

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

_____	)	
STEVEN D. McABOY, for himself and	)	
as Personal Representative of the	)	
Estate of JEAN McABOY, a single	)	
person,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 05-2-18854-5 SEA
	)	
IMO INDUSTRIES, INC., individually	)	
and as successor-in-interest to	)	
and f/k/a DELAVAL TURBINE, INC.,	)	
IMO DELAVAL INC., and WARREN	)	
PUMPS, a Delaware corporation,	)	
et al.,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF ROSS ARTHUR HACKEL,
taken pursuant to Notice, before Dan Robbins,
Certified Shorthand Reporter-Notary Public in and
for the Commonwealth of Pennsylvania, on Friday,
August 12, 2005, at the ACBA Greensburg office, 129
North Pennsylvania Avenue, Greensburg, Pennsylvania
15601, commencing at 11:15 a.m.

- - -

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 Schroeter, Goldmark & Bender
4 William Rutzick, Esquire (via telephone)
5 500 Central Building
6 810 Third Avenue
7 Seattle, Washington 98104

8 On behalf of Defendant Elliott Company:

9 Forsberg Umlauf, P.S.
10 Carl E. Forsberg, Esquire
11 Melissa K. Habeck, Esquire
12 900 Fourth Avenue, Suite 1700
13 Seattle, Washington 98164

14 On behalf of Defendants General Electric Company and
15 Viacom, Inc.:

16 Williams, Kastner & Gibbs, PLLC
17 Jeffrey M. Odom, Esquire (via telephone)
18 601 Union Street, Suite 4100
19 Seattle, Washington 98101

20 On behalf of Defendant Goulds Pumps, Inc.:

21 Soha & Lang, P.S.
22 Misty Edmundson, Esquire (via telephone)
23 701 Fifth Avenue, Suite 2400
24 Seattle, Washington 98104

25 On behalf of Defendant Ingersoll-Rand Company:

Corr Cronin Michelson Baumgardner & Preece,
LLP
Nancy T. Le, Esquire (via telephone)
1001 Fourth Avenue, Suite 3900
Seattle, Washington 98154

Also Present:

George Gojkovich, Paralegal, Elliott Company

I N D E X

WITNESS:

PAGE:

ROSS ARTHUR HACKEL

Examination by Mr. Rutzick

4

EXHIBITS:

PAGE:

Deposition Exhibit No. 1

7

Deposition Exhibit No. 2

55

- - -

P R O C E E D I N G S

- - -

ROSS ARTHUR HACKEL,
called as a witness on behalf of the Plaintiff, having
been first duly sworn, was examined and testified as
follows:

EXAMINATION

BY MR. RUTZICK:

Q. Good morning, Mr. Hackel. Can you hear me all
right?

A. Yes, I can.

Q. Please state your name and spell your last
name.

A. My name is Ross Arthur Hackel. My last name is
spelled H-a-c-k-e-l.

Q. You have been deposed a number of times. Is
that correct, sir?

A. Yes, sir.

Q. What, if anything, have you done to prepare for
this deposition?

A. I read a bunch of papers.

Q. Can you detail what papers those were?

A. I read my declaration. I read a deposition of
Admiral Lehman, Dr. Cushing, and a little excerpt from
Adam Martin. I also looked at some of the papers that

1 were submitted relative to the motions.

2 Q. Could you be a little more specific on the last
3 category?

4 A. I can't really. I don't remember exactly how
5 they were titled.

6 Q. Do you have any of those papers with you today?

7 A. No, I don't. The only paper I have with me
8 today is my declaration.

9 Q. Okay. When did you read the various documents
10 you told me about?

11 A. In the last two days.

12 Q. Are you being paid for your time, sir?

13 A. Yes, sir.

14 Q. How much and by whom?

15 A. I am being paid by Elliott, who may be paid by
16 some insurance companies.

17 Q. And how much are you being paid?

18 A. For this moment right at this time, \$250 an
19 hour.

20 Q. Is that going to change in the very near
21 future?

22 A. No. Basically, I have two rates: \$120 an hour
23 for research and \$250 an hour for trial work.

24 Q. And what was the rate for reading those various
25 documents?

1 A. \$120 an hour.

2 Q. Have you maintained the same rate for some
3 period of time?

4 A. At least the last year, yes.

5 Q. Before that, what was your rate?

6 A. It was \$100 an hour.

7 Q. For any kind of work?

8 A. Yeah, I guess that's proper. I am not sure
9 what you mean by "any kind of work."

10 Q. Fair enough. Was it \$100 for trial work?

11 A. No. It was 250 for trial work. It's always
12 been 250 for trial work.

13 Q. Okay. And before last year for nontrial work,
14 it was \$100?

15 A. Yeah. I am going to say, yeah. It changed
16 last year in January, I think.

17 Q. How did you get those various documents that
18 you were telling me about, apart from your declaration?

19 A. I got them from Melissa.

20 Q. When did you get them?

21 A. On Wednesday of this week.

22 Q. Today being Friday. So you have read them all
23 over the past 36 hours or so?

24 A. Yeah, I guess that's proper. 48 hours, I
25 guess, really.

1 MR. RUTZICK: Let's go off the record a minute.

2 (A discussion was held off the record.)

3 (Whereupon, Deposition Exhibit No. 1 was marked
4 for identification.)

5 Q. BY MR. RUTZICK: Mr. Hackel, could you
6 please --

7 MR. FORSBERG: Do we have copies for us in that
8 packet?

9 MR. RUTZICK: No. Of his declaration, the one
10 that he said he had?

11 MR. FORSBERG: Well, he has a copy of it. I am
12 just wondering if there is any for counsel in there.

13 MR. RUTZICK: No. I just made the one as to
14 the declaration. At least I believe that was the case.
15 I kind of assumed you had copies of those.

16 MR. FORSBERG: Do you have copies of the other
17 ones that are in the packet?

18 MR. RUTZICK: No.

19 MR. FORSBERG: Okay. Well, if we don't have
20 them -- I have the declaration. But if we don't have
21 the other ones, I will just ask to stop at some point
22 and get copies of the other ones.

23 MR. RUTZICK: Of course. There is only one
24 other one. We will deal with it as we go.

25 MR. FORSBERG: Okay.

1 Q. BY MR. RUTZICK: Okay. Back to where I was,
2 Mr. Hackel, could you please spend as much time as you
3 want to look at Exhibit 1 to confirm that it is your
4 declaration.

5 A. It looks like it very much.

6 Q. Okay. And it has a number of attachments to
7 it?

8 A. Yes, it does.

9 Q. Okay. I want to ask you a number of questions
10 relating to the declaration starting with who wrote it.

11 A. The front end was written primarily by our
12 attorneys.

13 Q. Okay. And who is that?

14 A. Melissa being one of them, and I don't know who
15 helped her.

16 Q. Okay. What role, if any, did you play in
17 writing?

18 A. Well, I gave them information, and they put
19 that information together in what you would classify as
20 legalese, I guess.

21 Q. Okay. I would like to not use that term, but I
22 think I understand it.

23 Over what period of time did they write it, if
24 you know?

25 A. I don't really know.

1 Q. Okay. It's dated what day? July 14 maybe?

2 A. That's the date at the top of it.

3 Q. If you look at Page 5 --

4 A. The 14th is the date that I signed it.

5 Q. Right. So assuming that you signed it the
6 14th, when did this process begin, if you know? And by
7 "this process," I mean the process which led to this
8 being written and signed.

9 A. I probably seen this a week before that, the
10 draft of it.

11 Q. Okay. I am going to go through this in some
12 detail I guess starting where I start. Is there an
13 Exhibit B to yours, to Exhibit 1?

14 A. Yes, there is.

15 Q. Did you provide that to the attorneys, or did
16 they provide it to you, or was it some variant I haven't
17 thought of?

18 A. I personally did not give it to them.

19 Q. Okay.

20 A. Let me put it that way.

21 Q. You did give it to them?

22 A. I did not give it to them.

23 Q. Do you know where it came from?

24 A. Yes, I do.

25 Q. Where did it come from?

1 A. It came out of some of the Elliott documents.

2 Q. Okay. How do you know that?

3 A. Because I looked to see where they came from.

4 Q. How did you do that?

5 A. I asked my paralegal.

6 Q. Okay. Who is your paralegal?

7 A. George Gojkovich.

8 Q. Okay. How long has he been your paralegal?

9 A. Approximately a year.

10 Q. Are you an attorney?

11 A. No. No.

12 Q. Okay. Since you are not an attorney, can you
13 explain why you have a paralegal?

14 A. Well, I just use him. He's the company
15 paralegal, so I consider him my paralegal, too.

16 Q. Okay.

17 A. I mean, that's -- I don't know how else you
18 refer to him as somebody you work with. That's his
19 role.

20 Q. Okay. Who pays his salary?

21 A. I really don't know.

22 Q. Where is his office?

23 A. At Elliott.

24 Q. Does he sit near other --

25 MR. FORSBERG: Bill?

1 MR. RUTZICK: Yes.

2 MR. FORSBERG: What's the relevance of any of
3 this to what you are doing? Where he sits?

4 Q. BY MR. RUTZICK: Go ahead, sir.

5 MR. FORSBERG: I am going to object to all of
6 this. He works in the law department at Elliott.

7 Q. BY MR. RUTZICK: Well, is that right, sir?

8 A. That's correct.

9 Q. Where did he tell you he found it?

10 A. He showed me.

11 Q. Where did he find it?

12 A. In the Elliott documents. I am not sure
13 exactly what drawer or where he looked to find them, but
14 he found them.

15 Q. Is Attachment A -- I'm sorry. Exhibit B, is
16 that a complete document?

17 A. It looks complete to me.

18 Q. When is the first time you saw Exhibit B?

19 A. I don't really know. It was probably some time
20 ago.

21 Q. Can you put a decade or a year on it?

22 A. Last year.

23 Q. Can you remember the circumstances in which you
24 saw it last year?

25 A. Not really.

1 Q. You worked for Elliott from approximately 1960
2 to approximately 2000. Is that true?

3 A. That's correct.

4 Q. Did you see it in any of those 40 years?

5 A. No, not that I recall.

6 Q. Okay. When is the first time you saw Exhibit
7 C?

8 A. The same time period.

9 Q. That is to say about within the past year?

10 A. That's correct.

11 Q. Do you remember what occasion that led you to
12 seeing Exhibit C?

13 A. I think we were just looking at Navy documents,
14 and this is one of them that I looked at.

15 Q. And was this in an Elliott file?

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

17 Q. Where was it at that point in time?

18 A. It came in as an exhibit, or it came in with a
19 package of documents, and we were searching. Some of
20 these documents came off the Internet. Some of these
21 documents were sent by our attorneys. And I normally
22 look at a lot of this stuff.

23 Q. Okay. Well, given your answer, let me go back
24 to Exhibit B.

25 A. Okay.

1 Q. You indicated you saw it in some Elliott files.
2 Do you know how long it had been in the Elliott files?

3 A. Probably in that time frame.

4 Q. That is to say about a year?

5 A. Year to two years, yes.

6 Q. All right. Are you able to tell me with any
7 more specificity than you already have who sent you --
8 by "you," I mean Elliott -- either Exhibit B or Exhibit
9 C?

10 MR. FORSBERG: Asked and answered. Go ahead.

11 THE WITNESS: I believe it came from a
12 plaintiff's attorney originally, and we may have had it
13 at that point in time. But one of the documents I
14 looked at yesterday had a plaintiff's attorney's name on
15 it.

16 Q. BY MR. RUTZICK: Which document was that?

17 A. Both of the B and C.

18 Q. Okay. And which plaintiff's attorney was it?

19 A. Barry Bobbitt.

20 Q. Could you spell that person's last name,
21 please?

22 A. B-o-b-b-i-t-t, if you don't make me say that
23 that's absolutely right.

24 Q. I wouldn't think of it.

25 I take it that the one you saw yesterday was a

1 different version of this one because this one
2 doesn't -- by "this one," I mean Attachments B and C --
3 don't appear to have anybody's name on them?

4 A. Oh, yeah. That's the way they came, and they
5 just had a cover letter over them.

6 Q. I see.

7 A. There may have been some other documents in
8 there, too. I don't remember. But I know that these
9 two were in that packet.

10 Q. Okay. Exhibit C has a date in the upper right
11 on the first page of December 1951. Do you see that?

12 A. Yes, I do.

13 Q. Do you know whether this specification was ever
14 changed?

15 A. From 1951?

16 Q. Yes, sir.

17 A. It probably was. I don't know that for a fact.

18 Q. Okay. Have you ever seen any changes in the
19 specification?

20 A. Not that I can recall.

21 Q. Do you know what preceded this December 1951
22 iteration of Exhibit C?

23 A. No, I don't really.

24 Q. Do you know how long it was in effect?

25 A. No, I don't really.

1 Q. Have you ever looked?

2 A. No.

3 Q. How do you know that is actually a Bureau of
4 Navy document?

5 A. It says "Department of Navy, Bureau of Ships"
6 on top of it.

7 Q. Okay. Is Exhibit C a complete document?

8 A. It looks complete to me.

9 Q. What's Exhibit D to your declaration?

10 A. That's an internal Elliott document that was
11 engineering instructions that the engineering department
12 used to build deaerating feed tanks.

13 Q. When is the first time you saw Exhibit D?

14 A. I am going to say sometime in the last -- I
15 don't really remember, but it probably was two years,
16 maybe three years. I don't know. Something like that.
17 Some time ago.

18 Q. Ago?

19 A. Some time ago.

20 Q. Within the past five years?

21 A. Yes. Within the past five years I think is a
22 good answer.

23 Q. Okay. Who gave it to you?

24 A. Nobody.

25 Q. How did you locate it?

1 A. I looked in Elliott's files.

2 Q. Where did you look?

3 A. Elliott has a bunch of microfilm, and I found
4 the microfilm sheet for E Record 108139. And it was
5 microfilm, and I looked at the microfilm, and this is
6 one of the pages in that microfilm list.

7 Q. Did you choose to put Exhibit D in your
8 declaration, or is it somebody else?

9 A. I think somebody else.

10 Q. Do you know who that was?

11 A. No, I don't.

12 Q. Do you know how they came across Exhibit D?
13 Did you tell them about it?

14 A. Yeah. We were aware of it, and I was aware of
15 it. And, you know, it's one of the materials that I
16 provided or at least gave to my paralegal, who
17 transmitted it to them.

18 I used my term "paralegal." Is that a problem
19 for you? He helps me immensely.

20 Q. It's not a problem for me at all.

21 Does he help other people besides yourself, or
22 does he work mostly for you?

23 A. No. He works for the Elliott attorneys.

24 Q. How much in the past year, for example, sir, do
25 you work full-time or part-time or what?

1 A. I am retired, and I am trying to work
2 part-time.

3 Q. Let me rephrase my question. In the past year,
4 can you estimate how much time you spent working at
5 Elliott?

6 A. Working for Elliott, approximately 50 percent
7 of the time.

8 Q. So when you say you are retired, what does that
9 mean?

10 A. Well, I guess when people retire, they change
11 their status, and that's what I did. I no longer get a
12 regular paycheck, nor do I have to show up at eight
13 o'clock or seven o'clock in the morning every day.

14 Q. Okay. So by half time, I take it you mean you
15 work on average about 20 hours a week?

16 A. I would like it to be a little bit less than
17 that, but I guess if you averaged it out and said 50
18 percent of the time, that's 20 hours a week.

19 Q. And how much of that time are you paid 120 an
20 hour, and how much are you paid 250 an hour?

21 A. In the last year, most of it has been at the
22 120.

23 Q. What kind of work do you do in the past year
24 for Elliott?

25 A. Most of it has been asbestos litigation.

1 Q. Can you be a little more specific?

2 A. In what sense? I am not sure what you are
3 after.

4 Q. Okay. Do you write documents? Do you research
5 documents? Do you talk to people?

6 A. All of the above.

7 Q. What kind of documents do you write?

8 MR. FORSBERG: I am going to object to that to
9 the extent they are prepared in the course of
10 litigation.

11 MR. RUTZICK: Okay. Are you instructing him
12 not to answer or just objecting?

13 MR. FORSBERG: I am objecting on the grounds of
14 privilege, telling him not to answer that if it's got to
15 do with litigation.

16 Q. BY MR. RUTZICK: Okay. I guess it's your turn,
17 sir.

18 A. It's all got to do with litigation, so I guess
19 I really can't talk about that.

20 Q. Okay. Do you talk with other people at Elliott
21 other than attorneys?

22 MR. FORSBERG: Again I am going to object to
23 the extent that that is -- those conversations are
24 requested by the attorneys.

25 MR. RUTZICK: And are you instructing him not

1 to answer?

2 MR. FORSBERG: Yes, to the extent that they are
3 requested by the attorneys, yes.

4 If you are able to answer outside of that, go
5 ahead.

6 THE WITNESS: Yeah, I talk to people at Elliott
7 about baseball games and the weather and things like
8 that in addition to what Carl is talking about.

9 Q. BY MR. RUTZICK: And all of the talking to
10 people relating to your work has to do with what
11 attorneys ask you to do?

12 A. Yes.

13 Q. Do you have a title?

14 A. I am a rotating equipment consultant.

15 Q. Okay. Looking at Exhibit D, can you tell me
16 what you understand that to be?

17 A. It's an engineering instruction, as I
18 mentioned, that the engineering department wrote to give
19 the shop information on building a number of deaerators.
20 I am not sure I can add all those numbers up, but there
21 is quite a few of them there. I guess there is over 100
22 units involved there.

23 Q. Maybe about 138?

24 A. It could be. I don't think it's quite that
25 big. But you could be right, yeah. Sixteen times eight

1 plus ten.

2 Q. Also I was aided when it said at the top
3 138 --

4 A. Oh, there you go. Okay. That sounds good.

5 Q. What are the deaerating tanks?

6 A. Just what the term says. I mean, I don't know
7 what else to tell you.

8 Q. Okay. What do deaerating feed tanks do?

9 A. Their purpose is to take the air out of a
10 condensate in a boiler system, not completely, but most
11 of it. And it also provides heat for the condensate
12 before it goes back to the boiler.

13 Q. Are they part of the propulsion system on a
14 ship?

15 A. I don't know where you draw the line. But if
16 you say the boiler is part of the propulsion system,
17 then the deaerating heater would also be part of the
18 propulsion system.

19 Q. Were these 138 deaerating feed tanks built for
20 a particular shipbuilding company?

21 A. I don't think so.

22 Q. Down at the bottom where it says "Customer" --
23 do you see that?

24 A. That's correct.

25 Q. It says, "Federal Shipbuilding & Dry Dock

1 Company."

2 A. Right.

3 Q. Who are they?

4 A. They were a shipbuilder at that time in 1943.

5 Q. Okay. And were these all for them?

6 A. I don't think all of them went to them. I
7 think they were the lead yard.

8 Q. How do you know that?

9 A. I think I've seen some paperwork to indicate
10 that they all didn't end up at Federal Shipbuilding &
11 Dry Dock Company.

12 Q. Do you recall from that paperwork where they
13 did end up?

14 A. I probably can research and tell you where they
15 ended up, yes.

16 Q. As you sit here today, can you tell me?

17 A. No, I can't.

18 Q. Do you know over what period of time these 138
19 deaerating feed tanks were built?

20 A. I think over a couple-year period of time. I
21 think if you look at Exhibit F, it gives you an
22 indication of the shipping time frame.

23 Q. Looking at Exhibit F, do you infer from that
24 that they were built in 1943 and 1944?

25 A. I would say that that's when they were built,

1 yes.

2 Q. Okay.

3 A. They may not have been shipped exactly on those
4 dates. I think that was the tentative date for shipment
5 of those units. And whether they got 20 units shipped
6 on May of 1944, I'm not sure that all 20 units went out
7 that month.

8 Q. Were there any other documents that you
9 remember seeing that talk about either purchases of sale
10 or sales other deaerating feed tanks to or on behalf of
11 the U.S. Navy?

12 A. Yes, I have some other documents.

13 Q. What do they say?

14 A. The same thing as what you see in these
15 documents.

16 Q. Are they the same 138 tanks, or are they
17 additional ones?

18 A. They are additional tanks, different sizes and
19 stuff like that.

20 Q. When did you find those documents?

21 A. Well, I don't -- I don't really know. Knowing
22 that Elliott has built deaerating feed tanks for a long,
23 long time -- and I am not sure what you are referring to
24 when you said when did you find those documents. I
25 don't have documents on every single piece of equipment

1 we have built. But, you know, I have serial numbers,
2 and I know pretty much what has been built.

3 Q. Can you tell me pretty much what's been built?

4 A. A lot of deaerating feed tanks. A lot of other
5 equipment, too. I think we would be here for a long
6 time, and I can't remember everything we have built.

7 Q. Okay. Well, let's focus on deaerating feed
8 tanks.

9 A. Okay.

10 Q. Can you tell me approximately how many Elliott
11 built?

12 A. For whom? The Navy?

13 Q. Let's start with the Navy.

14 A. You tell me not to guess, but I am going to
15 give you a number probably in the order of 500.

16 Q. Okay.

17 A. I am not sure that's the right number, but
18 that's a guess on my part.

19 Q. That's based on your having looked at a number
20 of documents?

21 A. Right. But I didn't sit there and count them.
22 I don't remember the exact number.

23 Q. Over what period of time did those documents
24 cover?

25 A. Essentially the war years, from 1940 to 1946.

1 Q. Do you know if Elliott built any deaerating
2 tanks for the Navy after 1946?

3 A. I believe they have built a couple but not
4 many.

5 Q. Did Elliott build any deaerating tanks for
6 other customers besides the Navy?

7 A. Yes.

8 Q. Who did they build deaerating tanks for?

9 A. They built deaerating tanks for a lot of
10 people.

11 Q. Okay. Were these marine tanks or for other
12 purposes?

13 A. Both.

14 Q. Focusing on marine tanks, can you give me the
15 names of any of the customers for deaerating tanks?

16 A. Probably -- the only other big one that I
17 recall is the Maritime Commission.

18 Q. Was that in the same 1940 time period?

19 A. Yes, it was.

20 Q. Do you know what those ships were used for?

21 A. Cargo ships and others. I am not sure I know
22 all the categories off the top of my head.

23 Q. Did you find those documents -- strike that.

24 Your knowledge that you just are talking about,
25 that's based on documents that you have seen?

1 A. Yes.

2 Q. Was it based on anything else?

3 A. I am not sure what you mean by "anything else."

4 Q. Well, it could be you saw them. It could be
5 you talked to other people, those kind of things.

6 A. I have talked to other people. Also, I worked
7 for Elliott for 40 years, so I know that they built some
8 of this equipment.

9 Q. Okay. And you started working at Elliott in
10 1960?

11 A. That's correct.

12 Q. Were they building deaerating tanks in 1960?

13 A. They were going -- they were phasing it out at
14 that point.

15 Q. To whom did they sell deaerating tanks in the
16 1950's?

17 A. Primarily commercial land-base.

18 Q. Okay.

19 A. Probably mostly utilities.

20 Q. Did they sell any marine ones in the 1950's?

21 A. A few.

22 Q. Who did they sell them to?

23 A. I don't remember.

24 Q. If you wanted to find that out, how would you
25 go about doing it?

1 A. I would sit down and go through the list
2 manually that has all the serial numbers for those
3 machines.

4 Q. Is that on microfilm or something else?

5 A. It's a manual -- it's hard copy. It's not
6 totally conclusive because it only gives names and
7 serial numbers and shop order numbers and E record
8 numbers and capacity, and that's all I have to start out
9 with.

10 Q. And are you able, do you believe, to infer
11 whether it's marine or not by the customer?

12 A. Also the information that's presented there,
13 yes.

14 Q. What other information would guide you in that
15 regard?

16 A. There is a piece of information that says that
17 it's a spray unit and the customer's name. That
18 combination tells me whether it's marine or not.

19 Q. Did your work for Elliott ever involve
20 deaerating units?

21 A. I am not quite sure how to answer that.
22 Occasionally I got questions relative to it. But in
23 later years, we only supplied some replacement parts for
24 the things and occasionally had to investigate what was
25 required. But that was the extent of it.

1 Q. What is Exhibit E to your declaration?

2 A. E is a memo from in this particular case the
3 drafting room to the purchasing department to buy a
4 bunch of reflex gage glass gaskets for a Navy order.

5 Q. And was Elliott purchasing it from Jerguson
6 Gage & Valve Company?

7 A. That's correct.

8 Q. What are reflex gage glass gaskets of
9 compressed asbestos sheets?

10 A. Little, tiny gaskets that go on gage glasses.
11 I don't know how to describe it for you. They are not
12 very big.

13 Q. Okay. Did you find this, or did somebody else
14 find this document?

15 A. No. This was in that same file with the other
16 stuff.

17 Q. And --

18 A. That's wrong. It was in another file. It was
19 in another E record that I found.

20 Q. And I am going to apologize in advance, but
21 what's an E record?

22 A. Back before the mid-fifties, Elliott kept track
23 of orders with E records, and that stuff was microfilmed
24 and not complete, but there is a lot of it available.

25 Q. And what does the "E" in E record stand for?

1 A. Beyond me.

2 Q. Okay. Are they in books or in microfilm or
3 what?

4 A. Microfilm. Microfilm.

5 Q. Did you go through all the microfilm records?

6 A. No.

7 Q. Did anybody?

8 A. No.

9 Q. Did you go through some of the microfilm
10 records?

11 A. Yes.

12 Q. What were you looking for?

13 A. Well, when I had an E number or something like
14 that, I would go through the microfilm to see if that E
15 record existed. And in the case of the previous record,
16 Exhibit D, when I looked -- somewhere it turned up that
17 E Record 108139 was of interest to me because it covered
18 deaerator orders for the Navy. And when I went to that
19 E record, I found some microfilm. And you see one of
20 the pages of that microfilm. That was actually a
21 reproduction of a microfilm page.

22 Q. And did you do this as part of your work for
23 the legal department or some other purpose?

24 A. No. As part of the work for the legal
25 department.

1 Q. And about when was that? I may have asked.
2 And if so, I apologize.

3 A. I don't really remember when I found this, but
4 it was several years ago.

5 Q. Now, in your declaration you talk about Navy
6 specification. Is that true?

7 A. That's true.

8 Q. Can you give me the names or numbers of the
9 specifications?

10 A. The ones that are attached?

11 Q. Well, all right. Let's start with that. Which
12 of these documents do you view as Navy specification?

13 A. These are purchase documents. They are part of
14 the specifications for a purchase of Navy equipment.

15 Q. Okay.

16 A. Equipment for the Navy.

17 Q. Can you identify which exhibits you are talking
18 about?

19 A. Both of them. Depends -- the Navy has a whole
20 raft of -- when you deal with the Navy for an order, you
21 get a whole raft of documents that are general, and then
22 they go to milispecs and the whole bit, design data, and
23 that all comes from the Navy.

24 Q. All right.

25 A. A Navy order generally, the pile of paper is --

1 I don't know -- two- or three-foot thick.

2 Q. Are all those specifications somewhere in the
3 Elliott records?

4 A. No.

5 Q. Where are they?

6 A. I have no idea. A lot of them disappear or get
7 superseded. And, you know, the ones that were available
8 in the forties are long gone for the most part.

9 Q. How do you know they were there?

10 A. Because they are referred to in the documents.
11 If you look at Exhibit D, on Exhibit D you can see that
12 there is a reference to, in that first paragraph, it
13 says, "General specifications for machinery, Subsection
14 S1-2 and S1-4." That's Navy information.

15 Q. Okay.

16 A. I am sure that it existed in 1942 or -3 when
17 they were working on this stuff, maybe even a little bit
18 before that. I don't know.

19 Q. Do you know what it said?

20 A. No, I don't know exactly what it said.

21 Q. And I take it you have never seen it?

22 A. Not that I know of, no.

23 Q. Let's just take that, since we are talking
24 about it. Have you seen any subsequent iterations of
25 those subsections?

1 A. Not that I recall.

2 Q. In the 40 years you worked for Elliott, did you
3 ever see them?

4 A. It's possible.

5 Q. As you sit here today, can you think of any?

6 A. I have seen a lot of specifications, and I
7 wouldn't hazard to guess on the date and the particular
8 one that I seen. I wouldn't even -- my memory is not
9 that good.

10 Q. Have you ever heard the term "performance
11 specification"?

12 A. Vaguely, yeah.

13 Q. Do you know what that term means?

14 A. Yeah, I have got an idea what it means.

15 Q. What do you understand it to mean?

16 A. It means that the Navy gave us a set of specs
17 to do a certain job and the performance would be listed,
18 and that's what they expected the machine or the vessel
19 to do.

20 Q. And would you contrast performance
21 specifications with some other kinds of specifications?

22 A. Yeah. The stuff that is in Exhibit B is more
23 general.

24 Q. Okay. I am turning to Exhibit B. When you say
25 it's more general, what do you mean?

1 A. Well, it lists everything that you need to deal
2 with the Navy. Or not everything, but at least sort of
3 what I would consider the foundation for dealing with
4 the Navy. And it doesn't make any difference if you
5 were building a ship or building a deaerator heater.
6 This material applied. So it would be sort of the
7 foundation, and then you would have to work up to the
8 various pieces that go in the house, if you may.

9 Q. This one is dated July 1, 1954. Is that
10 correct?

11 A. That's correct.

12 Q. By that time, am I right that Elliott was not
13 making deaerators for the Navy?

14 A. I think that they may have made one in 1954,
15 but, yes, essentially we were not making deaerators for
16 the Navy.

17 Q. And --

18 A. Or Elliott was not making deaerators for the
19 Navy.

20 Q. Are you able to tell me in what way the July
21 1954 version differed from the one before that?

22 A. No, I can't.

23 Q. Do you know for a fact there was one before
24 that?

25 A. No, I don't.

1 Q. Now, deaerators contained asbestos, didn't
2 they?

3 A. They had some asbestos packing, yes.

4 Q. What was the purpose of the asbestos packing?

5 A. To prevent leakage of water or steam.

6 Q. Are you aware of the specification that
7 required that the packing be asbestos?

8 A. I can't point you to a specification, no.

9 Q. Did deaerators have any other asbestos in them
10 besides packing and gaskets?

11 A. Not that I am aware of.

12 Q. To Elliott's knowledge, did deaerators ever
13 have asbestos insulation outside of them?

14 MR. FORSBERG: Object to the form. Foundation.

15 THE WITNESS: I don't know what they put on the
16 outside. If you read the spec here, on Spec C --

17 Q. BY MR. RUTZICK: Bear with me, sir, and I will
18 turn to it. You are talking about Exhibit C?

19 A. Right. Page 2, down towards the bottom, about
20 the fifth box up from the bottom, it says Steam, 100 to
21 300 degrees. And it says for machinery, you use spec --
22 milispec F-15091. And if you look up at the top of the
23 page, it says that that spec is for felt, insulating,
24 asbestos.

25 Q. Okay.

1 A. So if you were dealing with the Navy, you
2 supplied, you know, the insulation for a deaerator, I
3 guess that's what you would use.

4 Q. Okay. This is in December of '51. Is that
5 right?

6 A. That's what it says, yes.

7 Q. What would you use before December of '51?

8 A. I am not positive right now for the Navy.

9 Q. Did the deaerators get hot?

10 A. They normally operated at a temperature of 200
11 to 250 degrees.

12 Q. So you would get burned if you touched one when
13 it was in operation?

14 A. Probably.

15 Q. Was Elliott or do you know whether Elliott was
16 pretty sure that something that got over 200 degrees
17 would probably be insulated?

18 MR. FORSBERG: Object to the form. Foundation.

19 THE WITNESS: It's probable that it was
20 insulated, yes. But I am not sure it had to be asbestos
21 because the temperature was not that high.

22 Q. BY MR. RUTZICK: What would be the kinds of
23 other insulation?

24 A. Fiberglass, Rockwell.

25 Q. What were the deaerators that you saw that were

1 land-based insulated with, if anything?

2 A. None of them were, to my knowledge, ever
3 shipped with insulation. Whatever the customer put on
4 was what he deemed necessary.

5 Q. Did Elliott ever go out and look at any of its
6 deaerators in operation?

7 A. I am sure they did.

8 Q. Why would they do that?

9 A. For a number of reasons. One would be to talk
10 to customers and to see the insulation. Number two is
11 if they had some need or some question about how it was
12 operating or if they wanted the unit tested. There is a
13 number of reasons why Elliott might go out and look at a
14 unit.

15 Q. Did you yourself ever look at a deaerator in
16 operation?

17 A. No, I didn't.

18 Q. Why not? Was it not your job?

19 A. I didn't because I never -- it just never, you
20 know, was necessary for me to do it. It wasn't -- I had
21 other things to do.

22 Q. Did your work ever put you aboard a Navy ship?

23 A. No, it didn't.

24 Q. Did your work put you aboard any ship of any
25 sort?

1 A. No, it didn't.

2 Q. Were there Elliott employees whose work did put
3 them aboard ship?

4 A. Yes.

5 Q. What division or what unit would they have
6 worked at?

7 A. Some of them worked for me, and some of them
8 worked for the engineering department.

9 Q. Okay. The ones who worked for you, what did
10 they do?

11 A. They were service engineers.

12 Q. And I can probably guess somewhat from the
13 name, but can you expand on what a service engineer did?

14 A. Well, a service engineer would very often go on
15 the trial runs if it was a requirement. Or if the
16 customer had some question about the thing, they would
17 go out and assist the customer in looking at the unit or
18 talking about the unit or whatever the question was.

19 Q. And would trial runs include -- well, strike
20 that.

21 When you were working there, you all didn't do
22 marine work. Is that correct?

23 A. Pardon? Would you repeat that.

24 Q. When you were there from '60 on, did Elliott do
25 marine work?

MR. FORSBERG: Object to the form.

I'm sorry. I am not objecting to the last one. Sorry. You rephrased it.

THE WITNESS: I am not sure what you mean, yeah, about marine work. Yes, we did service, you know, our equipment.

Q. BY MR. RUTZICK: Okay. That included going aboard ship?

A. Yeah, when it was necessary to, yes.

Q. What would be an example of when it would be necessary?

A. When there was a question about the operation of a machine or we had to do an overhaul of a machine or something like that.

Q. So when would Elliott do overhauls on marine equipment?

A. Well, we would assist the yard in doing it. Very often the yard would hire a service engineer to assist them in, you know, taking the clearances and looking at the machine for what condition it was in, assessing the condition of the unit.

Q. So the period after 1960, from time to time did people work with you and go to Navy shipyards?

A. Well, keep in mind that you are saying 1960 and beyond. I was not in the service group in 1960 in that

1 particular area. I was more in the applications side.

2 Q. Okay. When did you get into the service area?

3 A. In the mid -- '70, 1972, really.

4 Q. How about in the 1972 period, did people under
5 your supervision go to Navy shipyards?

6 A. Yes, they did.

7 Q. Would they go -- are you familiar with a
8 shipyard named Puget Sound Naval Shipyard?

9 A. I am aware of it. I am not aware if we ever
10 sent anybody there or not.

11 Q. Which shipyards are you aware that you sent
12 people to?

13 A. Really, the ones I probably recall are the ones
14 around New York Harbor and like -- I got tongue-tied --
15 Brooklyn Navy Shipyard and maybe Long Beach. That's the
16 two I can think of where we probably serviced the
17 equipment. I am not sure I know all of the places that
18 we went.

19 Q. And so that I am clear, the Long Beach one is
20 the one in California?

21 A. Yes, it is.

22 Q. Did Elliott supply asbestos insulation in
23 connection with any of the machinery it made and sold?

24 MR. FORSBERG: Object to the form.

25 THE WITNESS: I am trying to understand. Are

1 we now talking about Navy stuff, or what are we talking
2 about? Everything?

3 Q. BY MR. RUTZICK: Anything, yeah.

4 A. On occasion they did supply some machinery with
5 asbestos insulation, yes.

6 Q. What occasions were those?

7 A. When the customer required it.

8 Q. And how would you know if a customer required
9 it?

10 A. It would be part of the purchase order.

11 Q. Do you have any understanding as to why some
12 customers would require it?

13 MR. FORSBERG: Object to the form. Foundation.

14 THE WITNESS: I don't know. It was probably
15 the material to use in the fifties and sixties and
16 before that, perhaps.

17 Q. BY MR. RUTZICK: How would Elliott go about
18 supplying insulation on its machinery?

19 A. Now you are talking about the big picture with
20 everything, all kinds of insulation? We didn't always
21 use asbestos insulation. Don't get me wrong.

22 Q. Okay. Let me do it this way. When did Elliott
23 use asbestos insulation?

24 MR. FORSBERG: Asked and answered.

25 THE WITNESS: Primarily on high-temperature

1 service.

2 Q. BY MR. RUTZICK: And how do you define high-
3 temperature service?

4 A. Probably above 750 degrees.

5 Q. What machinery made by Elliott involved high-
6 temperature service?

7 A. Steam turbines.

8 Q. Say it again, please.

9 A. Steam turbines.

10 Q. In general, to whom did Elliott supply steam
11 turbines?

12 MR. FORSBERG: Object to the form.

13 THE WITNESS: Utilities, refineries, chemical
14 plants, steel mills. I don't know. Probably a few
15 more.

16 Q. BY MR. RUTZICK: For those steam turbines,
17 would they typically also supply asbestos insulation?

18 MR. FORSBERG: Asked and answered.

19 THE WITNESS: Not really. It depends on the
20 job.

21 Q. BY MR. RUTZICK: Would you give me some
22 examples of jobs where it would occur.

23 A. I told you. High temperature.

24 Q. I have already been there. All right. Let me
25 try this again. On the high-temperature jobs, would

1 Elliott always supply the asbestos insulation or
2 sometimes?

3 MR. FORSBERG: Asked and answered. He told you
4 when it was requested on the purchase orders.

5 Q. BY MR. RUTZICK: Go ahead, sir.

6 A. Sometimes.

7 Q. Would Elliott ever encourage people to ask them
8 to provide insulation, or was it something they didn't
9 want or something else entirely?

10 MR. FORSBERG: Object to the form. Foundation.
11 Compound.

12 THE WITNESS: I don't -- I don't think that
13 Elliott ever went out and solicited the business on the
14 basis of trying to get the insulation. They wanted to
15 get the turbine ordered. They didn't want to get the
16 insulation ordered.

17 Q. BY MR. RUTZICK: Did they have arrangements
18 with any insulation manufacturer to provide that
19 insulation?

20 A. Johns Manville when it was asbestos.

21 Q. When did that arrangement begin, if you know?

22 A. I don't know.

23 Q. When is the earliest you know it existed?

24 A. 1940's.

25 Q. And how do you know that?

1 A. Because I've seen requisitions to Johns
2 Manville or for Johns Manville, requisitions from the
3 engineering department to the purchasing department to
4 purchase Johns Manville insulation.

5 Q. Do you know what type of Johns Manville
6 insulation was being purchased?

7 A. Yes. It was primarily block, Super X block
8 insulation.

9 Q. Do you know what the heat levels appropriate
10 for Super X insulation were?

11 A. I don't recall off the top of my head, no.

12 Q. Where would the --

13 MR. FORSBERG: Bill, we are getting pretty far
14 afield right now from the purpose of this deposition.
15 If you are going to take this guy on a fact witness
16 deposition for going -- or for working at the site,
17 that's one thing. But my understanding is you are
18 taking his deposition now as it pertains to the
19 jurisdictional matter in this case. If you want to note
20 him up for something else, you can go ahead and do that.
21 Otherwise, what I will do if you keep going along this
22 line is he won't be available again for deposition, if
23 you want to take this broad of a deposition.

24 MR. RUTZICK: Let me think about that.

25 Q. Let me ask you this, sir.

1 A. Go ahead.

2 Q. Did Elliott ever provide asbestos-containing
3 insulation for application to equipment aboard --
4 installed aboard any marine vessel?

5 A. I don't believe so.

6 Q. Did you ever talk to anybody on that subject
7 who worked at Elliott during the 1940's?

8 A. Yes.

9 Q. Who did you talk to?

10 A. Several engineers.

11 Q. Would you give me their names, please.

12 A. I can't remember all of them. The subject, you
13 know -- the one that I can think of is Frank Morrison.

14 Q. And how does Mr. Morrison spell his last name?

15 A. M-o-r-r-i-s-o-n.

16 Q. And when did you talk to him about the subject?

17 A. Probably sometime in the last 15 years, several
18 times perhaps.

19 Q. What brought that subject to mind?

20 A. He was my deaerator heater expert.

21 Q. Was this in connection with litigation or
22 something else?

23 A. In connection with litigation.

24 Q. So has the deaerator -- have you been involved
25 in deaerator litigation for the past 15 years?

1 A. Probably.

2 Q. And when did Mr. Morrison start working at
3 Elliott?

4 A. I really don't know the answer to that. A long
5 time ago.

6 Q. Well, a long time might be different to
7 different people. Could you put a decade on it?

8 A. I am guessing --

9 MR. FORSBERG: Asked and answered, then, with
10 he didn't know.

11 Q. BY MR. RUTZICK: Go ahead, sir.

12 A. I think it's probably the early forties.

13 Q. And did he work on deaerators in the 1940's?

14 A. Yes, he did.

15 Q. What did he tell you?

16 A. He told me that we didn't supply insulation
17 with deaerators.

18 Q. Was there any other Elliott equipment used for
19 marine purposes?

20 A. General or Navy?

21 Q. General.

22 A. General, I think that there are some other
23 equipment that was served for the marine service. I
24 think that maybe some condensers, perhaps some
25 strainers, perhaps some -- built a few pumps, but I am

1 not sure if any of those were ever built for marine
2 service.

3 Q. Okay.

4 A. We are talking a long time ago. We are talking
5 all stuff that Elliott hasn't built for 40 years.

6 Q. Okay.

7 MR. FORSBERG: Bill, we have been going for
8 about an hour. If you find a spot in here to break --
9 also, how long do you think you will be going?

10 MR. RUTZICK: I would anticipate maybe another
11 half hour. And this would be as good a time for a break
12 as any.

13 MR. FORSBERG: All right, Bill. Thanks.

14 The only reason I ask about the timing, I
15 didn't want to cut it short, but out here it is around
16 lunchtime. And if it was going to be a lot longer, I
17 would say we take a break. But, otherwise, we will try
18 to finish up, then.

19 MR. RUTZICK: A half hour is a guess both ways.

20 MR. FORSBERG: I understand.

21 MR. RUTZICK: But it's, I guess, an educated
22 guess.

23 MR. FORSBERG: We appreciate that.

24 (Recess taken from 12:14 p.m. to 12:23 p.m.)

25 MR. RUTZICK: Why don't we go back on the

1 record.

2 Q. Sir, could you turn to Paragraph 7 of your
3 declaration.

4 A. Okay.

5 Q. The first paragraph of that says, "At no time
6 has Elliott ever manufactured asbestos-containing
7 insulation or asbestos-containing components for its
8 equipment." Do you see that?

9 A. Yes, I do.

10 Q. Is it true that Elliott had sold asbestos-
11 containing insulation and asbestos-containing components
12 for its equipment?

13 MR. FORSBERG: Object to the form.

14 THE WITNESS: I am not sure I understand the
15 term "sold." You are referring to sold as part of a
16 package? Like --

17 Q. BY MR. RUTZICK: Well, it would be transferring
18 ownership in return for money.

19 A. Okay. But if it was part of a unit that you
20 built, then it would be -- the answer is yes, we got
21 paid for a steam turbine that had insulation on it.

22 Q. And when wouldn't it have been true?

23 A. I would say that it wouldn't be true if you
24 sold insulation as just an insulation package.

25 Q. You mean without any equipment?

1 A. Without any equipment.

2 Q. And am I right that Elliott has sold asbestos-
3 containing components for its equipment?

4 MR. FORSBERG: Object to the form.

5 THE WITNESS: And I would say the components
6 occasionally were sold as parts -- as a separate item,
7 yes.

8 Q. BY MR. RUTZICK: And what were some of the
9 machineries in which asbestos-containing components were
10 sold?

11 A. Steam turbines.

12 Q. Anything else?

13 A. Perhaps some of the other equipment, yes.

14 Q. How about the deaerators?

15 A. Yes, they would also -- that would fall in that
16 category, yes.

17 Q. Now, let me draw your attention to Paragraph 8
18 in your declaration. Could you read it to yourself,
19 please. Tell me when you have had a chance to read it.

20 A. Okay. I've read it.

21 Q. Can you identify the specification by number or
22 title that you are referring to in Paragraph 8?

23 A. Not off the top of my head, no.

24 Q. Have you ever seen them?

25 A. I've seen documents, yes. It has to do with

1 the manuals, yes.

2 Q. All right. Is a manual a specification?

3 A. It could be.

4 Q. Okay. Could you explain to me when a manual
5 could be a specification and, conversely, when it isn't
6 a specification?

7 A. I am not sure I could define that real good in
8 words.

9 Q. Can you take a crack?

10 A. Informational manuals, I think of Exhibit B as
11 being an informational -- part of an informational
12 manual. And the part that Elliott was responsible for
13 delivering with its equipment is what would come about
14 as a result of what was stated in that general
15 specification.

16 Q. Okay. Well, can you point me to what you are
17 referring to in Exhibit B?

18 A. I don't really see it in there at the moment,
19 no, in this particular spec, no.

20 Q. What specs --

21 A. I know that there were specs that required
22 Elliott to provide manuals with their equipment.

23 Q. All right. When did you last see those specs?

24 A. I think that I may have seen some of those in
25 the last few days.

1 Q. Are you able to give me a hint as to how I
2 could find them?

3 A. I assume they are on the Internet.

4 Q. I think there are a lot of things on the
5 Internet. Can you be a little more specific?

6 A. No, I can't.

7 Q. Are you serious?

8 A. I am very serious, because I am not that good
9 at finding things on the Internet myself.

10 Q. But you found something. Was it just by luck
11 that you found it, or did somebody --

12 A. No, I did not see it on the Internet. I seen
13 it in the Elliott collection of stuff.

14 Q. Okay.

15 A. But I don't know how to tell you. I don't know
16 what the number is off the top of my head.

17 Q. Describe what you saw as best you can.

18 A. Elliott -- what I am saying is that there is a
19 milispec that tells Elliott or others, not only Elliott,
20 but anybody, how to put together a manual for a piece of
21 equipment. It would tell you the paragraphs or chapters
22 that are required and how to write the thing and the
23 level that you are supposed to write the thing for and
24 all that sort of stuff.

25 Q. And your testimony is you have seen it in the

1 past two days?

2 A. I have seen some, yeah. And I have seen them
3 long before that, too.

4 Q. When were they dated?

5 A. I don't remember the dates on them.

6 Q. What period of time did they cover?

7 A. Well, I think that the time period that I am
8 most familiar with was probably the seventies and
9 eighties. But what the date was on the document, I am
10 not sure.

11 Q. All right. Were there any in the forties that
12 you saw?

13 A. Not that I recall, no.

14 Q. Were there any in the fifties that you saw?

15 A. Not that I recall.

16 Q. Could you look at Paragraph 6 of your
17 declaration.

18 A. Which paragraph?

19 Q. Paragraph 6.

20 A. Okay.

21 Q. Tell me when you have had a chance to read it.

22 A. Okay. I read it.

23 Q. If I were to ask you how you know in 1947 that
24 all equipment constructed and delivered to the U.S. Navy
25 for installation aboard a ship was inspected by U.S.

1 Navy personnel, what would your knowledge of that be?

2 A. The specifications I have seen in the documents
3 you see, like the engineering instructions that are part
4 of Exhibit D, indicate that this material had to be
5 inspected by the Navy.

6 Q. And, again, here, it will just make it easier
7 for me. I have got Exhibit D here.

8 A. Okay.

9 Q. Can you point me to where we are talking about?

10 A. Okay. I don't see it. I gave you the wrong
11 document. You really need to go back to Document F.

12 Q. F?

13 A. Yeah. In the bottom of Document F, it says
14 "Navy inspection."

15 Q. Bear with me a moment, sir.

16 A. It's down towards the bottom of the page.

17 Q. I apologize, sir. I am not seeing it yet. Can
18 you kind of guide me?

19 A. There is a big blank section in Exhibit F, and
20 then there is, at the bottom of that blank section, sort
21 of it says, tests, inspections, and reports, Navy
22 inspection.

23 Q. Ah. Okay. I see that. Now, this is -- is
24 that telling you the inspection took place?

25 A. No, it doesn't tell me the inspection took

1 place. But it tells me it will take place.

2 Q. Okay. And here I am just trying to work this
3 out. What if they are real busy? Do you think is it
4 possible they won't inspect it? Are you sure they will?

5 MR. FORSBERG: Object to the form.

6 THE WITNESS: I am sure they will.

7 Q. BY MR. RUTZICK: That's based on these two
8 words on this Exhibit F?

9 A. Well, and my experience with the Navy.

10 Q. All right. Your experience with the Navy I
11 consent did not include the 1940's. Is that true?

12 A. That is true. I was not there in 1940.

13 Q. Right. When did your experience with the Navy
14 begin?

15 A. My experience with the Navy began really in the
16 seventies.

17 Q. Have you ever heard of something called Mill
18 Standard 129?

19 A. Yes, I have.

20 Q. What is that?

21 A. That's a packaging standard. That was also one
22 of the things I looked at yesterday.

23 Q. And you looked at, you told me, some portions
24 of Mr. Martin's deposition.

25 A. Yeah, that's correct.

1 Q. Were those portions that were attached to the
2 Lehman deposition?

3 A. I believe that's correct.

4 Q. About six or seven pages?

5 A. Yes, that's a good number.

6 Q. And what did Mr. Martin say on the subject of
7 Mill Standard 129?

8 A. He said there was a lot of give and take on the
9 things but it was sort of their guideline.

10 Q. And do you remember him being asked if Mill
11 Standard 129 would prevent somebody from putting
12 wordings on the packaging of material?

13 A. Something to that nature, yes.

14 Q. Do you remember him saying that he didn't think
15 it would prohibit it?

16 A. He may have said that, yes.

17 Q. Do you disagree with that, or do you agree with
18 that, or you just don't know?

19 A. I don't remember exactly his words.

20 Q. Okay. Why were you reading it?

21 A. Because I was asked to.

22 Q. Okay. I guess that's a safe answer.
23 What did you glean from that?

24 A. Not much.

25 Q. Do you agree, sir, that manufacturers of

1 asbestos-containing products put warnings concerning
2 asbestos on their products that were sent to the Navy
3 without asking the Navy's permission?

4 MR. FORSBERG: Wait one second. Could you read
5 the question back? I'm sorry.

6 (Record read.)

7 MR. FORSBERG: Object to the form. Foundation.
8 Go ahead.

9 THE WITNESS: I am not aware of that.

10 Q. BY MR. RUTZICK: Okay. Do you remember reading
11 Mr. Lehman's deposition?

12 A. Yes.

13 Q. Do you remember that subject coming up?

14 A. Yes.

15 Q. Okay. So were you aware of it yesterday when
16 you read it?

17 MR. FORSBERG: Object to the form.

18 THE WITNESS: I mean, was I aware of what?

19 Q. BY MR. RUTZICK: Okay. You remember in the
20 Lehman deposition there was some testimony about
21 manufacturers of asbestos-containing products being able
22 to put warnings on their products and send them to the
23 Navy?

24 A. Yes, I remember some conversation on that, yes.

25 Q. Okay. And do you remember that Admiral Lehman

1 agreed that that's the way it was?

2 MR. FORSBERG: Object to the form.

3 THE WITNESS: I don't think he agreed that they
4 could put something on and get it on a ship, no,
5 regarding asbestos.

6 Q. BY MR. RUTZICK: All right. Let me do it this
7 way.

8 Let's go off the record a moment.

9 (A discussion was held off the record.)

10 (Whereupon, Deposition Exhibit No. 2 was marked
11 for identification.)

12 MR. FORSBERG: I will just say for the record
13 it's kind of hard to read this document. He may be able
14 to get through it. The copy we have isn't the best one.

15 And when I give it to the witness, you want me
16 to have him read the whole thing or just read Pages 32
17 through 35?

18 MR. RUTZICK: Why don't you give it to him, and
19 I will kind of try to direct him.

20 MR. FORSBERG: Okay.

21 THE WITNESS: Okay. I have the document.

22 Q. BY MR. RUTZICK: Sir, what I would like you to
23 do -- and, actually, one of the worst parts concerning
24 the legibility are the numbers at the bottom.

25 MR. FORSBERG: That's right. The pages you

1 mean?

2 MR. RUTZICK: Yeah.

3 MR. FORSBERG: Yeah, I agree with that.

4 Q. BY MR. RUTZICK: If you would turn to what is,
5 in fact, 32 but the 3 is kind of pushed. It might look
6 like a 22. But if you would turn to 32, and we will
7 kind of orient ourselves that we have the same document.

8 A. Okay. I think I am at 32.

9 Q. All right. And up at the top, it will say, "In
10 some human beings, I believe I do."

11 A. Okay.

12 Q. Here is what I would like you to do. I would
13 like you to read from the question about two-thirds of
14 the way down which starts, "In all of these documents."
15 Do you see that?

16 A. Yes, I do.

17 Q. And I would like you to read from that to the
18 end of that page and then through the end of Page 33.
19 And I would also like you to read the top of page 35
20 simply for purposes of understanding what the words on
21 the caution label were.

22 So could you do that for me, please. And tell
23 me, after you have read it, tell me if you are able to
24 make it out, first, I guess, and then we will go
25 further.

1 A. Okay.

2 Okay. I think I have read it, and I think I
3 have pretty well deciphered the words.

4 Q. All right. Do you remember Admiral Lehman
5 being asked about these same sections?

6 A. Yes, vaguely, yes.

7 Q. Now, had you ever heard of a company called
8 Eagle-Picher?

9 A. I may have. It's not a familiar name, no.

10 Q. Do you see where the gentleman who testified,
11 whose name is at the beginning, is Bockstahler -- it's
12 on the first page.

13 A. Oh, okay.

14 Q. Do you see where he testified at trial that it
15 wasn't necessary for Eagle-Picher to get Navy approval
16 before putting the warning on those asbestos products?

17 MR. FORSBERG: Object to the form.

18 THE WITNESS: Okay. I guess that's what this
19 document says, yeah.

20 Q. BY MR. RUTZICK: Do you have any reason to
21 disagree with that?

22 MR. FORSBERG: Object to the form. Foundation.

23 THE WITNESS: I don't know what the point is.

24 Q. BY MR. RUTZICK: Do you have any reason to
25 disagree, whether or not you understand the point?

1 MR. FORSBERG: Object to the form. Foundation.

2 Q. BY MR. RUTZICK: Do you have any facts that
3 lead you to think that Mr. Bockstahler is not telling
4 the truth?

5 A. No, I don't.

6 MR. FORSBERG: Same objections.

7 Q. BY MR. RUTZICK: You may have answered, and it
8 was swallowed up. Could you answer it again.

9 A. I am not aware of what -- I can see what he is
10 testifying to. I have no idea of whether he's telling
11 the truth or not.

12 Q. Okay. Do you have any facts that lead you to
13 believe that he's not telling the truth?

14 MR. FORSBERG: Asked and answered.

15 THE WITNESS: No.

16 MR. RUTZICK: Bear with me just a moment,
17 please.

18 I don't have any other questions, sir. Thank
19 you for your time. Other people may.

20 MS. HABECK: Anyone on the phone have
21 questions? Codefendants?

22 MR. FORSBERG: Are the codefendants still on
23 the line?

24 MR. ODOM: This is Jeff Odom of Williams,
25 Kastner & Gibbs. I have no questions.

1 MS. HABECK: Nancy?

2 MS. LE: This is Nancy Le. I don't have any
3 questions, either.

4 MS. HABECK: Anyone else?

5 MS. EDUMNDSON: This is Ms. Edmundson. I don't
6 have any questions.

7 MR. FORSBERG: All right. Thank you, guys.
8 Thanks, Bill, if that's it.

9 MR. RUTZICK: That's it. I take it you don't
10 have any?

11 MR. FORSBERG: No.

12 MS. HABECK: Thank you.

13 MR. RUTZICK: Before we hang up, sir, do you
14 want to read this?

15 THE WITNESS: I was going to say that. Read
16 and sign, yes, please.

17 MR. RUTZICK: Okay. Again, sir, you can send
18 me a bill either directly or through the lawyers for
19 your time.

20 MR. FORSBERG: Thanks very much, Bill.

21 (Whereupon, at 12:50 p.m., the deposition was
22 concluded, and signature was not waived.)
23
24
25

C E R T I F I C A T E

COMMONWEALTH OF PENNSYLVANIA)
) SS.:
COUNTY OF ALLEGHENY)

I, Dan Robbins, a Notary Public in and for the Commonwealth of Pennsylvania, do hereby certify that the witness, ROSS ARTHUR HACKEL, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing deposition was taken at the time and place stated herein; and that the said deposition was recorded stenographically by me and then reduced to typewriting by me and constitutes a true record of the testimony given by said witness, all to the best of my skill and ability.

I further certify that the inspection, reading, and signing of said deposition were not waived by counsel for the respective parties and by the witness and if after 30 days the transcript has not been signed by said witness, that the witness received notification and has failed to respond, the deposition may then be used as though signed.

I further certify that I am not a relative or employee of either counsel and that I am in no way interested, directly or indirectly, in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Pittsburgh, Pennsylvania, on this 25th day of August, 2005.

DAN ROBBINS, Notary Public in and
for the Commonwealth of Pennsylvania