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NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

1

1 IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
2 PENNSYLVANIA
3 ROBERT WILLIAM BRENNAN, and) CIVIL DIVISION
4 MARCELLA F. BRENNAN, his wife,) ASBESTOS
5) GD No. 10-016088
6 Plaintiffs,)
7)
8 vs.)
9)
10 AMERICAN BILTRITE and its)
11 division AMTICO, et.al.,)
12)
13 Defendants.)

14 - - -
15 Video Deposition of JOHN A. PENDERGRASS
16 Tuesday, February 22, 2011
17 - - -

18 The video and teleconference deposition of
19 JOHN A. PENDERGRASS, called as a witness by the
20 Plaintiffs, pursuant to notice and the
21 Pennsylvania Rules of Civil Procedure pertaining
22 to the taking of depositions, taken before me, the
23 undersigned, Terri J. Urbash, a Notary Public in
24 and for the Commonwealth of Pennsylvania, the
25 witness and his attorney at Barlow Reporting, 317
Executive Park Circle, Mobile Alabama, 36606,
commencing at 11:56 a.m., the day and date above
set forth.

19 - - -
20
21
22 - - -
23 NETWORK DEPOSITION SERVICES
24 SUITE 1101, GULF TOWER
25 PITTSBURGH, PENNSYLVANIA 15219
 412-281-7908
 - - -

NETWORK DEPOSITION SERVICES
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2 (Pages 2 to 5)

2		4	
1	COUNSEL PRESENT	1	APPEARANCES CONTINUED
2	On behalf of the Plaintiffs	2	On behalf of the Defendants CBS
3	Savinis, D'Amico & Kane, LLP		Westinghouse
4	Janice M. Savinis, Esquire	3	Eckert Seamans Chern & Mellott, LLC
	Suite 3626, Gulf Tower	4	Paul D. Kruper, Esquire
	Pittsburgh, Pennsylvania 15219		U.S. Steel Tower
5	On behalf of the Defendant Wyeth, LLC	5	600 Grant Street, 44th Floor
			Pittsburgh, Pennsylvania 15219
6	Kelley Jasons McGuire Spinelli & Hanna,	6	On behalf of the Defendants Crane Co. and
	LLP	7	Foster Wheeler
7	Thomas Hanna, Esquire	8	Vickers Rns. Murry and Curran, LLC
8	Two Liberty Place, Suite 1900		Timothy A. Clarke, Esquire
	50 South 16th Street	9	Post Office Box Drawer 2568
	Philadelphia, Pennsylvania 19102		Mobile, Alabama 36652
9	On behalf of the Defendant Conwed	10	On behalf of the Defendant ITT Corporation
	Corporation	11	Dickie, McCarney & Chilcote, P.C.
11	Kelley Jasons McGuire Spinelli & Hanna	12	Shannon E. Noe, Esquire (via phone)
	LLP		Two PPG Place, Suite 400
13	Katherine Anderson, Esquire (via phone)	13	Pittsburgh, Pennsylvania 15222
	429 Forbes Avenue, Suite 1202	14	On behalf of the Defendant Eaton Corp
14	Allegheny Building	15	Goldberg, Miller & Rubin, P.C.
	Pittsburgh, Pennsylvania 15219		Ian T. Kingsley, Esquire (via phone)
15	On behalf of the Defendants Aurora Pumps,	16	The North American Building
	DeZurk, and Milwaukee Valve		121 South Broad Street, Suite 1500
16	Maron Pierce, LLC	17	Philadelphia, Pennsylvania 19107
	Terry A. Schrock, Esquire		---
17	Landmarks Building, Suite 250	18	I-N-D-E-X
	Pittsburgh, Pennsylvania 15219	19	EXAMINATION BY PAGE
19	On behalf of the Defendant Ingersoll-Rand	20	Ms. Savinis - 7
			137
20	Burns White	21	Mr. Hanna - 129
	Francis D. Wyrnard, Esquire	22	---
21	Four Northshore Center	23	
	106 Isabella Street	24	
22	Pittsburgh, Pennsylvania 15212	25	
23			
24			
25			
3		5	
1	APPEARANCES CONTINUED	1	MR. HANNA: I just want to put on the
2	On behalf of the Defendant Kentile Floors	2	record I understand we have been delayed here
3	Willman & Silvaggio, LLP	3	because of a weather delay in Pittsburgh. I
4	Ronald J. Richert, Esquire (via phone)	4	just want the record to reflect that
	550 Corporate Drive, Suite 150	5	Mr. Pendergrass and I were ready to proceed
	Pittsburgh, Pennsylvania 15237	6	on time at 10:00 -- at 10:00 a.m. Central
5	On behalf of the Defendants Blackmer Pump	7	time, 11:00 a.m. Eastern time.
	Company, Flowserve Corporation, in its	8	Thank you.
6	own right and is a successor to Durco	9	MS. SAVINIS: Okay, is he ready?
	International and the Durron Company,	10	Let's roll.
7	Joy Technologies d/b/a Joy Manufacturing	11	MR. HANNA: Sure, he's ready.
	Company, Kaiser Gypsum Company, Inc.	12	Proceed.
8	Marshall, Dennehey, Warner, Coleman &	13	(Discussion held off the record.)
	Goggins	14	MS. SAVINIS: Sir, my name is Janice
9	Melissa D. Cochran, Esquire (via phone)	15	Savinis. I just want to be sure I am
	2900 U.S. Steel Tower	16	pronouncing your last name correctly. Is it
10	Pittsburgh, Pennsylvania 15219	17	"Pendergrass"?
11	On behalf of the Defendant Fisher	18	THE WITNESS: "Pendergrass,"
	Scientific	19	G-R-A-S-S.
12		20	MS. SAVINIS: "Pendergrass," I'm
13	Babst Calland Clements Zomnir, P.C.	21	saying it correct?
	James V. Corbelli, Esquire	22	THE WITNESS: That's right.
14	Two Gateway Center	23	MS. SAVINIS: Thanks so much.
	Pittsburgh, Pennsylvania 15222	24	(On the video record.)
15	On behalf of the Defendant Met-Pro	25	THE VIDEO OPERATOR: We are on the
	Corporation		
16			
17	Rawle & Henderson, LLP		
18	Aaron M. Dorfzaun, Esquire (via phone)		
	The Henry W. Oliver Building		
19	535 Smithfield Street, Suite 100		
	Pittsburgh, Pennsylvania 15222		
20	On behalf of the Defendant Goulds Pumps,		
	Inc.		
21	Grogan Graffan, P.C.		
22	Robert Leidigh, Esquire (via phone)		
23	Edward Chiodo, Esquire (via phone)		
	Four Gateway Center, 12th Floor		
24	Pittsburgh, Pennsylvania 15222		
25			

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3 (Pages 6 to 9)

6	8
1 record. Today's date is February 22nd, 2011.	1 MR. HANNA: Janice, are you hearing
2 We are taking the deposition of John	2 Mr Pendergrass okay, just so -- are you
3 Pendergrass in the matter of Robert William	3 hearing him okay?
4 Brennan and Marcella Brennan versus American	4 MS. SAVINIS: We are.
5 Biltrite.	5 MR. HANNA: Okay, fine. Thank you. I
6 We are in Mobile, Alabama, at Barlow	6 just think his voice -- I don't think you
7 Reporting.	7 need to raise your voice loud. I think she
8 The court reporter can now swear in	8 can hear you just fine.
9 the witness.	9 Go ahead, Janice, I'm sorry.
0 (Witness sworn.)	10 MS. SAVINIS: That's quite all right.
1 ---	11 BY MS. SAVINIS:
2 JOHN A. PENDERGRASS	12 Q Mr. Pendergrass, the first thing that
3 Having been first duly sworn, as hereinafter	13 I would like to quickly do is to just outline your
4 certified, was deposed and testified as	14 educational and employment background so everybody
5 follows:	15 has a reference point.
6 EXAMINATION	16 I understand that from 1943 to 1944
7 BY MS. SAVINIS:	17 you attended Tulane University; is that true?
8 Q Mr. Pendergrass, my name is	18 A Yes, it is.
9 Janice Savinis and I represent Mr. and	19 Q And from 1946 to 1948 you attended the
0 Mrs. Brennan in regard to an asbestos claim that	20 University of Alabama and secured a BS, in both
1 is pending in Allegheny County, which is in	21 biology and chemistry?
2 Pittsburgh, Pennsylvania.	22 A That's correct.
3 You are here today as a result of my	23 Q From 1954 to 1955 you attended the
4 request to depose you. I understand that you were	24 University of Michigan?
5 previously employed by American Cyanamid and, for	25 A Yes, I did.
7	9
1 a period of time, as you may have learned,	1 Q And at that point in time can you tell
2 Mr. Brennan and his father were employed by	2 us what degree you secured?
3 American Cyanamid at the Lederle Lab plant.	3 A A Masters of public health with
4 Would you be so kind to first tell us	4 emphasis in industrial hygiene.
5 your full name and your home address.	5 Q And from 1948 to 1956 you were
6 A John A. Pendergrass. My address is	6 employed by the Tennessee Valley Authority,
7 6809 Somerby, S-O-M-E-R-B-Y, Lane, Mobile,	7 better known as TVA?
8 Alabama, 36695.	8 A Yes, that's true, with a period in
9 Q Mr. Pendergrass, how old are you	9 there from '51 to '53, I was recalled to active
0 today?	10 duty in the Navy.
1 A 85.	11 Q From 1956 to 1957 you were employed by
2 Q And your date of birth?	12 Boeing Airplane Company; is that true?
3 A August 31st, 1925.	13 A In Wichita, Kansas, yes.
4 Q I understand that you have been	14 Q From 1957 to 1964 you were employed
5 deposed on many other occasions; is that true?	15 as an industrial hygienist at the American
6 A That's true.	16 Cyanamid -- by American Cyanamid Company?
7 Q And I know -- I'm sure you are	17 A That's correct.
8 familiar with the rules of the deposition, but	18 Q From 1964 to 1986 you were employed by
9 there is one rule I just want to refresh you on,	19 3M Company?
0 and that rule is today if any time during the	20 A That's correct.
1 course of this deposition you want to take a	21 Q From 1986 to 1989 you were employed by
2 break, you just let me know and I certainly will	22 the U.S. Department of Labor as the assistant
3 accommodate you; fair enough?	23 Secretary of Labor for OSHA?
4 A Thank you very much.	24 A That's correct.
5 Q Now --	25 Q From 1989 till some point in time, and

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4 (Pages 10 to 13)

10		12	
1	you will have to tell me when, you operated	1	Q And was that first contact by phone or
2	Pendergrass Associates; is that true?	2	in person?
3	A Well, during that period I was acting	3	A By telephone.
4	as a consultant part of the time as Pendergrass	4	Q In regard to your participation in
5	Associates, some of the time just Pendergrass.	5	this case, did you review any documents?
6	Q Can you tell me how long you operated	6	A The only documents that I have
7	Pendergrass or Pendergrass Associates, from 1989	7	reviewed was a deposition of me back in, I
8	till when?	8	believe -- I don't remember the exact date -- and
9	A 2007	9	also an article written by Mr. Bradley, who was
0	Q And from 1989 to 2007 you did work	10	the chief industrial hygienist for American
1	involving asbestos litigation at that time?	11	Cyanamid.
2	A Yes.	12	Q And did you bring that deposition with
3	Q And then I understand from --	13	you today?
4	beginning in 1994 you were employed by	14	A Yes.
5	American Services Corporation?	15	Q Okay. And would you be so kind and
6	A I was a part of that organization,	16	tell me the date of that deposition?
7	yes.	17	A Just a minute.
8	Q And can you tell me how long you were	18	Q Take your time.
9	a part of that organization and what exactly is	19	MR. HANNA: August 21st, 2001.
0	that organization?	20	Q And can you tell me, Mr. Pendergrass,
1	A Well, it no longer exists. It was a	21	the title of the article that you reviewed that
2	company that was formed to offer a technique for	22	was authored by Mr. Bradley?
3	air conditioning in buildings.	23	A Just a minute.
4	Q And can you tell me how long you were	24	Q Take your time.
5	affiliated with American Services Corporation?	25	That deposition, was that involving an
11		13	
1	A The dates that you have there would be	1	asbestos case?
2	the ones.	2	A Yes, it was.
3	Q I have from 1994 to present. Are you	3	Q And who provided that transcript to
4	still involved with that company?	4	you?
5	A Oh, no, no, I'm sorry, that's -- no,	5	A Mr. Hanna.
6	19 -- 1994, probably about two years.	6	Q And did Mr. Hanna provide you the
7	Q So to approximately 1996?	7	article, also?
8	A Right.	8	A Yes.
9	Q And --	9	Q And what was the --
0	A Yes.	10	MR. HANNA: Is this the article?
1	Q And, Mr. Pendergrass, can you tell me	11	Hang on one second. I just want to make sure
2	how you got involved in this case, the Brennan	12	this was the -- this was, in fact, the
3	mesothelioma case?	13	article.
4	A I was contacted by an attorney in	14	Is that the one?
5	Pittsburgh and asked if I would be -- a fact	15	THE WITNESS: Yes.
6	witness I believe is the correct term.	16	MR. HANNA: I will tell you what it
7	Q And can you tell me, Mr. Pendergrass,	17	was, Janice, it was the article that you
8	when you were first contacted and by whom?	18	marked as Exhibit 14 and -- in the Gramling
9	A I'm sorry, I don't have an exact date,	19	deposition.
0	probably in the last -- within the last month by	20	MS. SAVINIS: Well, can you --
1	Mrs. Lewis.	21	MR. HANNA: It is entitled "Cyanamid's
2	Q And today Mr. Hanna is present with	22	Industrial Hygiene Program, W. R. Bradley,
3	you. When did you first have contact with	23	chief industrial hygienist."
4	Mr. Hanna?	24	MS. SAVINIS: Thank you so much, Tom.
5	A Last week.	25	MR. HANNA: Sure.

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5 (Pages 14 to 17)

14	16
1 BY MS. SAVINIS.	1 asbestos and develop asbestosis?
2 Q Prior to reviewing that article at the	2 A That's correct.
3 request of Mr. Hanna, do you recall if you ever	3 Q And by that point in time, that
4 read that article before?	4 disease process, asbestosis, was being reported in
5 MR. HANNA: Object to the form.	5 the medical literature?
6 A I don't recall reading it before, no.	6 A I wouldn't have known it unless it had
7 Q Mr. Pendergrass, can you and I agree	7 been reported somewhere, yes.
8 that a basic definition of industrial hygiene is	8 Q Okay. And certainly by the time you
9 the science of anticipating, recognizing,	9 went to the University of Michigan in the
0 evaluating and controlling workplace conditions	10 mid '50s, you at that time learned about the
1 that may cause workers injury or illness?	11 dangerous propensities of asbestos exposure;
2 A Yes.	12 correct?
3 Q And industrial hygienists, such as	13 MR. HANNA: Objection.
4 yourself, use environmental monitoring and	14 A Well, let me explain that. There was
5 analytical methods to detect the extent of	15 a course in pneumoconiosis. The principal mineral
6 workers' exposures?	16 studied was silica and silicosis. Asbestos
7 A Yes.	17 and asbestosis was lumped with other
8 Q Doctor, prior -- or excuse me,	18 pneumoconiosis-producing materials.
9 Mr. Pendergrass, prior to 1948, and I'm going to	19 Q But at that point in time, while at
0 take you back when you were at the University of	20 the University of Michigan, you learned about
1 Alabama, in your chemistry courses you learned	21 asbestos, its dangerous propensities; correct?
2 that asbestos was a mineral and served as a good	22 A As I just said, it was not a principal
3 insulator; correct?	23 point of discussion, it was lumped with other
4 A I can't say one way or the other on	24 materials that came most with pneumoconiosis.
5 that.	25 Q Meaning a lung disease caused by
15	17
1 Q You don't remember your chemistry and	1 dust exposure?
2 biology days at University of Alabama?	2 A Yes.
3 A I'm sorry, I didn't hear -- I don't	3 Q And, Doctor, when you were attending
4 understand your question.	4 the University of Michigan, you learned how to
5 Q Yeah. Reflecting back on your	5 sample for substances, dust, such as asbestos;
6 educational experience when you were at the	6 correct?
7 University of Alabama, you took chemistry and	7 A Yes.
8 biology courses; correct?	8 Q And you learned of engineering
9 A That's right.	9 techniques by which you can preclude a worker from
0 Q And did you learn that asbestos was a	10 being exposed; is that true?
1 mineral?	11 A In a general way, yes.
2 A I'm sure I did. I can't pinpoint it,	12 Q You learned about exhaust and
3 but yes.	13 ventilation, wet-down procedures; correct?
4 Q And certainly by 1948 you were	14 A Yes.
5 well aware that asbestos exposure could cause the	15 Q You learned about respirators and
6 disease asbestosis; correct?	16 reasons why workers should be educated?
7 A I probably became aware of that	17 A I'm not sure I understand what you
8 sometime after I went to work in 1948.	18 mean by workers being educated, but, yes, it is
9 Q And when you say "sometime when you	19 important to know about the different control
0 went to work," are you speaking of your employment	20 procedures that exist, and, yes -- and workers
1 with the Tennessee Valley Authority?	21 should be informed as to what they are working
2 A Yes.	22 with.
3 Q So by then, you were aware while you	23 Q And you learned that back in your days
4 were employed by the Tennessee Valley Authority,	24 at the University of Michigan?
5 you were aware that people can be overexposed to	25 A I probably learned that before I went

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6 (Pages 18 to 21)

18	20
1 to Michigan. 2 Q Fair enough. And, Doctor, in one of 3 your previous depositions you had testified that 4 Dr. Cook, a pathologist, he had termed the disease 5 asbestosis back in 1924; do you remember that? 6 A I remember that the term "asbestosis" 7 was about 1925. I didn't understand who it was 8 that you said created the term. 9 Q Dr. Cook. 10 MR. HANNA: Dr. Cook. 11 Q A pathologist. 12 A I don't remember that, but okay. 13 Q Okay, fair enough. 14 Doctor, can you and I agree that 15 certainly by the 1940s the medical community was 16 aware that asbestos could be a cancer-causing 17 agent? 18 MR. HANNA: Object. 19 A No, I don't. There were reports, 20 there were case studies, you said 1940, I think 21 you are a little early. 22 Q I said "the 1940s," Mr. Pendergrass. 23 A Well, even that is a little bit early, 24 too. 25 Q Doctor -- or I keep calling you	1 expert report in regard to asbestos cases that 2 were filed in Allegheny County, and in that report 3 you stated the following: "In 1964, Dr. Irving 4 Selikoff and colleagues reported on those studies 5 of insulation workers, many of whom had been 6 shipyard workers and exposed to asbestos during 7 the World War II period. Dr. Selikoff reported 8 that there was a link between asbestos exposure 9 and lung cancer." And my quest- -- 10 A Yes, that is true. 11 Q That is true. And, actually, Doctor, 12 in 1964 when Dr. Selikoff made that presentation, 13 is it accurate to state that you were present? 14 A That is true. 15 Q Do you remember, Mr. Pendergrass, an 16 article that was authored by Sir Richard Doll in 17 1955 in the British Journal of Industrial Medicine 18 entitled "Mortality from Lung Cancer in Asbestos 19 Workers"? 20 A I recall the article, yes. 21 Q Now -- 22 MR. HANNA: Janice, let me interrupt 23 just -- Janice, let me interrupt just one 24 second, I'm sorry. 25 Are we going to have the
19	21
1 "doctor." I apologize, Mr. Pendergrass. 2 Did you ever review an article dated 3 August of 1949 that was published in the 4 Journal of the American Medical Association, 5 entitled "Asbestosis and Cancer of the Lung"? 6 A By whom? 7 Q I can't tell you the, the -- hold on 8 one second. 9 It is an editorial in JAMA. It 10 doesn't list a specific article -- excuse me, a 11 specific author. 12 MR. HANNA: Just let me tender my 13 objection in that you are questioning the 14 doctor about an article that he does not -- 15 doesn't have the opportunity to review, but 16 go ahead, Doctor, if you can -- or I'm sorry, 17 go ahead, I'm doing the same thing now, go 18 ahead, Mr. Pendergrass, if you can, please 19 answer Ms. Savinis' question. 20 A I can't because I don't really have 21 any way of knowing what article you are talking 22 about. 23 Q Okay. When another lawyer from my 24 office gets there, we will show you the article. 25 Doctor, you yourself prepared an	1 opportunity -- I'm assuming that at some 2 point in time -- I don't -- we are going to 3 have the opportunity to have these articles 4 marked? 5 MS. SAVINIS: Any article that I plan 6 to show him, we will have marked. 7 MR. HANNA: Okay. I mean, your 8 question, though -- I mean, I asked -- and I 9 would ask that his report be marked since he 10 was questioned on it, if you could, please, 11 and I have requested it, but, obviously, you 12 didn't provide it, so I can't -- you know, I 13 would just ask that it be marked as an 14 exhibit. 15 Q Mr. Pendergrass, you never published 16 any scientific literature on asbestos; have you? 17 A No. 18 Q And you never participated in any type 19 of animal studies where animals were exposed to 20 asbestos? 21 A I have not, no. 22 Q And you never lectured at any 23 university or scientific group -- or before a 24 scientific group on asbestos? 25 A That's true.

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7 (Pages 22 to 25)

22

24

1 Q And you have never participated in any
2 epidemiological studies on asbestos?
3 A That's true.
4 Q And, Mr. Pendergrass, you have
5 received many awards, but none of those awards
6 have been in regard to asbestos; is that true?
7 A That's true.
8 Q But you have testified in asbestos
9 cases as a state-of-the-art expert; is that true?
10 A Yes.
11 Q And you have done that on a number of
12 occasions?
13 A Yes.
14 Q And you have prepared reports on
15 state-of-the-art as it applies to certain
16 defendants?
17 MR. HANNA: Objection. Go ahead.
18 A Yes.
19 Q And can you and I agree that term
20 "state-of-the-art" would only be relevant in
21 litigation, that is not something that you learned
22 about in your educational background, state-of-
23 the-art experts?
24 MR. HANNA: Objection, objection.
25 A I don't really understand your

1 Q For example --
2 A They may not be aware of it, they may
3 not even be aware of the conditions.
4 I'm sorry, go ahead.
5 Q Fair enough. Fair enough.
6 Mr. Pendergrass, Mike Robb is another
7 lawyer from my office. He just walked in the
8 room, and I'm going to ask Mike to show you
9 No. 36.
10 You and I spoke very briefly about an
11 article that was published --
12 MS. SAVINIS: Excuse me, Mike, the
13 article is No. 34. I want him to --
14 MR. HANNA: Terri, would you just --
15 Terri, would you just indicate the time that
16 counsel just arrived, please.
17 THE COURT REPORTER: Sure.
18 MR. HANNA: If you'd make a note of
19 it.
20 THE COURT REPORTER: Sure.
21 MR. HANNA: Thank you.
22 (The time is 12:21 p.m.)
23 BY MS. SAVINIS:
24 Q Mr. Pendergrass, Michael was kind
25 enough to place in front of you the Journal of the

23

25

1 question. The state-of-the-art is -- yes, it is a
2 term that is used to describe what the current
3 status of something is.
4 MR. HANNA: Terri, Terri, are you
5 getting my objections? I just want to
6 make -- you know, since you are not here, I
7 just want to make sure you are hearing me
8 okay.
9 THE COURT REPORTER: I am hearing you
10 fine.
11 MR. HANNA: Great, Terri. Thank you.
12 Q Mr. Pendergrass, you and I can agree
13 that the state-of-the-art has to be evaluated on
14 an individual basis, you can't imply that what is
15 known in one profession or by one entity would
16 necessarily be known by another?
17 MR. HANNA: Objection.
18 A Again, I'm afraid I don't really
19 understand your question. "State-of-the-art"
20 deals with a particular subject, what is known at
21 that time.
22 Q But you also have to know who you are
23 saying knew something at a certain time?
24 A I don't know that you have to say
25 somebody knew something, no.

1 American Medical Association, the August 13th,
2 1949 editorial that I was referring to, and if you
3 flip to the next page, it is noted "Asbestosis and
4 Cancer of the Lung," and my question to you was
5 did you ever have an opportunity, whether in a
6 litigation setting or in an employment setting, to
7 review this specific editorial?
8 MR. HANNA: Objection.
9 A I can't answer that one way or the
10 other.
11 Q Pardon me?
12 A I couldn't answer that one way or the
13 other, either yes or no.
14 Q In the scope and course of your
15 work as an industrial hygienist, or as a
16 state-of-the-art expert in asbestos litigation,
17 did you review articles that were in JAMA, the
18 Journal of the American Medical Association?
19 A I may have.
20 Q You just don't know sitting here
21 today?
22 A No.
23 Q Now, the first time you testified in
24 asbestos litigation was January 29th, 1992, in
25 St. Louis?

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8 (Pages 26 to 29)

26

28

1 MR. HANNA: Objection.

2 A I don't know whether that was the
3 first time or not. I don't even know what that
4 case was.

5 Q Back in 2003 you testified that you
6 had given approximately fifty to a hundred
7 depositions, and at least fifty percent of those
8 depositions were -- involved asbestos litigation.

9 MR. HANNA: Objection.

0 Q Does that comport with your memory?

1 A In a general way. I mean, I don't
2 know what you are reading from or what your
3 information is, but I couldn't refute it. It
4 sounds all right.

5 Q Can you tell us how much money you
6 earned in regard to reviewing asbestos cases or
7 testifying in asbestos cases?

8 MR. HANNA: Objection.

9 A I have no way of knowing.

0 Q You didn't keep records back with
1 Pendergrass Associates of your litigation efforts
2 and the list of the cases and the monies that you
3 received?

4 MR. HANNA: Objection. Go ahead.

5 A I think your question is did I keep a

1 A I think counting Mr. Bradley, there
2 would be five.

3 Q And the five individuals that were
4 employed as corporate industrial hygienists, they
5 had both experience in toxicology, chemistry and
6 engineering?

7 A Yes.

8 Q And their efforts were directed
9 chiefly toward maintaining the health and
10 wellbeing of employees within the plant and in the
11 surrounding neighborhoods; is that true?

12 A Yes.

13 Q Industrial hygiene at American
14 Cyanamid was a function of the central medical
15 department; is that true?

16 A That's correct, yes.

17 Q And can you tell me, when you first
18 started in 1957, who was the chief medical
19 director at that time?

20 A I believe Dr. Hamblin was still the
21 medical director at that time.

22 Q During your entire employment with
23 American Cyanamid from 1957 to 1964, was he the
24 chief medical director that entire time frame?

25 A No.

27

29

1 record of individual cases and money. I certainly
2 recorded everything that I collected, and this was
3 duly reported to the IRS, but I have no idea of
4 what -- how much money -- now how much money came
5 from one particular case.

6 Q Now, I'd like to focus you,
7 Mr. Pendergrass, on your work experience on
8 American Cyanamid, which was from fifty --

9 A All right.

0 Q -- 1957 to 1964. You were employed as
1 a corporate industrial hygienist; correct?

2 A That's right.

3 Q Which was a staff position in
4 headquarters?

5 A Yes.

6 Q And originally was your office or were
7 you physically located in New York and then later
8 New Jersey?

9 A That's correct.

0 Q And there were other industrial
1 hygienists employed by American Cyanamid; correct?

2 A Yes.

3 Q When you started in 1957, can you tell
4 us how many industrial hygienists were employed as
5 corporate industrial hygienists?

1 Q Who was the other individual or
2 individuals you recall that held that title?

3 A Dr. Golz, G-O-L-Z.

4 Q Any others?

5 A No.

6 Q I know it is taking you back a long
7 way, Mr. Pendergrass, but do you know when
8 Mr. Pendergrass -- or excuse me, when Dr. Golz
9 took that position?

10 A I couldn't give you a specific date,
11 but it was not long after I went to work there.

12 Q Fair enough. And why did he take over
13 that position, did Dr. Hamblin retire or leave the
14 employment of American Cyanamid?

15 A He retired.

16 Q The nature of American Cyanamid's
17 business, was it primary the production of
18 chemicals?

19 A It was a very diversified company, but
20 probably, yes, most of it would be considered
21 chemical; not all of it, but most of it.

22 Q And they had two specific chemical
23 divisions, the organic chemical division and the
24 industrial chemical division.

25 A Those were two divisions. I don't

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Transcript of John Pendergrass

9 (Pages 30 to 33)

30

32

1 know that -- I don't recall that they were
2 specifically divided, but, yes, there were organic
3 chemicals and industrial chemicals, and, of
4 course, pharmaceutical chemicals.
5 Q And were the organic and industrial
6 divisions, their facilities, their plants, located
7 in New Jersey?
8 A Some were in New Jersey, some were all
9 over the country.
10 Q Now, as a corporate industrial
11 hygienist, you are not assigned to a specific
12 plant; is that true?
13 A That's correct.
14 Q When you were employed during the
15 time period '55 to '64 -- excuse me, '57 to '64,
16 were there approximately 60 American Cyanamid
17 facilities in the U.S.?
18 A I have no idea.
19 Q You don't have -- you can't even say
20 if that's close?
21 A It sounds reasonable, but if I knew at
22 the time, fine, but I certainly don't remember
23 now.
24 Q I'm going to have Mike Robb show you
25 Exhibit No. 36, and Mr. Hanna has seen this

1 just see if I can find it for him. Hold on.
2 THE WITNESS: Okay.
3 MR. HANNA: Here.
4 Q Do you see that?
5 A That's just -- it --
6 MR. HANNA: No, it is in here. Let me
7 just show you.
8 MS. SAVINIS: It's --
9 MR. HANNA: Let me find it for you.
10 It is in U.S. --
11 A Oh, okay, that's fine, yep, I see it.
12 Q Do you see 60?
13 A Yes.
14 Q Now, let's assume for purposes of my
15 question that 60 is accurate during the relevant
16 time frame. Can you tell me if those 60 plants
17 had industrial hygienists that were assigned to
18 the plant itself?
19 A Some of them did.
20 Q Okay. Would you be able, sitting here
21 today, to give us a ballpark figure of what
22 percentage or how many plants had an industrial
23 hygienist that was assigned to the plant?
24 A I can't give you an exact number, but
25 it would be a relatively few, it would be the

31

33

1 document before, and I will just wait until it is
2 in front of you; okay?
3 MR. HANNA: Thanks, Mike.
4 Yeah, I think I have seen that, Mike.
5 Okay, thank you.
6 MR. ROBB: You're welcome.
7 Q Mr. Pendergrass, I'm going to
8 represent that this is from December 12, 1966. It
9 was published in Cyanamid News, and Mr. Hanna,
10 I think, directed your attention to the relevant
11 section. If you look --
12 MR. HANNA: The date, Janice, just --
13 Q -- under "Plants in the U.S.," and it
14 is in the very first column, it is noted that
15 there are 60 plants; do you see that?
16 A I haven't counted them. I see the
17 list here, yes. It starts in Akron and goes down
18 to Woodridge.
19 MR. HANNA: No, that's the sales
20 offices.
21 Q At the very top --
22 MR. HANNA: Here's the plants, here
23 are the plants.
24 THE WITNESS: Oh.
25 MR. HANNA: I got it, Janice. Let me

1 larger plants. I would say maybe four or five.
2 Q Okay. When you began at American
3 Cyanamid, was Mr. Bradley your boss?
4 A Yes.
5 Q And was he the chief industrial
6 hygienist?
7 A I don't recall what his title was,
8 but, yes, that was his function.
9 Q And it is my understanding that he
10 came aboard with American Cyanamid essentially to
11 start their industrial hygiene program; was that
12 your understanding?
13 A Yes.
14 Q And that there was no industrial
15 hygienist employed by American Cyanamid prior to
16 him coming aboard?
17 A I think that's correct.
18 Q Thinking back on your work experience
19 at American Cyanamid, do you recall them having a
20 research division in Stamford, Connecticut?
21 A Yes.
22 Q And at the Stamford, Connecticut
23 research facility, did they do studies?
24 A It is a research organization, yes.
25 Q Had you ever visited the research

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

10 (Pages 34 to 37)

34		36	
1	division in Stamford, Connecticut?	1	Q Now, was raw asbestos fiber used at
2	A Yes.	2	the Lederle Lab facility?
3	Q And were you ever involved in any of	3	A To my knowledge, no.
4	the studies that were conducted there?	4	Q We are going to go off the record very
5	A I was involved in some of the studies	5	briefly, and what I'm going to have Mike Robb do
6	that the industrial hygiene group conducted there.	6	is he is going to pull out some -- a transcript
7	Q Do you know, Mr. Pendergrass, if	7	that you previously gave.
8	during your employment whether you were involved	8	MS. SAVINIS: And, Mike, it is going
9	or others were involved, whether there was any	9	to be No. 7, if you could just pull that
10	research on asbestos or asbestos-related diseases	10	transcript.
11	at the central research division?	11	Q And I am going to direct your
12	MR. HANNA: Objection.	12	attention to page 50 and 51, and give you a moment
13	Go ahead.	13	to look at it, and I don't think there is a need
14	A I don't know of anything.	14	to go off the record, so we will just stay on the
15	Q Can you tell me perhaps by giving me	15	record and I will give you a chance to look at
16	an example or two, if you can recall, what type of	16	that, and I am going to ask you to look -- once
17	research you were involved in as an industrial	17	you get to page 50, let me know.
18	hygienist?	18	MS. SAVINIS: We have plenty of
19	A Developing some sampling techniques to	19	copies, so let Mr. Pendergrass have a copy.
20	use in other locations.	20	MR. HANNA: Okay, okay, well, that's
21	Q And are you talking would these	21	fine.
22	sampling techniques involve dust?	22	MR. ROBB: Janice, I think I only have
23	A No.	23	one copy.
24	Q What were these sampling techniques	24	MS. SAVINIS: Oh, I apologize.
25	for?	25	MR. ROBB: All right.
35		37	
1	A Chlorine.	1	MS. SAVINIS: Look at page 50.
2	Q Any other research that you	2	MR. HANNA: 50 and 51.
3	specifically recall being involved in?	3	THE WITNESS: I want to see the title
4	A Specific, no. We had -- our	4	page.
5	analytical laboratory was located at Stamford.	5	MR. HANNA: Oh, sure.
6	Q Now, you would visit, as an industrial	6	BY MS. SAVINIS:
7	hygienist, you would go and conduct surveys at	7	Q And I'm asking you, Mr. Pendergrass,
8	plants; correct?	8	perhaps you can begin on page 50, line 9, and if
9	A That's correct.	9	you can read to page 51, line 10. and you tell me
10	Q And as soon as you started back in	10	when you are ready. Take your time.
11	1957, was that program already implemented, where	11	A Go ahead.
12	the corporate industrial hygienist would go to the	12	Q On the bottom of page 50, if you would
13	plants and do surveys?	13	just read along with me, you were asked on
14	A Yes.	14	line 22, "But to your knowledge, American Cyanamid
15	Q And in the scope and course of your	15	did not manufacture any asbestos products;
16	work with American Cyanamid, did you go to the	16	correct?" And you answered, "As far as I recall,
17	Lederle Lab facility in Pearl River, New York?	17	that is true."
18	A Yes.	18	Next question, "And you are not aware
19	Q And can you and I agree -- and I have	19	of American Cyanamid using asbestos in connection
20	looked at your previous testimony -- that whether	20	with the manufacture of their pharmaceuticals;
21	we are talking the Lederle Lab facility or other	21	correct?"
22	facilities of American Cyanamid, you never	22	And can you read your answer on
23	conducted any air samples for asbestos while	23	line 6?
24	employed by American Cyanamid?	24	A Yes.
25	A I think that's correct, yes.	25	Q Can you read your answer?

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11 (Pages 38 to 41)

38

40

1 A I said, "It might have been used as a
2 filtering agent in some processes. In fact, yes,
3 it was, it was used as a filtering agent in the
4 production of chlorine at the Jefferson Chemical
5 plant."

6 Q So back in 2002 when you were asked
7 whether asbestos was used in connection with
8 pharmaceuticals, you indicated that it was,
9 in fact, used as a filtering agent; do you see
10 that?

1 MR. HANNA: Objection, at the
2 Jefferson plant.

3 Go ahead, you can answer the question.

4 A Well, the question was manufacturing
5 pharmaceuticals; they are not set out to -- it
6 could have been used as a filtering agent, yes, it
7 was, and then that was at the -- I specifically
8 said the Jefferson Chemical plant in Port Neches.
9 You asked the question if they used raw asbestos,
10 and I don't recall them using raw asbestos as a
11 product; as a filtering agent, perhaps, so --

12 Q So in the production of
13 pharmaceuticals, American Cyanamid did use
14 asbestos at the Lederle facility?

15 A I said they might have.

1 Jefferson Chemical Company in Port Neches, Texas";
2 is that what it says?

3 A That's what it says.

4 Q And you can -- you and I can agree
5 that at the Lederle Lab facility pharmaceuticals
6 were manufactured there?

7 A That's correct.

8 Q Now, American Cyanamid was a member of
9 the Industrial Health Foundation while you were
10 employed; is that true?

11 A Industrial Health Foundation, yes.

12 I'm sure, I'm sure they were.

13 Q And the Industrial Health or Hygiene
14 Foundation, as you know, the name had changed a
15 few times?

16 A That's correct, that's why I
17 hesitated.

18 Q Understood. That foundation was
19 formed back in the '30s; correct?

20 A I'm not aware of when it was formed.

21 Q Do you remember the IHF having an
22 industrial hygiene digest?

23 A Yes.

24 Q And if you were a member of the IHF,
25 you would receive that digest on a monthly basis;

39

41

1 MR. HANNA: Objection.

2 Q Well, here you said they did; correct?

3 MR. HANNA: Objection, it is a
4 different facility, Janice.

5 Q You were asked whether it was used in
6 connection with the manufacturing of
7 pharmaceuticals, and your answer was it was used
8 as a filtering agent or --

9 A No, the answer was, the answer was,
10 "It might have been used as a filtering agent,
11 yes, it was, it was used as a filtering agent in
12 the production of chlorine" --

13 Q No, you're --

14 A That's two different plants.

15 Q No, read your answer, sir. Your
16 answer was --

17 A I just -- I just read it.

18 Q You read it inaccurately. You
19 responded -- this is your response --

20 MR. HANNA: Objection, arguing with
21 the witness.

22 Q -- "It might have been used as a
23 filtering agent in some processes. In fact,
24 I'm -- yes, it was. It was used as a filtering
25 agent or in the production of chlorine at the

1 correct?

2 A I'm not sure what the periodical was,
3 but it was received regularly, yes.

4 Q Can you and I agree that the digest
5 during the time period that you were employed by
6 American Cyanamid, in the digest there were
7 abstracts of articles about asbestos-related
8 diseases?

9 A Well, it had abstracts, I can't say
10 what was included, but I could not disagree with
11 you that it probably did have something on
12 asbestos.

13 Q The Industrial Hygiene or Health
14 Foundation, if American Cyanamid wanted them to
15 come in and do environmental surveys, they could
16 have done that; correct?

17 MR. HANNA: Objection.

18 A Are you saying that the Industrial
19 Hygiene Foundation could come in and do surveys?

20 Q Correct, that American Cyanamid could
21 contact them and make a request that they come in
22 and do a survey.

23 A I don't know.

24 MR. HANNA: Objection.

25 A I don't know.

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12 (Pages 42 to 45)

42		44	
1	Q You are not aware of that?	1	hygienist at Lederle.
2	MR. HANNA: Objection, asked and	2	Q And do you recall his or her name?
3	answered.	3	A I have been reminded recently it is
4	A No.	4	John Wright.
5	Q Did you ever attend any presentations	5	Q Is Wright W-R-I-G-H-T, would that be
6	that were offered by the IHF?	6	the correct spelling?
7	A Yes.	7	A Yes.
8	Q And was that during your employment	8	Q And who refreshed your recollection
9	with American Cyanamid?	9	regarding John Wright recently?
10	A No.	10	A It came through another one of the
11	Q When was that?	11	industrial hygienists that had worked at Cyanamid.
12	A When I was with 3M.	12	Q Did you have any discussions about
13	Q So that was after your employment --	13	this case with another industrial hygienist?
14	A Yes.	14	A Not this case, no.
15	Q -- with American Cyanamid?	15	Q Well, can you tell me, who mentioned
16	A Yes.	16	the name to you recently of John Wright?
17	Q Do you know if Mr. Bradley during his	17	A Mr. Hanna.
18	career with American Cyanamid attended any IHF	18	Q And was Mr. Wright at the Lederle
19	meetings or presentations?	19	facility the entire time that you were employed by
20	A I don't know.	20	American Cyanamid, if you know?
21	Q Mr. Pendergrass, are you familiar with	21	A Yes, he was.
22	Dr. Robert Parker, P-A-R-K-E-R, based on your	22	Q Do you know by chance if Mr. Wright is
23	employment at American Cyanamid?	23	living today?
24	A No.	24	A I don't know.
25	Q You had occasion to go to the	25	MR. HANNA: Janice, I believe he's --
43		45	
1	Lederle Lab facility; correct?	1	I believe we have turned that over. I
2	A I have visited the facility, yes.	2	believe Mr. Wright is deceased. I think he
3	Q When you went there -- once again, I	3	is on our list.
4	know I'm taking you back a long way -- do you	4	Q Mr. Pendergrass, did you know during
5	remember who was the plant manager or the person	5	your employment or know of a physician by the name
6	in charge of the facility?	6	of Dr. W. G. Malcolm, M-A-L-C-O-L-M?
7	A No.	7	A I don't recall that name.
8	Q When you would go there, or went	8	Q How about this name, John Allegaert,
9	there, was it as a result of doing the health	9	A-L-L-E-G-A-E-R-T, Allegaert?
10	surveys?	10	A No.
11	A It would be associated with the	11	Q Do you know who was the chief
12	industrial hygiene activities there.	12	executive officer of American Cyanamid when you
13	Q Would you have -- when you say that,	13	were so employed?
14	does that always mean that you were there to	14	A I don't recall.
15	conduct a survey, or would there be some other	15	Q Now, you authored an article, and we
16	reason why you would have been there?	16	will have Mike show you to refresh your
17	A It might have been for a survey or it	17	recollection, you authored an article about
18	might have been to evaluate a particular	18	Mr. Bradley; do you remember that?
19	situation.	19	A Let me see it.
20	Q And when you went there, do you recall	20	Q Sure.
21	who you would have contact with or -- even if you	21	MS. SAVINIS: Mike, would you please
22	can't identify the person by name, whether you	22	show Mr. Pendergrass Exhibit No. 10.
23	could say "I would go to the plant manager," or "I	23	Q And the article is "Pioneers in the
24	would go to the person that held this title"?	24	Profession, William R. Bradley," and this was
25	A There was a resident industrial	25	published by you in the American Industrial

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13 (Pages 46 to 49)

46		48	
1	Hygiene Association Journal in 1990.	1	your time, I want to ask you if you could flip to
2	Just take a moment to refresh yourself	2	the second page of your article, and if you would
3	with that article, and then you just tell me when	3	look at the -- read to yourself the fourth and
4	you are ready.	4	fifth paragraph, and you tell me --
5	A Well, go ahead and ask me questions	5	A On page 2?
6	about it, because I just vaguely remember writing	6	Q Yes, sir. And when you are done,
7	this.	7	Mr. Pendergrass, please let me know.
8	Q Okay. Now, let me ask you this:	8	A Okay.
9	Mr. Bradley, do you remember him being employed	9	Q Now, in these two paragraphs you
0	back in 1937 by the Bureau of Industrial Hygiene	10	indicate that when Mr. Bradley was employed by the
1	in -- with the Michigan Department of Health; do	11	Detroit Department of Health, he and Mr. Frederick
2	you remember that?	12	developed a toxicology laboratory --
3	MR. HANNA: Objection.	13	A Yes.
4	A I don't recall that. I recall that he	14	Q -- and in that laboratory they did --
5	has, he has discussed that at times in just	15	and I'm going to read the quote -- "Private
6	general conversations, yes, I was aware that he	16	studies involving tracheotomy, introduction of
7	had been there.	17	chemicals, free silica and asbestos into lungs
8	Q And do you recall him working during	18	were done and published"; do you see that?
9	that time period with a gentleman by the name of	19	A Yes.
0	Bill Frederick?	20	Q Do you recall Mr. Bradley disclosing
1	A I knew that Bill Frederick and Bradley	21	to you and having knowledge, in order to write
2	were there at Hanover Lab and Bill Frederick	22	this article, that Mr. Bradley, before he secured
3	remained there.	23	employment with American Cyanamid, was doing
4	Q And do you remember Mr. Bradley	24	animal studies with asbestos?
5	leaving the Department of Health and going to	25	A In a general way, yes.
47		49	
1	Fidelity and Casualty Insurance Company back in	1	Q Now, I'm going to represent to you,
2	the early '40s?	2	Mr. Pendergrass, that Mr. Bradley, years ago, was
3	A Well, you say "do I remember it," I	3	deposed, and he testified that American Cyanamid
4	personally don't remember that, and I know that	4	had one of the biggest industrial hygiene programs
5	this was a part of his past that I became aware of	5	in the industry, and he was very proud to be part
6	in discussions with Bill Bradley.	6	of that, and I guess my question to you is: Would
7	Q And did he disclose to you during his	7	you agree with that statement, that when you were
8	employment with the insurance company that he	8	employed --
9	worked with Frank Patty?	9	A Yes.
0	A Yes.	10	Q -- employed by American Cyanamid, it
1	Q And who is Frank Patty?	11	had one of the biggest industrial hygiene groups
2	A Frank Patty was head of industrial	12	in the industry?
3	hygiene for General Motors and the author of a	13	A Yes.
4	two-volume text "Industrial Hygiene and	14	Q And there were men that were
5	Toxicology."	15	affiliated with that program in industrial hygiene
6	Q Certainly well known in the area of	16	that were very talented and well respected in the
7	industrial hygiene?	17	industry?
8	A Yes.	18	A Yes.
9	Q And then was it your understanding	19	Q Including yourself?
0	that Mr. Bradley left the insurance company and --	20	A Yes.
1	Fidelity and Casualty and then came aboard with	21	Q Now, when you were employed by the --
2	American Cyanamid?	22	American Cyanamid, do you remember working with a
3	A I think that's the order of his	23	gentleman by the name of James, and I assume it is
4	history.	24	pronounced "Rook" or "Rook," R-O-O --
5	Q Now, if you would be so kind and take	25	A "Rook."

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14 (Pages 50 to 53)

50	52
1 Q R-O-O -- 2 A "Rook." 3 Q "Rook," R-O-O-K. 4 A Like the card game, Rook. 5 MR. HANNA: Like the chess piece. 6 MS. SAVINIS: I gotcha. 7 Q Was he an industrial hygienist, part 8 of corporate industrial hygiene, like yourself? 9 A Yes. 10 Q And do you remember a gentleman by the 11 name of J. Brennan Gisclard? 12 A I did not know him. He had left 13 Cyanamid before I left. 14 Q And did you know a gentleman by the 15 name of William Anderson? 16 A Andresen. 17 Q Andresen, do you remember him? 18 A Yes. 19 Q And, actually, I want you to hold on 20 to that original article that you have because I'd 21 like you to look at a section of this article 22 where you reference Mr. Andresen, and I'm going to 23 find it for you in one second. 24 A Okay. 25 MS. SAVINIS: Just go off the record	1 techniques that became a Bible for process and 2 design engineers. Bill Bradley was quick to 3 recognize when the people who worked for him had a 4 good idea." 5 And my question to you is: Can you 6 tell me what this Bible or book that Mr. Andresen 7 developed during his employment with American 8 Cyanamid, what was that Bible or book used for? 9 A Bill had designed a number of 10 different ventilating techniques for different 11 pieces of processing equipment. It was primarily 12 an exhaust ventilation manual in which he had 13 many, many different -- I don't recall how many -- 14 designs for different types of equipment. 15 Q And it was my understanding that any 16 time American Cyanamid was changing a facility or 17 adding on to a facility, somebody from industrial 18 hygiene would be involved so that American 19 Cyanamid could be assured that proper ventilation 20 was used? 21 A That's correct. 22 Q Because why, why did Mr. Andresen 23 create this Bible and why was it important to you 24 as a member of industrial hygiene? 25 A Well, he created it because he saw a
51	53
1 one moment, please. 2 THE VIDEO OPERATOR: We are off the 3 record. 4 (Recess taken.) 5 MS. SAVINIS: We can go back on the 6 record. 7 THE VIDEO OPERATOR: We are back on 8 the record. 9 BY MS. SAVINIS. 10 Q Mr. Pendergrass, if you would go to 11 the last page of your article -- 12 A All right. 13 Q -- and if you would read, first, to 14 yourself the second full paragraph and let me know 15 when you are done, okay, starting "A number of us 16 have enjoyed." 17 A Yes. 18 Q Read that and tell me when you are 19 done. 20 A Okay. 21 Q You are talking about Mr. Andresen, 22 he was another one of the industrial hygienists, 23 just like yourself, and you note in this article 24 the following: "He," meaning Mr. Andresen, 25 "created a book of engineering drawings of control	1 need for this sort of information. He compiled it 2 into a manual, into a book, and this was 3 distributed -- because all of us had copies of it, 4 I still have a copy of it -- and to the 5 engineering people in the company, and could refer 6 to such-and-such a page, or part of it, and then 7 the type of ventilation, and it would be effective 8 for a particular piece of equipment. 9 Q But can you and I agree, 10 Mr. Pendergrass, that the long and short of it was 11 you wanted to protect workers with engineering 12 controls? 13 A That's correct. 14 Q Now, I understand that Mr. Rook, 15 Mr. Andresen, you, Mr. Bradley, were all corporate 16 industrial hygienists. Were there any -- 17 A There was also McHenry. 18 Q That's who I'm looking for -- 19 A He was an industrial hygienist, also. 20 Q -- Mr. McHenry. 21 Are there any other individuals you 22 want to add to this list? 23 A Of the corporate staff, that was it 24 while I was there. 25 Q Okay. Is McHenry, if you know,

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15 (Pages 54 to 57)

54	56
1 Mr. Pendergrass, is he living today? 2 A No, he is not. 3 Q Everybody that you worked with who was 4 an industrial hygienist at American Cyanamid, 5 corporate industrial hygienist, is deceased today; 6 correct? 7 A No, Mr. Andresen and I are still 8 kicking around. 9 Q Oh, I forgot, Mr. Andresen. 10 Can you tell me, did you speak to 11 Mr. Andresen about this case or your deposition 12 today? 13 A No. 14 Q Now, you told me that you recalled 15 Dr. Golz taking over as the medical director while 16 you were there, shortly after you began your 17 employment with American Cyanamid, and I want to 18 ask you about some other physicians. Do you 19 remember Dr. Robert Clyne, C-L-Y-N-E? 20 A Yes, yes. 21 Q And what position did he hold? 22 A I don't know the exact title, but he 23 was essentially an associate medical director. 24 Q Did he work under Dr. Golz? 25 A Yes.	1 the question. It assumes that they were 2 using it as a filter at Lederle. 3 Go ahead and answer the question, sir. 4 A Now I'm sort of lost on the question. 5 Sorry. 6 Q That's okay, Mr. Pendergrass. 7 You had mentioned asbestos being used 8 as a filler in pharmaceuticals. 9 My question to you, were workers 10 advised to wear a mask or respirator when using 11 asbestos for a filler in pharmaceutical 12 production? 13 MR. HANNA: Objection, at Lederle are 14 we talking, or are we talking about the place 15 in Texas? 16 MS. SAVINIS: You heard my question. 17 A I wouldn't know. It would depend on 18 what the potential exposure was. In addition to 19 that, there was a resident industrial hygienist at 20 Lederle. 21 Q And so what does that mean? 22 A It means what I said. 23 Q Well, does it mean that the industrial 24 hygienist that was at Lederle would be the person 25 that would tell the employees to wear or not wear
55	57
1 Q How about Dr. James Clarkin, 2 C-L-A-R-K-I-N? 3 A I don't remember him. 4 Q Dr. John Marchand, M-A-R-C-H-A-N-D? 5 A I don't remember him. 6 Q Dr. Arthur Mangelsdorff, 7 M-A-N-G-E-L-S-D-O-R-F-F? 8 A No. 9 Q Can you tell me, when you went to the 10 Lederle Lab, was there a plant physician? 11 A I would suspect that there was, but I 12 can't recall and I don't know that I ever met him. 13 I can't recall for sure. 14 Q At the Lederle Lab facility, did they 15 perform chest x-rays on their workers? 16 A That I don't know. 17 Q Do you know if they performed 18 breathing studies? 19 A I don't know what the details of the 20 physical examinations would have been. 21 Q Okay. Do you know if they were using 22 asbestos as a filter, as you described, whether 23 workers were urged to wear a mask or respirator 24 then? 25 MR. HANNA: I object to the form of	1 a respirator? 2 A If it were necessary, it would be up 3 to him, yes. 4 Q At that time, when you were employed 5 by American Cyanamid, were there masks or 6 respirators that could prevent workers from having 7 an exposure to asbestos? 8 A You mean just generally were they 9 available on the market? 10 Q Yes, that -- 11 A Is that what you are asking? 12 Q Yeah, if Amer- -- did -- could 13 American Cyanamid purchase masks or respirators 14 for workers who were working with or around 15 asbestos that would have protected them? 16 MR. HANNA: Objection, go ahead. 17 A There were such respirators on the 18 market. Lederle could have purchased them, if 19 they wanted to. 20 Q Okay. Now, I'm going to ask you if 21 Lederle -- excuse me, if American Cyanamid was 22 involved in the plastics industry. 23 A I'm sorry, were you asking me whether 24 Lederle was a part of the plastic industry -- 25 Q I apologize. I --

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

16 (Pages 58 to 61)

58	60
1 A -- or Cyanamid? 2 Q American Cyanamid. 3 A Yes, they were. 4 Q And American Cyanamid had divisions 5 that were involved in plastics; correct? 6 A That's correct. 7 Q Did American Cyanamid use asbestos in 8 connection with the production of plastics? 9 MR. HANNA: Objection. 0 A I don't recall it. 1 Q I'm going to have Mike show you an 2 article that was published by Mr. Bradley in 3 1951. 4 MS. SAVINIS: And, Mike, that is going 5 to be Exhibit No. 19. 6 Q And I'm going to represent to you, 7 Mr. Hanna, you have seen this document before. 8 MR. HANNA: Was that in the Gramling 9 deposition, Janice? 0 MS. SAVINIS: Correct. 1 MR. HANNA: Thank you. 2 MS. SAVINIS: Sure. 3 MR. HANNA: Thank you, Mike. 4 MR. ROBB: Sure. 5 BY MS. SAVINIS:	1 The second paragraph begins with the 2 word "asbestos," and the third paragraph begins 3 with the word "it," and just take your time, and 4 please let me know when you are done. 5 A Okay. 6 Q And if you look at the very front 7 page, it is noted that, "At this point in time 8 Mr. Bradley was employed by American Cyanamid." 9 and he talks about in these two paragraphs that 10 you read about asbestos being used as a filler, 11 the disease process asbestosis, and threshold 12 limit values for asbestos; is that true? 13 A That's true. 14 Q And if you would be so kind and flip 15 to the next page under the heading "Highlights of 16 Process Control," and if you go halfway down that 17 first paragraph, the following is noted: "The use 18 of fillers in the form of dust should be done with 19 care to avoid inhalation of the dust, particularly 20 those containing free silica or asbestos." Do you 21 see that? 22 A Yes. 23 Q And, finally, if you flip to the very 24 last page, page 11, an individual who attended the 25 presentation asked Mr. Bradley the following
59	61
1 Q This is an article by Mr. Bradley in 2 the Society of the Plastics Industries, and it 3 was -- a copy of this report was presented at a 4 meeting back in 1951. 5 MR. HANNA: I think it's -- is it '51, 6 Janice? It says '53 at the top of this 7 article, that's why. 8 MS. SAVINIS: Well, if you look at the 9 typed -- under the heading the meeting -- 0 MR. HANNA: Is this 22? 1 MS. SAVINIS: -- the meeting was 2 conducted in 1951, but this publication -- 3 MR. HANNA: Okay, I'm sorry. 4 MS. SAVINIS: -- was in 1953. 5 MR. HANNA: Okay. Thank you. 6 BY MS. SAVINIS: 7 Q I'm going to ask you, first of all, 8 Mr. Pendergrass, have you ever seen this article? 9 A No. 0 Q And I can represent to you that in 1 this article, that Mr. Bradley talks about 2 asbestos being used as a filler in the plastics 3 industry, and I'm going to refer you to page 7 of 4 that article and ask you to look at the first and 5 second full paragraph.	1 question: "From the standpoint of industrial 2 hygiene, what are the most serious problems to 3 consider in the field of reinforced plastic?" And 4 could you read Dr. Bradley's answer? 5 A After I find the question, yeah. 6 Q It is the very last question on the 7 last page, page 11. 8 A Okay, gotcha, yes. Go ahead. 9 Q Can you read it out loud? 10 A Yes, Mr. Bradley knew about it, "From 11 a standpoint of industrial hygiene, what are the 12 most serious problems to consider in the field of 13 reinforced plastics?" 14 "It is my opinion," this is 15 Mr. Bradley, "it is my opinion that the most 16 serious health exposure problem in the reinforced 17 plastics industry is the opportunity for intermit 18 ventilation with toxic dust and vetters." 19 Q Now, American Cyanamid was in the 20 reinforced plastic business; correct? 21 A The -- I don't recall that they were 22 in the -- well, someone is going to have to define 23 what reinforced plastics is. They were in the 24 plastics business, but I don't think that that was 25 the sort of business that is being discussed here.

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Transcript of John Pendergrass

17 (Pages 62 to 65)

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1 Q So you think Mr. Bradley was
2 discussing this as an American Cyanamid employee
3 about some other industry, he wasn't speaking
4 about American Cy- -- his involvement with
5 American Cyanamid and their involvement with
6 reinforced plastics?

7 MR. HANNA: Objection. If you know,
8 go ahead.

9 A Well, it seems to me from what little
10 I have read of this that Mr. Bradley had been
11 asked to participate in a program for the
12 reinforced plastic industry, and he gave this very
13 general discussion of reinforced plastics and
14 possible health hazards and control measures. I
15 don't think he was saying that -- necessarily that
16 this was the experience from American Cyanamid.

17 Q Well, based on your experience with
18 American Cyanamid in their plastic division, did
19 they use asbestos, to your knowledge, as a filler?

20 A To my knowledge, no.

21 Q Did you visit any of the plastic
22 facilities?

23 A Yes.

24 Q And where did you -- what facilities
25 did you visit, and certainly if you want to look

1 thought maybe that would help refresh his
2 recollection, but if it doesn't, no big deal.

3 BY MS. SAVINIS:

4 Q Just tell me, Mr. Pendergrass, what
5 facilities that American Cyanamid owned and
6 operated that were in the plastic divisions that
7 you visited.

8 A Well, the one that comes to mind was
9 in Wallingford, Connecticut, which made melamine
10 for -- melamine for dishes, and I don't recall
11 there being any asbestos there.

12 MS. SAVINIS: Okay. Can we just go
13 off the record for one second?

14 MR. HANNA: Sure.

15 THE VIDEO OPERATOR: We are off the
16 record.

17 (Recess taken.)

18 MS. SAVINIS: Let's go back on the
19 record.

20 THE VIDEO OPERATOR: We are back on
21 the record.

22 BY MS. SAVINIS:

23 Q Mr. Pendergrass, we went off the
24 record, and I showed you a deposition transcript
25 for a depo that you did on January 29th, 1992, in

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1 at that one exhibit that lists the plants or the
2 divisions, I invite you to do so.

3 A I don't know that the plants --

4 MR. HANNA: I think they are. Let me
5 just see here.

6 Are the plants listed on there,
7 Janice? I just don't --

8 MS. SAVINIS: Yeah, they are listed.

9 MR. HANNA: I see it's -- can you tell
10 me where, just to save time?

11 MS. SAVINIS: I think they all list
12 the plants. Every division is listed, and
13 under every division the plants are listed.

14 MR. HANNA: Okay, wait a minute.

15 Q Or certainly, Mr. Pendergrass, you can
16 tell me based on your own knowledge what
17 facilities that you visited that American
18 Cyanamid --

19 MR. HANNA: Well, let me -- if you
20 want to point him to something in there, just
21 tell him where it is at. I mean,
22 otherwise -- I just don't see it, Janice, and
23 I don't know that he sees it, but --

24 MS. SAVINIS: That's fine. Let him
25 testify, then, to his own recollection. I

1 the Circuit Court Third Judicial Circuit of
2 Illinois, Madison County, and I asked you to
3 review pages 37 to 41.

4 And on page 37 you were asked the
5 question, "Did you know that prior to my comment
6 now that American Cyanamid was a manufacturer of
7 asbestos-containing products," and you responded.
8 "I don't recall. It would not have been unusual
9 for asbestos to be used as a filler material in
10 plastics." Do you see that?

11 A Yes, yes.

12 Q So back in 1992 you recalled asbestos
13 being used as a filler material in plastics, and
14 then the lawyer asked you a series of questions
15 about your employment, and then, finally, on
16 page 41 you state, "As I said with a regard to
17 American Cyanamid, asbestos was used as a filler
18 material as component of different products that
19 were manufactured."

20 And my question, do you recall, after
21 looking at this transcript, that you have a
22 recollection of American Cyanamid utilizing
23 asbestos as a filler in the manufacturing of their
24 plastics?

25 A No, I don't.

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

18 (Pages 66 to 69)

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1 Q Okay. Fair enough.
2 Now, when you were employed by
3 American Cyanamid, you had already been a diplomat
4 of the American Academy of Industrial Hygiene;
5 correct?
6 A Before I went to Cyanamid, no.
7 Q During your employment with
8 American Cyanamid, you were a diplomat of the
9 American Academy of Industrial Hygiene?
10 A Yes, during that time.
11 Q And did the Academy of Industrial
12 Hygiene have publications?
13 A No.
14 Q No publications?
15 A Not that I recall.
16 Q Did you attend meetings?
17 A The Academy was the people who had
18 been certified industrial hygienists by the
19 American Board of Industrial Hygiene.
20 Q And while you were employed by
21 American Cyanamid, more specifically in June of
22 1963, you became a certified industrial hygienist;
23 correct?
24 A That's correct, yes.
25 Q And you were a member of the

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1 American Industrial Hygiene Association; correct?
2 A Yes.
3 Q Did they have any journals or provide
4 any literature to you?
5 A The American Industrial Hygienist
6 Association published a journal, yes.
7 Q And you received that journal as a
8 member?
9 A Yes.
10 Q And did you review that journal?
11 A Yes.
12 Q Did you ever publish in that journal?
13 A Yes.
14 Q Now, at American Cyanamid, I assume
15 they had libraries?
16 A Yes.
17 Q Was there a library at the Pearl River
18 facility?
19 A That I can't say for sure, I don't
20 know. I would think so.
21 Q I apologize. I didn't hear your
22 answer.
23 A I said I can't say positively, but I
24 would suspect that they did.
25 Q Okay. When you were at the Wayne,

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1 New Jersey corporate headquarters, did they have a
2 library there?
3 A Did who have a library?
4 Q American Cyanamid.
5 A I can't speak for the company, I can't
6 tell you that the medical department did, yes.
7 Q Did you have access to a library as a
8 corporate industrial hygienist?
9 A Yes.
10 Q And where was that library located?
11 A It was physically located in the same
12 area as our offices, in the medical department.
13 Q So would that be at the Wayne,
14 New Jersey facility?
15 A Yes.
16 Q And can you tell us what type of
17 publications that you had access to as a corporate
18 industrial hygienist by going to the American
19 Cyanamid library?
20 MR. HANNA: Objection.
21 A No, I can't recall.
22 Q Now I'm going to show you Answers to
23 Interrogatories that were provided by Mr. Hanna's
24 client.
25 MS. SAVINIS: And those

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1 Interrogatories, Mike, are Exhibit No. 30.
2 Q And I'm going to ask you to look at
3 Interrogatory No. 19; okay?
4 MR. ROBB: Here you go.
5 MR. HANNA: Thank you, Mike.
6 MR. ROBB: You are welcome.
7 MS. SAVINIS: You tell me when you are
8 done.
9 THE WITNESS: All right.
10 BY MS. SAVINIS:
11 Q In Interrogatory No. 19 the defendant
12 in this case indicated that the periodicals that
13 were available to them were as follows, the
14 Journal of the American Industrial Hygiene
15 Association, the Journal of Occupational Health,
16 and the Journal of the American Medical
17 Association. Do you see that?
18 A Yes.
19 Q Now, reflecting back on your
20 experience at the library in Wayne, New Jersey,
21 do you recall these specific journals being
22 available to people like yourself?
23 A Well, I, as an individual, received
24 the Journal of the American Industrial Hygiene
25 Association. The Journal of Occupational Health

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Transcript of John Pendergrass

19 (Pages 70 to 73)

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1 and JAMA would have gone to the physicians. I
2 have no reason to believe that I couldn't have had
3 access to them, if I wanted to.
4 Q And I'm assuming, would this be
5 accurate: In light of the fact that you were a
6 young industrial hygienist and you were working
7 for a large corporation, that you did visit the
8 library?
9 A Are you asking did I ever visit the
0 library, is that your question?
1 Q Yeah, to read journals.
2 A Yes, I did.
3 Q Pardon me?
4 A Yes, yes.
5 Q Okay. Fair enough.
6 Do you know, who was the chief
7 librarian or the main librarian at the facility in
8 New Jersey that you referenced?
9 A Again, you are talking about the
0 corporate library.
1 Q You are correct.
2 A No, I don't know.
3 Q Doctor -- or excuse me,
4 Mr. Pendergrass, when you were employed by
5 American Cyanamid, you were intimately familiar

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1 with threshold limit values; correct?
2 A Yes.
3 Q And can you tell us in simple terms,
4 as an industrial hygienist, what are threshold
5 limit values?
6 A Threshold limit values are those
7 concentrations of a substance to which a person
8 can be exposed eight hours a day, five days a
9 week, for a working lifetime without suffering ill
0 health, that is the goal of them.
1 Q But does that mean a person could be
2 exposed and get sick still?
3 A If you exceeded the threshold limit
4 value for a sufficient length of time, yes.
5 Q Could there be individuals who did not
6 exceed the limit but still developed disease?
7 MR. HANNA: Objection.
8 A The threshold limit values are based on
9 the general population. Can there be exceptions;
0 yes.
1 Q Now, when you were employed by
2 American Cyanamid, you are aware, are you not,
3 that there was a threshold limit value for
4 asbestos?
5 A Yes.

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1 Q And the corporate industrial hygiene
2 department and the corporate medical department
3 would have had that same knowledge; correct?
4 A Yes.
5 Q And can you tell us, be so kind to
6 tell us, what the threshold limit value was for
7 asbestos while you were employed by American
8 Cyanamid?
9 A Five million particles per cubic foot
10 of air.
11 Q And would you be so kind,
12 Mr. Pendergrass, and tell us, while you were
13 employed by the -- American Cyanamid, what entity
14 was setting forth the threshold limit values?
15 A The threshold limit values were a
16 publication of the American Conference of
17 Governmental Industrial Hygienists.
18 Q And were you ever a member of the
19 American Conference of Governmental Industrial
20 Hygienists?
21 A When I was assistant secretary of
22 labor for OSHA, yes, I was.
23 Q And were you not also a member of that
24 organization when you were employed by the
25 Tennessee Valley Authority?

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1 A I don't think so.
2 MS. SAVINIS: If we can just go off
3 the record for a moment.
4 THE VIDEO OPERATOR: We are off the
5 record.
6 (Recess taken.)
7 MS. SAVINIS: Back on the record.
8 BY MS. SAVINIS:
9 Q Mr. Pendergrass, I showed you a
10 deposition transcript from August 21st, 2001, and
11 I asked you if you could look on page 23, and the
12 question was, "Was there a period of time when you
13 were a member of the American Conference of
14 Governmental and Industrial Hygienists," and you
15 answer "Yes."
16 And then the next question was, "When
17 was that?" And could you read your answer?
18 A "When I worked for the Tennessee
19 Valley Authority, I'm pretty sure that I was a
20 member of ACGIH at that time and, again, when I
21 was assistant Secretary of Labor for OSHA."
22 Q Now, looking at this deposition
23 transcript, does it refresh your recollection that
24 you may have been a member of the ACGIH when you
25 were employed by the Tennessee Valley Authority?

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Transcript of John Pendergrass

20 (Pages 74 to 77)

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1 A I think that was probably an error at
2 that deposition.
3 Q Okay. So you think the only time you
4 were a member of the ACGIH was when you were
5 employed by the government?
6 A I think that's correct.
7 Q Okay. However, the key thing is when
8 you were employed by American Cyanamid, you were
9 aware of the threshold limit value for asbestos;
10 correct?
11 MR. HANNA: Objection.
12 A That's correct
13 Q And can you tell us when the ACGIH
14 first set a threshold limit value for asbestos?
15 A The first threshold limit value
16 publication was 1946.
17 Q And that included asbestos?
18 A I'm sure it did
19 Q Now, Mr. Bradley and Mr. Andresen,
20 two industrial hygienists just like yourself,
21 indicated that they relied on the threshold limit
22 values, and Mr. Andresen actually testified that
23 every year while he was employed by American
24 Cyanamid, American Cyanamid provided him with
25 copies of the threshold limit values.

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1 So my first question to you is when
2 you were employed by American Cyanamid, do you
3 recall them providing, your employer, providing
4 you with the threshold limit values set forth by
5 the ACGIH?
6 A That's correct.
7 Q And can you and I agree that during
8 that time period as an industrial hygienist, you
9 would rely on those threshold limit values?
10 A Yes.
11 Q Now I'm going to ask Mike to show
12 you -- before Mike walked in the room, I had
13 referenced an article -- or not an article, a
14 report that you had prepared in Allegheny County
15 asbestos litigation, and we are going to pull that
16 out.
17 MS. SAVINIS: And, Mike, that is --
18 let me get you the right -- it is Exhibit
19 No. 9.
20 Q And I'm going to direct your attention
21 and counsel's attention to page 4.
22 MR. HANNA: Thank you.
23 MS. SAVINIS: Sure.
24 MR. HANNA: Thanks, Mike.
25 MR. ROBB: You are welcome.

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1 THE WITNESS: Oh, thank you.
2 MR. ROBB: You are welcome.
3 BY MS. SAVINIS:
4 Q And on the top of page 4, in the first
5 full paragraph, you reference "In 1946 the
6 American Conference of Governmental Industrial
7 Hygienists set forth the TLV for asbestos," and
8 I'm directing your attention to the very last
9 paragraph, more specifically your statement,
10 quote, "In evaluating asbestos levels in work
11 areas, it is necessary to obtain air samples by
12 either midjet impinger or with filters. Analysis
13 is by optical microscopic counting." Do you see
14 that?
15 A Yes.
16 Q Would this be accurate,
17 Mr. Pendergrass, as an industrial hygienist, in
18 order to determine if there -- if an individual or
19 a worker is being exposed beyond -- an individual
20 is being exposed beyond the threshold limit value,
21 you have to do air sampling?
22 A Yes. Go ahead.
23 Q Is that true?
24 A Are you asking me whether this
25 statement here is true?

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1 Q In order to determine whether a worker
2 has an exposure beyond the threshold limit value,
3 you as an industrial hygienist do air sampling?
4 A That's right.
5 Q And when you were an industrial
6 hygienist back at American Cyanamid, was it
7 possible to do air samples by midjet impinger?
8 A Yes.
9 Q Was it possible to do air sampling
10 with filters?
11 A At that time I don't believe so.
12 Q Okay. You think the only way to do
13 air samples at that point in time was by the
14 impingers?
15 A Yes. I'm trying to remember when the
16 filter technique came in. It could have been
17 then, but I think the more frequent thing would
18 have been to use an impinger sampler.
19 Q And if American Cyanamid would do
20 asbestos air sampling, they would have used the
21 midjet impinger?
22 A Probably so, yes.
23 Q I'm going to have Mike also show you
24 Exhibit No. 24, and this was an article that was
25 published in the American Industrial Hygiene

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

21 (Pages 78 to 81)

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1 Quarterly in March of 1953, and it is entitled,
2 quote, "A Simple Device for Air Analysis."
3 A Okay.
4 Q And can you tell us who the authors of
5 the article were?
6 A Gisclard, Rook, Andresen and Bradley.
7 Q The individuals that you identify --
8 and it is noted on here that all of these
9 individuals back in 1953 were employed by
0 American Cyanamid.
1 A That's correct.
2 Q Did you have any participation -- you
3 weren't employed yet, correct, by American
4 Cyanamid?
5 A Not -- no, not in 1953.
6 Q Did you ever have an opportunity to
7 review this article as an employee of American
8 Cyanamid?
9 A I don't recall seeing it before.
0 Q Fair enough. Thanks.
1 Did you ever author any articles on
2 air sampling in general?
3 A Yes.
4 Q And can you tell me when you did that?
5 A That was probably sometime after

1 Take your time. When you read the
2 whole paragraph, let me know.
3 MR. HANNA: Beginning with -- Janice.
4 are we talking about beginning with
5 "historically" on the second page?
6 MS. SAVINIS: I'm talking about
7 page 5, "in 1964."
8 MR. HANNA: Okay. Thank you. Thank
9 you.
10 MS. SAVINIS: Sure.
11 MR. HANNA: Page 5. I think it is the
12 second paragraph on page 5.
13 A Okay.
14 Q Now, you state in your report, quote,
15 "In 1964, Dr. Irvin Selikoff and colleagues
16 reported on their study of insulation workers.
17 many of whom had been shipyard workers and exposed
18 to amosite asbestos during the Word War II period.
19 Dr. Selikoff reported that there was a link
20 between asbestos exposure and lung cancer "
21 And you were at Dr. Selikoff's
22 presentation; correct?
23 A That's correct.
24 Q So this is in April of 1964, so at
25 this time you are an employee of American

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1 1960. I don't remember the exact date.
2 Q Okay. And what was -- taking air
3 samples for what, or what were you telling the
4 reader about?
5 A Chlorine.
6 Q Do you think at that point in time you
7 were employed by American Cyanamid, or were you
8 already at 3M?
9 A No, that was at Cyanamid.
0 Q It was at Cyanamid?
1 A Yes.
2 Q So if we looked --
3 A Yes.
4 Q Okay. Do you think you have a copy of
5 that article at your home?
6 A I don't really know whether I do or
7 not.
8 Q Okay. Fair enough.
9 A I'm retired. I don't keep a lot of
0 this stuff.
1 Q Okay. I'd like to refer you, again,
2 Mr. Pendergrass, to your Allegheny County report
3 and ask if you'd be so kind to look at paragraph
4 No. 5, and more specifically, the second paragraph
5 when you discuss Dr. Selikoff.

1 Cyanamid; correct?
2 A Yes.
3 Q Now, I want to ask you -- and I'm
4 going to have Mike show you an article, No. 33.
5 and I'm going to represent to you that that
6 article that Mike just handed you is and was
7 published in 1960 in the British Journal of
8 Industrial Medicine by Dr. Wagner, W-A-G-N-E-R.
9 and the title is "Diffuse Pleural Mesothelioma and
10 Asbestos Exposure in Northwestern Cape Province."
11 and my first question to you is, are you familiar
12 with that article?
13 A Yes.
14 Q And are you aware in 1960 Dr. Wagner
15 made a link between asbestos exposure and the
16 disease as- -- and the disease mesothelioma?
17 MR. HANNA: Objection, objection to
18 the form of the question, assumes facts not
19 in evidence.
20 Q Mr. Pendergrass, are you aware that
21 Dr. Wagner made a link between asbestos exposure
22 and mesothelioma in this 1960 article?
23 MR. HANNA: Same objection. I believe
24 the article was limited to crocidolite, but
25 go ahead, Doctor.

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Transcript of John Pendergrass

22 (Pages 82 to 85)

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1 MS. SAVINIS: Mr. --
2 MR. HANNA: I'm sorry, yeah, Mr.
3 THE WITNESS: Everybody get to say --
4 MR. HANNA: We are on a roll here.
5 THE WITNESS: Thank you for the
6 promotion.
7 MR. HANNA: You are welcome.
8 THE WITNESS: I'll raise my fee.
9 A This is a report of the case studies
10 that Dr. Wagner made on a group of people in
11 South Africa who were exposed to various
12 amounts -- in his belief exposed to various
13 amounts of asbestos from the area in South Africa.
14 As I recall, this was the first
15 publication of a link -- or establishing some link
16 between mesothelioma and asbestos.
17 Q Mr. Pendergrass, when you were
18 employed by American Cyanamid, were you familiar
19 with Dr. Wagner's findings that he raised the
20 possible link between asbestos exposure and
21 mesothelioma?
22 MR. HANNA: Object to the form.
23 A I don't -- I can't say when I first
24 became aware of this publication.
25 Q Doctor -- or Mr. Pendergrass, can you

1 you and I agree that industrial hygienists accept
2 the proposition that mesothelioma is caused by
3 asbestos exposure?
4 A That asbestos and other things can
5 lead to mesothelioma.
6 Q Okay. Can you tell me what other
7 things cause mesothelioma based on your work
8 experience as an industrial hygienist?
9 A Well, there have been a number of
10 different things that have been proposed, one of
11 them even the Salk vaccine, but the other aspect
12 is, of course, that there have been cases of
13 idiopathic mesothelioma.
14 Q And "idiopathic" means no known cause?
15 A Correct.
16 Q Above and beyond there being no known
17 cause for a person's mesothelioma or the Salk
18 vaccine, are you aware, as an industrial
19 hygienist, of any other causes of mesothelioma?
20 MR. HANNA: Object to the form. I
21 don't know that he necessarily said the Salk
22 vaccine causes it, Janice.
23 But go ahead, if you can answer the
24 question.
25 A Well, if that was implied, I did not

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1 and I agree that whether we are talking about
2 asbestosis, asbestos-related lung cancers, or
3 mesothelioma, these diseases have a long latency
4 period?
5 A The latency period is certainly true
6 for asbestosis. I don't know what the latency
7 period is for mesothelioma or lung cancer.
8 Q Do you think it is longer -- or excuse
9 me, or shorter than 15 years for meso?
10 MR. HANNA: Objection.
11 A I don't know.
12 Q Can you tell us, based on your
13 experience as an industrial hygienist, how many
14 fibers of asbestos an individual must breathe
15 before they develop mesothelioma?
16 A No, I can't, no.
17 Q Pardon me?
18 MR. HANNA: Objection. Go ahead,
19 sir.
20 A No, I can't.
21 Q You are not aware of a known or
22 defined response threshold for meso; are you?
23 MR. HANNA: Objection.
24 A No.
25 Q And, Doctor -- Mr. Pendergrass, can

1 want that. I said it has been one of the things
2 that has been alleged to have caused mesothelioma,
3 along with ionizing radiation is another one.
4 None of these have been established, certainly not
5 with the -- no, I don't want to use the word
6 "certainty" -- with the confidence that asbestos
7 has been.
8 Q You would agree, Mr. Pendergrass, that
9 you accept the proposition that mesothelioma can
10 result from asbestos exposure?
11 A I agree with that.
12 Q And by far, the majority of the cases
13 of mesothelioma result from asbestos exposure?
14 A I'm not sure of that.
15 Q Did you know that when you were
16 employed by American Cyanamid?
17 A No, because that had not come to the
18 forefront that it did just a few years later.
19 Q While you were employed by American
20 Cyanamid, you knew that asbestos could cause
21 lung cancer?
22 MR. HANNA: Objection.
23 A I knew that asbestos could cause
24 asbestosis. I'm not sure that I would have
25 included lung cancer with that at the time, no.

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

23 (Pages 86 to 89)

86

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1 Q You went to the Selikoff proceeding?
2 A Well, that was in 1964, and I went to
3 3M Company in 1964 --
4 Q When did you go --
5 A -- so this was a very close date.
6 Q Do you know if it's -- do you know if
7 it's --
8 A I think I went in May, in May of
9 '64 --
0 Q And you --
1 A So it was within a month.
2 Q And you testified that Dr. Selikoff's
3 presentation was in April of '64?
4 A Yes, I didn't -- it is dated here
5 sometime, but, yes, I attended the meeting in
6 Philadelphia in 1964 as an employee of American
7 Cyanamid.
8 Q Thank you.
9 A However, I went to 3M shortly after.
0 MR. HANNA: Go ahead, finish your
1 answer, sir. I don't know if she got it.
2 THE COURT REPORTER: I did.
3 MR. HANNA: Did you get that, Terri?
4 Did you get the last part of his answer?
5 THE COURT REPORTER: Yeah, I got

1 A If you are talking about working in a
2 dusty atmosphere or in an atmosphere of toxic
3 materials, yes, and there would be facilities for
4 people to shower and change clothes, and that
5 would be supervised.
6 Q And that was known in industrial
7 hygiene; correct?
8 A Yes.
9 Q Do you know if American Cyanamid
10 produced any writings that they gave to their
11 employees that would say to the effect, "Do not
12 take home your dusty work clothes. Take a shower
13 here and do not expose your family to your work
14 clothes"?
15 A I don't know that, no.
16 Q Did American Cyanamid launder their
17 workers' clothing, and I mean people that worked
18 in the plant?
19 A In some plants, yes, and I don't know
20 if they did in all the plants.
21 Q Do you know if at the --
22 A I don't know.
23 Q -- if at the Lederle facility that
24 American Cyanamid laundered the workers' clothing?
25 A That I don't know.

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89

1 "However I went to 3M shortly after."
2 MR. HANNA: Thank you, Terri.
3 THE COURT REPORTER: Sure
4 MR. HANNA: No problem.
5 BY MS. SAVINIS:
6 Q Now, doctor --
7 MR. HANNA: I didn't know whether she
8 got you or not. Go ahead. It is just
9 difficult with the court reporter there.
0 Q At American Cyanamid at the Lederle
1 plant, were there shower facilities?
2 A I can't say for sure. I would think
3 so, yes.
4 Q Were there shower facilities at the
5 American Cyanamid plants that you visited?
6 A Some of them, yes.
7 Q Now, I know you might not be able to
8 do this, and you tell me if you can't, I want you
9 to think back while you were employed by American
0 Cyanamid, did you have knowledge as an industrial
1 hygienist that workers should not take home
2 clothes that have toxic dusts on them because
3 they, the worker, can expose their family members
4 to that dust by taking home those dusty clothing?
5 MR. HANNA: Objection. Go ahead.

1 Q Doctor, can you tell us, whether we
2 are talking about Pennsylvania, New Jersey, or
3 New York, the first time those three states
4 recognized asbestosis as a compensable injury
5 under the applicable workers' compensation
6 statutes?
7 MR. HANNA: Objection.
8 A I don't know.
9 Q Doctor, can you and I agree that
10 workers' compensation claims are an indication of
11 what experience a company has regarding health
12 hazards?
13 A It is one measure, yes.
14 Q Doctor, you -- Mr. Pendergrass, you
15 previously testified that an employer has the
16 responsibility to know what laws apply to them and
17 the employer has a responsibility to provide a
18 safe and healthy workplace, and do you stand by
19 that today?
20 A Yes.
21 Q And in regard to an employer's
22 obligation, an employer has the obligation and the
23 duty to test products that their workers are
24 exposed to; do you agree with that?
25 A I would have -- when you say

NETWORK DEPOSITION SERVICES
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24 (Pages 90 to 93)

90		92	
1	"products," what are you -- what are you referring	1	MS. SAVINIS: And I'm just asking him
2	to? Are you referring to raw materials or	2	to look at those.
3	finished products?	3	MR. HANNA: Note my objection. This
4	Q Both raw materials and finished	4	is about the fifth document that I haven't
5	products that the worker is exposed to.	5	had a copy of.
6	A No, they are not required to.	6	MR. ROBB: What's the date on the
7	I expect them to test every one of them.	7	front of that?
8	Q You would expect them to; correct?	8	MR. HANNA: It is -- Mike, it is
9	A No.	9	January 29, 1992.
10	MS. SAVINIS: Okay. We are going to	10	MR. ROBB: That is it. You should
11	go off the record.	11	have it.
12	THE VIDEO OPERATOR: Okay. We are off	12	MR. HANNA: All right. Yeah. You
13	the record.	13	know what, I will get it from here. You are
14	(Discussion held off the record.)	14	right.
15	MR. HANNA: Just let me note an	15	Take a look, doctor, and I will --
16	objection for the record, then, that this	16	what page is that, just so I know?
17	appears to be an incomplete deposition,	17	THE WITNESS: 40.
18	actually, it is just a cover page and it	18	MR. HANNA: 40, thank you.
19	appears to be three pages.	19	Thanks, Mike
20	MS. SAVINIS: Well, Mr. Hanna, you	20	MR. ROBB: You are welcome.
21	have the full transcript there so that you	21	Q It is pages 223 and 224.
22	could look at it. We previously looked at it	22	Mr. Pendergrass, it starts on line 17, "Whose
23	from that date.	23	obligation was it to test the products?"
24	MR. HANNA: Oh, I'm sorry, Janice, I	24	MR. HANNA: On the document that he
25	didn't know it was here. I'm sorry. I	25	just handed him --
91		93	
1	didn't -- hang on a second.	1	THE COURT REPORTER: Do you want this
2	MS. SAVINIS: I just wanted to pull	2	on the record?
3	those because it is easier.	3	MR. HANNA: Yeah, that's all right.
4	MR. HANNA: Okay. No problem. I just	4	Janice, the document that Mike handed
5	didn't -- I didn't realize -- I was not aware	5	us was page 40, just so you know.
6	that the whole transcript was here.	6	MS. SAVINIS: There might be two
7	MS. SAVINIS: Right.	7	sections under Q, Mike. It should begin with
8	MR. HANNA: Okay. So that's the Baker	8	page 223.
9	case?	9	MR. HANNA: This is pages 40 --
10	MS. SAVINIS: That's right.	10	actually, it is just 40, 49 -- 40, 49, and
11	MR. HANNA: No, that's not it. No, it	11	50.
12	is not. It is a different case. It's a	12	MR. ROBB: I'm looking, Janice.
13	different caption.	13	MS. SAVINIS: Well, we got the big
14	MS. SAVINIS: Well, Mike has the whole	14	transcript, so if he could look at that, that
15	transcript.	15	would help.
16	MR. HANNA: I got it. I got it.	16	MR. HANNA: Sure, what page now do you
17	Okay.	17	want, Janice?
18	MS. SAVINIS: I just want to make it	18	MS. SAVINIS: Page 223.
19	faster and easier.	19	MR. HANNA: Okay. Anything else?
20	MR. HANNA: No, no, I understand.	20	MS. SAVINIS: 223 and 224.
21	Do you have a copy for me, Mike, of	21	Now, on the top those pages it is
22	this?	22	handwritten, it is page 223.
23	MR. ROBB: I don't.	23	MR. HANNA: Okay. All right.
24	MR. HANNA: You don't have a copy of	24	MS. SAVINIS: Line 17, "Whose
25	it?	25	obligation was it to test the product?"

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

25 (Pages 94 to 97)

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1 MR. HANNA: I am not going to find it,
2 Janice. I'll tell you why, all these -- on
3 this big transcript, all the pages are cut
4 off the bottom. I can't -- oh, okay, I see
5 where you are talking. Okay, I got what you
6 are talking about now, okay.

7 MS. SAVINIS: Fair enough. I
8 apologize, Tom and Mr. Pendergrass.

9 MR. HANNA: No, don't worry about it.
0 I'm just trying to locate it. Hang on.
1 223 and 224?

2 MS. SAVINIS: Yes, sir.

3 MR. HANNA: Okay.

4 MR. ROBB: I'll take this.

5 MR. HANNA: Yeah, take it, Mike, yeah.
6 It is the wrong page, so take it. Go ahead.

7 MR. ROBB: Thank you.

8 MS. SAVINIS: And, Tom, while you are
9 pulling those, would you also pull page 230?

0 MR. HANNA: Sure. Start here on the
1 bottom of 222, that's where the question
2 begins.

3 230, okay.

4 MS. SAVINIS: It begins, Tom, the
5 first sentence starts, "Certainly it was the

1 ready.

2 MS. SAVINIS: Back --

3 MR. HANNA: Okay, Janice, you can ask
4 your questions. He's read the -- he's read
5 the appropriate questions.

6 MS. SAVINIS: Thanks, Tom.

7 Q Mr. Pendergrass, I --

8 MS. SAVINIS: We are completely on the
9 video and the record.

10 MR. HANNA: Please, go ahead.

11 BY MS. SAVINIS:

12 Q Mr. Pendergrass, I showed you your
13 deposition transcript from January of 1992 where
14 you were specifically asked, "Whose obligation was
15 it to test the product to determine whether or not
16 it could be used safely, was it the worker who had
17 to work with it, was it his obligation?"

18 And you answered, "The employer has an
19 obligation and always had an obligation to
20 determine what the conditions are in their
21 workplace."

22 Question, "There is three people
23 involved here, there is the worker that has to mix
24 the product and actually apply it, the worker;
25 there is the employer that buys the product; and

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1 employer's responsibility."

2 MR. HANNA: Gotcha, okay, we will
3 start here.

4 MS. SAVINIS: Thank you. And when he
5 has a chance to look at all three pages, let
6 me know.

7 MR. HANNA: Yeah. Well, we will begin
8 with the first group. It will probably be
9 easier, Janice, and then I will give him the
0 page 230.

1 MS. SAVINIS: Fair enough.

2 You tell me when you are ready,
3 Mr. Pendergrass.

4 THE WITNESS: Okay. Just -- hold off.

5 MS. SAVINIS: Hey, Tom, if you'd be so
6 kind, I'd really like him to look at 230,
7 too, because it all jives together.

8 MR. HANNA: All right. Okay. Let me
9 just look here.

0 MS. SAVINIS: Take your time.

1 MR. HANNA: It looks like they are
2 talking about -- when you are done, let me
3 know, Mr. Pendergrass, and I will give you
4 these other pages to look at, too.

5 THE WITNESS: All right. I think I'm

1 then there is the manufacturer that manufactures
2 and sells the product. Among those three, whose
3 obligation was it to determine whether the product
4 could be used safely?" Your answer, quote, "The
5 primary responsibility always rests with the
6 employer."

7 As you are answering another question,
8 you state, quote, "Certainly it was the employer's
9 responsibility for any product that they used to
10 determine whether or not there was a problem with
11 it, and one of the difficulties that manufacturers
12 have in making that is they don't always know how
13 the product is going to be used or under what
14 circumstance it is going to be used." Would you
15 stand by that testimony?

16 MR. HANNA: I'm going to object,
17 improper cross-examination.

18 Go ahead, sir.

19 A I would stand by it, yes.

20 Q Now, during your employment at
21 American Cyanamid, did you have any knowledge
22 whether American Cyanamid had a consulting
23 relationship with John Hopkins?

24 A I don't know whether they did or not.

25 Q Do you know if American Cyanamid had a

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

26 (Pages 98 to 101)

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1 consulting relationship with Yale Medical School?
2 A I don't know.
3 Q Doctor -- or Mr. Pendergrass, are you
4 familiar with asbestos pipe covering?
5 A Yes.
6 Q And can you tell me, when you think of
7 asbestos pipe covering, how would you describe it
8 to somebody who has never seen it?
9 MR. HANNA: Objection, he's not here
0 to testify as an expert.
1 But go ahead, sir.
2 A Well, the pipe covering generally is
3 in the shape of two half-moons, which then the
4 size is appropriate to whatever the size pipe that
5 is being covered. They are placed on the pipe,
6 held in place with usually bands or clips.
7 Q As an industrial hygienist with
8 American Cyanamid, did you ever see pipe covering
9 installed?
0 A I probably did, but I don't recall any
1 specific instances.
2 Q Okay. As an industrial hygienist,
3 even outside your employment with American
4 Cyanamid, do you ever recall seeing asbestos pipe
5 covering cut?

1 MS. SAVINIS: Mr. Hanna, we will make
2 it real simple, we are talking the TLV during
3 the relevant time period.
4 MR. HANNA: Thank you.
5 A Okay. That makes it much easier.
6 Yes, you would be able -- you would be
7 able to have -- you would be able to see dust, and
8 whether it is exceeding the threshold limit value,
9 of course, depends on how long it is done and over
10 what period of years.
11 Q And more --
12 A This is not an acute situation.
13 Q And more importantly, somebody would
14 have to do air samples to determine what the
15 exposure was?
16 A Not necessarily.
17 Q Okay. Well, how, how would an
18 industrial hygienist, a trained industrial
19 hygienist, determine whether the threshold limit
20 value was exceeded by merely looking?
21 A Depending on, depending on what
22 experience the industrial hygienist has, what the
23 job was being done, yes, there might have been
24 --they could accurately determine whether or not
25 an overexposure was occurring.

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101

1 MR. HANNA: Objection, not relevant.
2 He is a fact witness in this case.
3 Go ahead, sir.
4 A I have seen pipe covering cut. I have
5 seen it being put in place, yeah.
6 Q And did it create dust when it was
7 cut?
8 MR. HANNA: Objection. At what point
9 in time?
0 MS. SAVINIS: When it is being cut.
1 MR. HANNA: Go ahead. Objection.
2 Note my -- you can answer the question, sir.
3 A Yes, it will create some dust when it
4 is being cut. It depends on the size of the
5 insulation, how much of it there is, where it is.
6 There is a lot of questions with respect to that.
7 Q Doctor, can you and I agree that a
8 worker can be exposed to asbestos above the
9 threshold limit value and there be no visible
0 dust?
1 MR. HANNA: Objection. Go ahead. At
2 what -- which threshold limit value, Janice?
3 The one in effect from '57 to '64, the
4 current TLV, or the TLV that was revised in
5 1970?

1 Q So you are telling me that back in
2 your American Cyanamid days, that you could look
3 at asbestos pipe covering being cut and determine
4 whether that exposure exceeded the threshold limit
5 value?
6 A Yes.
7 Q You feel you could have done that?
8 A Yes.
9 Q And what is that based on, your
10 experience?
11 A Experience, knowing what the
12 concentration was, knowing how long the job
13 lasted, how often the job was being done.
14 You have to look at the entire situation.
15 Q Okay. So air sampling would not have
16 been necessary?
17 A That's correct.
18 Q And that would be a good industrial
19 hygiene practice, not to do air sampling in that
20 situation?
21 MR. HANNA: Objection, that's not what
22 he said, but go ahead.
23 A It could be, yes.
24 Q Okay. Have you ever heard of a
25 product known as Kaylo pipe covering?

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

27 (Pages 102 to 105)

102		104	
1	A Yes.	1	A No.
2	Q Do you -- can you tell me when you	2	Q Can you tell me, last question before
3	first heard of Kaylo pipe covering?	3	our break, whether American Cyanamid offered their
4	A No.	4	services to other employers in regard to
5	Q Did you have knowledge that during the	5	industrial hygiene?
6	time period relevant to this case in your	6	A To employers who were using American
7	employment at American Cyanamid that Kaylo	7	Cyanamid -- Cyanamid products, the services of the
8	contained asbestos during that time?	8	corporate industrial hygienist staff were
9	A I don't know.	9	available to them.
0	Q You are not sure of that.	10	MS. SAVINIS: Fair enough. We are
1	I am going have Mike show you Exhibit	11	going to take a break and we will start back
2	No. 25.	12	on that point upon your return.
3	MR. HANNA: Do you need a break?	13	(Discussion off the record.)
4	THE WITNESS: I think it is about	14	(Luncheon recess taken.)
5	lunch time.	15	THE VIDEO OPERATOR: We are back on
6	MR. HANNA: Okay.	16	the record.
7	THE WITNESS: I don't know how much	17	BY MS. SAVINIS:
8	longer.	18	Q Mr. Pendergrass, if you could give us
9	MR. HANNA: Well, let me get an idea.	19	a ballpark figure of how many times you think you
0	THE WITNESS: I would like around	20	went to the Lederle Lab?
1	1:00.	21	A This would be a ballpark, I'd say
2	MR. HANNA: Janice, is this a	22	maybe a half dozen times.
3	convenient place to break, or do you want to	23	Q Okay. Do you recall when you were
4	finish up here? The witness is getting	24	there that there was an overexposure to chemicals
5	hungry.	25	that were associated with drug manufacturing?
103		105	
1	MS. SAVINIS: Not a problem,	1	A Well, one of the -- one of the
2	Mr. Pendergrass, we are going to just finish	2	responsibilities of the rest of the industrial
3	this one exhibit and we will call it	3	hygienists, of course, was to keep up with that,
4	lunchtime.	4	and one of the things that all of us tried to do
5	THE WITNESS: Fine.	5	was to be in on the beginning of things so the
6	MR. ROBB: No. 25, Janice?	6	controls could be installed before a manufacturing
7	MS. SAVINIS: Yes, please.	7	process started.
8	MR. HANNA: Thank you, Mike.	8	Did they ever have an overexposure,
9	MR. ROBB: You are welcome.	9	I'm sure that there was at some time or another,
0	BY MS. SAVINIS:	10	but I can't recall one.
1	Q This is a report that was prepared by	11	Q Let me ask you this: I'm going to
2	Mr. Bradley, and Mr. Bradley went to the Kaylo	12	have Tom hand you three pages from this
3	facility and did some dust studies, and I was	13	deposition, and more specifically of the
4	wondering if you -- when you were employed by	14	deposition of January of 1992 where you talk about
5	American Cyanamid, did Mr. Bradley ever disclose	15	there being an overexposure to certain chemicals,
6	to you that he went to the Kaylo facility to do	16	and may -- I'd like you to read that, and maybe
7	dust studies?	17	you could tell me about that event, and we will
8	A Is this date correct, 1968?	18	just go off the record very briefly to give you a
9	Q That date is correct, but do you have	19	chance to review pages 32, 33, and 34.
0	any knowledge whether Mr. Bradley went to the	20	A Okay.
1	Kaylo facility to do dust studies while you were	21	THE VIDEO OPERATOR: We are off the
2	employed by American Cyanamid?	22	record.
3	A No, I am not aware of it.	23	(Discussion off the record.)
4	Q Did you ever do any dust studies at	24	THE VIDEO OPERATOR: Back on the
5	any Kaylo facilities?	25	record.

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28 (Pages 106 to 109)

106	108
1 BY MS. SAVINIS:	1 Fortunately, we were able to have electric pumps
2 Q Mr. Pendergrass, after looking at	2 very shortly. This is in 1951. Those are known
3 those deposition pages, at this deposition you	3 at midget impingers, and they were truly a
4 talked about exposures to chemicals from the	4 hand-cranked pump.
5 drugs, that there was an overexposure. Can you --	5 Q When you were employed by American
6 does this refresh your recollection about the	6 Cyanamid, were electric -- electric devices
7 events at Lederle?	7 already available for air sampling?
8 A No, it doesn't, no. After all, this	8 A As I recall, they were, but I'm not
9 was a long time ago.	9 sure about the exact dates, but --
10 Q Okay. Now, you told me that before	10 Q Okay. Did American --
11 this deposition began you reviewed an article	11 A I don't recall using a --
12 entitled "Cyanamid Industrial Hygiene Program,"	12 MR. HANNA: Wait a minute. Go ahead,
13 and Mike Robb will give you another copy of that	13 finish your --
14 article I believe that was the article that you	14 A I don't recall using a midget impinger
15 had talked about from January of '51.	15 at Cyanamid.
16 MS. SAVINIS: Mike, can you provide	16 Q What do you --
17 the doc- -- Mr. Pendergrass a copy?	17 A I used them, but not there.
18 MR. ROBB: Yeah, I have Exhibit	18 Q What do you recall using at American
19 number -- our No. 18 saying "Industrial	19 Cyanamid for air sampling?
20 Hygiene Program."	20 A Well, there were several different
21 MS. SAVINIS: Correct.	21 things that we used. One was the neon --
22 A Okay.	22 compressed neon sampler that was used. We also
23 MR. HANNA: Thanks, Mike.	23 had the electric battery pumps. Those two didn't
24 MR ROBB: You're welcome.	24 come around right away. They were desirable in
25 BY MS. SAVINIS:	25 that they were small and you could take them
107	109
1 Q This article was authored by	1 around anywhere you wanted to go. There were no
2 Mr. Bradley as the chief industrial hygienist at	2 cords to plug in or anything.
3 American Cyanamid, and I'm assuming this is the	3 Q Now, did you come to know that
4 article you reviewed before the deposition today?	4 American Cyanamid was named as a defendant in
5 A Yes, it is.	5 asbestos litigation?
6 Q Do you know if American Cyanamid,	6 A No.
7 while you were employed by them, ever -- any	7 Q Now, you have testified for
8 industrial hygienist authored any other articles	8 American Cyanamid as an expert; correct?
9 about Cyanamid's industrial hygiene program?	9 A I may have. I don't remember the
10 A I'm not aware of any, but there could	10 details.
11 well have been one done, I just don't know of any.	11 Q And I'm not sure, Mr. Pendergrass, if
12 Q Now, if you would be so kind and go to	12 I am pronouncing this correctly, but I believe you
13 the last page, page 3, and there is a heading in	13 testified for American Cyanamid as an expert in a
14 bold print entitled "Instruments"; do you see	14 case involving Aromatic Distillates. Does that --
15 that?	15 A I'm not -- you're not -- I'm not
16 A Yes.	16 relating to that, I don't recall.
17 Q And if you go down to the third	17 Q Okay.
18 paragraph, it talks about some of the important	18 A If I saw it, I might be able to.
19 instruments that are used by American Cyanamid,	19 Q Okay. Now Mike is going to show you
20 and there is reference to a "hand crank pumps for	20 Answers to Interrogatories filed by Wyeth in this
21 collecting dust"; do you see that?	21 case, and the first Interrogatory we are going to
22 A Yes, yes.	22 look at is Interrogatory No. 8
23 Q Can you tell me, do you recall these	23 MR. ROBB: Janice, is that your No. 28
24 hand crank pumps that were available?	24 Exhibit?
25 A I recall them from prior to Cyanamid.	25 MS. SAVINIS: It is.

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Transcript of John Pendergrass

29 (Pages 110 to 113)

110		112	
1	THE WITNESS: Thank you.	1	regard to utilizing said products in a manner so
2	MR. HANNA: You're welcome.	2	as to avoid exposing workers to amounts of dust
3		3	exceeding the maximum allowable concentration or
4	BY MS. SAVINIS:	4	threshold limit value."
5	Q And, Mr. Pendergrass, it is on	5	Reflecting on your days at American
6	page 13.	6	Cyanamid, were workers ever warned orally or given
7	A All right.	7	any written materials about the threshold limit
8	Q And I want you to assume that these	8	values for asbestos and asbestos exposure?
9	questions are directed to American Cyanamid, and	9	A I don't know.
10	the question is as follows: "If any vacuum	10	Q Do you recall ever receiving such
11	systems, dust controlled devices, watering down	11	documents?
12	systems or systems of any kind designed to reduce	12	A No.
13	asbestos and the dust in the air were at any time	13	Q If you would be so kind and go to
14	used by your employees during the period of	14	Interrogatory No. 36, which is on page 27, and the
15	Plaintiff's employment and/or his father's	15	question is "For the time period from 1949," in
16	employment by you. State the first time such	16	your case it is just going to go up to the time
17	devices were used, and describe in detail the	17	period you were employed by American Cyanamid.
18	devices which were used and the location within	18	"did American Cyanamid ever warn or inform any
19	Lederle Lab."	19	representative of any labor union of any potential
20	My question to you is, those occasions	20	health hazards from use of asbestos-containing
21	where you visited the Lederle Lab facility, can	21	products?" Do you recall that -- whether American
22	you tell me whether there were any vacuum systems,	22	Cyanamid ever contacted any union regarding the
23	dust controlled devices, watering down systems to	23	health hazards associated with asbestos?
24	control asbestos dust?	24	A I wouldn't have any idea.
25	A Not that I am aware of.	25	Q If you would be so kind and go to
111		113	
1	Q If you would be so kind and go to the	1	Interrogatory No. 20, which is on page 19, and the
2	next page, Interrogatory No. 10 -- and, once	2	question is, "Please state any trade
3	again, we are going to assume this is being	3	organizations, group, intercompany or industrial
4	focused to American Cyanamid during the time you	4	organizations, including but not limited to the
5	were there -- "Has Defendant, has American	5	National Safety Council and the Industrial Hygiene
6	Cyanamid, at any time published and distributed	6	Foundation or the Industrial Health Foundation, to
7	any brochures or other written materials or made	7	which the Defendant belonged or belongs which
8	oral communication of any kind or character that	8	conducted or is conducting studies or research.
9	contained any warnings, cautions, caveats or	9	the relationship, if any, between exposure to
10	direction to your employees concerning the	10	asbestos fibers or products and asbestosis, lung
11	possibility of injury resulting from the use of	11	cancer and mesothelioma."
12	asbestos-containing products."	12	Are you aware of American Cyanamid,
13	Thinking back on your American	13	other than their involvement with the IHF and
14	Cyanamid days, were any writings, brochures given	14	National Safety Council, of being a member of any
15	to employees regarding the health hazards linked	15	other type of trade organization or industrial
16	with asbestos exposure?	16	organization that looked at those disease
17	A I don't know.	17	processes associated with asbestos exposure?
18	Q Do you recall personally ever	18	A I'm not aware of it.
19	receiving such documents?	19	Q When you were employed by American
20	A I don't recall receiving such, no.	20	Cyanamid, did American Cyanamid pay for your dues
21	Q If you would be so kind and go to	21	to belong to any organization?
22	Interrogatory No. 12, which is on page 15, the	22	A No.
23	question is, "State whether any of your workers	23	Q Now I'm going to have Mike Robb hand
24	using asbestos-containing products were provided	24	you the Second Supplemental Interrogatories that
25	with any special instructions, oral or written, in	25	were filed by Wyeth.

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30 (Pages 114 to 117)

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1 MS. SAVINIS: And, Mike, that would be
2 document No. 30.
3 MR. ROBB: I just have one copy.
4 MR. HANNA: Don't worry about it. Go
5 ahead.
6 MR. ROBB: Thanks.
7 Q Mr. Pendergrass, you had indicated
8 that you were contacted by Attorney Wilcox and you
9 had contact with Tom Hanna, who is with us today.
10 Did you have contact with any other lawyer or any
11 other individual in regard to this case?
12 A Yes.
13 Q Who?
14 A Mrs. Lewis.
15 Q Anne Lewis, okay. And she is a
16 lawyer, and I know Anne.
17 Other than Anne Lewis and Mr. Hanna,
18 did you have contact with any other lawyers in
19 regard to this case?
20 A No.
21 Q When you were first contacted up until
22 today, the time of your deposition, did Ms.
23 Wilcox -- or Ms. Lewis or Mr. Hanna ask you any
24 questions about the identity of any other
25 employees that you recall?

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1 A Yes.
2 Q Okay. And do you remember what
3 information you provided to them?
4 A They asked who some of the -- who the
5 other industrial hygienists were --
6 Q Okay.
7 A -- who the resident industrial
8 hygienist was at Lederle, that was the gist of it.
9 Q Did you provide Ms. Lewis or Mr. Hanna
10 with any documents that you have in your
11 possession?
12 A No.
13 Q Do you have any documents in your
14 possession regarding your employment at American
15 Cyanamid?
16 A No.
17 Q If you look at Interrogatory No. 15,
18 which is on page 6, "I asked them about physicians
19 that were employed at Lederle Lab," and a
20 physician is identified by the name of
21 Dr. F. M. Love, L-O-V-E, and it is noted that
22 Dr. Love was the director of medical services at
23 Lederle Lab. And my question to you is when you
24 were thinking today, trying to identify the
25 medical director, do you think you were trying to

1 recall Dr. Love, or does that name ring a bell to
2 you in regard to your employment at American
3 Cyanamid?
4 A No, it doesn't.
5 Q If you would be so kind and turn to
6 the next page, Interrogatory 16, and that question
7 is to identify individuals that were employed like
8 yourself as industrial hygienists at American
9 Cyanamid, and the first individual that is
10 identified is Mr. Andresen, and we spoke about
11 Mr. Andresen, you are identified, Mr. Bradley is
12 identified, James Rook. There is a gentleman
13 named Charles McKinnon; did you know him?
14 A I think that's a misprint. I think it
15 is Charles McHenry.
16 Q And is that the man you referenced
17 earlier today?
18 A I mentioned his name earlier, yes.
19 Q Okay. And what time frame did -- say
20 his name again, I apologize.
21 A McHenry.
22 Q McHenry. Do you know what time frame
23 he was employed?
24 A He was employed -- he and I were
25 employed at about the same time. I think he

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1 was -- he proceeded me for a short time. He
2 left -- he left Cyanamid prior to, prior to my
3 leaving, so he was there during the time that I --
4 part of -- part of the time that I was there.
5 Q Okay.
6 A He is dead.
7 Q And this -- there is another gentleman
8 identified, "Joe Mellor," M-E-L-L-O-R. Did you
9 know him?
10 A Yes. Joe was the industrial hygienist
11 at the Warner plant.
12 Q At what plant?
13 A He later came in -- Warner,
14 W-A-R-N-E-R, location in New Jersey, and later he
15 came into the headquarters group.
16 Q Okay. So while you were there, he
17 served in both capacities, at the Warner plant and
18 then eventually moved to corporate?
19 A Right.
20 Q And he is also deceased?
21 A That I'm not sure of, but he probably
22 is. He's -- he and Andresen are probably pretty
23 close to the same age.
24 Q Okay.
25 MR. HANNA: Janice, I think he's -- I

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31 (Pages 118 to 121)

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1 think Mr. Mellor is on the list of deceased
2 folks that we produced.

3 Q How about this gentleman Clifford
4 Hellings, do you remember Clifford Hellings?

5 A He came to work there shortly after I
6 left. In fact, he may have come there to replace
7 me.

8 I know him. He is -- I don't know
9 whether he left -- I guess at the time Cyanamid
10 was bought out by American Home Products he left
11 or went with one of the -- one of the residual
12 companies.

13 Q Did you provide his name?

14 A No.

15 Q Is he living today?

16 A I don't know.

17 Q Okay. There is reference to a
18 David Hobbs, H-O-B-B-S; Joseph Pernal,
19 P-E-R-N-A-L; Charles Walter -- Walters, excuse me,
20 W-A-L-T-E-R-S; and John Wright, you mentioned
21 Mr. Wright. Did you know Mr. Hobbs, Mr. Pernal
22 and Mr. Walters?

23 A No.

24 Q Why did you leave American Cyanamid?

25 A To go to the 3M company to start their

1 hierarchy, did industrial hygienists always
2 eventually answer to the medical director?

3 A At least through the time that I was
4 there, yes.

5 Q Okay. So who would make a
6 determination, Mr. Pendergrass, that you are going
7 to survey a certain plant? Was that done by the
8 chief industrial hygienist or would that be
9 determined by the medical department?

10 A I think basically it was by the
11 chief industrial hygienist.

12 Q And what --

13 A I remember that we were working with
14 the medical director at the same time. So as far
15 as I was concerned, I reported to the chief
16 industrial hygienist. and those plans to visit the
17 plants were made there, I don't know where else,
18 but there was probably influence from other
19 places, but I don't know.

20 Q Okay. Now, out of your average
21 year -- let's take one year at -- that you are
22 employed by American Cyanamid, how much time was
23 involved actually visiting plants, best
24 approximation?

25 A Seventy five percent.

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1 industrial hygiene program.

2 Q So pretty much you were being elevated
3 to a higher position?

4 A I thought so.

5 Q Okay. Fair enough.

6 Mr. Bradley testified that he left
7 American Cyanamid in 1960, he moved on and then he
8 talked about the rest of his career.

9 Once Mr. Bradley left in 1960, who
10 became the chief hygienist or the -- your boss, I
11 should say?

12 A Jim Rook.

13 Q And did he remain your boss the
14 remaining portion of your career at American
15 Cyanamid?

16 A No.

17 Q Who else served in the capacity as the
18 chief industrial hygienist or boss of the other
19 corporate members?

20 A Mr. Andresen.

21 Q Anyone else?

22 A Not while I was there.

23 Q That's the only time I'm talking
24 about.

25 Let me ask you this: In the

1 Q And then would the remaining part of
2 your work experience for the year be at the
3 New Jersey facility, at the headquarters?

4 A The headquarters, yes.

5 Q Was it the procedure of American
6 Cyanamid that every single year an industrial
7 hygienist from corporate would visit a plant?

8 A The goal was that every plant at
9 Cyanamid -- and as I was reminded here, there was
10 about 60 of them -- would be visited by the
11 industrial hygienist each year.

12 Q And when you would go to the plant to
13 visit, to do a survey, would they provide you data
14 about what materials are being manufactured there
15 and processes for that plant?

16 A We would have that information from
17 the previous visit; however, if there had been any
18 changes, then we would have had a discussion with
19 the plant manager as to what differences, if any,
20 existed over -- since the last visit, and then
21 those, of course, would be a part of the overall
22 survey.

23 Q So when you would prepare a writing
24 after the survey was done, that survey was
25 maintained?

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1 A Oh, yes.
2 Q Okay. And if I were to ask for that
3 survey, what would be the proper terminology?
4 How would I refer to it as?
5 A Well, now you are asking me something
6 that I was aware of back as late as 1964. At that
7 time, if you wanted, you could probably go to the
8 industrial hygienist and say "Can I have a copy of
9 the report?"
10 Q Okay. But those reports didn't have a
11 certain name?
12 A Well, they were by plant.
13 Q By plant, and they were maintained by
14 the industrial hygiene department?
15 A Yes.
16 Q When you would go to visit the plant,
17 let's say those half a dozen or so times you went
18 to Lederle, would you go by yourself?
19 A Usually, yes. At Lederle, I don't
20 remember whether Mr. Andresen went with me or
21 not.
22 He -- we did work together sometimes,
23 but I don't recall whether he ever went to --
24 whether we went to Lederle together. Probably
25 not, because there was a resident industrial

1 Q And who was the corporate person in
2 charge of safety?
3 A I can't remember the name.
4 Q How about at Lederle?
5 A Same thing, I don't remember.
6 Q When you went to 3M in '64,
7 approximately May of '64, how many industrial
8 hygienists were at the corporate level?
9 A Where, at 3M?
10 Q No, I apologize. at American Cyanamid.
11 A Well, I was looking and I see Hellings
12 came in '64, but I think that was a couple of
13 months. I don't know, there might have been only
14 four left instead of five, I don't remember.
15 Q And when you started at American
16 Cyanamid, what is your approximation of the number
17 of industrial hygienists that were in the plants,
18 not corporate?
19 A Probably four. Yeah, about four.
20 Q Now, when you left American Cyanamid
21 in May of 1964, how many industrial hygienists
22 were in the plant?
23 A Probably the same number.
24 Q Looking at those Second Supplemental
25 Interrogatories, that paper that you have in front

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1 hygienist there.
2 Q Would this be the case, if there was
3 not a resident hygienist at the plant, would
4 two industrial hygienists go to do a survey?
5 A Not generally, but on some occasions,
6 yes.
7 Q But generally when you would go visit
8 a plant, would you go by yourself?
9 A Generally, yes.
10 Q So if air sampling was done, it was
11 just done by you alone?
12 A Yes, or we could have had somebody at
13 the plant to help us, say the safety officer
14 sometimes would help us with the survey, air
15 sampling.
16 Q Now --
17 A But it was our responsibility to do it
18 or have it done.
19 Q Do you remember a safety officer at
20 Lederle or a safety director that was in charge of
21 American Cyanamid while you were so employed?
22 A There was a safety director for the
23 corporate, for the corporate. Almost every plant,
24 I don't think there is an exception, had someone
25 responsible for safety.

1 of you, if you can look at Interrogatory No. 17,
2 page 7 and 8, I asked a question about safety
3 directors or safety personnel, and the answer is
4 that "David Hobbs, Joseph Parnell,
5 Charles Walter -- Walters, and John Wright may
6 have held positions at the Lederle Lab facility in
7 the group responsible for safety of employees at
8 the facility during the relevant time period."
9 Reflecting back on your experience at
10 American Cyanamid, do you remember these
11 four individuals being part of this safety group
12 at Lederle?
13 A John Wright was the resident
14 industrial hygienist. The others I don't know,
15 I don't know who they are.
16 Q As an industrial hygienist, corporate
17 industrial hygienist, were you ever considered
18 part of the safety department?
19 A No.
20 Q Where did safety fall -- under the big
21 picture here, you have the medical department
22 oversees industrial hygiene; where did safety
23 fall, if you know?
24 A I don't recall. I don't know.
25 Q Now, when you were called upon to

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33 (Pages 126 to 129)

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1	testify as an expert, experts in any type of	1	MR. HANNA: Okay
2	litigation are, obviously, compensated for their	2	MS. SAVINIS: I see no questions.
3	time, and my question to you, for your services	3	THE VIDEO OPERATOR: We are off the
4	today, are you being compensated for your time?	4	record.
5	A I got lunch.	5	(Recess taken)
6	Q That's it?	6	THE VIDEO OPERATOR: We are back on
7	A That's it.	7	the record.
8	Q Okay.	8	EXAMINATION
9	A I will send you a bill, if you want.	9	BY MR. HANNA:
0	Q I think I would have to send that to	10	Q Let me show what's been previously
1	Mr. Hanna.	11	marked by Ms. Savinis, and it is the article by
2	When was --	12	Dr. J.C. Wagner published in the British Journal
3	MR. HANNA: It was a small hoagie,	13	of Industrial Medicine in 1960.
4	Janice.	14	Do you remember when Ms. Savinis
5	MS. SAVINIS: At the five dollar foot	15	questioned you about that article?
6	long?	16	A Yes.
7	MR. HANNA: No, we went for the little	17	Q First of all, is that article an
8	ones. We are watching our waistlines here.	18	epidemiological study?
9	MS. SAVINIS: All righty.	19	A No, this is a case study where
0	BY MS. SAVINIS:	20	Dr. Wagner was aware of several people who had
1	Q Now, can you tell me your best	21	developed mesothelioma, and he was -- then had
2	recollection of when was the last time you	22	determined that they had had some exposure, at the
3	authored a state-of-the-art report in asbestos	23	time he believes it was a fairly light exposure,
4	litigation?	24	to asbestos, and this would be the -- I just lost
5	A Oh, it would -- oh, I don't know,	25	it -- the South African-type of asbestos --
127		129	
1	I don't know that I could do that.	1	Q Okay. I think --
2	Q When was the last time you gave a	2	A -- Amphibole.
3	deposition in any case?	3	Q Okay. Well, Dr. Wagner actually
4	A I think that I officially or	4	annunciates in the abstract here, if you could
5	unofficially retired in probably '09.	5	take a look at that abstract, in that part of the
6	MS. SAVINIS: Mr. Pendergrass, I have	6	article, in his case report study, does he
7	no further questions of you --	7	describe a particular kind of asbestos fiber in
8	MR. HANNA: Let's just --	8	that study?
9	MS. SAVINIS: -- and I thank you for	9	A Yes, he uses crocidolite.
0	your time.	10	Q Okay. Now, you said he, Dr. Wagner.
1	THE WITNESS: Thank you.	11	at the time, thought it was a relatively light
2	MR. HANNA: Okay. Let's just go off	12	exposure. Did he modify that position at a later
3	the video for a moment. I want to go look	13	time?
4	through my notes and then I may just have a	14	A Several years later he went back and
5	couple follow-ups here.	15	reviewed this particular study and the people
6	MS. SAVINIS: While you are doing	16	because he had become aware that the exposure was
7	that, Tom, I'm just going to ask anybody	17	probably much higher than he had thought
8	participating by phone or anyone in the	18	previously.
9	room --	19	Q Okay. Now, do you remember
0	MR. HANNA: If anybody has	20	Ms. Savinis asking you questions about the
1	questions -- anybody got, anybody got --	21	threshold limit values being promulgated by the
2	No questions, Janice, is that --	22	American Conference of Governmental and Industrial
3	MS. SAVINIS: Anyone on the phone have	23	Hygienists in 1946?
4	questions?	24	A Right.
5	DEFENSE COUNSEL: No questions here.	25	Q Okay. First of all, this group, this

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1 American Conference of Governmental Industrial
2 Hygienists, is that some industry lobby or
3 something? What type of group is that?

4 A No, it is a governmental group, and
5 the origin was, and I believe it was 1938, the
6 chiefs of the various state industrial hygiene
7 groups got together and formed what was called a
8 National Conference of Governmental Industrial
9 Hygienists, the purpose being to have some
0 consistency in what was considered acceptable
1 exposure limits.

2 Now, this was a fairly small number of
3 people because they just were state employees, of
4 course, the state chiefs. It was expanded to
5 include any governmental employee, whether state,
6 local, federal, it didn't make any difference, and
7 also members of academia, but, no, there were no
8 industry private sector people who were members of
9 ACGIH.

0 Q So like Cyanamid or some other company
1 couldn't be a member of the ACGIH, is that --

2 A Yeah, or the employees of those
3 companies could not be.

4 Q All right. Now, the ACGIH promulgated
5 this threshold limit value that you told

1 Q Okay.

2 A -- you have to assume so.

3 Q Okay. Was it subsequently lowered in
4 1970 and then subsequently lowered at a later
5 point in time?

6 A Yes, if you take this period from
7 1960, Wagner's report, to Selikoff's report in
8 1964, the creation of OSHA in 1970 and the
9 development of new technology, as this sampling
10 was concerned, then the whole concept was changed
11 from particles per cubic foot to asbestos
12 particles per cubic centimeter, and only those
13 particles counted that were -- some were three by
14 five or longer, so there was a total change in the
15 approach to what the exposure limit should be for
16 asbestos.

17 Q What led to that change after,
18 you know, 19 -- you know, after the Selikoff
19 studies and throughout the 1970s?

20 MS. SAVINIS: Just note, I'm going to
21 note an objection here. It is outside of the
22 time frame that is relevant in this case, so
23 I would move to strike any of
24 Mr. Pendergrass' testimony regarding
25 experiences after 1964.

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1 Ms. Savinis was five million particles per cubic
2 foot of air in 1946. From 1946, let's take it
3 through the relevant time frame of this case,
4 through 1964, did the American Conference of
5 Industrial Hygienists ever lower the threshold
6 limit value during those years?

7 A Not during those years, no.

8 Q Okay.

9 A Now, I might add, the threshold
0 value -- the threshold limit values committee met
1 up each year and reviewed what the threshold limit
2 values were. They then had taken advantage of
3 whatever the information was, would recommend a
4 change, either increase it or decrease it, and add
5 new compounds to the list.

6 Q Okay. Now, the -- so if I understand
7 you correctly, they had a threshold limit value
8 committee, they met yearly, they looked at this
9 threshold limit value and they could have, if they
0 wanted, lowered it; am I correct?

1 A Yeah.

2 Q But they chose not to do so during the
3 relevant -- from 1947 through the relevant time
4 frame in this case; is that right?

5 A Well, it was not lowered, so, yes --

1 Q Okay. Go ahead, sir.

2 A Well, as I mentioned, there were a
3 number of things that came together, and it was
4 sort of a consensus that the five million
5 particles, which counted anything and everything
6 that was in the field, to something that was more
7 specific for asbestos, and because you could, you
8 could count more precisely the number of particles
9 per cubic centimeter of air, but totally different
10 from cubic feet.

11 Q Now, Ms. Savinis questioned you about
12 your experience as assistant Secretary of Labor;
13 do you remember her asking those questions?

14 A Yeah.

15 Q Tell -- if you would, tell me what you
16 did for the -- as an assistant Secretary of
17 Labor.

18 MS. SAVINIS: Again, I object.

19 A Well, other than testifying --

20 MS. SAVINIS: One second,
21 Mr. Pendergrass.

22 Once again, I object, it exceeds the
23 time frame.

24 MR. HANNA: I understand, but you
25 opened the door with it on direct.

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35 (Pages 134 to 137)

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1 Q Go ahead. 2 A Well, other than testifying before 3 Congress, the responsibility of OSHA is to provide 4 guidance to employers, and it is the employer's 5 responsibility to provide a safe enough workplace, 6 the guidance to individuals, to labor unions, as 7 to what constitutes a safe work environment, and 8 they do this through a network of compliance 9 officers scattered around in about a hundred 0 different area offices. 1 Q Now, when you were, when you were, 2 when you were attempting to provide a safe 3 workplace for workers as assistant Secretary of 4 Labor, what's the first piece of legislation that 5 you signed? 6 MS. SAVINIS: Objection, move again to 7 strike any testimony. 8 MR. HANNA: Okay. Objection is noted, 9 yet you opened the door. You brought it out 0 on direct. 1 Q Go ahead. 2 A It was the asbestos standard that 3 lowered the exposure -- or the permissible 4 exposure limit -- that is the OSHA term for the 5 same thing -- from two fibers to two-tenths of a	1 there, from 1957 through 1964, were being exposed 2 to asbestos in levels -- at levels exceeding the 3 then permissible exposure of the American 4 Conference of Industrial Hygienists of 5 five million particles per cubic foot? 6 A Not that I recall, no. 7 Q Okay. Mrs. -- or Ms. Savinis 8 questioned you, questioned you about folks taking 9 home dusty clothes, do you remember that -- 10 A Yeah. 11 Q -- and potential exposure to 12 families? 13 At your time at Cyanamid, in the 14 medical literature at that time, do you recall any 15 concern in the medical literature about household 16 exposures to asbestos causing malignant 17 mesothelioma? 18 A No. 19 MR. HANNA: That's all I have. 20 MS. SAVINIS: I have a few questions, 21 and I'm asking these questions subject to my 22 objection and how the Court would rule. 23 EXAMINATION 24 BY MS. SAVINIS: 25 Q You were appointed assistant Secretary
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1 fiber per CC. 2 Q Okay. And what was the purpose of, 3 again, lowering it to such a low level? 4 A Well, again, it is to protect workers, 5 and when I signed it, I felt that that was 6 certainly a level that would be protective to 7 workers. Personally I didn't think it needed to 8 be that low, but there was no reason for me to say 9 no because it would be protected. 0 Q Okay. Now, when you were at Cyanamid 1 in corporate, do you ever recall -- or strike 2 that -- and specifically with respect to the 3 Lederle facility, when you were at Cyanamid as an 4 IH, corporate IH, and specifically with reference 5 to the Lederle facility, what was the goal, first 6 off, of the on-site industrial hygienist? 7 A Well, the resident industrial 8 hygienist had the same responsibilities and goals 9 that the corporate had, and that was to make sure 0 that the, as sure as we could, that the work 1 environment was not going to cause ill health or 2 damage the well-being of workers. 3 Q In your position in corporate, did you 4 ever receive any information that any of the folks 5 at Lederle during the time frame that you were	1 of Labor under Reagan; correct? 2 A Correct. 3 Q And you were oftentimes criticized as 4 being pro-business; correct? 5 A I don't know, probably. 6 Q If you testified in the past that that 7 was one of your criticisms, would you stand by 8 that testimony? 9 A I don't remember testifying to that, 10 but I am sure that I was criticized for a number 11 of different things. 12 Q You weren't a member of -- you weren't 13 Secretary of Labor when the OSHA standards for 14 asbestos originally came in; were you? 15 A No, no, OSHA -- 16 Q And when did they -- 17 A OSHA was -- 18 MR. HANNA: Let him finish, Janice. 19 Go ahead, sir. 20 A OSHA was organized in -- well, the law 21 was signed in December of 1970. It became a 22 functioning agency in April of '71. They, then, 23 at that time adopted some of the existing 24 standards -- 25 Q And --

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1 A -- and asbestos was one of them.
2 Q Sure. And at that point in time you
3 were not the assistant Secretary of Labor, you
4 were at 3M?
5 A That's correct.
6 Q Now, did you -- are you telling us,
7 Mr. Pendergrass, you don't recall either way
8 whether somebody told you there was some concern
9 about asbestos at Lederle, you have no
10 recollection sitting here today?
11 MR. HANNA: Objection. Go ahead.
12 A Well, I think if I understand your
13 question, I don't recall that there was ever a
14 question raised with regard to asbestos exposure
15 at Lederle.
16 Q And that would have been the
17 six occasions that you visited?
18 A Yes.
19 MS. SAVINIS: Mr. Pendergrass, thank
20 you for your time, and I have no further
21 questions.
22 MR. HANNA: Thank you, Ms. Savinis.
23 THE WITNESS: Thank you, ma'am.
24 MS. SAVINIS: All right. Everybody be
25 safe going home.

1 CERTIFICATE
2 COMMONWEALTH OF PENNSYLVANIA)
3) SS
4 COUNTY OF ALLEGHENY)
5 I, Terri J. Urbash, do hereby certify that
6 before me, a Notary Public in and for the
7 Commonwealth aforesaid, personally appeared JOHN
8 A. PENDERGRASS, who then was by me first duly
9 cautioned and sworn to testify the truth, the
10 whole truth, and nothing but the truth in the
11 taking of his oral deposition in the cause
12 aforesaid, that the testimony then given by him as
13 above set forth was by me reduced to stenotypy in
14 the presence of said witness, and afterwards
15 transcribed by means of computer-aided
16 transcription.
17 I do further certify that this deposition
18 was taken at the time and place in the foregoing
19 caption specified, and was completed without
20 adjournment.
21 I do further certify that I am not a
22 relative, counsel or attorney of either party, or
23 otherwise interested in the event of this action.
24 IN WITNESS WHEREOF, I have hereunto set my
25 hand and affixed my seal of office at Pittsburgh,
Pennsylvania, on this ____ day of
____, 2011.

Terri J. Urbash, Notary Public
In and for the Commonwealth of Pennsylvania
My commission expires June 7, 2012

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1 (Discussion off the record.)
2 (Off the video record.)
3 MS. SAVINIS: On the record, every
4 document or depo pages that I made reference
5 to I plan to make a part of this record,
6 because, obviously, other lawyers were
7 participating that didn't have access to
8 these documents, so I will get -- look when
9 Terri produces the transcript, I will look at
10 the specific exhibits or documents that I
11 referred to, I will make a list of those
12 documents and I will number those documents
13 and make them collectively a part of this
14 deposition transcript, and I will provide
15 them to you and, obviously, every lawyer that
16 participates would be eligible to get a copy
17 of those specific exhibits.
18 MR. HANNA: Go ahead, that's fine.
19 ---
20 (Thereupon, at 4:01 p.m., the
21 deposition was concluded.)
22 ---
23
24
25

1 COMMONWEALTH OF PENNSYLVANIA) E R R A T A
2 COUNTY OF ALLEGHENY) S H E E T

3 I, John A. Pendergrass, have read the foregoing
4 pages of my deposition and wish to make the
5 following, if any, amendments, additions,
6 deletions or corrections

Page/Line	Should Read	Reason for Change
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19 In all other respects, the transcript is true and
20 correct

21 John A. Pendergrass
22 Subscribed and sworn to before me this ____ day
23 of _____, 2011

24 Notary Public

NETWORK DEPOSITION SERVICES
Transcript of John Pendergrass

37 (Page 142)

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1 March 21, 2011
2 Kelley Jasons McGuire Spinelli & Hanna, LLP
3 Two Liberty Place, Suite 1900
4 50 South 16th Street
5 Philadelphia, Pennsylvania 19102

6 ATTN: Thomas Hanna, Esquire
7 NOTICE OF NON-WAIVER OF SIGNATURE

8 Please have the deponent read his deposition
9 transcript. All corrections are to be noted on
10 the preceding Errata Sheet

11 Upon completion of the above, the deponent must
12 affix his signature on the Errata Sheet, and it is
13 to then be notarized

14 Please forward the signed original of the Errata
15 Sheet to Janice Savinis, for attachment to the
16 original transcript, which is in her possession,
17 copying all other counsel and myself

18 As per the rules, if the witness does not sign the
19 signature page within 30 days after receipt of the
20 transcript, signature is deemed waived

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