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IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

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Michael Brown, et al.,) Case No.: CV-09-702689
Frank Sylvasy (Estate), et al.,) Case No.: CV-09-695277

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Plaintiffs,

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vs.

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Honeywell International,
Inc., et al.,

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Defendants.

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witness:
Marcy Duncan

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Cross-Examination by: Page:
Mr. Mismas 7

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Direct Examination by:
Mr. Doran 147

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Recross-Examination by:
Mr. Mismas 150

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E X H I B I T S

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Plaintiffs' Duncan: Marked

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0006
1 S T I P U L A T I O N S
2 It is stipulated by and between counsel
3 for the respective parties that the deposition of
4 Marcy Duncun, a witness herein, called as upon
5 cross-examination by the Defendants, may be
6 taken at this time and place pursuant to the Ohio
7 Rules of Civil Procedure and Notice and agreement
8 of counsel as to time and place of taking said
9 deposition; and to be filed in the trial of this
10 cause; that the deposition was recorded in electronic
11 stenotype by the court reporter, George J. Staiduhar,
12 and transcribed out of the presence of the witness;
13 and that said deposition is to be submitted to
14 the witness for her examination and signature.
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0007
1 MR. MISMAS: We can put some stuff on
2 the record, a stipulation: That an objection by one is

3 an objection by all.
4 MR. DORAN: That's fine.
5 MR. MISMAS: Stipulate to the
6 qualifications of the court reporter under the rules of
7 the State of Ohio?
8 MR. DORAN: That's fine.
9 MR. MISMAS: And this deposition is
10 being taken under the civil rules, under the Rules of
11 Evidence in the State of Ohio.
12 Anything else you want to put on the
13 record?
14 MR. DORAN: No.
15 MR. MISMAS: Okay.
16 MARCY DUNCAN
17 of lawful age, a co-worker witness herein, was first duly
18 sworn, as hereinafter certified, and was examined and
19 deposed as follows:
20 CROSS-EXAMINATION
21 BY MR. MISMAS: .
22 Q Good morning, Mrs. or Miss Duncan
23 whatever it may be.
24 A It is Mrs. Duncan, and you can call
25 me anything.
0008
1 Q Okay. We are here for you to give
2 deposition testimony in two cases, in the sylvasy case
3 and Brown case, which are both pending in Cuyahoga
4 County.
5 And you have had your deposition
6 taken before?
7 A Yes.
8 Q How many times have you had your
9 deposition taken before?
10 A Around 20.
11 Q And let me just give you some general
12 background. I know you probably have gone through this
13 before, but if you need to take a break at any time for
14 any reason, just let me know. I just need you to answer
15 the questions the best you can.
16 If you don't know the answer to a
17 question, "I don't know" is a perfectly fine answer.
18 A All right.
19 Q You are under oath, you are under
20 oath today, so your testimony is the same as if you were
21 giving sworn testimony in court. Do you understand all
22 that?
23 A Yes.
24 Q And do you have any questions for me
25 before we start?
0009
1 A No.
2 Q Okay. And you understand that the
3 deposition is being taken pursuant to Civil Rule 30(B)(5)
4 of the Ohio Rules of Evidence, Civil Procedure, Ohio
5 Rules of Civil Procedure?
6 A I understand that. I don't know what
7 it means exactly, but I --
8 Q Okay. And you understand that Dana
9 has produced you as the person most knowledgeable of the
10 areas of inquiry on the depo notice you received,
11 correct?
12 A Yes, sir.
13 Q And what did you do to prepare for
14 your deposition today?
15 A I read through the master

16 interrogatory responses and the requests for admission
17 and request for production of documents.
18 Q Okay.
19 A I went through the -- for both
20 sylvasy and Brown, I went through the deposition notice
21 and all of the items on the deposition notice and kind of
22 helped myself with tabbing on the discoveries where some
23 of the responses were from the interrogatories. And I
24 have the declaration affidavits that I went through for
25 both cases.

0010

1 Q Uh-huh.
2 A And I reviewed all those.
3 Q Okay. We will mark those later.
4 But I just want to go through some
5 preliminary stuff. I am going to ask you questions now.
6 I don't want to know about any of the conversations you
7 had with your lawyers; I just want to know if you had
8 them.
9 Did you have any conversations with
10 any of the lawyers from Dana prior to this deposition?
11 A Yes, sir.
12 Q Okay. And when was the first contact
13 you received?
14 A Would have -- I can't remember
15 exactly when it was -- but it was to ask if I was
16 available for a deposition. I think it was about three
17 weeks ago, if I would be available for a deposition in
18 these cases sometime in -- within the next couple of
19 weeks, and I said yes, I would. In fact, I would be on
20 vacation this week and would prefer that.
21 Q Lucky you.
22 A Well, because I have to take a day of
23 vacation from my job.
24 Q Okay.
25 A Since I was already on vacation, I

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1 was not going to waste a day of my vacation.
2 Q Oh, absolutely.
3 A So I said this week would be a good
4 week for me, and we had a couple other e-mail back and
5 forth to set the time up, I believe, probably with your
6 office.
7 Q Okay. Who contacted you about this
8 deposition?
9 A Janis Foley.
10 Q And who does Janis Foley work for?
11 A Cooper Walinski, Cooper and Walinski.
12 Q Is she a paralegal or an attorney?
13 A No, she is an attorney.
14 Q Have you had any other contacts with
15 anybody from Dana or other lawyers representing Dana
16 prior to that time?
17 A Yes.
18 Q And let's go chronological order. So
19 there is the first one three weeks ago. When was the
20 next one?
21 A Well, during that first couple of
22 weeks was setting up the time, and I got a couple of
23 e-mails back and forth and "is June 2nd such and such?"
24 "okay, yes, okay."
25 Yesterday or Sunday I received an

0012

1 e-mail from Laura Higgs from Dehay & Elliston, verifying
2 the time to meet this morning, and then after I got here

3 this morning, we had a teleconference with Laura Higgs,
4 Perry Doran, and Janis Foley to make -- usually, it is to
5 make sure I am here for one thing.

6 Q Okay.
7 A And to ask me if there was any
8 questions that I had and to ask what I had reviewed.
9 Q And the only things you had reviewed
10 is what's in that red file right there?

11 A Yes, sir.
12 Q You didn't review any other documents
13 or anything else?

14 A No.
15 Q Did you talk to a man by the name of
16 Joe Jacoby about this deposition or anything to do with
17 it?

18 A No.
19 Q I have to ask questions to jog your
20 memory. As I said earlier, no is a perfectly fine
21 answer. "I don't know" or "I have no idea" is a
22 perfectly fine answer.

23 Did you talk to a man by the name of
24 Tom Radcliff?

25 A No.

0013 Q Okay. And you did talk to Ms. Higgs?

1 A Yes.
2 Q And prior to today, had you talked to
3 Ms. Higgs about anything else about this deposition? Did
4 you have any other conversations with her?

5 A Not that I recall, no. The only
6 thing was the e-mail from yesterday or the day before
7 that she sent me to confirm our time to be here this
8 morning.

9 Q Did you talk to any current or former
10 employees of Dana in preparation for this deposition?

11 A No, sir.

12 Q And you live in Indianapolis, right?

13 A I live in Lebanon.

14 Q Lebanon?

15 A Yes.

16 Q Lebanon spelled like the country?

17 A Yes.

18 Q And how far --

19 A From here it is about 22 miles.

20 Q I just wrote down 20, so I was close.

21 22 miles. Okay.

22 Did you review any documents,
23 pictures, anything like that preparing for this
24 deposition?

25 A No, sir. Only what I with me.

0014 1 A No, sir. Only what I with me.
2 Q It is Dana's position that chrysotile
3 asbestos can cause mesothelioma?

4 MR. DORAN: Objection.

5 Q Do you want me to repeat the
6 question?

7 A Yes, sir.

8 Q That's one thing I forgot to tell
9 you. If you don't understand a question, tell me you
10 don't understand it, or if you want me to rephrase it,
11 just ask me to rephrase, and I will be more than happy to
12 do it.

13 If I can figure out how to rephrase
14 it, I will.

15 A That's fair.

16 Q It is Dana's position that chrysotile
17 asbestos can cause mesothelioma, correct?
18 MR. DORAN: Objection to the form of
19 the question.
20 A I have no way to answer that, yes.
21 Q And you are here today speaking as
22 the corporate representative of Dana Corporation,
23 correct?
24 A For Victor sales, yes, sir.
25 Q For Victor Sales?
0015
1 A Uh-huh.
2 Q Okay. Because we are not talking
3 about spice or any things like that?
4 A That's correct.
5 Q And you currently live in Lebanon?
6 A Yes, sir, I do.
7 Q And you pronounce it Lebanon, not
8 Lebanon?
9 A I don't pronounce it the same way the
10 local people do because I spent 20 years in Chicago, and
11 I pronounce it Lebanon.
12 Q And I know this is a question you
13 should really never ask a woman but how old are you
14 today?
15 A Today I am 59.
16 Q Okay. And your current employer is
17 who?
18 A Hoosier Gasket.
19 Q Okay. And what does Hoosier Gasket
20 do?
21 A They manufacture gaskets for the
22 vehicular and industrial market.
23 Q And were they ever part of Dana?
24 A No, sir.
25 Q So when you left Dana, you just went
0016
1 to work for Hoosier Gasket, which is a completely
2 separate company?
3 A I went to work for Case New Holland
4 first.
5 Q I just wanted to get that out of the
6 way where you are currently working.
7 I want to go through a little bit of
8 your history with Dana.
9 A That's fine.
10 Q And you graduated from high school in
11 '68 and went to work for Dana as an inventory clerk?
12 A Yes.
13 Q And what did your duties entail as
14 inventory clerk?
15 A At the time, I was with the Service
16 Parts Division, which was the aftermarket portion of
17 Dana, and I had mainly posting cards that I would enter
18 incoming gaskets or products on to the inventory or take
19 invoices and decrease the amount on hand. That was
20 pretty much my job.
21 Q Okay. During this time period when
22 you were in the Service Parts Division, did your job
23 duties include anything to do with asbestos?
24 MR. DORAN: Objection to the form of
25 the question.
0017
1 A Not specifically. I was posting to
2 cards. I was not handling any product or anything like

3 that.
4 Maybe your question could be more
5 clear?
6 Q well, how about this: Did you even
7 know what asbestos was at the time in '68 when you were
8 working as a Service Parts Division person?
9 A I don't know if I knew what it was at
10 that time or not.
11 Q Okay.
12 A To be real honest with you, I don't
13 recall.
14 Q Okay. Could you at that point tell
15 an asbestos-containing gasket from a non
16 asbestos-containing gasket?
17 A At that time, I probably didn't even
18 know what a gasket was.
19 Q Okay. I'm sorry. I thought you said
20 that you had these posting cards?
21 A Yes.
22 Q And those were for purchase orders?
23 A They were part number.
24 Q Part number?
25 A Part numbers. It was like a huge
0018 rolodex that had part cards on them. Each product that
1 was in the warehouse had a card for it.
2 Q Uh-huh.
3 A And had, you know, the amount that
4 was on hand or sold or incoming, and so we would get
5 these big computer printouts everyday, and we would
6 have to make postings on these cards. The cards would
7 have part numbers and a description of what that part
8 was.
9 Q Okay.
10 A And there were gaskets, piston rings,
11 cam shafts, and that type of thing.
12 Q Just all kinds of stuff?
13 A Uh-huh.
14 Q But part of your job was selling
15 gaskets or -- posting the cards with gasket orders on
16 them?
17 A Recording sales and receipts of
18 gaskets.
19 Q Okay.
20 A Yes.
21 Q And so you don't really know whether
22 your job duties at that time had anything to do with any
23 asbestos-containing products at all, do you?
24 MR. DORAN: Objection to form.
25
0019
1 A At that time, I did not know.
2 Q Okay. Do you know today?
3 A Yes.
4 Q Okay. And did it?
5 A Yes.
6 Q And were you aware at that time what
7 asbestos-containing products Dana Corporation -- when I
8 say Dana Corporation, I am talking about Victor Products
9 Division of Dana. Can we agree on that? That's the same
10 thing?
11 A Yes, sir.
12 Q And if there is a difference, when I
13 ask a question, I am -- just clarify that for me.
14 A Yes.
15 Q Is that fair?

16 A Yes. Yes, I will.
 17 Q Okay. Were you aware at that time
 18 what asbestos-containing products Dana was selling?
 19 A Not at that time.
 20 Q Okay. Are you aware now?
 21 A Yes, I am.
 22 Q And what products were those?
 23 A The gaskets, some of the gaskets had
 24 asbestos in them at that time that were being sold out of
 25 the distribution center.
 0020
 1 Q which gaskets?
 2 A Some of them.
 3 Q Specifically?
 4 MR. DORAN: Let me object to the form
 5 of the question.
 6 A There were gaskets that were
 7 asbestos-containing and gaskets that did not have any
 8 asbestos in them. They were both in the inventory.
 9 Those gaskets consisted of, would be cylinder head
 10 gaskets, exhaust gaskets, transmission gaskets, valve
 11 cover, oil pans, rear main cover gaskets, fly wheel
 12 housing gaskets, basically all gaskets that would be
 13 considered vehicular engine gaskets.
 14 And gaskets were also sold in sets,
 15 such as an oil pan set might contain an oil pan gasket in
 16 it and maybe a seal of some kind. Some of the full sets
 17 would contain O rings, and on miscellaneous connector
 18 type gaskets, some of those gaskets contained asbestos,
 19 and some of them did not.
 20 Q Which ones contained asbestos?
 21 A I wouldn't know without looking at
 22 part numbers and going back and looking at what those
 23 particular gaskets were manufactured out of at the
 24 time.
 25 Q Okay. How about now, which of those
 0021 gaskets contained asbestos?
 1 MR. DORAN: Objection to the form of
 2 the question.
 3 MR. MISMAS: What's wrong with the
 4 form?
 5 MR. DORAN: Are you talking, does she
 6 know now or produced now?
 7 MR. MISMAS: If we are talking about
 8 1971, we are not talking about --
 9 MR. DORAN: John, I didn't understand
 10 your question. That's why I objected.
 11 MR. MISMAS: Okay.
 12 BY MR. MISMAS:
 13 Q In 1968, which of those gaskets
 14 contained asbestos, and which did not?
 15 A Sir, I don't know.
 16 Q Okay.
 17 A My answer would be the same, then, as
 18 it is now. Some of the gaskets contained asbestos, and
 19 some did not. In order to find out which ones did, I
 20 would have to go back and look at all the part numbers
 21 and look at the engineering records to see what the
 22 components were during that period of time.
 23 Q Do you have the ability to do that
 24 now?
 25
 0022
 1 A Yes.
 2 Q Is there a reason why you did not do

3 that in preparation for your deposition today?

4 A I didn't know what to look for. At
5 any given time, there were over 50,000 different gaskets
6 manufactured, and there were a lot more that were
7 considered part numbers. When you put something in a
8 kit, it takes another part number to create the kit.

9 So you may have ten gaskets in the
10 kit sold individually as ten different part numbers and
11 then the kit would have another number. So you are
12 looking at a lot of different part numbers and gasket
13 numbers, and I didn't know what to look for.

14 Q Did your job duties have to do
15 with the sale of gaskets for automobiles or something
16 else?

17 A It was predominantly automobiles,
18 probably trucks, buses, some heavy duty like semitruck
19 diesel.

20 Q Like a Cummins engine?

21 A Yes, because I was with the
22 aftermarket division at that time, so it would have been
23 any gaskets that were available through Victor in the
24 Service Parts Division for the aftermarket sales.

25 Q Now, let's just limit it down to

0023 1 automobile gaskets, and in that time period; you had said
2 earlier there were over 50,000 gaskets.

3 What percentage of those gaskets were
4 for automobile use rather than heavy equipment or marine
5 or anything like that?

6 A I would be guessing.

7 Q Well, can you give me your best
8 estimate?

9 A Probably around 70 to 80 percent of
10 them. Very few of the gaskets that were sold from the
11 aftermarket were for heavy-duty applications.

12 Q And for heavy-duty applications, what
13 are we talking about?

14 A Construction, like your diesel, there
15 were some diesel but not a lot.

16 Q For diesel, we already mentioned
17 Cummins would be one?

18 A Yeah. When I think of diesel, it
19 would be like Class 8 in vehicular, so that would be like
20 your Cummins, your Mack.

21 Q Caterpillar?

22 A Yeah, but Cat was more construction.

23 Q How about Detroit Diesel?

24 A That would be Class A Allison
25 engines.

0024 1 Q That would be --

2 A Like semi.

3 Q Okay. Like Cummins and Mack?

4 A Yes, uh-huh.

5 Q How about Terrex?

6 A I don't recall them from those days.
7 I do from later on.

8 Q We are just talking about this time
9 when you were in the Service Parts Division, and I think
10 it is from '68 to '71. Is that correct?

11 A Yes.

12 Q '71 you went to oil seals, right?

13 A Yes.

14 Q Okay. And how about farm equipment?

15 A Yeah.

16 Q okay. John Deer --
17 A Tractors, John Deer, yes, sir,
18 International, Case, I remember those.
19 Q How about Massey Ferguson?
20 A Yes, Massey Ferguson.
21 Q Did you sell gaskets -- in your job
22 as an inventory clerk at that point to sell gaskets for
23 any marine uses?
24 A There were a few marine uses offered.
25 I want to clarify something, also. The sales out of that
0025 facility were not to any OEMs.
2 Q okay. These were all aftermarket
3 parkets?
4 A Yes.
5 Q After-market parts. I said parkets,
6 which is not a word.
7 A Yes. These were not OEM sales; these
8 were aftermarket.
9 Q okay. And for the aftermarket sales,
10 the marine engines or transmissions or whatever you were
11 selling for, what marine engines were those for?
12 A I remember Evinrude, Johnson, Mercury
13 Marine, OMC.
14 Q How about for aircraft, anything for
15 aircraft engines?
16 MR. DORAN: Objection to form.
17 A I don't recall. I don't recall that
18 name.
19 Q okay. That's a perfectly fine
20 answer. If you don't know, you don't know like I said
21 earlier.
22 A okay.
23 Q In 1971, you went into the oil seals
24 department, correct?
25 A oil seals Division.
0026 of Dana Corporation?
1 A Yes, sir.
2 Q Bla, bla, bla. okay.
3 A Yes.
4 Q And what did your job duties entail
5 in the oil seals Department. You worked there until I
6 think 1980. Is that right?
7 A Yes.
8 Q And let's start at the beginning in
9 '71. What did your job duties entail in the Oil seals
10 Department?
11 MR. DORAN: If you need to refer to
12 something.
13 Q I don't want you to refer to
14 anything.
15 A I don't want to refer to anything.
16 MR. DORAN: Can we take a minute?
17 MR. MISMAS: I object to side bar.
18 (Discussion held off the record.)
19 A I'm sorry.
20 Q I don't want you to refer to
21 anything. I just want from your memory. okay?
22 A Uh-huh.
23 Q And what did your job duties entail
24 during the '71 period?
25 A I got a job at the oil seal plant in
0027 production control initially. At that time, the Victor

3 Division was transferring their records from manual
4 records to computer, and so my initial job was to start
5 going through a lot of the engineering records and
6 prepping them for the old key punch cards if you remember
7 those. You probably don't.

8 Q I do, and this is going to tell you
9 how old I am. I remember it from elementary school.

10 A All right. Okay. I was not that far
11 behind.

12 But that was my initial job, was to
13 help to transfer those records or prep those records to
14 be key punched, and that was with the oil seal -- the
15 components and the part numbers and things like that.

16 Q Okay. And do these key punch cards
17 still exist?

18 A I don't know.

19 Q So your initial job was to take the
20 cards and put them on to a key card, right?

21 A I didn't put them on the key card.
22 The key punch people did.

23 Q Uh-huh.

24 A What I did was I gave them --
25 basically what we did was we used a format to tell them

0028 1 this was an engineering record. It might be the channel
2 portion of the oil seal, and these are the dimensions,
3 and they would take that record and key punch that and
4 make the card with all the holes in it.

5 Q And your engineering records, were
6 the engineering records the records of how -- what went
7 into the process of making the oil seals?

8 A Uh-huh, yes, sir.

9 Q Okay. And do you know what materials
10 went into making those oil seals?

11 A Yes.

12 Q And what materials went in them?

13 MR. DORAN: Objection to form.

14 A Well, the channel, the metal part was
15 made of usually 10-10 channel 8 steel, 008 steel in
16 various thicknesses. The channels were then molded with
17 various types of rubber from neoprene, nitrile, buna-in,
18 some silicone and some viton. Some of the gaskets were
19 just two pieces of metal channels where you take the -- I
20 said gasket, didn't I? I meant oil seal. I'm sorry.

21 Q That's all right. Anytime you need
22 to correct anything or you think of something that came
23 back on a question I asked before, just say, "hey, John,
24 I need to correct something," and that's completely
25 fine.

0029

1 A Okay. Oil seals, basically you have
2 a metal formed cup basically, and some of them you put a
3 rubber washer in or a felt washer in and then another
4 metal channel over it and clinch the two together.

5 Some of them you edge molded around
6 the ID of the metal for sealing lip. Some of the sealing
7 lips had a garter spring, which was made out of music
8 wire, various tensions of music wire that were used to
9 give it a little bit more tension around a shaft when the
10 oil seal was applied.

11 We had our own rubber making room, a
12 Banbury, where we combined all the components and
13 chemicals that manufactured our own rubbers. So we made
14 our own buna-ins and nitriles and neoprenes there on
15 site.

16 Q And the rubber-making room with the
17 Banburys, was any talc used in the process of making the
18 rubber at Dana?
19 A No. I don't remember any talc.
20 Q Don't remember any talc?
21 A I remember a white -- started with a
22 B. I can't remember the name of it.
23 Q And you said a white -- was it a
24 powder, or what was it?
25 A It went into the -- like at the end
0030
1 because I remember some white streaks in the rubber
2 material.
3 Q And do you remember what this white
4 material was used for?
5 A No, no.
6 Q I'm sorry. I don't think you
7 answered my question, and I am not trying to be obtuse
8 here.
9 A That's okay.
10 Q But the white material, was it a
11 powder, was it a slurry? What was it? You said at the
12 end of the Banbury process, you put a white material in.
13 Do you know what the white material was?
14 A Most of the chemicals that went in
15 were dry chemicals.
16 Q So like a powder?
17 A Like a gunky stuff.
18 Q Gunky stuff, a mud?
19 A No. It crumbled, like crumbling
20 stuff.
21 Q Like if you take this chalk and
22 crumble it up, that's what happens?
23 A No. It was like oatmeal. That's
24 what it reminded me of, only not mushy.
25 Q Okay. Like oatmeal before you put
0031
1 the milk in?
2 A Yes.
3 Q And when you were starting out in the
4 oil seal Department, changing these engineering specs
5 into the punch cards, did any of those -- any of
6 those oil seals have anything to do with asbestos
7 whatsoever?
8 A No, sir.
9 Q And did your job duties change
10 between the '71 and '80 period of time when you were
11 working in the oil seals Department?
12 A Yes.
13 Q And let's start from the first part.
14 In '71, you came in as what, the key punch lady?
15 A Well, no. Actually, I think it was
16 clerk, control clerk because that was the bulk of the
17 duties initially, and then I went to scheduling, helping
18 to schedule production, and during the time I was with
19 the oil seals, I also worked in purchasing. I worked in
20 sales, like customer service, sales rep inside.
21 I was back in production control in
22 an official scheduler's position for a while. I also was
23 a second shift production supervisor in the oil seal
24 finishing and molding areas for a while. I think that
25 pretty much covers my responsibilities in the oil seal
0032
1 specifically till 1980.
2 Q And from 1971 to 1980, did any of

3 your job duties have anything to do with asbestos in the
4 oil seal?

5 A No, sir.

6 Q And from 1971 to 1980 at that time,
7 did you know what asbestos was?

8 A Yeah, I think I did during that time,
9 because it was used a lot in insulation, and at the time,
10 I was in apartments and houses having some of that kind
11 of stuff done.

12 Q And from 1971 to 1980, were you aware
13 of the dangers of asbestos?

14 A Not that I recall, sir.

15 Q And from 1971 to 1980 did anyone from
16 Dana tell you about the potential harmful effects from
17 asbestos?

18 MR. DORAN: Objection.

19 A I don't recall, sir, no.

20 Q Is that a no, or you don't recall?

21 A I don't recall.

22 Q Just making sure the record is clear
23 because, you know, we have Mr. Court Reporter taking
24 everything down, and I want to make sure our record is
25 clear when the deposition transcript is transcribed.

0033

1 okay?

2 A Thank you.

3 Q Okay. And we established that from
4 the '71 to '80-time period, your job duties had nothing
5 to do with asbestos?

6 A That's correct.

7 Q And asbestos was not used in the oil
8 seal Department at all?

9 A That's correct.

10 Q And were you aware that Dana produced
11 asbestos-containing products at this time from '71 to
12 '80?

13 A I don't remember what I knew
14 specifically at that time. I don't know.

15 Q Okay. Are you aware today that Dana
16 produced asbestos-containing products between 1971 and
17 1980?

18 A Yes, sir.

19 Q And what products were those?

20 A There were some of the gaskets that
21 had asbestos in them.

22 Q Specifically. I want to know
23 specifically what products contained asbestos.

24 MR. DORAN: Objection, form.

25 A Some of the gaskets.

0034

1 Q which ones?

2 A well --

3 MR. DORAN: Objection to form.

4 A Some of the head gaskets, some of the
5 exhaust gaskets, some of the connector gaskets.

6 Q When you say "connector gaskets,"
7 what do you mean?

8 A You have --

9 Q Actually, what's the function of a
10 connector gasket?

11 A well, we kind of lumped a bunch of
12 like secondary gaskets into -- if it wasn't a head
13 gasket, exhaust gasket, like an exhaust manifold, intake
14 manifold, specific oil pan, it was kind of like -- if it
15 was not something you made a set out of, we dumped them

16 into a category called connector gaskets, would be water
17 pump, transmission, rear main housing, like that. All of
18 them are actually like connectors because they are
19 between two pieces of housing or a fixture or something.

20 Q Valve cover gaskets?

21 A We just called those valve cover
22 gaskets.

23 Q Did those contain asbestos or no?

24 A No.

25 Q What were they made out of?

0035

1 A They were made out of a combination
2 of cork rubber.

3 Q Okay. You mentioned oil pan gaskets
4 contained asbestos?

5 A No. I didn't say that. We were
6 talking about valve cover gaskets.

7 Q Valve cover gaskets. Okay.

8 A Uh-huh.

9 Q Now, when we are talking about
10 asbestos-containing gaskets, what percentage of these
11 gaskets during this '71 to '80-time period were for
12 automotive use rather than heavy equipment, marine,
13 industrial, whatever?

14 A Do you mean coming from the
15 aftermarket or the OEM?

16 Q We will start with aftermarket.

17 A Okay. And the question is what
18 percentage would be for --

19 Q Let me reask my question, and maybe
20 that would be easy.

21 A I'm sorry.

22 Q No, that's okay. Like I said, if you
23 don't understand my question, you just let me know.
24 okay?

25 For the aftermarket for automobile-

0036

1 gaskets, what percentage of the gaskets produced by
2 Dana/Victor were for automobiles?

3 A Probably 50 percent from the Victor
4 gasket -- you know, Victor gasket manufacturing area.

5 Q And from '71 to '80 for the OEM, what
6 percentage of the gaskets were for OEM or are we mixing
7 up the two?

8 A I am mixing up the two. I'm sorry.

9 Q Okay.

10 A From a Victor Manufacturing -- what
11 they manufactured -- okay.

12 Q Okay.

13 A 50 percent of the gaskets would have
14 been OEM and about 50 percent would have been for -- I'm
15 sorry. I am really screwing up now.

16 Q That's okay. Take your time.

17 A Automotive as compared to -- 50
18 percent of the gaskets would have been automotive related
19 as compared to heavy duty and construction from an OEM
20 standpoint.

21 Q Just let me get this straight here in
22 my head because I am not the smartest man in the world.
23 So 50 percent of the gaskets were for automobiles whether
24 they were OEM or aftermarket. Is that correct?

25 A Yes.

0037

1 Q Okay. And what percentage of the
2 automobile gaskets produced between this 1971 and

3 1980-time period contained asbestos?
4 MR. DORAN: Objection to form.
5 A I don't know.
6 Q And on the other 50 percent that were
7 produced, the gaskets that were produced, what percentage
8 of those gaskets contained asbestos?
9 A I don't know.
10 Q I don't know if I ask asked you this
11 already but in this '71 to '80-time period, when we are
12 talking about automotive gaskets, what gaskets contained
13 asbestos specifically?
14 MR. DORAN: Objection. Form.
15 A I can tell you some of the gasket
16 types --
17 Q Okay.
18 A -- that some of them would have been
19 made out of asbestos, and some of them would have been
20 non asbestos.
21 Q Okay.
22 A would be your head gaskets, your
23 exhaust system gaskets, which would be the exhaust
24 manifold, the intake manifold, the donut gaskets.
25 Q That go between the pipes to the --
0038
1 A The donut gaskets, uh-huh.
2 Q Let me finish, that -- these are the
3 gaskets that go between the pipe that leads to the
4 muffler?
5 A Yes.
6 Q Okay.
7 A And some of the connector, what we
8 call the secondary type gaskets.
9 Q For the head gaskets produced between
10 '71 and '80, why would some contain asbestos, and why
11 would some not?
12 A Because there were several different
13 types of offerings for head gaskets made out of different
14 materials.
15 Q Okay. And what materials would those
16 be, one being asbestos, right?
17 A Well, yeah. It would be asbestos
18 combined with other -- like your metals to hold the
19 asbestos mineral board.
20 Q Okay.
21 A Beaded steel was a popular one.
22 There was no asbestos in beaded steel head gaskets and
23 multilayered steel. There were are also graphite was
24 available during that period of time, graphite and
25 steel core.
0039
1 Q Could all of these head gaskets serve
2 the same purpose?
3 MR. DORAN: Objection to form.
4 A They could serve the same purpose but
5 not necessarily for the same type of performance
6 requirement.
7 Q Okay. And when you say performance
8 requirement, what are you referring to?
9 A Well, a lot of times if you are
10 looking at high performance engines, you are looking at a
11 lot of the beaded steel or the graphite. Some of those
12 engines will get hotter, so you are looking for something
13 that will disperse that heat more evenly.
14 Q And what about asbestos gaskets,
15 asbestos head gaskets, what were they mainly used

16 for?
 17 A They were used to seal the engine.
 18 Q I mean, you just said the beaded
 19 steel were used for high performance engines?
 20 A Predominantly for high performance,
 21 yes, sir.
 22 Q So what type of engines were the
 23 asbestos gaskets used for?
 24 MR. DORAN: Objection to form.
 25 A Non high performance.
 0040
 1 Q So low performance?
 2 A Regular.
 3 Q Just your typical automobile?
 4 A A lot of times, yes.
 5 Q Okay.
 6 A There were also the non asbestos and
 7 asbestos were available for many of the engines.
 8 Q Let's talk about head gaskets. You
 9 said there were between the '71 and '80-time period you
 10 said there were asbestos and non asbestos, correct?
 11 A That's correct.
 12 Q And what -- we know one was asbestos
 13 for head gaskets. What were the other materials that
 14 were used in the production of head gaskets for
 15 automobiles?
 16 A Graphite, graphite on steel core,
 17 your multilayered steel gaskets, head gaskets, the beaded
 18 steel.
 19 Q Is that it?
 20 A For head gaskets?
 21 Q Yeah.
 22 A You said non asbestos head gaskets.
 23 Q We had asbestos, and then we were
 24 talking about non asbestos head gaskets, and you gave me
 25 graphite core, multilayered steel, and steel something --
 0041
 1 A Beaded steel.
 2 Q Beaded steel. Okay.
 3 Now, the asbestos head gaskets
 4 between '71 and '80, what type of vehicles would those be
 5 used on? Would those be your typical automobiles as
 6 well?
 7 A You could use the asbestos or the non
 8 asbestos on any of the engines.
 9 Q Okay. But were there typical
 10 applications -- I know you just said you could use
 11 either -- but like the -- you earlier said the beaded
 12 steel was for the head gaskets. Were the beaded steel
 13 for the head gaskets used on high performance vehicles,
 14 correct?
 15 A A lot of times, yes.
 16 Q Now, were the beaded steel exhaust
 17 manifold gaskets used on high performance automobiles,
 18 too?
 19 A Could be, yes.
 20 Q Could asbestos exhaust manifold
 21 gaskets be used on high performance engines?
 22 A Yes.
 23 Q Okay. And could asbestos exhaust
 24 manifold gaskets be used on your typical automobile?
 25 A Yes.
 0042
 1 Q And can you tell me percentage wise
 2 what percentage of asbestos-containing exhaust manifold

3 gaskets were sold comparatively to the other types?
4 A No, sir, I don't know.
5 Q Now, you talked about your intake
6 gaskets. Now, intake gaskets, we know that one form was
7 asbestos?
8 A Yes, sir.
9 Q Correct?
10 A Yes.
11 Q Okay. And what else of the intake
12 gaskets were -- what other materials were intake gaskets
13 made of from '71 to '80?
14 A They could be -- the same materials
15 that I just mentioned that were non asbestos offerings
16 for head gaskets could be used for the exhaust manifold
17 gaskets or the intake manifold gaskets as well and
18 were.
19 Q Okay. What were asbestos intake
20 gaskets? What typically -- what type of automobiles were
21 those used on?
22 A Could be any of them.
23 Q Could be anything from a race car to
24 a yugo?
25 A That's correct.

0043
1 Q Now, the donut seal gaskets you said
2 some were asbestos, and some were not?
3 A Yes.
4 Q And what were the other materials
5 used besides asbestos and --
6 A Graphite.
7 Q Between '71 and '80, the donut
8 gaskets were made from either -- they were either
9 asbestos or graphite, correct?
10 A Graphite -- it is like a mesh type
11 stuff that they form it.
12 Q Let me try and ask it so it is
13 clear.
14 A I'm sorry.
15 Q Nothing to be sorry for. You are
16 doing to the best of your ability, and that's all I am
17 asking you to do.
18 Between the '71 and 1980-time period,
19 the donut gaskets were either an asbestos based gasket or
20 a graphite based gasket?
21 A Yes.
22 Q And what percentage during this time
23 period from '71 to '80 were asbestos gaskets sold --
24 that's a bad question. Strike that.
25 The donut gaskets, we established

0044
1 they were made from either an asbestos composite or a
2 graphite composite. Can you give me a percentage of
3 donut gaskets that were sold that were asbestos compared
4 to the graphite composite?
5 A No, sir.
6 Q Now, the connector gaskets, the same
7 thing: From the '71 to '80-time period, what percentage
8 of the -- I'm sorry. We already understand the connector
9 gaskets, one type contains asbestos, correct?
10 A The connector gaskets contained
11 asbestos.
12 Q And what other materials were the
13 connector gaskets made from besides asbestos?
14 A Some of them were made from
15 cellulose. It is like a papery cardboardy stuff. Some

16 of them were actually made out of paper called a fish
17 paper. Some of them were made out of compressed
18 asbestos-containing that has binders, rubber binders, and
19 mineral rare earth, what we used to call it combined with
20 it, cork, cork rubber. There was some materials called
21 victorite and victolex. Those were the cellulose
22 fiber-containing materials.

23 Q What type of vehicle would the
24 asbestos-containing connector gaskets be used on --
25 MR. DORAN: Objection to form.

0045

1 Q -- from '71 to '80?
2 MR. DORAN: Same objection.
3 A Any of them.
4 Q Regular automobiles, could be used on
5 those?

6 A Yes, sir.
7 Q And what percentage of the gaskets
8 that were sold for use on automobiles of the connector
9 gaskets contained asbestos between '71 to '80 compared to
10 the gaskets that were made for other automobiles?

11 A I don't know.
12 MR. MISMAS: Let's take a five-minute
13 break.

14 (Recess had.)

15 BY MR. MISMAS:

16 Q okay. I think I am done talking --
17 okay. From '71 to '80, oil pan gaskets, did any of them
18 contain asbestos?

19 A Not that I recall, no, sir.
20 Q okay. In '80 you left -- let me get
21 this right. In '80 you left the oil seal Department?

22 A In 1980, I actually didn't work for
23 the oil seal plant any more. What I did was, I rented
24 space from the oil seal manufacturing facility --

25 Q You can go ahead. I am just finding

0046

1 my pen.

2 A -- and started working for the
3 Industrial Distributor Division.

4 Q This is 1980?
5 A 1980, yes, sir. And I managed a
6 warehouse for the sale of industrial oil seals; that the
7 Industrial Distributor Division, included in its product
8 line for sales, they sold weatherhead hose and fittings
9 and other Dana products.

10 Q What's a weatherhead hose?

11 A Weatherhead is a brand name.

12 Q Okay.

13 A It was a company that Dana had
14 acquired in the '50s, I believe, and they made hose for
15 various applications.

16 Q Automotive related or other?

17 A Some of it was automotive related,
18 yes, sir.

19 Q And what was the -- is there
20 anything -- let me just -- I can shorten this.

21 Did any of the weatherhead hoses at
22 any point in time, did any of the weatherhead hoses ever
23 contain asbestos?

24 A No.

25 Q So you sold weatherhead hoses. What

0047

1 else were you in charge of selling?

2 A I'm sorry. I didn't sell them. I

3 sold the industrial oil seals for the Industrial
4 Distributor Division who added the oil seals into their
5 product offering. I didn't sell the weatherhead
6 products.

7 Q so they just merged the two
8 together?

9 A Yes.
10 Q And how long did you hold this
11 position?

12 A The Industrial Distributor Division
13 only handled that product line for about a year, and then
14 the power transmission sales group picked up the product
15 line. So I actually maintained the same warehouse.
16 It was just selling it through a different division of
17 Dana.

18 Q Okay. And what division was that?
19 A Power Transmission Sales Division.

20 Q So you were selling oil seals --
21 A Yes.

22 Q -- at that point in time?
23 A Yes, sir.

24 Q And what years were those?
25 A 1980 and through 1985, I was

0048

1 responsible for the oil seal sales, and also in 1984 --
2 well, in '84 with the Power Transmission Sales Division,
3 I was here in Indianapolis and responsible for
4 coordinating the sales of all the products in that
5 division, including the oil seals.

6 Q I forgot to ask you something
7 earlier. When you started in '68, we will talk from '68
8 to '71, from '68 to '71, is there anyone that you know in
9 past or former employee Dana Corporation capacity that
10 would know more about sale and manufacturing of
11 asbestos-containing gaskets?

12 A No.

13 Q Even though you didn't work selling,
14 manufacturing, or anything to do with asbestos-containing
15 gaskets during that period of time, correct?

16 MR. DORAN: objection.

17 A Okay. Let's back up.

18 Q Okay.

19 A Do I know anyone that knows more than
20 I do about the sale and manufacture of
21 asbestos-containing gaskets during 1968 and 1971?

22 Q That's correct. That is current, a
23 former employee of Dana Corporation?

24 A I would think a few people, yes.

25 Q And can I have those names?

0049

1 A From an OEM standpoint would be

2 charlie Ulfig.

3 Q And how do you spell Charlie's last
4 name?

5 A U-l-f-i-g.

6 Q U-l-f-i-g?

7 A Yes.

8 Q Is he still alive?

9 A Yes.

10 Q And do you know where he lives?

11 A He lives Coal Valley, Illinois,

12 retired.

13 Q And do you know his approximate

14 age?
15 A Pushing 80, 75 to 80, somewhere

16 around there.

17 Q Do you know what his title was?
18 A When he retired or back in '68 to
19 '71?

20 Q '68 to '71.

21 A He was a sales manager, account
22 manager for Victor Products Division.

23 Q And he would be the account manager
24 who was selling gaskets?

25 A Yes, sir.

0050

1 Q And when he retired, do you know what
2 his title was?

3 A He was the heavy duty sales manager
4 for the Victor Products Division.

5 Q And anybody else from '68 to '71 that
6 would know more about the sale of asbestos-containing
7 gaskets by Dana or Victor?

8 A John Feldman, F-e-l-d-m-a-n.

9 Q And is Mr. Feldman alive or deceased?

10 A Alive.

11 Q Okay. And where does Mr. Feldman
12 live?

13 A He is retired in Florida somewhere.

14 Q And when was the last time you talked
15 to Mr. Feldman?

16 A Fifteen years ago maybe.

17 Q And do you know his approximate
18 age?

19 A I think him and Charlie were close.
20 He is in his late 70s somewhere, I think.

21 Q Okay. And what was his job title at
22 that point in time between '68 and '71?

23 A He was the light duty sales manager
24 for Victor Products Division.

25 Q And when you say "light duty," what

0051

1 do you mean by that?

2 A Automotive.

3 Q And do you know when he retired?

4 A I believe it was in the early '90s.

5 Q Okay. And do you know what his
6 position was when he retired?

7 A That was his position. I'm sorry,
8 the light duty --

9 Q Executive sales manager?

10 A Yes.

11 Q Okay. And anyone else from this '68
12 to '71 time period that would know more about Victor sale
13 of gaskets, whether it is asbestos-containing or not,
14 than you, other than Mr. Ufig and Mr. Feldman?

15 A Not that I can recall still alive.

16 Q Okay. And let's go on to your next
17 job from '71 to '80 at the oil seal Department. I want
18 to ask you the same round of questions. And I will ask
19 you the question from '71 to '80, is there anyone that
20 you are aware of that is a current or former employee of
21 Dana or Victor that would know more about the sale of
22 gaskets, whether it is asbestos-containing or not between
23 1971 and 1980?

24 A I would give you the same two names.

25 Q The same two guys?

0052

1 A Yes, sir. And actually, one would
2 know more about the light duty sales, and the other one

3 would know more about heavy duty.
4 Q And Mr. Feldman would know more about
5 light duty?
6 A Yes, sir.
7 Q And from '80 on, it would be the same
8 two people?
9 A Yes, sir, until they retired.
10 Q would there be anybody else?
11 A (Shaking head no.)
12 Q That's a no?
13 A I'm sorry. Yes, sir, that's a no.
14 Q Remember all your answers need to be
15 verbal, and shakes of the head we can't do, and the other
16 thing, when we estimate something, you can't say
17 something was this long because the court reporter can't
18 take down this long. So you are going to have to tell me
19 four inches, six inches, or in the feet or if you prefer
20 the metric system.
21 A I don't know the metric system.
22 Q Nor do I, but I can figure it out
23 later.
24 so in '80, '80 to '84-85, you were in
25 the Sales Division of the Power Transmission and Oil

0053

1 Seals Division?
2 A Well, it was actually like from about
3 '81ish because the Industrial Distributor Division only
4 sold the industrial oil seals through their division for
5 around a year before it switched.
6 Q okay. Were you selling both oil
7 seals and parts for power transmissions?
8 A Yes, sir.
9 Q okay. And at that point in time,
10 did --
11 A May I qualify that a little bit?
12 Q Oh, sure, sure, sure.
13 A It was not until 1984 when I moved
14 down to -- moved the oil seals down to Indianapolis that
15 we married that product up with the other power
16 transmission products in a distribution center here, and
17 I was responsible for the sales of their other products
18 as well.
19 Q okay. From -- let's go from here.
20 so from '81 to '84, you were just selling oil seals
21 still?
22 A Yes.
23 Q And did any of those oil seals you
24 were selling contain asbestos?
25 A No, sir.

0054

1 Q okay. And from '81 to '84, can you
2 tell me what products for automotive use that Dana sold
3 that contained asbestos?
4 A From '81 to '84?
5 Q Yeah, when you moved into this
6 different position.
7 A There would still have been some
8 gaskets that would have contained asbestos.
9 Q And when you say "gaskets," give me
10 specific examples of gaskets.
11 A The same ones that we have mentioned
12 before. That would be some of the head gaskets, some of
13 the exhaust system gaskets, and some of the connector
14 type gaskets.
15 Q How about the donut gaskets again?

16 A I'm sorry. Those are exhaust system
 17 gaskets so I just kind of wrapped those up in there. So
 18 some of the donut gaskets would have contained asbestos
 19 at the time. It just depends on the part numbers.
 20 Q How about oil pan gaskets?
 21 A No, not that I recall.
 22 Q How about valve-covered gaskets?
 23 A No, sir. They did not contain
 24 asbestos.
 25 Q What were valve-covered gaskets made
 0055 out of from '81 to '84?
 1 A Cork rubber.
 2 Q And what were oil pan gaskets made
 3 out of from '81 to '84?
 4 A Cork or cork rubber.
 5 Q And can you give me a percentage of
 6 head gaskets for the automotive -- for the automobile
 7 industry, what percentage of head gaskets contained
 8 asbestos versus which did not?
 9 A No, sir. From '81 to '84. I will
 10 qualify that.
 11 MR. DORAN: Objection.
 12 Q Let me reask that question because I
 13 think that was a bad question.
 14 A All right.
 15 Q From '81 to '84, in your position in
 16 the Oil Seals Division, can you tell me the percentage of
 17 gaskets, head gaskets sold from Victor that contained
 18 asbestos versus those that did not contain asbestos for
 19 the automotive industry?
 20 A No, sir.
 21 Q From '81 to '84, can you tell me the
 22 percentage of exhaust manifold gaskets that Victor sold
 23 that were asbestos-containing versus those that were not
 24 asbestos-containing?
 25 A No, sir.
 0056 Q For the connector gaskets/donut
 1 gaskets as we call them, can you tell me the percentage
 2 of those gaskets sold to the automotive industry or for
 3 the automotive industry that contained asbestos versus
 4 those that did not contain asbestos?
 5 A No, sir.
 6 Q So we have this '84-time period where
 7 they merged the Oil Seal and Transmission Department. Is
 8 that right?
 9 A Basically, the Power Transmission
 10 Sales Division picked up the Industrial Oil Seal line in
 11 about 1981, and in '84, I moved it down to Indianapolis
 12 where they decided to warehouse products from all the
 13 manufacturing facilities that they represented.
 14 Q Okay.
 15 A And distribute them out of that
 16 facility.
 17 Q Okay. Did they give this division a
 18 new name?
 19 A No. It was still Power Transmission
 20 Sales Division.
 21 Q Okay. And what's a power
 22 transmission?
 23 A I think -- I don't know.
 0057 Q Okay.
 1 A The name of a division.

3 Q But were you selling parts for power
4 transmission -- for the power transmission or building
5 power transmissions?

6 A We were selling products that
7 transmitted power, that were components of -- components
8 of the equipment used to transmit power.

9 Q So components of a transmission?

10 MR. DORAN: Objection.

11 A I don't think you could call it that,
12 no.

13 Q Okay. You are saying equipment that
14 would -- tell me this again.
15 It was equipment that could transmit
16 power, that you were selling parts for that?

17 A Equipment used in the transmission of
18 power.

19 Q Okay. And what equipment would that
20 be?

21 A Like big boilers, industrial
22 equipment that would run stuff.

23 Q So Dana was selling boilers?

24 A No.

25 Q What parts of the boilers were they
0058 selling?

1 A I am not sure it was boilers exactly.
2 I know it was big stuff. I can tell you the products
3 involved in that product line.

4 Q Can you tell us?

5 A There were Gerbing couplings,
6 g-e-r-b-i-n g, couplings, variable speed drives and
7 pulleys. There were elastomeric couplings. There were
8 drum clutches, Wichita drum clutches. There were
9 overrunning clutches, big, big units.

10 Q Overrunning clutches?

11 A Overrunning clutches.

12 Q Okay.

13 A As I recall, I think that was all the
14 products we handled.

15 Q What was an overrunning --

16 A Oh, I'm sorry. One more.

17 Q Okay. Go ahead.

18 A Silicone sealant, RTV was one of the
19 product lines.

20 Q What does RTV stand for, do you
21 know?

22 A No.

23 Q These overrunning clutches, what were
24 overrunning clutches used for?

25 0059

1 A That was not one of the products. I
2 mean, I sold them because -- but we had sales people out
3 there. I was internal sales that moved the inventory in
4 the warehouse. That was not a product line I was
5 familiar with, other than the various part numbers and
6 sizes that we sold.

7 Q Okay. Wichita drum clutch, what was
8 that used for?

9 A I don't know.

10 Q Do you know if either the Wichita
11 drum clutch or overrunning clutch contained asbestos?

12 A I don't know.

13 Q You said Gerbing coupling?

14 A That was a brand name.

15 Q And what is a Gerbing coupling used

16 for?

17 A I don't know.

18 Q And from this time -- I think I am
19 screwing up my dates. This was from '81 to '84?

20 A '81 to '84 I only sold the oil seals
21 for Power Transmission Sales. It was not until May of
22 '84 when I became responsible for the selling of the --
23 internal selling of the other products out of the
24 warehouse.

25 Q Did the Power Transmission -- May of

0060
1 '84 on, when you were selling Power Transmission
2 products --

3 A Yes, yes.

4 Q -- that's what they are called, Power
5 Transmission products?

6 A Yes.

7 Q So from '84 until I think you held
8 that position until '87?

9 A Kind of combined it, yes, until
10 1987.

11 Q Did for any of the things you sold
12 for the Power Transmission line, the equipment, did any
13 of those have gaskets -- did you sell any gaskets for
14 that Power Transmission equipment?

15 A No.

16 Q Did you sell anything from that '84
17 to '87-time period during your employment with the
18 Dana Corporation that sold -- that contained asbestos?

19 A Yes.

20 Q What did you sell?

21 A Gaskets.

22 Q And what gaskets did you sell that
23 contained asbestos?

24 A During --

25 Q '84 to '87, what gaskets did you

0061
1 sell -- what gaskets did you sell for Dana that contained
2 asbestos?

3 A The gaskets that were offered out of
4 the distribution center, the aftermarket distribution
5 center, some of them contained asbestos, and some of them
6 did not.

7 Q Okay.

8 A The asbestos-containing ones --

9 Q Yes.

10 A -- would have been some of the ones
11 that we had mentioned before, the head gaskets, some of
12 the exhaust system gaskets, including the donut, some of
13 the connector gaskets.

14 Q Exhaust manifold gaskets?

15 A Yes, sir.

16 MR. DORAN: Objection to the form of
17 the last question.

18 Q Valve-covered gaskets, would
19 valve-covered gaskets have contained asbestos at that
20 time?

21 A No, sir.

22 Q Okay. What would they have
23 contained?

24 A Cork and rubber.

25 Q How about oil pan gaskets, would

0062
1 those have contained asbestos during that '84 to '87 time
2 period?

3 A No, sir.
 4 Q And what would they have contained?
 5 A Cork or cork and rubber.
 6 Q All right. So 1987, you get to move
 7 to beautiful Denver, Colorado?
 8 A Uh-huh.
 9 Q All right. .
 10 A Yes, sir.
 11 Q And it looks like the look on your
 12 face you enjoyed it.
 13 A I loved it. .
 14 Q Did you do a lot of skiing?
 15 A No, don't ski.
 16 Q Outdoor person?
 17 A Yes.
 18 Q And what was your title when you went
 19 there in 1987 to Denver, Colorado?
 20 A Branch manager.
 21 Q And as a branch manager; what were
 22 your job duties?
 23 A I managed a distribution branch, a
 24 local distribution branch for the Dana aftermarket -- it
 25 was called warehouse operations Division at that time,
 0063
 1 and it was an aftermarket distribution center, and I
 2 managed all the activities.
 3 Q Okay. When you say you were the
 4 local distribution warehouse manager -- is that right?
 5 A That's correct.
 6 Q Okay. -- what products were you
 7 selling at that time in '87 when you were in Colorado?
 8 A For that year that I was in Colorado?
 9 Q Let me ask you just one question.
 10 How long were you in that position in
 11 Colorado?
 12 A One year. .
 13 Q From '87 to approximately 1988?
 14 A May of '87 to May of '88, yes, sir.
 15 Q Okay. And what products were you
 16 selling?
 17 A I was selling gaskets, oil seals,
 18 piston rings, pistons, sleeves, valves, cams, cam shafts,
 19 weatherhead hose, couplings.
 20 Q Okay. I read some of your prior
 21 testimony, and you were the branch manager, correct? You
 22 were the branch manager. Is that correct?
 23 A Yes, sir.
 24 Q Okay. And who primarily were you
 25 selling these products to?
 0064
 1 A Well --
 2 Q In '87 in Colorado?
 3 A Distributors. It would be automotive
 4 distributors, industrial distributors, jobbers.
 5 Q When you say -- did you have a sales
 6 region?
 7 A We covered predominantly Colorado.
 8 The answer to your question is kind of yes.
 9 Q Okay. Well, give me that kind of
 10 answer.
 11 A Okay. Local branches were
 12 responsible for the state that they were in as well as
 13 existing territory such as for Colorado would be like
 14 Wyoming, Montana, Nevada, Utah, some of Arizona, and some
 15 of the branches overlapped. I would sell gaskets to

16 facilities in California if neither one of the branches
17 in California had the product that the customer wanted.
18 Q If they are running low, they say
19 "Ms. Duncan, can you send us 50 XYZ gaskets," and you
20 would send them out?
21 A Correct. I would send them to the
22 distributor or directly to the customer.
23 Q And you say to the distributors, what
24 distributors were you selling to?
25 A The names of the company?

0065

1 Q Yes, please.
2 A Parts, Inc. was one, Car-Go, and it
3 is C-a-r dash G-o, Industrial Parts Depo, Napa. Those
4 were some of the ones I remember.
5 Q And you were selling a full line of
6 Victor gaskets '86 to '87-time period?
7 A Full lines were not necessarily
8 available out of the branches.
9 Q That was a bad question. Let me
10 reask it. You said you sold to NAPA, right?
11 A Yes, sir.
12 Q So you would be selling automotive
13 gasket kits, correct?
14 A Yes.
15 Q Napa?
16 A Some of the kits, yes.
17 Q And you would be selling intake
18 manifold gaskets --
19 A Yes.
20 Q -- to Napa. And you would be selling
21 exhaust manifold gaskets to Napa?
22 A Yes, sir.
23 Q And oil pan gaskets to Napa?
24 A Yes, sir.
25 Q Basically, let me just sum it up.

0066

1 You would be selling a whole line of automotive gaskets
2 to, say, Napa?
3 A I had available a full range for many
4 of the applications, but the branches didn't have the
5 full coverage. The local branches didn't.
6 Q Okay.
7 A If that -- that doesn't really
8 explain it very well, does it? I'm sorry.
9 Q No. Can you try to reexplain it for
10 me? I am not trying to put you on the spot.
11 A That's okay. The local branches
12 predominantly carried the slower moving product as a
13 general rule, not the higher moving more popular gaskets.
14 Those would come from the central warehouse, the big
15 warehouse in Indiana.
16 Q Okay.
17 A The branches, there were 23 of them
18 around the United States, would carry the less popular,
19 let me call it that, but they would carry a full range of
20 types, just a limited application.
21 Q Okay. And when you say less popular,
22 what are you talking about? What type of gaskets are you
23 talking about?
24 A Oh, all type of gaskets --
25 Q I am just asking --

0067

1 A -- of application. I guess it would
2 be in comparison to a small block chevy, which would be a

3 very popular engine, that most of your customers would
4 buy in larger quantities as compared to a Corvette.
5 Q Okay.
6 A which would be a lower volume less
7 popular item product at the time.
8 Q Okay. Let me ask you, were they
9 selling them in -- were you -- from this '87 to May of
10 '88-time period, were you selling them in bulk, or were
11 you selling them individually?
12 A No. Bulk sales out of the branches.
13 They were either sold in kits or individual packages,
14 those gaskets that were available in individual packages.
15 There was some of the small connector gaskets that you
16 could buy in like an envelope, like ten of them.
17 Q Okay. Because if you are going to do
18 the whole exhaust manifold, you are -- if you are going
19 to do the whole exhaust system, you are going to need
20 multiple gaskets to go in there, right?
21 A Yes. You would normally buy a kit to
22 do that job.
23 Q Now, the main parts center in
24 Indiana, I just want to talk to you generally about the
25 main parts center in Indiana.
0068
1 Q Do you have knowledge about the main
2 parts center in Indiana?
3 A Yes, sir. That's where I started in
4 1968.
5 Q I just wanted to make sure, we are
6 going to talk '68 to about '80, that main parts center in
7 Indiana.
8 A Yes.
9 Q And the main parts center in Indiana
10 did they sell in individuals, in bulk, or both?
11 A Do you want to qualify?
12 Q Gaskets?
13 A Do you want to qualify what I just
14 talked about like ten water pump gaskets being in a
15 little envelope as bulk?
16 Q I am talking about, say you are
17 selling to Napa and they want intake manifold gaskets,
18 would they sell those in bulk to Napa, or would they sell
19 those as individual gaskets to Napa?
20 MR. DORAN: Objection to form.
21 A They would sell them in individual
22 gaskets or individual gasket sets.
23 Q Just -- so if they wanted 500, if
24 Napa wanted 500 victor gaskets, intake manifold gaskets,
25 they would sell each one individually packaged?
0069
1 A Correct, in a kit.
2 Q would those say "Dana" or "Victor" on
3 them?
4 A To Napa?
5 Q Yes?
6 A Not normally.
7 Q So would Napa then rebrand those as a
8 Napa brand?
9 MR. DORAN: Objection to form.
10 A Napa packaging with Napa's name on it
11 was done at the customer request, at the distribution
12 center.
13 Q So at the distribution center, you
14 would repackage, say, exhaust manifold gaskets with the
15 Napa name on them, is that correct, if they requested

16 that?

17 A It was not a repackage.

18 Q You just stamp it on there? How

19 about this? we will make it real easy. Explain the

20 process to me --

21 A Yes, sir.

22 Q -- for Napa.

23 A The aftermarket packaging center

24 would purchase the gaskets from Victor Manufacturing in

25 bulk --

0070

1 Q okay.

2 A -- in a box with a thousand of them

3 in it, depending on what the gasket was.

4 Q okay.

5 A Then when an order would come through

6 from Napa, if it -- if they ordered 500 of the specific

7 gasket and they wanted it packaged in Napa packaging,

8 then it would be packaged with Napa's label on it.

9 Q okay. And do you know when Napa

10 became a customer of Victor?

11 A During the time that I worked for

12 Dana Corporation?

13 Q Yes.

14 A They were not a customer of Victor

15 direct; they were a customer of the warehouse or Service

16 Parts Division or warehouse operations Division of

17 Dana.

18 Q okay. But these were Dana gaskets or

19 Victor gaskets?

20 A Yes, sir.

21 Q That's one thing. Do you know -- you

22 said they were a customer of who, the product

23 distribution center?

24 A The Service Parts Division, which

25 later was renamed to be the Warehouse Operations

0071

1 Division.

2 Q And to your knowledge, from the time

3 you started in 1968, was Napa a customer of the Service

4 Parts Division?

5 A Yes, sir.

6 Q okay. And from 1968 on, was Napa

7 buying head gaskets from the Service Parts Division of

8 Dana?

9 A Yes, sir.

10 Q And were they buying exhaust

11 manifold -- was Napa buying exhaust manifold gaskets from

12 1968 on from Napa?

13 A On to sometime in the 1990s when Napa

14 was no longer a customer of Dana's.

15 Q okay. So Napa --

16 A So I want to put in --

17 Q No. And that's fine.

18 A okay.

19 Q So Napa then became not a customer of

20 Dana in the mid 1990s?

21 A Sometime in the 1990s, yes, sir,

22 that's correct.

23 Q okay. And was Napa buying oil pan

24 gaskets from the Service Parts Division of Dana from '68

25 until sometime in the mid '90s?.

0072

1 A Yes, sir.

2 Q And was Napa buying these exhaust

3 gaskets or the donut gaskets as we call them from 1968
 4 from the Dana -- from the Service Parts Division of Dana
 5 until sometime in the mid 1990s?
 6 A Yes, sir.
 7 Q Okay. And we talked about some of
 8 the customers. I want to talk a little more about the
 9 Service Parts Division --
 10 A Yes, sir.
 11 Q -- and their customers.
 12 So we have Parts, Inc. you named
 13 already, right?
 14 A Yes.
 15 Q Car-Go?
 16 A Yes.
 17 Q Industrial Parts Depot?
 18 A Yes, sir.
 19 Q Who else?
 20 A Motion Industries, Command Bearings.
 21 Q How about Fel-Pro?
 22 A Yes, Fel-Pro.
 23 Q How about McCord?
 24 A Yes, McCord. I would say there were
 25 a lot of local jobbers like in the immediate Denver area.
 0073

1 I can't remember.
 2 Q Like Sunoco stations and Marathon,
 3 stuff like that?
 4 A No. These were --
 5 Q Joe's Garage?
 6 A -- mom and pop's automotive shop.
 7 Q From 1968 to the mid '90s, did Napa
 8 buy any gaskets from any other company?
 9 MR. DORAN: Objection.
 10 A Yes.
 11 Q And who did they also buy gaskets
 12 from?
 13 A McCord and Fel-Pro.
 14 MS. SPARDONE: I will interpose a
 15 late objection. Form and foundation.
 16 BY MR. MISMAS:
 17 Q Do you know when Fel-Pro became a
 18 customer of the Service Parts Division of Dana?
 19 MS. SPARDONE: Same objection.
 20 Q Was it the '80s, '90s, do you know?
 21 A I don't know.
 22 Q And how about McCord, do you know
 23 when they became a customer of the Service Parts Division
 24 of Dana?
 25 A No, sir.
 0074

1 Q And in '87 when you moved to Denver,
 2 were you aware Dana was selling asbestos-containing
 3 gaskets?
 4 A Yes.
 5 Q And are these the same gaskets we
 6 mentioned before, the exhaust manifold, the intake
 7 manifold, head gaskets, all those things?
 8 MR. DORAN: Objection. Form.
 9 Q Why don't you list them so we don't
 10 get out of line?
 11 A You are correct. Some of the head
 12 gaskets, exhaust system gaskets, including the donut
 13 gasket, some of the connector gaskets contained asbestos,
 14 and some of them did not, and they were all -- well, what
 15 part of the line was sold out of the Denver warehouse was

16 the same.
17 Q Okay. And so in '88 you moved to --
18 is it, how do you say L-i-s-l-e?
19 A Lisle.
20 Q Lisle. Okay. The S is silent. And
21 that's in Illinois?
22 A It is a suburb of Chicago in
23 Illinois, yes, sir.
24 Q And I was reading some of your prior
25 testimony, and you started there May 23rd, 1988?

0075

1 A That's correct.
2 Q And you became the sales operation
3 manager of Victor Reinz Division?
4 A At the time, it was actually Victor
5 Products Division.
6 Q Okay.
7 A Yes, sir.
8 Q And what type of products did Victor,
9 the Victor Products Division, sell at that point in time
10 as of May 23rd, 1988, when you started working there?
11 A Gaskets.
12 Q And were you selling any
13 asbestos-containing gaskets?
14 A No.
15 Q And you are aware that Victor claims
16 that it stopped producing asbestos-containing gaskets in
17 June of 1988?
18 A June of 1988.
19 Q So would you have been selling
20 asbestos-containing gaskets between May 23rd and June of
21 1988?
22 A Probably not.
23 Q And what's the basis for that
24 statement?
25 A Let me requalify that. Yes, we could

0076

1 have sold asbestos-containing gaskets during that period.
2 We stopped manufacturing the last asbestos-containing
3 gasket in June of 1988.
4 Q Okay. And you are aware that Victor
5 continued to sell those gaskets until 1990, correct?
6 A Some of those gaskets that contained
7 asbestos were sold up into the early 1990s, yes, sir.
8 Q Can you tell me why Victor continued
9 to sell asbestos-containing gaskets after they ceased the
10 manufacture of them in 1988?
11 A Customers' request.
12 Q Was it also to clear the inventory?
13 A No, because if a customer didn't want
14 asbestos any longer, whether we had inventory or not he
15 would not have received asbestos gaskets.
16 Q I guess my question is, the asbestos
17 gaskets, if you went to non, all non asbestos-containing
18 gaskets in '88, why didn't you just get rid of all
19 asbestos-containing gaskets?

20

MR. DORAN: Objection.
21 A It gets complicated. A transition
22 like that becomes as much of a burden on the customer as
23 it does on the manufacturer with depleting inventories as
24 well as all the paperwork attached to making an
25 engineering change to a product.

0077

1 Q Would Dana have lost money if it
2 didn't sell those asbestos-containing gaskets through the

3 '90s?

4 MR. DORAN: Objection.

5 A No, sir.

6 Q How so?

7 MR. DORAN: Objection.

8 A As a general rule those customers

9 would have contracts, blanket, like a blanket purchase

10 order with the manufacturer of the gaskets, and that

11 contract or purchase order itself dictates what amount of

12 product that could be manufactured that the buyer would

13 be responsible for financially.

14 Q Okay. As of June of 1988, when they

15 stopped producing asbestos gaskets, why did Dana have so

16 many asbestos gaskets on hand if they could still sell it

17 for three to five years?

18 A We didn't have a huge amount

19 available. I don't know exactly how many, but it was

20 very important to the division and to the corporation to

21 try to make a clean cut, a line in the sand.

22 Q Uh-huh.

23 A But there were a few of the gaskets

24 that we had in inventory that had been produced on

25 contract for customers.

0078

1 Q Okay. So if they were being produced

2 on contract for the customers, would Victor still be

3 producing asbestos-containing gaskets after June of 1988?

4 A No, sir.

5 Q Now, if Victor did not sell those

6 asbestos-containing gaskets that were on hand after June

7 of 1988, they would have lost money, wouldn't they?

8 MR. DORAN: Objection.

9 A If they had not sold them?

10 Q Yes, ma'am.

11 A Yes.

12 MR. MISMAS: We have been going

13 another hour. Do you want to go to lunch?

14 MR. DORAN: The preference is to push

15 through, and she is on vacation and have flights.

16 (Discussion held off the record.)

17 (Recess had.)

18 BY MR. MISMAS:

19 Q And you came back to Lisle after we

20 were talking there -- I am going to ask you another

21 question real quick.

22 Are you familiar with a company

23 called Genuine Parts Company?

24 A Yes, sir.

25 Q And how are you familiar with Genuine

0079

1 Parts Company?

2 A They were the parent of Napa.

3 Q Okay. So all the gaskets that we

4 talked about from '68 to the mid '90s, those were Genuine

5 Parts -- did Genuine Parts pay those bills, or did Napa

6 pay the bills?

7 A I don't know. I was not in

8 receivables.

9 Q But you -- let me just ask you

10 this: But for the Napa rebranded gaskets, those were --

11 Genuine Parts was the client?

12 MR. DORAN: Objection.

13 A I don't know exactly what their

14 payment arrangements were, but I do know that

15 Genuine Parts owned Napa or that was theirs.

16 Q okay. That's cool. That's all I
 17 needed to know.
 18 Now, '88 we are in Lisle, Illinois?
 19 A Yes, sir.
 20 Q what year did you retire or leave
 21 victor-Dana?
 22 A I retired on March 31st of 2006 but
 23 continued to work in the same capacity until November of
 24 '2006. I worked for Manpower under contract to the
 25 victor Division.
 0080
 1 Q okay. And from '88 on till 2006, did
 2 you hold the same job title?
 3 A Yes, sir.
 4 Q Were you doing the same thing?
 5 A There were different responsibilities
 6 that were added to my sales operations manager's tasks
 7 throughout that time.
 8 Q okay. All righty. Okay.
 9 And when you retired from
 10 victor/Dana, did you have a retirement package, or did
 11 you get a buyout?
 12 MR. DORAN: Objection.
 13 A I just got my pension.
 14 Q Okay. And what does your pension pay
 15 you from Dana?
 16 MR. DORAN: Objection.
 17 A I got a lump sum.
 18 Q You just got a payout?
 19 A I got a lump sum of my -- we had the
 20 opportunity to either take pension, you know, whenever
 21 you decided to start receiving pension payments at
 22 retirement age 62 or something like that --
 23 Q Uh-huh..
 24 A -- or a lump sum of what the value of
 25 your pension was at the time, and I took the lump sum.
 0081
 1 Q And how much was the lump sum?
 2 MR. DORAN: Objection.
 3 A \$217.
 4 Q Not too shabby.
 5 A 38 years.
 6 Q Do you own stock in Dana?
 7 A No, sir.
 8 Q Does Dana provide you with healthcare
 9 coverage?
 10 A No, sir.
 11 Q Is Dana paying you to be here today
 12 to act as a corporate witness?
 13 A Yes, sir.
 14 Q And how much are they paying you?
 15 A \$100 an hour before tax.
 16 Q And do you have prep time that you
 17 have to bill for these depositions?
 18 A Yes, sir.
 19 Q And how much do you charge Dana?
 20 A The same amount.
 21 Q And before you retired, you had acted
 22 as a corporate witness for Dana, true?
 23 A Yes, sir.
 24 Q And did they pay you when you did
 25 that, too?
 0082
 1 A No, sir.
 2 Q You just did that as part of your

3 normal job duties?
4 A Yes, sir.
5 Q And when was the last time you
6 testified in any capacity for Dana or Victor?
7 A I believe it was January of this
8 year -- March, I'm sorry.
9 Q March. Okay.
10 And did you know the name of the case
11 that you testified in?
12 A I don't remember. No, sir.
13 Q Do you know who the Plaintiff's
14 lawyer was?
15 A No, sir.
16 Q Do you know where the case was
17 pending?
18 A I don't remember.
19 Q Okay. Like I said, you don't know,
20 you don't know. No big deal.
21 Anything change between any of your
22 depositions -- have you learned anything new between the
23 time -- let me strike that.
24 When was the first time you gave a
25 deposition for Dana?
0083
1 A I believe it was 2001.
2 Q 2001. And you said you have given
3 about 20 depositions over your span?
4 A Approximately, yes, sir.
5 Q Have you ever testified in a trial
6 for Dana?
7 A Yes, sir.
8 Q And where was that trial at?
9 A One of them was in Virginia Beach.
10 Q Okay. And approximately when was
11 that?
12 A Early 2000s, I don't recall the exact
13 date.
14 Q Did you ever testify in another trial
15 for Dana?
16 A Yes, sir.
17 Q Okay. And when was that?
18 A Early 2000s. I don't remember the
19 exact year.
20 Q That's okay. Just -- do you remember
21 where the trial was at?
22 A Portland, Oregon.
23 Q Any other trial?
24 A No, sir.
25 Q Those were the only two?
0084
1 A Yes, sir.
2 Q And you are being represented here by
3 counsel today?
4 A Yes, sir.
5 Q Okay. Mr. Doran and Ms. Higgs?
6 A Yes, sir.
7 Q And you are not here to deny that
8 Dana's asbestos-containing products cause mesothelioma,
9 are you?
10 MR. DORAN: Objection.
11 A The gaskets?
12 Q Yes.
13 A That Victor manufactured --
14 Q You are not here to deny that the
15 Victor gaskets that Dana manufactured caused

16 mesothelioma, are you?
17 MR. DORAN: Objection.
18 A I am not an expert. No, sir, I am
19 not here for that.
20 Q I think we just got -- and you are
21 not a medical doctor?
22 A No, sir.
23 Q Why is it that you have personally
24 been designated as corporate representative of Dana?
25 A I am here because I have a lot of
0085
1 knowledge and work experience with the Victor gaskets,
2 and they asked me to come and talk about them.
3 Q And it is Victor's position that
4 exposure to asbestos from Victor's gaskets can cause
5 mesothelioma, correct?
6 MR. DORAN: Objection to the form of
7 the question.
8 A No, sir.
9 Q And what is your knowledge of that
10 based on?
11 A Based on the composition of the
12 gaskets, how they were made.
13 Q And does Dana maintain a record of
14 sales of their products to other companies?
15 A Yes, sir.
16 Q And I believe you testified in the
17 past there is something like a 177-page document of who
18 their customers were?
19 A The historical customer master
20 contains approximately 170 to 180 pages.
21 Q And what is listed on there?
22 A Customer names, addresses of places
23 that Victor sent something to, whether it was
24 correspondence or gasket samples or gaskets.
25 Q Do you know where that master list
0086
1 is, is located?
2 A Yes. It is in the repository in
3 Toledo, Ohio.
4 MR. MISMAS: And I will ask Perry to
5 provide me with a copy of that list.
6 MR. DORAN: You make a formal
7 request, and we will address your formal request.
8 MR. MISMAS: Okay.
9 BY MR. MISMAS:
10 Q And do you know when Victor/Dana
11 first got into the business of selling
12 asbestos-containing products?
13 A In 1909 Victor Manufacturing, a
14 gasket company --
15 MR. MISMAS: Let's go off the record
16 for two seconds.
17 (Pause.)
18 A May I correct my last statement?
19 Q Sure.
20 A I believe I answered it incorrectly.
21 You asked about Victor/Dana. That would have been 1967.
22 Q How about Dana itself?
23 A Dana never -- Dana was the
24 corporation, and that was the people. It was the
25 divisions that sold the products.
0087
1 Q Okay.
2 A If that makes sense.

3 Q No, I understand. And I don't want
4 to try to get into a discussion of corporate law with
5 you, but do you understand a division is part of that
6 corporation?

7 A Yes.
8 Q So it is your testimony it was not
9 until 1967 that Dana Corporation started selling
10 asbestos-containing products?

11 A Gaskets.
12 Q Gaskets. Okay.
13 You don't know whether or not Dana
14 sold asbestos, Dana Corporation sold asbestos-containing
15 products prior to 1967 other than they started selling
16 gaskets in 1967, correct?

17 A Correct.
18 MR. DORAN: objection to the form of
19 the last question.

20 Q Are you familiar with a product from
21 Dana called spray craft?

22 MR. DORAN: objection.

23 A No, sir.

24 Q And do you know where Dana's
25 corporate headquarters is?

0088 A Toledo, Ohio.

1 Q And you are aware that --

2 A Which Dana?

3 Q Dana Corporation.

4 A There is no Dana Corporation any
5 more.

6 Q Dana Companies, LLC?

7 A Perrysburg, Ohio.

8 Q And are you aware that
9 Dana Corporation's headquarters moved to Ohio in
10 1928?

11 A Around that time.

12 Q As the corporate representative of
13 Dana, do you believe that Dana had a duty to follow the
14 laws and regulations of the state of Ohio?

15 A Yes, sir.

16 Q This is going to be Exhibit 2.

17 MR. MISMAS: We will mark this as 2
18 and the notice of depo as Exhibit 1.

19 (Plaintiffs' Doran Deposition
20 Exhibits 1 and 2 were marked
21 for identification.)

22 (Pause.)

23 A Okay.

24 Q Ready, Ms. Duncan?

0089 A Yes, sir.

1 Q Okay. Can you turn that first page
2 over? That's just a document authenticating the
3 document.

4 Do you see the first page, it says
5 "legal requirements for the prevention and control of
6 industrial public health hazards, Division of Industrial
7 Hygiene, Ohio Department of Health, Columbus, Ohio, 1946.
8 Regulations for the prevention and control of diseases
9 resulting from exposure to toxic fumes, vapors, mists,
10 gases, and dusts in order to preserve and protect the
11 public health adopted by the Ohio Public Health Council
12 effective February 16th, 1946, filed with the Secretary
13 of State, March 1st, 1946, effective January 1st, 1947."
14 Did I read that correctly?

15

16 A Yes, sir.
17 Q Now, can you turn the page, and do
18 you see about halfway down where it says regulation 247?
19 A Yes, sir.
20 Q Regulation 247, "harmful exposure"?
21 A Yes. I'm sorry.
22 Q Okay.
23 A Yes, I see it.
24 Q "No employer shall use or permit to
25 be used in the conduct of his business, manufacturing
0090
1 establishment, or other place of employment any process,
2 material, or condition known to have an adverse effect on
3 health unless regional provisions have been made to
4 prevent injury to the health of the employees and of the
5 public.
6 "The concentrations of dusts, fumes,
7 mists, vapors, or gases and the air breathed by employees
8 shall not exceed the following maximum allowable
9 concentrations for an eight-hour daily exposure." Do you
10 see that?
11 A Yes, sir.
12 Q Did I read that correctly?
13 A Yes, sir.
14 Q And if we turn the page, it says
15 mineral dusts, all the way like -- about eight tenths of
16 the way down.
17 A I see it.
18 Q It says mineral dusts, and it says
19 asbestos?
20 A Yes.
21 Q And this is one of the materials that
22 this regulation was regulating, correct?
23 A Yes.
24 MR. DORAN: Objection.
25 Q And you told me earlier that Dana had
0091
1 a duty to be aware of the laws and regulations of the
2 state of Ohio, correct?
3 A Yes, sir.
4 Q So Dana had a duty to be aware of
5 this 1946 regulation?
6 MR. DORAN: Objection to the form of
7 the question. calls for a legal conclusion.
8 Q You can go ahead and answer.
9 A I would think, yes.
10 Q Okay. And Dana would have known in
11 1946 that -- Dana would have known in 1946 that injury to
12 their workers from exposure to their employees and to the
13 public by asbestos could cause -- strike that again.
14 That Dana would have known by 1946
15 that injury to the health of the employees and/or the
16 public could be caused by asbestos, correct?
17 MR. DORAN: Objection to the form of
18 the question.
19 A In unregulated conditions, yes.
20 Q Toss that one. I have one more
21 question. You don't have to look at it.
22 Did Dana have a duty to test its
23 asbestos-containing products, which it was selling in
24 Ohio, while at its corporate headquarters in Ohio to see
25 if their use would violate the requirements of this
0092
1 regulation?
2 MR. DORAN: Objection to the form of

3 the question. Predicate, foundation. Calls for a legal
4 conclusion, and it is irrelevant. There is no
5 evidence --

6 MR. MISMAS: No speaking objections.
7 You can say "irrelevant." No speaking objections.
8 That's fine. You can say irrelevant, but no speaking
9 objections.

10 MR. DORAN: Objection to the form of
11 the question. Same reasons.

12 A Dana relied on public and
13 governmental tests concerning the gaskets that I know of
14 to make sure they were within regulations.

15 Q Okay. But that's not my question.
16 (Question read.)

17 MR. DORAN: Objection to the form of
18 the question. Calls for a legal conclusion.

19 A I don't know.

20 Q That's a fair answer. You don't
21 know.

22 Once a company has knowledge of the
23 dangers of a hazard such as the hazard created by
24 asbestos, do you expect the company to pass it on --
25 strike that -- once a company has knowledge of the

0093
1 dangers of a hazard such as asbestos, do you expect the
2 company to pass on its knowledge to the end users of its
3 products?

4 MR. DORAN: Objection to the form of
5 the question.

6 A If their products create a hazard,
7 yes.

8 Q Thank you.
9 Do you have Mr. Sylvasy's answers,
10 Dana's answers to interrogatories in front of you?

11 A Yes.
12 MR. MISMAS: And that will be

13 Exhibit 3.

14 (Plaintiffs' Doran Deposition
15 Exhibit 3 was marked
16 for identification.)

17 Q I take for granted you have seen
18 these before?

19 A Yes, sir.

20 Q And these are Dana Companies, LLC's
21 responses for first master set of interrogatories
22 propounded to all defendants in the Frank Sylvasy case,
23 which is Case No. CV695277 in the Court of Common Pleas,
24 Cuyahoga County, Ohio, correct?

25 A Yes, sir.

0094

1 Q Can you turn to Page 13? Actually,
2 can you turn to the last page for me, please? And that's
3 your verification?

4 A Yes.

5 Q And you verified the answers to these
6 interrogatories?

7 A Yes.

8 Q Thank you.

9 Now, can we turn to page 13? And do
10 you see right in the middle where it says "Ever Sell
11 Asbestos"?

12 A Yes.

13 Q And question by (b) 1 states "has
14 Defendant ever engaged in the mining, manufacturing,
15 selling, marketing, installation, or distribution of

16 asbestos-containing products, including equipment of any
17 kind containing asbestos of any form? If so, please
18 state the following:

19 "(b) As to each product mined,
20 manufactured, sold, marketed, installed or distributed,
21 please state the following:

22 1. Trade name or brand."

23 Do you see that?

24 A Yes, sir.

25 Q Okay. Can you turn the page?

0095

1 A Yes, sir.

2 Q And then we are just talking about

3 (b) 1 and a long answer, and the answer to (b) 1., it
4 says "brand or trade names for Victor Products Division
5 gasket materials included Asbestocore, Asbestopac,
6 Asbestoprene, Coramic, Corbestos, Corpac, Nitro Seal,
7 Solicor, Thincor, Tuff-Cork, Victocor, Victopac,
8 Victoprene, Victolex, Victor, and Victorite. Not all of
9 these materials contain asbestos."

10 Did I read that correctly?

11 A Yes, sir.

12 Q And if we go back to 5 (b), it is
13 asking which products they produced containing asbestos,
14 correct?

15 A Correct.

16 Q It is not asking which products you
17 manufactured and sold that did and did not contain
18 asbestos, correct?

19 A Correct.

20 Q So the answer to that question isn't
21 quite accurate, is it?

22 A Correct.

23 Q Okay. Now, since the question isn't
24 quite accurate, I want to ask you about each of these
25 materials, and you can tell me whether they contain

0096

1 asbestos or not.

2 A Okay.

3 Q Okay. Let's look at, first,
4 Asbestocore, did that product contain asbestos or not?

5 A Yes.

6 Q What years?

7 A I don't know.

8 Q When was it first produced?

9 A I don't know.

10 Q When was it last produced?

11 A No longer produced after June of
12 1988. I do not know the last time it was produced prior
13 to that.

14 Q Was talc used in the production of
15 this gasket at all?

16 A To the best of my knowledge, no.

17 Q Asbestopac, did that product contain
18 asbestos?

19 A Yes.

20 Q When was that product first produced?

21 A I don't know.

22 Q When was that product last produced?

23 A I don't know. Other than --

24 Q '88?

25 A Yes, sir.

0097

1 Q What was it used for?

2 A Asbestopac was used as stand alone --

3 it was a soft gasket material, compressed sheet material;
4 was used for cutting gaskets out of -- by itself, and it
5 was also used as a facing material for steel cord
6 gaskets.

7 Q what type of steel cord gaskets?
8 A Head gaskets, manifold gaskets.
9 Q Same with Asbestocore, what was that
10 used for?

11 A Asbestocore was also used for some of
12 the head gasket and exhaust gasket applications.

13 Q Asbestoprene is the next one, did
14 that contain asbestos?

15 A Yes, sir.

16 Q When did Victor or Dana first start
17 using Asbestoprene?

18 A I don't know.

19 Q Was June of '88 the last time it
20 would have been used?

21 A Would have been manufactured, yes,
22 sir.

23 Q Okay. What was Asbestoprene used
24 for?

25 A Asbestoprene was used for some of the
0098

1 connector gaskets. It had more of a rubbery content to
2 it than the Asbestopac or Asbestocore.

3 Q Was Asbestoprene ever used in oil pan
4 gaskets?

5 A Not to my knowledge.

6 Q Was it ever used in valve cover
7 gaskets?

8 A No, sir.

9 Q Next we have Coramic, did that ever
10 contain asbestos?

11 A No, sir.

12 Q Next we have Corbestos, did that ever
13 contain asbestos?

14 A Yes, sir.

15 Q When did Victor or Dana start using
16 Corbestos?

17 A I don't know.

18 Q Last time it was manufactured was
19 June of '88?

20 A Or before.

21 Q What was Corbestos used for?

22 A Corbestos was predominantly used for
23 exhaust system gaskets.

24 Q Corpac, did that contain asbestos?
25 MR. DORAN: Objection.

0099

1 A I don't believe that one did, but I
2 can't recall for sure.

3 Q What was it used for?

4 A I am not as familiar with that
5 material as I am with some of the other ones, so I don't
6 recall.

7 Q Okay. Nitrodeal, did that contain
8 asbestos?

9 A No, sir.

10 Q Soligor, did that contain asbestos?

11 MR. DORAN: Objection to form.

12 A Sometimes it did; sometimes it did
13 not.

14 Q What do you mean by that?

15 A The original versions of Soligor

16 contained asbestos, and it was one of the brand names
17 that was transitioned to a non asbestos product.
18 Q When was it transitioned to a
19 non asbestos product?
20 A It would have been in the 1970s.
21 Q Can you be more specific?
22 A No. I don't know, sir.
23 Q What was it used for?
24 A It also had metal in it. It was used
25 for -- I guess I am not exactly sure.

0100
1 Q So I will just put used question
2 mark.
3 Thincor, did that have asbestos in
4 it?
5 MR. DORAN: Objection, form.
6 A No, sir.
7 Q I take for granted that Dana's
8 Tuff-cork did not have asbestos in it?
9 A No, it did not. That would be
10 correct.
11 Q Next on the list we have victocor,
12 did victocor produced by Victor/Dana ever contain
13 asbestos?
14 A It was a product that transitioned,
15 similar to solicor. When it was first produced, it was
16 asbestos-containing, and then it was transitioned to a
17 non asbestos-containing product.
18 Q When did that happen?
19 A In the '70s.
20 Q Can you be more specific?
21 A No.
22 Q And what was victocor used for?
23 A Victor also had a steel core and was
24 used more in the high temperature applications such as
25 some of the head gaskets and exhaust system gaskets.

0101
1 Q When was the last time victocor was
2 produced?
3 A The non asbestos version is still
4 being produced today.
5 Q How about victopac?
6 MR. DORAN: Objection to the form of
7 the question.
8 Q okay. During the time period
9 that Dana/Victor produced victopac, did it contain
10 asbestos?
11 A It is another transition branded
12 product similar to victocor and solicor. It originally
13 contained asbestos and was transitioned to a non asbestos
14 product in the 1970s.
15 Q What was victopac used for?
16 A Victopac was a soft gasket material
17 and was used for a lot of the transmission type gaskets,
18 connector gaskets.
19 Q And as far as you know, that is still
20 being produced today for non asbestos -- I'm sorry.
21 Strike that. As far as you know, victopac is still being
22 produced today, but it is non asbestos, correct?
23 A That's correct.
24 Q How about victoprene, did victoprene
25 that was produced by Dana/Victor ever contain asbestos?

0102
1 A Can we go back to the victopac real
2 quick?

3 Q Go ahead.
 4 A Some of the Victopac materials never
 5 contained asbestos.
 6 Q Okay. Did they have a specific model
 7 number or something that would tell us which did or did
 8 not contain asbestos?
 9 A Yes.
 10 Q Okay. Which models did?
 11 A The differentiation I want to make is
 12 with the Victopac, that was a paper-based material.
 13 Q Uh-huh.
 14 A Which was a purchased item, purchased
 15 material.
 16 Q Okay.
 17 A And those numbers were Victopac 229,
 18 239, 249, 259, 269.
 19 Q And those were the
 20 asbestos-containing?
 21 A Non asbestos papers.
 22 Q Okay. And which were the
 23 asbestos-containing?
 24 A And the asbestos-containing Victopac
 25 that was a compressed sheet material would have been
 0103 Victopac 1, 14, Victopac 60, Victopac 70. The non
 1 asbestos Victopacs that were compressed sheet material
 2 were Victopac 9, Victopac 17, Victopac 19, Victopac 69,
 3 Victopac 79, Victopac 779.
 4 Q Okay. We are talking about
 5 Victoprene, did that ever contain asbestos?
 6 A No, no.
 7 Q How about Victolex?
 8 A No.
 9 Q How about the gasket material
 10 produced by Dana/Victor called Victor, did that ever
 11 contain asbestos?
 12 A There really wasn't a material that
 13 was called Victor. That was more a brand name that was
 14 used to -- sometimes that name was stamped on the gasket
 15 itself to designate the manufacturer, but it was not ever
 16 really a material. It was a brand name.
 17 Q How about Victorite?
 18 A Victorite never contained asbestos.
 19 Q Now, I want to ask you something.
 20 Now, the packaging of Victor/Dana gaskets, would they
 21 designate which of these gasket materials were in the
 22 gaskets themselves?
 23 A No. Some of the advertising for the
 24 aftermarket would -- like the graphite gaskets would
 0104 highlight the graphite. The Nitro Seal was a kind of a
 1 supermarketing tool, that graphite gasket material, but
 2 as a general rule, no.
 3 Q So none of the Victor gaskets -- I
 4 will give you an example. Say we are seeing an exhaust
 5 manifold gasket. It wouldn't say exhaust manifold
 6 gasket -- let me just see something. Okay.
 7 I am out buying an exhaust manifold
 8 gasket that is going to say Victor on it. It is not
 9 going to say Corbestos on it?
 10 A No, sir.
 11 Q And they would not have said asbestos
 12 on them, would they?
 13 A Not in the later years. I remember
 14 seeing some packaging back from the 1930s that did have
 15

16 the word "asbestos" on it.
17 Q How about from '68 to '88 during the
18 time period you worked there, did you ever see any Victor
19 gaskets made or sold by the Dana Company that had the
20 word "asbestos" on them.
21 A No.
22 Q Did any of the gaskets manufactured
23 or sold between '68 and '88 that you -- that Dana or
24 Victor produced have the word "asbestos" on them?
25 A Not that I recall.

0105

1 MR. DORAN: Let me object to the form
2 of the question.
3 MR. MISMAS: You got it.
4 Q So for this answer, we narrowed down
5 which ones contained asbestos and which ones didn't,
6 right?
7 A Yes, sir.
8 Q Did you actually really see these
9 answers to interrogatory before you signed the
10 verification page?
11 A I read every page.
12 Q And is there a reason why you didn't
13 put in which ones contained asbestos and which ones did
14 not?
15 A I read and give counsel on content.
16 Q But what I am asking you is, is there
17 a reason on this question (b) 1: where you signed the
18 verification page of these interrogatories -- and I am
19 not trying to argue with you; I am just asking you -- is
20 there a reason why you listed both asbestos and non
21 asbestos-containing gasket material?
22 A Probably because some of them were
23 transitioned era, and it is just easier to throw them all
24 in there.
25 Q What about the ones that were not

0106

1 asbestos, why put them in there?
2 A Because they were our material
3 packaging.
4 Q But back to (b) 1., it says
5 "asbestos-containing products," doesn't it?
6 A I understand the differentiation you
7 are making, sir.
8 Q Okay. I am just asking.
9 A No. I understand.
10 Q Because it is kind of hard. I
11 wouldn't have had to go through all this. This would
12 have been -- okay.
13 Q Can we go to page 41 of these?
14 A Yes.
15 Q And the question states of the
16 interrogatories "please state the year the Defendant was
17 first advised of either the threshold limit values or
18 maximum allowable concentrations of both asbestos and
19 total dust by the American Conference of Governmental
20 Industrial Hygienists," which is the ACGIH "and state the
21 name of the employee/official that did that."
22 Q And it states in the second sentence,
23 it says "Defendant is aware that in the 1960s and
24 thereafter Victor Manufacturing & Gasket Company
25 implemented dust control safety measures in the presence

0107

1 of raw asbestos fiber aimed at keeping dust levels below
2 prevailing TLVs. It would appear from historical records

3 that Victor Manufacturing & Gasket Company kept abreast
4 of industrial hygiene literature dealing with the TLVs."
5 Did I read that correctly?
6 A Yes, sir.
7 Q Can you tell me what dust control
8 safety measures Dana/Victor implemented?
9 MR. DORAN: Objection.
10 A The dust control safety measures were
11 taken in the Robinson, Illinois, plant where they
12 actually manufactured the gaskets, some of the gasket
13 materials that contained asbestos fibers, and the people
14 who were in the material manufacturing area were required
15 to wear respiratory, you know, the masks.
16 Q Okay. And what year were they
17 required to -- what was the first year that the
18 Victor/Dana employees were required to wear masks?
19 MR. DORAN: Objection to form.
20 A I believe it was in the early '68.
21 That was the transition merger, whatever the legal term
22 was, transpired in '67.
23 Q So Dana knew in 1968 that asbestos
24 fibers released in the air could cause disease?
25 MR. DORAN: Objection.
0108
1 A They knew that a certain amount would
2 cause -- would be harmful.
3 Q So Dana knew in 1968 that breathing
4 asbestos fibers could cause disease, correct?
5 MR. DORAN: Objection.
6 A That certainly a certain level of
7 asbestos fibers in the breathable air would be harmful.
8 Q I am not asking about levels; I am
9 asking you that Dana/Victor knew in 1968 that inhalation
10 of asbestos fibers could cause disease?
11 MR. DORAN: Objection.
12 A Yes.
13 Q And if I am correct from reading your
14 prior testimony, in 1971, Clarence Hawkins filed the
15 first Workers' Compensation claim for an asbestos-related
16 disease against Dana?
17 A I think it was Hankins,
18 H-a-n-k-i-n-s.
19 Q Let me ask the question again so the
20 record is clear.
21 Ms. Duncan, and by reading your prior
22 testimony, I am aware that the first Workers'
23 Compensation claim for an asbestos-related injury or
24 disease filed against Dana was in 1971 by Clarence
25 Hankins?
0109
1 A Yes, sir.
2 Q Do you know what happened to Clarence
3 Hankins?
4 MR. DORAN: Objection.
5 A I believe he died.
6 Q Do you know what he died from?
7 A No, sir.
8 Q And even after 1971 when Mr. Hankins
9 filed his asbestos-related workers' Compensation claim,
10 Dana/Victor still did not put warnings on their gasket
11 material, did they?
12 MR. DORAN: Objection. Form of the
13 question.
14 A The gasket material and the gaskets
15 that were manufactured were not harmful because of the

16 method of manufacturing containing the asbestos fibers
17 within that material. So there were no warnings
18 necessarily required to put on the product.
19 Q When you say they were not harmful,
20 what's the basis for that statement?
21 A The asbestos fibers were encapsulated
22 in rubber binders. They were not loose in the product at
23 all. They were encapsulated.
24 Q Okay. But the majority of Dana's
25 asbestos-containing gaskets were 80 percent asbestos,

0110

1 correct?

2 MR. DORAN: Objection to the form of
3 the question.

4 A No, sir.

5 Q How much asbestos were in them

6 then?

7 MR. DORAN: Objection to the form of
8 the question.

9 A The combination of the materials
10 themselves were combined with metals and other, so it
11 would depend on the exact gasket as to how much of the
12 asbestos content was in the gasket.

13 Q Okay. Do you know who Joe Zeitz is,
14 John Zeitz is?

15 A John Zeitz, yes, sir.

16 Q So you called him John Zeitz? Okay.

17 So you know who John Zeitz is?

18 A Yes.

19 Q And who was he?

20 A Still is alive to the best of my
21 knowledge. I hadn't than heard that he passed.

22 Q Uh-huh.

23 A He was a former Dana/Victor employee,
24 head of engineering at one time at Victor Gasket
25 Engineering.

0111

1 MR. MISMAS: This is No. 4.
2 (Plaintiffs' Doran Deposition
3 Exhibit 4 was marked
4 for identification.)

5 Q Can you take a look at that for a
6 minute? You have seen this before?

7 A Yes.

8 Q So you know where we are going.

9 A (Witness reading.)

10 It is always interesting for me to
11 see the government regulatory agencies keenly interested
12 in seeing asbestos --

13 MR. DORAN: Wait for a question to be
14 asked, Marcy.

15 Q What I have handed you is "What will
16 Replace Asbestos Gaskets by John E. Zeitz" reprinted from
17 July 1980 Diesel & Gas Turbine Progress. Is that
18 correct?

19 A Yes.

20 Q And on the bottom, there is a Bates
21 stamp number that says VPD-142-0002632?

22 A 633. Oh, on the front 632. I'm

23 sorry. I was looking at the other page.

24 Q And this document is in the Dana
25 document or repository, correct?

0112

1 A Correct.

2 Q And then first highlighted passage on

3 the bottom, it says "John E. Zeitz is a division chief
4 engineer of the Victor Products Division of
5 Dana Corporation," correct?

6 A Yes.

7 Q Okay. And on the next highlighted
8 section, it says "the cost of company-wide health
9 programs and controlling the environment in which
10 asbestos is handled is causing many to seek alternatives
11 to using the product. One product for all suppliers and
12 users of asbestos products is how the end user disposes
13 of the product.

14 "In the gasket business, this is a
15 particularly sensitive area because often the end user
16 finds himself using a wire brush or scraper to scrape an
17 asbestos off of an engine part to clean up residue
18 gasketing.

19 "Unfortunately, it is the asbestos
20 you cannot see that finds its way into the lungs. So
21 unless special preventive health procedures are followed,
22 the end user of asbestos gaskets may be in more potential
23 danger than the personnel in the producer's facility.
24 This could be particularly true in large volume engine
25 rebuild operations."

0113

1 So let me ask you a question,
2 Ms. Duncan:

3 Mr. Zeitz feels that the potential
4 danger to the person, to the end user of the product,
5 exposure to asbestos is more dangerous than those in the
6 plant making the product, correct?

7 MR. DORAN: Objection.

8 A That's what he indicates on paper,
9 yes.

10 Q Okay. And he is the chief engineer
11 at the Victor Products Division of Dana Corporation,
12 correct?

13 A Yes, at that time.

14 Q Okay. And Mr. Zeitz and Dana knew
15 that end users-mechanics were using wire brushes to
16 scrape asbestos off an engine part or cleanup the residue
17 gasket, correct?

18 MR. DORAN: Objection, form.

19 A Yes. He knew they were
20 inappropriately not following the directions packaged
21 with the gaskets.

22 Q Can you tell me where that's in
23 here?

24 A No, sir.

25 Q It is not in here, is it?
0114

1 A No, sir.

2 Q Okay. If it was, don't you think he
3 would have said it?

4 MR. DORAN: Objection to form.

5 A I don't know.

6 Q Well, I want to ask you this:
7 when did Dana put warnings on its
8 gaskets?

9 A Dana put warnings on its gasket
10 packaging in the early to mid '80s. But in the
11 instructions that went along with the gaskets for end
12 users was the proper method of removing old gaskets and
13 installing new gaskets.

14 Q What year was that put in?
15

16 A That goes back to the Victor
17 Manufacturing gasket days, which would have been before
18 the Dana-Victor.

19 Q Do you have a copy of that anywhere?
20 A I have a copy of -- not I, but there
21 are copies of those in instructions and catalogs also
22 containing the instructions that the aftermarket
23 distributors had, that would give you removal and
24 installation of gaskets.

25 Q You are talking about the catalogs
0115
1 that the distributors would get, correct?
2 MR. DORAN: Objection to form.
3 A That the customers would get. Like
4 where you would go to buy your gasket, you would look in
5 a catalog or the salesperson would help you look in a
6 catalog to determine which gasket you would need for the
7 application, and in the same catalog, there were the
8 instructions for removal and installation of the gaskets.

9 Q What I am asking you is, on the
10 packaging of the gaskets that contained asbestos or the
11 gasket itself, would it say anything whatsoever about not
12 to scrape the gasket with a wire brush?
13 MR. DORAN: Objection to form.
14 A There were instructions as far as the
15 safe removal of the gaskets and the warning about
16 scraping, creating dust, that if you were going to do
17 that, to wear masks if you were creating dust of any
18 kind.

19 Q Was that on the packaging?
20 A It was -- the warning was on the
21 outside of the packaging when they started putting the
22 warning on the outside of the packaging.

23 Q In what year?
24 A That was I think '84 '85.
25 Q So we are kind of getting crossed up
0116
1 here. You said that originally you said back into the
2 '60s it would have been in the manual that the person
3 would have, say, if you went to Joe's Sohio or mom and
4 pop shop to pick up a gasket, would be in that manual,
5 correct?
6 A As well as the installation guide in
7 the package.
8 Q There would be -- okay.
9 Are you telling me in the '60s and
10 '70s in the package that a Dana asbestos-containing
11 gasket came in there would be instructions not to scrape
12 the gaskets out with a wire brush?
13 A There would be instructions on the
14 proper removal and installation of a new gasket in gasket
15 kits depending on the gasket --
16 Q Okay.
17 A -- such as a head gasket.
18 Q Would it say not to remove it with a
19 wire brush?
20 A Some of them did, I believe. I can't
21 remember.
22 Q You can't remember, or they did?
23 A I would have to go back and look at
24 some of the instructions.
25 Q And you haven't looked at those
0117
1 lately, and you don't know one way or the other?
2 A From what I recall, it specifically

3 said on some of them not to use wire brushes.
4 Q what year?
5 A I don't remember.
6 Q could have been the '80s?
7 A I don't remember.
8 Q So you don't remember if it was in
9 the '60s?
10 A I have looked at gasket catalogs back
11 into the 1940s, so I don't remember, sir.
12 Q I am not talking about catalogs; I am
13 talking about specific gaskets sold in packaging, did it
14 ever say anything in those -- on the packaging itself,
15 inside the packaging were the gasket not to scrape a
16 gasket with a wire brush?
17 A It warned against creating dust in a
18 matter of removal, yes.
19 Q In the gasket, on the packaging or --
20 A In the instructions inside the gasket
21 kit.
22 Q Then my next question is: why did it
23 say not to remove it with a wire brush?
24 MR. DORAN: Objection.
25 A To create dust -- don't create dust.
0118
1 Q what was the purpose behind them
2 asking people not to create dust while removing a Dana
3 gasket?
4 MR. DORAN: Objection to form.
5 A Because of the -- on a head block,
6 depending how old the engine is, if it is original
7 equipment or it can attach itself to the block from heat
8 and uses and stuff like that, and because it does contain
9 fibers.
10 Q Asbestos fibers?
11 A In some of the head gaskets,
12 you don't want to create dust that you are going to
13 breathe.
14 Q Okay. So in the 1960s, Dana/Victor
15 knew that scraping an asbestos-containing gasket would
16 release asbestos fibers into the air?
17 MR. DORAN: Objection to form.
18 A I don't know what Dana knew other
19 than the fact that for health and safety reasons warnings
20 were harmful, the inhalation of excessive dust caused
21 from asbestos was harmful.
22 Q I am just asking you -- and I think
23 we are getting a little mixed up in our questions and our
24 answers -- what I am asking you, in the 1960s, Dana knew,
25 Dana/Victor knew that scraping an asbestos-containing
0119
1 gasket with a wire brush would release asbestos fibers
2 into the air, correct?
3 MR. DORAN: Objection to the form.
4 A To the best of my knowledge, yes.
5 Q And they knew that in the 1970s?
6 A Yes.
7 Q And they knew that in the 1980s?
8 A Yes.
9 Q But they did not put an asbestos
10 warning on any of its gaskets until the mid '80s,
11 correct?
12 MR. DORAN: Objection to form.
13 A To the best of my knowledge, it was
14 around '84-85.
15 Q And just along that -- on that last

16 line of questioning -- and you would agree with me --
17 that Dana/Victor knew that mechanics were using wire
18 brushes in the '70s to scrape -- oh, never mind.
19 I will ask you, you would agree in
20 the 1970s Dana knew that a mechanic who was installing a
21 Victor gasket that contained asbestos would first have to
22 remove a gasket that contained asbestos, correct?
23 MR. DORAN: Objection to form.
24 A They would first have to remove a
25 gasket to replace it. It may not necessarily have been
0120
1 an asbestos-containing gasket because they were not all
2 asbestos-containing.
3 Q And the same thing for the '70s.
4 A Correct.
5 Q What year did Dana/Victor -- what
6 year did Dana/Victor start testing its products for the
7 release of asbestos?
8 A Dana/Victor did not perform any tests
9 themselves.
10 Q On fiber release from their own
11 gaskets, correct?
12 A That's correct.
13 Q Don't you think a reasonable prudent
14 company that in the 1960s knew that asbestos was
15 hazardous to human health in certain quantities would
16 have done testing on the removal and handling of their --
17 would a reasonable prudent company in the 1960s, don't
18 you think hold -- I'll start over again.
19 Don't you think a reasonably prudent
20 company in the 1960s would actually have gone into the
21 field and done testing on the handling and removal of
22 their gasket materials to discover whether or not harmful
23 levels of dust were released from the handling of their
24 gasket materials that contained asbestos?
25 MR. DORAN: Objection to the form of
0121
1 the question.
2 A They participated in tests, and they
3 also utilized tests that were performed by other entities
4 for that purpose.
5 Q Did they do that in the 1960s?
6 A Yes.
7 Q Okay. And did they do that in the
8 1970s?
9 A Yes.
10 Q But Dana did not -- Dana/Victor did
11 not do any of their own testing, did they?
12 A They did not do any of their own
13 testing. They participated in tests but were not their
14 own tests.
15 Q Okay. What tests did they
16 participate in?
17 A I have to go back to the documents to
18 look at specific information.
19 MR. MISMAS: Let's take five or ten
20 minutes.
21 (Recess had.)
22 MR. MISMAS: Are we back on the
23 record?
24 MR. DORAN: Marcy has a question and
25 answer she wants to clear up.
0122
1 A We were talking about the
2 installation and removal, and one of the things that was

3 so evident as far as the responsibilities, as far as the
4 proper installation, when I first started in 1968, they
5 were still holding mechanics' classes and things like
6 that for proper removal and removal of a gasket and
7 installation of a gasket.
8 Victor Manufacturing had been having
9 mechanics' classes for years and years and years for the
10 proper removal, and they recommended different solvents
11 to make sure like your head, your block was clean because
12 you want to make sure the gasket, the new gasket fit
13 properly.

14 Q okay.
15 MR. MISMAS: I am going to object to
16 the unresponsiveness of the answer because it was not any
17 question I asked. Okay.

18 Q (Continuing) Do you have your
19 interrogatories in front of you?

20 A Yes, sir.

21 MR. MISMAS: And move to strike that
22 by the way.

23 Q And we are looking at question 18.
24 It says "prior to releasing" -- and tell me if I am
25 reading this right -- "prior to releasing the products

0123 listed in Interrogatory No. 5 for sale and usage, were
1 any tests, (either animal or human) conducted on said
2 products to determine potential health hazards involved
3 in the use of or exposure to materials and/or products.
4 If so, please state:

5 "The name of the products tested and
6 the date of each test.

7 "The name, address, and job
8 classification of each individual who conducted such
9 tests.

10 "The results of such tests."

11 Now, do you see that sentence that
12 starts "as a result" --

13 A Yes.

14 Q About half way down, it says "as a
15 result, Defendant," here Dana/Victor, "had no reason to
16 believe that use of its products could cause disease.
17 Those tests/studies included:

18 "(1) A test conducted in May of 1988
19 that consisted of opening packages of engine gasket
20 rebuilding kits and measuring the air level of dust;

21 "(2) The Naval Research Medical
22 Center study of 1978;

23 "(3) Johns-Manville's early 1980s
24 promotional literature;

0124 "(4) GCA report in 1982;

1 "(5) OSHA regulations in 1986 that
2 did not require warnings for gaskets and which set forth
3 acceptable levels of exposure to asbestos;

4 "(6) Engine gasket studies performed
5 in 1994;

6 "(7) Engine gasket study in May
7 2003;

8 "(8) Engine gasket study of January
9 2004;

10 "(9) A 2004 study of gasket removal
11 from diesel engines;

12 "(10) 2004 study of removal of
13 automobile exhaust systems;

14 "(11) A 2005 article regarding
15

16 automobile exhaust systems;
17 "(12) A 2006 article regarding
18 servicing and handling of automobile gaskets;
19 (13) A 2006 article regarding
20 removal and installation of gaskets and packing;
21 (14) A 2007 article regarding heavy
22 equipment maintenance exposure assessment; and
23 (15) A 2007 article regarding
24 exposure to airborne asbestos during removal and
25 installation of gaskets and packing."

0125

1 Did I read those correctly?

2 A Yes, sir.

3 Q Earlier you testified just before the
4 break that in the 1960s Dana/Victor participated in
5 studies in the exposure to asbestos from gaskets. In the
6 list of interrogatories, there is nothing in here from
7 the 1960s. Was that an incorrect answer?

8 A No.

9 Q Okay. So where is it in the
10 interrogatories that they participated in studies in the
11 1960s about asbestos exposure from gaskets?

12 A It is not in this -- it is not in
13 here.

14 Q Okay.

15 A There were earlier tests that I have
16 seen in the repository that were during that period of
17 time. They are not listed here.

18 Q Okay. But you earlier testified that
19 you had read every page of this, and you signed off on
20 it. Why is it not in here?

21 MR. DORAN: Objection.

22 A This was just a sampling. It was not
23 all of them.

24 Q Well, let me ask you a question: The
25 interrogatory questions, prior to releasing the products

0126

1 listed in Interrogatory No. 5 for sale and usage, were
2 any tests, either animal or human, conducted on said
3 products to determine potential health hazard involved in
4 the use of or exposure to the materials or products.

5 If so, please state the name of the
6 products tested and the date of each test, the name,
7 address, and job classification of each individual who
8 conducted such tests and the results of such tests. If
9 there are tests from the 1960s, why were they not
10 included in this answer to the interrogatories?

11 MR. DORAN: Objection. Form.

12 A The question, as I interpreted it,
13 was tests that Dana/Victor or Victor themselves
14 conducted. Since we didn't conduct any tests but relied
15 on the tests of others, some of them are listed here but
16 not all of them.

17 Q Okay. And why are not all of them
18 listed?

19 MR. DORAN: Objection to the form of
20 the question.

21 A I don't have an answer to that.

22 Q I mean, you are the one who signed
23 off on them. You are the one that looked at them. Why
24 didn't you put that in here?

25 MR. DORAN: Objection to the form of

0127

1 the question.

2 A I can't answer that. I don't know,

3 sir.
4 Q And you said these were the -- these
5 are the ones they had participated in?
6 A No. These are tests that were
7 used concerning our -- basically included gaskets
8 themselves.
9 Q Okay. How about No. 2 here? The
10 Naval Research Medical Center study of 1978, what were
11 they testing in that?
12 A That was concerning gaskets.
13 Q What kind of gaskets?
14 A I don't know, sir.
15 Q Were they engine gaskets?
16 MR. DORAN: Objection to form.
17 A I would have to go back and read the
18 test results.
19 Q Three. It says "Johns-Manville's
20 early 1980s promotional literature," what were they
21 testing in there?
22 MR. DORAN: Objection.
23 A It was promotional literature
24 concerning the use of asbestos in gaskets because
25 Johns Manville was one of the suppliers to Dana/Victor of
0128 the raw asbestos fibers that we used in the production of
1 our gasket materials.
2 Q So Johns-Manville was one of the
3 suppliers of the -- of raw asbestos to Dana?
4 A Yes, sir.
5 Q Are you aware that Johns-Manville put
6 warning labels on their bags of raw asbestos in 1964?
7 MR. DORAN: Objection.
8 A I remember that there were some
9 warning labels that they put on their big bundles, but I
10 don't recall what they said.
11 Q So if Johns-Manville put warning
12 labels that said "Caution: Asbestos may cause cancer" on
13 their bags of raw asbestos shipped to Dana/Victor in
14 1964, Victor would have known -- that Dana/Victor would
15 have known that asbestos could cause cancer by those
16 labels?
17 MR. DORAN: Objection. Form.
18 A I never saw the labels.
19 Q I am not asking you personally. I am
20 asking you as the corporate representative of
21 Dana Corporation. If Johns-Manville put asbestos warning
22 labels on their bags of raw asbestos that Dana used in
23 1964 that said "cancer," Dana/Victor would have been
24 aware that asbestos could cause cancer, wouldn't it?
25 MR. DORAN: Objection to the form of
0129 the question.
1 A If they did, the answer would be
2 yes.
3 Q And if Johns-Manville put warning
4 labels on its bags of raw asbestos in 1968 that said
5 "asbestos could cause cancer," Dana/Victor would have
6 known that in 1968, wouldn't they?
7 MR. DORAN: Objection to the form of
8 the question.
9 A Yes, sir.
10 Q Who else were the suppliers of raw
11 asbestos fiber to Dana?
12 A The only other one that I know is
13 Lake Asbestos in Quebec.

16 Q How about Union Carbide, did they
17 supply asbestos?
18 A They did not supply raw asbestos.
19 what I remember Union Carbide supplying was graphite.
20 Q Okay. Do you remember Union Carbide
21 supplying a product by the name of colidria?
22 MR. DORAN: Objection to the form of
23 the question.
24 A I never heard that word before.
25 Q Do you remember a company by the name
0130
1 of C. P. Hall supplying asbestos to Johns-Manville -- I'm
2 sorry. Strike that.
3 Q Do you remember a company by the name
4 of C. P. Hall supplying asbestos to
5 Dana Corporation/Victor?
6 A Not that I recall. There were
7 several, and they are listed in here I believe of the
8 companies that we bought raw asbestos from as well as
9 asbestos-containing materials.
10 Q Okay. Now, these 1960 and 1970
11 studies that you say Dana relied upon -- strike that.
12 These 1960s and 1970s studies that
13 you say Dana relied upon or participated in that showed
14 that there was no risk of harm from their gaskets, those
15 are in the repository?
16 A Yes.
17 MR. MISMAS: And I think that's
18 probably something that was in our request for production
19 of documents that was not produced. So if you could
20 produce those documents to me, I would appreciate it.
21 MR. DORAN: Make a formal request.
22 We made the repository available to you, including --
23 MR. MISMAS: I don't think it is my
24 job to go look through a repository of what I request.
25 It is your job to produce the documents.
0131
1 MR. DORAN: I'm not sure I agree with
2 you on that now.
3 MR. MISMAS: We can argue about that
4 later.
5 MR. DORAN: We can argue about it
6 later.
7 MR. MISMAS: Sounds good. Let's move
8 on and try to get everybody out of here.
9 BY MR. MISMAS:
10 Q Now, do you get paid to sign the
11 affidavit, the verification page to each of these answers
12 to interrogatories?
13 A I get paid to read the document and
14 sign it.
15 Q Okay. How long does it take you to
16 usually read these?
17 A Well, it depends on how long it is.
18 Q Well, this guy is 60 pages.
19 A Okay. So probably an hour,
20 hour-and-a-half.
21 Q At a hundred bucks an hour?
22 A Yeah.
23 Q So \$100 to \$150 --
24 A Somewhere around there.
25 Q How many answers to interrogatories
0132
1 in cases for Dana do you read and verify per year?
2 A A hundred, somewhere around a hundred

3 maybe.
4 Q Okay. Do you have your own
5 corporation set up to receive these funds from Dana, or
6 do you just get a check?
7 MR. DORAN: Objection.
8 A I get a check.
9 Q Okay.
10 A I issue an invoice, and I get a
11 check, and then they send me a 1099 at the end of the
12 year.
13 Q How much last year was your 1099?
14 What did you make from Dana Corporation last year?
15 MR. DORAN: Objection.
16 A \$30,000.
17 Q And that's testifying and verifying
18 interrogatory answers, correct?
19 A And all travel expenses for any
20 traveling that I do. It is all expenses incurred.
21 Q It is the 30K plus travel expenses or
22 30K total?
23 A No, total. That included everything
24 that I paid out of pocket for air fare, and they
25 reimbursed me for all of that stuff, and that's part of
0133 all of that.
1 Q Okay. Let's talk about -- you
2 brought the affidavits with you today, right, for the
3 Brown case and Sylvasy case?
4 A Yes, sir.
5 Q Do you have a Michael Brown one?
6 A I have the Sylvasy one, but I can't
7 find it --
8 Q Here is Brown.
9 A I have the Brown one here. I
10 couldn't find the Sylvasy. I'm sorry.
11 Q Don't worry about that one. I
12 probably won't ask you about that anyway.
13 MR. MISMAS: Mark that as Exhibit 5.
14 (Plaintiffs' Doran Deposition
15 Exhibit 5 was marked
16 for identification.)
17 BY MR. MISMAS:
18 Q Do you need time to look it over?
19 A Oh, I know it.
20 Q Okay. Okay. Can you turn to the
21 third page, and that's your signature there, right?
22 A Yes, sir.
23 Q And this was notarized?
24 A At a bank.
0134 Q At a bank. Okay.
1 And do you get paid to do these
2 affidavits for Dana?
3 A Yes, sir.
4 Q And same thing, a hundred bucks an
5 hour?
6 A Yes.
7 Q And how long did it take you to
8 prepare this affidavit?
9 A It was prepared for me.
10 Q Okay.
11 A And I review it and confer on
12 content.
13 Q Okay.
14 A And accuracy. Usually, it is
15

16 only about 15 minutes, I mean, that's usually all it
17 takes.
18 Q Okay. And who prepared this
19 affidavit for you?
20 A Would have been Cooper and Walinski.
21 Q And that's a law firm?
22 A Yes, sir.
23 Q Okay. And who is your contact over
24 there that you got this affidavit that they prepared for
25 you?

0135

1 MR. DORAN: Objection.
2 A Probably Tracy Selas, T-r-a-c-y,
3 s-e-l-a-s. She is an attorney with Cooper and
4 Walinski.
5 Q And were there multiple drafts of
6 this, or is this what you got and took it and signed
7 it?
8 A No. There were some changes that I
9 made.
10 Q And what changes did you make?
11 A Basically in the verbiage on 6 and 7,
12 the predominantly 1, 2, 3 are pretty standard because
13 they explain my experience.
14 Q I have seen a few of your affidavits,
15 so I kind of always turn to the second page. And what
16 was the change that you made in the verbiage of 6 and 7?
17 A Basically, it is the gaskets that
18 never contained asbestos or the gaskets -- and the
19 gaskets that sometimes did and sometimes didn't.
20 Q Okay. And what was the verbiage that
21 you changed in 6?
22 A Making sure that those types of
23 gaskets were included in the cork rubber specification.
24 Q Okay.
25 A And that the -- and in No. 7, you

0136

1 didn't ask me. I'm sorry.
2 Q No. Go ahead. In No. 7, what was
3 the verbiage that was changed?
4 A In No. 7 those types of gaskets up
5 until 1988, some of them contained asbestos, and some of
6 them did not.
7 Q Okay. And we went through what all
8 those are already?
9 A Yes, sir.
10 Q Did you review any materials when you
11 were making the changes to these affidavits?
12 A No, sir.

0137

13 MR. MISMAS: No. 6.
14 (Plaintiffs' Doran Deposition
15 Exhibit 6 was marked
16 for identification.)
17 Q And just for the record, this is
18 Plaintiff's Exhibit 6. There is a Bates stamp number, I
19 think it is VPD 188-0002118.
20 Have you seen this document before?
21 A Not to my knowledge.
22 Q Okay. And this document is from the
23 document repository, the Bates stamp from there?
24 A Uh-huh.
25 Q I am going to read to you, this is a

0137

1 Dana Corporation intracompany communication dated April
2 25th, 1973, to J. E. Lane.

3 Do you know who J. E. Lane is?
4 A John -- or Jack Lane, yes.
5 Q Who was he?
6 A He worked for the Chicago plant, and
7 during the time that I knew him, I thought he was --
8 worked with the HR group, but I can't recall.
9 Q Okay. And this is from
10 J. F. Feldman, and who is that?
11 A John Feldman is the -- he was the
12 light duty sales manager.
13 Q Okay. Did we talk about him before?
14 A Yes, we did.
15 Q Okay. Now, this memorandum states
16 "as you know, we sell Hydramatic Asbestoprene oil pan
17 gaskets for service use. About half of what we ship
18 Hydramatic is reshipped in our "something" to AC Spark
19 Plug for their service packaging. The remainder is
20 packaged by Hydramatic and sent to OMPD.
21 "A General Motors safety inspector
22 has toured Hydramatic and reported unacceptable levels of
23 asbestos dust in their packaging location. He has
24 directed Hydramatic to vacuum the residue out of our
25 cartons before the cartons are disposed of. The residue
0138 must be plastic bagged, labeled, and disposed of in
1 landfill.
2 "In addition, he requested that our
3 cartons be labeled with a cautionary statement per the
4 attached page from the Federal Register.
5 "I am to write Mr. H. J. Thomas,
6 safety Director at Hydramatic, indicating we will comply
7 with this request. This situation could be a
8 potential" -- do you know what that says?
9 A I can't see the one word, "books,"
10 looks like the other one.
11 Q Yeah. "of" something "books both in
12 our plant and at Hydramatic. I don't know how the union
13 will react to this carton label. Will Messrs. Dehr,
14 Lillis, McGranahan, et al. review it, and let me know how
15 to respond to Hydramatic."
16 Now, I want you to look at No. 6 on
17 your affidavit.
18 A I don't need to. I was incorrect. I
19 did not know that they were making Asbestoprene oil pan
20 gaskets for Hydramatic.
21 Q So your affidavit is wrong?
22 A That portion of the affidavit is
23 incorrect, yes, sir.
24 Q And even though it says in here that
25
0139 1 they wanted cautionary labels in '73, Hydramatic did,
2 Dana didn't put warnings on until the '80s, did they?
3 MR. DORAN: Objection to the form of
4 the question.
5 Q Asbestos warnings.
6 A The asbestos warnings that I am aware
7 of that were put on were in 1984-85 is when they began.
8 Q And that's 12 years after this.
9 MR. DORAN: Objection.
10 A Yes.
11 Q And per the General Motors safety
12 inspector, there were unacceptable levels of dust in the
13 packaging of where the Asbestoprene gaskets were, wasn't
14 there?
15 MR. DORAN: Objection to the form of

16 the question. John, she has never seen the document, and
17 she has no personal knowledge as to what the General
18 Motors inspector found.

19 MR. MISMAS: It is your document. I
20 don't care.

21 MR. DORAN: And so that calls for
22 speculation.

23 MR. MISMAS: She is the corporate
24 rep. I am not asking her about personal knowledge. A
25 corporate representative doesn't talk about corporate

0140 knowledge.

1 MR. DORAN: You are asking her what
2 the General Motors inspector found, and I'm telling you
3 that's calling for speculation..

4 MR. MISMAS: Good. You have your
5 version, and I have mine. I am going to move on.

6 BY MR. MISMAS:

7 Q In the document, it says that
8 "General Motors safety inspector has toured Hydramatic
9 and reported unacceptable levels of asbestos dust in the
10 packaging location," correct?

11 MR. DORAN: Objection to the form of
12 the question.

13 A That's what it says, sir.

14 Q Okay. And this would indicate that
15 the Asbestoprene oil seal gaskets, as they came, had
16 unacceptable levels of asbestos in the packaging,
17 correct?

18 MR. DORAN: Objection to the form of
19 the question. Predicate, foundation, speculation.

20 A That's what they say. May I make a
21 comment?

22 Q No.

23 And we established earlier, that
24 Asbestoprene was asbestos until 1988, correct?

0141 MR. DORAN: Objection to the form of
1 the question.

2 A Yes. Asbestoprene was a rubber and
3 asbestos-formed material.

4 Q Until 1988.

5 A Yes, sir. And it no longer existed.

6 Q And you answered earlier that no oil
7 pan gaskets -- in your sworn testimony earlier, you said
8 that no oil pan gaskets contained asbestos, correct?

9 A And I was incorrect.

10 Q Okay.

11 MR. MISMAS: Plaintiff's Exhibit 7.
12 (Plaintiffs' Doran Deposition
13 Exhibit 7 was marked
14 for identification.)

15 (Pause.)

16 A I am ready.

17 Q Have you seen this document before?

18 A Absolutely not.

19 Q Okay. And does that look like an
20 engine to you?

21 A Yes, it does.

22 Q And can you turn to the next page?

23 A Yes.

24 Q And this has a list of products that

0142 were manufactured by Victor/Dana, does it not?

1 A This has a list of products that were

3 manufactured by Dana/Victor and Victor Manufacturing.
4 Q Okay.
5 A This is not a Victor gasket document.
6 Q Okay. I want to ask you something:
7 soligor 610, description asbestos-elastomer facing bound
8 to both sides of solid steel core," correct? Is that a
9 correct description of what it was?
10 A That would be a correct description,
11 yes.
12 Q And it was used -- its purpose says
13 "intake manifold gaskets." Is that correct?
14 A Yes.
15 Q And says soligor 620, red
16 asbestos-elastomer facing glued to both sides of tin
17 plate steel," and it says "purpose: Intake manifold
18 areas of valley cover ('turkey pan') gaskets."
19 would that be a correct description.
20 A Yes.
21 Q Okay. And then it says "soligor 630,
22 hard gasket asbestos glued to solid steel core; cylinder
23 head gaskets and manifold gaskets." Would that be
24 correct?
25 MR. DORAN: Objection to form.
0143
1 A Pretty close.
2 Q Okay. Then it says "Victosol, hard
3 asbestos gasket glued to solid steel core; heavy duty
4 diesel engines."
5 Is that correct?
6 A I wasn't familiar with Victosol
7 material. I don't recall that one.
8 Q How about Victocor,
9 asbestos-elastomer facing mechanically clinched to both
10 sides of perforated steel core, either red or gray;
11 cylinder head gaskets having flanges and intake manifold
12 gaskets."
13 Does that sound correct?
14 A That would be correct.
15 MR. DORAN: Objection to form.
16 Q And then it says "Corbestos (steel
17 faced) combination of steel and asbestos; cylinder head
18 gaskets, exhaust manifolds, heat shields, turbochargers
19 of air cooled engines."
20 Does that seem correct to you?
21 MR. DORAN: Objection to form.
22 A Yeah, pretty much.
23 Q And then it says Corbestos
24 (double-sided) untreated asbestos facing clinched to both
25 sides of perforated steel core; good for sealing gases,
0144
1 carburetor, exhaust manifold, and turbocharger gaskets."
2 Does that seem correct?
3 MR. DORAN: Objection. Form.
4 A I don't know what the untreated
5 asbestos is supposed to signify. I have never seen those
6 terms used.
7 Q Okay. And then it says Asbestoprene,
8 Asbestopac, long chrysotile fiber and rubber; for use
9 where good engine coolant, oil, and aromatic fuel
10 resistance is required and temperatures up to 500-degrees
11 are anticipated such as oil pan and valve cover gaskets."
12 Does that seem correct to you?
13 A No, sir.
14 Q Why not?
15 A Because valve cover gaskets were

16 rubber and cork, and the Asbestoprene and Asbestopac
17 would not have been recommended for that application.
18 Q And that's based on what fact?
19 A And I have never seen anything
20 produced by Victor gasket or Victor/Dana that lists this
21 product with these types of descriptions before.
22 Q Okay.
23 A So I don't know who made this list
24 up.
25 Q But the Asbestoprene we already
0145 talked earlier those were used for --
1 A For the Hydramatic oil pan. Yes, I
2 read that. Yes, sir.
3 Q Okay. Do you know how much money
4 Dana grossed last year?
5 A No, sir.
6 MR. DORAN: Objection.
7 Q Do you know how much money
8 Dana Corporation or its insurers paid MAS Corporation on
9 retainer to not testify against them in court?
10 A I have no idea. I am not even sure
11 what you said.
12 Q MAS Corporation, do you know how much
13 Dana Corporation, now Dana Companies, LLC, pays MAS
14 Corporation to not testify against them in court as
15 expert witnesses?
16 MR. DORAN: Objection to the form of
17 the question.
18 A I don't know who MAS Corporation is
19 or anything about that.
20 Q So that's a no?
21 A I'm sorry, no.
22 Q Okay. Do you know how much
23 Dana Corporation, Dana Companies, LLC or Victor has
24 paid Fred Bolter as an expert witness in asbestos
25 litigation?
0146 MR. DORAN: Objection to the form of
1 the question.
2 A No, sir.
3 Q Do you know who would have that
4 information? Do you know who would have that
5 information?
6 A Dana Companies.
7 Q Do you know how much Dana Companies,
8 LLC has paid Dr. Rogley to testify or consult with in
9 asbestos litigation?
10 MR. DORAN: Objection to form.
11 A No, sir.
12 Q Let me just do this real quick:
13 Do you know how much Dana Company has
14 paid any expert to testify or consult on behalf of them
15 in an asbestos-related case?
16 A No, sir. Only me.
17 Q Okay.
18 MR. MISMAS: That's all I got.
19 MR. DORAN: Do you have questions?
20 MS. SPARDONE: No.
21 MS. BLACKWELL: No.
22 THE COURT: Anybody on the phone have
23 questions?
24
25
0147 A VOICE: No questions.
1 MR. DORAN: We are going to take --
2

3 MS. HIGGS: We will take two minutes.
4 MR. MISMAS: Do you have questions?
5 MR. DORAN: I don't know yet. We are
6 going to take a couple minutes.
7 MR. MISMAS: Okay.
8 (Recess had.)
9 BY MR. MISMAS:
10 Q Ms. Duncan, I didn't ask you your
11 full name. What's your full name?
12 A Marcella Lee Duncan.
13 Q And you are testifying here as
14 corporate witness for Dana Companies, LLC, correct?
15 A Yes, to my knowledge.
16 Q And just for the record, we are going
17 to mark your file as Exhibit 8. Okay? Thank you.
18 (Plaintiffs' Doran Deposition
19 Exhibit 8 was marked
20 for identification.)
21

21 DIRECT EXAMINATION

22 BY MR. DORAN:
23 Q Ms. Duncan, my name is Perry Doran,
24 and I have a few questions for you. I want to direct
25 your attention to your affidavit, which has been marked
0148
1 as Plaintiff's Exhibit No. 5. I want to direct your
2 attention to paragraph No. 6, and we talked about that a
3 few minutes ago. And you indicated that that paragraph
4 may not be entirely correct --
5 A Yes.
6 Q -- based upon some document you were
7 shown today?
8 A Yes, sir.
9 Q Let me ask you this:
10 Do you have personal knowledge as to
11 whether or not the Victor Products Division of former
12 Dana Corporation manufactured, produced, and sold non
13 asbestos-containing oil pan gaskets between -- since 1968
14 and 2006?
15 MR. MISMAS: Objection. Leading.
16 A Yes, they did.
17 Q All right. Based upon that
18 objection, Ms. Duncan, can you tell me whether oil pan --
19 let me ask you this:
20 You indicated that paragraph 6 is
21 not entirely correct. Why don't you correct it for us
22 today.
23 A I would take after seeing that
24 document today, I would take oil pan gaskets and put it
25 in No. 7.

0149
1 MR. MISMAS: Objection.
2 MR. DORAN: What's the basis of the
3 objection?
4 MR. MISMAS: I don't have to give you
5 a basis under Ohio Rules.
6 BY MR. DORAN:
7 Q So in other words, paragraph 7 would
8 then indicate that intake exhaust manifold had water pump
9 and oil pan gaskets manufactured by the Victor Products
10 Division of the former Dana Corporation during your years
11 of employment between '68 and 2006 were both
12 asbestos-containing and non asbestos-containing?
13 MR. MISMAS: Objection. Leading.
14 Q Is that how you would change your
15 answer to paragraph 6?

16 MR. MISMAS: Objection. Leading.
17 A Yes. I would add oil pan gaskets to
18 the list of gasket types named in No. 7.
19 Q And how would you or anybody else be
20 able to determine whether a specific gasket, whether an
21 exhaust gasket or head gasket or oil pan gasket contained
22 asbestos as opposed to not containing asbestos?
23 MR. MISMAS: Objection.
24 A You would have to go and look at the
25 engineering file for a particular gasket number.

0150
1 Q Okay. Is there any other way to
2 determine whether or not a particular Victor gasket
3 contained asbestos?
4 MR. MISMAS: Objection. Leading.
5 outside the scope or knowledge.
6 A As a general rule, appearance does
7 not tell you at all if a gasket contained asbestos or
8 not. You would have to look at the -- we called it a
9 recipe card of what the components were that went into
10 the gasket.
11 MR. DORAN: Thank you. That's all I
12 have.
13 MR. MISMAS: I have a few questions.
14 RE-CROSS-EXAMINATION
15 BY MR. MISMAS:
16 Q By looking at a gasket, can you tell
17 whether it contained asbestos or not?
18 MR. DORAN: Objection.
19 A No. You cannot tell because the
20 colors of the asbestos material and non asbestos material
21 were the same.
22 Q Were the colors of asbestos materials
23 and cork materials the same?
24 MR. DORAN: Objection.
25 A I'm sorry. You are correct. You
0151
1 could look at a cork rubber gasket and know positively
2 that it did not contain asbestos.
3 Q Okay. But so if it was something
4 else, if it was something else other than cork, it might
5 contain asbestos?
6 MR. DORAN: Objection to the form of
7 the question.
8 A It could have contained asbestos
9 during the period of time that some of the gaskets were
10 asbestos.
11 Q And you would agree with me that an
12 experienced mechanic would know what materials he was
13 using?
14 MR. DORAN: Objection to the form of
15 the question. Calls for speculation.
16 A I don't know.
17 Q You never changed a gasket on an
18 automobile, have you?
19 A No. But I have seen it done in
20 classes all the time, and my dad did it.
21 Q And you are not an experienced -- and
22 you are not an experienced auto mechanic, are you?
23 A No.
24 MR. DORAN: Objection to the form.
25 Q And you are basically speculating on
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1 whether someone can tell whether an experienced auto
2 mechanic can tell whether someone had asbestos if in it

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I have read the foregoing transcript from
page 1 through 154 and note the following corrections:

PAGE	LINE	REQUESTED CHANGE
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Marcy Duncan

Subscribed and sworn to before me this ____ day
of _____, 2010.

Notary Public

My commission expires: _____

state of ohio,)
) SS: CERTIFICATE
County of Lake.)

I, George J. Staiduhar, a Court Reporter
in and for the state of Ohio, duly commissioned
and qualified, do hereby certify that the within
named witness, Marcy Duncan, was by
me first duly sworn to testify to the truth, the
whole truth, and nothing but the truth in the cause
aforesaid; that the testimony then given by her was
by me reduced to stenotypy/computer in the presence
of said witness, afterward transcribed by me, and
that the foregoing is a true and correct transcript
of the testimony so given by her as aforesaid.

I do further certify that this deposition was
taken at the time and place in the foregoing caption
specified.

I do further certify that I am not a relative,
counsel, or attorney of either party, or otherwise
interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my seal of office at Cleveland,
Ohio, on this 8th day of June, 2010.

George J. Staiduhar, Notary Public in
and for the state of Ohio. My commission
expires July 9th, 2012.