

COPY

1 IN THE COURT OF COMMON PLEAS OF
2 WASHINGTON COUNTY, PENNSYLVANIA

3
4 ESTATE OF BOYD CUTRIGHT,

5 Plaintiffs,

6 -against-

7 A-BEST PRODUCTS COMPANY, ET AL.,

8 Defendants.
9

10 VIDEOTAPE DEPOSITION of the Defendant,
11 FRICTION MATERIALS STANDARDS INSTITUTE, taken by
12 and through its representative, EDWARD W. DRISLANE,
13 held at the Marriott Hotel, 189 Wolf Road, Albany,
14 New York, on Wednesday, December 4, 2002,
15 commencing at 9:27 a.m.; before Peggy Alexy,
16 Shorthand Reporter and Notary Public in and for the
17 State of New York.
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21
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23
24

SCF-ALLF-10900

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MR. PIAZZA: My name is Thomas Piazza. I reside in Albany, New York. I am a video specialist from Maggard Associates, whose principal place of business is Albany, New York. I will be the operator of the audio video equipment for the continuation of the testimony of Edward W. Drislane being videotaped at 189 Wolf Road, Albany, New York. The caption of the case is in the Court of Common Pleas of Washington County Pennsylvania, the Estate of Boyd Cutright, Plaintiffs versus Abex Products Company, et al, Defendants. This videotape is being taken on behalf of the plaintiff. The date is December 4th, and the time now approximately 9:20. Counsel will now introduce themselves, please.

MR. DeLUCA: Good morning. My name is Aaron DeLuca. I represent the family of Boyd Cutright.

MR. HARKINS: My name is Kevin Harkins. I represent Friction Materials Standards Institute.

09:29:07:04

MR. KRAUSE: My name is Robert Krause, I represent Ford General Motors and Chrysler.

09:29:08:16

09:29:10:27

09:29:12:04

MS. BOYD: My name is Christine Boyd, I also represent General Motors.

09:29:14:00

09:29:15:18

MR. LEIBECK: My name is Jeff Leibeck, I represent N. V. Auto Parts and Potomac Creek Auto Supply.

09:29:17:06

09:29:20:13

09:29:21:21

MS. GRADY: My name is Michelle Grady, I represent Honeywell International Incorporated.

09:29:21:21

09:29:23:21

09:29:26:07

MR. McGEARY: My name is Hunter McGeary, I represent Bong-Warner Corporation and Flintkote.

09:29:27:07

09:29:29:27

09:29:32:13

MR. PIAZZA: The court reporter will now introduce herself and swear in the witness, please.

09:29:33:15

09:29:35:27

09:29:36:01

THE REPORTER: My name is Peggy Alexy. I'm here for Alliance Court Reporting. Mr. Drislane, would you raise your right hand.

09:29:36:01

09:29:36:01

09:29:36:01

09:29:43:18

09:29:43:18

Edward W. Drislane,
having been called as a witness by and on behalf
of the Plaintiff, and having been first

09:29:43:25

09:29:43:25 duly sworn, was examined and testified as follows:

09:29:51:06 BY MR. DeLUCA:

09:29:51:21 Q Good morning, Mr. Drislane.

09:29:53:18 A Good morning.

09:29:54:10 Q How are you today?

09:29:55:27 A Fine.

09:29:55:27 Q Before we begin, I want to mark as
09:29:59:00 Exhibit 19 a Notice of Continued Deposition, which
09:30:02:16 was filed in regard to this matter. May I begin
09:30:09:00 by asking you, sir, whether you have had a chance
09:30:12:19 to review the testimony that you gave in October?

09:30:15:15 A No.

09:30:18:13 Q Is there anything as you sit here right
09:30:20:27 now that you want to take back that you told me or
09:30:24:10 change in any way?

09:30:25:06 A Not that I know of.

09:30:27:24 Q Okay. Fair enough. I want to talk to
09:30:32:03 you about a handful of issues today, and I don't
09:30:34:22 think we are going to go more than three or four
09:30:38:03 hours. The first one I want to talk to you about
09:30:41:27 relates to money. Would you agree with me,
09:30:47:24 Mr. Drislane, in the 1970s and in the 1980s, one
09:30:54:12 of the major reasons friction companies didn't
09:30:58:09 move towards non-asbestos products was the cost

09:31:01:24 involved?

09:31:03:01 A I don't know.

09:31:03:21 Q As with your last deposition I have a lot
09:31:13:28 of documents that I have gone through, and I want
09:31:16:06 to ask you about some of them. And I have them
09:31:19:18 here on the screen, and I am also going to hand
09:31:22:28 you a hard copy in most instances, and you can
09:31:25:25 feel free to review them as necessary, all right?

09:31:28:07 A Yes.

09:31:28:13 Q And let me tell you from the outset that
09:31:31:07 it is not my goal or strategy to try to trick you.
09:31:35:28 I'm not here to test your memory, but I want
09:31:39:15 to know what you recall and what you don't, and to
09:31:42:21 the extent you don't recall something, perhaps the
09:31:46:00 documents will refresh your recollection, okay?

09:31:49:12 A Okay.

09:31:49:12 Q The first document I want to show you was
09:31:52:22 marked as Exhibit 18 to your first deposition, and
09:31:58:25 I have it here on the screen, and it was the
09:32:01:07 minutes of the meeting of the Asbestos Study
09:32:03:15 Committee from August 17th, 1972, all right?

09:32:10:19 A All right.

09:32:11:12 Q And I want to show you a section on page
09:32:17:24 5 of that document that's titled "Consideration of

09:32:23:01 Substitutes for Asbestos." Do you see that, sir?

09:32:36:27 A Not very well.

09:32:38:18 Q Okay. Well, that's about as good as I
09:32:42:24 can get on that screen right now.

09:32:44:19 A I can see twelve or so lines up there and
09:32:48:28 I see some words, but if I am going to read it, I
09:32:52:00 am going to have to get up right next to it.

09:32:54:12 Q Why didn't I read it to you, perhaps that
09:32:56:03 will help. It says, "At the annual meeting in
09:32:58:07 June this committee was directed to consider a
09:33:01:10 recommendation that the Institute sponsor a
09:33:04:03 research study to determine the possibilities of
09:33:07:09 substitutes for asbestos." Do you recall such a
09:33:10:00 recommendation being made?

09:33:10:21 A I don't recall these things, but if it is
09:33:16:27 in these particular minutes, it must have
09:33:19:18 happened.

09:33:19:18 Q Do you know whether a research study was
09:33:22:18 ever made by the Friction Materials Standards
09:33:24:27 Institute as to whether there were acceptable
09:33:27:24 substitutes for asbestos?

09:33:28:24 A No. This is -- this is one, probably one
09:33:39:01 of my less contributing members trying to get the
09:33:46:09 other members to do his research for him. So I --

09:33:53:27 all these things come up in meetings. Each guy
09:33:57:13 goes and says, "I want this, I want that, I want
09:34:00:24 something." I try to go and put the thing in to
09:34:03:01 some kind of what did they say. So this is one
09:34:07:10 guy wanted it. We have no -- we had no research
09:34:10:18 facilities to go and do it with. This is like
09:34:15:00 what I refer to a committee, okay? This is
09:34:17:22 referred to the committee.

09:34:18:12 Q The Asbestos Study Committee?

09:34:20:18 A Yes.

09:34:20:18 Q And that was composed of individuals who
09:34:24:21 were members of the Institute?

09:34:26:22 A That is correct.

09:34:29:21 Q Okay. Do you recall any discussion as to
09:34:33:27 whether or not the members expressed a desire to
09:34:38:03 not do such research?

09:34:40:27 A I am sure some of them did, because
09:34:44:01 people were doing their own research. There
09:34:46:13 really was no joint research by the FMSI. Abex
09:34:53:07 would do their research. Bendix would do theirs.
09:35:02:03 GM would do theirs. Raybestos would do theirs,
09:35:02:03 and whatnot. But nobody was going to go and tell
09:35:02:21 the other guy how to make the competitor's brake
09:35:05:15 lining. This here was some by some person, one

09:35:09:13 person or two people saying, "Somebody do my
09:35:12:27 research for me."

09:35:13:27 Q So if I understand what you are saying
09:35:15:28 during this time frame, the various companies who
09:35:22:06 make brakes and clutches were doing their own
09:35:25:18 research, but they weren't sharing their findings
09:35:27:24 with each other?

09:35:28:16 A No.

09:35:28:22 Q I am correct about that?

09:35:30:03 A Generally, yes.

09:35:30:21 Q And the reason for that was because they
09:35:33:09 didn't want to give their competitors an edge;
09:35:36:10 correct?

09:35:36:16 A Well, that's the private enterprise
09:35:41:15 system. They are outgoing to develop their own
09:35:44:15 products, yes. I say that's the private
09:35:46:16 enterprise system. Why should I if I developed
09:35:50:00 some kind of a brake lining, go and give it to my
09:35:52:19 competitor?

09:35:53:16 Q And the argument goes that if company X
09:35:59:27 develops a non-asbestos brake lining, they will be
09:36:02:15 able to capture that market share?

09:36:05:24 A I don't know whether -- they will try to
09:36:08:24 capture that market share. I don't know that they

09:36:10:22 will be able to. I'm not that smart. This thing
09:36:16:15 here, as I said, the idea of research, we had no
09:36:21:09 research facilities. Anything was done was done
09:36:24:03 by the individual members.

09:36:25:06 Q The FMSI acted as a clearinghouse of
09:36:30:12 information though, didn't it?

09:36:31:24 A Didn't clear this kind of information.
09:36:34:09 We cleared information on product dimensions.
09:36:39:13 These were the so-called data books which go and
09:36:43:04 tell you what size went on the 1982 Camaro, or
09:36:47:06 what size went on a '77 Barracuda, or something
09:36:49:21 like that, give you gel patterns and something
09:36:52:16 like that. That's the only so-called joint
09:36:54:27 research. That kind of information got fed in and
09:36:58:12 we assembled these books from it. But nothing
09:37:01:07 about product material or product performance.

09:37:03:15 Q The FMSI collected information on more
09:37:06:18 than just product dimensions and the data about
09:37:09:27 those products though, didn't it?

09:37:11:28 A Give me an illustration, please.

09:37:14:24 Q The FMSI collected information about the
09:37:17:27 hazards of asbestos?

09:37:19:16 A No, I don't -- we -- we funneled to our
09:37:24:10 members information that either came from OSHA or

09:37:28:09 came from some kind of an EPA or came from some
09:37:31:27 kind of a meeting or a symposium. We would try to
09:37:35:19 send the information down to our members if it
09:37:39:07 affected them, but we did no research on the
09:37:42:24 thing.

09:37:42:24 Q The FMSI collected and disseminated
09:37:46:15 information about the level of exposure out in the
09:37:49:16 field, didn't it?

09:37:51:18 A Yes, I guess we did a few times.

09:37:52:24 Q And the FMSI collected information about
09:37:56:24 whether or not its members were warning of the
09:37:59:12 hazards of asbestos in compliance with OSHA?

09:38:01:22 A We did that on one condition, yeah, we
09:38:04:07 did that one time, one time that I know of. I
09:38:06:15 can't remember doing it more than once.

09:38:08:04 Q As Plaintiff's Exhibit 20, and this will
09:38:17:03 be one of about three documents that I don't have
09:38:19:18 with me, but I will print off during our lunch
09:38:23:10 break, I'm going to mark the October 24th, 1975
09:38:27:03 minutes of the meeting of the Asbestos Study
09:38:29:21 Committee, and I'm going to cite you to the third
09:38:37:10 page.

09:38:43:03 A And what does it say?

09:38:45:09 Q Specifically the section that says that

09:38:48:01 one of the fills, one of the problems in the field
09:38:51:15 is that customers will often groove, chamfer or
09:38:55:24 provide extra drilling. It is during these
09:38:59:01 subsequent operations that asbestos concentrations
09:39:02:21 may be raised to levels above that allowable. Do
09:39:05:18 you recall confronting that issue in 1975 or at
09:39:08:15 least in the mid-'70s?

09:39:10:01 A Well, this, these were the conditions
09:39:14:24 under which brake lining concentrations could
09:39:18:10 produce concentrations of asbestos above the
09:39:21:21 allowable levels. Whatever it says there is what
09:39:25:15 it was.

09:39:25:27 Q Okay. Do you recall what the allowable
09:39:28:03 level was at that time?

09:39:28:24 A Oh, no. But it started off about two
09:39:35:12 fibers per cc, and five fibers per cc, and ten,
09:39:40:00 twelve fibers per cc, and at different times there
09:39:43:27 were different levels. You have to go through
09:39:46:18 OSHA. OSHA came down, OSHA would set the first
09:39:49:13 one, and I don't know, we would inform our members
09:39:53:04 what the level was at that time. Then two years
09:39:55:12 later they might drop the level to five fibers per
09:39:59:10 cc, and then they might drop it further. But as
09:40:02:03 they progressed along, we forwarded the

09:40:04:24 information to our members.

09:40:06:22 Q On page 5 of that, sir, it talks about a
09:40:12:06 .5 fiber per cc level, and I think perhaps at that
09:40:16:19 time that was a -- at least a level that was being
09:40:19:27 kicked around as a possible future downward
09:40:24:18 revision, do you remember that?

09:40:25:01 A I believe that is so, yeah.

09:40:27:16 Q And the FMSI through its members and
09:40:31:03 through the Asbestos Study Committee attempted to
09:40:34:03 determine the feasibility of meeting that
09:40:35:27 standard; did it not?

09:40:36:27 A The FMSI, again, had no research
09:40:42:18 facility, had no ability to go and check these
09:40:44:18 fibers. Individual members may have checked it,
09:40:47:18 that's the best that I can say.

09:40:49:07 Q Do you recall as this document says,
09:40:53:21 Mr. Drislane, that the FMSI and its members
09:41:01:21 thought that in order to possibly comply with the
09:41:07:06 .5 fiber per cc limit that they may have to use
09:41:10:24 materials that would cost ten times as much as
09:41:15:07 asbestos?

09:41:15:07 MR. HARKINS: I object to the form
09:41:16:09 of the question because that is not what
09:41:26:06 the document says.

09:41:26:06 MR. DeLUCA: Well let's look at what
09:41:26:06 the document says.

09:41:26:07 BY MR. DeLUCA:

09:41:26:06 Q The friction materials industry does not
09:41:26:06 know whether the .5 fiber per cc limit can be
09:41:28:16 reached, perhaps it will be necessary to go to the
09:41:31:07 materials with the material costs ten times that
09:41:34:12 of asbestos in order to get the workplace down to
09:41:36:24 the proposed level. Do you remember that,
09:41:38:06 Mr. Drislane?

09:41:39:06 A No.

09:41:39:28 Q Do you know what study or studies were
09:41:45:15 referenced in coming up with that ten times
09:41:52:09 multiplier?

09:41:52:21 A I don't recall what we are talking about
09:41:55:09 so I don't recall what you are asking about now.

09:41:57:12 Q Do you recall back in that time frame
09:42:00:27 that substitutes were much more expensive than
09:42:05:27 asbestos?

09:42:05:27 A No. I didn't know anything about the
09:42:12:09 substitutes. Now if you are talking sintered
09:42:16:06 metal brake linings and all that stuff, there was
09:42:18:09 a performance problem there. These other
09:42:20:10 materials were some kind of fiber that they were

09:42:23:01 going to use to replace asbestos. I know nothing
09:42:26:19 about them. These were people guarded these
09:42:29:07 things as a secret. They didn't tell me what it
09:42:32:04 was. They weren't going to go and tell other
09:42:35:04 people. I don't know.

09:42:35:18 Q Sir, just for the record, I think we
09:42:38:19 talked about this last time, you recorded these
09:42:42:13 minutes; did you not?

09:42:43:06 A Yes, I did.

09:42:44:09 Q So what we are looking at is your work
09:42:48:03 product?

09:42:48:12 A That's correct.

09:42:48:15 Q And you were at the meeting when these
09:42:51:12 things were being discussed and you recorded it
09:42:54:09 diligently and accurately?

09:42:56:09 A As best I could, yeah.

09:42:57:15 Q In addition to the cost of the raw
09:43:00:24 materials, Mr. Drislane, do you recall any
09:43:04:01 discussions about the cost of providing clean
09:43:08:00 rooms?

09:43:09:27 A I have no idea what the cost of clean
09:43:12:12 rooms, no.

09:43:12:27 Q I am not necessarily asking you about the
09:43:16:06 specific cost, but did you understand that that

09:43:17:27 would be an additional cost in attempting to
09:43:21:10 comply with the new proposed regulations?

09:43:23:12 A You are trying to condense into five
09:43:26:18 minutes or something some things that happened
09:43:28:27 over ten years time. I can't give you a specific
09:43:31:22 answer. We start off with the thing, the clean
09:43:34:07 rooms didn't come in there until about halfway
09:43:37:28 down when OSHA started going in the eyes of
09:43:40:18 getting a clean room. Excuse me.

09:43:43:18 Q Certainly.

09:43:46:27 A Those were all things that were happening
09:43:49:24 during the hearings that OSHA had and whatnot. I
09:43:54:06 know nothing about them. I reported. Somebody
09:43:55:21 would say something about the clean rooms or
09:43:57:27 something like that we would all be discussing. I
09:44:02:09 tried to put a word on the paper saying these
09:44:05:13 things here. Well I don't see anything there.
09:44:09:06 The 0.5 fibers came at the very end, came down.
09:44:14:24 At the very end they came to nothing, no fibers at
09:44:17:24 all. I don't understand. I reported as best I
09:44:23:24 can. That's what I have, okay? You are stuck
09:44:28:01 with it.

09:44:28:10 Q Perhaps you could help me understand this
09:44:32:15 last sentence here. "Without knowing figures

09:44:35:06 perhaps costs were more than double with poorer
09:44:39:21 performance at a time when the National Highway
09:44:42:07 Traffic Safety Administration is calling for even
09:44:45:06 higher performance."

09:44:46:09 A Yes.

09:44:46:09 Q What did that mean?

09:44:47:18 A Our industry is not controlled just from
09:44:52:12 the occupational safety area. The brakes are a
09:44:55:16 safety feature on the car, you might understand.
09:44:57:03 People have to push on brakes to go and stop or
09:45:00:18 slow or control their car. You get different
09:45:03:03 materials in there that you have no background on,
09:45:05:10 get fiberglass or something else. You have no
09:45:09:04 idea whether it's going to stand up to fade
09:45:12:06 resistance. Fade resistance is the ability to
09:45:15:24 maintain your friction as temperatures start
09:45:18:00 washing out the brakes. At high temperatures,
09:45:20:07 brakes usually go down, lose friction. They also
09:45:24:15 wear out quickly, some of them do. So National
09:45:27:00 Highway Traffic Safety Administration at the same
09:45:28:21 time this is going on that OSHA and EPA is asking
09:45:32:15 us to go is asking the brake industry to go and
09:45:36:06 give them better hydraulic brake systems and
09:45:39:18 better air brake systems, and they are pushing,

09:45:42:07 they are pushing the limit as far as you can go
09:45:46:16 and get these things. Now they are going to take
09:45:49:21 these materials that use, asbestos, out of the
09:45:51:07 product, how do you do it? Poor performance at a
09:45:56:01 time when the National Traffic Safety
09:45:58:06 Administration is calling for even higher
09:45:59:24 performance. They are calling for higher
09:46:01:22 performance in dot 105 dot 121.

09:46:04:27 Q And in order to meet that proposed
09:46:07:10 asbestos standard, not only were there increased
09:46:10:03 material costs for these fibers that you talk
09:46:12:06 about, like Kevlar or fiberglass or ceramic
09:46:16:12 fibers, but there were costs associated, increased
09:46:20:28 costs associated with the manufacturing process;
09:46:23:07 correct?

09:46:26:07 A Yes, most likely.

09:46:37:03 Q On page 7 it says, "While some of the
09:46:40:03 procedures recommended for handling asbestos and
09:46:43:19 removing the worker from contact with the product
09:46:47:10 may show labor saving results, the actual level of
09:46:51:19 exposure to the remaining workmen from these
09:46:55:15 changes still will be quite high." And correct me
09:46:58:00 if I am wrong, but despite these increased costs
09:47:01:15 for materials and despite the increased cost in

09:47:03:24 the manufacturing setting, it was known in 1975
09:47:08:24 that people would still be exposed to asbestos;
09:47:12:12 correct?

09:47:12:21 A I am having a little trouble with the
09:47:16:03 sentence. That being such as rather than handling
09:47:24:25 asbestos coming into the factory, they take the
09:47:27:16 asbestos and go directly to the -- rather than
09:47:30:25 putting it into a warehouse and mixing up the bag
09:47:34:27 and tossing the bag in, you are going to have
09:47:37:27 these bags go directly into the manufacturing
09:47:40:21 process, which would cut down, which would cut
09:47:42:28 down on asbestos exposure, which it would. So
09:47:52:06 there was some pluses. Everything isn't negative
09:47:52:06 in this world. The remaining work -- what does
09:47:54:09 that say? The actual level of exposure to the --

09:47:57:00 Q The remaining workmen from these changes
09:47:59:21 still will be quite high.

09:48:01:12 A Well, that's a -- from the ones who don't
09:48:06:06 get all those improved techniques, it is still
09:48:10:25 going to the same as it was before. They are not
09:48:13:01 changed. That's what it means. It means what it
09:48:15:18 says.

09:48:15:22 Q And another cost involved the wages the
09:48:33:03 companies had to pay their employees to be working

09:48:37:21 around asbestos and particularly if they had to
09:48:40:03 reassign them to other jobs as a result of their
09:48:43:06 cumulative exposure; correct?

09:48:44:22 A I know nothing about this.

09:48:47:21 Q Okay. It says that there are
09:48:50:09 requirements in the proposed standard for worker
09:48:53:13 reassignment if many employees are moved to lesser
09:48:56:00 and lesser duties maintaining the same premium pay
09:48:59:07 that they had received for working with asbestos
09:49:02:12 products, there will be a negative productivity
09:49:05:12 result. Do you remember that discussion?

09:49:06:04 A Not really. Some these members are from
09:49:09:25 a bunch of competing firms, and they -- one guy
09:49:14:03 could have mentioned this thing here, so I figured
09:49:16:10 he was mentioning it so I try to put it into the
09:49:19:28 minutes, but I don't know what he is necessarily
09:49:22:10 talking about or specifically what is going on. I
09:49:24:22 happen to know other things but I did work for one
09:49:27:28 time for a brake lining manufacturer, but what
09:49:31:03 these people are talking about, I don't
09:49:33:24 necessarily know what they are talking about. I
09:49:36:15 am trying my best to report what they said.

09:49:38:19 Q As Exhibit 21 I am going to mark Bulletin
09:49:42:27 Number 551B regarding proposed amendments to the

09:49:47:15 OSHA standard dated October 30th, 1975. And let
09:49:53:09 me by way of background ask you, sir, in the
09:49:58:15 course and scope of your employment with the FMSI,
09:50:02:09 did you frequently send bulletins to your members?

09:50:05:15 A I did send bulletins to my members, yes.

09:50:08:03 Q And for what reasons generally would you
09:50:13:00 issue a bulletin as opposed to sending a letter to
09:50:16:12 a member?

09:50:16:24 A Well, a letter had to be some kind of a
09:50:28:18 thing that was directly to that particular person,
09:50:31:04 but the bulletin was of general interest to the
09:50:34:12 people who were involved with asbestos. That's my
09:50:39:21 criteria. I didn't have any rules here.

09:50:42:21 Q Did most of the bulletins pertain to
09:50:44:24 matters that would be of interest to all members
09:50:47:13 as opposed --

09:50:48:06 A Generally speaking.

09:50:49:15 Q Did most of them pertain to asbestos?

09:50:52:07 A Most of my bulletins, no. They referred
09:50:55:12 to automotive braking standards, B3 regulations,
09:50:59:09 Automotive Data Book, a new book was going to be
09:51:04:16 published. The bulletin would be put out anything
09:51:06:25 that was of general interest to the members. And
09:51:09:15 there were, I say, for every so-called asbestos

09:51:12:21 run, there might have been eight or nine others
09:51:15:01 that were sent out.

09:51:16:16 Q I would like to ask you about some of the
09:51:19:06 things you wrote in Bulletin 551B. I think that
09:51:23:28 you discussed costs that would be incurred in
09:51:28:09 complying with those proposed OSHA regulations,
09:51:31:01 and I think you went on to say that as regards the
09:51:34:28 cost to consumers and society in general, the
09:51:37:22 industry does not know what can be done if it is
09:51:40:13 necessary to remove asbestos from brake lining.
09:51:43:10 The industry could be subject to five to ten years
09:51:45:27 of serious dislocation. In addition to the
09:51:49:19 problem with the OSHA standards, it appear evident
09:51:52:27 cost cannot be quantified at this time. What did
09:51:56:15 you mean by five to ten years of serious
09:51:59:18 dislocation?

09:52:01:01 A If people had to get along, I'm not
09:52:04:04 talking just the large manufacturers, but the
09:52:06:25 small manufacturers too, all the manufacturers,
09:52:09:09 had to give up their main ingredient, which was
09:52:12:25 asbestos in the friction materials, they are going
09:52:15:03 to have one hell of a job trying to get
09:52:17:19 substitutes for it. So it is going to be five
09:52:20:16 years. And I would imagine history looking back

09:52:23:18 it took more than five years for them to get
09:52:26:27 straightened out to get into the new materials. I
09:52:29:25 think what they have done is they have gotten rid
09:52:32:13 of some -- gotten rid of the asbestos. I think
09:52:35:03 asbestos is still in the products when I was in
09:52:37:21 the industry. They did that, number one, by the
09:52:42:03 semi-metallic brake disk pads. They went to a
09:52:46:00 different design on the brake pads. That changed
09:52:48:01 a lot of things, a lot of tooling involved in
09:52:51:21 getting over to disk pads. Also, the drum brakes
09:52:54:18 stayed some kind of -- for a while, they stayed
09:52:58:06 with some kind of and organic or subasbestos
09:53:02:00 substitute. They had to tool these things. They
09:53:03:19 had to make sure that they were -- let's say there
09:53:07:10 was some problem with fiberglass. I don't know.
09:53:10:24 You want to breathe fiberglass for a while. I
09:53:14:00 mean, maybe there is a problem there. All those
09:53:16:18 things had to be hatched out before you could go
09:53:19:10 and say we have got our new, our new production in
09:53:23:21 place. Does not know what could be done or remove
09:53:28:06 asbestos from brake linings because of all the
09:53:30:19 problems of getting new products developed. There
09:53:33:09 was a lot of money and a lot of cost going into
09:53:36:09 that, a lot of time.

09:53:37:12 Q Was there a concern that because of the
09:53:44:06 increased costs in producing asbestos brake
09:53:48:27 linings in the United States that they would come
09:53:59:07 in from other places, like Canada or Mexico or
09:53:59:07 Latin America?

09:53:59:07 A I don't know.

09:53:59:07 Q When you wrote that the Latin American
09:54:01:19 countries have no limits as regards the effect on
09:54:04:21 employment and competition, the huge capital
09:54:07:22 expenditures required for the U.S. plants may very
09:54:10:24 well export additional jobs. Did that relate to
09:54:13:25 the cost of complying with the law here in the
09:54:16:07 United States?

09:54:16:15 A I don't know. That's what somebody said
09:54:18:09 probably at the meeting. I didn't create that. I
09:54:22:03 reported it.

09:54:22:27 Q And you remember that there were
09:54:25:10 recordkeeping requirements in that OSHA standard;
09:54:28:18 do you not?

09:54:30:00 A Yes, there were records, yes.

09:54:31:06 Q And that would be another cost of
09:54:33:19 complying with the standard that these companies
09:54:36:03 who were making asbestos products would have to
09:54:38:21 keep records on their employees for many years,

09:54:40:22 and they would have to monitor their health by
09:54:43:24 giving them periodic chest x-rays; right?

09:54:46:15 A What you are saying is right, and it's
09:54:50:04 probably the regulations and all that, but I
09:54:52:07 didn't create these things. I just reported on
09:54:54:28 things as I saw them.

09:54:55:28 Q Yeah, I understand, sir, that you didn't
09:54:59:24 create these things, but I want to ask you some
09:55:04:12 questions about your work with the FMSI because
09:55:07:00 this was a big part of your career and you have a
09:55:10:01 lot of information about it, okay? I am not
09:55:13:09 trying to give you a hard time, sir. Fair enough?

09:55:20:22 A It is your money. Keep going.

09:55:22:10 Q Do you remember discussion about the cost
09:55:27:06 involved in monitoring employees to see if they
09:55:29:28 were going to become sick?

09:55:31:15 A I wasn't involved in it. This here these
09:55:35:09 were the plant people at the various member
09:55:38:12 companies. I was having these people come in and
09:55:41:18 get together and trying to make up a report of
09:55:43:22 what was said. As far as knowing the details of
09:55:45:27 the kind of things you are asking questions about,
09:55:48:04 I don't know.

09:55:48:21 Q Exhibit 22, I'm going to mark a memo that

09:56:54:24 you authored dated October 31st, 1977 to the
09:56:58:18 Asbestos Study Committee, and the subject, as you
09:57:01:24 can see here, sir, is membership on the committee
09:57:05:15 and a question on the possibility of product
09:57:08:22 recalls by the Consumer Product Safety Commission,
09:57:09:24 okay?

09:57:12:28 A Yes.

09:57:12:28 Q Do you remember writing and discussing,
09:57:20:21 writing about and discussing the fact that the
09:57:24:18 Consumer Product Safety Commission might
09:57:27:16 potentially ban asbestos in friction materials?

09:57:30:04 A These are the people that are trying to
09:57:43:04 get the rest of the industry to do all their work.

09:57:46:18 Q Who are you speaking of?

09:57:48:21 A This concern was Mr. Comins' concern.

09:57:53:09 Q He was with Auto Friction Corporation?

09:57:56:06 A Auto Friction Corporation. He was
09:57:58:09 apparently trying to get all the rest of the
09:58:02:00 members to go and bail him out if he had some kind
09:58:05:03 of a problem. This here is a red herring. Drop
09:58:07:21 it. It has no meaning.

09:58:09:22 Q What's that, sir?

09:58:11:01 A The Consumer Product Safety Commission,
09:58:11:24 this is somebody talking at a meeting and saying

09:58:16:18 that they are liable to ban the stuff. I don't
09:58:19:28 think they ever gave any consideration to banning.
09:58:23:27 I have to put up with all different types of
09:58:26:27 members, screw balls as well as regulars.

09:58:30:00 Q Mr. Comins was concerned that if the
09:58:33:22 Consumer Product Safety Commission would ban
09:58:36:10 asbestos in brakes, then he would be stuck with
09:58:38:24 all of his inventory, do you remember that?

09:58:41:16 A No, I don't remember that. I guess I
09:58:44:24 never paid too much attention to things that he
09:58:46:28 said.

09:58:47:09 Q Do you think that that concern was his
09:58:50:00 alone, or do you think other members had the same
09:58:53:03 concerns?

09:58:53:10 A Let me read this. That is his. That is
09:59:14:01 his concern. Nobody else had that concern.

09:59:17:09 Q Nobody else was concerned that if, if
09:59:22:24 asbestos were banned in brakes, that they would
09:59:25:07 get --

09:59:25:22 A By the Consumer Product Safety
09:59:27:27 Commission.

09:59:27:27 Q Well what if it was a different agency
09:59:31:00 that banned asbestos in brakes, was that a
09:59:33:21 concern?

09:59:33:21 A I don't think anybody at that time had
09:59:37:01 thought of it.

09:59:37:15 Q Your memo suggested that his concern was
09:59:45:00 that if they are banned, then all asbestos
09:59:48:01 products in the field would be returned for full
09:59:50:15 credit?

09:59:50:15 A This is Mr. Comins' concern.

09:59:52:22 Q This came up in a number of meetings; did
10:00:08:00 it not?

10:00:08:09 A Mr. Comins was at the meeting, it might
10:00:13:01 of. I don't recall it happening otherwise but --

10:00:15:07 Q As 23, I'm going to mark Bulletin Number
10:00:19:25 618 dated February 13, 1978. And this was a
10:00:25:16 bulletin that you prepared, and it starts off by
10:00:27:24 saying that there were several items discussed at
10:00:31:18 a recent Asbestos Study Committee meeting which
10:00:34:21 may be of interest to the membership. And then
10:00:44:00 again it addresses the concerns expressed by
10:00:46:18 Mr. Comins. And this suggests that not only was
10:00:59:01 he concerned that a ban on asbestos brakes would
10:01:06:00 require the manufacturers to refund the cost of
10:01:09:06 those products that were in the stream of commerce
10:01:12:19 but they would also have to pay for transportation
10:01:15:09 and other expenses in affecting a recall, do you

10:01:21:01

remember that?

10:01:21:18

10:01:27:16

10:01:31:00

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10:02:36:21

10:02:48:19

10:02:51:21

10:02:58:22

10:03:01:19

10:03:06:24

A You have to put up with different people when you are running an association. I had to put up with the Comins'. So he was all worked up with this. I figured just to throw him a bone, I would send it out to the members his concerns. I was never concerned. I don't believe other people were concerned. But as long as Adrian or Stuart somebody called up and says you haven't done anything about the consumer product, I would always put words on pieces of paper, much to my dis -- I wish I hadn't. You are wasting your time with the Consumer Product Safety Commission, very frankly. OSHA and EPA are really problems. Consumer Product Safety Commission was not.

Q Let me -- this is another one where I will provide a hard copy at the break, but as 24, let me mark the minutes of the annual meeting of the FMSI dated June 28th and 29th, 1978. And at that annual meeting Mr. Comins again was concerned about this potential recall. And let me just ask you, Mr. Drislane, regardless of which agency of the federal government may have instituted a recall, there would have been costs that the

10:03:10:13 manufacturers would of had to bear in getting
10:03:13:00 those products back, do you agree with that?

10:03:20:04 A More or less trying to get me to agree
10:03:22:06 that there was a problem here with the Consumer
10:03:24:12 Product Safety Commission and a recall. There
10:03:27:27 never was. If OSHA and EPA or OSHA in particular
10:03:32:24 were talking about a recall, that would be
10:03:35:01 entirely different. I mean, you got to put
10:03:36:27 something that realistic. These are not little
10:03:40:24 tooth ferries. If tooth ferries come down and do
10:03:44:28 this, what are we going to do about our inventory?
10:03:45:21 It is ridiculous. Right away. Read the whole
10:03:48:04 thing. He noted there maybe federal funds
10:03:50:07 available. Stuart was always looking for somebody
10:03:52:28 else to do his work.

10:03:53:27 Q I sense that you don't think highly of
10:03:57:10 him?

10:04:01:12 A Yes, that's correct. I think you are
10:04:04:15 wasting your time, to be honest, on this part
10:04:07:03 here.

10:04:34:09 I don't know whether Adrian and Stuart where
10:04:36:27 they are. If they hear this testimony, they might
10:04:41:09 be upset.

10:04:44:12 MR. KRAUSE: Nah.

BY MR. DeLUCA:

Q As 25, let me mark a memo that you authored to the file dated July 17th, 1978. And it begins by saying that on June 30th, 1978, after returning from the Institute's annual membership meeting, I took the day off to recuperate. In the morning I received a phone call from the office concerning an inquiry from a Mr. Manny Lorenzo of the National Highway Traffic Safety Administration. And it says that Mr. Don Steis of Abex had referred him to the Institute. And it says Miss Collins of the office -- was that your assistant at the time?

A Yes.

Q Relayed?

A She was a stenographer.

Q -- relayed a question from Mr. Lorenzo to the effect as to what are the materials used to replace asbestos in brake linings. And your memo goes on to state that you told him that all material information and formulation data is proprietary. And that goes to what you told me earlier about people not wanting to share their research; correct?

10:06:00:21 A Can you point out what line you are on?

10:06:02:18 I can't follow you.

10:06:03:15 Q It's the first line.

10:06:04:21 A Okay. Go ahead. Yes.

10:06:08:09 Q Okay. And did you tell him that at the
10:06:10:15 time, and remember this is in 1978, there were two
10:06:14:25 basic materials being used to replace asbestos,
10:06:16:12 one was steel or steel wool, and the other was a
10:06:23:15 synthetic fiber, such as fiberglass?

10:06:25:24 A Uh-huh.

10:06:29:24 Q Did --

10:06:29:24 A That's what I thought were being used in
10:06:33:13 place. I was trying to give him an answer.

10:06:35:00 Q As it says here, sir, isn't it true that
10:06:37:15 those substitutes cost two to three times as much
10:06:41:00 as asbestos?

10:06:41:09 A I estimated the costs for the metal fiber
10:06:45:00 approach to be two to three times the asbestos
10:06:47:12 based on a ballpark thing. I have no idea. I was
10:06:50:27 working at FMSI at the time. I had no idea what
10:06:53:18 the material costs were that the members had to
10:06:56:18 pay for cuts.

10:06:57:24 Q You go on to say that fiberglass might be
10:07:01:12 100 percent more than asbestos?

10:07:02:15 A I -- I don't know where I got it. May be
10:07:06:10 somebody told me it's very, very expensive. I
10:07:08:21 don't know.

10:07:08:21 Q And were you aware that not only as we
10:07:11:24 talked about before that the raw materials cost
10:07:14:28 more, but there were higher processing and
10:07:18:12 fabricating costs?

10:07:19:21 A Most likely.

10:07:20:15 Q You recall these issues being discussed;
10:07:27:04 do you not?

10:07:28:07 A I don't remember Don Steis calling or
10:07:32:28 anything else like that, but I tried to get
10:07:35:19 members call on the phone, I try to give them an
10:07:38:12 answer, and I give off-the-cuff answers, as best I
10:07:42:28 can, I am not skilled in that area. I didn't know
10:07:46:03 what the manufacturers were paying for their
10:07:47:24 materials. They don't come and tell me. I just
10:07:50:28 made my guesses, and that's my guess.

10:07:54:12 Can I get a drink of water some place?

10:07:59:01 Q Do you need to take a break?

10:08:00:24 A No. No. Keep going, get this over with.

10:08:23:04 Q As Exhibit 26, I am going to mark a
10:08:25:27 letter that you wrote to the EPA on May 12th,
10:08:28:16 1980. And you addressed it to a gentleman named

10:08:34:10

Richard Guimond?

10:08:39:28

A That could be. I don't remember what his name was. Somebody at EPA?

10:08:43:10

Q Yes, sir.

10:08:44:13

A Okay. That was the guy then. I'm sorry, I lost this damn thing here.

10:09:04:09

I wrote a letter to this guy Mr. Guimond, okay.

10:09:07:22

Q Did that follow a meeting you had with the EPA in Washington?

10:09:09:25

A I believe so, yes.

10:09:11:12

10:09:14:18

Q Do you remember going down to Washington with some other, some of your members of the FMSI to meet with the EPA about their concerns about asbestos and brakes?

10:09:17:22

10:09:21:04

10:09:24:04

10:09:25:06

A I did go down. I did meet Mr. Guimond in Washington. I was with somebody else from the Institute, but I can't remember who, yes.

10:09:34:09

10:09:34:09

10:09:35:21

Q Do you recall the nature of that meeting?

10:09:38:06

A I guess it was to find out what they -- I don't really know. Read the letter.

10:09:43:00

10:09:45:00

Q Do you remember it happening that the EPA had certain questions they wanted answered with

10:09:52:01

10:09:55:04

regard to the efforts to develop non-asbestos

10:09:57:16 brakes and the Institute went down there to meet
10:10:00:06 with them to share information with the EPA?

10:10:03:21 A I didn't go down there to share
10:10:11:09 information specifically with the EPA. I came
10:10:13:10 down there because they wanted to see me,
10:10:15:21 whatever.

10:10:15:25 Q And they had certain questions they
10:10:18:09 wanted answered?

10:10:20:12 A I gather, I believe.

10:10:21:09 Q Do you remember negotiating with them as
10:10:24:07 to what questions the Institute would answer?

10:10:25:27 A No, I don't remember any of this. If you
10:10:28:21 show me what I did, I will believe it then. I
10:10:31:21 don't remember this. I remember meeting
10:10:33:25 Mr. Guimond in Washington.

10:10:35:25 Q And in the attachment to the letter you
10:10:46:09 provided various information to the EPA in
10:10:50:10 response to their question, which is here?

10:10:52:21 A These must have been written questions by
10:10:55:28 Mr. Guimond or something.

10:10:57:12 Q Yes, sir. I believe they were. And you
10:11:00:03 were discussing the cost of moving towards
10:11:02:24 non-asbestos. Do you remember furnishing that
10:11:05:09 type of information to the EPA?

10:11:06:28 A I don't remember any of this thing here.
10:11:10:15 I will have to read the thing to tell you.

10:11:35:10 Well that's -- those are the answers.
10:11:36:27 Different manufacturers gave that kind of
10:11:39:28 information to me which I relayed on to
10:11:42:10 Mr. Guimond.

10:11:43:03 Q Some manufacturers told you that it would
10:11:46:15 take four to five years to get a non-asbestos
10:11:49:06 brake that would work, some manufacturers told you
10:11:53:27 it would take three years, and some of the costs
10:11:56:12 that they cited to you were between 250 to
10:12:00:12 500,000?

10:12:00:15 A Apparently. That's what the letter says
10:12:04:12 there.

10:12:04:12 Q And other people were having less success
10:12:08:03 in developing substitutes and they were incurring
10:12:10:18 costs in the millions?

10:12:11:15 A I don't know that. Does it say that?

10:12:13:18 Q Well, that's what I am wondering. It
10:12:17:04 says the manufacturer who has a product considered
10:12:20:03 commercial, a semi-metallic type states that the
10:12:23:09 overall development period took about eight years
10:12:26:00 from initial research with research and
10:12:30:03 development costs of about two million dollars in

10:12:35:01 1969 dollars.

10:12:35:15 A That's what he said, that's what somebody
10:12:37:22 said. That's what I furnished to Mr. Guimond.
10:12:42:22 Might take me out of the equation here because
10:12:46:03 basically these people here are answering
10:12:48:18 Mr. Guimond's questions.

10:12:50:06 Q But those people answered the questions
10:12:54:18 through the FMSI, and the FMSI protected their
10:13:00:03 confidentiality?

10:13:00:25 A Correct, but they wouldn't give the
10:13:02:19 information otherwise.

10:13:03:03 Q Why is that?

10:13:03:22 A They are not going to go and give
10:13:06:28 proprietary information to their customers -- to
10:13:09:07 their competitors, I should say. It is a free
10:13:12:16 enterprise system. We are free to go and protect,
10:13:15:06 we were, to protect our product and we don't have
10:13:18:12 to tell our sales volume, or all that stuff.

10:13:21:18 Q Do you recall providing information to
10:13:24:15 the EPA about what it would cost to retool the
10:13:28:07 manufacturing plants?

10:13:29:13 A Only to the degree that the question
10:13:34:21 there is Mr. Guimonds and the answer as best it
10:13:37:24 came in and I tried to relay those figures down

10:13:40:22 there.

10:13:40:22 Q And you told him that there would be
10:13:43:24 capital expenditures required to go to
10:13:46:06 non-asbestos of two to six million dollars per
10:13:49:03 plant and that operating costs would increase from
10:13:50:27 five to ten percent; correct?

10:13:53:24 A That's what it says.

10:13:57:19 Q And these are all costs that you
10:14:00:03 recognized at that time as being necessary to move
10:14:02:15 to non-asbestos?

10:14:03:16 A I didn't recognize them as being.
10:14:05:25 Members who knew more about this. I'm a clerk
10:14:08:27 working down in an office, a one-room office down
10:14:11:10 in Paramus, New Jersey. I don't know this stuff.
10:14:14:13 These were from manufacturers who knew this kind
10:14:17:04 of stuff. I tried to help out the EPA who are
10:14:25:12 regulatory, government regulatory agency. I tried
10:14:28:16 to help them out. I tried to help out giving
10:14:31:12 information to OSHA and to others, to National
10:14:34:07 Highway Traffic Administration, to all the
10:14:36:12 administrations down in Washington, we have tried
10:14:39:00 to go and cooperate with them.

10:14:40:06 Q And when you would furnish information to
10:14:42:27 OSHA, to the EPA, to the National Highway Traffic

10:14:44:28 Safety Administration, you would give them the
10:14:51:03 information that your members wanted them to have;
10:14:53:25 correct?

10:14:53:28 A Correct. Where else was I going to
10:14:57:13 get -- what else was I going to get?

10:14:59:24 Q You gave them information that would be
10:15:01:13 to the benefit of industry; didn't you?

10:15:03:03 A No. It was their answer to these
10:15:05:07 questions they had. It wasn't necessarily
10:15:07:03 beneficial to the industry.

10:15:08:10 Q You were the person who put forth the
10:15:10:13 industry position to these agencies?

10:15:12:25 A I relayed the information that the
10:15:14:16 members sent down to me as accurately as I could.

10:15:17:09 Q So you were a conduit from your members
10:15:19:09 to the government on these types of issues?

10:15:22:13 A If you wish to call me a conduit, yeah.

10:15:25:07 Q Do you think your members were always
10:15:28:15 straightforward and truthful with these agencies?

10:15:30:22 A I believe so.

10:15:31:09 Q Do you think that these, that your
10:15:34:03 members when they would provide information, gave
10:15:37:09 these agencies the whole story?

10:15:39:16 A They gave, they answered the questions

10:15:42:27 that were asked. What do you mean, "the whole
10:15:46:24 story"?

10:15:47:09 Q The whole truth?

10:15:49:10 A They gave them all the truth. They
10:15:52:06 answered the questions. If you ask me one
10:16:01:09 question, I'm not going to give you two different
10:16:03:16 answers. I am going to give you the one answer.
10:16:06:01 That's all. I am not required to expound on that
10:16:09:00 and tell you 25,000 other things.

10:16:11:15 Q So if I understand what you're saying,
10:16:29:15 you attempted to answer the questions that were
10:16:32:10 asked but as narrowly as possible?

10:16:34:18 A Not so. I tried to answer the questions
10:16:36:25 that were asked period.

10:16:38:01 Q As 27 -- let me just tell you we will
10:17:43:28 come back to that in a few minutes. As 27, I'm
10:17:48:16 going to mark Bulletin Number 688 that you
10:17:52:12 authored on July 29th, 1980, and I believe that
10:17:57:15 the title of that, as you can see, was National
10:18:00:25 Workshop on Substitutes for Asbestos. Do you
10:18:06:00 recall that?

10:18:06:21 A No.

10:18:07:07 Q This was another bulletin that you sent
10:18:13:18 to your members. Would all members of the EMSI

10:18:19:15 get the bulletins that you issued?

10:18:21:06 A Down at the bottom, if you can bring it
10:18:25:18 down to the bottom, it generally lists the
10:18:28:24 distribution. From that I can tell you who got
10:18:31:00 the copies. Give me the last page of this thing
10:18:34:00 here. Now wait a second. This is minute. What
10:18:41:06 did you show me just there? Those were minutes
10:18:43:12 that you showed just before. That is a bulletin
10:18:46:03 here. Which are we showing me, the minutes or the
10:18:48:18 bulletin?

10:18:48:18 Q We are talking about the bulletin.

10:18:50:03 A Show me the bulletin. Show me the end of
10:18:53:27 the bulletin.

10:18:54:07 Q Let me hand you the hard copy.

10:18:55:28 A Here, down the at bottom it says who gets
10:18:57:15 it right here. Active members, those are the
10:18:58:16 brake lining manufacturers, United States brake
10:19:03:12 lining manufacturers. List C, I don't know what
10:19:05:21 the hell that is. Regional members, those are
10:19:09:01 regional members. Those are foreign members who
10:19:11:10 pay the same as U.S. dues because they are
10:19:14:21 exporting their products. They are using our
10:19:17:15 copyrights for marketing their products in the
10:19:20:01 U.S., but I'm saying those are -- those are foreign

10:19:24:07 members. Those are delegates and alternates. And
10:19:28:15 I don't know what the active members list C was,
10:19:30:19 but I think it is delegates and alternates and
10:19:34:09 something else. That generally is the
10:19:36:21 distribution. So the members did get it,
10:19:38:21 delegates and alternates, regional members, that's
10:19:43:09 foreign members.

10:19:44:03 Q Okay. Thank you. In this bulletin you
10:19:46:03 are talking again about substitutes. Again, the
10:19:48:24 theme that we have been talking about so far this
10:19:52:03 morning is the cost involved from in going from
10:19:55:01 asbestos to non-asbestos, all right? In this
10:19:58:09 bulletin you are discussing semi-metallic brake
10:20:01:22 linings?

10:20:03:19 MR. HARKINS: Object to the form of
10:20:05:12 the question. Compound, complex.

10:20:07:07 BY MR. DeLUCA:

10:20:07:19 Q Did you understand what I was saying?

10:20:09:12 A Not really.

10:20:11:09 Q Okay. Why don't you take a second and
10:20:14:10 look at this bulletin where you are discussing
10:20:17:12 semi-metallic brake linings, okay?

10:20:23:28 A (The witness is perusing the document.)

10:20:25:00 Basically the entire braking system is being

10:20:41:25 redesigned. They are all -- up until 1960, the
10:20:49:27 primarily American cars, American light trucks,
10:20:51:21 and whatnot, had drum brakes. Gradually disk
10:20:55:18 brakes moved in, and when the disk brakes moved
10:20:58:12 in, the disk brakes could be designed, were
10:21:00:27 designed around the semi-metallics. This was
10:21:04:12 before there was even any push on asbestos. This
10:21:07:01 was development. This was product development to
10:21:09:16 go and get better linings, which contrary to what
10:21:13:18 you may feel, that's what the American
10:21:15:24 manufacturers were trying to do, get better, but
10:21:19:01 the package had to go with the disk brake package.

10:21:21:13 Q Let me just ask you some questions, sir.

10:21:24:12 A All right.

10:21:24:15 Q Semi metallic brakes are non-asbestos;
10:21:29:24 correct?

10:21:30:13 A That is correct.

10:21:30:21 Q And semi-metallic brakes were being
10:21:35:24 developed as early as the 1960s?

10:21:37:18 A That is correct.

10:21:38:03 Q Perhaps some companies were making them a
10:21:40:22 little earlier; correct?

10:21:42:04 A That's correct.

10:21:42:10 Q And semi-metallic brakes were more

10:21:49:12 expensive?

10:21:50:03 A Correct.

10:21:52:03 Q Semi-metallic brakes they perform pretty
10:21:57:09 well, didn't they?

10:21:57:28 A After they got some of the bugs out of
10:22:03:04 them, yeah, they performed quite well. When they
10:22:05:15 designed the brake package around them. Now you
10:22:07:28 are getting me into asking questions I don't know
10:22:10:06 the answer to. I --

10:22:11:18 Q That's fine.

10:22:12:06 A I ran an association. I ran a one-room
10:22:15:06 office. These things are here are being developed
10:22:17:19 at big manufacturers, big people with substantial
10:22:21:16 research places. They were working on the
10:22:23:09 semi-metallics, yes. They are always working on
10:22:26:15 different products.

10:22:26:21 Q And in the '60s most of the brakes that
10:22:30:13 were used on passenger cars were drum brakes;
10:22:33:01 correct?

10:22:34:03 A Yes.

10:22:34:03 Q And just like this last sentence says
10:22:38:01 here, isn't it true, sir, that in order to make
10:22:41:21 semi-metallic drum brakes, it was very expensive?

10:22:44:25 A Couldn't -- do you know what a drum brake

10:22:48:22 looks like?

10:22:49:24 Q I think I do, yes.

10:22:52:09 A You can't bend semi-metallic linings like
10:22:55:24 that. Maybe later on. Maybe they can today. I
10:22:58:24 don't know. There was a real problem in adapting
10:23:02:01 semi-metallic-type materials into drum brakes.

10:23:04:18 Q And the problem was that it was very
10:23:08:19 expensive to do that?

10:23:09:15 A Well, you see you keep always coming back
10:23:15:03 to it was very expensive. You are trying to go
10:23:18:16 and say the reason people are doing things is
10:23:20:27 because it cost more. No. When you are
10:23:23:09 developing things, you try to keep costs out,
10:23:25:21 people don't want to be paying four dollars more
10:23:28:25 for the car, four dollars more for a set of
10:23:31:00 brakes. Nobody wants to go and have their car
10:23:34:01 cost \$40,000, when last year it cost 8,000. You
10:23:37:09 are trying to keep costs out, yes, you are always
10:23:48:04 trying to go and improve on costs.

10:23:48:04 Q Next page, sir, goes on to say that
10:24:41:09 participant from DuPont recommended the use of
10:24:45:04 Tevlar as a substitute for asbestos, do you
10:24:48:07 remember Tevlar being discussed?

10:24:52:04 A I can remember Tevlar on -- Kevlar or

10:24:55:19 something. Is it Kevlar on Tevlar?

10:24:59:07 Q You know, I have heard have Kevlar. I
10:25:01:19 think maybe that's what it --

10:25:02:24 A I don't know.

10:25:03:00 Q But nonetheless, do you recall the
10:25:05:18 discussion that that particular potential
10:25:08:24 substitute was very expensive?

10:25:09:27 A I don't recall this, but it's in the
10:25:12:00 minutes there so somebody must have said that. I
10:25:17:00 don't know that. Somebody must have said that.

10:25:19:15 Q Do you recall a discussion of something
10:25:21:27 called Wollastonite?

10:25:25:25 A Yes, I recall the name.

10:25:26:19 Q That was an inorganic fiber that was used
10:25:30:12 in place of asbestos?

10:25:31:24 A It was some kind of a fiber which
10:25:33:25 apparently they were trying to use it as an
10:25:36:27 asbestos substitute. I don't think it went any
10:25:39:16 place.

10:25:40:00 Q It was used on Mercedes, Audi and Porche?

10:25:44:09 A Those are clutch facings now. I don't
10:25:47:24 know much about clutch facings.

10:25:49:27 Q Do you know whether any of the domestic
10:25:52:19 brake manufacturers considered Kevlar or

10:25:55:04 Wollastonite as a substitute?

10:25:57:28 A They may have worked on it. I have no
10:26:00:04 idea what they do in their own factories.

10:26:03:15 Q And then, sir, did you attach a table to
10:26:36:16 this bulletin where you actually tallied the costs
10:26:42:09 of substitutes with respect to what asbestos cost?

10:26:46:06 A Somebody gave me that. I didn't develop
10:26:48:03 that.

10:26:48:28 Q Okay. Nonetheless, you read it and you
10:26:51:18 typed it up, and you thought it was useful to
10:26:54:21 disseminate to your members; did you not?

10:26:56:07 A I didn't give it that thorough. Somebody
10:26:59:12 probably wanted to go and wrote it up, so I said
10:27:02:28 make them feel good and I'll put it in the report.
10:27:06:18 I didn't digest the thing or think about it or
10:27:10:09 anything.

10:27:10:09 Q And does this chart that you put in the
10:27:12:19 bulletin --

10:27:13:19 A If you brought this thing from out in the
10:27:16:19 cold, I would say I never saw that chart before in
10:27:19:13 my life. Now you are telling me it is in my
10:27:22:18 minutes, so I obviously saw it before in my life.

10:27:25:06 I don't know anything about it. Must have been
10:27:26:24 that guy from some place that was here. What was

0:27:30:10 the company the guy? DuPont.

0:27:33:06 Q Do you remember discussion of these
10:27:37:04 various potential substitutes, fibrous glass,
10:27:39:06 mineral wool, titanate fibers, graphite,
10:27:42:21 Wollastonite, cotton and Aramid fibers?

10:27:47:06 A No, I don't recall at all.

10:27:48:04 Q Do you know what Aramid fibers are?

10:27:51:06 A No.

10:27:52:27 Q You wouldn't know if they were used
10:27:54:19 today, would you?

10:27:55:19 A No idea.

10:27:56:09 Q You agree all these substitutes are much
10:27:59:03 more expensive than asbestos?

10:28:00:18 A Well, from the chart there it indicates
10:28:03:25 that they are.

10:28:05:10 Q It says here -- is it cermets?

10:28:07:28 A That's what it says there.

10:28:09:10 Q Cost three to five times as much as
10:28:12:12 asbestos friction materials?

10:28:13:03 A Those are ceramic metallic, cermet, what
10:28:18:19 they all a ceramic metallic.

10:28:22:12 Q Okay. And they were three to five times
10:28:24:09 as much as asbestos?

10:28:25:16 A Yes, but you couldn't use them. You

0:28:27:24 couldn't use them where you used asbestos
0:28:30:01 products. I am answering your questions, but they
10:28:36:18 are ridiculous. You couldn't get them to work on
10:28:39:15 an automotive brake. Used in heavy-duty aircraft
10:28:43:24 where the landings are all, you know, 110 or 120
10:28:49:09 miles an hour, and the brakes tend to burn up if
10:28:53:12 they were cheaper.

10:28:54:07 Q As Exhibit 28 I am going to mark the
10:29:07:13 minutes of the annual membership meeting of the
10:29:11:09 FMSI dated June 15 and 16th, 1983. And I think
10:29:24:21 that this may -- some of these paragraphs in here
10:29:33:03 may concern your friend, Mr. Comins.

10:29:38:12 A This will be interesting.

10:29:40:09 Q It starts off by saying under "Other
10:29:43:04 Business", The first item under this part of the
10:29:46:06 agenda is a proposal that the Institute go on
10:29:49:09 record as indicating that its members are willing
10:29:52:09 to stop the manufacture of asbestos-containing
10:29:59:03 brake linings. Such action would be dependent on
10:30:03:22 parallel action to discontinue the import of
10:30:06:21 asbestos-containing brake linings." And then it
10:30:11:00 goes on to further discuss it. Do you recall a
10:30:15:27 proposal that someone made to petition the
10:30:21:16 government or to agree to stop making asbestos?

10:30:26:00 A It is so farfetched, it has got to be
10:30:29:07 Mr. Comins. You are -- this is baloney. I filled
10:30:36:13 it in there because he paid his dues, I guess,
10:30:39:13 that year.

10:30:42:15 Q It goes on to say that it was suggested
10:30:44:06 that the Institute as a group would indicate that
10:30:49:15 its members would be willing to discontinue the
10:30:52:07 manufacture of asbestos-containing brake linings,
10:30:54:00 and it says whether clutch facings and all
10:30:58:03 friction materials containing asbestos would be
10:30:59:16 included was not decided. Do you remember that
10:31:02:27 being brought up?

10:31:03:15 A It is so ridiculous, yes.

10:31:06:01 Q Okay.

10:31:08:06 A It never went beyond Mr. Comins. It got
10:31:11:01 into the paper there. That kept Mr. Comins happy.

10:31:13:22 Q Why didn't -- why was Mr. Comins the only
10:31:17:03 one who felt that this was a good idea?

10:31:19:16 A I didn't go around and analyze all these
10:31:25:04 other people.

10:31:25:07 Q Why do you think that he was the only one
10:31:27:15 that had this position?

10:31:28:21 A Because he needed analysis.

10:31:32:00 Q I'm sorry.

10:31:33:22 A He is a bit strange.

10:31:35:06 Q And then it was -- it goes on to say that
10:31:48:00 that if the FMSI and its members would do this,
10:31:52:09 they would have to be sure that the government
10:31:56:06 would ban the import of asbestos brakes made
10:32:05:22 somewhere else. Do you remember that being an
10:32:05:22 issue?

10:32:05:22 A I'm sorry, yes. This is so ridiculous, I
10:32:05:22 don't know why you are asking these questions.
10:32:06:06 This is Mr. Comins. Read the thing. It was
10:32:08:22 suggested. We never did anything, did we? We
10:32:12:21 never did anything. Read it.

10:32:15:18 Q Sir, I know that you never did anything.
10:32:19:24 But I have to ask these questions. My questions
10:32:24:01 really are why you didn't do anything?

10:32:27:10 A Do you see what he is saying there? We
10:32:29:19 are going to -- we are going to come out and
10:32:32:18 discontinue the manufacture of asbestos bearing.
10:32:35:12 We are just going to do that. It is so
10:32:40:00 unreasonable that normal people would see through
10:32:42:15 it.

10:32:42:15 Q Do you remember what Mr. Comins said in
10:32:46:07 defense of this proposal?

10:32:47:19 A I have no idea. I didn't listen too much

10:32:50:00 to Mr. Comins.

10:32:50:24 Q Well, you listened enough to him that you
10:32:53:12 put a paragraph in your minutes here?

10:32:55:16 A I did. I'm sorry I did.

10:32:56:10 Q Well let's look and see what he said. It
10:32:59:06 says, "Mr. Comins stated that his rationale behind
10:33:03:07 banning the manufacture of asbestos friction
10:33:05:22 products would be an unsolicited ban on the sale
10:33:08:22 of these products would involve a considerable
10:33:12:10 inventory problem." Do you see that?

10:33:13:19 A I see it.

10:33:17:07 Q Okay. In other words, if the government
10:33:18:27 bans them, he again is stuck with his inventory of
10:33:24:09 asbestos brakes, do you understand that?

10:33:26:09 A I don't really understand it, no.

10:33:28:13 Q Okay. Whereas if a ban is proposed by
10:33:32:06 the membership, they would have the chance to at
10:33:34:06 least liquidate that inventory, do you understand
10:33:37:21 that?

10:33:37:28 A I don't know why I have to understand
10:33:42:24 things that Mr. Comins said. I put this thing
10:33:46:27 here. I'm sorry I put it in. Did I retroactively
10:33:53:06 delete it?

10:33:54:12 Q No, sir.

10:33:54:19 A It is silly. Anybody that thinks it
10:33:59:18 isn't silly has got a problem themselves.

10:34:02:18 Q If the ban were to be on the sale of
10:34:05:18 materials, considerable losses could develop in
10:34:07:04 attempting to dispose of the inventory before the
10:34:10:24 effective day.

10:34:11:27 MR. HARKINS: Is there a question on
10:34:13:18 the record?

10:34:13:22 BY MR. DeLUCA:

10:34:13:21 Q Do you see that?

10:34:19:25 A If the ban --

10:34:21:04 MR. HARKINS: He wants to know if
10:34:23:03 you see that. Tell him.

10:34:24:18 THE WITNESS: I have seen it.

10:34:25:25 BY MR. DeLUCA:

10:34:25:24 Q Do you understand that to mean that by
10:34:29:06 proposing a ban that at least Mr. Comins was
10:34:33:04 suggesting it would be in the best financial
10:34:35:19 interest of the friction materials industry, it
10:34:38:18 certainly would be better than what would happen
10:34:40:27 to them if the government banned asbestos, do you
10:34:44:03 understand that?

10:34:44:06 A I am having great difficulty with this
10:34:53:09 entire line of questioning. ~~What am I supposed to~~

10:34:57:04 say? Rephrase your question, if you would,
10:35:03:06 please.

10:35:04:06 Q Sir, I don't care to rephrase it but I
10:35:08:12 will ask the court reporter to read it back to
10:35:10:24 you.

10:35:10:24 A All right.

10:35:11:18 (The Reporter read back the
10:35:11:18 requested portion.)

10:35:44:01 THE WITNESS: Can I give an answer?
10:35:46:25 No.

10:35:48:15 BY MR. DeLUCA:

10:35:48:22 Q Then it says, "As some members are
10:35:57:12 already non-asbestos and others are planning the
10:36:00:15 discontinuance of asbestos friction products,"
10:36:02:04 remember this is 1983, "Mr. Comins stated that it
10:36:07:03 would be positive move on the part of the
10:36:09:09 Institute to go on record in favor of a ban on the
10:36:12:01 manufacture of asbestos friction products by a
10:36:17:00 certain effective day." You obviously didn't
10:36:20:07 agree with that? You didn't think that was a
10:36:23:06 positive move; correct?

10:36:24:09 A I don't see where my opinion has any
10:36:27:12 bearing on this whole thing. Look, I don't want
10:36:30:07 to keep on belaboring this damn thing, but I

10:36:33:09 thought the whole thing starting at the beginning
10:36:36:06 was screwy, so I had difficulty if I think the
10:36:40:09 beginning part is screwy, that the rest of the
10:36:43:25 part is okay. If he wanted to go and ban
10:36:47:21 asbestos. Eventually they did, I guess they did
10:36:50:28 ban asbestos. I don't know. Did they ban
10:36:54:19 asbestos? No. I can talk to Steve. He is FMSI.

10:37:00:10 Q You are pointing to Mr. Patrick Healey?

10:37:03:09 A Yeah.

10:37:03:12 Q He is currently the Executive Director
10:37:06:00 and Secretary of the FMSI?

10:37:07:27 A Right. I think if can ask him whether
10:37:11:21 they did do that. I don't know. Maybe they did
10:37:14:21 not.

10:37:15:07 Q Maybe I will ask Mr. Healey that when I
10:37:17:27 take his deposition.

10:37:22:09 What I want to point you to another paragraph
10:37:25:00 here where you go on to say, "It was stated that
10:37:28:04 this question does not have a simple answer. As
10:37:31:12 manufacturers introduced non-asbestos friction
10:37:33:21 materials, they are on record that substitutes are
10:37:37:18 available." Do you remember that being discussed?

10:37:41:06 A I don't remember it, but if it said it in
10:37:44:24 there, yes.

10:37:45:00 Q Does this refresh your recollection at
10:37:46:27 all?

10:37:47:13 A Not -- I don't remember this particular
10:37:50:01 meeting, frankly. I don't remember. I don't
10:37:51:18 remember it. That doesn't mean it didn't
10:37:54:03 happened. It happened. If I signed the thing on
10:37:57:03 the minutes, these are the minutes.

10:37:59:00 Q Do you remember discussions amongst your
10:38:05:09 members that they were concerned about the
10:38:07:09 introduction of non-asbestos materials because
10:38:09:21 that would be proof that there was a substitute
10:38:14:19 for asbestos?

10:38:14:25 A Look, it was well-known that there was
10:38:20:18 substitutes for asbestos, but they couldn't put
10:38:23:00 them in there for life. They couldn't just make
10:38:26:18 one piece of brake lining if changing from
10:38:29:12 asbestos to powdered metals by making a brake
10:38:35:12 design change having the disk brakes come in
10:38:38:21 there. The semi-metallic brake lining was used,
10:38:41:19 yes. You could by changing it over to
10:38:44:28 semi-metallic brake linings, if everybody would do
10:38:48:15 that, if everybody would change the brakes over
10:38:51:15 but changing the brakes over is --

10:38:52:12 Q Expensive?

0:38:52:27 A Brake lining manufacturers have nothing
10:38:56:00 to do with manufacturing brakes. Brake
10:39:03:21 manufacturers manufacture brakes.

10:39:03:21 Q And it was expensive to make that change;
10:39:03:21 wasn't it?

10:39:03:21 A Well, it took a lot of development work,
10:39:06:01 yes, but it was when they finally came out with
10:39:10:07 the disk brakes and the semi-metallic disk brakes,
10:39:12:25 they were probably an improvement over the old
10:39:17:06 organic drum brakes, organic being, generally
10:39:19:18 speaking, asbestos.

10:39:20:06 Q And you thought that this proposal by
10:39:24:03 Mr. Comins was just absolutely ridiculous?

10:39:27:19 A I'm sorry, I am prejudice. I think
10:39:33:00 almost anything that Mr. Comins said was kind of
10:39:36:03 ridiculous.

10:39:36:19 Q As 29, let me mark the minutes of the
10:39:39:21 meeting of the Board of Directors dated June 12th,
10:39:43:21 1984. And under the section of Manufacture/Import
10:39:59:00 of Asbestos-Containing Friction Materials, it
10:40:01:19 states the following: "Mr. Stuart Comins
10:40:04:18 requested that the subject of a possible
10:40:07:03 government ban on the manufacture and import of
10:40:10:16 asbestos-containing friction materials be

10:40:11:28 considered at this meeting. A similar proposal
10:40:13:21 was discussed at the June 1983 meeting. After
10:40:16:16 that meeting a ballot was submitted to the
10:40:19:12 membership asking if the Institute should go on
10:40:22:09 record asking the government to set an effective
10:40:25:10 date by which the manufacture and import of
10:40:27:25 asbestos-containing friction materials in the
10:40:29:15 United States would be discontinued. Such a
10:40:32:03 petition was rejected by a nine to six vote in the
10:40:36:22 summer of 1983." Did I read that correctly?

10:40:42:28 A I believe so, yeah. That thing there is
10:40:45:12 not so bad. Just get Mr. Comins' name off there.
10:40:48:21 The subject of a possible government ban on the
10:40:50:28 manufacturer of import, in other words, they were
10:40:53:06 going down to lower levels and lower levels of
10:40:56:03 asbestos, and if the government put -- if the
10:40:58:21 government put in a ban on the manufacture of
10:41:01:18 asbestos-containing friction materials, people
10:41:06:00 with a three year or five year, whatever it is,
10:41:07:27 period, they could do it, I mean, and they
10:41:11:15 probably did do it.

10:41:12:22 Q Well it seems to me, sir --

10:41:16:15 A That's different from that other one you
10:41:19:00 were reading me.

10:41:19:12

Q How is it different?

10:41:20:19

A I would have to go back and look at it to tell you.

10:41:23:12

10:41:24:18

Q Sir, they are here if you care to look at them. I think this is the same issue. Mr. Comins suggested that the Institute go on record supporting a ban. You thought that was ridiculous, but apparently six of your members agreed with it?

10:41:27:16

10:41:31:12

10:41:33:18

10:41:36:06

10:41:39:06

10:41:40:25

A I can't find the thing. I can't find it.

10:41:45:16

Q There was some support for that proposal though?

10:41:48:01

10:41:49:09

A Apparently there was. I didn't realize it was nine to six.

10:41:51:00

10:41:51:22

Q And you didn't vote in those matters; right?

10:41:54:06

10:41:54:12

A I don't vote in any of this, no.

10:41:58:12

Q Okay. And when you would take votes like this, you never kept the ballots, you always destroyed those; right?

10:42:02:09

10:42:05:10

10:42:06:16

A They were probably verbal ballots. I don't know. Oh, a ballot was submitted.

10:42:10:03

10:42:13:10

Q In fairness, I shouldn't say that you always destroyed them, I have seen ballots on

10:42:14:27

10:42:17:22 different issues.

10:42:18:03 A Well, to get people to participate in
10:42:22:01 balloting, we sometimes would say we will destroy
10:42:25:01 your ballot when it comes in. Now on some of them
10:42:28:21 we did in.

10:42:30:03 Q To the extent you would take a poll of
10:42:32:16 your members with the condition that the replies
10:42:34:06 would be kept confidential or destroyed, what
10:42:36:21 would lead you to do that, what type of concerns
10:42:40:00 would you have had that would lead you to agree to
10:42:43:10 destroy the ballots?

10:42:44:12 A Well, that the information was of could
10:42:51:27 harm the participant who submitted the
10:42:54:15 information. For example, if you had a historical
10:42:58:09 sales thing and you reported your growth, how many
10:43:02:00 disk brake pads you sold this month, and if that
10:43:05:00 information came in and got out to your
10:43:07:13 competitor, they wouldn't know what you had. So
10:43:09:15 that kind of stuff we didn't sent out. Anything
10:43:12:04 that would embarrass, or make them reluctant to
10:43:16:10 participate in the plan, we would agree we would
10:43:19:09 discard that.

10:43:19:25 Q How about stuff that could be subpoenaed
10:43:20:09 later in litigation and used against the members,

10:43:23:03

did you destroy that kind of stuff?

10:43:24:03

A That stuff was probably destroyed, but there were no subpoenas out, nothing out. That was our way of trying to get some kind of a response. I just wish now that I had.

10:43:26:07

10:43:28:22

10:43:31:19

10:43:39:09

Q Done what, destroyed more documents or not done --

10:43:41:21

10:43:42:07

A No. Destroyed. I never destroyed any. Don't get so blessed accusatory to me. I never destroyed anything up there. But I certainly would go and tell people I would be happy to go and destroy the ballots if that would help them make a response.

10:43:44:25

10:43:50:12

10:43:52:10

10:43:56:06

10:43:59:04

10:43:59:18

Q And protect them from liability?

10:44:03:12

A If that were the case, yeah. Are we required to go and keep materials that can possibly give you a -- have you sued by some lawyer later on? Are we required to keep that kind of stuff? We can destroy stuff as long as we are not destroying it after a subpoena has been issued.

10:44:07:21

10:44:10:28

10:44:14:16

10:44:17:03

10:44:20:18

10:44:23:15

10:44:23:27

Q And after the Institute was subpoenaed in 1982, and you gave a deposition and produced the records of the Institute for the first time, were

10:44:27:15

10:44:31:01

10:44:34:24 any, any documents pertaining to asbestos
10:44:37:09 discarded in your tenure?

10:44:39:07 A No, sir. Those people came through from
10:44:43:21 Philadelphia and went through our books.
10:44:45:21 Everything stayed on those files and screwed our
10:44:49:06 files all up, but they stayed there in the files.

10:44:52:24 Q Getting back to Exhibit 29, did you know
10:44:59:12 a gentleman from Bendix named Mr. Ripelle?

10:45:15:13 A Would it be Riopelle?

10:45:15:13 Q Probably, yes.

10:45:15:13 A I knew a person named Mr. Riopelle.

10:45:15:13 Q I noticed in some of your correspondence
10:45:17:09 to him you would address it "Dear Rip," that's why
10:45:21:15 I mispronounced his name. You knew him pretty
10:45:24:27 well?

10:45:25:00 A I knew him business-wise. I didn't know
10:45:27:13 him socially.

10:45:28:00 Q Do you recall as set forth in Exhibit 29
10:45:30:15 that Mr. Riopelle provided you with information
10:45:35:00 about what it would cost to comply with the
10:45:43:13 exposure levels that OSHA was proposing?

10:45:47:16 A I don't recall that. Is this what he
10:45:49:15 said here?

10:45:50:24 Q Yes.

10:45:53:03 A Well, he was a very reliable source so if
10:45:57:00 he said that, I would go along with that.

10:45:58:18 Q And you agree and you recognize that
10:46:01:03 compliance costs millions of dollars?

10:46:03:07 A I know it costs lots of money.

10:46:05:10 Q And every time OSHA proposed new
10:46:10:15 regulations, or the EPA proposed regulations, or
10:46:12:19 the Office of Toxic Substances had a proposal, the
10:46:18:01 FMSI together with the AIA formulated a reply
10:46:22:13 against those proposals, do you remember that?

10:46:27:09 A No.

10:46:31:18 Q Do you remember working with the AIA to
10:46:34:27 formulate responses to proposed legislation?

10:46:36:12 A I talked with the people at AIA, yes.

10:46:40:00 Q And generally what you would do is you
10:46:42:06 would meet with your members, you would compile
10:46:48:07 their opinions, you, yourself would propose a
10:46:53:21 draft, you type it up, you would circulate it
10:46:57:03 among your members, and ask them for comments
10:47:00:24 before you mailed it off to the government?

10:47:03:03 MR. HARKINS: Objection. Complex
10:47:05:15 question.

10:47:05:16 BY MR. DeLUCA:

10:47:05:25 Q Is that how it worked?

10:47:06:24 A I don't recall exactly what your -- we
10:47:10:00 did respond to OSHA and the EPA, and I thought
10:47:16:12 constructively.

10:47:17:01 Q Every time, every time they proposed
10:47:21:18 tightening the standards on asbestos, the FMSI was
10:47:24:27 there in support of the friction materials
10:47:27:03 manufacturers; right?

10:47:28:15 A They were? I don't know that. You are
10:47:31:00 telling me that.

10:47:31:16 Q Do you disagree with that?

10:47:33:18 A I don't disagree. I don't know.

10:47:36:00 Q Do you ever recall abstaining from
10:47:40:18 commenting on proposed legislation?

10:47:43:06 A Only if we did not feel that it was
10:47:49:07 worthy of a response. We felt we were helping the
10:47:55:01 rule-making process by commenting on it.

10:47:57:03 Q What do you mean by "helping the
10:48:00:04 rule-making process"?

10:48:01:04 A When you are making rules down in
10:48:04:06 Washington, New York State, or Albany, wherever
10:48:06:06 you are making them, you need input to go and
10:48:08:27 decide what you are going to do. So we would
10:48:11:06 always give them some input on what was feasible
10:48:14:24 and what was not. They can go half cocked on some

10:48:18:16 of these asbestos substitutes.

10:48:19:27 Q Would you agree that to the extent
10:48:21:15 proposed regulation would have caused increased
10:48:24:21 cost to the industry, you certainly replied to
10:48:27:15 those proposals?

10:48:34:16 A I don't think it was always about
10:48:36:15 increased costs. It was sometimes, you know,
10:48:38:24 increased costs comes along with the difficulty of
10:48:42:15 doing things. Sometimes some things are
10:48:45:22 impossible, some things appear to be impossible,
10:48:48:10 getting a fiber limit down to 0.5 per cc sounded
10:48:52:19 like an awfully difficult thing regardless of what
10:48:55:24 the cost was. It didn't seem to be feasible to do
10:49:00:04 certain things like that. I am using that as an
10:49:02:21 example.

10:49:02:21 Q Are you familiar with an agency called
10:49:12:27 the Research Triangle Institute?

10:49:15:21 A No, I'm not. It is down in -- I am
10:49:19:00 familiar. There is some place down in North
10:49:20:28 Carolina.

10:49:23:04 Q You don't recall whether or not they
10:49:25:06 prepared a report that estimated the cost that
10:49:29:15 friction materials manufacturers would have to
10:49:31:00 bear?

10:49:31:00 A No. Is that it there?

10:49:32:01 Q No, it's not.

10:49:35:09 A No, I do not.

10:49:38:03 Q As Exhibit 30 let me mark the minutes of
10:49:40:21 the annual membership meeting of the FMSI dated
10:49:44:06 June 13th and 14th, 1984. On page 7 of your
10:49:59:10 minutes it says, "Noted at this point was the 25
10:50:02:18 million dollars capital equipment cost estimate in
10:50:06:04 the Research Triangle Institute report along with
10:50:09:28 their projected 18 million dollars per year
10:50:13:22 incremental operating cost for compliance." Do you
10:50:16:16 have a recollection of that?

10:50:17:13 A Somebody must have reported this in
10:50:19:21 the -- no, I don't have any recollection of that
10:50:24:15 at all. It is in my minutes, but somebody must of
10:50:28:21 given that information in.

10:50:29:27 Q With respect to going to the government
10:50:36:15 and making a proposal for the eventual elimination
10:50:41:28 and ban of asbestos-containing brakes, certain
10:50:45:00 members of yours thought that that was opening up
10:50:49:19 a Pandora's box, and that's the exact language you
10:50:53:06 use here in the minutes, do you remember that?

10:50:55:07 A Those are part of the minutes of
10:50:59:09 something there, I guess, and I must -- but I

10:51:02:18 don't remember it, no. If you didn't have this
10:51:05:09 here with you, I would not remember it.

10:51:08:15 Q You remember it now though?

10:51:10:00 A I remember seeing it up here just about
10:51:13:06 three minutes ago. Okay?

10:51:14:10 Q Does this refresh your recollection at
10:51:16:25 all?

10:51:17:01 A No.

10:51:17:07 Q Do you know -- strike that.

10:51:30:03 Do you remember a discussion about whether or
10:51:33:03 not the government would ban the manufacture of
10:51:37:25 friction materials in this country but would still
10:51:40:06 allow them to be imported from Canada and Mexico?

10:51:43:10 A I don't recall this. I am sure you have
10:51:47:21 got it someplace, but I don't recall it.

10:51:49:22 Q Sir, as Exhibit 31 I'm going to mark a
10:52:15:27 memo dated December 18th, 1985 from you to the
10:52:20:22 Health and Environmental Affairs Committee
10:52:23:12 regarding the revisions to the National Emission
10:52:33:12 Standard for Hazardous Air Pollutants for
10:52:33:12 Asbestos. It copies the officers of the FMSI and
10:52:34:12 Board of Directors, and it contains some
10:52:36:06 attachments, including the memorandum from a law
10:52:40:03 firm called Kirkland and Ellis. Are you familiar

10:52:43:18

with Kirkland and Ellis?

10:52:45:03

A I am familiar that they are a law firm.

10:52:46:24

Q Do you understand them to be a law firm that represented asbestos companies?

10:52:49:00

A No, but I don't doubt it. I --

10:52:50:21

10:52:56:24

Q Do you understand them to be a law firm that presently represents companies that manufacture or supplied asbestos friction materials?

10:52:59:03

10:53:02:22

10:53:04:24

A No, I don't.

10:53:04:24

10:53:05:24

Q Do you --

10:53:10:16

A Their name appeared through the years in litigation. I guess they are defense attorneys maybe, but they may also be plaintiff attorneys. I don't know.

10:53:15:22

10:53:18:06

10:53:22:03

10:53:22:03

Q Do you remember them as being a law firm that represented or provided representation to the AIA, the Asbestos Information Association?

10:53:25:03

10:53:28:09

10:53:30:15

A I believe there was some association with the AIA.

10:53:32:13

10:53:33:03

Q And the AIA, as we discussed last time, was a lobbying organization that represented asbestos companies; correct?

10:53:36:06

10:53:41:13

10:53:44:21

A I don't know whether they were strictly a

10:53:47:12 lobbying corporation. I know they had asbestos
10:53:50:09 manufacturers were members of the AIA.

10:53:53:00 Q Okay. And we talked last time about how
10:53:57:22 you even went down to Arlington, Virginia and had
10:54:03:00 meetings at the AIA, and you knew some of the
10:54:06:04 directors, like Matthew Swetonic and Bob Mereness
10:54:11:03 and Bob Pigg?

10:54:11:24 A Yes, I knew, but Matt Swetonic was
10:54:15:13 somebody who was down there at the very beginning
10:54:18:16 and he wasn't with the AIA, as I recall, but I do
10:54:22:22 remember Bob Mereness and Bob Pigg.

10:54:26:00 Q And I want to show you a section of that
10:54:30:10 memo. It says, "The cost per life saved of new
10:54:32:22 monitoring requirements are not presented but
10:54:35:09 appear to be in the range of \$500,000. EPA may
10:54:41:03 well consider such costs reasonable but the total
10:54:45:07 number of lives saved, five to 15 annually, is
10:54:50:27 small."

10:54:51:18 A Where is this from?

10:54:53:00 Q From the Exhibit 31 that I just marked.
10:54:55:21 This comes from the Kirkland and Ellis memo.

10:54:58:28 A Oh, okay.

10:55:00:04 Q Do you remember these types of
10:55:03:07 discussions?

10:55:04:21 A I don't remember this particular one, no.

10:55:06:04 Q What do you think about this?

10:55:10:16 MR. HARKINS: I object.

10:55:14:24 THE WITNESS: I didn't think I was
10:55:16:18 here to be interviewed about what I
10:55:18:06 think. I'm happy to go and give a
10:55:20:28 deposition as to what has happened and
10:55:23:13 whatnot, but I don't -- I feel you are
10:55:26:06 stretching your questions now.

10:55:27:03 BY MR. DeLUCA:

10:55:27:03 Q Well, sir, I respectfully disagree, and
10:55:30:07 I'm asking you, what do you think about this type
10:55:33:25 of analysis?

10:55:34:21 A I understand that people try to go and
10:55:37:12 put an analysis on this as to how much a person's
10:55:40:18 life is worth, and all that. This is probably
10:55:43:00 back in the '80s, or something like that.
10:55:46:18 Nowadays they are trying to quantify something
10:55:49:06 like a person's life. People try to do that. I
10:55:53:28 may not agree with it, but --

10:55:55:06 Q Do you agree with it?

10:55:58:01 A A person's life today is worth more than
10:56:00:09 \$500,000, I would think. If you are trying to
10:56:04:10 quantify, it is some figure much higher than that.

10:56:06:28 Q There is nothing more valuable than human
10:56:10:12 life?

10:56:10:12 MR. HARKINS: Objection, asked and
10:56:11:19 answered.

10:56:12:00 THE WITNESS: But you are in a
10:56:13:27 people are going to go and get some
10:56:15:25 trying to put some kind of value. If
10:56:18:15 somebody gets killed in some kind of a
10:56:20:21 plane crash, how much was that life
10:56:22:07 worth? They always try to figure that
10:56:24:01 out and give some kind of value as to
10:56:26:09 what kind of settlement they will get
10:56:28:19 afterwards. You should know that.

10:56:29:21 BY MR. DeLUCA:

10:56:29:27 Q Do you think that it is responsible to
10:56:33:12 make those types of business decisions based upon
10:56:37:04 what you might -- what type of liability you may
10:56:40:18 have versus what it would cost to comply with the
10:56:43:18 law?

10:56:43:18 MR. HARKINS: I object to the
10:56:45:15 question because it's not relevant to ask
10:56:47:06 him what he thinks, number one. Number
10:56:49:10 two, I don't know what you mean by "those
10:56:50:18 types of decisions."

10:56:51:09 BY MR. DeLUCA:

10:56:51:16 Q Let me rephrase. Do you think making
10:56:55:27 businesses decisions based upon -- strike that.

10:57:04:24 Did you ever drive a Ford Pinto?

10:57:07:18 A No.

10:57:09:06 Q Did you ever hear about the exploding gas
10:57:12:15 tanks on the Ford Pintos?

10:57:15:00 A Yes.

10:57:15:25 Q Did you ever hear the story about how a
10:57:20:12 business decision was made with respect to what it
10:57:23:15 would cost to repair those tanks versus how much
10:57:26:04 it would cost to pay the people who were killed?

10:57:30:27 MR. KRAUSE: Objection. Foundation.

10:57:33:01 THE WITNESS: I don't think I heard
10:57:34:15 of that far. I heard there were some
10:57:36:24 lawsuits on the Pinto gasoline tank, yes,
10:57:39:28 but that's all I know.

10:57:42:21 BY MR. DeLUCA:

10:57:42:25 Q Well I want you to assume that that's
10:57:45:06 true.

10:57:45:12 A You are really going pretty far apart.
10:57:48:03 You are going down the road. Why can't we keep
10:57:51:15 this thing on the FMSI?

10:57:53:07 Q I think this is relevant to the FMSI.

10:57:56:21 A I don't think the Pinto tank thing is
10:57:59:19 relevant.

10:57:59:24 Q What about weighing the cost of complying
10:58:02:15 with the law versus the cost of paying claims?

10:58:06:18 MR. HARKINS: Objection. Lack of
10:58:08:22 foundation. The man doesn't manufacture,
10:58:08:22 he doesn't pay claims.

10:58:09:15 MR. KRAUSE: Same objection.

10:58:10:06 BY MR. DeLUCA:

10:58:10:04 Q Do you think that is an ethical business
10:58:12:22 decision to be made?

10:58:13:24 MR. HARKINS: Same objection.

10:58:35:03 THE WITNESS: Yes. Okay? Will that
10:58:38:28 stop the questioning?

10:58:41:06 BY MR. DeLUCA:

10:58:41:09 Q Would you trade your life today for
10:58:43:28 500,000?

10:58:44:06 MR. HARKINS: Objection. Absolutely
10:58:47:03 no relevance. We are so far afield of
10:58:49:22 what is relevant. What does it matter
10:58:52:03 what a witness, what you, what the judge
10:59:02:15 thinks, Mr. DeLuca?

10:59:02:15 MR. DeLUCA: Well, I think what
10:59:02:15 matters is what the jurors think. And

10:59:02:15 obviously it is my position that the
10:59:04:00 FMSI's members chose profits over safety.
10:59:08:15 Now if you think I'm wrong about that,
10:59:10:06 then you can tell me about how they were
10:59:13:09 concerned about people getting sick, and
10:59:15:15 protected those people with their
10:59:17:12 financial detriment, I would be happy to
10:59:20:16 let you talk about that all day long, but
10:59:22:10 I don't think you can do that.

10:59:23:13 MR. HARKINS: I object to the form
10:59:25:27 of the question. It is not a question.

10:59:26:06 MR. KRAUSE: I move the speech be
10:59:28:06 stricken.

10:59:29:03 MR. HARKINS: I join in that and
10:59:30:12 instruct the witness not to answer.

10:59:31:10 BY MR. DeLUCA:

10:59:31:19 Q Can you show me any evidence where the
10:59:34:19 FMSI or its members made conscious business
10:59:39:12 decisions to protect workers even though it was
10:59:43:15 going to cost them money, can you show me anything
10:59:47:00 like that?

10:59:47:00 A I think all through my work down there we
10:59:51:12 kept on sending information to the members about
10:59:56:18 what the requirements were to go and get -- to go

11:00:00:01 and control asbestos fiber counts in the
11:00:02:25 workplace, and I think all of that information
11:00:04:18 that we sent down there as to what the OSHA
11:00:08:24 regulations are, and what the EPA regulations are,
11:00:11:27 were there to help people fight the problem with
11:00:16:10 asbestos exposure. Yes, I think all of these memo
11:00:21:06 even go through all those bulletins, and there is
11:00:23:13 something there. Here are the new standards that
11:00:25:24 OSHA has proposed. Here are the new standards
11:00:28:13 that are now in effect. Here is a booklet that we
11:00:31:16 put out to show you to go and control your
11:00:33:21 asbestos exposure in the workplace. Here is an
11:00:37:15 insert on our catalogs telling you to control your
11:00:42:03 exposure to asbestos. Yes, I think we have done a
11:00:44:12 lot of things on that.

11:00:45:07 Q Well, sir, you knew in 1976 that there
11:00:48:06 were excessive amounts of asbestos dust being
11:00:51:27 generated on a daily basis in brake service
11:00:55:00 centers throughout this country; did you not?

11:00:56:24 A No, I did not know that. When is this?

11:00:59:18 Q 1976.

11:01:02:00 A I knew there were exposure levels but I
11:01:07:06 didn't know that they were hazardous, they were

11:01:09:22 high enough to be hazardous. In addition to being

11:01:12:21 exposed to asbestos, you have also you have to a
11:01:17:01 dosage. In other words, just one little fiber in
11:01:19:07 the air is not going to be doing it. You got to
11:01:22:12 have a dosage of whatever the standard below
11:01:25:18 whatever that standard is, 50,000 cc's or
11:01:28:00 something like that. There has got to be some
11:01:30:21 kind of a recognition that a very cloudy area with
11:01:36:10 a lot of asbestos, a lot of asbestos in the air is
11:01:39:15 more hazardous than one tiny damn fiber going here
11:01:44:19 and there. So we brought that information out to
11:01:46:24 our members all the time.

11:01:47:21 Q Well tell you what, let's look at a
11:01:50:09 couple things right now and then we will take a
11:01:52:28 break. Just so you know where I am going, let's
11:01:56:13 look see what you knew about the level of
11:01:59:21 exposures in brake shops, let's look and see what
11:02:02:19 you knew about how much exposure you had to have
11:02:04:12 to get mesothelioma, and let's look at what you
11:02:10:07 did to warn people of take cancer risk, okay?

11:02:12:15 MR. HARKINS: I object to the form
11:02:13:25 of the question because it was not a
11:02:16:03 question. It was a statement. I move to
11:02:17:28 strike.

11:02:17:28 MR. DeLUCA: That's fine. You know

11:02:19:15 where I am going with this.

11:02:21:10 BY MR. DeLUCA:

11:02:21:21 Q Let's look and see what you said in 1999.
11:02:23:12 Would it be fair to say that at least by 1976 that
11:02:26:07 you as Executive Director of the FMSI were well
11:02:29:22 aware that there was no question that excessive
11:02:34:07 amounts of asbestos dust exist in many brake
11:02:37:18 service centers, and you answered, "I believe
11:02:39:06 that's so"?

11:02:43:10 A You said something entirely different
11:02:45:07 before. You said something about mesothelioma.
11:02:47:25 Mesothelioma is different from lung cancer,
11:02:52:03 different from asbestosis. Mesothelioma was
11:02:58:06 generally considered to be a different -- I don't
11:03:01:18 know how many brake lining or brake people caught
11:03:05:24 mesothelioma. Those were exposed to fiber content
11:03:08:18 that brought on asbestosis and lung cancer, but
11:03:15:07 mesothelioma is not lung cancer.

11:03:17:07 Q That's true, sir.

11:03:19:21 A You said mesothelioma in your sentence
11:03:22:27 before that.

11:03:23:03 Q That's right, that's what I am going to
11:03:25:18 ask you about right now. You testified in 1999
11:03:27:13 that you knew that that mesothelioma was a deadly

11:03:32:15 disease; right?

11:03:34:09 A Yes.

11:03:34:09 Q And it says, "I don't believe I said
11:03:37:03 there was a safe level, or I thought there was a
11:03:40:00 safe level for mesothelioma"?

11:03:44:24 A I don't know.

11:03:47:04 MR. HARKINS: His answer continues,
11:03:49:00 and I object to the use of this without
11:03:51:15 confronting him properly with the use of
11:03:55:16 transcript. You have to lay a foundation
11:03:56:28 that his statement is inconsistent, you
11:03:58:24 have to show him the question and the
11:04:01:15 answer. And instead you are publishing
11:04:02:27 to the jury by showing on the screen a
11:04:05:15 transcript without laying the proper
11:04:08:06 foundation. You are also doing so out of
11:04:09:03 context, because you didn't give him the
11:04:11:09 benefit of reading the entire question
11:04:13:21 and the entire answer.

11:04:14:12 BY MR. DeLUCA:

11:04:14:12 Q Mr. Drislane, here is your entire
11:04:18:21 deposition, all 347 pages of it. If you want to
11:04:21:00 go off the record and take your time and look
11:04:21:22 through there, we can do that.

11:04:23:09

MR. HARKINS: That doesn't cure my objection.

11:04:25:10

11:04:25:18

MR. DeLUCA: I don't care about your objection. Your objection is noted.

11:04:27:18

11:04:29:15

11:04:30:10

MR. HARKINS: You interrupted me, Mr. DeLuca. I'm not saying that he needs to read the entire transcript. I'm

11:04:32:22

11:04:33:00

saying prior to publishing to the jury by portraying on the screen a portion of the

11:04:36:09

11:04:37:13

transcript, you must lay a necessary foundation. In fairness to the witness,

11:04:39:12

11:04:47:19

you must show him the question and the

11:04:47:19

answer that you now claim to be

11:04:47:19

inconsistent with a prior statement,

11:04:47:19

because otherwise you are introducing

11:04:48:24

pure hearsay. That is the basis of my

11:04:51:01

objection. It's not cured by handing him

11:04:53:09

a 300-page exhibit and then telling him

11:04:56:24

he can go off the record and read the

11:04:58:13

whole thing. That's the basis of my

11:05:00:09

objection.

11:05:00:22

MR. DeLUCA: Anything else you want to add to?

11:05:02:01

11:05:03:00

MR. HARKINS: Not right now,

11:05:04:00

Mr. DeLuca.

11:05:05:13

MR. DeLUCA: Okay.

11:05:05:15

BY MR. DeLUCA:

11:05:07:24

Q So to recap, you knew there was excessive exposures in brake shops, and you knew there was no save level for the development of mesothelioma; correct?

11:05:11:27

11:05:14:09

11:05:16:21

11:05:17:24

MR. HARKINS: Objection. Complex question. Please break it down into its component parts.

11:05:19:19

11:05:20:12

11:05:21:12

BY MR. DeLUCA:

11:05:21:10

Q Sure. Item number one, you knew there was excessive asbestos exposures in brake shops?

11:05:23:25

11:05:26:28

A I heard that there were. I didn't know this. I heard that there were.

11:05:28:22

11:05:31:00

Q Okay. Item number two, you knew there was no safe level for mesothelioma?

11:05:35:06

11:05:39:06

A I did not know that.

11:05:39:25

Q Isn't that what I just showed you?

11:05:42:10

A I'm sorry, I did not know that at that time. I don't know what it says right in here.

11:05:44:03

11:05:47:15

Q Did you come to learn that at some point in time?

11:05:51:03

11:05:51:07

A I don't honestly know. I am confused by

11:06:00:10 your questioning because I thought mesothelioma
11:06:03:19 was not only came from Chrysolite and amphibole,
11:06:08:06 different type of asbestos, not from the
11:06:10:28 Chrysotiles, I'm sorry for the -- and I thought
11:06:16:03 the only time that they caught any kind of cancer
11:06:18:24 was from the -- was from the -- those different
11:06:23:15 asbestos types that were not used in brake
11:06:25:16 linings. That was my understanding, that was my
11:06:28:18 feeling at that time or some place during that
11:06:31:12 time. Now Ike Weaver says that it happens all the
11:06:35:10 time, all types of asbestos. But isn't there
11:06:38:03 anything about dosage in there? I would think
11:06:41:12 dosage has something to do with it, so I don't --
11:06:43:15 I did not know that the brake linings would cause
11:06:50:18 mesothelioma, is that the question?

11:06:52:18 Q No, that wasn't the question. You are
11:06:54:24 right, dosage does have something to do with it.
11:06:57:15 Do you know what dose of exposure to asbestos or
11:07:00:06 what dose of asbestos you have to have before you
11:07:03:16 mesothelioma?

11:07:04:09 A No.

11:07:04:18 Q Have you ever read any of the studies
11:07:06:24 that suggest one day of exposure to asbestos is
11:07:09:21 sufficient?

11:07:10:03 A I haven't read them.

11:07:11:03 Q And as far as your belief you said that
11:07:13:00 you thought that mesothelioma was due to
11:07:16:18 Chrysolite or amphibole exposure; right?

11:07:18:22 A That's what I thought.

11:07:20:21 Q Did you believe the Chrysotile poses a
11:07:24:10 hazard?

11:07:24:24 A Yes, for asbestos or lung cancer, yes.

11:07:27:12 Q But not mesothelioma?

11:07:29:19 A That was my understanding, that's what I
11:07:32:03 thought.

11:07:32:03 Q Where did you get that information?

11:07:35:03 A I don't recall.

11:07:35:28 Q Do you know what OSHA's position is on
11:07:42:25 the ability of Chrysotile to cause mesothelioma?

11:07:47:21 A No, I don't.

11:07:48:10 Q Do you know what the EPA's position is?

11:07:50:04 A No, I don't.

11:07:50:19 Q Do you know what the Consumer Product
11:07:53:12 Safety Commission position is?

11:07:53:22 A No.

11:07:54:04 Q How about the World Health Organization?

11:07:56:03 A I don't know.

11:07:56:18 Q What about the International Agency of

1:07:58:19

Research On Cancer?

1:08:00:15

A You may continue on with this, but I don't know.

1:08:02:18

1:08:02:18

Q How about the Surgeon General of the United States?

1:08:05:09

1:08:05:18

A I don't know.

1:08:05:24

Q The World Trade Organization?

1:08:08:27

1:08:14:22

A I don't know. Are they involved with this too?

1:08:19:06

1:08:20:15

Q Dr. Selikoff's position was on the ability of Chrysotile to cause mesothelioma?

1:08:24:16

1:08:27:15

1:08:30:06

1:08:32:22

1:08:35:09

1:08:37:25

1:08:40:19

1:08:43:00

1:08:49:00

A Well, I think back in the early '80s Dr. Selikoff used to say that we are not out to close down the asbestos industry, we are here to control it and get good working conditions in the place so that we don't have any asbestos-related diseases. That's what I thought the Dr. Selikoff said, so at that time I don't believe he thought that the Chrysotile would cause the mesothelioma. That's what I thought.

1:08:50:19

1:08:57:15

Q Well I disagree with what you said about him, but --

1:08:59:24

1:09:01:22

MR. KRAUSE: That's really great to have on the record. We are all delighted

1:09:03:27 to hear that. Why we are littering the
1:09:07:06 record with your disagreements?

1:09:08:10 MR. DeLUCA: Because I wanted to
1:09:10:15 preface the next question I ask. Hold on
1:09:12:00 a second. You asked me a question. I am
1:09:13:16 going to answer.

1:09:14:18 MR. KRAUSE: You are not asking
1:09:16:12 legitimate questions.

1:09:18:03 MR. DeLUCA: Do you want an answer
1:09:20:03 to my question?

1:09:20:27 MR. KRAUSE: I don't care if I get
1:09:23:09 one or not, frankly. If you want to
1:09:25:13 litter the record with your
1:09:27:06 disagreements, that's a waste of time.

1:09:32:21 BY MR. DeLUCA:

1:09:34:09 Q Dr. Selikoff also said that workers
1:09:35:15 should be warned, didn't he say that?

1:09:37:06 A I believe he probably did, yes.

1:09:38:25 Q Warned that asbestos could cause cancer?

1:09:41:12 A I believe he did.

1:09:44:24 Q And the FMSI didn't do that until 1986?

1:09:49:00 A The warnings out, may not have come out
1:09:56:28 and said "cancer," but we put warnings out on the
1:09:59:24 thing. The warnings we put were the same as OSHA

11:10:02:09 and EPA were putting out.

11:10:04:15 Q Which you recognized to be inadequate;
11:10:06:21 right?

11:10:06:27 A No, I did not recognize them to be
11:10:10:27 inadequate. At the time I thought they were kind
11:10:12:12 of strict.

11:10:12:18 Q If there was a cancerous cancer causing
11:10:16:09 substance in this room, would you want to know
11:10:18:15 that?

11:10:20:21 MR. HARKINS: Relevance.

11:10:21:24 THE WITNESS: If there were cancer
11:10:23:09 causing substance in this, it would be,
11:10:26:27 one, if there were one fiber of
11:10:29:22 Chrysolite or something in this room,
11:10:32:00 would I want to know it? No, it is
11:10:34:13 ridiculous. A certain kind of level that
11:10:36:12 could actually bring on cancer, yes.

11:10:46:21 BY MR. DeLUCA:

11:10:46:21 Q What if there were 17 fibers per cc of
11:10:46:21 Chrysotile in this room, would you want to know
11:10:46:21 that?

11:10:46:21 A I don't think it would be significant.
11:10:46:21 Whatever the level is, whatever the level is that
11:10:50:03 OSHA basically agreed to.

1:10:54:06 Q What right would you have to make that
1:10:56:15 decision for someone else?

1:10:58:04 A I'm going to -- I find you very, very
1:11:02:12 difficult. I'm going to take a break now.

1:11:03:28 Q Would you answer my question before you
1:11:06:07 leave?

1:11:06:13 A No. I will answer it when I come back.
1:11:08:28 All right?

1:11:09:06 Q I would like the answer now.

1:11:11:07 A All right. I am going to wet my pants
1:11:13:19 right now, okay?

1:11:14:18 Q You can go.

1:11:15:22 MR. PIAZZA: The time is 11:02, we
1:11:17:21 will take a pause in the testimony of
1:11:20:21 Mr. Drislane.

1:11:21:03 (A short recess was taken.)

1:21:27:24 MR. PIAZZA: The time is now 11:13,
1:22:07:16 we will resume the testimony of
1:22:10:04 Mr. Drislane.

1:22:10:25 BY MR. DeLUCA:

1:22:11:06 Q Mr. Drislane, the next area I want to
1:22:14:06 talk to you about concerns what the FMSI and its
1:22:17:12 members knew about the levels of exposure to
1:22:20:24 asbestos that were occurring through the use of

11:22:24:24 asbestos brakes. When you left the Institute in
11:22:32:13 1989, was it your position that anyone who was
11:22:37:15 working with asbestos brakes needed protection?

11:22:42:28 A Yes.

11:22:42:28 Q Protection from breathing in asbestos
11:22:48:03 fibers?

11:22:49:18 A Yes.

11:22:49:18 Q And was that your position because you
11:22:57:21 knew and understood that both the installation and
11:23:03:12 removal of asbestos brakes could present an
11:23:08:12 exposure?

11:23:10:15 A Yes.

11:23:10:15 Q And those exposures could be harmful?

11:23:14:24 A Yes.

11:23:14:24 Q And that harm would include cancer?

11:23:20:03 A One of the harms could be cancer.

11:23:25:13 Q Another harm could be asbestosis?

11:23:29:22 A Yes.

11:23:29:22 Q And you knew that asbestosis was also a
11:23:34:07 potentially fatal disease?

11:23:35:24 A Could be a forerunner of cancer.

11:23:38:00 Q I have a number of documents that I would
11:23:45:09 like to show you and ask you about as it relates
11:23:49:00 to exposure, and then we will talk about perhaps a

11:23:55:24 health, the health effects of exposure and
11:23:59:09 warnings in a little bit. The first one which I
11:24:01:27 will mark as Exhibit 32 is a letter that you
11:24:12:10 received dated November 28th, 1972 from J. H.
11:24:17:06 Kelly of Bendix Corporation, and you knew
11:24:22:09 Mr. Kelly fairly well; did you not?

11:24:25:01 A Yes.

11:24:25:01 Q In fact, if I recall correctly, he was
11:24:28:27 the individual who got you that job, who got you
11:24:36:21 your job with the FMSI?

11:24:39:09 A He referred me to them, but I got the job
11:24:41:21 through the Board of Directors.

11:24:42:19 Q Well, I'm sorry, I didn't mean to
11:24:46:18 insinuate anything. He was the one who turned you
11:24:50:03 on to the employment opportunity at the FMSI;
11:24:52:15 right?

11:24:52:27 A Correct.

11:24:54:00 Q Okay. And in 1972, Mr. Kelly was
11:25:00:27 advising you that the drilling of linings, chamfer
11:25:07:16 of linings, cutting of linings, or grinding of
11:25:10:16 linings may very well raise the asbestos
11:25:15:21 concentrations in the atmosphere to above the OSHA
11:25:20:10 standard?

11:25:20:13 MR. KRAUSE: Who is this letter to

11:25:21:27

and from?

11:25:22:16

MR. DeLUCA: I'm sorry. Excuse me.

11:25:23:09

I said that this was from Mr. Kelly to

11:25:26:09

you. It was from you to Mr. Kelly.

11:25:28:18

THE WITNESS: This is from me to

11:25:30:01

Mr. Kelly.

11:25:30:09

BY MR. DeLUCA:

11:25:31:12

Q Let's back up for a second. This is a

11:25:33:24

letter addressed to J. H. Kelly of Bendix

11:25:36:09

Corporation, 1217 South Walnut Street, South Bend,

11:25:40:10

Indiana, dated November 28th, 1972, as you can see

11:25:44:28

from the next page, you were the author of that

11:25:50:16

letter, okay?

11:25:51:03

A Yes.

11:25:51:03

Q I stand corrected and I apologize for the

11:25:54:18

confusion.

11:25:56:07

In this letter you advised Mr. Kelly of Bendix

11:26:00:15

that when customers of yours drill linings,

11:26:03:10

chamfer linings, cut linings, or grind linings,

11:26:07:15

they may very well raise the asbestos

11:26:11:09

concentrations in the atmosphere to above the OSHA

11:26:15:24

standard, do you see that?

11:26:17:03

A Yes.

11:26:17:03

Q Do you recall what the OSHA standard was

11:26:19:13 when you authored this letter in November of '72?

11:26:21:27 A No, I do not recall what it was.

11:26:24:03 Q You go on to say that some members have
11:26:26:28 indicated that the drilling and grinding
11:26:29:06 operations are problem areas in brake lining
11:26:31:24 factories with existing exhaust systems, do you
11:26:35:00 see that second sentence?

11:26:35:25 A Yes.

11:26:36:03 Q When you say "some members," you are
11:26:38:03 speaking of members of the FMSI?

11:26:40:12 A Yes.

11:26:40:12 Q And let me see if I understand this
11:26:44:00 correctly, you are telling them that drilling and
11:26:47:01 grinding operations in their factories were
11:26:52:27 causing excessive exposures, you are not talking
11:27:00:03 about out in the field or in a brake garage?

11:27:03:03 A Well, I'm talking of a couple different
11:27:05:27 things there. At the very beginning you are
11:27:08:03 talking like customer of yours, he being a brake
11:27:11:15 lining manufacturer, no. He -- he was a brake
11:27:15:01 manufacturer worked for the Bendix group. Cut
11:27:18:03 linings or grind, this is their customers. Now
11:27:21:24 some members, these here would be other people,

11:27:24:12 other manufacturers in brake lining factories with

11:27:27:19 existing exhaust systems were drilling and
11:27:30:03 grinding without proper dust collectors. This is
11:27:32:18 the beginning of the whole thing. The asbestos
11:27:35:27 problem was not -- I was not aware of any asbestos
11:27:39:03 problem before I came with FMSI. I came with FMSI
11:27:44:00 in '70. I think this letter is '72, is that it?

11:27:46:19 Q Yes, sir.

11:27:47:09 A '72. Well people hadn't put in controls
11:27:50:12 in. They were just starting to get the message
11:27:52:28 that there was something going on with the
11:28:02:27 asbestos in the workplace.

11:28:02:27 Q Here is what I want to focus you on. I
11:28:02:27 want to focus you on the second sentence. You are
11:28:02:27 reporting to him that some members of FMSI have
11:28:05:28 told you that they have problems in their
11:28:07:21 factories where they were drilling and grinding
11:28:11:27 brake linings with existing exhaust systems?

11:28:14:12 A Yes.

11:28:14:12 Q And my question to you is: Did you
11:28:16:27 understand at that point that even if you used
11:28:19:12 exhaust ventilation, the drilling and grinding of
11:28:23:00 asbestos brake linings could be a problem?

11:28:25:03 A Well, they had to go and put some exhaust
11:28:29:24 in. Now when you get into the exhaust issue, you

11:28:32:00 are not exhausting it out to the atmosphere. You
11:28:35:12 are exhausting it to the dust collectors, and
11:28:37:18 things like that, which stuff gets bagged and put
11:28:39:28 in, somehow you dispose of the stuff, mind you.
11:28:42:22 Yes, there was a problem, but some people did not
11:28:48:12 properly exhaust the stuff at that time. Even
11:28:51:03 after I left -- well, I won't go further.

11:28:54:21 Q All right. These exhaust systems that
11:28:58:18 you speak of were used in the factory during the
11:29:01:27 manufacturing process?

11:29:03:09 A Yes.

11:29:03:18 Q Did you understand that people who were
11:29:05:09 doing brake jobs at their house or doing brake
11:29:08:27 jobs at Midas, might not of had these exhaust
11:29:13:21 ventilation systems at that time?

11:29:14:27 A At that time, no.

11:29:15:16 Q So if you have an exposure that's a
11:29:18:13 problem when you have exhaust, did you recognize
11:29:20:22 that without exhaust it would be an even bigger
11:29:24:16 problem?

11:29:24:25 A That's correct.

11:29:25:18 Q Okay. And then you go on to tell Bendix,
11:29:30:03 Mr. Kelly of Bendix, in the last sentence here it
11:29:33:28 says, "It therefore becomes your responsibility as

11:29:37:10

the supplier of the brake lining to warn the customer of this possibility."

11:29:40:09

11:29:45:21

A Right.

11:29:45:19

Q Do you see that?

11:29:47:06

A Yes.

11:29:47:06

Q That's what you told Mr. Kelly of Bendix in 1972?

11:29:52:16

11:29:53:09

A Yes, I did.

11:29:55:25

11:30:08:03

Q And as far as warning goes, I want to ask you about the very last thing you say in your letter. You say, "This is a controversial item for the Institute in that some members feel that one or two companies are trying to railroad them into labeling. Another group of companies feel that we should comply with the spirit of the law now and it is not fair if they do the proper labeling and their competition does not." Do you remember that issue in general?

11:30:11:07

11:30:15:03

11:30:18:15

11:30:21:06

11:30:24:09

11:30:27:18

11:30:30:06

11:30:32:24

11:30:35:10

A Yeah, generally.

11:30:36:13

11:30:38:25

Q Okay. Does this go back to what you told me earlier about the competition among the various companies who made asbestos brakes?

11:30:41:18

11:30:43:22

A I don't think this gets into the

11:30:46:10

competition area.

11:30:47:03

Q Okay. All right.

11:30:49:03

A This gets into the individuals who are there.

11:30:51:15

11:30:52:13

Q Okay. And do you remember who the members were, the one or two companies were that wanted the label?

11:30:54:28

11:30:58:06

11:30:59:00

A I do not really recall who they were, no.

11:31:06:15

11:31:09:03

Q Would you agree that the majority of those of the brake companies that were your members, did not want a warning at that time?

11:31:14:19

11:31:16:27

A No, I would not recall. I don't recall that.

11:31:19:00

11:31:19:09

Q I am asking if you agree with that or you just don't recall?

11:31:22:06

11:31:23:06

A I don't agree with what you just said.

11:31:25:00

Q Why do you disagree with it?

11:31:26:21

11:31:29:24

A I think several of the bigger member were quite responsible, and they were labeling their products. The problem with some of the small manufacturers.

11:31:32:03

11:31:35:03

11:31:36:12

Q Did you know Chrysler, they were a member of yours; right?

11:31:39:21

11:31:40:13

A Yes, I did know Chrysler. I knew the

11:31:43:04

Chrysler people.

11:31:44:03 Q Did you know that Chrysler incorporated
11:31:46:06 some form of warning in their catalog in 1973?

11:31:49:10 A No, I did not know that.

11:31:51:18 Q Okay. I guess you wouldn't know that
11:31:53:13 they removed it in 1974 and never put it back in?

11:31:57:06 A I don't recall that.

11:31:58:18 Q You don't know why they would of done
11:32:00:15 that?

11:32:00:24 A No, I have no idea.

11:32:01:16 Q Do you know when General Motors first
11:32:06:03 warned of the hazards of asbestos on their brakes?

11:32:09:00 A No, I do not.

11:32:09:24 Q How about Bendix, do you know when they
11:32:14:01 eventually warned, if ever?

11:32:15:18 A No, I don't know.

11:32:16:03 Q Do you know when Abex warned, if ever?

11:32:18:18 A I don't remember any one of them except
11:32:21:12 for the fact that they distributed our booklets
11:32:23:18 and our catalogs, and our catalogs had warnings on
11:32:26:21 the back page, which was the most prominent,
11:32:29:03 except on the front page, on the back page of the
11:32:31:12 catalog, they distributed those catalogs to their
11:32:34:06 customers. So in that case they did notify their
11:32:37:00 people. And just about all of the members bought

11:32:39:24 our catalogs, and they bought a little blue book
11:32:42:10 that we sent out just try to say don't create
11:32:45:21 dust, it's not good for you.

11:32:46:21 Q Didn't tell them why it's not good for
11:32:49:09 you?

11:32:49:28 A It might of said. It probably gave the
11:32:52:03 same warning as was on the OSHA warning.

11:32:54:22 Q And you understood that the Automotive
11:32:58:25 Data Book that the FMSI produced was disseminated
11:33:02:12 by your members to its customers, is that what you
11:33:06:00 just told me?

11:33:06:06 A I believe it was, yes.

11:33:07:03 Q When you say their customers, give me an
11:33:11:03 example of who you would be talking about, like
11:33:13:13 a --

11:33:13:13 A I don't know their customers.

11:33:15:09 Q A type, like a Midas, a Pep Boys, or
11:33:18:16 something?

11:33:18:27 A Some of them could have been Midas, some
11:33:21:15 of them could have been Pep Boys. Some of them
11:33:23:12 could be rebuilders. These are people that
11:33:25:09 rebuild the brakes and all that stuff, some are
11:33:28:24 distributors, and all of that ilk.

11:33:31:03 Q And you understood that the warning that

11:33:36:03 appeared in the back of that catalog was being
11:33:48:18 given by your members to their customers?

11:33:48:18 A Well that was our intent, but whether
11:33:48:18 they actually gave it to them, I can't verify
11:33:48:21 that.

11:33:49:04 Q Okay. And with respect to that warning,
11:33:51:00 it wasn't on the back cover, it was on the inside
11:33:54:21 page of the back; right?

11:33:55:25 A Well, I think some of them were on the
11:33:58:24 back cover, and some of them were on the inside
11:34:00:27 page cover.

11:34:01:04 Q Were they typically colored catalogs, red
11:34:06:00 or green?

11:34:07:00 A Yes. They were red or blue, and then
11:34:08:28 there were supplements that were paper covers so
11:34:12:15 it depends. Some of them were -- some of them
11:34:15:25 were on the back page, and some of them were on
11:34:18:21 the facing the inside cover.

11:34:20:03 Q So at least for those, and the records
11:34:22:16 will show which had which, at least for those that
11:34:26:00 were on inside of the back cover, you had to read
11:34:28:16 through every page of that catalog before you get
11:34:30:27 to that warning?

11:34:31:18 A I couldn't put it on the front page,

11:34:33:09

could I?

11:34:34:03

Q Why?

11:34:35:03

11:34:37:15

11:34:41:07

11:34:42:13

11:34:43:21

11:34:47:24

A Front page like getting a book. You get something in there, a big, long warning. You should have the title of the book in the front. I had the title of my book on the front, and I had this on the next most prominent place, the back cover.

11:34:47:24

Q The next to the last page?

11:34:49:06

11:34:51:01

11:34:54:19

11:34:57:06

A No. Usually it was the back cover, and then times it was the inside facing the back cover. I can't remember. We put out two catalogs each year.

11:34:57:21

11:35:01:07

Q Who dictated to you how the catalog was laid out?

11:35:01:15

11:35:07:18

11:35:10:06

11:35:13:03

11:35:16:00

11:35:18:03

11:35:21:10

11:35:23:12

11:35:25:07

A Well we have what we called a Data Book Committee. And they didn't dictate. We sat around and they would go and make suggestions and recommendations, and from that we would go and assemble what we were going to put in the book, but they didn't dictate anything.

Q Did anyone ever suggest that perhaps that warning should appear on the maybe second page of the catalog as opposed to last or next to the last

11:35:28:16 page?

11:35:28:24 A No. Because I tried to tell you in the
11:35:30:03 past there was more going on at the Institute
11:35:32:15 beside asbestos. We were also trying to get the
11:35:35:00 product data, the data book information out to the
11:35:37:03 people. We are trying to get that information out
11:35:39:03 to them. That wasn't the only thing we did.

11:35:43:16 Q As Exhibit 33 I'm going to mark the
11:36:00:28 minutes of the meeting of the Asbestos Study
11:36:02:24 Committee dated February 16th, 1973.

11:36:07:15 A This one here, would you like to have it
11:36:10:28 back?

11:36:11:06 Q Yes, sir. Thank you. And that was, I
11:36:17:07 guess, based on what this says, that was held at
11:36:19:21 the Institute office in Paramus, New Jersey?

11:36:24:21 A Is that what it says?

11:36:26:12 Q Yes.

11:36:26:22 A That's where it was held.

11:36:28:03 Q That's where you were; right?

11:36:29:21 A Yes.

11:36:29:21 Q And all the member of the Asbestos Study
11:36:31:15 Committee who were present, their names would be
11:36:36:27 recorded in these minutes; correct?

11:36:41:12 A That is correct.

11:36:42:15 Q For instance, at this particular meeting
11:36:46:16 there was someone in attendance from Raybestos,
11:36:48:28 from Firestone, from Carlisle, from Abex, from
11:36:52:24 Bent, excuse me. This list of members who were
11:36:56:04 not present, and then it shows that you were there
11:36:58:24 and someone was there from Maremont; right?

11:37:03:09 A That's what it shows.

11:37:04:12 Q And for all of these minutes of this type
11:37:07:12 and for other minutes, you always list who was
11:37:10:10 present at the meetings?

11:37:11:06 A I believe so.

11:37:11:25 Q And when you did that, you were obviously
11:37:14:03 taking roll and you were very accurate in
11:37:16:18 establishing who was there and who wasn't?

11:37:18:15 A I hope so.

11:37:19:24 Q Sure. Okay. We can rely on that as
11:37:22:27 evidence as to who was at these meetings?

11:37:26:15 A I believe so. There is always the
11:37:28:27 possibility that somebody could have been there
11:37:30:25 for part of a meeting or something else like that.
11:37:34:06 Other than, that's the roster of the people that
11:37:35:24 were there. Don't forget, people did come and go.

11:37:42:21 Q On the very first page under Labeling
11:37:45:22 Practices, you state, "In many drilling and

11:37:47:21 grinding operations without dust collectors,
11:37:49:24 committee members indicated that the ten fibers
11:37:53:19 per cc ceiling concentration had been exceeded."
11:37:56:18 Do you see that?

11:37:58:00 A Yes, I see that.

11:37:58:09 Q Now as I think you told me before, you
11:38:01:00 didn't go out and make studies yourself, right,
11:38:04:15 you weren't out in the field taking air samples,
11:38:06:21 this would have been information that was given to
11:38:08:24 you by your members?

11:38:09:21 A That was a member probably said that.
11:38:11:09 Committee members indicated. Some one or two or
11:38:15:25 more members indicated such and such.

11:38:17:24 Q Right. And one of the other things that
11:38:30:22 was discussed at this meeting was the work of the
11:38:34:24 Mt. Sinai Hospital, or at least research
11:38:37:06 affiliated with Mt. Sinai, you know, from last
11:38:40:03 time that you had met with Dr. Selikoff and with
11:38:43:09 the Dr. Nicholson, and perhaps some of their
11:38:46:09 associates; right?

11:38:48:25 A Yes.

11:38:48:25 Q And the work of Mt. Sinai in large part
11:38:53:15 focused on asbestos and asbestos hazards, and
11:38:57:03 initially they were looking at insulators, but

11:39:00:15 during this time period they started to look at
11:39:03:00 the people who were exposed to brakes, do you
11:39:05:12 recall that?

11:39:05:22 A I don't like to make you repeat, but I
11:39:09:24 don't really understand the question, I guess.
11:39:11:22 Maybe --

11:39:12:12 Q Did you understand Mt. Sinai to be a
11:39:15:10 medical institution that was interested in
11:39:17:10 asbestos research?

11:39:18:13 A Yes. And they were running a lot of
11:39:20:15 research on asbestos exposures under Dr. Selikoff
11:39:23:12 and Bill Nicholson, okay, yes.

11:39:25:07 Q And at this time in 1972, 1973, they
11:39:30:25 began to look closely at whether or not people who
11:39:34:18 were working with asbestos brakes were at
11:39:38:24 increased risk for disease?

11:39:40:01 A Right.

11:39:48:13 Q You met with Dr. Selikoff, you furnished
11:39:48:13 him information on one or two occasions?

11:39:48:13 A Yes. Yes, I furnished him information on
11:39:50:00 how brakes were processed, and things like that.
11:39:52:09 I didn't give him any expertise in asbestos or
11:39:55:27 asbestosis, or anything like that. That's his
11:39:59:00 bailiwick. My bailiwick was just telling him how

11:40:03:09 do you go about preparing a set of brakes to put
11:40:06:06 on a car, that's all.

11:40:06:27 Q How did Selikoff get hooked up with you,
11:40:09:21 did he call the FMSI?

11:40:12:06 A I sure as hell didn't volunteer to go
11:40:14:09 over there. He called me.

11:40:15:09 Q Why wouldn't you volunteer to go talk to
11:40:18:18 Dr. Selikoff?

11:40:18:18 A I'm not interested in looking for more
11:40:21:09 trouble.

11:40:21:24 Q Did you view Dr. Selikoff as a
11:40:24:09 troublemaker?

11:40:24:25 A Well, he was out, he was -- he had all
11:40:35:24 these opinions about the asbestos, and I was
11:40:40:09 getting under the impression that he was
11:40:42:24 anti-asbestos, but at the very beginning he said,
11:40:44:28 "We are not out to go and ban asbestos." And I
11:40:50:10 wasn't going to volunteer. I don't go over to
11:40:53:10 volunteer to anybody. Why should I go over to
11:40:56:06 him? I got a full days work. Do you go out and
11:41:05:13 volunteer for people when you are out at your
11:41:08:07 office, you go out and tell people here I want to
11:41:11:18 talk to you about something? Unless there is
11:41:13:10 going to be some money in your pocket, you don't

11:41:15:27 go and talk to them.

11:41:17:06 Q Now why would you think that?

11:41:19:04 A That's my impression of you.

11:41:22:00 Q You don't know me.

11:41:23:27 A I know you as well as I want to know you.

11:41:35:27 Q I'm sorry you feel that way.

11:41:45:09 Nonetheless, as your minutes reflect, not only
11:41:50:18 were your members saying that grinding asbestos
11:41:54:15 brakes could cause a level of exposure in excess
11:41:58:06 of ten fibers per cc, but Mt. Sinai was telling
11:42:03:00 you that also?

11:42:03:09 A Apparently, yes. This, again, was in
11:42:11:00 19 -- early '70s, this is when the asbestos
11:42:13:25 problem was just becoming known.

11:42:15:28 Q Becoming known to who?

11:42:20:15 A To the industry and to other people.

11:42:32:15 Q Are you familiar with a company called
11:42:34:21 Nuturn?

11:42:35:10 A Yes.

11:42:35:10 Q Who is Nuturn?

11:42:38:04 A They were Nuturn, a corporation.

11:42:40:19 N-U-T-U-R-N, in as in Nancy, N-U-T-U-R-N. They
11:42:49:27 were might have been some relationship to

11:42:53:28 Maremont.

11:42:54:06 Q Was Nuturn somehow affiliated with the
11:42:58:09 Turner and Newell?

11:42:59:06 A That's who it was, Turner and Newell was
11:43:02:04 a British outfit. It came after them, but some
11:43:05:15 affiliation with Maremont in the states. Turner
11:43:07:24 Newell being a British outfit, yes.

11:43:10:07 Q They made brakes?

11:43:11:15 A I see. I --

11:43:15:00 Q Did Nuturn make brakes?

11:43:18:00 A Nuturn made brake linings, I believe.

11:43:20:00 Q That contained asbestos?

11:43:21:15 A I believe, yes, they did.

11:43:22:25 Q Do you know anything about Turner and
11:43:24:24 Newell?

11:43:25:15 A Turner and Newell also was a brake lining
11:43:28:12 manufacturer but was in Great Britain, and I knew
11:43:31:13 nothing about them, but I know they were a brake
11:43:34:15 lining manufacturer in Great Britain.

11:43:35:15 Q Did you ever hear they were one of the
11:43:38:07 biggest asbestos companies in the world?

11:43:39:24 A I didn't know that.

11:43:41:06 Q Did you ever hear of a young lady named
11:43:44:12 Nellie Kershaw?

11:43:45:18 A No.

11:43:45:27 Q Do you think General Motors didn't know
11:43:58:15 about the hazards of asbestos until the '70s?

11:44:01:03 MR. KRAUSE: Objection. Foundation.

11:44:03:09 THE WITNESS: I don't believe so.

11:44:05:18 BY MR. DeLUCA:

11:44:07:21 Q Did you ever hear of one of their
11:44:11:06 consultants, Dr. Anthony Lanza?

11:44:13:00 A Never heard of him.

11:44:15:00 MR. KRAUSE: Objection, foundation.

11:44:18:21 THE WITNESS: Never heard of him.

11:44:20:19 BY MR. DeLUCA:

11:44:20:25 Q Do you know whether a consultant of
11:44:28:03 General Motors published a textbook in 1938 about
11:44:32:21 asbestosis?

11:44:33:16 MR. KRAUSE: Objection, foundation.

11:44:34:24 THE WITNESS: I don't know.

11:44:37:24 BY MR. DeLUCA:

11:44:38:03 Q So when you tell me that industry didn't
11:44:44:00 know, you really have no basis, or as Mr. Krause
11:44:47:25 said, there is really no foundation for you to say
11:44:50:12 that; correct?

11:44:52:00 MR. KRAUSE: No. My objection was
11:44:53:22 there was no foundation for your
11:44:55:07 question.

11:44:55:15

THE WITNESS: I am happy to take

11:44:57:12

Mr -- is this Mr. Krause, agree with you.

11:45:00:07

I don't know.

11:45:00:09

BY MR. DeLUCA:

11:45:00:07

Q So you don't know what industry knew?

11:45:02:15

A I don't know what industry knew, no.

11:45:04:24

Q So given this backdrop in this document

11:45:13:18

of -- in the document that came before about the

11:45:20:09

recognition that grinding could cause a level of

11:45:23:00

exposure in excess of ten fibers per cc, the

11:45:26:15

asbestos committee, the Asbestos Study Committee

11:45:29:09

conducted one of these surveys to see whether

11:45:32:04

people were labeling their products as required by

11:45:34:22

law, do you remember that?

11:45:36:16

A Yes, I do remember we made some kind of

11:45:40:28

survey because some -- go ahead.

11:45:41:24

Q That would have been one of those kinds

11:45:44:01

of surveys that you would of wanted to keep

11:45:48:24

confidential?

11:45:48:27

A To get any kind of response, I had to

11:45:50:22

make it confidential.

11:45:52:12

Q And you did?

11:45:55:21

A I did. To the best of my knowledge, I

11:45:57:25

did. Sometimes I screw up and leave some things

11:46:00:06 in the file by mistake.

11:46:01:12 Q And when you conducted that survey, you
11:46:08:25 sent it to 25 members and 15 replied, and as this
11:46:13:09 states, "The results indicated that the membership
11:46:16:28 is not now labeling in accordance with the OSHA
11:46:21:07 requirements, and while they interpret the OSHA
11:46:25:18 regulations that require labeling where subsequent
11:46:27:27 machining is expected, they are undecided as to
11:46:30:15 exactly what they will do as regards labeling."

11:46:34:28 A Can you show me the date on this, please?
11:46:42:22 Okay. All right.

11:46:43:12 Q February 16th, 1973.

11:46:46:03 A Okay.

11:46:46:03 Q Do you remember that?

11:46:47:03 A Yeah, vaguely.

11:46:49:16 Q Did it concern you that your members were
11:46:52:03 selling products which could cause disease and
11:47:01:06 they weren't warning?

11:47:01:06 A You see, well there was a lot of feeling
11:47:01:25 that the stuff was -- all the asbestos was
11:47:06:16 embedded into the product and it was not being
11:47:09:21 released by the grinding and all that, because if
11:47:11:28 you grind something, sometime you grind it and you
11:47:15:04 smooth it and you raise dust, but if you machine

11:47:17:15 it off, you make little chips but you don't make
11:47:21:10 dust. I don't know how exactly they did their
11:47:23:06 procedures. But they could, some of them felt
11:47:25:06 they were not raising asbestos dust. They had to
11:47:27:24 go and make measurements, the only way they could
11:47:32:01 find out.

11:47:32:12 Q Yeah, you can't find out how much dust is
11:47:35:19 in the air unless you measure it; right?

11:47:37:06 A Right.

11:47:37:21 Q You have the results of those
11:47:38:21 measurements?

11:47:39:24 A I didn't have them.

11:47:41:04 Q It was -- it says it was over ten fibers
11:47:43:13 per cc; right?

11:47:46:09 A Did they say it was over ten fibers per
11:47:49:09 cc? Which one are we on? You go back and forth.

11:47:52:06 Q This is Mt. Sinai Hospital; right? Let's
11:47:54:27 go back to the document before this, the one that
11:47:57:04 you -- the one that you wrote to Bendix.

11:48:04:07 A Yeah. Well they were a responsible
11:48:10:15 manufacturer and they wanted to know what the
11:48:12:10 thing was, and I told them the best I could what I
11:48:16:10 thought.

11:48:16:18 Q Who was a responsible manufacturer?

11:48:18:19 A Bendix.

11:48:19:18 Q It was your former employer; right?

11:48:22:06 A Yes.

11:48:22:06 Q Do you think they were responsible about
11:48:27:16 asbestos?

11:48:27:16 A I believed they were.

11:48:31:12 Q Why do you say that?

11:48:35:07 A Because they were when I was there. Why
11:48:39:27 do I say that? That's what I feel.

11:48:44:06 Q What year were you there? You were there
11:48:48:03 in the '60s; were you not?

11:48:49:15 A I was there from 1948 until about 1966, I
11:48:57:09 believe.

11:48:57:18 Q I guess when you were there you didn't
11:49:03:28 have access to their files on asbestos; did you?

11:49:07:28 A Hell, no.

11:49:08:25 Q Do you know what maybe Bendix knew in, I
11:49:13:27 don't know, 1949?

11:49:14:27 A I have no idea.

11:49:16:27 Q Okay. Since you don't know that, I mean
11:49:18:09 how can you really think that they were
11:49:20:16 responsible? You don't know. Just like earlier
11:49:22:19 when you said you thought industry didn't know
11:49:25:06 about asbestos, you really don't know?

11:49:27:12 A They were honorable in all their
11:49:29:04 treatment with me and they did what they said when
11:49:31:24 they were doing contracts, they did the best they
11:49:34:13 could on their product. Asbestos was not a
11:49:37:13 concern at that time. I didn't know anything
11:49:39:09 about asbestos. I wasn't responsible for it if it
11:49:42:10 was a concern at that time. I was in sintered
11:49:49:06 metallic at that time.

11:49:50:00 Q You think they you didn't know anything
11:49:52:25 about asbestos at that time because they didn't
11:49:54:09 want you to know anything about asbestos at that
11:49:55:12 time?

11:49:55:18 A No. I think you are just jumping at a
11:49:58:00 whole bunch of the conclusions to prove your case.
11:49:59:25 No.

11:50:00:09 Q I have got the documents to do that, sir.

11:50:03:18 MR. HARKINS: Objection. Move to
11:50:04:07 strike.

11:50:05:09 THE WITNESS: I am somewhat fed up
11:50:07:04 with your line of questioning, frankly,
11:50:07:21 but go ahead. Everything I say,
11:50:10:13 everybody is a crook out there. Even the
11:50:13:07 fellow who is coming in on the airplane.
11:50:15:06 He probably came in on GM's private jet.

11:50:18:03

I mean, you have a whole attitude against these people, don't you?

11:50:20:12

11:50:26:24

Am I supposed to rock back and forth like that too?

11:50:29:19

11:50:36:06

MR. DeLUCA: Let's take a break.

11:50:38:03

11:50:39:21

MR. PIAZZA: The time is 11:42, we will take a pause in the testimony of Mr. Drislane.

11:50:42:06

11:50:44:27

(A short luncheon recess was taken.)

12:51:49:24

MR. PIAZZA: The time is now 12:43,

12:52:13:27

we will resume the testimony of

12:52:16:00

Mr. Drislane.

12:52:16:16

BY MR. DeLUCA:

12:52:16:22

Q Good afternoon, sir.

12:52:18:03

A Good afternoon.

12:52:18:25

Q I want to go back to that area that I

12:52:21:10

started talking to you about before the lunch

12:52:25:21

break, specifically what was known by the FMSI and

12:52:29:00

its members about the levels of exposure to

12:52:32:21

asbestos that would occur when brakes were used or

12:52:35:09

installed or removed, okay?

12:52:37:09

A Yes.

12:52:37:09

Q I want to turn back to Exhibit 33. I

12:52:41:03

began to ask you some questions about it, and I

12:52:43:18

have some more. This was the February 16th, 1973

12:52:51:03

minutes of the meeting of the Asbestos Study

12:52:54:06

Committee, and with respect to levels of exposure

12:52:59:10

it goes on to talk about it is the view of most

12:53:04:01

members of this committee that the five fibers per

12:53:07:21

cc, I believe this says, TWA, that's time weighted

12:53:11:24

average, is exceeded in many areas, such as

12:53:14:28

inspection, drilling and grinding where there is

12:53:17:21

no adequate dust collection machinery, and this

12:53:21:12 could happen in garages where subsequent drilling
12:53:24:12 and grinding is often required and where there is
12:53:26:25 no adequate dust collection equipment. Did I read
12:53:29:18 those reasonably accurately?

12:53:32:04 A Yes. But is this my letter to Mr. Kelly,
12:53:34:06 is that it or what?

12:53:35:28 Q No, sir. This is the minutes of the
12:53:37:10 Asbestos Study Committee that you took down, and
12:53:40:06 that meeting was held in February of '73.

12:53:42:09 A These are the minutes, okay, all right.

12:53:43:16 Q I am just wondering if those two
12:53:46:21 sentences comport with your understanding as to
12:53:48:25 levels of exposure and when exposure can occur
12:53:53:06 from asbestos brakes?

12:53:54:09 A Can you just drop it down so I can get
12:54:00:21 that first sentence in there? Forget it, I guess.
12:54:09:25 Maybe the most members that the five fibers TWA is
12:54:14:22 exceeded, okay, yes.

12:54:17:06 Q Is that, those two sentences comport with
12:54:20:06 your understanding of what could occur?

12:54:22:03 A At around that time, yes.

12:54:23:21 Q You understand a time weighted average is
12:54:26:09 a method of evaluating exposure over the course of
12:54:31:19 a working day?

12:54:32:12 A Over a period of time. I believe it was
12:54:34:07 a working day, but I'm not sure.

12:54:35:25 Q Usually eight hours?

12:54:37:15 A Well, I can't. It was a time weighted
12:54:46:21 average over some period of time, whether it was
12:54:46:21 eight hours or not, I'm not sure.

12:54:46:21 Q And do you understand that to mean that
12:54:47:27 there could be exposures that are higher than the
12:54:51:06 average and lower than the average during the
12:54:53:06 course of the day?

12:54:54:03 A Well, you mean peaks rather than the time
12:55:01:24 weighted average?

12:55:02:16 Q Right.

12:55:03:25 A Yes, that's possible.

12:55:04:12 Q But it was your understanding at that
12:55:06:13 time that the time weighted average averaging the
12:55:10:06 short-term high intensity exposures with lower
12:55:13:18 exposures was still in excess of the OSHA limit?

12:55:17:13 A No. The OSHA limit was the time weighted
12:55:20:04 average limit, as I recall.

12:55:21:18 Q Right. And that was five fibers per cc?

12:55:24:18 A So it was not over the limit.

12:55:26:18 Q Well it say "exceeded," is exceeded?

12:55:28:12 A Okay. Where it says "exceeded," yes.

12:55:30:19 Q Okay. And it goes on to say that these
12:55:33:27 OSHA requirements that we have talked about at
12:55:36:10 length might not be applicable to small garages,
12:55:39:03 did you know that?

12:55:40:06 A I don't know whether I knew that or not.
12:55:43:00 I never was concerned with that. I --

12:55:45:04 Q Do you know whether that is true?

12:55:46:27 A I would think that some of the small
12:55:50:25 garages exceeded that level.

12:55:52:07 Q But with respect to whether or not they
12:55:55:16 were subject to OSHA, whether OSHA applied?

12:55:58:21 A Well, they were going to be subject to
12:56:00:27 OSHA. If they were subject to OSHA at that time,
12:56:04:03 I'm not sure.

12:56:05:15 Q Fair enough. And with respect to
12:56:08:07 labeling under OSHA, that was discussed and it
12:56:13:15 says, "most labeling -- let me back up. It says,
12:56:18:19 "In discussion of the reasons to support or oppose
12:56:21:15 labeling requirements, the question was raised as
12:56:24:09 to whether objections centered around the cost of
12:56:26:19 the labeling." Do you remember cost discussions?

12:56:30:03 A Apparently, yeah.

12:56:32:06 Q Okay. And members indicated that the
12:56:34:07 direct cost of labeling could be minimal. Would

12:56:37:25 that mean like the cost of printing a warning on a
12:56:41:09 carton?

12:56:41:28 A Yes. And the carton you could put
12:56:43:25 whatever you want on a carton. In other words, as
12:56:46:21 long as it will fit without making a bigger box.

12:56:51:09 Q It says, "Most labeling could be put on
12:56:53:10 by the box manufacture with little cost to the
12:56:56:15 friction material manufacturer"?

12:56:56:24 A That's what they felt, yes.

12:56:58:28 Q It says, "The rejoinder to this was that
12:57:01:03 the members felt that it was not the direct cost
12:57:03:01 that bothered them, rather it is the indirect cost
12:57:07:03 of the customer reaction to the warning label"?

12:57:10:15 A That's what some people expressed.

12:57:14:07 Q What's your understanding of their basis
12:57:16:12 for having that concern? In other words, I don't
12:57:18:21 understand that.

12:57:19:18 A You do too understand it.

12:57:23:06 Q Well, I think I do, but I want to hear
12:57:26:09 you explain it to me.

12:57:27:03 A You want to hear me explain it, but you
12:57:30:12 understand it?

12:57:30:24 Q I think I do.

12:57:32:06 A They didn't want to go -- they were

12:57:32:27 concerned about the warning maybe scaring away
12:57:36:01 some of the customers from using it.

12:57:38:13 Q Okay.

12:57:38:13 A That's your understanding of it?

12:57:39:21 Q That is, yes. That is. And they were
12:57:43:24 concerned that again going back to manufacturers
12:57:48:13 from Canada or Mexico, they wouldn't be subject to
12:57:52:15 that law, and they could sell products without a
12:57:55:06 warning and what would happen that would hurt
12:57:57:27 domestic manufacturers sales; is that fair?

12:58:00:27 A That could have been some peoples'
12:58:03:06 opinion, yes.

12:58:03:13 Q As Exhibit 34, I'm going to mark the
12:58:18:00 minutes of the annual meeting of the FMSI on June
12:58:22:10 27th and 28th, 1973, and this was the meeting that
12:58:26:24 was held in Vail, Colorado. You remember that of
12:58:30:10 course?

12:58:30:24 A Yes, I do.

12:58:31:13 Q And that was the meeting where Ike Weaver
12:58:37:00 got up and made a presentation that we have talked
12:58:39:18 before?

12:58:39:18 A That's true.

12:58:41:00 Q And from the minutes on page 4 it says,
12:58:45:09 "Another question had to do with the

12:58:50:13 recommendation that Mr. Weaver made that all boxes
12:58:53:12 or cartons containing friction materials have the
12:58:56:00 OSHA label imprinted thereon." Was there an
12:58:59:18 argument at that time or at least a discussion as
12:59:01:27 to whether every box of brakes required a warning,
12:59:05:00 or just those that would be subsequently machined?

12:59:07:21 A I think perhaps there may have been some
12:59:13:24 members who had the feeling that the asbestos was
12:59:18:06 locked in and would not be -- would not be
12:59:23:18 grounded to the atmosphere. That was their
12:59:27:03 opinion so they didn't feel that the label was
12:59:30:10 necessary.

12:59:30:10 Q Do you know what if any studies or any
12:59:35:10 other information they based that on?

12:59:37:04 A No. A seat of the pants.

12:59:41:00 Q And Mr. Weaver it says suggested there
12:59:47:12 was always the possibility of additional cutting,
12:59:49:25 drilling or grinding, and he felt that OSHA labels
12:59:56:03 should be used on all boxes. Was that your
13:00:00:06 opinion also at the time?

13:00:01:15 A I think I generally agreed with Ike on
13:00:03:22 that one, on that particular one, yeah.

13:00:13:13 Q Now you -- you raised an interesting
13:00:16:28 issue, and this is Exhibit 3 to the first part of

13:00:21:01 your deposition, and it's the text of Ike Weaver's
13:00:25:01 address before the membership of the FMSI in Vail
13:00:29:07 in 1973. And you would of prepared this, of
13:00:35:00 course, as part of the -- as a supplemental to the
13:00:38:28 minutes; correct?

13:00:39:09 A Well, he gave me a copy of his address
13:00:45:09 and I entered them into the minutes, yeah.

13:00:48:15 Q Now I just want to establish that this is
13:00:52:00 document that you prepared as Executive Director,
13:00:53:15 it was an exhibit to the minutes?

13:00:56:00 A Yes, I did.

13:00:57:10 Q Okay. And getting back to what you just
13:01:05:21 started to talk about, you started to say that
13:01:09:12 some people thought that the asbestos fibers were
13:01:17:19 somehow locked in to the brakes and they wouldn't
13:01:17:19 be released when they were drilled or ground;
13:01:18:22 correct?

13:01:19:03 A They were locked in to the friction
13:01:25:06 article, the brake lining, not -- well, into the
13:01:28:21 brake lining.

13:01:29:18 Q Okay. But that was -- that was an
13:01:32:18 argument at the time that there was something
13:01:33:27 about them that they were locked in, and they
13:01:36:27 wouldn't get out so that they could hurt people?

13:01:39:13 A Some of the minority of the people felt
13:01:43:16 that way, yes.

13:01:44:12 Q You would characterize that as a minority
13:01:48:00 view?

13:01:48:12 A Yes.

13:01:48:12 Q When Ike got up and talked, he said that
13:01:51:21 the people who made asbestos textiles, like cloth
13:01:55:24 or gloves, had argued that they were somehow
13:01:58:15 treated or coated so that the fibers wouldn't get
13:02:01:18 out and get airborne?

13:02:02:27 A Where are we getting this from?

13:02:04:12 Q Well, it is from right here. He says,
13:02:07:01 "There has been much advertising of asbestos
13:02:10:10 textile products citing the benefits of treatments
13:02:12:15 or coatings that purport to lock the fiber into
13:02:15:12 the product in such a way that it cannot become
13:02:18:18 airborne during use." He goes on to say that
13:02:21:09 while these claims are probably true to varying
13:02:24:19 degrees depending on the nature of the product,
13:02:25:22 its use in the way it is handled, I do not think
13:02:30:09 this claim is at all applicable to friction
13:02:34:19 materials.

13:02:34:19 A That's what he said.

13:02:39:06 Q Okay. And that in your estimation at

13:02:43:25 that time was the majority view of your
13:02:45:24 membership?

13:02:49:28 A I would think more people believe that
13:02:52:12 there was a problem with the grinding of friction
13:02:56:25 materials than were not concerned, that's what if
13:03:00:12 that's what you are asking. My 80, 79-year-old
13:03:05:07 brain is unable to keep up with your loaded
13:03:08:09 questions.

13:03:08:12 Q I'll try to shorten them up for you, and
13:03:12:07 if you need me to rephrase, just tell me, okay?

13:03:15:06 He goes on to say that -- you are talking
13:03:16:27 about grinding and this is the next thing he says,
13:03:19:07 "I have been appalled to learn of a number of
13:03:22:12 instances where this problem has occurred and some
13:03:24:22 of these cases involve people that certainly might
13:03:27:04 have been expected to know better." Do you
13:03:31:03 remember that?

13:03:31:19 A I see it there so I remember that. I
13:03:36:07 don't remember that I put it down there, but I
13:03:38:12 obviously put it down there. These are quotes
13:03:40:12 from Ike Weaver, okay?

13:03:42:19 Q Okay. And do you know who he was talking
13:03:45:00 about?

13:03:45:07 A I do not know who he was talking about.

13:03:47:15 I haven't the slightest idea.

13:03:49:21 Q I want to go toward the end of his
13:04:13:07 speech. He said, "In summary, the OSHA and EPA
13:04:17:09 asbestos regulations are a lot more lenient than
13:04:22:01 many interested and concerned parties wish. We
13:04:24:06 can expect pressure to have them tightened.
13:04:27:13 Friction materials manufacturers should support
13:04:30:10 asbestos industry efforts to have them mitigated
13:04:32:16 in hopes they aren't -- in hopes they at least
13:04:36:00 aren't made more severe." And that occurred; did
13:04:40:04 it not?

13:04:40:15 A I don't know. You read -- I -- where
13:04:44:10 would it have occurred? I don't know.

13:04:46:06 Q Well the friction materials manufacturers
13:04:48:10 would be the members of the FMSI; right?

13:04:50:24 A Should support asbestos industry efforts
13:04:54:21 to have them mitigated in hopes that at least --
13:04:57:15 that's probably a good idea.

13:05:01:06 Q You think it was a good idea to try to
13:05:04:12 resist tightening the asbestos regulations?

13:05:08:18 A I think it is a good idea to go and
13:05:11:09 change regulations to the level where people can
13:05:15:06 actually do them, can put them into effect and all
13:05:17:24 that on a factory level, you can go and do

13:05:22:04 anything in a tiny laboratory with a couple
13:05:25:18 fibers. We are talking about getting this thing
13:05:27:24 into a real factory. It gets a little bit of a
13:05:32:09 problem.

13:05:32:09 Q Sir, we are talking about companies that
13:05:35:09 were manufacturing asbestos brakes. We are not
13:05:37:24 talking about small mom and pop operations, are
13:05:40:25 we?

13:05:40:25 A I'm not sure which one we are talking. I
13:05:44:10 think we go back and forth.

13:05:45:24 Q Didn't you count among your members some
13:05:48:15 of the largest industrial corporations in America
13:05:51:22 at that time?

13:05:52:06 A Yes.

13:05:52:24 Q Okay. Those people certainly had
13:05:56:24 resources available to them to do research and to
13:05:59:25 come up with new innovative solutions?

13:06:03:16 A I would think so, yeah.

13:06:04:19 Q But the problem with that is that those
13:06:07:18 resources cost money; right? We talked earlier
13:06:10:24 about --

13:06:12:03 MR. KRAUSE: Objection, foundation.

13:06:13:18 MR. DeLUCA: -- expensive?

13:06:14:28 THE WITNESS: You keep coming back

13:06:16:04

to money. Money is a measure of what

13:06:18:10

effort it takes to go and do things. A

13:06:21:04

lot of things are very, very difficult to

13:06:23:06

do unless you put a lot of money into the

13:06:25:10

darn thing, yes. But, you know, part of

13:06:27:16

it is the difficulty of doing things.

13:06:28:27

Things don't automatically just come out

13:06:32:21

just by pushing a button and say clean up

13:06:35:21

the asbestos. You have a million things

13:06:38:12

to do. You have your factory work rooms,

13:06:39:21

you have your exhaust systems, you have

13:06:41:00

your disposal of the product, shipping of

13:06:44:12

the product, you have your marking of

13:06:45:16

boxes. God, this goes on and on and on.

13:06:48:07

This isn't like what you apparently feel

13:06:51:13

it is. So cost is a part of it.

13:06:53:24

BY MR. DeLUCA:

13:06:53:24

Q Sir, as Exhibit 35 I am going to mark the minutes of the meeting of the Asbestos Study

13:07:01:06

13:07:02:22

Committee from June 14th, 1974, and I want to show

13:07:08:19

you the top of that and see if you can explain

13:07:11:03

something to me. Did you have a stamp that said

13:07:13:24

"Unconfirmed Minutes"?

13:07:16:09

A I don't think I did, but I might have.

13:07:21:09 You see before we sent minutes out, we would send
13:07:24:21 them out to the chairman and to our attorney to go
13:07:28:03 and check them over first, so we might of stamped
13:07:40:00 them "Unconfirmed Minutes." So these here may not
13:07:40:00 be confirmed minutes.

13:07:40:01 Q What was the purpose to sending them out
13:07:40:00 to lawyer?

13:07:40:03 A Don't you think I had a right to have my
13:07:43:12 lawyer review the minutes of meeting we had?

13:07:45:06 Q I don't see why that would be a problem.

13:07:47:04 A Don't you think I had a right to have the
13:07:49:15 chairman of the committee to go and review the
13:07:51:04 minutes to see them before I sent them out?

13:07:54:21 Q Was it to check for accuracy?

13:07:57:09 A Yes.

13:07:57:18 Q Generally your minutes were pretty
13:08:00:18 accurate; were they not?

13:08:00:22 A Well, I hoped they were. But they did
13:08:03:06 get reviewed by my attorney and by the chairman of
13:08:05:18 the committee. I think that is reasonable thing
13:08:07:12 to do.

13:08:07:18 Q I wasn't insinuating that it was
13:08:12:00 unreasonable. I just asked the question, sir.

13:08:13:28 A You got your answer.

13:08:15:07 Q Thank you. And one of the sections in
13:08:22:12 these minutes concerns a meeting, I guess, of the
13:08:26:24 American Industrial Hygiene Association, did
13:08:29:09 you -- were you familiar with that organization?

13:08:31:09 A Not really, but as I see the word up
13:08:35:03 there now, maybe we -- maybe I did go. I don't
13:08:38:00 recall this at all.

13:08:38:27 Q Do you remember specifically the paper
13:08:41:27 that was authored by Dr. Rohl, along with
13:08:46:28 Dr. Nicholson and Dr. Langer that was entitled
13:08:49:00 "Asbestos Exposure During the Brake Lining
13:08:51:19 Maintenance and Repair" that it focused on brake
13:08:55:12 repair in New York City?

13:08:57:04 A Well, I don't know that it did. I think
13:08:58:24 it might have been Rockland County.

13:09:01:09 Q It says here in your minutes that this
13:09:04:22 paper concerned itself with exposure to asbestos
13:09:08:03 during brake relines, primarily in New York City
13:09:10:18 shops?

13:09:11:18 A Okay. It must have been New York City
13:09:13:10 shops then.

13:09:13:27 Q Then it says, "Some of the housekeeping
13:09:15:18 conditions in these shops were deplorable."

13:09:18:15 Further, "They are perhaps no worse than in other

13:09:22:16 shops throughout the country." Do you recall
13:09:24:06 that?

13:09:24:12 A At that particular time they probably
13:09:26:27 were pretty bad.

13:09:28:03 Q What was the Institute's reaction when
13:09:30:13 they learned of this finding in this paper?

13:09:33:24 A I don't remember what the reaction was.
13:09:38:03 I circulated this information to my members.

13:09:40:18 Q Do you think that anything occurred above
13:09:44:12 and beyond you circulating the information?

13:09:46:12 A Well, during this entire time things were
13:09:49:01 phasing in, people were gradually adopting
13:09:52:27 asbestos regulations and adopting controls in the
13:09:55:19 workplace to cut down on asbestos exposure, yes.
13:09:59:25 There were things going on all the time because of
13:10:01:15 this whole mushrooming problem.

13:10:03:27 Q Those things that were going on were
13:10:08:07 occurring first at least in the factories where
13:10:12:16 these products were made; correct?

13:10:14:01 A That, and there were notices going out
13:10:16:15 that they had a problem to go and control asbestos
13:10:19:09 in the brake shop too.

13:10:20:10 Q That wasn't until a little bit later?

13:10:23:09 A Well, you see things didn't happen. Say

13:10:25:12 you have a publication date that the booklet was
13:10:28:12 put out on November 1976, or something like that,
13:10:31:28 that thing didn't just crystallize and develop all
13:10:36:06 of a sudden. It took a while to write the thing,
13:10:38:18 get the information in, so over a two or three
13:10:41:15 year period before the thing would actually be
13:10:43:25 handed out to people. We weren't the fastest
13:10:46:09 people in the world. We tried our best to be
13:10:49:00 fast. These things don't happen all at once.

13:10:52:24 Q One of this -- one of the things that we
13:10:55:18 may have not -- we may not have talked about yet,
13:10:59:21 we talked grinding and drilling and sanding, but
13:11:03:25 we haven't talked blowoff. Can you tell the jury
13:11:09:00 what blowoff is?

13:11:09:27 A Generally speaking you got a car sitting
13:11:13:27 up on a rack. And you take -- could be a truck
13:11:17:00 too, so don't pin me to just a car. You take off
13:11:20:27 the wheel, and you go and take an air hose and you
13:11:23:15 blow the dust out. That's what blowing it off is.
13:11:26:27 Is that what you are talking about?

13:11:28:00 Q Yeah, I think so. And that was a fairly
13:11:30:18 common work practice?

13:11:31:27 A That was a common workplace practice
13:11:34:21 before we started going after them.

13:11:37:00 Q When mechanics would take compressed air
13:11:41:09 and blowoff the brakes or blowout the brakes, that
13:11:43:22 would cause concentrations of asbestos dust to get
13:11:47:22 up into the air?

13:11:48:15 A That is correct.

13:11:48:16 Q Including levels that were excessive?

13:11:51:07 A I don't know what the levels were.

13:11:52:07 Q Here it says that the dust concentrations
13:11:54:25 during the blowoff is in excess of the five fibers
13:11:58:10 per cc's allowance, and this is from Rohl's paper.

13:12:00:24 A Okay.

13:12:01:00 Q Were you aware of that before Rohl?

13:12:03:24 A No, I don't think so. Rohl was one of
13:12:06:12 the Mt. Sinai people, I believe.

13:12:08:03 Q Yes, sir. Another interesting thing in
13:12:13:19 this particular document, I was wondering if you
13:12:16:15 had any knowledge about it, and this is from
13:12:20:16 page -- I think it is five. It says that the most
13:12:25:04 significant asbestos use in the automotive field
13:12:27:09 is in brake lining. Clutch facings are probably
13:12:30:19 close second. However there is asbestos used in
13:12:33:24 air conditioning ducts for some Ford Motor Company
13:12:36:21 vehicles. This apparently is the only significant
13:12:39:18 use of asbestos other than in friction materials.

13:12:42:24

Do you see that?

13:12:43:21

A I see it.

13:12:44:09

Q Do you know anything about Ford's use of asbestos in air conditioning ducts?

13:12:48:18

13:12:50:15

A Not at all. What is this article again?

13:12:55:15

My memory. I don't have the greatest memory in the world. Is this from a set of minutes or what?

13:12:58:06

13:13:00:21

Q Yes, sir.

13:13:01:04

A This is the minutes of the asbestos.

13:13:02:22

That didn't come from me. Whatever that thing there is, somebody said that.

13:13:06:00

13:13:07:21

Q Well I understand that, sir. You are the one that prepared these; correct?

13:13:10:06

13:13:11:18

A Yes. But what did -- is somebody -- did somebody give me a report, and I am putting the report down there? Is that what I am doing?

13:13:14:19

13:13:16:15

13:13:19:06

Q I am not trying to attribute these statements to you, sir. I am just asking if you have any more infor --

13:13:28:12

13:13:28:12

13:13:28:12

A Can you bring it back to where it was so I can see the thing?

13:13:28:12

13:13:28:12

Q Sure.

13:13:28:12

A Where are we?

13:13:28:12

MR. KRAUSE: Why don't we just

13:13:30:03

stipulate what the minutes say what the minutes say, and that's all we are doing.

13:13:31:15

13:13:35:09

MR. DeLUCA: Why don't you let me try my case the way I want to try.

13:13:37:04

13:13:40:00

MR. KRAUSE: If you want to waste your time.

13:13:41:07

13:13:44:00

THE WITNESS: I have no idea what Ford Motor Company did.

13:13:46:09

13:13:47:09

MR. DeLUCA: All right. Fair enough. 36.

13:13:49:00

13:14:05:15

BY MR. DeLUCA:

13:14:05:15

Q As 36 I am going to mark a letter dated February 9, 1976 from John Marsh of Asbestos Manhattan to you. Do you know Mr. Marsh well?

13:14:08:04

13:14:13:01

A I knew Mr. Marsh professionally.

13:14:17:18

13:14:22:28

Q One of the last things he said in this meeting was that there is no question that excessive amounts of asbestos dust exist in many brake service centers, and it is incumbent upon the industry to take an aggressive approach in providing its customers with information on the safe handling of asbestos containing products. Do you see that?

13:14:36:01

13:14:38:13

13:14:42:06

13:14:44:27

13:14:47:09

13:14:50:00

13:14:52:07

13:14:52:27

A Yes, I do.

13:14:53:13 Q Do you think industry took an aggressive
13:14:57:06 enough approach in getting the word out to its
13:15:00:09 customers about the hazards of asbestos?

13:15:02:18 A I think I in my position at the Friction
13:15:05:10 Materials Standards Institute did as much as I
13:15:09:13 could to get this information out, and I think the
13:15:11:12 members in the meanwhile took that information and
13:15:12:28 did their best to get it out, but whether they all
13:15:16:12 did it or not, I don't know.

13:15:25:18 MR. DeLUCA: Go off the record,
13:15:29:21 please.

13:15:31:00 MR. PIAZZA: The time is now 1:07,
13:15:32:21 and we will take a pause in the testimony
13:15:34:27 of Mr. Drislane.

13:15:35:18 (A short recess was taken.)

13:17:16:15 MR. PIAZZA: The time is now 1:09,
13:17:27:16 we will resume the testimony of
13:17:29:24 Mr. Drislane.

13:17:31:00 BY MR. DeLUCA:

13:17:31:06 Q Sir, as Exhibit 37 I am handing you a
13:17:36:27 memo that you authored dated August 30th, 1972,
13:17:40:18 addressed to the Asbestos Study Committee, and the
13:17:43:21 subject is Health Hazards of Asbestos by J. C.
13:17:46:18 Gilson. And you have enclosed an article by J. C.

13:17:52:24 Gilson, as well as a memo from Ike Weaver. Are
13:18:04:00 you -- do you recognize this article, Health
13:18:08:27 Hazards of Asbestos by J. C. Gilson?

13:18:11:21 A I don't recognize having seen it before
13:18:16:06 but I remember, I vaguely recall having heard the
13:18:19:25 name Gilson.

13:18:20:15 Q And you say in your memo that Ike Weaver
13:18:27:12 thought that this particular article was a good
13:18:30:10 overview of the entire asbestos health situation
13:18:33:06 as it now stands, and suggested that it be
13:18:36:27 distributed to members of the committee, okay?

13:18:40:03 A I can read too, yes.

13:18:41:06 Q And you did, you did just that, you
13:18:46:13 forwarded it on to your committee members, as well
13:18:50:00 as Matt Swetonic from the AIA, and even your
13:18:53:28 British counterpart, the British Friction
13:18:57:01 Materials Council; correct?

13:18:58:13 A Yes.

13:18:58:13 Q And did you typically when you would get
13:19:02:06 medical articles, did you read them or did you
13:19:04:18 just pass them along?

13:19:06:00 A It depended. I would read some if they
13:19:08:06 were light and easy enough for me to understand.

13:19:11:07 If they were too heavy, I just dropped them, I

13:19:15:09 just circulated them. And that one there looked
13:19:18:27 like it was too heavy.

13:19:22:10 Q Did you -- did you happen to read the
13:19:25:27 section where it says that the evidence for a dose
13:19:28:24 response relationship is less clear in a case of
13:19:31:06 mesothelioma, and hence the threshold limit value
13:19:35:09 is more difficult to assess?

13:19:38:13 A What are you asking me?

13:19:39:18 Q Were you aware of that?

13:19:41:10 A I must have been at the time, but I don't
13:19:43:06 remember it. I must. He must have said that.
13:19:50:06 It is there on paper.

13:20:10:06 Q As 38 I have a letter that you sent to
13:20:12:15 Ike Weaver dated May 29th, 1974 with an
13:20:19:04 attachment, and did you regularly report to Ike
13:20:24:12 Weaver on what transpired during the years so that
13:20:28:09 he could put it in his report?

13:20:29:21 A Ike Weaver, I believe at that time was
13:20:33:13 chairman of the Asbestos Study Committee, so if
13:20:36:15 there were things that came in concerning
13:20:39:07 asbestos, I would route them on to him. In the
13:20:41:21 meanwhile, if he sent me stuff concerning the
13:20:45:00 asbestos, I would generally route it on to my
13:20:48:19 members.

13:20:48:25 Q And every year the chairman of that
13:20:50:22 committee would have to provide a report to the
13:20:54:09 Asbestos Study Committee, or a report to the
13:20:55:12 membership as to the activities of the Asbestos
13:20:57:21 Study Committee for the year?

13:20:58:27 A That's correct.

13:20:59:00 Q And you were very much the recordkeeper
13:21:03:06 around there, and you would help the chairman out
13:21:05:24 and give them information about what happened in
13:21:08:15 the year for inclusion in their report?

13:21:10:15 A No. They got their own information for
13:21:13:27 inclusion in the report.

13:21:14:27 Q Okay. I guess why I came to that
13:21:17:27 conclusion is that your second paragraph says,
13:21:19:15 "Enclosed is a list of actions during the '73-74
13:21:23:12 fiscal year listed in date order. I'd very much
13:21:27:04 appreciate a brief Committee Chairman report as
13:21:29:19 soon as you're able."

13:21:30:09 A In that case, I must have done that.

13:21:32:19 Q And then attached is a list of things
13:21:33:28 that occurred in '73. I want to ask you about
13:21:36:21 this one. August '73 sent the committee members
13:21:47:12 information concerning Dr. Selikoff's presentation
13:21:49:27 indicating that the 1976 two fibers per cc

13:21:54:00 exposure may be too high.

13:21:55:15 A I probably sent it to them then.

13:21:57:27 Q Is that what this is, is a list of
13:22:00:12 information that you would of sent on to members
13:22:02:15 of the Asbestos Study Committee during the year
13:22:14:04 '73-74?

13:22:14:04 A Those are apparently what I was trying to
13:22:14:04 help Ike with his annual report. This is what
13:22:14:04 with his chairman's report.

13:22:14:18 Q Just by way of further example, one of
13:22:17:24 the other things you would have done was to send
13:22:21:03 committee members additional materials on asbestos
13:22:23:15 and brake linings?

13:22:24:03 A I would have sent some to committee
13:22:26:13 members, yes.

13:22:26:24 Q And one of other things you did in August
13:22:30:09 of '73 was to send information concerning what
13:22:33:24 occurred in Lyon, France, or Lyon, France, excuse
13:22:38:19 me, you are familiar that there was an asbestos
13:22:43:03 conference held there in the early '70s?

13:22:44:18 A I wasn't familiar with anything.
13:22:46:15 Somebody sent that on to me.

13:22:47:21 Q And you passed it along to all your
13:22:50:22 members?

13:22:50:27 A I apparently passed it on to my members.
13:22:53:03 I don't remember if I passed it on to all my
13:22:55:22 members. I believe I passed it on to my members.

13:22:57:18 Q As 39 I have a June '74 Asbestos Study
13:23:38:24 Committee report, and would this have been a
13:23:44:06 document that you would have prepared as Executive
13:23:46:28 Director?

13:23:47:09 A I don't recognize it because I can't see
13:23:50:04 the heading of the damn thing. Asbestos Study
13:23:55:07 Committee report. That's funny it should be in
13:23:58:25 that format. Ordinarily I put it with a list of
13:24:02:24 attendees and all that. I don't really know what
13:24:05:03 we are talking about here. What's the questions?

13:24:07:10 Q I was just wondering if this was a
13:24:11:03 document you would typed as Executive Director?

13:24:12:24 A Might have been a forerunner for asbestos
13:24:15:24 committee report. I don't know.

13:24:16:24 Q Typically were the reports typed up and
13:24:19:27 attached as exhibits to the minutes of the
13:24:22:09 meeting?

13:24:22:10 A Ever was different. There was no -- it
13:24:25:09 could have been that way, or it might not have
13:24:27:06 been that way.

13:24:27:22 Q Do you have any knowledge of an asbestos

13:24:29:27 meeting that was held in Geneva, Switzerland in
13:24:34:09 1973?

13:24:34:12 A No. If it were in one of these things,
13:24:37:21 it probably happened, but I don't know. I wasn't
13:24:39:19 in Geneva. I don't go to Lyon or any of that
13:24:43:28 stuff. I don't know that stuff. Ike was so full
13:24:46:25 of papers and he kept sending papers and papers
13:24:49:09 and papers to me, so I tried to send the papers
13:24:51:28 out, okay? I have no idea. S 3~~was~~ many papers. I
13:24:54:09 couldn't read them. No way. I couldn't
13:24:57:16 understand them if I tried to.

13:25:00:12 Q Did you send -- did you forward most of
13:25:02:19 the stuff that Ike sent you to the members?

13:25:05:03 A Generally speaking.

13:25:06:12 Q Who would decide what to send on and what
13:25:10:12 to not send?

13:25:10:28 A I would.

13:25:11:28 Q Okay. Do you know if Mr. Weaver is
13:25:18:15 living?

13:25:18:15 A I do not know.

13:25:21:09 Q Do you know where he lived when you
13:25:23:12 were --

13:25:23:15 A No, I don't.

13:25:27:09 Q He -- Did you understand him to be

13:25:30:18 sending you that for the purposes of sending it
13:25:33:12 along to other people in the brake business?

13:25:36:09 A I don't know why he sent things to me.

13:25:39:09 Q Did you know him as an individual
13:25:40:25 concerned about worker health?

13:25:42:21 A I would guess so, yes.

13:25:48:06 Q Do you know if he had any type of medical
13:25:53:09 background?

13:25:53:25 A No idea.

13:25:54:12 Q Do you know what his position was with
13:25:57:04 Raybestos?

13:25:57:15 A No.

13:25:57:21 Q Some kind of an executive or --

13:26:01:01 A Yes, some kind of an executive.

13:26:02:24 Q With respect to the OSHA limits, for
13:26:16:18 instance, in this time we are talking about two
13:26:19:09 fibers per cc, did you have an understanding that
13:26:21:24 they were to protect against asbestosis, or did
13:26:26:09 you think that they also were designed to protect
13:26:28:22 against cancer?

13:26:30:04 A I have no idea what they are. You know,
13:26:32:25 at the beginning of this thing, I didn't
13:26:34:24 understand what was going on here, and later on I
13:26:37:00 didn't understand either. But people that talked

13:26:40:25 about asbestosis and lung cancer and all that, and
13:26:49:07 I didn't know any of this stuff back in 1972. And
13:26:54:16 gradually as people build up, I figure it had
13:26:57:24 something to do with lung cancer and asbestosis.
13:27:02:09 I remember a certain time Ike may have wrote
13:27:06:15 mesothelioma. I could not even spell mesothelioma
13:27:13:09 at that time. So I don't know. That interim
13:27:15:00 period, things are happening. '72 you are getting
13:27:17:12 aware of the problem, and '76 you are making
13:27:19:15 standards, and '80 you are toughening the
13:27:22:09 standards. I can't give specific times and
13:27:25:06 exactly what happened then. I can tell you
13:27:29:09 whether I wrote the letter or not.

13:27:31:07 Q One of the recommendations that
13:27:35:19 Mr. Weaver made as reflected in this report is
13:27:37:21 that there should be a full understanding of the
13:27:39:24 nature of the asbestos hazard by all persons
13:27:42:21 concerned both inside and outside asbestos
13:27:45:25 processing facilities, did you agree that that was
13:27:50:16 good advice?

13:27:51:15 A Yeah.

13:27:51:25 Q And a full understanding would involve an
13:27:57:01 understanding of the product that can cause
13:28:00:24 cancer, wouldn't it?

13:28:01:09 A I think we were not hiding the fact that
13:28:04:27 it could cause cancer, but we told them, we gave
13:28:09:15 the same wording in our warning on asbestos that
13:28:16:10 EPA and OSHA did. I don't think I knew anything
13:28:19:15 more than EPA or OSHA.

13:28:21:15 Q Let me show you the first three
13:28:24:01 recommendations he made and ask you whether the
13:28:25:22 FMSI ever put these specific recommendations in
13:28:29:18 its recommended work practices guide. Number one,
13:28:33:01 there is growing evidence of severe health risks
13:28:35:19 following exposure to asbestos dust, did that ever
13:28:39:09 appear in the FMSI work practice guide or the
13:28:42:18 recommended work practice sheet?

13:28:44:21 A With those words, I don't believe so.

13:28:46:03 Q Did the FMSI ever say that, number two,
13:28:48:18 all types of asbestos fiber are associated with
13:28:50:22 mesothelioma?

13:28:53:16 A No, we never specifically said that.

13:29:05:04 Q Did the FMSI ever tell people that the
13:29:05:04 proportion of asbestos workers who may be
13:29:05:04 expected to develop mesotheliomas cannot be
13:29:06:15 determined precisely at present?

13:29:08:04 A See I don't really think mesothelioma was
13:29:13:15 the one that they were all warning about. I think

13:29:16:06 they were warning about lung cancer and
13:29:18:12 asbestosis. I think the mesothelioma warnings
13:29:22:21 were going down with the ship builders and all the
13:29:26:06 other asbestos cement industries, and stuff like
13:29:28:24 that. I don't think they ever more or less
13:29:32:00 projected them into the friction materials
13:29:34:28 business.

13:29:52:27 Q As 40 I have a letter that you authored
13:29:57:03 dated March 10th, 1975 to members of the Asbestos
13:30:03:00 Study Committee, and two questions I want to ask
13:30:08:15 you about this. Again, this seems to indicate
13:30:13:12 that Mr. Weaver sent some papers to you and you
13:30:16:03 passed them along, would you agree with that?

13:30:18:06 A Mr. Weaver forwarded papers, three papers
13:30:21:22 concerning asbestos, which he suggested I send on
13:30:24:19 to the committee. I -- did I send them on? I
13:30:28:03 believe I would send them on. If Ike recommended
13:30:31:15 them, I would send them on.

13:30:32:15 Q Sure. And it shows that there was
13:30:35:16 enclosures and the enclosures were there. But the
13:30:38:27 first question is: Do you recall a discussion
13:30:41:24 among your members as to whether or not fibers
13:30:44:24 less than five microns in length could cause
13:30:48:15 disease?

13:30:48:15 A I don't know what you are asking. Did I
13:30:59:18 send along something to this effect?

13:31:01:25 Q No. This is kind of just a refresh your
13:31:04:27 recollection to the issue. I'm asking if you
13:31:07:19 recall any discussions about whether fibers less
13:31:11:24 than five microns in length could cause disease or
13:31:15:18 more disease and less disease than longer fibers?

13:31:19:00 A Yes. Because this was going on through
13:31:20:16 the '70s when they moved from ten fibers down to
13:31:25:18 five fibers, down to two fibers, so there had to
13:31:28:24 be expressions of concern for the five microns,
13:31:31:25 yes.

13:31:32:09 Q And what was your understanding at that
13:31:35:07 time that the ones that were longer than five
13:31:38:16 microns were the bad ones, or the shorter fibers?

13:31:41:13 A I kind of gather that the longer ones
13:31:43:18 were the bad ones.

13:31:44:19 Q Do you know why you had that opinion at
13:31:51:07 the time?

13:31:51:07 A No, I do not know why I had that opinion
13:31:54:16 at that time.

13:31:54:16 Q To the extent that any of your members
13:31:56:27 had that opinion, do you know what they relied on?

13:31:59:24 A No.

13:32:00:07 Q The second part of this that I wanted to
13:32:04:10 ask you about concerned a paper concerning
13:32:08:21 mesothelioma in rats. Were you aware over time
13:32:13:27 that that there had been experiments done with
13:32:17:15 animals at various times with respect to asbestos,
13:32:19:10 were you aware of any of those studies that had
13:32:26:18 been done over the years?

13:32:28:09 A I don't. I wasn't aware of the studies.
13:32:29:25 Ike might have told me there were studies done in
13:32:34:12 Great Britain to the effect that such and such was
13:32:37:24 the result. I don't read the studies.

13:32:39:16 Q We are here in Albany, New York. How far
13:32:43:10 away is Saranac, New York?

13:32:44:24 A I have no idea.

13:32:45:03 Q Do you know about any studies that were
13:32:49:09 done on rats or mice by some of the members of
13:32:53:06 FMSI, people like Abex?

13:32:54:15 A No, I have no idea.

13:32:56:18 MR. POLCHINSKI: Objection.

13:32:57:21 BY MR. DeLUCA:

13:32:57:19 Q And do you remember Mr. Weaver here in
13:33:01:06 1975 saying that these rats that were exposed to
13:33:07:18 Chrysotile got mesothelioma, and he thought that
13:33:10:18 that would be bad news for people that were hoping

13:33:13:21 that Chrysotile didn't cause mesothelioma?

13:33:16:04 A I understand what he was saying, yes.

13:33:18:07 Q And you passed this along to your
13:33:21:04 members, of course?

13:33:22:09 A I don't recall.

13:33:31:27 Q Did you ever get to know a gentleman
13:33:35:01 named John Meyers from California?

13:33:38:27 A No.

13:33:39:27 Q If I told you he worked at an asbestos
13:33:43:04 mine in King City, would that assist you?

13:33:45:21 A No.

13:33:46:21 Q Have you ever heard of colegria?

13:33:49:15 A No.

13:33:49:24 Q How about colalinqua asbestos?

13:33:53:00 A No.

13:33:57:15 Q Have you ever heard any arguments
13:34:00:07 advanced that some types of Chrysotile are safer
13:34:04:13 than others?

13:34:05:03 A No, I haven't. Not types of Chrysotile.
13:34:14:09 I didn't know there were other types. Maybe there
13:34:16:25 are. I'm not an expert in asbestos.

13:34:20:12 Q Did you know Dr. Langer from Mt. Sinai?

13:34:29:13 A I may have met him, but I don't remember
13:34:32:06 him.

13:34:32:15 Q Do you remember any of his work?

13:34:35:22 A No. I think there was a paper by
13:34:39:00 Dr. Langer that somehow got into our files, I'm
13:34:42:10 not sure.

13:34:43:03 Q Are you familiar with his opinion that
13:34:49:04 there was no safe level of exposure to asbestos
13:34:53:22 and that some people could be particularly
13:34:55:15 sensitive to it?

13:34:56:27 A I don't recall that.

13:34:57:10 Q As 41 let me hand you or let me just mark
13:35:29:06 minutes of the meeting of the Board of Directors,
13:35:31:00 Tuesday, June 17th, 1975. Under Asbestos Study
13:35:53:21 Committee report it discusses the report of
13:35:59:04 Mr. Weaver, which I guess you read for the Board
13:36:02:28 of Directors, and it goes on to say this,
13:36:06:06 Mr. Weaver's report expressed concern on the
13:36:11:03 accusations that have been, I'm sorry -- give me
13:36:20:24 one moment -- accusations that have been pressed
13:36:25:03 against the industry concerning the asbestos
13:36:27:04 standards. He reviewed some of the activities of
13:36:29:19 the regulatory agencies over the past year. The
13:36:33:16 last four paragraphs in Mr. Weaver's report
13:36:36:07 aroused some controversy. One director suggested
13:36:39:06 that the last four paragraphs be deleted. Do you

13:36:45:06 recall that controversy?

13:36:47:25 A No.

13:36:51:09 Q Did the Institute ever delete text from
13:36:57:19 minutes or meetings that their members found
13:37:08:24 objectionable?

13:37:08:24 A Well, I put an entries, you saw that on
13:37:11:06 one of them has it has "Unconfirmed Minutes." If
13:37:14:27 my attorney or the chairman said something, I
13:37:17:00 would change it. But the finished minutes stayed
13:37:22:00 as they were, to the best of my knowledge. So go
13:37:31:24 to the front page on that. That's a -- what is
13:37:38:01 that, the Board of Directors or what?

13:37:39:25 Q Yes, sir. That's the Board of Directors,
13:37:41:13 June 17th, 1975.

13:37:44:24 A That looks like -- that looks like a
13:37:47:04 final set of minutes though.

13:37:49:07 Q Okay. And it shows who was present,
13:37:52:15 Maremont, Bendix, Brassbestos, Raybestos,
13:38:00:09 Carlisle, Abex, S. K. Wellman, Gatke, you were
13:38:05:01 there for the Institute, another person from
13:38:08:01 Maremont. Who is this Mr. Gorman, is that your
13:38:10:09 attorney?

13:38:10:16 A Legal counsel.

13:38:11:22 Q ~~Committee chairperson was present, Abex?~~

13:38:14:27

A Yes.

13:38:15:09

Q You even had a guest from Europe who was, I guess, another similar organization?

13:38:17:04

13:38:19:18

A That is correct.

13:38:20:12

13:38:23:28

Q All right. And getting back to that about deleting the last four paragraphs, do you recall why they wanted four paragraphs deleted?

13:38:26:12

13:38:30:12

A No, I do not.

13:38:31:27

Q Let's look at them and see if that refreshes your recollection.

13:38:34:09

13:39:00:27

A I don't see what was eliminated or what was supposed to be eliminated.

13:39:04:03

13:39:06:24

13:39:09:07

Q Well in the first paragraph the third sentence says, "While this may be true as far as the overall environmental and occupational health picture is concerned, I see no significant change in the attitude of regulatory agencies, medical researchers, labor or environmental groups in regards to the hazards of asbestos nor do I see any justification for such change." Do you know if that attitude was found to be objectionable by your Board of Directors?

13:39:12:13

13:39:15:21

13:39:17:24

13:39:20:25

13:39:23:00

13:39:26:06

13:39:28:06

13:39:31:10

13:39:32:06

A No. I would think it was whatever might have been removed, if there was something removed.

13:39:33:24

13:39:44:21 Q He also recommends educating workers,
13:39:49:06 giving workers instruction and training in the
13:39:52:00 methods for reducing airborne dust generation for
13:39:55:06 minimizing exposure to dust, was that
13:39:57:21 objectionable to your members?

13:39:58:16 A I don't believe so. I don't believe so.
13:40:04:03 I don't believe any of this was objectionable
13:40:06:09 enough to be removed.

13:40:06:24 Q But someone found it objectionable, maybe
13:40:09:28 it wasn't ultimately removed?

13:40:11:18 A That could that's most likely the
13:40:14:18 scenario.

13:40:14:24 Q As you look at the people who were
13:40:19:27 present, do you have any recollection as to who
13:40:21:19 exactly it was that wanted that removed?

13:40:23:18 A No. I don't remember half of the people.

13:40:30:28 Q Did you know Mr. Messier from Bendix?

13:40:34:09 A Yes, I do know Mr. Messier. He just
13:40:37:15 died. Not of asbestosis either.

13:40:41:06 Q It is probably because he didn't work
13:40:43:16 with the stuff?

13:40:45:18 A It was before he got to be a sales
13:40:47:25 manager, he worked in the factory. So these
13:40:51:13 people are not all elite people like you may be

used to.

Q Did you know a Mr. Conway from Abex?

A Yes, I did.

Q This gentleman here, I am having trouble reading his name, he was also employed by Abex?

A His name was Nelson.

Q What was his first name?

A R. E, Robert E. Nelson. He was not on the asbestos thing. He was sitting in this board meeting as the chairman of a different committee.

Q Did you have contact with Mr. Gatke, is that Frank Gatke?

A I had contact with him while I was a member of the Institute, yes.

MR. DeLUCA: Off the record, please.

MR. PIAZZA: The time is now 1:33, we will take a pause in the testimony of Mr. Drislane.

(A short recess was taken.)

MR. PIAZZA: The time is now 1:39, we will resume the testimony of Mr. Drislane.

BY MR. DeLUCA:

Q Mr. Drislane, I want to go back to

13:48:19:28 Exhibit 41 for a moment. We are still talking
13:48:23:06 about what was known by the FMSI and its members
13:48:26:21 about the health effects of asbestos. And earlier
13:48:30:01 I had asked you about fibers that were short
13:48:34:01 fiber, meaning less than five microns, or long
13:48:37:15 fiber greater than five microns. And you had
13:48:40:24 told me that it was your opinion based on what you
13:48:43:00 heard that the dangerous ones were the longer
13:48:46:18 fibers, did I state that correctly?

13:48:48:06 A That was my opinion, but I am not an
13:48:52:07 expert on asbestos.

13:48:53:00 Q And did you ever learn of or consider the
13:49:00:09 opinions of Dr. Selikoff that the short fiber
13:49:04:03 asbestos was equally dangerous?

13:49:07:15 A I probably heard it, and I may have
13:49:09:18 considered it at the time, but I don't remember
13:49:12:00 it.

13:49:12:00 Q And getting back to the issue of what was
13:49:16:22 the safe level, were you aware that Dr. Selikoff
13:49:19:19 had repeatedly said that there was no known dose
13:49:22:22 level that was safe?

13:49:23:22 A Well, it had been under my impression
13:49:27:28 that when Dr. Selikoff started off on this thing
13:49:30:12 and he started off with the shipyard workers and

13:49:33:12 he came over into the friction materials business,
13:49:35:24 he basically said, "We do not intend to go and
13:49:39:10 close down your use of asbestos." And he never
13:49:42:06 published such a statement. He said we intend to
13:49:44:19 go and try to get asbestos uncontrolled so that
13:49:48:09 people can work with it, that's what I remember
13:49:52:24 Dr. Selikoff saying.

13:49:56:13 Q You viewed him as something of an
13:49:58:24 activist; did you not?

13:50:02:15 A Well, no question he was an activist but
13:50:06:15 he had a great -- he was a great respect for him
13:50:09:15 in the industry. Not in the industry, I guess in
13:50:12:27 hygiene circles and places like that.

13:50:15:03 Q Did you know Dr. Hilton Lewinsohn?

13:50:18:15 A No, I didn't. That name strikes me, but
13:50:22:21 I don't remember him.

13:50:24:06 Q As Exhibit 42 I have a letter that he
13:50:31:24 sent you on August 16th, 1977, and you can see
13:50:32:04 that he was a corporate medical director for
13:50:37:10 Raybestos-Manhattan, at least at that time, does
13:50:39:18 that refresh your recollection as to who he was?

13:50:42:16 A I thought he had something to do with the
13:50:45:03 British council. I don't remember.

13:50:48:21 Q He may have worked in England at another

13:50:51:09 time. Perhaps that's what you are thinking of.
13:50:54:10 This seems to imply that he came and talked to the
13:50:57:15 annual membership meeting of the FMSI that was
13:51:00:19 held in Scottsdale in 1977, and he goes on to tell
13:51:07:15 you that at the conclusion of that talk he
13:51:10:18 indicated that the present two fiber cc standard
13:51:14:00 had only been recommended in '68 and became the
13:51:18:03 law in 1970, he didn't think there was enough time
13:51:21:09 to validate it or invalidate it as a safe level
13:51:25:21 for cancer because not enough time had gone by.
13:51:28:24 Do you remember that communication from him?

13:51:30:24 A I don't remember. I see it there, but I
13:51:32:09 don't remember it, no.

13:51:35:09 Q Did you -- do you recall any discussions
13:51:37:04 with him about what he thought a safe level of
13:51:40:03 asbestos was?

13:51:40:10 A I don't ever remember having a
13:51:44:06 face-to-face meeting with him. Maybe he was at my
13:51:48:15 meeting or something like that.

13:51:49:15 Q I want to switch gears and talk to you a
13:52:26:07 little bit about what was known by the FMSI and
13:52:29:24 its members as to what mechanics were doing in the
13:52:35:15 field and what precautions they were taking with
13:52:38:00 respect to asbestos. And as Exhibit 43, I am

13:52:43:21 going to hand you a letter from Mr. Weaver to you
13:52:48:24 dated July 17th, 1975. No. Excuse me. That's
13:52:59:24 what I would like to hand you. There we go.

13:53:06:19 MR. KRAUSE: What's the date?

13:53:08:24 MR. DeLUCA: July 17th, 1975.

13:53:12:10 BY MR. DeLUCA:

13:53:14:12 Q And Mr. Weaver says that -- it says,
13:53:25:27 "Please note the attached article that appears in
13:53:28:07 the May/June issue of Public Health Reports. The
13:53:31:06 second page of the article contains a reprint of a
13:53:33:28 booklet titled Brake Repair Work Can Be Hazardous
13:53:38:09 To Your Health." And here is the article that he
13:53:42:06 is talking about. It's called the Hazards of
13:53:46:25 Asbestos for Brake Mechanics, and it was authored
13:53:49:06 by several people, including a gentleman by the
13:53:52:22 name of Barry Castleman, are you familiar with the
13:53:55:24 name Barry Castleman?

13:53:57:24 A No. I think he might have been somebody
13:53:59:16 that wrote about asbestos.

13:54:01:06 Q Okay. And to save time I'm not going to
13:54:17:01 go over the whole article, but as I think you can
13:54:20:18 see just from glancing through, it talks about
13:54:22:12 grinding and it also talks about blowout. Getting
13:54:29:00 back to Mr. Weaver's letter to you though,

13:54:33:16 Mr. Weaver conveyed to you the fact that he
13:54:35:28 thought that this type of information which
13:54:43:18 emphasizes, to use his language, emphasize the
13:54:46:03 need for responsible action on the part of
13:54:48:24 friction materials manufacturers was not getting
13:54:50:27 down to the mechanic level. And this was July of
13:54:56:03 '75. Did you understand that at that time that
13:54:59:24 the mechanics weren't getting this type of
13:55:02:28 information?

13:55:03:19 A Well that's what he said, and around that
13:55:05:15 time, again, I say everything doesn't happen one
13:55:09:07 split second. We were probably starting to work
13:55:12:12 on that little booklet that was to be given out to
13:55:15:12 the mechanics. I believe the date of publication
13:55:17:27 for that little blue booklet was sometime maybe in
13:55:20:18 '76. I'm not sure. But that was the outcoming of
13:55:24:21 that, of this kind of a thing because in there he
13:55:28:27 says important, avoid exposure to asbestos dust.
13:55:34:01 Well hard to avoid breathing asbestos dust. Do
13:55:36:19 not use an air hose when performing brake service
13:55:39:15 work or for cleaning the work. This was in there.
13:55:43:18 These are all the things came in that little blue
13:55:45:24 book. Use vacuum cleaning or wet cleaning, do
13:55:48:24 not, so forth and so on. All of these things are

13:55:51:09 stuff that we put in the book. But the book this
13:55:54:07 here memo is 1975. Our book came out, I believe,
13:55:56:28 in '76. But again, you are asking for 79-year-old
13:56:00:19 man to remember when that book came out. I don't
13:56:02:16 remember. I believe it was around that time. I
13:56:06:03 believe we are taking a responsible approach.

13:56:10:16 Q From Castleman's article it says that the
13:56:14:13 average brake mechanic is not aware of the
13:56:16:13 potential hazard of airborne brake dust.

13:56:19:15 A At the time he wrote his article that may
13:56:22:03 have very well been true.

13:56:26:09 Q He also went on to say that the
13:56:27:27 manufacturers of automotive friction materials
13:56:31:01 could easily attach a clear hazard warning to
13:56:34:07 every item sold.

13:56:35:06 A They put that on the box.

13:56:37:24 Q You agree with that, there is no reason
13:56:39:12 why they couldn't have done that?

13:56:42:28 A Except they can't do it all at once.
13:56:45:19 They can't get 100,000 labels on boxes that same
13:56:50:18 day. They have to design the thing. They have
13:56:53:03 got to go and talk to the box manufacturers.
13:56:55:13 Things are not like they are in your office where
13:56:58:12 you are always so efficient you can do everything

13:57:02:00 right away. We can't. Ours takes time.

13:57:06:15 Q You obviously have never been to my
13:57:08:16 office, sir.

13:57:09:06 A I hope I never am.

13:57:11:09 Q As 44 I am going to hand you a memo from
13:57:31:15 you that you wrote on August 26, '75 addressed to
13:57:39:27 the Asbestos Study Committee active members and
13:57:43:27 regional members, subject, the United Auto Workers
13:57:47:24 Local Asbestos Safety Bulletin. And just ask you
13:57:53:06 to take a moment and look at that.

13:58:17:12 A Yeah.

13:58:17:28 Q You start out in your memo that you sent
13:58:20:00 to your members saying that Weaver sent this
13:58:23:15 asbestos safety bulletin as put out by a New York
13:58:26:00 City local of the United Auto Workers, and it
13:58:29:21 concerns procedures for brake work and shops and
13:58:32:18 garages. You go on to say it is a further
13:58:35:04 illustration of the direction of those promoting
13:58:36:24 occupational safety and health regulations for the
13:58:40:03 brake repair industry, do you see that?

13:58:42:25 A Can you put it back up there?

13:58:45:12 Q Sure.

13:58:48:18 A Where is this? Five lines in there.

13:58:50:07 Which line is it on?

13:58:52:06 Q I read them all to you.

13:58:59:24 A Illustration of that is -- (reading).
13:59:02:15 What's wrong with that?

13:59:05:09 Q I didn't say there was anything wrong
13:59:08:12 with it. And then in his letter dated August
13:59:11:21 20th, '75 to you where he attached this,
13:59:15:10 Mr. Weaver said, "Attached is a copy of the
13:59:19:06 Asbestos Safety Bulletin put out by the Social
13:59:23:21 Security Department Local 259, the United Auto
13:59:27:18 Workers, it is very disturbing to me to see this
13:59:30:12 type of publication being published now by
13:59:32:28 organized labor when this it should have been done
13:59:36:03 a long time ago by friction materials
13:59:38:03 manufacturers." Did you agree with that? And he
13:59:42:12 goes on to say my -- let me withdraw that
13:59:45:27 question. In my opinion we could of and should of
13:59:48:04 recommended a better procedure than the one
13:59:50:16 described in the attached union bulletin.

13:59:52:10 A I think it is a matter of timing. How do
13:59:55:06 you get things out? I didn't get stuff out quite
14:00:00:03 as fast as the union did, so I was slower so I was
14:00:04:03 derelict in not getting it out fast enough.

14:00:07:01 Q You see, Mr. Drislane, in asking that
14:00:09:13 question I'm not trying to point my finger at you.

14:00:12:19 I am asking a question about whether the industry
14:00:14:18 was slow?

14:00:15:12 A You have tremendous hindsight, much
14:00:17:18 better than I do, and I see what you are saying
14:00:20:12 there. So what -- that's what it says there.
14:00:22:21 What are you getting me to, that's what it says,
14:00:25:10 that's what it says.

14:00:26:19 Q The question is: Do you agree that the
14:00:29:15 friction materials manufacturers should have
14:00:31:12 published that stuff long before the union did it
14:00:34:16 in 1975?

14:00:35:03 A Well, see, I'm afraid I am keeping these
14:00:39:00 people here too long by answering your questions
14:00:43:12 like this, so I agree, I agree mainly because I
14:00:45:24 want to get this over with.

14:00:47:25 Q Sir, I would like you to agree because
14:00:49:28 it is the truth and you are under oath, not
14:00:52:25 because you want to go somewhere else. Is it the
14:00:55:24 truth?

14:00:55:24 A How long are you going to keep this up?
14:01:04:21 Is this what you do to everybody?

14:01:13:01 Q Do you agree with that or not?

14:01:15:03 A Yes.

14:01:15:03 Q As 45 I have a memo that you issued dated

14:01:42:03 December 21st, 1976 of the Asbestos Study
14:01:49:01 Committee. It concerns the, excuse me, it
14:02:03:16 concerns a ballot that you sent out concerning
14:02:06:21 recommended procedures for brake servicing. This
14:02:09:06 is one of those polls that you took on behalf of
14:02:11:28 the FMSI; correct?

14:02:13:24 A Yes.

14:02:13:24 Q All right. And we started to talk about
14:02:17:06 this before in connection with '72, but when you
14:02:21:09 were asking whether people were warning. This was
14:02:23:24 a little different. You asked your members
14:02:26:04 whether they favored putting a one page write up
14:02:28:25 in the Automotive Data Book; correct?

14:02:32:00 A Apparently that's what I did.

14:02:33:27 Q Do you remember sending your members a
14:02:36:15 copy of the proposed recommended procedures for
14:02:40:07 reducing asbestos dust and asking them to comment
14:02:42:24 on it?

14:02:42:27 A I honestly don't remember. Do I say it
14:02:46:06 in there? I am having trouble reading this thing.
14:02:48:06 I am getting older as the day is going on. Does
14:02:51:00 it say something in there that I can refer to?

14:02:53:21 Q Yes.

14:02:53:27 A Whereabouts, first paragraph, second

14:02:56:12 paragraph, third paragraph or which? Okay. Now
14:02:59:21 which line?

14:03:02:21 Q Let's try the first one, sir.

14:03:04:06 A This is to advise the committee members
14:03:06:12 unanimously supports recommending to the board
14:03:10:03 that an insert be in the -- yes.

14:03:13:12 Q That was based upon a poll you took?

14:03:17:01 A I don't know whether it was done verbally
14:03:20:00 at the meeting or whether it was done on a poll.
14:03:23:04 I don't know.

14:03:23:04 Q Let come back to that in a moment. You
14:03:28:24 go on to say that one member added the comments to
14:03:31:21 this poll, "Printing a page in the FMSI catalog
14:03:35:10 still does not get procedures into the hands of
14:03:37:12 the garage mechanic. The ideal solution is for
14:03:40:09 rebuilders or for other people putting lining sets
14:03:43:09 into individual boxes to include a folded eight
14:03:46:27 and a half by 11 sheet on procedures in each box.
14:03:50:12 The draw back of course is several pennies cost."
14:03:53:24 Do you remember that comment being made?

14:03:56:12 A I don't remember the comment being made,
14:03:58:04 but it's in there in my thing, so I did that.

14:04:00:16 Q What did you understand that to mean, the
14:04:04:00 draw back of course is several pennies cost?

14:04:05:18 A It is like everything you do in life.
14:04:07:12 You are going to -- you are going to spend more
14:04:10:04 money to go and put better brakes on the car, or
14:04:13:04 you are going to keep the price low, what are you
14:04:15:15 going to do? You make an economic decision as to
14:04:17:24 whether you should go and do it. In this
14:04:19:19 particular case, some people were saying the draw
14:04:21:24 back is the pennies cost. They were wrong, okay?

14:04:24:15 Q Do you recall who that was?

14:04:26:03 A No, I do not.

14:04:27:00 Q Let me show you Exhibit 46, and asks if
14:04:39:03 that assists you in recalling who it was?

14:04:42:04 A Well, all right, but I think he was
14:04:44:24 constructive up until the time he said the draw
14:04:47:06 back is several pennies cost. I think he was
14:04:50:12 constructive up until that point.

14:04:50:28 Q For the record, is that David Stone?

14:04:53:21 A That is David Stone.

14:05:02:25 Q He was with Bendix?

14:05:02:25 A He was with Bendix. What he said was
14:05:02:25 constructive. He just had that last sentence in
14:05:04:27 there. He was just saying what some people would
14:05:07:15 say. He wasn't saying it himself.

14:05:56:00 Q And as you said earlier, that was wrong;

14:05:58:12 correct?

14:05:59:03 A Yes. But I say Dave was actually taking
14:06:02:03 the side of having it done, and he was making a
14:06:06:18 comment to the effect that the draw back of course
14:06:08:21 is the additional cost. He was talking of the
14:06:11:19 other peoples so-called draw back or their
14:06:14:04 objection to that. He was promoting what he said
14:06:16:06 there. But with your way of looking at things, I
14:06:19:15 don't think you see that.

14:06:22:24 MR. DeLUCA: Thank you. Those are
14:06:23:28 all the questions I have.

14:06:25:06 THE WITNESS: Good.

14:06:31:24 MR. KRAUSE: Let's take about a five
14:06:33:21 minute break.

14:06:34:10 MR. PIAZZA: The time is now 1:58,
14:06:35:24 we will take a pause in the testimony of
14:06:39:03 Mr. Drislane.

14:06:40:21 (A short recess was taken.)

14:12:51:12 MR. PIAZZA: The time is now 2:05,
14:13:47:25 we will resume the testimony of
14:13:50:12 Mr. Drislane.

14:13:51:18 BY MR. KRAUSE:

14:13:51:25 Q Mr. Drislane, my name is Robert Krause,
14:13:53:24 and I have just a very few questions for you, sir,

14:13:56:27 then we will let you get out of here. I gathered
14:13:59:27 from what you told us when you were talking about
14:14:03:16 your educational background that you don't have.
14:14:06:04 any particular medical training of any sort?

14:14:10:13 A Yes, that's correct, I do not.

14:14:11:19 Q You don't have any training in industrial
14:14:14:18 hygiene?

14:14:15:01 A That's correct, I do not.

14:14:16:13 Q Epidemiology?

14:14:19:10 A Correct.

14:14:19:13 Q Pulmonary medicine?

14:14:21:15 A No, sir.

14:14:21:21 Q Or any of the other branches of the
14:14:25:21 medical sciences?

14:14:27:03 A No, I do not.

14:14:28:06 Q I think you said repeatedly that when you
14:14:31:09 were putting down matters that related to
14:14:34:15 industrial hygiene and medicine, things that
14:14:38:27 people were reporting, you were simply writing
14:14:42:13 down what others were saying at the meeting. You
14:14:47:00 were the scrivener of the comments that were being
14:14:50:09 made by the various participants in the meeting;
14:14:53:03 is that correct?

14:14:53:28 A That is correct.

14:14:54:04 Q And I think you said that there were many
14:14:57:03 occasions on which you would take notes and put
14:15:00:16 them into the minutes where you didn't have a
14:15:03:04 clear understanding of what the industrial hygiene
14:15:06:15 or medical aspects of what you were reporting
14:15:10:09 might be?

14:15:10:09 A That's correct.

14:15:12:06 Q Okay. Now was the Ford Motor Company
14:15:18:12 ever a member of the FMSI?

14:15:21:18 A No, sir.

14:15:22:18 Q Okay. To your understanding, did Ford
14:15:25:00 Motor Company ever make its own brake linings?

14:15:28:28 A No, sir.

14:15:28:28 Q Was Chrysler a member of the FMSI?

14:15:34:09 A Yes.

14:15:34:09 Q Do you have any memory of what period of
14:15:37:25 time Chrysler served as a member of the FMSI?

14:15:42:06 A I would say, trying to think now, around
14:15:49:00 the time I started at FMSI, about 19 -- somewhere
14:15:53:06 between '68 and '70 they might have started in the
14:15:58:13 brake lining business. I have to round it out to
14:16:01:21 maybe 1970.

14:16:03:06 Q Okay.

14:16:03:21 A I said to this gentleman, you don't start

14:16:07:03 all of a sudden, you start making testing and
14:16:10:07 getting approvals, I would say about 1970 they
14:16:14:21 became a brake lining manufacturer.

14:16:16:06 Q And do you recall how long they remained
14:16:18:21 a member of the FMSI?

14:16:21:03 A They remained a member until I retired,
14:16:23:12 and sometime after that they left, sometime
14:16:27:04 shortly after that. They left I would say about
14:16:30:09 1989 or 1988 around the time I was leaving.

14:16:34:19 Q Okay. Was Chrysler a member of the
14:16:39:27 Asbestos Study Committee?

14:16:40:15 A No, sir.

14:16:40:15 Q To your knowledge, did Chrysler ever send
14:16:45:03 a representative to a meeting of the Asbestos
14:16:49:07 Study Committee?

14:16:50:00 A No, sir.

14:16:50:00 Q General Motors, do you know when they
14:16:53:28 joined the FMSI?

14:16:55:15 A They joined shortly after I came with
14:17:01:12 FMSI. They came in, trying to think, I came in
14:17:07:04 '70. They were on board, I would say, around '71
14:17:12:06 or '72.

14:17:12:19 Q And do you recall how long they remained
14:17:14:28 a member of FMSI?

14:17:16:27 A They were still a member when I left. I
14:17:19:01 can't remember beyond that.

14:17:20:10 Q Okay. Was any -- strike that.
14:17:24:07 Was General Motors a member of the Asbestos
14:17:29:27 Study Committee?

14:17:30:16 A No, sir.

14:17:30:16 Q To your knowledge, did any representative
14:17:33:18 of General Motors Corporation ever attend a
14:17:36:10 meeting of the Asbestos Study Committee?

14:17:39:01 A No, sir.

14:17:43:18 Q It is my understanding that most of the
14:17:47:24 members of the FMSI were aftermarket brake lining
14:17:55:01 suppliers; is that correct?

14:17:56:01 A Not completely correct. They were mostly
14:18:03:13 members of the replacement market. But there were
14:18:08:16 several original equipment manufacturers as well.

14:18:10:09 Q And those would have included Raybestos,
14:18:13:12 Bendix that supplied both OEM brake linings and
14:18:19:27 aftermarket brake linings?

14:18:21:22 A Yes, sir.

14:18:22:15 Q Okay. Was it the case that many of the
14:18:32:25 aftermarket manufacturers who sold linings and
14:18:36:28 were members of FMSI, was it the case that their
14:18:42:19 linings quite frequently, if not always, required

14:18:45:22 some grinding --

14:18:48:00 MS. GRADY: Objection.

14:18:49:16 BY MR. KRAUSE:

14:18:49:27 Q -- in the automotive shop before they
14:18:52:06 could be put onto a brake or replace a brake
14:18:55:09 lining?

14:18:55:16 MR. DeLUCA: Objection.

14:18:57:18 (Objection by all.)

14:18:59:03 THE WITNESS: You want me to answer
14:19:00:27 it or what?

14:19:01:12 BY MR. KRAUSE:

14:19:01:24 Q Yes.

14:19:02:00 A Well, most of the people that supplied
14:19:07:00 just the aftermarket, their linings were going to
14:19:12:04 be subject to subsequent grinding, but OEM stuff
14:19:17:27 might get by without subsequent grinding.

14:19:20:18 Q It was the case that the OEM brake
14:19:22:22 linings as manufactured by some of the companies
14:19:28:21 generally did not require any grinding or
14:19:37:16 bevelling or sanding, that sort of thing?

14:19:37:16 A That is true.

14:19:37:16 Q Okay. Do you have any awareness of what
14:19:44:21 communications the auto companies might of had
14:19:49:01 with their dealerships and people working in their

14:19:52:27

dealerships?

14:19:53:09

A I haven't the slightest idea.

14:19:56:07

14:19:58:16

Q Do you have any knowledge of what kind of testing, industrial hygiene-type testing the auto companies might have done with respect to brake repair work on their automobiles?

14:20:03:27

14:20:07:18

14:20:11:10

A I would have no knowledge of that.

14:20:13:18

14:20:29:12

Q Okay. Now Mr. DeLuca talked to you both in the earlier session of your deposition and again today about Mr. Weaver's speech at the 1973 annual meeting. You recall that?

14:20:32:27

14:20:39:24

14:20:41:13

A Yes, sir.

14:20:41:16

14:20:47:19

Q Mr. Weaver was a representative of Raybestos Manhattan; is that correct?

14:20:50:06

A Yes.

14:20:50:28

14:20:54:15

14:21:00:06

Q Did -- when Mr. Weaver gave his speech at the FMSI, he wasn't speaking as a representative of FMSI, was he, he was speaking as a representative of Raybestos Manhattan?

14:21:04:10

14:21:06:15

A Except for the fact that he was chairman of the Asbestos Study Committee.

14:21:08:18

14:21:11:03

Q All right. He spoke for the members of the Asbestos Study Committee?

14:21:12:12

14:21:13:24

A Yes.

14:21:13:24 Q Okay. He did not speak for persons other
14:21:16:25 than members of the Asbestos Study Committee?

14:21:19:16 A Correct.

14:21:20:03 Q And he certainly would not have been
14:21:23:06 speaking for any of the automotive companies, one
14:21:28:00 of whom didn't belong and all three of them had
14:21:30:25 nothing to do with the Asbestos Study Committee?

14:21:33:04 A That's reasonable, yes.

14:21:45:21 Q You talked about having contacts with
14:21:49:09 Dr. Selikoff in the studies that Dr. Selikoff was
14:21:53:24 doing of automotive repair work, do you recall
14:21:56:27 that testimony?

14:21:57:15 A Yes, sir.

14:21:58:01 Q And you indicated that Dr. Selikoff had
14:22:02:27 indicated to you that they would share with you
14:22:07:25 the final results of their study of automotive
14:22:12:03 repair workers, do you recall saying that?

14:22:13:15 A That was my understanding, yes.

14:22:16:15 Q Did Dr. Selikoff or anybody else from Mt.
14:22:19:18 Sinai ever share with you the final results of
14:22:23:09 their study of automotive repair workers?

14:22:26:18 A No, they did not.

14:22:28:13 Q Were you ever told what those results
14:22:30:25 were?

14:22:30:28 A No, I was not.

14:22:33:12 Q Okay.

14:22:35:16 A I had feeling that they came out
14:22:37:12 different from what they expected.

14:22:39:09 Q Okay.

14:22:40:07 MR. DeLUCA: Move to strike as
14:22:43:18 non-responsive.

14:22:44:01 MR. KRAUSE: I don't have anything
14:22:45:16 further. Thank you very much, sir. We
14:22:47:06 appreciate your patience.

14:22:48:09 BY MR. HARKINS:

14:22:53:27 Q Mr. Drislane, apart from a clerical
14:22:58:09 assistant, how many full-time employees did
14:23:01:10 Friction Materials Standards Institute have during
14:23:03:12 the time that you worked there?

14:23:04:24 A One.

14:23:05:04 Q And we are looking at him; is that right?

14:23:07:28 A That's right.

14:23:09:16 Q Okay. Mr. Krause asked you whether you
14:23:11:09 were a toxicologist or a doctor or an
14:23:15:03 epidemiologist, do you recall those questions?

14:23:17:12 A Yes.

14:23:17:12 Q And you say that you are not?

14:23:21:01 A Correct.

14:23:21:18 Q You did not have those qualifications or
14:23:24:12 training. I want to ask you whether FMSI,
14:23:27:24 Friction Materials Standards Institute, ever
14:23:30:07 retained a toxicologist, a doctor, an expert on
14:23:34:10 warnings, or an epidemiologist to provide
14:23:37:28 consulting services?

14:23:39:18 A No, sir.

14:23:41:12 Q Did FMSI ever commission any research on
14:23:46:09 the safety of asbestos?

14:23:48:10 A No, sir.

14:23:50:03 Q Did FMSI ever enact any standards, safety
14:23:54:12 standards for its members to follow?

14:23:56:21 A No.

14:23:58:15 Q Did FMSI have any greater knowledge than
14:24:01:27 the people who worked for the EPA or OSHA about
14:24:06:21 the safety standards that should be set for
14:24:09:09 asbestos exposure?

14:24:10:15 MR. DeLUCA: Objection.

14:24:11:27 THE WITNESS: No, sir.

14:24:13:04 BY MR. HARKINS:

14:24:14:10 Q Did FMSI hire any public relations
14:24:17:19 professionals?

14:24:18:24 A No.

14:24:19:07 Q What kind of ability would FMSI have had

14:24:23:18 in the time that you worked there to make some
14:24:25:22 kind of public service announcement?

14:24:28:04 A You have none.

14:24:30:15 Q As a constitutional matter, did FMSI have
14:24:38:09 the ability to force its members to do anything?

14:24:40:25 A No, sir.

14:24:40:25 Q Other than pay dues?

14:24:42:22 A Well, that was the hard part. We -- but
14:24:46:06 no, we could not force them to do anything.

14:24:48:10 Q Even as a practical matter setting aside
14:24:51:24 whether you were empowered under the constitution,
14:24:54:28 as a practical matter, could FMSI force or coerce
14:25:00:12 its members to do anything?

14:25:01:16 A No, sir.

14:25:01:24 Q Was it a voluntary organization?

14:25:03:28 A It was a voluntary organization.

14:25:05:09 Q Was it something like Underwriters
14:25:06:19 Laboratory where if you wanted to have a certain
14:25:11:07 seal of approval, you had to behave in a certain
14:25:13:24 way?

14:25:13:24 A No.

14:25:14:03 Q But FMSI did provide information to help
14:25:20:01 its members address asbestos exposure; is that
14:25:23:10 right?

14:25:23:16

A Correct, yes.

14:25:24:18

Q Did you provide medical literature?

14:25:27:06

A No.

14:25:27:13

Q I mean, did you forward medical

14:25:30:25

literature to people like Ike Weaver and perhaps others might have set?

14:25:33:16

14:25:35:04

A I don't know we ever got medical

14:25:38:28

literature, except unless you are talking about the type of thing Ike Weaver send in?

14:25:41:15

Q Yes, I am.

14:25:44:07

A Yes, we distributed that.

14:25:45:22

14:25:46:28

Q Did you send out information about how

14:25:49:16

members could get more information about dust collection systems?

14:25:52:12

A Yes, we did.

14:25:52:18

Q Or health monitoring equipment?

14:25:53:12

A Yes, we did.

14:25:55:10

Q Testing, or other environmental exposure

14:25:56:00

equipment, did you send that information along?

14:26:01:27

A Yes, we did. We had a symposium at the

14:26:04:09

office where we showed people how to use it.

14:26:07:13

Q Did FMSI provide information to

14:26:10:18

researchers like Dr. Selikoff and Dr. Nicholas?

14:26:13:06

A The only kind of information we would

14:26:16:18

14:26:26:13 have provided to researchers like them was things
14:26:26:13 like how brakes are maintained. We didn't give
14:26:26:13 any kind of information on asbestos levels or
14:26:30:19 anything like that. What we did is where does the
14:26:35:06 garage down -- where does he get his linings from,
14:26:37:03 where does the manufacturer distribute them, and
14:26:41:03 all that.

14:26:41:06 Q Was that information helpful in your
14:26:43:27 estimation to the people who were doing the
14:26:45:24 research?

14:26:46:03 A We tried. We wrote it out to them about
14:26:49:09 how they went and ground linings and how they went
14:26:51:24 and drilled linings and things like that, tried to
14:26:54:24 explain to them when the fixed anchor brakes came
14:26:58:18 after the adjustable brake anchor, how things had
14:27:01:15 changed in the field. We told them that kind of
14:27:03:28 stuff.

14:27:03:28 Q And did that -- did they say that was
14:27:06:27 helpful, or did they thank you for it?

14:27:09:24 A He thanked me for it, but he never really
14:27:12:24 came back, and that has to go with that particular
14:27:16:06 study that Mr. Krause mentioned. The one that --

14:27:20:12 Q Cohort study?

14:27:23:00 A The cohort study, I think it was he said

14:27:26:01

it was in Manhattan or New York City.

14:27:28:12

MR. HARKINS: I don't have any other questions.

14:27:29:24

14:27:32:13

BY MR. POLCHINSKI:

14:27:33:12

Q Good afternoon, Mr. Drislane. My name is Peter Polchinski, I represent Pneumo Abex. I am going to ask you just a few questions. I appreciate your patience throughout this long day.

14:27:36:01

14:27:40:01

14:27:42:21

14:27:45:00

A Okay.

14:27:45:00

14:27:51:07

14:27:57:18

14:28:02:27

Q Mr. Drislane, shortly after you became executive secretary for FMSI, your organization received some information from British researchers on friction products; isn't that right?

14:28:04:24

14:28:09:27

14:28:11:00

14:28:14:22

14:28:18:03

14:28:22:12

14:28:24:27

A Well, I'm not sure there because British friction materials council was a member of the Institute. We got product information from them, but occasionally like that gentleman Lewinsohn who was with Raybestos, he was from Great Britain. He sent some information over there but through Ike Weaver.

14:28:25:01

14:28:31:09

14:28:33:07

Q And there was a study by a D. Hatch, do you recall a study by Hatch?

14:28:33:24

Q Or a study by Hickish and Night?

14:28:37:15

A Those names strike. They are familiar

14:28:40:09

but I don't remember specifically what they sent.

14:28:41:24

Q You recall they were back in the early

14:28:44:15

1970s?

14:28:45:25

A Probably that was when I was getting most

14:28:48:07

of that stuff.

14:28:48:25

Q There was also a study by that was done

14:28:51:09

by a Dr. Lynch?

14:28:54:06

A Jeremiah Lynch.

14:28:56:27

Q Yes. Of the Department of Health,

14:28:58:03

Education and Welfare?

14:29:00:06

A Yes.

14:29:00:06

Q Back in the late '60s?

14:29:02:24

A Yes. That was before my time, but I

14:29:04:18

recall that one.

14:29:05:16

Q Okay. And he, his conclusion on behalf

14:29:09:09

of this organization, part of the U.S. Government,

14:29:11:07

was that only a very small percentage of asbestos

14:29:16:00

fibers were released as free fibers --

14:29:19:13

A I recall the --

14:29:22:18

Q -- in friction products?

14:29:23:24

A Yes.

14:29:24:04

MR. DeLUCA: Objection.

14:29:24:18 BY MR. POLCHINSKI:

14:29:24:18 Q And also that there -- that much of the
14:29:35:00 friction materials, rather much of the asbestos
14:29:36:22 was converted from asbestos into other non-fibrous
14:29:41:18 material, do you remember that?

14:29:41:27 A I recall that, yeah.

14:29:43:15 Q Okay. And shortly after that finding
14:29:47:12 there was a finding by -- rather there were these
14:29:51:19 studies from the friction, friction materials
14:29:55:00 council of England that came over?

14:29:57:01 A British council.

14:29:57:19 Q British council?

14:29:59:06 A Yes.

14:29:59:12 MR. DeLUCA: Could I have a
14:30:00:12 continuing objection to the leading
14:30:02:01 nature of this cross-examination, or
14:30:04:04 whatever it is, redirect? May I, so I
14:30:08:12 don't have to object to every question
14:30:10:18 you ask?

14:30:11:03 MR. POLCHINSKI: That's fine.

14:30:13:24 BY MR. POLCHINSKI:

14:30:14:04 Q And another British study in 1970 by a
14:30:19:18 Dr. Luxon, L-U-X-O-N, do you remember that one?

14:30:23:27 A I don't remember that one.

14:30:24:22 Q Do you remember in general the findings,
14:30:26:01 Mr. Drislane, were that less than one percent of
14:30:30:18 the -- of brake dust was actually Chrysotile,
14:30:35:06 asbestos?

14:30:35:27 A I recall something, something to that
14:30:39:24 effect, but I can't give you an exact.

14:30:41:12 Q And there was a finding in conjunction
14:30:43:24 with Dr. Lynch's finding that there was no problem
14:30:47:21 with pollution as a result of brake dust?

14:30:51:06 A I don't recall that specifically.

14:30:52:15 Q Now the -- as you said, the
14:31:07:00 recommendations were made through the 1970s to
14:31:12:10 comply with OSHA and the EPA findings; correct?

14:31:15:18 A Yes.

14:31:15:18 Q And the members went along with the
14:31:19:27 recommendations that they should comply with OSHA?

14:31:22:24 A Well, we believe they did, but we had no
14:31:25:15 way of checking up on them.

14:31:27:09 Q It was your understanding and you have
14:31:28:10 told us before that you believe that these men
14:31:31:04 that you were dealing with from the industry were
14:31:33:19 dealing in in a honorable and honest way; correct?

14:31:37:25 A Yes. Except you got to remember the
14:31:39:27 people on that committee were people who were

14:31:42:06 versed in asbestos or health hazards, and stuff
14:31:45:24 like that. Whereas the delegates and alternates
14:31:48:10 to our group, were salespeople. Our group was
14:31:50:21 really run by salespeople. And these guys, the
14:31:54:07 only ones that had this technical thing were the
14:31:57:06 ones on the Asbestos Study Committee.

14:31:58:24 Q And as the -- as the OSHA requirements
14:32:06:12 got stricter, the members of the FMSI in the
14:32:12:03 industry, they also tried to comply with all of
14:32:18:06 the new standards from OSHA, is that your
14:32:20:21 understanding?

14:32:21:22 A Yes, that's why we sent them to for, yes.

14:32:25:27 Q You published the data book in 1976, the
14:32:28:27 FMSI?

14:32:29:03 A Well, we published a data book every
14:32:32:01 year, but around the '80s, '76 or sometime like
14:32:36:12 that, we started putting the asbestos warning in
14:32:38:24 the thing. And we made that little blue book, the
14:32:41:28 pocketbook, we made that out in '76, I believe,
14:32:52:19 but and then from every year from then on in after
14:32:52:19 the first one came out in the data book, we had a
14:32:52:19 warning in the data book.

14:32:52:25 Q And you distributed the -- when it first
14:32:55:12 came out, you distributed 40,000 copies of that

14:32:58:24

book?

14:32:59:00

A Well, that's what I am wondering about which one. I can't tell you. But the numbers were up in the 40,000. The numbers are in the 40,000 to 100,000, I'm not sure.

14:33:01:00

14:33:03:12

14:33:06:16

14:33:08:21

Q And was it your understanding, Mr. Drislane, that there was -- there were disputes as to -- as to what diseases, if any, would be caused by brake dust; correct?

14:33:11:24

14:33:17:25

14:33:24:12

14:33:27:03

A Yes, there were.

14:33:27:16

14:33:33:21

Q And those disputes existed up until the time you left the FMSI; didn't it?

14:33:36:21

14:33:40:25

A Well there were disputes, but there was generally agreement sometime, I would say the end of the '70s.

14:33:43:25

14:33:44:12

Q Disputes existed at that time?

14:33:47:00

A Yeah. Yeah.

14:33:47:18

14:33:57:19

Q And you became aware of the asbestos issue shortly after Dr. Selikoff came out with his article in the early '70s?

14:34:01:24

14:34:04:24

A Yeah. But it wasn't coincidental. This thing what happened is a guy from Raybestos and the guy from Johns-Manville wanted to start

14:34:07:24

14:34:10:12

14:34:15:03

Asbestos Study Committee. I knew nothing about

14:34:17:09 asbestos at this time. And they started Stefl was
14:34:21:22 one of the guys name, and the other guy was
14:34:26:03 somebody, John Marsh maybe from Raybestos. I am
14:34:29:22 not sure. Those two started to get involved in
14:34:32:21 trying to form an Asbestos Study Committee, which
14:34:36:07 we formed, and then maybe three or four others
14:34:40:12 came into. That's the first I knew there was an
14:34:43:00 asbestos problem.

14:34:43:06 Q And to your knowledge, Mr. Drislane, the
14:34:50:18 industry attempted to take safeguards with respect
14:34:57:15 to asbestos?

14:34:57:28 A They sent out bulletins and everything
14:35:02:00 else telling people to get on the stick and start
14:35:04:22 applying with this the standards.

14:35:06:15 Q To your knowledge, Mr. Drislane, was this
14:35:09:25 before there was any asbestos, essentially any
14:35:12:10 asbestos litigation going on?

14:35:14:06 A Well, see the asbestos litigation may
14:35:16:09 have been going on. I don't know. I don't think
14:35:18:25 there was any going on. There may have been some
14:35:22:06 going on particularly with asbestos in other
14:35:24:12 fields, the shipyards, for example, other places
14:35:26:24 like that. But in friction materials, I don't
14:35:28:25 remember any litigation at that time.

Drislane - By Mr. Polchinski

14:35:32:10

MR. POLCHINSKI: Thank you,

14:35:32:09

Mr. Drislane, I have no further

14:35:34:04

questions.

14:35:39:28

BY MR. DeLUCA:

14:35:41:03

Q Mr. Drislane, I have a few more questions

14:35:44:18

for you --

14:35:50:28

MR. PIAZZA: Two minutes on the

14:35:50:28

tape.

14:35:50:28

BY MR. DeLUCA:

14:35:50:28

Q -- but as far as we are going -- first we

14:35:52:24

are going to change the videotape and --

14:35:55:06

MR. PIAZZA: The time is now 2:27,

14:35:56:19

we will take the pause in the testimony

14:35:58:27

of Mr. Drislane.

14:36:01:24

(A short recess was taken.)

14:40:04:07

MR. PIAZZA: The time is now 2:31,

14:40:14:27

we will resume the testimony of

14:40:17:15

Mr. Drislane.

14:40:17:28

BY MR. DeLUCA:

14:40:17:28

Q Mr. Drislane, I have some follow-up

14:40:20:19

questions based upon the questions that were asked

14:40:23:04

of you shortly ago. First of all, I was

14:40:27:21

interested to learn that you had remembered the

14:40:31:22

article that was published by Jeremiah Lynch in

14:40:35:09

1968.

14:40:35:19

A That was the first article that was ever printed that I ever saw, and I guess that's the one that I remember.

14:40:37:28

14:40:40:09

14:40:40:21

Q And do you remember that the Dr. Lynch was studying whether asbestos from brakes polluted the atmosphere?

14:40:43:00

14:40:50:10

14:40:52:09

A I don't remember the study. I just remember his name for some reason. He was with -- I knew he was from Harvard, that's about it.

14:40:54:03

14:40:55:28

14:40:58:22

Q I didn't want the record to think that you were saying that you remembered him studying people who were working with brakes, because you don't remember that; correct?

14:41:01:01

14:41:03:22

14:41:06:28

14:41:08:01

A No, I do not. Did I say that?

14:41:10:27

14:41:16:22

14:41:23:24

14:41:28:16

14:41:30:18

14:41:34:09

14:41:37:25

14:41:40:21

Q I'm not sure exactly how that came out. And the reason that Dr. Lynch was studying whether asbestos was emitted from brakes into the atmosphere is that the friction materials industry used thousands of tons of asbestos every year, and there was a real concern that when people would apply their brakes that asbestos would get up into the atmosphere and we would all be exposed;

14:41:43:27

correct?

14:41:44:10

A You are telling me.

14:41:46:00

Q Well, I am just asking if you remember that part of the article?

14:41:48:03

14:41:50:01

A I remember that he made some kind of a study on brake debris and all that and what was in that brake debris, and that's the only thing I remember. I can't extrapolate it into what you just said.

14:41:52:12

14:41:55:16

14:41:58:12

14:42:01:09

14:42:02:22

Q You talked about foresterite?

14:42:05:00

A I didn't say foresterite, did I?

14:42:07:21

Q I think that you were talking about a change in the brake dust?

14:42:09:18

14:42:11:19

A The debris that came out that was not asbestos, is that foresterite?

14:42:14:27

14:42:16:18

Q I believe so. Do you know anything about that?

14:42:19:01

14:42:19:12

A No.

14:42:20:01

Q Have you ever heard the opinion of General Motors consultant Ralph Forlick about the dangers of foresterite?

14:42:22:00

14:42:24:21

14:42:27:22

MS. BOYD: Objection.

14:42:28:21

THE WITNESS: I don't believe I ever heard of him.

14:42:30:00

14:42:30:10 BY MR. DeLUCA:

14:42:30:15 Q And when you said that less than one
14:42:33:24 percent is Chrysotile, or you agreed with the
14:42:36:28 question that asked of you, that less than one
14:42:39:15 percent of the brake dust was Chrysotile, what
14:42:42:15 were you talking about?

14:42:43:09 A Well, a very small amount is Chrysotile,
14:42:45:22 that's what I remember, less than one percent,
14:42:48:09 less than eight percent, I don't know. But it's a
14:42:51:07 very small amount.

14:42:51:27 Q Do you remember Exhibit 9 to your
14:42:58:13 deposition which was the article where Bendix
14:43:03:15 found 3.2 percent of asbestos emitted from brakes
14:43:07:13 that was entering the atmosphere?

14:43:10:03 A I remember that. I think that was Mike
14:43:12:10 Jacko's paper; is that correct?

14:43:14:09 Q I believe so.

14:43:15:12 A Yeah. So?

14:43:26:03 Q Okay. Mr. Harkins asked you a question
14:43:28:18 about whether the Friction Materials Standards
14:43:34:19 Institute knew more than the EPA, do you remember
14:43:36:27 that?

14:43:37:03 A I recall a question along those lines,
14:43:40:15 yes.

14:43:40:28 Q Do you recall what you told him?

14:43:43:21 A I believe I said EPA knew more than I
14:43:47:03 did.

14:43:47:03 Q Let me show you minutes of the meeting of
14:43:53:24 the Board of Directors from Tuesday, December 4th,
14:43:57:07 1979. And in that those minutes you say, "It was
14:44:07:24 stated that many of the individuals working on
14:44:10:13 asbestos control at the EPA are new to this field.
14:44:14:00 Not only are they new to the asbestos question,
14:44:16:18 but have little background in friction materials."
14:44:20:24 Let's just stop right there for a moment. Does
14:44:23:18 that cause you to change your answer?

14:44:25:01 A Now you are talking about the very
14:44:27:04 beginning. I think EPA was just formed for the
14:44:30:15 asbestos thing there. I think they were all
14:44:32:21 beginners at that time.

14:44:34:06 Q So now do you think that the Friction
14:44:37:18 Materials Standard Institutes and its members knew
14:44:40:15 more than the EPA?

14:44:41:21 A Possibly at the very beginning, but I
14:44:43:13 would say as EPA got in and got their sea legs
14:44:47:09 going and all that stuff, they know more than I
14:44:50:03 do. But at that time there they started some
14:44:53:12 place. You can never seem to get the concept

14:44:56:06 things start and they caught on. They don't
14:44:58:09 happen all of a sudden. EPA didn't just come in
14:45:01:24 and just happen.

14:45:02:12 Q In fact, the friction materials industry
14:45:06:27 spoon fed information to the EPA; didn't they?

14:45:08:21 (Objection.)

14:45:09:06 A I didn't say spoon fed. We helped them.
14:45:10:28 If they asked any questions, we helped them, and
14:45:13:27 we tried to give them answers, we tried to tell
14:45:15:09 them what conditions were in the industry.

14:45:17:18 Q In fact, you did use that exact term
14:45:21:06 "spoon feed," and that's what happened, the
14:45:24:13 Friction Materials Institute, Standards Institute
14:45:25:22 gave EPA only that information that they wanted
14:45:28:19 the EPA to have?

14:45:30:03 A That's not so. We gave them the
14:45:32:18 information they asked for.

14:45:35:06 Q You don't remember negotiating the
14:45:37:06 questions they wanted answered?

14:45:39:03 A No, I do not. You have some kind of a
14:45:41:06 suspicion of all companies, all businesses. I
14:45:43:18 don't. You and I approach things from different
14:45:46:25 sides. I think we tried to help them out.

14:45:51:16 Q Now Mr. Krause established that General

14:46:01:18

Motors and Chrysler were not members of the Asbestos Study Committee; right?

14:46:04:27

14:46:08:03

A That is right.

14:46:09:19

Q But they were members of the FMSI?

14:46:12:27

A At certain times.

14:46:14:15

Q Sure. And they were regular members,

14:46:16:19

right, active members, that was the membership?

14:46:21:18

A They had a title called active member,

14:46:24:03

but that didn't mean they actively participated as

14:46:28:00

members. If you are trying to get small a on the

14:46:30:12

thing, it doesn't go capital a is active members

14:46:34:18

type, yes. But active members, they were not

14:46:36:21

active.

14:46:36:21

Q Well what I am driving at is as an active

14:46:45:22

member, they received the bulletins?

14:46:47:28

A Delegates and alternates, yes, they would

14:46:50:10

have received bulletins.

14:46:51:22

Q They received the minutes of the annual

14:46:54:07

meeting of the FMSI?

14:46:56:09

A That's correct.

14:46:56:15

Q They received the minutes of the meetings

14:46:59:12

of the Board of Directors?

14:47:00:15

A I don't know about that. I forget how

14:47:03:03

that went.

14:47:04:24

It may be the Board of Directors minutes only went to board members. I'm not sure.

14:47:06:27

14:47:09:00

Q They would of received the reports that the Asbestos Study Committee gave to the annual membership yearly?

14:47:13:06

14:47:16:09

14:47:18:06

A The annual membership meeting would have reports from the committee chairman, and they would receive copies of that, yes.

14:47:20:21

14:47:22:24

14:47:24:12

Q So you would agree with me that although they may have not sat on the Asbestos Study Committee, they would have been provided certain information about what that committee was doing?

14:47:26:24

14:47:29:24

14:47:32:09

14:47:34:15

A Yes. And the person who received that was not necessarily a hygienist or a doctor or a medical man or something, he could have been somebody down in the sales department, a salesclerk, or something like that. And what he did with them, I have no idea.

14:47:36:06

14:47:42:04

14:47:44:25

14:47:48:06

14:47:51:04

14:47:52:00

Q What would have prevented General Motors or Chrysler from having one of their employees sit on the Asbestos Study Committee if that's what they wanted?

14:47:57:01

14:48:00:24

14:48:03:18

14:48:04:21

A If they had asked me for it, they would have been given a seat. I say that kind of

14:48:06:18

14:48:15:09 presumptively. I have to go and check with my
14:48:18:00 board on all this stuff.

14:48:19:06 Q There was only essentially one or two
14:48:22:03 employees at the Institute throughout your course
14:48:25:01 of your employment there, you and an assistant;
14:48:27:03 correct?

14:48:28:06 A Yes. Yes.

14:48:28:12 Q What other than financial reasons would
14:48:32:12 have prevented the members of the Institute to
14:48:34:25 hire more people?

14:48:35:15 A Didn't need them. We don't put people on
14:48:40:18 the payroll that we don't need.

14:48:42:07 Q Could the members of the Institute have
14:48:44:24 hired a doctor to serve as the medical director of
14:48:47:15 the FMSI?

14:48:49:06 A I don't think because I don't think it
14:48:50:06 was in their constitution and bylaws to go in and
14:48:54:18 hire outside research.

14:48:55:07 Q They could have changed it if that what
14:48:57:12 they wanted to do?

14:48:59:01 A They could have changed, but they didn't
14:49:01:09 change.

14:49:01:09 Q Nothing would hired them from hiring a
14:49:02:24 toxicologist or certified dental hygienist, if

14:49:04:27

that's what they wanted to do?

14:49:06:07

A I guess if they had the money we could of gotten a rocket and sent that over to Iraq or something.

14:49:12:07

14:49:12:13

Q That's funny?

14:49:13:12

A No. It's the way you are talking. We could do all those things. We weren't there to do those things.

14:49:15:25

14:49:18:16

14:49:19:06

Q You said that you never retained a consult to study asbestos?

14:49:21:25

14:49:23:27

A Basically I don't think we ever retained a consultant. We had membership who had expertise.

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14:49:29:10

14:49:30:06

Q If the FMSI wanted to retain a consultant, the members could have funded that, couldn't they have?

14:49:33:09

14:49:34:18

A With a huge increase in their dues.

14:49:38:15

14:49:40:13

Q And if the FMSI wanted to do research on asbestos other than financial concerns, there would be no reason there couldn't have been; correct?

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A They didn't have it in the constitution and bylaws. They have to go and change the

14:49:53:09

14:49:55:28

constitution and bylaws if they wanted to do. I

14:49:58:13

don't know if I could have gotten it by the members.

14:50:02:07

14:50:02:21

MR. DeLUCA: That's all I have.

14:50:16:06

Thank you.

14:50:17:01

MR. KRAUSE: Mr. Drislane, thank you very much, sir.

14:50:18:07

14:50:21:13

MR. PIAZZA: This concludes the deposition of Edward Drislane. The time is now 2:42.

14:50:22:19

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14:50:35:04

(The examination of Edward W.

14:50:35:04

Drislane was concluded at 2:50 p.m.)

14:50:35:06

14:50:35:06

(Exhibits 1 - 46 are attached to

14:50:35:06

this deposition, and have been reproduced for the copies of this deposition.)

14:50:35:06

Drislane - By Mr. DeLuca

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STATE OF NEW YORK

)

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ss.:

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COUNTY OF

)

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I have (heard) read the foregoing record

14:50:35:03

of my testimony taken at the time and place noted

14:50:35:03

in the heading hereof and I do hereby acknowledge

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it to be a true and correct transcript of the same.

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EDWARD W. DRISLANE

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14:50:35:03

Sworn to before me this _____

14:50:35:03

day of _____, 2003.

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NOTARY PUBLIC

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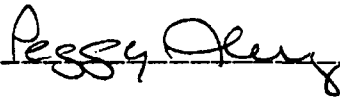
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C E R T I F I C A T I O N

I, PEGGY ALEXY, Shorthand Reporter and
Notary Public in and for the State of New York, do
hereby CERTIFY that the foregoing record taken by
me at the time and place noted in the heading
hereof is a true and accurate transcript of the
same, to the best of my ability and belief.



PEGGY ALEXY

DATED: December 26, 2002