKED
4 ABOUT. DO YOU SEE THIS, AND I'LL DIRECT YOUR
5 ATTENTION TO, ON THE BOTTOM IT SAYS PAGE 15 AND ON
6 THE TOP IT SAYS ATTACHMENT II, DOCUMENTATION OF
7 TLV FOR THE 1966 ACGIH. DO YOU SEE THAT?

8 A. YES, REFERENCES.

9 Q. OKAY. NOW, ON THE THIRD PARAGRAPH, SIR, IT
10 SAYS, THAT EXPOSURE TO ASBESTOS IS ASSOCIATED WITH
11 DEVELOPMENT OF A POTENTIALLY DISABLING
12 PNEUMOCONIOSIS IN MAN HAS BEEN APPLY DEMONSTRATED
13 BY INDUSTRIAL EXPERIENCE. THEN IT GIVES A SERIES
14 OF REFERENCES, OKAY.

15 A. THREE THROUGH ELEVEN.

16 Q. AND THOSE REFERENCES WERE SOME OF THE ONES I
17 DISCUSSED WITH YOU EARLIER.

18 A. YES.

19 Q. NOW, WHEN YOU RECEIVED THIS DOCUMENT IN 1969
20 AND YOU RECEIVED THIS ATTACHMENT, DID YOU AGREE
21 WITH THAT STATEMENT THAT EXPOSURE TO ASBESTOS IS
22 ASSOCIATED WITH THE DEVELOPMENT OF A POTENTIALLY
23 DISABLING, ET CETERA, ET CETERA --

24

25

MORGAN - JACOBY

1 (OBJECTION)

2 MS. ALITO: I OBJECT TO THAT QUESTION
3 ON THE GROUNDS THAT WHETHER HE AGREED WITH THIS
4 MEDICAL CONCLUSION OR NOT IS IRRELEVANT AND CALLS
5 FOR AN EXPERT OPINION.

6 MR. JACOBY: I THINK IT CALLS FOR THE
7 STATE OF MIND OF ONE OF THE TOP INDUSTRIAL
8 HYGIENISTS AT THE DUPONT COMPANY. WHETHER IT'S
9 TRUE OR NOT IS EXTRANEIOUS. WHETHER HE BELIEVED IT
10 OR NOT IS VERY RELEVANT.

11 THE WITNESS: A WHILE AGO YOU
12 MENTIONED MEREWETHER, 1930 AND I CORRECTED YOU AND
13 -- YOU SAID 1935. AND I SAID 1930. THAT WAS MORE
14 THAN ONE MEREWETHER PAPER.

15 MR. JACOBY: ANY NUMBER.

16 THE WITNESS: THE ONE THAT I USED
17 MOST OFTEN WAS MEREWETHER AND POST, I BELIEVE IT
18 WAS. MEREWETHER WAS THE MEDICAL MAN AND THE OTHER
19 GUY WAS THE ENGINEER AND THEY MADE A JOINT
20 INVESTIGATION. I WAS FAMILIAR WITH ALL THAT AND
21 AGREED WITH THE CONCLUSIONS.

22 BY MR. JACOBY:

23 Q. BUT MY QUESTION TO YOU, SIR, AND MY POINT
24 IS, THAT CERTAINLY IN 1969 AND EVEN BEFORE THAT,
25 AS YOU'VE ALREADY TESTIFIED, YOU HAD BEEN PRIVY TO

MORGAN - JACOBY

1 THESE VARIOUS STUDIES AND PAPERS AND SO ON, YOU
2 HAD KNOWLEDGE OF THEM?

3 A. YES.

4 Q. OKAY. AND DID YOU HAVE ANY KNOWLEDGE OF
5 THIS, WHERE IT SAYS ATTACHMENT III FROM THE ANNALS
6 OF THE NEW YORK ACADEMY OF SCIENCE AND IT'S DATED
7 DECEMBER 31, 1965, THE BIOLOGICAL EFFECTS OF
8 ASBESTOS. HAD YOU SEEN THAT BEFORE 1969, IF YOU
9 REMEMBER?

10 A. I DON'T REMEMBER TIMBRELL AT ALL, V.
11 TIMBRELL.

12 Q. BY THIS TIME, SIR, BY 1969, HAD YOU REACHED
13 A CONCLUSION IN YOUR OWN MIND AS TO WHETHER OR NOT
14 ASBESTOS CAN CAUSE CANCER OF THE LUNG?

15 A. IT'S HARD FOR ME TO PUT A DATE ON IT, BUT I
16 WOULD BE INCLINED TO SAY YES, I HAD BEEN CONVINCED
17 AT THAT TIME THAT THERE WAS A RELATIONSHIP.

18 Q. WHAT ABOUT MESOTHELIOMA?

19 A. I DIDN'T KNOW MUCH ABOUT THAT. THAT WAS
20 STILL A MYSTERY TO A LOT OF PEOPLE.

21 Q. WELL, YOU TALKED ABOUT IT IN SOME DETAIL IN
22 OTHER DOCUMENTS. BUT AT THIS TIME IN 1969 I
23 BELIEVE YOUR ANSWER WAS YOU DIDN'T HAVE MUCH
24 KNOWLEDGE ABOUT MESOTHELIOMA?

25 A. I'M NOT SURE OF THE TIME, THE DATE. BUT I

MORGAN - JACOBY

1 THINK THAT'S RIGHT.

2 Q. WHEN YOU GOT THIS DOCUMENT IN 1969 AND THOSE
3 ATTACHMENTS, OKAY, AND WE'VE ALREADY GONE OVER
4 THEM IN SOME DETAIL AND YOU TOLD US YOU KNEW ABOUT
5 THEM EVEN BEFORE THIS, DID YOU BELIEVE THAT THERE
6 WERE INDIVIDUALS AT DUPONT WHO HAD THE RISK OF
7 GETTING CANCER OF THE LUNG BECAUSE OF WHAT THEY
8 DID FOR A LIVING?

9 A. I DID NOT.

10 Q. AND WHY IS THAT, SIR?

11 A. IN DUPONT THERE WAS A GREAT EFFORT
12 CONTINUALLY BEING MADE FOR SAFETY AND HEALTH.

13 Q. SIR, I UNDERSTAND THAT. I'M NOT HERE TO --

14 A. YOU ASKED ME AND THAT'S MY ANSWER.

15 Q. I'M NOT HERE TO TRY TO GIVE THE DUPONT
16 COMPANY A BLACK EYE. I WANT TO KNOW WHAT YOUR
17 OPINION WAS IN 1969. DID YOU BELIEVE THAT THERE
18 WERE EMPLOYEES WHO WORKED FOR THE DUPONT COMPANY
19 WHO WORKED WITH ASBESTOS ON A DAILY BASIS, AND
20 WITH YOUR KNOWLEDGE OF HOW ASBESTOS WAS USED IN
21 THIS COMPANY, THAT WERE AT RISK OF GETTING CANCER
22 OF THE LUNG?

23 MS. ALITO: HE ALREADY ANSWERED THIS
24 QUESTION. YOU CAN ANSWER IT AGAIN, IF YOU WANT.

25 THE WITNESS: DID I BELIEVE EMPLOYEES

MORGAN - JACOBY

1 WERE AT RISK OF GETTING LUNG CANCER?

2 BY MR. JACOBY:

3 Q. YES, WHO WORKED WITH ASBESTOS.

4 A. IF YOU MERELY WORK IN A ROOM WHERE THERE IS
5 SOME ASBESTOS IN USE, YOU CAN SAY, YES, YOU'RE AT
6 RISK. BUT IF THE CONTROLS ARE OPERATING AND
7 YOU'RE PROTECTED ACCORDING TO THE RULES OF THE
8 WORK PLACE, THE RISK IS DIMINISHED. BUT I WOULD
9 NOT SAY YOU'RE NOT AT RISK.

10 Q. ALL RIGHT. WHAT WERE THE RULES OF THE WORK
11 PLACE? WHAT WAS DONE TO PROTECT THEM? YOU GOT AN
12 INSULATOR OUT THERE IN 1969. HE'S RIGHT ACROSS
13 THE RIVER AT CHAMBERS WORKS. AS AN INDUSTRIAL
14 HYGIENIST YOU KNOW WHAT HE DOES FOR A LIVING. HE
15 WORKS WITH INSULATION. WHAT WAS BEING DONE TO
16 PROTECT HIM?

17 A. ALL RIGHT.

18 (OBJECTION)

19 MS. ALITO: LET ME STATE MY
20 OBJECTION, FIRST. I OBJECT TO THIS QUESTION ON
21 THE GROUNDS THAT MR. MORGAN HAS ALREADY TESTIFIED
22 THAT HE WAS NOT INDIVIDUALLY AWARE OF WHAT THE
23 VARIOUS EMPLOYEES DID AS A PART OF THEIR JOB.

24 HE HAS SECONDLY TESTIFIED THAT HE WAS
25 NOT AWARE AS PART OF HIS JOB DUTIES OF WHAT

1 SPECIFIC MEASURES WERE TAKEN ON THE VARIOUS
2 PLANTS. SO I OBJECT TO THE QUESTION ON THE GROUND
3 THAT IT ASSUMES FACTS THAT ARE NOT SO.

4 THE WITNESS: THAT'S A GOOD ANSWER.
5 BY MR. JACOBY:

6 Q. THAT'S YOUR ANSWER?

7 A. YES, THAT'S MY ANSWER.

8 Q. YOU DON'T KNOW WHAT WAS BEING DONE?

9 A. I KNEW ABOUT WHAT WAS BEING DONE IN MANY
10 SITUATIONS WHERE THERE WAS A RISK OF OCCUPATIONAL
11 DISEASE. I KNEW, BECAUSE I HAD INVESTIGATED
12 THEM. I HAD NOT INVESTIGATED THE ASBESTOS
13 HANDLING IN THAT PLANT OR IN ANY OTHERS,
14 SPECIFICALLY FOR THAT PURPOSE, COUNTING THE NUMBER
15 OF HOURS SPENT AND THE PARTICLES OF DUST AND ALL
16 THOSE THINGS THAT WOULD HAVE TO BE DONE TO MAKE AN
17 EVALUATION.

18 Q. DO YOU HAVE PERSONAL KNOWLEDGE --

19 A. IT WAS BEYOND MY ASSESSMENT OF
20 RESPONSIBILITY.

21 Q. DO YOU KNOW WHETHER IN 1969 THERE WERE
22 EMPLOYEES OF DUPONT COMPANY WHO WORKED WITH
23 ASBESTOS ON A DAILY BASIS AND WERE NOT GIVEN A
24 RESPIRATOR?

25 A. I DO NOT KNOW THAT.

MORGAN - JACOBY

1 Q. NOW, SIR, IF YOU'LL TURN TO THE NEXT
2 EXHIBIT, I BELIEVE IT'S DATED NOVEMBER THE 25TH,
3 1969. I LOST THE NUMBER --

4 MS. ALITO: 6. P MORGAN-6.

5 BY MR. JACOBY:

6 Q. IT SAYS ON THE TOP UNDERLINED, METHOD OF
7 REPORTING ASBESTOS DUST LEVELS. APPARENTLY IT'S A
8 RESPONSE TO THIS PREVIOUS ONE.

9 A. YES.

10 Q. NOW, SIR, IN THE THIRD PARAGRAPH, THE SECOND
11 SENTENCE, IT SAYS IT IS NOW GENERALLY RECOGNIZED
12 THAT THIS LEVEL AND THIS METHOD HAVE OUTLIVED
13 THEIR USEFULNESS. YOU'RE REFERRING TO THE
14 ESTABLISHED TLV AT THAT TIME; IS THAT CORRECT?

15 A. YES.

16 Q. WHY DID YOU BELIEVE THAT THE EXISTING TLV
17 HAD OUTLIVED ITS USEFULNESS?

18 A. BECAUSE AT THAT TIME I HAD BECOME AWARE OF
19 THE DEVELOPMENT OF METHODS OF COLLECTING DUST
20 SAMPLES AND COUNTING FIBERS THAT WAS CERTAINLY
21 MORE REASONABLE IN ATTEMPTING TO EVALUATE AN
22 ASBESTOS FIBER HAZARD THAN THE OLD METHOD OF
23 COUNTING DUST PARTICLES.

24 Q. AM I CORRECT THAT SOMETIME PRIOR TO 1969 YOU
25 HAD BEEN ASKED OR INSTRUCTED TO MAKE THIS AN AREA

MORGAN - JACOBY

1 OF INQUIRY FOR YOU, ASBESTOS DUST MONITORING?

2 A. I DON'T RECALL WHETHER I DID IT ON MY OWN
3 VOLUNTARILY OR WHETHER I HAD BEEN ASKED TO DO IT
4 BY SOMEONE ELSE AND IF SO WHO THAT SOMEONE MAY
5 HAVE BEEN.

6 Q. IT WAS NORMAL PROCEDURE FOR YOU TO DO THINGS
7 LIKE THIS ON YOUR OWN?

8 A. I WOULDN'T SIT UP LATE AT NIGHT DOING IT AT
9 HOME, BUT, YES, IN CONNECTION WITH MY GENERAL
10 DUTIES IN THE DUPONT COMPANY I WOULD KEEP AWARE OF
11 DEVELOPMENTS OF THIS KIND, NOT ONLY WITH RESPECT
12 TO ASBESTOS BUT MANY OTHER THINGS. DURING THAT
13 PERIOD OF TIME I WAS SERVING ON THE AMERICAN
14 STANDARDS ASSOCIATION COMMITTEE. AND SO I WROTE
15 STANDARDS FOR CONTAMINANTS IN THE AIR AND WORK
16 PLACES. SO I WAS COGNIZANT OF THESE DEVELOPMENTS.

17 Q. AND GOING ON, WOULD I BE CORRECT, SIR, IF I
18 PHRASED IT IN TERMS OF 1968 AND '69 THAT YOUR
19 PARTICIPATION IN REGARD TO THE ASBESTOS SITUATION
20 INCREASED DURING THESE YEARS, OVER WHAT IT HAD
21 BEEN IN THE PAST?

22 A. I THINK YOU MAY ASSUME THAT.

23 Q. WELL, I DON'T WANT TO ASSUME IT. WERE YOU
24 MORE INVOLVED?

25 MS. ALITO: YES, MR. MORGAN, PLEASE,

MORGAN - JACOBY

1 WE DON'T WANT YOU TO ASSUME ANY FACTS. IF YOU
2 REMEMBER, PLEASE GIVE AN ANSWER BASED ON YOUR
3 RECOLLECTION. BUT YOUR GUESS IS NOT GOING TO HELP
4 EITHER MR. JACOBY OR ME.

5 THE WITNESS: WELL, I WOULD PREFER TO
6 GIVE AN EXACT ANSWER TO THAT. AND IN ORDER TO DO
7 SO I WOULD HAVE TO REVIEW A LOT OF RECORDS OF
8 INCOMING TELEPHONES CALLS AND CORRESPONDENCE, THIS
9 AND THAT AND THE OTHER THING. SO I DON'T KNOW
10 WHAT WENT ON.

11 BY MR. JACOBY:

12 Q. IF I ASKED YOU THE QUESTION WERE YOU MORE
13 INVOLVED WITH ASBESTOS PROBLEMS IN '68 AND '69
14 THAN YOU HAD BEEN IN '64 AND '65, ARE YOU TELLING
15 ME YOU CAN'T ANSWER THAT QUESTION?

16 A. NOT EXACTLY. I PROBABLY WAS.

17 Q. OKAY.

18 MS. ALITO: THAT'S FINE.

19 BY MR. JACOBY:

20 Q. AND WOULD THE AREA OF YOUR INVOLVEMENT HAVE
21 BEEN IN THE AREA OF YOUR EXPERTISE, DUST MOTORING
22 AND SO ON AND THE INSTRUMENTATION FOR DUST
23 MONITORING?

24 A. TO SOME EXTENT. I WAS NOT WORKING IN A
25 LABORATORY WITH DUST COUNTING EQUIPMENT.

1 Q. DID YOU HAVE ANY INVOLVEMENT OTHER THAN THE
2 MONITORING OF DUST?

3 A. THAT'S KIND OF ADVISORY WORK THAT IS
4 EXEMPLIFIED BY CHARLES E. CROOK.

5 Q. AND WOULD YOU AGREE THAT BASICALLY THE
6 SUBJECT OF THESE PAST FEW EXHIBITS THAT WE'VE BEEN
7 TALKING ABOUT IS CONCENTRATIONS OF ASBESTOS IN THE
8 AIR?

9 A. THAT'S A MAJOR PART OF IT, YES.

10 Q. THE STANDARDS AND SO ON AND SO FORTH. NOW,
11 THERE WAS ONE SENTENCE DOWN AT THE BOTTOM OF THIS
12 PAGE THAT I WASN'T QUITE SURE -- MAYBE YOU CAN
13 EXPLAIN IT TO ME.

14 MS. ALITO: WE'RE STILL ON P
15 MORGAN-6?

16 BY MR. JACOBY:

17 Q. YEAH, BOTTOM OF THAT PAGE, SIR. IT STARTS
18 OUT THE LATTER METHOD OF COLLECTING AND COUNTING,
19 ET CETERA, AND THEN IT SAYS IT GIVES A MORE DIRECT
20 MEASURE OF THE AGENT WHICH NEEDS TO BE CONTROLLED
21 IN ORDER TO ELIMINATE ASBESTOSIS.

22 A. YES.

23 Q. THE AGENT WAS WHAT?

24 A. FIBERS OF ASBESTOS MINERAL.

25 Q. WOULD DUST, WOULD THAT BE ACCURATE OR NOT

MORGAN - JACOBY

1 ACCURATE?

2 A. THE OLD METHOD DATES BACK TO -- DREESSEN
3 REFERRED TO DUST. AND HE USED HIS RECOMMENDED
4 LIMIT AS AN INDEX OF DUSTINESS WITH THE ASSUMPTION
5 THAT IF YOU'RE WORKING WITH ASBESTOS YOU'VE GOT
6 ASBESTOS FIBERS IN THERE AMONG OTHER KINDS OF
7 DUST. AND IF YOU KEEP YOUR TOTAL DUST LOW, YOUR
8 FIBER COUNT IS GOING TO GO LOW. BUT YOU'RE NOT
9 MEASURING IT DIRECTLY. THIS LATTER METHOD NOW
10 COMES TO MEASURE DIRECTLY THE ASBESTOS FIBERS
11 WHICH IS THE AGENT WE'RE CONCERNED WITH.

12 Q. AND WHERE YOU SAY ELIMINATE ASBESTOSIS --

13 A. THAT WAS AN OBJECTIVE, YES.

14 Q. ELIMINATE IT FROM WHERE?

15 A. FROM OCCURRENCE IN THE WORKING POPULATION.

16 Q. TO YOUR KNOWLEDGE WAS IT OCCURRING IN THE
17 WORKING POPULATION?

18 MS. ALITO: DO YOU MEAN WORKING
19 POPULATION IN GENERAL OR AT DUPONT?

20 BY MR. JACOBY:

21 Q. AT DUPONT. THE REST OF THE UNIVERSE HAS NO
22 IMPORTANCE FOR ME THIS MORNING.

23 A. WELL, I DON'T KNOW OF ANY INDIVIDUAL CASES
24 OF ASBESTOSIS IN THE DUPONT COMPANY.

25 Q. WELL, YOU'RE TALKING ABOUT ELIMINATING.

MORGAN - JACOBY

1 THAT'S ALL I'M DRIVING AT. WHAT DID YOU MEAN?

2 A. MAYBE I SHOULD HAVE SAID PREVENTING WHICH IS
3 WHAT OUR OBJECTIVE WAS.

4 Q. SO, IF YOU COULD NOW GO BACK AND TAKE THE
5 WORD ELIMINATE OUT AND PUT THE WORD PREVENTING --

6 A. I WOULDN'T BOTHER. IT'S ONLY A LAWYER WHO
7 CONCERNS OVER THAT. I THINK MR. CROOK GOT THE
8 MESSAGE I WAS TRYING TO GIVE HIM.

9 Q. WHY DON'T YOU TELL ME THE MESSAGE YOU WERE
10 TRYING TO GIVE HIM.

11 A. LET'S USE THE MOST EXACT METHOD AVAILABLE TO
12 US TO EVALUATE THE POTENTIAL RISK AND TO PREVENT
13 ASBESTOSIS.

14 Q. SO, THEN IN 1969 YOU'RE STILL AT THE STAGE
15 OF EVALUATING THE POTENTIAL RISK, CORRECT?

16 A. IT HADN'T ALL BEEN DONE. IT PROBABLY STILL
17 HAS NOT ALL BEEN DONE.

18 Q. I'M JUST ASKING YOU A QUESTION, SIR.

19 A. AND I'M ANSWERING IT.

20 Q. IN 1969 YOU WERE AT THE STAGE OF EVALUATING
21 THE POTENTIAL RISK; IS THAT CORRECT?

22 A. MORE WORK HAD TO BE DONE. THESE KINDS OF
23 THINGS ARE DONE ON A CONTINUING BASIS.

24 Q. I UNDERSTAND. NOW, LET'S GO TO FEBRUARY
25 2ND, 1970, THE NEXT EXHIBIT. AND THIS IS A

MORGAN - JACOBY

1 LETTER?

2 MS. ALITO: P MORGAN-7 FOR THE
3 RECORD.

4 BY MR. JACOBY:

5 Q. I'LL GIVE YOU A CHANCE TO LOOK THROUGH IT.

6 A. ALL RIGHT.

7 Q. OKAY.

8 A. I HAVEN'T READ THIS ATTACHMENT, THE ASBESTOS
9 CONFERENCE. I JUST READ THE LETTER. SHALL I GO
10 AHEAD AND FINISH IT?

11 Q. THIS LETTER, SIR, AM I CORRECT, IS AUTHORED
12 BY YOU?

13 A. YES.

14 Q. WHY WAS IT THAT -- AND IT DISCUSSES AN
15 UPCOMING CONFERENCE ON ASBESTOS, DO YOU RECALL
16 THAT CONFERENCE?

17 A. YES.

18 Q. AND THAT TOOK PLACE ON MAY THE 5TH AND 6TH
19 OF 1970, IS THAT CORRECT, IF YOU REMEMBER?

20 A. YES, ABOUT THAT TIME.

21 Q. WHY WAS IT THAT YOU WERE WRITING ABOUT THIS
22 CONFERENCE?

23 A. GOING BACK TO P-4, P MORGAN-4, MORGAN TO
24 ZAPP.

25 Q. IS THAT THE NEW YORKER THING?

MORGAN - JACOBY

1 A. WELL, IT MENTIONS THE NEW YORKER. THAT'S
2 TRIVIAL, THOUGH. THE PURPOSE OF THIS MEMO IS TO
3 RECOMMEND TO DR. ZAPP, THE DIRECTOR OF HASKELL
4 LABORATORY, THAT CONSIDERATION BE GIVEN TO HOLDING
5 A CONFERENCE TO COLLECT INFORMATION AND DISTRIBUTE
6 IT COMPANY-WIDE. THIS IS A FOLLOW-UP. EVIDENTLY
7 ZAPP SAID GO AHEAD, YOU DO IT.

8 Q. WHEN DID YOU ASK FOR THAT CONFERENCE?

9 A. THAT WAS NOVEMBER OF '68.

10 Q. AND IN FEBRUARY OF '70 YOU STARTED PLANNING
11 IT?

12 A. NO. EVIDENTLY I WAS WORKING ON IT LONG
13 BEFORE THAT. BECAUSE BY FEBRUARY 7TH WE HAD IT
14 ALL PRETTY WELL LINED UP. AND WE HAD A PROPOSED
15 AGENDA. YEAH, A LOT OF WORK WENT INTO THE
16 INTERIM.

17 Q. WHAT KIND OF WORK?

18 A. PLANNING, CONFERENCE PLANNING.

19 Q. TALKING TO INDIVIDUALS ABOUT IT, THAT KIND
20 OF --

21 A. OH, YES, POTENTIAL SPEAKERS AT THE
22 CONFERENCE. I DEVOTED A LOT OF MY TIME TO THAT
23 PREPARATION FOR THAT CONFERENCE DURING THAT PERIOD
24 IN LATE 1969.

25 Q. DO YOU KNOW WHY YOU WERE SELECTED TO

MORGAN - JACOBY

1 ~~QUESTIONS~~ THIS CONFERENCE?

2 A. ~~YES.~~ I HAD A BROAD KNOWLEDGE OF THE USE AND
3 ~~THE REASONS~~ OF THE USE OF ASBESTOS. I HAD A WIDE
4 ACQUAINTANCESHIP AMONG PEOPLE IN THE INDUSTRIAL
5 HYGIENE FIELD WHO WERE KNOWLEDGEABLE ABOUT IT.

6 AND I DID NOT HAVE THE IMMEDIATE TASK OF GOING OUT
7 INTO THE PLANTS AND MAKING MEASUREMENTS,
8 RECOMMENDING RESPIRATORS OR THINGS OF THAT SORT.
9 I WAS USED MORE ON THIS PLANNING LEVEL.

10 Q. YOU HAD BEEN DIRECTLY INVOLVED IN ASBESTOS,
11 IN THE PRECEDING YEARS, WOULD THAT BE ACCURATE?

12 A. OH, YES. PRIOR TO DUPONT I WAS DOING A LOT
13 OF WORK IN ASBESTOS.

14 Q. WHERE WAS THAT?

15 A. IN THE NAVY, IN SHIPYARDS AND LATER ON --

16 Q. WHAT KIND OF WORK?

17 A. ACTUALLY INVESTIGATING PLACES WHERE ASBESTOS
18 WAS IN USE, AND THE MANNER IN WHICH IT IS BEING
19 USED AND THE SAFETY PRECAUTIONS THAT WERE BEING
20 TAKEN.

21 Q. DID YOU EVER RECOMMEND TO ANY OF YOUR
22 EMPLOYERS PRIOR TO DUPONT ANY SAFETY PRECAUTIONS
23 TO BE TAKEN WITH ASBESTOS?

24 A. YES.

25 Q. WHAT SAFETY PRECAUTIONS DID YOU RECOMMEND?

MORGAN - JACOBY

1 MS. ALITO: COULD YOU BE SPECIFIC
2 ABOUT THE PLACE WHERE YOU RECOMMENDED IT, JUST SO
3 WE HAVE A CLEAR RECORD, MR. MORGAN, AS YOU'RE
4 ANSWERING THE QUESTION.

5 BY MR. JACOBY:

6 Q. WELL, LET'S START WITH THE NAVY. *add in*

7 A. WELL, IN THE NAVY I VISITED SHIPYARDS FROM
8 MIAMI, FLORIDA, ACROSS THE GULF COAST, TO CORPUS
9 CHRISTI, TEXAS; ON THE WEST COAST FROM NATIONAL
10 CITY, CALIFORNIA ON UP TO EVERETT, WASHINGTON,
11 AND MANY OF THOSE SHIPYARDS HAD INSULATING SHOPS,
12 AND WERE USING ASBESTOS TO INSULATE THE VESSELS
13 UNDER CONSTRUCTION. AND I DID FREQUENTLY MAKE
14 RECOMMENDATIONS ABOUT THE APPLICATION OF CONTROL
15 MEASURES TO PREVENT THE INHALATION OF ASBESTOS
16 DUST.

17 Q. WHAT RECOMMENDATIONS DID YOU MAKE?

18 A. THERE WAS A DOCUMENT THAT WAS PREPARED BY
19 ~~THE NAVY~~ HARVARD IN 1942 AND SUBSEQUENTLY
20 ~~MINIMUM~~ BY THE NAVY AND THE MARITIME COMMISSION,
21 CALLED MINIMUM STANDARDS FOR HEALTH AND SAFETY IN
22 CONTRACT SHIPYARDS. AND IT DEALT WITH RECOGNIZED
23 KNOWN OCCUPATIONAL DISEASES THAT OCCURRED FROM
24 MATERIALS THAT WOULD BE USED IN SHIPYARDS.

25 Q. SUCH AS ASBESTOS?

MORGAN - JACOBY

1 A. ASBESTOS WAS ONE OF THEM. AND THAT DOCUMENT
2 ITEMIZED PROTECTIVE MEASURES THAT COULD BE TAKEN.
3 SEGREGATION OF THE WORK WITH ASBESTOS, ISOLATION
4 OR CONTAINMENT WHENEVER POSSIBLE AND THAT'S
5 POSSIBLY IN A LOT OF USES.

6 SECONDLY, APPLICATION OF LOCAL EXHAUST
7 VENTILATION TO CAPTURE DUST AT ITS SOURCE AND
8 DISPOSE OF IT, WETTING DOWN OF DUSTY MATERIALS,
9 POTENTIALLY DUSTY MATERIALS TO PREVENT THE DUST
10 OCCURRING IN THE AIR THAT BREATHES. RESPIRATORS
11 WHERE THE OTHER METHODS COULD NOT BE EFFECTIVE.
12 THERE MAY HAVE BEEN OTHER INDIVIDUAL
13 RECOMMENDATIONS THAT WERE MADE BECAUSE OF CERTAIN
14 SPECIFIC SITUATIONS.

15 Q. WHAT YEARS WERE THIS, SIR, THAT YOU WERE
16 WITH THE NAVY?

17 A. '43 AND '44.

18 Q. AND YOU SAID THAT THERE WERE AREAS IN THE
19 SHEDS WHERE THE MECHANICAL PROCESSES OF
20 DRESSING WITH ASBESTOS WERE DONE, CUTTING, SAWING,
21 ALL THAT KIND OF BUSINESS?

22 A. YES.

23 Q. AND WERE THEY SIMILAR TO THE INSTALLATION
24 SHOPS THAT WERE ON THE FACILITIES WHERE THE
25 CUTTING AND SAWING OF ASBESTOS WAS TAKING PLACE,

MORGAN - JACOBY

1 ~~TO YOUR KNOWLEDGE?~~

2 A. THEY HAVE A LOT OF FACTORS IN COMMON JUST
3 LIKE A CARPENTER WOULD USE A LOT OF THE SAME
4 TOOLS.

5 Q. ONLY ONE WAY YOU CAN CUT TRANSITE, RIGHT?

6 A. RIGHT.

7 Q. AND THAT'S TO CUT IT?

8 A. THAT'S RIGHT.

9 (OBJECTION)

10 MS. ALITO: I HAVE TO OBJECT TO THE
11 FORM OF THAT QUESTION, WHICH I THINK WAS --

12 MR. JACOBY: WHAT WAS WRONG WITH THAT
13 QUESTION?

14 MS. ALITO: THERE'S -- I OBJECT TO
15 THE FORM OF THAT QUESTION. AND, MR. MORGAN,
16 PLEASE TAKE EACH QUESTION THAT'S ASKED TO YOU AS A
17 SERIOUS QUESTION AND NOT JUST BECAUSE MR. JACOBY
18 IS -- BECAUSE WE'RE IN A RELAXED ATMOSPHERE --

19 THE WITNESS: ALL RIGHT.

20 MR. JACOBY: I DON'T THINK WE NEED
21 ANY MORE INSTRUCTIONS AT THIS POINT. OKAY. THIS
22 IS A DEPOSITION.

23 THE WITNESS: I'LL TRY TO USE THAT
24 ONE.

25 (OBJECTION)

MORGAN - JACOBY

1 MR. JACOBY: THE BELL HAS RUNG AND
2 THIS IS A DEPOSITION AND I'M GOING TO STATE MY
3 OBJECTION MOST STRENUOUSLY ON THE RECORD THAT YOU
4 SHOULD NOT HAVE TO INSTRUCT MR. MORGAN AS I'M
5 EXAMINING HIM.

6 I'LL INSTRUCT YOU AGAIN, IF YOU DON'T
7 KNOW OR YOU DISAGREE, I WANT YOU TO TELL ME,
8 OKAY. I'M NOT HERE TO TRICK YOU OR DECEIVE YOU.
9 I WANT TO KNOW WHAT YOU KNOW, MR. MORGAN. OKAY?

10 MS. ALITO: MR. JACOBY, I HAVE THE
11 SAME END AND I HAVE A CONCERN WHEN I SEE AN
12 INDUSTRIAL HYGIENIST AGREE IN A LIGHTHEARTED WAY
13 THERE'S ONLY WAY TO CUT TRANSITE BOARD. THAT'S
14 NOT HIS AREA OF EXPERTISE. I WANT TO MAKE CERTAIN
15 THAT MR. MORGAN CONSIDERS YOUR QUESTIONS AND
16 ANSWERS THEM TO THE BEST OF HIS KNOWLEDGE AND TO
17 THE FULLEST OF HIS KNOWLEDGE.

18 MR. JACOBY: HE HAS NO AREA OF
19 EXPERTISE IN THIS DEPOSITION. I DON'T MEAN THAT
20 IN A DISPARAGING WAY. YOU'RE NOT AN EXPERT AS FAR
21 AS I'M CONCERNED.

22 BY MR. JACOBY:

23 Q. THESE RECOMMENDATIONS THAT YOU TOLD US ABOUT
24 THAT YOU MADE WHILE IN THE NAVY, SIR --

25 A. YES.

1 Q. -- DID YOU EVER MAKE ANY OF THESE
2 RECOMMENDATIONS IN YOUR CAPACITY AS AN INDUSTRIAL
3 HYGIENIST FOR DUPONT?

4 A. WITH RESPECT TO ASBESTOS EXPOSURES?

5 Q. YES, SIR.

6 A. I THINK I'VE INDICATED TO YOU BEFORE THAT I
7 WAS NOT DIRECTLY INVOLVED WITH THOSE KINDS OF
8 INVESTIGATIONS IN THE DUPONT COMPANY.

9 Q. BUT YOU'RE AWARE OF WHAT WAS HAPPENING
10 THROUGH ALL THESE DOCUMENTS THAT WE'VE BEEN
11 DISCUSSING THIS MORNING IN REGARD TO ASBESTOS; IS
12 THAT CORRECT?

13 A. YES. AND I WAS ALSO AWARE THAT THERE WERE
14 OTHER CAPABLE PEOPLE IN THE DUPONT COMPANY WHO HAD
15 DIRECT RESPONSIBILITY.

16 Q. ALL RIGHT. AND DID IT EVER CROSS YOUR MIND
17 OR WERE YOU EVER PROMPTED TO SAY, WELL, WAIT A
18 MINUTE, I'VE HAD SOME EXPERIENCE WITH ASBESTOS,
19 LET ME PUT A MEMO OUT AS TO MY THOUGHTS?

20 A. I DON'T RECALL EVER DOING THAT.

21 Q. DO YOU RECALL EVER WANTING TO DO THAT?

22 A. IN A LARGE WAY I DID THAT BY WORKING ON THIS
23 CONFERENCE, PUTTING IT TOGETHER AND SO THAT
24 INFORMATION COULD BE SPREAD OUT THROUGHOUT THE
25 COMPANY.

1 Q. I UNDERSTAND, SIR. BUT MY POINT, WHICH IS
2 NOT VERY DIFFICULT TO PERCEIVE, WAS THAT THIS
3 CONFERENCE OCCURRED IN 1970. YOU WORKED FOR THE
4 NAVY IN 1942. THAT'S A LOT OF TIME.

5 A. WELL, THAT KIND OF COMPARISON IS IRRELEVANT
6 TO MY EXPERIENCE IN THE DUPONT COMPANY AND MY
7 SPECIFIC DUTIES.

8 MS. ALITO: MR. MORGAN, PLEASE
9 CONFINE YOURSELF TO ANSWERING MR. JACOBY'S
10 QUESTION.

11 BY MR. JACOBY:

12 Q. THIS CONFERENCE IN 1970 WAS GEARED, WAS IT
13 NOT, TO ASSESSING THE PROBLEM OF ASBESTOS TO BRING
14 PEOPLE TOGETHER TO DISCUSS THE PROBLEM?

15 A. I THINK YOU CAN GET THE ANSWER TO THAT IN MY
16 LETTER TO ZAPP.

17 Q. YOUR LETTER TO ZAPP? WELL, LET'S CONFINE
18 OURSELVES TO THE SECOND PAGE OF THIS EXHIBIT,
19 SIR. OKAY. THE FIRST PARAGRAPH, AFTER THE QUOTE
20 YOU MADE, AS YOU WELL APPRECIATE, ASBESTOS AND
21 ASBESTOS PRODUCTS ARE WIDELY USED WITHIN THE
22 DUPONT COMPANY. THERE HAS BEEN A LACK OF A
23 UNIFIED PROGRAM FOR THE APPRAISAL OF DUSTINESS AND
24 FOR CONTROLLING THE INHALATION OF ASBESTOS.

25 WAS THAT STATEMENT, SIR, TO YOUR KNOWLEDGE,

MORGAN - JACOBY

1 ACCURATE WHEN YOU MADE IT IN 1970 THAT THERE WAS A
2 LACK OF A UNIFIED PROGRAM FOR THE APPRAISAL OF
3 DUSTINESS AND FOR THE CONTROLLING OF THE
4 INHALATION OF ASBESTOS?

5 A. IT'S TRUE, IT WAS TRUE AT THAT TIME.

6 Q. DON'T YOU THINK IT WAS KIND OF LATE IN THE
7 DAY FOR THE LACK OF A UNIFIED PROGRAM?

8 A. NO, NOT IN VIEW OF THE MANNER IN WHICH
9 DUPONT CONDUCTED ITS BUSINESS. RESPONSIBILITY WAS
10 SPREAD AROUND TO DIFFERENT SITES AND LOCATIONS AND
11 DEPARTMENTS.

12 Q. I UNDERSTAND.

13 A. AND THAT WAS NOT ALWAYS A UNIFIED APPROACH
14 TO A PARTICULAR PROBLEM.

15 Q. I SEE.

16 A. IN THIS CASE IT SEEMED DESIRABLE TO BRING
17 ABOUT SOME UNIFICATION.

18 Q. AND THIS, SIR, IS NOTWITHSTANDING THE FACT
19 THAT DR. STOPPS HAD STARTED WRITING ABOUT THE
20 HAZARDS OF ASBESTOS TO YOU IN 1965? THIS IS FIVE
21 YEARS LATER.

22 A. IS THAT A QUESTION?

23 Q. YEAH. I STARTED NOTWITHSTANDING THE FACT.
24 YOU TOLD ME ABOUT THE DIVERSE DECISION MAKING
25 MECHANISM AND SO ON. AND MY QUESTION TO YOU, SIR,

1 IS ISN'T 1970 A LITTLE LATE IN THE DAY WHEN YOU
2 RECEIVED WORD FROM DR. STOPPS IN 1965, THAT IN HIS
3 OPINION, THERE WERE PEOPLE IN TROUBLE?

4 (OBJECTION)

5 MS. ALITO: OBJECTION, ASKED AND
6 ANSWERED. AND OBJECTION, I DON'T THINK DR. STOPPS
7 EVER SAID THERE ARE PEOPLE IN TROUBLE.

8 MR. JACOBY: OH, HE SAID IT ALL
9 RIGHT.

10 THE WITNESS: A MATTER LIKE THIS IS
11 NEVER TAKEN CARE OF IN ONE FELL SWOOP. THE FACT
12 THAT STOPPS WAS MAKING RECOMMENDATIONS BACK IN
13 WHATEVER YEAR YOU SAID, '65, AND THIS CONFERENCE
14 WAS HELD IN 1970, DOES NOT INDICATE THAT NOTHING
15 WAS BEING DONE IN THE INTERIM.

16 BY MR. JACOBY:

17 Q. MY WHOLE PURPOSE FOR COMING HERE TODAY WAS
18 TO FIND OUT WHAT WAS BEING DONE IN THE INTERIM. I
19 DIDN'T MEAN TO IMPLY NOTHING WAS BEING DONE. IF
20 YOU LOOK AT THE WORDS, IT SAYS THERE WAS NO
21 UNIFIED PROGRAM FOR THE APPRAISAL OF ASBESTOS
22 DUST. AND I JUST WANT TO KNOW IF IN 1970 THAT WAS
23 THE STATE OF THE SITUATION.

24 MS. ALITO: OBJECTION, ASKED AND
25 ANSWERED.

MORGAN - JACOBY

1 MR. JACOBY: YOU DON'T HAVE TO ANSWER
2 THAT.

3 BY MR. JACOBY:

4 Q. NOW, SIR, YOU'VE TOLD US BRIEFLY ABOUT YOUR
5 EXPERIENCES IN THE NAVY AND THE RECOMMENDATIONS
6 THAT YOU'VE MADE AND SO ON. OKAY. NOW, DO YOU
7 SEE IN THE SECOND PARAGRAPH HERE WHERE IT SAYS
8 CONCERNING THE WIDESPREAD USE OF ASBESTOS IN THE
9 DUPONT COMPANY, IT IS A FACT THAT IN CHEMICAL
10 PROCESSING ASBESTOS IS ALMOST UBIQUITOUS. DO YOU
11 SEE THAT, SIR?

12 A. YES.

13 Q. SO CLEARLY YOU WERE AWARE THAT ASBESTOS WAS
14 BEING USED?

15 A. I WAS.

16 Q. OKAY. SURE. NOW, A LITTLE FURTHER DOWN IS
17 WHAT I'M GETTING TO. IS FABRICATED WITHIN SHOPS
18 ON DUPONT PLANTS, IS INSTALLED AND EVENTUALLY IS
19 REMOVED. COULD YOU JUST TAKE A MINUTE AND READ
20 THE REST OF THAT PARAGRAPH.

21 A. YES.

22 Q. NOW, SIR, THIS PARAGRAPH, WOULD YOU AGREE,
23 SIMPLY CLEARLY INDICATES THAT YOU KNEW THAT PEOPLE
24 WERE RIPPING OUT ASBESTOS; IS THAT CORRECT?

25 A. YES.

MORGAN - JACOBY

1 Q. AND YOU KNEW THAT THEY MAY BE RIPPING OUT
2 CROCIDOLITE; IS THAT CORRECT?

3 A. YES.

4 Q. DID YOU EVER RECOMMEND TO ANYONE THAT THE
5 GUY THAT WAS RIPPING OUT THE CROCIDOLITE BE TOLD
6 WHAT HE WAS DOING? DID YOU EVER MAKE THAT
7 RECOMMENDATION, SIR?

8 A. I MADE THAT THROUGH THE PLANNING OF THIS
9 CONFERENCE, SO THAT THAT KIND OF INFORMATION COULD
10 BE SPREAD WHEREVER IT WAS NEEDED IN THE COMPANY.

11 Q. OKAY.

12 A. I DIDN'T GO AROUND TO INDIVIDUAL WORKERS AND
13 TELL THEM THAT.

14 Q. DID YOU WRITE A MEMO TO ANY SUPERVISOR
15 SAYING YOU'VE GOT TO TELL SOMEBODY?

16 A. YEAH, TO ZAPP. I SAID LET'S PUT TOGETHER A
17 CONFERENCE AND TELL THEM.

18 Q. AND WAS IT YOUR PURPOSE IN ASKING FOR THIS
19 CONFERENCE -- LET ME REPHRASE THAT.

20 ~~WHAT WAS~~ YOUR PURPOSE IN ASKING FOR THIS
21 CONFERENCE?

22 A. I THINK IT'S CLEARLY STATED IN ONE OF THESE,
23 IT SEEMS TO ME THAT THE SUBJECT MERITS A
24 FULL-SCALE EFFORT ON OUR PART TO BRING TOGETHER
25 THOSE WHO ARE INTERESTED AND CONCERNED WITH THIS

MORGAN - JACOBY

1 ~~PROBLEM~~ FOR A DAY-LONG CONFERENCE IN WHICH THE
2 ~~SUBJECT~~ COULD BE THOROUGHLY REVIEWED. BESIDES
3 HELPING THE PEOPLE THAT HAVE ALREADY MADE
4 INQUIRIES IT WOULD CONVERGE OUR TIME BY
5 ANTICIPATION OF NEEDS OF OTHERS AND INVITING THEM
6 TO PARTICIPATE IN THE SESSION.

add
in

7 Q. FOR HOW LONG, SIR, DID YOU BELIEVE THAT THE
8 SUBJECT MERITED A FULL-SCALE EFFORT?

9 A. I DON'T RECALL THE DATE WHEN IT FIRST DAWNED
10 ON ME.

11 Q. GIVE ME SOME PERIOD OF TIME. EARLY '60'S,
12 MID-'60'S, ANY TIME THAT YOU CAN PIN DOWN FOR ME.

13 A. IT WAS SOMETIME PRIOR TO NOVEMBER OF 1968,
14 WHICH WAS THE DATE WHEN I WROTE THIS OUT.

15 Q. DIDN'T YOU REALLY HAVE THAT OPINION BACK IN
16 YOUR NAVY DAYS? ASBESTOS WASN'T A NEW CONCEPT TO
17 YOU.

18 A. BACK IN MY NAVY DAYS I HAD THE OPINION THAT
19 ~~ASBESTOS WAS~~ POTENTIALLY HAZARDOUS MATERIAL THAT
20 REQUIRED ATTENTION.

21 Q. AND YOU MADE CONCRETE PROPOSALS FOR ITS
22 CONTROL AND REMOVAL?

23 A. THAT WAS MY JOB.

24 Q. I UNDERSTAND THAT. SIR, I'M NOT IMPUTING
25 YOU IN ANY WAY. I WANT TO KNOW WHAT YOU KNEW AND

MORGAN - JACOBY

1 WHEN YOU KNEW IT. AND YOU RECOGNIZED BACK IN '42
2 WHEN YOU WERE IN THE NAVY THAT ASBESTOS HAD TO BE
3 CONTROLLED; IS THAT CORRECT?

4 A. THAT'S CORRECT.

5 Q. BUT NOW YOU ARE HERE IN 1970 SAYING THIS
6 SUBJECT MERITS FULL SCALE CONSIDERATION, OKAY.

7 A. YES.

8 Q. AND ALL I'M TRYING TO DO IS FIND OUT IF IT'S
9 BETWEEN '42 AND '68. WHEN YOU PINPOINTED IT A
10 MINUTE AGO, WHEN DID YOU COME TO THIS CONCLUSION
11 THAT THE CONTROL OF ASBESTOS DUST IS A SUBJECT
12 THAT MERITS FULL SCALE CONSIDERATION?

13 A. THAT CONCLUSION WOULD HAVE COME ABOUT AS A
14 RESULT OF MANY DIFFERENT THINGS THAT WERE
15 HAPPENING AND HAD BEEN BROUGHT TO OUR ATTENTION.
16 I DON'T KNOW A DATE. I DON'T KNOW AN EXACT TIME.

17 Q. OKAY.

18 A. THE -- THAT'S ENOUGH.

19 Q. HAD YOU COME TO THE CONCLUSIONS THAT THERE
20 WERE PEOPLE IN THE INSTALLATION SHOPS AT DUPONT
21 WHO WERE DOING PRECISELY, AND I USE THE WORD
22 PRECISELY, I UNDERScore THAT WORD FOR YOU, SIR,
23 THE SAME THINGS THEY WERE DOING AT THE
24 INSTALLATION SHOPS IN THE NAVY?

25 A. THEY WERE NOT THE SAME.

MORGAN - JACOBY

1 Q. AND HOW WERE THEY DIFFERENT?

2 A. DUPONT HAD A LONG HISTORY OF A VERY
3 EXTENSIVE SAFETY PROGRAM, MAKING USE OF ADVANCE
4 KNOWLEDGE AND EXPERIENCE. THE SAME WAS NOT TRUE
5 OF THE CONTRACT SHIPYARDS IN 1942, SO THAT WORKING
6 CONDITIONS WERE NOT THE SAME.

7 Q. CAN YOU BE SPECIFIC?

8 A. NO.

9 Q. JUST THAT YOUR RELIANCE UPON THE DUPONT
10 STANDARDS AND REPUTATION OR WHATEVER ELSE FOR
11 OCCUPATION -- CONCERN FOR OCCUPATIONAL SAFETY AND
12 HEALTH; IS THAT CORRECT?

13 A. THAT'S PART OF IT, YEAH.

14 Q. DO YOU KNOW WHAT BETA-NAPHTHYLAMINE IS?

15 A. YES.

16 Q. WHAT IS IT?

17 A. IT'S AN AROMATIC HYDROCARBON.

18 Q. CAPABLE OF CAUSING BLADDER CANCER?

19 A. IT HAS THE AMINO GROUP IN THE BETA POSITION
20 -- YEAH.

21 Q. AND CAPABLE OF CAUSING BLADDER CANCER?

22 A. YES.

23 Q. ARE YOU FAMILIAR WITH HOW MUCH BLADDER
24 CANCER IT CAUSES IN DUPONTS?

25 A. NO.

MORGAN - JACOBY

1 Q. IF I TOLD YOU SEVERAL HUNDRED WOULD THAT
2 SOUND RIGHT?

3 A. I THINK SO.

4 Q. ARE YOU FAMILIAR AT ALL WITH DUPONT HISTORY
5 WITH REGARD TO THE SUPPRESSION OF
6 BETA-NAPHTHYLAMINE?

7 (OBJECTION)

8 MS. ALITO: OBJECTION TO THE FORM OF
9 THE QUESTION. IT ASSUMES THE FACT THAT ISN'T SO.

10 MR. JACOBY: I'LL STATE FOR THE
11 RECORD IT ASSUMES A FACT THAT WILL BE PROVEN AT
12 TRIAL. THE RULES SAY I LIVE OR DIE WHEN I ASK THE
13 WITNESS TO ASSUME AND I'M PERFECTLY PREPARED TO DO
14 THAT.

15 MS. ALITO: IF YOU'D LIKE, MR.
16 MORGAN, TO ANSWER THAT QUESTION, WHY DOESN'T THE
17 COURT REPORTER READ IT BACK.

18 (DESIGNATED QUESTION IS READ)

19 THE WITNESS: I'M NOT AWARE OF ANY
20 SUPPRESSION. YOU MEAN CONTROL OF THE RISK?

21 BY MR. JACOBY:

22 Q. CONTROL OF THE PEOPLE WRITING ABOUT THE
23 RISK.

24 A. I'M NOT AWARE OF THAT.

25 Q. SO OTHER THAN DUPONT'S REPUTATION FOR

MORGAN - JACOBY

1 CONCERN FOR INDUSTRIAL HEALTH AND SAFETY -- STRIKE
2 THAT, YOU'VE ANSWERED THAT.

3 NOW, SIR, LOOKING A LITTLE FURTHER INTO THIS
4 EXHIBIT, I DON'T KNOW HOW ELSE TO DESCRIBE IT TO
5 YOU, I DON'T SEE A PAGE. WHERE IT SAYS ASBESTOS
6 CONFERENCE ON THE TOP, DO YOU SEE THAT?

7 A. YES.

8 MS. ALITO: THERE'S A NUMBER AT THE
9 BOTTOM. I DON'T KNOW IF IT'S LEGIBLE.
10 BY MR. JACOBY:

11 Q. IT'S UNDERLINED. IT SAYS ASBESTOS
12 CONFERENCE JUST LIKE THAT.

13 A. YEAH, I SEE.

14 Q. AND IF YOU'LL GO DOWN TO WHERE IT SAYS THE
15 PURPOSE OF THE CONFERENCE.

16 A. YES.

17 Q. NO, ACTUALLY I WANT YOU ON THE NEXT PAGE,
18 THE PAGE AFTER THAT, SIR.

19 A. LET ME READ THIS WHILE I'M AT IT.

20 Q. YES, SURE.

21 A. OKAY. WE'RE DOWN TO PURPOSE OF THE
22 CONFERENCE.

23 Q. YEAH. AND AGAIN, NOT TO BELABOR THE POINT,
24 SIR, BUT IN YOUR OWN WORDS, ~~YOU RECOGNIZED WHAT~~
25 ~~YOU HAD WAS AN INTELLIGENT CONCERN ABOUT THE~~

MORGAN - JACOBY

1 ~~HEALTH~~ PROBLEMS OF ASBESTOS SINCE THE DECADE OF
2 ~~THE 1940S~~ THAT CONCERN BEING WITHIN THE MEDICAL
3 ~~PROFESSION~~, INDUSTRIAL MANAGEMENT, LABOR UNIONS,
4 GOVERNMENT AGENCIES, INDEPENDENT SCIENTIFIC
5 INVESTIGATORS; IS THAT CORRECT, SIR?

6 A. THAT'S CORRECT. OTHERWISE, I WOULDN'T HAVE
7 WRITTEN IT.

8 Q. NOW, SIR, RIGHT UNDERNEATH THAT YOU HAVE
9 FIVE SUBJECTS TO BE DISCUSSED AT THE CONFERENCE.
10 DO YOU SEE THAT?

11 A. YES.

12 Q. AND THE NEXT LITTLE PARAGRAPH YOU SAY THE
13 CONFERENCE WOULD PRESENT AN EXPOSITION OF THE
14 FIRST FOUR OF THESE ASPECTS.

15 A. YES.

16 Q. NOW THE FIFTH ONE SAYS COMPENSATION OF
17 EMPLOYEES FOR DISEASE PRODUCED BY ASBESTOS
18 INHALATION. WHAT DID YOU MEAN BY THAT?

19 A. UP ABOVE, BEFORE WE REACH THE FIVE ITEMS, IT
20 SAYS THERE ARE EXPERTS ON EACH OF THE MAJOR
21 ASPECTS OF THE PROBLEM.

22 Q. RIGHT.

23 A. AND COMPENSATION OF EMPLOYEES IS ONE OF THE
24 MAJOR ASPECTS OF ANY IN OCCUPATIONAL DISEASE
25 PROBLEMS.

MORGAN - JACOBY

1 Q. RIGHT.

2 A. INCLUDING ASBESTOS.

3 Q. MY QUESTION TO YOU IS -- PERHAPS I DIDN'T
4 ARTICULATE IT. RIGHT UNDERNEATH IT YOU SAID THE
5 CONFERENCE WOULD PRESENT AN EXPOSTION OF THE FIRST
6 FOUR OF THESE ASPECTS SO THAT DUPONT NEEDS COULD
7 BE RECOGNIZED AND DEALT WITH IN A UNIFIED MANNER.
8 BUT YOU DON'T HAVE LIST, AS I UNDERSTAND IT,
9 PLEASE CORRECT ME IF I'M WRONG, AS FAR AS THE
10 FIFTH ITEM COMPENSATION OF EMPLOYEES WAS NOT TO BE
11 DISCUSSED?

12 A. IT WAS NOT TO BE DISCUSSED.

13 Q. MY QUESTION IS WHY.

14 A. IN A CONFERENCE OF THIS NATURE YOU BRING
15 TOGETHER PEOPLE WHO ARE AN EXPERT IN THEIR FIELD
16 AND THERE'S A LOT OF SIMILARITY IN ITEMS ONE
17 THROUGH FOUR BUT ITEM FIVE WOULD BE HANDLED IN THE
18 DUPONT COMPANY BY AN ENTIRELY DIFFERENT GROUP OF
19 PEOPLE.

20 Q. I SEE.

21 A. THE LEGAL DEPARTMENT AND THE FINANCIAL
22 PEOPLE AND THE MEDICAL.

23 Q. I SEE. WHEN YOU SENT THIS OUT ON FEBRUARY
24 THE 2ND, 1970, DID YOU HAVE AN OPINION AS TO
25 WHETHER OR NOT COMPENSATION OF EMPLOYEES FOR

MORGAN - JACOBY

1 DISEASE PRODUCED BY ASBESTOS INHALATION WAS PART
2 IN PART OF THE ASBESTOS PROBLEM?

3 A. YES, THAT'S WHAT I JUST SAID. I LISTED IT
4 AMONG THE DIFFERENT ASPECTS.

5 Q. IT IS YOUR OPINION THAT THAT WAS THE SUBJECT
6 THAT MERITED DISCUSSION, ALTHOUGH NOT AT THIS
7 CONFERENCE?

8 A. NOT AT THIS CONFERENCE, RIGHT.

9 Q. WHEN DID YOU COME TO THAT CONCLUSION THAT
10 COMPENSATION TO BE SECURED FOR EMPLOYEES WAS A
11 SUBJECT THAT NEEDED TO BE DISCUSSED?

12 A. I DON'T KNOW.

13 Q. SOMETIME PRIOR TO 1970?

14 A. YEAH. IN ALL MY EXPERIENCE IN DEALING WITH
15 OCCUPATIONAL DISEASE, COMPENSATION OF AN INJURED
16 EMPLOYEE WAS ALWAYS A FACTOR TO BE CONSIDERED.

17 Q. AND THEN FURTHER ON DOWN THE PAGE YOU BREAK
18 IT DOWN, AN A. AND A B. IF I'M AHEAD OF YOU, TELL
19 ME. I'LL GIVE YOU A CHANCE TO CATCH UP. AND A.,
20 TO BE PRESENTED AT THE CONFERENCE AND B., TO BE
21 DISCUSSED BY DUPONT PERSONNEL.

22 A. YES.

23 Q. AND THEN RIGHT AT THE END OF THE PAGE, SIR,
24 YOU SAY IT WOULD NOT BE NECESSARY FOR THEM TO
25 PARTICIPATE IN PART B. AND, IN FACT, ADVANTAGES

1 ARE FORESEEN IN LIMITING ATTENDANCE AT PART B. TO
2 UNAUTHORIZED DUPONT PERSONNEL. AND PART B. IS ON
3 THE NEXT PAGE. YOU CAN READ IT FOR YOURSELF.

4 WHAT ADVANTAGES DID YOU FORESEE IN LIMITING
5 PART B. OF THIS CONFERENCE TO AUTHORIZED DUPONT
6 PERSONNEL ONLY?

7 A. IN MY CREATIVE EFFORT IN PLANNING THIS
8 CONFERENCE I DECIDED THAT THE COMPANY WOULD PROFIT
9 BY BRINGING IN EXPERTS FROM OUTSIDE WHO HAVE GREAT
10 REPUTATIONS IN DIFFERENT ASPECTS OF IT. THEY WERE
11 IN PART A. TO IMPART THE INFORMATION THAT WE
12 REQUESTED OF THEM TO THE BEST OF THEIR KNOWLEDGE
13 AND THAT THERE WAS TIME FOR DISCUSSION OF WHAT
14 THEY SPOKE ABOUT IN PART A. THERE WAS NO NEED TO
15 KEEP THOSE EXPERTS HERE ON THIS SITE BEYOND OUR
16 ACTUAL NEED OF THEM, BUT THERE WAS A NEED TO BRING
17 TOGETHER THE DUPONT PEOPLE TO TALK ABOUT STEPS TO
18 BE TAKEN, TO EXECUTE RECOMMENDATIONS.

19 Q. PART FOUR OF PART B., NUMBER FOUR OF PART B.
20 WHERE IT SAYS MEDICAL STUDIES TO CORRELATE
21 ENVIRONMENTAL CONDITION OF DUPONT WORKERS. DO YOU
22 SEE THAT PART OF PART B. THAT'S FOR AUTHORIZED
23 DUPONT PERSONNEL ONLY. IT WAS AKIN TO WHAT STOPPS
24 WAS TALKING ABOUT?

25 A. SIMILAR TO IT, YES.

MORGAN - JACOBY

1 Q. AND YOU DON'T KNOW WHAT HAPPENED IN THAT
2 REGARD BETWEEN WHEN STOPPS TALKED ABOUT IT AND YOU
3 ASKED THAT IT BE DISCUSSED AT THIS CONFERENCE?

4 A. THIS MAY HAVE BEEN AN ATTEMPT AT UPDATING
5 THE APPROACH THAT HAD BEEN WORKED UPON AFTER
6 STOPPS' RECOMMENDATION.

7 Q. AND WHAT APPROACH WAS THAT?

8 A. I DON'T KNOW. BUT YOU'RE ASKING ME IF THAT
9 IS A POSSIBLE REASON WHY THERE WOULD BE A
10 DISCUSSION AT THIS TIME OF SOMETHING THAT HAD BEEN
11 PROPOSED EARLIER. HIS EARLY RECOMMENDATIONS, YOU
12 KNOW, WERE MADE ON THE BASIS OF KNOWLEDGE THAT WAS
13 NOT AS COMPLETE AS IT WOULD HAVE BEEN IN 1970
14 AFTER THESE EXPERTS CAME AND TALKED TO US.

15 Q. WOULD YOU SAY THAT --

16 A. THEY MAY HAVE HAD SOMETHING TO TELL US THAT
17 NEEDED TO BRING ABOUT A CHANGE IN WHAT WAS BEING
18 DONE.

19 Q. DID YOU PREPARE THESE AGENDA ITEMS YOURSELF,
20 SIR?

21 A. I DID. I WOULDN'T SAY THAT I DID IT ALONE.
22 I WAS IN CONSULTATION WITH MANY OTHERS.

23 Q. AND YOU RECOGNIZED THEN IN 1970 THE NEED FOR
24 MEDICAL STUDIES?

25 A. POSSIBLE NEED, YES.

1 Q. POSSIBLE NEED?

2 A. SURE.

3 Q. OKAY. NOW, THIS CONFERENCE, IN FACT, TOOK
4 PLACE?

5 A. YOU NOTICE IN PART A. THERE'S AN ITEM HERE,
6 THE INCIDENCE OF ASBESTOS DISEASES AND
7 DISTRIBUTION OF CASES. SO THAT MIGHT HAVE
8 FURNISHED THE BASIS FOR FURTHER DISCUSSION OF THE
9 MEDICAL APPROACH.

10 Q. NOW, THIS CONFERENCE TOOK PLACE IN MAY OF
11 1970; IS THAT CORRECT?

12 A. YES.

13 Q. AND YOU PARTICIPATED IN THE CONFERENCE?

14 A. I THINK I DID. WE DON'T HAVE NAMES OF
15 SPEAKERS HERE.

16 Q. I THINK YOU SPOKE ON MINEROLOGY, THAT MAY
17 COME UP IN ONE OF THE LATER DOCUMENTS. IF YOU
18 DON'T REMEMBER, JUST TELL ME.

19 A. I REMEMBER BEING ON THE PROGRAM FOR ONE OF
20 THE CONFERENCES. I WASN'T SURE WHETHER IT WAS
21 THIS ONE.

22 Q. MY QUESTIONS NOW ARE ONLY CONFINED TO THE
23 '70 CONFERENCE.

24 A. OKAY.

25 Q. NOT '72 OR '74. OKAY. WE'LL GET TO IT.

MORGAN - JACOBY

1 ~~Now, do you recall, sir, that one of the~~
2 ~~recommendations that came out of this 1970~~
3 ~~conference was that workers who were exposed to~~
4 ~~asbestos be told that they were at risk of various~~
5 ~~diseases and that they'd be told in such a way~~
6 ~~that there would not be the causing of undue~~
7 ~~alarm?~~

8 A. YES, I RECALL THAT. *add m*

9 Q. DO YOU RECALL THE DISCUSSIONS LEADING TO
10 THAT RECOMMENDATION OF THE CONFERENCE?

11 A. NO, I DON'T.

12 Q. IN YOUR MIND, SIR, WHAT LED YOU TO BELIEVE
13 AT THIS 1970 CONFERENCE THAT WORKERS EXPOSED TO
14 ASBESTOS SHOULD NOW BE TOLD THAT THEY WERE IN A
15 POTENTIALLY HAZARDOUS OCCUPATIONAL ENVIRONMENT?

16 A. THAT IN GENERAL IT IS A PRINCIPLE IN
17 INDUSTRIAL HYGIENE THAT AN INFORMED WORKER IS
18 BETTER ABLE TO PARTICIPATE IN HIS PROTECTION ON
19 THE JOB THAN IF HE'S NOT INFORMED. THAT'S A
20 PRINCIPLE.

21 Q. HOW LONG HAD YOU HELD THIS PRINCIPLE TO BE
22 VALID?

23 A. FROM MY EARLY DAYS IN INDUSTRIAL HYGIENE,
24 1942.

25 Q. SO WOULD I BE CORRECT, SIR, IN SAYING IT

MORGAN - JACOBY

1 WASN'T IN 1970 THAT YOU CAME TO THE CONCLUSION
2 THAT AN INFORMED WORKER IS BETTER THAN UNINFORMED?

3 A. NO.

4 Q. AND IT WAS YOUR CONCLUSION THAT THE WORKER
5 BE INFORMED SPECIFICALLY AS REGARD TO ASBESTOS
6 EXPOSURE?

7 A. I THINK I STATED THAT IN MY RECOMMENDATION,
8 YES.

9 Q. AND WHAT WAS YOUR KNOWLEDGE, SIR, AS TO WHAT
10 THE DUPONT COMPANY WAS DOING TO PROTECT THE WORKER
11 AS OF THE DATE OF THIS CONFERENCE, MAY OF 1970?

12 A. I KNEW THAT EFFORTS WERE BEING MADE BUT I
13 DON'T HAVE ANY SPECIFIC RECOLLECTION OF SPECIFIC
14 MEASURES THAT WERE BEING TAKEN AT ANY GIVEN
15 LOCATION.

16 Q. OKAY. NOW, I THINK I MAY HAVE SKIPPED AN
17 EXHIBIT HERE. YEAH, I'M GOING TO GO TO THE ONE
18 THAT SAYS ASBESTOS CONFERENCE. IT LOOKS LIKE
19 THIS, SIR, AND IT'S A MEMORANDUM THAT YOU HAVE
20 PREPARED --

21 A. TO REINHARDT.

22 Q. YEAH, TO REINHARDT, THAT'S DATED MARCH THE
23 9TH, 1970. IT'S DATED -- YEAH, AND UNDERNEATH
24 ASBESTOS CONFERENCE IT SAYS CONVERSATION WITH R.T.
25 DE TREVILLE, MARCH 4, 1970. DO YOU SEE THAT, SIR?

MORGAN - JACOBY

1 A. YES.

2 Q. WILL YOU JUST READ ALOUD THE EXHIBIT NUMBER?

3 A. P MORGAN-9.

4 Q. OKAY. DO YOU NEED A MINUTE TO LOOK AT THAT?

5 A. YES.

6 (BRIEF RECESS)

7 BY MR. JACOBY:

8 Q. NOW, AS OF THE TIME OF THIS MEMORANDUM,
9 MARCH THE 9TH, 1970, MR. MORGAN, WERE YOU AWARE OF
10 THE FEDERAL GOVERNMENT'S INVOLVEMENT IN SETTING
11 STANDARDS FOR CONTROL OF ASBESTOS DUST?

12 A. NO.

13 Q. TOWARDS THE BOTTOM OF THE SECOND PARAGRAPH
14 WHERE YOU STATE HE THINKS THAT THIS KIND OF
15 INFORMATION SHOULD BE AVAILABLE IN CONNECTION WITH
16 THE GOVERNMENT'S EXPECTED INTEREST ON OBTAINING
17 DATA IN COMPLIANCE WITH HEALTH AND SAFETY LAWS, DO
18 YOU SEE THAT, SECOND PARAGRAPH? IT SAYS HE
19 THINKS.

20 A. OH, YEAH. KIND OF INFORMATION . . . IT WAS
21 DURING THAT PERIOD OF TIME THAT CONGRESS HAD
22 BEFORE IT PROPOSALS FOR AN OCCUPATIONAL SAFETY AND
23 HEALTH ACT. AND THAT MAY BE WHAT PROMPTED THIS.

24 Q. IN THE COURSE OF YOUR EMPLOYMENT WITH DUPONT
25 DID YOU INVOLVE YOURSELF AT ALL IN THOSE PROPOSED

MORGAN - JACOBY

1 STANDARDS OR IN THE GOVERNMENTAL COMMITTEE
2 DISCUSSIONS CONCERNING THE OCCUPATIONAL SAFETY AND
3 HEALTH ACT?

4 A. MY INVOLVEMENT DIDN'T COME UNTIL AFTER THE
5 ACT WAS PASSED AND MY OBLIGATION OF ADVISING THE
6 DEPARTMENT OF LABOR ON STANDARDS AND THEN I WAS
7 CALLED IN.

8 Q. DID YOU SPEAK IN FAVOR OF STANDARDS OR
9 AGAINST THEM?

10 A. WHICH ONES?

11 Q. THE STANDARDS THAT WERE, IN FACT, INITIATED
12 IN 1972.

13 A. I, BY THAT TIME, WAS A PARTICIPANT IN THE
14 ACGHIT COMMITTEE. AND THAT COMMITTEE AND THE
15 ACGIH STILL HELD STRONGLY TO THE OPINION THAT
16 THESE RECOMMENDED THRESHOLD LIMIT VALUES SHOULD
17 NOT BE ENACTED INTO LAW AND THEY WERE.

18 Q. WAS THAT ALSO YOUR OPINION?

19 A. IT WAS MY OPINION, YES.

20 Q. AND WHY DID YOU FEEL THAT THEY SHOULD NOT BE
21 ENACTED INTO LAW?

22 A. BECAUSE WHEN THEY WERE ENACTED INTO LAW THEY
23 IMMEDIATELY BECOME EXACTLY WHAT THEY ARE NOT
24 INTENDED TO BE, SHARP LINES OF DEMARCATION BETWEEN
25 SAFE AND UNSAFE.

MORGAN - JACOBY

1 Q. SIR, IN THE LAST PARAGRAPH OF THIS EXHIBIT
2 YOU TALK ABOUT THE IHF AND A SEMINAR THAT YOU SAY,
3 I ATTENDED ABOUT A YEAR AND-A-HALF AGO. DO YOU SEE
4 THAT, SIR?

5 A. YES.

6 Q. AND A LITTLE FURTHER, PART OF THE
7 PROCEEDINGS, I TAKE IT, OF THAT SEMINAR, CONSISTED
8 OF AN ADDRESS BY AN EPIDEMIOLOGIST, DR. ENTERLINE
9 OF PITTSBURGH. DO YOU SEE THAT?

10 A. YES.

11 Q. IN FACT, YOU DID ATTEND THAT IHF SEMINAR?

12 A. YES.

13 Q. YOU HEARD DR. ENTERLINE SPEAK?

14 A. YES.

15 Q. YOU HEARD DR. ENTERLINE GIVE THE RESULTS OF
16 HIS STUDIES CONCERNING ASBESTOS RELATED HEALTH
17 PROBLEMS?

18 A. I DID HEAR HIM. I DON'T RECALL AT THE
19 MOMENT JUST WHAT HE COVERED IN HIS TALK THAT DAY.

20 Q. DO YOU RECALL WHETHER OR NOT HE DISCUSSED IN
21 GREAT DETAIL THE FACT THAT PEOPLE WITH VERY
22 MINIMAL EXPOSURE TO ASBESTOS WERE AT RISK OF
23 DEVELOPING ASBESTOS-RELATED DISEASE?

24 A. I DON'T HAVE A DISTINCT RECOLLECTION OF WHAT
25 ENTERLINE'S STUDY CONSISTED OF, WHAT POPULATION HE

MORGAN - JACOBY

1 HAD TO WORK WITH. OBVIOUSLY, IT WAS SOMETHING
2 THAT NEEDED TO BE CONSIDERED.

3 Q. SO, YOU DON'T HAVE A PRESENT RECOLLECTION
4 WHERE IT SAYS THESE DATA SHOULD BE DESCRIBED IN
5 THE PROCEEDINGS?

6 A. THAT WOULD BE IN THE IHF PROCEEDINGS.

7 Q. YEAH. THIS IS AN INDICATION THAT HIGH
8 EXPOSURE LEVELS FOR FAIRLY BRIEF PERIODS MAY
9 SUBSEQUENTLY RESULT IN DELETERIOUS EFFECTS. WAS
10 THAT AN OPINION THAT YOU HELD IN 1970, SIR?

11 A. I'M OF THE OPINION NOW THAT THAT WAS
12 ENTERLINE'S OPINION.

13 Q. YES.

14 A. AND THAT I FELT IT WAS WORTHWHILE TO PASS IT
15 ON TO REINHARDT, BECAUSE IT CAN'T BE IGNORED.

16 Q. YOU HEARD HIM EXPRESS THAT OPINION, WOULD IT
17 BE FAIR TO SAY, SOMETIME IN 1978? I'M JUST GOING
18 BACK A YEAR AND-A-HALF.

19 A. I THINK SO, YEAH. NOW, AT MEETINGS OF THIS
20 TYPE VERY OFTEN YOU'LL HAVE AN INVESTIGATOR STATE
21 SOME RESULTS AND GIVE HIS OPINION OF IT, OF THE
22 MEANING OF THE RESULTS AND THEY'RE NOT IMMEDIATELY
23 ACCEPTED BY EVERYBODY IN THE HALL. THEY NEEDED
24 SOME FURTHER QUESTIONING AND INVESTIGATION. SO
25 THAT THE MERE FACT THAT I PASSED ON WHAT ENTERLINE

MORGAN - JACOBY

1 HAD PROPOSED TO REINHARDT DOES NOT INDICATE THAT I
2 FULLY UNDERSTOOD WHAT HE HAD DONE OR THAT I WAS
3 FULLY IN FAVOR OF AGREEING WITH HIM. WE CAN'T PUT
4 TOO MUCH MEANING IN 1986 ON WHAT WAS STATED AT A
5 MEETING BACK 1968 OF FURTHER STUDY. I'D WANT TO
6 REVIEW IT AGAIN, CERTAINLY.

7 Q. MY QUESTION TO YOU IS, THOUGH, IT WAS STATED
8 IN A MEETING THAT YOU PARTICIPATED IN?

9 A. I'D JUDGE FROM WHAT I WROTE HERE THAT'S
10 CORRECT, YES, IT WAS, IT WAS STATED.

11 Q. DID YOU REGULARLY ATTEND MEETINGS AT THE
12 IHF?

13 A. PRETTY REGULARLY, YEAH.

14 Q. AND WERE THERE MEETINGS OR SEMINARS
15 CONDUCTED BY THE IHF RELATING EXCLUSIVELY TO
16 ASBESTOS-RELATED DISEASE, TO YOUR KNOWLEDGE?

17 A. THIS FIBROUS DUST SEMINAR WAS THE NEAREST IT
18 GOT TO THAT AND IT WASN'T EXCLUSIVELY ASBESTOS.
19 IT WAS ALL A MATTER OF FIBROUS DUST.

20 Q. WERE YOU PRIVY TO ANY OF THE PUBLICATIONS
21 THAT WERE SENT OUT BY OF THE IHF?

22 A. I RECEIVED A COPY OF THESE PROCEEDINGS
23 SOMETIME LATER.

24 Q. DID YOU RECEIVE COPIES OF ANY OTHER
25 PROCEEDINGS?

1 A. HASKELL LABORATORIES SUBSCRIBED TO -- WERE
2 MEMBERS OF THE INDUSTRIAL IHF AND RECEIVED THE
3 MONTHLY INDUSTRIAL HYGIENE DIGEST AND ANY SPECIAL
4 BULLETINS THAT CAME OUT OF THEIR INVESTIGATION.
5 SO I HAD ACCESS TO THEM.

6 Q. SO YOU HAD ACCESS TO EACH AND EVERY TIME
7 ASBESTOS STUDIES AND ANYTHING HAVING TO DO WITH
8 ASBESTOS WOULD BE PUBLISHED BY THE IHF?

9 A. I HAD ACCESS TO IT. I'M NOT SAYING YOU READ
10 IT ALL.

11 Q. I KNOW, I HEAR YOU. ALL RIGHT. LET'S GO TO
12 -- I ONLY HAVE TWO MORE EXHIBITS AND I THINK I CAN
13 DO THEM PRETTY QUICKLY. THE NEXT ONE IS -- IT'S
14 DATED APRIL 22ND, 1970. THAT'S WHAT THE FRONT
15 PAGE LOOKS LIKE. IT HAS A WHOLE LIST OF PEOPLE ON
16 THE BOTTOM WHO GOT COPIES OF IT.

17 A. THIS IS P MORGAN-10.

18 Q. THIS EXHIBIT IS DATED APRIL 22ND, 1970 AND I
19 REFER YOU TO THE THIRD PAGE OF THE EXHIBIT. AGAIN
20 I'LL REPRESENT TO YOU THAT IT DEALS WITH THIS MAY
21 6TH AND 7TH, 1970 CONFERENCE THAT WE'VE BEEN
22 TALKING ABOUT FOR A LITTLE WHILE.

23 A. OH, YEAH.

24 Q. ON THE LAST PAGE IT SAYS ASBESTOS
25 CONFERENCE. DO YOU SEE THAT?

MORGAN - JACOBY

1 A. YEAH.

2 Q. PRELIMINARY?

3 A. PRELIMINARY PROGRAM.

4 Q. YEAH. DUPONT COUNTRY CLUB, WILMINGTON,
5 DELAWARE. AND IT HAS YOU LISTED, SIR, AS A
6 SPEAKER ON, QUOTE, TYPES OF ASBESTOS MINERALS.

7 UNDERNEATH THAT IT HAS YOUR NAME, J.F. MORGAN; IS
8 THAT CORRECT?

9 A. THAT'S CORRECT.

10 Q. DOES THAT REFRESH YOUR RECOLLECTION, SIR, AS
11 TO WHETHER OR NOT YOU SPOKE AT THIS CONFERENCE ON
12 THE SUBJECT OF ASBESTOS MINERALS?

13 A. YES, I DID.

14 Q. NOW, CAN YOU RECALL AT THIS TIME THE NATURE
15 OF YOUR DISCUSSION, THE NATURE OF YOUR
16 PRESENTATION?

17 A. YES. NOT BEING A GEOLOGIST, MINERALOGIST,
18 I HAD TO DO SOME REVIEWING ON THE ASBESTOS
19 MINERALS AND I DID THAT AND GOT SOME ADVICE AND
20 PUT TOGETHER A DESCRIPTION OF THE DIFFERENT
21 MEMBERS OF THE CLASS OF ASBESTOS MINERALS AND
22 ILLUSTRATED IT WITH SOME PICTURES OF CRYSTALS AND
23 FIBERS. AND I THINK I ALSO DISCUSSED THE RELATIVE
24 AMOUNTS THAT WERE IN INDUSTRIAL USE IN THIS
25 COUNTRY AT THE PRICE OF STEEL BEING THE MOST

MORGAN - JACOBY

1 COMMON.

2 Q. DO YOU RECALL THE SOURCES THAT YOU REFERRED
3 TO GATHER THIS INFORMATION?

4 A. NO. I CAN VISUALIZE SOME OF THE PAMPHLETS
5 AND BOOKS THAT I REVIEWED.

6 Q. CAN YOU VERBALIZE?

7 A. I CAN'T VERBALIZE IT, NO.

8 Q. ALL RIGHT. DO YOU STILL HAVE ANY OF YOUR
9 NOTES FROM THAT MEETING?

10 A. I DON'T THINK SO.

11 Q. DO YOU KNOW WHETHER A TRANSCRIPT WAS MADE OF
12 THAT MEETING, WHETHER THERE WAS SOMEONE HERE LIKE
13 THIS YOUNG LADY, A STENOGRAPHER?

14 A. I DON'T RECALL THAT WE KEPT A VERBATIM
15 ACCOUNT OF IT.

16 Q. DID YOU HEAR THE OTHER SPEAKERS AT THIS
17 CONFERENCE? WERE YOU IN ATTENDANCE?

18 A. YES, I WAS.

19 Q. DO YOU RECALL WHAT DR. STOPPS' REMARKS WERE?

20 A. NOT SPECIFICALLY.

21 Q. DO YOU KNOW THE AREAS THAT HE DISCUSSED?

22 A. HE PROBABLY REVIEWED RECENT DEVELOPMENTS IN
23 THE KNOWLEDGE OF ASBESTOS AND ITS RELATED
24 DISEASES.

25 Q. SIR, IF YOU'LL REFER TO THE NEXT AND THE

MORGAN - JACOBY

1 LAST EXHIBIT THAT I'M GOING TO USE, NOT THAT ONE
2 -- IT SAYS NEWPORT, DELAWARE, AUGUST 25TH, 1970,
3 DUPONT LOGO ON THE UPPER LEFT. AND IT'S SIGNED BY
4 D.F. REDDISH AND SLASH, A.D. VOLK.

5 MS. ALITO: MARKED EXHIBIT P
6 MORGAN-11.

7 THE WITNESS: I SEE IT.
8 BY MR. JACOBY:

9 Q. DO YOU SEE THAT, SIR?

10 A. YES.

11 Q. NOW, IF YOU'LL JUST TURN THE PAGE, WHERE IT
12 SAYS GUIDELINES ARE --

13 A. GUIDELINES ARE, YES.

14 Q. THE SECOND LITTLE DOT THERE.

15 A. OKAY.

16 Q. IT SAYS INFORM EMPLOYEES WORKING WITH
17 ASBESTOS INSTALLATION OF THE RELATED HEALTH
18 PROBLEMS. THIS SHOULD BE HANDLED WITHOUT UNDULY
19 ALARMING PEOPLE.

20 DURING THE DECISIONS LEADING UP TO THIS
21 GUIDELINE -- EXCUSE ME, THE DISCUSSIONS LEADING UP
22 TO THIS GUIDELINE --

23 A. THOSE WOULD HAVE BEEN DISCUSSIONS ON DAY
24 TWO, PART B.

25 Q. THE DUPONT PERSONNEL?

MORGAN - JACOBY

1 A. YEAH. AND I DON'T HAVE A DISTINCT
2 RECOLLECTION OF WHO SAID WHAT.

3 Q. WAS THERE A CONSENSUS THAT, IN FACT,
4 EMPLOYEES WORKING WITH ASBESTOS IN INSULATION BE
5 TOLD OF THE RELATED HEALTH PROBLEMS?

6 A. IT PROBABLY WAS.

7 Q. WAS THAT YOUR FEELING THEN?

8 A. I WOULD HAVE AGREED WITH THAT FEELING.

9 Q. AGAIN, SIR, WHEN IN TERMS OF TIME DID YOU
10 COME TO THE DECISION THAT EMPLOYEES BE TOLD?

11 A. ABOUT ASBESTOS?

12 Q. YES.

13 A. WELL, IN THE FIRST PLACE I HAD NO EXACT
14 KNOWLEDGE OF WHO HAD BEEN TOLD AND WHO HAD NOT
15 BEEN TOLD. BUT AT THAT TIME OF THE CONFERENCE,
16 MAY 5TH AND 6TH, 1970, IT DID SEEM TO BE
17 WORTHWHILE TO RECOMMEND THAT THOSE WHO HAD NOT
18 BEEN INFORMED BE INFORMED.

19 Q. OKAY. AND DID YOU ASSUME AT THAT TIME THAT
20 THERE WERE SOME PEOPLE WHO HAD BEEN INFORMED?

21 A. IT'S HARD FOR ME TO ANSWER THAT QUESTION IN
22 THE TERMS IN WHICH YOU'VE ASKED IT. TO ME IT WAS
23 MORE THAN AN ASSUMPTION. IT WAS KNOWLEDGE THAT AT
24 SOME PLANTS EVERYBODY WAS KEPT PRIVY OF EVERYTHING
25 THAT WAS EFFECTING THEM IN THE WORK PLACE. I KNEW

MORGAN - ALITO

1 FOR A FACT REGARDING SOME PLANTS.

2 Q. RIGHT.

3 A. BUT AS I'VE STATED BEFORE, THE PROCEDURES
4 WERE NOT UNIFORM THROUGHOUT THE COMPANY.

5 Q. YOU SAY SOME PLANTS OF THE DUPONT COMPANY --

6 A. YES, OF THE DUPONT COMPANY.

7 Q. -- WERE TOLD OF EVERY POTENTIAL HEALTH
8 HAZARD THAT THEY WORKED WITH, THAT THE COMPANY
9 KNEW ABOUT?

10 A. YES.

11 Q. TO YOUR PERSONAL KNOWLEDGE, SIR, DID EITHER
12 YOU OR ANYONE YOU KNOW TELL AN INDIVIDUAL EMPLOYEE
13 THAT HE WAS AT RISK OF ASBESTOS RELATED HEALTH
14 DISEASE?

15 A. I KNOW I NEVER DID IT PERSONALLY AND I DON'T
16 RECALL KNOWLEDGE OF ANYONE ELSE DOING IT.

17 MR. JACOBY: THANK YOU. THAT'S ALL I
18 HAVE.

19 MS. ALITO: I JUST HAVE ONE
20 QUESTION.

21 (EXAMINATION OF MR. MORGAN BY MS. ALITO:)

22 Q. IN MR. JACOBY'S LAST QUESTION TO YOU, MR.
23 MORGAN, HE USED THE TERM "DUPONT EMPLOYEE". AND
24 YOU RESPONDED TO THAT QUESTION. AND I'D LIKE YOU
25 TO TELL US FOR THE RECORD HOW IN THE CONTEXT OF

MORGAN - ALITO

1 THAT QUESTION YOU DEFINE THE PHRASE, DUPONT
2 EMPLOY, IN QUOTATIONS?

3 MAYBE TO GIVE YOU AN IDEA OF WHAT I'M
4 GETTING AT, ARE YOU INCLUDING ALL PEOPLE WHO ARE
5 ON THE PAYROLL OF DUPONT AS A DUPONT EMPLOYEE IN
6 THE CONTEXT OF THAT QUESTION FROM THE MEMBER OF
7 THE BARGAINING UNIT, WHO'S WORKING OUT OF THE
8 PLANT, UP TO THE VICE-PRESIDENT OR IN THE CONTEXT
9 OF YOUR ANSWER TO THAT QUESTION WERE YOU DEFINING
10 AN EMPLOYEE AS JUST THE WORKER OR SOMETHING IN
11 BETWEEN?

12 A. AS I RECALL THE QUESTION IT DEALT WITH
13 WHETHER I HAD PERSONAL KNOWLEDGE OF MYSELF
14 INFORMING AN EMPLOYEE OF THE DUPONT COMPANY OR
15 KNOWLEDGE OF SOMEONE ELSE INFORMING AN EMPLOYEE OF
16 THE DUPONT COMPANY OF THE RISKS OF ASBESTOS.

17 MR. JACOBY: AND I WILL DEFINE FOR
18 YOU EMPLOYEE, IF I MAY, TO HELP CLEAR UP THE
19 QUESTION.

20 THE WITNESS: FIRST OF ALL, LET ME
21 ANSWER THIS QUESTION. WHAT I HAD IN MIND WHEN I
22 ANSWERED THAT I DID NOT PERSONALLY INFORM AN
23 EMPLOYEE AND I DID NOT KNOW OF ANOTHER PERSON
24 INFORMING AN EMPLOYEE, I WAS THINKING OF WAGE ROLE
25 WORKERS. THAT WOULD EXCLUDE TECHNICAL PEOPLE,

MORGAN - ALITO

1 MEDICAL DOCTORS, LAWYERS AND SUPERVISORS.

2 MS. ALITO: THANK YOU.

3 THE WITNESS: DOES THAT ANSWER YOUR
4 QUESTION?

5 MS. ALITO: I DIDN'T MEAN TO CUT YOU
6 OFF.

7 THE WITNESS: YOU SAID YOU WERE GOING
8 TO DEFINE IT FOR US. IF IT'S NOT NECESSARY
9 ANYMORE --

10 MR. JACOBY: LET'S COMPLETE THE
11 THOUGHT. MY QUESTION TO YOU WAS NOT WHO WAS DOING
12 THE TELLING, BUT WHO WAS BEING TOLD AND I SAID
13 DUPONT EMPLOYEE. AND JUST TO BE CLEAR, WHEN I SAY
14 DUPONT EMPLOYEE IN THE CONTEXT OF THIS QUESTION I
15 MEAN FROM THE PRESIDENT OF THE COMPANY DOWN. IS
16 ANY EMPLOYEE TOLD?

17 THE WITNESS: OH, ABSOLUTELY. THE
18 WHOLE ROOM OF PEOPLE AT THE CONFERENCE WERE TOLD.

19 MR. JACOBY: WAS ANYBODY OTHER THAN
20 THE PEOPLE IN THAT CONFERENCE TOLD?

21 THE WITNESS: THE PEOPLE WHO WERE AT
22 THE CONFERENCE WERE THERE SO THAT THEY COULD TAKE
23 THE MESSAGE BACK TO THEIR PLACES OF WORK AND PASS
24 IT.

25 MR. JACOBY: OKAY. THAT'S ALL I WANT

1 TO KNOW.

2 (WITNESS EXCUSED)

3 (DEPOSITION CONCLUDED)

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C E R T I F I C A T E

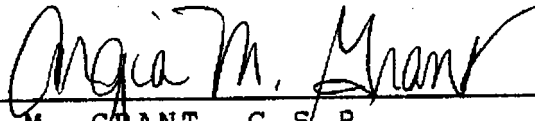
I, ARGIA M. GRANT, A NOTARY PUBLIC AND
CERTIFIED SHORTHAND REPORTER OF THE STATE OF NEW
JERSEY AND A COMMISSIONER OF DEEDS OF THE STATE OF
PENNSYLVANIA, DO HEREBY CERTIFY THAT PRIOR TO
THE COMMENCEMENT OF THE EXAMINATION,

JAMES F. MORGAN

WAS DULY SWORN BY ME TO TESTIFY TO THE TRUTH,
THE WHOLE TRUTH AND NOTHING BUT THE TRUTH.

I DO FURTHER CERTIFY THAT THE FOREGOING IS
A TRUE AND ACCURATE TRANSCRIPT OF THE TESTIMONY
AS TAKEN STENOGRAPHICALLY BY AND BEFORE ME AT THE
TIME, PLACE AND ON THE DATE HEREINBEFORE SET
FORTH.

I DO FURTHER CERTIFY THAT I AM NEITHER A
RELATIVE NOR EMPLOYEE NOR ATTORNEY NOR COUNSEL OF
ANY OF THE PARTIES TO THIS ACTION, AND THAT I AM
NEITHER A RELATIVE NOR EMPLOYEE OF SUCH ATTORNEY
OR COUNSEL AND THAT I AM NOT FINANCIALLY
INTERESTED IN THIS ACTION.


ARGIA M. GRANT, C.S.R.
NOTARY PUBLIC, STATE OF NEW JERSEY
MY COMMISSION EXPIRES 10-5-91
CERTIFICATE NO. X101221
DATE: NOVEMBER 11, 1986