VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF NEWPORT NEWS

: At Law No.: CL99-2000
IN RE: ALL ASBESTOS CASES : DEPOSITION OF:
CARLO F. MARTINO :
(Volume I)
/

TRANSCRIPT of the stenographic notes of the proceedings in the above-entitled matter, as taken by and before JUDY A. BLACK, a Certified Shorthand Reporter, Registered Professional Reporter, and Notary Public of the State of New Jersey, held at the offices of WILENTZ, GOLDMAN & SPITZER, PA, 90 Woodbridge Center Drive, Woodbridge, New Jersey, on Wednesday, July 10, 2002, commencing at 10:15 in the morning.

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I N D E X

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E X H I B I T S

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(Martino-1 through Martino-5, Various Documents, are received and marked for identification.)

C A R L O F. M A R T I N O, residing at 125 River Road, Somerville, New Jersey, having been duly sworn by the Notary, testified as follows:

DIRECT EXAMINATION BY MR. WARD:

Q. Good morning, Mr. Martino. First, I've had marked as Martino-1 the Notice of Deposition, for the record. And I want to make a few statements before we begin. First of all, we all agree that these are going to be -- this deposition will take place according to the Virginia Rules of Civil Procedure.

MR. YARBOROUGH: Correct.

MR. WARD: Even though we're here in New Jersey.

MR. YARBOROUGH: Correct.

MR. WARD: I just wanted to state that on July 3rd of this year, I received seven boxes of documents from Union Carbide. I appreciate the production of documents, but I did not have a chance, given the Fourth of July holiday, to look through all seven boxes. It's possible that I may come back and ask for a further opportunity to depose Mr. Martino

if there's something in that seven boxes that I didn't previously have and that's relevant. We'll cross that bridge when it comes.

MR. YARBOROUGH: Okay. And we don't have any objection to the continuation of the deposition concerning matters that are not covered in

this deposition, but would object to going back and asking, you know, for the opportunity to just take a second deposition on the same issues.

MR. WARD: I agree.

BY MR. WARD:

Q. Mr. Martino, you've been deposed three times before?

A. Yes, I have.

Q. I have that you gave a deposition on May 4th, 2001. The case was the Yeager case?

A. If the date is right. Yeager sounds right, but I'm not -- you know, I may not recall the names of the cases, so it sounds right.

Q. And then about five days later, on May 9th, 2001, you gave another deposition in the Frye case?

A. Yes.

Q. And then this February, February 7, 2002, you gave a deposition in a case called the

Todak case?

A. Yes.

Q. Have you had a chance to review your prior testimony?

A. The first two, I did. I lost the copy I had on the computer of the third one.

Q. The ground rules for this deposition are the same as have been explained to you previously. The most important thing is if you don't hear my question completely, if you don't understand my question, let me know, and I'll repeat it or rephrase it.

A. Um-hum.

Q. And also if you need a break for any reason, just ask. This isn't an endurance contest.

A. Okay.

Q. I understand that in addition to giving depositions on behalf of Union Carbide, you've also assisted them in preparing answers to discovery, answers to interrogatories. Is that correct?

A. Interrogatories, if there were, I wasn't aware of it. I would receive questions over the telephone.

What were the others?

Q. Well, so is it fair to state that Union

Carbide's attorneys called you at various times and asked you for information about phenolic molding compounds?

A. Yes.

Q. Have you been compensated at all for that work?

A. Yes.

Q. Can you tell me at what rate you've been compensated?

A. $150 an hour, except for depositions and trial testimony, and that's $200 an hour. Short phone calls, I don't charge.

Q. Okay. Now, I understand you have given

trial testimony in one case.
A. Yes.
Q. And that was out in San Francisco?
A. Yes.
Q. It was shortly after the Yeager deposition, the first deposition you mentioned?
A. Yes.
Q. I haven't been able to get a copy of the transcript of your testimony. Apparently it hasn't been transcribed. Can you just describe for me what you remember about the subject matter of your trial testimony?

A. The case involved exposure, alleged exposure to phenolic laminates. I believe it was on a ship.
Q. And what was the nature of your testimony? Why were you called?
A. To provide a history of -- well, to clarify questions that had been raised with regard to what Bakelite is and where it was used.
Q. Now, correct me if I'm wrong. It's my understanding that in the realm of laminates, Union Carbide would provide phenolic resin to make the laminates, but they wouldn't provide the paper or sheets that were being laminated. Is that correct?
A. That is correct. That was one of the points I made.
Q. And was there any issue in that case regarding phenolic molding compounds?
A. No, no.
Q. Do you recall whose company made the laminates that were at issue in the case?
A. That never came up.
Q. Anything else you remember about your testimony in that case?
A. I went through a sort of explanation of where thermosets fit into the entire spectrum of the

plastics spectrum, which a lot of people there did not understand, and then tried to explain the various applications that phenolic resins are used in, which is something that the jury and others there didn't understand, either.
Q. There's a lot of uses for phenolic molding compounds. Correct?
A. Oh, yes, yes.
Q. Hundreds, if not thousands, I imagine?
A. Thousands, but those uses have been eliminated by a lot of thermoplastics in the '60s, '70s and '80s; but, you know, in the '20s, Bakelite was king. It was the only synthetic plastic available.
Q. In this particular case, did it involve use of phenolic laminates, or did you even know if it was a phenolic laminate?
A. I knew by the description given of what the person was using, you know, it was sheet form, like plywood, I think the plaintiff described it.

Q. Do you recall what the sheet form of material that was described in that case, what it was being used for?
A. Electrical panel boards.
Q. Can you describe more specifically what

you mean by a panel board?
A. One description was a board where the instruments were mounted. It wasn't clear from the description whether it was the front where instruments show through or it was the interior of the panel. The plaintiff didn't testify, so I didn't have the benefit of his testimony, just what was in the depositions.
Q. I'll come back to this a little bit later on, maybe tomorrow.
A. Okay. I don't recall what other uses came up in the deposition, but that was the primary one.
Q. Mr. Martino, I understand you're 75 years old. I just want to ask how your health was.
A. Excellent. So far.
Q. And it doesn't seem that you have any impairment to your memory, as far as I can tell right now, at least.
A. Well, I've been through three depositions, so my memory has been tested frequently and also by all the questions I've had. Unfortunately, it takes a little time sometimes, but I do manage to remember the important things.
Q. Are you taking any medications that have

any effect on your memory?
A. No.
Q. Can you describe for me what you've done to prepare for the deposition today?
A. I went through the first and second deposition last night and this morning to refresh my memory on what I said, and then I met with the attorneys yesterday, because we never worked together, not acquainted.
Q. Do you have any documents in your personal possession that relate to phenolic molding compounds?
A. Here?
Q. At your home, something that you took home with you as opposed to left behind at Union Carbide when you retired.
A. We were not permitted to take any Bakelite information with us when we retired, but I did take a copy of the phenolic molding material manual, which was given to customers, and I didn't feel that that was proprietary. I lost it for a while and then found it.
Q. Did you bring home with you when you retired or before, any of the internal correspondence that was directed to you?

A. No.
Q. Did you bring home any correspondence files or memoranda files from Union Carbide?
A. No.
Q. Have you reviewed any depositions from people who worked at the Newport News Shipbuilding & Dry-Dock Company?
A. I've seen -- I don't know if they're parts of the deposition or just excerpts in interpretations. I have a little background just on maybe a page or two, summarizing what was said by a number of people who were deposed.
Q. Do you have that with you, by any chance?
A. No.
Q. Do you recall the names of the people who had been deposed in those matters?
A. No, no. Since I retired, I have a bad memory for names.
Q. I have a bad memory for names and I have a long time to go before I retire.
A. It's embarrassing when I meet somebody that I worked with and I don't remember the name. It comes 15 minutes later, but --
Q. Do you have any understanding as you sit

here today about what the nature of your testimony might be in the trial that's scheduled in Virginia in the matter that we're here for today?
A. I didn't know I was scheduled to give testimony.
Q. You've been listed as a potential fact witness. Has anyone discussed with you what the nature of your -- subject matter of your testimony might be?
A. No.
Q. I want to go over some of your prior testimony, particularly that part of your testimony that related to asbestos-containing phenolic molding compounds.
A. All right.
Q. I've read all three of your prior depositions, and if any of these statements are wrong, please let me know. Okay?
A. Okay.
Q. I understand that you said that from 1960 through 1977, there were approximately 200 phenolic molding compounds.
A. That 1977 is incorrect.
Q. Did I say '77?
A. Yeah.

Q. I meant to say '74. Excuse me.
A. I think we went out of the business in '75.
Q. Let me repeat that question, then.
I believe you testified in the past that from 1960 through 1974, there were approximately 200

phenolic molding compounds?
MR. YARBOROUGH: Let him finish his question. Just so we have a clear record, just try to wait for him to complete his question before you answer. Thanks.
A. Okay.
Q. Do you recall the question that I just asked?
A. Would you repeat it, please.
Q. Okay. You previously testified, I believe, that from 1960 through 1974, there were approximately 200 different formulations of phenolic molding compounds?
A. I think what I said was when I started working in the area, there were -- or prior to my working -- but when I started working in the area, there were 200, and that was in 1960. During the period of those 14 years, we eliminated many of those formulations, so that when we -- by '73, '74, we were

down to less than 20. I think I may have said 14, but when I got -- found my manual after my third deposition, I counted 18.
Q. Fair enough.
In your prior testimony, you indicated that during that same time period, 1960 through 1974, there were a dozen or so phenolic molding compounds that contained asbestos.
A. To my recollection, in the '60s, that was what I thought we had. Now, I did not have the benefit of formulation sheets and so forth. It was all from memory.
In the 1970s, I think we were down to six or eight, but I think eight that might have had -- well, seven, I know, had asbestos. The eighth, I'm not sure of.
Q. There are a few specific ones that you recalled in your prior depositions. I'll read these very slowly for the benefit of the court reporter. You recalled -- and the ones that you recall, I'm speaking of the ones that you said had asbestos in them.
A. Um-hum.
Q. BMG-5138.
A. Right.

Q. BMG-2035.
A. Right.
Q. BMG-5020.
A. I was wrong on that one. That is wood flour filled. We found the specific gravity for it, so I was able to tell it did not have asbestos.
Q. BMG-5033.
A. That should be, I think, 5333 or 5303. I'm sorry, 5303.
Q. But also -- you also remembered a product called 5333, BMG?
A. Yes, yes.
Q. BMZ, as in zebra, 5250.

A. Yes.
Q. And BMG-5440.
A. Right.
Q. Do you recall any others as we sit here today?
MR. YARBOROUGH: Any others --
Q. That contained asbestos, phenolic molding compounds that contained asbestos?
A. 3700, I think, was an asbestos-filled material. That's all I can remember.
Q. In your prior testimony, you indicated that the asbestos-containing phenolic molding

compounds generally contained between 5 to 8 percent asbestos.
MR. YARBOROUGH: I'm just going to object, Mike, because that's not really in the form of a question. I just want to make sure --
Q. Is that correct? Is that what your --
A. The -- at the time I answered that question, I was focusing on the general purpose, the more popular grades. Those contained less than 10 percent. I think we since found the data sheets, the formulation sheets that showed they were around 8, 9 percent. I think in my third deposition, there were other -- the other percentages were 15 to 18 percent.
Q. I didn't see a reference to that in your third deposition.
A. And 30 percent; and that 3700 there, I think, was around 50, 55 percent.
Q. In your prior testimony, you stated that general purpose phenolic molding compounds used wood flour as a filler and that there was no asbestos in the general purpose compound until you developed BMM-5020.
MR. YARBOROUGH: Objection.
A. I was wrong about 5020. It was 5440. The 5020 is a -- as I recall, we got the specific

gravity on it and it was a wood-flour-filled material.
Q. Well, we'll cover that in a little while. I think you may have been correct the first time.
A. Oh, okay.
Q. I have marked as Martino Exhibit No. 2 a letter dated October 4th, 1989 from a Mr. Robert A. Butler to EPA/AIA Clearinghouse. What it is is it's Union Carbide's submission to the EPA pursuant to the Asbestos Information Act of 1988. Did you have any involvement in providing the information that was included in that disclosure?
A. In 1988?
Q. In 1988.
A. No.
MR. YARBOROUGH: Could I take a look at that, Mike?
MR. WARD: Absolutely. And if Mr. Martino wants to take a look at it, he can, too.

A. Certainly wouldn't have had anything to do with Calidria.
Q. I'm going to be asking you about the part that deals with Bakelite, which is farther down on the letter. I'm not going to be asking you

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anything about Calidria, at least at this point.
A. The 40 percent figure --
MR. YARBOROUGH: Just read the document.
THE WITNESS: Sorry.
Okay.
MR. YARBOROUGH: Do you have an extra copy of that?
Q. I'm going to be asking you questions initially beginning at page four of the letter where Mr. Baker on behalf of Union Carbide Corporation says that asbestos-containing Bakelite fell into three classes of Bakelite which differed on the basis of the quantity and type of asbestos. He lists first category being general purpose Bakelite. He says it contained less than 12 percent asbestos, and then it lists the different general purpose products that contain asbestos.
A. Um-hum.
Q. The list says BMMA-5138, BMRS-5314, BMMA-5440, BMMA-5330, BMMC-5333, BMMS-5333, BMRS-5440, and BMMA-5441. Is that --
A. The 50 --
MR. YARBOROUGH: Wait for a question.
Q. Do you recall that those products contained asbestos?

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A. All except the 5330. That may be a typo. I'm not familiar with that number.
Q. In any event, Union Carbide listed eight grades of general purpose Bakelite that contained asbestos. Is that correct?
A. When I --
MR. YARBOROUGH: Wait.
A. I'm sorry.
MR. YARBOROUGH: That's all right. Just try and wait for him to finish his question before you respond.
A. My way -- the composition of -- of a product is the same if the -- essentially the same if the letter's the same. So when I say -- I don't count the BMMC and BMMS as two compositions. They're the same. The only difference is in some minor, you know, granulation change or manufacturing difference, so any numbers that I give you, when I say a product, that encompasses that family of granulations.
Q. So even though Union Carbide listed those products separately, you don't in your own mind?
A. No, I -- granulation change, I don't think is any different.
Q. The next category of asbestos-containing

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Bakelite that Union Carbide lists is the heat-resistant Bakelite. They state that heat-resistant Bakelite contained 25 to 30 percent asbestos with one -- with one exception noted below. Is that how you recall it?

MR. YARBOROUGH: Objection. I don't think the question is clear. Is that how he recalls --

Q. The asbestos content of heat-resistant Bakelite?

A. I recall 5303 containing about 30 percent. I'm not sure whether 2035 contained that much. I don't think it did. I think that was more 18 percent. 5353, only 10 percent asbestos. I don't know about that one, either.

Q. It goes on to describe the different heat-resistant Bakelites that contained asbestos. You provide a list. The list says BMMC-2035, BMMA-5303, BMMD-5303, BMRS-2035, BMRS-5303, BMRS-5305, BMRC-2035, and BMMA-5353, and there, they have a caveat that that product only had 10 percent asbestos. Does that seem accurate to you, that list?

A. 5305 doesn't make -- doesn't ring a bell. I don't recognize that number at all.

Q. On page five, they list a product

called, or a type called high-impact heat resistant, stating it was only manufactured until the mid-1960s, which contained 50 percent asbestos of a long fiber African Blue asbestos type, and they identify that product as BMMZ-5250. Are you familiar with that product?

A. I'm familiar with BMZ-5250. I think that's a typo there.

Q. A single M instead of a double M?

A. Right.

Q. Do you recall any other products that had an asbestos content as high as 50 percent?

A. The 3700 that I just mentioned to you. That was made with the short fiber asbestos, not this.

Q. Now, I don't see 3700 listed anywhere in this disclosure by Union Carbide. Why do you think they left that one out?

MR. YARBOROUGH: Objection. Calls for speculation. You can answer it, if you know.

A. I don't know.

Q. All right. I marked as Martino Exhibit 3 the portion of the Federal Register, Volume 55, No. 30, dated February 13, 1990. This is the published version of what we just went through. This

is the information about Union Carbide asbestos products that was published in the Federal Register under the Asbestos Information Act. I'm just going to make that part of the record because we're going to come back to that. The matters disclosed in it are essentially what's in the letter we just

reviewed; and I believe the asbestos-containing products that Union Carbide identified in that submission is exactly the same as what we reviewed. If counsel finds otherwise, he can correct me.

I want to show you -- I'm going out of sequence. I'm sorry. I've also marked Union Carbide's answers to our interrogatories in this action as Martino No. 4, and in the answer to interrogatory number three, essentially the same information as we have been discussing from Martino Exhibit No. 2 is listed. The same products that are listed as being asbestos containing, although on this interrogatory answer, they don't give us a percentage of asbestos content, but the same products are listed. I'm marking that as Martino No. 4. I'll probably be referring to that later.

Martino Exhibit No. 5 is a letter, internal correspondence dated February 3rd, 1970. It's from a Mr. H.E. Kipp to Mr. A.R. Grover, with

copies to a Mr. Albright, Mr. C.F. Martino, who I assume to be you, Mr. G.R. Stringer, and Mr. W.T. Thompson, and I would like you to take a moment to review that before I ask you questions.

A. Okay.

Q. First, can you tell me who Mr. H.E. Kipp was?

A. He was an engineer working in the manufacturing department.

Q. Specifically manufacturing of phenolic molding materials?

A. Yes.

Q. Do you know if Mr. Kipp is still alive?

A. I don't know.

Q. Who is Mr. A.R. Grover?

A. He was a manager, I believe, in manufacturing department.

Q. Do you know if he's still alive?

A. I don't know. He left Carbide.

Q. The letter is copied to Mr. D.R. Albright. Do you recall who Mr. Albright is?

A. Yes.

Q. Can you tell me?

A. He was department head of the molding material department.

Q. Was he -- you answered to Mr. Albright?

A. No.

Q. No? Different chain of command?

A. Different departments. I was in research and development.

Q. And Mr. G.R. Stringer, can you tell me -- strike that.

Do you know if Mr. Albright is still living?

A. Yes.

Q. Do you know where he lives?

A. I don't know.

Q. Do you know if he's in the State of New

Jersey?
A. I think he is.
Q. Mr. G.R. Stringer, is he -- well, first, excuse me, tell me what his position was at this time.
A. He was also in manufacturing, quality control.
Q. Do you know if Mr. Stringer is still living?
A. I don't know.
Q. And finally, can you tell me what the position was in 1970 of Mr. W.T. Thompson?

A. I don't remember the position in 1970, but he was in the manufacturing department.
Q. Now, this letter indicates that they did a survey on the consumption of asbestos based on 1969 sales rolls. It indicates that five different grades of asbestos were in use, and that in the year 1969, 2,874,395 pounds of asbestos were used in phenolic molding compounds. Is that correct?
A. I don't know. I was not involved in that.
Q. You received a copy of this.
A. Right.
Q. Do you believe that Mr. Kipp would be accurate in that sort of analysis?
A. Yes.
Q. Attached to the letter is a list entitled "Phenolic Molding Material - Asbestos Consumption, Year 1969," and by my count, it lists 54 different asbestos-containing materials. My question to you is -- well, first of all -- strike that.
What this chart shows is that there were 52 phenolic molding products that contained asbestos, and what I'm asking you is, based on this document alone, doesn't that indicate that your prior testimony concerning the number of

asbestos-containing products is inaccurate?
A. No.
Q. Can you explain why you don't think it's inaccurate?
A. As I mentioned before, I don't consider changes in granulation different products. Secondly, I started by saying that we had started out in '60, 1960, with 200 formulations. The phenolic molding material book that you have lists 18, by the way I count. This is in between there, and we were in the process of gradually eliminating products, so '69 was in that transition period.
Q. But in the year 1969, the person who compiled this list, Mr. Kipp, listed 52 separate products.
A. By the way you're counting them, yes.
Q. By the way he counted them.
A. Well, that's our difference.
Q. Okay. So you still believe that your estimate of a dozen products that contained asbestos

from 1960 to 1974, you still believe that's accurate testimony?
A. I have justified, you know, how I arrived at the figures, and I stand by that.
Q. Now, in the submission that Union
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Carbide made to the United States Government pursuant to the Asbestos Information Act, they did count different granulations as a different product, and there's a total of 17 products on this submission. Again, given the fact that in 1969 alone, there was 52 separate phenolic molding compounds that contained asbestos, would you say that the submission made by Union Carbide was inaccurate?
MR. YARBOROUGH: I'm going to object to the question. I don't know what you are saying, that there's 52 -- he's already testified that in his opinion, he considers different products -- he does not consider different granulations to be considered different products.
Q. Can you answer the question, please?
A. Could you repeat that once more, please?
MR. WARD: Could you read back the question, please.
(The reporter reads back the requested portion.)
A. No, I would not.
Q. Can you explain why you still don't think that's inaccurate?
A. Because it's -- well, a couple of numbers in that question before, but other than that,
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I think they did the best job they could with what they had available, and the difference, as I mentioned before, is in the way I count and what I count versus what they did.
The number of products, to me, is not the important thing. The important thing is the pounds produced, and asbestos products are heavier and more expensive, so you don't sell as much --
MR. YARBOROUGH: Wait for a question.
A. All right.
Q. It is important to me, because when the federal government asks manufacturers of asbestos to make a disclosure, it was so people would know what products contained asbestos and what didn't, and if they failed to list products that contained asbestos, people are not going to know when they should protect themselves, so I do feel it's important. Would you agree that a full disclosure is important?
MR. YARBOROUGH: I'm going to object to that question and move to strike it as argumentative.
MR. WARD: You can move to strike it.
Q. You can answer the question.
MR. YARBOROUGH: If there's one pending.
Q. There is one. Do you think it's important for a company like Union Carbide to make an
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accurate disclosure to the government on the matter of asbestos-containing materials?
A. Yes, I do.
Q. Now, isn't it true that additional formulations of asbestos-containing phenolic molding materials existed prior to 1969?
A. Yes.
MR. YARBOROUGH: In addition to --
Q. In addition to the ones on the exhibit I just went over, the 52 products on that list, I'm saying, isn't it true that prior to 1969, which this is based on, there would have been additional formulations of asbestos-containing Bakelite?
MR. YARBOROUGH: I don't know that he's had time to read all the products in that list and to take them into memory.
Q. Well, let me phrase it this way. Were there asbestos-containing products that were phased out prior to 1969?
A. I don't know.
Q. Were there asbestos-containing products that were developed after 1969?
MR. YARBOROUGH: Asbestos-containing products, period?
Q. Asbestos-containing phenolic molding

compounds.
A. I don't know. Or I don't remember.
Q. Now, in your prior testimony, you had testified that most asbestos-containing phenolic molding compounds had approximately 5 percent asbestos in them. Is that correct?
A. Yes.
Q. If you look at that list there, which gives percentage, isn't it true that the majority of the products listed there contain more than 5 percent asbestos?
A. Yes.
Q. And in Union Carbide's submission to the United States Government, they said that there was only one product that contained more than 30 percent asbestos. Is that correct?
MR. YARBOROUGH: Objection. He doesn't necessarily have any knowledge of what Union Carbide stated.
Q. That's what we just reviewed. Under heat-resistant Bakelite, they said 25 to 30 percent with one exception, and then they proceeded to describe the BMMZ-5250.
MR. YARBOROUGH: And, again, I'm just going to object because you're asking him to base an

opinion from a four-page letter which he was not the author of, and hasn't -- was just now presented to him, so I don't know that he's completely aware of everything in that document.
Q. Okay. Well, assume for the purposes of this question -- and if my statement is false, it's a

false question, but assume that Union Carbide represented to the United States Government that they only made one asbestos-containing Bakelite product that contained more than 30 percent asbestos. Isn't it true, if you look at the list that is part of Martino Exhibit 5, that there are a number of products listed that contain more than 30 percent asbestos? I counted 12.

A. Again, I see 0500 listed three times. I see -- no, I don't see any listed here with 50 percent.

Q. I didn't say 50. I said more than 30?

A. More than 30.

Q. I'll go through them: BMG-0500, 38 percent asbestos. That's one. Number two, BMGA-4123, 48 1/2 percent asbestos.

A. Right.

Q. Number three, BMG-8335, 31 1/2 percent asbestos.

A. Um-hum.

Q. Number four -- no, what am I at -- I'm going to quit saying "number" because I'm going to lose count. Then there's BMM-500, 38 percent asbestos; BMMA-500, 38 percent asbestos; BMMA-2200, 41 percent asbestos. I'm shifting over to the far -- same page, far column talking about RM-18-Q asbestos filler. There's BMGF-8335, 42 percent asbestos; BMGS-8335, 42 percent asbestos; BMMA-5303, 37.3 percent asbestos; BMMD-5303, 31 percent asbestos.

A. Where's --

Q. I'm going down this column right here. This is for raw material, 18 Q.

A. Okay.

Q. On page two, there's BMMA-6935, 32 percent asbestos, in the far right hand column.

So wouldn't you agree with me, Mr. Martino, that even in just 1969, there were a number of asbestos-containing phenolic molding compounds that contained more than 30 percent asbestos?

MR. YARBOROUGH: I'm going to object to the question as compound and incomprehensible, and I'm going to further object based on the fact that Mr. Martino is not the author of this document and

there's no way of knowing -- to me, this document is unclear, and there's no way of knowing just by the percentage sign what that percentage sign truly represents, and I don't think that based on the fact that Mr. Martino is not the author of this document, that he would be able to answer that question accurately.

Q. You understand the question, don't you?

A. Please repeat it.

Q. Let me lay a little bit more foundation.

You're familiar with the different grades of asbestos that was used as fillers in phenolic molding compounds. Correct?

A. Yes.
Q. And you are familiar with raw material 18-B, RM-18-B as being a form of asbestos. Correct?
A. Yes.
Q. And are you familiar with RM-18-O as being an asbestos filler for phenolic molding materials?
A. I don't know what the differences are of all those asbestos types without looking. I don't have that information and don't remember it.
Q. But you do recall that the designation RM-18 followed by a letter is for an asbestos filler?

A. Yes.
Q. And that was true throughout the time you worked for Union Carbide. Correct?
A. Yes.
Q. So 18 P refers to asbestos, 18 Q refers to asbestos, and 18 R refers to asbestos. Is that correct?
A. I don't see an R.
Q. I meant S. I'm sorry. The last column.
A. Yeah, S.
Q. Now --
A. I believe that's the case.
Q. And you believe that Mr. Kipp knew what he was writing about. He's the person who apparently compiled -- did this survey?
A. At this point I have no reason to question what he did.
Q. Now, isn't it true, Mr. Martino, that there are a number of asbestos-containing phenolic molding compounds that were made and sold in 1969 that contained more than 30 percent asbestos?
A. Based on this document, yes.
Q. So if that is true, isn't it also true that Union Carbide's submission under the Asbestos Information Act was inaccurate?

MR. YARBOROUGH: I'm going to object to that question because, again, he was not the author of the document or the submission to the government regarding the Asbestos Information Act, and the document does not necessarily purport to be all inclusive of --
MR. WARD: "With one exception" is kind of an indication that it intended to be inclusive. You can make your objection, but I think Mr. Martino is competent to answer the question, and I think he knows what the answer is.
You may answer.
A. Okay. Please repeat it again so I'm sure I'm answering the question I think I'm going to answer.
MR. WARD: Would you mind reading that back?
(The reporter reads back the requested portion.)
A. I can't answer that.

Q. Why not?
A. I don't know the background and how this was prepared.
Q. I don't care how it was prepared. I'm representing to you that this is what they sent to

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the United States Government and that's what was published in the Federal Register. I don't care how it was prepared. I'm saying, isn't it inaccurate?
MR. YARBOROUGH: Object. It's argumentative.
MR. WARD: It's not argumentative.
MR. TZANETOPOULOS: Lacks foundation.
MR. WARD: Have you been admitted pro hac vice in this matter?
MR. TZANETOPOULOS: Go ahead. Counsel made an objection. Go on.
MR. WARD: One person is defending this deposition.
MR. YARBOROUGH: Okay.
A. I want more time to think about this. I can't answer that question just on the basis of this.
Q. Take as much time as you need.
MR. YARBOROUGH: I'm going to object. He's already answered the question.
MR. WARD: No, he hasn't.
MR. YARBOROUGH: He said he does not know. He said he couldn't answer the question because he did not have enough background information.
MR. WARD: All right. We're going to do

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this the hard way, then. I hope you have time.
We'll revisit that question a little later in the deposition.
Q. Mr. Martino, I had the opportunity to look at Union Carbide phenolic molding compound documents, and I've had an opportunity to identify the ones that contained asbestos, and I want to review those with you, the products, and see if you agree with me that the product at issue that I'm going to talk to you about is asbestos containing.
The first product is BMMB-0150 Brown 15. I'm not going to mark every one of these exhibits. If counsel wants a copy, I'll be glad to give you one.
Isn't that true, that this was an asbestos-containing product?
A. Yes.
Q. And --
A. Four and a half percent.
Q. Four and a half percent asbestos. Was that on any of the lists that we have previously reviewed?
A. None that I --
Q. It wasn't on the EPA submission and it's not in the interrogatory answer, is it?

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MR. YARBOROUGH: If you know.
Q. In any event, it was an asbestos-containing product?
A. Well, of course, it was. It shows on the formulation.
Q. What was the purpose of adding four and a half percent asbestos to this product?
MR. YARBOROUGH: If you know.
A. I don't recall.
Q. Was it to improve the cure speed?
A. It would, yes.
Q. Now, in the papers I have here, there's a document called request for transfer of BMMB-0150 Brown 15, the product we're talking about, to final manufacturing status. There's also a document in August 14, 1967 saying BMMB-0150 is accepted for transfer into manufacturing status. That means that this product was sold. Correct?
A. Yes.
Q. To the public, to your customers?
A. I think that's what they're talking about there.
Q. The description of the product which was on the request for transfer which was authored by Mr. Fishberg -- and you were his boss, I guess --

indicates the product that was sold was designed for use by Leviton Manufacturing Company. Are you familiar with that company?
MR. YARBOROUGH: Do you have another copy so he can look at what you're reading from?
Q. Do you believe that that material was sold to Leviton?
A. Yes.
Q. The next product that I have a file for is BM-250 Brown. Are you familiar with that product?
A. Not now, no.
Q. Was this the same product later renamed BMZ-5250 Brown 135?
A. BM -- what?
Q. BMZ-5250 Brown 135?
A. I don't recall.
Q. You are familiar with BMZ-5250?
A. Right.
Q. I believe this was the predecessor product.
I would like you to look at a document dated January 2nd, 1952, called Special Report E-145, MFG, materials for certification under MIL-P-14A specification, BM-52 Brown and BM-15060 Black. I'm going to have -- let you take a look at that document

for a bit.
A. You made a comment earlier about this being a predecessor to BMZ-5250?
Q. I believe so. I can show you that file, too, if you'd like.
MR. YARBOROUGH: Just wait for his

questions, if you would.
A. Okay. Because I don't -- all right.
Q. The question I'm going to have for you, Mr. Martino, at the yellow marker or tab on the side there, it gives the formula for BM-250 Brown, and this material here, which back in 1952 is referred to as SR-1459, I believe is asbestos filler, and that's referred to in the earlier part of the document, and it indicates that it's -- out of a 1000-pound formula, 650 pounds plus or minus 20 pounds is asbestos. Is that correct?
MR. YARBOROUGH: I'm going to object. He hasn't had a chance to read the entire document yet.
MR. WARD: Take your time.
MR. YARBOROUGH: Nor was he the author of the document.
A. I wasn't even working in this area at that time.

Q. There's probably not too many people alive from that time, so you're my best person to ask.
A. Okay.
MR. YARBOROUGH: What was your question?
Q. My question is, would you agree that that product, BM-250, at least in that time period, 1952, contained 65 percent asbestos, plus or minus two percent?
MR. YARBOROUGH: I'm going to object. Where do you get the 65 percent?
MR. WARD: I get it out of the formula. 650 pounds of asbestos out of a thousand is 65 percent. Correct?
A. Um-hum.
Q. Plus or minus two percent.
A. Yeah.
Q. So it could be as high as 67 percent, as low as 63 percent asbestos?
MR. YARBOROUGH: Answer it, if you know.
Q. Is that what this document indicates?
A. If this is the designation for asbestos at that time, then it's correct.
MR. YARBOROUGH: Again, I'm going to object. He, again, wasn't the author of this

document and said he didn't even work in this area at the time. I don't know how he could answer your question regarding this document. It's something pulled out of the middle of a --
MR. WARD: Something pulled out of Union Carbide's records. It got their Bates number on it.
MR. YARBOROUGH: He's not a corporate designee of Union Carbide --
MR. WARD: A fact witness.
Q. You worked with phenolic molding compounds for 14 years. Correct?
A. Yes.
Q. And as part of your job, you would have

to look at Union Carbide records. Correct?
A. If they were -- if I needed to.
Q. You looked at documents that existed prior to your tenure in phenolic molding compounds. Correct?
A. Those that carried over into my particular area, crossover numbers that were being sold, but I didn't go back and look at every document.
Q. So you are not capable of answering this question. Is that what you're saying?
A. I'm saying -- I did answer it. I'm

saying based on what you showed me, yes, that shows 65 percent asbestos.
Q. All right, thank you.
And that product was not listed on Union Carbide's submission to the United States Government, was it?
MR. YARBOROUGH: Are you referring --
Q. You can look at either the letter from Mr. Baker or you can look at the actual publication in the Federal Register. They're the same language. Or you can look at your interrogatory answers that you gave us to number three. That product, which contained 65 percent asbestos, was not listed in any of those documents. Is that correct?
MR. YARBOROUGH: Which product is that?
MR. WARD: BM-250 brown.
A. May I ask a question on this -- since I had nothing to do with this, I want to understand it. Did this require that every product that Carbide ever made is supposed to be listed?
MR. YARBOROUGH: He's the one asking the questions here, but I'm going to object --
MR. WARD: I asked a simple question, is it on the list or isn't it?
MR. YARBOROUGH: I'm going to object,

because your question stated that -- you're arguing that it contained 65 -- that it stated it contained 65 percent asbestos. Mr. Martino stated that based on what you showed him, which was a formula pulled out of the middle of a seven- or eight-page document, based on a calculation that you came up with --
MR. WARD: Well, my son could come up with that calculation.
A. I'm not qualified to comment on something that I know -- have no background on. I have no idea what was required by the agency this is submitted to.
Q. I didn't ask you to comment on that. I asked you, was it on the submission?
A. Obviously it wasn't.
Q. Thank you.
This can go a lot faster if you just answer the question that I ask.
MR. YARBOROUGH: Objection. Don't be argumentative, Mike.

MR. WARD: This can be as easy or as difficult as you want it to be.
MR. YARBOROUGH: If you want it to be difficult, it can be difficult. I'm not going to lose any sleep over it.

MR. WARD: All right. Nor am I.
Q. I want to talk about the -- strike that. Let's go off the record for a second.
(A discussion takes place off the record.)
(A recess is taken.)
MR. WARD: Back on the record.
Q. Mr. Martino, we're back on the record. The next product I wanted to ask you about was a product called BM-261 Black. Are you familiar with that product?
A. No, I'm not.
Q. The document we've got out of Union Carbide's records indicates that it's a heat-resistant phenolic material, mineral filled.
A. Um-hum.
Q. Would that material be an asbestos-containing product?
MR. YARBOROUGH: Objection. He already testified that he was not familiar with that product.
MR. WARD: We were talking about 250. This is 261.
MR. YARBOROUGH: You just asked about 261. You asked him if he was familiar with it and he said no.

Q. Well, based on the information provided by Union Carbide on that document, would you say that's an asbestos-containing product?
A. I don't know. It says "mineral filled" here.
Q. I'm going to show you another document that seems to indicate to me in the upper right-hand corner that BM-261 became BMG-5261 Black 25. Is that what that indicates to you?
A. Yeah.
MR. YARBOROUGH: Hold on. You need to read the document before you answer any questions.
Again, unless this is a document that he is an author -- I just want to put on the record that it lacks foundation, and if you want him to read this, that's fine. He can read it just like you and I can, but he's not necessarily familiar with this document.
MR. WARD: All I'm asking about is the information in the upper right-hand corner and I'll move on. It's clearly -- it's a Union Carbide business record. It's from the Union Carbide document repository. My question was pretty simple, and I think he answered it.
Q. Does this document indicate to you that

BM-261 became BMG-5261? Is that correct?
A. Yes.
Q. I'm going to show you a product formula that we got from Union Carbide's records for BMG-5261 Black and ask you if you can tell from that formula what the asbestos content of that product was.
A. 18-B, which I -- which is commonly asbestos, is 49.8 percent.
Q. Was this product listed on Union Carbide's submission to the United States Government?
MR. YARBOROUGH: Again, you're referring to Exhibit 2, Martino-2?
Q. Martino-2 or Martino-3, take your pick. One is a submission, one is a publication.
Do you see BMG-5261 or, for that matter, BM-261 on either document?
MR. YARBOROUGH: Take your time.
A. No, I don't.
MR. YARBOROUGH: You didn't look at this one yet.
Q. You can look all you want.
A. No.
Q. Next I'd like to ask you about -- I'm going just in numerical order of what I have. BMG-0500, do you recall that product?

A. I recall the number. I don't recall anything more than that.
Q. On the document that we've marked as Martino-5, that's the very first entry on the attachment. It indicates that BMG-0500 Black 25 was 38 percent asbestos. Is that correct?
A. Yes.
Q. Do you have any reason to dispute that?
A. No, I don't.
Q. Do you know who this product was sold to?
A. No, I don't.
Q. I'd like to show you a document we found in the records. It's a letter dated June 23rd, 1961 by a Mr. F.W. Ducca. Do you know Mr. Ducca?
A. Yes.
Q. What position did he hold?
A. He was an engineer.
Q. Is he still alive?
A. I don't know.
Q. I'll let you look at this letter, but what I see is it states that this material -- again, I'm referring to BMG-500 Black 25 -- in 1960, they sold 1,140,000 pounds to Westinghouse, and by midyear '61 they had sold 83,700 pounds of that material to

Westinghouse. I wanted to see if you agreed with those documents.
A. Okay.
Q. Would you agree with me that a large quantity of this material was being sold to Westinghouse?

MR. YARBOROUGH: Objection. "A large quantity" is --

Q. Over a million pounds a year?

A. In '60, yes.

Q. Okay. I have another document. It's a letter dated December 23rd, '59, regarding BMG-500 Black 25, which when they sold it to Westinghouse, they called it WE-1393. The first sentence indicates that the Westinghouse account is one of the largest single accounts that Bakelite had. I want you to review that and see if that's how you read that statement.

My question is, does that letter indicate that the sale of BMG-500 to Westinghouse was one of Union Carbide's largest accounts at that time, on the date of that letter, which is end of '59?

A. That's what the letter says.

Q. Do you have any reason to dispute that?

A. No, if they consider a million pounds

large.

Q. Now, there's also a formulation of this product known as BMGA-500 Black 25. Are you familiar with that product?

A. BMGA-5 --

Q. 0500 Black 25?

A. No.

Q. Are you familiar with -- well, let me just show you this document, a document dated January 2nd, 1958, called specifications for the transfer of BMGA-500 Black 25 to production status. Would that indicate to you that that material was, indeed, made and sold?

MR. YARBOROUGH: I'm going to object to this document for lack of foundation.

Q. You can answer the question.

I can also add that we have a letter dated January 15, 1958 regarding BMGA-500 Black 25 indicating that the request for transfer was reviewed and that the request was -- it was the recommendation that the transfer request be approved. So with that additional material, do you believe this is a product that Union Carbide actually manufactured and sold?

MR. YARBOROUGH: Object. It's a compound question, lacks foundation.

A. Now, there's a statement here that says, "Our share of the business will be half of the estimated amount by the end of the first quarter 1958," so that implies that it was being sold. It doesn't say that they did get it. I can go -- only go by what's here.

Q. You don't have any specific recollection of this product?

A. No. That was '58. I wasn't even in the business.

Q. Well, it wasn't -- you started working with phenolic molding compounds in 1959. Correct?

A. No, 1960.

Q. But you had some involvement with phenolics, as well as other plastics, in '59. Correct? That's your prior testimony.
A. I think I said 1959.
Q. I'm going to show you --
A. I'm not on the distribution there.
Q. The cover letter for the document you've just been looking at indicates, does it not, that the material was specifically designed for Westinghouse?
A. Yes.
Q. Page four of that same document, it indicates that the asbestos content of this product

is 38 percent. Is that correct?
MR. YARBOROUGH: Object, again, lack of foundation. You can answer, if you know.
A. Yes.
Q. You have no reason to dispute that, do you?
A. No.
Q. Are you familiar with a product called BMGB-0500 Black 25?
A. No.
Q. I show you a document we got from Union Carbide's file. Take time to look at it. Let me know when you've had a chance to look at it.
A. Okay.
Q. What is the asbestos content of this product?
MR. YARBOROUGH: Objection. Again, lack of foundation. Go ahead.
Q. According to this document, what is the asbestos content of this product?
A. According to this document, 40 percent.
Q. Do you have any reason to dispute that?
A. No.
Q. Who does it indicate the customer was?
A. Westinghouse.

Q. Thank you.
MR. YARBOROUGH: Mike, what was the Bates number of that document?
MR. WARD: You'll have to remind me which one I looked at.
For the record, the Bates number is UCASB 00935963. The date of the document is November 4, 1957. I'm not going to make all these documents exhibits.
MR. YARBOROUGH: Right. I'd just like to know which ones we're referring to when we're asking the questions, if you could.
MR. WARD: All right. I'll try to say them.
MR. YARBOROUGH: Thanks.
Q. Next product I'd like to ask you about is BMGC-0500 Black 25. It's another variation of the same product, I guess, as the way you look at things.
A. Yes.
Q. I'm handing you a document. This one

does not have a Bates number. I think I got this before you Bates numbered your documents. But it's a Union Carbide document. I'd like you to look at that and tell me what the asbestos content of that product is according to the document.

MR. YARBOROUGH: Object to the question. Lack of foundation. You can answer it, if you can.

A. According to the document, it's 28 percent.

Q. So even though it's a 0500 product, it has a different asbestos content than other 0500's. The ones we did before were 40 percent and 38 percent. So there are differences within a product line. Correct?

A. The fourth letter implies a modification, experimental modification that is intended to replace a previous product.

Q. So this is a different product. Correct?

A. The granulation differences are shown in the third letter.

Q. I understand that.

A. The fourth letter, yes, it's a different one, but it will replace a previous one.

Q. But that means that there was -- even if the product doesn't exist any longer, it did exist?

A. Yes. You're counting whatever -- you know, there's an A, a B and a C. The A and B may no longer be sold, and C is sold.

Q. But A and B were previously sold?

A. Yes.

Q. And if you're trying to list all the products that contained asbestos, you would list all three of them under that situation. Correct?

A. Yes.

Q. Thank you.

A. Let me clarify. B may be a variation that was unsuccessful and they didn't sell it, so I don't know that.

Q. But you would agree if it has a different last letter in the four-letter sequence, it's a different product?

A. Yes.

Q. Thank you.

The next one is BMGD-500 Black 25, the next product in the sequence, I believe. I'm going to show you a document Bates numbered as UCASB 00936133 dated October 15, '62, so this is when you were working with Bakelite. I'd like you to look at this product formulation and tell me what the asbestos content of the product is.

MR. YARBOROUGH: I'm going to object again. Lack of foundation. You can answer it, if you can.

A. Yes.

Q. What is the asbestos content of that product?
A. 38 percent.
Q. And who is the customer of that product, or at least one of the customers?
A. Westinghouse.
Q. And what is the material used for?
A. According to this, electrical switch gear which requires good dimensional stability.
Q. That's all the questions I have on that one.
And none of these BM-500 products are included on any of the Union Carbide's submissions, are they?
A. I didn't see them on the list.
Q. And you didn't mention these in your prior testimony?
A. No. Well, I didn't mention the product number, no.
Q. Next, I have a product called BMM-0500 Black 25. I show you document Bates numbered UCASB 00936230. It's a product formulation. Can you tell me from looking at that document what the asbestos content of the product was?
MR. YARBOROUGH: I'm going to object to

the document for lack of foundation.
A. What is the product?
Q. BMM -- here, let me give you the first page. It's a two-page document, front and back. BMM-0500 Black 25.
A. Um-hum. The fourth letter has been dropped, so I assume the BMMD became BMM-0500.
Q. And what is the asbestos content of that product?
A. 38 percent.
Q. And, again, that product is not listed in any of the documents generated by Union Carbide that we marked as exhibits?
A. I didn't see it.
Q. And you haven't mentioned it in your prior testimony?
A. It was not a product I recall, no.
Q. This is a product that was made during your tenure in the phenolic molding section. Correct?
A. Yes.
Q. In your deposition that you gave in the Todak case, which was on February 7, 2002, you stated on several occasions that you could not recall any sales of phenolic molding materials to Westinghouse.

Do you recall that testimony?
A. Yes.
Q. Would you agree that that testimony was not accurate?
MR. YARBOROUGH: Objection.
A. I did not recall any at that time, so it

was accurate as far as I --
Q. It was accurate that you didn't recall, but there indeed were sales of asbestos-containing phenolic molding materials to Westinghouse?
MR. YARBOROUGH: Objection. You're being argumentative.
MR. WARD: I'm trying to get the facts straight.
MR. YARBOROUGH: You just misstated his testimony.
MR. WARD: You want to read it? I got all day.
MR. YARBOROUGH: You said his opinion at the time that he did not recall any sales was inaccurate.
Q. Would you agree that there indeed were sales of asbestos-containing molding compounds to Westinghouse?
A. After seeing the documents you showed

me, yes.
Q. And that Westinghouse, indeed, was described as being one of the largest single accounts. Correct?
A. That's correct.
Q. And at times you sold more than a million pounds a year to Westinghouse. Correct?
A. That's correct.
Q. Next I'd like to show you a document regarding a product called BMZA-0666 Brown 135. Are you familiar with that product?
A. No, I'm not.
Q. Documents that are UCASB 00197945, and three consecutive numbers thereafter, they're product formulations for the product I just described. The date is 11/27/66. I'd like you to look at these documents. I'm going to ask you what the asbestos content of the product was and who it was sold to and what the purpose was.
MR. YARBOROUGH: Object, lack of foundation.
A. Okay.
Q. With regard to the product designated BMZA-0666 Brown 135, what was the asbestos content of that product?

MR. YARBOROUGH: According to the document?
Q. According to the document.
A. According to the document, 67 percent.
Q. And did you see that product mentioned in any of the disclosures made by Union Carbide?
A. No.
Q. And what was the customer, or at least one of the customers?
A. According to this document, Frigidaire Division of General Motors Corporation.
Q. And it was being used for air-conditioner switch pulleys?

A. Clutch, clutch pulleys.
Q. Clutch pulleys.
Do you have any idea why that sort of use would require that amount of asbestos?
A. I don't know.
Q. Is this a product that you forgot about when you gave your prior testimony?
A. I mentioned 5250. I didn't -- was not -- I did not remember all these other variations of it.
Q. What fiber type was being used here? What is RM-18-O?

A. It appears to be a combination of two asbestos fibers. I don't know which is which from those designations.
Q. We'll get to that.
Do you recall a product, BMGA-2011 Black 15?
A. 2011. No.
Q. I show you a document that's UCASB 00936280. It's a formulation for BMGA-2011 Black 15. I ask you to look at it and tell me what the asbestos content of that product was.
MR. YARBOROUGH: I object, lack of foundation.
A. The asbestos content is 19 percent according to this document.
Q. Do you have any reason to dispute that?
A. No.
Q. Is that a product that you just didn't remember?
A. No. This was 1955.
Q. Do you think it was still being made when you started in 1960?
A. I don't know. I don't remember.
Q. And this product wasn't listed on Union Carbide's disclosures, either, was it?

A. Not this disclosure, no.
Q. Next product is BMGC-2011 Black 15. I show you a document Bates numbered UCASB 00936286 and ask you to look at it and tell me what the asbestos content in that product was.
MR. YARBOROUGH: Objection, lacks foundation.
Q. According to the document.
A. 19.75 percent.
Q. And that product wasn't listed in Union Carbide's disclosure to the government, either, was it?
A. No.
Q. Next document I have is BMMA-2011 Black 15. Are you familiar with that product?
A. No.
Q. We're going to have to come back to that document. I can't figure out where I have the asbestos content on that. I'm going to pass on that one and come back to it later.

I want to show you a document that is Bates numbered UCASB 00916550, and I'd like to ask you first, do you know whose handwriting that is?

MR. YARBOROUGH: I'm going to object, lack of foundation.

A. No.

Q. At the top of the document -- it's a handwritten document. It lists product number, and then there's a comment that says percent of 18-P. 18-P was a grade of asbestos that you used as a filler. Correct?

A. I assume that's the case. 18 -- I don't recall any deviation from that 18 number.

Q. Okay. Next document or product I wanted to ask you about was BMGA-2017 Gray. Do you see that at the very top of the list?

A. Yes.

MR. YARBOROUGH: Again, I'm just going to object. Lacks foundation.

Q. According to this document, at least, what percentage of asbestos did that product contain?

A. 40.

Q. Do you recall that product?

A. No.

Q. The next product listed is BMGA-2017 Tan, looks like 1515. What is, according to the document, the asbestos content of that product?

A. 40 percent.

Q. Do you have any idea what these products were?

A. No.

Q. That document there, I can make as an exhibit. Let's make that Martino Exhibit 6.

MR. YARBOROUGH: Again, I'm going to object that the document lacks foundation. There's no date or author and the witness stated that he does not know who authored the document.

(Martino-6, Handwritten Document, UCASB 00916550, is received and marked for identification.)

Q. Next product I'd like to ask you about is BMMC-2035 Black. Now, that is one of the products you recalled, isn't it?

A. Yes, it is.

Q. And what do you believe the asbestos content of that product to be?

A. 25 to 30 percent, I believe, according to this document. I don't recall exactly.

Q. Do you know what that product was used for?

A. I would have to guess. I don't know.

Q. I have a product formula for this product. Again, this is BMMC-2035 Black. I have a formulation for the product, and I'll ask you to look at it. It's Bates numbered UCASB 00936528, and the

following document is also included. Can you look at that formula and tell me -- it appears to be two different grades of asbestos in that product. Is that correct?
MR. YARBOROUGH: I'm going to object. Lacks foundation. You can answer, if you can.
A. Yes.
Q. Can you tell me what the asbestos content is and what type?
A. If you combine the two --
MR. YARBOROUGH: Same objection.
A. -- it's 21 percent, but that's different than what this document shows.
MR. YARBOROUGH: Just answer his question.
Q. On that one, they actually overstated it, didn't they?
A. I'm glad that does happen every once in a while.
Q. One for the home team.
Now, on that document that we marked, I believe, as exhibit number -- where's that letter from Mr. Kipp? This chart here, Martino No. 5, about halfway down the page you see the one we just talked about, BMMC-2035 Black 25, and it indicates that

there's two different asbestos types, one 16 percent and one 5 percent, and that's consistent with what you just testified to. Correct?
MR. YARBOROUGH: Objection, lacks foundation. You can answer.
Q. About halfway down the page.
A. Wait a minute. This shows -- oh, here it is. Yeah, that's consistent.
Q. Okay. Now, it also says that -- I don't know if I can read the letter. Under it, there's another 2035. Is that BMMA?
A. It looks like a D to me.
Q. D?
A. D, yeah.
Q. And that has the same asbestos content?
A. Yes.
MR. YARBOROUGH: Same objection.
Q. Then if you go to the second page, there's another series of 2035's. One is BMRC-2035 Black 25, and that's the same asbestos content, correct, a total of 21 percent from two different fibers?
MR. YARBOROUGH: Same objection.
A. According to this, yes.
Q. And there's also a BMRS-2035 with the

same asbestos content. Is that correct?
MR. YARBOROUGH: Same objection.
A. Yes.
Q. Do you have a recollection of what this material was used for?
A. No.

Q. There's a product listed on the chart that's part of Exhibit 5. The second product listed there -- I'm referring to Exhibit 5, the chart that's an attachment to the letter. The second product on the list, it's BMG, and then I'm not sure -- looks like it's either 5156 or 5136. Are you familiar with either one?
A. No. It looks like 2156 to me.
Q. I'm sorry. I'm starting to transpose numbers now. 2136.
MR. YARBOROUGH: Looks like 2156.
Q. I can't -- I'm not sure which it is, but in any event, it indicates that the asbestos content of that product is 16.4 percent. Is that correct?
MR. YARBOROUGH: Objection, lacks foundation.
A. Yes.
Q. Do you recall that product?
A. No.

Q. So you don't have any knowledge about its use or application or anything?
A. None at all.
Q. And that's not on any of the disclosures made by Union Carbide to the government?
MR. YARBOROUGH: Look before you answer.
A. I don't see it.
MR. WARD: Off the record.
(A discussion takes place off the record.)
(A recess is taken for lunch.)
Q. Back on the record.
Mr. Martino, the next product I'd like to talk to you about is BMGA-2200 Black 25. Is that a product that you're familiar with?
A. No.
Q. Let me show you the documents we got from Union Carbide. They're UCASB 00924595 through -- same sequence of numbers, except the last three digits are 609. So I guess it's about 16 pages or so. I'm going to ask you to look at the product formulas there and tell me what percent asbestos that product contained.
MR. YARBOROUGH: I'm going to object to the form and foundation.

A. Are these duplicates?
Q. They may be.
A. Oh, I see.
37.35 percent.
Q. And that's RM-18-P, is the type?
A. Yes.
Q. And do those documents that you have indicate what the application of that product is?
MR. YARBOROUGH: Same objection.
A. No, no.
Oh, yes, electrical parts and heavy-duty wiring devices.
Q. And one of the customers at least for

that product was Suburban Plastics? Is that true?
A. I don't see that here.
Oh, okay, yes.
Q. Now, I have a couple of other questions on this particular product. In this case, it appears that the phenolic resin was not a Bakelite resin. It's a Resinox 240. Is that correct?
MR. YARBOROUGH: Same objection.
A. I have never seen that designation before. I don't know. It's not the nomenclature we use for our resin we make.
Q. Was that a resin that was made by

another company and you purchased it to make this product? By "you," I mean Union Carbide.
MR. YARBOROUGH: I'm going to object to the form and lack of foundation.
A. I don't know.
Q. Okay. I think that's all the questions I have on that one. Well, other than --
A. Okay.
Q. This is also an asbestos-containing product that is not included on the disclosures that Union Carbide made to the government?
A. Yes.
MR. YARBOROUGH: Same objection.
Q. And this is a product you didn't recall in your prior testimony?
A. That's right. That's right.
Q. Next product I have is BMMA-2200 Black 25. The documents we have for that product are UCASB 00924575 through 594, last three digits. I'm just going to show you these documents and ask if you can tell me the asbestos content of this product.
MR. YARBOROUGH: I'm going to object to form and lack of foundation.
A. Looks like this was obsolete in 1971.
Q. So, in other words, this product was

sold up until '71?
A. Apparently. There's an obsoletion notice here. Effective immediately, BMMA-2200 Black 25 will be obsolete.
37.35 on this document, and there's a higher level on the other one, 41.4 something. Just a shade over 41.
Q. This is also a product that you didn't recall when you testified previously?
A. That's correct.
MR. YARBOROUGH: Same objection.
Q. And this is also a product that Union Carbide didn't list on their disclosures to the government?
A. That's correct.
MR. YARBOROUGH: Same objection.
Just so I can clarify, Mike, when you refer to the disclosure to the government, you're solely referring to Martino exhibits 3 and 2. Correct?

MR. WARD: That's correct.
Q. Next product, BMMA-2819 Black 15, I have a series of documents, UCASB 00937958 through 60, three documents, three pages. I just ask you to take a look at that and tell me the asbestos content of

that product.
MR. YARBOROUGH: Objection to form, lack of foundation.
A. That shows a grit-free asbestos, 9 percent. I don't see any other asbestos in there.
Q. And that product was made for Armstrong Cork?
A. Yes.
MR. YARBOROUGH: Same objection.
Q. And it was for closures?
A. Yes, bottle caps.
MR. YARBOROUGH: Same objection.
Q. Why would you need asbestos in a bottle cap?
MR. YARBOROUGH: Same objection.
A. It would give you a smoother appearance and a fast cure.
Q. So the purpose of asbestos in that material is to --
A. Appearance.
MR. YARBOROUGH: Same objection.
A. Appearance and -- appearance and cure speed. You can get more parts per hour.
Q. And this is a product -- have I asked this already? This is also not a product that you

remember remembering when you testified previously?
A. No, no.
MR. YARBOROUGH: Same objection.
A. No. In fact, I thought we were using wood flour filled for bottle caps.
Q. And this is a product that's not included in Union Carbide's disclosure statements to the government?
MR. YARBOROUGH: Same objection.
A. That was 20 --
Q. 2819.
A. No.
Q. The next product is BMGA-3479 Black 25. The documents I have on that are not Bates numbered. They must be from our initial production of documents.
MR. YARBOROUGH: What's the date of that document?
Q. Issue date is 2/23/66, listed as a new product as of that date.
I'd like you to take a look at these documents and see if you can tell me what the asbestos content was of that material.
MR. YARBOROUGH: Same objection.
A. 36 and a half.

Q. RM-18-P. Is that correct?
A. Yes.
Q. And this product is qualified under the military spec MIL-M-14F type MFH. Is that correct?
A. Yes.
MR. YARBOROUGH: Object to the form and lack of foundation.
Q. And that's a product that you didn't recall in your prior testimony?
MR. YARBOROUGH: Same objection.
A. No, no.
Q. And that's also a product that Union Carbide did not list on disclosures to the government?
MR. YARBOROUGH: Same objection.
A. No.
Q. And, again, I'm referring to -- whenever I say that phrase, I'm referring to --
MR. YARBOROUGH: Martino-2 and 3.
Q. 2 and 3.
Next product is BMGA-3700 Green 155. I have a whole bunch of documents regarding this product. They begin with UCASB 00923766 through last four digits 3959. I don't know if that's consecutive or not. Anyhow, they're in that range.

I'd like you to take a look at this file with the idea of being able to tell me what the asbestos content was of this product.
A. Durephene again.
Q. It's another situation where the designation of the resin is not a Bakelite material.
MR. YARBOROUGH: Same objection.
A. Yes. I'm trying to recall what we were doing. I don't remember who made Durephene, unless it was Westinghouse. I don't know. Anyway, the asbestos content is 57 percent. This is a product that I brought up earlier.
Q. Correct. You remembered 3700 and you stated it was 50 to 55 percent, so we're right in the ballpark.
A. Right, okay.
Q. This product is also qualified under the military spec that I referred to earlier. Is that correct?
MR. YARBOROUGH: Same objection.
A. Yes.
Q. Except this one is type MFG. Is that correct?
A. It has MFH here.
Q. I gave you the wrong -- I'm looking at

the wrong file.
MR. YARBOROUGH: I'm sorry, I don't mean to interrupt you, but just for the record, we're referring to document 923766, and it's the first of about 200 pages worth of documents that have been given to the witness. So I suppose any answer you're

referring to right now comes from just this first page.

A. Right. Let me quickly look through here.

Q. It was my mistake. I got the files out of order.

It's type MFH. Correct?

A. Yeah.

Q. And that means mineral filled heat resistant?

A. Yes.

Q. And the applications of this product according to those documents are for electrical parts?

A. Electrical material having exceptional arc resistance.

Q. And fungus resistance, as well. Correct?

A. Right, right.

Q. Is this a product that would be appropriate to use in electrical switchboards and switch gear?

MR. YARBOROUGH: Same objections.

A. Depends on the impact strength that's required there. This is wood flour. If they can get the -- you know, tolerate the lower impact strength, it would be okay. Of course, that would come out in the specification.

Q. Now, this is a product that you mentioned earlier in your testimony today, but is it true that this product does not appear on Union Carbide's submission to the government or on the interrogatory answers that they made to us?

MR. YARBOROUGH: Same objection.

A. Yes. Well, I don't know about the interrogatory, but on this document --

Q. It's not listed?

A. Okay, no.

Q. Do you have any knowledge as to the customers for this product?

A. No. I think anyone could buy it. I'm looking through here and I'm curious now.

MR. YARBOROUGH: Just answer what you know, Carlo.

A. Okay, yeah. I'm just talking out loud.

MR. YARBOROUGH: Don't think out loud.

A. Memories from the past. I'm sorry.

MR. YARBOROUGH: It's okay. Wait for a question.

Q. Is there anything in particular that you noticed from the documents?

MR. YARBOROUGH: Same objection.

A. I'm just seeing some designations that I have never seen before. BM-15140 is attached to these documents. I never remember any five-letter designations. There are quite a few of them.

MR. YARBOROUGH: Just wait for a

question.
Q. I'll probably be getting to those other designations as we go along.
A. 56.
Q. Those are materials regarding the product qualifying under the military specifications.
A. Well, I was looking at that and I was also trying to understand, you know, what --
MR. YARBOROUGH: Carlo, just wait for a question. All right?
Q. Can you tell from looking at those documents the time frame that this product was sold?

MR. YARBOROUGH: I'm going to object to the form and foundation because this -- does this reference a number of different products, Mike, all these documents?
MR. WARD: I hopefully segregated them, but I could have made a mistake.
MR. YARBOROUGH: And your question, you're just referring to the BMGA-3700 Green 155?
MR. WARD: That's correct.
Q. Mr. Martino, I don't mind you taking all the time you want to look at the documents, but if I'm going to do this in two days, I have to move along.
A. I'm sorry.
Q. I'm willing to do it in three days --
A. No, I'm not anxious to be here three days, either. I want to make sure I understand what I'm dealing with here. But your question was --
Q. I think the last question I had on the table was what time frame this product was sold.
A. Well, the dates I see on some of these documents are 1970.
Q. And can you tell when they started to manufacture this product?
MR. YARBOROUGH: Same objection.

A. This has a date of '67, supersedes '66. It looks like late '60s and early '70s.
Q. Okay. Time to move on, but I'm very far, I'm afraid. I'm going to also have documents for a product designated BMGA-3700 Black 25 as opposed to Green 155, and I'd like you to take a look at that and tell me the asbestos content from the documents. The Bates number is -- for this product are UCASB 00956950 through 955.
MR. YARBOROUGH: Object to form and lack of foundation.
Mike, he had never seen any of these documents before.
MR. WARD: Oh, I wouldn't be too sure about that.
A. I'm not on the distribution on this one.
MR. WARD: I mean, I can go back through --
MR. YARBOROUGH: Some of the documents that clearly he's not on the distribution list of and

he wasn't the author of --
A. Yeah, all of -- I'm sorry.
Q. The date of the document is June 2nd, 1966 that you're looking at presently?
A. Yes.

Q. And you were in charge of research and development for phenolic molding materials at that time. Correct?
A. That's right. But this work was done by people in manufacturing. That's why I'm having a hard time of understanding what the source of this material was. But your question was the asbestos --
Q. The asbestos content of that product.
A. 55.75.
Q. And this product is qualified under military spec MIL-M-14 type MFG. Is that correct?
MR. YARBOROUGH: Same objection.
A. Yes.
Q. Now, MFG stands for mineral filled general. Correct? General purpose --
A. No, I don't remember what that stands -- I'd have to look that up.
Q. And the application for this product is the same as its counter -- its green counterpart. Is that correct?
MR. YARBOROUGH: According to the document.
MR. WARD: According to the document.
A. If it had asbestos in it, it wouldn't be considered general purpose.

Q. Well, there's a number of products I've seen that are described as general purpose --
A. No, I mean that high, 50-some percent. That's awfully high for a general purpose material.
Q. But that's the military specifications that it fell under. Correct?
MR. YARBOROUGH: According to the document.
Q. According to the document.
A. Yeah, that's right. I don't understand it.
Q. And in the disclosure that Union Carbide made to the government under the Asbestos Information Act, they said that general purpose compounds were 12 percent or less. Is that correct?
A. Yes.
MR. YARBOROUGH: Same objection.
A. Well, wait a minute. General purpose. That's why I was questioning it. It doesn't fit.
MR. YARBOROUGH: Just answer his questions.
Q. And that product was not included on any of the lists that were disclosed --
MR. YARBOROUGH: Same objection.
A. No.

Q. The next product I have is BMGB-4011 Black 35. The documents I have are not Bates numbered, which means we got them from your first production of documents. And I would like you to look --

MR. YARBOROUGH: What's the date on that, Mike? I'm sorry.

MR. WARD: The date, I have product formulation that's dated 3/20/61.

Q. It's described as a one-step asbestos filled material, and I'm just going to ask you to look at the document and tell me what the document indicates the asbestos content as being.

MR. YARBOROUGH: Object to the form and lack of foundation.

A. 65 percent.

Q. You said 65 percent asbestos. Correct?

A. Yeah.

Q. Made of two different types of fiber?

A. Yes, floats and fibers.

Q. The customer is listed as being Metals and Controls. Is that correct?

MR. YARBOROUGH: Same objection.

A. That's correct.

Q. You don't know who Metals and Controls

are, do you?

A. No.

Q. Do you know what the application of that product is?

MR. YARBOROUGH: He's asking if you know.

A. I don't know. I was looking to see if it was on here. No.

Q. And this is a product that you didn't recall when you testified previously?

A. No.

Q. And this product also is not disclosed by Union Carbide in their submission to the government?

MR. YARBOROUGH: Same objection.

A. Yes.

Q. You know, I think I gave you the wrong file. Can you go back and see what designation I gave.

(The reporter reads back the requested portion.)

Q. I did read that. Okay. I skipped one. There's also a product called BMGA-4011 Black 15. I have documents, three pages of documents, no Bates numbers from our first production, apparently. The

date is January 30, 1961, and your name and signature appears as approving it as group leader. I'd like you to look at these three pages and tell me what the asbestos content of this product was.

MR. YARBOROUGH: Object to the form and foundation.

A. This is 57 percent.
Q. Made up of two different types of asbestos. Is that correct?
A. Yes.
Q. 28 1/2 percent RM-18-B. Is that correct?
A. Yes.
Q. And 28 1/2 percent TRM-5417. Is that correct?
A. That's right.
MR. YARBOROUGH: Same objections.
Q. Do you recall what application this product was intended for?
A. Uh-uh.
Q. The customer, again, is Metals and Controls?
A. That's right.
MR. YARBOROUGH: He's asking if you recall. He's not asking what it says on the

document.
A. Okay. I don't recall, no. Could you -- what was the designation of the previous one?
Q. It was BMGB-4011 Black 35. So it's a different letter and a different grade of black.
A. Okay. No, I don't --
Q. And you didn't recall this product when you testified previously?
A. No.
Q. And it also is not included on the submissions made by Union Carbide to the government?
MR. YARBOROUGH: Same objection.
A. Yeah, that's right.
Q. There is a third product with the same number. It's BMGC-4011 Black 35. We have documents on that, UCASB 00956956 through 984. I assume you're also not -- strike that.
Some of the earlier documents deal with the product we just talked about. I'm going to direct you to the BMGC-4011 Black 35 formulation and ask you, if I read that correctly, this product is 66 percent asbestos. Is that correct?
A. Yes, that's right.
MR. YARBOROUGH: Same objection.
A. That's correct.

MR. YARBOROUGH: And he's looking at 956974, is the document he was directed to.
Q. And that is also a customer being Metals and Controls, and various applications, it says. You wouldn't have any more knowledge about this than the other 4011. Is that correct?
A. No.
Q. And this product also is not one that you recalled when you testified previously?
A. That is correct.
Q. And this product is not on Union Carbide's submissions to the government. Is that correct?

MR. YARBOROUGH: Same objection.
A. That's correct.
MR. WARD: I'll give you a continuing objection as to form for every question I ask.
MR. YARBOROUGH: And foundation?
MR. WARD: And foundation. I mean, you can still make the objection --
MR. YARBOROUGH: If you give me a continuing objection, then I don't feel the need to interrupt you.
Q. I have one more on that. This is BMGD-4011 Black 35. The documents are UCASB 00956881

through 884. I'll try to shorten this. As I read the document, it indicates there's 61 percent asbestos in this product composed of RM-18-B and TRM-5417. I'd like you to look at this document and see if that is correct.
MR. YARBOROUGH: When you say "that is correct," in that that's what the document reflects?
MR. WARD: That that's what the document says.
A. Yes.
Q. Just hold it for a second. This document also indicates at least one of the customers, correct, General Electric Company of Ohio; Cleveland, Ohio?
A. Yes.
Q. Do you know what General Electric Company made in Cleveland, Ohio with this material?
A. No.
Q. Would this material be suitable for switchboards and switch gear?
A. I don't know.
Q. There's one other thing I wanted to ask you about that. On the last page of those documents that I gave you, the last three numbers being 884, it talks about various properties and appearances of

product, and it's not real legible, but it looks like that says that product, when molded, will have asbestos specks. Is that correct?
A. I don't interpret it that way, no. It could have. That's why you test for it. If it has asbestos specks, it would have to meet the specification.
Q. Can you describe for me how asbestos specks would appear in the product?
A. Little white spots.
Q. So if you took a molded piece of this product, cut it with a bandsaw, let's say, and then looked at the cut edge, would you see white specks?
A. Yes, but you'd see them before that. You'd see them on the surface.
Q. On the surface, as well?
A. Yes. That's the disk test. You look at the disk surface and make sure its dispersed properly.
Q. Is asbestos specks something that you

see in other formulations of Bakelite that we were talking about?
A. Not at -- well, you could if they're -- the material was not compounded properly, but --
MR. YARBOROUGH: I'm sorry. When you
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use "Bakelite," are you referring to phenolic molding compounds?
Q. I'm not referring to thermoplastics right now. I'm just talking about phenolic molding compounds until I say otherwise. It's a lot easier to say Bakelite than to say phenolic molding compounds.
A. I know. That's why we're here. Partly.
Q. Not the only reason, I don't think, but --
(A discussion takes place off the record.)
(The reporter reads back the following: "QUESTION: Is asbestos specks something that you see in other formulations of Bakelite that we were talking about?")
A. You could. It's a quick test for whether the product, the asbestos has been fully dispersed, and you mold the disk and look at the surface, and if there are white specks -- it doesn't have to just be white specks. It can be any other contaminants and the next step would be look at it under a microscope, and the product specifications -- the product would have to be reprocessed.
Q. Once again, this is a product that you
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didn't recall when you testified previously?
A. No.
Q. And this is also a product that's not on the disclosure statements that Union Carbide made?
A. That's correct.
Q. The next product I have is BMZ, as in zebra, A-4025 Brown 135. Are you familiar with that product?
A. No.
Q. Documents I have, I'm just going to give the last six digits, if that's all right.
MR. YARBOROUGH: That's fine.
Q. 956985 through -- it's not through. Well, a series of them begins there. The copy that I have that's not Bates numbered is clearer than the one that is Bates numbered. I'm going to show you the Bates numbered version of the document. The last three digits are 986. It's product formulation that's dated January 18, '61. What asbestos content does that document indicate?
A. 65 percent.
Q. And what type of fiber is it?
A. 18-O. Let's see if there's anything that describes that.
Q. Let me show you a document, last six
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digits are 917952, dated January 30, 1961, so right around the same time. The very last entry indicates RM-18-O is a long fiber asbestos. Is that correct?
A. Yes.
Q. That means it's not chrysotile?
A. That's correct.
Q. It means it's amosite asbestos?
MR. YARBOROUGH: Objection, calls for speculation.
Q. Or chrysolite?
A. It would be Cape Blue. I don't know what that was. That's all I'm familiar with.
Q. Now, in the disclosure that Union Carbide made to the United States Government under the Asbestos Information Act, they said that they only made one product with long fiber African Blue, and they said that product was BMMZ-5250. Would you agree that there was at least one other product?
A. Yes.
Q. With the same fiber?
MR. YARBOROUGH: Based on what he's reading -- based on not his knowledge, but what he's reading from these documents.
Q. Do you have any -- in addition to the documents, do you have any personal knowledge of

that?
A. No, I don't.
Q. If those documents are accurate, that means that the disclosure Union Carbide made to the government is inaccurate. Is that correct?
MR. YARBOROUGH: Same objection. I don't think he can testify as to -
MR. WARD: I'll let the jury derive its own conclusion.
A. With regard to that, this document, I don't want to answer any questions until I fully understand what was required by the government in the reporting procedure. I can't fault them until I really know that.
Q. Well, I'm just -- it's not on the list, in any event?
A. No, it's not. And whether --
MR. YARBOROUGH: Just answer his question.
Q. I'll leave it at that.
Now, it indicates -- the document indicates that Haveg and Cutler Hammer are two of the customers this product was made for?
MR. YARBOROUGH: Again, for the record, we're referring to document --

Q. I'll show you the Bates numbers.
MR. YARBOROUGH: 95686.
MR. YARBOROUGH: Did you hear his question?
A. What was the question again?
Q. According to that document, at least two

of the customers of this material were Haveg and Cutler Hammer. Is that correct?
A. Yes.
Q. Do you know what sort of products Cutler Hammer made?
A. They make electrical parts.
Q. So this was intended for electrical use?
A. Yes.
Q. Probably high-voltage electrical use?
A. I assume so.
MR. YARBOROUGH: Don't assume.
Q. Cutler Hammer is out in Milwaukee, Wisconsin. Is that correct?
A. Yes, it is.
Q. And Haveg is up in Delaware. Correct?
A. Yes, it is. Now, Haveg --
Q. They're a subsidiary of Hercules Corporation?
A. I never called on them.

Q. But you did call on Cutler Hammer?
A. Yes.
Q. And they exclusively made electrical products. Correct?
A. Yes.
Q. And all the products that they made -- strike that.
They made a lot of plastic materials that were intended for military use. Is that correct?
A. That, I don't know. They made a lot of electrical parts.
Q. This document also indicates -- I'm referring to a sheet called New Product Data dated -- never mind. I don't have to do that.
A. Could I just look at that?
MR. YARBOROUGH: Just wait for his questions. Unless he's going to ask you some more questions about it, you don't need to concern yourself with it.
THE WITNESS: It's a curiosity.
MR. YARBOROUGH: I know. You got that engineering mindset.
THE WITNESS: Even at 75, I'm curious.
Q. And you did not recall this product when

you testified in the past, did you?
A. No, I did not.
Q. And this product is also not listed on Union Carbide's disclosure?
A. That's correct.
MR. YARBOROUGH: Same objection.
Q. I'd like to go back to Exhibit 5, which is this list, and the next product I want to ask you about is the third product on the list, BMGA-4123 Black 35. Do you remember that product?
A. The number looks familiar. I don't remember much else about it.
Q. It indicates that it has 48 1/2 percent

RM-18-B and 16 percent RM-18-S. Is that how you read this document, as well?

A. Yes.

Q. So that product is 64 1/2 percent asbestos. Is that correct?

MR. YARBOROUGH: According to the document.

MR. WARD: According to this document.

A. Yes, it is.

Q. Do you know what that product was intended to be used for?

A. No, no.

Q. Do you know who any of the customers of that product were?

A. No.

Q. And you did not recall this product when you testified previously?

A. No.

Q. And this product is also not on Union Carbide's submission to the government. Is that correct?

A. That's correct.

Q. The next product -- I don't have any documents on that product, but I'll be sending a letter to Union Carbide asking for some of these.

The next one is BMGA-4127 Black 15. Are you familiar with that product?

A. No.

Q. The documents I have for that one, the last six digits are 956886 through 927. I'm going to direct your attention to the second page, which is last three digits 887, a document dated November 23rd, 1960, and you signed off on this one as group leader. Can you tell me from looking at this document what the asbestos content is of that product?

A. 66.5.

Q. RM-18-B?

A. Right.

Q. Do you have any recollection as to who made this -- who the customers were for this product?

A. No. The resin system is similar to some of the others you showed me before under a different designation. Looks very much like --

MR. YARBOROUGH: Carlo, just answer his questions.

THE WITNESS: Sorry.

Q. That's A, right? Can I have that file back, just take a peak at a few things.

I'd let you take these home but I spent too much time sorting them.

(A discussion takes place off the record.)

Q. This is BMGA-4127 that we were speaking about.

Mr. Martino, this is a product that you didn't recall when you testified previously. Is that

correct?
A. What was the number?
Q. BMGA-4127 Black 15.
A. That's correct, yes.
Q. And this material is for a product

that's not on the disclosure that Union Carbide made?
A. No, it's not.
Q. There's a product next we're going to talk about, BMGB, as in boy, 4127 Black 15. So just the last letter is different. And the document I'll be showing you, although you're free to look at the rest of the file, is Bates numbered 956929. The date is October 4, '61, and you have signed this document, it appears, as group leader. My first question to you is, what does that document indicate the asbestos content of the product to be?
A. 62 1/2 percent.
Q. And do you have any recollection as to what the customer was of this product?
A. No.
Q. And do you have any knowledge as to what application it was intended for?
A. No.
Q. Would this be a product that would be suitable for use in switch gear?
MR. YARBOROUGH: Objection. He just testified that he didn't know what it was used for.
Q. You have the formula in front of you, and you have a lot of knowledge in this area, and I assume that's going to be an area of your testimony

in the upcoming trial.
A. It's a specialty material. I don't know exactly where it would be used.
Q. "I don't know" is fine, but -- okay.
And this product, you were not familiar with or did not recall when you testified previously?
A. That's correct.
Q. And this product is not on Union Carbide's disclosure?
A. Right.
Q. The next product I'd like to talk about is BMGA-5020 Black 25. Now, we talked about that product a little earlier today. I think you had indicated you previously testified that it was an asbestos-containing product?
A. I did, yes.
Q. And then you said this morning that, no, you think it was just all wood flour?
A. That's right.
Q. And I want to ask you based on documents what you think. I have here -- this is probably the best document to look at. It's a request for transfer of BMMA-5020 Black 25 and BMGA-5020 Black 25 to final manufacturing status. You appear on the document as the group leader, dated November 30,

1964. Last six digits in the Bates number is 914120. The way I read the document, and I'll let you look at it and see if you agree, is that this product contained 5 percent asbestos. The formula on page two states there's 200 pounds of asbestos floats in a 4,000-pound batch or mix. Could you check that and see if my reading of it is correct?

A. Sure. Okay.

Q. Did the product contain asbestos?

A. Yes, it did.

Q. And was I correct that it contained 5 percent asbestos?

A. That's correct.

Q. So we should leave that in the column as being an asbestos-containing product?

A. Yes, yes. Now I know.

Q. Now, can you explain to me, earlier this morning, you had your doubts about it being an asbestos-containing product because of a specific gravity? Is that correct?

A. I'm trying to recall. I thought that was the reason that I thought it didn't. The specific gravity is 1.38, so that shows there was some asbestos in it. I don't remember how I got the impression maybe I was wrong on that position. It

might have been another product I was thinking of.

Q. Now, if you would take a look at Exhibit 5. No, not 5. It's the submission that Union Carbide made. With regard to what's been marked as Martino Exhibit 2, and take your time to look, do you see that Union Carbide included this product, being BMGA-5020 Black 25, on their disclosure?

A. No.

Q. Do they have BMMA-5020 Black 25? In other words, the third letter is M instead of G?

A. No.

Q. Do they have BMMA-5020 Black 25 on the list?

A. No.

Q. Do they have BMMA-5020 Brown 15 on the list?

A. No.

Q. Do they have BMMG-5020 Black 25 on the list?

A. No.

Q. Do they have BMMC 5020 Black 25 on the list?

A. No.

Q. Do they have BMMS 5020 Black 25 on the list?

A. No.

Q. What was the purpose of having asbestos in that quantity in that product? Was that for cure speed and appearance?

A. Cure speed and appearance, yes. Primarily cure speed.

Q. And that was so the customers could make their molds faster, turn the products over faster?
A. That's right.
Q. And this is a general purpose phenolic molding material?
A. Yes.
MR. WARD: The record.
(A discussion takes place off the record.)
Q. Mr. Martino, the next product I'd like to talk to you about appears to be an intermediate product. It's BMNA-5021 Brown 15. Are you familiar with that product?
A. No.
Q. I have only a single document on that one. It's Bates numbered 935890. I'd ask you to look at it and tell me what the asbestos content was of that product.
MR. YARBOROUGH: According to the

document?
MR. WARD: According to the document.
A. According to the document, 5 percent.
Q. And the type is described as TRF-9. Is that correct?
A. Yes.
Q. Do you know what TRF-9 is?
A. No, I don't.
Q. It states that the application is for a matrix board coating. Are you familiar with that application?
A. No.
Q. And when they describe it as an intermediate product in that document, do you know what that means?
A. That it would be processed further somewhere else in the operation.
Q. So whatever customer purchased this molding material would add some further ingredients to it. Is that correct?
A. That, I don't know. I meant process further on our own operation.
Oh, here, to be polarized, so this is the intermediate designation for the product before it went through to the department that did the

polarizing. It would then get a different number after it was done.
Q. And can you tell from that document what number it would become, or from the formula or any other information on that sheet?
A. I don't know what the final product would be, whether it would be related to this or not.
Q. And this is a product that you didn't recall when you testified previously?
A. No, no.
Q. And this is also a product that Union Carbide didn't include in their disclosure. Is that correct?

A. That's right.
Q. That's all the questions I have on that. Do you know what a matrix board is? It says it's a matrix board coating. Do you know what a matrix board is?
A. No, I don't.
Q. The next product is BMMA-5050 Black 15. Are you familiar with that product?
A. No.
Q. I have only two documents relating to this product. The last six digits of the Bates number is 938239 and 240. I'd like you to look at

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this document, which is the product formulation and condensed manufacturing instructions, and tell me what the asbestos content of that product is, was, according to the document.
A. Asbestos, 13.45.
Q. And that's RM-18-Q?
A. Yes.
Q. And the customer on the document is stated to be Kerr Glass. Is that correct?
A. Yes.
Q. Do you know what Kerr Glass did with that product? Is that for closures?
MR. YARBOROUGH: He's just asking what you know, not what's on the document.
Q. Well, what you know or what you can glean from the document. Either way is fine.
A. What's on the document is fast closure something.
Q. So that would be like a lid or something of that nature?
A. Or a bottle cap.
Q. Do you know why you would add 13.45 percent asbestos for a bottle cap or a closure?
A. Cure speed. It's a very fast molding process.

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Q. Are you aware of any other applications for that product?
A. No.
Q. Is that a product that you did not recall when you testified previously?
A. Yes.
Q. And that product does not appear on the disclosures made by Union Carbide to the government?
A. Yes.
Q. And that would be a product -- would you consider that a general purpose compound?
A. No.
Q. Specialty?
A. Yes.
Q. I notice one of the ingredients was clay.
A. Yes.
Q. In what instances would you use clay as the filler? What were the properties that clay would impart as a filler?

A. A smoother surface, smoother-looking surface. The surface always looks smooth, but you get more of a gloss.
Q. Okay, that's all the questions I have on that one.

It does indicate on here -- never trust a lawyer when they say I have no other questions. It indicates in the upper right-hand corner of the first page 500,000 to a million. Is that what the yearly sales were expected to be?
MR. YARBOROUGH: Objection.
Q. Do you know what those numbers represent, the 500,000 to a million?
A. I can only go by what the captions are. It says customer yearly sales, so I assume it's an estimate of what the sales would be.
Q. Next document, or product, excuse me, is BMG-5084 Red 125. Are you familiar with that product?
A. No.
Q. I only found one document on this product. It's Bates number, last six digits 943738. It's a product formula. Could you look at this and tell me what the asbestos content of that product was?
A. 65 percent.
Q. And that's two different grades of asbestos. Isn't that correct?
A. Yes, yes.
Q. One of them is RM-18-O and RM-18-B. Is

that correct?
A. That's correct.
MR. YARBOROUGH: According to the document.
MR. WARD: According to the document.
A. Yes.
Q. And you are familiar with these -- all these documents I'm showing you are documents that are business records that you've seen this type of document previously. Right?
A. Oh, yes.
MR. YARBOROUGH: But not seen this particular document previously.
A. Not for the product, but the forms, I've seen.
Q. The date on it is May 18, '67, so you were the group leader --
MR. YARBOROUGH: May 16.
Q. That's 1967. Correct?
MR. YARBOROUGH: May 16. Well, the date on the top.
Q. May 16, 1967 is the date on top of the letter, is that correct, and you were group leader at the time?
A. Yes, but my function was to develop new

products. Manufacturing did some of their own work, and a number of the documents you showed me were all people in the manufacturing department.
Q. Earlier when we were talking about BMCA-4025 Brown, we also saw RM-18-O, and it appeared that it was a long fiber Blue asbestos. Correct?
A. Yes.
Q. So part of the asbestos content of this product was also long fiber Blue asbestos. Right?
MR. YARBOROUGH: According to the document.
A. According to the document, yes.
Q. And, again, when Union Carbide made their submission to the government, they said there was only one product that had long fiber Blue asbestos. Correct?
MR. YARBOROUGH: Again, I'm just going to reiterate my objections to form and lack of foundation.
Q. If this document is accurate, their statement they made to the government is also inaccurate. Correct?
MR. YARBOROUGH: Objection, calls for speculation.
A. If it is not on the list.

Q. Next product I'd like to talk about is BMGA-5105 Black 25. Are you familiar with that product?
A. No.
Q. I have only four documents pertaining to that product. The one I'll be asking about -- you're free to look at the other ones, as well -- is last four digits -- excuse me, last six digits of the Bates number is 936982, and I'd like you to look at that document and tell me what asbestos content is shown for that product.
A. 30 percent.
Q. And that's RM-18-B fiber type?
A. Yes. Oh, it's floats, I think, could be asbestos floats or Carey asbestos.
Q. That's a chrysotile asbestos?
A. I don't remember the exact designation of all the 18 series except for what you had shown me here.
Q. We have some more documents on that we'll go through tomorrow.
MR. YARBOROUGH: Don't worry about it. He's just asking you what's reflected on the document.
Q. The page I was referring to you before,

does that indicate who at least one of the customers is?
A. Square D.
Q. Square D is a manufacturer of electrical products?
A. Yes.

Q. And the application, or at least one of the applications for this product is electrical switch gear. Is that correct?
A. Yes.
Q. Now, this is a product you did not recall when you testified previously. Is that correct?
A. Yes.
Q. Do you recall being asked questions about Square D Corporation, or Company, in your deposition that you gave on May 9th, 2001?
A. As I recall, I was asked to name some of the customers, and I named Square D.
Q. Do you recall testifying that you didn't think Square D ever purchased asbestos-containing compounds from Union Carbide from 1960 to 1974?
A. That, I don't recall.
Q. I'll refer you to the transcript, page 41, lines 19 through 21.

A. Well, I did say they were sampled with 5020. That was based on my best recollection at the time, so obviously I was wrong.
Q. You would agree that that testimony was not accurate that you gave in this deposition? I'm not saying anything about intent, but I'm saying the testimony itself was incorrect. Is that true?
A. Incorrect, yes.
MR. YARBOROUGH: Based on what's contained in these new documents.
A. Yes.
Q. We'll be seeing Square D more as we go along.
And is it correct for me to state that Union Carbide did not list this product on their disclosure to the United States Government?
A. Yes.
Q. Next product I'd like to talk to you about is BMMA-5118 Black 25. Do you recall that product?
A. No, I do not.
Q. The documents I'll be referring to with regard to this product, last six digits of the Bates number is 937074, 75, 76. There's also 73 as the last two digits, and 80 as the last two digits. So

they're not consecutive, but they're the same range. I'd like you to look at these documents and tell me what asbestos content these documents show. Does it vary by the plasticity grade?
A. Yes, it does, but I have to add these up to give you an exact percentage. Unless you have it someplace else.
Q. Well, on the document we marked as Martino-6, the asbestos content is listed as being 21 percent 18-P. Is that about the range you see on the documents in the file? Do you need a calculator to do the -- you can just tell me at plasticity grade six, there's 466 pounds -- I can't read too well

upside down. How large is the batch?
A. That's what I'm trying to figure out. I have to add it up.
MR. YARBOROUGH: What's the question, Mike?
Q. The question is asbestos content.
A. The asbestos content for that product shown on this sheet is 21 percent.
MR. YARBOROUGH: When you say "this sheet," you're referring to --
A. Exhibit 6. To verify it, I'd have to do some calculations.

Q. I didn't bring a calculator.
A. I can do it. It will take a little time.
MR. YARBOROUGH: No, you don't have a calculator here.
THE WITNESS: How long do you plan to go today?
MR. WARD: Let's go off the record a second.
(A discussion takes place off the record.)
Q. Mr. Martino, this, again, is an asbestos-containing phenolic molding compound that you did not recall when testifying previously, and this compound is not listed in Union Carbide's disclosure, is it?
A. That one?
Q. The document, BMMA-5118 Black 25 that we just reviewed.
A. That's right.
Q. The next product I'd like to speak to you about is BMGA-5138 Black 25, and also in the same file, I have BMMA-5138, just a difference in granulation. What does the M stand for, anyhow, in the granulation?

A. I think it was dust, less dust. More fines were removed.
Q. I have a document that I think is the best place to go to -- you would need a calculator for that one, too. You're free to look at my whole file on this. The document I'm going to refer you to is 937099. I'd ask you to look at that and tell me what the asbestos content is of that product.
A. According to this document, it's 12 1/2 percent.
Q. And this is a general purpose Bakelite?
A. Yes.
Q. On the other side of that document -- I think that's normally a two-sided document -- it indicates that about a million pounds of this was expected to be sold per year?
A. Yes.
Q. Do you know who the customer was of this product?
MR. YARBOROUGH: Do you know from your

knowledge or do you --
A. Someplace, I saw various --
MR. YARBOROUGH: Do you know from your knowledge?
A. No.

Q. Do you know what the application of this product was?
A. It would fit into all of the businesses. It costs a little more, so the question is whether the customer wanted to use it, but all the applications that use general purpose materials.
Q. Is this a product that you did not recall when you testified previously?
A. I thought I had at one of my depositions.
Q. Did you? Let me see.
A. The list you previously showed me had it on, I think.
Q. No, you're correct. You did refer to that product in your prior deposition.
Is that product included in Union Carbide's disclosure to the government?
A. Yes, it is. The first one.
MR. YARBOROUGH: Are you asking about the BMMA or BMGA?
A. The BMMA is there.
Q. The BMMA is there. What is not there is BMGA, but you don't consider that to be a different product.
A. No.

Q. Other formulations I have of that product are BMGA-5138 Brown 15. Do you recall this material coming in a brown color, as well?
A. Yes, for some of the house applications.
Q. There's also a formulation of BMGC-5138 Black 15. I'd like to go over that one with you a little bit. In the file for that product, there's a request for the transfer of BMGC-5138 Black 25 to final manufacturing status; author is Mr. Fishberg. You're listed as being his supervisor. It indicates that that product was being sold to Westinghouse at the rate of 40,000 pounds per month.
MR. YARBOROUGH: Could we identify it by Bates number, Mike?
Q. Bates number is 934713. Do you see the passage I'm referring to?
MR. YARBOROUGH: Take your time and read it.
A. Yes.
Q. And in your prior deposition when you could not recall sales of asbestos-containing molding compound to Westinghouse, I take it you just forgot about this product or didn't recall it?
A. I was incorrect. I didn't recall sales to Westinghouse of this product. In fact, I didn't

recall sales to Westinghouse at all.
Q. So your testimony in that prior deposition was not accurate. Is that correct?
A. That's correct. Was not correct.
Q. The other formulations that I have for the 5138 product is BMMA-5138 Brown 15. Do you recall that product?
A. Yes.
Q. BMRA-5138 Black 25, do you recall that product?
A. Yes.
Q. And that also contained asbestos?
A. All the same formulation, as far as I knew.
Q. Generally speaking, they were 12 1/2 percent asbestos?
A. Yes.
Q. And there's a BMRS-5138 Black 25. Is that correct?
A. Yes.
Q. There's about 10 different formulations of 5138 that I have. Do you recall there being that many different variations?
A. Most of what you read there were granulation changes. The RS was for injection

molding.
MR. WARD: Do one more product and we'll call it a day, if that's all right with everyone.
MR. YARBOROUGH: That's fine.
Q. The document is BMRS-5144 Black 25. Do you recall that product?
A. No.
Q. I only have one document on that product. The Bates number is 934783. I'd ask you to take a look at it and tell me what the asbestos content is of that product.
A. 15.25 percent.
Q. And the customer is listed as being Western Electric. Is that correct?
A. Yes.
Q. Do you know what application Western Electric made of that product?
A. According to this document, electronic switch gear.
Q. And that's a product that you did not recall when you testified previously?
A. That's right.
Q. And that product is not listed on Union Carbide's disclosure to the government?

A. That's correct.
It's marked not for general sales.
Q. So you think it was just sold to Western Electric based on that?
A. Yes.
MR. WARD: All right. Well, I'll keep

my word. At this time, we'll adjourn for the day. I just want to put on the record that earlier we had an off-the-record discussion, and we decided to perhaps shorten the days a little bit, because this is kind of a tedious deposition that I'm doing. I realize that, but we've agreed that if we need to go a third day, I'm not going to get any opposition to that. Is that correct?

MR. YARBOROUGH: Well, it's not necessarily correct, because as we talked about, at some point after deposing the witness for some 10-odd hours -- I mean, we've been going today for, I guess, over four hours, and if we go tomorrow for four or five hours, we're getting into a nine-hour deposition, and I think at some point it does become objectionable.

MR. WARD: On what basis?

MR. YARBOROUGH: On the basis that it's repetitive, a lot of the questioning is repetitive,

and a lot of the questions simply lack foundation and relevance, and that at some point it does become harassing and beyond the bounds of decency within regards to the discovery. Clearly, Mike, you and I have had this discussion before, and I've had it with Mike Edmunds and -- well, mainly with the two of you and Kevin Bilms with regard to your product ID witnesses, and we did all we could with regard to limiting the scope of those depositions and the time spent and length of those depositions in the interest of time and efficiency, and I think that you would have to agree that, you know, we have done a good job as defendants when questioning those people and not wasting a bunch of time on questioning on irrelevant matters.

And as you are always quick to point out, Judge Curran has been very specific in limiting the scope of these depositions to the five issues that are in Phase I of this trial, and I just would appreciate the same consideration from you, and I understand you're not trying to waste time, but I think that a lot of this in going through these things -- you know, like we've established, he's never seen many of these documents before. Many of them, his name is not on. You can go through just as

easily and determine that, A, he didn't mention it in his prior testimony; and, B, no, it's not on what's been marked Exhibit 2 and 3, and you could determine that without asking him on the record.

MR. WARD: I want to see if there's an explanation for these matters. I want his interpretation of the documents. He was in charge of this department for 14 years. His name appears in most of the files, and if you want me to go back over each file and point that out, I'd be glad to do that, but since there is no agreement, let's just leave it at this. If you try to cut me off on the amount of time I have for deposition, we'll just go in front of

Judge Curran and see what he thinks.
MR. YARBOROUGH: That's fine.
MR. WARD: No sense wasting time with a bunch of lawyer talk now.
MR. YARBOROUGH: Okay.
(The proceedings concluded at 3:55 p.m.)

CERTIFICATE

I, JUDY A. BLACK, a Notary Public, Certified Shorthand Reporter, and Registered Professional Reporter of the State of New Jersey, do hereby certify that prior to the commencement of the examination, CARLO F. MARTINO was duly sworn by me to testify 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 the action.

Notary Public of the State of New Jersey
License No. XI01401 My Commission expires: November 6, 2005
Dated: July 24, 2002