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SUPREME COURT OF THE STATE OF NEW YORK
ALL COUNTIES WITHIN NEW YORK CITY

In Re: NEW YORK CITY ASBESTOS LITIGATION

Continuing Videotaped
Deposition Under
Oral Examination
of MARJORIE A. DRUCKER

VOLUME IV

PRIORITY-ONE COURT REPORTING SERVICES, INC.
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1 Transcript of the continuing videotaped
2 deposition of MARJORIE A. DRUCKER, called for
3 Oral Examination in the above-captioned matter,
4 said deposition being taken pursuant to the
5 Federal Rules of Civil Procedure by and before
6 Victoria Rohl, Court Reporter and Notary Public
7 in and for the State of New York; taken at the
8 Westin La Paloma Hotel, 2800 East Sunrise,
9 Tucson, Arizona, on August 20, 2004, commencing
10 at 9:08 a.m.
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1 IT IS HEREBY STIPULATED AND
2 AGREED by and between the attorneys
3 for the respective parties hereto
4 that filing, sealing and
5 certification of the within
6 Examination Before Trial be waived;
7 that all objections, except as to
8 form, are reserved to the time of
9 trial.
10 IT IS FURTHER STIPULATED AND
11 AGREED that the transcript may be
12 signed before a Notary Public with
13 the same force and effect as if
14 signed before a Clerk or Judge of the
15 Court.
16 IT IS FURTHER STIPULATED AND
17 AGREED that the within examination
18 may be utilized for all purposes as
19 provided by the CPLR.
20 IT IS FURTHER STIPULATED AND
21 AGREED that all rights provided to
22 all parties by the CPLR shall not be
23 deemed waived and the appropriate
24 sections of the CPLR shall be
25 controlling with respect thereto.

1 IT IS FURTHER STIPULATED AND
2 AGREED by and between the attorneys
3 for the respective parties hereto
4 that a copy of the Examination shall
5 be furnished, without charge, to the
6 attorney representing the witness
7 testifying herein.

1 A. Yes, I did.
2 Q. And did you discuss your testimony
3 yesterday with the General Electric lawyers?
4 A. I, I did discuss some aspects of some
5 of the papers that we had gone over.
6 Q. And did you discuss other papers which
7 we haven't gone over?
8 A. No.
9 Q. I mean, any papers that the General
10 Electric lawyers showed you, discussed with you.
11 A. No.
12 Q. Okay. How many hours did you meet with
13 the General Electric lawyers between the time we
14 broke yesterday and this morning?
15 MR. SPEZIALI: Counting dinner, Jerry?
16 BY MR. KRISTAL:
17 Q. We can start with the total number of
18 hours.
19 A. Well, I had dinner with Mr. Kapshandy
20 and the legal assistant, and that was about an
21 hour and a half. And then I met after that with
22 Mr. Kapshandy and Mr. Speziali for about
23 forty-five minutes.
24 Q. Okay. We were discussing some of the
25 Industrial Medicine journals yesterday, and I'd

1 THE VIDEOGRAPHER: My name is Mark
2 Gonsalves with video -- Certified Video
3 Productions, Incorporated. Also with me is Roy
4 Plisko of Green Legal Video. Our court reporter
5 is Vicki Rohl representing Priority One
6 Reporting Services, Inc.

7 We are at 3800 East Sunrise Drive,
8 Tucson, Arizona to take the deposition of
9 Marjorie Drucker, continuing deposition, volume
10 four on behalf of the Plaintiffs. The date is
11 August 20th. Counsel present will be reflected
12 on the written record. Witness is already sworn
13 in. On the record. The time is nine o eight
14 a.m.

15
16 CONTINUING EXAMINATION BY MR. KRISTAL:

17
18 Q. Good morning, Ms. Drucker. This is
19 Jerry Kristal again. How are you?

20 A. Fine. Good morning, Mr. Kristal.
21 Fine, thank you. How are you?

22 Q. Good. Thank you. We broke at around
23 five p.m. last evening, and we were resuming
24 this morning. Between then and now, did you
25 meet with the General Electric lawyers?

1 like to mark as Exhibit 57 one which is
2 Industrial Medicine, volume 4, number seven from
3 1935. I don't have an additional copy. Let me
4 give you my copy.

5 A. Thank you.

6 (Whereupon, Exhibit 57, Industrial
7 Medicine, volume 4, number seven from 1935, was
8 then received and marked for identification.)

9 MR. KRISTAL: This is on our
10 state-of-the-art exhibit list number 329.

11 MR. KAPSHANDY: Just so the record is
12 clear, it's not something the witness has
13 reviewed or been provided previously.

14 MR. KRISTAL: When you want to ask a
15 question, you can go ahead and ask a question.

16 MR. KAPSHANDY: I'm asking you to
17 cooperate and please let us know where this came
18 from. There's sixteen boxes of materials here.
19 Out of fairness to the witness, letting her see
20 whether she remembers having reviewed something
21 in the last several months, that's only fair.

22 MR. KRISTAL: As soon as the witness
23 has a chance to look at it, I'll ask my
24 questions.

25 MR. KAPSHANDY: So you're refusing to

1 tell us whether that's something that we
2 provided to you; some materials that she's
3 reviewed.

4 MR. KRISTAL: It's on my
5 state-of-the-art exhibit list. I don't know if
6 you provided it to us. I don't know if you
7 provided it to the witness or not. I have no
8 idea what you provided to the witness.

9 MR. KAPSHANDY: We've told you. It's
10 everything in the sixteen boxes provided to you
11 on disc, and if you want to play a memory game
12 as to whether it's in there and want to waste
13 the witness's time as to whether --

14 THE SPECIAL MASTER: Okay. I'm going
15 to stop the conversation on this. He has no
16 obligation to tell you whether you gave him the
17 document or not. If you want to know whether or
18 not you produced the document, you should have
19 Bates stamped the documents. Either she has an
20 independent recollection of having reviewed the
21 document or she doesn't.

22 You don't need to say it came out of a
23 box to trigger the recollection. The witness
24 can look at the document -- excuse me, the
25 witness can simply look at the document and

1 either she remembers having seen it or she
2 doesn't. All right.

3 MR. KAPSHANDY: With all due respect,
4 Laraine, we've got sixteen boxes of materials.
5 This is not a memory game. We have asked, and
6 yesterday he did cooperate and let us know in
7 advance if these were materials -- because what
8 the witness is going to need to do is take time
9 and have to go and look through the boxes to see
10 if it's something that she even reviewed before.

11 She hasn't memorized all sixteen boxes --

12 THE SPECIAL MASTER: She doesn't
13 need -- if she remembers having seen it, she
14 will say so. The mere fact it came out of a box
15 doesn't mean she remembers having seen it
16 either. You have sixteen boxes here. All
17 right. It's simply her independent recollection
18 of whether she remembers having seen the
19 document.

20 MR. KAPSHANDY: But my problem is then
21 we proceed on the record on video with some sort
22 of assumption that this is something that she's
23 reviewed or is relying upon or came from the GE
24 files.

25 THE SPECIAL MASTER: I don't think so.

1 MR. KAPSHANDY: I've asked him to --
2 you know, in fairness to him and the witness and
3 the record, it isn't clear whether it's
4 something that's coming from the GE files.
5 She's here testifying on behalf of GE as to what
6 GE knew at certain points in time, and we're
7 starting a question with the presumption this is
8 something that's part of that exercise.

9 THE SPECIAL MASTER: That's absolutely
10 not the presumption, and there is no requirement
11 that Mr. Kristal show the witness documents
12 she's already seen. He has every right to show
13 her documents she's never seen before.

14 And when it's your turn to ask
15 questions, if you want to clarify which of
16 the -- you can go through every single exhibit
17 if you want to and ask the witness whether you
18 ever showed her that exhibit, but he has no
19 obligation to tell her -- to tell the witness
20 where the document came from.

21 MR. KAPSHANDY: Because there's only
22 one copy, in fairness to us, we'd like to know
23 what the witness --

24 MR. KRISTAL: Dave just reviewed it,
25 and if you just listen to my questions, I think

1 you'll probably be satisfied and your concern
2 will be ameliorated.

3 BY MR. KRISTAL:

4 Q. Ms. Drucker, have you seen Exhibit 57
5 before?

6 A. Not that I recall.

7 Q. There is an article entitled Pulmonary
8 Asbestosis, is there not?

9 A. There's a subheading on a page that
10 says pulmonary asbestosis, yes.

11 Q. And in that first paragraph, and if you
12 look at the highlighted paragraph on the next
13 page, in that article --

14 MR. SPEZIALI: Jerry, let me ask this.
15 Let's identify for the record what we're looking
16 at.

17 MR. KRISTAL: I did.

18 MR. SPEZIALI: You said Industrial
19 Medicine. Is it 1955 or '35? My eyes aren't
20 that good. Is it '35?

21 MR. KRISTAL: It's '35.

22 MR. SPEZIALI: The article appears on
23 page three hundred seventy-eight or six of the
24 journal.

25 THE WITNESS: Thank you.

1 MR. KRISTAL: In the first paragraph of
2 the article Pulmonary Asbestosis, and again on
3 the second page, part of what the article is
4 discussing is that asbestos dust not only
5 affects the lung itself, but also affects the
6 pleura, the lining of the lung; is that correct?

7 THE WITNESS: I'd like to take some
8 time and look at this.

9 MR. KAPSHANDY: For the record,
10 Counsel, this is a fairly lengthy article, and
11 she said she's not seen it. In fairness to the
12 witness, let her read it.

13 MR. KRISTAL: I didn't say she
14 couldn't. And as I said yesterday, you don't
15 have to ask. If you need to sit and read, take
16 as much time as you need. I don't want you to
17 answer a question unless you feel comfortable
18 that you've read the information.

19 THE WITNESS: Thank you.

20 MR. KRISTAL: And it's not a fairly
21 lengthy article.

22 THE WITNESS: Sometimes I say it so
23 that it will reflect that I'm looking down at
24 the article.

25 MR. KRISTAL: That's fine, and you

1 fibrosis, end quote. Do you see that sentence
2 that's highlighted there?

3 THE WITNESS: I see the sentence, yes.

4 MR. KRISTAL: And pleurisy is an
5 inflammation of the pleura, is it not?

6 MR. SPEZIALI: I object to the use of
7 this article. Move to strike with respect to
8 this witness.

9 THE WITNESS: I'm not a doctor, and I'm
10 really not familiar with the medical definition
11 of what pleurisy is.

12 MR. KRISTAL: Well, of the sixteen
13 boxes of documents that the General Electric
14 lawyers supplied to you, a lot of the articles
15 had medical terms, didn't they?

16 MR. SPEZIALI: Objection. Move to
17 strike the question as to this witness.

18 BY MR. KRISTAL:

19 Q. Didn't a lot of the articles have
20 medical terms?

21 A. Yes, they did.

22 Q. And did you not understand those
23 medical terms?

24 A. Well, as part of my -- yes, in general
25 as part of my training as a certified industrial

1 should feel free to say it if you feel
2 comfortable saying it. I'm just saying you
3 don't have to say it.

4 THE WITNESS: Thank you. Okay. And
5 the date on this I can't read.

6 MR. SPEZIALI: 1935.

7 THE WITNESS: Okay. Thank you.

8 MR. KRISTAL: My question is, the
9 article discusses, in a few places, the fact
10 that there is involvement of the pleura with
11 respect to asbestosis, does it not?

12 MR. SPEZIALI: Objection.

13 THE WITNESS: Can I see that again,
14 please?

15 MR. KRISTAL: Sure.

16 THE WITNESS: Thank you. In the
17 mention of pleura, there are some medical
18 descriptions. I don't know how else to
19 characterize that.

20 MR. KRISTAL: Well, in the second
21 paragraph of the article, it says, quote, the
22 principal pathological findings are pleurisy,
23 expansive fibrosis in the parenchyma of the
24 lung, usually over the mid portions and bases,
25 and the contraction of the lungs due to this

1 hygienist I have some training in medical
2 terminology. The specifics about certain types
3 of diseases, I'm not a doctor or toxicologist.

4 Q. All right. Nor am I asking you about
5 the specifics of certain types of diseases.

6 MR. SPEZIALI: Objection. Move to
7 strike. The record will speak for itself.

8 MR. KRISTAL: Do you know whether or
9 not, do you know whether or not pleurisy is an
10 inflammation of the pleura?

11 MR. SPEZIALI: Objection. Move to
12 strike the question as to this witness.

13 THE WITNESS: No.

14 BY MR. KRISTAL:

15 Q. Did you do anything when you came
16 across -- strike that.

17 Were there any medical terms in any of
18 the other articles that you read that you didn't
19 understand?

20 A. Well, I had to look at different
21 articles. As I said, in my background and
22 training I have general understanding in
23 training, but I'm not a doctor.

24 Q. I'm asking you as you sit here, in all
25 of the articles that you read that were provided

1 to you by the General Electric lawyers whether
2 or not there were any medical terms in those
3 articles that you read that you didn't
4 understand?

5 MR. SPEZIALI: Objection.

6 THE WITNESS: There may have been.

7 BY MR. KRISTAL:

8 Q. When there were, what did you do to try
9 to understand what you were reading?

10 A. Sure. It would depend on the article.
11 So in the absence of something in particular, I,
12 I, I would just be guessing.

13 Q. Well, was there an occasion when you
14 didn't understand a medical term in the
15 literature that you read supplied to you by the
16 General Electric lawyers?

17 A. There may have been, yes.

18 Q. When you say there may have been, I'm
19 not asking about possibilities. I'm asking if
20 there was an occasion when that occurred.

21 A. As I sit here right now, I don't
22 recall.

23 Q. Okay. Now, on the second page of the
24 article, in the second column, it says, quote,
25 evidence of pleuritic involvement is often

1 the abdominal cavity. I know that in general.
2 What we read here seems to be a very detailed
3 medical description.

4 MR. KRISTAL: And when it says
5 pleuritic involvement, are you saying that you
6 don't have an understanding that that's talking
7 about involvement of the pleura?

8 MR. SPEZIALI: Objection. Move to
9 strike.

10 THE WITNESS: Well, if we're just
11 looking at those words, sure, but we were
12 reading it in the context of this sentence which
13 I said was a detailed medical description.

14 MR. KRISTAL: Okay. But you would
15 agree, would you not, that that article is
16 discussing the fact, in part, that asbestosis
17 also involved the pleura?

18 MR. SPEZIALI: Objection.

19 THE WITNESS: Well, the word is in
20 here, and when you're saying it describes it, I
21 don't know what you mean by that. The word -- I
22 see the word on the article.

23 BY MR. KRISTAL:

24 Q. You see the words "evidence of
25 pleuritic involvement"?

1 indicated by obliteration of the costo-phrenic
2 angles and flattening or peaking of the
3 diaphragm, end quote. Do you see that?

4 MR. SPEZIALI: Objection.

5 THE WITNESS: Yes, you read that
6 correctly.

7 MR. KRISTAL: Okay. What does
8 "evidence of pleuritic involvement" mean to you?

9 MR. SPEZIALI: Objection. Move to
10 strike as to this witness.

11 THE WITNESS: To me, it's a general
12 description about things going on in the lung.
13 I, I -- that's how I read that.

14 MR. KRISTAL: Pleuritic involvement
15 means lung to you?

16 THE WITNESS: Well, I know what the
17 pleura are.

18 MR. KRISTAL: So what does the word
19 pleuritic mean?

20 MR. SPEZIALI: Objection. Move to
21 strike.

22 THE WITNESS: Well, in this sentence --
23 and of course, we're looking at an article from
24 over sixty-five years ago -- there are pleura.
25 There's pleura in the chest cavity and around

1 A. You're taking that out of context of
2 the entire article. It discusses -- this
3 article discusses a variety of things. There
4 are many medical and other things that they're
5 talking about in this.

6 Q. That's right.

7 A. You're taking two words and you're
8 saying it characterizes the whole article. It
9 doesn't.

10 Q. I'm just asking you if, in part, the
11 article discusses the fact that asbestosis
12 involved the pleura; not the whole article, not
13 the main part of the article, not everything in
14 the article.

15 MR. SPEZIALI: Objection. Move to
16 strike the question as to this witness.

17 THE WITNESS: Well, in this sentence it
18 doesn't say it that way, no.

19 MR. KRISTAL: It doesn't say what in
20 that way?

21 MR. SPEZIALI: Objection. Move to
22 strike. You're now harassing the witness.

23 MR. KRISTAL: You're objecting to me
24 trying to understand what the witness's answer
25 was?

1 MR. SPEZIALI: No. I'm objecting to
2 the fact that you're trying to ask this
3 industrial hygienist questions of physicians
4 that you know are coming to trial, and you know
5 that article is a state-of-the-art article and
6 has nothing to do with this witness.

7 It's abusive, it's harassing, and I
8 don't see why we're having to create a record on
9 video that the jury may see on some crap shoot
10 that you may not -- that you may get lucky and
11 the judge isn't going to strike this. It's
12 totally improper with this witness.

13 MR. KRISTAL: Can we have a ruling that
14 there should be no speaking objections?

15 MR. SPEZIALI: You asked me, and I told
16 you. I have not made a single speaking
17 objection until you asked me.

18 THE SPECIAL MASTER: All right. Let's
19 just clarify that Mr. Speziali has a continuing
20 objection to this line of questioning about this
21 article. It's noted for the record. That will
22 be for the judge to decide whether this is
23 proper, and Mr. Kristal may continue his line of
24 questioning.

25 MR. KRISTAL: Could you read back the

1 witness's last answer?

2 (Whereupon, the above-requested answer
3 was then read by the reporter.)

4 BY MR. KRISTAL:

5 Q. I'm asking what do you mean by that?

6 A. Well, could we have the question read
7 back --

8 Q. My question was --

9 A. -- prior to that answer?

10 Q. My question was whether in part the
11 article discusses the fact that there is
12 involvement of the pleura in asbestosis.

13 A. You're taking a couple words out of
14 this whole thing, and there's a whole medical
15 description in a variety of ways. The question
16 that you asked me prior was that was there
17 pleuritic involvement in asbestosis, and you
18 highlighted this sentence. It doesn't say that,
19 so I said no.

20 THE SPECIAL MASTER: I'd like to go off
21 the record. Off the record and off the video.

22 THE VIDEOGRAPHER: Off the record. The
23 time is nine twenty-seven a.m.

24 (Whereupon, a recess was then taken.)

25 THE VIDEOGRAPHER: On the record. The

1 time is nine forty a.m.

2 BY MR. KRISTAL:

3 Q. Ms. Drucker, was it known by General
4 Electric in the 1930s that asbestosis not only
5 involved the lung but also involved the pleura?

6 A. I don't know. I don't know if that was
7 known at the time. And you said the early
8 1930s?

9 Q. I said the 1930s.

10 A. Okay. Okay. Let me break that out a
11 little. As we know, the disease was first
12 coined in 1927. In the early 1930s, around
13 1934, GE was aware of a case. They would have
14 been aware at that point. I don't know if they
15 knew that involved --

16 THE SPECIAL MASTER: I'm going to
17 direct the witness to answer the question.

18 MR. SPEZIALI: She just said 1934. She
19 tried to give the exact year.

20 THE SPECIAL MASTER: He asked a very
21 precise question. I'd like the question read
22 back to the witness.

23 (Whereupon, the above-requested
24 question was then read by the reporter.)

25 THE WITNESS: My answer was trying to

1 put some context in the period 1930s. And --

2 THE SPECIAL MASTER: Anytime in the
3 1930s was it known?

4 THE WITNESS: Is that what it means,
5 anytime in the 1930s?

6 THE SPECIAL MASTER: Yes, yes. That
7 could be from 1930 through 1939.

8 THE WITNESS: I don't know.

9 MR. KRISTAL: Certainly that article
10 from 1935 in the Industrial Hygiene Journal
11 indicates that there was involvement of the
12 pleura in asbestosis, does it not?

13 THE WITNESS: This is an article from
14 Industrial Medicine in 1935, and --

15 THE SPECIAL MASTER: I want you to --
16 I'm going to take a little bit more active
17 participation here because I want to get to the
18 answers to the questions. He asked you
19 whether -- this is a yes or no question. Does
20 this article demonstrate or state that -- this
21 article from 1935, that asbestosis involved the
22 pleura?

23 THE WITNESS: And I'm having difficulty
24 with a yes or no because it's really not a yes
25 or no answer. This isn't like a scientific

1 article. It looks like an excerpt from
2 something, and it -- it's -- I don't see it
3 signed. It's just something -- I don't know
4 enough about it to give you a yes or no.

5 THE SPECIAL MASTER: Just review the
6 article. Did you just review the article?

7 THE WITNESS: I looked it over, yes.

8 THE SPECIAL MASTER: Does it say
9 anything about asbestosis involving the pleura
10 in it?

11 THE WITNESS: Well, does it say
12 anything? Yes.

13 THE SPECIAL MASTER: Does it say
14 there's involvement of the pleura in asbestosis?

15 THE WITNESS: It says that there may
16 be, so --

17 THE SPECIAL MASTER: It says there may
18 be involvement of the pleura in asbestosis?

19 THE WITNESS: If -- yes, it does. It
20 has --

21 THE SPECIAL MASTER: Is that
22 satisfactory, Mr. Kristal?

23 MR. KRISTAL: Yes.

24 THE SPECIAL MASTER: Okay. Let's move
25 on.

1 BY MR. KRISTAL:

2 Q. Would you agree in the 1930s that it
3 was known that asbestosis was caused by the
4 inhalation of microscopic particles of asbestos
5 dust?

6 A. In the 1930s we're talking about the --
7 if we're talking about the entire span -- I
8 don't know how else to answer except to say no,
9 at certain times. Yes, possibly later on.

10 Q. So you're saying at some point in the
11 1930s it wasn't known that asbestosis was caused
12 by the inhalation of microscopic asbestos dust,
13 but at some point in time it was known in the
14 1930s?

15 A. That's not what I said. And I'm having
16 difficulty in giving you answers that aren't
17 natural to the way I'm trying to answer in terms
18 of what I know about the subject and the
19 context.

20 THE SPECIAL MASTER: Well, do you know
21 whether at anytime in the 1930s --

22 THE WITNESS: At any time?

23 THE SPECIAL MASTER: At any time in the
24 1930s means 1930 to 1939 whether it was known
25 that asbestosis involved the inhalation of

1 microscopic particles of asbestos.

2 THE WITNESS: At any time in 1930s?
3 Yes, that would have been known.

4 THE SPECIAL MASTER: Are you satisfied,
5 Mr. Kristal?

6 (Whereupon, Exhibit 58, October 1935,
7 volume four, number ten of Industrial Medicine,
8 an article entitled Dusty Death, was then
9 received and marked for identification.)

10 MR. KRISTAL: Well, and it was also
11 stated -- if you could show the witness Exhibit
12 58, and this is --

13 THE WITNESS: This is different?

14 MR. KRISTAL: Yes. This is from
15 October 1935, another volume four, number ten of
16 Industrial Medicine, and there's an article
17 entitled Dusty Death. It is one, two -- two
18 pages or so. I'd like you to take a look at it,
19 and I'm going to ask you whether or not that
20 article notes that asbestosis is caused by the
21 inhalation of microscopic particles of asbestos
22 dust?

23 THE WITNESS: Okay.

24 MR. SPEZIALI: What's the page, Jerry?

25 MR. KRISTAL: Excuse me?

1 MR. SPEZIALI: The article the page
2 number appears on in the journal.

3 MR. KRISTAL: Five hundred and
4 sixty-five, and the -- what I'm talking about
5 appears in the one, two, three, four -- the
6 fifth paragraph of the article.

7 THE WITNESS: Okay. Okay. And the
8 question?

9 BY MR. KRISTAL:

10 Q. The question was whether the article
11 notes that asbestosis is caused by the
12 inhalation of microscopic particles of asbestos.

13 A. Well, this again, I don't -- it doesn't
14 look like a scientific article, but in this --
15 what we're looking at literally on the page, it
16 says asbestosis is caused, as the name implies,
17 by the inhalation of microscopic particles of
18 asbestos dust.

19 Q. And Industrial Medicine, the journal
20 itself, was the official journal of the American
21 Association of Industrial Physicians and
22 Surgeons, is it not?

23 A. I'm just checking. This is a bulletin.
24 I don't know if this is the journal itself, but
25 it says it's the American Association of

1 Industrial Physicians and Surgeons.

2 Q. Okay. Have you -- did the General
3 Electric lawyers provide you with a -- strike
4 that.

5 The General Electric lawyers provided
6 you with a number of different historical
7 textbooks on the subject of industrial hygiene
8 and industrial toxicology, did they not?

9 A. Yes, some were provided. Some I had.

10 Q. And were you provided with a textbook
11 entitled Silicosis and Asbestosis which was
12 published in 1938?

13 A. I'd have to check my listing on the
14 index of articles.

15 Q. Okay.

16 A. Are you saying that's a book?

17 MR. SPEZIALI: Did we give it to them?

18 MR. KAPSHANDY: I don't believe so.

19 (Whereupon, Exhibit 59, an April 1940
20 portion of Industrial Medicine, was then
21 received and marked for identification.)

22 MR. KRISTAL: I'd like to show you
23 Exhibit 59. This is an April 1940 portion of
24 Industrial Medicine.

25 THE WITNESS: Yes.

1 MR. KRISTAL: And if you look at the
2 next to the last page first --

3 MR. SPEZIALI: What page is that in the
4 journal?

5 MR. KRISTAL: Page six.

6 MR. SPEZIALI: I have page two hundred
7 and ten. Am I looking at the wrong page? The
8 top left corner?

9 MR. KRISTAL: The next to the last
10 page.

11 THE WITNESS: It partially looks like
12 page two ten.

13 BY MR. KRISTAL:

14 Q. That's because you're partially looking
15 at the page which is the last page, not the next
16 to last page, and it has the heading Industrial
17 Medicine, American Association of Industrial
18 Physicians and Surgeons, and then in the right
19 it has BL Vosburgh, MD, who again is on the
20 committee of records and medical procedures. Do
21 you see that?

22 A. Maybe you could show me.

23 Q. Right there. BL Vosburgh, MD?

24 A. Yes, I see that.

25 Q. And that's Dr. Vosburgh from General

1 Electric?

2 A. I would assume so.

3 Q. And if you turn to the page before
4 that, listed as advertising in the journal is
5 the General Electric X-ray Corporation, right?

6 A. Yes. It looks like they had -- they
7 were an advertiser.

8 Q. And above that is a portion of the
9 table of contents, and it has under book reviews
10 one of the books that was reviewed, Silicosis
11 and Asbestosis edited by AJ Lanza, correct?

12 A. Yes, that's what it says.

13 Q. And then if you turn to the last page
14 that you were looking at earlier, it's entitled
15 Silicosis and Asbestosis, a book review by CO
16 Sappington, MD, Dr. PH. Do you see that?

17 A. That's on the partial two ten page,
18 yes. I see a few paragraphs under that heading.

19 Q. What do you mean the partial two ten
20 page?

21 MR. SPEZIALI: It's cut off. We can't
22 read it.

23 THE WITNESS: See here, on this page.

24 BY MR. KRISTAL:

25 Q. All right. So you can't read

1 exactly -- the page number is slightly cut off.
2 Is that what you're saying?

3 A. Yes.

4 Q. Okay. And it has a review, does it
5 not, of the book Silicosis and Asbestosis?

6 A. Yes.

7 Q. And it reads, quote, this volume
8 represents the first concerted effort to bring
9 together the knowledge of the above subject in
10 an organized fashion for those who need
11 authoritative material. In other words, this
12 can be considered the first American textbook on
13 the subject, end quote. Correct?

14 A. That's right. That's what it says.

15 Q. Now, at this time period of time
16 certainly in 1940 General Electric had, in
17 different locations, medical libraries, did they
18 not?

19 A. I'd say the different medical
20 facilities, I'm sure, had reference texts of
21 some sort.

22 Q. Okay. Did you ask any of the GE
23 employees or former GE employees whether or not
24 this textbook was in any of their medical
25 libraries historically?

1 A. No.
 2 Q. Did you review any indices, card
 3 indexes or computer indexes of the various
 4 General Electric libraries historically to see
 5 what texts they did have?
 6 A. Did I review any indices? Yes, I think
 7 we talked about before, I went to the General
 8 Electric research and development library in
 9 Schenectady, and I searched for different
 10 materials, and there were searches that had been
 11 done on computerized databases, and yes.
 12 Q. Okay. So other than the one library in
 13 Schenectady, did you go to any other GE medical
 14 library to search to see what was available
 15 there?
 16 MR. SPEZIALI: Objection.
 17 THE WITNESS: Yes. When I was in
 18 Bridgeport, Connecticut, and I was in actually
 19 former offices of where I had worked out of, I
 20 looked for texts and other materials in
 21 Bridgeport, as well.
 22 MR. KRISTAL: Did you look for any
 23 indices of what GE had, not for the books
 24 themselves?
 25 MR. SPEZIALI: Objection. Asked and

1 answered.
 2 THE WITNESS: And if you're talking
 3 about indices, maybe you could describe that.
 4 What do you mean by an indice?
 5 MR. KRISTAL: When you were in
 6 Bridgeport, did you physically look for books or
 7 did you look for some catalogue or index which
 8 would list what books GE had had historically?
 9 MR. SPEZIALI: Objection. Asked and
 10 answered.
 11 THE WITNESS: I don't know what we
 12 could have found so many years later. I don't
 13 recall indices. I was looking at books and
 14 articles and anything that I could find.
 15 THE SPECIAL MASTER: Ms. Drucker, did
 16 you find or look for any list of any books that
 17 may have been owned by General Electric during
 18 that time in any form?
 19 THE WITNESS: I suppose, yes, in terms
 20 of my general search in Schenectady and
 21 Bridgeport.
 22 THE SPECIAL MASTER: Did you find any
 23 list of books that were owned by General
 24 Electric or kept in their libraries?
 25 THE WITNESS: Not that I recall.

1 BY MR. KRISTAL:
 2 Q. So certainly you would agree the
 3 textbook Silicosis and Asbestosis would have
 4 been available to General Electric?
 5 A. I would think if it was published in
 6 the open press and put out to the public, yes.
 7 Q. Okay. And I'm going to mark as Exhibit
 8 60 that text, and I have some questions about
 9 it.
 10 (Whereupon, Exhibit 60, the textbook
 11 Silicosis and Asbestosis, was then received and
 12 marked for identification.)
 13 MR. KRISTAL: I have portions of it
 14 which I'll mark just presently for the witness,
 15 and we can make a copy of the entire text as
 16 part of the record.
 17 MR. SPEZIALI: And I object to the use
 18 of this document.
 19 THE SPECIAL MASTER: Objection noted.
 20 Objection noted.
 21 MR. SPEZIALI: What is this that she
 22 has? That is part of that, Jerry?
 23 MR. KRISTAL: Yes.
 24 MR. KAPSHANDY: You're going to supply
 25 the whole thing?

1 MR. KRISTAL: Yes.
 2 MR. KAPSHANDY: Thank you.
 3 THE WITNESS: As part of my index, I do
 4 recall an article or something with this title,
 5 and without looking at my index, I don't know if
 6 it's the same thing or not. So I'll just say
 7 that.
 8 BY MR. KRISTAL:
 9 Q. So what you're -- let me see if I'm
 10 understanding what you're saying. As part of
 11 your search of the General Electric libraries
 12 you may have come across this text?
 13 A. No. Actually, as part of the articles
 14 that I was provided in these many boxes here,
 15 fifteen or so boxes, I recall something with
 16 this title. Whether it's the same thing, I
 17 don't know. I'd have to check.
 18 Q. So you may have been provided with this
 19 textbook by the General Electric lawyers?
 20 A. I could look at the index if you'd like
 21 me to check. As I said, as I sit here right now
 22 this title is somewhat familiar.
 23 THE SPECIAL MASTER: We're going to go
 24 off the record for a second, please.
 25 THE VIDEOGRAPHER: Off the record. The

1 time is nine fifty-five a.m.

2 (Whereupon, a recess was then taken.)

3 THE VIDEOGRAPHER: On the record. The
4 time is ten o three a.m.

5 MR. KRISTAL: Ms. Drucker, we had a
6 very brief discussion off the record before we
7 were back on the video. Would you agree that
8 the General Electric lawyers had provided you
9 with correspondence from General Electric noting
10 that GE had received the book Silicosis and
11 Asbestosis, but that you've been unable to
12 locate a copy of that book?

13 MR. KAPSHANDY: Excuse me, Jerry. I
14 misspoke. There are other publications from the
15 '30s on silicosis that I thought were this
16 document. So I have not been able to locate it.
17 I can't say that's not the case.

18 MR. KRISTAL: Okay.

19 MR. KAPSHANDY: I apologize for
20 misleading you.

21 THE WITNESS: There may be. As I said,
22 this title rings a bell.

23 BY MR. KRISTAL:

24 Q. Okay. Now, we looked yesterday in the
25 American Ceramic Society, one of those documents

1 with that lengthy bibliography that went up to
2 1933. Do you recall that yesterday?

3 A. Yeah. I don't remember the year it
4 went up to, but it was a lengthy bibliography.

5 Q. Would you agree between 1934 and 1938
6 that there were numerous articles that appeared
7 on the subject of asbestosis?

8 A. Between 1934 and 1938, yeah, there were
9 articles published on that.

10 Q. The question is whether there were
11 numerous articles?

12 MR. SPEZIALI: Objection.

13 THE WITNESS: What do you mean by
14 numerous? What's your ballpark there?

15 MR. KRISTAL: Well, you can either
16 agree or disagree.

17 MR. SPEZIALI: Objection. I object.

18 BY MR. KRISTAL:

19 Q. Okay. Exhibit 60 is the textbook
20 Silicosis and Asbestosis by Lanza published in
21 1938, is it not?

22 A. It appears to be a portion of that,
23 yes.

24 Q. Yes. We're going to substitute the
25 full one. I just didn't bring complete copies

1 for everybody. On page one hundred and
2 sixty-six which you have there, okay --

3 A. Yes.

4 Q. -- there is a heading on the middle of
5 the left side of the page, Asbestosis. Do you
6 see that?

7 A. Yes.

8 Q. And then on page one sixty-seven in the
9 middle of the top paragraph on the right-hand
10 side, do you see the word numerous there?

11 A. I see the word, yes.

12 Q. Okay. Let me read the sentence to you.
13 Quote, numerous articles have appeared on the
14 subject during the past four years, end quote.
15 Do you see that?

16 A. Yes.

17 Q. So in 1938 Dr. Lanza in the text said
18 that there had been numerous articles in the
19 literature between 1934 and 1938, correct?

20 MR. SPEZIALI: Objection.

21 THE WITNESS: Yes, that's what he said.

22 MR. KRISTAL: Are you disagreeing with
23 that?

24 MR. SPEZIALI: Objection.

25 MR. KAPSHANDY: She agreed.

1 THE WITNESS: Well --

2 MR. SPEZIALI: She just asked and
3 answered.

4 THE SPECIAL MASTER: Excuse me. You
5 made your objections. The witness still has to
6 answer the question.

7 THE WITNESS: I'm sorry. Your question
8 again?

9 BY MR. KRISTAL:

10 Q. The question is whether you're
11 disagreeing with that statement in the 1938 text
12 or not.

13 A. Well, that's what it says, so
14 apparently that's what the author thought.

15 Q. And I'm asking you, well, do you have
16 any basis upon which you can agree or disagree
17 with that?

18 A. Do I have any basis --

19 Q. It's either you agree or you disagree
20 or you don't know.

21 MR. SPEZIALI: Let her answer the
22 question.

23 THE WITNESS: Sure. Numerous articles
24 had --

25 BY MR. KRISTAL:

1 Q. And then it goes on to say, quote, the
2 most comprehensive one has been that of
3 Merewether and Price, and it cites to number
4 seventy-nine in the reference. Let me just show
5 you. It will be quicker. Number seventy-nine
6 is the Merewether report --

7 A. Thank you.

8 Q. -- that we saw and reviewed yesterday,
9 correct?

10 A. Yes.

11 Q. Would you agree that that report was
12 the most comprehensive one, at least as of 1938,
13 on the subject of asbestosis?

14 A. As of 1938, it was one of them.

15 Q. So you would disagree with Lanza who
16 said that it was the most comprehensive one?

17 A. Well, of course, he's not mentioning
18 Dreessen. I don't know whether -- because of
19 when this was written that he had had access to
20 it, but certainly Merewether was one. Dreessen
21 at '38 was another.

22 Q. Okay. So if it wasn't the most
23 comprehensive, it was in the top two, the
24 Merewether report?

25 A. I'd say it's in the -- right up there.

1 Q. Okay. I want to talk a little bit
2 about the onset of asbestosis. Would you agree
3 that it was known by 1938 that the onset was
4 variable and depended upon the exact occupation
5 and quantity of dust inhaled?

6 MR. SPEZIALI: Objection.

7 THE WITNESS: Are we saying as what was
8 known back then from what we know now, or what
9 is your framework of your question?

10 BY MR. KRISTAL:

11 Q. As of 1938.

12 A. Okay. And again, as of 1938 was it
13 known --

14 Q. That the onset of asbestosis was
15 variable and depended upon the exact occupation
16 and quantity of dust inhaled.

17 A. Well, that was part of it; quantity,
18 duration. They knew the fact that it went into
19 dose.

20 Q. In 1938?

21 A. Well, as a -- yeah, Dreessen, as far as
22 duration, exposure, concentration.

23 Q. Okay.

24 A. That's what it was known at the time.

25 Q. Okay. And it was known at that time

1 that both the occupation and quantity of dust
2 inhaled was important because individuals may
3 not have been engaged in very dusty duty, but
4 may be working in a room made dusty by other
5 procedures in the manufacturing process? That
6 was known in 1938?

7 MR. SPEZIALI: Objection.

8 THE WITNESS: I missed the first part.
9 If you'd kindly repeat that. I think you're
10 reading from here. I can follow it along.

11 THE SPECIAL MASTER: Just ask your
12 question, Jerry.

13 MR. KRISTAL: Sure.

14 Would you agree that the occupation and
15 quantity of dust inhaled, it was known in 1938
16 that both of those were important because there
17 were -- may be individuals who were engaged in
18 activities that were not very dusty but may be
19 working in a room that was made very dusty by
20 other procedures in the same room? Was that
21 known in 1938?

22 THE WITNESS: When you're talking about
23 dusty, you're talking what kind of dust -- lots of
24 dust. People can be exposed to lots of dust in
25 industries surrounding where they are. It could

1 be any number of things.

2 MR. KRISTAL: And the thrust of my
3 question is it was known in 1938 that somebody may
4 be working in a not very dusty job, but could be
5 inhaling dust by working in a room made dusty by
6 other people who were doing jobs that were
7 dustier.

8 MR. SPEZIALI: Objection.

9 THE WITNESS: Well, I'd say in general
10 as an IH principle back then, we're talking
11 about dust in general, sure.

12 BY MR. KRISTAL:

13 Q. And specifically with respect to
14 asbestos dust?

15 A. Specifically what? I'd like the whole
16 question so I'm answering exactly what you're
17 asking.

18 Q. Why don't you look at page one
19 seventy-one.

20 A. Thank you. Okay.

21 Q. There's a subsection entitled Onset.
22 Do you see that?

23 A. Yes.

24 Q. And it says, quote, this is variable
25 and depends upon the exact occupation and the

1 quantity of dust inhaled. Both are important,
2 for the individual may not be engaged in a very
3 dusty duty, but may be working in a room made
4 very dusty by another procedure in the
5 manufacturing process, end quote. Do you see
6 that?

7 A. Yes, you read that.

8 Q. So in 1938 that was known and published
9 in this text?

10 A. Okay. That meaning that just general
11 dust because that's all I see here. I'm not
12 looking at the rest of the article. Yeah, that
13 was known.

14 Q. Well, they're talking about asbestos
15 and asbestosis in this section, are they not?

16 A. I haven't read the whole thing. All
17 he's saying here is dust, and I'm agreeing with
18 you, yeah.

19 Q. Go back to page one sixty-six.

20 A. Okay.

21 Q. And that's where it starts -- there's a
22 section that says Asbestosis, right?

23 A. Yes, that's the heading.

24 Q. And then there's a subheading that says
25 The Asbestos Industry, correct?

1 about different categories under those headings?

2 A. Sure.

3 Q. Okay. Would you agree that anorexia
4 was a symptom that was known of asbestosis in
5 1938?

6 A. Let me just look at this, please.

7 Well, as of 1938, it, it lists that in this
8 book.

9 Q. Well, it says, quote, as a subheading
10 under asbestosis under symptomology anorexia,
11 does it not?

12 A. Right, it does say that.

13 Q. It says, quote, this is a rather
14 constant late symptom. Haddow, H-A-D-D-O-W,
15 regards it as an indication to stop work.
16 Individuals may then live for several years but
17 become progressively weaker, more emaciated and
18 exhausted until pneumonia or bronchitis brings
19 death, end quote. Do you see that?

20 A. Yes.

21 Q. So it was also known in 1938 that the
22 symptom of anorexia would progress or could
23 progress in certain individuals even after they
24 stopped working?

25 A. It was, it was known that -- well,

1 A. Yes.

2 Q. And then if you go to one sixty-eight,
3 the next subheading is Autopsy, right?

4 A. Yes.

5 Q. And then one seventy, the next
6 subheading is Symptomology, correct?

7 A. Yes.

8 Q. And under Symptomology as a subheading
9 under the major heading Asbestosis, it says
10 Onset, correct?

11 A. Just checking. Right. Under
12 Symptomatology one of the subsets is Onset.

13 Q. And the sentence I read about someone
14 being engaged in not very dusty duty but working
15 in a room made dusty by others is under the
16 heading Asbestosis which begins on page one
17 sixty-six, correct?

18 A. Yes.

19 Q. Okay. So they're talking about
20 asbestos and asbestos dust?

21 A. Well, he doesn't say that, but -- and
22 not having read it, but it appears under that
23 heading, yes.

24 Q. And you're familiar textbooks are laid
25 out with headings and subheadings, and they talk

1 this -- what this tells me is that that's what
2 this author is laying out. Whether it was
3 generally known, I don't know. That's something
4 that at that point in time I hadn't run across
5 very much in the literature.

6 Q. Well, this is the first American text
7 on silicosis and asbestosis, right?

8 A. I don't know.

9 Q. Well, when you said this was something
10 you haven't come across in your review of the
11 literature, you mean that the literature that
12 the GE lawyers sent to you?

13 A. Well, I've been studying asbestos for
14 over thirty years in my career going to my
15 graduate days at Harvard. And as I said, going
16 back to then, that's not something that I had
17 come across -- that I recall coming across as
18 something mentioned back in the '30s.

19 Q. And had you ever seen this textbook
20 before?

21 A. I don't know. I may have. I don't
22 know.

23 Q. Would you regard it as important to try
24 to see all the material that was published on
25 the subject of the historical knowledge of the

1 hazards of asbestos?

2 MR. SPEZIALI: Objection.

3 THE WITNESS: Well, with regard to my
4 project, I wasn't asked to look at all the
5 literature in all the world relating to
6 asbestos. I was asked to look at GE's knowledge
7 that would have related to what they were doing
8 at the time.

9 MR. KRISTAL: Okay. And this book was
10 reviewed in a journal that would have been sent
11 to General Electric in 1940 as we saw from the
12 prior exhibit, correct?

13 MR. SPEZIALI: Objection.

14 THE WITNESS: It may have been.

15 BY MR. KRISTAL:

16 Q. It may have been what?

17 A. Your question is was it sent. I said
18 it may have been.

19 Q. Well, in the standard operating
20 procedure, the journal -- the official journal
21 of the American Association of Industrial
22 Physicians and Surgeons was sent to the members,
23 correct?

24 A. Most likely.

25 Q. Okay. And Dr. Vosburgh, who was the

1 of the symptoms of asbestosis was dyspnea,
2 D-Y-S-P-N-E-A, correct?

3 A. Yes.

4 Q. And dyspnea means shortness of breath.
5 Do you know that or not?

6 A. I do.

7 Q. Okay. And would you agree that dyspnea
8 with respect to asbestosis, shortness of breath
9 with asbestosis, it was known that it was
10 progressive in 1938?

11 A. I'm going to read this for a second,
12 please. Okay. Was dyspnea known to be
13 progressive in 1938 with regard to high levels
14 of asbestos exposure, long durations of time?
15 Yes.

16 Q. Okay. And move to strike the
17 non-responsive portion of that answer.

18 Let me read what it says here in the
19 textbook from 1938, page one seventy-one. Under
20 the heading Symptomology, under the major
21 heading Asbestosis, it lists, it lists dyspnea,
22 does it not?

23 A. Yes.

24 Q. And it says, quote, this is the most
25 striking symptom and practically the most

1 head of medicine or the medical director at
2 Schenectady at that time, was on the committee
3 of that association, correct?

4 A. Yes.

5 Q. So most likely he received the copy of
6 the Industrial Medicine, correct?

7 A. Most likely he received the journal,
8 sure.

9 Q. Okay. So you're saying maybe he didn't
10 read it?

11 A. Well, I wasn't there with Dr. Vosburgh,
12 so I can't --

13 MR. SPEZIALI: Objection.

14 MR. KRISTAL: It was certainly sent to
15 him. If he had the inclination to read it --

16 MR. SPEZIALI: Objection. Asked and
17 answered.

18 THE WITNESS: If he had -- I -- was it
19 sent to Dr. Vosburgh? Is that what you're
20 asking? It may have been. That's what I said.

21 BY MR. KRISTAL:

22 Q. And it was likely that it was sent?

23 A. He was on the board, yeah.

24 Q. Okay. Now, if you look on page
25 seventy-one, it was also known in 1938 that one

1 important one. It is progressive, as in other
2 forms of pneumoconiosis, whether the individual
3 stops work or not, unquote. Do you see that?

4 A. Yes.

5 Q. So that was known in 1938, was it not,
6 with respect to asbestosis?

7 A. Yes.

8 Q. It doesn't say anything about high
9 levels over long periods of time, does it?

10 A. Well, that was what was known at the
11 time, so that's the context of the entire
12 article.

13 Q. Okay. Then it goes on to say, quote,
14 Wood and Gloyne speak of it as a terrible
15 tightness of the chest which is very expressive,
16 end quote. Do you see that?

17 A. Yes.

18 Q. Did you read those Wood and Gloyne
19 articles?

20 A. As I recall, I did. There were some
21 Wood and Gloyne articles in the materials, and I
22 think I'd seen them over the course of thirty
23 years.

24 Q. And those were from the 1930s?

25 A. I'd have to check. Since he's -- it's

1 written in 1938, there must be some Wood and
2 Gloyne that was written by then because he's
3 saying that here.

4 Q. And it was known in 1938 with respect
5 to dyspnea from asbestosis that it was due
6 primarily to inelasticity of the lungs, correct?

7 MR. SPEZIALI: Objection.

8 THE WITNESS: It was known -- wait. If
9 I could have the whole question.

10 MR. KRISTAL: Sure. It was known by
11 1938 that the dyspnea that was caused by
12 asbestosis was due to the inelasticity of the
13 lungs.

14 THE WITNESS: Well, I think medical and
15 scientific literature would have had that. That
16 would have been known by health safety and
17 medical professionals.

18 MR. KRISTAL: It was also known that
19 the dyspnea or shortness of breath with
20 asbestosis was slow and insidious in development
21 until the lungs were able to accomplish no more
22 than just sufficient oxygenation of the blood to
23 sustain life. That was known in 1938, right?

24 MR. SPEZIALI: Objection.

25 THE WITNESS: If you're reading from

1 the next sentence, the next page, one
2 seventy-two --

3 BY MR. KRISTAL:

4 Q. I'm just asking you if it was known by
5 1938 what I just said.

6 A. Well, apparently in the medical
7 literature, yes. That's what it says here.

8 Q. The next symptom that's listed is
9 cyanosis, correct?

10 A. Yes.

11 Q. And cyanosis is blueness of the skin
12 because of lack of oxygen. You know that,
13 right?

14 A. Yes.

15 Q. So you know that medical term?

16 A. Yes.

17 Q. Okay. And that was also known to be
18 associated with asbestosis in the 1930 -- in
19 1938?

20 A. That in 1938, yeah, according to this
21 author he lists this as one manifestation, yes.

22 Q. And it was also known with respect to
23 asbestosis that other symptoms were weight loss
24 and emaciation by 1938, right?

25 A. That other symptoms related to

1 asbestosis were weight loss and emaciation,
2 1938?

3 Q. Right. That was known by 1938?

4 A. Yes.

5 Q. Now, it was known by 1938 that
6 individuals were getting exposure to asbestos
7 dust not only in factories, but also through the
8 use of asbestos-containing products. Would you
9 agree with that?

10 A. Wait. Could you repeat that, please?

11 Q. Sure. It was known by 1938 that
12 individuals were getting exposure to asbestos
13 dust not only from work in factories, but also
14 through exposures from the use of
15 asbestos-containing products.

16 A. Yeah, certain products.

17 Q. Well, products such as
18 asbestos-containing insulation for boilers,
19 engines, pipes and other parts, other equipment?

20 A. Well, it would depend on the
21 application, but in 1938 there wasn't as
22 widespread use as occurred later on.

23 THE SPECIAL MASTER: I'm going to
24 direct the witness to answer the question. Read
25 the question back; the last question asked by

1 Mr. Kristal.

2 (Whereupon, the above-requested
3 question was then read by the reporter.)

4 THE WITNESS: Okay. 1938. Yes.

5 BY MR. KRISTAL:

6 Q. And it was known that there were
7 exposures from those products in individuals who
8 were employed in handling and applying them in
9 buildings and in ships in the course of
10 construction or repair in 1938?

11 A. It was known -- well, the medical and
12 scientific community would have been aware,
13 yeah, that in certain situations that may occur.

14 Q. And that information was contained in
15 this text, was it not? Look at page three
16 eighty-seven. If you want to start at three
17 eighty-five so you understand the category that
18 we're in, there's a heading -- another heading
19 entitled Asbestosis.

20 A. Thank you. Okay. I see the heading on
21 three eighty-five.

22 Q. Right. And then on the bottom of three
23 eighty-six they say, quote, other branches of
24 the industry are connected with building,
25 engineering and shipping and are spread over the

1 centers where these are carried on. Do you see
2 that?

3 A. No. Could you -- where is it?

4 Q. Sure.

5 A. Okay. I see that sentence.

6 Q. And then it goes on to list a number of
7 different non-textile asbestos-containing
8 products that were being manufactured as of that
9 time, correct?

10 A. I'm just going to look at this whole
11 paragraph. Okay. And the question, please?

12 Q. There's a discussion there of a variety
13 of non-textile asbestos-containing products, is
14 there not?

15 A. Yes.

16 Q. And the last sentence on page three
17 eighty-six reads, quote, mixtures of asbestos
18 with magnesia, kieselguhr and other materials
19 are used as cements or fillings from insulating
20 boilers, engines, pipes and other parts. Many
21 persons are employed in handling and applying
22 these mixtures in buildings and ships in the
23 course of construction or repair, end quote. Do
24 you see that?

25 A. Yes.

1 Q. So that was known in 1938?

2 A. Yes.

3 Q. Now, it was also -- by 1938 there was
4 some discussion as to whether or not asbestos
5 caused cancer.

6 A. Is there a question?

7 Q. Yeah. I'm asking if that's correct.

8 A. Could you repeat that, please?

9 MR. SPEZIALI: I didn't understand.

10 THE WITNESS: I didn't hear the
11 question.

12 THE SPECIAL MASTER: I thought it was a
13 statement, Jerry.

14 MR. KRISTAL: It had a question mark at
15 the end of it.

16 THE SPECIAL MASTER: Only in your head.
17 BY MR. KRISTAL:

18 Q. Would you agree that by 1938 there was
19 a discussion that had begun as to whether or not
20 asbestos could cause cancer?

21 A. By 1938, generally, well, at that point
22 there, there may have been some, some
23 discussion, totally with lack of consensus and
24 certainly related to underlying asbestosis.

25 Q. Okay. So by 1938 there was a

1 discussion about whether or not asbestos was
2 causing lung cancer at that time although there
3 was no consensus of opinion?

4 A. Well, when you're saying there was a
5 discussion, there were a few -- there might have
6 been one or two or something like that articles
7 at the time. That's pretty early in the game.

8 Q. Well, why don't you turn to page two
9 forty-four of Exhibit 60.

10 A. We're missing so many pages in this
11 excerpt.

12 Q. Here. Here's one through two hundred
13 and forty-three.

14 A. Thank you.

15 Q. Sure.

16 A. Okay. And you said page two
17 forty-four.

18 Q. Right. And here's two forty-eight to
19 the end of the book so I can have the two pages
20 at hand. You have two forty-four, two
21 forty-five in the excerpt that you have. Okay.

22 A. This one stops at two forty-three,
23 so --

24 Q. Right. Now, you've got two forty-four,
25 two forty-five, two forty-six, two forty-seven.

1 Now you've got the whole book.

2 A. Okay. Sure.

3 Q. Do you need time to read the whole
4 book?

5 A. Well, it depends on what your question
6 is.

7 Q. Okay. My question is can you turn to
8 page two forty-four?

9 A. Okay.

10 Q. And there's a heading that says
11 Complications and Sequelae. Do you see that?

12 A. Yes.

13 Q. And sequelae in medical language you
14 understand to mean complications or things that
15 happen as a result of a disease?

16 A. Yeah, things that happen after
17 something else is sequelae.

18 Q. And the first sentence says, quote, the
19 chief complications and sequelae of pulmonary
20 asbestosis are as follows. Do you see that?

21 A. Yes.

22 Q. And it lists a number of things. And
23 then on the next page two forty-five it has item
24 F, and there's a discussion in that paragraph
25 about carcinoma and whether or not it's related

1 to asbestos -- asbestosis, correct?

2 A. Well, I'll read that. It says -- could
3 I read these first two sentences? What it says
4 is that carcinoma has been found in six cases
5 examined by the writer at autopsy and until more
6 statistics are available, it is impossible to
7 draw any definite conclusions as to the relation
8 of the two diseases.

9 Q. So you would agree there was a
10 discussion going on at the time as to whether or
11 not cancer was a complication of asbestosis?

12 MR. SPEZIALI: Objection. Asked and
13 answered twice.

14 THE WITNESS: There was -- well, they
15 didn't know. They didn't know. So it -- they
16 were -- it was maybe a possibility. You can
17 tell here that he said it's impossible to draw
18 any definite conclusions.

19 THE SPECIAL MASTER: I think we can
20 move on, Jerry.

21 (Whereupon, Exhibit 61, a document
22 dated March of 1944, Industrial Medicine
23 journal, was then received and marked for
24 identification.)

25 MR. KRISTAL: Okay. Exhibit 61 is

1 BY MR. KRISTAL:

2 Q. Now, you're familiar with a group
3 entitled the National Safety Council?

4 A. Yes.

5 Q. And the General Electric lawyers had
6 sent you some documents that were articles
7 published in National Safety Council
8 publications. Is that fair to say?

9 A. Yes.

10 Q. And General Electric, you're aware, was
11 a charter member of the National Safety Council
12 in 1913?

13 A. That's right.

14 Q. And George Sanford, who was a safety
15 engineer at General Electric, had been a
16 president of the National Safety Council,
17 correct?

18 A. I'd have to double-check it. It rings
19 a bell, but to be certain I'd have to look at a
20 document.

21 Q. Well, do you recall that he was also a
22 member of the National Safety Council, what's
23 called the administrative council?

24 A. I'd have to look at the document. I
25 don't recall that.

1 dated March of 1944. It's another Industrial
2 Medicine journal. And I only have one question,
3 and which is by this time in 1944 -- if you turn
4 to the third page of the document -- I'm just
5 asking about Dr. Vosburgh.

6 MR. SPEZIALI: The membership stuff?

7 MR. KRISTAL: Right.

8 MR. SPEZIALI: Okay.

9 BY MR. KRISTAL:

10 Q. There's a column that lists the
11 officers and directors of the American
12 Association of Industrial Physicians and
13 Surgeons. Do you see that?

14 A. You're -- yes, I think we're on page
15 three? Yeah. I see a column officers and
16 directors, yes.

17 Q. And it notes that between 1943 and 1945
18 Dr. Vosburgh, General Electric Company,
19 Schenectady, New York was a director of that
20 association at that point in time.

21 A. Sure, along with people from all the
22 other major companies.

23 MR. SPEZIALI: He just wants to know
24 about Vosburgh. Just answer yes or no.

25 THE WITNESS: Yes.

1 (Whereupon, Exhibit 62, a document
2 dated June 4th, 1932, the subject is Report on
3 Health Protection in Sandblasting and Metal
4 Abrasive Blasting, on General Electric
5 letterhead, from NJ Darling to the president of
6 General Electric, Mr. Swope, was then received
7 and marked for identification.)

8 MR. KRISTAL: Let me mark as Exhibit
9 62, this is a document dated June 4th, 1932.
10 The subject is Report on Health Protection in
11 Sandblasting and Metal Abrasive Blasting. It's
12 on General Electric letterhead, and it is from
13 NJ Darling to the president of General Electric,
14 Mr. Swope.

15 THE WITNESS: Is this from the GE
16 documents?

17 MR. SPEZIALI: It doesn't matter.

18 THE WITNESS: Oh, okay. It's a letter
19 on GE stationery to Mr. Swope from Mr. Darling,
20 yes.

21 BY MR. KRISTAL:

22 Q. And if you take a minute to read it.

23 A. Okay.

24 Q. Well, have you read this before? Do
25 you know?

1 A. I don't recall it.
2 (Whereupon, Exhibit 63, a June 1st,
3 1932 memo from EH Ballard regarding the report
4 of the committee of the National Safety Council
5 on health protection in air pressure blasting,
6 was then received and marked for
7 identification.)

8 BY MR. KRISTAL:

9 Q. I'm also going to mark as Exhibit 63 a
10 June 1st, 1932 memo from EH Ballard regarding
11 the report of the committee of the National
12 Safety Council on health protection in air
13 pressure blasting which was one of the
14 attachments to the letter that you're reading
15 now.

16 A. Okay, I've looked it over.

17 Q. And if you look over the next document
18 as well so I can try to ask some more general
19 questions.

20 A. Sure. Okay. Thank you.

21 Q. And first of all, just to put these two
22 in context, would you agree that the two
23 documents relate to a study that had been done
24 by two physicians on the health protection in
25 sandblasting, and that study was being reviewed

1 by the administrative council of the National
2 Safety Council to see whether or not the
3 National Safety Council would publish it or not?

4 A. Well, it was authored by, right, two
5 doctors, and the second part, second part of the
6 question? I'm sorry.

7 Q. The letter is discussing the letter
8 from Mr. Darling, and he was the manager of the
9 West Lynn, L-Y-N-N, General Electric facility at
10 that time, correct?

11 A. Yeah. I recall his name, and I think
12 he was manager. He was, yes, in management.

13 Q. And what he was writing to the
14 president of General Electric was about the
15 report by these two doctors and the discussion
16 that was going on at the National Safety Council
17 as to whether or not it should be published,
18 correct?

19 A. Yes.

20 Q. And there was a concern by a group
21 called The National Foundry Association --
22 Founders Association as to whether or not that
23 should be published because they were concerned
24 about its effect on lawsuits at the time.

25 MR. SPEZIALI: Objection.

1 THE WITNESS: It doesn't say they
2 were -- it mentions lawsuits. They might have
3 been concerned about the, the entirety of the
4 study. It does mention that there were lawsuits
5 involved. There could be lawsuits involved.

6 MR. KRISTAL: And the report had come
7 up for review by the administrative council in
8 March of 1932, and Mr. Sanford from General
9 Electric was on the administrative council, and
10 it notes that he was instrumental in, at that
11 point in time, not getting the report published.

12 MR. SPEZIALI: Objection.

13 THE WITNESS: I don't know if he was
14 instrumental. I can tell you just what it says
15 in the letter.

16 MR. KRISTAL: Well, look at Exhibit
17 63 --

18 THE WITNESS: Yes.

19 MR. KRISTAL: -- which is the enclosure
20 that -- one of the enclosures Mr. Darling sent
21 to Mr. Swope, correct?

22 THE WITNESS: Yes.

23 MR. KRISTAL: The last paragraph says,
24 quote, have talked with Mr. --

25 MR. SPEZIALI: Wait, wait. You're

1 looking at sixty-three?

2 MR. KRISTAL: Yes.

3 MR. SPEZIALI: The last paragraph.

4 THE WITNESS: Okay.

5 MR. KRISTAL: Quote, have talked with
6 Mr. GE Sanford in Schenectady this morning who
7 has the report, and is in full accord with the
8 above suggestion that report should not be
9 published. In fact, he was a prime mover in
10 holding it up in March this year. He is to
11 abstract the report and present it to
12 Mr. Simmons for his use. Incidentally,
13 Mr. Sanford is a past president of the NSC and a
14 member of the administrative council, end quote.
15 Do you see that?

16 THE WITNESS: Yes.

17 MR. SPEZIALI: Objection.

18 MR. KRISTAL: So at that time
19 Mr. Sanford was on the administrative council of
20 the National Safety Council?

21 THE WITNESS: Yes.

22 MR. KRISTAL: And had been a past
23 president of the National Safety Council,
24 correct?

25 THE WITNESS: According to this.

1 MR. KRISTAL: And he had been a prime
2 mover in holding up the publication of the
3 report by the two physicians with respect to
4 sand blasting?

5 MR. SPEZIALI: Objection.

6 THE WITNESS: Well --

7 MR. KRISTAL: That's what it says.

8 THE WITNESS: That's all I can go on.

9 MR. SPEZIALI: Is that what it says?

10 THE WITNESS: Whether that's the case
11 or not, it does say he's a prime mover.

12 MR. KRISTAL: Have you seen anything or
13 read anything or heard anything that would cause
14 you to disagree with the statement that
15 Mr. Ballard wrote in his memo that was forwarded
16 to the president of General Electric that
17 Mr. Sanford was a prime mover in holding up the
18 publication of this report?

19 THE WITNESS: On this report on
20 silica -- silicosis, no.

21 (Whereupon, Exhibit 64, a document from
22 the National Safety Council entitled
23 transactions, 1932, 21st Annual Safety Congress;
24 October 3rd to October 7th, 1932, was then
25 received and marked for identification.)

1 BY MR. KRISTAL:

2 Q. Okay. I'm going to mark as Exhibit 64
3 a document from the National Safety Council
4 entitled transactions, 1932, 21st Annual Safety
5 Congress. It's from October 3rd to October 7th,
6 1932.

7 Now, are you aware that there were
8 yearly congresses, as they were called, of the
9 National Safety Council, and then the papers and
10 speeches that were given were published and sent
11 to the members in text form? Are you aware of
12 that?

13 A. I'm aware that they had annual
14 meetings, and I don't know whether they printed
15 up and sent out all the documents in text form.

16 Q. Well, have you read National Safety
17 Council transactions, as they were called, sent
18 to you by the General Electric lawyers?

19 A. I looked them over, yes.

20 Q. And did you have an understanding that
21 those transactions were the published
22 proceedings of the conferences for that year?

23 A. I'd have to look at one to refresh
24 myself.

25 Q. Well, you're looking at one.

1 A. Thank you. Okay, yes, I see that these
2 are transactions.

3 Q. And they represent the publication of
4 the various proceedings that occurred at the
5 annual congresses of the National Safety
6 Council. Is that fair to say?

7 A. It appears to be the case from this,
8 yeah.

9 Q. And if you look at the first page of
10 the document, there's a listing. It says
11 executive committee, Mr. Sanford from General
12 Electric was on the executive committee 1932 to
13 1933 of the National Safety Council? It's
14 alphabetical fortunately.

15 A. Where?

16 Q. Under S for Sanford.

17 A. You're on the next page. Okay.
18 Mr. Sanford, yes, was on the executive
19 committee, '32, '33.

20 Q. And he was also a director of the
21 National Safety Council from 1932 to 1933?

22 A. Let me just check. There are so many
23 names here. Yeah, one of a couple hundred,
24 sure; of two hundred.

25 Q. Move to strike the non-responsive

1 portion of that answer.

2 On page fifty of the full book the
3 transactions, which is part of this, there's a
4 publication, the Effects of Inhaled Mineral Dust
5 by Leroy Gardner. Do you see that?

6 A. Yes.

7 Q. And that's the Dr. Gardner we mentioned
8 yesterday who was the expert on dust diseases?

9 A. Yes.

10 Q. And if you turn to the third page of
11 his article from 1932 --

12 A. Is that page fifty-two?

13 Q. Yes.

14 A. Okay.

15 Q. And the paragraph that talks about
16 asbestos dust. Do you see that?

17 A. Yes.

18 Q. Okay. It was known and published and
19 distributed to the members of the National
20 Safety Council at that time that asbestos dust
21 could form leather-like scars in the lungs?

22 A. I'll just look this over. Yes.

23 (Whereupon, Exhibit 65, an August 1933
24 document, National Safety News from the National
25 Safety Council, was then received and marked for

1 identification.)
 2 BY MR. KRISTAL:
 3 Q. I'm going to show you Exhibit 65 which
 4 is a 1933 document, August 1933, National Safety
 5 News from the National Safety Council.
 6 A. Thank you.
 7 Q. And generally, if you need to look at
 8 the second page up top where it says National
 9 Safety News, the National Safety News was a
 10 separate publication of the National Safety
 11 Council that was published monthly and sent to
 12 members; is that correct?
 13 A. Yes.
 14 Q. And in the table of contents for August
 15 1933, there's an article entitled Mechanical
 16 Control of Occupational Disease?
 17 A. Yes.
 18 Q. And it again, in the right-hand column
 19 under executive committee, it lists Mr. Sanford,
 20 General Electric Company?
 21 A. Under executive committee, right.
 22 Q. And then if you turn the next page, a
 23 copy of the article The Mechanical Control of
 24 Occupational Diseases. Do you see that?
 25 A. Yes.

1 Q. And they're talking about a number of
 2 different occupational diseases and mention
 3 asbestosis and other pneumoconioses?
 4 A. I'm just looking at it. Okay. Yes.
 5 Q. And it was known at that time in 1933
 6 that medical research had shown that the dust
 7 that was most dangerous was dust that was so
 8 small that the individual particles were
 9 invisible, correct?
 10 A. Yes. He's really talking about silica
 11 dust, but it does say that dust most dangerous
 12 is so small that the individual particles are
 13 invisible.
 14 Q. Well, he lists -- in the first column
 15 he's talking about pneumoconiosis, generally
 16 discussing insurance compensation at that point
 17 in time, and liability, correct?
 18 MR. SPEZIALI: Objection.
 19 BY MR. KRISTAL:
 20 Q. Isn't that what he's talking about in
 21 that paragraph there?
 22 A. He's talking about, right, insurance
 23 compensation and liability business for
 24 industrial disease, right.
 25 Q. And one of the industrial diseases that

1 he's talking about are pneumoconiosis, correct?
 2 A. Yes.
 3 Q. And in parentheses he says, including
 4 silicosis, asbestosis, et cetera, right?
 5 A. Right.
 6 Q. And then in the paragraph at the bottom
 7 of that he says, we will accordingly look at the
 8 subject from the standpoint of these few
 9 important causes, bearing in mind that the most
 10 important of all is covered by the general
 11 heading of pneumoconiosis or diseases caused by
 12 dust, correct?
 13 A. Yes.
 14 Q. So he's talking about pneumoconiosis
 15 generally, not just silicosis, right?
 16 A. Right.
 17 Q. Then in the next column he says, quote,
 18 when the subject of dust is mentioned, most of
 19 us probably think of visible particles. In
 20 fact, much of the dust removal work, even by
 21 companies specializing along this line in the
 22 past, has been directed at this form of dust.
 23 Medical research has shown us, however, that the
 24 dust that is most dangerous through its deep
 25 inhalation into the lungs is so small that the

1 indivisible (sic) particles are invisible and
 2 can only be seen by the naked eye if they were
 3 gathered in a dense cloud which may have the
 4 appearance of a gray fog, end quote. Do you see
 5 that?
 6 A. That's right. That's what it says
 7 here.
 8 Q. So that was known and written about and
 9 distributed to members of the National Safety
 10 Council in 1933?
 11 MR. SPEZIALI: Objection.
 12 THE WITNESS: Well, when you're saying
 13 that was known, this in particular with regard
 14 to all his -- his general discussion of
 15 pneumoconiosis, yeah, that was known.
 16 MR. KRISTAL: And he specifically
 17 includes in that group in this article
 18 asbestosis?
 19 THE WITNESS: He does mention that,
 20 right.
 21 MR. KRISTAL: Off the record for a
 22 moment.
 23 THE SPECIAL MASTER: Off the record,
 24 please.
 25 THE VIDEOGRAPHER: Off the record. The

1 time is ten fifty-two a.m.

2 (Whereupon, a recess was then taken.)

3 THE VIDEOGRAPHER: On the record. The
4 time is eleven thirteen a.m.

5 (Whereupon, Exhibit 66, 1934 National
6 Safety Council transactions from October 1st to
7 October 5th, 1934, was then received and marked
8 for identification.)

9 MR. KRISTAL: Marked as Exhibit 66,
10 1934 National Safety Council transactions from
11 October 1st to October 5th, 1934. And if you
12 would look four pages in, Mr. Sanford is listed
13 as being on the executive committee for that
14 year. That's page five. And then on page
15 seven --

16 THE WITNESS: Yes.

17 MR. KRISTAL: -- he's listed again as a
18 director of the National Safety Council for that
19 year.

20 THE SPECIAL MASTER: Is there some way
21 we can get a stipulation --

22 MR. SPEZIALI: I think we have.

23 THE SPECIAL MASTER: -- as to what
24 years Mr. Sanford was an executive committee
25 member and a member --

1 MR. KAPSHANDY: Let me clarify. We've
2 answered in interrogatories that GE was a
3 founding member of the National Safety Council
4 and has been a member since its inception.

5 THE SPECIAL MASTER: Then I think all
6 of these questions are unnecessary.

7 MR. KRISTAL: If we get an agreement
8 because I have documents that show at least
9 through 1940 that Mr. Sanford was on the
10 executive committee, and a director, and that
11 beginning, at least as far as I know, in 1938,

12 Mr. Vosburgh was also on the executive committee
13 with Mr. Sanford and was also a director. Can
14 we get a stipulation?

15 THE SPECIAL MASTER: You'll get a
16 stipulation.

17 MR. KAPSHANDY: No problem.

18 THE SPECIAL MASTER: No problem. Let's
19 move on. We can eliminate this whole group of
20 questions.

21 BY MR. KRISTAL:

22 Q. If you look at Exhibit 66, in 1934
23 there was another presentation in October that
24 was published and sent to the members by
25 Dr. Gardner entitled Types of Dust That Cause

1 Occupational Diseases. Do you see that?

2 A. Yes.

3 Q. And on page twenty-five, Dr. Gardner,
4 at the conference and then later published and
5 sent to members, noted that, quote, the only
6 other type of dust which is generally recognized
7 as a cause of severe pulmonary injury is
8 asbestos. Do you see that?

9 A. Yes.

10 (Whereupon, Exhibit 67, a copy of the
11 National Safety News from September 1935, was
12 then received and marked for identification.)

13 BY MR. KRISTAL:

14 Q. Exhibit 67 is a copy of the National
15 Safety News from September 1935. We have the
16 stipulation regarding Mr. Sanford. There was an
17 article entitled No Halfway Measures of Dust
18 Control.

19 A. Yes.

20 Q. And on the second page there's a
21 heading called Measuring the Hazard.

22 A. Right.

23 Q. And it's talking about silicosis, but
24 it's mentioning the five million particles per
25 cubic foot of air standard. Do you see that in

1 the first column?

2 A. Yeah, I guess. It's underlined.

3 Q. And it's noted that five million
4 particles of cubic foot -- strike that.

5 It notes that five million particles
6 per cubic foot of air of particles less than ten
7 microns is not visible to the naked eye, does it
8 not?

9 A. I'm just checking. He says five
10 million is tiny, yes.

11 Q. He says five million particles of dust
12 is tiny, and he writes, quote, we know it is
13 invisible to the naked eye because it takes
14 fifteen to twenty times that much to produce a
15 haze, and even that is invisible as particles of
16 materials, end quote. Do you see that?

17 A. Yes.

18 (Whereupon, Exhibit 68, the last of the
19 National Safety Council documents, the
20 transactions from the year 1938 Silver Jubilee
21 of the Safety Congress, was then received and
22 marked for identification.)

23 BY MR. KRISTAL:

24 Q. Exhibit 68 is the last of the National
25 Safety Council documents, and it is the

1 transactions from the year 1938 Silver Jubilee
2 of the Safety Congress.

3 A. Yes.

4 Q. And we have the stipulation about
5 Mr. Sanford and now Dr. Vosburgh. And if you
6 turn to what is page two sixteen and two
7 seventeen, the lower right-hand corner of two
8 sixteen, the paragraph that begins "perhaps".

9 A. Two -- okay.

10 Q. It's in pen.

11 A. Okay.

12 Q. Upper left-hand corner.

13 A. This one?

14 Q. Okay. The paragraph is talking about
15 dust diseases generally and mentions asbestosis,
16 silicosis, does it not, just in that paragraph
17 if you look at it?

18 A. Okay. Yes. It mentions pneumoconiosis
19 including silica asbestosis, yes.

20 Q. And on the next page paragraph that
21 begins, "One fact stands out clearly." Do you see
22 that?

23 A. Yes.

24 Q. The last sentence of that page notes,
25 and it was published and sent to the members in

1 point. I'm just going to hand you the pages
2 that I Xeroxed here today.

3 (Whereupon, Exhibit 69, the Industrial
4 Toxicology, Alice Hamilton and Dr. Hardy, second
5 edition, 1949, was then received and marked for
6 identification.)

7 BY MR. KRISTAL:

8 Q. And if you would verify that's the
9 Industrial Toxicology, Alice Hamilton and
10 Dr. Hardy, second edition, if you turn to the
11 next page, it's 1949, correct?

12 A. Yes.

13 Q. Now, Dr. Hamilton was considered
14 somewhat of an expert on industrial cancers?

15 A. I'm sure industrial diseases, yes, she
16 was the leading expert in the country.

17 Q. And specifically she was considered an
18 expert with respect to industrial cancers, was
19 she not?

20 A. Well, that was part of it. She was an
21 expert on all kinds of industrial diseases.
22 That would have included cancers.

23 Q. Right. So the answer to the question
24 is yes?

25 A. Sure.

1 1938, that fibrosis of the lungs, once it's --
2 once it is acquired, is permanent, incurable and
3 not susceptible to any medical treatment once
4 you have fibrosis of the lungs, correct?

5 A. Yes.

6 Q. And briefly turn to the question of
7 cancer. Exhibit 54 we had marked yesterday.
8 It's the January 12th, 1951 letter to the
9 General Electric nurse in Lowell, Massachusetts,
10 and one of the texts that was recommended for
11 addition to the GE medical library on the second
12 page was the industrial toxicology text by
13 Dr. Hamilton and Dr. Hardy from 1949, correct?

14 A. I see the text. I don't see the date.

15 Q. Okay. It's the second edition that's
16 noted there.

17 A. Yes.

18 Q. All right. Did you -- have you seen
19 that text? Was that provided to you by the
20 General Electric lawyers?

21 A. I don't recall it having been provided,
22 but I do recall having seen it over the course
23 of my career.

24 Q. Okay. And I will mark the entire text
25 as Exhibit 69, and we'll replace it at some

1 Q. Okay. If you turn to, in your section,
2 page four forty-seven, and it's a chapter on
3 cancer of the lung, correct?

4 A. Yes.

5 Q. And there's a heading that says, quote,
6 Association of Lung Cancer with Silicosis and
7 Asbestosis, end quote. Do you see that?

8 A. Yes.

9 Q. And it was known at that time in 1949
10 that the incidence of cancer of the lung among
11 asbestos workers was fairly high, correct?

12 A. It was known -- just for a second.

13 MR. SPEZIALI: What page, Jerry?

14 MR. KRISTAL: Four forty-seven.

15 THE WITNESS: That's what it says here,
16 right, the incidence of cancer among asbestos
17 workers is fairly high, and she's talking
18 about, right, pneumoconiosis.

19 BY MR. KRISTAL:

20 Q. Well, she's not talking about
21 pneumoconiosis. Let's read it. The paragraph
22 begins with the name of an author. It says,
23 quote, Teleky, T-E-L-E-K-Y, reviewing the
24 subject in 1939 found that the connection
25 between silicosis and lung cancer is very

1 dubious as shown by statistics. On the other
2 hand, the incidence of cancer of the lungs among
3 asbestos workers is fairly high, end quote.
4 That's what she wrote, right?

5 A. Yes.

6 Q. So she was very specific with respect
7 to the exposure being to asbestos and lung
8 cancer?

9 A. Yes. In that, sure.

10 Q. And then the next sentence says, and
11 it's the name of another author, quote, LeCoeur,
12 L-E capital C-O-E-U-R, discussing lung cancer of
13 occupational origin says that in a lung with
14 asbestosis it takes some twelve years for a
15 cancer to develop. Islands of cancer cells are
16 deeply embedded in fibrous tissue which also
17 surrounds the lymph glands and contains
18 particles of asbestos, end quote. Do you see
19 that?

20 A. Yes.

21 Q. So what she's reporting there is the
22 work of another author who was finding asbestos
23 particles themselves in the lung cancer in the
24 tumor tissue?

25 A. Yes.

1 Q. She then goes on to quote or to mention
2 the research of two other researchers, Lynch and
3 Smith, who describe two cases of pulmonary
4 cancer associated with asbestosis, one case of
5 squamous metaplasia of the bronchial epithelium
6 with asbestosis which they tentatively present
7 as a precancerous condition, right?

8 A. Yes.

9 Q. And then she quotes or cites to another
10 author named Welz, W-E-L-Z, and she writes,
11 quote, Welz attributes to the irritating action
12 of asbestos two cases of lung cancer which will
13 complicate with asbestos or with asbestosis,
14 correct?

15 A. Yes.

16 Q. And on the next page she cites works of
17 other authors noting cancer of the lung in
18 asbestos workers, correct?

19 A. Another case of cancer of the lung,
20 right, yes.

21 Q. All right. And she does note that with
22 respect to animal experiments in Saranac, there
23 was some question as to whether or not the
24 irritating property, the mechanical irritation
25 of asbestos was setting up the cancer.

1 A. I'll just read that.

2 Q. Sure.

3 A. I think you're referring to the next
4 paragraph?

5 Q. Yes.

6 A. Right.

7 Q. And that was Dr. Gardner's group that
8 we had spoken about earlier at the Saranac
9 laboratory?

10 A. Yes, Dr. Gardner was there.

11 Q. Okay.

12 (Whereupon, Exhibit 70, an editorial
13 from the Journal of the American Medical
14 Association from 1949, was then received and
15 marked for identification.)

16 BY MR. KRISTAL:

17 Q. Now, I'm going to mark the next exhibit
18 as Exhibit 60 -- I'm sorry, as Exhibit 70, and
19 it's an editorial from the Journal of the
20 American Medical Association from 1949, and
21 you've seen this before. That was provided to
22 you by the lawyers for General Electric, was it
23 not?

24 A. Yes.

25 Q. And there's an editorial entitled

1 Asbestosis and Cancer of the Lung, is there not?

2 A. Yes.

3 Q. And in this editorial, the Journal of
4 the American Medical Association is stating that
5 up until recently there was a question about
6 asbestosis and lung cancer, but now the evidence
7 establishes that asbestosis and lung cancer are
8 related, correct?

9 A. That in some cases, yes, it was
10 related.

11 Q. Well, let's read it then.

12 A. Thank you.

13 Q. It says, quote, until recently, the
14 co-existence of asbestosis and cancer of the
15 lung was considered by many investigators a
16 coincidence. Since 1935, twenty-three such
17 cases were recorded by American, English and
18 German physicians. Wedler, W-E-D-L-E-R --
19 actually pronounced Wedler, but it would be
20 difficult for the reporter to get the W --
21 Wedler noted fourteen cases of asbestosis cancer
22 in a series of ninety-two necropsies on patients
23 with asbestosis or about fifteen percent of
24 cancer of the lung in persons who died from this
25 industrial disease, end quote. Do you see that?

1 A. Yes.
 2 Q. And necropsies is another word for
 3 autopsies, right?
 4 A. Yes, on tissue, right.
 5 Q. Quote, the exposure time ranged from
 6 three to twenty-seven years, average fifteen
 7 years. The ages in seventeen cases were
 8 thirty-five to seventy-five years, average fifty
 9 years. Until now, the question of a causal
 10 relationship between asbestosis and cancer of
 11 the lung has been an open one. The
 12 recently-published annual report of the chief
 13 inspector of factories in England for 1947
 14 provides additional data on the actual existence
 15 of such interrelations, end quote.
 16 And that's the same chief inspector of
 17 factories department that Dr. Merewether in 1930
 18 was working for, correct?
 19 A. I would assume so, yes.
 20 Q. Okay. Quote, during twenty-three
 21 years, 1924 to 1946 inclusive, two hundred and
 22 thirty-five deaths either caused by asbestosis
 23 or in which asbestosis had been established at
 24 necropsy were reported to the chief inspector.
 25 Cancer of the lungs or pleura was found in

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1 thirty-one of these cases, thirteen point two
 2 percent. Do you see that?
 3 A. Yes.
 4 Q. So it was not only cancer of the lungs
 5 that was being reported in association with
 6 asbestosis, but also cancer of the pleura, as
 7 well?
 8 A. Yes.
 9 Q. And that came to be known as
 10 mesothelioma, correct?
 11 A. Yes.
 12 Q. Then it goes on to discuss the
 13 comparison between men and women and their
 14 percentages of cancer of the lung, correct?
 15 A. Yes.
 16 Q. And then the sentence says, quote, a
 17 causal relation between asbestosis and cancer of
 18 the lung is supported by the following
 19 observations: The incidence rate of cancer of
 20 the lung in this group is excessive since the
 21 normal death rate from cancer of the lung among
 22 adults examined at necropsy at present is about
 23 one percent of all necropsies.
 24 Moreover, there is a distinct shift in
 25 the sex distribution of cancer of the lungs in

1 the series of asbestosis cancers reported from
 2 England. The male/female sex ratio is two point
 3 four to one, while it is five to one for cancers
 4 of the lung in general. This shift indicates
 5 that an environmental and evidently occupational
 6 carcinogen was active in the asbestosis group
 7 tending to equalize the incidence rate of cancer
 8 of the lung for both sexes, unquote. Do you see
 9 that?
 10 A. Yes.
 11 Q. So what they're saying there is because
 12 the lung cancer rate in men and women who had
 13 asbestosis was smaller, the ratio of men to
 14 women was two point four to one whereas in the
 15 general population it was five to one, this
 16 indicated to them one piece of evidence that
 17 asbestosis was causing the cancer, right?
 18 A. Yes.
 19 Q. Then they go on to other evidence.
 20 Talking about experimental evidence that
 21 supported the interpretation of the clinical
 22 evidence in asbestosis and cancer of the lung,
 23 right?
 24 A. Right.
 25 Q. Then the last page, the second page of

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1 the editorial it says, quote, since some twenty
 2 thousand workers are employed in the
 3 asbestos-producing industries of this country
 4 and Canada, and many additional thousands in
 5 various asbestos-consuming industries, increased
 6 attention to this probable occupational hazard
 7 of cancer of the lung by the medical profession
 8 is desired, unquote. Do you see that?
 9 A. Yes.
 10 Q. So the Journal of the American Medical
 11 Association published that at that point in time
 12 asbestos as an occupational hazard of cancer of
 13 the lung was probable?
 14 A. Yes, as an --
 15 Q. Now another group?
 16 A. Associated with asbestosis in that
 17 case.
 18 Q. Another group that General Electric was
 19 a member of in an association was called the
 20 Industrial Hygiene Foundation. Are you aware of
 21 that?
 22 A. Yes.
 23 Q. And General Electric was a member as of
 24 1947, correct?
 25 A. Right.

1 Q. And it just has a summary of that
2 article, right?

3 A. Yes.

4 Q. And that was -- in the regular course
5 of business it would have been sent to General
6 Electric?

7 A. To medical people, industrial hygiene,
8 yes.

9 Q. At General Electric?

10 A. At General Electric.

11 Q. Exhibit 75 is a September 1955
12 Industrial Hygiene Digest.

13 (Whereupon, Exhibit 75, a September
14 1955 Industrial Hygiene Digest with an abstract
15 of an article entitled Mortality From Lung
16 Cancer in Asbestos Workers by Dr. Doll, was then
17 received and marked for identification.)

18 BY MR. KRISTAL:

19 Q. And that has an abstract of an article
20 entitled Mortality From Lung Cancer in Asbestos
21 Workers by a Dr. Doll, D-O-L-L.

22 A. Right.

23 Q. And there's a paragraph summarizing
24 that article by Dr. Doll, correct?

25 A. Yes.

1 Q. And the summary notes that from the
2 data that was presented in Dr. Doll's paper, it
3 is concluded that lung cancer is a specific
4 hazard of asbestos workers, correct?

5 A. That's what it says.

6 Q. And that would have been, in the
7 regular course of business, sent to General
8 Electric?

9 A. Sure.

10 Q. Exhibit 76, another Industrial Hygiene
11 Digest from July 1955.

12 (Whereupon, Exhibit 76, an Industrial
13 Hygiene Digest from July 1955, was then received
14 and marked for identification.)

15 BY MR. KRISTAL:

16 Q. And one of the articles abstracted on
17 the third page is entitled Primary Cortical Cell
18 Tumor of the Peritoneum in a Case of Asbestosis,
19 and it's just an English summary of a German
20 article, correct?

21 A. Right.

22 Q. And it discusses the fact that the
23 person had asbestosis and also had a flat tumor
24 half the size of a hand and one centimeter in
25 thickness attached to the peritoneum on the

1 underside of the diaphragm. Do you see that?

2 A. Yes.

3 Q. And I think you mentioned earlier that
4 the pleura not only -- or the pleural tissue not
5 only lines the lung and the chest cavity, but
6 also lines the abdominal cavity or what's known
7 as the peritoneum, direct?

8 A. Right.

9 Q. And that's known as peritoneal
10 mesothelioma?

11 A. Right.

12 Q. And in this particular case, it's a
13 report of someone with asbestosis and a cancer
14 of the peritoneum, the lining of the abdominal
15 cavity, and it notes in the summary that there
16 was asbestos itself found in the tumor, does it
17 not?

18 A. Yes. It says it here. It was found in
19 tumor tissues, right.

20 Q. It says, quote, asbestos was found in
21 the tumor tissues by x-ray defraction, end
22 quote?

23 A. Yes.

24 Q. And it says, quote, it is uncertain how
25 the asbestos reached the peritoneal cavity. The

1 most probable route was thought to be by direct
2 penetration of the asbestos fibers from the lung
3 through the pleura and thence through the
4 diaphragm, end quote. Do you see that?

5 A. Yes.

6 Q. And this abstract, in the regular
7 course of business, would have been sent to
8 General Electric?

9 A. Yes.

10 Q. Exhibit 77 is dated February 21st,
11 1973. It's entitled Environmental Newsletter,
12 Subject Asbestos, and it is from the medical
13 director of the General Electric components and
14 materials group to all department managers,
15 components and materials group. And that would
16 have been sent to you by the General Electric
17 lawyers?

18 (Whereupon, Exhibit 77, a document
19 dated February 21st, 1973, entitled
20 Environmental Newsletter, Subject Asbestos, was
21 then received and marked for identification.)

22 MR. KRISTAL: I think it's E-26.

23 MR. KAPSHANDY: Thank you.

24 MR. KRISTAL: It says it on it. That's
25 the only reason that I know.

1 THE WITNESS: Yes, it was provided.
 2 BY MR. KRISTAL:
 3 Q. And you read that before?
 4 A. Yes.
 5 Q. And in the second -- it encloses a
 6 Times article. It encloses two articles about
 7 asbestos, correct?
 8 A. Yes.
 9 Q. And in the second paragraph
 10 Dr. Martelon wrote --
 11 A. Martelon.
 12 Q. Martelon, thank you. Oh, I was
 13 transposing the L and the T. My apologies to
 14 Dr. Martelon. Quote, the very important point
 15 is made that the time of exposure and the level
 16 of exposure to asbestos need only be very small
 17 to precipitate rather disastrous results, end
 18 quote. Do you see that?
 19 A. Yes.
 20 Q. Now, have you seen other statements
 21 similar to that in the materials that you
 22 reviewed that were sent to you by the General
 23 Electric lawyers?
 24 A. I haven't seen that particular wording.
 25 I'd say that when this was written in 1973, post

1 OSHA, I'd say that that was the tenor in many of
 2 the documents.
 3 Q. Okay. When was it, if you know -- can
 4 you tell us the earliest time that General
 5 Electric knew that only very small exposures to
 6 asbestos could precipitate rather disastrous
 7 results?
 8 MR. SPEZIALI: Objection.
 9 MR. KRISTAL: Do you have a specific
 10 document that could pin this to the earliest
 11 point in time?
 12 MR. SPEZIALI: Asked and answered.
 13 THE WITNESS: Well, I'd say that kind
 14 of information was generally post OSHA, so I'd
 15 have to look at some documents involving '70,
 16 '71.
 17 BY MR. KRISTAL:
 18 Q. Okay. Well, sitting here, can you tell
 19 us when General Electric knew that for the first
 20 time, or you're unable to do that without
 21 looking at documents?
 22 A. That I'm unable to -- and you're
 23 directing it specifically to that -- I just want
 24 to get the wording right -- that they'd only be
 25 very small to precipitate very disastrous

1 results?
 2 Q. Not the exact words, but the concept
 3 that small doses of asbestos could lead to
 4 disastrous results.
 5 A. Sure. I'd have to look in the
 6 documents.
 7 Q. Okay. I have a couple of questions
 8 generally. I just want to mark these two.
 9 These are the deposition notices for this
 10 deposition. I just want to make them part of
 11 the record. I've marked those as 78 and 79.
 12 (Whereupon, Exhibits 78 and 79, the
 13 deposition notices for the deposition, was then
 14 received and marked for identification.)
 15 BY MR. KRISTAL:
 16 Q. I have a general question. Yesterday
 17 you gave your address as a post office box. Was
 18 that the address of your -- the Drucker Safety
 19 and Health Management?
 20 A. Yes.
 21 Q. Is there a street address for that?
 22 A. Yes.
 23 Q. And is that the same as your home
 24 address?
 25 A. Yes.

1 Q. So you operate your business out of
 2 your home?
 3 A. I do.
 4 Q. Now, the amount of income that you've
 5 earned for your litigation work since 1984 has
 6 steadily increased, has it not, to the present?
 7 A. Since 1984?
 8 MR. SPEZIALI: Did you say '84?
 9 BY MR. KRISTAL:
 10 Q. Right. You started your Drucker Health
 11 and Safety Management in 1984, correct?
 12 A. Yes.
 13 Q. And since that time the amount of
 14 income that you've earned from litigation work
 15 has steadily gone up, has it not?
 16 A. Yes. It was very little to none in the
 17 beginning, and yes, it has gone up.
 18 Q. And beginning in around 1999, year 2000
 19 you were starting to earn in the range of fifty
 20 thousand dollars a year for your litigation
 21 work, correct?
 22 A. In the range, yes, around that time.
 23 Q. Okay. Subject to questioning by other
 24 attorneys, those are all the questions I have
 25 right now. Thank you.

1 A. Thank you.

2 MR. KRISTAL: Off the video record.

3 MR. SPEZIALI: No, no, wait a minute.
4 Do any of the other counsel --

5 THE SPECIAL MASTER: Off the record,
6 please.

7 THE VIDEOGRAPHER: This is the
8 conclusion of tape number one, volume four of
9 the continuing deposition of Marjorie Drucker.
10 Off the record. The time is eleven forty-two
11 a.m.

12 MR. SPEZIALI: On the record, will any
13 of the other counsel have questions?

14 MS. DiLONARDO: I would think it would
15 depend on what you were going to do.

16 MR. SPEZIALI: You'll have --

17 MR. KRISTAL: So the answer is maybe.

18 MS. DiLONARDO: At this point.

19 THE SPECIAL MASTER: Not based on
20 Jerry's questions.

21 MR. SPEZIALI: Does anybody have
22 questions based on what the Plaintiff has,
23 either today or yesterday or I don't know?

24 MR. KRISTAL: Or the other two days.

25 MR. SPEZIALI: Or the other two days

1 that were not videotaped.

2 THE SPECIAL MASTER: That's a no.

3 MR. SPEZIALI: Sounds like a no.

4 MR. KRISTAL: Well, just for the
5 record, so it's clear, nobody responded
6 affirmatively.

7 THE SPECIAL MASTER: Okay. Dave, how
8 much time do you need because -- off the record.
9 (Discussion off the record.)

10 MR. KRISTAL: I just assume we have the
11 same agreement, that I only have to make
12 objections to form, everything else is
13 preserved?

14 THE SPECIAL MASTER: It's the same
15 deposition. Why would it change?

16 MR. KRISTAL: I just want that to be
17 very clear.

18 THE SPECIAL MASTER: It's the same
19 deposition, just a different person asking
20 questions.

21 THE VIDEOGRAPHER: This is the
22 beginning of tape number two, volume four of the
23 continued deposition of Marjorie Drucker. On
24 the record. The time is one o three p.m.
25

EXAMINATION BY MR. SPEZIALI:

1 Q. Ms. Drucker, as you know, my name is
2 Dave Speziali. I'm here for General Electric,
3 and I'm going to ask you some follow-up
4 questions, some of those pertaining to the
5 questions that you were asked for the last few
6 days, and some of those unfortunately I'll have
7 to refer back to questions that you were asked
8 on the other two days of deposition.
9

10 A. Yes.

11 Q. You, you received your BA in 1967 and
12 your Master's of Science in 1969; is that
13 correct?
14

15 A. Yes.

16 Q. And what did you get your Master's in
17 Science in?

18 A. I got my Master of Science in
19 environmental health sciences from Harvard
20 University.

21 Q. And when you came out of Harvard in
22 '69, what did you do? Tell us about your career
23 path.

24 A. Yes. When I graduated from Harvard, I
25 went to work as an instructor of public health

1 at Yale University in Connecticut, and I was
2 there for about two years.

3 Q. Okay. What happens after that?

4 A. After that I went to work for the
5 General Electric Company, and that was the
6 period around 1971, 1972.

7 Q. Okay. And then what?

8 A. And then I went to work for the US
9 Environmental Protection Agency in their Boston
10 office.

11 Q. And when you worked at the EPA in
12 Boston what was the time frame?

13 A. I was at EPA in Boston around 1972 to
14 1976.

15 Q. Okay. What did you do for the EPA in
16 Boston?

17 A. I had a few jobs. I got promoted and I
18 started out as an air program specialist and
19 ended up as a research and development program
20 specialist in their R&D office.

21 Q. Okay. What happens after that?

22 A. After that I transferred in the
23 government, and I became the, the industrial
24 hygienist for the Long Beach Naval Shipyard in
25 Long Beach, California.

1 Q. Okay. And was that a government
2 facility owned by the United States, operated by
3 the United States Navy?
4 A. Yes, yeah.
5 Q. Okay.
6 A. United States Navy.
7 Q. And is there a difference between a, a
8 government Navy shipyard and a private shipyard?
9 A. Yes, there are some differences.
10 Q. What are the differences?
11 A. Well, the government -- US Navy
12 shipyard is run by the United States Navy and
13 under its command as opposed to a private
14 shipyard. That would be under other non-Navy.
15 Q. Okay. And what year did you leave that
16 position?
17 A. I left there in 1977.
18 Q. Right. Okay. And then what?
19 A. And then I went to work at Northrup
20 Corporation in California, and I was their
21 corporate administrator of occupational health
22 and safety.
23 Q. And until when?
24 A. Until about 1984.
25 Q. And then what?

1 A. And then I started my own consulting
2 business.
3 Q. And you've been in the private
4 consulting business ever since?
5 A. Yes.
6 Q. The -- when did you -- does -- I'm
7 looking at your CV. It says you're a CIH?
8 What's a CIH?
9 A. That's a certified industrial
10 hygienist.
11 Q. Is that a licensing requirement, a
12 test? What is that?
13 A. It's a two-day -- it was a two-day
14 test, and it is a very stringent certification
15 requirement. They have to meet certain
16 education, experience, requirements and take a
17 test.
18 Q. When did you achieve that?
19 A. I have two certifications in industrial
20 hygiene that I achieved in 1976.
21 Q. Okay. And then there's a CSP. What
22 does that one stand for?
23 A. That stands for certified safety
24 professional.
25 Q. And what did you get that at?

1 A. I got that around 1978.
2 Q. All right. And the other -- the last
3 one, REA? What is that?
4 A. It's a registered environmental
5 assessor. It's a designation by the State of
6 California.
7 Q. Okay. Are you a medical doctor?
8 A. No.
9 Q. Okay. Has anybody ever asked you to
10 render any opinions in litigation pertaining to
11 asbestos-related issues with respect to the
12 diagnosis of asbestos-related disease?
13 A. No.
14 Q. Has anybody asked you to do any
15 exhaustive search in the medical and scientific
16 literature so you can come into a court and
17 explain to a jury the nuances of pleural
18 thickening or asbestosis from a physician's
19 standpoint? Has anybody asked you to do that?
20 A. No.
21 Q. Okay. There was an indication that
22 going into practice in '84, and you must
23 remember Mr. Kristal asking about your income
24 from '84 through the present with respect to
25 litigation.

1 A. Yes.
2 Q. Okay. Do you remember Mr. Kristal
3 asking you at the very first day of the
4 deposition when you first got involved with
5 litigation?
6 A. Yes.
7 Q. Okay. Did you tell Mr. Kristal that
8 you got involved with litigation in 1984?
9 A. Yes, around -- yeah, late '80s,
10 something like that.
11 Q. Late '80s. Okay. When you first got
12 involved in asbestos-related litigation, who --
13 did General Electric ask you to testify, very
14 first involvement?
15 A. No.
16 Q. Who approached you to ask you to get
17 involved in asbestos-related litigation?
18 A. Various Plaintiff attorneys.
19 Q. Where at?
20 A. In California.
21 Q. The State of California?
22 A. Yes.
23 Q. Okay. And how many different cases --
24 and when did that first occur?
25 A. So that would have been starting maybe

late '80s into mid '90s.

Q. Into mid '90s. And how many Plaintiffs were you asked to get involved on behalf of?

A. Oh, over the course of that amount, Plaintiffs maybe thirty, forty, something like that.

Q. And what was the nature of those assignments that you were asked to do on behalf of Plaintiffs' attorneys?

A. My understanding was that it was personal injury and health-related things.

Q. Dealing with what? Medicine?

A. Asbestos.

Q. Okay. Were you asked to render medical opinions in those cases?

A. No.

Q. Were you asked to render any opinions perhaps dealing with sandblasting and sand in those cases?

A. No.

Q. Were you asked to render any opinions dealing with lead paint exposures in any of those cases?

A. No.

Q. Okay. The opinions that you were asked

to render dealt with asbestos-related issues?

A. Yes.

Q. Okay. Were those issues with respect to industrial hygiene or medicine?

A. Industrial hygiene.

Q. Okay. And do you recall in the course of those Plaintiffs' attorneys who retained you whether they asked you to look at exhibits that they had involved in those cases?

A. Some exhibits, sure.

Q. Okay. And in those cases, were you asked to testify at depositions such as this?

A. Yes.

Q. Okay. And did you charge the Plaintiffs' attorneys like you charged General Electric?

A. Yes, by the hour.

MR. KRISTAL: Objection.

BY MR. SPEZIALI:

Q. Okay. Did, did any of the Plaintiffs' attorneys suggest that you were -- you should not work for them anymore because you weren't credible?

A. No.

Q. Okay. Did any courts suggest or strike

your testimony when you worked for the Plaintiffs' attorneys because you were not credible?

A. No.

Q. Okay. When did you -- and Mr. Kristal pointed it out, but just to get us back in focus, when did General Electric's attorney first approach you about getting involved?

A. September of '03, last year.

Q. Okay. What did you understand to be the nature of that assignment?

A. My understanding of the nature of the assignment was to look at GE documents and other information with regard to the health and safety issues, historical aspects related to asbestos.

Q. Okay. Did anybody ask you to take a look at the history of General Electric documents dealing with sandblasting?

A. No.

Q. How about with respect to the history of General Electric documents dealing with sand exposures that perhaps may result in certain diseases including silicosis? Anybody ask you to look at that?

A. No.

Q. Did anybody ask you to do a detailed analysis of the General Electric documentation so you could address medical issues dealing with I think they're called phagocytes that are little things that are down in the lung to capture fibers? Did anybody ask you to do that?

A. No.

Q. How many boxes of -- we had the boxes in the room. How many boxes of documents did you look at?

A. About fifteen.

Q. Okay. Did anybody ever tell you that you weren't permitted to see any particular documents with respect to your project?

A. No.

Q. Okay. And besides looking at the sixteen boxes of documents, did you, did you also undertake some independent investigation to determine what you could find out about GE's role with respect to health and safety in asbestos?

A. Yes.

Q. What did you do? Tell the jury.

A. Well, I did a few things. One thing was that I spoke to several people who had been

1 working in occupational medicine and industrial
2 hygiene at GE over various periods of time,
3 going back as far as I could find them.

4 Obviously people from way back, '20s
5 and '30s, are no longer with us. So I tried to
6 find people, many of whom I've known over these
7 last thirty or so years. I knew them at GE, and
8 I recontacted them recently with regard to this.

9 I also reviewed a lot of industrial
10 hygiene documentation, studies that were done
11 throughout GE facilities and visited certain
12 locations as part of the project.

13 Q. Okay. How many transcripts would you
14 say you've reviewed overall of prior deposition
15 testimony that may somehow have related to
16 General Electric?

17 A. Transcripts of prior testimony, I'd
18 estimate ten or so.

19 Q. Okay. Were there both living and
20 deceased individuals that you had read testimony
21 of?

22 A. Yes.

23 Q. Okay. Is there also something known as
24 generic state-of-the-art medical and scientific
25 literature dealing with issues related to

1 handling asbestos or around it because it had
2 been there. I was going on the ships, doing
3 surveys, making recommendations as a field
4 industrial hygienist.

5 Q. Did you ever recall any work while you
6 were working for the EPA or for the United
7 States Navy at the shipyard -- do you ever
8 remember a point in time where they said take a
9 look at the asbestos literature but we really
10 think you should look at the literature dealing
11 with sandblasting because that may help you
12 protect the sailors? Do you remember them
13 talking about that?

14 A. No.

15 Q. Did they ever tell you, well, maybe you
16 should take a detailed look at the medical
17 literature dealing with phagocytes because that
18 may help protect the sailors? Do you remember
19 those discussions ever happening?

20 A. No.

21 Q. Never. Now, besides looking at the
22 many documents that you were asked to see,
23 besides going down to the libraries and looking
24 at the documents at the libraries, besides
25 interviewing the, the corporate officials,

1 asbestos?

2 A. Yes.

3 Q. Okay. Did you -- had you been familiar
4 with a lot of -- any of that literature prior to
5 working with General Electric on this project?

6 A. Yes.

7 Q. Okay. And in fact, did you say that --
8 did I understand you to say that you had
9 actually been involved with asbestos-related
10 issues for over thirty years?

11 A. Sure, going back to my graduate student
12 training at Harvard. One of my teachers was one
13 of the authors of the Fleischer Drinker study.

14 Q. Did -- when you were working for the
15 Environmental Protection Agency and for the
16 United States Navy at Long Beach Naval Shipyard,
17 did you also get involved with asbestos-related
18 issues?

19 A. Mostly when I was at the shipyard. It
20 was almost exclusively asbestos, yes.

21 Q. And your involvement was what, to
22 design programs to protect members of the United
23 States Navy?

24 A. To civilian people, the civilian
25 workers in the shipyard, right. You were

1 besides reading the prior transcripts, were you
2 also aware that the Plaintiff's attorney in this
3 case had a very extensive exhibit list, a couple
4 of which he showed you today?

5 A. No.

6 Q. You were not aware that he had an
7 exhibit list?

8 A. No.

9 Q. Okay. Were you, were you aware of an
10 individual by the name of Dr. Barry Castleman as
11 being a witness in this case on behalf of the
12 Plaintiff's attorneys?

13 A. I'm aware of Dr. Castleman, and I
14 really don't know if he was an expert in this or
15 in this particular matter.

16 Q. Okay. I want you to assume that
17 Dr. Castleman is the Plaintiff's expert in a
18 case called Roth, a case called Campo, a case
19 called Zatz, and a case called Renow. I want to
20 assume that. Okay?

21 A. Yes.

22 Q. Do you know who Dr. Castleman is?

23 A. Yes.

24 Q. Who's Dr. Castleman as you understand
25 it?

1 A. Dr. Barry Castleman is an author of
2 several editions of a book on asbestos and
3 disease. And it's my understanding he spent a
4 lot of time going through different studies and
5 studying the history of asbestos and things like
6 that.

7 Q. And is Dr. Castleman -- have you read
8 Dr. Castleman's latest edition of his book, the
9 fourth edition?

10 A. Yes.

11 Q. Okay. And in that book what are some
12 of the things he addresses regarding
13 corporations that he talks about in that book?

14 A. Well, in some instances he addresses
15 corporations that he thought were at fault in
16 certain types of situations where people were
17 exposed to asbestos, and he goes into different
18 corporate histories and companies that he
19 thinks, kind of paraphrasing it, but they
20 weren't good.

21 Q. Okay. Did you also read
22 Dr. Castleman's deposition testimony at all?

23 A. Yes.

24 Q. Okay. And in those depositions did he
25 talk about companies?

1 A. Yeah, he talks about some things in
2 general.

3 Q. Okay. Do you recall whether or not
4 Dr. Castleman indicated that one of the major
5 sources of information that he was using when
6 talking about companies and their role of
7 asbestos was information he was getting from
8 Plaintiffs' attorneys such as Mr. Kristal? Do
9 you recall him saying that?

10 MR. KRISTAL: Objection. Form.

11 THE WITNESS: Yes.

12 MR. SPEZIALI: Okay. Well, let me
13 re-ask it so there's no objection. Do you
14 recall whether Dr. Castleman had gotten any
15 information from litigation-related sources?

16 MR. KRISTAL: Objection. Form.

17 THE WITNESS: Yes.

18 BY MR. SPEZIALI:

19 Q. Okay. What was one of the
20 litigation-related sources?

21 A. What was one of them?

22 Q. What was one of the sources, yes?

23 A. Yes. Well, it's my understanding that
24 he works with a lot of Plaintiffs' attorneys on
25 a continuing basis, and a lot of his material

1 he's researched and, and provided documentation
2 for.

3 Q. Okay. Do you recall whether in the
4 fourth edition of his book whether Dr. Castleman
5 ever indicated, based upon all the information
6 he had seen, ever indicated that the General
7 Electric Corporation had acted inappropriately
8 with an eye towards hurting workers with respect
9 to the use and sale of asbestos?

10 A. No.

11 Q. Okay. You don't recall or he didn't
12 say that?

13 A. He didn't say that. I looked for that.

14 Q. Okay. In fact, of all the companies
15 that he talked about as having improper and bad
16 conduct, did he, did he at once suggest anything
17 in there that General Electric did bad or
18 improper at all?

19 MR. KRISTAL: Objection. Form.
20 BY MR. SPEZIALI:

21 Q. Did he ever say?

22 A. No.

23 Q. Okay. And let me take it a step
24 further. You have reviewed documents, many of
25 which -- very few of which Mr. Kristal mentioned

1 to you going back to the 1920s. You've
2 interviewed former corporate people with the
3 corporation. You've reviewed historical and
4 scientific literature.

5 In the period of time -- if you go
6 back, and let's use 1920 to today, which would
7 be eighty-four years, do you know of anybody who
8 has ever written an article, published a
9 statement, given a speech, perhaps even in this
10 day and age wrote an e-mail, do you know of
11 anybody who has ever suggested that the General
12 Electric Corporation acted with malice and
13 intention to try to hurt workers with respect to
14 the sale and use of asbestos? Do you know
15 anybody who's ever said that?

16 A. No.

17 MR. KRISTAL: Objection. Form.

18 MR. SPEZIALI: Do you know of any
19 document which would ever support such an
20 outrageous accusation?

21 MR. KRISTAL: Objection. Form.

22 THE WITNESS: No.

23 MR. SPEZIALI: Do you -- you talked
24 about Dr. -- you talked about Alice Hamilton --
25 Dr. Alice Hamilton, right?

1 THE WITNESS: Yes.

2 MR. SPEZIALI: Okay. Let me ask you
3 this: There was a exhibit in -- I just ask the
4 jury to bear with me for one second while I pull
5 it out. It is --

6 THE SPECIAL MASTER: Do you want us to
7 go off camera?

8 MR. SPEZIALI: You know, it's only going
9 to take me one second assuming that I'm -- it's
10 Exhibit 42. Let's see how good my notes are.

11 Exhibit 42, Mr. Kristal showed this to
12 you. It's a letter December 14th, 1933 by
13 Dr. Hamilton to Dr. Gerard Swope, the president
14 of General Electric. Take a quick look. Do you
15 remember seeing that?

16 MR. KRISTAL: Object to the form.

17 THE WITNESS: Yes.

18 BY MR. SPEZIALI:

19 Q. Okay. Let me ask you this: Were you
20 asked to review documents as part of your
21 project with General Electric?

22 A. Yes.

23 Q. You were. Okay. And in addition to
24 reviewing documents that General Electric had
25 asked you to look at, did you do your own

1 independent research regarding Dr. Hamilton?

2 A. Yes, I did.

3 Q. Tell the jury what you did.

4 A. Well, what I did was including reading
5 her extensive reports on her visits to GE
6 facilities, I went to Harvard and Radcliffe
7 libraries, and I looked at her original papers.
8 I also saw some copies of her original papers at
9 the Schenectady museum. So I independently
10 reviewed her original documents.

11 Q. Okay. Did you -- prior to undertaking
12 your review of, of Dr. Hamilton or your review
13 of the General Electric documentation, did you
14 know who Dr. Hamilton was?

15 A. Oh, yes.

16 Q. Okay. How did you know who she was?

17 A. Well, I knew about her from Harvard.

18 Q. Okay. It's something that you were
19 taught about?

20 A. Sure, she was --

21 Q. We'll get to that in a minute who she
22 was. But I want to read to you a paragraph from
23 Exhibit 42 that Mr. Kristal read to you written
24 by Dr. Hamilton. And it's about asbestos, and
25 it says in the middle of the second paragraph,

1 this is the question of asbestos dust, and she's
2 talking about coming back in, in -- beginning
3 the project after the Depression.

4 A. Right.

5 Q. Okay. And we'll have this for the jury
6 to see blown up so everybody can read along
7 during the trial.

8 It has lately come into prominence
9 because a combination of not very scrupulous
10 lawyers and doctors have been pushing civil
11 suits against certain companies for alleged
12 injury from asbestos. Johns-Manville Company
13 and Multibestos have had a great deal of trouble
14 from such claims. Many of them, I believe,
15 quite justified but not all.

16 Next paragraph. Now you have asbestos
17 dust in Bridgeport and York. I think you told
18 me that the York plant was destined to be closed
19 in the near future. Still that would not
20 prevent the bringing of suits. I think the only
21 safe thing to do is to leave the situation
22 looked over by Philip Drinker and dust counts
23 made so that if suits do develop and you will be
24 prepared in advance, perhaps you will take this
25 up with Philip Drinker.

1 Now, do you remember Mr. Kristal
2 reading that?

3 A. I do.

4 Q. Tell the jury --

5 MR. KRISTAL: Well, object to the form,
6 if that's the question.

7 MR. SPEZIALI: Well, that was the
8 question.

9 MR. KRISTAL: Okay.

10 MR. SPEZIALI: Tell the jury who Philip
11 Drinker was.

12 THE WITNESS: Philip Drinker was a
13 pioneer in industrial hygiene. He was a
14 professor at Harvard, and he specialized in
15 different types of industrial hygiene diseases
16 and sampling methods, dust counting methods. He
17 was, he was a real early pioneer in the field.

18 MR. SPEZIALI: And in the 1940s when
19 the United States government, particularly the
20 United States Navy, wanted to know how asbestos
21 was impacting the men and women fighting during
22 World War II to protect our country, who did
23 they turn to to research that subject?

24 MR. KRISTAL: Object to the form of the
25 question.

1 THE WITNESS: They -- one of the people
2 they turned to was Phil Drinker.

3 MR. SPEZIALI: Did he publish, in fact,
4 and advise the Navy?

5 MR. KRISTAL: Object to the form of the
6 question.

7 THE WITNESS: He did, yes.

8 MR. SPEZIALI: Okay. And let me, let
9 me ask you this: Based upon the documents you
10 reviewed and the research you did regarding
11 Alice Hamilton, do you know of anybody anywhere
12 at any time who would ever, ever attempt to
13 characterize Alice Hamilton as somebody whose
14 concerns over worker health arise out of
15 concerns over lawsuits? Do you know of anybody
16 who would dare to make such an accusation?

17 THE WITNESS: Certainly not.

18 MR. KRISTAL: Object to the form of the
19 question.

20 MR. SPEZIALI: Tell the jury who Alice
21 Hamilton was in the world of industrial hygiene
22 and worker health.

23 THE WITNESS: Dr. Alice Hamilton was a
24 pioneer in occupational medicine and industrial
25 hygiene. In fact, she's attributed to the start

1 of occupational medicine in this country.
2 Before her, there really was no person of her
3 stature and training who went around and studied
4 the factories and saw how people could be
5 affected at work.

6 She was a unique, very highly qualified
7 and admirable person who really genuinely cared
8 about people in the factories that she went in,
9 and she -- I've read her autobiography, I've
10 read letters that she's written, and you can
11 just tell from her writing in her heart she
12 cares about people and their health.

13 And so what she did, one of her unique
14 and wonderful things that she did was she worked
15 for the GE Company for about eleven, twelve
16 years as an industrial hygiene and medical
17 doctor consultant, went all through their
18 factories, did inspections at will, wasn't
19 hindered in any way, could go anytime, anywhere,
20 as many times as she wanted. And she went
21 through the factories, found certain things,
22 reported them directly to the company president,
23 and they were followed up on.

24 MR. SPEZIALI: And let me ask you this:
25 Do you recall Dr. Castleman, the expert that Mr.

1 Kristal retained in these cases, being asked
2 what his opinion was of Alice Hamilton?

3 THE WITNESS: Yes.

4 MR. KRISTAL: Object to the form of the
5 question.

6 MR. SPEZIALI: Did, did he have
7 anything negative to say about Dr. Hamilton?

8 THE WITNESS: No.

9 MR. KRISTAL: Object to the form of the
10 question.

11 MR. SPEZIALI: Okay. Can you think of
12 any respected industrial hygienist or physician
13 concerned with occupational health who knows the
14 history of occupational health who would
15 possibly have a negative thing to say about her?

16 THE WITNESS: No, absolutely not.

17 MR. KRISTAL: Object to the form of the
18 question.

19 BY MR. SPEZIALI:

20 Q. And let's talk about what happens --
21 there were a lot of documents when Mr. Kristal
22 talked to you about Alice Hamilton. Have you
23 researched her history with respect to coming to
24 the General Electric Corporation and reviewing
25 its plants?

1 A. Yes.

2 Q. Okay. Tell the jury -- and, and I know
3 it was an eleven-year history. Try to shorten
4 it if you can to a couple minutes. What, what
5 exactly was Dr. Hamilton -- first off, did
6 Dr. Hamilton work as an employee for the company
7 or an outside consultant?

8 A. She was an outside consultant.

9 Q. Okay. What, what was she doing in the
10 early '20s when she was first approached by
11 General Electric?

12 A. Well, that's when she was actually
13 hired as the first woman professor at Harvard,
14 and she was hired by Harvard Medical School, and
15 she taught the first course at that university
16 in occupational medicine.

17 Q. Okay. And, and her specialty was
18 occupational medicine with respect to what?

19 A. Occupational medicine with regard to
20 any type of occupational disease; different
21 kinds of chemical exposures, whatever.

22 Q. Okay. It could be asbestos?

23 A. It could be.

24 Q. It could be that sandblasting that we
25 heard about?

1 A. It could be, sure.
 2 Q. It could be welding fumes?
 3 A. Yes.
 4 Q. Okay. And in the writings that you saw
 5 in the '20s, did those writings indicate whether
 6 she was pro worker health or against worker
 7 health?
 8 A. She was most definitely pro worker
 9 health.
 10 Q. And had she published prior to the time
 11 that General Electric had approached her?
 12 A. Had she published prior to the early
 13 '20s? She might have written some articles.
 14 Subsequently she certainly was a vast publish --
 15 Q. Who -- what did you understand from
 16 your review of the documents was the nature of
 17 the project that General Electric approached her
 18 about?
 19 A. Oh, that GE approached her about? She
 20 had an understanding with the president of GE,
 21 his name was Gerard Swope, that she would go
 22 through all the factories of GE, she would walk
 23 through, she took as much time, a day, two days,
 24 as many days as it took, and she looked at every
 25 operation.

1 She noticed if there were health
 2 problems, and she wrote to the president and
 3 said, you know, I noticed this, I noticed that,
 4 I'd like to correct it. She came up with a
 5 means so that diseases could be prevented.
 6 Q. Was that with just asbestos or other
 7 substances, as well?
 8 A. That was with the whole gamut of things
 9 that were prevalent in industry at that time.
 10 Q. Okay. And did she -- again, Mr.
 11 Kristal showed you various -- some of the
 12 letters. Were there more letters than just the
 13 ones he showed you?
 14 A. Yes, there were four binders full that
 15 we have.
 16 Q. Okay. And assume at some point the
 17 jury will have an opportunity to see them. Let
 18 me ask you this: The -- were there
 19 recommendations -- we know that there were a
 20 couple years during the Depression that she did
 21 not consult, but for the periods that she did
 22 consult, were, were there specific
 23 recommendations made by her as things that could
 24 be done to protect workers at the General
 25 Electric facilities?

1 MR. KRISTAL: Object to the form of the
 2 question.
 3 THE WITNESS: Yes.
 4 MR. SPEZIALI: And from your review of
 5 all the documents that you've looked at, from
 6 whatever interviews you had, from actually going
 7 to Harvard or wherever else you did to review
 8 Dr. Hamilton's writings and publications, to
 9 this day has there ever -- have you ever seen a
 10 single piece of information to suggest that the
 11 recommendations that she made to the General
 12 Electric Corporation were ignored and not
 13 carried out?
 14 MR. KRISTAL: Object to the form of the
 15 question.
 16 MR. SPEZIALI: Have you ever seen
 17 anything that suggested that?
 18 THE WITNESS: No.
 19 MR. SPEZIALI: Okay. Why, in 1920,
 20 based upon what you saw, if you have an opinion
 21 on this, why would in the world would a company
 22 as big as General Electric, even back then, be
 23 approaching somebody like Dr. Hamilton whose,
 24 whose role and mission was to protect workers?
 25 Why would General Electric be doing such a

1 thing?
 2 MR. KRISTAL: Object to the form of the
 3 question.
 4 THE WITNESS: I can only imagine that
 5 they were truly interested in protecting the
 6 health and safety of their workers. It was a
 7 unique and a wonderful thing by hiring her and
 8 having her expertise directed directly to the
 9 president of the company.
 10 MR. SPEZIALI: The jury is going to --
 11 I want to assume is going to hear about a lot of
 12 other companies, and they're going to read about
 13 a lot of other companies. You saw lots of names
 14 in the ceramic organization and all those other
 15 organizations, Industrial Health Foundation.
 16 Do you know of any other company -- and
 17 take any period of time you want to during
 18 Dr. Hamilton's career up until she passed away,
 19 do you know of any other company in corporate
 20 America or outside of America that retained
 21 Dr. Hamilton to do for them in terms of the
 22 projects and implementation of recommendations
 23 such as the General Electric Corporation did?
 24 THE WITNESS: No.
 25 MR. KRISTAL: Object to the form of the

1 question.

2 Are you getting my objections, because
3 if not, we need to slow down?

4 THE REPORTER: I'm getting them. I'll
5 let you know.

6 MR. KRISTAL: Thank you.

7 BY MR. SPEZIALI:

8 Q. Mr. Kristal talked to you about -- it
9 was a question I forgot to ask. How many visits
10 did Dr. Hamilton make to the various General
11 Electric facilities, if you recall?

12 A. Oh, I'd say over the course of her
13 eleven, twelve years, about two hundred or so
14 visits.

15 Q. Do you remember, and ballpark, how
16 many -- was there a report done each visit or
17 how did that work?

18 A. Yeah, pretty much there was a report
19 done by visit or summarized by visit, sure.

20 Q. Mr. Kristal also talked to you about
21 what was marked as Exhibit 38, basically known
22 as the Merewether report. Do you remember that?

23 A. Yes.

24 Q. Okay. And that was the report on
25 effects of asbestos dust done basically on

1 behalf of the British government in 1930?

2 A. Yes.

3 Q. Okay. And were you familiar with this
4 report?

5 A. Yes.

6 Q. Okay. What is this report all about?

7 A. This report is about Dr. Merewether
8 went into an asbestos textile factory and was
9 looking at various types of -- things that go
10 on -- went on in the factory to find out what
11 was happening. You know, were certain things --
12 were certain levels -- dust levels high, were
13 certain -- relative amounts of dust of different
14 operations. He was doing an exhaustive study
15 for Britain.

16 Q. Uh-huh. And I want to show you a
17 document which is -- it was put -- it's not part
18 of Exhibit 38, although it's --

19 MR. SPEZIALI: And I don't know how,
20 Mr. Kristal, how you want to handle this.

21 MR. KRISTAL: Just mark it.

22 MR. SPEZIALI: I'm suggesting we call
23 it 38-A. It's the cover letter to the Merewether
24 report.

25 MR. KRISTAL: You can call it whatever

1 you want to call it.

2 MR. SPEZIALI: Is that okay with you?

3 MR. KRISTAL: I don't care what number
4 you give it. 38-A?

5 MR. SPEZIALI: I think 38-A would work
6 better because it's part of it.

7 MR. KRISTAL: I don't care what you
8 call it.

9 MR. SPEZIALI: You might care. You
10 haven't heard what I might call it.

11 MR. KRISTAL: I don't care how you
12 number it. Let's put it that way.

13 MR. SPEZIALI: 38-A.

14 (Whereupon, Exhibit 38-A, a cover
15 letter for the report from Dr. Merewether, was
16 then received and marked for identification.)

17 BY MR. SPEZIALI:

18 Q. Have you seen 38-A before?

19 A. Yes.

20 Q. What is 38-A?

21 A. 38-A is a cover letter for this report
22 from Dr. Merewether.

23 Q. Okay. Does Dr. -- based on what you
24 read in the report and, and in the cover letter,
25 did Dr. Merewether draw any conclusions with

1 respect to health hazards related to exposure to
2 asbestos?

3 A. Yes.

4 Q. And what were his conclusions?

5 A. Well, in general he said that high
6 levels can cause asbestos disease.

7 Q. Okay. And does he indicate in the
8 letter to -- who's the letter addressed to and
9 what's the date of it?

10 A. Let's see. It says it's for the home
11 department, and it is from the chief inspector
12 of factories in England.

13 Q. Okay. And it's dated March 17th, 1930?

14 A. Yes.

15 Q. Okay. And, and if you could look at
16 the second paragraph first, does he indicate
17 what he deems to be the solution to protecting
18 workers from asbestos-related ailments and
19 disease?

20 A. Yes.

21 Q. What does he say?

22 A. He says the remedy for the conditions
23 was -- is suppression of dust.

24 Q. Okay. And he goes on to say, does he
25 not, that in the non-textile section of the

1 industry no serious difficulties arise as
2 regards to the application of exhaust
3 ventilation?

4 A. Correct.

5 Q. Okay. Now, the idea of suppression of
6 the dust, did that become something -- with
7 respect to asbestos, did that become something
8 to be recognized by the industrial hygiene
9 communities at some point in time?

10 A. Yes.

11 Q. Okay. And explain to the jury what --
12 how does suppression of the dust from an
13 industrial hygiene standpoint -- let's use, for
14 lack of a better phrase, how does that work with
15 respect to asbestos?

16 A. Yeah. It could work in a variety of
17 ways. Basically it's ways to keep the dust
18 levels down, and so there are various things
19 that have evolved over the years in industrial
20 hygiene. There are things like wetting methods.
21 There are things like local exhaust ventilation.
22 And in some instances maybe separation of dusty
23 from non-dusty areas. A variety of things.

24 Q. Okay. Let's step back a second so the
25 jury gets a better grasp of this. What is

1 products, in the marketplace, anywhere, should
2 be banned because there was no way to protect
3 workers from it? Did anybody ever publish that?

4 MR. KRISTAL: Object to the form of the
5 question.

6 THE WITNESS: No.

7 MR. SPEZIALI: Okay. If Merewether
8 concluded that exposure to asbestos was
9 dangerous, then how is it that, that asbestos
10 was not banned from the marketplace?

11 MR. KRISTAL: Object to the form of the
12 question.

13 THE WITNESS: Because what they
14 found -- what they, what they knew at the time
15 was that if you kept the levels down, you could
16 work with the material safely.

17 BY MR. SPEZIALI:

18 Q. Okay. And this Merewether report that
19 Mr. Kristal asked you to look at, do you know
20 where this was published?

21 A. It's my understanding it was published
22 in England.

23 Q. Okay. Do you believe that this was
24 generally available in the medical and
25 scientific literature, whether it's 1930, '31

1 asbestos?

2 MR. KRISTAL: Object to the form of the
3 question.

4 THE WITNESS: Asbestos is a mineral.
5 It happens to be in a fiber form. It's unusual
6 in that regard, and it's found in the ground.

7 MR. SPEZIALI: Okay. And in the --
8 what do they do? They dig it out of the ground?

9 MR. KRISTAL: Object to the form of the
10 question.

11 THE WITNESS: They dig it out. They
12 mine it. They dig it out, right.

13 MR. SPEZIALI: Okay. And going back to
14 the 1930s, starting in the '30s and whatever
15 articles came before that, and I want you to
16 think about them all. I want you to think about
17 those articles that came out of Germany and
18 France that Mr. Kristal talked to you about in
19 the 1800s, talked about some articles that were
20 published here in the United States in the 1900s
21 including Cook's article, all the articles, the
22 ones that coined the phrase asbestosis.

23 Up until Merewether published,
24 including the Merewether report, did any
25 researcher ever say that the use of asbestos in

1 but certainly sometime in the early '30s?

2 A. Yes.

3 Q. And this is certainly something that
4 was available for General Electric to look at?

5 A. Yes.

6 Q. This was something -- was this
7 available for the rest of the world to look at?

8 MR. KRISTAL: Object to the form of the
9 question.

10 THE WITNESS: Yes.

11 MR. SPEZIALI: Yes or no. Was this
12 available for state and government agencies to
13 look at?

14 MR. KRISTAL: Object to the form of the
15 question.

16 THE WITNESS: Yes.

17 MR. SPEZIALI: Okay. Maybe I missed
18 something. Was this some deep, dark secret that
19 they found in the basement in Fairfield at the
20 General Electric Corporate headquarters that
21 nobody knew until Mr. Kristal found it?

22 MR. KRISTAL: Object to the form of the
23 question.

24 THE WITNESS: No.

25 MR. SPEZIALI: No? Okay. Now, after

1 the Merewether report was published or sent to
2 Her Majesty in England -- I think it says Her
3 Majesty -- did the British government do
4 anything to regulate control of asbestos in its
5 country?

6 THE WITNESS: Yeah. They passed a
7 regulations in 1931.

8 MR. KRISTAL: Object to the form of the
9 question.

10 BY MR. SPEZIALI:

11 Q. And did those regulations ban the use
12 of asbestos?

13 A. No.

14 Q. How did the regulations work with
15 respect to the use of asbestos starting in '31?

16 A. Well, starting in '31 what they did was
17 basically adopted the recommendation of the
18 report in various ways to keep the dust levels
19 down.

20 Q. Now, Mr. Kristal talked to you about
21 some other articles or he referenced them in
22 some of the citations that were in some of the
23 documents in the '30s. Were there additional
24 articles dealing with asbestos-related health
25 issues in the '30s?

1 A. Sure, yes.

2 Q. Okay. And in 1938 -- and those -- let
3 me say this to you, and those articles would
4 have been available for General Electric to know
5 about?

6 A. Sure.

7 Q. Would they have been generally
8 available to anybody who chose to look in the
9 medical and scientific literature?

10 MR. KRISTAL: Object to the form of the
11 question.

12 THE WITNESS: Yes.

13 MR. SPEZIALI: By the way, did General
14 Electric have a mine of asbestos that you're
15 aware of?

16 THE WITNESS: No.

17 MR. SPEZIALI: Okay. Did, did General
18 Electric have facilities that manufactured and
19 sold finished asbestos-containing pipe covering,
20 block or cements or sprays?

21 MR. KRISTAL: Object to the form of the
22 question.

23 THE WITNESS: No.

24 BY MR. SPEZIALI:

25 Q. No. In 1938, there was a researcher

1 that you actually referenced earlier by the name
2 of Dreessen. Do you remember that?

3 A. Yes.

4 Q. And do you remember who Dr. Dreessen is
5 without me taking out the report?

6 A. Yes.

7 Q. Who was he?

8 A. Dr. Dreessen was a doctor with the US
9 Public Health Service.

10 Q. And what was Dr. Dreessen asked to do
11 in 1938?

12 A. Dr. Dreessen was asked to study
13 asbestos, and he went into a textile mill, and
14 he did studies of dust levels and disease. And
15 he came up with a level that he thought was a
16 basic cut-off ballpark level that he thought was
17 considered safe based on his research.

18 Q. Did Dr. Dreessen conclude that asbestos
19 could be dangerous to workers' health?

20 MR. KRISTAL: Object to the form of the
21 question.

22 THE WITNESS: Yes.

23 MR. SPEZIALI: Okay. Now, did
24 Dr. Dreessen believe that his dust level was
25 absolutely safe to be established --

1 MR. KRISTAL: Object to the form of the
2 question.

3 MR. SPEZIALI: -- based on what he
4 published?

5 MR. KRISTAL: Object to the form of the
6 question.

7 THE WITNESS: Not absolutely safe, no.

8 BY MR. SPEZIALI:

9 Q. What did he do, what did he do in terms
10 of establishing dust level?

11 A. Well, what he did was he studied
12 different areas and found out where people were
13 getting sick or not sick. And he came up with a
14 level that he thought was a level that -- below
15 which people would generally be safe based on
16 best available information at the time.

17 Q. Do you remember what the level was in
18 1938?

19 A. Yes.

20 Q. What was that?

21 A. It was five million particles per cubic
22 foot of air.

23 Q. Okay. Did Dr. Dreessen or did anybody,
24 as a result of Dr. Dreessen's report, publish
25 anything suggesting that the use of asbestos in

MR. KRISTAL: Object to the form of the question.

THE WITNESS: No.

MR. SPEZIALI: Okay. Through 1940 do you -- of all the literature that you saw, the documents that you saw, have you ever seen anything in the industrial hygiene literature that suggested that the use of asbestos should be banned because of the high dangers to workers' health?

MR. KRISTAL: Object to the form of the question.

THE WITNESS: No.

BY MR. SPEZIALI:

Q. Okay. Do you remember what year Pearl Harbor got bombed?

A. Yes.

Q. When did that happen?

A. December 1941.

Q. A day, a day that will live in infamy.

A. Yes.

Q. And does that pinpoint the date that the United States government entered World War II?

she's now testifying as an expert, and therefore, we'll be raising certain objections as to that.

If that can be preserved to argue at a later time, then I don't need to say anything else about it, but the Navy and those issues were not something she's designated to speak as a GE representative. Is that okay? We can have that understanding?

MR. SPEZIALI: No. You need to speak further.

MR. KRISTAL: I'm going to ask the special master. I'm assuming that those objections would be reserved that it's beyond the scope of her testimony as a GE designee.

THE SPECIAL MASTER: Those will be left to the trial judge as to whether or not this testimony falls under what category, whether it's admissible, et cetera.

MR. KRISTAL: All I'm asking is I'm assuming I don't need to make every objection.

THE SPECIAL MASTER: No, you do not.

MR. KRISTAL: Okay.

THE SPECIAL MASTER: However, we would

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A. Yes.

Q. Okay. Did the, did the entry of the United States into World War II have an impact on how asbestos was used in the United States?

A. Yes.

Q. How did that happen?

A. How did that happen? Well, it was considered a material that was essential for the defense of this country because it was so important to ships and how they could be properly used, reliably used and what was available to be used for the betterment --

MR. KRISTAL: I'd like to just -- when you're done with your answer, I'd like to state something.

THE WITNESS: -- for the betterment of the Navy and assurance that the ships would run properly.

MR. KRISTAL: I'd like to state for the record we seem to have segued into Ms. Drucker in her capacity as an expert because these were areas in which Ms. Drucker was designated as an expert.

So to the extent that this video is going to be played back at some other point in

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need to know when this objection ends at some point on the record so --

MR. KRISTAL: No, no. What I'm saying is I don't want necessarily a continuing objection, but any objection would be preserved at the time that I need to make it.

THE SPECIAL MASTER: Yes, yes.

MR. KRISTAL: Because this is not a form objection.

THE SPECIAL MASTER: All objections are preserved except as to form.

MR. KRISTAL: I just want that to be clear.

THE SPECIAL MASTER: It's clear.

MR. SPEZIALI: I do need to make a statement on the record because I hope I'm here forever but maybe I won't be available, so you have to understand two things. First off, this deposition is a continuation of days one and two of which some of these questions addressed.

Secondly, these questions are in her capacity as a 30(b)(6) witness because these cases -- the four cases that I'm familiar with, which were Roth, Campo, Renow and Zatz, all deal exclusively with Navy exposures. The,

1 the use of asbestos by the United States Navy
2 aboard their ships is part of the GE historical
3 document story of which she is a 30(b)(6)
4 witness particularly with respect to turbines
5 aboard Navy ships.

6 So -- so yes, there are two hats that she
7 would be wearing, but certainly it would be, and
8 absolutely not true, that the information she
9 knows about the United States Navy and its use
10 of asbestos is not relevant to her 30(b)(6)
11 role, and B, it's relevant for all those Navy
12 documents.

13 THE SPECIAL MASTER: I think you both
14 made your record, and it's all preserved, and
15 the judge will decide.

16 MR. SPEZIALI: Now, I guess continuing,
17 when the United States Navy -- let's strike that
18 and start it over.

19 You told us about the use of, of
20 asbestos during World War II, and I'm not going
21 to get into a lot of detail except to ask you
22 this: Did, did the General Electric Corporation
23 have involvement with supplying equipment to the
24 United States Navy as it constructed ships
25 during World War II?

1 THE WITNESS: Yes.

2 MR. SPEZIALI: Okay. And without going
3 into a lot of detail, was there actually books
4 published on General Electric Corporation's
5 contributions --

6 THE WITNESS: Yes.

7 MR. SPEZIALI: -- to this nation's war
8 effort and particularly with the United States
9 Navy?

10 THE WITNESS: Yes.

11 MR. KRISTAL: Object to the form of the
12 question.

13 MR. SPEZIALI: Do you remember the name
14 of the book?

15 THE WITNESS: There's a book that's
16 called Men and Volts At War which goes over the
17 many contributions of GE to the war effort.

18 MR. KRISTAL: I also just want to put
19 on the record that when I was asking questions
20 about GE equipment, turbines, et cetera and
21 asbestos products, there was discussion that
22 there were other GE people who were most
23 knowledgeable and that was not within anything
24 that Ms. Drucker was being designated for, so
25 I'd like to preserve that objection.

1 MR. SPEZIALI: And we maintain that
2 position, and I'm not asking the engineering
3 questions that you were asking.

4 MR. KRISTAL: I was not asking any
5 engineering questions.

6 MR. SPEZIALI: Okay. Another dispute
7 that we have.

8 MR. KRISTAL: Just another of many.

9 MR. SPEZIALI: Let me ask, is there
10 anything that was in that book that was
11 published that suggested that the General
12 Electric Corporation acted improperly with
13 respect to the sale of its equipment to the
14 United States Navy during World War II?

15 MR. KRISTAL: Object to the form of the
16 question.

17 THE WITNESS: No.

18 MR. SPEZIALI: Okay. Do you know of
19 any editorials or -- that were ever published to
20 suggest that the General Electric Corporation's
21 role in supplying the United States Navy during
22 World War II was improper?

23 MR. KRISTAL: Object to the form of the
24 question.

25 THE WITNESS: No.

1 MR. SPEZIALI: Okay. Did the Navy, as
2 a result of its use of asbestos during World War
3 II, do a study to determine how that use of
4 asbestos impacted the sailors aboard Navy ships?

5 MR. KRISTAL: I need to just interrupt
6 again. Can I have a ruling? Is a foundation
7 objection form, because I don't believe it is.

8 THE SPECIAL MASTER: No.

9 MR. KRISTAL: Okay.

10 MR. SPEZIALI: I'm sorry.

11 THE SPECIAL MASTER: Form is the form
12 of the question, whether the question would be
13 objectionable; multiple, leading, all of the
14 kinds of things that go into the form of the
15 question.

16 MR. KRISTAL: That's fine. But I would
17 have foundation objections, but if those are
18 preserved too --

19 THE SPECIAL MASTER: Those are
20 preserved.

21 MR. KRISTAL: Okay. Thank you.

22 MR. SPEZIALI: Go ahead. Did the Navy
23 do a study to see how the use of asbestos
24 impacted the sailors in World War II?

25 THE WITNESS: They did.

1 MR. KRISTAL: Object to the form of the
2 question.
3 MR. SPEZIALI: Okay. And who were the
4 authors of that study?
5 THE WITNESS: The authors were
6 Dr. Fleischer and then Dr. Drinker, who we
7 mentioned a little while ago.
8 MR. SPEZIALI: Okay. Well, you took
9 the words -- you stole my thunder, but is that
10 the same Dr. Drinker that the General
11 Electric -- that Dr. Hamilton suggested getting
12 involved in her work with respect to the General
13 Electric Corporation?
14 THE WITNESS: Yes.
15 MR. SPEZIALI: And what year was that
16 study published?
17 THE WITNESS: 1946.
18 MR. SPEZIALI: All right. And in that
19 study, did the authors discuss the use of
20 asbestos during World War II aboard Navy ships?
21 MR. KRISTAL: Object to the form of the
22 question.
23 THE WITNESS: Yes, yes.
24 MR. SPEZIALI: Okay. And in that study
25 did they draw any conclusions regarding the use

1 of asbestos as used aboard Navy ships for
2 insulation purposes?
3 MR. KRISTAL: Object to the form of the
4 question.
5 THE WITNESS: Yes.
6 BY MR. SPEZIALI:
7 Q. What did they conclude?
8 A. They concluded that they -- that
9 asbestos was a safe product if used properly.
10 Q. And used properly meaning what?
11 A. Keeping the dust levels down to below
12 the five million particles per cubic foot. That
13 was also mentioned in the Dreessen report you
14 mentioned earlier.
15 Q. Okay. Were there additional articles
16 published in the 1960s dealing with asbestos?
17 A. Yes.
18 Q. And asbestos health hazards?
19 A. Yes.
20 Q. Okay. And you had had a long
21 discussion with Mr. Kristal whether the
22 threshold levels for exposure to asbestos in the
23 '30s -- or, I'm sorry, in the '40s and '50s and
24 '60s were total dust or asbestos dust? Do you
25 remember that?

1 A. Yes.
2 Q. Okay. Did you ever hear of an
3 organization called the American Conference of
4 Governmental Industrial Hygienists?
5 A. Yes.
6 Q. Who was -- and they're known as the
7 ACGIH?
8 A. Right.
9 Q. Okay. Who is that organization?
10 A. Yes. The ACGIH is a group of, of
11 university and government people that study
12 different health effects or studies that were
13 done on health effects, and they come up with
14 levels that they think are safe. Those are
15 called threshold limit values.
16 Q. Okay. And did the ACGIH publish
17 threshold limit values with respect to asbestos
18 in 1946?
19 A. Yes.
20 MR. KRISTAL: Object to the form of the
21 question.
22 (Whereupon, Exhibit 80, proceedings of
23 the 8th annual meeting of the ACGIH, was then
24 received and marked for identification.)
25 BY MR. SPEZIALI:

1 Q. And I'm going to show you what I marked
2 as Exhibit 80 is the next exhibit; is that
3 correct? For some reason I thought we had an
4 80. Exhibit 80. These are the -- three pages
5 from the proceedings. Have you seen these
6 before?
7 A. Yes.
8 Q. Two more pages. I'm sorry.
9 A. Thank you.
10 Q. Okay. Can you go -- what are those?
11 A. These are proceedings of the 8th annual
12 meeting of this group we're calling the ACGIH,
13 the government and the industry people.
14 Q. Okay. If you can --
15 A. I'm sorry. Government and university
16 people.
17 Q. Okay. The threshold limit values --
18 did the ACGIH have threshold limit values just
19 for asbestos?
20 A. Oh, no. They had them for many
21 hundreds of materials that could be used in
22 workplaces.
23 Q. Okay. And if you can go to the section
24 on mineral dust. Go to the next page. I
25 believe that's where it is. I know the print is

1 small, and I can make it easy for you here.

2 A. Okay.

3 Q. I want to call your attention to the
4 asbestos line and the total dust line, if you
5 could. On this issue of asbestos dust and total
6 dust, did the ACGIH indicate whether there was a
7 threshold value for asbestos dust?

8 MR. KRISTAL: Object to the form of the
9 question.

10 THE WITNESS: For asbestos dust, yes.
11 BY MR. SPEZIALI:

12 Q. What did they say?

13 A. That was the five million particles per
14 cubic foot.

15 Q. Okay. And did they have a separate
16 value for total dust?

17 A. They did.

18 Q. What was that?

19 A. That was fifty million particles per
20 cubic foot.

21 Q. Okay. And if we could mark as Exhibit
22 51 -- or 81. I'm sorry.

23 (Whereupon, Exhibit 81, November 7th,
24 1955, Department of Navy, Bureau of Medicine and
25 Surgery, subject, threshold limit values for

1 A. Yes.

2 Q. And what was that?

3 A. Fifty million particles per cubic foot.

4 Q. Okay. Do you recall a discussion with
5 Mr. Kristal regarding some answers to
6 interrogatories by the General Electric
7 Corporation which were marked as Exhibit 56?

8 A. Yes.

9 Q. Okay. And if you could go to
10 interrogatory answer number fifty-eight --

11 A. Yes.

12 Q. -- if I could just lean over, and
13 number fifty-eight, Mr. Kristal asked you, and
14 the question was, were the threshold limit
15 values -- were maximal allowable concentrations
16 inquired about in interrogatory fifty-seven, and
17 that's where they asked the threshold limits
18 exist, were they for total dust and not asbestos
19 dust alone.

20 And the answer that Mr. Kristal read to
21 you, and if you could read along and I'll read
22 it to the jury, GE understood that the units of
23 measure prior to the 1970s when electron
24 microscopy began to provide a means for specific
25 counting of asbestos fibers, measured

1 toxic materials, was then received and marked
2 for identification.)

3 MR. KRISTAL: May I see that, please?
4 Thank you.

5 MR. SPEZIALI: These are November 7th,
6 1955, Department of Navy, Bureau of Medicine and
7 Surgery, subject, threshold limit values for
8 toxic materials. Have you seen these before?

9 THE WITNESS: I believe so.

10 MR. SPEZIALI: Okay. If you can go to
11 the section that deals with threshold limit
12 values for various substances, and if you
13 could -- if you want, I'll find it for you, but
14 there's going to be a mineral dust section. And
15 did the United States Navy, as of 1955,
16 recognize threshold limit values for asbestos?

17 MR. KRISTAL: Object to the form of the
18 question.

19 THE WITNESS: Yes, they did.

20 BY MR. SPEZIALI:

21 Q. And what did they indicate were those?

22 A. Asbestos, five million particles per
23 cubic foot.

24 Q. Did they have a separate value for
25 total dust?

1 asbestos-containing dust in millions of
2 particles per cubic foot without distinguishing
3 non-asbestos-containing particles. Do you
4 remember that discussion with Mr. Kristal?

5 A. Yes.

6 Q. My first question is, is there anything
7 in that answer which indicates that GE concluded
8 that the threshold limit value was for total
9 dust and not asbestos dust?

10 MR. KRISTAL: Object to the form of the
11 question.

12 THE WITNESS: No.

13 BY MR. SPEZIALI:

14 Q. Was there?

15 A. No, no.

16 Q. Okay. Let's, if we can, explain to the
17 jury dust counting prior to 1970s which was --
18 which is mentioned in that answer.

19 A. Well --

20 Q. Tell the jury, first off, what dust
21 counting is for asbestos?

22 A. Dust, dust counting is the means by
23 which you basically capture some air so that you
24 can find out how much of any material is in
25 there.

1 So it's a way where you take a sample.
2 Back then they had old-fashioned pumps that
3 actually had little cranks, and you'd take a
4 sample of the air, and it would go into a little
5 device, kind of a little wet cylinder, and it
6 would capture everything that was in there in a
7 water solution. They'd take that to a lab, look
8 at it under a microscope, and you'd do some
9 counting.

10 Q. Well, let's see if we can -- you're
11 talking back then. Let's talk about today. If
12 I wanted to go into a room and they were using
13 asbestos, and they were using silica, and they
14 were using lead and they were using numerous
15 things in the air that had dust, and I said give
16 me a total dust count, how would you do it
17 today?

18 A. Today? I would go in there and take a
19 sample, and I'd have it analyzed by different
20 means. We have very sophisticated analytical
21 methods now such as electron microscopy.

22 Q. Now, if I said, Ms. Drucker, I want to
23 go in that same room but I don't want to know
24 everything that's in that air. I want to know
25 just how much asbestos is in that air. Could

1 you do that today?

2 A. Today? Sure.

3 Q. How would you do it?

4 A. Today I would take a sample, again take
5 a sample of air. We have more sophisticated
6 little devices now. They're battery operated.
7 And I would take a sample on a little filter,
8 send it to a lab, and they'd look at it under
9 the electron microscope, and they could tell me
10 what asbestos was in there.

11 Q. Okay. Now, let's go back prior to the
12 days of OSHA, back into the '30s, the '40s, the
13 '50s, into the '60s. If I wanted -- into the
14 room and I wanted to know the total amount of
15 the dust in the air from all kinds of things,
16 asbestos, lead, again, all those things, even
17 sandblasting, could I do that?

18 A. Sure, total dust, yeah, that's what we
19 could do.

20 Q. Could I send you into that room as an
21 industrial hygienist back in that period of time
22 and say all I want you to do is collect the
23 asbestos dust and nothing else?

24 A. No.

25 Q. Okay. Why is that?

1 A. Because the technology of then. All we
2 could do is take samples again in these water
3 solutions which was the predominant method, and
4 that just captured everything that was in the
5 air, whether it was asbestos, lead, whatever
6 happened to be there.

7 It would all go in the same little
8 water pool, and then it would be looked at under
9 the microscope.

10 Q. So then if I said to you as an
11 industrial hygienist back in that era, I still
12 want to know -- even though you have all the
13 dust collected, I still want to know just how
14 much asbestos is there and nothing else, how did
15 you do it back in those days?

16 A. Well, back in those days you take your
17 sample, but then when you look at it, the second
18 part, when you look at it under the microscope,
19 there was some means by which at that point you
20 could distinguish fibers, pardon me, fibers and
21 particles and things like that. So at that
22 point you could look at it and distinguish
23 asbestos from non-asbestos.

24 Q. Did Dr. Drinker and Dr. Fleischer, when
25 they did their study on behalf of the United

1 States Navy, separate asbestos dust from total
2 dust in their report?

3 A. Yes.

4 Q. Okay. And do you recall how they did
5 it?

6 A. Yes, I do.

7 Q. Okay. Was it in the manner you just
8 described?

9 A. They used a little different device
10 that they -- actually, it's called a coniometer,
11 but it was a means by which they could first
12 take the total, and then they looked at it under
13 the microscope, and they could distinguish out
14 the asbestos from the non-asbestos.

15 Q. And one last document on this subject,
16 it was Plaintiff's Exhibit 29. Do you recall
17 the, the -- well, this is the complete thing
18 which we agreed we would attach. It's the
19 industrial hygiene booklet from 19 -- copyright
20 1956 from General Electric. Do you remember
21 this?

22 A. Yes.

23 Q. Okay. And I'm going to show you what
24 is indicated on page six of the process
25 information page. Do you see the -- did General

1 Electric recognize the threshold limit values
2 for mineral dust?

3 A. Yes, they did.

4 Q. In fact, they have numerous different
5 things besides asbestos; is that right?

6 A. Well, there are hundreds of different
7 things in here.

8 Q. Okay. And tell the jury, did General
9 Electric indicate a value just for asbestos?

10 A. Yes, they did.

11 Q. And what was that value?

12 A. Five million particles per cubic foot.

13 Q. Okay. And do they have a separate
14 value for total dust?

15 A. They do.

16 Q. And what is that value?

17 A. Fifty million particles per cubic foot.

18 Q. Okay. And to go back to the preamble
19 page again, I'm going to ask you this, this
20 value -- these values of five million particles
21 per cubic foot, were they considered absolutely
22 safe for workers' health with respect to
23 asbestos?

24 A. Absolute, no. They were best
25 available. They were considered the general

1 cut-off range.

2 Q. Okay. Did anybody ever write anything
3 that you were aware of in the industrial and
4 scientific literature -- let me ask you this:

5 How many times would you say in industrial
6 scientific literature the threshold limit value
7 of five million particles per cubic foot of air
8 for asbestos was referenced between the time
9 Dreessen talked about it in '38 until the later
10 '60s? How many times would you say?

11 A. Hundreds and hundreds.

12 Q. Okay. How many different states'
13 occupational health departments would you say --
14 let's take a period of time after Alaska and
15 Hawaii joined the union. So we'll say fifty
16 states, sometime from the '50s on, if I got my
17 history right. How many different states
18 actually adopted that threshold limit value as
19 part of their state occupational health codes?

20 MR. KRISTAL: My foundation objections
21 are preserved?

22 THE SPECIAL MASTER: They are.

23 THE WITNESS: I'd say the vast
24 majority.

25 MR. SPEZIALI: And by the way, did the

1 General Electric Corporation have facilities and
2 plants in most of those states which were
3 adopting that threshold limit value for worker
4 health in their occupational health codes?

5 THE WITNESS: Yes.

6 MR. SPEZIALI: Okay. Did you ever find
7 anything prior to the '30s, the '40s, the '50s,
8 the '60s to indicate that any of those state
9 occupational health departments in those whether
10 it's forty states, fifty states, whatever number
11 of states General Electric had factories, had
12 come in and said, General Electric, you're in
13 violation, you're not protecting worker health
14 because you're not following that for asbestos
15 worker's health?

16 MR. KRISTAL: Object to the form.

17 BY MR. SPEZIALI:

18 Q. Did you ever find anything?

19 A. No.

20 Q. Anybody ever show you anything that
21 said that?

22 A. No.

23 Q. No? Okay. And how about the United
24 States government? In addition to the
25 recognition in the Fleischer Drinker report, was

1 there something known as the Walsh-Healey Act?

2 A. Yes.

3 Q. Did -- under the Walsh-Healey Act, did
4 they address threshold limit values for lots of
5 substances besides asbestos?

6 A. Yes.

7 Q. Okay. And what did they see as the
8 number that they targeted for protecting
9 workers' health?

10 A. For asbestos, five million particles
11 per cubic foot.

12 Q. Okay. And in all the documents you
13 reviewed at General Electric and in the books
14 you read with respect to General Electric's
15 involvement with the United States Navy and the
16 United States government during World War II and
17 later, to the extent that that involvement in
18 any manner involved asbestos, was there anything
19 that ever said that General Electric was
20 violating any of the rules and regulations
21 implemented through the Walsh-Healey Act or any
22 other government regulation with respect to the
23 use of asbestos in protection of worker health
24 in whatever target rates there were?

25 MR. KRISTAL: Object to the form of the

1 question.
 2 THE WITNESS: No.
 3 MR. SPEZIALI: Okay. Did you ever find
 4 anything from the '30s through now OSHA that was
 5 written that said asbestos should no longer be
 6 used in the workplace because it can't be used
 7 safely to protect worker health?
 8 MR. KRISTAL: Object to the form of the
 9 question.
 10 MR. SPEZIALI: Did you ever find
 11 anything?
 12 THE WITNESS: No.
 13 MR. SPEZIALI: Let me -- are you
 14 familiar --
 15 MR. KRISTAL: Just so the record is clear,
 16 I have lots of foundation objections to these
 17 things, and I don't want to have to belittle the
 18 record when I go, so I just want to let you know
 19 that's coming at some point if you try to use
 20 this.
 21 MR. SPEZIALI: Sure. Similar to the
 22 ones that I had this morning and yesterday on
 23 yours.
 24 BY MR. SPEZIALI:
 25 Q. Did you ever find any documentation in

1 the General Electric documents that you looked
 2 at dealing with interaction by General Electric
 3 and the Pennsylvania Department of Labor?
 4 A. Yes.
 5 Q. Okay. Could you tell the jury what
 6 that was all about? First off, let's talk about
 7 the year.
 8 A. The year was in 1942.
 9 Q. What was that all about?
 10 A. It was, it was relating to a GE plant
 11 in York, Pennsylvania where they were making
 12 some wire that had asbestos as part of it. And
 13 what the Pennsylvania Department of Health did
 14 was they went in and they, they saw that this
 15 program was absolutely premier.
 16 They just said it was so great, what
 17 they did was they adopted the policies and
 18 procedures of that York, Pennsylvania factory,
 19 and they published it basically to the world and
 20 said that this is state of the art on how
 21 asbestos is being handled in this facility, we
 22 recommend that you do this.
 23 Q. Uh-huh.
 24 MR. KRISTAL: I have a best evidence
 25 objection. I'm assuming that's preserved, as

1 well.
 2 MR. SPEZIALI: I don't know.
 3 MR. KRISTAL: Well, it's not a form,
 4 so.
 5 MR. SPEZIALI: Uh-huh.
 6 The -- I'm going to get that document
 7 in a second but I'm going to go on, and then
 8 we'll segue right back to it.
 9 In all the documents that you read with
 10 respect to Dr. Hamilton and her interaction with
 11 GE, whether it be asbestos, did you find
 12 anything either at the Harvard library, the
 13 other places that Dr. Hamilton's documents were
 14 being kept or, of course, in any of the GE
 15 documents that you reviewed where Dr. Hamilton
 16 was ever told that she was not allowed to tell
 17 the world about what she was learning regarding
 18 substances at GE, particularly asbestos?
 19 MR. KRISTAL: Object to the form of the
 20 question.
 21 THE WITNESS: No.
 22 BY MR. SPEZIALI:
 23 Q. Nothing?
 24 A. Nothing.
 25 Q. Okay. Tell the jury who is Dr. Sax or

1 Mr. Sax? Is it Mr. Sax or Dr. Sax?
 2 A. Dr. Sax.
 3 Q. S-A-X?
 4 A. S-A-X.
 5 Q. Who was he?
 6 A. Dr. Sax was a toxicologist with the
 7 research and development plant of GE in
 8 Schenectady, and he was an expert on a variety
 9 of industrial materials.
 10 Q. Okay. And did Dr. Sax ever publish
 11 anything in the world in scientific literature?
 12 A. Yes, many times.
 13 Q. Okay. And what did he publish?
 14 A. Well, he first published his Handbook
 15 of Industrial Materials or Dangerous Materials
 16 in 1951. And he listed hundreds, if not
 17 thousands, of substances that could be found in
 18 all kinds of factory situations, and he listed
 19 safe levels and recommendations and precautions.
 20 Q. Okay. Was Dr. Sax's book some deep,
 21 dark secret at General Electric's headquarters
 22 or was that disseminated for the world to see?
 23 MR. KRISTAL: Object to the form of the
 24 question.
 25 THE WITNESS: Dr. Sax's book is one

1 of -- was then, and still is by many,
 2 considered -- of course there have been various
 3 editions over time -- one of the fundamental
 4 books in industrial hygiene.
 5 BY MR. SPEZIALI:
 6 Q. Okay.
 7 A. As far as reference materials.
 8 Q. And did Dr. Sax in that book include
 9 any sections with respect to asbestos?
 10 A. He did.
 11 Q. Okay. What -- let me just get the book
 12 here. Okay. We'll mark this as 82.
 13 (Whereupon, Exhibit 82, a copy of
 14 Dr. Sax's book in 1951, was then received and
 15 marked for identification.)
 16 MR. SPEZIALI: And that is the copy of
 17 Dr. Sax's book in 1951, is it not?
 18 THE WITNESS: Yes, Handbook of
 19 Dangerous Materials, right.
 20 MR. SPEZIALI: Okay. Let me see if I
 21 can find the section on asbestos.
 22 MR. KRISTAL: Thirty-four.
 23 BY MR. SPEZIALI:
 24 Q. They tell me it's in alphabetical
 25 order, but my ability to follow the alphabet has

1 been questioned by many. I'm showing you page
 2 thirty-four and thirty-five. Do you see where
 3 it says under the heading asbestos particles and
 4 asbestos dust?
 5 A. Yes, I do.
 6 Q. Okay. And could I have that back real
 7 quick?
 8 A. Sure.
 9 Q. And in that discussion, he starts off
 10 with threshold limit values of five million
 11 particles per cubic foot; is that right?
 12 A. Let me just take a look at that.
 13 Q. First sentence.
 14 A. And --
 15 Q. Very first sentence.
 16 A. Right. Five million particles per
 17 cubic foot.
 18 Q. He has a discussion, does he not, the
 19 hazardous properties of asbestos? And I'll say
 20 all these and let you see it, specific lung
 21 disease, asbestosis. This must be caused by
 22 this material, can cause chronic conjunctivitis,
 23 if I said that correctly. And he goes through
 24 to talk about some of the history and the
 25 reports dealing with it; is that correct?

1 A. Right.
 2 Q. Okay. Did you --
 3 MR. KRISTAL: Object to the form of the
 4 question.
 5 BY MR. SPEZIALI:
 6 Q. And this particular section of the
 7 book, was this included in the book as far as
 8 you're aware that was published in the world and
 9 medical and scientific literature back in the
 10 '50s?
 11 A. Yes.
 12 Q. Nobody's ever told you that somehow
 13 General Electric slipped that in there so we can
 14 defend lawsuits, did they?
 15 A. No.
 16 MR. KRISTAL: Object to the form of the
 17 question.
 18 (Whereupon, Exhibit 83, the report from
 19 the State of Pennsylvania, April 1942, was then
 20 received and marked for identification.)
 21 BY MR. SPEZIALI:
 22 Q. Okay. And I found -- now we'll mark
 23 this as 83 -- the report from the State of
 24 Pennsylvania that you talked about, April of
 25 1942?

1 A. Yes.
 2 Q. Okay. And for reference purposes, why
 3 was the State of Pennsylvania writing that
 4 report?
 5 A. Well, the State of Pennsylvania, of
 6 course, had a, a program to go around and
 7 inspect their factories in the state, and
 8 they -- as part of that, they were invited or
 9 went into this plant of GE's at York,
 10 Pennsylvania. And they found this program in
 11 place at York that was so, so superior that they
 12 wanted to share it with the world.
 13 Q. Did they -- bear with me. By the way,
 14 in this report, and I'll just show you the first
 15 page -- the second page actually, do they
 16 actually point out that asbestos was being used
 17 in the facilities?
 18 A. Yes.
 19 Q. Okay. I'm not going to belabor this.
 20 That will be in evidence. Who was -- is it
 21 Dr. Grimaldi or Mr. Grimaldi?
 22 A. Dr. Grimaldi.
 23 Q. And who was Dr. Grimaldi?
 24 A. Dr. Grimaldi is a safety expert, a
 25 safety professional. And as part of his

2 from the mid 1950s through the mid 1960s.
 3 Q. And did Dr. Grimaldi publish anything
 4 dealing with asbestos during his career with
 5 General Electric, or after?
 6 A. Yes, he did.
 7 Q. Okay. And what did he do?
 8 A. Dr. Grimaldi published a book.
 9 MR. KRISTAL: Objection.
 10 THE WITNESS: And it was on safety and
 11 accident prevention, and he also mentioned
 12 asbestos, among many other hundreds of types of
 13 materials that could be found in factories, and
 14 listed levels that he thought were safe.
 15 MR. SPEZIALI: Was that book published
 16 and just kept in the -- for the General Electric
 17 folks to work with, or was it published in the
 18 general medical, scientific and industrial
 19 hygiene literature?
 20 MR. KRISTAL: Object to the form of the
 21 question.
 22 THE WITNESS: It was published to the
 23 world.
 24 BY MR. SPEZIALI:
 25 Q. Who was -- is it Dr. Fawcett or Mr.

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1 Fawcett?
 2 A. Dr. Howard Fawcett.
 3 Q. Okay. And we're going to get the
 4 Grimaldi book in a second. Who was Dr. Howard
 5 Fawcett?
 6 A. Dr. Fawcett was a toxicologist with GE,
 7 and he also wrote a book on accident prevention
 8 in chemical operations in which he listed a
 9 number of types of chemicals and other things
 10 that could happen in factories and how you could
 11 prevent accidents.
 12 Q. And did he provide any advice and
 13 guidance with respect to asbestos in his
 14 publication?
 15 A. Yes.
 16 Q. What year was that, if you recall?
 17 A. Yes, that was 1965.
 18 (Whereupon, Exhibit 84, the cover page
 19 of Safety Management with the excerpt dealing
 20 with Dr. Grimaldi's book, was then received and
 21 marked for identification.)
 22 BY MR. SPEZIALI:
 23 Q. I'm going to mark as Exhibit 84 the
 24 1956 -- this is the cover page of Safety
 25 Management with the, with the excerpt dealing

2 you're familiar with?
 3 A. Yes.
 4 Q. Okay. We'll just put that in evidence
 5 without belaboring it. Just confirm for the
 6 record, and page five twenty-nine was the
 7 discussion of asbestos; is that correct?
 8 A. Yes, correct.
 9 Q. Okay. And we'll get the Dr. Fawcett
 10 information in one second, but I'll move on.
 11 Oh, we have it. This would be Exhibit 85.
 12 (Whereupon, Exhibit 85, a document
 13 entitled Safety and Accident Prevention in
 14 Chemical Operations by Dr. Howard Fawcett,
 15 research lab, General Electric, publication
 16 date, 1965, was then received and marked for
 17 identification.)
 18 BY MR. SPEZIALI:
 19 Q. Safety and Accident Prevention in
 20 Chemical Operations. It's by Dr. Howard
 21 Fawcett, research lab, General Electric. And I
 22 don't see the publication date, but I know it's
 23 1965. Is that right?
 24 A. Yes.
 25 Q. I know it's here somewhere. In any

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1 event, I'm not going to ask you to read it. You
 2 can hold it up and let the jury see it. Is that
 3 the book that was published and disseminated by
 4 the physician in 1965 that you've reviewed?
 5 A. Yes.
 6 MR. KRISTAL: Object to the form of the
 7 question.
 8 THE WITNESS: Yes, a Ph.D.
 9 MR. SPEZIALI: Without wasting our
 10 time, is there a section or piece in here on
 11 asbestos?
 12 THE WITNESS: Yes.
 13 MR. SPEZIALI: Okay. Now, let me ask
 14 you this: After Dr. Sax, Grimaldi, Fawcett
 15 published their information and in that
 16 indicated the things that we've talked about
 17 they indicated regarding asbestos, do you recall
 18 whether or not the General Electric Corporation
 19 fired them because of that?
 20 MR. KRISTAL: Object to the form of the
 21 question.
 22 THE WITNESS: No.
 23 MR. SPEZIALI: Okay. They did not or
 24 you don't recall it?
 25 THE WITNESS: They did not.

47 (Pages 918 to 921)

1 MR. SPEZIALI: Okay. Well, why not?
2 MR. KRISTAL: Object to the form of the
3 question.

4 THE WITNESS: Well, I think it goes
5 back to the basic philosophy of the company.
6 The company cared about the health and safety of
7 its workers, and as part of that, they had
8 people who were very highly qualified on staff.
9 And in this instance, three that we mentioned
10 have written books and shared that information
11 with the rest of the world.

12 MR. SPEZIALI: Okay. You worked on --
13 and I'll -- again, bear with me for a moment.
14 Maybe we should go off the record and I can
15 organize the exhibits.

16 THE SPECIAL MASTER: Off the record,
17 please.

18 THE VIDEOGRAPHER: Off the record. The
19 time is two fifteen p.m.

20 (Whereupon, a recess was then taken.)

21 THE VIDEOGRAPHER: On the record. The
22 time is two twenty-seven p.m.

23 BY MR. SPEZIALI:

24 Q. Okay. Ms. Drucker, I'm going to try to
25 go through this, and I want you to understand

1 that. Okay?

2 A. Sure.

3 Q. Okay.

4 MR. KRISTAL: Objection to the form of
5 the question.

6 BY MR. SPEZIALI:

7 Q. Okay. How many names? Ballpark it for
8 me.

9 A. Forty-ish.

10 Q. Okay. Are you sure? Don't take my
11 number for it. Is it a good ballpark?

12 A. Thirty, forty, forty-five. I don't
13 know.

14 Q. Look at the right-side column, ballpark
15 it, how many names of different companies and
16 individuals?

17 A. Thirty or forty over there.

18 Q. Okay. And, and if we go to the next
19 page, the left column, by the way, that page was
20 the American Association of Industrial
21 Physicians and Surgeons. The second, the second
22 list you gave was subcommittees. If you look at
23 the next page, some of which is repetitive, just
24 ballpark it, how many names of different
25 organizations and physicians are there in this

1 I'm only going to ask you for estimates. I
2 don't want exact because we'll be here forever.

3 I want to go through some of these
4 organizations that Mr. Kristal talks of, and so
5 what I've done is I've attempted to pull out
6 some of the selected exhibits with these
7 organizational things on it.

8 Exhibit 61 was one of, not the only
9 one, it's just one, but I'm not going to do them
10 all, one of the exhibits dealing with Industrial
11 Medicine. Do you remember all those
12 discussions?

13 A. Yes.

14 Q. Okay. And this particular exhibit had
15 attached to it a health article dealing with
16 asbestos. Do you remember that?

17 A. Yes.

18 Q. Okay. And I want you -- and I don't
19 want you to count because we'll look at the left
20 column on the third page in. That doesn't have
21 a page number. And ballpark for me how many
22 different names -- and I'm going to tell you --
23 I'm going to suggest a number, for fear of
24 getting an objection, of about forty names of
25 different companies that are on the left side of

1 organization?

2 A. A few hundred.

3 Q. Okay. Good enough. And General
4 Electric -- I didn't even look, but I'm assuming
5 this is one of the ones that General Electric
6 was mentioned; is that correct?

7 A. I'd have to check. Maybe.

8 Q. All right. If it was, you'd have no
9 dispute with it without us wasting time looking
10 for it again?

11 A. No.

12 Q. All right. And let's look at what was
13 Exhibit 64. That was the National Safety
14 Council. And do you remember that there were
15 numerous -- this isn't the only one. There were
16 numerous National Safety Council.

17 A. Yes.

18 Q. All right. Now, this list is
19 substantially longer, but when you look at the
20 list of officers and members and companies, and
21 I'm not going to ask you to count them because
22 it goes on for multiple columns, it goes through
23 page six, ballpark it.

24 A. Okay.

25 Q. Give us an estimate. Tell the jury how

1 many different organizations and individuals
 2 were involved just at that particular year.
 3 A. Four or five hundred.
 4 Q. Okay. And General Electric is one of
 5 them, right? I mean --
 6 A. Yes.
 7 Q. Do you recall that? Okay. And the
 8 National Safety News was a subpublication of the
 9 National Safety Council; is that right?
 10 A. Yes.
 11 Q. All right. So we're not going to count
 12 those again. And there was the IHF, Industrial
 13 Hygiene Digest. I thought I had a membership
 14 list for that, but I don't seem to see it. I
 15 just have one particular document which talks
 16 about a couple of committees.
 17 MR. SPEZIALI: Did we have the
 18 membership list for the IHF, if you remember? I
 19 thought you did mark it, but I don't see it.
 20 BY MR. SPEZIALI:
 21 Q. I just have a few. I mean, here's
 22 Exhibit 72. Here's Exhibit 74.
 23 A. Yes.
 24 Q. Again, General Electric's a member,
 25 right, as of '47 or '49, I believe it was; is

1 articles which were digest by the IHF,
 2 Industrial Hygiene Digest, by the National
 3 Safety Council and the other things that Mr.
 4 Kristal had you read for the jury?
 5 MR. KRISTAL: Object to the form of the
 6 question.
 7 THE WITNESS: Yes.
 8 BY MR. SPEZIALI:
 9 Q. And what's your opinion?
 10 A. They would.
 11 Q. And General Electric would?
 12 A. Yes.
 13 MR. KRISTAL: Object to the form of the
 14 question. Object to the prior question.
 15 MR. SPEZIALI: Just for the other
 16 people, not General Electric?
 17 MR. KRISTAL: Yes.
 18 MR. SPEZIALI: I got it.
 19 MR. KRISTAL: With respect to form,
 20 that's right.
 21 MR. SPEZIALI: Okay.
 22 BY MR. SPEZIALI:
 23 Q. Did the, did the Industrial Hygiene
 24 Foundation need to digest health articles
 25 related to asbestos for the world medical,

1 that right?
 2 A. Right. '47.
 3 Q. '47. And there are numerous other
 4 members, but I don't see the others.
 5 A. Yes.
 6 Q. Let me make it easy. Ms. Drucker,
 7 whether or not General Electric belonged to the
 8 IHF, the National Safety Council, or those other
 9 organizations that Mr. Kristal mentioned,
 10 whether or not they did belong, do you have an
 11 opinion from an industrial hygiene point of view
 12 whether or not General Electric should have
 13 known about or did know about the various
 14 publications that were digest by these
 15 organizations and these documents that
 16 Mr. Kristal showed you?
 17 A. Yes.
 18 Q. Okay. Whether or not any of those
 19 other six hundred entities or five hundred
 20 entities or four hundred entities, regardless of
 21 how you count it, whether or not they were
 22 involved with these organizations or not, do you
 23 have an opinion from an industrial hygiene
 24 standpoint whether those other entities would
 25 have known about the various publications and

1 scientific and industrial hygiene community to
 2 know that such articles were published?
 3 A. No.
 4 Q. Okay. Did the National Safety Council
 5 need to do that?
 6 A. No.
 7 Q. Okay. Did any of those organizations
 8 that Mr. Kristal spoke to you about need to do
 9 that?
 10 A. No.
 11 Q. Okay. Do you -- can you tell me
 12 whether -- and you've seen other publications by
 13 the IHF, the National Safety Council and the
 14 other publications Mr. Kristal told you about;
 15 is that correct?
 16 A. Right.
 17 Q. Okay. Did you ever find a digest or an
 18 abstract similar to the type that Mr. Kristal
 19 talked to the jury about with you that, prior
 20 to -- or anytime during the '30s, the '40s, the
 21 '50s, into the '60s, you know, up to the OSHA
 22 era, so to speak, did you ever find anything
 23 that was ever digest or abstract or that said
 24 the use of asbestos in the marketplace should be
 25 banned because threshold limits thought to

1 protect workers are no good?

2 MR. KRISTAL: Object to the form of the
3 question.

4 MR. SPEZIALI: Did you ever see
5 anything like that?

6 THE WITNESS: No.

7 MR. KRISTAL: Object to the form of the
8 question.

9 MR. SPEZIALI: Forgetting about things
10 that maybe were digest, did you find anything in
11 the published literature along those lines of
12 the thousands of articles that were published?

13 THE WITNESS: No.

14 MR. KRISTAL: Object to the form of the
15 question.

16 BY MR. SPEZIALI:

17 Q. Does asbestos exposure cause cancer
18 based on the industrial hygiene literature that
19 you reviewed?

20 A. Yes.

21 Q. Okay. And was that something that was
22 published in the literature similar to some of
23 the articles that Mr. Kristal showed you in the
24 late '40s, and the '50s, into the '60s?

25 A. Yes.

1 Q. Was that some deep, dark secret that
2 was sitting in the basement of General Electric
3 Corporation?

4 A. No.

5 MR. KRISTAL: Object to the form of the
6 question.

7 BY MR. SPEZIALI:

8 Q. Was that information generally known to
9 the medical and scientific community?

10 A. Yes.

11 Q. And the industrial hygiene community?

12 A. Yes.

13 Q. And how do you know that?

14 A. Because I, I reviewed materials over
15 thirty years, and that kind of information was
16 thoroughly available.

17 Q. In the period of time that you were
18 doing work at the request of Plaintiffs'
19 attorneys, were you ever requested or shown at
20 any time a document indicating that the General
21 Electric Company was a bad company with respect
22 to the manner with which it used asbestos?

23 MR. KRISTAL: Object to the form of the
24 question.

25 THE WITNESS: No.

1 BY MR. SPEZIALI:

2 Q. And finally, there was a lot of
3 discussion about a gentleman named Warren Cook.

4 A. Yes.

5 Q. Do you know if Warren Cook had any
6 involvement with threshold limit values back in
7 the '30s and '40s?

8 A. Yes. He was very involved in setting
9 them up.

10 Q. Okay. Was he a member of the ACGIH?

11 A. Yes.

12 MR. SPEZIALI: I think that's all I
13 have. Thank you very much.

14 THE WITNESS: Thank you.

15 MR. SPEZIALI: I know Mr. Kristal has
16 some more questions.

17
18 RE-EXAMINATION BY MR. KRISTAL:

19
20 Q. Good afternoon, again, Ms. Drucker.
21 Jerry Kristal.

22 A. Hello.

23 Q. Hello. When Mr. Speziali was asking
24 questions early on in your testimony when he was
25 asking them, I think you said that no judge had

1 ever stricken any testimony when you testified
2 in court for Plaintiffs. Do you recall that?

3 MR. SPEZIALI: Object. I don't recall
4 it.

5 THE WITNESS: I don't remember the
6 question, but if you say that's what was said.

7 MR. KRISTAL: Well, did you say
8 something to the effect that no judge had
9 stricken your testimony when you testified for
10 Plaintiffs?

11 MR. SPEZIALI: Objection.

12 THE WITNESS: Testimony when I -- yes,
13 when I testified for Plaintiffs.

14 BY MR. KRISTAL:

15 Q. Okay. The fact of the matter is you've
16 never testified once in court for Plaintiffs,
17 correct?

18 A. Right.

19 Q. Now, you're a certified industrial
20 hygienist, you instructed in public health at
21 Yale, you worked for the EPA, you were an
22 industrial hygienist at the Long Beach Naval
23 Shipyard, correct?

24 A. Yes.

25 Q. You don't know what pleurisy means?

1 A. Well, I think from a medical
2 diagnostic, no. From a general standpoint,
3 yeah.

4 Q. What does it mean?

5 A. It means an abnormality or disease of
6 the pleura.

7 Q. Why didn't you say that this morning
8 when I asked you?

9 MR. SPEZIALI: Objection.

10 THE WITNESS: When you showed me the
11 article, it was more directed, I thought, to a
12 medical determination. And that's why I
13 answered the way I did.

14 MR. KRISTAL: Well, I asked what your
15 understanding of pleurisy was, and you said you
16 didn't know this morning, correct?

17 MR. SPEZIALI: Objection.

18 THE WITNESS: If I did, I stand
19 corrected.

20 BY MR. KRISTAL:

21 Q. All right. On your curriculum vitae
22 that Mr. Speziali was asking you about, you list
23 yourself as president of Drucker Health and
24 Safety Management?

25 A. Yes.

1 A. Thank you. Right -- oh, third under
2 preventive -- okay.

3 Q. Yeah, where it says they also include.

4 A. They also include the education of the
5 individual as in other dangerous trades to a
6 sane appreciation of the risk and to his
7 personal responsibility in the prevention and
8 suppression of dust.

9 Q. So it was known in the 1930s that in
10 order for a worker to protect him or herself, he
11 or she needed to know that they were being
12 exposed to something that was hazardous, right?

13 A. Yes, as part of an overall program,
14 true.

15 Q. And GE knew that in the 1930s?

16 A. And GE knew that in the 1930s.

17 Q. The Sax book from 1951, the section on
18 asbestos doesn't mention cancer at all, does he?

19 A. I'd have look at it again, but --

20 Q. Here it's page -- Exhibit 82. I think
21 it's page thirty-four.

22 A. Thank you. I don't see it in here.

23 Q. And that was after GE knew that
24 asbestos could cause cancer, right?

25 A. That was -- this book?

1 Q. You're the only employee, right?

2 A. Currently, yes.

3 Q. Well, it's a current CV, isn't it?

4 A. It is.

5 Q. Merewether, in the 1930s, suggested
6 with respect to suppressing the dust to reduce
7 the hazard from asbestos I think you said
8 wetting the material, local exhaust and
9 separating more dusty processes from less dusty
10 or non-dusty processes?

11 A. Yes.

12 Q. That method of suppressing asbestos
13 dust to reduce the risk of asbestos disease was
14 known by General Electric in the 1930s, correct?

15 A. Yeah, I'd say, yeah, into the 1930s.

16 Q. And in the Merewether report, one of
17 the suggestions he had for reducing the risk of
18 asbestos disease is education of the worker to a
19 sane appreciation of the risk. Do you recall
20 that?

21 A. I'd have to see the report.

22 Q. Let me hand you what was marked as
23 Exhibit 28. It's my copy, to move this along.
24 On page seventeen under preventive measures, if
25 you could read the third paragraph out loud.

1 Q. 1951.

2 A. 1951.

3 Q. And we saw the JAMA article, we saw the
4 Hamilton textbook from '49, the JAMA editorial
5 from '49, the IHF abstract of the JAMA editorial
6 in '49 that was sent to GE, right?

7 A. Well, you're saying that they knew. In
8 terms of the context of the time, there was no
9 consensus well into the '60s. There were some --
10 as we talked about this morning, there were some
11 case reports of cancer with underlying
12 asbestosis, but as I've said to you in the past,
13 there was no consensus of opinion well into the
14 '60s.

15 Q. Didn't you just tell Mr. Speziali that
16 it was known in the industrial and scientific
17 communities that asbestos could cause cancer in the
18 '40s, '50s and '60s?

19 A. Yes.

20 Q. Okay. So GE knew in the 1940s, the
21 late 1940s that asbestos could cause cancer,
22 right?

23 A. Yes.

24 Q. And it's not in the Sax book published
25 in '51, right?

1 A. Right.
 2 Q. Okay. And the safety management book
 3 by Grimaldi, the other GE employee, in 1956, you
 4 said there's a section on asbestos, right?
 5 A. Yes.
 6 Q. First of all, how come you didn't ask
 7 Mr. Speziali for the entire textbook when he was
 8 questioning you about certain documents?
 9 MR. SPEZIALI: Objection.
 10 THE WITNESS: I was familiar with many
 11 of these documents from having looked over the
 12 files.
 13 MR. KRISTAL: So you were familiar with
 14 the ones that Mr. Speziali was showing you, but
 15 not with the ones that I was showing you?
 16 MR. SPEZIALI: Objection to the ones
 17 that she had reviewed in anticipation --
 18 MR. KRISTAL: If it's a form
 19 objection just make --
 20 MR. SPEZIALI: Well, that's great. But
 21 when you mislead everybody, I've got to be
 22 more --
 23 THE SPECIAL MASTER: Objection. No
 24 speaking objections.
 25 MR. SPEZIALI: It's not fair.

1 MR. KRISTAL: Other than the fact that
 2 the special master says you should be quiet.
 3 THE SPECIAL MASTER: No, I said -- I
 4 didn't say keep quiet. Let's just limit our
 5 objections to objection to form. All other
 6 objections are preserved. Just say objection.
 7 BY MR. KRISTAL:
 8 Q. Why is it that with the documents that
 9 the GE lawyers had shown you that I was asking
 10 you about you wanted to see the full documents?
 11 A. Well, when we went over the same
 12 documents that we went over with you, I had seen
 13 the full documents or asked for them.
 14 Q. Well, Grimaldi wasn't one of them, was
 15 it?
 16 A. No.
 17 Q. Okay. The Grimaldi text, the section
 18 on asbestos in 1956, GE didn't say anything
 19 about cancer, did they?
 20 A. I'll just look it over. No.
 21 Q. Exhibit 80 that Mr. Speziali showed you
 22 was five pages of something that's at least
 23 three hundred and forty-four pages, correct?
 24 A. It's part of a larger text, yes.
 25 Q. You didn't ask to see the whole text,

1 did you?
 2 A. No.
 3 Q. And it mentions Warren Cook with
 4 respect to his work with the threshold limit
 5 values or the MACs as they were called, does it
 6 not?
 7 A. I'm looking for that.
 8 Q. Let me show it to you so we can move it
 9 along.
 10 A. Thank you.
 11 Q. They specifically reference in Exhibit
 12 80 Warren Cook and his work on the maximum
 13 allowable concentration of air contaminants and
 14 specifically reference the Industrial Medicine
 15 Journal from 1945.
 16 A. Thank you.
 17 Q. Do they not? It's the bottom of the
 18 left-hand column, top of the right-hand column.
 19 A. Yes, they do reference him.
 20 Q. So Warren Cook certainly at that time
 21 was an expert with respect to the maximum
 22 allowable concentrations and the threshold limit
 23 values, correct?
 24 A. Sure, at that time.
 25 Q. And Warren Cook was the individual who

1 wrote the article in the Industrial Medicine
 2 Journal in April 1942 which is Exhibit 55 that I
 3 showed you, correct?
 4 A. Could you point that out?
 5 Q. Sure.
 6 A. Thank you.
 7 Q. First page, April 1942, Industrial
 8 Medicine Journal, Exhibit 55, right?
 9 A. Okay.
 10 Q. Article, Occupational Disease Hazard.
 11 Who's the author?
 12 A. That's right, it's Warren Cook.
 13 Q. And in this article in 1942 in the
 14 Industrial Medicine Journal Warren Cook said
 15 with respect to the five million particles per
 16 cubic foot of air MAC for asbestos, quote, this
 17 is a very small concentration, so small, in
 18 fact, that the condition may look good even to a
 19 critical eye and still present an exposure
 20 greater than this low limit, end quote, correct?
 21 A. If you could just quickly point out
 22 what --
 23 Q. Sure.
 24 A. Just point it to me. Thanks.
 25 Q. In the second paragraph.

1 A. Yes, that's what it says.
 2 Q. General Electric was not a defendant in
 3 the particular Plaintiffs' cases that you had
 4 been retained on in the late 1980s, early 1990s,
 5 were they?
 6 A. Not that I'm aware of.
 7 Q. So there would have been no reason for
 8 the Plaintiffs' attorneys to show you any
 9 General Electric documents at that time,
 10 correct?
 11 A. Maybe, maybe not.
 12 Q. Okay. But when Mr. Speziali asked you
 13 if the Plaintiffs' attorney in those cases had
 14 shown you any General Electric documents, when
 15 you answered him, you knew that General Electric
 16 was not a defendant in those cases?
 17 A. Yes, as far as I recall.
 18 Q. Mr. Speziali went over your career, and
 19 I'd like to ask you about some of your
 20 publications. Okay?
 21 A. Yes.
 22 MR. SPEZIALI: Objection. I didn't go
 23 over publications.
 24 BY MR. KRISTAL:
 25 Q. You have not written any textbooks

1 relating to the historical hazards of asbestos,
 2 correct?
 3 A. Correct.
 4 Q. You have not written any portions of
 5 textbooks on that subject, correct?
 6 A. That's correct.
 7 Q. You've not written any textbooks
 8 relating to asbestos in any capacity, right?
 9 A. Right.
 10 Q. Or any portions of textbooks that
 11 relate to asbestos, right?
 12 A. Yes, right.
 13 Q. Do you know what a peer reviewed
 14 journal is?
 15 A. Yes.
 16 Q. What's a peer reviewed journal?
 17 A. That's a journal where other
 18 professionals read over articles and comment
 19 before they're published.
 20 Q. You've never written any articles about
 21 the historical hazards of asbestos in any peer
 22 reviewed journal, have you?
 23 A. No.
 24 Q. You've never written any articles about
 25 asbestos in -- relating to anything about

1 asbestos in any peer reviewed journal, correct?
 2 A. Correct.
 3 Q. And there are also non-peer reviewed
 4 journals, correct?
 5 A. Yes.
 6 Q. And what's a non-peer reviewed journal?
 7 A. That would be a journal where articles
 8 are published without necessarily being reviewed
 9 by other people in the field.
 10 Q. And these are medical, scientific,
 11 industrial hygiene journals?
 12 A. Sure, they can be, sure.
 13 Q. You've never written anything about the
 14 historical hazards of asbestos in any non-peer
 15 reviewed journal, have you?
 16 A. No.
 17 Q. You've never written anything about
 18 asbestos at all in any non-peer reviewed
 19 journal, have you?
 20 A. No.
 21 Q. You've never had published anywhere at
 22 any time anything to do with the historical
 23 hazards of asbestos, correct?
 24 A. Yes, correct.
 25 Q. And the only thing that's ever been

1 published that you wrote about asbestos was five
 2 sentences in a newspaper column that you wrote
 3 in 1994, right?
 4 A. Yes.
 5 Q. Have you ever published any articles in
 6 peer reviewed or non-peer reviewed journals
 7 relating to anything?
 8 A. I've had article -- technical-like
 9 letters published and things like that.
 10 Q. Other than a technical letter have you
 11 ever had anything published in any peer reviewed
 12 or non-peer reviewed journal?
 13 A. No.
 14 Q. What's a technical letter?
 15 A. Oh, different letters briefing people
 16 on different updates and laws and things like
 17 that.
 18 Q. And how many times have you done that
 19 where it's been published?
 20 A. Oh, I'd say, estimate, six or eight
 21 times.
 22 Q. Nothing about asbestos?
 23 A. Not that I recall.
 24 MR. KRISTAL: Why don't we go off the
 25 record for a minute.

1 THE SPECIAL MASTER: Off the record,
2 please.

3 THE VIDEOGRAPHER: Off the record. The
4 time is two fifty p.m.

5 (Discussion off the record.)

6 THE VIDEOGRAPHER: On the record. The
7 time is two fifty-three p.m.

8 (Whereupon, Exhibit 86, a copy of the
9 article from January 1946 referred to as the
10 Fleischer Drinker article, was then received and
11 marked for identification.)

12 BY MR. KRISTAL:

13 Q. Ms. Drucker, Jerry Kristal again. I'm
14 going to mark as 86 a copy of the article from
15 January 1946 that you referred to as the
16 Fleischer Drinker article.

17 Before I ask questions about that, you
18 recall, do you not -- we can get it if we need
19 to -- the Alice Hamilton report regarding
20 x-raying workers in the York, Pennsylvania
21 General Electric plant with respect to the fact
22 that x-raying workers who had only worked there
23 for a few years wouldn't be helpful in
24 diagnosing asbestos disease, correct?

25 A. We -- certainly I'd have to see it, but

1 individuals in each Navy yard were exposed for
2 different periods of time, does it not?

3 A. Yes.

4 Q. And it tells you for each period of
5 time how many of the workers were affected;
6 meaning had asbestosis, correct?

7 A. Or what they're calling exposed, yes.

8 Q. And they broke down the years of
9 exposure zero to two years, three to five years,
10 five to ten years, and ten plus years, correct?

11 A. Yes.

12 Q. Now, if asbestos had a latency period
13 of greater than five years, and you examined
14 people who had been in the pipe covering
15 industry five or less years, you wouldn't expect
16 to find asbestosis, right?

17 A. Generally, right.

18 Q. Let's look at Navy yard A here. There
19 were fifty people that were exposed to asbestos,
20 correct?

21 A. Oh, about, yes.

22 Q. And thirty-nine of those had worked
23 five or less years in the pipe covering
24 industry, correct?

25 A. Right, in yard A.

1 in general I recall something to that effect.

2 Q. And the thrust of the discussion that
3 we had at that time was if you examined people
4 by x-ray before the appropriate latency period
5 for asbestosis, you're going to get a negative
6 report because there wasn't enough time for the
7 disease to develop? Is that generally your
8 understanding of what she was saying?

9 A. Yes.

10 Q. Okay. If you look at table five of the
11 Fleischer Drinker report --

12 A. Okay.

13 Q. -- table five lists the different Navy
14 yards and contract yards, the four of them that
15 were the subject of this study in the left-hand
16 column, does it not?

17 A. It does.

18 Q. And then in the right-hand column it
19 says, years in pipe covering industry. Do you
20 see that?

21 A. Yes.

22 Q. And it gives a breakdown of years,
23 right?

24 A. It does.

25 Q. And then it tells you how many of the

1 Q. And all thirty-nine of those, their
2 x-rays were negative, correct?

3 A. Yes.

4 Q. That's not surprising given the latency
5 period for asbestosis, is it?

6 A. Well, generally not, no.

7 Q. Okay. Next Navy yard B, there were
8 seven hundred and forty-nine people that were
9 exposed in that Navy yard, correct?

10 A. Yes.

11 Q. And they were examined with -- by x-ray
12 all seven hundred and forty-nine, correct?

13 A. Right.

14 Q. And six hundred and seventy of those
15 had worked five years or less, correct?

16 A. Yes.

17 Q. And in the yard C, contract yard C,
18 there were a hundred and sixty-seven people that
19 were exposed?

20 A. Oh, all together?

21 Q. Right.

22 A. Right. Okay.

23 Q. And a hundred and five of those worked
24 five years or less?

25 A. Right.

1 Q. And in contract yard D, there were a
2 hundred and fifty-eight workers exposed to
3 asbestos?

4 A. Yes.

5 Q. And a hundred and thirty-four of those
6 worked five years or less, correct?

7 A. And a hundred and thirty-four --

8 Q. A hundred and forty-four of those --

9 A. Yes.

10 Q. -- were exposed five years or less,
11 correct?

12 A. Yes.

13 Q. So it was no surprise in all of these
14 people who worked five years or less that they
15 didn't see any x-ray evidence of asbestosis,
16 correct?

17 A. Well, from what we know now, yes.

18 Q. Well, we knew about latencies back in
19 the '30s and '40s. The Hamilton letter, if you
20 need to see it, was from 1934, was it not?

21 A. Yes.

22 MR. KRISTAL: Those are all the
23 questions I have now subject to any other
24 questions.
25

1 RE-EXAMINATION BY MR. SPEZIALI:

2 Q. I have just a couple follow-up
3 questions. Stay with the report since it's in
4 your hand, Plaintiff's Exhibit -- what number is
5 that, 86?

6 A. Uh-huh.

7 Q. Go to the first -- the title page of
8 the report. The title is Health Survey of Pipe
9 Covering Operations in Constructing Naval
10 Vessels, is that right?

11 A. Yes.

12 MR. KRISTAL: Dave, if you want Vicki
13 to get this --
14 BY MR. SPEZIALI:

15 Q. In Constructing Naval Vessels. Okay.
16 It's -- the author -- let's tell the jury who
17 wrote this article. William -- Walter E.
18 Fleischer. Do you see the footnote there?

19 A. Yes.

20 Q. Go down to footnote one, on the bottom,
21 Commander, MC, United States Navy Reserve,
22 assistant chief health consultant; is that
23 right?

24 A. Yes, that's right.
25

1 Q. Frederick J. Viles, Jr., V-I-L-E-S. Who
2 was he?

3 A. He was a health consultant for the
4 United States Navy, and that was my former
5 professor at Harvard.

6 Q. Is that right? Is that Dr. Viles or
7 Mr. Viles?

8 A. It was Mr. He was a certified
9 industrial hygienist.

10 Q. And you taught under him in Harvard?

11 A. Yes.

12 Q. How old was he?

13 A. How old was he then? It's hard to tell
14 when you're young, but I'd say around forties
15 maybe.

16 Q. Okay.

17 THE SPECIAL MASTER: Very young.
18 BY MR. SPEZIALI:

19 Q. Robert L. Gade, G-A-D-E. Who was he?

20 A. Yes. Okay. So let's see, Robert Gade
21 was a health consultant, United States Navy.

22 Q. Okay. And the fourth person, Phil
23 Drinker who we told a little bit about already
24 to the jury. And what was his title at that
25 point in time?

1 A. Yes. Philip Drinker was chief health
2 consultant, US Maritime Commission.

3 Q. Okay. And the last page, conclusions
4 you talked to the jury about, but I want to talk
5 about conclusion four. I'm going to read it.
6 Okay?

7 A. Yes.

8 Q. Since each of the three cases of
9 asbestosis are work with asbestos pipe covering
10 in shipyards for more than twenty years, you
11 may -- it may be concluded that such pipe
12 covering is not a dangerous occupation. Do you
13 remember that conclusion?

14 A. Yes.

15 Q. Now, given that so many of the people
16 they looked at, as Mr. Kristal just pointed out,
17 had been exposed under the latency window as it
18 was recognized and understood back even when --
19 the era of World War II, pre 1946, do you have an
20 opinion from an industrial hygiene standpoint
21 whether Drs. Fleischer, Viles, Gade and Drinker
22 were perhaps attempting to manipulate the
23 literature for some reasons directed to them by
24 the United States Navy?

25 MR. KRISTAL: Object to the form of the

1 question.

2 THE WITNESS: No.

3 MR. SPEZIALI: Why in the world would
4 these four individuals dare to have published
5 such a thing back in 1946 when, as Mr. Kristal
6 points out, it was so well known that this
7 article was flawed because so many people were
8 under twenty years latency?

9 MR. KRISTAL: Object to the form.

10 MR. SPEZIALI: Why would they dare do
11 such a thing?

12 MR. KRISTAL: Object to the form of the
13 question. I also have a foundation question
14 objection. Go ahead.

15 THE WITNESS: Well, these kinds of
16 people, the quality of the researchers in this
17 investigation thought what they were doing was
18 valid and reflective of the study they were
19 trying to find out about.

20 BY MR. SPEZIALI:

21 Q. Do you know of anybody -- oh, and by
22 the way, when they published this, if you can go
23 to the footnotes on the last page. There are
24 three.

25 A. Yes.

1 Q. Do you see the first footnote Lanza,
2 Silicosis and Asbestosis?

3 A. Yes, I do.

4 Q. Does that title in 1938 -- do you have
5 an opinion whether that's the same reference --

6 MR. KRISTAL: I'll stipulate that's the
7 textbook we saw.

8 MR. SPEZIALI: Okay. Would that
9 suggest to you that that textbook was generally
10 available for the world to see and not just for
11 General Electric?

12 THE WITNESS: Yes.

13 MR. KRISTAL: Object to the form of the
14 question.

15 BY MR. SPEZIALI:

16 Q. And I see the next one is the Dreessen
17 study in 1938 for the United States Public
18 Health Service; is that right?

19 A. Yes.

20 Q. Okay. And then the last one, are you
21 familiar with that one? Is it, Fahey, Ships in
22 the Aircraft, United States Navy fleet, second
23 war edition, 1944?

24 A. No.

25 Q. Okay. Do you know any of -- any

1 references in the world, medical and scientific
2 literature or industrial hygiene literature
3 prior to the days of OSHA that was published
4 indicating that the Fleischer Drinker report
5 should be ignored as flawed because most of the
6 people studied had a latency period of under
7 twenty years? Do you know anybody that
8 published anything like that or did you see
9 anything like that?

10 A. No.

11 Q. You were asked about your testimony in
12 the instances for the thirty or forty
13 Plaintiffs, whether it had been stricken. Do
14 you remember that question?

15 A. Yes.

16 Q. And he asked you whether you ever
17 testified at trial. Do you remember that
18 question?

19 A. Right.

20 Q. Okay. Did you ever testify at a
21 deposition?

22 A. Yes.

23 Q. Okay. Did anybody ever make a motion
24 to strike your testimony in those instances?

25 A. Not that I recall.

1 Q. Okay. Did anybody ever make a motion
2 while you were retained on behalf of Plaintiffs'
3 attorneys to strike you from a case as being
4 unqualified?

5 A. No.

6 Q. And correct me if -- well, let me ask
7 you this: When you were retained by the
8 Plaintiffs attorneys in those cases, did you
9 have publications in those days that you didn't
10 have or talk about today?

11 A. No.

12 Q. So back in -- when you were obtained by
13 the Plaintiffs' attorneys you had no
14 publications in a peer reviewed journal?

15 A. Right.

16 Q. And today as we sit here do you still
17 have no publications in a peer reviewed journal?

18 A. Right.

19 Q. And when you worked for the United
20 States Environmental Protection Agency from 1972
21 to 1976 and did air monitoring programs, did you
22 have publications in the scientific literature
23 dealing with the topics you were dealing with?

24 A. No.

25 Q. And did anybody say to you in that era

1 of time that you were unqualified to work for
2 the Environmental Protection Agency because you
3 didn't have publications?

4 A. No.

5 Q. Okay. And when you worked as an
6 industrial hygienist at the Long Beach Naval
7 Shipyard in California, did anybody tell you
8 that, that you were unqualified to do that work
9 because you had no publications?

10 A. No.

11 Q. Okay. And you were asked about the
12 cases that you had with the Plaintiffs'
13 attorneys, whether or not General Electric was a
14 party to those cases at the time. Do you
15 remember that?

16 A. Yes.

17 Q. Okay. And let me ask you this: In
18 those cases, were you asked to look at certain
19 industrial hygiene issues such as you've been
20 asked to look to today with respect to
21 state-of-the-art literature and topics dealing
22 with asbestos?

23 MR. KRISTAL: Object to the form of the
24 question.

25 THE WITNESS: Yes.

1 MR. SPEZIALI: And in that literature
2 and those searches that you did, even though
3 General Electric may not have been a party to
4 those cases, in looking at the literature did
5 anything ever pop up that suggested that the
6 General Electric Corporation had acted
7 improperly or was a bad company with respect to
8 the manner it managed asbestos?

9 THE WITNESS: No.

10 MR. KRISTAL: Object to the form of the
11 question.

12 BY MR. SPEZIALI:

13 Q. Okay. And let me ask you, the General
14 Electric Company, those Plaintiffs' attorneys
15 that retained you in those cases, do you
16 remember who they were?

17 A. Some of them.

18 Q. Okay. Did they have more than just a
19 few asbestos cases?

20 A. They had groups, yes, many cases.

21 Q. Did you respect those men as good --
22 and women as good attorneys?

23 A. Yes.

24 Q. Okay. If they had found anything in
25 the medical and scientific literature

1 publications or, or documents by General
2 Electric that suggested that General Electric
3 was a bad company with respect to asbestos, do
4 you have an opinion whether or not General
5 Electric would have been a defendant in those
6 cases?

7 MR. KRISTAL: Object to the question.

8 THE WITNESS: Yes.

9 MR. SPEZIALI: And what's your opinion?

10 THE WITNESS: It would have been.

11 MR. KRISTAL: You're asking opinions
12 about whether or not General Electric was in the
13 case?

14 MR. SPEZIALI: No, no, you asked that.
15 I asked --

16 MR. KRISTAL: No. I asked whether they
17 were, and she said no. Now you're asking an
18 opinion as to whether they were? I object.

19 MR. SPEZIALI: Well, you apparently
20 want to turn it into something that it's not.
21 So if you do, that's the route we're going to go
22 to.

23 And, and finally, with respect to the
24 publications by General Electric where
25 Mr. Kristal points out that asbestosis was

1 talked about but not cancer, okay?

2 THE WITNESS: Yes.

3 MR. SPEZIALI: Okay. Do you know of
4 anybody out there today who, who is of the
5 opinion that they would -- that they, that they
6 don't mind having a little dab of asbestosis but
7 they just don't want any cancer? Do you know
8 anybody like that?

9 MR. KRISTAL: Object to the form of the
10 question.

11 THE WITNESS: No.

12 MR. SPEZIALI: In the medical and
13 industrial hygiene community both pre and post
14 OSHA, okay, did anybody ever suggest in any
15 publication anywhere that it's okay to give a
16 worker asbestosis as long as you don't give them
17 cancer?

18 MR. KRISTAL: Object to the form of the
19 question.

20 THE WITNESS: No.

21 MR. SPEZIALI: Do you know of anybody?

22 THE WITNESS: No.

23 MR. SPEZIALI: Okay. Do you know of
24 anybody who would suggest that you should ignore
25 protecting a worker for asbestosis because an

1 article has been written that doesn't also
2 mention cancer?

3 THE WITNESS: No.

4 MR. KRISTAL: Object to the form of the
5 question.

6 MR. SPEZIALI: Okay. Sort of like
7 saying it's okay to get a cold to avoid the flu.

8 MR. KRISTAL: Object to the form of the
9 question.

10 THE WITNESS: Never saw it.

11
12 RE-EXAMINATION BY MR. KRISTAL:

13
14 Q. Ms. Drucker, are you saying to this
15 jury that the cases in the late 1980s and early
16 1990s when Plaintiffs' attorneys retained you
17 had to do with the state-of-the-art knowledge
18 about the hazards of asbestos in terms of your
19 role in those cases?

20 A. Part of what I was hired to do was to
21 discuss -- to study state of the art and discuss
22 it, yes.

23 Q. In general.

24 A. In general.

25 Q. Okay. I asked you June 3rd, 2004 at

1 your deposition when you were under oath the
2 following question on page two thirty-eight.

3 Question, do you have an opinion as to
4 the state of the art with respect to asbestos in
5 the scientific and industrial hygiene
6 communities, and in particular as to the
7 evolution of knowledge regarding the effects of
8 asbestos exposure and its control during the
9 period relevant to this case other than that
10 with respect to the Navy and GE?

11 And Mr. Speziali said, again, I'm not
12 going to ask her about that, Jerry.

13 And then I asked, nor do you have an
14 opinion as you sit here today on that subject?

15 And your answer was, I've been asked to
16 concentrate on the Navy in this particular
17 instance.

18 And then I said, so you don't have an
19 opinion on that as you sit here today.

20 And could you read your answer, line
21 sixteen and seventeen on page two thirty-nine?

22 A. Sure. As I sit here today I have not
23 formulated one.

24 Q. Okay. So are you saying that on June
25 3rd, 2004 --

1 MR. SPEZIALI: By the way, objection to
2 that. Improper.

3 MR. KRISTAL: Are you saying that in
4 the late 1980s and 1990s you had an opinion on
5 that subject?

6 THE WITNESS: Well, I'd say as part of
7 the work that I was doing on those particular
8 matters relative to that, yeah, at the time,
9 sure.

10 (Whereupon, the testimony was stricken
11 from the record.)

12 MR. SPEZIALI: This is improper.

13 MR. KRISTAL: She just said she may
14 have to look.

15 MR. SPEZIALI: No, this is improper.

16 MR. KRISTAL: Okay. So make an
17 objection.

18 MR. SPEZIALI: Well, it's more than an
19 objection. We can't taint a record with
20 something as ridiculous as this. The question
21 was is she being offered for that, and the
22 answer was no, and therefore, she had no
23 opinion. That was my decision. That had
24 nothing to do with her.

25 THE SPECIAL MASTER: Let's go off the

1 record completely.

2 THE VIDEOGRAPHER: This is the
3 conclusion of tape number two, volume four of
4 the continuing deposition of Marjorie Drucker.
5 Off the record. The time is three ten p.m.

6 (Whereupon, a recess was then taken.)

7 THE SPECIAL MASTER: Right. We're
8 going to just strike the last question and
9 answer. Mr. Kristal's, Mr. Kristal's last
10 question and the witness's last answer will be
11 stricken.

12 THE REPORTER: Do you want me to
13 actually take it out of the transcript?

14 THE SPECIAL MASTER: Yes. I want you
15 to take it out of the transcript, and I want it
16 edited somehow out of the tape. I don't know
17 how we do that, but that's your problem. Okay.
18 Now I think we can bring the witness back in and
19 go back on.

20 MR. KRISTAL: On the steno record, I'm
21 assuming, I'm assuming that GE is going to
22 provide full and complete copies of all the
23 exhibits that are partial, and just as you asked
24 me to do.

25 MR. SPEZIALI: Uh-huh, yes.

MR. SPEZIALI: The answer is yes.
 MR. KRISTAL: Okay. No more questions.
 THE SPECIAL MASTER: Back on the record, please.
 THE VIDEOGRAPHER: This is the beginning of tape number three, volume four of the continuing deposition of Marjorie Drucker. On the record. The time is three thirty-three p.m.
 MR. KRISTAL: Ms. Drucker, this is Jerry Kristal. I have no further questions.
 MR. SPEZIALI: And I think that will be it unless any of the other counsel, which I doubt --
 MR. KRISTAL: No one has any other questions, therefore the deposition is over. Thank you.
 THE WITNESS: Thank you.
 THE VIDEOGRAPHER: This is the end of the deposition, and -- this is the end of the deposition and tape number three, volume four. Off the record. The time is three thirty-three p.m.
 * * * * *

SS:
 COUNTY OF ERIE)
 I, VICTORIA ROHL, a Notary Public in and for the State of New York, County of Erie, DO HEREBY CERTIFY, that the Examination Before Trial of MARJORIE A. DRUCKER, was taken down by me in a verbatim manner by means of Machine Shorthand on August 20, 2004, that the proceedings were taken to be used in the above-entitled action.
 I further CERTIFY that the above-described transcript constitutes a true, accurate and complete transcript of the testimony.
 VICTORIA ROHL
 Notary Public

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I hereby CERTIFY that I have read the foregoing pages, and with the exception of the changes on the errata sheet, that they are a true and accurate transcript of the testimony given by me in the above-entitled action on August 20, 2004.

MARJORIE A. DRUCKER

Sworn to before me this
 day of , 2004.

Notary Public

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14	Electric, publication date, 1965	
15	86, a copy of the article from January 1946	946
16	referred to as the Fleischer Drinker article	