

IN THE COURT OF COMMON PLEAS
FOR PHILADELPHIA COUNTY

DANIEL R. FLUHARTY, JR., and : COURT OF COMMON PLEAS
MARY E. FLUHARTY, his wife, :
Plaintiffs : OF PHILADELPHIA COUNTY

vs. :

JOHNS-MANVILLE, CORP., : JULY TERM, 1979
JOHNS-MANVILLE SALES CORP., :
RAYBESTOS-MANHATTAN, INC., : NO. 962
OWENS-CORNING FIBERGLASS CORP., :
NICOLET INDUSTRIES, INC., :
PITTSBURGH CORNING CORP., :
CELOTEX CORPORATION, :
UNARCO INDUSTRIES, INC., :
EGALE-PICHER INDUSTRIES, INC., :
KEENE CORPORATION, :
PACOR, INC., :
BRAND INSULATIONS, INC., :
ARMSTRONG CORK COMPANY, :
AMATEX CORPORATION, :
TURNER & NEWALL, LTD., :
H. K. PORTER CO., INC., :
SOUTHERN ASBESTOS CO., :
Defendants : CIVIL TRIAL DIVISION

Philadelphia, Pennsylvania

Thursday, February 7, 1980

McKinley Wise & Associates, Inc.
Registered Professional Reporters
1211 Chestnut St., Suite 901
Philadelphia, Pa. 19107
(215) 564-2181

1 Continued Deposition of THOMAS G. STEWART,
2 taken pursuant to Notice, held at the offices of BLANK,
3 ROME, COMISKY & McCAULEY, 1200 Four Penn Center Plaza, on
4 Thursday, February 7, 1980, at 10:00 A.M., before Ruth M.
5 Martin, a Registered Professional Reporter, Notary Public,
6 Approved Reporter of the United States District Court, and
7 Certified Shorthand Reporter.

8 APPEARANCES:

9 BLANK, ROME, COMISKY & McCAULEY
10 By: MITCHELL S. COHEN, ESQ.
11 1200 Four Penn Center Plaza
12 Philadelphia, Pennsylvania 19103
Attorneys for the Plaintiffs.

13 MARSHALL, DENNEHEY & WARNER
14 By: ANNE M. KENNEY, ESQ.
15 1515 Locust Street
16 Philadelphia, Pennsylvania 19102
17 Attorneys for Johns-Manville.

18 JOHN F. NAULTY, ESQ.
19 By: WILLIAM G. CILINGIN, ESQ.
20 1130 Land Title Building
21 Philadelphia, Pennsylvania 19110
22 Attorneys for Raybestos-Manhattan, Inc.

23 KRUSEN, EVANS & BYRNE
24 By: STEPHEN R. BASSER, ESQ.
MICHAEL P. O'CONNOR, ESQ.
Public Ledger Building, Fifth Floor
Independence Square
Philadelphia, Pennsylvania 19106
Attorneys for Owens-Corning.

BENNETT, BRICKLIN & SALTZBURG
By: WALTER D. MEELEY, ESQ.
1800 IVB Building
1700 Market Street
Philadelphia, Pennsylvania 19103
Attorneys for Nicolet Industries.

1 APPEARANCES: (Continued)

2 CONNORS AND McEVILLY

3 By: JOHN J. CONNORS, JR., ESQ.
4 Southampton Professional Building
5 57 Street Road
6 Southampton, Pennsylvania 18966
7 Attorneys for Pittsburgh Corning Corp.

8 MALCOLM & RILEY

9 By: ANDREW J. TREVELISE, ESQ.
10 EDMUND K. JOHN, ESQ.,
11 1154 West Chester Pike
12 West Chester, Pennsylvania 19380
13 Attorneys for Celotex Corporation.

14 DETWEILER, HUGHES & KOKONOS

15 By: JOHN G. JENEMANN, ESQ.
16 2820 PSFS Building
17 12 South 12th Street
18 Philadelphia, Pennsylvania 19107
19 Attorneys for Unarco Industries, Inc.

20 JOSEPH R. THOMPSON, ESQ.

21 By: BARBARA A. PENNELL, ESQ.
22 MARIA S. ROSMINI, ESQ.
23 656 Public Ledger Building
24 Philadelphia, Pennsylvania 19106
Attorneys for Eagle-Picher Industries, Inc.

LaBRUM and DOAK

By: SAMUEL J. PACE, JR., ESQ.
700 IVB Building
1700 Market Street
Philadelphia, Pennsylvania 19103
Attorneys for Keene Corporation.

SCHWARTZ, CAMPBELL & DETWEILER

By: G. DANIEL BRUCH, JR., ESQ.
1724 Philadelphia National Bank Building
Broad and Chestnut Streets
Philadelphia, Pennsylvania 19107
Attorneys for Pacor, Inc.

(Continued)

1 APPEARANCES: (Continued)

2 JONES, GUTHRIE, STROHM, MORRIS
3 By: NORMAN L. HAASE, ESQ.
4 First Federal Savings Building, Suite 200
22 West State Street
Media, Pennsylvania 19063
Attorneys for Brand Insulations.

5 DEASEY, SCANLAN & BENDER, LTD.
6 By: THOMAS J. INGERSOLL, ESQ.
2900 Two Girard Plaza
7 Philadelphia, Pennsylvania 19102
Attorneys for Armstrong Cork Company.

8 PETRIKIN, WELLMAN, DAMICO & CARNEY
9 By: PETER A. DUNN, ESQ.
602 East Baltimore Pike
10 Media, Pennsylvania 19063

11 WHITE AND WILLIAMS
12 By: JERROLD P. ANDERS, ESQ.
1234 Market Street, 17th Floor
Philadelphia, Pennsylvania 19107
13 Attorneys for H. K. Porter Co., Inc.
and Southern Asbestos Co.

14 OBERMAYER, REBMANN, MAXWELL & HIPPEL
15 By: DAVID MORGAN, ESQ.
Packard Building, 14th Floor
16 15th & Chestnut Streets
Philadelphia, Pennsylvania 19102
17 Attorneys for Owens-Illinois.

18 ALSO PRESENT:

19 WENDY BOOKLER, Paralegal
20 Blank, Rome, Comisky & McCauley.

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 NO. 962

JOHNS-MANVILLE CORP., et al : CIVIL TRIAL DIVISION

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2 MS. PENNELL: My name is Barbara Pennell and
3 I represent Eagle-Picher Industries, Inc.

4 It is our position that the deposition today,
5 as well as the prior deposition of Mr. Stewart, was
6 Noticed in the Fluharty case. We are here repre-
7 senting Eagle-Picher in the Fluharty case only.
8 We object to the use of this deposition in any other
9 case in any other jurisdiction. We are here solely
10 in this case.

11 That's all.

12 MS. KENNEY: I join in the statement.

13 MR. BRUCH: So do I, and I assume it's
14 joined in also --

15 MR. HAASE: That's only objections.

16 MR. COHEN: That was a statement as opposed
17 to an objection.

18 MS. KENNEY: I join in the statement.

19 MR. COHEN: The statement is made and,
20 obviously, I would take exception to it for various
21 reasons.

22 Before we begin, can we have the stipulation
23 with respect to objections? Can we all agree that
24 the usual stipulation with respect to the objection

1 of one defendant will enure to the benefit of all --

2 MS. KENNEY: Unless specifically --

3 MR. COHEN: -- unless someone wants to
4 particularly except from an objection will apply?
5 Any problem with that?

6 MR. HAASE: Well, that was the stipulation
7 prior to the commencement of the initial deposition.
8 I would assume all stipulations made at that time are
9 now in effect.

10 MR. BRUCH: And I assume that applies to
11 the statement made by counsel for Eagle-Picher at
12 the beginning of the deposition, that applies for
13 all defendants.

14 MR. COHEN: All the defendants can join in
15 the statement that was made by Ms. Pennell.

16
17 THOMAS G. STEWART, 4 Edgewater Drive,
18 Earleville, Maryland, having been duly sworn, was
19 examined and continued testifying as follows:

20 EXAMINATION

21 BY MR. COHEN: (Continued)

22 Q Mr. Stewart, continuing the deposition, I'd like to
23 ask whether between the conclusion of the first portion of
24 the deposition and today you have had occasion in preparation

1 for this deposition to look at any documents or records?

2 A Yes.

3 Q Okay. And would you specifically identify any
4 documents or records that you've had occasion to look at
5 between the first deposition and today in order to prepare
6 yourself for this deposition.

7 A The transcript of my previous deposition and the
8 transcript of Fluharty's deposition.

9 Q Now, with respect to the transcripts of Mr.
10 Fluharty's deposition, did you look at all of the transcripts
11 from both what is called a discovery deposition and videotape
12 deposition?

13 A No. I briefly scanned through documents that were
14 there. I'm not sure -- I really didn't get involved too
15 deeply into it.

16 Q Okay.

17 A It was very repetitious.

18 Q And other than conversations you may have had with
19 counsel, which I'm not inquiring about, would you tell me
20 the names of any and all persons that you've spoken with
21 regarding this matter.

22 A Only the personnel in our office that I asked to
23 produce the information that you asked for.

24 Q Have you had discussions regarding the substance of

1 any allegation made by Mr. and Mrs. Fluharty in this matter?

2 A No.

3 Q Now, I believe toward the latter part of the last
4 deposition you stated that you spoke with Mr. Hoshaw
5 regarding some knowledge in the latter part of the 1960s of
6 health hazards associated with asbestos exposure?

7 A That's right.

8 Q And would you tell us what Mr. Hoshaw's position
9 was at Philip Carey at that time?

10 A He was General Manager over all contract branches.

11 Q And where was Mr. Hoshaw located?

12 A Cincinnati.

13 Q And with respect to your position at the time you
14 spoke with Mr. Hoshaw, he was your superior. Would that be
15 correct?

16 A My immediate -- my immediate boss.

17 Q And who was Mr. Hoshaw's immediate superior?

18 A I don't think there was anyone he reported to other
19 than the President of the company.

20 Q Okay. And at that time that was whom?

21 A John Humphries.

22 Q Now, other than speaking with Mr. Hoshaw, did you
23 have any conversations with any other supervisors of Philip
24 Carey during this latter part of the 1960s period?

1 A No.

2 Q And would you relate for us what Mr. Hoshaw advised
3 you during your conversations of health hazards associated
4 with asbestos and asbestos exposure?

5 A I don't think there was ever any real advice, it was
6 just a general discussion between two people about informa-
7 tion that both of us had received from essentially the same
8 sources.

9 Q Okay. Can you recall any substance of the conversa-
10 tion or conversations that you had with Mr. Hoshaw?

11 A Nothing specific, just discussion in general about
12 what appeared to be a problem that we both considered to be
13 relatively minor at the time.

14 Q Now, specifically, would you define what the problem
15 was that each of you considered to be relatively minor at
16 the time?

17 A Well, we had heard through, I guess, primarily
18 through the Union sources that they had done some research
19 or had caused to be done some research in regard to asbestos,
20 and we were just in general trying to see whether the
21 research -- what the research had developed and if it was a
22 serious problem.

23 Q Okay. Well, when you say that the Union had caused
24 or been involved in asbestos research, I believe you

1 specifically made reference to the so-called Green Sheets --

2 A Exactly.

3 Q -- that appeared. Is that correct?

4 A Yes.

5 Q And besides the Green Sheets, what other bases of
6 information did you have that let you know individually that
7 there may be a health hazard associated with asbestos?

8 A Just general discussions with other contractors in
9 the Contractors Association meetings from time to time.

10 Q And what Contractors Association are you talking
11 about?

12 A The Philadelphia Insulation Contractors Association,
13 as well as the National Insulation Contractors Association.

14 Q And as best you can recall, during this latter
15 part of the 1960s, would you tell us who were members of
16 those respective trade associations that you can recall,
17 starting first with Philadelphia?

18 A All the major contractors in this area.

19 Ourself; I think it was --

20 MR. HAASE: Who was "ourself" at that time?

21 THE WITNESS: Philip Carey Company at that
22 time.

23 A I think at the time AC&S, as it's presently known,
24 was known as Armstrong Cork; Auchenbach and Butler Company;

1 Philadelphia Asbestos Company; Baldwin, Ehret, Hill.

2 Who am I leaving out?

3 Owens-Corning.

4 I'm trying to think if I left anybody out.

5 I think that was all of them.

6 Q Okay. What I'd like to do is, in an effort to
7 potentially refresh your memory, if this is applicable, is
8 to have you just look at Page 2 of the caption, Page 2 and
9 2A, and tell me whether in addition to those that you've
10 just mentioned for us in the Philadelphia area you see any
11 other suppliers or manufacturers that were, as best you can
12 recall, members of the Philadelphia Association?

13 MR. HAASE: In the late 1960s?

14 MR. COHEN: In the period that we're talking
15 about.

16 (Pause.)

17 A There's no one on this list.

18 Q I'm sorry, there is --

19 A There's no one on this list who was a member of the
20 Association.

21 Q Okay. Now, you've just defined for us the members
22 of the Philadelphia Contractors Association.

23 Was there a Pennsylvania Contractors
24 Association that you were aware of?

1 A No.

2 Q And you stated that there was a National Trade
3 Association?

4 A Right.

5 Q Okay. Would you tell us who, as best you can
6 recall, were members in the latter part of the 1960s other
7 than Philip Carey of the National Association?

8 A Most of the ones that I mentioned previously were
9 also members of the National Association.

10 MR. COHEN: Let me go off the record for a
11 second.

12 (Discussion off the record.)

13 MR. COHEN: Let's go back on.

14 BY MR. COHEN:

15 Q Can you think of any additional contractors who
16 belonged to the National that you have not named as being
17 members of the Philadelphia?

18 A Let me say that almost every major contractor around
19 the country belonged to the National group.

20 Insulation Services from Tulsa, Oklahoma.
21 These are just a few of the names that I
22 can recall --

23 Q Okay.

24 A -- not a complete list, by any means.

1 Q Okay.

2 A Shook & Fletcher from somewhere down the southwest,
3 Wallace & Gale from Baltimore, Porter Hayden Company,
4 Robert A. Casbey Company from New York City.

5 That's all I can think of at the moment.

6 Q Okay. Now, can you recall approximately how many
7 meetings on a yearly basis the Philadelphia Contractors
8 Association would have?

9 A They'd meet monthly.

10 Q So they have 12 meetings a year?

11 A Right.

12 Q Now, in the latter part of the 1960s, how many of
13 those meetings did you attend as a representative of Philip
14 Carey Corporation?

15 A All of them.

16 Q And of those 12 meetings per year, as best you can
17 recall, how many of those meetings was the subject of
18 potential asbestos hazards or problems associated with
19 exposure discussed amongst and between the member of the
20 Association?

21 A Probably two or three.

22 Q Okay. So let us take, if I may, a period of 1967.

23 Would that be too early in terms of your
24 best recollection of when you first became aware of the

1 hazards?

2 A I think it might be a year or two too early.

3 Q Okay. Then let me say from 1968 there would have
4 been discussions two or three meetings per year from the
5 Philadelphia Trade Association treating the subject of
6 hazards associated with asbestos?

7 A It wasn't a cut and dried scheduled item for an
8 agenda, it was just a discussion that would come up spon-
9 taneously during the meeting.

10 Q Okay.

11 A I'd say essentially yes, you're right.

12 Q And essentially what was shared and discussed amongst
13 members of the Philadelphia Association with respect to
14 reports or knowledge of alleged health hazards?

15 A Primarily, we were discussing what type of face mask
16 would be suitable to furnish to the workmen to protect them.

17 And just as an aside, one of the original
18 lists that came out was from either the Asbestos Workers
19 Local or jointly by the Asbestos Workers and the national
20 group. It turned out immediately after that list was
21 issued that the one top-rated mask had to be withdrawn
22 because the filter that was in it was made out of asbestos,
23 and we decided that it wasn't appropriate to use to filter
24 out asbestos with.

1 Q Okay. Now, was there any discussion of Workmen's
2 Compensation claims being filed against the various con-
3 tractors that were members of the Philadelphia Association.

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

6 A I don't recall any discussion along that line that
7 early.

8 MR. BASSER: Remove the objection.

9 Q Would you relate for me in addition to the subject
10 matter of appropriate face masks to be worn by insulators,
11 what other topics were discussed with respect to insulators
12 and a health hazard that they may expose themselves to
13 through asbestos?

14 A I don't think there was any other discussion at
15 that point.

16 Q So to summarize -- and if I'm incorrect, please tell
17 me -- we are in a period of the very late sixties, the only
18 discussion that you recall amongst and between the members
19 of the Philadelphia Trade Association dealt with the issue
20 of the type of face mask that should be utilized by insula-
21 tors to help them in some manner against health hazards
22 that they may experience with asbestos?

23 A That's correct.

24 Q There were no other topic areas relating to health

1 hazards that you recall being discussed?

2 A Not to the best of my knowledge, no.

3 Q Now, let me jump up now to the National Trade
4 Association and ask you again, how many meetings starting
5 from the latter part of the 1960s do you recall were
6 scheduled on a yearly basis for the contractors who were
7 members?

8 A I think they hold -- did then and now hold two
9 meetings a year.

10 Q All right. And did you attend those meetings as a
11 representative for Philip Carey?

12 A No, I did not.

13 Q Do you know who did attend those meetings?

14 A Chuck Hoshaw.

15 Q Did you ever have a conversation with Mr. Hoshaw
16 following his return from any of these national meetings
17 or prior to his going to these national meetings regarding
18 the subject of health hazards associated with asbestos?

19 A Not specifically, no.

20 Q Now, you've already suggested to us that Mr.
21 Hoshaw did not believe that the health hazard was a serious
22 one.

23 A From our conversation, I would say that is correct.

24 Q Do you know whether he imparted that view or belief

1 to members of the National Association?

2 A I have no knowledge, I don't know.

3 Q Did you ever see any writings or materials that were
4 brought back by Mr. Hoshaw from any National meetings?

5 A Not as brought back by him. There were some bulle-
6 tins distributed from the National that I did see copies of.

7 Q Okay. Did Philip Carey get, by virtue of being a
8 member of the National Association, publications by the
9 Association?

10 A Yes.

11 Q And where would those publications be at the present
12 time, if you know?

13 A I don't know. Probably in Cincinnati.

14 Q Now, with respect to the Philadelphia Association,
15 and I don't think I have defined it specifically, do you
16 recall the name of the Association?

17 A Which one?

18 Q The Philadelphia.

19 A The Philadelphia Insulation Contractors Association,
20 Inc.

21 Q Okay. And do you know where they're headquartered?

22 A They're in the Land Title Building, Room No. 640.

23 Q And how about the National Association?

24 A It's headquartered in Washington, D.C. I'm -- I

1 don't know the address.

2 Q And would that be the National Insulation --

3 A NICA, National Insulation Contractors Association.

4 Q Now, we've started at a period of approximately
5 1968.

6 Can you tell us from that point on with
7 respect to -- I'm going to use PICA, P-I-C-A, would you tell
8 us how many PICA meetings you attended in terms of years
9 from 1968 upward?

10 A I think we just covered that.

11 I covered all -- attended almost every one.

12 Q Okay. And are you still attending meetings?

13 A Yes.

14 Q Okay. Is it your best recollection that from 1968
15 on you have continuously attended meetings each year?

16 A Yes.

17 Q Now, at anytime with respect to PICA, do you recall
18 any other topic or area relating to health hazards being
19 discussed other than the face mask issue that we've just
20 discussed, and I'm talking about from 1968 up to and
21 including 1979?

22 A Yes.

23 Q 1980?

24 A Yes.

1 Q Okay. Can you give me your best recollection as
2 to the time reference and also the other area that was
3 discussed?

4 A Approximately two years ago when everybody was
5 fully convinced that this is a very, very serious hazard,
6 we've discussed at great length and do in fact, not as an
7 association, but each individual company, I'm sure, supplies
8 anybody working with asbestos with complete body coverage,
9 including coveralls, a hood, face mask, boots to go -- paper
10 boots to go over shoes, disposable items.

11 Q Was that done on your own or by OSHA requirements?

12 A It was done after OSHA made us aware of it, what
13 would be acceptable to them.

14 Q So in other words, it was Federal regulation that
15 required you to provide these paper protective clothing
16 items?

17 MR. INGERSOLL: Objection to the form of the
18 question.

19 A It was Federal regulation or Federal publication that
20 made us aware of what we needed to do.

21 Q Okay.

22 MS. KENNEY: Objection.

23 Q Now, other than this period some two years ago where
24 the subject of providing paper protective clothing was

1 discussed, do you recall any other conversation amongst
2 PICA members relating to health hazards associated with
3 asbestos and asbestos exposure?

4 A Only insofar as to try to update ourselves on -- on
5 masks, as to what types were available and which one worked
6 the best.

7 Q Was there any discussion about training programs
8 for insulators being instituted?

9 A No.

10 Q Was there any discussion of internal publications
11 by the Trade Association or members of the Association in
12 order to educate personnel and insulators about hazards
13 associated with asbestos and asbestos exposure?

14 A No.

15 Q Was there any discussion about increase or decrease
16 in Workmen's Compensation claims being filed?

17 A Yes.

18 MR. BASSER: Objection.

19 Q And specifically, what was discussed in relation to
20 Workmen's Comp claims?

21 A Just the number of them, how many there were and
22 how they were proliferating.

23 Q Now, what period of time did this sort of discussion
24 take place?

1 A I guess from about 1963 forward.

2 Q So there was discussion about the proliferation
3 of Comp claims?

4 MS. PENNELL: Objection.

5 A Yes.

6 Q Now, was there any discussion about third-party
7 lawsuits?

8 Let me ask you, do you know what I mean by
9 third-party lawsuits?

10 A I don't understand the term.

11 Q Was there any discussion about a lawsuit such as the
12 one that Mr. and Mrs. Fluharty have filed; that is, an
13 action other than a Workmen's Compensation claim?

14 A Yes.

15 Q Okay. And when did that discussion or discussions
16 take place?

17 A Over the last several years.

18 Q Okay. If I can, I don't mean to pin you down to
19 an exact date, but when you say the last several, going
20 backwards from 1980, what period of time are you--

21 A Maybe '75 or '76.

22 Q Okay.

23 MR. TREVELISE: May I ask, discussion
24 among whom? I'm not sure I'm clear. Is that PICA?

1 Q I believe -- and if I'm incorrect in what I'm
2 about to say, let me know -- you were saying there was
3 discussion among members of PICA --

4 A Correct.

5 Q -- about these various areas?

6 A Correct.

7 Q Okay. Now, specifically, what was discussed in
8 relation to the proliferation of Workmen's Compensation
9 cases and what discussions were had with respect to what
10 I'm calling third-party lawsuits?

11 A It was -- really it wasn't an extended discussion,
12 it was just a go-around-the-table about how many suits are
13 you party to type thing, an expression of alarm that we're
14 getting included in so many suits.

15 Q And would that same discussion hold true for Comp
16 discussions?

17 A Yes.

18 Q Okay. How about the subject of death or the rate
19 of death among asbestos insulators?

20 A I don't think we had had any death experience at
21 that point.

22 Q Was there any discussion about cancer and its
23 association with asbestos or asbestos exposure?

24 MR. MEELEY: Object to the form of that

1 question.

2 MS. KENNEY: Objection.

3 A Only in general.

4 Q Would you tell us what discussions relating or
5 regarding cancer were held?

- 6 MS. KENNEY: Objection.

7 A Well, only in the same relationship to the -- to the
8 other discussions, that was the cause of the suits.

9 Q So you are now talking about a period of 1975, I
10 believe?

11 A '75 or '76, somewhere in that area.

12 Q Okay. Now, prior to that, do you recall there being
13 any of these discussions?

14 A No.

15 Q Was there any discussion regarding physical examina-
16 tions for insulators?

17 A Yes.

18 Q Okay. And would you tell us the context of those
19 discussions?

20 A Context was that our attorney, who attends all the
21 meetings, advised us that we should offer physical examina-
22 tion to every man in the Local, and PICA prepared forms
23 which each individual company then sends out once a year.

24 Q And what time frame are you talking about now?

1 A It must have been about '75.

2 Q Now, did Philip Carey or, I'm sorry, did Brand at
3 that point begin instituting pre-employment physicals?

4 A We tried to, but were not allowed to.

5 Q Okay. Did Brand institute examination of any then
6 present members of its Contracting Unit, employees?

7 A We again tried to and were not allowed to.

8 Q Prior to this 1975 period, did Brand or its prede-
9 cessor, Philip Carey, have pre-employment physicals for its
10 employees?

11 MS. TREVELISE: Objection to the form of
12 the question.

13 A No, we didn't, and I'll explain why if you want me
14 to.

15 Q Well, let me get back to that, I know what you're
16 about to say.

17 A Okay.

18 Q Was there any discussion regarding warning labels
19 by the PICA association beginning anytime in the 1960s?

20 A No.

21 Q Was there any discussion at anytime in the 1970s
22 of utilization of warning labels regarding asbestos products?

23 A No.

24 Q Was there any discussion of warning labels regarding

1 calcium silicate products?

2 A No.

3 Q At anytime was there a discussion -- and when I say
4 at anytime, I'm going back to 1968 --

5 A Right.

6 Q -- and including in that Philip Carey and then,
7 obviously, the switchover in 1970 to Brand -- about the
8 utilization of dust monitoring or dust levels at job sites?

9 A There was some discussion of it, yeah.

10 Q Okay. And can you tell me when that discussion took
11 place and what the nature of the discussion was?

12 A It was in and around '75 or '76, and the discussion
13 related to the necessity for monitoring and the conclusion
14 was drawn that almost all the job sites are outdoors and it
15 would be, number one, very hard to monitor due to wind
16 changes and whatnot, and we also concluded that we felt the
17 concentration was so low that it wouldn't be necessary on
18 outdoor jobs.

19 Q Who felt that?

20 A The contractors themselves.

21 Q And are you aware of any particular expertise that
22 any particular representative had to make that determination?

23 A I understand that one of our competitors, Pacor,
24 Incorporated, does have some monitoring equipment and had

1 done some monitoring of their own job.

2 Q Now, do you know whether the monitoring took place
3 on outside jobs or inside jobs?

4 A I don't know.

5 Q Now, does the name Thomas Mancuzzi mean anything to
6 you?

7 A Nothing.

8 Q As I understand your testimony, Philip Carey and
9 Brand was aware, and I'm going back to Philip Carey first,
10 as early as the late sixties that there was a reported
11 association between exposure to asbestos and health hazards?

12 A Yes.

13 MR. TREVELISE: Object to the form.

14 Q What was done by Philip Carey from the time it
15 became aware of an alleged health hazard up through and
16 including 1970?

17 MR. TREVELISE: Objection.

18 A Well, let me define our interpretation of what the
19 health hazard was, number one.

20 MR. HAASE: Who's "our"?

21 THE WITNESS: Philip Carey Company.

22 MR. TREVELISE: May I make a statement
23 before we continue?

24 It's my understanding that Mr. Stewart is

1 here on behalf of Brand Insulations as a witness.

2 MR. COHEN: No, that's not correct. He is
3 here as a representative of both Brand and its
4 predecessor, Philip Carey.

5 MR. TREVELISE: That's a term you're using.
6 He's here in his relationship to Brand
7 Insulations.

8 MR. HAASE: He's here as a witness.

9 MR. TREVELISE: He's represented by counsel,
10 who represents Brand Insulations. He is not in any
11 way a witness here for or on behalf of Celotex,
12 Philip Carey, et cetera.

13 MR. COHEN: No, I have to differ with you.
14 He is here as a present employee and representative
15 witness of what is the entity now known as Brand.
16 Okay?

17 Now, his prior testimony has established
18 that prior to Brand's takeover of Contract Units,
19 that he was employed by Philip Carey, and it is a
20 predecessor corporation.

21 That is my statement.

22 MR. TREVELISE: That is your statement.

23 MR. COHEN: Okay. There's been no represen-
24 tation by anyone to the contrary, okay, and what I'm

1 saying is that as a predecessor in interest and
2 as a person who was previously employed by Philip
3 Carey, he has valuable knowledge that I am attempting
4 to utilize.

5 Now, I don't understand your statement or,
6 I mean, if you're objecting to my being able to
7 go back prior to 1970 and ask him any question -- is
8 that your objection?

9 MR. TREVELISE: He is not here as a witness
10 on behalf of Philip Carey or Celotex.

11 MR. COHEN: There is no Philip Carey.

12 MR. TREVELISE: On behalf of Celotex.

13 MR. COHEN: Philip Carey exists as Brand.
14 Celotex --

15 MR. HAASE: No, it doesn't.

16 And I thought --

17 MR. TREVELISE: Can we go off the record for
18 a minute?

19 MR. COHEN: Let's go off the record.

20 MR. HAASE: I don't see why we have to go
21 off the record.

22 Mr. Stewart has already testified at
23 Session Number one that sometime late in 1970, and
24 I think he said October, the Contract Installation

1 functions of Philip Carey were purchased by Brand,
2 not its Manufacturing functions.

3 MR. TREVELISE: That's correct.

4 MR. HAASE: Brand carried on from that point
5 on. Philip Carey existed and was merged into
6 another company, which he identified earlier.

7 I think Mr. Stewart is here currently as
8 an employee of Brand and he is a witness to various
9 things from the time that he started testifying.

10 MR. TREVELISE: My point is, he is not here
11 as my witness, he is here on behalf of Brand.

12 MR. COHEN: Oh, I understand what you're
13 saying, okay.

14 MR. TREVELISE: I have no control over the
15 witness as such. He's here on behalf of Brand
16 Insulations.

17 MR. COHEN: I'm not going to limit my
18 questioning as it relates to Celotex or any other
19 manufacturer, producer or distributor. If you find
20 a particular question objectionable as to form, you
21 can raise that objection.

22 I just don't understand -- I mean, he is
23 obviously not your witness.

24 MR. TREVELISE: He is not here as an employee

1 of Celotex, a manufacturing agent or anything of
2 that nature.

3 MR. COHEN: He is here as an employee of
4 Brand.

5 MR. TREVELISE: He is here as an employee of
6 Brand.

7 MR. COHEN: Right.

8 MR. HAASE: At the present time.

9 MR. COHEN: At the present time, right.

10 And what I'm saying is, I am not precluding
11 myself from asking him about Celotex and any
12 products that Celotex may have manufactured at any
13 point that he may have experience or relevant
14 knowledge of.

15 MR. TREVELISE: But he is not speaking as an
16 employee or manufacturing agent of Celotex, Philip
17 Carey, whatever the case may be in that context,
18 because he is not at this time in either position.

19 MR. COHEN: I'm not going to --

20 MR. TREVELISE: As far as I can see, my
21 objections are preserved until later in the event
22 any testimony is used against us. I just want it
23 made clear he is not here on our behalf at this
24 time, he is here on behalf of Brand Insulations;

1 and as a result of that, I have no control, I have
2 no power to instruct him in terms of answering
3 questions or anything of that nature, and I want
4 that made clear, that's all.

5 MR. COHEN: Okay.

6 MR. TREVELISE: Basically, the objections
7 are preserved and I want that understanding because,
8 as I said, I can't instruct him not to answer at
9 this point. At the time if you were ever to attempt
10 to use any of his testimony in connection with
11 Celotex in an attempt to show he was an employee or
12 something like that, I want it understood that I,
13 as I said, have no control over his testimony, no
14 control over the ability to instruct him not to
15 answer or anything of that nature.

16 MR. COHEN: Okay. I'm just saying that
17 whatever testimony is derived from Mr. Stewart can
18 and will be used in any appropriate manner against
19 any and all co-defendants. I understand what you're
20 saying.

21 MR. TREVELISE: My objections as to compe-
22 tency, et cetera, are all preserved until the time
23 of trial and I want that understanding.

24 MR. COHEN: All right.

1 MR. TREVELISE: And it can't be used in the
2 context of a witness on behalf of Celotex, Philip
3 Carey, because he's here on behalf of Brand.

4 MR. COHEN: You're saying he can't be used
5 as a witness on behalf of Celotex, Philip Carey,
6 all right, that I take exception to because --

7 MR. TREVELISE: That's what is preserved.

8 MR. COHEN: Okay. I think the basis of the
9 testimony has been laid, so it will have to wait a
10 future action.

11 Would you go back and read the last question,
12 please.

13 (The following portion of the record is
14 read by the Reporter:

15 "QUESTION: What was done by Philip Carey
16 from the time it became aware of an alleged health
17 hazard up through and including 1970?

18 "MR. TREVELISE: Objection.

19 "ANSWER: Well, let me define our interpreta-
20 tion of what the health hazard was, number one.")

21 BY MR. COHEN:

22 Q Okay. Mr. Stewart, would you define the parameters
23 of the health hazard as Philip Carey understood it in the
24 late 1960s.

1 MR. TREVELISE: Objection to form.

2 A Let me redefine it as to my interpretation.

3 I was employed by Philip Carey and I'm
4 presently employed by Brand, and I still have the same
5 interpretation, that the health hazard is the breathing of
6 the asbestos fibers and getting them into your lungs. So
7 the precautions we took was to issue masks that we felt
8 adequate to stop that from happening.

9 Q Am I correct that Philip Carey began issuing masks,
10 am I correct, in the seventies?

11 MR. TREVELISE: Objection.

12 MR. COHEN: Let me rephrase the question.

13 Q When did Philip Carey first begin utilization of
14 these paper masks for insulators?

15 And if it includes Brand, please consider
16 that.

17 A I'm not sure it ever happened when we were Philip
18 Carey Company.

19 Q Okay.

20 A But like I say, we started being aware of the
21 problem somewhere in the late sixties where there was a
22 heavy concentration, obvious to the eye, of dust, not only
23 from asbestos, but any type of dust, we started using
24 masks.

1 Q Okay. And what time period are you talking about?

2 A Either 1969 or 1970.

3 Q And who defined what was a heavy concentration of
4 asbestos dust to the insulator?

5 A Our Field Superintendent by his knowledge of the
6 job, when we sent the materials to the job, would include
7 the masks.

8 Q And do you know whether a mask was provided or
9 available for every insulation worker or only certain
10 insulation workers?

11 A We sent from the office enough masks for every
12 insulation worker.

13 Q And these were paper masks?

14 A Originally they were a rubber mask with a removable
15 and replaceable filter. They got to be so heavy and so
16 hot that the men refused to wear them. Then we went over
17 to the lighter weight so-called paper masks.

18 Q So it's your testimony that sometime beginning in the
19 late sixties, whenever a supervisor at a particular job
20 site would make the determination that there was a heavy
21 concentration of asbestos dust, that supervisor would then
22 order paper masks out for a particular job?

23 MR. HAASE: I object.

24 MR. MEELEY: I object to that.

1 MR. HAASE: I think he said heavy dust.

2 MR. COHEN: Heavy dust.

3 A Yes.

4 Q And that dust could be asbestos, it could be wood
5 dust?

6 A We didn't really know the content of the dust. It
7 was a visual heavy dusty condition.

8 Q Okay. What other steps were taken from the late
9 sixties up to and including the present date by Philip
10 Carey and/or Brand to react to the knowledge that you've
11 testified to regarding health hazards?

12 A As I previously said, about two years ago we started
13 issuing complete body coverage in addition to the masks.

14 Q Now, was there ever discussion had by either PICA
15 or NICA --

16 And do you understand what I mean when I
17 use the term "NICA"?

18 A Right.

19 Q -- of health hazards that may exist to persons
20 other than insulators at a particular job site?

21 A Yes.

22 Q Okay. And specifically, what types of persons were
23 discussed as potentially or being at risk in having the same
24 health hazard?

1 A Well, other workmen in the immediate area --

2 Q Okay.

3 A -- where we might be making the dust in either
4 applying or removing asbestos.

5 Q Do you know whether plasterers were specifically
6 discussed?

7 A I don't think so.

8 Q How about welders?

9 A Possibly.

10 Q Can you recall any other groups that you are
11 including in persons who may have been exposed besides the
12 insulators?

13 A Yes, the general trades that we usually work around,
14 pipe fitters and steam fitters. I guess those are the two
15 primary ones.

16 Q And to your knowledge, what was done, if anything,
17 by Philip Carey and/or Brand to make these types of
18 individuals aware of the health hazard that you recognized
19 with respect to asbestos insulators?

20 A Well, the areas were roped off and rather large
21 signs were posted around the perimeter in an effort to keep
22 other people out of the area.

23 Q How about persons that were working along with
24 asbestos insulators that were within a roped area?

1 A About all we did was go to their supervisory people
2 and make them aware that there could be a hazard.

3 Q Was this a uniform practice followed by Philip
4 Carey on every job where asbestos was being utilized?

5 A To the best of my knowledge, yes.

6 Q Did Philip Carey and/or Brand ever advise the
7 workers themselves, to your knowledge, who were not
8 insulators of these health hazards?

9 A I don't think so. I have no knowledge really.

10 Q Now, you mentioned in the seventies that counsel for
11 PICA advised you that health examinations should be given.

12 A Right.

13 Q At that time who was counsel for PICA?

14 A Myron Jacoby.

15 MR. BRUCH: Say again, please.

16 THE WITNESS: Myron Jacoby.

17 Q And do you know who Mr. Jacoby was associated with?

18 A He has his own -- had his own law firm, he is now
19 deceased.

20 Q Okay. And where was that law firm?

21 A It's in the -- oh, boy, the building right across
22 from the Union League. What's that building? The Fidelity
23 Building.

24 Q And for what period of time, as best you recall,

1 was Mr. Jacoby counsel for PICA?

2 A From 1957 until the time he died.

3 Q And when was that?

4 A About two years ago.

5 His son Fred has assumed that role now.

6 Q Are you aware of any other counsel to PICA other
7 than Mr. Jacoby and his son Fred?

8 A No -- possibly other people in his firm. He had
9 several other associates in his firm.

10 Q Are you aware of whether members of PICA currently
11 sit as representatives to any Unions or on any Union boards?

12 A Yeah. Well, there is a Joint Trade Board.

13 Is that what you're referring to?

14 Q Okay. And describe for me what the Joint Trade
15 Board is.

16 A It's three members from the -- each from the
17 Contractors Association and from the Union whose duties are
18 to administer the contract, the Union agreement contract.

19 Q And would that include all aspects of a particular
20 contract with a given Union, as best you know?

21 A Well, it is with a specific Union, Local 14.

22 Q Okay. And are you aware of whether the members of
23 PICA to the Joint Trade Board have counsel?

24 A Same counsel, only there the Union is all -- they do

1 not have counsel present at their meeting.

2 Q So to the best of your knowledge, Mr. Jacoby's son
3 and any members in that firm would represent members of
4 PICA who sit on the Joint Trade Board?

5 A That's correct.

6 Q Okay. Other than Mr. Jacoby's son and any members
7 of that firm, are you aware of any other law firm that
8 represents members of PICA on the Joint Trade Board?

9 A There is none.

10 Q Are there any other Boards or groups that members
11 of PICA sit on in conjunction with members from any
12 particular Union?

13 A Only as Trustees of the Welfare Plan and the
14 Pension Plan.

15 Q And to your knowledge, how many members of PICA sit
16 on that Board or Trusteeship?

17 A Four, and I'm one of them.

18 Q And is there counsel that represents PICA members
19 sitting on the Trusteeship?

20 A Yes, as well as counsel for the Union.

21 Q Okay. And who is counsel for the members of PICA?

22 A Jacoby's firm.

23 In fact, the meetings are often held in
24 their office.

1 Q Are you aware of any other firm or attorneys that
2 represent PICA on this Trusteeship?

3 A We have no other attorneys representing for
4 anything.

5 Q Are the manufacturers also members of the Trustee-
6 ship with the Union?

7 A No.

8 Q Are they members of the Joint Trade Board?

9 A No.

10 Q Are you aware of any relationship between any
11 manufacturer or supplier and Unions?

12 A Not to my knowledge.

13 Q Mr. Stewart, I'd like to show you a portion of
14 Answers that were filed in this suit by Johns-Manville to
15 Interrogatories that were filed by Mr. and Mrs. Fluharty,
16 specifically Interrogatory No. 3. That's contained on
17 Page 3 of the Answers to Interrogatories.

18 And just take a few minutes and look at
19 that.

20 (Pause.)

21 Q Now, am I correct in saying that Page 3 of the
22 Answers to Interrogatories purports to depict three separate
23 warnings or notices?

24 MS. KENNEY: Objection to the form.

1 MR. HAASE: Four.

2 MR. COHEN: I said three, I'm sorry, four.

3 Q Would you describe for me what Page 3 purportedly
4 represents to you.

5 MS. KENNEY: Objection to the form.

6 A Represents the product contains asbestos and it may
7 be harmful.

8 Q All right. Now, am I correct that there are four
9 separately grouped labels or warnings?

10 A Correct, correct.

11 Q Now, with respect to the first one, it says, and
12 I'm quoting, "This product contains asbestos fiber.
13 Inhalation of asbestos in excessive quantities over long
14 periods of time may be harmful."

15 Have I correctly read the first two sen-
16 tences?

17 A You certainly have.

18 MS. KENNEY: Let me note an objection.
19 I object to counsel reading in Interrogatories,
20 Answers to Interrogatories, and I object to showing
21 the witness this Interrogatory as being --

22 MR. HAASE: This Interrogatory Answer?

23 MS. KENNEY: This Interrogatory Answer.

24 -- as being -- no foundation has been laid

1 and it is irrelevant.

2 MR. COHEN: Let me say, first of all, these
3 are Answers of Johns-Manville and are pleadings of
4 record in this particular matter, I think.

5 MS. KENNEY: I understand that, Mr. Cohen.

6 I'm just noting my objection for the record.

7 BY MR. COHEN:

8 Q Now, let's get back.

9 And I'd like to ask you with respect to the
10 second line beginning "Inhalation of asbestos fiber..." --

11 Do you see where I'm referring to?

12 A Exactly.

13 Q -- can you tell me what an excessive quantity of
14 inhalation of asbestos is?

15 MS. KENNEY: I object as asking the witness
16 to interpret something that the witness has not
17 written to answer that question.

18 A I really have no basis for making an opinion.

19 Q I'm sorry, could you repeat what you said?

20 A Yeah. I say I have no basis on which to form an
21 opinion, I don't know what amount would be excessive.

22 Q Okay. Now, am I correct that you were a Supervisor
23 for Philip Carey in the sixties?

24 A Yes.

1 Q And that you presently maintain a supervisory
2 position for Brand since its takeover of certain portions
3 of Philip Carey enterprise?

4 A That's correct.

5 Q And you cannot define for me or tell me what in
6 your opinion an excessive quantity is with respect to
7 inhalation?

8 MS. KENNEY: Objection.

9 MR. BRUCH: Objection.

10 A I can only say if it's visible in the air, I would
11 say it's excessive.

12 Q Now, can you tell me with respect to this label,
13 it says, "Inhalation of asbestos in excessive quantities
14 over long periods...", can you tell me what a longer period
15 is?

16 MS. KENNEY: Objection.

17 MR. BRUCH: Objection.

18 MS. KENNEY: Let me note my objection to
19 this question. Mr. Cohen is asking the witness to
20 interpret something that was not written by the
21 witness, he's also calling for an opinion, an
22 expert opinion, he's also calling -- there's been
23 no foundation that the witness has ever seen this
24 before, that the witness has ever had any discussion

1 concerning these warning labels, and I object and
2 move to strike this entire line of questioning.

3 BY MR. COHEN:

4 Q Have you ever, just to answer one part of Ms.
5 Kenney's objection, have you ever seen labels like this
6 before on any asbestos products?

7 A Not that extensive, no. I've seen the first line
8 that says, "This product contains asbestos fiber."

9 Q Okay.

10 MS. PENNELL: Excuse me. We don't have
11 that in front of us.

12 Is there more than one thing written on
13 that page? Are there a couple of labels?

14 MR. COHEN: There are four labels.

15 MS. PENNELL: Could you advise us --

16 MR. COHEN: I'm reading from the first one,
17 the top one, and I'd like the record to reflect
18 that I'm showing Mr. Stewart labels that were put
19 on asbestos products by Johns-Manville that were
20 ultimately or supposedly reached asbestos insulators
21 who did not prepare the warning labels, who had no
22 prior conversations about them, and I'm asking
23 Mr. Stewart to interpret for me these labels.

24 MR. TREVELISE: Objection to the last

1 statement.

2 MR. BRUCH: Objection to your statement.

3 MR. COHEN: You all object. It's a response
4 to the objection that was raised by Ms. Kenney.

5 MS. KENNEY: Which only strengthens my
6 objection.

7 BY MR. COHEN:

8 Q Now, it says, going down to the last paragraph, it
9 says, "If adequate ventilation control is not possible, wear
10 respirators approved by the U. S. Bureau of Mines for
11 pneumoconiosis producing dust."

12 Did I correctly read that?

13 A You did.

14 MS. KENNEY: Objection.

15 MR. COHEN: I think in order to not burden
16 the record, you have a continuing objection and it
17 can enure to the benefit of everybody during this
18 questioning.

19 MR. HAASE: As long as you're referring to
20 the Interrogatory Answers?

21 MR. COHEN: Right.

22 Q Would you tell me in relation to the handling of
23 asbestos what adequate ventilation is?

24 MS. KENNEY: Objection for the reasons

1 stated previously.

2 MR. COHEN: Anne, can we just agree you
3 will object --

4 MS. KENNEY: No. I don't know when your
5 objectionable line of questioning is going to cease
6 and desist.

7 MR. COHEN: Can we just say as long as I
8 am utilizing this particular document in any form
9 to ask him any question, that you have reserved a
10 continuing line of objection?

11 MR. HAASE: The form of the question.

12 MR. COHEN: To the form of the question.

13 MS. KENNEY: To the form of the question.

14 MR. COHEN: To the utilization of the docu-
15 ment. Okay?

16 I'll signify to you when in my opinion I'm
17 through with this and I will go on to a different
18 area. Okay?

19 I think it will be a lot easier.

20 MS. PENNELL: Mitchell, just for the record,
21 is this quiz just to see his impressions, or what
22 are you trying to do here?

23 MR. COHEN: Well, I'm trying to elicit what
24 I consider discoverable material in this quiz.

1 BY MR. COHEN:

2 Q Would you define for me what the term "adequate
3 ventilation control" means with respect to that particular
4 warning label?

5 A To me that means if there is visible dust in the air,
6 the ventilation is inadequate.

7 Q Now, would you tell me what type of respirator is
8 being discussed with respect to a respirator being approved
9 by the U. S. Bureau of Mines?

10 A I cannot give you specific model numbers.

11 Q Okay. Do you -- I'm sorry.

12 A I think during that period we were talking about
13 rubber type respirators with replaceable filters on them.

14 Q To your knowledge, would that include paper masks?

15 A I don't know whether it did back that far ago or
16 not. I know they are acceptable now.

17 Q Now, would you tell me what pneumoconiosis means?

18 A I presume it means lung cancer.

19 Q In your opinion, can pneumoconiosis be anything
20 other than lung cancer?

21 A I'm not a doctor, I don't know.

22 Q And can you tell me what a pneumoconiosis-producing
23 dust is?

24 A Probably any dust.

1 Q Okay. Now, I'd like to go down to the second
2 label, and again the first paragraph.

3 If you would read it to yourself, I would
4 again ask you the same questions with respect to the term
5 "excessive quantities" and "over long periods."

6 Would your answers be any different than
7 they were to the question on the first warning label?

8 A Identical.

9 Q Now, again I would like to ask you, where the wording
10 says that the breathing of excessive quantities over long
11 periods of time may be harmful, would you tell me what
12 harmful means as used in that context?

13 A To me it meant it would affect your lungs, probably
14 to the point of giving you cancer.

15 Q Now, does it mean anything else to you other than
16 the fact that it could affect your lungs to the point of
17 giving you cancer?

18 A No.

19 MS. KENNEY: I would state my continuing
20 objection to this line of questioning, adding
21 another reason, you are also leading the witness,
22 to my previous reasons. I'm including all my
23 previous reasons in objecting to the form and all.

24 Q Let's go down to the third label now.

1 Can you describe for me what the words
2 "serious bodily harm" mean as used in context with that
3 particular warning label?

4 A To me it still means lung damage.

5 Q What particular types of lung damage?

6 A I can only think of one, that's cancer.

7 Q Okay. And can you tell me whether your answer
8 includes cancers to other portions of the body other than
9 the lung?

10 A I don't think so, I don't think it does do that.

11 Q And again, as to the last label, would your answer
12 be any different with respect to the use of the words
13 "serious bodily harm" --

14 A No.

15 Q -- than they were previously?

16 A No.

17 Q And the last paragraph on that warning label says,
18 "Smoking greatly increases the risk of serious bodily harm."

19 Did I read that correctly?

20 A Yes, you did.

21 Q And as to that, again would your definition or
22 the meaning of the words "serious bodily harm" in that
23 context be any different than what you've testified to
24 previously?

1 A No, again lung damage.

2 MR. COHEN: Let's take five minutes.

3 (A short recess is called at 11:10 A.M.)

4 (Deposition resumed at 11:30 A.M.)

5 BY MR. COHEN:

6 Q Mr. Stewart, this morning you brought certain
7 documents and records with you. Is that correct?

8 A That's correct.

9 Q I'd like to show you what I would like to have
10 marked for identification purposes as Stewart-2 and 3 and
11 ask if you would identify them. I want you to take a look
12 at them and identify them for us.

13 (Handwritten list of jobs and materials
14 is marked Stewart Exhibit 2 for identification.)

15 (Handwritten list entitled Shipping Dates
16 is marked Stewart Exhibit 3 for identification.)

17 BY MR. COHEN:

18 Q Mr. Stewart, I'd like to show you, and then just
19 clarify a point, what has been marked as proposed Exhibits
20 Stewart 2 and 3 for identification and ask if you would
21 look at those exhibits and describe what each of them is.

22 MR. COHEN: And for the benefit of counsel,
23 when these documents were prepared, the ones that
24 you have, they were stapled together, so you have

1 one sheet, one group of documents. The things that
2 Mr. Stewart will be looking at that are marked as
3 Stewart Exhibit No. 2 begin with the fourth page
4 of the group that you have. Now, the exhibit that
5 Mr. Stewart has in front of him that is marked as
6 Stewart Exhibit No. 3 is made up of the first three
7 sheets of paper of the group that you have.

8 Is there any question about that?

9 BY MR. COHEN:

10 Q All right. Now, Mr. Stewart, would you look at
11 Exhibits 2 and 3 and tell us what they are.

12 A Okay. Exhibit 2 is a list of all the jobs, to the
13 best of our knowledge, that Fluharty worked on for Brand
14 during the time in question and they -- it lists the
15 materials that were shipped to the job. Exhibit 3 is a
16 list of the same jobs that shows dates on which those jobs
17 were done, and I assume the dates are shown from our
18 shipping documents or the last return from the job of the
19 materials. I think that's the way we identified the dates.

20 Q Okay. Now, with respect to Exhibits 2 and 3, will
21 you tell us from what records, if you know, they were
22 prepared?

23 A From the individual job folders in which we keep all
24 the records pertaining to the on-site work for each job.

1 Q Okay. And that would be as to both exhibits?

2 A Right.

3 Q And were those documents prepared by you or at
4 your direction?

5 A At my direction.

6 Q And did you bring those with you this morning?

7 A Yes.

8 Q Now, with respect to Stewart Exhibit No. 3, as I
9 look at it, the earliest dates are for the calendar year
10 1972.

11 A That's correct.

12 Q Okay. Can you tell me where records would be for
13 any jobs worked on by Mr. Fluharty from the time Brand took
14 over the Contracting Units of Philip Carey up to and
15 including those portions of 1972 that may not be here?

16 A In Philip Carey jobs, all the records were sent
17 down to Cincinnati to Philip Carey's headquarters. All the
18 Brand records are in our office in Essington.

19 Q If the job began as a Philip Carey job and went
20 into the changeover period with Brand, whose records would
21 they be considered?

22 A Philip Carey.

23 Q So they would have been shipped back to Ohio?

24 A That's correct.

1 Q Now, the same question with respect to Stewart
2 Exhibit No. 2, if there were jobs prior to the takeover
3 of Philip Carey by Brand that are not here, where would
4 they be, to the best of your knowledge?

5 A Same place.

6 Q Okay. And am I correct that the documents and
7 records from which Exhibits 2 and 3 were prepared are
8 presently in Essington?

9 A That's correct.

10 Q Now, if there are no listings of jobs from 1970
11 until 1972 that were Brand jobs, do you have any reason for
12 accounting as to why they would not be on these exhibits?

13 A They would either be jobs which would be Philip
14 Carey jobs which we completed or that Fluharty didn't
15 work for us at the time in question.

16 Q Okay. So to the best of your knowledge, all Brand
17 jobs that were begun as Brand jobs and finished as Brand
18 are presently before you. Is that correct?

19 A That's correct.

20 Q Okay. Now, I'd also like to show you what I would
21 like to have marked as Stewart Exhibit No. 4, and I'd like
22 to have you identify for me what proposed Exhibit No. 4 is.

23 (Original Payroll Record of Daniel Fluharty
24 is marked Stewart Exhibit 4 for identification.)

1 BY MR. COHEN:

2 Q Now, would you first tell us what Exhibit No. 4
3 purports to be and where it came from?

4 A It is our Payroll Record. This is the document from
5 which paychecks are produced.

6 Q And is that a document of Brand Insulations?

7 A - Yes, it is.

8 Q And does Brand Insulations make and prepare such
9 records in its ordinary, routine course of business?

10 A Yes, for every employee.

11 Q And is it the ordinary custom and practice of Brand
12 to make records such as Exhibit No. 4 that you have before
13 you?

14 A Yes.

15 Q And how were those particular records obtained by
16 you?

17 A Just went to the file and pulled them out. We have
18 a complete file for every employee.

19 Q Okay. And would you tell us what relationship there
20 is, if any, between Exhibits 4, 2 and 3?

21 A The only relationship is that Exhibit 4 would
22 indicate the time period during which Fluharty worked for
23 Brand.

24 MR. COHEN: Off the record.

1 (Discussion off the record.)

2 MR. COHEN: I'd like to ask if it's agree-
3 able with counsel, Mr. Stewart wants to maintain
4 the original of Exhibit No. 4 at Brand's offices.
5 I have one Xerox copy that I would like him to
6 authenticate and then we would make the substitution
7 with an understanding, obviously, that the original
8 would be available at anytime for purposes of this
9 litigation.

10 Is there any objection to that?

11 MS. KENNEY: No.

12 MR. MEELEY: They're just payroll records?

13 MR. COHEN: Yes, these are payroll records.

14 BY MR. COHEN:

15 Q Just so there's no problem with the record, I'd
16 like to show you a Xerox copy that I'm going to have marked
17 as Stewart Exhibit No. 5, Mr. Stewart, and I want you to
18 look at it and compare it with Exhibit 4, and I just have
19 two questions I want to ask.

20 A I did do that previously page by page and it is an
21 exact copy.

22 Q That's right, I did ask you. Am I correct?

23 A Right.

24 Q And it's your testimony that the Xerox copy that we

1 will have marked as Stewart Exhibit 5 accurately and
2 authentically is a reproduction of the original document
3 that you have before you marked Stewart 4?

4 A That's correct.

5 MR. COHEN: I'd like to have the Xerox copy
6 marked, and with there being no objection, make a
7 substitution for purposes of the deposition.

8 (Xerox copy of Payroll Record of Daniel
9 Fluharty is marked Stewart Exhibit 5 for identifica-
10 tion.)

11 MR. COHEN: If there's no objection, I'm
12 going to ask Ruth, the Court Reporter, to duplicate
13 this and whenever copies are obtained, you'll have
14 a copy of this as an exhibit.

15 I'll have to ask counsel to bear with me
16 for a minute.

17 (Pause.)

18 BY MR. COHEN:

19 Q Now, I'd like to ask you to look at Exhibit No. 2,
20 and on the upper left-hand column it says "PA-140 Temple."

21 Would you tell us what that means?

22 A that PA is the designation for our Philadelphia
23 Branch Office, the 140 is our job number.

24 Q All right. And Temple would refer to what?

1 A Temple is the job itself, the location.

2 Q And do you know what that Temple specifically
3 refers to?

4 A It's one of the new facilities at Temple University,
5 I'm not sure which one.

6 Q Okay. Now, underneath that category designation
7 you have a listing of the number of products. Is that
8 correct?

9 A That's correct.

10 Q All right. Now, referring you over to Exhibit No. 3,
11 the fifth grouping down, it also says "PA-140 Temple."

12 A Same job.

13 Q Okay. And the dates of January 3, 1973, through
14 September 3, '73, would be the beginning and ending dates
15 of that complete job?

16 A That was the first time material was shipped to the
17 job and the last time either material was shipped or the
18 return goods came back, if there were any.

19 Q Now, with respect to that job at Temple, I'd like
20 to ask you several questions.

21 First of all, would you go down that
22 particular list and tell me what products, if any, are
23 products of Johns-Manville that you have knowledge of?

24 MS. KENNEY: Objection.

1 A The fourth one from the bottom, Thermobestos Pipe
2 Covering.

3 Q Are you aware of any other products?

4 A That's the only one I can identify.

5 Q Are you familiar with Thermobestos?

6 A Yes.

7 Q And what is the basis of your experience with
8 Thermobestos?

9 A Same as all the other materials, from having sent
10 them to the jobs and seen them applied.

11 Q Is Thermobestos an asbestos-containing product?

12 A I don't think so. It's a calcium silicate material.
13 I know at present it does not contain asbestos.

14 Q Okay. Let me ask if you know, since we are talking
15 about the 1973 period, in this job, do you know whether
16 Thermobestos contained any asbestos fiber?

17 MR. HAASE: At that time?

18 MR. COHEN: At that time.

19 A To the best of my knowledge it did not, to the
20 best of my knowledge.

21 Q Now, would you go down that list and product by
22 product identify, to the best of your knowledge, who the
23 manufacturer was of the product?

24 MR. HAASE: Do you mean the Temple job?

1 MR. COHEN: The Temple job.

2 MR. INGERSOLL: Could we maybe cut things
3 short if he can identify anything on there that
4 had asbestos in it? I would imagine you're not
5 interested in non-asbestos material or some other
6 material.

7 MR. COHEN: Yes, I think that's a good
8 suggestion.

9 Q Go down that list and tell us what products, to the
10 best of your knowledge, contained asbestos, irrespective
11 of in what form or quantity, and we'll discuss that
12 particular thing separately.

13 MR. HAASE: For that job at that time.

14 A To the best of my knowledge, there are none on that
15 job.

16 MR. HAASE: Mr. Stewart, you understand he's
17 asking for that job at that time?

18 THE WITNESS: Yes.

19 A To the best of my knowledge, none.

20 Q So it's your testimony there are no asbestos
21 products utilized, to the best of your knowledge, on that
22 Temple job as of 1973?

23 A That's correct.

24 Q Now, the second job shown is Philadelphia Electric,

1 Job Number 295 on Exhibit No. 2.

2 Do you see that?

3 A Yes.

4 Q Okay. And that has boundaries of June 8, 1972,
5 through March 14, 1973.

6 Would you again go down that list and tell
7 us what products, if any, to the best of your knowledge,
8 contained asbestos at that period of time that we're talking
9 about?

10 A I find the third one from the bottom, which is
11 pretty obvious, Asbestos Cloth, and I cannot say for sure
12 that that was in fact Asbestos Cloth, but more than likely
13 it was.

14 Q Well --

15 A The reason for the difficulty is that at that time
16 we were trying -- trying to and I thought had made the
17 switchover to completely eliminating asbestos and we were
18 in fact substituting Fiberglass Cloth where the specs
19 called for Asbestos Cloth, and that may or may not have
20 been the case on this job, I do not know.

21 Q Let's take the records as you produced them, and
22 that says Asbestos Cloth.

23 A All right.

24 Q At that time, from what manufacturers or suppliers

1 did you receive Asbestos Cloth?

2 MS. KENNEY: Objection.

3 A It could have been any one of several.

4 Q Okay. And who would the several have been?

5 A Raybestos-Manhattan; American Textile, Amatex out
6 in Norristown.

7 I think they were the two main sources that
8 we were buying from.

9 Q Can you think of any lesser sources?

10 A There was another one, I can't remember for sure
11 whether it was Goodyear or Goodrich, but one of those
12 companies were making an Asbestos Cloth.

13 Q Let me ask you, to the best of your knowledge, does
14 Four Penn Center contain asbestos?

15 A Not to the best of my knowledge.

16 Q Now, going through, on the second page, marked
17 354, Hercules, and again going to Exhibit No. 3 it is the
18 second listing of a job from November 3, 1972, until
19 February 2, 1973, I'd like you to go down that list and
20 tell me what products, if any, to the best of your knowledge,
21 contained asbestos at that time.

22 A Again there's Asbestos Cloth shown.

23 Q Would the suppliers to Brand of Asbestos Cloth
24 be any different from those that you've just testified to?

1 A No.

2 Q How about under Asbestos Cloth, it says Kaylo?

3 A Kaylo, that's a calcium silicate pipe covering and
4 to the best of my knowledge contains no asbestos.

5 MR. HAASE: Mr. Stewart, you'd better use the
6 proper tense.

7 Do you mean contained?

8 THE WITNESS: Contained or contains, either
9 one.

10 MR. HAASE: All right.

11 BY MR. COHEN:

12 Q Were you aware that Kaylo ever contained asbestos?

13 A Yes, I think it did at one time.

14 Q Okay. And are you aware of what time Philip Carey,
15 if in fact it did, removed asbestos from Kaylo products?

16 MR. TREVELISE: Objection.

17 A Philip Carey didn't make Kaylo to begin with.

18 Q I'm sorry, let me go back and ask the question
19 again.

20 Are you aware of what time asbestos was
21 removed from Kaylo products?

22 A I cannot be specific, no. I know most manufacturers
23 removed it either in the late sixties or the early seventies.

24 Q Now, looking down to the J. C. Penney job, and that

1 was from April 27, 1972, until August 28, 1973, would you
2 go down and tell us what products contained asbestos at
3 that time, to the best of your knowledge?

4 A I see none on that job.

5 Q Job No. 359, Philadelphia Electric, the Schuylkill
6 Station, and that goes from November, 1972, until August
7 of 1973?

8 A Right. The last two items apparently did contain
9 asbestos; however, they were items that were furnished to
10 us by Philadelphia Electric, I have no knowledge where they
11 came from.

12 Q What does R/M mean when you're talking about
13 asbestos tubing, commercial grade asbestos tubing?

14 A It probably means Raybestos-Manhattan. We probably
15 identified it from the carton it came in.

16 Q Do you know of your own personal knowledge whether
17 Raybestos-Manhattan did produce asbestos tubing at that
18 time?

19 A Yes, they did.

20 Q Okay. And upon what is that knowledge based?

21 A Product brochures that we had in our file.

22 Q Did you ever had occasion on any other job during
23 any of your time with either Philip Carey or Brand to order
24 from Raybestos-Manhattan asbestos tubing?

1 MR. CILINGIN: Objection.

2 A I'm not sure. I know they made it, I know we did
3 buy it on occasion; whether we ever purchased it from
4 Raybestos, I'm not sure.

5 Q Would you tell us what an asbestos boot is.

6 A This is where a breaching went into the big tall
7 stack down at Schuylkill Station, and it had pulled out,
8 there had been enough movement that pulled out the concrete,
9 and they provided an asbestos boot that we put around it
10 to seal the thing up. And it was prefabricated or premolded,
11 flexible, similar to a very, very heavy asbestos cloth.

12 Q And aside from asbestos cloth, what other asbestos
13 product was utilized in the making of this boot?

14 A To the best of my knowledge, none. We didn't make
15 it, it was furnished to us in a prefabricated form.

16 Q Okay. Do you know if any manufacturers were
17 distributors of the asbestos boots at that time?

18 A I have no knowledge.

19 Q And how would an asbestos boot be attached?

20 A With the two first products at the top of that list,
21 Colmadurgel and Quartzite Aggregate. Colmadurgel is an
22 epoxy resin, it was mixed with the Quartzite Aggregate to
23 make it a thick cement type product.

24 Q Now, you have Job No. 354, Hercules Powder, that

1 began on November, 1972, and ended in February, 1973,
2 according to --

3 MR. INGERSOLL: To keep the record clear,
4 is that a different job or is it the same job,
5 354 here and 354 here?

6 MR. COHEN: It was a --

7 THE WITNESS: It's two separate jobs at
8 Hercules -- now, wait a minute, back up. It's got
9 the same job number.

10 MR. INGERSOLL: It has the same job number.

11 THE WITNESS: The gal must have made a
12 mistake, it must be the same job.

13 BY MR. COHEN:

14 Q Let's go back for a minute.

15 I previously asked you when referring to
16 Page 2 of Exhibit 2 about the Hercules job.

17 I'd like you now also to look over
18 diagonally on that same page and tell me what products, if
19 any, contained asbestos.

20 A None.

21 Q Now, let's go back to Page 1 of Exhibit No. 2,
22 Temple University.

23 Are you familiar with that particular job?

24 A Personally?

1 Q Yes.

2 A No.

3 Q Do you know any people who worked on that particular
4 job other than Mr. Fluharty?

5 A Other than Fluharty, no.

6 Our records would indicate if there were
7 other people, I don't know.

8 Q And where would those records be contained?

9 A In Essington.

10 Q Are you aware of any persons who were Supervisors?

11 A Yes.

12 Q Okay. And of that particular job, I'm saying.

13 A Yes.

14 Q Okay. And can you give me the names of any Super-
15 visors from Brand on the Temple University job?

16 A Well, this will apply to all the jobs on this list,
17 Leo Romano was our Field Superintendent and he would know
18 specifically about each one of these jobs in the field.

19 Q Who else besides Mr. Romano?

20 A He's the only one.

21 Q Now, with respect to Philadelphia Electric, Mr.
22 Romano would have been the Field Supervisor?

23 A Right.

24 Q And can you tell me whether you know any individuals

1 other than Mr. Fluharty who worked at that particular job
2 site?

3 A No, I did no research into any other individuals
4 other than Fluharty.

5 Q Am I correct that the names of any other individuals
6 besides Mr. Fluharty would be contained in records presently
7 at Essington?

8 A That's right.

9 And that holds for all these jobs, I have
10 no knowledge of any of them specifically.

11 Q You have no knowledge of any individuals other than
12 Mr. Romano as a Supervisor who was involved in any one of
13 these jobs?

14 A That's correct.

15 Q Let's go back to Page 2 where we were, J. C. Penney,
16 Job No. 389.

17 And looking at Exhibit 3, that goes from
18 April of 1972 until August of 1973.

19 Would you tell me what products, to the best
20 of your knowledge, contained asbestos?

21 MR. HAASE: I thought he already answered
22 that question.

23 MR. INGERSOLL: Penney was none, he said,
24 389.

1 MR. COHEN: Yes, he did.

2 MR. INGERSOLL: You ended up with the
3 asbestos boot on 359.

4 MR. COHEN: Okay, I'm sorry.

5 MR. CILINGIN: Does J. C. Penney go across
6 the column there?

7 MR. COHEN: No. We'll get to that one,
8 that's a special column.

9 BY MR. COHEN:

10 Q You'll note on the lower portion, lower right-hand
11 portion of Page 2 of Exhibit 2 there is no name for that
12 particular job.

13 A Right.

14 Q Okay. Are you able to tell us now after utilizing
15 Exhibits 2 and 3 what job --

16 A Yes.

17 Q -- should have been there?

18 A Yes.

19 Q Okay. And what job would that be?

20 A Our Job No. PA-544, the name on it is Hercules.

21 Q And can you tell us how it is that you're able to
22 reconstruct the fact that Job No. 544 at Hercules should
23 be in that particular spot?

24 A By process of elimination on Exhibit No. 3.

1 Q In other words, you compared Exhibit 3 with 2 --

2 A Correct.

3 Q -- and that was the only job unaccounted for?

4 A Correct.

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1 MS. PENNELL: I'd like to note an objection
2 at this time to this exhibit. So far we've had
3 one error that was noticed, there are two Hercules
4 354 jobs; there is a PA-544 Hercules that does not
5 appear on Exhibit 2 that the witness has now
6 matched up by process of elimination; there's
7 another discrepancy in a Hercules' job, on one list
8 it's 56, on another list it's 560. There are
9 obviously errors on this list and I object to the
10 use of it and it being a representation of what is
11 actually on the records unless those same
12 discrepancies appear on the original records.

13 MR. INGERSOLL: Job NO. 544 is identified
14 on Page 4 of that exhibit also on the right-hand
15 side underneath N.L. Ind. - PA-500.

16 MR. TREVELISE: Which came first, Exhibit 2
17 or Exhibit 3?

18 THE WITNESS: I think the same situation as
19 to 354 -- you have to understand, we don't have this
20 vast number of people in our office, we got two girls
21 that are answering the phone, trying to do payroll
22 records and doing this between time and --

23 MS. PENNELL: Mr. Stewart, I didn't mean to
24 be critical of the list, I'm just making a statement

1 for the record --

2 MR. COHEN: She's making an objection.

3 MS. PENNELL: -- that I object to the use of
4 it because it's not accurate. I don't mean that was
5 anyone's fault.

6 And, boy, if you saw my office --

7 THE WITNESS: Okay.

8 MR. COHEN: Let me do this, I'd like to go
9 back to the record, it's being used for discovery
10 purpose at this juncture with the objection noted --

11 MS. PENNELL: Yes.

12 MR. COHEN: -- and I'd still like to proceed
13 to go down the list.

14 BY MR. COHEN:

15 Q I believe we were discussing the Hercules' job?

16 A Correct.

17 Q That by process of elimination should be in that
18 lower right-hand corner. Am I correct?

19 A Correct.

20 Q Okay.

21 MR. INGERSOLL: Was it resolved? How about
22 the other 544 back here?

23 THE WITNESS: That's a continuation of the
24 same list.

1 MR. INGERSOLL: Okay, that I can live with.

2 Q Okay. Now, would you look down that particular list
3 of the 544 Hercules --

4 MR. HAASE: Starting with Daxcel Adhesive?

5 MR. COHEN: Right.

6 MR. HAASE: All right.

7 Q Now, in looking at the lower right-hand quadrant
8 of Page 2, then I'd like you also to include in that
9 perusal Page 4, the products listed under 544 Hercules,
10 and tell me of those products listed which, to the best of
11 your knowledge contained asbestos at that time?

12 A There is one again listed, Asbestos Cloth.

13 Q And would your answer be any different as to the
14 manufacturer of the Asbestos Cloth other than what you've
15 previously testified to?

16 A No, same answer.

17 Q Going on to Page 3 of the exhibit, you have Hercules
18 again, Job No. 435, which began in July of 1973 and
19 concluded in January of 1974.

20 Would you look down that list and tell us
21 whether any of those products, to the best of your knowledge,
22 contained asbestos at that time?

23 A There's one listed as Careytemp Asbestos Cement.

24 I'm not sure what that product was. None other than that.

1 Q And Careytemp Asbestos Cement would have been
2 produced --

3 A It, I think, is a form of an adhesive to hold two
4 pieces of Careytemp together, and it might have contained
5 asbestos, although it was in a mastic form.

6 Q Now, are you familiar with MW-50 cement?

7 A Yes.

8 Q And did that cement contain asbestos?

9 A In its original form years ago, yes.

10 Q Okay. And do you know at what point the inclusion
11 of asbestos in MW-50 was stopped?

12 A My best guess is in the late sixties.

13 Q And that was a Philip Carey product?

14 A Yes.

15 Q How about MW-100 cement?

16 A MW-1.

17 Q MW-1?

18 A I think that's the correct designation.

19 Q MW-1?

20 A It's a similar type cement and the answer would be
21 the same as for 50.

22 Q That was a Philip Carey product?

23 A Yes.

24 Q Are you familiar with MW, I believe it's 303?

Stewart

1 A 303 was an out-and-out asbestos cement, I believe,
2 it didn't -- didn't have the MW suffix to it.

3 Q When you say out-and-out asbestos, can you
4 distinguish for me 303 Cement from an MW-1 or MW-50?

5 A To the best of my knowledge, 303 was -- was known
6 as asbestos shorts, which was almost totally asbestos.

7 Q Okay. And in what form did 303 Cement come?

8 A In a powdered form.

9 Q And can you tell me what MW stands for?

10 A Mineral wool. It has pellets of mineral wool in
11 there.

12 Q And in what forms did MW-50 and the MW-1 Cement
13 come?

14 A Both in a powdered, semi-powdered form in bags.

15 Q And how about 7M-90 Cement?

16 A That was an asbestos cement which was also
17 powdered.

18 Q When you say an asbestos cement, are you stating
19 that it was a pure asbestos cement?

20 A It may have had something else in it, but the bulk
21 of the material was asbestos.

22 Q And 7M-90 was a Philip Carey product?

23 A Yes.

24 Q And to your knowledge, was the asbestos ever

1 removed from 7M-90 Cement?

2 A I don't think it could have been, that constituted
3 almost the entire product.

4 Q Okay. And would your answer be the same for the
5 303 Cement?

6 A To the best of my knowledge, yes.

7 Q Does Philip Carey still product 7M-90 and 303
8 Cement?

9 A Not to the best of my knowledge, I don't know.

10 MR. TREVELISE: I want a clarification.
11 We're not talking about anything on this
12 list?

13 MR. COHEN: No, I'm sorry, this does not
14 relate to the exhibit.

15 MR. TREVELISE: This does not relate to
16 PA-435?

17 MR. COHEN: No. I'm backtracking on
18 something else.

19 BY MR. COHEN:

20 Q Now, of the products that were manufactured by
21 Philip Carey, can you tell me whether XL pipe covering
22 contained asbestos?

23 A XL kind of predates me and I go back pretty far,
24 I don't know.

Stewart

1 Q How about Careycell pipe covering and board?

2 A Careycell, yes, it did contain asbestos.

3 Q Okay. And are you familiar or can you tell us
4 whether that product is still manufactured?

5 A To the best of my knowledge, no.

6 Q Are you aware whether Careycell pipe covering and
7 board was used or up to what point that product was used?

8 MR. TREVELISE: By whom?

9 MR. COHEN: Used in the trade.

10 A It went out of fashion long, long time ago, I'd
11 say early to mid-sixties.

12 Q How about Aircell pipe covering and board, did
13 that contain asbestos?

14 A Yes.

15 Q And was that a Philip Carey product?

16 A Yes, they made it along with several other
17 manufacturers, made a similar product.

18 Q And are you aware of whether or not Aircell pipe
19 covering and board is still utilized today?

20 A I don't think it is.

21 Q Do you have any knowledge of approximately when
22 its use was stopped in the trade?

23 A In this area at least in the early sixties.

24 Q How about Temcheck pipe covering and block, was

1 that an asbestos product?

2 A That was -- it had asbestos fibers in it as a
3 reinforcing, a small percentage of it.

4 Q Do you know whether that product is still used
5 today in the trade?

6 A No, it's gone out of existence.

7 Q Can you tell me approximately when that product
8 ceased being utilized in this area by the trade?

9 A It has to be the late fifties or early sixties.

10 Q How about Hi-Temp pipe covering and block, did
11 that contain asbestos?

12 A As Philip Carey made it, yes.

13 Q Okay. And can you tell me again whether that is
14 presently in use; and if not, your best recollection of
15 when it had ceased being used in this area by members of
16 the trade?

17 A Well, Philip Carey no longer manufactures it,
18 Celotex, as they're known now, and to the best of my
19 knowledge it ceased in early to mid-sixties.

20 Q I believe I just asked you Hi-Temp, am I right?

21 A Right.

22 Q All right. Careytemp pipe covering and block?

23 A Careytemp in its original form had asbestos as
24 reinforcing in it, it was changed in, I'd say, early sixties

Stewart

1 or mid-sixties.

2 Q How about Fibrous Adhesive Bonding?

3 A Fibrous Adhesive Bonding does have asbestos fibers;
4 however, it's in a mastic form, it's not in a friable form
5 where it can be breathed.

6 Q Is that presently being used today?

7 A Several manufacturers make it and it is being
8 used.

9 MR. HAASE: Mr. Cohen, on being used,
10 do you mean on new installations?

11 MR. COHEN: Being used, period.

12 When I say the trade, I mean by asbestos
13 insulators in this area.

14 THE WITNESS: Yes, it is.

15 MR. COHEN: Do you understand my use?

16 THE WITNESS: Yes.

17 MR. COHEN: I'm not trying to make a
18 distinction between rip out versus new, I'm
19 talking about being used for any purpose
20 whatsoever.

21 MR. HAASE: You would include in the use
22 new installation or rip out?

23 MR. COHEN: I'm just saying being used at
24 all in any context.

1 BY MR. COHEN:

2 Q Now, you said there were several manufacturers
3 other than Carey that made Fibrous Adhesive Bonding.

4 To the best of your knowledge, does
5 Celotex presently make Fibrous Adhesive Bonding?

6 A I honestly do not know.

7 Q Okay. Are you aware of any other manufacturers
8 who made Fibrous Adhesive Bonding other than Philip Carey?

9 A The one we used primarily is Benjamin Foster
10 Company, the local company.

11 Q Do you know where they're located?

12 A I believe in Ambler.

13 MR. HAASE: You say use or used?

14 THE WITNESS: Do use.

15 Q And do you know whether the Foster Company is
16 associated with any other manufacturer, supplier or miner
17 of asbestos products?

18 A I believe they are a subsidiary of Fuller. I can't
19 identify it any better than that.

20 Q Okay. Do you know where Fuller is located?

21 A I do not.

22 Q Do you know whether Fuller is associated in any
23 way with any other entity that produces, mines,
24 distributes --

1 A I have no knowledge of that company.

2 Q Okay. Now, who besides the two that you've
3 mentioned?

4 A I'm not sure, but I think Insulcoustic.

5 Q Let me stop you for a moment.

6 Do you know where Insulcoustic is located?

7 A Somewhere around Plainfield, New Jersey, up in
8 that area.

9 Q Do you know whether Insulcoustic had any
10 relationship to any other manufacturer, miner, distributor
11 of asbestos products?

12 A I don't think so.

13 Q Okay. And are you saying that you presently get
14 Fibrous Adhesive Bonding from this company?

15 A We may on occasion. I don't myself buy the
16 materials, I have a man who does that, and I know most of
17 the pails that I see are from Foster Company.

18 Q Okay. Now, are there any others that you can
19 think of, and I'm including any period of time that you
20 were with either Philip Carey or Brnad?

21 A The only other one I can think of as a possible
22 source would be Childers Company, who makes a lot of
23 mastics and bond.

24 MS. PENNELL: I'm sorry, whom?

1 MR. COHEN: Childers.

2 Do you know where Childers is located?

3 A Their headquarters is in Cleveland, they have a
4 local branch in Bristol, Pennsylvania.

5 Q Do you know whether Childers is associated with
6 any other entity that manufactures, mines or distributes
7 asbestos products?

8 A Not to my knowledge.

9 Q Now, can you tell me the name or names of any
10 individuals who, while you were associated with Philip
11 Carey, actually went out and purchased or made agreements
12 to purchase various asbestos products for use by Philip
13 Carey?

14 MR. TREVELISE: Objection to the form
15 of the question.

16 A You mean as a corporate thing or for local
17 branches?

18 Q I'm sorry, for local use in this area.

19 MR. TREVELISE: Objection to form.

20 MS. PENNELL: Could we have the question
21 read back, please.

22 (The pending question is read by the
23 Reporter.)

24 A My answer is, if there were any done, it would be

1 done at my direction.

2 Q And to whom did you give a direction to?

3 A We had a succession of people who may have gotten
4 involved. Any one of the estimators could at some time
5 have initiated an order.

6 Q And to whom would those orders have been directed
7 toward?

8 MR. TREVELISE: Objection to the form.

9 A To any one of these suppliers.

10 Q Now, could you give me the names of any estimators
11 that you can think of that may have performed that function
12 while you were with Philip Carey?

13 MR. TREVELISE: Objection to form.

14 MR. COHEN: Are these objections to the
15 form of the question?

16 MR. TREVELISE: Everything else is
17 reserved.

18 He seems to start out with an assumption.
19 You're saying if there were any and he didn't say
20 there were any, now you're continuing on.

21 MR. COHEN: Let me clarify that then.

22 Q Do you ever have a recollection of ordering or
23 telling anyone to obtain products for use for construction?

24 A That contained asbestos?

1 Q Yes.

2 A Not for that reason. We may have bought a product
3 that contained asbestos if Philip Carey didn't have a
4 comparable product available to us. That would be the only
5 time we would go out in the market and buy a different
6 product to begin with, would be on an emergency basis.

7 Q Okay. What person would have performed that task?

8 A Well, the only one primarily would have been a
9 man, George Epright, E-p-r-i-g-h-t.

10 MS. PENNELL: I'm sorry?

11 MR. HAASE: George Epright, E-p-r-i-g-h-t.

12 MS. PENNELL: Thank you.

13 Q Do you know whether Mr. Epright is presently alive?

14 A Yes, he lives in the Norristown area.

15 Q Do you know what he does at this point?

16 A He's retired.

17 Q Now, let me bring you up to date.

18 Since Brand has performed certain
19 functions, since 1970, have you ever had occasion to
20 utilize asbestos products from a manufacturer or supplier?

21 A Only in the form of either Asbestos Cloth in early
22 days, or Fibrous Adhesive, which we continually use.

23 Q Now, when you're defining very early days, I'm
24 talking about at least 1970, I'm using the term Brand.

1 A Well, Brand only came on the scene in '70, so it
2 would have been, say, between '70 and '72.

3 Q And what person would have made an order for
4 Asbestos Cloth?

5 A In the early years myself.

6 Q Okay. Can you tell me what company or companies
7 you would have ordered Asbestos Cloth from in the early
8 seventies?

9 A Either Raybestos-Manhattan or Amatex, the ones
10 I previously listed as suppliers.

11 Q And subsequently?

12 A To the best of my knowledge, we have not bought
13 any Asbestos Cloth in the last four or five years.

14 Q Can you recall any relabeling agreements that
15 Philip Carey had with any other manufacturer for
16 production of asbestos products?

17 MR. BASSER: Objection to form.

18 MS. PENNELL: I'm sorry, did you put a
19 time frame on this?

20 A I have no personal knowledge of it, but I do think
21 that I did hear one time from somebody that there was a
22 reciprocal agreement between Carey and either Keene or
23 Baldwin-Ehret-Hill, whatever they were known at that time,
24 to manufacture cements in the closest facility. Each would

1 manufacture for the other.

2 Q Do you know what type of cements are involved?

3 A The MW-1s and MW-50.

4 Q How about roofing paper?

5 A Roofing paper we didn't hardly get involved with
6 at all. I know Carey had a plant in Perth Amboy, New
7 Jersey, that produced roofing paper.

8 Q Would you know if there were any relabeling
9 agreements between the Perth Amboy Plant and Johns-Manville?

10 MS. KENNEY: Objection.

11 A I would have no knowledge.

12 Q Now, during the time that you were working for
13 Philip Carey, would you tell us how asbestos products were
14 transported out to particular job sites?

15 MR. TREVELISE: From where?

16 MS. PENNELL: Could we have a time frame?

17 MR. COHEN: I said throughout the period
18 of time that he was employed by Philip Carey.

19 MS. PENNELL: All over the country or here
20 or what?

21 MR. COHEN: I'm sorry, in this particular
22 area.

23 A That would be the only area I would have any
24 knowledge of.

1 Q Right. You said that during the first deposition.

2 A The same way we now transport materials to the job,
3 most times in the container they were originally received
4 by us from the manufacturer, put them on a truck and deliver
5 them to the job site.

6 Q Do you have any knowledge of products, this is
7 while you were at Philip Carey, being removed from original
8 containers or packages prior to shipment from Philip Carey
9 to a job site?

10 A Sure.

11 Q Okay. And would you tell me how that came about?

12 A Okay. Well, if a job didn't require, say, a full
13 carton of material, it only needed a portion of the material
14 in that carton, we would take out the surplus and leave it
15 in the warehouse.

16 Q And in what form then would the products going out
17 to a job site be transported?

18 A Well, either in the same carton that it came in or
19 a similar carton.

20 Q Did you ever personally remove a product received
21 by Philip Carey and then place it somewhere else for
22 transportation?

23 A Yes, I did. I loaded a lot of trucks.

24 Q Okay. And during the loading of the trucks, did

1 you ever see any warning labels on any original containers
2 from any manufacturer?

3 MR. BRUCH: Would you reread the question,
4 please.

5 (The pending question is read by the
6 Reporter.)

7 A I cannot honestly say.

8 MR. BASSER: I'm going to note an
9 objection to the question.

10 A I cannot say specifically that I did.

11 MR. BASSER: The objection is withdrawn.

12 A I can't honestly say that I've specifically seen
13 any. There may have been labels on there. At the time
14 of loading the truck you're moving the cartons, you're
15 not reading labels other than pipe size and identify what
16 material's in there.

17 Q Do you have any recollection of seeing warning
18 labels on the product itself once it was removed from the
19 original container?

20 A To the best of my knowledge, that never occurred.

21 Q Do you have any recollection of seeing names of
22 manufacturers or suppliers of products to Philip Carey
23 written on outside packaging?

24 A Yes.

1 MS. PENNELL: Could we have a time frame?

2 The whole time he was here in Philadelphia?

3 MR. COHEN: The whole time he was here
4 working for Philip Carey.

5 MS. PENNELL: Okay.

6 Q Okay?

7 A Certainly.

8 Q And do you recall at any time removing the contents
9 of the original package from the box and then having it
10 shipped to a job site?

11 A Yes.

12 Q Now, on those instances where markings were present
13 on the original container, do you recall whether identifying
14 markings were contained on the product, asbestos products,
15 within the container?

16 A I'm sure it was not.

17 Q You're saying you have no recollection of that
18 having occurred in your personal experience?

19 A I never saw an individual piece of pipe covering
20 labeled as to whether or not it had asbestos in it.

21 MR. TREVELISE: Would you read back the
22 last answer.

23 (The last answer is read by the Reporter.)

24 Q The question that I would like to pose to you is,

1 did you ever see the name of a particular manufacturer on
2 the product itself once it was removed from a container
3 that may have contained the name of the manufacturer?

4 A Only in one product.

5 Q What product was that?

6 A That would be an Armstrong Armaflex, flexible
7 rubber-type material.

8 Q Would you tell us what Careyflex is?

9 A I almost described it completely when I said
10 Armaflex.

11 Q Okay.

12 A Similar material.

13 Q Armaflex is what?

14 A I don't know what the physical composition is, but
15 it's a flexible foam-type -- looks like foam rubber.

16 Q To your knowledge, does it contain any asbestos?

17 A To my knowledge, none.

18 Q And therefore, would your answer be the same with
19 respect to Careytemp, that Careytemp does not contain
20 asbestos?

21 A I would not think so.

22 Q Are you aware of any asbestos product manufactured
23 by Armstrong?

24 MR. INGERSOLL: Objection to the form of

1 question.

2 Do you mean forever, now, when he was
3 employed by Philip Carey?

4 MR. COHEN: That wasn't my question.
5 Let me get it out and then you can object to it.

6 MS. PENNELL: Before you go on to that,
7 I think in your question before you meant to say
8 Careyflex when you said Careytemp about to your
9 knowledge did that have asbestos.

10 THE WITNESS: I understood you to say
11 Careyflex.

12 MR. COHEN: I thought I said that.
13 If I said Careytemp, then I'm in error, I meant
14 Careyflex.

15 BY MR. COHEN:

16 Q Are you aware of any asbestos product manufactured
17 by Armstrong during the period of time that you were with
18 Carey, Philip Carey?

19 A Not related to the insulation business.

20 Q Okay. What products were you, while associated
21 with Philip Carey, aware that Armstrong manufactured which
22 did contain asbestos?

23 A Asphalt tiles for floors, some of the ceiling
24 products.

1 Q When you say some of the ceiling products, what
2 do you mean?

3 A Suspended ceilings.

4 Q Like the tile-type things?

5 A Correct.

6 Q Anything else?

7 A No.

8 I'm not even 100 percent sure that the
9 ceiling products contained asbestos, that's an assumption.

10 Q Now, let's go to the point at which you became
11 associated with Brand, and again I would ask you the same
12 questions with respect to, do you have personal knowledge
13 of products coming in from other manufacturers to Philip
14 Carey in individual containers having the name of the
15 manufacturer or distributor on the outside container?

16 A You mean coming in to Brand?

17 Q Coming in to Brand.

18 A I cannot honestly say that I have ever been aware
19 of reading a warning label on the product.

20 Q No, let me stop you, I didn't mean warning label,
21 I mean a situation where an outside physical packaging of
22 an asbestos product contained the name of a manufacturer
23 on it.

24 A Oh, yes.

1 Q Okay.

2 A Wait a minute, I beg your pardon, not as an
3 asbestos product; an insulation product, yes, but not an
4 asbestos product.

5 Q I'm talking about an asbestos product.

6 A To the best of my knowledge, we did not buy any
7 asbestos product as Brand other than Asbestos Cloth and
8 Fibrous Adhesive.

9 Q And you've already testified as to those.

10 Now, in the situations where you did
11 purchase Asbestos Cloth from either Amatex or Raybestos-
12 Manhattan --

13 MR. CILINGIN: Objection.

14 MR. COHEN: Is there an objection?

15 MR. CILINGIN: Yes, there is.

16 Q Have I accurately described the suppliers of those
17 cloths?

18 A Yes.

19 Q At the time you ordered those particular cloths,
20 can you tell us how they came packaged when received by
21 Brand?

22 A Usually on a roll and enclosed in some sort of a
23 burlap or, I think, paper first and then a burlap wrapping
24 over the outside.

1 Q Do you recall that the paper or outside burlap
2 wrapping had any identification of the manufacturer of that
3 Asbestos Cloth?

4 A Surely.

5 Q Okay. And with respect to Amatex Cloth, do you
6 have a specific recollection of there being an identifying
7 label or logo --

8 Do you know what I mean when I say "logo"?

9 A Yes.

10 Q -- of Amatex on the outside wrapping?

11 A Either on the wrappings or as a tag attached to it,
12 yes.

13 Q Attached to --

14 A To the burlap wrapping to identify the package.

15 Q Was there a tag ever attached to the Asbestos
16 Cloth itself identifying the manufacturer?

17 A I don't think so.

18 (Discussion off the record.)

19 (Luncheon Recess is called at 12:30 P.M.)

20

21

22

23

24

(Deposition resumed at 1:35 P.M.)

BY MR. COHEN:

Q Now, with respect to Asbestos Cloth that was received with some sort of marking or logo of the manufacturer or supplier, is it your best recollection that when that asbestos cloth reached the job site, that there would be no identifying label or marking on it?

A Yes.

Q Is there any reason that you are aware of as to why burlap or paper covering would be taken off of the asbestos rather than shipping it to the job site with that covering on it?

A Well, most times a specific job wouldn't require the whole roll, so we were only shipping a portion of the roll; and if it required a whole roll, it would go just the way we received it.

Q Now, these records that you have provided to us, and I'm speaking now specifically of Stewart Exhibit No. 2, I believe you testified that they were prepared from Brand records showing products that were ordered for particular jobs that are enumerated?

A That's correct.

Q Okay. Now, are the documents that reflect the goods ordered, were they Brand documents or were they the

1 documents of the supplier or manufacturer that are being
2 kept by Brand?

3 A For the most part Brand documents.

4 Q Now, would there be available presently in
5 Essington the document of the manufacturer, supplier, who
6 would have shipped these particular products on these
7 respective jobs?

8 A I'm not sure how long we retain those records.
9 I know we do retain them for a period of time, for whatever
10 our normal retention period is, yes.

11 Q Now, with respect to the exhibit that was marked
12 Stewart Exhibit No. 5, that being the payroll record for
13 Mr. Fluharty, would there be similar records kept for other
14 Brand employees?

15 A For each and every employee.

16 Q Okay. For each and every job that that particular
17 employee was involved with?

18 A Yes.

19 Q So that if one were to look at Brand records, it
20 could be determined every job that a particular employee
21 was assigned to from the point Brand took over up until,
22 let's include today even?

23 A I am not sure that's 100 percent correct. I know
24 it's correct now because we're on computer and every week

1 we get a printout showing who worked on what job. That
2 goes back for a period of about two and a half years. I
3 am not sure of my own knowledge how we arrived at things
4 prior to that. I assume that they could be produced
5 somehow.

6 Q Now, of the various jobs that are identified on
7 Stewart Exhibit No. 2, do you have any personal knowledge
8 as to which of those jobs were new construction or
9 insulation as opposed to rip outs?

10 A It would appear from the list that they were all
11 in the majority new work. There may have been some rip
12 out involved in tying into existing work on any or all of
13 them.

14 Q Okay. Let me ask you specifically, if you would,
15 to review Exhibit No. 2 and tell me of your own knowledge,
16 without speculation, if you know, for instance, I'm picking
17 this as hypothetical, that Temple University did involve
18 new construction only, some rip out or total rip out, if
19 you're able to?

20 A I have no specific knowledge that was totally one
21 or the other.

22 MR. HAASE: You mean for any job or that
23 job?

24 THE WITNESS: For any of these jobs.

1 A It would indicate to me that by shipping out new
2 materials, the bulk of the work was new work. If it was
3 rip-out work, it would be relatively no materials shipped
4 to the job.

5 Q And if you'll notice, some of the jobs do show
6 as few as three, four materials shipped out and in one
7 instance on Job No. 4122, U. S. Steel, there was only one
8 thing listed, that being calcium silicate, so what you're
9 stating is that you have no knowledge?

10 A That's true.

11 Q Okay. Can you tell me who might possess that
12 knowledge relating to the specific jobs that are identified
13 on Stewart Exhibit No. 2?

14 A Mr. Romano would be the one most likely to know.

15 Q At that time you were with Philip Carey, do you
16 know whether Philip Carey manufactured or produced spray
17 asbestos of any sort?

18 A I am sure the answer is yes; however, I was not
19 directly involved in that product.

20 Q Are you aware of the trade name or names utilized
21 for spray asbestos by Philip Carey?

22 A I'm not aware what their brand was called.

23 Q Now, subsequent to your becoming associated with
24 Brand, did you ever have occasion or do you know of any

1 occasion where spray asbestos was utilized on any
2 construction?

3 A. Right overhead in this building.

4 Q. That being 4 Penn Center?

5 A. 4 Penn Center.

6 Q. Do you have any knowledge as to whether, during
7 the construction of 4 Penn Center, there was ever a period
8 in which construction was ordered to halt?

9 A. Well, that was public record in the papers, yes.

10 Q. And do you know what the reason for the cessation
11 of work for a period of time on this building was caused by?

12 A. I really don't know.

13 Q. Do you recall whether it was related in any way to
14 alleged health hazards?

15 MR. MEELEY: Object to the form of the
16 question.

17 A. My recollection of what I read in the newspapers,
18 yeah.

19 Q. What is your recollection as to what you read in
20 the newspapers regarding the reason for halting construction
21 in this particular building?

22 A. As I remember it, people passing by were liable
23 to inhale it, the same way people that were installing it,
24 and to my knowledge the City has outlawed that type

1 application.

2 Q Now, do you know whether insulators, welders,
3 plasterers and others working in this building were
4 issued any sort of protective clothing by --

5 A No.

6 Q I'm sorry?

7 A I have no knowledge about that whatsoever.

8 MR. HAASE: Next time let's have the full
9 question.

10 THE WITNESS: Okay.

11 MR. COHEN: I was going to say "by Brand".

12 Q Your answer is the same as you just indicated?

13 A Right.

14 Q Do you know who would possess such knowledge?

15 A If anyone, Mr. Romano.

16 Q Are you familiar with the product called Limpid?

17 A I recognize the name as being a sprayed-on type
18 asbestos, yes.

19 Q Are you aware of the manufacturer of that product?

20 A No, I am not.

21 Q Now, you previously stated that you were prohibited,
22 you meaning Philip Carey, and I assume subsequently Brand,
23 were prohibited from conducting pre-employment physicals
24 or physical exams for employees. Is that correct?

1 A That's correct.

2 Q Would you now tell us the reason?

3 A Well, the Local that these men belonged to, the
4 Union, would not allow it.

5 Q And what is the basis of your knowledge of that
6 statement?

7 A Because we sent out over a period of years
8 typewritten letters asking the men to have a physical and
9 at our expense and on which was a return card to send back
10 to the company saying when they would like to go, and to
11 this date we have not received a reply.

12 Q And when were these cards sent out?

13 A With the payroll starting about the year 1972,
14 and I'm not sure if that's exact date.

15 Q But in any event, it was, as best you can recall,
16 the early seventies?

17 A Yes.

18 Q Now, what motivated Brand to send out these
19 notices in or about 1972?

20 A Well, we were then aware of the problem with
21 asbestos and we wanted to know, number one, if a man had
22 any indication of a lung problem; if so, we were going to
23 try to assign him to work in a less dusty atmosphere.

24 Q What occurred between 1968 and 1972 that makes you

1 say in 1972 you were then aware of a health problem?

2 A Well, as I previously stated, we had had conversa-
3 tions with competitors in Association meetings about similar
4 problems, we had read in the Asbestos Workers Journal
5 about a problem, it was just becoming more general knowledge
6 that there was a problem.

7 Q If the knowledge contained in 1968 were not as
8 generally known, does that lessen the value of the knowledge?

9 MR. HAASE: Object to the form of the
10 question.

11 MR. COHEN: Strike that.

12 Q Did the nature of the knowledge between 1968 and
13 1972 change in any respect regarding health hazards?

14 A It only became cumulatively more evident to us that
15 there was a problem, just by repetition.

16 Q Between 1968 and 1972, were there any discussions
17 anywhere that you were aware of regarding Dr. Selikoff?

18 A Yes.

19 Q Would you tell me when and where you first became
20 aware of Dr. Selikoff's name?

21 A When we read in the Asbestos Workers Journal about
22 the studies being done by him at Mount Sinai Hospital.

23 Q This would have been in the late sixties?

24 A Late sixties, I --

1 Q Do you know whether those articles referred to
2 studies and published medical reports dating back as far as
3 the twenties and thirties?

4 MR. MEELEY: I'd object to the form of
5 the question.

6 MS. PENNELL: Objection.

7 A I don't remember, they may have. -

8 Q Prior to 1968, was there any discussion between
9 Philip Carey and any other members of any trade
10 associations of health hazards?

11 A I have no knowledge.

12 Q And what is the reason you have no knowledge?

13 A I run a local office and the headquarters were in
14 Cincinnati and there could very well have been discussion
15 which I would not have been aware of.

16 Q Let me ask you then, did you participate in or are
17 you aware of any such discussions at your level in this
18 area?

19 A No.

20 Q No, there weren't such discussions or no, that
21 you're not aware?

22 A There were none.

23 Q There were none?

24 A To the best of my knowledge.

1 Q Are you aware of any conduct on the part of the
2 Union prohibiting you or hampering you from providing work
3 clothes to insulators?

4 A No.

5 Q Are you aware of any activities on the part of the
6 Union that either prohibited or affected your labeling
7 asbestos products as being hazardous?

8 MS. KENNEY: Objection.

9 A No.

10 Q Are there any actions of the Union that effectively
11 prohibited or hindered the establishment of training
12 programs to educate insulators as to health hazards?

13 A Yes, there's a very definite resistance in the
14 Union to companies as such unilaterally having training
15 programs. There is an apprenticeship program that has an
16 ongoing, I understand, health aspect to it, but that's --

17 Q I'm specifically talking about opposition by the
18 Union to any program that would specifically edify asbestos
19 workers about health hazards associated with asbestos.

20 A I don't think the subject ever came up.

21 Q Were there any actions on the part of the Union
22 that effectively prohibited or interfered with Philip Carey
23 or Brand's ability to publish internal documents relating
24 to health hazards associated with asbestos?

1 A. No.

2 Q I would again ask you with respect to the areas
3 of taking dust monitoring or samples and the issuance of
4 protective clothing, did the Union manifest any conduct
5 that prohibited that from being done or obstructed those
6 ends from being accomplished?

7 A In the early days there was some resistance to
8 our being able to require a man to wear the mask,
9 particularly in the summertime when it was hot.

10 Q When are the early days?

11 A In the last sixties, early seventies when we first
12 started issuing masks.

13 Q Did Philip Carey or Brand ever make it a require-
14 ment that an individual wear a mask if they were to be
15 working in or around asbestos?

16 A About two years ago we finally clamped down on it
17 and it is an ironclad requirement now.

18 Q And you're saying up until two years ago it was
19 not?

20 A We issued the mask and whatever protective
21 clothing and tried to get them to do it, but not to the
22 point of firing a man if he wouldn't do it.

23 Q When was this issue of protective clothing made?

24 A In the early seventies, from then on.

1 Q And are you aware of any relationship between the
2 doing of those acts and the establishment of regulations
3 by OSHA?

4 MR. MEELEY: Object to the form.

5 A We covered that before.

6 We -- as soon as OSHA made us aware of
7 what was acceptable in the way of clothing, that's when we
8 started doing it.

9 MR. MEELEY: Can you read that answer
10 back.

11 (The last answer is read by the Reporter.)

12 Q Now, I'd like to go back, if we could, to Stewart
13 Exhibit No. 2.

14 I believe we were on Page 4.

15 A Correct.

16 Q Okay. And I'm now referring to Job No. 493 at
17 Hercules Powder.

18 And looking at Exhibit 3, it appears that
19 that job occurred between the period of November, 1973,
20 and January 4th, of 1970 --

21 A '74.

22 Q Okay.

23 A There's no 4, but 1974.

24 Q Okay. Would you look down that list and tell me

1 what products, if any, contained asbestos?

2 A The only one would be the Fibrous Adhesive.

3 Q And from whom did Brand order or receive Fibrous
4 Adhesive?

5 A Probably Benjamin Foster Company.

6 MR. INGERSOLL: I'm sorry, I didn't hear
7 that.

8 THE WITNESS: Benjamin Foster Company.

9 Q Were there any other companies besides Benjamin
10 Foster, to your knowledge, that produced Fibrous Adhesive
11 during this 1973-1974 period?

12 A That was our main supplier. There may have been
13 others, as we previously said.

14 Q And in what form was Fibrous Adhesive obtained
15 by Philip Carey?

16 A It -- it's in a five-gallon can and it's a thick,
17 heavy mastic material that's troweled on as an adhesive.

18 Q Okay. Now, looking down again, Job No. 56,
19 Hercules, I ask you again to identify those products
20 containing asbestos, if any?

21 A The Job Number should properly be 560, it should
22 be 560 instead of 56.

23 Q How do you know that?

24 A 'Cause I called the office and had the gal check.

1 Q Okay.

2 A There was no asbestos-containing materials there.

3 Q Philadelphia Electric, the job is 416, I believe,
4 or 4116?

5 A 4116.

6 Q Okay.

7 MR. INGERSOLL: To keep things going,
8 would you check the dates of that job. If I have
9 it correct --

10 MR. COHEN: The 56 job or the --

11 MR. INGERSOLL: 4116.

12 The dates I have are November 5, 1973,
13 to September 30, 1973.

14 MR. COHEN: Right, it goes from November,
15 1973, and then it goes --

16 THE WITNESS: From September to November.

17 MR. INGERSOLL: It should be the other way
18 around.

19 BY MR. COHEN:

20 Q Okay. You're talking about approximately a two-
21 month interval then in 1973?

22 A Right.

23 There's nothing on that job with asbestos
24 in it.

1 Q Okay. The job marked Pennsylvania 500, and
2 looking again back at Exhibit No. 3 it goes from December
3 6th until December 11th of 1973?

4 A There's nothing there with asbestos in it.

5 Q We already looked at Hercules No. 544.

6 U. S. Steel, No. 4122, calcium silicate?

7 A That's not identified by any manufacturer, I have
8 to assume that it was non-asbestos containing.

9 Q I don't want you to assume. Okay?

10 A I do not know it.

11 Q Job No. 468, Philadelphia Electric, which --

12 A Again, to the best of my knowledge, there was no
13 asbestos --

14 Q I'm sorry, Mr. Stewart. Let me say it goes from
15 June through November of 1974.

16 A To the best of my knowledge, there was nothing on
17 that job with asbestos in it.

18 Q All right. Job No. 5001, United States Steel,
19 that going from January 6th through 10th of 1975.

20 A No asbestos on that.

21 Q Texaco, Job No. 6031, going from the end of March
22 to the end of April in 1976.

23 A Again there's that Fibrous Adhesive, which has a
24 small amount.

1 Q When you say a small amount, how can you quantify
2 the amount?

3 A It's mostly silicate of soda that makes it pliable
4 and there's a little bit of asbestos fiber in it for a
5 binding agent, maybe on the order of 20%.

6 Q So you're saying 20% of asbestos to you is a little
7 bit?

8 A In that context, yes. It's a mastic material
9 that's completely encapsulated, it's not a friable asbestos
10 that makes dust.

11 Q Unlike the cements, for instance?

12 A Correct.

13 Q All right. Now, would your answer be different
14 in terms of sources of supply for Fibrous Adhesive on the
15 Texaco job?

16 A No, no.

17 Q Now, where it says Fibrous Adhesive, there's a
18 number 427 in front of it.

19 What does that connote to you, if
20 anything?

21 A I believe that's Benjamin Foster's product number,
22 427.

23 Q The Texaco job, 6052, going from September to
24 October of 1976?

1 A There's no asbestos-bearing material there.

2 Q Again Texaco job, 6015, going from --

3 A March the 24th.

4 Q -- March 24th through June 16th of '76?

5 A Again, the only product there that had asbestos
6 in it would be the Fibrous Adhesive.

7 Q Sears, 6039.

8 Let me just get the dates on that.

9 All right, let me just go back to Exhibit
10 No. 3. I show on the last page Job 6039 as being Texaco.

11 A I think I'll have to hire a new gal.

12 I think the proper identification is
13 Sears, just from the list of materials and my knowledge
14 of what went on the job.

15 Q There certainly would be a way of checking the
16 job number for certain?

17 A Sure.

18 Q Okay. That particular job, irrespective of
19 whether it was Sears or Texaco, can you tell me what
20 products, if any, had asbestos at that time?

21 A None of them.

22 Q And the last job is No. 7067, N. L. Industries,
23 from December, '77, until March of '78?

24 A There's no asbestos-bearing material there.

1 Q Okay. Now, I'd like you to go back through that
2 list and tell me which of those products again job by job
3 at any time ever contained asbestos insofar as you know from
4 personal knowledge?

5 A You mean generically, the product?

6 Q Contained either asbestos or asbestos fiber as a
7 part of the product.

8 A Okay. Irregardless of whether it was on this
9 particular job or not?

10 Q Right. In other words, and I'm just doing this
11 by way of hypothetical, although Powerhouse Cement, as
12 I understand your testimony, did not at this time contain
13 asbestos --

14 A Right.

15 Q -- if you have a knowledge that Powerhouse Cement
16 or Super Powerhouse at any time prior to this job --

17 A Okay.

18 Q -- contained asbestos, I'd like you to identify
19 that.

20 Q Okay. Now, again we're back to the 140 Temple job.

21 A Right.

22 MR. CILINGIN: Off the record.

23 (Discussion off the record.)

24

1 BY MR. COHEN:

2 Q Why don't you look down the 140 Temple job and tell
3 me what products ever contained asbestos, irrespective of
4 the amount or form it was in?

5 A Careytemp Pipe Covering, Powerhouse Cement,
6 Thermobestos Pipe Covering.

7 That's it.--

8 Q Okay. Now, Thermobestos was made by whom, if you
9 know?

10 A Johns-Manville.

11 Q And to your knowledge, what period of time did
12 Thermobestos contain asbestos in it?

13 A I think this is general, in the early seventies or
14 the very late sixties, all manufacturers removed the
15 asbestos from their products.

16 Q And I'm sorry, going backward, you said Powerhouse
17 Cement?

18 A Yes.

19 Q And to your knowledge, who manufactured Powerhouse
20 Cement?

21 A Well, it was Ehret Magnesia to begin with, then it
22 became Baldwin, Ehret, Hill, then it became Keene Company.

23 Q And I'm assuming from your answers that the removal
24 of asbestos, to the best of your knowledge, would have been

1 in the latter part of the sixties, early part of the
2 seventies?

3 A In the same time frame, yeah.

4 Q If that changes on any of your statements, let me
5 know, otherwise I won't ask you that question again.

6 A Okay.

7 Q The next thing I believe you said was the Careytemp
8 Pipe Covering.

9 That was, to ask a rhetorical question,
10 manufactured by Carey?

11 A Right.

12 Q Looking at the Philadelphia Electric job --

13 A Okay. Cal Sil, I don't know who manufactured the
14 first item, but the same statement applies.

15 Q Okay. Let me stop you for a moment.

16 It says Cal Sil P/C.

17 A Pipe Covering.

18 Q Okay.

19 A The next item, she's got Thermosil P/C, in parenthe-
20 ses "blocks," which cannot be, it can't be pipe covering
21 in blocks.

22 These are not highly educated people that
23 write these orders up, first understand that. This may have
24 been written by some guy in the field and sent in to us to

1 send out, so the Thermosil may not be 100% correct.

2 Q Let me ask you if it also could mean Thermosil
3 pipe covering and block?

4 A It could.

5 MR. MEELEY: Object to the form of that.

6 A It could.

7 Q - Without speculating as to whether it means pipe
8 covering and/or block --

9 A It did at one time in the early stages contain
10 asbestos.

11 Q And who manufactured Thermosil, if you know?

12 A I know that's Atlas Insulations, a Canadian company.

13 Q Is there any other manufactured that you're aware of
14 that produced Thermosil pipe covering and/or block?

15 A No. I may be wrong about the manufacturer there.

16 Q All right. Would you go down --

17 A The Careytemp 90° ELL, the Powerhouse Cement.

18 Q Okay. Let me stop you.

19 Careytemp, is that manufactured --

20 A Philip Carey Company.

21 Q Okay. And Powerhouse Cement?

22 A In the present terminology, Keene Company.

23 Powerhouse Cement again, that's the second
24 time for that, Thermobestos Pipe Covering --

1 Q And again --

2 A Johns-Manville.

3 Q Okay.

4 A -- Dual Careytemp, Philip Carey products; and of
5 course, the Asbestos Cloth, and I'm not sure whose Asbestos
6 Cloth that was.

7 Q Now, on the Asbestos Cloth, are you aware of ordering
8 or receiving Asbestos Cloth having a vapor barrier as
9 contrasted with one not having a vapor barrier?

10 A Yes, yes.

11 Q Okay. Are you aware of any particular manufacturer
12 of Asbestos Cloth that had vapor barrier?

13 A The same supplier that we said before.

14 Q Would either be Amatex or --

15 A Or Raybestos.

16 Q -- Raybestos-Manhattan, okay.

17 MR. BRUCH: Or Goodyear.

18 Q Or Goodyear?

19 A Possibly.

20 Q Or Goodrich.

21 Now, are you aware of the manufacturer of
22 Kaylo?

23 A Yes.

24 Q And who would that be?

1 A Owens-Corning.

2 Q And do you know whether Kaylo ever contained
3 asbestos?

4 A Yes, it did.

5 MR. O'CONNOR: Objection.

6 Off the record.

7 (Discussion off the record.)

8 MR. COHEN: Back on the record.

9 BY MR. COHEN:

10 Q Of the Kaylo products utilized by Philip Carey,
11 can you tell us to your knowledge whether the Kaylo did
12 contain asbestos?

13 A The time frame would indicate that it did.

14 Q Now, you have MW-1 and MW-50 cement, the last item
15 on Philadelphia Electric.

16 A Right.

17 Q You did not mention those previously --

18 A They did at one time contain asbestos.

19 Q Okay. And to your knowledge, what manufacturers
20 made W-1 and MW-50?

21 A Philip Carey.

22 Q Are you aware of any other manufacturers?

23 A Not -- those are trade names.

24 Q Okay. Going to the Hercules job, the 354 Hercules

1 job --

2 A Okay. Careytemp Pipe Covering, Powerhouse Cement,
3 Thermosil Pipe Covering, Asbestos Cloth and the bottom line,
4 Cal Sil, since all calcium silicates did at one time contain
5 asbestos, to my knowledge.

6 Q Let me back up.

7 You did not mention Kaylo P/C, Pipe Covering.

8 A I skipped that inadvertently.

9 Q Again, I would like to ask you with respect to that
10 particular column that we're talking about whether your
11 answers would be any different as to the manufacturers or
12 suppliers of the Thermosil Pipe Covering, Powerhouse Cement,
13 Careytemp, Asbestos Cloth or Kaylo?

14 MR. O'CONNOR: Objection.

15 A No, they're all trade names made by the same manu-
16 facturer.

17 Q Also the calcium silicate, can you tell us, to
18 the best of your knowledge, who, during your tenure with
19 Philip Carey, who manufactured calcium silicate containing
20 asbestos?

21 A Every manufacturer of calcium silicate, including
22 Owens-Corning, Johns-Manville, Keene, Atlas, Holmes,
23 Pabco.

24 MR. INGERSOLL: Who?

1 MR. COHEN: Pabco.

2 Q Let's now go cater-corner on that same job,
3 diagonally, the 354 Hercules job.

4 A Okay. The same thing, Careytemp Pipe Covering and
5 Kaylo and Super Powerhouse Cement.

6 Q Who made Super Powerhouse Cement?

7 A Keene.

8 Q And that did contain asbestos?

9 A I think it did. Maybe at the time they added the
10 name "Super" was when they changed to eliminate the asbestos,
11 I'm not sure.

12 Q Do you know that for a fact?

13 A I do not know.

14 Q Okay. Do you know whether Powerhouse Cement con-
15 tained asbestos?

16 A At one time I'm sure it did.

17 Q And the addition of the word "Super" didn't suggest
18 to you from personal knowledge whether that had anything
19 to do with the asbestos content?

20 A Not really.

21 Q Okay. And other than Keene, are you aware of anyone
22 else that made Powerhouse or Super Powerhouse Cement?

23 A No.

24 Q And your answers for Kaylo and Careytemp would,

1 therefore, be the same --

2 MR. O'CONNOR: Objection.

3 Q -- or different?

4 A The same.

5 Q Now, you've got 9007 Mastic.

6 A That's 90-07, the dash may not be in there.

7 Q Okay.

8 A That's a Benjamin Foster product.

9 Q What is that composed of?

10 A It's a black fibrated asphalt emulsion that's
11 applied over insulation to protect it from the weather.

12 Q To your knowledge, that contains no asbestos?

13 A It may.

14 MR. HAASE: You mean at anytime?

15 MR. COHEN: No, I'm talking about in the
16 context that we've been speaking of.

17 A It may, it never occurred to me and, yes, it may
18 very well.

19 Q And you said the 90-07 Mastic was produced by
20 whom?

21 A Benjamin Foster.

22 Q All right. Going down to 389, J. C. Penney --

23 A Well, again Thermosil Block, Fibrous Adhesive,
24 Careytemp Block, Powerhouse Cement.

1 And that's all.

2 MS. KENNEY: Can we go off the record a
3 minute?

4 MR. COHEN: Sure.

5 (Discussion off the record.)

6 BY MR. COHEN:

7 Q All right. Job 359, Schuylkill Station, Phila-
8 delphia Electric?

9 A Careytemp Pipe Covering, asbestos tubing and the
10 asbestos boot.

11 Q Okay. The R/M Asbestos Tubing, the manufacturer of
12 that?

13 A Presumably Raybestos-Manhattan. I think that's our
14 shorthand for that.

15 Q And I believe we stated the asbestos boot you were
16 not --

17 A Was furnished to us by Philadelphia Electric, I
18 have no knowledge who made it.

19 Q Now, going down to the bottom of the second page,
20 that job which I believe we said was Hercules --

21 MS. BOOKLER: Hercules 544.

22 Q -- 544?

23 A Okay. Careytemp Pipe Covering, Cal Sil Pipe Covering,
24 Asbestos Cloth.

1 And that's it.

2 Q All right. Calcium silicate is identified by
3 Pabco in that particular job?

4 A Right.

5 Q The 520 Adhesive, is that an asbestos-containing
6 product?

7 A No, that's a rubber contact adhesive.

8 Q And who produces that, if you know?

9 A Armstrong Cork.

10 Q How about the 85-20?

11 A 85-20 is also a rubber cement, it's not a contact
12 type cement, and that's Benjamin Foster Company product.

13 MR. HAASE: Once again, are we still within
14 the period of time for his association with Philip
15 Carey? We keep lapsing into who produces it.

16 Q Those products as produced on this sheet represent
17 Brand. Am I correct?

18 A Yes.

19 Q And do you have any knowledge of whether 520 or the
20 85-20 was produced prior to the seventies?

21 A Yes, they were, by the same manufacturers.

22 Q Okay. And you're saying in that period of time you
23 have no knowledge that those products contained any asbestos?

24 A Do not believe the physical characteristics would

1 allow them to contain asbestos.

2 Q The 435 Hercules job?

3 A Another misnomer, Standard Grade Thermacon should
4 be Thermatex, which is a black fibrated asphalt emulsion
5 similar to 90-07.

6 Q Produced by whom?

7 A Philip Carey.

8 Careytemp Pipe Covering, Careytemp Block,
9 Powerhouse Cement, Dual Careytemp, Kaylo Pipe Covering,
10 Thermosil Pipe Covering and Block, Careytemp Asbestos
11 Cement, Pabco Pipe Covering and Fibrous Adhesive.

12 Q The 81-93, does that suggest a manufacturer?

13 A Yes, that's a Benjamin Foster number.

14 Q Now, you did not mention Thermobestos in reviewing
15 that list.

16 A I skipped over it by mistake, it should have been
17 included.

18 Q Now, did the Thermatex contain asbestos, the first
19 one on the list?

20 A Yes.

21 Q And that was produced by whom?

22 A Philip Carey.

23 Q Now, as to the other manufacturers, are there any
24 additions to manufacturers for the various products other

1 than those that you've already told us?

2 A No.

3 Q Okay. Philadelphia Electric, 450 job?

4 A Careytemp Pipe Covering, Thermosil Pipe Covering,
5 Kaylo Pipe Covering, Thermobestos Pipe Covering, Powerhouse
6 Cement, Cal Sil Block, MW-1 Cement, Thermosil Block,
7 Asbestos Cloth and this Speed Lag Asbestos Cloth and the
8 90-07 Adhesive.

9 Q Now, the RM prefacing the Speed Lag Asbestos Cloth,
10 does that suggest anything to you?

11 A Presumably Raybestos-Manhattan.

12 Q What is the 25-35 Blue Gray Mastic composed of?

13 Let me rephrase the question.

14 You've stated that that was never an
15 asbestos product, to your knowledge?

16 A I really have no knowledge. I know it's -- it's a
17 vinyl acrylic type mastic as opposed to asphalt, that's the
18 sum total of my knowledge.

19 Q Do you know who the manufacture of that product is?

20 A It's a Benjamin Foster number.

21 Q The 493 Hercules job on Page 4, I believe it is?

22 A The Careytemp, the Thermosil, Kaylo Block, Powerhouse
23 Cement, Fibrous Adhesive, Cal Sil Pipe Covering and Block and
24 the 90-07 Adhesive.

1 Q And there's also an 81-93 Adhesive, can you
2 distinguish whether that ever contained asbestos?

3 A I think that's one of the rubber-based adhesives,
4 I'm not sure.

5 Q Now, again as to that Hercules job and the one prior,
6 the Philadelphia Electric job, can you think of any
7 additional manufacturers of particular products that you've
8 enumerated other than those you've already testified to?

9 A Well, they're all trade names, they apply to a
10 specific manufacturer.

11 Q Are you aware of whether any of the products that
12 you testified to are manufactured under relabeling agree-
13 ments?

14 A I think we did discuss previously about cements
15 with Philip Carey and Keene Company having a reciprocal
16 agreement to manufacture them in the closest facility.
17 To the best of my knowledge, that is the only one.

18 Q The 560 Hercules job?

19 A Careytemp Pipe Covering, Kaylo Pipe Covering,
20 Powerhouse Cement, 90-07 Mastic.

21 Q Now, the 4116 Philadelphia Electric job?

22 A Careytemp Pipe Covering and the Cal Sil Pipe
23 Covering.

24 Q How about the Epitherm?

1 A. Epitherm is a mineral wool product and, to the best
2 of my knowledge, contains no asbestos.

3 Q. Now, the N. L. Industries, Pennsylvania 500 job?

4 A. Powerhouse Cement, 90-07 Adhesive, Careytemp Block.

5 Q. And as to the last two jobs that we spoke about,
6 are there any additional manufacturers or suppliers of
7 those products that you can think of other than those you've
8 already testified to?

9 A. No, they're all trade names.

10 Q. Do you know who manufactured Epitherm or distributed
11 it?

12 A. Yes, Eagle-Picher Company.

13 Q. All right. We have again the 544 Hercules job and
14 there are two items listed.

15 A. Both of those at some time did contain asbestos.

16 Q. The 4122 U. S. Steel job?

17 A. The Cal Sil, which is unidentified, but just
18 generically did at one time contain asbestos.

19 Q. And as to those, are there any other manufacturers
20 or suppliers you can think of other than those that you've
21 testified to?

22 A. None that haven't already been mentioned.

23 Q. The 468 Philadelphia Electric job?

24 A. Cal Sil Pipe Covering and Quick Set Cement and

1 Thermosil Pipe Covering.

2 Q Do you know who produced Armablock?

3 A Armablock? It's obviously an Armstrong Cork
4 Company product, but I'm not sure what it is.

5 Q So you have no knowledge as to whether Armablock
6 does or ever did --

7 A I think this may have been our shippper's term for
8 Armaflex sheets, but I'm not sure.

9 MR. INGERSOLL: Those were the ones that you
10 described before as not containing asbestos?

11 MR. COHEN: As being rubber.

12 THE WITNESS: As rubber, plain rubber.

13 Q Do you know whether there was such a product as
14 Armablock though?

15 A I'm not sure.

16 MR. COHEN: Was there?

17 MR. INGERSOLL: Never heard the term before.

18 Q The U. S. Steel job 5001?

19 A Kaylo, Careytemp Pipe Covering, Powerhouse Cement
20 and 90-07 Mastic.

21 Q Texaco?

22 A Texaco, the Fibrous Adhesive, the CI Mastic, I
23 think contained asbestos, the Thermo 12 and the Powerhouse
24 Cement.

1 Q Now, going back to Thermo 12 Pipe Covering, do you
2 know who the manufacturer or distributor was?

3 A That's Thermobestos, that's Johns-Manville.

4 Q The CI Mastic 60-26?

5 A That's a Benjamin Foster product.

6 Q The 427 Fibrous Adhesive?

7 A I think that's a Benjamin Foster number too.

8 Q And other than that on those two jobs, U. S. Steel
9 and Texaco, your answer would be the same or different with
10 respect to the manufacturers and/or suppliers?

11 A The same.

12 MS. KENNEY: Excuse me, can I just ask one
13 question?

14 Do you know, Mr. Stewart, whether or not
15 Thermo 12 ever contained asbestos?

16 MR. COHEN: Anne --

17 MS. KENNEY: I was trying to clear something
18 up because I thought the witness before said these
19 products did not contain asbestos, to the best of
20 his knowledge.

21 MR. HAASE: At that time.

22 MR. COHEN: He was talking at that time,
23 meaning the Texaco job in the seventies, to his
24 knowledge those products did not contain asbestos.

1 I am taking --

2 MR. HAASE: As a Brand job.

3 MR. COHEN: As a Brand job.

4 Okay. I am taking him back on time. Okay?

5 MS. KENNEY: All right.

6 BY MR. COHEN:

7 Q All right. Now, the Texaco jobs 6052 and 6015,
8 let's individually --

9 A Okay. The only one on -- well, 6052 was Quick Set
10 Cement and possibly the Thermakote.

11 Q Now, the number 48 Quick Set Cement, does that
12 suggest anything to you with respect to manufacturer or
13 distributor?

14 A That's pretty surely it's Forty-Eight Insulations is
15 the manufacturer.

16 Q Now, how about Thermakote?

17 A I am not sure. To the best of my knowledge, that's
18 a substitute material for the 90-07 Mastic, but I'm not
19 sure who the manufacturer is.

20 Q Now, just going back to U. S. Steel for a moment,
21 it is called Hi-Mastic 90-07 as opposed to a Mastic 90-07.

22 Do you know what the difference in the use of
23 the word "Hi" connotes?

24 A It's always Hi-Mastic, it was just abbreviated in

1 the previous one.

2 Q Okay. The 6015 Texaco job?

3 A 60-26 CI Mastic, Fibrous Adhesive, Thermosil Block
4 and the Powerhouse Cement.

5 Q Okay. Now, the 60-26 CI Mastic suggests what
6 insofar as manufacturer or distributor?

7 A Benjamin Foster Fibrated Vapor Barrier type Mastic.

8 Q All right. The 6039 Sears?

9 A The Cal Sil by whatever manufacturer, and that's
10 all.

11 Q Now, for those last two jobs, would your answers be
12 the same as to sources of manufacture and/or distribution of
13 the products that contained asbestos at one time?

14 A The same answers.

15 Q The 7067 N. L. Industries job?

16 A The only thing could have been was the Hi-Mastic
17 90-07.

18 MR. COHEN: Off the record.

19 (Discussion off the record.)

20 Q Mr. Stewart, I'd like to show you what I'd like to
21 have marked as Stewart Exhibits 6A through L and ask you
22 where these particular --

23 MR. MEELEY: Can we go off the record?

24 MR. COHEN: Yes.

1 (Discussion off the record.)

2 BY MR. COHEN:

3 Q With respect to the documents that I am calling
4 6A through L, I'd like you, if you would, so we can preserve
5 order, just describe for me what these proposed exhibits
6 purport to be.

7 A Okay. They're all manufacturers' brochures that
8 describe the various products that we've been referring to.
9 The first one is Benjamin Foster Company, the second one is
10 Eagle-Picher.

11 Q We'll have 6B as Eagle-Picher, 6A is Foster.

12 A The third one is Keene Company.

13 Q 6C.

14 Use the letter of the alphabet so we'll keep
15 it consistent.

16 A 6D is Certain-Teed, 6E is Certain-Teed for a different
17 product, 6F is Forty-Eight Insulations, G is Kaylo Ten,
18 H is one from Pabco, I is one from Celotex, J is one from
19 Pittsburgh Corning, K is one from Amatex and L is one from
20 Atlas Insulation.

21 Q Okay, so we go 6A through L then.

22 And can you tell me how those particular
23 exhibits were obtained?

24 A You requested all the information we had available

1 and those are all the brochures that we had in our office.

2 Q Okay. So these were brought pursuant to the
3 attachment on the Notice of Deposition originally sent out?

are is

4 A Correct.

5 Q Okay. And where were they taken from?

part

6 A Well, the various suppliers gave them to us and then
7 we brought them to you from our Essington office.

8 Q At whose request or direction were those --

9 A Your request.

10 Q Within Brand Insulations.

11 A My own request.

12 MR. COHEN: Okay. I'd just like to take a
13 second and let's get them marked.

is

14 (Brochure of Foster Fibrous Adhesive is
15 marked Stewart Exhibit 6A for identification.)

n.)

arked

16 (Brochure of Eagle-Picher Industries, Inc.,
17 is marked Stewart Exhibit 6B for identification.)

is.

18 (Keene Insulation and Contracting Division
19 Data Sheet, dated April 1, 1974, is marked Stewart
20 Exhibit 6C for identification.)

21 (Certain-Teed Product Data Sheet on Standard
22 Duct Insulation is marked Stewart Exhibit 6D for
23 identification.)

24 (Certain-Teed Product Data Sheet on

1 EXAMINATION

2 BY MR. INGERSOLL:

3 Q Mr. Stewart, would you look at Page 4 of this
4 exhibit, which is Stewart 2.

5 Midway down the column on the right-hand
6 side is PA- -- is the PA.4122 job at U. S. Steel?

7 A Right.

8 Q Do you have any idea approximately about the date
9 of that job?

10 A Is that on the list?

11 Q I did not see a date for that on Exhibit 3 and I'm
12 just curious.

13 Q Just from the number sequence, it's fairly recent,
14 very recent.

15 Q '76 or '77, thereabouts?

16 A No -- no further back than '75 for sure from the
17 number sequence.

18 MR. INGERSOLL: Okay. That's all I have.

19 MR. O'CONNOR: May I just ask one
20 question.

21 EXAMINATION

22 BY MR. O'CONNOR:

23 Q Mr. Stewart, as I understand your testimony, you
24 said that Kaylo at some time had asbestos in it.

1 Do you know if at the same time that some
2 Kaylo had asbestos in it, whether there was also some Kaylo
3 without asbestos in it?

4 A Yes, it could be ordered in both forms.

5 Q Can you tell just by looking at this Exhibit 2
6 whether the Kaylo being referred to had asbestos in it or
7 whether it did not have asbestos?

8 A Just from the time -- no, not from referring to
9 this, but just from the time, yes.

10 Q What do you mean by the time?

11 A Any material we bought at that time we specified
12 asbestos-free by our choice.

13 MR. HAASE: You mean because this is
14 Brand?

15 THE WITNESS: Right.

16 MR. HAASE: And because it's 1970 on?

17 THE WITNESS: Right.

18 MR. COHEN: Off the record.

19 (Discussion off the record.)

20 BY MR. O'CONNOR:

21 Q Do you know when Owens-Corning started making
22 Kaylo 10?

23 A I'm not sure, no.

24 Q Do you know if they were making it during the

1 early sixties?

2 A I can't say with any certainty, I don't know.

3 Q As I understand it, you can't tell what type of
4 Kaylo it is by looking at the list?

5 A No.

6 Q Whether it's Kaylo 10 --

7 A No.

8 Q -- or Kaylo 20?

9 A No. It could have been any one of those because
10 we abbreviated these lists. These were copied from our
11 shipping orders in the warehouse.

12 Q And as per Exhibit 6, I forget what the subletter
13 was, Kaylo 10 is asbestos free. Right?

14 A Right, but we did establish early on everything on
15 here, to the best of my knowledge, was ordered, if it was a
16 choice, it was ordered asbestos free or by its very nature
17 was asbestos free.

18 MR. O'CONNOR: Thank you.

19 EXAMINATION

20 BY MS. KENNEY:

21 Q Mr. Stewart, my name is Anne Kenney and I've got
22 a couple of questions.

23 During your deposition of November 16th,
24 1979, you mentioned that among other manufacturers, you

1 believed Johns-Manville manufactured Asbestos Cloth?

2 A. Yes.

3 Q. Is that true?

4 A. Yes.

5 Q. Can you tell me what you base your statement on
6 that J-M manufactured Asbestos Cloth?

7 A. I really don't -- I just had a general opinion and
8 thought that we did in fact buy Asbestos Cloth from Johns-
9 Manville, I don't know.

10 Q. Had you ever seen any invoices to that effect?

11 A. Specific -- I cannot specifically recall any, no.

12 Q. Do you know any specific job sites where Asbestos
13 Cloth manufactured by J-M was used?

14 A. No. We used Asbestos Cloth in a very minimal part
15 of our overall business, very minute amount, and I don't
16 know.

17 Q. Can you tell me what time frame, if any, if you
18 recall, Asbestos Cloth was purchased from Johns-Manville?

19 A. I can't even tell you for sure that we ever did
20 purchase any from Johns-Manville.

21 Q. Then there is no specific basis on which you
22 formulated your statement that Asbestos Cloth was purchased
23 from Johns-Manville. Is that true?

24 A. No, no specific basis.

1 Q Did you ever, by the way, talk directly with any
2 representatives from Johns-Manville during your years at
3 Brand or Philip Carey?

4 A You mean did any salesmen ever call on us?

5 Q On you specifically.

6 Did you ever talk to any?

7 A Yes.

8 Q Can you tell me their names, please?

9 A Dick Mattigen is the only one I can think of off
10 the top of my head.

11 MR. BRUCH: Dick who?

12 THE WITNESS: Dick Mattigen.

13 MR. HAASE: Mattigen.

14 THE WITNESS: Don't ask me how to spell
15 it, please.

16 Q Do you know what office he was from, where he was
17 located?

18 A I don't know for sure 'cause Philadelphia
19 Asbestos Company represented Johns-Manville in this area,
20 so we had very -- relatively minute dealings directly with
21 Johns-Manville. Usually if someone came from Johns-
22 Manville, they were accompanied with someone from
23 Philadelphia Asbestos.

24 Q Do you know if Mr. Mattigen is deceased or alive?

1 A. I think he's still alive and in the industry.

2 Q. You mentioned calcium silicate in your prior
3 deposition, Johns-Manville supplied calcium silicate
4 products. Is that true?

5 A. Yes.

6 Q. Do you know what types of products?

7 A. Pipe covering and block.

8 Q. Do you know if the calcium silicate pipe covering
9 and/or block ever contained asbestos?

10 A. At one period in time, yes.

11 Q. What are you basing your statement on that Johns-
12 Manville supplied calcium silicate pipe covering and block?

13 A. Because at some point they informed us that it no
14 longer contained asbestos.

15 Q. Okay. Now, my question is, what are you basing
16 your statement on that Johns-Manville supplied calcium
17 silicate pipe covering and/or block to either Philip Carey
18 or Brand?

19 A. Well, on purchase orders to them.

20 Q. You had seen purchase orders with --

21 A. Had and at present have underway a rather large
22 job using Johns-Manville asbestos -- not asbestos, I beg
23 your pardon, calcium silicate at Philadelphia Gas Company
24 here in Philadelphia.

1 Q Do you have any specific recollection as to seeing
2 purchase invoices prior to 1970 with calcium silicate
3 products which were manufactured by Johns-Manville?

4 A Since all data was Philip Carey records and we've
5 totally given them to Philip Carey, no longer have them
6 available, I have no specific recollection or ability to
7 recover it.

8 Q You've no specific recollection at this point --

9 A No.

10 Q -- of ever seeing that on an invoice?

11 A No.

12 Q Can you tell me, I'm just a little bit confused,
13 because when I asked what you were basing your statement on
14 that Johns-Manville supplied calcium silicate products, you
15 said invoices, now you're saying you have no specific
16 recollection of seeing those invoices --

17 A I'm saying invoices since 1970.

18 Q You have no specific recollection of seeing
19 invoices prior to 1970?

20 A Not from Johns-Manville.

21 Q So do you have any specific recollection or can you
22 say with any degree of certainty that Johns-Manville had
23 supplied calcium silicate products to Philip Carey prior
24 to 1970?

1 A In very, very small quantities. I could recognize
2 the product itself just by its physical appearance.

3 Q Do you recall seeing containers containing calcium
4 silicate with the words Johns-Manville or J-M on the box?

5 A Yes.

6 Q Can you describe the color of the lettering and
7 the appearance of the containers?

8 A Just a big cardboard box with the regular J and M
9 logo on, to the best of my recollection.

10 Q Do you recall what colors the letters J-M were?

11 A Blue, I believe.

12 Q I'm sorry?

13 A Either blue or black.

14 Q What about Thermobestos, you mentioned that J-M,
15 you believe, manufactured Thermobestos, can you tell me
16 what you based your statement on?

17 A That is their trade name for their product.

18 Q Can you tell me what Thermobestos looks like?

19 A It's a light gray whitish-colored material that
20 looks a little bit like chalk that you could write on a
21 chalkboard with, but it has a very distinctive stippled
22 pattern on the surface of it that differentiates it from
23 any other calcium silicate. You can recognize it completely
24 out of the carton.

1 MR. HAASE: What time frame are you
2 talking about when you say it looks that way?

3 THE WITNESS: I am talking about from
4 the first time I ever saw it until now.

5 Q Can you tell me what time frame you believe
6 Thermobestos was supplied to either Philip Carey or Brand
7 by J-M?

8 A At Philip Carey, of course, we used primarily
9 Philip Carey materials and we only used any other
10 manufacturers' in very small amounts to fill in. It could
11 have been at any time during my tenure with Philip Carey.

12 Q Did you ever see any invoices prior to 1970
13 stating Thermobestos?

14 A I cannot specifically recall seeing them, no.

15 Q Do you recall any specific job sites where
16 Thermobestos might have been used prior to 1970?

17 A Not specifically, no. That's asking too much of
18 a feeble memory.

19 Q What about Thermo 12, sir, you indicated before
20 you believe it was manufactured by Johns-Manville. Is that
21 true?

22 A As far as I know, that is Thermobestos.

23 Q Thermo 12?

24 A Yes.

1 Q Can you tell me if Thermo 12 ever contained
2 asbestos?

3 A I don't know whether specifically with a product
4 named 12 after it, whether that was before or after it
5 contained asbestos, I don't know.

6 Q Can you tell me what you're basing your statement
7 on that J-M supplied Thermo 12?

8 A Well, just from my own personal knowledge. And
9 to the best of my knowledge, that's their trade name for
10 their product.

11 Q Do you recall any specific job sites where
12 Thermo 12 was used?

13 A Not at this point.

14 Q Do you know the time frame Thermo 12 was utilized
15 by Philip Carey or Brand?

16 A I -- I cannot differentiate between Thermo 12 and
17 Thermobestos. To my way of thinking and to the way our
18 shipper writes them up on the orders they are synonymous
19 and mean the same thing.

20 Q Have you ever seen any invoices with Thermo 12
21 on them?

22 A If I did, I can't recall specifically, and they
23 would have come from Philadelphia Asbestos and not from
24 Johns-Manville to us.

1 MS. KENNEY: Thank you, sir.

2 No further questions at this time.

3 MR. COHEN: Armstrong.

4 MR. INGERSOLL: I have no questions, I
5 already asked my one.

6 MR. COHEN: Raybestos.

7 EXAMINATION

8 BY MR. CILINGIN:

9 Q Mr. Stewart, Bill Cilingin from Raybestos-
10 Manhattan.

11 During the time you worked with Philip
12 Carey, I think you said you bought Asbestos Cloth from
13 Raybestos-Manhattan?

14 A Yes.

15 Q What do you base that information upon?

16 A Personal memory from looking it up in your
17 brochures and -- and calling the order in myself personally.

18 Q Okay. How about the time you were with Brand
19 Insulations, upon what information do you base the fact
20 that you bought Asbestos Cloth from Raybestos-Manhattan?

21 A I'm not sure that we did, but I think we did, and
22 under the same circumstances.

23 Q I'm sorry, what was that last part?

24 A I said under the same circumstances where I would

1 have placed the order myself.

2 Q But you're not sure whether you did place the
3 order yourself?

4 A I'm not sure.

5 Q How about with the Philip Carey people, are you
6 sure you placed orders with Raybestos?

7 A Yes.

8 MR. CILINGIN: That's all I have. Thank
9 you.

10 MR. COHEN: Amatex.

11 MR. DUNN: No questions.

12 MR. COHEN: Unarco.

13 MR. JENEMANN: No questions.

14 MR. COHEN: H. K. Porter and Southern.

15 MR. ANDERS: No questions.

16 MR. COHEN: Eagle.

17 EXAMINATION

18 BY MS. PENNELL:

19 Q Mr. Stewart, my name is Barbara Pennell.

20 A Hi.

21 Q At a couple times during your initial dep and
22 today's dep you've mentioned specifications.

23 Were the majority of the jobs performed
24 by Philip Carey or Brand performed in accordance with

1 specifications?

2 A Almost invariably, yes.

3 Q And whose specifications would those have been?

4 A Either the owner or some design engineer.

5 Q Do you know whether there were any Federal Govern-
6 ment specifications that covered any of these jobs?

7 MR. COHEN: At what point in time?

8 MS. PENNELL: Any of the jobs during the
9 time he was with Philip Carey or Brand.

10 A I don't think so. I tried to avoid Government
11 work as much as possible.

12 Q How about were there any State specifications that
13 perhaps covered any of these jobs?

14 A The same answer applies.

15 Q Now, there's one job listed here, for example,
16 PA-6031, which was Texaco?

17 A Right.

18 Q Was that at a refinery?

19 A Yes.

20 Q Are there any, to your knowledge, State or Federal
21 specifications that cover refinery work?

22 A We never see them if there are.

23 Q Now, I believe you indicated that specifications
24 you would follow for the job would either be drawn up by

1 the person for whom you're doing the job or the designer.

2 Is that right?

3 A His designated representative.

4 Q And what type of things would those specifications
5 provide?

6 A They would tell us what product to use and how to
7 supply them and when.

8 Q By what product, would they indicate a specific
9 manufacturer or just the type of product?

10 A Usually they would list one or more manufacturers
11 by name and then say "or equal".

12 Q Would they ever indicate what the products had to
13 consist of, what the product should have been made of?

14 A Yes.

15 Q Would they ever indicate that the product, for
16 example, a pipe covering, that a pipe covering should be
17 in conformance with a certain specification?

18 A I have seen that, but very rarely. Either a
19 Federal spec or an ASTM spec.

20 Q Do you recall any jobs that Mr. Fluharty might
21 have been associated with where there would have been an
22 indication that the material used had to conform to a
23 specification?

24 A Just a second.

1 (Pause.)

2 A I don't think so.

3 Q We might have gone through this before, and please
4 forgive me if we did, you do have job folders for each job.

5 Is that right?

6 A Yes.

7 Q Do those job folders contain the initial
8 specifications?

9 A If they're not too voluminous. Sometimes a spec
10 is this thick, then we keep them separately.

11 MR. HAASE: Holding his hand up about
12 six inches off the table.

13 Q Okay. Do you have any knowledge whether for any
14 of these jobs, the ones listed on Exhibits 2 or 3, whether
15 you still might have the specifications on any of those
16 jobs?

17 A We either have the printed specification or
18 estimator's handwritten information that he took from the
19 specification.

20 Q Back when you were with Philip Carey, do you know
21 whether there were job folders kept by Philip Carey?

22 A Yes, there were.

23 Q Do you know whether those job folders contained
24 specifications, if any?

1 A The same answers apply, yes.

2 Q And all those folders again would have been shipped
3 to Cincinnati?

4 A For sure.

5 Q Did you know Mr. Fluharty personally?

6 A Yes.

7 Q And what was your personal connection with him?

8 A He worked for us as a field installer and I saw
9 him on occasion come into the shop and get materials, and
10 I saw him on occasion at job sites when I was doing as I
11 should be doing today, filling in for our Field
12 Superintendent.

13 Q Was your relationship with him one just that you'd
14 recognize each other and say hello or something?

15 A A little bit more than that.

16 Q How well did you actually know him?

17 A He was a good and trusted worker.

18 Q I mean, did you go out to lunch with him or have a
19 beer with him?

20 A No, never happened.

21 MR. COHEN: Could I just bring out, Mr.
22 Fluharty is still with us, the references have
23 been in the past tense.

24 MS. PENNELL: It is my understanding he's

Stewart

1 no longer employed by Brand. Is that correct or
2 not?

3 MR. COHEN: That's correct, but you're
4 speaking of him as an entity that has passed on.

5 MS. PENNELL: I meant to speak of him
6 during the time I assume Mr. Stewart would have
7 known him.

8 Have you seen him since he quit work,
9 Mr. Stewart?

10 THE WITNESS: No.

11 MS. PENNELL: I did not mean to imply
12 Mr. Fluharty had gone to the great beyond. No
13 offense was meant to Mr. Fluharty. I'm delighted
14 that he's still with us.

15 MR. COHEN: I bet you are.

16 MS. PENNELL: No, I am.

17 MR. COHEN: Let's go.

18 BY MS. PENNELL:

19 Q Did you ever meet with him socially?

20 A No.

21 Q Do you know who his friends were by any chance
22 during the time he worked with Brand?

23 A No.

24 Q To your knowledge, Mr. Stewart, at any time while

1 you were employed with Philip Carey or Brand, do you know
2 whether there were any specifications that required that
3 the materials used by Philip Carey or Brand should contain
4 asbestos?

5 A Not specifically to say that they should contain
6 asbestos, but by product name, it identified products
7 that did contain asbestos.

8 Q And those product names that would indicate they
9 had to have asbestos, those would have been the names
10 listed on specifications?

11 A Right.

12 Q Did you keep any copies of Union contracts?

13 A Yes.

14 Q And how far back do your copies go?

15 A I don't have a 100% complete record, but I have
16 some that go back to 1957.

17 Q Would you attempt to get those and kind of set
18 them in a place for us?

19 MR. HAASE: The witness is nodding yes.

20 A I could refer you to the local Union, I'm sure
21 they have them 100%, and it's the same information, we
22 get them from the Union.

23 Q Do you know whether Mr. Jacoby would have copies
24 of Union contracts?

1 A. Probably.

2 Q Were you ever involved in any Union negotiations
3 for the contracts?

4 A. Yes.

5 Q And how far back would you have been involved?

6 A. 1958 to the present.

7 Q Do you recall any discussion at any of those
8 negotiations concerning anything at all to do with safety?

9 A. Slightly, yes.

10 Q Was safety a negotiable portion of the contract?

11 A. It's really not a negotiable item.

12 Q It is not?

13 A. No. It's specified by law. We have to protect
14 the workmen.

15 Q In other words, you have to discuss safety with
16 the Union people?

17 A. No, we are compelled by law to provide certain
18 things for safety, compelled by our conscience to provide
19 even more.

20 Q In any of the past Union negotiations that you
21 can recall from, I believe you said, 1958 --

22 A. Right.

23 Q -- do you ever recall any of the Union negotiators
24 requesting certain safety equipment, such as respirators or

1 protective clothing?

2 A I don't think it ever came up as a subject of
3 negotiation.

4 Q Do you know whether any of the Union contracts from
5 1958 to date provided for anything like dirty money?

6 Do you know what I mean by dirty money?

7 A Yeah, expenses, what we call it.

8 Q Expenses?

9 A Did you say journey money?

10 Q No, dirty money.

11 A Dirty money, no, they didn't.

12 MR. HAASE: Do you know what that term
13 means?

14 THE WITNESS: Yes.

15 Q And what does dirty money mean to you?

16 A Well, working in a dirty atmosphere to get extra
17 pay for working in that atmosphere.

18 Q Do you know whether those contracts had any such
19 provisions?

20 A I know they do not, did not and do not.

21 Q Do you know whether Mr. Fluharty has filed a
22 Workmen's Compensation claim?

23 A I think so.

24 Q Do you know who's handling that claim on his --

1 MR. HAASE: On whose behalf?

2 MS. PENNELL: On Brand's behalf.

3 MR. HAASE: Our office is.

4 MS. PENNELL: Your office is?

5 MR. HAASE: Yes.

6 MS. PENNELL: Do you know the status of
7 that Compensation claim, Mr. Stewart?

8 THE WITNESS: No.

9 MS. PENNELL: Do you know whether there
10 have been any hearings?

11 MR. HAASE: There have not.

12 MS. PENNELL: Rather than tying up Mr.
13 Stewart's time, can we get any details on that --

14 MR. HAASE: Yes. I'm just trying to figure
15 out how I'm going to remember to tell you. I'll
16 write myself a note.

17 MS. PENNELL: I'll write you a note.

18 MR. HAASE: That would be the best.

19 BY MS. PENNELL:

20 Q Mr. Stewart, from 1958 to date, has there been one
21 person or more than one person that would negotiate on
22 behalf of Local 14?

23 A There's usually at least three people from the
24 Local and three people from the Philadelphia Contractors'

1 Association.

2 Q Is there anyone or any of the Union people who have
3 stayed the same through those years?

4 THE WITNESS: No.

5 Q They've all been different?

6 A Yep. It changes every -- they have an election,
7 they get a new Business Agent and usually the whole group
8 of people go out and a new group of people come in.

9 Q Do you have any recollection of any names?

10 A Yes.

11 Q Could you give those to us and the years that you
12 believe they were Union representatives?

13 A Well, the only --

14 MR. HAASE: Do you mean negotiators?

15 MS. PENNELL: Yes.

16 A The only one I can be sure of is Mr. Hauber.

17 Q How do you spell that?

18 A H-a-u-b-e-r.

19 Q Do you know his first name?

20 A Everybody calls him Whitey.

21 Q Whitey?

22 A But that was not his name and I cannot, for the
23 life of me, recall what his first name was.

24 Q When do you recall Mr. Hauber being a Union

1 negotiator?

2 A He was a Business Agent from 1958, I think it was,
3 until about a year ago, a year and a half ago.

4 Q So would he have come, to your knowledge, every
5 year from '58 until about a year and a half ago?

6 A Yes.

7 Q Do you know whether the Local 14 has an attorney?

8 A Yes, it -- yes, they do.

9 Q And who is their attorney?

10 A Lou Wilderman.

11 Q Drew Wilderman?

12 A Lou.

13 Q Oh, Lou Wilderman.

14 Other than the pay record which has been
15 identified as 5, or 4, the original was 4, the photocopy
16 was 5, do you keep any other records on your employees?

17 A Individual employees?

18 Q Right.

19 A No.

20 Q No type of a personnel folder at all?

21 A No.

22 Q When did you first become aware that Mr. Fluharty
23 filed this suit?

24 THE WITNESS: When did you tell me?

1 Q Was it when your Counsel advised you?

2 A Yeah.

3 Q Prior to getting the Deposition Notice, were you
4 aware that this suit had been filed?

5 A I don't think so. Well, we got Interrogatories
6 at some point.

7 Q Do you recall when Mr. Fluharty filed his
8 Workman's Compensation claim?

9 A No, I do not.

10 Q Do you recall ever learning from Mr. Fluharty that
11 he had some type of illness?

12 A I -- I know from his employment records that he
13 was off sick on occasion two or three different times.
14 I was not aware of what the sickness was.

15 Q Do you ever require any type of doctor's
16 certificate when a man has been out to indicate that he is
17 in fact able to return to work?

18 A We are not allowed to do that under Union rules
19 and regulations.

20 Q And is that written into the contract?

21 A No, it is not written in the contract.

22 Q Well, is there anything written to that effect?

23 A No.

24 Q Well, how do you know that then?

1 I mean, I'm not trying to be fresh.

2 A Okay. Well, if you try to keep a man from coming
3 back to work and suspect that he's not ready yet to return
4 to work, you get a call from the Business Agent and he
5 says, If you need men, here's the man, take him back.

6 Q Does that payroll record -- I'm not sure if that's
7 actually what it's called -- does that reflect the reason
8 why an employee is not at work?

9 A No, it only reflects the fact that he did work on
10 certain days a certain number of hours.

11 Q Okay. How do you know then that Mr. Fluharty
12 was out for illness?

13 A Well, he would call in. He wouldn't appear on the
14 job and we'd get a call from either he or his wife saying
15 he was home sick.

16 Q And how would you take the calls or --

17 A We have a small office, sometimes I might get the
18 call myself or one of the other two -- two or three other
19 people in the office.

20 Q Is there any written record made of that?

21 A I doubt it very much. It would only appear that
22 he wasn't at work.

23 Q So when you've indicated that you know he was out
24 for illness, this is just your recollection --

1 A Yes.

2 Q -- of either you taking the call or someone else
3 in the office taking a telephone call?

4 A Right.

5 Q And this may have been asked, but is there any
6 record-keeping policy for a job file as to how long you will
7 keep it?

8 A I think the only limitations are storage space.
9 Once we run out of the drawer space, we clean out the oldest
10 one. But I do not know how long we retain them, quite a
11 long time.

12 Q Do you know whether your records for job files
13 do in fact go back to 1970 when Brand came into existence?

14 A Yes, that's where we were able to make this list
15 from.

16 Q Do you know what illness Mr. Fluharty is claiming
17 he has?

18 A Only from reading the record, and I -- I think it
19 says asbestosis.

20 Q When did you first become aware that he was
21 claiming that he had asbestosis?

22 A Either when he filed a Workman's Comp claim or
23 when we were notified that he had entered suit.

24 Q Do you ever recall Mr. Fluharty complaining about

1 dusty conditions or work conditions in general?

2 A I didn't have that much personal contact with him,
3 really. He would have complained the the Superintendent,
4 Mr. Romano, rather than to me.

5 Q Would Mr. Romano ever report to you that employees
6 were complaining about job conditions?

7 A Yes, we -- we talked over every aspect of the job.

8 Q Do you recall Mr. Romano indicating to you that
9 employees have in fact complained about job conditions from
10 1970 until the present time?

11 A Yes, we've -- we've had complaints at various
12 times, and as a result have either supplied coveralls or
13 respirators or --

14 Q Are these complaints oral or written?

15 A To the best of my knowledge, they're always oral.

16 Q Is there a grievance procedure between you and the
17 Union?

18 A Yes.

19 Q And do grievances have to be given to you in
20 writing?

21 A No, the grievances are handled by the Trade Board,
22 the Joint Trade Board. If there is a grievance, the matter
23 is brought before the Joint Trade Board and hashed out
24 around the table much in the fashion of labor negotiations.

1 Q Do you know whether grievances have to be in
2 writing to the Trade Board?

3 A I know our side always presents any we have in
4 writing, I'm not sure whether the workmen do or not.

5 Q Is there a Secretary or someone who's in charge
6 of keeping records for the Trade Board?

7 A That alternates from year to year, either one of
8 the Employer members is the Secretary or the Union.

9 Q Do you know who the present Secretary is?

10 A I think it's the employer, Mr. Ed Hogstrom.

11 Q And from which company is Mr. Ed Hogstrom?

12 A He is with Associated Insulations in Norristown.

13 Q In Norristown?

14 A Yes.

15 Q Does the present Secretary for that year have
16 custody of any records that there might be from prior
17 years?

18 A Yes, yes -- I'm not sure what happens to the
19 records from prior years.

20 Q Have you ever been a Secretary?

21 A I've never been the Secretary. I've been a member
22 of the Board on any number of occasions.

23 Q Well, have you ever had custody of any records --

24 A No.

1 Q -- from the Trade Board?

2 A No.

3 Q Do you know whether Brand currently and since 1970
4 subscribes to any Trade magazines?

5 A Trade magazines? I don't think there are any Trade
6 magazines.

7 Q Does NICA have a Trade magazine they send around?

8 A That comes as part of your membership through
9 NICA.

10 Q Are there any other magazines like that that
11 Brand gets or has gotten in the past?

12 A There's a mimeographed sheet that's put out by the
13 Eastern States Insulation Contractors Association, which
14 is sort of an intermediary group between the Locals and
15 the NICA group.

16 Q And is Brand a member of Eastern States?

17 A Yes.

18 I forgot to mention that before.

19 Q Now, Mr. Stewart, there were a bunch of papers
20 with holes on the side introduced as Exhibit 6, and I
21 understand that you brought those with you today?

22 A Yes.

23 Q And those were just pulled from your office?

24 A Yes.

1 Q Are there more of those in your office than the
2 representative sample?

3 A There may -- may very well be more of each of
4 those, hopefully there are.

5 Q How did you decide which ones to bring if there
6 are more back in your office?

7 A We brought one of every one that we have available.

8 MR. HAASE: Do you mean were there more
9 of those type or more of each of those?

10 MS. PENNELL: More of those type.

11 A We brought one of each of the ones that were
12 available.

13 Q Were you requested to bring those sheets from
14 various manufacturers or how was the request made that you
15 brought those in response to?

16 THE WITNESS: It was part of the stuff
17 you requested, wasn't it, that we bring --

18 MR. COHEN: There's an attachment on the
19 Notice of Deposition, I don't specifically recall
20 the phraseology, but I think you have a copy of
21 the Notice, the original Notice that went out to
22 Mr. Stewart insofar as what it calls for in terms
23 of production.

24 Q And it's my understanding that those

1 are just things that were dropped off to Brand by various
2 manufacturers' representatives or something?

3 A They're brochures from various manufacturers that
4 we try to keep a supply of to give to our customers when
5 they want to know more about a product.

6 Q Do you know how you came into custody of each of
7 the ones you brought with you today?

8 A Some manufacturer's salesman came by the office
9 and brought them.

10 Q Okay. For example, for 6A, do you know who brought
11 that one?

12 A Specifically by name, I do not.

13 Q And how about 6B?

14 A Let's see. I don't specifically know any of the
15 people that brought any of those.

16 Q And do you know when they were received by Brand?

17 A No. They're all dated and they are periodically
18 updated, the salesman drops by and just removes the old
19 ones that are outdated and leaves us a new supply.

20 Q Did you bring the ones that are the most up to date
21 to your knowledge?

22 A I brought the only ones that we had, whatever they
23 are. They are the most up to date.

24 Q So when you say you had duplicates back in your

1 office, they would just be more than one copy of exactly
2 what is there?

3 A We probably have twenty-five or more of each -- of
4 each one of these in our office.

5 Q Would they each have the same date?

6 A Yes.

7 MS. PENNELL: Okay. Thank you. I have
8 nothing further.

9 EXAMINATION

10 BY MR. PACE:

11 Q Mr. Stewart, my name is Sam Pace and I'm here for
12 Keene Corporation.

13 Earlier today and, I believe, at your
14 earlier deposition you indicated that you were aware of
15 the relabeling agreement that had been entered into between,
16 I believe you said, Baldwin-Ehret-Hill --

17 A Right.

18 Q -- and Philip Carey?

19 A Right.

20 Q How did you learn about that agreement?

21 A I was told by my boss, Mr. Hoshaw, that during
22 that time period, which I can't identify specifically,
23 that we should place orders with Baldwin-Ehret-Hill rather
24 than calling them into Cincinnati because they were here

1 locally.

2 Q Can you give me a rough approximation of the time
3 period?

4 A It had to be maybe '58, '59.

5 Q And how long did it last?

6 A Not more than two or three years.

7 Q Do you know who negotiated the agreement?

8 A I have no knowledge.

9 Q Would you tell us again the purpose of the
10 agreement?

11 A Well, since it's a large, bulky product and
12 relatively low price, it was done to save freight, get it
13 from the nearest source.

14 Q Would you characterize the agreement as ever having
15 been kept a secret?

16 MR. COHEN: Object to the form of the
17 question.

18 A From whom?

19 Q Was it basically common knowledge that this
20 agreement existed?

21 A I think it was about -- for most people in the
22 industry.

23 Q Now, you talked about the Philadelphia Insulation
24 Contractors Association, PICA?

1 A Yes.

2 Q Do you know when that was formed?

3 A About '56, '55 or '56.

4 Q And it is still in existence today. Is that
5 correct?

6 A Yes, it is.

7 Q It met monthly?

8 A Yes.

9 Q Were there minutes kept of the meetings?

10 A Yes.

11 Q Do you know if the minutes are still in existence?

12 A I think Mr. Jacoby has a complete record.

13 Q Do you know who the officers are now?

14 A President is David Andrews from AC&S, Vice-
15 President is Ed Hogstrom from Associated Insulations.

16 Boy, we just had an election. I can't
17 remember who the Secretary is.

18 I'm on the Board of Directors. We only
19 have nine members so the officers have to rotate pretty
20 frequently. We all get a turn at being President.

21 Q Now, how many members were in the Association when
22 it was formed, approximately?

23 A Seven or eight.

24 Q And has the number stayed fairly constant?

1 A Fairly constant.

2 Q What kind of functions did the Association
3 provide?

4 A Primarily as a means of negotiating jointly with
5 the Union, that's the primary function.

6 Q What other kinds of things do they do?

7 A Assign people to be on the -- be the trustees for
8 the joint -- the operating funds. It all has to do with
9 our dealings with the Union in some fashion.

10 Q Did you name the members earlier?

11 A Beg your pardon?

12 Q Did you name the members of the Association?

13 A I can try by company.

14 MR. COHEN: Are you talking about now,
15 Sam?

16 MR. PACE: Right now.

17 A Owens-Corning, Pacor, AC&S, Associated Insulations,
18 Brand Insulations, Universal Insulations.

19 That just demonstrates my memory's not
20 all that great.

21 Q That's fine.

22 A If I had the Yellow Pages out of the phone book,
23 I could do it very quickly.

24 I can't recall who the other -- who I left

1 out at this point.

2 Q In the first part of your deposition, the one that
3 took place, I guess it was in December --

4 MR. HAASE: November 16th.

5 Q -- November 16th, you indicated that at times you
6 acquired some products that you needed from sources such
7 as Johns-Manville and Ehret Magnesia.

8 Can you give us an estimate as to the
9 proportions of products which you used which were
10 manufactured by Philip Carey as opposed to the products
11 that you acquired from other companies?

12 MR. COHEN: What period of time?

13 Q Well, what period of time would you be comfortable
14 doing it for?

15 A Well, during the time I was associated with Philip
16 Carey, I'd say 95% of the products were Philip Carey
17 products where they had a comparable product. Some product
18 they didn't manufacture at all.

19 Q That was up until 1970?

20 A Right.

21 Q What percentage would you estimate of the products
22 were provided by Ehret Magnesia or Baldwin-Ehret-Hill.

23 A During those days?

24 Q Yes.

1 A Maybe 2%.

2 Q Who did you deal with at Ehret Magnesia?

3 A Mr. Satterthwaite.

4 Q And how would you get the products that you ordered
5 from him? Were they delivered by Ehret Magnesia?

6 A Sometimes by their truck, sometimes we would make
7 a pickup.

8 Q And when Baldwin-Ehret-Hill came into being, who
9 did you deal with then?

10 A Same person.

11 MR. PACE: That's all I have. Thank you.

12 MR. COHEN: Celotex.

13 EXAMINATION

14 BY MR. JOHN:

15 Q Mr. Stewart, my name is Edmund John and I
16 represent Celotex Corporation. -

17 I only have a few questions to ask you.

18 A Thank you.

19 Q You had indicated that in 1970 when Brand purchased
20 Philip Carey's contracting unit, that all the records of
21 the contracting unit were shipped to Cincinnati. Is that
22 correct?

23 A Well, not immediately because we had some ongoing
24 contracts that we finished that Carey had partially done

1 and we completed them. We retained those records until
2 those jobs were completed and then they were sent down to
3 Cincinnati.

4 Q Now, who's responsible for maintaining the records,
5 sir?

6 MR. HAASE: Which records? When?

7 Q First, the Philip Carey records?

8 MR. HAASE: Who was responsible for
9 maintaining them?

10 A I guess I had the ultimate responsibility.

11 Q But did you have a clerk or secretary or individual
12 that was --

13 A Yes.

14 Q -- that was responsible for the operation of the
15 office?

16 A I had a secretary that did almost everything for
17 me from payroll --

18 Q What was her name?

19 A Cecelia Young.

20 Q Do you know where Ms. Young is now?

21 A She's working for me in Essington.

22 Q She still works for you in Essington?

23 A Yes.

24 Q Who made the decision of what documents to send

1 back to Cincinnati?

2 A I did.

3 Q Were all the documents that you maintained sent
4 back to Philip Carey or were some of those documents
5 destroyed?

6 A We sent them all to Cincinnati, we didn't
7 destroy anything.

8 Q What did these records entail, sir?

9 A Individual job folders, primarily, and then the
10 payroll records from that time period that we had.

11 Q Was there any particular individual that you
12 returned those records to in Cincinnati?

13 A It might have been a guy named McClure or C. L.
14 Hoshaw.

15 Q One of those two individuals?

16 A Yeah.

17 Q Now, you indicated before that the materials, I
18 believe, were maintained in the warehouse, Philip Carey's
19 warehouse?

20 MR. HAASE: Are we talking about
21 insulation products?

22 MR. JOHN: Insulation products.

23 A Yes.

24 Q Were maintained in the Sedgley Avenue Warehouse?

1 A Yeah.

2 Q And on occasion that material would be transported
3 to the job sites?

4 A That was our sole reason for being, you guessed
5 that.

6 Q How would you transport the material, sir, to the
7 job sites?

8 A Either by common carrier or on trucks.

9 Q What kind of trucks did Philip Carey have?

10 A Beat-up, worn-out trucks.

11 Q Were these vans?

12 A Stake body trucks and small vans.

13 Q Were there any distinctive markings on the truck
14 at all, sir?

15 A Only the Carey name on the side.

16 Q What common carriers did you use?

17 A That's probably a misnomer. We had a contract
18 carrier that supplied a couple of trucks. His name was
19 Holmes, H-o-l-m-e-s.

20 Q Where was he located at?

21 A Somewhere over in Jersey around Pennsauken, I'm
22 not sure. That was a lot of years ago.

23 Q I believe earlier you had indicated that you had
24 attempted to promote physical examinations of the employees--

1 A Yes.

2 Q -- and that that met with resistance.

3 Now, when was that first attempt made,
4 sir?

5 A To the best of my knowledge, I don't know, '68,
6 '67, '68, somewhere in there.

7 Q And that was by sending out the letters to the --

8 A Right.

9 Q Now, who decided to follow that procedure of
10 attempting to get the membership to have --

11 A Well, we were advised by Mr. Jacoby that this might
12 be a prudent thing to do.

13 MR. JOHN: Mr. Stewart, I have no further
14 questions.

15 MR. COHEN: Mr. Meeley.

16 MR. MEELEY: Mr. Stewart, Walt Meeley.

17 I have nothing for you.

18 THE WITNESS: Thank you.

19 EXAMINATION

20 BY MR. MORGAN:

21 Q Mr. Stewart, I'm David Morgan, I represent Owens-
22 Illinois Corning Glass Company.

23 First about Exhibits 2 and 3, are these
24 the only records that you have available to you of jobs

1 and materials used on those jobs by Mr. Fluharty?

2 MR. HAASE: Excuse me. Are you asking
3 whether Exhibits 2 and 3 are the only records?

4 Q I'm asking not the exhibits themselves, but the
5 information contained in the exhibits, is that the only
6 information available to you concerning the jobs that Mr.
7 Fluharty worked on and the products he used in those jobs
8 with Philip Carey or Brand?

9 A Yes.

10 Q And the other information is in records in
11 Cincinnati?

12 A That's right. We no longer have access to them
13 at all.

14 Q All right. Do you know the dates at which Mr.
15 Fluharty worked with Carey?

16 A No, I do not. I know that -- I remember Dan from
17 very early in my stay in Philadelphia and know that he was
18 around periodically off and on. He didn't work continuously
19 with us, but I'm sure he was employed by Carey from 1957 on.

20 MR. COHEN: Excuse me, Mr. Morgan.

21 If I can, there was an exhibit that was utilized
22 in Mr. Fluharty's deposition that shows from 1938
23 through, I believe, '39 and then again another
24 period for Philip Carey and Brand.

1 THE WITNESS: I have no reason to dispute
2 that at all.

3 Q And you were employed by Philip Carey between what
4 dates?

5 A I was employed by Philip Carey from January 15th,
6 1966, until February-something, 1971.

7 Q And after that point you were employed by Brand?

8 A Right.

9 Q Would you have been aware during your period of
10 employment with Carey of any asbestos products used by
11 Carey and sent out for jobs they were performing?

12 A In retrospect I am aware of them, yes.

13 Q Were you in charge of ordering those products from
14 the manufacturers?

15 A Either personally or somebody at my direction was.

16 Q Were you aware of Carey's use of any asbestos
17 products manufactured by Owens-Illinois while you worked
18 for Carey?

19 A Owens-Illinois?

20 Q Yes.

21 A No.

22 Q Did you ever talk to anyone from Owens-Illinois
23 to order product?

24 A I didn't know Owens-Illinois made anything out of

1 asbestos.

2 MR. MORGAN: I have no more questions.

3 EXAMINATION

4 BY MR. BRUCH:

5 Q Mr. Stewart, my name is Dan Bruch, I represent
6 Pacor, Inc.

7 In the previous questioning you were
8 referred to Job No. 359, Philadelphia Electric,
9 Schuylkill Station, which is part of Exhibit 2, and you
10 said that the two bottom products possibly contained
11 asbestos, and you further said, if I'm correct, that those
12 products were provided by Philadelphia Electric. Is that
13 correct?

14 A To the best of my knowledge they were, yes.

15 Q Did they direct you to use those products on that
16 job site?

17 A Yes.

18 Q Did Mr. Fluharty ever call you in your office in
19 1978 and tell you that he was not going to be in to work
20 because he was involved in an automobile accident?

21 A I don't recall. He didn't call me personally, no.
22 Specifically I can say that I do not recall him calling
23 anyone, he may have.

24 Q He did not call you.

1 Did he call anyone in your office?

2 A He may have. I said I did not remember him calling,
3 he may have called someone.

4 Q Do you know that Mr. Fluharty was in an automobile
5 accident in 1978?

6 A No.

7 MR. COHEN: Object to the form of the
8 question.

9 Q No?

10 A No, I do not.

11 MR. BRUCH: For the record, I'd like to
12 say that as Counsel for Pacor, at the first
13 deposition of Mr. Stewart I was not present,
14 although I did come in the deposition at the
15 time it was scheduled and Mr. Haase was involved
16 in a train accident, and I received a copy of
17 the October 24th letter. I just want to make that
18 statement for my client. Thank you.

19 EXAMINATION

20 BY MR. COHEN:

21 Q Just briefly, any brochures from companies who are
22 either distributors, manufacturers, suppliers relating
23 to products prior to, let's say, the Brand situation, would
24 they have been likewise sent back to Illinois?

1 A No.

2 Q Or to Ohio?

3 A They would have been discarded. By now they would
4 be so outdated, you know, they wouldn't have any value to us
5 so we would not have kept them around.

6 Q Now, with respect to brochures between, let's say,
7 1970 and the time that these were dropped off, what
8 brochures or publications are still in existence at Brand
9 in Essington now?

10 A You have a copy of each and every one of them.

11 Q Are these destroyed on a yearly or a semiannual
12 basis?

13 A No, they're not. We never consciously destroy
14 them. We may -- we run out of a supply or the salesman
15 comes in and takes away the old ones and gives us a current
16 supply. _

17 Q Okay. Now, with respect to minutes of meetings
18 for NICA or PICA in the Philip Carey period, where would
19 those records be, to the best of your knowledge?

20 A The only two possible sources of any complete
21 records would be the PICA office or Mr. Jacoby's office
22 insofar as Philadelphia is concerned.

23 Q There's one other Trade Association, that was the
24 Eastern States --

1 A Right.

2 Q -- Insulation Contractors Association?

3 A Right.

4 Q We did not discuss that on direct examination.

5 A Right.

6 Q Let me ask you, were there similar discussions in
7 that Trade Association that you've related to us with
8 respect to PICA and NICA?

9 A Yes.

10 Q And who was a member of the Eastern States
11 Association?

12 A For Brand?

13 Q No, membership during the Philip Carey period.

14 A Well, they constitute almost all the people who
15 are also members of the Philadelphia Insulation Contractors
16 and also contractors from Virginia, Connecticut,
17 Massachusetts, Rhode Island, all the states in the Eastern
18 Atlantic Group except New York State, they have their own
19 independent association.

20 Q And can you recall discussions relating to health
21 hazards occurring at the Eastern States Association?

22 A Yes, similar to the ones that occurred at
23 Philadelphia.

24 MR. HAASE: You mean, of course,

1 discussion occurring relating to health hazards?

2 MR. COHEN: Okay.

3 MR. HAASE: You don't mean health hazards
4 at Eastern States?

5 MR. COHEN: No, discussions of health
6 hazards at the Association.

7 BY MR. COHEN:

8 Q What period of time are you talking about that you
9 have your earliest recollection that health hazards
10 associated with asbestos were discussed at that Association?

11 A Roughly parallel to the same time period we were
12 considering here in Philadelphia, and that would be the
13 late sixties.

14 Q And how often did the Eastern States Association
15 meet?

16 A Twice a year.

17 Q Do you still presently attend meetings from that
18 Association?

19 A Yes.

20 Q And where would minutes or publications of that
21 agency be?

22 A Just so happens they share an office with the
23 Philadelphia Insulation Contractors Association, that would
24 be the most likely place to find them.

1 Q And do you know whether the Eastern States
2 Association had any individuals that were members of,
3 either members or trustees or management representatives
4 to any Unions within this particular area?

5 A No.

6 Q No, you do not know or no, there were none?

7 A Well, the members were the same as the members
8 of the Philadelphia Insulation Contractors Association,
9 so the answer would have to be yes, because they were the
10 same people.

11 Q In terms of Union discussions, were you aware of
12 a request for extra pay because of claims of working in
13 hazardous conditions?

14 A To my knowledge, no such request was ever made.

15 Q Were you aware of any Union, and I'm not only
16 speaking of Local 14, any Union grievances with respect
17 to hazardous or poor working conditions, any grievances
18 against any company?

19 A Anywhere in the world?

20 Q Okay, let me say in the Eastern States area.

21 A I can't recall any, no.

22 Q Were you aware of any strikes by any employees of
23 any manufacturer occurring during the period you were
24 associated with Philip Carey or Brand because of health

1 hazards associated with asbestos?

2 A. I was --

3 MS. KENNEY: You mean manufacturer or
4 contractor?

5 MR. COHEN: Manufacturer.

6 A. I know some of our suppliers who were the
7 manufacturers went out on strike. What the reasons were,
8 I have no knowledge.

9 MR. COHEN: All right.

10 (Deposition is concluded at 3:40 P.M.)

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IN THE COURT OF COMMON PLEAS
FOR PHILADELPHIA COUNTY

DANIEL R. FLUHARTY, JR., and	:	COURT OF COMMON PLEAS
MARY E. FLUHARTY, his wife,	:	
	:	OF PHILADELPHIA COUNTY
Plaintiffs	:	
vs.	:	JULY TERM, 1979
	:	NO. 962
JOHNS-MANVILLE CORPORATION,	:	
et al	:	
Defendants	:	CIVIL TRIAL DIVISION

Philadelphia, Pennsylvania
February 7, 1980

I hereby certify that I have read the
foregoing transcript of my deposition in the above-entitled
matter and it is true and correct to the best of my
knowledge and belief.

THOMAS G. STEWART

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ DAY OF
_____, 1980.

NOTARY PUBLIC

CORRECTION. PAGE

[illegible]

LAWYER'S NOTES

Page Line

Summary of Thomas G. Stewart
Taken February 7, 1980
Fluharty v JM et. al. July Term 1979 N 962

<u>Page</u>	<u>Testimony</u>
98	Thomas G. Stewart, 4 Edgewater Drive, Earleville, Maryland
100	In the late '60's, Chuck Hoshaw , Cincinnati was General Manager over all contract branches (Philip Carey). At that time John Humphries was President of the company.
101	There was a general discussion between Hoshaw and Stewart regarding the research the union was involved with regarding asbestos and if it was a problem.
102	The union's reference was the "green sheets". There is a National Insulation Contractors Association (NICA) headquarters WA. D.C.
104	Most major contractors around the country belonged to the National Group. i.e. Insulation Services , Tulsa, OK., Shook & Fletcher , somewhere in the southwest, Wallace & Gale , Baltimore, Porter Hayden Co , Robert A. Casbey Co. , N.Y. City.
108	There were 2 meetings a yr.
109	Philadelphia Insulation Contractors Association, Land Title Bldg. Rm 640.
115	Approx. 1975, there was a discussion regarding physical exams for insulators by our (Brand) attorney, who attends all the meetings.
116	There was no discussion regarding warning labels by the Philadelphia Insulators Contractors Association (PICA) anytime in the 1960's or 1970's.
117	There was discussion about dust monitoring around '75 or '76.
125	We (Brand?) started using masks in 1969 or '70.
127	About 2 yrs ago they started issuing complete body coverage.
128	All workman in the immediate work site area were discussed as potentially being at risk.
129	Counsel for PICA who advised examinations should be given was Myron Jacoby . He had his own law firm, now deceased. He was located in the bldg across from Union League, the Fidelity Bldg.
130	Jacoby died about 2 yrs ago. His son Fred has assumed that role. There were several associates in that firm. The Joint and Trade Board consists of 3 members each from the Contractors Assoc. and the Union local 14.

- 131 Another group of PICA is the Trustees of the Welfare Plan and the Pension Plan. There are 4 members one of which is Stewart. Counsel for the Trusteeship is Jacoby's Firm.
- 132 In re to answers to interrogatories filed by J-M specifically #3. A discussion in re to 4 separate grouped labels or warnings.
- 143 Exhibit 3 shows shipping documents of materials, earliest date 1972.
- 146 Exhibit 4 is employee payroll records. Brand has a complete file for every employee.
- 148 Exhibit 2 on the upper left hand column it says "PA-140 Temple. PA is the designation of Philadelphia Branch Office, 140 is the job number and Temple is the job itself (Temple University).
- 150 Stewart claims to the best of his knowledge Thermabestos did not contain asbestos. It contains calcium silicate which does not contain asbestos.
- 164 M-50 cement Carey product in its original form yrs. ago did contain asbestos. Answer is the same for M-1.
- 165 303 cement was known as asbestos shorts and was totally asbestos. MW stands for Mineral Wool. MW-50, MW-1 and 7M-90 Cement were all powder form in bags.
- 166 7M-90, asbestos constituted almost the entire product. The same answer for 303 cement. He has no info about XL pipecovering that was before his time.
- 167- Products that contained asbestos, Careycell pipecovering and
68 board, aircell, Tempcheck pipe covering and block, and Hi-Temp pipe covering.
- 169 Fibrous Adhesive Bonding does have asbestos fibers, it's in a mastic form, it is not in a friable form where it can be breathed.
- 170 Other than Carey other manufacturers made Fibrous Adhesive Bonding. One was Benjamin Foster Co., Ambler, PA. He believes Foster is a subsidiary of Fuller.
- 171 Second was Insulcoustic, Plainfield, N.J. Thirdly, its possible that Childers Company, Cleveland, OH., local branch Bristol, PA.
- 175 Brand purchased asbestos cloth from Raybestos-Manhattan or Armatex. Stewart has no personal knowledge but he thinks he did hear there was an agreement between Carey and either Keene or Baldwin-Ehret-Hill to manufacture cements in the closest facility. Each would manufacture for the other, MW-1 & MW-50.involved

- 219 The manufacturer for 48 Quick Set Cement is Forty-eight Insulation.
- 220 The manufacturer for 60-26 CI Mastic is Benjamin Foster.
- 221 Exhibit 6 are brochures of various manufacturers that describe the various products of each. 6A is Foster, 6B Eagle Pitcher, 6C Keene, 6D Certainteed, 6E Certainteed, 6F Forty-eight Insulations, 6G Kaylo Ten, 6H Pabco, 6I Celotex, 6J Pittsburgh Corning, 6K Armatex, and 6L Atlas Insulation.
- 227 He is not sure if they ever purchased asbestos cloth from Johns-Manville.
- 229 He claims they did purchase calcium silicate from Johns-Manville.
- 237 The specifications for a job would list the product, type and how to supply them.
- 246 Lou Wilderman is the attorney for the union Local 14.
- 250 There have been employee complaints about job conditions.
- 251 Grievances are filed with the Trade Board. (see page 130) they keep records.
- 252 In regards to trade magazines Brand has gotten a mimeographed sheet that is put out by the Eastern States Insulation Contractors Assoc. which is an intermediary group between the locals and the NICA.
- 256 The relabeling agreement between Carey and Baldwin-Ehret-Hill was not a secret.
- 257 The Philadelphia Insulation Contractors Association (PICA) the President is David Andrews, from AC&S, and Vice President is Ed Hogstrom from Associated Insulation. There are nine members, he is on the board of directors.
- 258 Some members of the association is OCF, Pacor, AC&S, Associated Insulations, Brand Insulations and Universal Insulations.
- 260 When dealing with Ehret Magnesia or Baldwin-Ehret-Hill he dealt with Mr. Satterwaite.
- 271 The Eastern States Association shares and office with PICA.
End of Dep CS/4-94