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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

JODY E. RATCLIFF,)
)
 Plaintiff,)
)
v.) No. 16-2-18128-7
) SEA
BORGWARNER MORSE TEC)
LLC, et al.,)
)
 Defendants.)

THURSDAY, FEBRUARY 1, 2018

- - -

Videotaped Deposition of Frederick
Pooley, Ph.D., held at the offices of Orrick,
Herrington & Sutcliffe LLP, 51 West 52nd
Street, New York, New York, commencing at
9:31 a.m., on the above date, before Carrie
A. Campbell, Registered Diplomate Reporter,
Certified Realtime Reporter, Illinois,
California & Texas Certified Shorthand
Reporter, Missouri & Kansas Certified Court
Reporter.

- - -

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1 ALSTON & BIRD LLP 2 BY: JOSHUA L. BECKER, ESQ. 3 josh.becker@alston.com 4 1201 West Peachtree Street, Suite 4900 5 Atlanta, Georgia 30309-3424 6 (404) 881-7000 7 Counsel for Imerys and Cyprus 8 9 ALSO PRESENT: 10 JAWANA COLEMAN, Lanier Law Firm 11 DAVID EGILMAN 12 ELLA FASSLER 13 JOAN STEFFEN 14 15 VIDEOGRAPHER: 16 HENRY MARTE, 17 Golkow Litigation Services 18 19 --- 20 21 22 23 24 25	1 6 McCrone Associates, Inc. 21 May 58 2 1987 letter from Ian M. Stewart to 3 Donald M. Benninger, 4 J&J-0163931 5 6 7 Talc Product Safety and Purity 62 7 Project: 1. Talc Ore Sampling - 8 Fontane Mine - Italy, F.D. Pooley, 9 W.R. Dean, I.W. Sloan, 30th 10 September, 1971, 11 JNJAZ55_000001979 - 12 JNJAZ55_000001987 13 14 8 F.D. Pooley letter to Dr. Shelly, 72 15 28th September, 1972, 16 JNJAZ55_000003645 17 18 9 Photos of the mine 72 19 20 10 Report of Italian Mine Samples J. 77 21 & J., Department of Mineral 22 Exploitation, University College, 23 Cardiff, 24 FDP000000495 - FDP000000618 25 11 Report of Examination of 82 International Samples of Talc Supplied by Johnson and Johnson, University College, Cardiff, Dr. F.D. Pooley, Department of Mineral Exploitation, JNJAZ55_000002931 - JNJAZ55_000002936 12 Examination of Shower to Shower 86 Talc Sample for Johnson and Johnson, University College, Cardiff, Dr. F.D. Pooley, Department of Mineral Exploitation, JNJNL61_000019271 - JNJNL61_000019273 13 University College, Cardiff, Dr. 88 F.D. Pooley, Department of Mineral Exploitation, 8th November, 1972, letter from Pooley to A.J. Goudie, JNJMX68_000004230 - JNJMX68_000004231

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Page 66 1 be bound by it. Joan works with him, 2 so she's the local Egil-maniac. 3 VIDEOGRAPHER: Okay. We are 4 now on the record. My name is Henry 5 Marte. I'm a videographer for Golkow 6 Litigation Services. Today's is 7 February 1, 2018, and the time is 8 9:31 a.m. 9 This videotaped deposition is 10 being held at 51 West 52nd Street, New 11 York, New York, in the matter of 12 Ratcliff versus BorgWarner Morse Tec, 13 LLC. 14 The deponent today is Dr. Fred 15 Pooley. All appearances will be noted 16 on the stenographic record. 17 Will the court reporter please 18 administer the oath to the witness. 19 20 FREDERICK POOLEY, Ph.D., 21 of lawful age, having been first duly sworn 22 to tell the truth, the whole truth and 23 nothing but the truth, deposes and says on 24 behalf of the Defendant Johnson & Johnson, as 25 follows:	Page 68 1 Q. Is that a place where you spent 2 most of your life? 3 A. Yes, I've been in Cardiff now 4 for 55 years, and I have strong family 5 connections to Wales, although I was brought 6 up for 12, 14 years in London before I moved 7 back to Wales. 8 Q. And tell us how old you are. 9 A. I'm -- I will be 79 in a day or 10 so. 11 Q. All right. So your birthday is 12 coming up? 13 A. Yes. 14 Q. All right. So we'll try to get 15 you home for your birthday. 16 Walk us through -- and you're 17 Dr. Pooley. Are you a doctor? 18 A. Yes. Ph.D., yeah. 19 Q. But not a medical doctor? 20 A. No. 21 Q. All right. And tell us, 22 Dr. Pooley, about your educational 23 background. 24 A. Well, I attended what you might 25 call high school in London called -- it was a
Page 67 1 DIRECT EXAMINATION 2 QUESTIONS BY MR. BICKS: 3 Q. Good morning, Dr. Pooley. 4 A. Good morning. 5 Q. Can I ask you to please 6 introduce yourself to the folks who may see 7 this on a video? 8 A. I'm Frederick David Pooley. 9 I'm a now retired professor from the 10 university in Cardiff, Cardiff University in 11 Wales. And I've been involved in dust 12 particle research for a period of about 13 60 years, and I'm here today to give you as 14 much information as I can about the products 15 which are to be talked about. 16 Q. Yeah. 17 And you mentioned Cardiff, 18 Wales. Just tell us where is that. 19 A. Well, if you look at a map of 20 the United Kingdom, it's the little bit 21 that's sticking out to the left between 22 England and Ireland. And it's just a small 23 population, two and a half million, you know, 24 but very nationalistic and proud of their 25 heritage as well.	Page 69 1 grammar school called St. Marylebone Grammar 2 School until I was 17 years of age and took 3 my exams and graduated, as you do. I didn't 4 go to university with the rest of my friends. 5 I decided to -- I wanted to be a mining 6 engineer, and so I left and obtained a job 7 with what was called the National Coal Board, 8 which is the national mining company in the 9 UK, mining coal. And so I moved back to 10 Wales to -- close to my family there and 11 started work as a miner. 12 Q. So you actually had been a coal 13 miner? 14 A. Yes. For two -- two and a half 15 years, yes. 16 Q. And what kind of a coal mine 17 were you in? Tell us what that was about. 18 A. Oh, it was a mine called 19 Oakdale Colliery. It's about 25 miles north 20 of Cardiff. And so on every working day I 21 used to turn up and descend half a mile down 22 to my workplace. 23 Q. And you said you were a coal 24 miner for about two years? 25 A. Yeah, about two and a half

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1 because then I also when I was in university, 2 I used to in my vacations go back and work in 3 the mine to earn cash to keep body and soul 4 together, as it were. 5 Q. Yeah. 6 And in terms of kind of age and 7 things like that, how old were you when you 8 were doing that? 9 A. Well, I started I was 17, just 10 over, and I left -- I finished in the mines 11 when I was about 20. 12 (Pooley Exhibit 1 marked for 13 identification.) 14 QUESTIONS BY MR. BICKS: 15 Q. And we have over there -- 16 Carrie can pass to you -- we have a copy of 17 your résumé, and I'm just going to ask you 18 that you just have that in front of you. 19 A. Sure. 20 Q. And tell us, this is the first 21 page of your résumé, is it not? 22 A. Yes, it is. 23 Q. And if we had the full résumé 24 there, you have a bunch of articles and list 25 of research papers and things like that?	1 bachelor's degree in mining engineering. And 2 I -- then after obtaining that, I stayed on 3 in the department to study separation of fine 4 particles research, and I obtained a master's 5 degree and eventually a Ph.D. 6 Q. And after you got your Ph.D., 7 tell us what you did. What jobs did you 8 have? 9 A. Well, I was thinking of going 10 to South Africa to become a coal miner, but I 11 would be -- I had married and I was 12 offered -- because I was studying fine 13 particles there for my research, I had by in 14 the last year of my research contacted or 15 been contacted by the Medical Research 16 Council in Cardiff. They had a research unit 17 there called the Pneumoconiosis Research 18 Unit. It was a very well-known organization. 19 And that was studying the disease, dust 20 disease, in coal miners and also diseases due 21 to exposure to dust from other sources, 22 asbestos, et cetera. 23 Anyway, they approached me 24 because they knew that I was doing some work 25 on examining and visualizing fine particles,
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1 A. Oh, yeah. Yes. 2 Q. All right. And with 3 Mr. Lanier's agreement, I'll substitute that 4 in at a break and we'll put in the full 5 résumé. 6 On your résumé here, I see your 7 academic qualifications, and can you give us 8 some detail about where you went to school 9 after you were working as a coal miner? 10 A. Well, I was qualified to go to 11 university and what the company that I was 12 working for, the nationalized coal company, 13 they were training me to become a mining 14 engineer within their organization, but they 15 said that you can go to university and we'll 16 pay for you to go. So I had a nice 17 scholarship and so off I went to take up a 18 mining education, and I chose Cardiff to go 19 to. 20 Q. And tell us what degrees you 21 got and also describe to us what Cardiff is. 22 A. Cardiff is the capital of 23 Wales. 24 Q. Yeah. 25 A. And the -- I was studying for a	1 and they were having problems in identifying 2 and locating asbestos fibers in disease 3 cases. And so I had worked up and was 4 performing analyses for them of disease 5 cases. And so they said they didn't want to 6 lose me, so as soon as I got my Ph.D., they 7 arranged for the Medical Research Council to 8 pay for me to stay in the university as a 9 research fellow. And I was working -- I 10 started work sort of full time on their 11 dust-related problems, disease problems. 12 Q. And at University of Wales, 13 have you spent some of your life being a 14 teacher? 15 A. Well, what happened after a 16 year or so, the head of the department, 17 though, as I was working in decided that I 18 could sort of -- I should teach, and so they 19 appointed me as a lecturer within the 20 department. And from there on -- and I 21 carried on with the research I was doing. 22 And from then on, I became a senior lecturer 23 and a reader. A reader is a research 24 position within the university. And 25 eventually I was awarded a chair, became a

Page 74 1 professor in the university. 2 Q. And who would you teach and 3 what would you teach them? 4 A. Well, it was on the mining 5 courses because in mining dust and health 6 problems, et cetera, was a major subject of 7 the course; you know, how to take dust 8 samples and how to analyze them and determine 9 whether they are not -- they were -- 10 represented a problem in terms of workforce 11 exposure. 12 Q. And on your résumé I counted 13 that you have about 130 papers that you've 14 written or been someone who had a part in 15 writing. 16 Is that about right? 17 A. Yes. Yeah. 18 Q. And do you also have research 19 papers that you've written? 20 A. Yeah. Well, it wasn't just 21 dust -- dust disease, et cetera, that I was 22 performing research work on. I was also 23 performing work on min -- other mineral 24 particles. So I had papers relating to the 25 biological interaction of minerals and	Page 76 1 Q. Have you consulted and helped 2 different organizations from time to time? 3 A. Well, in a sense that people 4 knew what sort of work I was doing in Cardiff 5 on the grapevine in the medical field, so 6 I've been involved since -- many 7 organizations, you know. 8 Q. And on your résumé, you list 9 the British Medical Research Council. 10 A. Uh-huh. 11 Q. And I think you described that 12 for us, but maybe tell us exactly what that 13 is. 14 A. It's the governing body of 15 medicine in the UK. You know, it's the one 16 that controls doctors and hospitals, et 17 cetera, and it funds all the government 18 medical research in the -- in the countries. 19 It's a very big organization. 20 Q. And does that research council 21 come to you to help get information from you 22 on certain problems? 23 A. Yeah. Well, whenever there was 24 a problem related to exposure to dust or, you 25 know, asbestos problems, for example, yeah,
Page 75 1 bacteria, et cetera. 2 Q. And do you have patents? 3 A. Yes, a lot of the work that we 4 were doing had very interesting facets which 5 were industry applicable. So we worked on 6 several processes; one for recovering gold 7 from gold ores using bacteria and treatment 8 of waste and recovery of heavy metals, et 9 cetera. And the university was very keen on 10 sort of trying to make money out of my 11 research and so they patented or paid for the 12 patenting of several parts of the work I was 13 involved with. 14 Q. And give us a rough number of 15 how many patents you have. 16 A. Oh, well, the thing about 17 patents is you not only patent them in your 18 own country but you patent them in countries 19 where it's likely to be applicable. 20 Q. Yes. 21 A. So about 30 or 40 patents. 22 Q. All right. And you mentioned, 23 I think, something called the Medical 24 Research Council. 25 A. Yes.	Page 77 1 then they caught me on to and they paid for 2 research to be performed. 3 Q. And have you also done work for 4 something called the World Health 5 Organization? 6 A. Yes, via the International 7 Agency for Research on Cancer in Lyon, they 8 funded for several years projects in the 9 department where we were looking at, well, 10 things like dust in Turkey, for example, and 11 manmade mineral fiber dusts and diseases 12 related to manmade mineral fibers. 13 So we were involved in going, 14 taking samples, characterizing materials to 15 try and sort out what was the property of the 16 dust that was causing the health problems. 17 Q. And what about on your résumé, 18 I see that you did work with NIOSH in the 19 United States and the EPA. Tell us a little 20 bit about that. 21 A. Well, there again, the -- I 22 said people seem to know that I was working 23 with dust and so I was approached many times 24 by NIHS {sic} from -- at Morgantown, they 25 have a research lab there. To give you an

Page 78 1 example, I looked and determined dust 2 contents of workers from the Libby mine in 3 Montana and reported back. I performed 4 examination of disease cases from asbestos 5 plants in North Carolina, et cetera. 6 Q. And you've done a lot as you've 7 told us. If I asked you what of the things 8 you've accomplished you're most proud of, 9 what would that be? 10 A. Oh, my family. My children. 11 Q. And tell us just quickly about 12 your family. 13 A. Well, my oldest son is an 14 American citizen. He lives in Seattle and, 15 you know, he's a very good engineer. He's 16 developing the new -- part of the new sewage 17 system in Seattle. And my youngest son is a 18 mining engineer. He followed me in the 19 profession. And he apparently runs a company 20 in Johannesburg, a mining-based consultancy 21 company. 22 Q. And do you have a daughter? 23 A. A daughter, yeah. And she's -- 24 she works in Cardiff and lives in Cardiff and 25 she's doing very well because she's -- I	Page 80 1 the medical school at the Heath Hospital in 2 Cardiff. And so I joined the pathology 3 department there and I worked there for ten 4 years continuing the same vein of dust 5 research. And I actually finished that 6 appointment last year in March after 50 years 7 in the university. 8 And again, they said they 9 didn't want to lose contact with me and I 10 could carry on doing what I wanted to do and 11 I have a lab. And so I'm now classified as 12 an honorary consultant to the Department of 13 Cellular Pathology in Cardiff. 14 Q. And you mentioned that you have 15 a lab. 16 A. Uh-huh. 17 Q. Tell us about your lab and very 18 basically what kinds of things go on in that 19 laboratory. 20 A. Well, over the years, we've 21 continually worked in the dust research field 22 looking at particles, characterizing them, et 23 cetera. 24 And, in fact, the laboratory 25 that we set up, and it's still there, it
Page 79 1 don't know what you call them. She's a 2 property developer. Although she has a job 3 as a teacher, which -- and she's doing very 4 well as well. 5 Q. And how many grandkids do you 6 have? 7 A. Seven. 8 Q. All right. And tell us what 9 you do today. 10 A. Well, when my -- in the UK we 11 have a retirement age, 65, so I was at the 12 university and I was coming up 65, so they 13 said, you know, you can't work on. You know, 14 by law you can't work on past 65. And so I 15 became a research professor, you know, carry 16 on with the work I was doing. I was still 17 teaching actually. And I did that for a 18 couple of years and then they said, "Well, 19 you know, it's -- you're 67." 20 So but the medical school in 21 Cardiff, the Welsh National School of 22 Medicine, knew I was going to leave and they 23 wanted the facility to look, to examine dust 24 particles, tissues, et cetera. 25 So they persuaded me to move to	Page 81 1 handles analytical tasks from the government. 2 We have a system called the Coroner's Court 3 in the UK, if anybody suspected of dying from 4 a exposure to a dust, you know, something 5 like asbestos, then the coroner can sort of 6 direct the pathologist looking -- who looked 7 at the case to send samples to Cardiff to 8 have examinations of the tissue made to 9 establish what particles, how much, et 10 cetera, is involved in the death of the 11 individual. 12 And that has built up so that 13 we have a sort of -- we look at something 14 like 4 or 500 mesothelioma cases a year going 15 through that laboratory. So I look at one or 16 two now and again, the interesting ones, but 17 I'm there to make sure they sort of -- 18 they're doing it properly. 19 Q. And from time to time have you 20 been involved in litigation that relates to 21 asbestos in your career? 22 A. Oh, yes. 23 Q. All right. And in the 24 laboratory you mentioned, we're here today in 25 a case involving Johnson & Johnson.

Page 82 1 You know that, right? 2 A. Uh-huh. 3 Q. And we're going to talk today 4 about testing that you did. 5 Was that done in your 6 laboratory that you just told us about? 7 A. Yes. 8 Q. All right. And do -- as a 9 general matter, do people and companies come 10 to you when they want to learn about mineral 11 questions? 12 A. Well, yes, we get a lot of 13 requests, as it were, you know, from industry 14 in general and, you know, and other 15 countries. I have a lot of international 16 contacts. 17 Q. And we're going back in time, 18 probably 40, 50 years ago, but did Johnson & 19 Johnson approach you in the early 1970s to 20 test the talc that was used in Johnson & 21 Johnson baby powder? 22 A. Yes, somebody came to the 23 university, followed up, wanted -- made an 24 appointment and then we chatted about a 25 problem -- oh, wasn't a problem, per se.	Page 84 1 samples that I received were sort of late 2 '70s, early '80s. 3 Q. And did Johnson & Johnson pay 4 you for the work that you did? 5 A. The -- well, I got paid a 6 consultancy if I sort of wrote a report and 7 presented data. The university was paid for 8 the use of the laboratory, et cetera, you 9 know. 10 Q. And in terms of you coming here 11 today from Wales, have we agreed to pay you 12 for your time? 13 A. Yes. 14 Q. All right. And in the work 15 that you did over those 1970s into the '80s, 16 did you get to know the people at Johnson & 17 Johnson? 18 A. Oh, yes. Yes. Very well, 19 yeah. 20 Q. And do you remember any of 21 those people that you worked with? 22 A. Well, there was the first chap 23 that contacted me was a Dr. Rolle from the 24 applications lab in New Brunswick. And then 25 there were a whole bunch of engineers, et
Page 83 1 They just wanted a more detailed 2 characterization of the products that they 3 were using, the sources of the talc. 4 Q. And did you end up doing 5 testing for Johnson & Johnson? 6 A. Oh, yes, extensive. Yes, 7 extensive testing. 8 Q. And did that include looking at 9 an ore deposit in Italy? 10 A. Yes. 11 Q. And did it also include looking 12 at a talc deposit in Vermont? 13 A. Yes. 14 Q. Tell us how extensive was the 15 testing that you performed. 16 A. Well, the concern, as far as 17 the powders were concerned was, you know, 18 were there any contaminants with the talc 19 which could cause a likely problem if people 20 used the talc topically, you know. 21 Q. And do you remember for how 22 many years you performed testing on these 23 talc deposits? 24 A. Around -- I simply started 25 around about 1970, '71, and I think the last	Page 85 1 cetera, at that lab, senior engineers, who 2 were very interested in what I was doing, you 3 know, and wanted to know what I was finding, 4 et cetera. 5 Q. Many of the folks that you 6 dealt with, I can tell you, are no longer 7 with us. 8 A. Yes, I know. Yeah. 9 Q. And I'm going to ask you in 10 your dealings were you ever able to form a 11 view as to whether or not these people at 12 Johnson & Johnson who you work with were 13 concerned and wanted to make sure that the 14 talc that they were using in baby powder 15 could be used safely? 16 A. Oh, yes, because the whole 17 thing about the talcs is that -- strange that 18 their main concern is that these talcs never 19 got contaminated with bacteria, et cetera, 20 and could cause a problem. But they were 21 also concerned because impurities, quartz, 22 possibly asbestos, might -- you know, might 23 appear in these products. And they were 24 buying their powders from other 25 organizations, so they had very little

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1 control, you know, internationally over the 2 source of their materials. 3 Q. I asked you a little bit about 4 Italy. 5 Did you visit the mine in Italy 6 where Johnson & Johnson at one point sourced 7 talc from? 8 A. Yes, the Val Chisone mine. 9 Yeah. Yeah. 10 Q. And did you go there in person? 11 A. Oh, yes. Yep. Very 12 interesting visit, yeah. 13 Q. And you mentioned you called it 14 the Val Chisone mine? 15 A. Yeah. 16 Q. Can you describe the area that 17 that's located? 18 A. It's in the north of Italy, 19 just not far from the border with France, 20 just where the Alps start to develop. So it 21 was very, very mountainous, very picturesque, 22 and it was very difficult to get to the mine 23 actually. They had a ski lift installed 24 there to take workers in to work when the 25 snow is on the ground.	1 you want to put it that way, associated with 2 that. They produce dust and they're exposed 3 to dust and they have pneumoconiosis cases 4 where the dust exposure has been severe, but 5 there's no major concern about controlling 6 the dust at that time. It's probably -- it 7 may have changed now, but... 8 Q. In the testing that you did on 9 the two ore deposits and also baby powder 10 products with talc in them, were you ever 11 able to determine whether or not either the 12 ore or any of the baby powder had asbestos in 13 it? 14 A. Well, we were -- part of a 15 visit like that to take samples is to look 16 around to see if you can see anything which 17 might represent an asbestos-type contaminant. 18 And although looking at the rock specimens we 19 brought back, there were amphophile minerals, 20 but there was no obvious asbestos visible in 21 the mine. 22 Q. And after all the testing that 23 you did, were you able to ever find asbestos 24 in the samples or the deposit samples that 25 you looked at?
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1 Q. And did you also visit a talc 2 deposit in Windsor, Vermont, where Johnson & 3 Johnson at one point sourced talc from? 4 A. Yes. 5 Q. And were you there personally? 6 A. Oh, yes. Yeah. 7 Q. And did you test the ore 8 deposit in Vermont as well as product, baby 9 powder, that used the talc from that ore? 10 A. Yes. As with the Italian mine, 11 we -- I paid a visit there and arranged a 12 sample myself, underground to take samples, 13 to look at representative impurities that 14 might get into the talc product. 15 Q. And you told us that you were a 16 coal miner, so I take it you have experience 17 in mines, right? 18 A. Yes. Lots of it, yeah. 19 Q. And when you visited these ore 20 deposits in Italy and Vermont, did you ever 21 wear a respirator? 22 A. No. No. 23 Q. Why not? 24 A. Well, the mining of deposits 25 like talc, there is not a lot of disease, if	1 A. No. Mineral types, yeah, 2 amphophile mineral, but no asbestos, no. 3 Q. And were you experienced with 4 the test methods that you used? 5 A. To examine these specimens? 6 Q. Yes. 7 A. Oh, yes, I was, you know. 8 Q. Do you know of anyone who had 9 more experience in the 1970s than you in 10 testing the ore deposits that you tested? 11 A. I don't know, but there were 12 probably people around who would have done a 13 similar job if it was presented to them, but, 14 you know, we're few and far between. 15 Q. Let me talk about the deposit 16 in Vermont, the Windsor area. You were 17 familiar with that? 18 A. Yeah. 19 (Pooley Exhibit 2 marked for 20 identification.) 21 QUESTIONS BY MR. BICKS: 22 Q. And let me show you what we'll 23 mark as Exhibit 2, if Carrie can show you 24 that. 25 This is an article, I take it,

Page 90 1 that you are familiar with? 2 A. Yeah. I have seen this, yes. 3 Q. And this is -- there's some 4 people on here: Maryanne Boundy, Karen Gold, 5 Kenneth Martin, William Burgess and John 6 Dement. 7 In your experience in dealing 8 with dust and mines and so forth, are these 9 names familiar to you? 10 A. Well, the one name is, John 11 Dement. I know him quite well. We've 12 actually published papers together. 13 Q. Yeah. 14 A. Yeah, but -- 15 Q. And what about here, the 16 Department of Environmental Health Sciences, 17 Harvard School of Public Health in 18 Massachusetts, have you heard of that 19 organization? 20 A. Yes. 21 Q. And I'm focusing here when 22 we're talking about Vermont, and I'm 23 highlighting here: "Since geological studies 24 dating back from the early 1900s have shown 25 that the Vermont talc deposits contain no	Page 92 1 samples here. 2 Q. And this is kind of -- if we 3 start the story, this is -- appears to be one 4 of the first things that you did; is that 5 right? 6 A. Yeah, that's right. 7 Q. And if we look at this 8 document, and I'm highlighting stuff on the 9 screen here, it says right here that these 10 are identity samples submitted to Fred Pooley 11 at University College? 12 A. Yes. 13 Q. That's you, right? 14 A. Yes. 15 Q. All right. And it indicates 16 here that these are samples of Vermont 17 production talc, Windsor 66, which is used in 18 the manufacture of Johnson's baby powder. 19 Do you see that? 20 A. Yes. 21 Q. Are you familiar with the 22 numbers Windsor 66? 23 A. Yeah, I'm familiar with Windsor 24 Minerals. The 66, yes. 25 Q. And you'll see that there's a
Page 91 1 asbestos." 2 Do you see that? 3 A. Yes. 4 Q. And is that a view that in the 5 work that you did over the years that we'll 6 talk about that you -- was consistent with 7 what you concluded? 8 A. Yes. 9 Q. And I'd like to show you 10 some -- a study that you did, and I'm going 11 to ask you some questions about it. 12 A. Okay. 13 (Pooley Exhibit 3 marked for 14 identification.) 15 QUESTIONS BY MR. BICKS: 16 Q. And I think this is the third 17 exhibit, and you have this in front of you, 18 Dr. Pooley. 19 A. Yeah. Yeah, I've got it. 20 Q. And this is a report that you 21 wrote? 22 A. Uh-huh. 23 Q. And you did several reports on 24 talc out of the Vermont deposit, right? 25 A. Yes, I looked at quite a few	Page 93 1 description here of where these came from and 2 it says here that, "Our quality assurance 3 division takes a sampling at random from a 4 production line during each shift." 5 And as somebody who deals with 6 talc testing, are you familiar with kind of 7 how that works? 8 A. Yes, they quality control, you 9 know. Yeah. 10 Q. And if we look later on, we 11 have here your report on these samples, 12 right? 13 A. Yep. 14 Q. And we can see here that you 15 looked at ten samples, right? 16 A. Yes. 17 Q. And in terms of what you were 18 doing in this report, it says that you were 19 doing analysis performed, were implemented to 20 establish the presence of asbestos fiber of 21 the chrysotile or amphibole types. 22 Do you see that? 23 A. Yes. 24 Q. And is that analysis that you 25 did?

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1 A. Yes. 2 Q. And for our jury, can you just 3 give them a briefing on amphibole and 4 chrysotile types. 5 A. Well, those two terms cover the 6 major group -- mineral groupings from which 7 commercial asbestos has been produced. The 8 serpentine rocks produced chrysotile fibers 9 and the amphibole mineral types, various 10 amphibole mineral types, but they occur in 11 other rock masses. But the industrial 12 asbestos as produced from both of those 13 sources, mainly chrysotile, 90-odd percent of 14 all asbestos ever used is of the chrysotile 15 type, but there have been small quantities of 16 amphibole-type asbestoses produced from 17 South Africa. Even the United States had 18 amphibole asbestos production facilities. 19 Q. And in terms of the tests that 20 you did, there's something called X-ray. 21 Is that a test that you did? 22 A. Yes. Well, these are ore 23 minerals. 24 Q. Yeah. 25 A. You know, and so X-ray	1 any dust associated with these materials. 2 And obviously if you want to look at dust 3 particles, you've got to image them, and the 4 only way you can see most of these harmful 5 fibers, asbestos fibers, for example, is by 6 using high magnification equipment such as 7 the electron microscope. 8 Q. And is that equipment that you 9 yourself use? 10 A. Oh, yes. Yes. The department 11 I worked at in Cardiff, we had an electron 12 microscope, a very early one, from about 13 1955. So I've been brought up in my student 14 days and research days with the ability to 15 access an electron microscope. 16 Q. And I want to go to the part of 17 your report where you talk about your 18 conclusions. 19 A. Uh-huh. 20 Q. And this is on page 8. And you 21 see right here that it says "Conclusions"? 22 A. Right. 23 Q. Are you with me? 24 And you looked at ten samples, 25 right?
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1 diffraction is a technique used to identify 2 minerals. 3 Q. Yeah. 4 A. And has been done -- has been 5 used for many years, and so there's quite a 6 large reference collection of X-ray 7 diffraction data to which you can refer once 8 you've analyzed samples with an X-ray 9 diffraction -- X-ray diffractometer to check 10 whether your mineral sample is the same as 11 quoted. 12 Q. Yeah. 13 And so you did the X-ray 14 diffraction? 15 A. Uh-huh. 16 Q. And then you also did something 17 here, electron microscope, and here you talk 18 about the preparation? 19 A. Yeah. 20 Q. But is that also a testing 21 method that you used? 22 A. Well, the whole exercise of 23 looking at these specimens is to try and 24 establish what sort of particles, what sort 25 of mineral particles, are going to end up in	1 A. Yes. 2 Q. And you say here they "were 3 found to be free of chrysotile asbestos 4 fiber," and then you say, "with the exception 5 of one small chrysotile fibril"? 6 A. Yes. 7 Q. And you go on to say that, 8 "Considering that in most laboratories a 9 background contamination of one fibril per EM 10 field is normal, the chrysotile content of 11 the samples examined can be considered nil." 12 Are you with me? 13 A. Yes. 14 Q. So do you conclude here that 15 there was no chrysotile asbestos in the 16 samples you looked at? 17 MR. LANIER: Objection. Form. 18 THE WITNESS: Yes. 19 QUESTIONS BY MR. BICKS: 20 Q. All right. And you also here 21 say something that I thought was interesting 22 to me as I learn about this. That you refer 23 here to no diffraction patterns were present 24 which corresponded to diffraction patterns 25 from amphibole asbestos fibers.

Page 98 1 Can you explain to us what that 2 is talking about? 3 A. Well, after examining the 4 samples with the X-ray equipment, we couldn't 5 match any of the information to 6 amphophile-related mineral in a reference, 7 international reference, sections. 8 Q. And what do you conclude here 9 about whether or not the tests that you use 10 answer the question of is there any kind of 11 asbestos in these samples? 12 A. While there were -- it 13 didn't -- they didn't produce any results, 14 which indicated that there was asbestos 15 present. 16 Q. All right. And you did many of 17 these tests over time, right? 18 A. Oh, hundreds, yes. 19 Q. All right. And when you see 20 these diffraction patterns that you refer to 21 here that do not conform to what you see as a 22 standard pattern taken from amphophile or 23 chrysotile asbestos, what does that tell you? 24 A. It tells you that there are -- 25 there are no minerals of that type present or	Page 100 1 explained, you know, what the geology, if you 2 like, of the orebody because it was a 3 slightly different mine to the Italian, as it 4 was a mass -- what we call a massive talc 5 deposit. Talc didn't occur in seams. And I 6 arranged with him and he collected for me and 7 conveyed out of the mine samples of rock from 8 the talc-producing zones in the mine. 9 Q. And if you look at this report, 10 it indicates that you got samples from 11 something called the ore footwall, the 12 hanging wall rocks and minerals found in 13 these samples. 14 Tell us what that is. 15 A. Well, the main talc mineral 16 source is enclosed above and below by other 17 rock's strata and taking samples from the 18 hanging wall refers to the roof, really, and 19 the footwall refers to the strata underneath 20 the talc deposit. And but if there was any 21 contamination going to occur in the talc rock 22 once it had been taken out, it was likely to 23 come from the roof or the floor, you know, 24 material falling into the production zone or 25 being scooped up off the floor of the working
Page 99 1 detectable in the sample and so that you're 2 unlikely to find particles of those -- of 3 those minerals in any dust formed from 4 degradation of the material. 5 Q. And do you think you did good 6 testing here and used the best test methods 7 that you know of? 8 A. Yeah. The best that were 9 available at this time, yeah. 10 Q. Yeah. And you ultimately 11 prepared a very detailed report on this. 12 Do you remember? 13 A. Of samples from the Vermont 14 mine? 15 Q. Yes. 16 A. Yes. 17 (Pooley Exhibit 4 marked for 18 identification.) 19 QUESTIONS BY MR. BICKS: 20 Q. And we're going to hand you, I 21 think, what is Exhibit 4 and have you tell us 22 what this is. 23 A. Why I went to the Windsor 24 Minerals mine in Vermont and with the mine 25 manager, took a tour of the workings. And he	Page 101 1 area. 2 So that gave us sort of -- gave 3 you a picture, if you like, if that's ground 4 up with the talc, what sort of minerals are 5 likely to occur in the ground mixture, you 6 know, and their origin, did they come from 7 the roof or the floor, or were they in the 8 talc. Because we were also taking samples of 9 the talc itself so we could compare the 10 three. 11 Q. And ultimately -- and we'll go 12 through it -- did you reach a conclusion 13 about whether or not there was any asbestos 14 in the samples that you looked at at Vermont? 15 A. Yes. There was no visible 16 asbestos material in the rocks. So when we 17 examined the rock specimens, we did find some 18 sample amphophile mineral in the rock, but it 19 wasn't asbestiform. 20 Q. And I want to ask you about 21 that because as I look here, you list here 22 the samples that you looked at -- 23 A. Uh-huh. 24 Q. -- right? 25 And you can see that we've got

Page 102 1 14 samples, right? 2 A. Right. 3 Q. And one of them says 4 "amphophile in talc specimen." 5 Do you see that? 6 A. Sure. 7 Q. And just when you see the word 8 "amphophile," that doesn't mean that it's 9 asbestos, right? 10 A. Oh, no. No. 11 Q. All right. And I want to talk 12 and ask you a little bit about that sample in 13 your report. 14 MR. LANIER: Object to the form 15 on that previous question. 16 QUESTIONS BY MR. BICKS: 17 Q. This is the V9 sample that we 18 were talking about. 19 A. Sure. 20 Q. And we actually have a picture 21 of it here. 22 Do you see that? I don't know 23 if it's -- can you see the screen where you 24 are? 25 A. Yes. I've got --	Page 104 1 MR. LANIER: Objection. Form. 2 THE WITNESS: These are just an 3 association of minerals occurring in 4 that sample. When you look at a rock, 5 it's like looking at a fruit cake; 6 you've got lots of bits and pieces 7 mixed in, different fruit, et cetera. 8 You know, they are just particles of 9 different minerals. 10 QUESTIONS BY MR. BICKS: 11 Q. And let me go to your 12 conclusion. And this is a report. It's a 13 48-page report, right? 14 A. Yes. 15 Q. And the conclusion is here. 16 Do you see where I am? 17 A. Just a -- yes, 48. Yep. Yep. 18 Q. And I'm highlighting "here the 19 amphibole minerals were found in discrete 20 location and not disseminate throughout the 21 talc ore" -- 22 A. Yes. 23 Q. -- "and were not asbestiform in 24 character." 25 Can you explain what that
Page 103 1 Q. Perfect. 2 A. Yeah. 3 Q. And do you see that? 4 And this was the sample where 5 it says there was amphibole in the talc 6 specimen, and then you look at it and you 7 say -- you talk about something called 8 actinolite, and you say it's non-asbestiform. 9 Can you tell us what that 10 means? 11 A. Well, normally commercial 12 asbestos, amphibole asbestos in particular, 13 normally occurs as veins or seams. And if 14 you were to break a piece of that away and 15 look at it, even with the naked eye, it would 16 appear to be very fibrous. And when you 17 prepare samples of that, for examination in 18 an optical microscope, this fibrous texture, 19 if you like, is very, very obvious. And 20 there is no indication of a fibrous texture 21 in any of these photomicrographs of the 22 amphibole mineral. 23 Q. And it's also just neat because 24 I think the colors are cool here. 25 Tell us what this is.	Page 105 1 means? 2 A. Well, as it says, the -- these 3 amphibole specimens that we found were 4 dotted around, but they weren't contiguous -- 5 continuous throughout the talc deposit. They 6 were very obvious in terms of their color 7 difference, et cetera. Because that's one of 8 the main sort of sampling techniques, you 9 know, is it a different color, does it appear 10 different, does it appear fibrous or 11 whatever. 12 And these, as they were 13 examined, taken back to the lab and crushed, 14 they didn't produce any fibers which could be 15 construed as being asbestos. 16 Q. And then you say here that 17 "serpentine mineral was found in the 18 specimens located at the center of the 19 orebody but no fibrous components were 20 observed"? 21 A. That's right. 22 Q. And what does that mean? 23 A. Well, the deposit had this 24 serpentine mineral core and so that was 25 sampled to find out whether or not the

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1 serpentine mineral breakdown had produced 2 fibers of chrysotile. 3 Q. And in coming up with these 4 conclusions, did you reach a conclusion about 5 whether or not there was asbestos in any of 6 these samples? 7 A. Yeah, we didn't detect any 8 asbestos in any of the amphophiles. 9 Q. And did you use the testing 10 methods of the X-ray diffraction, the 11 electron microscope and the optical 12 microscopy? 13 A. Yes. 14 Q. All right. And over time -- 15 and these conclusions that you just told us 16 about, in all the testing that you did over 17 time, did you gain more confidence in your 18 conclusions? 19 A. Yes, I suppose so. Yeah. 20 (Pooley Exhibit 5 marked for 21 identification.) 22 QUESTIONS BY MR. BICKS: 23 Q. Let me show you another report 24 that you did, and from time to time did you 25 do reports on looking at international	1 Q. And I want to focus right here 2 on Vermont 66. That's the Windsor Vermont 3 talc, right? 4 A. Yeah. Yes. 5 Q. And did you perform analysis on 6 that talc? 7 A. Yes. 8 Q. And would that be with the same 9 test that we talked about? 10 A. That's correct, yes. 11 Q. All right. And this is your 12 sample 9, right? 13 A. Yes. 14 Q. And so if we go to the report, 15 we can see what you found. 16 Are you with me? 17 A. Yeah. 18 Q. It says here that you find 19 97 percent talc with 2 percent chlorite and 20 1 percent carbonate mineral, right? 21 A. Yes. 22 Q. So do you see any kind of an 23 amphophile or the like here? 24 A. No. In that test there was no 25 amphophile detected.
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1 samples of talc for Johnson & Johnson? 2 A. Yes. I was sent samples from 3 other countries. I didn't know whether they 4 were all Johnson & Johnson talcs that they 5 used, but anyway, they came from other 6 countries, sourced in other countries, and we 7 examined them to look at their purity and 8 their mineralogy. 9 Q. And this is Exhibit 5 to your 10 deposition. 11 A. Uh-huh. 12 Q. And this is a report that you 13 did; is that right? 14 A. Yes. 15 Q. And if you look at the report, 16 it shows you on the first page that you 17 looked at a bunch of different samples. 18 Do you see that? 19 A. Yes. 20 Q. And I have that down on the 21 screen here. 22 You look at samples really from 23 all different parts of the world; is that 24 right? 25 A. Yes.	1 Q. And on your conclusion at the 2 end -- you see here these are your 3 conclusions. 4 Are you with me? 5 A. Yes. 6 Q. And you state at the bottom 7 here that "during the electron microscope 8 analysis of the samples, fibrous or lathlike 9 particles were observed. These when analyzed 10 were not found to be amphophile but talc 11 mineral. No chrysotile asbestos was observed 12 on any of the samples." 13 A. Yes. 14 Q. And is that the conclusion that 15 you reached after doing the testing? 16 A. Yes. 17 Q. And to be specific here, were 18 you actually doing testing yourself? 19 A. Yes. 20 Q. In other words, were there 21 sometime in laboratories that people have 22 somebody else doing it, but were you actually 23 doing it yourself? 24 A. Yeah. 25 Q. All right. And you were

Page 110 1 familiar, are you not, with a company called 2 McCrone's? Are you not? 3 A. Yes. 4 Q. And did you deal during this 5 1970s time period with McCrone? 6 A. Yes. I visited their 7 analytical setup in Chicago, but Walter 8 McCrone, the guy who started the company, he 9 actually visited Cardiff several times. 10 (Pooley Exhibit 6 marked for 11 identification.) 12 QUESTIONS BY MR. BICKS: 13 Q. And let me show you a McCrone 14 report. 15 And during this time period, 16 there were multiple people and companies 17 looking at these deposits and trying to 18 identify minerals and so forth? 19 A. Sure. Yeah. 20 Q. And was there exchanges of 21 information and people kind of talking 22 together? 23 A. Yeah, about techniques. Not 24 about samples, per se, because a lot of these 25 were commercial samples and obviously there	Page 112 1 mine -- Roger Miller was the Windsor Minerals 2 mine official, and I've seen articles by 3 Dr. Millette and sort of work that he does, 4 yes. 5 Q. And so you were looking at the 6 Windsor -- the ore from Windsor Minerals in 7 the 1970s, right? 8 A. Right. 9 Q. And this tells us that McCrone 10 was working with Windsor also at kind of the 11 same time period you were? 12 MR. LANIER: Objection. Form. 13 THE WITNESS: Yeah, a little 14 later. 15 QUESTIONS BY MR. BICKS: 16 Q. A little bit later? 17 A. Yeah. 18 Q. And this letter says that 19 "since that date, we have continuously 20 monitored composite samples for Windsor using 21 transmission electron microscopy, the most 22 sensitive technique for fine asbestos 23 fibers." 24 Do you see that? 25 A. Yes.
Page 111 1 was, you know, privacy involved. 2 Q. Yeah. 3 A. But, yes, because McCrone's 4 were interested in selling techniques on the 5 market, you know. 6 Q. And were they generally in your 7 field and experience recognized as, you know, 8 a good company of people of good experience 9 who had done this before? 10 A. Yeah, very good optical 11 microscopy setup. And also, you know, they 12 developed into scan SEMs, you know, electron 13 microscope equipment. 14 Q. And let me show you this 15 exhibit, which is Exhibit 6 to your 16 deposition. 17 And this is a 1987 letter from 18 McCrone Associates. 19 Do you see that? 20 A. Yes. 21 Q. And you see the name Ian 22 Stuart, Jim Millette, Roger Miller. 23 Are any of these names familiar 24 to you? 25 A. Yes. The Roger Miller was the	Page 113 1 Q. And were you also using that 2 kind of technique? 3 A. Yes. 4 Q. And this letter tells us that 5 "the Illinois EPA wrote to Windsor Minerals 6 as to the effect that they were satisfied 7 that Windsor product is free of asbestos, 8 that has always been our opinion and 9 continues to be our opinion based on 15 years 10 of closely examining this product." 11 Do you see that? 12 A. Yes. 13 Q. And give or take, you were 14 looking at these talc samples and ore 15 deposits and also baby powder bottles with 16 talc in them, right? 17 A. Yes, that's correct. 18 Q. Roughly over this same time 19 period; is that about right? 20 A. Yep. Roughly, yeah. 21 Q. All right. And did you reach a 22 similar conclusion that over 15 years of work 23 that the Windsor product was free of asbestos 24 based on closely examining the product? 25 A. Yes.

Page 114 1 Q. All right. Let's talk a little 2 bit about Italy. 3 You went to Italy, right? 4 A. Yes. 5 Q. And you prepared reports on 6 your visits. 7 Do you remember that? 8 A. Yes, I do. 9 Q. And we're going to give you 10 your visit report. 11 (Pooley Exhibit 7 marked for 12 identification.) 13 QUESTIONS BY MR. BICKS: 14 Q. Because it helps us figure out 15 in time where we are. 16 This tells us the date is the 17 30th of September, 1971? 18 A. Yeah. 19 Q. And the title of this is "Talc 20 Product Safety and Purity Project." 21 Do you see that? 22 A. Yes. 23 Q. And talc ore sampling? 24 A. Yeah. 25 Q. And that's you?	Page 116 1 of any contamination of the talc product with 2 material which wasn't from the talc seam, as 3 it were. 4 There were also other concerns 5 about, you know, how hygienic was the 6 production facility because one of the 7 concerns they always had was whether or not 8 the talc was likely to become contaminated 9 with anything from the mine, oil, bacteria or 10 whatever, yeah. 11 Q. And this also says here that 12 you studied the ore finishing process. 13 Do you see that? 14 A. Yes. 15 Q. And can you just describe to 16 someone who has never been to a mine, in this 17 Italy mine, what -- in a rough sense what one 18 would see? 19 A. Well, you know, this mine is in 20 a mountain, basically, and so to gain access 21 to the talc, they drive tunnels into the side 22 of the mountain until they hit the talc seam. 23 They would have established that -- the 24 location of the talc in the mountain before 25 driving -- you know, with drilling, and then
Page 115 1 A. Yep. 2 Q. And the other two folks there, 3 do you know who they were? 4 A. Yeah, they were there from J&J. 5 One was the laboratory manager in the UK, and 6 the other was the technical services director 7 of J&J UK. 8 Q. Yeah. 9 And if you look at this report, 10 you go to the second page -- are you with me? 11 A. Yep. 12 Q. It says that "a scientific team 13 visited the Val Chisone talc mine on the 30th 14 of September, 1971, and the visit was made in 15 order to see the conditions under which talc 16 is mined and to examine the talc seam 17 itself." 18 Did I read that right? 19 A. Yes. 20 Q. And can you explain to us what 21 that's talking about? 22 A. Well, essentially to establish, 23 A, what the -- what the production locations 24 in the mine looked like so that one could 25 assess whether or not there was a likelihood	Page 117 1 they developed the mine along the seam. And 2 in Italy the talc is deposited as a seam, 3 very much like a coal seam in a coal mine, 4 and then they drive along the deposit and 5 then mine into the talc on either side of the 6 roadway and... 7 Q. And this has been -- according 8 to this report that you prepared, this had 9 been going on at least since 1945 and it had 10 increased significantly that year? 11 A. Yeah. 12 Q. So this had been a deposit that 13 had been used for some time? 14 A. Well, yeah, quite new actually 15 in a sense. You know, it's 1940, wasn't very 16 long. It's only 19 sort of -- but the 17 Italian talc had earned a reputation of being 18 a very high quality material. So they were 19 ramping production up and developing the mine 20 at different levels. 21 Q. And it says here in this memo 22 that you had detailed discussions. 23 Do you see that? 24 A. Page? 25 Q. It's right on the first page.

Page 118 1 A. Oh, I'm sorry. Yeah. Yes. 2 Q. Detailed discussions -- 3 A. Sure. 4 Q. -- with Senor Piero Sartorio, 5 the technical director? 6 A. Yes. 7 Q. And the mine engineer. 8 And you also had discussions, 9 do you remember, here with somebody named 10 Dr. Stefano Zucchetti of the Institute of 11 Geology and Mineral Deposits of Turin 12 Polytechnic? 13 A. Yes. 14 Q. Is that a -- Turin Polytechnic, 15 is that any -- in your business something 16 that means something? 17 A. Well, it's a university in 18 Turin, you know, and they've got a department 19 of minerals engineering and mining, yeah. 20 Q. Yeah. And this says that this 21 individual's published paper of studies on 22 the deposits -- 23 A. Sure. 24 Q. -- in this valley? 25 A. Yes.	Page 120 1 A. Yes. 2 Q. And that they were passed on to 3 Dr. F. Pooley at the University of Wales for 4 detailed identification and characterization? 5 A. That's correct. 6 Q. And did that identification and 7 characterization ultimately happen? 8 A. Yes, it did. 9 Q. And can you tell us what 10 conclusion you reached after looking at all 11 of these samples, all this testing, as to 12 whether or not asbestos was present in these 13 deposits and samples? 14 A. No, we didn't find -- we didn't 15 find any asbestos in any of the samples we 16 took. 17 Q. And did you do good testing; do 18 you think? 19 A. Oh, yeah, very, very intensive. 20 We took quite a few months working on these 21 samples and comparing it with the product 22 from the mine itself, the 00000 talc. 23 Q. And I have a couple slides here 24 that I thought might be helpful so our jury 25 could get a little bit of a visual sense of
Page 119 1 Q. All right. And I gather what 2 you did here is you gathered a series of 3 samples, right? 4 A. Yes. 5 Q. And by my count, it looks like 6 you came up with a sampling program, and I 7 guess you got about 60 samples or so. 8 Do you see that? 9 A. Yes. 10 Q. All right. And there's a 11 comment in here that says that the massive 12 talc is exceptionally pure. 13 Do you see that? 14 A. Yep. 15 Q. And what does that mean? 16 A. Oh, it was quite impressive in 17 that it occurred, which is very homogenous 18 material, quite what I would call some nice 19 mineral specimens, and, in fact, people used 20 to -- they used to have people visiting the 21 mine to purchase blocks of talc for carving 22 purposes. It was very, very good quality 23 material. 24 Q. And it says here that 60-some 25 samples were taken?	Page 121 1 some of the things that happen at this 2 deposit. 3 And they may not be the best to 4 see, but I want to see if maybe you can at 5 least tell us a little bit about what this is 6 since you had visited there. 7 A. As I mentioned earlier, the 8 mine is in a valley with very steep mountains 9 rising from it. This is the site of one of 10 the entrances to the mine, if you like, and 11 they've driven into the side of the hill and 12 what you see here is the waste material 13 that's been produced from the driveage as 14 they go in to hit the talc seam. 15 Q. And then let's look at this 16 other picture, the next page, and see if you 17 can tell us what this is. 18 So our jury can understand, 19 this is -- there are some mines that are open 20 pit, right, and there's some where you have 21 to go underground? 22 A. Yeah. 23 Q. Which one is this one? 24 A. This is an underground mine, 25 and this is one of the roadways heading in

Page 122 1 towards the talc seam. And what you see here 2 are boxes, they're core boxes, because the 3 management would drill ahead to find out 4 where the talc was and was it still 5 continuing. And at the same time they would 6 take core samples and send them out in these 7 boxes, laying them in the boxes, so that 8 examination could be made of the cores to see 9 if there was any impurity occurring or 10 beginning to occur in the samples. 11 And if the talc wasn't 12 suitable, then they would say, you know, from 13 the cores from a particular area, they will 14 say, "Well, we won't bother to mine that; you 15 know, carry on until we got a better 16 product." 17 Q. Yeah. 18 And this next photograph, tell 19 us what this is. 20 There are holes there in that 21 wall. What's going on there? 22 A. Well, they were -- they're now 23 driving these roadways in the talc seam, as 24 it were. 25 Q. Yeah.	Page 124 1 A. Oh, these are sample bags. In 2 addition to the sample -- on a continuous 3 basis and samples of the core would be ground 4 up and bagged off and labeled and sent to 5 interested, sort of, parties for analysis to 6 see if it was still meeting the specs that 7 the purchaser required in terms of whiteness 8 and impurities and texture. 9 Q. And did you -- I presume from 10 time to time you communicated to the folks at 11 Johnson & Johnson about what you saw, right, 12 your test results? 13 A. Oh, yes. Yes. Yes. 14 Q. And I want to show you a letter 15 dated September 28, 1972, which I think will 16 be Exhibit 8 to your deposition. 17 (Pooley Exhibits 8 and 9 marked 18 for identification.) 19 QUESTIONS BY MR. BICKS: 20 Q. Do you remember somebody named 21 Dr. Shelley? 22 A. Yes, indeed. 23 Q. And we have before you 24 Exhibit 8. If you can take a look at that, I 25 think it's a -- it's an important letter.
Page 123 1 A. And so these are drill holes 2 ready to blast rock out so they can advance 3 the roadway in the talc seam. 4 Q. And do some of these holes, 5 sometimes do they drill in and then take out 6 samples for testing? 7 A. Oh, sure. Yeah. The sample 8 holes would be very similar in size to these 9 holes that you see in this rock face. 10 Q. And the next photograph here, 11 again, it's hard to see, but at least it's 12 better than having no picture, I hope. 13 A. Yeah, this is a picture of -- 14 at the processing plant and shows you piles 15 of crushed talc rock prior to sort of 16 sorting. 17 Q. And you say "sorting." What do 18 you mean by that? 19 A. Sorting, well, you know, you'd 20 have lumps of rock and you sort them. You 21 know, colored ones you don't want, white ones 22 you do. And the ladies of the village there 23 were providing quite a bit of employment for 24 picking -- picking off about. 25 Q. And tell us what this is.	Page 125 1 Did you write this letter? 2 A. Yes. 3 Q. And it refers to work that you 4 were doing on the Italian mine samples that 5 you say here were in progress for over a 6 year? 7 A. Yes. 8 Q. Is that right? 9 A. Yes. 10 Q. So this was a project that -- 11 how extensive, I guess, would you describe 12 it? 13 A. Oh, it's pretty intense, you 14 know. It wasn't a matter of just sort of 15 taking a sample and -- you had to prepare it 16 for examination, prepare it for optical 17 examination, you know, cutting rock specimen, 18 producing thin sections of rock. So it was 19 extensive. 20 Q. And there's reference here to a 21 Shower to Shower sample. 22 Do you remember that? 23 A. Yes. I remember the name, 24 yeah. 25 Q. Yeah.

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1 And do you recall generally 2 during this time period that a question had 3 arisen, I think in the United States, about a 4 Shower to Shower sample which was a Johnson 5 baby powder product, right? 6 A. Yes. 7 Q. And people were looking at that 8 to try to determine what the answer was from 9 a scientific basis? 10 A. Yeah. 11 Q. And you were involved in that? 12 A. Yes. 13 Q. And so I gather you went back 14 and looked at all the information you had 15 about the Italian mine and it's in this 16 letter, right? 17 A. Uh-huh. 18 Q. And you say here that the 19 report -- 20 MR. LANIER: Object to the 21 form. 22 QUESTIONS BY MR. BICKS: 23 Q. -- the report of the 24 examination contains a brief outline of the 25 results obtained, right?	1 Q. And you say here that some 2 tremolite was located but was not asbestiform 3 in character. 4 Can you explain what that 5 means? 6 A. Well, A, in the rock specimens, 7 it was detected. It didn't have the typical, 8 if you like, asbestiform appearance. There 9 weren't veins of fiber and it -- when 10 examined, it didn't break down to produce, 11 you know, extensive fibrous particles. 12 Q. And there's reference here 13 that -- that it says "some tremolite was 14 located but was not asbestiform in 15 character," and then it says "has not been 16 detected in 00000 talc imported into Great 17 Britain for the past year, nor in shipments 18 dating back to 1949," right? 19 A. Yes. 20 Q. So that 1949, that's looking 21 back over 23 years, right? 22 A. Sure. 23 Q. How did you know that? 24 A. Well, I had been supplied with 25 samples, historic samples, of talc from J&J.
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1 A. Sure. 2 Q. You prepared a very detailed 3 report that I'll show you, and you know what 4 the report is, right? 5 A. Yeah. 6 Q. And you say here that "no 7 chrysotile was found at the mine or in the 8 samples taken; some tremolite was located but 9 was not asbestiform in character and has not 10 been detected in 00000 talc imported into 11 Great Britain for the past year, nor in 12 shipments dating back to 1949." 13 Did I read that right? 14 A. Yes. 15 Q. And this 00000 talc, this was 16 the talc that came from Italy? 17 A. Sure. Yes. 18 Q. And they called it 00000, 19 right? 20 A. Yeah. 21 Q. And let's walk through what -- 22 and this is information -- this represents 23 what you and folks working with you had 24 concluded based on a year-plus of research? 25 A. Yes.	1 Q. And this was the work that you 2 did, right? 3 A. Uh-huh. 4 MR. LANIER: Objection. Form. 5 QUESTIONS BY MR. BICKS: 6 Q. All right. You prepared, I 7 gather, a very detailed report that I think I 8 count is over 122 pages. 9 Do you remember that? 10 A. Yes. 11 (Pooley Exhibit 10 marked for 12 identification.) 13 QUESTIONS BY MR. BICKS: 14 Q. I'm going to put that in front 15 of you and ask you a couple questions about 16 it. 17 Is this a report that you've 18 prepared, Dr. Pooley? 19 A. Yes, this is. I wrote this 20 report, yeah. 21 Q. And it's long? 22 A. Yeah. 23 Q. And our jury will have an 24 opportunity to look at it in detail, but I 25 want to ask you if we can go to your

Page 130 1 conclusion page at 122. 2 MR. LANIER: What are you 3 calling this exhibit number, please? 4 MR. BICKS: 10. 5 MR. LANIER: Thank you. 6 QUESTIONS BY MR. BICKS: 7 Q. See if we can see it. 8 A. Yep. 9 Q. You talk here about electron 10 microscope examination. 11 Do you see that? 12 A. Yes. The electron microscope 13 examination, yes. 14 Q. And you say here at the bottom 15 that "no amphophile or chrysotile mineral was 16 detected in any of the numerous powders 17 examined." 18 Do you see that? 19 A. Yes. 20 Q. And can you explain to us what 21 that is referring to? 22 A. There were no particles 23 detected in that examination which had the 24 form, okay, of amphophile mineral particles. 25 Q. And in terms of the samples	Page 132 1 A. Yes, we were. We tried to be, 2 you know, as thorough as possible. 3 Q. And you were also looking at 4 batch shipments of talc and old samples -- 5 A. Yes. 6 Q. -- of powders, right? 7 A. That's correct. 8 Q. And what did you conclude after 9 looking at those shipments and all the 10 various samples? 11 A. No fibrous asbestos minerals 12 detected. 13 Q. And in terms of your dealings 14 with Johnson & Johnson, one could have just 15 looked at only the samples, right -- 16 A. Sure. 17 Q. -- rather than the whole 18 different parts of the mine? 19 A. Sure. 20 Q. Right? 21 A. Yes. 22 MR. LANIER: Objection. Form. 23 QUESTIONS BY MR. BICKS: 24 Q. What was your understanding of 25 why the entire mine was looked at?
Page 131 1 that you were looking at here, you were 2 looking at -- if we go back up front, you 3 were looking at several different types of 4 things, right? If we go to the first page, 5 this lists all the things that you were 6 looking at. 7 Do you see that? 8 A. Yes. 9 Q. And you're looking at things 10 from the footwall to the general ore to 11 massive talc. 12 To someone who is not in your 13 line of work, it looks like you were looking 14 all over the place -- 15 MR. LANIER: Object to the 16 form. 17 QUESTIONS BY MR. BICKS: 18 Q. -- is that fair? 19 A. Yes, it was quite an intensive 20 sampling and examination exercise. 21 Q. And were you trying to, in 22 basic terms, look for any possible sample 23 anywhere in that entire deposit that could 24 theoretically have something in there that 25 could be a problem?	Page 133 1 A. Well, it's -- it's really 2 reference. You -- if minerals which are not 3 very pleasant turned up in the rock 4 specimens, then we could sort of concentrate 5 on trying to detect them in the product. 6 All mineral analysis is 7 reference-related. The diffraction is 8 reference-related. The optical microscopy is 9 reference-related. And the EM work is 10 reference-related. This is what the material 11 looks like, and that's your first step in 12 terms of identification and characterization 13 of impurities. 14 Q. And did the folks at Johnson & 15 Johnson, were they in any way trying to 16 influence scientific conclusions you reached? 17 MR. LANIER: Objection. Form. 18 THE WITNESS: Well, let's put 19 it another way: You can't influence 20 an examination. You either get a 21 result or you don't. 22 QUESTIONS BY MR. BICKS: 23 Q. And was this work that you were 24 doing -- you know that some people do work 25 because they've got to do it in connection

Page 134 1 with a lawsuit. 2 A. Uh-huh. 3 Q. Was this work done in 4 connection with any kind of litigation? 5 A. No. 6 Q. We had talked a little bit 7 before about doing work on international 8 samples, and as time rolled forward after 9 1971, were you called on to look at 10 additional international samples for Johnson 11 & Johnson? 12 A. Yes. 13 (Pooley Exhibit 11 marked for 14 identification.) 15 QUESTIONS BY MR. BICKS: 16 Q. And we have before you 17 Exhibit 11. 18 Is this another report that you 19 prepared? 20 A. Yes. 21 Q. And you can see here on 22 Exhibit 11 that you're looking at talc from 23 all over the world, but one of the talcs that 24 you're looking at is the Italian 00000, 25 right?	Page 136 1 accomplish? 2 A. Well, they were trying to 3 establish, if you like, the purity of their 4 products. You know, they were concerned. I 5 found them to be a very proud company, you 6 know, historic and... 7 Q. And when we look at the Italian 8 sample, you say here -- you conclude that -- 9 you say that you see a fibrous sample? 10 A. Yeah. 11 Q. But no asbestos particles 12 observed? 13 A. Yeah. 14 Q. Right? Is that right? 15 A. Yes. 16 Q. All right. And you say 17 "fibrous." What do you mean by that? 18 A. Well, it's just a general 19 description of the form of the particles. 20 You know, they're longer than they're wide, 21 presumably, you know. 22 Q. And in your conclusions, which 23 is here, you talk about this Brazilian sample 24 number 9, right? 25 A. Yes.
Page 135 1 A. Yes. 2 Q. All right. And you report on 3 some of the things that you found later on in 4 this document, and you say that the Italian 5 00000 has talc with chlorite and magnesite, 6 right? 7 A. Yes. 8 Q. Did you see any kind of 9 amphiphile in the Italian 00000? 10 A. No. 11 Q. All right. You did, however, 12 see one question that you noted from a sample 13 in Brazil, right? 14 A. Yes. 15 Q. All right. And so when you 16 were writing your reports, was there any 17 effort by anybody at Johnson & Johnson if you 18 saw something that was a problem or you were 19 concerned about to not have you communicate 20 it to them? 21 A. No. 22 Q. And how would you describe the 23 level of kind of the dialog and what you 24 thought the people at Johnson & Johnson who 25 you were dealing with were trying to	Page 137 1 Q. And you then go over to the 2 next page and you say, "The remainder of the 3 samples were found to be asbestos-free." 4 Do you see that? 5 A. Yes. 6 Q. And did that include the 7 Italian 00000 sample? 8 A. Yes, indeed. 9 Q. All right. I had asked you 10 about this Shower to Shower sample, and I'll 11 ask you as we roll forward, you remember 12 somebody named -- I think it was Seymour 13 Lewin in New York? 14 A. Yes. 15 Q. And how about Arthur Langer, 16 did you know Arthur Langer? 17 A. Yes, very well. Yeah. 18 Q. And did you actually work at 19 Mount Sinai Hospital? 20 A. Yes, indeed. 21 Q. And tell us when you did that. 22 A. 1970. 23 Q. And did you know the people -- 24 a lot of people talk about Irving Selikoff. 25 Did you come and know those

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1 folks? 2 A. Oh, yes. Very well. 3 Q. And you recall, I think I asked 4 you about this, that there was -- some people 5 were debating because some people in New York 6 thought that they had seen asbestos in Shower 7 to Shower, right? 8 A. Yeah, I think it -- the topic 9 was raised. 10 Q. And was that ultimately -- what 11 ultimately happened with that debate; do you 12 remember? 13 A. Oh, there was -- no evidence 14 was produced, I'll put it that way. 15 Q. And extensive studying was 16 done. Do you recall that it actually showed 17 that there was actually no asbestos? 18 A. That's correct, yeah. 19 MR. LANIER: Object to form. 20 (Pooley Exhibit 12 marked for 21 identification.) 22 QUESTIONS BY MR. BICKS: 23 Q. Yeah, you remember that. 24 Let's just quickly look at this 25 exhibit, which is Exhibit 12, where you're	1 In your world of people who use 2 microscopes and mineralogy, are these some of 3 kind of the leading people in the field? 4 A. Yes, they were. They were 5 well-known in the field, anyway, yeah. 6 Q. And there was also a discussion 7 about a particular sample where someone had 8 thought that there was asbestos in it, a 9 sample called 108/T. 10 Does that -- the number and 11 letter ring a bell? 12 A. Yes, indeed. Yeah. 13 Q. And you had undertaken, along 14 with many other scientists, to try to get to 15 the bottom of that? 16 A. Yep. 17 (Pooley Exhibit 13 marked for 18 identification.) 19 QUESTIONS BY MR. BICKS: 20 Q. And before you is Exhibit 13, 21 which is a report that you prepared. 22 A. Yes. 23 Q. Do you see that? 24 And it's the 8th of November, 25 1972, and this is you, Dr. Fred Pooley, and
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1 looking at the Shower to Shower specimen and 2 the conclusion that you reach is that no 3 detectable chrysotile or amphibole is 4 present in the Shower to Shower sample. 5 Do you recall that? 6 A. Yes. 7 Q. And do you also recall during 8 this time period that there were other kind 9 of scientists looking at these talc samples 10 and products, people from MIT? 11 Do you remember anyone from 12 MIT? 13 A. Berger? 14 Q. Berger, yes, you -- somebody 15 from -- 16 A. Yeah, there were a lot of 17 names. 18 Q. Yeah. 19 A. Yeah. 20 Q. A fellow named Gordon Brown 21 from Princeton? 22 A. Gordon Brown, yeah. 23 Q. Does that name ring a bell? 24 A. Yes. 25 Q. People from McCrone.	1 you say here that you find no evidence of any 2 of the mineral at all, focusing on 3 chrysotile. 4 Do you see that? 5 A. Yes. 6 Q. And is it fair to say as we've 7 looked through these historical documents, 8 that at least at this stage that's what 9 people were concerned about, whether there 10 was chrysotile in one or two of these 11 samples? 12 A. Yes. Chrysotile was the 13 asbestos fiber being, you know, pushed, as it 14 were. 15 Q. Yeah. And you remember during 16 the 1970s that there was -- the FDA, the 17 government organization in the United States, 18 was looking at testing methods for asbestos 19 and trying to investigate some of these 20 issues? 21 A. Yes. 22 Q. And did you actually appear 23 before the FDA? 24 A. Yes. 25 Q. And if somebody were to say,

Page 142 1 you know, that Johnson & Johnson and you were 2 trying to hoodwink the FDA and not give them 3 truthful information, what would you say to 4 that? 5 A. Nonsense. 6 (Pooley Exhibit 14 marked for 7 identification.) 8 QUESTIONS BY MR. BICKS: 9 Q. Here is a report. Do you 10 remember that everyone was looking at this 11 108/T sample and providing information on 12 what they saw? 13 MR. LANIER: Exhibit number? 14 MR. BICKS: 15. 14. 15 QUESTIONS BY MR. BICKS: 16 Q. And I have 14 in front of you. 17 It's a little bit hard to read, but it's a 18 January 1976 letter and the name at the top 19 is Heinz Eiermann. 20 Does that name in any way ring 21 a bell? 22 A. Not really, no. 23 Q. All right. I think he was 24 somebody at the FDA. 25 A. FDA.	Page 144 1 Q. All right. And was that 2 consistent with what you had seen as well? 3 A. That's true, yes. 4 Q. I want to show you another 5 report that you did. This is in 1973. And 6 because of what was going on during the '70s 7 is you were looking at Vermont talc and also 8 international talcs at the same time, right? 9 A. Yes. 10 (Pooley Exhibit 15 marked for 11 identification.) 12 QUESTIONS BY MR. BICKS: 13 Q. And in this exhibit, I think 14 it's 15, you're back also looking at Italian 15 cosmetic-grade talc, right? 16 A. Yes. 17 Q. Because -- so in terms of time 18 frames, do you understand that what was going 19 on here was that Johnson & Johnson bought -- 20 owned a mineral deposit in Windsor, right, 21 for a time period? 22 A. Yeah. 23 Q. And the historical record will 24 show that, you know, they bought that in the 25 late 1960s.
Page 143 1 Q. And we'll see his name, I 2 think, in a couple other documents. 3 But you remember that this 4 sample, I guess, people were looking at in 5 1972, they spent a few years trying to look 6 at it, right? 7 A. Yep. 8 Q. All right. And then so here 9 finally we have this memorandum from the FDA 10 and where they're going through a bunch of 11 different samples of cosmetic talc, and we 12 can see here sample 133, the 108/T. 13 Do you see that? 14 A. Yes. 15 Q. And it's a little bit of a 16 tricky document to see, but you see these ND, 17 ND, those letters? 18 A. Yep. 19 Q. And do you know what ND means? 20 A. Not detected. 21 Q. Yeah. And you have to go back 22 and look to see that those columns represent 23 what would be chrysotile and tremolite. 24 Do you see that in the charts? 25 A. That's correct.	Page 145 1 Does that comport with your 2 knowledge? 3 MR. LANIER: Objection. Form. 4 THE WITNESS: Well, I knew they 5 owned the Vermont mine, yeah. 6 QUESTIONS BY MR. BICKS: 7 Q. And do you recall that in the 8 late 1960s that in the United States Johnson 9 & Johnson was shifting its source of talc 10 used in US baby powder from Italy to Vermont? 11 A. Yes, I knew that -- that had 12 happened, yes. 13 Q. But you were also into the '70s 14 still looking at Italian cosmetic-grade 15 because it was used in other parts of the 16 world? 17 MR. LANIER: Object to the 18 form. 19 THE WITNESS: It was a major 20 source of talc in the UK, yes. 21 QUESTIONS BY MR. BICKS: 22 Q. So here's another Italian 23 cosmetic-grade and you're doing a report. 24 This is for Johnson & Johnson in the UK, 25 right, Johnson & Johnson Limited?

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1 A. That's right, yes. 2 Q. Fair enough. 3 And what you're doing here, 4 you're looking here it says, "the powders 5 were examined for their suspected chrysotile 6 content," right? 7 A. Yes. 8 Q. All right. And you're 9 looking -- so our jury is clear, you're 10 looking at four different samples, right? 11 A. Yes. 12 Q. And I'm focused really on the 13 Italian cosmetic-grade one. 14 And you reach a conclusion at 15 the back, which is interesting, because you 16 say, "Of the four powders examined, only A 17 and D were found to contain particles that 18 looked like -- resembling chrysotile, and 19 these have been shown to correspond to the 20 mineral meerschaum. No chrysotile was found 21 in any of the samples." 22 A. No. 23 Q. Tell us what that's all about. 24 A. Oh, I think there was -- there 25 had been a worry that samples may be	1 Q. -- even though it looked like 2 maybe it could be? 3 A. Could be, yes. 4 MR. LANIER: Object to form. 5 (Pooley Exhibit 16 marked for 6 identification.) 7 QUESTIONS BY MR. BICKS: 8 Q. Another document, I just want 9 to have you tell us what it is, is 10 Exhibit 15, which is a report that you did -- 11 16 on international samples. And this is 12 another report that you prepared, and it's 13 April 7, 1975. 14 Dr. Pooley, is this a report 15 you prepared April 7, 1975? 16 A. Yes. 17 Q. And it's on various 18 international samples that are listed. You 19 looked at Italy, United States. 20 Do you see that? 21 A. Yes. 22 Q. And here's actually a situation 23 where you found an asbestos mineral in a 24 sample that was out in California. 25 Do you remember that?
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1 contaminated with something, and this is why 2 this was undertaken and small -- a few 3 particles of this mineral was detected in 4 those two samples you listed. 5 Q. And what is meerschaum? 6 A. It's the -- are you familiar 7 with meerschaum pipes? 8 Q. Do I -- I've never even heard 9 of them. Oh, a pipe. Yeah. 10 A. A white mineral. 11 Q. Oh, yes. 12 A. And it's carved. 13 Q. Yeah. 14 A. You can carve it into -- 15 Q. Meerschaum pipe for tobacco. 16 A. Yeah. It's the same mineral. 17 Q. Yeah. 18 A. Yeah, it's a white mineral and 19 it consists basically of a mass of very fine 20 fibrous particles, which are illustrated at 21 the back. 22 Q. Yeah. 23 But it turned out not to be 24 asbestos -- 25 A. No. No.	1 A. Yeah. 2 Q. And what was that deposit? 3 A. Warm Springs, I think. It's 4 the Death Valley, somewhere around that area, 5 the mine. 6 Q. Yeah. 7 And so I guess one thing I want 8 to ask you is in terms of your dealings with 9 Johnson & Johnson, were there situations 10 where actually sometimes you found asbestos 11 in a sample and you communicated it to them? 12 A. Yeah, well, that -- that sample 13 was actually from another company, I think. 14 Avon. 15 Q. Yeah. 16 In other words, a lot of times 17 you were actually analyzing talc samples for 18 other companies or deposits that had nothing 19 to do with Johnson & Johnson? 20 A. That's right. 21 Q. Fair enough. 22 MR. LANIER: Object to form. 23 QUESTIONS BY MR. BICKS: 24 Q. I want to ask you, you recall 25 and we talked a little bit about it, but in

Page 150	Page 152
1 the 1970s there was a series of newspaper 2 articles, you remember, in the early '70s 3 from folks at Mount Sinai, Dr. Langer and 4 also Seymour Lewin, who had been at NYU. 5 Do you remember that generally? 6 A. Yes. Yeah. 7 Q. And it created a fair amount of 8 public attention and discussion, fair? 9 A. Yes. 10 Q. And you were actually -- you 11 were at Mount Sinai. You told us you worked 12 there? 13 A. Yes. 14 Q. I want to show you a letter 15 from Thomas Chalmers. He was the president 16 of Mount Sinai Medical Center. 17 Does that name ring a bell? 18 A. Vaguely. Yes. 19 (Pooley Exhibit 17 marked for 20 identification.) 21 QUESTIONS BY MR. BICKS: 22 Q. Yeah. And tell us again what 23 you were doing at Mount Sinai. 24 A. I was developing Mount Sinai 25 research techniques.	1 Thomas Chalmers. He's the president of Mount 2 Sinai Medical Center in New York. 3 A. Yeah. 4 Q. And this is where we are for 5 your deposition, right -- 6 A. Yes. 7 Q. -- in New York. 8 And so you lived in New York 9 for some time? 10 A. Yeah. Top of Central Park on 11 the Columbia campus. 12 Q. Ah. And Mount Sinai -- 13 A. Was on Fifth Avenue. 14 Q. And about 99th Street? 15 A. Yes. I used to walk down every 16 morning. 17 Q. That's a good, long walk, 18 right? 19 A. Well, I was younger. 20 Q. And this refers to the recent 21 media reports that I alluded to. 22 Do you see that? 23 A. Yes. 24 Q. And that the president of Mount 25 Sinai wanted to issue a statement to make
Page 151	Page 153
1 Q. On what particular topics? 2 A. Had to look at particles in a 3 transmission electron microscope. 4 Q. Did you think that there were 5 room for improvement, let me put it that way? 6 A. Well, I was invited to do it. 7 You know, I wanted to show them the 8 techniques that we were using and, you know, 9 how to look at tissue specimens, et cetera. 10 And the result of that short stay, I think 11 three articles were published. So I got a 12 publication with Irving Selikoff. 13 Q. Yeah. 14 So you actually published an 15 article with Dr. Selikoff? 16 A. Yes. Yeah. 17 Q. And you said you were invited. 18 Who invited you? 19 A. Dr. Selikoff. 20 Q. Understood. 21 And so this is a memo dated 22 March 23, 1976. 23 Do you see that? 24 A. Yeah. 25 Q. And it's from somebody named	1 sure there wasn't misimpression, right? 2 A. That's true. 3 Q. And the second page of this, do 4 you see where I am? 5 A. Yeah. 6 Q. It says here, "The news media 7 specifically emphasized the dangers of talcum 8 powders advertised for babies. The only baby 9 powder tested that was reported to show 10 asbestos represents less than 1 percent of 11 the market, and that sample was five years 12 old. The most commonly used baby talc has 13 been consistently free of asbestos." 14 And you're familiar that the 15 most commonly used baby talc is Johnson & 16 Johnson, right? 17 MR. LANIER: Object to form. 18 THE WITNESS: Yes. 19 QUESTIONS BY MR. BICKS: 20 Q. I mean, what is the most 21 commonly used baby talc based on your over 22 50 years of research into powders and talcs? 23 MR. LANIER: Object to the 24 form. 25 THE WITNESS: J&J baby powder,

Page 154 1 yeah. 2 QUESTIONS BY MR. BICKS: 3 Q. Yeah. And then it's the 4 opinion of the Mount Sinai Department of 5 Pediatrics that baby talc is a useful and 6 safe product. 7 Do you see that? 8 A. Yes. 9 Q. All right. And Johnson & 10 Johnson baby powder, is that a product that 11 has been used in your family from time to 12 time? 13 A. Oh, I expect so. 14 Q. All right. And one of the 15 things that's referenced in this news article 16 is that -- it says here that recent data 17 carried out in Mount Sinai and for the last 18 four years, right? 19 Are you with me? 20 A. Yes. 21 Q. And you see this is 1976, but 22 for our jury, just for going back in history, 23 we're talking about kind of four years of 24 research on this question, right? 25 MR. LANIER: Objection. Form.	Page 156 1 cause cancer." 2 That's what this says, right? 3 A. Yes. 4 Q. From the president of Mount 5 Sinai? 6 A. Sinai, yeah. 7 Q. And they talk here about that 8 Mount Sinai investigators were involved, 9 right? 10 A. Yes. 11 Q. And that the research work was 12 of the highest quality and a significant 13 contribution to the field; that's what's 14 stated here, right? 15 A. Yes. 16 Q. And do you recall that reports 17 were done kind of reflecting that research. 18 You know Dr. Arthur Langer, 19 right? 20 A. Very well, yeah. 21 Q. Okay. And you were actually as 22 part of this research that was going on 23 during this four years, were you looking at 24 samples to try to find out what was going on? 25 A. Well, the whole range of
Page 155 1 QUESTIONS BY MR. BICKS: 2 Q. Is that consistent? You were a 3 part of that as a -- 4 A. Yes. 5 Q. You lived it? 6 A. I was -- yeah. 7 Q. You were part of it? 8 A. Part of it, yeah. 9 Q. Yeah. And one of the things 10 that was going on was people were trying to 11 develop effective techniques for measuring 12 asbestos in talc, right? 13 A. Yes. 14 Q. And I think you've described 15 for us the people at Mount Sinai actually 16 reached out to you to come to the United 17 States and help; is that fair? 18 MR. LANIER: Objection. Form. 19 QUESTIONS BY MR. BICKS: 20 Q. Share your knowledge? 21 A. Yes, that's correct. 22 Q. All right. And there's a 23 statement here. It says, "It's important, 24 practical implications because prolonged 25 exposure of certain forms of asbestos can	Page 157 1 samples was being examined, yeah. Tissue 2 specimens and -- 3 Q. Yeah. 4 A. Yeah. 5 Q. And you prepared a detailed 6 report, which I think is Exhibit 18. 7 (Pooley Exhibit 18 marked for 8 identification.) 9 QUESTIONS BY MR. BICKS: 10 Q. And do you have that in front 11 of you? 12 A. Sure. 13 Q. And you say here, and so we're 14 clear, this is you, University College 15 Cardiff? 16 A. That's it. 17 Q. Fred Pooley, and your signature 18 January 8 of the year 1976? 19 A. Yes. 20 Q. And you're looking at 38 talc 21 samples that originated from Dr. Langer, 22 right? 23 A. Yes. Yes. 24 Q. And you conclude here that six 25 of the samples appear to contain

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1 amphophile-type material? 2 A. Yes. 3 Q. And these are samples 1, 8, 11, 4 16, 21 and 24. 5 And in your line of work, you 6 got to keep track of these numbers, right, 7 because people put sample numbers and it can 8 be tricky, right? 9 A. Yep. 10 Q. It's little bit like putting a 11 puzzle together at times, right? 12 A. Uh-huh. 13 Q. And you go on and you talk 14 about these samples. I want to focus in 15 particular on Johnson & Johnson samples. 16 And because these were samples 17 that people were looking at, right? 18 A. Sure. 19 Q. And if you go to what is the 20 second to last page and we've got a whole 21 list of samples. It's American OTC products, 22 which what does OTC stand for; do you think? 23 A. Over the counter. 24 Q. All right. And then it lists a 25 series of products here, and I'm going to ask	1 here of other products where things were 2 detected but they were not Johnson & Johnson? 3 A. No. 4 Q. And then we have to flip over 5 and we see Johnson & Johnson sample 20? 6 A. Uh-huh. 7 Q. And it says? 8 A. ND again -- an ND for 9 serpentine and amphophile. 10 Q. Yeah. 11 And Dr. Langer -- and we'll 12 keep track of those numbers. And what are 13 they, Allegra? 4, 9, 18 and 20. 14 And I want to show you a paper 15 by Dr. Langer. And this is a paper that 16 you're familiar with and you remember I 17 showed you the president of Mount Sinai 18 Hospital saying that they had come out with 19 good research and they were going to publish 20 it? 21 A. Sure. 22 Q. Right? 23 MR. LANIER: Objection. Form. 24 (Pooley Exhibit 19 marked for 25 identification.)
Page 159	Page 161
1 Allegra to just help me keep track of the 2 numbers and write them down of which are the 3 Johnson & Johnson ones. 4 Johnson & Johnson 4, and it 5 says 1968, and it says for serpentine, what? 6 A. ND. 7 Q. What does that mean? 8 A. None detected. 9 Q. And then as it says amphophile, 10 it says? 11 A. ND again, yeah. 12 Q. Yeah. 13 And then 19 -- 670, a medicated 14 powder, serpentine? 15 A. Not detected. 16 Q. And amphophile? 17 A. Not detected, yes. 18 Q. And then we go down to 18. 19 A. Yeah. 20 Q. Johnson's baby powder English. 21 A. Yeah. 22 Q. And it says? 23 A. ND for serpentine and ND for 24 amphophile. 25 Q. And there are indications on	1 QUESTIONS BY MR. BICKS: 2 Q. And this is Exhibit 19, and 3 this is a paper "Consumer Talcums and 4 Powders: Mineral and Chemical 5 Characterization," A.N. Rohl, A.M. Langer and 6 Selikoff and some -- and Tordini and 7 Klimentidis. 8 Are any of these names familiar 9 to you? You told me about Langer and 10 Selikoff. 11 A. Well, the line below is Bowes 12 and Skinner. I knew those two chaps. 13 Q. Yeah. And these are the folks 14 from the University of Glasgow. 15 And they're looking at consumer 16 talcum powders, right? 17 A. Yes. 18 Q. And on there -- they say what 19 their methodology is on -- it's page, I 20 think, 259, if I can find it. 21 And it's important when you do 22 test methods to look at what tests people are 23 doing, right? 24 A. Yes, indeed. 25 Q. And it says here they were

Page 162 1 doing optical microscopy, transmission 2 electron microscopy with selected area 3 electron diffraction -- 4 A. Yeah. 5 Q. -- X-ray diffraction and 6 scanning electron microscopy with X-ray 7 analysis capabilities? 8 A. Yeah. 9 Q. Are those -- as somebody in 10 your field, are those the kind of test 11 methods you say should be used? 12 A. Yeah, they're pretty standard 13 in a particulate laboratory. 14 Q. And what's tricky sometimes 15 about these papers is they don't tell you 16 what the products are that are being looked 17 at, right, because they don't -- they just 18 list numbers? 19 MR. LANIER: Objection. Form. 20 THE WITNESS: That's right. 21 QUESTIONS BY MR. BICKS: 22 Q. So you have to kind of follow 23 clues to figure it out, right? 24 MR. LANIER: Objection. Form. 25 THE WITNESS: Right. Sure.	Page 164 1 showing here -- and there's a lot on the 2 chart, but I think it bears looking at 3 together. 4 You see along the top that 5 you're looking at sample number and then it 6 goes all the way to 21, right? 7 A. Yes. 8 Q. And then down on this column, 9 it lists what are the minerals that they're 10 looking at, right? 11 A. Yes. 12 Q. And one of the things that they 13 look at is tremolite? 14 A. Yes. 15 Q. And chrysotile? 16 A. Yes. 17 Q. Right? 18 A. Yes. 19 Q. Sample 4, what does it show for 20 whether or not there was tremolite or 21 chrysotile? 22 A. Oh, it only lists talc and 23 chlorite. No other mineral. 24 Q. And what about when we go over 25 to sample 9?
Page 163 1 QUESTIONS BY MR. BICKS: 2 Q. All right. And this article, I 3 don't know if you remember it, got a fair 4 amount of attention. 5 Do you remember any of that? 6 A. Well, when it was published. 7 Q. Yeah. 8 A. Vaguely, yeah. 9 Q. Okay. And I want to look at 10 the Table 4 here, which -- and, by the way, 11 you didn't have any -- you weren't doing the 12 testing for this study, were you? 13 A. No. 14 Q. And if you go to Table 4, I 15 want to talk about this for a minute. And 16 Allegra will have to remind me of those 17 numbers. 18 What were they? 4, 9, 18, 20. 19 And those were -- we learned 20 from that other document these were the 21 Johnson & Johnson samples, right? 22 A. Yeah. 23 MR. LANIER: Objection. Form. 24 QUESTIONS BY MR. BICKS: 25 Q. All right. And so what this is	Page 165 1 A. Same again, it just lists talc 2 and chlorite. 3 Q. And what about if we slide over 4 here to 18? 5 A. They've got talc and chlorite, 6 but they've also included 1.6 percent quartz. 7 Q. Yep. 8 And then when we go to 20, you 9 see here -- 10 A. Talc and chlorite. Nothing 11 else. 12 Q. And there's also, I should say, 13 anthophyllite. 14 What is anthophyllite? 15 A. Well, it's another asbestos 16 mineral. It's linked in the group. 17 Q. Yeah. 18 A. It's an amphophile. 19 Q. Yeah. 20 And was there any anthophyllite 21 on any of the Johnson & Johnson samples? 22 MR. LANIER: Object to form. 23 THE WITNESS: No. 24 QUESTIONS BY MR. BICKS: 25 Q. No?

Page 166 1 A. No. 2 Q. So when we go back to 3 Dr. Chalmers -- or I called him a doctor. 4 Let me make sure. Yeah, he's a doctor. 5 Dr. Chalmers' article where he 6 says -- 7 MR. LANIER: What's the exhibit 8 number? 9 MS. NOONAN: 7. 10 QUESTIONS BY MR. BICKS: 11 Q. -- that the most commonly used 12 talc has been consistently free of asbestos. 13 First of all, do you agree with 14 that statement, and was it consistent with 15 what you found? 16 MR. LANIER: Objection. Form. 17 THE WITNESS: Yes. 18 QUESTIONS BY MR. BICKS: 19 Q. And does it appear to be 20 consistent with the published article of 21 Arthur Langer? 22 A. Yes. 23 MR. LANIER: Objection. Form. 24 QUESTIONS BY MR. BICKS: 25 Q. All right. The folks at Mount	Page 168 1 article that appeared. It's called "Beauty; 2 a dusting of powder." 3 Do you see that? 4 A. Yes. 5 Q. And the reason I'm referring to 6 it is because it's got information, and it's 7 important to look at the date, 1984. 8 A. Uh-huh. 9 Q. Remember I had shown you -- and 10 at this time, fair, you were still part of 11 looking into various talc deposits to see if 12 there were concerns about asbestos, right? 13 A. Yeah, we used to get one or two 14 requests. 15 Q. Yeah. 16 And this is Dr. Irving Selikoff 17 talking about this in this article and he 18 says, "Many of the talcs that used to be were 19 contaminated with asbestos and we raised Cain 20 about it." 21 What do you make of that 22 comment? 23 A. Is that on the first page, is 24 it? 25 Q. Second page.
Page 167 1 Sinai, do you remember even after this 2 statement of the president and the article by 3 Mr. Langer, Dr. Langer, and the folks on 4 that, do you have any knowledge or 5 recollection about whether or not they were 6 continuing to monitor whether or not cosmetic 7 talcs in the United States had any asbestos 8 concerns? 9 A. No, the whole talc scene tended 10 to sort of deflate a little bit, let's put it 11 that way. 12 Q. Yeah. 13 Let me show you an article that 14 came out in the New York Times, Sunday 15 Magazine section, in the year of 1984. 16 (Pooley Exhibit 20 marked for 17 identification.) 18 QUESTIONS BY MR. BICKS: 19 Q. Do you get -- over your part of 20 the world, do you folks read The New York 21 Times? 22 A. No. 23 Q. Oh. A lot of people don't read 24 it these days. 25 Let me see if you -- here's an	Page 169 1 A. Second page. 2 Q. Are you with me? 3 A. Many of the talcs? 4 Oh, yes, I've got it now. Yes. 5 Q. Yeah. You were kind of living 6 through these times. 7 What do you make of that? 8 A. How can I put it? It's 9 something about nothing. He's making it sort 10 of a scene that -- I mean, these talcs, they 11 didn't change their source, you know, after 12 this -- they still used the 00000 in the UK, 13 the mine is still working, you know. I think 14 they still produce talc from Vermont and 15 other locations. I think people were a bit 16 more -- suppliers were a bit more careful 17 that they bought talcs from reputable 18 producers. 19 Q. Yeah. 20 A. So that you couldn't get sort 21 of, you know, like the Californian talc, 22 which had 35 percent amphophile in it, you 23 know. 24 Q. I mean, one interesting thing 25 about geology, and you can help us out here,

Page 170 1 is if you -- would you expect to see dramatic 2 changes in a short period of time of the 3 mineral content of a deposit that you, for 4 example, had investigated? 5 A. No. 6 Q. I mean, how long -- if you look 7 at a deposit in Italy -- I think these 8 records will show you spent two years looking 9 at the Val Chisone ore deposit and you 10 reached your conclusions. 11 In terms of one of the things 12 about geology is the history of something, 13 it's a long, long history, right? 14 A. Sure. 15 MR. LANIER: Objection. Form. 16 QUESTIONS BY MR. BICKS: 17 Q. And so would you expect to see 18 changes over a 10-, 15-year period of time or 19 what time frame, I guess I should ask you as 20 a geologist, do you look at? 21 A. Well, it depends on the nature 22 of the deposit, but normally once you've got 23 a deposit like that Val Chisone one, it's 24 going to remain very much the same unless the 25 talc seam moved into a different geological	Page 172 1 MR. LANIER: Objection. 2 QUESTIONS BY MR. BICKS: 3 Q. All right. There are ways 4 actually, though, and manufacturing processes 5 to enhance the purity of talc, right? 6 A. Yes. 7 MR. LANIER: Objection. Form. 8 QUESTIONS BY MR. BICKS: 9 Q. What is also said here -- 10 remember I asked you about Heinz Eiermann and 11 I showed you him on a memo? 12 A. Yes. 13 Q. And he says the FDA was 14 monitoring the program, the director of the 15 Division of Cosmetic Technology, and he says 16 "the industry was very careful in the 17 selection of purchase of talc that was free 18 of asbestos." 19 Do you see that? 20 A. Yes. 21 Q. From your perspective, was 22 Johnson & Johnson, based on your ten-plus 23 years, were they very careful in the 24 selection and purchase of talc that was free 25 of asbestos?
Page 171 1 setting, as it were. 2 Q. Yeah. 3 And so Dr. Selikoff says here 4 that -- he's the professor of community 5 medicine, and he's at the hospital, right, 6 where Dr. Chalmers is the president, right? 7 MR. LANIER: Objection. Form. 8 THE WITNESS: That's correct, 9 yeah. 10 QUESTIONS BY MR. BICKS: 11 Q. And he says the Food and Drug 12 Administration became involved and the 13 companies that were producing cosmetic-grade 14 talc got the asbestos out, right? 15 MR. LANIER: Objection. Form. 16 QUESTIONS BY MR. BICKS: 17 Q. Do you see that? 18 A. I would put this another way. 19 If you're producing a talc and it's got 20 asbestos in it, no way you're going to get it 21 out. 22 Q. And there was no -- was there 23 any asbestos, so we're clear, in any of the 24 Johnson & Johnson product? 25 A. No.	Page 173 1 MR. LANIER: Objection. Form. 2 THE WITNESS: Very much so, 3 yes. 4 QUESTIONS BY MR. BICKS: 5 Q. And Eiermann says, "In 6 subsequent analysis we really could not 7 identify asbestos or only on very rare 8 occasions." 9 Do you see that? 10 A. Yes. 11 Q. Was there ever any 12 identification of asbestos in the Vermont 66 13 or the Italian 00000? 14 A. No. 15 Q. All right. And then remember 16 Seymour Lewin, I asked you about him? 17 A. Yes. 18 Q. And he says he's been doing 19 regular X-ray analysis and he says he was 20 doing it just to be sure there are no serious 21 offenders, and he says he was doing it since 22 1975, right? 23 A. Yes. 24 Q. And so this is in -- written in 25 1984, this article, so I guess if we credit

Page 174 1 him, he's been doing it for nine years, 2 right? 3 A. Yes. 4 MR. LANIER: Objection. Form. 5 QUESTIONS BY MR. BICKS: 6 Q. All right. And he says, "I 7 found no asbestos in any that I've tested 8 during the last five years." 9 Do you see that? 10 A. Yes. 11 Q. All right. And are these 12 statements about finding no asbestos, is this 13 at least consistent with the research that 14 you had done over a fair amount of your 15 career? 16 A. Yes, indeed. 17 Q. All right. You also did your 18 own research, do you remember, in an animal 19 experiment with the Italian talc. 20 Do you remember that? 21 A. Yes. Well, the Medical 22 Research Council in the UK, the laboratory I 23 was associated with, was -- they did a lot of 24 animal experimentation. 25 Q. Yeah.	Page 176 1 is my question? 2 A. Oh, the British government. 3 Q. And can you just describe 4 generally to our jury, who may not be 5 familiar with this, what were you doing? 6 A. Well, I was -- 7 Q. And I should say there are a 8 bunch of folks here. 9 You're not the only person, 10 right? 11 A. Well, the -- Dr. Wagner was the 12 pathologist -- 13 Q. Yes. 14 A. -- of the team. 15 Q. And he's a well-known doctor in 16 this -- in this -- 17 A. Oh, yes, he was. 18 Q. -- area? 19 A. Yeah. He discovered 20 mesothelioma, essentially. 21 Q. Yes. 22 Sometimes is it Wagner or 23 Wagner? 24 A. Well, he preferred Wagner, I 25 think.
Page 175 1 A. You know, the premier sort of 2 laboratory for animal testing. 3 Q. And did Johnson & Johnson -- 4 A. Yes. 5 (Pooley Exhibit 21 marked for 6 identification.) 7 QUESTIONS BY MR. BICKS: 8 Q. We have in front of you an 9 article which is Exhibit 21. 10 A. Yeah. 11 Q. Did Johnson & Johnson have 12 anything to do with the research and work you 13 did here? 14 A. No, but the -- we used a talc 15 source, which was the 00000 Italian -- 16 Q. Yeah. 17 A. -- in animal experiments to see 18 if there was -- would be any obvious 19 biological response, which could be matched 20 with experiments that were being undertaken 21 with asbestos minerals and other sources of 22 minerals. 23 Q. Yeah. 24 And what I mean involved in 25 terms of the -- and who funded this, I guess	Page 177 1 Q. Wagner. Understood. 2 A. Yeah. 3 Geoffrey Berry, who is a very 4 well-known epidemiologist, and then you've 5 got Cooke, Hill, who were senior technicians 6 at the Medical Research Council research 7 laboratory, myself and then also 8 Dr. Skidmore, who worked -- they were all 9 Medical Research Council and myself. 10 Q. Yeah. 11 And just tell us in general 12 terms, what were you doing -- what was your 13 group doing in these experiments? It says 14 "animal experiments with talc." 15 A. We were checking the talc 16 powder that was used in the experiments and 17 manufacturing dust clouds with the talc, et 18 cetera, and we were checking off the 19 composition of the dust created in the animal 20 cages, and we were also looking at the 21 postmortem material from the rats, you know, 22 what do they have in their lungs after being 23 exposed to. 24 Q. Yeah. 25 And one -- I see here something

Page 178 1 called an intrapleural inoculation 2 experiment. Tell us what that is. 3 A. Well, it's a -- it's a test 4 procedure where the mineral of interest would 5 be injected into the pleural cavity of the 6 animal to set if it set off a biological 7 response, i.e., did you produce mesothelioma 8 in animals, which was a standard procedure, 9 it was employed by the National Cancer 10 Institute in the USA, in Washington, to check 11 on the biological activity of mineral dusts. 12 Q. And how big are the injections 13 to somebody who may not understand milligrams 14 in what I will call normal person's talk? 15 A. They're large. You know, in 16 fact, it's -- talc, it has been used as a 17 treatment for surgical procedures in humans. 18 Q. Yeah. 19 MR. LANIER: Objection. 20 THE WITNESS: There's a history 21 out there, if you like, of the 22 biological activity of talc. 23 MR. LANIER: Responsive. 24 QUESTIONS BY MR. BICKS: 25 Q. That's -- are you familiar with	Page 180 1 Q. And chrysotile? 2 A. And uncontrolled. 3 Q. So you've got the material 4 injected, right? 5 A. Yes. 6 Q. And you've got the Italian 7 talc, right? 8 A. Yes. 9 Q. And this is the 00000 talc? 10 A. The 00000 talc, yeah. 11 Q. And this was the talc that at 12 some point in time was used by Johnson & 13 Johnson in baby powder, right? 14 A. Yes. 15 Q. All right. And then there's 16 something called SFA chrysotile. 17 What is that? 18 A. Super fine asbestos, a sample 19 of super fine chrysotile asbestos. 20 Q. Yeah. 21 And then there's something 22 called a saline control, right? 23 A. Yeah. Just saltwater. 24 Q. Yeah. 25 And it says here 48 rats were
Page 179 1 a procedure called pleurodesis? 2 A. Oh, very much so, yes. 3 Q. And is that -- tell us what 4 that is. 5 A. It's used extensively, not just 6 for lungs, but if somebody has an operation 7 and has surgery removing part of a lung, 8 then -- 9 MR. LANIER: What's his degree 10 or expertise on this? 11 MR. BICKS: Yeah, I'll take 12 that off. Strike that and we'll take 13 it off the record. Yeah. Yeah. 14 MR. LANIER: I mean, he claims 15 to be an expert on a bunch of stuff, 16 but this... 17 MR. BICKS: Yeah, we'll fix 18 that on the videotape. 19 QUESTIONS BY MR. BICKS: 20 Q. In terms of the experiment 21 here, what I want to focus on is this Table 1 22 and ask you about this. 23 So this is the results of the 24 intrapleural inoculation, right, of the talc? 25 A. Yeah. And chrysotile.	Page 181 1 injected? 2 A. Yeah. 3 Q. And then how many -- you're 4 familiar with mesothelioma; you mentioned it 5 a couple times, right? 6 A. Sure. 7 Q. All right. So how many 8 mesotheliomas were there in the rats with the 9 Italian talc? 10 A. None were produced. 11 Q. And what about the SFA 12 chrysotile? 13 A. 18. 18 of the 48 -- 14 Q. All right. 15 A. -- succumbed to. 16 (Pooley Exhibit 22 marked for 17 identification.) 18 QUESTIONS BY MR. BICKS: 19 Q. I think to kind of wrap us up 20 here, Dr. Pooley, over time -- and let me 21 show you Exhibit 22. 22 All right. This is a letter 23 you wrote, right? 24 A. Yes. 25 Q. And it indicates how many

Page 182 1 samples you've looked at over kind of -- you 2 wrote this. Do you remember this is FR -- 3 Dr. F.R. Rolle? 4 A. Yes. 5 Q. And he was at Johnson & 6 Johnson? 7 A. Yeah, from their analytical 8 laboratory in the US. 9 Q. And I noticed, by the way, that 10 most of the people you're dealing with at 11 Johnson & Johnson are doctors, right? 12 A. Yeah. Ph.D.s, yeah. 13 Q. And -- 14 A. And medical doctors. 15 Q. And was that kind of the nature 16 of the background of the folks you were 17 dealing with? 18 A. Yes. Well, it was -- it was a 19 New Brunswick development laboratory, and 20 they were developing things for 21 medically-related purposes. 22 Q. And it says here that you've 23 looked at material for over 30 different 24 geographical sources; you've looked at 25 various grades produced; you've looked at	Page 184 1 A. False. 2 Q. And in doing the work that you 3 did for Johnson & Johnson, did you try to do 4 the best job that you possibly could? 5 A. Yes. Yes, indeed. 6 Q. And based on your knowledge of 7 Johnson & Johnson, had an issue been 8 identified to them, what do you think would 9 have happened? 10 A. They would have taken some -- 11 they would have reacted, let's put it that 12 way. How, I don't know, but they would have 13 reacted. 14 Q. Did anybody at Johnson & 15 Johnson ever pressure you to come up with 16 answers in any of your tests? 17 A. No. 18 Q. And how, given your background, 19 would you have reacted if someone tried to do 20 that? 21 A. Well, I would have -- what's 22 the British term? I would have given them 23 two fingers. 24 MR. BICKS: I appreciate your 25 time, and I know that, you know, you
Page 183 1 some sources sampled over a more than 2 two-year period to check consistency. 3 And did that include the 00000 4 and Vermont? 5 A. Mainly the 00000. 6 Q. Mostly 00000? 7 A. Yes. 8 Q. And you say that when you 9 looked at adding these samples together, 10 you've collected over 150 samples; is that 11 right. 12 A. That sort of region, yes. 13 Q. And if we looked at just -- 14 expanded it more and looked at all the 15 different talc work that you've done, what 16 would be your ballpark on how many samples 17 you've looked at? 18 A. Oh, I don't count them, so it's 19 hundreds. 20 Q. If someone were to stand up in 21 front of a jury and say that Dr. Fred Pooley 22 found asbestos in Johnson & Johnson baby 23 powder, would that be true? 24 A. No. 25 Q. False?	Page 185 1 have health issues, and I can tell you 2 that we appreciate that. So I pass 3 the witness. 4 MR. LANIER: Objection. Form. 5 MR. BICKS: I pass the witness. 6 VIDEOGRAPHER: The time is 7 11:45 a.m. Going off the record. 8 (Off the record at 11:45 a.m.) 9 VIDEOGRAPHER: Okay. We are 10 back on the record. The time is 11:57 11 a.m. 12 CROSS-EXAMINATION 13 QUESTIONS BY MR. LANIER: 14 Q. Good morning, Dr. Pooley. 15 A. Good morning. 16 Q. And my name is Mark Lanier. 17 You and I met for the first time yesterday; 18 is that right? 19 A. Yes. 20 Q. And I'm taking your deposition 21 today, but the jury's not had a chance to 22 meet me because I am not trying the case for 23 the Ratcliff family. It's being tried by 24 some folks who work with me at the law firm, 25 Ethan and Darron, and I think Shannon and

Page 186 1 Mark Linder may be there as well, but I'm the 2 one taking your deposition today. 3 A. Right. 4 Q. All right? 5 A. Yes. 6 Q. What I would like to do is 7 cover the things that Mr. Bicks has covered 8 with you, but maybe tell the rest of the 9 story. 10 Okay? 11 MR. BICKS: Objection. 12 THE WITNESS: Yeah. 13 QUESTIONS BY MR. LANIER: 14 Q. In other words, you-all left 15 out a lot, didn't you? 16 A. Not that I can remember. 17 Q. Huh. Here's one of the things 18 that Mr. Bicks asked you. I wrote it down. 19 I've got it here on the screen so the jury 20 can see the words. 21 He said: "Based on your 22 knowledge of J&J, had an issue been 23 identified, what do you think would have 24 happened?" 25 Do you remember being asked	Page 188 1 you weren't in on any of that, were you? 2 A. No. 3 MR. BICKS: Objection to the 4 form. 5 QUESTIONS BY MR. LANIER: 6 Q. Were you in on any of the 7 meetings where Johnson & Johnson tried to 8 measure the effect that the presence of 9 asbestos might have? 10 MR. BICKS: Objection to the 11 form. 12 THE WITNESS: No. 13 QUESTIONS BY MR. LANIER: 14 Q. Were you in on any of the 15 policy discussions about who or whom the 16 company should hire to do their tests and 17 what kinds of tests they should do? 18 A. No. 19 Q. So if we want to do this, just 20 as Mr. Bicks asked, based on your knowledge, 21 it's fair for the jury to know that your 22 knowledge is fairly limited; you don't have 23 access to the confidential documents, do you? 24 A. No. 25 MR. BICKS: Objection to the
Page 187 1 that? 2 A. Yeah, earlier on. 3 Q. Yes. 4 A. Yeah, I said that they would 5 have reacted. 6 Q. Yeah. Yeah. Yeah. Yeah. 7 You remember being asked this 8 question? 9 A. Yeah, by -- yes. 10 Q. Yeah. I mean, if we really 11 want to know -- you're not an expert in 12 Johnson & Johnson, are you? 13 A. Not at all, no. 14 Q. You haven't seen some of the 15 memos and confidential documents, for 16 example, in this litigation, have you? 17 A. No. 18 Q. So some of -- you weren't in on 19 any of their policy meetings about what to 20 do, were you? 21 A. No. 22 Q. You weren't in on any of the 23 meetings where they discussed what the impact 24 might be if word got out that their products 25 had asbestos and how it would affect sales;	Page 189 1 form. 2 QUESTIONS BY MR. LANIER: 3 Q. And one thing we can do, 4 though, is we can look at not just based on 5 your knowledge, but based on your experience. 6 Let's just see what experience shows because 7 experience can dictate the truth, right? 8 MR. BICKS: Objection to the 9 form. 10 QUESTIONS BY MR. LANIER: 11 Q. Right? 12 A. I'm not quite sure what you 13 mean. Could you sort of -- 14 Q. Yes, experience can dictate the 15 truth. 16 We can look at the experiences 17 that the evidence shows happened -- 18 A. Sure. 19 Q. -- and from that evidence we 20 can decide maybe what J&J would and wouldn't 21 do, fair? 22 A. Yeah. Okay. 23 Q. Okay. Here's the way that I 24 would like to -- well, I've got a number of 25 things I want to cover with you but first

Page 190 1 just a practical matter. 2 You were originally listed by 3 Johnson & Johnson to be an expert in this 4 case and then they changed that and called 5 you a fact witness. 6 Do you know anything about that 7 change? 8 A. No. Other than it's my 9 experience confined to talc, basically. 10 Q. Right. 11 But you were being asked a lot 12 of expert opinions about how mines work, how 13 they don't work, you know, what geologically 14 happens in a mine over X number of years, and 15 what did Mount Sinai do, and what someone's 16 reputation. 17 And you remember all of those 18 questions? 19 A. Yes, because I have experience 20 in those areas as you suggested. 21 Q. Right. 22 As an expert, though; that's an 23 expertise you carry, right? 24 MR. BICKS: Objection to the 25 form.	Page 192 1 Q. All right. What I would like 2 to do is give you an idea of where I'm going 3 to cross examine you on so you and the jury 4 and the Court have an idea of where we're 5 going. So I've drawn this little drawing. I 6 call it Fred Pooley Road. 7 This is the roadmap for how I'm 8 going to ask you questions. 9 Okay? 10 A. Uh-huh. 11 Q. All right. The first thing I 12 want to do is I want to cover your 13 experience. And we're going to make a stop 14 and talk about talc. And then we're going to 15 make another stop, just discuss some 16 integrity issues. And then we'll finish with 17 some cancer questions. 18 Okay? 19 A. Sure. 20 Q. All right. And I'll try to -- 21 that will help you keep a pace of where we 22 are and where we're going. 23 So let's start with that first 24 stop: Experience. What I'd like to do under 25 experience is talk about a couple of
Page 191 1 THE WITNESS: Yeah. 2 QUESTIONS BY MR. LANIER: 3 Q. Okay. Well, one of the reasons 4 I'm asking you is you're charging a fee to 5 Johnson & Johnson for being here today, 6 aren't you? 7 A. Well, I'll address the invoice 8 to the -- 9 Q. To the lawyers? 10 A. -- law firm. 11 Q. Okay. You're charging a fee to 12 the law firm that represents Johnson & 13 Johnson, fair? 14 A. Yeah. 15 Q. And you're not charging a fee 16 just for your time; you're charging your 17 expert deposition fee, aren't you, \$500 an 18 hour? 19 A. Yes. 20 MR. BICKS: Objection to the 21 form. 22 QUESTIONS BY MR. LANIER: 23 Q. Because your normal time you 24 get reimbursed at \$250 an hour, right? 25 A. Yes.	Page 193 1 different things. I'd like to talk about -- 2 I've got them up here and we'll go through 3 each one. 4 All right? 5 A. Uh-huh. 6 Q. Let's begin with asbestos 7 industries, because you haven't been fully up 8 front with the jury about how many asbestos 9 industries you've worked for. 10 You've worked for just about 11 every asbestos company there is, haven't you? 12 MR. BICKS: Objection to the 13 form. 14 THE WITNESS: I have no idea. 15 QUESTIONS BY MR. LANIER: 16 Q. Well, I mean, Johns Manville, 17 you worked for them, didn't you? 18 A. Did a little bit of work way 19 back, yes. 20 Q. Yeah, they're bankrupt now. 21 MR. BICKS: Objection to the 22 form. 23 QUESTIONS BY MR. LANIER: 24 Q. But they were one of the major 25 producers of asbestos, a miner of asbestos,

Page 194 1 and a manufacturer of asbestos, right? 2 A. Yes. 3 Q. You did work for Eagle-Picher, 4 didn't you? 5 A. Yes. It's one of the names I 6 remember, yeah. 7 Q. You did work for Kent 8 cigarettes, didn't you? 9 A. You mean Lorillard, do you? 10 Q. Yeah, they make Kent 11 cigarettes? 12 A. Yes. 13 Q. You did work, asbestos work, 14 for Bethlehem Steel, didn't you? 15 A. I can't remember that one. 16 Q. All right. Would it -- do you 17 want to challenge it? 18 I can pull out one of your 19 depositions where you said it, if you 20 challenge it, but if it seems right to you, 21 we'll just keep moving. 22 A. Yeah. 23 Q. Does it seem right to you? 24 A. If I've -- 25 Q. You've sworn to it under oath.	Page 196 1 been, if we move over to the law part of your 2 experience, is you've been, to some degree, I 3 don't want to say a professional witness, but 4 you've gotten around the block testifying in 5 asbestos cases, haven't you? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: Yes, a lot of 9 people have -- I've looked at samples 10 from a lot of people. 11 QUESTIONS BY MR. LANIER: 12 Q. Well, no. No. That's not what 13 I said. 14 I said: You've been an expert 15 witness testifying for a lot of asbestos 16 companies. You've come in to countless 17 courtrooms and said, "Chrysotile asbestos 18 cannot cause mesothelioma," for example, 19 right? 20 A. Uh-huh. 21 MR. BICKS: Objection to the 22 form. 23 QUESTIONS BY MR. LANIER: 24 Q. Right? 25 A. Yeah.
Page 195 1 A. Yes, I've contacted or been in 2 contact with very many people over the last 3 50 years. 4 Q. You've done asbestos work for 5 Turner & Newall, which is, or was, a British 6 company, one of the largest importers of 7 asbestos, right? 8 A. Yes. 9 Q. You were on a -- you did work 10 for Kaiser Gypsum, another asbestos company, 11 right? 12 A. Yes. 13 Q. You did work for US Gypsum, 14 didn't you? 15 A. Yes. 16 Q. You did asbestos work for Steel 17 Grip and a bunch of small companies, right? 18 A. Possibly, yeah. 19 Q. Hollingsworth & Vose? 20 A. Yes, I know that. 21 Q. And when I say "you did work 22 for these folks," you did litigation work, 23 didn't you? 24 A. Yes. 25 Q. I mean, what you've really	Page 197 1 Q. Yeah. 2 And when I say "lots of 3 courtrooms," I mean, you've testified before 4 in the state of Washington, haven't you? 5 A. State of Washington? 6 Q. Yes. 7 A. No, I don't think so. 8 Q. All right. I'll pull a 9 deposition and we'll see if maybe I'm -- was 10 it Washington, DC? 11 A. I can't remember. 12 Q. Huh. 13 A. I've -- I've provided some 14 information in Washington, DC, I think. 15 Q. Well, I'm talking about 16 testimony. 17 A. Oh, I see. 18 Q. Hired gun. 19 A. Oh, I see. Okay. 20 MR. BICKS: Objection to the 21 form. 22 QUESTIONS BY MR. LANIER: 23 Q. You've testified in Texas many 24 times, haven't you, my state? 25 A. Not many times.

Page 198 1 Q. Well, you've done it in 2 Beaumont. You've done it -- you remember 3 Beaumont, Texas? 4 A. I know Beaumont, yes. 5 Q. And you've done it in Houston. 6 Remember Houston, Texas? 7 A. Yes. 8 Q. You've testified in Georgia, 9 haven't you? 10 A. I'm not sure. 11 Q. You've testified many times in 12 California, haven't you? 13 A. Yes. 14 Q. Testified in Kansas, haven't 15 you? 16 A. Yes. 17 Q. Testified in Hawaii, haven't 18 you? 19 A. Yeah. No. I've never been to 20 Hawaii. 21 Q. You testified in Hawaii 22 litigation. You-all just did the deposition 23 on the mainland. 24 A. Oh, I see. 25 Q. You remember?	Page 200 1 the disease, remember? 2 MR. BICKS: Objection to the 3 form. 4 THE WITNESS: No, I -- 5 QUESTIONS BY MR. LANIER: 6 Q. You don't remember that? 7 A. I don't think so, no. 8 Q. So in which of the cases have 9 you testified where you were hired by an 10 asbestos company and you actually admitted 11 that their product caused the mesothelioma 12 disease? 13 A. I have no idea. 14 Q. Yeah. 15 You've been doing this for like 16 50 years, haven't you? 17 A. No, not quite. 18 Q. Oh, I've got you testifying 19 back into the '70s, don't I? 20 A. Oh, yes, that's right. I 21 testified in Minneapolis. 22 Q. You got the '70s, '80s, '90s, 23 2000s, 2010s. I mean, you're in your fifth 24 decade of doing this? 25 A. Yeah.
Page 199 1 A. Possibly. I don't know. I 2 never remember these cases. 3 Q. So many you don't remember 4 them? 5 A. Yeah. 6 Q. Minnesota cases, right? 7 A. Yeah. Yes. 8 Q. Alabama cases, right? 9 A. Yeah. 10 Q. Ohio cases? 11 A. Yeah. 12 Q. Virginia cases? 13 A. Yeah. 14 Q. Right? 15 And when you've testified, 16 you've testified as an expert about all sorts 17 of issues for asbestos, right? 18 A. Mainly mineralogical. 19 Q. No, you've testified about how 20 they work in the body? 21 A. Oh, yes. Yes. Yes. 22 Q. Yeah. You've testified -- in 23 fact, you've testified in all these different 24 places that whoever hired you, their product 25 was not responsible for the mesothelioma or	Page 201 1 Q. You're like -- you have more 2 staying power than the Beatles. 3 MR. BICKS: Objection to the 4 form. 5 QUESTIONS BY MR. LANIER: 6 Q. That's pretty good, isn't it? 7 A. No. 8 Q. And you've made a good bit of 9 money over these 50 years of being an expert 10 witness in litigation, haven't you? 11 A. No, not a lot. 12 Q. Well, I mean, just look at 13 today. 14 A. Uh-huh. 15 Q. Now, you're going to charge 16 \$500 an hour? 17 A. Yes. 18 Q. And you do an eight-hour 19 minimum. If we end your deposition after two 20 hours, you're still charging eight, aren't 21 you? 22 A. Eight hours, yeah, whatever 23 time I'm spent being questioned. 24 Q. Okay. You don't charge for an 25 eight-hour day?

Page 202	Page 204
1 A. Oh, no. No. No. 2 Q. All right. So let's say -- 3 what time did you start this morning? What 4 time did the meter go on? 5 A. When we walked in the room. 6 MR. BICKS: Objection to the 7 form. 8 QUESTIONS BY MR. LANIER: 9 Q. All right. So the prep time, 10 the time you spent with Mr. Bicks ahead of 11 time, you don't charge for that? 12 A. Yeah, but it's not the rate 13 that you've specified. 14 Q. Ah. So the \$500 an hour is for 15 time in the room? 16 A. That's right. 17 Q. And then all the time you've 18 spent getting ready with Mr. Bicks was, what? 19 Not free; what were you charging then? 20 A. \$250 an hour. 21 Q. What about your flight over 22 here from Cardiff? 23 A. Well, I normally take the 24 traveling time one day. 25 Q. In other words, you're going to	1 hope you can see this, it was in Los Angeles, 2 California? 3 A. Yeah. 4 Q. Daniel Blue versus Fiberboard, 5 and you gave this deposition in Cardiff, 6 Wales. 7 Do you remember that? 8 A. Yeah. 9 Q. All right. 10 A. No, I don't remember this. 11 Q. You don't remember it? 12 A. No. 13 Q. Well, one of the questions that 14 I found interesting was on page 23, and it 15 was this one right here. It was a 16 cross-examination: "Have you gone over your 17 questions and your answers before you came 18 here to testify, the particular questions 19 asked of you?" 20 And you said: "Yes." 21 You know, you practiced. 22 Remember that? 23 A. What was the date of this? 24 Q. This is 1990. 25 A. No, I don't remember it.
Page 203	Page 205
1 charge eight hours -- 2 A. Eight hours, yeah. 3 Q. So to fly over here, and they 4 pay for all your expenses, too, right? 5 A. Oh, surely. Yeah. 6 Q. Yeah. 7 So a couple of grand to come 8 over here? 9 A. Uh-huh. 10 Q. Three or four grand to 11 testify -- 12 A. Yeah. 13 Q. -- in here? 14 A couple of grand to go back? 15 A. Yeah. 16 Q. What -- I've left out your 17 practice time. 18 A. Practice time? 19 Q. Yeah, where your time where 20 you've sat with Mr. Bicks and gone over some 21 of this stuff, right? 22 A. Whatever -- whatever time I 23 spent. 24 Q. No. What I mean is, for 25 example, in 1990 you gave a deposition, I	1 Q. Okay. Well, when you -- did 2 you have chance to visit with Mr. Bicks 3 before you started testifying here today? 4 A. We met in the last day or two, 5 yes. 6 Q. Which one? Last day or two? 7 A. Yeah. A day or two, yes. 8 Q. Well, no, is it -- 9 A. Two. 10 Q. Two. Okay. Then it's not day 11 or two; it would be the last two days? 12 A. Yeah. 13 Q. And I'm only saying that 14 because you are an engineer, aren't you? 15 A. Yes. 16 Q. Precision is important, isn't 17 it? 18 A. Of course. 19 Q. I mean, the difference between 20 last day or two, we know the answer; it's the 21 last two days? 22 A. Sure. 23 Q. All right. So when did you 24 arrive in the US? 25 A. My flight got in on -- what day

Page 206	Page 208
1 is it today? 2 Q. Today is Thursday, but just 3 till midnight. 4 A. Okay. So I got in on -- I left 5 on Sunday, got in on -- 6 Q. Monday? 7 A. Monday. 8 Q. And then did you meet with 9 Mr. Bicks on Tuesday? 10 A. Yes. 11 Q. And on Wednesday? 12 A. Yes. 13 Q. And then today, Thursday? 14 A. That's the two. 15 Q. Got it. 16 So we're on day three. 17 A. Yeah. 18 Q. So -- all right. All right. 19 Now, I still want in my stop here on your 20 experience, I want to talk about a few things 21 that are missing from your experience. 22 When you testify here, one of 23 the questions Mr. Bicks asked you, he said: 24 "As a geologist," dot dot dot. 25 You're not a geologist, are	1 remember? 2 A. Yes. 3 Q. You're not a cancer doctor; 4 you're not an oncologist, are you? 5 A. No. 6 Q. Now, you've testified all over 7 the US that your clients' asbestos did not 8 cause diseases, but you've never testified as 9 an oncologist, fair? 10 A. No. 11 Q. You're not an industrial 12 hygiene doctor who deals with industrial 13 hygiene, are you? 14 A. I do deal with industrial 15 hygiene. I'm a member of the British 16 Occupational Health Society. 17 Q. Okay. So what is your training 18 as an -- what degrees do you hold in 19 industrial hygiene? 20 A. The -- I've got a mining, 21 engineering degree. And a large part of that 22 degree course deals with occupational health, 23 test sampling, et cetera. 24 Q. Well, in the United States 25 there is a specific certification.
Page 207	Page 209
1 you? 2 A. No. I don't classify myself as 3 a geologist. 4 Q. Yeah. 5 So when he asked you: "As a 6 geologist," works well for the jury when he's 7 asking a geology question, but if we're going 8 to tell the whole truth, you're not a 9 geologist, are you? 10 A. No. 11 Q. You are not any type of a 12 chemist who deals with the chemical makeup of 13 different minerals, are you? 14 A. Are you referring to the 15 composition of minerals? 16 Q. Well, no. Certainly you have 17 to deal with those. 18 A. Yeah. 19 Q. You are a mineralogist, but 20 you're not a chemist by training, are you? 21 A. No. 22 Q. When we talk about whether a 23 mineral causes mesothelioma, like the test 24 that was referenced by Mr. Bicks towards the 25 end of your examination, the rat tests,	1 A. Yeah. 2 Q. You can be board certified as 3 an industrial hygiene doctor. 4 Are you? 5 A. We don't have that sort of 6 certification in the UK, no. 7 Q. Yeah. 8 Do you have any industrial 9 hygiene training as a medical doctor? 10 A. I don't understand what you 11 mean. 12 Q. Well, there is a medical 13 specialty in the United States that deals 14 with this. 15 A. Oh, I didn't know that. 16 Q. Yeah. 17 Well, let's do it this way: Do 18 you have a medical degree? 19 A. No. 20 Q. So you're not an MD, are you? 21 A. No. 22 Q. Do you have an epidemiology 23 degree? Are you an epidemiologist? 24 A. No. 25 Q. Do you have a pathology degree?

Page 210 1 Are you a pathologist? 2 A. No. 3 Q. And that's someone who looks at 4 slides to diagnose disease, right? 5 A. Yep. 6 Q. Right, sir? 7 A. Yes. 8 Q. All right. Okay. Last thing 9 on experience road that I want to zoom in and 10 talk about is I want to talk about your 11 experience with Johnson & Johnson. 12 Okay? 13 A. Yes. 14 Q. Johnson & Johnson has been the 15 source of a lot of work and funding for you 16 in the past, true? 17 A. Yeah. As we were quite busy 18 about 40 years ago, yeah. 19 Q. And they stepped in at a really 20 good time because you had just -- you were 21 running out of your funding from the British 22 government and they stepped in and provided 23 you with funding, didn't they? 24 A. No. They didn't provide me 25 with funding, no.	Page 212 1 A. Yeah. 2 Q. But in the kind of academia 3 where you were, you need to be publishing, 4 which means you need to be getting research 5 funds so that your research is paid for, and 6 you need to build up the department. 7 Those things are important, 8 aren't they? 9 A. Yes, they can be. Yeah. 10 Q. Yeah. 11 Okay. And so the only reason 12 I'm finding this interesting is Mr. Bicks 13 asked about Exhibit Number 1, which was your 14 CV. 15 A. Yes. 16 Q. And when I was looking at your 17 CV and I was trying to find where in here it 18 says -- or your résumé, as Mr. Bicks called 19 it. You've got it as a curriculum vitae up 20 at the top. 21 Those are the things that 22 surround your life, if we're Latin students, 23 right? 24 A. Sure. 25 Q. But in everyday language, this
Page 211 1 Q. Well, your lab, your group? 2 A. Oh, yeah, the department I 3 worked in, yeah. 4 Q. Yeah. Yeah. 5 A. They wanted some research done 6 and so we helped them out. 7 Q. Yeah. 8 But I'm just saying that the 9 timing was really nice, because it came in at 10 a time where you were losing your funding 11 from the government? 12 A. Yeah, you're talking about 13 research funding, and it was at a time when I 14 was -- I became a lecturer in the department. 15 So it didn't affect my funding, personal 16 funding. 17 Q. It affected the funding of the 18 department in the place where you worked and 19 hoped to continue to succeed in, fair? 20 A. It helped. 21 Q. Yeah. I mean, some of -- a lot 22 of people sometimes think academia is just 23 like maybe it was for us in high school where 24 the teachers that did a good job teaching are 25 the ones who just keep the jobs.	Page 213 1 is kind of a résumé, fair? 2 A. Uh-huh. 3 Q. And one of the things I found 4 interesting is you never put anywhere on here 5 that during the '70s, '80s, '90s, 2000s, you 6 were making a substantial amount of money as 7 an expert witness for the asbestos industry. 8 You leave that out of your 9 professional résumé, don't you? 10 A. Well, go down to the last 11 paragraph. I can't see it. 12 Q. All right. Let me blow it up. 13 Sorry, sir. Hold on. We'll get it large so 14 you and the jury can see it better. 15 This one that says, "Research 16 or consultant." 17 A. Yeah, you see there British 18 Medical Research Council, Health and Safety 19 Executive, World Health Organization, 20 National Institute of Occupational Safety and 21 Health, USA and EPA and numbers of other 22 industrial and government organizations. 23 Q. Ah. So when you tell the 24 professional world -- by the way, your CV is 25 what you hand out at professional meetings or

Page 214 1 academic meetings, right? 2 A. No. I don't hand this out, no. 3 Q. You've never handed out your 4 CV? 5 A. No. 6 Q. What do you keep a CV for? 7 Just testifying? 8 A. No. People like yourself ask 9 me what I've been doing for the last few 10 years, so I can produce this. 11 Q. Ah. So, well, that's what -- 12 that's what I was driving at. 13 So when people ask you and you 14 give them this, you've listed testifying for 15 asbestos companies about whether or not 16 people got sick from their products as 17 "consulting for industrial organizations"? 18 A. Yeah. 19 Q. That is language that means, 20 let's see, we could say also known as being 21 paid to be a witness by asbestos companies to 22 say their products didn't cause the 23 mesothelioma. 24 MR. BICKS: Objection to the 25 form.	Page 216 1 But, I mean, don't say -- you 2 just said under the record -- you just 3 said -- let's put this up so the jury and you 4 can see what you just said. 5 You said: I have -- "I can't 6 make a decision on what caused the 7 mesothelioma." 8 A. That's right. 9 Q. But what you do over and over 10 again is say that it wasn't your client's 11 product that did it; you can exclude them, 12 right? 13 MR. BICKS: Objection to the 14 form. 15 THE WITNESS: No. 16 QUESTIONS BY MR. LANIER: 17 Q. Well, sir, would you like me to 18 show you some samples of where you did that? 19 A. Yeah. Okay. 20 Q. Here, it might just be easier 21 to just pull out a Redweld of it. 22 Okay. The first one I've 23 pulled out is Marie Soignet versus Montello, 24 Inc., 1989, looks like you were here -- I 25 don't know which of these defendants you were
Page 215 1 QUESTIONS BY MR. LANIER: 2 Q. Is that where it fits? 3 A. No. 4 Q. Well, I mean, that's what 5 you've done. I've got an entire box of your 6 depositions. 7 You understand? 8 A. Sure. Yes. 9 Q. And I have yet to find one of 10 them where you said the company that hired 11 me, yes, it was their asbestos that caused 12 this person's meso. Every time you say it 13 wasn't. 14 A. Let me qualify and so I can't 15 make a decision on what caused the 16 mesothelioma. 17 Q. Actually, you say every time 18 that you can, that you can say chrysotile 19 does not cause mesothelioma. 20 Did you not know you say that 21 over and over? 22 A. Yeah, I know. Yes. That's 23 because I've never appeared in a case where 24 chrysotile only has caused a disease problem. 25 Q. Yeah.	Page 217 1 working for. 2 Was it Union Carbide, Pacific 3 Asbestos, Atlas Corporation, Sun Marketing or 4 Mill White? 5 Do you remember which one of 6 them had hired you? 7 A. Yes, you want to go back to 8 Henry Garrard. 9 Q. Ah. Henry Garrard? 10 A. Bruce Shaw. 11 Q. So that would be Union Carbide? 12 A. Uh-huh. 13 Q. And Union Carbide, we should 14 add them, by the way, to our asbestos 15 industries. I think we left that one out. 16 Union Carbide had an asbestos 17 mine in California for chrysotile asbestos 18 called Calidria, right? 19 A. Yeah. 20 Q. And you testified that 21 chrysotile asbestos does not cause 22 mesothelioma, so your client's product could 23 not be the cause, true? 24 A. Yes, I suppose you could -- you 25 could say that, yeah.

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1 Q. No, that's not you could say 2 that; that's what you said, right? 3 A. I actually say -- 4 Q. Chrysotile doesn't cause 5 mesothelioma -- 6 A. Oh, yeah. 7 Q. -- so it couldn't be theirs. 8 A. Sure. 9 Q. Here's another one I pulled 10 out. June Greear versus Union Carbide. This 11 one is in Atlanta, Georgia. Deposition of 12 Frederick David Pooley. This is another one 13 back in 1989. 14 And it looks like this is 15 another one where you are there with Henry 16 Garrard firm, Bruce Shaw? 17 A. Yeah. 18 Q. So, again, this is probably 19 Union Carbide in this one, right? 20 And you testified in this one 21 that the Union Carbide chrysotile asbestos 22 doesn't cause mesothelioma, don't you? 23 Hold on. I'm looking for the 24 language. You said -- look at the bottom of 25 page 24: "I would still say it was not	1 I'm not. My degree is in Greek and Hebrew. 2 Isn't that just horrible? 3 But because you are an engineer 4 and precision is important, we don't ever 5 want to be imprecise when we can be precise, 6 fair? 7 A. If possible, yes. 8 Q. So, for example, you told the 9 jury, I asked you, I said: "How much are you 10 charging for the time when you're not in the 11 room giving testimony?" 12 You said: "\$250 an hour." 13 A. Yes. 14 Q. That's not precise. 15 (Pooley Exhibit 23 marked for 16 identification.) 17 QUESTIONS BY MR. LANIER: 18 Q. I'm going to hand you 19 Exhibit 23. According to the bills we've 20 been selected, 11 hours? 21 A. Sure. 22 Q. At 300 per hour? 23 A. Yeah. Yes. 24 MR. BICKS: I want a discount. 25 THE WITNESS: No.
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1 caused by chrysotile." 2 A. Yeah. Yes. 3 Q. I mean, which is what your 4 client -- that was the kind of asbestos your 5 client had there, right? 6 Right? 7 A. Yes. 8 Q. Yeah. 9 So if we look here then at your 10 work, have we got a fair synopsis of your 11 experience that may not have been covered yet 12 by Mr. Bicks. 13 Can you see anything else we're 14 leaving out at this point? 15 There may be another company or 16 two that you did work for. 17 A. Yeah. 18 Q. Anything else? 19 A. Well, if you could send me a 20 list of all these and then I can tell you 21 whether or not there are some missing. 22 Q. I don't know that that's 23 necessary. 24 I'll tell you what I would like 25 to do, though, because you're an engineer,	1 QUESTIONS BY MR. LANIER: 2 Q. Yeah. You've been 3 overcharging, haven't you? 4 A. This is for document review and 5 it's not just sitting in a room. 6 Q. Okay. Wait. Wait. Wait. 7 Wait. 8 So the jury understands, you 9 got three different rates going? 10 A. No. 11 Q. You got \$500 if you're in the 12 room for depositions? 13 A. Yes. 14 Q. You got 250 if you're just for 15 visiting time, we'll call it? 16 A. Yep. 17 Q. And then you got another \$300 18 an hour for reading time? 19 A. Sure. Yeah. Document review. 20 Q. But it doesn't say only 21 document review -- 22 A. No. 23 Q. -- sir. It also says "and 24 consultation," which is visiting, isn't it? 25 A. Yes.

Page 222 1 Q. So you spent time reviewing 2 documents, that should be 300, but I thought 3 that your visiting time is supposed to be 4 250? 5 A. No, meeting to discuss my 6 review of the documents. 7 Q. Right. 8 A. Yeah. 9 Q. That's supposed to be 250 for 10 the visiting time? 11 A. Well, I didn't review any 12 documents in that. 13 Q. Okay. 14 A. It's what we call horses for 15 courses. 16 Q. It's called who did what? Say 17 it again? 18 A. Horses for courses. 19 Q. I got to see how she typed 20 that. Horses for -- 21 A. For courses. 22 Q. I live -- I live in Texas. I 23 grew up in Texas. I mean, we've got horses, 24 but I don't know about courses. Courses is 25 what we take at school.	Page 224 1 Q. You understand the jury is not 2 getting \$500 an hour to watch this. 3 A. No. I realize that. 4 Q. But that's not a lot of money 5 to you, \$500 an hour? 6 A. No. 7 Q. We ought to move to England. 8 A. Not for performing the sort of 9 work that I'm doing at the moment, no. 10 Q. Performing the kind of work. 11 A. Yes. 12 Q. You call this a performance. 13 Sir, all you're supposed to do 14 is just answer questions and tell the truth. 15 What's performing about that? 16 A. Well, you have to answer the 17 question, don't you? I have to speak to you, 18 and I have to receive questions. 19 Q. Well, heck, you only charge 250 20 an hour when you do that for Mr. Bicks. But 21 when all a sudden the camera is turned on, 22 even when he asking you the questions, you 23 double your fee. 24 A. No. 25 Q. Yes, you do, don't you?
Page 223 1 A. Yeah, and, you know, race 2 courses, aren't they? 3 Q. Oh, we call them tracks. 4 A. Oh. Well. 5 Q. Horses for tracks doesn't sound 6 good, I guess. 7 A. No. 8 Q. All right. I don't understand 9 what that means for you to say horses for 10 courses. I just am asking you to be honest 11 with the jury and tell them the truth about 12 how much you're charging in this case. This 13 case alone, you've got 11 hours of reading 14 and visiting time. You've got more time this 15 week. You've got time in here for the 16 deposition. You've got your travel time. 17 I mean, you're going to make 18 thousands of dollars off -- thousands, heck 19 you'll make thousands today. You're going to 20 make a lot of money off this case alone, 21 aren't you? 22 A. Not a lot, no. 23 Q. What's a lot to you? 24 A. A lot to me? Well, that would 25 depend what I'm doing.	Page 225 1 A. No. 2 Q. So you didn't charge \$500 an 3 hour when he asked you questions on your 4 deposition; it's just when I do? 5 A. That's right. 6 Q. Do you really want to say that? 7 Because I've got your deposition history and 8 you charge the same regardless of whether 9 it's the fellow asking you or not. 10 You know that? 11 A. No, I've charged various rates 12 over the years. 13 Q. So now we need to break this 14 down. Now it's \$500 in the room for the 15 deposition if I'm asking the questions? 16 A. Yeah. 17 Q. But it's only 250 if Mr. Bicks 18 is asking the questions? 19 A. No, it will be the same. 20 Q. Okay. You are under oath, and 21 even though you're a British citizen, you 22 understand perjury applies in the United 23 States? 24 MR. BICKS: Objection to the 25 form.

Page 226 1 THE WITNESS: Uh-huh, sure. 2 QUESTIONS BY MR. LANIER: 3 Q. All right. You've got to tell 4 the truth. 5 So when you're performing for 6 Mr. Bicks is \$500 an hour, and when we're 7 performing for me, it's \$500 an hour; is that 8 what I understand? 9 A. Yes. 10 Q. Okay. Let's move down the 11 road. 12 If you need to take a break, 13 just say the word. 14 A. No, it's okay. 15 Q. I mean -- all right. Now, the 16 question in part is for the jury on this as 17 we get ready to move down the road from 18 experience is whether or not your work for 19 J&J and your money that you've taken and the 20 asbestos industries -- by the way, I left out 21 RT Vanderbilt, too, didn't I? 22 A. Uh-huh. 23 Q. Yes, sir? 24 Because you were on retention 25 for RT Vanderbilt, weren't you?	Page 228 1 Are you able to see Exhibit 2 Number 24? It's on the back. 3 It says, "Attached as page 11 4 of the current issue of a CTPA Guide where 5 Fred Pooley makes the suggestion any batch of 6 cosmetic talc which reads positive for the 7 presence of amphophiles" -- 8 Now, that's a certain kind of 9 asbestos, right? 10 A. No, it's a mineral. 11 Q. Well, asbestos is a mineral, 12 sir, isn't it? 13 A. Sure. But this is amphophile 14 mineral. 15 Q. Well, amphophile minerals 16 include -- 17 A. No, it doesn't include -- you 18 can't include chrysotile under an amphophile 19 heading. 20 Q. It's not all asbestos. There's 21 asbestos that's not an amphophile; that's 22 chrysotile? 23 A. True, yeah. 24 Q. But there are asbestos that are 25 amphophiles --
Page 227 1 They've retained you to do 2 work? 3 A. Yes. 4 Q. I mean, they just paid you like 5 a regular stipend or something, didn't they? 6 A. No. 7 (Pooley Exhibit 24 marked for 8 identification.) 9 QUESTIONS BY MR. LANIER: 10 Q. See, the reason I said that is 11 because of this document that I saw in -- 12 we'll mark this as Exhibit Number 24. It's a 13 document that I saw from -- oh, thank you. 14 A document I saw looking 15 through the Johnson & Johnson records about 16 you. 17 By the way, did you look 18 through their records on you? 19 A. No. 20 Q. One of the things they were 21 talking about when they were trying to figure 22 out whether or not to use you in some 23 stuff -- this is back in 1996. I guess a 24 year after one of those depositions we were 25 just looking at.	Page 229 1 A. Sure. 2 Q. -- like tremolite? 3 A. Yes. 4 Q. Actinolite? 5 A. Yeah. 6 Q. Anthophyllite, crocidolite. 7 Those are a certain grouping of asbestos, 8 right? 9 A. Yeah, of amphophile minerals. 10 Yes. 11 Q. Yes, a kind of asbestos; is 12 that more accurate? 13 A. No, I would put it as a source. 14 Q. Amphophiles are a kind of 15 asbestos? 16 A. No, they're not. Amphophiles 17 are not a kind of asbestos. You're talking 18 about a mineral. The majority of amphophile 19 samples are not asbestos. 20 Q. Okay. That's fine. That's 21 fine. We'll fuss that at some other point. 22 Let's see if you're not talking about 23 asbestos here. 24 "Batch of cosmetic talc which 25 reads positive for the presence of

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1 amphophiles should be rejected even if its 2 subsequent examination establishes whether or 3 not it's fibrous or nonfibrous." 4 A. Right. 5 Q. That was your position in '96, 6 right? 7 A. Sure. 8 Q. You said, "The mineral 9 tremolite is chemically a calcium magnesium 10 silicate and occurs in two crystallographic 11 habits." There's fibrous, which is called 12 tremolite asbestos, right? 13 MR. BICKS: Objection to the 14 form. 15 QUESTIONS BY MR. LANIER: 16 Q. Do you see that? 17 A. Yes. 18 MR. BICKS: You said he said 19 that. 20 QUESTIONS BY MR. LANIER: 21 Q. And then there's prismatic or 22 nonfibrous which is not asbestiform. 23 Do you see that? 24 A. Yes. 25 Q. You agree with that, don't you?	1 A. No, I was not on a retainer. 2 Q. So when Johnson & Johnson says 3 that you're on a retainer for them, Johnson & 4 Johnson is just wrong, right? 5 A. I'm on a list of their 6 individuals who they can contact, yeah, if 7 they want help. 8 Q. Uh-huh. 9 But not a -- Johnson & Johnson 10 is wrong when they say "a retainer"? 11 A. Sure, that description is not 12 correct. 13 Q. Okay. Now, as we leave the 14 experience, I want to ask you just a couple 15 of questions and make sure we're on the same 16 page because we're about to get into talc and 17 some opinions. And we're going to need to 18 take a lunch break. Before we do, I want to 19 ask you these questions. 20 True or false: Science 21 shouldn't change based on who's paying you, 22 true or false? 23 A. True. 24 Q. Thank you. 25 Next. You were specifically
Page 231	Page 233
1 A. Yeah, sure. 2 Q. "Here in the US a controversy 3 has been underway for 25 years. All the 4 agencies and health-oriented groups have 5 accepted the view only the rare fibrous 6 tremolite might be hazardous as opposed to 7 the harmless. This has been fought at many 8 meetings of science groups and in the courts, 9 mainly spearheaded by RT Vanderbilt, which 10 sells large tonnage of tremolitic talc." 11 A. Uh-huh. 12 Q. "It turns out, they have Fred 13 Pooley on retainer." 14 Do I read that correctly? 15 A. Yeah. 16 Q. You're on retainer for the talc 17 company that's selling large tonnage of 18 tremolitic talc, tremolite asbestos being a 19 concern? 20 A. Repeat that question. 21 Q. Yeah. 22 Are you the Fred Pooley that 23 was on retainer for this company that was -- 24 who sells large tonnage of tremolitic talc, 25 was that you?	1 asked about whether or not you had appeared 2 in front of the FDA, and you even put that on 3 your CV that you have, remember? 4 A. Did I? 5 Q. Yeah. 6 Your CV says you appeared in 7 front of the FDA. 8 A. Oh, yes, I have. Yes. 9 Q. Yeah. You didn't remember that 10 on your -- 11 A. I've given a presentation to 12 the FDA, yeah. 13 Q. Yeah. Yeah. 14 Do you know what role, if any, 15 Johnson & Johnson played in getting you in 16 front of the FDA? 17 A. No, not at all. 18 Q. Because you were also asked did 19 anybody at Johnson & Johnson ever pressure 20 you to come up with answers in any of your 21 tests. 22 Do you remember that? 23 A. When was I asked that? 24 Q. By Mr. Bicks this morning. 25 A. Yeah. Oh, yes. Sorry. Yes.

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1 I remember -- yes. No, I -- 2 Q. And you said no? 3 A. No. 4 Q. But as a practical matter, they 5 were paying you, weren't they? 6 A. Who? 7 Q. Johnson & Johnson for those 8 tests. You weren't doing those 9 independently? 10 A. Oh, no. No. No. I was 11 looking at samples for them, yes. 12 Q. Yeah. Yeah. Yeah. 13 And this was, of course, the 14 people who tried to figure out whether or not 15 you were controllable. 16 Did you know that? 17 A. No. 18 (Pooley Exhibit 28 marked for 19 identification.) 20 QUESTIONS BY MR. LANIER: 21 Q. So in all the documents that 22 you reviewed for 11 hours, Mr. Bicks never 23 gave you the one that I'm giving you, Exhibit 24 Number 28, where the company decided whether 25 or not you were controllable.	1 put in a box. "Can Fred Pooley handle this? 2 Is he controllable?" 3 A. Yeah. 4 Q. Well, now, you're chuckling, 5 but did you know that this is the way 6 industry looked at you? 7 A. No. 8 MR. BICKS: Objection to the 9 form. 10 THE WITNESS: Not at all. 11 MR. LANIER: All right. 12 Let's -- we're going to move down the 13 road. We're going to talk about talc 14 is our next stop on the road. This 15 might be a good time to take a break 16 if you want to take a break for lunch 17 or whatever. I'm fine either way. 18 MR. BICKS: I'm worried about 19 our group over here. 20 VIDEOGRAPHER: All right. The 21 time is 12:43 p.m. We're going off 22 the record. 23 (Off the record at 12:43 p.m.) 24 VIDEOGRAPHER: We're back on 25 the record. The time is 1:16 p.m.
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1 Do you have Exhibit 28 in front 2 of you? 3 A. Yes. 4 Q. This has got a presenter of 5 Luzenac. And if you'll look, you'll see a 6 note on the back, handwritten note. That 7 says, "This is the outline which Rich 8 Zazenski prepared." 9 Do you know the Luzenac people? 10 A. I've met people from Luzenac, 11 yeah. 12 Q. Connected with Johnson & 13 Johnson? 14 A. No. 15 Q. Did you know that they were one 16 of the mines that supplied Johnson & Johnson? 17 A. No. 18 Q. "I think it's exactly what the 19 FDA is looking for. I talked to Don 20 Hughes" -- 21 Do you know Don Hughes? 22 A. I can't remember the name, no. 23 Q. -- "he agrees this is what the 24 exposure data should be used." 25 Now, look at the bottom I've	1 QUESTIONS BY MR. LANIER: 2 Q. Okay. Sir, we were going down 3 the -- going down Fred Pooley Road. 4 A. Yeah. 5 Q. We've gone through your 6 experience, and we're now going to talk about 7 talc. 8 Okay? 9 A. All right. 10 Q. And before the break, I had 11 asked you this: "Science should not change 12 based on who is paying you?" 13 And you agreed with me, right? 14 A. Yes. 15 Q. But I've got some problems that 16 I would like to challenge you on. 17 Okay? 18 So I got a picture of you on 19 this sheet of paper, and I'm going to make 20 some notes to challenge you while we go 21 along. 22 First of all, yesterday -- for 23 the jury's benefit, yesterday I was entitled 24 to ask you some questions to learn your 25 opinions, what we call a discovery

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1 deposition. 2 Remember that? 3 A. Sure. 4 Q. And that's where I met you, 5 right? 6 A. Yes. 7 Q. And that's where I got to find 8 out what your testimony might be in this case 9 so that I could formulate how to cross 10 examine you and play this to the jury, right? 11 A. Sure. 12 Q. Okay. One of the things you 13 said to me yesterday that really stunned me 14 is you said that talc mines don't have 15 asbestos in them. 16 Do you remember saying that, 17 sir? 18 A. Yes, it's the one -- and I was 19 referring to the ones I visited, yeah. 20 Q. Well, I was -- I don't even 21 know that we had limited it -- 22 A. Oh. 23 Q. -- so severely. I just -- I 24 was trying to talk to you in general. 25 A. Right.	1 Q. Well, can we at least agree 2 that science should not change based on who's 3 paying you? 4 A. Yeah, sure. 5 Q. So, I mean, if talc mines don't 6 have asbestos in them, that should not 7 magically change. Those mines have been 8 there for millions of years, haven't they? 9 A. Uh-huh. The deposits, yes. 10 Q. Yes. 11 So in that regard, let's just 12 look at not only what you've said, but what 13 some other people have said. 14 Okay? 15 A. Okay. 16 Q. So, for example, are you 17 familiar with the Cyprus Industrial Minerals 18 Company? 19 A. I heard the name, yes. 20 (Pooley Exhibit 25 marked for 21 identification.) 22 QUESTIONS BY MR. LANIER: 23 Q. The Cyprus Industrial Minerals 24 Company produced a document that's marked as 25 Exhibit Number 25. Give you a copy.
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1 Q. And let's see if I can find 2 your deposition. Somehow on the break things 3 got moved. Be patient with me for a moment, 4 please. 5 Yesterday's deposition on 6 page 24, I just asked you pretty plainly: 7 "Your testimony is that talc mines are not 8 contaminated with asbestos?" 9 You said: "That's right." 10 A. Yeah. 11 Q. Do you remember that? 12 A. Yep. 13 Q. Now, that's what you say when 14 Johnson & Johnson's paying you in this case. 15 They paid you to give that testimony 16 yesterday, \$500 an hour, right? 17 MR. BICKS: Objection to the 18 form. 19 THE WITNESS: Yep. 20 QUESTIONS BY MR. LANIER: 21 Q. But if we go back and we look 22 at other things where you're not getting 23 paid, you've said differently when not paid 24 by J&J, haven't you? 25 A. I have no idea.	1 MR. BICKS: So I'm just on the 2 record going to make sure it's clear, 3 I'm objecting to any document that, 4 you know, hasn't been turned over to 5 us. Maybe this has; maybe this 6 hasn't. The one document that was 7 used before, I don't know that I have 8 ever seen it. 9 MR. LANIER: The one that 10 referenced him, the Luzenac document? 11 MR. BICKS: Right. Anyway. 12 MR. LANIER: All right. 13 QUESTIONS BY MR. LANIER: 14 Q. Sir, do you have Exhibit 15 Number 25 in front of you? 16 A. Yes. 17 Q. It's on Cyprus Industrial 18 Minerals Company Amoco letterhead, written to 19 OSHA, 1984. 20 Do you see that? 21 A. Yeah. 22 Q. Is that a yes answer? 23 A. Yes. 24 Q. All right. What I'm really 25 interested is this Rationale Point 1, what's

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1 said down here, and I would like you to look 2 at it with me. 3 It says, "Talc and asbestos are 4 mineralogically similar." 5 Do you agree with that? 6 A. Yes. Chrysotile is very 7 similar to talc in terms of its structure, 8 yes. 9 Q. "And may be found in the same 10 orebody." 11 That means the same mine, 12 doesn't it? 13 A. Yeah. Yeah, you'll find talc 14 in chrysotile mines, yes. 15 Q. "The concentration of asbestos 16 can range from over 50 percent to less than 17 .2 percent by weight." 18 Do you see that? 19 A. Yeah. 20 Q. So -- now, that's not what 21 you're saying, but we've still got the range 22 of asbestos in talc mines according to Cyprus 23 Industrial Minerals is 50 percent to 24 .2 percent by weight. 25 Do you see that?	1 A. Yeah. Talc and asbestos, yes. 2 Q. Yeah. 3 Okay. Now, let's just set 4 aside what that group has found, and let's be 5 honest about what you've said when J&J wasn't 6 paying you to testify. 7 A. Uh-huh. 8 MR. BICKS: Objection to the 9 form. 10 QUESTIONS BY MR. LANIER: 11 Q. You have found amphibole 12 tremolite in talc, which is asbestos, haven't 13 you? 14 A. No. Where have I said it's 15 asbestos? 16 Q. Amphibole tremolite is 17 asbestos, isn't it? 18 A. No. 19 Q. Sir, do you remember you 20 testified about the World Health 21 Organization; remember that? 22 A. Sure. Yeah. 23 Q. The World Health Organization 24 is one of the authorities on this, aren't 25 they?
Page 243	Page 245
1 A. Yeah. That's in an asbestos 2 mine, isn't it? 3 Is it a talc mine they're 4 talking about? 5 Q. Sir, all I know is it's sitting 6 here talking about their mines. 7 MR. BICKS: Objection to the 8 form. 9 QUESTIONS BY MR. LANIER: 10 Q. It sure seems to be talking 11 about a talc mine. If you look, it says, 12 "The proposed standard with respect to 13 non-asbestos-containing talc and asbestos, so 14 we request bulk materials containing only 15 small trace amounts of asbestos be exempt 16 from the standard." 17 Do you see that? 18 A. Yeah. 19 Q. And their rationale for that is 20 the similarity. It's talking about talc here 21 and talc standards. 22 MR. BICKS: Objection to the 23 form. 24 QUESTIONS BY MR. LANIER: 25 Q. Do you see that?	1 A. Yeah. 2 (Pooley Exhibit 26 marked for 3 identification.) 4 QUESTIONS BY MR. LANIER: 5 Q. I'll give you a document marked 6 26, and it's the publication that the World 7 Health Organization put out on chrysotile 8 asbestos. 9 A. All right. 10 Q. Do you see the World Health 11 Organization on chrysotile asbestos? 12 A. Yep. 13 Q. In this document, the World 14 Health Organization -- and they are the 15 authority on this, aren't they? 16 A. No, I wouldn't say that. 17 Q. You would not say that? 18 A. No. 19 Q. Who is more authoritative than 20 they are? 21 A. On what? 22 Q. On these issues of 23 asbestos-related diseases and where it's 24 found. 25 A. I wouldn't say that the World

Page 246 1 Health Organization was. 2 Q. Who is more so than they are? 3 A. Oh, people who work in the sort 4 of asbestos or asbestos disease area. 5 Q. Well, sir, those are the people 6 who you said that you were one of their folks 7 who did the work for them? 8 A. That's right, because they 9 didn't know much about it. 10 Q. But, sir, if you've done work 11 for them, surely you know what they have to 12 say, don't they? 13 A. No, I don't know what they have 14 to say. 15 Q. Look at this. On page 2, "The 16 term 'asbestos'" -- 17 MR. BICKS: Do you have an 18 extra one of those? 19 MR. LANIER: Just the one I 20 gave him. I'm sorry, I thought I had 21 more copies of these things, and I 22 just didn't know which ones I was 23 going to use, and I'm bulked up as 24 best as I could. 25	Page 248 1 Do you see that? 2 A. Yep. 3 Q. And it says, "The principal 4 varieties of asbestos are chrysotile" -- 5 A. Yep. 6 Q. And that's the serpentine 7 material; that means it's shaped curly, 8 right? 9 A. No, serpentine is a type of 10 rock. 11 Q. Okay. That's fair. 12 A. Chrysotile is a form of 13 serpentine rock. 14 Q. And we won't fuss why that rock 15 is called that right now. 16 -- "and crocidolite, amosite, 17 anthophyllite, tremolite and actinolite, 18 which are amphiboles." 19 Do you see that, sir? 20 A. Yeah. 21 Q. Now, that's what the WHO says, 22 doesn't it? 23 A. Yes. 24 Q. It says that, "Exposure to 25 asbestos," in the very next one, "Including
Page 247 1 QUESTIONS BY MR. LANIER: 2 Q. "The term 'asbestos' designates 3 a group of naturally occurring fibrous 4 serpentine or amphibole minerals." 5 Do you see that? 6 MR. BICKS: He's not even on 7 the same page. 8 MR. LANIER: Oh, I'm sorry. 9 THE WITNESS: Where are you 10 talking? 11 MR. LANIER: I'm on page 2. 12 THE WITNESS: Oh, yeah, page 2. 13 I've got it, yeah. 14 QUESTIONS BY MR. LANIER: 15 Q. Yeah. 16 And you see where it says, 17 "Asbestos is one of the most important 18 occupational carcinogens," that means cancer 19 causes? 20 A. Uh-huh. 21 Q. Do you see that? 22 A. Yep. 23 Q. It says, "The term 'asbestos' 24 designates a group of naturally occurring 25 fibrous serpentine or amphibole minerals."	Page 249 1 chrysotile, causes cancer of the lung, the 2 larynx, the ovary" -- ovarian cancer -- 3 "mesothelioma." 4 Do you see that? 5 A. Yep. 6 Q. So tremolite is a principal 7 variety of asbestos. 8 Do you see that? 9 A. Yeah. Where does it say that? 10 Q. Well, that was the sentence 11 that I highlighted and we just read. 12 A. "Exposure to asbestos, 13 including chrysotile causes" -- it doesn't 14 say that -- 15 Q. Look at the sentence right 16 before what you're reading. "The principal 17 varieties" -- 18 A. Yeah. 19 Q. -- "are chrysotile, 20 crocidolite, amosite, anthophyllite, 21 tremolite." 22 Do you see that? 23 A. Yep. 24 Q. So according to the WHO, 25 tremolite is a principal variety of asbestos.

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1 Do you see? 2 A. I'm not following your line. 3 Q. Sure. 4 A. Tremolite is not a, you know -- 5 Q. Tremolite -- 6 A. -- a principal form of 7 asbestos. 8 Q. Well, that's what it says. 9 A. Well, I wouldn't believe it. I 10 said that's why I question the document. 11 Q. Tremolite is a principal 12 variety of asbestos. And that's by the World 13 Health Organization, correct? 14 A. Well, it's by somebody writing 15 it for the World Health Organization, yeah. 16 Q. And put out by the World Health 17 Organization? 18 A. Yeah. 19 Q. Which you in your CV and in 20 your testimony to the jury, you even bragged 21 about the fact that they've asked you to do 22 work for them before? 23 A. Sure. They didn't ask me to 24 write this document. 25 Q. No. No. This wasn't written	1 references, the footnote. 2 Do you see it? 3 A. No, not really. 4 Q. All right. Let's -- here's 5 where we land -- 6 A. Oh, I see you. 7 Q. Yeah. 8 So the principal varieties of 9 asbestos -- 10 A. You said page 5. 11 Q. Yeah. 12 -- they include tremolite, so 13 we can make that note here according to the 14 WHO. 15 Fair? 16 A. Yep. 17 Q. All right. We'll label this 18 asbestos. 19 Now, in this regard, sir, 20 you've said when you were not being paid by 21 Johnson & Johnson, you said that you had 22 found tremolite in talc, hadn't you? 23 A. Yep. 24 Q. So what the World Health 25 Organization says is a principal variety of
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1 by people who are getting paid by asbestos 2 companies. 3 A. No, they got -- 4 MR. BICKS: Objection to the 5 form. 6 THE WITNESS: -- paid a lot 7 more maybe. 8 QUESTIONS BY MR. LANIER: 9 Q. Oh, they didn't -- no, sir. 10 Where do you know that? 11 Where do you know that the 12 person who wrote this is getting paid? 13 A. Well, he's probably still 14 employed by them. 15 Q. Sir, he gives a footnote there, 16 footnote 4. You can look on page 5 and see 17 footnote 4, asbestos. This is air quality 18 guidelines for Europe. 19 A. Yeah. 20 Q. The second edition, put out by 21 the World Health Organization Regional 22 Office. 23 Do you see that, sir? 24 A. On page 5, is it? 25 Q. That's on page 5, yes, sir, the	1 asbestos, it is something that Fred Pooley 2 found this in talc, didn't you? 3 A. Yeah, I found -- we found 4 tremolite in association with the talc. 5 Yeah. 6 Q. Not just in association with 7 the talc. You found it in the talc. You 8 also found it in the finished product, didn't 9 you? 10 A. I can't remember. Where did 11 you get that from? 12 Q. I got that from testimony you 13 gave for money but it wasn't Johnson & 14 Johnson. It was when someone else's asbestos 15 was being blamed. 16 MR. BICKS: Objection to the 17 form. 18 QUESTIONS BY MR. LANIER: 19 Q. Let me show you the deposition. 20 You gave this testimony in 1990 21 in that Blue versus Fiberboard case that you 22 and I discussed earlier. 23 A. Yeah. 24 Q. Do you remember that case? 25 A. Sure.

Page 254 1 Q. In that case you said on 2 page 34: "What types of minerals are 3 included in the industrial definition of 4 talc?" 5 And you said: "One finds talc, 6 carbonate, magnesium, calcium. There are 7 small -- sometimes there are small quantities 8 of amphophile minerals such as tremolite" -- 9 A. Yeah. 10 Q. -- present." 11 Do you see where you said that? 12 A. Yeah. 13 Q. And you were asked again: 14 "We've already discussed tremolite and some 15 of the amphophile contaminants." 16 And you said: "Yes, that the 17 mines were contaminated by tremolite." 18 Right? 19 A. Yes, tremolite could be found 20 in the mine. Yeah. 21 Q. And tremolite, so that we're 22 clear -- let's get our other sheet we had up 23 here -- according to the World Health 24 Organization is a principal variety of 25 asbestos, the kind of asbestos that causes	Page 256 1 in London. 2 Does that ring a bell? 3 A. Oh, yeah, but I've never been 4 to Beaumont. 5 Q. Right. Right. The case was 6 there. 7 Page 16: "Did you 8 determine" -- well, you said: "What I have 9 done there is some actual laboratory work 10 with some talc samples." 11 Do you see that? 12 A. Yes. 13 Q. And the question: "Did you 14 determine whether it was asbestos in the 15 talc?" 16 You said: "We examined it 17 mineralogically, yes." 18 Now, this was work you were 19 doing for Johnson & Johnson, I believe, 20 right? 21 A. I have no idea. 22 Q. "Did you find asbestos in the 23 talc?" 24 When Johnson & Johnson wasn't 25 paying you to testify, your answer was in
Page 255 1 mesothelioma and ovarian cancer, right? 2 A. Yeah. 3 Q. That's the WHO, right? 4 A. Yeah. That's what they said, 5 yeah. 6 Q. Yeah. Now, that's not the only 7 time before you were getting paid by Johnson 8 & Johnson when you testified that you had 9 found asbestos contaminants in talc, is it? 10 MR. BICKS: Objection to the 11 form. 12 QUESTIONS BY MR. LANIER: 13 Q. That's not the only time, is 14 it? 15 A. I can't remember, but I'm sure 16 you've got it there. 17 Q. Oh, sure. Let's look at 18 another piece of testimony. This is one you 19 gave in Beaumont in the Cimino case back in 20 Beaumont, Texas, back in 1990. 21 Do you remember testifying in 22 the Cimino case in Beaumont? 23 A. No, I didn't. 24 Q. It's the deposition of 25 Frederick David Pooley at the Stafford Hotel	Page 257 1 that sample: "There was a trace of 2 asbestos." 3 MR. BICKS: Objection to the 4 form. 5 QUESTIONS BY MR. LANIER: 6 Q. Do you see that? 7 A. Yep. 8 Q. So we've got you testifying 9 that there is a trace of asbestos in talc 10 when you tested talc? 11 A. Uh-huh. 12 Q. When you're not paid by Johnson 13 & Johnson, right? 14 MR. BICKS: Objection to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. Cimino you were not paid by 18 Johnson & Johnson, were you? 19 A. No, I don't know who I was paid 20 for -- paid by, rather. 21 Q. Yeah. Yeah. 22 That was one of these that had 23 Henry Garrard. He was the guy that hired you 24 a lot, wasn't he? 25 A. Sure. Yeah.

Page 258 1 Q. And this time it was Pittsburgh 2 Corning, it looks like, that you were working 3 for, right? 4 A. Yeah. 5 Q. So, by the way, on our asbestos 6 industries chart, I think we left them out as 7 one of the ones you've done work for, 8 Pittsburgh Corning. 9 Okay. Now, so when you're 10 working for Pittsburgh Corning, you say that 11 you do find asbestos when you've tested talc, 12 right? 13 MR. BICKS: Objection to the 14 form. 15 THE WITNESS: Yes. 16 QUESTIONS BY MR. LANIER: 17 Q. All right. Now, those, again, 18 aren't the only two times just in my little 19 review of your deposition history when you've 20 said that. 21 You've said it more times than 22 that, haven't you? 23 A. I have no idea. 24 Q. You even said as recently as 25 2000 in Minnesota, State of Minnesota, County	Page 260 1 tremolite is very rare. It's not a 2 commercial asbestos mineral. Although it's 3 called asbestos tremolite, you'll have 4 difficulty finding anywhere around the world 5 that mines the mineral and sells it." 6 It's only basically available 7 as a contaminant, except in Turkey, right? 8 A. Yes. 9 Q. In fact, you said: "I know of 10 only one little mine, and it's in the middle 11 of Turkey." 12 A. That's right. 13 Q. "And so the exposure to 14 tremolite comes from a wide range of sources. 15 For example, it's possible that you might 16 have used a talcum powder which contained a 17 small amount of tremolite in it, for 18 example." 19 A. Yes. 20 Q. So when you're testifying for 21 Kent cigarettes, you say talcum powder is 22 contaminated with tremolite, and that's in 23 the end product? 24 A. Yeah. 25 Q. But again, you weren't
Page 259 1 of St. Louis, Richard Carlson versus 2 Lorillard Tobacco Company. They're the ones 3 who made Kent cigarettes. 4 You did a lot of work for them, 5 remember? 6 A. Yes. 7 Q. And so in this deposition back 8 in 2000, your testimony that you gave on 9 page 2012: "Let's shift over to tremolite. 10 Is tremolite an amphophile?" 11 Do you see that? 12 A. Yes. 13 Q. And, of course, tremolite is 14 the one that we've been talking about where 15 the World Health Organization said it's a 16 principal variety of asbestos, and I told you 17 you had found it in talc and in finished 18 product. 19 Remember? 20 A. Yes. 21 Q. "What are the ranges there in 22 terms of the normal population in an 23 industrial area?" 24 And you start talking about it: 25 "It depends on the source of exposure and how	Page 261 1 testifying for Johnson & Johnson in a talcum 2 powder case in that one. You were working 3 for Kent cigarettes, right? 4 A. Yes. 5 Q. Now, we started this whole 6 discussion out with my concern that science 7 should not change based upon who is paying 8 you? 9 A. Yes. 10 Q. But your science seems to shift 11 depending upon who is paying you, doesn't it? 12 A. No. 13 Q. Talc mines don't have asbestos 14 in them unless you're working for Pittsburgh 15 Corning, Kent cigarettes or one of the other 16 asbestos companies, right? 17 A. You're referring to tremolite 18 now, are you, or tremolite asbestos? 19 Q. I'm referring to tremolite, a 20 principal variety of asbestos according to 21 the World Health Organization. 22 A. Yeah, well, I said this 23 document is a -- not very good. 24 Q. No. You started out by saying 25 that the jury should listen to you because

Page 262	Page 264
1 you've done work for the World Health 2 Organization. 3 A. No, I didn't say that at all. 4 Q. Sure, the jury heard it. It 5 was on your CV. 6 Now, the bottom line is, is 7 you've talked about talc mines being 8 contaminated by asbestos yourself, haven't 9 you? 10 A. I can't remember. 11 Q. Well, here's your CV. 12 A. Yeah. 13 Q. Exhibit 1. It's one of the 14 things that you put on your brag sheet, your 15 stud sheet. 16 A. Yeah. 17 MR. BICKS: Objection to the 18 form. 19 QUESTIONS BY MR. LANIER: 20 Q. Consultant on biological 21 effects of mineral dusts, collection and 22 quantification to World Health Organization. 23 A. That's right. 24 Q. So I said that's one of things 25 that you bragged about on your CV, and you	1 A. Other sources of material that 2 are referred to as being asbestos, yes. 3 (Pooley Exhibit 27 marked for 4 identification.) 5 QUESTIONS BY MR. LANIER: 6 Q. Yeah. 7 And I've handed you Exhibit 8 Number 28. If we go back to something you 9 wrote back in 1992, this is -- did I put a 10 sticker on your copy, sir? 11 A. Yes. 12 Q. What does that sticker say? 13 A. Exhibit 27. 14 Q. And it's this article? Okay. 15 I went out of the order. Thank you very 16 much. 17 This is Exhibit 27. 18 A. Talc pneumoconiosis. 19 Q. Yeah. Yeah. Yeah. 20 A. The pathological and 21 mineralogical study. 22 Q. You're the F.D. Pooley on this, 23 aren't you? 24 A. That's right. 25 Q. And you've got here -- I think
Page 263	Page 265
1 said no. 2 I mean, it's on there; I didn't 3 make that up, did I? 4 A. No. No. 5 Q. And now you're saying that 6 they're garbage and not to be believed? 7 MR. BICKS: Objection. 8 THE WITNESS: No, I'm referring 9 to the document you gave me. 10 QUESTIONS BY MR. LANIER: 11 Q. Well, sir, I'll refer to a 12 document you wrote -- 13 A. Which has got chrysotile 14 asbestos written on it. 15 Q. Yeah. 16 Well, chrysotile is asbestos, 17 isn't it? 18 A. Oh, sure it is. Yeah. Yeah. 19 Q. Okay. And those aren't the 20 only kinds. The asbestos isn't just 21 chrysotile and tremolite. There are other 22 varieties of asbestos, aren't there? 23 Aren't there? 24 A. Yes, there are. 25 Q. And --	1 there's a typo because it says "tail" when it 2 ought to say "talc." 3 A. Sure. 4 Q. That should be "talc," right? 5 A. Yep. 6 Q. All right. "Minerals that may 7 contaminate talc include tremolite" -- 8 Do you see that? 9 A. Yeah. 10 Q. -- "anthophyllite" -- 11 Do you see that? 12 A. Yeah. 13 Q. Anthophyllite, I guess. I 14 don't ever pronounce it right. 15 -- "antigorite" -- 16 A. Yeah. 17 Q. -- "chrysotile"? 18 A. Yeah. 19 Q. Those are asbestos, aren't 20 they? 21 A. Yeah. 22 And you've forgotten tremolite, 23 didn't you? 24 Q. Yeah. 25 A. Yeah.

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1 all fours. This is the Cimino deposition or 2 testimony that you gave in 1990 and on 3 page 16, you specifically used the word in 4 the process of Q and A: "Did you determine 5 whether it was asbestos in the talc?" 6 "We examined it 7 mineralogically, yes." 8 "Did you find asbestos in the 9 talc?" 10 "In that sample, there was a 11 trace of asbestos." 12 That's your word. 13 A. Yeah. 14 Q. So you swear under oath one day 15 "I found a trace of asbestos when I tested 16 the talc," and then you turn around today and 17 you say, "The talc mines don't have asbestos 18 in them and the talc products don't." 19 MR. BICKS: Objection to the 20 form. 21 QUESTIONS BY MR. LANIER: 22 Q. Do you see why those two seem 23 to be a little inconsistent? 24 A. Oh, yeah, I do, because it's 25 confusing whether you're talking about	1 Q. Can I have the WHO again, 2 please? 3 No, not really? 4 A. Yeah, don't believe everything 5 you read. 6 Q. Well, the World Health 7 Organization exhibit again, 26 or whatever 8 number it was. Principal varieties, 9 actinolite. 10 Do you see that? 11 A. Yeah. 12 Q. And you're going to fuss and 13 say that they're wrong on actinolite being a 14 principal variety of asbestos? 15 A. Yeah. 16 Q. All right. So anything that 17 they call asbestos, you just say it's not 18 asbestos because it's in the talcum powder; 19 is that where we are? 20 A. No. 21 Q. All right. But they say, at 22 least, actinolite is a principal variety? 23 A. They do, yes. 24 Q. Of asbestos? 25 A. Yeah.
Page 271	Page 273
1 asbestos fibrous tremolite or fibrous 2 anthophyllite. So you can have the mineral, 3 but you needn't have the form. 4 Q. Sir, you just said you had 5 asbestos in there, and yet you tried to tell 6 the jury that you don't have asbestos in the 7 talc. The bottom line is, as you've sworn, 8 you have asbestos in talc. 9 You've seen it in the finished 10 product, haven't you? 11 MR. BICKS: Objection to the 12 form. 13 THE WITNESS: I haven't seen 14 asbestos in the finished product, no. 15 QUESTIONS BY MR. LANIER: 16 Q. Sir, you said that you had in 17 the Kent cigarette testimony we looked at. 18 A. Yeah. 19 Q. Tremolite in the talcum powder 20 end product? 21 A. Sure. Yeah. 22 Q. Okay. Heavens, you found 23 actinolite. That's another variety of 24 asbestos, isn't it, actinolite? 25 A. No, not really.	1 Q. And, of course, the jury may 2 not be surprised to find out, you found 3 actinolite, that principal variety of 4 asbestos, you found it in the J&J Vermont 5 mine, didn't you? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: I found -- we 9 found a sample, yes, containing 10 actinolite, but it wasn't asbestiform. 11 QUESTIONS BY MR. LANIER: 12 Q. Well, asbestiform is talking 13 about the size. That's all that means. 14 A. Yeah, it's talking about 15 fibers. 16 Q. Yeah, it's talking about the 17 size and shape? 18 A. Yeah. 19 Q. It's not talking about the 20 mineral content, correct? 21 A. Asbestos? 22 Q. No. When you say "it was not 23 asbestiform" -- 24 A. Sure. 25 Q. -- you're just talking about

Page 274	Page 276
1 the size; you're not talking about the 2 mineral? 3 A. Yeah, it didn't have the form 4 of asbestos. 5 Q. In your definition? 6 A. Yes. 7 Q. So you're going to look at it 8 and say, "No, I think asbestos should be 9 shorter than this or longer than this or 10 wider than this or narrower than this," 11 because you've come up with an arbitrary 12 decision of what that is? 13 A. No. 14 Q. Well, what does the World 15 Health Organization say about it? 16 A. Well, they say it's asbestos, 17 and I say it's not asbestos. Asbestos, yeah. 18 Q. They say it's asbestos and 19 they're not getting paid to testify for 20 either side in this case. 21 A. No. 22 Q. And they're the ones that the 23 governments and everybody looks to for having 24 the worldwide scientific knowledge on this, 25 and you're going to get paid for 50 years to	1 Q. Do you see that? 2 A. Yeah. 3 Q. It says, "Shelley reports that 4 Pooley's found actinolite in our Vermont talc 5 by his concentrating technique." 6 A. No. No. 7 Q. Do you see that? 8 A. Yeah, I see it. Yeah. Yeah. 9 Q. See, because Mr. Bicks asked 10 you if you ever found any asbestos in any 11 Johnson & Johnson product or mine. 12 A. And I said no. 13 Q. Yeah, you said, "I never did." 14 A. Nope. 15 Q. But, boy, when we look inside 16 the confidential documents that are redacted 17 and that are protected and subject to a 18 protective order and not to be given out, 19 Shelley reports Pooley has found actinolite 20 in our Vermont talc. 21 MR. BICKS: Objection to the 22 form. 23 QUESTIONS BY MR. LANIER: 24 Q. Do you see that? 25 A. Yeah.
Page 275	Page 277
1 come in to court and testify for everyone 2 that's got anything to do with asbestos and 3 you're going to change what's asbestos and 4 what's not. 5 MR. BICKS: Objection. 6 QUESTIONS BY MR. LANIER: 7 Q. Is that where we are? 8 MR. BICKS: Objection to the 9 form. 10 (Pooley Exhibit 29 marked for 11 identification.) 12 QUESTIONS BY MR. LANIER: 13 Q. Is that where we are? 14 A. No. 15 Q. Because even in 1973, according 16 to Pooley Exhibit Number 29 -- I'm sorry, 17 sir, you shouldn't have to stand up. I'll 18 stand up and get it to you. No, I apologize, 19 that's not fair to you, and please accept my 20 apology. I'll do better. 21 This is a Johnson & Johnson 22 document back in 1973. 23 A. Yeah. 24 Q. The baby product company. 25 A. Uh-huh.	1 Q. And that actinolite, according 2 to the World Health Organization, is a 3 principal variety of asbestos, right? 4 A. No -- well, they say it is, 5 yeah. 6 Q. Yeah. 7 So we've got Pooley also, 8 according to J&J, in 1970 -- what's the date 9 on that Exhibit Number 29? 1973? 10 A. Uh-huh. 11 Q. Pooley, you got actinolite in 12 the Vermont -- in J&J Vermont mine. 13 True? 14 A. Yes, if you say so. 15 Q. Well, I mean, that's Johnson & 16 Johnson said so; it's not me. 17 A. All right. 18 Q. You found anthophyllite, and 19 anthophyllite, even you'll admit, is an 20 asbestos, won't you? 21 A. It has been used as an asbestos 22 mineral. 23 Q. Yeah, it's an asbestos mineral, 24 isn't it? 25 A. Yes, it has been used as an

Page 278 1 asbestos mineral. 2 Q. Yeah. 3 You're not going to fuss with 4 the World Health Organization and say, "Oh, 5 they're wrong when they say" -- 6 A. Yeah. 7 Q. -- "that anthophyllite is a 8 principal variety of asbestos." 9 You agree, don't you? 10 A. It has been mined, yeah, for 11 asbestos. 12 (Pooley Exhibit 30 marked for 13 identification.) 14 QUESTIONS BY MR. LANIER: 15 Q. That's Exhibit Number 30. 16 Here's a copy for counsel. 17 This is another Johnson & 18 Johnson document that we've marked as Exhibit 19 Number 30. 20 Are you able to see the Johnson 21 & Johnson letterhead in 1976? 22 A. Yeah. Sure. 23 MR. BICKS: Let's give him time 24 to look at it. 25	Page 280 1 Q. You disagreed with Mount Sinai. 2 They found more of them than you. You could 3 only find five; is that right? 4 A. Yeah, they had a pretty good 5 lab. 6 Q. British talcum products, 7 "Similarly 18 products were examined by 8 Dr. Pooley. He verified one product as 9 containing anthophyllite. 10 A. Yeah. 11 Q. Even though the Mount Sinai 12 people said they found it in -- tremolite in 13 three and anthophyllite in a fourth. 14 A. Uh-huh. 15 Q. Do you see that? 16 A. Yep. 17 Q. Now, if we're looking then in 18 1976, in 1976, you found asbestos 19 anthophyllite, right? 20 A. Yeah. 21 Q. And that's in the finished 22 product? 23 MR. BICKS: Objection to the 24 form. 25
Page 279 1 QUESTIONS BY MR. LANIER: 2 Q. It says, "A total of 38 samples 3 originating from the lab at Mount Sinai." 4 A. Yeah. 5 Q. Now, this is the hospital 6 laboratory that you and Mr. Bicks testified 7 about with a number of different scientists, 8 and you-all tried to use the 1976 write-up by 9 the fellow who was the head of the hospital 10 or something. 11 Remember that? 12 A. Yeah. 13 Q. "They were examined by Dr. F.D. 14 Pooley." 15 That's you, isn't it? 16 A. Yeah. 17 Q. For American talcum products, 18 "A total of 20 samples, corresponding to 19 19 different products, were subjected to 20 examination by X-ray and electron microscope. 21 Dr. Pooley verified five products contained 22 several percent by weight of fibrous 23 anthophyllite asbestos." 24 Do you see that? 25 A. Yeah.	Page 281 1 QUESTIONS BY MR. LANIER: 2 Q. Isn't it? 3 A. Yeah, of which talc? Was it a 4 J&J talc or -- 5 Q. Well, I don't know. Probably 6 not whoever is paying you today. 7 MR. BICKS: Objection to the 8 form. 9 QUESTIONS BY MR. LANIER: 10 Q. I mean, we don't know which 11 talc it is, do we? 12 MR. BICKS: Objection to the 13 form. 14 THE WITNESS: Well, you ought 15 to because they weren't -- they 16 weren't my samples, you know. 17 QUESTIONS BY MR. LANIER: 18 Q. No, sir. This is Johnson & 19 Johnson's document. If you got a question -- 20 and Johnson & Johnson never says in here, 21 "Hey, don't worry, it's not ours," do they? 22 A. No. 23 Q. No. I mean, Johnson & Johnson 24 doesn't say, "Glory be, at least it's not our 25 product," do they?

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1 A. It's a Mount Sinai product, 2 isn't it? 3 Q. No, sir. 4 A. Isn't it? 5 Q. No, sir. 6 The samples originated from 7 Mount Sinai, but it says these samples were 8 19 different American products. 9 A. Right. 10 Q. All I'm saying is, is Johnson & 11 Johnson on their letterhead where they talked 12 about them having asbestos in them -- 13 A. Uh-huh. 14 Q. -- that you found asbestos -- 15 A. Yeah. In some of those 16 samples, yes. 17 Q. Yeah. 18 -- does not say, "Hey, at least 19 it wasn't our product." 20 They don't, do they? 21 A. Yeah. 22 Q. Huh? 23 A. Well, somebody produced them. 24 Who produced them? 25 Q. Well, I suspect if Johnson &	1 you talking about? 2 Q. I'm talking about the samples 3 that Johnson & Johnson was talking about that 4 you did. 5 A. The ones I had from Mount 6 Sinai? 7 Q. Yes. Here's my problem: When 8 you listen to your testimony from Mr. Bicks, 9 it sounds like you never found asbestos 10 anywhere. 11 A. Yeah. No, that's incorrect. 12 MR. BICKS: I'm just going to 13 say this, and I'll do it on redirect 14 if I have to do it, but either you 15 didn't listen to about two and a half 16 hours of direct where we went over a 17 whole bunch of exhibits, including the 18 ones you're talking about, which show 19 that there have been findings of 20 asbestos. 21 MR. LANIER: I'm going to 22 object to you coaching the witness 23 right now. 24 MR. BICKS: But it's really -- 25 MR. LANIER: Please don't coach
Page 283	Page 285
1 Johnson had it as a Johnson & Johnson 2 product, they might not say. But if it was 3 not J&J, I can almost guarantee you they 4 would have said, "At least it's not our 5 product." 6 MR. BICKS: Objection to the 7 form. 8 QUESTIONS BY MR. LANIER: 9 Q. Don't you agree? 10 A. I don't know. 11 Q. Earlier didn't you say Johnson 12 & Johnson is the most popular talc product 13 out there? 14 A. Sure. Yeah, or was, is, yeah. 15 Q. Yeah. 16 Okay. So while you say talc 17 mines don't have asbestos in them, somehow 18 you're getting this product with asbestos in 19 it at the end, aren't you, when you're not 20 getting paid by Johnson & Johnson? 21 MR. BICKS: Objection to the 22 form. 23 QUESTIONS BY MR. LANIER: 24 Q. Right? 25 A. I'm not sure. What samples are	1 the witness, Peter. Peter, you've got 2 redirect opportunity. Please don't 3 coach the witness. 4 QUESTIONS BY MR. LANIER: 5 Q. Sir, you swore to me under oath 6 yesterday that talc mines don't have asbestos 7 in them -- 8 MR. BICKS: Objection to the 9 form. 10 QUESTIONS BY MR. LANIER: 11 Q. -- and that's false, isn't it? 12 A. Well, you can find the minerals 13 in the mine. 14 Q. So when you swore -- 15 A. Whether they're asbestos or not 16 is a different thing. 17 Q. Sir, you've said you found 18 asbestos in the finished talc product. 19 That's after they've cleaned and purified it 20 and tried to get it out. 21 A. Which sample was that? 22 Q. It's the one we just looked at, 23 sir. It was the Mount Sinai group. There 24 were 20 samples. You found anthophyllite 25 asbestos in one of them.

Page 286 1 A. Yeah. Okay. 2 Q. Okay. 3 A. Yes. 4 Q. I mean, look -- 5 A. Yeah. So you can find, yeah, 6 in some samples, yes. 7 Q. So when you swore under oath 8 yesterday and earlier that talc mines don't 9 have asbestos in them, something J&J paid you 10 to do, \$500 an hour, that was a false 11 statement? 12 MR. BICKS: Objection to the 13 form. 14 QUESTIONS BY MR. LANIER: 15 Q. We can look at a wealth of 16 testimony where we've shown it's false, 17 right? 18 MR. BICKS: Objection to the 19 form. 20 QUESTIONS BY MR. LANIER: 21 Q. It's just false, isn't it? 22 MR. BICKS: Objection to the 23 form. 24 THE WITNESS: I think we're 25 talking about different mines.	Page 288 1 powder." 2 A. Uh-huh. 3 Q. Do you see that? 4 A. Yep. 5 Q. Now, I didn't make this up, did 6 I? 7 A. No. No. No. No. 8 Q. And if we believe what you and 9 Mr. Bicks said, that when Johnson & Johnson 10 finds that out, they'll quit selling it or 11 they'll put a warning label on and everything 12 will stop. 13 A. Yeah. 14 Q. Then we ought -- we shouldn't 15 be having any more baby powder after 1973, 16 should we? 17 MR. BICKS: Objection to the 18 form. 19 THE WITNESS: I don't know. 20 QUESTIONS BY MR. LANIER: 21 Q. According to -- 22 A. It's a business decision, isn't 23 it? 24 Q. Yes. 25 "According to their first test,
Page 287 1 (Pooley Exhibit 31 marked for 2 identification.) 3 QUESTIONS BY MR. LANIER: 4 Q. All right. Let me give you 5 Pooley Exhibit Number 31. Pooley Exhibit 6 Number 31, it's another Johnson & Johnson 7 document. 8 This is Johnson & Johnson 9 Benelux BV. I think that means that it's out 10 of Amsterdam, the Dutch. 11 Do you see that? 12 A. Yeah. 13 Q. And if we look at it -- and 14 this is dated 1973. 15 A. Yeah. 16 Q. The subject line is asbestos in 17 baby powder. 18 Do you see that? 19 A. Yeah. 20 Q. Here's a summary about the 21 subject. 22 A. Uh-huh. 23 Q. "During the month August, the 24 Dutch consumer organizations informed us 25 they've determined asbestos in Johnson's baby	Page 289 1 the content was 1.59 percent." 2 A. Right. 3 Q. "On our request they tested 4 another sample, and the result on that was 5 .3 percent. During the period 6 August/November, we've had continuous 7 contacts with them. We've supplied with all 8 the data and comments we've gotten from J&J 9 USA and J&J UK." 10 A. Yeah. 11 Q. "We also asked them clearly not 12 to make any publications about asbestos in 13 baby powder before we agreed with their 14 findings." 15 A. Yeah. 16 Q. "Because they did not accept 17 our arguments against their method of 18 testing, we've proposed a discussion between 19 our experts and theirs." 20 A. Right. 21 Q. Because what Johnson & Johnson 22 did, and what you did, is used very 23 interesting testing techniques to try and 24 show that there was no asbestos, right? 25 MR. BICKS: Objection to the

Page 290 1 form. 2 QUESTIONS BY MR. LANIER: 3 Q. Right? 4 A. I don't understand what you're 5 saying. 6 Q. Well, you're the one that J&J 7 sent in to fight for them on this. They 8 hired you to go be their guy to try and 9 change the Dutch people's mind, didn't they? 10 A. No. I haven't been to Holland. 11 Q. It says that "there will be a 12 discussion about this scheduled 13 December 19th, and the meeting will be joined 14 by Mr. Pooley and Mr. Sloan of Johnson & 15 Johnson England." 16 They even associate you as 17 being of Johnson & Johnson England. 18 A. Yeah. 19 Q. Do you see that? 20 A. Well, I didn't go to a meeting. 21 I'm not... 22 Q. So when you swore that there 23 was no asbestos in the baby powder, did the 24 company never show you this privileged, 25 confidential document?	Page 292 1 QUESTIONS BY MR. LANIER: 2 Q. The government wasn't getting 3 paid by you, was it? 4 A. No. 5 Q. You're the one where they 6 wanted to know -- the e-mail's out there, the 7 letter's out there, would you be compliant, 8 and if so, they would have you testify, 9 remember? 10 MR. BICKS: Objection to the 11 form. 12 THE WITNESS: What, that 13 scribble on the back of that letter, 14 you mean? 15 QUESTIONS BY MR. LANIER: 16 Q. Uh-huh. 17 A. I have no idea who wrote that. 18 Q. Well, I'll tell you what we do 19 know, we do know that back in 1973, the 20 company knew about a Dutch consumer -- the 21 Dutch consumer organization finding it in 22 Johnson's baby powder, and the company never 23 told you about it, kept it hush-hush, right? 24 MR. BICKS: Objection to the 25 form.
Page 291 1 A. No, I've never seen it. 2 MR. BICKS: Objection to the 3 form. 4 QUESTIONS BY MR. LANIER: 5 Q. They never showed you this one? 6 A. No. 7 Q. Huh. Because you would think 8 if they were going to have you do their 9 testing back in the '70s -- 10 A. Uh-huh. 11 Q. -- and they had the Dutch 12 equivalent of the EPA, I guess, or whatever, 13 the Dutch consumer organization, the 14 government organization, finding the 15 asbestos, you would sure think they'd tell 16 you about it, wouldn't you? 17 A. No. Why should they? 18 Q. Because they wanted you to be 19 their clean bill of health. 20 A. No, they wanted a sort of an 21 unbiased result. 22 Q. Well, sir, it's kind of hard to 23 get more unbiased than the government. 24 MR. BICKS: Objection to the 25 form.	Page 293 1 QUESTIONS BY MR. LANIER: 2 Q. Do you read Dutch? 3 A. No. 4 Q. The company never told you 5 about it, did they? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: No, that's the 9 first time I've ever seen that 10 information. 11 QUESTIONS BY MR. LANIER: 12 Q. So if we're trying to examine 13 whether or not the product might have 14 asbestos in it, this is even outside of what 15 you've done. The Dutch have found it, 16 haven't they? 17 A. Yeah. They found 18 anthophyllite, yeah. So they say. 19 Q. In baby powder. 20 What was the year on that? 21 A. 1973, isn't it? 22 Q. And you say it's the first time 23 you heard about it. 24 Did you not know that the 25 company said they were going to try and meet

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1 with you and use you to refute this? 2 A. No. Never. 3 Q. Because when I said to you, I 4 said: "Well, did the company ever show it to 5 you?" You said: "No. Why should they." 6 (Pooley Exhibit 32 marked for 7 identification.) 8 QUESTIONS BY MR. LANIER: 9 Q. Look at Exhibit Number 32, 10 please. 11 Do you have Exhibit 32 in front 12 of you? 13 A. Yeah. 14 Q. Here it is, Johnson & Johnson. 15 This looks British to me, Cosham? 16 A. Yeah. 17 Q. Portsmouth? 18 A. That's right. 19 Q. You'll see back in 1973, "We've 20 recently -- we recently encountered some 21 adverse publicity in Holland in which a Dutch 22 consumer organization claimed J&J baby powder 23 has asbestos. Ian, Fred Pooley and I will 24 probably be over there seeing the health 25 authorities on or about the 8th of January.	1 been identified, what do you think would have 2 happened?" 3 You said: "Oh, I think that 4 they would have taken it seriously and pulled 5 the product," or something like that. 6 Remember? 7 A. Yeah. They would have acted. 8 Q. Yeah, acted. 9 A. Yeah. 10 Q. Uh-huh. But what they did -- 11 we've got the Dutch example, among others, of 12 them saying, "We'll send in Fred Pooley." 13 A. Yeah. 14 Q. And then they never sent in 15 Fred Pooley. 16 A. No. 17 MR. BICKS: Objection to the 18 form. 19 QUESTIONS BY MR. LANIER: 20 Q. Though, this is at a time when 21 you were doing work -- if we go back to 22 experience road, you were doing a lot of work 23 for J&J at the time, weren't you? 24 A. Yeah. 25 Q. They've got you flying all over
Page 295	Page 297
1 We plan to reassure everyone concerned our 2 baby powder is completely free of asbestos." 3 A. Yeah. 4 Q. "Apparently Fred's flying to 5 Duluth on the 18th of December. It's just 6 possible he may stop by New Brunswick." 7 That's New Jersey, the J&J 8 headquarters, right? 9 A. Yeah. 10 Q. But you're saying that they 11 never talked to you about it? 12 A. No, they never set that meeting 13 up. 14 Q. They just seem to have ignored 15 it based on you? 16 A. And I'm flying to Duluth to 17 appear in a trial there. 18 Q. See, one of the things that we 19 ask at the beginning is -- you were asked 20 what do you think J&J would do if they got 21 bad news. 22 A. Uh-huh. 23 Q. You said: "Based on your 24 knowledge of J&J" -- this is the question, 25 the way Mr. Bicks asked it: "Had an issue	1 the world for them, don't they? 2 A. Not really, no. 3 Q. Well, where were you flying on 4 that last exhibit in front of you? 5 A. Duluth. 6 Q. Duluth, Minnesota -- 7 A. Yeah. 8 Q. -- from England. 9 And then they say maybe you'll 10 go by New Jersey on the way back. 11 A. Oh, yes. I delivered a device 12 for concentrating impurities in talc. 13 (Pooley Exhibit 33 marked for 14 identification.) 15 QUESTIONS BY MR. LANIER: 16 Q. Yeah. 17 And then we can go further and 18 we can look at Exhibit Number 33. When you 19 swore to the jury under oath in response to 20 Mr. Bicks' questions that there had been no 21 asbestos ever found in the Johnson & Johnson 22 mines and product, we can look at your 23 January 1977 tests letter. 24 Do you see that? 25 A. Yeah.

Page 298 1 Q. And when we look at that, this 2 is another one where you said, "We have found 3 in the Vermont composite fibers of 4 antigorite" -- 5 A. Uh-huh. 6 Q. -- "which I would like to 7 confirm using another sample." 8 Do you see that? 9 A. Down at the bottom? 10 Q. Yes, sir. 11 A. Oh, yes. Composite fibers of 12 antigorite, yeah. Okay. 13 Q. Antigorite, that's another one? 14 A. Sure. 15 Q. But you don't consider that 16 asbestos either, do you? 17 A. No. It's not an asbestos 18 mineral, no. 19 Q. Okay. Now, sir, I'm going to 20 try and show the jury -- I've got a chart I'm 21 working on of Johnson & Johnson mine test 22 results that have been done by different 23 folks. 24 A. All right. 25 Q. And hopefully we'll get this	Page 300 1 (Pooley Exhibit 34 marked for 2 identification.) 3 QUESTIONS BY MR. LANIER: 4 Q. Well, in his deposition, which 5 maybe will get played, I hope, Exhibit 6 Number 34 is being used and it's being 7 handwritten. 8 "What did testing reveal," and 9 Mr. Hopkins in his deposition has had to 10 admit that testing revealed that from 1970 11 on, fibrous talc tremolite, tremolite and 12 actinolite in '71; '71, fibrous materials of 13 tremolite and actinolite; asbestos-type 14 materials, tremolite, actinolite in '73; 15 actinolite by Pooley in '73; McCrone in '74, 16 chrysotile; more chrysotile fibers by McCrone 17 in '74; Cyprus tremolite, possibly 18 chrysotile; McCrone, asbestos; Miller to 19 McCrone, fibers of asbestos; again, McCrone, 20 '75, fibers of asbestos; fibers of 21 antigorite. Goes on and on, page after page, 22 through the '70s and through the '80s finding 23 the asbestos in Johnson & Johnson's products 24 from testing. 25 Did you know about any of
Page 299 1 finished and be able to show this to the 2 jury. It's over 900 test results, most of 3 which are often private, but ones that show a 4 presence of tremolite or amphiboles or 5 asbestos -- 6 A. Uh-huh. 7 Q. -- by different names. The J&J 8 Battelle testing and others. And your 9 testimony is: "I just never saw that stuff," 10 or have you seen over 900 positive tests? 11 MR. BICKS: Objection to the 12 form. 13 THE WITNESS: No. 14 QUESTIONS BY MR. LANIER: 15 Q. For asbestos? 16 A. I know nothing about that. 17 Q. Right now -- whose deposition 18 was this? 19 Do you know Mr. Hopkins? 20 A. The name is not familiar. 21 Q. He's giving a deposition for 22 Johnson & Johnson talc right down the hall in 23 asbestos. 24 Did you know about that? 25 A. No.	Page 301 1 these? 2 MR. BICKS: Objection to the 3 form and use of the document. 4 THE WITNESS: No. 5 QUESTIONS BY MR. LANIER: 6 Q. So Mr. Bicks said this, I wrote 7 it down: "If someone were to stand up in 8 front of a jury and say that Dr. Pooley found 9 asbestos in J&J baby powder, would that be 10 true?" 11 Do you see that? 12 A. Yeah. 13 MR. BICKS: I thought I said 14 true or false. 15 QUESTIONS BY MR. LANIER: 16 Q. And the bottom line is, if 17 people want to know the whole truth, what you 18 would say is, based on the documents, the 19 Dutch found it; a number of other people have 20 found it; you found anthophyllite in finished 21 talc product; you found amphibole in 22 tremolite; you found the mines are 23 contaminated by tremolite; you've found 24 traces of asbestos testing the talcum powder; 25 you believe talcum powder can have tremolite

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1 in the end product; you found the talcum 2 powder or talc mines with tremolite, 3 anthophyllite and chrysotile; and you found 4 actinolite in the Vermont mine. 5 That's the fuller story, isn't 6 it? 7 MR. BICKS: Objection to the 8 form. 9 THE WITNESS: That's the whole 10 story of what? 11 QUESTIONS BY MR. LANIER: 12 Q. Of all we've covered so far in 13 your deposition, fair? 14 MR. BICKS: Objection to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. Yeah. I mean, we've covered 18 this, haven't we? 19 A. Yeah. We've covered it, yes. 20 Q. All right. Next. Mr. Bicks 21 showed you a document on inhaled particles 22 marked Exhibit 21. I'm trying to understand 23 the import of this. 24 Animal experiments with talc. 25 A. Yeah.	1 the results, the data. Where is it, you 2 know, chrysotile? 3 Q. Sir, you've seen it. We've 4 covered the reviews of it. Here, let's look 5 at some more together. 6 (Pooley Exhibit 35 marked for 7 identification.) 8 QUESTIONS BY MR. LANIER: 9 Q. Examination of Johnson & 10 Johnson baby powder. I want to show you one 11 of the reports that was put out before 12 Johnson & Johnson forced the company doing 13 the report to change it. 14 Okay? We'll mark it as 15 Exhibit 35. 16 Do you have that in front of 17 you? 18 Do you have that in front of 19 you, sir? 20 A. Yeah. Here it is. 21 Q. Yeah. 22 And the only reason I'm saying 23 that is we've got a video record of it, but 24 we have to have a typed record as well. I 25 don't mean to seem impertinent, so somebody
Page 303	Page 305
1 Q. Do you remember him talking to 2 you about this? 3 A. Yes. 4 Q. So if I'm understanding this, 5 what Mr. Bicks has said is talc itself 6 doesn't cause mesothelioma, but chrysotile 7 asbestos does. 8 Are you really willing to say 9 that? 10 MR. BICKS: Objection to the 11 form. 12 THE WITNESS: Well, yeah, you 13 can induce mesothelioma in animals 14 with chrysotile, yes. 15 QUESTIONS BY MR. LANIER: 16 Q. And chrysotile is one of the 17 contaminants that's been found in Johnson & 18 Johnson baby powder, isn't it? 19 MR. BICKS: Objection. 20 THE WITNESS: I haven't found 21 it. 22 QUESTIONS BY MR. LANIER: 23 Q. I didn't -- wasn't my question, 24 sir. 25 A. I don't know. I haven't seen	1 reading it needs to see that you've got it in 2 front of you. 3 A. Right. 4 Q. Okay. This is an examination 5 of Johnson & Johnson's baby powder, but it 6 says, "Do not use this report. Replaced by 7 another version." 8 Now, you don't know the 9 background of why they did that, do you? 10 A. No. 11 Q. "Summary, two samples of 12 Johnson & Johnson baby powder which 13 correspond to samples examined by Professor 14 Lewin of New York on behalf of the FDA have 15 been examined," all of this stuff. 16 "Both samples contained an 17 insignificant amount of tremolite" -- and 18 we'll discuss whether or not there is such a 19 thing later -- "neither sample contained 20 chrysotile." 21 A. Uh-huh. 22 Q. Do you see that? 23 A. Yes. 24 Q. Now, as a practical matter, had 25 you ever been shown this examination of

Page 306 1 Johnson & Johnson's baby powder? 2 A. No. 3 Q. Do you know whether or not the 4 finished report, the substitutionary report, 5 kept in that language of the tremolite that 6 was found? 7 MR. BICKS: Objection to the 8 form. 9 THE WITNESS: I'm sorry, I'm 10 not following your line of reasoning. 11 QUESTIONS BY MR. LANIER: 12 Q. Well, here's my reasoning. 13 Here's what I'm asking you: McCrone put out 14 a report that said there was tremolite. 15 See that? 16 A. Uh-huh. 17 Q. Tremolite. 18 And tremolite, as we know, 19 according to the World Health Organization -- 20 where is my WHO handout? I keep losing it. 21 No, the one that says -- as we know, 22 tremolite is a principal variety of asbestos, 23 right, according to the WHO? 24 A. Yeah. 25 Q. So examining Johnson &	Page 308 1 this report, it's replaced by another. 2 Let me show you what replaced 3 it. This is the old one. All right. You 4 may be saved by me misplacing it. I'm going 5 to come back to that in a moment. I need 6 that, please. 7 Now, one thing that I was 8 really curious about when Mr. Bicks went 9 through this with you and you-all talked 10 about the Mount Sinai test results. It was 11 Exhibit 19. 12 Do you still have Exhibit 19 in 13 front of you? It's this one right here. 14 A. Yes, I've got it. 15 Q. Of the 20 products, half of 16 them had tremolite and anthophyllite, 17 principally asbestiform, some also contained 18 fragmented forms of these minerals. 19 And then Mr. Bicks made a great 20 display of going through the various numbers 21 trying to match up which ones were Johnson & 22 Johnson baby powder. 23 Remember that? 24 A. Uh-huh. 25 Q. How do you know which ones are
Page 307 1 Johnson's baby powder, this sample finds that 2 tremolite -- now, by the way, so the jury 3 will remember, Walter McCrone, this is one of 4 those testing agencies that you said are 5 really, really good when Mr. Bicks asked you. 6 You said they are recognized, 7 they know their stuff, and they do it right, 8 correct? 9 A. Yeah. 10 Q. Did you know actually they just 11 worked for the asbestos industry back then? 12 MR. BICKS: Objection to the 13 form. 14 THE WITNESS: No idea. 15 QUESTIONS BY MR. LANIER: 16 Q. Did you know that they'll 17 change their reports if their people paying 18 them ask them to? 19 MR. BICKS: Objection to the 20 form. 21 THE WITNESS: No idea. 22 (Pooley Exhibit 36 marked for 23 identification.) 24 QUESTIONS BY MR. LANIER: 25 Q. All right. So, look, don't use	Page 309 1 Johnson & Johnson's baby powder? 2 A. I don't know. 3 Q. I mean, Mr. Bicks was saying it 4 was numbers 4, and he's calling out these 5 numbers. 6 You don't know, do you? 7 A. No, other than they must have 8 had something written on the can they were 9 using. 10 Q. Something what? 11 A. They must have had something 12 written on the can that they were using. 13 Q. Yeah, but you got no clue; this 14 article doesn't tell you. 15 You got to do a Frankenstein 16 and put this together with something else and 17 try to hope it makes it coherent. 18 I mean, can you find anywhere 19 in this article where you're willing to 20 testify on which number sample is Johnson & 21 Johnson's? 22 A. No, I can't find it. 23 Q. So that's Mr. Bicks testifying; 24 that's not you, fair? 25 MR. BICKS: Objection to the

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1 form. 2 QUESTIONS BY MR. LANIER: 3 Q. It's Mr. Bicks saying -- 4 Mr. Bicks saying none of these are Johnson & 5 Johnson products; that's not you. 6 You don't know, do you? 7 MR. BICKS: Objection to the 8 form. 9 QUESTIONS BY MR. LANIER: 10 Q. The question pending, sir, 11 you've had a chance to read through the whole 12 document. Yeah. No. No, I was just waiting 13 for an answer. 14 A. Oh, no, I can't -- 15 MR. BICKS: I thought we were 16 waiting for a question. 17 QUESTIONS BY MR. LANIER: 18 Q. I said: "Can you find anywhere 19 in this article where you're willing to 20 testify which number sample is Johnson & 21 Johnson's"? 22 A. I have no idea. 23 Q. You just had a chance and read 24 through the entire article -- 25 A. Yeah.	1 A. No. 2 Q. All right. You got Exhibit 37 3 in front of you? 4 A. Yeah. 5 Q. And Exhibit 37, specifically 6 says it's Johnson & Johnson, 1973? 7 A. Yeah. 8 Q. "Pooley described a fiber as a 9 particle with parallel sides and at least a 3 10 to 1 length to width aspect ratio. He also 11 reports Vermont talc contains about 1 percent 12 of fibrous talc." 13 Did J&J get that wrong, or is 14 that true? 15 A. I can't remember making that 16 comment. 17 Q. You don't know if that's true 18 or not? 19 A. Oh, here, the -- yes, you do 20 get talc particles which have a 3 to 1 actual 21 ratio, yes. 22 Q. So you reported Vermont talc 23 contains about 1 percent of fibrous talc, 24 fair? 25 A. No, fibrous particles.
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1 Q. -- didn't you? 2 So you don't have anything 3 other than Mr. Bicks telling you which one is 4 Johnson & Johnson, fair? 5 A. Yep. 6 Q. Okay. Last question on this 7 before we move on down the road from talc. 8 In the -- ah, did I miss 9 something? We've got a few more stops with 10 talc. 11 Okay. In the talc mines where 12 Johnson & Johnson gets their baby powder, did 13 you ever find fibrous talc? 14 A. No. No. 15 (Pooley Exhibit 37 marked for 16 identification.) 17 QUESTIONS BY MR. LANIER: 18 Q. Let me give you Exhibit 36. 19 Let me give you Exhibit 37. 20 Here, give you Exhibit 37, sir. 21 A. Okay. 22 Q. Fibrous talc is regulated, too, 23 isn't it? 24 A. I have no idea. 25 Q. You didn't know that?	1 Q. It says he reports -- 2 A. Oh, yes, sorry. The fact that 3 it's fibrous and it is talc, it's fibrous 4 talc, yeah. 5 Q. All right. 6 A. Yeah, logically. 7 Q. That's a true statement then -- 8 A. Yeah. 9 Q. -- that you reported Vermont 10 talc contains 1 percent of fibrous talc? 11 A. Yeah. 12 Q. Thank you. 13 All right. Now, to summarize 14 our stop here on the road for talc, the talc 15 mines. 16 A. Uh-huh. 17 Q. You showed some pictures with 18 Mr. Bicks that had like people going inside 19 the mine. 20 A. Sure. Yeah. 21 Q. But there were also open pits, 22 weren't there? 23 A. No. As far as I'm aware there 24 were no open pit, open pit mine there. 25 Q. You didn't know?

Page 314 1 A. No. There weren't when I went 2 and visited it anyway. 3 Q. So they didn't put you in any 4 of the open pit mines where they would 5 explode dynamite and have this big explosion 6 and all the dust cloud and everything -- 7 A. No. 8 Q. -- and then go in there to try 9 and figure out what's what? 10 A. No. 11 Q. So your talc mines are always 12 closed, never open? 13 A. Uh-huh. 14 MR. BICKS: Objection to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. Is that right? 18 A. Yeah. Well, this was an 19 underground mine, not an open pit mine, yeah. 20 When I visited the place, yeah. 21 Q. All right. And then we've 22 already got on talc an understanding from the 23 International Agency on the Research of 24 Cancer, that's IARC, right? 25 A. Yes.	Page 316 1 product, any reasonable company would warn, 2 true? 3 MR. BICKS: Objection to the 4 form. 5 THE WITNESS: Yes. 6 QUESTIONS BY MR. LANIER: 7 Q. And the last thing I want to 8 cover with you are the testing methods, 9 because there are different ways to test for 10 asbestos, aren't there? 11 A. Yeah, there are a limited range 12 of techniques. 13 Q. There are different ways to 14 test for asbestos, aren't there? 15 A. Yeah. 16 Q. I asked you yesterday and you 17 told me that you had never heard of the 18 concentration method. 19 Remember that? 20 A. Yeah. 21 Q. In fact, the concentration 22 method is one of the best methods and most 23 important ones, isn't it? 24 A. I have no idea. I don't know 25 what -- I don't know how it's performed.
Page 315 1 Q. And that's a part of the World 2 Health Organization, right? 3 A. Yes. 4 Q. World Health Organization is 5 the group that says tremolite's a principal 6 variety of asbestos? 7 A. Yeah. 8 Q. So they define asbestos as 9 including tremolite, chrysotile, 10 anthophyllite and actinolite, true? 11 A. Yes. 12 Q. And all of those have been 13 found by various people in talc, correct? 14 MR. BICKS: Objection to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. True? 18 A. Yes, the minerals. Yes. 19 Q. Uh-huh. And a good number of 20 those have been found in Johnson's baby 21 powder as well by different people, true? 22 A. Yes, people have said 23 they've... 24 Q. And you'll be quick to tell 25 this jury if there is, in fact, asbestos in a	Page 317 1 Q. So you don't even know what it 2 is? 3 A. Yes, that's right. 4 Q. Pooley doesn't know what -- I 5 guess that means you haven't done it then, 6 huh? 7 A. No, I'm not -- I'm not familiar 8 with the process. 9 Q. But, I mean, the different ways 10 you test can make a difference in whether or 11 not you find something, can't it? 12 I asked you yesterday what your 13 hobbies were. 14 You remember that? 15 A. Vaguely, yes. 16 Q. And you didn't tell me cooking. 17 A. Gardening. 18 Q. Gardening. 19 A. Yeah. 20 Q. What kind of stuff do you plant 21 in your garden? 22 A. Flowers, vegetables. A whole 23 range of stuff, yeah. 24 Q. Do you ever plant radishes or 25 carrots?

Page 318 1 A. Carrots, yes. 2 Radishes, no. 3 Q. Okay. Real, real small seeds? 4 A. Yeah. 5 Q. What a lot of people will do 6 when they plant them in a home garden -- at 7 least over here, I don't know about over 8 there -- is they'll take like a shaker that 9 you would use in the kitchen for like sugar 10 or something that's got holes in the top. 11 A. Sure. 12 Q. Here, I can kind of draw it. 13 They take like -- it's got holes in the top 14 and they fill it up with the seeds and they 15 shake the seeds out. So it's a way to kind 16 of get those seeds out there. 17 A. Yeah. 18 Q. Of course, the only seeds that 19 are going to get out are seeds that are 20 smaller than the holes, right? 21 A. True. Yes. 22 Q. You're not going to get a 23 watermelon seed out a little shaker that's 24 designed to put out little carrot seeds, 25 right?	Page 320 1 Q. I can probably put on two 2 paperclips and I'm still not going to get 3 anything on a bathroom scale, right? 4 A. Uh-huh. 5 Q. So whether or not the 6 measurement you're using is sensitive enough 7 to pick it up allows you to either say, you 8 know, put that on the bathroom scale, those 9 two paperclips, it will say zero, nondetect, 10 and you'd have zero, even though there's 11 something there. 12 Are you with me? 13 A. Yes. 14 Q. When if you put it on a more 15 sensitive scale, it might tell you that 16 you're at .01 gram, right? 17 A. Yes. 18 Q. So how you test for asbestos is 19 something that can be important because you 20 want to have a sensitive test. That's the 21 language that's used, right? 22 A. Yes. 23 Q. And some tests just aren't 24 sensitive enough, right? 25 A. Yes.
Page 319 1 A. True. 2 Q. Same principle is there with 3 like cooking, a lot of people who bake will 4 use scales to weigh out their ingredients. 5 A. Sure. 6 Q. There's a difference between a 7 bathroom scale that we might stand on that's 8 going to tell us how much we weigh and a 9 cooking scale that's going to tell us down to 10 the tenth of a gram how much something 11 weighs. 12 You follow me? 13 A. Yes. 14 Q. So, for example, I can take 15 this paperclip and it exists; it's for real, 16 right? 17 A. Yes. 18 Q. And if I put it on a 19 sensitive-enough scale, it's going to -- it's 20 going to show us it's there? 21 A. Yes. 22 Q. But I put this on a bathroom 23 scale, it's going to act as if there's 24 nothing there? 25 A. Yes.	Page 321 1 Q. So did you ever know 2 Dr. Blount? 3 A. No. 4 Q. Doesn't ring a bell? 5 A. No. 6 Q. A.M. Blount. 7 (Pooley Exhibit 38 marked for 8 identification.) 9 QUESTIONS BY MR. LANIER: 10 Q. I want to show you a paper by 11 Dr. Blount and I've -- the next exhibit 12 number is 38. So we'll mark it as 38. This 13 paper came out in 1991. I'm not throwing it 14 at you, but I'm trying to keep you from 15 having to get up. 16 And Dr. Blount in 1991 talked 17 about amphophile content of cosmetic and 18 pharmaceutical talc. 19 A. Uh-huh. 20 Q. Do you see that? 21 A. Yes. 22 Q. And this is a 1991 article. 23 She's in the geology department at Rutgers 24 University in Newark. 25 A. Yeah.

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1 Q. And she talks about how 2 important it is to use the right test or you 3 will get a finding that says there's no 4 asbestos when, in fact, there is asbestos. 5 A. Uh-huh. 6 Q. But you're not familiar with 7 her method, are you? 8 A. Nope. 9 Q. She says the method proposed by 10 the FDA is to weigh out 1 milligram of talc 11 on each of two microscope slides, mix the 12 talc with a needle on one slide, drop in some 13 liquid, and then start counting your fibers. 14 A. Uh-huh. 15 Q. Have you ever used that method? 16 A. No. 17 Q. Why not? 18 A. So you mix it on a slide with 19 what? 20 Q. It says mix it with one -- with 21 a drop of 1.574 refractive index liquid. 22 A. Right. 23 Q. And the other with 1.590 24 liquid. 25 A. Right.	1 are you? 2 A. No. 3 Q. And in that she finds a great 4 deal more asbestos present? 5 A. How does she identify the 6 asbestos? 7 Q. She does it off of shape, et 8 cetera, I'm sure. 9 A. Using an optical microscope? 10 Q. No, can't be only that. 11 Look at the conclusion. "The 12 results from this study demonstrate the 13 utility of the centrifuge method not only for 14 obtaining a count of particles, but also 15 obtaining information on the shape of 16 particles in a population." 17 Do you see that? 18 A. Beneath that table? 19 Q. It's at the very end, yes, sir. 20 A. Yeah. Yeah. 21 Q. And she's able to find things, 22 if you go to Table 1 -- 23 A. Table 1. 24 Q. -- that might be nondetect in 25 some but wind up with needles and fibers
Page 323	Page 325
1 Q. You've never done that? 2 A. No. 3 Then look at it with what? 4 Q. I would assume you're going to 5 scan them with a polarizing microscope. 6 A. Right. 7 Q. Now, have you ever done that? 8 A. No, we don't use optical 9 techniques to quantify asbestos. 10 Q. Yeah, it's not going to give 11 you much result, is it? 12 A. No. 13 Q. So there's got to be a better 14 way than that. And she goes through here and 15 she talks about another process, but you're 16 just not familiar with it, are you? 17 A. Yeah, I don't know what the 18 process is. 19 Q. She says, "High grade talc 20 products from five deposits, three in Vermont 21 {sic}, one in North Carolina and Alabama were 22 examined using the centrifuge optical 23 method." 24 A. Uh-huh. 25 Q. You're not familiar with that,	1 she's able to find. 2 A. Optically. 3 Q. Yeah. 4 A. Yeah. 5 Q. But you're not familiar at all 6 with this approach, are you? 7 A. No. 8 Q. Okay. 9 A. Optical microscopes aren't used 10 because they can't resolve finer fibers. 11 Q. Well, actually, though, the 12 company talked about using some stuff. 13 You used a preconcentration 14 method or you talked about using it. I don't 15 think you ever did, right? 16 A. No, we tested one, yeah. 17 Q. Yeah. 18 And Johnson & Johnson decided 19 not to have you use that test -- 20 A. Uh-huh. 21 Q. -- right? 22 A. Yep. 23 Q. So Pooley rejected the 24 preconcentration method. Rejected 25 preconcentration method.

Page 326 1 Right? 2 A. Yeah. 3 Q. And the reason you rejected it 4 is it was too sensitive; it was going to show 5 asbestos, right? 6 A. No. 7 Q. Sir, we've got the documents on 8 this. 9 A. Okay. Can you show me? 10 Q. Sure. 11 (Pooley Exhibit 39 marked for 12 identification.) 13 QUESTIONS BY MR. LANIER: 14 Q. Let me hand you a document that 15 we'll mark as Exhibit Number 39. It's a 16 Johnson & Johnson document. 17 Do you have it in front of you? 18 A. Yep. 19 Q. Okay. Let me zoom out here. 20 "Proposed specifications for analyzing" -- 21 hold on. I can fix it. I'm just going to 22 take this down. 23 It says, "Proposed 24 Specifications for Analyzing Talc for 25 Asbestos."	Page 328 1 asbestos in Vermont? 2 A. No, mineral. Tremolite 3 mineral. 4 Q. Look, it says, "Considering 5 method of preconcentrating the asbestos." 6 A. Yeah. 7 Q. I didn't make that word up. 8 A. No. 9 Q. Do you see it? 10 A. Yeah. 11 Q. And then it says, "They find no 12 asbestos by doing this with Italian talc. 13 They find .05 percent of a tremolite-type in 14 Vermont." 15 A. Yeah. 16 Q. Tremolite, of course, is what 17 the World Health Organization says is a 18 principal type or variety of asbestos, right? 19 A. They do in their document, 20 yeah. 21 Q. So J&J says, if you'll look on 22 page 3 of 7, "How are we going to do this? 23 How should we analyze our talc for asbestos?" 24 There are these different ways 25 of doing it. There's the USP method.
Page 327 1 A. Sure. 2 Q. Because this is where the 3 company gets to make a difference. I mean, 4 how are you going to do it? What kind of 5 scale are you going to use? 6 A. Uh-huh. 7 Q. You know, if you're going to 8 measure paperclips, you got to have the right 9 scale, right? 10 A. Yes. 11 Q. All right. So we're looking 12 here, again, at testing methods. Now, in 13 this regard, if you'll look on page 2, 14 Johnson & Johnson sends this out, 15 May 1963 {sic}. 16 Do you see that? 17 A. Yeah. 18 Q. All right. May of 1963 {sic}. 19 "England is considering method 20 of preconcentrating the asbestos to be able 21 to analyze by X-ray. They find, Pooley, 22 .05 percent of a tremolite-type in Vermont." 23 Do you see that? 24 A. Yes. 25 Q. You found a tremolite-type of	Page 329 1 There's step-scanning, preconcentration, the 2 Pooley method; differential thermal; 3 microscopy. 4 Do you see that? 5 A. Yeah. 6 Q. So they used the USP method, 7 for example, on page 4 of 7. We see using 8 this on Italian talc used in Shower to 9 Shower, there's a level of detectability of 10 1 percent for tremolite and 5 percent 11 chrysotile. 12 A. Uh-huh. 13 Q. Now, that's not adequate 14 because you're not going to see 1 percent of 15 tremolite or 5 percent of chrysotile. That's 16 not sensitive enough, right? 17 A. What, mineral? 18 Q. Yeah. 19 A. Or fiber? 20 Q. Either one. 21 A. Either one. 22 Q. It's not sensitive enough, is 23 it? 24 Fair? 25 A. Yeah.

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1 Q. Now, but if you look at page 5, 2 "Dr. Pooley has developed two techniques for 3 preconcentrating chrysotile and tremolite in 4 talc followed by X-ray diffraction analysis 5 that will detect up to .05 percent. When 6 this method is applied to Italian and Vermont 7 talc, no chrysotile is detected. The second 8 technique involves preconcentrating tremolite 9 in talc followed by X-ray. This technique 10 has not been written up yet, but evidently 11 when applied to Vermont talc, .05 percent of 12 tremolite-type is found. The limitation of 13 this method is it may be too sensitive." 14 A. Uh-huh. 15 Q. This is too sensitive. The 16 company is going to find it. 17 You don't want to find 18 asbestos, do you? 19 MR. BICKS: Objection to the 20 form. 21 QUESTIONS BY MR. LANIER: 22 Q. They never paid you to do that 23 method on their talc, did they? 24 A. No. 25 Q. You didn't do the method that	1 (Pooley Exhibit 40 marked for 2 identification.) 3 QUESTIONS BY MR. LANIER: 4 Q. Yeah. So they decide not to 5 do, but let me show you the reason why they 6 didn't use your method. It's Exhibit 40. 7 Exhibit 40, Johnson & Johnson, 8 1975, writing to Bob Rolle in New Brunswick, 9 New Jersey. 10 Do you see that? 11 A. Yeah. 12 Q. Look what he says, "I've also 13 enclosed our test method for the proposed 14 X-ray technique which was drawn up by Boots 15 Limited" -- 16 That's like a pharmaceutical 17 store? 18 A. Yeah. 19 Q. What we would call a drugstore, 20 except it's like a major one there, right? 21 A. Yes. 22 Q. -- "in conjunction with 23 Dr. Pooley. We deliberately have not 24 included a concentration technique as we felt 25 it would not be in worldwide company
Page 331	Page 333
1 they thought was too sensitive that might 2 actually find the presence of asbestos, did 3 you? 4 MR. BICKS: Objection to the 5 form. 6 QUESTIONS BY MR. LANIER: 7 Q. Right? 8 A. No, I didn't use that 9 technique. I developed it, but I didn't use 10 it. 11 Q. Yeah. 12 And the reason you didn't use 13 it is not only because it was too sensitive, 14 but it wasn't in the worldwide interests of 15 Johnson & Johnson; it wasn't in the company's 16 interests to do it, right? 17 A. I don't know. You better ask 18 the company. 19 Q. I mean, you understand if they 20 find asbestos in the product, it's going to 21 affect the sales pretty tremendously, right? 22 A. Oh, sure. I quite agree. 23 Q. Huh? 24 A. Yes, if you find asbestos 25 fibers. Yeah.	1 interests to do this. But Fred tells me 2 you're now considering such a test in the 3 USA." 4 Do you see that? 5 Do you see that? 6 A. Yep. 7 Q. In fact, in the US Johnson & 8 Johnson continued to be concerned because 9 they were afraid if the FDA used such a 10 concentration method -- or your 11 preconcentration method might actually show 12 asbestos? 13 MR. BICKS: Objection to the 14 form. 15 QUESTIONS BY MR. LANIER: 16 Q. Did you know about that? 17 A. No. 18 (Pooley Exhibit 41 marked for 19 identification.) 20 QUESTIONS BY MR. LANIER: 21 Q. Show you a document we'll mark 22 as Exhibit Number 41. 23 Johnson & Johnson, 1976, Baby 24 Products, "Attached is a copy of a disturbing 25 proposal request which the FDA has currently

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1 made available to qualified bidders. 2 Involves separating asbestos for identifying 3 and determining. I find this proposal more 4 disturbing than other proposals up to now 5 because it aims at separating and isolating 6 the asbestos." 7 Do you see? 8 A. Uh-huh. 9 Q. "As I've pointed out many 10 times, there are many talcs on all markets 11 which will be hard-pressed in supporting 12 purity claims when ultra-sophisticated assay 13 separation and isolation techniques are 14 applied." 15 Do you see where I'm reading? 16 A. Yeah. Yeah. 17 Q. "Chances are this FDA proposal 18 will open up new problem areas with asbestos 19 and talc minerals." 20 I mean, heavens, shouldn't the 21 company be -- do you see where I'm reading, 22 sir? 23 A. Yeah. Yeah. 24 Q. Shouldn't the company be trying 25 to figure out by the most sophisticated,	1 I want to talk to you about 2 integrity, and we've covered a lot of this, 3 but there's a couple of areas where we've not 4 covered it so far. 5 So here's our stop at 6 integrity. I want to talk about some data 7 and reports, the importance of consistency 8 being key and some warning areas. 9 Okay? 10 A. Yep. 11 Q. Consistency, so this is another 12 one of those where I want to challenge you a 13 little bit because I think that your 14 testimony is kind of perhaps gotten a little 15 clouded on an issue of tremolite, 16 specifically with regards to what you've said 17 in this litigation, and I want to make sure 18 we're real clear. 19 Fair? 20 A. Sure. 21 Q. So our subject matter here is 22 tremolite. Now, we've gone over and over 23 what the World Health Organization says about 24 it. 25 A. Uh-huh.
Page 335	Page 337
1 sensitive method possible does our baby 2 powder got asbestos in it that's going to 3 affect the health of the babies and the 4 mommas and dads who are using it? 5 MR. BICKS: Objection to the 6 form. 7 THE WITNESS: (Witness nods 8 head.) 9 QUESTIONS BY MR. LANIER: 10 Q. The company shouldn't -- you 11 nodded yes, but I have to have a verbal 12 answer. 13 A. Oh, sure. Yes. 14 Q. I mean, the company shouldn't 15 say, "Nah, that's too sensitive. We don't -- 16 it's not in the company's worldwide interests 17 to be doing this." The company ought to say, 18 "By golly, if it's in there, we want to 19 know," shouldn't they? 20 A. One would have thought, yeah. 21 Q. One would have thought. Thank 22 you. 23 All right. Let's move down the 24 road. These last two are not so long so I'm 25 actually getting near the end of the road.	1 Q. And I don't want to rehash 2 that. 3 A. Uh-huh. 4 Q. Okay? 5 But you said something when you 6 were hired by J&J yesterday, so this is 7 testimony that's being paid for by Johnson & 8 Johnson. 9 You said yesterday that there 10 was no dramatic biological response in Turkey 11 to tremolite exposure. 12 A. Yes. 13 And you're talking about a 14 mine? 15 Q. Yeah, that's where tremolite 16 itself -- dramatic -- 17 A. It's a location where tremolite 18 is mined, yeah. 19 Q. Right. 20 And you said there's no 21 dramatic biological response around tremolite 22 mines, around the Turkey tremolite mine. 23 A. Yeah. 24 Q. And that's one of the reasons 25 that you don't think tremolite is that bad?

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1 A. Not always bad. 2 Q. Yeah. But that's not the 3 truth. 4 A. Do you know another tremolite 5 mine? 6 Q. No, sir, but I know the Turkey 7 tremolite mine. 8 A. In Halaçlı, yeah. 9 Q. I've only got one copy of this, 10 so I'll pass it around, but I'm going to mark 11 it as Exhibit Number 42. 12 (Pooley Exhibit 42 marked for 13 identification.) 14 QUESTIONS BY MR. LANIER: 15 Q. Exhibit Number 42 is an article 16 in the British Journal of Industrial 17 Medicine. It's "an epidemiologic study in an 18 Anatolian village environmentally exposed to 19 tremolite asbestos." 20 A. Uh-huh. 21 Q. This is the Turkish area, isn't 22 it? 23 A. Well, it says it's in Turkey, 24 yes. 25 Q. "Tremolite's the most occurring	1 village with a population of just 425 2 people" -- 3 A. Yeah. 4 Q. -- "four cases of mesothelioma 5 occurring in four years is unusual." 6 You would agree that's 7 extremely unusual, wouldn't you? 8 MR. BICKS: Objection. It's 9 beyond the scope. 10 THE WITNESS: What is unusual? 11 What do you consider to be unusual? 12 The mesothelioma? 13 QUESTIONS BY MR. LANIER: 14 Q. Four out of 425 people. 15 A. Well, there are locations in 16 Turkey where there are higher numbers of 17 mesothelioma. 18 Q. Uh-huh. 19 Four out of 425, is there 20 anyplace in the world short of a -- I mean, 21 can you name any -- 22 A. Yeah. In Turkey, yeah. 23 Q. With greater than that? 24 A. In a village called Karaören in 25 Anatolia, they have 25 to 30 percent of the
Page 339	Page 341
1 of the amphophile asbestos minerals"? 2 A. That's right. 3 Q. Oh, it looks like it's not just 4 the World Health Organization that's calling 5 tremolite a principal variety of asbestos; 6 it's also being called that by the British 7 Journal of Industrial Medicine article here, 8 right? 9 A. Yeah. 10 Q. Now, it discusses the mine 11 there, and then it talks about the detection 12 of four cases of malignant pleural 13 mesothelioma in this village -- and how do we 14 pronounce that? 15 A. No idea. 16 Q. I think it's Çaparkayi. 17 Look at the discussion: 18 "Mesothelioma is rare. In the annual 19 incidence in populations with no exposure to 20 asbestos is one per million." 21 You agree with that, right? 22 A. Oh -- 23 Q. "The risk may be increased by a 24 factor of a thousand or more among those 25 heavily exposed to asbestos. In a small	1 deaths occurring, and that's a lot higher 2 than 4 in 400. 3 Q. But look at this: "The 4 villagers are not occupationally exposed to 5 asbestos, but fine and coarse tremolite 6 fibers were found in the bulk sample of the 7 white stucco and they inhale these fibers 8 from the walls of the house." 9 A. Right. 10 Q. Do you see that? 11 A. Yes. 12 Q. And so for you to say that 13 there's not been -- what was it you said? -- 14 no dramatic biological response around 15 tremolite? 16 A. Turkey mine, it's the variation 17 in location. I said there are -- there's a 18 village Karaören where 25 to 30 percent of 19 the deaths occurring in the village -- 20 Q. And it's from tremolite as 21 well? 22 A. No. 23 Q. Okay. But this is tremolite. 24 This is their only exposure. 25 A. You know, well, I'm just

Page 342 1 indicating that there are higher incidences 2 of mesothelioma in Turkey. 3 Q. From other asbestos exposures? 4 A. No, not asbestos. 5 Q. The evidence comes from reports 6 of increased rates of meso. It's talking now 7 about the amphophile form of asbestos is the 8 most important in forming meso, especially 9 crocidolite and amosite, but it talks about 10 how the asbestos mines were contaminated with 11 tremolite, which may be a better contaminant 12 than chrysotile for causing meso. 13 Do you see that? 14 A. Yeah. You've lost me. I don't 15 know what you're talking about, Turkey or 16 USA. 17 Q. Well, here's the bottom line in 18 the conclusion: "We believe, however, 19 tremolite fibers are the real cause of the 20 high incidence of mesothelioma." 21 To say that tremolite doesn't 22 cause meso, it does, doesn't it? 23 MR. BICKS: Objection to the 24 form. Beyond the scope. 25 THE WITNESS: Yes, if the dust	Page 344 1 QUESTIONS BY MR. LANIER: 2 Q. Well, sir, the tremolite that 3 you have found in this case -- you've 4 testified before that it's the tremolite that 5 causes meso, haven't you? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: If it's in a 9 fibrous form. 10 QUESTIONS BY MR. LANIER: 11 Q. Sir, here's testimony you gave 12 for the Kent cigarettes in California. It 13 was a deposition you gave in 1993. 14 A. All right. 15 Q. Frederick David Pooley. 16 Do you see that? 17 A. Yes. 18 Q. And if we go into this 19 deposition, on page 7, this was -- I'll have 20 to give you the deposition. It doesn't say 21 which case. It just gives the lawyers he 22 testified for. 23 You're asked on page 7: "Do 24 you have an opinion regarding whether 25 tremolite as a contaminant of chrysotile
Page 343 1 is of the right form. 2 QUESTIONS BY MR. LANIER: 3 Q. So tremolite, you will admit, 4 can cause mesothelioma, fair? 5 A. Yes. If it's in the right 6 fibrous dust form, yes. If you inhale it 7 long enough. 8 Q. Well, we'll get to that on the 9 cancer part. 10 A. Okay. 11 Q. You will admit that tremolite 12 is biologically active, right? 13 A. Fibers or nonfibers? 14 Q. Tremolite. 15 A. Well, tremolite in the 16 nonfibrous form, I don't know if anybody's 17 measured its activity. 18 Q. Well, you will testify that 19 exposure to tremolite alone can cause 20 mesothelioma, won't you? 21 MR. BICKS: Objection to the 22 form. Beyond the scope. 23 THE WITNESS: No, tremolite 24 fibers, the asbestiform. 25	Page 345 1 would be a cause of mesothelioma?" 2 A. Yes. 3 Q. "I believe that tremolite could 4 be the cause. We have evidence to show that 5 exposure to tremolite alone does cause 6 mesothelioma." 7 Do you see that? 8 A. Yes. 9 Q. Now, you don't say "fibers," 10 "nonfibers," make it this, make it that. You 11 just said tremolite alone, when you weren't 12 being paid by J&J, no fuss, no muss, no this 13 or that or the other, tremolite alone causes 14 meso, right? 15 MR. BICKS: Objection to the 16 form. 17 QUESTIONS BY MR. LANIER: 18 Q. Right? 19 A. Yeah. 20 Q. I mean, you're not hedging it. 21 You're not dancing it. You're not playing 22 any word games. You're straight up saying 23 exposure to tremolite alone can cause 24 mesothelioma, true? 25 A. If it's in a fibrous form, yes.

Page 346 1 Q. Where did it say "if it's in a 2 fibrous form"? 3 Where did you say that? 4 A. Where did I say -- 5 Q. Before you got paid by Johnson 6 & Johnson, where did you say that? 7 MR. BICKS: Objection to the 8 form. 9 THE WITNESS: Not in that 10 document, no. 11 QUESTIONS BY MR. LANIER: 12 Q. No. Not under oath in that 13 case, right? 14 MR. BICKS: Objection to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. In fact, you testified in the 18 Canadian mines that their mesothelioma was 19 caused by tremolite, didn't you? 20 A. Yes. 21 Q. And you say it over and over in 22 different depositions and testimony in 23 Alabama, in the Washington case in the year 24 2000, you gave a deposition. 25 Do you remember that?	Page 348 1 Right? 2 A. Yes. 3 Q. And the reason that it was 4 advantageous to who paid you in that case to 5 say it is because you had people exposed to 6 chrysotile asbestos and tremolite? 7 A. Uh-huh. 8 Q. And you were saying -- you were 9 hired by the chrysotile people. You said 10 it's not the chrysotile; it's the tremolite? 11 A. Yes. 12 Q. Remember? 13 A. Yes. 14 Q. Now, in this case you got 15 people exposed to tremolite, and you're 16 saying it's not the tremolite? 17 A. Tremolite was in a fibrous 18 asbestos, asbestiform. 19 Q. You don't identify the 20 tremolite there as a fiber? 21 A. No, but it was. In fact, I 22 published an article about it. 23 Q. Who is "they" in your sentence? 24 A. Sorry? 25 Q. Who is "they" in your sentence?
Page 347 1 A. No. 2 Q. Page 232, you said: "Do you 3 agree tremolite causes mesothelioma?" 4 MR. BICKS: Objection to the 5 form. 6 QUESTIONS BY MR. LANIER: 7 Q. Do you see it? 8 A. Yes. 9 Q. Your answer: "Yes. There are 10 one or two cases where it's possible to 11 attribute mesothelioma to the inhalation of 12 tremolite." 13 A. Yes, fibers. 14 Q. Where does it say "fibers"? 15 A. I know it doesn't say fibers, 16 but what I'm saying it's got to be in a 17 fibrous form. 18 Q. That's what you're saying now? 19 A. No, that's what I've always 20 said. 21 Q. Where does it say "fibers"? 22 A. It doesn't say on those -- in 23 those sentences. 24 Q. You swore to tell the truth in 25 these, the whole truth, right?	Page 349 1 A. I'm sorry, I'm not -- don't 2 follow you. 3 MR. BICKS: He said "I." He 4 said "I." 5 MR. LANIER: Oh, I'm sorry. 6 QUESTIONS BY MR. LANIER: 7 Q. If we go back to what you found 8 in the talc, it's not just tremolite that you 9 found, but you know that other asbestos 10 anthophyllite -- you found anthophyllite, 11 didn't you? 12 A. Where? 13 Q. In talc. 14 A. I may have in the past, yes. 15 Q. Yeah. 16 And you found it in finished 17 products or someone else did in 1976? 18 A. Yeah. 19 Q. Right? 20 You wrote it up as being 21 present in talc in 1992, anthophyllite. 22 See it? 23 See it? 24 A. Yeah. I can see where you've 25 written it, yes.

Page 350 1 Q. Well, you've testified in other 2 cases anthophyllite causes meso, right? 3 A. I don't think so. 4 Q. Your deposition in the Greear 5 versus Union Carbide case, 1989, page 27: 6 "Are you of the opinion that anthophyllite is 7 capable of causing meso?" 8 What did you say? 9 A. "Yes." 10 Q. All right. So I just asked 11 you, you've testified before that 12 anthophyllite can cause meso. You said: "I 13 don't think so." 14 Yes, you have, haven't you? 15 A. Again, it's in the fibrous 16 form. 17 Q. No, sir, that's not what it 18 said. 19 A. I know it doesn't say it, but 20 it should say it. 21 Q. Well, even still the 22 anthophyllite that you found and others have 23 found in talc is in a fibrous form. We saw 24 that earlier in the reports. 25 Do I need to pull them back	Page 352 1 break? 2 THE WITNESS: No. No, don't 3 worry. 4 QUESTIONS BY MR. LANIER: 5 Q. I asked you yesterday about 6 the -- and this is part of integrity. 7 I asked you yesterday about 8 this and does -- do these things cause 9 cancer, et cetera, and what is asbestos and 10 what isn't. And even today you said, well -- 11 well, what was it you said yesterday? 12 Yesterday you said to cause 13 cancer you need to have breathed enough of 14 it; that there's a safe level? 15 A. Yeah. 16 Q. Remember that? 17 MR. BICKS: Again, object to 18 the form as beyond the scope. 19 QUESTIONS BY MR. LANIER: 20 Q. Well, sir, that's what you've 21 been testifying about all day is whether or 22 not there's a safe amount or whether it's 23 safe to have the asbestos in the product, 24 right? 25 MR. BICKS: Objection to the
Page 351 1 out? 2 MR. BICKS: Objection to the 3 form. 4 QUESTIONS BY MR. LANIER: 5 Q. So, sir, the bottom line is, is 6 these asbestos varieties that the World 7 Health Organization all cause mesothelioma 8 cancer, ovarian cancer, these types of 9 things, you've even said in other cases when 10 you weren't paid by J&J they cause cancer, 11 haven't you? 12 MR. BICKS: Objection to the 13 form. 14 THE WITNESS: When they were -- 15 when they were in the asbestiform, 16 yes. 17 QUESTIONS BY MR. LANIER: 18 Q. No, sir. You said it period. 19 Asbestos, cancer. 20 Now, in this regard -- 21 MR. BICKS: Can I just ask how 22 much more you have? Because -- 23 MR. LANIER: I probably got 24 another 45 minutes. 25 MR. BICKS: You want to take a	Page 353 1 form. 2 THE WITNESS: No. 3 QUESTIONS BY MR. LANIER: 4 Q. What? 5 A. I've been testifying on the 6 presence or not of asbestiform amphotile or 7 other asbestos. 8 Q. Because it's not just IARC, 9 it's not just the World Health Organization 10 that says all of these forms of minerals are 11 asbestos and they all cause cancer. 12 You get that with there being 13 no safe level from a number of different 14 organizations, don't you? 15 MR. BICKS: Objection to the 16 form. 17 THE WITNESS: I have no idea. 18 QUESTIONS BY MR. LANIER: 19 Q. You didn't know that's what the 20 US government says, NIOSH, that there's no 21 safe level? 22 A. No, I didn't know that. 23 Q. You didn't know that's what the 24 Surgeon General says? 25 A. Nope.

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1 Q. You didn't know that's what the 2 Joint Policy Committee, Society of 3 Epidemiology says? 4 A. No. 5 Q. You didn't know that's what 6 OSHA says? 7 A. No. 8 Q. You didn't know that's what NTP 9 says? 10 MR. BICKS: Objection to the 11 form as outside of the scope. 12 QUESTIONS BY MR. LANIER: 13 Q. You didn't know that? 14 A. No. 15 Q. In fact, look at the NTP. They 16 specifically say -- and this is the national 17 report on carcinogens talking about asbestos. 18 I'll pass you over some of these. This 19 should be a couple of sets. I'll mark mine. 20 You-all can figure that out, but I'll mark 21 this as Exhibit Number 43. 22 (Pooley Exhibit 43 marked for 23 identification.) 24 QUESTIONS BY MR. LANIER: 25 Q. So this is the National	1 actinolite, amosite, anthophyllite, 2 crocidolite and tremolite." 3 A. Yes. 4 Q. Do you see that? 5 A. Yep. 6 Q. It says that all of the 7 tremolite is fibrous, doesn't it? 8 MR. BICKS: Objection to the 9 form. 10 THE WITNESS: All of the 11 tremolite is fibrous? 12 QUESTIONS BY MR. LANIER: 13 Q. Yes, sir. It's asbestos. 14 MR. BICKS: Objection to the 15 form. 16 THE WITNESS: Five fibrous 17 amphophile minerals. I think what 18 it's really saying is that if 19 tremolite is in a fibrous form. 20 QUESTIONS BY MR. LANIER: 21 Q. Sir, what do you mean when you 22 say "fibrous form" and give me the reference 23 for it? 24 You keep saying "fibrous form." 25 What is a fibrous -- what do you mean by
Page 355	Page 357
1 Institute of Health in the United States, 2 Report on Carcinogens, Asbestos. 3 Do you see where I am? 4 You got a copy of it, sir? 5 A. Is this the -- 6 Q. It's the report on carcinogens 7 from the US government's National Institute 8 of Health. This is the asbestos. 9 "Asbestos and all commercial 10 forms of asbestos are known to be human 11 carcinogens." 12 Do you see that? 13 A. Oh, sorry, I've got several 14 documents here. Yeah. 15 Q. Do you see where it says 16 asbestos, it's known to be human carcinogens, 17 cancer-causers? 18 A. Oh. Yes. Yes. I got it now, 19 yeah. 20 Q. And if you look under 21 properties, look what it says: "Asbestos is 22 the generic name for a group of six naturally 23 occurring fibrous silicate minerals including 24 the fibrous serpentine mineral chrysotile and 25 the five fibrous amphophile minerals	1 "fibrous form"? 2 A. Well, if you break up the 3 mineral, you create a population of fibers. 4 Q. All right. Wait, fibrous form, 5 by your definition, means if you break it 6 up -- 7 A. Yeah. 8 Q. -- you get fibers? 9 A. That's right, yeah. 10 Q. And you're saying that there's 11 tremolite when you break it up, it doesn't 12 become fibers? 13 A. Yes. 14 Q. What does it become? 15 A. Just becomes irregularly shaped 16 particles. 17 Q. Define fiber. 18 A. Define fiber? 19 Q. Yeah. What do you mean when 20 you say "if you break it up, you get fibers"? 21 A. Well, it produces particles 22 with a length to width ratio which is greater 23 than 3 to 1. 24 Q. You're saying that it only 25 causes cancer if the length, l-e-n-g-t-h, to

Page 358 1 width is greater -- 2 A. Greater than 3 to 1. 3 Q. -- than 3 to 1? 4 A. Yeah. 5 Q. So if it's a 2.9 inches long -- 6 or microns long -- 7 A. Yeah. 8 Q. -- and 1 micron wide -- 9 A. Yeah. 10 Q. -- it does not cause meso, 11 doesn't cause cancer, according to Fred 12 Pooley? 13 A. That's right. 14 Q. But if it is 3 microns long and 15 1 micron wide, it does cause cancer? 16 A. It has a greater propensity to 17 cause cancer. The longer of fiber, the 18 greater the propensity. 19 Q. Okay. Well, no, you just said 20 that it doesn't cause cancer at all at 2.9. 21 A. I know, because it's not 22 classified as a fiber there. 23 Q. By you? 24 A. Yeah. No, I think it's -- 25 that's part of the definition of --	Page 360 1 A. What, definition of a fiber? 2 Q. Yeah. That it won't cause 3 cancer if it's 2.9 microns but it will if 4 it's 3? 5 A. 3 to 1 actual ratio. 6 Q. Yeah, where does that -- by the 7 International Agency for the Research of 8 Cancer, IARC, where do they say it? 9 A. That's just a definition of the 10 fiber. 11 Q. No, where do they say it won't 12 cause cancer? 13 Look, where do they give you 14 this conclusion? 15 I mean, that's just made up by 16 you and the asbestos companies. 17 MR. BICKS: Objection to the 18 form. 19 THE WITNESS: Well, okay. 20 QUESTIONS BY MR. LANIER: 21 Q. I mean, tell me anybody, other 22 than someone testifying for an asbestos 23 company, that says that. 24 MR. BICKS: Objection to the 25 form.
Page 359 1 Q. From who? Show me where that 2 is by the National Institute of Health in 3 here. 4 MR. BICKS: Objection to the 5 form. 6 QUESTIONS BY MR. LANIER: 7 Q. Show me where that is, sir. 8 A. I have no idea. 9 Q. Show me where that is from the 10 World Health Organization. 11 A. Well, they don't bother with 12 dimensions at the World Health Organization. 13 Q. Yeah. 14 Show me where that is -- you're 15 familiar with IARC? 16 A. Yes, very much so. 17 Q. Why don't you tell the jury who 18 IARC is? 19 A. The International Agency for 20 Research on Cancer. 21 Q. All right. The International 22 Agency for the Research on Cancer, where do 23 they come up with this idea? 24 Where do they say any of this 25 stuff you're talking about?	Page 361 1 QUESTIONS BY MR. LANIER: 2 Q. Can you think of anybody? 3 A. HIRA, HOIRA, American 4 Hygiene -- the rules for counting asbestos. 5 Q. I'll even go to the Collegium 6 Ramazzini. 7 A. Oh, yeah. 8 Q. We'll go to Italy, place of the 9 mines you were testifying about. I'll mark 10 theirs as exhibit number next. Here, here's 11 a complete set for you and the lawyers. 44, 12 Exhibit 44. 13 (Pooley Exhibit 44 marked for 14 identification.) 15 QUESTIONS BY MR. LANIER: 16 Q. Even the Collegium Ramazzini in 17 their official position on the global health 18 dimensions of asbestos, the Collegium has 19 taken this position: "Based on 20 well-validated scientific evidence showing 21 all types of asbestos, including chrysotile, 22 the most widely used, cause cancers such as 23 mesothelioma and lung cancer, and there's no 24 safe level of exposure." 25 Do you see that?

Page 362 1 A. Yeah. 2 Q. It doesn't say it's got to be a 3 3 to 1 ratio, does it? 4 A. They're entitled to say what 5 they like. 6 Q. The Center for Disease Control 7 in the United States, the CDC, is associated 8 with the EPA and everybody else. Here's a 9 bunch of those. We'll mark them as Exhibit 10 Number 45. 11 (Pooley Exhibit 45 marked for 12 identification.) 13 QUESTIONS BY MR. LANIER: 14 Q. We've got OSHA, the EPA, the 15 National Institutes of Health, CDC. 16 "There is no safe level of 17 asbestos exposure." It doesn't say it's got 18 to be a 3 to 1 ratio, does it? 19 MR. BICKS: Objection to the 20 form. 21 So we should probably take a 22 couple-minute break. 23 MR. LANIER: Well, not while 24 the question is pending. 25 MR. BICKS: All right. Well,	Page 364 1 have to be at a 3 to 1 ratio, does it? 2 A. No. 3 MR. BICKS: Objection to the 4 form. 5 QUESTIONS BY MR. LANIER: 6 Q. Gives you studies in people 7 that show mesothelioma can be associated from 8 this. Tells you ovarian cancer can be 9 associated with this. 10 Do you see that? 11 MR. BICKS: Objection to the 12 form. 13 QUESTIONS BY MR. LANIER: 14 Q. Do you see it, sir? 15 A. Uh-huh. 16 Q. You got to answer out loud. 17 A. Yes. 18 MR. LANIER: I mean, 19 nobody's -- this is -- all right. 20 We'll pick back up here. I think your 21 counsel wants a break. 22 VIDEOGRAPHER: All right. The 23 time is 3:24 p.m. We're going off the 24 record. 25 (Off the record at 3:24 p.m.)
Page 363 1 we've been going over two hours. 2 QUESTIONS BY MR. LANIER: 3 Q. You see it, sir? 4 It doesn't say it's got to be a 5 3 to 1 ratio, does it? 6 I'm sorry? 7 A. No. 8 Q. Australian government doesn't 9 say it's got to be a 3 to 1 ratio. The 10 American Cancer Society doesn't say it, do 11 they? 12 A. No. 13 Q. I mean, the American Cancer 14 Society, there's a set of those. Mark it as 15 Exhibit 46. 16 (Pooley Exhibit 46 marked for 17 identification.) 18 QUESTIONS BY MR. LANIER: 19 Q. The American Cancer Society 20 says, "Asbestos, several types of amphophile 21 fibers, including amosite, crocidolite, 22 tremolite, actinolite, anthophyllite." 23 Do you see that? 24 A. Yes. 25 Q. Doesn't say that these fibers	Page 365 1 VIDEOGRAPHER: Okay. We're 2 back on the record. The time is 3 3:31 p.m. 4 QUESTIONS BY MR. LANIER: 5 Q. Okay. We were stopping at 6 integrity on the road and we had talked about 7 the importance of consistency. 8 This, again, goes back to your 9 opinion shouldn't change just because someone 10 else is paying you, right? 11 A. Uh-huh. 12 Q. Correct? 13 A. Yes. 14 Q. I don't mean to be impertinent 15 there, but uh-huhs and huh-uhs read a lot 16 alike so we always have to get in a yes or 17 no. 18 Now, I want to talk to you then 19 about also on this integrity stop, data and 20 reports, and you looked at a lot about the 21 Val Chisone mine, that Italian mine, where 22 you spent, oh, I thought it sounded like 23 years there. 24 You didn't live in Italy for 25 years, did you?

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1 A. No. 2 Q. Okay. So you were in the Val 3 Chisone mine. 4 How many times did you go over 5 there? 6 A. I think I went twice to the 7 mine. 8 Q. Oh, okay. So this -- this 9 wasn't for years you were working on it? 10 A. No. Only on the samples. 11 Q. Only on the samples? 12 A. Yeah. 13 Q. Well, who did more work on the 14 Val Chisone mine than you did? 15 A. I have no idea. 16 Q. How about the people who run 17 the Val Chisone mine? 18 A. I've actually never seen what 19 work they actually did. 20 Q. Whoa. Okay. Timeout. This is 21 important. 22 You've never seen the work done 23 by Val Chisone? 24 A. No. 25 Q. So Johnson & Johnson didn't	1 So just so that we're real 2 clear, even though you may not have seen it, 3 you did see -- found tremolite? 4 A. Yes. 5 Q. It's just your opinion that it 6 wasn't of the right size to where you were 7 going to say that it was asbestos? 8 A. It wasn't asbestiform, no. 9 Q. It wasn't the right size for 10 you? 11 A. It wasn't asbestiform. 12 Q. Asbestiform? 13 A. Yes. 14 Q. Yeah, there's just a difference 15 in those words. I just want to make it real 16 clear. You're not saying it wasn't asbestos. 17 You're saying that -- you've got a -- there's 18 the word "asbestos," which is referring to 19 the mineral, and the asbestos mineral 20 includes tremolite, right? 21 A. Yeah. 22 Q. And then you've got another 23 word you used called "asbestiform." 24 A. Yes. 25 Q. And that's where you wanted to
Page 367	Page 369
1 give you that? 2 A. No. 3 Q. See, because I was concerned 4 about it when I heard you say that Johnson & 5 Johnson -- based on your knowledge, if 6 Johnson & Johnson, if an issue had been 7 identified, then they'd take action. 8 A. Yeah. 9 Q. And your idea that Johnson & 10 Johnson was a reasonable company who never 11 pressured you to come up with answers in any 12 of your own tests. 13 A. Yeah. 14 Q. And that Johnson & Johnson was, 15 you know, reasonable in their behavior and 16 what they did and they put safety first, but 17 they never showed you the work by the mine 18 company? 19 A. No. 20 Q. Okay. As a sidenote, you did 21 find tremolite in Val Chisone, didn't you? 22 A. Yeah, I think -- yeah, excuse 23 me, one of the mineral samples, yeah, we 24 took. 25 Q. Yeah.	1 have your size? 2 A. And appearance, yeah. 3 Q. Yeah. 4 A. Fibers. 5 Q. Fibers? 6 A. Yeah. 7 Q. 3 to 1? 8 A. Yeah. 9 Q. Ratio? 10 A. Yeah, particles below that size 11 ratio wouldn't be -- 12 Q. Asbestiform by your 13 definition -- 14 A. Yeah. 15 Q. -- though, they're still 16 asbestos? 17 MR. BICKS: Objection to the 18 form. 19 QUESTIONS BY MR. LANIER: 20 Q. In terms of the mineral, the 21 mineral structure hasn't changed, right? 22 A. Yeah. 23 Q. Right? 24 A. Nope. 25 Q. I'm not right?

Page 370 1 A. No, I said -- 2 Q. Am I correct, the mineral 3 hadn't changed? 4 A. Tremolite mineral is tremolite 5 mineral. 6 Q. Thank you. 7 A. And then there's tremolite 8 asbestos, which is also tremolite mineral, 9 but it's of -- it produces fibers of 10 particular form. 11 Q. Well, that's something you will 12 at least agree is open to academic debate, 13 right? That's an argument made by the 14 asbestos companies? 15 MR. BICKS: Objection to the 16 form. 17 QUESTIONS BY MR. LANIER: 18 Q. Right? 19 A. Yeah. 20 Q. Right? 21 A. I have no idea. 22 Q. So here's the deal: Did the 23 company ever give you the booklet that the 24 Val Chisone mine wrote about their 25 contaminants?	Page 372 1 A. Where is that? 2 Q. It's on the very title. That's 3 the title of it. So this should be 47? 4 This is Exhibit 47, sir. I'm 5 going to pass you this sticker and let you 6 fix -- let me -- thank you. 7 Let me fix this as Exhibit 8 Number 47 and that means -- I'm sorry, I'm 9 out of these, again, Carrie. 10 So here we've got Exhibit 11 Number 47, and Exhibit Number 47 talks about 12 the impurities present in their talc mine 13 there at Val Chisone. 14 Do you see? 15 A. Yes, impurities present, yes, 16 in talc. 17 Q. And it's published by the 18 Society -- Societa Talco e Grafite Val 19 Chisone? 20 A. Yeah, that's the company. 21 Q. Uh-huh. That owns the mine? 22 A. Yeah. 23 Q. So here's a Practical Guide to 24 the Impurities in the Talc. 25 You see?
Page 371 1 A. No, I haven't seen that. 2 (Pooley Exhibit 47 marked for 3 identification.) 4 QUESTIONS BY MR. LANIER: 5 Q. I'll mark it as Exhibit 6 Number 44. And in all of those documents -- 7 if you'll pass two of them down, please. 8 In all of those documents that 9 you went over with Mr. Bicks, the 11 hours of 10 documents that they paid you \$300 an hour to 11 look at, all of the rest of that, no one ever 12 showed you this document put out by the Val 13 Chisone mine that I've marked as Exhibit 14 Number 44? 15 A. Uh-huh. 16 Q. Is that correct? 17 A. Yeah. I think it is, yeah. 18 Q. So this is your first time to 19 see what the people who run the mine, not 20 people who visited twice in their life? 21 A. Yeah. 22 Q. But the people who run the mine 23 have to say about the impurities in their 24 talc, the harmful elements. 25 Do you see that?	Page 373 1 And you can just tell by 2 looking at the index they've got chrysotile. 3 That's asbestos, isn't it? 4 A. Yeah. 5 Q. They've got amphophile fibers. 6 Actinote, that's asbestos, isn't it? 7 A. I have no idea. What are you 8 looking at? 9 Q. I'm looking at the index on 10 page 3 of 31. I've got it up here for you if 11 that helps. 12 It says, "Summary." 13 A. Oh, yeah. Yes. Yes. I'm with 14 you now. 15 Q. And it's got fibers and small 16 scales from tremolite. 17 Do you see that? 18 A. Summary. Oh, yes, all right. 19 I'm with you. 20 Q. Now, your testing was not 21 sensitive enough to find the tremolite 22 fibers, but the mine company knew they had 23 them, didn't it? 24 MR. BICKS: Objection to the 25 form.

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1 MR. BECKER: Object to the 2 form. 3 QUESTIONS BY MR. LANIER: 4 Q. You see? 5 A. Yeah. 6 Q. And if you go to page 6, they 7 give some definitions, and the definition of 8 tremolite is given. 9 A. Uh-huh. 10 Q. "Tremolite is the name given to 11 the monoclinic amphibole resulting from," 12 and then it gives the chemical formula? 13 A. Yep. 14 Q. "It's formed in very long, 15 bacillary crystals, mostly aggregated or 16 fasciculated, that are white in color." 17 A. Yeah. 18 Q. And then it gives the 19 actinolite definition next. 20 Do you see that? 21 A. Yes. 22 Q. And it's -- so we've got those, 23 and then if you'll go to page 27 of 31 -- no, 24 page 27 of the booklet, which is page 22 of 25 31. "Talc impurities, very hard silicates as	1 talcs have a hard silicate content reaching 2 also the 10 percent tremolites and 3 chrysotiles. 4 MR. BICKS: Objection to the 5 form. 6 QUESTIONS BY MR. LANIER: 7 Q. I'm not sure that's their talc, 8 that may be other talcs outside of theirs, 9 but they're aware of this concern, aren't 10 they? 11 MR. BICKS: Objection. 12 MR. BECKER: Object to the 13 form. 14 QUESTIONS BY MR. LANIER: 15 Q. Do you see that, sir? 16 A. Yeah, I can see it. Yeah. 17 Q. Now, Mr. Bicks asked you how 18 would Johnson & Johnson react if they found 19 this out. We know one thing, they won't tell 20 you about it. 21 They didn't tell you about this 22 booklet, did they? 23 A. No. 24 MR. BICKS: Objection to the 25 form.
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1 chrysotiles and tremolites of amphibolitic 2 derivation namely with strict asbestos 3 content." 4 Do you see that? 5 A. Uh-huh. 6 Q. You and Mr. Bicks spent like 7 30 minutes going through all of your Val 8 Chisone experience that Mr. Bicks 9 characterized as two years. It's really two 10 visits with a handful of samples. 11 A. Uh-huh. 12 Q. But the people who made the 13 mine, who run the mine, they put out their 14 own report saying that it had tremolites and 15 chrysotiles. 16 MR. BECKER: Object to form. 17 QUESTIONS BY MR. LANIER: 18 Q. Do you see that? 19 MR. BICKS: Yeah, object to 20 form. 21 THE WITNESS: Yeah, they made a 22 listing here of talc impurities. 23 QUESTIONS BY MR. LANIER: 24 Q. And, in fact, if you go to the 25 next page as per the analysis, many of their	1 THE WITNESS: I've never seen 2 this before. 3 QUESTIONS BY MR. LANIER: 4 Q. In fact, the booklet was 5 written in Italian. 6 Did you know that? 7 A. No. 8 Q. And then it was being 9 translated into English and this English 10 translation, Johnson & Johnson found out 11 about it. 12 Did you know that? 13 A. No. 14 MR. BICKS: Objection to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. And Mr. Bicks said: "Well, 18 what do you think Johnson & Johnson would do 19 if they found out maybe they had -- there was 20 asbestos in their talc," and I suggested to 21 you that we could look and see from 22 experience what they would do. 23 Remember our conversation about 24 that? 25 A. Sure.

Page 378 1 (Pooley Exhibit 48 marked for 2 identification.) 3 QUESTIONS BY MR. LANIER: 4 Q. Let me hand you document 5 number 48 and I'll show you what they did 6 when they realized this was getting out 7 there. 8 Here's Exhibit 48, 1974. "This 9 will confirm yesterday's discussion between a 10 bunch of folks regarding the principal 11 objective of your trip to Italy in two weeks' 12 time." 13 A. Uh-huh. 14 Q. "It was agreed you would 15 provide technical support to Don Ferry in his 16 meetings and discussions with the mine 17 principals regarding their recent 18 publication, 'Practical Guide to the 19 Recognition of Impurities in Talc.'" 20 Do you see that? 21 A. Yes. 22 Q. "In the light of the current 23 talc antagonist climate, you and Don have 24 undertaken to explain the potential impact 25 and harm which may result from their booklet	Page 380 1 to you, did they? 2 A. No. 3 Q. I mean, you understand the 4 booklet raises doubts about the purity of the 5 talc? 6 MR. BECKER: Object to form. 7 QUESTIONS BY MR. LANIER: 8 Q. Right? 9 A. Yes. 10 Q. Did you know that the company 11 successfully stopped the booklets from 12 getting distributed in English? 13 MR. BICKS: Objection to the 14 form. 15 THE WITNESS: No idea, no. 16 (Pooley Exhibit 49 marked for 17 identification.) 18 QUESTIONS BY MR. LANIER: 19 Q. Yeah. 20 I mean, if you want to know 21 what the company does or the jury wants to 22 know what the company does when they get this 23 reaction, maybe we could look at Exhibit 24 Number 49, fair? 25 If you look at the paper trail?
Page 379 1 calling attention to the impurities in talc." 2 Do you see that? 3 A. Yes. 4 Q. "It was Mr. Ferry's intent to 5 solicit removal of these booklets from 6 distribution." 7 Do you see where I'm reading? 8 A. (Witness nods head.) 9 Q. Yes? 10 A. Yes. 11 Q. So the company finds out that 12 this booklet in Italian has now been put into 13 English and they're sending people over to 14 try to stop the booklets from being 15 distributed because it would have impact and 16 harm. 17 Do you see that? 18 MR. BICKS: Objection to the 19 form. 20 THE WITNESS: I have no idea. 21 QUESTIONS BY MR. LANIER: 22 Q. Well, I mean, it's what it says 23 right here. 24 A. Okay. If you say so. 25 Q. And they never gave the booklet	Page 381 1 A. Yep. 2 Q. All right. Here's Exhibit 3 Number 49. And this tells us how the company 4 reacts when they get notice like this. 5 You got it in front of you? 6 A. Yeah. 7 Q. Subject, the publication we're 8 talking about on Val Chisone? 9 A. Right. 10 Q. See it? 11 "Dear Mr. Lee, I visited the 12 management, the mines, the mills of our 13 Italian talc source with Mr. Ferry, the US 14 agent. Our objective was to forestall the 15 upsetting impact which distribution of a 16 recent publication will have on the world 17 talc market. Dr. Stefano of Monte Carlo 18 accompanied us as interpreter and joint 19 friend." 20 Do you see that? 21 A. Yeah. 22 Q. "The business threat with the 23 Italian publication" -- 24 And then it gives the title. 25 It's the one we're looking at, right?

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1 A. Uh-huh. 2 Q. -- "is that it can raise 3 doubts on the validity of the documentation 4 of purity and safety of talc, which we've 5 established both here with the FDA and in 6 England." 7 Are you reading with me? 8 A. Yes. 9 Q. "The Italian publication raises 10 those doubts because it singles out Italian 11 SVC talc as the purest and best in the 12 world." 13 Do you see that? 14 A. Yes. 15 Q. "But even still, it's got 16 traces of the chrysotile asbestos." 17 Do you see that? 18 MR. BICKS: Objection to the 19 form. 20 MR. BECKER: Object to the 21 form. 22 THE WITNESS: I see, yes. 23 QUESTIONS BY MR. LANIER: 24 Q. It says, "It states SVC talc 25 has only traces of chrysotile asbestos."	1 form. 2 MR. BECKER: Object to the 3 form. 4 QUESTIONS BY MR. LANIER: 5 Q. Did you know that? 6 I mean, sir, if we're talking 7 about integrity and the Val Chisone mine, you 8 don't go and edit out and stop publication of 9 scientific material, true? 10 MR. BICKS: Objection to the 11 form. No foundation. 12 MR. BECKER: Object to the 13 form. 14 THE WITNESS: I would have 15 thought not. 16 QUESTIONS BY MR. LANIER: 17 Q. Yeah. 18 So with all of that talk about 19 Val Chisone, you will agree for integrity 20 sake you don't stop publication of science; 21 whether you agree with the view or not, let 22 every view be out there, fair? 23 A. Sure. Yeah. Yeah. 24 Q. By the way, why did you enter 25 into an agreement where you wouldn't publish
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1 It's got them, though, right? 2 A. Yeah. 3 Q. "It calls undue attention to a 4 host of trace metals in talcs and brands them 5 as harmful elements." 6 A. Yes. 7 Q. "Our deliberations with the 8 Italian staff were concluded successfully. 9 We achieved our objective with these three 10 main points of agreement: Italian management 11 will stop distribution of all English 12 versions of the publication effective last 13 Wednesday." 14 A. Yeah. 15 Q. Again, they didn't give it to 16 you, did they? 17 A. No. 18 Q. "Mr. Ferry and I agreed to 19 undertake the responsibility of rewriting the 20 publication for English-speaking countries." 21 Do you see that? 22 A. Yeah. 23 Q. Take out the asbestos 24 impurities? 25 MR. BICKS: Objection to the	1 any report of anything you did on Johnson & 2 Johnson's material without their okay? 3 A. Yeah. Well, I didn't enter 4 into an agreement. The university might 5 have. 6 Q. I mean, you were asked by 7 Mr. Bicks if the company tried to affect what 8 you wanted to write or say or publish, you 9 would give them, I think you said, the two 10 fingers? 11 A. Yeah. 12 (Pooley Exhibit 50 marked for 13 identification.) 14 QUESTIONS BY MR. LANIER: 15 Q. Here's Exhibit Number 50. 16 That's your contract, and I don't see the two 17 fingers in here. 18 Here's what you were operating 19 under. 20 A. Yeah. 21 Q. This is your agreement you were 22 operating under, right? 23 A. I don't know. I didn't produce 24 this document. 25 Q. It's a Johnson & Johnson one

Page 386 1 that's considered confidential and we're not 2 allowed to take it out publicly. They want 3 to keep this one private and protected. 4 A. Yeah. 5 MR. BICKS: Objection to the 6 form. 7 QUESTIONS BY MR. LANIER: 8 Q. You see? Unless they're 9 willing to waive that confidentiality 10 requirement, but I think that they want to 11 keep this confidential. 12 And they said -- we got to quit 13 laughing for a minute. Get back serious 14 again. 15 Sir, here's their offer to 16 provide financial assistance for a research 17 assistantship program? 18 A. Yes. 19 Q. "The details of the program are 20 going to be settled by Dr. Pooley and Johnson 21 & Johnson." 22 A. Yeah. 23 Q. Do you see that? 24 "This is something that will be 25 under the general direction and project	Page 388 1 A. But they didn't. 2 Q. They didn't have to? 3 A. No -- 4 Q. You already wrote everything 5 they wanted? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: The information 9 was published. 10 QUESTIONS BY MR. LANIER: 11 Q. You're not going to deliver any 12 lectures or make any verbal communications on 13 the subject of the program, which is the 14 asbestos and the talc, without written 15 approval of the company. 16 Do you see that? 17 A. Uh-huh. 18 Q. So if we really want to know -- 19 by the way, in terms of integrity, wouldn't 20 you think it's important not only that you 21 don't stop the publication of science, but a 22 company should not be dictating what an 23 independent scientist writes? 24 MR. BICKS: Objection to the 25 form.
Page 387 1 leadership of Dr. Pooley." 2 A. Yeah. 3 Q. Something where the company is 4 going to pay the university money? 5 A. Yeah. 6 Q. "All papers, publications and 7 reports written by Dr. Pooley or the student 8 or anyone else connected with the program 9 will be regarded as confidential and will not 10 be published in any form without prior 11 written consent of the company." 12 A. Yeah. 13 Q. "The company is empowered to 14 withhold such permission or to require the 15 university to incorporate any reasonable 16 amendments which the company might suggest." 17 Do you see that? 18 A. Yeah. 19 Q. They got to dictate what you 20 wrote and published? 21 A. No. 22 Q. They got to require you to 23 incorporate what they wanted to say? 24 A. No. 25 Q. It's what it says.	Page 389 1 QUESTIONS BY MR. LANIER: 2 Q. Would you agree with that? 3 A. Oh, yeah. If you take on -- in 4 the interest if you take on work financed by 5 a company, then the -- the data, et cetera, 6 is the -- resides with the research worker. 7 Q. Well, not just the data? 8 A. Yeah. 9 Q. Any lecture, any article you 10 write? 11 A. Yeah. Yeah. 12 Q. They get to insert anything 13 they want? 14 A. If they -- well, they can 15 suggest. 16 Q. No, they can require I think 17 was -- 18 A. Okay. 19 Q. -- the word. Require, right? 20 A. Yeah. Yeah. 21 Q. See, because you were asked -- 22 and this still goes to the integrity stuff. 23 You were asked toward the end by Mr. Bicks: 24 "Was there any effort by anybody at J&J if 25 you saw something that was a problem or that

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1 you were concerned about to not have you 2 communicate it to them." 3 Remember that? 4 A. No, we were never placed in 5 that position. 6 Q. Well, actually, sir, you were. 7 Let me see if I can help you. 8 Let's do it this way. Here's my note at the 9 bottom. 10 You remember Edinburgh? 11 A. Yeah. 12 Q. I've always wondered, do you 13 pronounce it Edinburgh or Edinburgh? 14 A. Edinburgh. 15 Q. Edinburgh. 16 Because this goes hand-in-hand: 17 "Were you ever able to form a view as to 18 whether or not these people at Johnson & 19 Johnson who you worked with" -- this is 20 Mr. Bicks asking you. 21 A. Yeah. 22 Q. "Were concerned and wanted to 23 make sure the talc they were using in baby 24 powder could be used safely?" 25 A. Right. Yeah.	1 paper with you at a seminar, wasn't he? At a 2 scientific symposium? 3 A. Yeah. 4 (Pooley Exhibit 51 marked for 5 identification.) 6 QUESTIONS BY MR. LANIER: 7 Q. And at that scientific 8 symposium, you stopped him? 9 A. Yeah. 10 Q. Because he was going to say 11 that the talc had asbestos in it, right? 12 Right? 13 I need an answer, then we'll go 14 to the exhibit. 15 A. Oh, no, we stop -- yeah, we 16 stopped the paper because the -- we didn't 17 think it appropriate to publish -- 18 Q. We? 19 A. America -- yes, the main -- the 20 chap who produced the information, the 21 student that they paid for. Okay. 22 Q. Well, let's look at the paper 23 trail and let's see if it may have a clearer 24 recollection. 25 And this is the Johnson &
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1 Q. You said: "Oh, yes." 2 Remember? 3 A. Uh-huh. 4 Q. You-all stopped the Langer 5 paper, didn't you? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: Could you repeat 9 that? 10 QUESTIONS BY MR. LANIER: 11 Q. Yes, sir. 12 You-all stopped the Langer 13 paper, didn't you? 14 A. I didn't stop the Langer paper. 15 Q. Yes, sir, you did. 16 You don't remember? 17 A. No. I knew we had a little bit 18 of a problem with the publication. 19 Q. Had a little bit of a problem. 20 A. Yeah. 21 Q. Is that what you said? 22 A. Yeah. 23 Q. Had a little bit of a problem. 24 Here's what happened. Let's be 25 real clear. Dr. Langer was set to present a	1 Johnson paper trail, so we're going based on 2 what their own documents show, September 3 of '75. 4 The A.M. Langer -- you knew who 5 Dr. Langer was, right? 6 A. Oh, yeah, very well. 7 Q. Analysis of talcum powder 8 products, the Edinburgh meeting? 9 A. Yeah. 10 Q. "Bob Dean telephoned me just 11 before noon today to report a call which he 12 received from Fred Pooley." 13 A. Uh-huh. 14 Q. You're calling Bob Dean. Is he 15 a Johnson & Johnson fellow? 16 A. Yeah. 17 Q. So you're dealing with an 18 academic conference, right? 19 A. Uh-huh. 20 Q. And is that a yes answer? 21 A. Yes. 22 Q. And in that academic conference 23 before it's -- during the process or right 24 before it, you telephoned Bob Dean? 25 A. Yes.

Page 394 1 Q. It says, "Pooley has just 2 received Langer's manuscript contribution for 3 the Edinburgh presentation." 4 A. Yeah. 5 Q. "And Pooley was very concerned 6 over its contents." 7 A. Uh-huh. 8 Q. Is that right? 9 A. Yeah. 10 Q. "Langer's paper reports on his 11 examination of some 33 finished talcum 12 products." 13 A. Yeah. 14 Q. "Which he picked off the shelf 15 in the past year. 17 of these are UK 16 products and the rest US." 17 So I guess 16 in the US, right? 18 A. Yes. 19 Q. "Langer is claiming he's 20 detected chrysotile and amphiboles." 21 In other words, asbestos, 22 right? 23 A. Yeah. 24 Q. "He has identified the products 25 by name and claims he detected tremolite and	Page 396 1 contra -- with refuting data? 2 A. No. I did it to just -- to 3 demonstrate -- to show that we would not -- 4 we wouldn't be publishing a joint paper. We 5 should publish the American results separate 6 from the British results. 7 Q. Sir, what right do you have to 8 stop the academic reporting of a fellow 9 academic -- 10 A. I didn't stop him. 11 Q. Oh, you pulled it down. 12 A. No. I just said that I -- we 13 wouldn't publish or present a paper, a joint 14 paper. I had to look after the -- my 15 research student who was a joint author on 16 that, and we had never looked at these 17 American samples. So I thought the best 18 thing was that, you know, we weren't -- we 19 couldn't see eye to eye over what he had 20 detected in samples. 21 Q. No, sir. It's not just that. 22 You pulled the paper. 23 A. Oh, yeah. 24 (Pooley Exhibit 52 marked for 25 identification.)
Page 395 1 anthophyllite in Johnson's baby powder." 2 A. Uh-huh. 3 Q. This is what you're telling Bob 4 Dean. You're calling J&J to rat out a fellow 5 academic, aren't you? 6 A. Yeah. 7 Q. "As yet, Bob Dean has not been 8 able to identify whether this Johnson baby 9 powder is UK or US sourced. Pooley made this 10 confidential disclosure to Dean so Bob could 11 forewarn the UK companies and be prepared 12 with refuting data." 13 A. Yeah. 14 Q. Did you really do that? 15 A. No. 16 I just told Arthur Langer we 17 weren't going to publish the paper together. 18 Q. You called Bob Dean? 19 A. Oh, yeah. Yeah. 20 Q. Well, that's what I'm asking 21 you. Did you really make this confidential 22 disclosure to Dean -- 23 A. Yeah. 24 Q. -- so that Bob could forewarn 25 the UK companies and be prepared with	Page 397 1 QUESTIONS BY MR. LANIER: 2 Q. Yeah, here's Exhibit 52. Be 3 straight with the jury on this. 4 A. Sure. Yeah. 5 Q. Exhibit Number 52 comes out a 6 few weeks later. Now the conference is over? 7 A. Yeah. 8 Q. See the conference happened 9 September 14th through the 26th. 10 Do you see that? 11 A. Yeah. 12 Q. And you ratted the guy out, it 13 looks like -- well, that's probably 14 argumentative. 15 You called and confidentially 16 disclosed this to the company behind the 17 academic's back? 18 A. Uh-huh. 19 Q. What, five days before the 20 conference started? 21 A. Yeah. 22 Q. Okay. So now the conference is 23 over and look what the Johnson & Johnson 24 people write to their talc advisory group 25 about this conference.

Page 398 1 Are you with me? 2 A. Yeah. 3 Q. "During the International 4 Congress on Occupational Health" -- 5 That's a pretty important 6 thing, isn't it? 7 A. Yeah. Inhaled particles and 8 vapors. 9 Q. Timeout. Don't jump ahead. 10 This was the International 11 Congress on Occupational Health. This has 12 got people coming in from all over the world, 13 doesn't it? 14 A. Yes. A lot of -- big, yeah. 15 Q. "Dr. Wehner or Wehner presented 16 his complete studies in the paper 'Inhalation 17 of Baby Talc Powder By Hamsters,'" and talks 18 about other reports. And then it says, "On 19 September 19th, Dr. Pooley arrived in 20 Brighton and informed J&J he still had not 21 discussed his disagreement over the British 22 finished talcum product analysis with either 23 Langer or his Sinai associates." 24 A. That's right. 25 Q. "It was learned despite his	Page 400 1 together. 2 Q. Yeah. 3 You couldn't afford to have 4 your name on that. You were getting paid by 5 J&J to say there's no asbestos in their talc, 6 right? 7 A. No, I wasn't, but my research 8 student had been paid by J&J. 9 Q. Yeah. 10 This is one of those where 11 you're under a contract? 12 A. Uh-huh. 13 Q. And pursuant to the contract, 14 you not only stop it, but you pulled the 15 papers so that everybody couldn't get them, 16 didn't you? 17 A. No. I didn't pull the papers, 18 no. 19 Q. Well, you had it done? 20 A. No. I said to this committee 21 that we wouldn't be publishing because I 22 wasn't happy about the results produced by 23 the Mount Sinai laboratory. And I had never 24 looked or examined any of the samples from 25 Mount Sinai, and I thought it was rather
Page 399 1 intention not to present the Sinai results, 2 preprints of the paper containing the 3 controversial data have, in fact, been 4 assembled for distribution to attendees of 5 the Edinburgh conference." 6 Do you see that? 7 A. Yeah. 8 Q. "This distribution would have 9 taken place during conference registration. 10 Dr. Petterson succeeded in persuading Pooley 11 of the need to arrange for immediate removal 12 of the hostile reprint from the conference 13 packet." 14 A. Uh-huh. 15 Q. They did that. They got you to 16 pull it, didn't they? 17 A. No. 18 Q. Yeah, he says -- are you 19 fussing this where it says, "Dr. Petterson 20 succeeded in persuading Pooley to arrange for 21 immediate removal of the hostile reprint"? 22 A. Yeah. 23 Q. Did you arrange for that? 24 A. No. I already told Arthur we 25 weren't going to publish the results	Page 401 1 dodgy data. 2 Q. You thought it was dodgy data 3 when you hadn't examined it? 4 A. No. When I saw it, you know, 5 when I saw the data, I thought it was, you 6 know, strange, let's put it. 7 Q. You know it got published in 8 peer-reviewed material? 9 A. Of course, yeah, and fine so -- 10 Q. You just wouldn't just let it 11 out in the Congress for everybody to gather 12 around to talk about? 13 A. No, I didn't want -- I didn't 14 want to be associated it, have my name on 15 that paper. So we confined the publication 16 to British talcs. 17 Q. Earlier today you said that 18 Mount Sinai had a better lab than you did? 19 A. I always said they did, yes. 20 Q. And so you didn't -- you got it 21 pulled and as a result of getting it pulled, 22 it finally gets to be published over a year 23 later. And in that amount of time, the 24 company had time to organize their responses 25 to it, didn't they?

Page 402 1 A. I have no idea. 2 Q. You didn't know that? 3 A. No. 4 Q. In other words, the spin 5 doctors got to work on it. Do you-all use 6 that word "spin" over there in England? 7 A. Oh, yeah, now and again. 8 MR. BICKS: Objection to the 9 form. 10 (Pooley Exhibit 53 marked for 11 identification.) 12 QUESTIONS BY MR. LANIER: 13 Q. I'll show you Exhibit 53. This 14 is another J&J, goes around to a whole bunch 15 of people on their talc advisory group in the 16 Baby Products Company, Johnson & Johnson, 17 1976. 18 And if you'll notice, on the 19 Battelle deposition clearance study on the 20 page 3 of 4, below that it talks about the 21 Langer paper, consumer talcum powders. 22 It says, "This paper will 23 appear in the November '76 issue of the 24 Journal of Toxicology and Environmental 25 Health."	Page 404 1 QUESTIONS BY MR. LANIER: 2 Q. Let me give you an example of 3 how we know it. Here's Exhibit Number 54, 4 which is another Johnson & Johnson -- another 5 Johnson & Johnson document, Exhibit 54. 6 "In our review meeting with 7 Dr. Pooley" -- do you see this, Johnson & 8 Johnson, talc, 1972? 9 A. Yes. 10 Q. "In our review meeting with 11 professor Pooley, he indicated the MRC" -- 12 Who's that? 13 A. Medical Research Council. 14 Q. In England? 15 A. Uh-huh. In the UK, yes. 16 Sorry, no, this MRC refers to the laboratory 17 in Cardiff. 18 Q. Oh, it's a Cardiff lab. 19 A. Yeah. 20 Q. -- "was going ahead with their 21 study using government funds." 22 A. Yeah. 23 Q. "i.e., they do not seem to want 24 money from us. This would mean we would not 25 be able to play any role in guiding their
Page 403 1 A. Sure. 2 Q. "Appropriate responses are 3 being organized." 4 You bought the company time to 5 make those appropriate responses, didn't you? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: I have no idea. 9 QUESTIONS BY MR. LANIER: 10 Q. It wasn't the only time. I 11 mean, Johnson & Johnson often used their 12 financial ties to try to influence folks, 13 didn't they? 14 A. I don't know. 15 Q. The Battelle study itself is 16 something that the company spent 200 grand on 17 just so they could help maneuver the results. 18 MR. BICKS: Objection to the 19 form. 20 QUESTIONS BY MR. LANIER: 21 Q. Did you know that? 22 A. No idea. 23 (Pooley Exhibit 54 marked for 24 identification.) 25	Page 405 1 work, et cetera" -- 2 Do you see where it says that? 3 A. Yes. 4 Q. -- "as we previously thought"? 5 A. Yes. 6 Q. "This is unfortunate. We 7 expected otherwise. So now it's important we 8 carry out the Battelle study for 200 grand 9 for three years." 10 I guess that's one where they 11 could guide the work? 12 A. Sure. 13 Q. Play a role guiding the work as 14 they thought, et cetera. 15 Do you see that? 16 A. Yeah. 17 Q. Now, they were paying you. 18 Were they guiding your work? 19 A. No. 20 Q. So in terms of integrity, data 21 and report and all the rest, you were active 22 in pulling the Langer presentation and 23 article? 24 A. Yes. 25 Q. From an academic meeting?

Page 406 1 A. Yes. 2 Q. Warnings, it's the last thing 3 on integrity stop. 4 There's never a problem in 5 giving information to the public that might 6 affect their health, right? 7 It's important to warn? 8 A. Oh, yes. Yes. Yes. They have 9 adverts on stop smoking all the time. 10 Q. Yeah. If the company is 11 putting out baby powder that's going to be 12 used on infants -- 13 A. Yeah. 14 Q. -- and the company has data, 15 whether the company agrees with it or not, 16 that that talcum powder, that baby powder, 17 might have cancer-causing products in it, 18 it's important that the company warn? 19 MR. BICKS: Objection to the 20 form. 21 QUESTIONS BY MR. LANIER: 22 Q. So that parents can make a 23 decision between buying that or just buying 24 the corn starch variety, right? 25 MR. BICKS: Objection to the	Page 408 1 Q. -- right? 2 And then so if the jury is 3 sitting there thinking, "Gee, can just like 4 these few little fibers that are being found 5 here have any role in cancer," of course, if 6 you're finding a few fibers, you know that 7 the fiber presence is much greater, right? 8 A. Yes. 9 MR. BICKS: Objection to the 10 form. No foundation. Beyond the 11 scope. 12 QUESTIONS BY MR. LANIER: 13 Q. Now, another thing I want to 14 talk to you about is translocation, and what 15 I mean by that -- you know that term, right? 16 A. Yeah. Yeah. 17 Q. In other words, you might 18 breathe the fiber in and it may go into the 19 lungs, you might apply it externally to the 20 genitals or another area, but the idea is 21 does the fiber move in the body. 22 MR. BECKER: Object to form. 23 QUESTIONS BY MR. LANIER: 24 Q. Right? 25 A. Uh-huh.
Page 407 1 form. 2 THE WITNESS: Yes. 3 QUESTIONS BY MR. LANIER: 4 Q. Thank you. 5 All right. Next stop on the 6 road and the last stop. 7 I want to talk to you about 8 cancer for a little bit. Cancer, now, I'm 9 hoping we can get through this pretty 10 quickly, so let's see where you agree with me 11 and where you disagree. 12 Okay? 13 First of all, in terms of 14 cancer, it is individual asbestos fibers that 15 cause cancer; it's not the clumps, right? 16 MR. BICKS: Objection to the 17 form. Beyond the scope. 18 THE WITNESS: Yes, it's -- it 19 has to be inhaled. If it is in 20 clumps, it's not inhalable. 21 QUESTIONS BY MR. LANIER: 22 Q. So a lot of times when you look 23 at tissue, what you're finding are individual 24 asbestos fibers in the tissue -- 25 A. Yes.	Page 409 1 Q. And I asked you about this 2 yesterday in your deposition, and you told me 3 no. 4 Is that right? 5 MR. BICKS: Objection to the 6 form. 7 THE WITNESS: Yes, that is -- 8 translocation means that you -- the 9 particle is capable of traveling, if 10 you like, okay. 11 Now, the potency of asbestos 12 dust and the reason why it is -- or 13 can produce mesothelioma, et cetera, 14 is because the particles don't travel. 15 QUESTIONS BY MR. LANIER: 16 Q. So you're in the J&J case 17 today? 18 A. Uh-huh. 19 Q. Your J&J paid testimony -- 20 A. Yeah. 21 Q. -- is the particles don't 22 travel? 23 A. No. 24 MR. BICKS: Objection to the 25 form.

Page 410 1 QUESTIONS BY MR. LANIER: 2 Q. That's just false, isn't it? 3 A. No. 4 Q. I mean, you can breathe in the 5 fibers and they will travel in the body? 6 A. No. 7 MR. BICKS: Objection to the 8 form. 9 THE WITNESS: Why should they? 10 QUESTIONS BY MR. LANIER: 11 Q. You can apply them genitally 12 and they will travel in the body? 13 MR. BICKS: Objection to the 14 form. 15 THE WITNESS: No. I'm not 16 aware of that. 17 QUESTIONS BY MR. LANIER: 18 Q. Sir, you're not only aware of 19 it, you've testified to it before, haven't 20 you? 21 A. Have I? I don't -- I can't 22 remember. 23 Q. If we look at your non-J&J 24 testimony -- 25 A. Yeah.	Page 412 1 Put out of the body? 2 A. Yeah. 3 Q. -- "but they do not circulate 4 through the body; is that your opinion?" 5 A. Yes. 6 Q. Do you see the question? 7 MR. BICKS: Objection to the 8 form. 9 QUESTIONS BY MR. LANIER: 10 Q. Look at the answer: "There is 11 evidence to show that mineral particles, 12 including asbestos, when deposited in the 13 lung will move via various systems, the lymph 14 system, and -- for example, and circulate in 15 the body, yes. There's a recent publication 16 from Japan indicating translocation." 17 A. Yeah. 18 Q. Do you see that? 19 A. Yes. 20 Q. Today, particles don't travel. 21 Then, particles do travel. 22 Do you see that? 23 A. Yes. 24 (Pooley Exhibit 55 marked for 25 identification.)
Page 411 1 Q. -- you say the exact opposite; 2 you say particles do travel. 3 MR. BICKS: Objection to the 4 form and beyond the scope. 5 QUESTIONS BY MR. LANIER: 6 Q. Don't you? 7 A. Yes, but only out of the body. 8 Q. No. Let's look at one of your 9 depositions just as a sample. 10 This is the deposition you gave 11 in the Eastern District of Texas case, 12 Soignet versus Montello. It was taken at the 13 Ritz Hotel in London in February of 1989. 14 Do you see this? 15 A. Yes. 16 Q. It might help you to identify 17 it if you remember who represented you. I 18 think this was one for Union Carbide and 19 Henry Garrard. 20 A. Henry Garrard, yeah. 21 Q. On page 31 of your deposition 22 you were asked: "In your view and in your 23 opinion, asbestos fibers inhaled into the 24 lung either deposit in the lung or are 25 expurgated by the body" --	Page 413 1 QUESTIONS BY MR. LANIER: 2 Q. And, in fact, there's a good 3 bit of scientific evidence that bears this 4 out as well. 5 You referenced one of the 6 papers in your testimony there. I'll give 7 you Exhibit Number 55, the American Journal 8 of Industrial Medicine paper from 1991. This 9 isn't old news -- I mean, isn't new news. 10 "Translocation of inhaled 11 asbestos fibers from the lung to other 12 tissues." 13 A. Yep. 14 Q. "To investigate translocation 15 of asbestos fibers, tissue samples from 13 16 North American insulators were examined. Of 17 the two major types of asbestos, chrysotile 18 and amosite, chrysotile was found to be much 19 more active in the translocation than 20 amosite, being the fiber mainly detected in 21 mesothelioma." 22 MR. BICKS: Objection to the 23 form. 24 QUESTIONS BY MR. LANIER: 25 Q. Do you see that?

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1 MR. BICKS: And beyond the 2 scope. 3 QUESTIONS BY MR. LANIER: 4 Q. Do you see that, sir? 5 A. Yes. 6 Q. And if you look at the actual 7 study, this translocation and the results 8 applied also to the very kinds of asbestos 9 that you were finding in the talc and others 10 as well. Chrysotile, but in addition to 11 that, a small number of anthophyllite fibers? 12 A. Uh-huh. 13 Q. Tremolite, actinolite fibers. 14 Do you see that? 15 A. Yeah. 16 MR. BICKS: Objection to the 17 form. Beyond the scope. 18 QUESTIONS BY MR. LANIER: 19 Q. So these fibers that you 20 testified yesterday don't travel -- 21 A. Uh-huh. 22 Q. -- not just according to you do 23 they travel, but according to the literature 24 they travel as well, right? 25 A. Yeah.	1 there's -- particles don't travel and you 2 gave thought to the safety aspects of what 3 the company was about, Exhibit 56 is a paper 4 that I guess you had not seen? 5 MR. BICKS: Objection to the 6 form. 7 QUESTIONS BY MR. LANIER: 8 Q. "Is there transplacental 9 transfer of asbestos: A study of 40 10 stillborn infants." 11 Do you see that? 12 A. Yes. 13 MR. BICKS: Objection to the 14 form. 15 QUESTIONS BY MR. LANIER: 16 Q. "Low levels of small, thin, 17 uncoated asbestos fibers were detected in the 18 placentas and organs of 37.5 percent of the 19 stillborn infants. The fibers range from .05 20 to 5 microns in length, .03 to .3 in width, 21 with a mean length of 1.15 and a mean width 22 of 0.06." 23 MR. BICKS: Objection. 24 QUESTIONS BY MR. LANIER: 25 Q. By the way, they don't use the
Page 415	Page 417
1 MR. BICKS: Objection to the 2 form. 3 MR. BECKER: Object to the 4 form. 5 QUESTIONS BY MR. LANIER: 6 Q. And this is going back decades 7 ago, true? 8 A. Yep. 9 Q. And lest we think it was just 10 decades ago and just in the miners -- I mean, 11 the insulation workers, did you know that the 12 asbestos fibers even crossed the placental 13 boundary and can travel into the infants that 14 mommas are carrying? 15 A. Right. 16 MR. BICKS: Objection. 17 QUESTIONS BY MR. LANIER: 18 Q. Did you know that? 19 A. No. 20 MR. BICKS: Objection to the 21 form. 22 (Pooley Exhibit 56 marked for 23 identification.) 24 QUESTIONS BY MR. LANIER: 25 Q. So when you testified that	1 same statistics you do on a fiber length, 2 what makes a fiber a fiber, do they? 3 MR. BICKS: Object to the form. 4 QUESTIONS BY MR. LANIER: 5 Q. Do they, sir? 6 A. No. The fiber lengths vary. 7 Q. "Our studies demonstrate the 8 presence of short and thin fibers in 9 stillborn infants." 10 A. No. 11 Q. These fibers travel, don't 12 they? 13 MR. BICKS: Object to the form. 14 MR. BECKER: Object to the 15 form. 16 QUESTIONS BY MR. LANIER: 17 Q. Don't they, sir? 18 A. Yeah. They say so in that 19 paper, yes. 20 Q. And my last concern here on the 21 cancer stop, and then I'll pass the witness 22 back. 23 If Johnson & Johnson in this 24 case tries to suggest, the Ratcliff case, 25 that the mesothelioma was caused by exposure

Page 418 1 to brake dust, that's contrary to every 2 opinion you've offered in your litigation 3 history, isn't it? 4 MR. BICKS: Objection to the 5 form. 6 THE WITNESS: Yeah. 7 MR. BICKS: Beyond the scope. 8 QUESTIONS BY MR. LANIER: 9 Q. Go ahead. 10 A. Yes. As far as I'm aware there 11 was -- there were very few fibers in brake 12 dust. 13 Q. And the fibers that are there 14 are chrysotile? 15 A. Well, they get firmly altered, 16 don't they, from the action of the brakes. 17 Q. But you've always said brake 18 dust does not cause meso, right? 19 A. Right. 20 MR. BICKS: Objection to the 21 form. Beyond the scope. 22 THE WITNESS: Yeah. 23 MR. LANIER: Okay. I think 24 that brings us to a conclusion of the 25 road. I've got a lot of questions I	Page 420 1 Are you with me on that topic? 2 A. Yes. 3 Q. And suggestions were made by 4 Mr. Lanier to the -- I guess a jury if they 5 hear that, that I was making things up and we 6 really couldn't tell actually what Arthur 7 Langer was talking about in this published 8 study. 9 Remember that? 10 A. Yes. 11 Q. And related to that, you were 12 asked questions about Arthur Langer and his 13 paper and whether or not it should be 14 published. 15 Was one of your concerns that 16 you wanted an opportunity -- 17 MR. LANIER: Object to leading. 18 QUESTIONS BY MR. BICKS: 19 Q. -- to review his data? 20 A. Yes. 21 Q. And if we look at Exhibit 18, 22 which the jury has seen, and this is an 23 exhibit I talked to you about, and this is 24 your report on all of that data, right? 25 A. Yes. Yeah.
Page 419 1 didn't ask you, but I think I'll get a 2 chance to come back after Mr. Bicks, 3 and so I'll -- I've saved a few. 4 THE WITNESS: Okay. 5 MR. LANIER: Thanks. I'll pass 6 the witness. 7 VIDEOGRAPHER: All right. 8 Standby. The time is 4:24 p.m. Going 9 off the record. 10 (Off the record at 4:24 p.m.) 11 (Pooley Exhibit 57 marked for 12 identification.) 13 VIDEOGRAPHER: All right. 14 We're back on the record. The time is 15 4:32 p.m. 16 REDIRECT EXAMINATION 17 QUESTIONS BY MR. BICKS: 18 Q. We're at late afternoon, 19 Professor Pooley, and I appreciate it. 20 A. Yeah. 21 Q. I want to start with a topic of 22 conversation that took up a lot of time, 23 namely Arthur Langer, the paper that he 24 published and what he was saying about 25 Johnson & Johnson.	Page 421 1 MR. LANIER: Objection. 2 Leading. 3 QUESTIONS BY MR. BICKS: 4 Q. All right. And it's dated 5 January 5, 1976, and we talked about this on 6 your direct, right? 7 A. Yes. 8 Q. All right. And one of the big 9 questions that Mr. Lanier asked you a lot 10 about is that you were changing your story by 11 saying that you had never found asbestos in 12 talc versus that you had. 13 Remember all those series of 14 questions? 15 A. Yes. 16 Q. All right. So in this report, 17 Exhibit 18, you refer to six samples that 18 appear to contain amphophile-type material, 19 right? 20 A. Yes. 21 Q. All right. But it turns out, 22 right, that when we look at actually what the 23 samples are, and we go to the back, that 24 Johnson & Johnson was one of the products 25 where there was no asbestos found, right?

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1 A. Yes. 2 MR. LANIER: Objection. 3 Leading. 4 QUESTIONS BY MR. BICKS: 5 Q. And is that consistent with 6 what the president of Mount Sinai Hospital 7 said about whether or not Johnson's baby 8 powder had asbestos in it? 9 MR. LANIER: Objection. 10 Leading. 11 THE WITNESS: Yes. 12 QUESTIONS BY MR. BICKS: 13 Q. And what Harvard Public Health 14 and NIOSH said when they said that the 15 Vermont talc had -- ore deposit had no 16 asbestos in it? 17 A. Yes. 18 MR. LANIER: Objection. 19 Leading. 20 QUESTIONS BY MR. BICKS: 21 Q. And the McCrone's 1987 report 22 that I showed you where they said they looked 23 at 15 years of talc samples at Windsor and 24 said it was asbestos-free, do you remember 25 that?	1 entry, cashmere bouquet, and then what it 2 indicates are several percentage fibrous 3 anthophyllite, right? 4 Do you see that? 5 A. Yes. 6 Q. And then go back to sample 1 on 7 the chart that we were looking at. 8 A. Uh-huh. 9 Q. And do you see the entries down 10 here next to anthophyllite? 11 A. 11.4 percent. 12 Q. Yeah. 13 Does it appear to you as if 14 it's matching up? 15 A. Yes. 16 Q. All right. 17 MR. LANIER: Objection. Form. 18 QUESTIONS BY MR. BICKS: 19 Q. And then so if we keep going 20 down and we see, for example, sample 8, the 21 rosemary talc. 22 Do you see that? 23 A. Yes. 24 Q. And then you go on the chart 25 and you see the indications of anthophyllite
Page 423	Page 425
1 A. Yes. 2 Q. And is all of that -- 3 MR. LANIER: Objection. 4 Leading. 5 QUESTIONS BY MR. BICKS: 6 Q. -- information, is that 7 consistent with what your reports reflect 8 about whether or not there is asbestos in the 9 talc that Johnson & Johnson used? 10 A. Yes. It's consistent, yeah. 11 Q. All right. And let's, again, 12 look at these, and I want you to have in 13 front of you the Exhibit 18 and also look at 14 19 and the chart at page 266 of the study. 15 A. Yes. 16 Q. And 266, to remind our jury, 17 this was the one where I actually looked at 18 the samples which didn't have names and I had 19 4, 9, 18 and 20 as what are Johnson & Johnson 20 samples, right? 21 A. Right. Yeah. 22 Q. All right. So now look, if you 23 might, just to give you some orientation and 24 look at, for example, the -- going to 18, 25 right, and look, for example, here, the first	1 and so on and so forth? 2 A. Yeah. 3 Q. And doesn't that look like it's 4 tracking exactly what's in Langer's paper? 5 MR. LANIER: Objection. 6 Leading. 7 THE WITNESS: Yes. 8 QUESTIONS BY MR. BICKS: 9 Q. All right. And then you look 10 at the Johnson & Johnson numbers here, 4, 9, 11 8 -- 4, 9, 18 and then 20, right? 12 A. Yes. 13 Q. And then you look back at this 14 chart, and again, this is work, right, that 15 you're looking at in Exhibit 18? 16 A. Yes. 17 Q. This was work that was being 18 done by Arthur Langer, right? 19 A. No, I -- 20 MR. LANIER: Objection. 21 THE WITNESS: -- I did that 22 work. 23 QUESTIONS BY MR. BICKS: 24 Q. But on the sample numbers -- 25 A. On the samples.

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1 Q. The sample numbers that he was 2 looking at, too, right? 3 A. Yes. Uh-huh. 4 Q. Same samples, right? 5 A. Yes. 6 Q. All right. And so is there any 7 doubt that when you look at this, this 8 published article of Langer, that he's 9 talking -- that you and he are talking about 10 the same samples? 11 A. Yes. 12 Q. They are the same, right? 13 A. They were the same. 14 MR. LANIER: Objection. 15 Leading. 16 QUESTIONS BY MR. BICKS: 17 Q. Any question for anybody who 18 works in this and was actually working on the 19 samples and knows these articles that that's 20 actually the scientific truth? 21 MR. LANIER: Objection. 22 Speculation. 23 THE WITNESS: Yes. 24 QUESTIONS BY MR. BICKS: 25 Q. Right.	1 one of the organizations in the United States 2 responsible for safety and health, geologic 3 studies dating back to the early 1900s have 4 shown that Vermont talc deposits contain no 5 asbestos? 6 A. Yes. 7 MR. LANIER: Objection. 8 Leading. 9 QUESTIONS BY MR. BICKS: 10 Q. And if we look in this report, 11 there are actually sampling and testing 12 done -- 13 MR. LANIER: Exhibit number? 14 MR. BICKS: 2. 15 QUESTIONS BY MR. BICKS: 16 Q. Bulk samples, no asbestos in 17 these samples, further analysis by NIOSH. 18 Do you see that, bulk samples, 19 no asbestos in these samples? 20 A. Yeah. 21 Q. Was this work done, to your 22 knowledge, for litigation, or was this work 23 done for public health? 24 A. For public health. 25 Q. Yeah.
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1 And to one of the key questions 2 that this jury is going to have to answer, 3 which is, is there asbestos in Johnson & 4 Johnson's talc, right? 5 You looked at that question, 6 right? 7 MR. LANIER: Objection. 8 Leading. 9 QUESTIONS BY MR. BICKS: 10 Q. For how many years did you look 11 at those ore supplies and the finished 12 product? 13 A. Oh, over ten years. 14 Q. Uh-huh. 15 And in all of that work you 16 did, did you reach a scientific conclusion 17 about whether or not there was asbestos in 18 Johnson & Johnson's talc? 19 A. Yes. 20 Q. And what was your conclusion? 21 A. That we couldn't detect any. 22 Q. Uh-huh. 23 And is this consistent with one 24 of the exhibits I showed you, Exhibit 2, 25 Harvard School of Public Health and NIOSH,	1 And if you go to the conclusion 2 of this paper, conclusions, petrographic 3 microscopy analysis, analytical transmission, 4 electron microscopy, X-ray diffraction, 5 step-scanning revealed no asbestos in the 6 bulk samples. 7 Is that consistent with the 8 work that you did? 9 A. Yes. 10 Q. Mount Sinai -- and so we're 11 clear, Mount Sinai, that is where Dr. Langer 12 worked, Dr. Selikoff? 13 A. Yep. 14 Q. And it's the opinion of Mount 15 Sinai's Department of Pediatrics that baby 16 talc is a useful and safe product? 17 MR. LANIER: Objection. 18 Leading. 19 QUESTIONS BY MR. BICKS: 20 Q. Right? 21 A. Yes. 22 Q. And the statement here, can you 23 read it to the jury starting with "the"? 24 MR. LANIER: Exhibit number? 25 THE WITNESS: "The most

Page 430 1 commonly used baby talc has been 2 consistently free of asbestos." 3 QUESTIONS BY MR. BICKS: 4 Q. And this is from the president 5 of Mount Sinai Medical Center, right? 6 A. Yeah. 7 Q. And was this conclusion 8 consistent with your conclusions? 9 A. Yes. 10 Q. Let me mark this. It was 11 Exhibit 23. We didn't mark it as Exhibit 23. 12 Take a look at that. 57 we'll have to make 13 it because somebody took 23. 14 (Pooley Exhibit 57 marked for 15 identification.) 16 QUESTIONS BY MR. BICKS: 17 Q. This is a Johnson & Johnson 18 document. 19 A. Uh-huh. 20 Q. And say again what exhibit 21 number is it? 57. 22 And it's somebody named Dr. A. 23 Goudie. 24 Do you see that? 25 A. Yeah. Al Goudie, yeah.	Page 432 1 Q. And you will see they too found 2 no asbestos, right? 3 A. Yes. 4 Q. And was that consistent with 5 your conclusion? 6 A. Yep. 7 Q. If you go on here, you see also 8 the Atomic Energy Research Establishment at 9 Harwell. 10 Are you familiar with that? 11 A. Yes. 12 Q. And it says they're finalizing 13 their examination on Italian 00000 talc and 14 they say they were unable to find any 15 asbestos whatsoever in the samples we 16 submitted to them. 17 Was that consistent with the 18 work you did -- 19 A. Yes. 20 Q. -- over those years? 21 A. Yes. 22 Q. So if I started to make a list 23 just based on what we talked about, we looked 24 at Harvard Public Health/NIOSH: No asbestos 25 in J&J.
Page 431 1 Q. Yeah. 2 And it talks about what you've 3 completed your report on the examination of 4 the Italian talc, and you were typing it 5 right now, right? 6 A. Yes. 7 Q. And it says here that there was 8 an interim report, right? 9 A. Yeah. 10 Q. And it goes on to say that you 11 are confirming here that it was all very pure 12 talc? 13 A. Talc, yeah. 14 Q. Right? Right? 15 A. Yes. 16 Q. And that's consistent with what 17 you concluded, right? 18 A. Yes. 19 Q. And it also says that there was 20 a copy of the report from the Mining 21 Institute of the Polytechnic School of Turin 22 relating to a completely and totally 23 independent analysis that they made on 24 Italian talc? 25 A. Yes.	Page 433 1 Consistent with what you came 2 up with? 3 A. Yes. 4 Q. We look at Langer's report, and 5 we went through those four samples of Johnson 6 & Johnson products, right? 7 A. Yeah. 8 Q. No asbestos, right? 9 A. Yes. 10 Q. We just looked at the Mining 11 Institute of Polytechnic School? 12 A. Uh-huh. 13 Q. No asbestos? 14 A. Asbestos. 15 Q. Right? 16 A. Yes. 17 Q. We looked at the Atomic Energy 18 Research Commission -- it's the Atomic Energy 19 Research Establishment. 20 A. Establishment. 21 Q. No asbestos? 22 A. Asbestos. 23 Q. Right? 24 A. Yes. 25 Q. We looked at McCrone's,

Page 434	Page 436
1 15 years of studying, no asbestos? 2 A. Asbestos. 3 Q. Right? 4 A. Yes. 5 Q. Then we looked at your -- I'm 6 going to call it your rat study, remember 7 that -- 8 A. Yes. 9 Q. -- that you were on? 10 48 rats injection, no 11 mesotheliomas, right? 12 A. Yeah. 13 Q. And what does that tell you 14 about whether or not there's asbestos? 15 A. It -- it's obviously -- no 16 fibrous mineral in the sample to initiate a 17 disease response. 18 Q. Yeah. 19 And so I did a little timeline 20 of your particular work, and I'm going to 21 mark it as an exhibit, 58. 22 (Pooley Exhibit 58 marked for 23 identification.) 24 QUESTIONS BY MR. BICKS: 25 Q. These are some documents that	1 samples taken, some tremolite was located but 2 it was not asbestiform in character and has 3 not been detected in 00000 talc dating back 4 to 1949, right? 5 A. Yes. 6 Q. The Vermont mine, your report, 7 amphophile minerals were found in discrete 8 locations and not disseminated throughout the 9 talc ore and were not asbestiform in 10 character. Serpentine mineral was found in 11 the specimens located at the center but no 12 fibrous components were observed, right? 13 A. Yes. 14 Q. 108/T, a sample we talked 15 about, no evidence of the mineral at all, 16 right? 17 A. Yes. 18 Q. Italian cosmetic-grade, no 19 chrysotile was found, right? 20 A. Yes. 21 Q. Italy, chrysotile asbestos had 22 not been detected in any of the cosmetic talc 23 examined so far, right? 24 A. Yes. 25 Q. And then we looked at
Page 435	Page 437
1 we went through on your testimony and 2 remember the first one when you visited and 3 you concluded that the massive talc was 4 exceptionally pure, right? 5 A. Yes. 6 Q. And then you looked at Vermont 7 samples in late '71, and you concluded that 8 the content of any chrysotile was nil, which 9 we said was zero, right? 10 A. Yes. 11 Q. And then in March of 1972, your 12 documents that this jury saw said 13 asbestos-free, right? 14 A. Yes. 15 Q. And then on September 8th, no 16 amphophile or chrysotile mineral was detected 17 in any of the numerous powders examined, 18 right? 19 A. Yes. 20 Q. And then in the Shower to 21 Shower, no detectable chrysotile or 22 amphophile asbestos, right? 23 A. Yeah. 24 Q. And then September 28th, no 25 chrysotile was found at the mine or in the	1 January 8, 1976: Nondetect, nondetect, 2 nondetect, nondetect, nondetect, right? 3 A. Yeah. 4 Q. So if we add on this list, 5 we've got Harvard, we've got the Langer 6 report, we've got the Mining Institute, 7 Atomic Research, McCrone's, 15 years, your 8 study, and then we can put in here all of the 9 work that you did on more than, you told us, 10 150 samples, no asbestos. 11 I did not ask you about the 12 epidemiology and the miners. You're familiar 13 with that, are you not? 14 A. That paper, yeah. 15 Q. That the miners who actually 16 worked in Italy and also in Vermont were 17 studied. 18 Did you know that? 19 A. Yes. 20 Q. And I think the number is about 21 2,800 miners and millers? 22 A. Millers. 23 Q. Do you know from those papers 24 how many mesotheliomas there were? 25 MR. LANIER: Objection.

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1 Leading. 2 THE WITNESS: Zero. 3 QUESTIONS BY MR. BICKS: 4 Q. Zero. 5 The EPA, we looked in the 6 McCrone's document where the EPA said that 7 they had concluded no asbestos. 8 Do you recall that? 9 A. Yes. 10 Q. The FDA, you're familiar that 11 it examined talc on a few occasions in the 12 United States? 13 A. Yes. 14 Q. And it concluded no asbestos in 15 baby powder? 16 MR. LANIER: Objection. 17 Leading. 18 QUESTIONS BY MR. BICKS: 19 Q. Did it conclude that there was 20 no asbestos in Johnson & Johnson's baby 21 powder? 22 A. Yes. 23 Q. One organization I did not ask 24 you about was the American Cancer Society. 25 And I'm on ten so far on my list, so I guess	1 A. Yes. 2 Q. And is that consistent with at 3 least with the work you did on Johnson & 4 Johnson? 5 A. Yes, indeed. 6 Q. All right. So I'm going to 7 keep going on my list adding this. My 8 handwriting is not great, but I'm going to go 9 up here and I'm going to start 11, American 10 Cancer Society. 11 And then remember I showed you 12 the 1984 Sunday Times Magazine, right, where 13 we had Selikoff, Lewin and Eiermann. 14 Remember that name? 15 A. Yeah. 16 Q. No asbestos. 17 Do you remember that? 18 A. Yeah. 19 Q. All right. And this is only 20 some of the groups, right? 21 You're also aware that MIT -- 22 did they look at samples? 23 MR. LANIER: Objection. 24 Leading. 25
Page 439	Page 441
1 I'll go over to the -- I can't go that -- 2 MR. LANIER: Objection. 3 Sidebar. 4 (Pooley Exhibit 59 marked for 5 identification.) 6 QUESTIONS BY MR. BICKS: 7 Q. And this is exhibit -- what is 8 it? -- 59. This is from the American Cancer 9 Society and it's recent. It's from their 10 website. January 5, 2008 {sic}. 11 Do you see that? 12 A. Yep. 13 Q. At least by January 5, 2018. 14 And American Cancer Society in 15 the United States has some respect, right? 16 A. (Witness shrugs shoulders.) 17 Q. All right. And so what do they 18 say here talking about talcum powder. This 19 type of talc is not used in modern consumer 20 products. Talc that is asbestos and is 21 generally accepted as being able to cause 22 cancer if it is inhaled and the American 23 Cancer Society says this type of talc is not 24 used in modern consumer products. 25 Do you see that?	1 QUESTIONS BY MR. BICKS: 2 Q. Do you know whether a professor 3 at MIT reviewed samples from these deposits 4 and concluded whether or not there was 5 asbestos? 6 A. At Brown. 7 Q. At Brown? 8 A. Yes. 9 Q. Remember what he concluded? 10 A. Yes. 11 Q. MIT? 12 A. No asbestos. 13 Q. Yeah. I think actually 14 Brown -- my recollection was Brown was at 15 Princeton. 16 A. Oh, Princeton. 17 Q. Does that make sense? Berger? 18 A. Berger. 19 MR. LANIER: Objection. 20 Leading. 21 QUESTIONS BY MR. BICKS: 22 Q. Berger. 14, Princeton, no 23 asbestos. 24 Now, you were asked questions. 25 Let me hit some topics quickly.

Page 442 1 Remember you were shown the 2 document about that you were controllable or 3 questioning are you controllable? 4 A. Yes. 5 Q. Was anybody -- are you 6 controllable, and did Johnson & Johnson ever 7 try to control you? 8 A. No. Not directly, no. 9 Q. You were asked about the 10 research contract that you had with Johnson & 11 Johnson. 12 Remember that? 13 A. Yes. 14 Q. Was there -- did your research 15 assistant actually publish an article? 16 A. Yes, he was on the meeting 17 where Arthur Langer's contribution was 18 removed. 19 Q. Yeah. 20 A. And he was an author. 21 Q. And did Johnson & Johnson have 22 any control over what your research assistant 23 did? 24 A. No. 25 Q. No.	Page 444 1 And remember you were showed 2 this McCrone report that had the "do not 3 replace with another version." 4 Remember this? 5 A. Yes. 6 Q. This all relates to the Lewin 7 examples, right? 8 A. Yes. 9 Q. And we talked a lot about that. 10 Ultimately Lewin himself said there was no 11 asbestos, right? 12 A. Yes. 13 Q. All right. You were also shown 14 a paper by A.M. Blount. 15 MR. LANIER: Objection. 16 Leading. 17 QUESTIONS BY MR. BICKS: 18 Q. Do you remember that? 19 A. Yes. 20 Q. Did you take a look at this 21 paper to determine whether or not she used 22 TEM? 23 A. No, she didn't. She used 24 optical microscopy. 25 Q. Is it a problem if you don't
Page 443 1 Now, you were asked a lot about 2 tremolite and the difference between 3 tremolite and tremolites that is asbestos? 4 A. Yeah. 5 Q. Is that an important difference 6 to you? 7 A. Yes, because the disease -- 8 disease here is attributed -- attributable to 9 these amphophile minerals is a function of 10 whether or not they are fibrous or not 11 fibrous. And the finer the fibers that you 12 can form from samples of these amphophiles, 13 then the more hazardous they become. 14 Q. And so when Mr. Lanier -- this 15 is his Exhibit 43 that he showed you, this 16 article, and what does it say? 17 Fibrous? 18 A. Fibrous amphophile, yeah. 19 Q. Is that consistent with your 20 view? 21 A. Oh, yeah. It's the -- the 22 biological system, the lungs, they don't 23 recognize fibers by name. They only 24 recognize fibers by size and shape. 25 Q. Uh-huh.	Page 445 1 use TEM? 2 A. Yes. It means the finer 3 fibers, the 0.2 on the micrometer, you're 4 unable to visualize them. 5 Q. Yeah. 6 A. With an optical system. 7 Q. All right. So is this a good 8 method in your view or bad method? 9 A. I've never used it, so I can't 10 comment on its ease of application, as it 11 were, but obviously if it doesn't give you 12 full information, it's not very useful 13 research-wise. 14 Q. Yeah. 15 And I had my handwritten chart 16 of the different organizations that we talked 17 about, Harvard, Langer, Mining Institute of 18 Polytechnic, Atomic Research, McCrone, your 19 rat study, your 150 samples, the 20 epidemiology, EPA, American Cancer Society, 21 Selikoff, Lewin, MIT, you think these groups 22 were using good science and probably good 23 methodology? 24 A. All of them -- some of them 25 were probably, you know, not using what you

Page 446 1 might call up-to-date equipment. 2 Q. Yeah. 3 A. I'm sure, but I don't know 4 their laboratories. 5 Q. All right. 6 A. I can't comment. 7 MR. LANIER: Objection. 8 Speculation. 9 QUESTIONS BY MR. BICKS: 10 Q. Now, you were asked questions 11 about this Dutch -- whether or not something 12 was going on over in, I guess, a Dutch 13 consumer organization. 14 Remember that? 15 A. Yes. 16 Q. And you were shown a few 17 documents. I actually want to show you a 18 couple that you didn't -- weren't shown. 19 (Pooley Exhibit 60 marked for 20 identification.) 21 QUESTIONS BY MR. BICKS: 22 Q. All right. If you look at the 23 front, this is the definition of asbestos 24 that was offered? 25 MR. LANIER: What's this from?	Page 448 1 recognized definition of asbestos? 2 A. No, not really. No. 3 Q. Yeah. 4 And if you look further at what 5 the issues here and you look at what was 6 going on, it says that "the Dutch consumer 7 organization attempted to determine the 8 asbestos content by scanning electron 9 microscopy and X-ray energy dispersive 10 analysis. This method has the following 11 limitations," and it goes on to indicate what 12 they are. 13 Do you see that? 14 A. Yes. 15 Q. It indicates issues with the 16 use of scanning electron microscopy? 17 A. Yeah. 18 Q. And that a talc platelet lying 19 on the edge could be viewed as a fiber? 20 A. As a fiber, yes. 21 Q. And in your work that you did 22 in your lab, did you see people making these 23 kinds of mistakes? 24 A. Oh, yes. Yeah. You had to be 25 careful preparing samples so you didn't get
Page 447 1 MR. BICKS: It's a Johnson & 2 Johnson, definition of asbestos. 3 MR. LANIER: I mean, dated? 4 Give me something to go on. What is 5 this document from? 6 MR. BICKS: Part of the Johnson 7 & Johnson production. 8 MR. LANIER: Okay. But, I 9 mean, who authored it? I mean, what 10 is it? 11 MR. BICKS: Yeah, look through 12 the document. 13 MR. LANIER: I am. Nothing to 14 identify it. 15 MR. BICKS: All right. 16 QUESTIONS BY MR. BICKS: 17 Q. All right. Let's look here the 18 definition of asbestos offered by the Dutch 19 consumer organization is as follows. 20 Do you see that? 21 A. Yep. 22 Q. "All needle and/or fibrous 23 parts are composed units consisting of 24 magnesium and silicon." 25 Is that, in your experience, a	Page 449 1 particles on edge. 2 Q. Uh-huh. 3 And it says here, "If one does 4 see a fiber, it's not possible to call it an 5 asbestos fiber by the presence of the 6 element's magnesium and silicon. Both talc 7 and chloride have the elements and magnesium 8 and silicon, however, they are not asbestos 9 minerals." 10 A. That's correct. 11 Q. Right. 12 And so do you see in looking at 13 these documents that there were some pretty 14 serious problems with what was going on? 15 MR. LANIER: Objection. 16 Leading. 17 THE WITNESS: Yes. 18 QUESTIONS BY MR. BICKS: 19 Q. And we've learned a fair amount 20 because what we've talked a lot about and 21 people are -- we learned with history that in 22 the 1970s some scientists, including at Mount 23 Sinai, made mistakes and actually admitted 24 that they did, right? 25 MR. LANIER: Objection.

Page 450 1 Leading. 2 THE WITNESS: Yes. 3 QUESTIONS BY MR. BICKS: 4 Q. And were you actually one of 5 the people who was called in to actually 6 point out that mistakes were made? 7 MR. LANIER: Objection. 8 Leading. 9 THE WITNESS: No, I wasn't -- I 10 wasn't called in, but, yeah. 11 QUESTIONS BY MR. BICKS: 12 Q. You played a part? 13 A. I played a part, yeah. 14 Q. All right. 15 MR. LANIER: Objection. 16 Leading. 17 QUESTIONS BY MR. BICKS: 18 Q. You were asked about the 19 Vermont mine and you were cross-examined 20 saying, ah, you found actinolite. 21 Remember that? 22 A. Yes. 23 Q. And when we looked at actually 24 what you found, the actinolite was 25 non-asbestiform, right?	Page 452 1 Q. And what is recognized here, 2 and it's a lot of information, a petition had 3 been made to ask that a warning be put on 4 cosmetic talc, and this is around the time 5 1986. 6 Do you see that? 7 A. Yeah. 8 Q. And the FDA writes and it says, 9 "Your petition has not persuaded us that the 10 cosmetic talc that is presently being 11 produced contains significant amounts of 12 asbestiform minerals. During the early 13 1970s, FDA became concerned about the 14 possibility that cosmetic talc did contain 15 significant amounts of this material. The 16 agency received several reports about such 17 contamination. However, at that time, the 18 analytical procedures for determining 19 asbestos in talc were not fully developed." 20 And you were part of that 21 process in the '70s, right? 22 MR. LANIER: Objection. 23 Leading. 24 THE WITNESS: Yes. 25
Page 451 1 A. That's correct, yeah. 2 Q. So you saw actinolite, but it 3 was not asbestiform, right? 4 A. No. 5 MR. LANIER: Objection. 6 Leading. 7 (Pooley Exhibit 61 marked for 8 identification.) 9 QUESTIONS BY MR. BICKS: 10 Q. All right. And in terms of 11 what -- the questions of what the issues were 12 with some of the testing that was going on, I 13 want to show you Exhibit 61. 14 You know what, let me have that 15 one back because -- sorry about that. 16 Do you have a copy? Here 17 we'll -- this is Exhibit 61. 18 And this is from the acting 19 Associate Commissioner for Regulatory Affairs 20 of the FDA. 21 Do you see that? Somebody 22 named Swanson? 23 Do you see that on the third 24 page? 25 A. Third page. Oh, yes.	Page 453 1 QUESTIONS BY MR. BICKS: 2 Q. All right. Did you come to the 3 FDA and talk about your work? 4 A. Yes. 5 Q. And, in fact, do you remember 6 were your reports given to the FDA? 7 A. Yes. 8 Q. And it says here that the FDA 9 considered all analytical results to be of 10 questionable reliability. 11 Remember that? 12 A. Yes. 13 Q. And did that include, to your 14 recollection, the work that Lewin and Langer 15 had did -- done at that time? 16 MR. LANIER: Objection. 17 Speculation. 18 THE WITNESS: Yes. 19 MR. LANIER: Leading. 20 QUESTIONS BY MR. BICKS: 21 Q. Well, based -- you were there 22 as a fact witness, right? 23 A. That's right. 24 MR. LANIER: Objection. 25

Page 454 1 QUESTIONS BY MR. BICKS: 2 Q. And this assessment proved to 3 be correct because many questions were 4 subsequently raised about results reported in 5 the literature in the early 1970s, right? 6 Do you remember that, that 7 there were questions raised? 8 A. Yes. 9 Q. And in part, that's one of the 10 reasons that you engaged in years of testing 11 and over a hundred different tests, right? 12 A. Yes. 13 Q. All right. Now, you were also 14 asked about this concentration method. 15 Do you remember that? 16 A. Yes. 17 Q. Did you have ideas for a 18 concentration method that you had worked on? 19 A. Yes, we did sort of experiment 20 a little to see if we could improve the 21 detection limit of the XRD techniques. 22 Q. And did it turn out to be 23 something that was successful? 24 A. But it didn't improve results 25 to a great extent, let's put it that way.	Page 456 1 Do you see that? 2 A. Yes. 3 Q. And what does this tell us 4 about whether or not Italian 00000 and 5 Vermont satisfied this concentration method? 6 A. That there was no chrysotile to 7 indicate, as it were, by his technique. 8 Q. Yeah. 9 You were also asked questions 10 about Val Chisone. 11 Remember that booklet? 12 A. Yes. 13 Q. And I want you to actually -- 14 as a scientist, what do you make of -- when 15 you look at kind of comparing science to 16 things that are more focused on marketing, 17 what do you find is more reliable? 18 A. The science. 19 Q. Yeah. 20 And so let me actually show you 21 a little bit about some information about 22 this booklet. 23 (Pooley Exhibit 63 marked for 24 identification.) 25 MR. LANIER: What's the source
Page 455 1 Q. What about how did it compare 2 to, for example, TEM? 3 A. Well, you concentrate to 4 actually look at samples in the TEM. 5 (Pooley Exhibit 62 marked for 6 identification.) 7 QUESTIONS BY MR. BICKS: 8 Q. Let me show you Exhibit 62, and 9 do you see this is a memo you prepared, 10 right? 11 A. Yes. 12 Q. And it talks about 13 concentration of chrysotile asbestos, right? 14 A. Sure. Yes. 15 Q. And if you actually look at 16 this and go to the end, look at what the 17 conclusion was: "In our laboratory we are 18 now subjecting samples to these tests for 19 indication of chrysotile asbestos." 20 Do you see that? 21 A. Yeah. 22 Q. And it says, "Tests on the 23 Italian 00000 talc alone have been shown to 24 be negative and one test on a single Vermont 25 sample has also been negative."	Page 457 1 on this? 2 MR. BICKS: It's a Johnson & 3 Johnson document. 4 MR. LANIER: I mean, who is it 5 by? Do you know anything about it? 6 MR. BECKER: It's signed. 7 MR. BICKS: Ashton. 8 MR. LANIER: Who is that? 9 MR. BICKS: He was head of the 10 talc business at Johnson & Johnson. 11 Unfortunately, he's not alive. 12 QUESTIONS BY MR. BICKS: 13 Q. You see here where -- 14 MR. LANIER: Exhibit number? 15 MR. BICKS: What's that? 16 MR. LANIER: Exhibit number? 17 MS. NOONAN: 63. 18 QUESTIONS BY MR. BICKS: 19 Q. -- that there's reference that 20 the CVS publication was the brainchild of 21 Mr. Gianfranco, the son of the owner, and 22 that "he was preparing the booklet for two 23 years and had his heart set on the idea that 24 it would raise his personal reputation and 25 talc and business to new heights. He had

Page 458 1 been following the talc asbestos controversy 2 but only from disconnected pieces which came 3 to him through his agent in England or from 4 J&J staff. He figured that he has the best 5 talc in the world and other talcs had a lot 6 of asbestos in them, so he would capitalize 7 on the matter by putting out his booklet 8 which would force others to say his talc, 9 find his was better, and thereby put him in a 10 position to hold the top place in the 11 high-grade market." 12 Do you see that? 13 A. Yes. 14 Q. Does that shed a little bit of 15 knowledge about this booklet and whether or 16 not somebody in your field would be looking 17 at it? 18 A. Yeah. It was definitely not a 19 scientific reference. 20 MR. LANIER: Objection. 21 Leading. Speculation. 22 QUESTIONS BY MR. BICKS: 23 Q. And in looking at this and 24 seeing that booklet, does that in any way 25 have any impact on the years and years of	Page 460 1 that happened 40 to 50 years ago, right? 2 A. That's correct. 3 Q. To come talk to this jury, do 4 you think it's a good idea for you to look at 5 documents that took place 40 to 50 years ago 6 so you could be here and be knowledgeable 7 about work that you did? 8 A. Oh, yes. 9 Q. You were asked questions about 10 are you an epidemiologist or a pathologist or 11 a whole series of things. 12 Remember those questions? 13 A. Yes. 14 Q. Does that have anything to do 15 with the testing work that you did? 16 A. No. Huh-uh. 17 Q. And Mr. Lanier asked whether 18 you were a geologist because I might have 19 misspoke and called you a geologist instead 20 of a mineralogist, right? 21 A. Yes. 22 Q. So I apologize that I did that. 23 You're a mineralogist, not a geologist, 24 right? 25 A. Yes.
Page 459 1 testing that you did on talc in Italy and 2 talc in Vermont? 3 A. No, none at all. 4 Q. Now, there was a lot of 5 questions asked to you about prior testimony 6 that you gave in asbestos cases. 7 Do you remember that? 8 A. Yes. 9 Q. And does that testimony you 10 gave in asbestos cases have anything to do 11 with the testing work that you did for 12 Johnson & Johnson? 13 A. No. 14 Q. You were also asked about 15 whether or not you spent time getting ready 16 to testify. 17 Remember that? 18 A. Yes. 19 Q. And it was a quibble of one to 20 two days -- 21 A. Yeah. 22 Q. -- right? 23 You're about to be 79? 24 A. Yes. 25 Q. And we're talking about things	Page 461 1 Q. Does a mineralogist come in 2 contact with principles of geology? 3 A. All the time. 4 Q. All right. And have you taken 5 classes and probably taught them -- 6 A. Yes. 7 Q. -- on geology? 8 A. Yes. 9 Q. All right. You were asked 10 questions about your deposition you gave 11 yesterday where you said that there was no 12 asbestos in talc deposits. 13 Remember that? 14 A. Yes. 15 Q. Those questions. 16 Were you referring to the 17 deposits that we're dealing in this case 18 with, which is Italy and Vermont? 19 A. No. 20 Q. Did you see any asbestos in 21 those deposits? 22 A. No. 23 Q. But you have found in other 24 deposits, for example, I showed you an 25 exhibit relating to a deposit in California

Page 462 1 where you did see some asbestos, right? 2 A. Sure. 3 MR. LANIER: Objection. 4 Leading. 5 THE WITNESS: Warm Springs, 6 California, yes. 7 QUESTIONS BY MR. BICKS: 8 Q. Right. 9 So the suggestion every time 10 you look at something you're always going to 11 say there's no asbestos, is that fair? 12 MR. LANIER: Objection. 13 Leading. 14 THE WITNESS: No. 15 QUESTIONS BY MR. BICKS: 16 Q. All right. In any of the 17 questions that Mr. Lanier asked you over 18 those three to four hours, does it -- does it 19 in any way impact any of the conclusions and 20 the work you did 40 to 50 years ago? 21 A. No, huh-uh. 22 Q. And after all that work, after 23 looking at the materials that are before you, 24 McCrone's, Selikoff, MIT, Princeton, FDA, 25 Harvard, NIOSH, your own medical work that	Page 464 1 Are you familiar with that from 2 your 50 years of testifying? 3 MR. BICKS: Objection to the 4 form. 5 THE WITNESS: Not really, no. 6 QUESTIONS BY MR. LANIER: 7 Q. In other words, he said, you 8 know, was there -- the findings from MIT, 9 Princeton, NIOSH, Harvard, he made a big 10 list, remember? 11 A. Yes. 12 Q. Okay. What was the MIT study? 13 A. An examination of talc samples. 14 Q. By whom? 15 A. I don't know the research 16 worker there. 17 Q. Okay. Was it an official MIT 18 study, or was there some fellow who worked at 19 MIT? 20 A. I have no idea. 21 Q. And how many samples? 22 A. I have no idea. 23 Q. And where did he get them from? 24 A. J&J, I suppose. 25 Q. You suppose?
Page 463 1 you did studying animals, the rats, do you 2 believe that you did good work? 3 A. I hope so, yes. 4 Q. And do you believe that all the 5 testing that indicated that there's no 6 asbestos in Johnson & Johnson's talc are 7 conclusions that as you're sitting here today 8 looking at all this material, do you stand by 9 the work that you did? 10 A. Yes. 11 Q. Thank you. 12 And we know that you have a 13 plane to catch. What time is your plane? 14 A. Well, I better be there by half 15 past 7. 16 MR. BICKS: All right. 17 MR. LANIER: I'll do the best I 18 can. I got to cover things. 19 RECROSS-EXAMINATION 20 QUESTIONS BY MR. LANIER: 21 Q. Sir, I want to understand 22 something here. Mr. Bicks asked you a lot of 23 questions that were what we call leading 24 questions, where he would put the answer into 25 the question itself.	Page 465 1 A. Yeah. 2 Q. Don't suppose. You tell me 3 what you know. 4 A. No, I don't know where he got 5 them from. 6 Q. Okay. What testing technique? 7 A. I don't know. 8 Q. All right. How about 9 Princeton, who was the fellow at Princeton? 10 A. That was Brown, I think. I'm 11 not sure. 12 Q. Brown? 13 A. Brown, yeah. 14 Q. Or Burton? 15 A. Brown. 16 Q. Brown. 17 And what technique did he use? 18 A. I don't know. 19 Q. And who gave him the samples? 20 A. I would assume J&J. 21 Q. Don't assume. We want to know 22 what you know. 23 A. I don't know. 24 Q. And how many? 25 A. I don't know.

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1 Q. And was it him alone? 2 A. I don't know. 3 Q. In whose lab? 4 A. Princeton, I suppose. 5 Q. And who funded it? 6 A. I don't know. 7 Q. And the Harvard study, who is 8 it by? 9 A. I think it was Berger. I'm not 10 sure. 11 Q. And how much -- you don't know, 12 but who gave the samples? 13 A. I don't know. 14 Q. How many? 15 A. I don't know. 16 Q. What technique? 17 A. I don't know. 18 Q. Was it good science? Bad 19 science? 20 A. I have no idea. 21 Q. And next you also said that you 22 went to the FDA yourself and gave the FDA 23 your results; is that right? 24 You personally went? 25 A. Yes, C Street, Washington.	1 QUESTIONS BY MR. LANIER: 2 Q. Did you tell them that J&J had 3 a right to tell you whether or not you can go 4 even talk to them? 5 A. No. 6 Q. You never disclosed any of your 7 conflict? 8 Did you not know that the FDA 9 was relying upon you and might see you as a 10 neutral? 11 A. No. 12 MR. BICKS: Objection. 13 QUESTIONS BY MR. LANIER: 14 Q. Did you not know that when the 15 FDA does the write-ups like Mr. Bicks said, 16 that said, "Hey, we investigated and found 17 out that since the '70s there hasn't been any 18 asbestos in talc," that they were relying 19 upon people like you? 20 A. Uh-huh. 21 Q. Did you know that? 22 A. No. 23 Q. Just from a perspective of 24 integrity, if we get back on integrity road, 25 disclosure is important for scientific
Page 467	Page 469
1 Yes. 2 Q. Yeah. 3 Did you tell the FDA that you 4 were being paid by Johnson & Johnson? 5 A. No. 6 Q. And that Johnson -- no? 7 A. No. 8 Q. You did not disclose your 9 conflict of interest to the FDA? 10 A. It wasn't -- it was a reporting 11 meeting. 12 Q. No. I said: Did you disclose 13 your -- 14 A. No. 15 Q. -- conflict of interest that 16 you were being paid by J&J? 17 A. No. 18 Q. Did you tell them that J&J had 19 a right by contract to affect your material 20 and how you wrote it up and how you reported 21 it? 22 A. No. 23 MR. BICKS: Objection to the 24 form. 25	1 studies, right? 2 A. Yes. 3 Q. I mean, The Tobacco Institute, 4 you're aware of the fact that a lot of 5 leading publications will no longer even 6 publish something funded by the tobacco 7 companies, right? 8 A. Yes. 9 Q. That's not something new; 10 disclosure has been important in academia and 11 science for a long time, hadn't it? 12 A. I don't know. 13 Q. Transparency, you're familiar 14 with that word? 15 A. Yes. 16 Q. You were not transparent with 17 the FDA on who funded all of your work and 18 who was paying you to do it, were you? 19 A. No. 20 Q. Next. Mr. Bicks said you've 21 been talking about things that happened 40 to 22 50 years and you need to refresh your mind. 23 A. Uh-huh. 24 Q. Okay. But the truth is the 25 truth and science is the science, isn't it?

Page 470 1 A. Yes. 2 Q. I mean, what I was fussing with 3 you about is the fact that your opinion seems 4 to change over the years based upon who is 5 paying you? 6 MR. BICKS: Objection to the 7 form. 8 QUESTIONS BY MR. LANIER: 9 Q. You realize that was my fuss? 10 A. Yeah. 11 Q. And then what the company does 12 to get you ready is they cherry-pick their 13 information and data to give you, didn't 14 they? 15 MR. BICKS: Objection to the 16 form. 17 THE WITNESS: I was introduced 18 to data that I hadn't seen before, 19 yes. 20 QUESTIONS BY MR. LANIER: 21 Q. Yeah. 22 That the company handpicked, 23 didn't they? 24 A. I don't know. 25 Q. I mean, you didn't know about	Page 472 1 margins. Remember that chart of all -- 2 A. Yes. 3 Q. -- these people giving him a 4 clean bill of health. 5 A. Yeah. 6 Q. I'm calling that his "no 7 asbestos chart." 8 Are you with me? 9 A. Yes. 10 Q. Of course, that's only as good 11 as the tests are? 12 A. Yes. 13 Q. We need to look at the tests to 14 see if they were using a sophisticated scale. 15 Can't weigh paperclips on a bathroom scale, 16 right? 17 A. Yeah. 18 Q. You didn't look at those tests 19 carefully, did you? 20 A. No. 21 Q. And we know that what Mr. Bicks 22 is telling you isn't accurate anyway. 23 Did you know that? 24 A. I had no idea. 25 Q. He said to you, "McCrone's
Page 471 1 this Harvard study before you met with him 2 the other day, did you? 3 A. No. No. 4 Q. You didn't know about MIT 5 before you met with him the other day, did 6 you? 7 A. No. 8 Q. Princeton, didn't know about 9 that? 10 A. No. 11 Q. Didn't know about NIOSH? 12 A. No. 13 Q. And he was selective in what he 14 showed you, wasn't he? 15 MR. BICKS: Objection to the 16 form. 17 THE WITNESS: No. 18 QUESTIONS BY MR. LANIER: 19 Q. Do you-all use that 20 cherry-picking over in England? 21 A. Not really, no. 22 Q. And then Mr. Bicks does this 23 chart where he goes down and starts on 24 page 1, goes to page 2, gets to 11 and 25 whatever it was, starts writing in the	Page 473 1 15 years, never found any asbestos," 2 remember? 3 A. Yes. 4 Q. But I already showed you the 5 McCrone's exhibit that said "don't use it," 6 they're going to replace it by another 7 version, where they did say that they found 8 tremolite, less than .5 percent, Johnson & 9 Johnson's baby powder. 10 Do you see that? 11 A. Yes. 12 Q. So this idea that McCrone's in 13 15 years never found anything, bam? 14 A. Uh-huh. 15 Q. So Mr. Bicks needs to consider 16 when he's writing his things down for you and 17 the jury that he needs to be accurate. 18 An engineer wants accuracy, 19 right? 20 A. Uh-huh. 21 Q. Yes? 22 A. Yes. 23 Q. And then Mr. Bicks still didn't 24 go through that whole list of things that the 25 company's witness, Mr. Hopkins, has had to

Page 474 1 admit has revealed the presence of asbestos 2 in Johnson & Johnson products and mines. 3 1970 -- 4 MR. BICKS: Objection. 5 QUESTIONS BY MR. LANIER: 6 Q. 1971, he didn't cover this with 7 you, did he? 8 MR. BICKS: Objection to the 9 form. 10 THE WITNESS: No. 11 QUESTIONS BY MR. LANIER: 12 Q. In fact, what he did is he gave 13 you and the jury a very selective timeline of 14 talc testing for Dr. Pooley. 15 Do you see that? 16 A. Yes. 17 Q. And he left out the 1973 where 18 you found actinolite. Doesn't have that on 19 here, does he? 20 MR. BICKS: That is on there. 21 QUESTIONS BY MR. LANIER: 22 Q. Does he? 23 I can't find it. Do you see 24 it? 25 A. No.	Page 476 1 left out -- look, it only goes up to 1976? 2 A. Yeah. 3 Q. 1977, January 1977, you wrote a 4 letter to Rolle saying that you'd found 5 fibers and antigorite, right? 6 MR. BICKS: Objection to the 7 form. 8 QUESTIONS BY MR. LANIER: 9 Q. Doesn't have that on there, 10 does he? 11 A. No. 12 MR. BICKS: Objection to the 13 form. 14 QUESTIONS BY MR. LANIER: 15 Q. Doesn't, does he? 16 A. No. 17 Q. No. 18 And if you go back to his thing 19 of McCrone for 15 years, he doesn't have 20 McCrone's Windsor finding in 1978 of 21 chrysotile fibers and fibrous tremolite; he 22 doesn't have McCrone in 1980 finding 23 chrysotile; he doesn't have McCrone in 1980 24 finding another chrysotile; McCrone in '83 25 finding fibers; McCrone in '84 finding
Page 475 1 Q. Left out the McCrone finding 2 chrysotile in '74, doesn't he? 3 MR. BICKS: Objection to the 4 form. 5 QUESTIONS BY MR. LANIER: 6 Q. It's not on here, is it? 7 MR. BICKS: That's all his 8 work. That's all I put on the chart. 9 QUESTIONS BY MR. LANIER: 10 Q. It's not on here, is it, sir? 11 A. No. No. 12 Q. In fact, he doesn't have the 13 work of all of the different folks that have 14 found tons of different studies and 15 opportunities to find asbestos? 16 MR. BICKS: Objection to the 17 form. 18 QUESTIONS BY MR. LANIER: 19 Q. It's not in here, is it? 20 MR. BICKS: Objection to the 21 form. 22 THE WITNESS: No, I think they 23 only relate to my studies. 24 QUESTIONS BY MR. LANIER: 25 Q. Well, even that, though, he	Page 477 1 chrysotile fibers; McCrone in '85 finding 2 chrysotile fibers; McCrone in '86 finding 3 chrysotile fibers; McCrone in '86 finding 4 some other fellow exposed to fibers; J&J to 5 Miller finding tremolite in '87; the Colorado 6 finding of mines of tremolite and fibrous 7 talc. 8 Doesn't have any of that, did 9 he? 10 MR. BICKS: Objection to the 11 form. 12 THE WITNESS: No. 13 QUESTIONS BY MR. LANIER: 14 Q. None of this made his list. 15 I've got boxes over here of positive findings 16 that the jury will have seen. 17 He didn't give you any of this 18 in his cherry-picked data, did he? 19 MR. BICKS: Objection to the 20 form. 21 QUESTIONS BY MR. LANIER: 22 Q. I mean, he didn't give you 23 1948 -- going back to 1948 the finding of 24 minerals in asbestos, did he? 25 MR. BICKS: Objection to the

Page 478 1 form. 2 THE WITNESS: No. 3 QUESTIONS BY MR. LANIER: 4 Q. He didn't give you the finding 5 of asbestos minerals -- we'll shoot forward 6 in time -- 1985, McCrone, Windsor, they find 7 samples, 1.5 fibers counted in samples. 8 Didn't tell you about that one, 9 did he? 10 MR. BICKS: Objection to the 11 form. 12 THE WITNESS: No. 13 QUESTIONS BY MR. LANIER: 14 Q. Didn't tell you about McCrone, 15 November 6, 1980, where they found asbestos 16 fibers, chrysotile fibers? 17 MR. BICKS: Objection to the 18 form. 19 THE WITNESS: No. 20 QUESTIONS BY MR. LANIER: 21 Q. He cherry-picked the data for 22 you and the jury hoping that everybody would 23 fall asleep and not try to look at the rest 24 of the data. 25 That's not right to do, is it?	Page 480 1 tremolite was located. 2 QUESTIONS BY MR. LANIER: 3 Q. But was not asbestiform in 4 character? 5 A. No. 6 Q. And has not been detected in 7 talc imported to Great Britain. 8 Do you see that? 9 A. Yes. 10 Q. But we've got Exhibit 10, which 11 is your report, and if he's reading your 12 report on the very back, Fred Pooley, that's 13 not what it says, is it? 14 A. Uh-huh. 15 Q. Mr. Bicks has inadequately 16 quoted this report. "Particles formed from 17 the amphophile mineral found at the mine were 18 hardly fibrous." 19 A. Yeah. 20 Q. "The majority broke to give 21 compact particles." They got too small. 22 Doesn't mean all of them did, does it? 23 MR. BICKS: Objection to the 24 form. 25
Page 479 1 MR. BICKS: Objection to the 2 form. 3 QUESTIONS BY MR. LANIER: 4 Q. You ought to consider all the 5 data, right? 6 A. Oh, sure. Yeah. 7 Q. I mean, the Val Chisone report, 8 you found tremolite in Val Chisone. That's 9 not on the timeline, is it? 10 It says, "The massive talc is 11 exceptionally pure." 12 A. Yes. 13 Q. Where does it say on the 14 timeline you found asbestos tremolite? 15 MR. BICKS: It says it right at 16 the top. 17 MR. LANIER: Oh, he's talking 18 about this right here, 1972? Is that 19 is it, Mr. Bicks? 20 MR. BICKS: I can't see it from 21 where I am, but -- 22 MR. LANIER: It's right up 23 there. 24 That's your claim? 25 MR. BICKS: Yeah, some	Page 481 1 QUESTIONS BY MR. LANIER: 2 Q. Doesn't mean all of them did, 3 does it? 4 A. Nope. 5 Q. So he didn't quote it here, but 6 you found tremolite that was asbestiform that 7 didn't break apart, didn't you? 8 MR. BICKS: Objection to the 9 form. 10 THE WITNESS: Yes. A few 11 particles, yes. 12 QUESTIONS BY MR. LANIER: 13 Q. Yeah. 14 And again, this shouldn't be 15 about cherry-picking. This should just be 16 about, be honest, be up front, tell the 17 truth, right? 18 MR. BICKS: Objection to the 19 form. 20 THE WITNESS: Yes. 21 QUESTIONS BY MR. LANIER: 22 Q. And then you were asked about 23 whether or not some of this work was done 24 that was done by litigation. 25 You don't know what work was

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1 done by litigation and what wasn't unless you 2 did it, fair? 3 A. No. 4 Q. You don't know whether it was 5 done to sell the product successfully or not? 6 A. No. 7 Q. You're just answering his 8 questions? 9 A. Yes. 10 Q. And when you were asked with 11 reference to Exhibit Number 4, did you reach 12 a conclusion about whether or not there was 13 any asbestos in the samples you looked at at 14 Vermont, you said there was no visible 15 asbestos material in the rock -- 16 A. Yes. 17 Q. -- right? 18 Well, you're not going to see 19 asbestos fibers with the eye, are you? 20 A. Yes, you can. 21 Q. You can see an individual 22 asbestos fiber with the eye? 23 A. No, but you see groups of them. 24 Q. I mean, you have -- you can't 25 even use a normal microscope.	1 QUESTIONS BY MR. LANIER: 2 Q. Which means it's a -- it's 3 asbestos but a different size? 4 A. No, it's -- 5 Q. It's an asbestos mineral? 6 A. It's tremolite, yeah. 7 Q. Which is an asbestos mineral? 8 A. Yeah, which occurs in a 9 nonfibrous -- 10 Q. By nonfibrous you mean a 11 different size? 12 A. Different shape and et cetera, 13 yeah. 14 Q. Yeah, that's the size. 15 Different length, different 16 width, right? 17 A. Yeah. Fair enough. 18 Q. And so it's a different size 19 than you think is dangerous regardless of 20 what American Cancer Society, International 21 Agency for the Research of Cancer, World 22 Health Organization, FDA, CDC, NIOSH, all 23 those other organizations, you think that 24 it's not dangerous? 25 A. No.
Page 483	Page 485
1 A. Oh, okay. 2 Q. Can you? 3 A. What's a normal microscope? 4 Q. A light microscope. 5 A. Oh, I see. 6 Q. You can't see an asbestos fiber 7 like that, can you? 8 A. With a light microscope? 9 Q. Right. 10 A. No. 11 Q. Much less with your eye? 12 A. No. 13 Q. And then we did find some 14 amphophile material in the rock, but it 15 wasn't asbestiform. 16 What you found was tremolite, 17 didn't you? 18 A. Yes. I think it was, yeah. 19 Q. And then you just thought it 20 was a different size than you believe is 21 dangerous, right? 22 MR. BICKS: Objection to the 23 form. 24 THE WITNESS: It wasn't 25 asbestiform.	1 Q. And so you don't call it 2 asbestos, right? 3 A. No. I wouldn't call it 4 asbestos, no. 5 Q. No, what? 6 A. I said no. 7 Q. Why? What did I say wrong? 8 A. Nothing. 9 Q. Okay. If we go back and look 10 at your letter, Exhibit Number 8, in this you 11 found tremolite, didn't you? 12 A. Yeah. 13 Q. You just said: "It's not the 14 right shape; it might be .29 instead of .30," 15 right? 16 A. Yep. 17 Q. Exhibit 11, you found asbestos, 18 and it's back here. Tremolite, actinolite, 19 you found it in one of the samples given to 20 you by the company, didn't you? 21 A. Yes. 22 Q. EPA, 1976, Exhibit 14, this was 23 that hard to read one. 24 Lewin found asbestos in Johnson 25 & Johnson product, didn't he?

Page 486 1 A. He said he did, yes. 2 Q. I mean, he reported it? 3 A. Sure. Okay. 4 Q. You didn't find it? 5 A. No. 6 Q. But he did? 7 A. Yeah. 8 Q. Kind of a question of how hard 9 are you looking? 10 A. Huh. 11 Q. What technique are you using, 12 right? 13 A. Yeah. 14 Q. Exhibit 16, you found tremolite 15 in California talc, didn't you? 16 A. Yes. 17 Q. And we still go back to my 18 point about testing and scales. You got to 19 use the right test variation. I mean, you 20 can find something that's true, but if it's 21 not the whole truth, it's a lie, fair? 22 A. I don't understand what you 23 mean. 24 Q. Well, let me give you an 25 example. I'll give you a document from	Page 488 1 A. Yeah. 2 Q. -- "on the conference call 3 concerning our asbestos-free policy. We 4 clearly need to gather more data to help us 5 map our true position" -- 6 Do you see where I'm reading? 7 A. Yes. 8 Q. -- "regarding developing the 9 Luzenac policy on this issue. The analogy 10 with World Health Organization drinking water 11 standards may be useful, as might toxic 12 metals in food like mercury in tuna, i.e., 13 free," like asbestos-free, "means below a 14 certain concentration and not absolutely 15 absent." 16 Do you see where I'm reading 17 that? 18 A. Yeah. 19 MR. BICKS: Objection to the 20 form and the use of the document. 21 QUESTIONS BY MR. LANIER: 22 Q. The idea that something is 23 asbestos-free is something that you-all and 24 the miners are talking about being below a 25 certain concentration as opposed to
Page 487 1 Luzenac, which is the mine company here. 2 We'll mark this document as Exhibit 3 Number 64. 4 (Pooley Exhibit 64 marked for 5 identification.) 6 QUESTIONS BY MR. LANIER: 7 Q. You understand that Johnson & 8 Johnson at times bought their stuff from 9 other companies, right? 10 A. Yes. 11 Q. Their talc? 12 A. Yeah. 13 Q. All right. So here we've got 14 the Imerys defendant now is the name that 15 they go by talking about talc and asbestos in 16 2000. 17 Do you see this? 18 A. Yeah. 19 Q. "Your whimsical suggestions 20 would certainly be very entertaining if they 21 didn't go to the heart of the problem so 22 much. I like your best bon mot" -- 23 Do you know what that means? 24 A. Yeah, good word. 25 Q. Your good word?	Page 489 1 absolutely absent. 2 Do you see that? 3 MR. BICKS: Objection to the 4 form. 5 MR. BECKER: Object to the 6 form. 7 QUESTIONS BY MR. LANIER: 8 Q. Do you see it? 9 A. Yeah. 10 Q. Look at this line: "My father 11 often told me I was a master of the 12 half-truth, but he didn't mean it as a 13 compliment. However, selection and spinning 14 are essential elements of corporate as well 15 as any other type of storytelling." 16 Do you see that? 17 A. Yes. 18 MR. BICKS: Objection to the 19 form. 20 MR. BECKER: Objection. 21 QUESTIONS BY MR. LANIER: 22 Q. Yeah, this idea that, "Oh, 23 well, we'll pull out studies that show no 24 asbestos" -- by the way, Luzenac, did you 25 know Imerys, that they were supplying J&J

Page 490 1 with talc? 2 A. No. 3 Q. Yeah. 4 And here's where we get back to 5 the scales. The bathroom scales are not 6 going to register the paperclip; they're not 7 sensitive enough, right? 8 A. Yes. 9 Q. So the company and their 10 different folks they hire, you can always 11 find someone, depending upon the testing 12 they're going to use, who is going to say 13 something is asbestos-free reasonably, 14 wouldn't you agree, if they don't use the 15 right technique? 16 MR. BICKS: Objection to the 17 form. 18 MR. BECKER: Objection. 19 THE WITNESS: Yes, if they're 20 not capable of doing the work -- 21 QUESTIONS BY MR. LANIER: 22 Q. Uh-huh. 23 A. -- correctly. 24 Q. So within the framework of this 25 then, here's where I'm a little troubled. If	Page 492 1 university and the British government. 2 Q. Well, Johnson & Johnson is 3 paying the money to the university? 4 A. No, not continuously. We had 5 support for certain pieces of work. 6 Q. Yeah. 7 A. There wasn't a continuous flow 8 of cash coming from Johnson & Johnson into 9 the university. 10 Q. Sir, you've testified before, 11 I'll pull it out, but you've got retained by 12 Johnson & Johnson many times as a consultant 13 where they paid you. 14 A. Yes. 15 Q. All right. Don't pretend that 16 you never got paid by them. 17 You're under oath, right? 18 A. Yeah. 19 MR. BICKS: Objection to the 20 form. 21 QUESTIONS BY MR. LANIER: 22 Q. So when you look at these 23 results and you wind up saying in Exhibit 18, 24 for example, Johnson's baby powder, Pooley 25 says nondetected, you weren't able to detect
Page 491 1 we look at the Langer test -- first of all, 2 do you know what CTFA stands for? 3 A. Cosmetic and Toilet Federation, 4 I think. 5 Q. Uh-huh. 6 Langer actually did find 7 Johnson & Johnson baby powder with asbestos 8 in it. You're the one who retested it and 9 re-looked at the results and you're the one 10 who said it's not there, right? 11 MR. BICKS: Objection to the 12 form. 13 THE WITNESS: I have no idea. 14 QUESTIONS BY MR. LANIER: 15 Q. Well -- 16 A. Yes. No, when I looked at his 17 samples, yeah. 18 Q. Yeah, you determined it wasn't. 19 You just disagreed with him on 20 whether or not it was asbestos in the Johnson 21 & Johnson product, right? 22 A. Yeah. 23 Q. And, of course, you're getting 24 paid by Johnson & Johnson? 25 A. I've been paid by the	Page 493 1 it? 2 A. No. 3 Q. But Langer found it, didn't he? 4 A. Well, he said he did. 5 Q. Well, you and everybody -- when 6 you're talking to Mr. Bicks, these are 7 wonderful people who were great and careful 8 and really good. 9 A. Uh-huh. 10 Q. But the whole idea of the 11 Dr. Langer, you know, never -- Mount Sinai 12 never found and the head of Mount Sinai never 13 found, and he writes it on his list. 14 No, you took the sample and you 15 changed the results to a nondetect, but the 16 original result by Dr. Langer shows something 17 very different, doesn't it? 18 A. No. 19 Q. Yeah. It shows tremolite and 20 anthophyllite, and you have ND. 21 What does ND mean? 22 A. Well, you -- ND, not detected. 23 Q. Yeah, same thing happened with 24 Boots baby powder, Avon perfume talc? 25 A. Yeah.

Page 494 1 Q. Powder spray, face powder. 2 You can't find asbestos in any 3 of that, can you? 4 A. No. 5 Q. So when that exhibit is used 6 and Mr. Bicks tries to tie in, you know, 7 columns 4, 18, 9, all the rest of those 8 numbers, that's your analysis; that's not 9 Dr. Langer's analysis, right? 10 MR. BICKS: Objection to the 11 form. 12 THE WITNESS: No. Well, my 13 result was in that table. 14 QUESTIONS BY MR. LANIER: 15 Q. Yeah. 16 A. Next to Arthur's, yeah. 17 Q. Right. 18 You're the one who said this is 19 the -- your report on the examination of the 20 talc samples; it's not his? 21 A. No. 22 Q. Right? 23 A. Yep. 24 Q. And then as far as Johnson & 25 Johnson didn't have asbestos in their talc,	Page 496 1 truth about this? 2 MR. BICKS: Objection to the 3 form. 4 QUESTIONS BY MR. LANIER: 5 Q. Did he tell you that? 6 A. No. 7 Q. Before he told you the EPA said 8 it was fine, the FDA said it was fine, did he 9 tell you that they were relying upon Johnson 10 & Johnson to be honest with them and give 11 them all the test results? 12 Did they tell you that? 13 A. No. 14 Q. Did he tell you that Mount 15 Sinai never said that it was clean for J&J? 16 MR. BICKS: Objection to the 17 form. 18 THE WITNESS: No. 19 QUESTIONS BY MR. LANIER: 20 Q. The Dutch and others did show 21 Johnson & Johnson, he didn't write that down, 22 did he? 23 MR. BICKS: Objection to the 24 form. 25 THE WITNESS: Write it where?
Page 495 1 McCrone said they did? 2 MR. BICKS: Objection to the 3 form. 4 QUESTIONS BY MR. LANIER: 5 Q. More times than I can count. 6 Did you know that? 7 A. No. 8 MR. BICKS: Objection to the 9 form. 10 QUESTIONS BY MR. LANIER: 11 Q. It's just Mr. Bicks never gave 12 you those, did he? Did he? 13 He didn't show you that when he 14 was refreshing your memory for \$300 an hour? 15 A. The McCrone results? 16 Q. Right. 17 A. Yeah. 18 Q. He didn't show you all of those 19 tests, did he? 20 A. Not all of them, no. 21 Q. No. 22 He didn't -- did he tell you 23 that the government relied on self-reporting 24 by industry, that our government relied on 25 industry to be honest and actually tell the	Page 497 1 QUESTIONS BY MR. LANIER: 2 Q. He never showed you any of the 3 Dutch tests, did he? 4 A. No. 5 Q. Didn't show you the tests that 6 showed asbestos, did he? 7 MR. BICKS: Objection to the 8 form. 9 THE WITNESS: No. 10 QUESTIONS BY MR. LANIER: 11 Q. Didn't discuss with you the 12 differing scales and what kind of scales and 13 tests were used by these various folks he's 14 trying to say are reliable -- 15 MR. BICKS: Objection to the 16 form. 17 QUESTIONS BY MR. LANIER: 18 Q. -- did he? 19 A. No. 20 Q. And then Exhibit 2, do you have 21 that? I can't find my copy. Exhibit 2, it's 22 the one he just asked you about. Since the 23 early 1900s. It's been -- he's done that 24 twice now, and I need to deal with it. 25 Exhibit 2, it's an article.

Page 498 1 With due respect to Mr. Bicks 2 and you, this is almost laughable the way 3 this is being used, isn't it? 4 MR. BICKS: Objection to the 5 form. 6 THE WITNESS: I don't know. 7 QUESTIONS BY MR. LANIER: 8 Q. "Since geological studies 9 dating from the early 1900s have shown 10 Vermont talc deposits contain no asbestos." 11 A. Uh-huh. 12 Q. You got that? 13 A. Yeah, it's there. 14 Q. Okay. So who was using an 15 electron microscope in the early 1900s? 16 A. I have no idea. 17 Q. Nobody. 18 It hadn't been invented yet, 19 had it? 20 A. Oh, I see. No. 21 Q. Right? 22 A. Yeah. 23 Q. I mean, look, you're telling us 24 don't believe results unless they use an 25 electron microscope.	Page 500 1 Q. Then if we start looking at it, 2 there's actually an indication in this 3 article that if you're not looking at the 4 bulk samples but you're doing something 5 smaller, you will find some asbestos, right? 6 A. I don't know, no. 7 Q. You don't know. 8 Did you look at this article 9 carefully or just -- 10 A. No. I haven't read it in 11 detail, no. 12 Q. So when you're answering 13 questions about it, you're just taking 14 Mr. Bicks' representation; is that right? 15 MR. BICKS: Objection to the 16 form. 17 THE WITNESS: No. No. You -- 18 you led me through the introduction 19 quite nicely. 20 QUESTIONS BY MR. LANIER: 21 Q. In fact, if you look at this, 22 this talks about this idea of a length to 23 width ratio of 3 to 1 or greater -- 24 A. Yes. 25 Q. -- as an arbitrarily defined
Page 499 1 A. Sure. 2 Q. Tell the jury when the electron 3 microscope was first in widespread usage for 4 doing tests like this. 5 A. I would say in the 1960s. 6 Q. Okay. So let's write off the 7 early and mid-1900s and know that -- 8 MR. BICKS: You're writing on 9 the exhibit. 10 MR. LANIER: Oh, you're right. 11 I apologize. That's not right. 12 Here's an extra copy, so we'll mark a 13 clean copy as Exhibit 2 that's 14 unwritten on. Is that adequate, 15 Peter? For some reason I thought I 16 had my own. 17 QUESTIONS BY MR. LANIER: 18 Q. So there's the Exhibit 2. 19 "Since geological studies," I mean, "contain 20 no asbestos," that's a nothing burger. 21 MR. BICKS: Object to the form. 22 QUESTIONS BY MR. LANIER: 23 Q. Until you get to the 1960s at 24 least, right? 25 A. Yeah.	Page 501 1 fiber? 2 A. Sure. 3 Q. It's just arbitrary? 4 A. Yeah. 5 Q. Do you see that? 6 A. Yes. 7 MR. BICKS: All right. We got 8 to really wrap it up. 9 QUESTIONS BY MR. LANIER: 10 Q. This talks about an inability 11 to distinguish rolled talc particles and talc 12 shards from actual asbestos fibers. 13 A. Yes. 14 Q. I mean, this isn't something 15 where the jury should read this and say, "Oh, 16 my gosh, they've known forever that there's 17 no asbestos in talc." 18 That's saying that the test 19 results haven't been adequate, isn't it? 20 MR. BICKS: Objection to the 21 form. 22 QUESTIONS BY MR. LANIER: 23 Q. True? 24 A. Yes, that you overestimate. 25 Q. And then --

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1 A. Fibrous materials. 2 Q. All right. Next. He said the 3 American Cancer Society says that talc is 4 free of asbestos, Exhibit 59. 5 Do you remember that? 6 A. Yeah. 7 Q. Do you have any knowledge of 8 whether or not the American Cancer Society 9 tested talc or relied upon what Johnson & 10 Johnson was telling them? 11 MR. BICKS: Objection to the 12 form. 13 THE WITNESS: No idea. 14 QUESTIONS BY MR. LANIER: 15 Q. Because look what they say in 16 Exhibit 59. They say, "Whether or not talcum 17 powder is linked to cancer, it is important 18 to distinguish between talc that contains 19 asbestos and talc that is asbestos-free." 20 A. Yes. 21 Q. Now, when the companies like 22 the mine here talks about, "We'll say it's 23 asbestos-free if it just doesn't have so 24 much," that would be important to tell the 25 American Cancer Society, wouldn't it?	1 lungs just recognize it's asbestos by its 2 size and shape. 3 A. Yes. 4 Q. When did you become a lung 5 doctor? 6 MR. BICKS: Objection to the 7 form. 8 THE WITNESS: Oh, I look at 9 lung samples practically every week. 10 QUESTIONS BY MR. LANIER: 11 Q. That wasn't my question. 12 When did you become a lung 13 doctor? 14 A. What's a lung doctor? 15 Q. A pulmonologist. It's a whole 16 area of doctors. 17 A. Oh, sure. Yeah. I don't -- as 18 far as I'm aware, pulmonologists are not 19 involved in measuring minerals and deposition 20 of particles in lungs. 21 Q. Actually, pulmonologists are 22 involved in determining what it is that the 23 lung has inhaled that is causing a cancer. 24 Those are pulmonologists and 25 pulmo-oncologists.
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1 MR. BICKS: Objection to the 2 form. 3 MR. BECKER: Object to the 4 form. 5 THE WITNESS: Yes. 6 QUESTIONS BY MR. LANIER: 7 Q. Because talc that has asbestos 8 is generally accepted as being able to cause 9 cancer if it's inhaled. 10 Do you see that? 11 A. Yeah. 12 Q. And this idea this talc is not 13 used in modern consumer products, that's 14 based on what the companies are saying. 15 Did you know that? 16 MR. BICKS: Objection to the 17 form. 18 THE WITNESS: No. 19 QUESTIONS BY MR. LANIER: 20 Q. I mean, you have no evidence 21 that the company -- that the American Cancer 22 Society has tested these products, do you? 23 A. No. 24 Q. And then you said something I 25 found very interesting. You said that the	1 That's not you, though, is it? 2 All right. And if we want to 3 look at -- next subject. Langer's real 4 paper. 5 We've got Langer's real paper. 6 We can see what Langer had to say. Langer 7 said things like "technique matters when 8 you're trying to determine if there's 9 asbestos," right? 10 A. Yep. 11 Q. Langer said, "If you use one 12 technique, three samples of talc had 13 tremolite; in two of these, tremolite's not 14 detected by other means"? 15 A. Uh-huh. 16 Q. Sort of makes you wonder why 17 you can't detect it when he does, doesn't it? 18 MR. BICKS: Objection to the 19 form. 20 THE WITNESS: Which technique 21 is he talking about there? 22 QUESTIONS BY MR. LANIER: 23 Q. Well, I mean, you're the one 24 who was testifying about this paper through 25 Mr. Bicks.

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1 This is the one where 2 supposedly you went back over because you had 3 concerns about how he did it. 4 A. Yeah. 5 Q. Do you even know how he did it? 6 A. Yes. This is all by XRD data, 7 X-ray diffraction. 8 Q. Right. 9 This study has demonstrated the 10 presence in talc of anthophyllite, tremolite 11 and serpentine minerals. 12 Those are asbestos minerals, 13 aren't they? 14 True? 15 A. No. They're not all asbestos, 16 no. You've got serpentine minerals, I don't 17 know what they are. 18 Q. Well, chrysotile is a 19 serpentine mineral. 20 A. Sure. 21 Q. But anthophyllite and tremolite 22 and chrysotile, those are asbestos, aren't 23 they? 24 A. He didn't report chrysotile, 25 did he, in any of his specimens?	1 Q. Do you have a clue whether they 2 had an idea what they were talking about? 3 MR. BICKS: Objection to the 4 form. 5 THE WITNESS: No. 6 QUESTIONS BY MR. LANIER: 7 Q. Do you know if they were sober 8 or not when they wrote it? 9 A. No. 10 Q. Do you know if they wrote it to 11 publish or if they wrote it to keep a job? 12 A. No idea. 13 Q. Next. Mr. Bicks pointed out 14 you found actinolite, but it wasn't 15 asbestiform, as you call it. 16 A. Yeah. 17 Q. That's the size and shape? 18 A. Yeah. 19 Q. So you think that whether it's 20 3 to 1 ratio makes a difference, right? 21 A. Yeah. 22 Q. But come on now, listen to me 23 carefully, sir: Just because you find one of 24 the tremolite fibers, you know that there are 25 thousands more that you don't look at, right?
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1 Q. Okay. Fine. Take chrysotile 2 out. 3 Anthophyllite and tremolite, 4 those are asbestos? 5 In the interest of time I'm not 6 going to fight you over the rest of them, but 7 those are asbestos, aren't they? 8 A. Okay. Yeah, they are. 9 Q. Next. The Dutch document. 10 Okay. This is Exhibit Number 60. 11 Is this document that starts 12 with page 1 with a definition of asbestos, 13 and it just starts going on into all of this 14 stuff about the Dutch document and what the 15 Dutch say. 16 A. Uh-huh. 17 Q. Have you ever seen this before 18 in your life? 19 A. No. 20 MR. BICKS: Objection to the 21 form. 22 QUESTIONS BY MR. LANIER: 23 Q. Do you have a clue who wrote 24 this? 25 A. No.	1 MR. BICKS: Objection to the 2 form. 3 QUESTIONS BY MR. LANIER: 4 Q. When you find one in a grid, 5 that means that there are going to be 6 thousands more in the product, fair? 7 A. Well, normally one would design 8 the experimentation so that you detect more 9 than one. 10 Q. Okay. You find five in the 11 grid? 12 A. Because one fiber, detecting 13 one fiber, is not a result. 14 Q. Okay. That's fine. Let's say 15 five or ten. There are going to be thousands 16 more than that, aren't they? 17 A. Yes, you have to obviously 18 collect data then to demonstrate that. 19 Q. Yeah. 20 But here's my point, sir: Not 21 all are going to be the same size, some might 22 not meet your 3 to 1 ratio and others might? 23 A. Yeah. 24 Q. And you're not looking at even 25 remotely all of the fibers, are you?

Page 510 1 MR. BICKS: Objection to the 2 form. 3 All right. Let's -- it's six 4 o'clock. 5 MR. LANIER: Okay. What do 6 you -- what do you want? Do you want 7 to just quit now and I won't ask any 8 more and you won't ask any more? If 9 you want to do that, Peter, we'll quit 10 now. 11 It's up to you. I'll quit and 12 you quit. 13 MR. BICKS: Because one of the 14 things you raised, I have to ask him 15 one question. 16 MR. LANIER: What one question 17 do you have to ask him and I'll tell 18 you if I have any more? 19 MR. BICKS: I've got to ask him 20 about the FDA issue you raised. 21 MR. LANIER: Okay. All right. 22 Hold on. Then I'm going to let you do 23 that. 24 QUESTIONS BY MR. LANIER: 25 Q. Oh, when did you start using a	Page 512 1 Dr. Pooley, about whether or not your 2 connection to Johnson & Johnson was known to 3 the FDA? 4 A. Yes. 5 Q. All right. This is a Johnson & 6 Johnson document which is sending to the 7 director of the Office of Product Technology 8 certain information, and do you see that 9 Johnson & Johnson is sending to the FDA your 10 report? 11 A. Yes. 12 Q. Exhibit Number 4? 13 A. Right. Yeah. 14 Q. All right. Does this indicate 15 that the FDA knows that you're working with 16 Johnson & Johnson? 17 A. Yes. 18 MR. BICKS: All right. 19 THE WITNESS: Samples supplied 20 by Johnson & Johnson. 21 FURTHER RECROSS-EXAMINATION 22 QUESTIONS BY MR. LANIER: 23 Q. But in fairness, sir, it 24 doesn't say on here that they paid you to do 25 it, does it?
Page 511 1 3 to 1 aspect ratio to define asbestos fiber? 2 A. That's the sort of standard 3 international definition. 4 Q. When did you start? '60s? 5 '70s? '80s? 6 A. I can't recall. 7 Q. Litigation? 8 A. No. 9 MR. BICKS: Objection to form. 10 MR. LANIER: Peter, do you want 11 to just grab a mic and do it there in 12 the interest of time? 13 MR. BICKS: Yeah. Yes. 14 MR. LANIER: I'm going to pass 15 the witness. I've got a couple more 16 questions, but I'm going to try not to 17 ask them if Peter doesn't go outside 18 of where he's going. And I can put it 19 on the Elmo if you want me to, Peter. 20 If that helps you. 21 (Pooley Exhibit 65 marked for 22 identification.) 23 FURTHER REDIRECT EXAMINATION 24 QUESTIONS BY MR. BICKS: 25 Q. Here, you were asked, remember,	Page 513 1 A. Sorry. 2 Q. It doesn't say on here that 3 they paid you to do it? 4 A. Well, I have to travel across 5 the Atlantic. 6 Q. That wasn't my question, sir. 7 A. No. No. 8 Q. I'm going to finish you in one 9 minute if you'll answer my question. 10 It doesn't say J&J paid you to 11 do it, does it? 12 A. No. 13 Q. It does not say that J&J had 14 the right to edit your reports, does it? 15 MR. BICKS: Objection to the 16 form. 17 THE WITNESS: No. 18 QUESTIONS BY MR. LANIER: 19 Q. It does not say that you had 20 been working with J&J for quite some time in 21 trying to do this, does it? 22 MR. BICKS: Objection to the 23 form. 24 QUESTIONS BY MR. LANIER: 25 Q. Does it?

Page 514 1 A. To do what? 2 Q. To do these tests. 3 A. No, it doesn't say -- 4 Q. It doesn't say that J&J viewed 5 one of your techniques as too sensitive? 6 A. Uh-huh. 7 Q. Does it? 8 A. No. 9 MR. BICKS: Objection to the 10 form. 11 MR. LANIER: All right. Pass 12 the witness. We're done. Thank you. 13 VIDEOGRAPHER: This marks the 14 end of today's deposition. The time 15 is 6:03 p.m. We're going off the 16 record. 17 (Deposition concluded at 6:03 p.m.) 18 ----- 19 20 21 22 23 24 25	Page 516 1 INSTRUCTIONS TO WITNESS 2 3 Please read your deposition over 4 carefully and make any necessary corrections. 5 You should state the reason in the 6 appropriate space on the errata sheet for any 7 corrections that are made. 8 After doing so, please sign the 9 errata sheet and date it. You are signing 10 same subject to the changes you have noted on 11 the errata sheet, which will be attached to 12 your deposition. 13 It is imperative that you return 14 the original errata sheet to the deposing 15 attorney within thirty (30) days of receipt 16 of the deposition transcript by you. If you 17 fail to do so, the deposition transcript may 18 be deemed to be accurate and may be used in 19 court. 20 21 22 23 24 25
Page 515 1 CERTIFICATE 2 3 I, CARRIE A. CAMPBELL, Registered 4 Diplomat Reporter, Certified Realtime 5 Reporter and Certified Shorthand Reporter, do 6 hereby certify that prior to the commencement 7 of the examination, Frederick Pooley, Ph.D., 8 was duly sworn by me to testify to the truth, 9 the whole truth and nothing but the truth. 10 I DO FURTHER CERTIFY that the 11 foregoing is a verbatim transcript of the 12 testimony as taken stenographically by and 13 before me at the time, place and on the date 14 hereinbefore set forth, to the best of my 15 ability. 16 17 I DO FURTHER CERTIFY that I am 18 neither a relative nor employee nor attorney 19 nor counsel of any of the parties to this 20 action, and that I am neither a relative nor 21 employee of such attorney or counsel, and 22 that I am not financially interested in the 23 action. 24 25 CARRIE A. CAMPBELL, NCRA Registered Diplomat Reporter Certified Realtime Reporter California Certified Shorthand Reporter #13921 Missouri Certified Court Reporter #859 Illinois Certified Shorthand Reporter #084-004229 Texas Certified Shorthand Reporter #9328 Kansas Certified Court Reporter #1715 Notary Public Dated: February 9, 2018	Page 517 1 ACKNOWLEDGMENT OF DEPONENT 2 3 4 I, _____, do 5 hereby certify that I have read the foregoing 6 pages and that the same is a correct 7 transcription of the answers given by me to 8 the questions therein propounded, except for 9 the corrections or changes in form or 10 substance, if any, noted in the attached 11 Errata Sheet. 12 13 _____ DATE 14 Frederick Pooley, Ph.D. 15 16 Subscribed and sworn to before me this 17 _____ day of _____, 20 ____. 18 My commission expires: _____ 19 20 Notary Public 21 22 23 24 25

Frederick Pooley, Ph.D.

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- 350 witness recollection corrected with his quotes in trial Bruce
saying anorthophyllite → Muscovite
- 352 Witness assertion that there's a safe level of A.C.P.
355 contradicted by US & world authorities
- 372 Talco Grafite reports says Val Chisone talc had chrysotile,
actinolite & tremolite
- 376 maybe referred to talc generally not Val Chisone talc (Langer)
- 381-382 J & J memo on Val Chisone rept. memo rept. says the talc
has traces of ~~hematite~~ chrysotile asbestos and trace metals. Distr. of
Engr. trans. of rept. stopped after J & J met mine mgmt.
- 386-387 J & J contract for Pooley's work at university had confidentiality
clause
- 390-396 Langer was going to present findings at Edinburgh that (1975)
J & J talc cont. trem. & anthoph. Pooley alerted J & J,
- 399 J & J doc says Pooley persuaded to remove reprint from distribut^{ion}
-401 Pooley insists he only wanted to not have his student's name
on the Langer findings report.
- 405-406 Pooley says he did pull the Langer rept. at Edinburgh conf.

Poolley depo 2/1/18

- 83-84 Started analyses for J & J 1970 or 1971
cont. through 1970s
- 154 cites report 1976 that Mt. Sinai says baby talc is safe
-156 -ND for serpentine + amphibole in J & J talc
160
- 171 suggests J & J says FDA got companies to get A
out of their talc (1984) - ans - if it's in talc you
can't get it out
- 171, 183 witness: no A found in J & J talc by Poolley
- 174 Stein said to agree no A in talc he tested in 5 yrs (1984)
- 176- he was in group incl. J. Wagner MRC testing ~~in talc~~ talc in animals
- 186- Cross 187 he hasn't seen J & J corporate docs but agrees he testified
that if an issue had been found in the tests, J & J "would
have reacted"
- 190 J & J had changed his designation from expert to fact witness
even while eliciting expert answers to some Q's
- 191 Poolley charging expert rate of \$500/hr to J & J
- 196 Poolley's worked for J & M, E-P, T & N, Kaiser Gyp, USG, Hollingsworth + Kneass
+ (250) P.C. + (200) UCC (226) RTV
He's done legal defense test. for them all + said Chy. doesn't cause M
- 197-200 list of many states where he was expert starting 1970s
- 218-219 examples of testimony for UCC, Chy. + J & M
- 231-232 disputes J & J doc characterizing Poolley as "retained" by RTV
but says he was someone RTV could contact for help
- 236 chuckles over Legonac doc asking if Poolley's "controllable"
- 256-257 found trace of A in talc in a case for P.C.
- 259-260 testified for Lorillard that some talcs have tremolite
- 275-277 J & J 1973 doc says Poolley "found actinolite in one VT talc"
- 278-279 J & J 1976 doc says Poolley found 5/20 talc samples had "several percent
of fibrous anthophyllite A."
- 287-288 J & J Benelux 1973 doc "Amiboly Broder" Report of fibrous anthophyllite A.
says Dutch consumer grp. found A in J & J talc
- 300-301 read literary reports finding amphibole in J & J talc - never saw them
- 304 rept says "with sampled cont. insign. amt. of trem." (J & J powder)
- 327 J & J 1963 refers to Poolley concentration method sensitive to 0.05 % tremolite in VT talc
-330 method "too sensitive"
- 332-333 Portakart technique mentioned in 1975 J & J doc: concentration technique not in company
interests
- 333-335 (J & J 1976) disputing FDA request for ultra sophisticated assay -> new problems re A in talc
- 344-348 reads Benelux testimony showing tremolite in talc - amphibole... + Kart cases (Mean)