

1 LAURA MADDEN, individually and as) IN THE DISTRICT COURT
Personal Representative of the) SOUTHERN DISTRICT
2 Heirs and Estate of THOMAS) OF TEXAS
MADDEN, JR., Deceased.)

3 Plaintiffs,) GALVESTON DIVISION
)

4 vs.) No. 3-02CV00194
)

5 Able Supply Company, INC.,)
et al.,)

6 Defendants.)
)

7 COLLEEN CARTER, Individually and) IN THE DISTRICT COURT
as Personal Representative of the) EASTERN DISTRICT OF
8 and Estate of MARVIN CARTER,) TEXAS
Deceased; and SUZETTE OLSON,)

9 Individually and as Personal) PARIS DIVISION
Representative of the Heirs and)

10 Estate of ORVILLE OLSON, Deceased) No. 3-02CV00009
Plaintiffs,)

11)
)

12 vs.)
)

13 ACandS, INC., et al.)
Defendants.)

14 IN RE:)
FEDERAL-MOGUL GLOBAL, INC.)

15 Debtor,) IN THE DISTRICT COURT
WESTERN DISTRICT OF
16 TEXAS

17 DIANE MATHIAS, Individually and)
as Personal Representative of the) EL PASO DIVISION
Heirs and Estate of GEORGE)

18 MATHIAS, Deceased,) No. 01-10578
Plaintiffs,)

19 vs.) EP 01 CA 0380 DB
)

20 ACandS, INC., et al.)
Defendants.)

21)
)

22 ORAL DEPOSITION OF)
JAMES M. GATE)

23 June 18, 2002)
ORIGINAL)

24 --oOo--)
25)

1 ORAL DEPOSITION OF JAMES M. GATE, produced as a
2 witness at the instance of the Plaintiffs, and duly
3 sworn, was taken in the above-styled and numbered cause
4 on the 18th of June, 2002, from 10:35 a.m. to 6:15 p.m.,
5 before LAURA D. FOWLER, CSR in and for the State of
6 California, reported by machine shorthand, at
7 Morgenstein & Jubilirer, One Market Plaza, Spear Street
8 Tower, 32nd Floor, San Francisco, California, pursuant
9 to the Texas Rules of Civil Procedure and the provisions
10 stated on the record or attached hereto.
11
12

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I N D E X

PAGE

Appearances..... 2-4

WITNESS: JAMES M. GATE

Direct Examination by Mr. Siegel..... 11

Cross-Examination by Mr. Harvard..... 177

Redirect Examination by Mr. Siegel..... 199

Recross-Examination by Mr. Harvard..... 212

Redirect Examination by Mr. Siegel..... 213

1	PLAINTIFFS' EXHIBITS		
2	PLAINTIFFS' EXHIBITS		PAGE
3	1	Master Plan for Plan No. 56J651	77
4	2	Certification Data for Voltage Regulators	87
5	3	Military Specification for Turbine, Steam, Auxiliary, Mechanical Drive	90
6			
	4	Chapter 39 of Bureau of Ships Manual	98
7		Thermal insulation	
8	5	Instruction Book 8021	102
9	6	Defendants' Westinghouse Electric Corporation's Supplemental Response to Plaintiff's Second Supplement of Master Set of Interrogatories	118
10			
11			
	7	Process Specification 600729	120
12			
	8	Steam Supervisors Letter No. 5-8 dated June 17, 1950	123
13			
14	9	Letter from Lester Works dated 12/27/62	126
15	10	Declaration of Joseph Chilcote	127
16	11	Excerpts from deposition of John Haas	127
17	12	Military Specification Turbine Steam Propulsion	161
18			
	13	Affidavit of James M. Gate regarding Mathias	165
19			
20	14	Affidavit of James M. Gate regarding Carter	165
21			
	15	Affidavit of James M. Gate regarding Madden	165
22			
23			
24			
25			

1	DEFENDANTS' EXHIBITS		
2	WESTINGHOUSE		
3	EXHIBITS		PAGE
4	A	Letter dated June 14, 2002 to Michele Norton from Rose Marie Wade	10
5	A-1	Record Title Sheet Marine Turbine	10
6	A-2	Record Title Sheet Marine Turbine	10
7	A-3	Copy of caution plate	10
8	A-4	Copy of caution label	10
9	A-5	Plan 95-J-538	10
10	A-6	Plan 906JO30	10
11	A-7	Plan I-JH-3374	10
12	B	Letter dated June 14, 2002 to Michele Norton from Rose Marie Wade	10
13	B-1	Shop order	10
14	B-2	Purchase orders	10
15	1	Technical Manual 1430-C109	10
16	2	Technical Manual 1410-C64	10
17	3	Marine Propulsion Equipment	10
18	4	Instruction Book 6495	10
19	5	Instruction Book 8021	10
20	6	Instruction Book 8238	10
21	7	Turbine Record for 5-A-912-1 thru 10	10
22	8	Turbine Record for 1-A-9673-1 to 360	10
23	9	Turbine Record for 2-A-7006-1 to 196	10
24	10	Turbine Record for 2-A-7007-1 to 98	10
25			

DEFENDANTS' EXHIBITS

(Continued)

WESTINGHOUSE

3	EXHIBITS	PAGE
4	11 Turbine record for 2-A-7008-1 to 98	10
5	12 BuShips Manual Chapter 39	10
6	13 MIL-M-15071H	10
7	14 MIL-P-17286C	10
8	15 MIL-T-17523	10
9	16 MIL-T-17523A	10
10	17 MIL-T-17523D	10
11	18 MIL-T-7600	10
12	19 MIL-T-17600A	10
13	20 MIL-T-17600B	10
14	21 DWG No. 1-JA-9156	10

1 JAMES GATE,
2 called as a witness, after being first duly sworn,
3 was examined and testified as follows:

4 --oOo--

5 P R O C E E D I N G S

6 --oOo--

7 MR. HARVARD: I'm Bill Harvard. I'm here
8 representing Viacom. Plaintiffs had sent out a notice
9 to take the deposition of Jim Gate. Attached to it is a
10 request for any documents upon which Mr. Gate may have
11 relied in preparing his affidavit. Westinghouse has
12 responded by forwarding, prior to the deposition, a copy
13 of those materials upon which Mr. Gate may have relied
14 in preparing his affidavit.

15 As I explained to counsel for plaintiff prior
16 to the deposition, there may be additional materials
17 which Mr. Gate has reviewed generally over the years
18 dealing with military specifications or requirements of
19 the U.S. Navy or Westinghouse practice or procedure
20 manuals upon which he generally relies because they have
21 formed the basis of what he learned and knows as an
22 engineer which are not being produced.

23 One, because he may not know where the heck
24 they are, couldn't locate them. Two, they are materials
25 which may no longer be retained and accessible to him.

1 Or three, they just generally form the background of
2 what he's learned and he can't identify them with
3 specificity.

4 However, we have provided materials which I'll
5 ask the court reporter to mark in response. First is
6 Exhibit A to the deposition which is a copy of a
7 two-page letter to Michelle Norton of Waters and Kraus,
8 Counsel for plaintiff, from Rose Marie Wade of my office
9 representing Viacom which identifies 21 items produced
10 pursuant to the request, which include generally
11 MilSpecs, turbine records and instruction books, and are
12 outlined with more specificity in that correspondence.

13 Additionally, there is a second letter, which
14 I'll ask be marked as Exhibit B, a copy of the letter
15 also dated June 14 via Fed Ex to Michelle Norton from
16 Rose Marie Wade which forwarded specific documents
17 additionally relating to this deposition, primarily
18 drawings and turbine records. A total of seven. I have
19 marked the 21 documents addressed in the June 14 letter
20 as Exhibit A as Exhibits 1 through 21 and the seven
21 documents, which were attached to the June 14th letter
22 marked as Exhibit B as A-1 through A-7.

23 Additionally, this morning Mr. Gate brought
24 with him to the deposition two additional documents
25 which appear to be contracts relating to one or more of

1 the ships at issue with respect to Westinghouse, supply
2 of materials to the U.S. Navy and I will ask the court
3 reporter to mark them as B-1 and B-2, a copy of which
4 has been provided at the beginning of this deposition to
5 counsel for plaintiff. Off the record.

6 (Marked Exhibits A through B.)

7 MR. SIEGEL: I'll need to make a short
8 statement for the record, too. This deposition is being
9 taken or has been noticed in three cases; the Madden,
10 Carter and Mathias cases, all of which have been removed
11 to Federal Court. Plaintiffs are taking this deposition
12 as part of their -- as discovery related to and in
13 connection with and subject to their motions for remand
14 in all three cases.

15 I realize in the Madden case that motion has
16 already been denied as to Westinghouse, but we have
17 motions for -- or a motion for reconsideration pending
18 which has not been formally ruled on, although the case
19 has been stayed. So this deposition is being taken in
20 these cases without waiver of plaintiffs' position. The
21 federal jurisdiction is improper and its discovery
22 connection to plaintiffs' contention in that regard.

23 MR. HARVARD: Bill Harvard, briefly I would
24 also note for the record I think my office received this
25 yesterday for procedure purposes a copy of notice that

1 each of these three cases have had a conditional
2 transfer order entered transferring them to the MDL. I
3 don't know if you all got a copy of that.

4 MR. SIEGEL: It's probably there in our
5 office.

6 MR. HARVARD: I have a copy if you'd like to
7 see it. We don't claim or suggest that should stop the
8 proceedings today, but just so everybody understands
9 what court this is or may be pending in, I bring it to
10 everyone's attention.

11 MR. LOWERY: James Lowery for Godwin Gruber
12 in Dallas, here for Halliburton Company, Kellogg, Brown
13 & Root, and Dresser Industries, Inc., in the various
14 cases to the extent that those entities are not stayed
15 by the February 14th, 2002, order of the bankruptcy
16 court of the Western District of Pennsylvania.

17

18 DIRECT EXAMINATION BY MR. SIEGEL

19 MR. SIEGEL: Okay.

20 Q. Could you state your full name, please?

21 A. James Mark Gate.

22 Q. And your address?

23 A. 13945 Malcolm Avenue, Saratoga, California,
24 95070.

25 Q. Is that near Sunnyvale?

1 A. Yes, it is.

2 Q. Is Saratoga near Sunnyvale? Today you are no
3 longer employed by Westinghouse; is that correct?

4 A. That is correct.

5 Q. And you retired from them in 1994?

6 A. That is correct.

7 Q. I want to make sure I understand the status of
8 the entity that you retired from because I've seen in
9 some other depositions a reference to Westinghouse
10 having been sold or -- sold to or bought by Northrop
11 Grumman or certain operations of Westinghouse; is that
12 correct?

13 MR. HARVARD: I'm going to object to the form
14 of the question as being outside the scope of this
15 witness' knowledge. He can respond what his
16 understanding is. He is not an officer, director or
17 agent of Westinghouse whose understanding or opinion on
18 this reflects the corporate realities of what transfers
19 may have occurred.

20 MR. SIEGEL: Q. Sure. You can answer if you
21 can.

22 A. Our division at Sunnyvale, which at one time
23 was part of Westinghouse, was the Marine Division. The
24 Marine Division sometime in 1996 or '97 was sold to
25 Northrop Grumman. Our plant is still there. The signs

1 have changed to Northrop Grumman and we continue to do
2 the same type of business.

3 Q. Okay. Now, I know you've been deposed several
4 times in the past; is that correct?

5 A. Yes.

6 Q. And you've given trial testimony as well?

7 A. Yes.

8 Q. Okay. So you're familiar with the ground
9 rules of the deposition and we don't need to go over
10 those. The only one I want to state on the record is
11 that if for any reason you don't understand the question
12 that I'm asking you, you'll let me know that and if you
13 don't let me know that, I'm going to assume that you did
14 understand the question.

15 Is that a fair agreement that we can have?

16 A. Yes.

17 Q. Now, what are -- do I understand that you now
18 work part time for an entity called STS?

19 A. That is correct.

20 Q. And explain to me what STS is.

21 A. STS is a private firm and the home office is
22 in -- I think it's in Kansas, but they hire people to
23 help out at various Westinghouse plants. Most of them
24 were service engineers. When Northrop Grumman saw fit
25 to see that they had to be able to get the records, they

1 went to STS and decided that, hey, we need help as far
2 as our records are concerned. And so I was asked by STS
3 to see if I could take the position with them and stay
4 at the Northrop Grumman, Sunnyvale plant to help them
5 out.

6 In this way, their everyday business of
7 Northrop Grumman, let's say, they would have the records
8 available and for new contracts and for past contracts
9 and for the service people and that's how I'm there or
10 the reason I'm there.

11 MR. HARVARD: Hold on. Would anybody who's on
12 the phone please hit the mute button on the phone.
13 We've heard some folks clanking away on their keyboards.
14 We'd appreciate it.

15 MR. SCOTT: Sure. Before we begin or go
16 forward, can we have the witness get closer to the
17 phone. I'm having a hard time hearing.

18 MR. SIEGEL: Q. Do you have a record
19 schedule at STS or do you work on a project basis as the
20 need arises?

21 A. I work on a project as the need arises. I do
22 not have a regular schedule.

23 Q. Do you have an office at STS?

24 A. Yes, I do. I have an office.

25 Q. And does STS have a physical office there at

1 the Northrop Grumman facility in Sunnyvale?

2 A. Yes.

3 Q. And you go there on a regular basis to your
4 office?

5 A. Yes.

6 Q. Approximately how many hours per week do you
7 spend working for STS?

8 A. It's about 20 hours and may go as high as 30
9 hours.

10 Q. Okay. STS is a subsidiary of Westinghouse, to
11 your knowledge?

12 A. No.

13 Q. STS is just a division within Westinghouse?

14 A. No. Westinghouse is a private firm. It has
15 stock and I don't know what else to say, but it's a
16 private firm. Privately held firm.

17 Q. I understand that you're not being produced as
18 a person to testify about the corporate status of any
19 entity, including Westinghouse or STS, but I just want
20 you to give me your understanding of the relationship
21 between STS and Westinghouse.

22 A. STS personnel were -- some of them were
23 Westinghouse people or engineers. STS, though, also
24 hires -- most of them are retired personnel from other
25 companies, but they are mainly there to help service

1 turbine type equipment or ancillary equipment, various
2 types of equipment, but they are service engineers.

3 Q. What do the letters STS stand for?

4 A. Senior technical services.

5 Q. Is that co-owned by Westinghouse?

6 A. No.

7 Q. It's a separate company that just does a lot
8 of work for Westinghouse?

9 A. That's correct.

10 Q. Does it do work for any company other than
11 Westinghouse?

12 A. Yes, it does.

13 Q. Other than Northrop Grumman?

14 A. Yes, it does.

15 Q. Who would those companies be?

16 A. I don't know.

17 Q. Do you know if the majority of its work is
18 done for Westinghouse?

19 A. No, I don't. I do know this, though, I was
20 asked to go to China and spend five years there in
21 helping out a project that had nothing to do with
22 Westinghouse.

23 Q. I see.

24 A. So they get individual contracts for equipment
25 abroad or within the United States and they send

1 engineers out there.

2 Q. When were you asked to do that?

3 A. I was asked to do that '98, 1998.

4 Q. I take it you did not go?

5 A. I'm still here.

6 Q. Have you yourself done any work for -- in
7 regard to companies other than Westinghouse while being
8 paid by STS?

9 A. No. Let's see, when I -- no. I just haven't.

10 Q. Okay. Now, have you done work for
11 Westinghouse or in connection with Westinghouse on
12 projects other than those resulting from litigation?

13 MR. HARVARD: I'm going to object to the form
14 because I'm not sure that's clear, but if he can answer.

15 THE WITNESS: The answer is yes, I've worked
16 for projects for and with Northrop Grumman engineers.

17 MR. SIEGEL: Q. That had nothing to do with
18 any type of litigation, to your knowledge?

19 A. That's correct.

20 Q. How about for Westinghouse?

21 A. For Westinghouse, it would be litigation work.

22 Q. Okay. And has all of that litigation work
23 been -- let me ask you this: Has all that litigation
24 work been in connection with the Evert and Weathersby
25 firm?

1 A. No.

2 Q. What other law firms have you done work for?

3 A. What's that one in Richmond, Virginia?

4 Q. The McGuire Woods firm?

5 A. McGuire Woods is one. This one here,

6 Morgenstein. There's a couple of others.

7 MR. HARVARD: You want me to help him?

8 THE WITNESS: Eckert Semans. I don't know if
9 you can name some more.

10 MR. HARVARD: Bill Bradley in New York.

11 THE WITNESS: Oh, yeah, Akin Gumb.

12 MR. HARVARD: And in West Virginia, Dave
13 Henderson?

14 THE WITNESS: That's right. Dave Henderson.
15 Scott Long.

16 MR. SIEGEL: Q. Now, you've written three
17 affidavits; one affidavit for each of the cases we're
18 here to discuss today. And we're going to go through
19 those affidavits in detail later and we'll mark them as
20 exhibits later, but all of these affidavits have to do
21 with Navy involvement or, as you put it, control over
22 the design and construction and operation of turbines
23 manufactured by Westinghouse; is that a fair statement?

24 A. That is a fair statement.

25 Q. Has any of your litigation work for

1 Westinghouse involved any other subject?

2 A. No.

3 Q. To your knowledge, and you may or may not know
4 this, has any other person done work of this type that
5 you've done for Westinghouse for Westinghouse?

6 A. I don't know.

7 Q. Okay. So there's no one to your knowledge?

8 A. That's correct, I don't know.

9 Q. What is your rate of pay and how you are paid
10 by STS?

11 A. My rate of pay is \$50 an hour.

12 Q. And are you paid on some different scale for
13 deposition work?

14 A. For deposition my rate of pay is \$150 per
15 hour.

16 Q. When you search for records relevant to a
17 particular ship as you have done in these affidavits or
18 in connection with these affidavits, are you being paid
19 at the \$50 rate?

20 A. Yes.

21 Q. And you get a paycheck from STS?

22 A. Yes.

23 Q. Have you ever gotten any check from
24 Westinghouse since you've retired and started doing this
25 type of work?

1 A. No.

2 Q. Have you ever received a check from Evert and
3 Weathersby?

4 A. No.

5 Q. Or any other of these law firms you've
6 mentioned?

7 A. Yes, I have.

8 Q. Okay. Who would that be?

9 A. Akim Gumb, Eckert Semans.

10 Q. Are you paid by someone else just for
11 depositions or how does it work? Do you submit your
12 bill for depositions to STS or to the law firm or
13 somebody else?

14 A. I submit my bill to the law firm.

15 Q. And you typically get a check back from the
16 law firm?

17 A. Yes, but it takes a long time.

18 Q. My clients say the same thing. Okay. And so
19 in other words, at the end of today's deposition you'll
20 draw up a bill for however many hours it takes and send
21 it to Mr. Harvard?

22 A. Yes.

23 Q. And do you understand that you are appearing
24 in this deposition and in these others as a witness for
25 Westinghouse Corporation?

1 A. Yes.

2 Q. By the way, when I say Westinghouse
3 Corporation, is the correct name of that entity that
4 we're referring to Westinghouse Electric Corporation?

5 A. No. What you really should refer to is that I
6 represent the Westinghouse Marine Division and the
7 Marine Division was a separate entity as far as
8 engineering and a department was concerned in producing
9 turbines.

10 Q. But it was not a separate corporation?

11 A. But it was not a separate corporation.

12 Q. And the name of the corporation that it was a
13 division of was Westinghouse Electric Corporation?

14 MR. HARVARD: If you know.

15 MR. SIEGEL: Q. If you know.

16 A. I don't know.

17 Q. You simply thought of it as Westinghouse?

18 A. That's right.

19 Q. All right. I want to discuss with you the
20 process by which you search for records in connection
21 with litigation cases. First I want to ask you to tell
22 me what you know, if anything, about the nature of this
23 lawsuit. When I say this lawsuit, I mean the three
24 cases that this deposition was being taken in.

25 A. All I understand is that what was said earlier

1 by you stating that it was in Federal Court and you
2 would like to remove it from Federal Court. That's all
3 I know.

4 Q. Where do you get that understanding?

5 A. From what you had stated earlier.

6 Q. From my remarks at the beginning of the
7 deposition?

8 A. That is correct.

9 Q. Have you had any discussions with Mr. Harvard
10 about the nature of this lawsuit?

11 A. Yes, I've had discussions with Mr. Harvard.

12 Q. And what did he tell you was the nature of
13 this lawsuit?

14 A. That it's possible that you could ask me quite
15 a number of questions from my affidavits.

16 Q. Did he tell you, for instance, who the
17 plaintiff is in the lawsuit? Do you know what I mean
18 when I say plaintiff?

19 A. The person that's using your firm to bring the
20 case.

21 Q. Right. Okay.

22 A. Right.

23 Q. Did he tell you who the plaintiffs are in
24 these three lawsuits?

25 A. He may have, but I don't try to remember them.

1 Q. Sure. Okay. And do you understand -- do you
2 have any knowledge of what allegation is being made by
3 the plaintiffs in these lawsuits?

4 A. When you say allegation -- what allegations
5 they are making, no, not always because I only get the
6 name of the ship, which I know that is involved with the
7 lawsuit and I just researched the ship. I don't -- I do
8 not get involved with whatever claims they have.

9 Q. Okay. What else did Mr. Harvard tell you or
10 ask you in connection with this work?

11 A. You're going to ask me a lot of questions.

12 Q. That's it?

13 A. That's it.

14 Q. When did Mr. Harvard first contact you about
15 any of these three cases?

16 A. It was not Mr. Harvard. It was probably
17 someone at Eckert Semans wanting to know if I had the
18 records or could pull records on three ships, three or
19 four ships.

20 Q. And maybe you can answer this, but where and
21 what is the firm of Eckert Semans? I don't know them.

22 MR. HARVARD: They are out in Pittsburgh, Bob
23 Pulasi (phonetic) and some others were there formerly
24 affiliated with Westinghouse. They assumed the role
25 that McGuire Woods had served for Westinghouse a number

1 of years ago. They act as national coordinating and
2 discovery counsel for Westinghouse in the cases. If you
3 send a discovery request, they are the ones who have --
4 if you want to go look at the repository of documents
5 and some at McGuire, you would go through Eckert Semans
6 for it now. That's a role they've been serving for a
7 number of years.

8 MR. SIEGEL: Q. And who is the person that
9 contacted you at that firm?

10 A. Probably Laura Tate.

11 Q. When did she first contact you about any of
12 these cases?

13 A. A couple of months ago.

14 Q. A couple of months ago?

15 A. Yes.

16 Q. Do you have any better idea of the exact time?

17 A. No. Because I get requests for ships about
18 every other day.

19 Q. Really?

20 A. And some of the lists are really long.

21 Q. Does she call you up and say we need the
22 records on such and such ship, or does she have any
23 greater discussion with you about what they need?

24 A. It's generally e-mail and it's generally the
25 name of the ship and hopefully the time frame on which

1 the person had served aboard it. If she doesn't give me
2 that, I go back and ask her, hey, I need to know what
3 years the person was involved and served aboard that
4 ship or worked on that ship, but that's about it.

5 Q. Now, have you had any discussions with her or
6 someone else at that firm about the nature of the
7 allegations in this case? I earlier asked you about Mr.
8 Harvard, but I mean to extend that question to her and
9 anyone else at her firm.

10 A. The answer is no.

11 Q. Or anyone else at any firm for that matter?

12 A. I try not to get involved with that because I
13 have enough to do just finding records.

14 Q. Okay. So are you aware at all that the three
15 plaintiffs in these cases are widows who are making a
16 claim for the death of their Navy seamen husbands?

17 A. No, but I have seen on occasion where a widow
18 or a person involved with someone who had passed away
19 did have an affidavit only because I happen to see a
20 woman's name on there and I said, "Why? Is this a
21 shipyard worker?" My first question. And the answer is
22 no. I said, "Oh, well, that's all I need to know."

23 Q. So you thought the fact that it was a woman
24 made you question whether the woman herself was a
25 shipyard worker?

1 A. Yes, exactly.

2 Q. And then you learned she was a widow seeking
3 recovery for the death of her husband?

4 A. Yes.

5 Q. Okay. All right. When Ms. Tate -- is it
6 Tate, Laura Tate?

7 A. Laura Tate.

8 Q. -- sends you these e-mails, again, all she
9 puts in is here's the ships and here's the dates?

10 A. That's right.

11 Q. And you know from that information that you
12 are supposed to go get what exactly?

13 A. What I do is that from that information I try
14 to find that, number one, that the ship actually had
15 Westinghouse equipment aboard it. And I checked with
16 James and I check around and if it does, then what I do
17 is get an idea as to what equipment we may have had on
18 that ship and then we have a system that was set up
19 to -- by ships' names that we can tell that information
20 of the type of equipment aboard that ship.

21 For the turbines I pull the turbine records to
22 see if drawings were made and especially if thermal
23 insulation drawings were made or attachment drawings
24 were made. And once I know that, I can get back to her
25 and say that yes, I found the drawing list and I know

1 that it is our equipment and it's these types of
2 turbines, and yeah, it's ours.

3 Q. Do you save the e-mails from Miss Tate or do
4 you delete them?

5 A. You don't want to save too many. I can get --
6 I can knock off a hundred in a week easily.

7 Q. Knock off a hundred what?

8 A. E-mails.

9 Q. But --

10 A. It's coming in at a rate of about almost 15 to
11 20 per day, but it's not all litigation work. It's the
12 Spam, you know, and all that stuff that's coming in.

13 Q. Of course. When you delete them, is any
14 further effort made by you or someone else to erase them
15 from the computer's memory in any form or fashion?

16 A. I do.

17 Q. You do?

18 A. I do.

19 Q. So are they deleted forever or just deleted
20 from your inbox?

21 A. Oh, no, they are deleted forever.

22 Q. They could not be recovered at this point?

23 A. That's right. I tried a couple of times.

24 Q. Really?

25 A. Right. I couldn't get it.

1 Q. Why do you do that?

2 A. Because I don't want my memory to slow it up.

3 Q. Were you ever asked to do that by Miss Tate
4 or anyone else?

5 A. Oh, no. No, it's my own habits.

6 Q. Okay. So, for instance, if we wanted to know
7 the exact date that Ms. Tate first contacted you about
8 any of these ships, at this point we would not be able
9 to determine that?

10 A. You could always ask Miss Tate.

11 Q. Right.

12 A. That's what I would do.

13 Q. Okay. Now, once you look for the information
14 that you described, what do you do with it?

15 A. I tell her that I have found the information.

16 Q. Okay.

17 A. And then she can get back to me with respect
18 to wanting a copy of it or not wanting a copy of it.

19 Q. Okay. And how long does that process take?
20 In other words, you send her an e-mail saying I've found
21 such and such records for such and such ships and I will
22 wait to hear back from you further; is that what goes
23 on?

24 A. That's how it works.

25 Q. Okay. And then how long does it take her to

1 let you know whether she wants you to do something
2 further in connection with that ship?

3 A. I don't know how much longer because sometimes
4 they never come back.

5 Q. Typically when she does ask you to do
6 something further, how long does that take for her to
7 get back to you? It can vary?

8 A. It varies. There's no set pattern.

9 Q. And if she does want further action from you,
10 what is it likely to be?

11 A. It comes as an e-mail as to what she wants.

12 Q. In these three cases, what did she ask you to
13 do further once you told her -- well, let's -- let me
14 start over.

15 In these three cases, I presume you found some
16 records on each case that prompted some further request
17 for action from her?

18 A. I was told to see if we had the material so
19 that we could prepare an affidavit.

20 Q. I'm sorry, what material?

21 A. The material being the drawing list and
22 drawings.

23 Q. So I want to make sure I understand correctly.
24 When she first contacted you about these cases, did she
25 tell you we are going to need an affidavit from you,

1 please look for the materials? Or did she just say
2 please let me know what you have on these ships?

3 A. It was more like please let me know what you
4 have on these ships, because she did not know whether it
5 was Westinghouse material on those ships or it was other
6 people.

7 Q. Okay. So you let her know what you had and
8 then she asked you to prepare an affidavit; is that
9 correct?

10 A. Right.

11 Q. And that would be true for each one of these
12 three cases?

13 A. Yes.

14 Q. That was the process that unfolded on each of
15 these cases?

16 A. Yes.

17 Q. Okay. When she asked you to prepare an
18 affidavit, again, do you know what date that would be
19 roughly?

20 A. No.

21 Q. But it would be less than two months ago, do
22 you think?

23 A. I think so.

24 Q. Okay. What do you do once she asks you to
25 prepare an affidavit?

1 A. I go and look at the affidavits that I had
2 prepared previously and I use that as a format. I check
3 the dates that the vessel was built and when the
4 plaintiff said that he served aboard it. And then I
5 then go and make sure that the time period is correct
6 and make out the affidavit.

7 Q. Now, do you have this affidavit as a form on
8 your word processing program?

9 A. I don't have it as a form, okay. I do have
10 copies of it and I keep it -- I keep a copy of it, so
11 that -- but, I suppose if I go to the last one -- let's
12 say this, I always have the last one.

13 Q. Right.

14 A. I don't have lots of copies.

15 Q. Right. So you go to the last one, substitute
16 the vessel and the dates and sign it; is that correct?

17 A. Well, in front of a notary.

18 Q. Right. Now, these affidavits are identical,
19 correct, except for the name of the ship and the number
20 of the ship?

21 A. No. There are -- there are changes in them
22 because from time to time when I go through and read
23 them I make little changes. It's a habit of an
24 engineer. He's always trying to improve and that's what
25 happens, but anyway, there are changes in there.

1 Q. Okay. Do you -- there may be, but I'm not
2 aware of any differences among these three affidavits
3 other than the name of the ship, wherever you recite the
4 name of the ship, that is changed and the number of the
5 ship. But otherwise, to your knowledge, are there any
6 differences among these three affidavits?

7 A. I would have to sit down and compare word for
8 word because I don't remember, let's say. Once I've
9 completed it, had it notarized and sent off, it's out of
10 my mind because I have to go on to the next item.

11 Q. Okay. When you decide to change the form, if
12 you will, and you said -- you've testified that you
13 occasionally tinker with the form, in other words, you
14 make changes other than changes related to specific
15 ships, you make changes in the universal statements, if
16 you will, do you discuss those changes with Ms. Gate --
17 I'm sorry, Ms. Tate or any other person?

18 A. No, I don't. It's -- it's my opinion and it's
19 my experience and from time to time I must admit that
20 I'm trying to improve upon getting the message across,
21 but it's strictly my writing.

22 Q. What is the message that you're trying to get
23 across?

24 A. What was happening as far as the ship was
25 concerned. I mean, what the Navy oversight was at our

1 plant, whether it be at Lester or whether it be at
2 Sunnyvale.

3 Q. How did you decide to try to get that message
4 across?

5 A. You're always trying to do that every time you
6 write an affidavit.

7 Q. Why?

8 A. Because that's my experience.

9 Q. But why is that a message that you want to
10 convey in these affidavits?

11 A. Because that's my experience.

12 Q. Who asks you to convey that message?

13 A. No one.

14 Q. Who first asked you to write such an affidavit
15 in the first place?

16 A. McGuire Woods, one of the -- probably one of
17 the very first cases.

18 Q. Whose decision was it to try to convey that
19 message?

20 A. It was me. They asked me if I could write an
21 affidavit on my experience. And I said I would sit down
22 and do it.

23 Q. But as you've testified, the affidavit is
24 written to convey a particular view of past events; is
25 that a fair statement?

1 A. Yes.

2 Q. And what I'm simply asking is who asked for
3 that view to be conveyed?

4 A. McGuire Woods.

5 Q. And roughly when was that?

6 A. Early '90s.

7 Q. And have you considered that the message that
8 is to be conveyed in these affidavits ever since?

9 A. Yes.

10 Q. And from time to time you make changes in the
11 form of the affidavit in order to better convey that
12 message; is that a fair statement?

13 A. Yes.

14 Q. And you say you've never discussed those
15 changes with McGuire Woods or Eckert Semans or anyone at
16 any law firm?

17 A. The discussion comes about when they review it
18 and they say, "Oh, you made a change."

19 I say, "Oh, sorry, I didn't point it out to
20 you." And that's how it comes about.

21 And then they say, "Are you aware that you are
22 changing?"

23 I said, "Yes, I'm aware that I'm changing."

24 Q. Okay. Have they ever asked you to not make a
25 certain change?

1 A. No.

2 Q. Have they ever expressed pleasure or
3 displeasure with any particular change you've made?

4 A. No.

5 Q. In other words, from time to time you simply
6 tinker with the affidavit and send it to them and that's
7 what it is?

8 A. Yes.

9 Q. And they've never attempted to change in any
10 way or influence in any way the content of the affidavit?

11 A. No.

12 Q. Okay. Now, I've seen past versions of the
13 affidavit and one change I've noticed is that the more
14 recent versions name individual people that you either
15 worked under or, quote, interfaced with; is that
16 correct?

17 A. That is correct.

18 Q. And that's a sort of change in the form that
19 has come about in the last two or three years. Would
20 that be a fair statement?

21 A. No. It happened many years ago, I thought.
22 It's more than five or six years ago.

23 Q. And why was that change made?

24 A. It was our understanding that the initial
25 affidavits that I made were too general. They had to be

1 more focused with the people that I interfaced with. I
2 said, well, that's not a problem. I said I can name all
3 these people and put the different time periods and so
4 when we know when the ship was built, we will name the
5 appropriate people who are in command. And that's why
6 you see changes.

7 Q. Who asked you to be more specific in terms of
8 naming people?

9 A. I think it was McGuire Woods.

10 Q. Okay. And did they tell you that that was a
11 change that was made necessary by a court decision or
12 anything or did they just ask for that change to be made
13 without telling you why?

14 A. There was something involved with the court.
15 I don't know the background, but there was a court
16 involved and therefore there was some concern whether I
17 could remember names and I said, "That's the easiest
18 thing for me to remember." I said, "I just didn't put
19 it in there."

20 Q. Did you read a copy of the court decision?

21 A. No.

22 Q. Did they tell what you the name of the court
23 decision was?

24 A. No.

25 Q. Does the Good case ring any bell to you?

1 A. No.

2 Q. All right. So you came up with data on these
3 three ships or ships relating to three people and you
4 inserted them into the appropriate places in the
5 affidavit and printed out three versions of the
6 affidavit and signed them in front of a notary; is that
7 correct?

8 A. Yes.

9 Q. And then you send them off to Miss Tate or
10 what?

11 A. Whoever wants it. I don't know who.

12 Q. What happens after that? What happens next in
13 the process?

14 A. I don't know.

15 Q. Do you -- did you at some point get a
16 communication from Miss Tate or someone else about a
17 deposition request?

18 MR. HARVARD: Are you talking about in these
19 affidavits?

20 MR. SIEGEL: These three cases.

21 MR. HARVARD: He's talking now about what
22 happened after you sent off the affidavits in these
23 cases that you've prepared. The ones that you prepared.

24 THE WITNESS: Yes. I did get a phone call or
25 I got an e-mail that said yes, expect to appear for a

1 deposition.

2 MR. SIEGEL: Q. How many times have you
3 testified in trial?

4 A. Once.

5 Q. And that was in Mississippi?

6 A. Yes.

7 Q. How many times have you been deposed?

8 A. Six or seven times.

9 Q. At any time has anyone from the -- from any
10 law firm asked you to make any other changes to the form
11 of the affidavit other than the change about specific
12 names of specific people?

13 A. No.

14 Q. Let me go through the people that you've named
15 with you because we're trying to locate them. A. L.
16 Rosenstein. First of all, what is his name?

17 A. I think it was Al Rosenstein.

18 Q. Al Rosenstein?

19 A. Right.

20 Q. And you refer to him as a chief INM. For the
21 record, what is an INM?

22 A. Inspector of Naval Machinery.

23 Q. And you refer to him as being formerly
24 stationed at the Westinghouse, Lester, Pennsylvania
25 plant. First of all, is the Lester, Pennsylvania -- is

1 Lester a suburb of Philadelphia?

2 A. Yes, it is.

3 Q. Is that the same as the South Philadelphia
4 Works?

5 A. Yes, it is. It's also known as Essington,
6 too.

7 Q. Yes, I've seen that as well.

8 What years did you, quote, personally interact
9 with Inspector Rosenstein, roughly?

10 A. Roughly, okay. Naturally 1953 when I came and
11 probably at least 19 -- I'm guessing -- '55, '56.

12 Q. Is that when he left Lester?

13 A. Yes. He was replaced. That is correct. He
14 was replaced by Earle -- I think his name was Oscar
15 Earle.

16 Q. O. Earle is Oscar Earle?

17 A. Yeah. I you're asking me 60-year-old
18 questions.

19 Q. Yes.

20 MR. HARVARD: And you're doing fine.

21 MR. RIDLEY: Tables are turned.

22 MR. SIEGEL: Q. All right. Now, did Al
23 Rosenstein go somewhere else with the Navy that you know
24 of?

25 A. I have no idea.

1 Q. Have you had any contact with him or
2 information about him since 1956 or so?

3 A. No.

4 Q. How old a man was he when you worked with him?

5 A. He must be in his 50s.

6 Q. At that time he was in his 50s?

7 A. I think he was in his 50s, and yeah, close
8 to -- between 50 and 60.

9 Q. It's going to be tough to find him today
10 probably?

11 MR. HARVARD: I'll put him as hundreds now.

12 MR. SIEGEL: Q. How about Oscar Earle?

13 A. Oscar Earle, he was about five or six years
14 younger and I think he was there -- I'm not too sure if
15 he was there when I left, but -- so he was -- if he took
16 over in about '55, '56 and I left in '64, so he could
17 have gone on or he could have still been there by 1960.
18 I just can't remember.

19 Q. Do you recall him being there at the time you
20 left in '64?

21 A. No, I don't. I don't know if he was there or
22 not there.

23 Q. Have you had any further contact with him or
24 knowledge of him since 1964?

25 A. No.

1 Q. Now, when you say you left in 1964, that's
2 because Westinghouse moved its --

3 A. Marine division to Sunnyvale.

4 Q. Did there continue to be a Westinghouse
5 operation in Lester, Pennsylvania?

6 A. No. There was not a Westinghouse Marine
7 Division operation. The only thing that happened was
8 that one engineer or two engineers remained behind to
9 oversee the completion of the manufacturing of the units
10 that were still in the shop. Once that ceased they then
11 came out to Sunnyvale.

12 Q. I see. Now, as I understand it, people such
13 as Captain Rosenstein and Captain Earle, were they
14 civilian Navy employees?

15 A. No, regular Navy.

16 Q. And they -- did they move with Westinghouse to
17 Sunnyvale?

18 A. No, they did not.

19 Q. Were there new people from the Navy who came
20 aboard, if you will, at Sunnyvale?

21 A. No. Sunnyvale also built missile tubes for
22 the submarines and they already had their own inspector
23 of Naval machinery and there were people there. I don't
24 know what the name -- I think that's where the name of
25 defense management contract came from, but they had

1 their own Naval personnel and people manning the office
2 were regular Navy also.

3 Q. Now, you mentioned another person at the
4 Lester plant, James Moodie. Okay. Tell me who he was.

5 A. James Moodie was the chief inspector for
6 manufacturing and for testing for the Navy.

7 Q. Okay. Now, he's -- did he have some different
8 status? He's not listed as a captain like Rosenstein
9 and Earle are.

10 A. I think he was civil service. I never saw him
11 with a uniform on. I never did address him as captain
12 or commander or anything like that. So I would say he
13 was civil service working for the Navy.

14 Q. Okay. All right. And did you lose contact
15 with him as well after 1964?

16 A. Yes.

17 Q. How old a man was he then?

18 A. '64, he was close to his 60s.

19 Q. And haven't heard anything about him or from
20 him since 1964?

21 A. No.

22 Q. Okay. All right. The next man you list is a
23 man named Howard Ball. Who was he?

24 A. Howard Ball was the head of the Marine turbine
25 and gear section at the Bureau of Ships. And he was

1 one -- since being head of the department of the
2 turbines, on occasion when we would go to Washington, we
3 would meet with him.

4 Q. And he was -- his office was in Washington,
5 not Philadelphia?

6 A. That's right. He is located at the Bureau of
7 Ships -- the old Navy building on Pennsylvania Avenue.
8 Well, that's where he was.

9 Q. So, the other people that we've talked about
10 up until now, Rosenstein, Earle and Moodie, they all had
11 offices right there at the Westinghouse plant in
12 Philadelphia?

13 A. That is correct.

14 Q. And their full-time jobs as either officers in
15 or employees of the Navy was to inspect equipment that
16 Westinghouse was manufacturing?

17 A. Yes, but not only that, they also monitored
18 our design work, our testing, our drawings. They looked
19 at our drawings. They would approve. They worked with
20 us in the tech manuals. They would approve them also.
21 They were in the approval process of whatever the Navy
22 ordered with respect to turbines.

23 Q. Now, was the only thing that was being made by
24 Westinghouse at this facility turbines?

25 A. No. At Lester we made the Marine turbines,

1 high pressure and low pressure turbine generator sets.
2 We made the condensers. We made the air rejectors. We
3 did make some of the pumps. We had our own design of
4 pumps, but we certainly made the turbine driving the
5 pump, so we made some types of pumps also there.

6 Q. Okay. And did the Navy personnel have
7 responsibility for looking at the work on all of those
8 products?

9 A. That is correct.

10 Q. All right. I'm going to ask questions about
11 that in a little while, but back to Howard Ball. Howard
12 Ball was a -- was he civilian or an officer?

13 A. Oh, he was civilian and he was in his early --
14 I wouldn't say early, late 50s or 60s because the people
15 rotated their chairs. As the senior one retired, then
16 the next one would go up the ladder and assume his
17 position.

18 MR. HARVARD: Roughly when was he in his late
19 50s?

20 THE WITNESS: Okay, that's a good point. '54
21 or '55.

22 MR. SIEGEL: Q. After 1964 did you ever go
23 back to Washington to meet Howard Ball?

24 A. Never saw him there.

25 Q. But you would occasionally make the same kind

1 of trips to Washington?

2 A. Yes, I would.

3 Q. All right. The next person you've listed is
4 Walter Sharp. Who is he?

5 A. Walter Sharp was a -- again, a civilian and he
6 headed up -- when I first met him he headed up the
7 turbine group and he did the main propulsion turbines
8 and he was responsible for the specifications of them
9 and testing and then he moved into Howard Ball's chair
10 when Howard left and then had the -- had that
11 department, the turbines and the gears and I think all
12 Marine equipment.

13 Q. So he was a civilian person at the Navy
14 department at the Bureau of Ships, more precisely, in
15 Washington, D.C.?

16 A. Yes.

17 Q. How old was he roughly?

18 A. Well, let's see, if he moved in there about
19 19 -- at that time he must have been about 55 or 50, 55.

20 MR. HARVARD: At what time?

21 THE WITNESS: Oh, that's in 1960.

22 MR. SIEGEL: Q. And any contact with him
23 after moving to California?

24 A. No.

25 Q. Last but not least, Robert Trout?

1 A. Robert Trout had the auxiliary turbines. They
2 are the turbines that drive the generators, the pumps
3 and the blowers. Robert -- this amazed me because he
4 wrote, I know, the specifications for small turbines and
5 he was -- he was about -- when I met him, first met him
6 in 1950s, at that time I thought he was in his mid to
7 late 50s, but yet I know that he was there longer --
8 longer than everyone else, so he probably was a little
9 longer than that, so that would say -- I'm saying 1953
10 or '54 he was -- let's say, he was about 50 or 51 or
11 something like that.

12 Q. Okay. I'm sorry, in what year was he, in
13 1954?

14 A. Yeah, '54.

15 Q. He was in his early 50s?

16 A. Yeah, he was in his 50s. He sort of fooled me
17 because he was always -- well, he sort of outlived, or
18 whatever you want to call it, stayed at the bureau
19 longer than any of his cohorts there.

20 Q. I see.

21 MR. HARVARD: Off the record a second.

22 (Discussion held off the record.)

23 MR. SIEGEL: Q. Okay. I think those are all
24 the individual persons that are referred to in these
25 affidavits.

1 Are there any other persons that you have not
2 mentioned in these affidavits, but whom you think of as
3 having worked under the direction of? Any other people,
4 Navy people that you can name?

5 A. No, I think I did a pretty good job with that.

6 Q. Um-hum. Now -- and you say that you've --
7 it's been at least 20 or 30 years, if not longer, that
8 you've had any contact with any of these people?

9 A. That is correct.

10 Q. Have you had any contact with anybody from the
11 Navy at all since you began doing this
12 litigation-related work? I mean, in regard to this
13 subject matter. I don't mean a social contact with
14 anyone. Somebody at the Navy, but have you spoken to
15 anyone at the Navy or formerly with the Navy concerning
16 this subject matter?

17 A. No.

18 Q. Have you spoken with anyone else other than
19 people working for these law firms concerning this
20 subject matter?

21 A. No.

22 Q. I think I've asked this before, but I need to
23 ask it again in case I didn't.

24 Have you done litigation related work for any
25 companies other than Westinghouse or Northrop Grumman?

1 A. No.

2 Q. In composing these affidavits, have you gone
3 back and looked at -- well, I know Mr. Harvard said that
4 you've -- you rely generally on, theoretically on
5 everything you ever saw in your career in the formation
6 of your opinion, but have you specifically gone back and
7 consulted any sources other than particular ship records
8 that you've been asked to look for?

9 MR. HARVARD: And the materials that we've
10 produced here today.

11 MR. SIEGEL: Q. Right.

12 A. They are the main sources of information that
13 I've used to prepare the affidavits.

14 Q. Okay. Do you have any changes in mind to any
15 future affidavits or do you have anything in mind right
16 now that you might use to improve the message, so to
17 speak, next time you write this affidavit?

18 A. No.

19 Q. Now, when you testified in trial in
20 Mississippi, did you -- was that the same message that
21 you were trying to convey?

22 A. Yes.

23 Q. And you viewed that as the purpose of your
24 trial testimony?

25 A. Yes.

1 Q. And what is your understanding of why that
2 message is called for or relevant to these legal
3 proceedings?

4 MR. HARVARD: If you have an understanding.

5 THE WITNESS: I don't in that the work that I
6 do is placed on the affidavit and I know I'm getting
7 asked a lot of questions, but the experience that I went
8 through when I first went with Westinghouse and in later
9 years when I had to design turbines hasn't changed. In
10 other words, the people that designed the World War II
11 destroyers, that interfaced with the people at the
12 Bureau of Ships. I've been all these people. I worked
13 with design engineers that explained to me the purpose
14 of why we did things the way we did and it made good
15 sense.

16 All I'm saying is that if there are
17 differences, in which I did point out, improvements in
18 the affidavits, it's only because working these
19 affidavits it suddenly dawns on me that the procedure
20 that I'm using or the method that I'm using I probably
21 didn't explain it quite that well. Even though it's
22 like 50 years ago, it's -- it can be highlighted a
23 little differently. But the systems we used hasn't
24 changed.

25 The design rules we use, yes, they've been

1 improved upon, but the reference materials haven't
2 changed much. The reference materials are what the Navy
3 has been using in the general specification for ships
4 for many years. And we try to spot any changes that
5 they make. And we try to be aware of what the latest
6 developments are as far as mechanical or mechanical
7 design, but we're trying to -- let's say, it's easier to
8 know what was done in the past and follow through with
9 that for future designs.

10 We don't make changes very rapidly and when
11 asked by the Navy to make changes, we make sure that
12 we're following exactly what they want, so that they are
13 with us with the testing of the equipment, in the design
14 of the equipment, and their approval. Because if we
15 don't get their approval, we're shut down. We have to
16 then go back and redevelop and it takes time and money.
17 So we want them to understand what we're doing. And I
18 think that's what we're trying to point out in the
19 affidavits.

20 Q. Now, you understand that these affidavits are
21 being used in legal proceedings; is that right?

22 A. Yes.

23 Q. And do you understand that they are being used
24 by Westinghouse?

25 A. Yes.

1 Q. To help defend themselves in lawsuits?

2 A. Yes.

3 Q. What I want to know is why do you consider
4 this message to be helpful to Westinghouse's defense in
5 a lawsuit?

6 MR. HARVARD: If you know.

7 THE WITNESS: It's what we did. In other
8 words, it is what the design engineer at Westinghouse
9 did as a result of obtaining a contract from the Navy.

10 MR. SIEGEL: Q. Do you see the message as
11 you can't blame us because we just did what the Navy
12 told us to do?

13 MR. HARVARD: Objection, argumentative. You
14 can answer it if you can.

15 THE WITNESS: I can't answer a question like
16 that.

17 MR. SIEGEL: Q. Why can't you answer that
18 question?

19 A. Because we followed the rules as to what the
20 Navy did, right. That's all I can say.

21 Q. Okay. And do you consider that helpful to
22 Westinghouse's defense because it sort of shifts
23 responsibility away from Westinghouse and onto the Navy?

24 MR. HARVARD: Objection, argumentative. You
25 can answer if you can.

1 THE WITNESS: I can only state that the
2 affidavit is an outline as to what an average engineer
3 does when he obtains a contract for a vessel in
4 interfacing with the Navy and obtaining the piece of
5 machinery that they want to put aboard ship.

6 MR. SIEGEL: Q. And it was McGuire Woods
7 that asked you to convey this message?

8 A. It was McGuire Woods who had asked me to make
9 an affidavit.

10 Q. To convey the message you're talking about?

11 A. Yes.

12 Q. Okay. When was the first time that you -- let
13 me ask you this -- do you want to take a break now or do
14 you want to continue going on?

15 MR. HARVARD: Whenever you want to take a
16 break, you just holler.

17 THE WITNESS: That's a good idea.

18 (Recess taken.)

19 MR. SIEGEL: Q. Mr. Gate, when you are
20 contacted by Laura Tate or by someone else concerning
21 information that's needed for a particular ship, how do
22 you bill -- how do you bill her? Do you bill her right
23 there or the next day after you've looked for the ship
24 or do you wait until maybe you give a deposition before
25 billing them, or when do you send out your bill for work

1 in connection with a particular ship or I should say in
2 connection with a request by Ms. Tate?

3 A. All right. I make out time sheets, so I make
4 out a daily time sheet, which will cover one week. And
5 I will put down the name of the vessel that I worked on
6 and the number of hours, and then at the end of the week
7 I total the hours and at the end of the month I total
8 the -- I take the four totals of the weeks and send them
9 off to STS.

10 Q. So every month you send a bill for your time
11 to STS?

12 A. That is correct.

13 Q. And then they may send an invoice to a law
14 firm, or do you ever bill a law firm directly?

15 A. Only at a deposition.

16 Q. Only for deposition time?

17 A. Yes.

18 Q. So if we wanted -- another way that we could
19 learn when you began work in connection with these three
20 cases would be to get your bills submitted to STS?

21 A. Yes.

22 Q. Okay. Now, to your knowledge does STS then
23 turn around and bill law firms or what?

24 A. I think they do because someone has to get
25 paid.

1 Q. But STS pays you \$50 an hour?

2 A. Yes.

3 Q. All right. Now, you're aware, right, that
4 these cases concern allegations about asbestos exposure?

5 A. Yes.

6 Q. And do you generally know what the plaintiff
7 is alleging concerning asbestos exposure?

8 A. No.

9 Q. All you know is that the case involves
10 asbestos in some way?

11 A. Yes.

12 Q. Are you aware that it involves an allegation
13 of wrongful death?

14 A. No.

15 Q. Have you known that about any case you've ever
16 worked on for Westinghouse?

17 A. Ask that question again. I'm not too sure.

18 Q. You're not aware of that for these three
19 cases, but have you been aware of that allegation in
20 connection with other ships you've worked on for
21 Westinghouse?

22 A. When you say allegation, what are you
23 trying --

24 Q. Wrongful death.

25 A. No.

1 Q. Do you -- so you're not familiar with what the
2 plaintiffs are claiming in these cases other than the
3 fact that it has something to do with asbestos. Is that
4 a fair statement?

5 A. Yes.

6 Q. Okay. Are you aware that the plaintiffs are
7 suing Westinghouse? Has anyone ever told you that in
8 connection with this work?

9 A. Yes.

10 Q. And how have they described that to you?

11 A. I don't know. All I can say is there's a case
12 against Westinghouse.

13 Q. And did you ever ask what is the case about,
14 what are they saying Westinghouse did or didn't do?

15 A. They would just say it's about asbestos.

16 Q. Do you have any knowledge of what allegation
17 is made against Westinghouse concerning asbestos?

18 A. No.

19 Q. So you really have no knowledge of what the
20 plaintiffs are claiming concerning Westinghouse; is that
21 right?

22 A. Only that it's involved with asbestos.

23 Q. When McGuire Woods told you what message they
24 needed you to convey, did they tell you it was in regard
25 to asbestos cases?

1 A. Yes.

2 Q. And did they say why they needed that message
3 conveyed?

4 A. It's a matter of why or understanding what the
5 average engineer did during his work in producing
6 turbines that we were trying to tell people what was
7 happening as far as the designs and the manufacturing of
8 the turbines.

9 Q. And you have no knowledge about, in these
10 three cases now, any facts regarding the particular
11 seamen or the particular widows or anything like that?

12 A. Only to the dates in which they served aboard
13 those vessels.

14 Q. When was the first time that you worked with
15 asbestos?

16 A. When I was a -- when I was at the academy I
17 was involved with -- and I didn't realize it at the time
18 that it was asbestos. And that was we had a fire in
19 the -- we had a fire in the boiler and it had to be put
20 out.

21 We shut down the boiler, took out the burner,
22 suited up the skinniest person to go into the boiler and
23 to make sure that the flames were out and make sure that
24 the slag as a result of the burner oil would not flare
25 up again, so you had to dig that stuff out.

1 I was the skinniest guy in the engine room. I
2 got suited up in a suit. It was very light material. I
3 went in there and they said, "Don't worry, we'll pull
4 you out every ten minutes and make sure that you're
5 still moving, but we'll watch you." I said fine and it
6 was hot in there and we -- I got the slag out and I came
7 out and things were done.

8 MR. HARVARD: All right. He asked you when
9 that was, Jim. Tell him which academy and roughly what
10 year that would have been.

11 THE WITNESS: I was at the Merchant Marine
12 Academy and that was in 1950.

13 MR. RIDLEY: Did you say Merchant Marine?

14 THE WITNESS: Yes, Merchant Marine Academy.

15 MR. SIEGEL: Q. Was this a training exercise
16 or actually a fire that had to be dealt with?

17 A. It was a regular merchant ship and it was an
18 accidental fire.

19 Q. And you later at some point learned that the
20 suit they had given you was an asbestos suit?

21 A. Yes. It was probably when I came out. The
22 chief engineer was telling me and then I realized there
23 was other material around the engine room that was
24 asbestos. We used asbestos clothes to change our
25 burners all the time. It became apparent that there was

1 asbestos in the engine room.

2 Q. When you worked for Westinghouse at
3 Philadelphia, did you know a man named Haslick
4 (phonetic)?

5 A. Haslick doesn't ring a bell.

6 Q. Lyle Haslick, does that ring any bell to you?

7 A. No.

8 Q. Did you know of any industrial hygiene or
9 occupational safety department at Philadelphia?

10 A. No.

11 Q. Was there such a thing to your knowledge?

12 A. It was the nurse at the dispensary, that's the
13 people I would go to for my earplugs, for noise and
14 other things. Right.

15 Q. But was there any department or person whose
16 job it was to look after the safety of working
17 conditions of Westinghouse employees?

18 A. There may have been, but I was never in
19 contact with them.

20 Q. Not that you knew of?

21 A. That's right.

22 Q. Did you all ever get safety briefings about
23 any particular topic?

24 MR. HARVARD: What period of time are you
25 talking about, at Philadelphia?

1 MR. SIEGEL: Q. Yes, working at Philadelphia.

2 A. No.

3 Q. How about at Sunnyvale?

4 A. No.

5 Q. Never?

6 A. Never.

7 Q. Asbestos was used in various operations at
8 Philadelphia; is that correct, for various purposes?

9 A. Asbestos was used during testing of a turbine.
10 A subcontractor would come in and he would put the
11 thermal insulation on the turbine and then we would test
12 it and then they would come in and remove it.

13 Q. And did anyone ever tell you or anyone else,
14 to your knowledge, at Westinghouse that that insulation
15 could be hazardous in any way?

16 A. No.

17 Q. Either when it's being put on or removed or at
18 any time?

19 A. No.

20 Q. What was your first job for Westinghouse when
21 you joined them out at the Merchant Marine Academy?

22 A. My first job was to test the turbine generator
23 sets for the Saratoga class turbine generator sets and
24 that was a high pressure, high temperature job, which
25 did not -- could not use the ordinary steam lines in the

1 shop.

2 We had to go to the -- what we call the Y
3 building lab where they had thousand pounds pressure and
4 thousand degrees temperature available and so I had to
5 oversee the testing for those turbine generator sets.

6 Q. What was your official title, if you had one,
7 at Westinghouse when you joined them?

8 A. Oh, I think it was junior engineer.

9 Q. Okay. All right. How long did that job take?

10 A. Oh, it took about a year at least.

11 Q. And what did you do next? I don't need to
12 know everything -- every ship that you've tested, but I
13 want to get an idea of what your jobs were during your
14 tenure at Westinghouse.

15 A. Oh, sure. I had a number of jobs in which
16 involved working along World War II destroyers. Those
17 destroyers were in use for at least ten years and they
18 had problems in the turbine generator sets, pumps,
19 the -- they would attach pumps within the turbine
20 generator sets itself. We had problems with the blowers
21 and I had to figure out why the bearings were burning
22 out on the blowers.

23 These jobs were turned over to the engineering
24 department mainly because the service department says,
25 you know, they are repeating themselves. In other

1 words, if you have the same type of casualty on another
2 ship, then the service department says, you know, there
3 could be something wrong with the design, so the design
4 engineer has to go out there, take a look and say, yeah,
5 it could be a design problem and then stay with the --
6 that type of design until we get a solution.

7 Q. Now, when you say World War II destroyers, are
8 you referring to a type of destroyer or actually to
9 ships that had served in World War II that were now in
10 need of repair? Because you started eight years after
11 World War II ended, right?

12 A. That is right. But World War II destroyers
13 were built in 1941, '42, '43, '44. Ten years later, the
14 signs of wear and tear are showing up.

15 Q. Um-hum.

16 A. So they need someone out there who understands
17 their way around ships who can help, who can go down to
18 the engine room and help out as to figure out what could
19 be the cause of these problems. That was the main
20 reason I was hired.

21 They took the Merchant Marine Academy
22 graduate, and I was one being interviewed and said that
23 since I had been in the Navy as an enlisted man, I
24 should know my way around, being at the academy for four
25 years, that I had been out in the engine rooms, that

1 they felt I could do the job. That was my experience
2 and troubleshooting like that for shipboard use has
3 never stopped.

4 In other words, even when I became supervisor,
5 manager, in the '70s, I still had to go out -- in the
6 '80s, still had to go out there and figure out why we
7 had the problems we had out there.

8 Q. So if I understand your early work at
9 Westinghouse correctly, a ship that was in service that
10 had been built for World War II was having a problem
11 with the turbine and the service department said this
12 problem continues to happen, let's have a design change
13 perhaps. And you would go look at that ship and figure
14 out whether and what kind of design change might ought
15 to be made?

16 A. Yes.

17 Q. And these were -- when you say you would go
18 out, these were ships that would come into the
19 Philadelphia Naval yard or you'd go anywhere?

20 A. I'd go anywhere. Like you go out every Monday
21 and you come back hopefully every Friday and if you're
22 out for more than three weeks, then you get a phone
23 call.

24 Q. And so you would go to Naval yards all over
25 the country; is that right?

1 A. Yes, various ports. Yes.

2 Q. And you would look at the problem that a
3 turbine was having or some other piece of shipboard
4 machinery?

5 A. Yes.

6 Q. And sometimes you would conclude that instead
7 of simply making repairs, you ought to change how the
8 thing worked?

9 A. Sometimes.

10 Q. And what would happen if you decided that a
11 change should be made?

12 A. What I would do is I would speak to the chief
13 engineer and state that number one, I will make a phone
14 call to my manager to verify that what I'm looking at
15 and what my solution should be is he is in agreement.

16 I would tell the chief engineer also that when
17 I come back and it is okayed and he has to go to his
18 superior to make sure that they are in agreement, so
19 that would be the skipper of the ship and it would also
20 mean getting back to the Bureau of Ships because the
21 Bureau of Ships wants to know when they have casualties
22 out there whether or not it is something that they had
23 seen on other ships or whether -- whatever I had in mind
24 could be done in their opinion.

25 The other thing, as far as the skipper of the

1 ship is concerned, he has to make ship movements and
2 when ship movements are in jeopardy, then he has to be
3 aware that his squadron commander, and it goes up the
4 line, that everybody knows that that ship might not be
5 on that particular maneuver.

6 Q. Meaning a design change that you might make
7 might make a certain type of maneuver in the water
8 impossible?

9 A. No. No. Sorry.

10 What I mean is that ships operate, you know,
11 not too often, destroyers especially, singly. They
12 operate in squadrons. When there's a ship movement,
13 meaning that it could be a convoy, it could be an
14 exercise, of course -- you know I did it all in peace
15 time so it generally was an exercise, so all these
16 people have to be notified.

17 I'll tell you another funny little story and
18 that is more than once they took me along with them on
19 their movement and I had to be flown off the ship to
20 make sure that everything was okay in their opinion.
21 This is when generally I bought the -- I had a change
22 that could be applicable right there. In other words, I
23 would go to the Naval shipyard right there to make the
24 fix. And the skipper felt that he could make the
25 movement and therefore he would take me with them.

1 Q. So sometimes you would go look at a ship in a
2 Naval shipyard and suggest a change to be made right
3 then and there and get approval up the line right then
4 and there?

5 A. Always had to be approval up the line both
6 with the ship side and my side. Even on my side, my
7 boss was not going to let me make changes without him
8 knowing about it.

9 Q. But before you flew back to Philadelphia, you
10 would know that that change could be made?

11 A. Not always, but yes.

12 Q. Sometimes?

13 A. Sometimes, yes.

14 Q. And so that could be a fairly quick process?

15 A. Sometimes.

16 Q. And is that because your superiors and the
17 Navy proposed a good deal of confidence in you?

18 A. Well, let's say any engineer.

19 Q. Sure.

20 A. It's not just me. It's any engineer that was
21 sent out there.

22 Q. Okay. But if you went and looked at a ship
23 and you thought a certain change could be made, if you
24 could get approval for it on the spot, in other words?
25 You had to get approval for it, but you could get it

1 fairly quickly?

2 A. I wouldn't say that quickly. I mean, that's
3 rare. That is rare.

4 Q. But sometimes before returning to your home
5 plant?

6 A. Not too often naturally, because on the
7 contrary, I would have the ship laid up, the equipment
8 removed and sent back to the plant.

9 Q. Um-hum. Can you give me examples of changes
10 that the Navy rejected?

11 A. Yeah. It happened on turbine generator sets
12 and they were wiping out the bearings and I felt that we
13 could do it by just modifying the oil, the method on
14 which the oil was coming into the bearing. The Navy
15 wasn't too happy about that because the ship had been
16 operating this way and we weren't sure that what I was
17 suggesting would actually work.

18 So they said no, and the bearings kept on
19 failing and I was sent back two or three times to that
20 ship until finally working with another engineer we
21 managed to produce a part that could become a part of
22 the bearing control for the oil to it and then by making
23 this part and the part itself -- and it had to be
24 tested, so that whole process probably took a year at
25 least and finally went out to the ship, but yes, it gets

1 turned down.

2 Q. So in that event, actually you're -- you
3 eventually did come up with a solution, which was
4 adopted by the Navy?

5 A. Yes. Eventually.

6 Q. Can you think of another example during your
7 career where you wanted to do something that you felt
8 was a good idea from the standpoint of the ship and the
9 Navy said no, we're not going to do that?

10 A. No, I'm running out of ideas.

11 Q. Well, I mean --

12 A. I'm running out of ideas.

13 Q. Well, I mean you worked there for 40 years.
14 I'm looking for instances in which the Navy wouldn't let
15 you do something you wanted to do.

16 A. That happens -- every contract that can
17 happen.

18 Q. But can you give me any other examples of it
19 actually happening other than this one time?

20 A. I know we had a problem. Okay. We had a
21 problem with the exhaust sounder collapsing on us. I
22 felt that we could modify it by having the thermal
23 expansion feet move in the same direction so that we
24 wouldn't have the problem. I suppose the Navy tech
25 looked at it and just said no, it's too hard to do it

1 that way. So they went ahead and worked with their
2 engineers and just said that it's easier if we just
3 worked the rotor itself and just repositioned the rotor
4 so that we wouldn't have the seals rubbing from the
5 collapse of the cylinder.

6 Q. Okay. And this was a -- sort of an
7 engineering disagreement, if you will?

8 A. Yes. Definitely.

9 Q. Just can you give me what ships that was in
10 regard to or when this happened?

11 A. Well, they were the LPH's. They were called
12 LPH's and this happened like 15 to 20 years ago.

13 Q. What does LPH stand for?

14 A. Landing platform helicopter.

15 Q. Now, is it fair to say that over the 40 years
16 or 41 years, I should say, that you worked at
17 Westinghouse your job description or your job title
18 might have changed, but basically you were a -- did you
19 continue to do the kind of work you've described, i.e.
20 troubleshooting and design improvements, that kind of
21 thing?

22 A. Yes, but less of it because within the last 20
23 years I was in management and I had to oversee the -- a
24 department consisting of engineers.

25 Q. And so your work became more running a

1 department and less out in the field work on ships?

2 A. That is correct.

3 Q. All of the time that you spent in
4 Philadelphia, were you a field engineer?

5 A. Yes, I was design and field engineer. That is
6 correct.

7 Q. And in your -- as your career moved more into
8 management, you were overseeing people who were doing
9 the same kind of work that you used to do?

10 A. That is correct.

11 Q. Can you give me any examples of any of the
12 people you oversaw who suggested a change to the Navy
13 and the Navy said no, we're not going to do that?

14 A. No, that's hard. No. I can't remember the
15 problems that were given out to the engineers to solve.
16 I don't remember any of that.

17 Q. Okay. I want to ask a few extremely basic
18 questions that I apologize for because I don't know the
19 first thing about turbine generators or anything like
20 that.

21 Can you just describe what the function of a
22 turbine is for a person who knows nothing about it?

23 A. Okay. The turbine is a mechanical device just
24 like a fan, but the wind is blowing that day and you see
25 the wind hit the fan blades. The turbine works the same

1 way. Instead of having the wind, you have steam and a
2 turbine has blades, so therefore, the steam will hit the
3 blades and will make it rotate. We take the rotation of
4 the shaft and we can put it to a gear box just like a
5 watch and we can make the propellers move.

6 Q. So the steam turns the blades in the turbine
7 which forces the propeller to move and propel the ship
8 through the water?

9 A. That is correct.

10 Q. And is the generator the unit that generates
11 the steam?

12 A. No. The generator on the turbine generator
13 set is one in which instead of having a propeller, you
14 now have a generator. All right. And a generator makes
15 electricity and that electricity is used aboard ship to
16 give you household lights and things like that with
17 electricity.

18 Q. Okay. All right. I take it that turbines
19 have to have insulation because they generate immense
20 amounts of heat; is that right?

21 A. That is correct.

22 Q. They don't need the insulation for their own
23 operation, but they need the insulation to enable people
24 to work near them; is that right?

25 A. That is correct.

1 Q. Or work with them?

2 A. Yes.

3 Q. Service them, that kind of thing?

4 A. Yes, while they are in operation. While the
5 turbine is in operation.

6 Q. Because when the turbine is not in operation,
7 it's not generating any heat?

8 A. That is correct.

9 Q. So for a turbine to work on a ship or to be
10 useful on a ship, it has to be covered with this
11 insulation; is that right?

12 A. So it will not hurt personnel.

13 Q. Right. And insulation is required on the
14 inside and the outside; is that correct?

15 A. No. Just on the outside.

16 Q. Okay. Is there insulation sometimes on the
17 inside of a turbine?

18 A. No. Just the steam.

19 Q. I'm sorry, I don't understand.

20 A. Just the steam. The steam is coming from the
21 boiler, goes through piping, goes into the turbine and
22 you don't want to have insulation on the inside.

23 Q. Okay. What type of insulation typically is on
24 the outside of a turbine?

25 MR. HARVARD: Object to the form. It's

1 overbroad. If you'd just generally refer him to a time
2 frame. '40s, '50s, '90s.

3 MR. SIEGEL: Q. '50s.

4 A. The thermal insulation in the '50s were, let's
5 say, specified by the Navy to be asbestos on the outer
6 surfaces of the turbine.

7 Q. Um-hum. But it could be cloth, it could be
8 block, it could be something else, or did it have to be
9 a particular type of insulation?

10 A. It had to be a particular type. The chapter
11 on thermal insulation, that's 39, that's pretty exacting
12 as to what type of material to be used as far as
13 asbestos for a turbine.

14 Q. And do you remember what type was specified?

15 A. Asbestos.

16 Q. But cement or block or asbestos blankets or
17 what?

18 A. All of the above.

19 Q. All of those things at different places or for
20 different functions?

21 A. That's right. It's explained right in page
22 39.

23 Q. Okay. Were these specifications developed not
24 for each individual ship, but for classes of ships or
25 for classes of turbines?

1 A. It's in the general specifications for ships.
2 They were developed for all ships for the Navy.

3 Q. But the Navy -- what I'm asking is -- and I'm
4 probably not asking it in a sensible way. Did the Navy
5 have particular type of thermal insulation
6 specifications for particular types of turbines or was
7 there just one Bible of thermal insulation that you at
8 Westinghouse would work with?

9 A. There was only one Bible.

10 Q. And you looked at those specifications and you
11 figured out what kind of turbine you were making for a
12 particular ship and thus how to apply the specifications?

13 A. During my lifetime there, starting in 1953, we
14 very seldom had to look at page 39 because the main
15 propulsion spec 17600 and the turbine generator spec
16 17523 did already spell out that the thermal insulation
17 shall be installed and applied by the shipbuilder.

18 Q. So you didn't particularly concern yourself
19 with the insulation because you weren't applying it; is
20 that right?

21 A. That is correct. By specification.

22 Q. Did Westinghouse ever apply the thermal
23 insulation to a turbine before it left the Lester
24 facility?

25 A. No.

1 Q. Never?

2 A. Westinghouse Marine Division, let's put it
3 this way -- because Westinghouse is big. Westinghouse
4 Marine Division did not ship any Naval turbines with
5 thermal insulation.

6 Q. Did other units at Westinghouse do so?

7 A. I don't know.

8 Q. But in the facility that you worked in, the
9 Westinghouse Marine Division, you never affixed the
10 thermal insulation to a turbine that you manufactured?

11 A. I mentioned earlier that during tests you
12 needed thermal insulation on the unit for safety of
13 personnel. Okay. We would have a subcontractor put the
14 thermal insulation on and remove it. After tests we
15 would take the whole unit apart, inspect the internals,
16 the rotors, the casings and have a Navy inspector
17 witness it. We would put it back together again. We
18 would put it back on the test stand, spin it just to
19 make sure all the parts got back together and didn't
20 rub. Then we would bring it off the test stand. We
21 would clean off the cylinders. And then we would put
22 two coats of aluminum paint on the cylinder and then we
23 would ship it. And the two coats of aluminum paint
24 never dried.

25 Q. And the subcontractor that you hired for such

1 events put on the insulation and took it off?

2 A. Um-hum. Yes.

3 Q. Do you remember who that subcontractor was?

4 A. No.

5 Q. No idea?

6 A. No idea.

7 Q. Does Philadelphia Asbestos Company ring any
8 bell to you?

9 A. No.

10 Q. You just wouldn't remember that name?

11 A. No. The manager of manufacturing would handle
12 that because that's a shop function.

13 Q. Now, when the turbine left your facility, you
14 knew that in operation it would need thermal insulation
15 on there permanently, right?

16 A. Yes.

17 Q. You knew that that was going to be put on by
18 the shipbuilder?

19 A. Yes.

20 Q. The shipbuilder could either be the Navy or a
21 private owner and operator of a shipyard?

22 A. Yes.

23 Q. And that would just depend on where the
24 particular battleship was being constructed?

25 A. Yes.

1 Q. Okay. All right. Do you all want to -- I'd
2 like to take just a short break to get some documents
3 together here.

4 (Lunch recess taken at
5 12:30 p.m. to 1:35 p.m.)
6 (Mr. Zwillenberg no longer
7 present via telephone.)

8 MR. SIEGEL: Q. Pursuant to a notice and an
9 informal request the plaintiffs asked Westinghouse to
10 produce documents or asked Westinghouse to ask you to
11 produce the documents that you relied on in formulating
12 your affidavits; is that right?

13 A. That is correct.

14 Q. And you produced a stack, which has been
15 transmitted to us.

16 A. Yes.

17 Q. And I'm going to go through some of those
18 documents, just relatively few of them, but I need to go
19 through some of them with you in no particular order. I
20 have one that we're going to ask you -- we'll mark this
21 as number one and ask you to identify it.

22 MR. HARVARD: Can I make a request that
23 because when I did the production earlier we identified
24 it by one and then A-1 and then B-1, that you identify
25 this as Plaintiffs' 1 perhaps.

1 MR. SIEGEL: Sure. Plaintiffs' Exhibit 1.

2 MR. HARVARD: Just so there's no confusion on
3 the record.

4 (Marked Plaintiffs' Exhibit 1.)

5 THE WITNESS: You want me to identify it?

6 MR. SIEGEL: Q. Yes, just say for the record
7 what Plaintiffs' Exhibit 1 is.

8 A. Plaintiffs' Exhibit 1 is plan No. 56-J-651 and
9 it says, "Master Plan 500 kilowatt turbine driven AC
10 generator, coils, insulation, bearings and
11 specifications."

12 Q. Now, can you tell somewhere on that
13 Plaintiffs' Exhibit 1 what ship this is in reference to?

14 A. Up in the revision column in the upper
15 right-hand corner it says U.S. Navy. It looks like
16 passed DD 927 class dated 23 February 1951.

17 Q. All right.

18 Are you looking for further information that
19 would identify the ship?

20 A. I thought that was good enough.

21 Q. Well, can we -- it has to be a ship regarding
22 one of these three plaintiffs; is that correct?

23 A. Well, one of those three, yes.

24 Q. Okay. I'm asking you, can you tell from that
25 drawing which ship it's in reference to?

1 A. Oh, yes. The DD927 was the DLG either three
2 or four in which the turbine generator sets were removed
3 from that vessel, sent and had refurbished, and then
4 sent aboard the Towers. So these are the -- this is the
5 plan for the turbine generator set aboard the Towers.

6 Q. I'll tell you what. Let's go off the record
7 one second.

8 (Discussion held off the record.)

9 MR. SIEGEL: Q. Back on the record. Would
10 you describe -- you've identified for the record what
11 Plaintiffs' Exhibit 1 is. Would you describe what
12 exactly it is a drawing of?

13 A. It is a drawing of coils, insulation, bearings
14 and specifications for the 500 kilowatt turbine driven
15 AC generator.

16 Q. This is a generator that would be put on the
17 U.S.S. Towers?

18 A. Yes.

19 Q. And for the record, the U.S.S. Towers is a
20 ship that one of the plaintiffs, in this case Carter,
21 identified as having -- as having been a ship that he
22 worked on; is that correct?

23 A. I don't know about the plaintiff, but it is
24 the Towers.

25 Q. It is a ship that --

1 A. Right.

2 Q. -- that the people that you worked with or
3 for told you you needed to investigate?

4 A. That is correct.

5 Q. That is because somebody, whether the
6 plaintiff or a coworker or a widow, had said this is a
7 ship that Mr. Carter worked on and is claiming to have
8 been exposed to a Westinghouse turbine?

9 A. I don't know all those facts, but I did
10 research the Towers and this is the AC generator
11 involved with the Towers.

12 Q. All right. And this is a drawing produced by
13 someone at Westinghouse to -- as to how the turbine
14 would be constructed or the generator would be
15 constructed?

16 A. Yes. This drawing was made at our -- at the
17 East Pittsburgh Works and it shows the bearings and the
18 insulation for the generator.

19 Q. Okay. I take it that at some point before
20 this drawing was created Westinghouse was awarded a bid
21 or a contract to construct this generator for the Navy?

22 A. Yes.

23 Q. And then someone at East Pittsburgh set about
24 drawing it prior to its construction?

25 A. Yes.

1 Q. Go ahead, take your time.

2 MR. HARVARD: No, I'm sorry.

3 MR. SIEGEL: Q. Now, I wanted you to look in
4 the bottom left-hand corner of what is marked as
5 exceptions to specifications.

6 A. Yes, I read it.

7 Q. Why are -- why is there a heading for items
8 called exceptions to specifications?

9 A. I don't know.

10 Q. Why would the person that drew this have put
11 those on there?

12 A. I don't know.

13 Q. What are they doing there?

14 A. I don't know.

15 Q. Would these be departures from Navy
16 specifications?

17 A. I don't know.

18 Q. So you have no idea what is meant on
19 Plaintiffs' Exhibit 1 by exception to specifications?

20 A. That is correct.

21 Q. Was this drawing -- would the initial drawing
22 of the generator such as the one that ended up on the
23 Towers be drawn according to pre-existing Naval
24 specifics?

25 A. I don't know.

1 MR. HARVARD: I'm sorry, can I hear that
2 question again?

3 (Record read.)

4 MR. HARVARD: Go ahead and answer it.

5 THE WITNESS: I don't know.

6 MR. SIEGEL: Q. So they could have drawn it
7 according to no specifications at all?

8 A. I don't know.

9 Q. Would they be able to construct it according
10 to no specifications at all?

11 A. I know nothing about this drawing.

12 Q. Well, you identified it as a drawing that you
13 relied on in formulating your affidavit.

14 A. No, I didn't.

15 Q. Well, it was produced to the plaintiffs as
16 such a document.

17 A. It was produced to the plaintiffs as part of a
18 manual. This drawing is in a manual underneath AC
19 generators.

20 Q. Is that a drawing that you looked at prior to
21 drafting your affidavit?

22 A. No.

23 Q. Is that a drawing that you've ever seen before?

24 A. No.

25 Q. Is that a drawing that you found as part of

1 your search of records relating to the U.S.S. Towers?

2 A. It is a drawing that is part of the tech
3 manual that was given to the plaintiffs' lawyers and
4 it's just a drawing.

5 Q. And you've never seen that drawing before?

6 A. Probably not. I don't know.

7 Q. Why is it relevant to the conclusions in your
8 affidavit?

9 A. It's not relevant. I don't know.

10 Q. Okay. That's fair enough. All right.
11 Explain to me exactly what a technical manual is.

12 A. A technical manual is a manual that is an aid
13 to those installing the equipment aboard ship. It is an
14 aid to the operators aboard ship.

15 Q. Who drafts technical manuals?

16 A. The technical manual writer.

17 Q. And that is for a piece of equipment
18 manufactured by Westinghouse, the technical manual would
19 be drafted by a Westinghouse employee?

20 A. Yes.

21 Q. Not by a Navy person?

22 A. Yes.

23 Q. Yes, a Westinghouse person?

24 A. Yes, a Westinghouse person.

25 Q. Is this type of drawing something that is

1 included as part of a technical manual?

2 A. Yes.

3 Q. Are technical manuals drafted for particular
4 ships or particular pieces of equipment or what?

5 A. Technical manuals are drafted for pieces of
6 equipment and they are drafted for ships.

7 Q. Explain to me again as someone entirely
8 ignorant of this process. Is there one technical manual
9 for a generator and another technical manual for a pump
10 and a third technical manual for something else, or is
11 there one technical manual for every piece of
12 Westinghouse equipment on board a particular ship? How
13 does it work?

14 A. The instructions for how to set up the
15 technical manual is in the specifications. It is in the
16 contract as to whether it should include one or more
17 pieces of equipment.

18 Q. Okay. Can you tell what technical -- what
19 kind of technical manual that drawing came from?

20 A. This technical manual, which included this
21 drawing, was from a turbine generator set.

22 Q. And that would be a technical manual designed
23 to aid someone aboard ship in operating that turbine
24 generator ship?

25 A. Yes.

1 Q. And it would have been drafted by someone at
2 Westinghouse and sent along with the turbine to whatever
3 ship it ended up on?

4 A. Yes.

5 Q. And you have no knowledge of why there appears
6 a category entitled exception to specifications?

7 A. That's right.

8 Q. Is it likely that that would be a departure
9 from the specifications that someone at Westinghouse
10 felt needed to be enacted?

11 A. I don't know.

12 Q. Well, would an exception to specification
13 emanate from Westinghouse for the Navy?

14 A. I don't know.

15 Q. Did you ever receive something -- did you ever
16 receive in your career at Westinghouse from the Navy
17 exceptions to pre-existing Navy specifications?

18 A. No. I did not.

19 Q. The Navy made the specifications and if there
20 was a reason to depart from them that occurred to the
21 person building the thing specified, that would be an
22 exception to specifications, right?

23 A. Could you say that again?

24 Q. She can read it back.

25 (Record read.)

1 THE WITNESS: No, I disagree.

2 MR. SIEGEL: Q. Tell me why.

3 A. Because we don't know what the Navy had in
4 mind. There are many ways that they can take
5 exceptions. We don't know. They could have done
6 anything, but we just don't know. There are chains of
7 communications in which specifications can be changed.

8 Q. But by Westinghouse?

9 A. Also by the Navy.

10 Q. Okay. And you have no way of knowing from
11 that drawing who originated those exceptions to
12 specifications?

13 A. That is correct.

14 Q. It could be Westinghouse?

15 A. It could be and it also could be the Navy.

16 Q. Right. Okay. Let me look at that again. All
17 right. Let me ask you to look at the insulation --
18 where this drawing covers insulation to be used.

19 A. What part of the drawing are you talking
20 about?

21 Q. I'm asking you, the title of the drawing
22 refers to insulation.

23 MR. HARVARD: He's asking you can you find
24 someplace on this drawing where it refers to insulation?
25 I think.

1 MR. SIEGEL: Q. Yes.

2 A. Well, there's one item here that says, "Method
3 of insulating bearing temperature, alarm contact maker
4 bulb from bearing." There's another here that says,
5 "For stator coil insulation detail see figures 1 to 6."

6 Q. Let me ask you this: Is there anything on
7 that drawing that refers to thermal insulation being
8 applied to the turbine or to the generator?

9 A. No, I see nothing on this drawing that
10 pertains to thermal insulation that is applicable to the
11 turbine.

12 Q. And there's certainly nothing on that drawing
13 that has anything to do with warning about the hazards
14 of thermal insulation?

15 A. Not that I can see.

16 Q. And, in fact, you've already testified you
17 don't even recognize that drawing as a drawing that
18 you've ever seen before; is that right?

19 A. That is correct.

20 Q. Would the same be true of similar drawings
21 that were produced in regard to the U.S.S. Wren and the
22 Beale as well?

23 A. Object to the form. Overly broad.

24 Q. Do you expect that you'd recognize the
25 equivalent drawings for the Wren or the Beale?

1 A. For the AC generator, if they were made this
2 way, yes.

3 Q. You would?

4 A. That they look like this for the AC generator,
5 yes, they would look the same.

6 Q. They are not drawings that you yourself may
7 have even looked at before today, right?

8 A. I don't look at AC generator drawings.

9 Q. Okay. All right. I want to mark as -- --
10 we'll call this Plaintiffs' Exhibit 2 and ask you to
11 identify it.

12 A. Okay, this says certification dated.

13 (Marked Plaintiffs' Exhibit 2.)

14 MR. HARVARD: Hang on a second. He's just
15 asked you to look at it. He hasn't asked you any
16 questions yet.

17 MR. SIEGEL: Q. No, I do want you to
18 identify what that document is for the record.

19 A. Okay, this document is the certification data
20 for voltage regulators. And it's for the DD927.

21 Q. And that's the Towers again?

22 A. Yes, that would be for the turbine generator
23 sets for the Towers.

24 Q. And again briefly describe what that piece of
25 paper sets forth.

1 A. It sets forth the certification data for the
2 voltage regulators.

3 Q. And again, this is a document that was
4 produced to us as being identified as a document that
5 was relied upon in drafting this affidavit.

6 Have you ever seen that document before today?

7 A. No.

8 Q. Okay. Is this a document that you found and
9 shipped to the lawyers?

10 A. No. This document was part of the technical
11 manual for the turbine generator sets that was sent to
12 you.

13 Q. Okay. Are there sets of documents that you
14 never see that are maintained by lawyers for
15 Westinghouse that you know of?

16 MR. HARVARD: You can answer the question if
17 you know the answer. I think Mr. Gate may be a little
18 confused on an earlier question. I can clear it up on
19 direct.

20 MR. SIEGEL: Go ahead.

21 MR. HARVARD: Did this come out of one of the
22 documents that you located at Sunnyvale and forwarded to
23 us to provide to counsel for plaintiffs?

24 THE WITNESS: Yes, it is part of the technical
25 manuals of the turbine generator sets.

1 MR. HARVARD: So this wasn't a separate
2 document that you pulled out, but this was one page in
3 the thick technical manual that you located?

4 THE WITNESS: That is correct.

5 MR. SIEGEL: Q. So in other words, when you
6 are given the name of a ship, one of the things that you
7 go find is the technical manual for Westinghouse
8 equipment aboard that ship?

9 A. Yes.

10 Q. Okay. And you have looked at the technical
11 manuals, but not every drawing in the technical manuals;
12 is that right?

13 A. That is correct.

14 Q. And this would be an example of a particular
15 drawing inside the technical manual relating to
16 equipment on the Towers that you didn't pay attention
17 to?

18 A. That is correct.

19 Q. Okay. Now, again, I have to ask you about the
20 phrase "exceptions to specifications." Is it your
21 testimony that you just have no idea who originated
22 those exceptions?

23 A. That is correct.

24 Q. It's not likely in your mind that it's
25 Westinghouse as opposed to the Navy?

1 A. I have no idea.

2 Q. How often would the Navy send out exceptions
3 to its own specifications?

4 A. I have no idea.

5 Q. Was that a typical or an atypical thing?

6 A. I don't know.

7 Q. Okay.

8 (Marked Plaintiffs' Exhibit 3.)

9 MR. SIEGEL: Q. We're going to call this
10 number 3. And would you identify it, please?

11 A. The document handed to me was the military
12 specifications for turbine steam, auxiliary and
13 reduction gear mechanical drawings, MIL-T-17523D like in
14 Delta dated 7 June 1976.

15 (Record read.)

16 MR. SIEGEL: Q. Now, is this a document that
17 you located as part of drafting your affidavits?

18 A. Yes.

19 Q. And what is that -- why did you search for
20 that document? That's not relevant to a particular
21 ship, is it?

22 A. Not in the three that we're discussing today.

23 Q. Okay. Is this a document that you have
24 produced in regard to other ships or all ships or why
25 was it relevant to this exercise?

1 A. I produced this document because on page 30,
2 paragraph 3.4.34, the paragraph is entitled, "Thermal
3 Insulation and Lagging." In there it goes through and
4 starts out with, "Shipbuilder will be responsible for
5 furnishing and installing thermal insulation and
6 lagging."

7 The reason why I went to this document is that
8 the earlier documents starting with the no read version
9 back in 1953 and subsequent version discusses that for
10 the thermal insulation and lagging the turbine
11 manufacturer would have to install rails and hooks.
12 These rails and hooks that they discuss in the earlier
13 specifications are steel that are welded to the casing
14 and they are fixtures which the turbine manufacturer
15 must put on so that the shipbuilder can hang on the
16 thermal insulation in covering the turbine.

17 Q. Okay. So the record's clear, in previous
18 versions of this document, which is a 1976 document; is
19 that right?

20 A. This one is, yes. Right. This is 1976.

21 Q. In previous versions of this document it
22 specified that the turbine manufacturer had to put on
23 rails and hooks to facilitate the later placement of
24 insulation?

25 A. Yes.

1 Q. By the shipbuilder?

2 A. Yes.

3 Q. Did that change? Did something about that
4 arrangement change in this document?

5 A. It discusses a little more detail. That's the
6 only change. The thoughts are the same.

7 Q. And so at least beginning in 1953 and
8 thereafter and including 1976 and thereafter the turbine
9 manufacturer had to put the further fixtures on that
10 enabled the placement of thermal insulation?

11 A. Yes.

12 Q. And just so the record's clear --

13 A. Right.

14 Q. -- Westinghouse was fully aware that thermal
15 insulation would be placed on these turbines because
16 that was an essential feature to make them usable,
17 right?

18 A. Yes.

19 Q. Can I have that document back?

20 A. Yes.

21 Q. Now, we have marked -- the plaintiffs' counsel
22 have marked on page 18 in highlight, yellow highlighter,
23 paragraph 3.2.8 entitled, "Substitute Materials," and
24 I'd like you to look at that paragraph and the next two
25 as well and ask you a couple of questions about it.

1 MR. HARVARD: How far down did you want him to
2 read?

3 MR. SIEGEL: Q. Just a couple of paragraphs.

4 A. I got down to the list of materials. I just
5 read that paragraph. Is that good enough?

6 Q. That's fine. Now, this paragraph talks about
7 materials -- well, it's entitled, "Substitute
8 Materials;" is that correct?

9 A. Yes.

10 Q. Is the point of this paragraph that if
11 somebody wants to use a different material, i.e., the
12 company building the turbines, they can if they get it
13 approved by the Navy; is that right?

14 A. That is correct.

15 Q. And that could apply to thermal insulation,
16 right?

17 A. No.

18 Q. Why couldn't it?

19 A. Because for turbines we're not using thermal
20 insulation with respect to these specifications.

21 Q. Okay. But in the instances, does that
22 provision about substitute material, could it never
23 apply to thermal insulation?

24 MR. HARVARD: If you know.

25 THE WITNESS: Not within specifications.

1 MR. SIEGEL: Q. What about that
2 specification excludes thermal insulation?

3 A. It excludes the turbine manufacturer from
4 handling thermal insulation.

5 Q. Would it exclude the shipbuilder from
6 substituting the thermal insulation material?

7 A. I don't know.

8 Q. Well, is there any reason to believe that it
9 would?

10 A. I don't know.

11 Q. There's nothing in that document that
12 indicates that, right?

13 A. I don't know.

14 Q. Okay. Is that document something that applies
15 to the shipbuilder as far as the thermal insulation
16 goes?

17 A. Yes, only in that it states that they will
18 furnish and apply the thermal insulation.

19 Q. Is there a separate set of specifications
20 directed to the shipbuilder who is putting on the
21 insulation?

22 A. I don't know.

23 Q. Okay. But as far as you, the turbine
24 manufacturer goes, if you wanted to say -- if you wanted
25 to call up the shipbuilder and say, you all better use a

1 different type of thermal insulation, we suggest that
2 you try to get permission to do that, you'd be entitled
3 to do that, right?

4 A. No.

5 Q. Why wouldn't you?

6 A. We have no means of communicating with the
7 shipbuilder.

8 Q. Why couldn't you pick up the phone and call
9 the shipbuilder?

10 A. We have formal chains of communications
11 between the person who let us have the contract and we
12 will stick with that. They handle contract changes.

13 Q. What if the shipbuilder is the Navy?

14 A. It doesn't make any difference. There are
15 formal communications with the Navy.

16 Q. And why couldn't you use the formal chain of
17 communications to make that suggestion?

18 A. Because we would not be involved with asbestos
19 or thermal insulation.

20 Q. Well, maybe you wouldn't be involved, but I
21 want to establish whether there's some formal
22 prohibition on anyone at Westinghouse calling up the
23 Navy or a private shipbuilder and expressing an opinion
24 or a concern about asbestos?

25 A. The answer is yes, there is a prohibition.

1 Q. What is that formal prohibition? What
2 regulation says you can't make that phone call?

3 A. We have chains of command of means of
4 communicating with the customer. It is through, number
5 one, our own internal organization, through the
6 contracts department and they would go up and contact
7 the Navy.

8 Q. And in precisely that chain of command, why
9 can't you express such a concern? You can express any
10 concern you want as long as it's through the precise
11 chain of command, can't you?

12 A. No.

13 Q. Why? Was freedom of speech not guaranteed to
14 Westinghouse employees? If you had a concern about
15 asbestos and you needed to express it, couldn't you
16 express it through the proper formal chains of commands
17 that you described?

18 A. We do not have any concerns with asbestos
19 because that is not our responsibility and therefore we
20 would not do it.

21 Q. I understand that you weren't working with
22 asbestos and that was not part of your job or what you
23 dealt with every day and I understand your view that
24 that's not Westinghouse's problem. What I'm trying to
25 establish is whether there was something against the law

1 about you expressing such a concern if Westinghouse ever
2 had such a concern.

3 A. Again, I state that there are formal lines of
4 communication between the customers and ourselves and we
5 would adhere to that.

6 Q. And within those formal lines of communication
7 you could express whatever concerns you might have?

8 A. Yes, except that we would not handle it with
9 asbestos because thermal insulation is not a requirement
10 of the turbine manufacturer. It lies with the
11 shipbuilder. It lies with the Navy.

12 Q. Whatever concerns Westinghouse ever had, it
13 could have expressed those concerns to the Navy within
14 certain chains of command?

15 MR. HARVARD: Object to the form.

16 THE WITNESS: Westinghouse with its concerns
17 will always go through the formal chain of command.

18 MR. SIEGEL: Q. Okay. Thanks. Now, I
19 realize that you've said that that substitution of
20 materials provision doesn't deal with thermal
21 insulation, but it does indicate that as to matters
22 within the purview of the turbine manufacturer if for
23 some reason you wanted to substitute the material B for
24 material A you could do so provided you fulfilled the
25 requirements of that provision and secured the

1 appropriate Navy control or rather permission, I'm
2 sorry.

3 A. We would again follow the chain of command
4 with regard to material substitutions and we would
5 adhere to the steps in getting the proper Navy approval
6 and then give them the test results of whatever we were
7 testing and then they in turn would return an approval
8 or disapproval.

9 Q. And if a concern developed about any aspect of
10 the turbine construction or operation that you wanted to
11 express to the Navy, there were mechanisms and avenues
12 for doing so?

13 A. There were always mechanisms and avenues in
14 the chain of command, yes, from the very day I started.

15 Q. And in fact, according to your affidavit you
16 interfaced continuously with Navy people.

17 A. One had to interface with the Navy people in
18 reviewing drawings, in reviewing tech manuals, in
19 reviewing the design, in reviewing test results. Yes,
20 there was an interface.

21 Q. Okay. I want you to identify for the record
22 what we're going to mark as Plaintiffs' Exhibit 4. I'm
23 sorry, you can look at the front of the document. We'll
24 get to that page later.

25 (Marked Plaintiffs' Exhibit 4.)

1 A. I looked at it.

2 Q. Could you state for the record what it is?

3 A. This is the Bureau of Ships manual chapter 39
4 entitled, "Thermal Insulation," and it has a date of
5 1945.

6 Q. And again, try to describe for us the basic
7 function of that document.

8 A. This document of chapter 39 is part of the
9 general specifications of ships of the Navy and it talks
10 to the insulating material that is to be used on, let's
11 say, steam piping apparatus or equipment and it gives
12 the reasons for insulating.

13 Q. Okay. Now, again, this is not a document
14 relevant to one particular ship that we're talking about
15 today. This is an overall Navy specification applicable
16 to many ships, right?

17 A. That is correct.

18 Q. And was that applicable to Westinghouse or to
19 some other company?

20 A. This specification is applicable to everyone,
21 both U.S. Navy and all vendors.

22 Q. Okay. The plaintiffs' counsel for the record
23 have marked pages 39-2 and 39-3 in yellow highlighter
24 which I will just read for the record. At paragraph
25 39-3 we've marked the following sentence. "The

1 following requirements should be met as nearly as
2 possible by thermal insulating materials," and then
3 there are several listed.

4 Then we've marked another sentence that says,
5 "Insulating materials are available in the following
6 forms in accordance with Navy department
7 specifications." Again, several are listed. And we
8 have highlighted numbers, if I'm reading it correctly,
9 82P11, 8211, 8212 and 8215.

10 And then on the next page 39-3 in the second
11 line we've marked the word asbestos and then several
12 lines down we've marked a sentence, "Molded asbestos
13 saws and cuts neatly with ordinary tools."

14 Now, Mr. Gate, paragraph 39-3, 39-3 subpart
15 two says, "Insulating materials are available in the
16 following forms in accordance with Navy department
17 specifications," and then it lists a number of different
18 types of thermal insulating materials that can be used;
19 is that right?

20 A. Yes.

21 Q. Okay. Now, the ones I have marked and
22 highlighted, 82P11, 8211, 8212 and 8215, to me look like
23 they don't contain asbestos; is that correct?

24 A. I have no idea.

25 Q. Okay. Let me ask you to look at 82P11, that's

1 molded cork.

2 A. That is correct.

3 Q. 8211 is fibrous glass batt insulation; is that
4 correct?

5 A. Yes.

6 Q. And there are two others listed that don't
7 appear to contain asbestos, 8212 and 8215; is that
8 right? At least they don't state asbestos.

9 A. Yes.

10 Q. Isn't it true, then, that a thermal insulation
11 supplier or a shipbuilder had a number of insulating
12 materials to choose from, some of which contained
13 asbestos and some of which didn't; is that right?

14 A. I don't know.

15 MR. HARVARD: Object to the form.

16 MR. SIEGEL: Q. Is that what this provision
17 indicates to you?

18 A. I don't know as to what you had mentioned as
19 82P11, 8211, 8212, each one of those are Navy
20 specifications. I have no idea what they say.

21 Q. But in this document they don't use the word
22 asbestos, right, for those items?

23 MR. HARVARD: I'm going to object to the form
24 because he hasn't looked at the entire document, but
25 certainly on those if you're asking him about with

1 respect to those items.

2 MR. SIEGEL: Q. Okay. Do you want to take a
3 minute and look at the following language that goes into
4 more detail about the ones that we've marked here and
5 see if those say anything about asbestos? Do you feel
6 like you need to read those?

7 MR. HARVARD: Are you asking him to read them?
8 If you want him to, we will. They say what they say.

9 MR. SIEGEL: Okay. If they say -- I don't
10 need you to do that.

11 MR. HARVARD: Off the record very brief.

12 (Discussion held off the record.)

13 MR. SIEGEL: Q. I'm satisfied if the record
14 simply reflects that some of these choices contain
15 asbestos and some don't. If you can acknowledge that,
16 we can go on.

17 A. I can acknowledge that.

18 Q. We're going to mark this as Plaintiffs'
19 Exhibit 5 and ask you to identify it.

20 (Marked Plaintiffs' Exhibit 5.)

21 A. This is an instruction book and it says,
22 "Westinghouse Main Lubricating Oil, Fuel Oil Service and
23 Fuel Oil Booster Pumps for U.S. Destroyers," and then
24 list a number of destroyers. The one that's highlighted
25 is DD568, and the year of construction is 1942.

1 Q. And I don't know if you remember, but one of
2 your affidavits says that DD568 is the U.S.S. Wren.
3 This would be an instruction book relevant to the Wren
4 and a number of other vessels?

5 A. That would be correct.

6 Q. Okay. Is the DD a class of vessel?

7 A. Yes. It is a description of all destroyers.

8 Q. All right. Now, what is the difference
9 between an instruction book and a technical manual?

10 A. I think they are the same except for the
11 words.

12 Q. Okay. Just a different way of referring to
13 the same kind of manual or the same kind of guide?

14 A. Yes.

15 (Discussion held off the record.)

16 MR. SIEGEL: Q. Contained within this
17 exhibit are a number of drawings again and is it fair to
18 say that you haven't looked at any one of these
19 particular drawings or do you want to look at them first
20 and tell me whether that's the case?

21 A. I should look at it if you're going to ask me
22 a question about it.

23 Q. Okay. Well, these are --

24 MR. HARVARD: He may or may not have looked at
25 some of the drawings in there.

1 MR. SIEGEL: Q. We've marked again in two or
2 three places where the phrase exception to
3 specifications comes up. I was going to ask you about
4 that, but if you haven't seen those drawings either,
5 then we can skip it.

6 A. Yes, I've looked at those two sketches or
7 drawings.

8 Q. Just now you've looked at them or have you
9 looked at them before?

10 A. Just now.

11 Q. So you haven't seen them before?

12 A. No.

13 Q. And again you wouldn't know where the phrase
14 exception to specifications originates from?

15 A. That is correct.

16 Q. All right. I have some other documents that
17 were produced by Westinghouse in discovery in
18 Mississippi originally. I'm sure you're familiar with
19 them, Bill.

20 MR. HARVARD: I may be, I may not.

21 MR. SIEGEL: You may be, you may not be. Do
22 you want to take a five-minute break and have you look
23 at them and the witness look at them? I want to ask him
24 some questions.

25 MR. HARVARD: Yes, that would be helpful.

1 (Discussion held off the record.)

2 MR. SIEGEL: Q. Before our break, we were
3 talking about the chain of command that existed for
4 Westinghouse to voice a concern or a suggestion to the
5 Navy about something, whatever that something might be.
6 And I want to be clear about -- I want the record to be
7 clear about exactly what your testimony is.

8 It is your testimony; am I right, that
9 Westinghouse in your tenure there was never concerned
10 about asbestos?

11 MR. HARVARD: Object to the form, overbroad.
12 He doesn't know what anyone or everyone at Westinghouse
13 knew or didn't know or what concerned them.

14 MR. SIEGEL: Q. To your knowledge,
15 Westinghouse didn't have an ongoing concern about
16 asbestos use?

17 MR. HARVARD: Objection. Form.

18 THE WITNESS: Westinghouse Marine, okay, did
19 not have, let's say, documents or let's say methods in
20 which we would work with asbestos. The only document
21 that we worked with was the one that you have as an
22 exhibit and that is the S39. We worked with S39 and
23 that's the only one.

24 MR. SIEGEL: Q. Now, why would you have
25 worked with S39 if you all weren't applying the thermal

1 insulation?

2 A. From time to time as part of the contract the
3 design agent of the shipbuilder would request that we
4 make them a thermal insulation drawing that showed
5 exactly what the temperatures would be on our cylinders.

6 Q. Okay. And in those drawings you worked with
7 reference to S39?

8 A. Yes.

9 Q. S39, as you saw, calls for -- gives a choice
10 in the type of thermal insulation that can be used; is
11 that correct?

12 MR. HARVARD: Objection.

13 THE WITNESS: No. S39 in the letters pages
14 describe exactly how thermal insulation shall be applied
15 to a turbine.

16 MR. SIEGEL: Q. And some of those possible
17 thermal insulations contained asbestos and some didn't;
18 isn't that correct? And you can take as long as you
19 need to to look through that, but I need you to answer
20 that question.

21 A. It's my understanding that the descriptions
22 here require that it be asbestos.

23 Q. The descriptions here, what page are you
24 referring to?

25 A. Here is on page 39-29, paragraph 39-31,

1 entitled, "Application of Thermal Insulation to
2 Turbines."

3 Q. I'm sorry, page 39-29?

4 A. 39-29 in the upper right-hand corner and then
5 there's a paragraph 39-31 called, "Application of
6 Thermal Insulation to Turbines."

7 Q. Okay. And that speaks of asbestos felt?

8 A. That speaks to -- yes, that speaks of the use
9 of the various types of asbestos that would be applied
10 to the turbine.

11 Q. Well, can you read that entire paragraph and
12 tell me whether every single thing listed in that
13 paragraph is asbestos or not?

14 MR. HARVARD: Just go ahead and read it out
15 loud.

16 THE WITNESS: "All surfaces of propulsion and
17 auxiliary turbines which have a maximum operating
18 temperature of 125 degrees or more should be insulated
19 by one of the methods described in this section.
20 Thickness of insulating material should be as shown in
21 table VII." And then there's a table VII.

22 In that table there is an asbestos felt,
23 mineral wool, asbestos block and 85 percent magnesia and
24 diatomaceous earth block. "Surfaces which can be
25 permanently insulated may be covered with sufficient

1 layers of asbestos felt per paragraph 39-3 (13) to make
2 up the required thickness. Joints of adjacent layers
3 should be staggered. Layers of felt may be held to one
4 another with adhesive cements per paragraphs 39.6 and
5 39.5. Felt should be firmly secured with one-half inch,
6 flexible, galvanized, steel cable spaced on nine-inch
7 maximum centers around the outside layer. The cable may
8 be fastened to steel hooks welded to the casing where
9 required. No holes should be drilled in the casing.

10 "One-inch mesh netting of 18-gage, galvanized,
11 steel wire is spread over the felt and secured by
12 18-gage wire to the cables. A half-inch thick coating
13 of insulating cement per paragraph 30-3 tempered with
14 Portland cement or equal (four parts insulating cement
15 to one part Portland cement) is applied over the netting
16 and trowel rubbed to a smooth finish.

17 "After drying 24 hours, an adhesive insulation
18 cement per paragraphs 30-5 (2) or 35-5 (3) is applied to
19 the hard cement finish and allowed to dry for one hour,
20 after which a second coat of the same cement is applied
21 and allowed to dry. Lag the insulation of glass cloth
22 or asbestos cloth of the correct type indicated in
23 paragraphs 39-4 (3).

24 "Galvanized steel rings backed up by
25 galvanized steel washers fastened on both sides of the

1 lagging should be attached to the permanent insulation
2 adjacent to removable blankets. These blankets are used
3 to cover the flange joint between the upper and lower
4 casings. They are formed by quilting layers of asbestos
5 felt together with fine nickel wire -- nickel copper
6 alloy or brass wire or asbestos twine per paragraph
7 30-1 (3). The turbine side of the blanket is covered
8 with wire-inserted asbestos cloth and the outer surface
9 is covered with plain asbestos cloth of the type
10 recommended in paragraph 39-4 (3)."

11 MR. HARVARD: You want him to keep reading the
12 whole thing?

13 MR. SIEGEL: Yeah, actually, yeah. If --
14 well, if he could read --

15 MR. HARVARD: Just keep going.

16 MR. SIEGEL: Q. Read the next paragraph and
17 then you can take a breather.

18 A. Sure. "Blankets are secured to the permanent
19 insulation with 18-gage, galvanized iron or copper wire
20 laced through metal hooks or eyes attached to the edges
21 of the blankets and the rings on the permanent
22 insulation. It is preferable that blankets should
23 project well over the insulation of the adjacent
24 surface. Blankets should be shaped to fit accurately
25 and spaces between them and the hot metallic surfaces

1 should be completely filled with some type of asbestos."

2 I can't read that. "See figure 14."

3 "(2) Another method is to use the same
4 procedure outlined in paragraph 30-31 (1), but with
5 mineral wool blanket insulation per paragraph 39-3 (15)
6 instead of asbestos felt for both permanent and portable
7 insulation. Removable blankets made with mineral wool
8 should be covered with one-quarter inch of asbestos roll
9 felt per paragraph 39-3 (12) previous to enclosing them
10 with asbestos cloth.

11 "Thermal block insulation per paragraphs 30-3
12 (9) and 39-3 (10) may be used for permanent insulation.
13 Thicknesses should be those shown in table VII. Prior
14 to applying the block, all irregularities of the turbine
15 surface should be filled to form a smooth surface. Use
16 magnesia or preferably high temperature cement for
17 temperatures below 500 degrees Fahrenheit and high
18 temperature insulation cement for higher temperatures.
19 Magnesia plaster or insulation cement should be used to
20 point up joints between the layers of block and all
21 crevices should be filled.

22 "The block covering is held in place by
23 half-inch, flexible, galvanized steel cable spaced on
24 nine-inch maximum centers. The cable may be fastened to
25 steel hooks welded to the casing where required.

1 One-inch mesh netting of 18-gage, galvanized steel wire
2 is spread over the outer layer of block and secured by
3 18-gage wire to the steel cables. Finish cement and
4 lagging are applied as described in paragraph 39-31.
5 Removable insulation also is the same as outlined in
6 that paragraph."

7 Q. Okay. If you'll just read the next two
8 sentences, we'll be done.

9 A. "Mineral wool high temperature insulating
10 cement, as described in 39-3 (18), is sometimes used to
11 form the complete permanent insulation. It is applied
12 in layers less than one-inch thick and is reinforced
13 with wire mesh."

14 Q. Okay. So we have just read or you have just
15 read a long paragraph that comes under the heading of
16 application of thermal insulation to turbines?

17 A. That is correct.

18 Q. This is what governed Westinghouse on those
19 occasions when the shipbuilder asked you to take care of
20 the insulations?

21 MR. HARVARD: Objection to the form.

22 THE WITNESS: No. The shipbuilder never asked
23 us to do the insulation. The insulation was done by the
24 shipbuilder with respect to asking for a drawing. That
25 is the only time when we produced drawings that related

1 back to this particular chapter.

2 MR. SIEGEL: Q. Okay. I asked you when
3 this specification S39 governed Westinghouse and you
4 tell me -- and your answer is that it governs in those
5 situations where you make the original drawings for
6 insulation.

7 A. When requested by the Navy or the design agent
8 to make a drawing to show the application for the design
9 agent to use.

10 Q. And in fact at the end of the paragraph or on
11 the next page that you read, is this the type of drawing
12 that we would be talking about?

13 A. Similar, yes.

14 Q. Okay. And this drawing lists a number of
15 possible types of insulation, right?

16 A. Yes.

17 Q. And when Westinghouse is making this drawing,
18 it can specify one or the other or several different
19 types, right?

20 MR. HARVARD: Object to the form.

21 THE WITNESS: Yes, except generally the
22 result is what is agreed upon by the approving authority
23 and Westinghouse.

24 MR. SIEGEL: Q. Okay. That's fair enough.
25 But in the original drawing phase this specification

1 allows for asbestos felt or mineral felt, it allows for
2 cement that's asbestos or magnesia and so on; is that
3 right?

4 A. Correct.

5 Q. Now, my question when we started after the
6 break was whether Westinghouse was ever concerned about
7 asbestos and I think -- and I want to make sure what
8 your answer is -- that it was on those occasions when
9 these types of drawings were being made pursuant to such
10 a request?

11 A. That is correct.

12 Q. If on such occasions Westinghouse had had any
13 concern of any kind regarding the asbestos thermal
14 insulation referred to in this specification, there was
15 a channel, there was a system for voicing those concerns
16 to the Navy; is that not correct?

17 A. Yes. But we would not use it.

18 Q. Well, it's your testimony that you never did
19 use it; is that right?

20 A. That's right. We never used it.

21 Q. And would that have been under your
22 supervision or would it have been under someone else at
23 the Marine Division who worried more about things like
24 insulation?

25 MR. HARVARD: Would what have been?

1 MR. SIEGEL: Q. Decisions about insulation
2 and concerns about insulation.

3 A. It would have been the department head,
4 whoever -- those particular years that the turbines were
5 built. It was his concern.

6 Q. At what department are we talking about?

7 A. The Marine department that built Marine
8 turbines at Westinghouse.

9 Q. Okay. Were you a head of that department at
10 certain times?

11 A. No.

12 Q. Were you one of the engineers working in that
13 department?

14 A. Yes.

15 Q. Who was the head of that department when you
16 started at Westinghouse?

17 A. When I started at Westinghouse it was Jack
18 Walbridge.

19 Q. Okay. Where is Jack Walbridge today?

20 A. Jack Walbridge retired five or six years after
21 I got there.

22 Q. After you started?

23 A. Yes.

24 Q. At what age did he retire?

25 A. Oh, he retired at the normal retirement age of

1 65.

2 Q. Who was department head after him?

3 A. Harold Semar.

4 Q. How do you spell that last name?

5 A. S-E-M-A-R.

6 Q. What can you tell me about his present
7 whereabouts?

8 A. Harold Semar retired at the age of 62 in 1972
9 and he reached his 90th birthday. He just passed away
10 two years ago in a parking lot of all places. Had a
11 heart attack.

12 Q. Okay. Who was department head after him?

13 A. Oh, we had a number of department heads. He's
14 gone back to Pittsburgh. It was a guy who came out and
15 went back to Pittsburgh and then another one who came
16 and passed away. Let me bring you up to date. Let's
17 see, the last one I had was in 1975, '76 Jim McMorren
18 (phonetic).

19 Q. He was the department head by this time at
20 Sunnyvale, I suppose?

21 A. That's right. He was the department head at
22 Sunnyvale.

23 MR. HARVARD: What department is it you're
24 talking about?

25 THE WITNESS: We're still talking about the

1 Marine department. Marine engineering department at
2 Sunnyvale.

3 MR. SIEGEL: Q. And again, your testimony is
4 that no such concerns were ever voiced to the Navy?

5 A. That is correct.

6 Q. But it's also your testimony that there was a
7 method and a means or a channel of voicing such concerns
8 had someone wanted to voice them?

9 A. No. I never stated that. I'm saying that
10 there was a method through the chain of command of which
11 if you wanted a change you go through that chain of
12 command.

13 Q. Well, if someone at Westinghouse knew that
14 asbestos was really, really hazardous to anybody who
15 came in contact with it, there would have been a means
16 of expressing that to the Navy, wouldn't there have?

17 A. No. First of all, Marine engineers were not
18 aware of concerns about asbestos because the Navy had
19 that responsibility.

20 Q. I'm not interested in whether the Marine
21 engineers were aware of it. I'm asking you that if
22 somebody, anybody at Westinghouse had known that
23 asbestos was dangerous, they could have voiced that
24 concern to the Navy.

25 A. No. Unless they went through the chain of

1 command.

2 Q. But there was a chain of command to voice such
3 a concern to the Navy, was there not?

4 A. Yes, a contractual chain of command, yes.

5 Q. So if Westinghouse had a concern about the
6 hazards of asbestos, there was a chain of command and a
7 means for them to voice that concern to the Navy?

8 MR. HARVARD: Objection, form.

9 MR. SIEGEL: Q. You can answer.

10 A. Yes, as long as they went through the chain of
11 command and an approval was received.

12 Q. Okay. All right. Now, the next document I
13 want to ask you to look at you've had a chance to look
14 at with counsel for Westinghouse and I'm going to
15 represent to you is a set of supplemental interrogatory
16 answers by Westinghouse in certain asbestos cases filed
17 in Mississippi.

18 Do you want to take a look at that again?

19 MR. HARVARD: Can I ask, do you know if this
20 is the complete set of that document or are these
21 excerpts?

22 MR. SIEGEL: I think that is the complete set
23 of supplemental answers. That's not a complete set of
24 those interrogatory answers in that litigation.

25 MR. HARVARD: Right. I'm going to object to

1 the extent that it's not a complete set of the
2 interrogatories. I'm not going to stop you from asking
3 any questions about it.

4 Are you marking this as next exhibit in order?

5 MR. SIEGEL: This will be Plaintiffs' 6.

6 (Marked Plaintiffs' Exhibit 6.)

7 (Discussion held off the record.)

8 MR. SIEGEL: The plaintiffs' counsel has
9 highlighted certain language on this exhibit and I'm
10 just going to ask, so the record will reflect that I'm
11 going to ask Mr. Gate to read the highlighted language.

12 MR. HARVARD: Why don't you read out loud.

13 THE WITNESS: Sure. "Upon information and
14 belief, the following is a list of the products sold to
15 the public by Westinghouse which at some point in time
16 may have contained some amount of asbestos, without
17 regard to the type or amount of the asbestos ingredient
18 or the potential or lack of potential for the release of
19 loose, respirable asbestos fibers into the air.
20 Further, only certain variations of these products
21 contain asbestos; many other variations contained no
22 asbestos."

23 MR. HARVARD: Let me ask a quick question.

24 You were just reading that, Mr. Gate. You don't know
25 whether that's correct or not, you have no information

1 on that, correct?

2 THE WITNESS: That's right. I don't know
3 anything about that.

4 MR. HARVARD: Correct. That's what it says.
5 Is that correct, that's what it says?

6 THE WITNESS: That's what it says.

7 MR. SIEGEL: Well, without asking him to read
8 it, I'm going to represent for the record that these are
9 verified sworn interrogatory answers signed by the
10 assistant secretary of Westinghouse Corporation.

11 MR. HARVARD: I acknowledge that's what they
12 appear to be.

13 MR. SIEGEL: Q. Could you read the
14 highlighted one that again plaintiffs' counsel has
15 highlighted among the list of items.

16 A. You just want me to read that one or more?

17 Q. Just that one.

18 A. "Steam and gas turbines and ancillary
19 insulation."

20 Q. So steam and gas turbines and ancillary
21 insulation appears on the list produced by Westinghouse
22 of products that at some point contained asbestos; is
23 that right?

24 A. That is correct.

25 Q. So in other words, according to Westinghouse's

1 own records they did produce turbines themselves that
2 contained asbestos?

3 A. That is correct.

4 Q. Let me ask you to identify for the record
5 what we're going to mark as Plaintiffs' Exhibit 7.

6 A. Okay. This is process specification.

7 (Marked Plaintiffs' Exhibit 7.)

8 MR. HARVARD: Okay. Hang on a second. He
9 asked you to look at it. He hadn't asked you to say
10 anything.

11 MR. SIEGEL: Q. I'm sorry, go ahead and give
12 the exact title of that document for the record?

13 A. Okay. "Process Specification 600729 Turbine
14 Cylinder Insulation."

15 Q. What is a process specification?

16 A. A process specification is a procedure in
17 which a manufacturing engineer has written and would
18 want the men on the floor to follow.

19 Q. So that's a Westinghouse specification, that's
20 not a Navy specification; is that right?

21 A. Well, it appears to be a Westinghouse
22 specification only that it has the markings of a process
23 specification in the 600 series.

24 Q. What is the 600 series?

25 A. Well, it's just a 600 series.

1 Q. But that's an internal categorization
2 developed by Westinghouse for types of their own
3 specifications?

4 A. It's a number that they use for process
5 specifications, let's just put it that way, and then
6 when you see a 600 series specification, it's -- it says
7 to your brain, okay, this is a process in which someone
8 will be doing something.

9 Q. Okay.

10 MR. HARVARD: May I see it?

11 MR. SIEGEL: Okay. I'm sorry. All right.
12 The title of this document is "Process Specification
13 600729," and is that where you derived the recognition
14 that it's from the 600 series?

15 A. Yes.

16 Q. What, if anything, do the numbers in the right
17 hand corner mean to you?

18 A. I don't know.

19 Q. Nothing? You don't recognize that type of
20 numbering?

21 A. No, I don't.

22 Q. How about these numbers in the respective
23 paragraphs?

24 A. 46601AB, no, they don't mean anything to me.

25 Q. Now, you've had a chance to look at this and

1 take some more time to look at it, if you want. But
2 that document lists a number of different kinds of
3 thermal insulation, right?

4 A. Yes.

5 Q. And it deals with several manufacturers, right?

6 A. Yes.

7 Q. And this is Westinghouse's own process
8 specification developed by its engineers for use by
9 Westinghouse people; is that right?

10 MR. HARVARD: If you know. If you know or are
11 familiar with this?

12 THE WITNESS: This is probably used by someone
13 and I know that the Marine Division did not utilize this
14 information.

15 MR. SIEGEL: Q. What would it have been
16 utilized for? It says, "Turbine Cylinder Insulation,"
17 does it not?

18 A. Yes.

19 Q. But that's not something within the Marine
20 Division?

21 A. There are turbines built in other departments.

22 Q. Okay.

23 A. All right. All I'm saying is that since we
24 did not get involved with thermal insulation, we would
25 have really no apparent use for this document.

1 Q. Okay. What other types of turbines did
2 Westinghouse manufacture that weren't manufactured in
3 the Marine Division?

4 A. Okay. There were large utility turbines,
5 medium utility turbines and there were small turbines.

6 Q. Okay.

7 MR. HARVARD: Gas turbines?

8 THE WITNESS: Oh, I'm sorry, yeah, gas
9 turbines.

10 (Marked Plaintiffs' Exhibit 8.)

11 MR. SIEGEL: Q. Okay. And it's your
12 testimony that this is just not anything that the Marine
13 Division would have used?

14 A. Not readily; that is correct.

15 Q. This is going to be Plaintiffs' Exhibit 8.

16 A. We're looking at service department steam
17 supervisor's letter No. 50-8 dated June 14th, 1950 and
18 the subject is insulation.

19 Q. Who are the steam supervisors?

20 A. I don't know. They must be in the service
21 department. This is a service department steam
22 supervisor. So they must be supervisors within the
23 service department.

24 Q. Okay. Now, the service department dealt with
25 both Marine and nonMarine repair problems, right?

1 MR. HARVARD: If you know.

2 THE WITNESS: They were segregated with
3 respect to their department heads. There was a Marine
4 supervisor for service. And he then drew upon the
5 district offices, I'll say that, for the various
6 shipyards.

7 MR. SIEGEL: Q. Now, someone, it's not
8 plaintiffs' counsel here, but someone has underlined the
9 last location listed there at the beginning, East
10 Pittsburgh Works.

11 A. Yes, that's what it says. "East Pittsburgh
12 Works, Mr. L.C. Moore, assistant to the manager." I
13 can't read. It's something like DE & S.

14 Q. Is East Pittsburgh a nonMarine location or a
15 location which Marine things went on or what?

16 A. East Pittsburgh was a -- they build
17 generators, all right. And they did build generators
18 for the turbine generator sets for the turbine's belt at
19 the South Philadelphia Works.

20 Q. So that would apply to Marine and nonMarine
21 operations, at least it was being addressed to a
22 facility that did both kinds of things?

23 A. That is correct.

24 Q. Do you recognize the man who's named there or
25 the person who's named there?

1 A. No, Mr. Moore, no.

2 Q. Let me take a look at it.

3 A. Sure.

4 Q. All right. Could you read just the first and
5 second paragraphs, two or three sentences there?

6 A. "We are trying to obtain some cost data on the
7 application of Block Type Insulation 166, 246 and 286
8 Frame Turbines.

9 "We have the possibility of having more than
10 one condition facing you in the field. In the past
11 we" -- I think it looks like -- no, here it is. "In the
12 past these frames have not had the block-type insulation
13 put on here at South Philadelphia. We are considering
14 doing this now and therefore we are interested in field
15 experience as far as cost is concerned."

16 Q. So that document speaks of insulation being
17 put on the turbines at the Philadelphia location, right?

18 A. Yes. But on block type insulation on 166,
19 246, and 286 framed turbines.

20 Q. Okay. Are those Marine or nonMarine turbines?

21 A. They are nonMarine turbines.

22 Q. All of them are?

23 A. Yes.

24 Q. Now, this is written -- can you identify who
25 wrote that down at the bottom?

1 A. J.C. Tiefel, assistant to the manager of the
2 steam services department.

3 Q. Do you recognize that name?

4 A. Yes.

5 Q. Is J.C. Tiefel still around?

6 A. No. He was in his 50s also.

7 (Discussion held off the record.)

8 (Marked Plaintiffs' Exhibit 9.)

9 THE WITNESS: The letter in front of me is
10 dated 12/27/62 and it's Lester Works G Building and it's
11 steam service data letter 62-23, and index, field
12 application of turbine insulation.

13 MR. SIEGEL: Q. Can you identify the person
14 that wrote the letter?

15 A. Headquarters steam service T. W. Bonham.

16 Q. Do you recognize that name?

17 A. No.

18 Q. All right. If you'll read the first paragraph
19 in the -- first sentence in the second paragraph.

20 A. There seems --

21 MR. HARVARD: First sentence in the second
22 paragraph.

23 THE WITNESS: Oh, sorry. First sentence in
24 the second paragraph, "Process specification 600729
25 covers the application of block and plastic insulation

1 on unit cylinders above the 286 frame."

2 MR. SIEGEL: Q. Is 286 again a nonMarine
3 turbine?

4 A. That is correct.

5 Q. All right. Now, I have just a few questions
6 about two other documents. One is an affidavit and one
7 is some deposition testimony. You've had a chance to
8 read them or you can take -- I don't want you to read
9 them for the record. If you want to take five minutes
10 and read this affidavit again, I simply want to ask you
11 if there's any statement in this affidavit with which
12 you disagree.

13 MR. HARVARD: Let me request the witness get
14 an opportunity to read it because during the break when
15 he looked at, all he did was look at those documents and
16 glance over them to see if they were documents with
17 which he was generally familiar and the affidavit you're
18 looking at is a multipaged affidavit with attachments
19 that he had, as he expressed to me, had not to his
20 recollection seen before.

21 (Marked Plaintiffs' Exhibits 10 and 11.)

22 MR. SIEGEL: Yes. And I don't need you --
23 I'm not going to ask any questions about the attachments
24 or anything. This is an affidavit. What we're going to
25 mark as Plaintiffs' Exhibit 10 is an affidavit of a man

1 named David Chilcote. I'm going to ask you to read it.
2 It's three and a half pages long and I simply want to
3 see if there's anything you take issue with. What we'll
4 mark as 11 is some trial testimony -- a deposition of a
5 man named John Haas, chairman of the ship's
6 specifications control board of the United States Navy.
7 Same thing. I just want you to read them and see if
8 there's anything that you would say is untrue.

9 MR. HARVARD: Can he mark on those?

10 MR. SIEGEL: Sure.

11 (Recess taken.)

12 MR. SIEGEL: Q. Mr. Gate, you've had an
13 opportunity to read in detail the declaration of Joseph
14 Chilcote, which is attached as Plaintiffs' Exhibit 10.
15 Now, Mr. Chilcote states that he was employed by the
16 Bureau of Ships, Materials Standard Branch.

17 Can you explain for us what that is?

18 A. No.

19 Q. Can you explain what the Bureau of Ships is?

20 A. Yes. It is the Navy's department that is
21 there to design ships and to take care of them for the
22 fleet.

23 Q. Okay. And that is a -- I think you testified
24 earlier that is the department of the Navy that you
25 ultimately dealt with; is that correct?

1 A. That is correct.

2 Q. Now, is there anything in the statements of
3 Mr. Chilcote who worked for the Bureau of Ships that you
4 disagree with?

5 A. First of all, Mr. Chilcote may be correct, but
6 I don't have enough information or I don't know enough
7 information to even make a comment with exactly what Mr.
8 Chilcote is trying to accomplish.

9 Q. Okay. You've marked certain statements or
10 certain places in that affidavit. Is there anything you
11 wanted to point out or say with regard to any mark
12 you've made or any statement that you've marked or are
13 those just -- you went along and happened to mark
14 certain segments?

15 A. Right. I just happened to mark certain
16 segments.

17 Q. Okay. Did you mark -- do I see the word no in
18 the margin there?

19 A. That's right.

20 Q. What are you marking no to?

21 A. As far as Marine department is concerned,
22 we're not involved with what Mr. Chilcote is trying to
23 undertake because we were not industry experts in the
24 insulation field. In fact, we are probably one of the
25 worst ones.

1 Q. But, in other words, you don't have any reason
2 to believe that what he's saying is untrue, you just
3 don't have any information to know one way or the other?

4 A. That is correct.

5 Q. Now, how about Plaintiffs' Exhibit 11, which
6 is the deposition of John Haas?

7 A. Again, I don't know what John Haas is trying
8 to do and I don't have any information that would make
9 me intelligent to understand what is happening with John
10 Haas.

11 Q. Okay. What is the -- if you know, what is the
12 ship's specification control board?

13 A. I don't know.

14 Q. That's not an office whose name you recognize?

15 A. No.

16 Q. So when Mr. Haas says he is chairman of the
17 ship's specification control board of the United States
18 Navy, that's something you've never heard of?

19 A. That is correct.

20 Q. Now, someone asked Mr. Haas if he knew of any
21 prohibition among Navy regulations or rules, which would
22 prohibit a supplier of thermal insulation products from
23 drafting the specification pertaining to that product.
24 And he said no, he didn't know of any such specification
25 or prohibition.

1 Do you know of any such prohibition?

2 A. Yes.

3 Q. What would that prohibition be?

4 A. The prohibition would be that anything that we
5 want to make a revision or change to must go through the
6 chain of command. Maybe Mr. Haas didn't have to go
7 through the chain of command because of his stature or
8 because of his office, but we in taking a contract with
9 the U.S. Navy have a built-in set of chain of command
10 rules with respect to making revisions and changes.

11 Q. Right. And those rules are exactly what's set
12 out for Westinghouse, the procedure by which it can
13 suggest changes; isn't that right?

14 A. No. It says that as far as the procedure is
15 concerned we let everyone know what we're attempting to
16 do. You know, making changes takes a lot of time and we
17 try to keep that to a minimum.

18 Q. But if Westinghouse wanted to make a change of
19 some kind, there was a procedure in place, a chain of
20 command to suggest that change to the Navy and to
21 request permission for it?

22 A. Yes.

23 Q. Now, the Navy never sent Westinghouse any
24 order concerning asbestos thermal insulation, did it?
25 That's too broad of a question. Did the Navy ever

1 prohibit Westinghouse from putting a warning on its
2 turbines about asbestos insulation?

3 A. Yes.

4 Q. What was that prohibition?

5 A. The chain of command. Going through the chain
6 of command and knowing that we have warnings with
7 respect to turbines and we have cautions in our tech
8 manuals with respect to what is dangerous for personnel
9 and equipment.

10 Q. Right. And that chain of command is a back
11 and forth process, isn't it?

12 A. No. It's a one-way street.

13 Q. Right. And that one-way runs from
14 Westinghouse to the Navy when Westinghouse wants to make
15 a change about something, isn't it, doesn't it?

16 A. No. It's the other way around. Westinghouse
17 can make recommendations but it must be approved and
18 only through the chain of command.

19 Q. Right. And if Westinghouse had wanted to put
20 a warning on its turbines, it could have done so had it
21 gone through the chain of command and gotten approval?

22 A. Yes. But this is strictly a warning.

23 Q. Had Westinghouse wanted to put a warning of
24 the hazards of asbestos insulation on its turbines to
25 warn people working near or with those turbines about

1 the hazards of asbestos, it could have done so had it
2 secured permission from the Navy through the chain of
3 command you have talked about?

4 A. No. Because Westinghouse was not involved
5 with asbestos. Warnings and cautions are reserved for
6 those procedures in which personnel, if not following
7 the procedures has outlined, then they will be placing
8 their lives and the equipment in danger.

9 Q. I know you've told me that Westinghouse wasn't
10 involved with asbestos, but had Westinghouse wanted to
11 do something about asbestos, i.e., put a warning on its
12 turbines, it could have done so provided it secured
13 permission from the Navy?

14 A. The answer is no.

15 Q. Well, what prohibited it from doing so?

16 A. Because the procedure of just asbestos we
17 don't know whether that's an immediate consequence and
18 we don't know whether if not followed, that the person's
19 life is in jeopardy.

20 Q. Well, that all has to do with whether it's a
21 good idea, doesn't it?

22 A. No, sir. It is a procedure in which we adhere
23 to.

24 Q. I want you to tell me what order or regulation
25 or procedure or any piece of paper you ever got from the

1 Navy forbade Westinghouse from putting a warning on
2 asbestos turbines?

3 A. Westinghouse would not get involved with
4 asbestos, period.

5 Q. You've said that many times, but I want to
6 know whatever you got from to the Navy that forbade you
7 from putting a warning on had you wanted to?

8 A. It is in working with the Navy that we
9 understand what was required of us to put warning plates
10 on and to put caution plates on.

11 Q. I understand that. And again, if you had
12 wanted to put such a warning or caution on about
13 asbestos, there was a means for securing permission to
14 do so had the Navy granted permission, isn't there?

15 A. No. I'm going to have to say no. I have
16 personally tried in working with the Navy on what we
17 call resistant temperature elements. These are very
18 similar to thermocouples in working with the Navy. I
19 wanted to put a caution plate on there and it was
20 rejected.

21 Q. Got it.

22 A. Okay. All I'm saying is that you just can't
23 assume that you will go put warning plates on things,
24 you really have to have discussion and as far as
25 asbestos is concerned, we are not -- we are not involved

1 in the worrying about the environment of the Navy. Navy
2 crews are taken care of by the Navy. The engine room is
3 designed by the Navy.

4 The use of asbestos in the engine room is
5 outlined in the chapter 39, therefore, I'm saying that
6 we are the last person that would make any
7 recommendations with regard to asbestos.

8 Q. Well, you might think that, but I'm asking
9 you, had you made such a recommendation or had you
10 wanted to, there was a procedure for doing so, right?

11 A. Yes, only through the chain of command.

12 Q. Right. And the Navy was free to accept or
13 reject that recommendation?

14 A. Yes, except, that again, we would not just go
15 in and do it.

16 Q. Right. And you gave an example of a situation
17 in which you recommended a warning about something and
18 the Navy rejected it, right?

19 A. That is correct.

20 Q. But had such a recommendation been made about
21 the health hazards of asbestos, the Navy might have
22 accepted it or might have rejected it, we don't know; is
23 that correct?

24 A. We would never even think in terms of making a
25 suggestion about the health hazards of Navy personnel.

1 Q. Do you recall being deposed here at the
2 Morgenstein firm back in February in the case called the
3 Robert Langer matter?

4 A. Yes.

5 Q. And that was a deposition in which the
6 plaintiffs' lawyer was asking you a question about
7 things; is that right? Do you recall?

8 A. Yes.

9 Q. Do you want to look at their transcript?

10 MR. HARVARD: Hang on a second. I've got a
11 copy of it. What page are you at?

12 MR. SIEGEL: Q. 69, last question. The
13 plaintiffs' attorney asked you the following question.

14 "Mr. Gate, this is actually a simple question
15 and actually it's my last. There was never anything
16 that Westinghouse received from any of the regulatory
17 bodies or the U.S. Navy or any builder that prohibited
18 Westinghouse from placing a warning concerning asbestos
19 on the Marine turbines; is that not correct?"

20 Mr. Harvard objected and then you said, "Not
21 that I'm aware of."

22 A. I remember that.

23 Q. Now, are you aware of something now that you
24 weren't aware of back in February?

25 A. I am aware of when I read that, that that is

1 not what I thought I heard over the phone. We were
2 having problems with the phone from time to time and I
3 did not catch all the words that came over. It was
4 probably --

5 Q. Did you have an opportunity to read this
6 deposition?

7 A. Yes.

8 Q. Did you get this transcript and have an
9 opportunity to read it and make any changes you wanted
10 to make in it?

11 A. I just read it the other day when you came.

12 MR. HARVARD: This deposition I believe was
13 taken with trial pending and I don't think the witness
14 read and signed it. I could be wrong.

15 MR. SIEGEL: Q. Did you not have the 30-day
16 period to read this deposition and make any changes you
17 wanted to make in it?

18 A. Are you asking me or asking him?

19 Q. I'm asking either one of you.

20 A. I'll tell you this, I did not see this until
21 he brought it to me.

22 Q. When did he bring this to you?

23 A. Was it two days ago?

24 MR. HARVARD: Yeah. It was a week ago.

25 THE WITNESS: A week ago.

1 MR. SIEGEL: Q. Okay. I have cited this
2 testimony in several pleadings that I filed in court
3 recently and are you telling me that you're going to
4 file a pleading in court saying this is inaccurate
5 transcription of the testimony?

6 MR. HARVARD: No.

7 MR. SIEGEL: So it's accurate?

8 MR. HARVARD: Yes. That's an accurate
9 reflection of the answer he gave. He just stated a
10 moment ago that when he read back through this, he
11 didn't understand the question that was being asked.

12 MR. SIEGEL: All right.

13 Q. What about the question did you not
14 understand?

15 A. First of all, when I read it I didn't realize
16 that the word asbestos was used in there. I almost fell
17 through the floor, but if that's what the court recorder
18 recorded, then that's what was said, but I didn't hear
19 it over the phone. I just missed it.

20 Q. You missed the word asbestos in that question?

21 A. Yes.

22 Q. Did you miss any other words in that question?

23 A. Yes. In the very beginning "received from any
24 of the regulatory bodies," that threw me for a loop
25 because I didn't quite understand what they were

1 trying -- what they were trying to say and I probably in
2 all righteousness should have asked that the question be
3 repeated again.

4 Q. Now, did you not hear the word regulatory
5 bodies or did you not understand what was meant by the
6 term regulatory bodies?

7 A. Both. I didn't quite catch it, but I didn't
8 also understand what he was striving at as far as
9 regulatory bodies were concerned.

10 Q. What exactly do you not understand about the
11 phrase regulatory bodies?

12 A. Well, tell me what you think that regulatory
13 bodies mean.

14 Q. Any body that issues regulations.

15 A. Okay. I'm not used to that terminology at
16 all. In other words, what we're saying here is that the
17 U.S. Navy is a regulatory body.

18 Q. No, it's regulatory bodies or the U.S. Navy.

19 A. Well, I'm saying that as an example. I could
20 not understand what the regulatory bodies were.

21 Q. Well, I --

22 A. I could understand the U.S. Navy parts.

23 Q. So you were having trouble now reading it in
24 hindsight understanding the phrase regulatory bodies,
25 but you heard that phrase being asked on the phone?

1 A. Yes, that portion of it, but not very clearly
2 because certainly when I missed asbestos, then I really
3 felt bad.

4 Q. All right. You didn't hear the word asbestos?

5 A. No.

6 Q. So what you heard was the sentence, "There was
7 never anything that Westinghouse received from any of
8 the regulatory bodies or the U.S. Navy or any builder
9 that prohibited Westinghouse from placing a warning
10 concerning on the Marine turbines"?

11 A. That's right.

12 Q. You just heard that whole sentence, but not
13 the word asbestos?

14 A. That's right.

15 Q. And this was at the end of a 70 page
16 deposition being taken in an asbestos case?

17 A. Whatever number of pages it is.

18 Q. But you didn't think he was asking you about
19 warnings concerning asbestos?

20 A. No.

21 Q. He was just asking you about any warning at
22 all?

23 A. Yes.

24 Q. All right. Then did you ever receive anything
25 from the Navy or any regulatory body about prohibitions

1 about warnings of any kind, about anything?

2 A. The answer is no, we never received it, but we
3 do -- but we do have the procedures to follow with
4 respect to putting anything on turbines.

5 Q. All right. So your answer in fact was
6 correct, you never received anything from the Navy that
7 was a prohibition about health warnings, whether
8 asbestos related or otherwise?

9 A. I never --

10 Q. So we're in agreement that the Navy never sent
11 you a piece of paper saying, don't you dare tell sailors
12 about asbestos being hazardous, you never got such piece
13 of paper?

14 MR. HARVARD: I'm sorry, did you finish your
15 answer on the last question.

16 THE WITNESS: I don't know. Let's read it.
17 (Record read.)

18 MR. HARVARD: That's the point where you got
19 cut off. I'm not sure you answered the last question.

20 MR. SIEGEL: Q. We can just try to establish
21 that in fact this question and answer are accurate,
22 right, the Navy never sent you a formal document
23 prohibiting warnings concerning asbestos?

24 A. The Navy --

25 Q. I just need a yes or no answer to that

1 question, first.

2 MR. HARVARD: Answer the question. If you can
3 answer it with a yes or no, do it. If not, answer it
4 the way you can answer it.

5 MR. SIEGEL: Because either the answer is you
6 got such a document or you didn't.

7 MR. HARVARD: Answer the question just any way
8 you can.

9 THE WITNESS: We have received letters from
10 the Navy, yes, that says that changes that are to be
11 made are through the formal chain of command.

12 MR. SIEGEL: Q. Okay. But the Navy never
13 sent you letter saying forbidding a change with regard
14 to asbestos health warnings?

15 MR. HARVARD: If you know.

16 THE WITNESS: I don't know.

17 MR. SIEGEL: Q. You can't ever think of
18 receiving such a document?

19 A. I don't know.

20 Q. Okay. And Westinghouse has never produced a
21 document in 25 years of asbestos litigation to your
22 knowledge?

23 A. Again, I don't know.

24 Q. You don't ever remember receiving such a
25 document and that's why you don't know, right?

1 A. Exactly. I don't know.

2 Q. Now, you have stated that there was a
3 procedure for making changes.

4 A. That's correct.

5 Q. And had Westinghouse requested -- had
6 Westinghouse wanted to make a warning concerning
7 asbestos hazards, there was a procedure for making such
8 a warning or requesting such a warning be made.

9 A. Westinghouse would never get involved with
10 thermal insulation.

11 Q. Now, these guys got planes to catch. I don't.
12 I'm willing to sit here for three more hours until you
13 answer that question.

14 A. I just answered it.

15 Q. You have told me 80 times now that
16 Westinghouse wouldn't have requested such a change and
17 I'm asking you Westinghouse could have requested such a
18 change had they wanted to?

19 A. No.

20 Q. Why?

21 A. Because we had procedures to adhere to.

22 Q. Um-hum. And those procedures were precisely
23 how you could have requested such a change?

24 A. No. Not with asbestos.

25 Q. Why not?

1 A. Because the Navy took care of asbestos. We
2 did not take care of the asbestos. We're the last
3 person in this whole line to know anything about
4 asbestos because the Navy said the shipyard will take
5 care of asbestos. It's all in this 39.

6 Q. What prohibited you from requesting a change
7 about asbestos?

8 A. We're the last person to offer advice to
9 things that we don't know about. All we can do is
10 recite back chapter S39.

11 Q. What prohibited you from asking about a change
12 regarding asbestos?

13 A. I think I just answered that question.

14 Q. No, you haven't. I want to know if there's
15 any prohibition or if you simply never did it?

16 MR. HARVARD: If you know.

17 THE WITNESS: I don't know.

18 MR. SIEGEL: Q. You don't know of any such
19 prohibition?

20 MR. HARVARD: You asked two questions. I
21 think he was answering --

22 MR. SIEGEL: Q. I understand that you never
23 made such a request and I understand your view that
24 Westinghouse would not have been involved in such a
25 request. But this plain question I'm asking you and the

1 question that I need an answer to before we can go on is
2 whether there was a prohibition on Westinghouse making
3 such a request?

4 A. Yes.

5 Q. And what was that prohibition?

6 A. The rules that I was following with respect to
7 my boss and with respect to my experience with them from
8 the first day I started with Westinghouse.

9 Q. The rules?

10 A. The rules, right. Experience.

11 Q. What rule prohibited that request?

12 A. The rule meaning that when we're not involved
13 with certain procedures, we don't get into them.

14 Q. What rule is that?

15 A. It's our rule.

16 Q. Whose rule?

17 A. Westinghouse Marine Division.

18 Q. What specification is that?

19 A. It's not in a specification. It is our
20 experience.

21 Q. In other words, then it's your experience that
22 prohibited such a warning from being requested?

23 A. That is correct.

24 Q. And what about your experience, who at
25 Westinghouse told you that?

1 A. Start off with Jack Walbridge, my immediate
2 boss.

3 Q. He told you that you could not make a request
4 about a health hazard if one were warranted?

5 A. That is right.

6 MR. HARVARD: Object to the form.

7 MR. SIEGEL: Q. He did?

8 A. As far as asbestos was concerned, we're not
9 involved with because that was his experiences.

10 Q. That was his experience?

11 A. Yes. In other words, the service department,
12 all right, handled the request as far as asbestos is
13 concerned. All right. The Marine engineering
14 department never got involved with it.

15 Q. Okay. Now, you have testified that the Navy
16 never sent you a letter or a directive or a
17 specification precluding this type of warning change
18 from being suggested. You've testified that there was
19 no rule on paper that prohibited that, there was simply
20 your own recollection of your experience. Okay.

21 Now, because it is Westinghouse's contention
22 in court that the Navy forbade this warning, I want to
23 ask you about each of these Navy people and I want to
24 see if they ever told you don't be coming to us with any
25 suggestions about asbestos. Now, the first one --

1 MR. HARVARD: Object to the form, lack of
2 foundation. You can ask him I think properly if he
3 knows or has ever had any communications with these
4 folks, but I object to the form as argumentative as
5 you've currently phrased it and lack of foundation.

6 MR. SIEGEL: Q. Did Captain Rosenstein ever
7 tell you anything orally about any prohibition on
8 Westinghouse making a suggestion with regard to asbestos
9 health warnings?

10 A. I don't remember.

11 Q. You don't remember any such statement from him?

12 A. I don't know.

13 Q. You don't remember any such statement from
14 him, do you?

15 A. I don't know and I don't know.

16 Q. That's because you can't think of any such
17 statement he ever made, right?

18 A. That's right. I don't know.

19 Q. Did he ever give you a written order to that
20 effect?

21 A. I don't know.

22 Q. How about Oscar Earle, did he ever tell you
23 not to make a suggestion regarding asbestos health
24 warnings?

25 A. I don't know.

1 Q. Did he ever give you a piece of paper to that
2 effect?

3 A. I don't know.

4 Q. You don't remember that either. How about
5 James Moodie?

6 A. What about James Moodie?

7 Q. Did he ever tell you, Gate, I don't want to
8 hear anything about asbestos health warnings?

9 A. I don't know.

10 Q. You don't remember that. How about him giving
11 you a piece of paper to that effect?

12 A. I don't know.

13 Q. All right. And when you're saying I don't
14 know, you really mean I don't remember, right?

15 A. And I don't know. I don't remember and I
16 don't know.

17 Q. Howard Ball, did he ever tell you anything to
18 that effect?

19 A. I don't know.

20 Q. And you don't remember him giving you any
21 piece of paper to that effect either, right?

22 A. I don't know.

23 Q. Robert Trout?

24 A. I don't know.

25 Q. Is there anyone else in the Navy that would

1 have told you such a prohibition?

2 A. I don't know.

3 Q. Because in fact, you don't remember any such
4 prohibition ever being told to you; isn't that correct?

5 A. I don't remember and I don't know.

6 Q. And you also don't remember ever receiving any
7 piece of paper to that effect?

8 A. Again, I don't remember and I don't know.

9 Q. And that goes for the Navy or any other
10 regulatory body? And I want you to take as much time as
11 you need to figure out what I mean by that.

12 A. Well, explain yourself as to what you're
13 trying to tell me.

14 Q. The Navy or any other governmental agency of
15 any kind.

16 A. I don't remember and I don't know.

17 Q. Now, is there anyone else who worked at
18 Westinghouse during your time frame that would in your
19 opinion have any more knowledge about these procedures,
20 this chain of command and so on that you've discussed
21 other than yourself?

22 A. I don't know.

23 Q. You can't think of anybody, no such person
24 comes to mind?

25 A. I don't know.

1 Q. Now, I want to ask you again about this
2 testimony and I want to make sure that -- I want to
3 conduct this deposition review process right here, Bill,
4 because I've filed these pleadings in court and if
5 you're going to correct this testimony, I want to make
6 sure about it right now.

7 My understanding is that the testimony as
8 you've reread it right now is not inaccurate.

9 MR. HARVARD: Are you asking him whether this
10 reflects what was asked and what his response was at the
11 time or are you asking him today whether he agrees with
12 that question and answer as he looks at it?

13 MR. SIEGEL: I'm asking if he plans to make
14 any changes and sign them and submit them to the court.

15 MR. HARVARD: I think any time for that in the
16 Langer case, which Westinghouse resolved by way of
17 settlement, I thought had passed, so I think this is a
18 closed issue with respect to that deposition transcript.

19 MR. SIEGEL: Well, it's a closed issue with
20 respect to the Langer case, but it's an exhibit to
21 pleadings in these cases that we're here on today and I
22 want to make sure that he has no plans to make any
23 written changes.

24 MR. HARVARD: You can ask him if he has any
25 such plans. I don't think -- please answer.

1 THE WITNESS: No, I don't intend to make any
2 changes. I'll take my lumps.

3 MR. SIEGEL: Q. Well, you don't have to take
4 any lumps. You only have to take lumps if you want to
5 take them. It's not lumps at all if the testimony needs
6 to be changed because the transcript is inaccurate, then
7 we need to change it.

8 A. My understanding in the transcript, see, is
9 such that she probably heard it correctly and I did not
10 because of whatever. But that's what it is, that's what
11 it is.

12 Q. Okay. So you have no plans to change this
13 testimony?

14 A. No.

15 Q. Why don't you all give me five minutes and
16 then we'll either be finished or be close to it.

17 (Recess taken.)

18 MR. SIEGEL: Q. You were speaking earlier
19 about a warning that you did suggest to the Navy and
20 that was rejected.

21 A. Yes.

22 Q. Could you tell me again what that had to do
23 with?

24 A. Well, that was the RTE, which are some of the
25 thermocouples. They give an electrical impulse from the

1 bearing and it has to do with the bearings aboard a
2 submarine. When you're in a submarine, when you're
3 maneuvering it in the various climb and dive angles and
4 offsets, your loading changes and depending upon how
5 fast they maneuver the submarine, so what happens is
6 that during these cases, we do know that you can put a
7 lot of load on the bearings and that you can wipe out
8 bearings. And what you do -- be able to do is figure
9 out whether the alarm system that you have hooked up to
10 the RTE system is quick enough so that the -- whoever's
11 maneuvering the vessel, submarine, has adequate time to
12 level it out or do something before the bearing wipes.

13 And so therefore, I had spent like a year on
14 that project and I was surprised when the main
15 propulsion people asked me if they could use my sketches
16 and things like that. That's in one of the
17 specifications that I gave to you on main propulsion
18 where they used the sketches, and in doing so, we
19 discussed whether there should be a caution plate or not
20 placed on the main propulsion turbine when the crew
21 worked on the bearings and I felt it was very important
22 that there would be a caution sign and the Navy said,
23 no -- they didn't really say the funniest thing. I sort
24 of found out in wanting to know more about the project
25 and one of the guys I was working with told me that,

1 "No, it got rejected." I said, "Well, that's how it
2 goes."

3 Q. Roughly what time period was this?

4 A. Oh, it was in 1958, '59 period.

5 Q. All right. And during that time period you
6 all were making turbines that you knew would have
7 asbestos insulation on them eventually?

8 A. Yes.

9 Q. In fact, in many instances you were required
10 to put the rails and hooks on that enabled the
11 insulation to be put on?

12 A. Yes.

13 Q. And I realize your testimony that you all
14 didn't concern yourself with the insulation beyond the
15 rails and hooks, if you will, but had you -- had you
16 wanted to say something, make some suggestion along the
17 same lines concerning asbestos, you would have requested
18 it in the same procedure, right?

19 A. No. I don't think so. We had procedures that
20 we were following and if you're trying to warn sailors
21 about their environment, that had nothing to do with our
22 procedures. We have a procedure and you don't do that.
23 You follow what the procedure says and if it is
24 hazardous to people, then -- or to equipment, then you
25 put a warning and a caution on it.

1 Q. Um-hum.

2 A. All right.

3 Q. And if one wants to make such a warning about
4 something that is hazardous to people or equipment, you
5 suggest it to the Navy, right?

6 A. No. Because --

7 Q. Well, that's exactly what you did with the
8 submarine --

9 MR. HARVARD: I'm sorry, could he finish his
10 answer?

11 MR. SIEGEL: Isn't that exactly what you did
12 with the submarine problem or not?

13 MR. HARVARD: I guess not. Were you done with
14 your answer a minute ago, Mr. Gate?

15 MR. SIEGEL: Q. When a submarine problem
16 manifested itself or a concern that led you to think
17 there might be a problem, you suggested a warning plate
18 be put on and the Navy rejected that suggestion?

19 A. Yes.

20 Q. And if there's any type of hazard that
21 Westinghouse is aware of, there was the same type of
22 procedure available for suggesting it to the Navy and
23 the Navy was free to accept it or reject it?

24 A. No.

25 MR. HARVARD: Objection, form.

1 THE WITNESS: No. Because what I was trying
2 to put on that caution plate on that bearing was a
3 procedure in which the crew would have to follow in
4 removing the bearing. In removing that bearing, if they
5 did not strictly adhere to the procedure, there could be
6 damage to the equipment and possible destruction of the
7 turbine itself. This is far different from what you are
8 suggesting about warnings of an environment. I'm
9 talking about a procedure in which sailors must follow.

10 MR. SIEGEL: Q. And we're still at the same
11 place and I'm wanting to know what prevented you from
12 making such a suggestion about any other problem that
13 was a danger to either sailors or the machinery itself?

14 A. An environmental thing that you're coming up
15 with. It's not a procedure. I had the procedure in
16 which I expect the sailors to follow and if they don't
17 follow it, all right, they are putting equipment in
18 jeopardy.

19 Q. Um-hum. And what about -- what prevented such
20 a recommendation from being made about an environmental
21 concern? Whether asbestos or any other type of concern.

22 A. There's no procedure involved as far as
23 environmental is concerned. There is a procedure in a
24 case which I've outlined to you.

25 Q. What is that? There's a formal procedure that

1 exists on paper for voicing concerns about dangers to
2 equipment?

3 A. Yes.

4 Q. What procedure is that? What's the name of
5 that procedure?

6 A. That's in the tech manual procedure. You had
7 an exhibit there.

8 Q. Well, I need you to find that for me. We need
9 to look back at that exhibit and I need you to find me
10 that procedure.

11 MR. HARVARD: If you can hand me Exhibit A, I
12 can tell you what the number of it is.

13 THE WITNESS: It's in a thick specification.

14 MR. HARVARD: This is my copy. It's
15 MIL-M-15071.

16 (Discussion held off the record.)

17 MR. SIEGEL: Okay. You've handed me paragraph
18 3.3.3.1 of plaintiffs' exhibit -- I'm not sure which
19 plaintiffs' exhibit this is.

20 MR. HARVARD: I don't think you marked it as
21 an exhibit. It's one of the ones that I had a sticky on
22 it earlier. It was produced.

23 MR. SIEGEL: Let's mark this as Plaintiffs'
24 Exhibit 12.

25 (Discussion held off the record.)

1 MR. SIEGEL: Q. You've directed my attention
2 to paragraph 3.3.3.1, which is entitled, "Warnings and
3 Cautions"?

4 A. Yes.

5 Q. And it talks about what types of warning and
6 caution statements shall be included?

7 A. Yes.

8 Q. For emphasis in all applicable installation,
9 operating maintenance and repair procedures and data in
10 accordance with MIL-M-38784. Is that a different
11 specification?

12 A. Yes.

13 Q. What specifications is that? Is that a
14 pre-existing?

15 A. Yes, it is. It says manuals, general style
16 and format requirements.

17 Q. Okay. Now, this -- am I right, then, that
18 this is a specification about how you list and describe
19 warnings or cautions in technical manuals?

20 A. Yes. And it's in the technical manual portion
21 of it, but you have to use it also with regard to the
22 unit itself as to whether you want to put a plate on the
23 unit.

24 Q. Now, this document is dated September 6th,
25 1994; is that right?

1 MR. HARVARD: Actually, this document I think
2 is dated '78.

3 THE WITNESS: 1978.

4 MR. HARVARD: There's a cover sheet that's a
5 one-page document that's '94 revision to the '78
6 document.

7 MR. SIEGEL: Q. Okay. All right. Now, this
8 paragraph that you've given me doesn't deal with any
9 specific cautions or warnings. It simply is a guide to
10 how cautions and warnings about various things are to be
11 set out; is that correct?

12 A. That is correct.

13 Q. Okay. Who decides what specific cautions and
14 warnings are given in the manner prescribed here?

15 A. The engineer does.

16 Q. So if the engineer wants to warn about
17 something, the engineer has got to warn about that thing
18 in this manner?

19 A. That is correct.

20 Q. For instance, the first requirement listed is
21 that a warning statement shall be used to call
22 particular attention to a step of a procedure which if
23 not strictly followed could result in serious injury or
24 death of personnel.

25 So here is the Navy telling you you've got to

1 warn about things that could cause serious injury or
2 death; is that correct?

3 A. That is correct.

4 Q. Paragraph C says, "Warning and caution
5 statements shall immediately precede the text of those
6 procedural steps where failure to strictly follow the
7 particular step of a procedure would be likely to result
8 in personal injury or death or damage to or destruction
9 of equipment. The warning or caution shall state the
10 consequences of failure to strictly follow the
11 procedural step to which it applies."

12 The next one says, "The use of warning or
13 caution statements shall be limited to significant
14 cases, so that too extensive use of these statements
15 will not make technicians and operators apathetic of
16 them and thus reduce their value." Is that correct?

17 A. That's correct.

18 Q. Again, all of these are the Navy telling the
19 engineer or in the case of turbines aboard ships that
20 we're talking that's Westinghouse, here's how you warn
21 about hazards.

22 A. That is correct.

23 Q. That you the engineer think we ought to warn
24 about?

25 A. That is correct.

1 Q. Did the Navy ever send Westinghouse a list
2 with regard to Marine turbines of the hazards that the
3 Navy said you must warn about?

4 A. Yes.

5 Q. What list was that?

6 A. It's in the specification. It's in one of the
7 exhibits, MIL-T-17600.

8 Q. Okay. We need to find that one, then.

9 (Discussion held off the record.)

10 MR. SIEGEL: Q. Okay. Now, you have
11 testified that MIL-T-17600 is the document in which the
12 Navy tells Westinghouse here are the hazards that you
13 must give warnings about.

14 A. Yes.

15 Q. All right. Can you please find that for me in
16 MIL-T-17600?

17 A. Sure.

18 (Discussion held off the record.)

19 THE WITNESS: Okay. I got it. At the top of
20 the paragraph. Third sentence -- but anyway, top of the
21 paragraph start.

22 MR. SIEGEL: Q. Okay. This is it?

23 A. No, there's another one.

24 Q. What's the other one?

25 MR. HARVARD: Look at page 26. Last sentence.

1 THE WITNESS: Okay. The top paragraph, the
2 last sentence in that paragraph.

3 MR. SIEGEL: Q. Okay. Any others?

4 A. That's all I can remember.

5 Q. All right. So this is not an exhibit yet, is
6 it?

7 MR. HARVARD: No.

8 MR. SIEGEL: This needs to be Plaintiffs' 12.
9 What is Plaintiffs' Exhibit 12?

10 MR. HARVARD: I'm sorry, did you attach the
11 MilSpec on the technical manuals?

12 (Discussion held off the record.)

13 (Marked Plaintiffs' Exhibit 12.)

14 MR. SIEGEL: Q. Plaintiffs' Exhibit 12 is a
15 document numbered MIL-T-17600, open paren (Ships) close
16 paren dated June 26th, 1953 and it's entitled, "Military
17 Specifications Turbine Steam Propulsion for Naval
18 Shipboard Use."

19 Now, you have pointed out to me two sentences.
20 The first one appears on page 24. The third sentence
21 from the top, "In all cases of internal bolting, a
22 warning plate shall be permanently installed on the
23 casing to call attention to such bolts as must be
24 removed to lift the casing."

25 All right. That's a specification dealing

1 with putting warnings about bolts. The next one that
2 you've pointed out is a warning about thermocouples,
3 right?

4 A. Yes.

5 Q. Now, are you telling me that that's the -- the
6 warning about bolts and the warning about thermocouples
7 are the two warnings that the Navy wanted about hazards
8 aboard ships?

9 A. For turbines.

10 Q. For turbines.

11 A. Yes.

12 Q. And the Navy forbade warnings about anything
13 else?

14 A. Yes.

15 Q. And where do you find that?

16 A. It's in the manual where it says that you
17 should not put on a lot of warnings because the people
18 get indifferent to them.

19 Q. Well, the one that we previously looked at
20 doesn't say only put a warning about bolts and
21 thermocouples, does it?

22 A. No. It just talks to warnings.

23 Q. Okay. It says, "A warning statement shall be
24 required for anything that could result in serious
25 injury or death," right?

1 A. That's right.

2 Q. That's not limited to bolts or thermocouples,
3 is it?

4 A. No.

5 Q. It could be regarding any condition of
6 shipboard work that could lead to serious injury or
7 death; is that not correct?

8 MR. HARVARD: Objection, calls for
9 speculation. Misstates what the document says.

10 MR. SIEGEL: Q. Well, the document speaks of
11 all applicable installation operating maintenance and
12 repair procedures and data, does it not?

13 A. Yes.

14 Q. That's hardly limited to thermocouples and
15 bolts, right?

16 A. Yes.

17 Q. It is?

18 MR. HARVARD: Go ahead and finish your answer,
19 Jim.

20 THE WITNESS: What I was trying to tell you is
21 that warning statements and caution statements are
22 involved in procedures in which you can have injury or
23 damage. These are procedures in which the turbine
24 manufacturer considers very important. We want to limit
25 these procedures on the turbine so that people do not

1 see them as too many signs in which they get ignored.

2 You want the procedures to be followed.

3 MR. SIEGEL: Q. Okay. But in fact, the Navy
4 required Westinghouse to warn about any procedure in
5 connection with the turbines, installation, operating
6 maintenance or repair that could yield serious injury or
7 death, didn't it?

8 A. Yes.

9 Q. Thank you. Now -- and had Westinghouse
10 identified such a condition with regard to shipboard
11 turbines that it manufactured, in other words, anything
12 connected with the turbine's installation, operating,
13 maintenance or repair that could cause serious injury or
14 death, the Navy required that Westinghouse warn about
15 it, didn't it?

16 MR. HARVARD: Object to the form.

17 THE WITNESS: No. If it was involved in a
18 procedure in which if not adhered to would result in
19 serious consequences.

20 MR. SIEGEL: Q. Right. And when you say
21 procedure, that could mean a procedure involving
22 installation of the turbine, operating the turbine,
23 maintaining the turbine, or repairing the turbine; is
24 that not correct?

25 A. That is correct.

1 Q. And if any procedure of those types with
2 regard to the turbines that Westinghouse manufactured
3 could yield serious injury or death Westinghouse was
4 required to warn about it, right?

5 A. That is correct.

6 MR. HARVARD: Objection. Form.

7 MR. SIEGEL: Q. Thank you. You can answer.

8 A. Yes. We would make sure of that.

9 Q. Okay. Now, I think we ought to mark as an
10 exhibit one of these affidavits that you've given. We
11 don't have to mark all of them, but I'm going to mark
12 the --

13 MR. HARVARD: Mark all three of them, if you'd
14 like. It's fine because you've got three cases.

15 MR. SIEGEL: Plaintiffs' Exhibit 13 will be
16 your affidavit filed in the Mathias case. Plaintiffs'
17 Exhibit 14 will be your affidavit filed in the Madden
18 case and Plaintiffs' Exhibit 15 will be your affidavit
19 filed in the Carter case. And if you want to look at
20 them, you've seen them, you know what they say. They
21 are your form affidavits?

22 THE WITNESS: Yes.

23 (Marked Plaintiff's Exhibits 13 through 15.)

24 MR. SIEGEL: Q. Could you look at paragraph
25 six of -- let's make sure -- which one do you have

1 there?

2 A. I have the one for the Beale.

3 Q. Let me get that one. Paragraph 6, page 2.

4 You state beginning in the third line, you have verified
5 that the turbines, speaking of the turbines on the
6 Beale, were manufactured and supplied by Westinghouse
7 for this vessel under the strict direction and control
8 of the officers of the U.S. Navy; is that correct?

9 A. Yes.

10 Q. Now, the strict direction and control of the
11 U.S. Navy would obviously include the specifications
12 that we've just been talking about, right?

13 A. Yes.

14 Q. That would include MIL-M-15701H, paragraph
15 3.3.3.1?

16 A. Yes.

17 MR. HARVARD: Object to the form. Jim, I want
18 you to look at the date on that document and then get
19 the question answered again. Well, let me just
20 represent the date on the document is 1978.

21 MR. SIEGEL: Q. All right. Did -- let's go
22 back then to 15071. This is dated 1978 and it says
23 superseding MIL-M-15071G dated August 1st, 1969, right?

24 A. Yes.

25 Q. And then it refers to -- it says, "See 6.6."

1 Now, looking at paragraph 3.3.3.1, which is the warning
2 and caution specification, is that something that was
3 brand new as of 1969 or 1978?

4 MR. HARVARD: If you know.

5 THE WITNESS: I don't know.

6 MR. SIEGEL: Q. Is that specification
7 something you were familiar with in your years beginning
8 in 1953?

9 A. Well, not exactly 1953, but certainly by 1958
10 or '59 I was aware of this MIL-M-15071.

11 Q. Okay. And the MIL-M-15071 that you became
12 aware of in '58 or '59 dealt with warnings and cautions
13 in a manner similar to what is set out in this exhibit?

14 A. From what I understand, I don't really
15 remember.

16 Q. Does Westinghouse have a copy of the earlier
17 versions of MIL-M-15071?

18 A. We looked all over. We could not find an
19 earlier version. I went to all the tech writers and
20 told them to dig through their files to find an earlier
21 version.

22 Q. Okay. But an earlier version of MIL-M-15071
23 is a U.S. Navy document that exists somewhere in
24 government archive, right?

25 A. Yes.

1 Q. Where would one go to look for that within the
2 government?

3 A. You tell me.

4 Q. But, again, your recollection of it at least
5 in the time period '58, '59 onward is that it was
6 similar in emphasis and wording to this exhibit?

7 A. Yes.

8 Q. Now, what about before 1958, did you just not
9 know about 15071 or what?

10 A. I knew about it only through the 17600
11 specifications, which just dealt with warnings, that
12 turbines had to have at least these two types of
13 warnings and that is what was expected.

14 Q. You're speaking of the warnings concerning
15 bolts and the warnings concerning thermocouples?

16 A. That's correct.

17 Q. You knew that those warnings which are in MIL
18 17600 were related to a separate specification, 15071?

19 A. Yes.

20 Q. And that's true even before 1958?

21 A. Yes.

22 Q. And again, the earlier versions of 15071 that
23 were similar in nature to the one we're looking at are
24 part of the strict direction and control by the U.S.
25 Navy that it would exercise over Westinghouse turbines?

1 A. That is correct.

2 Q. Now, your affidavit speaks at several points
3 of NAVSEA specifications. NAVSEA is N-A-V-S-E-A and
4 that is short for the Naval Sea Systems Command; is that
5 correct?

6 A. That's right.

7 Q. Just to be clear, MilSpec 15071 is a NAVSEA
8 specification; is that correct?

9 A. It is a military specification. What I'm just
10 checking to see is who wrote it because it could have
11 been any one of the government services that had written
12 it.

13 Q. Well, yeah, here we go. If we look on the
14 second page it -- I don't know if you're looking at the
15 same one. I'm sorry, you were looking at the right page
16 there.

17 A. "Specification approved for use by all
18 interested commands of the departments of the Navy and
19 Marine Corps and is available for use by all other
20 departments and agencies of the Department of Defense."
21 Very bottom. Any comments directed to Naval Ship
22 Engineering Center Department of the Navy. So generally
23 you would say that these are the people that wrote the
24 spec.

25 Q. Okay. In fact, under the heading of scope on

1 that same page up toward the top --

2 A. It sets forth, that's right.

3 Q. So when we talk about 15071, we are talking
4 about a NAVSEA specification?

5 A. That's correct.

6 Q. And, again, when your affidavit speaks of
7 NAVSEA specifications, those specifications include
8 15071?

9 A. That's correct.

10 Q. And that would also be true for the earlier
11 versions that you remember in the '50s?

12 A. That is correct.

13 MR. HARVARD: Let me add, is NAVSEA the old
14 BuShips?

15 A. Yes, it is, it just changed its name from
16 BuShips to NAVSEA.

17 MR. SIEGEL: Q. If you look at paragraph
18 nine which states that in the case of the U.S.S. Beale
19 NAVSEA specifications incorporated military
20 specifications and these documents require use of
21 asbestos containing thermal insulation for the turbines.

22 Now, the earlier -- I can't remember which
23 exhibit it is, but earlier we were looking at an exhibit
24 that discussed the various types of thermal insulations
25 and we looked at some of those, correct?

1 A. Yes.

2 Q. And is that a NAV -- is that what you are
3 referring to when you talk about NAVSEA specifications
4 incorporating military specifications?

5 A. Yes.

6 Q. That was S39, was it?

7 A. S39.

8 Q. And in fact, S39 discussed not only asbestos
9 containing thermal insulation, but also nonasbestos
10 containing thermal insulation such as mineral wool or
11 magnesia?

12 A. That is correct.

13 Q. Okay. Now, if you look at paragraph 11 with
14 me, "Before the construction of a U.S. Navy vessel,
15 including the U.S.S. Beale, there was an extensive set
16 of General Specifications for ships of the United States
17 Navy as well as U.S. Navy specifications, or military
18 specifications known as MilSpecs, already in place which
19 governed all aspects of ship construction." 15071 is
20 one of these MilSpecs, right?

21 A. That is correct.

22 Q. When you refer to general specifications, is
23 that a whole separate set that are not MilSpecs?

24 A. That is correct.

25 Q. What are those called?

1 A. They are called the general specifications for
2 ships.

3 Q. Okay. Do any of them deal with the subject
4 that 15071 deals with?

5 A. No.

6 Q. Because military specifications are more
7 specific than general?

8 A. I stand corrected. I really don't know.

9 Q. Okay.

10 A. Because many of the MilSpecs were, let's say,
11 born -- I was going to say born, but initiated because
12 the general specifications for ships was too difficult
13 at times to modify. If you've ever seen them, you would
14 understand in that they are from a book that's about
15 this thick and if you are going to make changes, they
16 didn't want to -- it was a bound book and they didn't
17 want to issue the book all the time, so it was not
18 published very frequently, so therefore, the generation
19 of MilSpecs began to get larger and larger.

20 Q. So the MilSpecs are more specific than the
21 other set of specifications?

22 A. Yes, they are.

23 Q. All right. Okay. Paragraph 13. "The
24 turbines manufactured and supplied by Westinghouse for
25 any U.S. Navy vessel, including the referenced ship, had

1 to meet detailed and precise U.S. Navy specifications."

2 Again, one of those specifications it had to
3 meet was 15071?

4 A. That is correct.

5 Q. All right. Let's look at paragraph 29. It's
6 kind of a repeat of other paragraphs, but again, that
7 simply says that all the turbines you built for the
8 Beale were built in accordance with U.S. Navy
9 specifications, which of course, would have included
10 15071.

11 A. Yes.

12 Q. Now, paragraph 31, "The U.S. Navy had precise
13 specifications as to the nature of any communication
14 affixed to machinery supplied by Westinghouse to the
15 Navy."

16 Are you referring in that sentence to anything
17 other than 15071?

18 A. Yes, the 17600.

19 Q. So insofar as thermocouples and bolts go there
20 was 17600?

21 A. Yes.

22 Q. For anything else there was 15071?

23 A. That is correct.

24 MR. HARVARD: Object to the form. I'll clear
25 it up with a follow-up question. I can do it now, if

1 you'd like.

2 MR. SIEGEL: All right.

3 MR. HARVARD: 15071 only dealt with the tech
4 manuals, not warnings on the actual equipment itself; is
5 that right?

6 THE WITNESS: That is correct.

7 MR. HARVARD: As far as the actual equipment
8 itself, the requirement for any warning would have been
9 set forth in the MilSpec for the turbine itself,
10 correct, and that was 17600?

11 THE WITNESS: That is correct. Right.

12 MR. SIEGEL: Q. Well, did the 17600 deal
13 with anything relating to turbines other than
14 thermocouples and bolts?

15 A. As far as warnings are concerned, no, it does
16 not.

17 Q. 15071 deals with any kind of serious danger as
18 long as it has to do with the applicable insulation
19 operating manuals or repair procedures, right?

20 A. Yes.

21 Q. That's because the Navy wants you to put those
22 kinds of things into the technical manual because it's
23 the technical manual that tells the people on the ship
24 how to handle the turbine, right?

25 A. That is correct.

1 Q. All right. Now, the next sentence,
2 "Westinghouse would not have been permitted, under the
3 specifications, associated regulations and procedures,
4 nor under the actual practice as it evolved in the
5 field, to affix any type of warning or caution statement
6 to a piece of equipment intended for installation onto a
7 Naval vessel beyond those required by the Navy."

8 Now, when you say, "beyond those required by
9 the Navy," are you saying that the only warning the Navy
10 required was the warning concerning thermocouples and
11 the warnings concerning bolts?

12 A. Yes, at this point.

13 Q. And had some other feature of the equipment
14 presented a severe hazard, you're saying that the Navy
15 would not have let you put a warning about that hazard?

16 A. Not without approval and consultation with the
17 Navy.

18 Q. Right. And had such consultation been made
19 and had such approval been given, such a warning then
20 thereafter would have been put on it?

21 A. Right.

22 Q. And if the engineer knew of such a hazard, it
23 was to consult with the Navy and possibly get Navy
24 approval?

25 A. Yes.

1 Q. All right. Now, the next sentence is the
2 first sentence of paragraph 32, "The U.S. Navy had
3 precise specifications as to the nature of written
4 materials to be delivered with its turbines which
5 included engineering reference materials to assist the
6 engineering staff to service and maintain the turbines
7 which could generically be called instruction books or
8 technical manuals."

9 And it's 15071 and its requirements that
10 govern this sentence, right?

11 A. Yes.

12 Q. The last sentence of this paragraph is that
13 these manuals included safety information to the extent
14 and only to the extent directed by the Navy. And in
15 fact, what you mean by directed by the Navy is what the
16 Navy says in 15071?

17 A. Right, and 17600.

18 Q. Right. And when I say 15071, I mean the list
19 of situations in which warnings or causes are required
20 in paragraphs 3.3.3.1?

21 A. Yes.

22 Q. And in that list, the Navy says if there is a
23 hazard that can result in serious injury or death that
24 has to do either with the installation or the operating
25 or the maintenance or the repair procedures of a

1 turbine, you've got to put a warning in the technical
2 manual about it?

3 MR. HARVARD: Object to the form.

4 THE WITNESS: That is correct.

5 MR. SIEGEL: Q. And in 3.3.3.1, the Navy
6 doesn't say what the hazards are. The Navy specifies to
7 the Marine engineer here's how you handle the hazards
8 that you know about; is that correct?

9 A. Yes.

10 MR. SIEGEL: All right. Go ahead, Bill, I
11 don't have any questions.

12 MR. HARVARD: Can we take a break for a
13 second?

14 (Discussion held off the record.)

15 (Mr. Hartman not present
16 during the deposition.)

17 CROSS-EXAMINATION BY MR. HARVARD

18 MR. HARVARD: Q. Mr. Gate, I'm Bill
19 Harvard. You know I represent Westinghouse and Viacom
20 in those cases. I want to ask you several questions
21 about some of the documents you've looked at today and
22 some of the questions you've been asked. All right,
23 sir?

24 A. All right.

25 Q. First, I want to show you Plaintiffs' Exhibit

1 13, 14 and 15, which are copies of the affidavits that
2 you prepared and signed in the three cases at issue
3 here, the Mathias, Carter and Madden case?

4 A. I don't know about the Mathias, Carter and
5 Madden case. There are three cases here, affidavits
6 here.

7 Q. They deal with the U.S.S. Beale, Towers and
8 Wren?

9 A. That's correct.

10 Q. Having been shown what you've been shown and
11 asked what you've been asked by counsel for plaintiffs,
12 do you feel you need or want to change any of the
13 statements set forth in your affidavit?

14 A. No.

15 Q. Do you still believe the information
16 statements you made here to be true and correct to the
17 best of your knowledge?

18 A. Yes.

19 Q. Let me go through and ask you a series of
20 questions. First, at the beginning of this deposition I
21 identified a box full of documents, which we produced at
22 this deposition to plaintiffs' counsel.

23 Do you recall that?

24 A. Yes.

25 Q. Are those all documents which you found and

1 retrieved from the storage records there at Sunnyvale,
2 California, formerly the Westinghouse facility?

3 A. Yes.

4 Q. Do you believe those materials provide a
5 foundation or basis which support your opinions as
6 you've expressed them in this case?

7 A. Yes.

8 Q. Do you know what is on each and every page of
9 each of those documents that fill a full box?

10 A. No.

11 Q. Are you familiar with and knowledgeable about
12 each and every page?

13 A. No.

14 Q. You were asked questions about a reference on
15 several pages from that box full of documents, which
16 were referred to as, quote, exceptions to
17 specifications.

18 Is that a notation you are familiar with and
19 conversant with from your years as a design and
20 supervising engineer for Westinghouse on U.S. Navy
21 Marine turbines?

22 A. No, I'm not familiar with the use of that
23 term.

24 Q. If changes to the designs of the Navy's
25 specific requirements for U.S. Navy turbines were to be

1 made, who had to approve those changes?

2 A. Those changes had to be approved first by our
3 internal organization and then they would be sent out to
4 the contractual or contracts department and if there was
5 an active contract that we had with the U.S. Navy, they
6 would follow that chain of command back to the Navy for
7 their approval of a change.

8 Q. Okay. Did that include changes either to
9 equipment, to labels on the equipment or to the
10 technical manuals which were required to be supplied
11 with the equipment?

12 A. That pertain to all of the above.

13 Q. Who had the final approval authority for
14 whether changes would be made or not made, Westinghouse
15 or the Navy?

16 A. The Navy.

17 Q. If Westinghouse had wanted to include warning
18 plates on their turbines to address insulation, who
19 would have to make the final approval of that?

20 A. The Navy.

21 Q. On the U.S. Navy turbines, both the main
22 propulsion turbines, the SSTGs and the auxiliary
23 turbines, for example, the pump drive turbines, which
24 you've talked about today on the Wren, the Towers and
25 the Beale, for all of that equipment, did Westinghouse

1 ship those turbines to the U.S. Navy with thermal
2 insulation on the exterior of them?

3 A. No. We did not ship any of those turbines
4 with thermal insulation on the exterior. We shipped
5 them bare iron.

6 Q. What does that mean?

7 A. Bare iron means that there is no thermal
8 insulation on it and that what is showing is the steel
9 of which the turbines were built with.

10 Q. Did Westinghouse install insulation on the
11 turbines for those ships as supplied to the U.S. Navy?

12 A. No.

13 Q. Did they sell the insulation to insulate those
14 turbines to the U.S. Navy?

15 A. No.

16 Q. Did they require the insulation or the details
17 of which companies' products be placed on those turbines
18 by way of insulation?

19 A. No.

20 Q. Did Westinghouse choose the type of insulation
21 that was used on any of those turbines?

22 A. No.

23 Q. Did the documents which you reviewed
24 demonstrate who had the responsibility for insulation,
25 the exterior thermal insulation on those products?

1 A. Yes, the documents show that the U.S. Navy had
2 the requirements to apply and install the thermal
3 insulation.

4 Q. Did the Westinghouse Marine Division consider
5 itself to be in the thermal insulation business for
6 those turbines?

7 A. No.

8 Q. When Westinghouse prepared the technical
9 manuals and made or manufactured or fabricated the
10 turbines themselves, were they involved in the
11 insulation for thermal insulation for those turbines?

12 A. No.

13 Q. When Mr. Siegel was talking to you about the
14 procedures under MIL-M-15071H -- and that is the
15 military specification for technical manuals. Do you
16 recall that?

17 A. Yes.

18 Q. When it addressed cautions and warnings and
19 notes and talked about where requirements were for
20 warnings, first, did the Navy have to decide and approve
21 of any warnings, cautions or notes to be included in the
22 technical manuals?

23 A. Yes.

24 Q. Okay. Were they the final authority on that?

25 A. Yes.

1 Q. Did Westinghouse provide the U.S. Navy with
2 the technical manual on insulation?

3 A. No.

4 Q. Were they in the insulation business for
5 purposes of providing technical manuals, thermal
6 insulation?

7 A. No.

8 Q. What I want to do is talk through a couple of
9 the issues raised by some of the documents shown to you
10 by counsel for plaintiff. The first is Plaintiffs'
11 Exhibit 6, which were interrogatories or which appear to
12 be interrogatory answers in some Mississippi cases.

13 First, were you familiar with this before you
14 looked at it today?

15 A. I'd seen this document shown to me by
16 plaintiffs' counsel in Mississippi.

17 Q. It talks about asbestos containing products,
18 correct?

19 A. Yes.

20 Q. And one of the products listed says steam and
21 gas turbines and ancillary insulation, correct?

22 A. Yes.

23 Q. Do you read that to apply to the Marine
24 turbines supplied to the U.S. Navy?

25 A. Yes.

1 Q. And is that because they would have had some
2 asbestos in them by way of gaskets?

3 A. That is correct.

4 Q. Did the U.S. Navy purchase, to your knowledge,
5 insulation from Westinghouse?

6 A. No.

7 Q. Plaintiffs' Exhibit 7 was identified as a
8 process specification, correct?

9 A. Yes.

10 Q. Is this a U.S. Navy Marine turbine process
11 specification?

12 A. I don't know.

13 Q. Okay. Do you -- can you tell a date on this
14 document at all, when it was prepared?

15 A. I don't see any date on it.

16 Q. Is it a document with which you were familiar
17 or which you can even say was a Westinghouse process
18 specification?

19 A. I'm not familiar with this document at all.

20 Q. You just don't know about it at all, correct?

21 A. Correct. I don't know.

22 Q. Next, Plaintiffs' Exhibit No. 8. Had you ever
23 seen this document before today, the June 14th, 1950
24 letter?

25 A. No.

1 Q. It does not -- does it appear to be a
2 document of the Marine turbine division of Westinghouse?

3 A. No, it does not appear to be a Marine turbine
4 document.

5 Q. And you have no personal knowledge of this
6 document? You did not see or receive it during the
7 course of your work at Westinghouse, correct?

8 A. That is correct.

9 Q. Exhibit 9, a letter dated December 27th, 1962.
10 Does this appear to be a Marine turbine document?

11 A. No, it does not. It appears to be one from
12 the utility turbines.

13 Q. All right. And those are the land based
14 turbines, the power generation turbines?

15 A. That is correct.

16 Q. Not the turbines supplied to the U.S. Navy?

17 A. That's right.

18 Q. Had you ever seen this document before today
19 so far as you can remember?

20 A. No, I have not seen it.

21 Q. Did you know anything about this document
22 before being shown it today?

23 A. No.

24 Q. You were shown the affidavit of Mr. Joseph
25 Chilcote, Plaintiffs' Exhibit No. 10. Do you recall

1 being shown this?

2 A. Yes.

3 Q. Do you know who Mr. Chilcote is other than
4 what's set forth in this affidavit?

5 A. No.

6 Q. Have you ever met him or dealt with him?

7 A. No.

8 Q. Do you know whether anything that is set forth
9 in this affidavit is true or correct or not?

10 A. I don't know anything.

11 Q. Let me show you in paragraph three, one of the
12 statements which is made -- let me find it for a
13 minute -- is we wanted to adapt our needs and our
14 specifications wherever possible to products and
15 materials already commercially available in order to
16 facilitate acquisition and to save time and money
17 otherwise required for development. This was invariably
18 true with respect to thermal insulation materials where
19 consultation with industry experts was regularly
20 accomplished with a view toward fully utilizing
21 available industry expertise and materials in fulfilling
22 the needs of the Navy.

23 First, did you consider the Westinghouse
24 Marine Division to be industry experts with respect to
25 thermal insulation materials?

1 A. No.

2 Q. Second, did you consider the turbines, which
3 were supplied to the U.S. Navy pursuant to the contracts
4 to be products and materials already commercially
5 available?

6 A. No.

7 Q. Were the turbines supplied to the Navy by
8 Westinghouse provided pursuant to precise specifications
9 required by the U.S. Navy?

10 A. That is correct.

11 Q. And that's different from what is described
12 here in paragraph three regarding materials, correct?

13 A. Correct.

14 Q. Paragraph four, did you have involvement with
15 any individual thermal insulation manufacturers or trade
16 associations while with the Marine turbine division with
17 Westinghouse?

18 A. No.

19 Q. Do you know whether any of the information or
20 documents referred -- do you know anything about the
21 information in paragraph four or the documents referred
22 to in paragraph four?

23 A. No.

24 Q. Do you know whether they are true or the
25 statements there are true, correct or not?

1 A. I have no idea.

2 Q. Paragraph 5 talks about consulting with
3 industry in obtaining its comments and product samples
4 for testing and comparison.

5 First of all, did the U.S. Navy test the
6 Westinghouse turbines?

7 A. Yes, they tested Westinghouse turbines.

8 Q. Was that each and every turbine which was
9 supplied to the U.S. Navy?

10 A. Yes.

11 Q. And was that done under the supervision of
12 specific Naval officers?

13 A. Yes.

14 Q. Do you know whether any of the information in
15 paragraph 5 is true or correct or not with respect to
16 how the Navy drafted military specifications for
17 specific material compositions?

18 A. I have no idea.

19 Q. You just have no knowledge of that whatsoever,
20 correct?

21 A. That is correct.

22 Q. Plaintiffs' Exhibit 11, which I've seemed to
23 have already misplaced.

24 (Discussion held off the record.)

25 MR. HARVARD: Q. Plaintiffs' Exhibit 11,

1 deposition of Mr. John Haas, did you know before today
2 who he was?

3 A. No.

4 Q. Did you ever deal with him?

5 A. No.

6 Q. Do you know whether anything he said in the
7 deposition experts you've been shown are true, accurate
8 or not?

9 A. I have no knowledge.

10 Q. Do you know enough or do you have enough
11 information about the issues he addressed to even
12 comment intelligently about the questions and answers he
13 provided about how the Navy worked?

14 A. I have no knowledge or opinions.

15 (Discussion held off the record.)

16 MR. HARVARD: Q. You were shown Plaintiffs'
17 Exhibit 3, which was MilSpec 17523D, correct?

18 A. Yes.

19 Q. And that deals with steam turbines, auxiliary
20 and reduction gear mechanical drive, correct?

21 A. Yes.

22 Q. And are those essentially the small turbines
23 in the SSTGs and the pump drive turbines for the Navy?

24 A. Yes.

25 Q. Now, the D at the end of the MilSpec means

1 that this is a modification or a change or an update
2 which was issued on 7 June of 1976, correct?

3 A. Right.

4 Q. So prior editions of this MilSpec would say
5 MIL-T-17523 and if it was the original, no letter after
6 it and all subsequent changes go alphabetically, A, B,
7 C, D, correct?

8 A. That is correct.

9 Q. You were shown section 3.2.8 dealing with
10 substitute materials and asked questions about that from
11 this 1976 document, correct?

12 A. Yes.

13 Q. Now, the Beale, the Wren and the Towers were
14 all built and the turbines were supplied to the Navy
15 well before 1976, correct?

16 A. That is correct.

17 Q. One of the documents that was produced and is
18 part of the materials we supplied this morning is the
19 original MIL-T-17523, which is from July 1, 1953,
20 dealing with military specifications, turbines, steam
21 general auxiliary Naval shipboard use.

22 Is that the predecessor to this document?

23 A. About three levels prior to it.

24 Q. And it in fact superseded another document
25 from 1938, did it not?

1 A. Yes.

2 Q. And it's attached in the production. Does it
3 have a corresponding 3.2.8 which addresses substitute
4 materials? You can take a look and see whether it does
5 or not.

6 A. No, there is no corresponding paragraph within
7 the no rev of 17523.

8 Q. In 1953 who was required to provide the
9 thermal insulation for the exterior or the main
10 propulsion turbines, the auxiliary turbines, the pump
11 drive turbines and the SSTG sets which were supplied by
12 Westinghouse to the U.S. Navy pursuant to the military
13 specifications?

14 A. The Naval shipyard or the customer of the Navy
15 was required to -- was required by specifications to do
16 that.

17 Q. Now, you were shown exhibit -- Plaintiffs'
18 Exhibit 4, which is S39 on thermal insulation, correct?

19 A. Yes.

20 Q. And is that chapter 39 from the general
21 specifications for U.S. Navy ships?

22 A. Yes.

23 Q. And is that a BuShips manual?

24 A. Yes.

25 Q. And do you consider yourself an expert in

1 chapter 39 on thermal insulation?

2 A. No.

3 Q. And does it set forth within it what are the
4 requirements for the composition materials which are to
5 be placed on turbines for thermal insulation?

6 A. Yes.

7 Q. And whether they contain asbestos or not are
8 set forth in the pages of that chapter, correct?

9 A. Yes.

10 Q. You don't know, for example, whether the
11 magnesia material referred to by counsel for plaintiff
12 earlier was a product which was 85 percent magnesia and
13 approximately 15 percent asbestos, do you?

14 A. I have no idea.

15 Q. Okay. Let's take a look now -- let's go on to
16 this. You remember giving your deposition in the Robert
17 Langer case in February of 2002, and you were asked
18 about that by counsel for plaintiff, correct?

19 A. Yes.

20 Q. You were asked about a question which began on
21 page 69 at line 21, correct?

22 A. Yes.

23 Q. Let me read you a question which immediately
24 preceded that beginning at lines 7 and then ask you to
25 read your answer.

1 "I'm assuming you never saw anything while
2 working for Westinghouse, the U.S. Navy or anyone else
3 that would have prohibited Westinghouse from placing a
4 warning about the hazards of asbestos on their turbines,
5 correct?"

6 What was your answer at that time?

7 A. "The drawings and technical manual all get
8 approved by the customer, which is the United States
9 Navy, and therefore, even during non U.S. Navy it would
10 be with the maritime service. There never has been an
11 occasion in which anyone, as far as I can remember, has
12 placed warnings or desired warnings of that nature."

13 Q. Now, let me show you the question beginning at
14 line 21.

15 "But my question is this, Mr. Gate. This is
16 actually a simple question and actually it's my last.
17 There was never anything that Westinghouse received from
18 any of the regulatory bodies or the U.S. Navy or any
19 builder that prohibited Westinghouse from placing a
20 warning concerning asbestos on the Marine turbines. Is
21 that not correct?"

22 And what your answer was at that time was,
23 "Not that I'm aware of."

24 First, that was your answer, correct?

25 A. That is correct.

1 Q. Is that still your answer to that question
2 today?

3 A. No. If I were to get that question again, I
4 would say that we did know that we could not put warning
5 plates on the turbine and that we would have to have
6 approval through our company and through the Navy to try
7 to make an attempt to put warnings and caution plates
8 with regard to asbestos.

9 Q. Do you think you simply misunderstood that
10 question at the time it was asked?

11 A. Oh, yeah. In my -- in my judgment in reading
12 this, I was just astounded that that was the question.

13 Q. Does MIL-M-15071H, which is dated 17 July
14 1978, address the issue of warnings, cautions and notes?

15 A. Yes, it does.

16 Q. And is the practice set forth in this
17 consistent with what you understood the requirements and
18 practices were before 1978 for technical manuals?

19 A. Yes.

20 Q. In your experience, was the use of caution or
21 warning labels widespread or not very extensive in the
22 Navy?

23 A. It was not very extensive. In fact, the Navy
24 would really review very thoroughly to limit the number
25 of warnings and caution plates.

1 Q. Where it says in section 3.3.3.1 (D), "The use
2 of warning or caution statements shall be limited to
3 significant cases so that too extensive use of these
4 statements will not make technicians or operators
5 apathetic of them and thus reduce their value," was that
6 a practice that you observed in the '50s, '60s and '70s
7 of the U.S. Navy in limiting warnings and cautions?

8 A. Yes.

9 Q. And is that how you and the people in the
10 Marine turbine division at Westinghouse understood and
11 appreciate the practice and procedures followed in the
12 manufacture of turbines and the placing of warning
13 plates on turbines or the recommendation of warning or
14 caution statements for steps or procedures in the
15 technical manuals?

16 A. Yes.

17 Q. Is that the, quote, rule that you were
18 referring to earlier?

19 A. Yes.

20 Q. Did you or the people at the Westinghouse
21 Marine turbine division receive that warnings or
22 cautions with respect to thermal insulation which you
23 were not supplying, not specifying and not selling to
24 the Navy were within the parameters of what you were to
25 address in your technical manuals?

1 A. That's pretty long.

2 Q. Yes. You want me to start again?

3 A. Yes.

4 Q. All right. The technical manuals.

5 A. Right.

6 Q. Did you provide detailed procedures and steps
7 for the use and application of insulation on Marine
8 turbines to the U.S. Navy?

9 A. No.

10 Q. And would warning statement or cautions have
11 to be used to address particular steps or procedures?

12 A. Yes.

13 Q. Since the U.S. -- or since Westinghouse was
14 not addressing the insulation of thermal insulation on
15 their turbines, would there have been any place for a
16 warning or a caution statement addressing the
17 application of thermal insulation?

18 A. No, because there was no procedure that we
19 would want to do it.

20 Q. Was that what you -- was the use or -- let me
21 start again.

22 Did you perceive that it was the obligation or
23 responsibility or area of expertise of the Westinghouse
24 Marine Division to address changes or modifications to
25 Navy specifications or technical manuals regarding

1 thermal insulation and warnings appropriate to thermal
2 insulation?

3 A. No.

4 Q. When we looked earlier at MIL-T-17600, which
5 was the military specification dealing with main
6 propulsion turbines, do you recall that?

7 A. Yes.

8 Q. Did that specify even as early as the original
9 MilSpec that the insulation was to be furnished by the
10 shipbuilder?

11 A. Yes.

12 Q. Does the U.S. Navy only permit warnings
13 identified in the military specification to be placed on
14 warning plates on their turbines?

15 A. Yes.

16 Q. And Westinghouse could make recommendations or
17 suggestions for warnings regarding steps or procedures
18 which they were asked to address, but they would have to
19 be approved by the U.S. Navy before they would be
20 allowed; is that correct?

21 A. That is correct.

22 Q. Now, with respect to technical manuals, could
23 any warnings or were warnings or cautions permitted to
24 be addressed in technical manuals other than those which
25 address specific steps or procedures which were being

1 accomplished through the technical manual?

2 A. No.

3 Q. Is that what was set forth in MIL-M-15071?

4 A. That is correct.

5 Q. And we were looking at, I guess, revision H,
6 correct?

7 A. Correct.

8 Q. Who had the ultimate and final authority on
9 whether the turbines sold to the U.S. Navy and the
10 instructions and technical manuals accompanying that
11 equipment were acceptable to the U.S. government and the
12 U.S. Navy?

13 A. The U.S. Navy.

14 Q. And did Westinghouse as a contractor have any
15 discretion whatsoever to change any of those
16 specifications or precise requirements without the
17 approval and direction of the governmental agencies such
18 as the U.S. Navy?

19 A. No.

20 Q. In preparing the affidavits and in giving the
21 opinions and the statements you've made today, did you
22 rely not only on the documents which were attached to
23 this deposition, which are 41 year history with
24 Westinghouse in addressing the questions which have been
25 posed to you today?

1 A. Yes.

2 Q. Thank you.

3 REDIRECT EXAMINATION BY MR. SIEGEL

4 MR. SIEGEL: Q. It's true, isn't it, that
5 you could have -- that Westinghouse could make any
6 recommendation it wanted to to the Navy?

7 A. No.

8 Q. Why not?

9 A. Because we had set procedures to follow.

10 Q. No, I'm tired of that answer. I want to know
11 what prohibited you from making a recommendation about
12 anything in the world and seeing if you could get it
13 approved.

14 MR. HARVARD: Answer the question if you can.

15 THE WITNESS: I don't know.

16 MR. SIEGEL: Q. Nothing, right?

17 A. Right.

18 Q. Okay. And if there was any hazard in the
19 world, whether it was up your alley or not up your alley
20 or something that you normally dealt with or didn't deal
21 with, Westinghouse had the power to make such a
22 recommendation? The U.S. Navy didn't have to approve
23 it, but Westinghouse could make a recommendation, right?

24 A. I don't know.

25 Q. There's nothing prohibiting that, right?

1 A. I don't know.

2 Q. If Westinghouse for some reason felt like a
3 giant smiley face should be placed on turbines, it had
4 the power to make that recommendation, right? The Navy
5 could turn it down, but then Westinghouse could make
6 such a recommendation?

7 A. I don't know.

8 Q. Well, I need to know if anything in your
9 experience or any regulation, procedure or practice
10 would have prohibited that.

11 A. I answered that yes.

12 Q. What?

13 A. The rules and regulations which we were
14 following.

15 Q. You were following the rules and regulations,
16 but the rules and regulations didn't tell you what type
17 of changes to suggest. They told you that you could
18 suggest changes, but that the ultimate discretion lay
19 with the Navy; is that right?

20 A. The rules and regulations are such that we
21 would not put or use warnings and procedures that are
22 not a part of our procedures in our manual. We just
23 wouldn't do it.

24 Q. I know you wouldn't do it, but there was
25 nothing legal or binding or in the nature of a

1 specification that prevented you from suggesting
2 something that you thought should be suggested, right?

3 A. No. It's just the idea that it is not our
4 procedure and therefore we wouldn't do it.

5 Q. So when you talk about a prohibition, you're
6 talking about an idea in your head and in someone else's
7 head at Westinghouse; is that correct?

8 MR. HARVARD: Object to the form.

9 THE WITNESS: It's not an idea. It is what we
10 have experienced over the years. We just wouldn't do
11 it.

12 MR. SIEGEL: Q. We're going to be as late as
13 six o'clock and we may be here in the darkness until I
14 get an answer from you about whether there was a rule or
15 regulation forbidding any change that Westinghouse
16 wanted to suggest. It may have been a change that you
17 would never have dreamed up and it may have been a
18 change that was not up your alley in terms of what you
19 were dealing with on a daily basis, but there's no set
20 of rules that precluded Westinghouse from suggesting
21 certain things, but not other things to the Navy; is
22 that right?

23 A. No. I disagree.

24 Q. All right. I need to know what set of rules
25 that is.

1 MR. HARVARD: And let me object as cumulative
2 because he's answered this question at a minimum of half
3 a dozen times.

4 MR. SIEGEL: Q. Well, that's the problem.
5 He hasn't answered it once yet. You've talked about
6 your experience and your ideas and I want to know of any
7 rules or regulations that said Westinghouse can make
8 these suggestions, but not other suggestions.

9 A. I refer back to the military on technical
10 manuals and that has been our experience prior to that.

11 Q. So the types of recommendations that
12 Westinghouse could make to the Navy were governed by
13 military specifications?

14 A. Involving procedures.

15 Q. Which included MilSpec 15071?

16 A. That is correct.

17 Q. And 15071 not only permitted Westinghouse, but
18 required Westinghouse to suggest a warning to the Navy
19 in certain enumerated instances, right?

20 MR. HARVARD: Object to the form.

21 THE WITNESS: Only if we had a procedure. If
22 we had no procedures to follow, we wouldn't do it.

23 MR. SIEGEL: Q. Where does it say that in
24 15071?

25 A. A and B.

1 Q. Where does it say the Marine engineers shall
2 only make these types of warnings or suggestions if it
3 has to do with the Marine engineer's procedures? It
4 doesn't say that at all, does it?

5 A. That's your interpretation.

6 Q. I want to see the words. I'm not asking for
7 my interpretation or yours, I'm simply asking for where
8 in the document it says that.

9 MR. HARVARD: Read the words in A and B, just
10 read them aloud which you believe point out they call
11 for a procedure. Read A.

12 THE WITNESS: "A warning statement shall be
13 used to call particular attention to a step of a
14 procedure which if not strictly followed could result in
15 serious injury or death of personnel. B, a caution
16 statement shall be used to call particular attention to
17 a step of a procedure which if not strictly followed
18 could result in damage to or destruction of equipment."

19 MR. SIEGEL: Q. In fact, it talks exactly
20 about what type of procedures it means, doesn't it?

21 A. Yes, it's a procedure.

22 Q. And when it says procedures, in fact the Navy
23 tells Westinghouse exactly what procedures it's talking
24 about, right? It speaks of installation, operating,
25 maintenance or repair procedures, right?

1 A. Yes.

2 Q. And if any such procedure can lead to serious
3 injury or death, then a warning is supposed to be
4 included in the technical manual?

5 A. That is correct.

6 Q. So when you're talking about the procedures
7 that let you, Westinghouse, know what types of warnings
8 were appropriate to suggest and what weren't, in fact,
9 we know exactly what procedures the Navy had in mind for
10 that, right?

11 MR. HARVARD: Object to the form.
12 Argumentative. If you can answer the question, answer
13 it. If it calls for speculation on your part, don't.

14 THE WITNESS: I don't know.

15 MR. SIEGEL: Q. What, you don't know or it
16 calls for speculation on your part?

17 A. It calls for speculation. I don't know.

18 Q. When the Navy speaks of operating maintenance
19 repair or installation procedures, what is unclear about
20 that to you?

21 A. It's unclear as to what procedure there is in
22 each one of those items that you mentioned.

23 Q. Okay. Well, let's talk about installation
24 procedures. What's unclear about that?

25 A. You have to have a procedure.

1 Q. An installation procedure?

2 A. That is right.

3 Q. Any procedure involving the installation of
4 the turbine would be an installation procedure, right?

5 A. That's right. And would have steps A, B and
6 C.

7 Q. Any procedure involving the operation of the
8 procedure of the turbine would be an operating
9 procedure, correct?

10 A. That is correct.

11 Q. Anything involving the maintenance of the
12 turbine would be a maintenance procedure, right?

13 A. That is correct.

14 Q. If a maintenance procedure involves serious
15 injury or death you're supposed to put a warning about
16 it in the technical manual?

17 A. I would say we can bring it to the attention
18 of those approving the technical manual and they would
19 have to agree.

20 Q. Right, and Westinghouse can bring such a
21 danger to the attention first of Westinghouse higher ups
22 and then of the Navy?

23 A. That is correct.

24 Q. And if the Navy approves it, then
25 Westinghouse's suggested change or warning is put into

1 effect in the technical manual?

2 A. That is correct.

3 Q. The same would be true when it says repair
4 procedures?

5 A. Yes.

6 Q. Now, the documents that I showed you and Mr.
7 Harvard went through with you, Westinghouse documents,
8 you said deal with insulation, but don't deal with
9 Marine turbines; is that right?

10 A. Deal with?

11 Q. There were some documents involving, for
12 instance, the turbines known as series 286?

13 A. Yes.

14 Q. And those are turbines that are being
15 manufactured by Westinghouse, but not Marine turbines.

16 A. That is correct.

17 Q. And the documents you looked at had to do with
18 the types of insulation that would go on those turbines?

19 A. On utility type turbines.

20 Q. Right. And so people at Westinghouse
21 Corporation were regularly dealing with insulation on
22 turbines not necessarily Marine turbines?

23 A. Those who were building utility type turbines,
24 they were aware of, yes.

25 Q. And would you agree with me that those

1 documents indicate that those were Westinghouse
2 personnel?

3 A. Yes.

4 Q. In fact, Mr. Tiefel is a name that you
5 recognize, right?

6 A. Yes.

7 Q. And Mr. Tiefel was dealing with insulation
8 going on turbines manufactured by Westinghouse, just not
9 Marine turbines?

10 A. Yes.

11 Q. And as to the Marine turbines, Westinghouse
12 knew that insulation would be put on them eventually,
13 right?

14 A. Yes.

15 Q. And in fact, as you've testified in many
16 instances, Westinghouse was required to put on the rails
17 and hooks to facilitate the application of that
18 insulation?

19 A. Yes.

20 Q. Now, if -- so that Westinghouse was no
21 stranger to the use of asbestos insulation and turbines;
22 is that correct?

23 In turbines --

24 A. Westinghouse Marine department was not aware
25 of the ins and outs of using asbestos.

1 Q. But even you'll admit that these internal
2 Westinghouse documents suggest that as to nonMarine
3 turbines, Westinghouse had an ongoing involvement with
4 the use of insulation, nonMarine turbines?

5 MR. HARVARD: Object to the form. Vague,
6 calls for speculation.

7 THE WITNESS: On nonMarine turbines we are not
8 aware of what's going on there.

9 MR. SIEGEL: Q. When you say we, you mean
10 the people in the Marine Division?

11 A. In the Marine Division, that's right, in the
12 Marine department we are not aware of what's going on
13 with nonMarine turbines.

14 Q. Now, was Mr. Tiefel in the Marine department
15 or the nonMarine department?

16 A. He was in the service nonMarine. He was in
17 the service department.

18 Q. And the service department worked both with
19 Marine people and nonMarine people?

20 A. That is correct.

21 Q. And so Mr. Tiefel from time to time would have
22 been working with Marine types and nonMarine types?

23 A. That is correct.

24 Q. Now, even though Westinghouse on its Marine
25 turbines didn't put on insulation typically, those

1 turbines in fact had asbestos containing products inside
2 them, right?

3 A. Yes. Gaskets.

4 Q. Such as gaskets.

5 A. Yes.

6 Q. And you knew that?

7 A. Yes.

8 Q. And you knew that back in the '50s when you
9 first began working with asbestos or rather with
10 Westinghouse Marine turbines?

11 A. Yes.

12 Q. And you knew those gaskets contained asbestos?

13 A. Yes.

14 Q. And you knew that in the process of
15 maintaining turbines aboard ships sometimes those
16 gaskets would be disturbed, right?

17 A. Yes.

18 Q. And you knew that those gaskets when disturbed
19 could give off asbestos dust, correct?

20 MR. HARVARD: Objection, calls for
21 speculation.

22 THE WITNESS: I don't know.

23 MR. SIEGEL: Q. Have you ever seen a gasket
24 ripped up or removed?

25 A. Yes.

1 Q. Have you ever seen it give off asbestos dust?

2 A. No.

3 Q. No?

4 A. No.

5 Q. Okay. But you knew that the gaskets were in
6 the turbines?

7 A. Yes.

8 Q. And you knew they contained asbestos?

9 A. Yes.

10 Q. And you knew that in the process of
11 maintaining and repairing the turbines they would have
12 to be disturbed?

13 A. Yes.

14 Q. Now, on the affidavit of Mr. Chilcote you
15 don't -- I understand your testimony that you just have
16 no basis on which to comment in any respect on what he
17 says, right?

18 A. Yes.

19 Q. You wouldn't say that anything that he says is
20 false, you just don't know if it's true or false?

21 MR. HARVARD: Object to the form.

22 MR. SIEGEL: Is that correct?

23 MR. HARVARD: Prior testimony stands for
24 itself.

25 MR. SIEGEL: Q. You can answer.

1 A. I don't know.

2 Q. You just don't know one way or the other?

3 A. That's right.

4 Q. Would Westinghouse order and install the
5 gaskets in the turbines itself before delivery to the
6 Navy?

7 A. Yes, with piping systems that are integral
8 within the turbine, Westinghouse would order asbestos
9 gaskets for the steam system as required by Navy
10 regulations.

11 Q. Were there any other products in the internal
12 workings of the turbine that contained asbestos?

13 A. Not that I can remember.

14 Q. Did you have a particular gasket supplier that
15 you recall or did you order them from all kinds of
16 companies?

17 A. I have no idea who they purchased gaskets
18 from.

19 Q. Who would know that? That wasn't your job to
20 order parts like that?

21 A. That's right. That is not my job.

22 Q. Whose job was that?

23 A. The purchasing department.

24 Q. Okay. Somebody in the Westinghouse purchasing
25 department would know the answer to that question?

1 A. Yes.

2 Q. And was the purchasing department, was there a
3 Marine purchasing department and a nonMarine purchasing
4 department or just a purchasing department?

5 A. Just a purchasing department.

6 Q. Okay. I think that's all the questions I
7 have.

8 RECROSS-EXAMINATION BY MR. HARVARD

9 MR. HARVARD: I've got one follow-up. It's
10 just one though.

11 Q. Mr. Gate, am I to understand your testimony to
12 be this, that in its documents to the U.S. Navy
13 Westinghouse did not provide to the U.S. Navy regarding
14 Marine turbines steps or procedures to install, remove
15 or reinstall the insulation on those turbines?

16 A. That is correct.

17 Q. And that's true for main propulsion turbines,
18 for the auxiliary turbines, for the SSTGs and for the
19 turbine drives for pumps, correct?

20 A. That is correct.

21 Q. Thanks.

22 MR. SIEGEL: I'm sorry, could you read back
23 not that last question, but the one before.

24 (Record read.)

25 REDIRECT EXAMINATION BY MR. SIEGEL

1 MR. SIEGEL: Q. The people who worked in the
2 nonMarine Division, these were activities that were
3 going on, among other places, at the same facility you
4 worked at, right, South Philadelphia?

5 A. Yes.

6 Q. And these people who were working with
7 nonMarine turbines and who were working with the
8 insulation to be applied on those turbines were also
9 employees of Westinghouse Electric Corporation just like
10 you were?

11 A. I don't know.

12 Q. Were you ever aware of anyone working at the
13 South Philadelphia Works who was not employed by either
14 Westinghouse or the Navy?

15 A. Yes.

16 Q. Such as whom?

17 A. Vendors, subcontractors.

18 Q. All right. People such as subcontractors or
19 vendors aside, people building the turbines and
20 manufacturing them worked for Westinghouse, is that
21 correct?

22 A. Yes. The subcontractors and workmen, yes.

23 Q. And for instance, Mr. Tiefel worked for
24 Westinghouse?

25 A. Yes.

1 Q. All right. That's all I have. I don't have
2 any further questions, but I do want to make a request
3 on the record. Earlier Mr. Gate talked about e-mails,
4 communications from you all to him or not from you all,
5 but from other lawyers to him, and we would like to
6 request those as well as his time sheets. They can be
7 redacted obviously for anything that you all want to
8 redact, but anything we are entitled to, we would like
9 those communications and the dates they were made, which
10 I guess will be reflected on the e-mails themselves.

11 MR. HARVARD: I think -- let me just say, I
12 think he already testified that he has deleted all those
13 e-mails and that they are not retrievable. I don't -- I
14 appreciate you made your request. I don't know if A,
15 the e-mails are retrievable or B, what our position
16 regarding the time sheets to the extent they are
17 retrievable are going to be.

18 But, Jim, until you hear further from me do
19 not delete any further e-mails which may be on your
20 system regarding any work you've done on this case.

21 Okay?

22 THE WITNESS: Yes.

23 MR. SIEGEL: And just to respond to that, we
24 would like not only the e-mails sent by Mr. Gate, but
25 the same e-mail could be retrieved from Miss Tate's

1 system as well as Mr. Gate's system. And whether or
2 not -- I mean as a final matter, if we're told that
3 something is irretrievable, we want to know why. We
4 want to know the details of the system that make it
5 irretrievable. Okay.

6 MR. HARVARD: If you've got -- I think Mr.
7 Gate has expressed his understanding of his situation.
8 I appreciate the request. Can I ask you to make a
9 request -- would you please send me that in writing?

10 MR. SIEGEL: Sure. I'll put it in writing.

11 MR. HARVARD: You have communicated to me
12 today. I understand it. I take sorry notes, I don't
13 want to wait until I get the darn transcript to have to
14 start sending this to the right folks. A follow-up
15 letter would be appreciated, but consider the message
16 taken.

17 MR. SIEGEL: We'll send that letter tomorrow.
18 Again, for the record I'm going to ask that it be
19 handled in an expedited fashion because you all are
20 putting us under the MBL guns, so we want to resolve
21 these timeliness issues while we can.

22 (Whereupon, the proceedings were adjourned at
23 6:10 p.m.)

24

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1	CHANGES AND SIGNATURE			
2	PAGE	LINE	CHANGE	REASON
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1 I, JAMES M. GATE, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4
5 _____
6 JAMES M. GATE

7
8 THE STATE OF _____)

9
10 COUNTY OF _____)

11
12 Before me _____, on this day
13 personally appeared JAMES M. GATE, known to me (or
14 proved to me under oath or
15 through _____) (description of identity
16 card or other document) to be the person whose name is
17 subscribed to the foregoing instrument and acknowledged
18 to me that they executed the same for the purposes and
19 consideration therein expressed.

20
21 Given under my hand and seal of office on this
22 the _____ of _____, ____.

23 _____
24 NOTARY PUBLIC IN AND FOR
25 THE STATE OF _____

1 LAURA MADDEN, individually and as) IN THE DISTRICT COURT
Personal Representative of the) SOUTHERN DISTRICT
2 Heirs and Estate of THOMAS) OF TEXAS
MADDEN, JR., Deceased.)

3 Plaintiffs,) GALVESTON DIVISION
)

4 vs.) No. 3-02CV00194
)

5 Able Supply Company, INC.,)
et al.,)

6 Defendants.)
)

7 COLLEEN CARTER, Individually and) IN THE DISTRICT COURT
as Personal Representative of the) EASTERN DISTRICT OF
8 and Estate of MARVIN CARTER,) TEXAS
Deceased; and SUZETTE OLSON,)

9 Individually and as Personal) PARIS DIVISION
Representative of the Heirs and)

10 Estate of ORVILLE OLSON, Deceased) No. 3-02CV00009
Plaintiffs,)
)

11 vs.)
)

12 ACandS, INC., et al.)
13 Defendants.)

IN RE:)

14 FEDERAL-MOGUL GLOBAL, INC.) IN THE DISTRICT COURT
Debtor,) WESTERN DISTRICT OF
15) TEXAS

DIANE MATHIAS, Individually and)
16 as Personal Representative of the) EL PASO DIVISION
Heirs and Estate of GEORGE)

17 MATHIAS, Deceased,) No. 01-10578
Plaintiffs,)

18) EP 01 CA 0380 DB
)

19 vs.)
)

20 ACandS, INC., et al.)
21 Defendants.)

22 REPORTER'S CERTIFICATION
DEPOSITION OF JAMES M. GATE
TAKEN ON JUNE 18, 2002

23
24 I, Laura D. Fowler, Certified Shorthand Reporter
25 in and for the State of California, hereby certify to

1 the following:

2 That the witness, JAMES M. GATE, was duly sworn by
3 the officer and that the transcript of the oral
4 deposition is a true record of the testimony given by
5 the witness;

6 That the deposition transcript was submitted on
7 _____ to the witness or the attorney for
8 the witness for examination, signature, and return to me
9 by _____;

10 That the amount of time used by each party at the
11 deposition is as follows:

12 Mr. Siegel, 05:30

13 Mr. Harvard, 00:37

14 That pursuant to information given to the
15 deposition officer at the time said testimony was taken,
16 the following includes counsel for all parties of
17 record:

18 FOR THE PLAINTIFFS:

19 MR. CHARLES SIEGEL
20 MS. MICHELLE NORTON
WATERS & KRAUS, LLP
3219 McKinney Avenue, Suite 3000
Dallas, Texas, 75204
Phone: (214) 357-6244

22 FOR WESTINGHOUSE:

23 MR. WILLIAM D. HARVARD
EVERT & WEATHERSBY, LLC
P.O. Box 1787
24 Athens, Georgia, 30603
Phone: (706) 583-8665

25

1 FOR HALLIBURTON COMPANY, KELLOGG BROWN & ROOT, DRESSER
INDUSTRIES, INC.:

2 MR. JAMES A. LOWERY, III
GODWIN and GRUBER
3 1201 Elm Street, Suite 1700
Dallas, Texas, 75270
4 Phone: (214) 939-4893

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6 MR. SHAWN M. RIDLEY
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9 MR. JAMES O. HARTMAN
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10 One Walnut Creek Center
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12 The following appeared via telephone:

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14 MR. THOMAS SCOTT
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15 2350 Two Houston Center
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17 FOR WILEY STOKER:

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21 FOR FOSTER WHEELER:

22 MR. LOU MILTENBERGER
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23 108 West 8th Street, Suite 500
Fort Worth, Texas, 76102
24 Phone: (817) 820-0343
25

1 I further certify that I am neither counsel for,
2 related to, nor employed by any of the parties or
3 attorneys to the action in which this testimony was
4 taken, and further that I am not financially or
5 otherwise interested in the outcome of this action.

6 Further certification requirements pursuant to
7 Rule 203 of TRCP will be certified to after they have
8 occurred.

9 CERTIFIED to by me this the _____ day of
10 _____, 2002.

11
12 _____
13 LAURA D. FOWLER, CSR-7054
14 Certified Shorthand Reporter
15 for the State of California
16 Expiration date: 11/21/02
17
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1 REPORTER'S CERTIFICATION UNDER RULE 203 TRCP

2 The original deposition was/was not returned to
3 the deposition officer on _____;

4 If returned, the attached Changes and Signature
5 page contains any changes and the reasons therefor;

6 If returned, the original deposition was delivered
7 to _____, Custodial Attorney;

8 That \$_____ is the deposition officer's
9 charges to the Plaintiffs for preparing the original
10 deposition transcript and any copies of exhibits;

11 That the deposition was delivered in accordance
12 with Rule 203.3, and that a copy of this certificate was
13 served on all parties shown herein on _____ and
14 filed with the Clerk.

15 Certified to by me this ____ day of _____,
16 2002.

17
18 _____
19 LAURA D. FOWLER, CSR-7054
20 Certified Shorthand Reporter
21 for the State of California
22 Expiration date: 11/21/02
23
24
25