

1 Drinker study.

2 But what you need to remember is that no one
3 in the 1940s or the 1950s did that. No one published
4 an article that said, hey, Fleischer and Drinker are
5 wrong. The results that they published for everyone
6 to see are mistaken.

7 It wasn't for almost 20 years that Dr.
8 Selikoff, who you heard a little bit about this
9 morning from Mount Sinai, who did a lot of research in
10 the area of asbestos, published a study and said
11 precisely that.

12 We have gone out, and we have studied
13 insulators. And we are still finding that insulators'
14 exposure to asbestos-containing products is within the
15 accepted TLV, but we are seeing excess disease, so
16 maybe the TLV doesn't work.

17 This is the mid 1960s, several years after
18 my client got out of the business.

19 Dr. Selikoff continued his work, and he
20 encouraged people to keep the dust levels down. And
21 asbestos continued to be used for several years after

1 that.

2 Now, the final question on the state of the
3 art that we have to address is, when was it known that
4 asbestos could cause mesothelioma?

5 I get to skip a lot of what I was going to
6 say about this, because Mr. McGowan spent a lot of
7 time talking about it this morning.

8 And he told you, and I agree with him, that
9 it was in 1960 that Dr. Wagner made the association in
10 the first large-scale epidemiological study that
11 exposure to crocidolite asbestos could cause
12 mesothelioma.

13 There were no such studies during the time
14 period that my client manufactured Kaylo up through
15 1948.

16 I am sorry, 1958.

17 I want to talk to you a little bit about my
18 client, Owens-Illinois, and remind you that there are
19 four defendants in this courtroom, or three defendants
20 and one cross-defendant.

21 And just like the plaintiffs, whose case you

1 have to give separate consideration to, you have to
2 give separate consideration, and the Judge will tell
3 you this, as to each of the defendants and look at the
4 evidence as to each of the defendants when you render
5 your verdicts.

6 Now, today, as always, my client is a
7 manufacturer of glass products. It makes milk
8 bottles, soda bottles, baby-food jars.

9 In fact, we have a plant maybe some of you
10 have seen when you come up from 95 into the city. You
11 see the big O and I from '95.

12 Many years ago, Owens-Illinois manufactured
13 insulation products known as Kaylo. And Kaylo did
14 contain asbestos as one of its ingredients, between 12
15 and 20 percent, along with lime and silica. And this
16 is known as a calcium-silicate product.

17 Now, I agree with a lot of what Mr.
18 Shellenberger said about the history of my client. We
19 are not here to dispute anything that are facts in
20 this case.

21 We don't want to waste your time. We don't

1 want you to be here any longer than you have to be
2 here. So I agree that my client began a pilot
3 production of Kaylo in '43, and that continued until
4 1948.

5 Between '48 and '58, my client manufactured
6 commercial quantities of Kaylo pipecovering and block
7 and a few other insulation products that aren't at
8 issue in this trial.

9 In 1953, Owens-Illinois did enter into a
10 distributorship agreement with Owens-Corning
11 Fiberglas. We continued to manufacture the Kaylo, and
12 they sold it.

13 That continued until 1958 when we sold the
14 entire Kaylo line to Owens-Corning Fiberglas and got
15 out of the business.

16 Now, Mr. Shellenberger is an advocate. He
17 is a good advocate. And I have known him for a lot of
18 years, and I think he is a very good lawyer, but what
19 lawyers do is, they put their spin on the evidence.

20 He tells you what he thinks the evidence
21 shows. And I am going to tell you what I think the