

1 IN THE CIRCUIT COURT OF THE
 2 17TH JUDICIAL CIRCUIT IN AND
 3 FOR BROWARD COUNTY, FLORIDA
 4
 5 GENERAL JURISDICTION DIVISION
 6
 7 CASE NO. 02-11900 (27)
 8
 9 MONA BENTLEY, individually and)
 10 as Personal Representative of the)
 11 Estate of CLARENCE E. BENTLEY,)
 12 Deceased,)
 13 Plaintiff,)
 14 vs.)
 15 UNION CARBIDE CORP., et al.,)
 16 Defendants.)
 17
 18 The telephonic discovery deposition of Carlo
 19 Martino, taken in the above-entitled cause on the
 20 7th day of December, 2004, at Suite 3900, 190 South
 21 LaSalle Street, Chicago, Illinois, at 11:00 a.m.
 22
 23 REPORTED BY ELVIRA M. KOKOTT
 24 CERTIFIED SHORTHAND REPORTER LICENSE NO. 84-3309

1 APPEARANCES:
 2
 3 RUMBERGER, KIRK & CALDWELL
 4 MR. MICHAEL CRIST
 5 80 SW 8th Street
 6 Miami, Florida 33130
 7 305-995-5404
 8 appeared telephonically on behalf of
 9 Rockbestos Corporation;
 10
 11 MS. DAWN MARSHALL
 12 appeared telephonically on behalf of
 13 Union Carbide Corporation and
 14 Defendants et al.
 15
 16
 17
 18
 19
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1 APPEARANCES:
 2
 3 FERRARO & ASSOCIATES
 4 MR. DAVID JAGOLINZER
 5 4000 Ponce DeLeon Boulevard
 6 Miami, Florida 33146
 7 305-375-0111
 8 appeared on behalf of the Plaintiff;
 9
 10 MAYER, BROWN, ROWE & MAW, LLP
 11 MS. KATHERINE CLARK
 12 190 South LaSalle Street
 13 Chicago, Illinois 60603
 14 312-782-0600
 15 appeared on behalf of the Deponent;
 16
 17 PIERCE, HERNS, SLOAN & McLEOD, LLC
 18 MR. DAVID YARBOROUGH
 19 321 East Bay Street
 20 P.O. Box 22437
 21 Charleston, South Carolina 29413
 22 843-722-7733
 23 appeared telephonically on behalf of
 24 Union Carbide Corporation;

INDEX		
WITNESS	EXAMINATION	
Carlo Martino		
By Mr. Jagolinzer	5	
EXHIBITS		
NUMBER	MARKED FOR ID	
Plaintiff Deposition		
A	97	
B	124	
C	125	
D	126	
E	127	
F	131	
G	131	
H	142	
I	147	
J	147	
K	148	
L	150	
M	150	
N	151	
O	151	
P	153	
Q	153	
R	155	
S	156	
T	157	

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1 (Whereupon, the witness was duly
2 sworn.)
3 Carlo Martino,
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

EXAMINATION

BY MR. JAGOLINZER:

Q. Good morning, Mr. Martino.

A. Good morning.

Q. Could you, please, state your full name
for the record.

A. Carlo F. Martino.

Q. And, what is your current address?

A. 125 River Road, Somerville,
S-O-M-E-R-V-I-L-L-E, New Jersey, 08876.

Q. What is your current date of birth?

A. March 27, 1927.

Q. Mr. Martino, are you presently taking any
medications that would affect your ability to
remember things?

A. No.

Q. I understand you have had your deposition
taken before, but I just want to go over just some
basic ground rules. And, I am sure you heard them

BY MR. JAGOLINZER:

Q. Did you request to come to Chicago to take
a deposition?

A. I didn't, no.

Q. You have previously testified on behalf of
Union Carbide or their lawyers on other occasions,
correct?

A. Yes.

Q. And, today, you and your -- you and the
attorney for Union Carbide were kind enough to
bring with you today some prior testimony, is that
correct?

A. Yes.

Q. Do you know if the copies of the
depositions and the trial transcripts that you have
brought here today, do these represent all of the
testimony you have given with respect to Bakelite
or asbestos containing litigation on behalf of
Union Carbide?

A. No, they do not.

Q. Do you recall how many times you have
testified at trial?

A. Twice.

Q. And, I see that, I guess I have one in

5

7

before, so I'll cut to the chase.

If I ask you any questions that you don't
understand, or I am unclear for any reason, please
just ask me to rephrase my questions. I will be
happy to do so. Is that okay?

A. Yes.

Q. Also, if I ask you a question and you
don't know the answer to it, just tell me you don't
know, and I'll be happy to move on and get to some
other area; is that fair?

A. Yes.

Q. You are presently retired from where, sir?

A. Union Carbide.

Q. And, you're presently here today at the
request of Union Carbide, correct?

A. Attorneys for Union Carbide.

Q. Okay. I understand that you live in
New Jersey. How is it that we came to take the
deposition in Chicago?

A. Because --

MS. CLARK: I would just like to place an
objection to the extent that's more properly asked
of counsel, but he can go ahead, if he knows.

THE WITNESS: It was scheduled here.

front of me, that says In Re: Asbestos
Litigation -- that is not a trial transcript.
Excuse me. Let me go back.Actually, okay. So, everything that I
have in front of me today, these are depositions
that you have given, not trial transcripts, is that
your understanding?

A. That is correct.

Q. In terms of trial, I understand that you
had one trial in California, is that correct?

A. Two.

Q. So, both trials were in California?

A. Yes.

Q. One of those trials was in a case in which
I believe a gentleman had alleged that he was
suffering from mesothelioma as a result of exposure
to Union Carbide Bakelite. That individual, was
that named Trinkazie (phonetic)?

A. Yes.

Q. Do you recall the name of the other
individual plaintiff who was bringing the lawsuit
in California at trial?

A. Yeager.

Q. Okay. And, I understand you have brought

1 with you today the deposition that was taken in the
2 Yeager case?

3 A. Yes.

4 Q. Was there a deposition also taken in the
5 Trinkazie case, if you recall?

6 A. No.

7 Q. No, you don't recall or, no, there wasn't?

8 A. No, there wasn't.

9 Q. The first time that you began testifying
10 for Union Carbide or their lawyers in these
11 matters, that was the deposition that you gave in
12 the Yeager case in May of 2001, is that correct?

13 A. Yes.

14 Q. In terms of depositions that you have
15 given with respect to asbestos cases or asbestos
16 litigation, I have five here, five depositions.
17 Are there more than five times that you have given
18 depositions?

19 A. You have three there.

20 Q. I have three?

21 MS. CLARK: I believe one of those is a
22 multi-volume.

23 BY MR. JAGOLINZER:

24 Q. Okay. I have three here. I'll figure

1 who were alleging that they had an asbestos related
2 disease?

3 A. White, and the second one is Allgood
4 (phonetic).

5 Q. Do you recall the diseases that either
6 Mr. White or Mr. Allgood were alleging they were
7 suffering from in those cases?

8 A. In the case of Allgood, mesothelioma. I
9 can't pronounce that.

10 Q. Mesothelioma?

11 A. Right.

12 Q. How about in the case of Mr. White?

13 A. Mr. White, I don't recall what the health
14 problem was there.

15 Q. Okay.

16 A. I think it was cancer.

17 Q. Where were those depositions taken? Where
18 did that take place?

19 A. In San Francisco.

20 Q. Both of them were in San Francisco?

21 A. Yes.

22 Q. So, you went to San Francisco for the
23 depositions?

24 A. Yes.

1 that out later.

2 I see. There was one case in Virginia in
3 which, let's see, you were deposed -- you were
4 deposed in New Jersey, and that one looks like,
5 wow, that one took two days or three days?

6 A. Three days.

7 Q. Okay. So, that's you. Is this all of the
8 depositions that you have given, or have you given
9 additional depositions?

10 A. I have given additional depositions.

11 Q. Do you recall approximately how many more?

12 A. Two more.

13 Q. And, how recent were those depositions?

14 A. In September, early September.

15 Q. Of this year?

16 A. Yes.

17 Q. Okay. Was that both of those depositions
18 were in September of this year?

19 A. Yes.

20 Q. Were those depositions with respect to
21 different cases, or was it just a continuation of
22 one of the other?

23 A. Different cases.

24 Q. Do you recall the names of the individuals

1 Q. Do you recall by any chance the name of
2 the plaintiff's attorney in either one of those two
3 cases?

4 A. No, I don't.

5 Q. Do you currently have any other
6 depositions scheduled that you know of?

7 A. The Allgood case deposition has not been
8 completed.

9 Q. So, that has to be continued at some time?

10 A. Yes.

11 Q. Are you currently scheduled to go to any
12 trials or to attend any trials at the request of
13 Union Carbide or their lawyers in any cases?

14 A. No.

15 Q. Okay. Let's talk about a couple of
16 things.

17 How were you first contacted after your
18 retirement in, I believe it was, 2001, to become
19 involved in these cases?

20 A. I was actually contacted while I was still
21 working.

22 Q. That was in 1996 you retired?

23 A. 1995.

24 Q. And, what happened in 1995? How were you

1 contacted?

2 A. I was contacted by Allan Gershon from
3 Kelly, Drye & Warren.

4 Q. Did you get involved -- strike that.

5 The first deposition and the first
6 testimony that you would have given, that was in
7 2001, though, correct?

8 A. Yes.

9 Q. After being contacted in 1995, did you do
10 any work for either Allan Gershon, or any other
11 lawyers on behalf of Union Carbide, up until 2001?

12 A. Yes, I did.

13 Q. What type of work?

14 A. Primarily answering their questions with
15 regard to depositions that they had received.

16 Q. Were these written -- first I'll strike
17 that.

18 Do you know what answers to
19 interrogatories are? Do you know what
20 interrogatories are?

21 A. Not exactly, no.

22 Q. The questions that you would have been
23 answering back in 1995 and thereafter up until
24 2001, was this just an informal kind of meeting, or

1 A. Yes.

2 Q. When did that first come about that you
3 retained, and I'm sorry, is it the entire firm?
4 And, I don't even know the firm's name. I
5 apologize.

6 MS. CLARK: It's Mayer, Brown. That's fine.

7 BY MR. JAGOLINZER:

8 Q. The Mayer, Brown firm, is that the firm
9 you retained?

10 A. Yes.

11 Q. When is the first time you retained
12 Mayer, Brown?

13 A. In, I think it was, 2002.

14 Wait a minute. Let me think about that
15 again.

16 Could have been 2001 maybe.

17 Q. Do you know if it was before or after that
18 first deposition that you gave in May of 2001?

19 A. It was after.

20 Q. In May of 2001, that first deposition that
21 you gave, you weren't represented by counsel then,
22 is that correct?

23 MS. CLARK: Objection, foundation.

24 MS. MARSHALL: I will join in any objections.

13

15

1 were they trying to respond to let's say somebody's
2 -- a plaintiff's allegations in a lawsuit, if you
3 know?

4 MS. CLARK: I am just going to caution the
5 witness not to reveal any attorney-client
6 privileged communications. So, to the extent you
7 were being consulted while you were an employee
8 there, that may be privileged. And, if you have
9 concerns about that, we should discuss that.

10 THE WITNESS: I was there only one year, and I
11 retired in '96, and up till 2001, it was primarily
12 phone conversations, meetings, for clarification.

13 BY MR. JAGOLINZER:

14 Q. So, for example, if they had questions
15 about certain technical aspects or other issues,
16 they would be calling you to try and understand
17 what's going on?

18 A. Yes.

19 Q. That's an interesting question. I should
20 back up. As we sit here today, are you currently
21 represented by counsel?

22 A. Yes.

23 Q. So, you have retained this law firm to
24 represent you in these cases?

1 BY MR. JAGOLINZER:

2 Q. You can answer it, if you know.

3 A. I am not sure whether I was being
4 represented or not.

5 Q. Fair enough. Good answer. Fair enough.

6 Let's do it this way. How did it come
7 about that you retained Mayer, Brown, or any other
8 lawyers, to represent you with respect to your
9 testimony?

10 A. Well, in this particular case, I was
11 subpoenaed.

12 Q. Let's go back to after 1996, when you
13 stopped working at Union Carbide, were you still
14 being contacted by lawyers from Union Carbide with
15 respect to Bakelite or asbestos containing
16 products?

17 A. On occasion, yes.

18 Q. How would that come about?

19 A. Telephone calls.

20 Q. Aside from Mr. Gershon, were there any
21 other individuals who were calling you?

22 A. Yes. He was replaced by Jonathan --

23 Q. Schwartz?

24 A. What was that?

1 Q. Is it Schwartz?

2 A. No, not Schwartz. I don't recall the last

3 name.

4 Q. Glasser?

5 A. Glasser.

6 Q. Okay. So, from 1996 and thereafter,

7 either Allan Gershon or Jonathan Glasser, two

8 lawyers for Union Carbide, would have contacted

9 you?

10 A. Yes.

11 Q. Any other attorneys from 1996 to 2001 for

12 Union Carbide call you that you can recall?

13 A. None, no.

14 Q. You stated that it was after the first

15 deposition that you gave in 2001 that you retained

16 counsel?

17 A. I'm a little confused by retaining

18 counsel. I didn't ask for an attorney. I

19 responded to request to, you know, to provide

20 technical opinions.

21 Q. Okay.

22 A. So, I don't regard that as retaining an

23 attorney.

24 Q. As you sit here today, do you believe you

17

1 lawyer. I am being asked to provide a service by a

2 lawyer. That doesn't mean I have retained a

3 lawyer. I mean, other than this particular case,

4 where I was subpoenaed.

5 Q. Okay. So, it's your understanding that

6 you were working for lawyers who represented

7 Union Carbide, not that they were working for you?

8 A. That's right.

9 Q. How would you classify that work that you

10 were doing for these lawyers?

11 MS. CLARK: Objection, vague, ambiguous.

12 MS. MARSHALL: Join.

13 BY MR. JAGOLINZER:

14 Q. If you can answer it, you can. If you

15 can't, you tell me to rephrase it.

16 A. I was providing my technical expertise.

17 Q. Okay. And, have you charged Union Carbide

18 or their lawyers for your time involved with that

19 work?

20 A. If it required follow-up, yes.

21 Q. When you say if it required follow-up,

22 what do you mean?

23 A. Telephone conversation I didn't charge,

24 unless it was telephone conference that went on for

19

1 have retained the law firm of Mayer, Brown?

2 MS. CLARK: I just want to object to the extent

3 that calls for a legal conclusion. As a lay

4 witness and not a lawyer, I don't know that he is

5 fully able to answer that, but go ahead.

6 BY MR. JAGOLINZER:

7 Q. I'll ask it a different way that maybe --

8 I won't use the word retained.

9 Are you under the understanding that you

10 have employed Mayer, Brown to represent you in this

11 case?

12 A. I have asked them to.

13 Q. You have asked them to represent you?

14 A. Yes.

15 Q. Is there, first off, is there a charge for

16 them doing that? Does Mayer, Brown charge you for

17 doing that?

18 A. No.

19 Q. Has any law firm or any lawyers from

20 Union Carbide ever charged you for their

21 representation of you in any of these depositions

22 or testimony?

23 A. No.

24 I am still unclear about retention of a

1 a long time, and I still don't. If I am asked to

2 look into some matter for the attorney, then I

3 charge by the hour.

4 Q. And, if you're asked to look into

5 something for an attorney, what would be that

6 hourly charge?

7 A. \$150 an hour.

8 Q. Has that been your charge since you first

9 started getting involved in this in 2001?

10 A. Yes.

11 Q. Did you also charge for any time prior to

12 2001 from 1996, when you stopped employment there,

13 to 2001?

14 A. I did not, no.

15 Q. Do you also charge for your time for

16 coming to depositions such as this?

17 A. Yes.

18 Q. The fee that you would charge

19 Union Carbide, would that be \$150 an hour again?

20 A. For deposition, \$200 an hour.

21 Q. So, if it's a deposition, it would be

22 \$200 an hour. If it was other work reviewing

23 whatever it is or having conversations, that would

24 be 150 an hour?

1 A. That's right.

2 Q. How about if you had to come to trial to

3 testify, what's the charge for that?

4 A. For the trial also \$200 an hour.

5 Q. Now, I understand, obviously, we are here

6 in Chicago today. How did you get to Chicago?

7 A. I flew out from Newark.

8 Q. Did you pay for that flight?

9 A. No.

10 Q. So, your expenses and your travel time and

11 things of that nature, that would also be --

12 Union Carbide would be paying for that?

13 A. Yes.

14 Q. You were also kind enough to bring or your

15 attorney here provided this. I guess it's part of

16 an invoice, and it's got your name at the top, and

17 at the bottom it says one affidavit for Kate Clark

18 \$150.

19 Does that represent one hours worth of

20 work? Is that what that means?

21 A. Yes.

22 Q. I assume this is something that you

23 prepare in terms of a bill to be submitting to the

24 lawyers for Union Carbide to get paid?

21

1 A. Yes.

2 Q. That would be starting in 2001 until

3 present?

4 A. Yes. Some years more, some years less.

5 Q. With respect to this case, and you

6 understand we are here for the estate of

7 Clarence Bentley and his wife, Mona Bentley?

8 A. Yes.

9 Q. For this case, do you have an idea aside

10 from the \$150 that you charged for that affidavit,

11 have there been any other charges billed to

12 Union Carbide?

13 A. No.

14 Q. Do you have any plans to submit additional

15 bills to Union Carbide for your time?

16 A. Yes.

17 Q. That would include your time for today's

18 deposition, correct?

19 A. Yes.

20 Q. Would that also include your time

21 yesterday?

22 A. Yes.

23 Q. How much time would you charge for

24 yesterday?

23

1 A. Yes.

2 Q. At some point in time, I understand there

3 was other information on this sheet, as well?

4 A. Yes.

5 Q. Would that have been work related to other

6 cases?

7 A. Yes.

8 Q. Do you have an idea as to how much money

9 you have charged or how many hours, if there is

10 some way you can do that, that you have charged

11 Union Carbide for your assistance in these matters

12 since you started in 2001?

13 MS. CLARK: Objection, relevance.

14 MS. MARSHALL: Join.

15 BY MR. JAGOLINZER:

16 Q. You can answer, Mr. Martino, unless she

17 instructs you.

18 A. It's averaged about a week and a half of

19 work a year.

20 Q. When you say a week and a half, should I

21 do that in terms of 40 hours a week?

22 A. Yes. It would average roughly eight,

23 \$10,000.

24 Q. \$10,000 a year roughly?

22

1 MS. CLARK: Objection, vague, ambiguous.

2 THE WITNESS: I haven't figured it out yet.

3 BY MR. JAGOLINZER:

4 Q. Would you charge for the time that it took

5 you to leave your house until you got here to

6 Chicago?

7 A. Yes. Travel time, yes.

8 Q. The travel time would be charged at the

9 same amount?

10 A. No, \$75 an hour.

11 Q. 75 for the travel time.

12 And, yesterday, did you have the

13 opportunity to meet with and speak to any of the

14 lawyers at Mayer, Brown?

15 A. Yes.

16 Q. I apologize. I have to keep looking at

17 the mug. And, did you meet with Ms. Clark

18 yesterday?

19 A. Yes.

20 Q. How long did you spend with Ms. Clark

21 yesterday?

22 MS. CLARK: Objection, calls for revealing

23 privileged and work product communications.

24 You don't have to answer that.

24

1 MR. JAGOLINZER: You're instructing the witness
2 not to answer how long he spent with you yesterday?

3 MS. CLARK: You just strictly want to know the
4 amount of time he met with me?

5 MR. JAGOLINZER: That's exactly what I just
6 asked.

7 MS. CLARK: You can answer only that, sir.

8 BY MR. JAGOLINZER:

9 Q. The question, Mr. Martino, is how long did
10 you spend with Ms. Clark yesterday? How many
11 hours?

12 A. About four hours.

13 Q. Thank you.

14 A. That included lunch.

15 Q. Did she pay for lunch?

16 A. Yes, she did.

17 Q. Okay. Good. You worked for
18 Union Carbide, Mr. Martino, for over 47 years, is
19 that correct?

20 A. Yes.

21 Q. Do you currently receive a pension from
22 Union Carbide?

23 A. Yes, I do.

24 Q. What is the amount of that pension?

1 are relevant or not, are not proper grounds for
2 instructing the witness not to answer.

3 Whether or not they will be admitted at
4 trial will be another issue that the judge will
5 have to decide, but that is relevant and it is
6 discoverable information. I understand, if
7 Mr. Martino doesn't want to answer that, he can
8 certainly tell me he doesn't want to answer that.
9 I just wanted to explain to him what I was trying
10 to ask. And, if he tells me he doesn't want to
11 answer it, he can certainly do that. So, I'll just
12 ask it again.

13 BY MR. JAGOLINZER:

14 Q. Mr. Martino, would you mind telling me how
15 much of a pension you get from Union Carbide?

16 MS. CLARK: Same objections.

17 MS. MARSHALL: Join.

18 THE WITNESS: I would prefer not to answer
19 that.

20 BY MR. JAGOLINZER:

21 Q. Mr. Martino, you were also kind enough to
22 bring with you today I guess this is a copy of your
23 resume?

24 A. Yes.

1 MS. CLARK: Objection, relevance.

2 MS. MARSHALL: Join.

3 THE WITNESS: I would prefer not to reveal my
4 personal finances.

5 BY MR. JAGOLINZER:

6 Q. What I am looking for, and I'll tell you
7 what I am trying to do, Mr. Martino, so you
8 understand, and I can explain the objection. I am
9 trying to figure out how much money that you're
10 receiving from Union Carbide from any source, and
11 in terms of what that will be used for, that will
12 only be used for in terms of this case and in cases
13 that involve your testimony. And, if you do not
14 want to tell me that, you have that right, but that
15 is what I am asking for.

16 MS. CLARK: Same objection on that. We can
17 possibly re-visit that at a break, but I think the
18 witness has stated his preference, and I agree
19 that's not relevant to this matter.

20 MR. JAGOLINZER: I will tell you, and I don't
21 know, Kate, if you are licensed in the state of
22 Florida, in Florida all objections are preserved
23 until trial, except as to the form of the question.
24 And, all matters, whether or not you believe they

1 Q. Thank you. What I wanted to do was, and I
2 guess this will be pretty easy now, if you need
3 this, I am sure you don't.

4 A. No, I have another copy.

5 Q. What I wanted to do is I wanted to start
6 first with your educational career. I understand
7 that you graduated high school in Pennsylvania in
8 1944?

9 A. Yes.

10 Q. Thereafter, did you go to college?

11 A. Yes.

12 Q. Where did you go?

13 A. Carnegie Mellon in Pittsburgh.

14 Q. Did you receive a degree from
15 Carnegie Mellon?

16 A. Yes.

17 Q. What was the degree in?

18 A. Chemical engineering.

19 Q. Was that in 1948?

20 A. Yes.

21 Q. In 1948, after you graduated from
22 Carnegie Mellon, what did you do next in terms of
23 your employment history?

24 A. I went directly to what was then called

1 the Bakelite Corporation.
 2 (Whereupon, there was a
 3 short interruption.)
 4 THE WITNESS: I was hired by the Bakelite
 5 Corporation.
 6 BY MR. JAGOLINZER:
 7 Q. And, from -- that was in 1948, sir?
 8 A. Yes.
 9 Q. Did you stay working for Union Carbide the
 10 entire time up until your retirement in 1996?
 11 A. Yes.
 12 Q. Did you have any other employment aside
 13 from Union Carbide during that time period?
 14 A. No.
 15 Q. Could you tell me briefly when you first
 16 started working at you said it -- first of all, was
 17 it Union Carbide when you first started working, or
 18 was it the Bakelite Company?
 19 A. It was called the Bakelite Corporation,
 20 but it was owned, I think, by Union Carbide at that
 21 time.
 22 Q. Actually, let me back up. How did you
 23 first come about getting that job in 1948?
 24 A. Job interviews at the college.

29

1 melt if you heat it up, and it's what these
 2 Styrofoam cups are made of.
 3 Q. I'm sorry. Did you have an actual title
 4 there, or were you just in the department? How did
 5 they do that? Did they classify it at all?
 6 A. There were various classification of
 7 engineers. I think I came in at the lowest level.
 8 Q. How long did you stay in that division,
 9 the polystyrene division?
 10 A. I'd have to refer to that.
 11 MS. CLARK: I have one.
 12 THE WITNESS: About nine years.
 13 BY MR. JAGOLINZER:
 14 Q. Would that be approximately from 19, and I
 15 am trying to figure this out, too, 1949 to 1959,
 16 that time frame?
 17 A. Yes. I was transferred to the
 18 polyethylene group.
 19 Q. Okay. In '58?
 20 A. In '58.
 21 Q. So, from --
 22 A. Then, in '59, I was moved again.
 23 Q. Okay. Let's take from 19 -- well, 1948 to
 24 let's just stop right now at '58, before we get to

31

1 Q. Was it someone from the company was out at
 2 the college?
 3 A. Yes.
 4 Q. Okay.
 5 A. And, then, I was asked to come to
 6 Bound Brook for additional interviews.
 7 Q. Your first position at Union Carbide or
 8 the Bakelite Corporation in 1948, what was that?
 9 A. Trainee in production.
 10 Q. Trainee in production of what?
 11 A. The production of many of their plastics.
 12 Q. How long did you stay as a trainee?
 13 A. Oh, almost a year.
 14 Q. What types of things did you do as a
 15 trainee for that one year period?
 16 A. We were assigned to each department in
 17 production for a short period of time to learn what
 18 was done there.
 19 Q. After that one year or so period, after
 20 your trainee period was over, what was your next
 21 position?
 22 A. Research and development in polystyrene.
 23 Q. First off, what is polystyrene?
 24 A. It's a thermoplastic, plastic that will

30

1 the polyethylene group.
 2 Did any of your work there involve
 3 asbestos containing Bakelite?
 4 A. No.
 5 Q. 1958, I see you were promoted to project
 6 scientist, and that's when you got into the
 7 polyethylene group?
 8 A. Yes.
 9 Q. What was the project scientist? What does
 10 that mean?
 11 A. It was a grade level. It's the first
 12 significant promotion in the technical ladder.
 13 Q. What did your duties entail in the
 14 polyethylene group?
 15 A. To develop new products for the customers
 16 and provide technical service for those customers.
 17 Q. Were you in 1958 as project scientist in
 18 the polyethylene group, were you involved in
 19 meeting with and speaking to customers?
 20 A. Yes.
 21 Q. Was there a specific geographic area that
 22 you would meet customers or speak to customers?
 23 A. Wherever they were located in the U.S.
 24 Q. That would be with respect to any of the

32

1 polyethylene resins that were being manufactured?

2 A. Yes.

3 Q. As part of that work in that group, did
4 that involve anything having to do with asbestos
5 containing Bakelite?

6 A. No.

7 Q. 1959, there is another change in your
8 employment. Can you tell me what that was?

9 A. I was -- became a group manager and had --
10 and it was a newly formed group or technical
11 service for all of the plastics work that were
12 being sold out of the Bound Brook area.

13 Q. Am I correct to assume that that is when
14 the first time you became involved with in any way
15 with respect to asbestos containing Bakelite at
16 Union Carbide?

17 A. Yes.

18 Q. Could you tell me what your job duties
19 were as manager of that group?

20 A. It was to manage the technical service for
21 all of the plastics that we were making at that
22 time in the Bound Brook area, and I had specialists
23 reporting to me who were skilled in each of those
24 areas.

1 your career at Union Carbide always at the
2 Bound Brook facility?

3 A. Yes.

4 Q. The 11 engineers and their laboratory
5 assistants who you said were specialists in terms
6 of this technical service, would they have contact
7 with any of Union Carbide's customers, or would
8 that have been your responsibility?

9 A. No, they had direct contact.

10 Q. Do you recall the names of any of those
11 engineers that you were overseeing in 1959?

12 A. Yes. Fred Ducca.

13 Q. Could you spell that?

14 A. D-U-C-C-A.

15 Q. I'm sorry a D or B?

16 A. D, D-U-C-C-A.

17 Q. Anybody else?

18 A. Vern Schroeder.

19 Q. Could you spell Schroeder?

20 A. S-C-H-R-O-E-D-E-R.

21 Q. Okay.

22 A. Bill Joyce.

23 Q. Okay.

24 A. Joe Groel, G-R-O-E-L.

33

35

1 Q. When we are talking about technical
2 service, what types of things are we talking about?
3 What would technical service consist of?

4 A. Solving customer problems in regard to the
5 use of those plastics.

6 Q. What type of customer problems, if you
7 recall, would come up? Just a general idea.

8 A. Whether or not the product would meet the
9 customer's requirements in terms of how it
10 processed and in terms of whether it was -- had the
11 properties that they were looking for.

12 Q. You said you had specialists that you
13 oversaw as part of that?

14 A. Yes.

15 Q. How many specialists would you have or did
16 you have, excuse me?

17 A. At that time, 11 engineers, and each of
18 them had laboratory assistants.

19 Q. First off, the 11 engineers and these
20 laboratory assistants that we are talking about,
21 was this all at the Bound Brook facility?

22 A. Yes.

23 Q. Backing up, when you first started from
24 '48, and let's go to where we are now in '59, was

1 Q. Okay.

2 A. John Misko, M-I-S-K-O. Gus Fischer.

3 Q. I can spell that one.

4 A. F-I-S-C-H-E-R.

5 That's all I can remember right now.

6 Q. Do you know if Mr. Ducca is still alive?

7 A. I don't know.

8 Q. Do you know if Mr. Schroeder is still
9 alive?

10 A. No, he isn't.

11 Q. Do you know if Mr. Joyce is still alive?

12 A. Yes, he is.

13 Q. Do you know where Mr. Joyce lives?

14 A. Not presently, no.

15 Q. The last address or the last state and
16 city that you knew he was living in, do you know
17 where that was? Was that --

18 A. Reason I am smiling is he became the CEO
19 of Union Carbide, and he has since left, so I don't
20 know where he is now.

21 Q. But you do know he is still living?

22 A. He is still living, yes.

23 Q. When is the last time you would have
24 spoken to Mr. Joyce?

1 A. The year I retired.
 2 Q. How about Mr. Groel?
 3 A. He is dead.
 4 Q. How about Mr. Misko?
 5 A. He is dead.
 6 Q. How about Mr. Fisher?
 7 A. I don't know where he is.
 8 Q. Do you know if he is alive?
 9 A. I think he is.
 10 Q. Do you know what Mr. Schroeder passed away
 11 from?
 12 MS. CLARK: Objection, foundation.
 13 BY MR. JAGOLINZER:
 14 Q. You can answer any question. She is
 15 making legal objections, unless she tells you not
 16 to.
 17 A. All I can say he had multitude of health
 18 problems, diabetes primarily.
 19 Q. Do you know if he had any lung related
 20 problems?
 21 A. No, he had not.
 22 Q. Mr. Groel, do you know what he passed away
 23 from?
 24 A. Heart attack.

37

1 A. Similar to what I had before, except that
 2 it was related to that group of products and
 3 included the development of new products.
 4 Q. And, the group of products that you're
 5 referring to, that's the Bakelite molding and
 6 laminating resins?
 7 A. Yes.
 8 Q. You remained in that position for
 9 approximately ten years, is that correct?
 10 A. 14 years.
 11 Q. Okay. I see. 1970 you were promoted in
 12 the same group, but you were promoted?
 13 A. That's right. And, I moved in 1974.
 14 Q. From 1960 to 1974, were you also located
 15 in the Bound Brook facility?
 16 A. Yes.
 17 Q. We'll get back to 1960 to 1974 in a
 18 second, but just jumping ahead, you said something
 19 changed in 1974 in terms of your employment. What
 20 did you do next?
 21 A. I was transferred again to group manager
 22 of the low density polyethylene product development
 23 group.
 24 Q. How did that transfer come about? What

39

1 Q. Do you know what Mr. Misko passed away
 2 from?
 3 MS. CLARK: Same objection. You can answer.
 4 THE WITNESS: That I don't know.
 5 BY MR. JAGOLINZER:
 6 Q. Do you know if Mr. Misko had any lung
 7 related problems?
 8 A. No.
 9 MS. CLARK: Same objection, foundation. You
 10 can answer.
 11 THE WITNESS: No.
 12 BY MR. JAGOLINZER:
 13 Q. Let's go back here. 1960 something
 14 changed in your employment, as well, correct?
 15 A. Yes.
 16 Q. Okay. Can you tell us about that?
 17 A. Pardon?
 18 Q. Could you tell us what that was what
 19 happened in 1960?
 20 A. I was transferred to group manager of the
 21 Bakelite molding and laminating resonance group.
 22 Q. What were your duties or job
 23 responsibilities when you were transferred there in
 24 1960?

38

1 was the reason for that, do you know?
 2 A. I asked for it.
 3 Q. Okay. Why is that, if you recall?
 4 A. I had 14 years in one area, and I wanted
 5 to change.
 6 Q. As part of that change in 1974, '74 and
 7 after, when you did change that position, is it
 8 fair to say that your responsibilities no longer
 9 included anything having to do with any asbestos
 10 containing Bakelite that Union Carbide may have
 11 manufactured?
 12 A. Yes.
 13 Q. 1980, Mr. Martino, you became involved in
 14 wiring cable specialty plastics, is that correct?
 15 A. Yes.
 16 Q. What did that entail?
 17 A. A group of thermo -- a family of
 18 thermoplastic materials that were used to insulate
 19 wire and cables.
 20 Q. Any of that involve the use of asbestos?
 21 A. No.
 22 Q. Was this something that was being
 23 developed at Union Carbide, or was this something
 24 that was around for a while, should I say, this

40

1 type of thermoplastic?

2 MS. CLARK: Objection, vague, ambiguous. Go

3 ahead.

4 THE WITNESS: It was around for a while.

5 BY MR. JAGOLINZER:

6 Q. Okay. Let's see. And, then, the last

7 position you held at Union Carbide, what was that,

8 sir?

9 A. Associate director.

10 Q. What did that involve?

11 A. It involved an expansion of my

12 responsibilities to the development of new products

13 and service for a lot more polyethylene products,

14 different applications.

15 Q. In 1996, you retired. Why was that?

16 A. I was getting old. I was 69.

17 Q. Okay.

18 A. And decided that it was time.

19 Q. It was time. Okay. As part of your work

20 from 1959, and we'll go up through 1974, when you

21 switched out of that group, did any of your

22 responsibilities include marketing of your Bakelite

23 product?

24 MS. CLARK: Objection, vague.

41

1 Q. From the time you were involved there from

2 '58 through '74, did you ever have the opportunity

3 or did you ever approve a new source of asbestos to

4 be used?

5 A. A different supplier, yes.

6 Q. When was that and who was the supplier, if

7 you recall?

8 A. I think it was -- I don't recall.

9 Q. Do you recall approximately the year or

10 no?

11 A. Only in roughly it was in the '60s.

12 Q. Okay. Some time in the '60s?

13 A. Yes.

14 Q. You do not recall the name of the supplier

15 of the asbestos that it was switched to, is that

16 correct?

17 A. I can only tell you the name of somebody I

18 didn't approve.

19 Q. Who didn't you approve?

20 A. Calidria.

21 Q. Calidria would be Union Carbide asbestos

22 from their mine in California, correct?

23 A. Yes.

24 Q. At some point in time, while you were

43

1 THE WITNESS: Assistance to marketing, but not

2 direct marketing.

3 BY MR. JAGOLINZER:

4 Q. Did you ever make any decisions with

5 respect to during that time frame with respect to

6 how asbestos containing Bakelite would be marketed?

7 A. No.

8 MS. CLARK: Same objection.

9 THE WITNESS: No.

10 BY MR. JAGOLINZER:

11 Q. Did you ever have responsibility from that

12 time period for purchasing any of the asbestos used

13 in Union Carbide asbestos containing Bakelite?

14 A. Not for the direct purchasing, no.

15 Q. When you said not for the direct

16 purchasing, is there -- was there any other

17 responsibility for the purchasing of the asbestos?

18 A. We would have to approve any new materials

19 or any new source.

20 Q. Did you -- first off, Union Carbide had

21 been using asbestos in some of their Bakelite

22 products prior to the time you started in that

23 group, correct?

24 A. Yes.

42

1 working there from '59 to '74, was Calidria ever

2 used in any of the asbestos containing Bakelite?

3 A. Only for evaluation purposes.

4 Q. So, there was a test run done on that?

5 A. Yes.

6 Q. What happened and why did you not approve

7 that fiber?

8 A. It had -- it changed the product enough so

9 that we would have to reformulate, and it was --

10 and we would -- that would have involved a lot of

11 work.

12 Q. Do you know why it changed the product?

13 A. Not in terms of what, you know, the

14 chemistry part, no, just that it did.

15 Q. How about in terms of what it actually did

16 to the final product?

17 A. In terms of --

18 Q. In terms of why it wouldn't work or be

19 acceptable for you.

20 A. We would have had to change the resin

21 contents to get the right flow.

22 Q. Would you have had to use more resin or

23 less resin to get the right flow?

24 A. More.

44

1 Q. Had you ever, and while we are speaking
2 about Calidria, had you ever been out to
3 Union Carbide's mine in California?
4 A. No.
5 Q. How did come about that the idea of
6 switching to Calidria asbestos from whatever
7 supplier was being used, how did that come about?
8 MS. CLARK: Objection, foundation. Go ahead.
9 THE WITNESS: As any other supplier, they
10 approached us.
11 BY MR. JAGOLINZER:
12 Q. When you say, "they approached us," do you
13 recall who at Union Carbide approached you to --
14 A. Not at Union Carbide. From Calidria.
15 Q. Do you recall who that was?
16 A. Just a sales manager.
17 Q. Was that John Meyers?
18 A. I don't remember.
19 Q. Do you know who John Meyers is?
20 A. I think I met him.
21 Q. Okay. Do you recall whose asbestos you
22 were using during that time when you had considered
23 switching to Calidria or you did that test run?
24 A. Carry Mines (phonetic).

45

1 Q. Was that true for the entire period that
2 you were working in that group from '59 through
3 '74?
4 A. Yes.
5 Q. Do you also, and first off, the asbestos
6 that you were getting from Carry Mines or
7 Union Carbide was getting from Carry Mines, excuse
8 me, was that short or long fiber?
9 A. Short.
10 MS. CLARK: Objection, vague, foundation. Go
11 ahead.
12 THE WITNESS: Sorry.
13 MS. CLARK: You can answer.
14 THE WITNESS: Short.
15 BY MR. JAGOLINZER:
16 Q. You're aware that at some point in time
17 Union Carbide was using long fiber for some of
18 their asbestos containing Bakelite, correct?
19 MS. CLARK: Objection, foundation, assumes
20 facts not in evidence, vague, ambiguous.
21 THE WITNESS: Yes.
22 BY MR. JAGOLINZER:
23 Q. Do you know where that long fiber was
24 purchased from?

46

1 A. Vermont.
2 Q. I'm sorry. Vermont?
3 A. Vermont. I think that was the name of the
4 company.
5 Q. I understand you hold six U.S. patents?
6 A. Yes.
7 Q. What are those patents in?
8 A. I have to really think back now.
9 One was on the use of a cured thermolic
10 molding compound granules in polystyrene used for
11 wall tile.
12 I think I'll start with the most recent
13 and go back. It's easier to remember.
14 Another is the addition of mineral oil to
15 polyethylene in the unipole reactor.
16 Another was on the development of a
17 polyethylene thermal setting compound, could it be
18 injection molded.
19 I can't remember the others.
20 Q. Were they in the area of polyethylene
21 products? Is that a fair way to characterize them?
22 A. There was one another one in polystyrene
23 where we added another plastic styrene equivalent
24 co-polymer that made the material stampable, and

47

1 you could use it in the punch press, but they were
2 primarily in the thermoplastic area.
3 Q. Mr. Martino, when is the first time that
4 you had heard that asbestos could cause disease?
5 A. The latter part of the '60s through the
6 publicity that occurred around Johns Manville.
7 Q. Did you hear in the latter part of the
8 '60s any information about potential health hazards
9 of asbestos from Union Carbide?
10 MS. CLARK: Objection, vague, ambiguous.
11 THE WITNESS: I can't recall any specific
12 letter or directive, you know, from within the
13 organization. There was a lot of literature being
14 passed around.
15 BY MR. JAGOLINZER:
16 Q. Were you ever, while you were working from
17 1959 to 1974 in the Bakelite group, were you ever
18 sent to any training programs with respect to
19 health hazards or potential health hazards of
20 asbestos?
21 A. Not formal training programs, no.
22 Q. When you say not formal training programs,
23 was there any other sort of training programs
24 during that time frame?

48

1 A. We had weekly or monthly safety meetings
2 at which all safety related issues would be
3 discussed.

4 Q. From 1959 to 1974, that would include
5 asbestos?

6 A. During the latter part of those years,
7 yes.

8 Q. And, were employees who were working in
9 the production of Bakelite that would have involved
10 the use of asbestos, were they provided with any
11 type of protection or -- protection?

12 MS. CLARK: Objection, vague, ambiguous. Go
13 ahead.

14 MS. MARSHALL: Join.

15 THE WITNESS: I was not managing the production
16 area. To answer that, I would only have to say
17 what I observed.

18 BY MR. JAGOLINZER:

19 Q. Okay. Thank you. So, you have never
20 observed the manufacturing process of asbestos
21 containing Bakelite?

22 A. Oh, yes.

23 MS. CLARK: Objection, mischaracterizes his
24 testimony. Go ahead.

1 Q. So, with respect to not what specifically
2 was told to those employees, leaving that aside,
3 you are under the impression and you do believe
4 that they were told about the potential hazards of
5 asbestos?

6 A. Yes.

7 Q. Mr. Martino, when is the first time you
8 heard that asbestos exposure could cause the
9 disease mesothelioma?

10 A. During one of those depositions. I don't
11 recall which one.

12 Q. So, the first time -- is it correct to
13 assume that the first time you heard the word or
14 the disease mesothelioma would have been some time
15 in 2001 or after?

16 A. Yes.

17 Q. I know we spoke about this briefly earlier
18 about an affidavit that you signed in this case.
19 Do you recall that?

20 A. Yes.

21 Q. I understand that currently, when you're
22 asked to, you do give depositions or trial
23 testimony on behalf of Union Carbide, correct?

24 A. Yes.

1 THE WITNESS: What I am trying to say is I
2 observed what was happening in the manufacture, and
3 I did observe the process. I can't go into
4 specific details as to what the production people
5 were told and what they were wearing. I know they
6 were told, given information, they were provided
7 with protective equipment.

8 BY MR. JAGOLINZER:

9 Q. I am just trying to get this clear, as
10 well. So, it's based on your personal knowledge of
11 seeing the manufacturing process?

12 A. Yes.

13 Q. You had observed individuals working in
14 that process or that procedure who were taking
15 precautions, is that fair?

16 A. Yes.

17 Q. And, as part of your work during that time
18 frame in the Bakelite group, you also are aware
19 that those individuals were given information about
20 how to protect themselves from potential dangers of
21 asbestos?

22 A. Specifically what they were told, I don't
23 know. All I know is that they were given
24 information.

1 Q. You, also, obviously, from time to time,
2 fill out affidavits for Union Carbide?

3 A. I sign them.

4 Q. Sign affidavits.

5 A. Okay.

6 Q. Okay. Are there any other written work
7 that you do for Union Carbide with respect to these
8 types of cases?

9 A. Other than the affidavits?

10 Q. Yes, sir.

11 A. I don't recall any.

12 Q. Since you -- since your first deposition
13 in 2001, have you reviewed any Union Carbide
14 documents or internal correspondence that would
15 have dated back to the time frame in which you were
16 working in the Bakelite group?

17 A. Yes.

18 Q. Do you recall approximately when you did
19 that?

20 A. Well, many of the documents came up in the
21 depositions.

22 Q. The first time that you would have seen
23 these documents, aside from whether or not you saw
24 them back in the time frame you were working, would

1 have been in 2001 and after?

2 A. Yes.

3 Q. Who provided you with those documents?

4 Was it, in other words, someone like myself, the
5 plaintiff's attorney, asking questions about
6 documents, or attorneys for Union Carbide at Mayer,
7 Brown, or any other law firm?

8 A. Both.

9 Q. Do you keep copies of any of those
10 documents?

11 A. Well, copies, I have the copies of the
12 depositions, which contain the ones that are
13 relevant. Beyond that, I may have some other
14 documents, but nothing -- those are the most
15 relevant.

16 Q. Okay. First off, the copies of the
17 depositions that I have, are these your copies or
18 are these counsel's copies?

19 A. They are copies of what I have. Mayer,
20 Brown was kind enough -- well, Ms. Clark was kind
21 enough to do it for me, so I don't have to carry it
22 out.

23 Q. The copies of the depositions that you
24 have, they have actual exhibits or documents

1 Q. Have you looked through that guide since
2 2001?

3 A. Yes.

4 Q. Does that guide mention asbestos
5 containing molding compound for Bakelite?

6 MS. CLARK: Objection, foundation.

7 THE WITNESS: I would have to take another look
8 at it.

9 MR. JAGOLINZER: I got an idea. Do you mind if
10 we take a quick break? I might be able to speed
11 this up, and I would like to use the restroom. Do
12 you mind?

13 (Whereupon, there
14 was a short break.)

15 BY MR. JAGOLINZER:

16 Q. Mr. Martino, the 1973 phenolic molding
17 guide that you have at your home, how big is that?
18 How thick is that?

19 A. About that size. I would say eight and a
20 half inches by five and a half.

21 MR. JAGOLINZER: Counsel, do you have a problem
22 of getting me a copy of that one?

23 THE WITNESS: You have it.

24 MS. CLARK: Yes, I believe.

53

55

1 attached to them?

2 A. Yes, and so do those.

3 Q. Well, I don't know about that.

4 A. Well, they should.

5 Q. They should. That's what I am trying to
6 get at, so at least I can know what we are talking
7 about. I don't think these do have any documents
8 in the back of them.

9 MR. JAGOLINZER: Ms. Clark, do you have a
10 problem getting me those documents that were
11 attached to Mr. Martino's depositions?

12 MS. CLARK: We can talk about that at the
13 break. I didn't realize they were attached or not.
14 Shouldn't be a problem.

15 MR. JAGOLINZER: That's okay.

16 BY MR. JAGOLINZER:

17 Q. When you retired from Union Carbide in
18 1996, did you have in your possession any, I don't
19 know, any documents that would pertain to any
20 Bakelite products?

21 A. I only had the 1973 phenolic molding
22 material product guide.

23 Q. Do you still have that in your possession?

24 A. Yes.

1 MR. JAGOLINZER: I don't need it today, but --

2 MS. CLARK: That's fine.

3 BY MR. JAGOLINZER:

4 Q. I didn't ask you back when we were on our
5 questions of pension and those things. Do you
6 currently own stock in Dow Chemical or
7 Union Carbide?

8 MS. CLARK: Same objection.

9 MS. MARSHALL: Join.

10 THE WITNESS: In Dow Chemical, yes.

11 BY MR. JAGOLINZER:

12 Q. From 19 -- if we can do it this way,
13 Mr. Martino, from 1959 until 1974, while you were
14 part of the we'll call it the Bakelite group, is
15 that okay?

16 A. Yes.

17 Q. While you were part of that group, how
18 many employees, Union Carbide employees, were there
19 in that group, just in that group?

20 MS. CLARK: Objection, vague.

21 THE WITNESS: What was that time period again?

22 BY MR. JAGOLINZER:

23 Q. Just when you were in that group from '59
24 to '74. If you want to break it up, we can do

1 that, as well.

2 A. I think if you break it up, it will be
3 better.

4 Q. Okay. How should we break it up? Should
5 we do --

6 A. Five years at a time.

7 Q. Let's do when you first started in '59 and
8 let's go to '64. How is that?

9 A. My first years -- first five years was
10 about 11 or 12 employees.

11 Q. As long as we are on that first five
12 years, do you have -- do you know in terms of
13 volume or in terms of revenue how the sales were
14 for Union Carbide's Bakelite?

15 MS. CLARK: Objection, foundation, vague.

16 MS. MARSHALL: Join.

17 THE WITNESS: Now, you say how the sales were,
18 you mean how much we were selling?

19 BY MR. JAGOLINZER:

20 Q. Correct. We'll start with that.

21 MS. CLARK: Same objections.

22 THE WITNESS: I would have to look at the
23 records again. I could only give you an
24 approximate figure.

1 approximate number.

2 A. Yes.

3 Q. Would that have been true the entire time,
4 or was that just in the five-year period, the
5 entire five-year period, you were there?

6 MS. CLARK: Same objections.

7 MS. MARSHALL: Join.

8 THE WITNESS: It went down to roughly 45, 48.

9 BY MR. JAGOLINZER:

10 Q. Would that have been at the end of your --

11 A. Yes.

12 Q. Okay. I want to focus again on that just
13 the first five-year period from '59 to '64.

14 How many sales offices did Union Carbide
15 or the Bakelite group have for selling its
16 Bakelite?

17 A. I can't give you the exact number.

18 Q. Were these sales offices located in one
19 geographic area, or were they spread out throughout
20 the country?

21 A. Spread out throughout the country.

22 Q. Do you know if it was more than five sales
23 offices during that time period?

24 MS. CLARK: Objection, foundation.

1 BY MR. JAGOLINZER:

2 Q. First off, have you seen records in the
3 past four years that would show the amount of sales
4 in terms of volume that Union Carbide was doing
5 back in that time period?

6 A. In the early '60s?

7 Q. Yes, sir.

8 A. Yes.

9 Q. In terms of right now, because we may be
10 lucky enough to get those documents, maybe they are
11 in there, and I'll look in my own stack, as well,
12 but what I want to do is just in terms of
13 approximation, is there a way you can approximate

14 for me the first five years in terms of the volume?

15 MS. CLARK: Objection, foundation, vague,
16 ambiguous.

17 MS. MARSHALL: Join.

18 THE WITNESS: Well, without having the records
19 in front of me, I could only say that it was in the
20 45 million to 55 million pound a year category. It
21 would vary year by year. I would have to look at
22 the records to give you more specific than that.

23 BY MR. JAGOLINZER:

24 Q. Okay. And, I understand that's just an

1 THE WITNESS: In that area, yes.

2 BY MR. JAGOLINZER:

3 Q. Okay.

4 A. Again, I -- you know, I don't have -- I am
5 trying to remember back 40 years, but I am giving
6 you a ballpark figure about half a dozen.

7 Q. Thank you. I understand these are all
8 ballpark numbers, and I am just asking you to do
9 your best approximation.

10 From 1959 to 1964, was there any other
11 facility manufacturing Bakelite aside from the
12 Bound Brook facility?

13 A. In the U.S.?

14 Q. Yes, sir.

15 A. Phenolic resins, yes.

16 Q. Where was that being manufactured?

17 A. In California, the plant, and in
18 Merriette, Ohio.

19 Q. In terms of molding compound, the answer
20 would be no?

21 A. No.

22 Q. Why is that, if you know? Why would those
23 plants only be manufacturing the resins and not the
24 molding compound?

1 MS. CLARK: Objection, foundation. You can
2 answer.
3 THE WITNESS: They were located near large
4 customers, and those large customers used --
5 BY MR. JAGOLINZER:
6 Q. Resin products?
7 A. They used resins. The plywood industry
8 out in California.
9 Q. So, then, is it fair to assume that the
10 Bound Brook, New Jersey facility was supplying
11 Bakelite to the entire country?
12 A. Yes.
13 MS. CLARK: Objection, foundation.
14 BY MR. JAGOLINZER:
15 Q. Let's take the next five-year period, if
16 we could. Let's go from '65 to '70.
17 In terms of employees in that Bakelite
18 group, how many employees were there?
19 A. Actually, I think the number -- number of
20 people stayed the same. There were organizational
21 changes. The number of people stayed the same.
22 Q. And, from 1970 to 1974, how about the
23 number of employees, then, in that group?
24 A. Towards the end of that period, we were

1 THE WITNESS: No.
2 MS. MARSHALL: Join.
3 BY MR. JAGOLINZER:
4 Q. I understand that the phenolic molding
5 compounds also were being manufactured in Mexico,
6 is that correct?
7 A. Yes.
8 Q. What time frame were they being
9 manufactured in Mexico?
10 MS. CLARK: Objection, foundation.
11 THE WITNESS: I can't give you the exact years.
12 BY MR. JAGOLINZER:
13 Q. Was it during the 1970s?
14 A. It was during the '60s.
15 Q. Do you know if it was also during the
16 '50s?
17 A. I don't remember the date that plant was
18 opened.
19 Q. Did you ever have the opportunity to visit
20 that plant?
21 A. Yes.
22 Q. On how many occasions?
23 A. Two or three.
24 Q. Those two or three visits to the plant in

1 down to maybe -- let's see. I gave you the figure
2 maybe ten -- what did I give you before?
3 Q. 11.
4 A. And, I am giving you a ballpark figure.
5 We were probably down to eight or nine.
6 Q. I guess the last question that I was
7 asking with respect to where the phenolic molding
8 compounds were being manufactured only focused on
9 '59 to '64.
10 How about from '65 through '74, were those
11 also only being manufactured at the Bound Brook
12 facility?
13 A. '65 through --
14 Q. Through '74.
15 A. Yes.
16 Q. Prior to you starting in this group in
17 1959, were the Bakelite molding compounds being
18 manufactured anywhere else aside from the
19 Bound Brook facility?
20 A. Prior?
21 Q. Yes.
22 A. In the U.S.?
23 Q. Yes, sir.
24 MS. CLARK: Objection, foundation.

1 Mexico, what was the purpose of you going there?
2 A. To determine how they could improve their
3 business.
4 Q. Would that be to determine how they could
5 improve their business in terms of manufacturing or
6 in terms of selling?
7 A. Both.
8 Q. In terms of -- in terms of selling, the
9 plant in Mexico, what was the geographic area that
10 it serviced?
11 MS. CLARK: Objection, foundation.
12 THE WITNESS: Just for Mexico? I don't know if
13 there were exports.
14 BY MR. JAGOLINZER:
15 Q. How many employees were -- did you observe
16 working at the Mexico plant when you visited?
17 A. I didn't have the occasion to see all of
18 them. I only dealt with a certain number.
19 Q. Do you have any idea as to the amount of
20 pounds per year that Mexico plant was
21 manufacturing?
22 MS. CLARK: Objection, foundation.
23 THE WITNESS: Not exactly, no.
24 BY MR. JAGOLINZER:

1 Q. Do you know if it would have been more or
2 less than what the Bound Brook facility was
3 producing?

4 A. Oh, less.

5 MS. CLARK: Same objection.

6 BY MR. JAGOLINZER:

7 Q. Would that be less than half of what the
8 Bound Brook facility --

9 A. Yes.

10 MS. CLARK: Same objections.

11 You have to give me a chance to object, before
12 you answer.

13 THE WITNESS: I'm sorry.

14 BY MR. JAGOLINZER:

15 Q. Let's get some of these easy ones out of
16 the way. You never met Dr. Leo Bakelite, is that
17 correct?

18 A. No.

19 Q. Never met his son, either?

20 A. No. I assume you have heard about the
21 son.

22 Q. You are aware that Bakelite is a
23 registered trademark of Union Carbide?

24 MS. CLARK: Objection, foundation, assumes

1 BY MR. JAGOLINZER:

2 Q. It would be used. Is it fair to say that
3 asbestos containing Bakelite would have been used
4 in electrical applications in the '50s, '60s and
5 '70s?

6 A. Yes.

7 MS. CLARK: Objection, vague, ambiguous.

8 MR. JAGOLINZER: Dawn, you want to join in your
9 co-counsel's objection, which you really don't have
10 to do, but --

11 MS. MARSHALL: Sure.

12 BY MR. JAGOLINZER:

13 Q. Did you ever, Mr. Martino, work in the
14 electrical field yourself?

15 A. Only during the period of time I was in
16 the navy.

17 Q. During that time period in the navy, you
18 never worked with asbestos containing Bakelite, is
19 that correct?

20 A. At that time, I didn't know what Bakelite
21 was.

22 Q. To your knowledge, did you ever work with
23 asbestos containing Bakelite, while you were in the
24 navy?

1 facts not in evidence.

2 THE WITNESS: Yes.

3 MR. JAGOLINZER: Well, gee, now they are in
4 evidence.

5 MS. CLARK: That's incorrect, counsel, but that
6 will come out later.

7 MR. JAGOLINZER: Okay.

8 BY MR. JAGOLINZER:

9 Q. Let's see. Union Carbide -- or you are
10 aware that Union Carbide was selling, let's see,
11 phenolic resins and molding compounds until 1975,
12 is that correct?

13 MS. CLARK: Objection, foundation.

14 THE WITNESS: Yes.

15 BY MR. JAGOLINZER:

16 Q. Is it your understanding, Mr. Martino,
17 that asbestos containing Bakelite would be widely
18 used in the electrical field in the 1950s, '60s and
19 '70s?

20 MS. CLARK: Objection, vague, ambiguous,
21 foundation.

22 MS. MARSHALL: Join.

23 THE WITNESS: It would be used. Widely used,
24 that I would have a problem with.

1 A. Knowing after I knew more about it, yes.

2 Q. Did you ever have the opportunity to
3 drill, saw or cut into a piece of molded asbestos
4 containing Bakelite?

5 MS. CLARK: Objection, foundation.

6 BY MR. JAGOLINZER:

7 Q. You can answer.

8 A. In the laboratory, yes.

9 Q. How would you go about doing that?

10 A. Just with a typical drill.

11 Q. What would be the purpose of you doing
12 that in the laboratory?

13 A. To measure the wear on the drill.

14 Q. During any of that work, did you ever have
15 the opportunity to measure the amount of asbestos
16 fibers being released from that drilling?

17 A. When we became aware of asbestos becoming
18 a problem, I think some tests were run in the area.
19 It was not common practice to drill.

20 Q. When you first -- you said when we became
21 aware of the problems with asbestos. Who is the we
22 that you're referring to?

23 A. My group in general. You know, the people
24 in my group.

1 Q. You're not here to tell us what
2 Union Carbide as a corporation knew about the
3 hazards of asbestos or when they knew it; is that
4 fair?
5 A. I am only here --
6 MS. CLARK: I am just -- objection to the
7 extent the witness is a lay witness, doesn't know
8 the difference between corporate representative and
9 an individual notice, but go ahead.
10 THE WITNESS: I can only tell you what I knew.
11 BY MR. JAGOLINZER:
12 Q. That's all I was getting at.
13 A. Yes.
14 Q. Thank you. You mentioned that at some
15 point in time someone may have run tests on the
16 asbestos containing Bakelite, correct?
17 A. Yes.
18 Q. The testing that you're talking about,
19 would that be testing that was done in terms of the
20 manufacturing process?
21 MS. CLARK: Objection, vague, ambiguous.
22 THE WITNESS: What tests are you referring to?
23 BY MR. JAGOLINZER:
24 Q. Well, actually, that's what I am trying to

1 A. Yes.
2 Q. Do you know where Mr. Neal is currently
3 living?
4 A. North Plainfield.
5 Q. New Jersey?
6 A. Yes.
7 Q. Did you ever run any tests on any end
8 products that would contain the asbestos containing
9 Bakelite to determine whether or not asbestos
10 fibers were released?
11 MS. CLARK: Objection, ambiguous foundation.
12 THE WITNESS: This is on the molded product?
13 BY MR. JAGOLINZER:
14 Q. Yes, sir.
15 MS. CLARK: Same objections.
16 THE WITNESS: Under what condition? How used?
17 Just rubbing it, or what?
18 BY MR. JAGOLINZER:
19 Q. Let's take that -- write that down, break
20 that down, and let's first start in any way
21 whatsoever.
22 MS. CLARK: Same objections.
23 THE WITNESS: The molded parts are not drilled
24 or sanded, so there is no reason to do that. They

1 get out. Let me rephrase that. Let's do this a
2 different way. First off, do you know if there
3 were any tests run at any point in time while you
4 were working in the Bakelite group on asbestos
5 containing Bakelite on the compound itself to
6 determine how much asbestos fibers may be released
7 into the air?
8 A. Yes.
9 Q. Tell me about that testing what was that
10 like.
11 A. We took a drum of phenolic compound that
12 contained 30 percent asbestos and poured it into
13 another drum under the worst possible conditions,
14 no ventilation, and then measured the fibers in the
15 air.
16 Q. Who measured -- I'm sorry.
17 A. We also did that with products containing
18 less asbestos.
19 Q. Who measured the asbestos in the air?
20 A. We had a safety engineer who was
21 knowledgeable in that area.
22 Q. And, what was that safety engineer's name?
23 A. Doug Neal.
24 Q. Do you know if Doug is still alive?

1 are molded with the holes in it into shape and
2 size, so I can't say that there was no reason to
3 run any tests.
4 BY MR. JAGOLINZER:
5 Q. Regardless of whether or not there was any
6 reason to run any tests, do you know if any tests
7 were run on any of the molded compounds -- the
8 asbestos containing molded compounds being
9 manipulated, being drilled into or sawed or
10 anything of that nature?
11 MS. CLARK: Same objections.
12 THE WITNESS: I haven't found any documentation
13 that shows that that was done. I vaguely recall we
14 might have done it.
15 BY MR. JAGOLINZER:
16 Q. What type of documents have you been
17 looking through to try and determine that?
18 MS. CLARK: Objection, mischaracterizes his
19 testimony.
20 THE WITNESS: Only what I have seen in, you
21 know, in depositions and been shown in discussions.
22 BY MR. JAGOLINZER:
23 Q. So, the only documents that you would be
24 able to look to to determine or to confirm whether

1 or not any tests were done on finished products
2 would be documents that were given to you either by
3 through a plaintiff's lawyer or by lawyers for
4 Union Carbide?

5 A. Yes.

6 Q. During the time from 1959 to 1974, while
7 you were working in the Bakelite group, did you
8 have a sales department?

9 A. Yes.

10 Q. The sales departments were responsible for
11 directly dealing with customers?

12 A. Yes.

13 Q. At some point in time, there was an
14 individual by the name of Peter Potter, who was the
15 marketing manager, is that correct?

16 A. Yes.

17 Q. And, do you know if Mr. Potter is still
18 living?

19 A. Yes.

20 Q. When is the last time you spoke with
21 Mr. Potter?

22 A. Couple of years ago.

23 Q. Was the purpose of that conversation
24 anything having to do with any of the issues in

1 market manager.

2 Q. Was he the marketing manager before you
3 got into the group?

4 A. About the same time.

5 Q. Aside from Mr. Potter, are there any other
6 former Union Carbide employees that you have spoken
7 with since 2001 aside from lawyers?

8 MS. CLARK: Objection, over broad, ambiguous.

9 THE WITNESS: I socialize with a lot of
10 ex-employees, so -- and I play Bridge every week --
11 every month.

12 BY MR. JAGOLINZER:

13 Q. I knew that.

14 A. So...

15 Q. I may ask a better question, then. Are
16 there any other individuals or ex-employees -- ex
17 Union Carbide employees, like Mr. Potter, who you
18 discussed anything concerning the Bakelite group or
19 asbestos in the past three or four years since you
20 started doing this?

21 MS. CLARK: Objection, over broad, vague. Go
22 ahead.

23 THE WITNESS: I have talked to Doug Neal. I
24 had one conversation with Dawn Gould.

1 this case?

2 A. In your case?

3 Q. In asbestos case in general.

4 A. Indirectly, yes.

5 Q. When you say indirectly yes, did that
6 conversation involve you asking Mr. Potter if he
7 has a recollection of certain things or something
8 of that nature?

9 A. I was interested in where he got his
10 volumes of sales and percentage market share.

11 Q. When you say where he got his, are you
12 talking about documentation or --

13 A. Yes, whether he had any documentation.

14 Q. Did Mr. Potter have any documentation
15 about sales?

16 A. No.

17 Q. Did Mr. Potter have any other
18 documentation from that time period?

19 A. No. He said he threw it all -- it all got
20 wet in his basement, and he threw it out.

21 Q. Now, Mr. Potter, he was working in the
22 Bakelite group before you started in that group, is
23 that correct?

24 A. He never worked in that group. He became

1 BY MR. JAGOLINZER:

2 Q. Anybody else?

3 A. That's about it.

4 Q. When did you speak to Doug Neal?

5 A. About two years ago.

6 Q. Do you recall what you discussed with
7 Mr. Neal?

8 A. He was being deposed the same time I was
9 for Newport News.

10 Q. Aside from the fact that he was being
11 deposed along the same time that you were, do you
12 recall what you discussed with Mr. Neal?

13 MS. CLARK: I am just going to object and
14 caution the witness to the extent you were acting
15 at the direction of attorneys, if you were, that
16 may be work product or privileged communications.

17 THE WITNESS: The only thing was timing of the
18 deposition, nothing specific.

19 BY MR. JAGOLINZER:

20 Q. You don't recall discussing or asking
21 Mr. Neal if he had any documents from that era or
22 anything of that nature? No?

23 A. I think I did ask him at one time. I
24 mentioned earlier about the drilling tests and that

1 we had to run -- that I thought we had run the air
2 sampling, and I asked him if he could recall doing
3 it and where it was.

4 Q. Did he recall doing that?

5 A. No, he didn't recall.

6 Q. After that you also said you spoke to
7 someone Don --

8 A. Gould.

9 Q. -- Gould?

10 A. G-O-U-L-D.

11 Q. Who is Don Gould or who was Don Gould?
12 Who is he, if he is still here?

13 A. He was involved in the packaging area.

14 Q. Where does Mr. Gould live?

15 A. I think he is -- I don't have exact
16 location.

17 Q. Do you know the state?

18 A. In New England.

19 Q. How long ago did you speak to Mr. Gould?

20 A. That was about two years ago, also.

21 Q. So, all these conversations, they were
22 more or less around the same time period?

23 A. Yes.

24 Q. Do you recall what you discussed with

1 bag. Yes, paper bags. They were not eliminated.
2 Well, they were changed to plastic bags at one
3 point.

4 Q. Just talking about the paper bags for a
5 minute, do you recall the approximate weight of
6 those bags, how big they were?

7 A. 50 pounds.

8 Q. Do you recall when they switched over to
9 plastic?

10 A. No.

11 Q. Okay. In terms of plastic bags, what was
12 the size of those bags?

13 A. Same.

14 Q. 50 pounds, as well?

15 A. Yes.

16 Q. They also came in something called gaylord
17 containers?

18 A. Yes.

19 Q. What is a gaylord container?

20 A. About a thousand pounds.

21 Q. Could you describe for me what a gaylord
22 container would look like?

23 A. It is a big box on a skid, and it's about
24 the same size as a typical wooden pellet.

1 Mr. Gould?

2 A. I asked him about when we had started
3 labeling our products with regard to containing
4 asbestos.

5 Q. What did Mr. Gould tell you?

6 A. He didn't have any -- he didn't recall the
7 exact date.

8 Q. Did Mr. Gould have any package -- I'm
9 sorry. Any documents from that era?

10 A. I think he mentioned that anything he had
11 was turned over to the attorneys.

12 Q. Do you know if Mr. Gould was deposed, as
13 well? Did they take a deposition of Mr. Gould, as
14 well, if you know?

15 A. I don't know.

16 Q. In terms of packaging, the Union Carbide's
17 phenolic Bakelite molding compound, that would come
18 in a variety of different packaging, is that
19 correct?

20 A. Yes.

21 Q. It came in paper bags?

22 A. Up to -- the paper bags were eliminated at
23 some point in time. Exactly when, I don't recall.
24 I'm sorry. I'll go back. Let's go back to paper

1 Q. Approximately six feet or --

2 A. Five feet by five feet, and about the same
3 depth. I don't know if that's exact dimension, but
4 it's in that ballpark.

5 Q. They also came in, or should I say
6 Union Carbide also packaged them in cardboard
7 drums?

8 A. Yes, but those were eliminated some time
9 in the, you know, during the period of time I was
10 there.

11 Q. Do you know if that was in the '60s or in
12 the '70s that those were -- those carbide drums
13 were eliminated?

14 A. I don't remember.

15 Q. Do you know a Kenneth Atkins?

16 A. Yes. Kenneth or Keith?

17 Q. I thought it was Kenneth. It could be
18 Keith.

19 Is there somebody by the name of
20 Mr. Atkins that you know?

21 A. There is a Keith Atkins, yes.

22 Q. Keith Atkins, did he work for
23 Union Carbide?

24 A. Yes.

1 Q. In what department?

2 A. Oh, he had a variety of jobs. He was in

3 sales, marketing, production, polyethylene. He was

4 in charge of a business group in Danbury,

5 polyethylene.

6 Q. Do you know if he currently resides in

7 Danbury?

8 A. No.

9 Q. No you don't know or no he doesn't?

10 A. He doesn't.

11 Q. Do you know where he resides?

12 A. No.

13 Q. When is the last time you spoke to

14 Keith Atkins?

15 A. At my retirement party.

16 Q. March 31st, 1996?

17 A. Well, it was a few days before that, but

18 it was at the end of March.

19 Q. Regardless of how those molding materials

20 came packaged, whether it was the gaylord

21 containers or the paper bags or the cardboard

22 drums, the name Bakelite would always be printed on

23 any of those containers, is that correct?

24 MS. CLARK: Objection, foundation, ambiguous,

1 in some of the Bakelite products?

2 A. Yes.

3 Q. What type of application would that have

4 been used for?

5 MS. CLARK: Objection, foundation, ambiguous.

6 MS. MARSHALL: Join.

7 THE WITNESS: I don't know the specific

8 applications.

9 BY MR. JAGOLINZER:

10 Q. Long fiber asbestos, that would have been

11 used in Bakelite products, would that have been

12 used for high voltage switch gear?

13 MS. CLARK: Objection, asked and answered,

14 foundation.

15 THE WITNESS: I don't know.

16 MS. CLARK: Foundation. Let me finish.

17 THE WITNESS: Sorry. Jumping the gun.

18 MS. CLARK: Asked and answered, foundation,

19 ambiguous. Go ahead.

20 THE WITNESS: I don't know.

21 BY MR. JAGOLINZER:

22 Q. I want to just do something here. I want

23 to show you, Mr. Martino, the deposition that was

24 taken in the Yeager case, the first deposition that

1 vague.

2 BY MR. JAGOLINZER:

3 Q. You can answer.

4 A. It would be printed, not necessarily on,

5 you know, it would be on labels put on, and

6 sometimes it's printed on the back.

7 Q. During the time from 1959 to 1974, who was

8 the marketing manager responsible for advertising

9 of the Bakelite phenolic compound?

10 MS. CLARK: Objection, foundation.

11 BY MR. JAGOLINZER:

12 Q. If you know.

13 A. Who was in charge of advertising?

14 Q. Yes.

15 A. Marketing manager made those decisions.

16 Q. Who was the marketing manager back then?

17 A. During the '60s?

18 Q. Yes.

19 A. Peter Potter.

20 Q. Was Peter Potter the marketing manager

21 during your entire time in the Bakelite group?

22 A. Yes.

23 Q. Do you recall, Mr. Martino, a little

24 earlier I was asking you about long fiber asbestos

1 you gave in 2001, and I just want to show you a

2 question that was asked to you and your answer and

3 see if that refreshes your recollection as to what

4 type of product or what type of application the

5 long fiber asbestos would be used in. And, it

6 starts on Page 64. And, if you go look at

7 Line 7, sir, through the end of the page, if you

8 could.

9 MS. CLARK: Don't answer that.

10 THE WITNESS: Yes, I see that.

11 MS. CLARK: I am going to object to the

12 improper attempt to refresh his recollection.

13 What's the question?

14 BY MR. JAGOLINZER:

15 Q. Actually, all I asked was does that

16 refresh your recollection as to what type of

17 application the long fiber asbestos would be used

18 in.

19 MS. CLARK: Same objection and

20 mischaracterizing the testimony.

21 THE WITNESS: Since this deposition, I have

22 tried to find more information on that product, and

23 I have had difficulty finding more information on

24 where it was used.

1 This was my -- at the time what I thought
2 it was used for. Since then, I am not sure whether
3 it was actually used for that purpose.

4 BY MR. JAGOLINZER:

5 Q. At that point in time, before you looked
6 at any information or searched for any other
7 documentation that might back that up, what was
8 your understanding of the type of application for
9 the long fiber?

10 MS. CLARK: Same objection.

11 THE WITNESS: I made the assumption that since
12 it had a high impact strength, that it would be
13 used where switch gear required high impact
14 strength.

15 BY MR. JAGOLINZER:

16 Q. In some of those places, that was power
17 houses, is that correct?

18 A. Yes, which is where they do need the
19 impact strength. But I have learned since then to
20 be more careful about what I know and don't know.
21 In this case I thought I knew.

22 Q. In 2001, that was before -- that was the
23 first deposition you gave, correct?

24 A. Yes.

1 tried to do is you tried to look for documentation
2 that would back that up?

3 A. Yes.

4 Q. You weren't able to find and you weren't
5 provided with any documentation that backed that
6 up?

7 A. Yes.

8 Q. Before this deposition, actually, and look
9 at this, I already put it in the wrong way, in
10 2001, you spoke to a former Union Carbide employee
11 by the name of Phil Thomas, is that correct?

12 A. Yes.

13 Q. Mr. Thomas, he was your boss at some point
14 in time, is that correct?

15 A. Yes.

16 Q. What period of time was Mr. Thomas your
17 boss?

18 A. From 1960 to approximately 1970.

19 Q. Mr. Thomas is still living?

20 A. Yes.

21 Q. And, do you know -- he lives in
22 New Jersey?

23 A. Yes.

24 Q. Do you know if Mr. Thomas has ever been

1 Q. In 2001, you were asked a question with
2 respect to -- can I see that for a second?

3 Thank you.

4 You were asked -- let's see -- what type
5 of application the long fiber asbestos was good
6 for, and at that point in time it was you were
7 talking about the high voltage switch gear, right?

8 A. Yes.

9 Q. That was your understanding back in 2001?

10 A. That was my best guess, yes.

11 Q. Okay. And, since 2001, you have looked
12 around through documents at whatever was provided
13 for you to try and either confirm or deny that, is
14 that correct?

15 A. Yes, I looked for data sheets, and I
16 didn't find any.

17 Q. Because you didn't find any data sheets
18 that confirmed that, you now believe that that is
19 incorrect?

20 A. Not that it's incorrect. I can't back it
21 up.

22 Q. You just after looking -- I'm sorry.

23 A. I just don't have the proof.

24 Q. Okay. So, after this deposition, what you

1 deposed?

2 A. No. No, he hasn't.

3 Q. Okay. Have you regularly spoken to
4 Mr. Thomas since the deposition in 2001?

5 A. Socially, yes.

6 Q. So, you see Mr. Thomas on a social basis?

7 A. Yes.

8 Q. Did Mr. Thomas provide you with any
9 information as to what documents may exist today?

10 A. No.

11 Q. Did Mr. Thomas have any documents in his
12 possession?

13 A. No.

14 Q. Do you know if Mr. Thomas has spoken to
15 any attorneys for Union Carbide?

16 MS. CLARK: Objection, foundation.

17 THE WITNESS: I don't know.

18 BY MR. JAGOLINZER:

19 Q. During your time in the Bakelite group,
20 Mr. Martino, from 1959 through 1974, did you have
21 any responsibility for determining what would go on
22 the label or the logo of any of the Bakelite
23 products that were being manufactured?

24 A. No.

1 Q. Who would have that? Who would have had
2 that responsibility?

3 MS. CLARK: Objection, foundation. Go ahead.

4 THE WITNESS: I don't know. I don't recall the
5 name of the person.

6 BY MR. JAGOLINZER:

7 Q. Now, Mr. Martino, with respect to this
8 case, you were provided with the deposition of
9 Mr. Clarence Bentley, correct?

10 A. The relevant testimony, not the whole one.

11 Q. Okay. You weren't given the entire
12 deposition?

13 A. No.

14 Q. How many pages of testimony were you
15 given, if you recall?

16 A. It was either two or three.

17 Q. Were you provided with any other
18 information as to Mr. Bentley's health condition?

19 A. No.

20 Q. Were you given the opportunity to look at
21 the video deposition, the videotaped testimony?

22 A. No.

23 Q. Were you given any information or did you
24 review any information, rather, of as to

1 A. Yes. I think it was April -- I believe it
2 was April this year.

3 Q. When you read the two or three pages of
4 Mr. Bentley's deposition that you were provided, do
5 you recall if any of the job sites or the employer
6 of Mr. Bentley sounded familiar to you?

7 A. I don't recall job sites being mentioned
8 other than the company.

9 Q. The City of Springfield Light, Water and
10 Power in Springfield, Illinois, have you ever had
11 the opportunity to deal with that company in any
12 way?

13 A. No.

14 Q. Did you ever have any responsibility of
15 calling on any customers in Springfield, Illinois?

16 A. No.

17 Q. Have you ever been to any power houses or
18 substations in the City of Springfield, Illinois?

19 A. No.

20 Q. Have you ever been to any power houses or
21 substations in Illinois?

22 A. No.

23 Q. Have you ever visited any customers of
24 Union Carbide Bakelite in Illinois?

1 Mr. Bentley's job sites, the jobs he actually
2 worked on?

3 A. Nothing beyond what was in the deposition.

4 Q. Nothing what was beyond the two pages or
5 so of deposition testimony?

6 A. Yes. You have it there.

7 Q. Oh, I do? Do you have that, or do I have
8 it?

9 MS. CLARK: No. We didn't give him the
10 deposition.

11 BY MR. JAGOLINZER:

12 Q. So, nothing aside from the two pages?

13 A. It was two or three. I don't remember the
14 number.

15 Q. Do you recall the names of any of the
16 power houses or substations that Mr. Bentley worked
17 at?

18 A. I think the name of the company was
19 mentioned in that deposition. I don't remember
20 what it was, though.

21 Q. First off, how long ago did you read the
22 deposition, if you recall? Would it have been --

23 A. It was in April.

24 Q. In April of this year?

1 A. Yes.

2 Q. Who did you call on?

3 A. It was Chicago Molded Products, and that's
4 the only one that comes to mind in Illinois right
5 now.

6 Q. Do you recall, more or less, when you
7 would have been to Chicago Molded Products?

8 A. Exact dates, no.

9 Q. Do you know if that would be in the '60s
10 or the '70s?

11 A. Probably the '60s.

12 Q. Do you recall any of the individuals who
13 you may have met with or dealt with at Chicago
14 Molded Products?

15 A. No.

16 Q. Union Carbide had a sales office for its
17 Bakelite group in Chicago, Illinois, did they not?

18 A. They had a sales office, yes. It
19 wasn't -- I don't think it was primarily devoted to
20 just phenolic compounds. I think was all plastics.

21 Q. Aside from plastics, do you know if that
22 Chicago sales office had any responsibility for,
23 let's say, sales of Calidria or anything of that
24 nature?

1 MS. CLARK: Objection, foundation.
 2 THE WITNESS: I don't know.
 3 BY MR. JAGOLINZER:
 4 Q. And, I'm sorry if I asked you this before,
 5 but did you ever visit the sales office in Chicago?
 6 A. Yes.
 7 Q. And, how many times did you visit that
 8 sales office?
 9 A. Oh, you're really testing my memory.
 10 Q. Approximately, if you recall.
 11 A. Oh, in that period of time, probably at
 12 least a dozen.
 13 Q. Do you --
 14 A. Let me go back on that.
 15 Q. Sure.
 16 A. I would meet people from the sales office.
 17 I didn't necessarily go to the sales office. They
 18 would pick me up at the airport.
 19 Q. Do you recall any of the individuals'
 20 names in the sales office in Chicago that you would
 21 have met during that time frame?
 22 A. Now, this is with regard to just Bakelite
 23 or --
 24 Q. Anybody in the Chicago sales office.

1 but I don't remember which.
 2 Q. How about Charlie Naylor?
 3 A. He was in Florida. I don't know if he is
 4 still there.
 5 Q. Have you spoken to any of those three
 6 individuals in the past four, five years?
 7 A. I talked to Bob Sherman once.
 8 Q. Did that have anything to do with the
 9 Bakelite group?
 10 A. No.
 11 Back on Sherman, we did talk about the
 12 good old days and the business in that regard. So,
 13 there was discussion about Bakelite.
 14 Q. In terms of the good old days meaning
 15 sales?
 16 A. Sales, customer problems, and that sort of
 17 thing. They weren't that good, but that's how I
 18 refer to them.
 19 Q. Okay. Prior to your retirement in 1996,
 20 did you ever become aware of any worker's
 21 compensation claims filed against Union Carbide
 22 employees who worked at the Bound Brook facility?
 23 A. No.
 24 Q. Since you retired in 1996, have you become

1 A. Forman, Ernie Forman.
 2 Q. F-O-R-M-A-N?
 3 A. F-O-R-M-A-N, I think. Bob Sherman.
 4 Charlie Naylor.
 5 Q. Naylor?
 6 A. N-A-Y-L-O-R. When he was out here. He
 7 was moved. That's about all I can remember right
 8 now.
 9 Q. Do you know if Ernie Forman is still
 10 alive?
 11 A. He was as of three, four years ago.
 12 Q. How about Bob Sherman?
 13 A. Yes.
 14 Q. How about Mr. Naylor?
 15 A. Yes.
 16 Q. Do you know where Mr. Foreman lives or did
 17 live the last time you knew?
 18 A. I don't know.
 19 Q. Do you know if it was in Illinois or
 20 another state?
 21 A. I don't think he is in Illinois, but I
 22 don't recall the state.
 23 Q. How about Bob Sherman?
 24 A. He moved to one of the southern states,

1 aware of any workers compensation claims or
 2 lawsuits filed against Union Carbide by employees
 3 of the Bound Brook or previous employees of the
 4 Bound Brook facility?
 5 MS. CLARK: Objection, asked and answered.
 6 BY MR. JAGOLINZER:
 7 Q. It's a different question. You can
 8 answer it.
 9 MS. CLARK: Go ahead.
 10 THE WITNESS: No.
 11 MS. CLARK: Let's go off for a second, please.
 12 (Whereupon, a discussion
 13 was had off the record.)
 14 (Whereupon, there
 15 was a lunch break.)
 16 BY MR. JAGOLINZER:
 17 Q. I am going to switch gears, Mr. Martino.
 18 I am going to hand you the affidavit that
 19 Union Carbide's lawyers filed in this case, show
 20 you that, and ask you first if you recognize it.
 21 A. Yes.
 22 MR. JAGOLINZER: This one actually we will
 23 mark. We'll mark this one as Plaintiff's Exhibit,
 24 whatever you want, 1 or A.

1 (Whereupon, Plaintiff Deposition
2 Exhibit A was marked for
3 identification as of 12/7/04.)

4 BY MR. JAGOLINZER:

5 Q. Mr. Martino, we talked a little bit
6 earlier about affidavits, and the affidavit in
7 particular in this case. And, is this the
8 affidavit that we discussed that you charged \$150
9 in April?

10 A. Yes.

11 Q. Okay. And, with respect to this
12 affidavit, you did not draft this affidavit,
13 correct?

14 MS. CLARK: Objection, vague.

15 THE WITNESS: I didn't write it, no.

16 BY MR. JAGOLINZER:

17 Q. First off, let's take this line by line, I
18 guess. We'll skip over the first one, because we
19 know you were employed from '48 to '96 for
20 Union Carbide, correct?

21 A. Yes.

22 Q. From 1960 until 1974, it says that you
23 were the group manager for R & D. That's research
24 and development, correct?

1 Q. Mr. Martino, from 1960 to 1974, could you
2 tell me, I am focusing really on Paragraph 2 of
3 your affidavit, could you tell me which -- let's
4 see -- if more of your time was spent on customer
5 service on technical matters, formulating new
6 products, or modifying old products to fit new
7 applications? Is there a way you can do that?

8 A. I would have to give you a very rough
9 approximation. Formulating new products, entirely
10 new products, would probably be 25 percent. And,
11 then, split the other two half and half.

12 Q. Okay. Let's jump down to Paragraph 3 of
13 your affidavit. And, it states -- we are talking
14 about your position as a group manager. I assume
15 that's from 1960 to 1974, is that correct?

16 A. Yes.

17 Q. It talks about that you became familiar
18 with Bakelite phenolic molding compound and
19 phenolic resins manufactured and sold by
20 Union Carbide, and then it says and had access to
21 records regarding those products. Do you see that?

22 A. Yes.

23 Q. The next sentence says, based upon my
24 knowledge and review of company records, I am able

1 A. Yes.

2 Q. For the Bakelite phenolic molding compound
3 and laminating resins group, correct?

4 A. Yes.

5 Q. In terms of responsibilities, it states
6 that some of your responsibilities included
7 customer service on technical matters, and I think
8 we discussed what the technical matters were
9 earlier, is that correct?

10 A. Yes.

11 Q. All right. Formulating new products. I
12 am not so sure we talked about that. Formulating
13 new products from '60 to '74, what type of products
14 or what type of applications were those products
15 being developed for?

16 A. It depended on the application the
17 salesman found in the field, what new opportunity.
18 If the existing product line didn't fit, then he
19 would request that we develop something that would
20 fit.

21 Q. Okay.

22 (Whereupon, there was a
23 short interruption.)

24 BY MR. JAGOLINZER:

1 to make the following statements. With respect to
2 this affidavit and the review of company records
3 that we are talking about here, when did the review
4 of those company records take place?

5 A. This is at a time I was working there, and
6 I had access to formulation sheets, manufacturing
7 instructions, sales records. I have had to refresh
8 my memory since then, so I have looked at records
9 since that time, as well.

10 Q. What types of records have you looked at
11 since your work in the Bakelite group?

12 MS. CLARK: Objection, vague, over broad.

13 THE WITNESS: Could you be more specific what
14 records you're looking for?

15 BY MR. JAGOLINZER:

16 Q. Sure. What I am trying to figure out is
17 in terms of when you started first working for
18 Union Carbide's lawyers or Union Carbide in 2001 or
19 so, what types of documents were you provided to
20 look at to refresh your recollection with regard to
21 some of the statements of fact that may be
22 contained in this affidavit?

23 MS. CLARK: Same objections.

24 THE WITNESS: None, actually. There was

1 nothing available. It was since then, in other
2 depositions, that I was shown records that helped
3 refresh my memory.

4 BY MR. JAGOLINZER:

5 Q. In those documents that we are talking
6 about from those depositions and from meetings with
7 Union Carbide lawyers, that happened before you
8 signed this affidavit, correct?

9 A. Yes.

10 Q. If we go to the second page of your
11 affidavit. The second sentence in the Paragraph 4,
12 where it says, The phenolic resins sold by
13 Union Carbide did not contain any fillers and never
14 contained asbestos. That sentence there in that
15 statement, is that based upon anything that you
16 would have reviewed during these depositions or any
17 documents to back that up?

18 A. No. That's something I knew from my
19 previous experience in the area.

20 Q. Have you seen since you started looking at
21 documents or were shown documents in these
22 depositions any Union Carbide documents that show
23 or make mention that phenolic resins sold by
24 Union Carbide did contain asbestos at some point in

101

1 MS. CLARK: Same objections. Got to give me a
2 chance to get my objection out, Mr. Martino.

3 THE WITNESS: I can answer that?

4 MS. CLARK: Yes.

5 THE WITNESS: No, I don't support that at all.

6 BY MR. JAGOLINZER:

7 Q. I want to show you what was premarked at
8 one of your other depositions as Exhibit 7, and it
9 is a letter dated November 22nd, 1972, and the
10 subject is asbestos fillers used in phenolic
11 molding compounds. And, this was a letter that was
12 written by a D.R. Allbright, and it was sent to a
13 Mr. R.E. Nicholson. And, you are carbon copied on
14 this. And, I want to hand this to you and direct
15 your attention to the third page on the second
16 number, if I may.

17 A. Third page and which --

18 Q. It is, if I may lean over here a little
19 bit, direct yourself to under some alternatives in
20 number two, first, could you read that allowed to
21 me?

22 A. Yes. Find a substitute for asbestos.
23 Discontinue manufacture of all products containing
24 asbestos, 60 percent of the current product mix.

103

1 time?

2 A. No.

3 Q. If we can go to Paragraph 5. It's in the
4 last sentence, Mr. Martino says, Many of the
5 phenolic molding compounds did not use asbestos
6 fillers, but instead used other materials.

7 Do you see that?

8 A. Yes.

9 Q. As of at the end of 1972, is it not true
10 that at least 60 percent of the current mix of
11 phenolic molding compounds that Union Carbide
12 manufactured contained asbestos?

13 MS. CLARK: Objection, foundation, vague,
14 ambiguous.

15 THE WITNESS: Are you asking the pounds sold?

16 BY MR. JAGOLINZER:

17 Q. I am talking about out of all -- if we
18 were to take 100 percent of the phenolic compounds
19 that Union Carbide was manufacturing --

20 A. In pounds?

21 Q. Sure, in pounds or whatever, that's fine.
22 Over 60 percent of that would have contained
23 asbestos up at the end of 1972?

24 A. No.

102

1 Q. What does that mean to you?

2 A. As written, I am interpreting that as
3 60 percent of the number formulations.

4 Q. Okay.

5 A. My statements are based on pounds sold,
6 not formulations.

7 Q. Fair enough. So, in order for me to
8 properly ask that question, I should have asked or
9 I should ask you that is it true that 60 percent of
10 the product mix at the end of 1972 were asbestos?

11 MS. CLARK: Objection, foundation, vague.

12 THE WITNESS: That I can't answer, because I
13 have not looked at individual formulations as to
14 what percent contained asbestos and what didn't.
15 What I did look at was the pounds sold, and what
16 the percentage was of the total, and that's what my
17 statement is based on.

18 BY MR. JAGOLINZER:

19 Q. Is it your understanding that the writer
20 of that letter, Mr. Allbright, made the statement
21 that 60 percent of all of the products -- out of
22 all the product formulations were asbestos
23 containing?

24 MS. CLARK: Objection, foundation, vague,

104

1 calling for speculation.

2 THE WITNESS: I have seen this before. I don't

3 know how he arrived at that figure.

4 BY MR. JAGOLINZER:

5 Q. Okay. But that is a figure he arrived at?

6 A. He arrived at.

7 Q. That document there, that's something that

8 was sent to you back at the time it was written?

9 A. Yes.

10 Q. It's probably me just asking a bad

11 question in terms of how I phrased it.

12 Let's go back to your affidavit, if we

13 can.

14 Okay. Paragraph 6, if we go to the second

15 full sentence, Mr. Martino. It begins with, I have

16 reviewed. See where it says, I have reviewed the

17 testimony of plaintiff regarding Bakelite?

18 A. Yes.

19 Q. First off, is this a generic affidavit?

20 Have you signed this same affidavit in other cases?

21 MS. CLARK: Objection, foundation, ambiguous.

22 THE WITNESS: It's not exactly the same, no.

23 BY MR. JAGOLINZER:

24 Q. Okay. For example, it says, I reviewed

105

1 Q. And, I guess my question is this. First

2 off, these are not your words, and you didn't

3 select the words to be used in this affidavit,

4 right?

5 MS. CLARK: Object to form.

6 THE WITNESS: As long as the words said what I

7 want them to say, I mean, I don't know if you would

8 say that's selecting or, you know. I agreed with

9 -- they said what I wanted to say.

10 BY MR. JAGOLINZER:

11 Q. Okay. That's, I guess, what I am trying

12 to get at. Somebody else wrote this for you, not

13 you, correct?

14 A. Yes.

15 Q. You did not tell somebody what to write in

16 here or select what was written. You were given

17 this. And, if you wanted to, you could have made

18 corrections to it, is that correct?

19 MS. CLARK: Objection, mischaracterizes his

20 testimony.

21 THE WITNESS: It was a product of what we

22 agreed should go in there.

23 BY MR. JAGOLINZER:

24 Q. Did you have a conversation with any of

107

1 the testimony of the plaintiff regarding Bakelite.

2 Any reason that this doesn't say I have reviewed

3 the testimony of Mr. Bentley regarding Bakelite?

4 MS. CLARK: Objection, foundation, calls for

5 speculation.

6 THE WITNESS: I interpret that sentence as

7 Mr. Bentley's testimony.

8 BY MR. JAGOLINZER:

9 Q. Okay. And, the reason, when I asked

10 you -- let me ask it to you this way.

11 You would be speculating as to why certain

12 sentences were written certain ways, because you

13 didn't write this, is that correct?

14 A. If I didn't agree with it, I would ask

15 that it be changed, which I have done.

16 Q. And, you can't speculate as to why things

17 were written certain ways in here, because you

18 didn't write this, correct?

19 MS. CLARK: Objection. Go ahead.

20 THE WITNESS: With regard to legal aspects, I

21 am not an expert, but with regard to the technical

22 content, that's either I agree or I have it

23 changed.

24 BY MR. JAGOLINZER:

106

1 the attorneys for Union Carbide with respect to

2 deciding what would go in this affidavit?

3 A. In this particular one, after reviewing

4 the testimony that I was sent, I agreed. So, I

5 signed it, and I had it notarized.

6 Q. Did you make any changes to this affidavit

7 at all?

8 A. No.

9 Q. When it says, "I have reviewed the

10 testimony of the plaintiff regarding Bakelite," you

11 have already stated you haven't reviewed the entire

12 testimony of the plaintiff, is that correct?

13 A. I had reviewed the testimony, and then I

14 read the deposition, agreed with it, and then

15 proceeded to process it.

16 Q. Okay. Here is my question. You were only

17 provided with two or three pages of Mr. Bentley's

18 testimony, correct?

19 A. Yes.

20 Q. So, you do not know from your own personal

21 knowledge whether or not Mr. Bentley testified

22 further about Bakelite, other than what was given

23 to you?

24 A. That's correct.

108

1 Q. Okay.

2 A. In technical matters, I make up my own
3 mind, and I will not sign anything that I don't
4 agree with, regardless of how it's written.

5 Q. As you sit here today, do you know if
6 Mr. Bentley testified more about Bakelite than what
7 you were provided?

8 A. I don't know.

9 Q. Have you reviewed any other testimony or
10 any other information concerning the work that
11 Mr. Bentley may or may not have done with Bakelite
12 aside from the two or three pages provided to you?

13 A. No, I have not.

14 Q. Similarly, have you ever had the
15 opportunity to talk to any of Mr. Bentley's
16 co-workers who worked with and around Mr. Bentley,
17 while he was an electrician during these years?

18 A. I did not.

19 Q. This next statement in here, Mr. Martino,
20 that says, "Union Carbide did not make sheets for
21 use in mounting electrical fixtures such as the
22 product described by plaintiff and never sold any
23 such products under the name Bakelite."

24 Do you see that?

109

1 sheet of different thicknesses. The molding
2 process is used to make shaped articles.

3 BY MR. JAGOLINZER:

4 Q. You're not saying, Mr. Martino, that a
5 purchaser of Union Carbide Bakelite never used or
6 never made a molded sheet product, are you?

7 MS. CLARK: Objection, foundation, calls for
8 speculation. Go ahead.

9 THE WITNESS: I have never seen it done.

10 BY MR. JAGOLINZER:

11 Q. Understanding that you have never seen it
12 done, you're not saying that it was not done by
13 other purchasers of Bakelite, is that correct?

14 MS. CLARK: Objection, asked and answered, and
15 the characterization of the question.

16 THE WITNESS: There are good reasons why it
17 isn't done, and based on those reasons, that's why
18 I make this statement.

19 BY MR. JAGOLINZER:

20 Q. What you're doing, Mr. Martino, is you're
21 making a conclusion based upon your knowledge; is
22 that fair?

23 A. That is correct.

24 Q. Okay. You're not saying for a fact that

111

1 A. Yes.

2 Q. Isn't it true that Union Carbide actually
3 didn't make any finished products from Bakelite?

4 A. During the period of time I was there,
5 that's correct.

6 Q. So, it doesn't matter if it was sheets for
7 electrical fixtures or switch box covers or any
8 other type of product made from Bakelite, because
9 Union Carbide didn't make them, is that correct?

10 A. That's correct.

11 Q. That's not to say, Mr. Martino, that other
12 manufacturers who bought Union Carbide Bakelite
13 didn't mold products such as sheets or switch gears
14 or other types of equipment, correct?

15 MS. CLARK: Objection, foundation,
16 mischaracterizes the testimony.

17 THE WITNESS: I don't quite understand. Mold
18 sheets?

19 BY MR. JAGOLINZER:

20 Q. Sure.

21 MS. CLARK: Same objections.

22 THE WITNESS: I know both processes, the
23 laminating process and the molding process. The
24 molding process is not used to make a laminated

110

1 purchasers of Union Carbide Bakelite never made a
2 molded sheet out of the Bakelite, is that correct?

3 A. I am saying --

4 MS. CLARK: Objection, asked and answered.

5 THE WITNESS: I am saying that is not common
6 practice.

7 BY MR. JAGOLINZER:

8 Q. And, you have never been to any of
9 Mr. Bentley's job sites and seen what types of
10 Bakelite products were or were not at his job site,
11 correct?

12 A. That's correct.

13 Q. And, similarly, have you been provided
14 with any information as to who would have been the
15 seller of the finished Bakelite product that
16 Mr. Bentley may have worked with at any of his job
17 sites?

18 A. No.

19 Q. What would be the purpose of using an
20 asbestos filler in a phenolic molding compound?

21 MS. CLARK: Objection, over broad, vague. You
22 can answer, if you can.

23 THE WITNESS: Primary reason is heat
24 resistance. Second reason would be arc resistance.

112

1 And, there are other benefits, but those are the
 2 primary ones.
 3 BY MR. JAGOLINZER:
 4 Q. You would agree with me that Union
 5 Carbide's asbestos containing Bakelite was sold and
 6 marketed for use in the electrical field, is that
 7 correct?
 8 A. Yes.
 9 MS. CLARK: Objection, vague.
 10 THE WITNESS: Yes.
 11 BY MR. JAGOLINZER:
 12 Q. Mr. Martino, do you recall if during
 13 Mr. Bentley's deposition any lawyers asked
 14 Mr. Bentley if the sheet products that he was
 15 working with were laminated or not?
 16 A. It was in the deposition I saw. It was
 17 layered is the term that was used.
 18 Q. Was the term used in the deposition or in
 19 the portion of the deposition that you read
 20 laminated? Was that asked by any individual?
 21 A. No.
 22 Q. In Paragraph 7 of your affidavit,
 23 Mr. Martino, it's on Page 3, you reference other
 24 companies who were competitors of Union Carbide in

1 upon the two or three pages that was provided to
 2 you.
 3 A. That's correct.
 4 Q. The last section of your affidavit,
 5 Mr. Martino, it states it would be impossible to
 6 tell from looking at a finished product made from
 7 phenolic molding compounds whether or not the
 8 products contained asbestos. Do you see that?
 9 A. Yes.
 10 Q. I believe you have testified to this
 11 before, and correct me if I am wrong, but visually
 12 from looking at an asbestos containing Bakelite
 13 versus a non-asbestos containing Bakelite, the
 14 color of the asbestos containing Bakelite would be
 15 greenish, is that correct?
 16 MS. CLARK: Objection, foundation,
 17 mischaracterizes previous testimony.
 18 THE WITNESS: Greenish?
 19 BY MR. JAGOLINZER:
 20 Q. A greenish color. The asbestos containing
 21 Bakelite.
 22 A. I said that today?
 23 Q. No, no. I am asking -- first of all, let
 24 me back up. Let me ask it this way. First off, do

113

115

1 the field of phenolic molding compounds, correct?
 2 A. Yes.
 3 Q. For example, you mention Durez. Durez
 4 made a phenolic molding compound that it called
 5 Durite, is that correct?
 6 A. I think they call it Durite.
 7 Q. D-U-R-I-T-E?
 8 A. I think so.
 9 Q. Do you know what Fiberite called their
 10 phenolic molding compound?
 11 A. I don't recall.
 12 Q. Mr. Martino, from your review of the two
 13 or three pages of Mr. Bentley's deposition, did you
 14 note whether or not Mr. Bentley was ever
 15 responsible for purchasing any of the Bakelite
 16 products he said he worked with?
 17 A. As I recall, he said that somebody else
 18 did the purchasing.
 19 Q. Do you know from any of the sections that
 20 you read of Mr. Bentley's deposition whether or not
 21 he had any responsibility concerning the purchase
 22 of Bakelite?
 23 A. I got the impression that he did not.
 24 Q. And, the impression that you got was based

1 you have an understanding as to the color of
 2 asbestos containing Bakelite manufactured by
 3 Union Carbide?
 4 MS. CLARK: Objection, over broad, vague.
 5 THE WITNESS: Yes.
 6 BY MR. JAGOLINZER:
 7 Q. What color would that have been?
 8 A. Green was only one product that was made
 9 that way. Most of them were black and some browns.
 10 Q. That green product, did that contain
 11 asbestos?
 12 A. Yes.
 13 MS. CLARK: Objection, foundation. Go ahead.
 14 BY MR. JAGOLINZER:
 15 Q. I guess we are just jumping the gun for
 16 her.
 17 That green asbestos containing Bakelite,
 18 do you know if that was long fiber or short fiber?
 19 A. Short.
 20 MS. CLARK: Object -- Carlo.
 21 THE WITNESS: I'm sorry, Kate.
 22 MS. CLARK: Objection, foundation, vague and
 23 ambiguous.
 24 THE WITNESS: It was short fiber. And, I am

1 making the assumption that it's 3700 that you're
 2 talking about.
 3 BY MR. JAGOLINZER:
 4 Q. What makes you say it was short fiber
 5 rather than long fiber?
 6 A. Because all of the products we were making
 7 along those lines were short fiber asbestos.
 8 Q. Since your deposition in -- your first
 9 deposition in 2001, were you given product
 10 formulations of asbestos containing Bakelite to
 11 review?
 12 MS. CLARK: Objection, over broad, vague.
 13 THE WITNESS: Not to -- no, no.
 14 BY MR. JAGOLINZER:
 15 Q. Since your first deposition in 2001, did
 16 you review any documents or product formulations
 17 that talked about the type of fiber or the length
 18 of fiber that would have been used in asbestos
 19 containing Bakelite?
 20 MS. CLARK: Same objections.
 21 THE WITNESS: I am not quite sure what you want
 22 on that.
 23 BY MR. JAGOLINZER:
 24 Q. Okay. Here is what I am trying to get at.

117

1 If in 2001, your first deposition, you had
 2 testified that the greenish asbestos containing
 3 Bakelite would have been the long fiber and not the
 4 short fiber, did you do anything since then to
 5 review information to show that that's incorrect?
 6 A. Oh, now I --
 7 MS. CLARK: Objection, foundation, compound and
 8 ambiguous.
 9 THE WITNESS: Now I understand. You're talking
 10 about the color of a long fiber asbestos product in
 11 the first deposition?
 12 BY MR. JAGOLINZER:
 13 Q. Correct.
 14 A. That was not made in our typical molding
 15 material facility, and I don't recall exact way I
 16 described the color. It was probably a grayish
 17 color.
 18 I misinterpreted. I thought you were
 19 referring to a 3700 green that we made, which also
 20 contained asbestos, and it was short fiber.
 21 Q. The long fiber that Union Carbide
 22 manufactured, you said that wasn't -- I didn't
 23 catch that. It wasn't manufactured at the
 24 Bound Brook facility? Is that --

118

1 MS. CLARK: Wait, Carlo.
 2 Are you done?
 3 MR. JAGOLINZER: Sure.
 4 MS. CLARK: Objection, vague, ambiguous as to
 5 the long fiber product.
 6 Go ahead.
 7 THE WITNESS: It was manufactured at
 8 Bound Brook, but in a different facility.
 9 BY MR. JAGOLINZER:
 10 Q. So, there were different facilities of the
 11 Bound Brook plant that would manufacture Bakelite
 12 products, is that correct?
 13 A. No. Same location, different process.
 14 Different way of manufacturing the products.
 15 Q. Okay.
 16 A. Long fiber could not be fed in our typical
 17 phenolic molding material process.
 18 Q. So, you had a separate process to
 19 manufacture asbestos containing long fiber
 20 Bakelite?
 21 A. Yes. And, it was a small facility,
 22 because this was not a large volume product.
 23 Q. That product was being manufactured during
 24 the same time period that the other asbestos

119

1 containing Bakelite was being manufactured?
 2 MS. CLARK: Objection, vague, ambiguous.
 3 THE WITNESS: When it was made, it was a
 4 product that was being obsoleted during the period
 5 of time I was there. It was pretty much a made to
 6 order product for people who couldn't find a
 7 substitute.
 8 BY MR. JAGOLINZER:
 9 Q. Do you recall the last time that the
 10 Bound Brook plant was manufacturing the long fiber
 11 product that we're discussing?
 12 A. I think I saw a document asking the plant
 13 to make some -- the end of 1960, probably '68, '69,
 14 and there were some, as I recall, there were
 15 objections to doing it, and they finally had to do
 16 it.
 17 Q. They finally had to manufacture it?
 18 A. Yes, because of the customer.
 19 Q. Do you recall who that customer was at
 20 that time frame?
 21 A. As I recall, it was the government.
 22 Q. And, when you say it was the government,
 23 would that be for use in navy applications?
 24 MS. CLARK: Objection, foundation.

120

1 THE WITNESS: I don't know the application,
 2 but, you know, this I got second hand, because I
 3 was not in the manufacturing department at the
 4 time. I just happen to see the correspondence.
 5 BY MR. JAGOLINZER:
 6 Q. Do you know who was in the manufacturing
 7 department at that time, who may still be alive
 8 today?
 9 A. Dale Allbright.
 10 Q. When is the last time you spoke to
 11 Dale Allbright?
 12 A. A month ago.
 13 Q. Was that at a social occasion, or was that
 14 having something to do with these cases?
 15 A. Social.
 16 Q. Mr. Allbright, does he live in New Jersey,
 17 as well?
 18 A. Yes.
 19 Q. Have you discussed or asked Mr. Allbright
 20 any questions concerning the production of asbestos
 21 containing Bakelite recently?
 22 A. No.
 23 Q. Mr. Martino, from the point in time you
 24 were working in the Bakelite group, what was the

1 to your counsel first.
 2 My first question, Mr. Martino, is going
 3 to be while you're looking through that, is have
 4 you seen that document before?
 5 A. Is there a date on this? Oh, here.
 6 August.
 7 Q. If you go to the third page the bottom
 8 left-hand corner, you see the copyright date is
 9 1967, 1968, Union Carbide Corporation, if that
 10 helps. If not, the next page on the bottom
 11 left-hand corner it says August of 1968.
 12 A. Okay. I probably would have seen it. I
 13 haven't seen this recently.
 14 Q. Does that appear to be a true and correct
 15 copy of a document, of a Union Carbide document,
 16 from the time period that is indicated?
 17 MS. CLARK: Objection, foundation. He just
 18 testified he doesn't know for sure.
 19 MR. JAGOLINZER: That's not what he said, but
 20 you can certainly make speaking objections, and we
 21 can bring that up with the Court. I let you do it
 22 all day so far.
 23 MS. CLARK: I disagree with that, counsel. I
 24 have not been making speaking objections.

121

123

1 highest percent of asbestos contents for the
 2 asbestos containing Bakelite?
 3 MS. CLARK: Objection, vague, ambiguous,
 4 foundation.
 5 THE WITNESS: The products made on the -- the
 6 highest containing product made on the standard
 7 facilities where most of our, you know, products
 8 are made, is 3700, and I don't recall the exact
 9 amount, but it was over 30 percent. I would have
 10 to look at the formulation to give you the
 11 information.
 12 BY MR. JAGOLINZER:
 13 Q. Have you seen the formulations for 3700 or
 14 any of the other products in the past five years?
 15 A. Yes.
 16 Q. Those product formulations, were they
 17 given to you to review by a plaintiff's counsel or
 18 by lawyers for Union Carbide?
 19 A. I have seen them both. I don't remember
 20 3700 where -- which the source was.
 21 Q. I want to hand you -- I am going to go
 22 through a series of documents, Mr. Martino, and I
 23 want to hand you documents, and I'll ask similar
 24 questions about each of them. I want to give that

1 THE WITNESS: I see no reason to doubt that it
 2 isn't a Union Carbide document.
 3 BY MR. JAGOLINZER:
 4 Q. You have not been provided this, let's
 5 say, in the last five years to review by anybody at
 6 Union Carbide Corporation?
 7 A. No.
 8 MR. JAGOLINZER: I am going to mark that one as
 9 Plaintiff's Exhibit B.
 10 (Whereupon, Plaintiff Deposition
 11 Exhibit B was marked for
 12 identification as of 12/7/04.)
 13 MR. CRIST: Would you be kind enough to
 14 identify the document for those of us who are --
 15 MR. JAGOLINZER: No problem. The cover page
 16 indicates Plaintiff's Exhibit UC-163. It states on
 17 the top, Bakelite. It says, Phenolics for
 18 compression plunger and injection molding.
 19 MR. CRIST: Thank you.
 20 MR. JAGOLINZER: You're welcome.
 21 THE WITNESS: I don't --
 22 MS. CLARK: There is no question, Carlo.
 23 THE WITNESS: I want to make sure that what I
 24 did answer is correct.

1 BY MR. JAGOLINZER:

2 Q. Take your time.

3 A. I don't recall seeing this document in the
4 last five years.

5 (Whereupon, Plaintiff Deposition
6 Exhibit C was marked for
7 identification as of 12/7/04.)

8 BY MR. JAGOLINZER:

9 Q. Let's hand you another one, if I may.

10 This one says in the top right-hand corner
11 Plaintiff's Exhibit UC-165. It says, Greatest
12 variety, largest sources, Bakelite trademark for
13 plastics key to your needs.

14 And, if you can take a look at that and
15 tell me if you have ever seen that one before.

16 A. I could have seen it while I was working
17 there, but I don't recall. Was that your question,
18 did I see it?

19 BY MR. JAGOLINZER:

20 Q. I guess that was my question, but my
21 question is now have you seen that in the last five
22 years?

23 A. No.

24 Q. Okay. So, Union Carbide's lawyers have

1 of that.

2 MR. JAGOLINZER: That's interesting. We'll
3 mark this one.

4 MS. CLARK: We should mark this, because this
5 is the one he looked at, and we don't have the
6 same.

7 MR. JAGOLINZER: Sure. That's not a problem.
8 Let me just do one thing. We'll leave that alone.

9 BY MR. JAGOLINZER:

10 Q. This next one will be Plaintiff's Exhibit
11 E. And, this is entitled, Union Carbide 1965
12 plastics data guide, and it says Bakelite on the
13 bottom right-hand corner. I'll ask you to take a
14 look at that, if you could, please, sir.

15 (Whereupon, Plaintiff Deposition
16 Exhibit E was marked for
17 identification as of 12/7/04.)

18 THE WITNESS: What's your question on this?

19 BY MR. JAGOLINZER:

20 Q. Have you ever seen that before?

21 A. Some of these look familiar to
22 advertisements I saw in the Modern Plastics
23 Encyclopedia, which I looked at in the last five
24 years. But whether they are actually those that I

125

127

1 not shown you that document, correct?

2 A. That's --

3 MS. CLARK: Objection, asked and answered.

4 THE WITNESS: I don't remember seeing it.

5 (Whereupon, Plaintiff Deposition
6 Exhibit D was marked for
7 identification as of 12/7/04.)

8 BY MR. JAGOLINZER:

9 Q. Let's go to another brochure. This one on
10 the top is a copy of a booklet entitled
11 Bakelite Molded, and we'll make this Plaintiff's D.
12 And, my question is, have you ever seen that
13 before. And, that's a copy, obviously, but --

14 A. This must be an old one.

15 Q. If you go to the second page, Mr. Martino,
16 it says copy write 1936.

17 MS. CLARK: Actually, counsel, I think we might
18 be missing a page. What's your second page?

19 MR. JAGOLINZER: Do you have that?

20 THE WITNESS: I don't recall seeing this
21 especially in the last five years.

22 MS. CLARK: Are you going to mark his copy?

23 MR. JAGOLINZER: Yes.

24 MS. CLARK: Because I don't think we have any

1 saw there, I can't tell without making a
2 comparison, but they look very familiar.

3 Q. Is that in the -- are you referring to the
4 1973 book that you have at your home?

5 A. No. I went to the library and looked up
6 plastics in the encyclopedia.

7 Q. When did you do that? When did you go to
8 the library to do that?

9 A. 2002.

10 Q. Did you do that at the request of the
11 lawyers for Union Carbide?

12 A. No.

13 Q. Why did you do that?

14 A. To refresh my memory. All this other
15 information was not available to me at that time,
16 and I am amazed at how much is showing up now.
17 And, that was one way for me to go back and review
18 what was happening during that period of time I was
19 there. And, Rutkers library happened to have --
20 didn't have them all, but had quite a few of them
21 there. So, that's where --

22 Q. Mr. Martino, what's polypropylene?

23 A. It's a thermoplastic made similar to
24 polyethylene. It's a material that will melt.

126

128

1 It's waxy looking. It's used for containers,
2 automotive parts, sheets, extruded sheets that are
3 formed into containers.

4 Q. To your knowledge, did polypropylene
5 manufactured by Union Carbide contain asbestos in
6 1965?

7 MS. CLARK: Objection, foundation.

8 THE WITNESS: I am not aware of any asbestos
9 put in polypropylene.

10 BY MR. JAGOLINZER:

11 Q. Did you have any responsibilities for
12 polypropylene at Union Carbide?

13 A. I didn't, no.

14 Q. Ask you turn to the I guess it's the third
15 last page. I am looking under molding continued
16 under polypropylene.

17 A. Yes.

18 Q. And, it says, asbestos filled grades are
19 outstanding in both resistance to (inaudible) and
20 heat resistance.

21 Do you see that?

22 A. Yes.

23 Q. Do you have any knowledge as to what
24 asbestos filled grades of polypropylene would be

1 used -- asbestos containing polypropylene be used
2 for electrical housings?

3 MS. CLARK: Objection, asked and answered,
4 foundation, calling for speculation.

5 THE WITNESS: I don't know. I wasn't in that
6 area.

7 MR. JAGOLINZER: We are done with that one for
8 right now.

9 (Whereupon, Plaintiff Deposition

10 Exhibit F was marked for

11 identification as of 12/7/04.)

12 BY MR. JAGOLINZER:

13 Q. I am going to hand you now what we can
14 mark as Plaintiff's Exhibit F. And, this is a
15 product data sheet dated February, 1960, for
16 Bakelite brands fibrous resins for specialty paper,
17 and ask you to take a look at that, if you could,
18 please.

19 A. What was your question?

20 Q. Question is have you ever seen that
21 before, that document.

22 A. Not the document, no.

23 Q. Did you have any responsibility during
24 your career at Union Carbide for fibrous resin,

1 used for?

2 MS. CLARK: Objection, foundation. Calls for
3 speculation.

4 THE WITNESS: I was not in that area, so I
5 don't know what the markets were for that
6 particular product or whether we actually made it.

7 BY MR. JAGOLINZER:

8 Q. Actually, looks like I can answer my own
9 question. Under the typical uses, you see at the
10 bottom, looks like there is a column, it says
11 polypropylene. It's the second to last column.

12 A. Yes.

13 Q. To your understanding, could polypropylene
14 be used for, and I am looking at the very bottom,
15 the typical uses, for electrical housings?

16 MS. CLARK: Objection, asked and answered,
17 foundation, calls for speculation.

18 THE WITNESS: Electrical housings? Now, this
19 is not a filled polypropylene.

20 Wait a minute. Where is the -- I am
21 looking at the wrong thing.

22 And, what was your question again?

23 BY MR. JAGOLINZER:

24 Q. To your knowledge, could polypropylene be

1 asbestos papers, and laminates?

2 A. No.

3 Q. Were you aware that Union Carbide at one
4 point in time made a fibrous resin, asbestos paper,
5 and/or laminate?

6 MS. CLARK: Objection, compound, ambiguous,
7 foundation.

8 THE WITNESS: This does not say that they made
9 it. This says that they could make it.

10 BY MR. JAGOLINZER:

11 Q. Were you aware that Union Carbide as of
12 1960 could have made a fibrous resin, asbestos
13 paper, and/or laminate?

14 MS. CLARK: Objection, inadequate hypothetical,
15 calling for speculation.

16 THE WITNESS: I never saw any facility where
17 this was done, and this product I don't think was
18 -- they tried to commercialize it. It was not a
19 success.

20 BY MR. JAGOLINZER:

21 Q. So, you are aware that at some point in
22 time Union Carbide attempted to commercialize
23 fibrous resin, asbestos paper, and/or laminate?

24 MS. CLARK: Objection, compound, ambiguous.

1 THE WITNESS: No, I am not aware that they
2 commercialized that finished product. I do not
3 in -- I have not seen any finished products made
4 and sold. Just because it's here doesn't mean that
5 that's what they were doing.

6 BY MR. JAGOLINZER:

7 Q. Sure. Is it correct to also state that
8 you are not aware of what Union Carbide was or was
9 not doing with respect to fibrous resin, asbestos
10 papers and/or laminates?

11 MS. CLARK: Objection, mischaracterizes the
12 witness' testimony.

13 THE WITNESS: I am only aware that this was an
14 experimental product that they were working with in
15 the laboratory and trying to find uses for it. I
16 had never seen them make commercial products and
17 sell them, nor did I see any promotion to do that.

18 BY MR. JAGOLINZER:

19 Q. How were you aware that they were
20 attempting to make fibrous resin, asbestos paper,
21 and/or laminates?

22 MS. CLARK: Same objection, mischaracterizes
23 his testimony. Go ahead.

24 THE WITNESS: I am aware that they were making

1 correct?

2 MS. CLARK: Objection, mischaracterizes his
3 testimony, asked and answered and compound.

4 THE WITNESS: All I can do is rephrase what I
5 told you before. I am aware that they did this
6 work. I even saw them doing it. It was at a very
7 small facility in my molding laboratory, and I am
8 not aware of the various uses they were promoting
9 it for. So, when you say that it could be used in
10 this application, if it says they could be used in
11 here, then that's what they found. That doesn't
12 mean that they manufactured that product.

13 BY MR. JAGOLINZER:

14 Q. Do you know whether or not for a fact
15 Union Carbide did or did not manufacture fibrous
16 resin?

17 MS. CLARK: Objection, asked and answered.

18 THE WITNESS: On a laboratory scale, I am aware
19 of it. I did not see any production facility.

20 BY MR. JAGOLINZER:

21 Q. The fact that you did not see any
22 production facility for the manufacture of these
23 fibrous resins, does that mean that they did not
24 exist? Is that what you're saying, or just that

133

135

1 these fibrous resins, and that's what they were
2 trying to sell. These are applications for those
3 fibrous resins, and I interpreted this as this is
4 where they can be used by customers. We were not
5 doing it, and I don't think you'll find any
6 evidence that we did sell such products, other than
7 implying that that's what you could use it for. I
8 never saw any manufacturing facilities.

9 Q. The first time that you saw this product
10 data sheet would have been today, is that correct?

11 A. Yes.

12 Q. So, prior to today, you were not aware
13 that this document existed that mentions that
14 Union Carbide could or maybe suggested that fibrous
15 resin asbestos be used in paper or laminates?

16 MS. CLARK: Objection, mischaracterizes the
17 documents.

18 THE WITNESS: Reword that question again,
19 please.

20 BY MR. JAGOLINZER:

21 Q. Sure. The first time that you were aware
22 or that you had any knowledge whatsoever about
23 Union Carbide and fibrous resin, asbestos paper,
24 and/or laminates would be just right now, is that

1 you did not see it?

2 MS. CLARK: Objection. Asked and answered,
3 mischaracterizes his testimony and ambiguous.

4 THE WITNESS: I am giving you my own
5 observations and my own experience with what I know
6 the company was doing at the time, and we were
7 working close together in the laboratory. Beyond
8 that, I can't tell you any more.

9 BY MR. JAGOLINZER:

10 Q. That's exactly where I am trying to get
11 at, and that's why I guess we are on different
12 pages right now. I am asking you if you know for a
13 fact whether or not Union Carbide did manufacture
14 these fibrous resins, or is it just that you did
15 not see them manufacture the resins. That's the
16 difference I am trying to get at.

17 MS. CLARK: Objection, asked and answered and
18 to the form of the question. You're asking him to
19 prove a negative, counsel.

20 MR. JAGOLINZER: I am not, counsel. My
21 question stands.

22 BY MR. JAGOLINZER:

23 Q. Do you understand my question? Do you
24 understand the difference I am trying to ask to

1 find out?

2 A. I am not quite sure.

3 Q. Okay. Do you know for a fact whether or
4 not Union Carbide did or did not manufacture the
5 fibrous resins?

6 MS. CLARK: Same objections, asked and
7 answered.

8 THE WITNESS: I am not aware of these being
9 advanced to the commercial stage where a new
10 production facility would have been built.

11 BY MR. JAGOLINZER:

12 Q. Would you be aware of every product that
13 would be advanced to that stage?

14 MS. CLARK: Objection, over broad, vague.

15 THE WITNESS: Something of this new and this
16 promising, at least it sounds promising, if it had
17 gone to commercial stage, I would have heard about
18 it. It would have been advertised within the
19 company.

20 BY MR. JAGOLINZER:

21 Q. Okay.

22 (Whereupon, Plaintiff Deposition
23 Exhibit G was marked for
24 identification as of 12/7/04.)

137

1 says, Asbestos was used as a filler by Union

2 Carbide and its plastics, which are to be used as
3 electrical switch boxes, plug-in receptacles, and
4 radio components.

5 Do you see that sentence?

6 A. Yes.

7 Q. It says, Phenolic molding materials
8 produced by Union Carbide, which contain asbestos
9 filler, were, and then it lists a number of
10 designations. Do you see that?

11 A. Yes.

12 Q. Are you familiar with those designations?

13 A. Yes.

14 Q. If you turn to the next page, Mr. Martino.
15 See where it says, The customers who have been
16 identified as purchasers of phenolic molding
17 materials, which contained asbestos filler,
18 include, see the list there?

19 A. Yes.

20 Q. Do you know where Controls Corporation is
21 located?

22 A. I don't remember.

23 Q. Did you have any dealings with
24 Controls Corporation?

139

1 BY MR. JAGOLINZER:

2 Q. Let me show you now what we'll mark as
3 Plaintiff's Exhibit G. And, on the top right
4 corner, it says, Union Carbide Business
5 Confidential plaintiff's Exhibit UC 162, and it's
6 entitled, History of Bakelite. Let me show you
7 that and ask you if you have seen that before.

8 MS. CLARK: Can we go off for a second?

9 (Whereupon, a discussion
10 was had off the record.)

11 THE WITNESS: What's the dates on this?

12 BY MR. JAGOLINZER:

13 Q. There is no date on it that I see. Have
14 you ever seen that before?

15 A. No, I haven't.

16 Q. You were never provided that through the
17 course of the depositions or in your employment at
18 Union Carbide?

19 A. No. It's the first time I have seen it.
20 I don't recall ever seeing it before.

21 Q. If you go to the page that's marked three
22 on the bottom. Do you see that?

23 A. Yes.

24 Q. I am starting at the paragraph where it

1 A. I don't recall.

2 Q. Kuhn & Jacobs, do you know where they are
3 located?

4 A. No.

5 Q. Have you ever heard of Kuhn & Jacobs?

6 A. I have heard of them, but I don't recall
7 where they are located.

8 Q. Hydromanic division of GM, did you ever
9 have any dealings with that division of GM?

10 A. I could have. I visited GM several times.

11 Q. Chicago Molded Products, we discussed that
12 a little earlier. You actually called on them
13 once, is that correct?

14 A. Yes.

15 Q. Square D, do you know what Square D is?

16 A. Yes.

17 Q. What is Square D?

18 A. Electrical parts manufacturer.

19 Q. Where are they located?

20 A. Lexington, Kentucky.

21 Q. Dimco Gray, are you familiar with them?

22 A. I am familiar with them, yes. They
23 sound -- I remember seeing them on a lot of
24 reports.

138

140

1 Q. Do you recall where they are located?

2 A. No.

3 Q. How about Harry Davis, do you have any

4 idea what that is?

5 A. Don't recall that one.

6 Is this going to be attached to the

7 deposition?

8 Q. Yes.

9 If you go to Page 9 on the bottom.

10 A. Yes.

11 Q. See where it says -- actually, I am at the

12 first full paragraph, and I am at the last sentence

13 of that paragraph.

14 In order to combat the commercial pressure

15 for a substitute for asbestos in the phenolics,

16 Union Carbide began development of a suitable

17 alternative. Do you see that?

18 A. Yes.

19 Q. Do you recall what year it was that

20 Union Carbide began developing an alternative to

21 asbestos and phenolic compound?

22 A. 1972 or '73.

23 Q. The next sentence says, in October of

24 1974, the company was successful in developing an

141

1 asbestos free phenolic molding material.

2 A. Yes.

3 Q. Do you recall any other asbestos-free

4 phenolic molding material prior to 1974?

5 A. We had a program that started in 1970 of

6 removing asbestos. So, we did end up with

7 asbestos-free products as early as 1970 and

8 continued that program on into this period of time.

9 Q. Do you know if the company was successful

10 in developing an asbestos free phenolic compound in

11 1970?

12 A. Those products that contained less than

13 ten percent asbestos, we were successful, yes.

14 (Whereupon, Plaintiff Deposition

15 Exhibit H was marked for

16 identification as of 12/7/04.)

17 BY MR. JAGOLINZER:

18 Q. Let me show you what we'll mark as

19 Plaintiff's H, and ask you -- it's a little hard to

20 read, but ask you if you have seen that document

21 before. And, it's entitled handbook -- it's

22 actually some pages. It's Pages 106 through looks

23 like 115 of the Handbook of Plastics, American

24 Plastics Corporation and Commercial Materials. In

142

1 the right-hand corner, it says, Bakelite

2 Corporation Unit of Union Carbide and Carbon

3 Corporation Bakelite Brand Plastics.

4 I just ask you if you have seen that

5 before.

6 A. This must be back in '48. What is the

7 date on it?

8 Q. Let's see if this is dated, too. I do not

9 see the date on that. The only question I have for

10 you right now is have you seen that before?

11 A. I don't recall seeing it, no.

12 Q. If you go to the first page of that. You

13 see on Page 107?

14 A. Yes.

15 Q. Second full paragraph, it says, There are

16 Bakelite molding materials and powdered sheet in

17 granular form.

18 You see that?

19 A. Yes.

20 Q. What would Bakelite molding materials be

21 in sheet form? How would you describe that?

22 MS. CLARK: Objection, foundation, calls for

23 speculation.

24 THE WITNESS: There was an association with

143

1 Rogers Corporation, and I would have to go back to

2 the records to, you know, really get all the facts

3 on that. Rogers Corporation made sheet material

4 that could be softened and formed in the press into

5 various shapes. That goes way back.

6 And, then, Rogers Corporation was spun off

7 as an individual company. So, again, it may be

8 speculation, but I think I am pretty sure on this.

9 Going back in the records, we could sort it out.

10 But that's what is being referred to here.

11 BY MR. JAGOLINZER:

12 Q. So, Rogers Corporation, they were a

13 purchaser of Union Carbide Bakelite?

14 A. They have bought resin, yes, but they had

15 a different process for making molding material.

16 It was a wet process. And, I saw references in

17 some documents to their sheet products that again I

18 am really pushing my memory on this, but that's

19 about all I can -- I never saw sheet molding

20 product made in the Bound Brook facilities.

21 Q. The sheet molded products that Rogers

22 Corporation would have made, what year are we

23 talking about?

24 MS. CLARK: Objection, mischaracterizes his

144

1 testimony. Foundation.

2 THE WITNESS: I would have to go back and, you
3 know -- I am not sure with what I have I can do it,
4 but I would have to try to sort it out. I may even
5 have to go back to some of the encyclopedias as to
6 what happened. I know there was an association
7 with Rogers, and then there was a spin off of the
8 Rogers Corporation, and for that, when they were
9 associated together, both companies sold some
10 products at that time, but it was way back.

11 BY MR. JAGOLINZER:

12 Q. Okay. So, the association that
13 Union Carbide had with Rogers Corporation -- strike
14 that.

15 At some point in time, Union Carbide had
16 an association with Rogers Corporation?

17 A. Yes.

18 Q. Which would have involved the manufacture
19 of a sheet product?

20 MS. CLARK: Objection, vague, ambiguous,
21 foundation.

22 THE WITNESS: It would have involved a
23 manufacture of a sheet product by Rogers, not by
24 Union Carbide.

1 you seen this before, Mr. Martino?

2 A. I have seen reference to it, but I have
3 not seen it in this detail.

4 MR. JAGOLINZER: Okay. We'll attach that one
5 as I.

6 (Whereupon, Plaintiff Deposition
7 Exhibit I was marked for
8 identification as of 12/7/04.)

9 BY MR. JAGOLINZER:

10 Q. The next document that I am going to hand
11 you, Mr. Martino, we are going to mark Plaintiff's
12 J, and it's a letter from Harrison B. Rhodes at the
13 Calidria Asbestos Division of Union Carbide, dated
14 date November 22nd, 1977, and just ask you to take
15 a look at it, and have you seen that before.

16 A. No, I have not.

17 Q. Okay. Mr. Martino, do you know who
18 Harrison B. Rhodes is?

19 A. No.

20 Q. Mr. Martino, were you ever a member of the
21 Society of Plastic Engineers?

22 A. I could have been some years. I was not a
23 regular member.

24 (Whereupon, Plaintiff Deposition

145

147

1 BY MR. JAGOLINZER:

2 Q. That sheet product that would have been
3 manufactured by Rogers would have contained
4 Union Carbide's phenolic compounds?

5 A. Resin.

6 MS. CLARK: Objection, foundation. Go ahead.

7 THE WITNESS: Resin.

8 BY MR. JAGOLINZER:

9 Q. Okay. Do you know if that association
10 with Rogers was before or after you first started
11 in the Bakelite group?

12 A. Oh, before, quite long before. In fact,
13 before I was even hired, I believe.

14 BY MR. JAGOLINZER:

15 Q. Mr. Martino, since you started testifying
16 in 2001, have you ever seen the Federal Register
17 that outlines Union Carbide's asbestos containing
18 products?

19 MS. CLARK: Objection, foundation.

20 THE WITNESS: I would have to look at the
21 document to refresh my memory.

22 BY MR. JAGOLINZER:

23 Q. Sure. And, really, the only question that
24 I am going to have for you on this document is have

1 Exhibit J was marked for
2 identification as of 12/7/04.)

3 BY MR. JAGOLINZER:

4 Q. Next one I am going to hand you is going
5 to be marked Plaintiff's K, and this is a Union
6 Carbide Internal Correspondence dated April 6,
7 1973. The originating department is Calidria
8 Asbestos Marketing. And, I just want to ask you to
9 take a look at that, please, Mr. Martino, and the
10 attached plastics technology letter, and just tell
11 me -- tell me if you have ever seen that before,
12 please.

13 A. No, I did not.

14 (Whereupon, Plaintiff Deposition
15 Exhibit K was marked for
16 identification as of 12/7/04.)

17 BY MR. JAGOLINZER:

18 Q. The next one I hand to you, Mr. Martino,
19 is going to be marked Plaintiff's L, and this is
20 another Union Carbide internal correspondence dated
21 September 30th, 1982. The subject is, Calidria
22 asbestos potential liability chemicals and plastics
23 operations, Bound Brook, New Jersey, and just ask
24 you if you have ever seen that before, sir.

1 A. No, I haven't.

2 Q. If you just take a look on the last page

3 of that just quickly. And, that says, table one

4 UCC metals division shipments to UCC plastics

5 division at Bound Brook. And, I guess if you look

6 at the top, the first entry, it says,

7 May 4th, 1964, 110,000 pounds, filter grade open,

8 end use Bakelite Phenolics?

9 MS. CLARK: I think it was 1965, just for the

10 record.

11 MR. JAGOLINZER: What did I say?

12 MS. CLARK: 1964.

13 MR. JAGOLINZER: I apologize. May 4, '65.

14 BY MR. JAGOLINZER:

15 Q. And, would this be consistent with what

16 you testified to earlier that there were times in

17 which your group was looking at using

18 Union Carbide's Calidria asbestos for potentially

19 using in Bakelite phenolics?

20 A. Yes.

21 MS. CLARK: Objection, foundation.

22 THE WITNESS: Yes. That '65 is about the time

23 that they were trying to get approval.

24 BY MR. JAGOLINZER:

149

1 Q. Okay. Do you know if they attempted to

2 get approval on more than one occasion?

3 MS. CLARK: Objection, vague.

4 THE WITNESS: They may have higher in the

5 organization. With me, only once.

6 (Whereupon, Plaintiff Deposition

7 Exhibit L was marked for

8 identification as of 12/7/04.)

9 BY MR. JAGOLINZER:

10 Q. The next document I want to hand to you,

11 Mr. Martino, is going to be identified as

12 Plaintiff's Exhibit M, and this is dated July 8,

13 1966. It is a special report from the Mellon

14 Institute created for the Union Carbide

15 Corporation, and it's entitled the fibrogenic

16 potential of asbestos products, and it continues

17 on.

18 If you just look at that and tell me if

19 you have ever seen that before.

20 A. No.

21 (Whereupon, Plaintiff Deposition

22 Exhibit M was marked for

23 identification as of 12/7/04.)

24 BY MR. JAGOLINZER:

150

1 Q. The next one I am going to hand you,

2 Mr. Martino, is going to be Plaintiff's Exhibit N,

3 and this is another report issued by the Mellon

4 Institute. This one is dated September 3rd, 1971,

5 and is entitled Calidria Asbestos Resin Grade RG

6 244, and just ask you again if you have ever seen

7 that document before.

8 A. No.

9 (Whereupon, Plaintiff Deposition

10 Exhibit N was marked for

11 identification as of 12/7/04.)

12 BY MR. JAGOLINZER:

13 Q. The next one I am going to hand you,

14 Mr. Martino, is going to be Plaintiff's Exhibit O.

15 And, this one is entitled Asbestos as a Health

16 Hazard in the United Kingdom by IC Sayres from the

17 Union Carbide UK Limited Branch. And, if you look

18 at the last page, you'll see it's dated

19 May 12 of 1967. And, my question is have you ever

20 seen that.

21 A. No, I did not.

22 (Whereupon, Plaintiff Deposition

23 Exhibit O was marked for

24 identification as of 12/7/04.)

151

1 BY MR. JAGOLINZER:

2 Q. The next document I want to hand you is

3 going to be marked Plaintiff's Exhibit P. And,

4 this is a letter from a Mr. William Bradley &

5 Associates dated November 28, 1972. The subject is

6 Environmental Health Consultation, and this was

7 sent to Mr. Allbright and carbon copied to a

8 C.F. Martino, and I want to ask you if you have

9 ever seen this before.

10 A. If I was copied, I saw it.

11 Q. Did you have the opportunity to at least

12 flip through here and see if you recognize this

13 conversation or ever receiving this at all?

14 A. Conversation?

15 Q. I apologize. Did you have an opportunity

16 now to just flip through this to see if you

17 recognize or remember ever receiving this letter?

18 A. It was a letter of correspondence I was

19 receiving at the time, but if I was on the

20 distribution list, I did receive it.

21 Q. Okay.

22 A. But it was concerning manufacturing, so

23 there was nothing that I saw in quickly reading it

24 that required my follow-up.

152

1 Q. And, if you were on a carbon copy list,
2 would you have read a document, that document, or
3 any such document, at or around the time you would
4 have received it?

5 MS. CLARK: Object to form.

6 THE WITNESS: I would probably have read it
7 within a week.

8 (Whereupon, Plaintiff Deposition
9 Exhibit P was marked for
10 identification as of 12/7/04.)

11 BY MR. JAGOLINZER:

12 Q. Next one I want to hand you, Mr. Martino,
13 is a Union Carbide internal correspondence dated
14 October 17, 1974. The subject is Phenolic Molding
15 Materials BMNA-5440 Asbestos Free, and it is
16 written by a P.B. Potter.

17 Let me just ask you if you have seen that
18 before, please?

19 A. No. I was no longer in the area.

20 Q. You were no longer in the area as of that
21 date of the letter, which is October 6, '74?

22 A. As I recall, my transfer was earlier than
23 that.

24 Q. Okay. Have you seen that document since

1 MS. CLARK: Objection, vague.

2 THE WITNESS: I would have to re-read it.

3 There are a number of subjects here.

4 BY MR. JAGOLINZER:

5 Q. Okay. Let me ask you this. Have you seen
6 that document -- when is the last time you saw that
7 document?

8 A. In 1973.

9 Q. So, you haven't seen that since your first
10 deposition in 2001?

11 A. I don't recall. I have seen documents
12 like this, but I am not sure whether this was one
13 of them.

14 (Whereupon, Plaintiff Deposition
15 Exhibit R was marked for
16 identification as of 12/7/04.)

17 BY MR. JAGOLINZER:

18 Q. Okay. The next one I want to hand you,
19 Mr. Martino, is dated October 5th, 1972, and it is
20 a Union Carbide letter from an S.B. Nelson to
21 P.B. Potter, and this is -- the subject is General
22 Electric Company elimination of molding material
23 using asbestos, and just ask you if you have seen
24 that document before.

153

155

1 you began -- since after your first deposition in
2 October of 2001?

3 A. No.

4 (Whereupon, Plaintiff Deposition
5 Exhibit Q was marked for
6 identification as of 12/7/04.)

7 BY MR. JAGOLINZER:

8 Q. Okay. The next document I want to show
9 you, Mr. Martino, is a Union Carbide correspondence
10 from an F.A. Schillinger to a C.F. Martino, and
11 it's dated May 29, 1973, and the subject is Molding
12 Material Meeting. And, I ask you if, first, is
13 that Martino referenced there, is that you, sir?

14 A. My name, yes, that's me.

15 I am sorry. Were there any other
16 questions on this?

17 Q. Yes, sir. Is that a document that you
18 would have received at the time that letter was
19 written?

20 And, I'm sorry. I don't have it in front
21 of me. The date?

22 A. Yes, May 29, 1973.

23 Q. Do you recall the contents of that letter
24 or the subject matter that was being discussed?

1 A. Yes, I have.

2 Q. When is the last time you saw that
3 document? Would that have been more or less at the
4 time it was written, or since you have been --
5 since your first deposition.

6 A. Since my first dep. I saw it when it was
7 first written, but since my first deposition I saw
8 it again.

9 Q. And, in fact, you are carbon copied on
10 that?

11 A. Yes. Oh, wait a minute. Yes, I am.

12 (Whereupon, Plaintiff Deposition
13 Exhibit S was marked for
14 identification as of 12/7/04.)

15 BY MR. JAGOLINZER:

16 Q. The next document is Plaintiff's T, and
17 this one is dated February 29, 1972. This is from
18 F.W. Duka to Mr. Allbright, and it appears to be to
19 yourself, as well as Mr. Potter. And, let me ask
20 you, first off, is that you that this letter is
21 referring to being carbon copied to?

22 A. Yes.

23 Q. Do you recall having seen that letter?

24 MS. CLARK: Objection, vague.

154

156

1 THE WITNESS: I would have seen it, since it
2 was addressed to me.

3 BY MR. JAGOLINZER:

4 Q. Have you seen that since you gave your
5 first deposition in 2001?

6 A. I don't recall it coming up in any of
7 the -- anything I have seen since 2001.

8 (Whereupon, Plaintiff Deposition

9 Exhibit T was marked for

10 identification as of 12/7/04.)

11 BY MR. JAGOLINZER:

12 Q. Okay. And, let me see if we can go
13 through some quick questions, and, then, maybe
14 that's it for now. How is that?

15 A. Okay.

16 Q. Mr. Martino, do you know whether or not
17 Union Carbide did anything to advise anybody about
18 the potential health hazards of an exposure to
19 asbestos from the time 1959 to 1974?

20 MS. CLARK: Objection, ambiguous, vague,
21 foundation.

22 THE WITNESS: I am aware of some -- there were
23 communications, but I don't know the details.

24 BY MR. JAGOLINZER:

1 have said?

2 A. I don't remember all of it, but something
3 to the effect that it could be hazardous to your
4 health, and it did say contains asbestos.

5 Q. When is the last time you saw a label that
6 would have been warning about the hazards of
7 asbestos on a Bakelite product?

8 A. When is the last time?

9 Q. Yes, sir.

10 A. I didn't specifically go looking for
11 labels, so I don't know.

12 Q. Have you seen any documentation, since you
13 started testifying in 2001, that would indicate if
14 and when Union Carbide placed a warning concerning
15 the potential health hazards of asbestos on
16 Bakelite products?

17 A. Yes.

18 Q. Do you recall what that -- first of all,
19 strike that.

20 What was it that you looked at since that
21 deposition?

22 A. It was a letter instructing manufacturing
23 to place warning labels on the bags.

24 Q. And, who wrote that letter, if you recall?

1 Q. When you say there were communications,
2 Mr. Martino, were you referring to communications
3 between Union Carbide employees?

4 A. No. Your first question was between
5 Union Carbide and customers, is that right?

6 Q. Well, it was actually about anybody, so,
7 okay.

8 A. I was aware there were communications, but
9 I don't know specifically what they were.

10 Q. Do you know when those communications
11 would have first started?

12 MS. CLARK: Same objections.

13 THE WITNESS: No.

14 BY MR. JAGOLINZER:

15 Q. Do you know whether or not Union Carbide
16 placed a warning concerning the potential health
17 hazards of asbestos on any of its asbestos
18 containing Bakelite materials from the time 1959 to
19 1974, while you were working in the Bakelite group?

20 A. Yes.

21 Q. When did they first put labels warning
22 about the potential hazard of asbestos?

23 A. As I recall, it was in 1973 earlier part.

24 Q. Do you recall what that labeling would

1 A. I don't remember the name.

2 Q. Were you -- did you receive that letter
3 that you're talking about back when you were
4 working at Union Carbide in the Bakelite group, or
5 is that something that you saw for the first time
6 in a setting such as this?

7 A. I don't remember if I was on the
8 distribution list.

9 Q. Feel lucky. We are not going to go ahead
10 and read through all the documents.

11 Do you know, Mr. Martino, if the Bakelite
12 group at Union Carbide ever had a medical director?

13 A. Yes. Oh, the -- let's go back. Bakelite
14 group or plant?

15 Q. Just the Bakelite group right now.

16 A. Not just for Bakelite group, no.

17 Q. But Union Carbide did have a medical
18 director for --

19 A. The plant.

20 Q. For the company we can say, the entire
21 company, is that fair?

22 A. Well, they had a medical director at the
23 plant.

24 Q. Okay.

1 A. But by that I mean a doctor. And, then,
 2 they had medical directors in Danbury.
 3 Q. And, Danbury was the headquarters?
 4 A. Yes.
 5 Q. So, the Bakelite group itself didn't have
 6 a separate medical director or person?
 7 A. No.
 8 Q. Did the Bakelite group ever have a
 9 separate industrial hygienist from Union Carbide
 10 Corporation itself?
 11 MS. CLARK: Objection, vague.
 12 THE WITNESS: That I don't know.
 13 BY MR. JAGOLINZER:
 14 Q. Did the Bakelite group ever maintain a
 15 library that dealt with safety separate from that
 16 of the corporation?
 17 MS. CLARK: Objection, foundation.
 18 THE WITNESS: I don't know.
 19 BY MR. JAGOLINZER:
 20 Q. Did the Bakelite group ever maintain any
 21 sort of library dealing with safety issues outside
 22 of Union Carbide Corporation?
 23 MS. CLARK: Same objection.
 24 THE WITNESS: I have seen correspondence that

161

1 Q. So, that wasn't something separate to the
 2 Bakelite group?
 3 A. No.
 4 Q. Mr. Martino, are you familiar with the
 5 AIA?
 6 A. I have seen that. I don't -- I don't
 7 recall what it stands for.
 8 Q. Have you ever heard of the Asbestos
 9 Information Association of North America?
 10 A. No.
 11 Q. Mr. Martino, you were never, while you
 12 were working at the Bakelite group, you were never
 13 a part of the distribution list for any other
 14 groups in Union Carbide aside from the Bakelite
 15 group, is that correct?
 16 A. I was on the list, if it was relevant. I
 17 was not limited to just the area I was working in.
 18 Q. For example, if there was a distribution
 19 list that related to Union Carbide's Calidria
 20 asbestos business, you wouldn't have been part of
 21 that distribution list, is that correct?
 22 A. No, no. That's a separate division.
 23 Q. Mr. Martino, you don't consider yourself
 24 an expert in electrical work, do you?

163

1 there were meetings with other companies, but I am
 2 not familiar with the details.
 3 BY MR. JAGOLINZER:
 4 Q. Did the Bakelite group -- strike that.
 5 Could the Bakelite group rely or utilize
 6 any of the other services that may have been
 7 available to them through the corporation, or were
 8 they a separate entity?
 9 MS. CLARK: Objection, ambiguous.
 10 THE WITNESS: They were not a separate entity.
 11 BY MR. JAGOLINZER:
 12 Q. So, the Bakelite group was part of the
 13 Union Carbide Corporation?
 14 A. Yes.
 15 Q. Okay. So, when you received your
 16 paychecks, while you were working for the Bakelite
 17 group, they came from Union Carbide, right?
 18 A. Yes.
 19 Q. Did you have a health plan, while you were
 20 working in the Bakelite group?
 21 A. Yes.
 22 Q. And, when that health plan, was that from
 23 Union Carbide Corporation?
 24 A. Yes.

162

1 A. No.
 2 MS. CLARK: Objection, vague.
 3 THE WITNESS: I'm sorry, Kate. I jumped the
 4 gun again.
 5 MS. CLARK: That's okay.
 6 THE WITNESS: Let's go back to that one. By
 7 electrical work, do you mean I am an electrician?
 8 BY MR. JAGOLINZER:
 9 Q. Yes.
 10 A. No, I am not.
 11 Q. You don't consider yourself trained in the
 12 electrical field in terms of applications, splicing
 13 cables, and things of that nature, do you?
 14 A. That's correct.
 15 MS. CLARK: Objection, vague.
 16 THE WITNESS: I am not an electrician.
 17 BY MR. JAGOLINZER:
 18 Q. In terms of the steps necessary in the
 19 electrical trade that an electrician might undergo
 20 in order to make a connection or to otherwise work
 21 with wire and cable and similar products, you're
 22 not an expert in that area, correct?
 23 MS. CLARK: Same objection.
 24 THE WITNESS: Now, by saying I am not an

164

1 expert, is that implying to you that I am not aware
2 of anything that's being done in that part of the
3 industry?

4 BY MR. JAGOLINZER:

5 Q. No. Here is what I am getting at. You
6 don't hold yourself out, you don't consider
7 yourself to be an expert in what an electrician
8 needs to do to make connections or to run cable or
9 to splice cable or things of that nature?

10 A. That's right.

11 MS. CLARK: Same objections.

12 BY MR. JAGOLINZER:

13 Q. I'm sorry. Did you say --

14 A. No, I am not an expert in that area.

15 Q. Mr. Martino, do you know a John Moalli,
16 M-O-A-L-L-I?

17 A. Doesn't ring a bell right now.

18 Q. Do you know a Victorio Argento?

19 A. That doesn't -- I am not familiar with
20 that name, either. At least not now.

21 Q. Mr. Martino, do you know if Union Carbide
22 ever instructed any distributor of a finished
23 Bakelite product to place a warning on that
24 product?

1 MS. CLARK: Can we go off for a moment?

2 (Whereupon, a discussion
3 was had off the record.)

4 MS. CLARK: I don't have any questions. We'll
5 reserve.

6 (FURTHER DEPONENT SAITH NOT.)

165

167

1 MS. CLARK: Objection, foundation, vague,
2 ambiguous.

3 THE WITNESS: I don't know.

4 BY MR. JAGOLINZER:

5 Q. Mr. Martino, do you have anything in your
6 personal life right now that would prevent you from
7 coming to testify in Mr. Bentley's case in the
8 first, second or third week of January? Tougher
9 question.

10 A. You threw me a curve. I would have to
11 look at my calendar.

12 Q. Okay. Have you been asked to come to
13 Broward County Florida to testify in this case some
14 time in January?

15 A. Have I been asked?

16 Q. Yes.

17 A. No.

18 Q. If you were asked, would you be able to
19 come, to your knowledge today?

20 A. If I did not have any commitments and my
21 wife didn't object, I probably would.

22 Q. I appreciate your time, Mr. Martino. It
23 was a pleasure meeting you. That's really all the
24 questions I have for right now.

1 IN THE CIRCUIT COURT OF THE
2 17TH JUDICIAL CIRCUIT IN AND
3 FOR BROWARD COUNTY, FLORIDA

4
5 MONA BENTLEY,)
6 Plaintiff,)
7 -v-) No. 02-11900 (27)
8 UNION CARBIDE CORP., et al.,)
9 Defendants.)

10
11 This is to certify that I have read
12 the transcript of my deposition taken in the
13 above-entitled cause by Elvira M. Kokott,
14 Certified Shorthand Reporter, on December 7, 2004,
15 and that the foregoing transcript accurately states
16 the questions asked of me and the answers given by
17 me as they now appear.

18
19 Carlo Martino
20 SUBSCRIBED AND SWORN TO
21 before me this day
22 of , A.D. 20 .

24 Notary Public

1 STATE OF ILLINOIS)
 2) SS:
 3 COUNTY OF L A K E)
 4 I, Elvira M. Kokott, a Notary Public
 5 within and for the County of Lake, State of
 6 Illinois, and a Certified Shorthand Reporter of
 7 said state, do hereby certify:
 8 That previous to the commencement of the
 9 examination of the witness, the witness was duly
 10 sworn to testify the whole truth concerning the
 11 matters herein;
 12 That the foregoing deposition transcript
 13 was reported stenographically by me, was thereafter
 14 reduced to typewriting under my personal direction
 15 and constitutes a true record of the testimony
 16 given and the proceedings had;
 17 That the said deposition was taken before
 18 me at the time and place specified;
 19 That the reading and signing by the
 20 witness of the deposition transcript was agreed
 21 upon as stated herein;
 22 That I am not a relative or employee or
 23 attorney or counsel, nor a relative or employee of
 24 such attorney or counsel for any of the parties

1 McCORKLE COURT REPORTERS, INC.
 2 200 North LaSalle Street, Suite 300
 3 Chicago, Illinois 60601-1014
 4 (312) 263-0052
 5 December 13, 2004
 6 Mayer, Brown, Rowe & Maw, LLP
 7 Ms. Katherine Clark
 8 190 South LaSalle Street
 9 Chicago, IL 60603
 10 IN RE: Bentley -v- Union Carbide
 11 COURT NUMBER: 02-11900 (27)
 12 DATE TAKEN: 12/7/04
 13 DEPONENT: Mr. Carlo Martino
 14 Dear Ms. Clark:
 15 Enclosed is the deposition transcript for the
 16 aforementioned deponent in the above-entitled
 17 cause. Also enclosed are additional signature
 18 pages, if applicable, and errata sheets.
 19 Per your agreement to secure signature, please
 20 submit the transcript to the deponent for review
 21 and signature. All changes or corrections must be
 22 made on the errata sheets, not on the transcript
 23 itself. All errata sheets should be signed and all
 24 signature pages need to be signed and notarized.
 25 After the deponent has completed the above, please
 26 return all signature pages and errata sheets to me
 27 at the above address, and I will handle
 28 distribution to the respective parties.
 29 If you have any questions, please call me at the
 30 above telephone number.
 31 Sincerely,
 32 Ms. Margaret Setina Ms. Elvira M. Kokott
 33 Signature Department Court Reporter
 34 cc: All Counsel of Record

1 hereto, nor interested directly or indirectly in
 2 the outcome of this action.
 3 IN WITNESS WHEREOF, I do hereunto set my
 4 hand and affix my seal of office at Chicago,
 5 Illinois, this 10th day of December, 2004.
 6
 7 Notary Public, Lake County, Illinois.
 8 My commission expires June 3, 2008.
 9
 10
 11 C.S.R. Certificate No. 84-3309.
 12
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 24