

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
2 FOR THE COUNTY OF MULTNOMAH

3 MARC ROBBINS,

4 Plaintiff,

5 VS.

Case No.: 1303-03653

6 ALCO INDUSTRIES, et al.,

7 Defendants.

8 _____/

9
10 **VIDEOTAPE DEPOSITION OF CHARLES WILLIAM LEHNERT**

11 TAKEN: Pursuant to Notice by
12 Counsel for the Defendants

13 PLACE: Sanibel Harbor Marriott Resort & Spa
14 17260 Harbour Point Dr.
 Ft. Myers, FL 33908

15 DATE: Thursday, October 10, 2013

16 TIME: Began: 9:53 a.m.
 Ended: 4:32 a.m.

17 REPORTER: Tracie Thompson, RPR, CRR, CLR
18 Notary Public
19 State of Florida at Large

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A-P-P-E-A-R-A-N-C-E-S

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A-P-P-E-A-R-A-N-C-E-S

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4 For the Defendant:
Georgia-Pacific

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9 Also Present:

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I-N-D-E-X

WITNESS

CHARLES LEHNERT

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E-X-H-I-B-I-T-S

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DESCRIPTION**MARKED**

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Exhibit 1 Photocopy of a photograph of the ...22
 new Gypsum research
 laboratory by
 Georgia-Pacific in Tigard,
 Oregon in 1967

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DEFENDANTS' EXHIBITS

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1 VIDEOGRAPHER: Today's October the 10th, the
2 year 2013. The time is approximately 9:53 a.m. We
3 are at 17260 Harbor Court Drive in Fort Myers,
4 Florida, to take the deposition of Charles William
5 Lehnert in the matter of Marc Robbins versus Alco
6 Industries. My name is Lajuana Pruett. I'm your
7 videographer. Our court reporter is -- can you --

8 THE REPORTER: Tracie.

9 VIDEOGRAPHER: Tracie Thompson.
10 Will counsel please introduce themselves
11 beginning with Plaintiff counsel?

12 MR. HART: Good morning. My name is Tom Hart.
13 I'm the attorney for Marc Robbins and his family.
14 I'll be asking questions in the first part of this
15 deposition.

16 THE WITNESS: Good morning.

17 MR. BAILEY: Good morning. Mel Bailey,
18 representing Georgia-Pacific Corporation.

19 MS. DEMOREST: Lawrie Demorest representing
20 Union Carbide.

21 VIDEOGRAPHER: Will our court reporter please
22 swear the witness?

23 Whereupon,

24 **CHARLES LEHNERT,**
25 the Deponent, called and duly sworn, was examined and

1 testified as follows:

2 **DIRECT EXAMINATION**

3 BY MR. HART:

4 Q Good morning, sir.

5 A Good morning.

6 Q Would you tell the ladies and gentlemen of the
7 jury your name, please.

8 A My name is Charles W. Lehnert. I go by Bill.

9 Q Mr. Lehnert, what age of a person are you?

10 A I'm 85 years old.

11 Q Now, I understand it that you are a consultant
12 to Georgia-Pacific Corporation; is that correct?

13 A That's correct.

14 Q And you're appearing today at our request
15 pursuant to a notice of deposition; is that correct?

16 A Yes.

17 Q And in your capacity today, you're acting as a
18 consultant to Georgia-Pacific; is that correct?

19 MR. BAILEY: Object to form.

20 THE WITNESS: Yes.

21 BY MR. HART:

22 Q Now, tell me the nature of your consulting
23 arrangement with Georgia-Pacific Corporation, please,
24 sir.

25 A Well, I have been consulting since 1990, and

1 now we don't have any written agreements. I just -- it's
2 kind of a handshake consult when they ask me to.

3 Q And as today, are most of the requests for you
4 to consult with them based upon a lawsuit against
5 Georgia-Pacific for someone who has an asbestos disease?

6 A Lately?

7 Q Yes, sir.

8 A Yes.

9 Q And when you appear today, how much will you
10 receive from Georgia-Pacific on a daily or hourly basis
11 for your time?

12 A I'm not paid on a daily or hourly basis.

13 Q Okay. How are you paid?

14 A I'm paid by annual stipend.

15 Q How much is that?

16 A \$35,000.

17 Q You receive \$35,000 from Georgia-Pacific each
18 year regardless of how much work you do; is that correct?

19 A Yes.

20 Q In the last year, let's say in 2013, this is
21 October, how many times have you appeared in a deposition
22 such as this?

23 A None.

24 Q None?

25 A None.

1 Q Okay. This is the first time?

2 A This year, yes.

3 Q Okay. How much time have you spent consulting
4 with Georgia-Pacific in the calendar year 2013?

5 A A few days here and a few days there.
6 Sometimes just a phone call.

7 Q All right. And that's all you've done this
8 year?

9 A Yes.

10 Q And would it be less than a week's work, would
11 you estimate?

12 A Yes.

13 Q Now, we're going to -- I'm going to ask you
14 some questions about your work with Georgia-Pacific as a
15 consultant and also your previous work with them as a
16 manager and director of the research laboratory, okay?

17 A Okay.

18 Q And during the deposition, if you need to take
19 a break, you need to stand up, stretch or anything like
20 that, you let me know and we'll pause the deposition
21 according to what suits you best. Is that agreeable?

22 A Yes.

23 Q And if at any time you don't understand me,
24 just stop me and ask me to repeat the question or clarify
25 it and I'll be happy to do so. Is that agreeable?

1 A That's agreeable.

2 Q Now, as I understand it, in your career as a
3 consultant with Georgia-Pacific, since 1990, would you
4 estimate you've given over 100 depositions?

5 A No.

6 Q All right. How many would you estimate?

7 A Perhaps 20 or 30.

8 Q Twenty or 30, okay.

9 Have you gone to court and actually testified
10 before a jury on any occasions?

11 A Yes.

12 Q Okay. How many times?

13 A Three times.

14 Q Okay. And were those at the request of
15 Georgia-Pacific Corporation?

16 A Yes.

17 Q And did they pay you?

18 A Yes.

19 Q Was your consulting arrangement with them in
20 the past, was it based upon a written document?

21 A Well, it's a little complicated, because
22 initially I could only accept so much until I reached the
23 age of 70. Thereafter, why, they raised it over and
24 above that amount to where it is today.

25 Q Okay. Why could you not receive any more until

1 age 70?

2 A It was some kind of a legal -- it was a
3 government thing, I think, that didn't -- if you were not
4 70 years old, you could only make, I think, \$10,000 or
5 something like that.

6 Q Okay. Now, you retired from Georgia-Pacific in
7 1990; is that correct?

8 A Yes.

9 Q Since that time, have you received a pension or
10 retirement account or anything like that?

11 A No.

12 Q Okay. They haven't paid you anything?

13 A Only the stipends that we've talked about.

14 Q Now, let's go back and talk about your work
15 history. First of all, before you began work, you went
16 to college; is that correct?

17 A Yes.

18 Q You got a bachelor's degree in -- what was it,
19 chemical --

20 A Chemical engineering.

21 Q Chemical engineering?

22 A Yes.

23 Q That was from a college in Pennsylvania?

24 A Yes.

25 Q As I understand, it you started working for the

1 CertainTeed Corporation in Pennsylvania; is that correct?

2 A No.

3 Q What did you do?

4 A Well, when I -- my first job was at -- in Erie,
5 Pennsylvania, and that was with a small rubber company.

6 Q Okay.

7 A And a year later, I went to work in Chicago,
8 Illinois, for CertainTeed Products Corporation.

9 Q All right. After joining CertainTeed, you
10 began working as a chemist; is that correct?

11 A Yes.

12 Q At some point in time, you were assigned to
13 work on joint cements or joint systems. Is that fair?

14 A Yes.

15 Q Okay. When did that begin?

16 A Sometime in the '50s.

17 Q Okay. Early '50s?

18 A Early '50s, yes.

19 Q Okay. Tell the ladies and gentlemen of the
20 jury what a joint system is, and, in particular, what
21 joint cement is.

22 A Well, a joint system is a method of taping and
23 finishing the joints and nailheads, gypsum wallboard
24 construction, so that they can receive the final
25 declaration.

1 Q And how does joint cement play a role in that
2 process?

3 A It's the means for applying a tape to the
4 joints, recessed joints, and gypsum wallboard so that
5 they can be then concealed by that same joint cement and
6 be subsequently decorated.

7 Q Now, when you began working with joint cement
8 as a chemist in the 1950s at CertainTeed, their products
9 contained asbestos; is that correct?

10 A That's correct.

11 Q Now, in about 1955, CertainTeed reorganized and
12 created a subsidiary called Bestwall; is that correct?

13 A Yes.

14 Q And Bestwall was responsible for all of the --
15 had lots of things, but one of the things that was in
16 there were the joint systems; is that correct?

17 A Yes.

18 Q And you worked, at that time, under the
19 division called Bestwall; is that correct?

20 A Yes.

21 Q And you continued to work for Bestwall for
22 CertainTeed up until 1965; is that correct?

23 MR. BAILEY: Object to form.

24 THE WITNESS: I don't understand the question.

25 I'm sorry.

1 BY MR. HART:

2 Q Okay. CertainTeed continued to own Bestwall
3 until 1965?

4 A No.

5 Q Okay.

6 A I think it was 1957. There was a spin-off.

7 Q You're right. Thank you for correcting me.

8 So in 1957 Bestwall was spun off by
9 CertainTeed, correct?

10 A Yes.

11 Q And up until that time, the CertainTeed joint
12 cement had asbestos in it, correct?

13 A Yes.

14 Q Okay. And then in 1957 Bestwall became a
15 separate company. Is that fair?

16 MR. BAILEY: Object to form.

17 THE WITNESS: Yes.

18 BY MR. HART:

19 Q All right. And you continued working for
20 Bestwall doing joints -- including joint cements; is that
21 correct?

22 A That was one of the things that I did, yes.

23 Q Okay. Now, about 1960 your job title changed
24 from chemist to something else, didn't it?

25 A I'm not sure the exact date, but they decided

1 at one point to create a research group, so I was the
2 group leader, elected to be the group leader of that
3 group.

4 Q Okay. And what group was that?

5 A It was the research group for Bestwall Gypsum
6 Company.

7 Q Okay. And you were responsible for doing
8 research concerning joint cements, first of all; is that
9 correct?

10 A That was one of the things, yes.

11 Q Okay. And wallboards; is that correct?

12 A Yes.

13 Q And other matters relating to those products;
14 is that correct?

15 A And other products, yes.

16 Q Okay. Now, at some point in time, did Bestwall
17 become acquired by Georgia-Pacific Corporation?

18 A Yes.

19 Q And when did that take place?

20 A That was 1965.

21 Q All right. Up until 1965, did Bestwall use
22 asbestos in their joint cement?

23 A Yes.

24 Q Now, when Georgia-Pacific Corporation acquired
25 Bestwall, did you continue working with Bestwall for

1 Georgia-Pacific Corporation?

2 MR. BAILEY: Object to form.

3 THE WITNESS: It became the Best -- the Gypsum
4 division of Georgia-Pacific.

5 BY MR. HART:

6 Q Okay. They called it the Gypsum division of
7 Georgia-Pacific.

8 A The Gypsum division of Georgia-Pacific
9 Corporation, yes.

10 Q And you worked from 1965 to 1990 for that
11 division; is that correct?

12 A Yes.

13 Q Since 1990, for the last 23 years until today,
14 most of your consulting work has been related to the
15 Gypsum division of Georgia-Pacific Corporation; is that
16 correct?

17 A Yes.

18 Q Okay. And most of your consulting work, not
19 all of it, but the vast majority of it has dealt with
20 people suing Georgia-Pacific Corporation because of
21 asbestos in the joint cements; is that correct?

22 MR. BAILEY: Object to form.

23 THE WITNESS: That's not entirely correct.

24 BY MR. HART:

25 Q I said the majority of your time consulting.

1 Not all of it, but the majority.

2 A What do you call the majority?

3 Q More than half.

4 A Okay.

5 Q Would you agree with that?

6 A Yes.

7 Q Okay. Now, what was your job title when you
8 began working with Georgia-Pacific Corporation in 1965?

9 A I was still a group leader of the research
10 group that we talked about.

11 Q All right. And in charge of Gypsum products?

12 A No. It was any -- in charge of whatever we
13 were doing in a research way.

14 Q Okay. Now, when -- in 1965, were you still in
15 Pennsylvania?

16 A Yes.

17 Q Okay. Did there come a time when you moved to
18 Oregon?

19 A Yes.

20 Q When did that take place?

21 A 1967.

22 Q And what was the reason that you moved to
23 Oregon?

24 A Well, they told us the reason was that we had a
25 laboratory, and then we had some office facilities in the

1 same building as the laboratory, such as purchasing and
2 accounting and so on. And they said that they had the
3 same things that could be merged and we would be better
4 off to be closer to them in Oregon.

5 Q Okay. At that time, Georgia-Pacific
6 Corporation's headquarters was in Portland, Oregon; is
7 that correct?

8 A That's correct.

9 Q You were assigned to a laboratory near
10 Portland, Oregon; is that correct?

11 A Well, we had to build the laboratory.

12 Q And were you involved in designing and
13 overseeing the construction of that laboratory?

14 A No.

15 Q Okay. Where was the laboratory built?

16 A It was built in Tigard, Oregon.

17 Q All right. And did you move to Tigard, Oregon?

18 A Yes.

19 Q In what year--

20 A Well, I moved to that area.

21 Q All right. And what year was that?

22 A That was 1967.

23 Q Okay. Now, you understand that
24 Georgia-Pacific, during the course of lawsuits, sometimes
25 produces documents from their files; is that correct?

1 MR. BAILEY: Object to form.

2 THE WITNESS: What documents are we talking
3 about?

4 BY MR. HART:

5 Q Just in general you realize that
6 Georgia-Pacific produces documents that sometimes are
7 shown to you and you're asked questions about them; is
8 that correct?

9 A I'm not sure that's accurate.

10 Q You've never seen a document in a deposition,
11 sir?

12 A Yes, I have.

13 Q Okay. You have?

14 A You didn't say "deposition," did you? Did you
15 say "deposition"?

16 Q Yes, sir.

17 A Oh, I see. Okay. I didn't hear -- I thought
18 you said "documents." Yes, I saw documents when it was
19 involved in a deposition.

20 Q Okay. And then other times you've met with
21 Georgia-Pacific lawyers and they've shown you documents
22 too when it's not in a deposition. Isn't that fair?

23 A Yes.

24 Q So you know that Georgia-Pacific keeps
25 documents and they sometimes bring them out and show them

1 to you or give them to attorneys regarding lawsuits; is
2 that correct?

3 A Yes.

4 MR. HART: Okay. Let me show you one that
5 Georgia-Pacific produced. We'll mark this as
6 Exhibit 1.

7 (Thereupon, Exhibit 1 was marked for identification.)

8 BY MR. HART:

9 Q And is that a photograph or photocopy of a
10 photograph of the new Gypsum research laboratory by
11 Georgia-Pacific in Tigard, Oregon in 1967?

12 A Yes, sir. It was called the Technical Service
13 and Product Development Laboratory.

14 Q Okay. And this is entitled, at the top,
15 "Research for Product"; is that correct?

16 A That's what it says.

17 Q And was that one of the goals that you did as
18 director of this laboratory, is to conduct research for
19 Georgia-Pacific to enable the company to profit more from
20 the products it made?

21 A I suppose you could say that.

22 Q Okay. And if -- if you take the time -- I
23 don't know if the printing on here is too small for you.
24 I'll read it and -- it says, New products development,
25 quality control and manufacturing improvements are part

1 of the lab's work. Manager of research and development
2 is C.W. Bill Lehnert.

3 Do you see that?

4 A Yes.

5 Q Okay. And was that correct at the time?

6 A Yes.

7 Q And then technical director is John B. Moss.

8 Do you see that?

9 A Yes.

10 Q Okay. And so this is the status of the
11 laboratory in 1967 when you moved out to Oregon; is that
12 correct?

13 A Yes.

14 Q Thank you, sir.

15 Now, this laboratory, as I understand it, had,
16 what, about a dozen employees altogether working in it?

17 A It may have had a few more than that at any
18 given time.

19 Q Okay. As I understand it from other
20 depositions you've given, you estimated there were about
21 six people in research and another six people working in
22 technical services.

23 A That was correct. Although, it changed over a
24 period of time from time to time.

25 Q Okay. Let me ask you about some people who

1 worked at the laboratory or worked in Tigard. Were there
2 other Georgia-Pacific facilities in Tigard other than the
3 laboratory?

4 A Yes, there was a truck terminal that we were on
5 there -- actually our building was built on their
6 property.

7 Q Okay. So you had the laboratory and the truck
8 terminal. That was all that was in Tigard, correct?

9 A Yes.

10 Q And then over in Portland you had the corporate
11 headquarters, correct?

12 A Yes.

13 Q Now, Mr. George Green, did he work in the
14 laboratory?

15 A Yes.

16 Q What was his job?

17 A He did some number of different things. He
18 went to -- took a microscopy course, so he became very
19 able to use various kinds of microscopes, which was
20 helpful in our work. And he worked on textures. He
21 worked on a -- a project that we had for heating. We
22 were using gypsum wallboard which was unsuccessful.
23 But -- and he had some -- I think he may have had some
24 patents in regard to that.

25 What else? He did a lot of other different

1 things, yeah, but mostly was -- he was an expert in
2 coatings also. He, I think, took some training so that
3 he was able to develop certain kinds of coatings.

4 Q All right. Now, you mentioned he had a
5 microscope or he was an expert microscopist.

6 A Yes.

7 Q One of the things that Mr. Green would do, and
8 the people that worked with Mr. Green, would be to
9 analyze products to see what some of their components
10 were; is that correct?

11 A I don't know if that's correct.

12 Q Okay. One of the things he did was determine
13 whether or not asbestos was in products that were sent to
14 him for analysis; is that correct? He could do that?

15 A He -- he could, but I don't know that that was
16 his job.

17 Q Okay. But he did that from time to time,
18 correct?

19 A No. He really didn't do that.

20 Q Okay.

21 A He -- do you want me to tell you what he did
22 do?

23 Q Well, you just did.

24 A Okay.

25 Q Let me ask you -- okay. What did he do with

1 respect to asbestos?

2 A He -- he set up -- OSHA had a requirement that
3 only a certain amount of fibers could be in the air of a
4 product, of a building or a plant that was using asbestos
5 fiber. And so there was a limitation. It was part of an
6 OSHA regulation, and so he set up -- we could have done
7 this -- had an outside company do it, but George Green
8 had learned how to do it. And he set up the operation in
9 the plants where the -- the workers wore kind of a
10 respirator that had a little bit of a capsule in it -- we
11 can call it that -- so that anything they breathe would
12 be filtered through in this little capsule. And the
13 capsule would be sent to the laboratory and then the
14 fibers per cubic centimeter would be determined with a
15 phase microscope.

16 Q Okay. So in your factories where you used
17 asbestos, they would do air sampling?

18 A Yes.

19 Q And they would send those samples to Tigard,
20 Oregon, and Mr. Green was the person who would examine
21 those to determine how much asbestos was in the air that
22 people breathed?

23 A I don't know that he did it, but he oversaw the
24 process. We had some technicians that would be able to
25 count -- count the numbers of fibers.

1 Q Okay. So the laboratory, whether it's
2 Mr. Green or other people, but somebody in the laboratory
3 had the ability to do -- determine whether asbestos was
4 present in air samples, correct?

5 MR. BAILEY: Object to form.

6 THE WITNESS: Count the number of fibers in the
7 air samples.

8 BY MR. HART:

9 Q Okay. Now, how about Mr. M.F. Fink, who was
10 he?

11 A He was the safety director.

12 Q Okay. And Mr. Fink, I understand, also worked
13 out of the Tigard offices -- I mean, Tigard laboratory;
14 is that correct?

15 A Yes, he did. Part of his time was spent at the
16 Tigard laboratory.

17 Q Okay. He would be one of the dozen or so
18 people that would be in there?

19 A No. I wouldn't have counted him. He came at a
20 later time. And the reason he came there was because the
21 production manager had replaced Mr. Moss and -- in the
22 laboratory, and he brought Mr. Fink along with him
23 because that was one of the people that worked for him.

24 Q Okay. And did you have an office in the
25 laboratory?

1 A Yes.

2 Q And what size was the laboratory?

3 A Oh, geez, I don't have any -- do you mean in
4 square feet?

5 Q Well, can you give me rough idea of dimensions?
6 Was it 50 by 50 or bigger or smaller?

7 A It was kind of rectangular. I don't know the
8 exact square footage or anything. I don't remember the
9 exact square footage, but it would be bigger than a
10 house, obviously.

11 Q Bigger than a house, but smaller than a
12 football field?

13 A Yes.

14 Q Okay. And was there some actual offices in
15 there?

16 A Yes.

17 Q Did you have one?

18 A Yes.

19 Q All right. And when you walked into the
20 laboratory from the main entrance, was there an area
21 where you did administrative work, or were there
22 secretaries and things like that there?

23 A Yes. There was a receptionist there.

24 Q Okay. And near that area, was that where your
25 office was located?

1 A Yes.

2 Q All right. How many offices were there in that
3 area?

4 A I believe there were three.

5 Q Okay. Who else had an office that you can
6 recall?

7 A Well, Mr. Moss had an office and then
8 Mr. Richards, in later years, occupied that office. He
9 was the production manager. And then there was another
10 fellow from the roofing division. And there was some
11 people from the roofing division -- who are not counted
12 in those figures that you had -- moved in. And I was
13 trying to think of the fellow's name now who worked in
14 the roofing division. Don -- I can't remember his last
15 name.

16 Q That was in later years?

17 A I don't remember the exact timing.

18 Q Okay. Now, Mr. Richards you said was
19 production manager?

20 A Yes.

21 Q What was he in charge of producing?

22 A Gypsum wallboard.

23 Q Okay. So he oversaw the entire company's
24 production of gypsum wallboard?

25 A No.

1 Q Okay.

2 A Only the gypsum -- oh, gypsum wallboard, yes,
3 you're right.

4 Q Okay. And so you had manufacturing plants
5 located in various parts of the country and he was
6 responsible for them; is that correct?

7 A Yes.

8 Q Now, did he -- was he responsible for research
9 or development?

10 A No.

11 Q That was your bailiwick, correct?

12 A Yes.

13 Q Now, when you walked past the reception area
14 and the offices, was there a doorway into a larger room?

15 A I don't think it was a doorway, just a hallway
16 that went down to where the individual offices -- they
17 weren't completely enclosed, but they were partitioned.

18 Q Okay. Partitioned.

19 A And some other people occupied those offices.

20 Q All right. And what would be in that -- was
21 that the lab area?

22 A Yes.

23 Q Okay. And what was in the lab area?

24 A We had benches. We had -- we had the one
25 little area where we did the analyses, a lot of the

1 analyses of gypsum products for purity. It had nothing
2 to do with asbestos. And then we also had the
3 microscopes in that room. And --

4 Q Did you have scales and things like that?

5 A We did. We had scales which sat on the --
6 scales and mixers which sat on the benches. There are
7 probably other things as well.

8 Q Can you give me an idea of how many benches
9 there would have been in the lab?

10 A I don't remember exactly. It might have
11 been -- do you want me to guess?

12 Q Give me your best estimate. Are we talking
13 about a dozen? Are we talking about a half a dozen?

14 A You're talking about six to eight benches,
15 probably closer to eight benches.

16 Q Okay. Can you describe for me the rough
17 dimensions of a bench?

18 A A bench would probably be approximately the
19 size of this table. Not this long, but the depth was
20 about the same as this table.

21 Q We're sitting across the table from each other?

22 A We are.

23 Q What is it, roughly six feet?

24 A I don't think it's that much.

25 Q Okay.

1 A It's maybe four -- well, might be five feet.

2 Q Five feet.

3 Okay. So they're about five feet across.

4 A Yeah.

5 Q And they would have been how long? Ten to

6 15 feet long?

7 A More than twice the width.

8 Q More than 10 feet?

9 A Probably 12 feet long. That's a guess. They
10 had a sink at one end.

11 Q Okay. Now, when I was in high school biology
12 class and college biology class we had benches with sinks
13 and things. Were they similar to those laboratory
14 benches?

15 MR. BAILEY: Object to form.

16 THE WITNESS: I don't know where you were.

17 BY MR. HART:

18 Q Okay.

19 A I'm sorry.

20 Q Well, we had -- did it have like a hard top on
21 it?

22 A Yes, it did have a hard top.

23 Q That was impervious to most things --

24 A Yes.

25 Q -- in case there was a spill or something?

1 A Yes.

2 Q Did you have anything like Bunsen burners or
3 things like that around?

4 A We didn't have any Bunsen burners that I
5 recall. We might have had a Bunsen burner at one time or
6 another. That would -- that would not be a piece of
7 equipment that we used very often.

8 Q Okay. And you would have -- sitting on the
9 benches would be scales, some mixers of some sort?

10 A Yes.

11 Q And what size mixers would they be?

12 A They would be small mixers. We called it pant
13 leg mixers. That's not the right name, but they were
14 kind of angular, and you would mix ingredients in those
15 mixers.

16 Q And -- and what volume could the mixer handle
17 at any one time?

18 A Maybe a couple gallons or quarts.

19 Q Couple gallons, okay.

20 Now, the things that went in the mixers, the
21 ingredients, were they stored in a separate area?

22 A They were usually stored in the -- under the
23 bench.

24 Q Okay.

25 A There was a place for storage, an enclosed

1 storage. There would be a door on it, and you would have
2 the various products that would be used.

3 Q At the bench?

4 A Yes.

5 Q Okay. And then was there a section in the
6 laboratory where storage -- where you stored materials?

7 A Do you mean in addition to the benches, you
8 mean?

9 Q Yes.

10 A Well, we had a shop area where we stored large
11 amounts of various things.

12 Q Okay. So a worker, if he needed some gypsum or
13 something, would first go to the shop area, get some
14 gypsum, and then put it under his bench to use for his
15 later work; is that correct?

16 MR. BAILEY: Object to form.

17 THE WITNESS: No.

18 BY MR. HART:

19 Q Okay. Tell me how it worked.

20 A We had full-size sheets, four-by-eight sheets
21 of wallboard. If he was going to work with wallboard, he
22 would either work with it in the shop, or if he wanted
23 smaller sections, he would cut the board in pieces and
24 bring them in and put them on top of the bench and use
25 them for whatever he was going to use them for.

1 Q Okay. What about the ingredients -- did you do
2 work with regard to joint cements in the laboratory?

3 A With what?

4 Q Did you do work with regard to joint cements in
5 the laboratory?

6 A Yes.

7 Q Okay. You would mix ingredients and make
8 various types of joint cements; is that correct?

9 A Yes. We called it formulation.

10 Q Based upon formulas?

11 A Yes.

12 Q And would -- where were the ingredients for
13 joint cements stored? Were some of them stored in the
14 shop area?

15 A No. Yeah, they might have had some bags of
16 some of the ingredients. Some of the smaller
17 ingredients, why it could be in the benches themselves,
18 underneath the benches.

19 Q Okay. Let's talk about joint cements. From
20 1967 through 19- -- let's say '77, up until May of '77.

21 A Uh-huh.

22 Q Was asbestos used in some joint cements made by
23 Georgia-Pacific?

24 A Yes.

25 Q Okay. As I understand it, in May of 1977, you

1 testified that Georgia-Pacific took asbestos out of joint
2 cements, correct?

3 A There was a ban, yes.

4 Q There was a ban?

5 A Everybody took asbestos out.

6 Q And until that ban took effect, Georgia-Pacific
7 made joint cements, at least some joint cements, that had
8 asbestos in it. Is that fair?

9 MR. BAILEY: Object to form.

10 THE WITNESS: I don't know how to answer that
11 question, because we were always in the process from
12 '70 to '77 of eliminating asbestos. So many of the
13 products that we formerly had asbestos in did not
14 have as the years went on.

15 BY MR. HART:

16 Q Okay. But until May of 1977, at least some of
17 your products did have asbestos in it?

18 A At least some, yes, but very small sums.

19 Q Where -- and did workers in the laboratory have
20 to make formulations of joint cement using asbestos from
21 time to time?

22 MR. BAILEY: Object to form.

23 THE WITNESS: I don't know how to answer your
24 question. Can you ask it in a different way?

25 BY MR. HART:

1 Q Sure.

2 Let's say in 1975, during that time period --

3 A Okay.

4 Q -- did workers in your laboratory have to
5 make -- mix up formulations of joint cement using
6 asbestos from time to time?

7 A There might have been some. At that point we
8 were out of asbestos in many products already, eliminated
9 the asbestos, and the only thing we would be doing would
10 be trying to eliminate asbestos. So if there was any
11 asbestos being used, it would be minimal, I would think.

12 Q Okay. And as I understand it, Georgia-Pacific
13 purchased asbestos -- or one type of asbestos they
14 purchased up until 1977 was Union Carbide asbestos; is
15 that correct?

16 A We did purchase asbestos from Union Carbide.

17 Q Okay. Many of the formulas for Union
18 Carbide -- I mean for Georgia-Pacific joint cement, for
19 example, Ready Mix, many of those formulas specified
20 Union Carbide asbestos, did it not?

21 MS. DEMOREST: Objection.

22 THE WITNESS: There were some in some of the
23 formulas, yes.

24 BY MR. HART:

25 Q Okay. And Ready Mix was one of the products

1 that you used asbestos all the way up until the time it
2 was banned in May of 1977, correct?

3 MR. BAILEY: Object to form.

4 THE WITNESS: No, that's not correct.

5 BY MR. HART:

6 Q Not correct?

7 A No.

8 Q Okay. When did Ready Mix stop having asbestos?

9 A All of the Ready Mix?

10 Q Yes, sir.

11 A Well, all of the Ready Mix was in May of '77.

12 Q Okay.

13 A We had to take it out of everything then.

14 Q Okay.

15 A Ready Mix and everything else. We, of course,
16 had already taken it out of some of the Ready Mix.

17 Q I understand.

18 A Okay.

19 Q Now, in the laboratory, in that shop area where
20 you stored bags of the ingredients, one of the things
21 that was stored in there were bags of Union Carbide
22 asbestos; is that correct?

23 MS. DEMOREST: Object to the form.

24 THE WITNESS: I don't know that we stored bags
25 of Union Carbide asbestos in the -- in the -- in the

1 laboratory.

2 BY MR. HART:

3 Q Okay. Did you -- what type of asbestos did you
4 store in the laboratory?

5 A Only small amounts of the various asbestoses
6 that we used.

7 Q Okay.

8 A But not at that time.

9 MR. BAILEY: We may need to answer this.

10 MR. HART: Let's go off the record.

11 VIDEOGRAPHER: Off the record at 10:30 a.m.

12 (A short break was taken and the following proceedings
13 were had.)

14 VIDEOGRAPHER: We're back on the record at
15 10:41 a.m.

16 BY MR. HART:

17 Q Mr. Lehnert, we were talking about the
18 laboratory in the storage room.

19 A Yes.

20 Q From time to time, did people in the laboratory
21 have to mix up formulations of joint cement that
22 contained asbestos?

23 MR. BAILEY: Object to form.

24 MS. DEMOREST: Object to form.

25 THE WITNESS: What time are we talking about

1 now?

2 BY MR. HART:

3 Q Let's say the 1975 time period.

4 A In the 1975 time period, none of the product
5 development where the formulation to eliminate asbestos
6 would include asbestos.

7 Q All right.

8 A So there would be no need to -- to have
9 asbestos there.

10 Now, there was another -- we were still in
11 business, and they pointed out there was another group
12 there that did the technical things and worked with the
13 plants. Whether they were doing any formulating of
14 asbestos at that time, I wouldn't think it would be very
15 much.

16 Q Okay.

17 A But there might have been some.

18 Q If asbestos was needed in the laboratory, it
19 would have been stored in the shop area; is that correct?

20 A Well, if it was a bag, it would be stored in
21 the shop. It could be that when we used asbestos, we'd
22 have it underneath the benches.

23 Q Okay.

24 A Small amounts.

25 Q Small amounts?

1 A Yes.

2 Q How much would have been at each bench?

3 MS. DEMOREST: Object to the form.

4 BY MR. HART:

5 Q How much?

6 A There would be only one or two benches that had
7 any.

8 Q Okay.

9 A Yes. And maybe they wouldn't have any. Maybe
10 they would just get it from the shop from time to time as
11 they needed it.

12 Q And how much would they get at a time?

13 MS. DEMOREST: Object to the form.

14 THE WITNESS: It would be grams.

15 BY MR. HART:

16 Q Grams?

17 A It wouldn't even be a pound.

18 Q Okay. Like -- would they use like a scoop or a
19 measuring cup or something like that?

20 A Yeah, a small scoop.

21 Q Okay. And it would be kept, first of all, in
22 the storage room in bags, and then, second of all, in
23 some sort of containers under the bench when it was
24 needed?

25 A I don't know if that's -- I don't know that we

1 had containers under the bench.

2 Q What would it be in under the bench?

3 A It might not have even been under the bench. I
4 can't be sure. But when they took it from one place to
5 the other, they have put it directly into this pants-like
6 blender that I talked to you about, you see. And they
7 may have taken the whole bag there and just dipped it out
8 of the bag and taken the bag back out to the shop.

9 Q Okay. Did you see them do that from time to
10 time?

11 A In 1975 I never saw them do that, no.

12 Q How about earlier?

13 A Well, I saw them use asbestos, yes. If they
14 had, it was taken from the shop.

15 Q Okay. When -- during the time that they used
16 asbestos, was Union Carbide asbestos stored in the shop?

17 MS. DEMOREST: Object to the form.

18 THE WITNESS: I don't -- I don't remember Union
19 Carbide asbestos being stored at the shop, but maybe
20 it was.

21 BY MR. HART:

22 Q All right. If it was in the formulas that
23 people were mixing, it would have to be in the shop,
24 correct?

25 MS. DEMOREST: Object to the form.

1 THE WITNESS: We'd have to have some somewhere,
2 yeah.

3 BY MR. HART:

4 Q Okay. And did you ever see someone carry a bag
5 of asbestos from the shop area to a bench?

6 A I don't remember seeing it, but it could have
7 happened.

8 Q Okay. But you know that they would have used a
9 scoop or a measuring cup or something like that to get
10 whatever quantity was appropriate for the formula?

11 A Yes. We had scales there. You would --
12 whatever ingredient it was -- asbestos was, of course, a
13 small amount of the whole thing, you know. Basically the
14 formulas were of many, many ingredients. Asbestos would
15 be -- in any given formula would be maybe five to seven
16 percent or something like that --

17 Q Okay.

18 A -- at that time. We're talking 1975.

19 Q Okay. Now, let's go back to the laboratory in
20 general.

21 Did you have any kind of equipment in the
22 laboratory to heat or dry any materials to see how they
23 would work under heat?

24 A We had ovens.

25 Q Ovens. Where were they located?

1 A There was one oven in the laboratory itself as
2 I remember, and then we had another laboratory -- another
3 larger oven out in the shop, and it was used
4 for different types of things.

5 Q Okay. Were the ovens ever used to dry mixes of
6 joint cement?

7 A I don't think so.

8 Q Okay. What were they used --

9 A What do you mean by "mixes"?

10 Q Well, when joint cement was applied --

11 A Oh, applications, you mean?

12 Q Yes, sir.

13 A Okay. Yes, that would be possible.

14 Q They would use it to help dry the material?

15 A Yes.

16 Q Okay. Now, did you -- was there a time period,
17 you said, when you were developing or trying to develop
18 asbestos-free formulas of your joint cements, correct?

19 A Yes.

20 Q And you were trying to develop asbestos-free
21 dry cements as well as asbestos-free ready-mix cement,
22 correct?

23 A Yes, that's correct.

24 Q And did you compare the properties of the
25 asbestos-free formulas with your existing

1 asbestos-containing joint cement?

2 MR. BAILEY: Object to form.

3 THE WITNESS: I don't think so.

4 BY MR. HART:

5 Q You never compared the two to see if they
6 matched?

7 A I don't know what you mean, "compared them."
8 We didn't compare it to -- but only -- well, I don't know
9 when we would have compared it to our own product.

10 Q Okay. Do you -- do you remember also testing
11 products by other companies?

12 A Yes.

13 Q Okay. Do you recall doing that during the 1975
14 time period?

15 A That's possible.

16 Q All right. And you tested other companies'
17 joint cements that were on the market; is that correct?

18 A Yes.

19 Q Those included both asbestos-free and
20 asbestos-containing joint cements, correct?

21 MR. BAILEY: Object to form.

22 THE WITNESS: Not in 1975.

23 BY MR. HART:

24 Q You don't recall doing that?

25 A No -- yes, we would have had a company's

1 asbestos free, because we were working on freeing
2 asbestos. There would be no point in comparing it to
3 somebody's asbestos product.

4 Q Okay. Do you recall testing your own products
5 in the lab?

6 A Our own products in the lab?

7 Q Your own Ready Mix, asbestos-containing Ready
8 Mix products in the lab in 1975?

9 A This was an experimental lab. The testing
10 would be done on a regular basis. It would have been
11 done at the plant.

12 Q Do you recall doing that at the laboratory
13 during 1975?

14 A Doing what?

15 Q Testing Georgia-Pacific asbestos-containing
16 ready-mix products.

17 MR. BAILEY: Object to form.

18 THE WITNESS: I don't remember doing that in
19 1975.

20 BY MR. HART:

21 Q Okay. Do you recall a study to compare your
22 competitor's ready-mix products with the Georgia-Pacific
23 ready-mix products in 1975?

24 A Both being asbestos free?

25 Q No, sir.

1 A I don't recall comparing it with asbestos.

2 There would be no reason to do so.

3 Q Okay. What -- did your laboratory produce
4 technical reports?

5 MR. BAILEY: Object to form.

6 THE WITNESS: We had -- we had -- we had -- my
7 group had, well, I guess a technical group as well.
8 I call the technical group the non-product
9 development group. They had bound notebooks that
10 they put their daily work in.

11 Q Okay. So there would be lab notebooks that
12 people would maintain, correct?

13 A Yes.

14 Q Okay. In addition to that, were technical
15 reports prepared summarizing a series of experiments?

16 A Well, I gave -- the only ones that I could
17 think of were the ones I created myself. They were
18 six-month reports.

19 Q Okay. Now, before this deposition, did you
20 have a chance to meet with the attorney for
21 Georgia-Pacific?

22 A Do you mean this gentleman right beside me?

23 Q Yes.

24 A Yes.

25 Q Okay. And did he show you any documents?

1 A Yes.

2 Q Okay. Did he show you documents from the
3 laboratory in 1975?

4 A No.

5 Q Did he show you any lab notebooks?

6 A No.

7 Q Did he show you any technical reports?

8 A No. I already had the technical reports
9 anyway. I have them in storage.

10 Q Did you review them to prepare for this
11 deposition?

12 A Yes. They were no help.

13 Q Why not?

14 A They just -- they didn't have anything to do
15 with what we're talking about here, I didn't think.

16 Q Okay. Did you review a technical report
17 entitled "Competitive Survey of Ready Mix Joint Cements
18 Products"?

19 A No.

20 Q Okay. Do you recall that technical report?

21 A It's possible that there was one, but I don't
22 remember it exactly.

23 Q Okay. We'll come back to that.

24 A Okay.

25 Q Has anyone explained to you Marc Robbins' story

1 of working for Georgia-Pacific?

2 A After I read the deposition that he gave.

3 Q Okay. Did you read both depositions?

4 MR. BAILEY: Object to form.

5 THE WITNESS: I believe there were two

6 depositions there, yes.

7 BY MR. HART:

8 Q Okay. Did you see where Mr. Robbins described
9 working for Georgia-Pacific while in high school?

10 MR. BAILEY: Can I interject here? I don't
11 want there to be any misunderstanding. I think
12 there are three. Whatever there is, is what I gave
13 him.

14 MR. HART: Okay.

15 MR. BAILEY: However we divided them up. I
16 don't want to create a false impression.

17 MR. HART: That's fine.

18 BY MR. HART:

19 Q Do you recall Mr. Robbins working in the
20 laboratory?

21 A No.

22 Q Do you recall high school students working for
23 Georgia-Pacific at the laboratory?

24 A No.

25 Q Did you see Mr. Robbins' description of the

1 laboratory as he recalled it?

2 A Yes.

3 Q Does it match your own recollection of the
4 laboratory?

5 A In many ways, yes.

6 Q From reading Mr. Robbins' description of the
7 laboratory, does it appear to you that he was actually a
8 person working in the laboratory? Do you have any reason
9 to doubt that?

10 MR. BAILEY: Object to form.

11 THE WITNESS: I just have no recollection
12 whatsoever of Mr. Robbins.

13 BY MR. HART:

14 Q Okay. But you don't -- do you have any reason
15 to doubt his story that he worked there while in high
16 school?

17 MR. BAILEY: Object to form.

18 THE WITNESS: Well, he doesn't seem to remember
19 any of the names of the people that he said he works
20 with. And he doesn't remember seeing the truck
21 terminal, and that was -- there was a picture shown
22 in that. That's way bigger. You had to go by that
23 every day, but he didn't know about the truck
24 terminal.

25 BY MR. HART:

1 Q Did you see that he recalled a person named
2 Bill?

3 A Yes.

4 Q Your name is Bill, correct?

5 A Yes.

6 Q You went by Bill at that time, correct?

7 A Yes.

8 Q There was also someone who worked in the
9 laboratory called Bill Gettel, correct?

10 A That's correct.

11 Q And what was Bill Gettel's job?

12 A His job was to formulate joint compounds by and
13 large.

14 Q And Mr. Robbins may have worked with Bill
15 Gettel?

16 MR. BAILEY: Object to form.

17 THE WITNESS: I don't remember Mr. Robbins.
18 I'm sorry.

19 BY MR. HART:

20 Q Okay. Mr. Robbins' description of the work he
21 did matched the type of work that Bill Gettel was doing
22 in 1975, does it not?

23 A Yes, it does.

24 Q So when he says that a Bill was the person he
25 worked for -- he remembered the name Bill, did he not?

1 A Yes.

2 Q The description of the person might well have
3 been Bill Gettel, correct?

4 A No, not the way I read it from the deposition.

5 Q Why not?

6 A Because he said he talked about me being a
7 military person and him sitting in an office with me,
8 none of which I remember. And he talked -- he didn't
9 talk about anybody. In fact, he was asked if he
10 remembered Gettel, and he didn't remember.

11 Q But he remembered somebody named Bill.

12 A Yes.

13 Q Okay. And the description of the person named
14 Bill matched what Bill Gettel actually did in 1975,
15 correct?

16 MR. BAILEY: Object to form.

17 THE WITNESS: In some ways. In some ways it
18 did not.

19 BY MR. HART:

20 Q Okay. Now, do you agree that a company has an
21 obligation to provide a safe workplace for its employees?

22 MR. BAILEY: Object to form.

23 THE WITNESS: Yes.

24 MR. BAILEY: Hang on. Excuse me. You know,
25 you can put this on the record or not. I'm going to

1 tender a corporate representative of Georgia-Pacific
2 to answer that. I don't see the relevance with
3 Bill, who's been under subpoena for you guys as a
4 fact witness in this case. So I'm going to object
5 to those questions for the duties and obligations of
6 the company. I'll give you a company rep to answer
7 those for Georgia-Pacific, but I don't see the
8 relevance of his being asked those.

9 MS. DEMOREST: Same objection.

10 MR. HART: Okay. I'll give you both a
11 continuing objection to this line of questioning.
12 You don't have to repeat it. I'll stipulate to
13 that, that it applies.

14 MR. BAILEY: Okay.

15 BY MR. HART:

16 Q Do you agree, sir, that a company should
17 protect its employees from known hazards?

18 A Yes.

19 Q Do you agree that adults should protect
20 children in their custody?

21 MR. BAILEY: Object to form.

22 THE WITNESS: Yes, generally.

23 BY MR. HART:

24 Q Do you agree that a child working for a
25 corporation is entitled to the same protection as an

1 adult?

2 A A child?

3 Q A minor.

4 A We don't have any minors working for our
5 corporation, sir.

6 Q Do you agree that a minor working for a
7 corporation is entitled to the same safe workplace as an
8 adult?

9 MR. BAILEY: Object to form.

10 THE WITNESS: I -- I don't have any experience
11 with minors working, and I don't know what you call
12 a minor.

13 BY MR. HART:

14 Q Someone under the age of 18.

15 A I don't have -- I don't think I have any
16 experience of anyone under the age of 18 working in our
17 laboratory.

18 Q All right. But if someone did, do you agree
19 they're entitled to the same protections as an adult?

20 A What do you mean by "protections"?

21 Q Protections from known hazards in the
22 workplace.

23 A We didn't -- we knew what the hazards were, and
24 we took care of it.

25 Q Okay. Do you agree that a child or a minor is

1 entitled to the same protection as an adult would in that
2 situation?

3 MR. BAILEY: Object to form.

4 THE WITNESS: I can't answer because I don't
5 have any minors there, that I am aware of.

6 BY MR. HART:

7 Q Okay. If -- okay. Assume that a minor worked
8 for a corporation. Do you agree that the minor is
9 entitled to the same protection as an adult?

10 MR. BAILEY: Object to form.

11 THE WITNESS: I don't know what protections
12 you're talking about. I'm sorry.

13 BY MR. HART:

14 Q Do you agree that a minor is entitled to a safe
15 workplace if he works for a corporation?

16 A I don't know of any minors, so I have no
17 experience with that.

18 Q Okay.

19 A I don't know what -- how to answer you. We
20 just didn't have any minors, so I can't really respond to
21 that.

22 Q If Marc Robbins worked at Georgia-Pacific in
23 1975, do you agree that he is entitled to a safe
24 workplace?

25 A I don't even know who Marc Robbins is.

1 Q If he did, sir, would you agree that he
2 was entitled to a safe workplace?

3 MR. BAILEY: Object to form.

4 THE WITNESS: There were no hazards there that
5 I was aware of. We had no minors working, so that's
6 all I can say.

7 BY MR. HART:

8 Q You don't recall Marc Robbins working there,
9 correct?

10 A That's correct.

11 Q But you're not denying that he might have
12 worked there?

13 MR. BAILEY: Object to form.

14 THE WITNESS: I'm not saying he worked there or
15 didn't work there. I'm just saying that I don't
16 remember him working -- ever working there.

17 BY MR. HART:

18 Q Okay. Assume for the purpose of this question
19 that Marc Robbins worked at the Georgia-Pacific Tigard
20 laboratory in 1975. If you'd assume that, sir, would you
21 agree that he was entitled to a safe workplace?

22 A I'm not going to make any assumptions.

23 Q Were your --

24 A They're speculations, and I don't want to
25 speculate here.

1 Q Were your laboratory employees in 1975 entitled
2 to a safe workplace?

3 A Sure.

4 Q And were they entitled to protection against
5 known hazards in 1975?

6 A If there were any known hazards, they would be
7 protected. They should be protected, yes.

8 Q Did you do air sampling of the air in the
9 laboratory in 1975?

10 A No.

11 Q Did you post signs warning of asbestos in the
12 laboratory in 1975?

13 A No, I don't recall any.

14 Q Did you warn employees in the laboratory in
15 1975 of the possibility that asbestos could cause cancer?

16 A They were aware that --

17 Q Did you post signs, sir, is what I'm asking.

18 MR. BAILEY: Object to form. You said "did you
19 warn."

20 THE WITNESS: There were warning labels on our
21 products that contained asbestos.

22 BY MR. HART:

23 Q We're going to get to that in a minute.

24 A Okay.

25 Q In 1975, sir, did you post any signs in the

1 laboratory that advised employees that asbestos could
2 cause cancer?

3 MR. BAILEY: Objection to the form.

4 THE WITNESS: No.

5 BY MR. HART:

6 Q In 1975, were employees in the laboratory told
7 to wear respirators when they worked with asbestos?

8 A No.

9 MR. HART: Let me show you what we'll mark as
10 Exhibit Number 2. It's entitled, Technical Report
11 Number 167, Investigation Number 1, Progress Report
12 Number 2.

13 (Thereupon, Exhibit 2 was marked for identification.)

14 BY MR. HART:

15 Q Do you see that, sir? Do you see the title?

16 A Yes, I see the competitive survey. Is that
17 where you're at?

18 Q Yes. Competitive survey, ready-mix joint
19 cement products; is that correct?

20 A Yes.

21 Q Okay. Now, it has a number of names on the
22 left-hand column, who it's for. Do you see that?

23 A Yes.

24 Q And it says issued by the Tigard laboratory; is
25 that correct?

1 A Where does it say that?

2 Q In the top right-hand column, sir.

3 A Yes.

4 Q Okay. And you were the director of that
5 laboratory, correct?

6 A Yes.

7 Q Okay. And it says written by W.N. Gettel.
8 That's Bill Gettel, correct?

9 A Yes, that's correct.

10 Q And C.F. Fowler, correct?

11 A George Fowler, yes.

12 Q Okay. And beneath that, it says approved by,
13 and there's some initials. Whose initials are those?

14 A Those are my initials.

15 Q Okay. So you approved this document --

16 A Yes.

17 Q -- on December 11th, 1975, the date here; is
18 that correct?

19 A Yes, that's correct.

20 Q Now, let's go through the document. I want to
21 ask you some questions about it.

22 Did you have a chance -- did the lawyer show
23 you this document before today's deposition?

24 A No.

25 Q When is the last time you looked at this

1 document?

2 A A very long time.

3 Q 1975?

4 A That was probably the last time I saw it. I
5 don't remember ever seeing it again. I can't say that I
6 didn't, because I've been in many depositions.

7 Q Okay. Now, it says here that the objective was
8 to evaluate the ready mix products being marketed by our
9 competitors in order to assess the competitive position
10 of Georgia-Pacific Ready Mix products; is that correct?

11 A Yes.

12 Q Now, ready mix is a term that you used to
13 describe products that already had water in them,
14 correct?

15 A That's correct.

16 Q It's a joint cement with water already added,
17 correct?

18 A Yes.

19 Q It would come in a pail or bucket and the user
20 would simply scoop it out and apply it. You wouldn't
21 have to mix it, correct?

22 A That's correct.

23 Q Okay. Let's go through here. It says
24 procedure. Now, Mr. Gettel did this type of work, did he
25 not?

1 A Yes, he would have. He would do this kind of
2 work.

3 Q And did Mr. Fowler do this type of work?

4 A He did sometimes, but he had other things that
5 he did as well.

6 Q Okay. Now, it says here the procedure.
7 Samples of our strongest competitors in each sales area
8 were shipped to Tigard by plant personnel.

9 Do you see that?

10 A Yes.

11 Q Upon their arrival, each sample was placed in
12 an unmarked numbered container to assure objectivity to
13 the tester involved.

14 Do you see that, sir?

15 A Yes.

16 Q Okay. So you're going to have testers, but you
17 didn't want them knowing which products came from which
18 companies, correct?

19 A That sounds like that's correct.

20 Q Okay. So someone took the products out of the
21 bag or out of the bucket that they were shipped in and
22 put them in an unmarked container, correct?

23 A I don't know what they did.

24 Q That's what it says, an unmarked numbered
25 container.

1 A Okay. Okay. Well, then, that's probably what
2 they did.

3 Q Okay. So the tester never saw the original
4 packaging, correct?

5 MR. BAILEY: Object to form.

6 THE WITNESS: The tester --

7 BY MR. HART:

8 Q It says here --

9 A -- never saw the original packaging? Do you
10 mean at the plants? I don't know whether -- these
11 samples, I guess, were sent from the plants; is that
12 correct, or --

13 Q They were sent from the plants. Upon their
14 arrival, each sample was placed in an unmarked, numbered
15 container.

16 Do you see where I am?

17 A Where does it say they were shipped from the
18 plants?

19 Q Let's go back.

20 A Were shipped by Tigard by plant -- plant
21 personnel, okay.

22 Q Okay.

23 A So they got the materials and shipped them to
24 Tigard, okay.

25 Q Okay.

1 A Okay. I'm with you.

2 Q Let's go to the next sentence. Upon their
3 arrival in Tigard, each sample was placed in an unmarked,
4 numbered container.

5 Do you see that?

6 A Yes.

7 Q Now, unmarked meant it had no writing on it,
8 correct? Is that what you would take it to mean, except
9 for the number?

10 A I don't know. It's just what it says.

11 Q Okay. To -- to assure objectivity of the
12 tester involved.

13 Do you see?

14 A Yes.

15 Q Okay. And the tester is the one that actually
16 did all of the tests that are described in this report,
17 correct?

18 A Sounds like it.

19 Q Okay. And do you know who the testers were in
20 the laboratory in 1975?

21 A Yes.

22 Q Who?

23 A Bill Gettel and George Fowler.

24 Q Okay. So it means that somebody else took the
25 material out of the containers and put them in an

1 unmarked container, correct?

2 A Yes.

3 Q Okay. Now -- now, Mr. Robbins, in his
4 deposition you read, described doing work similar to
5 what's described in this report, correct?

6 MR. BAILEY: Object to form.

7 THE WITNESS: Mr. Who?

8 BY MR. HART:

9 Q Robbins, the plaintiff in this case.

10 A I don't see --

11 Q Mr. Robbins, the plaintiff in this case.

12 A He described what? Doing what?

13 Q Doing work similar to what this report
14 describes.

15 MR. BAILEY: Object to form.

16 THE WITNESS: I don't -- if that's what he
17 said. I don't -- I don't remember Mr. Robbins,
18 so --

19 BY MR. HART:

20 Q But you remember reading his deposition?

21 A Yes.

22 Q And he described doing testing on various joint
23 compound products, did he not?

24 MR. BAILEY: Object to form.

25 THE WITNESS: He made some descriptions of what

1 he did, yes. I don't know if I remember each and
2 everything that I read.

3 MR. HART: Okay. Let's change the tape here.
4 We'll take a break.

5 VIDEOGRAPHER: We're going off the record. The
6 time is approximately 11:05 a.m.

7 (A short break was taken and the following proceedings
8 were had.)

9 VIDEOGRAPHER: We're back on the record. The
10 time is 11:06 a.m.

11 MR. HART: We're back on the record.

12 BY MR. HART:

13 Q Mr. Lehnert, we're looking at Exhibit 2. It
14 says that the samples were then subjected to a series of
15 19 quantitative tests in order to test performance as
16 thoroughly as possible.

17 Do you see that?

18 A Yes.

19 Q Okay. Now, let's look at the conclusions.

20 It says G.P. products tested were generally
21 equal to or better than most of the competitor products.

22 Do you see that?

23 A Yes.

24 Q Okay. So they were testing Georgia-Pacific
25 products also, were they not?

1 A Yes.

2 Q And those were some of the products put in the
3 unmarked containers?

4 MR. BAILEY: Object to form.

5 BY MR. HART:

6 Q To assure the objectivity of the tester
7 involved.

8 A That's what it says.

9 Q Okay. Let's go to the next page, please, sir.
10 They list many of the tests and many of the
11 qualities, including viscosities, the bonds, the sanding.

12 Do you see all that, how they were tested? On
13 page 2, at the top, it talks about sanding?

14 A Page 2 at the top? Yeah, okay.

15 Q Okay. And they -- so the testers would
16 actually sand the joint cement after it dried, would they
17 not?

18 MR. BAILEY: Object to form.

19 THE WITNESS: Yes.

20 BY MR. HART:

21 Q Okay. And that was one of the testing
22 procedures that the laboratory employed, correct?

23 A Well, it didn't always test for sanding. They
24 were testing for many other things. Sanding was a
25 minuscule part of the whole thing.

1 Q That was one of the qualities tested in this
2 research report, was it not, sir?

3 A In this report, yeah.

4 Q We're talking about this report.

5 A Yeah, okay.

6 Q Okay. And so they would mix the joints -- I
7 mean they would apply the joint cement, let it dry, and
8 then sand it, correct?

9 A Yes, that's true.

10 Q And because joint cement, when it's used in the
11 field, was designed to be sanded, so it would be smooth,
12 correct?

13 MR. BAILEY: Object to form.

14 THE WITNESS: It would normally be sanded, yes.

15 BY MR. HART:

16 Q Okay. And then they went through and tested
17 other things like the cracking, the open time, the water
18 resistance.

19 Do you see where I am?

20 A Yes.

21 Q The reflection, wet density. And then they
22 tested it -- whether it contained asbestos.

23 Do you see that?

24 A Yes.

25 Q Do you see the paragraph?

1 A Yes.

2 Q It says five of the 28 products did not contain
3 asbestos. These are regarded as inferior to the asbestos
4 products because of the poor working properties and
5 unstable viscosity.

6 Do you see that?

7 A Yes.

8 Q Okay. So your lab tested the products through
9 the microscope to determine whether or not asbestos was
10 present, correct?

11 MR. BAILEY: Object to form.

12 THE WITNESS: No, that's incorrect.

13 BY MR. HART:

14 Q Okay. How did they determine the presence of
15 asbestos?

16 A Well, one way that was always tested was you --
17 you put it into -- bear with me here, we're going back 38
18 years -- a cylindrical thing. And we would keep putting
19 water into it and filtering it out until you could see on
20 the filter that the asbestos was either there or it was
21 not there. Most of the other products would go through
22 the filter; whereas, the asbestos would stay on the
23 filter --

24 Q Okay.

25 A -- so that you could identify it.

1 Q Okay. So you would have another type of
2 microscope and another test to identify asbestos?

3 A Yeah. This wasn't a microscopic test.

4 Q Okay. And it says here five of the 28 products
5 did not contain asbestos, correct?

6 A That's what it says.

7 Q And the tester wouldn't know that when he began
8 the test because they were unmarked samples and he would
9 go through and do all these things, and one of the
10 results would be whether or not it had asbestos, correct?

11 A Yes.

12 Q He wouldn't know whether or not there was
13 asbestos when he started the test, correct?

14 MR. BAILEY: Object to form.

15 THE WITNESS: He wouldn't know?

16 BY MR. HART:

17 Q Whether or not the sample --

18 A It had asbestos, yes, that's correct.

19 (Thereupon, an off-the-record discussion was had.)

20 VIDEOGRAPHER: We're back on the record at

21 11:11.

22 BY MR. HART:

23 Q Mr. Lehnert, turn to page 3, please. And it's
24 a chart that summarizes the products that were tested and
25 the results of the test. And it's entitled "The Quick

1 Reference Comparison Chart."

2 Do you see that?

3 A Yes, I do.

4 Q Okay. Now, let's look at some of these things
5 here. And then look attached to that, there's the next
6 page that talks about boric acid stability.

7 A Yes.

8 Q And then the next page -- on the chart, it says
9 refer to glossary for explanation.

10 Do you see that? Go back to the chart.

11 A Okay. Back to the chart.

12 Q At the very top, it says refer to glossary for
13 explanation?

14 A Yes.

15 Q Okay. Look at -- page 5 is the glossary of
16 tests conducted?

17 A Page 5. Where are the page numbers?

18 Q Go back.

19 A Okay.

20 Q Go back -- go back the other way. Go back.

21 MR. BAILEY: Can you give the Bates number?

22 MR. HART: 13845. Right here.

23 THE WITNESS: Okay. Okay.

24 BY MR. HART:

25 Q Glossary of tests conducted. Do you see that,

1 sir?

2 A Yes, I do.

3 Q Okay. Now, look at the test over halfway down
4 the page where it says contains asbestos. Do you see
5 that paragraph?

6 A Yes.

7 Q Read that to the ladies and gentlemen of the
8 jury. How did your lab determine whether it contained
9 asbestos?

10 A It says determined by microscopic examination,
11 asbestos-like fibers were given a "yes" value.

12 Q Okay. So your laboratory did, in fact, test
13 the material used in a microscope, did it not?

14 A It says it did. They did. I don't remember
15 about that.

16 Q But you signed -- you signed off on this?

17 A Yes, I signed off on this. This was 38 years
18 ago, sir. I'm having a hard time remembering exactly
19 what happened 38 years ago. A simpler way would do it,
20 as I explained to you, and I thought that's the way we
21 did it.

22 Q Okay. But now you find out what you actually
23 did was use a microscope?

24 A Yes.

25 Q Which is a more accurate way of determining

1 whether there's asbestos?

2 A I don't think that's a more accurate way.

3 Q Okay. Now, let's go to the next page, please,
4 sir.

5 A Okay.

6 Q It describes the sanding. And samples were
7 tested at two consistencies. Do you see that?

8 A Yes.

9 Q And they gave a grade according to how well it
10 sanded; is that correct?

11 A Yes.

12 Q Okay. Now, when you sand joint cement, it
13 necessarily gives off some dust; is that correct?

14 A Yes.

15 Q Okay. In fact, it's designed to give off a
16 very fine dust so it will be smooth; is that correct?

17 A Yes.

18 Q And one of the qualities that you're trying to
19 produce when you make a joint cement is a product that
20 will sand and produce a very fine dust, correct?

21 MR. BAILEY: Object to form.

22 THE WITNESS: No, that's not true.

23 BY MR. HART:

24 Q Produce a very fine finished surface?

25 A A smooth surface.

1 Q Smooth surface.

2 And one way to get a smooth surface is to have
3 a very fine material come off of it when you sand it?

4 MR. BAILEY: Object to form.

5 THE WITNESS: No. I don't think so. It's --
6 they're measuring here apparently -- I don't
7 remember this machine that they're talking about,
8 but so many strokes, and then you would, I guess,
9 weigh the contents -- I don't know if I read all of
10 this -- and try to determine how much came off
11 within a certain numbers of strokes. I don't know
12 what the gradation of the sandpaper was. That's, I
13 guess -- I'm guessing now.

14 BY MR. HART:

15 Q Okay. Would you agree, sir, that a joint
16 cement that produces a very fine dust is generally
17 considered to be a better finish than a joint cement that
18 produces a course dust?

19 MR. BAILEY: Object to form.

20 THE WITNESS: No. I don't agree with that.

21 BY MR. HART:

22 Q But some dust is produced during sanding,
23 correct?

24 A Yes.

25 Q The technicians who did this were not wearing

1 respirators, correct?

2 MR. BAILEY: Object to form.

3 THE WITNESS: As far as I know, they were not.

4 BY MR. HART:

5 Q Okay. And let's look at some -- and attached
6 to these paper are the test results for each sample; is
7 that correct.

8 A Is that the chart here?

9 Q Well, there's a chart. And then if you look at
10 the back, the samples one through 28, there's a page for
11 each one.

12 A For each sample?

13 Q Yes, sir.

14 A Yes, I see what you're saying.

15 Q Sample Number 1, do you see that?

16 A Yes, I do.

17 Q Okay. Now, Sample Number 1 is a ready mix
18 joint compound. And joint compound and joint cement are
19 the same terms, correct?

20 A That's right.

21 Q Okay. And so it's a joint cement by
22 Georgia-Pacific from the Marietta, Georgia plant,
23 correct?

24 A That's correct.

25 Q And if you go down, it says it came in a

1 five-gallon pail that was metal.

2 Do you see that?

3 A Yes.

4 Q 62 pounds?

5 A Yes.

6 Q And the type of asbestos label on the
7 five-gallon pail, it said contains asbestos?

8 A Yes.

9 Q Okay. Now, it was taken out of that
10 five-gallon pail and put in an unmarked container for the
11 tester, correct?

12 A Right.

13 Q He wouldn't know whether it contained asbestos
14 until he completed his tests, right?

15 MR. BAILEY: Object to form.

16 THE WITNESS: Correct.

17 BY MR. HART:

18 Q Okay. Now, look at the next page. Sample
19 number 2, that's National Gypsum Gold Bond.

20 Do you see that?

21 A Yes.

22 Q The -- it says -- type of asbestos label, it
23 was marked asbestos free.

24 Do you see that?

25 A Where are we looking?

1 Q The top part there.

2 A Oh, label. Asbestos free, yes.

3 Q Okay. So National Gypsum Gold Bond All Purpose
4 Joint Cement, in 1975, did not contain asbestos; is that
5 correct?

6 MR. BAILEY: Object to form.

7 THE WITNESS: This was just one pail.

8 BY MR. HART:

9 Q Yes, sir.

10 A It could be. It was just an experimental thing
11 as far as that goes.

12 Q Well, let's go back. Let's go back. Look at
13 the cover. It wasn't experimental. Doesn't it say
14 samples of our strongest competitors in each sales are
15 were shipped to Tigard by plant personnel?

16 A Yes. But you have to remember here, we were
17 all -- all companies were testing products. They would
18 ship them out in the pails, the same pails that they
19 would normally use. So they were -- if they were
20 non-asbestos they could put non-asbestos on them.

21 Q Right. So let's go back.

22 A It might have only been a test, you see, or it
23 might have been only a certain area that they would ship
24 them in.

25 Q I'm not questioning that, sir.

1 A Okay.

2 Q What I'm questioning is, your plant personnel
3 went out and bought National Gypsum Gold Bond All
4 Purpose --

5 A Yes.

6 Q -- on the open market.

7 A That's correct.

8 Q And when they bought it --

9 A Well, I don't know that they did that.

10 Q Well, that's what it says, samples of our
11 strongest competitors.

12 A Yeah. But they might have gone to a warehouse
13 and got them.

14 Q Okay. But they were products that were for
15 sale to the public?

16 A That's correct.

17 Q Okay. And the Gold Bond that they got for sale
18 for the public in 1975, in Sample Number 2, was labeled,
19 it says type of asbestos label, it was labeled asbestos
20 free.

21 A Yes.

22 Q Okay. And the --

23 A Were these all five-gallon pails? Oh, yeah,
24 five-gallon pails.

25 Q That's the kind that you would sell to

1 contractors, correct, five-gallon pails?

2 A Yes, that's correct.

3 Q Okay. Let's go look at -- okay. Now, look
4 at -- let's go to Sample Number 4.

5 A Sample Number 4?

6 Q Yes, sir. The numbers -- the numbers are at
7 the top of the page?

8 A Oh, at the top of the page, okay. Okay. Four.

9 Q This is an all purpose ready mix manufactured
10 by United States Gypsum.

11 Do you see that?

12 A Yes.

13 Q Do you see under type of asbestos label --

14 A Yes.

15 Q -- it had asbestos warning.

16 A Yes.

17 Q Okay. So the pail had an asbestos warning on
18 it, correct?

19 A Yes.

20 Q But it was taken out of that pail and put in an
21 unmarked, numbered container to assure the objectivity of
22 the tester involved, as stated on the front page,
23 correct?

24 A Yes. Yes.

25 Q So the tester wouldn't know about the asbestos

1 warning or the asbestos content of the material until he
2 tested it, correct?

3 MR. BAILEY: Object to form.

4 THE WITNESS: He wouldn't know if the what?

5 BY MR. HART:

6 Q That there was an asbestos warning on the pail
7 because he only --

8 A No, he wouldn't know, that's right.

9 Q Okay. And if you look at Number 5, Sample
10 Number 5, it's the same thing for Flintkote?

11 A Uh-huh.

12 Q Number 6, same thing for Georgia-Pacific.

13 Number 7, National Gypsum Gold Bond.

14 These were all your competitors. They had
15 warnings on the products, but the tester never saw the
16 warnings because they were placed in unmarked, labeled
17 containers?

18 MR. BAILEY: Object to form.

19 THE WITNESS: Yes.

20 BY MR. HART:

21 Q Okay. Now, let's look at -- we've talked about
22 Number 2.

23 A Now, this was one also from Gold Bond, and we
24 talked about another one previously from Gold Bond --

25 Q Yes, sir.

1 A -- the Gypsum company.

2 Q Yes.

3 A One had asbestos and one didn't have asbestos?

4 Q Yes, sir.

5 One was labeled asbestos free.

6 A That's what I mean?

7 Q Okay. Now, let's go back and -- let's go back

8 and look at Number 17. This is an all purpose

9 crater-free product from the United States Gypsum.

10 Do you see that? Are you there yet?

11 A Seventeen?

12 Q Yes, sir.

13 A What is this opinion? This is asbestos free

14 from United States Gypsum.

15 Q Okay.

16 A Yes.

17 Q Okay. So U.S. Gypsum was making asbestos-free

18 all-purposes material in 1975, correct?

19 A Correct.

20 Q Okay. And this was sent -- sent to you, if you

21 look on there, provided by your Wilmington plant.

22 A Was there also --

23 Q If you'd go back to 17, sir, I'm asking you a

24 question.

25 A Pardon?

1 Q On 17, Sample Number 17.

2 A Yeah, I have it.

3 Q It says, the sample was supplied by the
4 Georgia-Pacific Wilmington plant.

5 Do you see that?

6 A Yes.

7 Q Okay. So they were able to go out and purchase
8 U.S. Gypsum all-purpose joint cement that was asbestos
9 free in 1975?

10 A Yes.

11 MR. BAILEY: Object to form.

12 BY MR. HART:

13 Q Correct?

14 A Yes.

15 Q Okay. Now, look at, please, sir, Number 20.

16 A Here is another --

17 MR. BAILEY: Wait until he asks a question.

18 THE WITNESS: Oh, I'm sorry.

19 MR. BAILEY: We'll get to it.

20 THE WITNESS: Okay. Going back to the --

21 BY MR. HART:

22 Q Well, we're on Number 20.

23 A -- same question I had before.

24 Q On Number 20.

25 A Okay.

1 Q This is another sample of U.S. Gypsum
2 all-purpose material --

3 A Yes.

4 Q -- that was asbestos free, correct?

5 A That's correct.

6 Q It says it was supplied by your Georgia-Pacific
7 Buchanan facility.

8 Where was the Buchanan facility?

9 A In New York.

10 Q In New York, okay.

11 A Yes.

12 Q So the first one they were able to buy it in
13 Wilmington. This they are buying it in New York?

14 A Yes.

15 Q And it was also asbestos free in 1975?

16 A Yes.

17 Q And the last one, if you look at Number 27 --

18 A How about Number 21 here?

19 Q Twenty-one, okay. That was in Brunswick --
20 supplied from Brunswick, Georgia. It had an asbestos
21 warning on it.

22 A That was U.S.G.

23 Q Yes, sir.

24 A Okay.

25 Q And that's the one you want me to look at?

1 A Yes.

2 Q Okay. And what do you want to talk about on --

3 A Well, I just wanted to point out you are
4 pointing out the ones that had no asbestos. But we also
5 had -- which would tell you that they were perhaps
6 shipping asbestos free in one area, but not another area.

7 Q Okay. But they labeled it?

8 A Same company.

9 Q They gave appropriate labels, did they not?

10 MR. BAILEY: Object to form.

11 THE WITNESS: Yes.

12 BY MR. HART:

13 Q Okay. Now -- and we know that only five of the
14 28 were actually asbestos free. That's what the front
15 page says of your -- of the report you approved.

16 A Oh, okay. Yes, that's what it says.

17 Q Okay. So I'm looking at those five. That's
18 what we're talking about.

19 A Okay.

20 Q The next one to go to is Number 27. That's
21 another U.S. Gypsum all-purpose joint cement.

22 This one was supplied by your Baltimore branch;
23 is that correct?

24 A That's correct.

25 Q This was asbestos free?

1 A Yes.

2 Q Okay. Now, all of the other materials
3 contained asbestos --

4 A Yes.

5 Q -- correct?

6 And whether they were from Georgia-Pacific or
7 other -- your competitors' products, they contained
8 asbestos; is that correct?

9 MR. BAILEY: Object to form.

10 THE WITNESS: Whether they were what?

11 BY MR. HART:

12 Q Whether they were Georgia-Pacific --

13 A Or.

14 Q -- or your competitors' products, they
15 contained asbestos?

16 A Yes.

17 Q Okay. And whether or not they contained
18 asbestos was not something that was told to the tester.
19 They were put in unmarked --

20 A Yes.

21 Q And the tester had to figure that out?

22 MR. BAILEY: Object to form.

23 BY MR. HART:

24 Q The tester had to test the material to
25 determine whether asbestos was present?

1 A That's correct.

2 Q And he was not given a respirator to wear while
3 he did the test.

4 A That's correct.

5 Q And he was not shown the warning that may have
6 been on some of the packaging when it was received by the
7 laboratory, correct?

8 MR. BAILEY: Object to form.

9 THE WITNESS: Sounds like that.

10 BY MR. HART:

11 Q Because they were placed in unmarked
12 containers.

13 A Yes.

14 MR. HART: Let's take another break. We've
15 been going a little while.

16 VIDEOGRAPHER: We're going off the record. The
17 time is approximately 11:27 a.m.

18 (A short break was taken and the following proceedings
19 were had.)

20 VIDEOGRAPHER: We're back on the record at
21 11:45.

22 BY MR. HART:

23 Q So Mr. Lehnert, we were talking about Exhibit
24 Number 2. That is a technical report that you signed off
25 on in December of 1975, correct?

1 A Yes, that's correct.

2 Q And the work that went into Exhibit Number 2
3 took place many months prior to December 1975, correct?

4 A I would think so.

5 Q And there were 28 products tested, five of
6 which did not have asbestos and the rest did have
7 asbestos, correct?

8 A Yes, that's what it says.

9 Q And the laboratory had people who acted as
10 testers in the laboratory doing the various tests
11 described in Exhibit Number 2 that we've gone through,
12 correct?

13 A It was Bill Gettel and George Fowler.

14 Q Okay. And Bill Gettel and George Fowler?

15 A Yes.

16 Q There may have been others, but you don't know?
17 You don't recall?

18 A I don't remember any others.

19 Q Okay. Now, also, we know that the materials
20 were given to the testers in unmarked containers and the
21 testers didn't know whether they had asbestos in them or
22 whether there were any labels on the original products,
23 correct?

24 MR. BAILEY: Object to form. Only as it
25 pertains to testers.

1 BY MR. HART:

2 Q Go ahead.

3 A The testers didn't know, that's correct.

4 Q And the testers had to determine whether or not
5 asbestos was present by using a microscope, correct?

6 A That's what it says.

7 Q And the testers did sanding on the materials
8 that you know, from the characteristics of the product,
9 would have produced dust; is that correct?

10 MR. BAILEY: Object to form.

11 THE WITNESS: I don't know that it would
12 produce dust. It would remove some of the
13 surfacing. It was sanding. I don't know what grit
14 they used, but it was probably a real fine grit.
15 Grit was normal. It wouldn't be a real course grit,
16 so it wouldn't merely -- it would just smooth it
17 out. It wouldn't necessarily produce any dust.

18 BY MR. HART:

19 Q Okay. Have you sanded joint cement yourself
20 and not produced dust?

21 A Yes.

22 Q You can do that, sir?

23 A Oh, you produce dust, but it wasn't airborne.

24 Q Okay. But dust would come off the material
25 when you sand it, correct?

1 A There was a little bit of dust on the surface,
2 and you'd just wipe it off.

3 Q So the testers would prepare a sample joint
4 using the joint cement, correct?

5 A That's correct.

6 Q What size would it be?

7 A Probably something somewhat larger than this
8 piece of paper, this eight-and-a-half-by-11. I guess it
9 would be a little larger than that. Two pieces of board
10 stuck together.

11 Q Maybe a foot or two feet long?

12 A Perhaps.

13 Q And you would make a seam and you would cover
14 the seam?

15 MR. BAILEY: Object to form.

16 THE WITNESS: I don't know that was exactly the
17 way, but that, in general, would be the way it would
18 be done. The recessed edges would be putted, and
19 then you would -- there had to be something to hold
20 them. I don't know what -- how exactly they did
21 that anymore. And they would put the tape -- they
22 would put the joint cement in and put the tape in
23 and then go over the tape.

24 BY MR. HART:

25 Q And they would dry it, correct?

1 A Yes.

2 Q Do you know if they used the ovens to dry it or
3 not?

4 MR. BAILEY: Object to form.

5 THE WITNESS: They might have.

6 BY MR. HART:

7 Q Okay. And then they would have to sand it, and
8 that was one of the tests?

9 A No. They just put the tape in this one. That
10 would be the normal one. And then you would run the --
11 see, it was an ASTM test. So you would -- and then you
12 would cut into the -- the thing. You wouldn't have to
13 cover it up. You wouldn't have to. Now, in another
14 case --

15 Q Let's talk about Exhibit 2. Let's talk about
16 what was done in Exhibit 2. Let's not talk about
17 anything else, sir.

18 A Oh, okay.

19 MR. BAILEY: Object to form.

20 BY MR. HART:

21 Q In Exhibit 2, you prepared --

22 A Exhibit 2. What page was that on, Mr. Hart?

23 Q The sanding?

24 A Yeah.

25 MR. BAILEY: I don't know that that's the

1 question that's in front of you, but I'll show you
2 where the sanding is.

3 THE WITNESS: Oh, okay.

4 MR. BAILEY: I don't know that there's a
5 question, so let him give you a question.

6 BY MR. HART:

7 Q In Exhibit 2 --

8 A Yes.

9 Q -- you talked about you would -- you would
10 create a joint.

11 A Yes.

12 Q You would cut about a foot or two feet long.
13 You would use tape and joint cement to cover that joint.

14 A It doesn't say it would use tape here.

15 Q Okay. But you would use joint cement then.
16 You typically used tape when you used joint cement on a
17 joint, would you not?

18 A On a joint you would.

19 Q Okay.

20 A It doesn't say whether this is a joint or not.

21 Q And then you would sand it.

22 MR. BAILEY: Listen to what he said.

23 THE WITNESS: Okay.

24 BY MR. HART:

25 Q And then the material got sanded, correct?

1 A Yeah.

2 Q So that sanding would produce some dust.

3 Whether it was airborne or not, you don't remember, but
4 you know some dust would come from sanding, correct?

5 MR. BAILEY: Object to form.

6 THE WITNESS: There would be some dust, yeah.

7 BY MR. HART:

8 Q Okay. And the persons doing -- the testers,
9 were not given respirators when they did the sanding,
10 correct?

11 A That's correct.

12 Q Okay. They were not told that it had asbestos
13 in it, correct?

14 A That's correct.

15 Q And there were no signs in the area posted
16 warning them that asbestos was dangerous?

17 A That's correct.

18 Q Okay. Now, you said you don't recall the high
19 school students coming to the Tigard lab and working
20 there; is that correct?

21 A That's correct.

22 Q Do you recall that you yourself was one of the
23 people on the board of directors of this program?

24 A Now, here is where we have a problem. This
25 program that you're talking about, and I read about, was

1 not the program I was involved in.

2 Q Okay.

3 A The program --

4 Q What program were you involved in?

5 A I was involved in -- it must have been after
6 this program, but I'm not sure. It was around 1975. In
7 fact -- and it was going on in 1976, I'm certain. And
8 it -- there were -- this was a government program out of
9 Washington, D.C. and it involved three pilot places. One
10 was Tigard, one was West Virginia, and I can't remember
11 where the third one. This was operated out of
12 Washington, D.C.

13 Q Okay.

14 A None of these other places were involved at all
15 that are named here. Kennewick, Washington. Someplace
16 else. Those were not involved. Now, I went to --
17 actually with -- there was a fellow by the name of Jerry
18 Burey. Do you have his name anywhere?

19 Q What's the name, sir?

20 A Jerry Burey.

21 Q Burey, okay. Go ahead.

22 A Okay. And he was the one who really ran the --
23 ran the program for the government, okay. And we went to
24 the West Virginia place and then we went to Washington,
25 D.C. We did not go to the third place. Maybe that's why

1 I can't remember where it was from. And one of the
2 Washington people who was involved with the program
3 actually came to Tigard and talked with us.

4 Q Okay.

5 A That's different than that program. I don't
6 know what that program is.

7 Q Okay. Do you remember -- did you see where
8 Mr. Robbins described a CE2 program?

9 A Yes.

10 Q Okay. Were you a participant in the CE2
11 program?

12 MR. BAILEY: Do you mean Georgia-Pacific?

13 BY MR. HART:

14 Q Georgia-Pacific and you yourself personally.

15 A I was involved in the program that I just
16 described to you. I don't know what they called it.

17 Q Okay. Out the Tigard?

18 A It was a career education program.

19 Q In Tigard, Oregon --

20 A That's correct.

21 Q -- they had a program called Community
22 Experiences for Career Education, CE2.

23 A That's correct.

24 Q Do you -- did you participate in that program?

25 A Yes.

1 Q Mr. Robbins worked at Georgia-Pacific under the
2 CE2 program.

3 A I don't remember Mr. Robbins. In fact, one of
4 the things was -- there was one girl that came out to
5 interview with us, and she elected not to do -- not to
6 stay there. And one of the -- I remember stating to some
7 of the career education people, Jerry Burey, to be exact,
8 and said I'm disappointed that you don't send somebody
9 out to us. And then, to my knowledge, they never did.

10 Q Okay.

11 A But this fellow apparently was involved in this
12 other program, EBCE, and I don't know what that was, and
13 I had nothing to do with that program.

14 Q If he was involved in the CE2 program, that was
15 a program you were involved with?

16 A Yeah, but it shows his picture involved in this
17 other program. And I -- I don't remember him from the
18 CE2 program at all.

19 Q What picture are you referring to?

20 A There's a picture of him in the EBCE program
21 that is in Washington and Hillsborough, Oregon and some
22 number of other places that were not in the program that
23 I just described to you.

24 Q Well, let's look at the program that you were
25 involved with.

1 A All right.

2 (Thereupon, Exhibit 3 was marked for identification.)

3 BY MR. HART:

4 Q I'll show you Exhibit Number 3. It's a student
5 handbook for the CCE2 (sic) program.

6 Do you recall that program, sir?

7 A Well, I don't know. I have to look at it to
8 see.

9 Q Well, let's first of all, to help you, go to
10 the -- do you see where the tab is on the top? Go to
11 that page.

12 A Yes.

13 Q It's -- it has page 4 on it or GP number 24.

14 A Uh-huh.

15 Q And there's a picture there --

16 A Yes.

17 Q -- of the board of directors.

18 A Yes. I was on the board of directors for that.

19 Q And do you -- do you see yourself in the
20 picture?

21 A Yes. I was in that. That -- that's what I was
22 in.

23 Q Okay. Would you -- do you have a pen with you,
24 sir?

25 A A pen?

1 Q Yes. Would you circle yourself in the picture,
2 sir? Circle yourself in the picture.

3 A I think it's over here. I can't see it very
4 well, but I think that's it.

5 Q Okay. You're the person at the edge of the
6 photograph?

7 A At the edge of the photograph.

8 Q All right. And at that time were you of
9 average height?

10 A Yes.

11 Q At that time did you wear glasses, as you do
12 today?

13 A I wore contacts for a period of time, so it's
14 possible that that was during --

15 Q Okay.

16 A I had contacts. I don't remember.

17 Q You have -- you have light-colored hair today
18 or white-colored hair today.

19 A Yeah.

20 Q Did you have light-colored hair back then?

21 A At one time, I had red hair, but that didn't
22 last too long. I think I was probably getting pretty
23 gray about this time.

24 Q Okay. And in 1975, 1976, approximately how old
25 were you?

1 A I was born in '27, so you can add them up and
2 see.

3 Q So you were approaching 50?

4 A Yeah, 49 years old.

5 Q Forty-nine, okay.

6 A Uh-huh.

7 Q Mr. Robbins, did you see in his deposition, he
8 described you as a person with white hair and glasses,
9 average height, and he said it's hard to estimate age,
10 probably early '50s.

11 So he was pretty close to describing you?

12 A Yes, pretty close.

13 Q And so that's what Mr. Robbins' description of
14 the Bill who worked in an office in the front of the
15 laboratory was.

16 A Yes.

17 Q His description matches you, does it not?

18 A It does.

19 Q Okay. Now -- and you were, in fact, involved
20 in this program, the CE2?

21 A This CE2 program.

22 Q Yes.

23 A It's not the program that you had with the --
24 with the -- let me see here.

25 Q This is the only program I've asked you about.

1 A Oh, okay.

2 Q I don't know what other people have asked you,
3 what your lawyer asked you, and other people.

4 A No, I was talking about the deposition to this.

5 Q Okay. Mr. Robbins talked about a CE2 program
6 also --

7 A No, I --

8 Q -- in his deposition.

9 A I don't remember -- I don't know -- I don't
10 remember him being in a CE2 program.

11 Q Okay.

12 A And I don't see him anywhere. I looked at all
13 of the people in the EBCE2 program that he was in, and I
14 don't see any names I recognize.

15 Q Okay. In this program, do you see, if you go
16 back to the -- it's about the fifth page in, but it has
17 number two at the top.

18 A Number two at the top.

19 Q There's some pictures of some students. Do you
20 see that?

21 A Is this 2 at the top? Okay. I see these
22 pictures.

23 Q Okay. Now, go to the next page, Number 3. Do
24 you see this is where it describes the employers?

25 A Employers.

1 Q Okay. If you look down that long list, you see
2 Georgia-Pacific Gypsum division is listed there --

3 A Yeah.

4 Q -- about halfway down?

5 A I guess I see it.

6 Q They're in alphabetical order.

7 A Okay.

8 MR. BAILEY: It's highlighted.

9 THE WITNESS: Okay. Okay. There it is.

10 Georgia-Pacific gypsum division, yeah, office.

11 BY MR. HART:

12 Q Okay. And then on the next page is the -- is
13 your photograph, correct?

14 A Which page is that?

15 Q Right there.

16 A This one?

17 Q Yes, sir.

18 A It says this is me, I guess.

19 Q And then your name is at the bottom?

20 A That's correct.

21 Q Bill Lehnert, Georgia-Pacific Corporation.

22 A Yes.

23 Q Now, Mr. Robbins described in his deposition --
24 and this is all for the CE2 program. That's what the
25 cover says, correct?

1 A Yes.

2 Q And that's what you were on the board of
3 directors of?

4 A Yes, that's correct.

5 Q Mr. Robbins said in his deposition, taken
6 June 19th of this year, that he worked in Tigard for
7 Georgia-Pacific and for the CE2 program?

8 A Yes.

9 Q That's the same program described here; is that
10 correct?

11 A That's correct.

12 Q But you don't recall him working there,
13 although he says he worked for the same program. You
14 admit you're on the board of directors.

15 A I just don't -- I just don't remember him at
16 all.

17 Q Okay. Now, do you remember any students in the
18 CE2 program coming out to Tigard and working for
19 Georgia-Pacific?

20 A Well, there was a girl that came in. I don't
21 remember her name. It's been, what, 38 years now.

22 Q You -- but you said she didn't stay.

23 A No, she didn't stay.

24 Q Okay. But do you recall anybody working there?

25 A No.

1 Q So you just don't recall?

2 A Yeah. And he describes a totally different
3 program than -- than I remember.

4 Q Well, he says -- he described a program whereby
5 he went out and worked in the laboratory five or six
6 hours a day.

7 A Yeah. I don't remember that at all.

8 Q Okay. He also describes doing the tasks that
9 are identical to what's described in Exhibit 2, the
10 technical report, when they did the comparative testing,
11 correct?

12 A That's correct.

13 Q So you don't recall him doing that at all?

14 MR. BAILEY: Object to form.

15 THE WITNESS: I do not.

16 BY MR. HART:

17 Q And if he did that, the person he would have
18 worked for would have been Bill Gettel?

19 A Yes, that's correct. But he didn't know Bill
20 Gettel's name.

21 Q Okay. But he did -- he did describe you to a
22 tee when he described you.

23 A Yes, but not Bill Gettel who he worked with.

24 Q Okay. But he described doing the exact same
25 things that you wrote and approved in Exhibit Number 2.

1 MR. BAILEY: Object to form.

2 THE WITNESS: He didn't do that. I'm not aware
3 of him doing anything.

4 BY MR. HART:

5 Q But he described -- the work he described doing
6 matches what's in Exhibit Number 2 --

7 A Not exactly.

8 Q -- that Bill Gettel did.

9 A Not exactly.

10 Q But pretty close?

11 MR. BAILEY: Object to form.

12 THE WITNESS: Not close at all.

13 BY MR. HART:

14 Q He described doing various testings and testing
15 for sanding?

16 MR. BAILEY: Object to form.

17 THE WITNESS: Yeah, he said that he did like
18 30 percent sanding. You never in the world do
19 30 percent of your time sanding.

20 BY MR. HART:

21 Q Okay. But other than --

22 A You know --

23 Q Other than the percentage, he described doing
24 exactly what --

25 A He doesn't remember --

1 THE COURT REPORTER: Wait. I can't -- I'm
2 sorry. You guys have to go one at a time.

3 MR. BAILEY: Sure. You have to let him finish.

4 THE WITNESS: Oh, okay.

5 MR. BAILEY: As much as you want to respond --

6 THE WITNESS: I'm just trying to help you out.

7 MR. BAILEY: He'll give you all the time you
8 need.

9 THE WITNESS: Okay.

10 MR. BAILEY: And then she will be happier with
11 us.

12 THE WITNESS: Okay.

13 MR. BAILEY: All right.

14 THE WITNESS: Okay. Sorry.

15 THE COURT REPORTER: Thank you.

16 MR. HART: Let me start the question again.

17 BY MR. HART:

18 Q Mr. Robbins described sanding in a method
19 that's similar to what's described in Exhibit Number 2,
20 correct?

21 MR. BAILEY: Object to form.

22 THE WITNESS: I don't think it's similar.

23 BY MR. HART:

24 Q We'll let the jury decide.

25 A Okay.

1 Q Let me ask you, sir: When you were trying to
2 formulate a replacement asbestos-free joint cement, did
3 you try different formulas in the laboratory?

4 A Yes.

5 Q And did you have people like Bill Gettel
6 take different formulas or recipes and mix them up and
7 apply them in small quantities?

8 A Yes.

9 Q Okay. How many different formulas were tested?

10 MR. BAILEY: Object to form.

11 THE WITNESS: I have no idea, but there were a
12 lot of them.

13 BY MR. HART:

14 Q Dozens, correct?

15 A Dozens.

16 Q Okay. And you -- first of all, you began
17 trying when -- you first began trying to reduce the
18 percentage of asbestos in the joint cement; is that
19 correct?

20 MR. BAILEY: Object to form.

21 THE WITNESS: No, that's not correct.

22 BY MR. HART:

23 Q Okay. Did you try some formulas with reduced
24 asbestos in them?

25 A We may have.

1 Q Okay. And Mr. Gettel and others kept
2 notebooks, correct?

3 A Yes.

4 Q In there were described what the formulas were
5 they were mixing, correct?

6 A That's correct.

7 Q If the notebooks showed that they were mixing
8 Union Carbide asbestos in a reduced amount, would that
9 be -- would you have any way to challenge that?

10 MS. DEMOREST: Objection to form.

11 THE WITNESS: No, I can't challenge anything
12 that was in a notebook.

13 BY MR. HART:

14 Q Okay. So you would think the notebooks would
15 be very accurate descriptions of what Mr. Gettel and the
16 others did?

17 A Yes.

18 Q And besides Mr. Gettel, did other people keep
19 notebooks?

20 A Yes.

21 Q Did you review the notebooks from time to time?

22 A Yes.

23 Q Did sometimes you actually sign off in them?

24 A When there was something that was patentable, I
25 affirmed so that we could proceed to get a patent or

1 something on whatever they were working on.

2 Q Okay. Now, Mr. Gettel's workplace was actually
3 in the laboratory itself at one of those -- on one of
4 those benches or near one of those benches?

5 A Yes, the offices were just adjacent to the
6 benches.

7 Q He would have a little cubicle and then he'd
8 have a bench to work on. Is that fair?

9 A Well, he would have a cubicle and then there
10 would be benches out beyond.

11 Q Okay.

12 A And I don't know which bench he worked on, but
13 he would have --

14 Q Okay.

15 A -- a bench to work on.

16 Q Okay. Your office was entirely enclosed in
17 a different area, correct?

18 A Yes.

19 Q It was nearby, but it was an enclosed office?

20 A Yes.

21 Q Okay. How frequent --

22 A I think it was enclosed.

23 Q Okay. How frequently did you work at one of
24 the benches?

25 A Very infrequently.

1 Q Okay. Your role was mainly supervisory; is
2 that correct?

3 A I was the manager, yes.

4 Q Manager over people like Bill Gettel and
5 testers and other people who were there?

6 A Yes.

7 Q Technicians?

8 A Yes, that's correct.

9 Q Now, as I understand it, the laboratory never
10 tested joint cements that contained asbestos for any
11 potential hazards; is that correct?

12 MR. BAILEY: Object to form.

13 THE WITNESS: I don't think that's a completely
14 correct statement.

15 BY MR. HART:

16 Q Let me rephrase it and see if I can get it.
17 You never tried to test the asbestos in joint cement for
18 any potential hazards at your laboratory; is that
19 correct?

20 MR. BAILEY: Object to form.

21 THE WITNESS: Well, I think the OSHA testing
22 was done in the laboratory to determine the number
23 of fibers. Yes, that was done in the laboratory.

24 BY MR. HART:

25 Q So you did count -- you were able to do

1 counting of asbestos fibers in air samples, correct?

2 A Yes.

3 Q Okay. But you never took air samples at the
4 Tigard laboratory itself; is that correct?

5 A That's correct.

6 Q You never sampled the air in the Tigard
7 laboratory where the technicians or testers were working,
8 correct?

9 A That's correct.

10 Q Did you ever do any tests of the joint cement
11 products that contained asbestos during mixing, sanding
12 or application?

13 A What kind of tests?

14 Q Air sampling tests.

15 A No. In the laboratory?

16 Q Yes, sir.

17 A No.

18 Q And to your knowledge, Georgia-Pacific never
19 tested -- did air sampling testing in the field of its
20 joint cement products that contained asbestos; is that
21 correct?

22 A Not quite.

23 Q Georgia -- Georgia-Pacific never did any
24 testing of air measurements in the field when your joint
25 cement was being applied; is that correct?

1 MR. BAILEY: Object to form.

2 THE WITNESS: That's not actually correct,
3 Mr. Hart, because there were some tests that we --
4 while we didn't do it, somebody else did it and it
5 involved our products.

6 BY MR. HART:

7 Q Okay. You're talking about the Gypsum
8 Association testing?

9 A That was one of the cases, yes.

10 Q Okay. But -- and we'll talk about Gypsum
11 Association in a minute. But before we get to that, did
12 Georgia-Pacific ever conduct any testing itself of air
13 quality while its joint cements were being applied in the
14 field that contained asbestos?

15 MR. BAILEY: Object to form.

16 THE WITNESS: Well, there was one -- we didn't
17 do the testing. We had a company, an independent
18 company, do the testing. And it was someplace in
19 North Carolina at a school. It was air tests.

20 BY MR. HART:

21 Q And what year was that?

22 A You're really testing me now. We were so
23 many different places, it's pretty hard for me to
24 determine where it was. It was in the early stages, so
25 it had to be sometime after 1970.

1 Q Okay. Well, let's talk about 1970. Where were
2 you working in 1970?

3 A I was working in Oregon.

4 Q Okay. At Tigard?

5 A Tigard, yes.

6 Q Let me show you Exhibit 4.

7 (Thereupon, Exhibit 4 was marked for identification.)

8 BY MR. HART:

9 Q This is a memo dated May 7, 1970 to you from
10 Mr. Wilson, correct?

11 A That's correct.

12 Q And the subject is joint cement?

13 A That's correct.

14 Q Who was Mr. Wilson at that time?

15 A He was the vice president of the Gypsum
16 division.

17 Q He talks about, in the third line, the
18 potential health hazards from the use of asbestos fibers,
19 does he not?

20 A Yes.

21 Q He suggested that you might want to start
22 looking at taking asbestos out of joint cements, does he
23 not?

24 A Yes.

25 Q Okay. So as of 1970, you were aware, as the

1 manager of the Tigard lab, that there was potential
2 health hazards with exposure to asbestos fibers?

3 MR. BAILEY: Object to form.

4 THE WITNESS: Not at all. He was talking about
5 in the industry, if I read it correctly here. Let's
6 see. He said more attention every day to the
7 construction industry. Of course there were many
8 cases where fireproofing was used. Fireproofing
9 having 30 percent asbestos. I don't know whether
10 this included asbestos mines or where -- they used
11 to call the stuff Formgun (phonetic) none of
12 which -- neither product did we make. But these
13 were the areas it was -- where it was -- in back of
14 ships where people were in confined areas where this
15 fireproofing was sprayed.

16 BY MR. HART:

17 Q But he talks about in the construction
18 industry --

19 A Yeah.

20 Q -- there were potential health hazards from the
21 use of asbestos fibers. That's what he says right there.

22 A That's what he says, yeah.

23 Q Okay. And joint cement was used in the
24 construction industry, correct?

25 A Yes.

1 Q It had asbestos in it, correct?

2 A That's right.

3 Q And he says, quote, we should examine our joint
4 system formulas to determine if we can use some material
5 other than asbestos. Is that correct?

6 A Exactly.

7 Q Okay. So that's because of the potential
8 health hazards?

9 A Yes.

10 Q Okay. Now, did you do that? Did
11 Georgia-Pacific do any tests on its joint systems to
12 determine what the potential health hazards from asbestos
13 in the joint systems were in 1970?

14 A In 1970, although he says there wasn't a crash
15 program, anything the vice president gave me was a crash
16 program. So we developed a program to eliminate
17 asbestos.

18 Q Okay. But you were still -- did you ever study
19 the potential health hazards of the asbestos? Were you
20 ever asked to do that?

21 A In a sense, why, we had a Merck Index. It
22 never indicated that there was any problem with asbestos,
23 other than breathing too much dust of any kind. You can
24 get the Merck Index in the '60s or whenever that was,
25 that it worked with --

1 Q Okay. Besides looking it up in the Merck
2 Index --

3 A That was the way we -- one of the ways we
4 normally assessed something. And then of course we
5 followed all of the OSHA regulations.

6 Q This was before OSHA, sir, 1970.

7 A Okay. Oh, before OSHA. Well, we thought it
8 was important. I thought it was important for us to take
9 it out. So we developed a program to remove asbestos
10 from every product that we had.

11 Q Why did you think it was important? Because of
12 the potential health hazards?

13 A Because they said there might be some
14 hazards -- even might be some hazard. We had no one
15 getting ill from asbestos. We had people who had been
16 exposed to asbestos for years. We'd used asbestos in
17 joint compounds back into 19- -- we had formulas in 1942
18 that had asbestos in it. I wasn't there, but they had
19 the old formulas. So -- and we had no complaints from
20 any of our plant people. But if there was any sign -- he
21 says there's a sign here, we're going to take it out. So
22 we developed a program to do so.

23 Q Okay. You started that in 1970?

24 A That's correct.

25 Q Okay. Now, let's look at Exhibit Number 5.

1 (Thereupon, Exhibit 5 was marked for identification.)

2 BY MR. HART:

3 Q There is about one year later. This is a
4 memorandum from Mr. Fink, who was your safety director,
5 correct?

6 A Yes. He was the safety director. He didn't
7 report to me however.

8 Q If you look at the second page, do you see that
9 you received a copy of this?

10 A Yes.

11 Q Okay.

12 MS. DEMOREST: Bill, what's the date of that?

13 MR. HART: It's dated July 27, 1971.

14 BY MR. HART:

15 Q Correct?

16 A Yes.

17 Q The subject is both mica and asbestos controls,
18 is it not?

19 A Yes.

20 Q Okay. And he discusses mica and the need to
21 wear respirators when working with mica. And then in the
22 fourth paragraph, he talks about asbestos, does he not?
23 It says, Asbestos --

24 A Yes.

25 Q We have a similar problem with asbestos.

1 A Yes.

2 Q And then he says, at the end of that paragraph,
3 We must take every precaution to eliminate the hazard and
4 to protect the employees.

5 Do you see that?

6 A Yes.

7 Q That's from exposure to raw asbestos during
8 mixing, correct?

9 MR. BAILEY: Object to form.

10 BY MR. HART:

11 Q Let's go back. It says --

12 A In our plants, yes. Yes.

13 Q Okay.

14 A That's the only thing we had any control over,
15 but we -- we were already into this program to take it
16 out.

17 Q Okay. But he states, We must take every
18 precaution to eliminate the hazard and protect the
19 employee, correct?

20 A Yes.

21 Q Okay. What steps did you take to eliminate the
22 hazard and protect the employee in the laboratory who was
23 doing mixing --

24 A We didn't --

25 Q -- in 1971?

1 A We were protecting the people in our plants and
2 the people in the workplaces. Because in the laboratory,
3 we were using grams of asbestos. Now, asbestos would be
4 5 to 7 percent of the dry that went in, and then we put
5 water on top of that. You can compare that to in a plant
6 you would be mixing a ton of asbestos in a mixer at one
7 time. That was a totally different situation than a
8 small tiny bit that we were doing.

9 Q But you never did any air sampling in the
10 laboratory, did you, sir?

11 A Never did any air sampling in the laboratory.

12 Q So you don't know what the air quality was when
13 they were scooping out the pure asbestos and putting it
14 in the mixer, do you, sir?

15 MR. BAILEY: Object to form.

16 THE WITNESS: That's correct, we did not.

17 BY MR. HART:

18 Q Okay. Let's go on. So you didn't take every
19 precaution to eliminate the hazard?

20 A Yes, we did we thought -- what we thought the
21 most reasonable thing. And mind you, we had no -- no one
22 from our plants getting problems, no one from the field
23 telling us there was a problem. Even the contractors
24 didn't want -- weren't interested in using the
25 asbestos-free materials. So we had no help from anybody,

1 but we were going to take it out in any event.

2 Q I'm talking about 1971 --

3 A I am too.

4 Q -- sir.

5 A I am too.

6 Q You didn't have any asbestos-free materials in
7 1971.

8 MR. BAILEY: Object to form.

9 THE WITNESS: In 1972 --

10 BY MR. HART:

11 Q One. 1971. Let's keep the time --

12 A Okay.

13 Q -- on this document.

14 A Okay. This is July.

15 Q In 1971, you did not have any asbestos-free
16 joint cements in 1971, did you, sir?

17 A No, sir. That's correct.

18 Q Okay.

19 A We did a year later.

20 Q In 1971.

21 A 1972 we did.

22 Q I understand that, sir.

23 A Okay.

24 Q Please, let's keep on topic.

25 A But I think that's important for you to know,

1 sir.

2 Q We -- we'll get to that.

3 A Okay.

4 Q Your lawyer will have a chance to ask you
5 questions, and he'll be free to ask you anything that he
6 thinks I should know.

7 A Okay.

8 Q Okay.

9 A That's great.

10 Q Now, the next paragraph talks about a
11 particular respirator was available to be used called a
12 Dustfoe 66.

13 Do you see that, sir? The last paragraph.

14 A Yes --

15 Q Okay. And it talks about it's approved for
16 respiratory protection. It says, Medical profession and
17 hygienists have stated that exposure to asbestos dust are
18 harmful as the respiratory system cannot expel the dust.

19 Is that what it states?

20 A That's what it says.

21 Q So you knew that at that time?

22 A Yes.

23 Q The particles lodge in the lungs and keep
24 building up and asbestosis results from exposure and
25 breathing of these dusts.

1 Do you see that?

2 A That's Mr. Fink's.

3 Q That's what he was telling you in this memo.

4 A But that's his -- that's his expression, not
5 mine.

6 Q Okay. But that's what he said at this time?

7 A That's what he said, yes.

8 Q Okay. He states -- and Mr. -- he was the
9 safety director?

10 A That's correct.

11 Q Okay. He had the power to make safety rules
12 for the plant?

13 MR. BAILEY: Object to the form.

14 BY MR. HART:

15 Q For the corporation.

16 A I don't think for the corporation.

17 Q Well, let's see what he says. He says, It
18 shall be mandatory that the employee or employees
19 handling the bags or containers of asbestos wear
20 respirators.

21 Do you see that?

22 A Yes.

23 Q Did he have the power to make that rule?

24 A Not for the corporation, I don't think. We
25 were only -- his only power was for the Gypsum division.

1 Q The Gypsum division?

2 A Yes.

3 Q Did he have the power to make that rule for the
4 Gypsum division?

5 A Yes.

6 Q Was the laboratory part of the Gypsum division?

7 A Yes.

8 Q Did you make employees in the laboratory who
9 were handling containers of asbestos or bags of asbestos
10 wear respirators in the laboratory?

11 A No.

12 Q Thank you, sir.

13 Do you recall a time period when the president
14 of the corporation, Mr. Hunt, asked you to correspond
15 with National Gypsum?

16 A Yes.

17 Q Okay. Let me show you a series of letters
18 here. We'll mark them separately.

19 (Thereupon, Exhibit 6 was marked for identification.)

20 (Thereupon, Exhibit 7 was marked for identification.)

21 (Thereupon, Exhibit 8 was marked for identification.)

22 BY MR. HART:

23 Q Exhibits 6, 7 and 8.

24 MS. DEMOREST: Tom, if you can just give me the
25 dates, I don't need a copy.

1 BY MR. HART:

2 Q Exhibit 6 is dated September 24, 1971, correct,
3 sir?

4 A Yes, that's true.

5 Q That's from Mr. Albert Fay at National Gypsum
6 Company --

7 A Yes.

8 Q -- the president, to the president of
9 Georgia-Pacific, Mr. W.H. Hunt, correct?

10 A That's correct.

11 Q Okay. And he talks about, Our tests indicate
12 that sanding of joint treatment products, and
13 particularly the spraying of wall finishes, offers some
14 substantial potential hazards.

15 Do you see that?

16 A Yes.

17 Q Okay. And so he's talking about sanding offers
18 potential hazards, not just spraying?

19 A That's what he says.

20 Q Okay. Now, your company didn't make the spray
21 products. You were trying to tell me that a few minutes
22 ago.

23 A No, I didn't tell you that.

24 Q Did your company make the spray products?

25 A What spray products?

1 Q Spray wall finishes.

2 MR. BAILEY: He's talking about fireproofing.

3 THE WITNESS: I was talking about

4 fireproofing --

5 BY MR. HART:

6 Q Okay.

7 A -- which is very different. We made textures.

8 You didn't give me a chance to get into that. We'll get

9 into it later.

10 Q Yeah.

11 A Okay.

12 Q He says, Mr. Fay is telling your company in
13 September of 1971 that the National Gypsum tests indicate
14 that sanding of joint treatment products offers some
15 substantial potential hazards; is that correct?

16 A That's what it says.

17 Q Okay. And Mr. Hunt, the president of the
18 company, sent this to you and asked you to respond,
19 correct?

20 A That's correct.

21 Q Okay. Exhibit Number 7 is the memo that
22 Mr. Hunt -- or that you sent to Mr. Hunt in response?

23 A Yes.

24 Q Okay. You told him that, Our joint compounds
25 and interior surfacing textures contain 3 and 7 percent

1 asbestos, correct?

2 A That's correct.

3 Q In the next paragraph, you say Glenn has asked
4 us to try to eliminate the asbestos in these products,
5 correct?

6 A Yes.

7 Q And then you state, at the end of that
8 paragraph, If National Gypsum is correct, what Mr. Fay is
9 saying about the sanding being a problem, the joint
10 compounds will also come under considerable pressure from
11 the environmental people.

12 A Sure.

13 Q Okay. What environmental people are you
14 talking about? Dr. Selacal?

15 MR. BAILEY: Object to form.

16 THE WITNESS: No. There were all kinds of
17 environmental people around. The companies had
18 somebody in that particular area. We did not
19 have -- we had one corporately, but we didn't have
20 anybody other than Matt Fink, who would not be
21 really considered an expert in that particular
22 field.

23 BY MR. HART:

24 Q Okay. Well, Mr. Fink had told you that he
25 thought exposure to asbestos fibers was a hazard.

1 A That's what he said.

2 Q Okay. And so he was the person you had most
3 knowledgeable about asbestos at that time, correct?

4 MR. BAILEY: Object to form.

5 THE WITNESS: No, he wasn't the most
6 knowledgeable person about asbestos.

7 BY MR. HART:

8 Q Well -- and Mr. Fay told you that sanding
9 offers substantial potential hazards, correct?

10 A That's what he said.

11 Q Okay. And you're telling your president that,
12 if he's correct, then you're going to have considerable
13 pressure from the environmental people --

14 A Yeah.

15 Q -- because of the --

16 A Well, we would.

17 Q -- potential hazards from sanding?

18 A There's a potential hazard, and so we -- I
19 think it goes on to say we're going to eliminate
20 asbestos.

21 Q Okay.

22 A Am I right? You're asking the questions.

23 Q So you write back to Mr. Fay on Exhibit 7 and
24 you claim that in 1971, you weren't up to date on any
25 proposed restrictions.

1 MR. BAILEY: Object to form.

2 BY MR. HART:

3 Q Those are the words you used, right?

4 MR. BAILEY: Read it first.

5 BY MR. HART:

6 Q You say, We're not up to date on any proposed
7 restrictions on joint treatment products or textures.

8 Do you see that?

9 A That's correct.

10 Q Okay. So you weren't even keeping up with the
11 regulations on joint cement, is what you told Mr. Fay.

12 A There were no regulations.

13 Q OSHA hadn't been enacted by this time?

14 A I don't think -- OSHA didn't have any
15 regulations at this point.

16 Q Okay. We'll leave that to others to talk
17 about. It says, Thank you for bringing this to our
18 attention. It is a subject of concern.

19 Is that what you write?

20 A Sure.

21 Q Okay. And you --

22 A It is.

23 Q -- were concerned because there was a potential
24 health hazard from sanding of joint cements that you made
25 if Mr. Fay was right.

1 MR. BAILEY: Object to the form.

2 THE WITNESS: It was a concern for -- if there
3 was a hazard, that we wanted to eliminate it. We
4 didn't have any real hard evidence that there was.

5 BY MR. HART:

6 Q But Mr. Fay was telling you there was.

7 A Well, that's -- that's his view.

8 Q And you didn't do any testing of the joint
9 cement to see if it was a potential hazard in 1971, did
10 you?

11 MR. BAILEY: Object to form.

12 THE WITNESS: We were taking it out.

13 BY MR. HART:

14 Q But you left it in some products and you never
15 tested the hazards for the products you left it in, did
16 you, sir?

17 MR. BAILEY: Object to form.

18 THE WITNESS: We always tested it for
19 everything that OSHA required of us. We ran all of
20 the plant tests. We had special change rooms. We
21 had six-month x-rays for the people, and it goes on
22 and on. Special bags to put the asbestos in. And
23 of course we were doing the air monitoring.

24 BY MR. HART:

25 Q But you didn't do any of those things in the

1 laboratory, did you, sir?

2 A No, sir.

3 MR. HART: Let's take a break. We have to
4 change the tape.

5 VIDEOGRAPHER: We're going off the record. The
6 time is approximately 12:24 p.m.

7 (Thereupon, a lunch break was taken.)

8 VIDEOGRAPHER: We're back on the record. The
9 time is 1:17 p.m. This begins Video Number 2.

10 BY MR. HART:

11 Q All right. Mr. Lehnert, are you ready to
12 proceed?

13 A Yes.

14 Q Earlier we talked about Exhibit 3, which was
15 the student handbook for the CE2 program?

16 A Yes.

17 Q We examined it and saw that you were a member
18 of the board of directors of that program; is that
19 correct?

20 A That's correct.

21 Q And you thought it was different from the EBCE
22 program that was described by Mr. Robbins; is that
23 correct?

24 A Yes, it was different.

25 Q Well, let me show you Exhibit Number 9.

1 (Thereupon, Exhibit 9 was marked for identification.)

2 BY MR. HART:

3 Q This was marked at Mr. Robbins' deposition, I
4 believe. This was a brochure talking about the EBCE
5 program.

6 Do you see that?

7 A Yes.

8 Q And I put some tabs there. And if you'd go to
9 the tabbed page, and -- which in the document, it says at
10 the top, What is EBCE?

11 Do you see that?

12 A Yes.

13 Q It says, on the highlighted portion I've
14 highlighted for you, The Tigard version of EBCE called
15 Community Experiences for Career Education, or CE2, is a
16 full-time educational alternative for youth in the junior
17 and senior high school years.

18 Do you see that?

19 A Yes.

20 Q Okay. So the program that Mr. Robbins
21 described, EBCE, is also called the CE2 program,
22 according to this; is that correct?

23 A That's not my recollection, however. I don't
24 remember anything about EBCE.

25 Q Okay. But just because you don't remember it,

1 it doesn't mean it's not true.

2 A It says here that there's a full-time
3 educational alternative for youth, and CE2 was not a
4 full-time. Excuse me.

5 Q It was five or six hours a day?

6 A No. I meant -- I don't know that it was five
7 or six hours a day.

8 Q Okay. And Mr. Robbins, on this same page,
9 identified himself as sitting down on the front row next
10 to the gentleman in a wheelchair.

11 Were you aware of that? Did you see that in
12 his deposition?

13 A Is that the same page?

14 Q Yeah.

15 A I don't see that. I don't see where that is.

16 Q See the gentleman in the wheelchair in the
17 lower left-hand portion of the photograph?

18 A Yes.

19 Q Next to him is a gentleman sitting on the
20 ground. Mr. Robbins described himself as the gentleman
21 sitting on the ground.

22 MR. BAILEY: Object to form.

23 BY MR. HART:

24 Q Do you recall that from the deposition when you
25 read it?

1 A No.

2 Q This document, which was part of Mr. Robbins'
3 deposition -- and you read his deposition, correct?

4 A Yes.

5 Q Okay. And it says that the Tigard version of
6 the EBCE is called Community Experiences for Career
7 Education or CE2.

8 Do you see that, sir? That's on this document.

9 A Where is that?

10 Q In the highlighted portion, sir.

11 A Oh, in here, yeah.

12 Q And you were the board of directors of the CE2;
13 is that correct?

14 A I was on the board of directors of the CE2.

15 Q You don't remember any students -- you just
16 don't recall any students working at Georgia-Pacific who
17 stayed there?

18 A At all, yes.

19 Q Okay.

20 A Except the one girl who came over and she
21 decided that was not for her.

22 Q Okay. Now, the next document I want to talk to
23 you about we'll mark as Exhibit Number 10.

24 (Thereupon, Exhibit 10 was marked for identification.)

25 BY MR. HART:

1 Q This is a document called The Asbestos Control
2 Program dated February 8, 1973.

3 Do you see that?

4 A Yes.

5 Q And from the stamp at the top, do you see where
6 it went to Mr. Rauch at Akron?

7 A Yes.

8 Q Okay. Who was he, sir?

9 A He was the plant manager at the Akron plant.

10 Q Okay. Apparently he or somebody circled or
11 botched in a portion and wrote, Note, we recommend that
12 signs be posted in the joint systems areas as instructed
13 on page 11321.

14 Do you see that?

15 A Yes.

16 Q Okay. And those would be caution signs,
17 correct?

18 A Yes.

19 Q Okay. And he said, Also, wearing respirators
20 must be strictly enforced.

21 Do you see that?

22 A Yes.

23 (Thereupon, Exhibit 11 was marked for identification.)

24 BY MR. HART:

25 Q And what we'll mark here as Exhibit 11 is a

1 copy of the same document that was sent to you; is that
2 correct?

3 A It was sent to the plant managers. It wasn't
4 sent to me. I got a carbon copy .

5 Q Right. But Exhibit 11 is a copy of the actual
6 one that went to you, because it has a stamp on it that
7 says this copy for C.W. Lehnert.

8 A It says I had a copy, yes.

9 Q Okay. That's a copy of what you actually
10 received, correct?

11 A Yes.

12 Q Is that your handwriting in the upper left-hand
13 corner?

14 A Upper left-hand corner. I can't see it. I
15 can't read it. I'm sorry.

16 Q You don't know if that's your handwriting?

17 A It doesn't look like my handwriting, but I
18 can't say that's not because I can't read it.

19 Q No problem.

20 A It says C.W.L. here. Somebody -- it looks like
21 somebody is directing something to me, remember
22 something.

23 Q Okay.

24 A Okay.

25 Q So you received a copy of the rules and

1 regulations that were attached to this document about
2 asbestos, and you saw the recommendation of wearing
3 respirators be strictly enforced; is that correct?

4 MR. BAILEY: Object to form.

5 THE WITNESS: Is this it here? I'll have to
6 read it.

7 BY MR. HART:

8 Q Yeah. It's the same as the other one where
9 I've highlighted it.

10 A The same as this one?

11 Q Yes, sir.

12 A Oh, that's the same document?

13 Q Yes, sir?

14 MR. BAILEY: Sir, that's not the question.

15 MR. HART: Yes, sir.

16 THE WITNESS: What's the question?

17 BY MR. HART:

18 Q Exhibit 10 is the same document.

19 A Yeah.

20 Q And so you actually received it and you were
21 aware of the recommendation to wear respirators; is that
22 correct?

23 A Yes.

24 MR. BAILEY: Object to the form.

25 BY MR. HART:

1 Q Thank you.

2 Now, as of February 8, 1973, you did not
3 require the use of respirators in the laboratory,
4 correct?

5 A Yes.

6 Q Now, what we'll mark as Exhibit 12 is also
7 1973.

8 (Thereupon, Exhibit 12 was marked for identification.)

9 BY MR. HART:

10 Q Your plants began receiving inspections from
11 OSHA, did they not, in 1973?

12 A That's possible.

13 Q This is dated June 19, 1973. It's from
14 Mr. Rauch?

15 A "Rauch."

16 Q "Rauch"?

17 A Yes.

18 Q The plant manager to Mr. Wilson, correct?

19 MR. BAILEY: Objection. I think you're reading
20 it --

21 BY MR. HART:

22 Q Oh, backwards.

23 From Mr. Wilson to Mr. Rauch?

24 A Yes.

25 Q And it discusses a citation they received from

1 the Department of Labor, OSHA, regarding asbestos,
2 correct?

3 A Yes.

4 Q And this says, We advise you to proceed as
5 rapidly as possible on an emergency basis to correct
6 this.

7 Do you see that, sir?

8 A Yes.

9 Q Okay. Because any kind of exposure of persons
10 to asbestos in 1973 was known to be a serious hazard; is
11 that correct?

12 MR. BAILEY: Object to form.

13 THE WITNESS: Mr. Wilson says that they got a
14 citation from the U.S. Department of Labor. He's
15 saying that you better do what's necessary to do.
16 One thing I would add to this, maybe I'm not
17 supposed to add, but the New York plant also had New
18 York regulations which were separate. So they had a
19 big problem in trying to satisfy everybody.

20 BY MR. HART:

21 Q Okay.

22 A But Mr. Wilson got on them, as he should have.

23 Q Keep that in front of you, please, sir.

24 This was actually from OSHA, the federal
25 government, correct? U.S. Department of Labor, it says.

1 A Well, I don't know that that's OSHA. I don't
2 think -- I don't necessarily think that's OSHA.

3 Q Okay. Well, they got a citation from the
4 Department of Labor about asbestos.

5 A Yeah, but it doesn't say OSHA. I don't think
6 it was probably OSHA --

7 Q Okay.

8 A -- or it would have said OSHA.

9 Q And the citation involved employees that were
10 exposed to asbestos, correct?

11 A Yes.

12 Q And Mr. Wilson told Mr. Rauch that, Correct
13 that exposure as rapidly as possible on an emergency
14 basis, correct?

15 A That's right.

16 Q Because it was known in 1973 that exposure to
17 asbestos could be hazardous?

18 MR. BAILEY: Object to form.

19 THE WITNESS: And also we had to -- we were
20 supposed to -- the plants were supposed to -- were
21 told that they should comply with these regulations.

22 BY MR. HART:

23 Q Okay. And then look at the last paragraph.
24 Mr. Wilson tells Mr. Rauch, I'd ask you to send a copy of
25 the citation to the other joint cement operations for

1 their information and also so they can proceed with
2 corrective measures prior to OSHA inspection for the same
3 violations.

4 Do you see that?

5 A Yeah, these are similar -- apparently these are
6 other violations in addition to this -- the violations
7 he's talking about up here that was the Department of
8 Labor.

9 Q You think they're different?

10 A I think they're different.

11 Q Okay. Now, you received a copy of this. It's
12 shown at the bottom there. Your name is on there. It
13 says the Tigard lab, correct?

14 A Yes.

15 Q And -- and you didn't take any corrective
16 action at the Tigard lab as a result of receiving this;
17 is that correct?

18 A Yes. It was a plant that had nothing to do
19 with me really.

20 Q Okay. And then a year later -- this is Exhibit
21 13.

22 (Thereupon, Exhibit 13 was marked for identification.)

23 BY MR. HART:

24 Q Mr. Wilson wrote to Mr. Hollingsworth and
25 Mr. Richards. Mr. Richards was at the Tigard lab,

1 correct?

2 A I don't know if he was at this time. Probably
3 not at this time.

4 Q If you look over to the right, it says he was.

5 A It does say he was?

6 Q Across from his name.

7 A Okay.

8 Q Location, Tigard lab.

9 A Okay.

10 Q And they're stating -- this was a year after
11 the other citation. And it says your plant in Chicago,
12 not the New York plant, but the plant in Chicago, it
13 says, received numerous citations almost identical to
14 those received in Akron one year ago.

15 Do you see that in the second paragraph?

16 A Yes, yes.

17 Q Okay. And so the corrections hadn't been made
18 in Chicago, correct?

19 A That's what it says here.

20 Q And had you made any changes with respect to
21 handling asbestos in the Tigard lab between 1973 and
22 1974?

23 MR. BAILEY: Object to form.

24 THE WITNESS: We had no regulations in the
25 Tigard lab.

1 BY MR. HART:

2 Q You had nothing at all?

3 A That's correct.

4 MS. DEMOREST: Tom, excuse me, what was the
5 date of that exhibit, 13?

6 MR. HART: It was May 20, 1974.

7 MS. DEMOREST: Thank you.

8 MR. HART: Sure.

9 BY MR. HART:

10 Q Now, did any of your laboratories ever get
11 cited for exposing persons to asbestos?

12 A No.

13 Q Okay. Did you -- you had plants in -- you
14 talked about Akron, New York, correct?

15 A Yes.

16 Q You had the ones in Chicago, Illinois?

17 A That's correct.

18 Q We've talked about Wilmington, Delaware,
19 correct?

20 A Yes. Let's see. No, there was no joint
21 compound plant in Wilmington.

22 Q A different type of plant?

23 A Yes.

24 Q Okay. You had some operations in Baltimore?

25 A Not that I know of.

1 Q You had a manufacturing plant in Marietta,
2 Georgia?

3 A That's correct.

4 Q And that made asbestos?

5 MR. BAILEY: Object to form.

6 BY MR. HART:

7 Q I mean, it used asbestos for a period of time?

8 A Yes.

9 Q And did -- were there any laboratory facilities
10 in Marietta?

11 A They had some. All of the joint compound
12 plants had some minor laboratory facilities.

13 Q Could they mix up small formulations?

14 A Yes, they could.

15 Q Just like you did in your laboratory there?

16 A Yes.

17 Q And do you recall that the laboratory in
18 Marietta, Georgia got cited because they exposed
19 employees to asbestos?

20 MR. BAILEY: Object to form.

21 THE WITNESS: I don't recall such a citation.

22 BY MR. HART:

23 Q Okay.

24 (Thereupon, Exhibit 14 was marked for identification.)

25 BY MR. HART:

1 Q Well, let's look at the next exhibit, which is
2 14. It's dated December 1st, 1975?

3 A Yes.

4 Q Okay. It's direct -- it's from Mr. Sharp?

5 A Yes.

6 Q Who was he?

7 A He was the manager of the Milford ready mix
8 plant.

9 Q Okay. And where was Milford? Delaware?

10 A It was in Virginia.

11 Q Virginia, okay.

12 A Uh-huh.

13 Q He wrote it to Mr. Wilson, who was the vice
14 president, you told me.

15 A Yes.

16 Q And Mr. Hollingsworth, who was also in
17 Wilmington?

18 A Yes.

19 Q Okay. It says, Attached you will find a
20 copy of our OSHA inspection report which was issued as a
21 result of an inspection made at our plant during October
22 of 1975.

23 Do you see that?

24 A Yes.

25 Q Okay. Now, were the plants that had

1 laboratories like Marietta, were those labs under your
2 supervision as the laboratory director in Tigard?

3 A No.

4 Q Okay. Let's look at -- if you'll look at the
5 fourth page. I think there may be a tab on the side.

6 A Okay.

7 Q Do you see the one item that was noted, item
8 3 --

9 A Yes.

10 Q -- we failed to include laboratory employees
11 when monitoring asbestos dust. This program was added to
12 the other test dust programs.

13 Do you see that?

14 A Yes.

15 Q Now -- so they got cited because they didn't
16 monitor the air in their laboratory for the laboratory
17 employees, correct?

18 MR. BAILEY: Object to form.

19 THE WITNESS: That's what it says, yes.

20 BY MR. HART:

21 Q Okay. You didn't monitor the air in your
22 laboratory for asbestos in Tigard in 1975; is that
23 correct?

24 A We didn't have the same kind of laboratory. We
25 didn't have any manufacturing facilities in Tigard.

1 Q Okay. But --

2 A That's why we wouldn't have had a --

3 Q But their laboratory in Marietta, Georgia
4 was -- let me finish. I know you want to say something
5 and I'll let you.

6 The laboratory in Marietta, Georgia was a small
7 laboratory, smaller than the Tigard one, correct?

8 MR. BAILEY: Object to form.

9 THE WITNESS: Oh, yes.

10 BY MR. HART:

11 Q Okay. And one of the things that the Marietta
12 laboratory could do was to test small formulations of
13 joint cement products, correct?

14 A Yes.

15 Q The -- the Tigard lab could conduct tests of
16 joint cement products also, correct?

17 A Yes.

18 Q This citation said that the Marietta laboratory
19 violated OSHA because they did not monitor the employees
20 for asbestos dust in the laboratory, correct?

21 MR. BAILEY: Object.

22 THE WITNESS: I'm not sure exactly but --

23 BY MR. HART:

24 Q Well, let's look at it.

25 A -- the laboratory was a part of the plant.

1 Q Okay. Well, let's look at it.

2 A Our laboratory was not part of the plant.

3 Q It says, We failed to include the laboratory
4 employees when monitoring asbestos dust.

5 Do you see that?

6 A Well, I don't know maybe the laboratory
7 employees were in the plant.

8 Q But you don't know that. You're guessing?

9 A No. Why -- why wouldn't they be in the plant?
10 That's what their job was.

11 Q Let's look at this.

12 A They were working there.

13 Q Let's look at this.

14 A Okay.

15 Q It says --

16 A I see what you're saying. I think you're
17 trying to make more out of it than what is here.

18 Q It says, We failed to include --

19 A Include the laboratory employees.

20 Q When monitoring --

21 A When monitoring asbestos.

22 THE COURT REPORTER: You guys have to go one at
23 a time, please.

24 BY MR. HART:

25 Q When monitoring asbestos dust.

1 A Sure.

2 Q Okay. And you did not include laboratory
3 employees in your air monitoring program in Tigard,
4 correct?

5 A We didn't have an air monitoring program in
6 Tigard.

7 Q Okay. Thank you.

8 And I think there may be a -- is there another
9 tab?

10 A Yeah, there's one more tab here.

11 Q Look at that. This is the actual citation that
12 was issued by the Department of Labor for an OSHA
13 violation. If you look at the last one, number 3 --

14 A Yeah.

15 Q -- failed to perform initial determination of
16 asbestos within six months of publication of Section
17 1910 --

18 A Yes.

19 Q -- and exposed employees to hazard of asbestos
20 in the laboratory.

21 Do you see that?

22 A Yes.

23 Q Okay. What exhibit number is that, sir?

24 A This is Number 14.

25 Q Okay. And in December of 1975 did you make any

1 changes to the laboratory program in Tigard so that
2 employees would be monitored who worked with asbestos?

3 A We didn't have a program to change.

4 Q Okay. You didn't have any program whatsoever?

5 MR. BAILEY: Object to form.

6 THE WITNESS: We had a program, yes.

7 BY MR. HART:

8 Q Describe the program to protect employees from
9 asbestos you had in Tigard.

10 A We had a program to eliminate asbestos which
11 was better than correcting some small -- the little
12 things that we were doing.

13 Q Okay. But asbestos was still being used in
14 1975 in the lab, correct?

15 A Yes.

16 Q And other companies', competitors' asbestos
17 products were tested in 1975, as we saw in Exhibit 2,
18 correct?

19 A Yes.

20 Q Okay. And there was no program to protect the
21 workers from the asbestos contained in those products,
22 correct?

23 A There was never a program to protect the
24 workers in the laboratory.

25 Q Okay. Thank you, sir.

1 Now, the next exhibit I want to ask you about
2 is going back to 1973.

3 MR. HART: What was that last number?

4 MR. LANDENBURG: Fourteen.

5 (Thereupon, Exhibit 15 was marked for identification.)

6 BY MR. HART:

7 Q This is a document a dated June 19, 1973. You
8 wrote this document, correct?

9 A Yes.

10 Q All right. You wrote it to Mr. Woodsmall?

11 A Yes.

12 Q He was in Detroit?

13 A Yes.

14 Q And this talked about asbestos fiber in joint
15 compounds. You start off by saying -- and this looks
16 like a true and accurate copy of what you wrote back in
17 1973?

18 A Yes.

19 Q Okay. Your initials, your signature is on the
20 second page?

21 A Yes. I wrote that document. My signature is
22 at the bottom.

23 Q It says, I will try to respond to your
24 customer's concern about asbestos fiber prompted by our
25 labeling of joint system bags.

1 So some customer in Detroit had expressed a
2 concern over the presence of asbestos in the material?

3 A Yeah, had expressed a concern about the label,
4 which had not been on previously.

5 Q Okay. And you said this caution label is
6 required by OSHA?

7 A That's correct.

8 Q You say, We've always used asbestos fiber in
9 our joint system products.

10 A That's correct.

11 Q So if there's a hazard, it's no different today
12 than it has been in the past.

13 Correct?

14 A That's correct.

15 Q The hazard is the inhalation of asbestos fiber,
16 correct?

17 A That's correct.

18 Q So you knew that the danger from asbestos came
19 from breathing it in 1973.

20 MR. BAILEY: Object to form.

21 THE WITNESS: Well, we're talking about --

22 we're not -- not talking about the danger. We're
23 talking about the --

24 BY MR. HART:

25 Q The hazard.

1 A -- the regulation.

2 Q Well, no. What you write here is, The hazard
3 is the inhalation of asbestos fiber.

4 MR. BAILEY: Object to form.

5 BY MR. HART:

6 Q Do you see that?

7 MR. BAILEY: Object to form.

8 THE WITNESS: Yes.

9 BY MR. HART:

10 Q Okay. So you knew that breathing asbestos dust
11 was a hazard?

12 MR. BAILEY: Object to form.

13 THE WITNESS: We have always used asbestos
14 fiber. I've said since the year one, I guess, we've
15 always used it in our joint system products. So if
16 there is a hazard, if there is a hazard --

17 BY MR. HART:

18 Q That's no different today than it has been in
19 the past?

20 A Yes.

21 Q And the hazard is inhalation or breathing of
22 asbestos fiber?

23 MR. BAILEY: Object to form.

24 THE WITNESS: Well, that's --

25 BY MR. HART:

1 Q That's what you said.

2 A Yeah, I was referring to that as the -- my
3 thinking, I believe now, to go back and cite exactly what
4 this meant, was to explain to someone why we put the
5 label on, why we were putting that label on. And so I
6 was referring always here to the requirement, the OSHA
7 requirement with regards to what I said here. I'm sure I
8 was still referring to the requirement to do that.

9 Q Okay. Well, let's look at -- let's look at
10 what you did explain to him.

11 A Okay.

12 Q Look at the third paragraph.

13 A Uh-huh.

14 Q Didn't you tell him, I'm not aware of any OSHA
15 regulations for the use of joint system products?

16 A That's right.

17 Q You told him there were no regulations
18 requiring labeling.

19 A Use.

20 MR. BAILEY: Object --

21 BY MR. HART:

22 Q Oh, use, okay.

23 However -- and then you write, you tell him,
24 However, it is recognized there is some exposure during
25 mixing of dry products and the sanding of joints after

1 the joint compounds have been applied.

2 Correct?

3 A Correct.

4 Q So you recognized there was exposure to
5 asbestos from those operations?

6 A Exposure, yes.

7 Q The level of asbestos fiber concentration at
8 these times is not presently known.

9 Is that correct?

10 A That's correct.

11 Q Now, let's stop there.

12 You didn't know what level of asbestos was
13 present in the air when somebody sanded your joint
14 cement, correct?

15 A In the field?

16 Q Yes, sir.

17 A Yes, we did not know.

18 Q And did you not do any tests yourself,
19 Georgia-Pacific, to determine what was the level of
20 asbestos in the air?

21 MR. BAILEY: Object to form.

22 BY MR. HART:

23 Q In 1973.

24 A Oh, in 1973?

25 Q Yes, sir.

1 A I'm not sure about that. There may have been
2 one occasion when we did.

3 Q Georgia-Pacific itself?

4 A Yes.

5 Q Okay. What about 1974?

6 A Well, I don't know. I can't go back this many
7 years and recall. There was one instance where we did.
8 That's all I can tell you.

9 Q Okay. You do state, The industry is currently
10 planning tests to determine the level of airborne
11 asbestos during the mixing and sanding.

12 You told them that, correct?

13 A Yes.

14 Q And those were tests that were going to be done
15 by the Gypsum Association?

16 A In conjunction with the gypsum drywall
17 contractors.

18 Q Those were tests that you learned later were
19 done in Colorado, correct?

20 A I don't remember where they were done.

21 Q But they were done by the Gypsum Association?

22 A Well --

23 MR. BAILEY: Object to form.

24 THE WITNESS: -- the Gypsum Association and the
25 GDCI organized the --

1 BY MR. HART:

2 Q Okay.

3 A -- the tests.

4 Q Did you keep abreast of the results of those
5 tests as the director of the laboratory?

6 A I'm sure I did. I don't remember exactly what
7 they were now.

8 Q Okay.

9 A I think they were quite high.

10 Q Okay.

11 A But they were -- you know, but that was -- they
12 didn't do it according to any regulated method.

13 Q Okay. The results they had were -- when you
14 say "quite high," you mean they are high levels of
15 asbestos reported?

16 MR. BAILEY: Objection.

17 BY MR. HART:

18 Q During sanding.

19 A I don't think this was sanding. This was
20 mixing.

21 Q Mixing, okay.

22 Okay. And you remember that when they tested,
23 they tested the mixing and then they tested the sanding
24 and they tested the cleanup afterwards, the sweeping.

25 MR. BAILEY: Object to form.

1 THE WITNESS: I don't remember all of that.

2 BY MR. HART:

3 Q The tests are whatever they show?

4 A Yes.

5 Q Some of the results were quite high?

6 A Yes.

7 Q Now, you tell Mr. Woodsmall that -- in the next
8 sentence, In the meantime, it would probably be advisable
9 for workers engaged in these operations to wear
10 respirators.

11 Do you see that?

12 A Yes.

13 Q Okay. And what you're referring to is the
14 mixing of dry products and the sanding of joints after
15 the joint compounds have been applied?

16 That's what's right above there.

17 A Okay. Yes, that's correct.

18 Q Okay. So you tell Mr. Woodsmall that workers
19 engaged in mixing dry products and sanding of joints
20 after joint compound has been applied should wear
21 respirators in 1973, correct?

22 A Yes.

23 Q Okay. And then workers in your lab in 1973
24 doing the same jobs were not advised to wear respirators,
25 correct?

1 MR. BAILEY: Object to form.

2 THE WITNESS: No, that's incorrect.

3 BY MR. HART:

4 Q Okay. Workers doing the testing by sanding of
5 joint compound in your laboratory, were they ever advised
6 to wear respirators?

7 A No.

8 Q No, okay. Thank you.

9 What number is that, sir?

10 A This was 15.

11 Q Fifteen?

12 A Yes.

13 Q Did you ever tell employees in the laboratory
14 when they mixed dry products, joint cement products, that
15 they should wear respirators?

16 A No.

17 Q Did you ever tell employees in the laboratory
18 when they sanded joints after joint compounds had been
19 applied to wear respirators?

20 MR. BAILEY: Object to form.

21 THE WITNESS: No. That was the test.

22 BY MR. HART:

23 Q Yes, it is.

24 And you didn't know what the levels would be of
25 exposure, did you?

1 MR. BAILEY: Object to form.

2 THE WITNESS: No.

3 BY MR. HART:

4 Q Because you never monitored.

5 A That's correct, we never monitored.

6 (Thereupon, Exhibit 16 was marked for identification.)

7 BY MR. HART:

8 Q Next exhibit number I believe it's 17 -- no,
9 16. There it is.

10 This is a memo from Mr. Burch to Mr. Wilson
11 that was copied to you; is that correct, dated May 17,
12 1974?

13 A Yes.

14 Q Now, who is Mr. Burch in 1974 in Portland?

15 A He was a sales manager for the Gypsum division.

16 Q Was he responsible for sales of items including
17 joint cements?

18 A Yes.

19 Q Okay. And this was sent -- a copy of this was
20 sent to you, correct?

21 A Yes.

22 Q It says, Attached appeared in the Walls &
23 Ceilings magazine May issue. This is the first time I've
24 seen actual cases reported.

25 Is that correct? Is that what the memo says?

1 A Yes.

2 Q And attached to it is an excerpt from a Walls &
3 Ceilings magazine talking about some workers who had
4 x-ray evidence of fibrosis or excessive secretion buildup
5 in the lungs from working with drywall finishing.

6 Correct?

7 A That's what it says.

8 Q Okay. And this was May of 1974, before
9 Mr. Robbins described coming to work in the Tigard lab;
10 is that correct?

11 A That's correct.

12 Q Were you aware that persons were --

13 A I don't know if Mr. Robbins ever came to do
14 that work because I just don't remember that.

15 Q Okay.

16 A So I shouldn't answer that -- that -- I should
17 say if he were there.

18 Q Okay. The time he described going there.

19 A Okay.

20 Q Okay. And have you seen the school records
21 that showed that he worked there for that program?

22 MR. BAILEY: Object to form.

23 THE WITNESS: What school records?

24 MR. BAILEY: He wants to know if you've seen
25 school records.

1 MR. HART: Excuse me. I'll ask the questions,
2 Counsel.

3 BY MR. HART:

4 Q Have you seen Mr. Robbins' school records that
5 show that he worked in that program?

6 A No.

7 Q Okay. Were you aware, before 1974, that
8 persons were actually getting sick from working with
9 joint systems containing asbestos?

10 MR. BAILEY: Object to form.

11 THE WITNESS: No.

12 BY MR. HART:

13 Q Okay. This was the first notice you received?

14 MR. BAILEY: Object to form.

15 THE WITNESS: This was -- this -- I'm not sure
16 the validity of this or where it came from. Maybe
17 somebody else was. But I don't know what all
18 this -- was involved in this, so I couldn't attest
19 to its validity.

20 BY MR. HART:

21 Q Right. But this at least was something that
22 was called to your attention --

23 A It was called to Mr. Wilson's attention.

24 Q Let me finish. Let me finish.

25 When Mr. Wilson -- Mr. Burch passed this on to

1 you also, and he was calling, to Mr. Wilson's attention
2 as well as you, that people were getting -- it was
3 reported in the Walls and Ceiling magazine that people
4 were getting sick from joint systems containing asbestos
5 fibers.

6 MR. BAILEY: Objection.

7 BY MR. HART:

8 Q Correct?

9 A He gave me a copy of it, yes.

10 Q And did you read it?

11 A Yes.

12 Q And so this is the first time anybody ever gave
13 you any allegations that someone was getting sick from
14 joint cement?

15 MR. BAILEY: Object to form.

16 THE WITNESS: That's the first one I remember
17 reported. I don't know the validity of this one.

18 BY MR. HART:

19 Q Did you investigate?

20 A No, sir. My job was to take the asbestos out
21 of the joint compound.

22 Q Okay. Well, did you take any steps in your
23 laboratory in 1974 to change any procedures for people
24 who worked with asbestos?

25 A No.

1 Q Okay.

2 BY MR. HART:

3 Q The next document is Number 17. It's dated the
4 same day. The last one, if you'll look at that, it was
5 dated -- was it June 19?

6 MR. BAILEY: May 17.

7 THE WITNESS: May 17.

8 BY MR. HART:

9 Q Oh, May 17. Excuse me. My error.

10 Let's talk about one in June, then.

11 A This is Woodsmall again. We already did this.

12 Q Pardon me?

13 A Is this the same letter to Woodsmall? We
14 talked about this. Do you want to talk about it again?

15 Q Is that the same one we've already marked?

16 A Yes.

17 Q I apologize, sorry. That's why the date --

18 A I think that's exhibit --

19 MR. BAILEY: That's Exhibit 15.

20 MR. HART: I'll withdraw that one since we
21 already have it marked, and we'll mark this one as
22 15 (sic).

23 MR. BAILEY: Hang on. Mark it as 18. 17
24 was --

25 MR. HART: Okay. I'll withdraw 17, and I'll

1 mark this as 17.

2 (Thereupon, Exhibit 17 was marked for identification.)

3 BY MR. HART:

4 Q And it's from Mr. O'Neil to yourself, correct?

5 A That's correct.

6 Q Okay. Who was Mr. O'Neil?

7 A He did not work for me. He worked for --
8 remember, we said there was a technical group that worked
9 with the plants, and he was that person.

10 Q Okay. And he's reporting to you what took
11 place at the Gypsum Association special committee meeting
12 on joint compound hazards, correct?

13 A That's correct.

14 Q And it was held in Chicago on August 8, 1973?

15 A Yes.

16 Q And he was reporting to you what took place
17 there; is that correct?

18 A That's correct.

19 Q And he states in the second paragraph, Because
20 of the fact that these products contain asbestos, all
21 should be labeled with the standard asbestos caution
22 label. This includes Ready Mix.

23 Is that correct?

24 A That's correct.

25 Q So the ready mix is the product that's wet and

1 does not have to be dry mixed; is that correct?

2 A Yes.

3 Q And Mr. O'Neil was saying that the -- because
4 it contains asbestos, the asbestos caution should be
5 placed on that material also, correct?

6 A Yes.

7 Q And that's because even ready mix has to be
8 sanded once it's dried, correct?

9 A That's correct.

10 Q Okay. Special caution instructions should be
11 included to warn of the dust hazard.

12 Do you see that?

13 A Yes.

14 Q Okay. And the dust hazard he's talking about
15 in ready mix would come from the sanding of it.

16 A That's the only place it could come from.

17 Q Okay. And so -- and the dust hazard -- the
18 reason why that dust is a hazard is because it contains
19 asbestos, according to Mr. O'Neil, correct?

20 MR. BAILEY: Object to form.

21 THE WITNESS: That's what it says here.

22 BY MR. HART:

23 Q Okay. And that's what he wrote you?

24 A Yes.

25 Q Okay. And then he's reporting to -- that the

1 meeting of the industry who got together on August 8,
2 1973 included your competitors, correct?

3 A That's what it says.

4 Q And this is the same Gypsum Association we
5 talked about a few months ago?

6 A Yes.

7 Q And he says, in the last paragraph there, Did
8 you see, it is the writer's opinion?

9 A Yes.

10 Q We should be carrying out our own monitoring
11 program.

12 He's talking about there monitoring the air for
13 asbestos; is that correct?

14 A I assume that's correct.

15 Q Okay. And that we should set up procedures for
16 recordkeeping at all plants, and that each plant should
17 be regularly inspected with particular emphasis on
18 enforcing a strict housekeeping program.

19 Do you see that?

20 A Yes.

21 Q Okay. And he also continues, It appears that
22 we may not be taking a sufficiently serious view of this
23 whole problem and may be exposing the company to heavy
24 fines from OSHA.

25 Do you see that?

1 A I see that.

2 Q Okay. And that was Mr. O'Neil's opinion that
3 he expressed to you in 1973?

4 A That's correct.

5 Q Then he goes on to give some details about the
6 agenda at the meeting, and says that, in the second page,
7 It was also agreed that immediate action be taken to
8 label ready mix and bags to protect the manufacturer from
9 liability due to asbestos and dust; i.e., ready mix would
10 be labeled with the caution asbestos label.

11 Do you see that?

12 A Yes.

13 Q Before this time, you did not have warnings on
14 ready mix; is that correct?

15 A We had them on -- actually, I think we had them
16 on before they were even required. But my recollection
17 is when we did put them on, we were the only ones that
18 put in that the applicators should use a respirator.

19 Q Okay. But you never told the applicators who
20 worked -- the testers in your laboratory to wear a
21 respirator, correct?

22 A That's correct.

23 Q Now, we've marked some exhibits today. What's
24 the last number, 17?

25 And two of them have dealt with the education

1 program called CE2. But the rest of them, have they all
2 come from the files of Georgia-Pacific? Do they all seem
3 like corporate files to you, sir?

4 A The ones that came from Georgia-Pacific?

5 Q Yes, sir.

6 A Come from our files, yes.

7 Q Okay. And let's look at -- I just want to go
8 through them quickly.

9 Exhibit 1 appears to be a true and authentic
10 copy, sir?

11 A Yes.

12 Q Okay. Exhibit 2?

13 A Yes.

14 Q Okay.

15 MR. HART: And Mr. Bailey if you could provide
16 him with the rest of them.

17 MR. BAILEY: They're out of order. This is 9.

18 THE WITNESS: These are one and two.

19 MR. BAILEY: I was looking for --

20 BY MR. HART:

21 Q Okay. Three is the student program. Okay.

22 Here we go.

23 Exhibit 4, does that appear to be a true and
24 accurate copy, sir, of a Georgia-Pacific document?

25 A Yes.

1 Q Okay. Exhibit 5?

2 A Yes.

3 Q Exhibits 6, 7 and 8, do they appear to be
4 documents from the files of Georgia-Pacific?

5 A This one is from National Gypsum Company.

6 Q Right, but it was in your files.

7 A It was in our files, okay. This was -- yes.
8 Yes, they're from our files.

9 Q Exhibit 9 is a school document.

10 Let's go through the rest of them.

11 Exhibit 10, is that a true and accurate copy?

12 A Yes.

13 Q Okay.

14 A As far as I know.

15 Q Exhibit 11?

16 A Yes.

17 Q Exhibit 12?

18 A Yes.

19 Q Okay. Exhibit 13?

20 A Yes.

21 Q And Exhibit 14?

22 A Yes.

23 Q Exhibit 15?

24 A Yes.

25 Q Exhibit 16?

1 MR. BAILEY: Here, let me help you. Sixteen.

2 THE WITNESS: Sixteen, yes.

3 BY MR. HART:

4 Q And Exhibit 17?

5 A Seventeen, okay, yes.

6 Q All those appear to be true and authentic
7 copies from the files of Georgia-Pacific; is that
8 correct?

9 A Yes.

10 MR. HART: Let's take a quick break.

11 VIDEOGRAPHER: We're off the record. The time
12 is approximately 1:56.

13 (A short break was taken and the following proceedings
14 were had.)

15 VIDEOGRAPHER: We're back on the record. The
16 time is approximately 2:07 p.m.

17 BY MR. HART:

18 Q Mr. Lehnert, let me ask you now some questions
19 about your preparation for today's deposition.

20 How much time did you spend preparing for
21 today?

22 A For today?

23 Q Yes, sir.

24 A A few hours, I guess.

25 Q Did you meet with the attorneys for

1 Georgia-Pacific?

2 A Yes.

3 Q And how many hours did you spend in those
4 meetings?

5 A We spent one morning together.

6 Q Okay. When was that?

7 A Yesterday.

8 Q Yesterday, all right.

9 And have you done anything else to prepare,
10 other than read the depositions?

11 A No.

12 Q Okay. And did you go look at any of your own
13 files for documents to prepare for this deposition?

14 A I did try to -- I have a whole lot of documents
15 myself and I couldn't find anything in there that would
16 pertain to this, but I was -- wouldn't expect to do that
17 either.

18 Actually, and one other problem was I couldn't
19 find a 275, 1975 file for some reason. These were --
20 these were six-month reports, you know. I don't know why
21 I wouldn't have them.

22 Q Okay. And what would that -- what did you
23 expect to look for in that file, that six-month report?

24 A Nothing. I was just looking to see if there
25 was anything of any reference, but there would be no

1 reason for me to make a reference because it had nothing
2 to do -- this had nothing -- the career education program
3 was something I did outside of my job.

4 Q Okay. Now, did people in your lab, like
5 Mr. Gettel, did they wear lab coats?

6 A Yes.

7 Q Did -- was there any kind of security at the
8 front door, back in the '70s?

9 A What do you mean by "security"?

10 Q Did you have to go through --

11 A No.

12 Q Did you have to swipe a card?

13 A No.

14 Q You didn't have those kind of things back then?

15 A No, we didn't have that.

16 Q You'd just walk right in?

17 A Yes.

18 Q Were there any kind of lockers or anything like
19 that where people could put their lab coats or anything?

20 A There must have been, but I don't remember what
21 they were.

22 Q Okay. Did you wear a lab coat when you walked
23 around?

24 A No.

25 Q What kind of clothing did you wear?

1 A Just regular.

2 Q Like you are today?

3 A I would take my coat off, and I would sometimes
4 roll up my sleeves or something like that.

5 Q But you generally wore a shirt and tie?

6 A Yes.

7 Q Okay. And -- but the people in the working lab
8 would not wear a tie generally, but they would wear a lab
9 coat, correct?

10 A Yes.

11 Q You mentioned that you'd given 20 or 30 other
12 depositions in cases; is that correct?

13 A Yes, that's correct.

14 Q Each of those cases have you spoken truthfully
15 as you recall as best as you can?

16 A Yes, I have.

17 Q And today have you spoken truthfully as best as
18 you can recall?

19 A Yes, sir, I have.

20 Q A couple things where you recalled differently
21 than the document showed --

22 A Yes.

23 Q -- you're still doing your best at
24 recollection, correct?

25 A Yes.

1 Q And when your recollection differs from the
2 documents, you would probably defer to the documents,
3 would you not?

4 MR. BAILEY: Object to form.

5 THE WITNESS: I don't know. It would depend on
6 the document. We would have to review that
7 particular document.

8 BY MR. HART:

9 Q Well, like the one you said you didn't remember
10 using a microscope to look for asbestos, and then we
11 found a technical report that you'd signed off on saying
12 that you did.

13 So you would agree that the document is more
14 accurate today?

15 A I can't -- I don't understand why I would do
16 that. You know, it was just -- when it was so much
17 easier to do it the way I've described. That's the only
18 thing I think I can say.

19 Q Yeah. But what was actually done is probably
20 reflected in the document, correct?

21 A Yeah, I guess so.

22 MR. HART: Okay. Okay. Well, I appreciate
23 your time with me today, sir. This is not for you.
24 This is for the attorneys.

25 I think we had some glitches in the document

1 production. We tried to do the best on our
2 examination today based on the documents we have.
3 We want to just keep open the potential of coming
4 back if there's -- document production reveals
5 additional materials. But based on what we have, I
6 think we're done.

7 And, Mr. Lehnert, thank you very much. I think
8 some of these other people may want to ask you some
9 questions.

10 THE WITNESS: Thank you.

11 VIDEOGRAPHER: Going off the record at 2:11
12 p.m.

13 (A short break was taken and the following proceedings
14 were had.)

15 VIDEOGRAPHER: We're back on the record at 3:12
16 p.m.

17 CROSS-EXAMINATION

18 BY MS. DEMOREST:

19 Q Mr. Lehnert, I'm Lawrie Demorest. You and I
20 have met in the past, haven't we?

21 A Yes, we have.

22 Q For the jury's purposes, I represent Union
23 Carbide.

24 A Yes.

25 Q I want to go back to the Exhibit 2, and I don't

1 know where the exhibits went to --

2 A Here.

3 Q -- but that was the technical report, multipage
4 document.

5 A Yes.

6 Q There we go.

7 A Yes.

8 Q And there was -- there are attachments, I
9 guess, at the back that Mr. Hart took you through that
10 refer to the different joint compounds that were
11 apparently tested.

12 A Yes.

13 Q Do you recall that?

14 And there's also a -- on page 3, it like
15 there's a table that talks about the different joint
16 compounds that were included in this test. That's it
17 right there. You got it.

18 A Okay.

19 Q And it talks about the different
20 Georgia-Pacific products that were used in the tests and
21 other manufacturers, right?

22 A Yes, that's correct.

23 Q And then there's a column over on the right
24 that talks about whether or not the product contained
25 asbestos? It's the fourth -- fourth column from the

1 right?

2 A Fourth column from the right?

3 Q Do you see where it says contains asbestos?

4 Are we on the same --

5 A We must be on a different page.

6 Q No, here is mine.

7 MR. BAILEY: Turn it sideways.

8 THE WITNESS: Oh, okay.

9 MR. BAILEY: Fourth from the right.

10 THE WITNESS: Okay. Fourth from the right.
11 Contains asbestos. Now I see it. Sorry, my eyes
12 are --

13 BY MS. DEMOREST:

14 Q That's okay.

15 A Yes.

16 Q And Mr. Hart had asked you, at one point,
17 whether or not Georgia-Pacific, during certain periods of
18 time, would use Union Carbide's asbestos in its joint
19 compounds.

20 Do you remember that?

21 A Yes.

22 Q There were certain periods of time when
23 Georgia-Pacific did use some Union Carbide asbestos,
24 right?

25 A Yes.

1 Q Georgia-Pacific also used asbestos from other
2 fiber suppliers, didn't they --

3 A Yes, they did.

4 Q -- and when Georgia-Pacific took over the
5 Bestwall Company, at that point, Georgia-Pacific was
6 using Philip Carey asbestos and Johns-Manville asbestos,
7 right --

8 A Yes.

9 Q Georgia-Pacific didn't start using Union
10 Carbide's asbestos until 1970. Is that your
11 recollection?

12 A I don't know that that's the exact date, but
13 that's correct. We -- there was a delay. It was
14 considering the Union Carbide asbestos, and it was
15 originally called Golden Age or something asbestos.

16 Q And then in the 1970s, in addition to using
17 Union Carbide's asbestos, Georgia-Pacific also continued
18 to use Philip Carey asbestos and Johns-Manville asbestos?

19 A Yes, primarily Philip Carey's asbestos.

20 Q Philip Carey was your major supplier.

21 A That was the major supplier, yes.

22 Q And there were recipe cards or formulas that
23 would tell the plants whose asbestos to use in any
24 particular asbestos-containing joint compound formula,
25 right?

1 A Yes.

2 Q And the plants had to follow those recipe
3 cards?

4 A Yes. Formulas.

5 Q Formulas.

6 If we wanted to know whether or not asbestos
7 was contained in a given joint compound, then we'd go to
8 those formulas for the given plant and for the right
9 date?

10 A Yes.

11 Q And if we wanted to know whose asbestos was
12 used in an asbestos-containing product, that formula
13 would tell you that as well, right?

14 A Yes.

15 Q Okay. Now, just looking at this Exhibit 2, I
16 want to -- I want to -- on these sheets, and let me ask
17 you to look at, just for example, Bates number 0013853.

18 A Okay. That's a Georgia-Pacific Corporation
19 document.

20 Q Yeah, that's about 13 pages in. Do you have
21 it?

22 A Yes.

23 Q And that's sample 6.

24 A That's sample 6.

25 Q So this is a ready mix joint compound that was

1 apparently used in this testing that had been
2 manufactured at Milford?

3 A Yes.

4 Q It says that it has an asbestos warning. So
5 apparently there was asbestos in that product?

6 A Yes.

7 Q Is there anything on this sheet of paper that
8 tells you whose asbestos was in it?

9 A No.

10 Q Okay. I want to show you an exhibit. We'll
11 start with defense numbers.

12 (Thereupon, Exhibit D1 was marked for identification.)

13 BY MS. DEMOREST:

14 Q Defendant's Exhibit Number 1, is that an
15 example of a joint compound formula?

16 A Yes, it is.

17 Q Okay. And this is dated February 6, 1975?

18 A Yes.

19 Q Okay. And it's a formula for ready mix joint
20 compound?

21 A Yes.

22 Q Now, under the column that's labeled "Raw
23 Materials" -- do you see that?

24 A Yes.

25 Q Okay. It tells you what the materials are that

1 go into that product.

2 A Yes, it does.

3 Q It's a little hard to read on this one, but
4 there's asbestos in this product, isn't there?

5 A This is -- I read 7RF9, and that would be
6 Philip Carey.

7 Q Okay. The designation for Union Carbide would
8 be SG210.

9 A 210, yes.

10 Q Okay. So this particular ready mix joint
11 compound from the Milford, Virginia plant in February of
12 1975 contained only Philip Carey asbestos?

13 A Yes.

14 Q Okay.

15 (Thereupon, Exhibit D2 was marked for identification.)

16 BY MS. DEMOREST:

17 Q Let me show you what's being marked as
18 Defendant's Exhibit Number 2. This is another formula
19 from the Milford Virginia plant?

20 A Yes.

21 Q It's for ready mix?

22 A Yes.

23 Q Dated May 27, 1975?

24 A Yes.

25 Q Again, Philip Carey's asbestos, but no Union

1 Carbide asbestos?

2 A That's correct.

3 (Thereupon, Exhibit D3 was marked for identification.)

4 BY MS. DEMOREST:

5 Q And Exhibit Number 3 is another Milford,
6 Virginia joint compound formula. This is V976.

7 Do you see that?

8 A It's what?

9 Q The -- the formula is --

10 A Oh, yes, V.

11 Q -- V, which is Virginia 976?

12 A Yeah. 976, that's the formula number, yes.

13 Q Right. And I think the ones I'd given you
14 before were a different one. They were V973, I believe.

15 A That would indicate a different formula.

16 Q A different formula, but still a ready mix
17 product?

18 A Yes, yes.

19 Q And this one also contains only Philip Carey
20 asbestos?

21 A That's correct. It just says asbestos 7RF9.
22 This was their designation.

23 Q Sure.

24 (Thereupon, Exhibit D4 was marked for identification.)

25

1 BY MS. DEMOREST:

2 Q And one more. Defendant's Exhibit Number 4.

3 Again, V976?

4 A Yes.

5 Q This is dated May 17, 1975. This says asbestos

6 7RF-02?

7 A That would be JM's.

8 Q Johns-Manville?

9 A Yes.

10 Q But no Union Carbide asbestos in this product?

11 A No Union Carbide.

12 (Thereupon, Exhibit D5 was marked for identification.)

13 BY MS. DEMOREST:

14 Q Then D --

15 MS. DEMOREST: Are we up to 5 or 6?

16 MR. BAILEY: Five.

17 BY MS. DEMOREST:

18 Q D5. This is another joint compound, ready mix
19 joint compound from the Milford plant, V976. Again, this
20 one contains only Johns-Manville's asbestos?

21 A That's correct, 7RF2.

22 Q Okay. I just want to -- I just want to -- so
23 we understand how these formulas work, just go through
24 one other plant.

25 A Okay.

1 Q You had a plant in Chicago?

2 A Yes.

3 Q And the -- the formulas would be numbered --
4 labeled C with a number?

5 A C, yes.

6 Q Because of Chicago.

7 (Thereupon, Exhibit D6 was marked for identification.)

8 BY MS. DEMOREST:

9 Q All right. I'm going to show you what's marked
10 as Exhibit D6. And this says -- it's dated March 7,
11 1975. Chicago, Illinois plant formula. Ready mix filler
12 C972. Right?

13 A Yes.

14 Q And this is the filler for the ready mix joint
15 compound --

16 A Yes.

17 Q -- in Chicago?

18 And the asbestos in this formula is 7RF09,
19 which is Philip Carey.?

20 A Philip Carey.

21 Q No Union Carbide in that?

22 A No Union Carbide.

23 Q Just backing up to Exhibit Number 2 --

24 A Exhibit Number 2 here?

25 Q Yeah. The page you're already on here.

1 A Here?

2 Q No. The page you already had it open to.

3 That's sample number 6?

4 A Six, yes.

5 Q Okay. So if there was a sample from Milford
6 Virginia at the time of this report, I've just shown you
7 a number of Milford, Virginia formulas that contained
8 either Philip Carey or Johns-Manville asbestos, right?

9 A Yes.

10 Q Okay. We didn't see any that contained Union
11 Carbide?

12 A That's correct.

13 Q Okay. Now, if we go over to sample number 25,
14 which is one of the last -- the third from the end in
15 Exhibit 2.

16 A Yes, 25.

17 Q Okay. So the sample is apparently a
18 Georgia-Pacific ready mix from the Chicago plant. It's
19 identified up at the top; is that right?

20 A Yes, that's correct.

21 Q That apparently contains asbestos because it
22 had an asbestos warning on the package.

23 A Yes, it says contains asbestos.

24 Q Yes. Okay. So going back to the Exhibit
25 Number 7 that you were just looking at, which was the

1 Chicago formula that I just gave you -- did I just give
2 you a Chicago formula?

3 A I don't think so. The formulas are in here.

4 Q All right. Maybe I didn't give you --

5 MR. BAILEY: I don't think we've gotten 7.

6 (Thereupon, Exhibit D7 was marked for identification.)

7 BY MS. DEMOREST:

8 Q Okay. Here is 7.

9 A Okay.

10 Q That is a formula for the Chicago plant.
11 That's a ready mix filler C972?

12 A Yes.

13 Q That contains Philip Carey asbestos?

14 A That's correct.

15 Q And no Union Carbide asbestos?

16 A That's correct.

17 Q Okay. So if we look at the sample number 25,
18 again, there's no indication of who the asbestos supplier
19 was in that particular sample, is there?

20 A No.

21 Q Okay. And are the formulas themselves, what
22 I've just shown you, is that the best evidence of whether
23 asbestos was in a product, and if so, whose asbestos?

24 A Yes.

25 MS. DEMOREST: Okay. All right. That's all

1 the questions I have for you, Mr. Lehnert.

2 VIDEOGRAPHER: I need to change tapes.

3 MR. BAILEY: Let's take a five-minute break.

4 VIDEOGRAPHER: We're going off the record. The
5 time is approximately 2:26 p.m.

6 (A short break was taken and the following proceedings
7 were had.)

8 VIDEOGRAPHER: We're back on the record. The
9 time is approximately 2:32 p.m.

10 CROSS-EXAMINATION

11 BY MR. BAILEY:

12 Q Good afternoon, Bill.

13 A Good afternoon.

14 Q You told us earlier you're 85 years old?

15 A I'm almost 86.

16 Q Almost 86.

17 When is your birthday?

18 A December 1st.

19 Q When is the last time you gave a deposition?

20 A I think it was in 2007. Somebody reminded me.

21 Q It's been a while.

22 A Yes, it has.

23 Q How long has it been since you looked at any of
24 these documents related to the questions you were asked
25 about today?

1 A Do you mean the previous times?

2 Q Yeah.

3 A Oh, gosh, I don't remember being asked -- some
4 of them I don't even remember ever being asked about
5 them.

6 Q Okay. Tell us again what your job was when you
7 went to work at Georgia-Pacific.

8 A Originally I went to work in Chicago, and I was
9 doing analyses analyzing gypsum for purity, mainly. And
10 then they -- then I worked for a fellow by the name of
11 Clint Shuttleworth. He became sort of a mentor. So I
12 did all kinds of things for him, including formulating
13 joint compounds, mostly with his knowledge and just with
14 me doing the footwork.

15 Q What about your training and education made you
16 qualified to do what you did in developing and testing
17 joint compounds?

18 A Well, my -- I just got a chemical engineering
19 degree from a city college. So I really had no -- no
20 preparation when I started in Chicago.

21 Q How did you use your understanding of
22 chemistry, though, in the lab when you worked for
23 Georgia-Pacific?

24 A Well, I was -- some people called it bathtub
25 chemistry because it wasn't too difficult. It kind of

1 was the gypsum is something that you add water to and it
2 forms -- it hardens, so you can make gypsum boards out of
3 it or you can make industrial products out of it, all
4 kinds of different applications. And then, of course,
5 the wallboard now is the main thing. Originally it was
6 plaster until -- in fact, it was still mainly plaster
7 when I went to work for CertainTeed.

8 Q When did -- when did drywall, wallboard start
9 becoming popular in the United States?

10 A Just about that time. I was just at the time
11 when wallboard -- there was no -- up to that point there
12 was no fiber board. Most of it was lath and plaster.
13 And so it went awfully quickly from where the wallboard
14 was like -- I take that back. The wallboard just kind of
15 grew and grew and grew because it was easier to apply and
16 you didn't have to wait to plaster. You had to wait
17 until it cured to be able to decorate it, where the
18 drywall could be decorated as soon as they were finished
19 drying and sanding. And so it was a -- and it could go
20 up faster because you had larger sheets; whereas, in the
21 plaster where you had the lath, that was 16 inches wide.

22 Q Okay. But what year did joint compounds start
23 being used? What do you think?

24 A Well, we had a couple of formulas as clear back
25 as 1942. I just happened to remember that because I was

1 amazed that they went back that far. They weren't really
2 joint compounds, but they were used to fill joints.

3 Q Okay. How long has asbestos been used in those
4 products?

5 A Until shortly after that time, why then, the
6 joint -- as soon as the wallboard became popular, they
7 had to have some way to finish the wallboard. And of
8 course the joint compound was a key part of this because
9 it reinforced the joints and concealed the joints,
10 concealed the nailheads, concealed the corner beads.

11 Q The jury will hear more about that at trial,
12 and see maybe a demonstration of what wallboard looks
13 like.

14 Since we're here on a video today, I want to
15 ask you some more specific questions about joint
16 compounds.

17 A Okay.

18 Q You told us earlier it was used to cover the
19 cracks between the drywall.

20 A Yes.

21 Q Why would it have asbestos in it?

22 A Well, when you mixed it, why you had to -- they
23 applied it either through a hand hawk, just like you
24 would plaster in some cases. It had to -- after you
25 mixed it, why, it couldn't be runny or you couldn't

1 handle it with the tools. So it had to be a certain
2 viscosity. Asbestos, being a very water-absorbing
3 material, would give it that property.

4 Q Did Georgia-Pacific invent the use of asbestos
5 in joint compound?

6 A No.

7 Q In 1965, when Georgia-Pacific acquired
8 Bestwall, how prevalent was the use of joint compound in
9 the country, in our country?

10 A In 1965, by then, it was becoming quite
11 prevalent.

12 Q In 1965, how prevalent was asbestos in joint
13 compound? Not just at Georgia-Pacific, but in any other
14 product line.

15 A It was in every joint compound that was
16 available.

17 Q In 1965, how long had you been in the gypsum
18 industry?

19 A I had been in the gypsum industry since 1951.

20 Q In 1965, when Georgia-Pacific acquired Bestwall
21 Gypsum Company, had you ever heard any suggestion at all
22 about any hazard associated with asbestos in joint
23 compounds?

24 A No.

25 Q When did you first hear that there may be some

1 risk associated with using asbestos in any way, shape or
2 form?

3 A The only thing I ever -- the first thing I ever
4 heard was that -- it was a letter that was written to me
5 by Glenn Wilson, who was the vice president, saying that
6 there was some concerns about the use of asbestos in
7 the -- I think he said construction. And I don't know
8 whether -- what that entailed, but he asked me to
9 consider it. He said it was a fresh project, but to
10 consider finding a substitution for asbestos.

11 Q Let me show you Plaintiff's Exhibit Number 4.
12 You were asked questions about that earlier.

13 A Yes.

14 Q Is that what you're talking about?

15 A Yes, that's what I'm talking about.

16 Q What's the date on that exhibit?

17 A The date is May 7, 1970.

18 Q Do you remember this, just generally this
19 event?

20 A Yes, I do.

21 Q Why do you remember that?

22 A Well, because I was kind of surprised, for one
23 thing. And while it was -- I may have heard elsewhere
24 that asbestos and asbestos mines or something may have
25 caused problems or people spraying fireproofing or

1 something, which we weren't in, I'm sure. We weren't in
2 those products. We didn't have fireproofing. There was
3 another -- well, I guess it was an acoustical product
4 called Formgun (phonetic) or something where they sprayed
5 it up on -- in various places.

6 Q Do you have a general memory of sitting down
7 and discussing these topics at Georgia-Pacific around
8 1970?

9 A No, not until this had come up.

10 Q Okay. That's what I'm saying, around -- around
11 that time.

12 A Yeah, around that time, yeah. And, of course,
13 I would -- anything he gave me was a priority project
14 whether he said it was not a high priority project
15 because I -- and so we set about a program to eliminate
16 asbestos. We got together with the people who were going
17 to be working on it and established a priority. And so
18 we were out of many products earlier than our competition
19 as a result of Mr. Wilson warning us.

20 Q Let me ask you a few more questions
21 specifically about that memo and that conversation.

22 A Uh-huh.

23 Q You were there. I wasn't.

24 Did you come away from your discussions with
25 Mr. Wilson and the receipt of that memo with any

1 understanding about whether joint compound put anybody at
2 risk?

3 A No.

4 Q As you look at that memo that you received, I
5 want to talk to you about when you received it and what
6 you thought when you received it. Okay?

7 A Okay.

8 Q What --

9 A Well, asbestos had been used for years and
10 years in many applications. It was in brake shoes. It
11 was in door filters. It was in acoustical products. It
12 was in all joint compounds and elsewhere you looked. Any
13 place there was a need for fire protection or a
14 fireplace, it was in. It was in curling irons and things
15 of that nature which would protect from the heat because
16 asbestos was -- would withstand all kinds of heat.

17 Q Did you grow up at a time where asbestos was in
18 a number of things you used --

19 A Sure.

20 Q -- just growing up?

21 A Oh, yes. Well, we had asbestos on our old
22 furnace. It was -- the stuff would fall off and we'd
23 sweep it up. And so we had -- there were other areas
24 that we -- there was a transite, which was an asbestos
25 cement product. I believe they used asbestos in many

1 cement products because it made the cement easier to
2 form.

3 Q So when Mr. Wilson is talking to his team there
4 in May of 1970, who all would be included in that team,
5 when you're addressing this issues of asbestos in joint
6 compound?

7 A Who would be included? He doesn't include
8 anybody else in this particular -- nobody had copies.
9 There's a thing down -- and this is one of my people who
10 said one possibility is word fiber and Cellufloc. And of
11 course that's one of the things we tried. This is just
12 our own little group.

13 Q Okay.

14 A You see he doesn't give anybody else a copy.

15 Q As you look back, combining your memory of
16 these events and that document, can you tell me what you
17 thought about whether or not asbestos, as it was being
18 used in joint compound, caused any risk for anybody?

19 MR. HART: Objection. Relevancy.

20 THE WITNESS: I did not think it did because we
21 had never had any -- you know, all these years
22 before this, starting in '51 and now it's '65 or
23 '70, and I had never heard of anybody being harmed.
24 The boss I worked for, that was a fellow I
25 mentioned, Shuttleworth, had worked with asbestos

1 all his life in joint compounds. Not all his life,
2 but much of his life, way before I ever became
3 involved. And then he brought me into it to help
4 formulate. But -- and he lived to be 91. So we had
5 a lot of older people who could have been exposed to
6 some form of asbestos, and they all seemed to be
7 doing pretty good.

8 Our plant people never -- we never had any
9 claims that I can ever remember from the plants that
10 anybody got sick or anything else from asbestos.

11 So there was no -- I only thought that his
12 letter was important because if there -- even if
13 there was a scare, you know, even if we didn't have
14 any, eventually we might have to find some, and of
15 course that's the way it worked out.

16 BY MR. BAILEY:

17 Q So what did you do after you received that --

18 MR. HART: Excuse me. Let me object to the
19 previous response and move to strike it.

20 Go ahead.

21 BY MR. BAILEY:

22 Q What did you do after you received that memo in
23 May of 1970?

24 A We sat down, and we set out a plan to get rid
25 of asbestos. We looked at all of the products we had in

1 textures, which was a joint compound product. We had it
2 in the dry mix joint compounds, and we had it in the
3 ready mix. And so the most -- most exposure was in the
4 textures.

5 Q Why?

6 A Because in the mixing, you could be exposed.
7 And then when you sprayed it up in the air, you certainly
8 could be exposed, on a ceiling or even a wall. We had
9 some wall textures as well as ceiling textures. And so
10 we felt that there would be more exposure there than
11 there would be -- well, then we took the dry products
12 second, and there was in the mixing and the sanding. So
13 it had two ways, but not spraying up like the texture
14 was. And then at least -- the least exposure was from
15 the ready mixes because it was already mixed and the only
16 exposure was in the sanding. They didn't do that much
17 sanding in those days anyway.

18 Q So about how long did it take you to get the
19 asbestos out of the spray from the acoustical products?

20 A Two years. In 1972, it's my recollection,
21 there may have been one formula or something like that
22 that I don't remember, but we had it out of all of the
23 spray textures. We were the first ones to do so.

24 Q Now, when you're doing this, had you received
25 any indication that users of joint compound out in the

1 field were developing any type of disease?

2 A No.

3 Q What did you think at that time about whether
4 or not you could use asbestos, for example, in the lab
5 the way you were using it, with or without risk?

6 MR. HART: Objection. Form.

7 THE WITNESS: We were dealing with little small
8 quantities. You know, I think I described the twin
9 pants leg blender, and, of course, it was all
10 enclosed and it just tumbled the stuff. And so the
11 exposure was nil there.

12 And we mixed a little bit in a cup to use. It
13 was -- the exposure there was nil.

14 Yeah, we did some sanding tests, but they were
15 the least amount of tests that we did.

16 BY MR. BAILEY:

17 Q We'll talk about that.

18 A Oh, okay.

19 Q Let me ask you this: During the entire time
20 that you were responsible for overseeing the operation of
21 the lab, the research and development --

22 A Yes.

23 Q -- did you ever ask anybody, any of your
24 employees or anyone else, to participate and do work with
25 or around asbestos in a manner that you yourself weren't

1 willing to do?

2 A No, I didn't ask anyone else to do what I
3 wouldn't be willing to do and had done.

4 Q Based upon everything you knew in 1974 or 1975
5 or 1976, did you ever ask anyone in your lab to do
6 anything that you yourself weren't doing?

7 A No. When I was -- before I became the manager,
8 why, of course, I was given the assignment to work
9 specifically with joint compounds. And so I was working
10 with -- I was mixing them up in the lab and I was going
11 out in the plants. And we had mixers that were huge --
12 you could crawl in the mixer and there would be a lot of
13 extra room -- where we mixed. I didn't crawl in them,
14 but I looked in them. So I was exposed to asbestos
15 there.

16 And then we took the -- these are test
17 products, and we took them out and had them tested. This
18 was an ongoing process. We'd had different people
19 from different parts of the country because there are
20 different needs. You'd go out -- so you were out while
21 they were sending. You were out where they were mixing
22 it. So I was probably more exposed to asbestos than
23 probably 95 percent of the people.

24 Q I want to separate what you're telling us about
25 happening in plants and out in the field from what

1 happened in the Tigard lab, okay?

2 A Okay.

3 Q In the Tigard lab, what in a normal day would
4 be going on, say in the mid 1970s, 1975 or 1976?

5 A Okay.

6 Q What all went on in that lab?

7 A We were always working on fire-rated products
8 because Mike Shuttleworth had the patent for fireproof we
9 called it. We licensed many companies in the industry.
10 So we also were running sound tests because in
11 order to sell your product, or to help you sell your
12 product, if you had run the sound test and you put it up
13 in a certain way, why you could get -- you put the last
14 fiber in the cavity and -- it was a system where you
15 could -- you attached it -- instead of attaching it
16 directly to studs, you put these metal things that
17 attached with some screws, see. So that gave you more
18 resilience so you could get great sound transmission
19 properties.

20 Q Let me ask it in a simple way.

21 A Okay.

22 Q Was the removal of asbestos from joint compound
23 the only thing going on in the Tigard lab in the
24 mid 1970s?

25 A No. My gosh, there was many other things. You

1 know, of course we were always -- one of the big projects
2 was byproduct gypsum. We were working with utilities. I
3 even went to Japan to see what they were doing. They
4 were using -- this is byproduct gypsum is flue gas,
5 desulfurized gypsum.

6 Q Okay.

7 A In other words, SO₂, and they mixed it with
8 lime or limestone, and it was pure gypsum. If they
9 didn't mess it up somehow by putting flash in it, why it
10 would be terrific. It was great for making wallboard.
11 Much of the board these days is flue gas desulfurized
12 gypsum.

13 Q Did you invent things in that lab that had
14 nothing to do with joint compound?

15 A Oh, sure. We had all kinds of inventions. Not
16 only me, but other people had inventions.

17 Q I've seen that --

18 A We had patenters we had to work with.

19 Q I've seen these exterior yellow Georgia-Pacific
20 products that's become very prominent --

21 A Yes.

22 Q -- on building -- commercial buildings. You
23 see it everywhere.

24 A Yes.

25 Q Where was that developed?

1 A That was developed first in Oregon. We -- I
2 think I've described to Mr. Hart that the lab had a
3 roofing as well as a gypsum. So they had -- we had these
4 rolls of glass fiber, you know. One of the problems we
5 had with our sheathing -- sheathing being something you
6 put on the exterior, and then they would put -- they
7 would have the exterior finish go over the sheathing.
8 And -- but many times why they would put the sheathing
9 up, and before they get around to covering it up, they
10 the paper was blowing off. This would cost us tens of
11 thousands of dollars per time that it came off.

12 Q So this very popular yellow exterior product
13 that we all see, who invented that?

14 A I did. I was the primary inventor. We have
15 lots of other people who have also their names on the
16 patents. There's even one fiberglass that I'm not even
17 on. That was George Green. Let's see. Who was the
18 other person? Oh, Brian Randall.

19 Q Okay. So in 1975, which is what got us here on
20 this story we're talking about, in 1975, where were you
21 in getting asbestos out of the product lines in
22 accordance with the plan you said you set out in 1970?

23 A We had it out of all of the textures. We
24 didn't have any -- by then we had it out of every
25 texture, the aggregate textures and the non-aggregated

1 textures and the different kinds of aggregates. If we
2 put -- texturing became a big business because it would
3 cover a multitude of sins.

4 Q Yeah.

5 A Maybe you wouldn't have to sand so much if you
6 put the texture on the ceiling.

7 Q Okay.

8 A Then -- I don't know where I was going.

9 Q Where were you on the dry mix by then, 1975?

10 A On the dry, 1975, we were out except for a
11 few -- we had a terrific -- the other products that we
12 made with -- which had asbestos in it also had casein as
13 a binder. Casein had a lot of problems with it, but we
14 had solved some of those problems, so it didn't rot as
15 fast. Our product, particularly the finishing compound,
16 everybody loved. You know, we were never able to make a
17 casein-based product without asbestos.

18 Q So in 1975 or '76, even though asbestos had
19 been removed from acoustical products and dry mix
20 products, would the efforts have still continued to
21 improve those products as an asbestos-free product?

22 A Oh, sure. Always working to improve the
23 products to make them better, easier to apply.

24 Q So in 1975 and in 1976, if work is being done
25 on a joint compound product or acoustical sprays --

1 A They weren't really acoustical. They were just
2 decorative.

3 Q Okay.

4 A We called them simulated acoustic. You're
5 right on the terminology.

6 Q In 1976, 1975, how would you describe as sort
7 of a percentage of what's going on in there in working
8 with gypsum products --

9 A The only --

10 Q -- what percentage of those would have been
11 asbestos containing?

12 A Well, only the ready mix. And even the ready
13 mix we had gotten -- by that time, we had all of our -- I
14 don't want to say small -- the do-it-yourselfer. It was
15 gallons instead of five gallons, and it was out of all of
16 that.

17 Q What was the challenge here in getting asbestos
18 out of ready mix?

19 A Getting it to -- asbestos gave it a property --
20 a viscosity property that it would sit in a can and
21 maintain the same viscosity and not change. If you
22 didn't have asbestos, why then, it would maybe thin out
23 or maybe thicken or something else happened to it. So it
24 was a tougher job. We couldn't -- we didn't -- I would
25 end up doing -- with one substitute, we had several --

1 some number of different things. We would use all kinds
2 of clays and adipolysis products, which are specialty
3 clays. I'm trying to think of some of the other things
4 we used.

5 Q Let me show you this Exhibit Number 5 you were
6 asked about earlier. Do you see that? Do you remember
7 that document from this morning?

8 A Yes.

9 Q It makes reference to threshold limit value.
10 Can you see that at the top, top paragraph or so?

11 A Yes, threshold limit values for mineral dust as
12 adopted by the American Conference of Government
13 Industrial Hygienists.

14 Q In the early to mid 1970s, did you have an
15 understanding that the level of exposure to asbestos was
16 important?

17 A No.

18 Q When you look at threshold limit values, do you
19 remember in 1970s that tests were being done to
20 understand what the dose or the level of exposure was?

21 A Yeah. That's right. Well, do you mean the air
22 monitoring tests?

23 Q Right.

24 A Well, that's right. We had one job -- well,
25 here's a good example. We had -- it was a school. I

1 this texture and it had asbestos in it, but it was hard
2 and firm, it wasn't going any place. But the people in
3 the school board particularly said, well, it has
4 asbestos, we'll have to take it off. So I recommended
5 that they run some air monitoring tests in there.

6 So -- and I didn't do it. One of the lawyers
7 arranged with somebody that does that, an independent
8 group, and they came in and they found a trace of
9 asbestos in the air. They went three blocks down in the
10 middle of the street, found the same trace of asbestos.

11 So, you know, there was asbestos in brake shoes
12 and all kinds of things.

13 Q Okay. Back to the question I asked earlier.

14 A Okay.

15 Q I want to make sure you understood it. Did you
16 understand that there might be risks at high levels of
17 exposure to asbestos that didn't exist at low levels?

18 A Absolutely.

19 MR. HART: Objection. Leading.

20 THE WITNESS: Absolutely. There were people in
21 holes of ships. You know, they'd be eight hours a
22 day spraying something that had 30 percent asbestos
23 in it. In the first place, we didn't make those
24 products and so we wouldn't have had any concern
25 about it. And there was different forms of asbestos

1 which may or may not have been more harmful.

2 BY MR. BAILEY:

3 Q Okay.

4 A In asbestos mines -- so anyplace in this
5 formula that they threw up, it had a lot of asbestos in
6 it, would stick to it.

7 Q Why -- why -- or what did you think when you
8 started to develop an understanding that asbestos at high
9 levels could pose a risk? What did that make you think
10 about the product that you were manufacturing?

11 MR. HART: Objection. Form.

12 THE WITNESS: We didn't manufacture the
13 products that seemed to be having all the problem,
14 number one. We didn't manufacture -- like, for
15 example, U.S.G. and Gold Bond, they both
16 manufactured fireproofing plaster.

17 BY MR. BAILEY:

18 Q So in 1971 you were asked about -- you were
19 asked earlier about a series of documents from 1971.

20 A Yes.

21 Q Do you remember -- let me show you Exhibit
22 Number 6. That's where the questions started.

23 Do you remember that document?

24 A Yes. Yes. At this time -- this was from Bill
25 Hunt -- or it went to Bill Hunt from Al -- I don't

1 remember his last name. He was the vice president of
2 Georgia -- or National Gypsum Company, and he wrote to
3 Bill Hunt and Bill Hunt said we didn't have any asbestos
4 in our products. And so this guy wrote back and he said,
5 yes, you do, and he sent him this letter. So Glenn
6 Wilson, who was my boss at that particular time, was then
7 having open heart surgery. So that's why the president
8 of the company would come to me. He didn't know who else
9 to come to. I said, yeah, we do have asbestos in
10 products.

11 Q Okay. Let me ask you a couple questions. Is
12 Glenn Wilson alive today?

13 A No.

14 Q How about Gene Burch? I want to ask you about
15 some of the people that --

16 A No, he's not alive today.

17 Q Matt Fink?

18 A I don't know. I doubt it, but I don't know.
19 He was older than some of the rest of us.

20 Q So as part of your effort to get asbestos out,
21 did you work with products in the research and
22 development lab?

23 A Yes.

24 Q Now, I want to talk about the research and
25 development lab for a minute so that I can understand how

1 this work would have been done.

2 A Okay.

3 Q You told us about the other things going on in
4 the lab. I want to focus a little bit directly on a
5 circumstance where you might be using asbestos to do a
6 test.

7 A Yes.

8 Q Did that happen, where you would use asbestos
9 to create a formulation and test a product?

10 A Do you mean in joint compound?

11 Q Yes. In the early '70s, for example.

12 A In the early '70s, yeah, sure.

13 Q Okay.

14 A We wanted to take it out. We were trying to
15 find a way, but we still had to work with the regular
16 products to try to improve them. We did get it out of
17 some of them early, the dry products and the textures.

18 Q When you were doing the testing to try to get
19 asbestos out of a product, did you change substantially
20 how you did it in, say, 1970 versus 1975, as far as
21 creating the product --

22 A I don't think so.

23 Q -- in your lab?

24 A We tried all -- we had some list of products,
25 like the Celluflex that was then mentioned here. It was

1 a paper fiber product. We tried that. We tried
2 everything that was like asbestos. We tried talcs and
3 all kinds of different things that would hold water.

4 Q Let's assume you're working, developing a
5 formulation of a new joint compound. Let's assume it had
6 asbestos in it.

7 A Uh-huh.

8 Q Say it's in the early 1970s. Can you tell us a
9 little bit about how would you go about mixing up the
10 product that you wanted to make?

11 A Sure. We had small quantities underneath these
12 benches. And of all of the -- limestone was a basic
13 filler. We also found a way to use gypsum as a filler
14 instead of limestone. It was fine enough and so on. It
15 was actually better and easier to remove the asbestos
16 from the gypsum than it was the limestone products. And
17 then we had mica. Mica helped the cracking, reduced the
18 cracking. Then we had -- we had --

19 Q Let me -- as an example, Ms. Demorest showed
20 you an exhibit earlier --

21 A Uh-huh.

22 Q -- that had all of the ingredients of a ready
23 mix joint compound. Do you remember that?

24 A Yes.

25 Q And would all of those, assuming you're making

1 a ready mix, have been introduced into whatever the
2 sample is you're working on?

3 A Sure.

4 Q Okay. I want to better understand -- and not
5 so much whether it's underneath the bench --

6 A Yeah.

7 Q -- or in another storage area. First of all,
8 tell the ladies and gentlemen of the jury, when you make
9 up a test batch that you're trying to test the
10 formulation --

11 A Yes.

12 Q -- how much product are you actually making?

13 A Something like 500 grams.

14 Q Can you show the ladies and gentlemen of the
15 jury how much that would be?

16 A I'm trying to convert to the metric system.

17 2.2 --

18 Q Let -- let me ask it this way.

19 A Okay.

20 Q Where was the -- when you pooled together the
21 ingredients, where were they mixed together?

22 A Where were they mixed? In this pants-like
23 blender.

24 Q How big was that blender? Can you show me with
25 your hands?

1 A Oh, sure. Like this. And it flared out like
2 this and then it tumbled. It was sealed, and then it
3 just tumbled.

4 Q Now --

5 A So there was nothing coming out of the blender.

6 Q -- let's say you put those ingredients in there
7 and you're mixing them.

8 A Yeah.

9 Q What about -- describe whether or not the
10 blender was open-ended or closed.

11 A No. It was all closed. It was sealed.

12 Q So if someone, I guess as part of this
13 progress, would go pull together the ingredients that
14 make up this formula --

15 A That's right. They weigh them out. We had a
16 scale there. You weigh them out, and then he would put
17 them in this blender. And then he would close up the
18 blender and turn it on. I don't know how long we mixed
19 it, but it didn't take much and it would thoroughly mix
20 all of the ingredients.

21 Q So let's say it's time to go get the
22 ingredients that are going in that covered blender. You
23 said you use a scoop generally or a cup or something?

24 A Yeah. The ends would open up. So it opened
25 up. It had a big opening and you could put a scoop in

1 and -- or you could take the -- I think maybe you could
2 take the blender -- the pants off the blender and turn it
3 over so you could pour it into, say, a mixing vessel or
4 something like that.

5 Q Now, did every test that you mixed up of joint
6 compound ultimately end up in a test that required
7 sanding in the lab?

8 A No.

9 Q Can you tell me, just generally, as a
10 percentage of the tests going on that we may see about in
11 a note here or there, is the percentage overall of the
12 type of tests you're doing, about what percentage of them
13 would end up with sanding as being part of the test?

14 A Maybe a few tenths of a percent.

15 Q Is it pretty rare?

16 A Oh, yeah, because you had all these other
17 things. And the sanding was pretty much based on the
18 adhesive you used. We weren't changing the adhesive, so
19 why would we ever sand it.

20 Q Then what are you testing?

21 A Huh?

22 Q You're creating a product that you're
23 performing tests on. What are you doing?

24 A Okay. We're going -- we're going to run all
25 the ASTM tests. See, so we mix it in the blender.

1 Actually, we would weigh it out into a scale, and then
2 you'd put the scale in a measured amount of water and
3 you'd mix it up.

4 Q Is this in -- describe what you're using to mix
5 this up so I can understand how much product we're
6 talking about.

7 A We have these little tin cups, but we also had
8 some larger blenders that we could put -- mix it in, if
9 it required a larger amount. But -- well -- and then
10 there was another -- another blender, but it really was
11 more of a viscosimeter. It's called the brabender. All
12 these are ASTM tests. The brabender is a -- I guess it's
13 still in there. It measures the viscosity of the
14 material so that you -- you know, in certain viscosities,
15 especially for ready mix, it would be very important.

16 Now, with a dry mix, you have to add water to
17 it and then -- and mix it either by hand or some way.
18 And that's the way we would do it.

19 Q So in 1975 and 1976, if you were testing for
20 viscosity, which was one of the challenges of ready
21 mix --

22 A Yes, it was.

23 Q -- would there be any need to sand in that
24 test?

25 A No.

1 Q If you're testing for -- what else would you
2 test for?

3 A Cracking. You could test to see how it worked
4 and then -- workability. So you'd just be spreading it
5 on a piece of paper. You wouldn't even have to make a
6 joint. The only reason you'd make a joint would be to
7 evaluate the tape -- the bond to the tape. So sanding
8 wasn't even involved in that.

9 Q So in 1973, was Georgia-Pacific obligated under
10 OSHA to monitor the use of asbestos in its manufacturing
11 facilities?

12 A That's correct, they were. We were.

13 Q Now, can you tell me the difference in the
14 asbestos usage in a manufacturing facility and the
15 asbestos usage in your lab in Tigard?

16 A It's all the difference in the world. We've
17 got big -- huge, big bags, 50-pound bags of asbestos and
18 they're pouring them into this blender. And so -- or
19 maybe into a hopper that goes to a blender probably.

20 Q So we have two -- let me just stop you there.

21 A Sure.

22 Q They poured raw asbestos out of bags in the
23 manufacturing facility.

24 A Yes, sir.

25 Q As part of the OSHA obligations, did

1 Georgia-Pacific monitor the dust that was going on around
2 that?

3 A Yes.

4 Q You used the word "blender."

5 A Yes.

6 Q Now, can you compare that to the use of
7 asbestos in your lab and the blender you're talking about
8 there? Can you compare those two?

9 A Yes. We're dealing with 500 grams of something
10 and we were dealing with 2,000 pounds. You know, you get
11 that by -- we'd get, I think, 80 bags per batch. If you
12 multiply the 25 pounds times 80, I think it will come out
13 to 2,000 pounds or one ton that was in this mixer. Now,
14 this is a dry mixer.

15 Q Now, if you knew respirators were being used by
16 the person at the blender or the hopper in a
17 manufacturing facility, why weren't you yourself wearing
18 a respirator when you were doing what you told us about
19 with the blender in your own lab, you yourself?

20 A Because the amount of asbestos would be
21 ridiculously small, for one thing. Nobody ever had any
22 problem with it that I've worked with all these many
23 years and living to be 90 years old. There was another
24 guy by the name of Joe Watt and he lived to be 90 years
25 old and he worked with asbestos products.

1 So why you would do anything? You had all this
2 experience, all these years, and nobody is harmed. The
3 products work beautiful with it. It was a hardest thing
4 we've ever had to do in getting -- to remove it. You
5 know, now -- there were times when we had material
6 preservatives and we had to remove them. But that was no
7 problem. There were other preservatives that worked
8 almost as well. You might have to use more of them or
9 more -- different ones. That was another ingredient that
10 was essential, particularly in the early casein products.
11 Because casein is a part of milk, and it will rot and
12 smell like the high heaven.

13 Q If you believed in 1975 or 1976 that the amount
14 of asbestos being used in that lab put you or any of
15 these gentlemen that worked for you at risk, what would
16 you have done?

17 MR. HART: Objection to form.

18 THE WITNESS: We would have done something.
19 Yeah. You know, I suppose we would have to wear
20 respirators like we asked them to do at the plant.
21 We'd put on -- we were one of the first ones to
22 put -- wear respirators when mixing or sanding. I
23 think we're the only company that did that at that
24 time. I think eventually other companies followed
25 us in doing that. But we were ahead of the game

1 when you compare our, number one, elimination of
2 asbestos and -- what was the other thing I was going
3 to say?

4 BY MR. BAILEY:

5 Q Let me ask you --

6 A And our application to OSHA, you know. We had
7 people making joint compounds that would never follow.
8 These were not -- these were little small companies that
9 didn't make anything other than joint compounds.

10 Q Okay.

11 A I paid no attention to that.

12 MR. HART: Objection to the response of the
13 question as being nonresponsive to the question
14 asked.

15 BY MR. BAILEY:

16 Q Now I'm jumping around a little bit.

17 A That's okay.

18 Q Exhibit Number 3. I hate to throw it at you.

19 A That's okay.

20 Q That's the CE2 program we talked about earlier.

21 A Yes.

22 Q You testified earlier that you did this on your
23 own and not necessarily as part of your job for
24 Georgia-Pacific, correct?

25 A That's correct.

1 Q Why would you do that? What interest did you
2 have --

3 A Well, I thought --

4 Q -- in a program like this?

5 A I thought this was great so that people would
6 have an opportunity to go out and work in different
7 places, whether it was Conous Chevrolet or whether it was
8 some bank. And most of the people did go to Conous and
9 to the bank and stores and other things. But it would
10 let them get some experience so that they would know, as
11 they became old -- matured and were -- had to make a
12 decision what kind of work they wanted to do. They would
13 have had a prepped -- be prepped for that. And so we
14 thought -- I thought that was a great thing. I still do.

15 Q And did you dedicate, as you told us earlier,
16 your own personal time and attention to it?

17 A Yeah. We had meetings at night and things of
18 that nature. I told you about the one experience I had.

19 Q Now, if somebody came into this program -- came
20 in from this program to any of these companies, CE2,
21 would it be the school district or the head of the CE2
22 that would determine, A, who was going to come to that
23 program?

24 A Well, it would be -- yeah -- now, program that
25 I was involved with -- well, I don't know we called it

1 CE2, but this is -- this sounds like it.

2 Q Okay.

3 A It was run by Jerry Burey.

4 Q Here is what I'm getting at.

5 A Okay.

6 Q Who decided who was going to get to come out
7 and participate in this program, Georgia-Pacific or CE2,
8 meaning the students?

9 A They asked me if I would participate.

10 Q But when they selected students, as far as what
11 students get selected, did you play a role in that, or
12 did Georgia-Pacific?

13 A None.

14 Q As far as when they had to be there --

15 A None.

16 Q Nothing?

17 A Unfortunately, we didn't have anybody. I
18 didn't have to do that. But now they're saying that we
19 did have somebody. Now, it's just not my recollection at
20 all. I've tried and tried and tried to remember the
21 names to see whether there might be a connection, and I
22 can't come up with the names.

23 Q Was the laboratory adjacent to a truck
24 terminal?

25 A Yeah, it was behind a truck terminal.

1 Q So tell me how that's set up.

2 A Okay. Well, we had no -- every time we moved,
3 why, we'd have -- the laboratory -- we moved to Chicago.
4 We had to build a laboratory in the Philadelphia area.
5 And then when we moved to Oregon, we had to build another
6 laboratory. Let's see. What's your question again?

7 Q I'm just trying to get in my mind what the
8 truck terminal was that --

9 A Oh, yeah, the truck terminal.

10 Q -- you were asked questions about.

11 A The only place they could find for us was they
12 had a truck terminal and we could be behind it. So in
13 order to get to our building, you had to come past all
14 these trucks. You could see them. There's a picture in
15 the deposition. It shows the truck terminal. I
16 know that -- I don't know if it was this -- well, I do
17 know that, in this program, the manager of the truck
18 terminal talked to this Jerry Burey. Now, whether or not
19 they had anybody there or not, I don't know.

20 Q Okay. Now, back to the mid 1970s. At that
21 time did Georgia-Pacific have warnings or caution labels
22 on any product that they manufactured that contained
23 asbestos in the mid 1970s?

24 A I think we did. I think it was '72 when we
25 were required to. If I'm not mistaken, OSHA regulations

1 required -- it was -- there was some problem with the
2 ready mix because there was -- the way it was written,
3 you didn't have to put it on a ready mix. But then later
4 on they decided, yes, we should have it on. There was
5 another agency other than OSHA. It was a Consumer
6 Product Safety Commission. They were the big overall
7 federal person that oversaw the OSHA and so on.

8 Q Okay. We'll deal with -- pin the dates down on
9 the cautions at another time. You don't have to do that
10 today.

11 A Okay.

12 Q Let me show you Exhibit Number 10. You were
13 asked about this earlier. What is that document again?

14 A This is a letter from Matt Fink and it's about
15 an asbestos control program and --

16 Q Let me show you Exhibit Number 11 and ask you
17 what that is.

18 A And this was from -- also from Matt Fink and
19 it's an asbestos control program.

20 Q Who is it that he is addressing or sending
21 those memos to?

22 A Well, he sent them to the manufacturing people
23 in -- let's see -- Kenny Brown was at Acme and Paul
24 Moskit, Chicago. All these were joint compound managers.

25 Q Why would the manufacturer -- the people in

1 charge of the manufacturing facilities be getting the
2 memos about OSHA regulations?

3 A Because it was a regulation. We had to comply
4 with the OSHA regulations and we weren't about to fight
5 it. Now, some of the other people -- other companies
6 wanted to -- had an Asbestos Information Association and
7 you showed me some letters.

8 Q Okay. Set that down.

9 A Mr. Hart showed me some letters.

10 Q Set that down for me.

11 A Okay. And so that -- the people were trying to
12 solicit our interest in joining this Asbestos Information
13 Association, which was challenging the OSHA regulations.
14 And I knew that Glenn Wilson would have no part of that,
15 so I told them that we would not come to that meeting,
16 but we'd like to hear from them if he had some
17 information that he thought we could use.

18 Q Is that the meeting you were talking about
19 there with the 1971 letter from National Gypsum?

20 A Yes.

21 Q Okay.

22 A He never responded. I think he was probably
23 offended because the guy in the lab sent him the letter
24 instead of the president of the company.

25 Q Now, in 1975 or 1976, when joint compound work

1 was still being done in the research and development lab,
2 what percentage of that work do you think would have been
3 directed towards testing the asbestos-free products
4 versus the asbestos-containing products?

5 A There was no need to do any work with asbestos
6 so far because it was out of all of the other products
7 except the ready mix. And we were trying to get it out
8 of the ready mix so we wouldn't have it there. There
9 would be no need for it to be there, and there would be
10 no need for us -- now, there was a separate group and
11 they may have -- which we were still selling asbestos
12 materials up to that point. And this one fellow, who
13 would work with the -- with the salespeople and
14 formulate, he was -- one of the objects he was doing was
15 trying to reduce the amount of asbestos. Whether that
16 was -- I don't know if that was successful anyway.

17 Q Where does that fit in the overall sort of
18 scheme of what's going on in that lab if you walk in
19 there in 1976?

20 A What he did?

21 Q Well, the use of asbestos in general as
22 compared to everything else.

23 A The people that reported to me were doing
24 nothing on asbestos -- with asbestos. There was no
25 reason to. Why would we -- we had it out of -- we were

1 working to try to get it out, so there was no point in
2 having the asbestos. The only reason they would have it
3 would be the other group, then, might be doing some
4 reformulating to try to reduce the amount of asbestos.

5 Q Well, now, you know we talked about Exhibit
6 Number 2 earlier. Remember that test that was done?

7 A Yeah.

8 Q Can you -- can you tell by that test or the
9 results of it, when the test was actually conducted as
10 opposed to when a report was written on it?

11 A I don't know, but this is a pretty complex
12 thing as I read through it. It would take a lot of time
13 to do it.

14 Q Okay.

15 A So it might be -- I can't say, because I don't
16 remember the thing, but --

17 Q Do you mean a lot of time to read it or a lot
18 of time to conduct the tests?

19 A A lot of time to conduct all these tests --

20 Q Okay.

21 A -- and get the materials in and change them
22 into un- -- you know, it's just a lot of hand and foot
23 work. And getting stuff from the plants, they would have
24 to have them shipped from the plants. So the plant would
25 have to go out and purchase them and then they would have

1 to ship them to us. So this all takes -- probably takes
2 weeks to do. And --

3 Q So --

4 A -- they might have been doing that for a year.
5 I don't know.

6 Q Now, we talked about a test, asbestos
7 containing or not, a test where you would put ready mix
8 on a board, two boards, perhaps --

9 A Yes.

10 Q -- put some tape on it. Do you remember that?

11 A Yes.

12 Q And I think you told us somewhere between a
13 foot or two of -- linear --

14 A Yes.

15 Q -- in length.

16 A Sure.

17 Q And how wide? Show the jury what type of test
18 board you would use to do this work?

19 A Well, it might be like a couple feet by
20 three feet or something like that.

21 Q Let's assume that you're doing ready mix,
22 asbestos free or not, just you have a bucket of ready mix
23 or a small container, whatever you're using to test, can
24 you show the ladies and gentlemen of the jury how it is
25 that you go from getting the products out of whatever

1 you're using, the small container or the bucket, what it
2 is and apply it to that small sheet of drywall?

3 A Well, sure. And if you're going to do this --
4 and I assume you're -- it's a bonding test.

5 Q Well, let's say you're testing sand, because I
6 want to focus specifically on --

7 A Testing what? Sanding?

8 Q Sanding.

9 A Oh, you just spread it on a piece of board.

10 Q Okay.

11 A They say that we had a sander there. I don't
12 remember the sander, but maybe the sander would be
13 self-enclosed.

14 Q We'll -- we'll -- we'll come up with --

15 A It would take a few minutes, you know, that's
16 all, to do that.

17 Q We'll come up with the method of sanding --

18 A Okay.

19 Q -- through people that were there.

20 A Okay. You know, when I was doing it, when I
21 did it myself, that was before I was the manager, I would
22 just sand it. And you had -- you just had a feel for
23 some of these things. You'd been doing it so many times
24 that you could tell if it was going to be hard sanding.
25 Beyond that, that would be one of the tests that would be

1 out when you take and -- make the experimental batch at
2 the plant and then take it out in the field. The
3 contractor that would use, if it was hard sanding, he
4 would tell you.

5 Q Okay. Well, let's focus again on -- you told
6 us about all the kinds of tests that could go on in the
7 lab, and that one of them was sanding.

8 A Yeah.

9 Q You showed me about how big the board would be
10 and told me that you would apply product. In the lab
11 scenario, when you're testing for sanding --

12 A Uh-huh.

13 Q -- and we'll deal with what type of equipment
14 was used when we deal more closely with other witnesses.

15 A Okay.

16 Q Assuming that it was done by hand --

17 A Yeah.

18 Q -- how long would it take to sand the type of
19 strip you're talking about that would have been used as
20 part of this test?

21 A Less than a minute.

22 Q What happens if you sand more than that?

23 A It won't take -- it won't take a minute. 30
24 seconds you could do that, you know. You're not going to
25 go work -- this stuff to sand is easy. If it didn't sand

1 easy, why, we couldn't sell it, see. So it -- you would
2 just run it -- lightly over it. You don't use too heavy
3 a grit sandpaper or it would make big scratches in it
4 obviously. So it was a certain grit of sandpaper that we
5 used. If they had that machine, why that, it probably
6 had a certain grit of sandpaper that would be in there.

7 Q Did you ever see any scenario in there where
8 people were spending 30 percent of their time sanding in
9 the laboratory?

10 A That's nonsense. That just can't be. That's
11 absolutely wrong.

12 Q Who cleaned up in the lab?

13 A Well, the people that -- that worked cleaned
14 off the benches. We had a company that we retained to
15 come in and clean the lab the floor and all that.

16 Q Did you see in Mr. Robbins' deposition that he
17 said that he spent a certain amount of time sweeping and
18 cleaning up?

19 A We didn't do any sweeping, and you didn't
20 clean -- to clean off the bench was nothing, you know.
21 You just wipe it off and put the things underneath that
22 you weren't -- you were finished with. The scale stayed
23 there. The blenders stayed there.

24 Q I think Mr. Robbins testified -- you were asked
25 earlier about reading his deposition. I think he

1 testified he spent maybe 20 percent of his time sweeping,
2 cleaning in there. Did you ever see anybody spend
3 20 percent of their time sweeping?

4 A That's ridiculous. That couldn't happen.

5 Q Did you ever see anybody spend 30 percent of
6 their time sanding?

7 A Never.

8 Q Did you ever have any belief, given the manner
9 in which your testing was being done in your laboratory
10 that you were personally at risk because of asbestos?

11 A No.

12 MR. HART: Objection.

13 BY MR. BAILEY:

14 Q Did you -- what were you thinking about whether
15 or not there was any risk in connection with Howard
16 Shooty, George Green, Bill Gettel, the people that worked
17 with you and for you, whether they were at risk because
18 of how asbestos was being used in the lab?

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

21 THE WITNESS: I never thought any such thing.
22 I had worked with it myself for longer than they had
23 and I was doing fine. I didn't see anybody from the
24 plants with any problem, and so why would I be
25 concerned. There was no reason for me to be

1 concerned about the lab situation.

2 BY MR. BAILEY:

3 Q Let me show you Exhibit Number 12. We'll do
4 this as quickly as we can. That was a memo from Glenn
5 Wilson about OSHA citations. Do you remember that?

6 A Yes. Well, I remember reading it.

7 Q How would you describe his approach to OSHA
8 citations and complying with OSHA?

9 A Well, he was hard-nosed about it. When they
10 did -- when there was any absence of conducting --
11 following the OSHA regulations, he got on their back and
12 I mean, he got on their back.

13 Q Did he take it seriously?

14 A He absolutely did, yes.

15 Q Did you take taking care of the people in your
16 R&D department, including yourself, seriously?

17 A I think I did. We did what was reasonable to
18 do, not what was unreasonable to do.

19 MR. BAILEY: I think for now, Mr. Lehnert, I'll
20 pass the witness. We'll change the tape and they'll
21 ask more questions.

22 VIDEOGRAPHER: We are going off the record.

23 The time is approximately 3:29 p.m.

24 (A short break was taken and the following proceedings
25 were had.)

1 VIDEOGRAPHER: We're back on the record. The
2 time is approximately 3:51 p.m. This begins Media
3 Unit Number 3.

4 REDIRECT EXAMINATION

5 BY MR. HART:

6 Q Couple more questions, Mr. Lehnert, before we
7 let you go for the day. You were asked some questions
8 about formulas that were used to make joint cement and to
9 make ready mix.

10 Do you recall questions about that, about
11 formulas?

12 A Yes.

13 Q And you were shown a couple of formulas,
14 correct?

15 A Yes.

16 Q Now, in reality, Georgia-Pacific used hundreds
17 of formulas at its various plants to make joint cement
18 and to make ready mix; is that correct?

19 A It depended on the plant, but some voluminous
20 formulas.

21 Q Do you recall a time at a deposition in 2001
22 when you were asked to review a whole lot of formulas and
23 write a summary about them?

24 MS. DEMOREST: Object to the form.

25 THE WITNESS: Gee, I don't remember that. I'm

1 not saying it didn't happen.

2 (Thereupon, Exhibit 20 was marked for identification.)

3 BY MR. HART:

4 Q Okay. Let me show you what I've marked as
5 Exhibit Number 20. It's a deposition dated October 3rd,
6 2001.

7 Is that the transcript of a deposition you
8 gave? Go ahead and look at it.

9 A Okay.

10 Q I don't want you to read every page. Just look
11 at it.

12 A Okay. I can see it was a deposition that was
13 taken. Yes.

14 Q Okay. And do you remember when an Attorney
15 Jagger asked to you review some formulas and answer
16 questions?

17 A Jerry Jagger?

18 Q Yes.

19 A Oh, okay.

20 Q Do you remember that deposition? It was a long
21 time ago.

22 A Yeah. I don't really remember it, but maybe it
23 will occur to me as we go along here.

24 Q Okay. When you testified to Attorney Jagger,
25 you told her the truth based upon your recollection about

1 the formulas; is that correct?

2 A Yes.

3 (Thereupon, Exhibit 21 was marked for identification.)

4 BY MR. HART:

5 Q Okay. Let me show you what we've marked as
6 Exhibit 21. These are the exhibits that were attached to
7 the deposition. And just briefly, these are various
8 formulas from various plants.

9 A Yes.

10 Q Is that correct, sir?

11 A Yes. The one I'm looking at is from the Acme
12 Texas plant.

13 Q Okay. And then look at the tab. There's a red
14 tab on the side right there.

15 A Right here?

16 MR. BAILEY: Nope. This tab.

17 THE WITNESS: Oh, this tab, okay.

18 BY MR. HART:

19 Q Right there. On the back, there's some pages
20 that is Exhibit B to that deposition, some handwritten
21 notes.

22 Are those in your handwriting?

23 A It could be. It does kind of look like my
24 handwriting, yes.

25 Q Okay.

1 A Yes, it says Lehnert down here.

2 Q Okay. So you were asked some questions about
3 formulas and you wrote a little summary there that was
4 attached to the deposition, correct?

5 MS. DEMOREST: Object to the form.

6 THE WITNESS: I think that I was allowed to do
7 this to make the testimony go easier.

8 BY MR. HART:

9 Q Okay. And everything that you testified to in
10 that deposition was correct and true to the best of your
11 knowledge, correct?

12 A Yes.

13 Q And what you wrote there is a correct statement
14 also, correct?

15 MS. DEMOREST: Object to the form.

16 THE WITNESS: All formulas contained SG210
17 except ready mix --

18 THE COURT REPORTER: I can't hear you, sir.
19 I'm sorry.

20 MS. DEMOREST: Could I just ask you to respond
21 to his question.

22 BY MR. HART:

23 Q Go ahead and read.

24 A All formulas contained SG210 except ready-mix
25 topping 3874 to 91075, four-gallon cartons and

1 five-gallon pails in asbestos-free formulas.

2 MS. DEMOREST: Object to the responsiveness.

3 BY MR. HART:

4 Q Okay. Now, what you wrote in your handwriting
5 there on those pages at the end of the exhibits --

6 A Uh-huh.

7 Q -- was all of that correct to the best of your
8 knowledge at the time you wrote it?

9 A I have to assume that it was.

10 Q Okay. Thank you, sir. I have no further
11 questions about that document.

12 Now, we got the printer to work, so let me show
13 you Exhibit 19. It says on its cover, Laboratory
14 Notebook.

15 A Yes.

16 Q Okay. I think there's some more pages still
17 coming out of the printer --

18 A Okay.

19 Q -- but this is the first portions of a
20 laboratory notebook.

21 A Okay.

22 Q If you'd look at the beginning of it -- uh-oh.
23 That's the binder. Then the next page --

24 A Instructions.

25 Q Yeah. But before that, is there a page

1 showing --

2 A Before that?

3 Q Yes, sir.

4 A Oh, okay.

5 Q Yes.

6 A Issued to Bill Gettel.

7 Q Okay. And that says Bill Gettel's laboratory
8 notebook that was issued to him on September 14, 1975; is
9 that correct?

10 A Yes.

11 Q Does this appear to be the type of notebook
12 that was used in your laboratory?

13 A Yes, it does.

14 Q Why were people like Bill Gettel given
15 notebooks?

16 A So that they could record information about
17 their projects they were working on to have some kind of
18 a general record. For instance, if you put formulas --
19 you want to save them. You put them in here, then they
20 would get lost. Of course, this was all bound notebooks
21 so you couldn't take the pages out.

22 Q Okay.

23 A If there was anything patentable, why, then you
24 could go back to it, perhaps. Or they might have me sign
25 something to affirm something was developed.

1 Q Okay. So let's look at some pages in the
2 notebook. If you'd turn the page, the next page is
3 instructions about how to use it, correct?

4 A Yes.

5 Q Then the next page, just some notes somebody
6 made, correct?

7 A I don't know what they are.

8 Q Okay.

9 A Just numbers.

10 Q Okay. Then the next page has -- it's a grid,
11 graph paper, and it has the number one at the upper
12 right-hand corner.

13 A Yes.

14 Q Okay. And look at what's written there. Does
15 that seem to be a formula of some type?

16 A Yes. It looks like that's a joint compound
17 formula.

18 Q Okay. Let's look at some of the things listed
19 there.

20 A All right.

21 Q It says asbestos 7RF-02. What does that mean?

22 A That means that was the designation for
23 Johns-Manville's asbestos product.

24 Q Okay. And then below that it says
25 preservative.

1 A Yes.

2 Q And then what's the next word?

3 A Gelvatol.

4 Q Okay. What's --

5 A That was polyvinyl alcohol. That was the
6 adhesive.

7 Q Okay. The next -- what's the next ingredient?

8 A Natrosol. Natrosol was a material that would
9 gel and improve the workability of the products.

10 Q Okay. And the next says mica.

11 A Mica was used to keep it from cracking.

12 Q Okay. And then the next, it says asbestos
13 SG210. What --

14 A Yes.

15 Q What does that mean?

16 A That meant that was from Union Carbide.

17 Q SG210, does that always mean Union Carbide?

18 A Yes.

19 Q Okay. And then it says?

20 A Sericite mica.

21 Q That's another type of mica. And then
22 limestone?

23 A Yes.

24 Q So the bulk of the product appears to be
25 limestone and the rest of it were these other

1 ingredients.

2 A Yes. This would be common for almost any joint
3 compound. The bulk filler, whether it's limestone or
4 gypsum, would be the bulk of the product --

5 Q Okay.

6 A -- and the rest would be smaller amounts.

7 Q Now, let me ask you a question, sir. This
8 particular formula contains two different types of
9 asbestos.

10 A Yes.

11 Q Was that unusual, or was that typical?

12 MS. DEMOREST: Object to form.

13 THE WITNESS: That was somewhat unusual.

14 BY MR. HART:

15 Q Okay. But if we see the designation SG210, was
16 that always Union Carbide?

17 A Yes.

18 Q It looks like you have two percent of that,
19 based upon the next column, and two percent of the
20 Johns-Manville asbestos, correct?

21 A Yes.

22 Q Okay. So this would have had four percent
23 asbestos total?

24 A That's correct.

25 Q Okay. Now, let's go to the next page. And

1 there's another formula there, correct?

2 A Yes.

3 Q This one is a little bit different because it
4 has one percent of the 7RF and two percent of the SG210,
5 the Union Carbide, correct?

6 A Yes. We don't have any dates on this, do we?
7 He didn't put a date on it.

8 Q Well, the beginning of the notebook says it was
9 issued to him in 1975.

10 A He should have designated the dates here so we
11 would know.

12 Q Yeah.

13 A So it's just on his part it was not a good idea
14 to not put the date on it.

15 Q Okay.

16 A Yeah, that's right. So I have to kind of guess
17 when it would have been.

18 Q Oh, I forgot to ask you. Go back to the
19 previous page.

20 A Uh-huh.

21 Q He's got something there at the bottom. It
22 says, Sanding 56. Do you see that?

23 A Where are we looking at?

24 Q The last entry.

25 A The last entry -- oh, 100731?

1 Q No, all the way down underneath that.

2 A Oh, okay. Sanding 56.

3 Q What does that mean? Do you know?

4 A That must have been a sanding machine that I
5 forgot we had --

6 Q Okay.

7 A -- or I didn't know or something.

8 Q Okay.

9 A They didn't tell me about it maybe.

10 Q Okay. Now, when we talk about the machines,
11 did you have any exhaust ventilation for the asbestos in
12 your laboratory?

13 A We had an internal system. It kept the right
14 temperatures in the building.

15 Q You had --

16 A Yes.

17 Q But was there an exhaust system out on the
18 bench?

19 A I don't remember any exhaust systems on the
20 bench.

21 Q Okay. Now, in the plants, when you mixed
22 asbestos on the hoppers, you had big exhaust hoods at
23 that area to take away any dust, correct?

24 A They had some exhaust things. I don't know how
25 effective they were, but I remember when asbestos became

1 a problem that we made sure we had that kind of control.
2 They would try and achieve the OSHA regulations.

3 Q Okay. And you didn't have that kind of system
4 in the laboratory, did you?

5 A No.

6 Q Okay. Now, let's go and look at next the page
7 with the number at the top, number four.

8 A Okay.

9 Q It says at the top, the title, boric acid
10 stable ready mix. Do you see that?

11 A Yes.

12 Q Do you remember there was a time where you had
13 an issue whether the ready mix would work with wallboard
14 that had boric acid in it?

15 A Yes. I'm trying to think now why -- oh, some
16 of the adhesives, if you didn't have boric acid, it would
17 have some problems attached to it. I don't know whether
18 it was alcohol. Did they have alcohol in this one? I
19 don't see it.

20 Q Okay.

21 A Well, this is -- these are all Elvace formulas.
22 Now, Elvace is polyvinyl acetate emulsion. And air flex
23 probably in --

24 Q Okay.

25 A I don't know what air flex was.

1 Q Well, basically, without going into too much
2 detail --

3 A Yeah.

4 Q -- Mr. Gettel was trying different formulas to
5 see if he could get the ready mix to work better with
6 wallboard that had boric acid in it. Is that fair?

7 A He was using the boric acid because of one of
8 the other ingredients. This is a ready mix. This is the
9 filler and these adhesives were added last.

10 Q Okay. And this has both the Johns-Manville and
11 the Union Carbide asbestos in it?

12 A Yeah, it might have been something in the paper
13 that reacted with the gelvatol. I see he has got
14 gelvatole and also polyvinyl alcohol and that might have
15 been why he had the boric acid.

16 Q Okay. My question was: This formula contains
17 the two types of asbestos we talked about?

18 A Yes, it does.

19 Q Now, if you'd go to page number 6 --

20 A Okay.

21 Q -- there is another formula that contains the
22 two types of asbestos with the same test --

23 A Yes.

24 Q -- the boric acid stable ready mix?

25 A Yes.

1 Q And page 7 has another one?

2 A Yes.

3 Q Okay. And so when Mr. Gettel, if he was
4 working in your lab making these formulas, these
5 materials, these ingredients would, first of all, have
6 been stored in the -- that room in the back in the shop
7 and then you would have moved some quantities of it to
8 his bench?

9 MR. BAILEY: Object to form.

10 THE WITNESS: Yes.

11 BY MR. HART:

12 Q Okay. That would have included the asbestos as
13 well as the limestone and the other ingredients?

14 A Yeah. I think that's all. I don't think we
15 bought full bags of limestone. We were using a lot of
16 it, and it's possible that they would bring a 50-pound
17 bag in.

18 Q Okay.

19 A I don't remember that. That's possible.

20 Q But if it says that he had --

21 A Small amounts of asbestos, you would have some
22 other -- something else he would put it in. I don't know
23 whether it was a bag or a can.

24 Q The SG -- if it says SG210 was in the formula,
25 he actually used Union Carbide asbestos that he got from

1 somewhere?

2 A That's correct.

3 Q Okay. It would have been stored in the shop or
4 at the bench that he worked on?

5 A Yeah. He would probably have a bag in the shop
6 and then he would have less amount -- I don't know what
7 size the bags were either, but they were mostly big bags
8 of asbestos bags.

9 Q Okay. Now, if you'd go to the next page, he's
10 working on asbestos-free ready mix; is that correct?

11 A That's what it says here, yes.

12 Q Okay. And the next few pages, if you'd go to
13 those, are all asbestos-free formulas; is that correct?

14 A Yes.

15 Q And then if you'd go to page 14 --

16 A Okay.

17 Q -- do you see there's some formulas there? It
18 says they're trying to duplicate the properties of
19 U.S.G.'s topping, which is rated superior in the field.

20 Do you see that?

21 A Yes, I see it.

22 Q Okay. The title of this project is "Ready Mix
23 Topping-Chicago," correct?

24 A Yes.

25 Q Okay. And they give you the formulations -- I

1 mean the test results for the U.S.G. product at the top
2 there, correct? It says cracking, bonds, sanding?

3 A Yes. Yes.

4 Q And they tested those properties?

5 A Yes.

6 Q And then beneath that, there's a series of
7 mixtures. Do you see where it says A --

8 A Yes.

9 Q -- dry and then wet?

10 A Yes.

11 Q And then beneath that -- and included in there
12 is SG210 under the dry mix?

13 A Yes.

14 Q And under B, there's another dry mix there that
15 includes SG210, correct?

16 A Under what?

17 Q B. Do you see the B at the bottom? Like the
18 letter B, like boy.

19 MR. BAILEY: B.

20 THE WITNESS: Here. Yeah. Oh, B. I see what
21 you're saying.

22 BY MR. HART:

23 Q Yeah.

24 A Okay. Yeah, that's right.

25 Q And --

1 A These are two -- apparently two dry mixes.

2 Q Okay.

3 A You understand you have dry mixes and then
4 you'd add them to the -- if you had an emulsion, why,
5 you'd have to put the emulsion in the water first and
6 then put the dry mix -- mix the dry into it.

7 Q Okay. Do you see over next to it, it says
8 sanding, and it gives you a number there?

9 A Yes.

10 Q Okay. And above that, under the mixture A,
11 there's also a sanding number? Off to the right?

12 A I don't see -- oh, under wet.

13 Q Under wet. And then it says sanding.

14 A Sanding, yes.

15 Q Okay. So Mr. Gettel would have made this
16 mixture, applied it somehow and then sanded it somehow,
17 correct?

18 MR. BAILEY: Object to form.

19 THE WITNESS: I would think if he -- if he has
20 a number, that would probably be that sanding
21 machine, which I don't remember.

22 BY MR. HART:

23 Q Okay. Now, the next page is, again, more ready
24 mix?

25 A Yes.

1 Q And it's -- again, it's got the various types
2 of asbestos in there; is that correct?

3 A Yes.

4 Q There's three different formulas, A, B, and C?

5 A Yes.

6 Q Okay. So in these pages, the first 15 pages of
7 this, Mr. Gettel was working on both asbestos-free
8 materials and asbestos-containing materials; is that
9 correct?

10 A I guess we did one with the asbestos free.

11 Q Yes, sir.

12 A Okay, yes.

13 Q Okay. And that's all I wanted to ask you about
14 that document, sir.

15 A Okay. It's too bad we don't know the dates.

16 Q We know it was issued in 1975.

17 A Yeah. That only means that this was after
18 1975. This was after 1975.

19 Q What was?

20 A The book was issued in 1975. These were all
21 after that period.

22 Q Okay.

23 A They weren't before.

24 Q He would have started using it in 1975.

25 A Yeah. He wouldn't have started using it in

1 '74.

2 Q Oh, I agree.

3 A Okay.

4 Q Let's look at another notebook. This is
5 Exhibit Number 18.

6 (Thereupon, Exhibit 18 was marked for identification.)

7 THE WITNESS: This is Jack Sullivan.

8 BY MR. HART:

9 Q Do you remember Mr. Sullivan?

10 A Yes.

11 Q Okay. What was his job?

12 A He was -- from time to time we would have
13 trainees come in who eventually would go to a plant.
14 This seemed to work pretty well because -- and they would
15 go to a plant, perhaps as a quality control supervisor --

16 Q Okay.

17 A -- or at least some other job in the plant, but
18 it had -- this was a prelim for them.

19 Q Okay.

20 A Both of these people were in that program and
21 did ultimately go to plants.

22 Q Okay. So this was issued to Jack Sullivan and
23 Wayne Ciccarelli?

24 A Yes.

25 Q On July 7, 1975, correct?

1 A That's correct.

2 Q Okay. Let's go through and look at a couple of
3 the things here.

4 A Okay.

5 Q He has a table of contents he created?

6 A Good. Everybody does some things different.
7 Is this it? Oh, yeah, good.

8 Q It shows that this notebook contains lots
9 of different projects, not just joint cement, but some
10 wallboard projects --

11 A Yes.

12 Q -- and both asbestos ready mix and also
13 asbestos-free ready mix, correct?

14 A Yes.

15 Q He studied that at various times?

16 A Yes.

17 Q Okay. Let's look at the first one, the
18 screening test for fire-rated door. That's not joint
19 compound, right?

20 A No, that's not joint compound.

21 Q Okay. Then it says competitive board survey.
22 That's not joint compound.

23 A No.

24 Q The next one is Chicago Ready Mix.

25 A That's joint compound.

1 Q Okay. Let's look at that. It says page 10 to
2 20. Let's go to those pages.

3 A Is that the one that's marked here?

4 Q I think so, sir. I tried to help you out.

5 A Okay.

6 Q I tried to help you out.

7 A Yeah.

8 Q Okay. And this is dated, isn't it, at the
9 bottom?

10 A Yes. That's the way they all should be.

11 Q December 19- -- December 1975.

12 A Yes, that's correct.

13 Q Okay. And it says an effort was made to
14 produce a ready mix product for Chicago to compete with
15 U.S.G.'s cover coat product. U.S.G. product, though a
16 year-old sample had the following test results.

17 Then they give you test results, including
18 sanding test results, right?

19 A For U.S.G.'s cover coat.

20 Q Yes.

21 A Yes.

22 Q Okay. So they were trying to make a product
23 that would be similar to the U.S.G. product; is that
24 correct?

25 A Yes, that's true.

1 Q Then we're going to look through here, and
2 below that, there are different formulations, correct?

3 A Yes.

4 Q And on this page it goes A, B, C, all the way
5 up to G, correct, going across?

6 A Yes.

7 Q And each one of those is a slightly different
8 formula while they test it to try to compete with U.S.
9 Gypsum?

10 A Yes.

11 Q Okay. Asbestos 7RF-02 and SG210 are listed and
12 the percentages for each formula are described; is that
13 correct?

14 A Yes.

15 Q Okay. And then go to the next page. At the
16 top are the test results A through G and U.S.G. Do you
17 see that at the top?

18 A At the top?

19 Q Test results of formulations.

20 A Oh, yeah, I see it. Yeah, A through G.

21 Q And the first three were tested by sanding
22 them?

23 A Yes.

24 Q Okay. And then below that, there's some more
25 formulas, H through L?

1 A Yes.

2 Q With the quantity of asbestos and other
3 ingredients listed there; is that correct?

4 A Yes.

5 Q Okay. Then so if you'd go through -- just flip
6 through the pages -- it goes all the way through to page,
7 it looks like 20.

8 A Chicago Ready Mix.

9 Q And these are different formulas, correct?

10 A Yes, this is cover coat also.

11 Q Okay. And so what -- in each one of these --
12 this is MMM, triple M, correct?

13 A That's it's what again? MMM? What do you
14 mean?

15 Q Do you see at the top there, the top of the
16 column?

17 A This is KK and L. I must be --

18 Q And then over to the right.

19 A Oh, yeah, I see. M is over here.

20 Q Mr. Sullivan went A through Z and then he went
21 AA through ZZ and now he's going AAA and he got up to
22 MMM.

23 That's how many different formulas he tried; is
24 that correct?

25 A It sounds like it, what he was doing.

1 Q Okay. It's all reported in these pages?

2 A Yes.

3 Q And -- and whether or not asbestos was in there
4 and how much asbestos and whose asbestos is described in
5 his notes, correct?

6 A That's true.

7 Q And the testing he did, including whether he
8 sanded it or not, is described in his notes, correct?

9 A I don't see it here, but it must be if you say
10 so. It's been in all the other ones.

11 Q Yes, sir.

12 A Okay.

13 Q And this last test was done in February of
14 1976, if you look at the bottom by your hand.

15 A Yes, that's correct.

16 Q Okay. So his test went from December through
17 February, about a three-month time period, correct?

18 A Yes.

19 Q Okay. Would that be a typical type of test
20 that would be done in your laboratory?

21 MR. BAILEY: Object to form.

22 THE WITNESS: Well, you know what cover coat
23 is?

24 BY MR. HART:

25 Q Yes, sir.

1 A Oh, you know what it is?

2 Q Yes, sir.

3 A Oh, okay. I don't know that we ever were in
4 that business. Maybe they were trying to do something
5 and run successful, but I don't remember us ever getting
6 into the cover coat business. I could be -- that's my
7 memory.

8 Q Yeah.

9 A I can just tell you --

10 Q And regardless of whether you got into it, this
11 shows that in the laboratory Mr. Sullivan was
12 trying different formulas to see if you could get into
13 the business.

14 A That's correct.

15 Q Okay. And that's all I want to ask you about
16 that, sir.

17 A Oh, okay.

18 Q And -- and are those two documents true and
19 accurate copies of lab notebooks from Georgia-Pacific?

20 A Yes. They appear to be, yes.

21 MR. HART: Okay. Thank you.

22 Thank you, sir. That's all I have.

23 THE WITNESS: Thank you.

24 VIDEOGRAPHER: Anyone else?

25 MR. BAILEY: Lori may have some.

1 RECROSS EXAMINATION

2 BY MS. DEMOREST:

3 Q Mr. Lehnert, I just have a few follow-up
4 questions.

5 A Okay.

6 Q Mr. Hart asked you about a deposition that you
7 gave back in 2001, about 12 years ago.

8 A Yes.

9 Q And it didn't appear that you really remembered
10 the details of that deposition, right?

11 A That's correct.

12 Q You didn't remember the details of that
13 handwritten exhibit, did you?

14 A No. It's obvious that I had written it though.

15 Q Sure.

16 Do you recall what the -- that handwritten
17 exhibit was based on? Do you recall what you used to
18 create that exhibit? Sitting here today, do you recall?

19 A Well, I'd have to look at it. Can I take
20 another look at it quickly?

21 Q Well, let me ask you this.

22 A Okay.

23 Q If the deposition itself, if there's a
24 stipulation in the deposition that the purpose of that
25 deposition was to look at Georgia-Pacific joint compound

1 products that did contain Union Carbide asbestos with
2 you, but not to look at any Georgia-Pacific joint
3 compound products that contained somebody else's asbestos
4 only and not Union Carbide, if that was the stipulation
5 for that, then do you know whether you would have looked
6 at any formulas that didn't contain Union Carbide for
7 that document?

8 MR. HART: Let me just object to the form.
9 Go ahead, sir.

10 THE WITNESS: Can I see this thing again?

11 MS. DEMOREST: Sure.

12 MR. BAILEY: What do you want to look at?

13 THE WITNESS: I want to see the document that
14 she's talking about. It's at the end of --

15 MS. DEMOREST: With the red tab there.

16 THE WITNESS: Oh, the red tab. Okay.

17 MR. BAILEY: Take your time.

18 THE WITNESS: There are notes -- on the notes,
19 and I -- as I remember now --

20 BY MS. DEMOREST:

21 Q Remember, my question now is: Do you recall --

22 MR. HART: Excuse me. Let him finish -- let
23 him finish the question -- let him finish the
24 answer.

25 MS. DEMOREST: Well, he --

1 MR. HART: You're repeating it. He asked to
2 look at the document, and let him finish the answer,
3 please.

4 BY MS. DEMOREST:

5 Q I would like you to focus on my question, which
6 is: Do you recall what documents you used to create that
7 document?

8 A I see, okay. No. This is just to look at
9 Union Carbide asbestos and -- just look at Union Carbide
10 asbestos.

11 Q All right. If you testified in that deposition
12 that you did not consider formulas that contained only
13 somebody else's asbestos, then that document didn't
14 consider those other formulas, did it?

15 A That's correct.

16 Q Okay. Now, I don't know if you remember this
17 or not, but do you remember the depositions that you gave
18 in September of 2006 and March of 2007, which would have
19 been your last depositions that you gave?

20 A I remember giving the depositions. I don't
21 remember -- I know I answered a number of questions for
22 you.

23 Q Right.

24 Well, do you recall that actually you gave two
25 days of depositions in September of 2006 where attorneys

1 for a bunch of plaintiffs were asking you questions?

2 A Oh, yes. I remember that, yes.

3 Q And then there was a break because you had a
4 health issue. You had a cardiac issue. And then we came
5 back in March and continued that deposition.

6 A Oh, that's right. I do remember.

7 Q And then on the last day of that deposition, do
8 you recall that I got to ask you some questions?

9 A Yes, I do remember you asking me questions.

10 Q Okay. Now, I don't know if you remember this
11 or not, but do you remember going through that deposition
12 and clarifying certain inaccuracies in that document? Do
13 you remember that?

14 MR. HART: Objection to form.

15 THE WITNESS: I do remember that, yes. I don't
16 remember what they were.

17 BY MS. DEMOREST:

18 Q Sure.

19 But do you believe that you would have
20 testified truthfully in that deposition?

21 A Certainly.

22 Q Okay. And let me show you -- and I'll -- this
23 is my copy, but I'll mark a clean copy. And this will be
24 Defendant's Exhibit 8, I believe.

25 (Thereupon, Exhibit D8 was marked for identification.)

1 BY MS. DEMOREST:

2 Q A copy of your deposition given on March 7,
3 2007. All right. Does that appear to be a deposition
4 that you gave in that case?

5 A Yes, it was.

6 Q Okay. Do you believe the testimony that you
7 gave in that case would have been true and accurate?

8 A Yes, I do.

9 Q And if that -- if during that deposition we
10 spent some time going over specific joint compound
11 formulas and how they did or didn't compare to that
12 handwritten exhibit, do you believe that that 2007
13 testimony would be your best testimony on when Union
14 Carbide asbestos was used in Georgia-Pacific joint
15 compounds and when it was not?

16 A Yes. Well, this -- I don't know -- I did this
17 between these two dates. These were long dates. So --
18 so I took this for the Acme plant. Now, I don't know
19 about the other plants.

20 Q Sure.

21 But my -- but my question was: Given that this
22 was your last deposition on this topic --

23 A Yes.

24 Q And you prepared for that deposition, right?

25 A Yes.

1 Q Okay. And that there was a discussion about --
2 and I showed you formulas. Do you remember that?

3 A Yes, I remember you showing me some formulas --

4 Q Okay.

5 A -- and I responded to them. And I've forgotten
6 why -- what the exact questions were.

7 Q Sure.

8 But -- but is it fair to say that that
9 testimony you gave in March 2007 was the best and most
10 accurate testimony that you have given on when Union
11 Carbide was and was not used in the Georgia-Pacific joint
12 compound formulas?

13 MR. HART: Objection. Form.

14 THE WITNESS: Yes, because this is only at one
15 plant.

16 BY MS. DEMOREST:

17 Q Right.

18 A And I think you asked me about some other
19 plants.

20 Q All right. That's -- that's all I've got with
21 that.

22 A Yeah.

23 Q With regard to the lab notebooks that you were
24 just shown by Mr. Hart, do you know whether the formulas
25 that were being tested ever actually went into production

1 for sale at any particular plant?

2 A I can't be sure, but this was cover coat, and
3 we've talked about what that was -- that was a specialty
4 product. And I don't ever recall having -- we'd have to
5 look at the other records to see if there were any cover
6 coat formulas that went into the formulas.

7 Q Okay.

8 A That could be done.

9 Q So sitting here today, you can't tell us
10 whether any of those experimental formulas that are
11 listed in those notebooks actually went into production
12 for sale?

13 A Well, that's right. A lot of things were
14 experimented, were never used in production. Some didn't
15 even go to the plants because maybe the salespeople said
16 don't pursue it any further or something. There could be
17 a lot of reasons why not.

18 Q Okay. With regard to Mr. Gettel's lab
19 notebook, all we have for a date is the date that the
20 notebook was issued, right?

21 A Yes, that's true.

22 Q Other than that, we have no idea when that work
23 was done?

24 A That's true.

25 Q Okay. And with regard to the other notebook,

1 which apparently did have some dates on those pages --

2 A Yes.

3 Q -- do you have any idea what time of day the
4 work was done?

5 A What time of day?

6 Q What time of day. Is there anything on those
7 pages?

8 A Somewhere between 8 and 5.

9 Q Other than that, you don't know?

10 A No, I wouldn't have any idea.

11 Q Do you have any way of knowing whether any
12 students or other people worked directly with these
13 technicians on the formulas when they were working on
14 them?

15 A Yes. It's possible that they worked with it
16 because they were just there to gain some experience and
17 to see where they would -- which would help them when we
18 shipped -- we sent them to a plant. Typically they would
19 be with us for about six months. There were some
20 exceptions, but --

21 Q But sitting here today, do you know, for
22 instance, whether Mr. Robbins worked on any of those
23 formulas that are listed in the lab notes?

24 A I don't remember Mr. Robbins. I'm sorry. You
25 know, I've searched my mind and I just can't come up with

1 anything.

2 Q Okay. Fair enough.

3 A I have a -- either I have a total blank or he
4 wasn't there. I don't know. One of those two has to be
5 right.

6 Q And you don't know who, if anybody, worked with
7 these technicians on the formulas that are listed in the
8 notebooks?

9 A I don't know why we would have anybody work
10 with technicians.

11 MS. DEMOREST: All right. That's all the
12 questions I've got.

13 RECROSS EXAMINATION

14 BY MR. BAILEY:

15 Q One more question because I'm not sure -- tell
16 me if you understood this.

17 She asked you a question about you don't know
18 whether or not any students would have worked with these
19 formulations, and you said, well, they would be there
20 about six months and we'd send them somewhere else.

21 A Yes.

22 Q I want to make sure you understood the
23 question. She was asking you about the students, high
24 school students. Do you know whether or not they would
25 have worked --

1 A Oh.

2 Q I didn't get the impression you understood the
3 question.

4 A I don't even remember any high school students
5 working there, no. But these people -- I forgot the
6 names already, two people. And -- but those people, yes,
7 were in that intern program, if we can call it that, and
8 they stayed with us about six months and then they went
9 off. Sometimes an opening occurred in a plant and they
10 wouldn't know where was plant was. I think Ciccarelli
11 went to Sigard and the other fellow went to Fort Dodge,
12 but that's just my --

13 Q Okay. One -- one other question. When you
14 talk about the intern program -- I just want to be clear
15 for the record here -- you're not talking about people
16 that came through a high school program?

17 A No. That is our own intern program to train
18 people who would go out to the plants.

19 Q Okay. I didn't think you understood that. I
20 wanted to clarify that. Okay.

21 A Yeah.

22 MR. BAILEY: No further questions.

23 FURTHER REDIRECT EXAMINATION

24 BY MR. HART:

25 Q One thing. If you could go back to the Exhibit

1 21 right there in your hand, sir.

2 MR. BAILEY: This one?

3 MR. HART: Yeah.

4 BY MR. HART:

5 Q Go to the red tab, the last three pages, 21B.

6 And that's in your handwriting, correct?

7 A Yes.

8 Q Okay. The first page --

9 A Oh, there's some more pages. I didn't see them
10 all. Okay.

11 Q Yeah, that's what I wanted to talk to you
12 about.

13 A I only saw the one page.

14 Q Right.

15 A We didn't go to the other pages. So this does
16 include other plants. Let's see if it has all the
17 plants. The Texas plant.

18 Q Acme.

19 A And we had --

20 Q Marietta, Georgia and Milford.

21 A Marietta, Georgia, Milford.

22 Q Akron, New York.

23 A Akron, New York. And Chicago. That's all of
24 them, yeah.

25 Q Okay. So your handwritten summary does include

1 a summary of Union Carbide asbestos usage in all plants
2 where joint cement was manufactured, correct?

3 A Yes.

4 Q You recall that you prepared that after
5 reviewing all of those pages that preceded, which are
6 formulas?

7 A These are all formulas.

8 Q Okay.

9 A These formulas may or may not have been brought
10 to fruition. In other words, we may never have adopted
11 it.

12 Q Right.

13 A Because when you're having formulas, why, you
14 have to go through the plant operation and then take it
15 out in the field. So it's quite a long -- you know,
16 there's a lot of different formulas here. Some of them,
17 see -- Denver, this was one particular customer.

18 Q Right.

19 So your notes were an attempt -- which is
20 Exhibit 21B, was your attempt to summarize the use of
21 asbestos as depicted in the formulas at each plant?

22 MS. DEMOREST: Object to the form. Foundation.

23 THE WITNESS: In the formulas, yeah. Whether
24 or not that was sold or not, maybe they were, maybe
25 they weren't. I don't know.

1 MR. HART: Okay. Thank you, sir. That's all I
2 have.

3 THE WITNESS: Yeah. Well, I didn't see that
4 page. I'm glad you brought it up.

5 RE CROSS EXAMINATION

6 BY MS. DEMOREST:

7 Q I'm not quite sure how to do this because I
8 only have one copy, but what I'm going to do is just read
9 a little bit from your --

10 A Okay.

11 Q -- March 2007 deposition. Then I'll show it to
12 you just to see if this refreshes your recollection.

13 A All right.

14 Q We're talking about that exhibit that's on tab
15 number -- the -- the red tab.

16 A The red tab that's over here.

17 Q This is from your March 2007 deposition.

18 MR. HART: Give me a page number.

19 MS. DEMOREST: 825.

20 BY MS. DEMOREST:

21 Q All right.

22 The purpose of that exhibit was to summarize
23 the joint compound formulas that contained Union
24 Carbide's SG210?

25 Answer: Yes.

1 Question: Was that exhibit meant to address
2 formulas that did not contain Calidria SG210?

3 Answer: No. Only the ones that did contain
4 SG210.

5 Then down on 826, and then I'll show it to you.

6 Question: So this exhibit was restricted to a
7 discussion of those formulas that you found in reviewing
8 all of the product formulations that did actually contain
9 Union Carbide's Calidria SG210?

10 Answer: Yes.

11 And then, finally, on page 829:

12 Since this Exhibit Number 12, as you've just
13 told us, was made only for the purpose of showing the
14 dates when Union Carbide's Calidria asbestos was in a
15 product, it doesn't provide any information about what
16 other joint compounds might have been in existence at the
17 same time that did not contained Calidria, right?

18 Answer: Yes, that's correct.

19 Question: Okay. And there were other formulas
20 during that time that might have contained Philpapers
21 asbestos, but not Calidria asbestos, true?

22 Answer: Yes, or combinations of those
23 asbestos.

24 Do you generally recall that --

25 A Yeah.

1 Q -- and was that true?

2 A Well, I think that is true. This was just --
3 they did at all the plants now. But still it was limited
4 to SG210 asbestos.

5 Q Okay. Thank you.

6 MR. BAILEY: Anybody else?

7 MR. HART: Not for me.

8 MR. BAILEY: That concludes the deposition.

9 VIDEOGRAPHER: This concludes the deposition.

10 The time is approximately 4:32 p.m.

11 (Deposition concluded at 4:32 p.m.)

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1 C-E-R-T-I-F-I-C-A-T-E

2 STATE OF FLORIDA)

3 COUNTY OF LEE)

4 I, Tracie L. Thompson, Certified Court Reporter and
5 Notary Public in and for the State of Florida do hereby
6 certify that I was authorized to and did stenographically
7 report the foregoing deposition, that the transcript is a
8 true record of the testimony given by said deponent and
9 all proceedings had at the session at which said
10 deposition was taken; and that the reading and signing
11 was waived and notice of filing be waived.

12 I further certify that I am not a relative,
13 employee, attorney or counsel of any of the parties, nor
14 am I a relative or employee of any of the parties'
15 attorney or counsel connected with the action, nor am I
16 financially interested in the action.

17 Dated this 16th day of October, 2013.

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Tracie L. Thompson
Notary Public
State of Florida at Large