

1 please.

2 READING OF DEPOSITION OF EDWARD C. AMES

3 TAKEN ON OCTOBER 8, 1979

4 (Whereupon, the questions were read by Mr.
5 Smith and Mr. McGowan and the answers were read by Mr.
6 Shellenberger.)

7 MR. SMITH: The deposition of Edward C. Ames
8 was taken October 8, 1979, in the United States
9 District Court for the District of New Jersey in the
10 case entitled Morton Austin versus Johns-Manville and
11 others.

12 Edward C. Ames having been duly sworn
13 according to law testified as follows:

14 Page 11, please.

15 BY MR. SMITH:

16 Q Can you give us for the record the benefit
17 of your educational background?

18 A How long do you want this? I attended the
19 University of Chicago, was graduated in 1926, PHB
20 degree. I went to Harvard, was graduated with a
21 Master's degree, 1928.

1 I taught at Ohio Wesleyan and was an
2 instructor in history from 1927 to 1929. I taught at
3 the University where I was an assistant professor of
4 English from 1934 to 1938.

5 And between Ohio Wesleyan and the University
6 of Toledo, I worked on the Toledo Times and the Toledo
7 Blade for four or five years.

8 Is that enough?

9 Q That is enough for now.

10 Can you tell us when you started with
11 Owens-Corning?

12 A I started with Owens-Corning in March of
13 1949.

14 MR. SMITH: I am sorry. March of 1940.

15 MR. SHELLENBERGER: Excuse me, thank you.

16 BY MR. SMITH:

17 Q In what capacity were you first employed?

18 A I was employed first -- I didn't know what I
19 was supposed to do.

20 When I was first employed, I was sent down
21 to the World's Fair in New York and was manager of the

1 fiberglass exhibit at the World's Fair for six months;
2 and then I came back in the autumn of 1940 and became
3 assistant to the president and was assistant to the
4 president, subsequently public relations manager and
5 after that public relations director of Owens-
6 Corning.

7 Q Who was the president at the time that you
8 came with Owens-Corning?

9 A The president and chief executive officer
10 was Harold Boeschenstein. You have the spelling.

11 Q That is correct. For what period of time
12 was he president of Owens-Corning?

13 A He was president of Owens-Corning from the
14 time it was organized in November of 1938 until he
15 retired. He died in 1972. He was the president and
16 founder, you might say, of Owens-Corning.

17 Prior to being with Owens-Corning, he was
18 vice-president and general manager of Owens-Illinois
19 Glass Company.

20 Q Mr. Boeschenstein?

21 A Right.

1 Q So from 1938 to 1972 he was, in fact,
2 president of Owens-Corning Fiberglas?

3 A Well, he retired somewhere in there. I am
4 not sure of when he retired, but he was still active.
5 He was still in the executive committee and so forth
6 even after his retirement.

7 Q Was he on the board of directors?

8 A Yes.

9 Q Do you know for what period of time he was
10 on the board of directors?

11 A Oh, I assume until his death, but I don't
12 know for sure.

13 Q Do you understand the term interlocking
14 directorates?

15 A Interlocking directorates?

16 Q Correct.

17 A I have heard of it.

18 Q Did that exist at the time you came to
19 Owens-Corning with respect to Owens-Corning and Owens-
20 Illinois?

21 A Well, when Owens-Corning was established in

1 1938, they had a board of directors, as I recall, of
2 seven. I could be wrong in the number. It might have
3 been nine, but I think it was seven.

4 Of whom half, less one, we will say three,
5 were designated by Owens-Illinois as one of the parent
6 companies.

7 Then the other half, less one, we will say
8 three, were designated by Corning Glass Works, which
9 was the other parent company, and Mr. Boeschenstein
10 was a director.

11 He was the seventh one and, of course, held
12 the balance of power, if there was ever a question of
13 balance of power.

14 Does that answer your question?

15 Q Yes. Were the three individuals who were
16 designated by Owens-Illinois also on -- I am sorry.
17 Let me try that again.

18 Were the three individuals who were
19 designated by Owens-Illinois also on the Board of
20 Directors of Owens-Illinois?

21 A Harold Boeschenstein was on the board of

1 Owens-Illinois.

2 Urban Bowes was a director of Owens-Corning,
3 I think, and was not a director of Owens-Illinois. He
4 was at that time director of research of
5 Owens-Illinois, and I can't remember who the other --
6 oh, one of the Levises, either William E. or Preston,
7 I am not sure which, was on the board of
8 Owens-Illinois, and I had forgotten who was the other
9 Owens-Illinois representative.

10 Q Those were individuals who were also on the
11 board of Owens-Corning?

12 A Yes.

13 Q Do you know for what period of time -- is
14 it Mr. Boeschenstein?

15 A Boeschenstein.

16 Q Was on the board of Owens-Illinois?

17 A Well, he was just on -- he was on the board
18 of Owens-Illinois until the Justice Department says
19 please get off, so it must have been late '40s.

20 Q Can you tell us when you first made the
21 acquaintance of Willis G. Hazard?

1 A Willis G. Hazard, we called him Bill Hazard.

2 Oh, I think it was probably in the early '40s.

3 Q Can you tell us the circumstances under
4 which you met him?

5 A Bill Hazard was a graduate of the Harvard
6 School of Public Health. He was an industrial
7 hygienist, and he was on the staff of the personnel
8 department of Owens-Illinois which was headed by
9 Milton Olander.

10 He was a specialist in industrial hygiene,
11 of course, as his background indicates.

12 Now, you are asking me what circumstances.
13 And when I joined Owens-Corning, Mr. Boeschenstein
14 said, you better get over and meet some of those
15 people at Owens-Illinois, especially in Bill Olander's
16 department, and see how they function and what their
17 points of view are and so on, and this I did.

18 And that is how I happened to meet him, as
19 well as several others that were on Olander's staff.

20 Q When did you first become aware of the
21 entity known as asbestosis?

1 A Aware of what?

2 Q The entity, disease entity, disease,
3 condition?

4 A Okay. Now we are going back almost 40
5 years. I suppose it was while I was working with Dr.
6 Siebert on the Siebert report.

7 Q The time you were employed by Owens-Corning,
8 can you tell us whether or not Owens-Corning was aware
9 of the hazards attendant to exposures to asbestos?

10 A Well, only in a peripheral way. We actually
11 didn't handle any asbestos materials in our own
12 manufacturing operations as I recall, and I am sure I
13 would recall if we did, so that awareness on the part
14 of Owens-Corning was an awareness that was undoubtedly
15 created by everybody's -- what you might call the
16 competitive situation.

17 Does that answer your question?

18 MR. MCGOWAN: Excuse me, Your Honor, I think
19 we skipped over a few pages that you had previously
20 designated that I wanted read.

21 MR. SMITH: We are on page 19.

1 MR. MCGOWAN: Page 18, line 4 -- lines 4
2 through 8, that was previously designated that I did
3 not counter designate because it was already
4 designated.

5 MR. SMITH: I don't think so, but I will be
6 happy to read it.

7 MR. MCGOWAN: Thank you.

8 MR. SMITH: Go ahead.

9 MR. MCGOWAN: Back to page 18, line 4.

10 BY MR. MCGOWAN:

11 Q Did you ever discuss with Bill Hazard either
12 during the time you worked for Owens-Corning or at
13 some later point in time any health hazards which were
14 connected with Kaylo insulation?

15 A No, sir.

16 MR. MCGOWAN: You can go on. Thank you.

17 MR. SMITH: Back to page 19, line 21.

18 BY MR. SMITH:

19 Q Can you explain to me what you mean by the
20 competitive situation?

21 A Well, I mean this: I think it is obvious,

1 if you read the Siebert report or some of the other
2 documents in connection with it, that we were
3 concerned about the steps being taken by the Asbestos
4 Workers union members to impose a premium on jobs
5 where they would be handling fiberglass materials
6 where normally the contractors for these jobs might
7 have been handling asbestos-containing materials, like
8 85 percent mag. And these premiums kept popping up
9 all over the country, 10 cents an hour here, 50 cents
10 an hour there. And we suspected, although we couldn't
11 prove it, that there were competitive reasons why
12 these premiums were being voted.

13 And we undertook with Dr. Siebert, who was
14 designated by the Asbestos Workers union --
15 fortunately, he was a man of great renowned and
16 integrity -- to make a thorough and complete
17 investigation to determine whether there were any
18 hazards in connection with exposure to fiberglass
19 materials.

20 And all along the way, we learned that
21 exposure to asbestos fibers, I had forgotten the

1 amounts or the exposure time, but in great amounts
2 over a long period of time could cause asbestosis.

3 So here we were trying to disprove something
4 that didn't need to be disproved. Do you see what I
5 mean?

6 Q You were trying to, and correct me if I am
7 wrong, you were trying to show that fiberglass
8 insulation did not have the same hazards as insulation
9 containing asbestos; is that correct?

10 A Well, put that again, please.

11 Q Any way you like.

12 A Okay. That exposure to fiberglass materials
13 in the manufacture of them in our plants and so forth
14 did not involve any hazard; whereas, exposure to
15 asbestos in the manufacture of which we didn't do
16 might involve a hazard to the lungs.

17 Q And that was known to Owens-Corning during
18 the time period that you were employed by them; is
19 that correct?

20 A I think so.

21 Q Did Mr. Boeschenstein know about it?

1 A Mr. Boeschenstein knew everything.

2 Q Well, he certainly knew about that; isn't
3 that correct?

4 A Well, he was one of the smartest gents that
5 ever worked down the pike.

6 Q Well, he was aware of it, yes or no?

7 A Yes.

8 Q And he was president of Owens-Corning?

9 A Right.

10 Q And chief executive officer?

11 A Right.

12 MR. SMITH: Page 23.

13 BY MR. SMITH:

14 Q Would it be fair to say, Mr. Ames, that it
15 was known that in the industry back in the time that
16 you were employed by Owens-Corning that there were
17 hazards to the persons working in the plants
18 manufacturing asbestos-containing insulation of
19 possibly getting asbestosis?

20 A Working in the plants?

21 Q That is correct.

1 A I think it would be fair to say that.

2 Q That was general?

3 A It was known to Owens-Corning people that
4 workers in plants handling or manufacturing or
5 fabricating asbestos materials were running this
6 hazard.

7 Q They were at risk?

8 A They were at risk, yes. And I will tell you
9 one reason I say that, if you want me to elaborate in
10 any way.

11 I don't suppose I am supposed to elaborate,
12 but one of the things that Dr. Siebert did in working
13 on his report was to get information from the
14 insurance companies, like Aetna, as to the premiums
15 charged their clients for their risks that they cover
16 who had employees that were subject to exposure to
17 asbestos.

18 The premiums charged were higher than the
19 premiums charged their clients who were not subjected
20 to this risk.

21 Q Was there ever a reason given for that

1 higher rate of premium?

2 A I would have to refer to the Siebert report
3 to answer your question. I don't recall.

4 Q Can you tell us who E.J. Marshall was?

5 A Glad to. Edwin J. Marshall was the senior
6 partner in one of the two leading law firms in Toledo,
7 Marshall, Melhorn, blah, blah, blah.

8 Still in existence, it still is. If you
9 would pardon the expression, one of the two or three
10 leading law firms and, hell, he prided himself on
11 acting and being a country lawyer, but he was about as
12 shrewd as they come. I think he was a trustee of
13 Cornell University. He was an eminent member of the
14 bar, let's put it that way.

15 Q What relationship, if any, did he have to
16 Owens-Illinois?

17 A He was the general counsel. His firm was
18 general counsel or he himself was general counsel for
19 Owens-Corning.

20 Q Do you know for what years?

21 A From the time of its formation in 1938 and

1 still is, I think. Well, until his death. You mean
2 he personally?

3 He has been dead and gone for what, 10 or 12
4 years now, something like that.

5 MR. McGOWAN: I have got designations at
6 page 26, and we can skip those, unless there is any
7 objection.

8 MR. SMITH: No objection.

9 MR. McGOWAN: Why don't we skip page 27.
10 We can go to page 28, line 11, skip down to
11 that.

12 BY MR. McGOWAN:

13 Q I am going to show you an exhibit which has
14 been marked for identification.

15 Can you identify that, sir?

16 A This is a 10-page memorandum dated May 23rd,
17 1941, addressed to Harold Boeschstein covering a
18 report on my trip to St. Louis on May 19th, 1941, and
19 to Chicago on May 20th, subject, health aspects of
20 fiberglass.

21 And it reports my contacts with -- primarily

1 my contacts with a man who we called Colonel Bartley
2 who was an attorney in St. Louis.

3 He was the attorney for asbestos -- or Local
4 One of the Asbestos Worker Union which is
5 headquartered in St. Louis, and it has to do with what
6 eventually became a proposal approved by Mr. Bartley
7 that an in-depth study be made of the possibility of
8 hazards resulting from exposure to the dust of
9 fiberglass wool products.

10 And I don't know if it is in here or not,
11 but eventually it turned out that with Mr. Bartley's
12 full cooperation, contacts were made with Dr. Walter
13 J. Siebert to undertake this study which is fully
14 documented in the materials that you have.

15 MR. SMITH: Page 31, line 25.

16 BY MR. SMITH:

17 Q Mr. Ames, I am going to show you an exhibit
18 marked Lake Exhibit 6 for identification. Will you
19 identify that for us.

20 A This is a memorandum addressed to Harold
21 Boeschenstein dated January 7th, 1942. That is a

1 month after Pearl Harbor.

2 MR. SMITH: For the record, Your Honor, that
3 is Plaintiff's Trial Exhibit Number 11. I will show
4 that to the jury later, in a few minutes when I put up
5 the overhead.

6 BY MR. SMITH:

7 Q Who sent that memorandum to him?

8 A I sent it to Harold Boeschenstein. He
9 received it; and he noted on it, Ames, please talk
10 pronto to HB.

11 Q That is his handwriting?

12 A That is his handwriting and his initials,
13 and the memo says that EJM which means E.J. Marshall,
14 the attorney, thinks there is the germ of a major
15 strategy, and he suggests -- compilation of an
16 asbestosis file is suggested and to explore with Aetna
17 what we can get in the way of coverage in the nature
18 of public liability, and then some other steps.

19 Q Before we go any further, can you tell us
20 what you mean by that sentence, there is a germ of
21 truth --

1 A Germ of a major strategy here.

2 Q What did you mean by that?

3 A Well, this apparently refers to a previous
4 memorandum which I don't think I have seen. It isn't
5 in your file, is it?

6 Q This memorandum?

7 A That is 7-42 on strategy for '42. It must
8 have been that, major strategy. That is what you are
9 asking about.

10 Q Yes.

11 A I was aware, as I think many at
12 Owens-Corning were aware, of the fact that there was a
13 danger of asbestosis that resulted from exposure to
14 asbestos fibers in plants where it was fabricated and
15 manufactured and that there was apparently unexplored
16 literature in the field and that we might do well to
17 compile a file on this just to have it handy in case
18 we might want it for a defense mechanism against
19 competitive activity that would be -- that might
20 represent an attempt to smear fiberglass when they
21 were not lily white themselves.

1 Does that answer your question?

2 Q Yes.

3 MR. SMITH: Mr. McGowan, page 36.

4 MR. MCGOWAN: I think you had some
5 designations, are you withdrawing them on page 34?

6 MR. SMITH: Yes. In fact, I am going to
7 skip up to page 53. Try and cut some of this out.

8 MR. MCGOWAN: I will go back to page 34,
9 starting at line 16.

10 BY MR. MCGOWAN:

11 Q And you are referring, again, to the exhibit
12 for identification?

13 A That is correct. In here in the January 7th
14 memo to Mr. Marshall, there is a paragraph suggesting
15 that we gather as a weapon in reserve a file on
16 medical literature on asbestosis.

17 Available are two bibliographies covering
18 medical literature to 1938 citing references to scores
19 of publications in which the lung and skin hazards of
20 asbestos are discussed, and I thought it might be,
21 well, the word salutary thing for us to have in our

1 files some of this material to fall back on in case we
2 needed it as part of a defense mechanism, but I can
3 comment further that this plan was not implemented.

4 To my best recollection, we never went ahead
5 and compiled or made such a compilation.

6 MR. McGOWAN: We can skip my designations on
7 page 36.

8 MR. SMITH: 53.

9 MR. McGOWAN: Your Honor, just one moment.
10 We are trying to skip a lot of this, and we are
11 working together here.

12 THE COURT: Okay.

13 (Whereupon, pause.)

14 MR. McGOWAN: We can skip to 48, line 23.

15 Thank you for your patience, Your Honor. We
16 are skipping a lot of pages.

17 Line 23.

18 BY MR. McGOWAN:

19 Q I am going to show you an exhibit, which I
20 will later mark for identification.

21 A This is a nine-page memorandum dated June

1 16th, 1941, addressed to Mr. Harold Boeschenstein,
2 subject, investigation of health aspects of fiberglass
3 by Dr. Walter J. Siebert of St. Louis.

4 And it is a report of my contact with Dr.
5 Siebert and Colonel Bartley about the investigation
6 that Dr. Siebert had been requested by Mr. Bartley on
7 behalf of the Asbestos Workers union to undertake
8 concerning the possibility of any hazards that might
9 result from exposure to dust of fiberglass materials.

10 This brings back a lot of memories. It
11 talks about Gardner's work about the anatomical
12 realities of lung processes that are involved in
13 exposures, about sources of information that we could
14 rely on that we would help get him, the nature of our
15 work with him, the insistence that we are desirous of
16 getting a complete and unbiased examination of this
17 problem, the nature of our relationship with Mr.
18 Bartley and then explanation of the fact that we
19 didn't want the union to be under any financial loss
20 as a result of this, that we would pay through Mr.
21 Bartley or however it was deemed appropriate the fee

1 that Dr. Siebert would charge for the preparation of
2 this report.

3 Q Are you the individual that prepared that
4 report?

5 A And wrote it.

6 Q And sent it?

7 A And dictated it and sent it with copies as
8 noted.

9 BY MR. SMITH:

10 Q Can you identify the initials in the left-
11 hand corner? Is it the left-hand -- right-hand?

12 A Well, HB, Harold Boeschenstein.

13 Q That is his initials?

14 A Right. And that was his habit as it is on
15 the part of many people when they receive a thing,
16 they would initial it to indicate they read it or
17 looked at it and as often as not, it would come back
18 to the center showing he initialed it and it would be
19 with his instructions what his pleasure was.

20 Q Did you have any dealings with Ira I.
21 Brought and Associates?

1 MR. SHELLENBERGER: I am sorry.

2 MR. SMITH: Page 53, line 8.

3 A Yes.

4 Q When did you first have any dealings with
5 them?

6 A I can't remember the exact date, but it was
7 in the '40s.

8 Q What did it pertain to?

9 A He and I made a trip to Washington and New
10 Orleans once. There was a hearing before some
11 government agency down there about -- I think it was
12 about the use of fiberglass insulation under
13 government contract and the matter of health aspects
14 and hazards came up.

15 That was my main contact with him.

16 Q What was his relationship, if any, with
17 Owens-Corning Fiberglas?

18 A He was a special investigator of problem
19 situations. You might say it like that. He sort of
20 led me by the hand to take me down to New Orleans to
21 open doors.

1 He used to be with the Secret Service at one
2 time, and he was on the White House detail; and, in
3 fact, Franklin D. Roosevelt sent him to South America
4 to be the secret serviceman protecting Henry A.
5 Wallace when Henry Wallace went down there.

6 Q In other words, he was a private
7 investigator?

8 A Yes.

9 Q He would do investigations of whatever sort
10 for Owens-Corning Fiberglas?

11 A That is right.

12 Q Is he still alive?

13 A No, he is no more.

14 MR. SMITH: Mr. McGowan --

15 MR. McGOWAN: You can skip mine on 55.

16 MR. SMITH: I am going to say, I will not
17 designate anymore. I know you have designated quite a
18 bit, but if you want to take a moment to --

19 MR. McGOWAN: Your Honor, if I could just
20 have a moment, and maybe we can pare it down.

21 THE COURT: Go right ahead, please.

1 MR. SMITH: If you designate more, I might
2 have some counters.

3 MR. McGOWAN: Let's go to page 59. Go back
4 to 58. 58, line 25.

5 BY MR. McGOWAN:

6 Q You never saw the Saranac Laboratory reports
7 prepared for Owens-Illinois concerning the hazards, if
8 any, of exposure to Kaylo?

9 A No.

10 Q And did you ever discuss those with Mr.
11 Hazard?

12 A No.

13 Q Did you ever discuss that with anyone at
14 Owens-Illinois?

15 A No.

16 MR. McGOWAN: Your Honor, I think that is
17 it for now. I can probably agree with counsel at the
18 break if there is a line or two we can read instead of
19 going through the 30 pages I have now. I will agree
20 to withdraw it if counsel agrees maybe later on we can
21 take a minute or two and read them into the record.

1 That will save time.

2 THE COURT: Let me ask the jury, we can take
3 a break or we can give you 15 minutes at the end of
4 the day.

5 Which would you prefer? Break now or at the
6 end of the day, another 35 minutes.

7 THE FOREPERSON: End of the day. Okay.

8 THE COURT: Very well. Let's keep going.

9 Thank you, counsel.

10 MR. SMITH: Thank you, Your Honor.

11 At this time we would like to publish some
12 documents to the jury.

13 It will take us a moment to put the overhead
14 up.

15 (Whereupon, discussion off the record.)

16 (Whereupon, the documents were published to
17 the jury via the overhead projector.)

18 MS. TOSTANOSKI: Your Honor, there are a
19 lot of documents, and this is actually one of the few
20 that I have an objection to.

21 THE COURT: Whose document is this?

1 MS. TOSTANOSKI: Johns-Manville.

2 THE COURT: What is your objection to it?

3 MS. TOSTANOSKI: Relevance, foundation,
4 hearsay.

5 THE COURT: Overruled three times.

6 MS. TOSTANOSKI: Thank you.

7 PRESENTATION OF DOCUMENTS

8 MR. SMITH: Thank you, Your Honor. We would
9 be offering this document against Owens-Illinois.

10 This is a memorandum written by a Johns-
11 Manville employee. It is a memorandum regarding
12 Mellon Institute of Industrial Research symposium on
13 dust problems, January 15, 1935.

14 On or about December 12, 1934, the Mellon
15 Institute of Industrial Relations addressed letters to
16 some 85 industries having industrial disease problems
17 inviting them to attend a meeting to be held under the
18 auspices of the institute on the 15th day of January.

19 It is my opinion that one cannot find a
20 better indication of the seriousness -- excuse me, of
21 the serious nature of the problems it was the purpose

1 of the meeting to discuss.

2 An impressive list of experts specializing
3 upon various aspects of the dust problem attended the
4 meeting and delivered addresses.

5 Among these were Mr. A.C. Hirth, a lawyer
6 associated with Williams, Eversman and Morgan, Toledo,
7 Ohio, attorneys for Owens-Illinois Glass Company.

8 MS. TOSTANOSKI: Mr. Smith, could you please
9 read the rest of the presenters.

10 MR. SMITH: Sure.

11 MS. TOSTANOSKI: Thank you.

12 MR. SMITH: Dr. Eugene Pendergrass of the
13 X-ray Laboratory, University Hospital, Philadelphia;
14 Dr. A.J. Lanza, Assistant Medical Director of the
15 Metropolitan Life Insurance Company; Dr. R.R. Sayers,
16 Medical Officer in charge of U.S. Public Health
17 Service; Professor Philip Drinker of the School of
18 Public Health, Harvard University; Mr. F. Robertson
19 Jones, General Manager, Association of Casualty and
20 Surety Executives; and Mr. Donald Cummings, Assistant
21 Director, Saranac Laboratory for the study of

1 tuberculosis.

2 The addresses delivered by these
3 specialists together with the open discussion that
4 followed them revealed, among other things, the very
5 menacing character of the problem, its complex nature,
6 the uncertainties attending most of its aspects and
7 the necessity of some form of united action by the
8 afflicted industries.

9 It was recognized that some aspects of the
10 problem were peculiar to special industries, but it
11 was equally evident that other aspects were common to
12 all.

13 For example, only two forms of dust, namely,
14 free silica and asbestos, are definitely known to
15 produce disabling fibrosis of the lung.

16 MS. TOSTANOSKI: Would you read the next
17 sentence, please.

18 MR. SMITH: Even in the case of these dusts,
19 the problems resulting therefrom are quite different
20 since the fibrosis resulting from silica is of a much
21 more serious character than that resulting from

1 asbestos in that the former predisposes to
2 tuberculosis and it is much more likely to have a
3 fatal termination.

4 It appeared that among the problems common
5 to all industries were the following:

6 Number 2, the desirability of making various
7 dust diseases compensable under properly drawn
8 workmen's compensation laws. Such legislation would,
9 A, eliminate the dirt.

10 Page 4.

11 I pointed out that members of the asbestos
12 industry did not care to be associated in the minds of
13 the public or of employees of those industries whose
14 problem was silicosis and for that reason I felt there
15 might be some opposition to having a representative of
16 the asbestos industry working with them.

17 I did indicate, however, that I realized
18 numerous aspects of our problem were the same, and
19 that if cooperation could be worked out without an
20 undue amount of publicity, Johns-Manville Corporation
21 and perhaps the asbestos industry as a whole would in

1 all likelihood be willing to cooperate.

2 That is signed January 18, 1935, by Mr.

3 Vandiver Brown.

4 That is our Exhibit Number 527.

5 Next is our Exhibit 587.

6 THE COURT: Both exhibits will be admitted
7 in evidence.

8 MR. SMITH: Thank you, Your Honor. I don't
9 have hard copies with me. I just brought the
10 overheads, and I will have them available shortly.

11 THE COURT CLERK: I am sorry. OCF --

12 THE COURT: Plaintiffs' O-I 527 and 587.

13 (Whereupon, Plaintiffs' Exhibit Numbers O-I
14 527 and 587 were received into evidence.)

15 MR. SMITH: This is a May 5, 1936, document
16 with an Owens-Corning Fiberglas number on the bottom,
17 it is a Bates stamp number from their files.

18 It is addressed to Mr. Hazard, who we just
19 talked about in the Ames deposition, to an Owens-
20 Illinois Glass Company gentleman.

21 I submit the following report of

1 investigation of the biological activity of glass wool
2 undertaken at your request at the Saranac Laboratory.

3 Investigation of over 20 different types of
4 dusts has indicated that if no reaction occurs in
5 organs other than the lungs, it will not occur in the
6 respiratory tract and that conversely dusts like
7 silica and asbestos that are known to produce fibrosis
8 of the lungs also cause fibrosis in other tissues when
9 injected in sufficient quantities.

10 Neither plain or oiled glass wools have
11 caused fibrosis or any chronic progressive reaction by
12 injection and, therefore, it is a reasonable
13 assumption that their inhalation would likewise fail
14 to produce such effects.

15 That is May 5th, 1936.

16 MR. IGNATOWSKI: Ms. Tostanoski, do you want
17 to see that document?

18 MS. TOSTANOSKI: No.

19 MR. IGNATOWSKI: Next is Owens-Corning
20 Fiberglas Number 589, Your Honor.

21 THE COURT: That will be admitted into

1 evidence.

2 (Whereupon, Plaintiffs' Exhibit Number OCF
3 589 was received into evidence.)

4 MR. SMITH: Thank you, Your Honor.

5 This one is dated April 22, 1939, again, it
6 has the Owens-Corning number on the bottom. Cc to Mr.
7 Boeschenstein.

8 Memorandum regarding health program. On the
9 morning of Thursday, April 20, 1939, I arrived in
10 Columbus, Ohio, to meet with Messrs. Hirth, Hazard,
11 and Dr. Gardner.

12 We drove to Newark, Ohio, and there
13 introduced Dr. Gardner to Mr. Zimmerman, who we heard
14 a moment ago was the vice-president, Mr. Boyd, Mr.
15 O'Neill and others.

16 Mr. O'Neill took our party around the
17 laboratory and plant, and we saw all of the
18 operations.

19 MR. MCGOWAN: Excuse me, Your Honor, so I
20 don't have to read the whole rest of the text, what
21 plant is that?

1 MR. SMITH: The Newark, Ohio fiberglass
2 plant.

3 MR. McGOWAN: That is the fiberglass plant.

4 MR. SMITH: That is correct, and they
5 apparently did some asbestos cement work there as
6 well.

7 Page 2.

8 Dr. Gardner brought out that several years
9 ago when he made his original tests, he and people
10 generally were thoroughly convinced that there was no
11 health hazard in glass wool.

12 His own opinion is that the material is
13 harmless, but without inhalation tests his opinion
14 lacks definite proof.

15 In recent tests, Dr. Gardner has noted an
16 unusual reaction in connection with asbestos.

17 That is signed by Mr. Carl Staelin, and he
18 was the OCF corporate secretary and attorney in their
19 law department.

20 Next is a document we are offering against
21 both Owens-Illinois and Owens-Corning, 591.

1 It is on Owens-Corning letterhead dated
2 January 30, 1940.

3 THE COURT: It will be admitted into
4 evidence.

5 MR. SMITH: Thank you, Your Honor.

6 (Whereupon, Plaintiffs' Exhibit Number 591
7 was received into evidence.)

8 MR. SMITH: Again, Mr. Staelin, we just
9 heard about, the corporate secretary, with a
10 handwritten HB note.

11 Subject, Mr. Marshall's memorandum on itch
12 propaganda. The proposed fiberglass standards sheet
13 on proper methods of handling fiberglass insulation
14 will, in effect, be a part of a complete manual on all
15 forms of fiberglass because it will be a part of
16 fiberglass standards.

17 The proposed sheet has to do with the
18 handling of fiberglass thermal insulation. This
19 represents our major market and our major problem.

20 In my opinion, it would be much more
21 practical to have two instead of one because the story

1 we would tell to the fabrics industry should be quite
2 different in its interpretations than the story we
3 tell to the thermal insulation industry.

4 To my mind, it would not be advisable to try
5 to tar other competitive products with the same
6 stick.

7 In the first place, this might lead to a cat
8 and dog fight in the industry. In the second place,
9 some of these other materials are known to develop
10 industrial diseases that we do not find present in the
11 handling of fiberglass such as asbestosis and possibly
12 silicosis. Most of these other materials are very
13 dusty as compared to fiberglass.

14 It seems to me that we should try to
15 dissociate ourselves from these other materials rather
16 than to bring them into the same category with
17 fiberglass.

18 As one chap put it, our material may have
19 the same itch that is present in the other materials,
20 but at least we are not dusty or dirty.

21 This was by a Mr. T.S. Rogers. He was the

1 Owens-Corning technical director in the sales
2 department.

3 Next, Your Honor, would be document 593.

4 THE COURT: Which is?

5 MR. SMITH: Offered against Owens-Corning.

6 THE COURT: Dated?

7 MR. SMITH: I am sorry. January 14, 1941.

8 THE COURT: It will be admitted in
9 evidence.

10 (Whereupon, Plaintiffs' Exhibit Number 593
11 was received into evidence.)

12 MR. SMITH: This is signed -- authored by
13 Mr. Staelin from the legal and patent department to a
14 Dr. Gardner. He was the director of the Saranac
15 Laboratory we heard about a few moments ago.

16 Dear Dr. Gardner, we are planning to take
17 various interested members of the Industrial
18 Commission of Ohio to our Newark plant and explain to
19 them the safety and hazard features of our operation.

20 In this connection, we would like to show
21 them your report and explain to them our health

1 program in which you are supplementing this report
2 with further experiments based upon inhalation by
3 animals.

4 If you have no objections to this procedure,
5 would you please let us know. And if you have any
6 further comments or suggestions, we will be glad to
7 receive them.

8 I believe the next document is the response
9 by Dr. Gardner. This is OCF Number 594. It is dated
10 January 17, 1941, Your Honor.

11 THE COURT: It will be admitted into
12 evidence.

13 (Whereupon, Plaintiffs' Exhibit Number 594
14 was received into evidence.)

15 MR. SMITH: Signed by Dr. Gardner, director
16 of Saranac Laboratory, to Mr. Staelin.

17 I have no objection whatsoever in your
18 mentioning the work which we are doing to the members
19 of the Industrial Commission of Ohio when they inspect
20 your Newark plant.

21 Incidentally, you may now add that animals

1 exposed to fiberglass for a year's time failed to
2 inhale any glass in fibrous form.

3 A little of the granulated material produced
4 in fracturing this material gets into the lung in a
5 particulate matter and there sets up a very slight
6 amount of benign chronic inflammatory reaction.

7 However, I feel quite positive that we are
8 not going to encounter any evidence of an asbestos-
9 like reaction because none of the fiber reaches the
10 interior of the lungs.

11 This is our Exhibit Number 5, Your Honor.
12 This is offered against both Owens-Illinois and
13 Owens-Corning dated May 23, 1941.

14 THE COURT: It will be admitted into
15 evidence.

16 (Whereupon, Plaintiffs' Exhibit Number 5 was
17 received into evidence.)

18 MR. SMITH: To Mr. Boeschstein, a copy to
19 some of the other people we have heard about.

20 Trip report, St. Louis, health aspects of
21 fiberglass.

1 At the request of the newly formed St. Louis
2 section of the American Industrial Hygiene
3 Association, the following Owens-Corning
4 representatives reached St. Louis Monday, May 19th,
5 prepared to discuss the health aspects of fiberglass
6 products: Mr. Ames, Mr. Rogers, Mr. Staelin.

7 On page 2, they are talking about Mr.
8 Ames.

9 He emphasized even though it was known to be
10 true that a silicosis hazard exists only where free
11 silica in infinitesimally fine particles is likely to
12 be breathed, good business sense told us that we
13 should anticipate questions about this versatile new
14 glass and determine whether in its fibrous form glass
15 might conceivably raise an unknown hazard.

16 Accordingly, he said, we enlisted the
17 services of the most eminent medical authority in the
18 field of lung disorders, Dr. Leroy U. Gardner,
19 director of the Saranac Laboratory, whose experiments
20 not only reassured us about the absence of any
21 silicosis hazard, but made it possible for us to go

1 ahead with an absolutely clear conscience as regards
2 the welfare of our own production employees and the
3 employees of manufacturers or contractors applying the
4 materials as well as regards to any possible liability
5 that might jeopardize our business.

6 Mr. Ames also pointed out that our own group
7 insurance rates are less and that we enjoy an
8 industrial compensation rate (95 cents per \$100 of the
9 payroll for wool workers and 66 cents for textile
10 workers) as compared with a dollar for asbestos
11 manufacturers, \$1.10 for magnesia manufacturers, and
12 \$1.60 for clay products manufacturers.

13 He said that Aetna had found that Alton
14 employees of Owens-Illinois to be excellent risks and
15 that Aetna does not consider glass manufacturers
16 employees to be subject to hazards and they don't
17 require special rates as for asbestos.

18 The next document, Your Honor, is a draft
19 of the fiberglass pamphlet by Owens-Corning, and it is
20 our exhibit Owens-Corning 601 dated 6-12-41.

21 THE COURT: It will be admitted in

1 evidence.

2 (Whereupon, Plaintiffs' Exhibit Number 601
3 was received into evidence.)

4 MR. SMITH: Thank you.

5 Draft of introduction for mailing piece on
6 health aspects of fiberglass. Fiberglass is a new
7 basic material. This is 1941.

8 When a new basic material is offered to
9 industry, it is right and proper that workmen,
10 personnel directors, safety engineers, plant
11 physicians, insurance underwriters, and
12 representatives of governmental agency devoted to
13 protecting the welfare of workers would ask, does the
14 manufacture and use of this material introduce new
15 unknown or uncontrollable health hazards?

16 Thus sound business reasons dictated years
17 ago, long before Owens-Corning Fiberglas was forced to
18 manufacture and sell glass in fibrous or filament
19 form, that careful, scientific investigations be
20 carried out by impartial research experts to determine
21 whether fiberglass introduced any hazards not known.

1 The corporation's attitude in undertaking
2 these investigations is expressed in the words of its
3 president: "If there is any unknown or uncontrollable
4 industrial hazard --" I apologize.

5 The president said, "If there is any unknown
6 or uncontrollable industrial hazard in the manufacture
7 or application of this material, we want no part of
8 it."

9 Again, referring to Dr. Gardner's report.
10 And I will skip over some of this.

11 Dr. Gardner wrote, investigation of over 20
12 different types of dusts is indicated, no reaction
13 occurs in organs other than the lungs. It will not
14 occur in the respiratory tract and that conversely
15 dust like silica and asbestos that are known to
16 produce fibrosis of the lungs also cause fibrosis in
17 other tissues when injected in sufficient quantities.

18 This is our Owens-Illinois and Owens-Corning
19 Exhibit Number 9.

20 THE COURT: Which is?

21 MR. SMITH: September 8, 1941.

1 THE COURT: It will be admitted.

2 (Whereupon, Plaintiffs' Exhibit Number 9 was
3 received into evidence.)

4 MR. SMITH: This is a short letter by Mr.
5 Staelin to Mr. Hazard.

6 Dear Mr. Hazard, Mr. Ames has asked me to
7 return the following pamphlets:

8 They are entitled, Effects of the Inhalation
9 of Asbestos Dust on the Lungs of Asbestos Workers,
10 and, a Study of Dust Control Methods in an Asbestos
11 Fabricating Plant.

12 The next document refers to these same two
13 publications again, and this is our Owens-Corning
14 Exhibit 312, Your Honor, September 8, 1941.

15 THE COURT: It will be admitted in
16 evidence.

17 (Whereupon, Plaintiffs' Exhibit Number 312
18 was received into evidence.)

19 MR. SMITH: This is the same legal and
20 patent department of Owens-Corning. This time writing
21 to the U.S. Government Printing Office asking for

1 copies of the same two articles.

2 Please furnish us with one copy of the
3 following pamphlets: a Study of Dust Control Methods
4 in an Asbestos Fabricating Plant, and, the Effects of
5 the Inhalation of Asbestos Dust on the Lungs of
6 Asbestos Workers. And we are enclosing 15 cents to
7 cover the costs.

8 MR. MCGOWAN: May I, Your Honor? Excuse
9 me. Can I just get some additional things?

10 THE COURT: Yes.

11 MR. MCGOWAN: Thank you, Your Honor.

12 Reprint number 1883 from the public health
13 reports, and under the next one, reprint, I think it
14 is 1865 from the public health reports.

15 Thank you.

16 MR. SMITH: Next is our Exhibit Number 11
17 that we are offering against both Owens-Illinois and
18 Owens-Corning. We discussed this document in the Ames
19 deposition.

20 THE COURT: It will be admitted in
21 evidence.

1 which can be microphotographed in the library of the
2 Surgeon General in Washington or some other medical
3 library.

4 Explore through Aetna the feasibility of
5 working out a plan whereby our products liability
6 coverage could be extended to all members of the
7 Asbestos Workers union wherever and whenever they are
8 handling fiberglass products.

9 If feasible, approach union leaders with
10 offer presenting the plan as follows: A demonstration
11 of Owens-Corning's willingness to work.

12 With the AFL union labor.

13 A means of extending to union members on
14 construction jobs the same kind of insurance
15 protection and industrial hygiene precautions that are
16 available to workers in private industry.

17 If reaction is unfavorable, use the
18 asbestosis weapon in reserve to let them stew.

19 This procedure may provide an opportunity to
20 promote dissension in the ranks, conceivably to bring
21 about overthrow of the present union leadership.

1 If the reaction is unfavorable, the way is
2 opened to spread word among the locals about the
3 refusal of the union officials to make this protection
4 available to the members and to play all of the stops
5 on asbestosis.

6 Implied is the threat to distribute to all
7 members of the union copies of the U.S. Public Health
8 Bulletin 241 on asbestosis.

9 This is signed by ECA, Edward Ames, as we
10 heard in the deposition.

11 Document Number 60 is offered against Owens-
12 Corning. This is the State of Washington general
13 safety standards. Again, it has their Bates stamp
14 number on the bottom.

15 THE COURT: It will be admitted into
16 evidence.

17 (Whereupon, Plaintiffs' Exhibit Number 60
18 was received into evidence.)

19 MR. SMITH: I don't need to read this other
20 than to say this document is pursuant to hearings in
21 1943.

1 The one portion we wanted to show you was,
2 jobs requiring respiratory protective equipment.

3 Number one, dust. Asbestos (as in covering pipes).

4 This is Number 608, and this is a magazine
5 article offered against Owens-Corning dated April
6 1944.

7 THE COURT: It will be admitted into
8 evidence.

9 (Whereupon, Plaintiffs' Exhibit Number 608
10 was received into evidence.)

11 MR. SMITH: The number, OCF number.

12 Safeguarding workers exposed to respiratory
13 hazards resulting from contact with fumes, dusts,
14 vapors, gases, and mists ranks among the important
15 safety measures on new construction jobs in
16 shipyards.

17 The use of water repellent asbestos
18 insulation has recently replaced some types of
19 material formerly used in ship work.

20 For protection against dust or possible
21 asbestosis, it is recommended that such materials be

1 dampened whenever possible and that dust respirators
2 be worn in addition to the provision of special
3 ventilation. Periodic medical examination of those
4 exposed is also necessary.

5 The next is another magazine article, 1090.
6 This is offered against Owens-Corning, June 1944
7 Heating and Ventilating magazine.

8 THE COURT: It will be admitted in
9 evidence.

10 (Whereupon, Plaintiffs' Exhibit Number 1090
11 was received into evidence.)

12 MR. SMITH: Owens-Corning advertised in
13 this magazine. It is down here, Owens-Corning ad
14 about filters.

15 There was an article on dust in this
16 magazine, and I would like to read a short portion to
17 you.

18 The portion entitled asbestosis.

19 Asbestos dust is second only to free silica
20 in the magnitude of health hazard which it
21 represents.

1 The lung condition resulting from the
2 inhalation of this dust is known as asbestosis and
3 resembles silicosis in its main clinical aspects, but
4 differs due to the enhanced rate of development.

5 Under average industrial conditions, the
6 length of employment in fatal cases is only about
7 one-half that which is usual in silicosis.

8 It is estimated that there are in the United
9 States approximately 10,000 men exposed to the hazard
10 as a result of work in the insulating asbestos cloth
11 and similar industries.

12 The danger of contracting the disease is not
13 influenced by age or sex. Like silicosis, it is
14 incurable and progressive.

15 The cases -- strike that.

16 No minimum safe concentrations have yet been
17 set up.

18 What time are we breaking, Your Honor, at
19 quarter after?

20 THE COURT: Yes.

21 MR. SMITH: This, Your Honor, is our Exhibit

1 22 against OCF.

2 THE COURT: The date, please.

3 MR. SMITH: November 22, also, 1944.

4 THE COURT: It will be admitted into
5 evidence.

6 (Whereupon, Plaintiffs' Exhibit Number 22
7 was received into evidence.)

8 MR. SMITH: This is a letter written by Mr.
9 Ames to Dr. Canfield.

10 Recently we were informed by the Industrial
11 Insulation Company in Toledo that a member of the
12 insulating crew employed by that company had left his
13 trade because of bad health and had sought employment
14 elsewhere. The man is Albert Baumgardner of Holland,
15 Ohio.

16 We understand he was a patient of yours and
17 for that reason we think you may be interested in a
18 further report that has reached us about this case.

19 The report may be entirely hearsay, but we
20 were told that there were statements made that Mr.
21 Baumgardner believed his physical condition was due to

1 his having handled fiberglass insulation on several
2 jobs prior to his leaving the trade.

3 Next is a follow-up letter. It is our
4 Exhibit OCF 609. Dated November 21, 1944. This is
5 written to Mr. Ames who wrote the last letter. Public
6 relations manager at OCF.

7 Mr. Baumgardner has been a patient of mine
8 for many years. He is approximately 55 and during
9 most of his adult life he has been a pipecoverer
10 handling magnesia, asbestos, and mineral wool products
11 on industrial insulation jobs.

12 During August of '44, he was under my care
13 and hospitalized. He was suffering from asbestosis, a
14 condition that results from exposure to asbestos
15 dust.

16 The disease is a well-recognized form of
17 lung pathology that manifests itself in the diminution
18 of lung capacity resulting in dyspnea or shortness of
19 breath.

20 In my opinion, his lung condition was not
21 the result of exposure to fiberglass materials, which

1 he had been handling for a relatively short time
2 before he left his trade.

3 It has been explained, rather, by his
4 exposure to asbestos dust over a long period of many
5 years.

6 There is the OCF number on the bottom.

7 OCF 314 dated August 29, 1945.

8 THE COURT: Both 609 and 314 will be
9 admitted into evidence.

10 (Whereupon, Plaintiffs' Exhibit Numbers 314
11 and 609 were received into evidence.)

12 MR. SMITH: Your thorough report of August
13 21 about the meeting with the group at Todd Shipyard
14 is more interesting.

15 Skip to the next page.

16 THE COURT CLERK: What was the date?

17 MR. SMITH: August 29, 1945.

18 This is signed by Mr. Ames. Once the sand
19 is transformed into glass, talking about silica, the
20 silica changes into silicates and the silicosis hazard
21 disappears. It is an entirely different story with

1 asbestos.

2 The asbestos fiber is the only silicate that
3 has been determined by lung pathologists to involve a
4 lung hazard.

5 This is because the asbestos fiber is
6 crystalline in structure and microscopically it is
7 snake-like in appearance with many overlapping, almost
8 needle-like crystals. These crystals contain water of
9 hydration.

10 The asbestos fibers of certain particle size
11 and certain concentrations can penetrate into the
12 respiratory passages and cause havoc when they reach
13 the alveoli of the lungs.

14 Just a couple more, Your Honor, and then we
15 will break.

16 This is Owens-Corning Fiberglas -- our
17 Exhibit 1035, dated February 8, 1956.

18 THE COURT: It will be admitted into
19 evidence.

20 (Whereupon, Plaintiffs' Exhibit Number 1035
21 was received into evidence.)

1 MR. SMITH: Dr. Bishop was the Newark plant
2 doctor. Mr. Black was an attorney for Owens-Corning.

3 Enclosed is a copy of a letter received
4 today from Dr. Schepers of Saranac Laboratory. He was
5 the successor to Dr. Gardner at Saranac.

6 This is certainly not what I had in mind
7 when I asked Dr. Schepers to give us a letter
8 incorporating favorable statements based upon past
9 experiments with fiberglass in the laboratory.

10 I personally do not like the general tenor
11 of this letter. It certainly is nothing we can show
12 customers or a union.

13 Attached is a letter from Dr. Schepers which
14 is our Exhibit 324 against Owens-Corning. It is dated
15 February 6, 1956. It is to Mr. Burch.

16 Your Honor, we would offer this for
17 admission against Owens-Corning.

18 THE COURT: The number again is --

19 THE COURT CLERK: 324.

20 THE COURT: 324 will be admitted.

21 (Whereupon, Plaintiffs' Exhibit Number 324

1 was received into evidence.)

2 MR. SMITH: Thank you.

3 Director of personnel and industrial
4 relations. On occasion of their recent visit here to
5 inspect our progress on the pathogenicity of
6 fiberglass, Dr. Bishop and Mr. Black, same individuals
7 on the cover letter, mentioned to me that this
8 research project falls under your general
9 supervision.

10 This is what Dr. Schepers wrote to
11 Owens-Corning regarding the fiberglass experiments.

12 A fourth avenue yet to be explored more
13 satisfactorily would be a study on the capacity of the
14 fiberglass to induce lung cancer.

15 There is so much propaganda over this issue
16 of lung cancer today, that one cannot omit this study,
17 either to clear the product of all potential blame or
18 to discover in time whether it holds such a danger.

19 I suppose you already know that asbestos is
20 fairly well incriminated as a carcinogen.

21 If I could just find one more document or

1 should we break, Your Honor.

2 THE COURT: Go ahead and look for it. Find
3 a document.

4 MR. SMITH: This is our Exhibit Number 68
5 offered against Owens-Corning dated September 17,
6 1963.

7 THE COURT: It will be admitted into
8 evidence.

9 (Whereupon, Plaintiffs' Exhibit Number 68
10 was received into evidence.)

11 MR. SMITH: Health hazard of Kaylo versus
12 GPL-400 which we will find out is an asbestos-free
13 product.

14 I reviewed the general problem of the dust
15 hazard of insulations and their effect upon humans.

16 Asbestos as found in Kaylo when breathed
17 into the lungs causes asbestosis which often leads to
18 lung cancer.

19 Johns-Manville denies this is true. I have
20 reprints of medical articles on the subject and one
21 describes case history and autopsy of an insulator who

1 died of lung cancer.

2 Down on the bottom.

3 All insulations are dusty, and insulators
4 seldom complain except when the dust is particularly
5 irritating to them.

6 Based on presently available data, GPL-400
7 is not as detrimental to the health as is Kaylo. It
8 might be advisable for Bob Davis to something a
9 fabrication dust comparison between Kaylo and GPL-400
10 using the method of Union Carbide.

11 This should be helpful to have before we go
12 to the GPL-400 production.

13 That is it, Your Honor.

14 THE COURT CLERK: What was the number of
15 that one again, please.

16 MR. SMITH: OCF-68.

17 THE COURT: 68.

18 MR. MCGOWAN: May I read where counsel left
19 off?

20 THE COURT: Go right ahead, please.

21 MR. MCGOWAN: Johns-Manville denies this is

1 true. I have reprints of three medical articles on
2 the subject.

3 One article describes the case history and
4 autopsy of an insulator who died of lung cancer. (He
5 also smoked three packs of cigarettes a day.)

6 That is all I have.

7 MR. SMITH: Thank you, Your Honor.

8 (Whereupon, the documents were removed from
9 the screen of the overhead projector.)

10 THE COURT: Thank you.

11 Ladies and gentlemen, we will take our
12 recess for the day now.

13 Please do not discuss the matter with
14 anyone. Don't discuss them among yourselves, and
15 don't let anyone attempt to discuss it with you.

16 Return tomorrow morning at 9 o'clock to get
17 paid. Remember, my name doesn't mean anything.

18 At least you got paid, didn't you? You
19 didn't wait in line, did you?

20 THE FOREPERSON: No.

21 THE COURT: Okay. Report back at 9:20,

1 between 9:15 and 9:20, and we will start promptly at
2 9:30.

3 Have a good evening, everyone.

4 (Whereupon, jury dismissed -- 4:20 p.m.)

5 THE COURT: All right. Counsel, if you
6 would be kind enough to be in your seats at 9:25, we
7 will resume at 9:30 tomorrow morning.

8 Have a good evening, everyone.

9 (Thereupon, at 4:21 p.m., the proceeding
10 was adjourned.)
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1 State of Maryland

2 City of Baltimore

3 I, Bonnie L. Gahagan, a Notary Public of the
4 State of Maryland, City of Baltimore, do hereby
5 certify that the above-captioned case took place
6 before me at the time and place herein set out.

7 I further certify that the proceeding was
8 recorded stenographically by me and this transcript is
9 a true record of the proceedings.

10 I further certify that I am not of counsel
11 to any of the parties, nor an employee of counsel, nor
12 related to any of the parties, nor in any way
13 interested in the outcome of the action.

14 As witness my hand and seal this 23rd day of
15 May, 1996.

16

17 Bonnie L. Gahagan

18 My Commission Expires 10-01-96

19

20

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