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Page 1	Page 3
1 STATE OF CONNECTICUT 2 ASB-FBT-CV13-6039034-S 3 4 JAMES STEMPERT, EXECUTOR 5 OF THE ESTATE OF CHARLES 6 STEMPERT, 7 Plaintiff 8 vs. SUPERIOR COURT 9 J.D. OF FAIRFIELD 10 ADC SUPPLY CORP., ET AL, AT BRIDGEPORT 11 Defendants. 12 13 ADDITIONAL CAPTION ON FOLLOWING PAGE 14 15 DEPOSITION OF REYNOLDS ALUMINUM DEVELOPMENT CO., 16 by and through its designee LINDA M. MAILLET 17 Baker, O'Kane, Atkins & Thompson 18 2607 Kingston Pike - Suite 200 19 Knoxville, Tennessee 37919 20 Wednesday, January 11, 2017 21 22 Deborah West, LCR-314 (TN), CLR 23 EPPLEY COURT REPORTING, LLC 24 Post Office Box 382 Hopedale, Massachusetts 01747 (508) 478-9795 (508) 478-0595 (Fax) www.eppleycourtreporting.com	1 APPEARANCES CONTINUED 2 Representing Honeywell, Inc., and Reynolds 3 Aluminum Development Company: 4 ALDER, POLLOCK & SHEEHAN, P.C. 5 One Citizens Plaza - 8th Floor 6 Providence, Rhode Island 02903 7 BY: JAMES R. OSWALD, ESQUIRE 8 (401) 274-7200 9 joswald@apslaw.com 10 11 TELEPHONIC APPEARANCES 12 Representing E.I. du Pont de Nemours and Company 13 and Sporting Goods Properties, Inc.: 14 MURTHA CULLINA, LLP 15 One Century Tower 16 265 Church Street 17 New Haven, Connecticut 06510 18 BY: TERRENCE J. BRUNAU, ESQUIRE 19 (203) 772-7785 20 tbrunau@murthalaw.com 21 22 Representing General Electric Company: 23 HALLORAN & SAGE, LLP 24 315 Post Road West Westport, Connecticut 06880 BY: Dan E. LaBelle, Esquire (203) 222-4303 labelle@halloransage.com Representing Ingersoll Rand and Trand U.S., Inc., fka American Standard: ADLER, COHEN, HARVEY, WAKEMAN GUEKUEZIAN, LLP 75 Federal Street Boston, Massachusetts 02110 BY: E. AMY LaBRECQUE, ESQUIRE (617) 423-6674 aLaBrecque@adlercohen.com
Page 2	Page 4
1 STATE OF CONNECTICUT 2 ASB-FBT-CV-15-6053194-S 3 4 JAMES STEMPERT, EXECUTOR 5 OF THE ESTATE OF CHARLES 6 STEMPERT, 7 Plaintiff 8 vs. SUPERIOR COURT 9 J.D. OF FAIRFIELD 10 HENKEL CORP., ET AL, AT BRIDGEPORT 11 Defendants. 12 13 APPEARANCES 14 Representing the Plaintiff: 15 EARLY, LUCARELLI, SWEENEY & MEISENKOTHERN, LLC 16 One Century Tower - 11th Floor 17 265 Church Street 18 New Haven, Connecticut 06508 19 BY: BRIAN KENNEY, ESQUIRE 20 (203) 777-7799 21 22 Representing Reynolds Aluminum Development Company: 23 HAWKINS, PARNELL, THACKSTON & YOUNG 24 345 California Street - Suite 2850 San Francisco, California 94104 BY: BILL D. FOUNTAIN, ESQUIRE (415) 766-3202 bfountain@hptylaw.com	1 TELEPHONIC APPEARANCES CONTINUED 2 3 Representing Henkel Corporation: 4 LEWIS BRISBOIS 5 100 Pearl Street - Suite 1441 6 Hartford, Connecticut 06103 7 BY: CHRISTOPHER E.H. SANETTI, ESQUIRE 8 (860) 471-8617 9 christopher.sanetti@lewisbrisbois.com 10 11 Representing Wyeth: 12 HINCKLEY ALLEN 13 20 Church Street 14 Hartford, Connecticut 06103 15 BY: AMY E. MARKIM, ESQUIRE 16 (860) 331-2636 17 amarkim@hinckleyallen.com 18 19 ALSO PRESENT: 20 Tom West, Video Specialist 21 West Court Reporting & Video 22 1-865-216-9265 23 24

Page 5

1	INDEX	
2	WITNESS: Linda Maillet	PAGE
3	Examination by Mr. Kenney	11
4	EXHIBITS	
5	Exhibit Number 1,	
6	Re-Notice of Videotaped Deposition	28
7	Exhibit Number 2,	
8	Bates RMC45000200006996-7031	37
9	Exhibit Number 3,	
10	Newspaper article from The Lowell Sun,	
11	May 29, 1945	41
12	Exhibit Number 4,	
13	Bates CRMC-TiloRoofing-000221-222	52
14	Exhibit Number 5,	
15	Defendant Reynolds Aluminum Development	
16	Company's Answers and Objections to	
17	Plaintiffs' Interrogatories	56
18	Exhibit Number 6,	
19	Deposition of Flanders R. Dobson	58
20	Exhibit Number 7,	
21	Bates RMC45000200007730-7731	63
22	Exhibit Number 8,	
23	Bates RMC45000200007271-7274	65
24	Exhibit Number 9,	
	Yearly asbestos fiber summaries from	
	Johns-Manville	72
	Exhibit Number 10,	
	Bates CRMC-TiloRoofing-000174-176	74

Page 7

1	EXHIBITS CONTINUED	
2	PAGE	
3	Exhibit Number 22,	
4	Bates RMC45000200001945-1946	121
5	Exhibit Number 23,	
6	Bates RMC45000200001943-1944	123
7	Exhibit Number 24,	
8	Newspaper article from The Bridgeport	
9	Post, Wednesday, July 3, 1957	130
10	Exhibit Number 25,	
11	Newspaper article from The Bridgeport	
12	Post, Tuesday, March 18, 1965	132
13	Exhibit Number 26,	
14	Newspaper article from The Bridgeport	
15	Post, Thursday, March 17, 1966	133
16	Exhibit Number 27,	
17	Newspaper article from The Bridgeport	
18	Post, Friday, March 18, 1966	133
19	Exhibit Number 28,	
20	Newspaper article from The Bridgeport	
21	Post, Monday, March 21, 1966	136
22	Exhibit Number 29-A,	
23	Photograph	141
24	Exhibit Number 29-B,	
	Photograph	141
	Exhibit Number 30,	
	Bates CRMC-TiloRoofing-000160	146
	Exhibit Number 31,	
	Bates CRMC-TiloRoofing-000166-167	151
	Exhibit Number 32,	
	Bates RMC45000200006767-6791	156

Page 6

1	EXHIBITS CONTINUED	
2	PAGE	
3	Exhibit Number 11,	
4	49th Report of the State Department of	
5	Health	82
6	Exhibit Number 12,	
7	Connecticut Health Bulletin	85
8	December 1936	
9	Exhibit Number 13,	
10	"Science in Review"	90
11	Exhibit Number 14,	
12	Newspaper article from The Bridgeport	
13	Post, Tuesday October 6, 1964	92
14	Exhibit Number 15,	
15	Newspaper article from the Bridgeport	
16	Sunday Post, March 13, 1966	96
17	Exhibit Number 16,	
18	Bates CRMC-TiloRoofing-000163	101
19	Exhibit Number 17,	
20	Article from "A Reporter at Large"	
21	reprinted from The New Yorker	
22	Bates TI53911115-126	102
23	Exhibit Number 18,	
24	Bates RMC4500020000931	111
	Exhibit Number 19,	
	Solid Waste Management Programs	
	Connecticut State Department of	
	Environmental Protection 4/21/75	112
	Exhibit Number 20,	
	Potential Hazardous Waste Site	
	Preliminary Assessment	116
	Exhibit Number 21,	
	Letter dated June 9, 1981	
	Re: EPA Superfund Notifications for	
	Reynolds Aluminum Bldg. Products Co.	119

Page 8

1	EXHIBITS CONTINUED	
2	PAGE	
3	Exhibit Number 33,	
4	Article from The Bridgeport Sunday	
5	Post, September 13, 1964	163
6	Exhibit Number 34,	
7	Article from The Bridgeport Post	
8	Monday, January 30, 1967	166
9	Exhibit Number 35,	
10	Photograph	168
11	Exhibit Number 36,	
12	Minutes of the First Annual Meeting of	
13	the Health & Safety Council/ACPA	
14	November 21, 1969	170
15	Exhibit Number 37,	
16	Article from The Bridgeport Post	
17	Thursday, July 16, 1970	176
18	Exhibit Number 38 - OMITTED	
19	Exhibit Number 39,	
20	Bates RMC45000200001981-1984	98
21	Exhibit Number 40,	
22	Application for Permit for Public	
23	Refuse Disposal Area dated 2/25/75	137
24	(Original exhibits returned to Attorney Kenney,	
	with copies distributed to counsel)	

Page 9

1 (10:10 A.M.)

2 THE VIDEO SPECIALIST: Stand by. We
3 are now on the record.

4 This is the videotaped deposition of
5 Linda Maillet in the matter of James
6 Stempert, executor of the estate of
7 Charles Stempert, versus ADC Supply
8 Corp., et al. That is number ASB-FBT
9 CV-13-6039043-S.

10 And also James Stempert, executor of
11 the estate of Charles Stempert, versus
12 Henkel Corporation. That is number
13 ASB-FBT CV-15-6053194-S.

14 These cases are in the Superior
15 Court JD of Fairfield at Bridgeport.
16 This deposition is taking place in
17 Knoxville, Tennessee, on January 11,
18 2017. The time on the video monitor is
19 now 10:10.

20 My name is Tom West. I am the
21 videographer with Eppley Court Reporting
22 Services. The court reporter today is
23 Debbie West, and she will now swear in
24 the witness.

Page 10

1 LINDA M. MAILLET,
2 called as a witness and having been first duly
3 sworn, was examined and testified as follows:

4 MR. OSWALD: Brian, right before we
5 get going, just to put it on the record,
6 which is what we usually do, do we have
7 your agreement that we will have the
8 usual Connecticut stipulations for this
9 deposition?

10 MR. KENNEY: Correct. This is
11 proceeding pursuant to the usual stips.
12 All objections, except as to form, are
13 reserved for the time of trial. And we
14 all agree that the deposition has been
15 properly noticed and the court reporter
16 is duly qualified.

17 Will the deponent be reading and
18 signing?

19 MR. OSWALD: I believe so.

20 MR. FOUNTAIN: Yes.

21 MR. KENNEY: Okay. Great.

22 With that, I think we are set to
23 begin.
24

Page 11

1 EXAMINATION

2 BY MR. KENNEY:

3 Q Good morning, Ms. Maillet. My name
4 is Brian Kenney. I represent the plaintiff in this
5 case. I am from the law firm of Early, Lucarelli,
6 Sweeney & Meisenkothen in New Haven, Connecticut.

7 Let's begin with some basic and
8 preliminary matters. Can you state your full name
9 for the record, please.

10 A Linda Marie Maillet.

11 Q And where do you live?

12 A I live on 219 Erick Lane in Loudon,
13 Tennessee.

14 Q That is probably the reason why we
15 are here in Tennessee today, correct?

16 A I believe so.

17 Q Okay. Have you ever been deposed
18 before?

19 A I have.

20 Q On how many occasions?

21 A Two.

22 Q In those two occasions -- well, let
23 me ask you this: Did any of those depositions have
24 anything to do with asbestos?

Page 12

1 A One did, yes.

2 Q Okay. And approximately when was
3 that taken?

4 A I believe a year and a half or so
5 ago.

6 Q Okay. Do you recall the product or
7 the type of exposure that was at issue in that
8 case?

9 A It was an occupational exposure.

10 Q And were you testifying as a
11 corporate representative?

12 A Yes, I was.

13 Q Which company was that?

14 A For Reynolds Metals Company.

15 Q You don't happen to recall the case
16 name, do you?

17 A Quiroz.

18 Q Do you know how to spell that?

19 A Q-U-I-R-O-Z.

20 Q Okay. So you have had two
21 depositions, you have had at least one asbestos
22 deposition, so I am not going to go through and
23 spend too much time on the deposition instructions.
24 But just so you know, I am going to ask you a

Page 13

1 series of questions today, and I am going to ask
 2 that you provide truthful and honest answers.
 3 Is that something that you're going
 4 to be able to do today?
 5 **A Yes.**
 6 **Q** I don't think we will have a
 7 problem, but just remember to provide verbal
 8 responses. No shrugs of the shoulders or nods of
 9 the head. I know we have a videotape here today,
 10 but the court reporter, the stenographer, is also
 11 taking this down, and nodding makes it difficult to
 12 get an accurate record.
 13 Please feel free to take a break at
 14 any time. If there is a question pending, I would
 15 ask that you answer the question before -- taking
 16 that break. Otherwise, if you need a break, let me
 17 know, and I will be happy to go off the record.
 18 **A Okay.**
 19 **Q** When did you first learn of this
 20 particular matter?
 21 **A I believe I first heard about it a**
 22 **year and a half or two years ago.**
 23 **Q** Was there contact made by a lawyer
 24 or a law firm?

Page 14

1 **A Yes.**
 2 **Q** Okay. Do you recall who contacted
 3 you?
 4 **A Beverly Bond.**
 5 **Q** Who is Ms. Bond associated with?
 6 **A I don't remember the name of the law**
 7 **firm.**
 8 **Q** Okay. She works for a law firm?
 9 **A Yes.**
 10 **Q** Okay. Was the contact via phone or
 11 email?
 12 **A Initially by phone.**
 13 **Q** Okay. And after the initial
 14 contact, were any documents sent to you?
 15 **A Yes.**
 16 **Q** Did those documents arrive in the
 17 mail?
 18 **A Yes.**
 19 **Q** Let me ask you this: How were the
 20 documents presented to you?
 21 **A I'm trying to remember. I received**
 22 **some documents in the mail, and sometimes I**
 23 **received documents at my place of employment.**
 24 **Q** As to this particular case, are you

Page 15

1 able to tell me how many documents you reviewed?
 2 **A With regard to this case?**
 3 **Q** Correct.
 4 **A I really don't know the number of**
 5 **documents.**
 6 **Q** Was it like an inch stack of papers?
 7 Was it a six-inch stack of papers?
 8 **A I'd say four or five notebooks.**
 9 **Q** Okay. Is that how they were
 10 produced to you, in a notebook?
 11 **A Yes.**
 12 **Q** Were they tabbed in any way?
 13 **A Some of them, yes.**
 14 **Q** Did those notebooks come with an
 15 index?
 16 **A Some, yes.**
 17 **Q** Okay. And can you just tell me
 18 generally in preparation for this case what
 19 documents you've reviewed.
 20 **A I have reviewed affidavits and**
 21 **depositions from previous -- the folks that**
 22 **previously were involved in the case -- Mr. Sink,**
 23 **Flanders Dobson, Matt Cole -- and documents**
 24 **relating to the operations at the plant.**

Page 16

1 **Q** Okay. Now, the documents that you
 2 received, I'm assuming based on your testimony a
 3 minute ago, came from the law firm?
 4 **A Yes.**
 5 **Q** Okay. Did you bring those binders
 6 with you today at all?
 7 **A I did not.**
 8 **Q** Aside from the materials that were
 9 sent to you in preparation for today, did you
 10 perform any sort of independent research?
 11 **A No.**
 12 **Q** Okay. Have you had any contact with
 13 non-lawyers in preparation for your deposition
 14 today?
 15 **A No.**
 16 **Q** Are you able to provide me with an
 17 estimate of how much time you spent preparing for
 18 this case?
 19 **MR. OSWALD:** You mean this
 20 deposition?
 21 **MR. KENNEY:** This deposition.
 22 **THE WITNESS:** This deposition? I
 23 can give you a rough estimation.
 24

Page 17

1 BY MR. KENNEY:
 2 Q Sure.
 3 A I guess I would say about four or
 4 five days.
 5 Q Okay.
 6 A In total.
 7 Q Eight-hour days?
 8 A Yes.
 9 Q To your knowledge, have you reviewed
 10 any documents related to this deposition that
 11 haven't been produced to the plaintiffs?
 12 A I don't know.
 13 MR. FOUNTAIN: No. I mean, she's
 14 not reviewed any documents that haven't
 15 been produced or that you produced,
 16 Brian, in connection with this case -- or
 17 that were produced in connection with
 18 counsel in any case.
 19 BY MR. KENNEY:
 20 Q Okay. Let me just ask a follow-up
 21 to that: Have you -- you may or may not know the
 22 answer to this question.
 23 But have you reviewed the documents
 24 that have been produced to RADCO on behalf of the

Page 18

1 plaintiffs?
 2 A I've reviewed some documents. I
 3 don't know that I've seen them all.
 4 Q All right. Fair enough.
 5 I just want to get into a little bit
 6 about your background before we start talking about
 7 the Stratford Tilo facility.
 8 I understand that you're a graduate
 9 of Virginia Commonwealth University?
 10 A That's correct.
 11 Q And you have a bachelor of science
 12 in chemistry?
 13 A Yes.
 14 Q You earned that degree in 1985?
 15 A That's correct.
 16 Q You also have a master's in
 17 industrial hygiene?
 18 A That's correct.
 19 Q And, again, that was obtained from
 20 VCU?
 21 A That's right.
 22 Q About five years later in 1990?
 23 A Right.
 24 Q Okay. While we are on the topic of

Page 19

1 industrial hygiene, can you just tell the jury what
 2 an industrial hygienist does?
 3 A An industrial hygienist typically
 4 works -- goes to the workplace to try to identify
 5 hazards, health hazards in the workplace,
 6 anticipate what may occur based on the activities
 7 at the plant, and ensure that controls are in place
 8 to minimize risks.
 9 Q Okay. In terms of risks, do
 10 industrial hygienists try to eliminate risks, if
 11 possible?
 12 A They would do everything they can to
 13 minimize it if -- in some cases it can't fully be
 14 eliminated, but we use what is technically
 15 available to reduce risks.
 16 Q Okay. First step, would you agree
 17 with me, is to try to eliminate the risk. And if
 18 that risk could not be eliminated, then an
 19 industrial hygienist does what he or she can to
 20 reduce the risks?
 21 A That's correct. There's an
 22 hierarchy of controls that you would follow.
 23 Q So I understand that after you
 24 earned your master's, you went to work for, I

Page 20

1 believe it's -- is it Rust Environment &
 2 Infrastructure?
 3 A Infrastructure. Yes.
 4 Q And that was between 1990 and 1994?
 5 A I don't remember the dates. I did
 6 work for them for a number of years.
 7 Q It was during the 1990s?
 8 A Yeah.
 9 Q Tell me what you did for that
 10 company.
 11 A Well, they were mostly an
 12 environmental consulting firm. So they might be
 13 going out to sites that would be environmentally
 14 contaminated. I helped to make sure the people
 15 that were going out to the sites were adequately
 16 protected based on what they anticipated to find
 17 out there. We also did do some consulting for
 18 external clients.
 19 Q Did your responsibilities touch on
 20 asbestos in any way?
 21 A At times.
 22 Q In what capacity?
 23 A We may have a client that has --
 24 that may be contemplating an abatement, and we

Page 21

1 would help to identify strategies and controls to
2 effectively do the abatement in a proper manner.

3 Q And your knowledge with respect to
4 abatements as it pertains to asbestos, was that
5 learned when you were in school to become an
6 industrial hygienist?

7 A We touched on asbestos there, but I
8 had some of the external courses as well, as far as
9 building inspection, operations, maintenance,
10 planning, project management.

11 Q Okay. Was asbestos, asbestos
12 abatement, asbestos management an area that you
13 emphasized when you were going to school to be --
14 to obtain your degree in industrial hygiene?

15 A No. We didn't have any really areas
16 of emphasis at that time.

17 Q Okay. So in the 1990s, you were
18 working at Rust Environment & Infrastructure. At
19 some point you left, correct?

20 A That's correct.

21 Q Where did you go next?

22 A I went to Reynolds Metals Company.

23 Q Okay. And it's a big company, but
24 what is -- at the time, what was Reynolds Metals in

Page 22

1 the business of doing?

2 A At the time, Reynolds Metals
3 Company, they had several different businesses.
4 One was the actual making of aluminum from alumina.
5 They had a plant that actually made the alumina
6 from bauxite. We had a division that took the
7 metal and made cans. We had a division that took
8 the metal and made extrusions. So it was a variety
9 of things.

10 Q And I'm sorry. What year did you go
11 to -- what year were you hired?

12 A 1994.

13 Q And when you went there, what were
14 your specific job duties or responsibilities?

15 A I was -- my title was regional
16 industrial hygienist. But essentially I was in
17 resource in the plants, so it was sort of a mixed
18 role. We went to the locations and audited them
19 against the practices of OSHA standards.

20 And then when they needed help to make sure
21 that they wanted me to improve the programs, they
22 called us in to help get things done.

23 Q Okay. And your work there, did that
24 touch on asbestos in any way?

Page 23

1 A At times.

2 Q Okay. What -- can you give me some
3 examples of how you were maybe brought in to deal
4 with a matter related to asbestos?

5 A Well, at the time, we -- it was part
6 of our standard that all the facilities should have
7 an asbestos inspection done at the facility so that
8 they knew where the material was. And if the
9 location didn't understand the requirements or get
10 it done, I would help them identify the proper
11 people and make sure that it got done in the proper
12 way and it got documented the way that it needed to
13 be.

14 Q Would that be related to abatement
15 removal of asbestos? Or would it be something --

16 A In that example, it was just
17 identifying and managing it.

18 Q Okay.

19 A But there were other times that they
20 may be abating it and they wanted to talk about
21 strategies.

22 Q Okay. So there may be situations
23 where you were brought in to deal with abatement
24 issues and other times there were situations where

Page 24

1 you were brought in to -- after asbestos had been
2 identified, and then you went in to try to minimize
3 or eliminate the risk of exposure to asbestos?

4 A Proper management in place.

5 Q Got you. How long have you worked
6 there?

7 A I worked -- well, I was with
8 Reynolds until 2000, when we merged into Alcoa.

9 Q So you said you had the same --
10 well, I will let you tell the story.

11 What happened in 2000?

12 A Well, the actual activity depends on
13 who you listen to, whether it was a buyout or a
14 merger. But we became one company, Reynolds Metals
15 Company and Alcoa.

16 Q Did your job duties change at all at
17 that time?

18 A Shortly after, I was asked to move
19 to Pittsburgh and become a part of the services
20 group. At the time I was in Richmond as the health
21 and safety manager of the packaging division.

22 I went back -- so when I moved to
23 Pittsburgh, I went back strictly into an industrial
24 hygiene role.

Page 25

1 Q Okay. In present day, where are you
2 employed?
3 A I retired in August of this year.
4 Q From where did you retire from?
5 A From Alcoa.
6 Q Okay.
7 A Yes.
8 Q Congratulations.
9 A Thank you.
10 Q What are you doing presently, other
11 than testifying at corporate depositions like this?
12 MR. OSWALD: Object to the form.
13 THE WITNESS: Yeah. Just a little
14 bit of consulting work. I will be
15 helping a group identify a strategy for
16 control, but not very much work at all.
17 BY MR. KENNEY:
18 Q Have you actually opened up your own
19 consulting business?
20 A No, I have not.
21 Q Okay. And is your consulting
22 work -- well, what types of clients do you have in
23 terms of your consulting work?
24 A It's strictly Alcoa.

Page 26

1 Q Strictly Alcoa. And in terms of the
2 consulting work that you performed, have you done
3 any consulting work related to asbestos?
4 A Not yet.
5 Q Okay. What type of consulting work
6 have you performed?
7 A Well, basically, assisting in this
8 type of activity, but that's all to date.
9 Q Okay. Okay. Now, looking back at
10 your work experience as an industrial hygienist,
11 has any of your work involved the dealing of sites
12 or properties that are dealing with environmental
13 contamination issues?
14 A Not as they related to asbestos.
15 Q Are there hazardous substances --
16 withdraw that.
17 How about other substances, have you
18 dealt with contamination issues with sites related
19 to other substances?
20 A Very briefly. There was just one
21 case that I assisted on.
22 Q Can you tell me a little bit about
23 your experience?
24 A Yeah. We have a facility that when

Page 27

1 it goes into shutdown, there could be visible
2 emissions from the plant, and the facility that was
3 next door had some concerns about that.
4 So I went to that facility, and I
5 helped to educate them about what we did at our
6 locations, what controls were in place at our
7 locations, and really what it meant -- what those
8 kind of conditions meant for them.
9 Q Did your role or any have any -- did
10 any of your responsibilities have anything to do
11 with setting up any type of monitoring to
12 determine, you know, how much of those emissions
13 were being released from the plant?
14 A No. Not -- not in that case, no.
15 Q Okay. Do you recall a substance in
16 question that was being emitted from the plant?
17 A Well, the neighbors were concerned
18 about the visible emission, which was basically
19 smoke.
20 Q Okay.
21 A And combustion product.
22 Q For who were you working for when
23 you went to do that -- that work?
24 A For Alcoa.

Page 28

1 Q Okay. Do you recall the plant in
2 question or the site in question?
3 A Yes. It was Lake Charles Carbon
4 Company.
5 Q Where is that located?
6 A In Lake Charles, Louisiana.
7 Q Okay. All right. So you have in
8 front of you marked as Exhibit 1 a Re-Notice of
9 Deposition.
10 Have you had an opportunity, either
11 today or prior to today, to review the notice of
12 deposition?
13 A I have.
14 (Thereupon, the respective
15 document was marked as Exhibit
16 Number 1.)
17 BY MR. KENNEY:
18 Q Okay. Do you have some idea as to
19 what the areas are we are going to be talking about
20 today?
21 A Yes.
22 Q All right. Are there any topics
23 listed in Exhibit 1 that you're not qualified to
24 provide testimony on today?

Page 29

1 **A** I don't believe so. But most of the
2 information that I have accumulated for these
3 answers are not -- they are from documentation and
4 from what we know that other people have talked
5 about.

6 **Q** Okay. Your -- your knowledge as a
7 representative of Reynolds Aluminum Development
8 Company is -- is based on the documents that you
9 have reviewed -- historical documents that you have
10 reviewed?

11 **A** That's correct.

12 **Q** And it's also based on the prior
13 deposition testimony that you reviewed, an
14 affidavit testimony?

15 **A** Yes. I consider that documentation,
16 but maybe --

17 **Q** That's fine.

18 **A** -- it's just terminology.

19 **Q** All right. And I do have an
20 agreement with counsel. We are not going to get
21 into too much detail regarding the insurance items
22 that -- we'll deal with that at a later date. I
23 understand that you're not prepared to testify
24 about the insurance coverage that may or may not be

Page 30

1 at issue in this case, correct?

2 **A** That's correct.

3 MR. OSWALD: That's correct.

4 BY MR. KENNEY:

5 **Q** Okay. So Exhibit 1 asks for the
6 person most knowledgeable to provide testimony
7 about the items in the notice of deposition. And
8 aside from what we just discussed, you're here
9 today as a representative of Reynolds Aluminum
10 Development Company who has that knowledge; is that
11 correct?

12 **A** That's correct.

13 **Q** And if I use the term RADCO,
14 R-A-D-C-O, will you understand that I am referring
15 to Reynolds Aluminum Development Company?

16 **A** Yes.

17 **Q** Okay. So there's not going to be
18 any confusion if I say "RADCO" throughout the
19 deposition?

20 **A** That's correct.

21 **Q** Okay. And at times, I may use --
22 I'm going to use the word "Tilo." And do you
23 understand that Tilo is the Stratford plant in
24 question that we're talking about?

Page 31

1 **A** Correct.

2 **Q** Okay. And there won't be any
3 confusion in your mind -- if so, let me know -- if
4 I use the word "Tilo" and I -- even though I may be
5 referring to, you know, the time periods when it
6 may have been changed to -- the name may have been
7 changed to "RADCO." Is that fair enough?

8 **A** That's fair.

9 **Q** I'm talking about the site itself.
10 And if I call it "Tilo," there won't be any
11 confusion?

12 **A** That's fine.

13 **Q** Okay. So you understand you're
14 speaking on behalf of RADCO when you answer these
15 questions today, correct?

16 **A** Correct.

17 **Q** Do you have an understanding of the
18 allegations in this case with respect to RADCO,
19 that are alleged against RADCO?

20 **A** I understand that there is an issue
21 about potential exposures based on the plant
22 operations.

23 **Q** Okay. And just to be clear, even
24 though you were employed by Reynolds Metals, you

Page 32

1 never worked at the Tilo plant, correct?

2 **A** That's correct.

3 **Q** Have you ever been to the site?

4 **A** No, sir.

5 **Q** No site visit? Okay.

6 Have you -- aside from the
7 deposition of Flanders Dobson and Edward Sink, have
8 you either reviewed -- and I think there was a
9 third one there.

10 **A** Homer Cole.

11 **Q** Homer Cole.

12 Have you either reviewed or spoken
13 to any former co-workers from the Tilo factory?

14 **A** On one occasion we called a former
15 employee to try and gather some information about
16 something in the documentation that we were -- we
17 had questions about.

18 **Q** Okay.

19 **A** But we didn't get any more
20 information that we were looking for.

21 **Q** Okay. Do you recall his or her
22 name?

23 **A** I don't. I'm sorry.

24 **Q** Okay. And were there any notes

Page 33

1 taken in that conversation?

2 A I don't recall.

3 Q Okay. Do you remember what that
4 specific issue related to? You said you had seen
5 something and you called the witness to get more
6 information. What was the issue?

7 A We were just trying to confirm where
8 asbestos was actually used in the plant.

9 Q Okay. And were you ever -- you
10 weren't ever able to get an answer?

11 A Well, we were trying to determine if
12 there was anybody that had any information that we
13 used outside of the asbestos department, and that
14 was not the case. We did not get any information
15 that indicated that.

16 Q Fair enough.

17 One other thing before we get too
18 deep into this: Unless I say otherwise, when I say
19 "you," I mean RADCO. So you understand that?

20 A Okay.

21 Q Okay. At any point throughout this
22 deposition, if there is any confusion, just let me
23 know, and I can clarify. But if I say "did you," I
24 am referring to RADCO --

Page 34

1 A Okay.

2 Q -- unless I qualify it in some other
3 way.

4 As you mentioned a minute ago, the
5 allegations against RADCO relate to emissions --
6 asbestos emissions from a plant, from the Tilo
7 plant.

8 Just generally speaking, do you
9 believe that a company who makes asbestos cement
10 products is allowed to expose the public to
11 asbestos through its manufacturing operations?

12 MR. OSWALD: Object to the form.

13 MR. FOUNTAIN: Objection to the
14 form.

15 THE WITNESS: Could you repeat that,
16 please? I am not sure I understand
17 exactly what we are getting at here.

18 BY MR. KENNEY:

19 Q Sure. Do you believe that a company
20 who makes asbestos cement products is allowed to
21 expose the public to asbestos through its
22 manufacturing operations?

23 MR. FOUNTAIN: Object to the form.

24 THE WITNESS: I believe that the

Page 35

1 manufacturing operation has an obligation
2 to comply with all regulations and good
3 practices. But I don't know -- what I'm
4 not understanding is the exposure.
5 Because if there are exposure levels,
6 there can be -- that's what really
7 defines the risk.

8 And if there is -- if the
9 exposures -- if there is no -- it is
10 just -- you know, there are background
11 levels of asbestos. I don't know that --

12 If a plant is -- is really doing a
13 lot of emissions, that would be a
14 problem, but I don't know about the level
15 of emissions we're talking about here.

16 BY MR. KENNEY:

17 Q As you sit here today, do you agree
18 that the Tilo factory in Stratford, Connecticut,
19 released asbestos from its factory into the ambient
20 air?

21 MR. FOUNTAIN: Objection to form.

22 THE WITNESS: I did not see anything
23 that corroborated that.

24 MR. KENNEY: So no?

Page 36

1 THE WITNESS: No.

2 BY MR. KENNEY:

3 Q Do you agree that if there is more
4 than one way to make a product, a company has to
5 choose the one with the least risk to the public?

6 MR. FOUNTAIN: Objection to form.

7 THE WITNESS: I think there's a lot
8 of factors that need to be considered
9 whenever -- whenever deciding on a
10 process, and I think that -- that is a
11 factor.

12 BY MR. KENNEY:

13 Q With respect to manufacturing
14 operations, would you agree that a company who is
15 manufacturing products in a highly populated area,
16 residential area has to choose and manufacture in a
17 way that has the least amount of risk to the
18 public?

19 MR. FOUNTAIN: Objection to form.

20 THE WITNESS: Again, I think there
21 are a lot of factors to be considered in
22 any -- manufacturing operations.

23 BY MR. KENNEY:

24 Q Okay. I'm going to show you what

Page 37

1 has been marked as Exhibit 2.

2 MR. KENNEY: Counsel, I have a copy
3 for you.

4 MR. FOUNTAIN: Thank you.
5 (Thereupon, the respective
6 document was marked as Exhibit
7 Number 2.)

8 BY MR. KENNEY:

9 Q This is a prospectus that has been
10 produced in this case from April of 1939.

11 Have you seen this document before?

12 A I believe I have.

13 Q Okay. You have it there in front of
14 you, and we may refer to this as I ask you some
15 follow-up questions.

16 A Okay.

17 Q I really want to use this to aid us
18 in talking a little bit about the company and its
19 beginnings.

20 I understand that Tilo Roofing
21 Company was founded in 1915; is that correct?

22 A Tilo Roof, I believe so.

23 Q Okay. And when it was created, what
24 was Tilo Roofing Company in the business of doing

Page 38

1 at that time?

2 A According to the records I've seen,
3 they applied roofing materials.

4 Q Right. At that time in 1915, Tilo
5 wasn't making any products, correct?

6 A That's what I believe, yes.

7 Q That changed in 1934, didn't it?

8 A I believe so.

9 Q Okay. What happened in 1934?

10 A They built -- I believe they built
11 the factory and started making roofing tiles.

12 Q Okay.

13 A Asphalt roofing tiles.

14 Q Okay. According to Exhibit 2, in
15 1934, Tilo Roofing Company was also incorporated,
16 correct? Is that your understanding, that Tilo
17 Roofing Company was incorporated in 1934?

18 A I believe so.

19 Q All right. Let's focus on 1934. A
20 lot happened. Tilo Roofing Company was
21 incorporated, and they went from a company that was
22 an installer to a company that was not only an
23 installer, but also making products, correct?

24 A I believe so, yes.

Page 39

1 Q In order to do so, they purchased
2 property in Stratford, Connecticut?

3 A I believe so.

4 Q And that's where the manufacturing
5 facility was created for Tilo, correct?

6 A I believe so, yes.

7 Q All right. In 1934, once the plant
8 was built, what specific products was Tilo making?

9 A From what I've been able to
10 determine from the documentation, they were making
11 the asphalt roofing tiles. I don't -- I don't
12 think I saw where they started making the siding.

13 Q Okay.

14 A To my knowledge, those are the only
15 two products they made.

16 Q All right. And I'm going to refer
17 you to Exhibit 2, and there is a Bates stamp at the
18 bottom right-hand corner. If you can go to -- I
19 will give you the last four digits, 7002.

20 Okay. Top of the page, first
21 paragraph, take a minute to just review that. And
22 let me know when you're ready.

23 A Okay.

24 Q According to this document, in 1937,

Page 40

1 a new product was introduced by Tilo, correct?

2 A Correct.

3 Q What product was that?

4 A It was the asbestos cement shingles.

5 Q Okay. And specifically, the
6 asbestos cement shingles, where was that to be
7 applied?

8 A The side of buildings.

9 Q Okay. So the product in question
10 here, that essentially was an asbestos cement
11 siding product that went on the sides of homes or
12 buildings?

13 A Yes.

14 Q Okay. And it looks like that in
15 order to make the product, the company had to
16 enlarge its plant to house new machinery and
17 equipment?

18 A That's what this says, yes.

19 Q Okay. And the asbestos cement
20 siding division was placed in operation by March of
21 1937, correct?

22 A That's what it says, yes.

23 Q So we're in agreement that by 1937,
24 the Tilo's plant in Stratford, Connecticut, is

Page 41

1 making asbestos cement siding, among other
 2 products?
 3 **A Yes.**
 4 **Q** Okay. And I'm just going to show
 5 you what's been marked as Exhibit 3, just to kind
 6 of track, again, the company history a bit.
 7 (Thereupon, the respective
 8 document was marked as exhibit
 9 Number 3.)
 10 BY MR. KENNEY:
 11 **Q** We have just mentioned a minute ago
 12 that in 1937, Tilo introduced this asbestos cement
 13 siding product. And then if we look here in
 14 Exhibit 3 at the advertisement in the top
 15 right-hand corner, you can see there is an
 16 advertisement for Tilotex Insulating Sidewalls.
 17 **A Yes.**
 18 **Q** And at the bottom of that
 19 advertisement, it states that Tilo is America's
 20 largest roofer and sidewall insulator.
 21 **A All right.**
 22 **Q** So between 1937 and 1945, Tilo
 23 certainly had a major presence with respect to the
 24 asbestos cement siding industry, correct?

Page 42

1 **MR. FOUNTAIN:** Object to the form.
 2 **THE WITNESS:** I guess you could say
 3 that.
 4 BY MR. KENNEY:
 5 **Q** They were America's largest roofers
 6 and sidewall insulators.
 7 **A That's what it says.**
 8 **Q** Okay. All right. So we know a
 9 little bit here about some of the products that
 10 Tilo made, and we are going to talk more about that
 11 in a bit. But I do want to talk a little bit about
 12 Tilo and some of the companies that they acquired.
 13 Can you tell me a little bit about
 14 the structure of Tilo and some of the businesses
 15 that Tilo owned and operated?
 16 **A The only business that I'm aware of**
 17 **that they owned was Triple A, Atlantic Asphalt --**
 18 **Asbestos & Asphalt.**
 19 **Q** "Triple A" stands for Atlantic
 20 Asphalt & Asbestos?
 21 **A Okay.**
 22 **Q** And that was a subsidiary of Tilo?
 23 **A I believe so, yes.**
 24 **Q** And Tilo also acquired the assets of

Page 43

1 a GlasFloss, Corp., as well. Did you ever see any
 2 reference to that?
 3 **A I don't recall that.**
 4 **Q** So tell me a little bit about
 5 Atlantic Asphalt & Asbestos, Triple A as you
 6 indicated. What was the relationship between that
 7 company and Tilo?
 8 **A My understanding from the**
 9 **documentation is that they were a wholly owned**
 10 **subsidiary, that they sold some of the products**
 11 **that Tilo made at that facility.**
 12 **Q** Okay. Who did they sell those
 13 products to?
 14 **A To distributors.**
 15 **Q** Such as hardware stores and lumber
 16 yards?
 17 **A I believe so, yes.**
 18 **Q** Okay. Where was Triple A located?
 19 **A They were located -- I believe they**
 20 **were located at the same place that Tilo was.**
 21 **Q** Okay. So they were on the same site
 22 as Tilo?
 23 **A I believe so.**
 24 **Q** In Stratford, Connecticut?

Page 44

1 **A Yes.**
 2 **Q** Okay. And I understand from
 3 reviewing Mr. Sink's deposition testimony that Tilo
 4 would make the asbestos cement siding products and
 5 then rebrand it under the Triple A name. Atlantic
 6 Asphalt & Asbestos would then send that product out
 7 to the lumber yards and hardware stores, correct,
 8 for sale?
 9 **A That's what I understand from**
 10 **Mr. Sink's testimony.**
 11 **Q** Okay. So Tilo is making -- from
 12 1937 moving forward into the future, Tilo is making
 13 asbestos cement products. It is making asbestos
 14 cement siding products for Triple A. And Tilo is
 15 also making asbestos cement products for itself,
 16 correct?
 17 **A That's what I understand.**
 18 **Q** What is Tilo doing with the asbestos
 19 cement siding products that it's making for itself?
 20 **A According to Mr. Sink's testimony,**
 21 **they were installing it themselves.**
 22 **Q** Okay. So at that time, Tilo never
 23 really lost the installer aspect of its company,
 24 correct? It was installing and it was making the

Page 45

1 products?

2 **A I believe that's the testimony, yes.**

3 **Q** And it was also rebranding the

4 product through Triple A?

5 **A Correct.**

6 **Q** Now, I understand that Tilo had a

7 number of branch offices in other states?

8 **A That was Mr. Sink's testimony, yes.**

9 **Q** What was the reach of Tilo as far as

10 its areas of operations?

11 **A From what I recall, there were**

12 **offices as far north as Maine and as far south as**

13 **Virginia.**

14 **Q** Okay. So we've talked about the

15 beginnings of the company. We've talked about some

16 of the products that Tilo manufactured.

17 I understand, based on my review of

18 the documents, that in 1961, Reynolds Metals

19 Company acquired Tilo Roofing Company, correct?

20 **MR. FOUNTAIN:** Objection to form.

21 **THE WITNESS:** I believe that's the

22 correct date.

23 **BY MR. KENNEY:**

24 **Q** When Reynolds Metals acquired Tilo

Page 46

1 Roofing Company, Tilo was still in the business of

2 making asbestos cement siding, correct?

3 **A I believe that's correct.**

4 **Q** Now, when the acquisition occurred,

5 the company name was changed, correct?

6 **A Which company? Tilo?**

7 **Q** Yeah. When the acquisition

8 occurred, the company name changed from Tilo

9 Roofing Company to Tilo Company?

10 **A That's what I understand.**

11 **COURT REPORTER:** Changed to what?

12 **MR. KENNEY:** It changed from Tilo

13 Roofing Company to Tilo Company, Inc.,

14 correct?

15 **THE WITNESS:** That's what I

16 understand, yes.

17 **MR. KENNEY:** All right.

18 **MR. FOUNTAIN:** Brian, I think if you

19 want to have it accurate, that it was

20 originally Reynolds Aluminum Building

21 Products Company in 1961 that acquired

22 Tilo, rather than Reynolds Metals. I

23 believe that's correct.

24 **MR. KENNEY:** I don't think that is

Page 47

1 correct, but we will fact-check that and

2 go back to that a little bit later. We

3 will circle back to that.

4 **MR. FOUNTAIN:** Okay.

5 **BY MR. KENNEY:**

6 **Q** Regardless of that acquisition in

7 1961 -- we will figure that out in a couple of

8 minutes -- there was a name change in 1980,

9 correct?

10 **A 1980, I believe so.**

11 **Q** With respect to Tilo Company?

12 **A Yes. I believe so, yeah.**

13 **Q** In 1980, Tilo Company, Inc., was

14 changed to Reynolds Aluminum Building Products

15 Company, correct?

16 **A I'm not exactly sure of the changes**

17 **and when they were made. I would have to go back**

18 **in documentation to see that.**

19 **Q** All right. We will take a look at

20 that a little bit later. We'll move on.

21 Okay. At some point the name of the

22 company was changed to -- well, I'm going to back

23 up.

24 Tell me what you understand the

Page 48

1 history is with respect to the corporate

2 transactions from Tilo Roofing Company being

3 incorporated and then to being acquired by another

4 company in 1961. What is your understanding of

5 those transactions?

6 **A My understanding is that in 1961, a**

7 **subsidiary of Reynolds Metals Company purchased the**

8 **Tilo Company.**

9 **Q** Okay.

10 **A** And then that Tilo -- that company

11 **remained as a subsidiary of -- the Reynolds**

12 **subsidiary.**

13 **Q** And did the Tilo Company go through

14 any name changes during that time period?

15 **A Well, as we just said, they went**

16 **from Tilo Roofing Company to Tilo Company.**

17 **Q** And at some point in the future,

18 that name was changed again, correct?

19 **A I believe so.**

20 **Q** What was the name changed to?

21 **A I don't know that I could get it**

22 **exactly right. I would have to look it up in the**

23 **documentation.**

24 **Q** All right. We can revisit that

Page 49

1 after a break.

2 **A Okay.**

3 **Q** Is it fair to say that throughout
4 these transactions -- corporate transactions, the
5 manufacturing facility in Stratford, Connecticut,
6 remained in the same location?

7 **A That's correct.**

8 **Q** All right. And just so we're clear,
9 the site in question is the Barnum Avenue Cutoff
10 and the Longbrook Avenue address in Stratford,
11 Connecticut, correct?

12 **A I believe so. I would have to look**
13 **at a map.**

14 **Q** Okay. All right. So let's move on.

15 One of the items in the notice of
16 deposition asks whether -- or why Tilo chose
17 Stratford as a location for its manufacturing
18 plant. Do you know why that is?

19 **A I was not able to find anything in**
20 **the literature to help us out on that one.**

21 **Q** Okay. I just want to take a look at
22 Exhibit 2 for a moment. If you could turn to Bates
23 Number 7009.

24 **A Okay.**

Page 50

1 **Q** At the bottom of the page, that last
2 paragraph -- it's actually the last full sentence
3 of that last paragraph. It starts by saying,
4 "Before establishing its plant."

5 Do you see that?

6 **A Not yet.**

7 **Q** At the bottom there.

8 **A Okay.**

9 **Q** That last paragraph.

10 **A All right. I got it. I'm sorry.**

11 **Q** Do you see where it says, "Before
12 establishing its plant in the town, the company
13 advised the council of the nature of its business,
14 and the committee of the council visited a similar
15 plant of another corporation to determine if it
16 were desirable to permit the company to establish
17 its plant in the proposed location"?

18 **A Yes.**

19 **Q** Okay. So it sounds as if Tilo
20 certainly sought Stratford out as a place for its
21 manufacturing operations, based on that statement.
22 Wouldn't you agree?

23 **MR. FOUNTAIN:** Objection to form.

24 **THE WITNESS:** I agree that they

Page 51

1 intended to put a plant there.

2 **BY MR. KENNEY:**

3 **Q** And certainly Tilo engaged in a bit
4 of public relations before building the plant by
5 showing town officials another plant that made
6 similar products that Tilo wanted to make. True?

7 **MR. FOUNTAIN:** Objection to form.

8 **THE WITNESS:** I don't know -- I
9 don't know about public relations, but
10 they did -- it does say that they did
11 show them another location.

12 **BY MR. KENNEY:**

13 **Q** You agree that in 1934, when the
14 Tilo factory was built, Tilo was not making
15 asbestos cement siding. True?

16 **A That's what I understand.**

17 **Q** That occurred several years later?

18 **A That's what I understand, yes.**

19 **Q** So when Tilo sought out Stratford as
20 a place to make products, the Town of Stratford
21 didn't know at that time in 1934 that Tilo would be
22 in the business of manufacturing asbestos products.
23 True?

24 **MR. FOUNTAIN:** Objection to form.

Page 52

1 **THE WITNESS:** I don't know what they
2 found.

3 **BY MR. KENNEY:**

4 **Q** Aside from asbestos cement siding,
5 did Tilo make any other asbestos-containing
6 products at its plant in Stratford?

7 **A I did not find anything in the**
8 **literature that indicated it did.**

9 **Q** Okay. I'm going to show you a
10 document that I pre-marked as Exhibit 4.

11 **A Okay.**

12 **(Thereupon, the respective**
13 **document was marked as Exhibit**
14 **Number 4.)**

15 **BY MR. KENNEY:**

16 **Q** Take a minute to look at that.

17 And you'll agree that Exhibit 4 is a
18 document dated January 25th, 1965, at the top
19 right-hand corner there?

20 **A Yes, yes.**

21 **Q** And above that it says, "AFD
22 Asbestos"?

23 **A Yes.**

24 **Q** Okay. And below that to the left,

Page 53

1 top left-hand corner, it says, "Tilo Roofing, visit
2 of January 21, 1965."
3 **A Yes. I see that.**
4 **Q** And then below that, it says,
5 "Persons visited," and it was a Mr. Charles Brophy,
6 purchasing agent, and Mr. Clint Reed, research
7 director.
8 Those are Tilo employees, correct?
9 **A I believe so.**
10 **Q** Okay. Then below that, the heading
11 of "J-M Personnel," and apparently a Mr. H.A.
12 Boisclair and an M.D. Webb were the personnel?
13 **A That's what it says, yes.**
14 **Q** And the "purpose of call," right
15 below it, it states, quote, "to discuss Strength
16 Units of the grade they buy."
17 **A Correct.**
18 **Q** Okay. And if we turn to page 2 of
19 this document, the second-to-last paragraph states,
20 quote, "they have" -- quote, "they have been using
21 7D1F for many years in an asphalt adhesive. This
22 is used for tacking down rolled roofing. They know
23 that others in this field use much shorter fibers,
24 and they wish to explore this area."

Page 54

1 Do you see that there?
2 **A I do.**
3 **Q** Do you agree that certainly that
4 statement seems to imply that Tilo is using
5 asbestos in asphalt adhesives?
6 **MR. FOUNTAIN:** Objection to form.
7 **THE WITNESS:** This document from J-M
8 does suggest that they may have used
9 asbestos in the adhesive. That's what it
10 says.
11 **BY MR. KENNEY:**
12 **Q** And then that last paragraph, the
13 last sentence at the bottom of the page, it says,
14 quote, "He also wants to know anything we can tell
15 him regarding the effect of asbestos on the
16 adhesiveness of their product."
17 Do you see that there?
18 **A Yes.**
19 **Q** So certainly in 1965, there is a
20 visit by Johns-Manville to Tilo regarding,
21 basically, asbestos fibers and the strength of
22 certain grades of asbestos fiber, correct?
23 **MR. FOUNTAIN:** Objection to form.
24 **THE WITNESS:** That's what this says.

Page 55

1 **COURT REPORTER:** I'm sorry. But can
2 you --
3 **THE WITNESS:** I said, "That's what
4 this says."
5 **BY MR. KENNEY:**
6 **Q** And contained in this letter is a
7 reference to the fact that they -- that Tilo was
8 using a certain grade of asbestos fiber in its
9 asphalt adhesives.
10 **A That's what J-M says, yes.**
11 **Q** Do you have any reason to dispute
12 the fact that Tilo was using asbestos in its
13 asphalt adhesives?
14 **A We could not find any supportive
15 evidence in any of the Tilo documents.**
16 **Q** Have you reviewed any documentation
17 on asphalt adhesives that may have been
18 manufactured by Tilo?
19 **A I did not see any.**
20 **Q** Now, you testified that Tilo began
21 making asbestos cement siding in 1937. When did
22 Tilo stop making asbestos cement siding?
23 **A According to Mr. Sink's testimony,
24 it was in 1969.**

Page 56

1 **Q** Okay. Just to give everyone a
2 general idea, we are marking Exhibit 5 Answers --
3 Reynolds Aluminum Development Company's Answers and
4 Objections to Plaintiffs' Interrogatories in the
5 Consolini case.
6 **MR. KENNEY:** And we are marking this
7 as Exhibit 5.
8 (Thereupon, the respective
9 document was marked as Exhibit
10 Number 5.)
11 **BY MR. KENNEY:**
12 **Q** I want to direct your attention --
13 first off, have you ever reviewed this document
14 before?
15 **A I believe I did.**
16 **Q** Okay.
17 **A This is Consolini?**
18 **Q** Yeah.
19 **A I don't believe I did.**
20 **Q** Okay. Are you able to talk about
21 the different brands of asbestos cement siding that
22 Tilo made between 1937 and 1939?
23 **MR. OSWALD:** '69.
24

Page 57

1 BY MR. KENNEY:

2 Q I'm sorry. Are you able to tell me
3 what brands of asbestos cement siding Tilo made
4 between 1937 and 1969?

5 A No, I'm not.

6 Q Okay. If we turn to page 8 of
7 Exhibit 5, Answer 14 lists eight different brands
8 of Tilo asbestos siding shingles that it
9 manufactured.

10 Do you see that there?

11 A I do.

12 Q And Tilo manufactured an asbestos
13 cement siding that went by the name of Tilo,
14 Roctone, Tilotex, Tilostone, Duotone, Tilokote,
15 Colorstone, and Tilon, correct?

16 A Correct.

17 Q And you don't have any reason to
18 dispute that?

19 A No, I don't.

20 Q Okay. Do you know the percentage of
21 asbestos that was used in each brand?

22 A I do not.

23 Q Generally speaking, do you know what
24 percentage of asbestos was used in asbestos cement

Page 58

1 siding products made by Tilo?

2 A I don't recall.

3 Q Now, would you agree that
4 long-fiber, chrysotile asbestos was used in the
5 manufacture of asbestos cement siding?

6 A I believe that was in the
7 deposition.

8 Q Are you able to walk me through the
9 manufacturing process required to make asbestos
10 cement siding?

11 A Personally, no. I don't believe I
12 can do that. There were some details in some of
13 the documentation that showed how that was done.

14 Q Okay. And you've read the
15 deposition transcript of Flanders Dobson?

16 A I have.

17 MR. KENNEY: And I'm going to mark
18 that as Exhibit 6.

19 (Thereupon, the respective
20 document was marked as Exhibit
21 Number 6.)

22 BY MR. KENNEY:

23 Q I'm sorry on account of the size of
24 that.

Page 59

1 Now, Flanders Dobson, as you recall
2 from reading the transcript, was an employee at
3 Tilo, correct?

4 A That's correct.

5 Q And he spent many years making the
6 mix that would eventually become the asbestos
7 cement siding?

8 A That's what he said, yes.

9 Q All right. If we turn to page 15 of
10 his transcript -- and I am referring to the page
11 designations at the top right-hand corner.

12 A Sorry. I'm looking at the bottom.

13 Q All right.

14 A Okay.

15 Q And I'm paraphrasing a bit. I'm not
16 quoting a specific statement here. But you would
17 agree that on this page, Mr. Dobson testified that
18 asbestos cement shingles were made of cement,
19 asbestos fiber, and marble dust, correct?

20 A And water.

21 Q And water. Okay.

22 And you agree that's what basically
23 made up an asbestos cement siding product, those
24 were the ingredients?

Page 60

1 A Yes. Cement, marble, asbestos, and
2 water, yeah.

3 Q Okay. Between page 15 and 17,
4 Mr. Dobson kind of talks about the process of
5 mixing these products. But you would agree that he
6 testified that he would use three bags of asbestos
7 fiber that weighed about 100 pounds each that would
8 be put into this mix?

9 A Yes, I recall reading that.

10 Q You don't have any reason to
11 disagree with that statement?

12 A No, I have no reason.

13 Q Okay. And, again, kind of
14 paraphrasing from pages 15 through 17 of his
15 transcript, but Mr. Dobson also testified that he
16 used asbestos fiber from Johnson?

17 A Yes.

18 Q And from Johns-Manville, correct?

19 A That's correct.

20 Q And you don't have any reason to
21 dispute that statement?

22 A I do not.

23 Q Okay. And he testified as well that
24 the asbestos fiber that he'd take from Johnson was,

Page 61

1 quote, "the long asbestos fiber," correct?
 2 **A That's what he says.**
 3 Q All right. And the asbestos from
 4 Johns-Manville was more like powder, I believe he
 5 testified to?

6 **A I believe that's what he said.**

7 Q Okay. Do you have any reason to
 8 dispute his testimony as to the length of fibers
 9 that were used?

10 **A I do not.**

11 Q And you don't dispute his testimony
 12 as to the description of the asbestos fiber that
 13 was used?

14 **A I do not.**

15 Q Okay. On page 17, Mr. Dobson
 16 testified -- and, again, I'm paraphrasing. But he
 17 testified that every time he had a mixture in the
 18 vat, that he used 300 pounds of asbestos.

19 Do you dispute that system in any
 20 way?

21 **A No, I do not.**

22 Q Mr. Dobson, on page 19, testified
 23 that he would make 22 to 23 batches of this mix in
 24 a day over an eight-hour period. Do you have any

Page 62

1 reason to dispute that testimony?

2 **A I do not.**

3 Q So just to do, kind of, the simple
 4 math, Mr. Dobson was using anywhere between 6,600
 5 to 6,900 pounds of raw asbestos fiber per day in
 6 order to make the mix that would eventually become
 7 the asbestos cement siding. True?

8 **A I didn't do the math, but if you say**
 9 **so.**

10 Q Okay. And between pages 19 and 20
 11 of his deposition, he also talks about the fact
 12 that he would perform his duties mixing -- he
 13 testified he would perform these duties of making
 14 this mix five to six days a week?

15 **A That's what he testified to, yes.**

16 Q Do you have any reason to dispute
 17 his testimony that the plant was in operation
 18 between five and six days a week?

19 **A I do not.**

20 Q So Mr. Dobson -- again, if we kind
 21 of look at the numbers, Mr. Dobson was using
 22 upwards of 41,400 pounds of raw asbestos fiber a
 23 week just to make this mix, correct?

24 **A I am going to have to trust you on**

Page 63

1 **the math. I didn't run the numbers.**

2 Q Okay. Let me show you what has been
 3 marked as Exhibit 7.

4 (Thereupon, the respective
 5 document was marked as Exhibit
 6 Number 7.)

7 BY MR. KENNEY:

8 Q Have you seen this document before?

9 **A I believe I have.**

10 Q All right. Well, at the top page of
 11 Exhibit 7, you see that it's entitled "Appendix"
 12 and looks like maybe "C" -- well, it says
 13 "Appendix." And then below that it says, "Job
 14 classification and rate ranges effective June 2nd,
 15 1965."

16 Now, below that, there is a heading
 17 entitled, "Asbestos Department." Do you see that
 18 there?

19 **A Yes.**

20 Q Do you know whether the plant's
 21 asbestos operations were confined to one building
 22 or a series of buildings?

23 **A According to what I've read in the**
 24 **documents, it was in one building.**

Page 64

1 Q Okay. And with respect to the
 2 warehousing of the asbestos fiber, do you know
 3 whether or not that was housed in one location or
 4 multiple locations?

5 **A I believe they stored some finished**
 6 **product in a warehouse, yes.**

7 Q And do you recall seeing testimony
 8 that -- to the effect that the warehouse, the doors
 9 of the warehouse remained open because of the
 10 activity of the, you know, workers throughout the
 11 day?

12 **A I recall something to that effect,**
 13 **yes.**

14 Q We talked about Mr. Dobson and his
 15 work mixing the materials at the Tilo plant. Do
 16 you have an understanding of what his job
 17 classification would be based on this exhibit?

18 **A No. It would be a guess, I think.**

19 Q Are you able to describe the duties
 20 and responsibilities of any of the job
 21 classifications listed below the heading of
 22 "Asbestos Department"?

23 **A Not from any personal knowledge, no.**

24 Q How about from any documents that

Page 65

1 you reviewed?

2 **A No.**

3 **Q** Do you know how many workers during
4 any given time were employed by Tilo in the
5 asbestos department?

6 **A I don't recall seeing anything**
7 **specific to the asbestos department.**

8 MR. KENNEY: I'll show you what's
9 been marked as Exhibit 8.

10 And, Counsel, I apologize. I don't
11 have a copy of that either for you. I
12 actually took your copy. I didn't leave
13 myself a copy.

14 (Thereupon, the respective
15 document was marked as Exhibit
16 Number 8.)

17 BY MR. KENNEY:

18 **Q** So what you have in front of you is
19 Exhibit 8. And on the cover page of that document,
20 it's entitled, "Tilo Topics."

21 Do you see that there?

22 **A I do.**

23 **Q** Okay. Now, this product was
24 produced by RADCO in the litigation. And my first

Page 66

1 question to you is: What is Tilo Topics?

2 **A Well, based on what we see here,**
3 **it's a document that's put together for information**
4 **purposes.**

5 **Q** It appears to be a Tilo publication?

6 **A It appears to be so, yes.**

7 **Q** Let's turn to page 3. And just so
8 there is no confusion, page 3 -- it's numbered --
9 the actual Tilo Topics document is numbered. Do
10 you see that there?

11 **A Yes.**

12 **Q** Okay. Page 3 of the Tilo Topics
13 document. Okay. All right. So you're on page 3.
14 And take a look at the second full paragraph on
15 page 3. It starts with, "Over 18 years ago."

16 Do you see that?

17 **A Yes.**

18 **Q** Okay. So it states here that "over
19 18 years ago, Tilo began using asbestos in the
20 manufacture of some of our sidewall products."

21 Do you see that there?

22 **A Yes, I do.**

23 **Q** I notice here there's a reference to
24 "some of our sidewall products." When Tilo --

Page 67

1 well, withdraw that.

2 At any point, did Tilo make a
3 non-asbestos sidewall product during the same
4 period of time that it was making an
5 asbestos-containing sidewall product?

6 **A From what we've been able to get out**
7 **of the literature, we believe that some of the**
8 **asphalt products may have been used as siding. So**
9 **I think that's what that's referring to.**

10 **Q** Okay. So if I was a potential
11 customer of Tilo during that time period and I
12 wanted to put siding on my house, a Tilo
13 representative could present me with two options,
14 one would be asbestos cement siding or a
15 non-asbestos asphalt siding?

16 MR. FOUNTAIN: Objection to form.

17 THE WITNESS: I believe that would
18 be the case.

19 BY MR. KENNEY:

20 **Q** Okay. So I'm just trying to kind of
21 place this. This document isn't dated, so I'm
22 trying to kind of place this in time in terms of
23 when this document may have been produced. And
24 that first sentence says that "over 18 years ago,

Page 68

1 Tilo began using asbestos in the manufacture of
2 some of our sidewall products."

3 And as you testified today, Tilo
4 began making asbestos cement sidewall products in
5 1937, correct?

6 **A That's what we said, yes.**

7 **Q** So if we add 18 years from that
8 date, it would bring us up to about 1955, correct?

9 **A Okay.**

10 **Q** 1937 plus 18 is 1955.

11 So in an effort to just kind of try
12 to place an approximate date as to when this
13 publication might have been made, do you agree that
14 this document was published sometime in or after
15 1955?

16 MR. FOUNTAIN: Objection to form.
17 The document speaks for itself.

18 THE WITNESS: It would make sense.

19 MR. KENNEY: Okay. I understand the
20 document speaks for itself. I'm just
21 trying to find a time range for when this
22 document was produced.
23

24 BY MR. KENNEY:

Page 69

1 Q You don't disagree with that?

2 A No.

3 Q Now, the next sentence states that

4 "approximately 150 railroad cars of asbestos or

5 about three per week are brought into our Stratford

6 plant from the mines in Quebec."

7 Did I read that correctly?

8 A I believe you did.

9 Q Do you agree with that statement

10 here, that Tilo received raw asbestos fiber by rail

11 car?

12 MR. FOUNTAIN: Object to form.

13 THE WITNESS: I have no reason to

14 dispute it.

15 BY MR. KENNEY:

16 Q You agree that Tilo received raw

17 asbestos that came from mines in Canada?

18 MR. FOUNTAIN: Object to form.

19 THE WITNESS: That's what it says.

20 BY MR. KENNEY:

21 Q It says "Quebec."

22 Do you agree that during this time

23 period, which we have established as sometime in or

24 after 1955, that Tilo was receiving three railroad

Page 70

1 cars' of asbestos per week?

2 MR. FOUNTAIN: Objection to form.

3 THE WITNESS: That's what this

4 implies, yes.

5 BY MR. KENNEY:

6 Q It also states that Tilo was

7 essentially receiving 150 railroad cars of asbestos

8 per year, correct?

9 A That's what it says, yes.

10 Q Now, take a look at the second

11 column on that page. The first full paragraph, it

12 says, quote, "the long asbestos fiber is more

13 costly than the short variety, and Tilo naturally

14 uses more of the former than any other concern in

15 the sidewall industry."

16 Did I read that correctly?

17 A I believe you did.

18 Q And would you agree that -- well, do

19 you agree with that statement, that Tilo was using

20 more long asbestos fiber than its competitors in

21 the sidewall industry?

22 MR. FOUNTAIN: Objection to form.

23 THE WITNESS: I have no reason to

24 dispute this.

Page 71

1 BY MR. KENNEY:

2 Q Certainly, in making that statement,

3 Tilo is trying to impress the reader that it was

4 using long asbestos fibers, even though it was more

5 costly?

6 MR. FOUNTAIN: Object to form.

7 THE WITNESS: That's what it appears

8 to be.

9 BY MR. KENNEY:

10 Q Now, who did Tilo purchase raw

11 asbestos fiber from?

12 A According to what we've -- or some

13 of the testimony we've seen, they purchased fiber

14 from Johns-Manville, Johnson, and I think there was

15 another company listed in there.

16 Q So certainly Tilo purchased raw

17 asbestos fibers from at least two companies and

18 maybe a third?

19 A I believe so.

20 Q And as we've seen from the document

21 here, Tilo purchased large quantities of raw

22 asbestos fiber, correct?

23 MR. FOUNTAIN: Objection.

24 THE WITNESS: We have the quantities

Page 72

1 here. They reference rail cars.

2 BY MR. KENNEY:

3 Q It's a significant amount of

4 asbestos that was purchased by Tilo per year,

5 correct?

6 A Well, I hate to agree with words

7 like "significant." Based on what different people

8 have used, I don't know. We have more of a factual

9 description of what they bought. Whether that's

10 significant or not, I don't care to comment on.

11 Q Okay. I'll show you what has been

12 marked as Exhibit 9.

13 (Thereupon, the respective

14 document was marked as Exhibit

15 Number 9.)

16 BY MR. KENNEY:

17 Q Have you seen Exhibit 9 before?

18 A I believe I have.

19 Q And do you agree that these are

20 yearly asbestos fiber summaries from

21 Johns-Manville?

22 MR. FOUNTAIN: Objection to form.

23 THE WITNESS: That's what it appears

24 to be.

Page 73

1 BY MR. KENNEY:

2 Q Okay. And these fiber summaries --
3 yearly asbestos fiber summaries relate to Tilo
4 Roofing Company, among others?

5 MR. FOUNTAIN: Objection.

6 THE WITNESS: Among others, yes.

7 BY MR. KENNEY:

8 Q Do you have any reason to dispute
9 the accuracy of these fiber summaries?

10 A I do not.

11 Q Okay. So, for example, according to
12 this document, Tilo, in 1950, purchased 895 tons of
13 raw asbestos fiber from Johns-Manville.

14 You don't dispute that, do you?

15 A I don't dispute that.

16 Q And as you can see on the next page,
17 in 1964, Tilo purchased 1,087 tons of raw asbestos
18 fiber. Again, you don't have any reason to dispute
19 that figure, do you?

20 A I do not.

21 Q I'm going to show you a document
22 that has been marked as Exhibit 10.

23
24

Page 74

1 (Thereupon, the respective
2 document was marked as Exhibit
3 Number 10.)

4 BY MR. KENNEY:

5 Q Have you seen this document before?

6 A I believe I have.

7 Q Okay. And this document is dated
8 April 20th, 1959?

9 A Yes.

10 Q And it's entitled "Tilo Roofing,
11 Stratford, Connecticut"?

12 A That's correct.

13 Q Take a look at page 2, paragraph 5.
14 Do you see it is entitled, "Jeffrey Fibers"?

15 A Yes.

16 Q So I want to draw your attention to
17 the second sentence. And before I go any further,
18 you will agree that this is a document that was
19 created by Johns-Manville, correct?

20 A I believe so.

21 MR. FOUNTAIN: Object to the form.

22 BY MR. KENNEY:

23 Q All right. Let's go to page 2. We
24 are looking at Jeffrey Fibers. And I want to draw

Page 75

1 your attention to the second sentence.

2 It states, quote, "We have gained
3 one-third of their fiber supply by our deviation,
4 stipulating not more than 7.1/2 percent, minus 200
5 mesh finds by their test."

6 So certainly -- but this statement
7 here is indicating that in 1959, Johns-Manville is
8 supplying one-third of the asbestos that Tilo was
9 using, correct?

10 MR. FOUNTAIN: Objection. Form.

11 THE WITNESS: That's what their
12 document says, yes.

13 BY MR. KENNEY:

14 Q Okay. Do you have any reason to
15 dispute that claim, that Johns-Manville is
16 supplying one-third of Tilo's fiber supply during
17 this time period?

18 A No, I do not.

19 Q Okay. And, in fact, if you -- if we
20 were to refer back to Mr. Dobson's deposition
21 testimony, do you recall that he testified he used
22 two bags from Johnson and one bag from
23 Johns-Manville?

24 A That's what he said, yes.

Page 76

1 Q So this document appears to be
2 consistent with Mr. Dobson's recollection as to the
3 percentage of asbestos fiber coming from the two
4 companies, correct?

5 MR. FOUNTAIN: Objection to form.

6 THE WITNESS: Appears to be.

7 BY MR. KENNEY:

8 Q For the amount of fiber coming from
9 the two companies, correct?

10 A It appears to be, yes.

11 Q Okay. So if we go back to Exhibit
12 9, the Johns-Manville fiber summaries, and we take
13 a look at the summary for 1959, do you see here
14 that Manville -- Johns-Manville supplied 863 tons
15 of raw asbestos fiber, right?

16 MR. FOUNTAIN: Objection to form.

17 THE WITNESS: That's what it appears
18 to say, yes.

19 BY MR. KENNEY:

20 Q Based on the statements in the
21 letter, which we've marked as Exhibit 10, and
22 certainly Mr. Dobson's deposition testimony, that
23 figure represents only a third of Tilo's asbestos
24 fiber usage in 1959, correct?

Page 77 1 MR. FOUNTAIN: Objection to form. 2 THE WITNESS: I believe so. 3 BY MR. KENNEY: 4 Q In other words, based on the 5 documents I showed you, Tilo purchased 6 approximately 2,589 tons of raw asbestos fiber in 7 1959. 8 MR. FOUNTAIN: Object to the form. 9 THE WITNESS: I can't dispute that. 10 BY MR. KENNEY: 11 Q That is a figure you just come up 12 with by simple math, correct? 13 MR. FOUNTAIN: Objection. 14 THE WITNESS: I assume so. 15 MR. KENNEY: All right. 16 MR. FOUNTAIN: In about five 17 minutes, why don't we take a short break? 18 MR. KENNEY: Yeah. If you want to 19 take a break now, that's fine. 20 How are you doing? 21 THE WITNESS: I'm okay. 22 MR. KENNEY: Why don't we take a 23 break now. I am about to go off on a 24 different topic. So...	Page 79 1 about the products they're using based on 2 what's available to them at the time. 3 BY MR. KENNEY: 4 Q That's important for worker safety, 5 correct? 6 A I believe so, yes. 7 Q If individuals are mixing products 8 or components of products and they may be hazardous 9 in some way, certainly prudent companies want to 10 know about that, correct? 11 MR. FOUNTAIN: Objection to form. 12 THE WITNESS: Prudent companies want 13 to keep up with what the knowledge is. 14 BY MR. KENNEY: 15 Q And certainly that's important for 16 the end user of the product too? 17 MR. FOUNTAIN: Objection to form. 18 THE WITNESS: I would believe so. 19 BY MR. KENNEY: 20 Q Prudent companies don't want to harm 21 the end user? 22 MR. FOUNTAIN: Objection to form. 23 THE WITNESS: I believe so. 24
Page 78 1 THE VIDEO SPECIALIST: All right. 2 We're going to go off the record. The 3 time is now 11:28. 4 (Break taken.) 5 THE VIDEO SPECIALIST: We're going 6 to go back on the record. The time is 7 now 11:36. 8 BY MR. KENNEY: 9 Q Do you agree that prudent companies 10 try to learn as much about the materials they use 11 to make products as safe as possible? 12 MR. FOUNTAIN: Objection to form. 13 THE WITNESS: I think that's -- I'm 14 not sure I understand exactly what your 15 question is. Can you rephrase it? 16 BY MR. KENNEY: 17 Q Well, you would agree that prudent 18 companies want to learn as much about the 19 materials, the raw materials that they're using or 20 that go in to making products in order to make sure 21 that the products they're making are safe? 22 MR. FOUNTAIN: Objection to form. 23 THE WITNESS: I believe the 24 manufacturers of products should know	Page 80 1 BY MR. KENNEY: 2 Q And, likewise, that is also 3 important for environmental reasons, true? 4 MR. FOUNTAIN: Objection to form. 5 THE WITNESS: I believe so. 6 BY MR. KENNEY: 7 Q Prudent companies don't want to harm 8 the environment needlessly? 9 MR. FOUNTAIN: Objection to form. 10 THE WITNESS: That's correct. 11 BY MR. KENNEY: 12 Q Okay. When did Tilo first learn of 13 the health hazards associated with asbestos? 14 A Based on the literature, they 15 knew -- they didn't hear about an association of 16 asbestos use and asbestosis back in probably the 17 mid '50s. 18 Q You mentioned asbestosis. Do you 19 know -- is it your testimony or is it the company's 20 testimony today that Tilo first learned that 21 exposure to asbestos could -- withdraw that. 22 Is it your testimony today that Tilo 23 first learned of an association between asbestos 24 and asbestosis in the 1950s?

Page 81

1 MR. FOUNTAIN: Objection.
 2 THE WITNESS: Based on the
 3 literature and based on Mr. Sink's
 4 testimony, that's what I believe.
 5 BY MR. KENNEY:
 6 Q So aside from Mr. Sink's testimony,
 7 do you have any other reasons to support that
 8 statement?
 9 COURT REPORTER: "Reasons to
 10 support"?
 11 MR. KENNEY: "That statement."
 12 THE WITNESS: I believe -- I'm
 13 basing it on Mr. Sink's testimony.
 14 BY MR. KENNEY:
 15 Q Okay. And so we know that Tilo made
 16 asbestos cement siding in 1937. And is it your
 17 testimony today that knowledge regarding the
 18 association between asbestosis and asbestos was not
 19 known in 1937?
 20 MR. FOUNTAIN: Objection to form.
 21 THE WITNESS: No. It's my testimony
 22 that Mr. Sink testified to their
 23 knowledge in 19- -- in the mid '50s.
 24

Page 82

1 BY MR. KENNEY:
 2 Q Okay. I'm going to show you what
 3 has been marked as Exhibit 11. It's a document
 4 dated June 30th, 1934, from the Connecticut State
 5 Department of Health, correct?
 6 A Yes.
 7 (Thereupon, the respective
 8 document was marked as Exhibit
 9 Number 11.)
 10 BY MR. KENNEY:
 11 Q Have you seen this document before?
 12 A I don't recall.
 13 Q All right. Well, let's turn to page
 14 4 of this document, which is technically page 499.
 15 A Okay.
 16 Q You will see in the top heading of
 17 that page, it says, "Dust, Hazards, and Related
 18 Problems"?
 19 A Yes.
 20 Q And what does it say on the next
 21 line?
 22 A "Asbestosis, General."
 23 Q Okay. Now, turn to page 507. Let
 24 me know when you get there.

Page 83

1 A Okay.
 2 Q Do you see at the bottom of the page
 3 there is a heading entitled, "Asbestos, Dust
 4 Hazards"?
 5 A Yes.
 6 Q Would you agree that in 1934, the
 7 State of Connecticut recognized asbestos as a dust
 8 hazard?
 9 MR. FOUNTAIN: Objection to form.
 10 THE WITNESS: It's listed here in
 11 their document.
 12 BY MR. KENNEY:
 13 Q Okay. If you take a look at that
 14 first paragraph, below that heading of "Asbestos,
 15 Dust Hazards," it appears that only four plants in
 16 the State of Connecticut received asbestos in raw
 17 form during this time period, correct?
 18 MR. FOUNTAIN: Objection to form.
 19 THE WITNESS: That's what they say.
 20 BY MR. KENNEY:
 21 Q So in 1937, Tilo joined a pretty
 22 select club when it began purchasing raw asbestos
 23 fiber to make asbestos cement siding. True?
 24 MR. FOUNTAIN: Objection to form.

Page 84

1 THE WITNESS: I don't know how to
 2 answer that.
 3 BY MR. KENNEY:
 4 Q You don't know?
 5 A Well, a "select club." I don't know
 6 what you mean by a "select club."
 7 Q Certainly during this time period,
 8 only four plants in the State of Connecticut were
 9 purchasing raw asbestos fiber. True?
 10 MR. FOUNTAIN: Objection to form.
 11 THE WITNESS: That's what this
 12 document says.
 13 BY MR. KENNEY:
 14 Q So during this time period, it was
 15 not common practice for companies in Connecticut to
 16 purchase and use raw asbestos in the manufacture of
 17 products?
 18 MR. FOUNTAIN: Objection to form.
 19 THE WITNESS: I don't know that.
 20 BY MR. KENNEY:
 21 Q You would agree with what that
 22 statement on page 5 of 7 is implying, though,
 23 correct?
 24 MR. FOUNTAIN: Objection.

Page 85

1 THE WITNESS: That's one
2 interpretation.
3 COURT REPORTER: Give him just a
4 minute to see if he's going to object.
5 THE WITNESS: Okay.
6 MR. KENNEY: Okay. Let me show you
7 what has been marked as Exhibit 12.
8 (Thereupon, the respective
9 document was marked as Exhibit
10 Number 12.)
11 BY MR. KENNEY:
12 Q Have you seen this document before?
13 A I don't recall.
14 Q And the document is entitled,
15 "Connecticut Health Bulletin," and there is a date
16 there of December 1936?
17 A Yes.
18 Q Turn to the next page of this
19 document. And the top of the page, there's a title
20 that says, "Control of Dust Exposures in
21 Connecticut"?
22 A Yes.
23 Q And the author of the article is
24 Dr. Albert S. Gray?

Page 86

1 A That's correct.
2 Q And the first sentence here states,
3 "Exposure to dust of the type which produces
4 pneumoconiosis presents the most serious single
5 occupational disease hazard in the state."
6 What is pneumoconiosis?
7 MR. FOUNTAIN: Objection to form.
8 THE WITNESS: It's a disease of the
9 lung.
10 BY MR. KENNEY:
11 Q Scarring of the lung?
12 A I believe so.
13 Q Asbestosis is also considered or is
14 a synonym of pneumoconiosis, correct?
15 MR. FOUNTAIN: Objection to form.
16 THE WITNESS: I'd have to go back
17 and look at my historical files on this.
18 BY MR. KENNEY:
19 Q Fair enough. Fair enough.
20 But essentially, Dr. Gray here is
21 writing that dust that can scar the lung is the
22 number one occupational hazard in the state at the
23 time, correct?
24 A He's saying pneumoconiosis, yes.

Page 87

1 Q And further down in the article,
2 under "Factors in Pneumoconiosis," I just want to
3 draw your attention to the -- I want to draw your
4 attention to the third full paragraph you'll see
5 there. It says, "The dust which causes the
6 development of silicosis."
7 A Uh-huh.
8 Q So --
9 A Sorry, yes.
10 Q Once you're on that paragraph, I
11 want to draw your attention to the last sentence of
12 that paragraph, where it states, "Certain other
13 types of dust and those of high free silica content
14 may cause fibrosis of sufficient extent to lead to
15 disability. Asbestos, which contains but little
16 free silica, is an example of such a dust."
17 Did I read that correctly?
18 A I believe you did.
19 Q Okay. So Dr. Gray is writing here
20 that asbestos certainly is the type of dust that
21 can cause fibrosis, which is the scarring of the
22 lung, correct?
23 A He's -- he's talking about
24 pneumoconiosis, yes.

Page 88

1 Q And essentially, with respect to his
2 reference to asbestos, it's -- essentially he's
3 referring to asbestosis, correct?
4 A I don't see that.
5 Q He's essentially writing that
6 certainly these dust exposures lead to the scarring
7 of the lung that may lead to disability?
8 MR. FOUNTAIN: Object to form.
9 THE WITNESS: That's -- that's your
10 interpretation.
11 BY MR. KENNEY:
12 Q Is there any other interpretation?
13 A I don't know.
14 Q Do you have any other
15 interpretations?
16 A I do not.
17 Q Do you agree that a prudent company
18 who is using raw asbestos fiber in the 1930s -- in
19 the mid 1930s and 1940s should have been on notice
20 that asbestos was a dust hazard and could cause
21 occupational disease?
22 MR. FOUNTAIN: Objection to form.
23 THE WITNESS: I don't know what was
24 in the general public in that time frame

Page 89	Page 91
1 and what managers of facilities knew or 2 had access to. 3 BY MR. KENNEY: 4 Q Okay. But you'll agree that 5 Exhibits 12 and Exhibits 11 were documents that 6 were created by the State of Connecticut? 7 A That's what they say, yes. 8 Q They're public documents, correct? 9 A I believe so. 10 Q And fair to say that you haven't 11 reviewed any document to establish that Tilo had 12 any knowledge about potential dust hazards 13 associated with asbestos during the 1930s or 1940s, 14 correct? 15 A I did not see any documentation. 16 Q When did Tilo learn that asbestos 17 exposure can lead to the development of cancer? 18 A In the documentation, we saw some 19 reference to potential cancer outcomes in the late 20 '60s. 21 Q I show you what's been marked as 22 Exhibit 13. 23 24	1 that many substances can cause cancer in humans." 2 And then it goes on to list a number 3 of substances that could cause cancer. As you scan 4 that, you can see here that this article identifies 5 asbestos as a substance that can cause cancer, 6 correct? 7 MR. FOUNTAIN: Objection to form. 8 THE WITNESS: This document does 9 list asbestos. 10 BY MR. KENNEY: 11 Q So certainly by the 1950s, reporters 12 for publications like the New York Times are 13 starting to make the public aware that asbestos can 14 lead to cancer? 15 MR. FOUNTAIN: Objection to form. 16 MR. OSWALD: Objection to form. 17 BY MR. KENNEY: 18 Q Would you agree to that? 19 MR. FOUNTAIN: Same objection. 20 THE WITNESS: Asbestos is listed in 21 this column, yes. 22 BY MR. KENNEY: 23 Q Do you agree that certainly if Tilo 24 wanted to know whether asbestos had the potential
Page 90	Page 92
1 (Thereupon, the respective 2 document was marked as Exhibit 3 Number 13.) 4 BY MR. KENNEY: 5 Q Very small print. And I apologize 6 in advance, so I will do my best to kind of read it 7 for you. 8 You see at the top of the page of 9 this exhibit, it says, "Science in Review"? 10 A Yes. 11 Q "Tobacco industry acts to determine 12 whether cigarettes and lung cancer are related"? 13 A Yes. 14 Q Okay. This is for the New York 15 Times, dated January 10, 1954. Do you see that on 16 the top? 17 A Oh, yes. 18 Q Okay. Now, if we look at the second 19 column, there is a heading entitled, "Many Causes"? 20 A Yes. 21 Q Okay. And it indicates that "after 22 World War II, when the death rate from lung cancer 23 began to alert public health authorities to a new 24 health hazard, studies the world over established	1 to cause cancer, that information was certainly in 2 the public and knowable? 3 MR. FOUNTAIN: Objection to form. 4 THE WITNESS: I don't know when Tilo 5 first became aware of this. 6 BY MR. KENNEY: 7 Q And we talked about cancer, but I 8 want to be a little more specific now. 9 When did Tilo learn that asbestos 10 exposure can lead to the development of 11 mesothelioma? 12 A I did not see anything in the 13 literature to suggest a time frame. 14 Q Okay. Let me show you a document 15 that's been marked as Exhibit 14. Have you seen 16 this document before? 17 A I don't recall. 18 (Thereupon, the respective 19 document was marked as Exhibit 20 Number 14.) 21 BY MR. KENNEY: 22 Q Okay. Well, again, I apologize in 23 advance for the small and fine print, but that's 24 what we're stuck with.

Page 93

1 As you can see at the top there,
2 this is a document from the Bridgeport Post dated
3 October 6, 1964?

4 **A Yes.**

5 Q And, actually, right below that,
6 there's an article heading entitled, "Asbestos
7 Linked to Lung Cancer."

8 Do you see that?

9 **A Yes, I do.**

10 Q And if you read the first two
11 paragraphs, you will see that this article not only
12 mentions an association between asbestos and lung
13 cancer, but it states that "evidence is mounting
14 that asbestos causes a specific type of cancer
15 called mesothelioma."

16 Correct?

17 **A Honestly I need to get my eyes
18 checked. I can't read that.**

19 Q Okay. Let me see if I can read that
20 for you. I agree. It is small print, and I
21 apologize for that.

22 It says, "New York. Medical
23 specialists pointed a strong finger of suspicion
24 today at asbestos as a cause, not only of lung

Page 94

1 cancer but also of another extremely rare form of
2 fatal human cancer. This cancer, known as
3 mesothelioma, involves the lining of the abdominal
4 and chest cavities."

5 Do you see that there?

6 **A I assume you read it correctly.**

7 Q So certainly in 1964, a local
8 newspaper in the city of Bridgeport is reporting on
9 an association between asbestos and mesothelioma,
10 correct?

11 **A That's what it appears to be, yes.**

12 Q And I'm going to read this for you
13 because I know it's small print again. But if we
14 look over to the right, it's the fourth column.
15 The first full paragraph there states, "The cancers
16 may not appear until 20 to 30 years after asbestos
17 dust is inhaled or swallowed."

18 Do you see that there?

19 **A Yes.**

20 Q So certainly this article here is
21 kind of providing information that there is a long
22 latency between exposure and the development of
23 disease, correct?

24 MR. FOUNTAIN: Object to the form.

Page 95

1 THE WITNESS: That's what it
2 concluded.

3 BY MR. KENNEY:

4 Q Then if we look at the next
5 paragraph -- and, again, I'll read it -- it says,
6 quote, "Dr. Hammond said one worry is whether a few
7 or even a single past exposure, even by persons
8 generally, might set the stage for cancer."

9 Did I read that correctly?

10 **A I believe you did.**

11 Q Okay. So certainly this article is
12 reporting on the fact that small or even single
13 exposures may put a person potentially at risk for
14 developing mesothelioma, correct?

15 MR. FOUNTAIN: Objection to the
16 form.

17 THE WITNESS: That's what
18 Dr. Hammond says.

19 BY MR. KENNEY:

20 Q Let me show you what has been marked
21 as Exhibit 5 [sic].

22 MR. FOUNTAIN: 15.

23 MR. KENNEY: I'm sorry. Almost time
24 for a break, I guess.

Page 96

1 (Thereupon, the respective
2 document was marked as Exhibit
3 Number 15.)

4 BY MR. KENNEY:

5 Q I'm going to show you what's been
6 marked as Exhibit 15. And, again, I should have
7 brought a magnifying glass for you. But this,
8 again, is another article that's from the
9 Bridgeport Sunday Post, dated March 13th, 1966.

10 And, you know, we have a different
11 publication here. On the top left-hand corner, do
12 you see the title article that says, "Hospital
13 Staff to Get Asbestos-in-Lung Talk"?

14 **A Yes.**

15 Q And apparently the hospital in
16 question, if you read the first sentence, is
17 St. Vincent's, correct?

18 **A I don't see that. There it is.**

19 Q "The quarterly meeting of
20 St. Vincent's Hospital medical staff"?

21 **A Yes.**

22 Q Okay. So they are having their
23 quarterly meeting and St. Vincent's, according to
24 this article, is having a lecture to discuss

Page 97	Page 99
1 pleural mesothelioma, correct? 2 A Yeah. I believe that's what it 3 says. 4 Q This is in March of 1966, correct? 5 A Yes. 6 Q Okay. And in the second column 7 here, it says that Dr. Lobdell will present, quote, 8 "incidents of asbestos bodies in lungs of 9 Bridgeport inhabitants." 10 Do you see that? Top? 11 A Okay. 12 Q What are "asbestos bodies"? Do you 13 know? 14 A I don't know for sure. 15 Q Okay. Have you seen any document 16 from Tilo that even references the word 17 "mesothelioma" between the years 1937 and 1966? 18 A I don't recall any. 19 Q Do you recall the first document 20 that you reviewed that references -- well, I'll 21 withdraw that. 22 MR. KENNEY: How are we doing on the 23 tape? 24 THE VIDEO SPECIALIST: You still	1 yourself for a minute there, and let me know when 2 you've finished reading it. 3 A Okay. 4 Q Do you agree that in this letter, in 5 this specific paragraph -- withdraw that. 6 Do you agree that this paragraph 7 acknowledges that, quote, "only slight exposure, 8 even at some distances, can be potentially 9 hazardous when dealing with asbestos"? 10 MR. FOUNTAIN: Objection to form. 11 THE WITNESS: That's what 12 Dr. Donneley says -- Donaldson. I'm 13 sorry. 14 BY MR. KENNEY: 15 Q Does the company -- does RADCO agree 16 with that statement, that "only slight exposures" 17 to asbestos, "even at some distance, can be 18 potentially hazardous"? 19 MR. FOUNTAIN: Object to the form. 20 THE WITNESS: I think that RADCO 21 would want to quantify words such as 22 "slight" and "some distance." 23 BY MR. KENNEY: 24 Q We've -- up until this document,
Page 98	Page 100
1 have about 15 minutes. 2 MR. KENNEY: I'm going to go out of 3 order a bit on some of these exhibits, 4 but I'm going to show you an exhibit that 5 I marked as Exhibit 39. 6 (Thereupon, the respective 7 document was marked as Exhibit 8 Number 39.) 9 BY MR. KENNEY: 10 Q Have you seen this document before? 11 A Yes, I have. 12 Q And this is a document that's dated 13 September 18, 1967? 14 A Yes, it is. 15 Q And it's a letter from a 16 Dr. Donaldson to Tilo's personnel director, 17 correct? 18 A That's correct. 19 Q If we turn to the second page, the 20 paragraph in the middle of that page states -- it's 21 the first sentence there. It says, quote, 22 "Asbestos is utilized in your product." 23 A Yes. 24 Q Now, you read that paragraph to	1 which was written on December 18th, 1967, we've 2 seen some newspaper articles regarding asbestos and 3 mesothelioma, correct? 4 A Yes. 5 Q And those documents have talked 6 about the fact that only slight or even a single 7 exposure to asbestos could lead to the development 8 of mesothelioma, correct? 9 MR. FOUNTAIN: Objection to form. 10 THE WITNESS: Those were the 11 opinions of the authors, yes. 12 BY MR. KENNEY: 13 Q Does RADCO hold that same opinion as 14 to whether or not a single exposure to asbestos 15 could potentially lead to the development of 16 mesothelioma? 17 MR. FOUNTAIN: Objection, form. 18 THE WITNESS: I don't think so. 19 BY MR. KENNEY: 20 Q You don't think so? 21 A No. 22 Q No? Or you don't know? 23 Yes, no, or I don't know? 24 MR. FOUNTAIN: Object to form.

Page 101

1 THE WITNESS: A lot of people have a
2 lot of opinions on this, and it's still
3 argued today. So I...

4 BY MR. KENNEY:

5 Q You don't know?

6 A No.

7 Q Okay. I will show you what has been
8 marked as Exhibit 16. Let me know if you have seen
9 this document.

10 A I think so.
11 (Thereupon, the respective
12 document was marked as Exhibit
13 Number 16.)

14 BY MR. KENNEY:

15 Q Okay. This is a call report, a
16 Johns-Manville call report, and it appears to be
17 dated December 26, 1968?

18 A Yes.

19 COURT REPORTER: One more time on
20 the date.

21 BY MR. KENNEY:

22 Q This Exhibit 16 is a Johns-Manville
23 call report dated December 26, 1968?

24 A Yes.

Page 102

1 Q You can see in the pertinent data
2 section, there is a reference to Clinton Reed --
3 And Mr. Reed was an employee of
4 Tilo, correct?

5 A I believe he was.

6 Q Okay.
7 -- wants, quote, "New Yorker
8 article." And it was mailed December 20th, along
9 with position paper.

10 Do you see that there?

11 A That's what this says, yes.

12 Q Do you know what that reference
13 means to the, quote, "New Yorker article"?

14 A No, I do not.

15 Q Have you seen the New Yorker article
16 in question?

17 A I don't know.

18 Q Just to be sure, I'm going to show
19 you what's been marked as Exhibit 17.

20 (Thereupon, the respective
21 document was marked as Exhibit
22 Number 17.)

23 BY MR. KENNEY:

24 Q Have you seen this document before?

Page 103

1 A I don't believe so.

2 Q This is a -- you will agree that
3 this is a New Yorker article that was published in
4 the October 12, 1968 issue?

5 A That's what it indicates.

6 Q And it's entitled, "The Magic
7 Mineral," by Paul Brodeur?

8 A That's what it says, yes.

9 Q If you look at the date of the
10 New Yorker article and the date of Exhibit 16 -- in
11 the Exhibit 16 call report, you will see that this
12 New Yorker article was published two months before
13 the call report referenced in Exhibit 16, correct?

14 The New Yorker article was published
15 on October 12, 1968, and the J-M call report is
16 dated December 26, 1968?

17 A That's correct.

18 Q You've never read this article
19 before?

20 A I don't think so.

21 Q And you haven't seen this in any of
22 the documents that you reviewed for Tilo?

23 A I don't believe so.

24 Q Okay. I will skip that, then.

Page 104

1 In 1961, Tilo was acquired by what
2 company? Have we -- have you --

3 A Have we decided?

4 Q Yes.

5 A A subsidiary of Reynolds. It was
6 Reynolds Building Supply Company.

7 Q Now, at the time, Reynolds was one
8 of the world's largest aluminum companies, correct?

9 A I don't know that.

10 Q It was a big company in 1961.
11 Reynolds was a very big company, correct?

12 A I honestly don't know how big it was
13 in 1961 in comparison to other companies.

14 Q Do you know whether or not it
15 employed industrial hygienists, like yourself,
16 during that time period?

17 A I believe so.

18 Q Do you know whether or not it had
19 libraries that contained medical and scientific
20 journals?

21 A I believe in Homer Cole's deposition
22 he was asked that. And there was a time there was
23 a library, but I don't know the time frame.

24 Q Okay. So in 1961, what did Reynolds

Page 105

1 know about the potential hazards associated with
 2 asbestos exposure?
 3 **A I don't know specifically what they**
 4 **were doing in '61.**
 5 **MR. FOUNTAIN:** Objection.
 6 **BY MR. KENNEY:**
 7 **Q** Would you agree that by 1961, it
 8 would have known that asbestos exposure could lead
 9 to asbestosis?
 10 **MR. FOUNTAIN:** Objection to form.
 11 **THE WITNESS:** I don't know what
 12 they --
 13 **BY MR. KENNEY:**
 14 **Q** So you just don't know?
 15 **A I don't know.**
 16 **Q** Fair enough. So you -- based on
 17 that testimony, it's fair to state that when the
 18 acquisition occurred in 1961, you don't know what
 19 information, if any, was communicated to Tilo
 20 regarding the potential health hazards associated
 21 with asbestos?
 22 **A That's correct.**
 23 **Q** Okay. In your review in preparation
 24 for today, have you seen any evidence that it -- at

Page 106

1 any point between 1937 and 1969, that Tilo
 2 performed any sort of product testing to determine
 3 whether its asbestos cement siding products were
 4 safe to use?
 5 **A I did not see anything.**
 6 **MR. KENNEY:** How are we doing on the
 7 tape?
 8 **THE VIDEO SPECIALIST:** Ten minutes.
 9 **MR. KENNEY:** All right.
 10 **MR. FOUNTAIN:** If you want to break,
 11 that's fine with me.
 12 **MR. KENNEY:** How are you?
 13 **THE WITNESS:** Whatever you --
 14 **MR. KENNEY:** It's 12:05. Want to
 15 keep going?
 16 **MR. FOUNTAIN:** Are you at a breaking
 17 point?
 18 **MR. KENNEY:** I can stop now if you
 19 want, but maybe we should just to -- I'm
 20 about to go into a different topic.
 21 So --
 22 **THE VIDEO SPECIALIST:** All right.
 23 We're going to go off the record. The
 24 time is 12:09, and that will be the end

Page 107

1 of Media Number 1.
 2 (Lunch break taken.)
 3 **THE VIDEO SPECIALIST:** We're going
 4 to go back on the record. The time is
 5 now 1:02. This will be the beginning of
 6 Media Number 2.
 7 **BY MR. KENNEY:**
 8 **Q** Ms. Maillet, I want to refer back to
 9 Exhibit 5, which has been marked previously, and
 10 it's Answers to Interrogatories that Reynolds
 11 Aluminum Development Company filed in the Consolini
 12 case. And I just kind of want to backtrack and
 13 discuss another corporate history and what happened
 14 in 1961 and thereafter.
 15 According to this preliminary
 16 statement, it states that in 1961, Reynolds
 17 acquired Tilo Roofing Company. Do you agree with
 18 that statement?
 19 **A Yes, that's what it says.**
 20 **Q** And then after that, thereafter, the
 21 name was changed to Tilo Company, Inc., which I
 22 think we established previously, correct?
 23 **A Correct.**
 24 **Q** And then from there, it goes on to

Page 108

1 say that Tilo operated as a distinct wholly owned
 2 subsidiary of Reynolds, correct?
 3 **A Correct.**
 4 **Q** And you agree with that statement?
 5 **A Yes, I do.**
 6 **Q** You have no reason to disagree with
 7 that statement?
 8 **A That's correct.**
 9 **Q** And from there it says that Tilo's
 10 name was changed in 1980 to Reynolds Aluminum
 11 Building Products Company.
 12 Do you see that there?
 13 **A Yes.**
 14 **Q** No reason to disagree with that
 15 statement?
 16 **A That's correct.**
 17 **Q** And then in 1989, the company name
 18 was changed to Reynolds Aluminum Development
 19 Company, correct?
 20 **A That's what it says, yes.**
 21 **Q** And we've been using the name
 22 "RADCO" for short?
 23 **A That's correct.**
 24 **Q** So as far as your understanding of

Page 109

1 kind of just the corporate -- the corporate name
 2 changes and things like that, you agree that what's
 3 contained in Exhibit 5 is a correct, kind of,
 4 reading of that history?
 5 **A I don't know personally, but I have**
 6 **no reason to dispute it.**
 7 **Q** Okay. And then before I go on, I
 8 just wanted to take a look at Exhibit 10.
 9 I asked you earlier whether you knew
 10 a percentage of asbestos that was contained in the
 11 asbestos cement siding products made by Tilo. Do
 12 you remember that?
 13 **A Yes.**
 14 **Q** And you said that you weren't sure?
 15 **A Yes.**
 16 **Q** Or you didn't know?
 17 Exhibits 10 -- I'm just curious to
 18 see whether or not this refreshes your memory
 19 because I believe you did recall seeing this
 20 document.
 21 If you look at Exhibit 10 here, Item
 22 2, it says, "Their process."
 23 Do you see that there?
 24 **A Yes.**

Page 110

1 **Q** And it goes on to say, "They make an
 2 asbestos cement shingle by wet process using a
 3 typical mix as follows."
 4 And it's 60 percent cement, correct?
 5 **A Correct.**
 6 **Q** 25 percent limestone?
 7 **A Yes.**
 8 **Q** And then 5 percent Jeffrey 5K04,
 9 which we agree is asbestos fiber, correct?
 10 **A I believe so.**
 11 **THE VIDEO SPECIALIST:** Put your mic
 12 on.
 13 **THE WITNESS:** Sorry.
 14 **THE VIDEO SPECIALIST:** That's all
 15 right. Thank you.
 16 **BY MR. KENNEY:**
 17 **Q** So 5 percent Jeffrey asbestos,
 18 correct?
 19 **A Correct.**
 20 **Q** 5 percent asbestos, correct?
 21 **A I assume so.**
 22 **Q** And then another 5 percent of
 23 Johnson asbestos, but it appears to be a different
 24 grade?

Page 111

1 **A That's what it says, yeah.**
 2 **Q** So if we total that, it appears that
 3 the asbestos cement siding product made by Tilo
 4 contained 15 percent asbestos. Is that a fair
 5 statement?
 6 **A According to J-M, yes.**
 7 **Q** You have no reason to dispute that?
 8 **A I have no information.**
 9 **Q** Have you seen Exhibit 18 before?
 10 **A I don't think so.**
 11 **Q** No? Okay.
 12 (Thereupon, the respective
 13 document was marked as Exhibit
 14 Number 18.)
 15 **BY MR. KENNEY:**
 16 **Q** And Exhibit 18, just for the record,
 17 is -- appears to be a hand-drawn diagram?
 18 **A Correct.**
 19 **Q** And on the top of the page, it says,
 20 "Tilo"?
 21 **A Yes.**
 22 **Q** Okay. And you can see in the middle
 23 of that diagram the word "asbestos"?
 24 **A Yes.**

Page 112

1 **Q** And then there is a circle, and in
 2 that circle it says "old landfill"?
 3 **A Yes.**
 4 **Q** And then below that, there is a
 5 reference to, quote, "current landfill"?
 6 **A Yes.**
 7 **Q** Did Tilo operate a landfill or a
 8 dump on its property in Stratford, Connecticut?
 9 **A According to the documents and**
 10 **testimony, I believe it did.**
 11 **Q** During what years did the dump
 12 operate?
 13 **A I don't think I know that.**
 14 **Q** Let me show you what's been marked
 15 as Exhibit 19.
 16 (Thereupon, the respective
 17 document was marked as Exhibit
 18 Number 19.)
 19 **BY MR. KENNEY:**
 20 **Q** Have you seen this document before?
 21 **A I'm not sure.**
 22 **Q** And this document is -- was created
 23 by the Connecticut State Department of
 24 Environmental Protection, correct?

Page 113 1 MR. FOUNTAIN: Object to the form. 2 BY MR. KENNEY: 3 Q Do you see at the top of -- the 4 heading of this document, it states, "Connecticut 5 State Department of Environmental Protection"? 6 A That's what it says, yes. 7 Q Then below that, there's a subject 8 section that states, "Stratford, Connecticut, a 9 review of a permit application to continue a waste 10 roofing disposal operation for the Tilo Company, 11 April 21, 1975." 12 Did I read that correctly? 13 A I believe so. 14 Q Okay. In the introduction section 15 of this document, it states that, quote, "The Tilo 16 Company has been disposing of waste materials from 17 their Stratford plant on their adjoining property 18 for over 30 years." 19 Do you agree with that statement? 20 A That's what it says, yes. 21 Q So if we just, again, kind of do 22 simple math, it appears that Tilo has been 23 operating a dump on its property since at least 24 1940, correct?	Page 115 1 failure to cover large quantities of these wastes. 2 True? 3 A It says that Tom Pregman drafted a 4 notice of violation. 5 Q Yep. "Calling for cover of large 6 quantities of these wastes," correct? 7 A Yes, that's what it says. 8 Q Apparently, during the visit, the 9 dump or the landfill on the property was not 10 covered, and that appeared to be in violation, 11 correct? 12 MR. FOUNTAIN: Objection to form. 13 THE WITNESS: What it says here is 14 that he drafted a notice of violation for 15 cover. 16 BY MR. KENNEY: 17 Q Okay. Do you agree that 18 asbestos-containing materials were discarded at the 19 Tilo dump? 20 MR. OSWALD: Object to the form. 21 THE WITNESS: I don't know what they 22 were. 23 BY MR. KENNEY: 24 Q I will show you what's been marked
Page 114 1 MR. OSWALD: Object to the form. 2 I'm not sure how it's referred to in this 3 document. 4 THE WITNESS: I believe -- 5 MR. OSWALD: I don't have it. 6 THE WITNESS: It's what it says, 7 over 30 years. 8 MR. FOUNTAIN: It would be '45, 9 but -- 10 COURT REPORTER: Say it again? 11 THE WITNESS: It says it had been on 12 the adjoining property for over 30 years. 13 The date was 1975, so that's '45. 14 BY MR. KENNEY: 15 Q So approximately 1945, Tilo operated 16 a dump on its property? 17 A According to this document. 18 Q According to this document. 19 You don't have any reason to dispute 20 that, do you? 21 A I don't have any information. 22 Q And, actually, if you look at the 23 second sentence here, it appears that Tilo was 24 given a notice of violation for the company's	Page 116 1 as Exhibit 20. Let me know if you have seen this 2 document before. 3 A I don't believe I have. I'm not 4 sure, though. Okay. I don't recall. 5 (Thereupon, the respective 6 document was marked as Exhibit 7 Number 20.) 8 BY MR. KENNEY: 9 Q At the top of Exhibit 20 is -- is 10 entitled, "Potential Hazardous Waste Site 11 Preliminary Assessment," correct? 12 A Yes. 13 Q At the bottom right-hand of the 14 page, the date is October 9th, 1984? 15 A Okay. 16 Q Just curious, in your work as an 17 industrial hygienist, have you seen these types of 18 documents in the past? 19 A I may have, but it wasn't common. 20 Q Okay. I want to draw your attention 21 to the bottom portion of the page. There's a box 22 entitled, "'05 Description of Potential Hazard to 23 Environment and/or Pollution." 24 Do you see that there?

Page 117

1 **A Yes.**
 2 **Q** Below that it is written, quote,
 3 "Asbestos was historically disposed of at site in
 4 question." And it says, "Asbestos is not listed --
 5 not even listed as a hazardous waste. There is,
 6 however, a potential public health problem should
 7 asbestos particles become airborne."
 8 Did I read that correctly?
 9 **A I believe so.**
 10 **Q** So certainly this document indicates
 11 that asbestos was disposed of on the Tilo property,
 12 correct?
 13 **A That is what this individual wrote,**
 14 **yes.**
 15 **Q** In fact, if we look at the box above
 16 it, Number 4, "Description of Substances Possibly
 17 Present, Known, or Alleged," it indicates that
 18 asbestos was detected in samples taken from the
 19 facility's waste site, correct?
 20 **A That's correct.**
 21 **Q** So they actually had sampling
 22 performed and found asbestos present in those
 23 samples, correct?
 24 **A That would be an assumption.**

Page 118

1 **Q** I would like for you to turn to the
 2 third page of this document. This section is --
 3 Part 3 section is entitled, "Potential Hazardous
 4 Waste Site Preliminary Assessment, Description of
 5 Hazardous Conditions and Incidents."
 6 Do you see that there?
 7 **A Yes.**
 8 **Q** And at the middle of the page, there
 9 is some handwriting, correct?
 10 **A Yes.**
 11 **Q** It says, quote, "Asbestos particles
 12 can become airborne and affect the public health."
 13 Do you see that there?
 14 **A Yes.**
 15 **Q** Do you agree with that statement?
 16 **A Something would have to be -- would**
 17 **have to happen to make the particles airborne. I**
 18 **don't believe that it would become airborne just**
 19 **sitting there in the cement.**
 20 **Q** But you agree that that is certainly
 21 a risk from -- that is certainly a risk when one
 22 disposes of asbestos waste in a landfill, correct?
 23 There is a risk that the asbestos fibers can become
 24 airborne?

Page 119

1 **A The risk is only there if it's --**
 2 **something mechanically happens to the material.**
 3 **Q** Let me show you a document marked as
 4 Exhibit 21.
 5 (Thereupon, the respective
 6 document was marked as Exhibit
 7 Number 21.)
 8 BY MR. KENNEY:
 9 **Q** Have you seen this document before?
 10 **A I believe I have.**
 11 **Q** Okay. This is a document dated June
 12 9th, 1981, and certainly the cover page here is on
 13 Reynolds Aluminum letterhead.
 14 **A Yes.**
 15 **Q** Do you know what this document is?
 16 Can you explain this to me?
 17 **A I need to look at it for a minute.**
 18 **Q** Sure. Take your time.
 19 **A So this is a letter from Mr. Tropea**
 20 **to the EPA. I believe the EPA asked for some**
 21 **information, and I believe what he's saying is**
 22 **that, again, paraphrasing, that we will give you**
 23 **this information, but we don't feel like we fall**
 24 **under this particular regulation.**

Page 120

1 **Q** Fair enough. Then on page 2 of that
 2 document is -- looks like a form, "EPA Notification
 3 of Hazardous Waste Site."
 4 Do you see that up at the top of the
 5 page there?
 6 **A Yes, I do.**
 7 **Q** And when I saw this, I noticed that
 8 Reynolds identifies the dates of waste handling as
 9 1961 through 1980. Do you see that there?
 10 **A Yes, I do.**
 11 **Q** And, actually, you know, looking
 12 back at the documents we looked at a couple of
 13 minutes ago, certainly there appears to be evidence
 14 to suggest that the dump on the Tilo property
 15 actually was in operation in 1945 not 1961,
 16 correct?
 17 **A I can't say that it was. It may**
 18 **have been.**
 19 **Q** And, also, I noticed here that in
 20 terms of the hazardous waste materials listed here,
 21 solvents and then -- you know, you can see that box
 22 on the bottom left-hand corner, "Solvents" is
 23 checked, and then Number 18, "Other asphalt roof
 24 manufacturing" is checked.

Page 121

1 Asbestos is never referenced at all
 2 on this. Do you know why that is?
 3 **A No, I don't.**
 4 **Q** You agree that at the time this
 5 document was filed with the U.S. Environmental
 6 Protection Agency, Reynolds certainly knew that
 7 asbestos had been discarded in the dump at the Tilo
 8 facility, correct?
 9 **A I don't know what they knew. I**
 10 **don't know if there was one dump or if there was a**
 11 **change in practices from 1961 to 1980 or -- I don't**
 12 **know what the situation may have been.**
 13 **Q** Okay. I'm going to show you a
 14 document that I've marked as Exhibit 22. Let me
 15 know if you've seen this document before.
 16 (Thereupon, the respective
 17 document was marked as Exhibit
 18 Number 22.)
 19 THE WITNESS: I don't recall.
 20 BY MR. KENNEY:
 21 **Q** Okay. Well, just for the record,
 22 this document is dated October 28th, 1980. Do you
 23 see that at the top left-hand portion of the page?
 24 **A Yes, I do.**

Page 122

1 **Q** And this is on the Travelers'
 2 memorandum -- Travelers' letterhead?
 3 **A I see the Travelers' memorandum.**
 4 **Q** And this document appears to be
 5 authored by a William E. Lisheid -- or Lisheid,
 6 L-I-S-H-E-I-D?
 7 **A Yes, I see that.**
 8 **Q** He is apparently the engineering
 9 account manager?
 10 **A Yes, sir.**
 11 **Q** So if you go back to the first page
 12 of the document, this document indicates in the
 13 third full paragraph, second sentence, quote,
 14 "There is a lot of asbestos-based material buried
 15 in the land behind the plant."
 16 Do you see that there?
 17 **A I do.**
 18 **Q** And the plant in question here is
 19 the Tilo facility in Stratford, Connecticut,
 20 correct?
 21 **A I believe that is who he's**
 22 **referencing.**
 23 **Q** The subject is, "Reynolds Aluminum
 24 Building Products Company," and then in

Page 123

1 parenthesis, "Tilo"?
 2 **A That's what it says.**
 3 **Q** "Stratford, Connecticut." Okay.
 4 Let me show you Exhibit 23. And,
 5 again, let me know if you have seen this document
 6 before.
 7 **A I think I have.**
 8 (Thereupon, the respective
 9 document was marked as Exhibit
 10 Number 23.)
 11 BY MR. KENNEY:
 12 **Q** Okay. And this is a document dated
 13 November 8th, 1980. Correct?
 14 **A Correct.**
 15 **Q** It is written by a Lee McManus, an
 16 engineering account executive?
 17 **A Yes.**
 18 **Q** Special accounts unit?
 19 **A Yes, sir.**
 20 **Q** Okay. And if we look at the second
 21 paragraph, again, the second sentence, Mr. McManus
 22 writes, quote, "Also, we understand that there is
 23 asbestos waste material buried behind the plant."
 24 Do you see that there?

Page 124

1 **A Yes.**
 2 **Q** Okay. And if you look at page 2 of
 3 this document, a representative of Reynolds Metals
 4 is sent a courtesy copy of this document, correct?
 5 **A Mr. Sasser?**
 6 **A Yes, I see that.**
 7 **Q** And he is the corporate safety
 8 director of Reynolds Metals, or was at that time?
 9 **A That's what it says, yes.**
 10 **Q** So this document, a November 8th,
 11 1980 document, was generated a full six months
 12 before Reynolds makes the disclosure to the EPA
 13 about the waste site.
 14 Can you explain to me why Reynolds
 15 never discloses the fact that asbestos is in the
 16 landfill on the Tilo property?
 17 **MR. FOUNTAIN:** Object to the form.
 18 **MR. OSWALD:** Object to the form.
 19 **MR. FOUNTAIN:** As a hazardous waste?
 20 Is that the document you're referring to?
 21 **MR. KENNEY:** The document I'm
 22 referring to is Exhibit 21, the
 23 submission by Reynolds.
 24 **THE WITNESS:** Well, as I indicated

Page 125

1 earlier, I'm not sure that we are talking
2 about the exact same location. It could
3 have been one dump area and another dump
4 area.
5 Secondly, this is a notification of
6 hazardous waste, and asbestos was not
7 considered a hazardous waste by EPA
8 definition.
9 BY MR. KENNEY:
10 Q Well, if we look at Exhibit 20 and
11 you look at the bottom of Exhibit 20, it looks like
12 a Mr. Michael Dones, D-O-N-E-S, of the DEP authored
13 this document.
14 A It appears so.
15 Q Okay. And if you look at page 2,
16 under Section 4 of "Hazardous Substances," he
17 identifies asbestos as a hazardous substance,
18 doesn't he?
19 A He does. But it's not a hazardous
20 waste. There's a distinction.
21 Q And that hazardous substance was
22 discarded in a landfill of Tilo property. True?
23 MR. FOUNTAIN: Objection to form.
24 THE WITNESS: I don't know that, but

Page 126

1 that's what the documents say.
2 MR. KENNEY: Fair enough.
3 BY MR. KENNEY:
4 Q Now, I want to stick for a couple of
5 minutes on the Tilo dump and the site itself. Is
6 there any evidence to suggest that Tilo had any
7 policies or procedures in place related to the
8 discarding of asbestos materials at its dump site
9 prior to 1970?
10 A I didn't see any formal written
11 program.
12 Q Do you agree that when it comes to
13 asbestos, a prudent company will have policies and
14 procedures in place for the proper discarding of
15 asbestos-containing materials?
16 MR. FOUNTAIN: Objection to form.
17 THE WITNESS: I think that you need
18 to look at the circumstances of what the
19 plant was doing and how they are handling
20 their materials.
21 BY MR. KENNEY:
22 Q As an industrial hygienist, would
23 you allow an asbestos cement siding company that
24 was located in close proximity to residential homes

Page 127

1 to dump its asbestos waste on its property?
2 MR. FOUNTAIN: Objection to form.
3 THE WITNESS: Well, as an industrial
4 hygienist that was involved with asbestos
5 waste from time to time, asbestos waste
6 actually, the place they are supposed to
7 go is a landfill.
8 BY MR. KENNEY:
9 Q Would you agree that -- well, this
10 was an active landfill, correct? The Tilo property
11 was an active landfill?
12 MR. FOUNTAIN: Objection to form.
13 THE WITNESS: I don't know.
14 BY MR. KENNEY:
15 Q Would you agree that the tilling of
16 soil has the potential to release asbestos fibers
17 into the air?
18 A No, I wouldn't agree with that. It
19 depends on what's in the soil and depends if
20 there's any asbestos material around.
21 Q Well, I will go back to the Tilo
22 property itself. We know that asbestos waste was
23 dumped on the Tilo property, correct, in a
24 landfill?

Page 128

1 A That's what the documents say, yes.
2 Q You don't have any evidence to
3 dispute that, correct?
4 A Correct.
5 Q So assuming that's the case, don't
6 you agree that the tilling of soil certainly has
7 the potential to release asbestos fibers into the
8 air?
9 MR. FOUNTAIN: Objection to form.
10 THE WITNESS: Not necessarily so.
11 BY MR. KENNEY:
12 Q Do you agree -- again, we are going
13 on the assumption, and based on the evidence here
14 that asbestos waste was discarded in the landfill
15 on the Tilo property.
16 Do you agree that the use of loaders
17 to move soil in a dump has the potential to release
18 asbestos fibers into the ambient air?
19 A Again, it depends on the activity
20 and what's there.
21 Q Do you agree that digging asbestos
22 scrap could lead to the release of airborne
23 asbestos into the air?
24 A It depends on the activity and how

Page 129

1 it's handled.

2 Q Do you agree that the simple act
3 itself of dumping asbestos scrap into a dump could
4 lead to the release of asbestos into the air?

5 A It depends on the condition of the
6 asbestos and how it's handled.

7 Q Was any air monitoring ever
8 performed to determine whether asbestos fibers were
9 being released into the air when the landfill was
10 in operation?

11 A I don't know.

12 Q Do you agree that the dump on the
13 Tilo property caught fire several times during the
14 1950s, '60s, and '70s?

15 A I read about some fires on the
16 property. I don't recall if it was a dump or the
17 asphalt.

18 Q I'm going to show you what I marked
19 as Exhibit 24. I have highlighted this for you
20 because again it's, again, tough to read.
21 Actually, I'll hand you a magnifying glass, too,
22 and see if that helps.

23 A Give it a shot.
24

Page 130

1 (Thereupon, the respective
2 document was marked as Exhibit
3 Number 24.)

4 MR. OSWALD: Did you bring two?
5 BY MR. KENNEY:

6 Q Okay. So I've handed you what has
7 been marked as Exhibit 24. Have you seen this
8 document before?

9 A I believe I have.

10 Q All right. And, again, this is a
11 document -- this is a newspaper article or
12 newspaper section from the Bridgeport Post dated
13 July 3, 1957, correct?

14 A Yes.

15 Q All right. And I want to draw your
16 attention to the highlighted section in the top
17 left-hand corner of the page.

18 Do you see where it says, "Stratford
19 Firemen at dump fire Nine Hours"?

20 A Yes.

21 Q And the article reads that the
22 Stratford firemen battled a blaze at the Tilo
23 Roofing Company's dump on Longbrook Avenue "nine
24 hours yesterday" and were also kept in action by

Page 131

1 ten other, you know, grass, brush, and dump fires.

2 Do you see that there?

3 A Yes, I do.

4 Q Do you agree that the -- that first
5 responders who fought that fire in the dump were
6 certainly at risk of exposure to asbestos?

7 MR. FOUNTAIN: Objection to form.

8 THE WITNESS: Not necessarily so.

9 BY MR. KENNEY:

10 Q What's your basis for that?

11 A Well, first of all, we don't know
12 the segment of the landfill that they were fighting
13 just could have been asphalt roofing.

14 Secondly, they are protected in the
15 exposures that they -- they're protected from all
16 sorts of things that come off from fires from all
17 sorts of places. So they would be protected from
18 whatever came off of this fire.

19 Q In your capacity as an industrial
20 hygienist, have you read any articles or any
21 documents whatsoever regarding the ability of fire
22 to liberate asbestos fibers from products and waste
23 materials?

24 A I don't remember any specifically.

Page 132

1 Q Okay. Exhibit 25, again, you may or
2 may not have seen this. Let me know if you have.

3 A I don't recall this one.

4 (Thereupon, the respective
5 document was marked as Exhibit
6 Number 25.)

7 BY MR. KENNEY:

8 Q Okay. This is dated -- tough to
9 read, but Exhibit 25 is dated March 18th, 1965.
10 And it's from the Bridgeport Post, a page out of
11 the Bridgeport Post?

12 A That's correct.

13 Q And at the top left-hand section of
14 the page, there's a reference to the fire loss.
15 Basically, the chief -- Chief Lockwood's report on
16 fire loss. And in the third full paragraph, it
17 indicates that the Tilo Company Factory on
18 Longbrook Avenue had an outdoor grass or dump fire.

19 And do you see that reference there?

20 A It says there was a fire at the Tilo
21 Company.

22 Q One was at the Tilo Company Factory
23 on Longbrook Avenue, right?

24 A That's correct.

Page 133

1 Q So, again, just another reference of
2 another fire at the property, correct?
3 A **That's what it says.**
4 Q All right. If I show you Exhibit
5 26.
6 (Thereupon, the respective
7 document was marked as Exhibit
8 Number 26.)
9 BY MR. KENNEY:
10 Q We have another encounter at the
11 Tilo dump between firefighters and fire, correct?
12 There is a fire at the Tilo dump, and the
13 firefighters battled the blaze for an hour?
14 A **That's what it says, yes.**
15 Q All right. Then Exhibit 27 is
16 another article from the Bridgeport Post on March
17 18th, 1966.
18 (Thereupon, the respective
19 document was marked as Exhibit
20 Number 27.)
21 BY MR. KENNEY:
22 Q And you see that heading there,
23 "Fire is Fought for 13 hours at Rear of Tilo
24 Roofing Company"?

Page 134

1 A **Yes, I do.**
2 Q And it indicates here that
3 "Stratford firemen yesterday battled a stubborn
4 blaze in scrap tar paper and discarded tile in the
5 rear of the Tyler Roofing Company, Longbrook Avenue
6 for 13 hours"?
7 A **Yes.**
8 Q And in the fourth paragraph, Chief
9 Schelbel is quoted as saying that "the blaze was
10 extremely difficult to fight because it kept
11 smoldering underneath and flaring up again"?
12 A **Yes, I see that. Probably make it**
13 **an indication that it was asphalt.**
14 Q There is no evidence that Tilo
15 segregated its asphalt waste from its asbestos
16 waste, is there?
17 A **I don't know that they did. There**
18 **is no evidence that they didn't.**
19 Q Do you have a position as to whether
20 the actions of the fire department in fighting the
21 fire would have increased the likelihood that
22 asbestos fibers were liberated into the air?
23 MR. FOUNTAIN: Objection to the
24 form.

Page 135

1 THE WITNESS: Considering that if
2 the waste was of the asbestos cement, no,
3 I don't believe that it would have helped
4 release fibers into the air.
5 BY MR. KENNEY:
6 Q You read Mr. Sink's deposition
7 testimony, correct?
8 A **I did.**
9 Q And he's testified in the past about
10 the integrity of the asbestos cement siding
11 product, hasn't he?
12 A **I did see that, yes.**
13 Q Again, he testified that the
14 asbestos cement product that Tilo made was very
15 brittle --
16 A **That's correct.**
17 Q -- and would break very easily?
18 A **He did say that.**
19 Q Did you also, in reviewing the
20 documents, see indications that Tilo would also
21 grind scrap material, the asbestos siding scrap
22 material?
23 A **I don't remember that.**
24 Q Okay.

Page 136

1 A **Back to your question on what the**
2 **firefighters were doing, just like the ad, they're**
3 **probably putting water on it, which is a great dust**
4 **suppression technique, as opposed to creation.**
5 Q There was an awful lot of fire
6 before the water is put on it, though, right?
7 A **I don't know.**
8 Q Well, all right. I'm going to show
9 you Exhibit 28, which is another Bridgeport Post
10 article from March 21st, 1966, where, again, we
11 have another incident of fire at the Tilo dump.
12 (Thereupon, the respective
13 document was marked as Exhibit
14 Number 28.)
15 BY MR. KENNEY:
16 Q And as you can see there, that fire
17 occurred not more than two days later than the
18 other fire that we just discussed. All right. Let
19 me move on.
20 A **Okay.**
21 Q Based on what we've seen with
22 respect to EPA reports and these articles from the
23 Bridgeport Post, would you agree that the dump on
24 the Tilo property was an open dump? And by that I

Page 137

1 mean the waste products that were discarded were
2 discarded on top of the land for a period of time?

3 **A I don't know that.**

4 **Q** I am going to show you what's been
5 marked as Exhibit 40.

6 (Thereupon, the respective
7 document was marked as Exhibit
8 Number 40.)

9 BY MR. KENNEY:

10 **Q** This is a document that has a
11 heading of "State of Connecticut, Department of
12 Environmental Protection," and it's dated February
13 25th, 1975. Do you see that there?

14 **A I do.**

15 **Q** Have you seen this document before?

16 **A I don't recall.**

17 **Q** Okay. If you take a look at it,
18 essentially in this document, Tilo has applied for
19 a permit to dump certain waste products on its
20 property, correct?

21 **A I think so, yes.**

22 **Q** If we look at page 2, it appears
23 that the disposal area that Tilo wants to use is to
24 be operated whenever the plant is in operation,

Page 138

1 currently from 6:30 a.m. to 10:30 p.m. for five
2 days per week. Do you see that there?

3 **A Yes, I do.**

4 **Q** So this was certainly an active
5 operation in terms of the dump on the Tilo
6 property. You know, it was being run and operated
7 five days a week.

8 **A Yes, it appears so.**

9 **Q** Okay. And if you look at Number 5,
10 on page 2 here, it says that "the approximate rate
11 of disposals, 1100 cubic yards per year."

12 So that's approximately how much
13 waste was being disposed of on the property during
14 this time period or how much they wanted to dispose
15 of on the property during this time period?

16 **MR. FOUNTAIN:** Objection.

17 **THE WITNESS:** I don't know how much
18 they wanted to, but that's what they're
19 asking.

20 BY MR. KENNEY:

21 **Q** Then in Number 7, it makes reference
22 to the fact that "leveling and covering is to be
23 accomplished on a routine basis of once every four
24 months by an outside contractor using his equipment

Page 139

1 under the direction of plant personnel."

2 So according to this document, it
3 appears that this was an active dump where waste
4 was being discarded on top of the land, correct?

5 **A Yes.**

6 **Q** And then on a routine basis, it
7 appears here once every four months or so, an
8 outside contractor was coming in, and essentially
9 burying the waste on the property or using fill to
10 cover the waste, correct?

11 **A That was requesting in 1975 when
12 they just had asphalt waste.**

13 **Q** Right. So my question is -- we have
14 this document, this request in 1975, and then we've
15 seen documents from the Bridgeport Post from the
16 1960s which indicate that firefighters were
17 battling, you know, blazes of asphalt, shingles,
18 and scrap tile that had caught fire, which would
19 indicate that the products were being discarded on
20 top of the land, correct?

21 **MR. OSWALD:** Object to the form.
22 There is a lot in that question.

23 **THE WITNESS:** Well, I don't know if
24 that's what it says. Can you break that

Page 140

1 question down for me?

2 BY MR. KENNEY:

3 **Q** The exhibits that we have marked to
4 date in this deposition, would you agree that as it
5 relates to the dump that Tilo's operations and how
6 it handled the waste was as follows: Tilo would
7 discard the waste materials on its property, it
8 would be aboveground for a period of time, and then
9 at some point thereafter, Tilo would then seek to
10 cover it over?

11 **MR. FOUNTAIN:** Objection to form.

12 **THE WITNESS:** I don't necessarily
13 agree with that. I don't -- the
14 newspaper articles indicated there were
15 fires.

16 BY MR. KENNEY:

17 **Q** Right.

18 **A They didn't say they were surface
19 fires. It could have been any kind of fire. I
20 don't know what it was. And in --**

21 **Q** Well, was it an underground fire?

22 **A I don't know.**

23 **Q** Could have been an underground fire?

24 **A It could have been partially**

Page 141

1 covered. I don't know. It could have been
2 anything. But it just says they responded to the
3 landfill. The 1975 document states how they want
4 to go forward handling the asphalt waste. That's
5 all. To me it says, This is how we want to handle
6 our asphalt waste.

7 Q Have you seen any evidence on the
8 documents that we've reviewed to suggest that the
9 workers who went into the dump to discard waste
10 were ever protected in any way?

11 A I don't remember seeing anything
12 about the workers.

13 Q Let me show you what's been marked
14 as Exhibits 29-A and 29-B.

15 (Thereupon, the respective
16 documents were marked as
17 Exhibit Number 29-A and Exhibit
18 Number 29-B.)

19 BY MR. KENNEY:

20 Q Have you seen these photographs
21 before?

22 A Yes.

23 Q Okay. Can you tell me what's
24 depicted in 29-A?

Page 142

1 A I can only assume it's the Tilo
2 Company.

3 Q Okay. If you look at 29-A, you look
4 at kind of the facade of the building, you can see
5 a triangular or a diamond-shaped sign there.

6 A Yes, I do.

7 Q And it looks like it says, "Tilo"?

8 A That's what it says, yes.

9 Q Okay. Now, this is an aerial view
10 of Tilo, correct?

11 A Yes.

12 Q And based on this view, are you able
13 to tell me whether -- or where on the property Tilo
14 operated its dump?

15 A No.

16 Q Okay. Do you see kind of the
17 railroad spur that curves in to the property there?

18 A Yes.

19 Q And then you see kind of a --
20 almost -- it almost looks like a circular outline
21 right above it where there's some trees, but then
22 there is really kind of nothing else?

23 A Yes.

24 Q All right. Do you know what that

Page 143

1 section of the property was used for?

2 A I do not.

3 Q Okay. But viewing the photograph in
4 29-A, you can see the trees there in the center of
5 that circle?

6 A Yes, I do.

7 Q And it almost appears like that area
8 has been cleared?

9 A Yes.

10 Q Okay. I want to show you the next
11 photograph, which is 29 -- Exhibit 29-B. Are you
12 able to locate the Tilo facility?

13 First off, have you seen this
14 photograph?

15 A I believe I have.

16 Q Are you able to locate the Tilo
17 facility in this picture?

18 A Up there in the top left?

19 Q Yeah, the top left there. And you
20 can kind of see that little squiggle there. It
21 appears to be the construction of Interstate 95.
22 Do you know that or not?

23 A No, I don't know that.

24 Q So you see the property there. You

Page 144

1 see the Tilo factory there, correct?

2 And if you go down just below the
3 Tilo property, remember those trees we discussed,
4 we saw in Photograph 29-A?

5 A Yes.

6 Q Are you able to locate that in this
7 photograph, those trees?

8 A I am not. I am not able. I don't
9 see it.

10 Q Okay. I'm going to -- you know, you
11 might need to look at both photos. But do you
12 see -- and I'm going to reach over, if you don't
13 mind -- in 29-B you've got the Tilo facility here,
14 correct?

15 A I would assume so.

16 Q Again, that is your understanding at
17 least?

18 A That is my understanding.

19 Q And you see here this circular area
20 right here with the trees? And you can kind of
21 tell, if you compare the two pictures in 29-A,
22 there doesn't seem to be anything, you know, on top
23 of the property there. You can see the trees
24 clearly, correct, in that area of the facility?

Page 145

1 **A Yes.**
 2 **Q** And then if you look at 29-B, you
 3 can take a look at the trees, but there's a pile
 4 that goes all the way up on top of the trees there.
 5 Do you see that?
 6 **MR. FOUNTAIN:** Objection to form.
 7 **THE WITNESS:** I'm not sure what I'm
 8 seeing there.
 9 **BY MR. KENNEY:**
 10 **Q** You can see here -- you see the
 11 trees in this circular area.
 12 **A Right.**
 13 **Q** And if you take a look at that area,
 14 can you see that there seems to be something that
 15 is piled up there?
 16 Do you know what that is?
 17 **MR. FOUNTAIN:** Object to the form.
 18 **THE WITNESS:** No.
 19 **BY MR. KENNEY:**
 20 **Q** Okay. Now, were any warnings
 21 regarding asbestos ever placed on
 22 asbestos-containing products that Tilo made?
 23 **A I didn't see any reference to that**
 24 **in the documents.**

Page 146

1 **Q** Do you agree that when one of Tilo's
 2 asbestos fiber suppliers attempted to put a caution
 3 label on bags of raw asbestos, Tilo asked them not
 4 to do it?
 5 **A I saw some communication.**
 6 **Q** Right. And the communication that
 7 you just referenced is the correspondence in
 8 Exhibit 30?
 9 (Thereupon, the respective
 10 document was marked as Exhibit
 11 Number 30.)
 12 **THE WITNESS:** Yes. I've seen this.
 13 **BY MR. KENNEY:**
 14 **Q** And this is in Tilo -- this
 15 document that has been marked as Exhibit 30 is on
 16 Tilo letterhead?
 17 **A Yes, it is.**
 18 **Q** And it's dated November 19th, 1968?
 19 **A Yes, it is.**
 20 **Q** And the letter is written by a
 21 William D. Brennan, correct?
 22 **A Yes.**
 23 **Q** And his title is purchasing agent?
 24 **A That's what it says.**

Page 147

1 **Q** And he's writing this letter to the
 2 attention of a Mr. H. A. Boisclair, correct?
 3 **A That's what it says, yes.**
 4 **Q** And it was sent to the Canadian
 5 Johns-Manville Asbestos, Limited?
 6 **A That's what is here.**
 7 **Q** And this letter opens by saying,
 8 "Dear Tony, On October 11, 1968, we received a
 9 letter from your company stating that the following
 10 label will be placed on each bag of chrysotile
 11 asbestos fiber: Quote, 'This bag contains
 12 chrysotile asbestos fiber. Persons exposed to this
 13 material should use adequate protective devices as
 14 inhalation of this material over long periods may
 15 be harmful.'
 16 Did I read that correctly?
 17 **A I believe you did.**
 18 **Q** All right. Now, can you read the
 19 next paragraph for me, please?
 20 **A "Because of our awareness of the**
 21 **inherent hazards of manufacturing asbestos-bearing**
 22 **products and the investigations and preventive**
 23 **measures already taken, we feel the wording you now**
 24 **propose is unnecessary and unduly alarming to our**

Page 148

1 **employees.**
 2 **"Accordingly, we are requesting you**
 3 **omit this printing from the packages in which you**
 4 **will ship our requirements."**
 5 **Q** Okay. As you sit here today, are
 6 you able to tell me what Tilo knew in 1968 about
 7 the inherent hazards of manufacturing
 8 asbestos-bearing products?
 9 **A I think that's a pretty broad**
 10 **question. Can you either rephrase it or...**
 11 **Q** Mr. Brennan is saying -- you'll
 12 agree that Mr. Brennan is saying to Johns-Manville,
 13 We don't want your caution labels on the bags of
 14 asbestos fiber. True?
 15 **A True.**
 16 **Q** And he then provides a basis for why
 17 he doesn't want the caution label on the bags,
 18 correct?
 19 **A Correct.**
 20 **Q** One reason is because he states that
 21 Tilo is aware of the inherent hazards of
 22 manufacturing asbestos-bearing products, correct?
 23 **A Correct.**
 24 **Q** Okay. Do you know what inherent

Page 149

1 hazards he is referencing?

2 **A Well, I don't know specifically what**
3 **he's referencing. We talked about them learning**
4 **about the asbestosis hazard in -- the risk of**
5 **asbestosis in the '50s, and there was something in**
6 **Mr. Sink's deposition that they put in some**
7 **ventilation equipment to deal with that. So**
8 **perhaps they feel like they dealt with the hazards**
9 **as they understood them.**

10 **Q So one reason is, one, he has -- he**
11 **claims that they're aware of the inherent hazards**
12 **of manufacturing asbestos-bearing products. And**
13 **the second reason, which you just referenced, is**
14 **that they claim they've taken preventive measures**
15 **already, correct?**

16 **A That's what it says here.**

17 **Q Okay. Based on your review of**
18 **Mr. Sink's deposition testimony, what specific**
19 **preventive measures did Tilo take?**

20 **A He referenced a piece of ventilation**
21 **equipment that was installed.**

22 **Q Right. That ventilation equipment**
23 **that was installed at Tilo, was that vented to the**
24 **outside air?**

Page 150

1 **A I don't believe so.**

2 **Q How was it vented?**

3 **A I read about a piece of equipment**
4 **that was vented to the inside. That piece, I'm not**
5 **sure.**

6 **Q Now, Mr. Brennan also goes on to**
7 **indicate that a caution label would be unnecessary**
8 **and unduly alarming to Tilo's employees.**

9 **What does he mean by that?**

10 **MR. FOUNTAIN: Objection to form.**

11 **MR. KENNEY: If you know.**

12 **THE WITNESS: I don't know anything**
13 **besides what's on this document.**

14 **BY MR. KENNEY:**

15 **Q Is it Tilo's position that its**
16 **employees didn't need to have notice of potential**
17 **hazards, such as what is being referenced in the**
18 **caution label that Johns-Manville is proposing?**

19 **MR. FOUNTAIN: Objection to form.**

20 **THE WITNESS: Could you repeat that?**

21 **BY MR. KENNEY:**

22 **Q Did Tilo do anything to educate its**
23 **employees about the potential hazards of using**
24 **asbestos fiber in its manufacturing process?**

Page 151

1 **A I don't know.**

2 **Q Do you agree that employees should**
3 **be aware of potential hazards that they come in**
4 **contact with while at work?**

5 **A I believe employees should**
6 **understand what they're working with.**

7 **Q Even if it may be unduly alarming to**
8 **them?**

9 **A I don't -- yeah. It shouldn't be**
10 **unduly alarming.**

11 **Q I'm going to show you what's been**
12 **marked as Exhibit 31.**

13 **(Thereupon, the respective**
14 **document was marked as Exhibit**
15 **Number 31.)**

16 **BY MR. KENNEY:**

17 **Q Have you seen this document before?**

18 **A I believe I have.**

19 **Q Okay. This is a document dated**
20 **January 21st, 1969. And this is a letter that was**
21 **drafted by a Mister -- it looks like -- N.V.**
22 **Hendry, correct?**

23 **A I can't read it. It could be**
24 **"Henry."**

Page 152

1 **Q Regardless, the heading there is,**
2 **"Caution Labels, Asbestos Bags." Do you see that**
3 **on the first page?**

4 **A Yes.**

5 **Q And the author goes on to state, "As**
6 **a result of the severe protest registered by TNN**
7 **and other members of the Asbestos Information**
8 **Committee last fall, our plans to place a caution**
9 **label on asbestos bags were deferred."**

10 **Did I read that correctly?**

11 **A I believe so.**

12 **Q And then in the section below,**
13 **Section 2, it says, quote, "We have received the**
14 **following protests from our customers as a result**
15 **of our letter of October 1st in which we advised**
16 **them of the caution label."**

17 **And then if we turn the page, Tilo**
18 **Company is referenced there at around the middle of**
19 **the page, correct?**

20 **A Correct.**

21 **Q And the author indicates, quote,**
22 **"They," being Tilo, "have written to state they do**
23 **not want any caution label on their bags," correct?**

24 **A That's what he wrote.**

Page 153

1 Q Okay. So you would agree that
2 certainly as a result of Tilo's protests and the
3 protest of some other companies, Johns-Manville
4 deferred the placing of a caution label on its bags
5 of raw asbestos fiber, correct?

6 MR. FOUNTAIN: Objection. Form.

7 THE WITNESS: I don't know if that's
8 the sole reason, but they did register a
9 protest.

10 BY MR. KENNEY:

11 Q Do you agree that a manufacturer has
12 a duty to make sure its factory operations do not
13 endanger the health of citizens living nearby?

14 MR. FOUNTAIN: Objection. Form.

15 THE WITNESS: Could you repeat that,
16 please?

17 BY MR. KENNEY:

18 Q Sure. Do you agree that a
19 manufacturer has a duty to make sure its factory
20 operations do not endanger the health of citizens
21 living nearby?

22 MR. FOUNTAIN: Same objection.

23 MR. OSWALD: Objection to form.

24 THE WITNESS: To the best of their

Page 154

1 knowledge and the technology that's
2 available.

3 BY MR. KENNEY:

4 Q So are you saying that if the
5 technology is not available and citizens living
6 nearby the factory are harmed, it's okay?

7 MR. FOUNTAIN: Objection to form.

8 THE WITNESS: Not at all.

9 BY MR. KENNEY:

10 Q What do you mean, then?

11 A First of all, they have to
12 understand that if a hazard even exists, and I
13 don't believe they did in this case. And then if
14 it did, they would have to research technologies
15 available to mitigate the risk.

16 Q You would agree that if a
17 manufacturer breaches that duty and a citizen is
18 harmed, then the manufacturer is responsible for
19 the harm?

20 MR. FOUNTAIN: Objection to form.

21 MR. OSWALD: Objection to form.

22 THE WITNESS: I -- I wouldn't know
23 where to go with that question.

24 BY MR. KENNEY:

Page 155

1 Q Well, you would agree at the very
2 least that Tilo had a duty to make sure its factory
3 operations did not endanger the health of citizens
4 living nearby?

5 MR. FOUNTAIN: Objection. Form.

6 BY MR. KENNEY:

7 Q Fair enough?

8 MR. FOUNTAIN: Objection to form.

9 THE WITNESS: I don't think they
10 believed they did.

11 BY MR. KENNEY:

12 Q You don't believe Tilo had that
13 duty?

14 MR. FOUNTAIN: Objection to form.

15 THE WITNESS: I believe that they
16 felt that they were complying with any
17 duty.

18 COURT REPORTER: Complying?

19 THE WITNESS: With what the duty.

20 MR. KENNEY: With any duty.

21 THE WITNESS: With any duty.

22 MR. KENNEY: I'm going to show you
23 what's been marked as Exhibit 32.
24

Page 156

1 (Thereupon, the respective
2 document was marked as Exhibit
3 Number 32.)

4 BY MR. KENNEY:

5 Q Have you seen this document before?

6 A I am not sure.

7 Q Well, I'll represent, and as you can
8 see from the Bates stamp on the bottom right-hand
9 of the exhibit, that this was a document that was
10 produced to me by RADCO. So this is something that
11 was in RADCO's possession.

12 A Okay.

13 Q And what I'd like you to do, I've
14 tabbed the page that I'd like you to go to, and
15 it's Bates-stamped -- well, the last four digits of
16 the Bates stamp are 6788. Are you there?

17 A Yes.

18 Q About halfway down on that page, do
19 you see the heading, "Smoke Nuisance"?

20 A Yes.

21 Q All right. And to the right of
22 that, it states, "1934 correspondence covering
23 beginning of operations and later correspondence
24 with regard to nuisance complaints is filed.

Page 157	Page 159
1 Mr. Peterson's smoke nuisance file." 2 Do you see that there? 3 A Yes, I do. 4 Q Have you seen this smoke nuisance 5 file? 6 A I have not. 7 Q Do you know if it exists? 8 A I do not. 9 Q Do you agree that Tilo received 10 complaints regarding smoke nuisance as early as 11 1934? 12 MR. FOUNTAIN: Objection to form. 13 THE WITNESS: This indicates there 14 may have been a correspondence. 15 BY MR. KENNEY: 16 Q It appears that it wasn't just one 17 complaint, correct? It was actually a file that 18 Mr. Peterson kept for smoke nuisance claims, 19 correct? 20 MR. FOUNTAIN: Objection to form. 21 THE WITNESS: It says there's a 22 file. 23 24 BY MR. KENNEY:	1 Do you agree? 2 THE WITNESS: That's what it says, 3 yes. 4 (Discussion off the stenographic record.) 5 BY MR. KENNEY: 6 Q All right. Are you on the page that 7 has Bates Stamp 7009? 8 A Yes. 9 Q You can see at the bottom of that 10 page says a heading entitled, "Litigation"? 11 A Yes. 12 Q Okay. And the second paragraph 13 under that heading states that "in 1937, the 14 company received from the Town of Stratford, 15 Connecticut, a communication advising it that the 16 town council, after investigating complaints of 17 odors and nuisances alleged to be caused by the 18 company, considered that the company was violating 19 the zoning laws of said town, and advising the 20 company that unless such nuisances were corrected 21 to the satisfaction of the council and citizens 22 committee before October 7th, 1937, the town would 23 proceed with legal action." 24 Did I read that correctly?
Page 158	Page 160
1 Q Certainly somebody at Tilo felt it 2 necessary to keep a file for this purpose? 3 A A file can have one document. 4 Q Okay. Would you agree that Tilo was 5 aware as early as 1934 that its plant operations in 6 this case -- well, I'll withdraw that. 7 Would you agree that Tilo was aware 8 as early as 1934 that its plant operations could 9 release, in this case, smoke that would end up 10 being a nuisance to citizens living in the area? 11 MR. FOUNTAIN: Objection. Form. 12 THE WITNESS: I don't know what the 13 operations were like in 1934. 14 BY MR. KENNEY: 15 Q Let's take a look at Exhibit 2. 16 When you have Exhibit 2, I would like for you to 17 turn to the page that has the Bates -- last four 18 Bates of 7009. 19 A Okay. 20 Q We've established already that this 21 document was dated April 1939, correct? 22 COURT REPORTER: I'm sorry. What's 23 the date? 24 MR. KENNEY: April 1939.	1 A I believe so. 2 Q So Tilo, as early as 1937, is 3 receiving complaints from the Town of Stratford 4 regarding nuisances resulting from its plant 5 emissions, correct? 6 MR. FOUNTAIN: Objection to form. 7 THE WITNESS: It received 8 communication based on nuisances, yes. 9 BY MR. KENNEY: 10 Q On the next page, the last sentence 11 up on the top there, do you see where it says, 12 quote, "In the opinion of the officers of the 13 company, the dust, ashes and odors complained of by 14 various persons resident in the community do not 15 originate at its plant"? 16 A I see that, yes. 17 Q So -- and this sentence kind of 18 defines the nuisance a little bit more. It appears 19 that the nuisance at issue in 1937 was odors, dust, 20 and ashes, correct? 21 MR. FOUNTAIN: Objection to form. 22 THE WITNESS: Yes. 23 24 BY MR. KENNEY:

Page 161

1 Q Not only that, it appears, based on
2 this, that the -- these complaints of nuisance
3 odors, dust, and ashes were coming from, quote,
4 various persons resident in the community, correct?
5 MR. FOUNTAIN: According to this?
6 Is that what you're asking?
7 THE WITNESS: According to this?
8 BY MR. KENNEY:
9 Q Yeah, according to this document.
10 It is on 7010, the last sentence.
11 A "By various persons resident in the
12 community."
13 Q So more than one resident was
14 complaining about the odor, dust, and ashes,
15 correct?
16 A By various persons.
17 Q Okay. So would you agree that Tilo,
18 certainly by 1937, was on notice that its
19 operations inside the Tilo factory had the
20 possibility of creating a nuisance in the form of
21 odors, dust, and ashes to residents living in the
22 community?
23 MR. FOUNTAIN: Objection to form.
24 THE WITNESS: Could you ask that

Page 162

1 again, please?
2 BY MR. KENNEY:
3 Q Sure. Would you agree that Tilo, by
4 1937, was on notice that its operations inside its
5 Tilo factory had the possibility of creating a
6 nuisance in the form of odors, dust, and ashes to
7 residents living in the community?
8 MR. FOUNTAIN: Objection to form.
9 THE WITNESS: According to this,
10 they got the notice. But also according
11 to this, the officers of the company did
12 not believe these issues originated at --
13 BY MR. KENNEY:
14 Q Agreed. That is Tilo's position,
15 according to this prospectus.
16 Now, 1937 was the year that Tilo
17 received this complaint, correct?
18 A The date of this document is '37. I
19 don't know when they received it.
20 Q If you look at the page before, on
21 the litigation section, it says, "In 1937, the
22 company received from the Town of Stratford."
23 A Okay.
24 Q So that was 1937, correct?

Page 163

1 A That's what it says.
2 Q 1937 was also the same year that
3 Tilo began manufacturing asbestos cement siding,
4 correct?
5 A That's what we've determined.
6 Q Do you know what, if anything, Tilo
7 was doing during this time period to prevent the
8 release of dust and ashes from the factory?
9 A I do not.
10 Q Do you know what, if any, corrective
11 measures were made on the part of Tilo in response
12 to these complaints?
13 A I do not.
14 Q I am going to show you what has been
15 marked as Exhibit 33.
16 (Thereupon, the respective
17 document was marked as Exhibit
18 Number 33.)
19 BY MR. KENNEY:
20 Q Have you seen this document before?
21 A I don't remember.
22 Q Okay. This is a -- this exhibit is
23 a page out of the Bridgeport Sunday Post, dated
24 September 13, 1964?

Page 164

1 A Okay.
2 Q Did I give you the highlighted copy?
3 A Yes.
4 Q Okay. Good. Because it is
5 difficult to read.
6 I want to draw your attention to the
7 highlighted portion of this document. Do you see
8 where it says, "Keogh Seeks Meeting on Air
9 Pollution Pact?"
10 A Yes.
11 Q This is a newspaper article that ran
12 in September of '64. And if I draw your attention
13 to -- and I'm going to read this for you because it
14 is tough to read -- you can see in the second
15 paragraph of this newspaper article, that the
16 newspaper is quoting Mr. Keogh, who is a councilman
17 for the Town of Stratford, as saying, quote,
18 "terming the air pollution problem, quote, 'one of
19 the most serious facing the town today.'"
20 Do you see that there?
21 A I do.
22 Q Okay. Then in the -- 1, 2, 3, 4 --
23 the fifth paragraph down -- and I'm going to read
24 it for you because it is tough to read -- the

Page 165

1 selectman states -- it says, "Mr. Keogh said, 'In
2 some instances, the complaints residents have
3 reported actually seeing dust and dirt particles in
4 the air and one other persons -- and other persons
5 have said that their newly-painted homes have been
6 marred."

7 Do you see that?

8 **A Yes.**

9 **Q** So certainly this newspaper article
10 is drawing attention to the fact that the Town of
11 Stratford certainly is having a problem with air
12 pollution in 1964? True?

13 **MR. FOUNTAIN:** Objection to form.

14 **THE WITNESS:** That's what the
15 reporter is indicating.

16 **BY MR. KENNEY:**

17 **Q** Yeah. And at the time of this
18 article, it indicates -- on the top of the article,
19 it says that Mr. Keogh was a councilman for the 6th
20 District, which is also -- happens to be the same
21 district that Tilo was located in at the time,
22 isn't it?

23 **MR. FOUNTAIN:** Objection to form.

24 **THE WITNESS:** I don't know that.

Page 166

1 **BY MR. KENNEY:**

2 **Q** Do you know whether Tilo was ever
3 contacted by any town officials or town councilmen
4 regarding these complaints?

5 **A I don't know.**

6 **Q** Do you know if there was any
7 reference to Mr. Keogh and the complaints he lodged
8 on behalf of citizens in Tilo's nuisance file?

9 **A I do not know.**

10 **Q** Let me show you what I have marked
11 as Exhibit 34.

12 (Thereupon, the respective
13 document was marked as Exhibit
14 Number 34.)

15 **BY MR. KENNEY:**

16 **Q** Have you have seen this before?

17 **A I don't recall.**

18 **Q** Okay. This, once again, is a
19 newspaper article that's from the Bridgeport Post
20 dated January 30th, 1967. And I think I gave you
21 the copy.

22 Can you see the highlighted section
23 there, indicates "LBJ to attack air pollution"?

24 **A Yes.**

Page 167

1 **Q** The article states as follows --
2 basically, the article states that President
3 Johnson is saying that, quote, "America's struggle
4 against poisoned air now is being lost," "asked
5 Congress today for legislation giving the federal
6 government power to control air pollution."

7 Do you see that there?

8 **A Yes, I do.**

9 **Q** Do you have any understanding as to
10 whether during the 1960s -- well, withdrawn.

11 Would you agree that during the
12 1960s there was very little in the way of
13 regulations regarding air pollution?

14 **A I'm not an expert on that, but I
15 don't think -- I'm not aware of a lot of
16 regulation.**

17 **Q** In many respects, companies were
18 essentially on their honor to act responsibly
19 during this time, correct?

20 **MR. FOUNTAIN:** Objection to form.

21 **THE WITNESS:** I don't know that.

22 **BY MR. KENNEY:**

23 **Q** Without any oversight, they were on
24 their honor to act appropriately, correct?

Page 168

1 **MR. FOUNTAIN:** Objection to form.

2 **THE WITNESS:** I don't know that.

3 **BY MR. KENNEY:**

4 **Q** The third paragraph -- and I think I
5 highlighted it for you. Do you see the section, it
6 says, "All must aid"?

7 **A Yes.**

8 **Q** Then it says -- the third paragraph
9 states that "the states, the cities, and private
10 industry must commit themselves more fully with a
11 new sense of urgency to America's struggle against
12 poisoned air."

13 My question to you is: Between 1967
14 and 1969, when Tilo stopped manufacturing asbestos
15 cement siding, what, if anything, did Tilo do to
16 determine whether its manufacturing process was
17 contributing to the air pollution problem in the
18 town of Stratford?

19 **A I don't know.**

20 **Q** I'm going to show you what's been
21 marked as Exhibit 35.

22 (Thereupon, the respective
23 document was marked as Exhibit
24 Number 35.)

Page 169

1 BY MR. KENNEY:

2 Q And I know you -- well, have you
3 viewed any aerial photographs of the -- any
4 present-day aerial photographs of the old Tilo
5 site?

6 A I don't think I have.

7 Q Okay. And I know you haven't
8 visited the site, so I guess my question to you is:
9 Would you be able, if you looked at Exhibit 35
10 here, to locate where the former Tilo factory was
11 located?

12 A I believe it was on Longbrook
13 Avenue.

14 Q Okay. Also operated on Barnum
15 Avenue and the Barnum Avenue Cutoff?

16 A Okay.

17 Q Would you agree with that or not?

18 A I remember seeing the address of
19 Longbrook Avenue. Barnum Avenue I didn't see any
20 reference to.

21 Q Fair enough.

22 My question to you is this: If you
23 look at this exhibit, are you able to identify the
24 former location of the Tilo factory?

Page 170

1 A I'm not sure.

2 Q Fair enough.

3 I'm going to show you what has been
4 marked as Exhibit 36.

5 MR. KENNEY: Counsel, you have a
6 copy of that.

7 MR. FOUNTAIN: Thank you.

8 (Thereupon, the respective
9 document was marked as Exhibit
10 Number 36.)

11 BY MR. KENNEY:

12 Q Have you seen this document prior to
13 today?

14 A I believe I have.

15 Q Okay. Now, this doc- --

16 A I saw it this morning. I'm sorry.

17 Q You saw it this morning. Okay.

18 A I saw it before.

19 Q No problem, no problem.

20 So today was the first time you saw
21 this document?

22 A Yes.

23 Q Fair enough.

24 Now, this exhibit has a heading of

Page 171

1 "Minutes of the First Annual Meeting of the Health
2 and Safety Council/ASPA."

3 A "ACPA."

4 Q "ACPA." Thank you.

5 And it's dated November 21st, 1969?

6 A Yes.

7 Q And there is a list of attendees at
8 this meeting, correct, right below that?

9 A That's correct.

10 Q At the top of the list is Atlantic
11 Asphalt & Asbestos, Inc. Do you see that?

12 A Yes, I do.

13 Q And a Mr. Davy has attended on
14 behalf of the company?

15 A Yes.

16 Q And we know that Atlantic Asphalt &
17 Asbestos was a subsidiary of Tilo?

18 A That's correct.

19 Q Now, what I'd like you to do is to
20 turn to page 2 of this document. And as I
21 indicated, this document was generated -- was
22 created on November 21st, 1969 -- or it was the
23 minutes of the November 21st, 1969 meeting.

24 And if you turn to page 2, you will

Page 172

1 see a section heading, Number 3, entitled, "Product
2 Liability."

3 A Yes.

4 Q And if you go down to the third full
5 paragraph in that section, you will see there is a
6 reference to the following, quote -- well, first
7 off, if we look at this section marked "Product
8 Liability," it appears that a Mr. Morton Ball, who
9 was vice president and general counsel of
10 Johns-Manville delivered an address on product
11 liability at this meeting.

12 If you look at the first sentence --

13 A Okay.

14 Q -- under the "Product Liability"
15 section?

16 A Okay.

17 Q Okay. One of the topics discussed
18 at this meeting was as follows, and you can see it
19 indicated in the third paragraph of this section:
20 Quote, "A second class of potential plaintiffs was
21 identified as being composed of, so-called, quote,
22 'neighborhood plaintiffs,' end quote.

23 "These are people who live near a
24 plant or mining facility that emits asbestos fibers

Page 173

1 into the air on a more or less continuous basis for
 2 a lengthy period of time.
 3 "Mr. Ball stressed that recognition
 4 should be given to the possibility of such a class
 5 of plaintiffs actively litigating in the
 6 foreseeable future."
 7 Do you see that there?
 8 **A I do.**
 9 **Q** So certainly at this meeting,
 10 Mr. Davies, who was representing Atlantic Asphalt &
 11 Asbestos, was on notice of, one, that in the
 12 future, there could be, you know, lawsuits in the
 13 asbestos industry related to neighborhood exposures
 14 to asbestos, correct?
 15 **MR. FOUNTAIN:** Objection. Form.
 16 I would like to comment on this.
 17 **MR. KENNEY:** You can't do it right
 18 now. You can't comment on it right now.
 19 **THE WITNESS:** Well --
 20 **MR. KENNEY:** You can't testify for
 21 the witness.
 22 **MR. FOUNTAIN:** You're being unfair
 23 to the witness.
 24 **THE WITNESS:** He talks about the

Page 174

1 facilities that emit asbestos fibers for
 2 a lengthy period of time. That's fair.
 3 **BY MR. KENNEY:**
 4 **Q** And, certainly, anyone who was
 5 present at that meeting would be on notice of that.
 6 True?
 7 **MR. OSWALD:** Objection.
 8 **THE WITNESS:** I don't know that
 9 everybody else at the meeting listened to
 10 his speech. I don't know.
 11 **BY MR. KENNEY:**
 12 **Q** After -- withdraw that.
 13 Do you know when Tilo first became
 14 aware that individuals who lived in or around
 15 factories that use asbestos were at risk of
 16 developing mesothelioma?
 17 **MR. FOUNTAIN:** Objection to form.
 18 **MR. OSWALD:** Objection to form.
 19 **THE WITNESS:** No, I don't know. I
 20 don't know if they felt like there was an
 21 emission problem.
 22 **BY MR. KENNEY:**
 23 **Q** And they never tested, correct?
 24 **A I don't know.**

Page 175

1 **Q** Don't know if there's a problem
 2 unless you check to see if there's a problem,
 3 correct?
 4 **MR. FOUNTAIN:** Objection to form.
 5 **THE WITNESS:** Not necessarily. It's
 6 in several pieces of the literature that
 7 we've seen that this type of material
 8 that they made that's bound in concrete
 9 is not -- it is listed as non-hazardous.
 10 **BY MR. KENNEY:**
 11 **Q** What about when the product is
 12 received in raw form, the raw asbestos fiber?
 13 **A It depends how it's handled.**
 14 **Q** And as we saw earlier in the
 15 deposition, Tilo received thousands of tons of raw
 16 asbestos fiber per year during the period of time
 17 that it was manufacturing asbestos cement siding,
 18 correct?
 19 **A That's correct.**
 20 **MR. FOUNTAIN:** Objection to form.
 21 **BY MR. KENNEY:**
 22 **Q** Just in terms of environmental
 23 matters related to Tilo, you would agree that Tilo
 24 has in the past been fined for polluting waterways,

Page 176

1 correct?
 2 **MR. FOUNTAIN:** Objection to form.
 3 **THE WITNESS:** I saw something about
 4 a discharge.
 5 **BY MR. KENNEY:**
 6 **Q** Okay. In fact, as you can see in
 7 Exhibit 37 here, that was reported on by the local
 8 newspapers, and Tilo subsequently pleaded no
 9 contest to the charges, correct?
 10 **A I don't know.**
 11 **(Thereupon, the respective**
 12 **document was marked as Exhibit**
 13 **Number 37.)**
 14 **MR. FOUNTAIN:** I think it's on the
 15 next page.
 16 **THE WITNESS:** Okay. There it is.
 17 The article says that they pleaded
 18 no contest.
 19 **BY MR. KENNEY:**
 20 **Q** Let's talk a little bit about air
 21 sampling. At any point during the period of time
 22 when Tilo was making asbestos cement siding, did it
 23 perform any air sampling to determine the presence
 24 of asbestos in the air?

Page 177

1 **A** There was one study performed in the
2 late '60s.
3 **Q** Performed in 1968, correct?
4 **A** I believe that's the date.
5 **Q** And you would agree that in the
6 30-plus years that Tilo used raw asbestos fiber to
7 make asbestos-containing products, Tilo only took
8 two air sample measurements?
9 MR. FOUNTAIN: Objection to form.
10 THE WITNESS: That is all that I saw
11 in the literature.
12 BY MR. KENNEY:
13 **Q** And those two air samples were taken
14 on the same day?
15 **A** Uh-huh. I believe so.
16 **Q** And the air sampling lasted for only
17 20 minutes, correct?
18 **A** It was a short-term finding. I
19 don't remember the duration.
20 **Q** And that was it for the entire
21 asbestos department, correct, only two air samples
22 were ever taken?
23 MR. FOUNTAIN: Objection to form.
24 THE WITNESS: That's all I saw.

Page 178

1 BY MR. KENNEY:
2 **Q** And you saw the air sampling report,
3 correct?
4 **A** Yes, I did.
5 **Q** And you agree that the
6 recommendation in the report was to collect
7 additional air sampling?
8 **A** I saw that, yes.
9 **Q** Do you know if additional air
10 sampling was ever taken?
11 **A** There were samples taken later -- in
12 later years.
13 **Q** So asbestos air sampling was taken
14 after Tilo ceased the manufacture of asbestos
15 cement siding. True?
16 **A** I believe so.
17 **Q** Even then, when asbestos air
18 sampling was taken in the 1980s, asbestos fibers
19 were still found to be present in the air, correct?
20 MR. FOUNTAIN: Objection to form.
21 THE WITNESS: I don't recall seeing
22 any positive samples.
23
24 BY MR. KENNEY:

Page 179

1 **Q** I would like to draw your attention
2 back to Exhibits 29-A and 29-B. Those are the
3 photos -- actually, just 29-A. That's all we are
4 looking at right now.
5 I'm looking at the facility, the
6 Tilo facility depicted in Exhibit 29-A. And on the
7 roofs of the facility, I see a number of vents.
8 Do you see that?
9 **A** Are we talking in the -- across the
10 length of the building?
11 **Q** Across the length of the building,
12 you can see that each area has several vents that
13 seem to be popping up out of the roof?
14 **A** Okay.
15 **Q** And do you know whether or not there
16 were any -- well, I'll withdraw that.
17 Would you agree that those were
18 vents that vented directly out to the open air?
19 **A** They appear to.
20 **Q** Okay. And then above -- well, above
21 to the right of the building, it looks like two
22 sheds or warehouses. Do you see that there?
23 **A** I do.
24 **Q** And that area appears to be open to

Page 180

1 the open air?
2 **A** Yes.
3 **Q** Okay. Just past those two sheds,
4 there appears to be material to the right. It
5 looks like next to a tractor-trailer. Do you see
6 that?
7 **A** Yes.
8 **Q** Do you know what that material is?
9 **A** No, I do not.
10 **Q** Fair enough.
11 As you look at this picture of the
12 Tilo plant, are you able to identify any specific
13 locations? I will withdraw that.
14 As you look at this picture, are you
15 able to identify the asbestos department and where
16 it was located?
17 **A** No.
18 **Q** Do you have an understanding as to
19 what operations went on in any areas of this
20 facility?
21 For instance, can you point to
22 certain sections in this photograph and tell me
23 that certain operations took place here and certain
24 operations took place elsewhere?

Page 181

1 **A** I've looked at this photo, and
 2 **I have not ever been to the facility, obviously, so**
 3 **I can't say for sure. But it appears that the**
 4 **section would likely be the felt manufacturing**
 5 **facility because probably the asphalt is contained**
 6 **in the area next to the building.**
 7 **Q** So where do you believe the felt
 8 area would be located? Could you point to me?
 9 **A** I would --
 10 **Q** You're saying that you believe the
 11 area where the little -- the roof is kind of
 12 pointed?
 13 **A** Yes.
 14 **Q** Okay. Do you have any understanding
 15 as to where -- well, you answered that. You don't
 16 know where the asbestos operation was located,
 17 correct?
 18 **A** According to Flanders Dobson, it was
 19 in a separate building about 30 yards away.
 20 MR. KENNEY: Okay. How are we doing
 21 on the tape?
 22 THE VIDEO SPECIALIST: 1:25, so
 23 you've got about 30 minutes left.
 24 BY MR. KENNEY:

Page 182

1 **Q** Are you prepared to talk about any
 2 claims, any workers' compensation claims that have
 3 been filed either against Tilo, RAFCO, RADCO, or
 4 asbestos -- or Triple A?
 5 **A** The only claim that I'm aware of is
 6 Flanders Dobson.
 7 **Q** Have you reviewed the document
 8 production in the Consolini case?
 9 **A** I have not.
 10 **Q** Would you disagree with me if I
 11 indicated that contained in those documents are
 12 notices of claim for additional employees?
 13 **A** I wouldn't know.
 14 **Q** Did you do anything to prepare to
 15 testify today about how many workers' compensation
 16 claims have been filed against the company for
 17 asbestos exposure?
 18 **A** We talked about it. I didn't see
 19 anything in the literature about more cases, and I
 20 didn't understand this to be an occupational
 21 exposure issue.
 22 **Q** Well, you're right. It's not an
 23 occupational exposure issue. But the notice of
 24 deposition still asked about information related to

Page 183

1 workers' compensation claims. Did you prepare
 2 yourself today to answer questions on that?
 3 **A** Again, the only claim I'm aware of
 4 is Flanders Dobson.
 5 **Q** Have you ever heard of a
 6 Mr. Alberson?
 7 **A** No.
 8 **Q** When did -- well, Mr. Dobson first
 9 filed a claim for workers' compensation in 1986,
 10 correct?
 11 **A** '85, '86, something like that.
 12 **Q** That was the individual who was
 13 mixing the asbestos with the other ingredients to
 14 make the asbestos cement shingles?
 15 **A** That's what his deposition said,
 16 yes.
 17 **Q** Do you recall when Tilo was first
 18 named in an asbestos-related lawsuit?
 19 **A** No.
 20 **Q** Have you prepared yourself to talk
 21 about the use of talc at the Tilo facility?
 22 **A** In the documentation, we did see
 23 that there was talc usage.
 24 **Q** Do you know the quantities in which

Page 184

1 Tilo purchased talc for use at its plant?
 2 **A** I do not.
 3 **Q** Do you know the supplier of talc?
 4 **A** I don't recall.
 5 **Q** Do you know whether or not that talc
 6 was contaminated with asbestos?
 7 **A** I do not.
 8 **Q** Did the company ever perform medical
 9 monitoring of its employees, former employees?
 10 **A** In what time frame?
 11 **Q** At any point.
 12 **A** So Tilo, I don't believe they did.
 13 **Q** If a former pensioner died, does
 14 anyone check to see what the cause of death was
 15 from?
 16 MR. FOUNTAIN: Objection to form.
 17 THE WITNESS: I don't know that. I
 18 know that medical monitoring is based on
 19 results of potential exposures. And when
 20 the medical monitoring program was
 21 initially discussed, they took air
 22 samples, and the air samples did not
 23 indicate medical monitoring was required.
 24 BY MR. KENNEY:

Page 185

1 Q One of the air samples that they
2 took was around the mixing operations where
3 Mr. Dobson worked, correct?

4 A Yes.

5 Q And he ended up developing asbestos
6 and lung cancer, correct?

7 MR. FOUNTAIN: Objection to form.

8 THE WITNESS: I believe that's what
9 he said in his deposition.

10 MR. KENNEY: Why don't we take a
11 break.

12 THE VIDEO SPECIALIST: Going off the
13 record. The time is now 2:33.

14 (Break taken.)

15 THE VIDEO SPECIALIST: Back on the
16 record. The time is now 2:42.

17 BY MR. KENNEY:

18 Q During the break, Ms. Maillet, I was
19 going through some of my notes and the Re-Notice of
20 Deposition, and I noticed just a couple of topics.
21 So based on that, I want to ask you some questions.

22 Is there any evidence of the
23 existence of an industrial hygiene program at Tilo
24 between the years 1937 through 1969?

Page 186

1 A I did not see any evidence of a
2 formal program.

3 Q One of the items in the Notice of
4 Deposition asks -- Item 18, asks about the role
5 Reynolds Metals played in the development of
6 employee and environmental safety programs at Tilo.

7 Are you able to provide any
8 information on that?

9 A Based on Mr. Sink's testimony, I
10 believe that Reynolds acted as a resource for the
11 location. Location -- you know, they had their
12 operations. They managed their process. And if
13 they had issues, they were always welcome to go to
14 Reynolds for resources.

15 Q So if there was an issue related to
16 safety, Tilo could reach out to Reynolds, and its
17 people could come to the plant?

18 A That's correct.

19 Q In fact, we have seen some
20 documentation today that have been marked as
21 exhibits where that, in fact, happened, correct?

22 A That's correct.

23 Q In fact, that happened with respect
24 to asbestos?

Page 187

1 A That's correct.

2 Q There was an item in the Notice of
3 Deposition regarding asbestos abatement documents
4 and whether or not any exist for the Tilo property.
5 Do you know whether or not those documents exist?

6 A I have not seen any.

7 Q It's been a long day and a lot of
8 exhibits, so I am going to call it a day. However,
9 I am going to reserve my right to the extent
10 necessary to reopen this deposition should any
11 additional documents or information come to light.
12 But other than that, I hope you have a good
13 afternoon.

14 A Thank you. You too.

15 MR. FOUNTAIN: Any questions from
16 anybody on the phone?

17 Hearing none, this is Bill Fountain
18 for Reynolds, and I will reserve my
19 questions until the time of trial.

20 THE VIDEO SPECIALIST: We're going
21 to go off the record. The time is now
22 2:45, and that will be the end of this
23 deposition.

24 COURT REPORTER: Read and sign? Do

Page 188

1 you want a copy?

2 MR. FOUNTAIN: She will read and
3 sign, and a copy to me.

4 FURTHER THE DEPONENT SAITH NOT.
5 (2:45 P.M.)