

FILE NAME: Wagner (WAG)

DATE: 1998 Apr 28

DOC#: WAG039

DOCUMENT DESCRIPTION: Legal - Deposition of RC Bueler with Barry
Castleman Notes

Richard Bueler
4/28/98 depo

- 8. Engineer worked for Wagner 1953-1993
- 18. doesn't remember any health precautions re asbestos at the plant
- 21. never knew about asbestos as health hazard
- 62. started looking for ash. substitutes in mid-70's
- 66/67 doesn't know why warnings were put on products re asbestos
- 96. no one at Wagner knew ash. harmful until mid-1970's
- 100. he's a consultant for Wagner today
- 107. surprised to see documents on asbestos hazards in local plants in 1934-1935

Wagner

NO. 94-007165

STEPHEN F. BLOCK, JR.	)	IN THE DISTRICT COURT OF
AND RITA BLOCK,	)	
Plaintiffs,	)	
	)	
VS.	)	HARRIS COUNTY, T E X A S
	)	
MAREMONT CORPORATION,	)	
ET AL,	)	
Defendants.	)	215TH JUDICIAL DISTRICT

VIDEO DEPOSITION OF
RICHARD C. BUELER

April 28, 1998



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NO. 94-007165

STEPHEN F. BLOCK, JR.) IN THE DISTRICT COURT OF
AND RITA BLOCK,)
) Plaintiffs,)
))
VS.) HARRIS COUNTY, T E X A S
))
MAREMONT CORPORATION,)
ET AL,))
) Defendants.) 215TH JUDICIAL DISTRICT

VIDEO DEPOSITION OF
RICHARD C. BUELER

taken on the 28th day of April, 1998, beginning at
10:03 a.m. in the offices of Royston, Rayzor,
Vickery & Williams, 2350 Chase Tower, 600 Travis,
Houston, Harris County, Texas, before Judy Conley,
a Certified Shorthand Reporter in and for the State
of Texas, pursuant to The Texas Rules of Civil
Procedure.

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MR. MIKE GOLDSTONE (PARTIAL
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MR. CHARLES SNOW, VIDEOGRAPHER

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1 (Whereupon instruments were marked
2 for identification as Bueler Exhibit
3 No. 1 and Bueler Exhibit No. 2 and
4 are attached hereto.)
5
6

7 MR. COOK: By the Rules, please.

8 MR. PUTNAM: Reserve objections
9 except as to form and responsiveness until the time
10 of trial?

11 MR. COOK: I think that's the Rules.

12 MR. PUTNAM: Well, I just want to
13 make sure.

14 MR. COOK: Okay.
15
16

17 RICHARD C. BUELER
18 was called as a witness by the Plaintiffs and,
19 having been first duly sworn, testified as follows:
20

21 EXAMINATION
22

23 By Mr. Cook:
24

25 Q. Please state your full name for the

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Houston, Texas

1 record, sir.

2 A. My name is Richard C. Bueler
3 B-u-e-l-e-r.

4 Q. Mr. Bueler, how are you employed?

5 A. I'm currently retired.

6 Q. How were you employed?

7 A. I was employed by Wagner.

8 Q. How?

9 A. As an engineer and engineering
10 supervisory positions.

11 Q. What was the highest position that you
12 held with Wagner?

13 A. Director of brake engineering.

14 Q. And when did you hold those positions?
15 That position. I'm sorry.

16 A. From approximately 1988 to '91.

17 Q. All right. And what did you do prior to
18 that time?

19 A. Prior to that I was an engineering
20 manager.

21 Q. Okay. Prior to that?

22 A. Prior to that I was also an engineering
23 manager.

24 Q. How many years did you work for Wagner,
25 Mr. Bueler?

1 A. I worked for Wagner beginning in 1953.
2 So, 40.

3 Q. And retired in '93? '96?

4 A. Retired in '93. So, it's 40 years,
5 yeah.

6 Q. Okay.

7 A. I'm not trying to be --

8 Q. No. Don't -- don't worry about it.
9 It's --

10 A. -- obfuscate here.

11 Q. No. I just -- I just need to just sort
12 of get a general idea.

13 Was all your work during that time
14 in brake engineering?

15 A. Yes, sir. Either brake engineering or
16 training for brake engineering.

17 Q. All right. And can you give me a little
18 bit of history about Wagner, the company? Were
19 they -- are they a brake -- well, let's start in
20 1953 when you went to work for them. Were they
21 manufacturing brakes in 1953?

22 A. Yes.

23 Q. Were they manufacturing brakes prior to
24 1953?

25 A. To the best of my knowledge, yes.

1 Q. Tell me who they sold to when you --
2 let's -- in 1953 when you came.

3 A. Bear in mind in 1953 I was a new
4 employee, but I know that we sold brakes to
5 Studebaker at that time.

6 Q. All right. And how did that work just
7 generally? You would provide original equipment to
8 Studebaker vehicles?

9 A. That's what we were doing at that time,
10 yes.

11 Q. All right. Now, in the 40 years that
12 you worked there did they provide brakes to any
13 other companies that manufactured automobiles?

14 A. Yes, we did.

15 MR. PUTNAM: I'm going to object.
16 It calls for a narrative. I think maybe if you
17 break it down into years, it would be easier I
18 think.

19 MR. COOK: My -- now, my question
20 was in the 40 year time period did you ever provide
21 brakes to any other automobile manufacturers. I
22 think his response is -- is accurate in that
23 regard, and I'll break it down when we -- when we
24 get to that.

25 MS. ANDERSON: And can we just have

1 an objection that -- an objection by one defendant
2 is good for all defendants present?

3 MR. COOK: No. We're not agreeable
4 to that.

5 Q. (By Mr. Cook) The -- tell me what -- who
6 those companies were, and then we'll get to what
7 time periods in just a second. What other
8 companies?

9 A. We sold original equipment brakes to
10 American Motors and to Ford and to General Motors,
11 International Harvester, Dodge. That's all that
12 comes to mind right now. There may be some others.

13 Q. All right. If you think of something
14 later on --

15 A. Surely.

16 Q. -- let me know.

17 A. Surely.

18 Q. Can you give me a time frame, we can go
19 through each one of them or however it's easiest
20 for you to do, some time frames when you might have
21 sold to those manufacturers? Let's start with GM.

22 A. With GM some time in the late fifties,
23 in and out of the sixties, and into the seventies
24 is my recollection.

25 Q. All right. And were those for original

1 equipment or were they replacement brakes? How --
2 what -- what type of brakes were they?

3 A. Those were original equipment brakes.

4 Q. Did you also sell to GM or any of the GM
5 subsidiaries replacement brakes?

6 A. Not to my knowledge.

7 Q. All right. Did -- at any time did
8 Wagner -- was Wagner in the business of
9 manufacturing brakes that were used other than by
10 original equipment manufacturers?

11 A. We were not in the position of
12 manufacturing brakes, no.

13 Q. Okay. What was it about my question
14 that -- I could tell that there was -- you had some
15 problem with the way I worded my question.

16 A. Well, I'm not exactly sure what you're
17 shooting for.

18 Q. Okay. I'm trying to find out -- let me
19 just be real clear what I'm shooting for. I'm
20 trying to find out what you manufactured, you being
21 Wagner, and who you sold it to. And if you
22 manufactured component parts of brakes or something
23 like that, I would be interested in what that was
24 and who it was sold to. So, I need to ask you
25 questions about that. So, I understand that over

1 the years you sold brakes to original equipment
2 manufacturers.

3 A. That is correct.

4 Q. All right. And did you ever sell
5 component parts to anyone?

6 A. Yes.

7 Q. Who did you sell those to?

8 A. Component parts were sold fundamentally
9 to distributors. Warehouse distributors.

10 Q. What were those parts envisioned -- how
11 were those parts envisioned to be used?

12 A. The parts were envisioned to replace
13 worn parts on vehicles in the field.

14 Q. Okay. Now, when we talk about
15 distributors, what kind of distributors?
16 Automobile part distributors or --

17 A. They were -- the terminology that I
18 always had them referred to was warehouse
19 distributors. These were companies that I would
20 say were relatively large as far as buying parts
21 from many different people, and then they
22 distributed them to retail centers or to jobbers or
23 to mechanics. Anyone who might be fixing an
24 automobile.

25 Q. All right. And did any of these brakes

1 that we've talked about, either the component parts
2 or the original equipment brakes that were sold to
3 manufacturers, did any of these contain asbestos?

4 A. They contained brake linings that
5 contained asbestos, yes.

6 Q. All right. Is that the only place that
7 there was asbestos in any of these products that
8 we've been talking about in the brake linings?

9 A. To the best of my knowledge, yes.

10 Q. All right, sir. Now, have you ever
11 given your deposition before in all these years
12 working for Wagner, Mr. Bueler?

13 A. Yes, I have.

14 Q. On how many occasions?

15 A. I could think of two occasions relative
16 to brake -- brakes of this nature.

17 Q. Well, how about total?

18 A. Total? Four or five.

19 Q. All right. And when -- and did any of
20 those depositions involve cases in which there were
21 allegations about asbestos?

22 A. Yes.

23 Q. All of them?

24 A. No.

25 Q. How many of them?

1 A. Two of them.

2 Q. All right. And what were -- what did
3 the other cases -- and I don't want to know any
4 details, but just generally what did the other
5 cases involve?

6 A. To the best of my recollection
7 allegations of illnesses from some sort of exposure
8 alleged to come from asbestos.

9 MR. PUTNAM: No.

10 Q. (By Mr. Cook) No. I'm talking about
11 the --

12 MR. PUTNAM: The cases that didn't
13 involve asbestos.

14 THE WITNESS: Oh, I'm sorry.

15 Q. (By Mr. Cook) That didn't involve
16 asbestos.

17 A. I'm -- I'm sorry. I missed -- didn't
18 listen properly to the question. The cases that
19 did not involve asbestos you're asking about?

20 Q. Yes, sir. I'm asking about those.

21 A. They were other product liability cases.

22 Q. All right. Did they -- and generally
23 what did they deal with? The performance of the
24 brakes as opposed to exposure or --

25 A. They related to the performance of the

1 brakes.

2 Q. All right.

3 A. Complements.

4 Q. And -- and can you just in a time frame
5 when did these four or five depositions occur?

6 A. One of them occurred in '91. One of
7 them occurred in '93. One of them occurred I
8 believe in '90. Another one occurred maybe in '88
9 or '89. I'm fuzzy on that. That's approximate
10 dates.

11 Q. Have you testified in any trials, Mr.
12 Bueler?

13 A. No. I have not.

14 Q. Now, two of these cases involved
15 exposure to asbestos. Is that right?

16 A. That is correct.

17 Q. And I think you've brought with you
18 today a couple of depositions. Are these the
19 depositions from those cases?

20 MR. PUTNAM: They are.

21 MR. COOK: Okay.

22 Q. (By Mr. Cook) Mr. Bueler, is asbestos a
23 poison?

24 MR. PUTNAM: Objection. Calls for
25 speculation. Mr. Bueler's not here to give expert

1 testimony. He's here to testify on the facts.

2 MS. ANDERSON: Join the objection.

3 MS. WRIGHT: Join the objection.

4 MR. SHIPLEY: Join.

5 MR. GARZA: I join in that

6 objection.

7 MS. HERMES: Join.

8 THE WITNESS: I don't know the

9 definition of a poison to be honest.

10 Q. (By Mr. Cook) So that we're -- we're
11 accurate in that regard, I've brought with me a
12 Webster's dictionary. I'm going to ask you to look
13 up the definition of poison.

14 A. Okay. I'll be happy to do that.

15 Q. I thought it said Webster's. Okay.
16 Whatever kind of dictionary it is. It may not be
17 Webster's. I thought it was Webster's.

18 MR. PUTNAM: Don't read it out loud.

19 THE WITNESS: Okay.

20 Q. (By Mr. Cook) Let me know when you've
21 had a chance to read it.

22 A. All right.

23 Q. Keep -- I've got -- if you can get back
24 to it again.

25 A. Okay. Okay. Where am I? Okay.

1 Q. Please read the first definition for
2 poison contained in the dictionary.

3 A. "Any substance that causes injury,
4 illness or death, especially by chemical means."

5 Q. All right. Is asbestos a poison --

6 MR. PUTNAM: I'm going to renew the
7 objection.

8 Q. (By Mr. Cook) -- using that definition?

9 MR. PUTNAM: I'm going to renew the
10 objection.

11 MS. ANDERSON: Same objection.

12 MR. PUTNAM: Mr. Bueler is not here
13 to give expert testimony. This is a Webster's
14 dictionary. It has no scientific basis, no
15 application of OSHA standards, NIOSH standards,
16 and, therefore, I'd ask Mr. Bueler not to answer
17 that question because he's not here for that
18 purpose.

19 MS. ANDERSON: Join the objection.

20 MR. COOK: Anybody else want to --

21 MS. WRIGHT: Join the objection.

22 MR. COOK: Anybody else want to join
23 in that objection?

24 MS. ANDERSON: Yes.

25 MR. COOK: Okay. Who all?

1 MR. GARZA: I join that objection.

2 MS. WRIGHT: I join the objection.

3 MS. HERMES: I join.

4 MR. COOK: Mr. Bueler is a witness.
5 He is involved in the manufacture. That's a
6 perfectly proper question, and I'm going to adjourn
7 the deposition and take it before the judge.

8 MR. PUTNAM: I think -- go ahead.
9 Ask -- if he knows the answer to that question
10 based on his knowledge with the company --

11 MR. COOK: Well, you're the one who
12 instructed him not to answer it. That's why I
13 stopped.

14 MR. PUTNAM: I don't want him --
15 you're giving him a dictionary and telling him is
16 it a -- is it a poison based upon a dictionary that
17 you're giving him.

18 MR. COOK: If you've got another
19 dictionary, we're happy to do that.

20 MR. PUTNAM: No. I don't have to
21 give him a dictionary.

22 MR. COOK: Okay.

23 MR. PUTNAM: You can ask him if --

24 Q. (By Mr. Cook) Under -- under the
25 definition in the dictionary is asbestos a poison?

1 MS. ANDERSON: Objection.

2 Argumentative.

3 MR. PUTNAM: Same objection. If you
4 know.

5 THE WITNESS: I do not know.

6 Q. (By Mr. Cook) As you sit here today
7 having worked in brakes for Wagner for 40 years do
8 you know whether asbestos is injurious to the human
9 body?

10 A. I do not know that.

11 Q. Who at your company in the 40 years that
12 you worked there would know the answer to that
13 question?

14 A. I don't know.

15 Q. Now, people at your company worked with
16 asbestos, did they not?

17 A. They worked with brake lining, yes.

18 Q. Which contained asbestos.

19 A. Yes.

20 Q. What health precautions did they take at
21 your company in regard to asbestos, if any?

22 MR. PUTNAM: Objection. Calls for
23 speculation and it's ambiguous.

24 THE WITNESS: I don't remember any
25 precautions particularly that were taken.

1 Q. (By Mr. Cook) Okay. In regard to
2 asbestos, what form was it in when it arrived at
3 your company?

4 A. Any asbestos that we purchased was in
5 the form of brake linings.

6 Q. Who did you purchase the brake linings
7 from?

8 A. Various vendors who provided it.

9 Q. Can you give me some names?

10 A. Yes. I can think of American Brake
11 Block, I can think of Bendix, Carlisle, Nuturn,
12 Certified perhaps, Krasny. That's all I can think
13 of at the moment. There may be others.

14 Q. Now, did you ever modify the brake
15 linings in any way after you received them from
16 these suppliers?

17 A. By modify, what do you mean by modify?

18 Q. Well, we can either look in the
19 dictionary or I'll try to come up with --

20 A. No. I would -- yeah. I would just --

21 Q. -- a definition for modify.

22 A. I would -- no. I was just trying --

23 Q. Change them in any way.

24 A. We attached the brake linings to metal
25 shoes.

1 Q. All right.

2 A. And subsequently in many cases we
3 surfaced the lining.

4 Q. All right. How did you attach the brake
5 linings to the shoes?

6 A. Generally one of two basic methods. We
7 either glued them on, so to speak, adhesive
8 technique or riveted and a similar technique nuts
9 and bolts in certain cases.

10 Q. Okay. Did you have to drill a hole in
11 the brake linings first when you riveted them?

12 A. In some cases Wagner did. In some cases
13 the supplier did.

14 Q. All right. When Wagner did, what
15 precautions, if any, were used to make sure that
16 asbestos was not released into the environment when
17 the drilling process occurred?

18 A. I don't recall any precautions being
19 taken for that.

20 Q. Were you aware that asbestos might be
21 harmful to the human body at that point in time?

22 A. I certainly wasn't.

23 Q. When, if ever, did you first become
24 aware that asbestos might be harmful to the human
25 body?

1 A. Some time in the middle seventies.

2 Q. After that point in time were there ever
3 modifications made to any of the brake linings at
4 Wagner?

5 A. Similar as I already discussed.

6 Q. Once you became aware in the mid
7 seventies that asbestos may be harmful to the human
8 body, did you take any precautions at that point in
9 time to make sure that asbestos was not released
10 into the environment when the drilling was going
11 on?

12 A. At that point in time I don't believe we
13 were doing any drilling.

14 Q. Okay. That's the reason I asked a
15 minute ago as to whether you were still doing it in
16 the same manner. You think it had stopped by that
17 point in time?

18 A. No, no. I -- I think we, Wagner, I do
19 not believe Wagner was doing any drilling at that
20 point in time.

21 Q. I see what you're saying. You think
22 that the suppliers may have been doing that.

23 A. Yes, sir. Yes, sir.

24 Q. Okay. What about the other modification
25 that you told me about? Some type of was it

1 shaving or sanding or something?

2 A. Grinding the surface.

3 Q. All right. And what was -- so that I
4 understand, what was the purpose of grinding the
5 surface?

6 A. The purpose of grinding the surface was
7 to get a dimensional control on the arc that was
8 produced on the brake shoes.

9 Q. All right. They would not always come
10 to you that exactly met your specifications, and
11 you wanted them to meet some type of specifications
12 before sale to the automobile manufacturers and
13 others.

14 MR. PUTNAM: Objection.
15 Argumentative.

16 Q. (By Mr. Cook) Is that right?

17 MR. PUTNAM: Same objection. I
18 think he's answered that they were trying to get it
19 to fit.

20 THE WITNESS: We were trying to make
21 a --

22 Q. (By Mr. Cook) That's a better --

23 A. -- controlled radius.

24 Q. That's a better -- that's a better
25 question. You were trying to get it to fit?

1 A. Trying to get a controlled radius.

2 Q. And why was it necessary to get a
3 controlled radius?

4 A. To have proper performance of the brakes
5 themselves.

6 Q. Did you make them to -- when you were
7 making these brakes, did the manufacturers have any
8 specifications that you had to meet?

9 A. Yes.

10 Q. And is that why you were doing this
11 sanding or shaving or whatever it is?

12 A. Yes.

13 MS. ANDERSON: Objection.

14 Overbroad.

15 Q. (By Mr. Cook) Tell me how that process
16 works so that I'll understand. How did this
17 process of making it fit work? What did you
18 physically do to those brake linings?

19 A. After the brake linings were attached to
20 the metal shoe, that assembly of shoe and lining
21 was placed in a fixture and passed across a
22 grinding wheel in a manner that produced a radius.

23 Q. All right. Was there any human
24 intervention in this process? Was -- you know,
25 sometimes mechanically things are placed on

1 grinding wheels and other times human beings place
2 them on grinding wheels as opposed to some type of
3 machine doing it. How did it work for you guys?

4 A. Typically they were loaded on to a
5 fixture by a man.

6 Q. All right. And then what would happen
7 next?

8 A. They would be ground, and then they
9 would be unloaded.

10 Q. All right. What precautions were used
11 in the grinding process to make sure that asbestos
12 was not released into the atmosphere?

13 A. There -- I can think of none that was
14 done to make sure that asbestos was not released
15 into the atmosphere.

16 Q. How long did this grinding procedure go
17 on? For instance, was it going on still when you
18 retired?

19 A. Yes.

20 Q. Do you know whether it's still going on
21 today?

22 A. I don't know that for a fact, no, sir.

23 Q. All right. Who -- who should I ask that
24 question? Who would know that today?

25 A. Perhaps some current employees.

1 Q. Well, who took your place?

2 A. Actually no one took my place.

3 Q. Who took over your job responsibilities?

4 A. Actually no one took over my job
5 responsibilities.

6 Q. Nobody does that job any more?

7 A. That is essentially correct.

8 Q. Well, who -- who -- who there was doing
9 a job similar to what you were doing?

10 A. The -- a man called Alex Aaron was doing
11 a job similar.

12 Q. Has Mr. Aaron now retired?

13 A. Yes, he is.

14 Q. All right. Where does he live?

15 A. He lives in the St. Louis area.

16 Q. All right. And I didn't ask you where
17 you live, Mr. Bueler. Where do you live?

18 A. I live in the St. Louis area also.

19 Q. All right. Do you -- do you know Mr.
20 Aaron personally?

21 A. Yes, I do.

22 Q. Do you socialize with Mr. Aaron?

23 A. Not in the sense of running around with
24 him, no.

25 Q. Who -- who took over Mr. Aaron's job?

1 A. I don't know the answer to that
2 question.

3 Q. I need to ask Mr. Aaron?

4 A. Yes.

5 Q. All right. Now, who was your supervisor
6 when you left?

7 A. When I left, a man named Bill Aymond.
8 A-y-m-o-n-d I believe is how you spelled his name.

9 Q. Is he still your supervisor or still
10 supervisor out there to the best of your knowledge?

11 A. To the best of my knowledge he's still
12 an employee. Beyond that I have no knowledge.

13 Q. All right. Were the people that were
14 doing the grinding exposed to any dust as a result
15 of the grinding of these brake linings?

16 MR. PUTNAM: Object to the question.
17 Assumes facts not in evidence. I think he
18 testified that the parts were put on the machine,
19 they were ground, and then removed off of the
20 machine. So, the machine was doing the grinding.

21 MR. COOK: So, what is your form
22 objection?

23 MR. PUTNAM: I've already stated it.
24 It assumes facts not in evidence and also -- also
25 add that it misstates his prior testimony.

1 Q. (By Mr. Cook) Okay. Go ahead and
2 answer.

3 A. Would you restate the question?

4 Q. Were the workers that were around the
5 grinding machine ever exposed to any dust in this
6 process that you've described?

7 A. There probably was some dust exposure.

8 Q. What precautions, if any, were the
9 workers supposed to use that were around this dust?

10 A. The machines, the grinding machines,
11 were typically equipped with vacuum equipment. A
12 hood on the wheel that sucked the dust, the
13 grindings into a vacuum system for later disposal.
14 That was a general technique used to remove
15 anything like that from a process of that nature.

16 Q. But still whatever is around a grinding
17 area it doesn't get all the dust. Is that correct?

18 MR. PUTNAM: Objection.

19 Argumentative. Assumes facts not in evidence.

20 THE WITNESS: I don't know whether
21 it got all of the dust or not.

22 Q. (By Mr. Cook) Well, a minute ago you
23 said that they probably were exposed to some dust.
24 How would that occur?

25 A. I was at that point thinking that

1 perhaps it didn't get all of the dust. I don't
2 know whether it did or not.

3 Q. Did the -- were the men required to wear
4 any type of respiratory protection?

5 A. Not in the earlier years.

6 Q. How about in the later years?

7 A. I recall them having in some cases some
8 sort of respirator on their face when they were
9 doing some work.

10 Q. Around the grinding machine?

11 A. Yes, sir. I recall that in some
12 instances.

13 Q. Were you curious as to why they might be
14 wearing a respirator around the grinding machine?

15 A. Not at that point in time, no.

16 Q. Why not?

17 A. Because that was after the warnings and
18 the EPA and so forth had put out information that
19 asbestos was potentially a dangerous situation.

20 Q. So, you thought that probably the reason
21 they were wearing those respirators around the
22 grinding machine was because of asbestos?

23 MR. PUTNAM: Objection.

24 Argumentative. Mischaracterizes his testimony as
25 well.

1 THE WITNESS: I thought it was an
2 attempt to comply with the law or the regulations
3 that were in effect at that time.

4 Q. (By Mr. Cook) All right. And when
5 you're talking about the law and the regulations,
6 you're talking about the law and regulations that
7 apply to asbestos?

8 A. Relative from -- yes. Yes.

9 Q. Do you know -- did you know any of the
10 men that worked on the grinders?

11 A. I don't know what you mean by know.

12 Q. Know their names.

13 A. No. No. No.

14 Q. Over the years when -- were those
15 grinders there or similar type grinding machines
16 there the entire 40 years that you worked for this
17 company?

18 A. To the best of my recollection, yes,
19 sir.

20 Q. Did you ever know the names of any of
21 the individuals that worked around those machines?

22 A. Not that I can recall.

23 Q. Did you work around those machines?

24 A. Not in any continuing way, no, sir.

25 Q. What would be your connection with those

1 grinding machines?

2 A. My connection with the grinding machines
3 would be purely from an engineering viewpoint.
4 Hey, we need certain radius. How are we going to
5 get it. I might go look and see the techniques
6 that they're using to get the radius.

7 Q. As an engineer designing systems -- is
8 that what you did? Design systems?

9 A. Basically, yes.

10 Q. As an engineer designing systems, did --
11 were you concerned with designing the systems so
12 that they would protect the health of the workers
13 that were working in the systems?

14 MR. PUTNAM: Objection. Vague and
15 ambiguous as to systems and designing.

16 MS. ANDERSON: I join the objection.

17 THE WITNESS: When I was designing
18 systems or components thereof, I was concerned with
19 making systems and components that would do the
20 proper job in the field of stopping vehicles to the
21 best of my capability.

22 Q. (By Mr. Cook) All right. Were you
23 concerned that the people that were on the
24 manufacturing line using these systems or assembly
25 line, however you want to characterize it, might be

1 exposed to some health risk from the materials
2 involved in the procedure or process?

3 MR. PUTNAM: Objection as to vague
4 and ambiguous and as to procedure and process.

5 THE WITNESS: I think like most
6 human beings I was concerned with people. Like I'm
7 concerned with you when you walk out of here that
8 you don't cross the street and get run over or
9 something of that nature, but it was not a
10 perceived problem for the materials that I was
11 involved with at the time that it would require a
12 great deal of forethought on my part.

13 Q. (By Mr. Cook) All right. At some point
14 in time it did become a perceived problem in the
15 seventies. Is that correct?

16 A. Relative to asbestos, yes, sir.

17 Q. Right.

18 At that point in time were you
19 involved at all with the grinders in any way? In
20 designing systems that used the grinders, in
21 choosing the grinders or whatever?

22 A. No. Not at all.

23 Q. Did the system basically remain
24 unchanged for all those years or were there changes
25 in the system?

1 MR. PUTNAM: Objection. Vague and
2 ambiguous as to system.

3 THE WITNESS: Are you referring to
4 the vacuum system involved grinding the shoes? I'm
5 not sure what you're referring to.

6 Q. (By Mr. Cook) Tell me -- well, let's
7 start with that. The vacuum system involved in
8 grinding shoes, when was that put into place?

9 A. It was there when I went there. The
10 general system.

11 Q. All right. And were you ever involved
12 in modification of that vacuuming system?

13 A. No.

14 Q. Did it stay the same from when you went
15 there until you left in 1993?

16 A. I don't know.

17 Q. Who would be responsible for that system
18 in the hierarchy there at Wagner?

19 A. Would have been the plant engineering
20 individuals.

21 Q. Now, an engineer doing the type of work
22 you were doing, you were involved in meeting
23 specifications and designing things so that brakes
24 worked I think is sort of how you said. Is that
25 right?

1 A. That is correct.

2 Q. Who did you rely on to provide you
3 information that if there was a hazardous material
4 involved in your process that you were designing,
5 whatever it might be, who did you rely on to
6 provide you with information so that you would know
7 if there was some hazardous material that your
8 process that you were designing had to deal with?

9 A. I can't say I relied on anyone.

10 Q. Well, did you do any personal
11 investigation to determine whether the materials
12 that would be involved in the processes that you
13 were designing machines, whatever, were not
14 hazardous to people's health?

15 MR. PUTNAM: Objection. Vague and
16 ambiguous as to processes.

17 THE WITNESS: We manufactured parts.
18 Basically metallic parts. The metals that we used
19 were generally believed to be nonhazardous as a
20 material in the sense that I believe you're
21 talking. So, there was no particular reason to be
22 of concern of that.

23 Q. (By Mr. Cook) My question, Mr. Bueler,
24 is how did you know those metals were believed to
25 be nonhazardous?

1 A. The metals I'm speaking of, aluminum and
2 steel basically, are materials commonly used in the
3 environment for years and years and years; and
4 there was never any indication that I perceived or
5 received from anyone that they themselves were a
6 problem.

7 Q. Was there somebody at your company that
8 would know about materials? Somebody whose
9 expertise was industrial hygiene, for example, or
10 toxicology?

11 A. No.

12 Q. Is there now?

13 A. Not to my knowledge.

14 Q. Can you give me some idea of the volume
15 of brakes and brake linings that -- strike that.

16 Can you give me some idea of the
17 volume of your sales? And break them down however
18 you want them.

19 MR. PUTNAM: Objection. Vague and
20 ambiguous as to sales. We're talking about sales
21 of what?

22 MR. COOK: Well, I asked him to
23 break it down however he wants it. I'm not sure
24 exactly how they sell.

25 MR. PUTNAM: Same objection. I'm

1 not sure of what you're asking.

2 MR. COOK: Okay.

3 MR. PUTNAM: You were asking him to
4 break down sales of what?

5 Q. (By Mr. Cook) Did you sell brakes to
6 original equipment manufacturers?

7 A. We sold brakes to original equipment
8 manufacturers.

9 Q. How many?

10 A. I do not know the answer to that
11 question.

12 Q. Is --

13 A. Seriously.

14 Q. Is it hundreds of thousands?

15 A. Over what period of time?

16 Q. This 40 year period of time.

17 A. I would think certainly several thousand
18 a year. So, multiply that by 40 and you can come
19 up with a number; but I have no idea as to the
20 numerical quantity.

21 Q. To the best of your knowledge is Wagner
22 still selling asbestos-containing products today?

23 A. As far as I know, but I have not spoken
24 with anyone in that end of the business in recent
25 months.

1 Q. Who is the CEO of Wagner?

2 A. I don't believe there is a CEO of
3 Wagner.

4 Q. Who's the boss?

5 A. I don't know the answer to that
6 question.

7 Q. Can you tell me the name of any one
8 boss? Anybody in upper management.

9 A. At Wagner, no, I cannot.

10 Q. How about Cooper?

11 A. I believe the head of Cooper is a man
12 named Mr. Riley I believe.

13 Q. Now, how does this work? Cooper
14 Industries bought Wagner? Is that right?

15 A. I would be on very thin ice to answer
16 that question because I think there's some very
17 ticky little legalities of who bought what and that
18 sort of thing. So, I --

19 MR. PUTNAM: Answer the question if
20 you know. If you don't know, say you don't know.

21 THE WITNESS: I don't know that.

22 Q. (By Mr. Cook) Mr. Bueler, who was head
23 of engineering in 1953 when you got there?

24 A. A man -- a man named Walt Freeman.

25 Q. All right. How long did he remain head

1 of engineering?

2 A. He was in charge of brake engineering
3 until about 1956 or '57 is my recollection.

4 Q. Who took his place?

5 A. A man named Mr. Wallace.

6 Q. Okay. And how long was he head of brake
7 engineering?

8 A. Until approximately 1967, 8, 9.
9 Somewhere in that area of time.

10 Q. So, for almost a decade?

11 A. Yes.

12 Q. Okay. Who took over after him?

13 A. A man named Jack Kourik.

14 Q. Can you spell that one for me?

15 A. K-o-u-r-i-k.

16 Q. And how long was he head of brake
17 engineering?

18 A. From the time of Mr. Wallace's end of
19 tenure until about 1988 is my recollection.

20 Q. Okay. And then who took over from him?

21 A. Then I got that particular position.

22 Q. Okay. Can you give me sort of a view of
23 was brake engineering, did it fall into any
24 particular department at Wagner? Who did you
25 report to?

1 A. When?

2 Q. At -- at the end. I'm talking about --

3 A. Oh.

4 Q. -- when you were head of brake
5 engineering.

6 A. At the end I reported to this man I
7 mentioned, Bill Aymond.

8 Q. All right. And what was his title?

9 A. I believe he was a Vice President of
10 operations. I'm not sure of that exact title.

11 Q. Were there any other engineering groups
12 that also reported to him?

13 A. Not to my knowledge.

14 Q. Was brake engineering the only
15 engineering that was going on at Wagner or was
16 there -- were there other areas where there was
17 engineering going on?

18 A. There were other areas.

19 Q. What were those other areas?

20 MR. PUTNAM: Are we talking about --

21 Q. (By Mr. Cook) At the time you -- in
22 1993. Until I switch I'll tell you, but just right
23 at the end for right now when you -- when you
24 retired.

25 MR. PUTNAM: Okay.

1 THE WITNESS: Talking about Brake.
2 Wagner Brake.

3 MR. COOK: Right.

4 THE WITNESS: There was no other
5 engineering. I retract my --

6 MR. COOK: Okay.

7 THE WITNESS: -- my earlier answer.

8 Q. (By Mr. Cook) Now, was Wagner Brake part
9 of a larger Wagner?

10 A. Organizationally I cannot answer that
11 question.

12 Q. Whether you're accurate or not, was
13 there another Wagner entity name that you're aware
14 of?

15 A. Yes.

16 Q. What was that name?

17 A. Wagner Lighting.

18 Q. Okay. But I take it that Wagner
19 Lighting had nothing to do with the brake
20 manufacture or assembly.

21 A. I can agree with that characterization.

22 Q. All right. Now, was there a marketing
23 group at Wagner?

24 A. Yes, there was.

25 Q. Was there a Vice President of marketing?

1 Still talking about the 1993 time period.

2 A. Did you ask me was there a Vice
3 President?

4 Q. Yes.

5 A. Not that I recall, but I'm not certain.

6 Q. Who were you selling brakes to in the
7 period of time when you were head of brake
8 engineering?

9 A. Nobody.

10 Q. Okay. So, from 1988 -- am I right on
11 the time when you became --

12 A. Yes.

13 Q. -- head --

14 A. Yes.

15 Q. -- until 1993 --

16 A. Yes.

17 Q. -- you did not sell brakes to any of the
18 original equipment manufacturers.

19 A. That is correct.

20 Q. Okay.

21 A. I think that is an absolutely accurate
22 statement.

23 Q. All right. Were you -- were you still
24 manufacturing these brake linings at that point in
25 time and replacement parts?

1 MR. PUTNAM: Objection. Assumes
2 facts not in evidence. He's never testified he
3 manufactured brake linings.

4 THE WITNESS: We never did
5 manufacture brake linings was going to be my
6 answer.

7 Q. (By Mr. Cook) All right. You
8 manufactured brake linings attached to brake shoes.

9 MR. PUTNAM: Objection.

10 THE WITNESS: No, sir.

11 MR. PUTNAM: Same objection.

12 THE WITNESS: We did not manufacture
13 brake linings.

14 Q. (By Mr. Cook) Tell me -- tell me what
15 distinction you're drawing.

16 A. We purchased brake linings that we
17 attached to brake shoes.

18 Q. Okay. What did you call the finished
19 attached product?

20 A. A shoe and lining assembly.

21 Q. Is it true then that you manufactured a
22 shoe and lining assembly?

23 A. In the period from '88 to '93?

24 Q. Yes.

25 A. The answer is yes.

1 Q. All right. And did you also manufacture
2 a shoe and lining assembly in the period 1953 to
3 1993?

4 A. Yes.

5 Q. Who did you sell the shoe and lining
6 assembly to during the period 1988 to 1993?

7 A. Shoe and lining assemblies were
8 typically sold to warehouse distributors.

9 Q. Any that you can remember in this time
10 period 1988 to 1993?

11 A. I do not know the names of the warehouse
12 distributors if that's the question.

13 Q. Do you know the name of any of them?

14 MR. PUTNAM: Objection. Asked and
15 answered. He said he doesn't know.

16 THE WITNESS: I can't recall any
17 names, no. I'm sorry.

18 Q. (By Mr. Cook) How would I go about
19 finding out the names of those warehouse
20 distributors?

21 A. I don't know how you'd go about doing
22 that.

23 Q. Have no clue as to how I might -- who I
24 might talk to about who you were selling -- who
25 these warehouse distributors were.

1 A. I'll speculate what I would do if I were
2 you.

3 Q. That's great.

4 MR. PUTNAM: No.

5 THE WITNESS: No. Okay.

6 MR. PUTNAM: You're not going to
7 speculate or guess.

8 THE WITNESS: Okay.

9 MR. PUTNAM: If you don't know, you
10 don't know.

11 Q. (By Mr. Cook) What would you do if you
12 were me --

13 MR. PUTNAM: Objection. Vague.
14 Ambiguous.

15 Q. (By Mr. Cook) -- to find out that
16 information?

17 MR. PUTNAM: Same objection.

18 THE WITNESS: Does the objection
19 mean I'm not to answer or what does it mean?

20 MR. PUTNAM: No. Rich, if you know
21 the answer to his specific question, answer it. If
22 you don't know --

23 THE WITNESS: And your question was?

24 Q. (By Mr. Cook) What would you do if you
25 were me to try to find out the names of who you

1 were selling these shoe and lining assemblies to in
2 the 1988, 1993 time period?

3 MR. PUTNAM: Objection.

4 Argumentative. It's not a question based upon his
5 personal knowledge. He does not have to speculate
6 about what he would do if he was you.

7 THE WITNESS: I will not speculate.

8 Q. (By Mr. Cook) Okay. Did you know at one
9 time who you were selling to when you were head of
10 engineering for brake linings?

11 A. I never knew --

12 MR. PUTNAM: Objection. That
13 misstates his prior testimony. He's never
14 testified that he was in charge of brake linings.
15 The regular brake linings.

16 Q. (By Mr. Cook) Let me be more accurate.
17 Your lawyer's correct. Did you know when you were
18 in charge of engineering, brake engineering, in the
19 time period of 1988 to 1993 who you were selling
20 to?

21 A. I had probably heard the names of some
22 companies.

23 Q. And you've forgotten them since that
24 time.

25 A. Yes, that's correct.

1 Q. What warnings or information did you
2 provide with your shoe and lining assemblies for
3 the end user?

4 A. There were papers put in the boxes after
5 this became a known or alleged problem that
6 indicated precautions that should be taken in the
7 field when utilizing the units.

8 Q. When did that occur?

9 A. Some time in the middle of the seventies
10 after the -- OSHA indicated there was an alleged
11 problem with the asbestos relative to mechanics.

12 Q. As you sit here today do you believe
13 that there is a problem that asbestos poses for
14 mechanics?

15 MR. PUTNAM: Objection. Calls for
16 speculation.

17 MS. ANDERSON: Calls for a medical
18 opinion.

19 MR. PUTNAM: Objection. Vague and
20 ambiguous, too.

21 THE WITNESS: I -- I don't know what
22 I believe on that subject.

23 Q. (By Mr. Cook) All right. What -- have
24 you ever attempted to find out any information
25 about that subject?

1 A. In the sense of actively looking for
2 information beyond what was normally published by
3 the OSHA and the EPA? No, sir.

4 Q. I take it by what you said, and correct
5 me if I'm wrong, that you then kept up with what
6 was published by OSHA and the EPA.

7 A. Attempted to keep up with that, yes.

8 Q. How did you do that, sir?

9 A. We -- the -- we received documents from
10 people who would be involved in that sort of thing.
11 Like I remember the FMSI would send out documents
12 occasionally which would indicate what was going
13 on.

14 Q. Who -- tell me about who the FMS --

15 A. Friction Material Standards Institute.
16 I think that's what that stands for.

17 Q. All right. And did you read the
18 information that was sent by the Friction Materials
19 Institute?

20 A. In the -- in the sense of you being
21 Wagner, yes.

22 Q. Okay. Well, in the sense of you being
23 you, you Mr. Bueler, did you read those materials?

24 MR. PUTNAM: Objection. Let me get
25 my objection. Objection. Vague and ambiguous as

1 to those materials. Are you talking about a
2 specific document or are you just talking in
3 general terms?

4 He's asking you, Rich, if you read
5 every single piece of paper from Friction Material
6 Standards Institute.

7 THE WITNESS: I'm confident I did
8 not read every piece of paper from FMSI.

9 Q. (By Mr. Cook) Well, how did you decide
10 which pieces of paper you'd read from -- from the
11 Friction Materials whatever the institute is? How
12 did you decide? In other words, what I want to
13 know is how were -- was it somehow sent to you
14 directly by them? Was it -- did the company pass
15 it around? How did that work?

16 A. It would be sent to someone in the
17 company and then passed around.

18 Q. All right. Who would that be sent to?

19 A. Typically the recipient of that
20 information in the time period that I think we're
21 talking about would have been Mr. Kourik.

22 Q. All right. And what time period are we
23 talking about?

24 MR. PUTNAM: I thought we were still
25 talking when he was director of brake engineering.

1 MR. COOK: I thought so, too.

2 THE WITNESS: Oh. Oh. Okay.

3 MR. COOK: That's what I want to
4 figure out.

5 THE WITNESS: Okay. Well, obviously
6 Mr. Kourik wasn't there; and I was confused about
7 the time that was -- we're talking about. Sitting
8 here right now I can't remember any particular
9 items that we got from '88 to '93 from FMSI on that
10 subject.

11 Q. (By Mr. Cook) All right. Go back to
12 when Mr. Kourik is there because you seem to
13 remember some materials that came at that time. Is
14 that correct?

15 A. In general, yes.

16 Q. All right. And they would have come to
17 Mr. Kourik? Can you give us some idea what time
18 frame he was there for ten years or more I think
19 you said?

20 A. Yes. Those documents would have come to
21 him some time in the period where this was an
22 active new subject in the middle seventies.

23 Q. Were you interested in this active new
24 subject?

25 A. You speaking of me?

1 Q. You personally, sir.

2 A. I was certainly interested, yes.

3 Q. Okay. What was your job title at that
4 time?

5 A. Manager systems engineering I think.

6 Q. And why were you interested in this new
7 subject as manager of systems engineering?

8 A. Because as part of the supervisory group
9 there tried to keep up on what was going on.

10 Q. And what, if anything, did you learn
11 about asbestos during this middle seventies time
12 period?

13 A. What I learned it was alleged that
14 asbestos causes certain kinds of illnesses.

15 Q. Were there any meetings about that at
16 Wagner? About the subject of asbestos?

17 MR. PUTNAM: What time period are we
18 referring to?

19 MR. COOK: In this mid seventies.

20 Q. (By Mr. Cook) From now on until I switch
21 again we're talking about this mid seventies time
22 period that you've described as when this
23 information was coming out.

24 A. Okay. Yes. I would say there were some
25 meeting or meetings, yes.

1 Q. All right. Can you tell me was there
2 one meeting or were there a number of meetings?

3 A. There was -- there was one. Whether
4 there were more, I cannot say.

5 Q. Tell me -- but you remember one.

6 A. I remember one, yes.

7 Q. All right. And can you give me some
8 type of time frame about that meeting?

9 A. The time frame was again in the middle
10 seventies when we got the information about this
11 being a potential hazard.

12 Q. All right. And who called the meeting,
13 if you recall?

14 A. I don't know precisely who called the
15 meeting.

16 Q. Who -- did you attend the meeting?

17 A. Best of my recollection I attended a
18 meeting, yes.

19 Q. All right. Was Mr. Kourik there?

20 A. Yes. He would have been there.

21 Q. Who else was there that you can recall?

22 A. Another Wagner employee, Mr. Tuegel,
23 would have been there.

24 Q. How do you spell that name?

25 A. T-u-e-g-e-l.

1 Q. And where was that meeting held?

2 A. Somewhere in the engineering office. I
3 cannot precisely state where that was.

4 Q. The engineering office at Wagner?

5 A. At Wagner Brake, yes.

6 Q. In what city?

7 A. Oh. In St. Louis.

8 Q. Okay. And some time in the mid
9 seventies.

10 A. Yes, sir.

11 Q. Were there more than three or four
12 people there or were there a large number of people
13 there?

14 A. I don't recall being a large meeting.

15 Q. Less than ten?

16 A. Oh, certainly less than ten.

17 Q. All right. And do you remember what was
18 discussed at that meeting?

19 A. My recollection we discussed the need to
20 get warnings in boxes and that sort of thing.

21 Q. All right. What was Mr. Tuegel's job
22 description?

23 A. He was an engineering manager involved
24 with brake -- brake design and so forth.

25 Q. Okay. And tell me what was discussed

1 that -- anything that you can remember about what
2 was discussed in regard to the warnings.

3 A. Nothing other than the fact my
4 recollection is that there is an alleged problem.
5 We should take appropriate action to minimize any
6 problems that might come from that.

7 Q. All right. What resources did you draw
8 on in order to make effective warnings?

9 MR. PUTNAM: Objection. Vague and
10 ambiguous as to resources and effective warnings.

11 Q. (By Mr. Cook) Do you know what the word
12 effective means?

13 A. Yes. I know what the word effective
14 means I believe.

15 Q. Do you know what the word resources
16 means?

17 A. In a general sense, yes.

18 Q. What resources did you draw on to make
19 effective warnings?

20 MR. PUTNAM: Same objection.

21 THE WITNESS: We utilized the
22 information that we got from the OSHA and so forth
23 that was indicated. The kinds of steps that should
24 be taken.

25 Q. (By Mr. Cook) OSHA gave you some

1 guidelines about how to go about warning?

2 A. My recollection is OSHA indicated the
3 need for it, and somehow that filtered through
4 FMSI, and these people all came up with an idea of
5 wording that would be appropriate. Whether this
6 was OSHA's wording or not, I cannot say now.

7 Q. When you say got filtered through FMSI,
8 can you explain what you mean by that?

9 A. Filtered was probably the wrong word.
10 It was probably a -- FMSI was a collection point
11 for that kind of stuff. That they had people who
12 were active trying to find out what was going on,
13 and then they would furnish that to others.

14 Q. Is it fair to say that you, being you
15 and these other engineers at Wagner, did not come
16 up with the warnings? You adopted something that
17 someone else had done?

18 A. My best recollection is we adopted
19 wording that was furnished by OSHA and/or the FMSI.

20 Q. And you don't know whether it was OSHA
21 or the FMSI.

22 A. Not as I sit here I do not know that.

23 Q. All right. Did -- did everybody agree
24 at this meeting right off the bat that some type of
25 warning should be put in these boxes or was there a

1 discussion about that?

2 A. My recollection is there wasn't any
3 discussion about that. So --

4 Q. Everybody thought it ought to be done?

5 A. It appeared to be a requirement.

6 Q. Oh, okay.

7 A. So, no need -- you don't discuss
8 requirements.

9 Q. You thought it was a government
10 requirement.

11 A. Yes. That's my recollection.

12 Q. Was there any discussion about whether
13 these warnings that you received from whatever
14 entity it was, whether they were effective
15 warnings?

16 MR. PUTNAM: Objection. Vague and
17 ambiguous as to effective warnings.

18 THE WITNESS: There was no
19 discussion about whether they were or were not
20 effective. It was a matter, hey, we need to take
21 steps to get these warnings in the boxes.

22 Q. (By Mr. Cook) All right. Was there any
23 discussion at that point in time as to whether or
24 not any of the workers in the manufacturing line,
25 the grinding area, for instance, might be exposed

1 to some hazardous material?

2 A. Not to my recollection.

3 Q. Do you know when Ford Motor Company quit
4 using asbestos in their brakes?

5 A. I don't know that they did.

6 Q. Do you know whether any brake
7 manufacturers have stopped using asbestos in their
8 brakes?

9 A. I'm not certain.

10 Q. Did you ever hear anything to that
11 effect?

12 A. I heard that manufacturers were
13 attempting to get substitute materials.

14 Q. When did you hear that?

15 A. Again this was in the mid seventies when
16 it became apparent that because of regulations that
17 would be a wise thing to do.

18 Q. In the mid seventies you thought, you
19 being you, Mr. Bueler, that it would be a wise
20 thing to do to get substitute for asbestos?

21 MR. PUTNAM: Objection.

22 Argumentative. It mischaracterizes his testimony.

23 THE WITNESS: In the mid seventies I
24 thought it might be wise to do. It eliminates a
25 potential legal hassle about warnings and that sort

1 of thing.

2 Q. (By Mr. Cook) In the mid seventies did
3 you express your opinion that it might be a wise
4 thing to do to anyone?

5 A. I don't recall.

6 Q. Did you look into any substitute
7 materials for asbestos?

8 A. We tested some substitute materials that
9 were furnished by vendors.

10 Q. All right. When was that testing done?

11 A. Again in the middle to late seventies.

12 Q. Who is responsible for making the
13 decision as to whether any of these substitute
14 materials might actually replace the asbestos?
15 How -- how was that handled?

16 A. Brake linings were qualified to -- by
17 test to determine whether they would perform the
18 necessary task on a vehicle and if they met those
19 tasks, they could be qualified and say whether they
20 were made out of asbestos or not.

21 Q. All right. Were there any substitute
22 materials that would pass the test?

23 A. At the time I was there --

24 MR. PUTNAM: Well, let's restrict
25 the time period.

1 THE WITNESS: From --

2 MR. PUTNAM: No. Wait, Rich.

3 THE WITNESS: Okay. I'm sorry.

4 MR. PUTNAM: What time period are we
5 talking about, Rich? I mean Russ.

6 MR. COOK: Mid seventies.

7 THE WITNESS: Mid seventies I recall
8 no lining that we tested that we thought was
9 acceptable.

10 Q. (By Mr. Cook) 1980s.

11 A. Same general answer. I cannot recall
12 any specific thing that we decided was acceptable
13 from a performance viewpoint.

14 Q. At any point in time was there an
15 acceptable from a performance standpoint substitute
16 found?

17 MR. PUTNAM: Are we talking about
18 brake linings?

19 MR. COOK: Yes.

20 THE WITNESS: Not to my recollection
21 for drum brake linings.

22 Q. (By Mr. Cook) For any of the component
23 parts that you were using asbestos or that asbestos
24 was in.

25 A. Historically disc brake pads did not

1 always contain asbestos.

2 Q. Did you assemble disc brake pads?

3 A. Yes, sir. Shoe and pad assemblies.

4 Q. And were shoe and pad assemblies another
5 product manufactured by Wagner?

6 A. Yes, sir.

7 Q. Who did you sell in the time period that
8 you worked there -- and if it changed tell me.

9 A. Um-hum.

10 Q. Who did you sell shoe and pad assemblies
11 to, you being Wagner?

12 A. To warehouse distributors.

13 Q. The same warehouse distributors that
14 we've talked about before?

15 A. Generally as a class, yes. And I think
16 I should have said it plate and pad -- and pad
17 assemblies.

18 Q. Plate and pad.

19 A. Plate, yeah. I --

20 Q. All right. So, in your earlier answers
21 I need to substitute plate for shoe rather than
22 going back through them.

23 A. Yes, sir. When we're talking about
24 disc, it's plates, yes, sir.

25 Q. All right. Now, did you find a

1 asbestos. Most -- there may have been some that
2 had some asbestos in them, but for the most part my
3 recollection is they were asbestos free.

4 Q. My question is did those pad assemblies
5 ever contain asbestos during this 40 year time
6 period that you worked there?

7 A. I do not believe Wagner ever made any
8 pad and plate assemblies that contained asbestos,
9 but I'm not certain about that.

10 Q. All right. I want to go back to the
11 testing of substitutes for asbestos.

12 A. Um-hum.

13 Q. Were substitutes for asbestos tested
14 only in regard to the shoe and lining assembly
15 product?

16 A. I don't understand your question.

17 Q. Well, I think that -- I'm going to try
18 to write down products that -- that you sold. We
19 know you sold original equipment at some time
20 periods, we know that you sold plate and pad
21 assemblies, and I've also written down that you
22 sold shoe and lining assemblies. Is that correct?

23 A. Those are three correct things, yes,
24 sir.

25 Q. All right. You also said that you were

1 looking at some substitutes for asbestos at your
2 company at some point in time.

3 A. Yes. I said that.

4 Q. All right. Were you searching for
5 substitutes for asbestos that might apply in the
6 shoe and lining assembly product as opposed to the
7 plate and pad assemblies?

8 A. Generally in the shoe and lining area,
9 yes, sir.

10 Q. All right. Tell me am I -- I don't want
11 to be repetitive. Am I correct in understanding
12 that you first started looking for substitutes for
13 asbestos in that area about the mid seventies?

14 A. That's best of my recollection, yes,
15 sir.

16 Q. And you continued on looking at possible
17 substitutes for how many years?

18 A. Through the seventies, through the rest
19 of the seventies, and into the eighties. I guess
20 until I left we were looking for that sort of
21 thing.

22 Q. All right. And you also said that --
23 well, let me strike that.

24 How did you go about looking for
25 these asbestos substitutes?

1 A. Our vendors would offer potential
2 substitutes to us, our lining vendors, and we would
3 then test the materials that they had some data on
4 that indicated it would be worthwhile to test.

5 Q. All right. Did you look to see what
6 your competitors were doing?

7 A. I don't know what you mean by did we
8 look to see what our competitors were doing.

9 Q. Well, do you know whether your
10 competitors were selling shoe and lining assemblies
11 that did not contain asbestos?

12 A. I'm going to demur on that because
13 there's some specifics that I --

14 MR. PUTNAM: If you know, answer.

15 THE WITNESS: I --

16 MR. PUTNAM: If you don't know,
17 don't answer.

18 THE WITNESS: I don't know.

19 Q. (By Mr. Cook) Do you know whether there
20 were any products --

21 THE WITNESS: Can I talk to you a
22 minute?

23 MR. PUTNAM: Sure. Take a break for
24 a minute.

25 MR. COOK: Okay.

1 THE VIDEOGRAPHER: 11:11. We're off
2 the record.

3
4
5 (Brief recess.)
6
7

8 THE VIDEOGRAPHER: 11:18. We're on
9 the record.

10 Q. (By Mr. Cook) Mr. Bueler, did you have a
11 chance to confer with your attorney?

12 A. Yes.

13 Q. Do you have an answer to my question?

14 A. Would you restate the question?

15 MR. COOK: I'm going to get the
16 court reporter to read it back to you.
17

18
19 (The court reporter read the
20 question.)
21

22
23 MR. COOK: Why don't you read the
24 one before that, too, for him.
25

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Houston, Texas

1 (The court reporter read the
2 question.)
3
4

5 THE WITNESS: And I do not know the
6 answer to that.

7 Q. (By Mr. Cook) You don't know what your
8 competitors were doing?

9 A. Relative to the question you asked.

10 Q. Did you know what your competitors were
11 doing relative to any other issues?

12 MR. PUTNAM: Objection. Overbroad.
13 Calls for a narrative.

14 MS. ANDERSON: Same objection.

15 THE WITNESS: What issues?

16 Q. (By Mr. Cook) I think the question can
17 be answered yes or no, and then I'll follow up on
18 it.

19 MR. PUTNAM: I think he asked you
20 what other issues. Right?

21 THE WITNESS: I --

22 Q. (By Mr. Cook) My -- my question -- my
23 question is were there any other issues -- and you
24 don't have to list them. I just want a yes or a no
25 answer. Were there any other issues in which you

1 were aware what your competitors were doing?

2 A. Yes.

3 Q. What were those?

4 A. We would typically know whether they
5 were offering a particular part for a particular
6 application.

7 Q. Anything else?

8 A. Not that I can think of offhand.

9 Q. Now, was Wagner Brake a member of FMSI?

10 A. I don't know the answer to that.

11 Q. Am I correct, and I want you to tell me
12 if I'm not correct, that the reason that you
13 decided, you being Wagner, decided to put warnings
14 in these boxes in which these shoe and lining
15 assemblies came was because of legal requirements
16 only?

17 MR. PUTNAM: Objection. Asked and
18 answered. I think he testified they put them in
19 there because they got some bulletins.

20 THE WITNESS: And I think I said to
21 comply with the requirements.

22 Q. (By Mr. Cook) Did the health of the
23 potential consumers or users of brakes play any
24 role whatsoever in the decision to place the
25 warnings in the boxes?

1 A. I don't know.

2 Q. Was it ever discussed at the meeting?

3 A. Not to my recollection.

4 Q. Who would know better than you whether
5 or not the health and safety of the users or
6 consumers of the products that you were
7 manufacturing were a reason for placing the
8 warnings in the shoe and lining assembly boxes?

9 MR. PUTNAM: I'm going to object. I
10 think he's already testified that they'd received
11 documents from OSHA and from FMSI detailing
12 potential hazards to these people. That's why the
13 instructions were included.

14 MR. COOK: Counsel, if you coach the
15 witness, I'll stop the deposition. You're entitled
16 to make objections as to form and I'm happy to let
17 you make them, but I'm not --

18 MR. PUTNAM: Okay.

19 MR. COOK: -- going to let you coach
20 the witness.

21 MR. PUTNAM: My objection to form is
22 asked and answered and that's what --

23 MR. COOK: That's fine.

24 Q. (By Mr. Cook) Can you respond to my
25 question?

1 A. Would you repeat it?

2 MR. COOK: I'm going to ask the
3 court reporter to read it back.

4

5

6 (The court reporter read the
7 question.)

8

9

10 THE WITNESS: I don't know who would
11 know better.

12 Q. (By Mr. Cook) As head of brake
13 engineering from 1988 to 1993 did you think it was
14 important to provide consumers and users of your
15 product information so that your product could be
16 safely used by those consumers or users?

17 A. As a general answer, yes.

18 Q. What did you do personally in your
19 position as head of brake engineering from 1988 to
20 1993 to make sure the consumers or users of your
21 products were knowledgeable about the safety -- the
22 safe and appropriate use of those products?

23 A. We attempted to assure that the warnings
24 were put in the boxes.

25 Q. Anything else?

1 A. We tested our components to make sure
2 that they would function as desired.

3 Q. Anything else?

4 A. Not that I can recall.

5 Q. Did you ever make any effort to
6 determine whether or not the warnings were actually
7 getting to the consumers or users?

8 A. I have no knowledge.

9 Q. I'm asking you what you did as -- during
10 your period of time as head of brake engineering at
11 Wagner.

12 A. I made no effort to find out whether the
13 warnings were getting to the consumers.

14 Q. During your years as head of brake
15 engineering at Wagner did you make any effort to
16 determine whether or not asbestos was harmful to
17 the users or consumers?

18 A. I made no such efforts.

19 Q. Did anyone else at the company make such
20 efforts of which you're aware?

21 A. I don't know.

22 Q. When were you -- you've told me this
23 before and we can look at the dates, but if you can
24 remember when these depositions were generally
25 taken. I think you've told me you've given me

1 these two depositions in other asbestos cases.

2 A. Um-hum.

3 Q. Do you remember when generally they were
4 taken?

5 A. One was in '91 and one was in '93 as I
6 remember.

7 Q. All right. In 1991 you were still
8 working for the company.

9 A. That is correct.

10 Q. As head of brake engineering.

11 A. Yes.

12 Q. And apparently at that point in time
13 your company had been sued by someone who was
14 claiming a health problem in regard to asbestos
15 from exposure to brakes. Is that your
16 understanding?

17 A. That's my understanding.

18 Q. How long were you deposed on that
19 occasion?

20 A. It was one -- it did not take more than
21 one day is my recollection.

22 Q. All right. After that experience did
23 you go back and try to determine whether or not
24 there indeed might be a problem with asbestos from
25 brakes sold by your company?

1 A. I did not do that.

2 Q. Why?

3 A. It was beyond my kin.

4 Q. All right. Did you seek help from
5 someone that had sufficient knowledge to help with
6 that matter?

7 A. No. I did not.

8 MR. PUTNAM: Objection. He says he
9 didn't do it.

10 THE WITNESS: I did not.

11 Q. (By Mr. Cook) All right. Now, in 1993
12 the second time you were called to give a
13 deposition in an asbestos case. Is that correct?

14 A. That is correct.

15 Q. And how long did that deposition take?

16 A. That was in the nature of a day as I
17 recall.

18 Q. Were you still head of brake engineering
19 or had you retired at that point in time?

20 A. I was not head of brake engineering at
21 that time.

22 Q. Had you retired?

23 A. I was not retired. I was on special
24 assignment.

25 Q. All right. When you gave this

1 deposition on special assignment in 1993, after the
2 deposition did you make an effort to determine
3 whether or not the asbestos in the products which
4 your company sold might be having ill effects on
5 the health of consumers or users?

6 A. No, sir. I did not.

7 Q. Why not?

8 MR. PUTNAM: He's already answered.

9 MR. COOK: No. He answered in
10 regard to the 1991. I want to know about the 1993.

11 THE WITNESS: Again it was beyond my
12 kin.

13 Q. (By Mr. Cook) All right. Now, tell me
14 about this special assignment. Did you retire and
15 then come back on special assignment or did you
16 just stop being head of brake engineering and get
17 some special assignment?

18 A. I stopped being head of brake
19 engineering.

20 Q. And what was the date of that in 1993
21 the -- month or something like that.

22 A. I stopped being head of brake
23 engineering in I believe February of '91.

24 Q. Okay. And then you went on special
25 assignment?

1 A. Yes.

2 Q. What -- what was your special
3 assignment?

4 A. To consult on matters technical relative
5 to the brakes.

6 Q. Did that include consulting on
7 asbestos-related matters?

8 A. Yes, it did.

9 Q. How much time did you spend consulting
10 on asbestos-related matters?

11 MR. PUTNAM: Objection. Vague and
12 ambiguous as to asbestos-related matters.

13 Go ahead.

14 THE WITNESS: I can't answer that in
15 quantity of time.

16 Q. (By Mr. Cook) Was it more than a month?

17 MR. PUTNAM: Objection. He said he
18 can't answer.

19 THE WITNESS: From '91 to '93 I
20 responded at different times to questions.

21 Q. (By Mr. Cook) All right. And when you
22 say responded to questions, what do you mean?

23 A. I mean if somebody would ask me about
24 the kind of questions you might be asking, when did
25 we do warnings and that sort of thing, I would

1 answer those questions.

2 Q. Who asked you those questions?

3 A. Typically those questions were asked by
4 our legal people.

5 Q. Did --

6 MR. PUTNAM: And I'm going to
7 instruct you not to discuss any discussions with
8 your legal counsel during that time period.

9 Q. (By Mr. Cook) I don't want you to tell
10 me anything they said, but I do want to know who
11 they were. What legal people did you discuss this
12 with? But don't tell me what you discussed.

13 Just --

14 A. With a man named David Medina.

15 Q. All right. Is Mr. Medina an in-house
16 lawyer? Do you know what that means?

17 A. Yes. He was at the time.

18 Q. All right. Who else?

19 A. Basically him. If there were anyone
20 else, I don't recall specifically.

21 Q. After you stopped being head of brake
22 engineering and went on special assignment, did you
23 office near Mr. Medina?

24 A. No.

25 Q. Did you meet with Mr. Medina on more

1 than ten occasions?

2 MR. PUTNAM: Objection. We're not
3 going into attorney-client matters in ongoing
4 litigation.

5 MR. COOK: The privilege is for
6 attorney-client communications. I have a right to
7 ask him how many times he met with his lawyer and
8 who the lawyer was. That's all I'm asking.

9 MR. PUTNAM: And I'm instructing him
10 not to answer.

11 MR. COOK: You're instructing the
12 witness not to answer how many --

13 MR. PUTNAM: You're asking him about
14 meetings that he had with legal counsel, Russ.
15 That's what you're asking him about.

16 MR. COOK: And what -- and what
17 privilege are you asserting?

18 MR. PUTNAM: I'm asserting the
19 attorney-client privilege. If you intend on going
20 into the meetings that he had with legal counsel,
21 he's not answering questions about that.

22 MR. COOK: Are you -- let me -- let
23 me phrase --

24 MR. PUTNAM: He's answered --

25 Q. (By Mr. Cook) Let me phrase the question

1 again. Did you meet more than ten times with Mr.
2 Medina?

3 A. No.

4 Q. All right. At your meetings with Mr.
5 Medina was there anyone ever present other than you
6 and Mr. Medina?

7 MR. PUTNAM: Objection. I'm not --
8 he's not going into these meetings that he had with
9 legal counsel, Russ.

10 MR. COOK: Are you instructing him
11 not to answer that?

12 MR. PUTNAM: I'm instructing him not
13 to answer about meetings that he had with legal
14 counsel.

15 Q. (By Mr. Cook) Are you not going to
16 answer my question, Mr. Bueler?

17 A. I'm going to follow my attorney's
18 advice.

19 Q. Were there any non-lawyers ever present
20 at any of the meetings with Mr. Medina and you?

21 MR. PUTNAM: And I'm going to
22 continue with the same objection to the extent that
23 those people may be entitled to assert the rights
24 of attorney-client privilege, investigative
25 privilege, and work product privilege.

1 MR. COOK: They may well be.

2 MR. PUTNAM: Those are not --

3 MR. COOK: I'm not going to ask him
4 about what they said at the meetings. I'm just
5 asking who they are. I'm entitled to know who they
6 are.

7 MR. PUTNAM: No. You're not
8 entitled to know everybody at the meetings.

9 MR. COOK: I think I am. So, we
10 have a -- we have a -- we have a difference in
11 opinion about that. So, you can instruct him not
12 to answer it or not.

13 MR. PUTNAM: Well, I instruct him
14 not to answer anything about the meetings that they
15 had with legal counsel.

16 Q. (By Mr. Cook) Are you refusing to answer
17 that question?

18 A. I'm following the advice of counsel.

19 Q. Were there any meetings between you and
20 Mr. Medina where it was attended -- where those
21 meetings were attended by someone that was not a
22 lawyer or did not work for Wagner?

23 MR. PUTNAM: I'm going to object to
24 the question as compound, and I'm also asserting
25 the privilege.

1 Q. (By Mr. Cook) Are you refusing to answer
2 that question, sir?

3 MR. PUTNAM: I'm instructing him not
4 to answer that question. I also have the
5 objection.

6 THE WITNESS: I'm following the
7 advice of counsel.

8 Q. (By Mr. Cook) All right. Well, I need
9 to cure the -- the compound part of the question.
10 Were you ever at any meetings with Mr. Medina and
11 someone from outside Wagner that was not an
12 attorney?

13 MR. PUTNAM: And I'm instructing him
14 not to answer on the previously asserted
15 privileges.

16 Q. (By Mr. Cook) Are you refusing to
17 answer?

18 A. And I'm refusing to answer for the same
19 reason.

20 Q. Now, sir, other than the lawyer for
21 Wagner, did you talk with any other people at
22 Wagner when you were on special assignment about
23 asbestos?

24 MR. PUTNAM: And I -- with Mr.
25 Medina.

1 MR. COOK: No. I'm finished with
2 that.

3 MR. PUTNAM: Rephrase the question.
4 Rephrase it. Let me hear it.

5 MR. COOK: Why don't we just read it
6 back.

7 MR. PUTNAM: Right.

8
9
10 (The court reporter read the
11 question.)
12
13

14 MR. PUTNAM: Objection form of
15 the -- objection. Vague, ambiguous, overbroad, and
16 calls for a narrative, and it's not limited in time
17 or scope.

18 THE WITNESS: I don't believe so.

19 Q. (By Mr. Cook) All right. Now, at any
20 point in time on special assignment regarding
21 asbestos did you look into the matter of whether
22 the users or consumers of Wagner products were at
23 risk from the asbestos contained in those products?

24 MR. PUTNAM: I'm going to object as
25 argumentative. You stated that he was on special

1 assignment for asbestos. I believe that
2 mischaracterizes his testimony.

3 Q. (By Mr. Cook) You can go ahead and
4 answer.

5 A. I did not determine -- make any efforts
6 to determine.

7 Q. All right. And I am correct that one of
8 the things that related to your special assignment
9 was asbestos matters.

10 A. That is correct.

11 Q. Because your lawyer objected, I need to
12 ask this -- this question again. In regard to
13 those asbestos matters that -- which you dealt with
14 on your special assignment, did you ever make any
15 inquiry as to whether or not the products that were
16 manufactured and sold by Wagner that contained
17 asbestos might be harmful to the health and welfare
18 of the consumers and users of those products?

19 A. No.

20 Q. Do you know anybody at Wagner that ever
21 made that inquiry?

22 A. I don't know.

23 Q. Do you believe as you sit here today
24 that that inquiry should have been made some time
25 between 1975 and the present?

1 MR. PUTNAM: Objection. Calls for
2 speculation.

3 THE WITNESS: I don't know.

4 Q. (By Mr. Cook) Let me be specific about
5 what I'm asking. Do you believe as you sit here
6 today that someone at Wagner should have made an
7 attempt to determine during the years 1975 to the
8 present as to whether or not the asbestos that was
9 contained in the products that they were selling
10 might be harmful to the users or consumers of those
11 products?

12 MR. PUTNAM: Objection. Asked and
13 answered. He's testified he does not know.

14 THE WITNESS: I don't know.

15 Q. (By Mr. Cook) You don't have an opinion
16 one way or the other.

17 A. No.

18 Q. Do you know whether anyone at Wagner
19 that worked in or around the grinding machines ever
20 had any asbestos-related problems?

21 A. I have no knowledge.

22 Q. Yes or no you have no knowledge or --

23 A. I have no knowledge whether anybody had
24 any problems.

25 Q. Okay. As you sit here today do you

1 believe that someone should have determined whether
2 or not any of those men or women that were working
3 around the grinders had any problems with asbestos
4 as an engineer?

5 MR. PUTNAM: Objection. Compound,
6 vague, and ambiguous, and calls for speculation.

7 THE WITNESS: And I don't know.

8 Q. (By Mr. Cook) When you were in
9 engineering school and you were designing machines,
10 were you taught that one of the things that you're
11 supposed to consider in designing those machines is
12 the safety of the workers that will be using those
13 machines?

14 A. No.

15 Q. No one ever taught you that.

16 A. No.

17 Q. Do you agree that that should be a
18 consideration, the safety of the people that are
19 working around the machines?

20 MR. PUTNAM: Objection.
21 Argumentative. He's never testified that he
22 designed the machines, Russ.

23 THE WITNESS: I have never designed
24 machines.

25 Q. (By Mr. Cook) Whether you've designed

1 the plant worked properly from a machinery
2 viewpoint and that sort of thing.

3 Q. And, so, they would be the ones in
4 designing the machines that -- if they designed
5 them or whoever designed them would be the ones
6 that would need to be concerned with the safety of
7 anyone.

8 A. That is correct.

9 Q. Okay. Can you give me some names in
10 that department?

11 A. I remember a Mr. Whitely.

12 Q. And what was his job title?

13 A. He was like plant engineer I think was
14 his name.

15 Q. Who is Mr. Weiskopf?

16 A. Mr. Weiskopf was a man whose job was in
17 the personnel department as safety man of some
18 sort.

19 Q. All right. Would he be responsible in
20 any way for the safety of the workers that might be
21 working around these grinding machines?

22 A. He would be responsible to try to
23 preclude problems from developing, yes.

24 Q. Such as asbestos problems?

25 A. Perhaps.

1 the machines or not, do you -- is it generally
2 accepted from an engineering principle that the
3 design of machines or systems should be done in a
4 manner taking into consideration the safety of the
5 workers that are using those systems and machines?

6 A. The overall safety should be considered.

7 Q. Who should consider it?

8 A. Whoever has potential I suppose.

9 Q. Who would have potential in regard to
10 the machines, the grinding machines and the system
11 of which they were a part at Wagner?

12 MR. PUTNAM: Objection. Vague and
13 ambiguous. Do you have a time period?

14 Q. (By Mr. Cook) During the 40 years you
15 worked there who would have had potential?

16 MR. PUTNAM: Objection. Vague and
17 ambiguous as to potential.

18 THE WITNESS: I suppose our plant
19 engineering group.

20 Q. (By Mr. Cook) All right. How did your
21 job relate to the plant engineering group?

22 A. Very marginally, if at all.

23 Q. Explain what the plant engineering group
24 was.

25 A. Plant engineering's job was to see that

1 Q. Does he still work for the company?

2 A. No. He does not.

3 Q. When did he leave?

4 A. I don't know.

5 Q. Was it before or after you left?

6 A. I believe it was before I left.

7 Q. Who took his place?

8 A. I don't believe anyone took his place.

9 Q. Who is Mr. Luna?

10 A. Mr. Luna is a -- was a employee of the
11 personnel department.

12 Q. Okay. Did those men have any say in
13 regard to whether or not warnings went out in the
14 boxes about asbestos?

15 A. Not in a general sense, no.

16 Q. How about in a specific sense?

17 A. No. Not even in a specific sense.

18 Q. Anybody -- other than when you had this
19 meeting that you've told me about about putting the
20 inserts in the boxes, was there anyone there from
21 safety or any of these other groups that you've
22 told me about?

23 A. Not to my recollection.

24 Q. All right. How was it that you
25 implemented the decision to put in some type of

1 warning?

2 MR. PUTNAM: Objection. Asked and
3 answered.

4 THE WITNESS: I think as I stated
5 before, there was indications that there was a
6 regulatory need to put a warning in the box.

7 Q. (By Mr. Cook) I guess maybe I'm not
8 making my question clear. How -- how did that
9 actually get implemented? Did somebody then start
10 putting them in the boxes with some order written?
11 How did that happen?

12 A. Yeah. Somebody started putting it in
13 the box, yes, I mean, to not be facetious about it.

14 Q. Well, but who was in charge of that?
15 That's that I'm trying to get at.

16 A. The engineering department would say,
17 hey, put this in the box as a general matter.

18 Q. And who would you say it to?

19 A. We would say it to our production
20 people.

21 Q. All right. And who was the head of
22 production?

23 A. When?

24 Q. In the time that this was -- 1975, mid
25 '70 time period.

1 A. I believe a Mr. Dudley was in charge of
2 production at that time.

3 Q. Have you ever seen the skull and
4 crossbone warning on poisons?

5 A. Yes, I have.

6 Q. How long can you remember seeing that?

7 A. Oh, I can't tell you when I first saw
8 that.

9 Q. Do you remember seeing it as a child?

10 A. Certainly as a young man I suspect, but
11 I don't know that.

12 MR. PUTNAM: Are you talking --
13 object. I'm going to object as vague and
14 ambiguous. Are you talking about skull and
15 crossbones only for chemicals or for land mines or
16 what are we talking about?

17 MR. COOK: I think the question was
18 clear.

19 MR. PUTNAM: The question was not
20 clear. That's why I'm objecting as vague and
21 ambiguous. What are you asking -- what are you
22 asking him? The first time he saw a skull and
23 crossbones?

24 MR. COOK: Yes.

25 MR. PUTNAM: Period.

1 MR. COOK: Period.

2 THE WITNESS: Probably some time
3 when I was a young man I guess.

4 Q. (By Mr. Cook) All right. When was the
5 first time that you saw them in regard to poisons?

6 A. Probably in that same time frame.

7 Q. Did you know what the skull and
8 crossbones meant?

9 A. It implied danger, yes.

10 Q. Did it communicate to you that some
11 further investigation was needed in regard to using
12 or dealing with whatever you saw the skull and
13 crossbones on?

14 MR. PUTNAM: Objection. Calls for
15 speculation.

16 THE WITNESS: Not necessarily.

17 Q. (By Mr. Cook) What did the implication
18 of danger mean to you?

19 A. Use caution.

20 Q. All right. Did you do -- ever do any
21 remanufacturing at Wagner?

22 A. Can you define remanufacturing for me?

23 Q. Were shoes that were used typically
24 returned from the field?

25 A. Yes.

1 Q. All right. And then what did you do at
2 Wagner with those shoes, if anything?

3 A. We would remove the worn lining, clean
4 the shoes, and add new lining.

5 Q. Okay. What did you do with the worn
6 lining?

7 A. That was bundled up and disposed of.

8 Q. How?

9 A. In conformance to OSHA requirements.

10 Q. Before there was an OSHA?

11 A. I do not know.

12 Q. I'm reading an answer from Page 132 of
13 your earlier deposition. Starting at Line 11
14 your -- your answer was, "Meaning, for instance, if
15 you took your automobile to have the brakes
16 repaired, they would remove the brake shoes that no
17 longer had sufficient lining on them. They would
18 remove those shoes, and they would replace them
19 with another set of shoes that had new lining
20 attached to them. The shoes that they removed from
21 your automobile would then be returned to Wagner,
22 and we would remove the lining and would clean
23 those shoes, attaching new lining and putting them
24 in another box and sell them to the person who has
25 a car like yours."

1 Do you recall that answer?

2 A. Yes.

3 Q. Is that correct?

4 A. Generally that's correct, yes.

5 Q. Did y'all actually sell to the general
6 public then on these re --

7 A. We sold to the warehouse distributors.

8 Q. Okay. That's -- that was my question.

9 A. Did I miss -- maybe I misstated
10 something there. Our products were sold to
11 warehouse distributors.

12 Q. Is it true that you were selling
13 thousands monthly of brake linings and brake shoes,
14 your finished product?

15 A. I think I testified to that as a general
16 guesstimate at the time, yes.

17 Q. Okay. Thousands monthly during the
18 1980s?

19 A. Probably.

20 Q. Thousands monthly during the 1970s?

21 A. Probably.

22 Q. Thousands monthly during the 1960s?

23 A. I'm less sure of that.

24 Q. Thousands monthly during the 1950s?

25 A. Less sure of that.

1 Q. Do you remember whether you ever sold
2 more than -- or manufactured and sold more than
3 10,000 monthly?

4 A. I have no knowledge of the specific
5 number.

6 Q. Did you ever discuss asbestos with
7 representatives for any other entity other than the
8 Wagner people? I'm not talking about the lawyers
9 either.

10 A. Would you rephrase the question? I
11 don't -- I'm not sure I understand what you're
12 asking.

13 Q. I'm asking whether there were any
14 discussions that you had with other companies or
15 other individuals other than lawyers outside of
16 Wagner that concerned asbestos.

17 MR. PUTNAM: Objection. That's
18 overbroad and calls for a narrative.

19 THE WITNESS: What do you mean by
20 that concerns asbestos?

21 Q. (By Mr. Cook) That concerns asbestos in
22 any way.

23 A. We discussed brake linings with vendors.

24 Q. And did you discuss asbestos contained
25 in brake linings with vendors?

1 A. We discussed brake linings with vendors
2 specifically when they may have been trying to get
3 replacements for asbestos. So, in that sense you
4 might say that.

5 Q. Who were the -- who were these vendors?

6 A. I remember Abex as being one who was
7 attempting to do that. I believe Bendix was trying
8 to do that, but I'm not certain about that. That's
9 all that comes to mind off the top of my head.

10 Q. Did -- did Wagner purchase Abex?

11 A. No.

12 Q. What is the relationship between Abex
13 and Wagner, if you know?

14 A. I do not know.

15 Q. Did Cooper purchase Abex?

16 A. I do not know that.

17 Q. What do you know about the current
18 status of Abex, if anything?

19 A. I don't know anything about the current
20 status.

21 Q. All right.

22 A. I don't even know if they're still in
23 business to be quite frank.

24 Q. But they were someone from whom your
25 company bought brake linings.

1 A. That is correct.

2 Q. And those brake linings contained
3 asbestos.

4 A. To the best of my knowledge that is
5 true.

6 MR. PUTNAM: Russ, are we at a
7 stopping point?

8 MR. COOK: This would be great,
9 yeah.

10 MR. PUTNAM: Okay.

11 THE VIDEOGRAPHER: 11:54. We're off
12 the record.

13

14

15 (Lunch recess.)

16

17

18 (Whereupon the instrument was marked
19 for identification as Bueler Exhibit
20 No. 3 and is attached hereto.)

21

22

23 THE VIDEOGRAPHER: 12:52. We're on
24 the record. Start of Tape 2.

25 Q. (By Mr. Cook) Mr. Bueler, I handed you

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1 at the break an exhibit that's been marked as
2 Deposition Exhibit Number 3, Bueler Exhibit Number
3 3, and it's my understanding that this was a
4 document produced by your company. Is that the --
5 the name of your company in the -- at the top of
6 that? You can take that yellow thing off. It
7 doesn't belong on there anyway. It's just to mark
8 it so we could find it.

9 A. Yes.

10 Q. Have you had a chance to look at that
11 document? If not, take whatever time you need.

12 A. Yes, sir. I read it generally. I may
13 have to refer back for any questions, but --

14 Q. I just basically want to know is -- does
15 that appear to you to be a Western Electric
16 Corporation document?

17 A. No, sir. It appears to me to be a
18 Wagner Electric Corporation.

19 Q. I'm sorry. I said Western and meant to
20 say Wagner. I'm sorry. Does it appear to be a
21 Wagner Electric Corporation document?

22 A. Yes. It appears that way to me.

23 Q. Very old one, right?

24 A. Yes, sir.

25 Q. What's the date?

1 A. 1934. March 1934.

2 Q. And -- and what is it that generally
3 this document is announcing?

4 MR. PUTNAM: Objection. The
5 document speaks for itself.

6 Q. (By Mr. Cook) All right. This document
7 says, "Please be so kind as to publish in your
8 publication a news item regarding Wagner CoMax
9 brake lining, the newest brake lining on the
10 market."

11 Is that what it says?

12 A. That's what it says.

13 Q. All right. What does that mean to you?

14 A. It means that --

15 MR. PUTNAM: Objection. The
16 document speaks for itself.

17 Q. (By Mr. Cook) What does that mean to
18 you, sir?

19 MR. PUTNAM: Same objection.

20 THE WITNESS: What it means to me
21 it's an announcement.

22 Q. (By Mr. Cook) All right. And what does
23 it appear to be announcing?

24 A. Wagner CoMax brake lining.

25 Q. What is Wagner CoMax brake lining?

1 A. It was a trade named lining that
2 apparently was announced in 1934.

3 Q. Are they still making Wagner CoMax
4 today?

5 A. Not to my knowledge.

6 Q. But it was made at some point in time
7 while you were there?

8 A. At some point to time when I was there
9 they were selling lining labeled as Wagner CoMax.

10 Q. Did that lining contain asbestos?

11 A. To the best of my knowledge, yes.

12 Q. All right, sir. And am I correct in
13 understanding from earlier testimony that as far as
14 you know nobody at the Wagner Electric Corporation
15 was aware that asbestos might be potentially
16 harmful until the mid seventies?

17 A. That's what I've testified, yes, sir.

18 MR. COOK: Could you mark this as
19 the next exhibit.

20

21

22 (Whereupon the instrument was marked
23 for identification as Bueller Exhibit
24 No. 4 and is attached hereto.)

25

1
2 A. It was a trade named lining that
3 apparently was announced in 1934.

4 Q. Are they still making Wagner CoMax
5 today?

6 A. Not to my knowledge.

7 Q. But it was made at some point in time
8 while you were there?

9 A. At some point to time when I was there
10 they were selling lining labeled as Wagner CoMax.

11 Q. Did that lining contain asbestos?

12 A. To the best of my knowledge, yes.

13 Q. All right, sir. And am I correct in
14 understanding from earlier testimony that as far as
15 you know nobody at the Wagner Electric Corporation
16 was aware that asbestos might be potentially
17 harmful until the mid seventies?

18 A. That's what I've testified, yes, sir.

19 MR. COOK: Could you mark this as
20 the next exhibit.

21 (Whereupon the instrument was marked
2 for identification as Bueler Exhibit
3 No. 4 and is attached hereto.)
4
5

1 MR. COOK: I've got an extra one for
2 you. We might go off the record for just a second
3 while we hand out these exhibits.

4 THE VIDEOGRAPHER: 12:57. We're off
5 the record.

6

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(Brief recess.)

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THE VIDEOGRAPHER: 1:06. We're on
the record.

Q. (By Mr. Cook) Mr. Bueler, while we're --
we've been off the record have you had a chance to
read Deposition Exhibit Number 4?

A. Yes, sir.

Q. Have you also had a chance to confer
with your attorney?

A. Yes.

Q. Now, sir, is it true that in 1934 the
State of Connecticut was reporting a possible
health hazard involving asbestos dust from brake
grinding machines?

MR. PUTNAM: Objection. Calls for
speculation.

1 Prior -- let me put this on the
2 record. This is the first time this document has
3 been produced, Russ, in this entire case that's
4 been pending for over three years. So, I don't
5 understand why new documents are being produced at
6 this late date in time.

7 Secondly, Mr. Bueler has testified
8 that this is the first time he's ever seen this
9 document. You're asking him to speculate about
10 what the State of Connecticut did and their
11 activities, and he's not here on behalf of the
12 State of Connecticut.

13 MS. ANDERSON: Join the objection as
14 well as assumes facts not in evidence.

15 MR. PUTNAM: Same objection.

16 Q. (By Mr. Cook) You can respond, sir.

17 MR. PUTNAM: Rich, if you know, have
18 personal knowledge about this, you can talk about
19 it.

20 THE WITNESS: This is the first I've
21 seen this document. I have no knowledge beyond
22 this.

23 Q. (By Mr. Cook) Did you read the document?

24 A. Yes, sir.

25 Q. Assuming that this is indeed a State of

1 Connecticut document published in 1934, is it true
2 that this document indicates a potential health
3 hazard regarding asbestos dust from brake grinding
4 machines?

5 MR. PUTNAM: Object to the extent
6 the document speaks for itself.

7 MS. ANDERSON: Join the objection.

8 MS. WRIGHT: Join the objection.

9 THE WITNESS: It appears to indicate
10 that.

11 Q. (By Mr. Cook) If this indeed is a 1934
12 document, it would be the same year as your
13 company, Wagner Electric Corporation, was
14 announcing their new brake linings. Is that right?

15 A. According to our Exhibit 3, yes.

16 Q. All right, sir. Do you have any
17 explanation why in the 40 year time period between
18 1934 and 19 -- in the 1970s that your corporation
19 did not become aware of this potential health
20 hazard of asbestos fibers if indeed it was reported
21 in 1934 as this Document 4 seems to indicate?

22 A. I can't speculate on why that happened.

23 Q. At the conclusion of this deposition do
24 you intend to make any type of investigation as to
25 why this 40 years might have gone by?

1 MR. PUTNAM: Objection. Don't
2 answer that. That's an improper question. Object
3 to the form. You're asking him what he's going to
4 do after the deposition. If you want to ask him
5 about what he knows as of today when he's sitting
6 here, that's fine.

7 Q. (By Mr. Cook) Are you on special
8 assignment for this deposition for Wagner?

9 A. I'm a consultant for Wagner.

10 Q. All right, sir. Will you report back to
11 anyone as a -- after this deposition other than the
12 attorney?

13 A. No.

14 Q. You will not have any contact with
15 anybody at Wagner?

16 MR. PUTNAM: Objection. He's
17 answered the question. He said no.

18 You've already answered the
19 question.

20 Q. (By Mr. Cook) You will not have any
21 contact with anyone at Wagner following this
22 deposition?

23 MR. PUTNAM: Objection. Asked and
24 answered.

25 MR. COOK: Are you instructing him

1 not to answer?

2 MR. PUTNAM: No. He's -- you asked
3 him the question once and he said no.

4 MR. COOK: Well, I've asked him the
5 question worded a little differently.

6 MR. PUTNAM: No. You've asked the
7 same question.

8 Q. (By Mr. Cook) Well, let me reword the
9 question. Do you expect to have continued contacts
10 with Wagner in the future?

11 MR. PUTNAM: Object. This is
12 irrelevant, Russ --

13 MR. COOK: Well, then you can
14 make --

15 MR. PUTNAM: -- as to --

16 MR. COOK: You can make the
17 objections, but I don't see why you won't let
18 him --

19 MR. PUTNAM: I will --

20 MR. COOK: -- answer the question.

21 MR. PUTNAM: I will -- I will object
22 to the questions, the form, because it calls for
23 speculation.

24 MR. COOK: Okay.

25 MR. PUTNAM: You're asking him to

1 predict the future.

2 MR. COOK: Okay. If that's the
3 objection you want to make, you're entitled to. He
4 still gets to answer the question.

5 THE WITNESS: And the question again
6 is?

7 Q. (By Mr. Cook) Do you anticipate having
8 any contacts with people at Wagner in the future?

9 MR. PUTNAM: Same objection.

10 THE WITNESS: I can't answer that
11 question.

12 Q. (By Mr. Cook) All right. If
13 fortuitously you have contact with people from
14 Wagner in the future, do you intend to ask them
15 about why it is that 40 years went by before they
16 became aware of the potential health hazard with
17 asbestos?

18 MR. PUTNAM: I'm going to object to
19 the extent the question assumes facts not -- that
20 are not in evidence.

21 THE WITNESS: No.

22 Q. (By Mr. Cook) Are you interested on a
23 personal basis as to why 40 years might have gone
24 by from the date of this document in 1934 until
25 the -- until the seventies before Wagner became

1 knowledgeable about a potential asbestos hazard?

2 A. It's certainly an interesting piece of
3 information.

4 Q. Had anyone ever told you that before
5 that -- strike that.

6 Had you ever had any information
7 about how long it had been that people had known
8 about the dangers of asbestos before I showed you
9 this document?

10 A. No.

11 MS. ANDERSON: Objection. Assumes
12 facts not in evidence.

13 MR. PUTNAM: Same objection.

14 MR. COOK: What -- what facts did it
15 assume that was not in evidence? I need to
16 understand that because I want to --

17 MS. ANDERSON: That people knew that
18 asbestos was harmful.

19 THE COURT REPORTER: I need you to
20 speak up, please.

21 MR. PUTNAM: Oh. She doesn't have a
22 microphone on.

23 MR. COOK: Would you read back my
24 question again.

25

1 (The court reporter read the
2 question.)

3

4

5 Q. (By Mr. Cook) And your answer was?

6 MS. ANDERSON: No.

7 THE WITNESS: Read it back.

8 MR. COOK: I think it's a proper
9 question. So, go ahead and read it back one more
10 time to him.

11 THE COURT REPORTER: The question
12 or --

13 MR. COOK: The question and let's
14 get his answer for the record.

15 THE COURT REPORTER: Okay.

16

17

18 (The court reporter read the
19 question and answer.)

20

21

22 Q. (By Mr. Cook) Is that your answer?

23 A. Yes.

24 Q. Okay. What periodicals did you
25 subscribe to at your company? I mean, did you --

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1 were there periodicals other than this FMSI that
2 you got about engineering?

3 A. Yes. We'd get typical journals that
4 would come in.

5 Q. Can you tell me some of those journals?

6 A. The SAE Journal, Design News, Machine
7 Design. I remember there's a magazine called
8 Automotive News and Electronic Design Engineering I
9 think. Those are some that I recall offhand.

10 Q. Was there an engineering library there
11 that kept those articles?

12 A. There was a -- for a short period a room
13 that had books and periodicals that would -- the
14 current issues, and then they would filter out.

15 Q. All right. And was that still there
16 when you left?

17 A. No.

18 Q. What happened to it?

19 A. It was taken away.

20 Q. Why, if you know?

21 A. We no longer needed as much room. And,
22 so, that was one place to get rid of room to be on
23 one floor instead of two floors. Things like that.

24 Q. Okay.

25 MR. COOK: I'm going to have marked

1 as the next exhibit this Public Health Reports that
2 was attached. You -- you should already have it.
3 This was the one that was stuck to the other one.

4 MS. WRIGHT: Is that Exhibit Number
5 6?

6 MR. COOK: It will be Exhibit Number
7 5.

8
9
10 (Whereupon the instrument was marked
11 for identification as Bueler Exhibit
12 No. 5 and is attached hereto.)
13
14

15 Q. (By Mr. Cook) Let me hand you what's
16 been marked as Exhibit Number 5 and ask you to read
17 the heading of that first page.

18 A. Effects of the -- oh. It's Volume 50,
19 January 4, 1935, Number 1, Public -- Public Health
20 Reports, Effects of the inhalation of asbestos dust
21 on the lungs of asbestos workers.

22 Q. Now, sir, as an engineer that was
23 working with a product that contained asbestos for
24 close to 40 years would this have been information
25 you would have been interested in seeing some time

1 during that 40 year period of time?

2 A. It's --

3 MR. PUTNAM: Objection. Calls for
4 speculation.

5 THE WITNESS: It's certainly
6 interesting information.

7 Q. (By Mr. Cook) All right. Are you
8 surprised at this information?

9 A. Yes.

10 Q. Why are you surprised?

11 A. Because of the dates.

12 Q. You were not aware that the dangers of
13 asbestos were known that far in the past?

14 A. That is correct.

15 Q. And that is surprising to you?

16 A. It's -- well, it's surprising to me that
17 it was that far back. It's not surprising that I
18 didn't know about it. I haven't seen documents
19 from that far back.

20 Q. All right. I'll ask you the same
21 question. Do you have any explanation as to why if
22 this indeed is a true Public Health Report back in
23 1935 and given the other document your company did
24 not know about the dangers of asbestos until the
25 seventies?

1 MR. PUTNAM: I'm going to object.
2 It calls for speculation. It also doesn't say --
3 just for the record this exhibit doesn't say where
4 it was a Public Health Report for or from from what
5 I can tell. Do you know, Mr. Cook? It's your
6 document.

7 MR. COOK: Well, it says a
8 preliminary study by A. J. Lanza, Assistant Medical
9 Director, William J. McConnell, Assistant Medical
10 Director, and J. William Fennel, Chemist,
11 Metropolitan Life Insurance Company.

12 MR. PUTNAM: But do you know --

13 MR. COOK: So, I would assume those
14 are the authors.

15 MR. PUTNAM: Do you know what it was
16 published in and who it was distributed to?

17 MR. COOK: I know nothing other than
18 what's on the -- the top of it.

19 MR. PUTNAM: So, we don't have --
20 there's no authenticity of this document?

21 MR. COOK: Well, I -- I expect --

22 MR. PUTNAM: Okay.

23 MR. COOK: -- to be able to prove
24 this document up at the time of trial.

25 MR. PUTNAM: Well, I -- I'm --

1 MR. COOK: Sure.

2 MR. PUTNAM: And in all -- in all
3 fairness to Mr. Bueler you're asking him about a
4 document that's unlabeled for the most part other
5 than a title. So, I'm asking who published it and
6 who was it distributed to.

7 MR. COOK: I'm telling you I don't
8 know.

9 MR. PUTNAM: Okay. But you expect
10 Mr. Bueler to know.

11 MR. COOK: I didn't ask Mr. Bueler
12 that question, and I will again ask you not to
13 coach the witness --

14 MR. PUTNAM: I'm not. I'm trying --

15 MR. COOK: -- on the record. The
16 witness has --

17 MR. PUTNAM: I'm trying to identify
18 the document.

19 MR. COOK: The witness --

20 MR. PUTNAM: It's another document
21 that has not been produced until today. That's the
22 only reason.

23 MR. COOK: The witness -- the
24 witness has a question before him. Would you read
25 the witness the question?

1 (The court reporter read the
2 question.)
3
4

5 MR. PUTNAM: And my objection is it
6 calls for speculation.

7 THE WITNESS: And I have no
8 explanation.

9 Q. (By Mr. Cook) All right, sir. Do you
10 know whether your company ever used Metropolitan
11 Life Insurance or Metropolitan in any way as an
12 insurance -- for insurance?

13 A. I have no knowledge of that.

14 Q. Is it possible to make an effective
15 brake for a passenger car without using asbestos?

16 MR. PUTNAM: Objection. Vague and
17 ambiguous as to effective.

18 Q. (By Mr. Cook) However you define
19 effective.

20 MR. PUTNAM: And brake. Are we
21 talking brake shoes or disc brakes?

22 MR. COOK: The brake -- the entire
23 brake assembly.

24 MR. PUTNAM: Disc shoes, disc pads
25 or --

1 MR. COOK: Everything.

2 MR. PUTNAM: Brake shoes. Both
3 types?

4 MR. COOK: Everything.

5 Q. (By Mr. Cook) Is it possible, in other
6 words -- let me restate the question. Is it
7 possible, in other words, to put a Ford or a GM or
8 a Chrysler automobile out on the road without using
9 asbestos for brakes --

10 MR. PUTNAM: Objection.

11 Q. (By Mr. Cook) -- and still have
12 effective brakes?

13 MR. PUTNAM: Do you have a time
14 period?

15 Q. (By Mr. Cook) Today.

16 A. Is it possible today?

17 Q. Yes.

18 A. Yes.

19 Q. All right. Was it possible in 1990?

20 A. It may have been possible.

21 Q. Was it possible in 1980?

22 MS. ANDERSON: Objection. Calls for
23 speculation.

24 MR. PUTNAM: Same objection.

25 THE WITNESS: I can't answer that

1 question.

2 Q. (By Mr. Cook) Why not?

3 A. Because when I answered your first
4 question, I had something in my mind.

5 Q. What was it?

6 A. It was that today and in 1990 perhaps
7 they use a lot of disc brakes, and disc brakes have
8 an inherent ability to utilize nonasbestos brake
9 lining due to the nature of the design whereas drum
10 brakes are inherently more difficult to provide an
11 acceptable lining due to the nature of the design.

12 Q. Okay. Did any automobile manufacturer
13 that you know of use drum type brakes that did not
14 contain asbestos prior to 1990?

15 A. I don't know of any.

16 Q. All right.

17 A. I do not know the answer to that
18 question.

19 Q. Are disc brakes as effective as drum
20 brakes?

21 A. Yes.

22 Q. Are disc brakes more expensive than drum
23 brakes?

24 A. Generally my belief is yes.

25 Q. All right. In regard to coming up with

1 substitutes, effective substitutes for asbestos in
2 the type of brake linings that you were utilizing
3 and you told me vendors came to you --

4 A. Um-hum.

5 Q. -- was cost one of the considerations in
6 finding a substitute for asbestos?

7 A. I don't believe so.

8 Q. Have you ever known anyone with an
9 asbestos-related disease?

10 A. Not to my knowledge.

11 Q. Did Bendix or Abex ever provide you with
12 any warnings concerning the asbestos in the brake
13 linings that they were providing to you?

14 MR. KNABESCHUH: Object to the form.

15 MR. COOK: What's the objection?

16 MR. KNABESCHUH: Who is you?

17 Q. (By Mr. Cook) Okay. Let me restate the
18 question. Let me do it separately. Did Abex ever
19 provide you with any type of warnings concerning
20 the asbestos in the brake linings which they were
21 supplying to your company, Wagner?

22 A. Did they supply the information to you,
23 meaning Richard Bueler, or you, meaning Wagner?

24 Q. Wagner.

25 A. I do not know.

1 Q. How about you, Mr. Bueler?

2 A. No. To my -- best of my recollection.

3 Q. All right. Same question. Only Bendix.
4 Did Bendix ever supply either you, Mr. Bueler, or
5 your company, Wagner, with any warnings or
6 information concerning the asbestos that was in the
7 brake linings they were selling to you?

8 MS. WRIGHT: Objection. Compound.
9 He had two different answers for Abex, and you
10 grouped them both together for the Bendix question.

11 MR. COOK: Okay. Well, I'll -- I'll
12 restate it if you'll tell me what the two parts
13 were.

14 MS. WRIGHT: One of them he had --
15 he had answered he didn't know as to Mr. Bueler
16 himself. I mean -- I'm sorry. As to Wagner he
17 didn't know, and as to Mr. Bueler he said no.

18 MR. COOK: All right. I'll separate
19 it out.

20 Q. (By Mr. Cook) All right. Did Bendix
21 provide you with any information concerning -- you
22 being you, Mr. Bueler, with any information
23 concerning asbestos in the brake linings they were
24 selling to Wagner?

25 A. Not to my recollection.

1 Q. Would you have welcomed as much
2 information as was available on the subject of
3 asbestos?

4 A. As a general rule I like information.

5 Q. Just like you were interested in Exhibit
6 4 and 5, you would be interested in that type of
7 information.

8 A. Information is important to an engineer.

9 Q. If you received information about
10 asbestos in health hazards to the extent that made
11 sense to you, would you incorporate that in
12 decisions about what -- how you would go about
13 doing your job?

14 A. To the extent that it made sense to me,
15 yes.

16 Q. And whether or not something would make
17 sense to you would you describe about how your
18 thought processes go in that regard?

19 MR. PUTNAM: Objection. Calls for
20 speculation.

21 Q. (By Mr. Cook) Let me restate that.

22 A. All right.

23 Q. Do engineers such as you use a
24 disciplined scientific approach to gathering
25 information?

1 A. Yes.

2 Q. Tell us how you would approach trying to
3 make a reasoned decision about asbestos or anything
4 else that might be involved in these products.

5 MR. PUTNAM: Objection. Vague,
6 ambiguous, calls for a narrative, and calls for
7 speculation.

8 Q. (By Mr. Cook) You can go ahead and
9 answer.

10 A. The first thing that I do as an engineer
11 is to provide a product that will perform the
12 required task. In the case of an automobile that
13 it will stop properly. Now, there's a lot of
14 things in properly that I'm not going to get into;
15 but to stop properly means more than it's going to
16 stop just once.

17 Q. All right.

18 A. I could go to this board for the next
19 five hours, and I don't want to do that. So, I
20 would determine first of all can I make a brake
21 system using whatever material it is to do the job.
22 Secondly, then I would had I known this
23 information, I --

24 Q. What -- what -- had you known --

25 A. -- any information about alleged hazards

1 of asbestos I would say, well, now, this is an
2 alleged hazard. It may affect certain people who
3 may be in an environment that this is a problem.

4 Q. All right.

5 A. But I know my brake system is going to
6 be out in the world where everybody is there. Not
7 a bunch of specialized workers who are working in a
8 very narrow environment. I would be providing a
9 product to work in a broad environment. And, so, I
10 would do two --

11 Q. Let me stop you and ask you --

12 A. Okay.

13 Q. -- what you mean by you would be
14 providing a product that would be in a broad
15 environment. What do you mean by that?

16 A. Where the general public is. On the
17 highways, in the city streets, where there are
18 multitudes of people as opposed to a very small
19 group of people in a rather enclosed situation or
20 something like that.

21 Q. And -- and why would that make a
22 difference?

23 A. It would make a difference. And I would
24 do one other thing --

25 Q. Okay.

1 A. -- than what you probably attempted to
2 infer.

3 MR. PUTNAM: Let me go ahead and
4 interpose my objection here as it calls for
5 speculation and calls for a narrative. Do you have
6 a specific question for him?

7 MR. COOK: I think he's -- he's
8 answering how he would go about analyzing this from
9 an engineering standpoint.

10 MR. PUTNAM: And I'm not -- and I
11 also object as it's vague and ambiguous. I don't
12 understand what he's analyzing "this". What is
13 "this"?

14 MR. COOK: How he would --

15 Q. (By Mr. Cook) Well, what do you -- what
16 question --

17 MR. PUTNAM: No.

18 Q. (By Mr. Cook) -- do you think you're
19 answering, sir?

20 MR. PUTNAM: No. No. That's --
21 you're --

22 MR. COOK: Are you going to instruct
23 him --

24 MR. PUTNAM: I'm --

25 MR. COOK: -- not to answer any

1 more?

2 MR. PUTNAM: You're the one asking
3 the questions.

4 MR. COOK: Well, we can go back and
5 read the question then.

6 MR. PUTNAM: Read the last question
7 back.

8
9
10 (The court reporter read the
11 question.)
12

13
14 THE WITNESS: I -- don't mean
15 anything to me.

16 Q. (By Mr. Cook) You -- you said that this
17 was -- let me -- let me restate the question. You
18 said that the brake application was to a wide area
19 of the general public. Is that correct?

20 A. Yes.

21 Q. And my question is why does that make a
22 difference in engineering analysis that it's
23 distributed to a wide group of the general public?

24 A. The general thought in my head is there
25 are more potential problems there.

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1 Q. All right, sir.

2 MR. COOK: Why don't you give us a
3 five minute break. We're probably finished, but I
4 want to go through my notes.

5 THE VIDEOGRAPHER: 1:30.

6 MR. PUTNAM: Okay.

7 THE VIDEOGRAPHER: 1:30. We're off
8 the record.

9

10

11 (Brief recess.)

12

13

14 THE VIDEOGRAPHER: 1:33. We're on
15 the record.

16 Q. (By Mr. Cook) Mr. Bueler, one thing that
17 wasn't quite clear to me is you sold your brakes
18 through this -- these warehouses. The brake lining
19 combinations and --

20 A. Shoe and lining assemblies we sold to
21 warehouse distributors.

22 Q. Right.

23 A. Complete brake assemblies we sold to
24 various OEM manufacturers.

25 Q. In regard to the ones that go through

1 the warehouse distributors, who would the -- would
2 they then go to retailers? Is that how your
3 product was sold?

4 A. Yes. Basically that's the way it was
5 sold.

6 Q. If we looked on the boxes that the
7 retailers were selling, would we find the Wagner
8 name?

9 A. Yes, you would.

10 Q. All right. Will we find any warnings
11 about asbestos?

12 A. In the box you would find such a
13 warning.

14 Q. How about on the outside of the box?

15 A. I don't believe we put the warnings on
16 the outside, but I'm not certain about that.

17 Q. Who made that decision as to where --
18 whether there would be warnings on the outside of
19 boxes or not?

20 A. I do not know the answer to that.

21 Q. But it wasn't your group.

22 A. It certainly was not. And I might also
23 mention we -- in our sales manuals, in our
24 instruction manuals, not sales manuals, instruction
25 manuals we also had the warnings, the manuals where

1 guys said how am I going to do this. We put the
2 warnings there. And, so, there's where the
3 warnings were in the box and in manuals that you
4 could utilize.

5 Q. But not on the outside of the box.

6 A. To the --

7 MR. PUTNAM: Objection. Asked and
8 answered. He said he wasn't sure about that.

9 THE WITNESS: To the best of my
10 recollection I just do not know the answer to that.

11 Q. (By Mr. Cook) All right. Now, sir, do
12 you know whether you put the words organic on any
13 of your boxes?

14 A. I don't recall one way or the other
15 whether we did then.

16 Q. What does organic mean to you?

17 A. If you talk about brake linings -- is
18 that what you're referring to?

19 Q. As it relates to brake linings.

20 A. Organic means nonmetallic.

21 Q. Okay.

22 MR. COOK: I pass the witness.

23 MR. SHIPLEY: Oh, I've got to ask a
24 few questions if you're not.

25 MR. PUTNAM: I'm going to go last.

EXAMINATION

By Mr. Shipley:

Q. Can you put Exhibit 4 in front of you?

MR. PUTNAM: Hang on a second.

MR. SHIPLEY: Let me have a copy of
it.

MR. PUTNAM: Yeah.

MR. SHIPLEY: I need that one.

MS. WRIGHT: Connecticut.

MR. SHIPLEY: Exhibit 4,
Connecticut.

MR. PUTNAM: Is this it?

MR. SHIPLEY: Yeah.

MR. PUTNAM: Make a little note at
the bottom there. Just put Ex 4. That's my copy.
So --

Q. (By Mr. Shipley) Mr. Bueler, are you an
industrial hygienist?

A. No, sir.

Q. Toxicologist?

A. No, sir.

Q. Physician of any kind?

A. No, sir.

1 Q. Have you ever seen Exhibit 4 before?

2 A. No, sir.

3 Q. It talks about asbestos dust hazard.

4 Does it say what the hazard of asbestos is?

5 A. I would have to read it again because I
6 read very quickly, and to answer your question I
7 did not study it. I'll have to go through it again
8 if you have something.

9 Q. Can you find anything in here about
10 where the words cancer or mesothelioma appear?

11 A. To answer you with absolute certainty I
12 would have to read it again very thoroughly, but in
13 my initial readings those words did not come to my
14 eyes.

15 Q. You don't recall seeing those words in
16 there.

17 A. No, sir.

18 Q. You don't recall seeing anything in this
19 article that suggests that cancer or any form of
20 malignancy, including mesothelioma, could be
21 considered a hazard of asbestos, did you?

22 A. Not -- not what I read in my -- this
23 document.

24 Q. Did you see on Page 508 at the bottom
25 of -- I'm sorry -- 507 where -- in the paragraph

1 where it says, "However, dust determinations have
2 shown that even the preliminary operations can be
3 conducted without exposing workers to excessive
4 dust concentrations"?

5 A. Yes, sir.

6 MR. COOK: Object. Optional
7 completeness rule.

8 MR. SHIPLEY: I'm sorry?

9 MR. COOK: Objected on the grounds
10 of the optional completeness rule. I just want to
11 make sure that when the time for trial comes, I can
12 read the rest of this.

13 MR. SHIPLEY: Oh, yeah. Sure.

14 Q. (By Mr. Shipley) You've read that?
15 You've read that when you were reviewing this for
16 Mr. Cook?

17 A. Yes, but I wouldn't want to be tested on
18 it.

19 Q. Now, what they're talking about here is
20 handling raw asbestos in the manufacturing stage.
21 Isn't that correct?

22 A. That's my recollection, yes.

23 Q. Did Wagner handle raw asbestos in the
24 manufacturing stage or when you got the brake
25 shoes, was the asbestos already in place on the

1 shoes?

2 A. All the brake shoes that we ever sold
3 were furnished as shoes with the lining --

4 Q. Right.

5 A. -- and the asbestos as a mix so to
6 speak.

7 Q. So, you never handled bags of raw
8 asbestos the way it's described in this article.

9 A. That is correct.

10 Q. Okay. Did you have dust control in your
11 plant?

12 A. Yes, sir.

13 Q. The -- the next article that we looked
14 at, that Anthony Lanza article from 1935 --

15 A. Yes, sir.

16 Q. -- do you have that in front of you,
17 Exhibit Number 5?

18 A. Yes, sir.

19 Q. Did you notice in reading that article
20 that that deals with exposures to asbestos in the
21 textile mills where they're handling raw asbestos?

22 A. Actually I did not read this entire
23 document. I only read the headings. So, I cannot
24 answer that.

25 Q. Do you see anything in there that

1 discusses that asbestos might be a -- associated in
2 any way with malignancy such as cancer or
3 mesothelioma?

4 MR. COOK: Objection. He said he
5 hasn't read it. If you want to let him read it,
6 that's fine.

7 Q. (By Mr. Shipley) Take a look at it and
8 see if you can find the words cancer, malignancy or
9 mesothelioma anywhere in the article.

10 MR. COOK: While the witness is
11 reading this, I'd -- I'd ask you, Mr. Shipley, to
12 identify for the record who you represent in asking
13 these questions.

14 MR. SHIPLEY: Bridgestone Firestone.

15 MR. COOK: All right.

16 THE WITNESS: No, sir. I do not see
17 those words.

18 Q. (By Mr. Shipley) Will you turn to Page
19 10, please?

20 A. Yes, sir.

21 Q. Under conclusions the first conclusion
22 says that, "Prolonged exposure to asbestos dust
23 caused a pulmonary fibrosis of a type different
24 from silicosis."

25 Do you see that?

1 A. Yes, sir.

2 Q. Is there anything in the conclusions
3 about asbestos causing any kind of malignancy,
4 cancer or mesothelioma?

5 A. No, sir. I do not see those words in
6 the conclusions.

7 Q. Do you see conclusion Number 4 where it
8 says that the asbestosis as observed in this series
9 of cases had not resulted in any marked disability
10 in any case?

11 A. Yes. I see that.

12 MR. COOK: Object on the basis of
13 optional completeness.

14 Q. (By Mr. Shipley) And you see Number 6
15 where it says one of the conclusions was that it's
16 not practicable as yet to establish standards for
17 the asbestos dust content of air?

18 A. Yes, sir.

19 Q. Okay. And this was dated 1935?

20 A. Yes.

21 Q. Is that right?

22 A. Yes, sir. 1935.

23 Q. Do you have any knowledge of Dreson in
24 1939 recommending some safe levels for asbestos? A
25 tentative maximum allowable concentration?

1 A. I have no knowledge.

2 Q. So, if the United States government or
3 state governments promulgated regulations and
4 threshold limit values that they considered to be
5 levels that workers could be exposed to eight hours
6 a day 40 hours a week without the expectation of
7 disease, you don't have any knowledge of that?

8 A. I --

9 MR. COOK: Object to the form of the
10 question.

11 Q. (By Mr. Shipley) Do you have any
12 knowledge of that?

13 A. I have no knowledge of that.

14 MR. SHIPLEY: Okay. That's all.
15 Thank you.

16 MR. PUTNAM: Anybody got -- anybody
17 else got questions? I've got a few.

18 MS. HERMES: No.

19

20

21 EXAMINATION

22

23 By Mr. Putnam:

24

25 Q. Mr. Bueler, my name's Jeff Putnam. I

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1 know we've met before. I represent Wagner in this
2 case. I have a few questions for you.

3 I want to clear up a few things.
4 You previously testified that Wagner provided
5 assemblies to Ford. Is that right?

6 A. Yes. Brake assemblies to Ford.

7 Q. Do you know what time periods?

8 A. Brake assemblies to -- for use in some
9 Ford vehicles would have been in the sixties and
10 some in the seventies I believe.

11 Q. Do you know what vehicles those were
12 supplied for? What types of vehicles?

13 A. They were the smaller vehicles. We had
14 some contracts for I believe Falcons, and there
15 might have been some Mavericks or something in
16 there in that period of time. These were complete
17 brake assemblies. These were not service brake
18 parts.

19 Q. With respect to the linings, how was the
20 lining chosen for those?

21 A. In the case of the OE manufacturers, the
22 linings that we supplied were in direct response to
23 the specification by the customer. In that case it
24 would have been Ford engineering would have said
25 what lining to use.

1 Q. Okay. With respect to GM and supplying
2 them with original equipment assemblies -- is that
3 the right --

4 A. I think that's an acceptable
5 terminology.

6 Q. Okay. What time periods did Wagner
7 supply to GM?

8 MS. WRIGHT: Objection. Asked and
9 answered.

10 THE WITNESS: A strong recollection
11 about the sixties, possibly down into some of the
12 fifties, and into the seventies.

13 Q. (By Mr. Putnam) What types of vehicles?

14 A. These brake assemblies would have been
15 for medium trucks basically.

16 Q. Okay. Are you aware of passenger
17 vehicles?

18 A. At General Motors we never supplied
19 brake assemblies for passenger vehicles on an OE
20 basis.

21 Q. You also mentioned Dodge. Do you know
22 what time period you supplied assemblies, OE
23 assemblies for Dodge?

24 A. OE assemblies would be furnished in the
25 sixties and into the early seventies to Dodge

1 truck. These again would be medium trucks. Brakes
2 in the nature of 15, 16 inch diameter.

3 Q. Okay.

4 MS. ANDERSON: Objection.
5 Nonresponsive.

6 Q. (By Mr. Putnam) You mentioned
7 International Harvester. Do you know what time
8 periods you supplied to International Harvester?

9 A. Possibly the fifties. Definitely the
10 sixties. Definitely the seventies. Again for
11 trucks of medium size.

12 Q. Okay. Studebaker. That predates me,
13 but what time period?

14 A. That would have been in the fifties, and
15 that would have been for passenger cars.

16 Q. Okay. American Motors was another name
17 you mentioned. What time periods did you supply
18 original assemblies to?

19 A. American Motors we would have supplied
20 original assemblies in 19 -- late fifties into the
21 sixties.

22 Q. Okay. Do you know what types of
23 vehicles?

24 A. American Motors made vehicles they
25 called Ramblers which were some of the early

1 compact vehicles. They made Rambler Americans and
2 other size Ramblers, and they were relatively small
3 passenger cars.

4 Q. Okay. In each of these instances with
5 OEM assemblies how was the lining chosen? The
6 brake lining chosen?

7 MS. ANDERSON: Objection. Asked and
8 answered.

9 MS. WRIGHT: Join that objection.

10 THE WITNESS: The lining in all
11 cases on the OE was chosen by the vehicle
12 manufacturer.

13 Q. (By Mr. Putnam) Okay. In your prior
14 testimony you also mentioned that there was a dust
15 collection system, things of that nature at the
16 Wagner plant for the people working in the factory.
17 Is that right?

18 A. That is correct.

19 Q. Okay. Did there ever come a time where
20 any outside companies or persons came in to do air
21 monitoring at the plants?

22 A. Yes. Monitoring was done in the
23 seventies after the OSHA determinations, EPA
24 determinations were put out to determine whether
25 the air in those areas -- whether the air in those

1 areas was acceptable according to the OSHA
2 standards.

3 Q. As far as you know was the -- did the
4 air testing results come back as being acceptable?

5 A. In all cases that I've heard about they
6 were acceptable. In no cases did I hear about were
7 they unacceptable.

8 MR. PUTNAM: Pass the witness.

9

10

11

FURTHER EXAMINATION

12

13

By Mr. Cook:

14

15 Q. I just have a few more questions, Mr.
16 Bueler.

17

Mr. Shipley representing Bridgestone
18 Firestone which I think is related to a company
19 called Worldbestos, have you ever heard of
20 Worldbestos?

21

A. As a matter fact, I have, yes.

22

Q. How do you know about Worldbestos?

23

A. Worldbestos is a lining supplier. I'm
24 not certain who used them. I'm not certain that we
25 used them.

1 Q. You think you used them?

2 A. I say I -- I'm not certain. I don't
3 know whether we did or not.

4 Q. In regard to Exhibit Number 4, Mr.
5 Shipley seemed to indicate and you seemed to agree
6 that this was about raw asbestos. Do you remember
7 that question?

8 A. I remember that question. I remember
9 that assertion I guess. I don't remember saying
10 anything other than I subsequently went through --
11 or was this the one? Which one did I go through?

12 Q. This is the one you went through.

13 A. Okay.

14 MR. PUTNAM: Just answer the
15 question he asked you.

16 THE WITNESS: Okay. Would you reask
17 the question?

18 Q. (By Mr. Cook) Okay. He asked you about
19 and I think your answer was, yes, that this
20 document only related to raw asbestos or something
21 to that effect. Do you remember that question?

22 A. Yes.

23 MR. SHIPLEY: Objection. Misstates
24 the question.

25 Q. (By Mr. Cook) Take a --

1 MR. PUTNAM: Join the objection.

2 Q. (By Mr. Cook) Take a look at Page 511,
3 and let's just clear this up as to whether this
4 document only relates to raw asbestos. The top
5 table.

6 A. Okay. Table Number II? Is that the
7 one?

8 Q. Roman Numeral Number II.

9 A. Roman Numeral II, yes.

10 Q. That table relates to dust exposures of
11 operators of grinding machines, does it not?

12 A. Yes, sir.

13 Q. And if you look down, it's taking
14 samples. Sample Number 4 is from an internal brake
15 grinder, and sample Number 5 is from an external
16 brake grinder.

17 A. Yes, sir.

18 Q. So, these do deal with brake grinding
19 issues, do they not?

20 MR. PUTNAM: I'm -- let me object to
21 the extent that the terms internal brake grinder
22 and external brake grinder are not defined in the
23 article. So, it's vague and ambiguous to that
24 extent.

25 MR. KNABESCHUH: Join.

1 Q. (By Mr. Cook) My -- my question was,
2 sir, that this article does deal with things other
3 than raw asbestos.

4 A. It appears that it does.

5 Q. Do you know who manufactured the
6 grinding machines that you use at your company at
7 Wagner?

8 A. No, sir.

9 Q. Now, in regard to the next document,
10 Bueler Exhibit Number 5, you were asked if you saw
11 the word cancer or mesothelioma in this article.

12 A. That's correct.

13 Q. Do you know as you sit here today
14 whether there are multiple hazards to health from
15 exposure to asbestos?

16 MR. PUTNAM: Objection. Vague and
17 ambiguous as to multiple hazards to health.

18 Q. (By Mr. Cook) More than one.

19 A. I'm not sure what your question is.

20 Q. Well, Mr. Shipley, representing
21 Bridgestone Firestone and whatever relation they
22 have to Worldbestos, asked you questions about
23 mesothelioma and cancer and whether you saw those
24 terms in -- in these articles. Whether those terms
25 were used in these articles, did you see

1 indications of health hazards of some sort related
2 to asbestos exposure in these two articles?

3 A. I would have to read it a lot more
4 thoroughly. I was looking for the words that he --

5 Q. But certainly you saw that in Exhibit
6 Number 4 which you did read.

7 A. I --

8 MR. PUTNAM: Objection.
9 Argumentative and mischaracterizes testimony.

10 THE WITNESS: What I saw in 4 was
11 some information about grinders. Internal and
12 external grinders.

13 Q. (By Mr. Cook) And health hazards of
14 asbestos?

15 MR. PUTNAM: Objection. Misstates
16 his testimony.

17 THE WITNESS: Under dust exposure of
18 operators of grinding machines I saw that internal
19 and external grinders are indicated some amount of
20 particles of material in the air.

21 Q. (By Mr. Cook) All right. Did you see
22 any indication in Number 4 that there might be some
23 health hazard associated with these asbestos
24 particles in the air?

25 A. I see a paragraph entitled Asbestos Dust

1 Hazards.

2 Q. All right, sir.

3 A. Beyond that I -- I'm afraid I can't do a
4 whole lot. I have to read it thoroughly.

5 Q. All right. Let me go on and ask you
6 some questions about your other testimony in regard
7 to following the specifications of GM, Chrysler,
8 and the other manufacturers.

9 MS. ANDERSON: Objection. Misstates
10 prior testimony.

11 MR. COOK: What have I misstated
12 about his prior testimony, counsel?

13 MS. ANDERSON: I made my objection.

14 MR. COOK: Well, I'm entitled to
15 know if you're going to make an objection other
16 than a legal objection so that I can cure the --
17 the question. Is there some -- something
18 objectionable so that I can cure it?

19 MS. ANDERSON: I believe it
20 misstates his prior testimony --

21 MR. COOK: In what way?

22 MS. ANDERSON: -- is my objection.

23 MR. COOK: In what way?

24 MS. ANDERSON: That's my objection.

25 Q. (By Mr. Cook) Is it -- was your previous

1 testimony true that your company followed
2 specifications for brake linings from these various
3 companies as testified to in response to your
4 attorney's questions?

5 A. Yes.

6 Q. All right. Would you have welcomed
7 information from these companies, GM, Ford,
8 Chrysler, Studebaker, whatever, AMC, about the
9 materials that were called for in their
10 specifications or did you care?

11 MS. ANDERSON: Objection.

12 MR. PUTNAM: Objection.

13 MS. ANDERSON: Misstates prior
14 testimony.

15 MR. PUTNAM: Objection. Compound
16 and calls for speculation.

17 THE WITNESS: I'm not sure what
18 you're asking.

19 Q. (By Mr. Cook) Did you care what type of
20 materials and what type of specifications the
21 automobile manufacturers did independently or were
22 you just concerned with following their directions?

23 MR. PUTNAM: Objection. Compound.

24 THE WITNESS: We were concerned
25 independently.

1 Q. (By Mr. Cook) All right. Why?

2 A. Because we wanted to be sure that the
3 brakes would perform properly.

4 Q. So that no matter what the
5 specifications, you looked at the product that you
6 were making and sending to them independently from
7 a performance standpoint.

8 A. From a performance standpoint.

9 Q. All right. Any other standpoint?

10 A. Not to my knowledge.

11 Q. Now, did you rely on these original
12 equipment manufacturers to provide you warnings
13 about any materials in the specifications that
14 might pose a hazard, a health hazard for your
15 employees?

16 A. I can't answer that. I have no
17 recollection of whether we relied or not.

18 Q. Would you have expected the people that
19 were giving you the specifications to advise you
20 and alert you as to any potential health hazards
21 associated with the materials that were called for
22 in those specifications?

23 A. It would have been nice had that
24 knowledge been available.

25 Q. Why?

1 A. Because you would utilize it to the best
2 of your ability to reduce the hazard if there is a
3 hazard.

4 Q. And again the more information you have
5 available, the better you can assess the hazard and
6 decide what to do about it.

7 MR. PUTNAM: Objection.
8 Argumentative.

9 Q. (By Mr. Cook) Is that correct?

10 MR. PUTNAM: Objection.
11 Argumentative. Calls for speculation.

12 THE WITNESS: Generally the more
13 information you have about something the better
14 decision you can make.

15 Q. (By Mr. Cook) Thank you, sir.

16 Now, you were also asked about -- by
17 your attorney about some air sampling studies that
18 were done at your plants.

19 A. Um-hum.

20 Q. Who did those studies?

21 A. An outside firm.

22 Q. What is the name of that firm?

23 A. The name as I recall is Gergeal or
24 something to that effect.

25 Q. But you can't give me that exact name as

1 we sit here today?

2 A. No. I can't while we're sitting here.

3 Q. Did you participate in those studies?

4 A. No, sir.

5 Q. Do you know what protocols were followed
6 in those studies?

7 A. No, sir.

8 Q. Do you know whether whatever protocols
9 were called for in those studies were accurately
10 followed by those people performing those studies?

11 A. I did not witness the studies. I cannot
12 make any determination about that.

13 Q. So, you're not here to vouch for the
14 validity of those studies.

15 A. No, sir. I cannot vouch for the
16 validity.

17 MR. COOK: I'll pass the witness.
18 Thank you, sir.

19 MR. PUTNAM: Anybody else?

20 MR. COOK: That's all. Thanks.

21 THE VIDEOGRAPHER: 2:02. We're off
22 the record.

23

24

25

RICHARD C. BUELER

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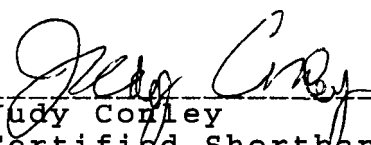
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3
4 I, Judy Conley, a Certified
5 Shorthand Reporter in and for the State of Texas,
6 do hereby certify that the facts as stated by me in
7 the caption hereto are true; that the above and
8 foregoing answers of the witness, RICHARD C.
9 BUELER, to the interrogatories indicated were made
10 before me by the said witness after first being
11 duly sworn to testify the truth, the whole truth
12 and nothing but the truth, and same were reduced to
13 typewriting under my direction; that the above and
14 foregoing deposition as set forth in typewriting is
15 a full, true and correct transcript of the
16 proceedings had at the time of taking said
17 deposition.

18 I further certify that I am not, in
19 any capacity, a regular employee of the party in
20 whose behalf this deposition is taken, nor in the
21 regular employ of his attorney; and I certify that
22 I am not interested in the cause, nor of kin or
23 counsel to either of the parties.

24
25
 McCracken & Norton
 Court Reporters
 Houston, Texas

1 Given under my hand and seal of
2 office on this the 11th day of May,
3 1998.

4
5 
6 Judy Conley
7 Certified Shorthand Reporter
8 No. 2573, Expires 12/31/99
9 733 East 6 1/2 Street
10 Houston, Texas 77007-1795
11 (713) 868-1901
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McCracken & Norton
Court Reporters
Houston, Texas

1 IN THE STATE OF TEXAS :

2 COUNTY OF HARRIS :

3
4 I, Judy Conley, a Certified
5 Shorthand Reporter in and for the State of Texas,
6 do hereby certify that the facts as stated by me in
7 the caption hereto are true; that the above and
8 foregoing answers of the witness, RICHARD C.
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10 before me by the said witness after first being
11 duly sworn to testify the truth, the whole truth
12 and nothing but the truth, and same were reduced to
13 typewriting under my direction; that the above and
14 foregoing deposition as set forth in typewriting is
15 a full, true and correct transcript of the
16 proceedings had at the time of taking said
17 deposition.

18 I further certify that I am not, in
19 any capacity, a regular employee of the party in
20 whose behalf this deposition is taken, nor in the
21 regular employ of his attorney; and I certify that
22 I am not interested in the cause, nor of kin or
23 counsel to either of the parties.

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 McCracken & Norton
 Court Reporters
 Houston, Texas

NO. 94-007165

STEPHEN F. BLOCK, JR.) IN THE DISTRICT COURT OF
AND RITA BLOCK,)
Plaintiffs,)
VS.) HARRIS COUNTY, T E X A S
MAREMONT CORPORATION,)
ET AL,)
Defendants.) 215TH JUDICIAL DISTRICT

CERTIFICATE TO THE DEPOSITION OF
RICHARD C. BUELER

I, Judy Conley, a Certified
Shorthand Reporter in and for the State of Texas,
do hereby certify pursuant to The Texas Rules of
Civil Procedure and/or agreement of the parties
present to the following:

That the deposition of RICHARD
C. BUELER, taken on the 28th day of April, 1998, is
a true record of the testimony given by the
witness, after said witness was duly sworn by me.

That \$_____ is the charge
for the preparation of the completed deposition
transcript and any copies of exhibits, charged to
RUSSELL L. COOK, JR., TBA No. _____,
Attorney for PLAINTIFFS.

That the deposition transcript was
available for examination and signature on the
_____ day of _____, 1998 by the

McCracken & Norton
Court Reporters
Houston, Texas