

STATE OF KENTUCKY

ANDERSON CIRCUIT COURT

JOHNNY FRANKLIN, INDIVIDUALLY

AND AS ADMINISTRATOR OF THE

ESTATE OF FLORA FRANKLIN,

Plaintiff,

v.

No. 04-CI-00274

GENERAL MOTORS CORP, ET AL.,

Defendants.

The Videotaped Deposition of DAVID H. GARABRANT,
M.D., taken pursuant to Notice in the above-entitled cause,
at 623 West Huron Street, in the City of Ann Arbor, Michigan,
on Friday, July 20, 2007, commencing at or about 10:16 a.m.,
before Cheryl McDowell, CSR-2662, RPR, a Notary Public in
and for the County of Livingston, acting in the County of
Washtenaw.

APPEARANCES:

SALES, TILLMAN, WALLBAUM,

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Corporation.

20
21 ALSO PRESENT: Mr. Tim Reitman

22
23
24
25

I N D E X

WITNESS:	PAGE
DAVID H. GARABRANT, M.D.	
EXAMINATION by Mr. Satterley	5

E X H I B I T S

Exhibit 1 - Critical References	16
Exhibit 2 - List of Legal Testimony	90
Exhibit 3 - Invoice dated 1-3-06	90

1 Ann Arbor, Michigan

2 Friday, July 20, 2007

3 At or about 10:16 a.m.

4 - - -

5 THE VIDEOGRAPHER: Today's date is July 20th,
6 2007, and we're on the record at 10:16 a.m. This is the
7 video deposition of Doctor David Garabrant, and we're in
8 Ann Arbor, Michigan.

9 Could the witness be sworn, please.

10 - - -

11 DAVID H. GARABRANT, M.D.,
12 an Expert Witness, first duly sworn to tell the truth, the
13 whole truth, and nothing but the truth, testified as
14 follows:

15 EXAMINATION

16 BY MR. SATTERLEY:

17 Q. Could you please state your full name, sir.

18 A. David Hay Garabrant.

19 Q. Doctor Garabrant, my name is Joe Satterley.

20 Have we ever met before?

21 A. I don't recall meeting you. I apologize if we have.

22 Q. Okay. I don't recall, either. I just wanted to make
23 sure.

24 It's my understanding that you have been hired
25 to be a witness in the matter of Flora Franklin and

1 Johnny Franklin, correct?

2 A. Yes.

3 Q. It's my understanding that the attorney that hired you
4 is a fellow named Bruce Bishop, correct?

5 A. Yes.

6 Q. Mr. Bishop is sitting next to you, correct?

7 A. Yes.

8 Q. Are there any other attorneys in the room with you?

9 A. Yes.

10 Q. Who else?

11 A. Mr. Johan Flynn and --

12 MR. SLAUGHTER: Ed Slaughter.

13 THE WITNESS: Mr. Ed Slaughter.

14 BY MR. SATTERLEY:

15 Q. Okay. And who do they -- do you know who they
16 represent?

17 A. Mr. Flynn represents Abex I believe and Mr. Slaughter,
18 I'm not sure.

19 Q. Okay. Have you spoken to any other lawyers about this
20 case other than Bruce Bishop?

21 A. I've spoken with Mr. Flynn.

22 Q. Okay. Did Mr. Flynn also hire you?

23 A. Yes.

24 Q. When were you first hired by Bruce Bishop to serve as a
25 witness?

1 A. I do not recall from memory. I will have to look back
2 at my records to see if I have correspondence. I'm not
3 sure, but I believe it was in November of 2005.

4 Q. And I've seen a report that you've written dated
5 November 24th, 2003.

6 Is that a report you prepared for Mr. Bishop?

7 A. Yes.

8 Q. When were you hired by Mr. Flynn?

9 A. I don't recall to be honest.

10 Q. Have you prepared any report for Mr. Flynn like you did
11 for Mr. Bishop?

12 A. No.

13 Q. How many hours have you spent working on the Franklin
14 case?

15 A. I don't recall. I put time in back in November of 2005,
16 and I don't recall how much time that was, and then --

17 Q. Estimate?

18 A. I'm sorry?

19 Q. Can you give me an estimate?

20 A. It would probably have been less than ten hours.

21 Q. Have you generated an invoice for your time?

22 A. I typically generate invoices for my time. I would
23 guess that I generated one in this case, but I do not
24 recall having done so.

25 Q. Did you bring any invoices with you today?

- 1 A. No.
- 2 Q. Did the attorneys tell you that the notice to take
3 deposition requested you to do so?
- 4 A. We did not discuss that.
- 5 Q. So Mr. Bishop, you met with Mr. Bishop in preparation
6 for this deposition, correct?
- 7 A. No, I met with Mr. Flynn.
- 8 Q. When did you meet with Mr. Flynn?
- 9 A. This morning.
- 10 Q. For how long?
- 11 A. About an hour.
- 12 Q. And yesterday or the day before, you hadn't met with any
13 attorneys about this case?
- 14 A. No.
- 15 Q. And no attorney conveyed to you the notice to take
16 deposition?
- 17 A. I believe I got a notice of deposition in the case. I'm
18 not sure, however.
- 19 Q. When do you believe you received the notice?
- 20 A. A few days ago.
- 21 Q. And how did you receive it?
- 22 A. Again, I'm not sure to be honest. I think I got one via
23 e-mail, but to be honest, I don't know, and I do not
24 believe I have it with me in my materials today.
- 25 Q. Who would you have received it from via e-mail?

1 A. Either Mr. Bishop or Mr. Flynn.

2 Q. Okay. Well, we can -- you can certainly go back to your
3 e-mail and check that, right?

4 A. Probably not because I typically delete my e-mails.

5 Q. Well, when you delete them, they don't go away. You
6 know that, right?

7 MR. FLYNN: Object to form.

8 THE WITNESS: No, I do not know that.

9 BY MR. SATTERLEY:

10 Q. All right. Well, regardless, you haven't brought any
11 invoices for your time today, for your time in this case
12 to this deposition today?

13 A. I have not.

14 Q. And you think that roughly back in November 2005 you
15 spent about ten hours on this case?

16 A. I said less than ten hours.

17 Q. Okay. Can you be any more specific than less than ten
18 hours?

19 A. Well, I'd have to guess. I, just looking at the stack
20 of records and making an estimate of how long it would
21 have taken me to read them and to prepare my report, I
22 would estimate it was less than ten hours. It might
23 have been six hours or seven hours. I don't know.

24 Q. What's your hourly rate?

25 A. Five hundred twenty-five dollars.

1 Q. Has it been -- how long has it been that rate?

2 A. For three years.

3 Q. The money that's paid, the five hundred and twenty-five
4 dollars an hour, does it go directly to you?

5 A. Yes.

6 Q. And three years ago what was your rate?

7 A. Five twenty-five.

8 Q. Well, prior to that, what was your rate, or has it
9 always been five twenty-five?

10 A. Well, it's been five twenty-five for the past three
11 years.

12 Q. And that's what I'm trying to get at. Prior to that
13 three years, what was your rate?

14 A. I believe it was four forty.

15 Q. Have you brought with you today a list of deposition and
16 trial testimonies?

17 A. No.

18 Q. Did the attorneys tell you that, that I wanted that,
19 also?

20 MR. FLYNN: Object to form.

21 THE WITNESS: I was not aware that you wanted
22 that.

23 BY MR. SATTERLEY:

24 Q. Mr. Flynn didn't tell you that, either, this morning,
25 huh?

1 A. I was not aware that you wanted that.

2 Q. Okay. Do you have that?

3 A. I have a list that I keep on file.

4 Q. Okay. And you've been to depositions before?

5 A. I have been.

6 Q. And you've given this in depositions before, correct?

7 A. I have been asked to produce it in the past.

8 Q. And --

9 MR. BISHOP: Well, Joe, we'll cut it short.
10 We'll produce a copy of that.

11 MR. SATTERLEY: Okay. Well, the problem is
12 are you going to reproduce this witness for another
13 deposition?

14 MR. BISHOP: What are you going to ask him
15 that's going to be material based on a list of
16 depositions?

17 MR. SATTERLEY: I want to find out what type
18 of cases they are. I mean, you guys, you know,
19 shouldn't play games and not produce things that I
20 request. Otherwise, you're just wasting everybody's
21 time in this deposition.

22 BY MR. SATTERLEY:

23 Q. How many cases have you testified in, sir?

24 A. In what time period?

25 Q. In your life.

- 1 A. Probably a few dozen.
- 2 Q. A few dozen, is that twenty-four, thirty-six,
3 forty-eight, seventy-two?
- 4 A. I would estimate probably in the range of sixty or
5 seventy, maybe eighty. I don't know.
- 6 Q. So sixty or seventy or eighty is a few dozen to you?
- 7 A. Yes.
- 8 Q. Okay. Do you have any -- you don't have a mathematical
9 degree, do you?
- 10 A. No.
- 11 Q. Okay. Have you written any reports beyond the November
12 24th report?
- 13 A. In this case?
- 14 Q. Yes.
- 15 A. No.
- 16 Q. Do you have any opinions about the Franklin case beyond
17 what you put in your report?
- 18 A. I'm just looking back at my report to see exactly what I
19 said.
- 20 No, those are my opinions in this case.
- 21 Q. Okay. Have you, have you been provided any additional
22 materials since your report in November of 2005?
- 23 A. Yes.
- 24 Q. And what additional materials have you been provided?
- 25 A. I've been provided with a set of materials in seventeen

1 tabs. It's about an inch high.

2 Do you want me to read to you what they are?

3 Q. Sure. Tell me what you've been provided since your
4 November 2005 report.

5 A. Okay. Death certificate, autopsy report, report of
6 Doctor James Girard, report of Doctor Ronald Dodson,
7 reported of Doctor Arthur Frank, report of Doctor Samuel
8 Hammar, Quantitative Analysis of Fibers in Digestion
9 Material, report of Jerrold Abraham, report of Doctor
10 Victor Roggli, and there are actually three of those
11 with an addendum. Report of James Crapo, report of
12 Arthur Langer, report of Donald Marano, report of
13 Charles Redinger, report of Charles Blake, report of
14 Mary Finn, and Johns-Manville bankruptcy trust claim
15 documents.

16 Q. Anything else you've been provided in this case?

17 A. Since 2004 or 2005?

18 Q. Yes.

19 A. No.

20 Q. What were you provided in the case prior to you writing
21 the report?

22 Have you listed those materials in your report
23 on page two?

24 A. Yes.

25 Q. Other than the materials listed on page two and the

1 materials you identified today, have you been provided
2 any other additional materials in this case?

3 A. I do not believe so.

4 Q. I take it from or is it true that you will not dispute
5 the fact that Flora Franklin developed malignant
6 mesothelioma?

7 A. That is true.

8 Q. You won't dispute that her mesothelioma was caused from
9 asbestos exposure, correct?

10 A. I think that's probably true.

11 Q. You will agree that she had asbestos fibers in her lungs
12 after she died and there was an autopsy done, correct?

13 A. Yes.

14 Q. Have you read any depositions of any of the doctors in
15 the case?

16 A. Not to my knowledge.

17 Q. Now, Doctor Barbara Weekly Jones, you understand she's
18 the coroner or the person who did the autopsy, correct?

19 A. I don't recall by name. I'd have to look.

20 Q. Okay. Well, let me -- I think it's undisputed that
21 she's the person, so let me just refer to her as Doctor
22 Barbara Weekly Jones.

23 You read the autopsy report, correct?

24 A. I am looking at the autopsy report and I see her
25 signature at the bottom. Yes, I understand that she

1 signed the autopsy.

2 Q. She testified, and I know you haven't been provided her
3 testimony, but she testified that Mrs. Franklin's death
4 was caused by her mesothelioma.

5 I just want to verify, you're not going to
6 dispute her testimony, are you?

7 MR. FLYNN: Object to form.

8 THE WITNESS: As far as I am aware based on
9 the materials I have seen, I believe that Ms. Franklin
10 died of mesothelioma.

11 BY MR. SATTERLEY:

12 Q. It's my understanding, are you a medical doctor with a
13 specialty in occupational medicine?

14 A. Yes.

15 Q. And are you board certified in that area of specialty?

16 A. Yes.

17 Q. And what year did you become board certified?

18 A. 1983 in occupational medicine, 1982 in internal
19 medicine.

20 Q. Do you have any additional board certifications other
21 than those two?

22 A. I'm board certified in preventive medicine.

23 Q. Okay. So you've got three board certifications?

24 A. Well, preventive medicine and occupational medicine come
25 from the same board, so I don't know whether you'd call

1 it two or three.

2 Q. Do you have any additional documents as a part of your
3 Franklin file there with you today other than what
4 you've identified in your report and what you've told me
5 about that you received since your report?

6 A. The documents I've told you about constitute my entire
7 file on the Flora Franklin case. I also have some of
8 the scientific literature with me.

9 Q. And how much of the literature did you bring with you
10 today?

11 A. About twenty-five articles.

12 Q. Okay. Do you have a list of those articles?

13 A. I do.

14 Q. Can we make that list of the articles an exhibit?

15 Is it a one-page list?

16 A. Two pages.

17 Q. Two-page list?

18 A. Yes.

19 MR. SATTERLEY: Okay. Let's make that

20 Exhibit, I guess it's Exhibit 1.

21 (Exhibit 1 marked and attached.)

22 BY MR. SATTERLEY:

23 Q. Now, I see on your report you've cited the two hundred
24 and eighty-one articles, correct?

25 A. Yes.

1 Q. And you said there's about twenty-five on this
2 Exhibit 1?

3 A. I said twenty-five. Now that I look at it, there are
4 actually twenty-one.

5 Q. Why do you have -- why those twenty-one on there as
6 opposed to the two hundred and eighty-one that you cite
7 in your report?

8 A. Well, the twenty-one are the references that are
9 specific to the issue of vehicle mechanics and brake
10 mechanics and friction products and their relationship
11 to mesothelioma. So they're the critical set of
12 references on that issue.

13 The two hundred and eighty-one represents more
14 comprehensively the epidemiologic studies of asbestos-
15 exposed populations.

16 MR. SATTERLEY: Let's mark as late file
17 Exhibit 2 the list of testimony that Mr. Bishop said he
18 would get to us. Is that agreeable?

19 MR. BISHOP: That's agreeable.

20 MR. SATTERLEY: And can we make late file 3
21 his invoice or invoices in the case?

22 MR. BISHOP: Sure.

23 BY MR. SATTERLEY:

24 Q. Since you wrote your report in November of 2005, how
25 much time have you spent on Mrs. Franklin's case?

- 1 A. Probably two hours.
- 2 Q. And when did that occur?
- 3 A. In the past two days.
- 4 Q. You spent one hour this morning with Mr. Flynn.
- 5 When did you spend the other hour?
- 6 A. Earlier this week.
- 7 Q. Okay. Do you know which day?
- 8 A. I don't recall. It might have been last weekend getting
- 9 my materials together and making sure I had them in
- 10 order.
- 11 Q. Have you this year, 2007, testified in any trials?
- 12 A. I do not believe so.
- 13 Q. Did you testify in any trials in 2006?
- 14 A. I believe I did.
- 15 Q. How many?
- 16 A. I think two.
- 17 Q. Where did they occur?
- 18 A. I'm not sure my recollections are correct as to where
- 19 and when. I believe I testified in a trial in Wheeling,
- 20 West Virginia in 2006, and I believe I testified in a
- 21 trial in Galveston, Texas in 2006.
- 22 Q. And who did you testify for in Wheeling, West Virginia?
- 23 A. I do not recall which defendant but it was a friction
- 24 products case, so it was one of the companies that
- 25 either manufactured or supplied brakes for vehicles.

- 1 Q. The Galveston, Texas case, what type of case was that?
- 2 A. That was a welding case.
- 3 Q. And who did you testify for in that case?
- 4 A. I believe it was Lincoln Electric.
- 5 Q. Those sixty or seventy or eighty cases, whatever they
6 are, I guess we'll get sometime in the future, the list
7 of them, how many of those are asbestos cases?
- 8 A. I would estimate that perhaps -- actually, let's
9 clarify. The sixty or seventy or eighty, I'm trying to
10 recall what the question was where I answered a few
11 dozen.
- 12 Q. That was how many depositions you've given in the past.
- 13 A. Yes. Thank you. Okay. I would estimate that perhaps
14 twenty-five of those, maybe thirty of those, were
15 related to friction products.
- 16 Q. Okay. My question was asbestos, though, not just
17 friction.
- 18 A. Okay. And then a small number, perhaps three or four,
19 have been related to issues of gastrointestinal tract
20 cancer and asbestos, and that would be the entire list.
- 21 Q. Of asbestos?
- 22 A. Yes.
- 23 Q. What other types of cases have you provided testimony in
24 other than asbestos? And you've already told me welding
25 rods.

1 A. Yes, I've provided deposition testimony in welding rod
2 cases. I've provided deposition testimony in workers'
3 compensation cases on a wide range of issues including
4 occupational asthma, exposures to solvents. I've
5 been -- I provided deposition testimony on cases
6 involving exposure to lead or provided deposition
7 testimony on some cases of allergies and allergic
8 dermatitis. I provided deposition testimony on
9 Wegener's granulomatosis and autoimmune disorders, on
10 latex allergies. So a wide range of issues.

11 Q. Any others?

12 A. That's all I can think of from memory.

13 Q. Let me ask you some questions about some of those
14 different topics, but first let me ask you, have you
15 ever testified for an individual in an asbestos action?

16 A. Yes.

17 Q. And when did that occur?

18 A. In 1986 I believe.

19 Q. And where was that, where did that occur?

20 A. In Los Angeles.

21 Q. Were you hired by the plaintiff's attorney?

22 A. Yes.

23 Q. And who was that?

24 A. I do not recall.

25 Q. Did you testify at the trial?

- 1 A. Deposition only.
- 2 Q. And did the person have mesothelioma?
- 3 A. No.
- 4 Q. What disease did that person have?
- 5 A. Colon cancer.
- 6 Q. Did you testify that the colon cancer was related to the
7 asbestos exposure?
- 8 A. At that time I believed it was.
- 9 Q. Have you changed your mind since 1986?
- 10 A. I have changed my opinions on that issue after having
11 researched the topic, yes.
- 12 Q. Have you since 1986 and that one case, colon cancer
13 case, have you testified for any other individual that
14 suffered from any asbestos-related disease?
- 15 A. I do not recall. I may well have earlier in my career.
- 16 Q. Have you ever testified for an individual with
17 mesothelioma on behalf of that person?
- 18 A. No.
- 19 Q. In your practice do you treat people with mesothelioma?
- 20 A. I do not recall having treated anyone with mesothelioma
21 in many, many years. I believe I did early in my
22 career.
- 23 Q. And tell me about that. Tell me your full involvement
24 in treating someone with mesothelioma, that person.
- 25 A. I do not recall any specific instances of that. I am

1 trained in internal medicine, and I routinely took care
2 of patients with a wide variety of cancers earlier in my
3 career.

4 Q. As you sit here today, you can't give me any specific
5 details of providing care or treatment for somebody with
6 mesothelioma?

7 A. That is correct.

8 Q. All of your testimony with regards to friction products
9 when I get this list will be on behalf of defendants in
10 litigation, correct?

11 A. I believe it will be.

12 Q. And you've testified for Honeywell or Bendix in the
13 past?

14 A. In friction products cases, I have.

15 Q. And Abex in the past?

16 A. For friction products cases, I have.

17 Q. Ford Motor Company in the past?

18 A. For friction products cases, I have.

19 Q. General Motors?

20 A. Same answer.

21 Q. Chrysler?

22 A. Same answer.

23 Q. Any other companies in asbestos, friction product cases,
24 other than the ones I've mentioned?

25 A. I believe I've testified on behalf of Genuine Parts

1 Corporation and North American Auto Parts or NAPA.

2 Q. Any others?

3 A. That's all I can recall.

4 Q. Now, in the welding rod litigation, you testified for
5 defendants in litigation, correct?

6 A. Yes.

7 Q. And is that litigation the individuals that are alleging
8 they have Parkinson's disease?

9 A. Yes.

10 Q. In the industrial asthma case or cases, have you
11 testified for defendants in that litigation?

12 A. Defendants and plaintiffs.

13 Q. Okay. When's the last time you testified for a
14 plaintiff in the industrial asthma case?

15 A. I don't recall exactly. Probably four or five years
16 ago.

17 Q. And is that workers' comp cases?

18 A. To the best of my recollection, yes.

19 Q. The solvent litigation, you've testified for defendants
20 in that litigation?

21 A. I have.

22 Q. And you've never testified for a plaintiff in a solvent
23 litigation, correct?

24 A. I don't recall having done so.

25 Q. And that litigation, individuals allege that they have

1 brain damage from exposures to chlorinated hydrocarbons,
2 correct?

3 A. In some instances, there has been an allegation of that
4 type.

5 Q. And you testified for CSX Transportation, correct?

6 A. Yes.

7 Q. On how many occasions?

8 A. I don't recall. I would estimate perhaps four or five.

9 Q. And you've never testified for an individual alleging
10 the brain damage from the trichloroethylene exposure,
11 correct?

12 MR. BISHOP: Object to the form, repetitive.

13 MR. DAVIDSON: I'd also note an objection.

14 This is Scott Davidson. This isn't a CSX case.

15 MR. SATTERLEY: So what? I'm going after
16 bias. I'm allowed to do that.

17 BY MR. SATTERLEY:

18 Q. Are you sure you've never testified for an individual
19 that's alleging they have brain damage from exposure to
20 solvents?

21 A. Well, I've never seen an individual who had brain damage
22 from solvents and I have not testified to that since
23 I've never seen it.

24 Q. Okay. But you know that -- well, let me ask you, have
25 you ever testified for an individual in the welding rods

1 that had Parkinson's from welding exposure?

2 A. I've never seen anyone who got Parkinson's disease from
3 welding rod exposure, and I have not testified to that
4 since I've never seen it occur.

5 Q. What about lead exposure; who have you testified in the
6 lead cases?

7 A. I'm sorry. The question was who did I testify?

8 Q. For, defendants or plaintiffs?

9 A. Defendant.

10 Q. And what was the name of the company?

11 A. I believe it was the Burlington Northern Santa Fe
12 Railroad. They hauled lead sulfide ore which is
13 virtually nontoxic.

14 Q. Are you a board certified toxicologist?

15 A. I'm not a toxicologist. I have training in toxicology
16 and I have taught toxicology.

17 Q. But you're not a board certified toxicologist?

18 A. That's correct.

19 Q. Have you ever testified for a plaintiff in a lead
20 exposure case?

21 I'm sorry. I didn't catch your answer.

22 A. I'm thinking. I may well have. I have seen a lot of
23 people who have had very high lead exposures. I may
24 well have testified on their behalf in the past.

25 Q. As you sit here today, can you point me to any specific

1 testimony that you've given in a lead exposure case
2 where you've been on behalf of the plaintiff?

3 A. No.

4 Q. Dermatitis, the dermatitis reference you mentioned, who
5 have you provided testimony for in that?

6 A. The plaintiff.

7 Q. And who was that?

8 A. I do not recall her name. She was a woman who clearly
9 had occupational dermatitis from skin contact with
10 chemicals.

11 Q. And when did that deposition occur?

12 A. Probably four or five years ago.

13 Q. And who was the attorney that hired you?

14 A. At this point, I don't recall.

15 Q. Would that be on that list that you have back at your
16 office?

17 A. I don't recall whether it's on the list or not.

18 Q. The latex exposure cases, who have you testified for in
19 that?

20 A. Defendants.

21 Q. Which ones?

22 A. I believe Baxter Health Care.

23 Q. You mentioned another condition. I think was it called
24 Wilger's or --

25 A. I think I said Wegener's granulomatosis.

1 Q. What is that?

2 A. It's a type of vasculitis. It's an autoimmune disease.

3 Q. And who have you provided testimony for in that
4 situation?

5 A. On behalf of the municipal government of a small town in
6 Michigan. One of their police officers claimed that
7 mold in his police cruiser caused him to have vasculitis
8 which I did not believe was true.

9 Q. Do you know the total amounts of money you've been paid,
10 Doctor Garabrant, in testifying in all these cases,
11 types of cases?

12 A. No.

13 Q. Can you give me an estimate?

14 A. No.

15 MR. DAVIDSON: For the record --

16 MR. SATTERLEY: I'm sorry?

17 MR. DAVIDSON: Scott Davidson. Object for the
18 record.

19 BY MR. SATTERLEY:

20 Q. You can't give me an estimate at all?

21 A. No.

22 Q. This year, 2007, can you tell me how much you've been
23 paid?

24 A. I do not know offhand.

25 Q. Who keeps track of that for you?

1 A. I keep track of that.

2 Q. And how do you keep track of it?

3 A. When I get paid, I write down that the bill has been
4 paid.

5 Q. And where do you keep bills?

6 A. At home.

7 Q. Do you have a file cabinet?

8 A. I have a notebook.

9 Q. And does that notebook have the invoices in it?

10 A. It does.

11 Q. And do you deposit the checks in your own personal
12 checking account?

13 A. Yes.

14 Q. And do you get bank statements from your checking
15 account?

16 A. I do.

17 Q. And do you get those monthly?

18 A. Yes.

19 Q. Other than your salary from -- are you with the
20 University of Michigan?

21 A. I am.

22 Q. You get a salary from them?

23 A. I do.

24 Q. Other than your salary at the University of Michigan and
25 your monies paid to you by these various corporations

1 for providing testimony, do you have other sources of
2 income?

3 MR. BISHOP: Object to the form.

4 THE WITNESS: Yes.

5 BY MR. SATTERLEY:

6 Q. And is the other source of income related to your work
7 as a medical doctor?

8 A. Some of it is.

9 Q. Tell me about that.

10 MR. BISHOP: Objection. It's totally
11 irrelevant.

12 BY MR. SATTERLEY:

13 Q. Go ahead, sir.

14 A. I have income related to professional activities as a
15 physician.

16 Q. And tell me, what activities is that?

17 MR. BISHOP: Same objection.

18 THE WITNESS: I don't believe that my entire
19 professional activity is fair game in a deposition, sir.

20 BY MR. SATTERLEY:

21 Q. So you're refusing to answer my question?

22 A. Well, it has nothing to do with litigation. It has to
23 do with my professional activities and my earning a
24 living as a physician.

25 Q. Well, let me try to get to the point. I'm trying to

1 understand the percentage of time you spend in
2 litigation versus other activities.

3 A. Okay.

4 Q. Can you tell me that?

5 A. I probably spend about thirty percent of my time in
6 litigation activities or litigation-related activities.

7 Q. And what percentage of your income is litigation-
8 related?

9 A. More than half.

10 Q. How much more than half?

11 A. I don't know exactly. I would estimate that it could be
12 between half and two-thirds.

13 Q. And for how many years has it been more than half of
14 your income?

15 A. Well, it has fluctuated depending on how much I do. So
16 I would say that's been true for three years.

17 Q. And prior to the three years, what percentage of your
18 income was from litigation?

19 A. I don't know.

20 Q. So I'm trying to figure out, in 2006, for example, would
21 you agree that between fifty percent and sixty-seven
22 percent of your income came from litigation?

23 A. I don't think that was actually correct in 2006. No, it
24 probably wasn't.

25 Q. What was it in 2006?

1 A. I don't know exactly, but I think it was actually less
2 than half last year. I don't know exactly.

3 Q. And what was your total income last year?

4 MR. BISHOP: Objection.

5 MR. FLYNN: Objection.

6 THE WITNESS: I don't think my total income is
7 something that I'm willing to disclose without having my
8 own representation at the deposition.

9 BY MR. SATTERLEY:

10 Q. Well, I'm trying to figure out how much money these
11 companies are paying you, and if you won't bring the
12 invoices to the deposition and you won't -- and you
13 don't know, you know, this is the only way I can find
14 this out.

15 A. Well, you could simply ask how much they paid me. I
16 could have told you that.

17 Q. Well, how much have they paid you?

18 A. I think last year my income from litigation activities
19 was in the range of three hundred to three hundred and
20 fifty thousand dollars.

21 Q. And has that been approximately the same for the last
22 three years?

23 A. No, it fluctuates.

24 Q. Okay. So let's go 2005. What did they pay you in 2005?

25 A. I would estimate that it was in that same range.

1 Q. What about 2004?

2 A. I don't recall.

3 Q. How can I find that out?

4 MR. FLYNN: Object to form.

5 THE WITNESS: I don't know how you could find
6 that out.

7 BY MR. SATTERLEY:

8 Q. Tell me about your meeting with Mr. Flynn today. What
9 did you guys talk about?

10 A. We talked about the materials in this case, particularly
11 the new materials.

12 Q. And what did he tell you?

13 A. I don't think he told me anything. He and I simply
14 looked at the materials together to be sure that we both
15 understood what they said.

16 Q. And tell me what he said to you.

17 A. I don't recall that he said anything to me.

18 Q. So you sat there and he didn't say a word to you?

19 A. Well, okay. He said, he said have you looked at the new
20 materials. I said I've looked at them quickly. He said
21 let's go through them.

22 We looked at the index, and there was a
23 discussion of this case has been reviewed by everybody
24 including Doctor Girard Dodson, Frank Hammar, Abraham,
25 Roggli, Crapo, Langer, Marano, Redinger, Blake, and

1 Finn, and that's a lot of experts, and then he said
2 there seems to be -- plaintiff seems to have a lot of
3 interest in this case, they're going to make a big deal
4 of it.

5 Q. Who's going to make a big deal of it?

6 A. Plaintiff's attorneys.

7 Q. Okay. So he told you the plaintiff's attorneys were
8 going to make a big deal of it?

9 A. I don't think those were his exact words, but that was
10 my take-away impression.

11 Q. And did he say why he thought the plaintiffs were making
12 a big deal of it?

13 A. He did not.

14 Q. Do you know what he meant when he said plaintiffs are
15 going to make a big deal of it?

16 MR. BISHOP: Object to the form.

17 THE WITNESS: I don't know what he meant. I
18 had the impression that or I drew the conclusion that
19 plaintiffs thought they were going to get a lot of
20 money.

21 BY MR. SATTERLEY:

22 Q. Is that what conclusion you drew from when he said
23 plaintiff is going to make a big deal of it?

24 A. That was my interpretation of what the conversation
25 meant.

1 Q. Okay. And did he tell you where the money's going to
2 come from?

3 A. He did not.

4 Q. Okay. Do you believe that individuals that are
5 wrongfully killed should be compensated as a medical
6 doctor?

7 MR. BISHOP: Object to the form.

8 MR. FLYNN: Same objection.

9 THE WITNESS: As a medical doctor, I don't
10 have an opinion on that.

11 As a human being, yes, I do.

12 BY MR. SATTERLEY:

13 Q. What else did he tell you this morning in your hour-long
14 meeting?

15 A. I think that was basically it. I think we've covered
16 it.

17 Q. Now, the three hundred to three hundred fifty thousand
18 dollars that you've been paid last year in 2006 and in
19 2005, did you include in that, does that just include
20 your litigation activity or do you also include monies
21 paid to you with regards to research to publish?

22 MR. BISHOP: Objection, vague and ambiguous.

23 MR. FLYNN: Objection, form.

24 THE WITNESS: I believe that my answer was my
25 income related to litigation activities.

1 BY MR. SATTERLEY:

2 Q. In addition to -- well, would you include in that
3 litigation activity monies paid to you to do research to
4 publish?

5 MR. FLYNN: Object to form.

6 THE WITNESS: I would not typically include
7 that to do research. I don't recall that I was paid
8 anything to do research to publish in 2006.

9 BY MR. SATTERLEY:

10 Q. Have you in the past been paid money by corporations to
11 conduct research?

12 A. I have.

13 Q. Have you in the past been paid money by corporations
14 conducting research relating to friction, asbestos
15 friction issues?

16 A. No.

17 Q. Have you been paid, ever been paid money to conduct any
18 research with regards to or monies paid by General
19 Motors?

20 MR. BISHOP: Objection. For what?

21 MR. SATTERLEY: For any research.

22 THE WITNESS: No, I don't believe so.

23 BY MR. SATTERLEY:

24 Q. Ford Motor Company?

25 A. No.

1 Q. Chrysler?

2 A. No.

3 Q. Honeywell?

4 A. No.

5 Q. Abex?

6 A. No.

7 Q. So all the monies they would have paid you would have
8 been related to litigation, actual work, case-specific
9 materials, correct?

10 A. Well, let's -- you know what, I think I should probably
11 ask you to define what you mean by research. It may not
12 be what I think of as research. So perhaps I should
13 have asked you to clarify the question.

14 Q. I mean, other than working on a case like, for example,
15 this case, doing case-specific materials, have you done
16 any additional work for any of those corporations?

17 MR. FLYNN: Object to form.

18 THE WITNESS: Well, there have been times when
19 I've been asked to review an issue and develop opinions
20 on an issue without it being linked to a specific case.
21 So I have done that, but I would call that litigation-
22 related.

23 BY MR. SATTERLEY:

24 Q. Do you know how much total money Ford Motor Company has
25 spent to find authors to write published articles

1 dealing with friction materials?

2 A. No.

3 Q. What about General Motors?

4 A. No.

5 Q. Chrysler?

6 A. No.

7 Q. Bendix?

8 A. No.

9 Q. Honeywell?

10 A. No. I have no such knowledge about those issues.

11 Q. So would it surprise you if they, I mean, would it
12 surprise you if they've -- well, let me ask you the
13 question this way. You're familiar with Exponent,
14 right?

15 A. I know of Exponent Corporation.

16 Q. You know of ChemRisk, correct?

17 A. Yes.

18 Q. Do you know EpiLung?

19 A. I'm sorry?

20 Q. EpiLung?

21 A. I've never heard of EpiLung.

22 Q. Okay. What do you know about Exponent?

23 A. It's a company that does research and consulting work
24 related to a wide range of health and safety issues.
25 And I think they also do work in things like equipment

1 failures and explosions and structural failures, and I
2 don't know what their whole business is.

3 Q. Have you ever done work for them?

4 A. No.

5 Q. Have you ever been out to their offices?

6 A. No.

7 Q. ChemRisk, what is ChemRisk?

8 A. I don't know exactly what ChemRisk does. I believe it
9 is a consulting firm that provides consulting services
10 in areas of risk assessment, hazards related to
11 chemicals, environmental health, a wide range of
12 scientific activities.

13 Q. Have you ever worked for them?

14 A. No.

15 Q. Now, have you done a specific or published a specific
16 article dealing with friction materials and their
17 ability to cause asbestos-related diseases?

18 A. Yes.

19 Q. How many articles have you published in that regard?

20 A. I think one.

21 Q. And when did you publish that?

22 A. Well, I don't know if we're talking about the same
23 article. I think you're talking about the meta-analysis
24 that I published with colleagues in 2004.

25 Q. Well, I was asking how many articles you published on

1 asbestos and friction products, and you said one,
2 correct?

3 A. No. Your question was about friction products, not
4 asbestos.

5 Q. Okay. How many, how many articles have you published on
6 friction products?

7 A. One.

8 Q. Okay. How many articles have you published dealing with
9 asbestos and friction products?

10 A. Well, I've published probably six or eight articles
11 related to asbestos but one related to friction
12 products.

13 Q. And that was the meta-analysis that you're referring to?

14 A. Yes.

15 Q. And who are the coauthors of that?

16 A. Well, I'd have to look. The first author was Michael
17 Goodman.

18 Q. Okay. Who else?

19 A. Just reading from it, M. Jane Teta, Patrick Hessel,
20 Valerie Craven, Carolyn Scafford, and Michael Kelsh.

21 Q. And yourself?

22 A. Yes.

23 Q. And what, what specific research did you do for that
24 article?

25 A. I located publications to be reviewed and considered for

1 inclusion in that article. I helped select the articles
2 that were included. I evaluated the quality of those
3 articles. I assisted or participated in the
4 interpretation of the results and in the writing of the
5 paper.

6 Q. How many -- how much time did you spend on that paper?

7 A. I don't recall.

8 Q. Can you give me an estimate?

9 A. Probably somewhere between three and ten days of work.

10 Q. And when you say three to ten days, are you talking
11 full-time, like eight hours a day?

12 A. Yes.

13 Q. So anywhere between twenty-four hours and eighty hours?

14 A. That would be an estimate. I don't recall to be honest.

15 Q. And who solicited you to be a coauthor on that paper?

16 A. Well, I believe I discussed the issue with Doctor
17 Goodman, and the issue eventually turned into a paper.

18 Q. And have you published any other papers with Doctor
19 Goodman?

20 A. No.

21 Q. Where is Doctor Goodman located?

22 A. I believe he is a professor at Emory University in
23 Atlanta, Georgia.

24 Q. Now, the time you spent, whether it was twenty-four
25 hours or eighty hours or somewhere in between on this,

1 were you paid for your time?

2 A. No.

3 Q. You did it for free?

4 A. Yes.

5 Q. In that paper, I don't have that paper in front of me,
6 but is there acknowledgement of funding for that paper?

7 A. There is.

8 Q. And what does it say?

9 A. It says this research was funded primarily by Ford Motor
10 Company, DaimlerChrysler Corporation, and General Motors
11 Corporation.

12 However, I did not get any of that money. I
13 neither billed for, nor received any funding for my
14 participation in that research.

15 Q. Who got the -- do you know who got the funding?

16 A. No.

17 Q. Have you talked to Mr. Goodman about that?

18 A. No.

19 Q. Did you meet with Mr. Goodman in preparation for writing
20 this publication?

21 A. We talked over the phone repeatedly. We did not meet
22 face-to-face.

23 Q. Have you ever met him?

24 A. I don't recall. I may have. I'm not sure.

25 Q. Have you ever met any of the other coauthors on that

1 paper?

2 A. Yes.

3 Q. Who?

4 A. I have met Doctor Hessel, I've met Miss Craven, and I
5 met Doctor Kelsh. I actually knew Doctor Kelsh when he
6 was a graduate student at UCLA getting his doctoral
7 degree in epidemiology, so I've known him for twenty
8 some years.

9 Q. And where did you meet Mr. Hessel at?

10 MR. BISHOP: Doctor Hessel.

11 THE WITNESS: Doctor Hessel, yeah. I don't
12 recall. I think I met him at scientific meetings.

13 BY MR. SATTERLEY:

14 Q. And which scientific meeting was that?

15 A. To be honest, I don't recall which meetings. It could
16 have been at Society for Risk Analysis, it could have
17 been at the International Society for Exposure Analysis.
18 It could have been at the Society for Epidemiologic
19 Research, it could have been at the International
20 Epidemiologic Association meetings. I don't know. I
21 know I've met him. I don't recall at which meetings I
22 have met him.

23 Q. What type of medical doctor is Doctor Hessel?

24 A. I believe he is an epidemiologist, not a medical doctor.

25 Q. Okay. I thought I heard somebody say he was a medical

1 doctor.

2 MR. BISHOP: He's got a Ph.D.

3 BY MR. SATTERLEY:

4 Q. And Craven, where did you meet Craven at?

5 A. I met Miss Craven, I met her a number of times. I met
6 her in scientific meetings and also in Ann Arbor at my
7 office.

8 Q. And what occasioned her to come to Ann Arbor at your
9 office?

10 A. I don't recall offhand. It might have been related to
11 working on this research.

12 Q. Did you also see her at the Society of Risk Analysis
13 meeting?

14 A. I may have. I don't know.

15 I think I last, I think I last saw her at one
16 of the American Industrial Hygiene Association meetings.
17 I may have seen Doctor Hessel at that meeting as well.
18 To be honest, I don't recall everywhere I've seen
19 everybody in recent years.

20 Q. Have you ever met Dennis Postenbock?

21 A. I have.

22 Q. And where did you meet him at?

23 A. I have met him on a number of occasions at various
24 professional meetings and also in Ann Arbor at the
25 University of Michigan.

1 Q. And what occasioned you to meet him at Ann Arbor?

2 A. He's on the Advisory Council to the Dean of the School
3 of Public Health, and I have made presentations to that
4 council repeatedly.

5 Q. And where else did you say you met him at, at various
6 meetings?

7 A. Yes.

8 Q. Tell me about those. Which ones?

9 A. I don't recall exactly which meetings I met him at. I
10 believe it may have included the Society for Risk
11 Analysis meeting, may have included the American
12 Industrial Hygiene Association meetings, it may have
13 included some of the epidemiology meetings.

14 Q. And do you know who he was working for when you met him?

15 A. I do not on every occasion. I believe more recently
16 he's been working for ChemRisk.

17 Q. And prior to that, was he working for Exponent?

18 A. At some point in his career, I believe he worked for
19 Exponent, but I don't know the dates.

20 Q. Have you -- well, you haven't read Doctor Roggli's
21 deposition in this case, correct?

22 A. I have not.

23 Q. Doctor Roggli in his deposition provided me an article
24 called Abuse of -- well, it's Automobile Manufacturers
25 Manufacturing Defense Test, Defense Liability by

1 Eagleman and Billings.

2 Have you read that article?

3 A. I think I've seen it. I have not read it in detail.

4 Q. In this published article, well, let me ask you, are you
5 familiar with the International Journal of Occupational
6 Environmental Health?

7 A. I have seen things from that. That journal is not
8 available from any source I can locate, so it appears to
9 be a very small circulation journal.

10 Q. You can't access the journal, is that what you're
11 telling me?

12 A. The University library, University of Michigan library
13 gets subscriptions to tens of thousands of journals.
14 They cover almost every scientific journal worth
15 reading, and that journal is not among them.

16 Q. Okay. Well, you have access to that journal, though,
17 don't you?

18 A. No, I don't. I can't find it through any source that I
19 have access to.

20 Q. Well, can you go to www.ijoe.com? Do you have the
21 ability to do that?

22 A. Well, I've never done that.

23 Can you download the articles from that site?

24 Q. Well, I mean, I don't know off the top of my head and
25 I'm not here to answer questions, but you have the

1 ability, you have Internet access, don't you?

2 A. I have Internet access.

3 Q. Okay. Well, when you get a chance, go to www.ijoe.hk
4 that's listed right there in the article Doctor Roggli
5 provided me and see what you can find if you're
6 interested at all.

7 But you're saying you've seen this article but
8 you haven't read it?

9 MR. BISHOP: I'm going to object to the
10 comments.

11 BY MR. SATTERLEY:

12 Q. Is that true?

13 A. I am aware of the article. I have skimmed it. I have
14 not read it carefully.

15 Q. And why did you skim it and choose not to read it
16 carefully?

17 A. Because it's not science. It's an opinion piece that
18 wasn't worth my time to read.

19 Q. And is your article, that meta-analysis, is it not an
20 opinion piece?

21 A. No, it's not.

22 MR. FLYNN: Object to form.

23 THE WITNESS: It's a scientific research
24 article in a peer-reviewed journal.

25 BY MR. SATTERLEY:

1 Q. Well, Doctor Roggli, gave me this article and said these
2 companies, referring to GM, Ford, DaimlerChrysler, and
3 Bendix, have spent millions of dollars to generate these
4 epidemiological studies in order to refute claims of
5 causation and thereby avoid compensation payments to
6 victims and their families.

7 Is that a true statement?

8 MR. FLYNN: Object to form.

9 MR. BISHOP: If you want to ask him about an
10 article, then you need to be here to give him a copy of
11 the article. He doesn't have to answer questions about
12 particular articles that you haven't given him the
13 courtesy of providing a copy.

14 MR. SATTERLEY: He's already seen this in the
15 past.

16 BY MR. SATTERLEY:

17 Q. But go ahead. Is that a true statement, sir?

18 MR. FLYNN: Same objections.

19 THE WITNESS: I have, I have no basis for
20 judging whether that's true or not.

21 BY MR. SATTERLEY:

22 Q. Well, you know that this paper by Doctor Eagleman and
23 Billings criticized the Goodman study, correct?

24 A. I'm not aware of that.

25 Q. Not aware of that?

1 A. No.

2 Q. So when you skimmed this paper and didn't read it, you
3 didn't see where there was criticisms of the Goodman
4 analysis?

5 MR. FLYNN: Same objections.

6 THE WITNESS: No, I didn't read the paper. I
7 simply looked at it and realized that it was an opinion
8 piece that had no scientific content. I didn't bother
9 to read it.

10 BY MR. SATTERLEY:

11 Q. Okay. So if the paper has a section entitled Selective
12 Presentation of Exposure Data, you believe that's
13 nonscientific?

14 MR. FLYNN: Object to form.

15 MR. BISHOP: Again, same objection. If you
16 want to show him a copy of the article, he can respond
17 to that.

18 MR. SATTERLEY: You can have a continuing
19 objection.

20 MR. BISHOP: I'll state it each time.

21 And, Doctor, if you get to a point where you
22 need the article, you just tell him that.

23 THE WITNESS: I have not read the article. I
24 don't know what it says.

25 MR. SATTERLEY: In Kentucky you don't prep

1 witnesses like that during the middle of a deposition.

2 That's improper.

3 MR. BISHOP: In Virginia we provide copies of
4 articles as a courtesy.

5 MR. SATTERLEY: Well, obviously, Mr. Bishop,
6 I'm not here to debate you. Let's continue on.

7 BY MR. SATTERLEY:

8 Q. Sir, did you understand my question?

9 A. Could you repeat it?

10 Q. Yes. If there's a reference in the article that you've
11 seen in the past entitled Selective Presentation of
12 Exposure Data, you believe that section of that would be
13 opinions?

14 MR. BISHOP: Same objection.

15 MR. FLYNN: Object to form.

16 THE WITNESS: It's my belief based on the
17 parts of that article I looked at that the whole thing
18 is opinions. There's no data, there's no analysis,
19 there is no science in that article. It's simply a
20 matter of opinions. It has no scientific content
21 whatsoever. And it's published in a journal that as far
22 as I can tell, no reputable library receives.

23 BY MR. SATTERLEY:

24 Q. And what journal did your meta-analysis appear in?

25 A. The Annals of Occupational Hygiene published by the

1 British Occupational Hygiene Society and published by
2 Oxford University Press.

3 Q. And what was the total amount of funding for GM and
4 Chrysler paid for that article?

5 MR. BISHOP: Objection, already asked and
6 answered.

7 THE WITNESS: I have no knowledge of that.

8 BY MR. SATTERLEY:

9 Q. Are you interested to find out at all?

10 MR. FLYNN: Objection.

11 THE WITNESS: Well, they didn't pay me
12 anything, and I don't know how much money they paid
13 other people. I simply have no knowledge.

14 BY MR. SATTERLEY:

15 Q. This was published in 2004, correct?

16 A. Yes.

17 Q. At the time this was published, you were being paid
18 money from Ford, GM and Chrysler, Bendix and these other
19 companies in litigation activities, correct?

20 MR. FLYNN: Object to form.

21 THE WITNESS: I was being compensated for my
22 time in litigation activities.

23 BY MR. SATTERLEY:

24 Q. Is it fair to say that at that time when this was
25 published, you knew you could utilize this or attempt to

1 utilize this to advance the litigation, your position in
2 litigation?

3 MR. FLYNN: Objection, form.

4 MR. BISHOP: Objection, argumentative.

5 THE WITNESS: No, that's not fair to say. At
6 the time I felt this was a full and scientifically valid
7 accounting of what the epidemiology has to say about the
8 risks of mesothelioma to vehicle mechanics, and it still
9 is a full and valid accounting.

10 It's an area of science where there has never
11 been a shred of evidence that friction products or
12 vehicle repair work put people at increased risk of
13 mesothelioma. My point in participating in the article
14 was to examine that issue and to provide a fair
15 appraisal of the evidence which I did.

16 BY MR. SATTERLEY:

17 Q. How many auto mechanics have died of mesothelioma?

18 A. I do not know. I would estimate that it is whatever
19 number we would expect to have died based on the
20 background rates of mesothelioma in the population.

21 Q. So are you telling me you can't give me a specific
22 number of how many auto mechanics have died of
23 mesothelioma?

24 MR. FLYNN: I'm going to object to the form of
25 the question.

1 THE WITNESS: I'm telling you that auto
2 mechanics are at the same risk of mesothelioma as is the
3 rest of the population and that they as far as we can
4 tell have died at the same rate.

5 BY MR. SATTERLEY:

6 Q. Sir, I didn't ask you about risk. I said can you tell
7 us how many mechanics, auto mechanics, have died of
8 mesothelioma, a number?

9 A. I don't think that there is any such number that is
10 known.

11 MR. BISHOP: Would this be a good time to take
12 a quick break?

13 MR. SATTERLEY: Sure. Five minutes?

14 MR. BISHOP: Sure.

15 THE VIDEOGRAPHER: Off the record, 11:21 a.m.

16 (Off the record at 11:21 a.m.)

17 (Back on the record at 11:28 a.m.)

18 MR. SLAUGHTER: Can I just put an agreement on
19 the written record? Hey, Joe, can we agree that one
20 objection is good for everybody so we don't have to keep
21 repeating on top of each other?

22 MR. SATTERLEY: Sure.

23 MR. SLAUGHTER: Thanks.

24 THE VIDEOGRAPHER: Now we're back on the
25 record at 11:28 a.m. Go ahead.

1 BY MR. SATTERLEY:

2 Q. Doctor Garabrant, I take it from everything I've read
3 that you're of the opinion that asbestos-containing
4 brakes and clutches is not and has never been hazardous
5 to health, correct?

6 A. It's my opinion that there is no evidence that brakes
7 and clutches that contain chrysotile asbestos have been
8 shown to cause mesothelioma. That's what I am here to
9 discuss today.

10 Q. Well, would you agree generally with the statement that
11 asbestos-containing brakes and clutches is not hazardous
12 to health?

13 A. Well, I just answered that.

14 Q. Well, I don't think so. You narrowed it to
15 mesothelioma.

16 MR. BISHOP: That's the issue in this case.

17 BY MR. SATTERLEY:

18 Q. Well, can you answer the question? Would you agree or
19 disagree with the statement that asbestos-containing
20 brakes and clutches is not hazardous to health?

21 A. I did not prepare on that issue. I prepared on the
22 issue of whether brakes and clutches that contain
23 chrysotile asbestos are related to risk of mesothelioma,
24 and they are not.

25 Q. Do you know, Doctor, as a medical doctor, someone who's

1 conducted research, whether asbestos-containing brakes
2 and clutches is hazard to health?

3 MR. FLYNN: Object to form.

4 THE WITNESS: Well, sir, I can't answer that
5 question because I don't know what you mean by
6 asbestos-containing brakes and clutches. I don't know
7 whether you're talking about products somewhere else in
8 the world that I don't know about.

9 What I am aware of is that brakes and clutches
10 that contain chrysotile asbestos are not known to cause
11 mesothelioma, and that's the issue in this case.

12 BY MR. SATTERLEY:

13 Q. Are they known to cause asbestosis?

14 A. I have never seen evidence that they cause asbestosis,
15 but I didn't prepare on that topic.

16 Q. Well, okay. The brakes, the brakes that Bendix and
17 Honeywell has made, are they hazardous to health?

18 MR. BISHOP: Same objection.

19 THE WITNESS: Again, I prepared for this
20 deposition on the issue of mesothelioma and the
21 relationship to brakes and clutches.

22 BY MR. SATTERLEY:

23 Q. So you don't know the answer to the question because you
24 didn't prepare?

25 A. My answer, my answer is that brakes and clutches that

1 are made with chrysotile asbestos are not known to cause
2 mesothelioma.

3 Q. Are they known to cause any other disease?

4 A. I am not aware that they are.

5 Q. And for that reason would you agree then that Bendix and
6 Honeywell's brakes that contain asbestos is not
7 hazardous to health?

8 A. Again, I didn't prepare on that comprehensive question
9 about all types of brakes and clutches and all possible
10 health conditions.

11 Q. Sir, sir, sir, you're not listening to me. I'm talking
12 about the company that hired you. Their brakes, Bendix,
13 Honeywell, not all possible brakes out there, their
14 brakes. Are they hazardous to health?

15 MR. BISHOP: Same objection.

16 THE WITNESS: I prepared on the issue of
17 mesothelioma, and with respect to mesothelioma, the
18 answer is there is no evidence that they cause
19 mesothelioma. There is no evidence that they cause that
20 particular health condition.

21 BY MR. SATTERLEY:

22 Q. Okay. So it sounds like to me that you're just not
23 prepared to answer the question does Bendix's brakes
24 with asbestos, is it or are Bendix brakes with asbestos
25 hazardous to health?

1 MR. BISHOP: Same objection, asked and
2 answered.

3 BY MR. SATTERLEY:

4 Q. Is that true?

5 A. I prepared on the issue that is on the table in this
6 case which is mesothelioma in relation to brakes and
7 clutches, and I'm fully prepared to answer your
8 questions on that issue.

9 Q. Is it necessary in your view for workers to utilize any
10 engineering controls to minimize exposure to asbestos
11 from brake work?

12 MR. FLYNN: Object to form.

13 THE WITNESS: That's really an industrial
14 hygiene question that's outside of my area of
15 preparation.

16 BY MR. SATTERLEY:

17 Q. So you don't -- do you believe as an occupational or as
18 a doctor, as a medical doctor board certified in
19 occupational and preventive medicine that workers should
20 utilize controls to minimize exposure to asbestos from
21 brake work?

22 MR. FLYNN: Object to form, argumentative.

23 THE WITNESS: I believe that when exposures
24 exceed the limits set by the federal OSHA administration
25 or the state OSHA administration in states where the

1 state agency has jurisdiction that measures should be
2 taken to bring the exposures within the permissible
3 exposure limits, and the implementation of those
4 measures is within the professional competence of an
5 industrial hygienist.

6 BY MR. SATTERLEY:

7 Q. It take it it's beyond your area of expertise to give
8 opinions about what levels of exposure brake work
9 causes?

10 MR. FLYNN: I'm going to object to form.

11 BY MR. SATTERLEY:

12 Q. True, sir?

13 MR. FLYNN: Same objection.

14 THE WITNESS: The literature, the scientific
15 literature that addresses exposure levels in brake
16 repair occupations really falls within the discipline of
17 industrial hygiene, and I am not an industrial
18 hygienist.

19 BY MR. SATTERLEY:

20 Q. Have -- has Mr. Bishop -- you worked for Mr. Bishop in
21 the past, correct?

22 A. I have been retained by Mr. Bishop on other cases.

23 Q. And you worked for Mr. Bishop for Bendix and Abex,
24 correct?

25 A. I have worked on behalf of Bendix and Abex in the past.

1 Q. With Mr. Bishop, for Mr. Bishop, correct?

2 A. I believe so.

3 Q. And what about has Mr. Bishop ever hired you when he's
4 worked for Ford Motor Company?

5 MR. BISHOP: Objection. I never worked for
6 Ford Motor Company.

7 MR. SATTERLEY: I'm finding that out.

8 THE WITNESS: I do not recall ever having been
9 asked by Mr. Bishop to work on behalf of Ford Motor
10 Company.

11 BY MR. SATTERLEY:

12 Q. So let me ask you, with regards to from an occupational
13 and preventive medicine standpoint, it sounds like to me
14 that if the exposure level exceeds the permissible
15 exposure level, you believe that there should be
16 engineering controls or protective equipment provided to
17 the workers, correct?

18 MR. FLYNN: Object to form.

19 THE WITNESS: I believe that if the exposures
20 exceed the OSHA permissible exposure limit that a
21 professional who is qualified in the area of industrial
22 hygiene should implement a program to control those
23 exposures.

24 BY MR. SATTERLEY:

25 Q. Has Mr. Bishop or any of the attorneys representing any

1 of these friction companies that hired you in the past
2 shared with you measurements of the concentration of
3 fibers from the brake rebuilding work that was done at
4 the Louisville truck plant?

5 A. Not to my recollection.

6 Q. Are you familiar with Current Intelligence Bulletin
7 Number 5 by NIOSH?

8 A. I don't recall it by that exact name.

9 Q. Do you know what a Current Intelligence Bulletin is?

10 A. I have seen many of them over my career.

11 Q. And what is your understanding of why NIOSH puts out
12 Current Intelligence Bulletins?

13 A. I don't know from memory.

14 Q. You just don't know?

15 A. I don't recall as I sit here why NIOSH puts out Current
16 Intelligence Bulletins.

17 Q. You've been offered as an expert on asbestos-related
18 diseases during the servicing of motor vehicle brakes
19 and clutches, is that true?

20 A. I don't know what document you're referring to when
21 saying I've been offered for that. I thought I was
22 asked to give opinions about brake work and vehicle
23 repair work and its relationship to mesothelioma.

24 Q. How many cases have you worked on involving brake work
25 and brake exposures with regard to mesothelioma?

1 A. I would estimate a few dozen, perhaps sixty. I don't
2 know.

3 Q. Sixty?

4 A. That's an estimate. I don't know.

5 Q. How can I find that out?

6 MR. FLYNN: Object to form.

7 THE WITNESS: I don't know.

8 BY MR. SATTERLEY:

9 Q. Okay. Do you keep a list of the cases that you work on?

10 A. I do not have a list of the cases I work on.

11 Q. Do you keep files on the cases you work on?

12 A. I keep active files.

13 Q. How many active files do you currently have?

14 A. I don't know offhand. It could be a couple of dozen.

15 Q. Is a couple of dozen the sixty to eighty that you
16 referred to?

17 A. No. A couple means it could be in the range of two
18 dozen. I don't know offhand.

19 Q. Okay. Have you testified in any trials involving
20 friction products since the trial in Miami, Florida in
21 December of 2005?

22 A. Yes.

23 MR. BISHOP: You already asked him that
24 earlier.

25 BY MR. SATTERLEY:

1 Q. That's the West Virginia and the Texas case?

2 MR. BISHOP: That's what you asked him.

3 MR. SATTERLEY: I'm asking him, sir. I don't
4 want you to testify.

5 MR. BISHOP: Well, I object to the fact you
6 already asked him. You asked him when he testified.

7 MR. SATTERLEY: Sir, sir, don't argue with me,
8 don't argue me.

9 MR. BISHOP: You've already asked and he's
10 already asked and answered it.

11 BY MR. SATTERLEY:

12 Q. Have you testified in any other trials since December of
13 2005 other than that West Virginia and Texas trials?

14 A. Are you talking about friction products trials?

15 Q. Any trials.

16 A. Any trials. I don't know offhand. I think I may have
17 testified in one other trial in 2006. I'm not sure.

18 Q. Where do you think you may have testified?

19 A. I don't know.

20 Q. What -- do you know what you testified about?

21 A. I do not. You know, you've asked me since December of
22 2005, have you testified in any other trials. I think I
23 might have testified in another trial, but I'm not sure.

24 Q. Well, what do you think you testified in?

25 MR. FLYNN: Object to form.

1 BY MR. SATTERLEY:

2 Q. If you think you testified, what do you think you
3 testified or what do you think you testified about?

4 MR. BISHOP: Would you like to lower your
5 voice, please?

6 THE WITNESS: Yeah. To be honest --

7 MR. SATTERLEY: Maybe your volume on your
8 phone's turned up.

9 MR. BISHOP: The audio will certainly catch it
10 when we play it back.

11 MR. SATTERLEY: Sure.

12 THE WITNESS: I don't recall to be honest with
13 you. I may have testified in another trial in 2006. I
14 am not sure. And I don't recall. I mean, if you want
15 an honest answer, I don't know whether I did or didn't.
16 I might have, and I don't recall where if I did.

17 BY MR. SATTERLEY:

18 Q. Now, it's my understanding with regards to this asbestos
19 issue that you're of the view that asbestos, asbestos
20 from brake and clutch work does not cause mesothelioma,
21 correct?

22 MR. FLYNN: Object to the form as to what the
23 asbestos issue is we're even talking about.

24 BY MR. SATTERLEY:

25 Q. Go ahead, sir.

1 A. I think I've answered this question now four times. It
2 is my opinion that brake and clutch work does not put
3 people at increased risk of mesothelioma.

4 Q. And it's my understanding that with regards to these
5 other substances, the welding rods in your view doesn't
6 cause the Parkinson's, correct?

7 MR. FLYNN: Object to form.

8 THE WITNESS: That's absolutely clear.

9 There's no reliable evidence that welding rods caused
10 Parkinson's disease.

11 BY MR. SATTERLEY:

12 Q. And the chemicals, the organic solvents, the TCE, the
13 TGA, you believe they don't cause the damage to the
14 brain, correct?

15 MR. FLYNN: Objection, form.

16 MR. BISHOP: Objection, argumentative. It's
17 asked and answered as well.

18 MR. SATTERLEY: It's testimony.

19 MR. BISHOP: It's asked and answered.

20 BY MR. SATTERLEY:

21 Q. Isn't that true, sir?

22 A. Well, sir, if you're going to ask questions like that,
23 we'd have to go back to the testimony and see exactly
24 what I said.

25 I believe my opinions in those cases were that

1 those plaintiffs had not been damaged by those solvents.

2 Q. Well, I'm trying to understand. I thought it was your
3 testimony generally that those solvents do not cause
4 brain damage.

5 A. I don't think that --

6 MR. FLYNN: Object to form.

7 THE WITNESS: -- fairly characterizes my
8 testimony. We'd have to go back and get my testimony
9 and look at it.

10 BY MR. SATTERLEY:

11 Q. Well, since I don't have it and you don't have it, let
12 me just ask you the questions. Does the organic
13 solvents that you previously testified about, does it
14 cause damage to the brain?

15 MR. FLYNN: I'm going to object to form and
16 counsel's statements.

17 Go ahead.

18 THE WITNESS: We would have to go back to the
19 individual plaintiffs to see what my testimony was. The
20 term organic solvents as it is commonly used includes
21 perhaps two hundred different chemicals, each of which
22 has its own specific toxicity at specific doses and
23 under specific circumstances of exposure.

24 There is no generic answer to a question as
25 broad as yours about whether solvents do or do not

1 damage the brain. It depends on which solvent and it
2 depends on the circumstances of exposure. That's why I
3 answered my testimony in those cases was that those
4 plaintiffs had not been damaged by their exposure to
5 solvents.

6 BY MR. SATTERLEY:

7 Q. Can trichloroethylene cause toxic encephalopathy?

8 MR. DAVIDSON: Joe, let me note my objection.
9 This is Scott Davidson. You're clearly trying to obtain
10 discovery in cases against our other client, CSX, and
11 it's not proper in this case.

12 MR. SATTERLEY: No, I'm not. I'm asking, the
13 question had to do with asbestos.

14 MR. DAVIDSON: Go ahead, go ahead.

15 MR. SATTERLEY: Your objection is noted.

16 BY MR. SATTERLEY:

17 Q. Doctor, do you understand my question?

18 MR. FLYNN: I'm going to object to form yet
19 again, asked and answered.

20 MR. SATTERLEY: I've asked whether TCE can
21 cause toxic encephalopathy before?

22 THE WITNESS: And what is it that you are
23 referring to as toxic encephalopathy?

24 BY MR. SATTERLEY:

25 Q. Well, do you know what that is, sir?

1 MR. FLYNN: I'm going to object to form as to
2 relevance as well.

3 THE WITNESS: I am aware that the --
4 different people have different definitions of toxic
5 encephalopathy.

6 BY MR. SATTERLEY:

7 Q. Utilizing your definition, can trichloroethylene cause
8 toxic encephalopathy?

9 MR. FLYNN: I'm going to object to the form of
10 the question, relevance.

11 THE WITNESS: I don't have a definition of
12 toxic encephalopathy. It's your term.

13 BY MR. SATTERLEY:

14 Q. Can trichloroethylene, that specific solvent, cause
15 damage to the brain?

16 MR. FLYNN: Same objection.

17 THE WITNESS: Under some circumstances of
18 excessive exposure, trichloroethylene can induce coma
19 and death, and, yes, it can damage the brain under those
20 circumstances.

21 BY MR. SATTERLEY:

22 Q. With regards to your work on this latex, this Baxter
23 company, what injury was being alleged in that type of
24 litigation?

25 MR. FLYNN: Object to form, relevancy.

1 THE WITNESS: Allergic sensitization and
2 asthma and, in some instances, urticaria and, in some
3 instances, allergic rhinitis.

4 BY MR. SATTERLEY:

5 Q. And was it your testimony in that litigation that the
6 latex in question, in question was capable of causing
7 those injuries?

8 MR. FLYNN: Object to form, relevance.

9 THE WITNESS: To the best of my recollection,
10 and you are now asking me to recall testimony from at
11 least five years ago, I believe I testified that the
12 plaintiffs at issue did not have allergic disorders as a
13 consequence of wearing latex rubber gloves in the course
14 of their work as health care professionals.

15 BY MR. SATTERLEY:

16 Q. Has any of the defendants in any of the friction
17 products cases provided you the deposition testimony of
18 Albert Rucker?

19 A. Not to my knowledge.

20 Q. Have you reviewed any deposition testimony of field
21 operations managers and instructors of Ford Motor
22 Company?

23 A. I'm not aware of any.

24 Q. And would that be the same with regards to Michael
25 Collins? You haven't read his deposition, have you?

1 A. I'm not, I'm not aware of it. I don't know who Michael
2 Collins is.

3 Q. Robert Slovey, did you read his deposition?

4 A. I'm not aware of Robert Slovey or his deposition.

5 Q. Chris Wallace, did you read his deposition?

6 A. I don't know who Chris Wallace is, and to my knowledge,
7 I've not read his deposition.

8 Q. I take it nowhere in your report do you set forth
9 opinions about the source of any of Mrs. Franklin's
10 asbestos exposure, correct?

11 A. Well, I think I --

12 MR. FLYNN: I'm going to object to form.

13 Go ahead.

14 THE WITNESS: -- lay out in my report that she
15 alleged having had asbestos exposure in a number of her
16 occupations.

17 BY MR. SATTERLEY:

18 Q. You don't include in your report, in any of your reports
19 in this case any opinions about -- well, let me strike
20 that question and ask you this.

21 You haven't issued any opinions or reports
22 since you reviewed the death certificate and autopsy and
23 things of that nature, correct?

24 A. That's correct.

25 Q. Okay. And you're not planning on coming to trial and

1 testifying, for example, the tremolite in
2 Mrs. Franklin's lung, where that came from?

3 A. Well, I'm prepared to testify that as far as I know, it
4 doesn't come from having secondhand exposure to her
5 alleged husband's clothes.

6 Q. Beyond that, though, are you going to tell the jury or
7 try to tell the jury where the tremolite came from?

8 A. I have not prepared on that issue and I've not been
9 asked to prepare on that issue.

10 Q. And, likewise, you're not going to tell the jury where
11 the antholphyllite from Mrs. Franklin's tissue came
12 from, correct?

13 A. I've not been asked to prepare an opinion on that and at
14 the moment I have no plans to do so.

15 Q. And that would be true with all fiber types within her
16 lung tissue, correct?

17 MR. BISHOP: Objection, overly broad.

18 THE WITNESS: With the exception of
19 chrysotile, yes.

20 BY MR. SATTERLEY:

21 Q. Okay. And where did the chrysotile in Mrs. Franklin's
22 lung tissue come from?

23 A. First off, most of the people who examined her lungs and
24 their fiber content found no chrysotile.

25 Q. Most of them. How many has there been?

1 MR. FLYNN: Objection. He hasn't finished his
2 answer yet. I think he's trying to complete his answer
3 before you ask your next question.

4 Doctor, if you need to finish, please finish
5 your answer.

6 THE WITNESS: I was in the middle of my
7 answer.

8 BY MR. SATTERLEY:

9 Q. Okay.

10 A. I'm aware of only the report by Doctor Abraham that
11 detected chrysotile, and that was at the lower limit of
12 detection for his method, and so clearly the amount of
13 chrysotile he found was right on the threshold of
14 detecting none.

15 Other than that, I'm not aware that any other
16 report found chrysotile in her lungs.

17 Q. How many people did a tissue digestion analysis?

18 A. I believe that tissue digestion analysis was done, it
19 will take me a minute, by, and I don't know who this is.
20 It's at tab seven in my report, and it's called
21 Quantitative Analysis of Fibers in Digestion Material.
22 It's not clear to me where that was done. The analyst
23 was Brian Burnett. So there were a series of analyses
24 of different samples done by Mr. Burnett.

25 Q. Did he find chrysotile?

1 A. I'm still answering your previous question, sir.

2 I believe that Doctor Abraham did an electron
3 microscope analysis based on digestion. I'm still
4 answering.

5 Q. There's two -- well, let me -- since you're going to
6 take time, there's two reports, one from Doctor Dodson
7 and one from Doctor Abraham.

8 A. Well, I'm still trying to answer your question, sir.

9 Q. Okay.

10 MR. BISHOP: He can probably help you with it.

11 THE WITNESS: If you want to tell me --

12 BY MR. SATTERLEY:

13 Q. Are you aware of any digestion analysis reports other
14 than Doctor Dodson and Doctor Abraham? I know Burnett
15 is with Abraham.

16 A. I didn't know that.

17 Q. Okay. Burnett's with Abraham and then there's a Dodson
18 report, correct?

19 A. Yes.

20 Q. Okay. So the Burnett and Abraham found chrysotile and
21 Dodson didn't, correct?

22 A. Well, Abraham commented on chrysotile.

23 I don't see in the Burnett report where he
24 noted chrysotile. Maybe I, maybe I missed it, but I
25 don't see it.

1 Q. Okay.

2 A. Maybe you could direct me to that page because I don't
3 see it.

4 Q. All right. So that's the basis for your statement most
5 people didn't find chrysotile because you say Dodson and
6 Burnett doesn't and Abraham does?

7 MR. BISHOP: Object to the form.

8 THE WITNESS: My reading of these reports
9 indicated that there were three people who commented on
10 asbestos, Dodson, Abraham, and Burnett, and my reading
11 was that only Abraham commented on chrysotile.

12 Now looking at the Burnett report, I do see a
13 page where he comments on probable asbestos and, under
14 that, probable chrysotile, and so Doctor Burnett appears
15 to have given an opinion or done an analysis that
16 identified probable chrysotile but not definite
17 chrysotile.

18 BY MR. SATTERLEY:

19 Q. All right. So we've got Abraham, Burnett, and Dodson,
20 and both Abraham and Burnett identify chrysotile and
21 Dodson doesn't?

22 A. But as you've pointed out, Burnett was working with
23 Abraham, so that's really the same report.

24 Q. So when you say most people didn't find chrysotile, is
25 that a true statement?

1 MR. FLYNN: Object to form.

2 THE WITNESS: Well, we have now Dodson didn't
3 find it, Burnett might have found it, and Abraham who is
4 relying on Burnett comments that it was noted at the
5 lower detection limit. So I think that's a fair
6 summary.

7 BY MR. SATTERLEY:

8 Q. Okay. So it's not an accurate statement to say most
9 people did not find chrysotile?

10 A. Well, I think my previous answer is a fair accounting of
11 what these reports have to say.

12 Q. You will agree that chrysotile clears the lung?

13 MR. FLYNN: Object to the form.

14 THE WITNESS: That question is so vague, I'm
15 not sure what you mean.

16 BY MR. SATTERLEY:

17 Q. Well, how long -- what's the half-life of chrysotile?

18 A. That question is more vague than the previous one.
19 Could you clarify it?

20 Q. Do you know what it means to have a half-life?

21 A. Yes, I do.

22 Q. What does that mean?

23 A. It means that in some specific sample or body
24 compartment or environmental medium, the half-life is
25 the time it takes for the concentration of the material

1 to decline by one-half.

2 Q. Now, when you breathe chrysotile into the -- into your
3 body, how long does it remain?

4 MR. BISHOP: Objection, vague.

5 THE WITNESS: Well, it depends on what
6 compartment you're talking about. It varies. Some of
7 it is removed immediately.

8 BY MR. SATTERLEY:

9 Q. With regards to tissue digestion studies, you're not an
10 expert in that area, correct?

11 A. That's correct.

12 Q. With regards to payment of monies to you for your trial
13 testimony, is that at the same rate as you told me
14 earlier, five twenty-five?

15 A. I charge by the half day for trial testimony, and I
16 charge twenty-two hundred and fifty dollars which works
17 out almost the same hourly rate.

18 Q. So if it's twenty-two fifty for a half day, what would
19 that be for a day of your testimony?

20 A. That would be forty-five hundred.

21 Q. And that gets paid to you directly?

22 A. Yes.

23 Q. It doesn't go to the University of Michigan?

24 A. No.

25 Q. Do you intend to offer any opinions about talc at this

1 trial?

2 A. I have not been asked to prepare on issues related to
3 talc and I have no plans to do so.

4 Q. I take it then that you're not going to offer any
5 opinions about whether the minerals in Gouverneur,
6 New York, in the mines of Gouverneur, New York, whether
7 they're asbestos or not asbestos?

8 MR. SLAUGHTER: Objection, form.

9 THE WITNESS: I have not been asked to offer
10 opinions on that topic and I have no plans to do so.

11 BY MR. SATTERLEY:

12 Q. Have I gone over all the opinions you have?

13 Well, let me ask the question this way. Have
14 you given me all the opinions you have about
15 Mrs. Franklin today, taking into consideration what's
16 incorporated in your report?

17 A. Yes.

18 Q. Now, with regards to whether or not doing mechanical
19 work on brakes can cause mesothelioma, I take it from a
20 general causation standpoint, you believe that working
21 on brakes, chrysotile asbestos brakes, does not put
22 individuals at increased risk from mesothelioma,
23 correct?

24 A. That's correct.

25 Q. How many or how big of a pile of dead mechanics would

1 there have to be before you would agree that asbestos-
2 containing brakes causes mesothelioma?

3 MR. BISHOP: Objection, argumentative.

4 MR. FLYNN: Form.

5 THE WITNESS: Sir, I am a physician and I'm
6 also an epidemiologist. I've spent my career devoted to
7 the professions in public health, and much of my
8 professional activities and research has been directed
9 at identifying the health risks of various chemicals and
10 materials used in industry. That's what I set out to do
11 very early in my career and I have done it with
12 tremendous diligence and skill.

13 Mesothelioma affects mechanics at the same
14 rate it affects everyone else as far as we can tell.
15 There is no evidence that doing brake work puts people
16 at increased risk of mesothelioma, and the number of
17 mechanics who die of mesothelioma is -- has nothing to
18 do with their being mechanics or their brake work. It
19 has to do with the background risks that exist in
20 society that have absolutely nothing to do with brakes
21 or clutches or friction products.

22 BY MR. SATTERLEY:

23 Q. You're familiar with the World Health Organization,
24 correct?

25 A. Yes.

1 Q. Is it true that the World Health Organization believes
2 that all types of asbestos cause mesothelioma?

3 MR. BISHOP: Object to the form.

4 THE WITNESS: I do not know that the World
5 Health Organization speaks with one voice and has one
6 set of opinions on that issue.

7 If there is a specific document put out by the
8 World Health Organization that you would like me to
9 review and comment on, I'd be happy to if you would
10 allow me to read it.

11 BY MR. SATTERLEY:

12 Q. Well, do you know whether or not the World Health
13 Organization has set forth its position on whether all
14 types of asbestos causes, can cause mesothelioma?

15 MR. FLYNN: Object to form.

16 THE WITNESS: I do not know from memory what
17 the World Health Organization has said on that topic,
18 but I would be happy to look at materials if you provide
19 them.

20 BY MR. SATTERLEY:

21 Q. Do you know whether the World Health Organization has
22 said all types of asbestos cause asbestosis,
23 mesothelioma, and lung cancer?

24 MR. FLYNN: Object to form.

25 THE WITNESS: Again, if you want to review a

1 document, I'd be happy to do that. The World Health
2 Organization publishes vast amounts of material. Much
3 of what they publish on the carcinogenicity of chemicals
4 and of asbestos comes from IARC, there are monographs on
5 asbestos from IARC. If that's what you're referring to,
6 let's get them out and let's look at them.

7 BY MR. SATTERLEY:

8 Q. I'm not looking at anything, sir. I'm asking you do you
9 know. If you don't know, that's fine. Just tell me you
10 don't know.

11 MR. FLYNN: Object to the form. There's no
12 question pending.

13 BY MR. SATTERLEY:

14 Q. The question is do you know if the World Health
15 Organization has set forth its position that all types
16 of asbestos cause asbestos, mesothelioma, and lung
17 cancer?

18 MR. FLYNN: Objection, form.

19 MR. BISHOP: Objection, asked and answered.

20 THE WITNESS: I have answered that question
21 now a couple of times, and my answer is that the World
22 Health Organization publishes a vast amount of material.

23 The most informative material from the World
24 Health Organization regarding the carcinogenicity of
25 chemicals comes from the International Agency for

1 Research on Cancer which is one of the agencies under
2 the World Health Organization, and I routinely look at
3 their publications.

4 And I think that if you want to find out what
5 the World Health Organization's opinion is on
6 carcinogenicity, that's the best place to look. If
7 you'd like to get those materials out and look at them,
8 I'd be happy to do that with you.

9 BY MR. SATTERLEY:

10 Q. Okay. Do you know whether the International Agency for
11 Research on Cancer has concluded that all types of
12 asbestos cause asbestosis, mesothelioma, and lung
13 cancer?

14 MR. FLYNN: Object to form.

15 THE WITNESS: I do not know from memory what
16 they have said on that topic. They have written books
17 on that topic, and we would have to get them out and
18 read what they have said.

19 BY MR. SATTERLEY:

20 Q. Let me ask you this hypothetically, that the World
21 Health Organization concludes that all types of asbestos
22 cause asbestosis, mesothelioma, and lung cancer.

23 Would you agree with that?

24 MR. FLYNN: Object to form, improper
25 hypothetical.

1 Go ahead if you can answer that.

2 THE WITNESS: These sorts of global
3 pronouncements such as you have just made sometimes do
4 not accurately reflect the precise wording that comes
5 from scientific agencies. In other words, they end up
6 subtly changing the message.

7 Here's my understanding of what the world
8 scientific literature says, whether it is exactly what
9 the World Health Organization or IARC has said. I think
10 that it is established that all forms of asbestos can
11 cause lung cancer under circumstances of heavy and
12 prolonged exposure. I believe that all forms of
13 asbestos can cause asbestosis or it would be more
14 correct to say pulmonary fibrosis under conditions of
15 heavy and prolonged exposure.

16 I believe it's fair to say that the amphibole
17 forms of asbestos have been causally linked to
18 mesothelioma and that there is clear evidence of
19 dose/response meaning that heavy and prolonged exposure
20 poses greater risks than a brief and low-level exposure.

21 And I believe it's fair to say that with
22 respect to chrysotile asbestos, it is not clear whether
23 it does or does not cause mesothelioma, particularly at
24 low concentrations. The scientific community continues
25 to argue that exact point. It has been argued now for

1 decades, and it has been argued because the scientific
2 evidence is not clear.

3 And so we largely agree that chrysotile is far
4 less potent than amosite and chrysotilite asbestos in
5 terms of risk of mesothelioma, and it is entirely
6 possible that low-level chrysotile exposures simply do
7 not cause mesothelioma at all.

8 BY MR. SATTERLEY:

9 Q. Are you finished?

10 A. Yes.

11 Q. If the World Health Organization, I want you to assume
12 hypothetically that the World Health Organization has
13 concluded that there is no safe threshold level of
14 exposure to asbestos.

15 If that's what they conclude, would you agree
16 or disagree with them?

17 MR. FLYNN: Object to form, improper
18 hypothetical.

19 THE WITNESS: Sir, your questions about the
20 World Health Organization concluding various things, my
21 answer is going to be the same. I don't know what
22 they've said.

23 If you want to attribute a conclusion to the
24 World Health Organization, you're going to have to show
25 me what the World Health Organization has actually

1 written so I can read it and comment on what it means.

2 BY MR. SATTERLEY:

3 Q. Do you agree that there is no safe threshold level of
4 exposure to asbestos?

5 A. I agree that there are exposure levels that have been
6 linked to adverse health effects and there are levels of
7 exposure that exist in the environment and in some
8 occupations where there is no evidence of adverse health
9 effects.

10 Q. I apologize. I didn't understand. Do you agree or
11 disagree with the statement there is no safe threshold
12 level of exposure to asbestos?

13 A. I just answered that question, sir.

14 Q. And was it yes or no?

15 A. There is not --

16 MR. FLYNN: Object to form. His answer speaks
17 for itself.

18 THE WITNESS: That's not a question that can
19 be answered with a simple yes or a no. I gave you a
20 proper answer based in scientific evidence.

21 BY MR. SATTERLEY:

22 Q. With regards to Bendix brakes, what years did Bendix or
23 Honeywell include asbestos in their brake products?

24 A. I do not know.

25 Q. What percentage of their brake products was asbestos?

1 A. I do not know.

2 Q. When did they, Honeywell or Bendix, if you know stop
3 using asbestos in their brake products?

4 A. I do not know.

5 Q. When did or do you know whether there were substitutes
6 for asbestos that could have been used in brake products
7 historically?

8 A. I am not an expert in materials technology, and I do not
9 have opinions on what types of materials could have been
10 used to fabricate brakes that would have performed
11 properly. That's outside my area.

12 Q. The attorneys for these brake manufacturers has not
13 shared with you I take it then the patents that they had
14 on alternatives to asbestos back in the '60s?

15 MR. FLYNN: I'm going to object to the form of
16 the question.

17 THE WITNESS: I have not reviewed the patents
18 held by Abex or Honeywell.

19 BY MR. SATTERLEY:

20 Q. Do you, do you support the ban, the ban on asbestos
21 that's currently being debated?

22 MR. FLYNN: Objection to form.

23 MR. BISHOP: Objection.

24 THE WITNESS: I'm not aware to what it is
25 you're referring in that question.

1 BY MR. SATTERLEY:

2 Q. Well, let me ask the question. Do you believe that the
3 importation of asbestos into the United States of
4 America should be banned?

5 A. I believe that asbestos should be used under
6 circumstances where it is safe and that it has
7 substantial value in some settings, and the goal is to
8 ensure that it's used in a manner that does not pose
9 health risks to the people who handle it or to anyone
10 else.

11 Q. And specifically what products should asbestos be used
12 in?

13 A. Well --

14 MR. FLYNN: Object to form.

15 MR. BISHOP: Objection. It's beyond the scope
16 of this doctor's testimony.

17 THE WITNESS: Yeah. I came here to -- I came
18 prepared today to talk about the epidemiology of
19 friction products work and vehicle repair work and
20 mesothelioma risks, and your questioning is taking me
21 into material science and industrial hygiene and areas
22 where I don't claim to have expertise.

23 I'd be happy to talk about the epidemiology if
24 you would ask me questions in that area.

25 BY MR. SATTERLEY:

1 Q. Do you -- have you taken a position on whether or not
2 asbestos should be -- should continue to be used in
3 products?

4 MR. FLYNN: Object to the form, overly broad,
5 vague, ambiguous.

6 THE WITNESS: Again, I'm not a material
7 scientist. I do not design or assist in the manufacture
8 of products. You're asking me questions that are really
9 outside of my area of expertise.

10 BY MR. SATTERLEY:

11 Q. Have you attended any conferences on chrysotile
12 asbestos?

13 MR. FLYNN: Object to form, vague.

14 THE WITNESS: I have attended conferences in
15 which chrysotile asbestos has been one of the topics of
16 discussion.

17 BY MR. SATTERLEY:

18 Q. And which conferences were those?

19 A. I can't recall them all from memory. Over the course of
20 my career, there have been many.

21 Q. Have you attended any meetings in Canada on whether or
22 not chrysotile -- on chrysotile asbestos specifically?

23 A. Well, I recall having gone to a meeting in Quebec in
24 which there was a session on chrysotile asbestos, yes.

25 Q. And what was the name of that meeting?

1 A. The International Epidemiological Association.

2 Q. And when did that occur?

3 A. 2003, 2004. I'm not sure.

4 Q. Have you attended any other meetings or conferences in
5 Canada where chrysotile asbestos was discussed?

6 A. I don't know offhand. I have been to a number of
7 meetings in Canada over the course of my career. I
8 don't recall what was discussed.

9 Q. As you sit here today, can you think of any other
10 conference or meeting in Canada that you would have
11 attended where chrysotile asbestos was an issue?

12 MR. FLYNN: Objection, form.

13 THE WITNESS: I, again, I've been to a number
14 of meetings in Canada. I don't recall what was
15 discussed at those meetings over the past twenty-five
16 years. I can't recall any from memory. There may have
17 been some.

18 BY MR. SATTERLEY:

19 Q. What percentage of your time do you spend treating
20 patients?

21 A. Currently it's a small percent of my time, probably less
22 than ten percent.

23 Q. How much less than ten percent?

24 A. I don't know. It's a small percentage, less than ten
25 percent.

- 1 Q. And where do you see these patients at?
- 2 A. At the University of Michigan Medical Center.
- 3 Q. Do you have an office, a medical office where you see
- 4 patients at?
- 5 A. I have a clinic. I have an occupational medicine clinic
- 6 where I see patients.
- 7 Q. And where is that clinic located?
- 8 A. At the University of Michigan Medical Center.
- 9 Q. And what street is that on?
- 10 A. The street address is 1500 East Medical Center Drive.
- 11 Q. And do you chair that clinic with any other medical
- 12 doctors?
- 13 A. Yes.
- 14 Q. How many?
- 15 A. Well, it's the group that practices occupational
- 16 medicine. There are four or five other doctors who
- 17 practice there.
- 18 Q. And what are their names?
- 19 A. You would have to look at the Web site for the
- 20 University of Michigan. You can get their names. It's
- 21 public.
- 22 Q. Do you know their names?
- 23 A. I know some of their names, yes. I don't, I don't know
- 24 who currently is practicing there versus who's
- 25 practicing at other locations.

1 Q. Did the -- can you give me some of the names of those
2 other occupational medicine doctors that work out of
3 your clinic?

4 A. Yes. Alfred Franzblau and Daniel Chapman.

5 THE VIDEOGRAPHER: Four minutes on these
6 tapes. We're going to have to take a break and switch
7 them.

8 MR. SATTERLEY: I'm getting ready to wrap up.

9 BY MR. SATTERLEY:

10 Q. Any other occupational doctors that you work at the same
11 clinic with?

12 A. Well, those are the two senior doctors in the group.

13 Q. Do you know of any other, the names of any other
14 occupational medicine doctors in that group?

15 A. There are other doctors who come and go.

16 Q. And what are their names?

17 A. I don't know all the names of the doctors who practice
18 in the clinic. I think if you have Doctor Chapman and
19 Doctor Franzblau's names, you have the senior members of
20 the group.

21 Q. Have you ever taken an occupational history from someone
22 suffering from mesothelioma?

23 A. I believe I have.

24 Q. And when was the last time you did that?

25 A. I don't recall offhand.

1 Q. On how many occasions have you taken an occupational
2 history from someone with mesothelioma?

3 A. It would be a small number. I don't know offhand, but
4 certainly less than five.

5 Q. And have you done that in the last ten years?

6 A. I don't recalling treating any mesothelioma cases and
7 taking a history in the last ten years.

8 Q. Have you read the EPA's current best practices for
9 preventing asbestos exposures among brake and clutch
10 repair workers?

11 A. I believe I have.

12 Q. And when did you review that?

13 A. I don't recall. I think roughly a year ago. Whenever
14 it came out. It was new. I don't recall, but probably
15 about a year ago.

16 Q. Do you agree with that?

17 MR. BISHOP: Objection. It's overly broad.

18 THE WITNESS: I don't have that document in
19 front of me. I would have to read it and go through it
20 line by line to tell you what I agree with and don't
21 agree with.

22 BY MR. SATTERLEY:

23 Q. Final question. How many -- I've read a little bit of
24 your testimony from another trial.

25 How many total trials have you testified in

1 involving friction products?

2 A. I think, and forgive me if I don't have the count right,
3 I think it's been three. I'm not sure. There was one
4 in Indianapolis, there was one in Miami, there was one
5 in Wheeling, West Virginia. That's all I can recall. I
6 think just the three.

7 MR. SATTERLEY: Okay. Thank you, sir. Those
8 are all the questions I have for you today.

9 THE WITNESS: Thank you.

10 MR. BISHOP: Any other questions?

11 Doctor, you have a right to read and sign the
12 transcript or you can waive that right.

13 THE WITNESS: I'll read it.

14 MR. SATTERLEY: Let's go off the video if you
15 don't mind.

16 THE VIDEOGRAPHER: Deposition is concluded at
17 12:20 p.m.

18 (Exhibits 2 and 3 marked and attached.)

19

20 (Deposition concluded at 12:20 p.m.)

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25

1 STATE OF MICHIGAN)
) SS.

2 COUNTY OF LIVINGSTON)

3 CERTIFICATE OF NOTARY PUBLIC

4 I certify that this transcript is a
5 complete, true, and correct record of the testimony of
6 the deponent to the best of my ability taken on Friday,
7 July 20, 2007.

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

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

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19
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21 Cheryl McDowell, CSR-2662, RPR
22 Notary Public, Livingston County
 State of Michigan
23 Commission Expires September 13, 2007
24
25