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Carpenter v. 3M [Ex. L]

EXHIBIT L

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RONALD LEROY CARPENTER AND	)	J.C.C.P. NO. 4674
PATRICIA ANN CARPENTER,	)	
	)	Los Angeles County
Plaintiffs,	)	Superior Court No.
	)	20STCV46727
VS.	)	
	)	
3M COMPANY a/k/a MINNESOTA	)	
MINING & MANUFACTURING	)	
COMPANY, et al.,	)	
	)	
Defendants.	)	

**CERTIFIED
ORIGINAL**

ORAL AND VIDEOTAPED DEPOSITION OF
PACCAR'S PERSON MOST QUALIFIED, RODNEY CURBO
SEPTEMBER 26, 2023
VOLUME 2 OF 2

ORAL AND VIDEOTAPED DEPOSITION OF PACCAR'S PERSON
MOST QUALIFIED, RODNEY CURBO, produced as a witness at
the instance of the PLAINTIFFS, and duly sworn, was
taken in the above-styled and numbered cause on
SEPTEMBER 26, 2023, from 10:33 a.m. to 7:08 p.m. CST,
before Kimberly Byrns Buchanan, CSR, RPR in and for the
State of Texas, reported by machine shorthand, at the
offices of Gordon Rees Scully Mansukhani, LLP, 2200 Ross
Avenue, Suite 3700, Dallas, Texas 75201, pursuant to the
Texas Rules of Civil Procedure and the provisions stated
on the record or attached hereto.

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INDEX

PAGE

Appearances..... 2

RODNEY CURBO

EXAMINATION BY MR. JONES..... 196
EXAMINATION BY MR. FLYNN..... 328
EXAMINATION BY MR. BARONIAN..... 348
EXAMINATION BY MR. IRVIN..... 357
FURTHER EXAMINATION BY MR. JONES..... 418
FURTHER EXAMINATION BY MR. FLYNN..... 455

Changes and Signature..... 458
Reporter's Certificate..... 460

E X H I B I T S

NO.	DESCRIPTION	PAGE
EXHIBIT 24	PACCAR INC'S SECOND SUPPLEMENTAL RESPONSES TO PLAINTIFFS' REQUESTS FOR PRODUCTION OF DOCUMENTS	199
EXHIBIT 25	ADVANCE FIELD MAINTENANCE MANUAL - ROCKWELL CAM-MASTER "Q" SERIES BRAKE (PACCAR000141 TO 148; AND 2153 TO 2191)	204
EXHIBIT 26	BOUND MANUAL - KENWORTH MAINTENANCE MANUAL - CHASSIS 236740 COMPILED ESPECIALLY FOR RICHARD PETTY (NO BATES NUMBERS)	219
EXHIBIT 27	KENWORTH TRUCK COMPANY FINAL CHASSIS BILL OF MATERIAL (NO BATES NUMBERS)	221

E X H I B I T S
(Continued)

NO.	DESCRIPTION	PAGE
EXHIBIT 28	DEFENDANTS', KENWORTH TRUCK COMPANY AND PACCAR, INC., INDIVIDUALLY AND THROUGH ITS DIVISION, PETERBILT MOTORS CO., ANSWER TO PLAINTIFF'S FIRST SET OF INTERROGATORIES (VEHICLE AND ENGINE DEFENDANTS)	226
EXHIBIT 29	DEFENDANT PACCAR INC'S RESPONSES TO PLAINTIFFS' STANDARD INTERROGATORIES TO ALL DEFENDANTS	231
EXHIBIT 30	DEFENDANT PACCAR INC'S ANSWERS AND RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS	233
EXHIBIT 31	SMALL BOUND MANUAL (ORIGINAL) - 1985 KENWORTH OPERATION AND SERVICE MANUAL (NO BATES NUMBERS)	239
EXHIBIT 32	DOCUMENTS SUBMITTED IN RESPONSE TO REQUEST FOR PRODUCTION NO. 26 (PACCAR000560, 940, AND 1028 TO 1036, 1236, AND 1301)	264
EXHIBIT 33	HANDWRITTEN NOTES - "THINGS TO BE DONE BEFORE NON-ASBESTOS CAN BE RELEASED" (PACCAR000363 TO 364)	271
EXHIBIT 34	MEMO DATED SEPTEMBER 1, 1983, FROM R. MELDER, SUBJECT: PRELIMINARY SUMMARY OF BRAKE TEST PROCEDURE MEETING	273
EXHIBIT 35	INTER-OFFICE COMMUNICATION DATED JULY 25, 1983, FROM DAVE DEACON, REFERENCE PROJECT 81021 - TEST NON-ASBESTOS BRAKE LININGS - COMPLETION NOTICE	276

E X H I B I T S
(Continued)

NO.	DESCRIPTION	PAGE
EXHIBIT 36	HANDWRITTEN NOTES DATED 12/8/82 TO RICH, FROM DAVE DEACON, REF: NON-ASBESTOS LININGS (PACCAR000367 TO 373)	280
EXHIBIT 37	LETTER DATED JANUARY 15, 1981, FROM RAYBESTOS-MANHATTAN INC., WITH ATTACHED REQUESTED ABEX DATA PRESENTATION (LETTER STAMPED PACCAR000332)	285
EXHIBIT 38	INTER-OFFICE COMMUNICATION DATED NOVEMBER 24, 1982, TO DAVE DEACON, REFERENCE: STATUS OF NON-ASBESTOS LINING PROJECT 81021 (STARTING WITH BATES PACCAR00036, NONSEQUENTIAL)	285
EXHIBIT 39	LETTER DATED OCTOBER 7, 1982, FROM KRISTEN DEAN, SUBJECT: KENWORTH DIRECT SHIP PURCHASE ORDER CONTRACT, WITH ATTACHED RELATED DOCUMENTS (ABX_KENWORTH - 05838 TO 05871)	285
EXHIBIT 40	LETTER DATED NOVEMBER 15, 1983, FROM KRISTEN DEAN, SUBJECT: KENWORTH DIRECT SHIP PURCHASE ORDER CONTRACT, WITH RELATED DOCUMENTS (ABX_KENWORTH - 05802 TO 05810)	285
EXHIBIT 41	INTER-OFFICE COMMUNICATION DATED DECEMBER 30, 1988, FROM GEOFFREY WHEELER, RE: INTRODUCTION OF NON-ASBESTOS BRAKE LININGS (PACCAR001640)	287
EXHIBIT 42	PETERBILT FACSIMILE TRANSMISSION DATED 2/28/89, FROM STEVE VANDERLIP (PACCAR001659)	289
EXHIBIT 43	PETERBILT PROJECT INITIATION FORM DATED 7-22-83, SUBMITTED BY GARY N. BEAUMONT (PACCAR000380)	295

E X H I B I T S
(Continued)

NO.	DESCRIPTION	PAGE
EXHIBIT 44	PAPER - "ASBESTOS EXPOSURE DURING BRAKE LINING MAINTENANCE AND REPAIR," BY ARTHUR N. ROHL, ET AL., PUBLISHED IN ENVIRONMENTAL RESEARCH 12, 110-128 (1976) (NO BATES)	298
EXHIBIT 45	SPREADSHEET PRODUCED BY RODNEY CURBO - CHASSIS INFORMATION (OVERSIZED DOCUMENT)	304
EXHIBIT 46	FINAL CHASSIS BILL OF MATERIAL DATED 05/11/79 (PACCAR003881(A) AND (B))	319
EXHIBIT 47	COLOR PHOTOCOPY - 1974 KENWORTH K-123 CABOVER	329
EXHIBIT 48	COLOR PHOTOGRAPH - KENWORTH 1978 K-100	329
EXHIBIT 49	ABEX ASBESTOS-FREE LETTER TO KENWORTH-PACCAR, DATED SEPTEMBER 3, 1986 (PACCAR000422)	334
EXHIBIT 50	LETTER DATED FEBRUARY 5, 1985, REGARDING IH SAMPLING DATA FROM AXLE DEPARTMENT (PACCAR000173 TO 174)	344
EXHIBIT 51	INTEROFFICE COMMUNICATION DATED JUNE 25, 1984, SUBJECT: ASBESTOS IN TRUCK MANUFACTURING (PACCAR000171 TO 172)	344
EXHIBIT 52	LETTER DATED MARCH 2, 1987, FROM ROBERT L. SCHUMACHER, CIH (PACCAR000240)	344
EXHIBIT 53	AMERICAN SOCIETY OF SAFETY ENGINEERS OFFICIAL PUBLICATION - PORTLAND CHAPTER, DATED MAY, 1978, NO. 9	361

E X H I B I T S
(Continued)

NO.	DESCRIPTION	PAGE
EXHIBIT 54	LETTER DATED SEPTEMBER 27, 1976, FROM ROBERT L. SCHUMACHER TO DAVID BISSONNETTE (PACCAR000069 TO 72)	364
EXHIBIT 55	PAPER - SOCIETY OF AUTOMOTIVE ENGINEERS, INC. - "ASBESTOS EMISSIONS FROM BRAKE DYNAMOMETER TESTS," BY A.E. ANDERSON, ET AL., PRESENTED MAY 14--18, 1973 (PACCAR002528 TO 2538)	386
EXHIBIT 56	INTEROFFICE COMMUNICATION DATED JANUARY 29, 1976, FROM D. A. BISSONNETTE, REFERENCE: JOSEPH V. (REDACTED) CLAIM (PACCAR000065)	431
EXHIBIT 57	SAMPLE DATA SHEET - PARTICULATE, FUMES, AND MISTS, DATED 8/23/76 (PACCAR000068)	441
EXHIBIT 58	ABEX CORPORATION MATERIAL SAFETY DATA SHEET, REVISED 1/14/87 (PACCAR000268 TO 270)	446
EXHIBIT 59	MEMO DATED JULY 7, 1982, FROM W. W. MATTHES, SUBJECT: NON-ASBESTOS LINING FIELD TEST UPDATE (PACCAR000357 TO 360)	447

P R O C E E D I N G S

THE VIDEOGRAPHER: We are on the record.

The date is September 26, 2023. The time
on the monitor is 10:33 a.m.

This is Volume 2 of the video-recorded
deposition of PACCAR PMQ, Rodney Curbo. And this is
being taken in the matter of Ronald Leroy Carpenter and
Patricia Ann Carpenter versus 3M Company, et al. The
case number is 20STCV46727. This matter is being heard
in the Superior Court of the State of California for the
County of Los Angeles.

This deposition is being held at Gordon
and Rees in Dallas, Texas, and being taken by counsel
for Plaintiffs.

My name is Brent Goucher, a legal
videographer, representing GPS located in Dallas, Texas.
The Court Reporter is Kim Buchanan representing GPS
located in Dallas, Texas.

Appearances and applicable stipulations
will be reflected on the stenographic record.

And the deponent has been sworn in on a
prior deposition.

Counsel, you may proceed.

RODNEY CURBO,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. JONES:

Q. Good morning, Mr. Curbo. You ready to continue?

A. I am.

Q. Okay. When we left off, we were discussing some information in PACCAR's files about asbestos hazards. Do you recall that?

A. I believe so.

Q. What did PACCAR do to inform its customers that there were asbestos components in the trucks it sold?

A. I'd say the main thing that we did is we passed along information from our component suppliers. For instance, we know that -- we found a Rockwell maintenance manual, which we passed along, that had a -- an asbestos-related warning in it.

Q. And then did any other component part suppliers supply warning information to PACCAR, Kenworth, or Peterbilt?

A. I believe one of the other documents that we've produced along with that Rockwell manual was an Eaton manual. I think it was dated in 19 -- it's like the early 1980s.

Q. PACCAR never included its own -- well, actually, that's -- what components in a PACCAR truck

1 contained asbestos, historically speaking?

2 MR. IRVIN: Vague as to time. Overbroad
3 as to time.

4 Q. (BY MR. JONES) At any time.

5 A. Based off what we know today, at certain times,
6 we believe brakes included -- well, brakes included
7 asbestos, clutches included asbestos, and gaskets,
8 certain gaskets. Mainly -- I believe the only ones that
9 we're aware of are engine-related gaskets.

10 Q. (BY MR. JONES) So the warning information
11 received by PACCAR -- which is Kenworth and Peterbilt.
12 Right?

13 A. Yes.

14 Q. The warning information received by PACCAR was
15 from Rockwell and Eaton, true?

16 A. I believe that's true.

17 Q. Rockwell and Eaton supplied axles, brakes, and
18 brake assemblies to both Kenworth and Peterbilt, true?

19 A. Yes.

20 Q. And the brakes that were included in the brake
21 assemblies had the asbestos lining on them, true?

22 MR. IRVIN: Vague as to time.

23 But go ahead.

24 A. At various points in time, the brakes did
25 include asbestos, yes.

1 Q. (BY MR. JONES) Okay.

2 MR. BARONIAN: And, excuse me, Trey.

3 MR. JONES: Yeah.

4 MR. BARONIAN: Bob Baronian.

5 We have the same stipulation from Session
6 1, that AN objection by one is good for all?

7 MR. JONES: Yes, sir.

8 MR. BARONIAN: Thank you.

9 Q. (BY MR. JONES) So, of those components, brakes
10 clutches and gaskets, the only warning information
11 provided to Kenworth and Peterbilt was for the brakes?

12 A. To the best of my recollection, the only
13 documents that we found that included asbestos-related
14 warnings was related to the brakes.

15 Q. Are you aware of any evidence that PACCAR,
16 Kenworth, and Peterbilt, ever informed its customers
17 that clutches included asbestos?

18 A. I don't believe we found anything that
19 indicates that we would -- that the information that we
20 passed along included any warnings.

21 Q. Is there any evidence that Kenworth or
22 Peterbilt ever informed customers that gaskets included
23 asbestos?

24 A. No evidence that I've seen. To the best of my
25 recollection anyway.

1 Q. Well, and that's something that was explored in
2 this case, true?

3 MR. IRVIN: Vague, ambiguous.

4 A. I'm not sure I understand your question
5 exactly.

6 Q. (BY MR. JONES) Sure.

7 One of the things PACCAR was asked in this
8 case was to produce documents indicating that suppliers
9 of asbestos components provided warning to PACCAR, true?

10 A. I believe that that was one of the requests
11 over time related to this case.

12 Q. I'll show you what I'll mark as Exhibit 107.

13 MR. JONES: That's not fair. That was
14 mean.

15 Q. (BY MR. JONES) Let me show you what I'll mark
16 as Exhibit 24.

17 (Exhibit 24 marked.)

18 Q. (BY MR. JONES) It's the second supplemental
19 responses to your request for production in this matter.

20 MR. BARONIAN: I'm sorry, Trey. Is that
21 Abex's second set of supplemental responses?

22 MR. JONES: PACCAR's.

23 MR. BARONIAN: Oh, PAC -- PACCAR's.
24 That's what I meant. Okay. Thank you.

25 Q. (BY MR. JONES) Exhibit 24 is PACCAR Inc's

1 Second Supplemental Responses to Plaintiffs' Request for
2 Production of Documents in the Carpenter case, true?

3 A. Yes.

4 Q. Can you -- and these discovery responses are
5 verified by you, true?

6 A. Yes.

7 Q. Can you please go to Request for Production
8 Number 11 on page 11?

9 MR. IRVIN: And, Trey, these aren't the
10 amended, the most recent ones?

11 MR. JONES: I think they are the most
12 recent.

13 MR. IRVIN: I don't think they are.
14 But -- because we amended -- because we did a whole
15 amendment based on your --

16 MR. JONES: I think that's correct.

17 MR. IRVIN: -- various meet and confers.
18 And so we went through -- I think these are a few
19 iterations prior. So...

20 MR. JONES: I'm only aware of a second.
21 But if you've got a different one...

22 MR. IRVIN: Yeah. Why don't I have that
23 printed out for you.

24 MR. JONES: There's a third?

25 MR. IRVIN: No. I think it's the amended.

1 So it wasn't like supplementing 1, 2, 3 here. It was
2 amended to -- yeah. This isn't the most recent version.
3 So...

4 MR. JONES: You want to go off the record?

5 MR. IRVIN: Yeah. Let me see if I can get
6 it printed for you.

7 MR. JONES: Let's go off the record.

8 THE VIDEOGRAPHER: Yes, sir.

9 One moment.

10 The time is 10:42 a.m. We are now off the
11 record.

12 (Break was from 10:42 a.m. to 10:44 a.m.)

13 THE VIDEOGRAPHER: We are back on the
14 record. The time is 10:45 a.m.

15 Counsel, you may proceed.

16 Q. (BY MR. JONES) Mr. Curbo, these requests for
17 production, three of them at least, ask about warning
18 information provided by suppliers of asbestos components
19 to PACCAR, true?

20 A. I believe they ask for all communications about
21 asbestos --

22 Q. Right.

23 A. -- with our various suppliers.

24 Q. True.

25 And then, at page 11, the request seeks

1 communications about asbestos with axle suppliers from
2 1972 to 1999, true?

3 A. Yes.

4 Q. And then, on page 13, PACCAR lists some
5 particular documents, which includes the Rockwell and
6 Eaton manuals that you described before, true?

7 A. I believe so.

8 Q. Okay. And then the other communications with
9 Rockwell and Eaton about asbestos would have been mostly
10 related to that transition from asbestos to nonasbestos
11 brakes, true?

12 A. Yes, sir.

13 Q. Okay. PACCAR was also asked about
14 communications about asbestos from transmission
15 suppliers, and PACCAR didn't have any communications?

16 A. That's correct.

17 Q. And same with engines. No -- PACCAR didn't
18 have any documents related to communications with engine
19 manufacturers about asbestos. True?

20 A. That's correct.

21 Q. PACCAR never included its own asbestos warning
22 on a truck, true?

23 A. We did not.

24 Q. PACCAR never wrote out its own asbestos warning
25 that it put in a manual, true?

1 A. We did not.

2 Q. The only way a customer would get a warning
3 from PACCAR would be if a supplier included that warning
4 in something that went into PACCAR's maintenance manual,
5 true?

6 MR. IRVIN: Vague, over -- vague as to
7 time, overbroad.

8 A. Yeah. I guess what I would say, in fairness of
9 completion, we passed along information that was
10 provided to us by our suppliers, things like maintenance
11 manuals. So if a truck was manufactured or assembled
12 with a Rockwell axle, it got Rockwell maintenance
13 information. If it was produced with a Eaton axle or
14 Eaton brakes, it received Eaton maintenance manual
15 information.

16 And that information was put in the trucks
17 as they were being assembled. And...

18 Q. (BY MR. JONES) And if the supplier didn't
19 provide that warning, then PACCAR didn't provide that
20 warning?

21 A. That's correct.

22 Q. Okay. Can you please go to Request for
23 Production Number 44 in that document? It's at page 79.

24 Interrogatory No. 44 asks for the -- all
25 warnings you provided concerning asbestos hazards

1 associated with your trucks, true?

2 A. Yes.

3 Q. And then, in response to that request,
4 beginning on page 81 and going to page 82, PACCAR lists
5 some -- lists the documents it has related to all
6 warnings PACCAR provided concerning asbestos hazards
7 associated with its trucks, true?

8 A. It lists the documents that we have, yes.

9 Q. Okay. I'm going to mark as Exhibit 25 the
10 documents that are listed in that response.

11 (Exhibit 25 marked.)

12 MR. IRVIN: Well, let me see that.

13 Q. (BY MR. JONES) And, if you can, just confirm
14 for me that those are all the documents listed in the
15 response.

16 MR. FLYNN: Trey, can you tell us the
17 response number again, please?

18 MR. JONES: 44 in the second supplemental
19 set.

20 MR. IRVIN: Are those all jammed together?
21 Is that not just the Rockwell?

22 MR. JONES: Correct. That's -- I think
23 it's two series. The first one, I think, is the
24 Rockwell. The second one is the Rockwell again. I
25 think it's the same one. And then the Eaton one.

1 But I think there's only two --

2 MR. FLYNN: And, Trey, just to --

3 MR. JONES: -- series.

4 MR. FLYNN: Sorry. Trey, just so I can
5 hear, you said 34, Number 34?

6 MR. JONES: 44.

7 MR. FLYNN: 44. Okay. Thank you.

8 Q. (BY MR. JONES) So this should be PACCAR 141 to
9 148 and PACCAR 2153 through 2191.

10 A. It appears to be.

11 Q. Okay. So Exhibit 24 is all of the warning
12 information PACCAR has located in its records for
13 asbestos warnings supplied to customers concerning
14 asbestos and PACCAR trucks, true?

15 A. So --

16 MR. IRVIN: Counsel, can you re-ask that
17 question with saying Exhibit 25?

18 MR. JONES: Oh.

19 She got me. All right. All right.

20 Q. (BY MR. JONES) Sir, Exhibit --

21 MR. JONES: That's all right.

22 MR. IRVIN: It takes a village.

23 MR. JONES: That's for sure.

24 Q. (BY MR. JONES) Exhibit 25 includes all of the
25 documents in PACCAR's possession related to warnings

1 provided to Kenworth and Peterbilt customers concerning
2 asbestos in Kenworth and Peterbilt trucks, true?

3 A. To the best of my knowledge, I think, during
4 this -- the time frame specified in these requests.

5 Q. Well, it's from nine -- the request is 1972 to
6 1999, true?

7 A. That's -- yes.

8 Q. Okay.

9 A. That's what I recall.

10 Q. Are you aware if that request was for every
11 warning ever, no matter the time? Would there be any
12 other documents?

13 A. Not that I'm aware of. But we specifically
14 looked for the time frame associated with this case.

15 Q. Fair enough.

16 The first two -- there's three documents
17 in this set, Exhibit 25. True?

18 A. Actually, I believe there's five.

19 Q. Oh, are there?

20 A. Yes.

21 So there is two copies of the Rockwell
22 maintenance manual. There's a copy of an Eaton
23 maintenance manual. There is a maintenance guide from
24 Eaton, which is very difficult to read.

25 Q. What page does that show up on?

1 A. 2189, right at the end. It's the last the
2 last -- the last three pages are two different
3 documents.

4 Q. Got it. Okay.

5 A. Maybe. It may be the same document. It's a
6 little difficult to tell.

7 But there's a maintenance guide for Eaton
8 that I think is a separate document. It starts on 2190.
9 2189 may be part of that. I'm not a hundred-percent
10 sure.

11 Q. Okay. I'm going to include all the Eaton stuff
12 in one thing --

13 A. Okay.

14 Q. -- even though it may be one to three things?

15 A. Okay.

16 Q. Is that okay?

17 I can't find a date on those last two
18 things.

19 A. Okay.

20 Q. That's basically why I'm doing it.

21 So the first two documents are Rockwell
22 Advanced Field Maintenance Manuals?

23 A. Yes.

24 Q. Dated 1978?

25 A. Yes.

1 Q. Okay. Do you have any evidence that Eaton ever
2 received these manuals before 1978?

3 A. Sorry. Can you repeat that question?

4 Q. Do you have a Rockwell Advanced Field
5 Maintenance Manual with an asbestos warning dated before
6 1978?

7 A. We do not have a copy.

8 My understanding is that Rockwell began
9 putting warnings in their manuals in 1976.

10 Q. Do you have any evidence that PACCAR received
11 that warning in 1976?

12 A. I have no reason to believe that we didn't, but
13 we do not have any documents.

14 Q. If you looked through PACCAR's documents, do
15 you have any reason to believe that you did receive that
16 document?

17 A. Our standard practice was to pass along
18 maintenance manuals from our component suppliers, so I
19 have no reason to believe that we would not have -- I
20 have every reason to believe that we would have passed
21 those -- that same manual along in 1976.

22 Q. And your understanding is that Rockwell has
23 said in these asbestos cases that it started putting a
24 warning in manuals in 1976?

25 MR. IRVIN: Argumentative, overbroad,

1 vague, ambiguous.

2 A. My understanding from -- well, specifically
3 talk -- spoke with Rockwell's corporate representative,
4 and he confirmed that they started including asbestos
5 warnings in their manuals in 1976.

6 Q. (BY MR. JONES) And when you say corporate
7 representative, you mean corporate representative in
8 asbestos litigation, right?

9 A. Yes, sir.

10 Q. Okay. So the only information you have is from
11 outside of PACCAR about that, right?

12 A. That's correct.

13 Q. Okay. That's something you knew from when you
14 worked there, right?

15 A. That's correct.

16 Q. And you haven't found a document within
17 PACCAR's documents demonstrating that it got a warning
18 as early as 1976?

19 A. That's correct.

20 Q. Okay. And then the third document is Eaton
21 Drum Brake Service Manual, and that one's dated 1982,
22 true?

23 A. Yes.

24 Q. And do you have any evidence in PACCAR's files
25 indicating that PACCAR received a warning from Eaton

1 about asbestos before 1982?

2 A. I don't.

3 Q. Okay. And PACCAR doesn't have any documents
4 relating to warnings for clutches or gaskets, true?

5 A. None that I recall seeing.

6 Q. As of 2011, you didn't know if anybody at
7 PACCAR had even read these warnings, true?

8 MR. IRVIN: Improper impeachment, vague,
9 ambiguous, overbroad.

10 A. Well, I'm not for sure I understand your
11 question. Can you rephrase it?

12 Q. (BY MR. JONES) I can.

13 Do you know if anybody at PACCAR ever even
14 read these warnings?

15 A. I have no reason to believe that they wouldn't
16 have.

17 MR. JONES: Do you still have the Morrison
18 transcript in that stack? Yeah.

19 MR. IRVIN: This is my stack. But --

20 MR. JONES: Okay.

21 MR. IRVIN: -- I'll make sure I don't have
22 any --

23 MR. JONES: I don't need it. I've got it.

24 MR. IRVIN: Okay.

25 MR. JONES: I've got it electronically. I

1 don't need it.

2 MR. IRVIN: Okay.

3 MR. JONES: Don't give it to me.

4 MR. IRVIN: Okay.

5 What page and line do you...

6 MR. JONES: 106, page 5.

7 THE WITNESS: Can we go off the record for
8 a second?

9 MR. JONES: When I'm done with this --

10 THE WITNESS: Okay.

11 MR. JONES: -- yes.

12 THE WITNESS: Thank you.

13 Q. (BY MR. JONES) Mr. Curbo, this is your
14 deposition testimony from 2011 in the Morrison case,
15 true?

16 A. It appears to be, yes.

17 Q. And at page 106, line 5 to 6, you're asked the
18 question: Did PACCAR read the warning before they
19 included it in their maintenance manual?

20 Did I read that correctly?

21 A. You did.

22 Q. And then, at lines 9 to 10, your answer was: I
23 can't tell you for sure if anybody at PACCAR read the
24 warning.

25 Did I read that correctly?

1 A. You did.

2 MR. JONES: Okay. Let's go off the
3 record.

4 THE VIDEOGRAPHER: The time is 11:00 a.m.
5 We are now off the record.

6 (Break was from 11:00 a.m. to 11:01 a.m.)

7 THE VIDEOGRAPHER: The time is 11:01 a.m.
8 We are now back on the record.

9 Counsel, you may proceed.

10 Q. (BY MR. JONES) Did you find any documents in
11 PACCAR's files that demonstrate that the warnings in the
12 manuals we just looked at were actually sent to
13 customers?

14 MR. IRVIN: Vague, ambiguous.

15 A. Well, I would say two things.

16 First of all, from my personal experience
17 whenever I was working as a mechanic, I know that
18 manuals were sent with the trucks.

19 And, secondly, that's one of the questions
20 in people that I interviewed, especially the people who
21 worked in our Test Department in the plant, that I would
22 ask to confirm. And so I've confirmed it with people
23 who worked in the plant, and I've had -- I had personal
24 experience of that occurring.

25 MR. JONES: I move to strike as

1 nonresponsive.

2 Can you read back my last question,
3 please?

4 THE REPORTER: One moment.

5 (Requested portion read.)

6 A. Well, again, the reason that I have that
7 information is personal experience and something that I
8 followed up. And I don't recall any documents that
9 specifically state that we passed those manuals along.
10 But I know from personal experience and from talking
11 with people that we did.

12 Q. Okay.

13 MR. JONES: I move to strike as
14 nonresponsive.

15 Q. (BY MR. JONES) And my question only relates to
16 documents found in PACCAR's files. Do you understand
17 that?

18 A. I understand your question.

19 Q. Okay. And I'm not asking about your personal
20 experience. And I'm not asking about your conversations
21 you had with other people. Okay? Do you understand
22 that?

23 A. I understand that.

24 Q. Okay. And you've already told me that, so you
25 don't have to tell me again. Okay?

1 And he's going to ask about that when he
2 comes back at the end of this. So it's going to get out
3 there. Okay? I don't want you to think that it's not
4 going to happen. It's happened, and it's probably going
5 to happen again. Okay?

6 We on the same page?

7 A. We are.

8 Q. Okay. What documents did you locate in
9 PACCAR's files indicating that PACCAR actually sent the
10 warnings found in Exhibit 25 to customers?

11 A. Well, as I just stated in my previous answer, I
12 don't recall seeing any specific documents.

13 Q. Okay. Thank you.

14 Now, you also said, in your experience,
15 those manuals were sent -- were to customers; is that
16 right?

17 A. They were sent with every truck. They were
18 also -- that was what our maintenance manuals at the
19 dealerships were made up and included those maintenance
20 manuals. And they were also available to purchase by
21 customers.

22 And when I say they were available for
23 purchase, what I'm talking about is the complete
24 maintenance manuals, which would have included these
25 types of manuals.

1 Q. And you also mentioned -- well, first of all,
2 as far as your personal experience, as of 2011, you
3 didn't even know if anybody read the warnings in the
4 Rockwell manual, right?

5 A. Well, I believe what I said is I can't tell you
6 for sure if anybody did.

7 Q. Well, you would be among those people that were
8 at PACCAR, right?

9 A. I'm -- I wasn't at PACCAR in, say, 1972. In
10 1978, I wasn't at PACCAR.

11 Q. Okay. And you mentioned that you talked to
12 people at the plants. That's the investigation you did
13 where you didn't take any notes. Right?

14 MR. IRVIN: No. Asked and answered.

15 A. That's correct. I did not take notes.

16 Q. (BY MR. JONES) And we've already found that
17 some of the information that you got from those many
18 interviews was inaccurate, true?

19 A. I'm not going to say whether or not it was
20 inaccurate. It just doesn't seem to line up with some
21 of the documents that we found. It happens often.
22 That's why we do investigations, is to flesh that out.

23 Q. Well, I did the investigation, right?

24 MR. IRVIN: No. Misstates testimony.

25 A. I'm not for sure what you're referring to.

1 Q. (BY MR. JONES) Well, PACCAR didn't do the
2 investigation. I'm the one that found the Abex
3 documents that show that PACCAR was ordering brake
4 linings directly from Abex and shipping them to the
5 distributors, right?

6 A. Well, I'm not for sure that that's what those
7 documents specifically say.

8 Q. Have you read them now?

9 A. I -- the ones that you presented to me, yes.

10 MR. IRVIN: Misstates testimony. Vague
11 and ambiguous to the last question.

12 Q. (BY MR. JONES) Do you have an example of a
13 Kenworth or Peterbilt manual that included the warning
14 information from Eaton and Rockwell that we attached as
15 Exhibit 25?

16 MR. IRVIN: Well, vague, ambiguous.

17 A. I'm trying to figure out how to answer that
18 question because it doesn't make sense with what
19 happened, so let me try and explain.

20 Q. (BY MR. JONES) Well, I understand what
21 happened according to your testimony.

22 Your testimony is, when a warning comes in
23 from Eaton or Rockwell, or anybody else, when
24 information for a particular component parts come in, be
25 it the engine, the transmission, the brakes and axle,

1 whatever it is, there is a manual that includes those
2 different pamphlets from the component part suppliers,
3 true?

4 A. So that -- if you want to call it a manual that
5 includes those, that's -- that would be the entirety of
6 the maintenance manual, which was provided to our
7 dealerships, which was made up of Peterbilt or Kenworth
8 maintenance manual, which covered the proprietary
9 information, the proprietary parts that we designed and
10 installed on trucks.

11 It also included maintenance manuals from
12 our component suppliers. So that manual is what was the
13 maintenance manual that was available to our dealerships
14 but also available for customers to purchase.

15 Included in every truck was a maintenance
16 manual from Peterbilt or Kenworth, depending on what
17 truck it was; a maintenance manual from the axle
18 supplier; a maintenance manual from the brake supplier;
19 a maintenance manual from the engine supplier.

20 So those were independent and individual
21 manuals, which were provided.

22 Q. Okay. So my question is: Do you have an
23 example of any Kenworth or Peterbilt manual that
24 includes an asbestos warning ever?

25 (Reporter clarification.)

1 A. Well, the Kenworth and Peterbilt manuals would
2 have included -- would have been proprietary parts and
3 components that we designed.

4 Q. (BY MR. JONES) Sir, I'm talking about the copy
5 of this manual that included the sections from the
6 component part suppliers like the Eaton and Rockwell
7 maintenance manuals we attached as Exhibit 25.

8 Do you understand what I'm saying?

9 A. No, I don't.

10 Q. Okay. So you say there's a Kenworth manual. I
11 believe you described it as like a three-ring binder or
12 something like that. Right?

13 A. The Kenworth manual itself (inaudible) --

14 Q. I'm saying the Kenworth manual that includes
15 the information from the component part suppliers. You
16 understand that?

17 A. I'm going to use a term -- and let's get
18 terminology, and maybe it'll help --

19 Q. Okay.

20 A. -- to make sure we're --

21 Q. Sure.

22 A. -- communicating correct.

23 So the master maintenance manual included
24 a Kenworth manual -- so at a Kenworth dealership, the
25 master maintenance manual included a Kenworth manual;

1 Rockwell manuals; Eaton manuals; Fuller manuals for
2 transmissions; Cat, Cummins, and Detroit manuals as
3 well; as well as others.

4 Q. Let me show you what I'll mark as Exhibit 26 to
5 the deposition.

6 (Exhibit 26 marked.)

7 Q. (BY MR. JONES) What's the chassis number on
8 that, please?

9 A. This is 236740.

10 Q. Thank you.

11 MR. JONES: Let's go off the record and
12 you can give that thing a look.

13 THE VIDEOGRAPHER: The time is 11:12 a.m.
14 We are now off the record.

15 (Break was from 11:12 a.m. to 11:19 a.m.)

16 THE VIDEOGRAPHER: The time is 11:19 a.m.

17 Counsel, you may proceed.

18 Q. (BY MR. JONES) What is Exhibit 26?

19 A. So whenever I was talking about maintenance
20 manuals, I failed to mention you can also purchase a
21 maintenance manual specific for your chassis.

22 So this is a -- I'm going to call it a
23 custom maintenance manual for the specific Chassis
24 236740, which it appears the customer purchased.

25 Q. (BY MR. JONES) And the customer who purchased

1 that chassis was Richard Petty?

2 A. That's correct.

3 Q. Do you know if that's the race car driver?

4 A. Don't know.

5 Q. Do you know if the race car driver bought any
6 Kenworths?

7 A. Don't know.

8 Q. Okay. Does that appear to be a Kenworth
9 maintenance manual for a 1974 Kenworth truck?

10 A. It does.

11 Q. Okay. And is that an example of the manual
12 that you could buy from Kenworth that included
13 information from the component suppliers like Eaton or
14 Rockwell?

15 A. Yes.

16 Q. Okay. You looked at the section on brakes?

17 A. I did.

18 Q. Did you see any warnings about asbestos in the
19 1974 manual?

20 A. I didn't notice them.

21 I was looking fairly quickly.

22 Q. Okay. Give it another look, please.

23 A. (Witness reading.)

24 I don't -- it doesn't appear. I
25 didn't -- again, I didn't notice it if it is -- if there

1 is.

2 Q. Okay. And I also handed you what I marked as
3 Exhibit 27.

4 (Exhibit 27 marked.)

5 Q. (BY MR. JONES) What is Exhibit 27?

6 A. It's the Final Chassis Bill of Material for
7 Chassis Number 236740, which corresponds to the chassis
8 number for this custom maintenance manual.

9 Q. Okay. And Exhibit 26 was a document compiled
10 by Kenworth, true?

11 A. Appears to be.

12 Q. It includes information published by Kenworth,
13 and information published by component suppliers to
14 Kenworth, true?

15 A. That's my understanding.

16 Q. And Exhibit 27 is a true and correct copy of a
17 Kenworth document?

18 A. Appears to be.

19 MR. IRVIN: Trey, that's not the one
20 that's -- with the watermark on it, so we won't fight
21 you on that. But, after the depo, I'd like just to
22 check the -- compared to ours.

23 MR. JONES: Sure.

24 MR. IRVIN: Okay?

25 MR. JONES: Ure.

1 MR. IRVIN: I don't have a reason to
2 distrust you. I just trust our documents more than ones
3 without the Bates and the watermark.

4 Q. (BY MR. JONES) Does that appear to be a true
5 and correct copy of a Kenworth document?

6 A. It does.

7 Q. Published by Kenworth?

8 A. It appears to be, yes.

9 Q. And that is an example of kind of the recipe
10 for a truck, right?

11 A. Well, this is a record of all the parts that
12 were used to assemble a truck.

13 Q. So that would include things like the axles and
14 brakes and engine, transmission, and all those sorts of
15 things, right?

16 A. Yes.

17 Q. And then the idea is that document has parts
18 numbers, right?

19 A. Yes.

20 Q. So that if someone goes to a Kenworth dealer
21 they can ask for a replacement for the windshield wiper.
22 And someone at the dealer can look at that document,
23 find the part number, and order that replacement?

24 A. Correct.

25 Q. Okay. Does PACCAR have an example of a

1 maintenance manual from Kenworth or Peterbilt like what
2 we attached as Exhibit 26 that includes the warning
3 information?

4 A. Not that I recall.

5 Q. Okay. Now, you mentioned that there was a
6 manual that went into the trucks, either the glove box
7 or the sleeper cabinet -- or compartment, right?

8 A. Yes.

9 Q. Is it your testimony that that manual had
10 asbestos warnings in it?

11 A. I think that's what we've said, is that, for
12 example, the 1978 Rockwell manual that we produced, we
13 believe that's one that we passed along.

14 Q. Okay. Do you have any documents in the PACCAR
15 repository that demonstrate that warning materials from
16 suppliers was included with the truck in either the
17 glove box or the sleeper compartment?

18 MR. IRVIN: Asked and answered, vague,
19 ambiguous.

20 A. I'm going to give a little bit of background.

21 There -- yes, there are some, depending on
22 the time frame. And the reason I'm going to give
23 background is essentially what happened --

24 Q. (BY MR. JONES) I don't need background.

25 MR. IRVIN: Well, let him finish his

1 answer (inaudible).

2 Q. (BY MR. JONES) I just want to know. And if you
3 can -- you've got the documents next to you. Right?

4 A. I have the documents that were produced in this
5 case.

6 Q. Okay. Only the documents produced in this
7 case?

8 A. Well, there's a hundred thousand Final Chassis
9 Bill of Materials that I don't believe were produced in
10 this case.

11 Q. Fair enough.

12 And you've got the binders right next to
13 you?

14 A. For what was produced in this case.

15 Q. Can you show me the document that demonstrates
16 that a warning from suppliers was included in the glove
17 box or sleeper compartment of PACCAR trucks, including
18 Kenworth and Peterbilt trucks?

19 A. I don't believe, during this time frame, that
20 it's documented.

21 Over time, we began documenting those
22 particular manuals and the Final Chassis Bill of
23 Material in our bills of material.

24 But, previously, it was simply the test
25 mechanics in our Test Department at our factories would

1 look at the order, determine what components were on the
2 truck, and they would include those manuals.

3 Q. Okay.

4 A. That was the process previously.

5 At -- I don't know exactly what date we
6 began to include the manual part numbers in our Bills of
7 Material.

8 Q. Do you have a single sheet of paper found in
9 PACCAR's files that indicates that warning information
10 was put in the glove box or sleeper compartment of
11 Kenworth and Peterbilt trucks?

12 And by warning information, I mean
13 asbestos warnings.

14 A. Not that I can put my hands on right now.

15 Q. Okay. I mean, it -- do you want to go off the
16 record and you can look for it?

17 A. It's fine.

18 Q. I -- you don't think that it's in there, right?

19 A. As I said, I don't think that during this time
20 frame when these trucks were built that it was part of
21 the bills of materials. So...

22 Q. When did that start?

23 A. I just said I don't know re -- I don't know
24 when that started.

25 Q. So when is the first time any asbestos warning

1 information ever went into the glove box or a sleeper
2 compartment of a Kenworth or Peterbilt truck?

3 A. Well, we believe that we have a document that
4 would have been passed along, which is a 1978 document.
5 And we've been told by Rockwell that they included
6 warnings in their 1976 manuals, so at least by 1976.

7 Q. And where is the evidence that that was put in
8 the glove compartment or sleeper compartment of a
9 Kenworth or Peterbilt truck?

10 A. I don't have any document that I can put my
11 hands on right now that shows that.

12 Q. As of 1997, PACCAR didn't know if it
13 communicated any warnings to customers at all, true?

14 A. I don't know what you're referring to.

15 Q. In 1997, did PACCAR know if it had ever
16 communicated warnings to customers?

17 A. I don't know.

18 I wasn't involved in this litigation at
19 that time, and I don't believe that I specifically asked
20 that question.

21 Q. Let me show you what I'll mark as Exhibit 29 to
22 the deposition. Oh, pardon me, 28 to the deposition.

23 (Exhibit 28 marked.)

24 A. Okay.

25 Q. (BY MR. JONES) Exhibit 12 is Defendant,

1 Kenworth Truck Company and PACCAR Inc, individually and
2 through its division, Peterbilt Motors Company, Answers
3 to Plaintiffs' First Set of Interrogatories, Vehicle and
4 Engine Defendants.

5 Did I read that correctly?

6 A. You did read that correctly.

7 Q. And that is in State of New York, 7th Judicial
8 District. And then on the right, it says "Asbestos
9 Litigation," underlined.

10 Do you see that?

11 A. Yes, I do.

12 MR. IRVIN: And, for the record,
13 you're -- you said Exhibit 12. We're speaking of
14 Exhibit 27.

15 MR. JONES: 27, that's right.

16 THE WITNESS: 28.

17 MR. IRVIN: 28.

18 MR. JONES: 28.

19 We're taking turns.

20 Brent, my man, are we really on 28? All
21 right. We're really on -- this is 28? All right.

22 I got to triple-check myself.

23 Q. (BY MR. JONES) Okay. What I described before
24 is Exhibit 28, whatever number I had assigned to it
25 before. True?

1 A. I'm sorry. I was --

2 Q. Sure.

3 A. I wasn't listening.

4 Q. These are PACCAR's responses to asbestos
5 interrogatories in 1997, true?

6 A. It appears to be.

7 Q. And they're verified by PACCAR -- PACCAR's
8 attorney, I believe, at the end. Do you see that?

9 A. They're verified by an attorney.

10 Q. Okay.

11 A. It says attorney -- yeah. Attorneys for
12 Kenworth and PACCAR.

13 Q. Okay. And then --

14 MR. IRVIN: And can I have a running
15 objection? Because it was verified by a attorney, not a
16 client. And then we'll address that at the time of
17 trial?

18 MR. JONES: Sure.

19 MR. IRVIN: Thank you.

20 Q. (BY MR. JONES) In Interrogatory No. 1, on the
21 second page, they list the people that they got
22 information from. Do you see that?

23 A. Yeah. It says -- yeah.

24 They identify the -- each person who
25 either consulted with or who provided information used

1 in answering these interrogatories.

2 Q. Do you recognize the PACCAR people listed?

3 A. I do.

4 Q. Who is Richard Slosson?

5 A. Richard Slosson was a risk manager at PACCAR.

6 Q. What does that mean?

7 A. Worked in PACCAR Legal. I'm not for sure
8 exactly what the -- what his responsibilities were.

9 Q. How far back did he go at PACCAR?

10 A. Don't know.

11 Q. Okay. Virgil E. Pound, who was Mr. Pound?

12 A. At the time, he was the senior technical
13 director at Corporate Legal.

14 Q. And -- at Corporate Legal?

15 A. I believe he was -- at the time, he was working
16 at PACCAR.

17 Q. Do you know how long he had been at PACCAR?

18 A. Quite a while.

19 Q. Okay. Quite a while before 1997?

20 A. Yes.

21 Q. Okay. And then who's Dave Bissonnette?

22 A. Dave Bissonnette was a industrial hygienist for
23 PACCAR.

24 Q. And we know he goes back to the mid 1970s,
25 true?

1 A. Yes.

2 Q. Okay. Can you please go to Interrogatory
3 No. 12 at page 13?

4 Interrogatory No. 12 asks for warning
5 information supplied by PACCAR for asbestos components,
6 true?

7 A. It -- yes, it appears to.

8 Q. And it's limited to the time period 1970 to
9 1980, correct?

10 A. Yes, it is.

11 Q. And PACCAR's answer in 1997 about asbestos
12 warnings is, and I quote: It is not known if warnings
13 or explanations were placed in the vehicles during the
14 years 1970 to 1980.

15 Did I read that correctly?

16 A. You did.

17 MR. IRVIN: Hey, Trey, when do you plan on
18 taking a lunch break?

19 MR. JONES: Whenever you like.

20 MR. IRVIN: I just wanted us to preorder
21 our lunch this time so it didn't take so long. So, you
22 know, when you think you're like 30 minutes out or -- I
23 guess we should ask Rod and the other folks here. Like
24 when we're 30 minutes out can we take --

25 MR. JONES: Yeah. Let's take -- we'll

1 take a break after this.

2 MR. IRVIN: And then we can -- yeah. I
3 just don't want that delay again that we can hopefully
4 finish today.

5 MR. JONES: Sure.

6 Q. (BY MR. JONES) In interrogatories in 2009,
7 PACCAR didn't mention any warnings supplied with the
8 trucks, true?

9 A. I don't know.

10 Q. Let me show you what I'll mark as Exhibit 29 to
11 the deposition.

12 (Exhibit 29 marked.)

13 Q. (BY MR. JONES) And I'm going to ask you about
14 Interrogatory No. 57.

15 A. (Witness reading.)

16 Q. Exhibit 29 is Defendant, PACCAR Inc's Responses
17 to Plaintiffs' Standard Interrogatories to All
18 Defendants In Re Complex Asbestos Litigation in Superior
19 Court of California, County of San Francisco. True?

20 A. That's what it appears to be.

21 Q. And you recognize the law firm at the top left
22 of this document?

23 A. I do.

24 Q. That's the same firm that represents PACCAR in
25 this case?

1 A. Yes.

2 Q. Okay. These interrogatories are from 2009,
3 true?

4 A. Yes.

5 Q. They're verified by Larry Bean for PACCAR,
6 true?

7 A. Yes.

8 Q. And Mr. Bean was a corporate representative in
9 asbestos cases before you took that role, true?

10 A. I believe so, yes.

11 Q. Okay. Can you please go to Interrogatory
12 No. 57?

13 Interrogatory 57 asks about warnings for
14 the health hazards of asbestos related to
15 asbestos-containing friction products, true?

16 A. That's what it appears to be.

17 Q. And, as far as PACCAR is concerned, the
18 asbestos-containing friction products are brakes and
19 clutches, true?

20 A. Yes.

21 Q. And then, in response to the interrogatory in
22 2009, does PACCAR mention that warning information was
23 provided in the glove compartment or sleeper box of
24 trucks?

25 A. (Witness reading.)

1 It doesn't get to that level of
2 specificity, but it does state: Further, answering
3 subject to objection, Peterbilt and Kenworth distributed
4 service literature relating to their heavy duty trucks
5 at various points in time. This material included
6 service literature authored and published by the
7 component manufacturers, which Peterbilt and Kenworth
8 are informed and believe, contained warnings at various
9 points in time. According --

10 Q. And that would be -- oh, sorry.

11 A. (Reading): Accordingly, this interrogatory is
12 inappropriately directed to PACCAR and should, instead,
13 be addressed to component part manufacturers who are in
14 a better position to answer questions regarding warnings
15 associated with their asbestos-containing products.

16 Q. Okay. That document doesn't mention the
17 warning going in the sleeper box or the glove box,
18 right?

19 A. It just says -- it's a general statement that
20 says that we distributed that information.

21 Q. Okay.

22 A. It doesn't get into the how.

23 Q. Let me show you what I'll mark as Exhibit 30 to
24 the deposition.

25 (Exhibit 30 marked.)

1 MR. IRVIN: After this one, can we take
2 our break to order lunch?

3 MR. JONES: We can do it now if you want.

4 MR. IRVIN: Yeah. Let's -- well --

5 MR. JONES: Fair enough.

6 MR. IRVIN: I don't mean to interrupt you
7 right when you're going through an exhibit. So...

8 Q. (BY MR. JONES) Exhibit 30 is Defendant, PACCAR
9 Inc's Answers and Responses to Plaintiffs' First Set of
10 Interrogatories and Request for Production of Documents
11 in the District Court of Creek County, State of
12 Oklahoma, in the Adams case. True?

13 A. That's what it appears to be.

14 Q. And this set of discovery was verified by you
15 on November 2014, true?

16 A. Yes.

17 Q. If you go to Interrogatory No. 8 on page 16,
18 there's a long question about information for equipment
19 identified in Plaintiffs' work history in this
20 particular case. And then it asks for specific
21 information in subparts a through k, true?

22 A. It appears to. I haven't read the entirety of
23 the request yet.

24 Q. The only part I'm going to ask you about is
25 subpart k. Well, a and k.

1 So A is the trade name or the brand name
2 of the equipment, right?

3 A. Yes.

4 Q. And then, if you look in the answer, it says
5 it's Kenworth and Peterbilt, right? You see that?

6 A. (Witness reading.) No, I do not.

7 Q. You see that the answer mentions Kenworth and
8 Peterbilt? That's the only thing I'm asking.

9 A. Well, the answer says: Kenworth and Peterbilt
10 never used raw asbestos, nor did they manufacture
11 asbestos-containing products. Rather, they assembled
12 and sold heavy duty trucks.

13 Then it goes on to talk about components
14 that were manufactured by various component suppliers
15 and that PACCAR, which would be Peterbilt and Kenworth,
16 is informed and believes that some of these preassembled
17 component parts may have, at various points in time,
18 incorporated brakes, clutches, and gaskets that contain
19 some form of encapsulated chrysotile.

20 Q. Okay. Subpart k asks for warning information,
21 true? A description of any warnings that Defendant
22 placed on the equipment or its packaging, operating
23 manuals, brochures, catalog, or other printed material.

24 True?

25 A. Yes.

1 Q. In 2014, did these interrogatory responses
2 verified by you mention that asbestos warnings were put
3 in the glove box or sleeper compartment of Peterbilt or
4 Kenworth trucks?

5 A. It does not.

6 MR. JONES: Let's go off the record.

7 THE VIDEOGRAPHER: The time is 11:48 a.m.
8 We are now off the record.

9 (Break was from 11:48 a.m. to 12:11 p.m.)

10 THE VIDEOGRAPHER: This is the beginning
11 of Medium Unit Number 2. The time is 12:11 p.m., and we
12 are now back on the record.

13 Counsel, you may proceed.

14 Q. (BY MR. JONES) Mr. Curbo, in PACCAR's responses
15 to interrogatories in this case, when asked about
16 warnings provided about asbestos, PACCAR said that it
17 included warning information in the glove compartments
18 or sleeper compartments of the trucks, true?

19 A. Yes.

20 Q. That's a very big deal, right?

21 A. Well, I think what we know is from -- I forget
22 which one of these -- we said we distributed. We didn't
23 talk about how.

24 My under -- my -- I believe the
25 1978 Rockwell manual was found in like the 2016 time

1 frame. And that's when I believe we changed our
2 responses to say that we passed along warnings, not just
3 that we passed along maintenance manuals like we said
4 previously.

5 Q. But where's the evidence that that was put in
6 the glove box of trucks?

7 A. Well, like I've said, I've told you my personal
8 experience. I -- when work -- I worked as a mechanic.
9 Those manuals came either in the glove box or the
10 sleeper compartment of the truck.

11 And I talked with probably the most
12 credible person, and by that I mean the person who knew
13 the most, was a gentleman by the name of Rich Rhodes,
14 who worked in Newark at the Peterbilt factory.

15 And there was another gentleman who was
16 a -- Rich worked in the Peterbilt factory in the Test
17 Department as a supervisor. And he confirmed
18 that -- this is back in the '80s whenever I asked that
19 question. He confirmed that -- or not back in the '80s,
20 back -- sorry.

21 We were talking about that back in the
22 '80s, when I first started working at Peterbilt, we had
23 racks of manuals and we placed them in trucks, even
24 in -- during that time frame. And he confirmed that
25 back in the late '60s, early '70s, they did exactly the

1 same thing.

2 And there was another gentleman that
3 worked for Kenworth. His name escapes me right now. He
4 was a product -- what's the right term? He was the
5 engineering manager at one of the plants that happened
6 to be at the Kansas City Kenworth plant, and he
7 confirmed the same back into the '70s.

8 Q. And if the warning is actually in the truck,
9 that's a big deal because that means anybody that drives
10 the truck would have access to the warnings, true?

11 A. Yes.

12 Q. And that would mean anybody that worked on the
13 truck would have access to the warnings, true?

14 A. Yes.

15 Q. If only the dealership had the warnings, then
16 maybe the customer never saw it, right?

17 A. Possibly.

18 Q. And if you had to buy the manual that had the
19 warning, then maybe the customer never saw it, right?

20 A. If they didn't buy the manual.

21 Q. PACCAR made a different manual than what we've
22 attached as Exhibit 26, and that manual was meant to go
23 in a glove box, true?

24 A. Correct.

25 Q. It's not the same as Exhibit 26, true?

1 A. That's correct.

2 Q. Let me show you what I'll mark as Exhibit 31 to
3 the deposition.

4 (Exhibit 31 marked.)

5 MR. IRVIN: This is 32?

6 MR. JONES: I don't think so.

7 MR. IRVIN: No, 31? All right. Math was
8 never my strong suit.

9 Is that a Operators Manual? Yeah.

10 THE WITNESS: Yeah, Operators and Service
11 Manual.

12 Q. (BY MR. JONES) What is Exhibit 32 [sic]?

13 A. It's what we generally refer to as a operators
14 manual.

15 Q. That's what goes in the glove box?

16 A. This is one of the manuals that goes in the
17 glove box.

18 Q. What's the date of that manual?

19 A. This is 1985.

20 Q. Okay. Are there any warnings about asbestos in
21 that manual?

22 A. (Witness reading.)

23 I -- just quickly skimming, I don't see
24 any asbestos-related warnings in this manual.

25 Q. Okay. Do you agree with me that, in general,

1 when component suppliers provide PACCAR with
2 information, specifically with maintenance information,
3 PACCAR would take that information and it would be
4 included in its master maintenance manuals? And exactly
5 how that was sent to PACCAR you don't know. True?

6 MR. IRVIN: Well, vague, ambiguous,
7 overbroad, argumentative, and compound.

8 Q. (BY MR. JONES) I'll withdraw. I'll ask the
9 question again because of the compound objection.

10 Would you agree with me that in general if
11 a component supplier provided PACCAR with information,
12 specifically with maintenance information, PACCAR would
13 take that information and it would be included in
14 PACCAR's master maintenance manuals.

15 A. What I would agree with is that we would
16 include the component suppliers' maintenance manuals in
17 with our master maintenance manual.

18 Q. The master maintenance manuals are three-ring
19 binders, which include maintenance manuals from multiple
20 component suppliers, and those maintenance manuals from
21 component suppliers would be distributed to the people
22 who had those master maintenance manuals, true?

23 A. Yes.

24 Q. The master maintenance manual, unless otherwise
25 requested by a driver, user, or purchaser of a truck

1 goes to PACCAR's dealerships, correct?

2 A. That's correct.

3 Q. In 1978, after PACCAR received the warning from
4 Rockwell, it did not include that information in the
5 operators manual that came with the truck, true?

6 A. That's correct, with the operator's manual.

7 Q. Okay. You're saying that there's another
8 manual that's not like Exhibit 26 and it's not like
9 Exhibit 31 that fits in a glove box?

10 MR. IRVIN: Misstates testimony.

11 A. It -- yes, that is what I'm saying.

12 Q. (BY MR. JONES) Okay. And you don't have a
13 single sheet of paper that says that ever happened,
14 true?

15 MR. IRVIN: Asked and answered,
16 argumentative.

17 A. Can you rephrase the question with more
18 specificity?

19 Q. (BY MR. JONES) You don't have a single piece of
20 paper that says -- that indicates in any way that PACCAR
21 included warning information in the trucks it sold that
22 included asbestos warnings, true?

23 MR. IRVIN: Misstates testimony, vague,
24 ambiguous.

25 A. Not at my fingertips right now that I can

1 remember.

2 Q. (BY MR. JONES) And the evidence you have is
3 from interviews you had with people where you didn't
4 record the interviews, true?

5 A. That's true.

6 Q. And you didn't take any notes from the
7 interviews, true?

8 MR. IRVIN: Asked and answered,
9 argumentative.

10 A. That's correct.

11 Q. (BY MR. JONES) Okay. So as far as that, we
12 have to take your word for it, right?

13 A. Yes.

14 Q. And people that have done sworn interrogatories
15 before you never mentioned anything about warnings going
16 in the actual trucks, right?

17 A. Well, what I would say is in those
18 interrogatories, they did refer to the manuals going
19 into the trucks or being distributed.

20 They didn't say how they were distributed.
21 We already talked about that. I don't know whether or
22 not they knew whether -- if there were warnings in there
23 at that time.

24 Q. The first person to ever say that that
25 information went in the compartments of trucks, be it

1 the glove box or the sleeper box, is you, true?

2 A. I prob -- I may be the first one to say it in a
3 legal proceeding like a deposition. I don't believe I'm
4 the first person to say it because it happened.

5 Q. And you didn't say it happened in 2011 when you
6 were specifically asked about it, true?

7 A. Well, in 2011, I believe I was asked about
8 warnings and, at that time, we didn't -- I don't believe
9 we knew that warnings existed in those manuals.

10 Was -- I just stated a couple minutes ago
11 I believe it was in the 2016 time frame that we
12 discovered that Rockwell maintenance manual with the
13 warning.

14 Q. Sir, in 2011, you specifically talked about the
15 warning, only you described it as being from Meritor,
16 true?

17 A. Don't recall.

18 Q. Okay.

19 MR. JONES: Do you have the Morrison
20 deposition.

21 MR. IRVIN: No.

22 MR. JONES: You just had it earlier.

23 MR. IRVIN: I did, but I think I gave it
24 to you or Rod.

25 MR. JONES: I don't have it. I've

1 been -- I'm using my...

2 MR. IRVIN: Which line and page are you
3 going to go to?

4 Q. (BY MR. JONES) Okay. Can you please go to
5 page 92, line 8?

6 A. (Witness reading.)

7 Q. In 2011, you did know about the warnings
8 supplied by Rockwell in 1978, true?

9 A. Well, it sounds like maybe we did. I thought
10 it was 2016 when we found that.

11 Q. You for sure did. You were specifically asked
12 who was the supplier and you said Meritor, right?

13 MR. IRVIN: Well, wait. So --

14 A. I was asked: What -- do you remember whether
15 it was brake assembly or an axle?

16 I said: I believe they provided a warning
17 in -- in a maintenance manual.

18 For what part, is the question.

19 (Reading): I believe it was related to
20 brakes but I'm -- that's the best of my recollection.
21 I'm not a hundred-percent sure.

22 Question: Fair enough. Do you remember
23 which supplier that was?

24 (Reading): I believe it was Meritor but,
25 again, I'm not a hundred-percent sure.

1 Q. (BY MR. JONES) Meritor used to be called
2 Rockwell?

3 A. That's correct.

4 Q. So, in 2011, when you were asked about this,
5 you knew about the warning from Rockwell, true?

6 MR. IRVIN: Well --

7 A. It sounds like maybe I did.

8 Q. (BY MR. JONES) Okay. And, in 2011, you didn't
9 mention warnings going in glove boxes, did you?

10 A. I don't recall.

11 MR. IRVIN: Argumentative.

12 Q. (BY MR. JONES) Well, we just went through that
13 testimony and you said that the operators manual that
14 go -- went in the glove box didn't have the warning
15 information, right?

16 MR. IRVIN: Misstates testimony.

17 A. The operators manual does not.

18 Q. (BY MR. JONES) Okay. Why is Exhibit 31 the
19 size it is?

20 A. Well, because it's an operators manual; it's
21 not the maintenance manual.

22 Q. Okay. And so, if we look at it by comparison,
23 this is the manual that would go to the dealership,
24 true?

25 MR. IRVIN: No.

1 A. That particular manual is -- as I've said, is a
2 custom manual, which is ordered by customer for a
3 specific truck.

4 Q. (BY MR. JONES) And would be sold to the
5 customer?

6 A. That's correct.

7 Q. They paid for this?

8 A. Yes, sir.

9 Q. And this manual is smaller because it fits in a
10 glove box, right?

11 A. It's smaller because it's a different manual.
12 It's an op -- let me explain because you don't -- I'm
13 not for sure we're getting this.

14 That's an operators manual --

15 Q. We're getting it.

16 Go ahead.

17 A. -- and then there's a maintenance manual.

18 So that manual is smaller. That's
19 specifically written for the operator of the truck.

20 There is a maintenance manual, which is
21 specifically written for servicing the truck. Kenworth
22 used to call their operators manuals Operators and
23 Maintenance Manuals because there is -- regular
24 maintenance intervals are spelled out in that manual.

25 Q. Sir --

1 A. At -- the purpose of that -- that's -- we're
2 talking two -- I want to make sure when you're saying,
3 there's two different manuals that we're talking about.

4 Q. Sir, the reason this manual is the size it is
5 is so it can fit in a glove box, right?

6 A. I don't know why it's the size that it is.

7 Q. But it is like one-half the size of the big one
8 that's custom-ordered by the dealership --

9 MR. IRVIN: Argumentative.

10 Q. (BY MR. JONES) -- right?

11 A. It's smaller.

12 MR. IRVIN: And --

13 Q. (BY MR. JONES) Okay. Can you go to the
14 back -- well, so this exhibit 31 actually lists out the
15 different manuals that a customer can get with their
16 truck, true?

17 A. I don't know.

18 Q. And it does not mention a maintenance manual
19 that comes for free in the truck, true?

20 A. I don't know.

21 Q. Let me show you exhibit 31 again.

22 Can you go to the back page? On the left
23 is a section and it says, "Parts Catalogs," true?

24 A. Yes.

25 Q. It lists an Operators Part Catalog and an

1 Illustrated Parts Catalog, true?

2 A. It does.

3 Q. These are both catalogs that have to be
4 purchased from Kenworth, true?

5 A. I believe so.

6 Q. It says: These catalogs are custom-made for
7 the specific components in your Kenworth truck. Order
8 these catalogs from your Kenworth dealer. Please
9 provide your chassis serial number when ordering. There
10 is a nominal charge for these catalogs. Allow
11 approximately four weeks for delivery.

12 Did I read that correctly?

13 A. Yes, you did.

14 Q. And then on the right are shop manuals, right?

15 A. Yes.

16 Q. You've referred to the custom shop manual,
17 true?

18 A. Yes.

19 Q. This is the custom shop manual on the top
20 right, true?

21 A. Yes.

22 Q. And at the top, it says: Order a shop manual.
23 True?

24 A. Yes.

25 Q. Under Custom Shop Manual, it says: This manual

1 contains detailed service procedures specifically
2 compiled for the components on your specific truck,
3 includes Kenworth Electrical System Troubleshooting
4 Manual.

5 Did I read that correctly?

6 A. No.

7 Q. What did I get wrong?

8 A. (Reading): Detailed service procedures
9 specially compiled for your -- for the components.

10 Q. Right.

11 A. Not specifically.

12 Q. Thank you.

13 And then the next paragraph says: The
14 information contained in this manual is the same used by
15 Kenworth dealers and includes maintenance, disassembly,
16 assembly, repair, overhaul, and troubleshooting
17 procedures.

18 Did I read that correctly?

19 A. Yes.

20 Q. This custom shop manual with detailed service
21 procedures specially compiled for the components on a
22 specific Kenworth truck was sold by Kenworth to
23 customers, true?

24 A. That's my understanding.

25 Q. Do you have a single piece of paper that says

1 that was provided for free with the trucks?

2 MR. IRVIN: Asked and answered,
3 argumentative.

4 A. That particular maintenance manual would not
5 have been provided for free with the trucks.

6 THE VIDEOGRAPHER: Mr. Jones, could I have
7 you lower your mike just a little bit?

8 Sorry about that.

9 MR. IRVIN: He's getting louder as the day
10 goes on.

11 MR. JONES: I told you I would.

12 Q. (BY MR. JONES) When did you start telling
13 people that asbestos warning went in glove boxes or
14 sleeper compartments?

15 MR. IRVIN: Argumentative.

16 A. I don't recall.

17 Q. (BY MR. JONES) It wasn't in the beginning,
18 though, right?

19 A. I don't believe so.

20 Q. Now, one thing you had mentioned before was
21 that questions about warnings for asbestos components
22 should be asked of the suppliers of PACCAR, not of
23 PACCAR, right?

24 A. I believe that's what we say.

25 Q. Why do you say that?

1 A. Because the component suppliers are the -- have
2 expertise with their particular parts or components that
3 they manufacture.

4 Q. Does PACCAR understand that it has an
5 independent duty to warn about asbestos hazards, even if
6 suppliers don't warn?

7 MR. IRVIN: No. This is -- is calls for a
8 legal conclusion.

9 It -- don't answer this one because it
10 calls for a legal conclusion.

11 Don't ask him legal questions.

12 MR. JONES: What does that mean?

13 MR. IRVIN: (Inaudible) -- you're asking
14 him what the legal duty is.

15 MR. JONES: Yeah.

16 MR. IRVIN: He's not here to speak about
17 that. It's not in your notice. We would have put up a
18 lawyer if you wanted to ask about legal --

19 MR. JONES: I believe it says:
20 Information provided in interrogatories.

21 And he read that information from an
22 interrogatory. It's in every interrogatory response in
23 this case.

24 MR. IRVIN: It doesn't say anything about
25 what is your legal duty.

1 MR. JONES: Sure. Okay.

2 MR. IRVIN: Yeah.

3 Q. (BY MR. JONES) Did PACCAR ever understand that
4 it was required to warn about hazards, even if it didn't
5 manufacture the product?

6 MR. IRVIN: This misstates -- it misstates
7 the law, misstates the evidence, assumes facts.

8 MR. JONES: What law does it misstate?
9 California civil law? It doesn't misstate that.

10 MR. IRVIN: No. You've had several
11 assumptions in it.

12 You can ask your question.

13 MR. JONES: All right. I'm going to limit
14 mine to California civil law.

15 MR. IRVIN: No. About hazards, about
16 warnings, about who should have --

17 MR. JONES: Sure.

18 MR. IRVIN: -- warned. There's
19 a -- unpack all that issue.

20 Q. (BY MR. JONES) Do you have the question in
21 mind?

22 A. No.

23 Q. Does PACCAR understand that it was required to
24 include warnings about asbestos even if it didn't
25 manufacture the product?

1 MR. IRVIN: Same objections. Also calls
2 for a legal conclusion.

3 If you know, sir.

4 A. I don't know what they specifically understood
5 at the time legally.

6 What I do know is that starting in 1976
7 Mr. Bissonnette explains in a memo that -- I believe it
8 was one of the Washington OSHA folks mentioned to him
9 that asbestos might be an issue within our plants.

10 And beginning in 1976 up through about, I
11 think, ten or 12 years, Mr. Bissonnette did
12 air-sampling. And not only did he find that there was
13 no health hazard associated with asbestos, he found no
14 asbestos in any of his -- any of the testing that he had
15 done.

16 Q. (BY MR. JONES) Did he test for asbestos
17 exposures when brakes were -- when compressed air was
18 used to remove dust from brake drums and brake
19 assemblies?

20 A. I don't know.

21 Q. Did he do a test to determine asbestos
22 exposures when new brakes were ground or sanded to go
23 back into a truck?

24 A. I don't know.

25 Q. Did he do a test to determine if there were

1 asbestos exposures when brakes were relined?

2 A. What I -- what we know is -- and it's limited,
3 granted, but it is -- the information we have is
4 limited. He did do a test of the mechanics doing brake
5 work.

6 Q. Did he do a test to determine asbestos
7 exposures when new brakes were being -- when brakes were
8 being relined?

9 A. No, I don't know exactly what the mechanics
10 were doing when they were doing the brake work
11 that -- where he did.

12 Q. You don't know what he tested?

13 MR. IRVIN: No. Misstates testimony.

14 A. Well, we can look and see what he said -- what
15 was said that he tested.

16 Q. (BY MR. JONES) Okay. And back to my question.
17 So are you saying that PACCAR didn't have
18 to warn because there wasn't a hazard?

19 MR. IRVIN: Objecting for all the reasons
20 I did the prior legal conclusion questions. And also
21 under ref kind.

22 A. What I'm saying is we found that there was no
23 hazard, found that there was -- actually, they -- what
24 Mr. Bissonnette found was that there was no asbestos
25 beyond what was ubiquitous, what's in the air anyway.

1 Q. (BY MR. JONES) So what you're saying is PACCAR
2 didn't need to warn because there was no hazard from the
3 asbestos components in the Kenworth and Peterbilt
4 trucks, true?

5 A. I'm saying what we found was no asbestos.

6 Q. Is that why you didn't warn?

7 A. I don't know exactly the reason why they didn't
8 warn.

9 Q. Did they believe that legally they didn't have
10 to?

11 A. I don't know.

12 Q. Did they believe that they weren't required to
13 by state or federal law?

14 A. I don't know.

15 Q. Did they do any investigation to determine what
16 PACCAR's responsibility is to warn for products
17 manufactured by other people, but included in Kenworth
18 or Peterbilt trucks?

19 MR. IRVIN: Same objections. Also
20 argumentative.

21 A. I'm sorry. Can you --

22 MR. IRVIN: Misstates testimony.

23 A. -- re-ask the question or re-read it? I'm fine
24 with that.

25 THE REPORTER: I didn't hear your answer

1 at the beginning.

2 MR. JONES: He didn't --

3 MR. IRVIN: He didn't answer.

4 MR. JONES: Oh. You mean, the -- go
5 ahead.

6 What's your question?

7 MR. IRVIN: She wants -- he asked you to
8 reread the last question.

9 THE REPORTER: Okay.

10 MR. JONES: Are you saying you didn't get
11 an answer to the -- that question?

12 THE REPORTER: Yes.

13 MR. JONES: He didn't answer it. He asked
14 me to reread it.

15 THE REPORTER: Okay. Thank you.

16 MR. JONES: And I'm going to politely to
17 ask you to pretty-please rewrite it -- re-read it.

18 And forgive me for that bad joke I did
19 about the exhibit number.

20 MR. IRVIN: You said, I'll pass the
21 witness, right?

22 THE VIDEOGRAPHER: Mr. Irving, can I have
23 you move your microphone just a little closer?

24 MR. IRVIN: Yeah. I'm sorry. I don't
25 need to be on -- mike up right now. But yeah.

1 THE REPORTER: Okay. One moment.

2 (Requested portion read.)

3 A. I don't know.

4 Q. (BY MR. JONES) You agree that PACCAR
5 distributed trucks that included asbestos brakes?

6 MR. IRVIN: Asked and answered.

7 A. We've said that before.

8 Q. (BY MR. JONES) You agree that PACCAR
9 distributed trucks that included asbestos clutches?

10 MR. IRVIN: Asked and answered.

11 A. Some trucks, yes.

12 Q. (BY MR. JONES) For the brakes, you agree that
13 PACCAR distributed Kenworth-brand trucks that included
14 Rockwell axles, true?

15 A. Yes.

16 Q. And PACCAR also sold Kenworth-brand trucks that
17 included Rockwell axles, true?

18 A. Yes.

19 Q. PACCAR distributed and sold Kenworth-brand
20 trucks that included Rockwell brakes with asbestos
21 linings, true?

22 A. Yes.

23 MR. IRVIN: Vague as to time, overbroad.

24 Q. (BY MR. JONES) Kenworth distributed
25 and -- pardon me.

1 PACCAR distributed and sold Kenworth-brand
2 trucks that included Abex asbestos brake linings, true?

3 MR. IRVIN: Same objections.

4 A. At certain times.

5 Q. (BY MR. JONES) PACCAR distributed and sold
6 Kenworth-brand trucks that included asbestos clutches
7 from Spicer?

8 MR. IRVIN: Same objections. Overbroad as
9 to time.

10 A. At certain time frames, yes.

11 Q. (BY MR. JONES) And Kenworth distributed and
12 sold -- pardon me.

13 PACCAR distributed and sold Kenworth-brand
14 trucks that included engines from Cummins that had
15 asbestos gaskets in them?

16 MR. IRVIN: Same objections.

17 A. I don't know specifically. We -- I believe so.

18 Q. (BY MR. JONES) For -- you did some
19 investigation into Kenworth sale of trucks to Kraft
20 Foods, true?

21 A. Yes.

22 Q. Your investigation confirmed that those trucks
23 included Rockwell-brand brakes, true?

24 A. Yes.

25 Q. Those trucks --

1 MR. BARONIAN: I'm going to -- hold on.
2 Excuse me.

3 I'm going to object. Lacks foundation,
4 speculation.

5 Q. (BY MR. JONES) Those trucks --

6 MR. BARONIAN: Okay. Go ahead.

7 Q. (BY MR. JONES) Those brakes from Rockwell
8 included Abex asbestos linings, true?

9 A. I don't know.

10 Q. Okay. They were 551C?

11 A. Sorry. Yes, some of them did. Yeah.

12 Q. Okay.

13 A. Sorry.

14 Q. Those Kenworth trucks sold to Kraft included
15 clutches from Spicer?

16 A. Yes.

17 Q. Before 1982, those would have been asbestos,
18 true?

19 A. I didn't look at the billed dates to determine
20 if it was -- some of them had -- were asbestos. Some of
21 them were ceramic.

22 Q. And they were from Spicer?

23 A. Yes.

24 Q. Okay. And the engines on the trucks sold to
25 Kraft were supplied by Cummins, true?

1 A. Yes.

2 Q. Okay.

3 MR. JONES: Let's go off the record.

4 THE VIDEOGRAPHER: The time is 12:41 p.m.

5 We are now off the record.

6 (Break was from 12:41 p.m. to 1:54 p.m.)

7 THE VIDEOGRAPHER: The time is 1:54 p.m.

8 We are now back on the record.

9 Counsel, you may proceed.

10 Q. (BY MR. JONES) Good afternoon. Are you ready
11 to continue with your deposition?

12 A. Yes, I am.

13 Q. PACCAR began a transition from asbestos brake
14 linings to nonasbestos brake linings in the late '70s or
15 1980s, true?

16 A. Yes.

17 Q. Do you have any evidence that PACCAR ever sold
18 a truck that included nonasbestos brake linings before
19 1979?

20 A. We have a document where we talk about -- where
21 we talk about selling nonasbestos brakes on trucks in
22 1984, which is -- I was chuckling because it -- I think
23 one of the Abex documents said 1981, but I'm not for
24 sure that's accurate.

25 Q. Well, Abex said in 1981, We have nonasbestos

1 brakes available to sell to PACCAR, true?

2 MR. IRVIN: Misstates the document.

3 A. My recollection of the document is it said that
4 they had sold -- or I think it said that we sold, that
5 PACCAR sold --

6 Q. (BY MR. JONES) Which --

7 A. -- nonasbestos products.

8 Q. Which document are you referring to?

9 A. I don't recall. I -- you know, if it was --

10 MR. IRVIN: It was an Abex exhibit.

11 A. -- I've barely seen those documents, but that
12 was one of the things that jumped out to me, was the --

13 MR. IRVIN: That's what he's talking
14 about.

15 A. -- was the 1981 date.

16 MR. IRVIN: But I think you guys are
17 crossing wires, so you might back up a step.

18 MR. JONES: Yeah.

19 Q. (BY MR. JONES) What document do you have in
20 PACCAR's files that indicates that PACCAR sold a truck
21 that included nonasbestos brake linings before 1980?

22 A. Gotcha. Sorry.

23 (Reporter clarification.)

24 MR. IRVIN: 1980.

25 MR. JONES: 1980, 1-9-8-0.

1 A. Before 1980?

2 Q. (BY MR. JONES) Correct.

3 A. I -- we don't. We say 1984 is when we first
4 sold nonasbestos brakes.

5 Q. Okay. Do you have any evidence that any truck
6 Kenworth or Peterbilt ever sold before 1984 included
7 nonasbestos brakes as original equipment?

8 A. Nothing in particular.

9 Q. Okay.

10 THE VIDEOGRAPHER: And I apologize for the
11 interruption, but if we're done with that exhibit, do
12 you believe we could move it over?

13 MR. JONES: Oh. The binder?

14 THE VIDEOGRAPHER: Yes, sir. Yes.

15 It's not an exhibit binder.

16 Q. (BY MR. JONES) When is the first time that
17 PACCAR had a nonasbestos brake that could be used as a
18 replacement for a truck originally equipped with
19 asbestos brakes?

20 A. I believe that would be 1984.

21 Q. Do you have Exhibit 24 in front of you?

22 A. I do.

23 Q. Exhibit 24 is the Second Supplemental Responses
24 to Requests for Production in this case, true?

25 A. Yes.

1 Q. Can you go to page 50 of that document? And
2 it's Request Number 26.

3 A. Okay.

4 Q. PACCAR has asked for: All writings related to
5 asbestos-free brakes on the market before 1990 that
6 could be used as replacement parts for your trucks that
7 included asbestos brakes as original equipment.

8 Did I read that correctly?

9 A. Yes.

10 Q. Okay. And then these are, again, the discovery
11 responses that you verified as being true and correct?

12 A. I believe so.

13 Q. Let me show you what I'll mark as Exhibit 36,
14 which I believe is every document identified in response
15 to that request.

16 THE REPORTER: I -- you may have skipped
17 one. See that row up there by your red book.

18 MR. JONES: Oh, no. We're going to change
19 that.

20 MR. IRVIN: Exhibit 107?

21 Q. (BY MR. JONES) Exhibit 114A.

22 Let me show you what I'll mark as
23 Exhibit 32.

24 MR. JONES: We're going to put this one on
25 Brent. I saw him get a hamburger at lunch. I think it

1 might be weighing him down a little bit, you know.

2 (Exhibit 32 marked.)

3 Q. (BY MR. JONES) I'm going to show you what I've
4 marked as Exhibit 32 and represent to you that that's
5 all of the documents identified in PACCAR's Second Set
6 of Supplemental Responses to Request for Production
7 No. 26.

8 And I'll just ask you to confirm that
9 that's true.

10 MR. JONES: He's going to need the Bates
11 numbers.

12 MR. IRVIN: Yes, I understand.

13 I'm just trying to verify --

14 MR. JONES: Oh.

15 MR. IRVIN: -- that the amended were the
16 same. Yes. All right.

17 A. I believe it is.

18 Q. (BY MR. JONES) Okay. Can you tell me which
19 one of these documents indicates that PACCAR has a
20 nonasbestos brake that can be used as a replacement for
21 a truck originally equipped with asbestos brakes?

22 A. Well, I believe PACCAR 560. It states that the
23 only -- it's dated January of 1984.

24 (Reading): The following is a list of
25 brake linings currently used on Peterbilt S-cam brake

1 assemblies.

2 And it lists, for one of the friction
3 ratings, FF nonasbestos 931-162 Abex lining.

4 Q. Okay. Does this say that that Abex nonasbestos
5 lining can be used to replace a brake in a vehicle where
6 the original equipment was an asbestos brake?

7 A. This document doesn't say that.

8 Q. And it actually says that you could only use
9 the nonasbestos brake with, quote, engineering approval,
10 end quote. True?

11 A. At that time frame, that's true.

12 Q. And it also indicates that there's some design
13 differences if the nonasbestos brake is going to be used
14 as it relates to parking brakes, true?

15 A. Yes.

16 Q. It says that, for the nonasbestos lining,
17 parking brakes are required on two axles, true?

18 A. That's correct.

19 Q. Were trucks at what time normally supplied with
20 parking brakes on two axles?

21 A. It was an option.

22 Q. Okay.

23 A. You chose how many park brake or -- yeah, how
24 many park brakes you wanted.

25 Q. So if you had the nonasbestos brake, you had to

1 have a vehicle with two emergency brakes, one
2 with -- strike -- I'm going to try again.

3 If you used the nonasbestos brake, then
4 the vehicle had to have parking brakes on two axles,
5 true?

6 A. In nine -- on January of ninety -- 1984.

7 Q. True?

8 A. That's correct, in January of 1984.

9 Q. Okay. And you could only use the nonasbestos
10 brakes with engineering approval, true?

11 A. In January of 1984.

12 Q. Okay. Where is the next document that
13 indicates -- well, so this doesn't say anything about
14 using the nonasbestos brake as a replacement in a truck
15 originally supplied with asbestos brakes, true?

16 A. I mean, I'm not for sure I understood your
17 question that way, this question.

18 The way we under -- I understood that
19 question is, if I have a truck today that's built with
20 asbestos brakes, when did I start building that same
21 spec of truck with asbestos -- or with nonasbestos
22 brakes.

23 Q. Well, what I'm talking about -- so we know in
24 the Carpenter case that the trucks supplied to Kraft
25 in -- I think the time frame is like 1974 to 1978 or

1 '79, something like that?

2 A. I think so.

3 Q. During that time frame, the trucks supplied
4 included Rockwell brakes with Abex 551C brake linings,
5 true?

6 A. At least on --

7 MR. FLYNN: Objection; lacks foundation,
8 calls for speculation. Assumes facts.

9 Q. (BY MR. JONES) All of them that indicate a
10 lining indicate that it's 551C?

11 A. Correct. I believe that --

12 MR. FLYNN: Same objections.

13 A. -- the only ones that indicated it were on the
14 front brakes, if my memory is correct.

15 It's the information we have. The others
16 we don't have the information.

17 Q. (BY MR. JONES) But they're manufactured in the
18 1970s, and you don't have any evidence that there was a
19 nonasbestos brake available for these trucks before
20 1984, right?

21 A. I don't have the lining information, so I have
22 no evidence one way or the other at this point.

23 Q. Well, the evidence you have is you're not aware
24 of PACCAR selling any trucking with nonasbestos lining
25 before 1984, true?

1 A. That's true.

2 Q. Okay. So --

3 A. To the best of my knowledge.

4 Q. The request is pretty specific, though, isn't
5 it? Asbestos-free brakes on the market before 1990 that
6 could be used as replacement parts for your trucks that
7 included asbestos brakes as original equipment?

8 MR. IRVIN: Overbroad.

9 Q. (BY MR. JONES) Do you understand that?

10 A. Well, as I understood the question -- and I
11 think it's up for interpretation.

12 Now that I understand what you're asking,
13 my interpretation of the question was I got this truck
14 I'm building today with asbestos brakes. When did we
15 start building that same truck, that same specification,
16 with nonasbestos? That's the way we answered the
17 question.

18 Q. All right. Then let's ask the question the way
19 it -- let's answer the question the way it's written.

20 For a truck like the truck sold to Kraft
21 that included asbestos brakes in the 1970s, when was
22 there a nonasbestos brake on the market that could be
23 used to replace the asbestos brakes?

24 MR. IRVIN: Argumentative, misstates the
25 question.

1 A. Well, I believe -- as I understand that
2 question now, I believe -- and this is off the top of my
3 head -- it would have been when we wrote the -- or when
4 the EPC implemented for these changes. There were
5 multiple EPCs. We found some of them. It's the project
6 that made the change. That's the communication that
7 says this part's replaced by another part. And I
8 believe the earliest one of those is '87 that we've
9 found copies of.

10 Q. (BY MR. JONES) So on -- to PACCAR's knowledge,
11 there are no nonasbestos replacement brakes on the
12 market to use in a truck that was originally equipped
13 with asbestos brakes until 1987?

14 A. What I would say is I don't necessarily agree
15 with --

16 MR. FLYNN: Objection -- objection; lack
17 of foundation, calls for speculation, vague, ambiguous,
18 and overbroad.

19 A. I don't necessarily agree with the way you
20 reworded my response.

21 But what I said is, at least by 1987, we
22 know that there was a project that implemented -- that
23 communicated that.

24 Was there something prior to that? Again,
25 this is off the top of my head. My recollection is that

1 would be the first thing that I believe we have
2 documentation on. Was there something prior to that? I
3 don't know. I don't recall. But --

4 Q. (BY MR. JONES) And I'm --

5 A. -- at least by 1987.

6 Q. I'm not rewording what you're saying. I'm
7 asking my question.

8 So my question is: Are you aware of any
9 evidence that there were nonasbestos brakes on the
10 market before 1987 that could be used to replace brakes
11 in a truck originally equipped with asbestos brakes?

12 MR. FLYNN: Objection; lack of foundation,
13 calls for speculation, vague, ambiguous, overbroad.

14 A. What I would say is we know we were building
15 trucks in 1984 that had nonasbestos brakes, so those
16 brakes were available.

17 Whether or not -- I don't have any
18 documentation that says one way or the other whether or
19 not those particular brakes could replace some other
20 preexisting asbestos brakes. I don't know.

21 Q. (BY MR. JONES) Do you have any evidence
22 indicating that before 1990 -- well, strike that.

23 Do you have any evidence that before 1987
24 there was a nonasbestos brake on the market that could
25 be used to replace a brake in a truck originally

1 equipped with asbestos brakes?

2 When I say in a truck, a PACCAR truck,
3 Kenworth or Peterbilt.

4 MR. FLYNN: Objection; lack of foundation,
5 calls for speculation, assumes facts.

6 A. What we know is that nonasbestos brakes
7 existed -- brake shoes existed prior to 1987.

8 I do not have anything specifically that
9 states this particular nonasbestos brake can replace
10 that -- a given asbestos brake out in the field. I
11 don't know.

12 I just know that nonasbestos brakes
13 existed prior to 1987.

14 Q. We know definitely in 1983 that the nonasbestos
15 brakes couldn't be used as a replacement for a PACCAR
16 truck originally equipped with asbestos brakes, true?

17 MR. FLYNN: Objection; lack of foundation,
18 calls for speculation, assumes facts.

19 A. We don't have anything that spec -- that I'm
20 aware of that specifically says that a nonasbestos brake
21 could replace a -- an asbestos brake in service prior
22 to -- I think it was prior to 1984, as you stated.

23 Q. (BY MR. JONES) Let me show you what I'll mark
24 as Exhibit 33 to the deposition.

25 (Exhibit 33 marked.)

1 MR. IRVIN: Could you identify the Bates
2 number, Counsel?

3 MR. JONES: 36 -- and there's a signature
4 on top of it. 36 -- oh, 362. 362.

5 MR. IRVIN: Thank you.

6 Q. (BY MR. JONES) What is Exhibit 33?

7 A. Appears to be notes, I believe -- given that
8 this -- the initials, I believe it's notes from Gary
9 Loggins, which is a Peterbilt engineer.

10 Q. Exhibit 33 is a true and correct copy of a
11 document found in PACCAR's files?

12 A. I believe so.

13 Q. And it's dated 11/16/82, 1982?

14 A. I believe so.

15 Q. And this was -- these are the handwritten notes
16 of a Peterbilt engineer, true?

17 A. Yes.

18 Q. And this engineer was working on the project to
19 transition from asbestos to nonasbestos brakes, true?

20 A. That's correct.

21 Q. This Peterbilt engineer goes through the
22 advantages and disadvantages of using nonasbestos
23 brakes, true?

24 A. Yes.

25 Q. Under the disadvantage, the first disadvantage

1 is that the nonasbestos brakes will cost more, and his
2 estimate is around 25 percent more?

3 A. That's correct.

4 Q. And then there's several engineering problems
5 presented by the nonasbestos brakes, true?

6 A. Yes.

7 Q. Changes in the design of the truck might be
8 required to move to nonasbestos brakes, true?

9 A. May.

10 Q. Yeah. I said might.

11 What I said is correct?

12 A. That is correct. They may be.

13 Q. And the conclusion is: None of the nonasbestos
14 linings meet the requirements for truck or tractors
15 using our standard design practice.

16 Did I read that correctly?

17 A. You did.

18 Q. Let me show you what I'll mark as Exhibit 34.

19 (Exhibit 34 marked.)

20 MR. FLYNN: Can you identify the Bates
21 label --

22 MR. JONES: Yes.

23 MR. FLYNN: -- of the document?

24 MR. JONES: No. It's too tiny. I can't
25 read it.

1 The witness is checking for the document
2 in his binder.

3 MR. IRVIN: What's the date of the
4 document, Trey?

5 THE WITNESS: '83. September '83.

6 MR. JONES: September 1, 1983.

7 Let's go off the record.

8 MR. IRVIN: Yeah. That's a good point.

9 THE VIDEOGRAPHER: The time is 2:18 p.m.
10 We are now off the record.

11 (Break was from 2:18 p.m. to 2:25 p.m.)

12 THE VIDEOGRAPHER: The time is 2:25 p.m.
13 We are now back on the record.

14 Counsel, you may proceed.

15 Q. (BY MR. JONES) Exhibit 34 is a true and correct
16 copy of a document found in PACCAR's files, true?

17 A. It appears to be.

18 Q. It is authored by a PACCAR employee, true?

19 A. Yes.

20 Q. Who authored this document?

21 A. It was R. Melder from PACCAR Technical Center.

22 Q. And he is discussing a meeting with a Peterbilt
23 and a Kenworth representative and then several people
24 from the PACCAR Technical Center, true?

25 A. That's what it appears.

1 Q. Before this project, typically speaking,
2 Kenworth designed, approved, whatever their own trucks,
3 and Peterbilt did the same on the Peterbilt side. True?

4 A. For the most part.

5 Q. And when it came to brakes, Kenworth is the one
6 that did all the approvals and engineering work and all
7 that stuff for Kenworth trucks, and Peterbilt did the
8 same for Peterbilt trucks?

9 A. For the most part, yes.

10 Q. When this project happened in the late '70s,
11 early '80s, they combined the efforts of the PACCAR
12 Technical Center, Kenworth, and Peterbilt to find
13 nonasbestos replacements for asbestos brakes in Kenworth
14 and Peterbilt trucks, true?

15 A. Yes.

16 Q. And this is a memo that's discussing those
17 efforts, true?

18 A. It's one of the meetings that they had
19 regarding that project.

20 Q. And, as of September 1, 1983, Kenworth needed
21 testing of nonasbestos brake lining to offer as an
22 option to their standard lining of 551C Abex and
23 MMD39 Carlisle used in their Rockwell foundation brakes,
24 true?

25 A. That's what the document says.

1 Q. And 551C Abex and MMD39 Carlisle were both
2 asbestos brake linings, true?

3 A. I believe so.

4 Q. Let me show you what I'll mark as Exhibit --

5 MR. IRVIN: 35?

6 Q. (BY MR. JONES) -- 35.

7 (Exhibit 35 marked.)

8 MR. JONES: Oh. And I can't see the Bates
9 number on this one either.

10 MR. IRVIN: Yeah. It's right where the
11 blacked-out part of the memo is.

12 See if I can find it. I believe it's 382.

13 Q. (BY MR. JONES) What is Exhibit 36?

14 THE WITNESS: Actually, it's 383.

15 MR. IRVIN: Oh, sorry.

16 A. Appears that it's a memo to Virgil --

17 Q. (BY MR. JONES) 35, I'm sorry. I misspoke.

18 A. Oh, 35.

19 Q. This is Exhibit 35.

20 What is Exhibit 35?

21 A. Memo from Dave Deacon to Virgil Pound regarding
22 Project 81021, which was entitled, "Test Nonasbestos
23 Brake Linings." It's the completion notice for that
24 project.

25 Q. And who's Dave Deacon?

1 A. Dave Deacon was an engineer for Peterbilt. I
2 believe he was engineering manager at that point in
3 time.

4 Q. And who's Virgil Pound?

5 A. I believe that's when Virgil was chief engineer
6 for Peterbilt.

7 Q. So this is a discussion between management and
8 the Engineering Department of Peterbilt?

9 A. It's a -- it's notification that this project
10 has been completed.

11 Q. Okay. And the project was to test nonasbestos
12 brake linings, true?

13 A. That's correct.

14 Q. And once they were done testing, they realized
15 that the nonasbestos brake linings couldn't be used in a
16 truck originally equipped with asbestos linings, true?

17 A. In 1983, that's what they had determined.

18 Q. So, on July 25, 1983, they determined that
19 (reading): Based on testing at the PACCAR Technical
20 Center, it was determined that nonasbestos linings are
21 not a direct substitution for current production. A new
22 project will deal with evaluating production,
23 nonasbestos linings, and what design changes are
24 required. True?

25 A. That's what it says.

1 It also says that: Nonasbestos brake
2 linings are being offered both for original equipment
3 and after-market use.

4 Q. It doesn't say they're being offered on PACCAR
5 trucks, does it?

6 A. It doesn't specifically say that.

7 But I don't think they'd be talking about
8 other people's trucks.

9 Q. Well, they knew in 1982, a year before -- the
10 year before this, that Mack Trucks was already standard
11 nonasbestos, right?

12 A. Yes, they did.

13 Q. They knew in the early 1980s that -- I think
14 Abex, Carlisle, and Raymark had said that there were
15 nonasbestos linings available. True?

16 A. Yes.

17 Q. You couldn't use them on Kenworth or Peterbilt
18 trucks until PACCAR tested those to make sure they could
19 be safely used, right?

20 A. That's correct.

21 Q. You don't just slap whatever lining you want on
22 a heavy truck and then have it roll down the 101 in
23 Los Angeles, right?

24 A. That's correct.

25 Q. You got to make sure that whatever brakes you

1 put on there are going to work as the truck was
2 designed, true?

3 A. That's correct.

4 Q. And, as of 1983, what the PAC -- the Peterbilt
5 engineers say is that they can't -- you can't just swap
6 out the nonasbestos for the asbestos brakes, true?

7 A. Right.

8 And it said: A new project will deal with
9 evaluating production non-asbestos linings and what
10 design changes are required.

11 Q. Why was Mack Truck so far ahead of Peterbilt
12 and Kenworth in releasing nonasbestos brakes as standard
13 on their trucks?

14 MR. IRVIN: That misstates the documents.
15 It's argumentative. And it's -- misstates evidence and
16 calls for speculation.

17 A. All I can do is speculate.

18 Q. (BY MR. JONES) You agree the Mack Trucks were
19 standard nonasbestos before Peterbilt and Kenworth,
20 true?

21 MR. IRVIN: Calls for speculation.
22 Misstates the document.

23 A. I believe we have a document that states that
24 Mack was standard with non -- had gone standard with
25 nonasbestos.

1 Q. (BY MR. JONES) Let me show you what I'll mark
2 as Exhibit 36.

3 (Exhibit 36 marked.)

4 Q. (BY MR. JONES) Oh. Exhibit 35, that's a true
5 and correct copy of a document from PACCAR's files?

6 A. It appears to be.

7 Q. Okay. Authored by a PACCAR employee?

8 A. Yes.

9 Q. Exhibit 36, this is 367. I can read this one.
10 Hallelujah.

11 What is Exhibit 36?

12 A. Appears to be a handwritten note from Dave
13 Deacon to Rich. It says, "Reference: Nonasbestos
14 linings."

15 Q. And who is Mr. Deacon?

16 A. Again, Dave Deacon, I believe, at the time was
17 engineering manager at Peterbilt.

18 Q. And Rich?

19 A. I'm not for sure exactly who that is.

20 Q. And Mr. Deacon reports that -- first, that
21 Eaton and Rockwell can and will offer nonasbestos
22 brakes, true?

23 A. Yes.

24 Q. That Carlisle, Abex, and Raybestos are the
25 leading OEM suppliers of both asbestos and nonasbestos

1 brake linings, true?

2 A. That's what he says.

3 Q. He reports that: There is no current
4 government regulation that specifically requires
5 nonasbestos brake linings. True?

6 A. Correct.

7 Q. And he reports that: Mack is the only
8 manufacturer which has gone standard on nonasbestos.
9 True?

10 A. Yes.

11 Q. So, at this time, what had to happen was PACCAR
12 had to test and approve the nonasbestos linings for use
13 on Kenworth and Peterbilt trucks, true?

14 A. Yes.

15 Q. And it had to do that in conjunction with the
16 brake assembly manufacturers, Eaton and Rockwell?

17 A. Yes.

18 Q. And it had to do that in conjunction with the
19 brake lining manufacturers, Abex and Carlisle, true?

20 A. Yes.

21 Q. All of those entities had to work together to
22 come up with a nonasbestos brake lining to use on
23 Kenworth and Peterbilt trucks, true?

24 A. That's correct.

25 Q. Now, PACCAR's discovery responses discuss the

1 trucks being custom, that the customer had the ability
2 to select different things within the truck, the
3 different axle or engine, transmission, things like
4 that. Right?

5 A. Yes.

6 Q. PACCAR has to confirm that all of those things
7 will work together, true?

8 A. That's correct.

9 Q. PACCAR -- no matter what the customer wants, if
10 PACCAR can't build that truck safely so that it meets
11 all the federal requirements, PACCAR can't sell that
12 truck. True?

13 A. That's correct.

14 Q. So the customers have to order things that are
15 within the range of equipment that could safely operate
16 on a truck sold by Kenworth or Peterbilt, true?

17 A. That's correct.

18 Q. Once an order for a Peterbilt or Kenworth goes
19 through, it's reviewed to make sure all of those
20 components work together, true?

21 A. Yes, sir.

22 Q. PACCAR has more expertise in integration and
23 the ultimate application of the components that go into
24 the truck, true?

25 A. That's correct.

1 Q. So the brake lining manufacturer designs and
2 manufactures the lining, right?

3 A. Yes.

4 Q. The brake assembly manufacturer designs the
5 brake assembly, true?

6 A. Correct.

7 Q. The engine manufacturer designs the engine,
8 true?

9 A. Correct.

10 Q. The transmission manufacturer designs the
11 transmission, true?

12 A. Correct.

13 Q. The clutch manufacturer designs and
14 manufactures the clutch, true?

15 A. That's correct.

16 Q. And PACCAR's expertise is taking all of those
17 different components and putting them into a truck,
18 true?

19 A. That's correct.

20 Q. Historically speaking, even before this
21 transition to nonasbestos brakes, the brake assembly
22 manufacturers, the brake lining manufacturers, and
23 PACCAR have worked together to make sure that the brakes
24 work on trucks, true?

25 A. That's correct.

1 Q. That's also true of the transmission and engine
2 manufacturers. They've worked with PACCAR to make sure
3 that those engines or transmissions work safely in the
4 PACCAR trucks. True?

5 A. Yes.

6 Q. So the component parts suppliers were involved
7 in the integration of their components into the Kenworth
8 or Peterbilt trucks, true?

9 MR. IRVIN: Overbroad.

10 A. Can you restate the -- or re --

11 Q. (BY MR. JONES) Sure.

12 The component part suppliers --

13 A. Right.

14 Q. -- so some of the ones we've talked about
15 are --

16 A. Right.

17 Q. -- Eaton or Rockwell, Abex or Carlisle,
18 Cummins, Spicer.

19 The component part suppliers have
20 historically worked with PACCAR to make sure that those
21 components would work safely in Kenworth and Peterbilt
22 trucks, true?

23 A. Right. I would say we worked together.

24 Q. From the beginning of time probably, right?

25 A. As far as back as I'm aware of.

1 Q. Okay.

2 MR. JONES: Let's go off the record.

3 THE VIDEOGRAPHER: The time is 2:41 p.m.
4 We are now off the record.

5 (Break was from 2:41 p.m. to 2:51 p.m.)

6 THE VIDEOGRAPHER: This is the beginning
7 of Media Unit Number 3. The time is 2:51 p.m. We are
8 now back on the record.

9 Counsel, you may proceed.

10 (Exhibits 37 to 38 marked.)

11 MR. JONES: Plaintiffs and PACCAR have
12 stipulated that the documents included in Exhibit 37 are
13 true and correct copies of documents found in PACCAR's
14 files and were received by PACCAR.

15 MR. IRVIN: That's correct.

16 MR. JONES: And Plaintiffs and PACCAR have
17 stipulated that Exhibit 38 are true and correct copies
18 of documents found in PACCAR's files. They are
19 authentic, and they meet the business records hearsay
20 exception.

21 MR. IRVIN: That's correct.

22 (Exhibits 39 and 40 marked.)

23 Q. (BY MR. JONES) Okay. Sir, I had handed you,
24 while we were off the record, Exhibits 39 and 40.

25 A. Correct.

1 Q. Exhibits 39 and 40 are Kenworth documents,
2 true?

3 A. They appear to be.

4 Q. These were not found in Kenworth's files, true?

5 A. That's correct.

6 Q. But they're on Kenworth letterhead, true?

7 A. They appear to be.

8 Q. Authored by Kenworth employees, true?

9 A. Appears to be.

10 Q. And these appear to be documents published by
11 Kenworth, true?

12 A. That's correct. They appear to be.

13 Q. Okay. PACCAR sold asbestos brakes until they
14 didn't have any more asbestos brakes to sell, true?

15 MR. IRVIN: Well, argumentative,
16 overbroad, vague as to time, ambiguous.

17 A. I don't know that that's a hundred-percent
18 true.

19 Q. (BY MR. JONES) 1988 is when several nonasbestos
20 linings were qualified for use on brakes for which
21 asbestos linings were still available, true?

22 A. I believe that's true.

23 Q. And PACCAR's intention was to continue selling
24 the asbestos linings until they were, quote, depleted,
25 true?

1 MR. IRVIN: Vague, ambiguous, overbroad.

2 A. I think there's a document that indicates
3 something like that for the -- I think it's the 551D
4 lining replacement, if I recall correctly.

5 Q. (BY MR. JONES) Let me show you what I'll mark
6 as Exhibit 41.

7 (Exhibit 41 marked.)

8 Q. (BY MR. JONES) Depleted means don't have them
9 anymore, right?

10 A. Okay. This document says -- the 1988 document,
11 it does say that the as -- if you have no objections.

12 So this is a -- this is not a
13 determination. This is a recommendation from -- it
14 appears to be from Engineering to Marketing that says:
15 If you have no objections, the nonasbestos linings will
16 be standard and the asbestos linings will be optional
17 until the supplies of asbestos linings is depleted.

18 I don't necessarily recall what the
19 decision was.

20 Q. Depleted means don't have them anymore, right?

21 A. That was the recommendation.

22 Q. Okay. And Exhibit 41 is a true and correct
23 copy of a document found in PACCAR's files, true?

24 A. I believe it is.

25 Q. It's dated December 30 of 1988, true?

1 A. That's correct.

2 Q. It's on letterhead that says "Peterbilt
3 Division - Engineering," true?

4 A. That's correct.

5 Q. It's authored by a Peterbilt employee, true?

6 A. Yes.

7 Q. Who are the people that wrote the memo and that
8 received the memo?

9 A. As I said, Geoffrey Wheeler was an engineer, so
10 Engineering.

11 Chris Cavette, I believe, at that point in
12 time was in marketing. I think he was one of the
13 marketing managers.

14 Steve Vanderlip, Rick Harris, Bob
15 Giebelhaus, and Chuck Koske were all engineering.

16 Q. Okay. And, as far as the asbestos 551D brake
17 goes, PACCAR did not switch to the nonasbestos version
18 of that brake until all of the asbestos brakes were
19 gone, true?

20 MR. IRVIN: Misstates testimony.

21 MR. FLYNN: Objection; lack of foundation,
22 calls for speculation, assumes facts. Lack of
23 foundation.

24 A. I don't know that we have a document that
25 specifically spells that out.

1 Q. (BY MR. JONES) Let me show you what I'll mark
2 as Exhibit 42 to the deposition.

3 (Exhibit 42 marked.)

4 A. Okay.

5 Q. (BY MR. JONES) What is Exhibit 42?

6 A. Appears to be a fax from Karen Filipek -- or,
7 I'm sorry, to Karen Filipek. And I'm not for sure who
8 it -- I don't recall who it was from.

9 Q. Steve Vanderlip?

10 A. I think there may be another page.

11 Q. It's on the front page.

12 A. Oh. Yep, from Steve Vanderlip. There it is.

13 Q. Who is Steve Vanderlip?

14 A. He was an engineer.

15 Q. What was his position?

16 A. He was one of the engineers -- I think he
17 was -- at this point in time, I think he may have been
18 the group lead for the foundation group -- brake group.

19 Q. Okay. And who is Karen Filipek?

20 A. I believe she was a Rockwell employee.

21 Q. And this message from Mr. Vanderlip says: Per
22 Bob Bolla, Rockwell has run out of 551D asbestos brake
23 lining for the 15 by 6 RDA wedge brakes. Because of
24 this, we will be changing to Carlisle NAB-10
25 Non-Asbestos Linings.

1 Did I read that correctly?

2 A. You did.

3 Q. Okay. And this is a true and correct copy of a
4 document found in PACCAR's files?

5 A. It is.

6 Q. This document was authored by a PACCAR
7 employee, true?

8 A. Yes.

9 Q. Okay.

10 A. But what it doesn't say is anything about the
11 15 by 7 RDA brakes or any of the other wedge brakes.
12 Just they ran out on that particular brake.

13 MR. BARONIAN: Trey?

14 MR. JONES: Yes, sir?

15 MR. BARONIAN: Trey, what was the Bates
16 number on that? Could I see it before you move on to
17 the next?

18 MR. JONES: Yeah. 1655 or 1653 or 1659.

19 165 --

20 MR. BARONIAN: Wait. I'm sorry. You
21 just --

22 MR. JONES: 165. And then the fourth
23 number is written over. And I can't tell if it's
24 a -- go ahead.

25 MR. BARONIAN: Okay. So it's four digits

1 and one -- starts with a 1. All right. Give me a
2 second. We'll try and --

3 MR. JONES: 165, and then I can't tell
4 what the fourth digit is.

5 I can exclude some. It's not a 0. It's
6 not a 1. It's not a 2. Could be a 3. It's not a 4.
7 Could be a 5. It's not a 6, not a 7, not an 8, could be
8 a 9.

9 THE WITNESS: 1659.

10 MR. JONES: It's 1659.

11 MR. BARONIAN: (Inaudible.) Hold on.

12 Oh, this -- is the deal where the numbers
13 are so tiny you can't read it?

14 MR. JONES: No. This one, it's written
15 over. The Bates stamp is on top of handwriting --

16 MR. BARONIAN: Oh, all right. Hold on.

17 MR. JONES: -- in the document.

18 MR. BARONIAN: I'm close now. I'm at
19 1641, so I'm close. 1656.

20 MR. JONES: Bob, I don't care if you're
21 there or not. I'm not going to ask about it anymore.
22 There's nothing you can do about it right now, so I'd
23 like to move on.

24 MR. BARONIAN: No. I just -- just give me
25 a second and let me look at it, please.

1 Okay. 16 -- was it 50? Is that what you
2 said?

3 THE WITNESS: 59.

4 MR. JONES: 59.

5 MR. BARONIAN: 59. Sorry. Okay.

6 Okay. Oh, I see it. Okay.

7 That's fine. Go ahead. Thank you.

8 Q. (BY MR. JONES) Was it a big deal when PACCAR
9 learned that asbestos was a hazardous material?

10 MR. IRVIN: Vague, ambiguous, overbroad,
11 argumentative.

12 A. Don't know.

13 Q. (BY MR. JONES) I mean, whenever that was, at
14 some point, PACCAR learned that potentially every truck
15 they sold had asbestos in it, right?

16 A. Possibly.

17 Q. And the asbestos was in wear items, meaning
18 things that are replaced, right?

19 A. Yes.

20 Q. Brakes are replaced, true?

21 A. Yes, they are.

22 Q. Clutches are replaced?

23 A. Yes, they are.

24 Q. Gaskets are replaced?

25 A. Yes, they are.

1 Q. So whenever PACCAR learned about asbestos
2 hazards, it knew that people repairing Kenworth and
3 Peterbilt trucks could potentially encounter these
4 components, true?

5 MR. IRVIN: Assumes facts, argumentative.

6 A. I would assume so.

7 Q. (BY MR. JONES) Okay. The hazards of asbestos
8 is something that PACCAR's executives would have been
9 aware of, true?

10 A. Again, I don't know.

11 What I can say is all I can do is assume
12 that it was a large enough deal that they hired an
13 industrial hygienist in 1974, who ultimately, beginning
14 in 1976, did air-sampling regarding asbestos.

15 So it was an important concern, which they
16 addressed.

17 Q. Well, and Peterbilt had to spend a lot of money
18 because of asbestos, right?

19 MR. IRVIN: Vague, ambiguous, overbroad.

20 A. I'm not for sure what you're -- what you mean.

21 Q. Well, the transition away from asbestos was an
22 almost-ten-year project, right?

23 A. It was a long project.

24 Q. With sev -- many different engineers working on
25 it, true?

1 A. That's correct.

2 Q. And PACCAR kept track of the engineers' hours,
3 true?

4 A. That's correct.

5 Q. And the reason PACCAR had to keep track of
6 those hours is time they're spending on this asbestos
7 thing is time they're not spending on other engineering
8 projects, true?

9 A. That's true.

10 Q. PACCAR had to pay for the testing to approve
11 the nonasbestos linings, true?

12 A. Correct.

13 Q. These projects had to be approved by PACCAR
14 executives, true?

15 A. PACCAR managers, yes.

16 Q. PACCAR executives were definitely aware of the
17 asbestos issues related with the transition from
18 asbestos to nonasbestos, true?

19 MR. IRVIN: Argumentative, overbroad,
20 calls for speculation, assumes facts.

21 A. Can you rephrase the question?

22 Q. (BY MR. JONES) Sure.

23 PACCAR's executives were definitely aware
24 of the issues related to the transition from asbestos to
25 nonasbestos brakes, true?

1 A. I don't know that I have anything that in -- I
2 mean, what -- I guess my -- maybe I'm splitting hairs.
3 What are you considering an executive? At what level
4 is --

5 Q. The Chief Executive Officer --

6 A. Okay.

7 Q. -- as high up as you can possibly go at PACCAR,
8 had to be aware of this multiyear project involving
9 every truck by -- sold by PACCAR, including the brakes
10 in every single truck. Right?

11 A. Personally, I would assume that there was some
12 knowledge, but I don't know to what level.

13 Q. Just to start one of these projects to
14 transition from asbestos to nonasbestos linings required
15 the approval of multiple employees at PACCAR, including
16 managers, true?

17 A. Yes.

18 That's the case for any engineering
19 project.

20 Q. Let me show you what I'll mark as Exhibit 43.

21 (Exhibit 43 marked.)

22 Q. (BY MR. JONES) What is Exhibit 43?

23 A. It is a Project Initiation Form.

24 Give me a moment. Things have changed
25 over the years.

1 This is for a project 81021 -- I'm sorry.

2 This is Project 83103, which is to:

3 Reevaluate nonasbestos brake linings for production
4 usage, compatibility, and proper matching of powering to
5 achieve optimum braking to be determined.

6 Q. The reason for the project is there is a market
7 demand for this type of brake shoe lining, true?

8 A. That's what he states.

9 Q. And the brake shoe lining referred to is a
10 nonasbestos brake, true?

11 A. I believe so.

12 Q. And just to get this project approved, there
13 had to be four different signatures, true?

14 A. Yes, within -- that's all within Engineering.

15 Q. During this project, did anybody in management
16 say, Hey, maybe we should start informing our customers
17 about all the different asbestos components found in our
18 truck until we get it switched over to nonasbestos?

19 MR. IRVIN: Argumentative, vague,
20 ambiguous, overbroad, calls for speculation.

21 A. I've not seen in any document --

22 Q. (BY MR. JONES) Did you see --

23 A. -- something related to that. But...

24 Q. Did you see any evidence that management at
25 PACCAR wanted to provide their own warnings about

1 asbestos hazards, whether or not the suppliers provided
2 those warnings?

3 A. I think by 1983, which this document is, we had
4 information from Mr. Bissonnette that we had done
5 air-sampling and didn't find any asbestos when mechanics
6 were working on brakes or when people in the plants were
7 working around brakes.

8 Q. Are you familiar with Dr. Irving Selikoff?

9 A. I've heard the name.

10 Q. How have you heard the name?

11 A. Through this -- through various depositions.
12 But we -- I believe we also have a document that
13 references some study that was done by Selikoff and
14 others.

15 Q. And Dr. Selikoff was at Mount Sinai, true?

16 MR. IRVIN: Calls for speculation.

17 A. I don't know.

18 Q. (BY MR. JONES) Okay. He was an asbestos
19 researcher, right?

20 A. I don't know.

21 Q. Okay. What do you -- you know anything else
22 about him?

23 A. No.

24 Q. Okay. Well, did PACCAR try to go out and see
25 has anybody done a study to find out if work with brakes

1 causes asbestos exposures?

2 A. I don't know regard -- specifically
3 regarding -- I don't think we've seen any documents
4 that -- regarding that.

5 MR. IRVIN: Vague, overbroad, ambiguous --

6 Q. (BY MR. JONES) Let me show you what I'll --

7 MR. IRVIN: -- calls for speculation and
8 beyond the scope.

9 Q. (BY MR. JONES) Let me show you what I'll mark
10 as Exhibit 44.

11 (Exhibit 44 marked.)

12 MR. JONES: Rohl and Langer, 76.

13 MR. IRVIN: Okay.

14 Q. (BY MR. JONES) Have you seen Exhibit 44 before?

15 A. I may have, but I don't recall.

16 Q. Okay.

17 A. I don't believe so.

18 Q. Exhibit 44 is an article entitled, "Asbestos
19 Exposure During Brake Lining Maintenance and Repair," in
20 a journal called Environmental Research. And the date
21 is 1976. True?

22 A. Appears to be.

23 MR. IRVIN: And, Trey, can I get a running
24 objection to beyond the scope?

25 MR. JONES: Yes.

1 MR. IRVIN: Thank you.

2 MR. JONES: I disagree, but it's not my
3 job to bicker about objections. I'm reminding myself
4 right now. Consider myself reminded.

5 Yes.

6 MR. IRVIN: Thank you, Counselor.

7 Q. (BY MR. JONES) The authors are identified as
8 being from the Environmental Sciences Laboratory,
9 Mount Sinai School of Medicine, of the City University
10 of New York. True?

11 A. That -- yes.

12 Q. Okay. And it talks -- the abstract, the first
13 sentence says: Data obtained on asbestos exposure of
14 garage mechanics during brake lining maintenance and
15 repair work show that fiber concentrations -- show
16 that -- yeah -- fiber concentrations frequently in
17 excess of regulated limits are common.

18 Did I read that correctly?

19 A. Yes.

20 Q. Did PACCAR know that?

21 A. I don't know.

22 Q. Okay.

23 A. But what I can say is, in 1976, Mr. Bissonnette
24 did air-sampling and found no asbestos.

25 Q. Well, air -- did air-sampling for what?

1 A. It says that he did air-sampling for mechanic
2 doing brake repair work and clutch repair work.

3 Q. But it doesn't say that they used compressed
4 air, right?

5 A. It does not.

6 Q. It didn't say did they brush out the drums with
7 a long-haired brush, right?

8 A. We've already talked about it. It
9 doesn't -- we don't have a lot of details on the
10 testing.

11 Q. You don't have any idea what they were doing
12 when they did the testing other than the very brief
13 description in the documents, right?

14 MR. IRVIN: Argumentative.

15 A. And the brief description says they were doing
16 brake repair and clutch repair.

17 Q. (BY MR. JONES) What does this document say they
18 were doing?

19 This document really spells out what they
20 tested, right?

21 A. I don't know. I have not read the document.

22 MR. IRVIN: Well, yeah.

23 Q. (BY MR. JONES) Well, let's go to page -- you
24 can just look at the pictures and see.

25 Let's go to page 120 of the document.

1 There's a picture of a guy beveling a truck brake lining
2 at a municipal garage. It's figure 5.

3 MR. FLYNN: Counsel, which year is this of
4 the series of --

5 MR. IRVIN: I'm sure it says --

6 MR. JONES: '76.

7 MR. IRVIN: Yeah.

8 Q. (BY MR. JONES) Do you see the picture of the
9 gentleman beveling a brake lining?

10 A. I do.

11 Q. And then if you go to the next page, there's
12 another picture of this gentleman grinding brake linings
13 to remove grease and dirt. Do you see that?

14 A. That's what the caption says.

15 Q. And you can tell by the size of that brake
16 lining that that's the brake lining for either a heavy
17 truck or a bus or something like that, right?

18 A. It's -- appears for a heavy-duty vehicle of
19 some sort.

20 Q. Okay. The type of vehicle that Kenworth and
21 Peterbilt manufactured, right?

22 MR. IRVIN: Well, calls for speculation.

23 A. It's similar in size to a truck brake.

24 Q. (BY MR. JONES) I skipped one. There's a
25 picture of -- oh. Go to 118. There's a picture of a

1 guy using compressed air to blow dust off a brake
2 assembly on a car, right?

3 A. Yes.

4 Q. Just looking at the pictures --

5 MR. FLYNN: Object; foundation.

6 MR. IRVIN: Go --

7 THE REPORTER: What'd he say?

8 MR. FLYNN: I'm going to object,
9 foundation --

10 THE REPORTER: Object; foundation.

11 MR. FLYNN: -- calls for expert testimony,
12 vague, ambiguous, overbroad.

13 MR. JONES: You have to be an expert to
14 see a picture? I'm not supposed to bicker about
15 objections. I'm going to listen to myself again.

16 Q. (BY MR. JONES) Okay. On page 118, there's a
17 picture of a guy blowing out a brake assembly with
18 compressed air, right?

19 A. According to the --

20 MR. FLYNN: Objection; lack of foundation.
21 Calls for speculation.

22 A. According to the caption, that's what it
23 indicates that he's doing.

24 Q. (BY MR. JONES) So we've got a -- I mean, just
25 looking at the pictures of this document, we got a

1 pretty good idea of what they tested, right?

2 MR. IRVIN: No. Argumentative.

3 MR. FLYNN: Same objections.

4 MR. IRVIN: Yeah. Same objections.

5 A. I've not read the document. I don't know.

6 Q. (BY MR. JONES) Why would PACCAR's company
7 industrial hygienist come up with results so drastically
8 different than these researchers from Mount Sinai?

9 MR. IRVIN: Calls for speculation,
10 foundation, argumentative.

11 A. I don't know.

12 MR. IRVIN: And calls for an expert
13 opinion.

14 Q. (BY MR. JONES) Let's look at the billed sheets.
15 We're going to -- okay.

16 MR. JONES: Let's attach as Exhibit 45 a
17 two-page document printed on -- what's the size of this
18 paper?

19 MR. IRVIN: 11 by 17.

20 MR. JONES: 11 by 17. Is it two pages or
21 do you just have...

22 THE WITNESS: It's two pages.

23 MR. IRVIN: Okay. Thank you.

24 MR. JONES: 'M going to mark the
25 Exhibit 45. And then I'll put a little number 1 on the

1 bottom left-hand corner of the first page and a little
2 number 2 in the bottom left-hand corner of the second
3 page.

4 (Exhibit 45 marked.)

5 Q. (BY MR. JONES) Have you written on that one?

6 A. No.

7 Q. Let's trade them because I put the sticker on
8 that one.

9 A. Okay.

10 Q. Okay. What is Exhibit 45?

11 A. This is a Excel spreadsheet, which I created
12 based off of the Final Chassis Bills of Material that
13 were requested by Plaintiffs' attorney. And so by
14 chassis number, I tried to pull out what I felt like was
15 the pertinent information that you might be asking for.

16 Q. So what were you looking for when you looked
17 for this stuff?

18 A. So what I pulled out was the chassis number.
19 Most of these were what we would term fleets or small
20 fleets, so I gave the beginning and ending chassis of
21 the fleet.

22 If the Final Chassis Bill of Material
23 indicated the distributor or dealer number, who the
24 dealer was, I indicated that.

25 If it indicated the dealer location, I

1 included that.

2 Who the customer or operator, depending on
3 the time frame, there were two different terms that were
4 used. Customer or operator would be the ultimate
5 customer who at least the dealer had originally ordered
6 the truck for.

7 Who the front axle supplier, what the
8 model of the front axle was, part number for the front
9 brakes, who the rear axle supplier, rear axle model,
10 rear brakes part number.

11 Transmission supplier, transmission model,
12 clutch supplier, the clutch disk part numbers, what type
13 of clutch it was.

14 And then I have some comments regarding
15 some of the additional information that was in the Final
16 Chassis Bill of Material.

17 MR. FLYNN: Counsel, can I interrupt you,
18 please? Is there some way to identify this document or
19 drop it into the Chat so we could see it or at least get
20 a Bates number or put eyeballs on it?

21 MR. BARONIAN: I was thinking the same
22 thing.

23 MR. JONES: Let's go off the record.

24 MR. IRVIN: I'll send you guys a PDF.

25 THE VIDEOGRAPHER: The time is 3:17 p.m.

1 We are now off the record.

2 (Break was from 3:17 p.m. to 3:26 p.m.)

3 THE VIDEOGRAPHER: The time is 3:26 p.m.

4 We're now back on the record.

5 Counsel, you may proceed.

6 Q. (BY MR. JONES) Okay. Exhibit 45 is a summary
7 of a couple thousand pages probably?

8 A. Yes.

9 Q. Okay. And what you did is you summarized the
10 data from these voluminous records to get the things
11 that indicate who the axle, brake, transmission, engine,
12 and clutch suppliers were. True?

13 A. Yeah. Based off of the deposition notice, I
14 tried to summarize the information that I believed that
15 you were looking for.

16 Q. And for the chassis numbers, are these
17 individual chassis numbers or are they a series of
18 chassis numbers or a little bit of both?

19 A. Well, the answer is yes.

20 Q. Okay.

21 A. So for --

22 Q. Let's start at the top.

23 A. So, for instance, if you look at the very first
24 one, Chassis Number 239946, it's for that fleet. So
25 those -- the trucks 239946 through 239950 will be

1 identical.

2 Q. And so that means that is five trucks --

3 A. That's correct.

4 Q. -- 46, 47, 48, 49, and 50?

5 A. That's correct.

6 Q. So the chassis number on the left, does that
7 represent an individual truck?

8 A. Yes.

9 Q. Okay. And then what are the beginning chassis
10 number and ending chassis numbers -- what's the
11 significance of those?

12 A. Well, so, for instance, we just talked about
13 the first one. That's a five-truck fleet. That's the
14 beginning of the five trucks and the ending of the five
15 trucks.

16 The next one after that is 24725, and the
17 beginning chassis number for that fleet is 24725. The
18 ending chassis number is 24727. So that's a three-truck
19 fleet.

20 Q. Okay.

21 A. That's...

22 MS. JACKSON: Trey, this is Gaby, can I
23 interrupt you? Did you send these documents to all of
24 us?

25 MR. JONES: I didn't, no.

1 MR. IRVIN: I sent it to Johan and Bob
2 because I have their e-mails handy.

3 Can one of you guys send it to Gaby,
4 please?

5 MR. FLYNN: Yeah. I'll take care of it
6 right now.

7 MS. JACKSON: Appreciate it.

8 MR. IRVIN: Thank you.

9 Q. (BY MR. JONES) And then do you have the year on
10 here?

11 A. I did not put the year.

12 Q. Okay. But my recollection from reviewing them
13 is they were all from the 1974-to-'78, -'79, something
14 like that, time period?

15 A. Well, I believe that that's close.

16 Q. It's going to be in the documents but it's in
17 the --

18 A. The time -- it's in that time frame.

19 Q. Okay.

20 What's the -- for a brand new truck,
21 what's the expected life of a truck?

22 A. During this time frame, probably in the
23 million-mile range. Maybe less.

24 Q. Okay.

25 A. Really depends on the service and how it's used

1 and how it's maintained.

2 Q. And how long will it take to get to a million
3 miles?

4 A. Again, it depends on the service of the truck.
5 For Kraft, we were provided with, what was
6 it, like a newsletter from Kraft that had some
7 information about Kraft's transportation company or
8 division, and it looked like they drove roughly
9 120 -- 100-, 120,000 miles a year per -- on each truck.

10 Q. So roundabout ten years?

11 A. Nine -- eight to ten years.

12 Q. Something like that?

13 A. Yeah.

14 Q. Okay. Did you count up how many trucks you
15 could confirm were sold to a business that had Kraft or
16 Kraft Foods in the name?

17 A. I did not. I believe there was one that
18 didn't. It had a different -- I think.

19 MR. IRVIN: Probably the Richard Petty
20 one.

21 MR. JONES: That's separate. That's my
22 personal collection.

23 A. I thought there was one that wasn't, but I'm
24 not seeing it.

25 Q. (BY MR. JONES) Okay. So if it -- where it says

1 Customer Operator," for example, it doesn't say Kraft
2 all the way down for all the chassis. Is that because
3 you only made the entry once for the series?

4 I mean -- so let's look at 272023.

5 THE WITNESS: You know what?

6 MR. IRVIN: Yeah.

7 THE WITNESS: He doesn't have the final.
8 That's the one I printed out the other day, and I added
9 some information.

10 MR. IRVIN: Well, I thought she gave
11 me -- I had --

12 THE WITNESS: She gave you this. That's
13 this one --

14 MR. IRVIN: -- three copies.

15 THE WITNESS: The copy you have is a
16 previous version because I did some work. I realized
17 that these were -- there was information missing.

18 A. If I look here, I think all of these were
19 either Kraft Foods; Kraft; Kraft Lehigh; Kraft, Inc.;
20 Sealtest. So that's the variation in the --

21 Q. (BY MR. JONES) Got it.

22 A. -- dealer end. So sorry.

23 Q. We've been referring to Exhibit 45, we're
24 referring to the document in front of you with the
25 sticker on it?

1 A. And it's the final version.

2 Q. What you handed me -- because we swapped them.

3 I put the --

4 A. Right.

5 Q. -- sticker on the one that you gave me. We
6 swapped so that you had the one with the sticker. I
7 have an older version.

8 But the exhibit is the current version
9 we've been talking about the whole time?

10 A. Yes, sir.

11 Q. All right. That's good enough for me. Okay.

12 MR. IRVIN: And that's the one everyone on
13 the Zoom has.

14 MR. JONES: Okay.

15 Q. (BY MR. JONES) For the axles, did it appear
16 that all of the axles were supplied by either Rockwell
17 or Timken?

18 A. Yes.

19 MR. BARONIAN: Lacks foundation.

20 Go ahead.

21 Q. (BY MR. JONES) For the brakes --

22 A. Let me back up.

23 Q. Yeah.

24 A. For the front axles, it appears that all of
25 them were provided by Rockwell or Timken.

1 I think on the rear axles there were a few
2 of them that I couldn't tell --

3 Q. Okay.

4 A. -- without having additional information.

5 Q. For the rear axle --

6 A. No.

7 Q. -- it was either --

8 A. I'm sorry.

9 Q. -- Rockwell or you couldn't tell?

10 A. No. Let me back up.

11 Q. Okay.

12 A. There are some --

13 Q. Let me ask you a question.

14 A. Okay.

15 Q. Who were the manufac --

16 MR. BARONIAN: No. Misstates -- hold on.

17 Misstates testimony.

18 Go ahead.

19 Q. (BY MR. JONES) Who were the manufacturers of
20 the rear axles on the -- in the PACCAR Kenworth billed
21 sheets you summarized?

22 A. So I believe it was all Rockwell or Timken.

23 What you will see is some blanks within
24 the column for Rear Axle Supplier because it was not
25 specifically specified in the Final Chassis Bill of

1 Material. But, based off of the model of the axle, I
2 believe that they were all either Rockwell or Timken.

3 Q. Okay. So --

4 MR. BARONIAN: Hold it. Move to strike
5 based on speculation. Lacks foundation.

6 Q. (BY MR. JONES) So based on your review of the
7 records, it appears that all of the front and rear axles
8 were either Rockwell or Timken axles?

9 A. It appears that way.

10 MR. BARONIAN: Misstates the testimony,
11 lacks foundation --

12 Q. Who supplied --

13 MR. BARONIAN: I'm sorry. Lacks
14 foundation. Calls for speculation.

15 Go ahead.

16 MR. IRVIN: You might want to build a
17 foundation.

18 MR. JONES: Okay.

19 Q. (BY MR. JONES) How do you -- how do you know
20 that these are Rockwell or Timken axles identified in
21 these documents?

22 A. Well, based on my experience, I know that, you
23 know, the SQHD/SQHP axles are Rockwell models for a rear
24 axle.

25 Q. And how -- what experience is that?

1 A. Thirty-nine years working at Peterbilt and
2 multiple years prior to that working as mechanic.

3 Q. And through that work, you've become familiar
4 with the designation for Rockwell-branded axles?

5 A. Yes.

6 Q. Have you seen that designation in PACCAR billed
7 sheets and then looked at the actual axle itself and
8 confirmed that this billed sheet referring to SQHD is,
9 in fact, a Rockwell axle?

10 A. Yes.

11 Q. Okay. Okay. How else do you know that what's
12 identified in the documents are either Rockwell or
13 Timken axle? What experience do you have to establish
14 that?

15 MR. BARONIAN: Assumes facts.

16 A. Thirty-nine years working as an engineer for
17 Peterbilt and had experience with those axles. I've
18 work -- done design work associated with those axles.
19 So...

20 Q. (BY MR. JONES) On many of the billed sheets, it
21 says "Rockwell," right?

22 A. There are -- yes.

23 Q. So for a lot of them, it either says the name
24 "Rockwell" and then the part number or it just has the
25 part number, right?

1 A. That's correct.

2 Q. And if it says "Rockwell" and has the part
3 number, and you see that same part number somewhere
4 else, what does that indicate to you?

5 A. It's likely the same.

6 Q. Okay.

7 MR. BARONIAN: Hold on.

8 Assumes facts, lacks foundation.

9 MR. JONES: Bob, you're God. You're God.

10 MR. BARONIAN: Yeah, yeah. Go ahead.
11 Move on.

12 MR. JONES: All right.

13 Q. (BY MR. JONES) Who supplied the brake
14 assemblies for the trucks -- the Kenworth trucks where
15 the customer operator is identified as Kraft?

16 MR. IRVIN: Overbroad.

17 A. Well, to the best of my knowledge and
18 understanding, all of the brake part numbers appear to
19 be Rockwell brakes.

20 Q. (BY MR. JONES) And what is your experience in
21 that area?

22 A. Well, again, 39 years at Peterbilt.

23 I was also engineering manager for the
24 vehicle systems, which included responsibility for our
25 air brake system.

1 Q. And through that experience, did you have
2 experience working with Rockwell part numbers for brake
3 assemblies?

4 A. Yes, I did.

5 Q. Okay. For Rockwell brake assemblies, who
6 supplied the brakes -- and I'm not asking about the
7 brake lining -- but the brake itself with the lining
8 attached?

9 MR. BARONIAN: Assumes facts. Lacks
10 foundation.

11 A. So are you asking who supplied the brake -- the
12 assembled brake shoes to Rockwell?

13 Q. (BY MR. JONES) Let me ask it this way: Did the
14 Rockwell brake assemblies include the brake and friction
15 lining?

16 A. You're talk --

17 MR. BARONIAN: Assumes facts. Lacks
18 foundation.

19 A. When you say brake and lining, are you speaking
20 of the brake shoe assembly?

21 Q. (BY MR. JONES) Correct.

22 A. They would come in with the brake assembly from
23 Rockwell.

24 Q. Okay. Did you ever see a circumstance where
25 PACCAR purchases brake assemblies, and the brake

1 assembly showed up for a drum brake system and the
2 actual drum brake shoe assembly wasn't part of it?

3 A. There are some points in time in certain brakes
4 that they were assembled in our plant.

5 Q. Okay. Was that rare or common?

6 A. It was fairly rare.

7 Q. Okay.

8 A. Is my understanding.

9 Q. And, typically, the brake assembly purchased by
10 PACCAR included the brake shoe and lining?

11 A. Typically.

12 Q. Okay.

13 MR. BARONIAN: Assumes facts, lacks
14 foundation, calls for speculation.

15 Q. (BY MR. JONES) Through your review of these
16 documents, were you able to identify the supplier of the
17 friction brake linings?

18 A. I was not.

19 Q. Okay. You saw the number 551C?

20 A. Ah. Sorry. I wasn't for the most part, except
21 for, on some of the descriptions within the Final
22 Chassis Bill of Material, it did indicate which lining
23 was used on some of those parts --

24 Q. Okay.

25 A. -- not all.

1 Q. And so where --

2 MR. FLYNN: Object -- I'm going to object
3 and move to strike. Lack of foundation, speculation.

4 Q. (BY MR. JONES) Your summary is a summary of
5 documents produced by PACCAR in this case that are from
6 Bates number PACCAR 002539 through PACCAR 005271, true?

7 A. That's correct.

8 Q. Okay. And that Bates series that I just read,
9 all of those documents are true and correct copies of
10 documents found in PACCAR's files, true?

11 A. To the best of my knowledge, they are.

12 Q. And you've reviewed all of them, every page,
13 right?

14 A. Yes, I have.

15 Q. Okay. And you -- these actually came from
16 PACCAR's files. These aren't ones I gave you. Right?

17 A. That's correct.

18 Q. Okay. These documents were authored by PACCAR,
19 true?

20 A. Yes.

21 Q. They were authored at or near the time
22 indicated in the document where it indicates when the
23 chassis was generated, true?

24 A. Correct.

25 Q. Okay. These documents are main -- were created

1 in the normal course of PACCAR's business of
2 manufacturing and selling heavy trucks, true?

3 A. Yes, they were.

4 MR. IRVIN: It might be a good time to
5 attach 46 over there, the two additional pages.

6 MR. JONES: Oh, yeah.

7 We're going to -- well, let me make sure I
8 got all this business -- record business done.

9 MR. IRVIN: Can I see those pages?

10 MR. JONES: Yeah.

11 What's our next in order?

12 THE VIDEOGRAPHER: 46.

13 THE REPORTER: 46.

14 (Exhibit 46 marked.)

15 MR. IRVIN: Let me just --

16 MR. JONES: Oh.

17 MR. IRVIN: I'm just going take a quick
18 scan of these so that when we get people wanting
19 them -- to send them.

20 Here you go, Counsel.

21 MR. JONES: Thank you.

22 Q. (BY MR. JONES) Are you the custodian of records
23 for PACCAR for these documents?

24 A. Yes.

25 Q. Okay. And how are you qualified to identify

1 that these documents are, in fact, business records of
2 PACCAR?

3 A. Well, I've worked with them for years, as well
4 as pulled the information together.

5 Q. And how are these documents prepared in your
6 experience?

7 A. As -- you mean -- what -- how are they prepared
8 for proof --

9 Q. How are they generated?

10 A. Oh.

11 Q. How were they --

12 A. How do we create them?

13 Q. Correct.

14 A. So it begins with the customer placing an order
15 through a dealership that that order, which is a listing
16 of option codes, is sent to Peterbilt or Kenworth.

17 To make a long process very short,
18 essentially what happens is those option codes are used
19 to generate and select Bills of Material, which are what
20 are denoted by the numbers called B/M number. That's
21 Bill of Material number.

22 So it generates a Bill of Material based
23 off of what's ordered. And that's all pulled together.
24 That's the parts that are ordered to build the truck.

25 So that grouping of parts gets segregated

1 out in different types of reports. One is it goes to
2 Purchasing to purchase the parts.

3 One is is it goes -- it -- one is it goes
4 into an engineering file, which is the Final Chassis
5 Bill of Material before it becomes an FCBM. We call it
6 a chassis image, which Engineering's job is to ensure
7 this is as accurate as possible before the truck is
8 completed.

9 So in the event that there's changes that
10 occur or whatever along the process, those are captured
11 in the chassis image. And then the chassis image, on
12 the day that the truck is completed, is captured and
13 becomes the Final Chassis Bill of Material.

14 Q. What is the business purpose of these
15 documents?

16 A. It's to capture how the truck was manufactured,
17 how it was assembled, what components were used.

18 And then it also is used by our
19 dealerships for whenever a customer comes in and he
20 says, I need a new plate -- wear plate -- wear equalizer
21 plate on the suspension.

22 And so the parts guy can go in and look at
23 the Final Chassis Bill of Material, find that wear
24 equalizer plate and know that he's got to order Part
25 Number K274-90. That's what he needs to replace that

1 worn-out plate, or whatever the part is.

2 Q. And the date -- there's a date at the beginning
3 of these documents that indicates when the truck was
4 built?

5 A. It's the -- the date is on the top of every
6 page, which indicates the day that the truck was
7 completed.

8 Q. And when were these generated?

9 A. In that late '70s -- I don't remember if they
10 go into 1980 -- time frame.

11 Q. I guess my question is is: When is the billed
12 sheet generated in relation to the date the truck is
13 constructed? Is it the same day, a few days before, a
14 few days after?

15 A. Generally, it's -- there's a little bit of lag
16 time sometimes.

17 What you might find is a truck that was
18 finished late Friday afternoon might have a billed date
19 of early Monday morning.

20 But, in general, most of the billed
21 sheets -- or the Final Chassis Bill of Materials are
22 generated the day that the truck is completed.

23 Q. So the idea is that, when the truck rolls off
24 the assembly line, that's also when the chassis
25 bill -- Final Chassis Bill of Materials is generated?

1 A. Yes, sir.

2 Q. Okay. And that's enter -- indicated on the
3 date at the top of each document?

4 A. That's correct.

5 Q. Okay. When you see the code 551C in these
6 documents, what does that mean?

7 A. Well, what I saw is there were either notes or
8 the brake part number description, which indicated
9 that -- and I believe it was all on the front
10 brakes -- yeah, the -- quite a few of the trucks -- the
11 front brake, there was either a note or part of the
12 brake description that indicated that the linings were
13 551Cs.

14 Q. And what does that mean?

15 MR. FLYNN: Objection -- objection. Move
16 to strike. Lack of foundation, speculation.

17 A. It means that the brake linings on -- it would
18 mean to me that the brake linings on that particular
19 front brake were 551C Abex linings.

20 Q. And how do you --

21 MR. FLYNN: Same objections. Same
22 objections.

23 Q. (BY MR. JONES) How do you know that a --

24 MR. JONES: You're God too.

25 Q. (BY MR. JONES) How do you know that the 551C

1 is an Abex lining?

2 A. Just based off my experience.

3 MR. FLYNN: Objection; speculation, lack
4 of foundation, lack of personal knowledge.

5 A. Based off of my experience.

6 But what I will say is it -- really, the
7 only way to determine for sure is to look at the prints
8 for those brake part numbers, which would define what
9 components were used in the brake assembly.

10 Q. (BY MR. JONES) Does the 551C designation tell
11 you anything about whether or not the part is an
12 asbestos part?

13 A. Well, again, assuming that I'm correct in my
14 assumption that that's Abex 551C lining, that would be
15 an asbestos lining.

16 Q. And do you have any reason to question that
17 that 551C is an Abex lining?

18 A. I do not.

19 MR. FLYNN: Objection; speculation,
20 argumentative, lack of foundation, lack of personal
21 knowledge. Ramirez.

22 MR. JONES: Well, you guys all of a sudden
23 like that Ramirez case, huh? I don't think it was that
24 popular with y'all when it first came out.

25 Q. (BY MR. JONES) And how are you familiar with

1 551C being an Abex-brand lining?

2 MR. FLYNN: Same objections.

3 A. Well, I think we have documents that we've
4 produced that indicate that 551C is asbestos lining.

5 Q. (BY MR. JONES) And how do you know that it's
6 an Abex-brand lining?

7 MR. FLYNN: Same objections.

8 A. I don't 100 percent. I just know that there is
9 an Abex 551C lining.

10 Q. (BY MR. JONES) Have Eaton and Rockwell informed
11 PACCAR that the 551C is an asbestos lining?

12 MR. BARONIAN: Overly broad, assumes
13 facts.

14 MR. FLYNN: Hearsay.

15 MR. IRVIN: Calls for speculation.

16 (Reporter clarification.)

17 MR. IRVIN: He said foundation.

18 MR. FLYNN: I said hearsay.

19 MR. IRVIN: Oh, hearsay.

20 (Reporter clarification.)

21 A. I said I'm not for sure. I don't recall.

22 (Reporter clarification.)

23 Q. (BY MR. JONES) One second.

24 Okay. Were you able to identify the
25 clutch suppliers in the Kenworth billed sheets where the

1 customer operator is identified as Kraft?

2 A. Yes, I was.

3 Q. And who was the supplier of the clutches?

4 A. Looks like Spicer was for all the trucks.

5 Q. And it looks like there's a mixture of organic
6 and ceramic clutches?

7 A. Yes.

8 Q. Up until 1982, the Spicer organic clutch was an
9 asbestos clutch, true?

10 A. I believe that that's true.

11 Q. And what engines were identified as being used
12 in the Kenworth trucks built where the customer or
13 operator is identified as Kraft?

14 A. I didn't include that in this list, but I
15 believe they were all Cummins engines.

16 Q. And what's the basis for that statement?

17 A. I've looked at it while I was going through,
18 and I don't recall seeing another engine.

19 Q. Cummins is pretty easy because mostly it says
20 Cummins, right?

21 A. It says Cummins or something like NTC.

22 I'm familiar with the model numbers as
23 well.

24 Q. Okay. So your recollection from reviewing the
25 documents is that the engines identified in the Final

1 Chassis Bill of Materials for Kenworth trucks where the
2 identi -- operator or customer is identified as Kraft
3 were Cummins engines, true?

4 A. For these chassis that we looked at.

5 MR. JACKSON: Move to strike the last
6 series of questions. Speculation, foundation.

7 MR. JONES: Okay. That's all my
8 questions. I'll pass the witness.

9 MR. IRVIN: All right. Can we take
10 five-minute -- does anyone on the Zoom have questions?

11 MR. FLYNN: I have some questions for
12 Abex.

13 MR. IRVIN: Who else? Anybody?

14 MR. BARONIAN: I do too, yeah.

15 MR. IRVIN: All right.

16 MR. JONES: Do you want me to move?

17 MR. IRVIN: Yeah.

18 THE VIDEOGRAPHER: Are we going off the
19 record still?

20 MR. IRVIN: Yeah.

21 THE VIDEOGRAPHER: The time is 3:55 p.m.
22 We are off the record.

23 (Break was from 3:55 p.m. to 4:13 p.m.)

24 THE VIDEOGRAPHER: This is the beginning
25 of Media Unit Number 4. The time is 4:13 p.m. We are

1 now back on the record.

2 Counsel, you may proceed.

3 MR. IRVIN: And before we start, just a
4 piece of housekeeping. We're going to attach as
5 Exhibit 46 the two additional pages of the Final Bill of
6 Chassis Materials that Mr. Curbo provided here today.

7 Go ahead, Mr. Flynn.

8 EXAMINATION

9 BY MR. FLYNN:

10 Q. Mr. Curbo, my name is Johan Flynn. I represent
11 Pneumo Abex LLC. Can you hear me all right, sir?

12 A. Yes.

13 Q. All right. Great.

14 You would agree with me, would you not,
15 that Abex was never an exclusive supplier of
16 asbestos-containing friction materials for use in brake
17 assemblies used by either Kenworth, PACCAR, or
18 Peterbilt, correct?

19 A. To my knowledge, Abex was not an exclusive
20 supplier of brake linings that were used on Peterbilt or
21 Kenworth products.

22 Q. Okay. And also the same with PACCAR as well?

23 A. Or PACCAR, that's correct.

24 Q. Okay. You're familiar with the term "OEM,"
25 right?

1 A. I'm -- could you just say it again? I couldn't
2 hear.

3 Q. I'm sorry, Mr. Curbo.

4 You're familiar with the term "OEM," are
5 you not?

6 A. Yes.

7 Q. And that stands for Original Equipment
8 Manufacturer, correct?

9 A. Correct.

10 Q. And Kenworth, PACCAR, Peterbilt was an original
11 equipment manufacturer of off -- of on-highway tractors?
12 Is that a fair assessment?

13 A. Yes.

14 Q. Okay. You're familiar with the term "tractor?"

15 A. Yes.

16 Q. Okay. I'm going drop into the Chat two
17 exhibits, Exhibits 47 and 48. And then I'll share my
18 screen, sir. Give me one second here.

19 (Exhibits 47 and 48 marked.)

20 Q. (BY MR. FLYNN) I'm now sharing on the screen.
21 Do you see Exhibit 47, Mr. Curbo?

22 A. I see a -- what appears to be a photograph of a
23 Kenworth cab-over truck -- tractor.

24 Q. And what exactly -- describe to the jury what a
25 cab-over truck means?

1 A. Well, essentially, there's I'm going to say two
2 classifications of truck. One is a cab-over where the
3 cab is over -- located up -- on top of or over the
4 engine.

5 The other is what we call a conventional,
6 which is the truck that has a nose with a hood out in
7 front that covers the engine.

8 Q. And was a Model K-123 Kenworth the cab-over
9 tractor?

10 A. I don't recall if they called them K-123s.
11 K-100. And there may have been a specific version of
12 the K-100 that they called the K-123. I don't recall
13 seeing that model designation.

14 Q. All right. But it's fair to say, then, that a
15 K-100 series Kenworth tractor is what's depicted in
16 Exhibit 47; is that fair?

17 A. I believe so, yes.

18 Q. Okay. And is this the model of tractor that
19 was sold to Kraft where Mr. Carpenter worked?

20 A. I believe so.

21 Q. Okay. And when we use the term
22 "tractor-trailer," why do we use that term "tractor" and
23 "trailer?" Why is there that distinction?

24 A. Well, I think maybe what you're asking about is
25 there's tractors. Tractors pull a trailer. And then

1 there's trucks, which generally have some sort of body
2 on them that carries the load. And they can also pull a
3 trailer, but it's typically not in the same fashion as a
4 tractor pulls a trailer.

5 Q. And Kenworth, PACCAR, and Peterbilt were
6 manufacturers of the tractors and not the trailers. Is
7 that -- my understanding correct?

8 A. You are correct.

9 Q. I'm now sharing on my screen what's marked as
10 Exhibit 48. Do you see that, sir?

11 A. I do.

12 Q. Is what's depicted in Exhibit 48, based on your
13 knowledge and experience, another example of a K-100
14 Kenworth tractor?

15 A. Yes, it is.

16 Q. In this case, Mr. Curbo, you can't tell the
17 jury the percentage of Abex friction materials that were
18 used in OEM Rockwell brake assemblies supplied to
19 Kenworth from 1978 to 1987; is that true?

20 A. As I sit here today, I cannot tell you -- tell
21 that. I don't know what that percentage would be.

22 Q. And, likewise, for PACCAR, you can't tell the
23 jury in this case, the percentage of Abex friction
24 materials used in OEM Rockwell brake assemblies supplied
25 to PACCAR from 1978 to 1987, true?

1 A. As I sit here today, I cannot tell you that
2 percentage.

3 Q. Okay. And you also can't tell the jury the
4 percentage of Abex friction materials used in OEM
5 Rockwell brake assemblies supplied to Peterbilt from
6 1978 to 1987, true?

7 A. That's true.

8 MR. BARONIAN: Assumes facts.

9 Q. (BY MR. FLYNN) I want to shift gears now and
10 talk about Eaton.

11 Eaton was also a supplier of brake
12 assemblies to Kenworth, PACCAR, and Peterbilt from 1978
13 to 1987, correct?

14 A. That's correct.

15 Q. And you can't tell the jury in this case the
16 percentage of Abex friction materials used in OEM Eaton
17 brake assemblies supplied to Kenworth, PACCAR, or
18 Peterbilt from 1978 to 1987, true?

19 A. That's true. I cannot tell you that
20 percentage.

21 Q. And, in your role as the Person Most Qualified
22 or corporate representative of Kenworth, PACCAR, and
23 Peterbilt, you're aware of who the suppliers of
24 asbestos-containing brake linings were that were used in
25 the brake assemblies sold to Kenworth, PACCAR, and

1 Peterbilt over time. Is that a fair statement?

2 A. I would say I'm at least aware of some of them.

3 Q. You're aware that Carlisle was also a supplier
4 of asbestos-containing brake linings used in brake
5 assemblies sold to Kenworth, PACCAR, and Peterbilt,
6 correct?

7 A. That's my understanding.

8 Q. You're also aware that Raybestos was also a
9 supplier of asbestos-containing brake linings used in
10 brake assemblies sold to Kenworth, PACCAR, and
11 Peterbilt, correct?

12 A. I believe so.

13 Q. And you're also aware that Bendix was also a
14 supplier of asbestos-containing brake linings used on
15 brake assemblies sold to Kenworth, PACCAR, and
16 Peterbilt, correct?

17 A. They may have been. I'm not --

18 Q. And --

19 A. -- for sure about that.

20 Q. -- are you aware, sir, of whether a company
21 called Nuturn, N-u-t-u-r-n, or Merimar (phonetic), was a
22 supplier of asbestos-containing brake linings used on
23 brake assemblies sold to Kenworth, PACCAR, or Peterbilt?

24 A. I don't know.

25 Q. Okay. Mr. Curbo, are you aware from documents

1 produced by PACCAR in this case that Abex stopped
2 selling and supplying asbestos-containing friction
3 materials as of December 31, 1987?

4 A. I believe that's accurate.

5 Q. And there's actually a document in the PACCAR
6 document collection that discusses that very issue, does
7 it not?

8 A. Yes.

9 Q. I'm going to drop into the Chat what I will
10 mark as Exhibit 49.

11 (Exhibit 49 marked.)

12 Q. (BY MR. JONES) And I'll share my screen in just
13 a second, Mr. Curbo. Bear with me.

14 Mr. Curbo, do you see on the screen what's
15 marked as Exhibit Number 49?

16 A. Yes. It's pretty small.

17 Can you give me Bates number and I can
18 look it up?

19 Q. Sure. It's PACCAR000422. You see it in the
20 lower right-hand corner of the document.

21 A. Okay.

22 Q. PACCAR 422.

23 A. It's different. Let me look. September 3,
24 1986.

25 Huh. I think you must be looking at a

1 different set of discovery.

2 Q. Okay. Well, that -- can we work off my screen?

3 MR. JONES: Well, I don't have it. What
4 is it?

5 MR. FLYNN: I dropped it into the Chat.
6 So --

7 MR. JONES: Well, I'm here live and in
8 person. I'm not on the Zoom.

9 MR. IRVIN: It's -- it's --

10 MR. FLYNN: (Inaudible) September 3, 1986,
11 letter from Abex that was in PACCAR's file saying when
12 Abex was selling asbestos brakes.

13 MR. IRVIN: It's from a --

14 MR. JONES: September 3, '86?

15 MR. FLYNN: September 3, '86, yes.

16 MR. JONES: I got 873. And it's part of
17 Exhibit 37. It's one of the documents in Exhibit 37.

18 MR. IRVIN: His version is from a
19 different case is what the watermark tells me.

20 MR. JONES: Oh. That's -- you got to the
21 bottom of that because you're going to remember this
22 case, I guarantee. And not because of that dadgum
23 watermark.

24 MR. FLYNN: (Inaudible) it even says on
25 the document, the Bates label, Long v. PACCAR,

1 5/24/2018.

2 MR. JONES: Hey, we're just working in
3 this case, all right, Johan? Your 863.

4 THE WITNESS: 873.

5 MR. JONES: All right.

6 873.

7 MR. FLYNN: 873. Okay.

8 Well, it's the same document, we can talk
9 through it.

10 MR. JONES: Right.

11 THE WITNESS: Right.

12 Q. (BY MR. FLYNN) Exhibit 49, Mr. Curbo, is a
13 September 3, 1986, memo from Abex. This was a document
14 found in PACCAR's business records, correct?

15 A. Yes.

16 Q. This is a fair and accurate copy of PACCAR's
17 business record Bates-labeled 873, is it not?

18 A. Yes.

19 Q. And this is a document maintained in the
20 ordinary course of PACCAR's business?

21 A. Yes.

22 Q. And in the third paragraph of that, of
23 Exhibit 49, it's --

24 MR. JONES: Johan, we stipulated that this
25 is authentic and was received by PACCAR previously.

1 This is part of Exhibit 37.

2 MR. FLYNN: Okay. All right.

3 Well, I wasn't provided what was in
4 Exhibit 37, so I was working off of a an exhibit
5 (inaudible).

6 MR. JONES: Sure. Just letting you know.
7 Go ahead.

8 Q. (BY MR. FLYNN) Mr. Curbo, let me restart.

9 Exhibit 49, that's been stipulated to as
10 an authentic business record of PACCAR, states:
11 Effective live January 1, 1988, Abex Corporation will no
12 longer sell any asbestos-based materials.

13 Did I read that correctly?

14 A. You did.

15 Q. And this is a letter that PACCAR received from
16 Abex at or around the time of September 3, 1986?

17 A. Yes, I believe so.

18 Q. Okay. Mr. Curbo, did you know what
19 Mr. Carpenter did when he worked at Kraft from 1978 to
20 1987?

21 MR. JONES: Lacks foundation, calls for
22 speculation.

23 A. Can you re-ask the question just because
24 there's a detail that I --

25 Q. (BY MR. FLYNN) Sure.

1 A. -- need to make sure I got.

2 Q. Do you know, Mr. Curbo, as the Person Most
3 Qualified for PACCAR what Mr. Carpenter, the Plaintiff
4 in this case, did when he worked at Kraft from 1978 to
5 1987?

6 MR. JONES: Lacks foundation, calls for
7 speculation.

8 A. My recollection based off of reading his
9 deposition, I believe he was a truck driver.

10 Q. (BY MR. FLYNN) Okay. And based upon your
11 review of Mr. Carpenter's deposition, are you aware of
12 whether Mr. Carpenter ever adjusted any brakes on any of
13 the trucks he operated as a truck driver at Kraft from
14 1978 to 1987?

15 MR. JONES: Lacks foundation, lacks
16 personal knowledge, calls for speculation.

17 A. My recollection from the deposition is he said
18 that he did not adjust any brakes at Kraft.

19 Q. (BY MR. FLYNN) And are you aware of whether
20 Mr. Carpenter ever testified that he did any mechanic
21 work, including inspecting, removing, installing,
22 handling, manipulating, sanding, grinding, filing, or
23 blowing out any of the brakes on the trucks he operated
24 as a truck driver at Kraft from 1978 to 1987?

25 MR. JONES: Lacks foundation, calls for

1 speculation, no personal knowledge.

2 A. My recollection from reading his deposition was
3 that he said he did not do any work on the truck that he
4 drove at Kraft -- or the trucks that he drove at Kraft,
5 that the -- they had mechanics that took care of the
6 maintenance work.

7 Q. (BY MR. FLYNN) And your understanding from
8 reviewing Mr. Carpenter's deposition is that he was not
9 a mechanic, correct?

10 MR. JONES: Lacks foundation, lacks
11 personal knowledge, calls for speculation.

12 A. My understanding is that he did not work as a
13 mechanic while he was at Kraft.

14 Q. (BY MR. FLYNN) And based upon your review of
15 Mr. Carpenter's depositions, he never -- it's your
16 understanding that he never identified any Abex friction
17 materials during the course of his deposition, true?

18 MR. JONES: Lacks foundation, lacks
19 personal knowledge, calls for speculation.

20 A. My recollection is that Mr. Carpenter was not
21 aware of a company called Abex or any of their products.

22 Q. (BY MR. FLYNN) And are you aware, based on your
23 review of the case materials in this case, Mr. Curbo,
24 whether there's any information as to who supplied the
25 replacement brake linings that were used at Kraft when

1 Mr. Carpenter worked there from 1978 to 1987?

2 MR. JONES: Lacks foundation, lacks
3 personal knowledge, calls for speculation.

4 A. Nothing beyond what Mr. Carter [sic], I think,
5 testified that he saw -- he testified he saw Bendix
6 brakes. He testified he saw Eaton and Rockwell brakes
7 is my recollection.

8 Q. (BY MR. FLYNN) I want to shift gears a little
9 bit and ask you some questions about brake linings.

10 Based on your experience, your work, your
11 personal knowledge, when you were at -- working for
12 PACCAR and its related entities, how long in terms of
13 mileage were asbestos brake linings that were used in
14 Kenworth, PACCAR, and Peterbilt tractor brake facilities
15 designed to last -- how long were they designed to last
16 before they were intended to be replaced or removed?

17 MR. JONES: Lacks foundation, calls for
18 speculation.

19 MR. IRVIN: You asked him this question.

20 A. I'm not a hundred-percent sure what the design
21 target was. I think we have some documents in our
22 production that indicate there were at least some fleets
23 that got in the range of a 100- to 130,000 miles before
24 a brake change.

25 Q. (BY MR. FLYNN) And did Kenworth, PACCAR,

1 Peterbilt believe that the asbestos-containing friction
2 materials that they included with their axles in their
3 tractors were safe?

4 MR. JONES: Lacks foundation, calls for
5 speculation.

6 A. Yes, I believe so.

7 Q. (BY MR. FLYNN) And PACCAR, Kenworth, or
8 Peterbilt ultimately were the entities that determined
9 whether or not to include any potential warning about
10 asbestos related to the brake assemblies used in their
11 tractors, correct?

12 MR. IRVIN: Vague, ambiguous, overbroad,
13 calls for a legal conclusion.

14 A. Well, I think, as I testified before, what we
15 did is we passed on the information that was provided to
16 us from our components suppliers.

17 Q. (BY MR. FLYNN) So, ultimately, the one who made
18 the decision of whether to include a warning was
19 Kenworth, PACCAR, or Peterbilt, correct?

20 MR. IRVIN: Same objections.

21 A. No. I think, as we know, Rockwell included a
22 warning in their maintenance manual in 1978.

23 Q. (BY MR. FLYNN) Even --

24 MR. BARONIAN: Objection -- hold on.

25 Objection; nonresponsive. Move to strike.

1 Q. (BY MR. FLYNN) So let me ask the question
2 again.

3 Even though Kenworth, PACCAR, and
4 Peterbilt believed that the asbestos-containing friction
5 materials you used in your axles and your tractors was
6 safe, it was ultimately your decision -- Kenworth's,
7 PACCAR's, or Peterbilt's -- whether or not to include
8 any potential warning about asbestos related to your
9 tractors. Fair?

10 MR. IRVIN: Same objections.

11 A. Well, I think, given that the practice at the
12 time was that we passed along our component suppliers'
13 information, we didn't make the decision of whether or
14 not the component suppliers included a warning in their
15 documentation or not.

16 Q. (BY MR. FLYNN) But the ultimate decision of who
17 included a warning or didn't include a warning rested
18 with you as the OEM manufacturer of the tractor --

19 MR. IRVIN: Asked and answered.

20 Q. (BY MR. FLYNN) -- fair?

21 A. As I said, we didn't make the decision of what
22 warnings were placed in the OEM -- or I'm sorry -- in
23 the component suppliers' manuals. They made that
24 decision.

25 Q. And --

1 MR. BARONIAN: Move to strike.

2 Hold on, Johan.

3 MR. FLYNN: Sorry.

4 MR. BARONIAN: Move to strike as
5 nonresponsive his last answer and the answer to the
6 previous question. I couldn't get my finger on the mute
7 button fast enough.

8 Thank you.

9 MR. FLYNN: I apologize, Bob, for speaking
10 too quickly.

11 Q. (BY MR. FLYNN) This isn't designed to be a
12 trick question, Mr. Curbo. I'm only trying to figure
13 out that whether or not, when you received a warning
14 from, say, it was from Abex or if it was from Rockwell,
15 you would include that warning to your end users.
16 Correct?

17 A. I'm sorry. Say -- ask it again.

18 Q. All right. When you received -- or PACCAR,
19 Kenworth, Peterbilt, whichever one it was, received the
20 Rockwell catalog that had a warning in it, you passed
21 that warning along to your end users of your tractors
22 that you were selling. Is that fair?

23 A. That's correct.

24 Q. Okay. Looking -- oh, couple more questions. I
25 want to just authenticate a couple of documents. I

1 don't know if these documents were in the set of
2 documents or not that were included in 37, but I'm just
3 going to authenticate these documents, and then I think
4 I'm finished.

5 MR. FLYNN: Just adding exhibit numbers so
6 (inaudible). Like right when I need my computer to
7 cooperate it doesn't want to cooperate. Give me one
8 second, please.

9 MR. JONES: Oh, is the Zoom over here too?

10 THE REPORTER: Yes.

11 MR. JONES: Oh.

12 MR. FLYNN: I had these all queued up and
13 ready to go, but then it just doesn't want to pass --

14 MR. IRVIN: Just jump and I'll catch you.

15 MR. FLYNN: There we go.

16 Q. (BY MR. FLYNN) I'm going to drop into the Chat
17 three exhibits: Exhibits 50, 51, and 52.

18 (Exhibits 50 to 52 marked.)

19 Q. (BY MR. FLYNN) I'm going to share my screen.

20 Exhibit Number 50, Mr. Curbo, is a PACCAR
21 Bates-labeled document. It's 123 to 124.

22 Do you recognize what I have marked as
23 Exhibit Number 50 to the deposition, Mr. Curbo?

24 A. I believe so.

25 Q. Is Exhibit 50 a letter dated February 2 [sic],

1 1985, from Scott Wetzel Services Incorporated a document
2 that was found in PACCAR's business records?

3 A. I believe so.

4 Q. Was this a document, Exhibit --

5 MR. JONES: Hey, give us one second.
6 We're trying to get the -- get it in the room.

7 THE WITNESS: Yeah. It's different.

8 Okay. So that's February.

9 MR. JONES: I feel like I recognize it.
10 What is it, February 3rd [sic], what? Eighty?

11 THE WITNESS: '83.

12 MR. IRVIN: Okay.

13 THE WITNESS: Yeah.

14 A. Looks like it's 173 and 174.

15 Q. (BY MR. FLYNN) All right. The Bates label is
16 so small I can't even read it, so thank you for
17 clarifying it. I'll ask my questions again.

18 Mr. Curbo, do you see on the screen what
19 we've marked as Exhibit 50, PACCAR 173 to 174?

20 A. Yes.

21 Q. Is this a business record that was kept in the
22 ordinary course of business by PACCAR?

23 A. Yes.

24 You should probably show me 174 just to
25 make sure. Yes.

1 Q. And the page has Table I, Airborne Asbestos
2 Concentrations?

3 A. Correct.

4 Q. Is this a fair and accurate copy of PACCAR 173
5 to 174?

6 A. It appears to be.

7 Q. All right. And then we'll shift gears to the
8 next one, which is PACCAR 171 to 172, which is
9 Exhibit 51. Do you see that on the screen, Mr. Curbo?

10 A. Yes, I do.

11 Q. Okay.

12 A. Yes, I do.

13 Q. Is Exhibit 51 a fair and accurate copy of a
14 PACCAR business record dated June 25, 1984?

15 A. It appears to be.

16 MR. JONES: Hang on, hang on.

17 Can we find it in this case, please?

18 MR. IRVIN: Thank you.

19 THE WITNESS: Sure.

20 MR. IRVIN: Here.

21 THE WITNESS: Here. It's -- I got that
22 right here. Well, here it is.

23 Okay. We have it.

24 MR. JONES: What --

25 THE WITNESS: 171 and 172.

1 MR. JONES: Okay.

2 Q. (BY MR. FLYNN) Is Exhibit 51, Mr. Curbo, a fair
3 and accurate copy of a business record maintained by
4 PACCAR?

5 A. It appears to be, yes.

6 Q. Was this a document that was kept in the
7 ordinary course of business by PACCAR?

8 A. Yes.

9 Q. Is this a fair and accurate copy of that
10 business record?

11 A. It appears to be.

12 Q. Exhibit 52, sir, which I'm now showing on my
13 screen, is a document Bates-labeled PACCAR 240. Do you
14 see that?

15 A. Yes, I do.

16 Q. Is Exhibit 52, PACCAR 240, dated
17 March 12th -- March 2, 1987, a fair and accurate copy of
18 a PACCAR business record?

19 A. Yes.

20 Q. Is Exhibit 52 a document that was kept in the
21 ordinary and regular course of PACCAR's business?

22 MR. JONES: What was 52, the number again?
23 I'm sorry.

24 THE WITNESS: 240.

25 MR. JONES: 240. Thank you.

1 MR. FLYNN: All right. With that, I have
2 no further questions. I'm going to jump off and go pick
3 my kids up. But I'll be on the Zoom -- or listening on
4 the phone.

5 I appreciate your time, Mr. Curbo, and
6 your attention, sir. Best wishes.

7 THE WITNESS: Thank you.

8 MR. IRVIN: Bob? Bob?

9 MR. BARONIAN: I'll go. Sure, I'll go.
10 Shouldn't take me very long.

11 EXAMINATION

12 BY MR. BARONIAN:

13 Q. Can you hear me all right, Mr. Curbo?

14 A. I can.

15 Q. Great.

16 You earlier were asked by Mr. Jones about
17 PACCAR -- oh, boy. If I can find the number -- 1659.
18 Do you recall that?

19 It was the document -- to refresh your
20 memory, this was the document from a Karen
21 Filipek -- actually, it was from Steve Vanderlip to
22 Karen Filipek dated February 28, 1989, on Peterbilt
23 memorandum or form. Do you recall that?

24 A. I do.

25 Q. Okay. And in the context -- or in the middle

1 of that document, it says: Per Bob Bolla, Rockwell has
2 run out of 551 -- it looks like 0 -- but asbestos brake
3 lining to the -- or for the 15 by 6 RDA wedge brakes.
4 Because of this, we will be changing to Carlisle -- I
5 believe that's -- NAB-10 nonasbestos linings.

6 You recall that?

7 A. Yes.

8 Q. Okay. My question is: You didn't have this
9 conversation with this person, Bob Bolla at Rockwell,
10 did you?

11 A. Me, personally?

12 Q. Correct.

13 A. No. I -- me, personally, I did not.

14 Q. Okay. So anything you told us about any such
15 conversation is based on others having a conversation.
16 It's not something you were party to. You didn't talk
17 to this fellow about what's in this document, did you?

18 A. Not that I recall.

19 Q. Thank you.

20 All right. I'm going to shift gears now.

21 For the -- any of the Kenworth trucks that
22 are identified in the billed sheets that you reviewed a
23 short while ago, you were not present when those trucks
24 were being assembled at Kenworth, were you?

25 A. No, I was not.

1 Q. And you did not personally work on them,
2 assembling them or doing any of the work that was
3 required to put them together, did you?

4 A. No, I did not.

5 Q. All right. So you did not see any Rockwell
6 axle or Rockwell-brand brakes yourself, personally, on
7 any of the Kenworth trucks identified in any of the
8 Kraft billed sheets, did you?

9 A. No, I did not.

10 Q. All right. So any testimony you gave us today
11 about those billed sheets is based solely on your review
12 of what's in those billed sheets, as opposed to your
13 personal knowledge. Would that be fair?

14 MR. JONES: I'm going to object to
15 compound.

16 MR. IRVIN: And overbroad and vague.

17 MR. JONES: And join those objections.

18 Q. (BY MR. BARONIAN) Well, I can restate it.
19 Let's try this.

20 Since you did not personally take part in
21 any of the work, any testimony you gave about the Kraft
22 billed sheets and those Kenworth trucks that went to
23 Kraft is based on your review of those billed sheets.
24 Would that be fair?

25 A. Yes.

1 Q. Okay. As a result, you do not have any
2 personal knowledge, yourself, other than what's in those
3 billed sheets, as to what brand of brake assembly or
4 what brand of brakes went on any of those Kenworth
5 trucks to Kraft; is that correct?

6 A. I would not have personal knowledge as to
7 exactly what went on those trucks, except for the fact
8 that I know that the Final Chassis Bill of Material, we
9 work extremely hard to ensure that they are 100 percent
10 accurate at the time that that truck was man -- was
11 assembled.

12 Q. I understood your answer.

13 MR. BARONIAN: And respectfully move to
14 strike the nonresponsive portion.

15 Q. (BY MR. BARONIAN) All right. You mentioned
16 earlier that there were times when Kenworth assembled
17 the brakes at their plant onto brake assemblies; is that
18 correct?

19 MR. IRVIN: That's -- misstatements
20 testimony.

21 A. I believe what I said is I -- my understanding
22 is that there were some low-volume brakes at various
23 points in time that were assembled at the Peterbilt or
24 Kenworth factories as opposed to purchasing the entire
25 brake assembly.

1 Q. (BY MR. BARONIAN) Okay.

2 MR. IRVIN: And vague as to brakes versus
3 brake shoes or brake linings.

4 Q. (BY MR. BARONIAN) Okay. And have you heard the
5 term "dressed" and "undressed" in reference to axles on
6 trucks?

7 A. Yes.

8 Q. Could you explain to us what the difference is?

9 A. Well, there were also -- there's certain times
10 when we have -- have had dressed axles, which include
11 the brake assemblies being installed on the axles when
12 they're received from the supplier. So dressed would be
13 with the brake assemblies installed.

14 Undressed would be ones that we would
15 install the brake assemblies to the axle.

16 Q. Okay. And when there are undressed axles, does
17 that necessarily mean that those brake assemblies that
18 Kenworth would put on those axles in assembling the
19 truck come from the same component supplier or could
20 they come from a different supplier as well?

21 A. I'm not for sure -- so I'm not for sure I
22 follow your question. Can you rephrase it a little bit?

23 Q. Sure, sure.

24 Well, let's try it this way. You
25 explained to us what a dressed axle is. That's

1 basically -- correct me if I'm wrong. That's basically
2 where the axle is supplied with the brake assemblies
3 already attached. Fair?

4 A. Yes.

5 Q. So if Kenworth purchased from a component
6 supplier, such as Rockwell or Eaton, a dressed axle,
7 that would mean that when Rockwell or Eaton sold that
8 axle to Kenworth for assembly in one of its trucks it
9 not only came with the axle but with the brake assembly
10 already attached to that axle. Is that fair?

11 A. Yes.

12 Q. Okay. If Kenworth bought a brake -- I'm
13 sorry -- an axle from either Rockwell or Eaton or both,
14 for that matter, that was undressed, that would mean the
15 brake assembly was not attached to the axle when it was
16 received from either Eaton or Rockwell, true?

17 A. That's correct.

18 Q. All right. In that instance when an undressed
19 axle is received by Kenworth, Kenworth would have to put
20 the brake assembly on as part of the assembly of the
21 truck, true?

22 A. That's correct.

23 Q. And in putting that brake assembly on, does it
24 necessarily mean that a Rockwell brake assembly would
25 have to go on a Rockwell axle or could an Eaton brake

1 assembly be put on a Rockwell axle, or vice versa?

2 A. You could install either brake on either axle,
3 meaning a Rockwell axle could have Eaton or Rockwell
4 brakes installed, as well as an Eaton axle could have
5 Rockwell or Eaton brakes installed.

6 Q. Got it. Do you know -- well, let me back up
7 again.

8 We've already established that you don't
9 have personal knowledge of any of the trucks that
10 Kenworth sold to Kraft, how they were assembled, other
11 than reviewing the billed sheets.

12 So what I want to ask you now is: Do you
13 know, based on looking at the billed sheets, if any of
14 the Kenworth trucks that were assembled by Kenworth for
15 sale to Kraft, if the axles that came from the component
16 suppliers were undressed versus dressed?

17 MR. JONES: Object to compound and
18 argumentative.

19 A. If I understood your question
20 correctly -- first of all, I'm going to limit it to the
21 trucks that we reviewed for this case. Whether or
22 not --

23 Q. (BY MR. BARONIAN) Yes.

24 A. -- there's additional Kraft trucks, I'm not for
25 certain.

1 Q. Fair enough.

2 A. But for those, my recollection is all of the
3 axles were undressed.

4 Q. Meaning that Kenworth, itself, would be putting
5 the brake assemblies on those axles when they assembled
6 the trucks at their factory?

7 A. That's correct.

8 Q. I want to shift gears here.

9 Even if we assume that Rockwell supplied a
10 brake that went on a Kenworth truck that went to Kraft,
11 once the first brake job is done, you would have no way
12 of knowing what replacement brakes were put on such a
13 truck; is that true?

14 A. That is true.

15 Q. And you have no documentation in any of
16 PACCAR's files to indicate what replacement brakes Kraft
17 used on any of the trucks they purchased from Kenworth
18 when subsequent brake changes were done?

19 A. That is correct.

20 Q. So as to any brake that Mr. Carpenter may have
21 been around or near that came off a Kenworth truck at
22 his job at Kraft Foods, you wouldn't know what brand of
23 brake that was by any documentation or anything you've
24 seen in this case, would you?

25 MR. JONES: You're not including

1 Mr. Carpenter's deposition anymore?

2 MR. BARONIAN: Sure. Because he testified
3 he didn't see the name on anything that came off a
4 truck. So, sure, you can include his testimony.

5 MR. JONES: All right.

6 A. Could you re-ask the question?

7 MR. JONES: Actually, I take it back.
8 Don't include Carpenter's testimony because I'm just
9 going to object anyway. I'm just smarting off to Bob.

10 MR. BARONIAN: I know. You can't help
11 yourself.

12 If the reporter would be so kind -- Kim,
13 if you could kindly read my question back.

14 (Requested portion read.)

15 A. Well, I think we would know what the brakes
16 were the first time that a brake job was done, but after
17 that, we would not.

18 Q. (BY MR. BARONIAN) And you don't know, based on
19 the testimony you've seen, whether
20 Mr. Carpenter -- well, withdrawn.

21 MR. BARONIAN: I think I'm good with that.
22 That's all I have at this time. Thank
23 you.

24 MR. IRVIN: Rod, are you okay to keep
25 going?

1 THE WITNESS: Sure.

2 EXAMINATION

3 BY MR. IRVIN:

4 Q. Mr. Curbo, I'd like to ask you a few questions
5 on behalf of PACCAR.

6 You started -- I think you told Mr. Jones
7 you started with PACCAR in 1983?

8 A. Yes.

9 Q. Tell us a little bit about your work experience
10 before then.

11 A. Well, prior to that -- I'll start from high
12 school. Out of high school, I went to Wyman Technical
13 Institute where I got a certificate for a diesel
14 technician. So I worked as a truck mechanic.

15 Ultimately decided to go back to school.
16 Worked some as a mechanic in other areas while I was
17 going through school part of that time, going to school
18 to be a mechanical engineer. And after school, I was
19 able to get a job at Peterbilt.

20 Some of the places that I worked as a
21 mechanic, I worked at an international dealership and
22 then for a Detroit diesel distributor and then for a
23 Peterbilt dealership.

24 And then whenever I was working at a
25 Peterbilt dealership is whenever I decided to go

1 to -- back to college.

2 Q. And what's the time frame here
3 when -- you -- well, let me back up.

4 You were a heavy truck mechanic yourself?

5 A. Yes.

6 Q. And what's that time frame where you were a
7 professional heavy truck mechanic before you decided to
8 go to school and then worked your way through school?

9 A. 1976-ish to -- well, I worked still -- main --
10 kept working while I was in school for the first couple
11 years. So about 1980, roughly.

12 Q. And so you were a heavy truck mechanic working
13 on Class A trucks at the same time that Kraft received
14 these -- you know, some of these Kenworths that are
15 reflected in the billed sheets?

16 A. Yes.

17 Q. I want to go back and talk with you a little
18 bit about some of the documents, some of the questions
19 Mr. Jones asked you.

20 The first thing I'm going to do is hand
21 you what Mr. Jones marked as Exhibit 23.

22 You recognize that document?

23 A. Yes.

24 Q. And do you recall -- will you turn to page, you
25 know, PACCAR 92?

1 A. Yes.

2 Q. Do you recall that Plaintiffs' counsel --

3 MR. JONES: Which one is 23? Sorry.

4 MR. IRVIN: It is the --

5 THE WITNESS: The --

6 MR. JONES: Got it. What's the date?

7 MR. IRVIN: It's the Team Approach to
8 Safety and Health Seminar.

9 MR. JONES: Yeah. Okay.

10 Q. (BY MR. IRVIN) Okay. And you recall that on
11 page 92 Plaintiffs' counsel asked you a little bit -- to
12 read a little bit about the statement there that says:
13 Lack of information to evaluate the hazards?

14 MR. JONES: What Bates page are you on,
15 please?

16 MR. IRVIN: 92.

17 MR. JONES: Okay. Thank you.

18 A. Yeah, lack of enforcement, personnel.

19 Oh, yeah. (Reading): There is a lack of
20 information to evaluate hazards.

21 Q. (BY MR. IRVIN) And then he asked you next about
22 the mixed exposures --

23 A. Correct.

24 Q. -- asked you to agree that that mentions mixed
25 exposures?

1 A. Yes.

2 Q. And he read that to you?

3 A. That's my recollection.

4 Q. And what's the -- when it says "mixed
5 exposures," what's the phrase behind that that Mr. Jones
6 didn't read to you?

7 A. It says in parentheses after mixed exposures:
8 Several different chemicals.

9 Q. Chemicals. So this portion of the document
10 that he read from dealt with chemical exposures?

11 A. Appears to, yes.

12 Q. Now, you mentioned that that document also
13 says -- and Mr. Jones referenced that -- the lack of
14 enforcement personnel for OSHA?

15 A. Yes.

16 Q. What did PACCAR do in 1974 to address this lack
17 of, you know, OSHA inspectors? Did it hire anybody?

18 A. I believe that -- it may have been related to
19 some of that -- was they hired Dave Bissonnette as a
20 corporate industrial hygienist.

21 Q. And turn to PACCAR Bates 77 on there, which
22 should be ahead of this.

23 Did Mr. Bissonnette actually attend this
24 meeting called, "A Team Approach to Health and Safety?"

25 A. Yes, he did.

1 Q. Now, I want to unpack a little bit about who
2 Mr. Bissonnette is since he's referenced in this
3 document and Mr. Jones attaches Exhibit 23. I am going
4 to attach this as Exhibit 53.

5 MR. IRVIN: Look at me.

6 (Exhibit 53 marked.)

7 MR. IRVIN: Mr. Jones?

8 MR. JONES: Yes, sir. Thank you.

9 Q. (BY MR. IRVIN) Handing you what is marked as
10 Exhibit 53. Could you identify that document for the
11 record, sir?

12 A. Yeah. This is a document which we found
13 that -- where Mr. Bissonnette was going to be speaking
14 at an American Society of Safety Engineers gathering.

15 Q. Now, tell us a little bit about
16 Mr. Bissonnette's background. This document discusses
17 it, but explain to the jury a little bit about his
18 background.

19 A. Yeah. I mean, he was a industrial hygienist
20 compliance officer for the State of Washington, which
21 is -- my understanding, is essentially Washington
22 state's version of OSHA.

23 He was also a research assistant at the
24 University of Washington, which is where he graduated
25 from.

1 Q. Did he graduate from the Washington School of
2 Public Health?

3 MR. JONES: Lack foundation, calls for
4 speculation.

5 Q. (BY MR. IRVIN) Will you look at Exhibit 53 and
6 let me know if it tells you where Mr. Bissonnette
7 graduated from?

8 A. I don't remember if it tells me here or if it's
9 in another document.

10 But this says he was a research assistant
11 for the University of Washington School of Public Health
12 and Community Medicine.

13 Q. Yeah. All right. Thank you.

14 And you -- so when we're talk -- you
15 recall Mr. Jones asked you a little bit about OSHA and
16 levels of asbestos. And he attached, I think,
17 Exhibit 19, which discussed exposure and levels of
18 asbestos?

19 A. Yes.

20 Q. And promulgated by OSHA?

21 A. Yes.

22 Q. And PACCAR, in '74, hires an -- someone who had
23 work closely with OSHA. Is that your understanding of
24 who Dave Bissonnette was who attended the meeting in
25 Exhibit 23?

1 A. Yes. I believe he was a -- well, it says he
2 was a compliance officer for them for the State of
3 Washington.

4 Q. Now, will you turn back to Exhibit 23 for me.
5 Let's go back there.

6 A. Okay.

7 Q. Now, will you turn to page 133 of that
8 document, or PACCAR 101.

9 A. To 101?

10 Q. Yes, sir.

11 A. Yes.

12 Q. Now, dis -- what is that particular page in
13 that document?

14 A. This appears to be probably the presentation
15 that Mr. Bissonnette gave at this seminar.

16 Q. And what in that particular passage strikes you
17 as important about Mr. Bissonnette's philosophy for
18 recognizing and addressing potential hazards?

19 A. In the second paragraph, he talks about: There
20 are three basic industrial hygiene principals [sic]:
21 Number 1) To recognize environmental hazards; Number 2)
22 To evaluate environmental hazards; and Number 3) To
23 control those environmental hazards.

24 Q. Now, some mention is -- of this has been made
25 by Mr. Jones, but did Mr. Bissonnette, PACCAR's

1 industrial hygienist, endeavor to determine whether
2 asbestos-containing brakes and clutches were, in fact, a
3 hazard?

4 MR. JONES: Lacks foundation, calls for
5 speculation.

6 A. Yes, I believe that he did.

7 Q. (BY MR. IRVIN) And I'm going to hand you what
8 is -- I will mark as 54.

9 (Exhibit 54 marked.)

10 MR. IRVIN: Mr. Jones?

11 MR. JONES: Yes, sir. Thank you.

12 Q. (BY MR. IRVIN) What is this document?

13 A. This is the earliest document that we've found
14 where Mr. Bissonnette did some air-sampling and -- at
15 various PACCAR locations, one of those being PACCAR
16 Truck Center in Edmonton, Alberta, which is where he did
17 air-sampling of three mechanics.

18 At least two of those, we know one was
19 doing brake repair work; another, clutch repair work.

20 Q. And when you were speaking to Mr. Jones about
21 Mr. Bissonnette's original testing, is this the document
22 that reflects that testing that you two spoke about?

23 A. This is -- this -- yes.

24 Q. Now, the testing may have been ordered by
25 Mr. Bissonnette, but who was it performed by?

1 A. Looks like University of Washington School of
2 Public Health and Community Medicine.

3 Q. An independent organization from PACCAR?

4 A. Yes, it appears to be.

5 Q. Now, because Mr. Jones asked you about a
6 passage in twenty -- Exhibit 23 that dealt with
7 chemicals, is -- are chemicals studied there too?

8 A. Yes, they are.

9 Q. Let's go back to Exhibit 23, if you will.

10 A. Okay.

11 Q. To page 140, or PACCAR 107.

12 Now, what do you see on that page? It
13 appears, to me, to be a flowchart. But...

14 A. It's like a flow chart that he discusses in his
15 presenta -- what appears to be his presentation.

16 Q. And I guess that there's a -- explain the steps
17 in that because the jury can't see it right now.

18 A. Right. It says -- at the top it says "The
19 Route to OSHA Compliance."

20 The first thing is proposed occupational
21 health standards.

22 Second is initial determination, which I
23 believe he's referring to determining whether or not
24 there's a health concern.

25 Second is -- or third is exposure level,

1 which is doing some testing to determine whether or not
2 you're in compliance or whether or not there is a health
3 concern.

4 And then, if there is, he goes to above
5 action level. So if there is a concern, then you
6 measure -- you continue to measure/monitor the hazard,
7 initiate controls, train employees. You could do
8 medical surveillance, recordkeeping.

9 He lists out some possible steps that you
10 need -- may need to take.

11 Q. If it's below the action level, what's it say?

12 A. If it's below the action level -- so in either
13 case, if you take those measures or if it's below the
14 action level, you're in compliance with what he's
15 referring to as the OSHA regulation.

16 Q. And was this OSHA compliance method, was it
17 aimed at employers?

18 A. Yes.

19 Q. And who was Mr. Carpenter's employer?

20 A. Kraft Foods.

21 MR. JONES: Lacks foundation, calls for
22 speculation. Move to strike for the same reasons.

23 Q. (BY MR. IRVIN) Mr. Jones talked to you a lot
24 about Kraft today?

25 A. He did.

1 Q. Now, let's put Exhibit 23 in some context
2 related to these passages here.

3 MR. JONES: I didn't ask him a single
4 question about what --

5 THE WITNESS: (Inaudible.)

6 MR. JONES: -- Mr. Carpenter did, not a
7 single one.

8 MR. IRVIN: You asked him a lot about this
9 exhibit.

10 MR. JONES: Not one.

11 MR. IRVIN: Oh. All right. Let's keep
12 marching on.

13 MR. JONES: We can count them.

14 Q. (BY MR. IRVIN) Now, you were shown by counsel
15 for Abex Exhibit 51. Do you recall this document?

16 A. Yes.

17 Q. What is Exhibit 51?

18 A. It's a memo written in June 25, 1984, to J.D.
19 Krumwiede from Mr. Bissonnette. The subject is:
20 Asbestos in truck manufacturing.

21 Q. And it says -- let me read it and see if I'm --

22 MR. JONES: What's the Bates number? I'm
23 sorry.

24 MR. IRVIN: Here.

25 MR. JONES: Oh, thank you. This is 51?

1 MR. IRVIN: Yeah.

2 Look how polite I am. I had to find these
3 things on my computer, and I've got you copies all
4 ready.

5 THE WITNESS: You might want to put 51
6 instead of 5.

7 MR. IRVIN: Oh, thank you.

8 THE WITNESS: Or else we're going to get
9 confused.

10 MR. IRVIN: Yes.

11 MR. JONES: I bet your secretary is more
12 effective than mine.

13 MR. IRVIN: You're your own secretary.
14 So...

15 MR. JONES: So he or she is definitely
16 more effective than mine.

17 MR. IRVIN: That's not setting the bar
18 high, but she's awesome. I also tell people I don't
19 walk with a cane, but I never get anywhere without my
20 staff.

21 Q. (BY MR. IRVIN) Now, this is -- does the first
22 paragraph of this say: Jerry, you asked for information
23 regarding asbestos exposures in vehicle manufacturing
24 operations. Several years ago, an industrial
25 hygienist -- OSHA Industrial Hygienist, Carl Mangold,

1 suggested to me that there might be significant asbestos
2 exposures [sic] in brake assembly operations at PACCAR
3 truck plants. Subsequently, I monitored employees doing
4 work with brake assemblies. And I found only
5 "background" levels of asbestos?

6 A. Yes.

7 Q. Now -- and is your sense that Mr. Bissonnette
8 kept looking at this even after the 1976 testing, based
9 on your review of the documents and this Exhibit 23 that
10 Mr. Jones mentioned to you, that he kept looking at this
11 issue over time?

12 A. I believe from the documents and the fact that
13 there were multiple air-samplings done and what he says
14 in this document indicates that he continued to look to
15 determine whether or not there was a -- the risk of a
16 health hazard associated with brakes on trucks.

17 Q. And what'd he find?

18 A. Best I can tell, he found no asbestos.

19 Q. And no health hazard?

20 A. And no health hazards.

21 Q. Now, I want to hand you what was marked as
22 Exhibit 50 by counsel for Abex.

23 MR. JONES: Thank you.

24 Q. (BY MR. IRVIN) What is this document?

25 A. This is air-sampling that was -- this is a

1 letter from Scott Wetzel Services, an outside entity.

2 Q. Independent laboratory not associated with
3 PACCAR?

4 A. Independent laboratory not associated with
5 PACCAR.

6 Talking about the results of air-sampling
7 that they did for asbestos in the Axle Department, which
8 would mean the Axle Department at -- within our assembly
9 factory.

10 Q. And does Mr. Wetzel mention what the OSHA
11 standard for concentrations of asbestos in the air is at
12 the time this was written?

13 A. He says: The results indicate fiber counts
14 well below the permissible eight-hour TWA -- which I
15 believe is time-weighted average -- of two fibers per
16 cubic centimeter of air.

17 Q. And turning to the next page, what are
18 the -- the time-weighted averages there, are they all
19 below 2?

20 A. They're all well below 1.

21 Q. I mean, there's a dot and then a zero and
22 sometimes multiple zeros. Is that what you see?

23 A. Correct. Yeah.

24 The highest one is .014.

25 Q. And then turn back to the front page. Does he

1 say even that may not even be asbestos?

2 A. Yes. He says: As you know, the nature of the
3 analytical process is such that it is possible the
4 fibers counted are something other than asbestos.

5 Q. What's the next sentence say?

6 A. (Reading): Considering the tightly-bound state
7 of asbestos in the brake linings, I suspect that the
8 fibers are indeed some other material. The lab concurs
9 with this opinion.

10 Q. And then what does the second-to-last paragraph
11 say ahead of "Call me?"

12 A. It says: Regardless of the exact identity of
13 the fibers, the exposures are low and should not
14 compromise the health of your employees.

15 Q. Now, I'm going to hand you what counsel for
16 Abex marked as Exhibit 52.

17 MR. IRVIN: Mr. Jones?

18 MR. JONES: Thank you.

19 Q. (BY MR. IRVIN) What is this document?

20 A. This is another document from another outside
21 or independent laboratory talking about air-monitoring
22 that was performed.

23 Q. In the Axle Department?

24 A. In the Axle Department, yes.

25 Q. And will you read the last sentence of this

1 second paragraph for the ladies and gentlemen of the
2 jury?

3 A. (Reading): Nevertheless, based upon our
4 current understanding of the health effects and dose
5 response, relationships between asbestos exposure and
6 asbestos-related disease, the above results do not pose
7 any significant risk to health.

8 Q. And like the testing in 1985, was this well
9 below the regulatory standards?

10 A. Yes. It says that: Both samples showed an
11 airborne fiber concentration of 0.005 fibers per CC of
12 air.

13 MR. JONES: What's the complete --

14 A. This result --

15 MR. JONES: I'm sorry.

16 A. This result is well below the current wishes
17 standard of two fibers per CC.

18 MR. JONES: This is 52?

19 MR. IRVIN: Correct.

20 MR. JONES: Thank you.

21 Q. (BY MR. IRVIN) Now, let's go back to
22 Exhibit 23, page 132, or PACCAR 100.

23 Do you recall Mr. Jones speaking with you
24 about this particular page?

25 A. Yes.

1 Q. And he called it an asbestos warning, but what
2 does that document call it?

3 A. It's a Caution Sign and Label.

4 Q. For employers to use in the workplace?

5 MR. JONES: Object. Lacks foundation,
6 calls for speculation.

7 Q. (BY MR. FLYNN) Is that what this -- the next
8 page Mr. Jones references to you, it's a Caution Sign
9 and Label for employers?

10 MR. JONES: Lacks foundation, calls for
11 speculation.

12 A. Yes. My understanding of that section in
13 context with this document is that the caution signs and
14 labels, they're talking about caution signs and labels
15 to be used in the workplace --

16 MR. JONES: Not --

17 A. -- for employees.

18 MR. JONES: Move to strike as lacking
19 foundation and calling --

20 A. An employee.

21 MR. JONES: -- and speculative.

22 Q. (BY MR. IRVIN) And context is important in
23 documents like this, isn't it?

24 A. Yes, it is.

25 Q. Now, you read Mr. Carpenter's deposition

1 testimony in preparation for your testimony here today.
2 Did he mention any caution signs put up by his employer,
3 Kraft?

4 MR. JONES: Lacks foundation, calls for
5 speculation, no personal knowledge.

6 A. I don't recall seeing anything mentioned in his
7 deposition regarding caution signs related to asbestos.

8 Q. (BY MR. IRVIN) And you -- Mr. Jones talked a
9 little bit about this.

10 But there's a -- PACCAR passed along an
11 asbestos warning in its trucks, correct?

12 MR. JONES: Lacks foundation, calls for
13 speculation, no personal knowledge.

14 MR. IRVIN: Let me rephrase. Let me
15 rephrase.

16 Q. (BY MR. IRVIN) Do you recall Mr. Jones speaking
17 with you about Exhibit 25, a Rockwell Cam-Master "Q"
18 Series?

19 A. Yes.

20 Q. Is that correct?

21 A. Yes.

22 Q. And that document is dated what? What year?

23 A. It's 1978.

24 Q. And are you familiar with this document?

25 A. Yes, I am.

1 Q. Now, what is the first year, based on your
2 understanding, that Mr. Carpenter worked at Kraft and
3 recalled new Kenworths?

4 MR. JONES: Lack of foundation, calls for
5 speculation, no personal knowledge.

6 A. I believe in his deposition he started at Kraft
7 in 1976, worked on the line, and then moved into working
8 as a driver in the 1978 time frame.

9 Q. (BY MR. IRVIN) And I'm going to unpack your
10 personal knowledge of this.

11 But, for trucks sold in 1978, was this
12 document included within those trucks?

13 MR. JONES: Lacks foundation, calls for
14 speculation, no personal knowledge.

15 A. As I understand it, it would have been.

16 Q. (BY MR. IRVIN) Now, you mentioned how you
17 understand that it was passed on. You have personal
18 knowledge of this? Will you explain this?

19 MR. JONES: Lacks foundation, calls for
20 speculation.

21 A. I think, as I testified earlier, I worked as a
22 mechanic. These -- this type of manuals were provided
23 in the trucks.

24 Q. (BY MR. IRVIN) And then, when you started with
25 PACCAR, did you see that activity with your own eyes in

1 the plant?

2 A. Yes.

3 There were racks in our Test Department
4 along each one of the work areas, and the test mechanics
5 back there would look at the order, which had the option
6 codes on it. And based off of those option codes, they
7 would select which manuals went in the truck.

8 Q. Now, there's been a lot of talk about manuals
9 we -- with Mr. Jones.

10 Will you explain -- he showed an operators
11 manual. Could you explain to the ladies and gentlemen
12 what that is based on your experience as a mechanic and
13 at PACCAR and your knowledge, having prepared for this
14 role?

15 A. Sure.

16 The operators manual is the manual that is
17 written for the operator of the truck. It's general in
18 nature in that it talks about how to operate the truck,
19 how to drive the truck.

20 It also includes some level of maintenance
21 that needs to be done to the truck because, as Mr. Jones
22 pointed out, I think, last week at the first part of the
23 deposition, we had customers that were fleets.

24 But we also had customers who were
25 owner/operators, and some of those owner/operators did

1 their own maintenance. So ti would provide a limited
2 amount of information regarding what maintenance needed
3 to be done on the truck.

4 Q. Like what intervals?

5 A. Like maintenance intervals, yes.

6 Q. Yeah. Now, like, I might find that in my car
7 today. It might say at X-amount of miles, get the oil
8 changed, that kind of thing?

9 A. I would bet that you would find that in your
10 car today.

11 Q. Now, there was also some mention of a custom
12 manual that was attached to the deposition. Do you
13 recall that?

14 A. Yes.

15 Q. Now, do you recall the year that that manual
16 was published? Is it -- we can grab it, but does
17 seven -- 1974?

18 A. '74, I think, yes.

19 Q. Does that predate this Rockwell warning that
20 you've -- that's in the production that we just spoke
21 about and Mr. Jones spoke about with you?

22 A. Yes, it does.

23 Q. Now, explain what those manuals are, as opposed
24 to something for someone who's driving the truck.
25 What's that?

1 A. Normally, what would be provided would be the
2 Kenworth manual and additional manuals from our
3 component suppliers. Those would be provided in the
4 truck.

5 Q. Like but --

6 MR. IRVIN: Pardon me. Go ahead.

7 MR. JONES: Move to strike as lacking
8 foundation, lacking personal knowledge, and speculative.

9 Q. (BY MR. IRVIN) And you know this from your time
10 at Peterbilt New Mexico and also later with PACCAR?

11 A. Yes.

12 Q. Now, this -- so when you say you've got the
13 Kenworth manual, you've got the owner operator manual.
14 Then you have these individual manuals like Exhibit 25?

15 A. Yes.

16 Q. And so contrast that with the custom manual
17 that Mr. Jones showed you. Is that basically everything
18 put together in a nice special package for the owner or
19 operator or the owner of the truck?

20 A. Yeah. What the -- what that was, the custom
21 manual for a given truck, it takes those manuals and
22 puts it all together in a bound version for the
23 customer.

24 Q. And then, when we talk about a master
25 maintenance manual that a dealership might have, how is

1 that different than the owner operator manual and the
2 custom manual?

3 A. It includes all of the various -- it includes a
4 Peterbilt or Kenworth manual plus all of the various
5 component supplier manuals, not just the specific one
6 for a given truck, but for all variations of trucks that
7 we man -- that we built.

8 Q. Okay. And Mr. Jones talked to you a lot about,
9 you know, PACCAR passing along Exhibit 25, the Rockwell
10 warning, and then the Eaton warnings. In your role,
11 have you come to understand why PACCAR did that?

12 MR. JONES: Lacks foundation, calls for
13 speculation.

14 A. Yeah. We passed it along because we know
15 people are going to be doing maintenance on their
16 vehicles.

17 We built custom trucks. They vary broadly
18 in their content and the various components that were
19 assembled on those trucks. And so that was a way to
20 ensure to the best of our ability to provide maintenance
21 information related to those trucks.

22 Q. (BY MR. IRVIN) And was -- did PACCAR make brake
23 assemblies or brake linings?

24 A. We did not.

25 Q. And did it endeavor to utilize brake assemblies

1 and brake linings from reputable industry experts?

2 A. Yeah.

3 I mean, what I would say is we used
4 reputable component suppliers that were the best in the
5 industry. People like Rockwell and Eaton and -- were
6 the best in the industry regarding brakes and
7 braking -- foundation brakes is what I'm trying to say.

8 Q. And PACCAR believed, based on your time there
9 and things you've read to be part of this role, that
10 those entities were experts in their particular
11 components?

12 A. Absolutely.

13 Q. Now, go back to Exhibit 23 for me, but
14 page 108. Do you recall Mr. Jones talking to you about
15 this presentation given by PACCAR's medical director,
16 Mr. Johanson?

17 A. Yes.

18 Q. Do you recall that he gave -- he mentioned four
19 reasons that Mr. Johanson said there was an increasing
20 need for emphasis on industrial health?

21 A. Yes.

22 Q. And he included one of the reasons as workers'
23 rights and compensations claims and things like that?

24 A. Yes.

25 Q. But how many reasons does Mr. -- Dr. Johanson

1 give there?

2 A. He gives five.

3 Q. Tell us what the filth is.

4 A. He says: And 5, finally, myself, plant nurses,
5 and the Company are all concerned with each workers'
6 health.

7 Q. You weren't asked to read that, were you?

8 A. No, I was not.

9 MR. JONES: Object to the argumentative to
10 the previous one. I don't remember if I did or didn't.

11 Q. (BY MR. IRVIN) Now, in 23, do you recall
12 Mr. Jones going into detail about some studies that
13 dealt with asbestos-related disease?

14 A. Yes.

15 Q. And what was the profession of the individuals
16 referenced in those studies within Exhibit 23?

17 Hand it to me, and I'll --

18 A. Yeah. I'm --

19 Q. -- find the page. It's further forward.

20 A. You're talking about Mr. Johanson or you
21 talking --

22 Q. No.

23 A. Oh.

24 Q. I'm talking about me --

25 A. Sorry.

1 Q. -- the presentation on exposure limits, and
2 they give the examples of asbestos exposure limits and
3 studies there.

4 A. Yeah. I think that's the presentation by Peter
5 Breysse?

6 Q. Yes.

7 A. And he was from the University of Washington.

8 Q. And what is -- what's the profession of the
9 individuals referenced in those studies about the
10 incidents of disease?

11 A. I think where Mr. Jones was talking about the
12 difference -- occurrences expected versus actual that
13 was related to -- I guess the term that I would use is
14 insulators, people who are working with insulation.

15 Q. And, in fact, insulation union members?

16 A. Yes.

17 Q. Okay. Now, did you see anything in
18 Mr. Carpenter's deposition about him being a career
19 insulator?

20 A. No.

21 MR. JONES: Lacks foundation, calls for
22 speculation, no personal knowledge.

23 A. No, I did not.

24 Q. (BY MR. IRVIN) Now, assume with me that
25 asbestos insulation can be crushed by hand?

1 Based on your personal knowledge working
2 as a mechanic, then working at PACCAR, can you -- can
3 someone crush a brake lining by hand?

4 MR. JONES: Lacks foundation, call for
5 speculation, compound, argumentative.

6 A. I'm not for sure anybody could do -- could
7 crush a brake lining by hand.

8 Q. (BY MR. IRVIN) Mr. --

9 A. Not one that was made properly anyway.

10 Q. Not one on a PACCAR truck?

11 A. No.

12 MR. JONES: Same objections.

13 Q. (BY MR. IRVIN) Do you recall Plaintiffs'
14 counsel asking you a bunch of questions about secondhand
15 smoke --

16 A. Yes.

17 Q. -- when he was talking about this?

18 Do you see any where in that -- those
19 studies where it mentions secondhand smoke?

20 MR. JONES: I'm going to object to
21 argumentative and I think misstates the testimony. I
22 don't think I ever asked about that.

23 A. I think he was asking about smoking, not
24 secondhand smoke.

25 Q. (BY MR. IRVIN) Okay. But --

1 MR. JONES: Counsel, I think you're
2 putting a lot of questions in my mouth that I didn't
3 ask. And we can go back to the transcript.

4 MR. IRVIN: Yeah. Well --

5 MR. JONES: But if this is some sort of
6 tactic --

7 MR. IRVIN: Well, I think you (inaudible).

8 MR. JONES: -- I think it's frowned on in
9 this great state of California.

10 Q. (BY MR. IRVIN) Let me ask you this --

11 MR. JONES: I do like that you're so
12 fixated on me, though. It shows I've been effective.

13 Go ahead.

14 Q. (BY MR. IRVIN) Well, do you see anything in
15 that section about people who are exposed to secondhand
16 smoke?

17 A. I don't recall there being anything about
18 secondhand smoke.

19 Q. Let's go to what Plaintiffs' counsel marked as
20 Exhibit 6. And my hope is that we would have -- oh,
21 here we go.

22 MR. JONES: 6?

23 MR. IRVIN: Yep.

24 I'm going to hand it to me.

25 Q. (BY MR. IRVIN) Do you recognize what

1 Plaintiffs' counsel marked as Exhibit 6, an SAE paper
2 entitled, "Brake and Clutch Emissions Generated During
3 Vehicle Operations?"

4 A. Yes, I do.

5 Q. Do you recall he read to you a portion of this
6 that said chrysotile was a major constituent in
7 automotive friction materials?

8 A. Yes.

9 Q. Did -- do you recall whether he asked you what
10 that paper actually concluded?

11 A. He did not.

12 Q. Now, go to page 2 of the article and read the
13 sentence starting with, "Most of the asbestos."

14 A. You talking about in the abstract or --

15 Q. At the orange.

16 A. Here it is. Okay.

17 (Reading): Most of the asbestos is heated
18 to temperatures high enough to cause chemical conversion
19 and is therefore trapped or emitted as olivine or
20 forsterite particles.

21 Q. And do you recall what percentage of the brake
22 wear debris in this study turned out to be nonasbestos?

23 A. In the abstract, it specifically says, on the
24 average, more than 99.7 percent of the asbestos was
25 converted.

1 Was converted away from asbestos to,
2 presumably, this olivine or forsterite.

3 Q. And Mr. Jones asked you about several SAE
4 papers. Do you recall that?

5 A. Yes, I do.

6 MR. IRVIN: What number are we on now?

7 THE REPORTER: Should be 55.

8 MR. IRVIN: I think you're right. In my
9 zeal, I forgot.

10 (Exhibit 55 marked.)

11 MR. JONES: There's some pre-numbered --

12 MR. IRVIN: No. We ran out of those.

13 MR. JONES: -- (inaudible) because
14 of -- yeah.

15 Q. (BY MR. IRVIN) I'm going to hand you what I've
16 marked as Exhibit 55.

17 What is that document?

18 A. This is a SAE paper --

19 MR. JONES: Actually, lacks foundation,
20 calls for speculation.

21 A. This is an SAE paper that was found within some
22 of the PACCAR documents. It's entitled, "Asbestos
23 Emissions from Brake Dynamometer Tests."

24 Q. Mr. Jones asked you about a ton of SAE papers.
25 Did he mention this one that was in the production as

1 well?

2 A. No, he did not.

3 Q. And is it a true and correct copy of this
4 document kept in the regular and ordinary course of
5 PACCAR's business?

6 A. Yes, it appears to be.

7 Q. And Mr. Jones mentioned that PACCAR had various
8 employees over time that were SAE members.

9 What is the SA telling its -- SAE telling
10 its members here in 1973?

11 A. This particular test, this presentation, was
12 based off of some testing done by the scientific
13 research staff at Ford Motor Company where they placed
14 asbestos-containing brakes on a dynamometer, gathered up
15 the brake dust, and they determined that 99.98 percent
16 of the dust was not asbestos.

17 Q. And these two papers, the prior exhibit and
18 this exhibit, 55, they're talking about brake dust being
19 over 99 percent nonasbestos. Is that your read of these
20 two papers?

21 A. That's how I interpret these papers, yes.

22 Q. All right. You can set that down, sir.

23 Let me back up a little bit.

24 What have you done to prepare for your
25 testimony here today, your role as a Person Most

1 Qualified for PACCAR, and to answer Mr. Jones's
2 questions and speak to the jury in this case?

3 A. Well, I think specifically for this case I
4 reviewed several depositions, specifically
5 Mr. Carpenter's deposition and then some of my previous
6 depositions.

7 I reviewed all of the documents that we
8 presented. I went through all of the Final Chassis
9 Bills of Material and summarized the information best I
10 could what I understood that Mr. Jones was asking for in
11 the deposition notice.

12 Additionally, over time, we've done
13 multiple document searches based off of other cases and
14 questions that get asked in interrogatories or requests
15 for production of documents.

16 Also talked with hundreds of different
17 people to try and understand what we believe that the
18 documents were saying, to understand the context of the
19 documents, if you will.

20 And...

21 Q. And Mr. Jones mentioned what I believe is
22 Exhibit 4 your testimony in the Morrison case several
23 times?

24 A. Yes.

25 Q. Was that the first time that you served as

1 PACCAR's Person Most Qualified regarding all issues?

2 A. I believe that there was a deposition prior to
3 that, which was related specifically to radiator gaskets
4 and whether or not they included -- or the radiator
5 gaskets that we had used, whether or not they had
6 asbestos in them.

7 And then the Morrison was -- deposition, I
8 believe, was the second deposition that I gave, which
9 would have been the first general information regarding
10 asbestos at PACCAR.

11 Q. And after the Morrison deposition concluded,
12 did you stop searching for information and investigating
13 the issues that come up in cases like these?

14 A. No. We -- we're continually looking for
15 documents.

16 Q. And Mr. Jones mentioned this, but PACCAR's
17 produced more documents today than it did in Morrison.
18 Why is that?

19 A. Because we've found additional documents as
20 we've been searching for them.

21 Q. And does PACCAR have a document retention
22 policy?

23 A. We do.

24 Q. Why does a company like PACCAR have a document
25 retention policy?

1 A. Probably the easiest way to explain it is, you
2 know, whenever I go to the store, I have a -- I get a
3 receipt. And I have to decide whether or not I'm going
4 to keep that receipt.

5 If I keep all of those receipts, my attic
6 is going to get full fairly quickly. And a lot of those
7 receipts are not necessarily needed. They're not needed
8 for tax purposes. They're not needed for my own
9 personal business.

10 Well, it's the same way with a corporation
11 or a business. That are -- some documents are needed
12 for only a limited time. And after that, they're not
13 needed.

14 Some documents are source documents for
15 other documents, which might be kept, which is the case
16 with the Final Chassis Billing Material.

17 Q. And through your investigation over the years
18 and talking to people, have you figured out new and
19 different places where there might be documents and gone
20 there and looked?

21 A. Yes.

22 Q. And documents that might be discarded under a
23 retention policy, have you had some success finding
24 those on occasion?

25 A. Yes, we have.

1 Q. And when PACCAR has been remodeling or changing
2 their offices, do people call you and say, Hey, I've got
3 this file cabinet, for example?

4 Could you talk to us a little bit about
5 those experiences?

6 A. I mean, there's been multiple times over the
7 years when, say, there was an office reorganization.
8 And say, Hey, we need -- we want to get rid of some of
9 these file cabinets.

10 And I would personally go look at files
11 within those cabinets and determine whether or not it
12 was asbestos-related and should be retained.

13 Q. And if you got a interesting or strange or new
14 question in a case, would you go investigate that as
15 like I'll say a targeted investigation?

16 A. Correct. Yeah.

17 We -- there's -- oftentimes, we get asked
18 a question either that we don't recall being asked or
19 it's asked in a little bit different way. And it makes
20 us go -- so, first of all, if we haven't been asked,
21 we're going to go look.

22 If it's been asked but maybe in a little
23 different way, sometimes it makes us go, you know, we
24 didn't look over here the last time -- or the times that
25 we've done these searches. Maybe we need to go look

1 here because we looked over here.

2 And so we might -- the other thing is we
3 go talk to people. We ask people, Do you know anything
4 about -- do you know anything about -- one of the things
5 we ask people a lot, Do you know anything about PACCAR,
6 Peterbilt or Kenworth, ever providing
7 branded -- Peterbilt- or Kenworth-branded brakes, or did
8 we ever repackage a brake so that they were Peterbilt or
9 Kenworth-branded.

10 We continue to ask that question.

11 Q. And what's the answer you've gotten?

12 A. It's always consistently been, No, we did not
13 do that.

14 Q. Has PACCAR done broader document sweeps over
15 the years?

16 A. Yes.

17 Q. When was the last one?

18 A. The last one was 2021-22 time frame.

19 Q. And Mr. Jones showed you some documents
20 produced by Abex in this case.

21 Overall -- well, how many boxes are we
22 talking about of people just going and searching and
23 re-searching in new places and going and looking and
24 looking?

25 A. Well, maybe to put it in perspective, I was

1 involved in the 2021-22 document search. My
2 recollection, there were something like 14 people
3 involved in reviewing documents, and I believe we pulled
4 somebody like 5- or 600 boxes.

5 Q. And looked through those for responsive...

6 A. Looked through those for response documents.

7 That's where some of the -- that why
8 our -- one of the reasons our production has grown,
9 because we did find responsive documents.

10 Q. When PACCAR first got sued in 1997-1998 in an
11 asbestos case, did it just say, We found everything
12 we're going to find and we'll stop looking?

13 A. No.

14 My -- best I understand is we did a
15 document search in that '97 time frame. I believe there
16 was one done around 2002, I think around 2005, 2010,
17 2016, 2021.

18 Q. And --

19 A. Those are the major document searches. Some of
20 those were broad, but somewhat limited. But then I
21 would say we've probably done hundreds of very
22 specific -- looking-for-very-specific-information
23 searches.

24 Q. And when it came to the documents Mr. Jones
25 showed you from Abex and he talked about, you know, the

1 6,700 pages, did any of these document sweeps locate
2 those documents?

3 A. I've never seen those documents before.

4 Q. And were you personally involved in the
5 2021-2022 document sweep?

6 A. I was.

7 In fact, I was -- went to PACCAR Parts
8 Department, looked at documents there, talked to
9 multiple people there during that visit --

10 Q. Let me back up.

11 A. -- about documents and about history.

12 Q. You got a lot of questions about -- from
13 Mr. Jones about Abex replacement brakes.

14 When you read Mr. Carpenter's deposition,
15 was he familiar with Abex?

16 MR. JONES: Lacks foundation, calls for
17 speculation, no personal knowledge.

18 A. I think, as I testified earlier, my
19 recollection of his deposition is he was not familiar
20 with the Abex name or with any of Abex products.

21 I think in the deposition he specifically
22 asked for Pneumo Abex, and he was not familiar with
23 them.

24 Q. (BY MR. IRVIN) And did he testify or know
25 where Kraft purchased its replacement parts?

1 MR. JONES: Lacks foundation, calls for
2 speculation, no personal knowledge.

3 A. My personal recollection of his deposition is
4 that he consistently said he did not know where Kraft
5 purchased replacement parts.

6 Q. (BY MR. IRVIN) And Mr. Jones
7 mentioned -- attached one of the documents that had a
8 list of Kenworth dealerships. Do you recall that?

9 A. Yes.

10 Q. How are those dealerships, if at all, related
11 to Kenworth and its business model?

12 A. Well, they're --

13 MR. JONES: Lacks foundation, calls for
14 speculation.

15 A. Well, they're -- Peterbilt or Kenworth
16 dealerships are independently-owned and -operated bases.

17 Q. (BY MR. IRVIN) And you personally worked at an
18 independently-owned and -operated Peterbilt dealership?

19 A. I did.

20 Q. Now -- and do you recall what brand of brakes
21 Mr. Carpenter said he might have seen removed from
22 Kenworth trucks at Kraft?

23 MR. JONES: Lacks foundation, calls for
24 speculation, no personal knowledge.

25 A. My recollection is he testified that he

1 believed Bendix brakes were removed from the Kenworth
2 trucks.

3 Q. (BY MR. IRVIN) And in all your review of those
4 billed sheets that Mr. Jones asked you about, did you
5 see any indication of as -- Bendix brake assemblies
6 being OEM equipment on those trucks?

7 A. No, they were not.

8 Q. Now, Mr. Jones talked to you a lot about the
9 formula, I guess, of -- the statement that PACCAR says
10 it doesn't know the chemical composition of the brakes
11 that it put on it trucks?

12 A. That's correct.

13 Q. Do you have a copy of those -- that exhibit
14 that -- Exhibit 9?

15 A. It may be in here. I don't know.

16 Q. Yeah. I think it's in here.

17 MR. JONES: We don't have the exhibits
18 from the first day.

19 MR. IRVIN: I know. But I think I gave
20 you my version, and you asked him about them.

21 MR. JONES: Which one was it?

22 THE WITNESS: I think --

23 MR. IRVIN: Exhibit 9.

24 THE WITNESS: There it is.

25 MR. IRVIN: There we go.

1 MR. JONES: What was it?

2 MR. IRVIN: It was --

3 MR. JONES: Oh, it was the interrogatory
4 responses.

5 MR. IRVIN: I'm going to hand that back to
6 you.

7 THE WITNESS: Okay.

8 MR. JONES: What year are those?

9 MR. IRVIN: Been 2020.

10 MR. JONES: Oh, this case?

11 MR. IRVIN: Yes.

12 MR. JONES: Yeah.

13 Q. (BY MR. IRVIN) And he asked you about
14 Interrogatory Number 13 on page 29. Do you recall that?

15 A. Yes.

16 Q. And one thing that didn't get touched by
17 Mr. Jones, what's the actual question on Interrogatory
18 No. 13?

19 MR. JONES: Object to argumentative and
20 compound.

21 A. Interrogatory 13 says: Have you ever engaged
22 in any of the activities listed below with regard to an
23 asbestos-containing product alleged to be at issue in
24 this action? If so, then state the inclusive dates of
25 such activity.

1 Q. (BY MR. IRVIN) And so it's asking the start and
2 end date, in other words?

3 A. That's how I understand it.

4 Q. Now, the objection and answer starts on, I
5 believe, line 12, the next page?

6 A. Correct. 10, I think.

7 Q. 10.

8 And I believe Mr. Jones read to you the
9 highlighted there, the first paragraph. Do you recall
10 that?

11 A. I believe so, yes.

12 Q. And then I believe he skipped to the next page
13 and read you the statement about -- or a few pages ago,
14 which states about the -- not knowing the chemical
15 composition of the brakes. Do you recall that?

16 A. Well, I think that's -- yeah.

17 So this says: These products were at all
18 times manufactured by and obtained from various
19 component parts suppliers that are unrelated to PACCAR.
20 PACCAR did not specify the use of asbestos in these
21 brakes, clutches, and engine gaskets and did not know
22 the exact formulation or chemical composition of the
23 components manufactured by unrelated entities.

24 Q. And he talked to you a lot about, you
25 know -- he just talked to you about that provision when

1 he was talking about when did PACCAR's trucks first
2 contain or utilize asbestos-containing brakes.

3 But what does PACCAR in front of that, on
4 the previous page, that I've marked in orange?

5 MR. JONES: Object to hearsay.

6 Q. (BY MR. IRVIN) It's a few pages before in the
7 orange. Do you see that?

8 A. I think you -- you talking --

9 Q. Well --

10 A. I think you're referring to --

11 Q. Yes.

12 A. -- the next paragraph where it says --

13 Q. Yes.

14 A. -- PACCAR is unable to accurately state when
15 component part manufacturers first started using
16 asbestos in component parts.

17 Q. And so, before it ever says, We don't know the
18 chemical composition, PACCAR says it doesn't know the
19 start date?

20 A. I think right after that we say we don't know
21 the start date, but we know the end date.

22 Q. Now, does that interrogatory say, When is the
23 first document you have that references asbestos in
24 brakes?

25 MR. JONES: Object to argumentative.

1 A. Now, again, the question was, if so, then -- if
2 we were engaged in any of those activities, then state
3 the inclusive dates of such activity.

4 Q. (BY MR. IRVIN) And so you -- and he spoke to
5 you a lot about the Abex brochure.

6 Does that tell us when PACCAR first
7 included or utilized asbestos-containing brakes in a
8 truck, that brochure from Abex -- or --

9 A. Oh.

10 Q. -- American Brakeblok?

11 A. I'm sorry. Yeah.

12 The -- no, it does not.

13 Q. Now, did PACCAR, nevertheless, produce that
14 document to Mr. Jones in this case?

15 MR. JONES: Argumentative. Not relevant.

16 But go ahead.

17 A. Okay. Can you re-ask the question?

18 Q. Sure.

19 Was that American Brakeblok brochure
20 produced to Mr. Jones in this case by PACCAR.

21 A. Yes --

22 MR. JONES: Lack foundation, calls for
23 speculation.

24 A. Yes, it was.

25 Q. (BY MR. IRVIN) Has a Bates number and

1 everything on it?

2 A. Yes, it does.

3 Q. Now, I want to talk to you a little bit about
4 the efforts -- PACCAR's efforts to substitute
5 asbestos-containing brakes from nonasbestos-containing
6 brakes. When did that begin?

7 A. We believe it initially began in 1979 when
8 we -- we have a purchase order from Engineering where
9 they were trying -- they were ordering the first
10 nonasbestos linings to put on a truck.

11 Q. Mr. Jones touched on this, but let's unpack it
12 a little bit.

13 Why not just take that first set of brakes
14 that we had and slap them on a big rig and off it goes?

15 A. Because they don't always work safely.

16 Q. And was it a quick process to substitute
17 asbestos-containing brakes with nonasbestos-containing
18 brakes?

19 A. No, it was not.

20 Q. All right. Well, what are some of the types of
21 testing that PACCAR had to perform to make sure its
22 trucks actually stopped on the highway?

23 A. I think the first thing -- and Mr. Jones
24 referred to this -- is each one of the entities along
25 the process had some work to do. And so the lining

1 manufacturers had to do their testing.

2 And then, once they were able to develop a
3 lining which they believed was adequate, they passed
4 along to the brake component manufacturers, so the
5 Rockwells and Eatons. And they did their testing, which
6 was the dynamometer testing. We referred to the SAE
7 test where they used a dynamometer.

8 And then, once it passed the dynamometer
9 testing, then we would put it on a truck and do vehicle
10 testing to ensure that it would safely stop the truck,
11 if it would last, it wouldn't come apart, for instance.

12 Q. Mr. Jones talked to you a little bit about Mack
13 having a standard asbestos-free in the 19 -- early
14 1980s. Do you recall that?

15 A. Yes.

16 Q. Now, based on documents, what has
17 PACCAR -- what did they learn about Mack's conversion to
18 nonasbestos and whether that was successful or not?

19 A. I think it's one of the documents that he
20 provided. Let me look here.

21 It -- essentially, somebody was going and
22 asking questions about nonasbestos brakes. I believe it
23 was Gary Loggins. And what he found is that, I believe,
24 according to Randy -- let's see if that's the right one.

25 According to, yeah, Randy Petras at

1 Rockwell, it appears that the question that was asked
2 is: Which OEMs are now using new [sic] asbestos as an
3 option or standard?

4 Q. Nonasbestos?

5 A. That's correct, nonasbestos.

6 It says Mack is using NAB/NMK. And it
7 says that they've improved the lamination, but they're
8 not at a hundred percent.

9 There's another document in here,
10 again -- no, from Dave Robertson where he asks those
11 questions that indicates that: NAB now having problems
12 with linings or laminating. They won't stay on the
13 shoe. Mack has signed off on all warranty costs for
14 lamination with Rockwell.

15 Which, to me, indicates they were willing
16 to take the risk of the brakes failing and pay the
17 warranty cost for that and would -- and Rockwell was not
18 covering the warranty on it.

19 Q. What is the delaminating?

20 You just mentioned that based on your
21 personal experience and your work with PACCAR during
22 this time period.

23 A. Lamination, I mean, would be -- delaminating
24 would be, like, if this were a brake block or a brake
25 shoe, part of it's pulling off. It's pulling off the

1 shoe. And that's what it indicates in the notes here.

2 Q. And is -- was delaminating brakes acceptable
3 and possible brake failure acceptable to PACCAR at this
4 time?

5 A. No.

6 Q. Now, Mr. Jones showed you some documents
7 regarding PACCAR engineers having concerns about having
8 to do design changes to the truck for this change-over
9 to nonasbestos. Do you recall that?

10 A. I do.

11 Q. How did it turn out in the end about whether or
12 not there had to be design changes?

13 A. Best I can tell, for the majority of trucks,
14 ultimately, design changes weren't required except for
15 changing the linings.

16 The design changes really came in in some
17 of the lower-volume, higher-weight-classification
18 trucks. For the majority of the trucks, it doesn't
19 appear that there were any design changes required.

20 MR. JONES: Move to strike as lacking
21 foundation and speculative.

22 Q. (BY MR. IRVIN) And do you know that from the
23 documents?

24 A. Specifically from the EPCs that were written
25 and how they were written. It doesn't indicate any

1 additional design changes aside from changing the brake
2 part numbers because of the brake shoes.

3 Q. And it's just a sound bite to say there's
4 concerns about design change. But then, in fact, the
5 rest of the story is there didn't need to be design
6 changes unless it was a very severe duty-type brake
7 application?

8 MR. JONES: Object to argumentative and
9 compound.

10 A. Well, what I would say is, if you read through
11 all of the documents, as you read through them, what
12 you'll see is those various concerns being addressed
13 through testing and through -- basically through
14 testing.

15 Q. (BY MR. IRVIN) Mr. Jones showed you some
16 documents about PACCAR having difficulties related to a
17 wedge brake lining called 551D. Do you recall that?

18 A. Yes.

19 Q. And possible use of some existing supplies
20 related to those?

21 A. Correct.

22 Q. Now, of the Final Bill of Chassis Materials
23 that you reviewed in this case for trucks sold to Kraft,
24 did you see any indication that wedge brakes, the
25 551D brakes, were used on those trucks?

1 A. I didn't see any indication that they would be.

2 But the 551D was for a higher weight
3 rating than what these trucks were.

4 Q. And a higher weight rating than most trucks
5 that we see on the highway experience?

6 A. Correct.

7 Q. And for the vast majority of trucks sold by
8 Peterbilt and Kenworth during this time period, when you
9 were at PACCAR, were wedge brakes installed on those
10 trucks?

11 A. Wedge brakes was a low-volume option.

12 Q. Now, do you recall when -- you got a lot of
13 questions about -- clutch substitution questions.

14 When did PACCAR move from -- to
15 solely-ceramic clutches or nonasbestos clutches?

16 A. Well, nonasbestos clutches was 1982, '83 time
17 frame.

18 Q. And, in fact, you saw some references to trucks
19 sold before then in these billed sheets for Kraft that
20 there was -- there's some trucks that utilized ceramic
21 or nonasbestos clutches?

22 A. That's correct. Actually, I think the majority
23 of them had ceramic clutches.

24 Q. Now, Mr. Jones touched on this, and I want to
25 add a little bit to it.

1 But PACCAR makes custom trucks. What does
2 that mean? Unpack that a little bit for the jury. The
3 discussion was brief.

4 A. Well, I guess what I would say is a commercial
5 truck is really a tool. It's not like our cars. It's a
6 tool. And every company has specific requirements based
7 off -- so just think about like Kraft based off of where
8 they run the trucks, what weights they're hauling, what
9 length of trailers they may have, those types of things.

10 There's also differences in what people
11 prefer, what -- as far as maintenance parts, replacement
12 parts. Who do they have close to them that can supply a
13 given brand of air filter?

14 Q. Right.

15 A. So they might specify a specific air filter
16 because of ease of obtaining the replacement part.

17 There's a lot of different ways that -- or
18 reasons that a customer will ask for specific components
19 on its truck. And they're the experts in what they're
20 using those trucks for and how they're using them.

21 And Kraft was -- had enough expertise.
22 They had their own mechanics who were maintaining their
23 trucks.

24 So what I would say is it really
25 depend -- how the truck is configured depends on the

1 customer and what their needs are.

2 We have some expertise in -- that we've
3 acquired over the years in certain applications and what
4 might work better for a customer and what might not. A
5 lot of times the customer knows better than we do
6 because they've lived it, they've experienced it, and
7 they specify what they want for their -- essentially
8 their tool --

9 MR. JONES: Move --

10 A. -- in the business.

11 MR. JONES: Move to strike the
12 nonresponsive portions and also those lacking foundation
13 and those that are speculative and those where he lacks
14 personal knowledge.

15 Q. (BY MR. IRVIN) And this was the case both when
16 you worked at Peterbilt in New Mexico and then later at
17 PACCAR?

18 MR. JONES: Same objections.

19 A. It's the case whenever I worked in New Mexico
20 Peterbilt. Also the case when I worked at PACCAR.

21 Been involved in meetings with customers
22 reviewing specs, looking at those special items that
23 they want for their particular situation.

24 Q. (BY MR. IRVIN) Now, you mentioned -- Mr. Jones
25 asked you this about Cummins engines being in the trucks

1 here in the Final Bill of Chassis Materials. Do you
2 recall that?

3 A. Yes.

4 Q. Did PACCAR make Cummins engines?

5 A. No.

6 Q. Did it warranty Cummins engines?

7 A. No.

8 Q. Did it simply drop those engines into the
9 truck?

10 A. A little more than simply, but yes.

11 Q. Yes. It was the history major in me.

12 But -- and did PACCAR have inputs on the
13 specific components with -- that Cummins might choose to
14 put on the engine block, for example?

15 A. No.

16 Q. If I drove a Kenworth off the lot and a mile
17 down the road the engine failed, could I take it back to
18 PACCAR and have it serviced -- or the Peterbilt or
19 Kenworth dealership?

20 A. During this time frame, the majority of the
21 time -- and I would say overwhelming majority of the
22 time, you would not because Kenworth or Peterbilt dealer
23 was not a engine distributor. And so you would take it
24 to the Cummins shop or Caterpillar shop if you had a
25 Caterpillar or Detroit shop.

1 I worked for a Detroit distributor. So...

2 MR. JONES: Move to strike --

3 MR. JACKSON: Move to strike. Lacking in
4 foundation. Calls for speculation.

5 MR. JONES: Join.

6 Q. (BY MR. IRVIN) And you -- let me unpack this.

7 You worked for a Detroit Diesel
8 distributor?

9 A. I did.

10 Q. And then a Peterbilt dealer?

11 A. Yes, I did.

12 Q. And this was the case when you worked at those
13 places?

14 A. It was.

15 In fact, New Mexico Peterbilt was right
16 across the street from Sandia Detroit Diesel, which was
17 the distributor I worked for, just not in Albuquerque.
18 It was another branch of Sandia Detroit.

19 Q. And was this the case when you worked at
20 Peterbilt in the 1980s?

21 A. Yes.

22 Over time, dealers began to work to become
23 approved by the engine manufacturers as distributors
24 where they could work on engines. And so that's -- it's
25 a bit -- transition that's gone on over time. But early

1 on, in the '70s and '80s.

2 During this time frame, that was not
3 generally the case.

4 Q. I want to unpack a few terms that counsel with
5 Rockwell mentioned based on your personal experience,
6 whether it be as a heavy truck mechanic or at PACCAR?

7 MR. JONES: About how much more do you
8 have?

9 MR. IRVIN: Not much.

10 Q. (BY MR. IRVIN) You mentioned the word "axle."
11 What's an axle?

12 A. Well, an axle is -- a front axle is the -- it's
13 the component on the front of the truck that has the
14 wheels, the front wheels on it.

15 And the rear axle has the rear wheels on
16 it. And it has gears in it to drive the wheels on the
17 rear.

18 Q. And what's a brake assembly?

19 A. So the brake assembly is -- I'm going to throw
20 in some terms we've not talked about.

21 A brake spider is kind of the framework or
22 foundation that all the other brake components are
23 attached to. And so that assembly includes the spider,
24 the brake shoes, cam -- for an S-cam brake would include
25 the cam, includes the anchor pins, the springs that hold

1 every -- all the shoes onto that assembly.

2 Q. And last question on this is: What's a brake
3 shoe?

4 A. A brake shoe is either a cat -- well, it's a
5 metal piece that's curved that has the friction lining
6 attached to the top of that curved plate.

7 Q. And so an undressed axle would mean just taking
8 the brake assembly and putting it on the axle?

9 A. That's correct.

10 Q. Now, I want to -- the last area I want to ask
11 you about is based on your personal knowledge of being a
12 mechanic at the same time that -- heavy truck mechanic
13 at the same time these Kraft trucks were sold and worked
14 on at Kraft.

15 You know, Mr. Carpenter mentioned that
16 mechanics would perform routine maintenance on some of
17 the Kenworths that came in.

18 Did you have personal knowledge from your
19 work as a heavy truck mechanic in the seven -- late
20 '70s, early '80s about what's routine maintenance.

21 MR. JONES: Lacks foundation, calls for
22 speculation.

23 A. Let's say, in general, routine maintenance is
24 going to be oil changes, filter changes. Might include
25 things like checking the U-joints if one of them

1 is -- or replacing the U-joint on the drive shaft.

2 Would include things like brake jobs.

3 Would include things like recharging the
4 air-conditioner. Might include flushing the cooling
5 system. There's --

6 Q. Changing tires?

7 A. Changing tires.

8 Q. Oil changes?

9 A. You know, one of the things that we've not
10 talked about is that quite often we were changing wheel
11 seals.

12 Wheel seals -- when wheel seals leak, if
13 you're driving around -- down the freeway and you see a
14 truck and it's got -- looks like oil has been splattered
15 on the wheel and it's spreading out, that's typically a
16 wheel seal.

17 But that -- those wheel seals also leak on
18 the brake. And so if that's not addressed quickly, the
19 brake -- the brake lining, the friction lining, will
20 become saturated with oil and has to be replaced. And
21 it might be well before the brakes wear out.

22 Q. And so, basically, your experience of being a
23 mechanic, it's not just brake changes, clutch changes,
24 and engine overhauls. Is that fair?

25 A. No, it's not.

1 Q. Now, let me ask you this question: Based on
2 your experience as a heavy truck mechanic in this same
3 very time at issue in this case, if a truck looks new,
4 is it an accurate assumption to think that the -- a
5 brake replacement being done on that truck is the very
6 first brake replacement?

7 MR. JONES: Lacks foundation, calls for
8 speculation.

9 A. No. Just because it looks new doesn't mean the
10 brakes haven't been replaced.

11 Q. (BY MR. IRVIN) For issues like the wheel seal?

12 A. For instance, might have a wheel seal issue.

13 Q. All right. Now, assumingly, Mr. Carpenter
14 talked about brake adjustments.

15 Can you tell me how you would adjust a
16 brake on -- based on your personal experience as a
17 mechanic at the time and in your time at PACCAR, how
18 would you adjust a brake on these K-100 trucks here in
19 the Final Bill of Chassis Materials?

20 MR. JONES: Lacks foundation, calls for
21 speculation.

22 A. I don't recall if these had auto slack
23 adjusters. It's essentially the same, but there's a
24 little -- little minor differences if it has automatic
25 slacks.

1 But, essentially, there's -- actually, we
2 have a document in our production where our Tech Center
3 won't through and looked at, I think, three or four
4 different recommended ways to adjust brakes to determine
5 which way was best, but I'll just pick one of them
6 essentially -- they're fairly similar.

7 And that is is you would either adjust
8 the -- adjusting on the slack adjuster, which is located
9 inboard of the brakes underneath the axle -- or around
10 the axle, might be behind it. And you would adjust that
11 S -- that slack adjuster so that it adjusts S-cam, which
12 then adjusts where the brakes are relative to the drum.

13 And you can either do that by measuring
14 the gap between the drum and the lining or jacking the
15 truck up and turning the wheel until it stops and then
16 backing off like a quarter- or half-turn, depending on
17 what the specification is.

18 Another way was to tap on the drum with a
19 hammer and tighten up the brake until the -- you heard a
20 thud, more of a thud with -- and then backing the brake
21 off until it rang as opposed to thud. So...

22 Q. (BY MR. IRVIN) Do you have -- based on your
23 personal experience in mechanics, do you have to take
24 the wheels off and use compressed air when you're
25 adjusting the brakes?

1 A. No.

2 Q. And --

3 A. You --

4 Q. Why wouldn't you do that?

5 A. Well, you wouldn't do -- you wouldn't take the
6 wheels off. I mean -- well, I was thinking take the
7 wheels off, but I mean take the drum off.

8 If you take the drum off, you got
9 to -- you have to do -- readjust the brakes anyway. But
10 there's no need to do that.

11 All you have to do is determine which
12 method you're going to use to adjust the brakes, and you
13 adjust them using the adjusting nut on the slack
14 adjuster.

15 Q. Now, last question of you as -- your mechanic
16 experience in the '70s and early '80s.

17 If someone was in -- three to four feet
18 from you when you're doing your mechanic work, does that
19 pose a practical problem?

20 MR. JONES: Lacks foundation, calls for
21 speculation.

22 A. I mean, if somebody is within three or four
23 feet, they're basically an arm-length away, and so
24 they're either looking over your shoulder -- as a
25 mechanic -- whenever I worked as a mechanic, if somebody

1 was there and I was doing something, immediately, if
2 they're that close, I have responsibility for their
3 safety. So I'm not going to do anything that
4 might -- you know, who knows what could happen. You
5 never know. That's why they're called accidents.

6 But, in general, if somebody was that
7 close, that would mean they were trying to get my
8 attention. I would stop doing what I was doing. And if
9 they wanted to talk, I would talk.

10 Before I would continue on, I would
11 somehow indicate that, You need to -- you need
12 to -- it's time for me to go back to work.

13 Q. (BY MR. IRVIN) They'd be in between you and
14 your tool chest, for example?

15 A. They might be in the --

16 MR. JONES: Lacks foundation, calls for
17 speculation.

18 A. It could make it difficult to get to tools.
19 (Inaudible.)

20 Q. (BY MR. IRVIN) Or you could drop something on
21 their toe, something like that?

22 A. It could.

23 MR. IRVIN: That's all I've got.

24 MR. JONES: So --

25 MR. IRVIN: How long do you have and let's

1 see if we need to take a break.

2 THE VIDEOGRAPHER: Counsel, we are -- we
3 have -- we are five minutes away from the two-hour mark,
4 and I will need to switch --

5 MR. JONES: Let's take a break.

6 THE VIDEOGRAPHER: -- switch videos.

7 MR. JONES: Let's take a break.

8 MR. IRVIN: How long do you think you've
9 got so I can tell my bride and not get in trouble?

10 THE VIDEOGRAPHER: The time is 6:08 p.m.,
11 and we're off the record.

12 (Break was from 6:08 p.m. to 6:19 p.m.)

13 THE VIDEOGRAPHER: This is the beginning
14 of Media Unit Number 5. The time is 6:18 p.m. We are
15 now back on the record.

16 Counsel, you may proceed.

17 FURTHER EXAMINATION

18 BY MR. JONES:

19 Q. Mr. Curbo, can you please grab Exhibit 55?

20 A. Sure.

21 Q. This was the paper your counsel showed you in
22 the redirect. Do you recall that?

23 A. Yes.

24 Q. And I believe the point was made that the wear
25 dust in a brake drum is less than one percent asbestos?

1 A. That's correct.

2 Q. Still says it's asbestos, right?

3 A. .02 percent.

4 Q. Okay. That's -- is not enough to hurt anybody?

5 A. I don't know.

6 MR. IRVIN: It -- beyond the scope. Calls
7 for a medical opinion.

8 Q. (BY MR. JONES) Okay. So -- okay.

9 And you understand that the people that
10 wrote this paper are the Ford Motor Company?

11 A. Yes.

12 Q. They've been defendants in cases that PACCAR
13 had been a defendant in?

14 MR. IRVIN: Calls for speculation. Beyond
15 the scope.

16 A. Don't know.

17 Q. (BY MR. JONES) You don't know if --

18 A. I don't know.

19 Q. -- the Ford Motor Company has ever been sued in
20 asbestos litigation?

21 MR. IRVIN: That's not what you asked.

22 But beyond the scope. Calls for
23 speculation.

24 A. It wouldn't surprise me that they would, but I
25 don't know.

1 Q. (BY MR. JONES) Okay. And -- well, certainly,
2 Ford had asbestos brakes on their vehicles, right?

3 MR. IRVIN: Calls for speculation.

4 A. Likely.

5 Q. (BY MR. JONES) Well, based on this paper, it's
6 a 100-percent certainty, isn't it?

7 A. Well, like -- I'll say likely they had asbestos
8 brakes in at least some of their vehicles, yes.

9 Q. This paper on the front is stamped "Library?"

10 A. It is.

11 Q. Which would indicate it's in PACCAR's library?

12 A. At some point in time.

13 I don't believe it was found in the
14 library.

15 Q. Okay. And this is -- this paper is 50 years
16 old?

17 A. Yes.

18 Q. More than 50 years old.

19 And it says -- is that right, more than
20 50 years?

21 A. Yes.

22 Q. And this paper is --

23 A. 1973.

24 Q. The paper's first sentence says: Asbestos has
25 been a major constituent of automotive friction

1 materials for more than 50 years.

2 Did I read that correctly?

3 A. You did.

4 I believe we talked about that last week.

5 MR. IRVIN: Asked and answered.

6 Q. (BY MR. JONES) That goes back a hundred years
7 from today, right?

8 MR. IRVIN: Asked and answered.

9 A. Yes.

10 Q. (BY MR. JONES) Okay. So, according to this
11 document that was in PACCAR's library at some point in
12 time, asbestos has been a major constituent in brakes
13 since 1923 or earlier, true?

14 A. According to this paper.

15 Q. Okay. And several other Society of Automotive
16 Engineer papers that we looked at last week indicated
17 that asbestos has been used in brakes for a very long
18 time, true?

19 A. I believe so.

20 Q. Okay. And I think you mentioned that though
21 PACCAR doesn't have -- doesn't manufacture brakes it has
22 employed brake engineers, true?

23 A. I don't think I ever used that terminology.

24 Q. Foundation brake -- what was the title you
25 mentioned that had foundation brake in the title?

1 A. I think what I was talking about, I believe
2 Mr. Vanderlip, who was group lead over the foundation
3 brake group.

4 Q. Okay. So they had a group of engineers that
5 was called the Foundation Brake Group, right?

6 A. That's correct.

7 They weren't experts on foundation brakes.
8 They were experts on integrating brakes into our
9 chassis, into our trucks.

10 Q. They had a -- PACCAR had a group called the
11 Foundation Brake Group, which is group of engineers that
12 were not experts in foundation brakes?

13 A. That's correct.

14 Q. Okay.

15 A. So they weren't experts in designing the
16 foundation brakes. So designing the shoes, designing
17 all of that.

18 They were -- they're experts in
19 integrating those brake assemblies into the trucks,
20 selecting -- and they're the guys who are involved in
21 that transition doing -- with the Tech Center doing the
22 testing, working with the experts from Eaton and
23 Rockwell, doing the transition, that type of work.

24 Q. Now, you were asked about Interrogatory
25 Number -- or Exhibit Number 9, which were the

1 interrogatory responses in this case?

2 A. Yes.

3 Q. And the -- we discussed the portion where
4 PACCAR says it didn't know the chemical composition of
5 the brakes or whatever? I'm paraphrasing.

6 A. Correct.

7 Q. Okay. What PACCAR also says --

8 A. Remind me what page that's on.

9 Q. Page 30.

10 A. It's number 11, right?

11 Q. The answer begins on page 30.

12 A. Yeah. Okay. 13. All right.

13 Q. Can you -- on page 32, at line 16 to 17, the
14 answer says: Early versions of nonasbestos brakes and
15 clutches could safely be used on certain trucks for
16 certain applications.

17 Do you see that?

18 A. No.

19 Q. There at page 32, line 16. Early versions.

20 A. Okay. Line 14. All right. I see it.

21 Q. Are we looking at the same thing?

22 A. I don't know. Mine's page 32. Early version
23 starts actually at 13 and a half.

24 Q. Maybe we're not looking at the same thing. The
25 Carpenter Standard Interrogatory Responses?

1 A. PACCAR's Objection and Answer to LAOSD Standard
2 Interrogatories to Defendants.

3 Q. Okay. At any rate (reading): Early versions
4 of nonasbestos brakes and clutches could safely be used
5 on certain trucks for certain applications.

6 Do you see that?

7 A. Yes.

8 Q. The earliest that's true is 1984, true?

9 A. Based off of the information that we found thus
10 far.

11 Q. And that means -- that was only if engineering
12 approved it and if there was an emergency brake on each
13 axle, true?

14 A. Yes.

15 Q. So the acc -- the most accurate way to say this
16 is the first PACCAR trucks that have nonasbestos brakes
17 were in 1984, true?

18 MR. IRVIN: Argumentative -- excuse me.

19 Argumentative, calls for speculation,
20 vague and ambiguous as to what you mean by the most
21 accurate way.

22 A. I think based on --

23 MR. JONES: I'll withdraw it.

24 Q. (BY MR. JONES) A truthful statement would be --

25 MR. IRVIN: That's argumentative.

1 Q. -- the first PACCAR trucks --

2 MR. JONES: You got to wait until I get it
3 out.

4 MR. IRVIN: I know. I just couldn't take
5 the pain.

6 MR. JONES: I know.

7 Q. (BY MR. JONES) It would be a true statement for
8 PACCAR to say in this interrogatory that the first
9 PACCAR trucks to include nonasbestos brakes was in 1984
10 and only then with engineering approval and if the truck
11 was equipped with an emergency brake on true axles.

12 That would be a truthful statement, true?

13 MR. IRVIN: Argumentative.

14 A. I think that would be just as true as what we
15 stated here.

16 Q. (BY MR. JONES) Well, what you stated here means
17 that it's possible that in the 1970s PACCAR had a
18 nonasbestos truck, right?

19 A. It could be interpreted that way, yes.

20 Q. And that would not be true?

21 A. I don't know.

22 Q. Well, you do know.

23 If it could be interpreted that in the
24 1970s PACCAR had a truck with nonasbestos brakes and, in
25 fact, the first truck PACCAR had with nonasbestos brakes

1 was 1984, then this statement would not be true, right?

2 A. Well, I think we've said all along we don't
3 know exactly when -- we don't know the chemical
4 composition. We don't know the composition of the
5 linings. We don't know if all the linings contained
6 asbestos.

7 In fact, Abex's responses confirm exactly
8 what we've said, and they say that not all linings
9 contained asbestos.

10 And so there might have been -- there
11 might be trucks out there that have
12 nonasbestos-containing linings. I just don't know.

13 Q. I'm sure Abex was selling nonasbestos linings
14 before 1984, right?

15 A. I believe they were.

16 Q. And, in fact, Mack Trucks was nonasbestos
17 standard in 1982?

18 A. I believe that's what the doc -- what our
19 information says.

20 Q. Abex had to wait for PACCAR to test the
21 nonasbestos brakes before PACCAR could make them
22 standard on their trucks, true?

23 A. Well, of course, we're going to test them.

24 Q. Mack completed that process by at least 1982,
25 true?

1 A. It appears that they completed that process and
2 maybe didn't have the same requirements that we had
3 because they had durability problems.

4 Q. And PACCAR didn't complete that process until
5 1987?

6 A. Well, complete the process in 1987.

7 We began offering nonasbestos brakes
8 during that transition period at least as early as 1984.

9 Q. You've suggested that the industrial hygienist,
10 Dave Bissonnette, did tests on asbestos components and
11 PACCAR trucks and that those tests indicated that there
12 were little or no exposures to asbestos, true?

13 A. I believe what I said is he did air-sampling on
14 workers working around brakes and clutches in trucks.

15 Q. Did you mean to suggest that that air-sampling
16 was the -- was done when the same type of work would be
17 done in, say, a PACCAR dealership where a mechanic is
18 changing brakes?

19 MR. IRVIN: Objection. There's no PACCAR
20 dealership. Can you rephrase that question?

21 All right. You can answer about what
22 would happen at a PACCAR dealership.

23 A. Well, first of all, what I would say is that
24 1976 document that we talked about was at a PACCAR truck
25 center, and it was -- it states that it was doing

1 air-sampling of mechanics while they were doing brake
2 work and clutch -- brake repair and clutch repair.

3 Q. (BY MR. JONES) And it doesn't say what that is?

4 A. It doesn't get into the specifics.

5 Q. Did you know that Mr. Bissonnette, when
6 providing information to lawyers in 1997, indicated that
7 PACCAR never did tests on asbestos components about
8 asbestos release?

9 A. No, I didn't.

10 MR. IRVIN: What --

11 Q. (BY MR. JONES) Do you have Exhibit 28?

12 MR. IRVIN: What --

13 (Reporter clarification.)

14 MR. IRVIN: -- I disagree. Misstates the
15 documents. Misstates the testimony.

16 MR. JONES: Okay.

17 MR. IRVIN: Oh. The --

18 Q. (BY MR. JONES) It's the 1997 interrogatory
19 responses.

20 MR. IRVIN: Yeah. You said 1987
21 and -- there was a lot of things wrong.

22 MR. JONES: Did I say 1987? I'll ask it
23 again. I'll withdraw the previous question.

24 MR. IRVIN: You mean, you're talking about
25 the Tinker rogs verified by that lawyer?

1 MR. JONES: Whoever verified it.

2 I don't get to -- we don't get to pick it.
3 They get to -- PACCAR gets to pick it.

4 MR. IRVIN: No. We don't think so, but
5 okay.

6 MR. JONES: Was he lying? Was that PACCAR
7 lawyer lying? That dirty liar.

8 Q. (BY MR. JONES) All right. In 1997,
9 Mr. Bissonnette provided information to attorneys to
10 answer questions in asbestos litigation, true?

11 A. I believe that's what this indicates.

12 Q. And one of the questions PACCAR was asked was
13 did they ever do any tests on the asbestos components
14 that PACCAR sold, Interrogatory No. 10, on page 12?

15 MR. IRVIN: Foundation and speculation to
16 all this.

17 Q. (BY MR. JONES) Are you on page 12?

18 A. I am.

19 And I'm looking at the other
20 interrogatories that are referenced in that.

21 Q. Interrogatories for -- so it says,
22 Interrogatory No. 10: Testing. Were any tests
23 conducted on any asbestos-containing component parts
24 identified in Interrogatory No. 4, 5, 6, 7, 8, or 9.
25 Right?

1 A. Yes.

2 Q. And in 4, 5, 6, 7, 8, or 9 -- not in all of
3 them, but some of them -- asbestos brakes, asbestos
4 clutches, and asbestos gaskets are identified, true?

5 A. Yes. It -- yes.

6 Q. And the answer to Interrogatory No. 10 is:
7 Kenworth/Peterbilt knows of no tests conduct on
8 asbestos-containing parts identified previously.

9 Did I read that correctly?

10 A. You did.

11 Q. PACCAR is also asked in this set of
12 interrogatories if there were any asbestos Workers'
13 Compensation claims filed against the company at
14 Interrogatory No. 15. True?

15 16. I'm sorry, page 16.

16 A. It specifically says: Have you had any claims
17 of employees alleging injury due to asbestos exposure?
18 If so, state -- and there's some things to state.

19 Q. And PACCAR says: Defendant has no record of
20 any Worker Compensation claim alleging injury due to
21 asbestos exposure o component parts.

22 Did I read that correctly?

23 A. That's what this -- that's what it says.

24 Q. PACCAR does have a report of a Workers'
25 Compensation claim for an asbestos injury, true?

1 A. I believe there is at least one in Canada.

2 Q. 1976, an employee of a PACCAR branch in
3 Edmonton, Alberta, who worked for PACCAR for about
4 20 years developed an asbestos disease, true?

5 A. I believe that's what the document says.

6 MR. JONES: I don't have an extra copy of
7 it, but we'll mark it as Exhibit 56, did we say?

8 THE REPORTER: Yes. We haven't marked
9 anything else.

10 (Exhibit 56 marked.)

11 Q. (BY MR. JONES) Are you familiar with what I
12 have marked as Exhibit 56?

13 A. I am.

14 Q. What's the Bates number on it? I'm about to
15 pull it up on this.

16 A. 65.

17 Q. Thank you. Okay.

18 And Exhibit 56 is authored by
19 Mr. Bissonnette, the industrial hygienist, true?

20 A. That's correct.

21 Q. He's certainly aware of this alleged case of
22 asbestosis and mesothelioma in this gentleman,
23 Mr. Jackson, true?

24 MR. IRVIN: Calls for speculation. Vague
25 as to time.

1 A. Well, he authored this document. He's aware of
2 the claim.

3 Q. (BY MR. JONES) Okay. And then Mr. Bissonnette
4 asked some questions about this potential claim. Do you
5 see that?

6 A. I do.

7 Q. Does he ask: What asbestos was Mr. Jackson
8 around at the PACCAR facility in Alberta?

9 A. He asks: Was this -- was his exposure at our
10 branch sufficient to produce lung cancer? If not at our
11 branch, essentially says where else might he have been
12 exposed?

13 Q. Mr. Bissonnette asked the kind of questions
14 that a defense lawyer would ask?

15 MR. IRVIN: No, no, no, no.

16 That calls for speculation. That's
17 argumentative. Foundation.

18 If you know what a defense lawyer would
19 ask, then answer. But I think that's complete
20 speculation. It's argumentative.

21 A. I would say that Mr. Bissonnette asked the kind
22 of questions that you would expect an industrial
23 hygienist to ask.

24 Q. (BY MR. JONES) Working for a company that was
25 alleged to harm someone?

1 MR. IRVIN: Argumentative.

2 Q. (BY MR. JONES) Right?

3 MR. IRVIN: Found -- argumentative,
4 foundation, beyond the scope.

5 A. I would say he asked the kind of questions that
6 an industrial hygienist would ask to determine whether
7 or not this claim is accurate, whether it's an accurate
8 claim or not.

9 Q. (BY MR. JONES) Okay. His first question is:
10 Does this guy even have asbestosis mesothelioma. Right?

11 A. That's his question.

12 Q. His second question is: If so, was his
13 exposure at our branch sufficient to produce lung
14 cancer?

15 That's the second question?

16 A. Correct.

17 Q. And his third is: If not our branch exposure,
18 what was his previous work history and was it possible
19 that he's been exposed to mining, milling, insulation,
20 or other occupational asbestos hazards?

21 Did I read that correctly?

22 A. Yes.

23 Q. Did you find in the documents the results of
24 Mr. Bissonnette's investigation into the potential
25 asbestos exposures experienced at the Edmonton, Alberta,

1 Branch of PACCAR?

2 A. I believe that that's why he did the -- it's
3 possibly the -- part of the reason why he did the
4 air-sampling of the mechanics at that dealership.

5 Q. Okay. And Exhibit 54 is one of those
6 documents?

7 A. Yes.

8 Q. Exhibit 54 is where they discussed asbestos
9 sampling. And the description as far as it relates to
10 brakes and clutches is, quote, brake and clutch repair.
11 True?

12 A. That's correct.

13 Q. There's no description of what they're actually
14 doing, true?

15 MR. IRVIN: Asked and answered several
16 times.

17 A. There's no detailed explanation of exactly what
18 they were doing.

19 Q. (BY MR. JONES) And for the person doing -- the
20 reports of the people doing brake repair, it's
21 nondetectable. Right?

22 A. That's correct.

23 Q. For the person doing clutch repair, they found
24 193,500 fibers, true?

25 MR. IRVIN: Assume facts. Misstates the

1 document.

2 A. Well, it says that they found 193,500, as I
3 understand, milligrams, which I forget how many pounds
4 that is, but it's pretty extreme.

5 And (c), it's denoted with a (c) in
6 parentheses, which down below says: As blank was
7 grossly contaminated, a new blank from the same box of
8 cassettes was counted.

9 It's unclear exactly, to me, what that
10 means.

11 Q. (BY MR. JONES) Okay. Now, you've testified
12 before that the people that made the components, that
13 supplied those components to PACCAR, were the experts
14 about those components?

15 A. Yes.

16 Q. The people that supplied those components to
17 Carpenter as of 1978 with Rockwell, at least, was
18 warning about asbestos, true?

19 A. They were.

20 Q. And they gave instructions about asbestos
21 hazards and how to avoid them, true?

22 A. Yes.

23 Q. Does Mr. Bissonnette know better than Rockwell
24 about the hazards associated with Rockwell's brakes?

25 A. I can't speak to that. I don't know.

1 Q. Well, what you said before is that the
2 component suppliers are the experts about the hazards of
3 their products, right?

4 A. Yes.

5 Q. That's why PACCAR, you say, relied on them to
6 provide the warnings?

7 A. We relied on them to provide not just the
8 warnings but maintenance information, etcetera.

9 Q. Are you saying that Mr. Bissonnette proved that
10 Rockwell was wrong when it warned about asbestos in the
11 brake manual?

12 MR. IRVIN: Argumentative, calls for
13 speculation.

14 A. I don't know why Rockwell decided to include
15 the warning in their manual.

16 What we do know is Mr. Bissonnette did
17 some testing and came back and says that he did not find
18 any asbestos.

19 I think this particular document is
20 confusing, at least associated with that particular
21 test, which, by the way, was not associated with brakes.

22 If you take a look at, I believe it's
23 PACCAR 68, it's one of the newer documents that we found
24 in our last search. I think it's 68.

25 We found what appears to be when they took

1 the sample on August 23rd of 1976, which says: An
2 Arnold Shillings was replacing brake shoes in the
3 southeast bay. Rudy and I was replacing a clutch in the
4 southwest central bay.

5 And it says in a note: The clutch was
6 only one to two weeks old.

7 And then it says: The third person,
8 Herman Varing (phonetic) was electrical mechanic. In
9 parentheses, he was doing similar to work performed by
10 Joseph Verne (phonetic), which I believe is the
11 individual who made the claim of having asbestosis or
12 mesothelioma. I'm not for sure which.

13 Q. (BY MR. JONES) So this study was done by
14 Mr. Bissonnette as part of PACCAR's defense of that
15 claim?

16 MR. IRVIN: Well, you know, that calls for
17 speculation. Assumes facts.

18 A. I don't know if it's part of the defense or
19 not.

20 I know it -- I mean, if it was, that part
21 of the defense would have been the results from Herman
22 Raring, who wasn't doing clutch or brake work.

23 It would seem to me, if that was the case,
24 then what Mr. Bissonnette did was take the opportunity
25 while he was doing air-sampling for that case, if that's

1 what he was doing, to also do air-sampling of other
2 possible -- I just lost the word -- other possible
3 health hazards. And appears that what he found was
4 none.

5 Q. If someone was going to go -- if someone had a
6 Kenworth truck and wanted to get their brakes changed,
7 one place they could do that would be at a Kenworth
8 dealership, true?

9 A. Yes, they could.

10 Q. Kenworth dealerships had mechanics who were
11 approved to do warranty work on Kenworth trucks, true?

12 A. Yes.

13 Q. Meaning they were trained by Kenworth to work
14 on Kenworth trucks, true?

15 A. Correct.

16 Q. Customers wouldn't bring trucks to Kenworth's
17 factories to have their brakes changed, right?

18 A. No.

19 Q. They would go to a dealership, right?

20 A. Correct.

21 Q. Mr. Bissonnette knew that?

22 MR. IRVIN: Well --

23 Q. (BY MR. JONES) Right?

24 A. I believe so.

25 Q. Did he do any test at a Kenworth dealership

1 where he knew that mechanics were doing the type of work
2 to repair and maintain trucks on a daily basis?

3 A. My understanding is the PACCAR Truck Center is
4 a dealership. It's the one dealership in Canada that is
5 owned by PACCAR.

6 Q. Okay. So he only went to the company-owned
7 dealership?

8 A. That's what it appears.

9 Q. Okay. Mr. Bissonnette must have been aware of
10 Exhibit 20, the Friction Materials Standards Work
11 Practices Guide?

12 MR. IRVIN: Assumes facts, calls for
13 speculation.

14 A. I don't know.

15 Q. (BY MR. JONES) Well, PACCAR has this document,
16 right?

17 A. We did.

18 Q. And this talks about all the hazards associated
19 with asbestos brakes, right?

20 MR. IRVIN: Misstates the document,
21 argumentative.

22 Q. (BY MR. JONES) Right?

23 A. It talks about some of the hazards or concerns.

24 Q. Did Mr. Bissonnette disprove the Friction
25 Materials Work Practices Guide?

1 MR. IRVIN: Argumentative. Calls for
2 medical or scientific opinion.

3 A. All I would say is Mr. Bissonnette, in
4 his -- in his -- when he did the air-sampling, he claims
5 that he found no asbestos.

6 Q. (BY MR. JONES) That is what he claims.

7 But are you saying that -- are you saying
8 that the warnings from Rockwell, Eaton, and the Friction
9 Materials Standards Institute were completely
10 unnecessary?

11 MR. IRVIN: Calls for speculation. Calls
12 for legal and medical opinion. Misstates testimony.

13 A. Again, what I'll say is, for instance, with the
14 Rockwell document, we're not -- we don't know what their
15 decision process was.

16 Our decision process appears to be
17 Mr. Bissonnette did air-sampling using independent
18 laboratories. And if, in the sampling that he did at
19 this dealership and in the (inaudible) plants found no
20 asbestos.

21 Q. (BY MR. JONES) And this is the -- this
22 Exhibit 54 --

23 MR. JONES: Is it 54?

24 MR. IRVIN: Mr. Jones, can I ask a
25 question?

1 MR. JONES: Yeah -- no, you can't ask a
2 question.

3 MR. IRVIN: I'm not going to ask him a
4 question.

5 MR. JONES: Yeah. No. Yeah.

6 MR. IRVIN: I'm going to ask you a
7 question.

8 MR. JONES: Yeah.

9 MR. IRVIN: He referred to PACCAR 68. You
10 asked him questions about that. Can we attach it as an
11 exhibit?

12 MR. JONES: Yes.

13 MR. IRVIN: Thanks.

14 What is next in line?

15 THE REPORTER: 57.

16 MR. IRVIN: Do you have one of those fancy
17 stickers?

18 (Exhibit 57 marked.)

19 MR. IRVIN: Can I just throw it to you and
20 you -- since you're an assistant?

21 MR. JONES: There's like zero chance now.

22 MR. IRVIN: Just kidding.

23 Q. (BY MR. JONES) Exhibit 54 is the only test that
24 even purports to do sampling during brake or clutch
25 repair, true?

1 A. It's the only document that we found, yes.

2 Q. The other sampling that was attached had to
3 deal -- dealt with people assembling the trucks, right?

4 A. The other documents that we found where they
5 did our sampling were associated with either -- within
6 offices or within the -- PACCAR's facilities --
7 manufacturing facilities.

8 Q. So this is the extent of Mr. Bissonnette's
9 study as to whether or not work with brakes and
10 clutches, when repairing heavy trucks, causes asbestos
11 exposure. True?

12 MR. IRVIN: Calls for speculation.

13 A. I can't say that it's the only document that
14 we've found.

15 Q. (BY MR. JONES) Okay. As far as you can tell,
16 Exhibit 54 -- which you described as confusing, right?

17 MR. IRVIN: Misstates testimony,
18 argumentative.

19 A. What I described was that one result, which was
20 associated with Rudy Abma (phonetic), who was
21 doing -- looks like he was replacing a one- or
22 two-week-old clutch is confusing.

23 Q. (BY MR. JONES) Okay. And those results are
24 dramatically different from what we saw from the
25 independent researchers at Mount Sinai in 1976, true?

1 MR. IRVIN: Argumentative, calls for
2 scientific conclusion.

3 A. I have not read that report. I don't know.

4 Q. (BY MR. JONES) Well, the first sentence says
5 that the exposures can be well above regulated levels,
6 right?

7 MR. IRVIN: Argumentative. Calls for you
8 to speculate.

9 A. I've not read the report. I don't know.

10 Q. (BY MR. JONES) You remember it said that it's
11 bad, right? Working on brakes is bad?

12 MR. IRVIN: Argumentative.

13 A. One sentence of an entire multi-page report.

14 Q. (BY MR. JONES) Well, it was the first sentence,
15 right? It was the introduction?

16 MR. IRVIN: And beyond scope,
17 argumentative.

18 Q. (BY MR. JONES) Why are Mr. Bissonnette's
19 results so dramatically different?

20 A. I don't know.

21 MR. IRVIN: Argumentative.

22 Q. (BY MR. JONES) There -- are Mr. Bissonnette's
23 result similar to anyone else who tested asbestos brakes
24 and clutches at the time?

25 MR. IRVIN: Calls for speculation,

1 argumentative.

2 A. I don't know.

3 What we've -- what we have done is
4 provided the information that PACCAR found. We assume
5 that that's the information that PACCAR based decisions
6 off of.

7 Q. That one test?

8 MR. IRVIN: Argumentative. Misstates
9 testimony.

10 A. The ones we have found.

11 I don't know if there are others or not.
12 We haven't found additional documents, but it didn't
13 mean they didn't exist.

14 Q. (BY MR. JONES) Okay. You don't have any
15 personal knowledge of Mr. Carpenter's work with
16 anything, right?

17 A. No.

18 Q. What I said is correct?

19 A. What you said is correct, that I don't have any
20 personal knowledge of -- beyond what I read in his
21 deposition.

22 Q. You never met Mr. Carpenter?

23 A. I have never met Mr. Carpenter.

24 Q. You never worked at any place where he worked?

25 A. No, I -- no.

1 Q. You -- okay.

2 A. Have not.

3 Q. Are you aware of any issues related to exposure
4 to diesel fumes associated with people driving Kenworth
5 trucks?

6 MR. IRVIN: No, no. That's not in the
7 notice. Beyond the scope.

8 We've gone nine hours. Don't answer that,
9 Rod.

10 MR. JONES: Well, if you guys aren't
11 claiming that's an issue, I'm not either.

12 MR. IRVIN: It's not in the notice.

13 MR. JONES: But --

14 MR. IRVIN: And he's not a scientist.
15 He's not here for those medical opinions. We've not
16 been asked about diesel fumes. It's not a basis of the
17 suit.

18 You know, I could go on till the Lord
19 comes back.

20 Q. (BY MR. JONES) Can you go in the notebook to
21 268, Bates 268?

22 A. I can. Okay.

23 Q. We're going to mark that as Exhibit -- oh, this
24 is a mess. We're going to mark that as Exhibit --

25 THE REPORTER: 58.

1 Q. (BY MR. JONES) -- 58.

2 (Exhibit 58 marked.)

3 (Discussion between Counsel and Reporter.)

4 MR. IRVIN: All right. Mr. Jones.

5 Q. (BY MR. JONES) What is Exhibit 58?

6 A. Exhibit 58 is a Material Safety Data Sheet from
7 Abex.

8 Q. Does this Material Data -- Material Safety Data
9 Sheet cover the 551 series of brakes?

10 It's on the second line under Identity
11 under where it says "Label."

12 A. It does.

13 Q. Okay. So you were asked how you knew that the
14 551C was asbes -- was Abex, right?

15 A. Yes.

16 Q. This would indicate that an Abex 551 -- pardon
17 me.

18 This would indicate that a 551 brake was
19 an Abex brake, true?

20 A. Possibly.

21 MR. FLYNN: Objection. Move to strike.
22 Lack of foundation, calls for speculation, assumes
23 facts.

24 Q. (BY MR. JONES) Are you aware of any other brake
25 manufacturer that sold a 551 brake to PACCAR?

1 A. No, no.

2 MR. FLYNN: Same objections.

3 A. I'm not.

4 Q. (BY MR. JONES) Okay. And this indicates that
5 the 551 series of Abex brakes are asbestos-containing,
6 true?

7 A. This in --

8 MR. FLYNN: Same objections.

9 A. This indicates that the 551 series, amongst
10 others, Abex lining would contain asbestos, yes.

11 Q. (BY MR. JONES) Okay. This is a true and
12 correct copy of a document found in PACCAR's files?

13 A. Yes.

14 Q. This is a document received by PACCAR?

15 A. Yes.

16 Q. Okay. Can you please go to 357?

17 We're going to make this 59, I think we're
18 up to.

19 A. Yes.

20 (Exhibit 59 marked.)

21 MR. IRVIN: Could you tell me what the
22 date on the document is so I could...

23 MR. JONES: July 7, 1982.

24 Q. (BY MR. JONES) Exhibit 59 is a document dated
25 July 7, 1982, true?

1 A. Yes.

2 Q. And it's a memorandum on Abex letterhead, true?

3 A. Yes.

4 Q. And it says -- subject is: Nonasbestos lining
5 field test update. True?

6 A. That's correct.

7 Q. And then attached to it on the next page is:
8 Abex 931-162 Nonasbestos Block Field Test Update,
9 July 7, 1982?

10 A. That's correct.

11 Q. This is the kind of testing that PACCAR would
12 rely on, in part, when trying to approve a new brake
13 lining?

14 A. That's correct.

15 Q. Okay. And if you look in the -- on that second
16 page, the field test update, the fleet is Smith
17 Transfer. Do you see that?

18 A. I do.

19 Q. And the second paragraph, it says: This fleet
20 normally receives between 130,000 and 150,000 miles
21 lining life from the replacement asbestos-type lining.

22 And it identifies it as Abex 551. True?

23 A. Yes.

24 Q. Okay. This is a true and correct copy of a
25 document found in PACCAR's files?

1 A. Yes.

2 Q. This is a document received by PACCAR?

3 A. Yes.

4 Q. Okay. And this document would indicate that
5 the Abex -- that the 551 series of brakes were an Abex
6 product, true?

7 A. Seems to indicate that.

8 Q. And that that was an asbes --

9 MR. FLYNN: Objection. Move to strike.
10 Lack of foundation, calls for speculation, lack of
11 personal knowledge.

12 Q. (BY MR. JONES) And that that was an asbestos
13 brake?

14 A. It seems to indicate that.

15 Q. Your counsel asked you about your doc -- about
16 the document retention policy at PACCAR. Do you recall
17 that?

18 A. Yes.

19 Q. For documents that have been destroyed by
20 PACCAR, you wouldn't have an opportunity to review those
21 documents, true?

22 MR. IRVIN: Argumentative.

23 A. I'm not for sure what you're referring to.

24 Q. (BY MR. JONES) If a document doesn't exist
25 anymore, you can't look at it?

1 A. That's correct.

2 Q. And a document retention policy means these are
3 the documents we retained and the rest we discard, true?

4 A. That's correct.

5 Q. Apparently, based on the records we've seen
6 from Abex, lots of records related to the purchase of
7 asbestos brake linings have been destroyed pursuant to
8 this document retention policy, true?

9 MR. IRVIN: Argumentative, calls for
10 speculation.

11 A. You know, I've not had the opportunity to look
12 at our document retention policy regarding those
13 particular documents.

14 Q. (BY MR. JONES) Well, you testified that
15 you -- that PACCAR has done several sweeps for
16 documents, right?

17 A. Yes, I have -- yes, I did.

18 Q. And you've been personally involved in one of
19 those sweeps?

20 A. Yes.

21 Q. And you asked 75 or 80 people more than ten
22 years ago about subjects, including PACCAR's purchase of
23 brake linings, true?

24 A. Yes, I have.

25 Q. And based on that investigation, you testified

1 and have verified interrogatory responses for many years
2 indicating that PACCAR never bought brake linings
3 directly from Abex, true?

4 MR. IRVIN: Argumentative, asked and
5 answered, misstates testimony.

6 A. That was my understanding.

7 Q. (BY MR. JONES) And now you've authenticated
8 several Kenworth documents beginning in 19 -- the mid
9 1970s and going through the early 1980s indicating that
10 Kenworth had a blanket purchase agreement with Abex,
11 true?

12 MR. IRVIN: Misstates testimony. Calls
13 for a legal conclusion.

14 A. I believe what I said is it appears that those
15 documents have Kenworth letterheads.

16 Q. (BY MR. JONES) And you've testified and PACCAR
17 has verified discovery responses that said Kenworth
18 never put a Kenworth label on boxes of asbestos brakes,
19 true?

20 MR. IRVIN: Argumentative, asked and
21 answered, beyond the scope of direct.

22 A. That's been our understanding.

23 Q. (BY MR. JONES) And the documents from Abex
24 indicate that they had a label with Kenworth's logo on
25 it to put on boxes of asbestos brakes, true?

1 MR. IRVIN: Same objections.

2 A. It indicates that they had a label to put on
3 boxes.

4 Q. (BY MR. JONES) Okay. You don't have any
5 documents in PACCAR's files to prove that, true?

6 A. To prove what?

7 Q. That PACCAR had the blanket purchase agreement
8 with Abex.

9 A. I have not -- we have not found that -- those
10 documents --

11 Q. So if A --

12 A. -- at this point.

13 Q. If Abex didn't produce those documents, you
14 would still tell people that PACCAR never bought
15 asbestos brake linings from Abex, true?

16 MR. IRVIN: Calls for -- argumentative.
17 Calls for speculation, foundation.

18 A. Based off of the information that we have, we
19 didn't have any information that indicated that we
20 purchased brake linings directly from Abex.

21 Q. (BY MR. JONES) Because that information has
22 been destroyed?

23 MR. IRVIN: Argumentative.

24 A. I don't know if it's been destroyed. We
25 haven't found it.

1 Q. (BY MR. JONES) Okay. Are you going to change
2 your interrogatory responses and admit that PACCAR
3 bought brake linings from Abex?

4 MR. IRVIN: Calls for speculation,
5 argumentative.

6 A. Because I said last week we need to investigate
7 those documents and make sure we have them in context,
8 and until we do, we'll change or not change our
9 responses based off of what we find.

10 Q. (BY MR. JONES) Do you know that Abex claims
11 that they started putting asbestos warnings on their
12 boxes of brake linings in the early to mid 1970s?

13 MR. IRVIN: Calls for speculation.

14 A. No. I was not aware --

15 MR. IRVIN: Assume facts not in evidence.

16 THE WITNESS: Sorry.

17 A. I was not aware of that.

18 Q. (BY MR. JONES) If PACCAR was sending brake
19 linings to PACCAR in the mid -- early to mid 1970s, that
20 would mean PACCAR got those asbestos warnings, true?

21 MR. IRVIN: Calls for speculation.
22 Assumes facts. Argumentative.

23 A. I think you're assuming that those documents
24 indicate that those brake linings were sent to PACCAR.
25 I'm not -- based off of what I've seen of the documents,

1 I don't think that's what they say.

2 MR. IRVIN: Calls for speculation.

3 Q. (BY MR. JONES) So you think boxes of brakes
4 with asbestos linings with warnings on them would go to
5 every Kenworth dealership in the country and Kenworth
6 Corporate would have no idea?

7 MR. IRVIN: Argumentative. Calls for
8 speculation, assumes facts not in evidence, and
9 misstates testimony.

10 A. I don't think we -- I don't think I
11 understand -- or would have no idea.

12 I don't -- I -- yes, they would know that
13 the -- if -- assuming that those documents are accurate
14 and how we understand them, I think they would know that
15 dealers were ordering linings from Abex through our
16 blanket purchase order. That's what it appears on the
17 few documents that I've seen.

18 Q. (BY MR. JONES) Okay.

19 MR. JONES: I'll pass the witness.

20 MR. IRVIN: Hold on a second.

21 MR. FLYNN: This is Johan Flynn. I have
22 like two questions I need to ask on Exhibit 45 that I
23 wasn't able to ask earlier.

24 MR. JONES: Which one was 45?

25 MR. FLYNN: I think that's the

1 spreadsheet --

2 MR. JONES: Yes. (Inaudible.)

3 MR. FLYNN: -- that was prepared and
4 produced for the deposition.

5 MR. JONES: Yeah.

6 MR. FLYNN: Yeah. I apologize. I thought
7 I was done, but I was rushing to get out of the house
8 when I was asking my questions earlier, so I apologize.

9 It shouldn't be very long at all.

10 FURTHER EXAMINATION

11 BY MR. FLYNN:

12 Q. Mr. Curbo, Johan Flynn again for Abex.

13 On Exhibit 45, there were some indications
14 of 551C for certain chassis. And then for other chassis
15 there was no indication of 551C. Is that correct?

16 A. That's correct.

17 Q. And then I believe for the first eight chassis
18 that were on Exhibit 45 the labels for the rear brakes,
19 I believe, begin with MPS. Do you see that?

20 A. I do.

21 Q. Do you know what MPS stands for?

22 A. I do not.

23 Q. So based on the chassis that were sold to
24 Kraft, there's some number of them that you have no
25 indication as the corporate representative of PACCAR and

1 Kenworth that whether they contained Abex friction
2 materials or not. Is that a true statement?

3 A. That's true. I don't know what the linings
4 were on many of these brakes.

5 Q. Okay.

6 MR. FLYNN: Thank you, sir. That's all I
7 have. I appreciate your time. And sorry to have to
8 come back at the end and ask a couple more questions.
9 Thanks.

10 MR. IRVIN: Trey, you done? All right.
11 We --

12 MR. JONES: I've already asked. It's not
13 my turn.

14 MR. IRVIN: Yeah, yeah. As long as you --

15 MR. JONES: Oh, I have no followup on
16 that.

17 MR. IRVIN: Okay.

18 Anyone else on the Zoom?

19 All right. We're done for the day.

20 MR. JONES: We're done for the forever.

21 MR. IRVIN: A hundred percent.

22 THE VIDEOGRAPHER: This concludes Volume 2
23 of the video-recorded deposition of PACCAR PMQ, Rodney
24 Curbo, taken on September 26, 2023.

25 The time is 7:08 p.m., and we're going off

1 the record.

2 (End of proceedings at 7:08 p.m.)
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	CHANGES AND SIGNATURE			
	WITNESS NAME: RODNEY CURBO		DATE: SEPTEMBER 26, 2023	
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I, RODNEY CURBO, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

RODNEY CURBO

THE STATE OF _____)

COUNTY OF _____)

Before me, _____, on this day personally appeared RODNEY CURBO, known to me (or proved to me under oath or through _____) (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2023.

NOTARY PUBLIC IN AND FOR

THE STATE OF _____

COMMISSION EXPIRES: _____

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RONALD LEROY CARPENTER AND	)	J.C.C.P. NO. 4674
PATRICIA ANN CARPENTER,	)	
	)	Los Angeles County
Plaintiffs,	)	Superior Court No.
	)	20STCV46727
VS.	)	
	)	
3M COMPANY a/k/a MINNESOTA	)	
MINING & MANUFACTURING	)	
COMPANY, et al.,	)	
	)	
Defendants.	)	

REPORTER'S CERTIFICATION
DEPOSITION OF
PACCAR'S PERSON MOST QUALIFIED, RODNEY CURBO
SEPTEMBER 26, 2023
VOLUME 2 OF 2

I, Kimberly Byrns Buchanan, Certified Shorthand
Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, RODNEY CURBO, was duly sworn by the
officer and that the transcript of the oral deposition
is a true record of the testimony given by the witness;

That the deposition transcript was submitted on
_____ to the witness or to the attorney
for the witness for examination, signature and return to
me by _____;

That the amount of time used by each party at the
deposition is as follows:

1 Mr. H. W. Trey Jones - 04 HOURS: 07 MINUTES,
2 Mr. Jason J. Irvin - 01 HOURS: 16 MINUTES,
3 Mr. Robert H. Baronian - 00 HOURS: 13 MINUTES,
4 Ms. Gabriel A. Jackson - 00 HOURS: 00 MINUTES,
5 Mr. Johan D. Flynn - 00 HOURS: 28 MINUTES;

6 That pursuant to information given to the deposition
7 officer at the time said testimony was taken, the
8 following includes counsel for all parties of record:

9 Mr. H. W. Trey Jones, Attorney for Plaintiffs;
10 Mr. Jason J. Irvin and Ms. Shaghig Agopian (remote),
11 Attorneys for Defendant, PACCAR INC; Mr. Robert H.
12 Baronian (remote), Attorney for Defendant, ARVINMERITOR,
13 INC.; Ms. Gabriel A. Jackson (remote), Attorney for
14 Cummins, Inc.; and Mr. Johan D. Flynn (remote), Attorney
15 for Pneumo Abex LLC.

16 I further certify that I am neither counsel for,
17 related to, nor employed by any of the parties or
18 attorneys in the action in which this proceeding was
19 taken, and further that I am not financially or
20 otherwise interested in the outcome of the action.

21 Certified to by me this 9th day of October, 2023.
22
23
24
25

Kimberly Byrns Buchanan

Kimberly Byrns Buchanan, RPR
Expiration Date: 12/31/24

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