

1
2 IN THE CIRCUIT COURT OF MONGOLIA COUNTY, WEST VIRGINIA
3
4 IN RE: MON MASS II
5 -----
6 Examination Before Trial, held at the Law Offices
7 of WOODS, OVIATT, GILMAN, STURMAN & CLARKE, LLP, 24 Exchange
8 Street, Rochester, New York on January 14, 1998, commencing
9 at 9 o'clock a.m.
10
11 EXAMINATION OF: Roy Whittaker
12
13 APPEARANCES: HUMPHREY, FARRINGTON & McCLAIN, P.C.
14 Appearing on behalf of the Plaintiff
15 221 West Lexington, Suite 400
16 Independence, Missouri 64051
17 BY: STEVEN E. CRICK, ESQ.
18
19 GOLDFEIN & JOSEPH
20 Appearing on behalf of Garlock, Inc.
21 and Anchor Packing
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23 Packard Building
24 Philadelphia, Pennsylvania 19102
25 BY: BERNARD L. LEVINthal, ESQ.
26
27 KOROWSKI LAW FIRM
28 Appearing Via Telephone on
29 behalf of Anchor Packing
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31 Swansea Illinois 62226
32 BY: CURTIS BAILEY, ESQ.
33
34 REPORTED BY: DEBORAH A. BONALLE, CSR

1
2 few years. In all honesty, I forget the date
3 off the top of my head. As a result of some
4 cases that we were involved in, I think that
5 your firm was handling, Garlock contacted
6 McCrone in Chicago and requested, I believe,
7 even by way of subpoena, that they supply
8 Garlock with any and all documents relating to
9 Garlock and Anchor that they had in their
10 possession, and that's what I have now
11 produced for you.

12 Just as an aside, I don't think that
13 there's anything in there that you don't
14 already have, but I will leave that up to you
15 to determine. They're divided up according to
16 McCrone's file numbers and the indices that
17 you see in there were generated by McCrone,
18 not by Garlock.

19 MR. CRICK: Are you saying that all
20 these documents were given to us during our
21 other case?

22 MR. LEVINTHAL: No, I don't know if
23 they were given to you during your other case
24 or not. When I say you -- I know that as of
25 today I think you have it all in your

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1 possession because for one thing, as far as I
2 can tell, there may be -- with the possibility
3 of one or two pieces of paper, everything
4 that's there was included in the documents
5 that Mr. Hatfield produced that he had gotten
6 from McCrone.
7
8 In fact, there may have been a couple
9 of pieces of paper that he produced that were
10 not produced to us by McCrone, but that could
11 be because we relied on them to do the search,
12 and from what I recall of Mr. Hatfield's
13 testimony, he went himself and did a search in
14 addition to relying on what they gave him.
15 MR. CRICK: My question is: This stack
16 called -- and we are going to mark all
17 these -- "McCrone File ME-1537 Study at
18 Palmyra, New York (1985)," when did Garlock
19 get this stack of documents?
20 MR. LEVINthal: You have to -- if you
21 look the top -- oh, yeah, right. I believe
22 that that file, McCrone set that up as a
23 separate file. I believe that that file deals
24 with the course of communication back and
25 forth between Garlock or counsel for Garlock

1 IT IS HEREBY STIPULATED by and between
2 the attorneys for the respective parties that
3 the filing of the testimony be waived;
4 IT IS FURTHER STIPULATED, that the oath
5 and presence of the Referee be waived;
6 IT IS FURTHER STIPULATED, that all
7 objections, except as to the form of the
8 question, be reserved to the time of trial;
9 and
10
11 IT IS FURTHER STIPULATED, that
12 Deborah A. Bonalle, as Notary Public, may
13 swear in the witness.
14 * * *

15 MR. LEVINTHAL: Just for the record.
16 Steve, I have just given you a pile of
17 documents. That's in response to your
18 Deposition Notice that requested that Mr.
19 Whittaker bring with him whatever documents
20 Garlock had in its possession relating to the
21 McCrone studies of the Garlock gaskets.
22 The history behind that stack of
23 documents is -- and I believe there's a copy
24 of the subpoena -- that they were received
25 pursuant to that at some point within the last

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1 and McCrone that includes how Garlock actually
2 received the materials.
3 MR. CRICK: Can you just point that
4 specific letter out to me.
5 (Whereupon there was a brief pause in the proceeding.)
6 MR. LEVINTHAL: Let me just see the
7 others a second so I can verify a file
8 number.
9 (Whereupon there was a brief pause in the proceeding.)
10 MR. LEVINTHAL: Yeah. If you look at
11 correspondence that begins with the first page
12 and continue, you will see it's dated. That's
13 the correspondence going back and forth
14 requesting --
15 MR. CRICK: Can you point out the
16 letter that sends this file for me, please.
17 (Whereupon there was a brief pause in the proceeding.)
18 MR. LEVINTHAL: All right. There is
19 no -- hold on a second. I don't see a letter
20 that actually serves as a quote-unquote
21 transmittal letter. What is in here is -- do
22 you have some Post-its? I will mark a
23 couple.
24 (Whereupon there was a brief pause in the proceeding.)
25

Page 7 1 MR. LEVINTHAL: There's a letter dated 2 August 14, 1995 from counsel for Garlock to 3 Laurie Bain, Vice President and General 4 Manager of McCrone Environmental Services 5 indicating that there was to be a meeting 6 scheduled for Friday, August 18th, 1995 -- and 7 I'm quoting now -- "The purpose of our meeting 8 is to confirm that we have received all 9 materials in McCrone's files relating to 10 consulting services performed for Garlock, 11 Inc., Anchor Packing or Coltec Industries." 12 There is likewise -- there are also 13 letters between McCrone and Garlock or counsel 14 for Garlock in August prior to the 14th and 15 subsequent to the 14th of 1995 discussing the 16 course -- going back and forth discussing the 17 course of searching for the documents, but 18 apparently there never was a quote-unquote 19 cover letter saying "Enclosed please find the 20 documents." 21 So the answer to the question you asked 22 a while ago, at this point it would appear 23 that as of the time of that last case, if it's 24 the Michigan case you're talking about, we did 25	Page 10 1 ROY WHITTAKER - BY MR. CRICK 2 MR. CRICK: Well, I will check our 3 correspondence file on that because I don't 4 think it was Mr. Whittaker who was listed, 5 but -- 6 MR. LEVINTHAL: Okay. That was handled 7 by local counsel. I was led to believe that 8 he had been noticed, but as I said, you are 9 taking this deposition and there would be no 10 one other than him. 11 And, by the way, I never received a 12 copy of your pro hoc for West Virginia. 13 MR. CRICK: That would have been a 14 couple of years ago. 15 MR. LEVINTHAL: A couple years ago for 16 these cases? 17 MR. CRICK: Probably in June of '86. 18 MR. LEVINTHAL: '86? 19 MR. CRICK: May of '86 before the MDL 20 action. 21 MR. LEVINTHAL: Oh, well, if you want 22 to talk about that, I have been pro hoc'd in 23 West Virginia numerous times. 24 MR. CRICK: I mean in this case. 25 MR. LEVINTHAL: In this case you were
Page 8 1 not -- Garlock did not in fact have these 2 documents in its possession. I believe it was 3 as a result of allegations made by 4 Mr. Hatfield in the course of that case that 5 Garlock even set about to retrieve the 6 documents. 7 (WHEREUPON DEPOSITION EXHIBITS 1 THROUGH 6 8 WERE MARKED FOR IDENTIFICATION.) 9 MR. CRICK: Before we begin, have you 10 filed your pro hoc application in this case? 11 MR. LEVINTHAL: Yes, as far as I know 12 it's been granted. It certainly was filed. I 13 was told that it had been granted months ago. 14 It was filed back in late November, early 15 December. So as far as I know, it was granted 16 among a whole stack of them at the beginning 17 of December. 18 MR. CRICK: I'm not sure we received 19 that application. 20 R O Y W H I T T A K E R, 21 called herein as a witness, having first been duly 22 sworn, was examined and testified as follows: 23 EXAMINATION BY MR. CRICK: 24 Q. Mr. Whittaker, would you please state your name and 25	Page 11 1 ROY WHITTAKER - BY MR. CRICK 2 pro hoc'd in 1986? 3 MR. CRICK: Because it was sent up to 4 MDL. 5 MR. LEVINTHAL: Okay. 6 MR. CRICK: This case has a history. 7 EXAMINATION BY MR. CRICK CONTINUING. 8 Q. Mr. Whittaker, it's my understanding you retired from 9 Garlock in 1996? 10 A. That's correct. 11 Q. You started there in 1953? 12 A. Yes. 13 Q. So you worked for Garlock a period of about 43 years? 14 A. Yes. 15 Q. You are a consultant for Garlock now? 16 A. Yes. 17 Q. What sort of consulting work do you do? 18 A. Well, a lot of my time is spent on engineering 19 projects. Garlock is a company that is -- always wants 20 to expand their business, and to give you a couple 21 examples, they're looking at manufacturing in the Far 22 East and I have spent about three weeks there and I was 23 more recently in -- prior to that, I was in Europe, 24 spent some time there and then I worked with the 25 Engineering Department at Garlock on testing of
Page 9 1 ROY WHITTAKER - BY MR. CRICK 2 address for the record. 3 A. It's Roy L. Whittaker, W-h-i-t-t-a-k-e-r. I live at 4 190 Parrish Street, Canandaigua, New York. It's 5 C-a-n-a-n-d-a-i-g-u-a. The zip is 14424. 6 Q. Have you been asked to testify in a personal injury 7 case that's pending in Morgantown, West Virginia? 8 A. No, I have not been asked to do it yet. 9 MR. CRICK: Okay. It's my 10 understanding that we had previously asked for 11 the identities of Garlock representatives who 12 may appear at trial. Mr. Whittaker was not 13 one of the names that was provided to us. 14 MR. LEVINTHAL: It was my understanding 15 that he was. I can tell you right now that if 16 there is a witness to testify as a Garlock 17 representative -- corporate representative, it 18 will be Mr. Whittaker. And certainly after 19 today there should be no surprises because 20 you're being given a free hand to depose him 21 as you see fit. 22 I have no problem representing to you 23 on the record unequivocally that if we bring 24 in a corporate representative, it will be Mr. 25 Whittaker and no one else.	Page 12 1 ROY WHITTAKER - BY MR. CRICK 2 products and developing products. 3 Q. Garlock is an international company, isn't it? 4 A. Yes, it is. 5 Q. You have North American offices in Palmyra, New York; 6 is that right? 7 A. Yes. 8 Q. Sodus, New York? 9 A. Yes. 10 Q. Did I say that right? 11 A. Sodus reports to Palmyra. 12 Q. S-o-d-u-s? 13 A. Yes. 14 Q. Garlock has a plant in Mexico? 15 A. Yes. 16 Q. Toronto, Canada? 17 A. Yes. 18 Q. Dusseldorf, Germany? 19 A. Yes. 20 Q. Sherbrooke, Quebec? 21 A. Yes. 22 Q. Australia? 23 A. Yes. 24 Q. Great Britain? 25 A. Yes.

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1 ROY WHITTAKER - BY MR. CRICK

2 Q. And you're looking to start a plant in the Far East

3 now?

4 A. It's a possibility.

5 Q. And another plant in Europe?

6 A. It's a possibility.

7 Q. Are there other Garlock plants?

8 A. No, anything else reports directly to Palmyra such as

9 the mechanical seal -- or the spiral wound gasket group

10 in Houston. That reports to Palmyra.

11 Q. So there's another plant in Houston, Texas?

12 A. Yes.

13 Q. Are there any other plants besides the ones we have

14 listed?

15 A. Yes. There's a recent one in Arkansas that they

16 purchased, which again reports to Palmyra.

17 Q. What city in Arkansas?

18 A. I can't recall the city right now.

19 Q. Any other plants anywhere in the world?

20 A. No.

21 Q. How many of those plants today, sir, manufacture a

22 product that contains asbestos?

23 A. Two. Mexico and Palmyra both manufactured compressed

24 asbestos gasketing material.

25 Q. Those are the only plants that manufacturer any type of

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1 ROY WHITTAKER - BY MR. CRICK

2 product today that contains asbestos; is that what your

3 testimony is?

4 A. Yes.

5 Q. Now, it was only about two or three years ago that the

6 plant in Mexico was still manufacturing asbestos

7 product; isn't that correct?

8 A. I thought I just said Mexico.

9 MR. LEVINthal: He just told you they

10 are still doing it.

11 Q. You said Palmyra --

12 A. Palmyra and Mexico.

13 Q. Besides the compressed sheets?

14 A. No, all compressed sheet.

15 Q. How about in Canada?

16 A. No. Everything is non-asbestos in Canada.

17 Q. When did you stop manufacturing asbestos products in

18 Canada?

19 A. I believe it was when we moved the sheeters and

20 manufacturing equipment from Toronto to Palmyra, and

21 that had to be approximately ten years ago.

22 Q. Now, Garlock was acquired by Colt Industries; is that

23 right?

24 A. Yes.

25 Q. And that's the company that made the Colt firearms?

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1 ROY WHITTAKER - BY MR. CRICK

2 A. Yes.

3 Q. And the company now is called Garlock, Inc.?

4 MR. LEVINthal: Which company?

5 Q. Which is the company -- who is the parent company

6 today?

7 A. The corporation that owns Garlock is Coltec Industries.

8 Q. C-o-l-t-e-c?

9 A. Yes.

10 Q. And Garlock, Inc. is a subsidiary of Coltec?

11 A. Yes.

12 Q. List for me, sir, the products that Garlock

13 manufactured that contained asbestos, by generic type.

14 MR. LEVINthal: Are you confining this

15 to any time period?

16 MR. CRICK: No.

17 MR. LEVINthal: Okay.

18 A. Compressed asbestos gasketing, compression packing,

19 expansion joint, hydraulic packing, spiral wound

20 gasketing and cloth fabric.

21 Q. When did Garlock cease manufacturing cloth with

22 asbestos?

23 A. That product is manufactured in Quebec and I believe

24 they ceased manufacturing cloth approximately three to

25 five years ago; asbestos cloth.

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1 ROY WHITTAKER - BY MR. CRICK

2 Q. When did they start manufacturing cloth with asbestos

3 in it?

4 A. Well, it was being manufactured in Palmyra at the time

5 I went there in 1953. I don't know when exactly they

6 started manufacturing asbestos cloth.

7 Q. Garlock began as a company in 1897; is that correct?

8 A. That is correct.

9 Q. And at that time in 1897, Garlock began manufacturing

10 asbestos-containing products?

11 A. Yes.

12 Q. Do you know if that included cloth?

13 A. I don't believe it was cloth. I believe it was

14 hydraulic packing and then after that was gasketing.

15 Q. At least by the time that you came to Garlock in 1953,

16 Garlock was making asbestos-containing cloth?

17 A. Yes.

18 Q. And it continued making asbestos-containing cloth in

19 the United States until approximately what year?

20 A. I can't tell you the exact year, but it was the mid

21 1970s, and that was transferred to the plant in

22 Quebec.

23 Q. And it continued manufacturing asbestos containing

24 cloth in Quebec until about three year ago?

25 A. Roughly three to five years. I can't tell exactly when

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1 ROY WHITTAKER - BY MR. CRICK

2 they ceased manufacturing.

3 Q. During what years did Garlock make asbestos-containing

4 spiral wound gaskets?

5 A. Garlock, over the years, has been in and out of that

6 business and I can't tell you exactly what years that

7 was. I think most recently it was some 10 or 12 years

8 ago and when the manufacturing was still in Toronto

9 before it was moved.

10 Q. You lost me there. Before it was moved?

11 A. Moved to Houston or to another location.

12 Q. Okay. 10 to 12 years ago, Garlock was making

13 asbestos-containing spiral wound gasketing?

14 A. Yes, I believe they were.

15 Q. Do you know when it started making asbestos-containing

16 spiral wound gasketing?

17 A. No, I do not.

18 Q. It was making it before you arrived in 1953, I take it?

19 A. I can't say when they started making spiral wound

20 gasketing. I don't know because I didn't get involved

21 in it until probably the late '60s, '70s, something

22 like that.

23 Q. And at least by that time, Garlock was making

24 asbestos-containing spiral wound gasketing?

25 A. Yes.

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1 ROY WHITTAKER - BY MR. CRICK

2 Q. Tell me again the year that Garlock stopped making

3 spiral wound gasketing with asbestos?

4 A. As I said before, I believe it was 10 to 12 years ago.

5 Q. Around 1985?

6 A. Sometime around that time frame.

7 Q. Were spiral wound gaskets containing asbestos ever sold

8 with a warning?

9 A. I don't recall because, again, it was done outside of

10 Palmyra and I've got to believe that when we started

11 labeling gasketing in Palmyra, because Toronto reported

12 to Palmyra at that time, they probably started labeling

13 at the same time.

14 Q. Around 1977?

15 A. Yes.

16 Q. But you don't know as for a fact today whether or not

17 spiral wound gaskets were actually sold with a warning?

18 A. I can't say for sure.

19 Q. Did Garlock sell asbestos-containing cloth with any

20 kind of warning at any time?

21 A. On the packaging or --

22 Q. Any kind of warning, sir.

23 A. Again, that was done out of Sherbrooke and I can't say

24 for sure, but I believe there was a warning put on the

25 packaging.

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1 ROY WHITTAKER - BY MR. CRICK
 2 MR. LEVINTHAL: Let me just say
 3 something for the record, Steve, that I'm
 4 letting you get into different product types
 5 because Mr. Whittaker is here as the Garlock
 6 corporate representative, and for purposes of
 7 this exercise, I think that you're probably
 8 entitled to that.
 9 I do want the record to reflect,
 10 though, that as far as I understand for
 11 purposes of this Mon Mass litigation, no
 12 products have been identified with respect to
 13 Garlock and Anchor other than gasket material,
 14 and the fact that we are doing this at the
 15 deposition doesn't mean that we're waiving any
 16 objections we might have to this at trial.
 17 Q. I had asked you a question about warnings on
 18 asbestos-containing cloth. Today, sir, do you know of
 19 any specific warning that was provided with the cloth?
 20 A. Like I said, the only thing I can believe that we
 21 did -- I think we did -- it seems like I recall that we
 22 did put some warning on the packaging.
 23 Q. Around 1977?
 24 A. I'm not sure when it started. I'd say somewhere
 25 around that time frame.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. Could have been later?
 3 A. I can't say.
 4 Q. That was not something that you were directly involved
 5 with?
 6 A. No, because it was in Quebec.
 7 Q. The compressed asbestos gaskets, they were manufactured
 8 in Palmyra?
 9 A. Yes.
 10 Q. Beginning in what year?
 11 A. In around the early 1900s.
 12 Q. And continuing even today?
 13 A. Compressed asbestos gasketing is still manufactured
 14 today.
 15 Q. What warning is provided with compressed asbestos
 16 gaskets today?
 17 A. It's a warning that's taken from the Federal Register
 18 and placed on the gasketing material itself.
 19 Q. And when did Garlock begin placing a warning on
 20 compressed asbestos gaskets?
 21 A. In 1977.
 22 Q. Has that warning ever changed?
 23 A. No, it has not.
 24 Q. Were you involved in the decision to place a warning on
 25 compressed asbestos gaskets?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. No, I was not.
 3 Q. Were you told the reason for placing a warning on
 4 compressed asbestos gaskets?
 5 A. No, I was not told the reason. I believe it was put on
 6 there because of the -- as a courtesy to our end user
 7 to tell them that there was asbestos in the product and
 8 to make sure it didn't get mixed with a non-asbestos
 9 product.
 10 Q. To give them the opportunity to take precautions from
 11 being exposed to any respirable asbestos fibers?
 12 MR. LEVINTHAL: Object to the form.
 13 You can answer it.
 14 A. Whatever the end user decided to do with that product.
 15 Q. Is there any reason you can think of to place a warning
 16 other than giving the end user the opportunity to
 17 protect himself from exposure to asbestos fibers?
 18 A. Well, the product we are talking about is an
 19 encapsulated product, so there is not a concern about
 20 that, but because it contained asbestos, it was just
 21 done -- we probably will notify them that there was --
 22 if there was a health concern that there was asbestos
 23 fiber.
 24 Q. Now, Garlock has removed asbestos from all of its
 25 products except for the compressed asbestos gaskets,

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1 ROY WHITTAKER - BY MR. CRICK
 2 correct?
 3 A. That is correct.
 4 Q. And one of the reasons for removing asbestos was the
 5 potential health hazard from breathing asbestos fibers?
 6 MR. LEVINTHAL: Objection to form.
 7 You can answer it.
 8 A. I worked with the asbestos products for years as a
 9 Director of Engineering and the main purpose as far as
 10 I'm concerned why we did it is because as time went on
 11 since the non-asbestos products started in the late
 12 '70s, early '80s, there's been a great demand increase
 13 in having product such as gasketing and packing having
 14 tighter, better sealability. There's a big concern in
 15 the industry of emissions from the valves and flanges
 16 and as a result with non-asbestos products, we were
 17 able to develop a product that was ten times better for
 18 sealability in the industry.
 19 Q. So the gaskets manufactured today are actually better
 20 than the gaskets that you were manufacturing with
 21 asbestos?
 22 A. They are better in the area of sealability, which that
 23 is what a gasket has got to do.
 24 Q. And one of the considerations, in addition, was the
 25 potential health hazard from breathing asbestos fibers

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1 ROY WHITTAKER - BY MR. CRICK
 2 from those products; isn't that correct?
 3 MR. LEVINTHAL: Object to the form.
 4 Go ahead. You can answer it.
 5 A. Those products are considered safe. They're
 6 encapsulated products.
 7 Q. I have to move to strike your response.
 8 Let me ask it again. One of the considerations
 9 that Garlock gave to removing asbestos from the
 10 products was the potential health hazard from breathing
 11 asbestos fibers; is that correct?
 12 MR. LEVINTHAL: Objection to form.
 13 Go ahead.
 14 A. They removed the asbestos in some cases because there
 15 are people in the industry that's concerned about it
 16 and those that are concerned about it, then there were
 17 other products that came along when the materials were
 18 available to develop the new products so they would use
 19 an alternative to asbestos product.
 20 Q. So some people were concerned about the health hazards
 21 of asbestos in Garlock gaskets?
 22 A. Some people in the industry, yes, were concerned about
 23 the health concerns of asbestos.
 24 Q. Health concerns of persons in the industry about
 25 asbestos is not something that only came to the

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1 ROY WHITTAKER - BY MR. CRICK
 2 attention of Garlock in 1977, is it?
 3 A. Restate that question, please.
 4 Q. Garlock became aware of concerns about asbestos in the
 5 industry prior to 1977, didn't it?
 6 A. Yes.
 7 Q. You know that Garlock was a founding member of the
 8 Asbestos Textile Institute in the 1940s?
 9 A. They were a member at various times of that
 10 association.
 11 Q. And they were one of the founding members in the 1940s;
 12 you're aware of that, aren't you?
 13 A. Yes.
 14 Q. You're also aware that as a result of the Vera Clemons'
 15 personal injury claim that Garlock dropped its
 16 membership in the ATI?
 17 A. As a result of that? That's new to me. I'm not aware
 18 of that.
 19 Q. You haven't been provided with those documents?
 20 A. I was never made aware that they dropped their
 21 membership because of that reason.
 22 Q. What was the relationship between its drop in
 23 membership in the ATI and the Vera Clemons' claim?
 24 A. I do not know.
 25 MR. LEVINTHAL: I'm going to object to

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1 ROY WHITTAKER - BY MR. CRICK
 2 the form of that only because you are assuming
 3 that there was a relationship. He's answered
 4 the question, so we can move on.
 5 Q. Have you been provided any documentation that discussed
 6 Garlock's membership in ATI and the Vera Clemons'
 7 claim?
 8 A. I have not seen the connection that you're trying to
 9 make between the Vera Clemons and the ATI. I have not
 10 seen that type of document.
 11 Q. You haven't been provided with any documents of that
 12 type ever?
 13 A. I don't recall that, no.
 14 Q. Not even in a prior deposition of yours?
 15 A. No, I don't recall that.
 16 MR. LEVINTHAL: If you have such a
 17 document and you want to show it to him,
 18 please go ahead and show it to him and ask him
 19 questions. If you don't, then let's move on.
 20 Q. Around the time of the Vera Clemons' claim, do you know
 21 what time that was?
 22 A. No, I don't.
 23 Q. It was in the early 1950s; is that your understanding?
 24 A. It could be. I'm not sure.
 25 Q. When did Garlock drop its membership from the ATI?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. I don't recall -- like I said, they belonged to it and
 3 then they dropped out, I think, in around the '40s or
 4 something like that or later and then went back in
 5 again for a while, but I can't tell you the years.
 6 Q. Just so the record is clear, you are aware that the
 7 Vera Clemons' claim that I have been mentioning with
 8 you was a claim brought by the family of a woman who
 9 worked at Garlock who contracted an asbestos disease;
 10 you understand that, don't you?
 11 A. Yes, I do.
 12 Q. And that claim was brought in the early 1950s; do you
 13 understand that?
 14 A. Yes.
 15 Q. Do you understand that Mr. Houten -- did I say that
 16 name correctly --
 17 A. Yes.
 18 Q. -- Mr. Houten was a member of the ATI on behalf of
 19 Garlock; you understand that, don't you?
 20 A. Yes.
 21 Q. You know that in the mid 1950s Mr. Houten attended
 22 meetings of the Asbestos Textile Institute in which
 23 asbestos health hazards were discussed?
 24 A. Yes.
 25 Q. Now, despite Mr. Houten's presence at those meetings of

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1 ROY WHITTAKER - BY MR. CRICK
 2 the ATI and the Vera Clemons' claim, Garlock did not
 3 put a warning on its asbestos-containing products at
 4 that time, did it?
 5 MR. LEVINTHAL: Objection to form. If
 6 you want to rephrase it, he might be better
 7 able to answer it. You're suggesting that
 8 there are connections between events that
 9 there were no connection to. If you have
 10 something you want to show him to substantiate
 11 that and ask questions, that's fine, but I
 12 object to the form in which you're asking the
 13 questions.
 14 He can go ahead and answer it, if he's
 15 able to.
 16 Q. Please answer the question, sir.
 17 A. Restate your question.
 18 MR. CRICK: Would you please read that.
 19 (Whereupon the reporter read back the last question.)
 20 A. No.
 21 Q. Vera Clemons is not the only asbestos personal injury
 22 claim of a Garlock employee that's been brought against
 23 Garlock, is it?
 24 A. No.
 25 Q. How many Workers' Compensation claims have been brought

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1 ROY WHITTAKER - BY MR. CRICK
 2 against Garlock in which employees allege that they had
 3 an asbestos disease?
 4 A. I guess the only ones I can think of are probably six
 5 or seven.
 6 Q. Would you please name those.
 7 A. I can't name all the people.
 8 Q. Have you reviewed their claim files?
 9 A. No, I have not reviewed their claim files. I have seen
 10 in the past the list of the people, but that's about
 11 the extent of my attention or review of the files.
 12 Q. Did you know any of those individuals?
 13 A. Yes, I did.
 14 Q. So to the best of your memory, there have been only six
 15 or seven Workers' Compensation claims brought against
 16 Garlock raising an allegation of asbestos disease?
 17 A. Yes.
 18 Q. And I will ask you one last time, can you name any of
 19 those claims besides Vera Clemons?
 20 A. Yeah. A Harold Beadle.
 21 Q. Can you spell that last name?
 22 A. B-e-a-d-l-e. Geez, I can picture the people. I can't
 23 think of the names right now. I can't think of the
 24 names right now.
 25 Q. When was Mr. Beadle's Workers' Compensation --

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. It's Beadle with a B.
 3 Q. B, sorry. B-e-a-d-l-e?
 4 A. Yes.
 5 Q. When did Mr. Beadle file his Workers' Compensation
 6 claim?
 7 A. I don't recall the time frame.
 8 Q. Do you remember the decade?
 9 A. I would say it was probably the '50s or '60s. I can't
 10 say for sure.
 11 Q. He brought his claim in the '50s or '60s?
 12 MR. LEVINTHAL: If you are not sure --
 13 if you are not sure, you're not sure. If you
 14 know, tell him. If you are not sure, don't
 15 guess.
 16 A. I'm not sure.
 17 Q. To the best of your -- your best estimate, it would
 18 have been in the '50s or '60s?
 19 MR. LEVINTHAL: No, you're asking for
 20 his best guess and I'm not going to let him do
 21 that.
 22 If you feel certain you know a decade,
 23 go ahead and tell him. If you are not sure,
 24 you're not sure.
 25 A. I'm not sure.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. You knew Mr. Beadle?
 3 A. Yes, he worked for me at one time.
 4 Q. When did he work for you?
 5 A. It had to be in the '50s. Let's see. Excuse me. I
 6 take that back. It could have been in the '60s when I
 7 was in Quality Control.
 8 Q. Has Mr. Beadle passed away?
 9 A. Not to my knowledge.
 10 Q. Was it during the time that Mr. Beadle was working for
 11 you that he filed his Workers' Compensation claim?
 12 A. That, I don't know.
 13 Q. What did Mr. Beadle do at Garlock?
 14 A. He -- at the time he worked for me, he was a Quality
 15 Control inspector.
 16 Q. You probably have some understanding of how Mr. Beadle
 17 was exposed to asbestos fibers. Can you explain that
 18 to us?
 19 MR. LEVINTHAL: Object to the form.
 20 Why don't you first ask him if he has some
 21 knowledge how he was exposed to asbestos
 22 fibers.
 23 Q. You can answer the question, sir.
 24 A. I have no knowledge of how or what caused his health
 25 problem. I do know that as an inspector in Quality

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1 ROY WHITTAKER - BY MR. CRICK
 2 Control, they had to roll from department to department
 3 to inspect products.
 4 Q. So he would have been exposed to Chrysotile asbestos at
 5 the Palmyra plant?
 6 A. Yes.
 7 Q. And would he have been exposed to Crocidolite asbestos
 8 at the Palmyra plant?
 9 A. No, he would not, because I don't think he ever got --
 10 worked around those products.
 11 Q. To the best of your knowledge, his only exposure to
 12 asbestos was to Chrysotile?
 13 A. Yes. That's because the Crocidolite only represented
 14 about 2 percent of our entire product line.
 15 Q. And do you know what asbestos disease Mr. Beadle claims
 16 that he has?
 17 A. No, I don't.
 18 Q. Do you know if he had cancer?
 19 MR. LEVINTHAL: He just told you he
 20 didn't know what disease he had. Don't start
 21 fishing. I'm not going to let you do this.
 22 He doesn't know what disease he had.
 23 Q. Do you know if he has cancer, sir?
 24 A. No, I do not.
 25 Q. Besides Vera Clemons and Mr. Beadle, can you now think

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1 ROY WHITTAKER - BY MR. CRICK
 2 of any other individuals who filed Workers'
 3 Compensation claims against Garlock?
 4 A. No.
 5 Q. It's my understanding, sir, that you have a 40-plus
 6 year history at Garlock and that during your career,
 7 you have had the opportunity to review Garlock files to
 8 locate tests that Garlock may have performed on the
 9 release of asbestos fibers from its gasket products; is
 10 that correct?
 11 A. To some extent, I have seen a few, yes.
 12 Q. It's my understanding, sir -- correct me please if I'm
 13 wrong -- that the first tests that Garlock performed to
 14 determine whether or not its gasket products released
 15 asbestos when used were performed in the 1980s?
 16 A. Again, I can't tell you the time frame.
 17 Q. What's the first test that you recall Garlock performed
 18 to determine whether or not its asbestos gaskets
 19 released asbestos when used?
 20 A. There was a time I was asked to get some material --
 21 some gasketing -- compressed asbestos gasketing like
 22 Style 900 and to have available the testing lab which
 23 is our functional test lab which reported to me at the
 24 time and a person that could set up and run tests
 25 because there's some tests that they wanted to have

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1 ROY WHITTAKER - BY MR. CRICK
 2 conducted by McCrone Industries.
 3 Q. And that's the first test that you're aware of that
 4 Garlock commissioned to study whether or not its
 5 gaskets released asbestos when used?
 6 A. That's the first and only test that I'm aware of.
 7 Q. And that was in 1985?
 8 A. I'm not sure of that.
 9 Q. You have reviewed those records in preparation for your
 10 deposition today, I take it?
 11 A. I did, but I have got to say that I didn't look at the
 12 date on them, so I can't say.
 13 Q. Okay.
 14 MR. LEVINTHAL: Let me just say for the
 15 record, Steve, Mr. Whittaker is testifying to
 16 the extent of his knowledge. You have been
 17 provided over the years -- eons ago you have
 18 been provided with a report, I believe, of
 19 Carl Mangold, I believe --
 20 MR. CRICK: Please don't coach
 21 Mr. Whittaker. Please don't coach him.
 22 MR. LEVINTHAL: I'm not coaching him.
 23 MR. CRICK: I don't need you to tell me
 24 what evidence I have.
 25 MR. LEVINTHAL: That's fine. Mr.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Whittaker has already given his testimony.
 3 It's in the record. It is what it is. This
 4 will not change his recollection. This is not
 5 coaching.
 6 MR. CRICK: Please refrain from telling
 7 me the evidence.
 8 MR. LEVINTHAL: No, I want to make sure
 9 that this record doesn't come out twisted.
 10 MR. CRICK: Now, if we need to get
 11 someone on the phone to monitor the deposition
 12 we will, but I don't want you coaching and
 13 telling us what the evidence is.
 14 MR. LEVINTHAL: I am not coaching. I
 15 am not telling you what the evidence is. I
 16 want this record to come out straight and not
 17 twisted.
 18 MR. CRICK: No. That's not the way I'm
 19 interpreting this.
 20 MR. LEVINTHAL: Go ahead. Why don't
 21 you continue.
 22 Q. Now, your lawyer has mentioned tests by Carl Mangold.
 23 Are you familiar with those tests?
 24 A. Yes, I am.
 25 Q. And you were familiar with those tests when they

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1 ROY WHITTAKER - BY MR. CRICK
 2 occurred?
 3 A. No. I'm only familiar with them knowing that they had
 4 taken place. I have not reviewed those tests, but yes,
 5 I overlooked and admit that, about Carl Mangold.
 6 Q. You started your work in Quality Control in Garlock in
 7 what year?
 8 A. In '66.
 9 Q. Quality Control is the department that ensures that the
 10 products that are leaving the plant meet the proper
 11 specifications and are appropriate and safe for the end
 12 user to use; is that correct?
 13 A. You were right except for that Quality Control has
 14 nothing to do with whether the product is safe for the
 15 end user. Their responsible to monitor the
 16 specification, whether it's Garlock or customer
 17 specification, and test it and inspect it to those
 18 specifications.
 19 Q. So Garlock assumed no responsibility for the safety of
 20 its products once it left the plant?
 21 A. I did not say that.
 22 Q. What responsibility did Garlock acknowledge for its
 23 products when the product left the plant, sir?
 24 A. The safety of any product at Garlock is designed or
 25 built into the product at the time that engineering

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1 ROY WHITTAKER - BY MR. CRICK
 2 develops the product through manufacturing and follow
 3 up testing in-house and in the field.
 4 Q. So Garlock attempts to test its products before they
 5 are manufactured and sold to make sure that they are
 6 safe for the end user?
 7 A. Yes. And when we're talking about safety, I'm talking
 8 about whether the gaskets -- I'm using gaskets as an
 9 example, whether it's strong enough, it's got enough
 10 stability so under temperature and pressure it doesn't
 11 fail and blowout, such things as that.
 12 Q. And so despite the Vera Clemons, the Beadle and the
 13 other asbestos Workers' Compensation claims, despite
 14 Garlock's membership in the Asbestos Textile Industry,
 15 Garlock did not see fit to test its products for the
 16 release of asbestos fibers until 1985?
 17 MR. LEVINTHAL: Object.
 18 Q. To the best of your knowledge?
 19 MR. LEVINTHAL: Object to form. I'm
 20 not going to allow him to answer it in this
 21 form. If you want to rephrase it, that's
 22 fine. You're being argumentative and you're
 23 structuring the question so that there's some
 24 connection between all of this, which there is
 25 not. And if you want to just ask him prior to

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1 ROY WHITTAKER - BY MR. CRICK
 2 a date did they test or did they not, that's
 3 fine, but I will -- it's improper form and I
 4 will not allow him to answer it in that form.
 5 Q. You can answer the question, sir. He can make his
 6 objections and then the judge will rule on them later.
 7 MR. LEVINthal: All right. Go ahead.
 8 Answer it. I will argue it to the judge
 9 later.
 10 A. Restate the question.
 11 MR. CRICK: Would you read that,
 12 please.
 13 (Whereupon the reporter read back the last question.)
 14 A. Garlock products, when they leave the plant, we feel
 15 that they're safe. They're encapsulated products, and
 16 when they are encapsulated products, then we feel that
 17 they are safe for the end user.
 18 Q. I'm going to move to strike your response and ask you
 19 if you would just respond to the question that I
 20 asked.
 21 A. That's the best I can respond to.
 22 Q. You did not test your products for the release of
 23 asbestos fibers until 1985, correct?
 24 MR. LEVINthal: Objection to form.
 25 Go ahead. You can answer it.

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. I'm not sure exactly when that started, when they first
 3 started that test, but I guess that's true.
 4 Q. Now, if a test was going to be performed in-house by
 5 Garlock, it would have been performed through the
 6 Quality Control Department, correct?
 7 MR. LEVINthal: Objection to form.
 8 Go ahead. You can answer.
 9 A. What tests are you talking about?
 10 Q. Tests to determine whether or not their products
 11 released asbestos fibers.
 12 A. No. It would never have been done by the Quality
 13 Control Department.
 14 Q. Which department would perform those tests?
 15 A. It would be the Industrial Relations Department, in
 16 particular, the Safety Department.
 17 Q. And was it the Industrial Relations and the Safety
 18 Department that oversaw the McCrone test in 1985?
 19 A. No, I don't know who oversaw those tests in 1985
 20 because, like I said, the only part I took place on
 21 there was to supply the material and the facilities
 22 available and a person available to run the test.
 23 Q. Kurt Salomon was the Safety Director in 1985, wasn't
 24 he?
 25 A. Yes, I believe he was.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. Where is Mr. Salomon today?
 3 A. He's still at Garlock.
 4 Q. Do you know why you were designated as the person to
 5 appear for the deposition today concerning the McCrone
 6 tests and not Mr. Salomon?
 7 A. Because everything that I'm familiar with regarding the
 8 McCrone tests, Kurt Salomon was not part of that
 9 either.
 10 MR. LEVINthal: I would also like the
 11 record to be clear that Mr. Whittaker was not
 12 designated as the Garlock witness with respect
 13 to the McCrone test solely. Mr. Whittaker --
 14 just a second, Mr. Whittaker was designated as
 15 the corporate designee who is in the best
 16 position to discuss all the corporate issues
 17 including the McCrone test and he's also the
 18 corporate designee that Garlock will be
 19 calling at trial if a corporate designee is
 20 called at trial.
 21 MR. CRICK: That is absolutely not
 22 true. We specifically asked for the person
 23 from Garlock most knowledgeable about the
 24 McCrone test.
 25 MR. LEVINthal: I think you better look

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1 ROY WHITTAKER - BY MR. CRICK
 2 at your deposition notice then. All I did
 3 is -- you asked that documents be produced
 4 relative to the McCrone studies. I will tell
 5 you that it is our best judgment that Mr.
 6 Whittaker is the best corporate representative
 7 to speak to the McCrone tests to the extent
 8 that there is any.
 9 MR. CRICK: We would like to depose Mr.
 10 Salomon.
 11 MR. LEVINthal: Well, you can make your
 12 request. I will tell you right now that it's
 13 not going to happen in this trial.
 14 MR. CRICK: Well, we will take that up
 15 tomorrow.
 16 Q. You did not have any direct conversations with
 17 Mr. Hatfield or anyone from McCrone, did you?
 18 MR. LEVINthal: Object to the form.
 19 You can answer.
 20 A. No, I did not.
 21 Q. You know that Mr. Salomon did have direct conversations
 22 with the McCrone people, don't you?
 23 A. No, I don't believe he did.
 24 Q. All right. You didn't have any direct role in the
 25 Mangold studies, I take it?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. No.
 3 Q. You didn't learn of those studies until you were
 4 involved in the asbestos litigation; is that right?
 5 A. True.
 6 Q. You learned of those studies from the lawyers for
 7 Garlock?
 8 A. True.
 9 Q. In fact, the Mangold studies were commissioned by
 10 lawyers for Garlock; isn't that right?
 11 A. Yes.
 12 Q. They weren't commissioned by the Safety Department,
 13 were they?
 14 A. No.
 15 Q. They weren't even provided to you until you were
 16 involved in depositions for lawsuits; correct?
 17 A. Correct.
 18 Q. Do you know whether or not those Mangold studies were
 19 provided to Mr. Salomon outside of litigation?
 20 A. No, I don't believe they were.
 21 Q. So the only test that you know of ever at Garlock in
 22 which gaskets were studied to determine whether or not
 23 they released asbestos fibers when used were performed
 24 by McCrone Environmental?
 25 MR. LEVINthal: You mean specifically

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1 ROY WHITTAKER - BY MR. CRICK
 2 at Garlock; is that what you're asking him?
 3 MR. CRICK: Yes.
 4 A. Yes.
 5 Q. Now, you're not an industrial hygienist?
 6 A. No.
 7 Q. Of course you're not a medical doctor, correct?
 8 A. Correct.
 9 Q. You have never had any specific training in asbestos
 10 monitoring or asbestos disease, have you?
 11 A. No.
 12 Q. You would rely on others to provide you information
 13 about asbestos and the propensity of a product to
 14 release fibers?
 15 MR. LEVINthal: Wait, wait. Object to
 16 the form. Rely on information from others for
 17 what purpose?
 18 MR. CRICK: Okay. I will rephrase the
 19 question.
 20 Q. You don't profess to have any expertise in the
 21 properties of asbestos fibers, do you?
 22 MR. LEVINthal: I object to the form.
 23 The properties of asbestos fibers relative to
 24 what; for what purpose?
 25 MR. CRICK: Any purpose.

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. Well, yes, as to asbestos fibers as far as their
 3 capability to be manufactured for products such as
 4 compressed gasketing, packings.
 5 Q. You do have a certain expertise in use of asbestos in a
 6 product, correct?
 7 A. Yes.
 8 Q. Whether or not that product when used may release
 9 respirable asbestos fibers, you have never had any
 10 coursework or specific training in that subject, have
 11 you?
 12 A. No.
 13 Q. You have never had any training in taking an air
 14 sample, have you?
 15 A. No, because they are outside of my responsibilities in
 16 Quality Control or Engineering.
 17 Q. All right. So you would have to rely on others to
 18 provide you information concerning measurements of
 19 asbestos that may be released from a product?
 20 MR. LEVINTHAL: Rely on the information
 21 for what purpose? I object to the form.
 22 MR. CRICK: Any purpose.
 23 A. No.
 24 Q. No, that's not correct. Let me reask the question
 25 then.

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. Okay.
 3 Q. You're not trained to take air samples?
 4 A. No.
 5 Q. If you wanted to learn whether or not your products
 6 were releasing asbestos, you couldn't perform those
 7 tests yourself?
 8 A. No.
 9 Q. Who at Garlock was proficient and had the training
 10 necessary to take samples or to perform tests to
 11 determine whether or not Garlock products released
 12 asbestos fibers?
 13 A. The people at Garlock would test for fiber in the work
 14 area as far as processing and the concern of the
 15 workers. The people at Garlock would not test the
 16 product -- the finished product for fiber release. It
 17 was mainly because we felt they were encapsulated
 18 material. The testing that would be done by Kurt
 19 Salomon or anybody like that, again, like I said, would
 20 be for the processability of that product.
 21 Q. And Mr. Salomon did perform tests like that; is that
 22 correct?
 23 A. I believe he has done some testing.
 24 Q. And other Safety Directors have performed tests in
 25 Garlock plants to determine the level of asbestos in

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1 ROY WHITTAKER - BY MR. CRICK
 2 the plant near Garlock workers; is that correct?
 3 A. Restate that, please.
 4 Q. There have been other Safety Directors that supervised
 5 area sampling tests in Garlock plants to measure
 6 asbestos fibers, correct?
 7 A. Garlock safety?
 8 Q. Yes, sir.
 9 A. I'm not aware of any.
 10 Q. The only tests you are aware of are those performed by
 11 Mr. Salomon?
 12 A. Yes.
 13 Q. He became Safety Director in 1985?
 14 A. Sometime in that time frame.
 15 Q. And do you know why air samples were not taken in the
 16 plant prior to 1985, sir?
 17 A. No, I do not.
 18 Q. Do you know why Garlock did not hire a consultant prior
 19 to 1985 to conduct fiber release tests on Garlock
 20 asbestos-containing gaskets?
 21 A. No. I can't answer that. Again, that would be outside
 22 of -- no, I can't. I have no reason -- don't have that
 23 information.
 24 Q. With regard to the McCrone Environmental tests, you
 25 indicated that you coordinated obtaining the gaskets

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1 ROY WHITTAKER - BY MR. CRICK
 2 for the test; is that correct?
 3 A. I coordinated getting the material -- the sheet
 4 material for the test.
 5 Q. Where did you get the sheet material?
 6 A. It would come from the gasket shop or the Manufacturing
 7 Department.
 8 Q. So this was newly manufactured gasket material that was
 9 used in the McCrone test?
 10 A. Well, probably recently new. It would be from the
 11 stock that we have available at the time.
 12 Q. Did you select McCrone Environmental to perform the
 13 test?
 14 A. No, I did not.
 15 Q. Who selected McCrone?
 16 A. I do not know.
 17 Q. You know who McCrone Environmental is, don't you?
 18 A. Yes.
 19 Q. McCrone Environmental is one of the leading
 20 laboratories in the world; isn't that right?
 21 MR. LEVINTHAL: Objection.
 22 Go ahead. Answer it, if you know.
 23 A. I don't know whether they are a leading laboratory in
 24 the world or not.
 25 Q. What is it you know of McCrone Laboratories?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. Very little, other than they were -- they ran some
 3 tests, to the best of my knowledge, this one time on
 4 gasketing in our testing laboratory.
 5 Q. And it was represented to you when McCrone came to
 6 Palmyra to perform these tests that they were capable
 7 and proficient and experts in the field of asbestos?
 8 MR. LEVINTHAL: Object to the form.
 9 Go ahead and answer it.
 10 A. That would be outside of my responsibility at the time
 11 to make that type of decision.
 12 Q. You didn't question "Why is Garlock hiring McCrone
 13 instead of some other laboratory"?
 14 A. No.
 15 Q. You just accepted that they were experts in the field
 16 and participated in the test to the extent you were
 17 asked?
 18 MR. LEVINTHAL: Objection to form.
 19 Go ahead and answer it.
 20 A. I did my part that I was asked, to get the material,
 21 supply the man and to be able to run the test.
 22 Q. Do you have any reason to believe that Garlock would
 23 hire anyone other than a foremost expert in that
 24 science to perform these tests?
 25 MR. LEVINTHAL: Objection to form.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Go ahead and answer it.
 3 A. Well, I can only respond to any testing we do on
 4 products other than fiber release or whatever, other
 5 types of tests on products, that we try to select a
 6 laboratory in the United States that, yes, is a -- has
 7 very good capability, then we can be assured of our
 8 results.
 9 Q. You have no reason to believe today that Garlock
 10 selected anyone different than that when it picked
 11 McCrone?
 12 A. No.
 13 Q. What role did Kurt Salomon play in this test?
 14 A. I think -- what test are you talking about?
 15 Q. The McCrone test, sir.
 16 A. I'm going to repeat what I said a few minutes ago --
 17 Please do.
 18 A. -- that I do not believe he played any role in this
 19 test.
 20 Q. Have you spoken with Mr. Salomon about this test?
 21 A. No, I have not, but I have not seen or heard of his
 22 name or seen his name anyplace regarding this test.
 23 Q. Who directly participated in this test besides you?
 24 A. A laboratory technician.
 25 Q. Who was the laboratory technician?

Page 49 1 ROY WHITTAKER - BY MR. CRICK 2 A. Richard Cirulli. 3 Q. Where is Mr. Cirulli today? 4 A. He's still employed in the same lab at Garlock. 5 Q. And when you say he's a lab technician, what does Mr. Cirulli do as a lab technician? 6 A. The only thing -- just like in this particular test, the only thing he would do is to see that the gaskets were cut, that -- he would have -- if there are flanges, for instance, to run a steam test or whatever test that they're going to run with the flanges, that they see that the gasket was actually bolted into the flange under regular conditions and that the test was started up and run, and he would just then at a time when they would decide to stop the test, that would be his responsibility, to stop the test and then tear the flanges down. 18 Q. When you say "tear the flanges down," what do you mean? 19 A. Unbolt the flanges and pull the gasket out. 20 Q. So Mr. Cirulli was one of the persons who monitored removing gaskets from the flanges? 21 A. Yes. 23 Q. Was he the only person from Garlock who removed gaskets from the flanges for the McCrone study? 24 A. Yes.	Page 52 1 ROY WHITTAKER - BY MR. CRICK 2 Q. That was just in the last few months? 3 A. Yes. 4 Q. You have brought with you a group of documents that I would like you to identify on the record. What is Exhibit No. 2, sir? 7 A. Exhibit No. 2 is titled "Mccrone File, File No. 2562." 8 Q. And what is contained in that document, sir? It appears to be a series of letters concerning work that McCrone performed for Garlock; is that right? 11 A. Yes, it's letters back and forth between McCrone and Garlock legal counsel. 13 Q. Who was Bernard Reuben? 14 A. He was with the Coltec staff in New York City at the time. 16 Q. He was a lawyer for Coltec? 17 A. Yes. 18 Q. And did he have a direct role in the McCrone tests? 19 A. He had some -- 20 MR. LEVINTHAL: You're not going to find it in there. It's in one of the other files. 23 A. I believe he did, but I can't say for sure. I would have to look at the other files. 25 Q. Was he the person who hired McCrone?
Page 50 1 ROY WHITTAKER - BY MR. CRICK 2 Q. And Mr. Cirulli is still at Garlock today? 3 A. Yes. 4 Q. Mr. Cirulli wore one of the personal air monitors that was later examined under the microscope, correct? 6 A. I'm not there doing the tests, so I cannot be sure how it was set up or how it was run. 8 Q. So you didn't see the test? 9 A. I know I did not see the test. 10 Q. You just supplied the material and that was the end of your responsibility? 12 A. Material, the lab and the person. 13 Q. And then you saw the report that was written at or about the time that it was completed? 15 MR. LEVINTHAL: Objection to form. Is that a question or are you telling him he saw the report? 18 Q. That's a question, sir. Is that correct? 19 A. Yes. 20 Q. Now, you are aware of the fact that this test at Palmyra was not the first time that Garlock hired McCrone to do work? 23 MR. LEVINTHAL: Objection to form. Go ahead and answer. 25 Q. That's right?	Page 53 1 ROY WHITTAKER - BY MR. CRICK 2 A. I don't know who hired McCrone. 3 Q. Who is Mr. Goldfein? 4 A. He's Garlock legal counsel in Philadelphia, Pennsylvania. 6 Q. Mr. Levinthal's partner? 7 A. He's all part of the same law firm. 8 Q. Why did Garlock have its outside lawyers involved in the McCrone test? 10 MR. LEVINTHAL: I'm going to object to the question. 12 Go ahead and answer, if you know. 13 A. Well, I believe they were going to be part of any litigation that would be taking place in the future and they had them get involved in the tests. 16 Q. So Garlock was interested in finding test results that would support its position in the asbestos litigation; is that your understanding? 19 MR. LEVINTHAL: Object to the form. Come on, you know that's not a fair question. You're trying to put words in his mouth to suggest that Garlock shopped around to find experts that would support whatever its position wanted to be. If you want to ask him if he knows why they got the counsel involved,
Page 51 1 ROY WHITTAKER - BY MR. CRICK 2 A. It's the only time that I'm familiar with. 3 Q. So your lawyers didn't tell you that Garlock hired McCrone in November of '84 to do bulk analysis of Garlock gasket material? 6 MR. LEVINTHAL: Objection to form. Go ahead and answer. 8 Q. Did they? 9 A. Yes, I am aware of that. 10 Q. When did you become aware of that fact, sir? 11 A. I can't say. Fairly recent, I guess. 12 Q. Did your lawyers tell you about that? 13 A. Yes. 14 Q. And why did your lawyers feel it was important to tell you that Garlock hired McCrone in 1984? 16 MR. LEVINTHAL: Objection to form. Don't answer that. I will not allow him to answer a question where you're asking him what went on in somebody else's mind and their motivation for doing something. 21 Q. What were the circumstances in which you were told about McCrone's 1984 work for Garlock? 23 A. It's when we -- it's one time when we were reviewing the McCrone test we talked about a few minutes ago and that was all part of the same discussion.	Page 54 1 ROY WHITTAKER - BY MR. CRICK 2 that's fine, but I object to the form of the question. 4 Now go ahead and answer it. My record is preserved. We'll argue it if we need to. 6 Q. Do you need her to read the question back? 7 A. Yes. 9 MR. CRICK: Would you do that, please. (Whereupon the reporter read back the last question.) 10 A. Yes. 11 Q. Was Mr. Reuben present during the work that McCrone performed at Palmyra? 13 A. No, I don't think he was. 14 Q. Who is Mr. diBuono? 15 A. He -- he's another staff member of Colt Industries. 16 Q. When you say a "staff member," was he a lawyer? 17 A. I don't know what his background was. I'm not that familiar with him. 19 Q. What was his position at that time? 20 A. I don't know. I believe he was in some connection with Industrial Relations, but I'm not sure about that. 22 Q. Would that have been in the New York office? 23 A. Yes. 24 Q. In the Palmyra office? 25 A. New York office.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. New York City office?
 3 A. City office.
 4 Q. Mr. L.D. Retting, R-e-t-t-i-n-g; who is that person?
 5 A. I do not know.
 6 Q. Richard Watson; who was he?
 7 A. He was a paralegal at Garlock Palmyra.
 8 Q. Did he also work in patents?
 9 A. Yes.
 10 Q. Did he actually hold any patents?
 11 A. Yes, he did.
 12 Q. What patents did Mr. Watson hold?
 13 A. That was a long time ago. I don't now remember what they were.
 14 Q. The general type of products, do you know what type of patents he held?
 15 A. No, I do not.
 16 Q. Were those patents that he assigned to Garlock?
 17 A. Yes.
 18 Q. Where is Mr. Watson today?
 19 A. He's retired and lives in Palmyra.
 20 Q. Do you know when Mr. Watson retired?
 21 A. Three years ago.
 22 Q. What was Mr. Watson's role in the McCrone studies?
 23 A. I believe he was the one that actually asked me to have

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1 ROY WHITTAKER - BY MR. CRICK
 2 the lab available and material available.
 3 MR. CRICK: I want to take a two minute
 4 break.
 5 (Whereupon the Examination Before Trial recessed at
 6 10:20 a.m.)
 7 (Whereupon the Examination Before Trial reconvened at
 8 10:25 a.m.)
 9 (Whereupon the reporter read back the last question.)
 10 Q. Let me hand you Exhibit No. 3. Can you tell me what is
 11 in this group of documents marked Exhibit 3?
 12 MR. LEVINTHAL: Do you want him to
 13 identify it first, the file number?
 14 Q. Just identify it for us.
 15 A. It's McCrone file ME-1322.
 16 Q. And McCrone file ME-1322 concerns McCrone's analysis of
 17 bulk sample material for Garlock in November of 1984;
 18 is that right?
 19 MR. LEVINTHAL: Objection to form.
 20 Go ahead and answer it.
 21 A. Yes, it does.
 22 Q. And you just learned of that fact in the last few
 23 months, that McCrone had actually done that work?
 24 A. In the last few months -- I was aware of McCrone prior
 25 to that, but of seeing the data and so forth on

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1 ROY WHITTAKER - BY MR. CRICK
 2 McCrone, yes, it was just in the last -- recently.
 3 Q. Let me ask a better question.
 4 You just learned in the last few months that
 5 McCrone did some 1984 work?
 6 A. Yes.
 7 Q. Until the last few months, the only McCrone work that
 8 you were familiar with for Garlock was the 1985 studies
 9 on the release of asbestos fibers from gasket material?
 10 A. Yes.
 11 Q. With regard to Exhibit 3, do you know why Garlock asked
 12 McCrone to do bulk sample analysis on that material?
 13 A. No, I don't know the reason behind it.
 14 Q. It's my understanding -- and you can tell me if I'm
 15 wrong -- that the material that was analyzed came from
 16 a ship called "The GYPSIE"; is that correct?
 17 A. Yes.
 18 Q. Do you know why Garlock was interested in having
 19 samples analyzed from The GYPSIE?
 20 A. No. I don't know what -- the real reason for that.
 21 Garlock has always analyzed products from the end user
 22 to see how the gasket has functioned and see the
 23 condition of the gasket after use.
 24 Q. Did you see the gaskets that were sent to McCrone that
 25 was part of this 1984 test?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. No, I did not.
 3 Q. Do you know if Garlock still has those gaskets?
 4 A. No, I do not.
 5 Q. Do you know who those gaskets were provided to after
 6 McCrone did its analysis?
 7 A. No.
 8 Q. They were provided to Carl Mangold, weren't they?
 9 MR. LEVINTHAL: Objection to the form.
 10 A. I don't know for sure.
 11 Q. Let me hand you Exhibit No. 4. Can you tell me what
 12 that document is, sir?
 13 A. The title is "McCrone File, ME-1537 Study at Palmyra,
 14 New York (1985)."
 15 Q. And that file concerns McCrone's work in 1985 on the
 16 release of asbestos fibers from Garlock gaskets, does
 17 it not?
 18 A. Yes.
 19 Q. And did this file come from Garlock's file cabinet?
 20 A. This is our functional test laboratory reports in some
 21 cases.
 22 Q. Where do you keep those reports at, sir?
 23 A. We have a rec retention policy at Garlock and these
 24 records are kept for seven years and then destroyed.
 25 Q. Do you still have your copy of McCrone's 1985 report?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. I never had a copy of my own.
 3 Q. You indicated that you read a copy of that report at or
 4 about the time that it was written in 1985. Who
 5 provided that copy to you?
 6 A. That I read it in 1985?
 7 Q. That's what you testified earlier.
 8 A. Okay. I don't know who provided that report. That was
 9 a long time ago. I don't know.
 10 Q. Were you asked to read that report by someone?
 11 A. No. I guess they just gave it to me to look at at that
 12 time.
 13 Q. What did you do with your copy?
 14 A. I did not keep a copy.
 15 Q. Did you talk about that study with Mr. Salomon after
 16 the work was completed?
 17 A. No, I did not.
 18 Q. Now, in 1985 when the McCrone testing was performed,
 19 Garlock was still making asbestos-containing gaskets,
 20 wasn't it?
 21 A. Yes.
 22 Q. And in fact, the products that were tested were
 23 products that came from the stock that was intended for
 24 sale to the public?
 25 A. Yes.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. Now, at the time of the tests, were you familiar, sir,
 3 with what the current OSHA permissible exposure level
 4 was for asbestos fibers?
 5 A. Yes, I was kept aware of what the exposure level was at
 6 the various years and as they changed over the years.
 7 Q. And you were kept apprised of that because it was
 8 important to know whether or not you were exposing
 9 people to a level of asbestos that exceeded the
 10 permissible exposure level?
 11 MR. LEVINTHAL: Objection to the form.
 12 A. I -- to the best of my knowledge, I was made aware of
 13 it just through general meetings and not for any
 14 specific purpose.
 15 Q. Just in general conversation; like they would talk
 16 about the sports or the weather, people at Garlock
 17 talked about the permissible exposure level of
 18 asbestos; is that what you're saying?
 19 MR. LEVINTHAL: Objection to the form.
 20 A. Yes.
 21 Q. What was the permissible exposure level in 1985, sir?
 22 A. I don't remember exactly. I know there was more
 23 changes, but I don't recall.
 24 Q. What is the permissible exposure level today?
 25 A. .2 --.02 --.2.

Page 61 1 ROY WHITTAKER - BY MR. CRICK 2 Q. Is it .2? 3 A. Yeah, .1 or .2. 4 Q. Do you know when it became .2? 5 A. No, I don't remember. 6 Q. Do you know when it first became pronounced that 7 OSHA was going to reduce the permissible exposure 8 level to .2? 9 A. No. I think it was the early 1900s, but I can't say 10 for sure what year. 11 Q. Now, from reviewing those files that are included in 12 Exhibit 3, we know that in February 1985 McCrone 13 submitted a Technical Proposal for Air Sample 14 Collection and the Analysis by Phase Contrast and 15 Transmission Electron Microscopy. Do you see that 16 document in those files? And I will show it to you. 17 A. Yes. 18 Q. And that study was commissioned by Colt Industries 19 which was the parent of Garlock, correct? 20 A. Yes. 21 Q. Colt Industries was also at that time the parent of 22 Anchor Packing, correct? 23 A. Yes. 24 Q. Anchor Packing also manufactured asbestos-containing 25 gaskets, correct?	Page 64 1 ROY WHITTAKER - BY MR. CRICK 2 Q. And they stayed for about one week and studied the 3 gaskets that you had provided to them, correct? 4 MR. LEVINTHAL: Objection to the form. 5 Go ahead. 6 A. Yes. 7 Q. Now, we know from the records that during that first 8 trip to Palmyra about 45 air samples were taken and you 9 understand that those were -- those as a result were 10 included in their ultimate report which you read? 11 MR. LEVINTHAL: Objection to form. 12 Go ahead. 13 A. I don't know how many samples offhand were taken. 14 Q. But you do know that they recorded their work in that 15 report from June of 1985? 16 A. Yes. 17 Q. And we know that McCrone came back to Palmyra on or 18 about April 4th for another week of testing and 19 measuring asbestos levels from Garlock gaskets, 20 correct? 21 MR. LEVINTHAL: Object to the form. 22 Go ahead. 23 A. I'm only aware of the one time they came to Garlock to 24 run the tests. 25 Q. Okay. And you can look through those files that you
Page 62 1 ROY WHITTAKER - BY MR. CRICK 2 A. No, they did not manufacture them. 3 Q. What product did Anchor Packing manufacture? 4 A. They only purchased products like gasketing packings 5 and turned around and sold it. 6 Q. So Anchor Packing sold asbestos-containing gaskets such 7 as those manufactured by Garlock? 8 A. Yes. 9 Q. Anchor Packing sold Garlock gaskets, correct? 10 A. In some cases. 11 Q. And Anchor Packing simply rebranded Garlock gaskets to 12 say Anchor; correct? 13 A. I'm not sure what they did with -- as far as branding. 14 Q. In any event, in February 1985, McCrone submitted a 15 Technical Proposal to Colt Industries to perform air 16 sample collection on Garlock gaskets; is that correct? 17 A. Yes. 18 Q. And you know that Colt Industries and Garlock accepted 19 that proposal and in fact retained McCrone to do that 20 study, correct? 21 A. Yes. 22 Q. And we know from reviewing the records that on March 23 3rd, 1985 Richard Hatfield from McCrone along with 24 Martin Bennett and Herman Kitt came to Palmyra for a 25 week to perform the first part of that test?	Page 65 1 ROY WHITTAKER - BY MR. CRICK 2 produced and it will reflect records of McCrone at 3 Palmyra in April of '85 and maybe that will refresh 4 your memory. 5 MR. LEVINTHAL: I will agree with you, 6 Steve, that the documents will speak for 7 themselves and if they indicate there were two 8 trips, then that's fine. 9 (Whereupon there was a brief pause in the proceeding.) 10 A. I don't see that one in this pile. 11 Q. Can I see your file, please. 12 (Whereupon there was a brief pause in the proceeding.) 13 (WHEREUPON DEPOSITION EXHIBIT 4-A WAS 14 MARKED FOR IDENTIFICATION.) 15 Q. Let me hand you Exhibit 4-A, which, I believe, is the 16 McCrone report of June 3, 1985. Is that the report we 17 have been discussing this morning? 18 A. Yes. 19 Q. Is if you turn to the back at your own functional test 20 laboratory sheets, you will see that there are some 21 samples from March and some samples from April 1985. 22 Do you see that? 23 A. Yes. 24 Q. Does that refresh your recollection that some samples 25 were taken in March and some samples were taken in
Page 63 1 ROY WHITTAKER - BY MR. CRICK 2 MR. LEVINTHAL: Objection to the form. 3 Steve, come on. You're reading a narrative. 4 This is not cross-examination. It's a 5 discovery deposition. You're reading a 6 narrative into the record and I object to 7 form. 8 Go ahead. 9 A. Restate the question, please. 10 Q. It's true, isn't it, sir, that on March 3rd, 1985 11 Richard Hatfield, Martin Bennett and Herman Kitt from 12 McCrone came to Palmyra to begin those tests? 13 MR. LEVINTHAL: Objection to the form. 14 Go ahead. 15 Q. If you need to look at the documents, that's fine. 16 A. You said March 1985? 17 Q. March 3rd, 1985. And I'll show you some documents that 18 are included in your Exhibit 3 which are their time 19 slips. 20 A. Yes. 21 Q. Does that refresh your recollection? 22 A. Yes. 23 Q. And in March of 1985 those three gentleman came to 24 Palmyra to begin the tests on Garlock gaskets? 25 A. Yes.	Page 66 1 ROY WHITTAKER - BY MR. CRICK 2 April? 3 A. Yes. 4 Q. And did you provide the gasket materials for both of 5 those visits? 6 A. I supplied the gaskets material for one test. Whether 7 the material was used on two tests, I do not know. 8 Q. Okay. If you would turn to the fifth page of that 9 exhibit, up at the top it begins "Definition of the 10 Variables Studied"; do see that? 11 A. Yes. 12 Q. Down at the bottom on the section called "Removal" -- 13 A. Yes. 14 Q. -- it indicates that that part of the study involved 15 measuring the potential worker exposure during the 16 process of removing asbestos gaskets that have been in 17 use in an industrial situation to represent this 18 potential exposure. "Garlock gaskets styles 900, 7021 19 and 604 were removed from steam and water lines on two 20 water chillers and from steam lines on a test stand. 21 Activities included opening flanges, prying gaskets 22 from flanges, utilizing a putty knife and wire brushing 23 the flange surfaces." 24 Did you provide the gasket material for that 25 portion of the McCrone study?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. The material that came from the chillers, I would not
 3 have supplied that material. I don't know -- that came
 4 through the Maintenance Department.
 5 Q. The report indicates that the gaskets were put on
 6 flanges by persons at Garlock and subjected to steam
 7 heat for a certain number of hours prior to the test.
 8 Who would have participated in that work for Garlock?
 9 A. You're looking at the functional test lab report?
 10 Q. Yes.
 11 A. That part -- which has nothing to do with the chillers,
 12 that would have been done by the lab technician.
 13 Q. That would have been Mr. Cirulli?
 14 A. Yes.
 15 Q. So you were not directly involved in that portion of
 16 the McCrone study?
 17 A. No.
 18 Q. Your involvement concerned the new gasket material;
 19 correct?
 20 A. That's correct.
 21 Q. Now, if you would look in the report or in the Exhibit
 22 No. 4, you will see a March 13, 1985 letter --
 23 A. March 13th.
 24 Q. -- from Richard Watson at Garlock to Richard Hatfield
 25 at McCrone.

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1 ROY WHITTAKER - BY MR. CRICK
 2 MR. LEVINTHAL: That's it
 3 (indicating).
 4 A. Yes.
 5 Q. Have you ever seen that letter before, sir?
 6 A. Yes.
 7 Q. When did you see that letter?
 8 A. Recently.
 9 Q. Okay. It indicates that -- I will just read
 10 it. "During the course of last week's visit to Palmyra
 11 by you and your two field representatives, it was
 12 arranged that I would forward to your facility six sets
 13 of test flanges containing a variety of Garlock
 14 asbestos-containing gaskets. The six sets of flanges
 15 were forwarded today via UPS and I would anticipate
 16 that you will receive them early next week."
 17 Are you familiar with this delivery of flanges to
 18 McCrone in the middle of March, 1985?
 19 A. Yes. These were submitted to determine whether or not
 20 the gaskets were going to stick or not to the flanges.
 21 Q. And did you submit those flanges to Mr. Hatfield?
 22 A. No, I did not.
 23 Q. Who sent those?
 24 A. I believe it must have been Richard Watson.
 25 Q. Who selected the flanges to be sent to Mr. Hatfield?

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. I have no idea who selected them.
 3 Q. Do you know where the flanges came from?
 4 A. No, I do not.
 5 Q. Do we need to ask Mr. Watson those questions?
 6 A. I don't know.
 7 Q. Did you have any direct role in the study that's the
 8 subject of this March 13, 1985 letter?
 9 A. No, I did not.
 10 Q. You understand that McCrone Environmental actually did
 11 the analysis that's the subject of this letter, don't
 12 you?
 13 MR. LEVINTHAL: Wait. Objection. The
 14 subject of -- I see. You're asking him if
 15 they ever did the test -- the analysis that is
 16 referred to in this letter; is what you're
 17 asking him?
 18 MR. CRICK: I will rephrase it and ask
 19 a better question.
 20 Q. You do know, don't you, Mr. Whittaker, that McCrone
 21 Environmental did the work that was requested by
 22 Mr. Watson in this March 13, 1985 letter?
 23 MR. LEVINTHAL: Objection to the form.
 24 A. There is nothing indicated in this that they did the
 25 testing. It was a request for them to do the testing.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Excuse me. Wait a minute. Wait a minute. I'm looking
 3 at the wrong thing.
 4 (Whereupon there was a brief pause in the proceeding.)
 5 A. Yes. These were just submitted. This letter just
 6 indicated that they were submitted for testing.
 7 Q. And would you look at the documents that are attached
 8 to that letter. Can I see that, please.
 9 (Whereupon there was a brief pause in the proceeding.)
 10 Q. What is it that is attached to that March 13 letter,
 11 sir?
 12 A. That's the standard form that's used by the test lab to
 13 determine date, time run, torque, the steam that was
 14 applied to the test fixtures, the temperature, if there
 15 was any leakage rate and the number of hours run.
 16 Q. Okay. And that's for the gaskets that were sent to
 17 McCrone with this March 13, 1985 letter?
 18 A. I would assume so because they were attached to the
 19 letter.
 20 MR. LEVINTHAL: Well, don't assume. Is
 21 there something on that that indicates that --
 22 if Mr. Crick will let you take a look at that
 23 again. You're not here to assume. You're
 24 here to answer what you know and you don't
 25 know.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. You're doing just fine. Can I see that?
 3 MR. LEVINTHAL: Can I have that back,
 4 please?
 5 MR. CRICK: In a minute.
 6 MR. LEVINTHAL: You're about to look at
 7 something else. Let me take a look at that.
 8 I'll give it right back.
 9 MR. CRICK: I'm not going to let you
 10 coach him.
 11 MR. LEVINTHAL: I'm not going to coach
 12 him. I just wanted to look at something. I
 13 will take out my own copy.
 14 (WHEREUPON DEPOSITION EXHIBIT 4-B WAS
 15 MARKED FOR IDENTIFICATION.)
 16 Q. We have marked as Exhibit 4-B the March 13, 1985
 17 letter. And again so we are clear, you didn't have any
 18 direct role in that project?
 19 A. No, I did not.
 20 (WHEREUPON DEPOSITION EXHIBIT 4-C WAS
 21 MARKED FOR IDENTIFICATION.)
 22 MR. LEVINTHAL: Now, 4-B, just so I'm
 23 clear, is just the letter or do you want --
 24 MR. CRICK: It was all attached.
 25 MR. LEVINTHAL: Because they're not

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1 ROY WHITTAKER - BY MR. CRICK
 2 stapled together; they are clipped together.
 3 So we'll leave them clipped together. There
 4 you go.
 5 Q. The samples that were sent to Mr. Hatfield on or about
 6 March 13th, do you know where they came from?
 7 A. No, I do not.
 8 Q. Okay. Let me hand you Exhibit 4-C, which is the
 9 analysis concerning those samples. Have you ever seen
 10 that document before? Can I see that, sir.
 11 MR. LEVINTHAL: Here, take a look at
 12 that.
 13 Now, I'm going to object to your
 14 testimony that this is the analysis concerning
 15 those samples. If you want to explore that
 16 through questioning him, that's fine, but I
 17 object to your simply testifying for the
 18 record that that's what this document 4-C is.
 19 (Whereupon there was a brief pause in the proceeding.)
 20 Q. Have you seen that document before, sir?
 21 A. Yes, I have.
 22 Q. When did you first see that document?
 23 A. Recently.
 24 Q. I don't see that document in any of this group of
 25 documents. Did you bring a copy of that document with

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1 ROY WHITTAKER - BY MR. CRICK
2 you?
3 MR. LEVINTHAL: If there -- wait a
4 second. Wait a second. I don't want any
5 tricks here. The only documents that were in
6 Garlock's position was what was produced to
7 you today.
8 Now, if you have produced this document
9 from some other source, you can let him know
10 that, okay, but if this document was not in
11 the group that was produced to you today, then
12 it was not in Garlock's possession.
13 Now, the record should reflect that
14 there are documents spread out all over the
15 table in addition to documents that you have
16 brought out from your briefcase earlier on and
17 if you are producing this from some other
18 source, I think you need to let him know
19 that.
20 Q. Where did you see this document at first, sir?
21 A. I don't recall where I saw it, but I have seen -- I'm
22 most certain I have seen this document because it
23 opines taking a flange out and removing the gaskets and
24 wire brushing it at that time.
25 Q. Okay. Did you see it in or about 1985?

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1 ROY WHITTAKER - BY MR. CRICK
2 A. I don't recall. I just told you I don't recall when I
3 saw this document.
4 Q. You do recall that Mr. Hatfield performed this work in
5 1985?
6 A. He performed work in 1985?
7 Q. This work which is marked as 4-C, you do recall that he
8 performed that work in 1985?
9 A. Mr. Hatfield's name doesn't appear on this anyplace.
10 Q. Well, using Mr. Hatfield in the generic sense of
11 McCrone Environmental.
12 A. I don't know whether he did or not because his name --
13 it does not appear on here.
14 Q. I will rephrase the question. You do know that McCrone
15 Environmental performed this analysis in 1985 at the
16 request of Garlock?
17 A. These tests were conducted in 1985. I don't know who
18 requested the tests.
19 Q. Okay. Can I see that, please.
20 (Whereupon there was a brief pause in the proceeding.)
21 Q. This indicates that the date of the air sampling field
22 forms are from March 22 through March 25 of 1985, don't
23 they? Actually, March 19 through March 25 of 1985; is
24 that correct?
25 A. There's one in here that's February 26th, 1985.

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1 ROY WHITTAKER - BY MR. CRICK
2 MR. CRICK: Can I see Exhibit 3,
3 please? Can you hand me this stack -- I'm
4 sorry, Exhibit 4.
5 (Whereupon there was a brief pause in the proceeding.)
6 Q. The document dated February of '85, that was the job
7 setup sheet, the last of the --
8 A. What date?
9 Q. You had made a reference to the February date.
10 A. Yeah.
11 Q. Is that the last sheet, the job setup sheet?
12 A. I guess it's called -- yeah, it's called a job setup
13 sheet.
14 Q. The actual air sampling field forms are all dated for
15 the week of March 19, 1995?
16 A. 19th and 25th, yes.
17 Q. And were you provided with the results of this test in
18 1985, sir?
19 A. No, I was not.
20 Q. Who received these results from Garlock?
21 A. I do not know.
22 Q. We would need to ask Mr. Watson that question?
23 A. I guess so. I don't know.
24 Q. And today do you know why these results were not
25 included in a formal written report by McCrone?

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1 ROY WHITTAKER - BY MR. CRICK
2 A. No, I do not.
3 Q. You see that the analysis of these samples include
4 samples with results over the current permissible
5 exposure level, don't you?
6 MR. LEVINTHAL: Well, objection.
7 That's not the purpose for which he's been
8 presented as an expert in that area, but
9 having said that, go ahead.
10 You can answer the question.
11 A. Over the current level?
12 Q. Yes, sir.
13 A. Yes.
14 Q. Has Garlock ever provided these results to any of its
15 buyers of gasket materials?
16 A. I'm not aware of any.
17 Q. Has Garlock ever advised any of its buyers of gasket
18 materials that it had commissioned a testing lab to
19 test whether or not its gaskets released asbestos
20 fibers and those tests showed results in excess of the
21 current permissible exposure level?
22 MR. LEVINTHAL: Objection to the form.
23 Go ahead and answer it, if you can.
24 A. I'm not aware of any because, again, our gasket
25 materials are encapsulated and we feel they are safe

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1 ROY WHITTAKER - BY MR. CRICK
2 for the end user.
3 Q. I have to move to strike that answer.
4 If you could just answer the question that I asked
5 you, I would appreciate it.
6 MR. CRICK: Could you read that
7 question back, please.
8 MR. LEVINTHAL: In the first portion of
9 that answer, I think he answered your
10 question.
11 Q. Your counsel is allowed to ask you questions later or
12 at trial if he wants to, but for these purposes, if you
13 would just answer the question that I ask without the
14 narrative, I would appreciate it.
15 MR. CRICK: Could you read that
16 question again, please.
17 (Whereupon the reporter read back the last question.)
18 A. I will answer it this way: It would be outside of my
19 responsibility of anything I had to do at Garlock and
20 so I'm not aware of any.
21 Q. You have never made such a disclosure to anyone outside
22 of Garlock, have you?
23 A. No, I have not.
24 Q. If you were an end user of Garlock gasket materials,
25 would you like to know that the manufacturer had tested

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1 ROY WHITTAKER - BY MR. CRICK
2 the release of those products and found results in
3 excess of the permissible exposure level?
4 MR. LEVINTHAL: Objection to the form
5 and to the question. It's not what he's here
6 for.
7 Go ahead and answer it.
8 A. I -- if they had a reasonable amount of experience with
9 the gasketing, whether cutting it, installing or
10 removing such as like I have had, then I would feel
11 confident that I did not need that information.
12 Q. You're not an expert in asbestos disease, are you?
13 MR. LEVINTHAL: Oh, come on, Steve.
14 You asked him that about two hours ago.
15 Q. Your answer kind of implies that you have some kind of
16 expertise in asbestos hazards. You don't have any
17 expertise in asbestos hazards, do you?
18 A. No.
19 Q. And outside of the McCrone studies, you don't even know
20 of any studies on Garlock gaskets taken during the
21 normal course of business for Garlock concerning the
22 release of asbestos fibers from Garlock gaskets, do
23 you?
24 MR. LEVINTHAL: Objection to the form.
25 A. No.

Page 79 1 ROY WHITTAKER - BY MR. CRICK 2 Q. And if those studies showed that these gaskets released 3 fibers in excess of the permissible exposure limits, 4 you don't think that's something that the buyer or user 5 of the gaskets should have? 6 A. Just about all results that I have seen have always 7 fallen within any allowable limits. 8 Q. Sir, the only test that you know of that Garlock 9 commissioned were the McCrone studies. Don't you think 10 that the results of the McCrone studies -- all of them 11 should be made available to the users of Garlock gasket 12 materials? 13 A. That would not be my decision to make, for them to be 14 made aware of this type of information. 15 Q. Whose responsibility is it at Garlock to decide what 16 buyers should and should not be allowed to see? 17 MR. LEVINTHAL: Are you asking him 18 today or at any time or at some certain time? 19 Q. Well, say in 1985. 20 A. I would say that that decision would be the Marketing 21 Manager, Vice President of Marketing. 22 Q. So the person in charge of sales would decide whether 23 or not buyers should be allowed to see test results on 24 the hazards of their products? 25 A. Well, I would say it would be his level or higher.	Page 82 1 ROY WHITTAKER - BY MR. CRICK 2 (Whereupon the reporter read back the last question.) 3 A. Yes, some stuck slightly to the flange. 4 Q. Some gaskets had to be removed with a wire brush, 5 correct? 6 A. Yes. 7 Q. Now, especially with regard to the Type 604 gaskets, 8 there were difficulties in removing that product from 9 the flanges, weren't there? 10 A. Yes, there was some difficulties. 11 Q. In fact, if you look at Table IV, you will see that 12 there were three samples analyzed that concerned the 13 Style 604 gasket. One was so full of dust that it 14 couldn't even be analyzed, correct; do you see the 15 samples marked "TH"? 16 A. Yes. 17 Q. Down below you see "TH" means "too heavily loaded," so 18 there's no results there; correct? 19 A. Well, what does "too heavily loaded" mean? 20 Q. You don't know what "too heavily loaded" means? 21 A. To me, if you talk about the gasket being installed and 22 too heavily loaded, meaning the gasket was torqued and 23 placed too heavily. 24 Q. As it relates to this report, you don't know what "too 25 heavily loaded" means?
Page 80 1 ROY WHITTAKER - BY MR. CRICK 2 Q. Because that's an important decision to make, wouldn't 3 you agree? 4 A. Yes. 5 Q. And to your knowledge today, Garlock never disclosed 6 these McCrone studies to anyone outside of Garlock, did 7 they? 8 MR. LEVINTHAL: Objection. Which 9 McCrone studies are you talking about? 10 MR. CRICK: We'll get to that in a 11 second. 12 MR. LEVINTHAL: You know full well that 13 at least in the course of litigation that 14 there were -- 15 MR. CRICK: Don't coach. 16 MR. LEVINTHAL: I am not coaching. 17 MR. CRICK: You are coaching. 18 MR. LEVINTHAL: I'm not coaching 19 because you know full well that these results 20 were disclosed in the course of litigation. 21 Now, if you want to specify -- which 22 tests are you talking about; the phantom tests 23 you folks have been chasing or are you talking 24 about the tests that have been disseminated? 25 Q. Sir, outside of lawsuits, Garlock has not disclosed the	Page 83 1 ROY WHITTAKER - BY MR. CRICK 2 A. No, I do not. 3 Q. And the next samples concerning the 604 gasket shows 4 results of .24 fibers per cc? 5 A. Yes. 6 Q. And that's over the current permissible exposure level, 7 isn't it? 8 A. As you said, current, but not 1985. 9 Q. Mr. Whittaker, you have been active in defense of 10 Garlock personal injury suits since as early as 1987; 11 is that correct? 12 A. Yes. 13 Q. And in 1987 you gave your first deposition in an 14 asbestos personal injury case; is that correct? 15 A. Yes. 16 Q. And it was about that time that you began reviewing 17 Garlock interrogatory answers provided in asbestos 18 cases, correct? 19 A. Yes. 20 Q. And you know that in 1987 when you became involved in 21 the litigation, that Garlock filed interrogatory 22 answers asking it to identify all fiber release tests. 23 don't you? 24 A. I don't recall. I would have to look at the 25 interrogatories again.
Page 81 1 ROY WHITTAKER - BY MR. CRICK 2 Garlock studies to anyone, have they? 3 A. Not to my knowledge. 4 Q. And to your knowledge, the report that's marked as 5 Exhibit 4-C has never been disclosed to anyone period 6 by Garlock? 7 MR. LEVINTHAL: Objection. 8 Q. Is that correct? 9 MR. LEVINTHAL: Objection to the 10 characterization of 4-C as a report. 11 Go ahead and answer the question. 12 A. I can't answer that. I'm not aware of who would make 13 that decision to disclose that information. 14 Q. With regard to the gaskets that were studied and 15 written up in the June 3, 1985 report which we have 16 marked as Exhibit 4-A, you know that Garlock persons 17 removed gaskets from flanges and were monitored, 18 correct? 19 A. Again, I was not part of the test, but part of the 20 technician's instructions were to install and remove 21 the gasket materials when requested. 22 Q. And some gaskets removed easily and some were difficult 23 to remove; correct? 24 A. In this report, I don't -- 25 (Whereupon there was a brief pause in the proceeding.)	Page 84 1 ROY WHITTAKER - BY MR. CRICK 2 Q. You have reviewed Garlock interrogatory answers as 3 early as 1987, I believe you just stated? 4 A. Yes. 5 Q. And you know that interrogatories are another form of 6 sworn testimony that's to be provided to litigants in 7 the case; correct? 8 A. Yes. 9 Q. And I'm looking at a set of interrogatories from a case 10 captioned Edward Eter versus Garlock, Inc. served June 11 4, 1987. These interrogatories were signed and sworn 12 to by a Donald O'Keefe. Do you know Mr. O'Keefe? 13 A. No, I do not. 14 Q. The answers indicate that he's the Assistant Secretary 15 for Garlock, Inc. You don't know that gentleman? 16 A. No, I do not. 17 Q. The response to Interrogatory No. 34 of that set asked 18 whether or not Garlock has ever had any of its gaskets 19 studied to determine the release of asbestos fibers 20 from those materials. And I will show that to you and 21 I want to ask you, sir, do these interrogatories filed 22 in 1987 identify the McCrone studies? 23 (Whereupon there was a brief pause in the proceeding.) 24 Q. Here's the question: Here's the Answer, does the 25 answer to Interrogatory No. 34, sir, disclose the

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1 ROY WHITTAKER - BY MR. CRICK
 2 McCrone studies?
 3 A. I do not see the word McCrone.
 4 Q. Anywhere in Interrogatory 34, do you?
 5 A. Not that I saw so far.
 6 Q. Interrogatory No. 42 asks "Please state whether
 7 defendant, defendant's predecessors or defendant's
 8 subsidiaries ever conducted or caused to be conducted
 9 any tests on any of their or anyone else's
 10 asbestos-containing products to determine potential or
 11 likely asbestos exposure levels during conditions of
 12 intended use of the product."
 13 Look at Interrogatory Answer 42 and Garlock's
 14 answer and, sir, please tell me, is the McCrone report
 15 listed in that answer?
 16 A. No.
 17 Q. And do you see at the back of these answers that
 18 Mr. O'Keefe swore to the truth of those answers?
 19 A. Yes.
 20 Q. And those answers were false, weren't they?
 21 MR. LEVINTHAL: Objection.
 22 A. I can't say whether they are false or not.
 23 Q. It doesn't list the McCrone study, does it?
 24 A. No.
 25 MR. LEVINTHAL: Objection. He's not a

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1 ROY WHITTAKER - BY MR. CRICK
 2 legal expert and he's not here to testify as
 3 to what responsibility there is in including
 4 or not including information in interrogatory
 5 answers.
 6 Q. You know the difference between true and false, don't
 7 you?
 8 MR. LEVINTHAL: Objection.
 9 A. Yes.
 10 Q. Now, if Garlock swore that those were the only tests
 11 that had been performed on Garlock gaskets and didn't
 12 include the McCrone study, that answer would be false,
 13 wouldn't it?
 14 MR. LEVINTHAL: Objection. You know
 15 full well, Mr. Crick, that there are certain
 16 requirements in disclosing information in
 17 interrogatory answers when things are done for
 18 purposes of litigation.
 19 MR. CRICK: I see.
 20 Q. Do you see any objection in this response, sir, or any
 21 disclosure that there's any sort of work product that's
 22 being excluded from that answer?
 23 (Whereupon there was a brief pause in the proceeding.)
 24 A. No.
 25 Q. So the question asks what tests have been performed and

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1 ROY WHITTAKER - BY MR. CRICK
 2 the answer purports to report all of the tests that
 3 have been performed on Garlock gaskets, doesn't it?
 4 MR. LEVINTHAL: Objection. Objection
 5 to the form. And I make the same objection
 6 with respect to knowledge of legal issues.
 7 A. I do not see anything.
 8 Q. You brought with you two depositions that were given by
 9 you in other cases; one from the ABATE case that you
 10 gave in 1993, another one from the Judy case that you
 11 gave in 1991. Did you review those depositions before
 12 you came here today?
 13 A. Yes. They were given to me just as a general -- to
 14 refresh my memory.
 15 Q. Did you review any other deposition transcripts?
 16 A. Just prior to today, no.
 17 Q. You were under oath when you gave these depositions,
 18 weren't you?
 19 A. Yes.
 20 Q. You're under oath today. You understand what that oath
 21 means, don't you?
 22 A. Yes.
 23 Q. You have given other depositions in which you were
 24 under oath; correct?
 25 A. Yes.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. Mr. Whittaker, you have given a lot of testimony today
 3 about your role in the McCrone studies. You know that
 4 that's completely the opposite of what you have
 5 testified to in the past, isn't it?
 6 MR. LEVINTHAL: Objection. Objection.
 7 If you want to show him a transcript where he
 8 has been asked questions about his role in the
 9 McCrone studies and he's given answers to the
 10 contrary to what he's given here today, then
 11 you go ahead and you do that.
 12 Q. Prior to today, sir, you disavowed any knowledge of
 13 this McCrone study, didn't you?
 14 MR. LEVINTHAL: Objection. Unless you
 15 want to show him specifically where he --
 16 MR. CRICK: He can answer the
 17 question.
 18 A. At the time of the depositions, I was not aware of the
 19 McCrone studies.
 20 Q. Sir, you have testified all day that you were involved
 21 in the McCrone studies, that you supplied the material
 22 for the McCrone studies, that you read the 1985 report
 23 when it was drafted. Are you changing all those
 24 answers?
 25 A. No, I'm not changing my answers. I'm so saying I

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1 ROY WHITTAKER - BY MR. CRICK
 2 supplied material period, supplied the lab period,
 3 supplied a person period, but I was not involved in the
 4 studies.
 5 Q. But you read the report in 1985, the June 3rd, 1985
 6 report. You read it in 1985, didn't you?
 7 A. I don't recall that I read it in 1985. I saw that one
 8 sheet in 1985. That wasn't part of a report.
 9 Q. And you know that McCrone came to your plant in 1985
 10 specifically to do tests on Garlock gaskets; correct?
 11 A. I was not -- a test on gaskets, but I was not given any
 12 details for the purpose of the test.
 13 Q. You have already testified today that you saw the
 14 report marked 4-B and you read it at about that time.
 15 Are you changing your answer now?
 16 MR. LEVINTHAL: I'm going to object to
 17 your mischaracterization of the testimony.
 18 Today's record will speak for itself, but I
 19 don't believe he testified he read the
 20 report. He testified he read a sheet which
 21 you had shown him.
 22 Q. Sir --
 23 A. That's true. I testified today to that one sheet.
 24 Q. Which sheet?
 25 A. Well, I have got to find it now.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. Let me ask you point blank again, when did you see
 3 this --
 4 A. This --
 5 Q. -- the 1985 June 3rd report written by McCrone?
 6 A. I believe that one here -- if you're referring to 1985,
 7 this one here was recent (indicating). This one here,
 8 I believe I have seen sometime past (indicating).
 9 MR. LEVINTHAL: All right. And I'm
 10 going to ask that the reporter, if she's able
 11 to go back to that question -- I'm sorry if
 12 that's an unreasonable request, but I need to
 13 make sure that this record is clean.
 14 MR. CRICK: I don't have any idea what
 15 you just said. You're testifying --
 16 MR. LEVINTHAL: I'm talking about going
 17 back to the original time in the deposition
 18 that you asked him that question. That's what
 19 I'm talking about.
 20 (Whereupon an off-the-record discussion was held.)
 21 MR. LEVINTHAL: If that's an
 22 unreasonable request, then I won't insist that
 23 you do that. When the transcript comes back,
 24 it will probably be a lot easier for us to
 25 find it earlier on in the transcript and we

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1 ROY WHITTAKER - BY MR. CRICK
2 can deal with it at that time.
3 Q. There's no dispute, though, that you indicated earlier
4 that you read that at about the time that that report
5 was written, that June of '85 one?
6 MR. LEVINTHAL: No, I object. He just
7 told you that he didn't.
8 Q. You read this one, the March of '85 report?
9 A. I saw this, because I recognized this particular sheet
10 from sometime past.
11 Q. Around 1985?
12 A. Probably around 1985.
13 Q. Okay.
14 A. Where I saw it and so forth, I don't recall.
15 Q. What you're looking at is the document out of 4-C
16 called "Air Sampling Field Form, Sample I-047" which
17 shows a fiber concentration of .45 fibers per cc?
18 A. Yes.
19 Q. Do you recall giving a deposition, sir, in a case
20 called Gwenda McDonald versus Union Pacific Railroad in
21 December 1994?
22 A. Yes.
23 Q. That was a case that was down in Cameron County, Texas;
24 do you remember that?
25 A. Yes.

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1 ROY WHITTAKER - BY MR. CRICK
2 Q. You had a lengthy deposition in that case and you were
3 asked this on page 48:
4 "In 1994, sir, other than testing done by Dr.
5 Mangold or at Dr. Mangold's direction, do you recall
6 having seen any other test results dealing with
7 asbestos fiber release of Garlock products?"
8 Answer: No.
9 Do you recall giving that sworn testimony in 1994?
10 A. Yes, but all the reports I have seen at Garlock over
11 the years for testing and so forth, it's very easy to
12 forget one little simple test like this.
13 Q. And you were asked again at page 73:
14 Question, "Other than the items that we have
15 enumerated now two or three times, the Mangold
16 documents, the Mangold videotapes and what might be
17 contained in the catalogues, have you ever seen any
18 written communication, whether it be a memoranda, test
19 results, any type of written communication which seeks
20 to measure, quantify or describe the asbestos fiber
21 released, if any, during the application or removal of
22 an asbestos-containing product manufactured or sold by
23 Garlock?"
24 Answer: No.
25 Question: Okay. To your knowledge, have any such

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1 ROY WHITTAKER - BY MR. CRICK
2 documents ever existed that you might have been aware
3 of?
4 Answer: No. I have not been made aware of that."
5 Do you recall giving that testimony in December of
6 1994?
7 A. Yes.
8 Q. You were represented in that deposition by an attorney
9 named William Mahoney; is that right?
10 A. Yes.
11 Q. Mr. Mahoney is with the law firm called Segal,
12 McCambridge, Singer & Mahoney; is that correct?
13 A. Yes, in Chicago.
14 Q. You are aware, aren't you, that just four months prior
15 to that deposition in August of '94, Garlock was
16 involved in an asbestos property damage trial in
17 Detroit, Michigan; are you aware of that?
18 A. No. I am not aware of that one.
19 Q. You didn't know that Garlock was a defendant in a trial
20 in Michigan in 1994?
21 A. I'm not aware of all these trials that are relating to
22 Garlock.
23 Q. You didn't know that Mr. Mahoney's partner Ed
24 McCambridge represented Garlock in a property damage
25 trial just four months prior to your deposition in the

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1 ROY WHITTAKER - BY MR. CRICK
2 McDonald case?
3 A. I might have been aware of it at the time, but I'm not
4 aware of it now. I forgot.
5 Q. And you should know that, don't you, or did Mr. Mahoney
6 tell you that the McCrone study specifically came up
7 during that trial just four months earlier; did he tell
8 you that?
9 A. I don't recall that.
10 Q. And when you sat there and gave that testimony in
11 December of 1994 with Mr. Mahoney sitting right beside
12 you, did he tell you "Don't forget the McCrone study"?
13 MR. LEVINTHAL: Objection.
14 A. I don't recall that.
15 Q. He let you sit there and give false testimony; isn't
16 that right?
17 MR. LEVINTHAL: Objection.
18 Don't answer that.
19 And I object to any conversation
20 between Mr. Whittaker as Garlock's corporate
21 designee and his counsel.
22 Q. He didn't correct your testimony, did he?
23 MR. LEVINTHAL: Objection. That report
24 will speak for itself.
25 Q. Did he?

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1 ROY WHITTAKER - BY MR. CRICK
2 A. I don't know whether he did or not.
3 Q. You didn't correct your testimony, did you?
4 A. No.
5 Q. You didn't serve a correction sheet later saying "I
6 forgot to mention the McCrone study," did you?
7 A. I don't have the opportunity every time to have that
8 correction sheet.
9 Q. Well, you gave another deposition in 1996, just last
10 year, in the case of Richard B. Jackson versus
11 Owens-Corning Fiberglas Corp. in Harris County, Texas;
12 do you remember that?
13 A. Yes.
14 Q. You were asked about fiber release tests again there,
15 weren't you?
16 A. Probably.
17 Q. Do you remember this question:
18 "And as you sit here today, are you aware right
19 up to the present time of any testing that the Garlock
20 Corporation had done either in-house or by outside
21 sources of any of the dry asbestos products and
22 materials of the Garlock Corporation?"
23 Answer: Garlock has contracted an individual like
24 Carl Mangold to do that testing and it was outside of
25 my responsibility to -- I'm not familiar with what

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1 ROY WHITTAKER - BY MR. CRICK
2 tests have taken place."
3 Do you remember giving that testimony, sir?
4 MR. LEVINTHAL: I'm going to object to
5 that because you're talking about different
6 products than are at issue here.
7 Q. Do you remember that testimony, sir?
8 A. Yes, I do.
9 Q. And that attorney was asking you to describe any tests
10 that Garlock has performed on its products and you
11 didn't mention the McCrone study, did you?
12 MR. LEVINTHAL: No, I object to the
13 characterization as to any tests that were
14 performed on dry asbestos products. That is
15 not what McCrone tested.
16 Q. You didn't identify the McCrone test, though, did you?
17 A. No, I did not.
18 Q. In fact, in your 1994 deposition, sir, you have changed
19 your testimony there concerning fiber release testing?
20 MR. LEVINTHAL: Objection to the form.
21 Q. Do you remember that?
22 A. I don't; the details.
23 Q. Apparently you testified in 1987 that you recalled
24 tests. Do you remember giving that testimony in 1987?
25 A. Yes, I do, and at a time later, I corrected that.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. Because you decided that there were no tests?
 3 MR. LEVINTHAL: Objection. Ask him
 4 why. I object to the form in which you're
 5 asking it.
 6 Q. I'm going to read you from page 242 of the McDonald
 7 deposition.
 8 Question, by Mr. Morrison, who is reading from
 9 page 63 of your deposition in the Sheltus case,
 10 Question: "Do you recall being asked" reads
 11 Mr. Morrison, Question: During any of the years that
 12 you have been employed by Garlock, do you know if its
 13 laboratories have performed any tests to determine
 14 whether or not asbestos fibers are liberated when
 15 compressed asbestos sheets are cut?
 16 Answer: Garlock laboratories did not take that
 17 test. It would be a test conducted by our Health and
 18 Safety Department.
 19 Question: In the McDonald case?
 20 Right, but I did not say any tests had been
 21 conducted" -- excuse me. This is your answer to that
 22 question, Answer: "Right, but I did not say any tests
 23 had been conducted. I said it would have been if they
 24 were conducted.
 25 Question: Okay. And Safety and Health was

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1 ROY WHITTAKER - BY MR. CRICK
 2 separate from the functional lab?
 3 Answer: Yes.
 4 Question: And is it your testimony here today
 5 that Safety and Health did not perform any such fiber
 6 release tests?
 7 Answer: Not to the best of my knowledge.
 8 Question: Do you know if your knowledge would
 9 have gotten any better or worse from 1987 to the
 10 present?
 11 Answer: No.
 12 Question: Do you recall being asked in the
 13 Sheltus deposition under oath "Question: All right,
 14 sir, on page 63 do you know if the Safety and Health
 15 Department ever conducted that particular type of test"
 16 and you answered "yes".
 17 Answer: I answered yes?
 18 Yes.
 19 Answer: I found out later no, that I didn't."
 20 You didn't mention the McCrone studies at that
 21 time, did you?
 22 A. No, I did not.
 23 Q. Until today, you have never testified about the McCrone
 24 studies, have you?
 25 A. No.

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1 ROY WHITTAKER - BY MR. CRICK
 2 Q. You have been given repeated opportunities at
 3 depositions to describe tests that have been performed
 4 by Garlock on its gaskets, haven't you?
 5 A. Yes.
 6 Q. And the primary tests that you have disclosed at
 7 deposition have been those of Dr. Mangold; correct?
 8 A. Yes.
 9 Q. Which you have already disclosed to us today were
 10 performed at the request of the lawyers; correct?
 11 A. Yes.
 12 Q. The tests that were commissioned by Garlock itself, the
 13 McCrone tests, you have never disclosed prior to today,
 14 have you?
 15 A. No.
 16 MR. CRICK: I don't have any other
 17 questions.
 18 MR. LEVINTHAL: Just one question.
 19 EXAMINATION BY MR. LEVINTHAL:
 20 A. Mr. Whittaker, the last question you were just asked,
 21 Mr. Crick characterized the McCrone studies as having
 22 been commissioned by Garlock itself. Do you know if
 23 the McCrone studies in '85 were commissioned by Garlock
 24 itself or if Garlock legal counsel was also involved in
 25 the commission of those studies?

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1 ROY WHITTAKER - BY MR. LEVINTHAL
 2 MR. CRICK: I object to the form of the
 3 question. That's sort of a distinction
 4 without a difference.
 5 Q. You can answer it.
 6 A. The legal counsel was part of that commission.
 7 Q. Okay. And do you know whether or not the McCrone
 8 studies were commissioned in 1985 for the purpose of
 9 the asbestos litigation?
 10 A. No, I do not know that. No.
 11 Q. Okay. Do you know one way or the other whether they
 12 were?
 13 A. They were commissioned to gain knowledge for fiber
 14 release on the product in application.
 15 MR. LEVINTHAL: I have nothing more.
 16 MR. CRICK: I have two more.
 17 EXAMINATION BY MR. CRICK:
 18 Q. Mr. Whittaker, if it's true that the McCrone studies
 19 were commissioned for asbestos litigation then doesn't
 20 that mean that as of today, Garlock has never
 21 commissioned a testing laboratory to determine whether
 22 or not its gaskets release asbestos fibers when used?
 23 MR. LEVINTHAL: Well, objection to the
 24 form.
 25 Go ahead.

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1 ROY WHITTAKER - BY MR. CRICK
 2 A. I'm not aware of any other studies.
 3 Q. I have one last thing I need to show you.
 4 (Whereupon an off-the-record discussion was held.)
 5 (WHEREUPON DEPOSITION EXHIBIT 7 WAS
 6 MARKED FOR IDENTIFICATION.)
 7 Q. Let me show you Exhibit No. 7 which is a document
 8 called Garlock Mechanical Packing, and it's signed down
 9 at the bottom by R.E. Manning dated 5/14/84. Do you
 10 know what this is?
 11 A. It appears to be some tests that were conducted in
 12 various locations in the plant on asbestos products and
 13 on Gylon products.
 14 Q. Have you seen this document before today?
 15 A. Just recently.
 16 Q. In the last few weeks?
 17 A. Yes.
 18 Q. You didn't see it in 1984 when it was written?
 19 A. No, I did not.
 20 Q. Who is Mr. Manning?
 21 A. I don't remember.
 22 Q. He was a Garlock employee?
 23 A. No, I don't think he was a Garlock employee. He might
 24 have been a -- I don't know. I don't recall the name.
 25 Q. Exhibit No. 6 and Exhibit No. 5, can you tell us what

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1 ROY WHITTAKER - BY MR. CRICK
 2 those files are, sir?
 3 A. Exhibit No. 5 is titled "McCrone Anchor Packing Studies
 4 ME No. 2970." Exhibit No. 6 is titled "McCrone File
 5 ME-5583."
 6 Q. So apparently Colt was satisfied enough with McCrone's
 7 work that it hired McCrone again in 1986 and again in
 8 1988 to perform additional work, correct?
 9 MR. LEVINTHAL: Wait, wait, wait, wait,
 10 wait. Objection to the form. And let him
 11 look through that because that's not correct.
 12 We can go off the record if you want.
 13 (Whereupon an off-the-record discussion was held.)
 14 (Whereupon there was a brief pause in the proceeding.)
 15 A. Ask the question again.
 16 Q. It appears from Exhibits 5 and Exhibit 6 that Colt, the
 17 parent of Garlock and Anchor, was satisfied enough with
 18 the work that it retained McCrone again in subsequent
 19 years to do additional tests and to provide additional
 20 consultation; is that correct?
 21 MR. LEVINTHAL: Objection to the form.
 22 A. There were additional tests run on Anchor Packing
 23 material, yes. Additional tests were run.
 24 MR. CRICK: I don't have any other
 25 questions.

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1 ROY WHITTAKER - BY MR. CRICK
 2 (Whereupon an off-the-record discussion was held.)
 3 (Whereupon the Examination Before Trial adjourned at
 4 11:52 a.m.)
 5 * * *

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WITNESS CERTIFICATION

1
 2
 3
 4 I, ROY L. WHITTAKER, do hereby certify that I
 5 have read the transcript of my testimony taken under oath on
 6 January 14, 1998; that the transcript is a true, complete,
 7 and correct record of what was asked, answered, and said
 8 during the Deposition; and that the answers on the record as
 9 given by me are true and correct, except for anything duly
 10 noted on the attached errata sheet.

11
 12
 13
 14 _____
 15 ROY L. WHITTAKER

16 Subscribed and sworn to before me
 17 this day of

18
 19
 20 _____
 21 NOTARY PUBLIC

22 My commission expires:
 23
 24
 25

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1
 2 STENOGRAPHER'S CERTIFICATION
 3 STATE OF NEW YORK }
 4 COUNTY OF MONROE }

5 I, DEBORAH A. BONALLE, being a Certified Shorthand
 6 Reporter in the County of Monroe, State of New York, do
 7 hereby certify that I reported in Stenotype Shorthand the
 8 Deposition of ROY L. WHITTAKER, held on January 14, 1998, in
 9 the matter of MON MASS II; that the witness was duly sworn;
 10 and that the foregoing pages numbered 1 through 105 were
 11 typed under my direction and control, and constitute a true,
 12 accurate, and correct record of those Stenotype Shorthand
 13 notes.

14 I further certify that I am neither attorney or
 15 counsel for any of the parties, nor a relative or employee of
 16 any attorney or counsel connected with the action, nor
 17 financially interested in the outcome of the action.

18
 19
 20 _____
 21 DEBORAH A. BONALLE, CSR

22 Dated at Rochester, New York
 23 this 15th day of January, 1998
 24
 25

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**APPEARANCES - commissioned
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