

1 Q. What was their project?

2 A. There were several projects.

3 Q. Can you describe them for me?

4 A. Yes. One was development of acoustical
5 tile. Another project was valuation of glass fibers
6 in gypsum products, and the development of fire
7 rated gypsum products.

8 Q. How long did you stay working in those
9 three areas?

10 A. Well, accoustical tile project was on and
11 off for some number of years. The firestop project
12 continued on for many years.

13 Q. What about the glass fibers?

14 A. The glass fibers continued on for some
15 time.

16 Q. Tell me about the fire rated gypsum
17 products project, what did that involve?

18 A. That involved the introduction of glass
19 fiber into gypsum board to allow it to perform
20 better in a fire situation than a board without
21 glass fiber would.

22 Q. Did you experiment at all with the use of
23 asbestos fibers in gypsum board at that time?

24 A. Yes.

25 Q. When did that begin?

1 A. That was in 1951.

2 Q. Who was the project manager of that
3 particular project, the use of asbestos fibers with
4 gypsum?

5 A. Clarence Shuttleworth.

6 Q. Do you know whether he's still alive
7 today?

8 A. Yes, he is.

9 Q. Does he still work for the company?

10 A. He does not.

11 Q. Do you know where he is?

12 A. Yes.

13 Q. Where?

14 A. St. Petersburg, Florida.

15 Q. What was the project specifically with
16 asbestos?

17 MR. PARNELL: That particular project?

18 MR. BARON: Yes.

19 A. The idea in using asbestos was to see if
20 it would perform in a fire better than a gypsum
21 board product without asbestos.

22 Q. What did you find?

23 A. That it did perform better.

24 Q. As a result of that were products made
25 that contained asbestos?

1 A. No.

2 Q. Why not?

3 A. Because glass fiber was found to be far
4 superior to asbestos, and so asbestos was never
5 commercially manufactured.

6 Q. Did Certainteed ever make asbestos
7 products to your knowledge?

8 A. Certainteed?

9 Q. Yes, that's who you were working for at
10 that time?

11 A. Yes. At that time?

12 Q. When did you leave Certainteed I guess I
13 should ask you that?

14 A. When did I leave Certainteed, I never
15 left Certainteed. Certainteed --

16 Q. Left you, I guess?

17 A. -- spun off Best Wall Gypsum Company,
18 gypsum division which became Best Wall Gypsum
19 Company in 1956.

20 Q. Prior to 1956 do you know whether
21 Certainteed had ever utilized asbestos fibers in any
22 of its commercial gypsum products?

23 A. Gypsum products?

24 Q. Yes.

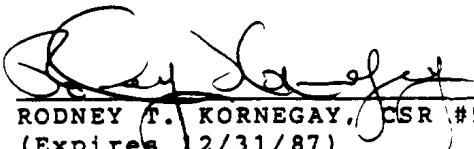
25 A. Prior to 1956?

C E R T I F I C A T E

I, Rodney T. Kornegay, Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that there came before me the aforementioned named person, who was by me duly sworn to testify the truth concerning the matters in controversy in this cause; and that the examination was reduced to writing by computer transcription under my supervision; that the deposition is a true record of the testimony given by the witness.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the action.

Given under my hand and seal of office on this 10th day of July, A.D., 1987.



RODNEY T. KORNEGAY, CSR #999
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Taxable Cost of Original: \$ _____

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LAWYER'S NOTES

[illegible]



Lehnert taken on July 9, 1987,
in Decker v. Armstrong World
Industries, Inc., No. 86-2385-D
in the 95th Judicial District
Court of Dallas County, Texas,
along with all exhibits thereto

NO. 86-2385-D



FILE

Georgia - Pacific

NETA DECKER, ET AL IN THE DISTRICT COURT
VS. DALLAS COUNTY, TEXAS
ARMSTRONG WORLD
INDUSTRIES, ET AL 95TH JUDICIAL DISTRICT

ORAL DEPOSITION
OF
CHARLES W. LEHNERT

ANSWERS AND ORAL DEPOSITION OF CHARLES W.
LEHNERT, produced as a witness at the instance of
the Defendant, taken in the above styled and
numbered cause, on the 9th day of July A.D., 1987,
at 1:30 P.M., before Rodney T. Kornegay, Certified
Shorthand Reporter in and for the State of Texas,
in the offices of Smith, Smith & Smith, in the
City of Dallas, County of Dallas, State of Texas,
in accordance with the Texas Rules of Procedure.

RODNEY T. KORNEGAY
(214) 321-2789

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A G R E E M E N T

It is hereby agreed by and between the parties hereto through their attorneys appearing herein, that this deposition may be signed before any Notary Public and thereafter returned into Court in a plain envelope and used on the trial of this cause with the same force and effect as though all requirements of the Rules and Statutes with reference to signature and return had been fully complied with.

It is further agreed by and between the parties hereto, through their attorneys appearing herein, that if this deposition is not signed by the time of trial, that a certified copy can be used in lieu of the executed original, and used on the trial of this cause with the same force and effect as though all requirements of the Rules and Statutes with reference to signature and return had been fully complied with.

1 CHARLES W. LEHNERT,

2 The witness hereinbefore named, being first duly
3 cautioned and sworn to testify the truth, the
4 whole truth and nothing but the truth, testified
5 on his oath as follows:

6 EXAMINATION

7 MS. BLUE: Before we start, I need
8 to make a general objection, based on the
9 relevance of this deposition, that this witness'
10 testimony is not relevant in the James Decker
11 case.

12 MR. BISHOP: I want to make a
13 general statement, too, that Georgia Pacific is
14 producing today Bill Lehnert in response to an
15 amended Notice of Intent to Take Oral Depositions
16 from Smith, Smith & Smith, where they have asked
17 for the corporate representative with the most
18 knowledge as to the trade and/or brand name of
19 every asbestos containing product manufactured
20 from 1968 through the present. And Mr. Lehnert is
21 being tendered as a corporate representative on
22 that basis.

23 MS. BLUE: And we'd object to any
24 testimony about products other than the ones that
25 James Decker stated he was exposed to.

RODNEY T. KORNEGAY
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1 MR. BISHOP: So will we.

2 Q. (By MR. SMITH) Would you state your
3 name, please, sir?

4 A. Charles W. Lehnert, L-e-h-n-e-r-t
5 (spelling).

6 Q. Charles W.?

7 A. Yes.

8 Q. Where do you live, Mr. Lehnert?

9 A. Stone Mountain, Georgia.

10 Q. And what is your position with Georgia
11 Pacific?

12 A. I'm the manager of product development
13 for The Gypsum Division.

14 Q. How long have you been with Georgia
15 Pacific?

16 A. Since they acquired BestWall Company in
17 1965.

18 Q. Would you spell that name for us, the
19 company?

20 A. B-e-s-t-w-a-l-l (spelling); Gypsum,
21 G-y-p-s-u-m (spelling).

22 Q. When did they acquire them?

23 A. In 1965.

24 Q. How long have you been involved with
25 Gypsum, BestAll Gypsum Company?

1 A. BestWall?

2 Q. BestWall?

3 A. Since 1956.

4 Q. It's been explained to you that I'm
5 taking your deposition in this case in which Neta
6 Decker, as personal representative of the estate
7 and survivor of James Decker, deceased, has sued
8 Georgia Pacific, and about twenty-six other
9 defendants? Do you understand that?

10 A. Yes.

11 MS. BLUE: I'm going to object to
12 the relevance of that question; also, the leading
13 nature.

14 Q. (By MR. SMITH) Have you ever had your
15 deposition taken before?

16 A. Yes.

17 Q. I don't know if it's been explained to
18 you. But I'd like to repeat it again, if you'll
19 **bear with me**, that here in Texas, if someone makes
20 **an objection** during a deposition, unless your
21 personal attorney tells you not to answer the
22 question, or something such as that, the witness
23 is required to go ahead and give the answer. And
24 any objection that is made will be ruled on at the
25 time of trial, okay? So if you would concentrate

1 on the question. If you understand the question,
2 and you can't answer it, answer it to the best of
3 your ability. Do you understand?

4 A. Yes, sir.

5 Q. And so don't let all of these objections
6 and other collateral matter that probably will go
7 on -- we'll probably hear a lot from this attorney
8 over here throughout the course of this
9 deposition. But if you would, just concentrate on
10 the question, okay, and what your attorney tells
11 you, okay, sir?

12 A. (Witness nods head up and down).

13 Q. Unless lightning strikes, we'll hear
14 from her as the deposition goes on.

15 Okay. I want to ask you some questions
16 concerning Georgia Pacific in this case based on
17 your knowledge in the asbestos field.

18 Isn't it true that anyone using asbestos
19 in their products never knew that the end user
20 could be hurt by asbestos in their products?

21 MS. BLUE: I'm going to object based
22 on the relevance.

23 A. I'm not sure I understand the question.

24 Q. (By MR. SMITH) Let me make it a little
25 more definite. Isn't it true that when Georgia

1 Pacific and BestWall were using asbestos in any of
2 their products, they never knew that the end user
3 could be hurt by that asbestos which was in their
4 products? Isn't that true?

5 MS. BLUE: I object to the
6 relevance; also, of the leading; and there's no
7 time frame.

8 A. No. That's correct. We were unaware.

9 Q. (By MR. SMITH) Didn't your company,
10 BestWall, and, also, Georgia Pacific, rely on the
11 safety data, and the information supplied to your
12 company from the raw asbestos material suppliers?

13 MS. BLUE: I'm going to object to
14 the leading, the relevance, and the fact that that
15 is not a defense in Texas in an asbestos case.

16 A. I can't answer for everyone in Georgia
17 Pacific. But, certainly, we would expect any
18 supplier to advise us of any hazard in the case of
19 ~~asbestos~~. I'm not aware of any such advice coming
20 to either BestWall or Georgia Pacific.

21 Q. (By MR. SMITH) That's the most natural
22 thing in the world, the people that start out with
23 that raw material, if there's anything wrong with
24 it, they ought to tell you, shouldn't they?

25 MS. BLUE: I object to the leading,

1 the relevance --

2 Q. (By MR. SMITH) Isn't that true?

3 MS. BLUE: -- and the fact that,
4 again, this is not a defense in an asbestos case,
5 therefore, it's an improper question in this case.

6 Q. (By MR. SMITH) Did you understand the
7 question?

8 A. I believe I've answered it.

9 MR. BISHOP: He's already answered
10 it.

11 Q. (By MR. SMITH) There again, all this
12 pettifogging going on over here, I'm representing
13 Synkoloid, and we have a cross-action against
14 everybody in this lawsuit saying we didn't do
15 anything wrong, okay?

16 A. (Witness nods head up and down).

17 Q. So I think, right or wrong, that I can
18 ask leading questions. So all these objections
19 **about me asking leading questions, and so on,**
20 **that's something the Judge can rule on later,**
21 okay?

22 So when you hear this noise coming, and
23 so forth, as I say, unless your attorney tells you
24 not to answer, just listen to the question, and
25 answer the best way you can, all right?

1 MR. BISHOP: Mr. Smith, why don't we
2 just move on and ask the questions, and hurry on a
3 little bit.

4 MS. BLUE: I agree with that. If we
5 could move on?

6 MR. SMITH: Are you all agreeing? I
7 can't believe that.

8 MR. BISHOP: Every now and then.

9 Q. (By MR. SMITH) Did Georgia Pacific and
10 BestWall Company rely upon the raw asbestos
11 material supplier for any tests that were
12 necessary to determine asbestos health hazards?

13 MS. BLUE: I object to the
14 relevance, the fact that that is not a defense in
15 Texas, and the fact that it is irrelevant, and,
16 also, the fact that this witness would not have
17 personal knowledge of that.

18 A. We were not aware of any health hazards.

19 Q. (By MR. SMITH) Well, if there were --

20 MS. BLUE: Excuse me. I object in
21 that the answer was nonresponsive.

22 Q. (By MR. SMITH) Let me state it again,
23 then. When people such as John Mannsville, and
24 other asbestos material suppliers, start selling
25 you this asbestos there at BestWall, and, also, at

1 Georgia Pacific, if it was necessary that tests
2 should have been performed on that material as to
3 whether it was or was not hazardous, didn't
4 Georgia Pacific and BestWall have the right to
5 rely upon them to run those tests?

6 MS. BLUE: Excuse me. My objection
7 is it assumes facts not in evidence. There's no
8 evidence that this company bought asbestos from
9 the John Mannsville plant. It's also leading,
10 irrelevant, and compound.

11 A. Again, I cannot answer for everyone in
12 Georgia Pacific. But I would think that the
13 company furnishing any raw material that was being
14 used --

15 MS. BLUE: I would also object to
16 any speculation.

17 A. -- we would expect the company
18 furnishing that product to provide the
19 information. But none was ever provided.

20 Q. (By MR. SMITH) Okay.

21 MR. BISHOP: Are you talking about
22 by the raw material asbestos suppliers?

23 THE WITNESS: By the raw material
24 supplier.

25 Q. (By MR. SMITH) Right. Isn't it true

1 that asbestos fiber locked in, or encapsulated in,
2 a product cannot hurt anyone?

3 A. Yes.

4 MS. BLUE: I object. I'm going to
5 object to the relevance, and the fact that this
6 witness is not a scientist, and is not being
7 presented as one.

8 Q. (By MR. SMITH) Did your company rely on
9 the raw asbestos material suppliers for any
10 warnings that needed to be placed on any product
11 concerning asbestos?

12 MS. BLUE: I'm going to object, once
13 again, to the relevance, and the leading nature.

14 A. We were not aware of the need for any
15 such warnings.

16 Q. (By MR. SMITH) Yes, sir. But if there
17 should have been, shouldn't the raw material
18 supplier have provided you with them?

19 MS. BLUE: Once again, I need to
20 ~~make an~~ objection in that this line of questioning
21 is irrelevant, because under the Gideon case, as
22 well as Burrell versus Fibreboard, this is not a
23 defense to a case in Texas.

24 THE WITNESS: Would you mind
25 repeating the question, please?

1 MR. SMITH: Would you read it back,
2 Mr. Reporter?

3 (The preceding question was
4 read back by the Reporter).

5 MS. BLUE: Again, I will ask the
6 witness not to speculate and not to guess.

7 A. What's the time period we're talking
8 about?

9 Q. (By MR. SMITH) Well, so you can
10 understand my question, let me back up a minute.
11 I'm not saying that warnings were needed or were
12 not needed. Do you understand?

13 A. (Witness nods head up and down).

14 Q. That's the premise of the question. I'm
15 merely asking that if any warnings were needed on
16 any asbestos products, weren't you entitled to
17 rely upon those raw material suppliers to provide
18 you with the warnings --

19 MS. BLUE: I'm going to object to
20 the relevance --

21 Q. (By MR. SMITH) -- such as John
22 Mannsville, and those other people?

23 MS. BLUE: What everyone is entitled
24 to is not relevant in this case, the leading
25 nature, and the compoundness of the question.

1 A. I cannot answer for everyone in Georgia
2 Pacific. But I would expect that an outside
3 company presenting a product with potential hazard
4 would present whatever warnings were necessary to
5 use that product.

6 Q. (By MR. SMITH) At Georgia Pacific, and
7 at BestWall, were they entitled to rely upon the
8 EPA, OSHA, or any other governmental agency, to
9 advise them not to use asbestos in their company
10 products?

11 MS. BLUE: Once again, I need to
12 object that under Texas law, in an asbestos case,
13 the manufacturer is held to the duty of an
14 expert. I would also object on the leading
15 nature, the relevance, and the compound nature of
16 the question.

17 Q. (By MR. SMITH) Let me back up again to
18 help you out a little bit. If you do something
19 ~~that's not~~ right over there, EPA will shut you
20 ~~down~~, won't they?

21 MS. BLUE: Once again, I would
22 object in that this is not a defense in Texas.
23 It's also leading and irrelevant.

24 (Mr. Bishop and the witness confer).

25 MS. BLUE: Whether or not EPA shuts

1 them down is certainly not relevant to this case,
2 and it is not a defense in an asbestos case in
3 Texas.

4 Q. (By MR. SMITH) Isn't that true?

5 A. I don't completely understand the
6 question. When you say the regulations did come
7 out, Georgia Pacific and BestWall supplied those
8 regulations with regard to the use of asbestos.

9 Q. Right. And you're entitled to rely upon
10 those regulations to tell you whether or not you
11 should or shouldn't do something; isn't that
12 right?

13 MS. BLUE: I object to what he
14 thinks he's entitled to rely on, I object to the
15 relevance, and the leading nature of the question.

16 A. I don't understand, "entitled."

17 Q. (By MR. SMITH) Well, if the government
18 says that something is harmful, they'll take it
19 off the market, won't they?

20 MS. BLUE: I object to the relevance
21 of that.

22 Q. (By MR. SMITH) They'll require you to
23 take it off the market, won't they?

24 MS. BLUE: Also, the leading nature.

25 A. I don't know.

1 Q. (By MR. SMITH) If OSHA sees you
2 conducting some activity that is harmful to the
3 employees, they'll make you stop, won't they?

4 MS. BLUE: Again, I object that that
5 is not relevant to this case. It is not a defense
6 in Texas in an asbestos case under Gideon versus
7 John Mannsville and Burrell versus Fibreboard.

8 Q. (By MR. SMITH) Isn't that true,
9 Mr. Lehnert?

10 A. All I can say is we were required by
11 OSHA to comply with these standards.

12 Q. Yes, sir. Now, to go back, did your
13 company rely upon the EPA, OSHA, and any other
14 governmental agency, to advise you there at
15 Georgia Pacific, and at BestWall, not to use
16 asbestos in your company products if they felt it
17 was hazardous?

18 MS. BLUE: Once again, I need to
19 interpose an objection, because it is not a
20 defense in Texas in an asbestos case to rely on a
21 raw supplier of asbestos, or any governmental
22 agency, to tell the company. The company is held
23 to the same standard as an expert. I object to
24 the relevance, and the leading nature, as well.

25 A. I don't understand the question.

1 Q. (By MR. SMITH) Well, isn't it true that
2 we have governmental agencies that say that you're
3 not going to climb up on a forty story building
4 unless you have some safety harness on, and that
5 if you do, we're going to shut down your building
6 construction?

7 A. (No response).

8 Q. Isn't it true that we have governmental
9 agencies, that if you're putting out some drug
10 that's harmful to people, they'll say you're not
11 going to put out that drug anymore?

12 A. (No response).

13 Q. Aren't there governmental agencies that
14 say if you're making some product that is harmful
15 to any of the American citizens, we're not going
16 to let you make that product? And isn't it true
17 that we have agencies such as OSHA, and so forth,
18 that go around and check your employees in your
19 plant, and if there's anything hazardous or unsafe
20 as far as your employees are concerned, they'll
21 require you to stop if that condition exists?

22 MR. BISHOP: I'm going to object to
23 that question, because there are about four
24 different questions contained in that. And I
25 don't know what he would be answering at this

1 point, because there's so many.

2 Q. (By MR. SMITH) The answer in that,
3 they're as pure as the driven snow? You're not
4 going to do anything the government doesn't tell
5 you to do, is that right?

6 MS. BLUE: I'm going to also --

7 Q. (By MR. SMITH) And if they tell you not
8 to do something, you're not going to do that, are
9 you, Mr. Lehnert?

10 MR. BISHOP: I'm going to instruct
11 him not to answer the question, because I don't
12 know what question's on the table.

13 Q. (By MR. SMITH) I was just trying to
14 clarify the basic question for you.

15 MS. BLUE: Let me go ahead and enter
16 and objection to the relevance and compound
17 nature.

18 MR. SMITH: It's wonderful to see
19 ~~the~~ **Baron** law firm and this law firm join together
20 ~~in an~~ **objection**. It boggles my mind.

21 MR. BISHOP: It boggles my mind,
22 too.

23 Q. (By MR. SMITH) I didn't know you all
24 were in bed together.

25 I want to ask you the question again.

1 Did your company rely upon the EPA, the OSHA, or
2 any other governmental agency to advise you if you
3 were not to use asbestos in your company's
4 products?

5 MS. BLUE: I object to the
6 relevance, the leading nature, and the fact that
7 this, once again, is irrelevant, because it is not
8 a defense in the State of Texas in asbestos cases.

9 A. I can't speak for the company. I don't
10 know how to answer that question.

11 Q. (By MR. SMITH) Did your companies, and
12 when I speak of your companies, I'm talking about
13 Georgia Pacific and, of course, BestWall. That's
14 the only two you've been involved with; is that
15 correct --

16 A. No.

17 Q. -- that had anything to do with making
18 asbestos products?

19 A. No, that's not correct.

20 Q. Okay. Who before BestWall?

21 A. Certin-Teed Products Corporation.

22 Q. Who?

23 A. Certin-Teed Products Corporation.

24 Q. How do you spell that?

25 A. C-e-r-t-i-n dash T-e-e-d (spelling)

1 Products Corporation.

2 Q. C-e-r-t-i-n (spelling) --

3 A. C-e-r-t-i-n dash T-e-e-d (spelling).

4 Q. Products?

5 A. Products Corporation.

6 Q. Anything else?

7 A. No.

8 Q. Is that the three?

9 A. Yes.

10 Q. And what does that go back to, what
11 year? You took me to '55 with BestWall.

12 MR. BISHOP: '56.

13 A. '56 with BestWall. My time goes back
14 to -- I started with Certin-Teed Products
15 Corporation in 1951.

16 Q. (By MR. SMITH) Tell me what your
17 experience is with asbestos.

18 MR. BISHOP: I'll object to that
19 question. Because it's so vague, I don't know what
20 you mean by it.

21 Q. (By MR. SMITH) Well, were you using
22 asbestos back there with Certin-Teed?

23 A. (No response).

24 Q. I want to find out if you qualify as an
25 expert.

1 A. No.

2 MR. BISHOP: He's not being
3 presented as an expert witness, and I'm going to
4 object to any questions going to that.

5 MR. SMITH: I'll withdraw you as an
6 expert.

7 MS. BLUE: We'll join in that
8 objection.

9 Q. (By MR. SMITH) What's your background
10 with Certin-Teed? What did you do there?

11 A. I was a chemist.

12 Q. A chemist?

13 A. Yes.

14 Q. What chemical background did you have
15 before going to work with them?

16 A. I had a Bachelor of Science degree with
17 a major in chemical engineering from Grove City
18 College in Grove City, Pennsylvania.

19 Q. Okay. And after you got out of Grove
20 City, what did you do?

21 A. I worked for one year for a company
22 called Continental Rubber Works.

23 Q. And who did you work for after that?

24 A. That was in 1950. And in 1951, I went
25 to work for Certin-Teed.

1 Q. At Certin-Teed, what did you do?

2 A. I was a chemist.

3 Q. What were your duties as a chemist?

4 A. I had many functions.

5 Q. Such as?

6 A. Such as assisting in the development of
7 new products, evaluating glass fiber and gypsum
8 products, working on a development of new gypsum
9 products, such as accoustical tile, and developing
10 and formulating joint compounds.

11 Q. The accoustical tile, did that have
12 asbestos material in it?

13 A. It did not.

14 Q. Did it ever have asbestos material in
15 it?

16 A. No.

17 Q. Did any of these products have asbestos
18 materials in them?

19 A. The joint compound did.

20 Q. What were they used for? What was their
21 application and daily use?

22 A. Taping and --

23 MR. BISHOP: I object to the
24 relevancy in this.

25 A. -- finishing of joints in gypsum

1 wallboard construction.

2 Q. (By MR. SMITH) Okay. Now, as a chemist
3 in that company, what duties did you have with
4 relation to any asbestos that was used in those
5 products?

6 A. In the mid fifties I did some
7 formulation of joint compounds which contained
8 asbestos fibers.

9 Q. In the mid fifties, you say?

10 A. Yes, sir.

11 Q. And then after your relationship with
12 that company, you went to BestWall in '65?

13 A. Certin-Teed --

14 MR. BISHOP: Fifty-six.

15 A. In 1956.

16 MR. BISHOP: He went to BestWall in
17 1956, he said.

18 MR. SMITH: Okay.

19 MR. BISHOP: He's been with BestWall
20 since 1956.

21 THE WITNESS: That's right.

22 Q. (By MR. SMITH) All right. Fine. And
23 what did you do with BestWall?

24 A. Essentially, the same thing that I was
25 doing with Certin-Teed.

1 Q. And what was that?

2 MR. BISHOP: He's already answered
3 that question, I think.

4 Q. (By MR. SMITH) Would you mind repeating
5 it so we'll have it?

6 A. A good bit of my time was spent working
7 with the glass fibers in gypsum wallboard, and
8 fire-aided gypsum products. I also worked on
9 accoustical tile, I worked on filler for supplier
10 doors, and I worked on joint compounds, and
11 probably many other aspects of gypsum technology.

12 Q. Other than joint compounds for drywall
13 application, did you have any other products that
14 asbestos was used in?

15 A. Commercially?

16 Q. Yes.

17 A. No.

18 Q. Well, any way.

19 A. (No response).

20 Q. Other than commercially? Any other way?

21 A. It was never used in any other products
22 than the -- well, it was used in joint compounds,
23 and it was used in some accoustical plaster
24 products.

25 Q. Is that kind of like the plaster that

1 you put on ceilings and walls, and things such as
2 that?

3 A. The joint compounds include joint
4 compound textures, which are used to decorate
5 walls and ceilings.

6 Q. Okay. And then you went with Georgia
7 Pacific in --

8 MR. BISHOP: Sixty-five.

9 Q. (By MR. SMITH) -- sixty-five, I
10 believe; is that correct?

11 A. Yes. That's correct.

12 Q. Okay. And what were your duties with
13 them?

14 A. In 1960, I was given responsibility for
15 a new group which would develop new products for
16 the corporation.

17 Q. And those products, did they involve
18 asbestos?

19 A. Some of them.

20 Q. What were the names of them?

21 A. Redi-Mix Joint Compound.

22 Q. What was the application that that was
23 put to?

24 A. That was used to tape and finish joints
25 and gypsum wallboard construction.

1 Q. Were there any other products that you
2 used asbestos in?

3 A. Yes. Joint textures.

4 Q. What's what's the difference between the
5 two?

6 A. The textures are used primarily for
7 decoration; whereas, the joint compounds are used
8 to reinforce and conceal the joints, and nail
9 heads, et cetera.

10 Q. Can you give me an every-day-application
11 of the textures that you're talking about?

12 A. Textures were normally applied by spray,
13 although they could have been applied by a sponge
14 or a brush, I guess, as well; but in most cases,
15 applied with a spray application to ceilings.

16 Q. And your duties as a chemist were what
17 with relation to the makeup of the products?

18 A. We're talking about 1967 now?

19 Q. Yes.

20 A. What time period are we talking about?

21 Q. Well, any time with Georgia Pacific.

22 A. Any time with Georgia Pacific?

23 Q. Yes.

24 A. Then I would have been the products
25 development manager, and I would have assigned

1 projects to others.

2 Q. And you would know what the percentage
3 of the asbestos was that was in these products?

4 A. Yes.

5 Q. Have you looked in your Answers to
6 Interrogatories in this case?

7 A. Yes, I have.

8 Q. Is there anything about them that you
9 want to change?

10 A. Yes.

11 Q. Okay.

12 A. There's one reference to a quantity of
13 asbestos as high as twenty-two and-a-half percent,
14 and I don't recall any joint compound or texture
15 ever having that high asbestos. I suspect that
16 that -- it's on Page 10 --

17 MR. BISHOP: Of the Georgia Pacific
18 Corporation, Supplemental Responses to Plaintiff's
19 ~~First~~ set of Interrogatories, Page 10, talking
20 about textures, the first set of interrogatories.

21 (Discussion off the record).

22 MS. BLUE: I would like to make a
23 request that all objections be made now since this
24 witness will not appear live at trial.

25 Q. (By MR. SMITH) Excuse me. Go ahead.

1 A. Where it gives the range of
2 approximately two, to twenty-two and-a-half
3 percent, I don't ever recall that quantity of
4 asbestos ever being used in a joint compound or
5 texture.

6 Q. What do you say that it should be?

7 A. I would say the maximum would be about
8 ten and-a-half percent.

9 Q. Ten and-a-half?

10 A. Yes.

11 Q. Any other changes?

12 A. No.

13 Q. Look over on Page 7 -- I don't know if
14 you overlooked it or not -- under light
15 accoustics.

16 A. Uh-huh.

17 Q. Under "C"?

18 A. Yes.

19 Q. If what you say is true, then would that
20 apply?

21 A. This is not a joint compound or a
22 texture.

23 Q. All right. I understand. That was
24 different. But it would be that amount in this --

25 A. Yes.

1 Q. Okay. Fine.

2 MR. BISHOP: You might add that the
3 light accoustics is not a product that has been
4 identified in this lawsuit, to my knowledge.

5 MS. BLUE: And, therefore, plaintiff
6 would object about any mention of light
7 accousticals in this lawsuit since Mr. Decker was
8 not exposed to it.

9 Q. (By MR. SMITH) Now, to go back into
10 your background, did your companies rely on, or
11 expect, the EPA, OSHA, or any other governmental
12 agency, to advise your companies that the
13 company's use of asbestos was unsafe as to the
14 company's employees, and the public in general, if
15 it was unsafe?

16 MS. BLUE: I object to the leading
17 nature, and, also, the relevance based on the fact
18 that that is not a defense in Texas in an asbestos
19 case, therefore, not relevant.

20 A. I can't answer that, because I would not
21 be the person responsible.

22 Q. (By MR. SMITH) Is there any products
23 that you still use asbestos in?

24 A. There is not.

25 Q. When your company discontinued the use

1 of asbestos in your company's products, was that
2 discontinuance caused by any governmental agency,
3 or by any industry requirement, or did your
4 company discontinue the use of asbestos in your
5 company's products voluntarily?

6 MS. BLUE: I object to the compound
7 nature, and, also, leading and relevance.

8 A. We discontinued the use of asbestos
9 voluntarily.

10 Q. (By MR. SMITH) Now, I'm talking about
11 in relation to relative matters, okay?

12 A. (Witness nods head up and down).

13 Q. Is it true that a mixture of asbestos in
14 your company's products as small as, say, five
15 percent in the product, for that small amount to
16 cause harm to a person, it would be equivalent to
17 feeding an individual five pounds of pepper a day
18 for thirty years, pressing your face against a
19 T.V. set for eight hours a day for thirty years,
20 for a housewife running a microwave eight hours a
21 day for thirty years, for a computer operator to
22 running one of those computers eight hours a day
23 for thirty years, for drinking Coca-Cola eight
24 hours a day for thirty years, for drinking any
25 beverage with this Sweet-N-Low, sachrin sugar

1 substitutue, eight hours a day for thirty years?

2 Would it be that equivalent?

3 MS. BLUE: I object to the compound
4 nature; also, the relevance and the leading.

5 A. I don't know.

6 MS. BLUE: And the fact that it's a
7 ridiculous question.

8 A. My expertise is not in the medical
9 field.

10 Q. (By MR. SMITH) Do you know of any of
11 those products that I've just asked you about in
12 my last question that are as dangerous to health
13 as a person who smokes one and-a-half packages of
14 cigarettes a day for forty years, or the
15 equivalent of twenty-five thousand packages of
16 cigarettes?

17 A. I don't know.

18 MS. BLUE: I object to the
19 relevance. Also, it assumes facts not in
20 evidence, especially the fact that cigarette
21 smoking has nothing to do with mesothelioma; also,
22 the relevance and leading nature.

23 Q. (By MR. SMITH) Isn't it true that in
24 drywall products, a very small portion of asbestos
25 is used when compared with the asbestos that's

1 used in other ordinary products which contain
2 asbestos, including barbecue gloves, walls,
3 paddings, electrical cables, insulation, thread,
4 heating fabrications, sealants, lagging cloths,
5 safety clothing, ironing board covers for
6 housewives, filters, automobile transmissions,
7 tapes, and ordinary items in the kitchen in
8 buildings, churches, schools, and cars?

9 A. I have no knowledge of that.

10 MS. BLUE: Excuse me. I need to
11 object that it assumes facts not in evidence, it's
12 leading, it's irrelevant, and it's compound.

13 A. I have no knowledge of the amounts of
14 asbestos used in any of those products you've
15 mentioned other than the joint compounds and
16 textures.

17 Q. (By MR. SMITH) Is it true that in order
18 to contract a disease resulting from asbestos, the
19 **exposure must** be in excessive amounts over a
20 **prolonged period** of time?

21 MS. BLUE: I object in that this
22 witness is not presented as a medical witness, is
23 not an expert, and it's outside the range of this
24 witness' knowledge. I also object on the
25 relevance.

1 A. I am not a medical expert; therefore, I
2 don't know.

3 Q. (By MR. SMITH) Well, in your experience
4 as a chemist with these companies, I'll ask your
5 opinion of whether or not it's been your
6 experience that in order for anybody to get any
7 harmful effect from asbestos, it has to be in
8 excessive amounts over a long period of time?

9 MS. BLUE: Once again, the same
10 objection, outside the realm of this witness'
11 knowledge.

12 A. The studies I have read involve large
13 quantities of asbestos in confined areas over long
14 periods of time.

15 Q. (By MR. SMITH) Yes, sir. Has your
16 company ever had experience with a case where they
17 proved that a drywall worker or painter doing
18 drywall work has been harmed by asbestos?

19 MS. BLUE: I object to the
20 relevancy.

21 A. I'm not aware of any such evidence.

22 Q. (By MR. SMITH) When an experienced
23 asbestos plaintiff's attorney, who is also a
24 psychologist, brings in a witness ten years after
25 an event, and shows pictures of various products

1 allegedly having asbestos in them, and showed you
2 those pictures, do you have any experience as to
3 whether or not there is a high reliability in what
4 that witness would say, or a low reliability in
5 identifying a defendant based on that type of
6 transaction?

7 MS. BLUE: I'm going to object.
8 It's irrelevant, it's leading, and it's outside
9 the realm of this witness' knowledge. He is not
10 presented here as a psychologist or a
11 psychiatrist.

12 A. I don't really understand that question.

13 Q. (By MR. SMITH) Would you rely on
14 somebody that you brought in ten years after an
15 event, and sit them down, and show them mug shots
16 of somebody, and say, was it this, this, this,
17 this, or this?

18 MS. BLUE: I'm going to object to
19 the relevance; also, to the term "mug shots" in
20 that it doesn't have a definition.

21 A. I don't think I can answer that. I
22 simply don't know.

23 Q. (By MR. SMITH) Isn't it true that most
24 people have asbestos in their body, and a complete
25 total pathological examination would reveal it?

1 MS. BLUE: I'm going to object based
2 on the fact that this witness is not presented as
3 a physician, and any information he would have
4 learned about this subject would have been through
5 hearsay.

6 A. I don't have any medical background.

7 Q. (By MR. SMITH) Whether you have medical
8 or not, has that information come to your
9 attention --

10 MS. BLUE: Same objection. This
11 witness has not been --

12 Q. (By MR. SMITH) -- that practically every
13 one of us has got some little sliver of asbestos
14 us someplace; if they cut us up in enough pieces,
15 they might find it?

16 MS. BLUE: Same objection; also, to
17 the form of the question, and the relevance.

18 A. I'm not aware of that.

19 Q. (By MR. SMITH) Isn't it true that there
20 is medical and scientific knowledge that a safe
21 level of asbestos can be in a person without risk
22 of injury?

23 MS. BLUE: Same objection. This
24 witness is not being presented as an expert
25 witness, and he does not have a medical

1 background; also, to the relevance and the leading
2 nature.

3 A. I understand that Dr. Selikoff himself
4 has been quoted as saying that small quantities of
5 asbestos may not be harmful.

6 Q. (By MR. SMITH) Who is Dr. Selikoff?

7 A. Dr. Selikoff is the person who initiated
8 the first studies on asbestos in mine workers and
9 insulation workers.

10 Q. And in your field, you feel like he's
11 the person that, as far as that information is
12 concerned, is something that you would rely upon?

13 MR. BISHOP: I'll object to that,
14 and instruct you not to answer. It's not
15 relevant.

16 Q. (By MR. SMITH) You're not going --

17 A. I'll not answer.

18 Q. Okay. Is there any reason to believe
19 that exposure to any of your company's asbestos
20 containing products used by drywall painters or
21 workers would result in a foreseeable risk of harm
22 to them?

23 MS. BLUE: I'm going to object to
24 the relevance. Also, it's outside the realm of
25 the knowledge of this witness.

1 THE WITNESS: Could I have the
2 question repeated, please?

3 Q. (By MR. SMITH) Did you have any
4 foreseeability that when you sold these drywall
5 products that had some small quantities of
6 asbestos in them, that it would harm somebody that
7 was working with it?

8 A. We had no reason whatsoever --

9 MS. BLUE: Same objection, relevance
10 and leading.

11 Q. (By MR. SMITH) Do you know of any
12 scientific evidence that the use of Synkoloid
13 products constituted a health hazard to any
14 painter, paint contractor, or drywall contractor
15 when they were performing their work?

16 MS. BLUE: Same objection,
17 relevance, and the leading nature.

18 A. I'm not familiar with Synkoloid joint
19 compounds.

20 Q. (By MR. SMITH) So you don't know of
21 any?

22 A. (No response).

23 Q. It would be the same thing?

24 A. Correct.

25 MR. SMITH: I believe that's all the

1 questions that I have.

2 EXAMINATION

3 Q. (By MS. BLUE) Is it Mr. Lehnert?

4 A. Yes.

5 Q. Mr. Lehnert, my name is Lisa Blue, and I
6 represent Mrs. Neta Decker in this case. And I
7 would like to ask you some questions about what
8 you told the defense lawyer.

9 You told him that you did not believe
10 that asbestos that was encapsulated could cause
11 harm or injury to an individual; is that correct?

12 A. That's correct.

13 Q. You, or your company, have not done any
14 tests to determine whether or not that's correct?

15 MR. BISHOP: I'm going to object to
16 that, and instruct him not to answer. This is
17 getting far outside the purpose of this
18 deposition.

19 Q. (By MS. BLUE) Well, sir, based on what
20 you told the defense lawyer, did you just assume
21 that encapsulated asbestos could not cause any
22 injuries, or do you have any scientific evidence
23 to base that on?

24 A. The early studies by Dr. Selikoff in
25 this group consisted of asbestos that was sprayed

1 in large quantities by workers who worked eight
2 hours a day in that kind of atmosphere, as well as
3 other studies which showed that mine workers had
4 similar exposure. And I'm not aware of any
5 studies that showed that asbestos encased in some,
6 I guess, hard, firm product have been found to
7 cause asbestosis.

8 Q. And if there are such studies, you're
9 just saying you're not aware of them; is that
10 correct?

11 A. That is correct.

12 Q. Sir, do you know how much asbestos it
13 takes to cause mesothelioma?

14 A. I do not.

15 Q. Did you know that mesothelioma is not
16 dose related? Did you ever learn that as a
17 chemist?

18 A. No. I'm not an expert on mesothelioma.

19 Q. And you're telling the members of the
20 jury that any questions that Synkoloid asked you
21 about medical knowledge, that's truly outside the
22 realm of your knowledge; isn't that correct?

23 A. That is correct.

24 Q. Would you agree with me that a company
25 that produces asbestos products has the duty to

1 make sure that their product is not hazardous?

2 MR. BISHOP: Excuse me. Would you
3 repeat that question?

4 Q. (By MS. BLUE) Would you agree with me
5 that a manufacturer of asbestos containing
6 products has a duty to make sure that there are no
7 hazards associated with their asbestos containing
8 products?

9 MR. BISHOP: I'm going to object to
10 that question and instruct the witness not to
11 answer it. It's outside the scope of this
12 deposition. He has been presented here as
13 corporate representative as to the trade and brand
14 name of asbestos containing products of the
15 company, and we're getting far afield.

16 Q. (By MS. BLUE) Well, sir, you've told
17 the defense lawyer that you thought if the raw
18 suppliers of asbestos had any information, they
19 would give it to you?

20 A. I don't believe I said that.

21 Q. Well, then, tell me what you said. I
22 may have misunderstood.

23 A. I said that if a raw material supplier
24 was furnishing a product which had a potential
25 health hazard, it would be their responsibility to

1 advise the person they were selling it to.

2 Q. Okay. And what I want to know is what
3 is Georgia Pacific's responsibility to the end
4 user to determine whether or not their product is
5 dangerous?

6 MR. BISHOP: I'm going to object to
7 that, and instruct the witness not to answer.
8 Again, it's getting far outside the scope of this
9 deposition.

10 MS. BLUE: And I would agree with
11 that, and just ask the Court to understand that
12 since the other part of the question is not being
13 allowed to be answered, I would ask that the whole
14 entire line of questioning be struck.

15 Q. (By MS. BLUE) Sir, do you have any
16 documentation, or receipts, or any evidence
17 whatsoever, that James Decker was exposed to
18 Georgia Pacific asbestos containing products?

19 A. No, I do not.

20 Q. Just a few more questions. When I asked
21 for Georgia Pacific to turn over certain documents
22 during the discovery phase of this trial, they
23 turned over a medical article from Dr. Selikoff
24 showing how painters have been harmed by asbestos
25 containing products. Are you familiar with that

1 article?

2 A. I think you've mischaracterized the
3 article, if it's the same one I have in my mind.

4 Q. Tell me which one you're thinking of.

5 MR. BISHOP: Wait a minute. I'm
6 going to object to you asking him about the
7 article without showing him the article so we
8 know. Since we know that Dr. Selikoff has written
9 a lot of different articles, I don't know which
10 one you're talking about. And I'm going to object
11 to this line of questioning without him being
12 shown the documents.

13 Q. (By MS. BLUE) Do you know of any
14 articles that Dr. Selikoff has written on
15 painters, and the injuries that they have incurred
16 because of exposure to asbestos containing
17 products?

18 A. I'm aware of one article which dealt
19 with the asbestos airborne -- airborne asbestos
20 contents, and the use of joint compounds.

21 Q. And what year was that?

22 A. It was either 1975 or 1976.

23 Q. And so when the defense lawyer asked you
24 if you knew of any cases where people had been
25 injured by asbestos in drywall products, would you

1 agree with me that there is medical literature
2 that states otherwise?

3 A. No, I would not agree with you.

4 Q. When you told the Synkoloid lawyer that
5 Dr. Selikoff reported small quantities of asbestos
6 may not be harmful, can you tell me the source
7 that you were referring to?

8 A. Not exactly. It was the -- I believe it
9 was the October, 1986 -- October, 1986 issue of
10 The New Yorker magazine.

11 Q. Are you talking about a series of
12 articles written by Paul Brodure (phonetic) called
13 Outrageous Misconduct? It was a series of about
14 four or five articles on asbestos litigation.

15 A. I don't think this was a series.

16 Q. So you're saying you think you read that
17 in The New Yorker magazine, but it was not a
18 medical scientific journal; correct?

19 A. I did read it in The New Yorker
20 magazine.

21 Q. Do you consider that an authoritative
22 medical journal?

23 A. I'm only stating what Dr. Selikoff was
24 reported to have said.

25 Q. But my question is: Do you consider The

1 New Yorker as an authoritative medical journal?

2 A. The New Yorker has reported on
3 Dr. Selikoff's studies, as you indicated. And I
4 have no reason to doubt that these articles are
5 accurate.

6 Q. I don't think I indicated that. But let
7 me just ask you very simply: Is The New Yorker an
8 authoritative medical journal, to your knowledge?

9 A. Probably not.

10 Q. Would you be surprised to learn that
11 Dr. Selikoff has also stated that he believes that
12 small quantities of asbestos are the cause of
13 mesothelioma?

14 A. What was the question?

15 Q. Would you be surprised to learn that
16 Dr. Selikoff has reported that very small
17 quantities of asbestos cause mesothelioma?

18 A. I'm not aware of Dr. Selikoff's studies
19 in this regard.

20 MS. BLUE: That's all I have. Thank
21 you.

22 EXAMINATION

23 Q. (By MR. SMITH) You were asked whether or
24 not you had any knowledge that Mr. Decker in this
25 case was ever exposed to any of your company's

1 asbestos containing products. Do you remember
2 that question?

3 MS. BLUE: I'm going to object in
4 that that mischaracterizes the question. I asked
5 him about documentation and receipts.

6 A. That's correct.

7 Q. (By MR. SMITH) Do you know why the
8 plaintiff sued you in this case?

9 A. I assume he thought he used Georgia
10 Pacific products.

11 Q. And do you realize that at this point
12 you all have settled with the plaintiff?

13 A. Yes.

14 MS. BLUE: I object to the relevance
15 of that question. It's not admissible.

16 Q. (By MR. SMITH) Do you realize that this
17 woman over here that's making all of these
18 objections, that she gets a large percentage of
19 any of the settlement that they make in this case?

20 MS. BLUE: I object to the
21 relevance.

22 MR. BISHOP: Do you know?

23 THE WITNESS: I don't know.

24 Q. (By MR. SMITH) You haven't seen the
25 court papers where they proved it all up --

1 A. I have not.

2 Q. -- saying that she did --

3 A. I have not.

4 Q. -- she and her husband from Baron.

5 MS. BLUE: I object to the
6 relevance.

7 Q. (By MR. SMITH) When you saw this
8 article in The New Yorker magazine attributed to
9 Dr. Selikoff, was it a quote from one of his
10 books?

11 A. I'm not absolutely sure whether it was a
12 quote from a book. I think it was a quote from a
13 statement that he had made.

14 MS. BLUE: I object to the
15 relevance.

16 Q. (By MR. SMITH) Are you familiar with
17 this recent study that came out of Philadelphia,
18 that all of these cases that have been filed by
19 these plaintiff's attorneys who are living off of
20 these asbestos cases, that fifty percent of them
21 don't involve asbestos at all, although they
22 allege to have involved asbestos? Are you
23 familiar with that?

24 MS. BLUE: I object to the
25 relevance. I object to the compound nature. I

1 object to the leading.

2 A. I don't know anything about that
3 article.

4 Q. (By MR. SMITH) Are you familiar that
5 these asbestos filing plaintiff's attorneys have a
6 team that they have set up that they channel these
7 people to to give them opinions concerning
8 asbestos, and what caused it, so on and so forth?

9 MR. BISHOP: I'm going to object to
10 that question. I think we've gone way far afield
11 with this line of questioning. And this isn't
12 relevant to anything before the Court at this
13 time.

14 MS. BLUE: The plaintiff also joins
15 in that objection. That's clearly a question
16 meant to harass. It has absolutely no relevance.

17 MR. SMITH: Is it harassing you? Is
18 it harassing Georgia Pacific?

19 MR. BISHOP: It's starting to.

20 MR. SMITH: Oh, it is, huh? Well,
21 in that case, I'll take another hour.

22 MR. BISHOP: And we'll stop the
23 deposition if you try to go that long, because I
24 don't think any of this is relevant.

25 MS. BLUE: The plaintiff joins in

1 that this is absolutely not relevant. And none of
2 his line of questioning presents an adequate
3 defense in Texas.

4 MR. SMITH: Mr. Lehnert, thank you
5 for coming. I appreciate it.

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THE WITNESS

9 STATE OF TEXAS)
10 COUNTY OF DALLAS)

11 Subscribed and sworn to before me by the
12 said witness, Charles W. Lehnert, on this the
13 _____ day of _____, A.D., 1987.

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NOTARY PUBLIC IN AND FOR
DALLAS COUNTY, TEXAS

RODNEY T. KORNEGAY
(214) 321-2789

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

NATHLEEN G. GLANDON, As)
Personal Representative of the)
Heirs and Estate of FRANCIS R.)
MCDONALD, deceased,)

Plaintiff,)

vs.)

GAF CORPORATION, ET AL.,)

Defendants.)

CIVIL ACTION
FILE NO. 86-0-841

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

LAVERN I. SAGER AND)
LORETTA SAGER,)

Plaintiffs,)

vs.)

OWENS-CORNING FIBERGLAS)
CORPORATION, ET AL.,)

Defendants.)

CIVIL ACTION
FILE NO. 87-742-E

DEPOSITION OF CHARLES W. LEHNERT

BROWN REPORTING, INC.
1100 SPRING STREET, SUITE 750
ATLANTA, GEORGIA 30309
(404) 876-8000

PLAINTIFF'S
EXHIBIT

GP96

GA-PAC

IN THE DISTRICT COURT OF DALLAS COUNTY
191ST JUDICIAL DISTRICT
STATE OF TEXAS

PAUL WOODS, ET AL.,)
)
 Plaintiffs,) CIVIL ACTION
) FILE NO. 88-04640-J
 vs.)
)
 ARMSTRONG WORLD INDUSTRIES,)
 INC., ET AL.,)
)
 Defendants.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

RALPH WESTON, et al.,)
)
 Plaintiffs,) CIVIL ACTION FILE
) NO.87-0761-CIV-ATKINS
 vs.)
)
 ARMSTRONG WORLD INDUSTRIES,)
 INC., et al., f/k/a ARMSTRONG)
 CORP. COMPANY, a Pennsylvania)
 corporation, et al.,)
)
 Defendants.)

- - -

Deposition of CHARLES W. LEHNERT, taken on
behalf of the Plaintiffs, pursuant to agreement of
counsel, in accordance with the Federal Rules of
Civil Procedure, before Colleen B. Seidl, Certified
Court Reporter and Notary Public, at 2800 First
Atlanta Tower, Atlanta, Georgia, on the 27th day of
June, 1988, commencing at the hour of 2:45 p.m.

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PX-24	8/29/75 excerpt of the Evening Times, Trenton, N. J., entitled: Spackling May Harbor Dangerous Asbestos Level. ML--		79

CODE:

MP -- Marked in deposition of R. B. Pamplin, but first referred to on Page

MW -- Marked in deposition of Glenn E. Wilson, but first referred to on Page

ML -- Marked in deposition of Charles W. Lehnert

1 APPEARANCES OF COUNSEL:

2 On behalf of
3 Georgia Pacific: ALBERT H. PARNELL, Esq.

4 On behalf of the
5 Plaintiffs: FRED M. BARON, Esq.
6 LISA BLUE, Esq.
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10 On behalf of the
11 Defendant,
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13 Fiberglas Corp.: MARK T. MILLKEY, Esq.
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16 Claims Facility: FREDERICK A. BADING, Esq.

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18 Engineering: MARY ANN HATCH, Esq.

19 On behalf of Eagle
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21 Also Present on behalf
22 of Georgia Pacific: Mr. STEPHEN MAASSEN, Esq.
23 Mr. CALVIN CARLYSLE, Esq.
24 Ms. LISA BOARDMAN, Esq.

25 - - -

(Whereupon, it was agreed by and between
counsel for the respective parties that the
stipulation governing the taking of the deposition
of R. B. Pamplin will likewise govern the taking of
the deposition of Charles W. Lehnert.)

CHARLES W. LEHNERT,
having been first duly sworn, was examined and
testified as follows:

EXAMINATION

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BY MR. BARON:

Q. Would you state your name for the record, please.

A. Charles W. Lehnert.

Q. Spell your last name, please.

A. L-e-h-n-e-r-t.

Q. Mr. Lehnert, what is your current address?

A. 5046 Wind Point, two words, Stone Mountain, two words, Georgia, 30088.

Q. How are you presently employed?

A. I am employed by Georgia Pacific Corporation.

Q. Mr. Lehnert, my name is Fred Baron, I am an attorney from Dallas, and I am here today representing some individuals who have filed lawsuits against Georgia Pacific. I am going to be taking your deposition. Have you ever given a deposition before?

A. Yes.

Q. On about how many occasions?

A. About eight or ten.

Q. Do all of those depositions involve issues concerning asbestos?

1 A. No.

2 Q. How many of them do, do you think?

3 A. Possibly eight.

4 Q. Then you are generally familiar with the
5 deposition process, I take it, by now?

6 A. Yes.

7 Q. If at any time I ask a question of you
8 that you don't understand, please let me know that
9 so I can attempt to rephrase a question to make sure
10 we're communicating. All right, sir?

11 A. Yes.

12 Q. We got a lot of folks in back of the room
13 here and we have to speak up a little bit.

14 Mr. Lehnert, what is your present job
15 description at Georgia Pacific?

16 A. I am the manager of product development
17 and technical service.

18 Q. What is it that you do in that position?

19 A. I oversee the development of good
20 products, improvement of existing products,
21 provision of technical services to the sales
22 department, division of technical services to the
23 manufacturing department, representing Georgia
24 Pacific on industry associations and providing
25 services to the legal department as I am doing

1 today.

2 Q. Tell me about providing services to the
3 legal department, does that mean that you
4 participate in defending lawsuits against Georgia
5 Pacific?

6 A. It means that I give depositions when
7 called upon, provide affidavits when called upon.

8 Q. Is that generally concerning the asbestos
9 products or is that regarding all products of
10 Georgia Pacific?

11 A. It concerns the products of the gypsum
12 portion of the gypsum and roofing division.

13 Q. Would it be fair to say you are the point
14 man for Georgia Pacific to deal with the legal
15 department on product liability claims?

16 MR. PARNELL: Object to the form of the
17 question, there is no foundation. You may answer.

18 A. Would you ask the question again,
19 please?

20 Q. In terms of the gypsum division, I guess
21 I should limit it to that with Georgia Pacific, are
22 you the liaison between the legal department and the
23 rest of the organization concerning legal problems
24 with product use?

25 MR. PARNELL: Same objection.

1 A. I wouldn't characterize my responsibility
2 in that fashion.

3 Q. You say you are responsible for providing
4 assistance to the legal department, what does that
5 really involve, just giving depositions?

6 A. It also involves patent work.

7 Q. What else?

8 A. Those are the only things I can think of.

9 Q. So you give depositions and you help them
10 with patent problems?

11 A. No.

12 Q. What else?

13 A. We prosecute patents.

14 Q. Prosecute patents?

15 A. Yes.

16 Q. Are you a lawyer, Mr. Lehnert?

17 A. I am not.

18 Q. I take it you've spent a great deal of
19 your time with lawyers?

20 A. Yes.

21 Q. How much of your time?

22 A. At the present time?

23 Q. Yes.

24 A. I would say 10, 15 percent.

25 Q. So at least once or so a week perhaps on

1 the average you have to deal with lawyers from
2 Georgia Pacific?

3 A. That would be a close estimate.

4 Q. How long has that been the case?

5 A. I would say for the past several years.

6 Q. Let me ask you about your background, do
7 you have college training?

8 A. Yes.

9 Q. In where?

10 A. I graduated from Grove City College in
11 Pennsylvania.

12 Q. What year?

13 A. 1950.

14 Q. Your voice is dropping off just a little
15 here, you have to speak loud.

16 A. I graduated in 1950 from Grove City
17 College in Pennsylvania.

18 Q. With what degree?

19 A. Bachelor of Science degree, major in
20 chemical engineering.

21 Q. Have you had additional college training?

22 A. No.

23 Q. When you finished your degree, did you go
24 into private employment at that time?

25 A. Yes.

1 Q. With whom?

2 A. I worked for a small rubber company
3 called Continental Rubber Works.

4 Q. Where was that located?

5 A. Erie, Pennsylvania.

6 Q. What was your job?

7 A. I was a chemist.

8 Q. What type of work were you doing as a
9 chemist for them?

10 A. Formulating mechanical rubber products.

11 Q. How long did you stay in that position?

12 A. One year.

13 Q. Where did you go from there?

14 A. I went to Certainteed Products
15 Corporation.

16 Q. Where was their headquarters?

17 A. At that time their headquarters was,
18 their laboratory was in Chicago, Illinois.

19 Q. Were their headquarters there as well as
20 their laboratory?

21 A. No, their headquarters is not.

22 Q. Where were their headquarters?

23 A. Headquarters was in Ardmore,
24 Pennsylvania.

25 Q. But you went to work in a laboratory in

1 Chicago?

2 A. Yes.

3 Q. What was your job?

4 A. I was a chemist.

5 Q. What areas did you work in?

6 A. In Chicago?

7 Q. Yes, what did you do for them?

8 A. I started out in analytical chemistry and
9 then progressed into product development projects.

10 Q. When you say analytical chemistry, was
11 that merely testing?

12 A. That was analyzing gypsum for purity.

13 Q. So I take it that Certainteed was in the
14 gypsum business?

15 A. Yes, they were.

16 Q. Where was their source of gypsum?

17 A. I believe they had five plants at the
18 time.

19 Q. And when you would test the gypsum, what
20 were you looking for?

21 A. Impurities.

22 Q. Contamination by other minerals
23 primarily?

24 A. Yes.

25 Q. Do you know where the gypsum was mined?

1 A. Yes.

2 Q. Where?

3 A. The locations were Acme, Texas; Blue
4 Rapids, Kansas; Fort Dodge, Iowa; Akron, New York;
5 and Grand Rapids, Michigan.

6 Q. They had manufacturing facilities at
7 those five locations, did they not?

8 A. Gypsum manufacturing facilities.

9 Q. Yes, and did they also have their mines
10 at those facilities as well or quarries?

11 A. Either mines or quarries.

12 Q. Is gypsum something that is -- it is not
13 something that is mined; it is quarried, is it not?

14 A. It can be either mined or quarried.

15 Q. How long did you stay in the analytical
16 end of the business?

17 A. About six months.

18 Q. Where did you go from there?

19 A. Then I began to do project work on
20 various development projects that they had.

21 Q. In the analytical chemistry business,
22 what type of contaminants would you normally find in
23 the gypsum that you wanted to be aware of?

24 A. Salt.

25 Q. Salt. Is that the only thing you were

1 looking for?

2 A. That's the primary thing, other than the
3 fact that we were interested in the purity of the
4 product.

5 Q. When you were doing analytical chemistry,
6 did you actually do tests on finished products or
7 was it merely the mineral before it was used for the
8 manufacturing process?

9 A. Mainly it was on the rock deposits from
10 our various plant locations. We did do analyses on
11 other products.

12 Q. Did you ever do analytical work on joint
13 compounds?

14 A. Not at that time.

15 Q. Then you went into product development,
16 that would have been about 1952?

17 A. That's still 1951.

18 Q. '51?

19 A. Yes.

20 Q. What was your specific assignment in
21 product development?

22 A. I didn't have a specific assignment.

23 Q. Were you just given free reign?

24 A. No, I worked with other project engineers
25 and so I was assisting them.

1 Q. Yes.

2 A. I believe that it was one, you say gypsum
3 products, that's a product, will you tell me what
4 gypsum product you are talking about?

5 Q. Well, a product that was being
6 commercially manufactured by Certainteed that
7 utilized gypsum.

8 A. That contained gypsum?

9 Q. Yes.

10 A. I don't think there were any prior to
11 that time.

12 Q. Do you know of any products that
13 Certainteed made prior to 1956 that contained
14 asbestos?

15 A. Yes.

16 Q. Which ones?

17 A. Certainteed was in the asbestos cement
18 industry and I know we made those products.

19 Q. Did you have any responsibilities on the
20 asbestos on that end of the business?

21 A. None whatsoever.

22 Q. During the period of time prior to the
23 spinoff of Best Wall, did you do any research about
24 joint compound products?

25 A. Yes.

1 Q. Did you have any input on whether
2 asbestos should be used in joint compound products
3 prior to 1956?

4 A. Asbestos had been used in joint compound
5 products I believe as far back as 1937, so it was
6 already in the joint compound products before I came
7 to work for Certainteed.

8 Q. What was the purpose of using asbestos
9 fibers in joint compound?

10 A. Primarily to control the viscosity and
11 workability.

12 Q. Viscosity for us laymen means texture or
13 consistency?

14 A. Consistency, yes.

15 Q. Did I understand you that prior to 1956
16 you did some research on trying to improve joint
17 compound products?

18 A. Yes.

19 Q. What was the research project that you
20 were involved with?

21 A. There were several depending on the
22 product.

23 Q. Joint compounds?

24 A. Joint compounds. To improve the
25 workability of the joint compounds, to improve the

1 -- at that time we're talking, 1956, at that time
2 all the joint compounds were dry joint compounds,
3 and so we tried to improve their mixing properties
4 so that they would mix easily, their application so
5 they would apply easier, its sanding so it would
6 sand easier, their shrinkage properties so they
7 would shrink Less.

8 Q. In order to accomplish those things, did
9 you decide that you needed to add more asbestos to
10 the mix?

11 A. No.

12 Q. Take away some of the asbestos?

13 A. The asbestos usually remained about the
14 same.

15 Q. Was there a change in the type of
16 asbestos that's used in the product?

17 A. No.

18 Q. Well, then, would it be fair to say that
19 you really didn't tinker with that end of it, you
20 were just looking at other aspects of the product?

21 A. Yes.

22 Q. Now, in 1956 Certainteed had spun off
23 Best Wall, did they not?

24 A. Yes.

25 Q. Did you stay with Best Wall?

1 A. Yes.

2 Q. When Best Wall was spun off, did
3 Certainteed still own the stock of Best Wall?

4 A. Yes, there were three companies,
5 Certainteed, Best Wall, and a third company called
6 Best Wall Certainteed Sales Corporation that sold
7 the products of both companies.

8 Q. But following the spinoff, Best Wall was
9 still a wholly owned subsidiary of Certainteed, but
10 was now a separate entity?

11 A. It was separate stock.

12 Q. It was separate stock?

13 A. Yes.

14 Q. Who owned that stock, do you know?

15 A. Stockholders.

16 Q. Who are the stockholders?

17 A. They were the Certainteed stockholders at
18 the time of the spinoff, I can't tell you that by
19 name.

20 Q. So in other words, the shareholders of
21 Certainteed were given additional shares in Best
22 Wall Corporation?

23 MR. PARNELL: I've got to object. I
24 don't think he really knows.

25 MR. BARON: I think he does.

1 MR. PARNELL: I think he doesn't, I mean
2 we're on a big board, do you know the ins and outs
3 of the stock transfers?

4 A. I got some of the stock.

5 MR. PARNELL: Go ahead, to the extent he
6 knows.

7 Q. So the corporation which spun off and the
8 shares of Best Wall were given to the shareholders,
9 to the existing shareholders of Certainteed, is that
10 the way it was done?

11 A. Yes.

12 Q. Then it became a publicly traded
13 corporation?

14 A. Yes.

15 Q. Was it controlled in any way by
16 Certainteed after it was spun off?

17 A. Yes.

18 Q. In which ways was it controlled?

19 A. By the top management.

20 Q. So your people at Best Wall reported to
21 Certainteed?

22 A. The top management of Best Wall was the
23 same top management at Certainteed.

24 Q. Did that remain the same until it was
25 subsequently sold to Georgia Pacific?

1 A. Yes.

2 Q. Let's talk about this research center in
3 Chicago, about how many people were employed there?

4 A. I don't remember the exact number.

5 Q. Not the exact, but was it more than a
6 thousand, more than a hundred, how many people were
7 involved?

8 A. Less than 25.

9 Q. Less than 25. Was it in its own building
10 or did it have, did it share offices with other
11 Certainteed divisions?

12 A. There were no other divisions in that
13 particular laboratory.

14 Q. Did you have a library of reference
15 materials in the research building?

16 A. I don't recall a separate library at that
17 particular --

18 Q. Did you have access to research material
19 concerning the components of the various products
20 that Certainteed was having tested at that
21 laboratory?

22 A. I don't recall any library. Or any
23 documents that they had of that nature.

24 Q. Who was in charge of the laboratory?

25 A. John Lizars.

1 Q. Was that also the corporate headquarters
2 of Best Wall when Best Wall was spun off?

3 A. No. In 1952 the Chicago laboratory was
4 relocated to Paoli, Pennsylvania.

5 Q. Okay. And was it in the same building
6 that subsequently became the corporate headquarters
7 of Best Wall?

8 A. Yes.

9 Q. When the laboratory moved to Paoli, did
10 it share space with other Certainteed operations or
11 was it only the gypsum division that was there?

12 A. No, it was also the roofing division.

13 Q. Did the roofing division get spun off or
14 did that stay with Certainteed?

15 A. That stayed with Certainteed.

16 Q. When Certainteed had spun off Best Wall,
17 did roofing move out of that building or did they
18 remain there?

19 A. They remained there until, I can't
20 remember the date, and then they moved out.

21 Q. When you were in the building in Paoli,
22 do you recall whether or not there was a library
23 resource available to you in that laboratory?

24 A. I don't recall a library.

25 Q. Did the number of employees in the

1 research department increase when you moved to Paoli
2 or did it remain constant?

3 A. There was no research department at that
4 time as such.

5 Q. So who were you working for then?

6 A. I was working for plant Shuttleworth.

7 Q. And you were doing research?

8 A. I was doing some research, yes.

9 Q. What else were you doing?

10 A. Process control things, projects.

11 Q. What does that involve?

12 A. Oh, that might involve handling
13 complaints, might involve going to plants to help
14 solve manufacturing problems.

15 Q. Had you ever been, again prior to the
16 spinoff of Best Wall in '56, had you been to the
17 Acme facility?

18 A. Yes.

19 Q. Had you ever observed the use of asbestos
20 in the manufacture of joint compound at Acme?

21 A. Yes.

22 Q. Prior to '56?

23 A. Yes.

24 Q. Did you ever have any job
25 responsibilities as to the manufacture of joint

1 compound?

2 A. Yes.

3 Q. What were those job responsibilities?

4 A. I was responsible for formulation of all
5 the joint compounds after about 1955.

6 Q. Did the formulation change from time to
7 time?

8 A. Yes.

9 Q. What would make it change, why would you
10 want to make it change?

11 A. To improve the characteristics.

12 Q. What materials, what raw materials would
13 go into the manufacture of joint compound?

14 A. Limestone, clay, mica, celulosic
15 thickeners, starches, casein, alkalies,
16 preservatives, wetting agents, fillers of various
17 kinds, asbestos, later on gypsum.

18 Q. Did you ever get involved in reviewing
19 whether there were health hazards associated with
20 any of the components of the joint compound?

21 A. Did I get involved with the health
22 hazards? No, I did not.

23 Q. In other words, whenever you would make a
24 decision to add a new product to the joint compound
25 or a new component to the joint compound, and I take

1 it that happened from time to time, did it not?

2 A. Yes.

3 Q. Before you made the decision to add that
4 component to the joint compound, did you research
5 the component to determine whether there were any
6 associated health risks with the component?

7 A. No.

8 Q. Was there any particular reason why you
9 did not do so?

10 A. We didn't see any need to do that.

11 Q. There are many books and have been for
12 years, have there not, about toxic properties of
13 various types of chemical components and mineral
14 components, you are aware of those books, are you
15 not?

16 A. No, I am not aware, what books are you
17 speaking of?

18 Q. If you wanted to find out whether silica
19 could pose a hazard to workers, back in the '50s you
20 could have looked in a book and found the answer to
21 that, could you not have?

22 A. I don't know.

23 Q. You don't know?

24 A. No.

25 Q. You never tried?

1 A. I never tried.

2 Q. Did it ever dawn on anybody that it might
3 be a good idea to go back and take a look to see
4 whether there were hazardous components to the
5 materials that you were putting in this joint
6 compound?

7 MR. PARNELL: I object to the form of the
8 question. Mr. Lehnert can't in my judgment answer
9 whether it dawns on anybody or not, he can certainly
10 discuss whether it dawned on him or not.

11 Q. Did it dawn on you?

12 A. No, we were never advised by the
13 suppliers of these materials that there was ever any
14 problem, so we assumed there was no problem.

15 Q. What was your source of supply of
16 asbestos?

17 A. We purchased asbestos from Phillip Carey,
18 John Mansfield and Union Carbide at various times.

19 Q. What about the other components,
20 limestone and all of the other things, did anyone do
21 any research to determine whether those materials
22 might be hazardous to the consumer?

23 A. No, I am not aware of any.

24 Q. How long did you remain in that position
25 of being person in charge of the formulation of

1 joint compound?

2 A. Until 1960.

3 Q. Until 1960?

4 A. Yes.

5 Q. Up to 1960 did you yourself do any
6 research at all on whether there were health hazards
7 associated with any of the components of joint
8 compound?

9 A. I was an unaware of any health hazards.

10 Q. That wasn't the question. The question
11 was: Did you do any research?

12 A. I did not.

13 Q. Do you know of anyone associated with
14 either Certainteed or Best Wall who did such
15 research?

16 A. I am not aware of anyone who did any
17 research.

18 Q. What was your job change in 1960?

19 A. I became group leader of a product
20 development, small product development
21 organization.

22 Q. Was that associated with Best Wall?

23 A. Yes.

24 Q. What was it called?

25 A. It was called the product development

1 Q. What type of research did you do?

2 A. Formulated joint compound products to
3 improve them.

4 Q. Prior to 1956, how was Best Wall related
5 to Certainteed?

6 A. Best Wall was the gypsum division of
7 Certainteed.

8 Q. And were the joint compound products that
9 you were working on prior to 1956 within the gambit
10 of the gypsum division?

11 A. Yes.

12 Q. But they are not actually gypsum products
13 as such, are they?

14 A. Yes and no.

15 Q. Yes and no?

16 A. Some of them are and some of them
17 aren't. Are you talking about right now or back in
18 '56? In '56 none of them were gypsum products.

19 Q. But they were making joint compounds that
20 did not contain gypsum that did apparently contain
21 asbestos; is that right?

22 A. Yes.

23 Q. Do you know when asbestos was introduced
24 into the Certainteed joint compound products?

25 A. Well, before my time.

1 group.

2 Q. It wasn't a separate entity, it was
3 within Best Wall?

4 A. Yes.

5 Q. What was the charge of the product
6 development group?

7 MR. PARNELL: That charge, you mean
8 direction?

9 MR. BARON: Yes.

10 A. To develop, to concentrate on new
11 products as opposed to working on existing problems
12 and quality problems and so forth.

13 Q. How long did you stay in that position?

14 A. That position expanded to the job I have
15 today and the group expanded.

16 MR. PARNELL: Would you speak up,
17 please?

18 Q. From 1960 when you took that position
19 until the present, did you ever work on development
20 of new products that would have contained asbestos?

21 A. Yes.

22 Q. When was the first time?

23 A. I don't recall exactly when my first time
24 would be, first day of 1960 perhaps.

25 Q. What type of a product was it?

1 A. One of the first projects we had was
2 developed a ready-mix joint compound.

3 Q. Did you yourself participate in the
4 formulation of that product?

5 A. I was a manager of the group that worked
6 on the formulation.

7 Q. Was that a new product for Best Wall?

8 A. Yes.

9 Q. In developing that product that was
10 subsequently marketed, I take it it was subsequently
11 marketed, was it not?

12 A. Yes.

13 Q. Was the decision made to include asbestos
14 in that product?

15 A. Yes.

16 Q. Did anyone do any research as to whether
17 that might present a health hazard to a consumer
18 before asbestos was placed in the mix?

19 MR. PARNELL: Object to the form of the
20 question. He can testify what he knows.

21 A. Did I know of any research that was
22 done?

23 Q. Yes.

24 A. No, I don't know of any research that was
25 done.

1 Q. In 1965, I believe, Best Wall was taken
2 over by Georgia Pacific; is that right?

3 A. Yes.

4 Q. Did you remain in Paoli?

5 A. In '65?

6 Q. Yes.

7 A. Yes.

8 Q. How long did you remain there?

9 A. For two years.

10 Q. Where did you go from there?

11 A. We relocated to the Portland, Oregon
12 area, specifically Tigard.

13 Q. What type of facility did Georgia Pacific
14 have for you there?

15 A. We built a new laboratory facility in
16 Tigard.

17 Q. Was it a well equipped laboratory?

18 A. It was well enough equipped to do what we
19 wanted to do.

20 Q. What did you want to do?

21 A. We wanted to develop a new gypsum
22 product.

23 Q. When Georgia Pacific took over Best Wall,
24 was there a great deal of change in the management
25 of the Best Wall group? Or did it pretty well stay

1 the same?

2 A. No, there was a change.

3 Q. What was the change?

4 A. I can't recall the people, but there were
5 some numbers of people that changed during that
6 period of time and eventually Glenn Wilson took over
7 the management responsibility for that division.

8 Q. Would it be fair to say that within a
9 year after the acquisition Georgia Pacific was
10 really running the company now and their executives
11 were in charge?

12 A. They were running the company the day
13 they purchased it.

14 Q. Now they moved you to Tigard, to a new
15 facility and research department and product
16 development department; is that right?

17 A. Yes, sir.

18 Q. Were you actually the person in charge of
19 research and product development?

20 A. Yes, sir.

21 Q. Did you participate in the design of that
22 laboratory facility?

23 A. Yes.

24 Q. How many people were employed at the
25 Tigard facility after it got into operation?

1 A. I would say about twelve people.

2 Q. All of those people were in research and
3 product development?

4 A. No.

5 Q. How many were in research and product
6 development?

7 A. About six were R&D and about six were
8 involved in technical service process control.

9 Q. Did you have access to written materials
10 to do research at that facility?

11 A. I don't know what kind of written
12 materials you have in mind.

13 Q. Engineering manuals, things of that
14 nature.

15 A. We did have some manuals by that time.
16 We had collected some manuals and did have a
17 combination library and conference center.

18 Q. So you had a library at that time?

19 A. Yes.

20 Q. Did the library contain books that dealt
21 with the hazardous properties of certain materials?

22 A. No, I don't recall any periodicals
23 dealing with hazardous materials.

24 Q. Do you know of Thesach's manuals?

25 A. I am not familiar with them at all.

1 Q. Was there anyone in the corporation,
2 Georgia Pacific, who you knew of back at that time
3 who was experienced in toxicology?

4 A. Not to my knowledge.

5 Q. Was there anyone at Georgia Pacific who
6 was experienced in industrial hygiene that you were
7 aware of?

8 A. I assume that our safety manager was.

9 Q. Do you know whether he actually was or
10 not?

11 A. I do not.

12 Q. Was there any researching going on at
13 Georgia Pacific about potential hazards involving
14 their gypsum products and joint compound products in
15 1966 and '67?

16 A. No.

17 Q. How big a corporation was Georgia Pacific
18 in 1966 or '67, how many employees did it have?

19 A. I don't know.

20 Q. Approximately?

21 A. 30-, 40,000.

22 Q. They had offices all over the world, did
23 they not?

24 A. All over the United States.

25 Q. For the 30- or 40,000 employees of

1 Georgia Pacific back in 1966 or '67, was there more
2 than one research center or was that Tigard center
3 the only one?

4 A. No, they had a research facility in
5 Billingham, Washington, and let me see, also shortly
6 thereafter they built a research facility in
7 Decatur, Georgia.

8 Q. Do you know whether either of those
9 facilities were equipped to determine whether
10 Georgia Pacific products were hazardous to
11 consumers?

12 MR. PARNELL: Object to the form of the
13 question. You can answer.

14 A. Not to my knowledge.

15 Q. Your group certainly didn't have that
16 ability, did it?

17 A. We did not.

18 Q. You stayed at Tigard at least through
19 1976, did you not?

20 A. We were at Tigard until 1982.

21 Q. Did you participate in the reformulation
22 of joint compound to remove asbestos?

23 A. Yes.

24 Q. When did you begin that project?

25 A. In 1970.

1 Q. When was the project concluded?

2 A. To remove asbestos?

3 Q. Yes.

4 A. I don't know if it was ever concluded.

5 Actually all the asbestos was removed from all joint
6 compounds in May of 1977.

7 Q. The last one to have asbestos removed was
8 the Ready-Mix joint compound; is that right?

9 A. Yes.

10 Q. That was in May of '77?

11 A. Yes.

12 Q. What about the dry joint compound, when
13 was that removed?

14 A. All the dry except for one product, one
15 type of product, was removed by about 1975 or '76.

16 Q. Between 1970 and 1975, did you do
17 anything other than work on removal of asbestos from
18 joint compound?

19 A. Yes.

20 Q. How much of your time was spent on the
21 removal project?

22 A. It would have varied and certainly as we
23 got closer to the point where we realized that there
24 would be a ban and also to the point where we
25 realized that the regulations may be so stringent we

1 couldn't comply, we devoted more and more time.

2 Q. Then would it be fair to say that when
3 you began the project in the '70s, it was something
4 of a back burner project and then as the regulations
5 changed by '73 and '74 it became higher priority?

6 A. It was never a back burner project. It
7 simply gathered momentum as the time between 1977
8 and 19 -- 1970 and 1977 came about. In other words,
9 it expanded, we added more people and so on as we
10 needed to try to get the last product asbestos free.

11 Q. How did you go about making the products
12 asbestos free, what did you substitute for the
13 asbestos?

14 A. There was no single product we could find
15 that was a direct replacement for asbestos. So we
16 had to rely on combinations of materials.

17 Q. About how many people worked on that
18 project?

19 A. At what time?

20 Q. 1970.

21 A. In 1970 we probably had one person
22 working on it, because we only had one person
23 working on joint compounds.

24 Q. Who was that one person?

25 A. Let's see. At the time his name -- and

1 several people over a period of time, period of
2 years, one person, G-e-t-t-e-l, Bill Gettel, and
3 another person was Michael Robinson. Later on we
4 may have had other people working with those people
5 or having additional people to the project.

6 Q. Would it be fair to say that Bill Gettel
7 and Mike Robinson did 80 or 90 percent of the work?

8 A. I don't recall what percent any one
9 person did, we had some number of people, there were
10 some other people that worked on it too, but I would
11 have a hard time -- we worked on many projects and
12 to try to remember what exact percentage of time was
13 spent on each project would be very -- I just can't
14 do it.

15 Q. It is true, isn't it, that between 1970
16 and say 1973, the total amount of time that
17 Mr. Gettel and Mr. Robinson spent on this project
18 was 25 percent of their own time?

19 A. At one point Mr. Gettel spent 100 percent
20 of his time on the project.

21 Q. What point was that, 1975?

22 A. I don't recall the exact year, but I
23 would guess it was somewhere around 1974, '75.

24 Q. My question was between 1970 and 1974,
25 you had maybe two people spending about 10 or 15

1 percent of their time?

2 MR. PARNELL: Is that the question?

3 MR. BARON: Is that true?

4 A. No, I don't think that's necessarily
5 true. I don't think I cited a percentage, I gave
6 you a approximate figure perhaps, but -- I don't
7 understand what your question is.

8 Q. I want to know how many people of the
9 40,000 employees of Georgia Pacific were working on
10 taking asbestos out of joint compound between 1970
11 and 1974?

12 MR. PARNELL: Object as argumentative.

13 MR. BARON: How much time was being spent
14 otherwise?

15 MR. PARNELL: You can answer.

16 A. Originally we had one person and he
17 worked on textures and removing it from textures and
18 then we added other people to work on joint
19 compounds and I don't recall specifically what
20 percentages of their time in 1970 was devoted to
21 that, but I can tell you that we had all the
22 asbestos removed from all the textures by 1971, and
23 so whatever time was spent was certainly spent
24 efficiently. Mr. Gettel later on became involved in
25 the Ready-Mix, and that became an all consuming

1 project and he spent 100 percent of his time.

2 Q. As far as the accoustical material, the
3 plaster, how did you describe it, the texture
4 product?

5 A. The texture?

6 Q. As far as the texture product was
7 concerned from the time the research began until
8 asbestos was removed was in the range of a year,
9 less than a year?

10 A. About two years.

11 Q. About two years?

12 A. Yes.

13 Q. Was it full-time research for two years
14 by one person or was that just a part time?

15 A. I don't recall what percentage of the
16 time, but it wasn't 100 percent of anybody's time,
17 we had other projects.

18 Q. Would it be fair to say that it wasn't
19 all that complicated of a problem to remove asbestos
20 from the dry cement, from the dry joint compound and
21 from the textures?

22 A. Extremely difficult to find a substitute
23 for asbestos, because there was none. There was no
24 exact replacement, and as a matter of fact you
25 mentioned dry products, one of the dry products we

1 were never able to successfully develop an asbestos
2 free product and in 1977 we discontinued that
3 product.

4 Q. Georgia Pacific sells dry joint compound
5 right now, do they not?

6 A. Yes, we do.

7 Q. They sell a lot of it in fact, all over
8 the United States?

9 A. I don't know what you call a lot, we
10 don't sell very much.

11 Q. Millions of dollars worth of product?

12 A. But I don't know what our sales are
13 annually.

14 Q. And the product doesn't have asbestos in
15 it anymore, does it?

16 A. That's correct.

17 Q. And it works fine, doesn't it?

18 A. I think it does.

19 Q. You mean to tell me that that product
20 couldn't have been developed 30 years ago?

21 MR. PARNELL: Object to the form of the
22 question as argumentative. You can answer.

23 A. I don't know about 30 years ago, but when
24 we set out to develop the products, the main
25 adhesive used in joint compounds was Casein,

1 C-a-s-e-i-n, we were never able to successfully
2 remove asbestos from Casein products, therefore it
3 was necessary to find a new binder, and that
4 initially there were no new, there were no vinyl
5 binders which are used today; so when the vinyl
6 binders came along, that gave us the ability to
7 develop dry asbestos-free products.

8 Q. Mr. Lehnert, if you had been hired in
9 1955 by Best Wall and told to remove asbestos from
10 their joint compound, you mean to tell me you
11 wouldn't have been able to do it?

12 MR. PARNELL: I object to the form of the
13 question, calls for speculation about what he might
14 have been able to do 30 years ago. You can answer.

15 A. It would have been extremely difficult.

16 Q. Why more difficult then than now?

17 A. There are more substitute products now.
18 Asbestos had been used since the inception of joint
19 compounds back into the '30s, and there was no known
20 substitute up to that point and there still isn't
21 today.

22 Q. There isn't a substitute known today?

23 A. That's correct.

24 Q. So the situation is the same today as it
25 was 30 years ago?

1 A. No, that's not true.

2 Q. You just said there wasn't a substitute
3 now and there wasn't a substitute then?

4 A. Yes, but there have been many thickeners
5 and adhesives developed that were not available at
6 that time.

7 Q. Because nobody bothered to develop them?

8 MR. PARNELL: I object to the form of the
9 question as argumentative.

10 Q. Isn't that true?

11 A. I can't say what the chemical companies
12 were doing, you would have to ask them.

13 Q. Bottom line to it, sir, is that within a
14 couple of years of the time that your two or three
15 people were told to remove asbestos from joint
16 compounds it was done?

17 A. No.

18 Q. It wasn't?

19 A. No, it was seven years.

20 Q. It was seven years of full-time work for
21 a lot of people, is that what you're trying to tell
22 the jury?

23 MR. PARNELL: He is not trying to tell
24 the jury anything. He's trying to answer your
25 question, sir.

1 Q. Would it be fair to say that two or three
2 people worked on this project, they worked on it
3 every once in a while, maybe 10 or 15 percent of
4 their time, until things got pretty heavy in 1974
5 and then they were able to come up with a different
6 product, is that really what happened?

7 MR. PARNELL: I am sorry, that's an
8 absolute misstatement. He said, as a matter of
9 fact, that in 1970/1971 so far as textures are
10 concerned, Mr. Gettel devoted 100 percent of his
11 time. I don't mind you asking questions, Mr. Baron,
12 but when you absolutely mischaracterize his
13 testimony, I object to it.

14 A. Would you please repeat the question?

15 MR. PARNELL: Read it back.

16 (The record was read by the reporter.)

17 A. No, that's not really what happened.
18 What did happen was we concentrated our efforts on
19 the textures because we felt it was perhaps more
20 important to take it out of them first, and then we
21 went from the textures to the dry joint compounds
22 and then from the dry joint compounds to the
23 ready-mixes, so different people worked on these
24 projects, they worked on them diligently, and you
25 have to recognize that the product -- you couldn't

1 just formulate a product and begin to market it, it
2 had to be field tested and market tested and this
3 was a long arduous process.

4 Q. And so to go through this entire process
5 for three separate product groups, is that what
6 happened?

7 A. There were more than three separate
8 product groups.

9 Q. You had the dry compound, you had the wet
10 compound, and you had the texture?

11 A. No, that's not correct.

12 Q. Isn't that what you just testified? What
13 else was there?

14 A. Those are general product categories and
15 we had individual products within those categories,
16 Mr. Baron.

17 Q. The bottom line is that your group was
18 able to accomplish the removal of asbestos from each
19 of these products?

20 A. In 19 -- by 1977.

21 Q. By 1977 the last of them, which was the
22 wet one, which was the hard one, was accomplished?

23 A. It was accomplished, but it wasn't
24 totally successful.

25 Q. Well, is it still marketed today?

1 A. Yes, it is still marketed today.

2 Q. You get product complaints all the time
3 from it?

4 A. No, but we lost considerable market
5 share.

6 Q. Bottom line is you lost money while this
7 process was going on? Right?

8 A. No, we lost market share.

9 Q. Market share is money, is it not?

10 A. (No response.)

11 Q. Isn't it?

12 A. Yes.

13 Q. So it cost Georgia Pacific part of their
14 market share, i.e. money, i.e. profits, to go
15 through this process, did it not?

16 A. I would say yes.

17 Q. Mr. Lehnert, you have been involved with
18 the Gypsum Association, have you not?

19 A. Yes.

20 Q. When did you first become involved?

21 A. In the late 1950's.

22 Q. What was your involvement?

23 A. With the technical committee.

24 Q. Did you ever involve yourself with the
25 safety committee?

1 A. No.

2 Q. Did you know Mr. Fink?

3 A. Yes.

4 Q. He was involved with the Gypsum
5 Association as well, correct?

6 A. Yes, he was.

7 Q. But he was on the safety committee?

8 A. That's correct.

9 Q. Did you and he visit from time to time
10 about Gypsum Association activities?

11 A. No.

12 Q. Never talked to him?

13 A. Rarely.

14 Q. He worked for the same company you did,
15 did he not?

16 A. Yes, he did.

17 Q. He was in the same Gypsum Association
18 group generally that you were on, but you didn't
19 talk to him?

20 A. No, he was on the safety committee, I was
21 on the technical committee. We met at different
22 times.

23 Q. You were not given any information about
24 what the safety committee was doing?

25 A. That's correct, I was not.

1 Q. Why is that? Didn't you think it was
2 important to know what the safety committee of the
3 association was doing, and to help you with your
4 work on the technical group?

5 MR. PARNELL: Object to the form of the
6 question. That's two questions. The first is why
7 was that, and the second question is didn't you
8 think. If you want to answer them, you can, but
9 answer them in order if you will, please.

10 A. The first question was --

11 MR. PARNELL: Why was that?

12 A. That I didn't? My responsibilities were
13 to develop products and not the safety of products.

14 Q. Would you read that answer back for me?

15 (The record was read by the reporter.)

16 Q. It's fair to say then what you were
17 supposed to do is develop the products and you were
18 not concerned about the safety of the products; is
19 that right?

20 A. No, I don't think that I wasn't -- I was
21 concerned about the safety of the products, but I
22 wasn't responsible. I think that was your question,
23 Mr. Baron.

24 Q. So as far as you were concerned, you were
25 responsible for creating the products, developing

1 them, but you had no responsibility for their
2 safety?

3 A. I don't know how to respond to that
4 question.

5 Q. How about a yes or no?

6 A. I was responsible for the development of
7 the products and my primary responsibility certainly
8 wasn't the safety of the products.

9 Q. Was it your secondary responsibility?

10 MR. PARNELL: Would you let him finish
11 his answer, please?

12 MR. BARON: I am sorry.

13 Q. Was it your secondary?

14 MR. PARNELL: Please let him finish his
15 answer.

16 MR. BARON: He did.

17 MR. PARNELL: He did not. Did you have
18 anything else you were adding?

19 A. I lost my train of thought.

20 MR. PARNELL: Please don't interrupt him.

21 Q. Was your secondary responsibility safety,
22 your primary was not?

23 A. No, I can't say where that fell in order
24 of priorities with responsibilities. It was not my
25 major responsibility, Mr. Baron.

1 Q. Was it your minor responsibility, did it
2 fall anywhere on the list of responsibilities that
3 you had?

4 A. I can't characterize to what degree I
5 would be responsible for the safety of the product.
6 Only to the extent that if there was a problem with
7 the product, I would perhaps assist someone else.

8 Q. And you would have found out about a
9 problem with a product only after the problem
10 occurred?

11 A. Yes.

12 Q. You found out about problems with the
13 asbestos products after they occurred, did you not?

14 A. I am not aware of any problems with the
15 asbestos products.

16 Q. Still today?

17 A. Still today.

18 Q. So as far as you are concerned, there has
19 never been a problem with Best Wall or Georgia
20 Pacific asbestos products?

21 A. Well, it is Best Wall joint compounds,
22 textures.

23 Q. Right?

24 A. We did not manufacture asbestos.

25 Q. Best Wall manufactured products that

1 contained asbestos, correct?

2 A. Best Wall manufactured products that
3 contained small quantities of asbestos, I think
4 would be a better characterization.

5 Q. Is 25 percent a small quantity?

6 A. There was only one product that contained
7 that much asbestos, and we were only in that
8 business for a very short period of time, the
9 product was never successful, it was never marketed
10 successfully, and it was out of the market within a
11 matter of two years.

12 Q. Is 10 percent a substantial quantity?

13 A. I don't think so.

14 Q. Who at Best Wall was responsible for the
15 safety of the products?

16 A. I assume the top management would be
17 responsible for the products that are being shipped
18 to, they would have the ultimate responsibility for
19 products that were being marketed.

20 Q. What about at the time you were at
21 Georgia Pacific, who was responsible for the safety
22 of the joint compound products?

23 A. There was no one that was designated as
24 responsible for the safety of joint compound
25 products.

1 Q. Can you point to any one of the 40,000
2 people in Georgia Pacific who was responsible for
3 the safety of the joint compound products?

4 A. No.

5 MR. PARNELL: Object as argumentative.

6 MR. BARON: What was the answer?

7 A. No.

8 Q. Mr. Lehnert, I am going to show you a
9 memo dated May 17, 1974, which has been previously
10 marked as Plaintiff's Exhibit 14. And it is an
11 intercompany memo from G. E. Wilson to O. E. Burch
12 with a copy to you and ask if you can recall having
13 seen this before with its attachment?

14 MR. PARNELL: Is that 14?

15 MR. BARON: 14.

16 A. Yes, I obviously saw it.

17 Q. This is an article that appeared in Walls
18 and Ceilings magazine. What is Walls and Ceiling,
19 were you familiar with that generally?

20 A. Yes, it is an industry magazine,
21 published by the drywall industry. Contractors.

22 Q. Was it something that you had generally
23 been familiar with before May of 1974?

24 A. Yes.

25 Q. In the article that's attached it talks

1 about taping and spackling compounds used in drywall
2 finishing. Did Georgia Pacific make such products?

3 A. Drywall compounds?

4 Q. Yes.

5 A. Yes.

6 Q. In the article it says there was a
7 warning about asbestos fibers because following an
8 examination of 17 members of a New York City
9 painters local, tests showed that the lungs of nine
10 of the painters had x-ray evidence of fibrosis. Did
11 that concern you at all?

12 MR. PARNELL: Object to the form of the
13 question and the preamble. You may answer.

14 Q. Did that bother you?

15 A. We were already in the process of
16 removing asbestos, and I never saw the study, so I
17 really couldn't comment on the validity of the study
18 or anything of that nature.

19 Q. The question I had, did this article
20 concern you at all that nine of 17 painters who were
21 using joint compound had developed fibrosis of the
22 lung, did that bother you?

23 MR. PARNELL: I don't think that's what
24 it says. Just a minute, let me look and see.

25 A. I don't recall that study specifically

1 and I can't recall what I might have felt at that
2 time. We were doing everything we could to get
3 asbestos out of our products, and --

4 MR. PARNELL: I've got to object to the
5 form of the last question. There is nothing in this
6 article that indicates that the painters had any
7 exposure to drywall products.

8 Q. Is spackling a drywall product?

9 A. Some people refer to it as spackle.

10 Q. So it is your testimony that Georgia
11 Pacific was doing everything it possibly could to
12 get asbestos out of its products at that time?

13 A. Yes.

14 Q. And that involved the use of two people
15 on a part-time basis to do the research?

16 MR. PARNELL: Object to the form of the
17 question as a mischaracterization of the witness'
18 testimony.

19 Q. Is that correct or not?

20 MR. PARNELL: Document will speak for
21 itself. Were you through with your answer?

22 A. No.

23 Q. In 1974, in May of 1974, when you
24 received this memo, how many people were working
25 full time on removing asbestos from joint compound

1 at Georgia Pacific?

2 A. I can't be sure, but we only had six
3 people, and we were devoting what some people
4 thought was a disproportionate amount of time for
5 the project, so I was giving it all the effort that
6 we could give it.

7 Q. Now there were 40,000 people in Georgia
8 Pacific's corporation and six of them were in the
9 research department and is it fair to say that it
10 was only those six people who had responsibility in
11 this area to develop a new product?

12 MR. PARNELL: I object as argumentative.

13 Q. Is that true?

14 A. There were fewer than six people that
15 would have had the ability to be able to work on the
16 project.

17 Q. Of the six people how many of them were
18 even able to work on this project?

19 A. Possibly only three.

20 Q. Would that have been the maximum number?

21 A. Yes.

22 Q. Might have been two?

23 A. Might have been two.

24 Q. So of the 40,000 employees of Georgia
25 Pacific you had two and maybe three people when you

1 received this document in 1974 working on removing
2 asbestos from joint compound; is that correct?

3 MR. PARNELL: Object as argumentative.

4 You may answer.

5 A. Well, I've already testified how many
6 people we had working on it.

7 Q. That was two or three?

8 A. That's all the people we had.

9 Q. Were these two or three working full time
10 on that project?

11 A. By 1974 we probably had at least one of
12 them working full time on the project.

13 Q. Did you consider that to be a major
14 priority project of Georgia Pacific Corporation?

15 A. We considered it to be a high priority
16 project, yes.

17 Q. Even though 1/40,000 of the work staff
18 was working on it?

19 MR. BARON: Object as argumentative.

20 A. It is 40 or 50 percent of the work force
21 we had.

22 MR. PARNELL: You need to speak up. I
23 can hardly hear you.

24 A. It was 40 or 50 percent of the people we
25 had available to work on them.

1 Q. If you had wanted to hire 20 people to
2 work on this project, who would you have gone to?

3 A. My budget wouldn't permit me to hire one
4 or two people, let alone hire 20 people, plus we
5 didn't have the facilities for 20 people, so it
6 would be out of the question.

7 Q. What was your budget that year for the
8 entire research and development department?

9 A. In 1974?

10 Q. Yes.

11 A. I have to guess at it.

12 Q. Give me a ballpark.

13 A. \$100,000.

14 Q. Do you know what the gross sales of
15 Georgia Pacific were?

16 A. No.

17 Q. Was it in excess of 5 billion that year?

18 A. I don't know.

19 Q. \$100,000 included everybody's salary
20 including your own?

21 A. Yes.

22 Q. There was no other group at Georgia
23 Pacific that was charged with this project?

24 A. That's correct.

25 Q. Who was your supervisor during that

1 period of time?

2 A. Glenn Wilson.

3 Q. Did you ever go to Mr. Wilson and request
4 additional funds for the project?

5 A. I don't recall any specific instance.

6 Q. Did he ever ask you whether you needed
7 additional funds?

8 A. I don't recall that either.

9 Q. Were you aware that OSHA had issued
10 citations to some of the Georgia Pacific facilities,
11 particularly the one in Akron, New York and the
12 other one in Marietta, Georgia?

13 MR. PARNELL: Object to the form of the
14 question. No foundation.

15 Q. In the early 1970s pertaining to asbestos
16 exposure?

17 A. I recall such an instance.

18 Q. Do you generally know why those citations
19 were issued?

20 A. Not necessarily.

21 Q. Are you aware that it had to do with
22 asbestos exposure?

23 A. I knew it had something to do with
24 asbestos, not exposure, but asbestos measurements.
25 Airborne asbestos that is.

1 Q. Did your group have any responsibility
2 for monitoring airborne asbestos at any of the
3 Georgia Pacific facilities?

4 A. What time period are we talking about?

5 Q. Any time period.

6 A. Not during that time period. We did
7 later after the OSHA regulations were in effect.

8 Q. What time period are you talking about?

9 A. 1973, 1974. I believe they came in
10 effect.

11 Q. Did you actually go down and do air
12 sampling?

13 A. No.

14 Q. Somebody from your group did?

15 A. Yes.

16 Q. This would have been one of those six
17 people was doing this?

18 A. Yes.

19 Q. Did they do air sampling?

20 A. Yes.

21 Q. Was someone in your group a certified
22 industrial hygienist?

23 A. No.

24 Q. Was someone in your group fully trained
25 on how to use air quality testing equipment?

1 A. We had one member of our group who did
2 not, was not located in Tigard, but he worked for us
3 and he did, he took a course on doing the air
4 sampling with the pumps.

5 Q. How long was that course?

6 A. Oh, I don't know.

7 Q. A day or two?

8 A. I have no idea.

9 Q. How many facilities did Georgia Pacific
10 have at that time that were using asbestos?

11 A. I believe there were five.

12 Q. Was he the person that was responsible
13 for monitoring asbestos at all five facilities?

14 A. It may have been handled by other people
15 that were trained by him at some times.

16 Q. He never took a certification course or
17 anything like that?

18 A. No, he merely learned how to use the
19 pumps.

20 Q. To your knowledge, did Georgia Pacific at
21 that time have any certified industrial higienists
22 that were available to do that work?

23 A. I am not aware of anyone that we might
24 have had at that time.

25 Q. Were you aware of any toxicologists that

1 were working for Georgia Pacific who could have done
2 that work?

3 A. No, I am not.

4 Q. Your group just ended up getting stuck
5 with it, I guess, is that it?

6 MR. PARNELL: Object to the form of the
7 question as argumentative.

8 A. Are you asking me a question?

9 Q. Yeah, did your group just accept getting
10 stuck with it because nobody could do it?

11 MR. PARNELL: Same objection.

12 A. No, I don't think so, that's correct.

13 Q. How did it come about?

14 A. We determined that it would be less
15 expensive for us to do it than to have an outside
16 consultant do it.

17 Q. So you were trying to save money, so you
18 had one of your own people do --

19 A. We also felt that we could do a more
20 thorough job and it would be closer to the
21 monitoring. We also had someone trained in the
22 counting of asbestos fibers.

23 Q. Was that the same person who did the
24 testing?

25 A. No, it was not.

1 Q. What was the name of the person who did
2 the air sampling?

3 A. George Fuller.

4 Q. How much of his time was spent between
5 1970 and 1975 doing air sampling?

6 A. I have no idea.

7 Q. Would it have been less than 10 percent?

8 A. I think so.

9 Q. Who was doing the counting?

10 A. George Green.

11 Q. How much of his time between 1970 and '75
12 was spent doing counting? Was it less than 5
13 percent?

14 A. It probably wasn't very much, because we
15 had a technician learn how, we taught a technician
16 how to do the counts, we hired a separate person
17 part time to do that.

18 Q. So you had one fellow part time doing the
19 counting, you had one guy spending less than 10 or
20 15 percent of his time doing sampling; was that the
21 extent of the staff?

22 A. To do the monitoring?

23 Q. Yes.

24 A. Yes, it was.

25 Q. That was company-wide for gypsum?

1 A. Yes, that's correct.

2 (A recess was taken.)

3 MR. BARON: We're ready.

4 Q. Mr. Lehnert, let me switch fields for
5 just a moment. When did you first become aware that
6 asbestos was capable of causing damage to humans?

7 MR. PARNELL: Object to the form of the
8 question. There is no testimony that he has ever
9 become aware.

10 Q. Have you ever become aware that asbestos
11 is capable of causing harm to humans?

12 A. I am not aware of any specific evidence
13 that asbestos will harm humans.

14 Q. Do you honestly mean that as of right now
15 as we sit here today you are not aware of any
16 evidence that asbestos is harmful to humans; is that
17 right?

18 A. I've seen studies with asbestos and
19 cigarette smoking and I don't know, I can't
20 determine whether the asbestos or cigarette smoking
21 was responsible for the problems that we detected.

22 Q. Are you familiar with the disease entity
23 known as asbestosis?

24 A. I've heard of asbestosis.

25 Q. To your knowledge, is that related in any

1 departmental communication on Georgia Pacific
2 stationery dated June 19, 1973, from C. W. Lehnert
3 to Mr. John Woodsmall; subject: Asbestos fiber in
4 joint compounds. First thing I would like to do is
5 have you take a look at this document and see if
6 that is your initials at the bottom and if that's
7 your signing next to your initials and if you are
8 the author of it? Is that a document that you
9 authored?

10 A. Yes, it is.

11 Q. Let me ask you a question or two about
12 it. Who is Mr. John Woodsmall?

13 A. I believe he's the salesman or was a
14 salesman in the Detroit market.

15 Q. Do you recall what prompted you to write
16 this memoranda?

17 A. No, not specifically.

18 Q. Let's see if I can refresh your
19 recollection. The memo starts as follows: Quote, I
20 will try to respond to your customers' concern about
21 asbestos fiber prompted by our labeling of joint
22 system bags. Does that ring a bell to you?

23 A. I assume that the customer when we put
24 warning labels, the customer had some concern as to
25 what the warning labels were all about.

1 Q. And was this memo then your answer to
2 Mr. Woodsmall as to what to tell his customer?

3 A. Yes.

4 Q. You state as follows: Quote, this
5 caution label is required by the Occupational Safety
6 and Health Administration. We have always used
7 asbestos fiber in our joint system products, so if
8 there is a hazard, it is no different today than it
9 has been in the past. The hazard is the inhalation
10 of asbestos fiber.

11 What was the basis for that statement by
12 you that the hazard is in the inhalation of asbestos
13 fiber?

14 A. Looking back I probably shouldn't have
15 made that comment.

16 Q. Well you did though, didn't you?

17 A. Yes, I did. I guess I assumed that if
18 you breathed straight asbestos fiber, it would be
19 more harmful than breathing joint compound which had
20 small quantities of asbestos. I was speculating.

21 Q. Is that statement wrong?

22 A. I can't recall precisely why I said
23 that. I was trying to respond to the man's concern
24 so that he could have something to give his
25 customer.

1 Q. Mr. Lehnert?

2 A. Looking back I probably shouldn't have
3 worded it in that fashion.

4 Q. Mr. Lehnert, you just testified not more
5 than three or four minutes ago that you did not have
6 any information that asbestos could cause harm in
7 humans, that you considered to be valid information;
8 is that right?

9 A. That's correct.

10 Q. You then state in this memo, quote, the
11 degree of hazard would depend on the concentration
12 of asbestos fiber in the air and in duration of
13 exposure to that air?

14 A. That's assuming there was a hazard.

15 Q. You assumed here that there was a hazard,
16 so would it be fair to say you assumed there was a
17 hazard in 1973?

18 A. It would be fair to say that I assumed
19 wrong.

20 Q. So you thought there was a hazard in 1973
21 but you don't think there is a hazard now, is that
22 what you are telling the jury?

23 A. No, I don't think -- I am not telling the
24 jury anything.

25 Q. Well --

1 A. Are we in court.

2 Q. We will be very rapidly?

3 A. But are we in court today.

4 Q. This deposition will be read to a jury.

5 A. Okay.

6 Q. Does that change the way you want to
7 testify?

8 A. I can't tell you what I thought in 1973.
9 I was only trying to furnish the customer some
10 information, and I probably -- looking back, I
11 probably did it incorrectly.

12 Q. You then state, quote, the health
13 problems associated with asbestos have occurred in
14 situations where workers have been exposed to high
15 concentrations of asbestos fiber over a period of
16 years." Where did you get that information?

17 A. Presumably from a periodical that I read.

18 Q. Is that wrong?

19 A. I don't know. That was quoting from a
20 periodical.

21 Q. Again, a couple of moments ago you
22 testified that as of today you did not believe there
23 was any hazard related to exposure to asbestos?

24 A. I believe I testified that I don't have
25 any evidence of any hazard.

1 Q. Have you read the OSHA regulations?

2 A. I have read some of them.

3 Q. You read the ones back in 1972, didn't
4 you, you reviewed them for the company?

5 A. Yes.

6 Q. Those regulations describe in great
7 detail the hazards of inhalation of asbestos, do
8 they not?

9 A. I don't think so.

10 Q. You don't think they do?

11 A. No.

12 Q. Do you have any earthly idea why OSHA
13 regulates asbestos?

14 MR. PARNELL: Object to the form of the
15 question as argumentative. You may answer.

16 A. I assume that OSHA regulates asbestos
17 because they feel that there is some hazard,
18 potential hazard.

19 Q. Now in your letter here, you say "the
20 industry is currently planning tests to determine
21 the level of airborne asbestos during the mixing and
22 sanding. In the meantime, it would probably be
23 advisable for workers engaged in these operations to
24 wear respirators." Why did you say that?

25 A. If there was a problem, a respirator

1 would certainly help.

2 Q. You state up here the hazard is the
3 inhalation of asbestos fiber, do you think that's
4 the reason why it would be a good idea to wear a
5 respirator?

6 A. I think it would be a good idea to wear a
7 respirator regardless of what kind of dust you were
8 breathing.

9 Q. You then go on to say one solution of the
10 asbestos fiber problem for all concerned is to
11 eliminate it from our products. Do you think that
12 was the best way to deal with it?

13 A. Certainly.

14 Q. Even though you have not been given any
15 evidence that it's dangerous?

16 A. There was enough concern over the
17 regulations in trying to comply with them that that
18 would be the best solution for us.

19 Q. So in other words, do you feel like the
20 reason that asbestos was removed was not because it
21 was dangerous but because the government made you do
22 it?

23 A. Well, it was because if there were any
24 potential hazard -- and I have no hard evidence that
25 there is -- we were doing the right thing by taking

1 it out.

2 Q. Did you ever do any research on the
3 hazards of asbestos?

4 A. No.

5 Q. Have you ever looked in any book at all
6 to look up hazards of asbestos?

7 A. No.

8 Q. Have you ever read articles in the
9 newspaper about the hazards of asbestos?

10 A. I have read some periodicals about the
11 hazards of asbestos.

12 Q. Do you just not accept that as believable
13 information?

14 A. Those articles dealt with products other
15 than the ones that we manufactured, the ones I read.

16 Q. Well, the question I have for you,
17 though, is: Is asbestos hazardous to humans?

18 A. I am not a medical expert on that, the
19 use or breathing of asbestos, I couldn't testify to
20 that.

21 Q. So I guess what you're trying to tell the
22 jury is that you were responsible for formulating
23 and making these products but you are just not
24 responsible at all for whether they are safe?

25 MR. PARNELL: Object to the form of the

1 question as not before the jury. It's
2 argumentative. I move to strike. You may answer.

3 A. I think I testified as to what I am
4 responsible for.

5 Q. Are you responsible for the safety of the
6 products that you formulate?

7 A. I am not the safety supervisor.

8 Q. Are you responsible in any way for the
9 safety of the products that you formulate?

10 A. I am responsible for the development of
11 the products and the technical applications. I am
12 not responsible for safety.

13 Q. Are you familiar with the set of books
14 called the Encyclopedia Brittanica?

15 A. Yes.

16 Q. Do you have a set in your house?

17 A. No.

18 Q. Do you have a encyclopedia in your home?

19 A. No.

20 Q. Have you ever had access to the
21 Encyclopedia Brittanica?

22 A. Yes.

23 Q. Have you ever looked up asbestos?

24 A. I might have.

25 Q. Did you find out about its hazardous

1 qualities in there?

2 A. I don't recall ever seeing any hazardous
3 qualities in the periodicals I looked at.

4 Q. I am talking about Encyclopedia
5 Brittanica.

6 A. I don't recall ever looking at
7 Encyclopedia Brittanica.

8 Q. What periodicals have you looked at
9 concerning asbestos?

10 A. I've read some of the articles by Paul
11 Brodeer in the New Yorker, I have read some other
12 articles that you have indicated, Walls and
13 Ceilings, I've also read some articles, an article,
14 probably several, in Asbestos Abatement Magazine.

15 Q. Do you think the Gypsum Association is
16 generally a good organization?

17 A. Yes.

18 Q. Do you feel like the quality of their
19 research has been good?

20 A. The Gypsum Association doesn't do any
21 research.

22 Q. I have in front of me a document that has
23 been previously identified as Plaintiff's Exhibit
24 No. 15; which is entitled A Valuation of Exposure to
25 Asbestos During Mixing and Sanding of Joint

1 Compounds by the Gypsum Association, Denver,
2 Colorado, November 19, 1973.

3 Have you ever seen this before?

4 A. Yes, I've seen this.

5 Q. That was a research project carried on by
6 the Gypsum Association, was it not?

7 A. I beg to differ; this was not a research
8 project.

9 Q. What was it?

10 A. This was just a normal project carried on
11 by the association at the request of some of the
12 members.

13 Q. Georgia Pacific was one of the members
14 that requested it, was it not?

15 A. I am not sure about that. I was not on
16 the safety committee which would have generated the
17 interest in that, so I can't be sure. We did have a
18 person that attended the tests that were conducted
19 however.

20 Q. Let me ask you if you agree with your
21 study or this project that was done by the Gypsum
22 Association, some of the things they say about it.
23 It says quote, The potential health hazard
24 associated with exposure to asbestos is that of
25 inhalation of airborne fibers resulting in a type of

1 pneumoconiosis referred to as "asbestosis."

2 Does that sound like a true statement to
3 you?

4 A. I would have no idea of where that came
5 from or what the basis for it was.

6 Q. They then go on to say, quote, Small
7 asbestos fibers can pass readily through the upper
8 respiratory tract and be deposited in the terminal
9 bronchioles of the lung.

10 Do you have any information about that?

11 A. No, I do not.

12 Q. If sufficient quantities of fibers are
13 inhaled over an extended period of time, a
14 generalized diffuse peribronchiolar fibrosis can
15 develop."

16 Do you have any information about that?

17 A. I am not a medical expert, Mr. Baron. I
18 can't testify on these contentions by someone else.

19 Q. You were on the Board of Directors of
20 this group, were you not?

21 MR. PARNELL: Object to the form of the
22 question. He never said he was on the board.

23 Q. You were on the technical committee of
24 the Gypsum Association, right?

25 A. Yes.

1 Q. And the Gypsum Association is a group of
2 manufacturers such as Georgia Pacific who make
3 products containing gypsum?

4 A. That's correct.

5 Q. And the Gypsum Association's report says
6 inhalation of asbestos can cause asbestosis?

7 A. That is not true.

8 Q. It doesn't say that?

9 A. It is not the Gypsum Association's
10 report.

11 Q. Whose report is it under title Gypsum
12 Association?

13 A. This is a report.

14 MR. PARNELL: One at a time.

15 A. Let's see. This was a report of George
16 D. Clayton & Associates conducted and it may have
17 been put on a Gypsum Association letterhead, but the
18 report was prepared by Robert D. Soule, who I never
19 heard of.

20 Q. The report says Gypsum Association, and
21 it is signed by Robert D. Soule, Vice-President,
22 Industrial Hygiene Services?

23 A. He has never been associated with the
24 Gypsum Association.

25 Q. So even though the Gypsum Association

1 paid for this report, it is on Gypsum Association
2 stationery, you believe it's wrong; is that right?

3 A. The report was done for the Gypsum
4 Association by Clayton and Associates, and it was up
5 to the member companies to accept it or not accept
6 it.

7 Q. So the Gypsum Association paid for the
8 report, the report came back, and it says that
9 asbestos causes asbestosis, but you refuse to accept
10 that; is that correct?

11 A. I don't think we know the basis for the
12 statements in there, and the Clayton and Associates
13 was retained strictly to conduct the study on the
14 joint compounds and anything else that they may have
15 added was extra.

16 Q. Tell the jury yes or no. Do you have
17 reason to accept this report that says that asbestos
18 causes asbestosis on the letterhead of the Gypsum
19 Association?

20 MR. PARNELL: Object to the form of the
21 question as argumentative. You can answer yes or no
22 if you can. If you can't, you don't have to.

23 A. I don't have any evidence to support
24 what's contended in that report, so I can't really
25 testify on that.

1 (Document was marked for identification
2 as Plaintiff's Exhibit PX-24.)

3 Q. I am going to hand you a document marked
4 PX-24 and ask if you can identify that, sir.

5 A. I may have seen this document.

6 Q. It has your name on the bottom of it,
7 does it not?

8 A. Yes, I guess I did see it.

9 MR. PARNELL: Just one second for me.

10 MR. BARON: PX-24 is a copy of an article
11 from the Evening Times, Trenton, New Jersey, Friday,
12 August 29, 1975, and it shows a copy of this article
13 was sent to you, does it not?

14 A. Yes.

15 Q. Do you believe that you probably received
16 it?

17 A. Yes, I did.

18 Q. The title of the article is Spackling May
19 Harbor Dangerous Asbestos Levels. The very first
20 paragraph says, quote, Do-it-yourselfers who repair
21 their own plaster or plasterboard walls should be
22 aware of recent research indicating that some
23 commonly available spackling compounds contain
24 asbestos, a substance that has been linked to fatal
25 cancers and serious lung diseases."

1 You obviously must have had the
2 opportunity to read that, did you not, sir?

3 A. Yes.

4 MR. PARNELL: I object to all of the
5 preamble up to the question, "You obviously must
6 have had a chance to read that." Move to strike.

7 Q. When you read this, did it concern you
8 that there might be customers out there using
9 Georgia Pacific products who could develop fatal
10 cancers and serious lung diseases?

11 MR. PARNELL: Object to the form of the
12 question. There is nothing in that article that has
13 anything to do with any Georgia Pacific product
14 whatsoever. You may answer.

15 A. Not only does it not have anything to do
16 with our product, but it only says that there is
17 asbestos in joint compounds and we already knew
18 that.

19 Q. Well, when you read this sentence,
20 "commonly available spackling compounds contain
21 asbestos, a substance that has been linked to fatal
22 cancers and lungs diseases," did that cause you any
23 concern?

24 A. It didn't say that the fatal lung
25 diseases and cancers were linked to joint compounds.

1 Q. Bottom line is this didn't bother you at
2 all, did it?

3 A. The article did not speak to joint
4 compounds except to say they contained asbestos.

5 Q. The question I have for you, sir, that I
6 will ask one more time, is: Did this article bother
7 you in any way?

8 MR. PARNELL: Object to the form of the
9 question. It is irrelevant whether it bothered him
10 or not. Go ahead.

11 A. I have no idea how I felt about it back
12 in whatever year that was.

13 Q. 1975.

14 A. But certainly I recognized that we had
15 asbestos in joint compounds, that was not news to
16 me.

17 Q. And the fact that the article says that
18 asbestos is a substance that has been linked to
19 fatal cancers and serious lung diseases, that didn't
20 cause you any --

21 A. I don't know what the basis for that
22 report is.

23 Q. So you disregarded it; is that right?

24 A. I don't know if I disregarded it, but we
25 were taking asbestos out of joint compounds.

1 Q. So you weren't concerned?

2 A. At the time.

3 MR. PARNELL: Object. Badgering the
4 witness.

5 A. If we weren't concerned, we wouldn't have
6 been taking asbestos out of the joint compounds.

7 Q. What's your present title with the
8 company, sir?

9 A. Manager of product development and
10 technical service for the gypsum and roofing
11 division.

12 Q. Sir, are you still the person in charge
13 of developing new products for the gypsum division
14 of Georgia Pacific?

15 A. Yes.

16 Q. Today do you look at the safety of a
17 product that you develop before you recommend that
18 it be put into production?

19 MR. PARNELL: Object to the form of the
20 question. Move to strike it. You may answer.

21 A. I would say that there is more concern
22 about safety today than there was perhaps back in
23 the early '70s.

24 Q. Do you have any responsibilities at
25 Georgia Pacific for the safety of the products that

1 you develop?

2 A. No. My responsibility is to develop new
3 products.

4 Q. Your responsibility is not to determine
5 whether they are safe; is that right?

6 A. I wouldn't say it is totally not my
7 responsibility, I suppose there is some area of
8 responsibility, but my primary area of
9 responsibility is to develop the new products.

10 Q. Do you have any responsibility at all to
11 determine whether those new products that you
12 develop are safe?

13 A. I would say there is some responsibility,
14 yes, to be sure that we don't develop products that
15 are going to cause harm.

16 Q. What do you do to fulfill that
17 responsibility?

18 A. I suppose I work with other people who
19 are knowledgeable about hazards and things of this
20 nature.

21 Q. Do you think that's a good idea?

22 MR. PARNELL: I don't know what, is what
23 a good idea?

24 A. What are we talking now?

25 MR. PARNELL: What's your pronoun?

1 Q. Do you think it's a good idea to work
2 with people who have knowledge about hazardous
3 materials when you are developing new products?

4 A. Yes.

5 Q. Would it have been a good idea 20 years
6 ago?

7 A. Twenty years ago I don't think we had the
8 awareness that we have today about various materials
9 that weren't even, they weren't talked about, there
10 was no knowledge about it at that time.

11 Q. That's not the question I asked you. The
12 question I asked you: Would it have been a good
13 idea 20 years ago to have consulted with somebody
14 that knew about hazardous materials while you were
15 developing products?

16 MR. PARNELL: I object to the form of the
17 question. It calls for speculation and hypothetical
18 question, but you can answer.

19 A. All right. I can't say what I should
20 have felt 20 years ago.

21 Q. So you have no regrets that no one
22 bothered to find out whether asbestos was hazardous
23 or not before they put it in this product?

24 MR. PARNELL: I object to the form of the
25 question and instruct this witness not to answer.

1 MR. BARON: Answer the question.

2 MR. PARNELL: Do not answer the question.

3 I take the responsibility for your nonanswer.

4 The question is patently objectionable.

5 Q. Did you have the ability to consult with
6 people who knew about the hazardous properties of
7 materials while you were formulating products 20 or
8 30 years ago?

9 A. We consulted with the suppliers of the
10 asbestos and they never at any time indicated that
11 there was any hazard whatsoever with asbestos.

12 Q. So did you advise your customers that
13 there was any hazard with your products?

14 A. The customers never asked us.

15 Q. Did you ever ask the asbestos companies?

16 A. I don't recall whether anyone asked the
17 asbestos companies or not, but I am sure that they
18 never advised us.

19 Q. Just like?

20 A. Of any problem, in fact, even after there
21 was an awareness that there were perhaps some
22 potential problems in certain areas, the asbestos
23 companies still did not give us any information
24 insofar as potential hazards were concerned.

25 Q. Did you ask for any?

1 A. I am not sure whether anyone asked for
2 any or not, I don't recall.

3 Q. You sure didn't, did you?

4 A. I don't recall, Mr. Baron.

5 Q. Did you? Do you recall whether you went
6 out and looked in a book to find out?

7 A. I wasn't aware of any books that
8 contained studies on asbestos.

9 Q. That was by 1970?

10 A. Yes, sir.

11 MR. BARON: That's all I have.

12 MR. PARNELL: Mr. Erickson.

13 MR. ERICKSON: I just have a few
14 questions.

15 EXAMINATION

16 BY MR. ERICKSON:

17 Q. Who were your suppliers of asbestos?

18 A. I believe I have testified to that
19 already, but it is Phillip Carey Company, John
20 Mansfield and Union Carbide were the primary
21 suppliers.

22 Q. Did you use asbestos from different
23 companies for different products at different times?

24 A. Yes.

25 Q. What suppliers supplied the asbestos

1 which went into your texture products?

2 A. I believe most of the asbestos that was
3 used in texture was supplied by Phillip Carey.

4 Q. What about the asbestos which went into
5 your joint compound?

6 A. Most of it was Phillip Carey, at one
7 period of time we used asbestos from Union Carbide
8 as well.

9 Q. Were there periods of time when virtually
10 all of the asbestos which you purchased for your
11 joint compound or your texture products was supplied
12 by Phillip Carey?

13 A. I don't completely understand the
14 question.

15 Q. Was there a period of time when Phillip
16 Carey was basically the sole supplier of asbestos
17 fibers used in your joint compound or your texture
18 products?

19 A. I believe there was.

20 Q. What period was that?

21 A. I don't recall.

22 Q. Would your products' formulas provide
23 that information?

24 A. They would if they were available.

25 Q. Are they available?

1 A. I don't have them -- back that far. I
2 may have some formulas, but I don't know that I
3 would have enough formula information to answer your
4 question precisely.

5 Q. Can you approximate what years Phillip
6 Carey supplied fibers for your joint compounds and
7 your texture products?

8 A. Approximately.

9 Q. What years was that?

10 A. Up until about the 1950's most of the
11 asbestos was furnished by John Mansfield
12 Corporation, and somewhere in the middle '50s we
13 began to purchase most of our requirements from
14 Phillip Carey. Later on we also purchased asbestos
15 from Union Carbide, but it was used in conjunction
16 with asbestos from Phillip Carey.

17 Q. When you say later on, what time was
18 that?

19 A. I don't recall specifically, but it was
20 on into the '70s.

21 Q. So would it be fair to say from the
22 '60s on, Phillip Carey supplied you almost all of
23 the asbestos that went into your joint compound and
24 texture products?

25 A. Yes.

1 MR. ERICKSON: That's all I have.

2 MR. PARNELL: Anything further?

3 MR. BARON: No.

4 MR. PARNELL: Thank you. Anybody else?

5 MR. BARON: Thank you very much.

6 (Deposition concluded at 4:45 p.m.)

7

8 (Whereupon, the reading and signing of

9 the deposition by the witness was reserved.)

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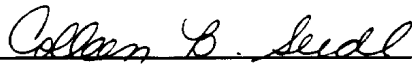
C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 89 represent a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 8th day of July, 1988.


COLLEEN B. SEIDL, RPR, CCR-B-1113
My commission expires on the
13th day of October, 1990.

DEPOSITION OF CHARLES W. LEHNERT/CBS

I do hereby certify that I have read all questions propounded to me and all answers given by me on June 27, 1988, taken before Colleen B. Seidl, and that:

- ____ 1) There are no changes noted.
 ____ 2) The following changes are noted:

Pursuant to Rule 30 (7)(e) of the Federal Rules of Civil Procedure and/or Georgia Code Annotated 81A-130 (B)(6)(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below:

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1 DEPOSITION OF CHARLES W. LEHNERT/CBS

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2 And the reason for the change is: _____

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4 _____

5 And the reason for the change is: _____
6 _____

7 If supplemental or additional pages are necessary,
8 please furnish same in typewriting annexed to this
9 deposition.

10 _____
11 Charles W. Lehnert

12 Sworn to and subscribed before me,
13 this the ____ day of _____, 1988.

14 _____
15 Notary Public.

16 My commission expires: _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____

Georgia-Pacific



company memo

to	Mr. G. E. Wilson	location	Portland
from	O. E. Burch	location	Portland
subject	<u>ASBESTOS - JT CEMENT PRODUCTS</u>	date	May 17, 1974

Attached appeared in the Walls & Ceilings magazine, May issue.

This is the first time I have seen actual cases reported.

OEK/af

O.E.B.

CC Messrs: C. W. Lahnert - Tigard Lab
J. Burch - Portland
M. Pink - Tigard Lab
B. C. Corkill, Portland

encl.

THIS COPY IS



Is CPSC A Sleeper?

The construction industry had little idea what was over the horizon when the Occupational Safety and Health Act was passed by congress. In due course, OSHA developed into a major source of concern for all contractors. Everybody's for safety, of course, and few thought passage of the federal law would make very much difference in conducting a business. It's made a whole of a big difference.

Congress has created another bureau which hasn't received a great deal of attention. Maybe it won't have too much impact on construction. On the other hand, it could become a bureaucratic giant affecting almost every business.

It's the Consumer Product Safety Commission, which believes the home is second only to the automobile as the most dangerous "product" on the market today. If CPSC is all that worried about homes, why not offices, warehouses, and all buildings?

The Commission reasons that since it has jurisdiction over appliances, it follows that it has authority over wiring. The wiring's attached to structural framing, so that too must come within their jurisdiction. By

any type of wall and ceiling construction.

Perhaps it won't happen. But then, whoever thought OSHA would become so important?

Asbestos Danger Cited

Taping and spackling compounds used in drywall finishing may expose workers to dangerous levels of asbestos fibers, according to OSHA officials.

The warning followed an examination of 17 members of a New York City painters' local. Tests showed the lungs of nine painters had X-ray evidence of fibrosis, or excessive secretion build-up in the lungs.

Employer groups and unions are being asked to alert workers to the potential hazard, said federal safety authorities.

Louis Moesbrugger Passes

Longtime IAWCC member Louis J. Moesbrugger died in Lake Worth, Florida, in February. He founded Northwestern Plastic Art, Milwaukee, in 1923, and developed the Nu-Stone system of simulated stonemasonry executed in plaster. Northwestern Plastic Art & Nu-Stone Co., Inc. is now headed by his son, Robert.

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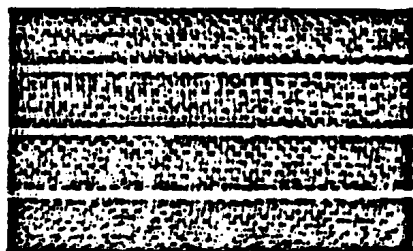


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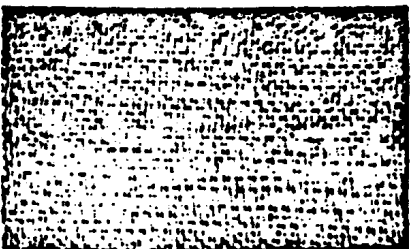
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PX-15

**EVALUATION OF EXPOSURE TO ASBESTOS DURING
MIXING AND SANDING OF JOINT COMPOUNDS**

**GYPSUM ASSOCIATION
Denver, Colorado**

November 19, 1973

EVALUATION OF EXPOSURE TO ASBESTOS DURING
MIXING AND SANDING OF JOINT COMPOUNDS

GYPSUM ASSOCIATION
Denver, Colorado



INTRODUCTION

The Gypsum Association retained George D. Clayton and Associates to conduct an industrial hygiene survey at a test site located in Denver, Colorado. The purpose of the survey was to determine the concentrations of airborne asbestos to which workers were exposed during mixing and sanding of joint cement compounds and to interpret the results in terms of potential health hazards with particular reference to regulations promulgated under authority of the Occupational Safety and Health Act of 1970. This study was conducted on November 19, 1973 by Mr. Robert D. Soule of Clayton and Associates. Results of that study are reported herein.

BACKGROUND

The Gypsum Association, located at 1603 Orrington Avenue in Evanston, Illinois is a trade association which represents ten to fifteen industrial companies which are engaged in the manufacture of products incorporating gypsum or gypsum-like materials. As with most industrial concerns, the activities of the Gypsum Association have become more broad with the passage and implementation of federal regulations such as the Metal and Non-Metallic Mine Safety Act and the Occupational Safety and Health Act. Technical committees composed of personnel from companies comprising the Gypsum Association have been established with particular interest in the occupational safety and health field. Of particular concern in this respect was the potential hazard associated with exposure of workers to airborne asbestos during mixing and sanding of compounds used to seal cracks and joints formed during installation of wallboard material. Although the specific formulations used by the various companies manufacturing and supplying the joint compound vary, it is understood that essentially all of them incorporate asbestos in the product whether as a dry compound or a ready-mix product.

In order to evaluate the exposure of workers to asbestos during handling and use of the joint compound products, the Gypsum Association decided to undertake a test program during which several products would be mixed and sanded. George D. Clayton and Associates was retained to collect and analyze samples which would represent the exposure of workers engaged in the study. The tests were performed on November 19, 1973 in a development of townhouses known as King's Mill Townhouses, which were under construction in a suburban area north of Denver, Colorado.

POTENTIAL HEALTH HAZARD ASSOCIATED
WITH EXPOSURE TO ASBESTOS

Asbestos is a generic term referring to various mineral silicates. The types used most widely in industrial applications include chrysotile, or "white asbestos" (a hydrated magnesium silicate), amosite,

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or "gray asbestos" (an iron magnesium silicate), crocidolite, or "blue asbestos" (a sodium iron silicate), tremolite (a calcium magnesium silicate), and anthophyllite (another iron magnesium silicate). Of these, chrysotile accounts for over 90 percent of the total usage of asbestos in this country, with amosite and crocidolite being the only other types used to any significant extent.

Asbestos exists naturally in bundles of extremely fine fibers which can be subdivided easily into many smaller fibers. The potential health hazard associated with exposure to asbestos is that of inhalation of airborne fibers resulting in a type of pneumoconiosis referred to as "asbestosis." Small asbestos fibers can pass readily through the upper respiratory tract and be deposited in the terminal bronchioles of the lung. There, they produce a local irritation which the body attempts to overcome by initiating a tissue response resulting in the encapsulation of the fibers and consequent formation of "asbestos bodies." If sufficient quantities of fibers are inhaled over an extended period of time, a generalized diffuse peribronchiolar fibrosis can develop. This pulmonary fibrosis can impair the transfer of oxygen across the alveolar membranes and result in respiratory insufficiencies, or even cardiac failure. It has been determined, through toxicological and epidemiological studies, that long fibers, 20 to 50 micrometers in length, are most active in the production of the fibrosis. Fibers shorter than about two micrometers in length, are practically without an irritating effect. There is some evidence that other minerals having fibrous characteristics can produce similar reactions.

Many recent studies have indicated an association between exposure to asbestos in both industrial and urban atmospheres and an increase in a relatively rare type of lung cancer known as mesothelioma. Although it has not been possible to establish a connection with asbestos in all cases of this disease, there is a strong correlation between exposure to crocidolite and occurrence of mesotheliomas. Other types of asbestos have been implicated to a much lesser extent. However, this "new hazard" has received much public attention because it has been suggested that very minimal, non-occupational exposure can be sufficient to produce the disease in some individuals.

For many years the American Conference of Governmental Industrial Hygienists has recommended a threshold limit value (TLV) of five million particles per cubic foot of air (mppcf) for all types of asbestos-bearing dusts containing less than one percent crystalline silica. The threshold limit value is defined as the concentration of an airborne contaminant to which it is believed that nearly all workers can be exposed for continuous and repeated work days without experiencing adverse effects. The TLV of five mppcf was based on the impinger sampling technique which was selected as the standard method in the early epidemiological studies of occupational exposure to asbestos. With this method, air is drawn through an impinger containing water and the total particles (both grains and fibers) in an aliquot of the sample, are counted using light-field microscopic techniques.

Within recent years, because of the increasing concern about asbestos in the environment and the resulting need for a more relevant sampling method, the American Conference of Governmental Industrial

1637(4)

Hygienists has proposed a TLV of five fibers (greater than five micrometers in length) per cubic centimeter of air. This standard is based on the membrane filter technique with actual microscopic fiber counting at 400-450X magnification using phase contrast illumination.

The Occupational Safety and Health Administration (OSHA) has established the above concentration (five fibers, greater than five micrometers in length, per cubic centimeter of air) as an emergency standard and have announced that, effective July 1, 1976, the acceptable limit for an eight-hour, time-weighted average exposure will be reduced to two fibers cc. In addition, OSHA has established the concentration of ten fibers (greater than five micrometers in length) per cubic centimeter of air as an acceptable ceiling concentration. Workers shall not be exposed to concentrations of asbestos in excess of this value, regardless of duration of exposure.

SAMPLING AND ANALYTICAL METHODS

The air sampling conducted to evaluate exposures of workers to asbestos was all of the "breathing zone" type. These samples were collected by drawing air through 37-mm diameter membrane filters (Millipore Type AA) at a rate of about two liters per minute using small, battery-operated pumps (Mine Safety Appliances Company, Model G). The sampling units were worn by the workers engaged in either mixing or sanding the joint compound; the pump was attached to the belt and the sampler head fastened on the outside of the worker's shirt at approximate breathing zone height. Thus, these samples were representative of the time-weighted average conditions to which the men were exposed during the sampling period. The sampling head consisted of a three piece cassette (Millipore); during sampling the face cap was removed and the filter was used in an "open face" mode with the filter positioned slightly downward so as to minimize dust falling directly onto the filter.

Sampling was conducted for the entire duration of the mixing operations but because of the higher anticipated concentrations associated with sanding of the joint compounds it was decided to change filters approximately every ten minutes. Sampling during the sanding on the various joint compounds was conducted over a total period of sixty minutes. Therefore six consecutive ten-minute samples were obtained for each sanding test. In addition to the ten-minute tests, samples were collected over thirty-minute periods as well, i.e., two consecutive 30-minute samples for each sanding test. After collection of each sample the filter cap was replaced and the cassette, or sampler head, was sealed immediately and prepared for transfer to the analytical laboratory.

The method of counting asbestos fibers was essentially the same as that used by the U.S. Public Health Service for the enumeration of asbestos dust on membrane filters. The description of this method first appeared in an article written by G.H. Edwards and J.R. Lynch and appeared in the Annals of Occupational Hygiene, Volume 2, pages 1-6 (1968).

In summary, the method consisted of the following steps.

A pie-shaped section of each sample was mounted on a standard microscope slide using a high viscosity solution of membrane filter in a 1:1 mixture of diethyl oxalate and dimethyl phthalate to render the filter transparent. The asbestos fibers which were on the surface of the filter were then counted using a 10X eyepiece and a 40X objective with phase contrast illumination.

A number of fields, selected at random across the sample, sufficient to reveal a minimum of 100 fibers were examined and fibers greater than five micrometers in length were counted. Any particle having an aspect ratio of three or greater was considered to be a fiber. Although it was conceivable that there would be fibers of paper or other materials present on the filters which would have been dislodged from the wallboard during the sanding operation it did not appear that these were of any adverse consequence during the analysis of the samples. Although it is realized that the counting technique is not specific in terms of being able to identify the chemical nature of the fibers present in the sample, all of the fibers observed in these samples appeared to have physical features characteristic of asbestos fibers.

For those samples collected over a thirty-minute period, and which were too heavily loaded to evaluate directly under the microscope, the collected material on the filters was dislodged in a highly purified distilled water bath using an ultrasonic unit (Dynasonic Corporation, Model G6 generator and Model T6 tank) and diluted to one liter. An aliquot of the resulting suspension was drawn, passed through a membrane filter (Millipore Type BA) and was then analyzed according to the procedure described above.

PRESENTATION OF RESULTS

A total of four joint compound products were used during this study. These products (two dry mix and two "ready mix") were supplied by two manufacturers whose identities were not known to the investigator. The products were identified by code (2D, 2R, 4D and 4R), a number referring to the supplier and the letter indicating whether the product was a "dry" or "ready-mix" compound.

The results of the sampling program conducted during the mixing of the two dry mix products and sanding tests on all four joint compounds are presented in Tables I through IV. Examination of these data reveals the following:

1. During mixing of Joint Compound 2D, the worker was exposed to a concentration of 31.4 fibers, greater than five micrometers in length, per cubic centimeter of air.
2. The amount of total particulate generated during the sanding operation on Joint Compound 2D was so great that direct

analysis of the ten-minute samples was not possible. Analysis of the thirty-minute samples, which were redeposited, indicated an average concentration of 39.4 fibers, greater than five micrometers in length, per cubic centimeter of air.

3. The results of analyzing four of the six ten-minute samples collected during sanding on Joint Compound 2R indicated an average concentration of 4.2 fibers per cubic centimeter; two of the samples were too heavily loaded to analyze directly. Results of analysis of the two thirty-minute samples collected during the sanding on Joint Compound 2R indicated an average concentration of 11.1 fibers per cubic centimeter, a factor of over 2.5 times as high as the average obtained from analysis of the ten-minute samples.
4. The sample obtained during the mixing of Joint Compound 4D indicated a concentration of 7.6 fibers, greater than five micrometers in length, per cubic centimeter of air.
5. Results of analyzing four of the six ten-minute samples collected during the sanding on Joint Compound 4D indicated an average concentration of 4.4 fibers per cubic centimeter. Analysis of the two thirty-minute samples, which were subjected to the redepositing procedure, indicated an average concentration of 14.8 fibers per cubic centimeter, a factor of 3.4 times as high as results obtained from the ten-minute samples.
6. The results of analysis of five of the six samples obtained during the sanding on Joint Compound 4R indicated an average concentration of 10.8 fibers per cubic centimeter. Results of analysis of the two thirty-minute samples indicated an average concentration of 9.7 fibers per cubic centimeter, a value essentially the same as that obtained from analysis of the ten-minute samples.
7. Six of the thirteen ten-minute samples obtained during sanding on the four joint compounds indicated concentrations in excess of five fibers per cubic centimeter. Both mixing operations generated asbestos concentrations in excess of five fibers per cubic centimeter.
8. Two of the thirteen ten-minute samples collected during the sanding tests indicated concentrations in excess of ten fibers per cubic centimeter, the acceptable ceiling concentration. One of the two mixing operations generated an asbestos-in-air concentration in excess of ten fibers per cubic centimeter.
9. Of the four products tested, sanding on 2R and 4D resulted in concentrations less than, but approaching, the current acceptable limit for continuous exposure of workers, five fibers per cubic centimeter. Product 4R consistently produced very high concentrations of total dust which obscured the asbestos fibers on the samples.

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CONCLUSIONS

following conclusions are presented on the basis of observations and measurements made during the study reported herein.

1. Based on the results of the ten-minute samples, it is apparent that the exposures of workers engaged in mixing and sanding of the various joint compounds used during this test would be to concentrations approaching or exceeding five fibers, greater than five micrometers in length, per cubic centimeter of air.
2. It is clear that persons engaged in the mixing and sanding of joint compounds similar to those used during this test would be exposed to concentrations of airborne asbestos in excess of two fibers per cubic centimeter during the entire course of their work. This value is the proposed acceptable limit for an eight-hour time-weighted average exposure to asbestos which is scheduled to become effective July 1, 1976.
3. With the exception of the tests conducted during sanding on joint compound 4R the results of analysis of the thirty-minute samples, using the redeposition technique, were consistently higher than those obtained by direct analysis of the ten-minute samples by a factor of 2-1/2 to 3-1/2. Therefore, it appears that use of the redeposition technique would result in the apparent concentrations of asbestos in air being higher than actually present and would therefore err on the "conservative" side.
4. Discounting the results obtained by analysis of the thirty-minute samples, for which the redeposition technique was used, three of the samples collected (mixing of 2D and sanding on 4R) indicated concentrations in excess of ten fibers per cubic centimeter and are therefore a concern as peak exposures. With those exceptions, the problem is one of controlling the time-weighted average exposures of workers to asbestos. In that respect, it must be pointed out that the sampling results reported herein are indicative of the exposures of workers during the mixing or sanding operations and not their time-weighted average exposure for a full workday.

RECOMMENDATIONS

The results of sampling reported herein should be analyzed in conjunction with a study of the work practices and routine of persons engaged in mixing, sanding or otherwise being exposed to joint compounds similar to those used in this study. In this way a true evaluation of the time-weighted average exposure of such workers to asbestos can be made. If it is true that, as reported by workers used during this test, it would be unlikely for an individual to mix or sand on the joint compounds for greater than two hours per workday, then the time-weighted average exposure of such workers to asbestos likely would be within acceptable limits. Of course, the problem of controlling any

exposures to below ten fibers per cubic centimeter would still have to be contended with.

from the standpoint of being able to eliminate or minimize the problem of excessive concentrations of asbestos being generated by handling and use of the joint compounds, consideration should be given to the following aspects.

- a. The most effective means of eliminating the asbestos problem obviously would be to eliminate asbestos from the joint compound formulations if this is feasible. Although the specific role that asbestos plays in the joint compound formulations is not clear it is understood that manufacturers of joint compounds consider it necessary that asbestos be in the formulations.
- b. From an engineering standpoint, it may be necessary to implement the following measures in conjunction with mixing and sanding of the joint compounds containing asbestos.
 - i. Mixing of the joint compounds could be done in such a way that the material is more effectively wetted as it is removed from the containers or could be done within an enclosure, with or without mechanical ventilation, so as to minimize the amount of asbestos fibers released into the breathing zone of the workers.
 - ii. Although the results of the air sampling reported herein indicate concentrations of asbestos fibers in excess of acceptable limits, either those currently enforced or those proposed to be made effective in July, 1976, it was obvious during the study that the sanding process in general has associated with it exposure of the worker to tremendously high concentrations of total dust. Therefore, if means were implemented to maintain the exposure of the workers to total particulate to within acceptable limits there would be an inherent control of the asbestos problem as well. Although more extensive in nature, engineering control of the total dust generated by the sanding operations is feasible. Such control techniques would include, but not be limited to, the use of a wet sanding technique and/or use of a portable local exhaust ventilation system incorporating, as the air moving device, a unit similar to common industrial vacuum cleaners and bag collectors.

The next phase of the testing program to control workers' exposures to asbestos during use of the joint cement compounds logically would be evaluations of the various potential engineering control concepts indicated or inferred above.

Report prepared by:

Robert D. Soule

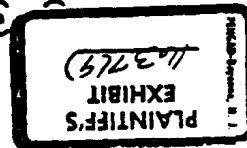
Robert D. Soule, P.E.
Vice-President, Industrial Hygiene Services

**GEORGE D. CLAYTON & ASSOCIATES
INDUSTRIAL HYGIENE SAMPLING SUMMARY**

Client Gypsum Association			Material			Asbestos		
1973 Date	Sample No.	JOINT COMPOUND 2D Description (a)	Sampling Period		Sample Weight	Sample Volume Liters	Concentration	
			Start	Stop			Fibers >5µm/cc	
11/19	2D-H	Mixing of compound (b)	09:28	09:34		13	31.4	
11/19	2D-S-1	Sanding on compound (c)	11:57	12:27		60	35.2**	
11/19	2D-S-2	Sanding on compound (c)	11:57	12:07		-	*	
11/19	2D-S-3	Sanding on compound (c)	12:07	12:17		-	*	
11/19	2D-S-4	Sanding on compound (c)	12:17	12:27		-	*	
11/19	2D-S-5	Sanding on compound (c)	12:27	12:57		60	43.6**	
11/19	2D-S-6	Sanding on compound (c)	12:27	12:37		-	*	
11/19	2D-S-7	Sanding on compound (c)	12:37	12:47		-	*	
11/19	2D-S-8	Sanding on compound (c)	12:47	12:57		-	*	

- (a) All samples were obtained in the breathing zone of the workers.
 (b) Mixing of Compound 2D was done by Mr. Harold McDowell in King's Hill Townhouse Unit U-81.
 (c) Sanding of Compound 2D was done by Mr. James Pasquariello in King's Hill Townhouse Unit U-77. Psychrometric conditions in U-77 at 11:45 were 56°F dry bulb, 41°F wet bulb (22% relative humidity)

too heavily loaded for direct analysis
 material on filter was taken into suspension and an aliquot
 redeposited for analysis



**GEORGE D. CLAYTON & ASSOCIATES
INDUSTRIAL HYGIENE SAMPLING SUMMARY**

Client **Cypsum Association**

Material **Asbestos**

1973 Date	Sample No.	JOINT COMPOUND 2R Description (a)	Sampling Period		Sample Weight	Sample Volume Liters	Concentration	
			Start	Stop			Fibers >5µm/cc	
11/19	2R-S-1	Sanding compound (b)	15:48	16:18		60	12.3**	
11/19	2R-S-2	Sanding compound (b)	15:48	15:58		20	4.5	
11/19	2R-S-3	Sanding compound (b)	15:58	16:08		20	4.2	
11/19	2R-S-4	Sanding compound (b)	16:08	16:18		20	4.1	
11/19	2R-S-5	Sanding compound (b)	16:18	16:48		60	9.9**	
11/19	2R-S-6	Sanding compound (b)	16:18	16:28		20	*	
11/19	2R-S-7	Sanding compound (b)	16:28	16:38		20	3.8	
11/19	2R-S-8	Sanding compound (b)	16:38	16:48		20	*	

- (a) All samples were obtained in the breathing zone of the workers.
 (b) Sanding of Compound 2R was done by Mr. David Potter in King's Hill Townhouse Unit U-79. Psychrometric conditions in U-79 at 15:45 were 39°F dry bulb, 35°F wet bulb (66% relative humidity).

* too heavily loaded for direct analysis

** material on filter was taken into suspension and an aliquot redeposited for analysis



GEORGE D. CLAYTON & ASSOCIATES
INDUSTRIAL HYGIENE SAMPLING SUMMARY

Client		Gypsum Association		Material		Asbestos	
1973	Sample No.	JOINT COMPOUND 4D (a)		Description		Concentration	
Date						Fibers	>5µm/cc
				Start	Stop	Sample Volume Liters	
11/19	4D-H	Mixing compound (b)		09:09	09:17	14.4	7.6
11/19	4D-S-1	Sanding compound (c)		10:20	10:50	60.0	15.5**
11/19	4D-S-2	Sanding compound (c)		10:20	10:29	18.0	5.2
11/19	4D-S-3	Sanding compound (c)		10:29	10:40	22.0	*
11/19	4D-S-4	Sanding compound (c)		10:40	10:50	20.0	3.7
11/19	4D-S-5	Sanding compound (c)		10:50	11:00	20.0	4.1
11/19	4D-S-6	Sanding compound (c)		10:50	11:20	60.0	14.1**
11/19	4D-S-7	Sanding compound (c)		11:00	11:10	20.0	*
11/19	4D-S-8	Sanding compound (c)		11:10	11:20	20.0	4.7

- (a) All samples were obtained in the breathing zone of the workers.
 (b) Mixing of Compound 4D was done by Mr. Harold McDowell in King's Mill
 Townhouse Unit U-80.
 (c) Sanding of Compound 4D was done by Mr. James Pasquariello in King's Mill
 Townhouse Unit U-76. Psychrometric conditions (dry and wet bulb temperatures) were not recorded.

* too heavily loaded for direct analysis
 ** material on filter was taken into suspension and an aliquot redeposited for analysis

EXHIBIT
1037(11)

GEORGE D. CLAYTON & ASSOCIATES
INDUSTRIAL HYGIENE SAMPLING SUMMARY

Client Gypsum Association

Material

Asbestos

1973 Date	Sample No.	JOINT COMPOUND 4R Description (a)	Sampling Period		Sample Weight	Sample Volume Liters	Concentration	
			Start	Stop			Fibers >5µm/cc	
11/19	4R-S-1	Sanding compound (b)	14:31	15:01		60.0	11.3**	
11/19	4R-S-2	Sanding compound (b)	14:31	14:41		20.0	6.3	
11/19	4R-S-3	Sanding compound (b)	14:41	14:51		20.0	7.5	
11/19	4R-S-4	Sanding compound (b)	14:51	15:01		20.0	19.9	
11/19	4R-S-5	Sanding compound (b)	15:01	15:31		60.0	8.1**	
11/19	4R-S-6	Sanding compound (b)	15:01	15:14		20.0	5.3	
11/19	4R-S-7	Sanding compound (b)	15:11	VOID		-	-	
11/19	4R-S-8	Sanding compound (b)	15:18	15:31		26.0	15.0	

- (a) All samples were obtained in the breathing zone of the workers.
(b) Sanding of Compound 4R was done by Mr. David Potter in King's Hill Townhouse Unit U-78. Psychrometric conditions in U-78 at 14:45 were 44°F dry bulb, 38°F wet bulb (68% relative humidity).

** material on filter was taken into suspension and an aliquot redeposited for analysis

EXHIBIT
1037021


GEORGIA-PACIFIC
INTERDEPARTMENTAL COMMUNICATION
TO: Mr. John Woodsmall
DATE: June 19, 1973
FROM: C. W. Lehnert
LOCATION: Detroit Sales
SUBJECT: ASBESTOS FIBER IN JOINT COMPOUNDS
LOCATION: Tigard Lab
**cc: Mr. O. E. Burch - Portland
Mr. T. W. Richards - Tigard
Mr. T. R. Godfrey - Portland**
THIS COPY FOR

I will try to respond to your customers' concern about asbestos fiber prompted by our labeling of joint system bags. This caution label is required by the Occupational Safety and Health Administration (OSHA). We have always used asbestos fiber in our joint system products, so if there is a hazard, it is no different today than it has been in the past. The hazard is the inhalation of asbestos fiber. The degree of hazard would depend on the concentration of asbestos fiber in the air and duration of exposure to that air. The health problems associated with asbestos have occurred in situations where workers have been exposed to high concentrations of asbestos fiber over a period of years. Joint compounds contain relatively small percentages (2-5%) of asbestos fiber.

OSHA has imposed a number of stringent standards on plants where products are manufactured containing asbestos fiber. These include limitations on the concentration of fiber in the air, procedures for handling the asbestos fiber, use of protective devices (respirators), periodic medical examinations, and labeling of all products containing asbestos fiber.

I am not aware of any OSHA regulations for the use of joint system products. However, it is recognized that there is some exposure during the mixing of dry products and the sanding of joints after the joint compounds have been applied. The level of asbestos fiber concentration at these times is not presently known. The industry is currently planning tests to determine the level of airborne asbestos during the mixing and sanding. In the meantime, it would probably be advisable for workers engaged in these operations to wear respirators. Once mixed or wetted, the asbestos fiber is not subject to becoming airborne and, therefore, is no longer hazardous. For example, ready mixed products would present no problem other than perhaps the sanding.



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GYPSUM DIVISION

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P
Y

Mr. John Woodsmall

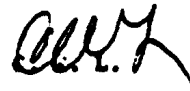
-2-

June 19, 1973

One solution of the asbestos fiber problem for all concerned is to eliminate it from our products. We are engaged in a program to find ways to do this. Our first efforts were with joint system textures because we felt the spray application presented some special problems. At this time we are about 90% converted to non-asbestos texture formulas. We are now directing our attention to our dry and ready mixed joint compounds.

I hope this information will answer our customers' questions concerning the possible hazards of asbestos fiber and the actions being taken to eliminate or minimize these hazards.

CWL:als

A handwritten signature in dark ink, appearing to be 'C.W.L.' followed by a stylized flourish.

3. OC, Yardville Branch
New Jersey 08620 609/585-1100

THE UNIVERSITY OF CHICAGO

THE EVENING TIMES, TRENTON, N.J., FRIDAY, AUGUST 29, 1975

Spackling may harbor dangerous asbestos level

By FRANCES CERRA
New York Times Service

NEW YORK — Do-it-yourselfers who repair their own plaster or plasterboard walls should be aware of recent research indicating that some commonly available spackling compounds contain asbestos, a substance that has been linked to fatal cancers and serious lung diseases.

The Environmental Sciences Laboratory at Manhattan's Mount Sinai Hospital under the direction of Dr. Irving J. Selikoff, recently released the results of tests of 15 kinds of snackle that had been purchased in New York City. Five were found to contain appreciable amounts of asbestos. (Some of the samples were duplicate brands bought at different times.)

According to Dr. Selikoff, the union of Drywall Tapers and Painters of Greater New York called his attention to the possibility that the spackle might contain asbestos. John Alfano, an official of the union, said some of the members became ill and were found to be suffering from asbestos-caused diseases.

AS A RESULT of Dr. Selikoff's findings, he said, his union members will no longer work with any spackle that contains asbestos, and will only sand the dried spackle if they are provided with masks. The asbestos in spackle is released into the air, according to Dr. Selikoff, when the dry lumps are mixed with water to make

a paste and when any form of spackle is sanded.

Dr. David Rall, director of the National Institute of Environmental Health Sciences, said it was doubtful that someone doing a small amount of sparkling work at home was in any danger. But he said that someone redoing the walls of an entire house might be taking "an unnecessary risk."

Extensive research on the results of long-range, low-level asbestos exposure is in progress, he said.

A spokesman for U.S. Gypsum, the manufacturer of one of the spackling brands found to contain asbestos, said the company was phasing out the production of spackles with asbestos. A spot check of several Manhattan paint stores found cans of U.S. Gypsum's Textolite, which contains from 6 to 10 percent asbestos, still on the market. Also found was another U.S. Gypsum product called

Durabond Paste Spackling, which was labeled: "Caution: Contains asbestos fibers. Avoid creating dust. Breathing asbestos dust may cause serious bodily harm."

THE OTHER PRODUCTS found by Dr. Selikoff to contain asbestos were Perf A Tape, Metro and Arvon. The Perf A Tape was counted twice by Dr. Selikoff, because it was purchased and tested twice, only in 1972 or earlier, and later in January, 1974. Products found to be without asbestos were Red Top, Muralo, Patch Paste, Schaik, U-G-L Cerfix Kex, New Kex and Dap. Dr. Selikoff cautioned that the products on the market today might contain different ingredients.

Persons wishing to minimize any risk should use only paste spackles and should wear a mask when sanding. Most labels on spackle products do not disclose the constituents that went into them.

Xcc: chet Smalley
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