

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

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ROBERT FRANK SMITH and MARY
LOU SMITH,

Plaintiffs,

vs.

NO. BC 396072

CHRYSLER LLC; GENERAL
ELECTRIC COMPANY, et al.,

Defendants.

_____/

TELEPHONIC DEPOSITION OF CARLO MARTINO

Taken before NICOLETTE SMITH

CSR No. 11275

January 28th, 2009

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ALICE AHN, K&L Gates LLP, Four Embarcadero Center, Suite 1200, San Francisco, California 94111, appeared telephonically on behalf of the Defendant Square D Company.

CRAIG WOODS, Mayer Brown, 71 South Wacker Drive, Chicago, Illinois 60606, appeared telephonically on behalf of the Defendant Union Carbide.

SUSAN GILEFSKY, McKenna, Long & Aldridge, 444 South Flower Street, 8th Floor, Los Angeles, California 90071, appeared telephonically on behalf of the Defendant Union Carbide.

ED TOWLE, Towle, Denison, Smith & Tavera, 10866 Wilshire Boulevard, Suite 500, Los Angeles, California 90024, appeared telephonically on behalf of the Defendant Parker Hannifin, successor to EIS.

TELEPHONIC DEPOSITION OF CARLO MARTINO

BE IT REMEMBERED, that pursuant to Notice and on this 28th day of January 2009, commencing at the hour of 11:08 a.m., at 15709 Saint Albans Place, Truckee, California, before me, NICOLETTE SMITH, CSR No. 11275, a Certified Court Reporter, licensed by the State of California, appeared CARLO MARTINO, via telephone, produced as a witness in said action, and being by me first duly sworn, was thereupon examined as a witness in said cause.

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JUSTIN BOSL, Kazan, McClain, Abrams, Lyons, Greenwood & Harley, 171 Twelfth Street, Suite 300, Oakland, California 94607, appeared telephonically on behalf of the Plaintiffs.

ALBERT THUESEN, Jackson & Wallace, 55 Francisco Street, 6th Floor, San Francisco, California 94133, appeared telephonically on behalf of the Defendant Rogers Corporation.

CARLO MARTINO,
sworn as a witness,
testified as follows:

EXAMINATION BY MR. BOSL:

Q. Good morning, sir. Or I guess it's afternoon for you. Would you state your name for the record and spell it, please.

A. Carlo, C-a-r-l-o, F. Martino, M-a-r-t-i-n-o.

Q. Thank you. And you and I haven't had the pleasure of talking before, and since we are on the phone, please let me know if at any time you can't hear me or my words are cutting off, and I'll see what I can do to change that.

A. Okay.

Q. I know that you've been deposed on multiple occasions. So if it's okay with you, I'm going to dispense with going through the basic ground rules that we always talk about. Is that okay?

A. That's fine with me.

Q. I'll simply remind you that you are under oath, and this has the full force and effect of testimony as if you were testifying in court. Do you understand that?

A. Yes.

Q. All right. And also, of course, at any time if

1 you need a break, by all means, let me know. I try to
2 take a break at least once an hour, but if we need
3 breaks in between then, just let me know.

4 A. I appreciate that.

5 Q. And we'll see, depending on how long we go, we
6 may need to take a short lunch break for those of us
7 here on the West Coast. But we'll deal with that when
8 we get there.

9 Sir, if you would state, please, your current
10 address for the record.

11 A. 125 River Road, Branchburg,
12 B-r-a-n-c-h-b-u-r-g, New Jersey, 08876-3621.

13 Q. Sir, are you currently employed by Union
14 Carbide?

15 A. No, I'm not.

16 Q. Do you receive a pension from Union Carbide?

17 A. Yes, I do.

18 Q. And do you own any stock in Union Carbide?

19 A. Yes, I do.

20 Q. Do you know how many shares, approximately?

21 A. Right now, about ten thousand.

22 Q. And do you receive any health insurance through
23 Union Carbide?

24 A. They subsidize part of it.

25 Q. And finally, are you being compensated for your

1 testimony today?

2 A. Yes.

3 Q. In what form?

4 A. An hourly rate. Two hundred dollars an hour.

5 MR. WOODS: And let me object to the question
6 and clarify that Mr. Martino is being compensated for
7 his time in connection with his work on asbestos cases
8 for Union Carbide, and that includes his time right now.

9 BY MR. BOSL:

10 Q. Mr. Martino, how have you prepared for today's
11 deposition?

12 A. I went over the depositions of the plaintiffs
13 and read those sections which pertain to Bakelite. And
14 I also read the first section, which was the work
15 history.

16 Q. Okay. Did you choose those portions or
17 somebody else?

18 A. No, I did.

19 Q. Okay.

20 A. Also, we went over the notice of deposition.

21 Q. Okay. And have you reviewed any other
22 documents?

23 A. We reviewed just this past hour the documents
24 that I assume came from you.

25 Q. Okay. The ones that I e-mailed to counsel this

1 morning?

2 A. Yes.

3 Q. Okay.

4 MS. GILEFSKY: And Justin, just so the record
5 is clear. This is Susan Gilefsky. At about 8:30
6 Pacific time this morning, I received two e-mails from
7 Mr. Bosl's paralegal, Cathy Boggs, which had
8 approximately ten pages, total, of attachments. Those
9 are the documents that Mr. Martino is speaking of.

10 I don't know -- I can't tell from looking at
11 them exactly where they came from or exactly what they
12 are and whether or not he's seen them. But I'm sure we
13 can talk about that at the time you start discussing
14 those documents.

15 MR. BOSL: Sure. Thank you. And at some point
16 I will specifically identify them, and we'll attach
17 those to the record when we get there.

18 BY MR. BOSL:

19 Q. All right. And other than those documents,
20 sir, have you reviewed any other documents?

21 A. We requested the formulation sheet for 5017 and
22 just received it about ten minutes ago and went over
23 that document.

24 Q. Okay. Where did you receive that from?

25 A. Chicago. The Mayer Brown office.

1 Q. Any other documents?

2 A. No, this is it.

3 Q. Did you speak with anyone other than your
4 lawyers, prior to the deposition, about this deposition
5 or the subject matter of this case?

6 A. No, I did not.

7 Q. Okay. And how long did you meet with your
8 counsel this morning?

9 A. We had lunch together. About an hour and a
10 half.

11 Q. Okay. Have you spent any other time with your
12 counsel, discussing this case?

13 A. We met yesterday to go over the notice of
14 deposition, and --

15 MR. WOODS: Let me just, for the record, for
16 Mr. Martino's benefit. You're fine to answer if you
17 spent any more time, but the substance of the
18 conversation is privileged. So you should stay away
19 from the substance of the conversation. You can answer
20 whether you had conversations and when they were and how
21 long they were.

22 MR. BOSL: Correct. That's all I'm asking
23 about.

24 THE WITNESS: It was about an hour and a half
25 yesterday also.

1 BY MR. BOSL:

2 Q. Okay. When was the first time that you were
3 made aware that you would be giving a deposition in this
4 case?

5 A. It was a couple of weeks ago I was called
6 for -- about three weeks ago I was called for available
7 dates.

8 Q. And sir, let me ask you this. Attached to
9 Union Carbide's MSJ in this case, there's a declaration
10 that you gave in January of 2004 in a case where, as far
11 as I can tell, the plaintiff's name was Calvin Jackson.
12 Have you reviewed that declaration prior to this
13 deposition?

14 A. Jackson? Was this among the depositions I was
15 sent?

16 Q. No. It was a declaration Union Carbide
17 attached to one of its motions in the case. It doesn't
18 actually have a caption, but in it you make reference to
19 a Calvin Jackson.

20 A. I don't recall seeing anything like that.

21 Q. Okay.

22 MS. GILEFSKY: And Justin, just for the record,
23 I'll represent to you that that was a declaration made
24 in another case. You are correct.

25 MR. BOSL: No, I understand that. I was simply

1 to what the part looked like that he was drilling or why
2 he was drilling it. That's what I got out of it.

3 Q. Okay. Is it your understanding that there were
4 types of Bakelite used in conjunction with electrical
5 panels during that time period?

6 MR. WOODS: Objection to the form. Vague and
7 ambiguous.

8 BY MR. BOSL:

9 Q. You can answer, sir.

10 A. What it specifically referred to was not clear
11 to me from the deposition. I am familiar with the word
12 "Bakelite," and that is generally used to describe many
13 of our -- of the products made by Union Carbide. Not
14 only the phenolics but also a lot of the thermal
15 plastics as well. It's a trade name.

16 Q. I want to ask you, because it makes some
17 reference to this in the declaration that was attached
18 to Union Carbide's motion. My understanding, am I
19 right, that in sometime on -- in or about 1952, Union
20 Carbide sold or gave up the patent for many of its
21 phenolic molding materials?

22 A. 1952?

23 Q. Yes. Am I correct?

24 A. I think what you're referring to is the period
25 when we had an explosion at the plant.

1 wondering whether or not he's reviewed that prior to the
2 deposition.

3 MR. WOODS: Okay. And I'm not sure Carlo -- it
4 doesn't look like he understands what you're asking.

5 Just to clarify, and correct me if I'm wrong,
6 this is an affidavit that you signed, Carlo, in another
7 case.

8 THE WITNESS: Okay.

9 MR. WOODS: In a case possibly involving
10 someone named Jackson that was filed previously. That
11 affidavit was apparently attached to Union Carbide's
12 summary judgment motion in this case.

13 BY MR. BOSL:

14 Q. Am I correct, sir, you haven't reviewed that
15 prior to the deposition?

16 A. No, I have not.

17 Q. Okay. All right. And I may have a couple of
18 questions about that, but we'll get there.

19 All right. You testified that you did review
20 Mr. Smith's deposition. Can you relate for me what your
21 understanding of his work with any kind of Bakelite was.

22 A. From what I read in the deposition, he claims
23 that he drilled what he called Bakelite when he worked
24 for Southern General Electric Company, I believe it was,
25 from mid-1963 to the end of 1965. He was not clear as

1 Q. Right.

2 A. During that period of time, we had to give our
3 formulations to some of our competitors so that our
4 customers would continue to be supplied while we were
5 rebuilding our plant. I don't think there were any
6 patents involved at that point.

7 Q. I see. During the 1952 to 1966 time period, or
8 prior to 1966 -- and let me strike that for a moment.

9 Most of my questions are going to be limited to
10 the prior-to-1966 period, since, as you point out,
11 Mr. Smith stopped working at Southern California Edison
12 in '65. So if I fail to specify that, that's the time
13 period I'm talking about. If I try and talk about some
14 other time period, I'll make sure to specify that.

15 A. Okay.

16 Q. But during the 1952 to 1966 time period,
17 approximately what percent of the market for phenolic
18 molded compounds did Union Carbide have?

19 A. Was that '62 to '66?

20 Q. '52.

21 A. Oh, '52?

22 MR. WOODS: I'm going to object to the question
23 as being vague and ambiguous.

24 MS. GILEFSKY: Also lacks foundation, calls for
25 speculation.

1 THE WITNESS: May I answer that?

2 MR. WOODS: Yes.

3 THE WITNESS: Right after the explosion, I
4 think our share dropped to about low 30s, and then it
5 continued to drop through the '60s. By '66 we were
6 probably under 30 percent, somewhere in the 25 to 30
7 percent range.

8 BY MR. BOSL:

9 Q. And what is the basis of your understanding of
10 the percentage market that Union Carbide had at that
11 time period?

12 A. What was my understanding?

13 Q. What is that based on? Have you --

14 A. That was based on our share of the market. Our
15 sales versus the total sales in the industry of those
16 types of products.

17 Q. Have you seen any documents reflecting that
18 information?

19 A. No -- yes. Modern Plastics published in
20 January every year what the total sales for the industry
21 were. And by taking what our sales were, we were able
22 to determine the percentage of the market that we had.

23 Q. I see.

24 Would you have knowledge of the percentage of
25 other manufacturers?

1 Carbide lawyer or the other should take lead. And the
2 other one I'm happy to allow to monitor. But I would
3 request that whichever one is not doing the objecting
4 should be silent for the purposes of the deposition. I
5 don't think it's proper to be doubling up.

6 BY MR. BOSL:

7 Q. Anyway -- all right. Mr. Martino, were there
8 internal documents within Union Carbide reflecting what
9 the total sales were for the year?

10 MR. WOODS: Objection as to form, vague as to
11 time.

12 THE WITNESS: There were at the time I was
13 working there. I'm trying to recall. I was able to
14 reconstruct -- some of those figures, I quoted to you
15 from some of the records I was able to find in the
16 repository. But they weren't available for every year.
17 It was probably every four or five years.

18 BY MR. BOSL:

19 Q. When did you do this, I'll call it
20 reconstruction, of the numbers?

21 A. About 2002, when I first started to get
22 involved in testifying for Union Carbide.

23 BY MR. BOSL:

24 Q. And you found the documents in the repository?

25 A. There. And also, the Modern Plastics

1 A. Only in general. What was published in the
2 Modern Plastics Encyclopedia. I'm trying to think
3 exactly where. Usually Modern Plastics Encyclopedia
4 would have some references to that.

5 Q. Would Modern Plastics indicate what Union
6 Carbide sales were?

7 A. Not in terms of sales, no. They didn't get --
8 they wouldn't publish the percentages unless -- one year
9 they published capacity figures. I don't recall any
10 other years that they did.

11 Q. Do you recall which year that was?

12 A. I believe it was in the seventies.

13 Q. All right. So let me make sure I understand
14 this. Modern Plastics would publish in January what the
15 total sales of molded materials were for the year?

16 A. Yes.

17 Q. And then Union Carbide would take its own
18 internal numbers and compare that to the total?

19 A. Yes.

20 Q. Okay.

21 MS. GILEFSKY: I just want to remind the
22 witness, for the record, Justin, that your questions
23 pertain to prior to 1966.

24 MR. BOSL: That's correct. Although I need to
25 repeat a request, which is, simply, that one Union

1 references, I had to go to the library to get those, at
2 Rutgers' library.

3 Q. Why were you reworking those figures?

4 MR. WOODS: And let me caution the witness that
5 you shouldn't reveal any conversations that you had with
6 attorneys in connection with responding to that answer.
7 So if you can answer why you were doing it apart from a
8 conversation or direction from an attorney, then you can
9 answer it.

10 THE WITNESS: I was doing that because
11 questions were arising, just like you're asking, about
12 our shares.

13 BY MR. BOSL:

14 Q. Where -- did you reduce the reconstruction
15 figures, that you were doing, into some sort of a
16 document?

17 A. No, I didn't. I passed on that information to
18 Mayer Brown.

19 Q. What happened to the documents that you found
20 from the repository, that you base those numbers on?

21 A. They are still there.

22 Q. Were they put back into the repository, or are
23 they still segregated in some form?

24 MR. WOODS: To the extent that you know.

25 THE WITNESS: They were put back.

1 BY MR. BOSL:

2 Q. Would you be able to find those documents
3 again?

4 A. I could find probably most of them, yes. It
5 would take some time.

6 Q. Do you know what percentage, from the '52 to
7 '66 time period, of the asbestos-containing phenolic
8 molding compound market Union Carbide had?

9 MR. WOODS: Objection to form, vague,
10 overbroad, calls for speculation.

11 THE WITNESS: In 1960, I estimated that of our
12 total production, less than 20 percent contained
13 asbestos. That increased slowly until 1966, where it
14 reached about 30 -- a little over 30 percent. And then
15 we peaked in 1969, I believe, to 40 and then came back
16 down again.

17 MR. WOODS: And let me just clarify. The
18 question was -- was your question how much of Union
19 Carbide material was asbestos-containing or how much of
20 the total market between everybody was Union Carbide
21 asbestos material?

22 MR. BOSL: It was: Of the market of
23 asbestos-containing compounds, how much of that was
24 Union Carbide.

25 MR. WOODS: I have the same objections as

1 THE WITNESS: I don't know what the total
2 markup was just for asbestos products.

3 BY MR. BOSL:

4 Q. Okay. For the market of molding compound used
5 for electrical applications, what percentage of that
6 market did Union Carbide have?

7 MR. WOODS: Objection to form, foundation,
8 calls for speculation.

9 THE WITNESS: That, I don't know.

10 BY MR. BOSL:

11 Q. Do you know the percentage of the phenolic
12 molding compounds for industrial electrical high-voltage
13 applications that Union Carbide had?

14 A. No. No. We didn't break the market -- I don't
15 have access to those figures and haven't seen them.

16 Q. Okay. All right. In the 1952 to 1966 time
17 period, who were Union Carbide's competitors for
18 industrial electrical applications, and specifically
19 high-voltage applications, of phenolic molding
20 compounds?

21 MR. WOODS: Objection to form, vague,
22 overbroad, foundation, calls for speculation.

23 THE WITNESS: Durez was number one. Plastic
24 Engineering, or Plenco, was number two. General
25 Electric. Reichhold. And then there were some

1 before.

2 THE WITNESS: What we'd have to do is take
3 those figures I gave you and multiply them times what
4 our market share was.

5 BY MR. BOSL:

6 Q. So you believe that your market share for the
7 total market is equivalent to the market share that
8 Union Carbide had for the asbestos-containing compounds?

9 MR. WOODS: I'm going to object to the form.
10 Mischaracterizes.

11 THE WITNESS: No. What I'm saying is, that if
12 we have a 30 percent market share in 1960 and 20 percent
13 of our production contained asbestos, then our share in
14 the market would have been 20 percent of 30, or 6
15 percent.

16 BY MR. BOSL:

17 Q. Okay. All right. I understand that. I think
18 we're talking past each other a little bit. I'm not
19 asking about the total market of phenolic molding
20 compounds. But in this question, I'm limiting it to the
21 market of asbestos compounds. And of the asbestos
22 molding compounds, how much of that market -- of that
23 was Union Carbide?

24 MR. WOODS: Object to form. Vague, foundation,
25 calls for speculation.

1 specialty manufacturers who made molding compounds who
2 were not directly -- direct competitors.

3 BY MR. BOSL:

4 Q. Would one of those be Rogers Corp?

5 A. Yes. Yes.

6 Q. Can you name any others?

7 A. Did I mention GE in the list of competitors?

8 Q. You did. Yes. Are there any others that you
9 can name?

10 A. In molding materials, those were the main ones.
11 There were a couple small ones that went out of
12 business. I don't recall their names.

13 Q. Is Fiberite one?

14 A. No. They were a specialty manufacturer of
15 molding materials, and they were primarily a customer of
16 ours. They didn't compete with us.

17 Q. Did Union Carbide, during that '52 to '66 time
18 period, test its molding compounds for specific
19 applications?

20 MR. WOODS: Objection. Vague, overbroad.

21 THE WITNESS: We would test against
22 specifications for certain qualifications. For example,
23 military specifications or ASTM specifications. Any
24 special testing for a particular application, the
25 customer would have to request it. But that was rare.

1 BY MR. BOSL:

2 Q. What kind of specifications did Union Carbide
3 test with regards to the ASTM?

4 A. They would be physical properties, like tensile
5 strength, flexural strength, and then also electrical
6 properties. Dielectric strength. In some cases, arc
7 resistance. They would be listed under ASTM
8 specifications. But I don't recall all of them.

9 Q. And did -- I guess I'll ask this both ways.
10 Did Union Carbide ever test its molding compound to
11 comply with various specifications or requirements by
12 Underwriters Laboratories?

13 A. Yes.

14 MR. WOODS: Objection. Vague, overbroad.

15 THE WITNESS: Yes, we did.

16 BY MR. BOSL:

17 Q. And I guess in the other direction, did UL ever
18 test Union Carbide molding compounds for various
19 applications?

20 MR. WOODS: Objection. Vague, overbroad,
21 foundation, calls for speculation.

22 THE WITNESS: All I recall is work -- when we
23 applied for UL certification, we would run the tests
24 ourselves. I don't recall of any time when they ran the
25 tests for us.

1 BY MR. BOSL:

2 Q. Okay. What kind of -- what categories of
3 approval did UL have? What I'm trying to get at is,
4 were the approvals that it needed to have tensile
5 strength of X, or was it that it was for a particular
6 application? What were those specifications about?

7 MR. WOODS: Objection to the form. Vague,
8 overbroad. What products are you talking about, and
9 what time period?

10 MR. BOSL: I'm sorry. This is '52 to '66 for
11 molding compounds.

12 MR. WOODS: Phenolic molding compounds.

13 THE WITNESS: There would be the ASTM
14 categories. And there are also military specifications.
15 They also had categories. And for each category, they
16 would list what physical and electrical properties had
17 to be met in order to meet those standards.

18 BY MR. BOSL:

19 Q. Can you name what kind of categories you can
20 recall, for phenolic molding compounds for '52 to '66,
21 in the ASTM?

22 A. I'd have to go -- they exist. I'd have to go
23 back to the records to refresh my memory. There is the
24 MFH and the FE. FE, like, for example, would be for
25 electrical grade. I don't recall whether that was for

1 military applications or the ASTM category. I think it
2 was military applications. But those documents do exist
3 even now. And it's been a while since I've looked at
4 them.

5 Q. When you say the documents exist, you mean they
6 exist within Union Carbide's repository?

7 A. Oh, no. I think you can get them through the
8 Internet or through the government.

9 Q. Okay. Did all of Union Carbide's phenolic
10 molding compounds during that time period comply with
11 one category or another of these -- one of these three
12 bodies?

13 MR. WOODS: Objection. Vague, overbroad.

14 THE WITNESS: As I recall, most fell into one
15 of those categories. I can't say all did. Because we
16 were always developing some new products. I'd say most
17 did.

18 BY MR. BOSL:

19 Q. And so if you -- well, okay. So UCC did all of
20 the testing to determine whether or not a particular
21 formulation of phenolic molding compound complied with a
22 category under either ASTM or the military specification
23 or the UL. Is that right?

24 A. Yes.

25 Q. And so for each of the specific compound

1 formulations, Union Carbide was aware what it was
2 approved for. Is that correct?

3 MR. WOODS: Objection to form, vague,
4 foundation, calls for speculation.

5 THE WITNESS: We knew the category. What it
6 was -- the specific applications it would be used in, we
7 were not always aware of that. For example, a
8 general-purpose phenolic was used in many applications
9 and many industries. It would fit that general-purpose
10 category. But what our customers used it for
11 specifically, we didn't always know.

12 BY MR. BOSL:

13 Q. With regards to phenolic molding compounds that
14 were, I'm going to say, graded or compliant with the
15 electrical category, is it fair to say Union Carbide
16 knew that that molding compound would be used in
17 electrical application?

18 MR. WOODS: Objection to form, vague,
19 overbroad, calls for speculation, and foundation.

20 THE WITNESS: We knew it would be used for
21 electrical application. It would not be limited to
22 those applications. The customer was free to use it
23 wherever he wanted.

24 BY MR. BOSL:

25 Q. Among the asbestos-containing phenolic molding

1 compounds during that time period, am I correct that
2 there was a range of asbestos content among the various
3 formulations?

4 A. Yes.

5 Q. What was the purpose of the varying asbestos
6 content among the different formulations? In other
7 words, why did the asbestos content vary?

8 A. It was a matter of just to what extent -- how
9 much heat resistance the customer was willing to pay
10 for. The more asbestos, the higher the cost. And many
11 applications didn't require the ultimate in heat
12 resistance.

13 Q. So it's true, though, that the more heat
14 resistance required, the more asbestos required in the
15 molding compound?

16 MR. WOODS: Objection to form, mischaracterizes
17 testimony, overbroad.

18 BY MR. BOSL:

19 Q. You can answer, sir.

20 A. Yeah. Generally that's true. The more
21 asbestos, the better the heat resistance and the higher
22 the price.

23 MR. WOODS: Let me just say for the record -- I
24 just want to make a clarification for the record. There
25 are certain topics that you've indicated you wanted to

1 needing a higher asbestos content in the phenolic
2 molding compound other than just heat resistance?

3 MR. WOODS: Objection to form, overbroad,
4 vague.

5 THE WITNESS: The use of any mineral would
6 increase the arc resistance. So a side benefit of using
7 the higher asbestos content gave us better arc
8 resistance as well. But phenolic resin carbonizes and
9 is not the best binder for an arc-resistant material, so
10 that if a customer wanted good arc resistance, he went
11 to a melamine compound, which had much better arc
12 resistance.

13 There are also other -- many other types of
14 thermosetting resins, like the phthalates and the
15 silicones and the polyesters, which have better
16 electrical properties than the phenolics.

17 But if he wanted -- if he was using a phenolic
18 and he had the asbestos in it, he did get some better
19 arc resistance as well.

20 BY MR. BOSL:

21 Q. And let me ask you more specifically, then. In
22 electrical applications, what were the reasons for using
23 an asbestos-containing phenolic molding compound?

24 MR. WOODS: Objection. Assumes facts not in
25 evidence, overbroad, vague, foundation, calls for

1 talk to Carlo about, the person most knowledgeable and
2 the custodian. You're free to ask him other questions,
3 I suppose, but you haven't really touched on any of the
4 topics that he was noticed for. And I wanted to make a
5 clarification that he's only here as the person most
6 knowledgeable on those particular topics that have been
7 noted.

8 MR. BOSL: I think this is all laying a
9 foundation for the questions in the compound -- I'm
10 sorry -- in the categories that we've noticed regarding
11 supply of products to the various manufacturers for
12 products that were used at Southern California Edison.
13 And so I think we're just establishing the foundation
14 that we're getting there for.

15 It also goes for topics contained in the
16 declaration of Mr. Martino that were attached to Union
17 Carbide's --

18 MR. WOODS: I'm not going to instruct the
19 witness not to answer, but some of his answers may not
20 be on behalf of Union Carbide of the person most
21 knowledgeable.

22 MR. BOSL: That's an argument for another day.

23 BY MR. BOSL:

24 Q. All right, sir. Were there any other purposes
25 or characteristics of asbestos that might dictate

1 speculation.

2 Go ahead.

3 THE WITNESS: In electrical applications, mica
4 is the natural fiber of choice. Asbestos is used if we
5 needed long durability over a long period of time at
6 elevated temperatures. And we got that with the
7 asbestos. But for electrical properties, there are
8 better choices than asbestos.

9 BY MR. BOSL:

10 Q. Is the reason you say that -- what property of
11 mica are you referring to that was better for
12 electrical?

13 A. Low loss characteristics. That's the main one.

14 Q. In other words, it was a better conductor?

15 MR. WOODS: Objection to form, vague.

16 THE WITNESS: Not that it was a better
17 conductor. It just had -- I'm not that familiar with
18 all the electrical properties and their significance,
19 but it did have low loss characteristics for electronic
20 parts. And I'd have to -- I would need time to go back
21 and research that to give you a better answer.

22 BY MR. BOSL:

23 Q. Where would you look in order to get a better
24 answer?

25 A. I would see what documents we'd have on our

1 mica fill materials and then get more in depth into the
2 electrical properties and what their significance were.

3 Q. Sorry. Give me one moment.

4 All right. Sir, what were the characteristics
5 of asbestos that made it useful in phenolic molding
6 compounds?

7 MR. WOODS: Objection. Mischaracterizes his
8 testimony, assumes facts not in evidence, vague,
9 overbroad.

10 You can answer.

11 MS. GILEFSKY: I'm not trying to double-team
12 you in any way, but we have been, I think, sort of
13 generous up to this point in terms of giving you a lot
14 of leeway to lay your foundation that you feel you need.
15 We're starting to veer off of the deposition notice, and
16 I would just ask you to bring it back to the depo
17 notice.

18 MR. BOSL: I'm trying to get there. I'm
19 following up on some of the answers that he's given me,
20 though.

21 MS. GILEFSKY: I got you. And we're trying to
22 give you leeway so that you can make your record that
23 you need to make. But at the same time, we're cognizant
24 of the fact that we're veering off course.

25 BY MR. BOSL:

1 Q. Sir, do you need the question read back to you?

2 A. No.

3 The asbestos was a filler of choice if we
4 needed heat resistance. It was the best for
5 high-temperature applications. That's why we had
6 difficulty replacing it. There are other fillers that
7 were better if it was in regards to electrical
8 properties.

9 Q. Is it true that asbestos was also
10 water-resistant?

11 MR. WOODS: Objection to form, foundation,
12 overbroad.

13 THE WITNESS: It and many other -- if you add
14 it or any other of the mineral fillers, you reduce the
15 moisture absorption of the phenolic compound. It does
16 not have a unique ability to do that.

17 BY MR. BOSL:

18 Q. For example, cellulose was not as
19 water-resistant as a mineral. Is that correct?

20 A. Yes.

21 Q. Is it also correct that cellulose was not
22 fire-resistant?

23 MR. WOODS: Objection to form. Vague.

24 THE WITNESS: Phenolic molding compounds don't
25 burn, even if they're -- contain all cellulose filler.

1 They char. And that's one of their advantages.

2 BY MR. BOSL:

3 Q. So maybe I should use a different word.
4 Cellulose is not nearly as heat-resistant as asbestos.
5 Is that correct?

6 A. That's correct.

7 Q. All right. For -- I'm going to use, at various
8 times in this deposition, the term "high voltage," and I
9 know that that's a rather relative term. Different
10 people have different definitions of "high voltage."
11 I'm going to define that as anything over 600 volts. Do
12 you understand?

13 A. Yes.

14 Q. From -- during that 1952 to 1966 time period,
15 was there any phenolic molding compound that was
16 approved by either the ASTM or the UL for high-voltage
17 applications that did not use an asbestos filler?

18 MR. WOODS: Objection to form, vague,
19 overbroad, foundation, calls for speculation.

20 THE WITNESS: I don't recall any category that
21 specifically stated it was for high voltage. I'd have
22 to go back and look at the ASTM designations and
23 military specifications in that period of time to be
24 sure of that. But I don't recall it at all.

25 BY MR. BOSL:

1 Q. Well, regardless of what the categories, then,
2 of the various bodies were, was there any phenolic
3 molding compound used during that '52 to '66 time period
4 for high-voltage applications that used a nonasbestos
5 filler?

6 MR. WOODS: Vague, overbroad, foundation, calls
7 for speculation.

8 Used by anybody? Or -- it's just way
9 overbroad.

10 BY MR. BOSL:

11 Q. Go ahead, sir.

12 A. I don't know.

13 Q. Okay. Would you agree, though, that
14 asbestos-containing phenolic molding compound was used
15 in high-voltage applications during that time period?

16 MR. WOODS: Objection to form, vague,
17 overbroad, foundation, calls for speculation.

18 THE WITNESS: Exactly where our customers used
19 those products, I don't know.

20 BY MR. BOSL:

21 Q. Okay. Would Union Carbide recommend a
22 nonasbestos filler for phenolic molding compound in
23 high-voltage applications during that time period?

24 MR. WOODS: Objection to the form, incomplete
25 hypothetical, calls for speculation, overbroad.

1 THE WITNESS: I can't think of any time anybody
2 asked us for a product that was specifically designed
3 for high-voltage applications. The customer would just
4 give us a list of their -- of what they wanted in the
5 product, and we would try to match those
6 characteristics.

7 But it would depend on all the requirements for
8 the application. They might not want to use a phenolic,
9 in the first place, for high-voltage applications.
10 There are better materials than phenolics for that.

11 BY MR. BOSL:

12 Q. Would cellulose be a good filler for
13 high-voltage applications?

14 MR. WOODS: Objection to form, vague,
15 overbroad, calls for speculation.

16 BY MR. BOSL:

17 Q. And I'm specifically referring to that time
18 period. Because I understand that there are other types
19 of cellulose fillers used at a later date.

20 MR. WOODS: Same objections.

21 THE WITNESS: I can't answer those questions,
22 because I can't recall our testing specifically for the
23 material's ability to withstand high voltages. We
24 tested for arc resistance. That's about the closest we
25 can come to it. And I don't think we were using high

1 voltages to do that either.

2 BY MR. BOSL:

3 Q. What was the highest voltage Union Carbide used
4 for testing its phenolic molding compounds during that
5 period?

6 A. I don't recall. I'd have to go back to the
7 methods.

8 Q. What is the highest voltage that you can
9 recall?

10 MR. WOODS: Asked and answered. Objection.

11 THE WITNESS: I don't remember. I'd have to
12 look at the methods. It would be the ASTM method for
13 arc resistance, so it might be described there.

14 BY MR. BOSL:

15 Q. Prior to 1966, are you familiar with any
16 requirements that the public utility commission of
17 California had for phenolic molding compounds and
18 products used in California?

19 MS. GILEFSKY: Objection. Outside the scope of
20 notice. I'm sorry. I have to pipe up. We've been
21 going almost an hour, and we haven't touched upon any of
22 those categories. Would you stipulate to a running
23 objection that these sets of questions are outside the
24 scope of the notice so that I don't have to keep
25 interrupting you and Mr. Woods doesn't have to either?

1 MR. BOSL: Yes. You're welcome to have a
2 running objection. I disagree with it, but you're
3 welcome to have it.

4 MS. GILEFSKY: Thank you.

5 BY MR. BOSL:

6 Q. Go ahead, sir.

7 A. Would you repeat the question, please?

8 Q. Yes.

9 Are you aware, prior to 1966, of any
10 requirements that the public utilities commission had
11 for -- of California -- for molding compounds --
12 phenolic molding compounds used in electrical
13 applications?

14 A. No, I did not.

15 Q. Did Union Carbide have any dealings with the
16 public utilities commission regarding phenolic molding
17 compounds during that time period?

18 A. I am not aware of any contacts with them.

19 Q. Are you familiar, during that time period, with
20 Southern California Edison having any kind of contact
21 or -- with Union Carbide? I'm sorry. Just "contact
22 with Union Carbide."

23 A. Not that I am aware of.

24 Q. Okay. Was it common for Union Carbide to have
25 contact with utilities?

1 A. No.

2 Q. Are you aware of any requirements that Southern
3 California Edison had for molding compounds used in
4 electrical applications in California prior to '66?

5 A. No, I'm not.

6 MR. BOSL: We've been going pretty close to an
7 hour. Do you want to take a short break here?

8 THE WITNESS: Yes. I could use one. Thank
9 you.

10 MR. BOSL: We'll take a five-minute break,
11 then.

12 (The parties agreed to go off the record.)

13 MR. BOSL: Back on the record.

14 Before we go any further, let me take care of
15 some housekeeping. Attached as Exhibit No. 1 is
16 Plaintiffs' September 19th -- although I think it was
17 served September 22nd -- 2008 Notice of Taking
18 Deposition of Defendant Union Carbide Corporation's
19 Custodian of Records.

20 (Plaintiffs' Exhibit No. 1 was marked for
21 Identification.)

22 MR. BOSL: Exhibit No. 2 will be of the same
23 date, Plaintiffs' Notice of Taking Deposition of
24 Defendant Union Carbide Corporation's Person Most
25 Qualified.

1 (Plaintiffs' Exhibit No. 2 was marked for
2 Identification.)
3 MR. BOSL: We can make Nos. 3 and 4 defendant
4 Union Carbide's objections to the same -- sorry.
5 Number 3 will be Union Carbide's objections to the
6 custodian of records' deposition.
7 (Plaintiffs' Exhibit No. 3 was marked for
8 Identification.)
9 MR. BOSL: And No. 4 will be Union Carbide's
10 objections to the person most knowledgeable's
11 deposition.
12 (Plaintiffs' Exhibit No. 4 was marked for
13 Identification.)
14 MS. GILEFSKY: Right. And those are both dated
15 October 15th.
16 MR. BOSL: Thank you.
17 MS. GILEFSKY: Sure.
18 Justin, if it's okay with you, I'd like to
19 attach collectively as next in order our meet-and-confer
20 letters regarding the scope of the deposition as well.
21 And primarily, I'd like the January 9th letter from
22 McKenna Long to your attention; your January 22nd letter
23 to Melissa Berberoglu -- B-e-r-b-e-r-o-g-l-u is the last
24 name -- her attention; and then our January 27th letter
25 to your attention, collectively.

1 (Exhibit No. 5 was marked for
2 Identification.)
3 MR. WOODS: Do you have all those, or who is
4 going to send those to the court reporter? Do we need
5 to send those?
6 MS. GILEFSKY: I can take care of it or Justin
7 can. We can talk about that off the record.
8 MR. BOSL: One of us can. And I'll simply
9 state for the record, my lack of response to the
10 January 27th letter should not be construed as
11 acceptance of necessarily all of the provisions or
12 arguments that Union Carbide raises. It's simply a
13 matter of it being a day before the deposition and not
14 having a chance to respond. I'll stand by my letter of
15 the 22nd, but I don't know that it will matter here.
16 MS. GILEFSKY: Right. And just to respond
17 formally on the record, although hopefully it won't
18 matter, we obviously stand by our letter of the 27th,
19 meaning the scope of the deposition. Having said that,
20 however, we've already given quite a bit of leeway in
21 terms of broadening it out a little bit in an effort to
22 meet and confer and in an effort to go forward in good
23 faith with this deposition.
24 MR. BOSL: That was No. 5, right? So No. 6
25 will be a January 12, 2009, fax to all parties, from

1 plaintiffs, alerting them that the deposition of Union
2 Carbide's custodian of records and person most
3 knowledgeable was rescheduled for January 28th at 11
4 a.m. Pacific time and providing call-in information.
5 (Plaintiffs' Exhibit No. 6 was marked for
6 Identification.)
7 MR. BOSL: Number 6 will be the declaration of
8 Carlo Martino, dated, it looks like, the 20th of January
9 2004, which we've already made some reference to.
10 MR. WOODS: You mean Exhibit 7?
11 MS. GILEFSKY: Yeah.
12 MR. BOSL: I'm sorry. Exhibit No. 7. You're
13 right. I wrote two 6s there.
14 (Plaintiffs' Exhibit No. 7 was marked for
15 Identification.)
16 MS. GILEFSKY: And, just to be clear, that was
17 the one that we talked about that was attached to Union
18 Carbide's motion for summary judgment?
19 MR. BOSL: Right.
20 MS. GILEFSKY: Thank you.
21 MR. WOODS: Are you going to have questions
22 specifically about that declaration, Justin?
23 MR. BOSL: I may have one or two when we get
24 down to the end, but we'll see.
25 MR. WOODS: I don't know if we have a copy of

1 that here.
2 MR. BOSL: Okay. I think we've actually
3 already covered a fair amount of it. I may have a
4 couple more follow-up questions. But rather than
5 specifically directing him to specific paragraphs of the
6 declaration, I've been asking it generally.
7 MR. WOODS: Okay.
8 MR. BOSL: Because he had not reviewed the
9 declaration, and I presumed he did not have a copy there
10 with him.
11 BY MR. BOSL:
12 Q. All right, sir. I want to move on from some of
13 the generalities, although I may have follow-up
14 questions in a little while about them, and I want to
15 ask you specifically what -- to what extent you recall
16 there being a relationship between Union Carbide and
17 Square D prior to 1996.
18 MR. WOODS: Excuse me. You mean prior to 1996
19 or 1966?
20 MR. BOSL: I'm sorry. 1966.
21 MR. WOODS: I'll object to the form as being
22 vague and overbroad.
23 Go ahead.
24 THE WITNESS: And what was the question again?
25 BY MR. BOSL:

1 Q. To what extent was there of any kind of a
2 relationship between Union Carbide and Square D in terms
3 of Square D purchasing Union Carbide's products?

4 MR. WOODS: Same objections.

5 THE WITNESS: Well, I was aware that they were
6 a customer of ours. I don't know during that period of
7 time what they bought and when they bought it or what
8 location -- Square D location bought our product. The
9 sales scrolls only go back to 1966.

10 BY MR. BOSL:

11 Q. Are you familiar, though, with Square D
12 purchasing from Union Carbide prior to '66?

13 MR. WOODS: Objection. Asked and answered and
14 foundation.

15 Go ahead.

16 THE WITNESS: I've seen references to Square D,
17 but no -- nothing that shows actual sales. So there may
18 have been sales, but I don't know what they were.

19 BY MR. BOSL:

20 Q. What references do you recall seeing?

21 A. I think it was in one of the documents you
22 said. Let's see.

23 I think there was those prior depositions I may
24 have obtained and in some of the documents I may have
25 seen maybe.} But I don't -- at this stage, can't pick

1 THE WITNESS: I don't know what that -- what
2 nomenclature is used on these documents.

3 BY MR. BOSL:

4 Q. And on the lower right-hand corner, is that
5 a -- here it is. I apologize. I've been searching
6 frantically on my desk where I put this document and
7 just found it.

8 On the lower right-hand corner, it says
9 "Bakelite, trade-mark, phenolic plastics, Bakelite
10 Company, a division of Union Carbide and Carbon
11 Corporation." Is that a trademark you're familiar with?

12 A. Yes.

13 Q. Is that, in fact, the Union Carbide Bakelite
14 trademark?

15 A. Yes.

16 Q. Have you seen Bakelite advertisements from the
17 1950s era prior to this?

18 A. Oh, yes.

19 Q. Okay.

20 MR. WOODS: And you're talking about molding
21 compound or just -- I mean, because Union Carbide sold a
22 lot of products they called Bakelite.

23 MR. BOSL: I understand that. And for the
24 moment, I'm keeping that very general.

25 MR. WOODS: So any product that was sold under

1 it out and be more specific about it. The best way
2 would be to check the repository. That's what I'd do.

3 Q. And specifically, you mentioned one of the
4 documents that we sent.

5 MR. BOSL: I'm going to attach as No. 8 --

6 THE WITNESS: Here it is. You sent a 1952
7 document that references Square D.

8 (Plaintiffs' Exhibit No. 8 was marked for
9 Identification.)

10 BY MR. BOSL:

11 Q. And would you agree that appears to be -- that
12 is a Bakelite advertisement?

13 A. Yes, it is.

14 MS. GILEFSKY: And again just so the record is
15 clear, this is one of the documents that I received from
16 Plaintiffs' counsel this morning. I cannot attest as to
17 where it came from or the authenticity or integrity of
18 the document itself.

19 BY MR. BOSL:

20 Q. Can you look at the Bates number on the bottom
21 of that document and read it, please.

22 A. Do you want me to read it? UCASB00407069.

23 Q. Would you agree that the Bates stamp, at the
24 beginning, "UC," is a Union Carbide Bates stamp?

25 MR. WOODS: If you know.

1 a trade name "Bakelite" as you see in that ad.

2 THE WITNESS: Oh, yes. Many.

3 BY MR. BOSL:

4 Q. From the 1950s era?

5 A. Fifties, sixties.

6 Q. Okay. And does this document here,
7 Exhibit 8 -- is this also a Bakelite ad?

8 A. Yes.

9 Q. Okay. All right. And you would agree with me
10 that this document indicates that Square D was a
11 customer of Bakelite?

12 MR. WOODS: Objection. Calls for speculation,
13 foundation.

14 THE WITNESS: It implies that, yes.

15 BY MR. BOSL:

16 Q. Okay. Let me ask you. On this document, it
17 refers to Bakelite general-purpose phenolic BM-13 -- I
18 think that's 838. Is that what it looks like to you?

19 A. Yes.

20 Q. Okay. What kind of material is BM-13838?

21 A. Well, the description here says general-purpose
22 phenolic. And during that period of time, that would
23 have been a wood flour fill, no asbestos. We've asked
24 Sue Wasserman at Mayer Brown to see if she can find the
25 formulation for that product to verify that it was wood

1 flour fill.

2 MR. BOSL: And if found, I would request a copy
3 of that.

4 BY MR. BOSL:

5 Q. Sir, are you familiar with the numerical and --
6 well, the alphanumeric designations of the various
7 Bakelite products?

8 A. With the designation we were using in the
9 sixties, yes. These designations on this '52 document
10 is the old system. And that, I -- other than "B" as
11 being "phenolic" and "M" being "molding," the rest, I'm
12 not familiar with the system.

13 Q. Okay.

14 A. That was changed in the -- somewhere in the --
15 after 1955, to a new system.

16 Q. Okay. I'm sorry. Under the old system, you
17 said that "B" stands for "phenolic." And what did you
18 say "M" stands for?

19 A. Molding. And that also applies to the new
20 system as well.

21 Q. All right. I apologize.

22 So would that new system, then, have been in
23 place in 1960?

24 A. Yes, it would have been.

25 Q. What was the designation "BMM" under the new

1 system?

2 A. "B" would be "phenolic"; "M," "molding"; M, in
3 the third letter, it's -- I think it refers to the
4 granulation. Again, I want to check the records to be
5 sure, but I think it means a more fine-free granulation.
6 Fine-free, or less dust. But I'd have to check back
7 into the records to be sure of that, if it's important.

8 Q. Okay. Was there a designation for an asbestos
9 molding compound?

10 A. You wouldn't be able to tell from the
11 designation whether it had asbestos in it or not.

12 Q. Okay. Would you be able to tell from the
13 designation if it was a mineral filler?

14 A. No.

15 Q. What would the designation of BMMA mean?

16 A. Well, the letters, as I defined them before,
17 phenolic molding and probably fine-free granular. "A"
18 would mean that it's a -- either -- a new product that
19 is still experimental. The system called for that
20 fourth letter to be dropped once that product became
21 commercial, but that wasn't always done. So you'll see
22 four letters on many of the products. And it could be
23 BMMB or BMMC. That just means it's a -- the C is a new
24 version of A and B.

25 Q. All right. What type of phenolic molding

1 compounds are you familiar with Square D purchasing from
2 Union Carbide?

3 A. Square D?

4 Q. Yes.

5 MR. WOODS: And let me object on the grounds
6 overbroad and vague as to time.

7 THE WITNESS: I'm most familiar with the
8 products they were buying in the latter part of the
9 sixties, from us at the Lexington location. Prior to
10 '66, I don't know what they bought specifically.
11 According to the '52 document, they were buying this
12 BM-13838. Whether they were buying any others, I don't
13 know.

14 BY MR. BOSL:

15 Q. Let me ask you, sir, how is it that you know
16 that BM-13838 was a wood fill -- or wood flour filler?

17 A. Because they called -- it's called
18 general-purpose phenolic. And in the fifties, when we
19 called a product "general-purpose," it contained only
20 wood flour. But I think that should be verified.
21 That's why we asked Sue to get us the formulation if she
22 can find it.

23 Q. What would the designation -- or what would the
24 description have been had the phenolic been
25 asbestos-containing, assuming that you're correct?

1 A. It would have been called heat-resistant.

2 Q. Sir, would you agree that high-voltage
3 applications require a high heat-resistant molding
4 compound?

5 MR. WOODS: Objection to form, vague,
6 overbroad, foundation, calls for speculation.

7 THE WITNESS: No, I wouldn't agree, because I
8 don't recall us testing a product specifically for its
9 resistance to high voltages. I've been -- the reason
10 I'm hesitating, I'm trying to remember forty years ago,
11 and it doesn't -- that doesn't always come back quickly.
12 But I don't recall any tests for where that particular
13 property was important.

14 BY MR. BOSL:

15 Q. Are you familiar with what properties would be
16 required for a high-voltage application?

17 MR. WOODS: Objection to form, vague,
18 overbroad.

19 THE WITNESS: Again, I don't --

20 MR. WOODS: Foundation.

21 THE WITNESS: I don't recall customers coming
22 in and asking us, "We want something for high voltages."
23 I recall them asking, "Do you have a product that meets
24 these requirements," and they would have a list of
25 requirements that were the standard electrical tests.

1 I'd have to -- I don't know how I could answer your
 2 question any other way.
 3 BY MR. BOSL:
 4 Q. Okay. All right. In the 1966 time period,
 5 what do you recall Square D buying from Union Carbide?
 6 A. In the sixties?
 7 Q. Yes.
 8 MR. WOODS: Objection. Overbroad, vague.
 9 THE WITNESS: Well, again, as I mentioned
 10 before, I don't know what they bought prior to 1966.
 11 After 1966, they were buying 5303. What was another
 12 product? 54 -- I don't remember. 54-something. And
 13 those were the big sellers. After '66, we do have
 14 records on what they bought.
 15 MR. WOODS: And Justin, just to be clear, we're
 16 offering Mr. Martino as a PMK witness for sales before
 17 '66, so representations he's made about after, he's not
 18 testifying about the company. I know we have a standing
 19 objection on that, but I just want to make it clear so
 20 that you understand that.
 21 BY MR. BOSL:
 22 Q. Sir, do you remember Square D also purchasing
 23 5314?
 24 A. That's the one. That's the one I was trying to
 25 remember. Yes. That's it.

1 Q. Okay.
 2 MR. WOODS: I'll object to that question. It's
 3 vague, again, as to time, and overbroad.
 4 MS. AHN: I'll join that.
 5 BY MR. BOSL:
 6 Q. Sir, do you have any reason to believe that
 7 Square D changed what it was purchasing between sometime
 8 prior to '66 and 1966?
 9 A. Changed its purchasing?
 10 Q. Correct.
 11 A. I don't know what you mean by "change." We --
 12 they became a more important customer to us because they
 13 were buying more and we had a better relationship with
 14 one of their locations. That was in Lexington,
 15 Kentucky. Other than that, I don't know of any other
 16 change.
 17 Q. I'm just wondering if you're aware whether or
 18 not they changed what products they were buying from
 19 Union Carbide prior to '66 and post-'66.
 20 MR. WOODS: Objection. Compound, vague,
 21 overbroad.
 22 THE WITNESS: That, I don't know.
 23 MS. AHN: Belatedly lacks foundation.
 24 BY MR. BOSL:
 25 Q. Is 5314 also an asbestos-containing product?

1 A. I believe it contains a small amount. I would
 2 have to check the formulation sheet to determine how
 3 much.
 4 Q. Do you know what -- at least a range of
 5 asbestos content?
 6 A. Again, no. I'll have to give you a guess. I
 7 think it was less than 10 percent. But again, I want to
 8 qualify that by saying I should check the formulation
 9 sheet to be sure.
 10 Q. And what was the approximate asbestos content
 11 of 5303?
 12 A. About 30 percent.
 13 Q. All right. And for 5303 and 5314, what are
 14 the -- what are the letters that would have preceded
 15 that designation?
 16 MR. WOODS: Objection to form.
 17 THE WITNESS: Well, both of them would have
 18 "BM" in the first two, indicating phenolic and molding.
 19 We had a BMG, we had a BMM and a BMR-5303, all which
 20 were differences in granulation. Which of those
 21 Square D bought, I don't recall. But the basic formula
 22 would be the same. I think the BMR had a little bit
 23 less asbestos in it than the BMM.
 24 BY MR. BOSL:
 25 Q. What does the "R" in "BMR" stand for?

1 A. "R" was a courser granulation that we developed
 2 for the injection molding process. That was a more
 3 automative way of molding a part. You just dumped it
 4 into a hopper, and the screw heated up the material and
 5 then injected it into the mold. It was a completely
 6 enclosed process, and they did not require a fine
 7 granulation with fines in it.
 8 Q. Sir, what is the earliest you recall
 9 Westinghouse purchasing asbestos-containing molding
 10 compound from Union Carbide?
 11 MR. WOODS: Objection. Assumes facts,
 12 overbroad, vague.
 13 THE WITNESS: Again, I'd have to tell you the
 14 same. I don't have records that go back beyond 1966.
 15 So if they did, I don't know what they bought and when
 16 they bought it and how much they bought.
 17 BY MR. BOSL:
 18 Q. All right. And sir, did you receive some
 19 documents this morning from counsel regarding
 20 Westinghouse?
 21 A. I have some documents here, yes.
 22 Q. Okay.
 23 MS. GILEFSKY: And again, just so the record is
 24 clear. This is Susan Gilefsky. These are, I think, the
 25 nine pages that we received this morning from Ms. Boggs

1 of Kazan's office. Again, I cannot attest to the
2 accuracy or the authentication of these documents. I
3 don't know where they were obtained from.

4 But it appears from -- I don't believe they
5 were obtained from any kind of Union Carbide repository.
6 So I don't know how much the witness will be able to
7 talk about these documents. But feel free.

8 MR. BOSL: I understand.

9 BY MR. BOSL:

10 Q. Sir, if you would turn with me to -- sorry --
11 the third page, I believe.

12 MR. WOODS: I don't know that we have it in the
13 same order as you, so you might want to be more
14 specific.

15 MR. BOSL: Fine.

16 BY MR. BOSL:

17 Q. It looks like a Westinghouse memo.

18 A. Here it is.

19 Q. 1960. And it goes to the East Pittsburg Works
20 2-F. Down at the bottom is a signature of a J. Toth.

21 MR. WOODS: We've got a couple of documents
22 that fit that description.

23 MS. GILEFSKY: Justin, your phone cut out, I
24 think, when you were saying the date. It's December 6,
25 1960, in the upper right-hand corner? Correct?

1 MR. BOSL: Correct.

2 MS. GILEFSKY: Does that help you, Craig?

3 MR. WOODS: Yeah. That helps. Thank you. We
4 have that one. Go ahead, Mr. Martino.

5 THE WITNESS: Yes.

6 BY MR. BOSL:

7 Q. Sir, in the middle of the page, Bakelite
8 BMG-500 in the 1960 period. What was the filler in
9 that?

10 MR. WOODS: In what period? 1960?

11 MR. BOSL: Yes.

12 MR. WOODS: If you know.

13 THE WITNESS: I think the -- I know the --
14 BMG-500, I don't know. We would have to check the
15 formulation on that. The BMM-0500 I think contained
16 asbestos. We'd have to check that also.

17 BY MR. BOSL:

18 Q. All right. Do you know what the percentage of
19 the BMM-0500 was, of asbestos?

20 A. No, I don't.

21 MR. BOSL: I would ask that to the extent that
22 the formulation is available, that it be produced.

23 MR. WOODS: Yeah. I mean, if you're going to
24 make requests, I suggest that you put the things in
25 writing, preferably formally in writing. I know we'd

1 invited you to come to our repository too. But if you
2 have a request, if you would put it in a letter or
3 something like that so it doesn't get lost in the
4 deposition.

5 MR. BOSL: Yeah. Certainly. I'll follow up
6 with a letter from whatever I request here today.

7 MR. WOODS: And we'll respond accordingly.

8 MS. GILEFSKY: And just so the record is clear,
9 Justin. Mr. Woods is correct; we did invite you all to
10 come to the repository. And so the record is also
11 clear, your office has come to the repository in the
12 past.

13 BY MR. BOSL:

14 Q. Sir, I'm flipping forward a little bit to
15 another memo, from an H.A. Pearce to the R&D Center,
16 dated March 4th, 1963.

17 A. Is that in the documents you sent?

18 Yes. Okay.

19 Q. Does BMG-5017 contain an asbestos-containing
20 molding compound?

21 A. BMG-5017?

22 Q. Yes.

23 A. No. That's a mica fill.

24 Q. Okay. And what's your foundation for that?

25 A. We asked for the formulation this morning and

1 it showed it had mica.

2 Q. Okay. Do you have that formulation there with
3 you?

4 A. Yes.

5 MR. BOSL: I'd like to attach -- let me do
6 this: I'm going to attach the -- these Westinghouse
7 documents collectively as the next in order. I think
8 that's No. 9.

9 (Plaintiffs' Exhibit No. 9 was marked for
10 Identification.)

11 MR. BOSL: I'll attach the formulation for 5017
12 as No. 10.

13 (Plaintiffs' Exhibit No. 10 was marked for
14 Identification.)

15 MR. BOSL: Sorry. Give me just a moment.

16 BY MR. BOSL:

17 Q. I can't recall now if I've mentioned this or
18 asked this. If I did, forgive me. Where have you
19 seen -- other than the one document we've attached here,
20 where have you seen references to sales to Square D
21 prior to '66?

22 A. I haven't seen any reference to sales. I --
23 I've seen references -- documents relating to inquiries
24 from Westinghouse.

25 MR. WOODS: Just so the record is clear, I

1 think the question was on Square D.
 2 MR. BOSL: That's right. I'm asking about
 3 Square D here.
 4 THE WITNESS: Square D. But again, I'd have to
 5 search the records, because I -- I have nothing in front
 6 of me. And a lot of this is just recollection.
 7 BY MR. BOSL:
 8 Q. What is your recollection, then, of --
 9 A. That they were a customer prior to '66. But
 10 what they bought and when they bought it and for what
 11 locations they bought it, I don't have any information.
 12 Q. Okay. Do you know who at Union Carbide called
 13 on Square D during that time period?
 14 A. Prior to '65, no.
 15 Q. Who called on Square D in '65 and '66?
 16 A. Well, the salesperson that we dealt with
 17 most -- and I don't recall exact years. In the latter
 18 sixties, it was Alex Martella.
 19 Q. And that was the Square D employee that you
 20 dealt with?
 21 A. No. No. That was our salesperson.
 22 Q. Okay.
 23 A. No. The person at Square D was Matt Mayo
 24 (phonetic). And that was the Lexington location.
 25 Q. And that you know started in '65, you said?

1 A. No. I don't recall the exact year, but it was
 2 the latter sixties that I recall our having a very good
 3 relationship with that location and with that
 4 individual. And that's probably when we sold the most
 5 material to them.
 6 Q. Do you know why your familiarity with Square D
 7 changes in the late sixties?
 8 MR. WOODS: Objection to form, assumes facts.
 9 THE WITNESS: We had a very good salesman
 10 assigned to them.
 11 BY MR. BOSL:
 12 Q. That's Mr. Martella?
 13 A. Yes. He was excellent.
 14 Q. Do you know if Mr. Martella is still alive?
 15 A. No, I don't.
 16 Q. What office was he working out of?
 17 A. I don't recall what our office structure was at
 18 that time.
 19 Q. Do you know where he lived?
 20 A. Not now, no.
 21 Q. Do you know where he lived in the 1960s?
 22 A. Oh, no.
 23 Q. Did you know him?
 24 A. Yes.
 25 Q. How did you know him?

1 A. Oh, by frequent conversations on the phone, and
 2 I visited the customer with him on a number of
 3 occasions.
 4 Q. And that was the Lexington facility?
 5 A. Yes.
 6 Q. Did you ever visit any other Square D
 7 facilities?
 8 A. No.
 9 Q. During the visits you made to Square D or in
 10 any conversations that Mr. Martella may have related to
 11 you, were you aware of what application Square D was
 12 buying its material for?
 13 MS. GILEFSKY: Just again I want to make sure
 14 it's clear. I think he was talking about Mr. Martella
 15 with respect to a later time period.
 16 MR. BOSL: Well, I think that's a little bit
 17 vague.
 18 MS. GILEFSKY: We again just assert the running
 19 objection to the fact that Mr. Martino is being produced
 20 today for the time period 1966 and prior.
 21 BY MR. BOSL:
 22 Q. Go ahead, sir.
 23 A. In the time I visited, it looked like in regard
 24 to electrical parts -- components of large electrical
 25 parts. But I never saw the completed component, nor did

1 I know where they were going.
 2 MR. BOSL: Sir, can we take a couple-minute
 3 break? I'll come right back in a minute.
 4 THE WITNESS: Okay.
 5 (The parties agreed to go off the record.)
 6 BY MR. BOSL:
 7 Q. Sir, we spoke before about Underwriters Labs.
 8 And am I correct it was your understanding that Union
 9 Carbide tested to make sure that its products were
 10 compliant with various categories of UL? Is that
 11 correct?
 12 MR. WOODS: Objection.
 13 MS. GILEFSKY: Outside the scope, lacks
 14 foundation, calls for speculation.
 15 THE WITNESS: I'm trying to think back on what
 16 UL did require. And in the early sixties, I don't
 17 recall what we did with them. They later came up with a
 18 program that involved extensive testing. Long-term
 19 aging and so forth. But that was in the latter part of
 20 the sixties. And I don't recall other activities prior
 21 to that.
 22 BY MR. BOSL:
 23 Q. Did UL test Union Carbide materials prior to
 24 '66, as far as you know?
 25 MR. WOODS: Objection. Beyond the scope, lacks

1 foundation, calls for speculation.

2 THE WITNESS: I don't recall of any -- any
3 instance where we dealt directly with them on that.
4 They primarily tested finished parts, not the molding
5 compounds, not until what I told you about where we got
6 involved in long-range aging tests with them.

7 BY MR. BOSL:

8 Q. When were those long-range aging tests
9 conducted?

10 A. The latter part of the sixties.

11 Q. Okay. Now, am I correct that both UL and the
12 ASTM would issue some sort of a certification or
13 approval, whatever the right word is, for a product,
14 such as a particular type of molding compound,
15 certifying or approving it for various categories?

16 MR. WOODS: Objection to form, foundation,
17 calls for speculation.

18 MS. GILEFSKY: It's also overly broad as to
19 time, scope, and outside the scope.

20 THE WITNESS: The only time I recall UL coming
21 out with a rating number that you had to qualify for was
22 in those studies that I told you about. They came up
23 with a UL rating number. And I don't recall exactly how
24 that was worded, but it was maximum temperature that the
25 material could be safely used without losing its

1 required of the filler went up with the increase of
2 voltage that that panel was going to be used for?

3 MR. WOODS: Objection to form, vague,
4 overbroad, foundation, calls for speculation.

5 MS. GILEFSKY: Incomplete hypothetical.

6 MR. WOODS: I was coming there.

7 MS. GILEFSKY: Sorry.

8 THE WITNESS: As I mentioned before, this is
9 the first time I've been asked the performance of a
10 product with regard to voltage, and this is not
11 something we ever focused on. So I can't answer that.

12 I don't know whether there is a relationship in
13 voltage versus asbestos content, with asbestos or any
14 other mineral filler. All I can say is that the primary
15 purpose of our increasing the asbestos content was to
16 get heat resistance, not voltage resistance.

17 BY MR. BOSL:

18 Q. What kind of applications required greater heat
19 resistance?

20 MR. WOODS: Objection. Vague, overbroad, calls
21 for speculation. Asked and answered, I think, too.

22 THE WITNESS: Exposure to temperatures of 350,
23 400 degrees Fahrenheit for long periods of time.

24 BY MR. BOSL:

25 Q. Did Union Carbide ever test or rate its molding

1 properties. And it's -- it appears in some of our
2 advertising -- in our molding manual in the seventies.

3 The ASTM didn't require that we get their
4 approval. They just gave the specifications that we had
5 to meet.

6 BY MR. BOSL:

7 Q. And so was it up to Union Carbide to make sure
8 that it met those, those requirements?

9 A. Yes.

10 MR. WOODS: Objection to form, vague,
11 overbroad.

12 THE WITNESS: Yeah. Yes. Some customers would
13 ask us to verify it.

14 BY MR. BOSL:

15 Q. How was that verified?

16 A. We would send them a copy of the test results.

17 Q. Do those test results still exist in the
18 repository, to your knowledge?

19 A. Each product has a data sheet that lists the
20 properties that we would certify to.

21 Q. And do those data sheets still exist?

22 A. Some -- some are available. What years, I
23 don't know.

24 Q. Sir, speaking about electrical panels prior to
25 1966, would you agree that the amount of heat resistance

1 compounds based on amperage?

2 A. Not that I'm aware of.

3 Q. Are you aware of a relationship between the
4 amperage that the molding compound would be subjected to
5 or exposed to and the heat-resistant quality of the
6 molding compound?

7 MR. WOODS: Objection to form, vague,
8 overbroad, calls for speculation, foundation, assumes
9 facts.

10 THE WITNESS: No, I do not.

11 BY MR. BOSL:

12 Q. Did I get your testimony right? Earlier you
13 said that mica was the preferred filler for electrical
14 usages prior to '66?

15 A. Well, not only prior to '66. After '66 also.

16 Q. In your experience, are you aware that mica was
17 ever used as a filler for molding compounds in
18 electrical panels?

19 MR. WOODS: Objection to form, vague,
20 overbroad.

21 THE WITNESS: I don't know, because I don't
22 know what components the manufacturers of those panels
23 were putting in there and what the requirements were for
24 those components. That could be mica fill, polyester,
25 silicone, melamine, dialkyl phthalate, epoxy, many

1 different molding compounds that can be colored brown or
2 black, and they all look like what people call a typical
3 Bakelite.

4 BY MR. BOSL:

5 Q. And it included asbestos as well?

6 A. Yes. And you look at them, you can't tell.
7 The only way you can tell is to know what the
8 designations are and go back through the manufacturer
9 and find out what they made it from.

10 Q. Is it true that an asbestos-filled --
11 asbestos-containing molding compound would have had a
12 very smooth finish?

13 MR. WOODS: Objection to form, vague,
14 overbroad, calls for speculation, incomplete
15 hypothetical.

16 THE WITNESS: Sorry. Yes. But that's
17 primarily -- a mineral filler does give you a smoother
18 surface. It doesn't have to be asbestos. But the
19 polish on the mold also has an effect.

20 BY MR. BOSL:

21 Q. What other minerals were used prior to 1966 as
22 fillers for electrical application molding compounds?

23 MR. WOODS: Objection to the form, overbroad,
24 vague.

25 THE WITNESS: Clay.

1 MR. WOODS: Lacks foundation, calls for
2 speculation. Sorry.

3 THE WITNESS: Clay, calcium carbonate, coal.
4 Mica, of course. Now, those are the mineral fillers.

5 BY MR. BOSL:

6 Q. Am I correct that mica is a metallic filler, a
7 metallic mineral?

8 MR. WOODS: Objection to the form. Vague.

9 THE WITNESS: I don't know what its composition
10 is.

11 BY MR. BOSL:

12 Q. Okay.

13 A. I don't think it's a metal, no. If it was a
14 metal, it would be conductive.

15 Q. Is mica conductive?

16 A. No.

17 Q. What is its conductivity compared to asbestos?

18 A. I don't know. I'd have to compare side by side
19 the two of them.

20 Q. In terms of the characteristics as a filler of
21 molding compounds prior to '66, what differences are
22 there between mica and asbestos?

23 MR. WOODS: Objection to form, vague,
24 overbroad.

25 THE WITNESS: Well, I'd have to look at the

1 mica data -- the mica fill material data sheets and
2 compare them with the asbestos fill to see the
3 differences in electrical properties. But low loss
4 characteristics is one that I recall as being an
5 advantage for the mica.

6 They both have good arc resistance relative to
7 a phenolic, relative to other binders, like melamine,
8 that were not as good. The same filler melamine would
9 be far superior.

10 Asbestos is more fibrous, so the impact
11 strength would be a little higher with asbestos than it
12 would be for mica. They both would give better
13 dimensional stability, lower moisture absorption.

14 That's about all I can recall.

15 BY MR. BOSL:

16 Q. In terms of the finish in general, would
17 asbestos be smoother than mica?

18 MR. WOODS: Objection to form, vague,
19 overbroad.

20 THE WITNESS: I recall them both being the
21 same.

22 BY MR. BOSL:

23 Q. With regards to a wood flour filler, would
24 asbestos have had a smoother finish?

25 MR. WOODS: Objection. Vague, overbroad.

1 THE WITNESS: Does asbestos what?

2 BY MR. BOSL:

3 Q. Have a smoother finish.

4 MR. WOODS: Same objections. Calls for
5 speculation.

6 THE WITNESS: It is difficult to tell the
7 degree of improvement unless you were -- you were
8 magnifying some of the surface. Just looking at them,
9 you would not be -- opening the cabinet and looking at
10 them, you wouldn't be able to tell. You would have to
11 do a very close examination and know which -- what
12 you're looking for.

13 BY MR. BOSL:

14 Q. Would a wood flour phenolic compound have had a
15 uniform color?

16 A. Oh, yes.

17 Q. As uniform as an asbestos-filled compound?

18 MR. WOODS: Objection to form, vague,
19 overbroad.

20 THE WITNESS: You wouldn't be able to tell the
21 difference in color, between the two.

22 BY MR. BOSL:

23 Q. What are the other differences between
24 cellulose as a filler, or wood flour, compared to
25 asbestos in the pre-'66 time period?

1 MR. WOODS: Objection to form, vague,
2 overbroad.

3 THE WITNESS: Well, the cellulose would absorb
4 more moisture, so you'd have a higher water absorption
5 figure on the data sheet. The -- and as a result, the
6 expansion and contraction in moist environments would be
7 higher for cellulose fill and an asbestos fill. The arc
8 resistance would be better for the asbestos or mica fill
9 relative to the wood flour fill.

10 On the other hand, you get good -- better
11 strength with the -- better impact strength with the
12 wood flour fill. Slightly better. They were all
13 brittle, to some extent. I'm talking about small
14 differences. Those are the primary differences. Wood
15 flour was the most available and the least expensive.

16 BY MR. BOSL:

17 Q. Would asbestos have had a higher specific
18 gravity than cellulose?

19 A. Yes.

20 Q. And would asbestos have a higher specific
21 gravity than mica?

22 A. As I recall, they were about the same. I don't
23 recall making a direct comparison with the exact amount
24 of each. But they were pretty close.

25 MR. WOODS: And Justin, are you talking about

1 called on Westinghouse?

2 A. No, I don't.

3 Q. Or which facility of Westinghouse purchased
4 from -- from Union Carbide?

5 A. No.

6 MR. WOODS: Also, objection. Assumes facts.
7 BY MR. BOSL:

8 Q. Are you aware if there was any -- if there were
9 any molding compounds in the 1960s approved for circuit
10 boards or panel boards in California for public
11 utilities?

12 MS. GILEFSKY: Outside the scope of
13 designation, overly broad, vague and ambiguous.

14 THE WITNESS: No. I wouldn't know that. The
15 customers that made the panels would know.

16 MR. WOODS: Can I have a clarification, Justin?
17 When you say "panels," are you talking like a board? I
18 think you mentioned circuit board. Or are you talking
19 about the components that go into electrical panels? I
20 just want to clarify for the witness to make sure he's
21 answering it.

22 MR. BOSL: Well, to the extent that phenolic
23 molding compounds are used in either of those, then I'm
24 referring to both.

25 THE WITNESS: Well, my answer was based on

1 the molding compounds having a different specific
2 gravity, or are you talking about the substance asbestos
3 versus the substance mica?

4 MR. BOSL: I'm talking about the substance
5 within the molding compound.

6 MR. WOODS: The specific gravity of the
7 compound itself?

8 MR. BOSL: Yeah.

9 MR. WOODS: I'm going to object because it's an
10 incomplete hypothetical.

11 THE WITNESS: I'd say they are close. But if
12 you needed to be more exact than that, then we'd have to
13 run a comparison between the two or look at data sheets
14 that are very close. It's certainly not the difference
15 between what you'd get between mineral fill versus
16 cellulose fill.

17 BY MR. BOSL:

18 Q. Sir, are you familiar with who at Union Carbide
19 called on Westinghouse prior to 1966?

20 A. No, I don't.

21 Q. Are you familiar with what locations of
22 Westinghouse were purchasing from Union Carbide prior to
23 '66?

24 A. No, I don't.

25 Q. At any time during the 1960s, do you know who

1 components inside the electrical panel. And by "panel,"
2 I mean a box as described by your plaintiff. He
3 described a box six feet to eight feet high, two feet
4 deep, six feet wide. What components went in there and
5 what they were made from and whose product was used to
6 make them, I have no idea. And I don't know how you
7 would find out.

8 BY MR. BOSL:

9 Q. Would your answer to my previous question
10 change -- in other words -- well, let me just reask it,
11 then, with it changed.

12 In the 1960s, are you aware whether or not in
13 California there were any phenolic molding compounds
14 approved for use in switchgears?

15 MR. WOODS: Object to the form, vague,
16 overbroad, and lack of foundation, calls for
17 speculation.

18 THE WITNESS: I can't answer that. A
19 switchgear, I would have to know what the switchgear
20 requirements would be. And it might not even be a
21 phenolic that would meet those requirements. So I have
22 no idea what would be approved for those applications.

23 BY MR. BOSL:

24 Q. Are you aware whether the public utilities
25 commission had requirements for switchgears in the 1960s

1 in California?

2 MS. GILEFSKY: Same objections.

3 THE WITNESS: I don't know how they would
4 specify their requirement, whether they would specify
5 the whole electrical box and then leave it up to the
6 manufacturer to decide what goes in it. I'm not aware
7 of utilities specifying what exactly the design of the
8 inside of the box should be.

9 BY MR. BOSL:

10 Q. With regards to switchgears in the 1960s, do
11 you know if the public utilities commission made any
12 kind of specifications of any sort?

13 MR. WOODS: Same objections.

14 THE WITNESS: No. I wouldn't be familiar with
15 any of their requirements.

16 MR. BOSL: All right. I think we've gone
17 another hour. Why don't we take another five-minute
18 break. We may be done or close to done.

19 MR. WOODS: Okay. Great.

20 MR. BOSL: Thank you.

21 (The parties agreed to go off the record.)

22 MR. BOSL: All right. I think with that, I
23 have no further questions at this time, subject to my
24 request for various documents, which we can discuss
25 after the deposition.

1 the code to retain custody of the deposition. And off
2 the record we talked about a schedule and the logistics
3 in terms of getting Ms. Smith all of the exhibits. So
4 stipulated.

5 MR. BOSL: Off the record.

6 (Whereupon, the deposition was concluded
7 at 1:15 p.m.)
8
9

1 MR. WOODS: Sure.

2 MR. BOSL: Off the record.

3 MR. WOODS: Yeah. We don't have any questions
4 either, but we do want the witness to read and sign the
5 deposition.

6 MR. BOSL: Does counsel for Square D have any
7 questions, or Rogers?

8 MS. AHN: No, I do not.

9 MR. THUESEN: I do not.

10 MS. GILEFSKY: And Justin, just to respond very
11 briefly to your request for those additional documents.

12 We will be happy to meet and confer with you. But just
13 to reiterate what was said previously, the invitations
14 were extended with respect to the repository, and
15 Kazan's office has visited the repository in the past.

16 But again, we'd be happy to meet and confer with you.

17 MR. BOSL: We can discuss it after the fact.

18 MS. GILEFSKY: Shall we go off the record to
19 discuss logistics?

20 MR. BOSL: That sounds good.

21 (The parties agreed to go off the record.)

22 MS. GILEFSKY: Back on the record.

23 I just want to indicate that Mr. Martino would
24 like to review and sign his deposition transcript. We
25 will relieve the court reporter of her obligations under

1 SIGNATURE OF DEPONENT

2
3 I, the undersigned, CARLO MARTINO, do hereby
4 certify that I have read the foregoing deposition and
5 find it to be a true and accurate transcription of my
6 testimony, with the following corrections, if any:
7

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24 CARLO MARTINO, Date
25

1 STATE OF CALIFORNIA)
2)
3 COUNTY OF NEVADA)
4

5 I, NICOLETTE SMITH, do hereby certify:
6 That CARLO MARTINO, in the foregoing deposition
7 named, was sworn by me as a witness in the
8 above-entitled action at the time and place therein
9 specified;

10 That said deposition was taken before me at
11 said time and place, and was taken down in shorthand by
12 me, a Certified Shorthand Reporter of the State of
13 California, and was thereafter transcribed into
14 typewriting, and that the foregoing transcript
15 constitutes a full, true and correct report of said
16 deposition and of the proceedings that took place;
17 IN WITNESS WHEREOF, I have hereunder subscribed
18 my hand this 2nd day of February 2009.
19
20

21 NICOLETTE SMITH, CSR No. 11275
22 State of California
23
24
25