

FILE NAME: Owens Illinois (OWILL)

DATE: 1996 Nov 26

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DOCUMENT DESCRIPTION: Legal - Testimony of Richard E. Grimmie

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
MCLEAN COUNTY, ILLINOIS

LCIS BICKNELL, Individually and as
Special Administrator of the Estate
of Hugh Bicknell, deceased,

Plaintiff,

vs.

OWENS-CORNING FIBERGLAS CORPORATION
and ILLINOIS CENTRAL RAILROAD COMPANY,

Defendants.

RON THACKER,

Plaintiff,

vs.

OWENS-CORNING FIBERGLAS CORPORATION,

Defendant.

DELORES MCCLURE, Individually and as
Special Administrator of the Estate
of Robert McClure, deceased,

Plaintiff,

vs.

ILLINOIS CENTRAL RAILROAD COMPANY,
OWENS-CORNING FIBERGLAS CORPORATION
and OWENS-ILLINOIS, INC.,

Defendants.

NOVEMBER 26, 1996

92 L 140

92 L 62

94 L 107

1 REPORT OF PROCEEDINGS of a portion of the
2 jury trial held in the above-entitled cause on the
3 26th day of November, 1996, before THE HONORABLE
4 W. CHARLES WITTE, Circuit Judge of the Eleventh
5 Judicial Circuit, presiding in courtroom 4-B of
6 the McLean County Law & Justice Center, in the
7 City of Bloomington, County of McLean and State of
8 Illinois.

9
10 APPEARANCES:

11 JAMES WALKER and JAMES WYLDER,
12 Bloomington, Illinois,
13 Representing the Plaintiffs.

14 ANDREW CONSTANTINE, II,
15 Cherry Hill, New Jersey,
16 Representing Owens-Corning Fiberglas Corp.

17 JOHN L. MOREL,
18 Bloomington, Illinois,
19 Representing Owens-Corning Fiberglas Corp.

20 THOMAS R. PETERS,
21 Belleville, Illinois,
22 Representing Illinois Central Railroad Co.

23 JOSEPH O'HARA and MATTHEW FISCHER,
24 Chicago, Illinois,
 Representing Owens-Illinois Inc.

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 104 West Front Street
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INDEX

Pg.

RICHARD E. GRIMMIE

Direct Examination	23
Cross Examination	76
Cross Examination	161
Redirect Examination	165
Recross Examination	169

1 November 26, 1996

2
3 THE COURT: These are causes 92 L 140, Lois
4 Bicknell, plaintiff, vs. Owens-Corning Fiberglas
5 and Illinois Central Railroad; 92 L 162 entitled
6 Wilma Thacker, plaintiff, vs. Owens-Corning
7 Fiberglas Corporation, defendant; and 94 L 107,
8 Delores McClure, plaintiff, vs. Illinois Central
9 Railroad Company, Owens-Corning Fiberglas
10 Corporation and Owens-Illinois Incorporated,
11 defendants.

12 Causes come on for continued consolidated
13 jury trial. The plaintiffs, all three are present
14 personally and by counsel Mr. Walker and Mr.
15 Wylder. The defendant Owens-Corning Fiberglas
16 present by counsel, Mr. Andrew Constantine. The
17 defendant Illinois Central Railroad by counsel
18 Thomas Peters and representative Charles Garrett.
19 The defendant Owens-Illinois by counsel Matthew
20 Fischer.

21 Counsel ready to proceed?

22 MR. CONSTANTINE: Ready, Your Honor. I was
23 trying to locate some documents last evening, I
24 couldn't find them. I have found them, they are

1 OCF 600, 601, 602 and 603. I have given counsel
2 copies this morning and I'm going to be seeking
3 their admission.

4 THE COURT: All right. Plaintiff had a
5 chance to look at them yet?

6 MR. WALKER: Plaintiffs are looking at them
7 now and don't know their position yet, so we'll
8 have to object until we are in a position to do
9 differently.

10 THE COURT: All right. Record reflect that
11 counsel Morel and O'Hara have also appeared. Mr.
12 Fischer, you've got something?

13 MR. FISCHER: Your Honor, we have some
14 documents as well, a redacted copy as requested of
15 plaintiffs' exhibit 433 as well as a few medical
16 records which -- I'm sorry, yes, defendant
17 Owens-Illinois 433.

18 THE COURT: And some medical records?

19 MR. FISCHER: And some medical records. That
20 is right.

21 THE COURT: Illinois Central have anything?

22 MR. PETERS: We get to my case Your Honor,
23 all I'm going to do is read a stipulation and
24 rest.

1 THE COURT: Okay. Will you need a hearing on
2 your motion before that?

3 MR. PETERS: Yeah.

4 MR. FISCHER: One other point, Your Honor.
5 We have a blow up we intend to use with Mr.
6 Grimmie, it's a blow up of this photo that Mr.
7 Grimmie will be authenticating and I haven't had a
8 chance to show it to plaintiffs' counsel, so I
9 will do that.

10 MR. O'HARA: Your Honor I think this is the
11 first day I'm late, I apologize for being a little
12 late --

13 THE COURT: Not concerned about it. Also
14 need a copy of Dr. Barrett's reports, the one on
15 Mr. McClure and the one on Mr. Bicknell.

16 Mr. O'Hara, Mr. Grimmie is here?

17 MR. WYLDER: Plaintiffs have some thoughts
18 on the schedule but I suggest we defer all of that
19 until we finish whatever is coming on today.

20 THE COURT: Well except before I let the jury
21 go, we'll need to --

22 MR. WYLDER: Right, but I mean when it looks
23 like all the evidence is in perhaps we send them
24 back there for a little bit and then discuss it.

1 THE COURT: All right.

2 MR. O'HARA: He's here.

3 THE COURT: Mr. Constantine, I think you
4 indicated you had four new exhibits, 600 through
5 603. Are those to be used with Mr. Grimmie?

6 MR. CONSTANTINE: Perhaps. They don't have
7 to be, but depending upon what he says they may
8 be.

9 THE COURT: All right.

10 MR. CONSTANTINE: We are going to put him up
11 first? Is that what we are going to do?

12 THE COURT: Well I will want to see if we
13 conclude your case first, your case in chief
14 first. Then I presume it may be dependent upon
15 the plaintiffs' reactions on those three and we'll
16 go to the Owens-Illinois case.

17 All right, Owens-Corning ready to present
18 some additional exhibits? Is that what you wish
19 to do?

20 MR. CONSTANTINE: Yeah, 600 through 603.

21 THE COURT: Mr. Walker?

22 MR. WALKER: Plaintiffs object to 600 on
23 authentication and hearsay.

24 THE COURT: All right. Now I need to see

1 copies of these Mr. Constantine.

2 MR. CONSTANTINE: I have copies Your Honor.

3 THE COURT: Thank you sir. Record reflect
4 he's handed me copies of those exhibits. Let's
5 just do them one at a time. You said authenticity
6 and hearsay on 600?

7 MR. WALKER: Yes.

8 THE COURT: Mr. Constantine?

9 MR. CONSTANTINE: As it is a -- like some of
10 the medical records that we have seen Your Honor,
11 it is a business record. It is a dust study dated
12 May 11th, 1961. I think that qualifies that as an
13 ancient document which I believe at least under
14 the federal rules is self-authenticating. It is a
15 business record and it is -- I would think --

16 THE COURT: A business record of
17 Owens-Corning?

18 MR. CONSTANTINE: It is.

19 THE COURT: Any other comment on it?

20 MR. CONSTANTINE: No.

21 THE COURT: Mr. Walker, any comment?

22 MR. WALKER: Well, so far as I know, the
23 statements of counsel are not sufficient evidence
24 to lay a foundation for the admissibility of an

1 exhibit. We objected on the basis of authenticity
2 and hearsay. There has been no evidence to show
3 that it falls within the exception to hearsay rule
4 and there has been no evidence of authenticity.

5 MR. CONSTANTINE: It's a business record
6 under I think local rule 236.

7 THE COURT: Well generally there is someone
8 that authenticates that when it is your own
9 business record and says they're the custodian and
10 this is a document kept in the regular course of
11 business.

12 MR. CONSTANTINE: We do have a custodian of
13 records. I can have an affidavit faxed to the
14 court.

15 THE COURT: Well at this point, the objection
16 will be sustained.

17 MR. CONSTANTINE: Well then Your Honor, I ask
18 for leave to call the -- to call that person live.

19 THE COURT: All right. You can do that. The
20 custodian?

21 MR. CONSTANTINE: I can do that sometime as
22 soon as we can. Of course I won't be able to rest
23 until they get here.

24 THE COURT: That is fine. Number 601?

1 MR. WALKER: Same objections.

2 MR. CONSTANTINE: That too Your Honor is a
3 business record and an ancient document, it's
4 dated January 24th, 1946. Your Honor can see it
5 bears the Bates stamp number and it's again not
6 being offered for the truth of the matter asserted
7 in the letter but rather it goes to the state of
8 mind of Owens-Corning inasmuch as it appears as
9 though in 1946, January 24th, Owens-Corning was
10 sent or I'm sorry -- actually there is a response.
11 This letter is read in conjunction with OCF 602.

12 THE COURT: Okay, okay.

13 MR. CONSTANTINE: 602 which is dated just
14 several days before January 18th, 1946 is a letter
15 from the health department of the State of Ohio
16 enclosing a copy of the legal requirements for the
17 prevention and control of industrial public health
18 hazards and a letter going back on January 24th
19 which is, 601 acknowledges receipt of that
20 document which is OCF 603. And the matters
21 asserted in the letter are not offered for the
22 truth of the matters asserted, but rather on the
23 issue of receipt of the document which contains
24 the threshold limit value for asbestos dust at

1 five million particles per cubic foot of air.

2 THE COURT: Is 603 the document that was
3 attached to 602?

4 MR. CONSTANTINE: I think that 606 -- I think
5 the answer to that is that it's not. And what was
6 sent with 602 was a draft versions of 603 and 603
7 which, you know, which it's a draft version of
8 what later appeared in the law to be 603.

9 THE COURT: Well 602 doesn't seem to suggest
10 it's a draft copy.

11 MR. CONSTANTINE: I mean that is just based
12 upon my best recollection, Your Honor. It could
13 very well be -- although I think there is an
14 attachment to this letter -- well no I'm not
15 offering it, the attachment is a draft version,
16 but it has got my handwriting on it and some
17 markings that I made, so I'm not even offering it.

18 THE COURT: All right. Plaintiff, response?
19 Actually 601 and 602 go together?

20 MR. WALKER: Well if 602 is before the court,
21 then we have a third objection. We object on
22 authenticity, hearsay and incompleteness. The
23 first paragraph says, enclosed is a copy and
24 counsel has already indicated he's not tendering

1 the copy. If the Bates stamping numbers were put
2 on there by Owens-Corning, then those numbers work
3 against Owens-Corning because exhibit 601 has
4 Bates stamp 161. Exhibit 602 has Bates stamp 162.
5 But there is no 163 on the front of Owens-Corning
6 exhibit 603 which would indicate that the -- that
7 the printed document wasn't what was enclosed with
8 the January 18th letter, most likely it was
9 something else and it may be that Owens-Corning
10 has already confessed that something else is
11 different from 603 and therefore whatever it is
12 that 602 is being offered to show notice of isn't
13 in front of the jury if 601 and 602 were received
14 into evidence.

15 So for all those reasons, we object to the
16 admissibility of 601 and 602.

17 MR. CONSTANTINE: I have the attachments,
18 Your Honor. 601 is -- the last four numbers are
19 161. The last four numbers of 602 are 0162. I
20 have in my hands the attachment 163, 164, 165,
21 166, 167, 168, 169 and 170. Your Honor will see
22 that on 170 there are some circle marks that I
23 made, so in an effort not to delay things and
24 offer something that had marks on it, I'm not

1 offering it for (inaudible). But for the purposes
2 of establishing that this was indeed attached to
3 the letter, I'm offering it to the court for an in
4 camera review of exactly what was attached. And
5 you'll see if you compare it with 603, Your Honor,
6 it's a draft or what appears to be a draft version
7 of what later became --

8 THE COURT: All right, at this point I will
9 sustain the objections, give you an opportunity to
10 call that person that you --

11 MR. CONSTANTINE: Just so I'm clear Your
12 Honor, you're sustaining the objection on what
13 grounds?

14 THE COURT: Um, on hearsay and at this point
15 authenticity.

16 MR. CONSTANTINE: Could I just inquire of the
17 court is how is it that the plaintiffs introduce
18 medical records claiming them to be business
19 records and authentic, and the court allows them
20 in; but yet when Owens-Corning makes an offer of a
21 document, an ancient document the same way, the
22 court denies it? I'm just curious.

23 THE COURT: Well --

24 MR. WALKER: Well first of all I object to

1 the court having to defend itself --

2 THE COURT: The court is not going to --

3 MR. CONSTANTINE: Your Honor, the reason I
4 ask the question is it is not an issue of the
5 court defending itself and it's really not a
6 personal matter. Counsel for Owens-Corning has
7 identified the record and made motions for recusal
8 based on bias and prejudice and based on the way
9 the case has been handled. There is nothing
10 personal about it, lawyer steps into a courtroom,
11 calls it like he sees it. I say --

12 MR. WALKER: Well the problem is this lawyer
13 can't see the truth --

14 THE COURT: Now counsel --

15 MR. WALKER: -- can't give the court one
16 single example of when an objection was made to a
17 medical record and the objection wasn't ruled upon
18 the same way that these objections were ruled
19 upon.

20 THE COURT: The Appellate Court will have the
21 opportunity to review the court's rulings and can
22 make whatever findings they perceive to be
23 appropriate.

24 All right, are we ready for Mr. Grimmie?

1 MR. CONSTANTINE: Well, Your Honor, with
2 respect to 603, could I venture forward to suggest
3 perhaps that Your Honor could take judicial notice
4 of the State of Ohio legal rules -- legal
5 requirements for the prevention and control of
6 industrial public health hazards published in
7 document 603 dated 1946?

8 MR. WALKER: You won't have to do that
9 because the plaintiffs don't object to 603.

10 THE COURT: All right. 603 will be admitted.

11 Anything else? All right, ready for the
12 jury?

13 MR. WALKER: Judge I wonder if we may not
14 have passed the plate as far as 603 as far as any
15 other party.

16 THE COURT: Any objection Illinois Central?

17 MR. PETERS: I don't have any objection Your
18 Honor.

19 THE COURT: Owens-Illinois?

20 MR. O'HARA: No objection Your Honor.

21 MR. WALKER: Thank you Your Honor. Sorry I
22 didn't bring it up before the jury came in.

23 THE COURT: That's all right.

24 All right, now we are ready for the jury.

1 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
2 PRESENCE OF THE JURY.)

3 THE COURT: All right, you may be seated.
4 Record reflect the ladies and gentlemen of the
5 jury have returned to the courtroom. Mr. O'Hara,
6 do you wish to present some evidence on behalf of
7 Owens-Illinois?

8 MR. O'HARA: Yes Your Honor, I do.

9 THE COURT: Call your first witness.

10 MR. O'HARA: Your Honor, Owens-Illinois
11 exhibit 409 was previously admitted into evidence.

12 THE COURT: Yes, sir.

13 MR. O'HARA: With your permission, I would
14 like to pass this exhibit to the jury.

15 THE COURT: You may.

16 MR. O'HARA: Your Honor, again with your
17 permission I would like to read a portion of this
18 to the jury.

19 THE COURT: Any objection? You may.

20 MR. O'HARA: Title of exhibit Owens-Illinois
21 409 is "Pioneers in the Profession." And the
22 title of the article is "Willis G. Hazard" and the
23 article is by Paul D. Halley. The first paragraph
24 in the first page of the article begins, "Willis,

1 Bill Gilken (phonetic) Hazard, son of Willis and
2 Mary Hazard, was born in Westchester, Pennsylvania
3 on April 27th, 1907."

4 In the second paragraph, in the second
5 sentence, "From there, Bill entered Harvard
6 University where he received his bachelor of arts
7 degree in physics in 1929 and his master's in
8 physics in 1930. He became an instructor at the
9 Harvard School of Public Health working with
10 notables Phillip Drinker and Theodore Hatch. With
11 Drinker he assisted in development of the iron
12 lung which was a major factor in the treatment of
13 patients whose respiration was impaired by polio.
14 With Hatch, Bill worked on evaluation and control
15 of air quality matters, especially of inhalation
16 of silicosis-producing dusts.

17 When Owens-Illinois Glass Company, OI, of
18 Toledo, Ohio appealed to Harvard for assistance in
19 solving a problem of silicosis in their
20 operations, Bill Hazard was recommended to them.
21 So OI proposed and Bill accepted and in 1934,
22 moved to OI's home office in Toledo. His work at
23 OI took him to that company's many operations
24 across the United States to evaluate and control

1 environmental problems such as silicosis-producing
2 dusts, radiant heat and noise.

3 His academic training in physics, ventilation
4 and industrial hygiene type subjects, plus his
5 experience at Harvard, made him uniquely qualified
6 to handle those problems at OI."

7 In the second full paragraph on the column on
8 the right, the second sentence, "They," and there
9 is a reference to above to Mr. Hazard's family,
10 "lived in Toledo except for four years during
11 World War II when Bill joined the U.S. Public
12 Health Service and moved east to serve as an
13 officer assigned to New Jersey and New York City.
14 At war's end he left the service with the rank of
15 major and returned to OI in Toledo where he
16 continued until retirement in 1972."

17 Then I would ask you to turn to the next page
18 under "Accomplishments, Contributions and Honors."

19 Your Honor I'm not going to read all of this.

20 The first sentence is "Bill was a founding
21 father of AIHA, president in 1961, and Cummings
22 Memorial Awardee and lecturer in 1968." The first
23 sentence of the next paragraph. "Bill was a
24 founding member of the Konacide Club (phonetic)

1 (Greek for death to dust) which was a voluntary
2 and informal group dedicated to control of dust
3 exposures in the workplace."

4 And the last sentence of that paragraph, "He
5 authored numerous articles in such publications as
6 National Safety News, American Journal of Public
7 Health, Journal of Industrial Hygiene and
8 Toxicology and Occupational Hazards. He authored
9 three sections of the Encyclopedia of
10 Instrumentation for Industrial Hygiene and," I
11 think it says "three chapters in National Safety
12 Council publications on ventilation of local
13 exhaust systems and heat stress."

14 Under "The Early Years." "I first got to
15 know Bill when I was in my beginning years in
16 industrial hygiene with the Bureau of Industrial
17 Hygiene, West Virginia State Department of Health.
18 OI had several plants in West Virginia.

19 At Bill's invitation I visited OI's plants
20 with him and together we conducted evaluations of
21 potential exposures at OI's operations. It was
22 one of the best cooperative approaches by
23 employers/government that I am aware of. The
24 cooperation between Bill and myself continued

1 after I left government and entered industry in
2 1953. In 1948 I convened a statewide
3 organizational meeting to form an industrial
4 hygiene section of the West Virginia Public Health
5 Association. One of the speakers was Bill Hazard.
6 Bill's talk was on health of glass workers. He
7 discussed medical and engineering controls in the
8 glass industry and told us that out of four glass
9 plants -- and told us that one of four glass
10 plants in the United States was in West Virginia.

11 Then Bill spoke of illnesses of workers
12 generally. At that time there was very limited
13 information available on medical and toxicological
14 aspects of the workplace exposure to chemicals and
15 other stresses (most attention at that time had
16 been directed to exposures to silicosis producing
17 dusts). Bill mentioned one approach being
18 followed by his company which was to keep
19 sickness, absentee records on all employees and
20 look for quote bunches end quote of absences. He
21 suggested that employers should concentrate their
22 attention on the largest percentage of absences
23 rather than using a quote shotgun end quote
24 approach of checking on all employees.

1 I was especially fascinated by Bill's ability
2 and knowledge of exhaust ventilation to control
3 exposures of workers to dust and vapors by
4 ventilation of the work area. The norm in those
5 days was use of a large propeller fan placed in
6 either the ceiling or outside wall of the work
7 area. Systems that had quote pick up end quote
8 hoods (or quote positioners end quote as they were
9 sometimes called) at the point of emission of the
10 dust or vapor were to come later. But not so with
11 Bill and OI. Bill was years ahead in his design
12 of local exhaust systems which included such
13 niceties as adequate face velocities, being close
14 to the point of emission for adequate capture
15 velocity and adequate transport velocity to insure
16 dust would not collect in piping. The common
17 practice in those days was to have exhaust
18 ventilation systems designed, built, and installed
19 by tin smiths, who could adequately install a wall
20 or ceiling fan but had no knowledge of proper
21 ventilation systems."

22 Under Some Vignettes. "Bill's quote
23 consultant end quote stationery carried this
24 message at the bottom of the page. It takes a

1 Hazard to spot a Hazard."

2 Under the bottom under To Reach or Not to
3 Reach for a Star. "In 1968 Bill Hazard delivered
4 his Donald E. Cummings award lecture. This was
5 the oldest and at the time the only AIHA award for
6 those living in the United States. Bill titled
7 his lecture To Reach or Not to Reach for a Star."
8 In the second sentence of the next paragraph, well
9 I will just read the first sentence too. "Then
10 Bill went to to say about dealing with AIHA,
11 quote, let us look at two points of view. There
12 have been two ways of tackling the problems of
13 life such as of a family's growing up end quote.
14 One is to set our goals reasonably low because not
15 to do so causes too much anxiety and
16 disappointment brought on by the failure to meet
17 goals, so do not reach for a star.

18 The second point of view he said is to set
19 our goals high so that we grow by stretching and
20 if we reach for a star we may go higher than we
21 thought we could."

22 The next column in the middle paragraph,
23 "Bill concluded by saying industrial hygiene which
24 means AIHA by virtue of its position is the only

1 all encompassing professional society in the
2 field, must answer the question to reach or not to
3 reach for a star. Then he made one final
4 statement. I hope we reach for a star."

5 Your Honor, at this time Owens-Illinois calls
6 Bill Hazard by deposition from his deposition
7 transcript in 1981.

8 MR. WYLDER: The court's already ruled on
9 that and counsel knows that.

10 MR. O'HARA: Can we make an offer of proof on
11 that at some --

12 THE COURT: You may, the court's previously
13 ruled. Objection is sustained.

14 MR. O'HARA: Your Honor at this time with
15 your permission, Owens-Illinois would like to call
16 Mr. Richard Grimmie.

17 THE COURT: You may.

18 RICHARD E. GRIMMIE

19 CALLED AS A WITNESS ON BEHALF OF THE
20 DEFENDANT OI, HAVING BEEN FIRST DULY SWORN, WAS
21 EXAMINED AND TESTIFIED AS FOLLOWS:

22 DIRECT EXAMINATION

23 BY MR. O'HARA:

24 Q Mr. Grimmie, would you please introduce

1 yourself to the court and the jury?

2 A I'm Richard E. Grimmie, I reside at 202
3 First Avenue, West Berlin, New Jersey. 08091.

4 Q I'm not sure that the jury needed that but
5 -- will you please tell the jury in what year were
6 you born?

7 A 1922.

8 Q And how old does that make you?

9 A Well, I will be seventy-five next year,
10 January.

11 Q For how long have you lived in New Jersey?

12 A All of my life.

13 Q And did you grow up there in New Jersey?

14 A I -- we can stand on our front porch and
15 look over there and see the house my wife was born
16 in, four doors down see the house I was born in.
17 So I grew up with the exception of time in World
18 War II when I was in Europe and North and South
19 Carolina. But for all practical purposes I grew
20 up in West Berlin.

21 Q Mr. Grimmie, could you please tell the
22 jury the extent of your education?

23 A I'm a high school drop out.

24 Q How many years of high school did you

1 have?

2 A Well in my second year was during the
3 Great Depression, if anyone here remembers that.
4 I had no clothes, no shoes. My father left my
5 mother with eight children. So I had to drop out
6 of school. And I went to work for -- pumping gas
7 for fifty cents from six o'clock in the morning to
8 four o'clock in the afternoon.

9 Q You mentioned a little bit earlier that
10 you did some things during World War II. Right?

11 A Yes.

12 Q Just focusing on the years between 1940
13 and 1945, can you tell the jury what you were
14 doing?

15 A I went into the 100th Infantry Division, a
16 company 399th Infantry Regiment. I went in as a
17 private. I held every enlisted pay grade but Pfc.
18 I was discharged as first sergeant.

19 Q For what years were that?

20 A 1943 to 1945.

21 Q Before 1943 but during the time the war
22 was still on, what were you doing then?

23 A Oh I was working in a lumber yard and then
24 I went to work at New York Shipbuilding

1 Corporation in Camden, New Jersey. And in the
2 shipyard we built ships for the Navy from PT boats
3 to a battleship.

4 Q And what kind of work did you do in the
5 shipyard?

6 A I worked in the insulation department.

7 Q Now Mr. Grimmie, are you currently
8 suffering any medical conditions?

9 A Yes, sir.

10 Q Is there anything that is currently
11 affecting you?

12 A Yeah, I just recently took seven pills
13 which is a weekly dose for arthritis. I have
14 asbestosis. I have a benign tremor, you'll notice
15 my head will shake. I can't write anymore because
16 I have lost the use of my left hand and I'm left-
17 handed.

18 Other than seventy-four year aches and pains,
19 I guess that would be it.

20 Q Are any of these conditions to the extent
21 that you can tell, do they affect your memory or
22 your mental capacities?

23 A Not that I know of.

24 Q Mr. Grimmie, have you ever testified in a

1 court like this room before in front of a jury
2 like this one here?

3 A Yes, sir.

4 Q How many times have you testified in a
5 courtroom like this before?

6 A Just one time.

7 Q And do you remember how long ago that was?

8 A It was I believe in the 1960s. No no, in
9 the 1970s.

10 Q Has Owens-Illinois or any lawyers for
11 Owens-Illinois ever asked you to come and testify
12 at a trial before?

13 A For Owens-Illinois? No.

14 Q Now you've had a couple of depositions.
15 Right?

16 A Five.

17 Q And at the depositions, lawyers had a
18 chance to ask you some questions about your prior
19 work experience?

20 A Yes.

21 Q Did there come a time Mr. Grimmie that you
22 became an employee of Owens-Illinois?

23 A I beg your pardon?

24 Q Did there come a time when you became an

1 employee of Owens-Illinois?

2 A Yes.

3 Q Please tell the jurors when that was?

4 A It was February 14th, 1945 I believe.

5 Q Are you certain of the year?

6 A Well my wife is going to kill me because
7 it was just before we were married.

8 Q Your wife is here with you today?

9 A Yes.

10 Q Is it difficult for you to travel without
11 having some help?

12 A Yes, it is.

13 Q When you started at Owens-Illinois, did
14 you start out in an hourly capacity or in some
15 other capacity?

16 A Hourly.

17 Q That means you actually punched a clock or
18 how did they do it back then?

19 A You punched the clock and report to the
20 supervisor.

21 Q And for about how long did you stay at
22 Owens-Illinois as an hourly employee just
23 approximately?

24 A Well there was a period of time I left the

1 Berlin plant to go to Sayreville and then back to
2 Berlin. I believe I left the Berlin plant on
3 January 2nd, 1947, and I'd have got back 2nd or
4 3rd of August of that year.

5 Q Did I understand that you started at
6 Berlin and I think -- you started at Berlin, then
7 you spent some time at Sayreville and then you'd
8 gone back to Berlin?

9 A Yes.

10 Q And these -- the Berlin plant and the
11 Sayreville plant that you mentioned, were these
12 plants operated or owned by Owens-Illinois?

13 A Yes.

14 Q Now when you -- when you joined
15 Owens-Illinois, was it a glass company primarily?

16 A Well Owens-Illinois was a glass company,
17 but our plant did not make glass.

18 Q Okay. And what did you -- what did
19 Owens-Illinois make at the Berlin and Sayreville
20 plant?

21 A At the Berlin plant was a pilot plant to
22 develop a product.

23 Q When you say pilot, I don't mean to
24 interrupt you, what do you mean?

1 A Just that, to develop a product, to -- a
2 calcium silicate high temperature insulation.

3 Q Did it have a name?

4 A Yes, Kaylo. And Sayreville plant was
5 built to produce Kaylo. When the Sayreville plant
6 got up to production, Berlin was to close.

7 Q When you first joined Owens-Illinois, did
8 you have any medical examination?

9 A Yes. Before I went to work I went into
10 the plant dispensary, I was given a preliminary
11 examination by the plant nurse who was on duty
12 eight hours every day, Monday through Friday. And
13 the plant physician at eleven thirty to twelve
14 o'clock every day, he finished the examination.

15 Q Were you actually seen by both of those
16 people?

17 A Yes.

18 Q And the doctor that you mentioned, did he
19 actually, you know, put a stethoscope on you and
20 ask you questions and things like that?

21 A Yes.

22 Q Did the plant nurse -- was this the
23 first day that you ever arrived at any facility
24 that was owned by Owens-Illinois?

1 A Yes.

2 Q Did the plant nurse on the first day say
3 anything to you about any of the dust protection
4 programs in place at Owens-Illinois?

5 A Yes, sir.

6 Q Will you please just tell the jury what
7 she told you about that?

8 A During her portion of the orientation
9 program, she told me that there were certain areas
10 which dust masks or respirators, whichever you
11 want to call them, were required as long as you
12 were working in that area.

13 Q Did she describe these as something or
14 areas where the employees had a choice about
15 whether to use them?

16 A No, they were specifically designated
17 respirator areas.

18 Q And did she say anything to you on that
19 first day about why there were those kinds of
20 areas in the plant?

21 A Yes. She mentioned to me the fact that we
22 used silica in our product and asbestos.

23 Q Is it fair to say that as of the first day
24 or the first hours that you came to work at

1 Owens-Illinois, you understood that asbestos was
2 part of the ingredients of the product that was
3 being made?

4 A Yes.

5 Q As an hourly employee at Owens-Illinois,
6 were you made aware of any of the health effects
7 of asbestos, Mr. Grimmie?

8 A Yes. I understood that if asbestos,
9 inhaled, it's a very tiny fiber and if you look at
10 it under a microscope it has a little barb on it,
11 that will impale itself in your lung and cause
12 what they call pleural thickening. This reduces
13 breathing capacity.

14 Q When you're an hourly employee, were you
15 ever specifically advised about the possibility of
16 asbestosis or the disease asbestosis?

17 A Yes.

18 Q Which people at Owens-Illinois actually
19 talked to you about asbestosis?

20 A Well the plant nurse and my supervisor.

21 Q What about the plant doctor?

22 A I don't remember the plant physician. He
23 was there for a half hour each day to take care of
24 bumps and bruises.

1 Q I would like to just ask you a couple of
2 questions about the jobs that you did when you
3 were an hourly employee at Owens-Illinois. Could
4 you please describe for the jurors, you know, what
5 kind of jobs that you had during that time?

6 A Yes. I started as a production handyman,
7 and I think that means just what it says, wherever
8 I was needed to assist the mechanic, that is where
9 I would be sent. I went from that to batch mixing
10 and from batch mixing to pouring, and from pouring
11 I went into the personnel department.

12 Q It might be helpful Mr. Grimmie if you
13 could explain to the jury just the general way,
14 the general processes that were involved in making
15 Kaylo so that they have some context within which
16 to understand the jobs that you do?

17 A Okay. Now this is during the time period
18 that we are talking about.

19 Q Right.

20 A Kaylo was mixed in a ribbon mixer.

21 Q Did you say ribbon?

22 A Yes, it's a curly-Q thing and it just
23 keeps going, a cement mixer. And the ingredients
24 were silica, lime, diatomaceous earth, clay,

1 asbestos and for general Kaylo that was it. They
2 were introduced into the mixer, mixed and pumped
3 down to a pouring line.

4 Q When you say pumped, in what form was the
5 substance? Was it solid or liquid?

6 A It was a slurry, slurry type of -- very --
7 you couldn't carry it in your hand, but in a
8 fourteen quart bucket you could ladle it into a
9 mold.

10 Q And what happened to the slurry material?
11 Where did it go and what happened to it?

12 A Well, at Berlin at the time, we were
13 making flatware and it would be powered into a
14 mold. It would be poured into a mold, the excess
15 would be secreted off and the car built up and
16 then the car, when there was enough cars which
17 would be fourteen, we would go into an autoclave.

18 Q What is an autoclave?

19 A An autoclave is a pressure vessel and
20 incidentally, that is the reason Owens-Illinois
21 located the pilot plant in Berlin, because there
22 was two autoclaves there. It was formerly a sand
23 lime brick manufacturing facility. After the
24 material was autoclaved at a hundred twenty-five

1 pounds per square inch steam pressure, it set it
2 up in what would be considered a solid form. It
3 was taken out of the autoclave, stripped out of
4 the mold, put into a drying -- put into a drying
5 car and put into a drier to bring it down to the
6 necessary moisture content.

7 Q And then what happened to the material
8 after it came out of the autoclave and dried?

9 A Then it went to the finishing department
10 and at the time the flatware, the top surface
11 which was rather rough would -- was sanded off by
12 a huge sander and the sides were beveled slightly.
13 They were trimmed square and we wound up with an
14 eighteen by thirty-six inch piece of ware.

15 Q And did you have a variety of jobs that
16 were involved in making this flatware? I think
17 you described pourer and --

18 A Yeah, I was a pourer and I worked at
19 loading autoclaves, at stripping the molds.

20 Q Mr. Grimmie, when you were an hourly
21 employee at Owens-Illinois, did you have -- were
22 you a member of a union?

23 A Yes, sir.

24 Q What union was it?

1 A Glass Bottle Blowers' Association of the
2 United States and Canada.

3 Q And did you have any position with the
4 union?

5 A I was the secretary of the --

6 Q What did that mean at the Berlin plant?

7 A Well, that meant at union meetings I took
8 minutes of the meetings and if there was an
9 executive meeting, I would sit in on it with the
10 president, vice president.

11 Q As secretary of the union, did you have
12 any interaction with the -- the management people
13 at Owens-Illinois about what was going on in the
14 plant?

15 A Yes, sir.

16 Q And how frequent were those contacts?

17 A Well I would have to say that not too
18 frequent, but the frequency -- the biggest reason
19 I would have to contact management would be when a
20 supervisor threatened to fire an employee for not
21 wearing his respirator. And this was rather
22 frequently. And this was a constant struggle to
23 get people to wear the respirators.

24 Q Can I -- at the Berlin plant, where you

1 started at the Berlin plant when you returned, did
2 they have any dust control systems?

3 A Yes, sir.

4 Q Could you please describe for the jurors
5 what was -- what kind of equipment was involved
6 and what it did?

7 A We had in place a Sly dust collector,
8 S-l-y is a manufacturer's name. And the dust
9 collector was rather huge. It works the same way
10 -- the same principle as our vacuum cleaner at
11 home. But this may have been fourteen feet wide
12 and thirty feet long. And there was a series of
13 -- series meaning hundreds, of filter bags hanging
14 on a rack inside of the dust collector. And what
15 this rack was for was to shake the bags to shake
16 whatever dust may have accumulated on them. Um --

17 Q How did -- how -- how many of these
18 machines were there?

19 A Well at the time, at the time of the pilot
20 plant operation there was one.

21 Q And how is it that the Sly dust collector
22 does, since it's located in one spot, how does it
23 do its job at other locations in the plant?

24 A There was very large ducts going to each

1 operation and off of the large ducts were smaller
2 flexible hoses going to, if I may use a trim saw
3 as an example, a trim saw had a twelve inch
4 sawblade and this mechanism was built to straddle
5 that sawblade and leave four and a half inches of
6 it exposed. Because the largest material, the
7 thickest material we made was four inches so that
8 would bring this in. And then the duct work would
9 pull the dust from the sawblade up into the
10 collector.

11 Q How powerful was this system?

12 A How powerful was it? I -- it was -- I
13 think I mentioned twenty thousand cubic feet a
14 minute. I don't mean to be joking, but sometimes
15 an unsuspecting maintenance man would be working
16 on the saw and he would get too close and it would
17 pull the hat right off of his head. So it was I
18 would say a very powerful system and it was well
19 maintained.

20 Q Speaking of the maintenance, what was --
21 what was the maintenance schedule for this
22 machinery?

23 A Okay. We were scheduled to shut down
24 every two hours.

1 Q Shut down what?

2 A The operation. The dust collector would
3 be shut down and when it was turned off, it would
4 automatically shake the bags. Now this was also a
5 ten minute break for the people.

6 Q Like you, when you were an hourly
7 employee?

8 A Yes. And I appreciated it. And at noon,
9 at lunch time, the dust collector was shut off and
10 the maintenance man, the truck driver, would go up
11 inside of the baghouse to make sure all of the
12 dust had gone down through the chutes into the
13 hoppers underneath so that it wasn't clogging up.

14 Q Who controlled at Owens-Illinois when this
15 system was operating?

16 A Well it would be turned on at the
17 beginning of the shift. Now we had a policy in
18 place that is almost unheard of, but we had --
19 hourly people had authority to shut down the
20 operation if they could see dust coming out of one
21 of these pick up hoods.

22 Q So you, when you were an hourly employee,
23 did you have that authority?

24 A Yes.

1 Q In your experience when you were an hourly
2 employee, did it ever happen that one of your own
3 colleagues declared I see dust?

4 A Yes.

5 Q And the production in this operation will
6 stop?

7 A Yes.

8 Q And then what happened?

9 A Well, the maintenance people would go up
10 into the collector to check the bags and then
11 check to see if it was clogged up anyplace or if
12 the duct work was clogged.

13 Q You mentioned I think earlier some trim
14 saws. Correct?

15 A Yes.

16 Q Now how many trim saws were there?

17 A Well in the beginning, we had what we
18 called the flatware finishing line. The product
19 that we developed was roof tile, it was a roof
20 deck that was made eighteen by thirty-six inches,
21 two and a half inches thick. It was a fire proof
22 material and that is what Kaylo was to be. But we
23 had a somewhat of a genius at Berlin and he
24 developed a low density product that could be made

1 into pipe covering. And when we made molds and
2 started pouring pipe covering, then additional
3 dust collecting capacity was added.

4 Q In the Sly dust collection system, was
5 there a way to manage whether the dust collection
6 was going on in one operation as opposed to
7 another?

8 A Yes, absolutely. There was gate valves in
9 the duct work and if one saw was being operated,
10 the gates on all of the other pick up lines could
11 be closed so that all of the effort of the
12 collector was concentrated on the air that was
13 being worked.

14 Q Mr. Grimmie, when you were an hourly
15 employee, did you know whether Owens-Illinois had
16 an industrial hygienist?

17 A Yes.

18 Q Could you please tell the ladies and
19 gentlemen whom you remember to be the industrial
20 hygienist at Owens-Illinois?

21 A Bill Hazard.

22 Q When you were at Berlin and then at
23 Sayreville and then back at Berlin as an hourly
24 employee, did you ever see Bill Hazard at the

1 plants?

2 A Yes.

3 Q When you saw Bill Hazard at the Berlin
4 plant and at the Sayreville plant, could you just
5 describe for the ladies and gentlemen of the jury
6 what you saw him doing?

7 A Well Bill would come in with a team of his
8 people, and that is if we may take a trim saw,
9 they would strap around the trim saw feeder's neck
10 a pipe that would -- a flexible rubber that would
11 come up right to his breathing zone and then it
12 would go down to his belt line where there was a
13 little mechanism that created a vacuum. And this
14 was to create the same conditions that this
15 operator was working in, his breathing zone. Then
16 this material went into some solution and then it
17 was analyzed.

18 Q You had an understanding at this time that
19 this was a dust counting procedure?

20 A Absolutely.

21 Q And you actually saw him putting these --
22 with the equipment, putting the tubes on the
23 workers at a place where they would be breathing.
24 Is that what you saw?

1 A Well, yes. And I actually had it put on
2 me.

3 Q By Bill Hazard or some of his team?

4 A No, one of his team.

5 Q Mr. Grimmie, I would like to show you a
6 picture if I could, it has been marked as
7 Owens-Illinois exhibit 530. Mr. Grimmie, do you
8 recognize that picture?

9 A Yes, I recognize it.

10 Q Are you --

11 A I'm in it.

12 Q You're in it. And you recognize yourself?

13 A Yes.

14 Q And you recognize the other people that
15 that are in that picture?

16 A Preston Gillis. Paul Shoe from Aetna who
17 was our insurer. Bill Hazard.

18 Q Is this a picture that was taken at the
19 Owens-Illinois plants?

20 A Yes. This incidentally, this piece of
21 equipment --

22 Q Well before you testify any more, is this
23 a fair and accurate picture of yourself and these
24 other Owens-Illinois employees at the time that

1 you were working there?

2 A Yes, absolutely.

3 MR. O'HARA: Your Honor I would move --

4 A But I was salary at the time.

5 MR. O'HARA: Okay, I move for its admission
6 Your Honor.

7 THE COURT: Any objection?

8 MR. WALKER: Could I ask a couple questions
9 about it?

10 THE COURT: Sure.

11 BY MR. WALKER:

12 Q About when was this taken, Mr. Grimmie?

13 A Um, probably after 1958. I don't know
14 exactly.

15 Q And at which plant was it taken?

16 A At Berlin plant.

17 Q And when you say prior to '58, what would
18 make that a cut off time that it couldn't have
19 been later than '58?

20 A Well the fact that Pres Gillis was there
21 and after 1958 he --

22 MR. WALKER: No objection.

23 THE COURT: Any other objection? No? It
24 will be admitted.

1 MR. O'HARA: Your Honor, with your permission
2 then, may I use the enlargement that we brought?

3 THE COURT: You may. What is that marked?

4 MR. FISCHER: Your Honor this is marked
5 530-A.

6 Q Mr. Grimmie, I'm going to show you an
7 enlargement of the picture that I have just showed
8 you. If you could, could you tell, I don't mean
9 to cut off the reporter here, but could you tell
10 the jurors who these people are and -- well why
11 don't we start with yourself?

12 A This is me.

13 Q In the work shirt?

14 A Yes.

15 Q This is Preston Gillis.

16 Q Who was he?

17 A He was in the personnel department. Paul
18 Shoe was Aetna, our insurer's inspector. He would
19 also do the same work that Bill Hazard was doing.

20 Q You mean the dust counting?

21 A Yes, dust sampling.

22 Q Could you point out Bill Hazard please?

23 A I think this is Bill Hazard. But I don't
24 recognize this other gentleman.

1 Q Why don't you see if -- if the caption
2 there helps you?

3 A Okay. Bernie Haven was Aetna.

4 Q In this caption here, it says that all of
5 you are looking over a trim saw installation at
6 Berlin?

7 A Yes.

8 Q And when you say -- when it says trim saw
9 installation, what does that mean?

10 A Well what this piece here --

11 Q In the lower left?

12 A Is what we called a mandrel. And that is
13 where the piece of pipe covering would go on. The
14 inside diameter of the pipe covering would fit
15 right on there. The leg would come down. That
16 would go through. There was a sawblade on each
17 side, it would cut the leg off and cut it to size.
18 What we were doing there is looking at duct work.

19 Q Why would Bill Hazard show up at a trim
20 saw installation?

21 A Well I don't know if that is the reason he
22 was there specifically. But if it was a new
23 installation, then he probably wanted to see it.

24 Q This -- the testing that you saw Bill

1 Hazard do, is this the kind of testing that would
2 be done in just one area or in --

3 A No, every area where dust would be
4 generated.

5 Q You mentioned that there were some Aetna
6 people who did counting similar to Mr. Hazard?

7 A Yes.

8 Q Did you actually see the Aetna people in
9 the Owens-Illinois plants doing this kind of
10 testing?

11 A Yes, sir.

12 Q And was Mr. Hazard with them on occasion?

13 A I have no recollection of him being with
14 them.

15 Q Were there any housekeeping procedures in
16 place at the Owens-Illinois plants?

17 A Yes, sir.

18 Q Why don't you just tell the jury what
19 efforts were made at the Owens-Illinois plants to
20 keep work areas clean?

21 A Each shift by union contract got off five
22 minutes before the end of their shift. We worked
23 three shifts and then we got up to three shifts
24 seven days a week. Each shift was allowed five

1 minutes personal time by union contract; so at
2 quarter to the hour, the operation would shut down
3 and the people working would clean up their work
4 area.

5 We had a mechanical sweeper on each shift,
6 guy would sit on it and drive around and sweep the
7 floor. It was a vacuum type thing. And out back,
8 we had a bin for him to empty his -- the container
9 in the sweeper that was as air proof as we could
10 get it. If there happened to be any batch spills
11 or any mishaps, they were immediately taken care
12 of.

13 I think the floor sweeper was one of the
14 greatest things we ever spent money on because we
15 had quite a few lift trucks operating in the
16 plant, and if you allowed any dirt at all to
17 accumulate on the floor, it generated dust. But
18 with the floor sweeper operating we kept that down
19 to acceptable levels or below.

20 Q The jury in this trial has heard some
21 evidence about I think what was characterized as
22 unbelievably bad dust conditions in a non-
23 Owens-Illinois plant. Given what you saw of the
24 house keeping practices at Owens-Illinois, do you

1 have any reason to believe that things were ever
2 unbelievably bad at the Owens-Illinois plants?

3 MR. WALKER: I don't object to Mr. Grimmie
4 telling us what he saw, but this is leading.

5 THE COURT: Sustained. You can rephrase.

6 Q Mr. Grimmie, why don't you characterize
7 using your own words the quality of the
8 housekeeping efforts that you observed when you
9 were an Owens-Illinois hourly employee?

10 A Will I think I mentioned I worked in a
11 lumber yard before I went to Owens-Illinois and I
12 was somewhat amazed at the effort that management
13 put into housekeeping. They had housekeeping
14 contests where crews would be judged on the way
15 they left the operation at the end of their shift.

16 We had housekeeping slogans that the
17 personnel guy would call the home of one of the
18 employees picked at random and ask if that person
19 knew what the housekeeping slogan was for that
20 week and if that person happened to not know, we
21 were affiliated with Libby Glass at the time and
22 usually the award was a beautiful set of Libby
23 glassware.

24 But it appeared to me that management was

1 trying to take housekeeping with the person, with
2 the employee and take it home so that the wife
3 could beat on him there.

4 Q Let me switch subjects just for a second
5 and I think earlier in one of your answers you
6 mentioned respirators. Did Owens-Illinois at its
7 plant, did they have a respirator program?

8 A Yes, sir.

9 Q Why don't you just tell the jury what the
10 program involved, who managed it, where it
11 applied?

12 A There were certain areas that -- where the
13 dust level could not be controlled that were
14 designated respirator areas. People working there
15 were required to wear a respirator, and I won't
16 hesitate to tell you it was a tough proposition to
17 get a person to wear a respirator. They -- the
18 respirator program was primarily administered by
19 the plant nurse. And she had boxes of
20 respirators. When a shift -- before a shift
21 started, the supervisor would go into the
22 dispensary and get his respirators. They had been
23 cleaned with alcohol and a new filter put in. He
24 would take them to his -- he had a field desk and

1 deal them out to the people in his crew that were
2 required to wear them. At the end of the shift,
3 the people would put the respirators in a box and
4 he would return that to the dispensary and the
5 nurse once again would clean them with alcohol and
6 change the filters. Eventually we got a
7 dishwasher.

8 Q A what?

9 A A dishwasher and cleaned the respirators
10 with a dishwasher.

11 Q Mr. Grimmie, at the Owens-Illinois plants,
12 did everybody have his or her own personal
13 respirator that they took care of?

14 A No.

15 Q Why?

16 A Well we wanted to be sure that they were
17 properly maintained and the only way -- and this
18 just started before I was in personnel, but it was
19 later described to me the only way the personnel
20 director who was also the safety director could
21 feel confident that they were properly maintained,
22 that they were turned in and the nurse cleaned
23 them and changed the filter.

24 Q You've talked about some of the

1 difficulties in enforcing the respirator program.
2 Did -- what steps did you observe while you were
3 an hourly employee at Owens-Illinois about the way
4 in which Owens-Illinois tried to enforce the
5 respirator program?

6 A Well, it was usually through a threat and
7 there was a procedure, a contractual procedure.
8 Verbal warning, written warning, time off,
9 termination.

10 Q By time off you mean suspension?

11 A Yes, three days time off. And the
12 supervisor would talk to the person and try to
13 convince him to wear his respirator. It was not
14 uncommon to walk around the plant and see certain
15 people that just seemed as if they didn't care, to
16 be protecting their Adams apple instead of being
17 up there. A respirator is very uncomfortable to
18 wear and that is why we put all the money and
19 effort into collecting dust so that the hazard
20 didn't exist.

21 Q When you were an hourly employee, did you
22 personally know of instances where people were
23 either given an oral warning or a written warning
24 or suspended or terminated because they failed to

1 comply with respirator requirements?

2 A I don't recall any termination. But being
3 a union officer, I had to sit in on the grievance
4 procedure and yes, I remember warnings being
5 given, union officers would talk to the people,
6 tell them look, you're at the point we can't
7 protect you anymore.

8 Q And when you were involved as the union
9 secretary and the union representative during this
10 period, did you have communications with people
11 about these issues?

12 A With people?

13 Q Or with -- did you have interaction at all
14 with Owens-Illinois management personnel about the
15 enforcement of the respirator program?

16 A Yes. In meetings that -- we had a monthly
17 meeting with management and it is fair to say that
18 not a month went by that it wasn't on the agenda.

19 Q When you were the union representative,
20 were you urging the enforcement of the program or
21 urging the abandonment of the program?

22 A No, I urged the enforcement of the
23 program.

24 Q As the union representative?

1 A Yes. When I was a batch mixer I was
2 required to wear a respirator and I did and it is
3 very uncomfortable, it's unnatural. But you can
4 become accustomed to it if you stay with it. If
5 you hang by your neck long enough and don't die,
6 you can become accustomed to that. So just stick
7 with it and it would work.

8 Q Let me move to a different area --

9 THE COURT: Can we take a break now?

10 MR. O'HARA: Your Honor, can I just do this
11 one point and then we can break?

12 THE COURT: Sure.

13 Q Mr. Grimmie, while you were at
14 Owens-Illinois, I think I forgot to ask you a
15 question earlier. When you had your first
16 physical, I think you described that for the jury,
17 did you actually -- did you have any x-ray taken
18 at that time?

19 A Yes.

20 Q Where did you have to go for that?

21 A At the time they had an x-ray lab in
22 Glassboro. They had a contract with a doctor
23 there. And I had to go to Glassboro which means
24 nothing here, but it's about fourteen miles from

1 Berlin. And every employee had a pre-employment
2 x-ray.

3 Q Now after the x-ray and the physical that
4 you had when you first came to work at
5 Owens-Illinois, did you ever have any x-rays after
6 that?

7 A Every year.

8 Q Did you have to go to the same place?

9 A No, no, it was changed.

10 Q You got to go to a closer place?

11 A Um, yes, it did get closer. But it didn't
12 matter because we were paid to travel.

13 Q It wasn't taken out of your time? You
14 mean you weren't docked part of your salary?

15 A No no, we either went on company time or
16 the company paid the employees to go.

17 Q Were you the only one who had x-rays
18 annually?

19 A Oh no. Every factory worker had an annual
20 x-ray. Office workers were every two years. I
21 still have -- I don't have in my possession but,
22 if I may, Monday I go for an x-ray and all of my
23 x-rays are still in a packet about that thick.

24 Q With your personal physician?

1 A No, with the plant nurse whom
2 Owens-Corning retained to maintain the -- those
3 x-rays.

4 Q During the entire time that you were at
5 Owens-Illinois, did you have an x-ray every year?

6 A Yes, sir.

7 Q Was that something that you had a choice
8 about? I mean could you choose not to go?

9 A No, you go or else.

10 MR. O'HARA: Your Honor I think this would be
11 a good time for a break.

12 THE COURT: All right, go ahead and put your
13 note pads upside down, go ahead and step back to
14 the jury deliberation room and relax for a few
15 minutes.

16 (THE FOLLOWING PROCEEDINGS WERE HAD OUT OF
17 THE PRESENCE OF THE JURY.)

18 THE COURT: Record reflect the jurors have
19 left the courtroom, go ahead and take a break for
20 a minute Mr. Grimmie. Take a fifteen minute
21 recess.

22 (A RECESS WAS TAKEN.)

23 THE COURT: Record reflect all parties have
24 returned to the courtroom. Ready for the jurors?

1 Have you concluded your questioning yet Mr.
2 O'Hara?

3 MR. O'HARA: No I haven't.

4 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
5 PRESENCE OF THE JURY.)

6 THE COURT: You may be seated. Record
7 reflect the ladies and gentlemen have returned to
8 the courtroom.

9 Mr. O'Hara, you may continue.

10 BY MR. O'HARA:

11 Q Mr. Grimmie, let me switch gears a little
12 bit. I think earlier today you mentioned the fact
13 that you became a member of the I think personnel
14 and production parts of Owens -- the
15 Owens-Illinois Kaylo division at some point. Is
16 that right?

17 A Personnel production?

18 Q Personnel and production? Did you have --

19 A Yes, at one time I was personnel manager
20 and production manager. But that was not for
21 Owens-Illinois. I was personnel manager with
22 Owens-Illinois.

23 Q Will you just describe for the jurors what
24 you did as personnel manager at Owens-Illinois?

1 A Um, we -- I always enjoyed -- we had
2 people programs and if I may, in South Jersey
3 there was four Owens-Illinois plants. One at
4 Glassboro, Bridgeton, Vineland, Berlin. And on
5 the map, they're sort of a diamond. So we formed
6 what we called the Diamond Derby, and each summer
7 all four plants would get together and we would
8 compete in volleyball, archery, all sorts of
9 things.

10 Within the plant I established safety
11 programs to purchase posters, to hang around the
12 plant. I supervised the plant nurse and the plant
13 physician and made sure that everything out in the
14 plant was going as it should. And we were on
15 three shift operation and I made it a practice to
16 go in or work -- our workday started at eight
17 o'clock. I made it a practice to go in at maybe
18 quarter to seven and just walk around the plant to
19 see -- let people see me and if they had anything
20 to talk about, we could talk. I also monitored
21 the safety boards or bulletin boards for graffiti.
22 During the day I would walk around the plant so
23 people could see me.

24 Q Did you have short days during that period

1 or was it straight nine to five?

2 A No, sir. As I mentioned before, I'm a
3 high school drop out and I worked twelve, fourteen
4 hours a day to make up for what I didn't have up
5 here. I stayed there and learned and I learned
6 from people I worked with. And as an aside if I
7 may, our first child one time asked her mother
8 when her father was going to come visit her,
9 because she would be in bed when I got home and
10 she would be in bed when I left for work. But it
11 was really my enjoyment, and you have to
12 understand that it was sort of my hometown and I
13 knew most of the people and we were, we were
14 family, really.

15 Q Did you have any responsibilities with
16 respect to the new people that Owens-Illinois
17 hired to work at that plant?

18 A Yes, yes. I interviewed and if a person
19 was to be hired, I conducted a pre-employment
20 interview and I would go over what was expected of
21 this person and our safety procedures.

22 Q Did you give any of these people that you
23 talked to before they actually began work at
24 Owens-Illinois, did you give them any information

1 about dust hazards at the Owens-Illinois plants?

2 A Yes, sir, I did.

3 Q Please tell the jury what you told people
4 before they started work at Owens-Illinois about
5 that.

6 MR. WALKER: Object unless we have -- excuse
7 me Mr. Grimmie, object unless we have the time
8 Judge.

9 THE COURT: Sustained.

10 Q In what what position were you at
11 Owens-Illinois when you were having these
12 discussions with people before they started work
13 at Owens-Illinois? What was your job then?

14 A Personnel manager.

15 Q And do you remember approximately in what
16 years you had personnel responsibilities at the
17 Berlin plant? Was it after you were an hourly
18 employee?

19 A Oh yes.

20 Q Okay. And it's before 1958?

21 A Yes.

22 Q Can you remember, can you remember
23 specifically what different personnel jobs that
24 you had during that period?

1 A I was a personnel assistant and then
2 personnel manager. Well excuse me, I went from
3 personnel assistant to production supervisor which
4 was in charge of the production department and
5 then back into personnel as personnel director.

6 Q And was it both in your assistant
7 personnel capacity as well as your personnel
8 director capacity that you had these conversations
9 with people before they started work at
10 Owens-Illinois?

11 A Yes, sir.

12 Q And what did you tell these people about
13 dust hazards at the Owens-Illinois plants?

14 A I told them that we had regulations, we
15 had designated respirator areas. I told them that
16 we used silica which is a source of silicosis and
17 I told them that we used asbestos which is a
18 source of asbestosis. If you are assigned to a
19 respirator area, for your own protection, you must
20 wear the respirator.

21 Q Is there anybody that you spoke to before
22 they started work at Owens-Illinois that you
23 talked to in your personnel capacity that you
24 didn't say or that you didn't tell this

1 information to?

2 A Oh I have no recollection of that. I had
3 a sheet of paper and I checked off the items as I
4 went down and --

5 Q And were these health hazards --

6 A Yes.

7 Q -- part of the check list?

8 A Part of the orientation program.

9 Q When you were in the personnel area or in
10 the production area, did you have any continuing
11 responsibilities regarding enforcement of the
12 respirator program?

13 A Yes sir.

14 Q Will you please tell the jurors when you
15 were in these areas at Owens-Illinois what you
16 did?

17 A Well, generally I would take up the
18 problem with the shift supervisor. He was the guy
19 on the front line and he was the guy responsible
20 for enforcing the program. And more times than
21 not, if he couldn't enforce the program, there
22 would be a grievance. He would take disciplinary
23 action and there would be a grievance, and the
24 union committee would bring the grievance to me,

1 and I generally was not too sympathetic to it. So
2 then they would take it to the plant manager.

3 Q When you say you weren't very sympathetic
4 to it, will you please describe for the jurors the
5 positions that you took when you were in the
6 personnel department or in the production
7 departments regarding the enforcement of the
8 respirator program?

9 A Yes. What the grievance -- generally what
10 the grievance asked for was if it happened to be a
11 written warning or a suspension, they would want
12 me to call this off, don't let this happen to this
13 man. And if I knew that this particular person
14 was a habitual offender, I would do everything I
15 could to talk reason. And then the grievance
16 would go to the plant manager and it would be his
17 decision whether to call off the disciplinary
18 action or not.

19 Q Are the positions you took on the
20 respirator program when you were in personnel or
21 production, were they different than the positions
22 you had taken when you were a union
23 representative, when you were an hourly employee?

24 A Yes.

1 Q In terms of the enforcement of the
2 respirator program?

3 A Yeah, I would be arguing for the guy -- I
4 would take them in the corner and threaten to
5 knock a couple teeth out if he didn't do what he
6 was supposed to do. But as a union representative
7 I couldn't tell him I'm going to recommend that
8 you get three days off.

9 Q Did you have any interaction with the
10 plant nurse in connection with the respirator
11 program?

12 A Yes.

13 Q Could you please tell the jurors about
14 that?

15 A Um, I would occasionally talk to her how
16 it was going, were the supervisors doing their
17 part, were they picking up their respirators, were
18 they returning them. In her medical literature
19 that she got, did she feel there was a better type
20 of respirator we could be using. Just general
21 type of things that -- to be sure that she was
22 doing her job.

23 Q Mr. Grimmie, I think you mentioned earlier
24 that all of the Owens-Illinois employees were

1 required to have annual chest x-rays. Correct?
2 Except for the -- except for the office employees?

3 A That is right.

4 Q Is that right?

5 A All of the production people, people
6 working in the factory were required to have
7 annual x-rays. Office employees were once every
8 two years.

9 Q During the entire time you were at
10 Owens-Illinois, did it ever come to your attention
11 that any of the x-rays that were taken of the
12 Owens-Illinois employees showed evidence of
13 asbestos-related disease?

14 A Not that I recall. I thought we were
15 doing a terrific job.

16 Q During the entire time you were at
17 Owens-Illinois, did it ever come to your attention
18 that anybody -- any of the employees at the
19 Owens-Illinois plants were making or had made a
20 workers' compensation claim for asbestos-related
21 disease?

22 A During the time I was with Owens --

23 Q During the time you were with
24 Owens-Illinois, right through April of 1958?

1 A I have no recollection of that.

2 Q Mr. Grimmie, when you were working at
3 Owens-Illinois, was the operation of the Kaylo
4 division financially successful?

5 A No, sir.

6 Q Um, when you first started there, was it
7 financially successful?

8 A No, sir.

9 Q Did -- at any time when you were there,
10 did it ever become financially successful?

11 A I think towards the end we got things
12 rolling pretty good with expansion, but with pipe
13 insulation, not with flatware. We made material,
14 I think I mentioned roof deck and pipe insulation.
15 And after we converted the plant for pipe
16 insulation and we started to roll and production
17 couldn't keep up to sales, so we went on three
18 shifts a day five days a week and we still
19 couldn't keep up, so we went three shifts a day
20 seven days a week. And -- but I think the
21 philosophy -- see Owens-Corning was a national
22 distributor for Kaylo for many years.

23 Q As of 1953, correct?

24 A That when it was? Well, thank you.

1 Q Do you have a recollection?

2 A I -- and what Kaylo was, being a high
3 temperature insulation and this was after the war,
4 there was many oil refineries, atomic power
5 generating stations, fossil fuel generating
6 stations being built and they all required high
7 temperature insulation. So the feeling was if we
8 were to provide the high temperature insulation to
9 the Owens-Corning sales force, then they would
10 have a better opportunity to sell the entire job.

11 Q Do you know after 1953 whether
12 Owens-Illinois kept its own sales force after 1953
13 when Owens-Corning took over the distribution?

14 A I -- I don't remember. I don't want to
15 guess. I don't remember any of them coming in the
16 plant any more. There was contact with some very
17 nice folks.

18 Q There has been some testimony in this case
19 about a Unarco plant in Bloomington where we are.
20 To the best of your knowledge, Mr. Grimmie, during
21 the time you were at Owens-Illinois, were there
22 any communications between Owens-Illinois and
23 people at the Unarco plant about how the Unarco
24 people should run their plant?

1 A Well I don't want to hurt feelings, but I
2 never heard of Unarco until probably two weeks
3 ago.

4 Q So you don't know the company Unarco?

5 A No, sir.

6 Q And you certainly didn't have any
7 communications with Unarco?

8 A No, sir.

9 Q Did Owens-Illinois at the Kaylo plant, did
10 they make any textile products?

11 A Textile?

12 Q Right, like blankets or rope?

13 A No, sir.

14 Q Was there any name for the Owens-Illinois
15 products other than just Kaylo?

16 A No, sir, not out of the Berlin plant.

17 Q You talked a little bit earlier today
18 about the fact that people from Aetna whom I think
19 you identified in this photograph actually came in
20 and did dust counting at Owens-Illinois?

21 A Yes.

22 Q Were you ever or did you ever have the
23 training to either conduct those kinds of tests
24 yourself or interpret those kinds of tests?

1 A No, sir.

2 Q Who at Owens-Illinois had that expertise,
3 at least to the best that you know?

4 A People in Toledo.

5 Q Did that include Bill Hazard?

6 A There may have been someone in our
7 laboratory in Berlin, but we didn't do it. It was
8 Toledo.

9 Q At some of your other depositions, have
10 lawyers shown you some of the dust counting test
11 results? Do you remember that?

12 A Well I don't. I have been deposed five
13 times and it --

14 Q If you were shown those kinds of test
15 results, would you be in a position today to
16 analyze or interpret those kinds of results?

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

18 Q I think you told the jury a little bit
19 earlier today that you were diagnosed with
20 asbestosis?

21 A That is correct.

22 Q And please tell the jury when that
23 diagnosis occurred?

24 A I believe it was 1968.

1 Q Has that disease which you have been
2 diagnosed with, does that currently cause you any
3 breathing problems?

4 A No, sir.

5 Q Has that disease which was diagnosed many
6 years ago, has that disease been stable or has it
7 progressed?

8 A It has been stable. I'm diagnosed at ten
9 percent disability. What this means is that I
10 have lost ten percent of my breathing capacity.
11 If I may, as soon as I found out I stopped smoking
12 which is in my opinion a must. But --

13 Q Has your asbestosis, as far as you can
14 tell, has that been any limitation on your normal
15 activities?

16 A No. Nothing that I can't attribute to
17 being seventy-four years old and a hundred pounds
18 overweight. I have been able to do things. I
19 have had a boat out in the ocean, the Atlantic
20 ocean that is. And camping, hiking, things like
21 that. Usually I meet them on the way back, but
22 the weight situation, I gained fifty pounds when I
23 stopped smoking if you please.

24 Q When you testified a little bit earlier

1 today that you worked in the shipyards during
2 World War II?

3 A Yes, sir.

4 Q The -- and I think you described your work
5 as insulation work, is that right?

6 A That is right, fifty-eight (phonetic)
7 department.

8 Q Now was there any kind of pipe covering
9 products that were used during that period?

10 A Yes, sir.

11 Q And did you actually apply some of that
12 pipe covering yourself?

13 A Yes.

14 Q In the course of a day, when you were
15 doing -- well was that the only kind of product
16 that you worked with when you were an insulator in
17 the shipyards in World War II?

18 A No. I worked with asbestos.

19 Q Can you describe for the jury what kind of
20 a product that that was?

21 A During the war when we were building
22 ships, we were building anywhere from PT boats to
23 a battle kit if you please. And when a pipe was a
24 straight line which covered and then it would run

1 off at a ninety degree angle, we would take raw
2 asbestos, put it in a bucket, make a slurry, muck,
3 and mold it around that joint. And following up
4 the insulator after it dried would be a guy who
5 would sew a canvas covering on it so it wouldn't
6 deteriorate. But what situation we had there was
7 an open bag of asbestos and grabbing it in the
8 hands and dump it in a bucket. And the government
9 never provided any protection nor did the
10 shipyards.

11 Q You mean respirators?

12 A That is right.

13 Q Or dust collection equipment?

14 A Nothing.

15 Q You mentioned canvas. Did Kaylo come with
16 a canvas covering?

17 A Yes. After the material was trimmed to
18 size, it would go through a tunnel and glue would
19 be sprayed on it and it would go to a wrapper
20 packer and there is two sections and the wrapper
21 packer would take one section, lay it on a piece
22 of canvas, take the other section, lay it on top
23 and then roll it and then put it in the carton.

24 Q Will you tell the ladies and gentlemen of

1 the jury what was the purpose for putting the
2 canvas covering on the top of Kaylo?

3 A Well when the job was -- the application,
4 all the applicator had to do was open that hinge,
5 put the piece of pipe covering, the section and
6 reglue that hinge and it was a finished job.

7 Q At the Kaylo plant, approximately how many
8 pieces of Kaylo were produced on every shift?

9 A Well, are you talking pipe covering or --
10 see we had a flatware pouring line that was
11 independent of pipe covering. On a pipe covering
12 pouring line, according to the schedule, and the
13 schedule was laid out by the people that got the
14 sales, and let's say approximately four thousand
15 pieces per shift.

16 Q And the plant was running about three
17 shifts per day?

18 A Yes. Now this is when we were at peak
19 efficiency.

20 Q And when you were a pipe coverer, and an
21 insulator during World War II, how many pieces of
22 pipe covering would you normally use in one of
23 your shifts?

24 A I haven't the slightest idea.

1 Q Was it less than four thousand pieces a
2 shift?

3 A Gracious sakes no.

4 Q It wasn't less than four thousand pieces a
5 shift?

6 A Oh yes, yes, there was a lot of cutting to
7 do around the angles and it -- I don't know, if I
8 had to guess I would say if you could put on a
9 hundred pieces you were a star performer.

10 Q Mr. Grimmie, during the entire time you
11 were at Owens-Illinois, was there anything that
12 you saw or heard that suggested to you that
13 Owens-Illinois didn't take dust control very
14 seriously?

15 A Absolutely not.

16 Q Is there anything that you heard, saw,
17 observed at Owens-Illinois when you were there
18 that suggested to you that Owens-Illinois didn't
19 try to enforce its respirator program?

20 A Absolutely, they tried to enforce.

21 Q Is there anything that you heard or saw
22 while you were at Owens-Illinois that suggested
23 that Owens-Illinois didn't try to find out how
24 much dust was in the air in the plant where its

1 employees were working?

2 A No, they always monitored, very frequently
3 monitored the plant atmosphere.

4 Q Is there anything that you heard or
5 observed while you were at Owens-Illinois that
6 suggested that Owens-Illinois didn't try to
7 monitor, didn't try to look at the health of its
8 own workers to see whether any of them was
9 developing any asbestos-related conditions?

10 A No, sir.

11 Q Mr. Grimmie, do you know of anything from
12 the time that you were at Owens-Illinois that
13 suggested to you that Owens-Illinois agreed with
14 anyone else to hide from its workers any
15 information regarding the hazards of asbestos?

16 A I don't believe that.

17 MR. O'HARA: Your Honor that is all the
18 questions I have.

19 THE COURT: Any questions, Owens-Corning?

20 MR. CONSTANTINE: I have no questions at this
21 time.

22 THE COURT: Illinois Central Railroad?

23 MR. PETERS: None Your Honor.

24 THE COURT: All right. Mr. Walker?

1 MR. WALKER: Thank you, Your Honor.

2 CROSS EXAMINATION

3 BY MR. WALKER:

4 Q Mr. Grimmie, you mentioned that this is
5 the first time you have testified for you thought
6 maybe like fifteen years or something like that.
7 Is that about how long ago you remember it being?

8 A Um, no, it's been longer than that.

9 Q Okay.

10 A I have been retired for -- since 1984 so I
11 think the McGrath trial was probably ten years
12 before that.

13 Q Be about 1974 would be your estimate as to
14 when you last testified?

15 A Yes.

16 Q Over twenty years ago?

17 A Yes.

18 Q Now, who contacted you about coming out to
19 Illinois and testifying in this case?

20 A Um, Bob Kelly.

21 Q Did you know Mr. Kelly before he contacted
22 you?

23 A No, sir.

24 Q Okay. And when did he contact you?

1 A Oh, three or four weeks ago.

2 Q What does Mr. Kelly do for a living? If
3 you -- if he told you?

4 A I think he is a lawyer.

5 Q And where does he make make his office?

6 A I really don't know. I could guess and I
7 think it may be Chicago.

8 Q Has he ever met you -- was the first
9 contact by phone or in personal?

10 A I think it was by phone.

11 Q Have you ever met Mr. Kelly face to face?

12 A Have I?

13 Q Yes.

14 A Yes.

15 Q Okay. When did you first see him face to
16 face?

17 A When he came to my house.

18 Q About how long ago was that?

19 A Probably four weeks ago maybe.

20 Q Who all came with him?

21 A I think there was a young lady with him,
22 but I don't remember her name.

23 Q And was that the first meeting you had
24 with anyone to get ready for testifying in this

1 case?

2 A Yes.

3 Q Okay. Have you had any other meetings
4 with anyone -- any other people to prepare you for
5 your testimony in this case?

6 A Only since I got here in this beautiful
7 city I might have.

8 Q Okay. We appreciate that. When did you
9 get here?

10 A Last night.

11 Q Okay.

12 A Yesterday evening.

13 Q And how did you travel?

14 A By air.

15 Q And who all came with you?

16 A Mr. Kelly, it's embarrassing, a young
17 lady, I can't remember her name. My wife is
18 sitting back there and she is --

19 Q Is the lady in the back of the room your
20 wife?

21 A Yes.

22 Q Okay.

23 A And just four of us.

24 Q Okay. So it was Mr. Kelly. Was it the

1 same young lady who came to your home with Mr.
2 Kelly?

3 A No.

4 Q And a lady and then of course your wife
5 and yourself. Is that correct?

6 A That is correct. Yeah, there was a pilot
7 and a co-pilot.

8 Q Did you all fly on a commercial plane?

9 A No, I --

10 Q Oh, it was a private plane?

11 A It was what, sir?

12 Q I'm sorry. Was your flight on a regular
13 commercial plane?

14 A No, sir.

15 Q It was on a privately arranged plane?

16 A Privately arranged flight.

17 Q You took off somewhere in New Jersey and
18 you landed in Bloomington?

19 A No, it was Philadelphia.

20 Q Oh, Philadelphia. Okay. Is that fairly
21 near your home, Philadelphia?

22 A It's about fourteen miles. I think if I
23 may that arrangement was made because of my
24 condition with the paralysis in my hips.

1 Q Okay. Insofar as you know, nobody is
2 charging you for this air flight. Correct? Kelly
3 or somebody --

4 A If they do it's going to be a lean
5 Christmas.

6 Q Kelly or somebody other than yourself is
7 going to pick up the tab for the plane. Right?

8 A Lord, I hope so.

9 Q Has he told you who is going to pay for
10 the plane?

11 A Nope.

12 Q Okay. Now did Mr. Kelly show you any
13 documents or anything at your home or anywhere
14 else in preparation for your testifying?

15 A Not that I recall. The picture that you
16 see here he got from me. My wife made a scrap
17 book when I retired and that picture was in the
18 scrap book and it's been grossly enlarged, but not
19 that I recall.

20 Q You still have the scrapbook?

21 A I hope.

22 Q Do you still have the scrapbook?

23 A Yes, I do.

24 Q Now you mentioned that you retired in what

1 did you say?

2 A 1984.

3 Q Okay. And you were how old at that time?

4 A Sixty-two.

5 Q Since then, have you been able to enjoy
6 the fishing and the camping and the hiking and so
7 forth that you mentioned?

8 A For awhile, yes.

9 Q Okay.

10 A Until spinal stenosis caught up to me.

11 Q All right. And then since then you've
12 been more limited in what you've been able to do
13 physically?

14 A That is correct, sir.

15 Q You mentioned that your wife came with you
16 this time. You and your wife enjoy traveling
17 together when you can?

18 A Well yes. She comes more or less to help
19 me bathe and -- see at home we have a shower
20 stall, I can get in there and shower. I can't get
21 in a bathtub.

22 Q Okay. In 1958 when the plant was sold by
23 Owens-Illinois to Owens-Corning, what was your
24 position then?

1 MR. CONSTANTINE: Objection, scope.

2 THE COURT: Overruled. You may answer, sir.

3 A I was production supervisor.

4 Q And you stayed on in that position for how
5 long?

6 A Oh, I'm going to say I had -- allow me to
7 correct. They changed titles and fortunately in
8 order to up the salaries, they made managers. So
9 I was production manager and then the plant
10 manager asked me if I could take over the
11 personnel department. So for fifteen years
12 approximately, I was production manager and
13 personnel manager.

14 Q So for about fifteen years you held both
15 positions?

16 A Yes, sir.

17 Q And do you know approximately when that
18 started?

19 A I would say approximately 1965.

20 Q So were you production supervisor from
21 when Owens-Corning bought it in '58 up till about
22 '65? And then from '65 until your retirement, you
23 were production supervisor or excuse me,
24 production manager and personnel director?

1 A Sir, that is generally as I recollect it.
2 It may be months different, but --

3 Q Now I'm going back to the beginning of
4 your employment there.

5 A Yes.

6 Q You first worked at Berlin, then you
7 worked at Sayreville, then you worked at Berlin
8 for the rest of your career. Is that correct?

9 A Yes.

10 Q About how long were you at Berlin the
11 first time?

12 A Well I started in Berlin on the 14th of
13 February, 1947. And I went to Sayreville on the
14 2nd of January, 1948. And I went to Sayreville to
15 organize the union and to help train people on
16 equipment that they had there that I was familiar
17 with. I was there and returned home being a newly
18 married person, I returned home on August 2nd.

19 Q Of the same year, of '48?

20 A Yes, yes, sir.

21 Q So you were in Sayreville about eight
22 months?

23 A Just about even, um um.

24 Q The rest of the time, from '47 to '86 you

1 worked at the Berlin, New Jersey plant?

2 A '47 to '86? Other than the time out for
3 Sayreville.

4 Q Oh I'm sorry, I think I said '86 wrong.
5 What year did you retire? I had that wrong.

6 A '84.

7 Q '84. Okay. Were you at Berlin from '47
8 to '84?

9 A Yes, sir.

10 Q Except for the eight months you told us
11 about at Sayreville. Now during that time you met
12 Jerry Helser, correct?

13 A Jerry Helser?

14 Q Yes?

15 A Yes, sir, yes.

16 Q When did you first meet Jerry?

17 A In Berlin.

18 Q And what brought the two of you together
19 there at Berlin?

20 A Well Jerry worked at Berlin for awhile.

21 Q What jobs did he do at Berlin?

22 A I think Jerry was a product supervisor or
23 shift supervisor.

24 Q So would he have been a shift supervisor

1 while you were a production manager?

2 A Yes.

3 Q Did he -- like was he immediately under
4 you then?

5 A Yes.

6 Q And how long were you his boss?

7 A Oh I really don't remember, because Jerry
8 moved along. Jerry had higher training than what
9 was required for production supervision, and I
10 really don't remember, sir.

11 Q Okay. And about how long did Jerry work
12 at the Berlin plant?

13 A That I don't remember.

14 Q Did you see Jerry come to the plant from
15 time to time even when he wasn't there as a
16 regular full-time employee?

17 A Yes, I think I remember him coming in.

18 Q What was he doing on those visits?

19 A I don't know. He was there to see the
20 plant manager and whatever they had -- whatever
21 business they had was not mine.

22 Q When did you become a part of the
23 management of the plant?

24 A When?

1 Q Yes.

2 A Um, --

3 Q Were you still in the union in '58 when
4 Owens-Corning bought the plant?

5 A Oh no, no. I became a shift foreman right
6 after I got back from Sayreville which was 1947.
7 And then I went to assistant personnel director
8 with Jim Gaylord (phonetic) who was the personnel
9 director in probably 1948.

10 Q So from '48 on approximately, you were a
11 part of management at the plant and never again
12 were a member of the union?

13 A I think that is correct, sir.

14 Q Now you mentioned that you have had a
15 chest x-ray approximately every year from 1947 to
16 the present. Is that correct?

17 A Yes, sir.

18 Q Have you also had a physician physically
19 examine you, you know, thump around on you and
20 listen to your heartbeat and all that sort of
21 thing at about the same time as the chest x-ray?

22 A No, sir, not since I was diagnosed with
23 asbestosis.

24 Q When you were told you had asbestosis,

1 that is when the physical examinations stopped?

2 A No. That's when I started going to a
3 chest, Dr. Sokolowski (phonetic), every year. Now
4 as a manager I did have a yearly physical
5 examination.

6 Q Okay. So every year that you have worked
7 for either Owens-Illinois or Owens-Corning, you've
8 had a chest x-ray. Right?

9 A Yes, sir.

10 Q And every year you've had a physical
11 examination by a doctor at the company's expense.
12 Is that correct?

13 A No, sir.

14 Q Okay. When you first started there, how
15 often were you having an examination by a company
16 doctor?

17 A Yearly.

18 Q When did that stop?

19 A I really don't remember.

20 Q About how many do you remember having?

21 A Oh, I'm going to say ten. Used to go to
22 the University of Pennsylvania and had a very
23 thorough physical. That was one of the reasons I
24 stopped smoking.

1 Q Tell us more about that?

2 A Well, smoking and asbestosis don't go
3 together. And the doctor told me there is two
4 things wrong, you're overweight and you smoke. So
5 I was using three packs of cigarettes a day. Not
6 smoking three, I may light up and phone rang and
7 lay it in the ashtray and burn an ash that long.
8 But in three days I was finished smoking. And I
9 just felt that -- I just felt that smoking wasn't
10 a good thing to continue to do with a lung
11 condition.

12 Q You stopped smoking at the same time as
13 you were told that you had asbestosis?

14 A Um, just a few weeks after.

15 Q And what year was that?

16 A It was around, between 1965 and 1970.
17 Somewhere in there.

18 Q Now, when you went to the University of --
19 did you say Pittsburgh?

20 A Pennsylvania.

21 Q University of Pennsylvania, are their
22 facilities in Philadelphia?

23 A Yes, sir.

24 Q Okay. When you went to the University

1 of --

2 A University Hospital.

3 Q Okay. When you went to University
4 Hospital there in Philadelphia, did the other blue
5 collar workers go with you?

6 A No, sir.

7 Q Did you first go to the University of
8 Pennsylvania at Philadelphia as a management
9 employee?

10 A Yes, sir.

11 Q Did the other management --

12 A Just department managers.

13 Q Did the other department managers go there
14 for physicals also?

15 A Yes, sir.

16 Q When the department managers were going to
17 University Hospital for their physicals, where
18 were the production workers going for their
19 physicals?

20 A Plant physician.

21 Q What was that person's name?

22 A Well to begin with, it was doctor -- um.
23 I forget the first one. I will remember it. Then
24 it was Dr. Schwartz. Dr. McNalley and -- the

1 name escapes me. The first -- the physician that
2 was there when I started was Dr. Girard.

3 Q Did you ever meet a Dr. Charles Shook?

4 A Yes.

5 Q And how did you meet him?

6 A Well he was into the plant, and I met him
7 on an elevator in Washington one time.

8 Q Now, was Charles Shook the plant physician
9 when you first applied for work?

10 A No, he was not a plant physician.

11 Q What did Charles Shook have to do with
12 Owens-Illinois?

13 A He was the corporate medical director.

14 Q So Shook didn't come out and give anybody
15 physical examinations, correct?

16 A No, sir, not to my knowledge.

17 Q Now when you had that initial physical
18 examination, was that probably by Dr. Girard did
19 you think?

20 A Yes, sir.

21 Q What did Dr. Girard tell you about
22 asbestos?

23 A The only thing I recall him saying was
24 talking about the respirator program. And at the

1 time, silicosis was the big -- considered to be
2 the big threat.

3 Q Well, do you remember Dr. Girard saying
4 anything about asbestos when he gave you your
5 first examination?

6 A No, sir, I don't. But I do remember the
7 nurse talking to me about it.

8 Q And what was the nurse's name?

9 A I don't remember.

10 Q How long did she serve the plant there
11 after you hired on?

12 A That I don't remember.

13 Q What did the nurse tell you about
14 asbestos?

15 A She told me that it was a fibrous material
16 that could be inhaled and if it went down in the
17 lungs, you could not get it out and that it caused
18 a pleural thickening in the lung.

19 Q So in 1947 when you first hired on with
20 Owens-Illinois, Owens-Illinois' nurse told you
21 that you could get pleural thickening from
22 inhaling asbestos. Correct?

23 A Yes, sir.

24 Q Did she tell you it was a good thing or a

1 bad thing to get pleural thickening?

2 A I don't remember her saying it was good or
3 bad. But I interpreted what she said it was a bad
4 thing.

5 Q Did you know at that time what part of the
6 anatomy got thick when you got this pleural
7 thickening?

8 A What part of the anatomy got what?

9 Q Yes. When the nurse said now, Mr.
10 Grimmie, if you hire on here, and if you inhale
11 asbestos it's going to make you have pleural
12 thickening, did you understand what she meant by
13 your pleura was going to get thick?

14 A She said the lung.

15 Q She said the pleura was part of the lung?

16 A Yes.

17 Q Okay. And did she tell you what you might
18 notice yourself if your pleura became thick?

19 A No, I have no recollection of her saying
20 that. I didn't -- didn't know the pleura was part
21 of the lung. I thought it was a condition.

22 Q I'm sorry, go ahead.

23 A Well if you look at my chest x-ray, you'll
24 see the bottom of both lungs, you can see the line

1 where I'm contaminated. And the doctor called
2 that pleural thickening.

3 Q And this nurse back in 1947 used those
4 same words, pleural thickening, to describe to you
5 what would happen if you breathed in any asbestos
6 while you worked for Owens-Illinois. Is that
7 right?

8 A As part of the respirator program, she
9 said that respirators were needed to protect me
10 from silica and asbestos and she said that
11 asbestos was a lung disease that would reduce my
12 breathing capacity.

13 Q Did she tell you how soon after you
14 breathed in the asbestos you would have this --

15 A Now this was a registered nurse, not a
16 doctor. A registered nurse. And I don't think
17 that she knew any of this information. She knew
18 what to tell me to try to prevent this from
19 happening. But I think she would be stepping out
20 of her territory if she were to diagnose me. So I
21 have no recollection of her telling me. Her main
22 objective was to instill in my mind the necessity
23 for a respirator program in this particular area.

24 Q Did you apply for work in the dusty area?

1 A Apply for work?

2 Q Yes.

3 A I went where I was assigned.

4 Q Did the nurse say that you were going to
5 be assigned to the dusty area?

6 A No. She didn't know where I was going to
7 be assigned.

8 Q She just --

9 A It was up to the plant engineer where I
10 was going to be assigned.

11 Q She just said in case you get assigned to
12 the dusty area, then you will be asked to wear a
13 respirator?

14 A I don't remember her saying that. She
15 said your supervisor will provide you a respirator
16 when you go into an area where it's needed. And
17 that is the program we had set up.

18 Q Did the nurse tell you how soon after you
19 inhaled the asbestos you would notice some
20 consequence from it?

21 A I don't know if she told me, or whether I
22 read it, but it takes about twenty years for it to
23 show up.

24 Q I don't think anyone is quarreling with

1 that. But my question was, did the nurse back
2 there at that time when you first applied for
3 work, did she tell you how soon after you breathe
4 in the asbestos you'll notice something bad from
5 having breathed it in?

6 A I have no recollection of her telling me
7 that.

8 Q When in your career did you learn that
9 twenty years have to go by between when you
10 breathe in the asbestos and you notice something
11 going on in your body as a result of breathing it
12 in?

13 A I don't know if it was when I read a
14 report in the medical journal written by Dr.
15 Selikoff from the Mount Sinai Hospital in New York
16 where his work convinced the medical field that
17 asbestos could cause lung cancer, and I think I
18 read in there where it takes twenty years for the
19 condition to develop.

20 Q How did you come into contact with the
21 article written by Dr. Selikoff?

22 A I think the nurse showed it to me.

23 Q Do you remember that lady's name?

24 A Naomi Blatherwick (phonetic).

1 Q And do you remember approximately what
2 part of the sixties it was when she gave you a
3 copy of the Selikoff article?

4 A Around 1965.

5 Q Had you heard about asbestos being a cause
6 of cancer before 1965?

7 A No, sir.

8 Q So nothing about that first meeting that
9 you had with the nurse alerted you to the fact
10 that asbestos would cause cancer, correct?

11 A No, sir.

12 Q Is that true Mr. Grimmie?

13 A That's true.

14 Q And then throughout the rest of your
15 journey with Owens-Illinois and then later with
16 Owens-Corning, you heard nothing about asbestos
17 being a cause of cancer until you got the Selikoff
18 article in approximately 1965. Is that true?

19 A That is true. Did anyone?

20 MR. WALKER: May I answer Your Honor?

21 THE COURT: No counsel.

22 Q When Mr. Kelly came to your home there and
23 was talking with you about Grimmie, could you go
24 out to Illinois and help us out in this trial, did

1 he tell you that one of the issues in this case is
2 when was it that Owens-Illinois learned that
3 asbestos caused cancer?

4 A No, sir.

5 Q Did Mr. Kelly tell you that by the time
6 you get there on the stand, Mr. Grimmie, there
7 will already be a lot of documents in evidence
8 showing that Owens-Illinois did know or should
9 have known that asbestos was a cause of cancer
10 clear back in the fifties?

11 A No, sir.

12 MR. O'HARA: Objection Your Honor,
13 argumentative, misstates the prior testimony.

14 THE COURT: Overruled.

15 Q Did Mr. Kelly tell you that the day before
16 you're on the stand, a fellow by the name of Kerby
17 whom we have called in a lot of trials will
18 testify that it was well known in the medical
19 community that asbestos was a cause of cancer at
20 least by the 1950s?

21 A No, he didn't tell me anything about Dr.
22 Kerby.

23 Q What kind of fellow is this Kelly?

24 A Well I think he's a decent sort of guy.

1 MR. WALKER: Would this be a time to break,
2 Your Honor?

3 THE COURT: Yes, it would be. Go ahead and
4 put your note pads upside down. Step back to the
5 jury deliberation room, get ready for lunch.

6 (THE FOLLOWING PROCEEDINGS WERE HAD OUT OF
7 THE PRESENCE OF THE JURY.)

8 THE COURT: Jurors have left the courtroom.
9 Let's take a lunch recess.

10 You can step down, sir. Thank you. Enjoy
11 your lunch.

12 (THE NOON RECESS WAS TAKEN.)

13 THE COURT: Record reflect all parties have
14 returned to the courtroom. Counsel ready to
15 proceed?

16 MR. O'HARA: Yes Your Honor.

17 THE COURT: All right. Bring the jurors back
18 in.

19 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
20 PRESENCE OF THE JURY.)

21 THE COURT: Be seated, record reflect jurors
22 have returned to the courtroom.

23 THE COURT: You may continue.

24 BY MR. WALKER:

1 Q Mr. Grimmie, I forgot to ask, this fellow
2 Kelly, whom did he say he was working for?

3 A I misstated. Riley.

4 Q Riley is his name? Okay. And whom did
5 Mr. Riley say he was working for?

6 A For Joe.

7 Q Riley said that he was a partner with Joe
8 O'Hara?

9 A Yes.

10 Q The fellow that asked you the questions
11 here first this morning?

12 A Yes.

13 Q Okay. Now we were talking about your
14 physical examinations and you said once you became
15 part of management, then you had an annual
16 physical examinations for about ten years at the
17 University of Pennsylvania in Philadelphia. Do
18 you remember that?

19 A Well I said all department managers had an
20 annual physical examination. Just department
21 managers.

22 Q And when is the last time you had an
23 annual physical examination at the University of
24 Pennsylvania?

1 A I don't remember.

2 Q Would it have ended in the sixties or in
3 the seventies?

4 A I honestly don't remember.

5 Q Okay. After you had your last examination
6 at the University of Pennsylvania, where did you
7 have your next company physical examination?

8 A From Dr. Sokolowski.

9 Q Where does he make his office?

10 A He makes his office in Pennsaukin.

11 Q For those of us that haven't been that far
12 east, is that a town in New Jersey?

13 A Yes, it's between Camden and Berlin.

14 Q All right.

15 A He is a lung specialist.

16 Q And who pays for your appointments with
17 that physician?

18 A Workers' compensation.

19 Q Um, how often do you see that doctor?

20 A I see him twice a year, which incidentally
21 I see him Monday.

22 Q Okay.

23 A I have x-ray once a year, so I have to get
24 x-rayed before I go to him on Monday. Then it's

1 six months I go back and he'll put me on a machine
2 and check my breathing capacity.

3 Q Okay. Where do you get the x-ray?

4 A At an x-ray facility operated by a group
5 of doctors, one of which is Dr. Sokolowski.

6 Q Okay. And is that the place where you go
7 in there, you see all the other old x-rays of your
8 chest?

9 A Yes, sir.

10 Q And --

11 A The --

12 Q Go ahead.

13 A Well when I go for the x-ray, they file my
14 x-rays there. They'll take the new one, put it in
15 the file, give it to me and I will take it to the
16 doctor's office, it's filed at the --

17 Q Probably goes clear back to the forties
18 when you had your first chest x-ray at
19 Owens-Illinois?

20 A Yes.

21 Q Now, is there like a club or a group of
22 you fellows that used to work at Berlin that you
23 get together from time to time, like an old
24 timers' club or anything of that nature?

1 A No. I tried to get something started when
2 I found out that Owens-Corning was leaving Berlin,
3 I thought we should have a group together so we'd
4 have some sort of contact. But I didn't have
5 enough money to pull them together and no one else
6 was -- no, there is no old timers' club.

7 Q Okay. The fellows that you do run into,
8 where are they having their physical examinations
9 now?

10 A Dr. Sokolowski.

11 Q He gives the exam for all the fellows that
12 you know of?

13 A Yes.

14 Q And so far as you know, who pays for his
15 examining the Berlin workers?

16 A Workers' compensation.

17 Q And like is that -- well who is workers'
18 compensation? What company is that?

19 A Well it's an organization in New Jersey
20 that each worker pays a certain percentage of his
21 weekly earnings into workers' comp and then if
22 you're hurt on the job in New Jersey, you can't
23 sue your employer. Workers' compensation takes
24 care of your needs.

1 Q And so far as you can tell, is workers'
2 compensation providing for the annual physicals
3 for all the old Berlin workers that you know of?

4 A Yes, sir.

5 Q And that includes an annual chest x-ray?

6 A Yes, sir.

7 Q Now, when you got your physical
8 examination there at the University of
9 Pennsylvania, how were the results reported to
10 you?

11 A I sat down and had a consultation with the
12 doctor. And his report went to Dr. Shook I
13 believe it was at the time in Toledo.

14 Q And did the doctor there at the University
15 of Pennsylvania, did he or she tell you about what
16 could happen if you breathed in asbestos?

17 A I don't recall that. The last time I
18 remember the doctor sat down and he said there is
19 two things wrong. You're too fat and you smoke.

20 Q So you don't remember any of the doctors
21 at the University of Pennsylvania talking to you
22 about what might happen to you if you breathed in
23 asbestos?

24 A No.

1 Q How about Dr. Shook? Did he ever come up
2 to you and explain to you what could happen if you
3 inhale asbestos?

4 A Not to my knowledge, not to my
5 recollection.

6 Q How about Dr. McNally? He was the company
7 doctor for awhile?

8 A Yes, yes.

9 Q Did Dr. McNally ever come up to you and
10 explain what could happen from inhaling airborne
11 asbestos?

12 A Yes. Dr. McNally and I sat across the
13 table from each other and discussed this. I hired
14 Dr. McNally.

15 Q When was that?

16 A Wow. Dr. McNally followed Dr. Schwartz.
17 Dr. Schwartz died. I don't remember the exact
18 year.

19 Q Do you think it might have been in the
20 seventies or in the eighties?

21 MR. O'HARA: Objection Your Honor.

22 THE COURT: Overruled.

23 A I think in the seventies.

24 Q Did you ever meet a man named Jon Konzen?

1 A John Konden?

2 Q Konzen, K-o-n-z-e-n.

3 A We had a John Konden and a Charlie Konden
4 work at the plant. One was a sheet metal worker
5 and one was a machinist.

6 Q This fellow was a physician and he made
7 his office in Toledo. Dr. Jon Konzen?

8 A Konzen?

9 Q Yes.

10 A Yes.

11 Q When did you first meet Dr. Konzen?

12 A I don't remember.

13 Q Did Dr. Konzen ever explain to you what
14 happens when someone inhales airborne asbestos?

15 A Well, to me alone? When Dr. Konzen would
16 come in, he would go to the plant manager. And
17 the plant manager, if there was something that
18 needed to be relayed, he would call all department
19 managers in to the conference room. I don't
20 specifically remember Dr. Konzen speaking on
21 inhaling asbestos.

22 Q Now, do you remember a Dr. Billmaier?
23 That is his last name, Billmaier together for the
24 last name. Dr. Billmaier?

1 A The name is familiar, I don't remember
2 the --

3 Q Before you came, the jury saw an exhibit,
4 one of -- well they have seen a number of exhibits
5 but one is 29 and it is dated May of 1978 and it's
6 a memo about Dr. Billmaier having gone to the
7 Berlin plant in 1978 and talked to the employees
8 at several different shifts about asbestos and
9 health.

10 Do you remember Dr. Billmaier coming there
11 and talking --

12 A I have no recollection of that.

13 Q Talking to the whole shift at a time?

14 A I have no recollection of that.

15 Q Who was R.S. Hite?

16 A Dick Hite was the plant manager.

17 Q Would he have been in 1978?

18 A I believe so, yes.

19 Q How about W.H. Warmath?

20 A Russ Warmath was in personnel.

21 Q What was his position in 1978?

22 A I believe he was personnel manager.

23 Q Was he like your immediate boss?

24 A No, I was production manager at the time.

1 Q You didn't have a personnel responsibility
2 in '78?

3 A Right.

4 Q And Dr. McNally, we have already talked
5 about him. How about first initial B last name
6 Neill?

7 A B. Neill? Is there an RN following it?

8 Q Well not in this memo, it's just
9 N-e-i-l-l.

10 A Well we had -- our plant nurse was Barbara
11 Neill.

12 Q Okay. And who was W.K. Hamilton?

13 A The name again please.

14 Q W.K. Hamilton?

15 A Don't know that one.

16 Q Now in this document, Owens-Corning says
17 that Dr. Billmaier told the workers about asbestos
18 and health and then, you know, some of the fellows
19 asked questions and Dr. Billmaier made notes of
20 the questions. One of the questions was does
21 asbestosis lead to lung cancer and according to
22 this memo Dr. Billmaier answered, "If a person has
23 asbestosis, it indicates there has been exposure
24 to asbestos. However, a person with asbestosis

1 does not have a greater chance of getting lung
2 cancer than a fellow worker exposed to asbestos
3 but without asbestosis."

4 Do you remember anybody at Owens-Corning
5 telling you that?

6 A No, sir.

7 Q Do you remember anybody at Owens-Illinois
8 telling you that?

9 A No, sir.

10 Q Do you remember anyone coming back to
11 Berlin and correcting what Dr. Billmaier said some
12 time after May of 1978? In other words somebody
13 came back and said you know Billmaier, some of his
14 speech was wrong and we need to get that
15 corrected?

16 A No, I don't remember that. I hope they
17 did, though.

18 Q In exhibit 29 it says that "It might be
19 worthwhile to print these questions and answers up
20 into a pamphlet and distribute the pamphlet to
21 employees."

22 Did you ever get a pamphlet from
23 Owens-Corning that explained the hazards of
24 asbestos in sort of a question and answer form?

1 A Not to my recollection.

2 Q Did you ever see other employees around
3 there that had such a pamphlet?

4 A Not to my recollection.

5 Q Well did you ever get a pamphlet from
6 Owens-Corning that explained the hazards of
7 asbestos even if it didn't use the question and
8 answer method? Just in text just laid it all out?

9 A A pamphlet? No, sir.

10 Q How about any written document?

11 A Yes, there was bulletin board notices.

12 Q Okay. Were these on the bulletin boards
13 in the plant itself?

14 A Yes, five locations.

15 Q Tell us what you saw on those bulletin
16 boards about the relationship between asbestos and
17 health?

18 A Just exactly what we have been talking
19 about. If you inhale asbestos, it can eventually
20 cause asbestosis and that could turn to I believe
21 the term is melanoma, cancer.

22 Q When did you first see something on the
23 bulletin boards at Berlin that said that asbestos
24 could cause asbestosis?

1 A I haven't the slightest idea when I saw
2 it.

3 Q Was it there when you went to work in '47?

4 A No, sir.

5 Q Can you give the jury any feel for the
6 decade that you first saw on the bulletin boards
7 of Berlin information that asbestos could cause
8 asbestosis?

9 A I would say sometime in the 1960s.

10 Q Who puts the materials on the bulletin
11 board that talked about asbestos and asbestosis?

12 A In that case it would have been the plant
13 manager, went out over his signature.

14 Q And what was the plant manager's name?

15 A I -- hmm -- there was only eleven of them.
16 I think it might have been Hite. Dick Hite.

17 Q Now when you first saw a bulletin board
18 document that talked about asbestos, and
19 asbestosis, did it say anything about cancer?

20 A I don't recall.

21 Q When the nurse gave you the article
22 written by Dr. Selikoff, do you remember that?

23 A Yes.

24 Q Had you already seen something on the

1 bulletin board about asbestos causing cancer?

2 A I don't recall seeing anything. I think
3 that was the first time that connection was made.

4 Q Did the plant manager put a copy of Dr.
5 Selikoff's article on the bulletin board?

6 A Not to my recollection. The plant
7 physician did.

8 Q What was his name?

9 A Henry Schwartz.

10 Q How many of the bulletin boards did Dr.
11 Schwartz put a copy of Selikoff's article on?

12 A Five.

13 Q And about when did Dr. Schwartz do that?

14 A Sometime after I believe the middle of
15 1965.

16 Q How long did the Selikoff articles --
17 excuse me. How long did the Selikoff articles
18 stay on each of the five bulletin boards?

19 A I don't know. The articles like that
20 would have remained for at least two weeks.

21 Q If Jerry Helser was working there, it
22 would almost be impossible for him not to see that
23 article on at least one bulletin board, wouldn't
24 it?

1 MR. CONSTANTINE: Objection, speculation.

2 A It would appear to me, yes.

3 THE COURT: Objection sustained.

4 Q Well in your opinion, Mr. Grimmie, given
5 that there were five bulletin boards and they were
6 all five in fairly prominent locations, weren't
7 they?

8 A Yes, that is the purpose of bulletin
9 boards.

10 Q I mean one was by the restroom, right?

11 A Yes.

12 Q And the others were by equally populated
13 places, places where people had to go and
14 sometimes lingered a minute and might be likely to
15 read whatever is on the bulletin board?

16 A Yeah, like the men's room and the ladies'
17 room.

18 Q So if the Selikoff article was on there in
19 1965 and if Helser was there at the plant in '65,
20 it's likely he would have seen it at least on one
21 occasion?

22 MR. CONSTANTINE: Hold on Mr. Grimmie.
23 Objection, speculation Your Honor.

24 THE COURT: Sustained.

1 Q What is the next thing you saw on the
2 bulletin board about the relationship between
3 asbestos and human disease?

4 A I haven't the slightest idea.

5 Q Do you think anything else was posted on
6 the bulletin board about asbestos and disease?

7 A I don't remember.

8 Q If anything else was posted you don't
9 remember it. Is that correct?

10 A That is correct.

11 Q So far as this disease asbestosis that Mr.
12 O'Hara was asking you about, can you give us some
13 feel for what part of your body is affected by
14 that?

15 A Asbestosis?

16 Q Yes?

17 A My lung.

18 Q Okay. And is that the same part of your
19 body that has this thickening?

20 A Yes.

21 Q So asbestosis and pleural thickening are
22 the same thing as it's been described to you.
23 Correct?

24 A That is as I understood it.

1 Q And how many different times has a law --
2 a doctor paid by Owens-Corning explained it to
3 you?

4 A Every six months for the past, since,
5 what, 1968 I believe.

6 Q Now the asbestos that Owens-Illinois was
7 putting in Kaylo back in 1947 and '48, what type
8 of asbestos was that?

9 A There was several types.

10 Q Do you remember the names of any of them?

11 A One was amosite, one was chrysotile.

12 Q Did the amosite come in bags that are
13 similar to the bags here on exhibit 170-F?

14 THE COURT: That is plaintiffs' exhibit?

15 MR. WALKER: Plaintiffs' exhibit 170-F?

16 A Burlap. Yes.

17 Q In fact, the amosite came to the Berlin
18 plant in burlap bags that weighed about a hundred
19 pounds is your recollection?

20 A Yes.

21 Q And did you sometimes pile the bags
22 similar to what the piles are shown in Exhibit
23 170-F?

24 A No, we piled them on pallets.

1 Q Then used a forklift?

2 A So a forklift could pick them up and put
3 them up on the batch floor.

4 Q Well when they arrived at your plant, they
5 were in railroad cars. Is that right?

6 A Yes, sir.

7 Q And the fellows had to unload them out of
8 the cars by hand, right?

9 A That is correct.

10 Q Where did they pile them before they put
11 them on the pallets and moved them to the grinding
12 machines?

13 A Before they -- no, they put them --
14 immediately when they picked them up, they put
15 them on the pallet.

16 Q Okay. So in your plant, when they were
17 stacked ready to use, they were already on a
18 pallet?

19 A Yes.

20 Q How much asbestos did you use a week at
21 Berlin?

22 A Well, I have not the slightest idea. I
23 can tell you how much asbestos went into a batch
24 if you or anyone can figure that. But I have

1 heard Kaylo referred to as asbestos insulation.
2 Thirteen percent of the solids in the batch was
3 asbestos.

4 Q So far as how many train cars came in a
5 week or a month, it wasn't part of your job to
6 order that, is that correct?

7 A No, that was the purchasing agent.

8 Q Now, what did the bags of asbestos say
9 would happen to you if you breathed any of the
10 dust that came off the asbestos?

11 A I don't remember them saying anything
12 until later on after Dr. Selikoff.

13 Q What did they say then?

14 A Harmful to your health.

15 Q Did it explain what part of your body
16 would be harmed?

17 A Not that I recall. There is only so much
18 you can put on burlap.

19 Q Did it use the word cancer?

20 A Not that I recall.

21 Q What did the boxes of Kaylo say would
22 happen to someone if they breathed the dust given
23 off by Kaylo when the boxes went out of the Berlin
24 plant?

1 A Um, in the beginning we were stenciling --
2 I forget the exact wording, harmful if inhaled.
3 And then it became art work on the box. But --

4 Q Now when you say in the beginning, when
5 was it that either -- when was it that
6 Owens-Illinois first put on the box that the dust
7 from Kaylo would be harmful if inhaled?

8 A I think when it became known that asbestos
9 could cause lung cancer.

10 Q So when you learned that asbestos could
11 cause lung cancer, that is when whoever owned the
12 plant started putting something on the box that
13 asbestos could be harmful. Correct?

14 A I believe so.

15 Q And you learned about asbestos and cancer
16 in 1965?

17 A Yes, sir.

18 Q So then would it be correct that
19 throughout the time that you worked there for
20 Owens-Illinois in the forties and fifties, there
21 was nothing on the box about the dust causing
22 harm?

23 A That is as I recall.

24 Q And then throughout the rest of the

1 fifties and the first half of the sixties when you
2 worked there for Owens-Corning, there was nothing
3 on the box that talked about harm?

4 A That is as I recall.

5 Q Who at Owens-Corning told you what
6 Owens-Corning just learned that caused it to start
7 putting something on the box?

8 MR. CONSTANTINE: Objection, compound, calls
9 for speculation.

10 THE COURT: Overruled. You can answer.

11 A I thought I answered that. Dr. Schwartz
12 had a medical journal and he gave it to the nurse
13 and she passed it around. She passed it to me and
14 I passed it around.

15 Q You did tell us that about the article. I
16 was now over on the boxes that the Kaylo was
17 shipped out in. Do you remember that?

18 A Yes.

19 Q Okay. You had worked there for about
20 eighteen years and the boxes didn't say anything
21 about harm. Remember, from '47 to '65 or '66?

22 So for the first eighteen years you were
23 there, there was nothing about harm on the boxes.
24 Do you remember that?

1 A Okay.

2 Q Okay. Then all of the sudden
3 Owens-Corning decided to start stamping something
4 on the box talking about harm. Remember that?

5 A Yes.

6 Q Okay. And of course then that was
7 changed, right?

8 A Changed.

9 Q I say that was -- in other words things
10 had been going one way for seventeen or eighteen
11 years and now all of the sudden the boxes say
12 something about the dust coming from the product
13 being harmful?

14 A Yeah, I think that is better than ignoring
15 the condition.

16 Q And my question was, when the fellows that
17 decided to put this on the box were talking with
18 you about it, what did they say had come into the
19 life of Owens-Corning that caused it to put this
20 stamped material on the box?

21 A Why do you think they would talk to me
22 about it?

23 Q I'm just asking you if they did talk to
24 you about it?

1 A The production planning manager would
2 issue instructions on what was produced, how it
3 was packaged and where it went in the warehouse.
4 If he wanted something on the carton, he would be
5 the one to put the instruction in. His name is
6 Bill Justice. Excuse me. Was Bill Justice.

7 Q So your recollection is that Bill Justice
8 is the fellow who decided to put this language on
9 the box?

10 A No.

11 Q Who did decide?

12 A I do not know. All I'm saying is someone
13 probably told Bill Justice we want something on
14 the carton saying that there is a hazard here.

15 Q Did the carton ever say that the dust was
16 hazardous?

17 A I forget what the wording was.

18 Q Those maintenance fellows that went into
19 the baghouse, you know they went down into the
20 baghouse and shook the dust out of the dust
21 collectors, do you remember telling us about that?

22 A Yes.

23 Q What were their names?

24 A What were their names?

1 Q Yes?

2 A Frank Kafao (phonetic) and his brother,
3 Paul Kafao. They're the only two that I remember.

4 Q How are Frank and Paul getting along now?

5 A How are they getting along?

6 Q Yes?

7 A Well it's hard to tell, they're both dead.

8 Q Right. And when did they die?

9 A Some years ago. They were up in years.

10 Q How old were they when they died?

11 A Oh I think Paul was the oldest. Paul was
12 probably between seventy-five and eighty, and
13 Frank was a few years younger.

14 Q This photograph that was taken here had
15 you fellows standing around the saw and I think
16 you saw the saw was used, what, to kind of trim up
17 the ends of the Kaylo pipe covering?

18 A Trim the legs.

19 Q Trim the long horizontal cut?

20 A That is correct.

21 Q Okay. Now of course when that saw went
22 through the Kaylo, it gave off dust, didn't it?

23 A Yes.

24 Q So the saw was one of the dusty areas of

1 the plant. Right?

2 A It would have been if we hadn't had a dust
3 collecting system.

4 Q So the saw wasn't one of the areas where
5 employees were ordered to wear a respirator?

6 A That is correct, it was not required.

7 Q I see in this picture none of you fellows
8 are wearing a respirator, none of the ones in the
9 photograph. Do you see -- I assume it looks the
10 same to you?

11 A Um-hmm.

12 Q When you went out in the plant there in
13 the fifties and sixties, did you wear a
14 respirator?

15 A No, sir.

16 Q Well did any of the management people wear
17 a respirator?

18 A Not that I recall.

19 Q Now when you were in the service you saw
20 that one of the ways that officers lead troops is
21 by example. Right?

22 A I beg your pardon?

23 Q When you were in the military service, you
24 observed that one of the ways that officers lead

1 their troops is by example. Correct?

2 A Sometimes.

3 Q And when did you see management of
4 Owens-Corning showing the workers by example that
5 they needed to wear a respirator to protect them
6 from some hazard that was in the air of the plant?

7 A I didn't.

8 Q The jury has seen an exhibit, it's marked
9 282 and it's dated April and May of 1958. Now you
10 were at Berlin in April and May of 1958. Correct?

11 A Yes.

12 Q This document for example refers to you as
13 being the production superintendent. Does that
14 sound right?

15 A Yes, sir.

16 Q And it is one of those instances
17 where Aetna came into the plant; and two of these
18 five fellows are employees of Aetna, aren't they,
19 in the photograph?

20 A I think so, Bernie and Paul Shoe.

21 Q Two of the fellows from Aetna came into
22 the plant in April and May of 1958 and they
23 commented about the practices of using a broom to
24 sweep up the dust. Were Owens-Illinois people

1 told to sweep up asbestos dust with brooms in
2 1958?

3 A Asbestos dust?

4 Q Perhaps I should call it Kaylo dust?

5 A Well, they were to clean work areas, yes.

6 Q And did they use brooms -- were they
7 provided brooms to do that?

8 A Yes.

9 Q And then also Aetna talks about blowing
10 down dust off of the overhead beams and so forth.
11 Do you remember doing that there at the plant
12 where the workers used compressed air and blew the
13 dust off the flat surfaces?

14 A I remember doing that during the strike,
15 yeah.

16 Q What strike was that?

17 A When the union struck the plant.

18 Q And what -- why did the union strike the
19 plant?

20 A Well, perhaps you could answer that
21 question. We were in the negotiations. President
22 Nixon had put a freeze on wages, and the company
23 offered the union what the government regulation
24 was and they turned it down. And they struck for

1 92 days. And then they came back to work for the
2 very same thing that they struck.

3 Q Now this is a strike you're talking about
4 during the time that Richard Nixon was President
5 of the United States?

6 A Yes, sir.

7 Q Okay. I was talking about an earlier
8 period, 1958 where Aetna reported that
9 Owens-Illinois had been blowing dust down off of
10 the overhead beams and so forth with compressed
11 air. Do you remember that?

12 A I don't remember it, but I don't doubt it.

13 Q Okay.

14 A It may have been a plant clean up which
15 gets everything cleaned up and start from scratch.

16 Q The jury has also seen exhibit 264. It
17 shows fellow running a saw through a piece of
18 Kaylo. Do you see that picture there inside of
19 plaintiffs' exhibit 264?

20 A Yes.

21 Q And you see how the artist depicted some
22 lines coming down from that saw where dust -- it
23 appears that he's trying to portray dust coming
24 off? Is that the way you remembered what happened

1 when Kaylo pipe covering or block was cut with a
2 power saw that gave off dust?

3 A No, sir, you couldn't see that. The dust
4 collector would grab it before you could see it.

5 Q So actually --

6 A This is a handled saw.

7 Q What were the fellows sweeping up then
8 with the brooms?

9 A What were they sweeping up then with the
10 brooms?

11 Q Yes, sir.

12 A Dirt from molds.

13 Q What was that dirt made of?

14 A Well it could have been dried Kaylo. It
15 could have been wet Kaylo. I don't know. My wife
16 sweeps the kitchen quite frequently and I don't
17 ask her what the dirt is made up of.

18 Q The jury has seen exhibit 284 --
19 plaintiffs' exhibit 284 where Owens-Illinois said
20 that Kaylo was non-irritating to the skin. Did
21 you ever find Kaylo to be irritating to the skin?

22 A No, sir.

23 Q Now what did Owens-Illinois tell you as to
24 whether Kaylo was toxic or not?

1 A Toxic?

2 Q Yes.

3 A The only thing that we were told was
4 inhaling.

5 Q Inhaling what, Mr. Grimmie?

6 A Kaylo dust.

7 Q You were told by Owens-Illinois that if
8 you inhaled Kaylo dust, it could be toxic to you?

9 A Asbestos, silica.

10 Q Am I correct though that Owens-Illinois
11 told you that Kaylo dust was toxic?

12 A I don't understand toxic. To me toxic is
13 getting a bad bottle of booze or something like
14 that. You can walk up to a piece of Kaylo and
15 pick it up and it's not going to bite you. And
16 chances are it won't harm you unless you scrape it
17 or disturb it; and then it takes from what I have
18 been told a certain amount or more to become
19 harmful to you.

20 Q The jaws of Kaylo close fairly slowly,
21 don't they?

22 MR. O'HARA: Objection Your Honor,
23 argumentative.

24 THE COURT: Sustained.

1 A No, sir.

2 Q Well --

3 A Is there an objection? Can I answer that?

4 THE COURT: No, don't answer that sir.

5 Q Do you remember you talked about the
6 posters that were there on the wall at the Berlin
7 plant?

8 A On the wall and bulletin boards.

9 Q Walls, bulletin boards and so forth?

10 A Yes.

11 Q What did those posters say about the
12 effect of asbestos or Kaylo dust being in the air
13 of the plant?

14 A I don't remember the exact wording, but
15 basically inhaling Kaylo dust can be harmful to
16 your health.

17 Q There were posters like that on the walls
18 of the plant at Berlin, New Jersey? Is that your
19 testimony?

20 A Were there posters like that? Yes.

21 Q Were there posters on the walls of the
22 plant at Berlin, New Jersey that said inhaling
23 Kaylo dust can be harmful to your health?

24 A Yes.

1 Q When did they first appear?

2 A I don't remember.

3 Q Were there any there in the 1940s, the
4 first three years that you worked there?

5 A I don't remember that.

6 Q Were there any there in the 1950s, the
7 next ten years that you worked there?

8 A I would say yes in the 1950s.

9 Q When did the signs go up at the Berlin
10 plant saying Kaylo dust was dangerous?

11 A Kaylo dust is dangerous?

12 Q Yes.

13 A I thought that was the last question you
14 asked. You're repeating the question?

15 Q Do you remember when you first saw a sign
16 on the wall of the Berlin, New Jersey plant that
17 said Kaylo dust was dangerous?

18 A I believe sometime in the 1950s.

19 Q Before you saw the Selikoff article,
20 correct?

21 A Yes.

22 Q When you saw that sign, did you get close
23 enough that you could read all the words?

24 A Yeah, there wasn't many words on it. It

1 was a big poster.

2 Q Tell us again as best you remember what
3 the words were?

4 A Kaylo dust can be harmful to your health.
5 Wear your respirator.

6 Q Did the sign explain what harm would come
7 from Kaylo dust?

8 A Not that I recall.

9 Q Did the sign explain when the harm would
10 come so far as you remember?

11 A Not that I recall.

12 Q Did the sign use the word asbestosis to
13 explain the harm?

14 A Not that I recall.

15 Q Did the sign use the word cancer to
16 explain the harm?

17 A No. We knew nothing about association
18 with cancer until 1965.

19 Q So far as you know, Owens-Illinois never
20 knew anything about cancer during the time that
21 you worked for Owens-Illinois, because
22 Owens-Illinois never told you anything about
23 cancer. Right?

24 A Did Owens-Illinois know anything about it?

1 Q That is my question.

2 A Did I mention to you that every hourly
3 employee got a physical examination each year?

4 Q I think you did.

5 A Every hourly, not only salary. Every
6 hourly employee got a physical examination by the
7 plant physician and he explained to them what the
8 situation was.

9 Q Oh. When you were an hourly employee, did
10 the physician that gave you a physical examination
11 explain to you what could happen from breathing
12 the airborne dust in the plant?

13 A Yes, I could get asbestosis.

14 Q Okay. And the first physician was
15 Schwartz did you say?

16 A No, sir. Dr. Girard.

17 Q Girard, thank you. And did Dr. Girard
18 tell you how long after you inhaled the material
19 in the plant's air it would take for you to become
20 sick?

21 A I don't recall that. I don't know if they
22 knew that then.

23 Q Well let's take it one step at a time.
24 Do you remember Dr. Girard telling you how

1 long after you inhaled the dust that it might make
2 you sick?

3 A I don't recall him telling me that.

4 Q When did Owens-Illinois learn the length
5 of time it takes between inhaling the type of dust
6 that was at the Kaylo plant and when the worker
7 comes down with disease?

8 A I don't know.

9 Q Your thinking was as soon as
10 Owens-Illinois learned about the details of what
11 bad could happen from inhaling Kaylo dust, it told
12 all of the members of it's workforce. Correct?

13 A Yes.

14 Q And the same is true --

15 A By bulletin board or poster communication.

16 Q And of course by telling each worker at
17 the annual physical by the company doctor?

18 A That is correct.

19 Q Which was first Dr. Girard and then Dr.
20 Schwartz and then Dr. McNally?

21 A Right.

22 Q And had Dr. McNally known about the
23 relationship between asbestos and cancer before
24 '65, he would have told the workers as soon as he

1 knew about it, right?

2 A I can't answer for Dr. McNally.

3 Q When you interviewed Dr. McNally for his
4 job there, did he tell you about the relationship
5 between asbestos and disease or did you tell him?

6 A I didn't interview him. He was my family
7 doctor. I just hired him on.

8 Q I see. You just asked him if he would be
9 willing to work for the plant?

10 A Yes.

11 Q Okay. But did you ever discuss asbestos
12 and disease with Dr. McNally?

13 A There were times when he would get in his
14 medical journals, there would be articles on
15 asbestosis and he would show them to me and the
16 plant nurse as did all the doctors. But there was
17 never a sit down classroom that we are going to
18 give you a crash course in medicine.

19 Q Um-hmm. And how was it that you then
20 conveyed this information on to the hourly
21 workers?

22 A By poster and bulletin board and the plant
23 physician talking to them at their annual physical
24 time.

1 Q Did you ever sit in on any of those plant
2 physician discussions to see what it was that Dr.
3 McNally told the workers?

4 A Privileged communication.

5 Q Well, who claims it is confidential what
6 Owens-Corning told its employees about the health
7 hazards of asbestos?

8 A What the doctor discussed with his
9 patient, we did not stick our nose into.

10 Q How did Owens-Corning make sure that the
11 doctor was telling the patient all the patient
12 needed to know about the health hazards --

13 A There is such a thing as trust.

14 Q Like employees trust their employer?

15 A Yes.

16 Q You were telling us a little bit about why
17 it is that Owens-Corning bought the plant from
18 Owens-Illinois, and what you said was that
19 Owens-Corning was already in the insulation
20 business before it started distributing Kaylo in
21 '53. Right?

22 A That was my understanding, yes.

23 Q But there was some jobs where
24 Owens-Corning wasn't currently able to sell the

1 entire range of products that would be needed to
2 finish a project. Correct?

3 A That was my understanding of the thought
4 process.

5 Q So Owens-Corning, who in the forties were
6 talking about the evils of asbestos started
7 selling asbestos-containing Kaylo in the fifties
8 so that it could sell an entire job?

9 MR. CONSTANTINE: Well objection, misstates
10 whatever it is Mr. Walker --

11 THE COURT: Sustained.

12 Q Actually this worked out all right from
13 the Owens-Corning standpoint, because eventually
14 it became the largest insulation supplier in the
15 United States. Right?

16 MR. CONSTANTINE: Objection, relevance.

17 A Well it probably earned it.

18 THE COURT: Overruled.

19 Q Do you remember talking about you yourself
20 wore a device that captured some air and pulled it
21 through a filter down here by your hip?

22 A Yes, sir.

23 Q Now, when you got into management -- well
24 let me ask a different question. When you were

1 one of the workers who wore that device, did
2 someone bring you the results of the analysis
3 after the stuff was counted on the filter?

4 A No, sir.

5 Q Well how is it that you learned whether
6 there was enough or too much or too little of this
7 dust in the air?

8 A The report went to the plant manager.

9 Q And did the plant manager tell you how
10 much dust was in the air?

11 A The plant manager would pass it onto the
12 department manager.

13 Q Did the --

14 A Usually the plant engineer would be
15 brought in if there was a problem, and they would
16 engineer the problem out.

17 Q And when you were wearing this device in
18 the forties, did they bring you a copy of the
19 results of the test for the device that you wore?

20 A No. I thought I just answered that, no.

21 Q Was there ever a point in your career
22 where the results of these dust sampling efforts
23 were communicated to you?

24 A Yes. The plant manager would get the

1 reports and he would go over them with me and the
2 plant engineer and if there was a problem area,
3 the engineer department would go out and construct
4 new equipment to solve the problem.

5 Q Take a look at exhibit 282. Is this the
6 type of report that you got and -- let me ask you
7 a different question. Do you remember getting
8 that report in 1958?

9 A No.

10 Q Did you get reports like that in the
11 fifties?

12 A I don't remember that report.

13 Q It talks about you being part of the group
14 there when the dust was collected. It says that
15 in the first paragraph. Did you notice that?

16 A Yes.

17 Q Well was it your recollection that whoever
18 collected the dust, they didn't report the results
19 to you?

20 A That is correct. It would have gone to
21 the plant manager.

22 Q Where are the results of the other tests
23 if there were tests done in the forties and
24 fifties? Where are those results?

1 A Where are they?

2 Q As far as you know? I mean, does

3 Owens-Illinois or Owens-Corning still have them as

4 far as you know?

5 A No, I think all of that stuff has been

6 scrapped except medical records when they closed

7 -- the plant is closed. You know that.

8 Q The Berlin plant is closed?

9 A I'm sure you know that.

10 Q Were you there when it was closed to see

11 what was thrown away and what wasn't?

12 A No, I was retired before that happened.

13 Q Okay. Well somehow this 1958 record is

14 still surviving and I wondered if you knew

15 anything about the other records that were made in

16 the fifties and the records made in the forties

17 and so forth?

18 A No, I don't.

19 Q Now the posters that were on the wall that

20 said breathing Kaylo dust can be harmful, did they

21 stay up into the sixties?

22 A I don't think so.

23 Q They were in the fifties, but came down

24 before 1960?

1 A Yeah, I think they would become tattered
2 and torn and just sort of housekeeping bit would
3 eliminate them.

4 Q Well, were new posters erected when the
5 old ones became tattered and torn?

6 A There was bulletin board announcements
7 would go up periodically.

8 Q In the 1960s, were there any posters on
9 the wall of the plant that said Kaylo dust can be
10 hazardous to your health?

11 A I don't know if there was posters on the
12 wall.

13 Q How about in the 1970s, were there any
14 posters on the wall at the Berlin, New Jersey
15 plant?

16 A I don't recall.

17 Q Saying that Kaylo dust can be hazardous to
18 your health?

19 A I don't recall.

20 Q Now the jury has seen exhibit 265 where
21 Mr. Staelin sent some articles on asbestos dust to
22 Mr. Hazard in September of 1941. Did Mr. Hazard
23 ever share those articles with you?

24 A In 1941?

1 Q Take a look at that exhibit if you want.
2 It is a letter from Mr. Staelin to Mr. Hazard
3 saying thanks for letting us borrow these two
4 articles about asbestos, and it's written in 1941?

5 A So the articles must have been written
6 before 1941.

7 Q That is the assumption I made. And my
8 question is, did Mr. Hazard ever loan them to you?

9 A No sir.

10 Q Did Mr. Hazard describe to you how
11 Owens-Illinois sent Kaylo dust off to a place
12 called Saranac Lake, New York, and had certain
13 experiments run there with animals other than man?

14 A No. Mr. Hazard did not.

15 Q Have you ever learned about the animal
16 experiments that were done at Saranac Lake?

17 A No. I knew that samples were sent to
18 Saranac Lake, but I didn't know there was animal
19 experiments. That is the Trudeau Laboratory
20 you're speaking of?

21 Q The Trudeau Foundation is a part of what
22 is known as the Saranac Laboratory, yes, sir.
23 When did you first learn that Kaylo dust had been
24 sent to Saranac or Trudeau?

1 A I don't remember when I first learned.

2 Q Was it in the forties or fifties?

3 A I don't remember when I first learned.

4 Q And when you first learned, was it at one
5 of the depositions or did you learn about it
6 before the depositions?

7 A No, I think I learned of it somewhere
8 through the personnel department.

9 Q And what did you learn was the reason that
10 Owens-Illinois sent the Kaylo dust to Saranac
11 Lake?

12 A As I recall, they were asking for tests to
13 be made on the effects of Kaylo dust and asbestos
14 to the lung.

15 Q And were you given any information as to
16 the nature of those tests?

17 A It was out of my area.

18 Q Were you told that Saranac had exposed
19 animals other than man to this Kaylo dust and then
20 allowed the animals to live for various lengths of
21 time, killed them and looked at their lungs to see
22 if they were having any lung disease as a result
23 of inhaling the Kaylo dust?

24 A No, that is news to me.

1 Q So today is the first you learned about
2 the animals inhaling the Kaylo dust at Saranac.
3 Correct?

4 A Yes, sir.

5 Q The jury has plaintiffs' exhibit 263 where
6 Arthur Vorwald of Saranac writes to U.E. Boews
7 (phonetic). Did you ever know Boews?

8 A Yes.

9 Q And among other things, he concludes his
10 letter by saying, "I realize that our findings
11 regarding Kaylo are less favorable than
12 anticipated. However, since Kaylo is capable of
13 producing asbestosis, it is better to discover it
14 now in animals rather than later in the industrial
15 workers."

16 Today is the first you learned that Kaylo
17 dust caused asbestosis in animals. Correct?

18 A Yes.

19 Q Plaintiffs move into evidence OI 513 and
20 OI 516.

21 THE COURT: I don't have any copies of those.
22 Any objection?

23 MR. O'HARA: No Your Honor, we were going to
24 move them anyway.

1 MR. CONSTANTINE: Objection, hearsay,
2 authentication as to Owens-Corning, Your Honor.

3 MR. WALKER: Let me ask a couple questions if
4 I may, Judge.

5 THE COURT: All right.

6 Q Mr. Grimmie, the jury has seen exhibit 283
7 which is the contract between Owens-Corning and
8 Owens-Illinois regarding the sale of the Berlin
9 plant and the Kaylo line. And of course you were
10 there at Berlin -- I mean literally you worked for
11 Owens-Illinois and the next day you worked for
12 Owens-Corning. Correct?

13 A That is correct.

14 Q And were you aware that the records stayed
15 there at the facilities? I mean Owens-Illinois
16 didn't move all the paper out of the plant the day
17 it sold the plant, correct?

18 MR. CONSTANTINE: Objection, compound,
19 leading.

20 THE COURT: Sustained.

21 MR. CONSTANTINE: Well I will withdraw as to
22 leading but as to compound I object.

23 MR. WALKER: I will ask a different question.

24 Q Mr. Grimmie, you had an office job in

1 1958. Correct?

2 A Office job?

3 Q Well you had a desk that was considered
4 your desk in 1958. Correct?

5 A Yes.

6 Q And you had some papers that you had
7 gathered together in the manner that you wanted to
8 gather them. Correct?

9 A Yes.

10 Q Other people with managerial
11 responsibilities had also gathered together
12 certain papers which they wanted, correct?

13 MR. CONSTANTINE: Objection, speculation.

14 A I would imagine so.

15 THE COURT: Overruled.

16 Q Now the day it was last called an
17 Owens-Illinois plant, the papers you had were
18 still there. Correct?

19 A Yes.

20 Q And the next morning when it was --
21 started being called an Owens-Corning plant, the
22 papers you had when you were an Owens-Illinois
23 employee were still at your desk, correct?

24 A Yes.

1 Q Pardon?

2 A Yes, sir.

3 Q So whatever it was that Owens-Illinois had
4 in 1950 and 1951 in terms of documents,
5 Owens-Corning had them in 1958?

6 MR. CONSTANTINE: Hold on Mr. Grimmie.
7 Objection, speculation Your Honor.

8 THE COURT: Sustained.

9 Q Do you know of any documents that were
10 prepared during the Owens-Illinois period that
11 Owens-Corning destroyed?

12 MR. CONSTANTINE: Objection. Speculation.

13 THE COURT: Overruled.

14 A Would you please repeat that question?

15 Q Do you know of any documents that were
16 prepared during the time that Owens-Illinois ran
17 the Berlin plant which would include the late
18 forties and the first eight years of the fifties
19 which documents were then later destroyed by
20 Owens-Corning?

21 A What, sir, do you mean by documents? You
22 mean the attendance record of an employee? Is
23 that a document?

24 Q I would say so.

1 A I have -- I have no recollection of that
2 ever happening.

3 Q So you don't remember Owens-Corning
4 destroying any of the documents that it received
5 from Owens-Illinois, do you?

6 MR. CONSTANTINE: Objection, assumes a fact
7 not in evidence.

8 MR. WALKER: Just asking what he remembers
9 Your Honor.

10 THE COURT: Overruled.

11 A No.

12 MR. WALKER: I reoffer OI 513 and 516.

13 MR. CONSTANTINE: Judge I object to 513 and
14 516 on hearsay and authentication grounds.

15 MR. WALKER: Let me have another shot at it
16 Judge.

17 MR. CONSTANTINE: Well could we approach,
18 Your Honor?

19 THE COURT: Counsel.

20 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE
21 BENCH OUT OF THE HEARING OF THE JURY.)

22 MR. WALKER: Judge, I'm not ready to call it
23 quits yet. I think I can do more to authenticate
24 this.

1 THE COURT: That's fine.

2 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
3 PRESENCE OF THE JURY.)

4 THE COURT: Let's take a break at this time.
5 Ladies and gentlemen, go ahead and close your note
6 pads up and step back to the jury deliberation
7 room and relax for a few minutes.

8 (THE FOLLOWING PROCEEDINGS WERE HAD OUT OF
9 THE PRESENCE OF THE JURY.)

10 THE COURT: Record reflect jurors have left
11 the courtroom.

12 Mr. Grimmie, you can step down again, take a
13 break, relax.

14 Record reflect Mr. Grimmie has left the
15 courtroom. Why don't we take a fifteen minute
16 break.

17 MR. CONSTANTINE: I just -- I had initially
18 asked to approach because I made an objection.
19 Mr. Walker was given an opportunity, Your Honor
20 didn't rule on the objection. Mr. Walker
21 indicated that he wanted to ask some more
22 questions, the court allowed him to do that. He
23 asked some more questions, I lodged another
24 objection, the court didn't rule. Mr. Walker said

1 I want to ask some more questions. The court was
2 intend -- I would presume intending on allowing
3 Mr. Walker to do that and I think that Your Honor
4 can cut really to the quick, because
5 authentication and hearsay are two objections that
6 we are familiar with and unless this gentleman was
7 the custodian of records and can testify as to the
8 authenticity of the document, then I don't see how
9 it is that Mr. Walker can get the document
10 authenticated through this gentleman who
11 apparently worked in personnel and production.

12 So I guess I would like a ruling from the
13 court on my objections to 513 and 516.

14 MR. WALKER: Judge I don't think counsel has
15 that standing to say that he determines when I am
16 done authenticating it. I have indicated I think
17 I can do more to authenticate it and boy, my
18 clients join with Mr. Constantine in this constant
19 struggle against these forged documents. That is
20 probably the only thing we have in common, but the
21 man must have a history to know a forgery when he
22 sees it and he's seen one and therefore we are
23 trying to help him stamp out this admission of
24 forged documents and we are going to try to do

1 more to authenticate 513 and 516. Or is his
2 position that he as the opponent of the party
3 introducing a document chooses when to cut off the
4 evidence of authenticity? He does happen to be
5 wrong on that point.

6 MR. CONSTANTINE: Judge, just let me respond
7 since this is my motion. Mr. Walker just uttered
8 some words about forgeries and all that, I just
9 for the life of me, I don't know what he's talking
10 about and I don't know if anybody else does
11 either. But we are talking about --

12 THE COURT: Well what does authentication
13 mean in your vocabulary?

14 MR. CONSTANTINE: Well, Your Honor,
15 authentication, to authenticate a document,
16 usually you have to either -- most of the times in
17 most cases counsel just say here are my documents,
18 here are your documents, we put them in in this
19 search for the truth, we just put our documents in
20 and they argue their position and we argue our
21 position. Now the truth to some degree is
22 regulated by that which the court admits and one
23 of the hurdles an attorney must pass is
24 authenticity which I'm struggling with on my

1 documents in the 600 series.

2 Now this document 513 wasn't authored by the
3 gentleman on the witness stand, doesn't seem to
4 have been received by him, he wasn't -- hasn't
5 testified that he was the custodian of records in
6 1950 or at any other time and the same is true for
7 516. So my objection is that they cannot be
8 authenticated through this witness and they are
9 hearsay as to Owens-Corning.

10 THE COURT: That may be right, I don't know.
11 But the attorney has an opportunity to attempt to
12 authenticate it. Give him a reasonable
13 opportunity, if he can't, he can't.

14 Let's take a fifteen minute recess.

15 (A RECESS WAS TAKEN.)

16 THE COURT: Record reflect all parties have
17 returned following the recess.

18 MR. PETERS: Since these documents are going
19 to obviously be admitted against OI, since they
20 have no objection and I have no objection to the
21 authenticity of the document --

22 THE COURT: Which one, 513 and 516?

23 MR. PETERS: 513 and 516, since I am not a
24 co-conspirator I would object to them as

1 conspiracy as to the railroad.

2 THE COURT: Are they offered against the
3 railroad?

4 MR. WALKER: They were, but I can't think of
5 an exception to overcome his hearsay objection.

6 THE COURT: His objection will be allowed.
7 Mr. O'Hara, do you have something?

8 MR. O'HARA: I was just going to give you a
9 stack of documents that we were going to offer
10 because you may find some of the documents that
11 Mr. Walker is talking about now are going to be in
12 this pile.

13 THE COURT: All right, thank you. Ready for
14 the jury?

15 MR. WYLDER: We are.

16 THE COURT: Do we know how much longer Mr.
17 Walker it's going to take?

18 MR. WALKER: About twenty minutes.

19 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
20 PRESENCE OF THE JURY.)

21 THE COURT: All right, you may be seated.
22 Record reflect ladies and gentlemen of the jury
23 have returned to the courtroom.

24 Mr. Walker, you may examine.

1 Q Mr. Grimmie, do you recognize
2 Owens-Illinois exhibit 515 as being a letter on
3 Owens-Illinois stationery?

4 A I recognize the stationery, yes, sir.

5 Q And do you recognize the signature there
6 at the bottom as that of Bill Hazard?

7 A Well, the only way I would recognize it as
8 Bill Hazard is I see W.C. Hazard here.

9 MR. WALKER: Offer Owens-Illinois 515?

10 A Yes, defendant's exhibit 515 --

11 MR. WALKER: Just wait a minute, the Judge
12 has got to go know --

13 MR. O'HARA: Your Honor, no objection.

14 MR. CONSTANTINE: Hearsay authentication as
15 to Owens-Corning.

16 MR. PETERS: Same objection as 515 and 516,
17 Your Honor.

18 THE COURT: Are you done with your offer?

19 MR. WALKER: No, I would ask the court to
20 take judicial notice of Owens-Illinois 419 which
21 is in evidence and compare the signature with that
22 on 515.

23 THE COURT: All right. Objection will be
24 overruled as to Owens-Corning Fiberglas and

1 objection sustained as to Illinois Central
2 Railroad.

3 MR. CONSTANTINE: As to which exhibit Your
4 Honor?

5 THE COURT: 515.

6 MR. CONSTANTINE: Your Honor is taking
7 judicial notice, is that --

8 MR. WALKER: I offer Owens-Illinois 516 into
9 evidence which is a letter dated August 7th, 1951.

10 THE COURT: The objection of Owens-Corning --
11 Owens-Illinois is not objecting.

12 MR. O'HARA: Right Your Honor.

13 THE COURT: Owens-Corning objection is
14 sustained. Illinois Central?

15 MR. PETERS: Yeah, my objection has already
16 been sustained Your Honor.

17 MR. WALKER: Could I have the Owens-Corning
18 objection again Your Honor?

19 THE COURT: Authenticity and hearsay.

20 MR. WALKER: May I approach?

21 THE COURT: You may.

22 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE
23 BENCH OUT OF THE HEARING OF THE JURY.)

24 MR. WALKER: Plaintiffs' response to the

1 hearsay objection is that it is a statement by a
2 co-conspirator in furtherance of the conspiracy
3 and as to --

4 THE COURT: Are there specific sentences that
5 you suggest are statements?

6 MR. WALKER: Well the best sentence in it is
7 the last one. In view of the fact that we are not
8 certain just what atmospheric concentrations of
9 asbestos fibers is the limit of safety -- and as
10 to authenticity, it is the letter written in
11 response to 515. 515 just came into evidence.

12 THE COURT: All right, go ahead.

13 MR. CONSTANTINE: Your Honor, I want to set
14 the record straight on my objection as to asking
15 the court to take judicial notice of a signature,
16 judicial notice to comparing signatures, the
17 expertise is that of a handwriting expert. And
18 when the court is asked to take judicial notice of
19 a matter, those matters generally are so common to
20 the public and there are rules relating to what
21 the court is permitted to take judicial notice of.
22 I'm not aware of a rule that allows the court to
23 take judicial notice of handwriting and make a
24 fact determination that the handwriting is the

1 same. So I object to 516 on the basis of the
2 court's ruling -- I'm sorry, 515 if the basis was
3 it appears to be that Your Honor compared the
4 handwriting and made a factual determination that
5 the two are the same. I object to those grounds.

6 As for 516, the fact that it was sent in
7 response or sent back, that doesn't meet the
8 authenticity rule. This gentleman is not the
9 custodian of records.

10 I have been compelled to bring, show some
11 proof by virtue of the custodian of records to
12 authenticate documents. This man was not the
13 custodian of records. Didn't write the letter,
14 didn't send it, the letter is unsigned and I don't
15 think the fact that Mr. Walker testifies that it's
16 in response to another or -- that that makes it
17 authentic. That simply is not the requirement.
18 So I object on those grounds and I would -- just
19 let me, it's my understanding that the court ruled
20 and sustained Owens-Corning's objection. Now we
21 are hearing Mr. Walker argue for Your Honor to
22 reverse that ruling. I object to that as well.

23 MR. WALKER: As to Owens-Corning's motion to
24 reconsider your ruling on 515, it's not by rule in

1 Illinois, it's by statute. The statute provides
2 the authority for the court to make the comparison
3 of signatures. As to 516, there is decisional law
4 that says a letter appears on its face to be
5 authentic and is clearly in response to another
6 letter that is already properly into evidence can
7 come into evidence for that reason. That is why
8 we would ask you to consider 516 authentic.

9 THE COURT: The problem is with 516 is there
10 is no evidence that it was received to my
11 knowledge or that it was sent.

12 MR. WALKER: Well since this is a carbon
13 copy, I would agree with the court. But there is
14 at least a presumption they wouldn't type a letter
15 without sending it. I admit it doesn't say
16 received on it.

17 THE COURT: Well it doesn't say received and
18 there is no other indicia of receipt like the
19 Bates stamp that I'm aware of. It certainly -- I
20 mean I think it's clear at this point that the
21 court has admitted documents that were in
22 possession of Owens-Illinois at that plant or were
23 transferred to Owens-Corning.

24 MR. CONSTANTINE: That is not clear to me.

1 What are you basing that on Judge? That is just a
2 fact that's been -- you excluded the testimony of
3 Willis Hazard which is the only person in the
4 world that can speak to that transfer.

5 THE COURT: I don't believe that is true.

6 MR. CONSTANTINE: Is there something else
7 that the court is basing that finding of fact on?

8 THE COURT: There is a contract in evidence
9 which indicates that if I recall correctly.

10 MR. WALKER: It's counsel's comments that
11 Owens-Corning doesn't keep its contracts Judge,
12 that is what he was basing it on.

13 MR. CONSTANTINE: Mr. Walker is probably
14 right. He likes to make those little comments and
15 I suspect that it burdens the record, but that is
16 fine. The fact of the matter is Judge without
17 proof of receipt --

18 THE COURT: All right, at this point I'm not
19 going to admit Owens-Illinois 516 against OCF. I
20 will against Owens-Illinois, but not against OCF
21 or Illinois Central.

22 MR. CONSTANTINE: Will Your Honor indicate
23 that to the jury?

24 THE COURT: Yeah.

1 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
2 PRESENCE OF THE JURY.)

3 THE COURT: I believe I indicated that
4 Owens-Illinois exhibit 516 is admitted only with
5 regard to Owens-Illinois.

6 BY MR. WALKER:

7 Q Mr. Grimmie, there is in evidence a
8 document called Owens-Illinois 516 which is a letter
9 from Thomas Durkan to Bill Hazard dated August
10 7th, 1951, and it says, in view of the fact that
11 we are not certain just what atmospheric
12 concentration of asbestos fibers is the limit of
13 safety, it would be well to apply -- and the
14 sentence goes on.

15 In 1951, what had you been told by
16 Owens-Illinois was a level of airborne asbestos in
17 which people could work safely?

18 MR. O'HARA: Your Honor, I would just object
19 that we shouldn't read half sentences. We should
20 at least finish off the sentence.

21 THE COURT: Sustained. Let's read the whole
22 sentence.

23 MR. WALKER: Sure.

24 Q In a letter written by Thomas Durkan to

1 Bill Hazard on August 7th, 1951, Mr. Durkan says,
2 "Nevertheless, in view of the fact that we are not
3 certain just what atmospheric concentration of
4 asbestos fibers is the limit of safety, it would
5 be well to apply the protective measures suggested
6 in the report including the wearing of a
7 respirator and if possible some method of reducing
8 the amount of atmospheric dust."

9 My question to you Mr. Grimmie is, in August
10 of 1951, what had Owens-Illinois told you was the
11 safe level of airborne asbestos in which people
12 could work without becoming ill?

13 A I have no recollection of that sir.

14 Q Did Owens-Illinois tell you that there was
15 a -- an amount above zero of airborne asbestos in
16 which people could work and none of them become
17 ill?

18 A I have no recollection.

19 Q Do you have in front of you Owens-Illinois
20 exhibit 419?

21 A Yes, sir.

22 Q Now this is already in evidence. It says,
23 it is a letter from Hazard to Arthur Vorwald at
24 Saranac. "Dear Art. Some time ago we mentioned

1 to you that our Kaylo division wants to gather
2 together in brochure form material on the health
3 aspects of Kaylo dust and wants to consider the
4 possibility of publishing some of your
5 experimental findings."

6 Do you see that first paragraph there?

7 A Yes, sir.

8 Q Now, did you ever see a brochure that the
9 Kaylo division of Owens-Illinois prepared
10 regarding the health aspects of Kaylo dust?

11 A I have no recollection.

12 Q Do you have a present recollection that
13 you ever saw a brochure on the health aspects of
14 Kaylo dust?

15 A No, I don't.

16 Q And you worked in Kaylo dust from 1947 to
17 at least 1972, Kaylo dust that had -- let me ask a
18 different question. You worked in the dust of
19 asbestos-containing Kaylo from at least 1947 into
20 1972. Is that correct?

21 A Yes, approximately.

22 MR. WALKER: Someone else may ask.

23 THE COURT: Mr. Constantine, do you have any
24 questions?

1 CROSS EXAMINATION

2 BY MR. CONSTANTINE:

3 Q Good afternoon, Mr. Grimmie.

4 A Good afternoon, sir.

5 Q Mr. Grimmie, my name is Andrew
6 Constantine, I represent Owens-Corning Fiberglas.

7 A How do you do?

8 Q How do you do? Have we ever met before
9 today?

10 A Not to my knowledge.

11 Q And have I ever asked you to come into a
12 courtroom and testify as you're doing here today?

13 A No, sir.

14 Q Okay. And the questions I'm about to ask,
15 do you have any idea what they are?

16 A No, sir.

17 Q You testified on direct examination or in
18 response to Mr. O'Hara's questions that when you
19 came to work for Owens-Illinois as an hourly
20 employee, you sat down with a nurse and a nurse
21 explained to you the necessity of using a
22 respirator for the diseases silicosis and
23 asbestosis. Do you recall that?

24 A Yes, sir.

1 MR. WALKER: Leading.

2 MR. CONSTANTINE: This is cross, Judge.

3 THE COURT: Overruled.

4 Q Now, were you the only hourly employee
5 that had to sit down with that nurse or did other
6 hourly employees have to sit down?

7 A No, everyone that was hired went through
8 the same procedure.

9 Q Every single person that was hired by
10 Owens-Illinois as far as you know had to sit down
11 with that nurse and get that training, is that --

12 A Yes, sir, that is my understanding.

13 Q Now when Owens-Illinois -- after
14 Owens-Illinois sold the plant and the product line
15 to Owens-Corning, you stayed on and became an
16 employee of Owens-Corning. Correct?

17 A Yes, sir.

18 Q Now the day that that happened, in 1958,
19 all those people that had worked for
20 Owens-Illinois, did Owens-Corning fire them or did
21 they become Owens-Corning employees too?

22 A They became Owens-Corning employees.

23 Q Okay. And I think you mentioned that in
24 1965, one of the plant supervisors over his

1 signature put one of Dr. Selikoff's articles on
2 the bulletin board or on all five bulletin boards
3 at the Berlin plant. Correct?

4 A I believe so, yes.

5 Q And if that happened in 1965, that would
6 have occurred during a time period that you were
7 working for Owens-Corning. Correct?

8 A Yes.

9 Q And then I -- now, after people sat down
10 with the nurse and was told about wearing a
11 respirator for silicosis and asbestosis, did you
12 ever see any of those workers after being told
13 that not wearing respirators?

14 A Yes, sir.

15 Q This doctor -- then I think you said Dr.
16 McNally talked about asbestos and asbestosis with
17 you?

18 A Yes.

19 Q Another -- there were meetings with
20 department heads?

21 A Yes.

22 Q Do you recall that? Was asbestos and
23 asbestosis ever discussed at those meetings?

24 A Yes, the plant manager had meetings.

1 Q When you were working for Owens-Illinois
2 or Owens-Corning Fiberglas, was asbestos and
3 asbestosis a secret?

4 A Never.

5 Q Well, if somebody were to suggest that
6 Owens-Corning and Owens-Illinois were conspiring
7 to keep from people like you who worked in the
8 plant information about asbestos and asbestosis,
9 what would you say to that?

10 A I would say that was ridiculous.

11 Q This Dr. Sokolowski -- and you were there
12 since what time with Owens-Illinois? I'm sorry,
13 you started with OI when?

14 A With OI?

15 Q In the forties?

16 A In '47.

17 Q And you were with Owens-Corning until the
18 day you retired?

19 A Yes, sir.

20 Q In, what, '84 it was I think?

21 A '84.

22 Q Okay. Now this Dr. Sokolowski, was that a
23 doctor that just management people went to or did
24 everybody go to?

1 A Everyone.

2 Q So there wasn't some special doctor that
3 management went to and the other people that
4 worked hard in the plant just like you, they went
5 to some other doctor. It wasn't like that,
6 correct?

7 A Everyone on workers' comp with asbestosis
8 goes to Dr. Sokolowski. We even have one guy
9 comes up from Florida to go to Dr. Sokolowski.

10 MR. CONSTANTINE: Thank you, Mr. Grimmie.

11 THE WITNESS: Yes, sir.

12 THE COURT: Illinois Central?

13 MR. PETERS: No questions Your Honor.

14 THE COURT: Owens-Illinois? Mr. O'Hara?

15 REDIRECT EXAMINATION

16 BY MR. O'HARA:

17 Q Hello Mr. Grimmie. I think you testified
18 a little bit earlier today about the fact that you
19 spent some time at Owens-Illinois as an hourly
20 employee?

21 A Yes, sir.

22 Q Do you remember about how many years you
23 spent at Owens-Illinois as an hourly employee?

24 A Um, I would say about four.

1 Q You gave some testimony about physical
2 examinations you had at the University of
3 Pennsylvania. Do you remember that?

4 A Yes.

5 Q Were those --

6 A That is University of Pennsylvania Medical
7 Center.

8 Q Were those examinations during the time
9 you were with Owens-Illinois or were they at the
10 time when you were with Owens-Corning Fiberglas?

11 A I believe they were Owens-Corning
12 Fiberglas.

13 Q Mr. Walker asked you some questions about
14 whether there was any warning on the Kaylo boxes
15 when you were at Owens-Illinois. Did Bill Hazard
16 ever tell you that he thought that Kaylo was
17 dangerous for people who were going to use it in
18 the field?

19 A Not to my recollection.

20 Q Mr. Walker showed you a document which was
21 plaintiffs' exhibit 282. Do you think you could
22 find that, Mr. Grimmie? Do you still have that
23 one? I think that was the longer one.

24 A Yes, I have it.

1 Q Can you turn to the last page of that
2 document, the page that has the signature? Can
3 you find that?

4 A Recommendations?

5 Q Is that the --

6 MR. O'HARA: Your Honor, may I go next to the
7 witness please?

8 THE COURT: You may.

9 A I'm sorry.

10 Q Do you see Mr. Grimmie that there is a
11 reference in that document, do you see in the
12 second sentence to the fact that the Aetna people
13 found some things that did not come up to
14 Owens-Illinois standards? Do you see that? The
15 second sentence on that page?

16 A Yes, I see that.

17 Q Okay. Did Owens-Illinois when you were at
18 Owens-Illinois, did they have standards that
19 related to dust control and to respirator programs
20 and to monitoring employee health?

21 A Yes.

22 Q Mr. Walker asked you whether -- whether
23 you learned today for the first time that the
24 Saranac experiments involved animals that

1 developed asbestosis. Correct?

2 A Yes, sir.

3 Q Did you learn on the first day of work at
4 Owens-Illinois from the plant nurse that the Kaylo
5 dust might cause asbestosis in people?

6 A Asbestosis was, I thought, I interpreted
7 at the time to be secondary to silicosis.

8 Q Okay.

9 A And then shortly after that, asbestosis
10 became --

11 Q Separate?

12 A Yeah, it became the big problem.

13 Q So -- but in any event, based on your
14 conversations with the plant nurse, you understood
15 that there was risks of asbestosis from the Kaylo
16 dust that was being used?

17 A Yes.

18 MR. WALKER: Leading.

19 THE COURT: Sustained.

20 Q Did you have any notion about whether
21 Kaylo dust used in the Owens-Illinois plants
22 created a potential hazard for people based on
23 your conversations with the plant nurse?

24 A Yes.

1 Q You talked -- you mentioned in one of your
2 responses to Mr. Walker about the notion of trust.
3 Did you trust Bill Hazard with your health when
4 you worked at Owens-Illinois?

5 A Absolutely.

6 Q If he were alive today, would you trust
7 him with your health?

8 A Absolutely.

9 MR. O'HARA: Absolutely.

10 THE COURT: Plaintiff?

11 RECROSS EXAMINATION

12 BY MR. WALKER:

13 Q About four weeks ago Mr. Grimmie,
14 Owens-Illinois told the jury that Bill Hazard went
15 to Saranac Lake in 1952 and heard a whole bunch of
16 speeches about asbestos being a cause of cancer.
17 Now we know only thing that Owens-Illinois would
18 tell the jury -- excuse me, that Owens-Illinois
19 would tell the jury is the truth.

20 What did Bill Hazard tell you when he got
21 back from Saranac Lake that he had learned about
22 asbestos being a cause of cancer in 1952?

23 A Sir --

24 MR. O'HARA: Your Honor, wait, I have an

1 objection. I don't know to what Mr. Walker is
2 referring but I have never said anything like that
3 in front of this jury.

4 MR. WALKER: I did misspeak, I said --
5 Owens-Corning said it in opening statement.

6 MR. CONSTANTINE: Oh, well then I heard
7 Owens-Illinois, so I guess I have an objection.

8 MR. WALKER: Let me ask the question again
9 please, I butchered it.

10 MR. CONSTANTINE: Can we have that stricken
11 from the record then, Mr. Walker's --

12 THE COURT: Question is stricken from the
13 record, jury instructed to disregard the question.

14 Q In opening statement Owens-Illinois -- in
15 opening statement Owens-Corning said, in 1952, as
16 well you heard about the Seventh Saranac Symposium
17 you heard about how one of the principle subjects
18 was -- discussed was asbestos and cancer. Let me
19 give you the lineup of the people that were there,
20 because a suggestion has been made that
21 information about asbestos and disease and
22 asbestos and cancer was suppressed or
23 misrepresented. Well, one of the main topics at
24 this particular symposium was asbestos and cancer.

1 When Bill Hazard got back from that 1972
2 symposium at Saranac Lake where asbestos and
3 cancer was discussed --

4 THE COURT: '72?

5 MR. WALKER: Did I say 72? I'm sorry.

6 Q When Bill Hazard got back from that 1952
7 symposium at Saranac Lake where asbestos and
8 cancer was discussed, what did he tell you he
9 learned at that symposium?

10 MR. O'HARA: Your Honor I object to Mr.
11 Wyllder's (sic) question.

12 THE COURT: Overruled.

13 A Sir, please understand, Bill Hazard was
14 Toledo staff. He would contact the plant manager.
15 He wouldn't come to me to tell me anything. He
16 would go to the plant manager. Any report that he
17 had would go to the plant manager. So I have no
18 recollection of what was reported from this
19 1952 --

20 Q Well Bill Hazard never talked to you about
21 asbestos and cancer. Is that correct?

22 A Oh, Bill and I had discussions, yes.

23 Q Did you and Bill discuss the relationship
24 between asbestos and cancer?

1 A Um, after 1965 when Dr. Selikoff I believe
2 it was at Mount Sinai who proved to the medical
3 profession that asbestos could cause lung cancer,
4 then we started talking and acting on it.

5 Q But the first time that Bill Hazard talked
6 to you about asbestos being a cause of cancer was
7 after you had seen Selikoff's article in 1965.
8 Correct?

9 A To the best of my recollection.

10 MR. WALKER: Offer plaintiffs' exhibit 520.
11 And 519.

12 THE COURT: Any objection to 519 and 520?

13 MR. CONSTANTINE: Hearsay and authentication
14 as to Owens-Corning, Your Honor.

15 THE COURT: Owens-Illinois?

16 MR. O'HARA: Your Honor, I have no objection
17 to 519. I do object to 520 as hearsay.

18 MR. WALKER: Well Judge, once you have 519
19 in, 520 comes in because 519 shows that Hazard was
20 there. The sixth sheet of paper. The eighth
21 signature from the bottom.

22 THE COURT: The objection of Owens-Illinois
23 to 520 is overruled. Owens-Illinois -- both 519
24 and 520 will be admitted with regard to

1 Owens-Illinois.

2 Do you want to speak to Owens-Corning? I
3 will overrule those objections with regard to
4 Owens-Illinois.

5 MR. CONSTANTINE: I'm sorry, did Your Honor
6 rule?

7 THE COURT: I have not. Asked Mr. Walker if
8 he had any response to hearsay and authentication
9 with regards to Owens-Corning.

10 MR. WALKER: If it is authentic Your Honor --

11 THE COURT: Counsel approach the bench.

12 (THE FOLLOWING PROCEEDINGS WERE HAD AT THE
13 BENCH OUT OF THE HEARING OF THE JURY.)

14 MR. WALKER: If it's authentic, it has to
15 come in because Owens-Corning talked about it in
16 opening statement. It was Owens-Corning who said
17 that this conference did take place and that
18 everybody knew as a result of this conference.
19 Here is the agenda for the conference that took
20 place, so this would be notice to Owens-Corning.
21 They have admitted whatever notice is created by
22 this.

23 MR. CONSTANTINE: I don't know how an opening
24 statement, I wish my opening statements could

1 authenticate documents because if they could I
2 would line all the ones up that Mr. Walker has
3 erroneously objected to --

4 THE COURT: It might against you, but it
5 won't help you.

6 MR. CONSTANTINE: An opening statement by a
7 lawyer doesn't authenticate documents in any state
8 that I'm aware of and I don't think it
9 authenticates them here, and I object on that
10 basis as to hearsay authentication.

11 MR. WALKER: I was just talking about hearsay
12 Judge. If there is an objection about
13 authentication I will have to take the stand
14 myself because we got this document from
15 Owens-Corning.

16 MR. CONSTANTINE: That doesn't authenticate
17 anything. Mr. Walker can get on the stand and say
18 he got letters from Abex and Owens-Corning.
19 Unless he's the custodian of the records over at
20 Saranac he can't testify as to authenticity, and I
21 object.

22 MR. WALKER: All we are doing now is hearsay.
23 When Owens-Corning says in opening statement that
24 there was this symposium, asbestos and cancer was

1 discussed, it makes what is discussed their
2 knowledge to Owens-Corning and therefore all of
3 this other is made out of court, it's admissible
4 against Owens-Corning because it shows what
5 Owens-Corning knows.

6 THE COURT: The court will sustain the
7 objection with regard to Owens-Corning.

8 (THE FOLLOWING PROCEEDINGS WERE HAD IN THE
9 PRESENCE OF THE JURY.)

10 THE COURT: The court will sustain the
11 objections with regard to Owens-Corning.

12 BY MR. WALKER:

13 Q Would you turn Mr. Grimmie to the eighth
14 page, the one that has the agenda for Wednesday,
15 September 24th?

16 A Yes, sir, Wednesday, September 24th.

17 Q When you had that discussion with Bill
18 Hazard in 1965 about the relationship between
19 asbestos and cancer, did he reflect upon the fact
20 that he had heard Dr. Hueper discuss on this
21 subject back in 1952?

22 A I have no recollection.

23 Q Did he discuss that he heard Dr. Cartier
24 reflect -- did he reflect that he had heard Dr.

1 Cartier discuss this subject back in 1952?

2 A I have no recollection.

3 Q Did he say well I heard Dr. Kenneth Lynch
4 talk about this in September of 1952 at the
5 Seventh Saranac Symposium?

6 A I have no recollection. As I suggested to
7 you, Bill Hazard was Toledo staff and he would
8 tell our plant manager.

9 Q And when you had this discussion with Mr.
10 Hazard in 1965, did he say I heard from -- of all
11 people Dr. Merewether himself back in 1952 at the
12 Seventh Saranac Symposium lead the discussion
13 following the Hueper Cartier and Lynch
14 presentations?

15 A I have no recollection of that.

16 Q The jury has seen exhibit 65 in which
17 Saranac Laboratory told Owens-Corning in February
18 of 1956 that asbestos was fairly well incriminated
19 as a carcinogen.

20 Did Owens-Corning tell you that as soon as it
21 bought the plant in 1958, that asbestos had been
22 incriminated as a carcinogen?

23 A Owens-Corning?

24 Q Yes, sir.

1 A I don't know how it was related, but -- I
2 don't know how to answer that. Owens-Corning was
3 related to our plant long before 1958.

4 Q But it became your employer in 1958.
5 Correct?

6 A Yes.

7 Q I can appreciate there was some
8 Owens-Corning people that visited the plant
9 between '53 and '58 probably, correct?

10 A Management.

11 Q But once Owens-Corning bought the plant
12 and assumed the responsibilities that it had as
13 your employer, did it promptly come up to you and
14 say, Mr. Grimmie, I want you to know that as long
15 ago as two years ago we were told that asbestos
16 has been fairly well incriminated as a carcinogen?

17 A I have no recollection of that.

18 Q You said that Dr. Sokolowski gives these
19 examinations to everyone that has asbestosis. How
20 many fellows that worked at the Berlin plant are
21 alive today and have asbestosis?

22 A I don't know.

23 Q Has the doctor ever shared with you how
24 many people there are?

1 A He would not do that, that is doctor/
2 patient privilege.

3 Q How many are sick is privileged?

4 A I meet two or three occasionally when I am
5 in there, but I haven't the slightest idea how
6 many.

7 Q How about Owens-Corning? Has
8 Owens-Corning told you how many are currently
9 living and have asbestosis?

10 A No.

11 Q Has Owens-Corning told you how many of the
12 group of people that worked for Owens-Illinois and
13 Owens-Corning at Berlin have contracted lung
14 cancer?

15 A No.

16 Q Has Owens-Corning told you how many of the
17 people who worked at Berlin for either
18 Owens-Illinois or Owens-Corning have contracted
19 mesothelioma?

20 A No, sir.

21 MR. WALKER: Thank you, Mr. Grimmie.

22 THE WITNESS: Thank you sir.

23 THE COURT: Mr. Constantine?

24 MR. CONSTANTINE: I have no questions. Thank

1 you Mr. Grimmie.

2 MR. PETERS: None.

3 THE COURT: Mr. Peters?

4 MR. O'HARA: No Your Honor.

5 THE COURT: All right Mr. Grimmie, thank you.

6 You can step down. Thank you for your time today.

7 Have a nice day.

8 (WITNESS EXCUSED.)

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1 IN THE CIRCUIT COURT
2 OF THE ELEVENTH JUDICIAL CIRCUIT
3 MC LEAN COUNTY, ILLINOIS
4
5

6 I, Susan E. Geshwilm, an Official Court
7 Reporter and Certified Shorthand Reporter in and
8 for the Eleventh Judicial Circuit of the State of
9 Illinois, do hereby certify that I reported in
10 shorthand the foregoing proceedings and that the
11 foregoing is a true and correct transcript of my
12 shorthand notes so taken as aforesaid.

13 Dated: November 30, 1996

14 
15 Susan E. Geshwilm, CSR
16 License #084-002578
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