

1 CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

2 AT KANSAS CITY

3
4 VIRGINIA BARRETT,)

5 Plaintiff,)

6 vs.)

7 ALLIED MANUFACTURING CO.,) No. 0516-CV36184

8 et al.,) Div. 18

9 Defendants.)

10
11
12 The videotaped deposition of

13 KIM E. ANDERSON, PH.D., called for examination,

14 taken pursuant to the provisions of the Code of

15 Civil Procedure and the Rules of the Supreme Court

16 of the State of Missouri pertaining to the taking

17 of depositions for the purpose of discovery, taken

18 before STACY L. HARTMANN, a Notary Public within

19 and for the County of McHenry, State of Illinois,

20 and a Certified Shorthand Reporter of said state,

21 at 20900 Swenson Drive, Waukesha, Wisconsin, on

22 the 26th day of March, 2007, at 2:13 p.m.

23

24

1 PRESENT:

2 HUMPHREY FARRINGTON & McCLAIN,
3 (221 West Lexington, Suite 400,
4 Independence, Missouri 64051,
5 816-836-5050), by:

6 MR. STEVEN E. CRICK,
7 appeared on behalf of the Plaintiff;

8 LATHROP & GAGE,
9 (10 South Broadway, Suite 1300,
10 St. Louis, Missouri 63102,
11 314-613-2500), by:

12 MR. PETER M. MAGINOT,
13 appeared on behalf of the Defendants
14 T.H. Agriculture and Nutrition Co., and
15 Philips Electronics North America Corp.;

16 BROWN & DUNN,
17 (911 Main Street, Suite 2300,
18 Kansas City, Missouri 64105,
19 816-292-7000), by:

20 MR. MATTHEW MERRILL,
21 appeared telephonically on behalf of
22 the Defendant KCG.

23 ALSO PRESENT: MR. TODD CAMPBELL, Videographer

24 REPORTED BY: STACY L. HARTMANN, C.S.R., 84-3670.

1 THE VIDEOGRAPHER: We are on the record. You
2 see before you is Dr. Kim Anderson. This is video
3 number one of his video deposition taken at the
4 instance of the Plaintiff in the matter of
5 Virginia Barrett, Plaintiff, versus Allied
6 Manufacturing Company, et al., pending in the
7 Circuit Court of Jackson County, Missouri at
8 Kansas City, Case No. 0516-CV36184, Division 18.

9 This deposition is taking place at the
10 offices of GZA Geo Environmental, Incorporated,
11 20900 Swenson Drive, Suite 150, in Waukesha,
12 Wisconsin.

13 The date is March 26th, 2007. The time
14 is 2:13 p.m. I am Todd Campbell, videographer on
15 behalf of Esquire Deposition Services. The court
16 reporter is Stacy L. Hartmann with Esquire
17 Deposition Services of Chicago.

18 Would counsel please first introduce
19 themselves. First for the Plaintiff.

20 MR. CRICK: Steven Crick.

21 THE VIDEOGRAPHER: Thank you. For Defense,
22 please.

23 MR. MAGINOT: Peter Maginot for
24 T.H. Agriculture and Nutrition, L.L.C., and

1 Philips Electronics North America Corporation.

2 MR. MERRILL: And Matt Merrill for KCG, Inc.

3 THE VIDEOGRAPHER: Thank you. Will the court
4 reporter please swear in Dr. Anderson.

5 (WHEREUPON, the witness was duly
6 sworn.)

7 KIM E. ANDERSON, PH.D.,
8 called as a witness herein, having been first duly
9 sworn, was examined and testified as follows:

10 EXAMINATION

11 BY MR. CRICK:

12 Q. Would you please state your name and
13 your address, please.

14 A. Kim E. Anderson, 530 Park Circle,
15 Elm Grove, Wisconsin.

16 Q. You are not the Kim Anderson that used
17 to play basketball for the University of Missouri,
18 are you?

19 A. I am not.

20 Q. Okay. Let's get that out of the way.

21 You work for a company in Milwaukee
22 called GZA; is that right?

23 A. Actually in Waukesha, Wisconsin, a
24 suburb of Milwaukee.

1 Q. All right. And it is called GZA Geo
2 Environmental, Inc.; is that right?

3 A. That is correct, Steve.

4 Q. And I understand you have been hired as
5 an expert witness in this case. Who hired you?

6 A. Peter's firm, Lathrop & Gage.

7 Q. Okay. Have you ever met anyone from
8 the company called T.H. Agriculture and Nutrition?

9 A. No, sir. Not to my knowledge.

10 Q. All right. Have you ever heard of a
11 company called Thompson Hayward Chemical Company?

12 A. Yes, sir.

13 Q. How have you heard of them?

14 A. In looking at other deposition
15 transcripts in other cases, the name T.H.A.N. or
16 Thompson Hayward was mentioned often.

17 Q. All right. Have you ever met anyone
18 from Thompson Hayward Chemical Company?

19 A. Again, not to my knowledge.

20 Q. Do you know the name of Peter's client
21 in this case?

22 A. Yes, sir.

23 Q. And what's the name?

24 A. Virginia Barrett.

1 Q. All right. That's my client.

2 A. Oh, his client, I'm sorry, is T.H.A.N.

3 Q. Okay. And that stands for what?

4 A. Thompson Hayward Agricultural --
5 Agriculture and Nutrition.

6 Q. All right. I saw a report that you
7 prepared in this case and it listed some documents
8 that you had been provided. I did not see any
9 documents from T.H. Agriculture and Nutrition or
10 Thompson Hayward on that list. Would that be
11 accurate, you were not provided any documents from
12 T.H. Agriculture or Thompson Hayward?

13 A. I don't believe so.

14 Q. Okay. Have you ever met a gentleman
15 named Phil Kaiser?

16 A. No, sir.

17 Q. How about Bill Bolden?

18 A. No, sir.

19 Q. Or Raymond Fitzgerald?

20 A. No, sir.

21 Q. Robert Mann?

22 A. No, sir.

23 Q. How about Jack Siegler?

24 A. No, sir.

1 Q. Were you aware that Mr. Siegler used to
2 be the safety director for Thompson Hayward
3 Chemical Company?

4 A. I knew they had a safety director. I
5 did not recall the name of that person.

6 Q. All right. You were, at one point,
7 with the Arkansas Department of Labor; is that
8 right?

9 A. I was on loan to the Arkansas
10 Department of Labor from the United States
11 Department of Labor.

12 Q. So you worked for OSHA?

13 A. Yes, sir.

14 Q. United States Occupational Safety and
15 Health Administration?

16 A. United States Department of Labor,
17 Occupational Safety and Health Administration.

18 Q. And would that have been from around
19 1973 to September of 1978?

20 A. That sounds about right, yes, sir.

21 Q. And what was your job when you were
22 working for OSHA in Arkansas?

23 A. My title was supervisory industrial
24 hygienist.

1 Q. What does that mean? What did you do?

2 A. When I first relocated to Little Rock,
3 Arkansas, I helped start the OSHA office. Prior
4 to me moving there, Arkansas had been a station
5 out of the Tulsa, Oklahoma office. Upon my
6 arrival, we started hiring people and opened an
7 area office in Little Rock that had jurisdiction
8 over the entire state.

9 Q. Have you ever done any industrial
10 hygiene work in the Kansas City metropolitan area?

11 A. I don't believe so.

12 Q. Okay. Now, the work that you were
13 doing for OSHA in Arkansas in the 1970s, did you
14 do any work that specifically concerned asbestos?

15 A. Yes, sir.

16 Q. Now, in 1973, when you came to
17 Arkansas, there already was in place an OSHA
18 regulation concerning asbestos; is that right?

19 A. That's correct.

20 Q. And what did that OSHA regulation do?

21 MR. MAGINOT: I'm going to object to the form
22 of the question as vague.

23 BY MR. CRICK:

24 Q. In summary terms, what was the

1 regulation?

2 A. When the Williams Steiger Occupational
3 Safety and Health Act was promulgated, it charged
4 OSHA with establishing rules and regulations to
5 regulate workplace safety and health. From the
6 health perspective, OSHA adopted 3 to 400 American
7 Conference of Governmental Industrial Hygienist
8 threshold limit values as well as a handful from
9 the American National Standards Institute.

10 As OSHA moved forward later in 1971, it
11 was decided that an emergency temporary standard
12 was necessary for asbestos. That was more of a
13 vertical standard that had prescriptive
14 requirements, not just a permissible exposure
15 limit. In 1973, we operated under those
16 regulations.

17 Q. So in 1971, there was an emergency
18 asbestos standard passed by OSHA?

19 A. Emergency temporary standard it was
20 termed.

21 Q. And then it became a permanent standard
22 soon afterwards?

23 A. Yes, sir.

24 Q. And what the United States Government

1 was saying was there needs to be safety
2 precautions taken when working around asbestos; is
3 that right?

4 A. There needs to be protection for
5 employees who may have worked with asbestos.

6 Q. And what the regulation talked about
7 was the need for local exhaust ventilation; would
8 you agree with that?

9 A. Depending upon the use of the asbestos
10 and potential exposure, there could have been a
11 requirement for local exhaust ventilation.

12 Q. And it called for personal protective
13 equipment?

14 A. Again, predicated upon exposure and the
15 operation, there could be a requirement for
16 personal protective equipment.

17 Q. And you say predicated upon the
18 exposure. The regulation called for the employer
19 to do air sampling to determine what the exposure
20 would be so you know which precautions need to be
21 taken; is that right?

22 A. Exactly.

23 Q. Okay. So there was a requirement that
24 either air samples be taken or that the

1 precautions be followed?

2 A. Yes, sir.

3 Q. And personal protective equipment in
4 1971 would have included respirators; is that
5 right?

6 A. Yes, sir.

7 Q. At that time it would have also
8 potentially included Tyvek suits; is that right?

9 A. Steve, I don't recall the exact
10 requirement for all of the PPE in the 1971
11 standard.

12 Q. Okay. Now, the OSHA regulations that
13 went into effect in 1971, that was for all types
14 of asbestos fibers, wasn't it?

15 A. It did not differentiate between
16 amphibole or serpentine asbestos. So it covered
17 the universe.

18 Q. It included chrysotile and amosite,
19 crocidolite, tremolite, anthophyllite and
20 actinolite; would you agree that?

21 A. Yes, sir.

22 Q. Now, in 1973 -- well, strike that.

23 In -- when you came to Arkansas in
24 1973, some of the work you did involved asbestos?

1 A. Yes, sir.

2 Q. And was one of the things you did was
3 to make sure that companies in Arkansas were
4 complying with the OSHA asbestos regulations?

5 A. Yes, sir.

6 Q. And did you think that it was a
7 requirement that companies in Arkansas follow the
8 OSHA asbestos regulations at that time?

9 A. If you were regulated by OSHA, meaning
10 you affected commerce, you had the requisite
11 amount of employees and you were in a political
12 subdivision, then if you utilized asbestos or had
13 asbestos, you would need to comply.

14 Q. Okay. Now, in 1973, are you aware that
15 there was a regulation passed through the EPA
16 called NESHAPS?

17 A. Yes, sir.

18 Q. And NESHAPS, does that stand for
19 National Emissions -- hold on. What does NESHAPS
20 stand for?

21 A. National Emissions Standards for
22 Hazardous Air Pollutants.

23 Q. Thank you. And you have read that
24 before, haven't you?

1 A. Yes, sir.

2 Q. Okay. I happen to have a copy of it
3 here. Let me show you what we have marked as
4 Exhibit 1. And does this appear to you to be a
5 copy of the Federal Register, Friday,
6 April 6, 1973, from the EPA called National
7 Emission Standards for Hazardous Air Pollutants
8 for asbestos, beryllium and mercury?

9 A. Yes, sir.

10 Q. And you have read this before, haven't
11 you?

12 A. In my past history, yes, sir.

13 Q. And after this was passed in April of
14 1973, people were required to comply with this
15 regulation, would -- is that right?

16 A. Yes, sir.

17 Q. Do you know if as a part of this
18 regulation there were certain uses of asbestos
19 that were banned?

20 A. I don't recall, Steve.

21 Q. Well, we will go through it. You are
22 aware that at some point in time the spraying of
23 asbestos-containing fireproofing was banned?

24 A. Yes, sir.

1 Q. Were you aware that that was in 1973?

2 A. No, sir.

3 Q. Do you know when that took place?

4 A. No, sir, I do not.

5 Q. If I told you -- if I represented to
6 you that the ban of spraying of
7 asbestos-containing fireplace -- fireproofing went
8 into effect in July of 1973, would you have any
9 reason to doubt that?

10 A. No, sir, not as I sit here.

11 Q. Likewise, are you aware that the EPA
12 banned the spraying of acoustical plaster that
13 contained asbestos over 1 percent? Were you aware
14 of that?

15 A. I know it was banned. I don't know the
16 exact timing again.

17 Q. And if I told you that it was banned
18 along with the fireproofing ban effective July of
19 1973, would you have any reason to dispute that?

20 A. No, sir, I would not.

21 Q. Now, do you know what the ingredients
22 were in the fireproofing and the spray acoustical
23 plasters that were being used back in that time
24 frame?

1 A. In general, it was an emulsion of
2 silicates that could include, you know, hydrated
3 magnesium silicate or asbestos materials.

4 Q. Okay. Very comparable to the spray
5 texture that was sold by Ruco in this case; is
6 that right?

7 MR. MERRILL: Object to the form of the
8 question; assumes facts not in evidence.

9 MR. CRICK: Go ahead.

10 BY THE WITNESS:

11 A. The compositions are unique with
12 respect to some of the other additives and
13 probably with respect to the concentration or
14 percentage of asbestos would be included into the
15 matrix.

16 BY MR. CRICK:

17 Q. Do you know how much asbestos was in
18 the fireproofings that were banned?

19 A. Some had up to 30 percent.

20 Q. And the EPA ban was for all
21 fireproofings and acoustical plasters over
22 1 percent; is that right?

23 MR. MERRILL: Object to the form.

24 MR. CRICK: Go ahead.

1 BY THE WITNESS:

2 A. The EPA regulated or classified
3 asbestos-containing materials as anything greater
4 than 1 percent.

5 BY MR. CRICK:

6 Q. Now, that EPA ban, did they distinguish
7 between different fiber types or were all forms of
8 asbestos included in the ban?

9 A. I believe all forms.

10 Q. That included chrysotile; is that
11 right?

12 A. Yes, sir.

13 Q. Okay. And it included tremolite; is
14 that right?

15 A. Yes, sir.

16 Q. Was it expected that manufacturers
17 would -- and contractors were supposed to comply
18 with this EPA regulation and not spray
19 fireproofing or acoustical plaster if it had over
20 1 percent?

21 A. That was my understanding.

22 Q. Are you familiar with the EP regulation
23 that came out in 1978 regarding the spraying of
24 spray texture products?

1 A. I have seen it, yes, sir.

2 Q. Okay. And you are aware that the EPA
3 promulgated a regulation in June -- on June 19,
4 1978, banning the spraying of ceiling texture
5 products that contain over 1 percent asbestos?

6 A. Yes, sir.

7 Q. Let me show you Exhibit No. 2 and ask
8 you if you understand this to be a copy of that
9 1978 EPA regulation.

10 A. It appears to be, yes, sir.

11 Q. If you look at the last page, there
12 is -- it is hard to read, but there is a
13 Subsection E. Do you see that?

14 A. Yes, sir.

15 Q. It says, "There shall be no visible
16 emissions to the outside air from the spray-on
17 application of materials containing more than
18 1 percent asbestos on a dry weight basis used on
19 equipment and machinery except as provided in
20 Paragraph F of this section. Material sprayed on
21 buildings, structures, structural members, pipes
22 and conduits shall contain less than 1 percent
23 asbestos on a dry weight basis."

24 Did I read that right?

1 A. Yes, sir.

2 Q. And you would have expected that
3 companies, manufacturers and contractors would
4 comply with this EPA regulation as of its
5 effective date; is that right?

6 MR. MERRILL: Object to the form; vague and
7 ambiguous.

8 BY THE WITNESS:

9 A. Yeah, without looking at it, if there
10 wasn't an implementation date --

11 BY MR. CRICK:

12 Q. You can look at the opening page, right
13 on the front. You see it says "effective date?"

14 A. Yes, sir.

15 Q. And what's the effective date?

16 A. June 19, 1978.

17 Q. And as of that date, you would have
18 expected manufacturers and contractors to comply
19 with this EPA regulation; is that right?

20 A. Yes, sir.

21 MR. MERRILL: Same objection.

22 BY THE WITNESS:

23 A. Yes, sir.

24

1 BY MR. CRICK:

2 Q. Okay. Do you know what date Rew
3 Materials sold spray texture and joint compound to
4 Bobby Dray in this case?

5 MR. MERRILL: Object to the form.

6 THE WITNESS: May I look at my report?

7 MR. CRICK: Yes, sir.

8 BY THE WITNESS:

9 A. June 27, 1978.

10 BY MR. CRICK:

11 Q. Was that before or after the EPA spray
12 texture regulation went into effect?

13 A. It appears to be a few days afterwards.

14 Q. It is afterwards?

15 A. Yes, sir.

16 Q. Whether it is a few days or a year, the
17 regulation was still in place; is that right?

18 MR. MERRILL: Object to the form.

19 BY THE WITNESS:

20 A. Yes, sir.

21 BY MR. CRICK:

22 Q. The EPA regulation, Exhibit No. 2, did
23 it distinguish between fiber types or did it
24 include all forms of asbestos?

1 A. I believe it included all forms of
2 asbestos.

3 Q. If you look at the last page, again, of
4 that Exhibit No. 2, there is a paragraph number
5 two. Do you see that?

6 A. Yes, sir.

7 Q. And it says, "Any owner or operator who
8 intends to spray asbestos materials which contain
9 more than 1 percent asbestos on a dry weight basis
10 on equipment and machinery shall report such
11 intention to the administrator at least 20 days
12 prior to the commencement of the spraying
13 operations."

14 Did I read that right?

15 A. Yes, sir.

16 Q. Now, this doesn't say anything about
17 spraying on buildings, does it? This just says if
18 someone is going to spray on equipment or
19 machinery?

20 A. That's correct.

21 Q. Because the paragraph up above said you
22 shall not spray on buildings if it contains more
23 than 1 percent; is that right?

24 A. Yes, sir.

1 Q. Did this regulation provide any
2 information to the public about how to deal with
3 asbestos that was already in place in a building,
4 do you know?

5 A. I believe there is a section on
6 demolition and renovation.

7 Q. If you'd look at the second page of the
8 reg, there is a paragraph down on the left column
9 that starts with "One commentator suggested." Do
10 you see that?

11 A. "One commenter."

12 Q. Yes. One commenter.

13 A. Yes, sir.

14 Q. Read to yourself, just that -- down at
15 the bottom and the next column the first
16 paragraph.

17 A. Some of it is very difficult to read,
18 but I am doing my best here.

19 Q. I appreciate it. Thank you.

20 A. Okay.

21 Q. From the regulation, it appears that
22 there were one or more people that were concerned
23 that -- let me just read it. It says, "One
24 commenter suggested that the regulation be

1 extended to require removal of existing
2 asbestos-containing sprayed materials which
3 present significant risks to human health." Do
4 you see that?

5 A. Yes, sir.

6 Q. And do you see on the next page where
7 they make reference to a book called "Sprayed
8 Asbestos-Containing Materials in Buildings: A
9 Guidance Document?" Do you see that?

10 A. Yes, sir.

11 Q. Let me show you what I have marked
12 Exhibit No. 3. Now, this Exhibit No. 2, again,
13 this is dated June 19th of 1978. Do you see that?

14 A. Yes, sir.

15 Q. And it was making reference to a book
16 called "Sprayed Asbestos-Containing Materials in
17 Buildings: A Guidance Document." Let me hand you
18 Exhibit 3. I don't have an extra copy.

19 MR. MAGINOT: No problem.

20 MR. CRICK: You are okay with that?

21 MR. MAGINOT: Yeah.

22 MR. CRICK: It is the same one we have used
23 before.

24 MR. MAGINOT: Yeah.

1 BY MR. CRICK:

2 Q. Dr. Anderson, is this a book called
3 "Sprayed Asbestos-Containing Materials in
4 Buildings: A Guidance Document," by Robert N.
5 Sawyer, prepared for the U.S. Environmental
6 Protection Agency, March 1978?

7 A. It is Sawyer and Spooner, but yes, sir.

8 Q. Sawyer and Charles Spooner. Thank you.
9 You have seen this before, haven't you?

10 A. Yes, sir.

11 Q. This came out while you were still with
12 the United States Department of Labor assigned in
13 Arkansas; is that right?

14 A. That's correct.

15 Q. And this is for the EPA, but as an
16 industrial hygentist and someone interested in
17 protecting the health of workers, is this -- this
18 is something that you would have seen at that
19 time?

20 A. I would have seen it, yes, sir.

21 Q. I am not going to ask you to go all
22 through it, but if you look at the table of
23 contents, does this document tell the reader about
24 asbestos, its hazards and precautions that need to

1 be taken in buildings that contain asbestos?

2 A. Yes, sir. It appears to.

3 Q. And this is dated March of 1978?

4 A. That's correct.

5 Q. Do you know whether or not Thompson
6 Hayward Chemical Company ever told anyone from
7 Ruco about this EPA publication?

8 MR. MAGINOT: Object to the form of the
9 question. You can answer, subject to my
10 objection.

11 BY THE WITNESS:

12 A. I do not know.

13 BY MR. CRICK:

14 Q. I saw in your report some reference to
15 warnings. You made some comment about warnings in
16 your report. The warning that Thompson Hayward
17 gave to Ruco, did it contain the word cancer or
18 mesothelioma?

19 A. I don't believe so.

20 Q. Okay. The warning that Thompson
21 Hayward gave to Ruco, did it make any reference to
22 the EPA Sprayed Asbestos-Containing Materials in
23 Buildings Guidance Document?

24 MR. MAGINOT: I'm going to object to the form

1 of the question. It is not limited in time.

2 There is no evidence that shows that Thompson
3 Hayward Chemical Company was doing business with
4 Ruco in March of 1978.

5 MR. CRICK: Go ahead.

6 THE WITNESS: I am sorry. I got lost in
7 the --

8 BY MR. CRICK:

9 Q. Let me ask a different question. Let
10 me do it this way.

11 Have you ever heard of the Consumer
12 Product Safety Commission?

13 A. Yes, sir.

14 Q. Okay. What is the Consumer Product
15 Safety Commission?

16 A. It is an agency of the United States
17 Government that deals with products that are
18 introduced into commerce and affect possible
19 consumers of those products and users of those
20 products.

21 Q. All right. You are aware that the
22 Consumer Product Safety Commission conducted
23 hearings and banned the use of asbestos in joint
24 compound; is that right?

1 A. Yes, sir.

2 Q. And you've read that rule before,
3 haven't you?

4 A. I believe so.

5 Q. That came out and it was published
6 while you were working for OSHA in 1977?

7 A. That is my recollection, yes, sir.

8 Q. Let me show you Exhibit 4.

9 Dr. Anderson, is this a copy of the Federal
10 Register from Friday, July 29, 1977, called
11 Consumer Product Safety Commission Respirable
12 Free-Form Asbestos Proposed Rule Making?

13 A. Yes, sir.

14 Q. And you saw this when it came out?

15 A. I am sure I did.

16 Q. Because it was important to you to keep
17 up with what the Federal Government was doing with
18 regard to asbestos; is that right?

19 A. It was important to OSHA that we
20 have -- we had an understanding what U.S. EPA was
21 doing with respect to asbestos.

22 Q. Okay.

23 A. Therefore, it was important to me.

24 Q. And this was published on Friday,

1 July 29th, 1977. Do you see that?

2 A. Yes, sir.

3 Q. Now, this document proposed the
4 complete ban of asbestos in joint compound; is
5 that right?

6 A. I don't recall, Steve. I'm sorry.

7 Q. Well, I have got a better copy. So we
8 will mark that. Do you know if that regulation is
9 still in place today?

10 A. No, sir, I don't know.

11 Q. Let me show you Exhibit No. 5. It is
12 not stapled, so be a little careful here.

13 You know that the Federal Regulations
14 are on the internet, don't you?

15 A. Yes, sir.

16 Q. And Exhibit No. 5 -- did I mark that?

17 THE WITNESS: I don't have a number.

18 MR. CRICK: I don't think I did. Thank you.

19 THE WITNESS: Yes, sir.

20 BY MR. CRICK:

21 Q. You see Exhibit No. 5?

22 A. Yes.

23 Q. It says up at the top -- well, you can
24 see at the bottom it is from the Federal

1 Government website. Do you see that?

2 A. Yes, sir.

3 Q. And up at the top it says, "Code of
4 Federal Regulations, revised as of January 1,
5 2006." Do you see that?

6 A. I do.

7 Q. Okay. And then it says, "Chapter 2,
8 Consumer Product Safety Commission, Part 1304, ban
9 of consumer patching compounds containing
10 respirable free-form asbestos." Do you see that?

11 A. Yes, sir.

12 Q. If you look at the third page of that
13 regulation, it says, "1304.4 consumer patching
14 compounds has banned hazardous products." Do you
15 see that?

16 A. Yes, sir.

17 Q. Does it say this: "On the basis that
18 airborne asbestos fibers present the hazards of
19 cancer, including lung cancer and mesothelioma, to
20 the public, consumer patching compounds containing
21 intentionally added respirable free-form asbestos
22 which have been manufactured or initially
23 introduced into commerce after January 16, 1978,
24 are banned hazardous products. In addition, all

1 other consumer patching compounds containing
2 intentionally added respirable free-form asbestos,
3 no matter when manufactured or initially
4 introduced into commerce, are banned hazardous
5 products after June 11, 1978." Did I read that
6 right?

7 A. Yes, sir.

8 Q. Do you know, did the Consumer Product
9 Safety Commission limit this regulation to certain
10 types of asbestos or did they include all forms of
11 asbestos?

12 A. I believe it included all forms of
13 asbestos.

14 Q. Okay. And that would include
15 chrysotile?

16 A. Yes, sir.

17 Q. You understand that the product
18 involved -- one of the products involved in this
19 case is joint compound?

20 A. Yes, sir.

21 Q. If that was sold after June 11, 1978,
22 with asbestos, that would have been a violation of
23 the Consumer Product Safety Commission Regulation
24 Part 1304?

1 MR. MAGINOT: I'm going to object to the form
2 of the question requiring a legal conclusion from
3 the witness and assumes facts not in evidence.

4 MR. MERRILL: I'll join in that objection.
5 Do we have the rule one objection applies for all
6 Defendants?

7 MR. CRICK: Yeah. Go ahead.

8 BY THE WITNESS:

9 A. I don't recall if there were stays of
10 this portion or not, Steve. I know that some of
11 the Consumer Product Safety Commission bans
12 ultimately had stays, and I just don't recall in
13 this one.

14 BY MR. CRICK:

15 Q. Assuming that this one was not stayed
16 and it went into effect on June 11, 1978, a sale
17 of joint compound containing asbestos on June 27th
18 would have been a violation of the regulation?

19 MR. MAGINOT: I am going to object to the
20 form of the question.

21 BY THE WITNESS:

22 A. I would think so.

23 BY MR. CRICK:

24 Q. You don't have any information that

1 there were stays on this ban, do you?

2 A. As I said, I don't recall which
3 specific materials ended up with stays.

4 Q. Okay. But you don't have any
5 information that you brought with us today that
6 has anything to do with this Consumer Product
7 Safety Commission ban?

8 A. No, sir. Nothing I brought with me.

9 Q. Okay. And nothing that you have
10 learned through your research for this case tells
11 you that there was a stay on this ban?

12 A. I didn't really do research on whether
13 or not there was a stay.

14 Q. As far as you know, it was effective
15 June of 1978?

16 A. I don't know that it was or I don't
17 know that it wasn't.

18 Q. Okay. Did Thompson Hayward give you
19 any information as to whether or not it was aware
20 of the ban being proposed?

21 A. No, sir. My recollection is the
22 pertinent information I obtained from the file
23 materials related to Thompson Hayward's last sale
24 of their materials to Ruco had been, I believe, in

1 November of '77.

2 Q. Look at Exhibit No. 4.

3 A. Yes, sir.

4 Q. This is the proposal for the ban by the
5 Consumer Product Safety Commission from June of
6 1977. Do you see that?

7 A. Yes, sir.

8 Q. Do you have any information -- have you
9 been given any information by your -- from your
10 client, as to whether or not Thompson Hayward was
11 aware of this ban before it went into effect?

12 MR. MAGINOT: Object to the form of the
13 question.

14 BY THE WITNESS:

15 A. I don't know.

16 BY MR. CRICK:

17 Q. A company that sells asbestos products,
18 would it surprise you to hear that it knew nothing
19 about regulations that might affect that product?

20 MR. MERRILL: Object to the form.

21 BY THE WITNESS:

22 A. No, it wouldn't surprise me at all.

23 BY MR. CRICK:

24 Q. In the time period of the 1970s, do you

1 know who Thompson Hayward got their asbestos from?

2 A. I believe I do.

3 Q. Who?

4 A. Carey Canada -- Canadian.

5 Q. Okay. Was that a big company or was
6 that just a little mom-and-pop shop?

7 A. It was a large company.

8 Q. Have you been given any information as
9 to whether or not Carey-Canadian was aware of the
10 proposed ban?

11 A. No, sir. I have not been given any
12 such information.

13 Q. Are you aware that Thompson Hayward had
14 their own laboratory?

15 A. Yes, sir.

16 Q. Do you know if they did research on
17 chemicals that they were making and selling?

18 A. Again, I don't believe it was relevant
19 because they were essentially a pass-through
20 provider of the Carey-Canadian chrysotile.

21 Q. Okay. I didn't ask that. Do you know
22 whether or not Thompson Hayward did any research
23 regarding asbestos?

24 A. I believe you asked about their

1 products, and this wasn't one of their products.

2 They just were a pass-through. I don't --

3 Q. Dr. Anderson, listen to my question.

4 Did Thompson Hayward do any research in their
5 laboratory regarding asbestos?

6 A. I don't know.

7 Q. Do you know if Thompson Hayward was
8 ever cited by OSHA for violating OSHA regulations
9 regarding asbestos?

10 A. I don't know.

11 Q. Do you know if they were cited by OSHA
12 for violating asbestos regulations before the sale
13 of asbestos to Ruco in this case?

14 A. I don't know.

15 Q. Do you know how Thompson Hayward dealt
16 with that OSHA citation and the asbestos that was
17 the subject of that violation?

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

20 BY THE WITNESS:

21 A. Since I didn't know of any such thing,
22 I sure wouldn't know what they would have done
23 with respect to this disposition thereof.

24

1 BY MR. CRICK:

2 Q. Do you know that Thompson Hayward was
3 cited by OSHA because there had been a small spill
4 of asbestos on the floor at the Thompson Hayward
5 warehouse?

6 MR. MAGINOT: Object to the form of the
7 question.

8 BY MR. CRICK:

9 Q. Have you been given any of that
10 information?

11 A. No, sir.

12 Q. Do you know what -- were you aware that
13 Thompson Hayward, to cure that citation, sold the
14 asbestos that was in the warehouse?

15 MR. MAGINOT: Object to the form of the
16 question.

17 BY MR. CRICK:

18 Q. Were you aware of that?

19 A. No, sir.

20 Q. Were you aware that Thompson Hayward
21 provided its employees with respirators?

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

24 BY THE WITNESS:

1 A. No, sir.

2 BY MR. CRICK:

3 Q. What type of asbestos fiber did
4 Thompson Hayward sell?

5 A. Grade 7, Carey-Canadian chrysotile.

6 Q. Okay. Do you know what type of signs
7 Thompson Hayward had in their own plant regarding
8 asbestos?

9 A. No, sir.

10 Q. Do you know how those signs compared to
11 the warnings that Thompson Hayward gave to Ruco?

12 A. Again, since I didn't have knowledge of
13 any signs, I couldn't do any comparison.

14 Q. Okay. Now, you were -- strike that.
15 Your client in this case is the law
16 firm, Lathrop & Gage?

17 A. Yes, sir.

18 Q. Have you ever been asked by
19 T.H. Agriculture and Nutrition, formerly Thompson
20 Hayward -- have you ever been asked by that
21 company to give it advice on toxicology or
22 asbestos or any matter?

23 MR. MAGINOT: I'm going to object to the form
24 of the question. It is vague.

1 BY MR. CRICK:

2 Q. Outside of litigation, have you ever
3 been hired by T.H. Agriculture and Nutrition?

4 A. I don't believe so.

5 Q. Do you know what T.H. Agriculture and
6 Nutrition does today?

7 A. No, sir.

8 Q. They are in the business of supervising
9 Superfund sites on properties that it formerly
10 owned. So they are in the business of dealing
11 with hazardous waste. You are in the business of
12 dealing with hazardous waste, too; is that right?

13 MR. MAGINOT: Object to the form of the
14 question.

15 BY THE WITNESS:

16 A. I have dealt with hazardous waste, yes,
17 sir.

18 BY MR. CRICK:

19 Q. Has T.H. Agriculture and Nutrition ever
20 called you for your advice on how to deal with its
21 business?

22 A. No, sir.

23 Q. Have you ever heard of North American
24 Philips?

1 A. Yes, sir.

2 Q. One of the largest manufacturers in the
3 world of electronics products?

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

6 BY MR. CRICK:

7 Q. Do you understand that?

8 A. Was that a question? I thought that
9 was a statement.

10 Q. Do you agree with that?

11 A. Yes, sir.

12 Q. Has North American Philips ever
13 contacted you, outside of litigation, to give it
14 advice?

15 A. I believe Philips is a client of one of
16 our East Coast offices. Personally, I have never
17 done any work with Philips, to my knowledge.

18 Q. Does the work that Philips has done
19 with you, does it have to do with asbestos -- or
20 with your company?

21 A. I don't believe so.

22 Q. Are you familiar with the industrial
23 hygiene term called substitution when you are
24 dealing with hazardous products?

1 A. Yes, sir.

2 Q. What does that mean?

3 A. It means one of the methods of trying
4 to reduce any inherent risks is to replace or
5 substitute the material to something less
6 hazardous.

7 Q. And were you aware that Ruco
8 manufactured an asbestos-free joint compound and
9 spray texture in 1974?

10 MR. MERRILL: Object to the form of the
11 question, assumes facts not in evidence, lack of
12 foundation.

13 MR. CRICK: Go ahead.

14 BY THE WITNESS:

15 A. I believe in some of the case documents
16 I did read that, yes, sir.

17 BY MR. CRICK:

18 Q. And that would be a form of
19 substitution; would you agree?

20 A. The information I had, Steve, did not
21 specify why they had a different type of material.
22 So I don't know if it was because of their
23 concerns or potential concerns about the actual
24 chemicals included in it or if it was some issue

1 related to the actual material and the use of that
2 material.

3 Q. I saw you have in your report a
4 reference to the deposition of Rick Rew that was
5 taken this year?

6 A. Yes, sir.

7 Q. Did you read that?

8 A. Yes, sir.

9 Q. Did you see where Mr. Rew testified
10 that they made an asbestos-free product because
11 asbestos products had been banned in Minnesota in
12 1974?

13 A. I didn't recall reading that.

14 Q. Okay. If that was the case, that would
15 be an example of substitution?

16 A. That would be. Yes, sir.

17 Q. Do you know if Ruco made an
18 asbestos-free -- well, strike that. Never mind.

19 Now, in 1978, after June 11th, after
20 the ban -- strike that. Never mind.

21 I think we are up to 6. Is Exhibit
22 No. 6 a current copy of your resume?

23 A. Yes, sir.

24 MR. MAGINOT: Thanks, Steve.

1 BY MR. CRICK:

2 Q. Is Exhibit 7, is that your bill for
3 services in this case?

4 A. Yes, sir.

5 Q. If I could see that back. And is
6 Exhibit No. 8, is this -- what is Exhibit No. 8?

7 A. Exhibit No. 8 has two portions. The
8 first two pages related to depositions within the
9 last four years, I believe, and the last page or
10 third page is for trials in which I have testified
11 during the same time period.

12 Q. The last four years?

13 A. Since I have been at GZA, and I have
14 been at GZA over four years now.

15 Q. Do any of the cases that are listed on
16 here involve asbestos? And if you would just
17 check off the ones you recall as involving
18 asbestos.

19 A. There is no trial testimony.
20 (Indicating.) And I believe there are five
21 depositions in asbestos cases that I have marked
22 with a check.

23 Q. Okay. Now, the five cases in which you
24 testified concerning asbestos, were those for the

1 plaintiff or for the defendant?

2 A. Defendant.

3 Q. So in the Robinson case, was your
4 client Bartlett Insulation?

5 A. Bartelt, yes, sir.

6 Q. And then Kubets versus Abel
7 Distributing, who was the company that was
8 involved there, as far as you were concerned?

9 A. Building Services Industrial Sales.

10 Q. They sold insulation products?

11 A. They sold building products, including
12 some insulation products.

13 Q. Okay. And was -- the insulation was
14 what was involved in the lawsuit?

15 A. I believe so.

16 Q. And then Brassfield versus Welco, was
17 the company you were testifying in support of
18 Welco Manufacturing?

19 A. Yes, sir.

20 Q. And that company made what?

21 A. On this case, I believe, it was joint
22 compound.

23 Q. Okay. And do you know who the supplier
24 of asbestos was to Welco?

1 A. I don't recall.

2 Q. Okay. I have your deposition. You
3 were asked that question and you testified that it
4 was Union Carbide. Would that -- I will just find
5 it.

6 Has anyone from the law firm of
7 Lathrop & Gage given you any information that
8 Thompson Hayward Chemical Company was the primary
9 supplier of asbestos products to Welco?

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

12 BY THE WITNESS:

13 A. I don't believe so.

14 BY MR. CRICK:

15 Q. Were you aware that Thompson Hayward
16 did sell asbestos to Welco?

17 A. No, sir. I don't believe so.

18 Q. This was taken -- your deposition was
19 taken November 2nd, 2006, just a couple of months
20 ago. Do you recall being asked this question:
21 "Do you know who supplied that serpentine or
22 chrysotile type of fiber?" Your answer was: "My
23 understanding for some period of time Union
24 Carbide was a supplier."

1 Just the question above the
2 highlighting there (indicating).

3 A. Yes, sir. That is what I said.

4 Q. And T.H. Agriculture was a defendant
5 and was present at your deposition. You recall
6 that?

7 A. It was a telephonic deposition. I have
8 no idea who was on that phone, to be honest.

9 Q. Okay. Do you see where it says
10 T.H. Agriculture was present at the deposition?

11 A. Yes, sir.

12 Q. But you prepared for the deposition and
13 reviewed materials and you were testifying
14 specifically on that question, who was the fiber
15 supplier to Welco? You were asked that question?

16 A. Yes, sir.

17 Q. Did Mr. Moore tell you that he had
18 records from me that showed that Thompson Hayward
19 was the supplier to Welco?

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

22 BY THE WITNESS:

23 A. I can assure you, had I known, I would
24 have answered the question.

1 BY MR. CRICK:

2 Q. And on the telephone, the lawyer for
3 Thompson Hayward was present. Did anyone from
4 Thompson Hayward tell you, in that deposition,
5 that it supplied asbestos to Welco?

6 MR. MAGINOT: Object to the form of the
7 question.

8 BY THE WITNESS:

9 A. Again, I didn't know who was on the
10 other end of the phone. So there was no such
11 discussion.

12 BY MR. CRICK:

13 Q. Well, the information that you gave
14 under oath, in this case, just last November, was
15 that it was Union Carbide?

16 A. That was my testimony. Yes, sir.

17 Q. Did Mr. Moore ever correct you, that no
18 it was actually Thompson Hayward?

19 MR. MAGINOT: Object to the form of the
20 question.

21 BY THE WITNESS:

22 A. No, sir.

23 BY MR. CRICK:

24 Q. Did you correct your deposition at any

1 time to show that it was Thompson Hayward?

2 A. No, sir.

3 MR. MAGINOT: Object to the form of the
4 question.

5 BY MR. CRICK:

6 Q. You were relying on the information
7 that the lawyers had provided to you?

8 MR. MAGINOT: Object to the form of the
9 question; vague.

10 BY THE WITNESS:

11 A. I don't know if there were specific
12 case materials or where I got that information.

13 BY MR. CRICK:

14 Q. Okay. Is it true you have never
15 testified in a trial in an asbestos matter?

16 A. That's correct.

17 Q. Okay. Any of the depositions that are
18 listed on here, were any of them on behalf of the
19 plaintiff, the person filing the lawsuit?

20 A. Yes, sir.

21 Q. Can you tell me?

22 A. I will do an X (indicating). I have
23 marked both depositions and trials with an X, to
24 the best of my recollection. There is some I just

1 honestly don't remember.

2 Q. Okay. I am not going to ask you about
3 all of these. Let me look at the first one you
4 have -- so the ones that you have with an X, those
5 are where you were working for the person who
6 filed the lawsuit?

7 A. Yes, sir.

8 Q. The ones where you have a check, I am
9 going to probably have you write an A by that, but
10 those are the ones with the asbestos?

11 A. That's correct.

12 Q. Okay. I will just ask you about a
13 couple. State of Pennsylvania versus Monsento,
14 et al., State Court Pennsylvania, you were hired
15 by the State of Pennsylvania?

16 A. By their law firm, yes, sir.

17 Q. Okay. And who were you dealing with
18 for that case?

19 A. Crivello Carlson law firm in Milwaukee,
20 Attorney John Jergens (phonetic), I believe.

21 Q. Okay. And so somebody from Milwaukee
22 was representing the State of Pennsylvania. What
23 kind of a case was that?

24 A. PCB issue related to a fire in the

1 building.

2 Q. And what did the State of Pennsylvania
3 ask you to do?

4 A. Essentially look at the PCBs that were
5 found, determine the nature and origin of those
6 PCBs and resultant cost to repair.

7 Q. Okay. And so did the State hire you
8 for litigation or did they hire you just to deal
9 with the PCBs regularly as a part of their ongoing
10 life?

11 A. I would assume both.

12 Q. Okay. So did you meet with someone
13 from the State of Pennsylvania about this? This
14 is -- what was it exactly? Where was the building
15 at?

16 A. Harrisburg, Pennsylvania, I believe.

17 Q. Okay. And do you know what the
18 building was that was involved in that?

19 A. I don't recall.

20 Q. Okay. So someone from the State of
21 Pennsylvania hired you. And did you meet in
22 Pennsylvania with the State?

23 A. No. Again, Crivello Carlson law firm
24 in Milwaukee retained me, and I never went to the

1 building in Pennsylvania.

2 Q. You didn't go to this building in the
3 Barrett case either, did you?

4 A. My cohort did.

5 Q. You didn't?

6 A. No, sir.

7 Q. You are the one testifying. Did you go
8 to the building?

9 A. No, sir.

10 Q. Okay. Now -- but you testified in the
11 State of Pennsylvania versus Monsento case. Did
12 you testify at trial?

13 A. No, sir.

14 Q. Was it just PCBs in that case or was
15 there anything else involved in that case?

16 A. I believe it was just PCBs.

17 Q. Was asbestos involved in that case?

18 A. No, sir.

19 Q. Okay. How about this Hattiesburg
20 School District versus Kerr McGee? What was that?

21 A. The State of Mississippi is a land
22 grant state where certain portions of land are
23 deeded to the school system. One such parcel of
24 land had been leased to Kerr McGee or a

1 predecessor thereof. There were issues related to
2 subsurface contamination from the previous owner
3 or -- excuse me -- operations conducted by
4 Kerr McGee or a predecessor at that facility. So
5 I was retained to assess the subsurface
6 contamination and help the City of Hattiesburg
7 determine, again, the nature and extent and the
8 cost to remediate.

9 Q. If you will take a look at your resume
10 again.

11 A. Yes, sir.

12 Q. What exhibit number did I mark that?

13 MR. MAGINOT: 6.

14 MR. CRICK: 6. Thank you.

15 BY MR. CRICK:

16 Q. I see your resume is 26 pages long,
17 numerous articles that you have written --

18 A. Mine shows 20.

19 Q. Could I see that?

20 A. You bet.

21 MR. CRICK: Well, I will be. So let's mark
22 this one also. This will be Exhibit 9. We will
23 look at these later and compare them.

24

1 BY MR. CRICK:

2 Q. Exhibit No. 9 -- that is what I gave to
3 you.

4 MR. MAGINOT: Yeah.

5 BY MR. CRICK:

6 Q. -- this resume is 26 pages long?

7 A. Yes, sir.

8 Q. And you have several pages of articles?

9 MR. MAGINOT: Can we go off the record.

10 BY MR. CRICK:

11 Q. It looks like it is on Page 14 and 15
12 are where your publications are listed.

13 MR. MAGINOT: Can we go off the record.

14 MR. CRICK: Uh-huh.

15 THE VIDEOGRAPHER: The time is 3:10. We are
16 going off the record.

17 (WHEREUPON, a discussion was
18 had off the record.)

19 THE VIDEOGRAPHER: The time is 3:11. We are
20 back on the record.

21 BY MR. CRICK:

22 Q. You see it has -- Page 14 and 15 of
23 your resume are the publications. Are these the
24 articles that you have written?

1 A. Yes, sir.

2 Q. Are there any articles on your resume
3 that specifically concerned asbestos?

4 A. I don't believe so.

5 Q. I see there is a section called
6 "Technical papers presented at meetings" on
7 Page 15 of your resume?

8 A. Yes, sir.

9 Q. Were any of those technical papers on
10 the subject of asbestos?

11 A. No, sir.

12 Q. I see there is a section called
13 "Research," and it goes from Page 15 to Page 19.
14 Outside of work for a law firm, was any of this
15 research concerning asbestos?

16 A. None of these are that are listed, no,
17 sir.

18 Q. You have a section called
19 "Reviewer/Editor" on Page 19. I guess these are
20 documents or publications that you reviewed or
21 were the editor of that article; is that right?

22 A. Yes, sir.

23 Q. And on that section, are there any
24 articles listed on your resume that specifically

1 concerned asbestos?

2 A. The third entry for the American
3 Welding Association had a section related to
4 asbestos, as I recall.

5 Q. Okay. Now, that was something -- was
6 that based on work that you had done?

7 A. Some of the work I had done, yes, sir.

8 Q. Okay. And was that for litigation?

9 A. No, sir.

10 Q. You know that there has been a lot of
11 litigation regarding the release of asbestos from
12 welding rods?

13 A. I believe so.

14 Q. And who did you do your research work
15 on that concerned asbestos and welding?

16 A. At this time I was chairman of -- or
17 chair of the research committee of the American
18 Welding Society. Some of the work was done by a
19 variety of welding research labs around the United
20 States, and I would help compile and review the
21 information that was published in the American
22 Welding Society, Volume 4, called Welding
23 Environment.

24 Q. When you did that work, did you do a

1 dose response calculation for the welding society?

2 A. No, sir. This would have been for --

3 Q. No. No. Just that one question.

4 A. No.

5 Q. Did you do a dose response calculation
6 for the Welding Society?

7 A. I don't believe so.

8 Q. If you'd look at your academic
9 presentations on your resume, at Page 19 --
10 19 through 22, were any of those academic
11 presentations on the subject specifically of
12 asbestos?

13 A. I don't believe so.

14 Q. If you will look at the next section
15 called "Corporate presentations," which goes from
16 Page 22 to Page 26, were any of those corporate
17 presentations specifically on the subject of
18 asbestos?

19 A. No, sir.

20 Q. You have a section at the end of your
21 resume called "Seminars," and there is six
22 seminars referenced. Were any of those seminars
23 specifically on the subject of asbestos?

24 A. No, sir.

1 Q. The vast majority of your publications
2 and your research and your presentations have been
3 on the topic of mold; is that right?

4 A. In the last couple of years there have
5 been requests for a lot of information on mold.
6 So in the last couple of years, yes, sir.

7 Q. And if we tried to -- I haven't done
8 that today, but you would agree with me that more
9 than half of the citations listed on your resume
10 would have to do with mold?

11 A. Are we talking publications or --

12 Q. I am talking -- sure.

13 A. Because there is only --

14 Q. I was talking about your whole thing.

15 A. Well, there is only two publications --

16 Q. Then forget it. I can do the math
17 myself.

18 A. Okay.

19 Q. No need to argue about it. Not
20 important.

21 A. I'm sorry. I didn't mean to argue.
22 Only two of the publications have anything to do
23 with mold.

24 Q. That is okay. Have you ever testified

1 in a case on behalf of A.O. Smith Corporation?

2 A. Yes, sir.

3 Q. A.O. Smith was a company that made
4 boilers; is that right?

5 A. One of the materials in which
6 A.O. Smith manufactured included boilers, yes,
7 sir.

8 Q. Okay. And they used -- they were sued
9 in a number of asbestos lawsuits because of the
10 allegation of personal injury; is that right?

11 A. I believe they have been sued for those
12 allegations.

13 Q. And have you ever testified on behalf
14 of A.O. Smith in one of those asbestos injury
15 cases?

16 A. No, sir.

17 Q. When you were with A.O. Smith, did you
18 ever do a dose response calculation like you did
19 in this case?

20 A. Yes, sir.

21 Q. And do you have a copy of that?

22 A. No, sir.

23 Q. Was that something you did for
24 litigation?

1 A. I don't recall.

2 Q. When was it that you did that?

3 A. Sometime between 1978 and 1990.

4 Q. Okay. What was it that you did?

5 A. Some of the A.O. Smith matters are
6 still in litigation, and I am very uncomfortable
7 talking about those matters.

8 Q. Well, this is the only time I have to
9 ask you about it.

10 A.O. Smith used insulation that
11 contained chrysotile asbestos; is that right?

12 A. Again, I am not willing to talk about
13 any client -- we have confidentiality agreements
14 with some clients, and I am not going to --

15 Q. You were an employee of A.O. Smith. So
16 that is not a client issue. So you were corporate
17 director of safety, health and environment; is
18 that right?

19 A. Well, they are a client as we sit here
20 today.

21 Q. Were you corporate director of safety,
22 health and environment for A.O. Smith Corporation
23 from 1978 to 1990?

24 A. I was.

1 Q. During the time that you were an
2 employee of A.O. Smith, did the company ever make
3 a product that used asbestos?

4 A. Yes, sir.

5 Q. And was it chrysotile asbestos that was
6 used?

7 A. In at least one of the products, yes,
8 sir.

9 Q. And is it true that you have -- that
10 there have been one or more individuals who worked
11 at A.O. Smith that developed an asbestos-related
12 injury?

13 A. I believe so.

14 Q. And, in fact, you have testified at at
15 least one worker's compensation claim for an
16 A.O. Smith employee; is that right?

17 A. That's correct.

18 Q. How was the chrysotile asbestos used at
19 A.O. Smith? Was it used to make insulation or was
20 it just applied to the boilers?

21 THE WITNESS: I would like to go off the
22 record.

23 MR. CRICK: I can't do that.

24 THE WITNESS: Well, I am not prepared to

1 answer that.

2 BY MR. CRICK:

3 Q. You are an employee. As an employee --

4 A. But I am now a consultant, and some of
5 my original work is still being used by
6 A.O. Smith.

7 MR. CRICK: I don't know how to deal with
8 that. I mean --

9 THE WITNESS: I do. I can't talk about it.

10 BY MR. CRICK:

11 Q. Okay. So you are here today to testify
12 about your knowledge and experience on asbestos;
13 is that right?

14 A. I believe so.

15 Q. You have never written an article about
16 asbestos or given a presentation in public about
17 asbestos, correct?

18 A. That is included on my resume. That's
19 correct.

20 Q. But you worked for a company that made
21 asbestos products and sold asbestos products,
22 correct?

23 A. They had products in which asbestos was
24 utilized.

1 Q. And today you refuse to talk about
2 that; is that correct?

3 A. I refuse to talk about any dose
4 reconstruction I may have done and other
5 specificity related to products which may have
6 utilized asbestos.

7 Q. Okay. I can't talk you out of that?

8 A. No, sir.

9 Q. You have an area of specialization at
10 the top, the very front of your resume, "Human
11 toxicology." What in the world does that mean?

12 A. My terminal degree was in human
13 toxicology, meaning the study of the impacts to
14 humans to a variety of toxicants.

15 Q. Have you done any studies outside of
16 litigation specifically concerning the release of
17 asbestos from a product?

18 A. Yes, sir.

19 Q. What studies have you done? This is
20 outside of litigation.

21 A. Again, work with the American Welding
22 Society and work with A.O. Smith.

23 Q. So you worked with welding rods. And
24 did you write anything up yourself as a result of

1 this work?

2 A. Again, I am not going to talk about any
3 A.O. Smith products.

4 Q. I am talking about the welding rods.
5 Was that A.O. Smith, too?

6 A. At one time A.O. Smith made welding
7 rods.

8 Q. Okay. So you have done studies
9 regarding release of asbestos, but today you are
10 not going to talk about them?

11 A. If we are going to talk about a
12 particular product, no. If you want to talk about
13 the study, excluding the individual product, I am
14 willing to talk about it.

15 Q. I want to ask you all about the study
16 that you did because it forms some of your
17 background and understanding about asbestos. You
18 did a big study on asbestos in products, welding
19 rods; is that right?

20 A. I did a study related to potential
21 asbestos exposure from the use of welding rods.

22 Q. Okay. And today you are not willing to
23 discuss the specifics of that study?

24 A. I am not willing to talk about

1 A.O. Smith welding rods. I am willing to talk
2 about asbestos exposure from welding rods.

3 Q. I want to talk about that specific
4 study. I want to know how you formed your
5 specific conclusions. You can't talk to me about
6 the details of that specific study, though; is
7 that right?

8 A. That's correct.

9 Q. What you would like to do is talk about
10 general things regarding asbestos release, but you
11 can't talk about the specific work that you have
12 done yourself?

13 A. For the specific A.O. Smith product.

14 Q. Were there other products that were
15 involved in that welding rod study that you were
16 specifically involved with?

17 A. There were many companies' welding rods
18 that we looked at at the American Welding Society.

19 Q. And will you talk about those right
20 now?

21 A. Sure.

22 Q. What welding rods were you involved --
23 were involved in that study?

24 A. I don't remember all the brands, Steve,

1 but I know there were approximately a dozen
2 different brandings of welding rods and other
3 consumables. Not just welding rods. We did a
4 variety of employee exposures through employee
5 monitoring, through the use of the consumable and
6 measured a variety of contaminants, including
7 asbestos that was generated.

8 Q. So you had people use
9 asbestos-containing welding rods; is that right?

10 A. That's correct.

11 Q. And you measured whether or not they
12 were -- there was asbestos released from these
13 welding rods?

14 A. That's correct.

15 Q. Did these -- is this what you call
16 human toxicology?

17 A. The human toxicology then would be
18 related to how much and whether or not that
19 concentration could result in any physical
20 anomaly.

21 Q. Okay. Well, let's get one thing. You
22 are not a medical doctor?

23 A. No, sir.

24 Q. You are not a pathologist? I mean, I

1 could go through the whole litany. You don't have
2 any medical background?

3 A. I am not a medical doctor. My training
4 was at the Medical School of Oklahoma University.

5 Q. But you don't have a medical degree?

6 A. No. As I said, no, sir.

7 Q. Okay. And so you exposed these people
8 to asbestos and then monitored it; is that right?

9 A. I don't know that I would use the term
10 "exposed these people."

11 Q. Were they wearing protective equipment?

12 A. Yes, sir.

13 Q. So when you -- when you had people
14 using an asbestos-containing product, you had them
15 use protective gear?

16 A. In the late '80s, early '90, yes, sir.

17 Q. Okay. Well, we already saw the EPA had
18 come out with protective clothing recommendations
19 for asbestos in buildings in 1978. Do you know
20 that?

21 A. Yes, sir.

22 Q. And OSHA had come out with them as
23 early as 1973?

24 A. Yes, sir.

1 Q. So what you were doing was exposing
2 people to asbestos and measuring their exposure,
3 but they were wearing protective equipment?

4 A. That's correct.

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

7 BY THE WITNESS:

8 A. That's correct.

9 BY MR. CRICK:

10 Q. Now, when -- you said beside welding
11 rods, you did a study on something else, too?

12 A. Yes, sir.

13 Q. What was the other one?

14 A. Again, I am not talking about other
15 A.O. Smith products.

16 Q. Okay. So you have done more than one
17 asbestos study -- two studies, I take it, but one
18 of them you won't talk about?

19 A. I have done more than two on A.O. Smith
20 products.

21 Q. But you won't talk about them?

22 A. No, sir.

23 Q. Okay. And even the welding rod one,
24 part of it was A.O. Smith and you won't talk about

1 it?

2 A. That's correct.

3 Q. Do you have those documents on that
4 welding rod study here at your office?

5 A. No, sir.

6 Q. Do you have the one on the A.O. Smith
7 here?

8 A. Oh, no, sir.

9 Q. When you did the A.O. Smith study, what
10 did you do? Is that something you can't talk
11 about?

12 A. No. Again, we would look at any
13 employee or user exposure from using the end
14 product.

15 Q. Well, what products were they using?
16 You can't tell -- you can't say?

17 A. No, sir.

18 Q. Is there asbestos in the Barrett house
19 today?

20 A. Yes, sir.

21 Q. There is some asbestos in the ceiling
22 on the spray texture; is that right?

23 A. It is a function of whose data you look
24 at.

1 Q. Looking at yours, does the spray
2 texture have asbestos in it?

3 A. Well, of the samples we collected,
4 Steve, it appears that it is somewhere between
5 3 percent and 5 percent chrysotile.

6 Q. That is over 1 percent?

7 A. Yes, sir.

8 Q. Let me show you Exhibit 10. Is this
9 the report you did on the Barrett case?

10 A. Yes, sir. It appears to be.

11 Q. Now, we see that you have got your bulk
12 sample analysis in here and it shows the ceiling
13 texture has asbestos, over 1 percent asbestos?

14 A. Yes, sir.

15 Q. You know that the Barretts scraped two
16 of the rooms, scraped the texture off of the
17 ceilings?

18 A. The two bathrooms, yes, sir.

19 Q. Yes, sir. Mrs. Barrett would like to
20 remove and scrape out the ceiling texture from the
21 rest of her home because she doesn't like spray
22 texture. What precautions are required if she
23 wants to do that?

24 A. If she wants to do it herself?

1 Q. If she wants to have it out of her
2 house, what precautions would you recommend be
3 taken?

4 A. Well, that's a contradiction. I don't
5 know that I would remove the material.

6 Q. I didn't ask you that.

7 Mrs. Barrett doesn't like spray
8 texture. She has removed it from two rooms
9 already. She doesn't like it. She would like to
10 remove it from her house. If she wants to remove
11 it from her house, what precautions needs to be
12 taken?

13 MR. MAGINOT: Object to the form of the
14 question.

15 BY THE WITNESS:

16 A. I would retain, under that scenario, a
17 licensed contractor to do the abatement.

18 BY MR. CRICK:

19 Q. Have you looked at the report of James
20 Smith in this case?

21 A. Yes, sir.

22 Q. Okay. Do you know if he is a licensed
23 contractor to do asbestos work?

24 A. I don't recall.

1 Q. Did you look at his deposition?

2 A. Yes, sir.

3 Q. Are you going to offer any -- any
4 opinions about James Smith's estimate or the
5 opinions that he gave?

6 A. As we sit here today, I have not been
7 asked to do such.

8 Q. Then let's go back. My question to you
9 was: What precautions would need to be taken if
10 Mrs. Barrett wanted to remove the
11 asbestos-containing spray texture from her house?
12 The first one you said was hire an abatement
13 contractor?

14 A. Yes, sir.

15 MR. MAGINOT: Object to the form of the
16 question.

17 BY MR. CRICK:

18 Q. What were the other precautions that
19 would need to be taken?

20 A. With respect to the abatement
21 contractor, then I would have them follow the
22 requirements that exist regarding containment.
23 Probably doing it under negative error and
24 protecting all the underlying surfaces and using

1 it with a water spray.

2 Q. And what would they do with the -- with
3 the material that had been scraped off the
4 ceilings?

5 A. It would be disposed, double bagged and
6 disposed.

7 Q. Are there particular landfills that
8 would take that or can you take it to any
9 landfill?

10 A. It depends on your jurisdiction.

11 Q. And do you know what the rule is in
12 Missouri?

13 A. No, sir, I don't.

14 Q. What sort of protective gear, if any,
15 would the removal workers wear?

16 A. It is prescriptive requirements that
17 would require essentially suiting up in a
18 Tyvek-type material, coveralls, using respiratory
19 protective devices, using eye protection.

20 Q. In the materials that you were given
21 for this case, did you see if Thompson Hayward
22 ever provided information to Ruco about
23 precautions that should need to be taken in a
24 building that contains asbestos?

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

3 BY THE WITNESS:

4 A. No, sir.

5 BY MR. CRICK:

6 Q. Do you know if Ruco provided any
7 information that would have gone to its purchasers
8 as to how to safely work with asbestos once it is
9 in the building?

10 MR. MERRILL: Object to the form.

11 MR. MAGINOT: You can answer.

12 BY THE WITNESS:

13 A. I haven't been provided any information
14 about Ruco's dissemination of information.

15 BY MR. CRICK:

16 Q. Do you know whether or not
17 Mr. Barrett -- I keep shifting gears and I'm going
18 fast and I've --

19 A. It is okay.

20 MR. CRICK: Okay. Whenever I'm going too
21 fast, just stop me and I will slow down, even take
22 a break, if you want.

23 BY MR. CRICK:

24 Q. Do you have an opinion as to whether or

1 not Mr. Barrett was exposed to asbestos through
2 his father?

3 A. Yes, I believe I do.

4 Q. Okay. And what's your opinion?

5 A. I believe that it is only logical that
6 from his father's work, whenever he did come home,
7 that he would have transferred some
8 asbestos-containing materials into the home
9 setting.

10 Q. When you were doing your welding study,
11 was your family exposed to asbestos on your
12 clothes?

13 MR. MAGINOT: Object to the form of the
14 question; assumes facts not in evidence.

15 BY THE WITNESS:

16 A. No, sir.

17 BY MR. CRICK:

18 Q. Why is that?

19 A. I never entered the welding area when
20 the consumables were being worked with.

21 Q. When you did your studies for
22 A.O. Smith, was anyone from your family exposed to
23 the asbestos that you were exposed to from that
24 study?

1 A. I don't believe so, again.

2 Q. And why is that?

3 A. Again, we used isolated areas to do our
4 work.

5 Q. What about the workers at A.O. Smith,
6 were their families exposed to asbestos from the
7 work they did at A.O. Smith?

8 MR. MAGINOT: I'm going to object to the form
9 of the question. Is this concerning the studies
10 in general, unlimited as to time?

11 MR. CRICK: Yes.

12 BY THE WITNESS:

13 A. A.O. Smith and any operations in which
14 asbestos was used, workers were provided separate
15 change rooms, were provided work clothing. The
16 company performed the laundering of company, and
17 shower rooms as well.

18 BY MR. CRICK:

19 Q. Okay. So because they didn't wear
20 their work clothes home, their families were not
21 exposed to asbestos; is that what you are saying?

22 A. Not only did not wear their work
23 clothes home, they were asked to shower.

24 Q. Okay. Now, where were

1 Mr. Barrett, Sr.'s work clothes washed at?

2 A. The way the file testimony reads is he
3 would bring home his work clothes in a paper bag
4 and then his spouse would perform the laundry.

5 Q. Where did she do the laundry at?

6 A. That's where it gets confusing because
7 it appears at one time they stated they didn't
8 have -- I think she just called it running water
9 in the house, and they had -- called it a trough,
10 I believe, where she -- they would bathe. And I
11 made the assumption that is probably where she is
12 trying to suggest they performed the laundry as
13 well.

14 Q. Okay. Did you see the deposition of
15 Judy Hughes?

16 A. No, sir.

17 Q. Now, Judy Hughes was the daughter of
18 John Barrett and his wife.

19 A. Senior?

20 Q. Yes. She testified last week that she
21 did the family laundry for numerous years. Have
22 you been told that?

23 A. No, sir.

24 Q. She also testified that she did it on

1 the back porch and that my client was never around
2 when that was taking place. Were you told that?

3 A. No, sir.

4 Q. She also testified that she never
5 washed her dad's work clothes, that they were
6 washed at a laundromat by Mr. Barrett, Sr., and
7 Mrs. Barrett. Were you given that information?

8 A. No, sir.

9 Q. Where in this scenario do you see that
10 my client, John Barrett, was ever exposed
11 factually to asbestos from his father's clothing?

12 A. I guess, again, I will use the term
13 logic. Growing up in a working family, my father
14 had the opportunity to change clothes often and
15 not on each and every occasion would he always
16 change clothes. And I just -- I find it hard to
17 believe in this era that on each and every
18 occasion that Mr. Barrett, Sr., would go to the
19 trouble of changing his clothes and bringing those
20 home in a properly closed paper bag which no one
21 could ever be exposed. It is just
22 counterintuitive.

23 Q. I see. Did Mr. Barrett work in town or
24 did he work out of town?

1 A. He spent a goodly amount of time
2 working out of town, the way the case materials
3 read.

4 Q. Does it make sense to you that he would
5 drive back home from work in his friend's car
6 still wearing his dirty clothes?

7 A. I know me, if I was ready to come home,
8 I would want to come home and I don't know that I
9 would spend an extra half an hour or whatever it
10 would take to change clothes.

11 Q. I see.

12 A. Kind of like you guys wanting to get to
13 the airport. I doubt if you'd change clothes if
14 you thought you had soiled your clothes.

15 Q. Have you ever worked with fiberglass?

16 A. Yes, sir.

17 Q. Is it itchy?

18 A. Yes, sir.

19 Q. How much -- how often did Mr. Barrett
20 work with fiberglass?

21 A. I don't know.

22 Q. How often did he work with cork
23 insulation?

24 A. I don't know.

1 Q. How often did he work with mineral wool
2 insulation?

3 A. I don't know.

4 Q. How often did he work with asbestos
5 insulation?

6 A. I don't know.

7 Q. Do you know if he did work with
8 asbestos insulation?

9 A. I read something in the case file that
10 said he did work with asbestos. I believe it was
11 your client's response to interrogatories that
12 he -- Barrett, Jr., suggested that he did have
13 asbestos exposure from his father which led me to
14 believe being an insulator he had to use asbestos
15 there.

16 Q. Okay. So that's your only statement is
17 from indirectly through the son. You don't know
18 how much asbestos he used? And I am not asking
19 you to think logically or illogically.

20 I am just asking you factually. Do you
21 have any specific factual information as to how
22 often Mr. Barrett, Sr., used asbestos?

23 A. No. But if I may answer --

24 Q. No. I just need an answer to that

1 specific question. Do you have any specific
2 information that shows how often Mr. Barrett, Sr.,
3 used asbestos?

4 A. Nor do I have any information how often
5 he didn't use asbestos.

6 Q. Do you know if he used -- what kind of
7 pipe insulation with asbestos he used?

8 A. If he was using pipe insulation, again,
9 during this era, it was likely Kaylo as well as
10 having various amosite forms, perhaps even block.

11 Q. What kind of asbestos was used in the
12 85 mag?

13 A. In the what?

14 Q. Have you ever heard of 85 mag
15 insulation?

16 A. No, sir, not by that name.

17 MR. CRICK: Okay. Let's take a five-minute
18 break.

19 THE VIDEOGRAPHER: The time is 3:40. We are
20 going off the record.

21 (WHEREUPON, a recess was had.)

22 THE VIDEOGRAPHER: The time is 3:50. We are
23 on the record.

24

1 BY MR. CRICK:

2 Q. Just a couple of clean-up questions
3 regarding Mr. Barrett, Sr. Did you -- did you
4 calculate how much asbestos fiber Mr. Barrett was
5 exposed to through his father's clothing?

6 A. No, sir.

7 Q. Do you know how often he was ever
8 around asbestos from his father's clothing?

9 A. No, sir.

10 Q. Did you read the deposition of Daniel
11 Vaughn-Peterson?

12 A. Yes, sir.

13 Q. He had an opinion that Mr. Barrett
14 could have been exposed to asbestos that came
15 through the bag the clothing was in. Did you see
16 that?

17 A. Yes, sir.

18 Q. Is that an opinion that you would
19 support?

20 A. Just carrying a bag, I don't see a
21 significant exposure that would result.

22 Q. Would you see any exposure?

23 A. I have never seen exposure from that
24 kind of handling of asbestos-contaminated

1 clothing.

2 Q. If the laundry was being done on the
3 back porch and John Barrett was inside, would he
4 have had any exposure to that laundry of clothes?

5 A. Well, I considered it another way.

6 Q. Just the way I asked it, would you
7 consider that to be an exposure?

8 A. I don't know. I didn't think about it
9 that way. I thought about it the way I wanted to
10 tell you.

11 Q. I appreciate that. But I am asking
12 you, as a toxicologist, if the laundry -- if the
13 bag is carried to the back porch and that's where
14 the clothes are washed and John is inside the
15 house, would he have had any exposure?

16 A. If the bag was opened, yes, sir.

17 Q. If he was inside the house and the bag
18 was opened outside, would John Barrett have had
19 any exposure?

20 A. I don't know.

21 Q. Would it have been an exposure
22 significant enough to contribute to his
23 mesothelioma?

24 A. Yes, because, again, it was likely

1 amphibole-type asbestos.

2 Q. What do you base that on?

3 A. Insulation.

4 Q. And do you know if there was more than
5 even one day where John Barrett, Sr., used
6 asbestos insulation that was amosite?

7 A. I guess here is the way I looked at it.

8 Q. All I can deal with is the facts. So
9 do you know of a fact of more than one day where
10 John Barrett, Sr., used asbestos insulation that
11 was made of amosite?

12 A. Must have been.

13 Q. Do you know of one specific fact?

14 MR. MAGINOT: Objection, asked and answered.

15 BY THE WITNESS:

16 A. Again, there must have been.

17 BY MR. CRICK:

18 Q. Okay. You are aware that insulation
19 subcontractors often used specific types of brands
20 of insulation? They had relationships with
21 manufacturers; you are aware of that?

22 A. Yes, sir.

23 Q. What brands did Mr. Barrett's employers
24 primarily use?

1 A. I don't know.

2 Q. You have haven't looked into that?

3 A. No, sir.

4 Q. Have you heard of a company called
5 Standard Asbestos?

6 A. Yes, sir.

7 Q. What brand -- what type of asbestos did
8 Standard make its insulation out of?

9 A. They used both chrysotile as well as
10 they had some amosite containing insulation.

11 Q. They didn't have any amosite. Do you
12 know specifically -- they are based in Kansas
13 City. I know all about Standard. What
14 specific --

15 A. My answer is my answer. If you are
16 going to testify, go ahead, but that is my answer.

17 Q. I am testifying. What specific product
18 did Standard make -- this is my question for you
19 because I am trying to figure out where you are
20 coming from.

21 What specific product did Standard make
22 that had amosite asbestos?

23 A. It was a pipe-covering material that
24 would be wet applied.

1 Q. You don't know the name of it, though?

2 A. Oh, no, sir.

3 Q. Do you know when it was made?

4 A. No, sir.

5 Q. Do you know if John Barrett ever used
6 it?

7 A. No, sir.

8 Q. How about joint cement that was used on
9 pipes, was that ever made with amosite or was that
10 primarily chrysotile?

11 A. Primarily chrysotile.

12 Q. So your -- you have an opinion that
13 Mr. Barrett was exposed to asbestos when his
14 mother or sister were doing laundry outside on the
15 porch while he was inside; is that your opinion?

16 A. No. My opinion is for a learned
17 attorney like you to put in the response to
18 interrogatories that he had such exposure, it must
19 be significant. Otherwise, you wouldn't have put
20 that in.

21 Q. I am not the witness. All I can do is
22 try to find and present the facts, and you are
23 paraphrasing the interrogatory answer.

24 So all I am asking you today, as the

1 expert -- Mr. Barrett comes home with his dirty
2 clothes in a bag. You have already established no
3 exposure there, right?

4 A. If the bag is completely closed and is
5 not disrupted. I mean, there is probably
6 15 variables that I could come up with that many
7 people handling the bag would result in exposure.

8 Q. Okay. But all I can deal with is the
9 facts that the people have testified to. And the
10 facts that people have testified to were he came
11 home and the bags(sic) were in a bag and they went
12 to the back porch where they were laundered.
13 While they were walking through the house in the
14 -- walking -- in the bag, in the house, there was
15 no exposure to my client, John Barrett, agreed?

16 A. I don't know that.

17 Q. Okay. Well, you agreed to it a minute
18 ago. So we will go to the back porch.

19 A. No. No. I agreed if it was not
20 disrupted, if it is not, you know, handled
21 inappropriately.

22 Q. Okay.

23 A. If someone threw it under their arm,
24 Steve, and crushed the bag and everything came

1 billowing out, that is a whole other situation.

2 If someone took the bag and threw it on the ground
3 before they took it out. I mean, like I said, I
4 could think of 15 different reasonable variables
5 that would result in significant exposure. If
6 someone handled it like it was radioactive and
7 took it to the back, then, sure, there would be
8 minimal exposure.

9 Q. Now, you know that Thompson Hayward's
10 lawyers cross-examined Raymond Hughes and Ron
11 Barrett and Nina Hughes and Judy Hughes? You are
12 aware of that?

13 A. No, sir.

14 Q. And they had an opportunity to ask any
15 question they wanted of those people. Did you get
16 any information -- have you read any information
17 that people were playing with those bags or
18 crushing them under their arms and creating a dust
19 inside the house? Did you hear any information
20 from any of those depositions?

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

23 BY MR. CRICK:

24 Q. Did you hear any of that?

1 A. No, nor did I ask.

2 Q. And you read the depositions?

3 A. No, sir.

4 Q. You haven't read the depositions.

5 Okay.

6 Now, if Mr. Barrett, my client, was
7 inside the house and the laundry is being done and
8 the bag is opened outside the house, it is your
9 testimony that he had an exposure of asbestos that
10 would contribute to his mesothelioma?

11 A. Yes, sir.

12 Q. Now what if it was just chrysotile that
13 was in the bag, would it have contributed to his
14 mesothelioma?

15 A. No, sir.

16 Q. How often did they do his laundry at
17 the laundromat?

18 A. I have already responded I didn't read
19 the depositions.

20 Q. Do you know why they did his laundry at
21 the laundromat?

22 A. No, sir.

23 Q. I saw on the GZA website that GZA does
24 training programs; is that right?

1 A. Yes, sir.

2 Q. And does GZA do training programs in
3 asbestos?

4 A. Yes, sir.

5 Q. Have you ever done any of those?

6 A. Yes, sir. Parts thereof.

7 Q. Okay. What parts have you given
8 training on?

9 A. Most recently we worked -- I believe it
10 was ten straight weeks at -- a manufacturing
11 facility had an explosion in the Milwaukee area.
12 We provided asbestos awareness training for
13 several hundred contractors.

14 My portion of the training would have
15 included "This is the kind of materials we have at
16 this site, so if you see this kind of materials
17 that looks this way, call GZA."

18 Q. And what materials were at the site?

19 A. Primarily transite. There was some
20 pipewrap and some floor tiles that have been
21 essentially displaced.

22 Q. Okay. And did that include chrysotile
23 asbestos at the site?

24 A. Yes, sir.

1 Q. And did GZA recommend safety
2 precautions for working at that site?

3 A. Yes, sir.

4 Q. And did that include safety precautions
5 for working around chrysotile asbestos?

6 A. We didn't take the time nor spend the
7 money at each and every location to sample each
8 material. So we just dealt with everything -- if
9 we have a suspect asbestos, we called it asbestos
10 and didn't go any further.

11 Q. And you had them take precautions for
12 it?

13 A. Yes, sir.

14 Q. And that included what types of
15 precautions, respirators?

16 A. Personal protective equipment,
17 including respirators.

18 Q. Tyvek suits?

19 A. Yes, sir.

20 Q. Did you do a dose reconstruction for
21 the manufacturer, a calculation of the dose
22 history, like you did in this case?

23 A. We looked at the airborne
24 concentration, and the airborne concentration was

1 so low that a dose reconstruction wasn't
2 necessary.

3 Q. So is the answer, no, you didn't?

4 A. I started to do one. It wasn't
5 necessary for the airborne concentrations that we
6 were finding. So, no, I didn't complete it.

7 Q. I have got to ask this before I forget.
8 Your resume references a text, "Fundamentals of
9 Industrial Toxicology."

10 A. Yes, sir.

11 Q. Do you have any copies of that here
12 that I can buy from you?

13 A. If you have enough money, I will sell
14 one. I believe I have one copy that remains.

15 MR. CRICK: I would like to buy it. Could we
16 stop for a second and -- we can send it to me
17 later. I just need to see it. That would be
18 great. Thank you.

19 Would you go off the record for a
20 moment.

21 THE VIDEOGRAPHER: The time is 4:02. We are
22 going off the record.

23 (WHEREUPON, a recess was had.)

24 THE VIDEOGRAPHER: The time is 4:07. We are

1 on the record.

2 BY MR. CRICK:

3 Q. You have given me a book called
4 "Fundamentals of Industrial Toxicology" by Kim
5 Anderson and Ronald Scott, published by Ann Arbor
6 Science. And this is a book you wrote and -- it
7 is a book you wrote?

8 A. Yes, sir.

9 Q. Now, this one says, "Second printing
10 1982." Oh, it says it was first copyrighted in
11 1981. Is that when it was first published and
12 sold, around then?

13 A. Yes, sir.

14 Q. If it says '81, that was it?

15 A. It is such a hot seller, they had to
16 print it again.

17 Q. Well, there is a lot of hits for it on
18 the internet.

19 A. Really?

20 Q. You type it in, there is a lot of
21 references to book stores that are selling it.

22 A. I'll be darned.

23 Q. All right. We'll get to that.

24 In the training seminars that GZA

1 gives, it does asbestos awareness training; is
2 that right?

3 A. Yes, sir.

4 Q. And does it follow the EPA protocol on
5 asbestos -- uses the EPA materials?

6 A. I don't know. I don't do the total
7 training.

8 Q. It teaches that asbestos is a hazard
9 and you need to take precautions, it teaches what
10 disease can be caused by asbestos, right?

11 A. Yes, sir.

12 Q. And that includes precautions around
13 chrysotile asbestos?

14 A. Yes, sir.

15 Q. And amosite and tremolite, crocidolite,
16 all of the types?

17 A. Yes, sir.

18 Q. And in your class you don't make a
19 distinction about that, you treat them all as the
20 same?

21 A. That's correct.

22 Q. When -- did someone from GZA go to the
23 Barrett house?

24 A. Yes, sir.

1 Q. And air samples were taken; is that
2 right?

3 A. Among things, yes, sir.

4 Q. Samples were taken for three hours; is
5 that right?

6 A. Yes, sir. It sounds right.

7 Q. Was anyone disturbing the asbestos when
8 the air samples were being taken?

9 A. No, sir.

10 Q. The samples don't reflect the levels in
11 the house when the Barretts were sweeping and
12 cleaning up dust when the house was being built?

13 A. That's correct.

14 Q. You understand that the Barretts have
15 painted that ceiling in the past?

16 A. My understanding was two times.

17 Q. Okay. That would act as an
18 encapsulant; is that right?

19 A. Minimally, but, yes, it could do some
20 encapsulation.

21 Q. Today, if someone came to you and said
22 they wanted to paint the ceiling of a texture that
23 contains asbestos, would you suggest that any
24 precautions need to be taken?

1 A. I guess, how -- you know, how are we
2 going to paint it, what type of paint they are
3 going to use. I guess I would ask -- I would have
4 to ask a lot of questions.

5 Q. Okay. Would you suggest under any
6 circumstances that precautions would have to be
7 taken if they just wanted to paint the ceiling?

8 A. If they were going to brush it -- brush
9 apply with a heavy viscosity paint, I would
10 probably recommend, outside of protecting the
11 floor from the over-spray, they would consider
12 using some type of respiratory protective device.

13 Q. And how about using a roller?

14 A. This is what confused me. I don't know
15 how you roll a popcorn ceiling.

16 Q. Do you know how the Barretts painted
17 the ceiling?

18 A. I believe she said roller.

19 Q. Okay. Would you recommend that someone
20 paint a texture ceiling with a roller with no
21 precautions?

22 A. Probably not.

23 Q. If Mrs. Barrett was to sell her home
24 today, knowing that the ceiling contains asbestos,

1 would you -- do you believe that she should
2 disclose to the buyer that her house contains
3 asbestos?

4 A. Boy, that's a legal issue. I am not
5 qualified to opine on those kind of matters.

6 Q. Have you ever given advice to a
7 potential building purchaser on hazardous
8 materials?

9 A. Yes, sir.

10 Q. What sort of circumstances have you
11 been hired to give advice to potential building
12 purchasers?

13 A. Again, are there any contaminants or
14 hazardous materials that could impact the value of
15 the property or the occupants.

16 Q. And have you ever done that where
17 asbestos was one of the hazards found?

18 A. Oh, sure.

19 Q. Because asbestos can affect the value
20 of the property?

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

23 BY THE WITNESS:

24 A. If it is friable, it could.

1 BY MR. CRICK:

2 Q. Do you know that if Mrs. Barrett wants
3 to remove the asbestos from her home, it is going
4 to cost her money?

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

7 BY THE WITNESS:

8 A. If she wants to do anything to the
9 house, it is going to cost her money. So I am --
10 I don't know where we are going.

11 BY MR. CRICK:

12 Q. It is a -- just a technical question I
13 have to ask. If she is going to have the texture
14 removed from her home, it is going to cost money?

15 A. Yes, sir.

16 Q. Have you ever performed a study to see
17 how much asbestos is released while joint compound
18 dust and debris is being cleaned up?

19 A. I know at OSHA we did various sampling
20 at a couple industrial facilities when they had
21 installed chips and wallboard which contained
22 asbestos. And I believe part of that was clean-up
23 after the wall was installed.

24 Q. Okay. And do you have any of that?

1 A. I'm sorry?

2 Q. How would we find that, those reports?

3 A. Little Rock office of the Occupational
4 Safety and Health Administration.

5 Q. Those were done in the 1970s while you
6 were there?

7 A. Yes, sir.

8 Q. So in the 1970s, while you were with
9 OSHA, you were measuring fiber release from
10 cleaning up joint compound; is that right?

11 A. In occupational settings, yes, sir.

12 Q. But they were doing it in settings
13 where there were offices and they were doing work
14 on -- in installing walls?

15 A. Yes, sir.

16 Q. So not too far different in that exact
17 room than what we found in the Barrett's house?

18 A. I don't know what you mean "not too
19 far."

20 Q. Well, was -- they are not that
21 different, putting walls up, sheet rock, joint
22 compound, clean-up; similar type of a setting?

23 A. The process would be similar, yes, sir.

24 Q. Okay. And the -- but you were doing

1 that to determine the level of hazard in the
2 1970s?

3 A. That's correct.

4 Q. And you left OSHA and Arkansas in
5 September of 1978?

6 A. I didn't leave Arkansas. I left OSHA
7 in '78.

8 Q. Okay. And so how much earlier than
9 that do you think these studies would have been?

10 A. Gosh. We were doing asbestos sampling
11 essentially the entire time period I was there.
12 So I can't tell you one day from another.

13 Q. Do you know how we would go about
14 finding those reports?

15 A. If -- OSHA would have them, I assume.
16 I don't know what their retention policy is.

17 Q. What would I ask -- I'm going to ask
18 for them. What would I ask for to try to find
19 reports of studies that you have been involved
20 with of joint compound?

21 A. One was, I believe, Weyerhaeuser in Hot
22 Springs, Arkansas. Another was -- I think it was
23 Whirlpool in Fort Smith, Arkansas. And then when
24 I was loaned to the State to set up their

1 consultation program, gosh, we worked at several
2 colleges. I know Ouachita Baptist University and
3 Henderson, which are both in Arkadelphia.

4 Q. You say Ouachita?

5 A. It is O-U. It is not Wash. It is O-U,
6 the pronunciation.

7 Q. O-U-C-H-I-T-A?

8 A. That sounds close.

9 Q. Okay.

10 A. And then we worked at another college
11 in Conway.

12 Q. In all of these you guys did joint
13 compound measurements?

14 A. We did sampling during construction or
15 after construction work, and I don't necessarily
16 think we were looking exclusively for joint
17 compound. We were just looking because we were
18 concerned about drywall -- and gypsum wallboard
19 also having the asbestos as well.

20 Q. Right. Were you aware that there had
21 been asbestos testing at the Ruco plant in the
22 1970s?

23 A. No, sir.

24 Q. With regard to your report in this

1 case, your lab found 3 to 5 percent asbestos in
2 the spray texture, correct?

3 A. Yes, sir.

4 Q. And your report at Page 6 shows that
5 there was one sample of joint compound that you
6 found some asbestos?

7 A. Yes, sir, when they point counted the
8 sample.

9 Q. Okay. And it doesn't say what type of
10 asbestos was in the joint compound. You have that
11 listed for all the others. What type was found in
12 the joint compound?

13 A. Sorry for the delay, but if we go to
14 the sample that -- on Page 6 the report, for
15 dining room joint compound, it shows 0.5 percent.
16 When the point counting was performed, they found
17 0.5 percent asbestos, which is chrysotile.

18 Q. Okay. And was there only one sample of
19 joint compound that found any asbestos?

20 A. Yes, sir.

21 Q. Okay. You are aware that -- with
22 regard to these specific samples that -- were they
23 taken by someone from GZA?

24 A. Yes, sir.

1 Q. Were you there?

2 A. No, sir.

3 Q. Do you know where they took the
4 samples?

5 A. Yes, sir.

6 Q. I don't mean which rooms. I mean where
7 along the wall. How do you know that it was joint
8 compound that was sampled?

9 A. I have a field log, which I don't know
10 where it went, but it shows the proximal locations
11 where my staff member sampled.

12 Q. You know that at this time Ruco was
13 selling asbestos-containing and
14 non-asbestos-containing joint compound?

15 MR. MERRILL: Object to the form of the
16 question. It assumes facts not in evidence, lack
17 of foundation.

18 MR. CRICK: Go ahead.

19 BY MR. CRICK:

20 Q. Did you understand that?

21 MR. MERRILL: Same objection.

22 BY THE WITNESS:

23 A. Yes, I believe so.

24

1 BY MR. CRICK:

2 Q. Okay. And sheet rock does not contain
3 asbestos, does it?

4 A. It can.

5 Q. The sheet rock in this case doesn't
6 have asbestos, though, does it?

7 A. I am not aware of it containing
8 asbestos.

9 Q. Okay. So how do you know where your
10 employee took samples that he was actually finding
11 joint compound?

12 A. From the actual matrix, it appeared to
13 be joint compound.

14 Q. From the actual matrix. You didn't do
15 the analysis here, did you?

16 A. No, sir.

17 Q. Did you actually look at any of the
18 samples yourself?

19 A. Yes, sir.

20 Q. Where did you do that at?

21 A. In the bags before they were shipped.

22 Q. Did you look at them under the
23 microscope?

24 A. No, sir.

1 Q. So just looking at the bags of dust,
2 you knew where in the house they were taken out of
3 and that they were joint compound samples?

4 A. No. Looking --

5 MR. MAGINOT: I was going to object to the
6 form of the question.

7 BY THE WITNESS:

8 A. Looking at the sample identity, looking
9 at the log of where my employee stated he
10 collected the samples and essentially debriefing
11 him, we did our best to collect joint compound.

12 BY MR. CRICK:

13 Q. But you don't know -- because you
14 didn't take them, you don't know whether they are
15 or not?

16 A. I am convinced they are joint compound.

17 Q. Okay. But you weren't there?

18 A. I was not there.

19 Q. Do you know that Daniel Vaughn-Peterson
20 was at the building, too, at the home? Do you
21 know that?

22 A. Yes, sir.

23 Q. You know that he took samples in the
24 home, too?

1 A. Yes, sir.

2 Q. And have you looked at the analysis
3 from his samples?

4 A. I have not been provided such.

5 Q. You know that he found asbestos in
6 several of the joint compound samples.

7 MR. MERRILL: Object to the form.

8 BY MR. CRICK:

9 Q. Do you have some explanation for that?

10 A. The samples were essentially split.

11 Q. You have seen the reports from
12 Materials Analytical Services?

13 A. Yes, sir.

14 Q. You know that they found asbestos in
15 some of the joint compound samples?

16 A. Well, you know, they had to do their
17 samples a couple times to find the data they were
18 aspiring to achieve.

19 Q. Well, do you think they reported the
20 wrong results?

21 A. I don't know what they did.

22 Q. I think that is insulting, frankly,
23 that you just said that.

24 A. No, it is the data --

1 Q. You said that they were aspiring to
2 achieve their result. Is that what you think that
3 Materials Analytical Services did, they were
4 aspiring to achieve a result?

5 A. It sure looks like it.

6 Q. Because they took more than one sample?

7 A. Well, the first time they have no
8 asbestos and interestingly from the same locations
9 they report -- they suddenly have 8 percent. I
10 mean, that is just --

11 Q. Do you think that they made up the
12 results?

13 A. I don't know what they did. You will
14 have to ask them that.

15 Q. I am asking you that. You said that
16 they were aspiring to achieve a result. What does
17 that mean?

18 A. It means that -- from looking at all of
19 the information that Hatfield provided, he was
20 convinced he was going to find asbestos, so they
21 had to re-sample the second time and miraculously
22 they found asbestos the second time.

23 Q. And so what are you saying, that the
24 samples are made up, that they are phony?

1 A. I have no problem saying what I want to
2 say.

3 Q. I'm asking you. Are you saying --

4 A. No, I am just skeptical of the results.

5 Q. Are you telling me that you believe the
6 MAS samples are phony?

7 MR. MAGINOT: Object to the form of the
8 question.

9 BY THE WITNESS:

10 A. I didn't say that. I said I'm
11 skeptical of the results. The first time they
12 have no asbestos, the second time they go to
13 8 percent.

14 BY MR. CRICK:

15 Q. Can you tell me why yours are the only
16 samples that showed almost no asbestos in the
17 joint compound?

18 MR. MAGINOT: Object the form of the
19 question.

20 BY MR. CRICK:

21 Q. Of your lab, of MAS and of
22 Vaughn-Peterson's, yours is the only lab that
23 showed almost no asbestos in the joint compound.

24 MR. MAGINOT: Object to the form of the

1 question; misstates facts.

2 BY THE WITNESS:

3 A. We had two different labs, one of which
4 found 5 percent on the joint compound -- excuse
5 me -- on the ceiling texture. The second lab's
6 analysis of that showed 3 -- am I supposed to do
7 something -- showed 3 percent. They did duplicate
8 analysis on the joint compound and again both labs
9 found none.

10 MR. CRICK: We are going to go ahead and
11 switch tapes.

12 THE VIDEOGRAPHER: The time is 4:28. We are
13 going off the record concluding video number one
14 in the deposition of Dr. Kim Anderson.

15 (WHEREUPON, a discussion was
16 had off the record.)

17 THE VIDEOGRAPHER: The time is 4:31. This is
18 video number two in the deposition of Dr. Kim
19 Anderson taken March 26th, 2007.

20 MR. CRICK: You wanted to finish up your
21 answer.

22 BY THE WITNESS:

23 A. Yes. Thank you, sir.

24 I guess in summary, we used two

1 independent labs that have no relationship
2 whatsoever to GZA. The two independent
3 laboratories found nearly identical results. If
4 that differs from others, then it differs from
5 others.

6 But our data, again, two labs that have
7 no relationship, who have all the proper
8 certification to do this kind of work found what
9 they found.

10 BY MR. CRICK:

11 Q. Do you have any photomicrographs?

12 A. No, sir. We have retained samples,
13 though.

14 Q. Have you asked them to make any
15 photomicrographs?

16 A. No, sir.

17 Q. And Millette Vander Wood, have you used
18 them before?

19 A. No, sir.

20 Q. And how did -- how was it that you
21 happened to use Millette Vander Wood in this case?

22 A. I initially went to Micron down in
23 Chicago. Micron advised they no longer were doing
24 this kind of forensic kind of work and recommended

1 MVA.

2 Q. And MVA is Millette Vander Wood. They
3 found tremolite/actinolite in the samples?

4 A. Can I open the report?

5 Q. Yes. It is attached to the one you
6 have there. It is -- your report is right there
7 and it is the last couple of pages. Page 3 of 4
8 of the Millette Vander Wood --

9 A. Okay. I am there.

10 Q. You see the reference to
11 tremolite/actinolite?

12 A. Yes, sir.

13 Q. And what was the source of the
14 tremolite?

15 A. Again, they are saying traces. They
16 couldn't identify even how much is there, let
17 alone identify any source.

18 Q. I am just asking. Millette Vander Wood
19 references tremolite/actinolite. Do you have an
20 opinion today where the tremolite/actinolite came
21 from?

22 A. No, sir.

23 Q. You don't know whether it came from the
24 chrysotile or whether it came from the talc or the

1 vermiculite or another source?

2 A. That's correct.

3 Q. You are aware there have been studies
4 that have found tremolite in chrysotile that came
5 from the Carey-Canadian lines?

6 A. No, sir.

7 Q. You have never heard that?

8 A. No, sir.

9 Q. You have never heard that ever?

10 A. I have heard allegations. The work I
11 have seen from Dr. Pooley and Dr. Gibbs has
12 refuted that work.

13 Q. Okay. Well, you know Dr. Pooley is an
14 expert witness in this case. Have you ever
15 actually looked at any of those samples yourself?

16 A. No, sir.

17 Q. Are you aware of any other studies that
18 have reported that they found tremolite in
19 chrysotile that came from the Canadian --
20 Carey-Canadian line?

21 A. Again, I believe that they have been
22 refuted by Dr. Pooley and Dr. Gibbs.

23 Q. And why is it that you accept
24 Dr. Pooley but you don't accept the others?

1 A. Without pulling Pooley and Gibbs'
2 reports to refute the data, my recollection was
3 there was concomitant contamination in those other
4 studies from other sources of asbestos.

5 Q. Okay. You have never actually looked
6 at any of these yourself, though?

7 A. I have looked at the reports, yes, sir.

8 Q. You have never looked at any samples?

9 A. Oh, no, sir.

10 Q. You know that there is tremolite that
11 is found in talc?

12 A. Yes, sir.

13 MR. CRICK: Okay. I think we are on 12.
14 Does that sound right?

15 MR. MAGINOT: Actually, I thought we numbered
16 12 before.

17 (WHEREUPON, a discussion was
18 had off the record.)

19 BY MR. CRICK:

20 Q. I show you Exhibits 11, 12 and 13 and
21 14. Are these your notes from this case?

22 A. Did you mean to attach all of this?

23 Q. I think they attached the whole file.
24 There was a file and they copied it all and then I

1 asked your staff person to find all the other
2 notes and copy those.

3 A. Well, on Exhibit 11, the first three
4 pages are my notes and it appears the rest of the
5 pages are laboratory results.

6 Q. Okay. Is that your handwriting?

7 A. Also on 11 there is a summary sheet of
8 my summarizing the data and there is a sheet of
9 three business cards, and then the last sheet is
10 from the website of MVA Scientific Consultants.

11 Q. And the notes that are on Exhibit 11,
12 are those your notes?

13 A. Everything -- yes, sir. Everything is
14 my handwriting except on the front page, far left
15 under fax where it says "Barrett, Bobby Dray."

16 Q. Okay.

17 A. And down by the bottom where it says
18 "THAN" with an arrow "solid grade 7 short" -- I
19 don't know what the first word is.

20 "Sold grade" -- excuse me -- "7 short fiber."

21 Q. Okay. And Exhibit 12, are these yours
22 notes? Is this your handwriting?

23 A. Yes, sir.

24 Q. Exhibit 13, are these your notes?

1 A. I am still on 12. I should have looked
2 at every page first. Every page on 12 is my
3 handwriting.

4 13, yes, sir, both pages are my
5 handwriting.

6 Q. And 14, is this your notes?

7 A. Yes, sir, in my handwriting.

8 Q. All right. Did you look at the MAS
9 study involving Bondex joint compound and
10 J.C. Penney texture paint?

11 A. I remember it being in the pile of
12 the -- I think Hatfield called it joint compound
13 reliance materials. I just remember seeing it in
14 there.

15 Q. You didn't study that?

16 A. No, sir.

17 Q. You know that MAS has done a study
18 where they had a sample of Bondex joint compound
19 that had asbestos in it and someone applied it,
20 sanded it, cleaned it up and they measured the
21 exposure? You haven't seen -- you haven't looked
22 at that for this case?

23 A. If it was in the reliance materials, I
24 remember going through it very rapidly. I don't

1 remember studying it at all.

2 Q. Okay. And so today you don't have any
3 opinions about it?

4 A. No, sir.

5 Q. And MAS also did a study regarding
6 J.C. Penney's texture paint where it was applied
7 and then cleaned up and was videotaped and air
8 samples were taken. You haven't studied that to
9 criticize it or give an opinion about it?

10 A. No, sir, I have not.

11 Q. Did you review the deposition of Bill
12 Ewing?

13 A. No, sir. Haven't seen it.

14 Q. Do you know who Bill Ewing is?

15 A. By name.

16 Q. Okay. Never met him?

17 A. No, sir.

18 Q. Okay. The exhibits we just marked, 11
19 through 14, does this appear to you to be all of
20 your notes that you recall taking?

21 A. I believe so.

22 Q. Okay. And then I'm going to mark this
23 file folder as 15. Are these your reliance
24 materials you reference in your report?

1 A. Yes, sir. Again, with the exception
2 that I didn't copy or print the entire ATSDR
3 toxicology profile September 2000.

4 MR. CRICK: Let me take one minute to look at
5 your box, and then I think we will quit.

6 THE VIDEOGRAPHER: The time is 4:41. We are
7 going off the record.

8 (WHEREUPON, a recess was had.)

9 THE VIDEOGRAPHER: The time is 4:43, and we
10 are back on the record.

11 BY MR. CRICK:

12 Q. Do you believe we have covered the
13 opinions that you have formed for this case?

14 A. My report covers my opinions.

15 Q. Okay. Have you seen any actual formula
16 documents to show the percentage of asbestos in
17 the Ruco products?

18 A. Other than Mr. Rew's deposition, no,
19 sir.

20 MR. CRICK: Okay. No other questions.

21 MR. MAGINOT: You have got a right to read
22 your deposition. If you can, you can read it and
23 sign off on it. Otherwise, you can waive. The
24 choice is yours.

1 THE WITNESS: I always like to read. I
2 recall my accent gets in the way every now and
3 then.

4 FURTHER DEPONENT SAITH NOT.

5 THE VIDEOGRAPHER: We are going off the
6 record concluding the video deposition of Dr. Kim
7 Anderson taken March 26, 2007. The time is
8 4:44 p.m.

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1 CIRCUIT COURT OF JACKSON COUNTY, MISSOURI

2 AT KANSAS CITY

3 VIRGINIA BARRETT,)

4 Plaintiff,)

5 vs.)

6 ALLIED MANUFACTURING) No. 0516-CV36184

7 COMPANY, et al.,)

8 Defendants.)

9
10
11 I hereby certify that I have read the
12 foregoing transcript of my deposition given at the
13 time and place aforesaid, consisting of Pages 1 to
14 115, inclusive, and I do again subscribe and make
15 oath that the same is a true, correct and complete
16 transcript of my deposition so given as aforesaid,
17 and includes changes, if any, so made by me.

18
19 KIM E. ANDERSON, PH.D.

20 SUBSCRIBED AND SWORN TO before me

21 this day of , A.D. 2007.

22 Notary Public

23

24

1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF MCHENRY)

4 I, STACY L. HARTMANN, a Notary Public
5 within and for the County of McHenry, State of
6 Illinois, and a Certified Shorthand Reporter of
7 said state, do hereby certify:

8 That previous to the commencement of
9 the examination of the witness, the witness was
10 duly sworn to testify the whole truth concerning
11 the matters herein;

12 That the foregoing deposition
13 transcript was reported stenographically by me,
14 was thereafter reduced to typewriting under my
15 personal direction and constitutes a true record
16 of the testimony given and the proceedings had;

17 That the said deposition was taken
18 before me at the time and place specified;

19 That I am not a relative or employee or
20 attorney or counsel, nor a relative or employee of
21 such attorney or counsel for any of the parties
22 hereto, nor interested directly or indirectly in
23 the outcome of this action.

24

1 IN WITNESS WHEREOF, I do hereunto set
2 my hand and affix my seal of office at Chicago,
3 Illinois, this 29th day of March, 2007.

4
5 Notary Public, McHenry County,
6 Illinois.

7 My commission expires 11-13-07.

8
9
10 C.S.R. Certificate No. 84-3670.

I N D E X

WITNESS	EXAMINATION
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KIM E. ANDERSON, PH.D.

By Mr. Crick	4
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E X H I B I T S

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