

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Jean H. Toal, Circuit Court Judge

Appellate Case No. 2019-002126

Jerry Howard Crawford, individually and as Personal Representative of the Estate of Evelyn Kay Crawford, Respondent,

v.

Celanese Corporation; Aurora Pump Company; Carrier Corporation; CNA Holdings, LLC f/k/a Hoechst Celanese Corporation; Covil Corporation; Crane Co.; Daniel International Corporation f/k/a/ Daniel Construction Company, Inc.; Flowserve Corporation, individually and as successor-in-interest to Anchor/Darling Valve Company, and individually as successor-in-interest to Durco Pumps; Flowserve, US Inc.; Fluor Constructors International, f/k/a Fluor Corporation; Fluor Constructors, International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; Ford Motor Company; Genuine Parts Company, d/b/a Rayloc (a/k/a NAPA); The Goodyear Tire & Rubber Company; Goulds Pumps, Inc.; Grinnell, LLC f/k/a Grinnell Corp., f/k/a ITT Grinnell Corp.; Honeywell International, Inc., f/k/a Allied-Products Liability Signal, Inc., sued as successor-in-interest to Bendix Corporation; Ingersoll-Rand Company; John Crane, Inc.; Metropolitan Life Insurance Company, a wholly owned subsidiary of MetLife Inc.; National Automotive Parts Association (NAPA); Parker-Hannifin Corporation; Pneumo Abex, LLC, successor-in-interest to Abex Corporation; Spirax Sarco, Inc.; SPX Cooling Technologies, Inc., individually and as successor-in-interest to Marley Cooling Towers, Co.; Standard Motor Products, Inc., sued as successor-in-interest to EIS Automotive; United States Fidelity & Guaranty Company; and The William Powell Company, Defendants,

Of which, Covil Corporation is the Appellant.

RECORD ON APPEAL

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1 to it by way of that link.

2 Then the next day we started marching out and
3 producing the *Hill* emails and that's tab 6. And that was
4 sent, likewise, on the 25.

5 On tab 8 -- excuse me -- foot -- Bates No. 8, we have
6 a cover letter and ---

7 THE COURT: I'm not synced up with your Bates
8 numbers.

9 MR. POWELL: And cover letter where -- from --

10 THE COURT: Wait a minute. I -- I have got them. I
11 got them. I got them. I --

12 MR. POWELL: -- cover where -- where she -- by the
13 way, Your Honor, I apologize, I did not -- I failed to
14 introduce my associate, Chelsea Clark.

15 THE COURT: Ms. Clark.

16 MS. CLARK: Good afternoon. I'm --

17 MR. POWELL: Form --

18 MS. CLARK: -- available.

19 MR. POWELL: Formerly -- formerly with the
20 Administrative Law Court and has come to us and I'm very
21 proud of her Phi Beta Kappa. And -- and -- I've learned
22 -- I was reminded the other day, when she asks questions
23 for us, she's not seeking the information, she's quizzing
24 us.

25 So -- but anyway, she -- she sent this out --

1 MS. CLARK: I'm available to answer questions about
2 the production since I handled most of it, and computers
3 are more my thing than Warrens's --

4 MR. POWELL: That's --

5 MS. CLARK: -- as I'm sure you'll understand.

6 MR. POWELL: So that's --

7 THE COURT: Who don't know that?

8 MR. POWELL: Really. And then -- and then looking
9 down here at footnote 12 is -- is her letter to Mr.
10 Protopapas on July the 2, where she's sending out
11 information from the Raleigh office, similar type
12 information from the Raleigh office.

13 So along in here we figure out and take -- what --
14 what we're doing first is trying to respond with how I had
15 agreed to respond to Mark, Mark Hardee, to get the *Taylor*
16 and *Hill* emails to him, which I believe we did.

17 Now, we then turn to the server, the information on
18 the server. And --

19 THE COURT: Now, is that the material that was in the
20 possession of -- is this the Wall, Templeton server?

21 MR. POWELL: Yes, ma'am.

22 THE COURT: All right.

23 MR. POWELL: Yes, Your Honor. And -- and so you will
24 see under Bates No. 14 and 15 their screen caption. And
25 it'll -- if you'll flip on over, let me see. Flip on over

1 here to 17.

2 THE COURT: 17?

3 MR. POWELL: Yes -- yes, ma'am. And -- and you'll
4 get to -- finally you get to 19, and that is a picture --
5 a photo of -- of the screen of their computer. And you'll
6 notice it's all been blacked out except for the -- the
7 client, Covil Corporation because what's on that screen
8 are -- are the clients, you see.

9 THE COURT: I got you.

10 MR. POWELL: Okay? The next page is the -- if you
11 opened up Covil, that's what it would be, okay, on the
12 next page.

13 THE COURT: Okay.

14 MR. POWELL: And it goes on and on and on.

15 Now, what we have done is --

16 THE COURT: And some of it is blanked out and some of
17 it's not.

18 MR. POWELL: That's right. What we have done is we
19 have put all of this on a hard drive and delivered that to
20 the Receiver's lawyers so that -- and it's important, I
21 think, to understand they can search it, they can -- you
22 know, they can look through it just as though it was on
23 the computer. That has been done with respect to the
24 Raleigh office and the Charleston office.

25 THE COURT: So can I just summarize what -- where I

1 think you're going?

2 MR. POWELL: Certainly.

3 THE COURT: You don't need a rule to show cause,
4 you've already given it all to them.

5 MR. POWELL: And the only thing -- out of full
6 disclosure, Your Honor, what we're working on now, we've
7 answered everything that Peter put in his June the 21
8 email to me except the -- except all of the universe of
9 Covil emails, keeping in mind that, you know, when we were
10 first working on it, we were just looking at the *Taylor*
11 and *Hill* cases.

12 THE COURT: Right.

13 MR. POWELL: That was represented to us as --

14 THE COURT: Right.

15 MR. POWELL: -- the most important. But now he wants
16 the -- the universe of -- and that would include
17 communications and -- and emails with, you know, the
18 carriers and other lawyers. And you know, I can't -- I
19 can't postpone deposition because I got a -- you know,
20 sciatica or whatever.

21 MS. CLARK: We anticipate that the -- the number of
22 emails we will find, if we use keywords related to all
23 these cases, is about 50,000, which is why that has not
24 been done yet. We are working on the search words.

25 THE COURT: But you're working on it.

1 MS. CLARK: Yes.

2 MR. POWELL: We're working on that. Yes, ma'am.

3 THE COURT: Okay. So what you're --

4 MR. POWELL: And she --

5 THE COURT: -- again arguing with respect to those is
6 you are working hard as you can and you don't need a rule
7 to show cause. You're trying to do it in the best way you
8 know how ---

9 MR. POWELL: Absolutely.

10 THE COURT: --- and you are not being impeded in any
11 way by the carriers or their directions to you. Their
12 common interest issue is not preventing from giving it to
13 the client that asked for it.

14 MR. POWELL: We haven't objected to anything. In --
15 in fact, Your Honor, as you know, one of my
16 responsibilities is to make sure that there -- there
17 aren't privileged matter contained by accident --

18 THE COURT: Sure.

19 MR. POWELL: -- in -- in stuff going out because once
20 it's out --

21 THE COURT: It can't be retrieved.

22 MR. POWELL: You know, the -- the case law is not
23 good.

24 THE COURT: Well, it's -- it's supposed to be better
25 than it is now, but it is -- the rules are not very clear

1 nor are the cases about your getting back the feathers
2 that came out the pillow.

3 MR. POWELL: Bad juju. So I'm having to go through
4 that and -- and I will -- and I -- as I put in my
5 communication to the Court and to counsel, we will -- as
6 we do it, we will wait until we finish with all of them
7 and send it out or we will produce it as we go at their
8 option. So why we need another hearing about this or a --
9 a hearing on a rule to show cause I -- I don't know.

10 THE COURT: Okay. Let me ask you one more thing
11 before you sit down: This material that I have on what's
12 Court's Exhibit 1, those are Covil files?

13 MR. POWELL: I presume.

14 MS. CLARK: Yes, ma'am. So our understanding is
15 that's the only thing that belonged to Covil physically
16 that our client took possession of. It's supposed to be a
17 back up of their computer when they closed down.

18 THE COURT: Okay.

19 MS. CLARK: To our understanding. We have no idea if
20 the data is retrievable or what's on there.

21 THE COURT: And this was taken possession of by Wall,
22 Templeton?

23 MS. CLARK: Yes. From Gallavin, White, Boyd.

24 THE COURT: From Gallavin, White, Boyd.

25 MS. CLARK: And it is the only corporate thing that

1 they took possession of ---

2 THE COURT: And this is ---

3 MS. CLARK: --- to our understanding.

4 THE COURT: --- the only copy of it that exists.

5 MS. CLARK: Yes, ma'am.

6 THE COURT: And you have not copied or tried to do
7 anything with it?

8 MS. CLARK: No, ma'am. We don't have the capability
9 to read a tape drive.

10 THE COURT: And apparently there's been some
11 communication with a firm that might be able to retrieve
12 what's on here, but it's nothing you've been involved
13 with?

14 MR. POWELL: No. No.

15 THE COURT: Very good. All right.

16 MR. POWELL: What we tried to do is give it to them a
17 week ago or so.

18 THE COURT: I got you. All right. Now ---

19 MR. HARDEE: Can I respond to him, just 'cause he
20 went beyond -- I tried to limit mine 'cause -- because you
21 said we weren't going to do the ---

22 THE COURT: Mr. Hardee, it is now 4:10. So yes, I'm
23 going to hear from you, but ---

24 MR. HARDEE: I just want to hand up about the --

25 THE COURT: -- we -- you know ---

1 MR. HARDEE: -- correspondence. I won't go through
2 it.

3 THE COURT: All right.

4 MR. HARDEE: He didn't give you all the
5 correspondence.

6 THE COURT: I think I got a very picture of what's
7 going on with them. They're doing everything they can to
8 do what you asked them to do.

9 (Mr. Hardee hands documents to the Court.)

10 MR. HARDEE: This is a more complete -- of Peter
11 asking for documents since November. And this is very
12 important. This involves that tape.

13 This is the tape -- this is Wall, Templeton talking
14 about the tape in March, and this is Mr. Powell telling us
15 that we can come get it on July 3, from March 19 to July
16 3.

17 THE COURT: Well ...

18 MR. HARDEE: We didn't know it existed.

19 THE COURT: Well, what is this in aid of? Mr. Powell
20 can't rewrite history. He wasn't representing them when
21 Mr. Protopapas first communicated in March.

22 MR. HARDEE: I ---

23 THE COURT: He is ---

24 MR. HARDEE: --- understand, and my motion is towards
25 Mark Wall, not -- not Mr. Powell.

1 THE COURT: I get all that, but we're in the here and
2 now, and right now you've got someone that looks like
3 they're trying to do their dead level best to produce
4 everything that you need, even modifying search terms and
5 everything else. And I wonder whether I need to intervene
6 in something that's already moving forward in a good way.

7 We've got this Covil document thing, and we'll talk
8 in a minute about what to do about it, but why do I need a
9 rule to show cause when Powell is over there doing
10 everything he can and he is not being restrained or guided
11 or controlled by the insurance companies?

12 MR. HARDEE: Your Honor, we have had multiple,
13 multiple filings in Federal court ---

14 THE COURT: Mr. Hardee --

15 MR. HARDEE: --- for ---

16 THE COURT: Mr. Hardee --

17 MR. HARDEE: --- that we don't have the documents.
18 I'd like to know why we didn't get the documents earlier.

19 THE COURT: Mr. Hardee, I'm not going to conduct a
20 hearing on why you didn't get things earlier. I'm trying
21 to deal with the here and now and conduct a hearing on
22 what -- how we can come up with a good plan for getting
23 the documents.

24 Now, it sounds like, with respect to Wall and
25 Templeton's documents, we are well on the way of getting

1 you what you need.

2 So that's -- that doesn't close the rest of this
3 discussion by any means, but it does indicate to me that
4 you don't need my help in getting Mr. Powell to give you
5 everything he can possibly lay his hands on that relates
6 to Wall and Templeton. And you know, what happens about
7 their badness beforehand is something we can talk about in
8 another forum. But we're -- all we're trying to do right
9 now is get the documents, right?

10 MR. HARDEE: Just like we did back in March.

11 THE COURT: Don't go there, Mr. Hardee.

12 MR. HARDEE: Yes, ma'am.

13 THE COURT: Okay.

14 MS. MCVEY: So, Your Honor, Theile McVey, of course,
15 for many underlying plaintiffs. Our issue, of course, is
16 that apparently Mr. Wall had in his possession these Covil
17 documents. We tried to verdict the *Crawford* case in front
18 of you.

19 THE COURT: I realize that and we're going to have
20 some -- we'll have a time when we can deal with that. But
21 right now we're dealing with a rule to show cause to try
22 to get documents, right?

23 MS. MCVEY: Yes, ma'am.

24 THE COURT: Not going to preclude anything else.

25 MS. MCVEY: And -- and I don't mean to interfere with

1 this, but -- but I -- my concern is how do we know we have
2 anything unless Mr. Wall answers those questions?

3 MR. ROBINSON: Your Honor, as part of our rule to
4 show cause, it -- it -- and I think Mr. Powell, since the
5 filing of the rule to show cause, has interpreted the rule
6 to show cause against him, which it is not. We don't
7 think he has done anything --

8 THE COURT: Hold it, hold it, hold it. I am not
9 going to have people jumping up all over the place and
10 talking over each other.

11 Here's what's going to happen, you now have a lawyer
12 who is doing his dead level best to get all these
13 documents to you and he's explaining to you pretty
14 transparently what -- what kind of activities he's engaged
15 in. He tried first to get you *Hill* and *Taylor* and then
16 the other things.

17 Now, what happens with the underlying badness of his
18 client is something for another day. We don't need to
19 deal with that right now. The first track we're on is
20 getting all the documents.

21 And the same goes with you, Ms. McVey. There's going
22 to be another time of reckoning and that may be in the
23 malpractice case, which is currently not in front of me,
24 where we will deal with some of these other things.

25 *Crawford* is a very good question. It just staggers

1 me that Wall and Templeton had these materials, which we
2 litigated extensively before *Crawford*. Then we had the
3 *Crawford* case, he violated my directions. Not to say they
4 were defunct. All kinds of things happened in that trial
5 and he got a verdict for Covil.

6 MS. MCVEY: Yes, ma'am.

7 THE COURT: That -- now we got the newly discovered
8 material, and all -- many other things may happen now
9 because of that.

10 MS. MCVEY: And -- and the only other thing, just to
11 remind you of, is -- is the urgency of it for us is that
12 we have *Howe*, *Smith*, and *Hopper* coming up.

13 THE COURT: I got all that.

14 MS. MCVEY: And so I -- you know, I want to be able
15 to get the documents --

16 THE COURT: I understand.

17 MS. MCVEY: -- in time to use them.

18 THE COURT: I understand. And -- and -- and what the
19 liability may be for past sins is not something we're
20 talking about right now. We're trying to get the
21 documents. That's the first thing.

22 MS. MCVEY: Yes, ma'am.

23 THE COURT: So I think we understand Wall and
24 Templeton. Now, we got the carriers, and that's where Mr.
25 Smith is going to talk to me.

1 Mr. Smith, I'm not going to let a soul stand between
2 you and talking ---

3 (Courtroom laughter cuts off the Court.)

4 MR. SMITH: Thank you very much. And Judge, I -- I
5 realize that we're trudging into the second hour of this
6 hearing, so I'm -- I'm just going to be brief and I -- I
7 think when we talk about this just a couple of things that
8 we need to talk about is what we're asking the Court to do
9 and obviously, that is to issue a rule to show cause
10 against the carriers.

11 And Judge, frankly, when I look at this, I think it's
12 mainly the two carriers that we are interested in and that
13 we're alleging that there's some violations of the Court
14 order in USF&G and the successor corporation, their
15 carrier, and that's Travelers.

16 The others -- it -- they may have joined in the
17 motion that -- that breached the Court's order and
18 breached the rules of -- of ADR rules, but they -- but you
19 know, I -- you know, they're -- they're involvement is
20 probably fairly minimal as it relates to this.

21 And Judge, I recognize that the jurisdiction --
22 obviously, they've removed cases to the Federal court.
23 And you know, just to answer the question, you started off
24 with Mr. Hardee is what's the jurisdiction, and the
25 jurisdiction is -- is fairly simple in this case.

1 One is the ADR rules, and as the Court knows, it --
2 it ordered mediation in the *Hill* and *Taylor* file of
3 02/28/2019, and specifically, Judge, in that mediation two
4 of the carriers that you ordered and -- and a number of
5 them was USF&G to participate in the mediation as well as
6 Hartford -- I mean, as -- as Travelers. And so both of
7 them participated in the mediation and signed mediation
8 agreements.

9 They went to mediation, the ADR rules, Judge, and I
10 don't need to quote those to you, but it requires
11 confidentiality. And as you heard, Mr. Robinson talked
12 that they did not settle those cases at mediation, the
13 *Hill* and *Taylor*.

14 Those negotiations continued, and through that
15 process, Brady Edwards, who is -- who was an attorney for
16 Covil, that is -- it is my understanding, Judge, that he
17 was at the hearing -- I was not involved in this case at
18 the time, but he was at the mediation and he sent a email
19 to -- to the carriers about settling the case. And that's
20 an email that's attached to our motion where he discussed
21 the settlement, and as Mr. Robinson told you, the day
22 after -- and that in -- in that email, it says (as read):
23 "Confidential. Subject to absolute mediation privilege."

24 Obviously, mediation's, Judge, we all have
25 participate in these. You don't settle a case, but we

1 continue moving forward in trying to resolve it. We
2 engaged the mediator. I don't know what happened. We can
3 have that come out at the facts of the hearing if the
4 Court issues a rule to show cause, but he did that and --
5 and they settled the case the following day.

6 So fast forward to -- to these actions are filed and
7 then they removed to -- they removed to court and I can't
8 pronounce his name, but you were getting it earlier,
9 Judge. The USF&G attorney that was up here --

10 THE COURT: Ezra.

11 MR. SMITH: -- earlier who just appeared.

12 And by the way, Judge, I would point out to you that
13 you did order in your order, about having this status
14 conference, that they appear here today, in which they did
15 not appear. And -- and they filed their motion and sent
16 an email to the Court telling the Court it -- it doesn't
17 have jurisdiction and that they weren't appearing.

18 We have some real issues with that, Judge. We --
19 just as a status conference, that's what we're here.
20 Likely, you're going to see a frivolous civil proceed -- a
21 -- a motion for him to be sanctioned for the filing here
22 today from -- from the Plaintiffs in this matter.

23 But Judge, what -- what he did in this case is he
24 sent a letter to Mr. Edwards and asked him if he would
25 waive this meditation privilege. And I think it's

1 important when you look at this it says (as read): "As
2 part of our motion, we intend to file, under seal, an
3 email that was sent to your insurer's counsel on April 18,
4 2019, confirming that Covil will cooperate with insurers
5 in the vindication of all parties rights against Wall,
6 Templeton in the emails attached. The local rules
7 requiring the sole -- you -- in this motion to be sealed,
8 we seek to seal the attached email because it's a
9 confidential settlement communication," heeds the terms
10 that it's confidential settlement, where it is -- the
11 heading of it is a confidential mediation.

12 And so then, obviously, Mr. Edwards emails him back
13 and says, "Absolutely not. I do not consent." And then
14 Mr. Davis, Judge, files this with the Federal Court.

15 So you know, you have an order that requires them to
16 participate in mediation, they signed a mediation
17 agreement, which they agreed everyone -- everything in the
18 mediation would be confidential. They received this
19 mediation email and subsequently settled and then they
20 filed it with the Court. And thus, we allege that that's
21 a violation of the court order and -- and the ADR rules,
22 and we ask the Court to conduct a hearing in that regard.

23 THE COURT: All right. All right. Wait a minute,
24 Mr. Smith. All right. Mr. Smith has now clarified the
25 request for a rule to show cause with respect to Travelers

1 and focused on Travelers/USF&G; am I correct?

2 MR. SMITH: Yes -- yes, ma'am.

3 THE COURT: All right. Mr. Davis, I'll turn to you
4 and to your co-counsel and invite you to respond to the
5 request for a rule to show cause.

6 MR. GOGOLLY: May I come down, Your Honor?

7 THE COURT: Of course.

8 (Counselors approaches the front.)

9 THE COURT: And please give the court reporter your
10 card, and I -- I will again note for the record that you
11 and Mr. Davis are appearing with the reservation of your
12 rights to contend that the Court does not have
13 jurisdiction to ask you to respond to these matters.

14 MR. GOLLOGLY: Thank you, Your Honor.

15 THE COURT: All right, sir.

16 MR. GOLLOGLY: Should I get my card now or okay to
17 hand it up afterwards?

18 THE COURT: You just give it to her afterwards is
19 fine.

20 MR. GOLLOGLY: Your Honor, I'm in a -- I'm in a
21 difficult position here today because it's my
22 understanding that I can't really reach the merits without
23 jeopardizing the -- the jurisdiction issues that Your
24 Honor just referenced. And -- and first of all, let me
25 just say, I -- we meant no discourtesy by filing the

1 notice of removal last night.

2 THE COURT: That's okay. You have to do what your
3 client expects you to do. I understand.

4 MR. GOLLOGLY: Thank you.

5 THE COURT: That's no problem.

6 MR. GOLLOGLY: Thank you. And we did our best to
7 alert everybody and be clear about what our intentions
8 are.

9 So our -- our position, Your Honor, is that upon
10 removal, under 28-USC-1446, the State court is without
11 jurisdiction to proceed.

12 THE COURT: All right. Well, what has been removed
13 is what, in your opinion?

14 MR. GOLLOGLY: Well, and here -- here again, Your
15 Honor, I'm going to try and be extremely careful because I
16 -- I want to be as helpful as I can to you and I
17 appreciate the opportunity to have a discussion.

18 THE COURT: I mean, you have not removed the baseline
19 litigation that involves *Covil, Hill, Taylor, Smith, Howe*
20 -- and I've recited these before, but there are five cases
21 that are currently most necessitous of having some
22 attention paid to them ---

23 MR. GOLLOGLY: Uh-huh.

24 THE COURT: --- because they're pending on my dockets
25 and it's one of the reasons that I wanted to conduct this

1 status conference.

2 And those cases are, *Falls, Individually and as --*
3 *and as Personal Representative of the Estate of Charlotte*
4 *Gaye Smith against Covil --*

5 MR. GOLLOGLY: Uh-huh.

6 THE COURT: -- which is the one remaining Defendant.
7 That is a case pending in York County.

8 *Timothy W. Howell, Individually and Personal*
9 *Representative of the Estate of Wayne Ervin Howe and*
10 *others against Covil. It's the only remaining Defendant.*
11 *That is the case in York County. Both those cases are*
12 *scheduled for September.*

13 MR. GOLLOGLY: Uh-huh.

14 THE COURT: Then there is *Charles T. Hopper and*
15 *Rebecca Hopper* against Covil, and I believe it's the only
16 Defendant in that case. No, there are other Defendant's
17 in that one. And that is pending in Richland County and
18 it is scheduled for --

19 MS. MCVEY: November.

20 THE COURT: -- November.

21 And then there is *James Michael Hill* against Covil.
22 This is a case that has been settled, and there is no --
23 nothing pending, but there is my order directing
24 Travelers/USF&G to disclose certain things to the
25 Receiver.

1 And similarly, in *Taylor*, against Richland -- against
2 Covil, that is another case that's been settled in
3 Richland County, and the rule to show cause that Mr. Smith
4 has just argued, with respect to those two cases, deals
5 with the failure to disclose things that I have previously
6 ordered to be disclosed, (a), and (b), the violation of
7 the confidentiality of ADR by disclosing a confidential
8 settlement document where Travelers/USF&G had been refused
9 permission by the Receiver for Covil to disclose that
10 document.

11 So those are the things that are pending that most
12 acutely need some attention, and the request of the
13 Receiver is that a rule -- rule to show cause hearing be
14 held very quickly with respect to these matters because
15 they're either scheduled for trial between now and
16 November, or they involve matters that have been settled,
17 but information that is badly needed to advise the
18 Receiver as to what its book of assets is and how they are
19 to be allocated as it considers going forward or settling
20 other Covil cases.

21 MR. GOLLOGLY: Uh-huh.

22 THE COURT: So that is the basis upon which I'm
23 asking you to answer questions. I am not asking about the
24 cases that are currently removed to federal court.

25 MR. GOLLOGLY: Uh-huh.

1 THE COURT: The issues may be related --

2 MR. GOLLOGLY: Uh-huh.

3 THE COURT: -- as quite often happens, but these
4 issues relate solely to the administration of the Receiver
5 of State here in connection with litigation that's pending
6 here and I don't understand any basis upon which it could
7 possibly be removed to Federal court.

8 You've filed a document that mentioned these five
9 cases under the rubric of calling them "In Re Protopapas,
10 Receiver for Covil," but you did it in aid of a motion to
11 enjoin the conduct of the status hearing. The Federal
12 court denied that injunction, and there --

13 MR. GOLLOGLY: If I may -- may I?

14 THE COURT: Yes, sir.

15 MR. GOLLOGLY: Your Honor, that's -- first of all, if
16 I -- if I could take a minute just to finish my thought
17 from right here because I think ---

18 THE COURT: Okay.

19 MR. GOLLOGLY: --- I think I have to for the record,
20 Your Honor.

21 THE COURT: Well, that's fine. I -- I'm --

22 MR. GOLLOGLY: But ---

23 THE COURT: --- just trying to kinda get that all
24 teed up so I can let you understand exactly what we're
25 doing here. I'm not trying to interfere with Federal

1 litigation, but I have got to administer these State court
2 cases and none of them have been removed, and I don't know
3 of any basis up on which settled cases or pure State court
4 cases involving a tort can be removed.

5 MR. GOLLOGLY: I understand, Your Honor.

6 So as -- as I was trying to articulate, we filed --
7 Travelers filed the notice of removal last night and I
8 understood -- I understand from Your Honor some ---

9 THE COURT: What were you removing?

10 MR. GOLLOGLY: I'll -- I'll get -- I'll -- if I may,
11 I'll get to that in a second.

12 And the reason we didn't appear this morning is
13 because our -- our -- our position is that under 28-USC-
14 1446, the State court would be deprived of jurisdiction.
15 And that's why Mr. Davis and I didn't come to court this
16 morning ---

17 THE COURT: Well, you would be -- I would be deprived
18 of jurisdiction with regard to matters -- matters that
19 have been removed. So I once again ask you the question:
20 Did you remove to Federal court *Smith vs Covil*, *Powell v*
21 *Covil*, *Hopper vs Covil*, *Hill vs Covil*, or *Taylor vs Covil*?

22 MR. GOLLIGLY: No.

23 THE COURT: Well, then I don't understand the dilemma
24 because those are the cases and the administration of
25 Covil's responsibility in those cases are the cases I'm

1 dealing with now.

2 And in that connection, I have previously ordered
3 your insure -- your insurance company to participate in
4 ADRs, not just with respect to *Hill* and *Taylor*, but with
5 respect to any of these cases that involve Covil.

6 MR. GOLLOGLY: I -- I -- I understand Your Honor's
7 position, and -- and ---

8 THE COURT: Well, how -- how can you disobey that
9 order?

10 MR. GOLLOGLY: Respectfully, Your Honor, I believe
11 that Travelers did not disobey that order. Instead,
12 Travelers has removed the -- the -- what I would describe
13 as the amorphous proceedings that's been created by the
14 Receivers ---

15 THE COURT: You -- you haven't removed this -- there
16 -- there is no proceeding that is some kind of separate
17 matter in existence. There are the proceedings I just
18 named, and those are the proceedings that are pending in
19 front of me and this status conference is being held to
20 deal with those cases and the disclosures you must make in
21 those cases and whether or not you should be punished for
22 disobeying the Court's order that's affecting the
23 confidentiality of ADR in two of those cases. That's --
24 that's what we're here about.

25 MR. GOLLOGLY: I understand, Your Honor.

1 THE COURT: And nothing with regard to that has been
2 removed, has it?

3 MR. GOLLOGLY: Respectfully, I -- I disagree. I ---

4 THE COURT: Well, what has been removed ---

5 MR. GOLLOGLY: I ---

6 THE COURT: --- with respect to those cases?

7 MR. GOLLOGLY: What has been removed, Your Honor, is
8 the request for a status conference on matters of
9 insurance coverage that are currently pending in Federal
10 actions and the ---

11 THE COURT: I don't have anything pending in front of
12 me in that regard. That's lawsuits that are pending
13 before the Federal court wherever.

14 What I have pending -- the -- whatever's been removed
15 has been removed, but I have an independent authority,
16 pursuant to orders that were filed way before any of this
17 activity took place, that relates to the conduct of the
18 Receiver and your relationship to that.

19 And one of those things upon which they couldn't
20 possibly be any removal implications is whether or not you
21 could violate the confidentiality of ADR by revealing
22 documents that you were directed by the Receiver that you
23 did not have permission to -- to reveal. And that -- that
24 -- that I propose to explore in a rule to show cause. I
25 want to understand how in the world you could avoid being

1 a part of that.

2 MR. GOLLOGLY: Well, Your Honor, I don't know that I
3 can do any better than -- than repeat what I've said which
4 is it -- it is our position that that issue has been
5 removed and is now in the Federal courts where ---

6 THE COURT: And in -- in what case is it that is the
7 vehicle for that removal?

8 MR. GOLLOGLY: It is the -- the proceeding that was
9 initiated by the Receiver when the Receiver filed his
10 motion for status conference.

11 I'll -- I'll grant you, Your Honor, I recognize that
12 there's -- it's -- it's unusual.

13 THE COURT: A status conference request is not
14 something that exists as a separate lawsuit. It has no CP
15 number, it's not a separate proceeding of any kind.
16 Status conferences are held in connection with existing
17 litigation or with an existing receivership. None of that
18 has been removed, has it?

19 MR. GOLLOGLY: Your Honor, I -- I -- I respectfully,
20 again, I -- I disagree. I -- I believe that the request
21 sought in the motion for a status conference and the
22 relief granted does equivalent -- is equivalent to a
23 separate and new essentially declaratory judgement
24 proceeding against the insurers.

25 THE COURT: Well, I understand that. My -- I am very

1 confident when I tell you that I find no basis in law or
2 civil procedure in South Carolina for the assertion of
3 that. This is -- these are existing civil procedures as I
4 have named them, an existing order is in connection with
5 the receivership of Covil, and none of those things has
6 been removed -- do I -- nor do I know any basis.

7 The fact that you may have other litigation that has
8 currently been removed, or has not been remanded, that
9 touches some of these topics does not give you the
10 authority to disobey the requirements of law with respect
11 to matters that are pending here that have not been
12 removed.

13 MR. GOLLIPLY: I understand, Your Honor. And
14 Travelers position, respectfully, is that we -- we did not
15 disobey your Court -- your -- your Court's -- Your Honor's
16 order. Instead, we exercised our removal rights and ---

17 THE COURT: I understand. I understand. All right.
18 Anything else you got to say about the rule to show cause?

19 MR. GOLLOGLY: No, Your Honor.

20 THE COURT: All right, sir. Mr. Davis?

21 MR. DAVIS: Yes, ma'am. I have nothing to add, Your
22 Honor.

23 THE COURT: All right, sir. All right. Thank you,
24 very much.

25 Mr. Smith?

1 MR. SMITH: Judge, may I, briefly reply just ---

2 THE COURT: Yes, sir.

3 MR. SMITH: --- on those issues. I just think it's
4 important to bring to the Court's attention, as what
5 you've just zeroed in on was that the hearing that you
6 ordered them to participate to be here today -- so USF&G
7 was ordered by this Court to be here today, which they did
8 not come until you had to bring them here, was -- was on
9 the *Taylor* case. So that's the case that settled, that's
10 not a case that's removed in here.

11 And I would point out that USF&G is not a party to
12 these cases, and in order to remove cases, generally you
13 got to be a Defendant to remove cases and so they didn't
14 do that. They just inserted themselves into it and
15 removed it. So that's just more evidence of violation of
16 the Court's orders.

17 THE COURT: That is a good point, Mr. Smith, and well
18 taken.

19 While they're -- and I will simply make the
20 observation that in the five cases I've now named several
21 times here, the three -- the two from York County, the
22 *Hopper* from Richland, and the two settled cases of *Hill*
23 and *Taylor* pending on other proceedings in Richland, in
24 none of those cases has Travelers/USF&G moved to
25 intervene, moved for interpleader or impleader, or in any

1 other way asked to be made a party to these suits.

2 And I agree with you. They have no status upon which
3 to remove cases in which they are not a party. You can't
4 just reach out to other cases that kinda have something to
5 do with your case unless you are a party in that -- those
6 proceedings.

7 And this interferes gravely with the rights of those
8 who are parties to these proceedings and who -- and
9 particularly those who have settled and are now trying to
10 get information relative to how to proceed.

11 So all right. My -- with respect to the rules to
12 show cause, I will deny at the moment a rule to show cause
13 issued to Wall, Templeton with the caveat that we'll see
14 how this production occurs. I think very good faith
15 efforts are being made now that Mr. Warren Powell and his
16 firm is in this case, and they are not being guided by the
17 insurance companies.

18 They are certainly cooperating with the insurance
19 companies. They're keeping everyone fully apprised of
20 what they're doing, and they're trying in every way to
21 discharge what they see as their responsibilities to Covil
22 and its receiver as their clients. And as long as that
23 proceeds, I think we will be in good shape.

24 Now, that brings up the issue of what to do with the
25 materials that have been turned over to the Court, the

1 Covil materials. Here's what I would like to have done:
2 I would like for Ms. McVey and Mr. Powell and Ms. Spitz
3 and Mr. Smith to be involved in crafting an order that
4 deals with how Court's Exhibit No. 1 can be transmitted to
5 some mutually agreed upon IT or computer firm for its
6 translation of this tape into a readable form, and I will
7 be very willing to sign such a document after you have
8 gotten an order that you can agree upon. I think that's
9 the easiest way to go about this thing, and I don't -- I
10 -- I -- my bet is that it will be quickly agreed upon.

11 That order should direct that the Court turn over to
12 Mr. Powell or to Ms. McVey who -- however y'all want to
13 do. You pick one of you that the -- I am to turn this
14 tape over to and that individual will then transmit it to
15 the firm that you all agree upon and you will share the
16 costs of having it translated. Doesn't sound like it's
17 going to be some terrible, expensive thing. And then
18 copies will be shared with everyone and that would include
19 the the Gallivan White firm from whom these materials
20 first came. I think they would want something in their
21 files that reflects what it is they've turned over.

22 So that's how we will do this Covil tape. I will
23 indicate to the court reporter now that I will take
24 possession of this -- the Court will take possession of
25 this document and I will store it in a safe place here.

1 And then as soon as y'all get me an order, I'll sign the
2 order and transmit it to the person who's designated to
3 send it on out and that -- that's anybody y'all agree
4 upon.

5 That's what we do with the Covil tape and we, at the
6 present time, deny the -- or hold in abeyance, however
7 y'all want to do it, any directive to Wall and Templeton.
8 They are complying and I don't think a rule to show cause
9 is necessary at this time.

10 With respect to a rule to show cause as to the
11 carriers, that request has now been modified as a rule to
12 show cause directed at Travelers/USF&G. I want a proposed
13 order to be sent to me, and Mr. Smith, I will designate
14 you as the chief person in charge and I'm sure there are
15 others around here who can take care of the mechanics of
16 it.

17 MR. SMITH: Yes, ma'am.

18 THE COURT: But what I want y'all to do is send me a
19 proposed order, with a copy to the two counsel for USF&G
20 for them to examine, as quickly as you can that issues a
21 rule to show cause against the insurance company to -- to
22 show cause as to why this should not be held in contempt
23 for failure to obey the order of the Court of March of
24 this year and of the previous order directing the
25 disclosure of the information you seek from them with

1 respect to coverages, allocations, and matters of that
2 type.

3 In addition to that, the rule to show cause should
4 direct that a hearing be held on the -- on whether the
5 insurance company should be held in contempt and
6 sanctioned for its failure to protect the confidentiality
7 of the ADR communications in the face of the directive
8 from the client Covil, through its receiver that the
9 matter should not be disclosed.

10 And Mr. Hardee, you participate in that and get that
11 drawn up at your earliest convenience.

12 MR. HARDEE: Okay.

13 THE COURT: I don't intend to argue this issue again,
14 the gentlemen from USF&G and Travelers, but I certainly am
15 not going to sign something until you've had the ability
16 to examine it. I'd ask that y'all very promptly get this
17 -- it's to your advantage to get it to me promptly, and as
18 soon as I've got it and -- and contemporaneously send a
19 copy to USF&G and when -- to the lawyers. When you get
20 this, I will give you three business days to respond with
21 whatever observations you have about the proposed order
22 and then we'll move forward and get that order in place.

23 And that will deal with the two big issues of
24 material that you need from the insurance company and what
25 kind of action ought to be taken in the face of the

1 violation of the order about ADR confidentiality.

2 MR. SMITH: Yes. Yes, ma'am. And Judge, just for
3 the record, it was -- the ADR that -- the violation that I
4 allege was what I was concentrating on -- on USF&G and
5 Travelers.

6 The other companies -- all the insurance companies be
7 provided that information in order for us ---

8 THE COURT: Exactly. And -- and should. And I would
9 -- that ought to be a part of the proposed order --

10 MR. SMITH: Okay.

11 THE COURT: -- and it ought to be sent to all
12 companies affected.

13 MR. SMITH: Yes, Judge.

14 THE COURT: But frankly, what I would do is put it in
15 two phases so that you can go on and get the thing that is
16 the most on top of the table, which is *Hill/Taylor*, moving
17 forward and the information that's needed in *Hill/Taylor*
18 from Travelers/USF&G.

19 The other just put in an order that can be dealt with
20 separately so that the insurance companies will all have a
21 complete ability to respond and look at this thing and see
22 what you think about it and whether there are dilemmas or
23 problems.

24 And again, it's the -- this is to conduct a rule to
25 show cause hearing. So this is not an order directing you

1 to do anything yet. It is an order that would be an aid
2 of conducting a hearing about the coverage matters that
3 have been ventilated by the Receiver, and when you get
4 that, then you'll have the ability to respond.

5 And I would say they will get it to you as quickly as
6 they can. With respect to that, I'll give the carriers a
7 week to -- seven business days or seven days. If it falls
8 on Sunday, go to Monday, but I'll give you a week to react
9 to that before I do anything about signing it.

10 Now, what else do I need to do Mr. Smith?

11 MR. SMITH: Judge, I think -- I think -- I guess what
12 I'll probably do is bifurcate the two rules ---

13 THE COURT: That -- I think that's right.

14 MR. SMITH: --- to show cause if that's acceptable to
15 the Court.

16 THE COURT: I think that's right.

17 MR. SMITH: Okay. And -- and then we'll probably, if
18 it's so acceptable, just have two separate rules 'cause
19 you know, I want to -- we want to concentrate on the
20 conduct of USF&G and Travelers as it relates to the ADR.
21 And then the separate issue would be with the ---

22 THE COURT: Right.

23 MR. SMITH: --- information.

24 THE COURT: Now, there was a list here, and I think
25 it's simply a placeholder, but it's ability of carriers to

1 sue the Receiver? I --

2 MS. SPITZ: Yes, Your Honor.

3 THE COURT: I -- I frankly don't know if that's
4 something that I ought to cover right now. You have
5 arguments, but the only suit against the Receiver that I
6 know about is currently removed to Federal court; am I
7 right?

8 (No response.)

9 THE COURT: Or has it act -- have they just
10 threatened it, but haven't done it?

11 MS. SPITZ: Your Honor, they've threatened it, and
12 what we're particularly concerned about is threats made on
13 June the 4, just prior to a conference call with Judge
14 Eagles, in which Zurich counsel, Mr. Boulfer, who is not
15 here today, threatened to personally sue the Receiver. So
16 ---

17 THE COURT: Well, I think that's some hyperbole that
18 sometimes happens. It hasn't happened, so I'm hoping that
19 it is hyperbole. I don't think that would be a good idea
20 for anybody to do. So -- but it hasn't happened yet, if
21 it does, probably the first stop is going to be Federal
22 court, not me.

23 But to the extent it affects my receivership of
24 Covil, I will, of course, consider those things if they
25 occur. I think that would be highly inadvisable.

1 Everybody at ---

2 MS. SPITZ: And Your Honor ---

3 THE COURT: --- is just trying to kinda do the best
4 they can about the situation. I don't think we need to
5 sue each other right now.

6 MS. SPITZ: Your Honor, we would just want to make
7 clear that under the *Barton* doctrine, the carriers would
8 need to seek leave of this Court before suing the carrier
9 (sic) in his capacity as the ---

10 THE COURT: I know what your arguments are, and I'm
11 -- I -- I understand those arguments well. They would
12 only be profounded if you were sued. So far you haven't
13 been.

14 MS. SPITZ: Yes, Your Honor. Thank you.

15 THE COURT: All right. Now --

16 MR. RUGGERI: Your -- Your Honor, James Ruggeri for
17 Hartford.

18 THE COURT: Yes, sir.

19 MR. RUGGERI: The -- the order to show cause that you
20 said -- may issue against all the insurers --

21 THE COURT: Yes. It would be a rule to show cause
22 hearing where you'll be required to show cause as is it --
23 expressed in the rule to show cause document that's going
24 to be developed.

25 MR. RUGGERI: So my client is not a party to any

1 action here.

2 THE COURT: Your ---

3 MR. RUGGERI: So I'm --

4 THE COURT: --- client is an insurer for Covil,
5 correct?

6 MR. RUGGERI: We're an insurer of Covil --

7 THE COURT: Right. And in --

8 MR. RUGGERI: -- and ---

9 THE COURT: This rule to show cause is issued in
10 connection with my authority over the Receiver in the
11 administration of the receivership of Covil and in the
12 administration of the five cases I've just outlined to
13 you. And as I understand it, The Hartford -- it has
14 coverage with respect to some of those cases.

15 (Mr. Ruggeri and the Court speak simultaneously.)

16 MR. RUGGERI: We're in weird spot, right, because The
17 -- The -- The Hartford's position is we actually don't
18 have coverage that applies ---

19 THE COURT: It is plain that ---

20 MR. RUGGERI: --- to any of these cases.

21 THE COURT: --- you have coverage --

22 MR. RUGGERI: So ---

23 THE COURT: Okay.

24 MR. RUGGERI: And -- and that issue will be decided
25 if it stays before Judge Hendricks in -- in Federal court.

1 THE COURT: That's ---

2 MR. RUGGERI: That's the issue of what -- what
3 coverage we have, if any, that applies.

4 I guess my question, though, as the Court, I think,
5 kindly stated for -- for our comfort, that by being here
6 today ---

7 THE COURT: You're not waiving ---

8 MR. RUGGERI: --- we have waived -- so ---

9 THE COURT: You -- no. No.

10 MR. RUGGERI: So by putting in a paper in response,
11 am I correct, that I'm -- also will not be waiving any
12 jurisdictional ---

13 THE COURT: Absolutely.

14 MR. RUGGERI: --- arguments ---

15 THE COURT: Absolutely. And ---

16 MR. RUGGERI: --- that ---

17 THE COURT: I -- I'll -- if they don't make that
18 clear in the order, I'll revise it -- or you will give me
19 some revision that makes it clear.

20 I don't intend to interfere with your ability to
21 contend that the Federal court is the only one. They are
22 asking for information --

23 MR. RUGGERI: And --

24 THE COURT: And ---

25 MR. RUGGER: Correct. And -- and it may be that

1 there's a discussion of what an accounting means --

2 THE COURT: Exactly.

3 MR. RUGGER: -- versus -- and I ---

4 THE COURT: Exactly.

5 MR. RUGGER: And then the other thing I have is an
6 observation because it was news to me, and I just think
7 there are plaintiffs in the audience here, too. We heard
8 the Receiver make an impassioned plea about a violation of
9 a mediation order? And I was not a participant ---

10 THE COURT: That doesn't ---

11 MR. RUGGERI: --- in the mediation.

12 THE COURT: That -- that doesn't involve you.

13 MR. RUGGERI: But -- but I did get information that I
14 believe was sub -- or is subject to the mediation order.

15 Before today, I had no idea what the settlements
16 amounts were for *Taylor* and *Hill* and -- and -- and ---

17 THE COURT: Well, now they're on the --

18 MR. RUGGERI: And then they got up six times, I
19 think, today. And -- and the Court said, "I'm going to
20 protect the confidentiality and they blurted out
21 \$3,000,000 over and over and over again.

22 So I don't know ---

23 THE COURT: I don't know ---

24 MR. RUGGERI: --- how we can protect that in a way --

25 -

1 THE COURT: I -- I don't know what the -- the terms
2 of any settlement document are to know whether that amount
3 is confidential or not, so I can't respond to that

4 MR. RUGGERI: Okay. Okay. I didn't know if there
5 was any way to put the toothpaste back in the tube, which
6 ---

7 THE COURT: Yeah. I -- I ---

8 MR. RUGGERI: --- I guess would be ---

9 THE COURT: I have no idea about that.

10 MR. RUGGERI: Thank you, Your Honor.

11 THE COURT: Is your company involved in those
12 settlements?

13 MR. RUGGERI: No, it's not, Your Honor. That's --

14 THE COURT: Well, then ---

15 MR. RUGGERI: -- why I ---

16 THE COURT: --- I don't think you got a dog in that
17 fight.

18 MR. HARDEE: Your Honor, the settlement agreement's
19 between two parties and that was Mr. Hill and the
20 Receiver. Those were listed as the parties to Covil --

21 THE COURT: That's right.

22 MR. HARDEE: -- none of them insurance companies.

23 And the confidentiality would be between -- which is
24 represented by -- by Ms. McVey over here and us. And Ms.
25 McVey's firm has already told us they didn't care if it

1 was told to the Court 'cause I need it for my legal
2 malpractice case.

3 So those are the only two parties to the
4 confidentiality ---

5 THE COURT: That's correct. The insurance company
6 and -- and certainly one that's not even an insurer has no
7 dog in that fight. Y'all have asserted your
8 confidentiality with respect to the matters that you claim
9 were confidential.

10 MR. HARDEE: Yes, ma'am.

11 THE COURT: All right. Anything else?

12 (No response.)

13 THE COURT: All right.

14 (Off the record at 4:46 p.m.)

15
16 -- END OF TRANSCRIPT OF RECORD --
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CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fifth Circuit Court for Richland County, South Carolina, on the 11th day of July, 2019.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

E/BONNIE H. KELLY

Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

July 22, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	C/A NO.: 2017-CP-42-04429
	)	
JERRY HOWARD CRAWFORD,	)	
Individually and as Personal	)	
Representative of the Estate of	)	
EVELYN KAY CRAWFORD,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	TRANSCRIPT OF RECORD
	)	
CELANESE CORPORATION,	)	
et al.,	)	
	)	
Defendant.	)	

November 12, 2019
Columbia, South Carolina

BEFORE:

HONORABLE Jean Hoefer Toal, Judge

A P P E A R A N C E S:

Theile B. McVey, Esq.
Attorney for the Plaintiff

Ashley K. Brathwaite, Esq.
Attorney for the Defendant

T. Dayton Grainger, Jr.
Family Court Reporter

I N D E X

WITNESS

DIRECT

CROSS

REDIRECT

RE CROSS

Certificate p. 18

E X H I B I T S

NO.

DESCRIPTION

ID.

EV.

(There were no exhibits marked.)

1 THE COURT: All right. Ms. McVey, in connection with this I noticed –
2 I just want to correct – in the Covil Corporation submissions of September
3 they submit a chart of all of the cases. Now, with respect to Crawford they
4 have the notice, went to trial, defense verdict and new trial granted. That's
5 not correct; is it?

6 MS. MCVEY: It is correct. So, there's two pieces of it.

7 THE COURT: Okay.

8 MS. MCVEY: Tell me to back up and I'll give you some ---

9 THE COURT: Get me back in the ---

10 MS. MCVEY: Yes.

11 THE COURT: About exactly what happened.

12 MS. MCVEY: I know you're managing a million asbestos cases, but
13 you will recall the Crawford case was tried in Spartanburg. Mr. Wall was
14 defending Covil at trial, and there was a defense verdict, and what happened
15 is, we made a motion for JNOV and a new trial under a 13th juror.

16 You remember they didn't have any experts. Their defense essentially
17 was we don't have any document showing us at Celanese during the time
18 period that Mr. Crawford worked there.

19 We had eyewitnesses saying they were there. That went back and
20 forth. You did grant the new trial, and that's up on appeal. It's been fully
21 briefed.

22 What happened then, though, is in July of this year, July of 2019,
23 there was another Covil motion, and I'm sitting there and all of a sudden
24 Mr. Powell, who was representing Mr. Wall, says, there's a data tape.
25 There's a Covil data tape, and you recall, we had many motions to compel,

1 many issues with Covil in general about what documents they had, whether
2 they were destroyed, whether they were not destroyed, all kinds of other
3 stuff.

4 That Covil data tape had never been disclosed to you, the Court. It
5 had never been disclosed to me or to my law firm. It had never been
6 itemized out in discovery in any way.

7 That data tape apparently was the last backup tape from Covil in
8 1991 when Covil went out of business. Late yesterday there was an affidavit
9 supported – I’m sorry. After that – let me back up. After that hearing where
10 I figure out this data tape we made a motion in the Court of Appeals and
11 before you to say, can we have permission to file another motion, Rule 60(b),
12 for newly discovered evidence and/or fraud?

13 The Court of Appeals granted that motion. They are holding the
14 appeal in abeyance pending the resolution of this motion. So, that’s how it’s
15 back in front of you again. You granted a new trial, but this, of course,
16 would be an additional ---

17 THE COURT: Grounds to grant – okay. That’s where I was confused.

18 MS. MCVEY: Yes, ma'am.

19 THE COURT: All right.

20 MS. MCVEY: All right. So, yesterday – the whole issue, where has
21 this tape been? Who knew about it? Why was it never downloaded, and so,
22 you remember, we issued an order – Mr. Protopapas and I did, and it
23 essentially said, you’re going to – you took control of the data tape.

24 THE COURT: I took – I took it under seal.

25 MS. MCVEY: That’s right.

1 THE COURT: And I placed it in my safe, and then, at a certain point
2 in time we had another proceeding, and it was agreed that I would turn it
3 over to Mr. Protopapas who would confer with -- Mr. Powell, counsel for Mr.
4 Wall, had turned that tape over to me.

5 MS. MCVEY: Right.

6 THE COURT: So, it was with Mr. Wall, and Mr. Powell averred that it
7 had come to Wall from Mr. White's firm.

8 MS. MCVEY: That's right.

9 THE COURT: I then took it and put it in the safe, and you all
10 attempted to find a firm that could translate that old data tape.

11 MS. MCVEY: That's right.

12 THE COURT: Ultimately you found a firm and presented the
13 information to me about the firm that was going to investigate this tape, and
14 that was done, and ---

15 MS. MCVEY: And actually, we can get into this later, but I will
16 represent to you that Ms. Brathwaite and Mr. Protopapas and I met with the
17 forensic technology guy who is actually here today, and I'll let you guys go
18 into more detail, but essentially they are working to download information
19 on this tape. The operating system -- and I'm using probably the wrong
20 words -- is -- they can't find a method to download the tape. They know
21 there's data on the tape. They know that it was maybe last backed up in
22 1991.

23 I think you will hear that there is no information that we will ever be
24 able to find the right kind of equipment to download what's on there, and we
25 don't know how long that will take. So, he's been working diligently since

1 August of this year to do that.

2 All right. So, we don't know what's on the tape. What we do know is
3 it's Covil documents, we would argue incredibly relevant documents for a lot
4 of different reasons.

5 There is no evidence in this record that that data tape was ever given
6 to us, told about to us, listed in discovery, nothing. Yesterday afternoon Ms.
7 Brathwaite filed two affidavits, one from Mr. White, who is here today
8 represented by Ms. Gray and one from Mr. Wall, and essentially what they
9 are saying ---

10 THE COURT: By the way, I would like to see those affidavits.

11 (Ms. McVey hands the documents to the Court.)

12 THE COURT: All right.

13 MS. MCVEY: I'll give you a minute to read that.

14 THE COURT: Okay. I understand what it said in those two affidavits.

15 MS. MCVEY: All right, and you will notice nowhere in Mr. White's
16 affidavit does he mention the case name of Crawford. There is -- I have gone
17 back through any discovery that Covil answered in the Crawford case. That
18 tape is never disclosed.

19 Instead what -- and I would argue -- and I don't think it's disputed --
20 that it should have been disclosed to us, and more importantly, the age of
21 this tape is going to make it almost impossible to download, and what
22 should have happened, what Covil should have done, what its attorneys
23 have done, what its carrier should have done in 1991 -- and the computer
24 guy I think will tell you this -- they should have downloaded whatever
25 evidence was on that tape in 1991 when you had the equipment to do it. It

1 is now almost an impossibility.

2 Your Honor, that is newly discovered evidence that we did not have a
3 piece of, any idea of, and it was interesting. I went back through the
4 Crawford trial. Remember, there were all kinds of motions about the
5 documents, and just when you were – we were arguing about spoliation and
6 where the documents are, and from defense counsel they say, as I
7 mentioned in my argument earlier, we produced 25,000 pages of documents
8 or approximately in this case. It's been 27 years since this business ceased
9 in 1991, and we understand that the records were kept in prior counsel's
10 office, and we understand everything has been produced that we have.
11 That's what they said, and we did have 25,000 pages of documents.

12 Those 25,000 pages are not what is on this Covil tape. It's my
13 understanding that no one ever attempted to download these documents to
14 figure out what they were. That should have been done in 1991, and what
15 they say is, Mr. Graham came in maybe 1999 and looked at the Covil files.
16 He should have seen that tape.

17 I talked to Mr. Graham yesterday, and he said he's willing to come
18 down and testify under oath. He never saw a data tape. His – the person
19 who went down from his office never heard about a data tape. I don't know
20 where that data tape was kept, what drawer it was in, what box it was in,
21 what it was filed under. We don't know any of that, but even if that's true,
22 the next thing they say is, well, Jessica Dean came down in the Finch case,
23 and Mr. Tate showed her the room where we keep documents. Did Mr. Tate
24 even know about this data tape? Did he tell Ms. Dean about a data tape? I
25 don't think so.

1 This is clearly newly discovered evidence under Rule 60(b)(2), and
2 Your Honor, we think it is fraud. They didn't disclose it under Rule 60(b)(3).
3 We think it is another sustaining ground for a new trial in the Crawford
4 case.

5 The impact, if we can ever get what's on this tape as the case is going
6 forward, is left to be determined. That's for another day perhaps, but I
7 think this is a profound problem, and it's one that – it's not as if we didn't
8 address discovery issues with this Court and Covil multiple times over the
9 years in this case, and you have never heard about the data tape, and I
10 certainly never heard about it, and we tried a case without that information
11 or the documents on it. That's what we'd ask for today that you grant as
12 another sustaining ground of the Rule 60(b) motion. Thank you, Your
13 Honor.

14 MS. BRATHWAITE: Good morning, Your Honor. May it please the
15 Court? Ashley Brathwaite for Covil Corporation. If I may approach I
16 brought binders that were not able to be delivered yesterday with all of the
17 materials.

18 THE COURT: You sure delivered a bunch of them, and I read what
19 you delivered.

20 MS. BRATHWAITE: This is the submission from Covil. Here is
21 another copy, and it has an index in the front for all of the exhibits.

22 THE COURT: Okay.

23 MS. BRATHWAITE: May I proceed?

24 THE COURT: Yes, ma'am.

25 MS. BRATHWAITE: Thank you, Your Honor. In the interest of time

1 I'm not going to get into the policy arguments on the finality of judgments
2 and how strong that is in South Carolina, because as you know you have
3 offered most of the opinions on this issue. You authored Chewning. You
4 authored Ray.

5 The issue in this case is that the Plaintiff has to prove by clear and
6 convincing evidence that this data tape has evidence relevant to this case,
7 that it couldn't have been discovered by the Plaintiff, that it's material to the
8 issues, and it's not merely cumulative and impeaching. We can't do that
9 yet, because we don't know what's on the tape.

10 What evidence we do have suggests that it has accounts payable
11 software. The invoices on Exhibit G are Covil historical records that show
12 they purchased accounts receivable software called NCR in 1988, Your
13 Honor, and NCR is the software that the computer forensics team has
14 identified as being one piece of the missing puzzle.

15 Since materiality and relevancy are two of the elements that the
16 Plaintiff has to prove we would like the opportunity to do a very brief
17 examination of the data tape forensics person who is here, Shawn Voty (sp),
18 so that he can provide an up to the Court ---

19 THE COURT: Ms. Brathwaite, really? You are going to submit this
20 stuff to me today, and now, you want to put a witness up on this matter?

21 MS. BRATHWAITE: Your Honor, we did ask for a continuance and
22 the court was ---

23 THE COURT: Yes, you did. Y'all are the ones that pushed and then,
24 when you suddenly find something you're the same ones who say let's delay.
25 You can't have it both ways. You know I have already granted a new trial in

1 this case for other reasons, and what is simply being sought is to enhance
2 that by dealing with this tape.

3 You all – you and Mr. Protopapas expressed as much surprise as the
4 Plaintiff did when this data tape suddenly rolling in compliments of attorney
5 for Mr. Wall, who has been sued by Covil now for this very situation.

6 So, you are trying to protect Covil's liability but at the same time you
7 very well know as the Receiver for Covil and as the attorney for the Receiver
8 that it was Covil and its previous attorneys who failed to bring this material
9 to the attention of the Plaintiffs in repeated discovery for many years in
10 Covil litigation. Isn't that correct?

11 MS. BRATHWAITE: You're right, in that, the Receiver and counsel for
12 Covil we're all less than a year into this, and so, this does – the actions
13 proffered at the trial level predate both of us.

14 Your Honor, we're not trying to go back in time. We're just looking at
15 the burden that is pretty high on a Rule 60 motion to show that something
16 was relevant, that it was material and that it would have changed the
17 outcome, and right now we just don't know.

18 THE COURT: You are hiding behind we don't know because we failed
19 to translate this tape, we Covil, way back in 1991 when we gave it, and now,
20 we can hide behind our knowledge and lack of action to now say, well, the
21 Plaintiff can't meet its burden.

22 MS. BRATHWAITE: No, there's no response to that, Your Honor.

23 THE COURT: There sure isn't.

24 MS. BRATHWAITE: What we're here today is to move – if we look at
25 the requirements of the materiality and the relevancy, -- and you're right.

1 We don't know. You can't hide behind you don't know, but it also doesn't
2 allow someone to use that to prove their burden of clear and convincing
3 evidence, and what we do have so far, which is not done, admittedly, the
4 examination is not done, we know that there's some data on the tape.
5 There's no evidence it's been destroyed, thankfully and that they're making
6 progress.

7 THE COURT: Well, there is evidence that it could have been easily
8 retrieved in 1991 when the backup tape was made and ---

9 MS. BRATHWAITE: Yes, Your Honor.

10 THE COURT: And Covil is responsible for not doing that, and Covil
11 was in effect run by a couple of insurance companies for years after that,
12 who kept up fiction that Covil was responding to these things when in fact it
13 was really the insurance companies who were just operating under the
14 name of Covil that was otherwise not at all involved.

15 Covil turned over all of its records to the insurance company, and the
16 insurance companies gave them to their lawyers or gave them ad seriatim to
17 their lawyers, and it doesn't sit well with me for them to -- for y'all to now
18 argue, well, we did everything we were supposed to do, but now, nobody can
19 translate this thing because so much time has gone by; the technology has
20 changed. That -- they produced practically no Covil -- in fact, I don't think
21 any Covil documents were produced at all in Crawford.

22 What was produced and what was able to be put into evidence were
23 secondary documents obtained from customers of Covil, from employees of
24 the customers of Covil, and that's how the Crawford case proceeded, and a
25 constant refrain was, we would know so much more about this if we had

1 actual Covil documents, and here all of the time were tapes of Covil records
2 that were not disclosed. That's what I'm facing as the trial judge in this
3 matter.

4 One of the reasons the Defendant prevailed in that case was because
5 of the lack of information about what went on with Covil's supply of
6 insulating materials to boilers and other companies when Crawford was
7 exposed.

8 It wasn't a question of any kind of active proof of anything on Covil's
9 part. It was the failure to be able to offer hard and fast information from the
10 records of Covil itself to illustrate the extent of this worker's exposure to
11 Covil insulating asbestos containing insulating materials.

12 MS. BRATHWAITE: And I may have misunderstood Ms. McVey, but I
13 think she just said the same 24,000 pages of scanned Covil records were
14 produced in Crawford as had been in other cases at the same time such as
15 Finch that we referenced in our brief. Those documents were available to
16 Plaintiff. They used them to cross-examine Covil's 30(b)(6) witness.

17 THE COURT: Yes, and most of those documents were not Covil
18 documents. They were documents that had Covil's name on them that were
19 retained in the possession of the employers and clients for which the
20 Plaintiff worked. Covil itself produced practically nothing.

21 MS. BRATHWAITE: And I think that at the trial that's exactly what I
22 read as well, Your Honor.

23 THE COURT: And now, Covil takes the position, you can't prove we're
24 – you can't prove the contents of the tape are relevant or could have been
25 discovered or material. I mean, that is a tautology worthy of the greatest

1 philosophers in my view.

2 MS. BRATHWAITE: Well, in the interest of time, Your Honor, I'll
3 incorporate by reference our arguments on the 60(b)(2); if we move to
4 60(b)(3), since it is already after ---

5 THE COURT: Yes, ma'am.

6 MS. BRATHWAITE: --- eleven, that requires the Plaintiff to show that
7 there was an intentional concealment that was part of the deliberate scheme
8 to defraud the Court. Reckless indifference to discovery doesn't meet that
9 burden. That's not extrinsic fraud.

10 The Plaintiffs cannot prove the critical element of intent, which is why
11 we have got the affidavits from Danny White and Mark Wall, Your Honor.
12 There's been no allegation in the Plaintiff's brief or any other evidence that
13 they intended to conceal or defraud the Court.

14 THE COURT: Well, I don't read either the Wall or White affidavits to
15 do anything more than to say we got a bunch of materials from Covil and we
16 put them in some file cabinets, and we made those file cabinets available.
17 That's what I read these affidavits to say.

18 MS. BRATHWAITE: And ---

19 THE COURT: What it does not say is, we went through those things
20 and scrutinized them, and we produced all of that material to Plaintiff,
21 because if they had done that they would have taken that tape and they
22 would have translated it and gotten real Covil documents in front of the
23 Plaintiff, but that wasn't done.

24 It doesn't even say when they got the documents or how they got the
25 documents or anything like that, how long they have been with the insurers

1 before they were actually given to the lawyers. It doesn't give you much
2 information at all about what the -- what was in those documents at the
3 time the Wallace & Graham firm came up there or they offered for Ms. Dean
4 to come up there or anything else, very sketchy from that point of view, but
5 what we do know with absolute certainty is there is a physical data tape
6 that was in my safe for many months that contains writings on it that
7 indicate very clearly that it's Covil documents up until 1991.

8 MS. BRATHWAITE: The data tape does have a last backup date of up
9 to 1991. There's not been any evidence that you could have scanned
10 documents or anything other than raw data at this point, which is why we
11 think it's worth everyone's efforts to see what's on the data tape, to see what
12 could be found.

13 All we know right now is that it's not been destroyed. It's intact. They
14 have identified certain pieces of the software that they are continuing to look
15 on and that the system itself was purchased in the late '80s. You're right;
16 the rest of it is unknown at this point, Your Honor, and that's why we
17 brought Shawn to really just establish what they have done and where they
18 are and to the extent he can, you know, ---

19 THE COURT: Well, the bottom line is, they still don't know anything
20 about what's on those tapes, right?

21 MS. BRATHWAITE: Not other than when it was purchased and that
22 there's data there.

23 THE COURT: And there's no timeframe about when they'll be able to
24 see whether or not they can retrieve that data?

25 MS. BRATHWAITE: No, Your Honor. That's accurate.

1 THE COURT: All right. Okay. I think I understand your argument.

2 MS. BRATHWAITE: Thank you.

3 THE COURT: Ms. McVey?

4 MS. MCVEY: Your Honor, the only thing I will say is, in 1991 when
5 Covil – I assume Covil was aware and the lawyers and the carriers became
6 aware that there was a Covil tape that contained data, there was a decision
7 made to not do anything with that tape.

8 There was a decision made to put it in a file cabinet and never deal
9 with it again, and what that decision did is made it impossible for the
10 Crawford family and many other asbestos victims to find documents
11 relevant to Covil.

12 It's inherently prejudicial. It's unfair. It's not the way the justice
13 system is supposed to work, and so, we would ask you to grant our Rule
14 60(b) motion.

15 THE COURT: All right. I find that in addition to the grounds upon
16 which I have previously granted a new trial in the matter of Crawford
17 against Celanese Corporation and others, 2017-CP-42-04429, that I should
18 make a further finding not under 60(b)(2) but under 60(b)(3) that relief is
19 warranted on the basis of newly discovered evidence specifically the
20 contents of a data tape which is represented to contain Covil Corporation
21 data, Covil Corporation data for a period of time ending in 1991 that
22 coincides with the time that Mr. Crawford was allegedly exposed to Covil
23 Corporation asbestos containing insulation products.

24 I find that material from that timeframe is relevant to this case and
25 has the high possibility of changing the result of the trial. I find that this

1 information could not have been discovered by the Plaintiff before trial
2 because the existence of it was not brought to Plaintiff's attention.

3 I find that any Covil records for the period of time during which this
4 data tape covers are material to the issues of – that are raised about Mr.
5 Crawford's exposure to Covil Corporation insulating material during the
6 timeframe covered in part by the data tape and that this data tape would
7 not merely be impeaching or cumulative but would present new direct
8 information about what the records of Covil Corporation contained about its
9 asbestos containing materials, its shipment, its use and its sale to the
10 corporations for which Mr. Crawford worked or corporations who worked in
11 the plants at which Mr. Crawford worked when he was exposed to asbestos
12 resulting in his contracting Mesothelioma, a disease – a lung disease which
13 can only be caused by asbestos containing materials.

14 I cannot conclude anything else except that the failure of Covil
15 Corporation to draw the Plaintiff's attention to the existence of this data
16 tape was intentional and was done with intent to mislead the Plaintiff, and
17 therefore, I find that in addition to the 60(b)(2) motion I have granted for a
18 new trial based on the grounds elucidated in that hearing that I grant a new
19 trial on the basis of this newly discovered evidence that meets the test in
20 60(b)(3) of extrinsic fraud.

21 All right. Ms. McVey, I would like for you to prepare a written order
22 that comports with what I have said from the bench in this matter. Have it
23 to me within 10 days, submit it to Ms. Brathwaite, of course, and she can
24 react – Ms. Brathwaite can react in a reasonable – and then, I will look at
25 the order and make what adjustments I may need to and file it.

1 MS. BRATHWAITE: Thank you, Your Honor.

2 MS. MCVEY: Yes, ma'am. Thank you, Your Honor.

3 THE COURT: Okay.

4 --- END OF TRANSCRIPT OF RECORD ---

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1 I, the undersigned, T. Dayton Grainger, Jr., Official Court Reporter for
2 the Fifth Judicial Circuit of the State of South Carolina, do hereby certify
3 that the foregoing is a true, accurate and complete Transcript of Record of
4 all the proceedings had and evidence introduced in the trial of the captioned
5 case, on the 12th Day of November, 2019.

6 I do further certify that I am neither of kin, counsel or interest to any
7 party.

8
9
10 November 16, 2019

11 
12 _____

13 T. Dayton Grainger, Jr.

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

GREENVILLE DIVISION

EVELYN WHITE, Execurtix of the)
Estate of Walter F. White, :
)
Plaintiff, : C/A NO. 77-1369
) (Wrongful Death
-vs- :
) C/A No. 77-1384
COMBUSTION ENGINEERING COMPANY, : (Survival Action)
INC., et al,)
 :
Defendants.)

DEPOSITION OF MR. PALMER COVIL

VOLUME II - PAGES 136-337

The continuation of the deposition of Mr. Palmer Covil, called by the Defendants, was commenced at the hour of 10:00 O'Clock A. M., on Thursday, July 14, 1977, in the offices of the Haynsworth Law Firm, 409 East North Street, Greenville, South Carolina.

SUE G. ASHLEY, REPORTER

G.W. Coleman Associates



Court and Deposition Reporters

P. O. Box 10114 / Greenville, South Carolina 29603

ATTORNEY'S NOTES

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DIRECT EXAMINATION

1
2 By ~~Mr. Cole:~~

3 Q You told us yesterday that you did some
4 insulation work yourself , I think, before and after you
5 started your own business. How long did you actually do
6 insulation work yourself?

7 A How long did I actually do insulation work
8 myself? From about 1930 till about 1944.

9 Q Since that time, what have you done? Have you
10 been around jobs?

11 A Yes, sir. I've worked as a mechanic for awhile,
12 was a foreman, run jobs, and I was around jobs. I worked in
13 the insulation business for somebody else up till 1948, and
14 then I went in business for myself.

15 Q Did you ever work in the field after you went
16 in business for yourself?

17 A Yes, I worked some.

18 Q Until about when?

19 A When I first got started, probably the first
20 year after I got started.

21 ~~Q~~ You have cross complained against a number of
22 the defendants in these cases, and you have not cross complained
23 against Unarco . Is that because you did not ever buy any
24 products from Unarco?

25 ~~A~~ We didn't have any record of ever having bought

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1 any.

2 Q And you did have records of most of the products
3 that you'd purchased, did you not?

4 A Right. Well, see, a lot of our records were
5 destroyed in the '73 fire, and we didn't have any records.

6 Q At this time that you worked in insulation, did
7 you ever use any products manufactured by Unarco,

8 A Yes, sir.

9 Q What products did you use?

10 A The unibestos.

11 Q How many times do you remember using that
12 product?

13 A I only remember one good-sized job that I worked
14 on that we used unibestos.

15 Q When was that?

16 A That was about 1941, the power plant at Paris
17 Island Marine Barracks.

18 Q And you don't remember any other good-sized job
19 where you used it?

20 A I remember using a small amount of it on some
21 different jobs, but I couldn't name a job.

22 Q Can you characterize it as to whether it's a
23 major or minor type of product used in this area as far as you
24 know?

25 A I don't believe there's been a whole lot of

1 unibestos used in this area. Now, since this was sold to
2 Pittsburg Corning, I think there's been more used in this area
3 than was prior to that time.

4 Q How about prior to that time?

5 A I don't think there was a whole lot used in
6 this area.

7
8 MR. COLE: I have no other
9 questions.

10 (OFF THE RECORD DISCUSSION WAS HELD.)

11 MR. HOOD: May I inquire
12 why Mr. Moore's going out to Covil and what records he's going
13 to look at so that if the defendants would like to do the same
14 thing, they can have that opportunity?

15 MR. MCKAY: For the record,
16 if Mr. Hood would consult with Mr. Davies, he can find the
17 answer.

18 MR. DAVIES: The only
19 thing I know was there was a list of records that Mr. McKay
20 and Mr. Motley mentioned earlier, and Mr. McKay indicated they
21 would be made available in a room with the secretary at Covil,
22 and anybody could go out and look at them that wanted to if
23 they wanted to leave the deposition.

24 MR. MCKAY: These, Bobby,
25 are job files that Terry Richardson asked last night after the
depositions if they were in such a form that people could just

1 look through the files. Mr. Covil had gone home at that time,
2 and I mentioned it to him this morning, and he said that they
3 were and that we would get these together, such of them as
4 we could, and put them in a room with the secretary. I told
5 Bill Davies along with Ron Motley just a few minutes ago that
6 they'd be there all day. Of course, we'll bring anything over
7 that you want, but I assume this is a room full of stuff.
8 There are about ten jobs. If you want to add any to it,
9 you're welcome to do so.

10 MR. HOOD: The job files
11 that you're going to make available to the plaintiffs are
12 listed on this list; is that correct, and anyone else that
13 wants to inspect them?

14 MR. McKAY: That's the
15 list that's been requested by the attorneys for the plaintiff.
16 If you or one of the other attorneys for the defendant would
17 like to request additional files, we'll be most happy to try
18 to get those together, too.

19 -----
20 DIRECT EXAMINATION

21 By Mr. Hood:

22 Q Would you tell us what's on the list, please,
23 Mr. Covil?

24 A On the list is Milliken Barnwell, I assume that's
25 Deering-Milliken plant in Barnwell; American Optical, Barnwell;

1 Brevard Daniel job. I haven't the least idea what that is. I
2 asked my secretary to see if she could find a Daniel job in
3 Brevard. University of Georgia jobs. Canal Insurance building,
4 Greenville; Firestone, 1953 to '57. I told her I assumed that
5 was Firestone Steel in Spartanburg. We've done a lot of
6 Firestone jobs, but most of them have been since that time
7 except for that one. Dunn, North Carolina, meat packing job.
8 We did a cold storage job for a meat packing company up there
9 several years ago, and she's going to try to look that up.
10 American Enka, Asheville, and that will probably be a pretty
11 good stack because we do work in there just about all the time.
12 Furman University, Greenville, 1959 to '60, and Fiber Industries,
13 Salisbury, North Carolina.

14 Q As I understand it, you records were burned in
15 May of 1973?

16 A Yes, sir.

17 Q So, the only records you can produce are records
18 after that date?

19 A Yes, sir.

20 Q Where did that fire occur?

21 MR. McKAY: Mr. Hood, would
22 you identify yourself and say who you represent, please.

23 MR. HOOD: I've given the
24 court reporter that information.

25 MR. McKAY: Would you give

1 it to Mr. Covil, please.

2 Q Mr. Covil, I represent Keene Corporation, Forty
3 Eight Insulation, Raybestos-Manhattan. My name is Robert
4 H. Hood, and I practice law in Charleston. Would you answer
5 my question.

6 A What was that question, please?

7 Q Your records were destroyed in May of 1973; is
8 that correct?

9 A Yes, sir.

10 Q What location burned?

11 A Our warehouse burned, and part of our office
12 burned. These records were located in the office that was in
13 the warehouse. To explain to you, we have a prefab metal
14 building warehouse, and we have a brick and block office down
15 on the front, and we had built other offices back in the ware-
16 house area, and all of those burned right up to the brick and
17 block wall.

18 Q Did you ever determine the cause of that fire?

19 A Yes, sir.

20 Q What was the cause?

21 A A man was burning paper in an incinerator, and
22 left the door open and blew out and set some more stuff on
23 fire in our shop area.

24 MR. MOTLEY: The sorry
25 insulation they had sprayed up there let it propagate through-

1 out.

2 MR. HOOD: I want to keep
3 the record going today. If anyone says anything, just write
4 it down.

5 Q Was anyone ever charged with any crime because
6 of that fire?

7 A No, sir.

8 Q Do you have any relatives by blood or marriage
9 in the state of South Carolina?

10 A Yes, sir.

11 Q Would you be nice enough to tell us who they
12 are.

13 A I have four sisters.

14 Q And their married names and their occupations
15 and their husband's occupations and addresses.

16 A I don't see where that's relevant, but I'll
17 give it to you.

18 Q I appreciate it.

19 A I have one sister, Thelma Jones, that runs
20 T J's fashions dress shop in Greer Plaza. Her husband's name
21 is Gettys L. Jones, and I believe he works for Steel Heddle.
22 I have another sister, Easter Bailey. Her husband is Woodrow
23 Bailey, and I believe he works for Judson Mills. I have
24 another sister, Geneva Black, and her husband is retired.
25 I have another one, Alma Sloan. Her and her husband run a day

1 care center here in Greenville. I have another sister that
2 lives in Tennessee. She works for the school district.

3 Q What's the name of the day care center in
4 Greenville?

5 A Sans Souci Day Care Center I believe is what
6 they call it.

7 Q Any other relatives by blood or marriage in the
8 state of South Carolina?

9 A I have several by marriage. I have Bryant -
10 Elbert Bryant - lives in Easley; he's retired. His wife works
11 for one of the manufacturers in Easley, and I'm not sure which
12 one it is. I have another -

13 Q What are their names?

14 A His name is Elbert Bryant, and her name is
15 Sophia. I have a sister-in-law, McCauley runs the McCauley
16 Flower Shop in Easley. I have another, James Bryant, lives
17 in Easley and works for Virginia Life Insurance Company.
18 Basically, that's the close relatives by marriage.

19 Q Did your insurance pay off on that fire loss?

20 A Yes, sir.

21 Q Was there any question? Did they voluntarily
22 pay off or did they question the loss?

23 A You know insurance companies question everything,
24 but there was no serious questions I don't think.

25 Q Who are the officers of Covil Insulation Company?

1 A I'm president and treasurer, Curtis Cash is
2 vice president and secretary, and Janice Perry is assistant
3 secretary.

4 Q During World War II, you were an insulator
5 yourself?

6 A Yes, sir.

7 Q Was that a deferment to service in the armed
8 forces?

9 A I was superintendent of insulation in the ship-
10 yard in Wilmington, North Carolina, for the navy department.
11 I was deferred on account of that.

12 Q Did the United States Navy consider the insula-
13 tion trade to be of enough importance for the security of the
14 country in war efforts to grant deferments to insulators and
15 persons in the capacity you were in?

16 A I wouldn't think blanket insulators, but I was
17 in a responsible position on this particular job, and the
18 officer in charge of construction handled that, and I believe
19 one time they was about to draft me in service, and he said
20 "give me all the information." I gave it to him, and I got a
21 wire the next day not to report. That's all I can tell you
22 about it. What he done and how it was handled, I don't know.

23 Q What was asbestos insulating material being used
24 for with regard to the navy and its use in warships?

25 A Well, what was it being used for?

1 Q Yes, sir.

2 A Some asbestos board products were used for bulk-
3 head insulation. Asbestos cloth has been always used in the
4 navy work for over pipe cover and other types of insulation.
5 That's about the extent, asbestos paper, asbestos cloth and
6 asbestos board.

7 Q What is the reason that the navy specifies and
8 calls for the use of these asbestos products in warships?

9 A I'm told that the first occurrence, they had a
10 fire on a destroyer, I believe it was, in the Coral Sea, and
11 the bulkheads were insulated with cork, and some three hundred
12 men lost their lives from the fumes and the smoke caused by
13 the cork.

14 Q Did that cork contain asbestos?

15 A No, sir.

16 Q Did that fire have an effect upon the navy's
17 decision to start using asbestos insulating materials?

18 A Yes, sir, immediately after that they changed
19 their specifications on all bulkhead insulation, all types of
20 insulation.

21 Q What was the reason for going to asbestos
22 materials?

23 A To prevent fire and smoke and in case of fire,
24 to prevent it from burning insulation.

25 Q Did the use of asbestos insulating materials, to

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1 your knowledge, result in the saving of lives in warships during
2 World War II?

3 A I'm sure it did. I couldn't have any specific
4 instance, but -

5 Q Since that time, in many vessels, for example
6 merchant fleet of the United States, which is a considerably
7 large number of ships, has asbestos insulating material been
8 used?

9 A Yes, asbestos and fiberglass together.

10 Q Has, in cases of fires in the merchant fleet
11 of the United States of America, asbestos resulted in the
12 saving of lives?

13 A I don't know of any instance where any lives
14 were lost from burning insulation on any vessel or fires or
15 anything like that.

16 Q In fact, would asbestos materials in the ships
17 except in, I guess, extreme heat not burn nor cause smoke?

18 A It would not burn nor cause smoke.

19 Q Do you have any personal knowledge, or are you
20 aware of any fires which have occurred in the State of South
21 Carolina where lives have been saved because of the use of
22 asbestos insulating or asbestos containing materials in
23 buildings or homes?

24 A I don't know that I recall any or have any
25 knowledge of any.

50 to p. 150

1 Q Is one of the reasons for specifying asbestos
2 materials in institutions, for example colleges, hospitals,
3 mental hospitals, children's homes, institutions for the
4 mentally retarded or mentally deranged people, sick people,
5 schools, to cut down on the possibility of loss of life in the
6 case of fire?

7 A I don't know of any specific instances where
8 it's been done. I know that in these type buildings recently
9 it's been more of the fiberglass with asbestos cloth in certain
10 instances as protective covering over the insulation has been
11 specified in these type buildings.

12 Q In these buildings where asbestos materials have
13 been specified, was the purpose, based on your knowledge and
14 expertise in this business for years, one of the main purposes
15 being to protect human life in case of fire?

16 A I'm sure it is. Let me clarify one thing.-

17 Q Go ahead and answer my question and then you
18 can.

19 A Yeah, I'm sure that's what basically.

20 Q You may explain.

21 A When we're talking about asbestos insulation
22 material, there seems to be a misconception in a lot of people's
23 mind about asbestos being used as an insulator. Basically,
24 asbestos per se has not been used much in the insulation
25 business. Now, asbestos containing materials have been used

1 for this purpose, but a hundred per cent asbestos, no, not
2 much of it.

3 Q In other words, the materials actually used for
4 insulation work in some instances contain asbestos in percentages,
5 but very rarely a hundred per cent.

6 A Right. About the only thing I know of that is
7 a hundred per cent has been some asbestos cements and things
8 that have been used on fittings and on regular surfaces.

9 Q I guess the reason for that is to allow the
10 versatility in applying and using the products.

11 A Yes, sir.

12 Q Since you had a fire and Covil has lost all of
13 its records, can you tell us if you have any records of having
14 ever purchased any asbestos containing materials from Forty
15 Eighty Insulation Company.

16 A We have no record.

17 Q Do you have any record of ever purchasing any
18 asbestos containing materials from Keene Corporation, Keene
19 Building Products or Baldwin Ehrt Hill?

20 A No.

21 Q Do you have any records of ever purchasing any
22 asbestos containing materials from Raybestos-Manhattan?

23 A Yes, sir.

24 Q Garco, predecessor of Raybestos-Manhattan in
25 the early 20's?

1 A Not from Garco, but from Raybestos-Manhattan.

2 Q What do your records reflect with regard to
3 purchases from Raybestos-Manhattan?

4 A We have purchases asbestos cloth and asbestos
5 tapes from Raybestos.

6 Q What do your records reflect with regard to
7 when and the quantities of those materials that have been
8 purchased?

9 A I believe I have copies of the invoices here.
10 I'm not sure this is all of them, but that's what I have. See,
11 but that doesn't contain asbestos.

12 Q Are you referring to some record here that does
13 not contain asbestos?

14 A Keene Corporation.

15 Q You bought a product called thermasil from
16 Keene Corporation -

17 A That's an asbestos free material.

18 Q And that was in 1974, is that correct, November
19 21st?

20 A Yes.

21 Q I assume for the purposes of this litigation
22 you have reviewed or had someone else review at your direction
23 all records of purchases by Covil Insulation Company or any
24 subsidiary at any time from the various manufacturers of
25 asbestos containing materials, is that correct?

1 A Yes, sir.

2 Q As a result of that search, you have located
3 two invoices of purchases of materials containing asbestos
4 from Raybestos-Manhattan of Charleston; is that correct?

5 A Yes, sir.

6 Q You've handed me those two invoices?

7 A Yes, sir.

8 MR. HOOD: I would ask the
9 court reporter to mark these as Raybestos-Manhattan exhibits
10 for identification only numbers 1 and 2.

11 MR. MOTLEY: Off the
12 record a second. I wasn't here yesterday. Does he have
13 records going back to when with regard to invoices?

14 A 1973.

15 MR. MOTLEY: So these two
16 are from '73 on you've been able to find.

17 MR. HOOD: Are you taking
18 down his comments?

19 MR. MOTLEY: I said off the
20 record.

21 MR. HOOD: I want every-
22 thing on the record.

23 Q Apparently, you do have some records that pre-
24 date the fire; is that correct?

25 A No purchase records. I have no invoices.

1 Q In your search for records, if there were any
2 records that pre-dated the fire of purchases of asbestos
3 containing materials from the defendants in these cases, you
4 have made an attempt to locate those?

5 A Yes, sir.

6 Q What records does your company maintain with
7 regard to products used on given jobs?

8 A We maintain a job file and with invoices, ware-
9 house delivery tickets and all that stuff.

10 Q So, for a given job, you should be able, if
11 those records are available, to tell us who was working on that
12 job and what products, if any, were used on that job?

13 A Yes, sir, anything after May of 1973. Before
14 that would be rather difficult. There might be some instances.

15 Q Have you, at the request of your attorneys or
16 the plaintiff's attorneys or anyone else, made any or any person
17 at your direction made any effort to determine this kind of
18 information with regard to any plaintiff that has an action
19 pending or proposed in the state of South Carolina?

20 A Not to my knowledge.

21 MR. HOOD: I would state
22 for the record, that I think, Mr. McKay, the best thing to do
23 instead of spending this witness' time and energy is to ask
24 you to produce to the defendants any and all such records
25 which I have just referred to which this witness may have which

1 would be used at any trial or furnished to any party whether
2 plaintiff or defendant in anticipation or preparation for trial,
3 whether by order of court or by agreement.

4 MR. McKAY: Mr. Hood, you
5 can ask what questions you want, and if you have a motion to
6 produce, you can write it.

7 MR. ALFORD: What happened
8 to the subpoena that was served on the witness?

9 MR. HOOD: I'm trying to
10 save time.

11 MR. ALFORD: Why should we
12 have to do a Motion to Produce if the subpoena was served?

13 MR. McKAY: Mr. Alford,
14 we have offered to produce just about anything that was asked
15 for that's relevant and not privileged. As I read the
16 subpoena, it says produce Covil's plant. Obviously, that is
17 impossible. We have even offered to take the deposition out
18 at Covil where all you have to do is walk out the door and
19 get something. That has not been, apparently, agreeable to
20 the lawyers, so we are down here. With that, we are endeavoring
21 to make a complete room out at Covil available for anybody that
22 wants to go out there and look, which you may or may not want
23 to do. We are also having a courier service bring documents
24 down here that someone particularly wants.

25 MR. ALFORD: I understand.

1 that, but why do you keep saying we need to serve a Motion to
2 Produce if you're making this all voluntarily? I don't under-
3 stand.

4 MR. McKAY: As I under-
5 stood the request of Mr. Hood, it was to adjourn this deposi-
6 tion or some such thing, I'm not sure what he's talking about,
7 for us to go back through our files and dig out all information
8 on every job about every plaintiff. I don't read that as being
9 in any subpoena I've ever seen, and all I'm saying is if he
10 wants something like that, I'd like to see it in writing. I'm
11 not saying we won't do it, but I would ask the attorneys,
12 please, if everybody is going to have something different if
13 you would get together and have a meeting and write it down
14 and give us something that we can produce.

15 MR. DAVIES: I'd like to
16 go on the record on that point that was just raised concerning
17 the offer to let us go and look at things. Of course, these
18 depositions are important or we wouldn't be having twenty law-
19 yers sit around for two or three days taking them. As far as
20 my client is concerned, I would certainly not want to go out
21 to Covil and review records while questioning was going on
22 especially since, of course, the plaintiff's attorneys are
23 coming up shortly. I would like to look at the records, and
24 it may be that they could be made available later on this
25 evening or tomorrow sometime or maybe sometime when this

1 deposition was not being conducted formally where we would have
2 an opportunity to look at them but wouldn't have to miss part
3 of these proceedings. We don't have the facilities of the
4 plaintiffs who have three representatives present.

5 MR. McKAY: We have no
6 objection to that, Mr. Davies. I will be happy to make them
7 available. We would've been happy to make them available
8 prior to the deposition, but just on a blanket subpoena, there
9 is no way that you can -

10 MR. DAVIES: I'm not
11 into that argument. All I was saying was that it was incon-
12 venient, at least, to be two places at once.

13 MR. McKAY: Well, we
14 certainly have no objection if you want to set up a day that
15 would be convenient for Covil when something else is not
16 being done there to later on send somebody up to spend as much
17 time as you want to. There's certainly no objection to that
18 that I know of. But if you will, if there's anything that is
19 not brought up immediately in these depositions, if you'll just
20 give me a list of something that we can physically do, we'll
21 be happy to make available at whatever time, if you want to
22 come back, whatever time you want to go out there and look at
23 it, or if you want to send somebody, one or more of you. The
24 only thing that we do feel is fair is if one side requests
25 something, it should be made available to both sides. Yesterday

1 the plaintiffs requested some files to be produced which we've
2 endeavored to get up and informed you first thing this morning
3 of the request. I think both sides should have the opportunity
4 equally to look at things, that's all. With that, I'm
5 terminated.

6 MR. DAVIES: That'll be
7 fine. I just wanted to be sure I was covered by not running
8 out there this morning, not having the facilities of the
9 plaintiffs.

10 MR. HOOD: I think what
11 we've determined is if Mr. Covil or his company has any job
12 records, and there may not be any, but if you have any of jobs
13 where any plaintiff or proposed plaintiff who has a claim in
14 South Carolina or Georgia, then if those records are produced
15 at any time to any party, I would like to have copies of what-
16 ever is produced either for inspection by a party or for
17 copying by a party. I'm just putting you on notice to that
18 so that my client and myself will not be surprised by some
19 records that we are unaware of at this time.

20 MR. McKAY: Let me respond
21 to that just a minute on the legal sense, Mr. Hood. Any
22 opportunity for inspecting the records will be given to both
23 sides equally. I don't know what you mean by yourself. I
24 assume there is some counsel for the defendants. I mean
25 physically I don't think Covil can be in a position of notifying

1 thirty or forty or fifty lawyers, but if you want to assume
2 the responsibility with the permission of all the other
3 defense as attorney for the other defendants for inspection
4 of files, we'll be happy to notify you. If Mr. Davies is
5 going to do it, we'll notify him, or make an effort to notify
6 everybody, but I just don't see - you know, there are
7 attorneys that come and go, and Covil has already gone through
8 its files from the testimony yesterday as to the individuals
9 and any information on those. You may have been out of the
10 room since you came in and out of the room during yesterday's
11 deposition. Those are exhibits now, those lists and those
12 people and what we have on those people. As I understand,
13 you're asking us to go through every job file we have to find
14 out somehow if some one of those persons might've been present
15 on the job. I don't think physically that's a possibility.
16 Seriously, on or off the record, it makes no difference, we'll
17 try to produce anything you want, Bobby. Just tell us some way
18 we can do it, and we'll give you whatever anybody else is
19 given, or if we give you something, we give it to the other
20 side.

21
22 MR. DAVIES: It's fine
23 with me. If you want to notify me, I'll notify the other
24 attorneys when you're going to produce something for the other
25 side.

MR. MCKAY: That's fine.

1 MR. DAVIES: I'll volunteer
2 to notify defendants. I assume we can contact one of these
3 attorney's groups.

4 CONTINUED EXAMINATION BY MR. HOOD:

5 Q Mr. Covil, your company instituted in the
6 mid-1950's a safety program. That safety program apparently
7 has been updated and approved as safety methods have been
8 approved with regard to the use of respirators, exhaust systems,
9 fans, vacuum cleaners, mixing of materials, etc., is that
10 correct?

11 A Yes, sir.

12 Q And the dangers inherent in the use of asbestos
13 materials that you were first aware of in '60 - what did you
14 say yesterday?

15 A Around '66 was the first one.

16 Q - were ultimately embodied in standards and
17 regulations adopted by OSHA in 1972; is that correct?

18 A Yes, sir.

19 Q You advised us yesterday that the manufacturers
20 started warning in different language on their products in
21 '68, '69 and by '72 OSHA had a required warning that had to
22 be placed on asbestos containing materials; is that correct?

23 A Yes, sir.

24 Q What month in '72 did OSHA come out with these
25 regulations?

1 A I believe it was February; I'm not sure.

2 Q It was early in '72?

3 A Yeah, I believe it was February; I'm not
4 positive.

5 Q By that time, at any rate, all products that
6 your company would have purchased containing asbestos materials
7 would've had the OSHA approved and required warning label?

8 A Yes.

9 Q So that any employee of yours using asbestos
10 materials supplied to your company by the manufacturer would've
11 had an OSHA warning on it.

12 A Yes.

13 Q I assume that from 1966, when the knowledge of
14 the major inhalation of asbestos dust or fiber became known
15 to yourself, that this was related in safety meetings to
16 employees by your subordinates of your company; is that correct?

17 A Yes.

18 Q Employees were instructed with regard to the
19 use and the necessity of wearing respirators, the requirement
20 and necessity of having exhaust facilities, and to avoid dusty
21 atmospheres; is that correct?

22 A Yes.

23 Q And this would encompass the employees that
24 you named yesterday that have pending or proposed claims in
25 the state of South Carolina on the list that we went over and

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1 attached as Exhibit Number 2 to this deposition.

2 A If they worked during that time, yes, sir.

3 Q When the materials, then, that were purchased
4 from Raybestos-Manhattan by your company according to the
5 invoice date of 11-17-72 for Exhibit 1, and 11-29-72 for
6 Exhibit 2, these materials, if they contained asbestos, would
7 have had OSHA warnings on them; is that true?

8 A I'm sure they would have.

9 Q By this time you had known for at least eight
10 years of the danger or the possible dangers of exposure of
11 insulated asbestos materials?

12 MR. MOTLEY: I believe your
13 math is incorrect. I believe eight from '72 is '64. Perhaps
14 you meant to say six years.

15 MR. HOOD: He's correct;
16 my math was wrong.

17 Q For about six years, you had prior to the time
18 of purchasing these materials from Raybestos, you were aware
19 and your employees were aware of the possible dangers or hazards
20 in using asbestos materials?

21 A I'm sure they were.

22 Q These particular materials, I'm referring to
23 Exhibits 1 and 2 of Raybestos for identification, some are
24 tapes and some are doth; is that correct?

25 A Yes.

1 Q And the cloth material was a sealed material
2 so that when it was applied, it would not give off any dust
3 or fiber; is that correct?

4 A I'm pretty sure it was. By the invoice, it
5 doesn't indicate that.

6 Q Hadn't that been this history of Raybestos
7 products?

8 A Yes, sir.

9 Q These products are not dusty or dust-creating
10 type of products, are they?

11 A I don't think so.

12 Q And whether or not any one of the plaintiffs
13 in South Carolina pending cases or proposed cases, whose
14 names you went over with Exhibit Number 2 to your deposition
15 yesterday of the defendant Atlas ever used any of these
16 particular products purchased in '72 from Raybestos, you have
17 no personal knowledge?

18 A No.

19 Q Do you have any records to substantiate any
20 such usage?

21 A I don't think we would have it.

22 Q And you have no other records or information
23 of any other proof of purchases of any materials from Raybestos-
24 Manhattan?

25 A I don't believe so.

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1 Q And you've made an effort to look?

2 A Yes, sir, we've looked through the files.

3 Q Not only yourself, but subordinates under you?

4 A Yes, sir, well, they looked them up for me.

5 Q How many people on your staff would you have
6 doing this?

7 A We've had basically two girls that have looked
8 through this; they are more familiar with the files than
9 anybody else.

10 Q And your attorneys, have they been through the
11 files?

12 A I don't believe so.

13 Q Do you have some records here with you today?
14 Are those the records you brought pursuant to subpoena?

15 A Yes.

16 Q Would you tell us what you've brought with you.

17 A This wasn't requested, but I brought that.

18 Q As you go through, by handing me this and saying
19 that, identify each item you've brought with you.

20 A I brought a label - somebody questioned this
21 Covilite, and I brought a Covilite label. I brought files on
22 workmen's comp, asbestosis claims on Willie Webb and Willie
23 L. Cooper. I brought them this morning.

24 Q The record on Willie Webb reflects that he
25 died on 7-6-72 and collected workmen's compensation.

1 MR. MOTLEY: I didn't
2 hear that. What did you say? Who died when and where?

3 MR. McKAY: Could I make
4 one request, Mr. Hood. Rather than read something like that,
5 just make it an exhibit to the deposition.

6 MR. HOOD: I thank you for
7 your suggestion.

8 MR. MOTLEY: Could I hear
9 the name again? There's people walking in and out the door.

10 MR. HORGER: Willie Webb
11 died in '76.

12 Q How long did Mr. Webb work for Covil?

13 A A very sort while.. I'm not sure, something
14 like four months I believe.

15 Q Was his compensation claim an asbestosis claim?
16 Did his estate claim that he died from asbestosis?

17 A Yes.

18 Q Was it your understanding of the South Carolina
19 Workmen's Compensation Act that the last employer was responsible
20 for providing compensation to a person containing an occupation-
21 al disease such as asbestosis?

22 A This was North Carolina. That's my understanding.
23 He was from North Carolina.

24 Q Did you have any employees that were working for
25 Covil that were terminated, laid off or fired because of any

1 problem, concern, or information you or any of your employees
2 of Covil or any of its subsidiaries may have had with regard
3 to that employee or those employees having questionable X-rays
4 of their chest, possible asbestosis or lung or pulmonary
5 problems?

6 A We have in North Carolina, I'm sure, because
7 the Industrial Commission in North Carolina - a man working
8 in our trade in North Carolina has to have a work permit from
9 the Industrial Commission of North Carolina, and they have to
10 have yearly chest X-rays. When they diagnose as having
11 asbestosis, they say you can't work in the trade, and I believe
12 we've had maybe one or two, I'm not sure how many.

13 Q When you've had those, have you, because they
14 could not obtain a dustry trades card, refused to employ those
15 persons?

16 A We will refuse to employ them in the application
17 of insulation, and I don't know - maybe we could've employed
18 them in some other place, and if we could, we did. But I'm not
19 sure we could always do that.

20 Q Were there any set procedures by yourself or
21 anyone in your organization with regard to avoiding the employ-
22 ment or the continued employment of any person who had a
23 questionable physical problem known as asbestosis or possible
24 asbestosis?

25 A I don't think as far as Covil was concerned we

1 did. Now, this Willie Cooper was diagnosed one time as having
2 asbestosis, and he's still working with the company.

3 Q Explain to me the procedure in the state of
4 North Carolina; first, how long has the requirement of chest
5 X-rays and a dusty trade card been in existence?

6 A I'm going to say about four years. I may be
7 off a little bit on that.

8 Q Prior to that time, was there any requirement
9 in the state of North Carolina that persons working in the
10 insulation field would obtain annual X-rays of their chest?

11 A No, sir.

12 Q What state agency was responsible for obtaining
13 the chest X-rays once this program was instituted, and where
14 did they keep their X-rays?

15 A We were responsible for having the employee -
16 the chest X-ray made of the employee - and this chest X-ray
17 forwarded to the Industrial Commission.

18 Q So that at least a copy of the X-ray would be
19 housed at the North Carolina Industrial Commission?

20 A Yes, sir.

21 Q And any employee put to work in the insulation
22 industry in North Carolina from 1970-what?

23 A '72.

24 Q From '72 forward, there would be X-rays on
25 file at the North Carolina Industrial Commission?

1 A Now, I'm only saying as far as Covil is con-
2 cerned. I don't know what the other employers do. I'm not
3 sure whether they are required to do this or not. All I know
4 is we were notified by the Industrial Commission that these
5 people had to have a yearly X-ray, and the X-ray had to be
6 submitted to them for their doctors to examine, and we abided
7 by their rules.

8 Q Let's go back to the days when you were the
9 business agent in Savannah. Was there any requirement in
10 those days by the Union, or any employers of an annual chest
11 X-ray or annual physical of any kind?

12 A No, sir.

13 Q Any requirement at all for any type of medical
14 examination?

15 A I don't remember any.

16 Q When did that first start, to your knowledge,
17 in the industry?

18 A When - I'm going to say about 1970 was the first
19 I knew of it in this area, maybe in some other areas it was
20 started, but I'm going to say about 1970.

21 Q Explain to us exactly what started in 1970 as
22 far as your company, your knowledge of it. What was the
23 procedure, who were the doctors, where was it done and what
24 was done?

25 A Outside of North Carolina, which I've already

1 explained, we notified all of our employees that they should
2 have a chest X-ray, and we told them where they should go to
3 have that chest X-ray made, and the company would pick up the
4 expense of having that done. In all the areas where we worked,
5 we asked them - we couldn't require them because some of them
6 refused to do it and some of them did - but now, we've
7 instituted in about the last year and a half, two years, when
8 we hire a person to work in the insulation trade, he had to
9 sign a form that he will consent to have a yearly chest X-ray.

10 Q Or you won't hire them?

11 A We won't hire them.

12 Q So, it was voluntary from '70 until '75. From
13 '75 forward, approximately, it's been mandatory by agreement.

14 A Right.

15 Q What would the reason be for an employee to
16 refuse to undergo a free physical or a free chest X-ray from
17 1970 to '75?

18 A The International Association of Asbestos Workers
19 sent out letters to all of their members advising them to
20 refuse to have a physical or have a chest X-ray.

21 Q Did you retain a copy of that letter?

22 A I have seen a copy. I don't believe I have a
23 copy.

24 Q Did it come from the International in Washington
25 or from each local?

1 A From International in Washington.

2 Q Was it signed by the president of the Interna-
3 tional at that time?

4 A I believe it was.

5 Q What year and approximate month was that letter?

6 A I don't - somewhere in the neighborhood of
7 1970.

8 Q Sometime in that range?

9 A Right.

10 Q Could be '69, could be '71.

11 A Right.

12 Q The International instructed its membership
13 not to undergo X-ray examination of their chest.

14 A Yes, sir.

15 Q What possible validity was that instruction?

16 A I have no earthly idea.

17 Q What was their rationale for instructing their
18 membership?

19 A I have no idea except I've heard some of the
20 members say they were afraid some of them would have bad X-rays
21 show up and would be put out of work. I don't know that for
22 a fact.

23 Q It was your view of the Union instruction to
24 its membership apparently that the Union was trying to protect
25 its membership from losing employment by undergoing chest X-

1 rays?

2 A That was my opinion.

3 Q So, I guess we can go further and assume that
4 the union must've known the chest X-rays could've shown
5 problems of the pulmonary system of its membership and par-
6 ticularly asbestosis?

7 A Yes, sir.

8 Q Did you ever have any similar correspondence
9 from the union at any other time since you've been in business?

10 A I don't believe so.

11 Q Instructing its membership with regard to not
12 undergoing any medical examination or chest X-rays.

13 A I don't remember.

14 Q Did any brochure go to the union membership
15 with regard to this 1970 mandate not to undergo chest X-rays?

16 A I don't really know. The only thing I saw was
17 a copy of a letter that somebody - it didn't come to me, but
18 other contractor had gotten from some of their employees -
19 that where they wrote them advising their membership not to
20 have physicals or chest X-rays.

21 Q We would, and I'm sure you would, like to get
22 a copy of that letter if it's possible. Can you help us by
23 telling us where we should go to look for that letter?

24 A I think the best source would be to go to the
25 National Insulation Contractors Association office.

1 Q National Insulation Contractors Association
2 office located -

3 A In Washington, D. C. I don't have the exact
4 address with me.

5 Q Who is the administrator or the person in that
6 office that we should contact?

7 A Joe Coach is the vice-president and manager of
8 the company.

9 Q And Mr. Coach probably would have retained a
10 copy of that letter?

11 A I'm sure they probably have copies.

12 Q What kind of information does this National
13 association compile with regard to the hazards of using
14 asbestos materials and the precautions to be taken in working
15 around such materials?

16 A What?

17 Q What kind of materials does this organization
18 compile?

19 A I'm not sure. I know they gather a wealth of
20 material, and they - we have a magazine that comes out to all
21 the membership monthly, and we also have what they call the
22 NICA Insulator, which is a letter. It comes out under no
23 regular schedule, and they keep us informed of anything pertain-
24 ing to our trade, and that's both legislative and health-wise
25 and all.

1 Q Have you written that organization for any
2 information in connection with these lawsuits in South Carolina?

3 A No, sir.

4 Q Has anyone at your request or suggestion, to
5 your knowledge?

6 A No, sir, not to my knowledge.

7 Q Does that organization have information available
8 which could be used for of assistance in the defense of these
9 alleged claims in South Carolina?

10 A I'm not sure.

11 Q Does that organization provide funds or facilities
12 for defending such claims as those that have been brought in
13 South Carolina?

14 A No, sir.

15 Q Is that organization supported by dues of its
16 membership?

17 A Yes, sir.

18 Q Any other source of support?

19 A Well, they have - we pay dues and a per hour
20 industry fund.

21 Q Was that organization, to your knowledge, a
22 member of the Asbestos Textile Institute?

23 A I don't know.

24 Q Was that organization, to your knowledge, a
25 member of the National -

1 MR. MOTLEY: NIMA?

2 MR. HOOD: What is NIMA?

3 MR. MOTLEY: National
4 Insulation Manufacturer's Association.

5 A I don't think they're members of NIMA. They
6 work closely with NIMA.

7 Q Would this organization that you've referred
8 to of the insulation contractors have received minutes or
9 reports or summaries of minutes or reports from either of those
10 two organizations or associations?

11 A I'm not positive.

12 Q Have you ever received or reviewed minutes or
13 summaries of either of those two organizations?

14 A I've never reviewed any minutes.

15 Q Have you ever received them?

16 A No, sir.

17 Q Has anyone in your organization?

18 A Not that I know of.

19 Q Have you, in preparation of the defense or
20 prosecution of any of the pending cases in South Carolina,
21 compiled any records for each specific or for all of the cases
22 pending in South Carolina?

23 A Specific records?

24 Q Right, or any records from your company.

25 A No, sir, no more than what is here today.

1 Q What you've pulled together, for example, is
2 what you've shown me as to Raybestos-Manhattan, invoices of
3 materials purchased?

4 A Yes, sir.

5 Q If you will, march on through what you've brought
6 with you.

7 A The next thing I have here is with reference to
8 Covilite labels and stuff.

9 Q It's a non-asbestos-containing product.

10 A Yes, sir,

11 Q What else do you have?

12 A I have information on telephone conversations.

13 Q Who was that telephone conversation with?

14 A Balfor Manufacturing Company, Johns-Manville
15 and Owings Corning.

16 MR. McKAY: Let's go off
17 the record a minute.

18 Q Apparently you've had conversations with some
19 parties in this litigation. Have you ever had any conversations
20 regarding the litigation in South Carolina with any official
21 or employee of Raybestos-Manhattan?

22 A No.

23 Q Keene Corporation, Keene Building Products
24 or Baldwin Ehrt Hill?

25 A No, sir.

1 Q Forty-Eighty Insulation Company?

2 A No, sir.

3 Q Could you go through what other records you
4 have.

5 A This is a copy of the Complaint.

6 Q I think that is the cover page. Is that the
7 whole Complaint?

8 A I think it's the full Complaint.

9 Q And this is in the Evelyn White case; is that
10 correct?

11 A That's right.

12 Q You have a copy of each of the two actions.

13 A Right. This is a copy of the subpoena.

14 Q The next is the letterhead of your attorneys.
15 Let's let them look at it and see if that letter is privileged.
16 What else do you have?

17 A This is a copy of which has already been made.

18 Q So the record is clear, that was Exhibit 2 to
19 the deposition, which was a list of plaintiffs.

20 MR. McKAY: The papers
21 which Mr. Covil has handed me are a letter with enclosures
22 from our firm to him, and think it is privileged. I don't say
23 there's anything in the letters, but I don't want to waive any
24 attorney-client privileged documents.

25 Q I would ask if the attachment to those letters

1 are also privileged?

2 MR. McKAY: It's something
3 we sent him. It's a copy of a Notice to Produce.

4 A This is another of this.

5 Q That's Exhibit 3 to the deposition.

6 A This is not the one that was marked; it's one
7 that I had.

8 MR. McKAY: This is a
9 penciled copy.

10 A I had a copy of that.

11 Q Of Exhibit 2?

12 A Yes, the typewritten copy here is the same as
13 this.

14 Q That's Exhibit 2 of Atlas from yesterday.

15 A This is a copy of notices to the different
16 attorneys, I think.

17 Q What else have you got? This is a notice of
18 your deposition.

19 A This is a copy of the number 4 form on Walter
20 F. White.

21 Q Did you personally know Mr. White yourself?

22 A Yes, sir.

23 Q Tell me about him. What kind of person was he,
24 how reliable was he, that sort of thing?

25 A He was a very reliable person and, in my opinion,

1 a very reliable person. I can't say about all these plaintiffs,
2 but I can about him.

3 Q Was he a reliable employee?

4 A Yes, sir

5 Q Did you know anything about his family life?

6 A I knew his wife, and I'd met his wife and
7 daughter.

8 Q Before or after his demise?

9 A Before.

10 Q Did you ever socially do anything with that
11 family?

12 A No, sir, I visited in their home a time or two
13 when I went by to see him.

14 Q What were the reasons for those visits?

15 A That was when he was working for us, when he
16 was employed by us, and I would imagine it would pertain to
17 some job or something that he was on. He was a foreman for us
18 for several years.

19 Q Attached to this W-2 form is a list of purchases
20 made by Covil. Can you tell me the source of that information?

21 A This came from our files. I had our people go
22 back and determine how much we purchased from each of these
23 people during this period of time.

24 Q And in a brief review, it appears that an
25 enormous quantity of materials from '71 to '76, in fact,

X
1 \$264,348.33 of materials was purchased from Southern Asbestos
2 Company; is that correct?

3 A Yes, sir.

4 Q Thank you. What else.

5 MR. McKAY: Do you want
6 to make that an exhibit?

7 MR. HOOD: No, sir, because
8 I think it was prepared by his attorneys and not by him,
9 according to the caption of it.

10 MR. McKAY: You're probably
11 right.

12 MR. MOTLEY: What is all
13 that?

14 MR. DAVIES: Whatever it
15 is, there are a lot of people looking at it.

16 Q What else do you have with you?

17 A This is a report on research and development
18 from Southern Asbestos Company.

19 MR. HOOD: I would ask the
20 court reporter to mark as Raybestos exhibit Number 3 W-4 of
21 Walter White.

22 Q May I see the information you referred to from
23 Southern.

24 MR. McKAY: Southern is
25 gone as a part of this. I'm a little afraid I have not looked

1 at all this stuff Mr. Covil's brought.

2 MR. HOOD: Well, he has
3 had it with him for two days.

4 MR. McKAY: No, he hasn't.
5 We are not sure with the defendants whether this constitutes
6 work product, and I'm not sure. If you want to demand that
7 we turn over that, I think it would be to your interest not
8 to do so.

9 MR. CARPENTER: What are
10 you referring to?

11 MR. McKAY: I'm trying to
12 look through - see, what Mr. Hood is in now, Mr. Carpenter,
13 and the problem is he's going into matters that have occurred
14 since the suit was brought, and he's trying to get into documents
15 and so forth that have been obtained during the course of the
16 litigation.

17 MR. CARPENTER: You
18 referred to work product, though. What type of document are
19 you referring to as work product? You lost me because I'm not
20 over there to see what you have in your hands, and, of course,
21 if it's work product, I have no business seeing it. But I'm
22 just trying to identify for the record what you are saying when
23 you say "this is work product."

24 MR. McKAY: Basically, as
25 I'm looking at it, these are documents that - at least, I'm

1 looking at a document that is from another defendant to us
2 after the suit was brought. I mean, if the defendants want
3 to demand us to give all these things out, I suppose they can
4 waive whatever rights they have there, but some of these things
5 have come and gone. They've not been given to anybody. This
6 is some of the problems of what might be privileged for one
7 party or another.

8 MR. CARPENTER: I understand
9 that; I'm not arguing the privilege.

10 MR. McKAY: As long as
11 you're talking about things before the suit was brought, there
12 is no problem whatsoever, but we're into now with what
13 conversations, what things were obtained while Covil was a
14 defendant in the suit along with co-defendants, and I'm having
15 some difficulty -

16 MR. CARPENTER: Well, I'm
17 not arguing the point as to whether or not it's work product.
18 My problem was a late bloomer in this case and picking up
19 depositions and reading them and trying to figure out what
20 you're talking about, and I'm trying to eliminate that problem
21 now as to what sort of documents you're talking about. Just
22 for the record, so that when I read it, I'll understand what
23 we're talking about.

24 MR. McKAY: Basically, Mr.
25 Covil has brought his file over here, and Mr. Hood has said,

1 "Mr. Covil, let's start at page one and you show me what's on
2 page one, page two, page three of the file."

3 MR. CARPENTER: I don't
4 know that that's of much help to me, but thanks.

5 MR. ALFORD: Let me make
6 this observation. I don't know whether I was supposed to see
7 it or not, but I did see it. One thing you're talking about
8 is a confirmation made by somebody of the various products
9 bought by Covil from the various defendants. That's most
10 relevant to the case.

11 MR. MCKAY: I have no
12 objection to making that -

13 MR. ALFORD: That's the
14 document we're talking about, isn't it?

15 MR. CARPENTER: I thought
16 it was. That's when we got into the work product discussion,
17 and that's why I wanted it clear for the record.

18 MR. ALFORD: I'll either
19 settle for his compilation or your compilation, or I want his
20 on record to show me where the compilation came from. It
21 doesn't matter.

22 MR. MCKAY: Well, Jim, I
23 have no objection to that. What we are specifically referring
24 to now is a response to a request by Southern Asbestos Company
25 concerning this lawsuit to Mr. Covil, and -

1 MR. ARNOLD: Why don't
2 you pass it on and let the thing go.

3 MR. MOTLEY: Don't worry
4 about it, it'll be revived come our turn, Mr. Bevo. If he's
5 got some stuff in there, we're going to want to see it.
6 I'll promise you that. We'll go through it now or later.

7 MR. HOOD: My question
8 was -

9 MR. MOTLEY: Mr. Hood has
10 uncovered the rock.

11 -----

12 CONTINUED EXAMINATION

13 By Mr. Hood:

14 Q My question was: What was the next document?
15 I believe the next document was a letter from Southern Asbestos;
16 is that correct?

17 MR. McKAY: Let's hold that
18 just a minute. Let me object for Covil on that for the
19 moment, and let's go on to the next thing.

20 MR. HOOD: Would you state
21 what the document is and the basis for your objection.

22 MR. McKAY: Alright, you
23 can have it. Mr. Hood has requested the document from Southern
24 Asbestos, and it's been given to him for good or bad. We can
25 go right on through. It doesn't matter to us.

Q What is the next document you have, sir?

MR. McKAY: I really think if we're going to go through these, we ought to mark them because - well, I guess if nobody wants to mark them. Go on, Mr. Covil, let's just go through what you've got in the file.

A The next document is two pages here on information on Bumgardner.

Q May I see that?

MR. MOTLEY: That's a what, now?

A Bumgardner.

Q Who prepared the information you've just given to me?

A I believe this came from our attorneys, and the other we prepared from our records.

Q What's the next document you have?

A This is the one we had a while ago with my conversations with some of the manufacturers.

Q Yes, sir, we've been through that.

MR. MOTLEY: Wait a minute, I haven't seen that.

MR. HOOD: You'll have a chance to examine the witness.

MR. MOTLEY: Beg your pardon?

MR. HOOD: You'll have a

1 chance to examine the witness. All I want to know right now -
2 my question is: What does he have in his file? If I have a
3 specific question, I'll ask him.

4 A This is a communication from Marshall Johnson
5 to me pertaining to some of the people that he knew, more or
6 less.

7 Q The next document you have, sir.

8 A This is a copy of invoices to Guy M. Beattie,
9 Bumgardner's employer.

10 Q Materials you sold to Guy M. Beattie?

11 A Right, yes, sir.

12 Q The next document.

13 A Interrogatories.

14 Q This is a response to a request for admissions.
15 The next document.

16 A The next document is a list of the defendants
17 in the case and some copies of invoices.

18 Q The next document.

19 A This would be a part of that.

20 Q The next document.

21 A This is a memo from Joe Malone to me on informa-
22 tion they gathered from some of these employees.

23 Q From whom did you get the information upon which
24 this check was made?

25 A That came from our files.

1 Q What was the reason for running this check?

2 A I don't really know, but some information we
3 were asked by either - probably by our attorneys or somebody
4 on it.

5 Q Apparently, according to this document you've
6 just handed me, you have instituted a search of the records of
7 your company as to the employment of the plaintiffs who have
8 brought suits in the State of South Carolina.

9 A Yes, sir.

10 Q Have those records been compiled in separate
11 folders for each of these plaintiffs?

12 A I'm not sure if they have. They're altogether
13 there.

14 Q What information have you compiled as to each
15 of the plaintiffs?

16 A No more than what's listed there.

17 Q What else have you brought with you?

18 A This is a list of the plaintiffs that I think
19 the girl used that in compiling that.

20 Q What else have you brought with you?

21 A This is an insurance survey from the National
22 Insulation Contractors Association.

23 Q May I see that, please. (Witness hands document
24 to attorney).

25 A This is another part of that. (Witness hands a

second document to attorney).

Q What else have you brought with you?

A This is another copy of the purchases by some of the - you already have this - this is just notes that we made about what was requested.

Q This list of locating by your secretary of W-2 forms was later embodied in Exhibit Number 2, I think it was, of Atlas; is that correct?

A I think that's right.

Q Is this your handwriting on the plaintiff's first set of request for admissions of facts and genuiness of documents in the Furman Gardner case?

A Yes, sir.

Q Would you read to me what your response would've been to number eight?

A I wrote that down here: "The term of asbestos worker is used by the union and union men. Should be insulation applicators or worker. The use of asbestos in the trade is almost nil today. In the last 25 years, asbestos has not been more than about five or six per cent of the total insulation materials."

Q Did that request for admissions ultimately be answered with that language?

A Yes, sir.

MR. MOTLEY: Do y'all want

1 to take about a ten-minute break, and I'll try to call Tennessee?

2 MR. DAVIES: Let's do.

3 (10-minute recess)

4 MR. MOTLEY: I have a copy
5 of the letter from the International Association of Heat and
6 Frost Insulators. It was a news letter he was referring to
7 that's dated April 15, 1973. It will be provided to you with
8 regard to declining to take the X-ray tests.

9 MR. HOOD: April 15, what
10 year?

11 MR. MOTLEY: '73.

12 MR. HOOD: That's your
13 interpretation of what he was referring to. He said in 1970.

14 MR. MOTLEY: The letter will
15 speak for itself.

16 MR. HOOD: So does his
17 testimony. He's the witness.

18 Q Do you smoke cigarettes?

19 A No, sir.

20 Q And you were an insulation worker yourself
21 for how many years?

22 A I would guess about 15 years.

23 Q And you have no asbestosis according to your
24 doctors?

25 A No, sir.

1 Q You have none of the symptoms of asbestos your-
2 self?

3 A According to my doctors.

4 Q Refer to the request for admissions which were
5 in your file, question number 148. What was your answer to
6 that request for admissions?

7 A 148?

8 Q 148. I believe the answer's written in long-
9 hand, and that's your handwriting, isn't it?

10 A Yes, sir.

11 Q Read the question, and then read us what your
12 answer to that question was.

13 A The question is: Does this defendant admit
14 that there is no demonstrative medical relationship between
15 smoking cigarettes and the development of asbestosis? I wrote,
16 my answer to that "all the cases of asbestosis that I know of,
17 the victims have also been heavy smokers."

18 Q Would you read question 149 and your answer to
19 that question.

20 A 149: Does this defendant admit that there is
21 no demonstrative medical relationship between smoking cigarettes
22 and mesopetama?

23 Q Mesothelioma.

24 A Whatever you call it.

25 Q I have trouble with that one, too.

1 A "Heard Dr. Silocoff say something to the effect

2 Q You're reading now from your answer?

3 A This is from my answer, yeah. "Heard Dr.
4 Silocoff say" -

5 Q Just so the record's clear, start with what
6 your answer to that question was.

7 A My answer to that question was: "heard Dr.
8 Silocoff say something to the effect that if you smoke, don't
9 work with asbestos."

10 Q When did you hear him say that?

11 A That was one of the NICA meetings, and I
12 couldn't tell you what year.

13 Q Did you relate that information to your safety
14 director?

15 A Yes.

16 Q Did he relate that information to your employees?

17 A I'm not sure about that.

18 Q This meeting was probably in the mid-60's?

19 A Somewhere in there.

20 Q You have checked or had your office check the
21 job files which you've listed before, and you have ascertained
22 that you have no files for which jobs that the plaintiff has
23 asked you for job files on?

24 A For Milliken at Barnwell, we have no file on
25 that. American Optical at Barnwell, no file. Brevard Daniel

1 job, I wasn't sure exactly what job that was, but I understand
2 it's the Dupont at Cedar Mountain, and they've checked and
3 we didn't have a job file on it, but they're checking for
4 material sales to Daniel at Cedar Mountain now to see what
5 they've got on that. University of Georgia job, no file. See,
6 all these jobs had been done prior to the fire, and all those
7 records are burned. Canal Insurance Building, Greenville, no
8 file. Firestone Steel, no file. Dunn Meat Packing, no file.
9 American Enka at Asheville - I think our people got a little
10 bit confused on that because we show American Enka at Enka,
11 North Carolina, which is just outside of Asheville. I told
12 the girl I thought she ought to go back and see if we had
13 anything on American Enka at Enka, North Carolina. Furman
14 University '59-60, no file. Fiber Industries at Salisbury,
15 we didn't find a job file. They're checking with our Greens-
16 boro office to see if they have a job file on it, and they're
17 also going to check their sales for Daniel at Salisbury to
18 see what we've got on that.

19 Q You testified yesterday on the subject of your
20 understanding of the agreement between your attorneys and your-
21 self Covil and the plaintiff's attorneys in the South Carolina
22 cases; is that correct?

23 A One case.

24 Q You testified yesterday - you didn't answer
25 my question. Do you understand my question?

X
1 A Yes, sir, I think I do.

2 MR. McKAY: I object to
3 the form of the question.

4 Q Yesterday you testified as to your understanding
5 of the agreement between your attorneys and the plaintiff's
6 attorneys; is that correct? Yes or no?

7 A I testified -

8 Q First, if you'll answer my question, yes or
9 no, you can explain your answer.

10 A No.

11 Q You didn't testify about that yesterday?

12 A I testified about it, but -

13 Q Was your testimony under oath truthful?

14 A Yes, sir.

15 Q And it was your best recollection of your
16 knowledge of the subject matter, correct?

17 A Yes, sir.

18 Q Your company has purchased another company called
19 Industrial Associates, Inc., a South Carolina corporation; is
20 that correct?

21 A No, sir.

22 Q Which was owned by Keene Corporation.

23 A We purchased two Keene branches, and set them
24 up and operate them as Industrial Associates, which is a corpor-
25 ation that we already - a wholly owned corporation we already

1 had.

2 Q Would you look at these two documents which
3 your attorney or your office has furnished and advise me if
4 these are the correct copies and complete copies of the
5 agreements for each of these purchases.

6 A They are.

7 Q I would ask that you, since that is an extra
8 copy that's been furnished to me, merely sign your name and
9 the date at the bottom of the last page of each of those
10 two agreements for me, please.

11 A Name and date?

12 Q Yes, sir.

13 A You're talking about this date?

14 Q Yes, sir. 7-14-77.

15 A You want that on the purchase agreement and
16 not on the sublease agreement, I don't guess.

17 Q Where you signed the agreement, that page.

18 MR. GILREATH: There are
19 several different agreements in here, like the sublease.

20 Q Then just do it on the front page, the top of
21 the first page.

22 MR. HOOD: Can we agree
23 that this is the true and correct copy without a request for
24 admissions of these documents based on his testimony today and
25 the submission of these documents to me?

1 MR. McKAY: Is that correct?

2 A Yes.

3 MR. GILREATH: I don't

4 believe there were any others.

5 MR. McKAY: Do you intend
6 to make those exhibits?

7 MR. HOOD: No, sir, they
8 are too voluminous, and they don't apply to anyone but my
9 client, so I just -

10 MR. McKAY: Well, if they
11 are not made exhibits, Mr. Hood, what do you intend to do with
12 them? They're our documents. Do you intend to keep them?

13 MR. HOOD: These are extra
14 copies they made for us, as I understood.

15 MR. McKAY: There is no
16 way, Mr. Hood, that you can say I have agreed that something is
17 a true and correct copy that is not identified in the record
18 as anything and you keep the copies.

19 MR. HOOD: Attach it as
20 the next numbered exhibit.

21 MR. MCKAY: If you want to
22 make it an exhibit, that's fine, then we know what we're talking
23 about. Otherwise -

24 MR. HOOD: We've attached
25 as the next numbered exhibit the Birmingham agreement. There's
no need to make copies. Just attach one to the original.

MR. McKAY: Maybe the attorneys can agree that you can keep the exhibit and not put it -

MR. HOOD: That's alright. It'll be filed with the original transcript. I don't want any question about it. The next file is the next numbered exhibit, the Jacksonville agreement.

Q Mr. Covil, would you ask your office to furnish to us the W-4 forms or any other tax forms that you have for any of the persons that you have checked on in accordance with that list of persons that have been employed by Covil?

A Yes, sir. I believe you have them already.

Q We do have them already?

A Yes.

Q They've already been furnished to us?

MR. PARLER: Yes.

MR. HOOD: I'd ask the court reporter to next mark these as separate exhibits and as she marks them to designate by the number of W-4 form for and whoever the person is.

MR. PARLER: Let's go off the record just a minute, please.

MR. McKAY: These are on the sheet, if you want to go through.

MR. HOOD: Go ahead and

1 mark them. Mark each one of those as a separate exhibit, and
2 as you mark it, to identify the next numbered exhibit, whichever
3 number it is, W-4 for, and just go through the list.

4 MR. McKAY: Wouldn't it
5 be a lot simpler just to make a folder an exhibit?

6 MR. HOOD: No, I want a
7 separate one on each one.

8 MR. ARNOLD: Have we got
9 to take the time for all that?

10 MR. McKAY: Bobby, it's
11 a physical thing. Let's just make the folder and seal it as
12 an exhibit instead of going through a hundred exhibits.

13 MR. HOOD: We're going to
14 have to pull it out and use it in all different cases, and
15 it's easier to do it this way.

16 COURT REPORTER: Exhibit
17 Number 6, for Dewey W. Adams. Exhibit Number 7, for C. D.
18 Brown. Exhibit Number 8, William Judson Bumgardner. Number
19 9, Oliver Kenneth Caine; Number 10, Leon Eugene Davis; Number
20 11, Wayne Broughton Duncan, Jr.; Number 12, Furman Dearon
21 Gause; Number 13, Thomas A. Heath; Number 14, Osie Huggins;
22 Number 15, Floyd Lee Kountz; Number 16, John Harold Pendley;
23 Number 17, Robert Wideman Quattlebaum; Eighteen, John Sigmund
24 Rough; Nineteen, Janie Scott; Twenty, Gary Lee Smith; 21,
25 Bobby-Ray Taylor; 22, Earl Dean Tuck; 23, Charles Donald Turner;

24, Robert Linwood Turner; 25, John Edwin White; 26, Walter Franklin White.

MR. HOOD: The court reporter has marked the documents.

Q We were talking earlier about the requirement of physical examination. Who was the doctor or where was the hospital that your employees went to obtain chest X-rays? Was there one designated place or person?

A There were several different places.

Q As you are going through your records on the work history of each of these plaintiffs and, for example, have obtained W-2 forms for them, can you ascertain when and where X-rays were taken or physical examinations given of each of those persons?

A These were not X-rayed because they were employed prior to the time we started that.

Q That's true of all of them?

A I don't think any of them would have been employed since we started that program.

Q What about employers or companies for whom you were being employed that required such physical examinations?

A I was never employed by any company that required that.

Q Your company, in sending insulators to job sites, Dupont, Daniel, Savannah, wherever, did they require

1 chest X-rays and physicals?

2 A I don't believe so, not in this date, no, sir.
3 Now, they are requiring - a lot of them are, but not all of
4 them.

5 Q Who was the earliest company to start X-rays
6 that you know of in South Carolina requiring X-rays?

7 A I have no information on that.

8 Q Who are the companies that, like yourself, for
9 the last four years, at least, have been requiring them?

10 A I don't know whether any of the other companies
11 require them or not.

12 Q Do any of the companies in South Carolina that
13 your company does work for require that your employees have
14 annual, semi-annual or prior to employment chest X-rays?

15 A I don't believe so.

16 Q When you were working in the 30's as the super-
17 visor of insulation in the navy yards, did they require you to
18 obtain annual physicals?

19 A No, sir.

20 Q Who is the company doctor for Covil?

21 A I couldn't tell you that right off-hand. We
22 have a designated doctor at each of our locations. I'd have
23 to get that - I could get that information.

24 Q Where are your locations?

25 A Greensboro, North Carolina, Wilson, North

1 Carolina, Greenville, Columbia and Albany, Georgia.

2 Q Who are the doctors in Greenville and Columbia?

3 A I don't know myself.

4 Q You don't know who the doctor is in Greenville
5 where you live?

6 A No, sir, I sure don't. I know who one was, and
7 they've changed. I'm not sure who -

8 Q Who is he, the one that was your doctor?

9 A He was - I don't remember that right now. I'd
10 have to look it up. I don't remember. I don't really get
11 involved in that personally.

12 Q What I am trying to find out and asking you for
13 help on - maybe I'm not asking the question properly to get the
14 information, but what I'm trying to find out is any and all
15 the exhibitors of any and all medical records on these men that
16 have worked for Covil whenever, whether they had a cold and went
17 to the company doctors, whether they had a complete physical
18 or chest X-ray or any medical problem, I want to know the source
19 of obtaining that information.

20 A On these particular employees, I doubt if we
21 have any records, any medical records.

22 Q I understand you would not. What I'm interested
23 in is a doctor or a hospital that may have.

24 A I don't think any of our doctors would have that
25 information.

X

1 Q In other words, your company doctors - just if
2 someone gets hurt on the job, they're used.

3 A Well, yes. In the early stages of our company,
4 we didn't even have a company doctor. We let people go to the
5 doctor of their choice, and this got to be right much of a
6 problem, so we enlisted a doctor that would act as a company
7 doctor. We'd tell them if they got hurt or anything, you
8 go to this doctor. That's been for the last seven or eight
9 years.

10 Q For example, from 1960 until you instituted
11 requiring annual chest X-rays, four years ago, do y'all have
12 records to reflect payments of medical expenses for your
13 employees?

14 A I would assume we do.

15 Q So that we could determine from those records
16 if one of the employees who you have W-4 forms or actually
17 was treated by a physician and who that physician was.

18 A I believe we could.

19 Q I would like that information, and if it's not
20 too voluminous, from 1960 until you started the annual chest
21 X-ray requirement, or until that employee terminated.

22 MR. McKAY: On what employee?

23 Q I'm going to change what I just said. On the
24 W-2's, what I want to know is for each of the people that have
25 a claim in South Carolina, what records you have with regard to

1 each person of payment to a doctor of medical expenses or to
2 a hospital for medical expenses for whatever reason.

3 A I'd have to get somebody to search the files and
4 see what they could find.

5 Q If that's a voluminous search, I'll be happy
6 to pay for it. I don't want to impose on your company; if it's
7 not something they can do in the next fifteen or twenty minutes,
8 an hour, then fine.

9 A I don't think they could do it in fifteen or
10 twenty minutes. It would probably take two or three hours.

11 Q Would you go ahead and call if it's convenient
12 with your office so they can start that search.

13 MR. HOOD: Mr. McKay,
14 what I'm interested in is a doctor that we don't know about,
15 that may have treated these people and may have diagnosed
16 asbestosis more than six years ago.

17 MR. MCKAY: I'm trying to
18 get down to the framework of your question, and I was asking
19 Mr. Covil if that information, if that has already been
20 searched for on the books.

21 A No, it has not.

22 MR. MCKAY: Do you want to
23 stop and let him call?

24 MR. HOOD: Let him call his
25 office.

(MR. COVIL'S TELEPHONE CONFERENCE WITH OFFICE)

1 A North Hills Medical Center is our company
2 doctor. Dr. Batson for a short while in Berea.

3 MR. DAVIES: I would like
4 to have someone check the records of the Industrial Associates
5 in Jacksonville for Herbert William Davis, Jr.

6 MR. McKAY: Is that a
7 relative or a claimant:

8 MR. DAVIES: No, that's
9 a claimant.

10 A What's the name?

11 MR. DAVIES: Herbert
12 William Davis, Jr. The Jacksonville workers is the ones I'm
13 interested in.

14 Q Mr. Covil, you've checked with your office, and
15 you've advised us of two doctors that you are aware of, and
16 when you have the information you're going to go ahead and
17 fully answer my question; is that correct?

18 A Right.

19 Q I notice when you were referring to the informa-
20 tion you were requesting of your secretary, you said of the
21 24 men that have worked for us in this case; is that correct?

22 A Right, 26, I believe.

23 Q Anyway you referred to a number of people, and
24 you said in this case; is that correct?

25 A Right.

1 Q Apparently, you view this as one big case
2 against Covil.

3 A Yes, sir.

4 MR. HOOD: Thank you, I
5 have no further questions.

6 -----
7 DIRECT EXAMINATION

8 By Mr. Parler:

9 Q Mr. Covil, I'm Rembert Parler, and I represent
10 Armstrong Cork Company. I believe yesterday you testified as
11 to the fire which your company experienced sometime back and
12 destroyed a lot of your permanent records including personnel
13 files?

14 A Yes, sir.

15 Q Yesterday, though, I believe you did bring some
16 records, and among those was a folder which is captioned
17 Employee Information?

18 A Yes, sir.

19 Q Just for your information to refresh, the W-4
20 forms were also in here. Those were listed as Exhibits 6
21 through 26. Did it also contain some personnel files?

22 A Right.

23 Q And they are four in number, is that correct?

24 A I believe that's right.

25 Q Would you just read off the names, please, of

1 each one of them?

2 A Leon Eugene Davis is one; John E. White is two;
3 Roy E. King is three; Harold Lee Taylor is four.

4 Q Let me just go right down the line just a
5 second.

6 MR. PARLER: I want these
7 marked as exhibits. This is the Leon Eugene Davis -

8 Q You were asked yesterday about how well you
9 knew or under what circumstances you knew some of your employees.
10 Let me refer you to Defendant's Exhibit 28, which is the
11 personnel file on Roy E. King. Do you have an independent
12 recollection of Mr. King?

13 A I remember him.

14 Q From his personnel file, can you tell me when
15 he was first employed by you or by Covil?

16 A December 16th, 1968.

17 Q Can you tell from that exhibit when he was
18 terminated?

19 A 3-1-69.

20 Q He shows his age, this personnel record shows
21 his age as 21, but shows a date of birth of September 11 '68,
22 which is clearly an error.

23 A No, this is not the Roy King referred to in
24 the plaintiffs here.

25 Q That's what I wanted to find out. This personnel

1 file which is Exhibit 28 appears to be a man named Roy Elmer
2 King who was born 9-11-47?

3 A Right.

4 Q Would he be the same Roy King who is a claimant?

5 A I don't think so. The Roy King, I think that's
6 the claimant, is from Charleston, and this wouldn't be him.
7 He's an older man than this.

8 Q Referring to Exhibit 27, which is personnel
9 file of John White, would you tell me, please, what his date
10 of employment was, or dates of employment if more than one,
11 and when he was terminated.

12 A He was employed - this shows 10-24-73 and
13 termination of 3-7-74. I believe that's right.

14 Q In his application part, I believe he shows
15 that he resides at Lyman, South Carolina.

16 A Right.

17 Q And he shows that he has taken a physical
18 examination recently, he marked that yes.

19 A Yes.

20 Q What date does he indicate for that?

21 A For the physical?

22 Q Yes.

23 A 7-72.

24 Q What purpose?

25 A Insurance.

1 Q And the doctor's name is given as -

2 A Is that Heath or Health?

3 Q It's either Heath or Health, I think it's
4 Health Clinic.

5 A Looks like Health Clinic.

6 Q Does Health Clinic ring a bell with you? Do
7 you have any idea what that would be?

8 A No, sir.

9 Q In his application, I'm referring you right now
10 to what looks like to me as page two of the application.

11 A The back page.

12 Q Do you, in your application form, request the
13 names of current and prior employers of the applicant?

14 A Yes, sir.

15 Q Is there any limitation in the form on that,
16 that is, does it restrict it to the last two years or five
17 years, or is there any restriction at all?

18 A No restrictions.

19 Q In his application, what did he respond as to
20 prior employment?

21 A As to prior employment, he responded he was
22 employed by Covil Insulation from '62 to '64, and also Porter
23 Haden in Charlotte from '66 to '72, Daniel Construction,
24 Greenville, from '72 to '73.

25 Q He reported he was an insulator on those three
employments?

1 A Yes, sir.

2 Q Do you have any independent knowledge as to
3 why there is a gap in his employment record as he reports it
4 from it looks like '64 to '66?

5 A No, I don't really.

6 Q Let's see if he was in the service and maybe
7 he was in service. No. You have no independent -

8 A No, sir. This record was from the last time
9 he was employed by us. Here is when he was employed earlier,
10 which we didn't have a record.

11 Q That's correct. I understand that. This is
12 his last employment application.

13 A Right.

14 Q Let me refer you, please, sir, to Exhibit 29,
15 which is the file of Harold Lee Taylor, and refer you to the
16 first page of the application. First, tell me, if you will,
17 when he was employed by you and when terminated.

18 A He was employed 8-2-69 and terminated 8-31-69.
19 It looks like he was employed again 9-24-69.

20 Q Still referring to Exhibit 29, on the first
21 page of the application, tell me, if you will, what type of
22 work he was applying for.

23 A Temporary work as an insulator, week-ends only.

24 Q On that particular form, I believe he has
25 checked the box that says "have you taken a physical examination

1 recently?" Is that correct?

2 A Right.

3 Q It says, "If so, when?" is the next question.
4 Then "for what purpose?" is the following question, and then
5 "The doctor's name" is the last question on that line. Is
6 that correct?

7 A That's right.

8 Q Can you see whether any of these last three
9 questions have been answered?

10 A Don't seem to have been.

11 Q Are you aware of any other documents in your
12 company that might reveal the results of where the prior
13 physical mentioned here was taken?

14 A I doubt if we would have that information.

15 Q This particular application is dated 8-2-69;
16 is that correct?

17 A Right.

18 Q On the back page of the application, just
19 referred to, I believe in giving his past employment record,
20 he gives one, the name of Daniel Company, Greenville, South
21 Carolina, number two is North Brothers, and then aside from
22 that is Covil, and then on line three Brook Fisher, and then
23 to the right of that Johns-Manville, and then number four,
24 box four, is Phillip Carey, and to the right of that is Reid
25

1 Hayden, is that what he showed on there?

2 A Yes, sir.

3 Q Who is Brooks Fisher? What is that? Is that
4 an insulation company?

5 A They were. They're out of business now.

6 Q When did they go out of business, to the best
7 you recall?

8 A I would guess about '66-'67.

9 Q Now, he doesn't give any dates on this applica-
10 tion. Another thing is if you can tell me - I believe that on
11 the application you have a certificate right above the place
12 where the applicant is to sign which says, "I hereby certify
13 that the entries on this form and the statements made by me
14 are true and correct, etc." Also it has a line that says, "I
15 also authorize my former employers and other individuals to
16 give any information concerning me whether or not it is on
17 their records, and I hereby release them and their companies
18 from any liability whatsoever." Is that part of your certificate?

19 A That's part of our employment form.

20 Q In this one, though, I believe the exhibit shows
21 that the word "void" has been written through the certificate,
22 and that the sentence starting with "I also authorize my former
23 employers and other individuals to give any information con-
24 cerning me" has been stricken through; is that correct?

25 A Yes, sir.

1 Q Under that contains a signature which appears
2 to be H. L. Taylor and the date of 8-2-1969.

3 A Right.

4 Q Do you have any idea as to why the word "void"
5 was put on there, and the sentence stricken?

6 A I would guess that he didn't want to authorize
7 the search of his records, authorize us to get information
8 from a former employer, and he wrote void on that and scratched
9 through it.

10 Q He was employed nevertheless?

11 A Yes. Let me explain one thing. Apparently
12 this fellow was employed on a temporary basis. He was working
13 for somebody else and only worked on the week-ends. This was
14 probably on a rush job, and we were in a tight situation, and
15 they needed somebody. They were working week-ends and needed
16 somebody to help out, and a lot of times a foreman will hire
17 somebody like this.

18 Q He was moonlighting.

19 A And he would waive a lot of these things in
20 order to get somebody to work.

21 Q Referring you to Exhibit 30, which is the
22 personnel file on Leon Eugene Davis, he gives here that he was
23 born on 3-11-40?

24 A Yes, sir.

25 Q When was he employed by you?

1 A 6-24-70.

2 Q So, take a look at the application and see if
3 that is also dated 1970.

4 A Yeah.

5 Q The application appears to bear the date 23
6 June '70?

7 A Right.

8 Q At that time, he was 30 years of age?

9 A Right.

10 Q Do you have an independent recollection of Mr.
11 Davis?

12 A No, sir, I do not.

13 Q He gives in his application a Raleigh, North
14 Carolina, address; is that correct?

15 A Yes.

16 Q And shows that he was in the United States Army
17 from 4 September '59 to 5 September '62?

18 A Right.

19 Q In response to the question concerning his
20 prior employment, what did he report?

21 A He reported Waco Insulation, Richmond, Virginia,
22 July of '68 -

23 Q '67, '68, '69.

24 A - to February, 1970.

25 Q Prior to that?

1 A Prior to that, Asbestos Covering Company,
2 Washington, D. C. '68, from November '68 to July '69.

3 Q And the last one he listed?

4 A Arcadia Asbestos, Brooklyn, New York, January
5 '69 to November '68.

6 Q I believe that would be January '68 to November
7 '68?

8 A Right.

9 Q You say that you have no independent recollec-
10 tion of this man. Does it show when he was terminated? Does
11 this file show that?

12 A No, sir.

13 Q Is there any way that you could find out from
14 within your company where he was employed, physically where
15 he was employed as a Covil employee?

16 A I'm sure we can. He was employed by our Wilson
17 branch, and we would have to call them.

18 Q Would you, please, sir. Particularly, I think
19 we'd be interested in knowing whether or not he was ever
20 employed physically within the State of South Carolina.

21 (MR. COVIL TELEPHONED HIS OFFICE AND REQUESTED
22 THIS INFORMATION)

23 Q Mr. Covil, am I correct in saying that although
24 Covil had used or has dealt in or with Armstrong Cork Company
25 products, that you have never used any Armstrong Cork Company

1 product that contained asbestos?

2 A To my knowledge, we have never.

3 -----

4 DIRECT EXAMINATION

5 By Mr. Arnold:

6 Q Mr. Covil, my name is W. H. Arnold, and I
7 represent Owens Corning Fiberglass Corporation. I believe
8 that you testified yesterday that you were at one time a
9 distributor for Owens Corning and had a formal agreement with
10 them.

11 A Yes, sir.

12 Q Do you have a copy of that agreement with you?

13 A I don't have it with me, no, sir. I believe
14 we've got a copy. I'm not sure if we still do, but I know we
15 did have one.

16 Q Do you know whether or not it may have been
17 consumed in the fire?

18 A It may have been, but I wouldn't think it was.

19 Q Can you give me the approximate date that it
20 began?

21 A I believe it was 1954.

22 Q And it ended when?

23 A Whatever - I'm sure it had an expiration date
24 on it, and whatever date it expired. It was never renewed.

25 Q Can you recall the name of the individual for

1 Owens Corning that signed it?

2 A I believe it was signed by Calvin O'Brient.

3 Q Calvin who?

4 A O'Brient - O-B-r-i-e-n-t. I'm not sure, but
5 I believe that's who signed it.

6 Q Was he an official from the home office, or was
7 he a salesman?

8 A He was a local sales representative.

9 Q Do you know where he lived?

10 A Lived on East Faris Road and still lives there.
11 He's retired now.

12 Q Here in Greenville?

13 A Yes, sir.

14 Q Is he still with Owens Corning?

15 A No, sir, he's retired.

16 Q Under that agreement, were you required to buy
17 any specific quantity each month or year?

18 A No, sir, I don't believe so.

19 Q Were you given any specific discount, five or
20 ten per cent, or any economic advantage?

21 A No, sir, I don't believe so.

22 Q What was the purpose of that agreement?

23 A Up till that time, we kind of - we bought
24 materials more or less from anybody that had the best price
25 so to speak. We weren't allied as distributor for any par-

1 ticular manufacturer, and we were buying materials from any-
2 body, and I think O'Brient wanted to set us up as a distributor
3 so we'd buy more materials from them.

4 Q Were you required to buy any specific quantity
5 during any specific period?

6 A No, sir, I don't believe so.

7 Q What I'm trying to get at is: What would be
8 the advantage to you or to Owens Corning for such an agreement?

9 A I don't think there would be any advantage.

10 Q Do you know whether or not Owens Corning home
11 office of headquarters knew of the existence of any such agree-
12 ment?

13 A I'm sure their regional manager did.

14 Q Who was the regional manager, if you recall?

15 A I can't remember his name right now. I know
16 what he looked like, but I can't remember his name.

17 Q Do you remember where he lived?

18 A He lived in Atlanta.

19 Q You had from this folder here a list of materials
20 bought from various companies.

21 A Yes, sir.

22 Q I think it's been put back in there. Could I
23 see that, please.

24 A I think I have a copy back here at the back.

25 Q You prepared this list at the request of your

1 attorney, Mr. McKay?

2 A Yes, I think they asked me to get that informa-
3 tion together.

4 Q I see that you have here that during the year
5 '71 to '73 you purchased from Johns-Manville various quantities
6 and Raybestos from '71 to '74 and from Southern Asbestos from
7 '71 to '76. I'm not asking about the quantities or amounts.
8 That's true?

9 A Yes, sir. There's one thing I'm not sure on
10 this, I think this only included calsil insulation and not
11 fiberglass.

12 Q This included only what?

13 A Only calsil, calsius sodiate, kaylo and not
14 fiberglass.

15 Q I notice here Item No. 5 on this list that's
16 dated April 15, '77 under Owens Corning that you purchased in
17 1971, you have a record on kaylo p.c . What is that, pipe
18 covering?

19 A Pipe covering.

20 Q And block, total footage 228,765 feet I assume?

21 A Yes.

22 Q Total value \$169,813.22.

23 A Yes, sir.

24 Q You believe that this supply is only to kaylo
25 and block?

1 A Yes, sir.

2 Q And not fiberglass.

3 A Not fiberglass.

4 Q You testified yesterday that Owens Corning was
5 one of your principal or main suppliers.

6 A Yes, a principal supplier.

7 Q Are they still today?

8 A Yes, sir.

9 Q But isn't most of your purchases from Owens
10 Corning for fiberglass material?

11 A Yes, sir, the majority.

12 Q Is that true even back in '71?

13 A Yes, sir.

14 Q You testified yesterday that you first saw
15 warnings on materials you purchased from Johns-Manville and
16 Owens Corning in 1969, I believe.

17 A Yeah.

18 Q Or '68.

19 A '66, '68, I believe.

20 Q Didn't Owens Corning start putting a warning on
21 theirs in 1967 or about February?

22 A I'm not sure.

23 Q You're not positive whether it was '67 or '68?

24 A No, sir. It's in the general area of '68.

25 Q I believe in your answers to request for admissions,

1 your answer, you circled 1967; could that be correct?

2 A That could be. If you'll give me just a minute,
3 I think I can give you a little bit better information. I
4 can't remember all these dates. I have some notes here that
5 might help me remember some of them. According to my informa-
6 tion, January 1, 1967, was when they started using warning
7 labels.

8 Q You are reading from some written memo that
9 you have in your file?

10 A Yes, sir.

11 Q Mr. Covil, you testified yesterday that for the
12 last two years your gross sales were some fifteen million
13 dollars.

14 A Yes, sir.

15 Q And before that, you went down to thirteen,
16 twelve and ten..

17 A Yes, sir.

18 Q Would it be fair to say that starting in 1960
19 that your gross sales have increased from three to four million
20 dollars up to fifteen million dollars?

21 A Yes, sir.

22 Q You are a married man?

23 A No, sir.

24 Q Have a family?

25 A Have a family, and my wife and I were divorced

1 I have two children.

2 Q I assume you still pay some alimony?

3 A Yes, sir.

4 Q How many children do you have?

5 A Two.

6 Q What are their ages?

7 A 22 and 24.

8 Q Boy or girl?

9 A A boy and a girl.

10 Q Does the boy work with you?

11 A Yes, sir.

12 Q Has he been with you for several years?

13 A Since he finished school.

14 Q When was that?

15 A That was about four years ago, two years ago.

16 Q During your entire career from 1930 when you
17 worked as an insulator until from 1948 when you went in business
18 for yourself up until 1972 or '73 when the company stopped
19 using asbestos, you bought, sold and used a world of asbestos
20 products, so to speak.

21 A Yes, sir.

22 Q You made your living from that source.

23 A Yes, sir.

24 Q You raised your family from that source.

25 A Yes, sir.

1 Q Mr. Covil, you testified yesterday that you felt
2 that these suits was the manufacturer's responsibility and
3 not ours, or not yours?

4 A Yes, sir, to a great extent.

5 Q Sir?

6 A Yes, sir.

7 Q You knew from 1930 up to the present that you
8 were using and engaged in the sale and marketing of asbestos
9 products.

10 A Yes, sir.

11 Q And you said that you began to learn in 1966
12 when the unions made some noise about some hazards connected
13 with asbestos.

14 A Yes, sir.

15 Q But even then from 1966 until the companies
16 stopped making asbestos you still used it from '66 up until
17 '72 or '73.

18 A Yes, sir.

19 Q Your men used it in the field, and you sold it
20 to other purchasers.

21 A Yes, sir.

22 Q Even with that, Mr. Covil, I believe you testified
23 yesterday or indicated that there has been really no good
24 substitute found for asbestos.

25 A That's my opinion, yes, sir.

1 Q That's your opinion.

2 MR. MCKAY: Wait a minute,
3 Mr. Arnold, he has something else to say.

4 A I just want to say that the materials where
5 they use a substitute binder lack a lot of the qualities
6 that you have using the asbestos.

7 Q But it's your opinion that asbestos over the
8 long run from the general standpoint is the superb material
9 to use for insulation purposes and fire prevention purposes.

10 A Yes, sir.

11 Q I believe you testified that asbestos, people
12 thought it was generally used primarily for insulation
13 purposes, that is to retain heat and keep out cold, but it's
14 also a product that is used in connection with fire prevention.

15 A Yes, sir.

16 Q It has various purposes.

17 A Yes, sir.

18 Q And the purposes that it has and is used for
19 is for the protection and safety of the public in general;
20 isn't it?

21 A Yes, sir.

22 Q We recognize that in anything that we use
23 today such as automobiles that there is some harm or detriment
24 in the use of motor vehicles; that's true, isn't it?

25 A Yes, sir.

1 Q Automobiles kill and lame a lot of people each
2 year.

3 A Yes, sir.

4 Q And asbestos has caused some injury or some
5 damage to people, also.

6 A That's right.

7 Q But won't you honestly say, Mr. Covil, that
8 in your experience from 1930 to '77 which is forty-seven years
9 in this specialty business that the good that asbestos has
10 done to the population in general or the people in general would
11 out-weigh the harm?

12 A In my opinion, the lives saved and the good
13 it's done, far out-weighs the harm.

14 ~~Q~~ You also testified yesterday in regard to this
15 agreement that you had entered into through your attorneys
16 in the Bumgardner case that the purpose of that agreement was
17 to save you or your company having to pay a verdict in any
18 of these cases.

19 ~~A~~ Yes, sir.

20 ~~Q~~ That's true, isn't it?

21 ~~A~~ Yes, sir.

22 ~~Q~~ And you also testified that you assumed at the
23 time that that agreement was going to run through all the cases.

24 ~~A~~ Yes, sir.

25 ~~Q~~ That was your thought?

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1 A That was my assumption, yes, sir.

2 Q That was your assumption. And you later found
3 out, as I believe you say, that it is your understanding now
4 that it applied only -

5 MR. HOOD: Mr. Arnold, can
6 we talk to you for a moment?

7 MR. MOTLEY: No, I want
8 on the record Mr. Hood has interrupted Mr. Arnold while he
9 was asking a question and asked Mr. Arnold if he couldn't con-
10 sult with him before he got through.

11 MR. HORGER: Let the
12 record so reflect, and let's go ahead and have the conference.

13 MR. MOTLEY: Let the
14 record also reflect that the defense attorneys are meeting
15 - and you're going to leave the room because I'm not leaving -
16 somewhere other than in here.

17 MR. DAVIES: Let the
18 record reflect that we are leaving the room because Mr. Motley
19 won't take his out of the room.

20 MR. HORGER: I want the
21 record to reflect that such persons who want to walk out in
22 the hall for a moment walked out in the hall, and such as
23 don't want to walk out in the hall stayed right here.

24 MR. CARPENTER: For the
25 record, I'll keep Mr. Motley company.

X

1 MR. HOOD: So the record's
2 clear, the reason I interrupted Mr. Arnold was because we
3 discussed this subject with Mr. Covil's attorney yesterday
4 and Mr. Arnold was not here when we discussed it with him.

5 MR. MOTLEY: You did what?

6 MR. McKAY: Wait a minute.

7 MR. HOOD: I want to tell
8 him about our discussion. He was not here yesterday.

9 MR. McKAY: Wait a minute,
10 now. Why don't you tell everybody about our discussion? We
11 had no discussion in secret, Mr. Hood. I dislike the implica-
12 tion. This is absurd. If y'all want to have a conference,
13 have a conference. It's not a conference because of any
14 discussion.

15 MR. HORGER: While we're
16 in the hall, you go ahead and put whatever you want on the
17 record, Mr. McKay.

18 MR. MOTLEY: Judge Chapman
19 would like to see that, I'm sure. What'd y'all have a discus-
20 ion about, I'd like to know?

21 MR. DAVIES: Do y'all want
22 the record to reflect I've got one foot in and one foot out?

23 MR. McKAY: You can listen
24 from both sides. It don't matter to me.

25 MR. CARPENTER: Put this on

1 the record.

2 MR. McKAY: No, hell, leave
3 it off the record. This is crazy.

4 (THE FOLLOWING WAS A PRIVATE DISCUSSION BETWEEN
5 MR. McKAY AND MR. MOTLEY. COURT REPORTER WAS
6 INSTRUCTED BY MR. McKAY NOT TO INCLUDE IN
7 TRANSCRIPT)

8 MR. McKAY: ... I told
9 them that I was in on part ... that the part that I was in,
10 I was under the impression that our agreement went...that I
11 was not in on subsequent discussions, and that's what we
12 discussed over in Herman Cox's office. After that, I don't
13 know what was discussed, because I was not privy to any further
14 discussions with you and Heyward, but the discussion over in
15 your office was for all cases.

16 MR. MOTLEY: You're not
17 suggesting that you all are eviscerating the affidavit that
18 Heyward filed with what the real agreement was, did you?

19 MR. McKAY: I've never
20 understood what the word meant.

21 MR. GILREATH: His
22 affidavit doesn't say whether it was all or one.

23 MR. McKAY: That is the
24 substance of the discussions, and that's my recollection of it.
25 Heyward's got to speak for himself. He was here after -

MR. MOTLEY: You're not

X
1 taking the position that you consummated the agreement with
2 me, are you?

3 MR. McKAY: I'm not taking
4 any position. I mean, you know. But am I not correct in the
5 discussions we had?

6 MR. MOTLEY: We discussed
7 it pleadingly, yes.

8 MR. McKAY: That was the
9 extent of the discussions I had in your office, I mean in
10 Herman's office, was that we would make the agreement would
11 apply to the blanket thing.

12 MR. MOTLEY: No, sir.

13 MR. McKAY: That was the
14 discussion I had.

15 MR. MOTLEY: We discussed
16 it. We never agreed.

17 MR. McKAY: I said that
18 was the discussion. I'm not getting down to the legal implica-
19 tions of it. Is it not correct that I was not present at any
20 further discussions between you and Heyward?

21 MR. MOTLEY: Well, I'll
22 make my remarks in the form of an affidavit.

23 MR. McKAY: We're not put-
24 ting it down in the record, but I'm just asking. I'm not trying
25 to talk behind anybody's back one way or the other. The whole

1 thing - Ron.

2 MR. MOTLEY: What?

3 MR. McKAY: I also told
4 him -

5 MR. MOTLEY: John, I don't
6 want to talk to you, okay?

7 (REMAINING ATTORNEYS RETURN TO THE ROOM AND
8 QUESTIONING IS RESUMED BY MR. ARNOLD)

9 Q Mr. Covil, in the Evelyn White case, Executrix
10 of the Estate of Walter White, you have filed a cross -

11 MR. MOTLEY: Excuse me,
12 Mr. Arnold. Let the record reflect that Mr. Arnold's previous
13 interrogation with regard to the agreement, after consultation
14 with Mr. Hood, Mr. Horger and others, has been withdrawn
15 apparently. You're not going to ask him any more questions
16 about that?

17 MR. ARNOLD: Mr. Motley,
18 I'm old and senile, but I'm going to run this thing the way
19 I want to.

20 MR. MOTLEY: But you are
21 not asking him a question, is that correct?

22 MR. ARNOLD: I'll ask him
23 what I want to, sir.

24 MR. MOTLEY: As long as
25 that's in the record.

1 MR. COVIL: (While on the
2 telephone) Who was it that wanted information on Davis in
3 Jacksonville? He is currently employed by us there. I can
4 get information on what time he's worked for Industrial
5 Associates since we acquired, and this will take a little
6 research and a little time to get it together.

7 MR. DAVIES: Would you
8 just see that that gets to me sometime in the future?

9 MR. McKAY: Go ahead and
10 ask her to do that, Mr. Covil.

11 MR. COVIL: (Still on the
12 telephone) On these company doctors, she's traced this back
13 to 1966. We have Dr. Gaynor, Jett and Stepp. That was the
14 first one. Dr. D. Keppler, February of '69. Dr. George
15 Bailey, Pleasantburg Drive. Then Dr. Batson, Harold Batson,
16 September '76 to present, North Hills Medical Center. None of
17 the branches have a regular doctor. The medical records on
18 the 20 people we asked for, we started keeping medical records
19 from '65, but they burned in the fire.

20 On the American Enka, you've found several job files,
21 and they are in the large conference room. On Fiber Industries
22 at Salisbury, four or five job files. You have found purchases
23 by Daniel, and they're in the conference room. No records from
24 Brevard.

25 Q Mr. Covil, I was asking you about ~~the~~ ^{the} Walter

1 ~~White~~ suit and the cross-complaint that you've filed in that
2 against certain of the defendants, and I'm directing your
3 attention of those defendants primarily Owens Corning Fiber-
4 glass, ~~who we represent~~. Have you read the cross-complaint
5 that you filed?

6 A Yes, sir.

7 Q You say in that that the above defendant express-
8 ly or impliedly warranted to Covil - I'm using the Owens
9 Corning - that the asbestos material they sold was of good
10 and merchantable quality and fit for its intended use. Now,
11 you sold and used that material to other persons, firms or
12 corporations, didn't you?

13 A Yes, sir.

14 Q Didn't you believe when you did that that it was
15 of good and merchantable quality and fit for its intended use?

16 A Yes, sir, I did.

17 Q You wouldn't have sold it if you hadn't believed
18 that, would you?

19 A No.

20 Q You're not that kind of a person, are you?

21 A No, sir, I hope not.

22 Q Owens Corning expressly or impliedly warranted
23 it to you; you did the same thing to your customers, didn't
24 you?

25 A I passed the same thing right on to them.

1 Q And you say that any liability of Covil to the
2 plaintiff would result by reason of common and statutory law
3 of strict liability in this state irrespective of fault, where-
4 as the conduct of the above-named defendants, Owens Corning
5 in manufacturing the asbestos would create an active and
6 primary responsibility. You considered yourself of the same
7 responsibility as Owens Corning did when you were selling it
8 to other people and having employees using it, weren't you?

9 A I don't know if I considered it the same. I
10 considered we were passing on the implied warranty from them.

11 Q You were standing back of what you were selling
12 and doing, weren't you?

13 A Yes, sir.

14 Q As a matter of fact, Mr. Covil, honestly you
15 don't think either you or any of these other defendants did
16 anything wrong, do you?

17 A I don't really think so, no, sir.

18 Q And you say that any fault of Covil to discover
19 the latest dangerous nature of the asbestos material and warn
20 the plaintiff of this nature was only passive or secondary in
21 nature. I don't know exactly what you mean, but you knew about
22 this in 1966, you testified, when the unions started raising
23 a noise, and you continued to sell and put on insulation that
24 contained asbestos up until the manufacturers stopped manufac-
25 turing it.

1 A Yes, sir.

2 Q And you knew something about the danger, you
3 said you'd heard it at some of your meetings, and you passed
4 it on to Mr. Russell.

5 A Johnson.

6 Q Johnson, so what others knew and learned and
7 what you had learned and knew, you tried to do the same thing
8 that the other defendants were doing, weren't you?

9 A I would think so.

10 Q Your intentions were absolutely honest and
11 honorable, weren't they?

12 A Yes, sir.

13 ~~Q~~ In this agreement that you had in the Bumgardner
14 case, it never was your intention, Mr. Covil, was it that you
15 were going to prosecute so to speak in one case and try to
16 defend in the other cases. You were going to be consistent
17 throughout, weren't you?

18 ~~A~~ Yes, sir.

19 ~~Q~~ And you intended to, and you thought it was
20 and assumed under the agreement that you would do the same
21 thing in the other cases that you were going to do in the
22 Bumgardner case.

23 ~~A~~ I assume that, yes, sir.

24 ~~Q~~ The Bumgardner case was not an isolated case
25 insofar as your understanding under agreement is concerned, was

1 it?

2 A No, sir.

3 MR. ARNOLD: I think that's
4 all.

5 -----

6 DIRECT EXAMINATION

7 By Mr. Pressley:

8 Q Mr. Covil, I'm Jim Pressly, and I'm going to
9 be asking some questions about Pittsburg Corning, and if it's
10 agreeable with these people, I'll also try to cover a few
11 questions for some others that I'll identify as I go down.

12 MR. McKAY: Well, tell
13 him who you represent all the way through.

14 MR. PRESSLEY: I am. I'm
15 asking questions for Pittsburg, and as I change to ask on
16 anybody else, I will inform him who I am representing.

17 MR. McKAY: Who do you
18 represent, Jim? Who are the companies basically, the defendants
19 you represent?

20 MR. PRESSLEY: Combustion,
21 Certain Teed, Rockwool, Pittsburg and Eagle Picher.

22 Q These are general questions. You were with the
23 union for some fifteen years, and at one point you were
24 business manager. To your knowledge, during that period of
25 time, were there requirements of union members for attendance

1 at a certain number of meetings or certain things that you had
2 to do to maintain your status as an active member?

3 A I don't believe there was any requirement as
4 far as meetings or anything like that. The only requirement
5 was that they pay their dues.

6 Q During the period that you worked with the
7 union, or during the period that you ran a union shop, were
8 you aware of any committee within the union that might've been
9 captioned "health hazard committee" or something to that
10 general effect?

11 A I was not aware of it, no.

12 Q Was one purpose of the union, to your knowledge,
13 involved with working conditions?

14 A Yes, sir.

15 Q What would that cover within the scope of
16 working conditions?

17 A Working conditions would include a multitude
18 of things like high work, working over a certain height, and
19 work under certain conditions of heat or things like this.
20 They had a number of things that they would cover.

21 Q Yesterday, you said something about when fiber-
22 glass began to be used they raised a ruckus about that.

23 A There was quite a bit about that.

24 Q Would that fall within the same situation?

25 A Yes, sir.

1 Q Did they classify that as working conditions?

2 A I would assume it was working conditions. Most
3 of the local unions tried to negotiate in their contracts as
4 they came up additional pay for working with fiberglass,
5 additional per hour pay. Like they do, like working high,
6 you pay so much more an hour for working over a certain
7 height, like that. It's all part of working conditions.

8 Q I'm going to make a statement, and I don't know
9 if it's accurate or not. It's something that we've heard in
10 certain other depositions, and since you were working with
11 asbestos back in the 30's and 40's, maybe you can shed some
12 light on it. There have been statements made that at some
13 point in time, back in the earlier days, a lot more asbestos
14 was used, and then there was a gradual shift to more fiberglass
15 products at some point in time. About when did that point in
16 time occur?

17 A That began in the early stages of World War
18 II when fiberglass began to come to the front as an insulation
19 product, and it continued to move in this area. What year it
20 was, I'm not sure exactly what year it was.

21 Q And they began to use the fiberglass on the
22 chilled water type situation.

23 A Cold water and hot water and low pressure steam.

24 Q During that period of time, also, there was
25 testimony that asbestos was used in certain fashion such as

1 blankets. In essence the workers themselves would make a
2 blanket for a boiler, and that was a fairly common practice
3 as I understood it.

4 A I think that was mostly for turbines. They
5 would use an asbestos pad covered with asbestos cloth.

6 Q And the would make that themselves.

7 A Yes, sir.

8 Q In essence, just sewing up asbestos fiber and
9 asbestos cloth, and that would be replaced periodically.

10 A Right. This would go on areas that had to be
11 removed and put back.fairly frequently.

12 Q And this was also done in the 40's.

13 A Yes.

14 Q And sometimes, as a matter of fact, up into
15 the 50's.

16 A It's still done, but they use different materials.

17 Q As I understood it, there was somewhat of a
18 shift away from that to block around some of these things.

19 A There's been some companies that shifted to
20 block, but for the most part they still, I guess they still
21 use the blanket.

22 Q Still use the blanket?

23 A Yes, they use a ceramic fiber and asbestos
24 cloth that's been treated.

25 Q In your fabricating shop, did y'all ever make

1 any of those types of blankets?

2 A Yes, sir.

3 Q When would that have been about?

4 A The earliest I recall would be around 1968 or
5 somewhere, '67 or '68.

6 Q And you would actually make those in your
7 fabricating shop?

8 A Yes, sir.

9 Q During the production of those types of
10 blankets, were respirators worn?

11 A They were furnished. I'm not sure they wore
12 them all the time. They were furnished, and they were in-
13 structed to wear them.

14 Q To your knowledge, in the past, had that been
15 the practice in making blankets?

16 A I'm not sure about in the past. I would say
17 back when I was first working in the trade, we didn't know what
18 a respirator was.

19 Q Also, there's been discussion of what has been
20 known as finishing cement which apparently is a hundred per
21 cent asbestos fiber that's mixed with water and used as a
22 plaster.

23 A Yes, sir.

24 Q Now, I assume that the purpose of that would
25 have nothing to do with insulation but rather would be as a

1 fire retardant?

2 A Well, it would have to do with insulation for
3 the most part on regular fittings and regular surfaces, it
4 would be used as insulation cement, and this could be wool or
5 something like that. They'd use asbestos cement as a finishing
6 cement over that to get a smooth surface.

7 Q To get a smooth surface?

8 A Yes.

9 Q Were these, then, in essence written into the
10 specifications for what purpose?

11 A To get a smooth finish, and most - in this
12 period of time, most of these fittings would have a canvas
13 cover put over them, and they leave the cements that were used
14 for insulation purposes leave a rough finish, and in order to
15 get a better appearance, they would finish that with asbestos
16 cement, finishing cement, and put the canvas over that.

17 Q Did that practice continue for a good while?

18 A Yes, sir.

19 Q When was the last time you recall them requiring
20 a finish?

21 A There's still some jobs require a finish today,
22 but not much. We use more prefabricated fittings today.

23 Q Earlier, and I frankly missed some of this,
24 but you apparently were - you've been with NICA for a good
25 while.

1 A Yes.

2 Q Was it NICA or the Southeastern Insulation
3 Contractors that you had been on the Board?

4 A I've been on the Board of Directors of NICA,
5 and I'm presently on the Board of Directors for Southeast,
6 and I've been on the Board several times and been president
7 and treasurer and about every officer.

8 Q During the period of '65-'66 when we've had
9 repeated references to the noise coming from the union at that
10 point in time which called your attention to it. What was
11 the general impression at NICA of the noises that were being
12 made by the unions? In other words, what did they think about
13 this hue and cry coming up about asbestos insulation products?

14 A I think that individual contractors had a
15 different concept with what it was. Some had one thing, and
16 some had another. This could cover a whole range of outfits.

17 Q This may be an unfair analogy, but would it be
18 similar to something like the saccharin situation we've run
19 into. Some people saying "Oh, Lord" and some people saying
20 "That's a bunch of bull"?

21 A Yes, that's about what it amounted to.

22 Q So, therefore, there was disagreement at the
23 time that this hue and cry was raised as to whether or not
24 there was any validity to it; is that correct?

25 A That's right.

1 Q Did NICA itself do anything after that by way
2 of further examination of it?

3 A I think NICA itself, they have no position
4 either way except to supply its members with information, and
5 they have no position pro or con.

6 Q Were there, to your knowledge, any conferences
7 with NICA from representatives of the union or anyone else
8 regarding what this noise was?

9 A I'm sure there were some individual members had
10 conferences with them concerning that, but I don't know who -
11 maybe it had been a committee, I don't know.

12 ~~Q~~ After you became an open shop, you said you
13 had some discussions with Dan Fowler. In those discussions,
14 was the topic of these particular lawsuits ever raised?

15 ~~A~~ No, sir.

16 ~~Q~~ Earlier, you also testified that to your knowledge
17 certain other contractors like yourself had been named in
18 certain suits, one being I think you said Star Davis, and
19 another being North Brothers.

20 ~~A~~ I don't know if North Brothers has ever been
21 named. Star Davis and Breeding in Tennessee, and C. Thurston
22 in Virginia, I know.

23 ~~Q~~ Were those suits workmen's compensation suits,
24 or are they suits similar to what we're involved?

25 A Similar to what we're involved in, I think.

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1 Q Have you ever discussed with them why certain
2 contractors apparently were named and why others were not?

3 A Yes, sir.

4 Q What seems to be the general information you
5 received on that point?

6 A That also varies from one extreme to the other.
7 It all depends on who you talk to. I would say the majority
8 of the consensus you got from that was that the contractors
9 and sub-contractors do work hand in glove with the union.
10 And those have been more or less laid off of, and the ones
11 that the unions had a vendetta against were the ones they
12 really went after.

13 Q Have you ever discussed it with any representa-
14 tives of the ones that you have classified as being hand in
15 glove with the union?

16 A Yes, sir.

17 Q What did they tell you?

18 A Well, the only discussion I've had with some of
19 them was asking them if they had any suits - if any of these
20 suits had been filed against them, and they replied in the
21 negative. Let me clarify one thing. Around the country, and
22 this has been my experience and it's still my experience, a
23 group of insulation contractors can sit down and talk together,
24 and certain ones of those in an hour after you get out of
25 that meeting was on the phone talking to the union and telling

1 them what transpired in that meeting. They were trying to
2 clear favors with them, I guess. I don't believe that's
3 possible.

4 Q With regard to Pittsburg Corning in particular,
5 I believe you said you did sell some of their products?

6 A We used some of their products.

7 Q They make both fiberglass and asbestos product
8 - you've already mentioned unibestos.

9 A Yes, sir.

10 Q Was unibestos stocked on a basis, a special-
11 job basis, or did you carry it regularly?

12 A It was a special-job basis.

13 Q Now, I'm going to jump shift here, and I'm now
14 asking a question about Combustion Engineering. Do you ever
15 recall stocking or selling any Combustion Engineering products
16 that contained asbestos?

17 A No, sir.

18 Q Have you ever heard of anybody called Refractory
19 or R and I, Ramtite or something of that nature?

20 A Yes, sir, R and I.

21 Q What did you have of theirs, if anything?

22 A Nothing that I know of.

23 Q Now, I'm going to jump again and ask you about
24 Certain Teed. Do you ever recall having any products that
25 contained asbestos that were manufactured by Certain Teed?

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1 A No, sir.

2 Q Do you know of any?

3 A No, sir, I don't.

4 Q Now I'm going to jump to Eagle Picher. Have
5 you sold any Eagle Picher asbestos-containing product?

6 A We have used and some some cement that I assume
7 may have contained some asbestos.

8 Q Do you know when that was, about?

9 A That would be prior to 1970.

10 Q What was the brand name, if you recall?

11 A I don't remember. If you'd name it, I could
12 tell you whether that's it or not.

13 Q Apparently there wasn't much of it.

14 A No, not a great deal. They've since discontinued
15 it altogether, I believe.

16 Q Now, I'm going to ask you questions regarding
17 Rockwell Manufacturing. You did at some point begin supplying
18 or having shipped in to you, Rockwell blankets and bats as
19 well as a product called one-shot cement.

20 A That's correct.

21 Q About when was that, sir?

22 A I would guess around '65, '66 was when we first
23 got into it.

24 Q Rockwell's one-shot cement was one of the
25 products that you had re-labeled under the Covilite name.

1 A Yes, sir.

2 Q I believe yesterday in the course of looking
3 through documents, the first invoice you could locate relabeling
4 it under the Covilite name was in '69; is that correct?

5 A I think that's right.

6 Q And that practice continued through '75?

7 A I think that's correct.

8 Q And then, I believe, you stopped using Rock-
9 wool's -

10 A No, we still use some of it, but we use it
11 under their brand name and not ours.

12 Q After '75?

13 A Yes, sir.

14 Q When you decided to label it - first of all,
15 why did you decide to label it Covilite?

16 A The first thing, I think one-shot is a silly
17 name, and we just thought we could improve on that calling
18 it Covilite. One-shot just don't strike me as being a brand
19 name.

20 Q When you decided to relabel it Covilite, did
21 you know what the product was composed of?

22 A Yes, sir.

23 Q What was the composition?

24 A It's certain clays and mineral wool, and it
25 did have a small amount of asbestos in it.

1 Q I believe you later discussed that with
2 Rockwool to find out exactly how much was in it?

3 A Yes, sir.

4 Q And I believe the information provided you was
5 it was less than one per cent?

6 A Yes, sir, about three-quarters of one per cent.

7 Q In '69, did you realize that as well?

8 A Yes, sir.

9 Q Were any warnings put on the bag?

10 A No, sir.

11 Q Did your label ask that any particular warning
12 be put on it?

13 A I don't believe so.

14 Q Did you or did anyone with your operation do
15 any testing of the product when it came out as Covilite brand?

16 A No, sir.

17 Q Did you believe there was any problem with
18 having one-half of one per cent asbestos in it?

19 A No, sir.

20 Q Did Covil in the '70's once OSHA began to come
21 in, on your job sites where you were involved, were signs
22 posted about this is an area where asbestos is being used?

23 A I don't remember any, no.

24 Q Do you recall ever seeing anything like that on
25 the job?

1 A No.

2 Q And you did say that as much as you remember
3 with ban saw work, there always was a respirator provided?

4 A Yes, sir.

5 Q And you said that has been around about
6 as long as you can remember?

7 A As long as we've been in business. We always
8 provided respirators for someone with a ban saw or a power saw.

9 Q And that was both in the fabrication shop and
10 on the job site?

11 A Yes.

12 MR. PRESSLEY: Thank you
13 very much.

14 MR. ARNOLD: I've got one
15 more question I want to ask you, please, sir. Did you ever
16 rebrand any of OWens Corning's products under the name of
17 Covilite?

18 A We rebrand fiberglass blanket under that label
19 now.

20 MR. ARNOLD: That is Owens
21 Corning's fiberglass blanket?

22 A Yes, sir.

23 MR. HOOD: I've got the
24 same question about products of Raybestos. Did you rebrand
25 any of those?

1 A No, sir.

2

3

DIRECT EXAMINATION

4 By Mr. Carpenter:

5 Q Mr. Covil, my name is Robert H. Carpenter, and
6 I represent the Celotex Corporation. I believe yesterday
7 during the course of the deposition you mentioned Celotex.
8 You also mentioned Jim Walter. Did I understand you to say,
9 sir, that you were a distributor for Celotex?

10 A No, sir.

11 Q What did -

12 A We buy from them on a distributor basis.

13 Q What did you say with regard to Celotex and
14 Jim Walters yesterday, if you recall?

15 A I don't recall what I said yesterday, but if
16 that is what we was to talk about, I would say that we were
17 recognized as a distributor, or we bought from them as a
18 distributor.

19 Q Do you recall what products you bought from
20 Celotex, and approximately when you bought them?

21 A Most of the products we bought from them would
22 have been fiberglass, but we also bought some careytemp.

23 Q Do you recall when that was, sir?

24 A I can't recall all of it. I know we bought
25 probably in '76, either '75 or '76, we bought a pretty good

1 quantity of this for one particular job.

2 Q That would be in '75 or '76?

3 A Yes, sir.

4 Q Did you deal in any careytemp products before
5 '75?

6 A We have - I'm sure that we have bought careytemp
7 products before that time because being specified - sometimes
8 the job specifications will specify that this will be a
9 particular product or approved equal, and sometimes rather
10 than go through the process of getting something approved,
11 we'll buy whatever brand they specify.

12 Q Would these careytemp products be asbestos
13 containing?

14 A No, sir - well, they may have been way back,
15 but I don't remember.

16 Q You don't recall using any careytemp products
17 that contained asbestos?

18 A No, sir.

19 Q Or stocking it?

20 A No, sir.

21 Q You mentioned, and I have no idea what this
22 is, the initials CSG yesterday.

23 A CSG is Certain Teed Sanga Bain.

24 Q You did not mention that in connection with
25 either Jim Walters or Celotex?

1 A No, I didn't mention it in connection with them.

2 Q I misunderstood you. So far as products
3 bearing the Celotex name themselves, I'll ask you have you ever
4 used any asbestos-containing product bearing the trade name
5 Celotex?

6 A Not that I know of.

7 Q Have you ever used any asbestos products that
8 you - that is, are you sure that you have ever used any asbestos
9 products bearing the Phillip Carey brand?

10 A I think we may have used some Phillip Carey
11 brand.

12 Q You think you may have.

13 A Yes, sir.

14 Q But you're not certain of that?

15 A I'm not certain.

16 Q Going to this agreement that has been discussed,
17 I'll ask you in the handling of the several lawsuits involving
18 Covil, have you been the primary officer in your corporation
19 that has been involved in these lawsuits?

20 A Yes, sir.

21 Q Insofar as the Covil Company is concerned, have
22 you been the decision maker within the company with regard to
23 these lawsuits?

24 A Basically, yes, sir.

25 Q And if I understood your testimony with regard

1 to the agreement, you were of the impression that the agree-
2 ment went to all the cases.

3 A I assumed that it would apply to all cases.

4 MR. CARPENTER: I don't
5 believe I have any further questions.

6 MR. ARNOLD: Let's quit
7 for lunch.

8 (LUNCH BREAK FROM 1:15 TO 2:30)

9 -----
10 DIRECT EXAMINATION

11 By Mr. Alford:

12 Q Mr. Covil, my name is Jim Alford, and I
13 represent Fibreboard, one of the defendants in this case, and
14 I've only got a few questions to ask you. My first one may
15 be a little bit repetitive of what's already been covered, but
16 when was it that the asbestos manufacturing companies quit
17 putting asbestos particles in the insulation materials?

18 A Different ones at different times, but I
19 believe around anywhere from 1971, '72, '73, in that area.

20 Q How would you personally have found out that
21 for example you had gotten one shipment in from one of the
22 defendants or any company for that matter, you got a shipment
23 in say January of '70, and you got another shipment in in June
24 of '70. What told you that shipment number one of shipment
25 number two, if you will, no longer had any asbestos material

1 in it?

2 A I believe all of them labeled their cartons
3 "contains no asbestos".

4 Q So, that's how you became aware of it?

5 A I was aware of it and knew what they were doing,
6 and that's how we identified it.

7 Q You said the union had started making some
8 noises somewhere in '65 and '66 to the effect that asbestos-
9 containing products might be a health hazard.

10 A They started making noises about asbestosis.

11 Q And this came to your attention, you heard
12 about it one way or another.

13 A Yes, sir.

14 Q In connection with your business as an insulator
15 and in connection with your business as a distributor of
16 insulation materials, tell us what, if anything, you did
17 differently after you found out that asbestos-related products
18 were a possible health hazard. Did you change anything? Did
19 you do anything different?

20 A We changed some of our procedures, like some of
21 the cements we were mixing - we'd mix them in a plastic bag,
22 put water in them, and we advised our people about opening
23 cartons to be sure that when they opened the carton they opened
24 it, got the material out and got away from it because it would
25 create more dust when you opened the carton than at any other

1 time. We started putting dust collectors on all of our power
2 saw equipment and required people to wear respirators.

3 Q How did you enforce all of that? Did you
4 simply recommend it to your people, or did you require it of
5 your people?

6 A You don't enforce much with these people. You
7 provide them respirators and tell them we want you to wear
8 respirators and tell them you're supposed to do this and we
9 want you to do this. They do about what they want to.

10 Q But you feel that you did your duty to them.
11 You passed the information on. You gave them respirators,
12 you bought whatever they needed to use in the way of safety
13 features, such as the mixing in the bags and that sort of
14 thing. You felt like you had done your duty, and if they
15 didn't want to do what you said, that was their business, is
16 that it?

17 A Not really in that method, but we'd give them
18 respirators, we'd say wear them, and if we'd catch them not
19 wearing respirators, get onto them about it and say put that
20 respirator on. They'd put it on, and we might walk around and
21 come back, and they'd have it off again. We'd stay on their
22 backs trying to get them to do that.

23 Q So, what you're telling me then is between -
24 let's just use the year 1965 when you first heard there was a
25 problem - between 1965 and the late '60's or early '70's when

1 all the material was then asbestos-free, you provided the
2 warnings and the safeguards to your people, but you can't tell
3 us under oath that some of your people didn't disregard the
4 safeguards and inhale asbestos particles anyway?

5 A That's right.

6 Q What about this, Mr. Covil: After you found
7 out there was a problem, did you thereafter sell or distribute
8 any asbestos-containing materials at all which were not marked
9 with a warning label?

10 A If the manufacturer marked them with a warning
11 label, we sold it at that. If the manufacturer didn't mark
12 it with a warning label, we didn't put an additional marker.

13 Q If one of the defendants or any manufacturer
14 then, say in 1968, had sent you an asbestos-containing product
15 which was not marked with a warning label, you didn't take it
16 upon your self to put a warning label on their package. You
17 just sold it as is?

18 A Yes, sir.

19 Q Do I understand you?

20 A Yes, sir, I don't think any of them sent us
21 anything after they started labeling it - I'm sure none of them
22 sent us any without the label on it. We would've looked at
23 it and sent it back to them probably.

24 Q So you think they started labeling it about the
25 same time you found out about it.

1 A Right.

2 Q I hope you haven't put it away. I know you're
3 tired of taking it out of your file. That list you had this
4 morning showing your purchases from the various defendants
5 in these cases, do you have that back with you?

6 A Yes, sir, I think so. (Witness hands document
7 to attorney.)

8 Q As I understand it, I don't know who actually
9 prepared or typed this document, but to the best of your
10 knowledge, does this document document your purchases of
11 asbestos-related materials from the defendants insofar as
12 your records show?

13 A I'm not sure that all of that was asbestos-
14 containing materials, but it was materials we had purchased
15 that might have contained asbestos.

16 Q But you don't have any other records showing
17 purchases from any of these people that's not on this compila-
18 tion?

19 A I don't think so.

20 Q I call your attention specifically to Item
21 No. 2 which relates your purchases of Fibreboard Corporation
22 products, and you show that apparently - I'm going to tell
23 you what I think it means. It shows one purchase of some
24 Caltemp block by way of an invoice in June of 1972 to the tune
25 of \$3492. Is that it, sir?

50 to 72

1 A Yes, sir.

2 Q Mr. Covil, do you have any idea what jobs that
3 Fibreboard product was used on?

4 A Right off-hand, I wouldn't.

5 Q This does tell you it was caltemp block?

6 A Yes, sir.

7 Q Do you have any records that would tell you
8 what job this caltemp block was used on?

9 A I doubt it unless it was shipped directly to
10 the job. The invoice says shipped to a certain job or a
11 certain location, it might tell us.

12 Q Do you think you might have such an invoice?

13 A I would think so, yes.

14 Q Would you see if you can find that and provide
15 it for us?

16 A I may have -

17 Q What I'm looking for is your back-up material
18 from which this item was developed.

19 A Let me see if I've got it - I have some
20 invoices here.

21 MR. BRITTON: What was the
22 date of that?

23 MR. ALFORD: 6-7-72. It
24 may have gotten eaten up by the fire.

25 A If I don't have it in this, it did.

1 Q What I'm saying, Mr. Covil, it may not be
2 an invoice I'm looking for, but obviously this document had to
3 be prepared with some kind of back-up material or information
4 in your files, and that's what I want to see, where this came
5 from. You've got an invoice number on it.

6 A I don't believe I have it here, but I'm sure
7 we have an invoice on it.

8 Q Would you and your counsel make a note to provide
9 to me to provide through your attorneys the back-up informa-
10 tion, whatever it may be, invoice or otherwise, from which
11 the Fibreboard purchase is documented on your records..

12 MR. BRITTON: We'll make
13 a note.

14 Q Mr. Covil, since you can't find your invoice
15 then, I assume you don't know if this caltemp block purchased
16 from Fibreboard was sent direct to some job or sent to your
17 warehouse.

18 A I don't know.

19 Q Is it possible that this entire shipment of
20 caltemp block could've been burned up in the warehouse before
21 it ever got sold to anybody?

22 A It's possible.

23 Q So, from what you have with you here today,
24 you can't tell me what happened to this shipment of caltemp
25 block.

1 A No, sir.

2 Q But you'll try to find out.

3 A Yes, sir.

4 Q What about this: I assume you'll have to rely
5 on your memory unless you've got some records. This shipment
6 of caltemp block from Fibreboard, was it asbestos-free, or was
7 it in the old days, or do you know?

8 A I really don't know at this point.

9 Q If I told you that by September of 1971 there
10 was no longer any asbestos whatsoever in any products manufac-
11 tured by Fibreboard, would that tell you whether or not this
12 June '72 shipment, which is about some nine months after
13 Fibreboard took all the asbestos out of its product, would that
14 tell you anything as to whether or not this caltemp block was
15 asbestos free or not?

16 A It wouldn't tell me that. They may have had
17 some in stock they shipped that contained asbestos, and I
18 wouldn't know that for sure.

19 Q You wouldn't be able to tell.

20 A Not at this point.

21 Q Mr. Covil, your document that's called "Attach-
22 ment April 15th, 1977" which is your compilation of the
23 purchases, it only uses the Fibreboard Corporation. Do you
24 have any recollection of ever having purchased anything from
25 some entity called the Paraffine Corporation?

1 A No, sir, I don't have any record of that I'm
2 sure.

3 Q Do you recall ever having purchased anything
4 from Fibreboard Paper Products Corporation as opposed to the
5 Fibreboard Corporation?

6 A I don't know. I don't believe we do.

7 Q Don't make that distinction. How about anything
8 manufactured by a company known as Pabco Products, Inc.?

9 A We purchase from them now.

10 Q How long have you been purchasing from them?

11 A I wouldn't know right off-hand.

12 Q Has it been a year or ten years, or give me
13 a ballpark.

14 A It's been five or six years, something like
15 that, I think.

16 Q Pabco?

17 A Pabco.

18 Q Where do you purchase from them from? Out of
19 what location?

20 A They ship out of Rushton, Louisiana now. We
21 have had stuff from Emeryville, California. We purchase it
22 through their local representative.

23 Q But you get it out of Louisiana now?

24 A Yes, sir.

25 Q But you think you have actually gotten some from

1 California?

2 A I'm sure we have.

3 Q Do you have any specifics on that of what it
4 was or when it was or where you used it?

5 A Not right off-hand.

6 Q Do you have any records that would show that?

7 A We have records - I'm assuming that all this
8 was asbestos-free, so we didn't - all the purchases from Pabco
9 from this day on, we didn't make a record of that, but we
10 have it, and we can get copies of all the invoices.

11 Q It probably was, but I'm not quite sure when
12 you bought it, so again would you, through your counsel,
13 furnish me any information you have involving purchases from
14 Pabco?

15 A Yes, sir.

16 MR. BRITTON: What dates
17 are those?

18 MR. ALFORD: We quit with
19 any asbestos products in '71. We were phasing it out even
20 before that, but we've flat had none in it since '71. So, I
21 guess you'd better go through '72 or '73 because they could've
22 had some on hand in the warehouse possibly. I don't know.

23 A If we had any in the warehouse in May of '73,
24 it was burned up.

25 Q You said that you have seen, I believe, a copy

1 of the cross action which Covil has asserted against some of
2 the defendants in this case?

3 A Yes, sir.

4 Q Mr. Covil, I'm not trying to put you on the
5 spot because I know your lawyer drew this and not you, but
6 lawyers are supposed to put in their pleadings what their
7 clients tell them, so I'm going to have to assume this informa-
8 tion came from you. In your cross action against Fibreboard,
9 you charge that we sold - that is Fibreboard - sold to you
10 asbestos related insulation materials between the years 1954
11 and '74. Now, that's a 20-year stretch, and you have only
12 been able to document just one sale in June of 1972. So,
13 my question to you is: On what basis do you, through your
14 lawyers, state that you've bought from us for 20 years, and
15 that you bought asbestos-related materials from us for 20 years?

16 A I don't think it intended to state that we
17 bought from you for 20 years, but during this period of time,
18 we did buy some materials.

19 Q During this period of time?

20 A Right.

21 Q But the only actual purchase you can document
22 is this one that's shown on the April 15 document?

23 A Yes, sir. This was probably the only invoice
24 that we had prior to the fire that didn't get burned in the
25 fire, and I'm sure that we had bought from you before that time,

1 but we didn't have that record.

2 Q I can understand you say you're sure you did,
3 but can you specifically say under oath that Covil ever bought
4 from Fibreboard Corporation any asbestos-related materials
5 other than this one purchase in June of '72?

6 A I don't know if I could furnish the proof of
7 it, but I'm sure we did.

8 Q Tell me what you got and where you got it from,
9 what you use it for.

10 A That's what I say, I don't know if I can furnish
11 proof of what we got, but I'm sure we bought some materials
12 during this period of time that contained asbestos.

13 Q Do you have any idea what it was, what materials?

14 A It would be the calcium silicate materials.

15 Q Can you tell me how much?

16 A No, sir, I can't.

17 Q Can you tell me what you used it for?

18 A We used it for insulation purposes. We either
19 used it on our jobs or sold it. I would assume that we used
20 it on our jobs because that's normally what we buy materials
21 from Pabco for. We don't buy materials to stock from Fibreboard.

22 Q Where would you have gotten it from? Do you
23 know which one of Fibreboard's plants would you have bought it
24 from?

25 A I think this would've come from Emeryville.

1 Q California?

2 A Yes.

3 Q Are you talking about buying from Emeryville,
4 California, a product to be used or sold somewhere in the
5 southeast?

6 A Yes, sir.

7 Q Don't you have right stiff shipping charges
8 when you buy from a west coast manufacturer as opposed to find-
9 ing somebody on the east coast to buy from?

10 A Well, Fibreboard assumed these shipping charges;
11 we didn't. For some time before they opened the Rushton
12 Plant, they were actively pursuing business with us and other
13 contractors in this area and were actually shipping into this
14 area from Emeryville.

15 Q From California?

16 A Yes, sir.

17 Q Even though the seller - even though Fibreboard
18 was paying the shipping costs, didn't they have to charge you
19 more for it? Net, couldn't you buy it cheaper over here than
20 over yonder?

21 A No, sir, they sold it at regular price.

22 Q Forgive me for skipping around a good bit, but
23 all I'm doing is tieing up a few loose ends, and that's why I'm
24 jumping from one area to another. You mentioned, I believe
25 yesterday, or it might've been this morning, something about

1 respirators. Can you tell me when you first started providing
2 respirstors for your people? Was it after you found out there
3 was a problem with the union when the union made the 1965
4 noises, or did you purchase respirators prior to that?

5 A I would say it was after we began to hear of
6 this problem about asbestosis, asbestos products, that we
7 started using them.

8 Q And the Covil Corporation actually bought the
9 respirators?

10 A Yes, sir.

11 Q And furnished them to all your people.

12 A Yes, sir.

13 Q And then they may or may not have used them?

14 A Yes, sir.

15 Q You don't think you had respirators prior to
16 the union noises in '65?

17 A I doubt if we did. I wouldn't think so.

18 Q You mentioned your own company's training
19 procedures, and I do believe you told us that the other
20 gentleman would know a little more about that, but I do have
21 this question to ask you: In connection with Covil's in-house
22 training procedures, did you have any manuals, notebooks,
23 documents, do you have anything in writing which is given to
24 your people or which is an outline of the training which they
25 received?

50 to 765

X
1 A We have a folder here that contains some of that
2 material.that was brought in this morning.

3 Q Has anybody looked at this? Mr. Covil, you've
4 handed me one document that is entitled Policy for Safety
5 for Covil Corporation, and it says policy adopted January 1st
6 of 1977. What did you have that would correspond to this
7 prior to that?

8 A I'm not sure. They pulled this together this
9 morning for me rather fast, and we did some revising about
10 this time and revised it. I'm sure that we have copies of the
11 old policies before that. It would just take a little while
12 to dig them out.

13 Q This document mentions the annual chest X-ray.
14 Did you tell us earlier how long you've had the chest X-ray
15 policy in effect?

16 A I did, I'm sure.

17 Q About when was it?

18 A In the last three or four years.

19 MR. MOTLEY: Last several
20 years?

21 A Last three or four years.

22 Q This document, the big document we're looking
23 at, the Policy for Safety for Covil Corporation, and you said
24 you feel sure that prior to January of '77 you had something
25 similar. This looks like a right thorough safety manual. It's

1 got a lot of real good suggestions in it, a lot of good places
2 where you're supposed to check off whether or not corrective
3 action is needed. What sort of person prepared this manual
4 for your company?

5 A My secretary pulled that together and prepared
6 that. She got a lot of this information from other people
7 in the company, what they were doing.

8 Q From other companies?

9 A No, from other people within our company. She
10 had no responsibility for safety, she was just - we were
11 preparing a manual, and she pulled all this together, and
12 we brought it up-to-date.

13 Q My point is it looks like this manual was
14 prepared by somebody who is or was right knowledgeable about
15 industrial accidents and industrial exposure, including environ-
16 mental exposure. What sort of person in your company would
17 have the knowledge to prepare such a manual as this?

18 A I believe Russell Johnson and Jack Caine
19 corroborated on the thing, and they gave her this information.

20 Q Who is Jack Caine?

21 A He is not employed with us any longer. He was
22 a man that worked for us.

23 Q Sir?

24 A He worked for us, but he's not with us any
25 longer.

1 Q Is that C-a-i-n?

2 A C-a-i-n.

3 Q What was his job when he was with you?

4 A He has been employed in several different
5 capacities, sales manager and a division manager. At one time,
6 he assumed some safety responsibilities.

7 Q Mr. Cain was with you for how many years?

8 A About eleven years.

9 Q He came with you about the mid '60's?

10 A Right.

11 Q And Mr. Johnson has been with you how many
12 years?

13 A Twenty-two or three years.

14 Q So, it would be a safe assumption for me to
15 say, then, that in the person of Mr. Cain and Mr. Johnson, you
16 have for many years had right knowledgeable industrial
17 hazard people on your payroll?

18 A Yes, sir.

19 Q Is there anybody else other than Mr. Johnson
20 and Mr. Cain that would possess the kind of knowledge that
21 went into this safety manual, or are they your main two?

22 A They would be the main two. Some other people
23 may have contributed something to it, but they would be the
24 main ones.

25 Q Has Covil ever gone outside of the company for

1 expert advise on the kinds of things that's in that safety
2 manual?

3 A I don't believe so, no.

4 Q You haven't called any outside industrial
5 safety or health experts or doctors to consult with you in
6 setting up any of these programs?

7 A I don't believe so.

8 Q Mr. Covil, this was talked about a little bit
9 yesterday, but I'm not sure I got it all down. You mentioned
10 Mr. Quattlebaum and somebody else, Mr. Fowler, I believe. Both
11 of them have from time to time worked on you to get you to come
12 back in the union, right?

13 A Right.

14 Q When Mr. Quattlebaum and Mr. Fowler have been
15 coming to you over the years with their pleas to you to rejoin
16 the union, to become a union shop again, what have they said
17 to you about the kinds of benefits the union could provide as
18 it relates to the safety of the workers, disease of the
19 workers and that kind of thing? Has this been a pitch they
20 made to you?

21 A I don't believe they even mentioned it.

22 Q They haven't said anything to you about we've
23 got the green sheets and they're grand, and they'll tell you
24 all about your problems. They haven't made that pitch to you?

25 A No, sir.

1 Q What's been the most compelling reason that you
2 should rejoin the union according to Mr. Quattlebaum and Mr.
3 Fowler?

4 A Well, the basic pitch they made is that we can
5 furnish you qualified people to do your work.

6 Q That's about it?

7 A That's about it.

8 Q I know you're tired of going over names, but
9 I've got a name that I don't believe was on Exhibit 2 that we
10 looked at yesterday. If it was, forgive me. Do you know or
11 have you ever heard of or read about or hear the name of
12 Edward Crooks?

13 A Edward Crooks, I'm not sure.

14 Q Let me tell you a little bit about Mr. Crooks,
15 and maybe it'll refresh your memory about his situation if not
16 him personally. Mr. Crooks resided in Columbia, and he died
17 of lung cancer, I believe, in 1969 or thereabouts. The lung
18 cancer allegedly, according to his lawyers or his estate and
19 his lawyers, having been caused by asbestos exposure. It may
20 have been one of the first known - suspected known - asbestos-
21 related deaths in South Carolina. Did you ever hear of that
22 particular case or incident, Mr. Covil?

23 A No, sir, I don't think I've ever heard of him.

24 Q You don't recall reading about it in any of the
25 manuals or publications that come out?

80 to 271

1 A No, sir, I don't.

2 Q I'm still curious about these cross actions.
3 I'm going to use the case of Evelyn White as an example, the
4 survival action, making reference to the survival action
5 asserted by the Estate of Walter White against Fibreboard and
6 others, and making reference to your cross action. On what
7 basis in your cross action do you assert that Walter White
8 inhaled asbestos particles by using a product which had been
9 sold to you by Fibreboard? Do you have anything to show me
10 that Walter White breathed a Fibreboard product sold to you
11 and then used by him?

12 A I doubt if I have any kind of evidence.

13 Q Would that be true of all the claimants in the
14 case in which Covil has asserted a cross action?

15 A No, sir, I don't think it would be true of all
16 of them.

17 Q Well, could you tell me of any of the claimants
18 referring you to Defendants' Exhibit 2, can you tell me any of
19 these claimants that you know of your own knowledge or can
20 document used any product supplied by the Fibreboard Corporation?

21 A That would probably take a good deal of research.
22 We would have to go back and find out where these people worked
23 and determine from our files whether any of your products were
24 used on the jobs that they were on or not. It would take a
25 good bit of research.

1 Q But, I thought you told us that you don't have
2 any of those records prior to the fire.

3 A No, sire. We have people that are knowledgeable
4 that we could probably determine from them whether this person
5 worked on such and such a job. It would be awful hard for us
6 to come up with anything prior to the fire.

7 Q What I think you're telling me is any informa-
8 tion would simply be by word of mouth.

9 A Yes.

10 Q Tell me what people we would go to to get this
11 word of mouth information other than yourself.

12 A I would guess that Russell Johnson is probably
13 the most knowledgeable person in our company about where people
14 have worked and the materials they've worked with.

15 Q Whatever he tells us is going to have to come
16 out of his head, because he doesn't have any more records
17 than you've got.

18 A Right.

19 Q Anybody else with your company that might be
20 able to tie any particular product down with any particular
21 job and any particular claimant?

22 A I think he would be the most knowledgeable
23 person.

24 Q You don't know of anybody else out there that
25 would know any more than he knows?

1 A No, sir.

2 Q I'll ask you the same question that one of the
3 other lawyers asked you. In connection with these claims
4 either before or after the suits were started, have you or to
5 your knowledge anybody with your corporation, communicated
6 verbally or in writing with any officer, agent, director,
7 employee or salesman or anybody else with the Fibreboard
8 Corporation about these claims?

9 A About these claims? I don't believe we have.

10 Q Do you have - have you ever had any representa-
11 tion made to you by any employee or agent of Fibreboard as
12 to the safety or non-safety of the Fibreboard products?

13 A The only thing that I would know is that when
14 Fibreboard changed over to completely asbestos-free that their
15 sales personnel would tell us "all of our products now are
16 asbestos free." I'm sure they did this. I don't know if I
17 could say when they did it or what time they did it or any-
18 thing like this.

19 Q So, they told you when they got the asbestos
20 out of it.

21 A Yes.

22 Q Can you call any representations or warranties
23 made by anybody with Fibreboard either in writing or verbally
24 prior to that such as - I'm talking about something that con-
25 cerned the product before they took the asbestos out of it,

1 telling you it was safe or it wasn't safe?

2 A No, sir.

3 MR. HOOD: I'd like the
4 record to reflect that Mr. Motley has the file that Mr. Covil
5 brought with him which, when I examined Mr. Covil, he identified,
6 and apparently some of the items in that file that Mr. Motley
7 apparently has in toto, were considered work product by Mr.
8 Covil's attorney. If Mr. Motley's going to review -

9 MR. MOTLEY: He's made
10 the entire file available, Mr. Hood, and you went through it.-

11 MR. HOOD: No, sir.

12 MR. MOTLEY:- Page by
13 page.

14 MR. HOOD: No, sir, I
15 did not. He took out some of the items in there as being
16 work product, and apparently you have all of it. If Mr. Motley's
17 going to go through the file, I think the attorneys for the
18 defendants should have the same right.

19 MR. BRITTON: Insofar as
20 we're concerned with Mr. Covil, we certainly would ask that
21 any privileged matter, attorney-client.

22 MR. MOTLEY: If I see any-
23 thing, I'll close my eyes.

24 MR. HOOD: Well, I don't
25 think that's enough. I think that -

1 MR. MOTLEY: You wouldn't
2 close your eyes if you saw something, Mr. Hood?

3 MR. HOOD: Mr. Motley,
4 I wasn't through speaking. I think that if Mr. Covil's
5 attorneys are going to allow you to look at something they've
6 told us is their work product and we can't see, then I'd like
7 to be able to see it, also.

8 MR. MOTLEY: If I come
9 across something you didn't see -

10 MR. BRITTON: I'm not
11 aware of anything in there that y'all didn't see.

12 MR. GILREATH: I think he
13 saw the whole file. The only thing that was in there was a
14 letter with -

15 MR. BRITTON: From John
16 McKay.

17 MR. HOOD: I thought there
18 were several letters from your law firm to Covil.

19 MR. GILREATH: I think he
20 showed those to you.

21 MR. BRITTON: There was
22 only one letter, and it had a motion or something with it, and
23 I think he showed you what that was. If I recall, y'all went
24 through each item in the file already once.

25 MR. HOOD: And identified

1 them. We haven't read them in detail. All I want to do, for
2 the record, is if he's going to read the whole file, I'd like
3 to read the whole file.

4 MR. BRITTON: Okay, it's
5 available except for the privileged information.

6 MR. HOOD: He's got the
7 privileged information, and if he's going to look at it, I'd
8 like to look at it. That's what I'm saying.

9 MR. GILREATH: Ron, bring
10 the file back over here and let me look at it.

11 MR. MOTLEY: I haven't
12 seen the first thing in here, any notes from a lawyer or a
13 letter from a lawyer or anything..

14 MR. BRITTON: I don't think
15 the letter's in there. There wasn't but one letter.

16 MR. MOTLEY: Kind of stick
17 those out, because I'm going to ask him about those.

18 MR. BRITTON: The only thing
19 I recall is one letter in there from John. Go ahead, Jim,
20 and finish your questions.

21 QUESTIONING BY MR. ALFORD RESUMED:

22 Q Making reference again to the list of plaintiffs
23 that we all went over at some length yesterday, your files were
24 pretty sketchy, of course, and most of these people worked for
25 you sometime in the past, and your records really don't show

1 when they left you or why they left you. But I really haven't
2 seen any indication in your testimony or on the exhibits which
3 were used yesterday, that is the list of claimants, that any
4 of these people were working for you in June of '72 when you
5 bought the caltemp block. Am I wrong about that?

6 A From memory, I don't believe any of them were
7 working for me.

8 Q So, to the best of your knowledge, then, none
9 of these plaintiffs in these pending cases could've been
10 exposed to the caltemp block which you bought in '72 if you
11 used it on one of your own jobs.

12 A No, sir.

13 Q And you're going to try to find out what job
14 they went to if you can?

15 A Yes, sir.

16 Q I know what I was asking you before I got
17 interrupted. I had asked you about any representations or
18 warranties made by any Fibreboard people prior to the time they
19 took the asbestos materials out of their products, and I asked
20 you if you'd ever received any warranties or promises or
21 guarantees or anything else from the Fibreboard people prior
22 to the time they took the asbestos out of the product?

23 MR. BRITTON: Are you talk-
24 ing about express warranties, Jim?

25 MR. ALFORD: Anything,

1 express or implied. It couldn't be implied, any promises made
2 to you in writing or verbally.

3 MR. BRITTON: You're
4 not talking about implied warranties?

5 MR. ALFORD: No, it
6 couldn't. It would be a matter of law.

7 A Unless you had something on your sales document
8 or invoices or something like that, some people do, you have
9 some kind of a warranty.

10 Q But you don't have any personal recollection
11 of any such thing.

12 A No, sir.

13 Q You mentioned in your cross complaint, again
14 that your lawyer prepared for you, that Fibreboard expressly
15 or impliedly warranted to Covil Corporation that the asbestos
16 material was this and that and the other. I take it, even
17 though your pleading says an express warranty, meaning something
18 flat out told you or given to you in writing, you don't have
19 any recollection of any such thing?

20 A No.

21 Q You said you felt like even prior to Fibreboard
22 opening up its Louisiana plant that you had bought something
23 from Fibreboard over the years.

24 A I'm sure we have, but I don't know if I can
25 identify it.

1 Q Could you categorize that for me? It may be
2 hard since you don't remember. Would it have been a substantial
3 amount or just a token amount, or would it have been something
4 called for on a specific job because of some owner's specifica-
5 tions? Could you give me any idea about the volume you're
6 talking about? You may not be able to since you can't recall it.

7 A I feel sure it would've been because of the
8 owner's specifications or somebody called for it and we bought
9 it for a particular job. I feel sure, there are some instances
10 of that, but I don't think I can provide proof of it.

11 Q You wouldn't call the Fibreboard product while
12 they were still on the west coast, you wouldn't call it some-
13 thing that you used extensively.

14 A No, sir, we've only used Fibreboard products
15 extensively in the last three or four years.

16 Q Getting them from Louisiana.

17 A Yes.

18 Q How would that work, Mr. Covil? If an owner
19 of a project or a contractor for whom you have a subcontract
20 specified say Fibreboard caltemp block, you would place the
21 order?

22 A I wouldn't, not personally.

23 Q I mean your company.

24 A Yeah, our company would.

25 Q And it would be shipped to Covil, not to the -

1 A It would be shipped to us either at our ware-
2 house or to the job site.

3 Q But even if it went to a job site, it would
4 be invoiced to you?

5 A Yes.

6 Q So, any shipments to you, then, should be
7 reflected in the Fibreboard's records since yours have been
8 burned up?

9 A Yes, sir.

10 MR. ALFORD: Thank you.

11 MR. BRITTON: Who's next?
12 Ed, is that you?

13 MR. BUCKLEY: Yes.

14 MR. BRITTON: Did you get
15 your call a few minutes ago? They were looking for you. The
16 receptionist paged you for a phone call earlier.

17 MR. MOTLEY: Jim's back in
18 here, just call and ask them to bring that thing back over
19 here. He obviously inadvertently picked that thing. up. Did
20 anybody pick up the request for admissions that were in this
21 file that we looked at?

22 MR. GILREATH: I think
23 John must've got that stuck in his file by mistake.

24 MR. BRITTON: I'll call
25 right now.

1
2 down there next to his file.

MR. GILREATH: I laid it

3
4 don't have that, do you?

MR. MOTLEY: Bevo, you

5
6 MR. ARNOLD: What?

7 request for admissions that he had scribbled hand notes on
8 that Mr. Hood asked him about.

MR. MOTLEY: It was the

9
10 to the request for admissions?

MR. ARNOLD: His answers

11
12 MR. MOTLEY: Yeah.

13 have it.

MR. ARNOLD: No, I don't

14
15 laying down here on this end of the table.

MR. GILREATH: They were

16
17 me for disturbing you. I don't want to look through your
18 notes or anything, but we're looking for those request for
19 admissions.

MR. MOTLEY: Y'all pardon

20
21 John's got them.

MR. GILREATH: I think

22
23 the one that was questioning him about it.

MR. ARNOLD: Bobby Hood's

24
25 you look through your stuff and see if you inadvertently picked

MR. MOTLEY: Bobby, would

1 up the request for admissions.

2 MR. BRITTON: (Talking to
3 John McKay on the telephone) John, do you happen to have the
4 request for admissions with your materials there? There were
5 some handwritten notes on there by Mr. Covil that was identified
6 earlier.

7 MR. ARNOLD: They're not
8 in some of these files?

9 MR. GILREATH: I think
10 John's got them.

11 MR. MOTLEY: (Talking to
12 John McKay on the telephone) John, I apologize for getting mad.
13 That's alright, I'll talk to you later.

14 MR. DAVIES: Are we
15 going to put it on the record that you're going to talk to
16 McKay?

17 MR. CARPENTER: Let the
18 record reflect Mr. Motley apologized for getting mad.

19 MR. DAVIES: Let it reflect
20 Mr. Motley said he'd talk to him later.

21 MR. MOTLEY: I'm sure I
22 will see him later.

23 MR. BRITTON: They're
24 running it over here right now, Ron.

25 MR. MOTLEY: Great. Thanks

1 a lot.

2 MR. ARNOLD: Did John have
3 it?

4 MR. GILREATH: Yeah.

5 MR. BRITTON: Bobby, did
6 you see that file? You're certainly welcome to look through
7 it.

8 MR. HOOD: I'm going to.
9 Apparently Ron's got it over there now. When they get through
10 with it, I'll look at it.

11 -----

12 DIRECT EXAMINATION

13 By Mr. Buckley:

14 Q Mr. Covil, I'm Edward D. Buckley of the firm
15 of Bailey and Buckley, and we represent Nicolet
16 Industries. On this attachment of yours dated April 15, 1977,
17 I see that your records show no purchases of materials from
18 Nicolet that contained asbestos; is that correct?

19 A That's right.

20 Q Do you have any recollection of ever having,
21 aside from your records, bought anything from Nicolet
22 Industries?

23 A I don't recall ever having bought anything from
24 Nicolet.

25 Q I think you said there was a Mr. Cain who for-

merly had worked for you in a rather responsible position.

What were the circumstances under which he left your employ?

A He was terminated. I terminated him.

Q Did you fire him?

A I fired him, yes.

Q Is he still in the Greenville area?

A He was. I understand that he's moving to Texas.

MR. MOTLEY: Who was this?

MR. BUCKLEY: Mr. Cain.

MR. MOTLEY: I thought they were talking about one of my good people.

Q Who are the shareholders of Covil, the corporation?

A I'm the principal shareholder. There's about ten or eleven people that hold stock in the company. Most of them are a rather small amount. Travis Cash has the largest.

Q How do you spell that?

A Travis Cash.

Q C-a-s-h?

A Yes. He has more stock than any of the others. The others are rather small.

Q Who are the others?

A They're all employees - I couldn't.

Q They're all employees of your company?

1 A Yes.

2 Q Where does Travis Cash live, and what does he
3 do?

4 A He's vice president of Covil Corporation.

5 Q And his last name is Covil?

6 A No, Cash.

7 Q He's the vice president of the company?

8 A Yes, sir.

9 Q And he lives in Greenville?

10 A Mmm hmm.

11 Q Do you own a majority of the stock yourself
12 personally?

13 A Yes, sir.

14 MR. BUCKLEY: I think
15 that's all I have. Thank you, sir.

16 MR. BRITTON: Anybody else?
17 Mr. Davies?

18 MR. DAVIES: As I say, I
19 think I'm going to wait until after the cross-examination. I
20 just had a few questions, and there's no reason to rush.

21 MR. BRITTON: Are there
22 any other defendants?

23 MR. PRESSLEY: I think
24 that's all.

25 MR. BRITTON: You don't

1 have anything, Bill?

2

MR. DAVIES: Not right now.

3

I may have after Ron gets through.

4

MR. ARNOLD: Let Ron get

5

started.

6

MR. BRITTON: They're bring-

7

ing that over; it'll be here in just a second.

8

9

CROSS-EXAMINATION

10

By Mr. Motley:

11

Q Before I get started, I asked the lawyers for

12

Covil and several of the defense lawyers because of personal

13

problems - I've got my little boy's birthday tomorrow at

14

five o'clock, that I was going to question Mr. Covil until

15

about five or five thirty when I have to leave, and that Terry,

16

if we didn't get through, which I know we won't, will question

17

him in the morning.

18

MR. PARLER: I have no

19

objection.

20

MR. CARPENTER: I don't

21

believe any of the defendants have any objection.

22

MR. ARNOLD: Ron, you

23

have my permission to go now if you want to.

24

25

CROSS-EXAMINATION

1 By Mr. Motley:

2 Q Mr. Covil, my name is Ron Motley and I represent
3 Mrs. White, and I don't believe we had met until earlier
4 today.

5 A Yes, sir.

6 Q Have you ever met me before?

7 A Not that I know of.

8 Q Have I ever talked to you on the telephone
9 before that you know of?

10 A No, sir, I don't believe so.

11 Q Have you ever talked to anybody in my law firm
12 before, Mr. Terry Richardson? Before yesterday, you saw him
13 yesterday.

14 A I don't think so.

15 Q Mr. Dan Moore, that tall fellow that's not
16 sitting in the corner but was in here earlier today. You just
17 don't ever recall having talked to anyone in my law office.

18 A No, sir.

19 Q A little while ago, Mr. Covil, you in response
20 to a question stated that you had had the X-ray program in
21 existence for the last three or four years; is that correct?

22 A Yes, sir.

23 Q And earlier in the day you were discussing a
24 letter that was shown you by a third party from the union
25 advising the workers not to have X-rays taken.

1 A Yes, sir.

2 Q You were interested in that, I believe, you said,
3 because at the time you had an X-ray program.

4 A Yes, sir.

5 Q So, that's within the last three or four years;
6 is that correct?

7 A Yes, sir.

8 Q There's a letter that I have dated April 15th,
9 1973. It's from the International Association of Heat and
10 Frost Insulators, I don't have it with me, but this is a
11 verbatim transcript, I believe, unless the secretary mistyped
12 it of what was contained in that particular letter, and I'm
13 going to ask if that's the letter you have reference to?

14 MR. BRITTON: Are you going
15 to furnish him with a copy of that?

16 MR. MOTLEY: Yes, I said
17 I would. This is not the letter. It just was in our files.

18 Q "Regarding medical examinations under OSHA, the
19 Board reiterated our policy that members of our union should
20 decline to take the medical examination that employers must
21 provide under OSHA until our members are guaranteed of
22 confidentiality of results. This is a vital issue that could
23 affect the ability to collect workmen's compensation claims.
24 The best solution is for our local union to negotiate into
25 their agreements medical maintenance protection clauses with

X
1 the costs underwritten by the employer.' ' That's the end of
2 the letter. Would that be the letter that you have reference
3 to?

4 A That's not the letter that I had reference to.

5 MR. HOOD: Would you
6 attach what you've just read into the record?

7 MR. MOTLEY: No, sir, I
8 won't because I've got my notes on it. I told you I'd provide
9 you with a copy of the letter. If you want to look at it, sure.

10 MR. ARNOLD: Just let her
11 mark it for identification.

12 MR. MOTLEY: I've got notes
13 on it, Mr. Bevo.

14 MR. ARNOLD: Well, she can
15 mark it for identification and give it back to you, and have
16 her signature and initials on it.

17 MR. HOOD: As I understand
18 it, you're going to furnish the court reporter the letter to
19 be marked as an exhibit.

20 MR. MOTLEY: Yes.

21 Q But, at any rate, it was during this period of
22 time when you had this X-ray program under way that you saw
23 this letter?

24 A Yes, sir.

25 Q Earlier, Mr. Hood was going over the plaintiff's
first set of request for admission of facts, and I believe he

X
1 read you one that had your writing on it. I'll ask you to
2 identify those if you don't mind, Mr. Covil.

3 A Are you talking about number eight?

4 Q Yes, sir.

5 A Yes, sir. Do you want me to read it?

6 Q Yes. I'm going to ask you some things about it.
7 You gave it a number. I don't believe it's been marked.

8 MR. CARPENTER: I think
9 he's referring to question number eight.

10 Q I'm sorry, yes, sir. You've got a better
11 memory than I do.

12 MR. MOTLEY: Would you
13 mark that as Plaintiff's Exhibit 1, please.

14 COURT REPORTER: It will
15 be number two.

16 Q Mr. Covil, as I understand it, this document
17 and the writing thereon is your responses to these requests
18 for admissions which you intended to submit under oath to the
19 court in response to requests?

20 A Yes, sir.

21 MR. BRITTON: Have these
22 responses been formally filed with the Court?

23 MR. MOTLEY: No, they have
24 not.

25 MR. BRITTON: Whose requests

1 were they?

2

3 MR. MOTLEY: They were
4 plaintiff's requests.

5 Q Mr. Covil, do these responses contained here
6 contain your best response to the request for admissions?

7 A Yes, sir.

8 Q Did you at any time manufacture any asbestos
9 products?

10 A No, sir.

11 Q Did you at any time take two products and per-
12 haps blend them together and mark it as a different product
13 other than the Covilite which you've described that you labeled?

14 A Not blend together, no.

15 Q In the 1950's, I believe you were selling a
16 product - an asbestos insulation product. Would you please
17 describe to me what this particular product was.

18 A In 1950?

19 Q In the 1950's or early '60's, other than the
20 Covilite which you've described.

21 A The only thing we would've sold some asbestos
22 finishing cement. We would've sold calcium silicate that
23 contained asbestos as a binder.

24 Q How would you have done this, sir, processed
25 this yourself?

A How would we have processed it?

1 Q Yes, sir. *Moffet*

2 A We would, the calcium silicate came in cartons.
3 We would've sold it in the carton it came in unless it was a
4 broken carton which we might take two or three cartons, the
5 material out of two or three and make a broken carton, sell a
6 broken carton.

7 Q No, what I had in mind was I understood that
8 in the 1950's or '60's, you might've been taking several
9 products and blending them or mixing them together or fabricat-
10 ing a particular type of asbestos product itself.

11 A No, sir.

12 Q You have no recollection of that?

13 A No, sir.

14 Q Have you altered the form of any asbestos
15 products at any time other than the Covilite which you've
16 described earlier?

17 A Any asbestos product?

18 Q Yes, sir, any insulation product containing
19 asbestos.

20 A No, sir.

21 *Moffet* Q I believe you responded in your request for
22 admissions with regard to whether or not you had a duty to
23 test the asbestos products before either selling them or
24 installing them on a particular job that you wrote, "I expected
25 the manufacturers to conduct the necessary tests." Since you

1 weren't a manufacturer, you assumed the manufacturers had
2 conducted tests.

3 A Yes, sir, most of them give you test data with
4 it.

5 Q Since 1972, has any OSHA official, ~~we're~~ talking
6 about the Occupational Safety Hazard, or any manufacturer or
7 yourself conducted any what's known as air-sampling studies -
8 that is go on the job site with some equipment and catch the
9 fiber and measure it and that sort of thing?

10 A They've done this on one particular job I know
11 of.

12 Q Approximately when was that?

13 A I'm not sure of the exact time. It was some-
14 where between '68 and '72.

15 Q Who would that have been?

16 A It was on the Oconee Nuclear Facility.

17 Q Sir?

18 A Oconee Nuclear Facility, somebody come in, and
19 I'm not sure whether they were OSHA or state or what, but
20 somebody came in and made some tests.

21 Q A government official did?

22 A Yes.

23 Q Prior to that time, had any manufacturer asked
24 your permission to go on the job site and conduct any such
25 test?

1 A No, sir.

2 Q Would you have refused them the right to go on
3 and conduct any such test?

4 A No, sir, I would not.

5 Q Mr. Covil, you were an active insulator your-
6 self for what period of time? I wasn't here yesterday, and
7 I apologize if I ask you questions you've answered before.

8 A From about 1930 to about 1944 or '45.

9 Q And then I believe you testified that from '44-
10 '45 on, from time to time you'd go on the job site.

11 A Yes, sir.

12 Q Between the years when you first started and
13 the year 1968 - excuse me, 1966, I believe you testified earlier
14 when you first became aware of the problem - did you ever
15 receive any letter from any manufacturer of asbestos telling
16 you that asbestos caused asbestosis among insulation workers,
17 or that it might cause various forms of lung cancer?

18 A I don't recall receiving any.

19 Q Have you ever seen any such letter than any of
20 your workers might've received?

21 A No, sir, I don't believe so.

22 Q Do you know the difference between amosite and
23 chrysotile and crocidolite asbestos?

24 A No, sir.

25 Q You've answered that some of the insulation

1 materials that you've worked with or used or sold contained
2 diatomaceous earth; is that correct?

3 A I would think very little - there may have been
4 some materials, but it would be a very minute amount of
5 materials that we've handled that contained diatomaceous earth.

6 Q Did any of the products - of what period of
7 time are you talking about?

8 A I'm talking about from -

9 Q Day one?

10 A Day one, yes.

11 Q Have you ever seen, let's say prior to 1966,
12 did you ever see any diatomaceous earth products which contained
13 a caution label advising you that it contained diatomaceous
14 earth and that inhalation of diatomaceous earth could be harm-
15 ful to your health?

16 A I don't recall. There may have been. I know
17 I remember some discussions in this area about diatomaceous
18 earth and this silicate that it contains.

19 Q What period of time are we talking about now,
20 recently?

21 A I'd say that was back in the '50's.

22 Q And, as a result of that, you don't recall seeing
23 any caution labels on it?

24 A No, sir, I don't.

25 Q Were you ever the author of a letter to the

1 editor or an article that might've appeared in The Greenville
2 News relative to asbestos and any health hazard associated
3 with it?

4 A I don't recall any such letter.

5 Q In your request for admission, number forty-
6 eight, the question was: Does the defendant admit that at no
7 time prior to - and there's a series of dates, '64, '65, '66,
8 '67, etc. - did it warn asbestos insulation applicators that
9 exposure to asbestos dust and fibers over a period of time
10 constituted a serious health hazard? You circled, I assume
11 all this is your writing and your circling throughout; is it
12 not?

13 A Yes, sir.

14 Q You circled what year, sir?

15 A 1967.

16 Q Is that because you didn't know before 1967?

17 A I didn't know very much about it before then.

18 Q Question Number eighty-three was: Does this
19 defendant admit that apart from any labeling on no occasion or
20 at no time did it ever warn applicators of asbestos-contained
21 insulation material by any other means, that adequate ventila-
22 tion was necessary while working with asbestos products? Would
23 you read your answer, please.

24 A What number was that?

25 Q I'm sorry, eighty-three.

X
1 A I answered, "Probably yes", and I would say we
2 probably did.

3 Q Of course, the answer was whether you admit
4 the fact that was stated, and the fact that was stated was in
5 the negative - that you had not, and you answered "probably
6 yes". In other words, you had not; is that correct?

7 A Yes.

8 MR. HOOD: Ron, can we
9 have a continuing objection to the form of the question, or do
10 we have to object to each question as a leading question?

11 MR. MOTLEY: Mr. Hood, this
12 is cross-examination of the president of one of the defendant
13 corporations. I thought I could cross-examine him. I wasn't
14 aware that he was my witness.

15 MR. HOOD: If you did in-
16 tend to use him as your witness, I'd like to have, for the
17 record, either an agreement to a continuing objection to the
18 form of the question, or I'll object to the form of the question
19 each time you ask a leading question.

20 MR. MOTLEY: Object all
21 you want.

22 MR. BRITTON: Why don't you
23 just put it in the record?

24 MR. HOOD: Otherwise, I'll
25 be interrupting you each time you ask a question.

1 MR. MOTLEY: I don't know
2 what he means by what he said. I plan and fully intend, as I'm
3 sure most of you do, using Mr. Covil's deposition pursuant to
4 Rule 87 in the direct proof of my case as a witness who's an
5 officer of the corporation, and the Rule permits me to call
6 him as if he were an adverse witness.

7 MR. HOOD: Madam Court
8 Reporter, would you note my objection to the form of every
9 question Mr. Motley asks. That way I won't have to interrupt.

10 MR. MOTLEY: I don't
11 agree that that's retroactive in the event that this version
12 of the Rule that prevails.

13 MR. HORGER: We have at
14 least one case where Judge Chapman has indicated that there is
15 no adversity, so to speak, between the two of you and you
16 would not be in a position to cross-examine in that case, at
17 least. So, the cross-examination would prevail. I would like
18 to make an objection in general to the form of the question
19 if you're willing to go along with that rather than stop each
20 particular time. Is that agreeable?

21 MR. CARPENTER: Celotex
22 joins in that.

23 MR. MOTLEY: I don't want
24 to prolong this, fellows, but if you think there's some chance
25 of your prevailing on this, then I'd like to know what your

1 objection is so that I can rephrase it if I think it's something
2 that's -

3 MR. HORGER: Most of your
4 questions, I believe, perhaps are leading, and you indicate
5 you're on cross-examination. Under cross-examination, of
6 course, it would be proper. If you're not entitled to cross-
7 examine him, they're not proper, and that's why - not trying
8 to waste your time and waste ours either, we would like to
9 have a general objection to the form, and that can be decided
10 later whether or not that you are permitted under the Rule to
11 cross-examine or not to cross-examine. But, if you want to do
12 it the other way.

13 MR. MOTLEY: Mr. Horger,
14 this deposition was noticed in Walter White; not noticed in
15 Bumgardner, which is the case you described. This case is
16 pending in State Court, and the State Circuit Court rules apply,
17 and I think I'm entitled to cross-examine him.

18 MR. CARPENTER: Mr. Motley,
19 if the objections are not valid, they don't harm you in any
20 way, and if they are valid, then we're correct. There's no
21 point in interrupting you.

22 MR. HORGER: Your previous
23 position has been that even though a deposition was not for a
24 particular case, that it could be used in another case. So,
25 we just need to protect ourselves in general.

1 MR. MOTLEY: Well, y'all
2 haven't shared that position.

3 MR. HORGER: No, and
4 neither am I saying that you're absolutely wrong at this
5 point, but we want to reserve our rights.

6 MR. MOTLEY: Let me talk
7 with my lawyer and see what he wants to do.

8 MR. CARPENTER: Mr. Motley,
9 one thing we want to be clear on is that none of the defendants,
10 and I believe I speak for all of them, are waiving the require-
11 ment under the Rules that the witness, if he is available,
12 the de bene esse deposition cannot be used.

13 MR. MOTLEY: I didn't
14 suggest that.

15 MR. CARPENTER: I just
16 don't want any misunderstandings.

17 MR. RICHARDSON: I think
18 what we would like to do is go ahead and allow Mr. Motley to
19 ask the questions, and if you object to the form, just say
20 "object". She can note it, and then he'll have an opportunity
21 to rephrase the question.

22 MR. CARPENTER: Would you
23 prefer a Greek chorus, or would you prefer that we do it one
24 at a time.

25 MR. RICHARDSON: One would

1 speak for the group.

2 MR. HORGER: Mr. Hood, would
3 you wake up. You're the one that usually does that.

4 MR. MOTLEY: Let him
5 sleep.

6 QUESTIONING RESUMED BY MR. MOTLEY:

7 Q Mr. Covil, do you recall seeing any posters,
8 signs, or plaquards distributed by any of the manufacturers
9 of insulation products containing asbestos on job sites prior
10 to OSHA regulations in 1972?

11 A No, sir.

12 Q I assume that you didn't place any at job sites
13 prior to OSHA regulations?

14 A No, sir.

15 Q I believe you had earlier identified this as the
16 document which reflects purchases, Mr. Covil?

17 A Yes, sir.

18 MR. MOTLEY: I'd like that
19 marked as Plaintiff's 3, please.

20 MR. HOOD: I object to the
21 form of that last question.

22 Q This is obviously a xerox copy of something
23 else, Mr. Covil, but have you ever seen a manual, something that
24 looked like that?

25 MR. DAVIES: Mr. Motley, was

1 all that material part of this file?

2 MR. MOTLEY: No, that
3 last thing - no, no.

4 MR. DAVIES: Has that been
5 marked for identification?

6 MR. MOTLEY: No, sir, he
7 hasn't identified it.

8 A No, sir, I've never seen that.

9 Q You've never seen that before?

10 A No, sir.

11 MR. HOOD: May we see what
12 he was shown?

13 MR. MOTLEY: Yes, sir.
14 This will be Plaintiff's 4. If y'all don't mind, we're going
15 to copy this, and I'm going to put the original back in my
16 file.

17 Q Mr. Covil, you've never seen what's known as
18 Plaintiff's Exhibit 4 which I just handed you which purports
19 to be something entitled "Recommended Health Safety Practices
20 for Handling and Applying Thermal Insulation Products Contain-
21 ing Asbestos" published by the National Insulation Manufacturers
22 Association, dated - I believe, I don't see the date in here
23 - but this was purportedly distributed in 1968. Do you -
24 you don't recall ever having seen this?

25 A I don't recall ever having seen it.

1
2 form.

MR. HOOD: Object to the

3 Q Doyou know a fellow by the name of Clifford
4 Sheckler?

5 A Clifford Sheckler?

6 Q Yes, sir, with Johns-Manville Corporation.

7 A Yes, sir, I've met him.

8 Q When did you meet Mr. Sheckler?

9 A I wouldn't know right off-hand.

10 Q Has he ever been to your place of business?

11 A I don't believe he has.

12 Q Do you know a gentleman by the name of Hugh
13 Jackson?

14 A I don't recall him.

15 Q How about Ben Jobe - J-o-b-e?

16 A I don't recall him.

17 MR. PARLER: Isn't Ben
18 Jobe a lawyer?

19 MR. MOTLEY: He might be,
20 but this is not the fellow I'm talking about.

21 Q The latter two, Jackson and Jobe, were Johns-
22 Manville employees. You don't recall ever having met them?

23 A No.

24 Q Did anyone from Johns-Manville Corporation between
25 the years 1964 and 1970 personally visit you and advise you of

1 any health hazards associated personally advise you with a
2 personal visit, of any health hazards associated with the
3 inhalation of asbestos products?

4 MR. HORGER: Object to the
5 form of the question.

6 MR. MOTLEY: You can
7 answer, sir.

8 A I don't remember.

9 Q You don't remember anybody visiting you?

10 A No, sir.

11 MR. HOOD: Object to the
12 form of the question.

13 MR. HORGER: I made that
14 objection, and it was agreed between the parties that one
15 objection would go throughout the defendants.

16 MR. DAVIES: Why don't we
17 just let her, if it's alright with the plaintiff, enter
18 defendants object instead of trying to identify what defendant.

19 MR. BRITTON: Don't y'all
20 want to occasionally disassociate yourselves from some of
21 these objections?

22 Q Mr. Covil, has any representative of any of the
23 manufacturers from whom you purchased products visited you
24 personally and advised you between the years 1964 and 1970 of
25 any health hazards associated with the inhalation of asbestos

1 fibers?

2 MR. HORGER: Object to the
3 form of the question.

4 A I don't recall anybody specifically making that
5 kind of presentation.

6 MR. BRITTON: How about
7 noting unless there's an objection rendered on our behalf,
8 these objections don't run on behalf of Mr. Covil.

9 MR. PARLER: On the
10 defendant Covil.

11 MR. BRITTON: On the
12 defendant Covil, the objections rendered by the other defendants
13 don't affect me unless I render my own specific objection.

14 Q I believe you have a very beautiful hospital
15 in Greenville called the St. Francis Community Hospital?

16 A Yes, sir.

17 Q Do you recall a telephone book in 1972 which
18 bore the picture of the facade or face of the St. Francis
19 Community Hospital?

20 A Yes, sir.

21 Q I hand you a very poor photostatic copy of the
22 cover, and page 149 of that telephone book, and ask you if
23 that is an advertisement that you placed in the yellow pages
24 of the Greenville phone book?

25 A Yes, sir.

20 to 309

1 Q That's your ad?

2 A Yes, sir.

3 MR. MOTLEY: I'd like a
4 copy of that marked as Exhibit 5.

5 MR. PARLER: Is the front
6 page of the exhibit simply for identification, or is there some-
7 thing -

8 MR. MOTLEY: Oh, it's just
9 for identification.

10 MR. PARLER: I thought
11 maybe the facade had something to do with it.

12 MR. MOTLEY: You thought
13 one of my clients was looking out the window or something?

14 MR. BRITTON: Did we
15 identify what year that was?

16 MR. MOTLEY: '72.

17 Q Do you recall whether this same ad ran in 1975?

18 A I don't recall how long that ad run.

19 Q Mr. Covil, I hand you a document which was in
20 your file, and it says "notes from Mr. Covil's conversation."
21 Are those notes your notes or something you told someone else?

22 A My secretary made these from telephone conversa-
23 tions I had, and I asked her to -

24 Q To transcribe them?

25 A - to transcribe them.

1 Q Is this information^X that's contained herein
2 something that you gathered from your own experience and mind,
3 or is this something that somebody else told you?

4 A Something somebody else told me.

5 Q Who told you this?

6 A Representatives for each of these companies.

7 Q So, in that regard, you have had conversations
8 with representatives of some of these companies?

9 A Yes, sir.

10 MR. MOTLEY: Let's mark
11 this, I believe it's Number 6.

12 MR. BRITTON: Let me
13 protect us right here at this point. This, again, any conversa-
14 tions or notes pertaining to conversations that arose subsequent
15 to the suit, because of the insistence during the cross-
16 examination of Mr. Covil that they be revealed, any work product
17 objection, I think, at that time -

18 MR. MOTLEY: Oh, it would
19 run through. He said this didn't have anything to do with an
20 attorney.

21 MR. BRITTON: I didn't
22 want any other attorney here to criticize us for -

23 MR. MOTLEY: They saw this.

24 MR. BRITTON: But since
25 it's been into and examined thoroughly, I feel like it's subject

1 to open review.

2 Q So, with regard to each of these particular
3 manufacturers, you had conversations with some representative
4 of that company, and this is a transcription of your notes in
5 that conversation?

6 A Yes, sir.

7 Q And I assume OCF is Owens Corning Fiberglass.

8 A Right.

9 MR. ARNOLD: Let me see
10 that.

11 Q Here's a memo that was also in your file, Mr.
12 Covil.

13 MR. BRITTON: This would
14 contain a letter and attachment from our firm, and I would
15 appreciate it if you wouldn't get into that.

16 Q You've reviewed this, and that's an accurate
17 transcription of your conversations with these various agents?

18 MR. HOOD: Object to the
19 form of the question.

20 Q That's Exhibit Number 6. This is another some-
21 thing that I found in there. What is that?

22 A This is a form that the National Insulation
23 Contractors Association sent out making an insurance survey,
24 and the - what they're trying to do, I mean, it's gotten to
25 where it's rather difficult for insulator contractors to get

1 liability or workmen's comp insurance, and there is a committee
2 working on this to see if they can't get some insurance writing
3 to cover the whole insulation industry, and that's what that
4 is.

5 Q I believe you said you were on the Board of
6 NICA.

7 A I was at one time.

8 Q Were those difficulties because of insulation
9 workers coming down with diseases associated with asbestos?

10 A It's that and product liability suits.

11 Q Would you read number 6 for the record. By the
12 way, who filled those responses out that are typed behind the
13 question? Did you?

14 A Yeah. "Have you had any difficulty of any
15 nature with any particular union local or the union in general?"

16 Q What was your answer?

17 A "No."

18 MR. MOTLEY: Let's mark
19 that number 7.

20 Q Mr. Covil, here's another memo from Joe Malone.
21 Is he one of your employees?

22 A Yes, sir.

23 Q To you, I'll ask you to identify that. I
24 believe this document is a reflection of sales you've made
25 since you were able - for the years shown '73 through '77, of

1 products to Guy M. Beattie Company.

2 A Right.

3 MR. MOTLEY: Let's mark
4 this number 8.

5 Q Mr. Covil, that's page one of what looks like
6 some compilation on William Bumgardner. Did you do that, or
7 that was just sent to you?

8 A I believe this was sent to me.

9 MR. MOTLEY: Jimmy, is
10 this that thing y'all did up in Charlotte, and you wouldn't
11 let me have a copy of it? Isn't that something you worked up?

12 MR. PRESSLEY: Negative.

13 MR. MOTLEY: You didn't
14 work that up?

15 MR. PRESSLEY: No, that's
16 not even my secretary's bad typewriter. I deny all knowledge.

17 Q Subject to being something, I don't think - do
18 you know who made it up?

19 A I don't recall where that came up.

20 Q It really isn't anything to hurt y'all, but it
21 might be something to help us with Bumgardner. I don't know
22 where it came from.

23 MR. ARNOLD: If it helps
24 you, it hurts us.

25 MR. MOTLEY: Mark that,
please.

1 MR. BRITTON: I don't see
2 any notes on there that would go to the attorney-client privilege.
3 I don't know where it came from. I don't have any idea.

4 Q Mr. Covil, have you ever had any conversations
5 with any of the attorneys representing any of the manufacturers?

6 A Representing any of the manufacturers?

7 Q Yes.

8 A Not before this..

9 Q Did you have any conversations with any of them
10 before your deposition?

11 A I don't believe so.

12 Q Mr. Covil, did you have any negotiations to
13 your knowledge between yourself or attorneys representing you
14 and any of these manufacturers with regard to your cross action
15 before it was brought?

16 A I consulted with my attorneys.

17 Q And it was with your approval that they drafted
18 the cross action.

19 A Yes.

20 Q Were you ever approached, or was it ever
21 suggested to you that you might soft-pedal the cross action, or
22 not pursue it vigorously?

23 A Not really, I don't think.

24 Q There seemed to be some hesitancy in your mind.
25 Did you have any conversations about it?

1 A I'm just trying to remember.

2 Q Just take your time.

3 A The only thing I think is, in my conversations
4 with them, we said we wouldn't vigorously pursue this.

5 Q You would not?

6 A But we would try to make any information avail-
7 able.

8 MR. HOOD: Note my objection
9 to the form of the last question.

10 MR. MOTLEY: I didn't really
11 ask a question.

12 Q Mr. Covil, between the years 1948, I believe you
13 said is when you started your business -

14 A Yes.

15 Q - and 1970, did anyone associated with any of
16 the manufacturing companies with whom you did business ever
17 tell you what a TLV was?

18 A A TLV?

19 Q Yes. Do you know what a TLV is?

20 A I don't ever remember hearing that expression
21 before.

22 Q How about a threshold limit value?

23 A I've heard that.

24 Q I'm sure you've heard that recently since the
25 OSHA regulations have gone into force?

1 MR. PARLER: I object to
2 the form.

3 A Yes, sir.

4 Q But I'm talking now particularly of the years
5 before the OSHA regulations came into force.

6 MR. DAVIES: Object to the
7 form of the question.

8 MR. MOTLEY: I haven't
9 asked a question.

10 Q Did anybody from any of the manufacturers with
11 whom you did business between 1948 and 1970 ever discuss with
12 you what the TLV was?

13 MR. DAVIES: Objection.

14 A I don't recall ever having discussed it.

15 Q Is Mr. Johnson, isn't he a former insulator
16 himself?

17 A Yes, sir.

18 Q Has he had any formal training in industrial
19 hygiene?

20 A No, sir, I don't think so.

21 Q Has he had any formal training in safety
22 education?

23 A He has taken a safety course at Greenville Tec.

24 Q That was after the OSHA regulatinn came into
25 effect?

1 ~~A~~ I'm not sure whether it was after or before,
2 probably after.

3 Q So, as far as the training program was concerned
4 before the OSHA regulations were enacted, you had no one who
5 had had any safety education courses or was an industrial
6 hygienist giving these safety talks to your employees.

7 ~~MR. DAVIES:~~ Object to the
8 form of the question.

9 A No.

10 Q Did any industrial hygienist employed by any
11 of the manufacturers with whom you did business ever periodically
12 visit you and assist you in educating your workers?

13 ~~MR. HOOD:~~ Object to the
14 form of the question.

15 A I don't recall any.

16 Q Did you ever get any letter from any of the
17 manufacturers with whom you did business suggesting that they
18 had someone available who might conduct safety classes for
19 your employees?

20 ~~MR. HOOD:~~ Object to the
21 form of the question.

22 A I don't recall any.

23 Q Tell me about a respirator.

24 ~~MR. HOOD:~~ Object to the
25 form of the question.

1 Q Tell me about a respirator, please.

2 MR. HOOD: Object to the
3 form of the question.

4 A What about a respirator do you want me to tell
5 you?

6 Q Tell me all you know about it.

7 A There's several different types of respirators.
8 There's a common dust type respirator that is a little
9 aluminum thing that you put an insert in and you just put it
10 around your head with a rubber band. It caused difficulty
11 in breathing, the person working with it. Then, there's
12 another type respirator that's approved by the Bureau of
13 Mines that has a kind of a snout on it, and you unscrew that
14 and put this filter in that. It's much easier for people to
15 breathe with it, and you can remove it and change the filter
16 as you need to.

17 Q This first kind of respirator that you're
18 describing, when did you first see it?

19 A I don't know really. It was one of the first
20 ones I ever saw.

21 Q You indicated that you had gotten, purchased
22 some respirators in 19-what, '68, '67?

23 A Somewhere in there.

24 Q Do you have any records to reflect that you
25 purchased these respirators?

1 A I doubt if we do.

2 Q Who did you buy them from?

3 A I'm not sure, some local company that sells
4 safety equipment.

5 Q Who were some of those safety companies that
6 you generally deal with?

7 A There's Safety Equipment Company, and I'm not
8 sure what the name of it is here, and there's two or three
9 companies that sells constructions supplies and safety equip-
10 ment along with other things. One of these is Construction
11 Equipment Company.

12 Q Approximately how much did these respirators
13 cost per unit?

14 A Which ones are you talking about?

15 Q The ones you bought in '68.

16 A The first ones? I don't know, they were very
17 inexpensive.

18 Q And those are the respirators that didn't work?
19 The ones that you said were uncomfortable?

20 A Right.

21 ~~MR. HOOD:~~ Object to the
22 form.

23 Q The ones that were bureau approved, you really
24 didn't purchase until after the OSHA regulations, did you, Mr.
25 Covil?

1
2 MR. HOOD: Object to the
3 form of the question.

4 A I'm not sure - about the time OSHA regulations
5 come out. We had a rather difficult time finding some of those.

6 Q Do you know how many you purchased in '68?

7 A No, sir, I wouldn't.

8 Q A dozen, few dozen?

9 A I would guess it was ten or twelve dozen.

10 Q Ten or twelve dozen?

11 A Yes, sir.

12 Q Since you were an insulator back in the '30's
13 and early '40's, do you recall the old surgical mask type thing?
14 Did you ever see any of those?

15 A I've seen some of those.

16 Q And on the ban saw machines, the respirators
17 were used because the dust was so thick it would clog a man's
18 throat and his nose, would it not?

19 MR. HOOD: Object to the
20 form of the question.

21 A Yes.

22 Q And you've testified that you didn't know that
23 asbestos was hazardous to your health until 1966, so when you
24 were using those respirators in the ban saw operation, it was
25 solely because to prevent the cloggy stuff getting in your
throat, the men choking and not being able to breathe; is that

1 correct?

2 MR. HOOD: Object to the
3 form of the question.

4 A Well, I think I started buying them because this
5 could be a health situation, any kind of dust.

6 Q The clog in your throat and your nose.

7 A Right.

8 MR. HOOD: Object to the
9 form of the question.

10 MR. CARPENTER: Mr. Motley,
11 as a humanitarian gesture for the court reporter, in order
12 to perhaps prevent her from having to type each time object
13 to the form of the question, when we say object, can we have
14 a common understanding that unless the grounds for the objec-
15 tion are stated, that is the ground for the objection?

16 MR. MOTLEY: I thought that
17 was approved.

18 MR. CARPENTER: Just so
19 the court reporter understands it.

20 MR. HOOD: When I say
21 object, I'm saying object to the form of the question.

22 MR. CARPENTER: What I'm
23 saying is instead of her having to type that each time -

24 MR. HOOD: When we say
25 object, I want the objection to say "object to the form of the

1 question." It's no good if you don't say that.

2 Q Mr. Covil, with regard to these Bureau of Mine
3 approved respirators, did the manufacturers assist you in
4 locating some respirators?

5 ~~MR.~~ HOOD: Object to the
6 form of the question.

7 A As well as I remember, we went to NICA - when
8 I say NICA, I'm talking about National Insulation Contractors
9 Association, and got them to get this information.

10 Q NICA?

11 A Yes, sir.

12 Q And not the manufacturer.

13 A That's the way I remember.

14 MR. HOOD: Object to the
15 form of the question.

16 Q Where did you finally find the Bureau of Mines
17 approved respirators?

18 A I'm not really sure. What they did, they came
19 back and gave us the manufacturer's name and address and the
20 type respirator that they made, and I would assume at this
21 point I turned that over to Russell Johnson and asked him to
22 get some prices.

23 ~~Q~~ Do you have records after the fire reflecting
24 purchases of respirators?

25 ~~A~~ I'm sure we do.

go to 222 323

1 Q Let's talk about that safety manual, that 1977
2 safety manual. I believe you said your secretary got it
3 together.

4 A Yes, sir.

5 Q Did you have a safety manual before 1977?

6 A Yes, sir.

7 Q Where is the copy of it?

8 A I haven't been able to find it yet.

9 Q When was it written?

10 A I'm not sure, but we had an old one, and I
11 asked my secretary today to try to find it, and she said she
12 was working on it, but she hadn't found it.

13 Q This was after 1972 when OSHA suggested that
14 you put together a safety manual?

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

17 A It was about that time.

18 Q Prior to that time, you didn't have a safety
19 manual?

20 A No, sir, I don't think so.

21 MR. HOOD: Object to the
22 form of the question.

23 A This is a part of the overall manual. This is
24 a section on safety that we put in our overall manual.

25

1 MR. HOOD: Do y'all have
2 Mr. Covil's file? May I look at it please. I haven't read it.

3 Q Did the manufacturers of asbestos from time to
4 time before 1966 send you any copies of any medical articles
5 dealing with any health problems associated with asbestos?

6 MR. PRESSLEY: I object
7 on the grounds that that's an assumption of a fact that's not
8 in evidence.

9 MR. MOTLEY: Do you want
10 me to show you some of them?

11 MR. PRESSLEY: Show me who
12 you're talking about had them, when they provided them.

13 Q Mr. Covil, did any manufacturers with whom you
14 did business before 1966 ever send you any medical articles
15 or medical editorials dealing with any health problems associated
16 with asbestos?

17 A I don't remember.

18 DEFENDANTS: Object to the
19 form of the question.

20 A Asbestos is not a manufactured product.

21 Q I want to make sure you understand what I'm
22 talking about. We're talking about these defendants.

23 A Yeah, I know what you're talking about.

24 Q But you understood my question?

25 A Yeah, I understood what you're asking.

X

1 MR. DAVIES: The objection
2 runs to the question.

3 Q How would you like me to describe the products?
4 You tell me how to describe them.

5 A I was just pointing out that asbestos is a mine
6 product and not a manufactured product.

7 Q When it comes to you in the form of insulation,
8 what do you call that, a manufactured product or a process
9 product, or how do you describe it?

10 A Well, we never got asbestos except in a
11 manufactured product except cement, which was mined and ground
12 and milled.

13 Q You got insulation products which contained
14 asbestos.

15 A Yes, sir.

16 MR. DAVIES: Object to the
17 form of the question.

18 Q So, when I say these asbestos manufacturers,
19 you understand I'm talking about insulation products containing
20 asbestos.

21 A I'm not trying to get -

22 Q No, I just want to make sure that my friends
23 here aren't confused unduly.

24 MR. CARPENTER: We object
25 to the designation.

1 MR. MOTLEY: Friends? I
2 thought you liked me.

3 Q By the way, Mr. Covil, you've never provided
4 us with any -

5 MR. HORGER: Object to the
6 form of the question.

7 Q - of this information before you brought this
8 stuff in here before this deposition.

9 A No.

10 Q Mr. Covil, tell me something about Covil
11 Corporation's operations in North Carolina.

12 A About our operations?

13 Q Yes, sir, is it a separate corporation?

14 A No, sir, it's the same corporation.

15 Q Would you say that you do most of your business
16 in South Carolina and North Carolina?

17 MR. HORGER: Object to the
18 form of the question.

19 Q Well, you say for me.

20 A No, I wouldn't say that. The most of it. We
21 do a good amount of business in North Carolina, South
22 Carolina, Georgia, Florida and Alabama.

23 Q Is North Carolina a principal place where you
24 do business?

25 A Yes, sir, it is.

X
1 Q And the Covil Corporation is no separate
2 entity in North Carolina; it's all the Covil Corporation.

3 A It's all the corporation.

4 Q You were talking earlier about some insulation
5 companies which might be friendlier with the union than you
6 are. Would you tell me some of those that you're talking about.

7 A I'd rather not.

8 Q I'm afraid you have to. I'm not going to go
9 tell them you said that if you're worried about that.

10 MR. BRITTON: Can we stay
11 out of that? If it affects his business aspect -

12 MR. MOTLEY: I don't want
13 to do that at all.

14 Q Would you just tell me which, because I don't
15 know, which contractors are union shops. You don't have to say
16 they're close to the union.

17 MR. BRITTON: Do you have
18 any objection to answering that?

19 A Not which ones are union shops. In our immediate
20 area, Star Davis, Porter Hayden, North Brothers, Shuchem
21 Fletcher. Those are basically the main ones.

22 Q You are not aware, sir, that North Brothers is
23 a defendant in a suit pending in South Carolina?

24 A No, sir, I'm not.

25 MR. HORGER: Object to the

1 form of the question.

2 Q Mr. Covil, are you familiar with the J. R. Dean
3 Company?

4 A Yes, sir.

5 Q Tell me what you know about the J. R. Dean
6 Company.

7 A I think J. R. Dean Company only sells materials,
8 I don't believe they do any contract work.

9 Q Who do they sell materials to?

10 A Anybody they can, I guess. Mostly to Insulation
11 contractors, industrial plants, navy yard, general contractors.

12 Q They sell to the navy yard?

13 A I think they do. I'm not positive, but I believe
14 they do.

15 Q Did you ever sell to the navy yard?

16 A No, sir, I don't think we've ever sold - we may
17 have sold a small order, but we're not one of the privileged
18 people in the Charleston navy yards.

19 Q Did you sell to West Virginia Pulp and Paper
20 Company at all?

21 A I don't believe. If we did, it was a very
22 small amount and a very small order.

23 Q I believe you testified yesterday that North
24 Brothers is the only insulation company operating in North and
25 South Carolina which is larger than your operation.

1 A I believe that to be a fact.

2 Q Does Daniel Construction Company sell insulation
3 products?

4 A They sell installed products.

5 Q I don't understand what you mean.

6 A Daniel Construction Company acts as a total
7 construction firm. They do everything on a lot of their jobs,
8 install the insulation, electrical work and everything.

9 Q They don't retail insulation products?

10 A No, sir.

11 Q Did you from time to time sell insulation
12 products to Daniel Construction Company?

13 A Yes, sir.

14 Q Is that one of your bigger customers?

15 A That's one of our larger customers.

16 Q Did they purchase mostly from you?

17 A They purchase from anybody. I'd say we probably
18 get more than any other single distributor.

19 Q Have you ever heard of Bell Mines Limited?

20 A Bell Mines Limited?

21 Q Yes, sir.

22 A Yes, I have.

23 Q What do you know about Bell Mines Limited?

24 A All I know is that they are a Canadian firm and
25 have asbestos mines in Canada. That's all I know about them.

1 Q Have you ever purchased any raw asbestos fibers
2 from Bell Mines Limited?

3 A I don't remember. I don't remember that we have.

4 Q Have you ever purchased any raw asbestos - do
5 you know what I mean by raw asbestos fibers? A bag of asbestos
6 with nothing else in it.

7 A Yes, sir.

8 Q Have you ever purchased any bags of a hundred
9 per cent asbestos fibers from anyone?

10 A Yes, sir.

11 Q From whom have you purchased it?

12 A I believe we purchased some from Johns-Manville
13 in the past. We've purchased from National Gypsum.

14 Q National Gypsum?

15 A I think so. There's one other firm we purchased
16 some from, but I don't remember the name of it.

17 Q Did you ever purchase any from Westinghouse,
18 or any asbestos products from Westinghouse?

19 A No, sir, not that I know of.

20 Q What would you do with these raw asbestos fibers
21 that you would purchase from Johns-Manville and National Gypsum
22 and others?

23 A When we did purchase this, we used it as a
24 finishing cement, and this is what I believe is termed as
25 asbestos shorts.

1 identified anything. All we've done is say have you ever done
2 such and such.

3 Q How was these asbestos shorts which you've
4 described as being a hundred per cent asbestos, you said you
5 used them for cement. How physically did you do that?

6 A Mix them up with water and made what insulators
7 call mud. We'd mix it up and make a soft material, and they
8 spread it on a surface with a trowel to smooth up insulation
9 surfaces.

10 Q I believe you testified yesterday that you
11 don't recall -

12 MR. HORGER: Object to the
13 form of the question.

14 Q - that you don't recall seeing any caution labels
15 on asbestos products before 1968; does that hold true also for
16 the asbestos shorts that we're talking about?

17 A Yes, sir.

18 MR. HORGER: Object to the
19 form of the question.

20 Q Mr. Covil, the wages that are paid in the area
21 that you operate, insulation mechanics, are you familiar with
22 how they compare with the wages paid in other parts of the
23 country?

24 A That picks up a pretty broad area.

25 Q Let's say South Carolina.

1 A South Carolina, the wages in South Carolina are
2 generally lower than they are -

3 Q And isn't it true that come bargaining time with
4 the union that they were always trying to get more money
5 naturally, weren't they?

6 A Yes, sir.

7 MR. HORGER: Object to the
8 form of the question.

9 Q While you were a business agent of the union,
10 I assume you did some contract negotiating.

11 A Yes, sir.

12 Q And you were trying to get more money for the
13 workers during that period of time, were you not?

14 MR. HORGER: Object to the
15 form of the question.

16 A I don't remember ever going into negotiations when
17 I was business agent.

18 Q But, you realize that the union is trying to
19 get higher wages for their members?

20 A Yes, sir.

21 Q Did your attorneys ever tell you that they might
22 have had a conversation with -

23 MR. BRITTON: I'm going to
24 have to object on the attorney-client.

25 MR. MOTLEY: I'm not going

1 to get into anything that hurts you, I don't think. Let me
2 ask the question, okay, and then if it's offensive to the
3 Court, then -

4 Q - that the attorneys for these various manufactu-
5 rers were asking them to either not bring the cross action
6 that you brought or soft pedal it?

7 MR. BRITTON: I'll have
8 to object to that.

9 MR. MOTLEY: I assume
10 you're instructing him not to answer that.

11 MR. BRITTON: Yes.

12 MR. MOTLEY: I note you
13 didn't object to any conversations, or did you, that you might
14 have had with Mr. Covil with regard to the agreement that we
15 allegedly had.

16 MR. BRITTON: Is there an
17 earlier question that you're asking about?

18 MR. MOTLEY: Sir.

19 MR. BRITTON: Is there an
20 earlier question? I didn't understand that they'd run between
21 us and our firm.

22 MR. MOTLEY: I haven't
23 asked anything. I'm talking about these other lawyers asking
24 about conversations. Did they not ask about conversations?

25 MR. BRITTON: My only objec-

1 tion to your question was any communication between our firm
2 and him, as I understand the question was directed in that line.

3 MR. HORGER: I don't know
4 if I was in here all the time, but I don't think any question
5 was asked in regard to what discussions the attorneys had.
6 The question was asked directly of the witness.

7 MR. MOTLEY: I wasn't here.

8 Q Have you bid on any schools since the asbestos
9 free products have been on the market?

10 A Yes, sir.

11 Q Are you using asbestos-free products on these
12 school buildings now?

13 A Yes, sir.

14 MR. HOOD: Object to the
15 form of the question.

16 Q Have you made a search of any records you might
17 have at any branch offices?

18 A Pertaining to what?

19 Q Employees, products, job files, invoices, that
20 sort of thing.

21 A We have where they've been questioned.

22 Q Sir?

23 A Any that have been questioned we have. We're
24 checking on some now.

25 Q Mr. Covil, you talked about asbestos cloth and

1 the fact that we sometimes call when dust comes out - we call
2 that a liberation of dust. So, when I say dust is liberated,
3 I mean that when you're working with it, dust is emitted or
4 flies out. Is dust liberated when asbestos cloth is removed?

5 MR. HOOD: Object to the
6 form of the question.

7 MR. BRITTON: Are you
8 talking about removed from a box?

9 MR. MOTLEY: No, removed
10 from a job. You know, you go and tear down old insulation, and
11 you tear down the old insulation cloth, too. When you tear
12 down the old insulation cloth, is dust liberated?

13 MR. HOOD: Object to the
14 form of the question.

15 A I believe in the current treated asbestos
16 cloth, it is not in an amount that's harmful.

17 MR. HOOD: I withdraw the
18 objection.

19 Q And the cloth that's treated came on the market
20 after 1972?

21 A Yes, sir.

22 MR. HOOD: Object to the
23 form of the question.

24 Q In removing old asbestos cloth -

25 MR. HOOD: Note my objections

1 for the record before you move on.

2 MR. MOTLEY: You were
3 objecting to the form. I understand.

4 Q In removing asbestos cloth before it was treated,
5 was dust emitted or liberated when you removed it from old
6 insulation jobs?

7 MR. HOOD: Object to the
8 form of the question.

9 A I would say so. You're aware now that anytime
10 you're removing old insulation that contains asbestos that
11 there's certain OSHA regulations in how you do this.

12 Q Why don't you describe that for me and the jury,
13 what you put on when you remove this.

14 A Well, what I'm saying is that if you remove old
15 insulation that contained asbestos, like asbestos cloth, asbestos
16 cement and stuff like that, you have to put up a warning sign
17 that asbestos was being removed and it's a dust hazard, and
18 you have to take all this material off and put it in a plastic
19 bag and haul it off to a land filled dump.

20 Q To a land filled dump.

21 A Yes, sir.

22 Q Do you wear any additional protective clothing
23 when you do that?

24 A Yes, sir, most of them wear respirators which
25 is about the only protection you have.

Q Have you been to Dupont, any Dupont jobs, and watched those fellows remove any old asbestos insulations since 1972?

A I have not.

Q Did you ever receive any correspondence from any of these manufacturers, again, the same definition that you're comfortable with - manufacturers of products, insulation products, which contained asbestos?

A No, sir.

Q Did they ever send you any minutes or proceedings of an organization known as the Asbestos Textile Institute?

A No, sir.

Q Did they ever send you any minutes or proceedings of an organization known as the National Insulation Manufacturers Association or NIMA?

A No, sir.

Q How about TIMA - the Thermal Insulation Manufacturers Association?

A No, sir.

Q How about the Magnesia, 85 per cent Magnesia Manufacturers Association, or something like that?

A I don't think so. Of course, you know 85 per cent Magnesia's been discontinued since about 1950.

Q But you don't recall ever receiving any minutes from any of those proceedings?

1 A No.

2 Q Particularly, Mr. Covil, did you ever receive
3 from the Raybestos-Manhattan or Johns-Manville Corporation a
4 copy of an article, of a paper delivered in 1963 written by
5 Dr. Irving Selikoff, with regard to certain cancers and other
6 hazards associated with breathing asbestos dust by insulators?

7 MR. HOOD: Object to the
8 form of the question.

9 A I don't remember.

10 MR. HOOD: What was the
11 year of the question?

12 MR. MOTLEY: I asked him
13 of the paper delivered in 1963 and published in 1964.

14 Q I believe you testified that in 1967 you attended
15 a NICA convention at which Dr. Selikoff spoke.

16 A Yes, sir.

17 Q Was his name Irving Selikoff?

18 A Yes, sir.

19 Q I hand you this article, and ask you if any
20 of the manufacturers ever sent you a copy of that particular -
21 excuse me, if Raybestos-Manhattan or Johns-Manville Corporation
22 ever sent you a copy of that article?

23 MR. HOOD: Object to the
24 form of the question.

25 A I don't believe anybody ever sent me a copy of

1 that.

2 MR. MOTLEY: For the
3 record, this is entitled "Asbestos Exposure and
4 by Drs. Selikoff, Churg and Hammond, stated the journal of
5 the medical association April 6, 1964, and it states on the
6 bottom "read before a joint meeting of the sections on radiology
7 and diseases of the chest and the American College of Chest
8 Physicians at the 112th annual meeting of the American Medical
9 Association, Atlantic City, New Jersey, June 17, 1963."

10 Q How long have you had your computer system?

11 A About three years.

12 Q Three years?

13 A Yes.

14 Q So, it wasn't damaged in the fire.

15 A Well, no, the computer was not. We didn't have
16 it until after the fire.

17 Q I'm an old computer salesman. As a matter of
18 curiosity, what kind do you have?

19 A Burroughs B-700. We didn't have it. It was on
20 order and hadn't been delivered when we had the fire.

21 MR. CARPENTER: I object
22 to that last question.

23 Q I'm just going to run through these things real
24 quick to see if there's anything I want to touch on. We won't
25 be through, of course. Terry's got a lot of things tomorrow.

1 I won't be but a second, Mr. Covil, and we can quit for the
2 day. Mr. Covil, did you ever receive any written instructions
3 or requests from any of the manufacturers with whom you did
4 business after 1964 to use the cartons which allegedly contained
5 caution or warning labels before you - in other words, not to
6 place them in the rotation - let me ask you this: Did you rotate
7 your stock; first in first out?

8 A Yes, sir.

9 Q Did that apply to insulation products containing
10 asbestos?

11 A Yes.

12 Q Did you ever receive any instructions from any
13 manufacturers who sold you insulation products containing
14 asbestos from 1964 until 1972 asking you that you do not
15 rotate your products, but place on the shelves first cartons
16 which contained caution labels?

17 MR. HOOD: Object to the
18 form of the question.

19 A No, sir.

20 Q Do you have any copies of the Outlook Magazine,
21 any old copies of it?

22 A Yes, sir.

23 Q How far back do they go?

24 A Probably a couple of years. We usually keep
25 them a year or two years back.

1 Q I'm interested - and I don't want to unduly
2 burden you, Mr. Covil - but I'd like to see any of these
3 magazines dating back before 1972, please, if you've got any.
4 If you'd just look and see. You might have some laying around
5 the house or something.

6 A I'll look and see.

7 MR. ARNOLD: What magazine
8 was that?

9 MR. MOTLEY: Outlook.

10 Q What is pneumoconiosis?

11 MR. HOOD: Object to the
12 form of the question.

13 A I don't believe I know.

14 MR. MOTLEY: Mr. Covil,
15 thank you. Mr. Richardson will have some more questions for
16 you in the morning. I appreciate the courtesy extended,
17 gentlemen, so I don't have to come back.

18 MR. HOOD: Before we leave,
19 the questions of Mr. Richardson aren't that extensive, and
20 the witness would like to go ahead and get through so he can
21 work tomorrow.

22 MR. MOTLEY: What do you
23 mean the questions aren't that extensive.

24 MR. HOOD: I said if.

25 MR. MOTLEY: I'm sorry. He

1 has got three or four hours.

2 MR. HOOD: I'm sure Mr.
3 Covil has been tied up for two days. If you could finish
4 with him now, he wants to get finished. Let's go ahead.

5 MR. RICHARDSON: Bobby,
6 I've got to go back into all the products and all the
7 plaintiffs.

8 MR. MOTLEY: Mr. Britton
9 has requested on behalf of Mr. Covil that we adjourn around
10 five o'clock, and we'd be till nine or ten or eleven o'clock
11 tonight, I can tell you that.

12 MR. HOOD: I was just
13 giving him the opportunity, whatever he wants to do.

14 MR. COVIL: I'll come back
15 in the morning.

16 ADJOURNED AT 5:00 P.M.
17 QUESTIONING TO BE RESUMED
18 JULY 15, 1977, 9:00 A.M.
19
20
21
22
23
24
25

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENVILLE)

CERTIFICATE

3 I, SUE G. ASHLEY, a Notary Public for the State of
4 South Carolina at Large, do hereby certify:

5 That on the 14th day of July, 1977, there appeared
6 before me pursuant to notice, Palmer Covil, as a witness in
7 the above-entitled cause;

8 That the said deposition was then taken at the time
9 and place mentioned, 409 E. North Street, Greenville, South
10 Carolina, beginning at the hour of 9:20 a.m. and ending at
11 5:00 p.m. of said date;

12 That the appearances were as stated in page two (2)
13 herein;

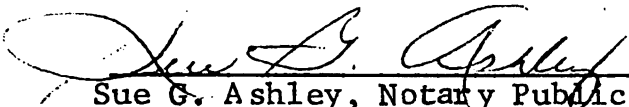
14 That the said witness was sworn by me and examined,
15 to tell the truth, and nothing but the truth in said cause;

16 That the foregoing testimony was taken by me in
17 shorthand and thereafter reduced to typewriting by me, and
18 pages one hundred thirty-six (136) through three hundred thirty-
19 seven (337) contain a full, true and correct transcription of
20 the testimony of said witness taken by me;

21 That the reading and signing of the witness to the
22 deposition was expressly waived by the witness and respective
23 counsel;

24 That I am not of kin or in anywise associated with
25 any of the parties to said cause of action, or their counsel,
and that I am not interested in the event thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and
seal this 26th day of July, 1977.


Sue G. Ashley, Notary Public
My commission expires 6/10/80.

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
2 COUNTY OF SPARTANBURG SEVENTH JUDICIAL CIRCUIT
3 JERRY HOWARD CRAWFORD and EVELYN KAY CRAWFORD,
4 Plaintiffs,
5 vs. CASE NO. 2017-CP-42-04429
6 CELEANESE CORPORATION, et al.,
7 Defendants.
8

9 DEPOSITION OF: JERRY HOWARD CRAWFORD, Vol. I

10 DATE: February 6, 2018

11 TIME: 10:16 a.m.

12 LOCATION: The Sleep Inn
13 834 Windslow Avenue
Gaffney, SC

14 TAKEN BY: Counsel for the Plaintiff

15 REPORTED BY: JENNA B. PARSONS, Court Reporter
16
17
18
19
20
21
22
23
24
25

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9 Wac@roecassidy.com

10 ALSO PRESENT:

11 Eric Glacier, Videographer

12 (INDEX AT REAR OF TRANSCRIPT)

1 (DFT. EXH. HW1, HW2, HW3, HW4, HW5,
2 HW6, HW7 for identification.)
3 BY MR. PHILLIPS: Deposition taken in accordance
4 with the South Carolina rules. All rights that it
5 provides are invoked -- the -- one objection by
6 defendant -- objections for all defendants unless
7 somebody disclaims it -- and what was the other --
8 yeah, and objections except to form of the question
9 as stated in the rules are reserved until time of
10 trial.

11 The video -- we have made special
12 accommodation to plaintiff's counsel to allow them
13 to shoot a direct examination de bene esse before
14 we take a cross-examination. We cannot guarantee
15 that for all cases, but for this case we were glad
16 to make that accommodation on the request.

17 MR. HENDERSON: If anybody needs to
18 make an objection, can you do it after he's
19 answered. I'm not going to argue that it wasn't
20 timely. I know sometimes it can be kind of
21 difficult; we're dealing with everyday folks, so I
22 just want to make sure that I put that on the
23 record also.

24 MR. PHILLIPS: We talk over each other
25 sometimes.

1 MR. HENDERSON: Every now and then.
2 Occupational hazard.

3 MR. PHILLIPS: That is right.

4 (Off record conversation took place.)

5 THE VIDEOGRAPHER: We are on the record
6 at 10:16 a.m. This is the videotaped deposition of
7 Jerry H. Crawford in the matter of
8 Jerry Howard Crawford and Evelyn Kay Crawford
9 versus Ceeleese Corporation et al., cause number
10 2017-CP-4204429.

11 This deposition is being held at the
12 Sleep Inn at 834 Windslow Avenue in Gaffney, South
13 Carolina. Will the court reporter please swear in
14 the deponent.

15 JERRY HOWARD CRAWFORD
16 being first duly sworn, testified as follows:

17 THE WITNESS: I do.

18 THE VIDEOGRAPHER: Please proceed.

19 EXAMINATION

20 BY MR. HENDERSON:

21 Q. Good morning.

22 A. Good morning.

23 Q. Will you tell us your full name,
24 please.

25 A. Jerry Howard Crawford.

1 Q. Mr. Crawford, you ever have to answer
2 questions from lawyers before?

3 A. No, sir.

4 Q. You a little bit nervous today?

5 A. Just a little bit.

6 Q. Okay. I told you I'd start off with
7 some easy questions, all right?

8 A. Okay.

9 Q. Now, the lady who's sitting to your
10 right -- I told you she's got to write down
11 everything that gets said, okay?

12 A. Okay.

13 Q. So the one thing that will make her
14 really mad is if people talk at the same time, all
15 right?

16 A. Okay.

17 Q. And if she gets mad, she's going to
18 throw her shoe at me and not at you, okay?

19 A. Okay.

20 Q. All right. So I'm going to try to make
21 sure that -- make sure that you let me finish my
22 question before you answer. I'll let you finish
23 your answer before I ask you another question,
24 okay?

25 A. Okay.

1 Q. And every time I ask you something or
2 anybody else asks you something, you got to answer
3 out loud, all right?

4 A. Okay. I got it.

5 Q. She can't take down like nods, head
6 shakes, anything like that.

7 A. Right. I got it. I got it.

8 Q. All right. And the reason we've got
9 the video camera there at the back is because we
10 may have to show this tape in court some day, so
11 just kind of pretend that the jury is on the other
12 side of that camera lens, all right?

13 A. Okay.

14 Q. Now, Mr. Crawford, where do you live?

15 A. At 400 Pacolet Highway, Gaffney, South
16 Carolina.

17 Q. Were you born and raised in Gaffney?

18 A. Yes, I was.

19 Q. Lived any place else during your life?

20 A. Only in Blacksburg for a little while.

21 Q. That's South Carolina, also?

22 A. Yeah, South Carolina too.

23 Q. So born and bred in South Carolina?

24 A. Right. Yes, sir.

25 Q. Are you married?

1 A. Yes, sir.

2 Q. What's your wife's name?

3 A. Evelyn Kay Crawford.

4 Q. Y'all have kids?

5 A. Yes, we do.

6 Q. How many kids?

7 A. We have three.

8 Q. Okay. What are their names?

9 A. Danny Ray Crawford and Tessa Quinn.

10 Q. Yeah.

11 A. And Patty Giles.

12 Q. And I'm not going to make you name them
13 all, but you got grandkids too, don't you?

14 A. Oh, I do.

15 Q. How many grandkids?

16 A. Eight.

17 Q. Eight?

18 A. Yeah.

19 Q. I hear you got great-grandkids too?

20 A. Yeah, I got -- I got -- well, I got
21 four.

22 Q. Is that right?

23 A. Four. Yeah.

24 Q. Now, one of your grandkids just got
25 into Harvard; is that right?

1 A. Oh, that's right.

2 Q. Is that right?

3 A. She did.

4 Q. Are you going to help pay for that bill
5 for go to Harvard?

6 A. Oh, I'd like to. I really would.

7 Q. You're under oath.

8 A. I really would.

9 Q. Sitting here today, Mr. Crawford, are
10 you in good health?

11 A. No.

12 Q. Okay. Why do you say no?

13 A. Because I have lung cancer.

14 Q. Do you know what kind of lung cancer
15 you have?

16 A. All I know it's the type that is caused
17 by breathing asbestos.

18 Q. Let me ask it this way --

19 MR. PHILLIPS: Move to strike that.

20 MR. HENDERSON:

21 Q. Does the word mesothelioma mean
22 anything to you?

23 MR. PHILLIPS: Objection to the form.

24 THE WITNESS: Yes.

25 BY MR. HENDERSON:

1 Q. Why does it mean something to you?

2 A. That's the kind of cancer that is
3 caused by asbestos.

4 Q. Have you had -- I'm asking a yes or no
5 question now, okay?

6 A. Okay.

7 Q. Have you had conversations with your
8 doctors about what causes the type of cancer that
9 you have?

10 A. Yes, I have.

11 MR. PHILLIPS: Object to the form.

12 MR. HENDERSON:

13 Q. Based on the conversations you have had
14 with your doctors, what is your understanding of
15 what caused the type of cancer that you have?

16 MR. PHILLIPS: Object to the form.

17 THE WITNESS: My doctor told me that
18 asbestos is the only thing I can get it from.

19 BY MR. HENDERSON:

20 Q. Is there a time in your life when you
21 were exposed to asbestos?

22 A. Yes, sir.

23 Q. When was that?

24 A. In the year between 1970 and 1974.

25 Q. What was going on in your life between

1 1970 and 1974 that exposed you to asbestos?

2 A. That's the time I worked at Hoechst
3 fiber in Spartanburg.

4 Q. Here in Spartanburg, South Carolina?

5 A. Yes. Yes.

6 Q. Now, how were you exposed to asbestos
7 while you were working in the Spartanburg -- at
8 Hoechst in Spartanburg?

9 MS. SHOFNER: Object to the form.

10 THE WITNESS: McDaniels Construction
11 [sic] was installing new poly lines, and they had
12 to put -- it's got to have hot water pipes -- and
13 when it was putting the insulation -- cutting
14 insulation down, they put a good bit of dust in the
15 air.

16 MR. HENDERSON:

17 Q. Now, let's take a step back. You
18 mentioned something called poly lines.

19 A. Oh yeah.

20 Q. What kind of business was Hoechst in
21 Spartanburg?

22 A. It was a -- it was a fiber line.
23 They -- they had -- they made poly and it changed
24 it over to fiber.

25 Q. And what is poly?

1 A. It's a -- it's a -- that's where the --
2 the -- the whole process starts. You know, it's a
3 -- it's a -- what it looks like is a hot clear --
4 it's a hot -- white-like paste and it comes on a --
5 it comes out hot through the ceiling and it goes
6 over a drum and it goes through some -- the cooling
7 across and it goes back and it cuts it up into
8 little squares.

9 Q. What do you do with this? What do you
10 do with poly?

11 A. And then they transfer it over to
12 another department where they change it over to
13 fiber.

14 Q. So am I understanding you correctly,
15 poly is a type of fiber --

16 A. Yeah. Yeah.

17 Q. -- they made at Hoechst?

18 A. Yeah. Yeah. Okay. What it starts
19 off, it's poly, I know -- it's poly when it starts
20 off in the poly building. See, I worked in the
21 poly building -- what they call the poly building.
22 It's what they call it.

23 Q. And you answered my next question. I
24 was just fixing to ask you --

25 A. Yeah. Okay.

1 Q. -- where did you work?

2 A. Okay.

3 Q. You said the poly building?

4 A. Yeah. That's right.

5 Q. Can you describe the poly building for
6 the jury -- for folks who haven't seen it before.

7 A. Oh wow.

8 Q. How many floors did it have?

9 A. It's got -- I ain't sure exactly. I
10 know it's got at least three or four -- four I
11 think. It's at least three or four. I don't know
12 exactly.

13 Q. What floor did you work on?

14 A. Second floor.

15 Q. And what was your job on the second
16 floor in the poly building at Hoechst?

17 A. Oh, back then it was to change the
18 liquid poly -- the hot liquid -- to change it over
19 to chips and it then it goes in a big -- like a big
20 silo.

21 Q. And what exactly were you doing each
22 day when you did that job?

23 A. Just -- just -- all right. When I was
24 in on the continuous line when it completely came
25 out -- when it came out of the top -- over the top

1 -- you added -- when it was ready, you had to open
2 up a valve and let it come out on a great big
3 cooling drum.

4 It had water all over, and it was just
5 turning around. And then it would go through a
6 trough and then it goes through -- and then it goes
7 through to what they call a slicer-dicer. It cuts
8 it in little slices and then it goes in a big
9 container, but -- all right.

10 That was -- and when another line's
11 off, you -- when it got ready, you go to another
12 line. It was running. There was like several
13 lines running at one time. They take about an hour
14 a piece, and it was so many hours apart they keep
15 coming off.

16 And when I was -- I was working on the
17 other side too -- the continuous line, and they
18 just continuously -- run continuously.

19 Q. I'm going to ask you a couple of
20 follow-ups -- I'm sorry. Did I interrupt you?

21 A. No. No.

22 Q. I didn't meant to.

23 I'm going to ask you a couple of
24 follow-up questions to make sure I understand what
25 you are describing for us.

1 A. Okay.

2 Q. Let me start this way. When you worked
3 at Hoechst, did you work at the same location
4 during the entire time you were there or did you
5 work at more than one location?

6 A. Yeah, at more than one location.

7 Q. How many different locations did you
8 work at?

9 A. Oh, I know three locations.

10 Q. What were those three locations?

11 A. It was -- the poly building where they
12 run batches off, and the continuous poly building,
13 and also the warehouse.

14 MS. SHOFNER: I'm sorry. What was the
15 third one?

16 MR. HENDERSON: I believe he said
17 warehouse; is that right?

18 THE WITNESS: Warehouse. Warehouse,
19 yes.

20 MS. SHOFNER: All right.

21 MR. HENDERSON: Are you from South
22 Carolina because I didn't understand it the first
23 time; glad it wasn't just me.

24 MS. SHOFNER: I'm not from South
25 Carolina, but...

1 MR. HENDERSON: You can tell -- you can
2 who's from here can't you?

3 BY MR. HENDERSON:

4 Q. That's not your fault. We're just
5 saying that's our bad that we don't understand.

6 A. Oh, I can rephrase that.

7 MR. HENDERSON: No, it's okay.

8 MS. SHOFNER: No, no, you're good.
9 You're good.

10 MR. HENDERSON: Your answer was just
11 fine. The problem is with us; not with you. All
12 right?

13 THE WITNESS: Oh, okay.

14 BY MR. HENDERSON:

15 Q. So did you work at those three
16 locations in that order -- the poly building, then
17 the continuous line, and then the warehouse?

18 A. Oh, I'm sorry.

19 Q. You -- you told us that you worked at
20 three different places?

21 A. Oh, right. Yes. Yes.

22 Q. You said the poly building, the
23 continuous line --

24 A. Yeah.

25 Q. -- and then the warehouse?

1 A. Yeah.

2 Q. Did you work at those three different
3 places in that order? First, the poly building,
4 then the continuous line, and then the warehouse?

5 A. No, sir.

6 Q. Okay. Where did you work first when
7 you went out to Hoechst?

8 A. The poly building.

9 Q. Where did you work second?

10 A. The warehouse.

11 Q. And third?

12 A. Over there on the continuous line.

13 It's the poly building too. It's poly line too,
14 but it's continuous.

15 Q. So earlier you were describing the
16 process to us.

17 A. Uh-huh.

18 Q. What I want to ask you is: What was
19 your job when you worked in the poly building?

20 A. It's to -- I and some other guys would
21 -- when it got ready -- when the poly came out, we
22 would open it up -- the valves -- and let the poly
23 out -- actually, to change it over from the hot
24 liquid to change it over to little dices.

25 Q. You mentioned hot liquid. What's the

1 hot liquid? Is that the poly --

2 A. Yeah, it's the poly.

3 Q. -- or something else?

4 A. Yeah, it's the poly. It is the poly.

5 And it comes out up from over the
6 ceiling. That's where it came from. And then it
7 comes on the drum -- a cooling drum where there's
8 water all around it, and it's big. It continues to
9 turn it and then you pulled it off and when it
10 comes off you just roll it up with your hands. You
11 got to have gloves on. And it's wet gloves. And
12 then you rolled it up and you just lay it down.
13 And you take the end of it around up under the drum
14 on around and then you put it in the crossing
15 trough.

16 As you go by you let the flaps down --
17 little rollers -- that was made like a 45-degree
18 angle and you just set them down on the way across
19 and then you run it on through and put it in the
20 dicer back there at the back -- what they call --
21 what they call -- slicer-dicer is what they call
22 it.

23 Q. So do you believe you were exposed to
24 asbestos when you were working in the poly building
25 a Hoechst?

1 MS. SHOFNER: Object to the form.

2 THE WITNESS: Yes.

3 MR. HENDERSON:

4 Q. How?

5 A. Because when Daniel construction
6 company put in the new continuous line they was --
7 they had to have -- it's got to have steam pipes,
8 and they was cutting a lot of steam -- insulation
9 -- was cutting insulation and was creating a bit of
10 dust.

11 Q. You've mentioned a company called
12 Daniel a couple of times?

13 A. Oh yeah.

14 Q. And I want you to explain how Daniel
15 fit in with the work that was going on at Hoechst
16 when you were there.

17 MR. MAJOR: Object to the form.

18 THE WITNESS: Oh, Daniels [sic] is the
19 company that put the new lines in.

20 BY MR. HENDERSON:

21 Q. When you say the new lines, is that the
22 same as the continuous lines?

23 A. That's right. That is right. It is
24 the continuous line.

25 Q. But you've used that word lines a few

1 times. What do you mean when you say lines?

2 A. Oh, a line is the part where the poly
3 comes out and -- and it -- and it goes to --
4 through the trough and cooling and it goes in the
5 dicer -- the slicer-dicer.

6 Q. So is a line like an assembly line?

7 A. No, I wouldn't call it an assembly line
8 'cause it just -- when you get started, it just
9 keeps going. You have to keep watching it to keep
10 it going.

11 Q. I understand. If I follow you though,
12 there is more than one line out there processing
13 the poly?

14 A. Oh yes.

15 Q. How many were there total in the poly
16 building?

17 A. Okay. In the side that just runs the
18 batches off, it was -- I don't know exactly. I
19 know -- at somewhere around 12.

20 Q. If I understand you correctly -- and
21 you correct me if I'm wrong -- while you were
22 working in the poly building, construction was done
23 to create some new continuous lines?

24 A. Oh yes. Oh yes.

25 MR. MAJOR: Object to the form.

1 THE WITNESS: It was -- they made a new
2 building right beside of it -- exactly right beside
3 -- right to it.

4 BY MR. HENDERSON:

5 Q. Sometimes when we get an objection, I
6 may ask you a question a different way.

7 A. Oh.

8 Q. It's okay. You didn't do anything
9 wrong.

10 Was there any construction at Hoechst
11 while you were working there?

12 A. Yes, sir.

13 Q. What was constructed while you were
14 working at Hoechst?

15 A. The new continuous line.

16 Q. When did that construction happen while
17 you were at Hoechst?

18 A. It -- I can't remember exactly when,
19 but it was -- it was in that time range.

20 Q. Where were you working when the new
21 construction happened?

22 A. In the poly building.

23 Q. And where was this new construction in
24 relation to the poly building?

25 A. It was really -- it was right beside of

1 it because it was part of the poly building. It
2 was an addition. It was an addition to the
3 continuous -- to the -- to the side that runs the
4 batches off.

5 Q. And who did the construction?

6 A. Daniel Construction Company.

7 Q. Did that construction expose you to
8 asbestos?

9 MS. SHOFNER: Object to the form.

10 MR. MAJOR: Object to the form.

11 BY MR. HENDERSON:

12 Q. They don't like my question. It's
13 okay.

14 A. Oh.

15 Q. Did you hear my question okay?

16 A. I did.

17 Q. I can repeat it if you need me to. Do
18 you need me to? I'll say it again to be safe.

19 A. Okay.

20 Q. I'll tell you what's going to happen
21 though. I'm going to ask you my question, then
22 they are going to object. Then after they object,
23 you can answer, okay?

24 A. Okay.

25 Q. We were talking about construction of

1 the new continuous lines and my question to you
2 was: Did that construction expose you to asbestos?

3 MS. SHOFNER: Object to the form.

4 MR. MAJOR: Object to the form.

5 BY MR. HENDERSON:

6 Q. You can answer.

7 A. Oh yes, it did. It did because they
8 was cutting a lot of insulation and it was creating
9 a good bit of dust.

10 Q. Did you breathe that dust in?

11 MR. MAJOR: Object to the form.

12 THE WITNESS: Yes.

13 BY MR. HENDERSON:

14 Q. What were they cutting this insulation
15 for?

16 A. Oh, to go on steam pipes.

17 Q. And where were these steam pipes
18 located?

19 A. They was right next to the poly lines.
20 As a matter of fact, it was right -- it came down
21 and it went in where the hot water trough was
22 because the water had to be hot because it -- when
23 the poly came -- when the liquid came out of the --
24 where it came out over the top and went over the
25 drum and if it went through the water -- went

1 through water trough before it got to the
2 slicer-dicer. And then if it was too hot, it would
3 crack up and bust. It had to be a certain
4 temperature. It had to be warm.

5 Q. Right now, Mr. Crawford, are you
6 talking to us about the poly building or continuous
7 line building?

8 A. Both of them were the same.

9 Q. They were both built the same way?

10 A. Both of them had to go through a trough
11 -- a water trough.

12 Q. Did they both have steam lines?

13 A. Yes, they both had steam lines, yeah.

14 Q. And I'm calling it the continuous line
15 building. Is that the right name for that
16 building?

17 A. Yeah, that's what they called it, yeah.

18 Q. Okay. If I use a name that doesn't
19 make any sense, you correct me, okay?

20 A. Yeah. Yeah.

21 Q. Was there insulation on the pipes in
22 the poly building and the continuous line
23 building --

24 A. Oh, yeah. Oh, yes.

25 Q. No, that's okay. Make sure you let me

1 finish my question --

2 A. Oh, I'm sorry. I'm sorry.

3 Q. -- we're going to get in trouble, okay?

4 A. I'm sorry. I'm sorry.

5 Q. I don't want to get in trouble.

6 A. Okay.

7 THE VIDEOGRAPHER: Excuse me. Excuse
8 me, Mr. Crawford.

9 THE WITNESS: Yeah.

10 THE VIDEOGRAPHER: Try not to put your
11 arms over the microphone, please. Thank you.

12 BY MR. HENDERSON:

13 Q. Are you okay? He's worried about you
14 covering up your microphone.

15 A. Oh, I'm sorry. I'm sorry.

16 Q. It's all right. We got a lot of rules
17 in here, don't we?

18 A. Yeah. Yeah, I understand. That makes
19 sense. Okay.

20 Q. All right. But do you need a break?

21 A. No. No, sir.

22 Q. You going to tell me if you need a
23 break?

24 A. Yes, sir.

25 MR. HENDERSON: All right. Just so you

1 know, sometimes he covers 'cause he will have a
2 little pain in his chest.

3 THE VIDEOGRAPHER: Okay.

4 MR. HENDERSON: But if I see that
5 welling up, we'll take a break so it doesn't
6 interfere with the microphone.

7 THE VIDEOGRAPHER: Thank you.

8 MR. PHILLIPS: Objection to the
9 comment.

10 MR. HENDERSON: It does not need to be
11 on the record. Just letting him know, all right?
12 It's a comment on what?

13 MR. PHILLIPS: Just statement by
14 counsel on the record. It's not a question. Move
15 to strike.

16 MR. HENDERSON: Next time we will go
17 off of the record and I'll explain, if that makes
18 you feel better.

19 BY MR. HENDERSON:

20 Q. I was asking you about whether or not
21 there were steam lines in the poly building and in
22 the continuous line building.

23 Was there insulation on pipes on both
24 buildings or only one building?

25 A. Both buildings.

1 Q. Who repaired the insulation in the poly
2 building while you were working there?

3 A. Daniels Construction Company.

4 MR. MAJOR: Object to the form.

5 BY MR. HENDERSON:

6 Q. Do you remember how long construction
7 took place on the continuous line building?

8 A. It was several months. I can't even
9 remember exactly how long -- how many months.

10 Q. There's something I don't understand.
11 You said you were exposed to asbestos while they
12 were building the continuous building?

13 MS. SHOFNER: Object to the form.

14 THE WITNESS: Oh, yes, and after too.
15 I had to run the lines afterwards and then the dust
16 was still there.

17 BY MR. HENDERSON:

18 Q. So at the time they were building the
19 continuous line building, you were working in the
20 poly building, correct?

21 A. Yes, sir.

22 Q. So if you're working in the poly
23 building, how could you have been exposed to
24 asbestos when they were building the continuous
25 line building?

1 A. Because when they knocked the wall out,
2 they left a big -- a great big door in between. It
3 was -- it was just right next to it.

4 Q. While you were working in the poly
5 building and they were building the continuous line
6 building, would you ever have to walk near where
7 the construction was taking place?

8 MS. SHOFNER: Object to the form.

9 THE WITNESS: Yes, sir.

10 BY MR. HENDERSON:

11 Q. Okay. Why would you have to walk over
12 to where the construction was taking place?

13 A. Because the new -- the restrooms and
14 locker rooms were over there.

15 Q. Where did you go work after you
16 finished working at Hoechst?

17 A. Timken.

18 Q. What kind of business is Timken?

19 A. A roller bearing plant.

20 Q. I was going to ask you what they make,
21 but it sounds like they make roller bearings?

22 A. True.

23 Q. Where did you work when you worked
24 at --

25 (Someone sneezed.)

1 MR. HENDERSON: Bless you.

2 BY MR. HENDERSON:

3 Q. Where did you work when you worked at
4 Timken?

5 A. I worked at what they call plant
6 service.

7 Q. So what was your job there?

8 A. To keep the grease up, vacuum up around
9 the machines, and also to keep the grease mopped up
10 around where the -- all through the assembly lines
11 -- where they was putting -- where they changed --
12 where they made the bearings -- assembled them --
13 hauled them out and assembled them. And then it
14 run on through into packaging, all the way to the
15 back where it goes packs up in boxes, so I worked
16 all the way down through it.

17 Q. So did you work in the entire plant or
18 only in parts of the plant?

19 A. Yeah, I traveled through the entire
20 plant because also I had to clean up the cafeteria
21 in different parts of the plant. That was on the
22 weekends. That was the job on the weekends.

23 Q. Timken was only a weekend job?

24 A. No. During the week, I ran -- I worked
25 through the whole line. And on the weekends -- I

1 remember on the weekends I went through -- I
2 cleaned up the restrooms -- I cleaned up the
3 restrooms -- I mean the -- and the cafeterias.

4 Q. Can you remember about when you worked
5 at Timken?

6 A. Whoa. I think -- let me see.

7 Q. Let me ask it a different way.
8 Earlier, if I understood you correctly --

9 A. Yeah.

10 Q. You said you worked at Hoechst from '70
11 to '74?

12 A. Right.

13 Q. Did you go work at Timken as soon as
14 you stopped working at Hoechst?

15 A. Yes, sir, I think so 'cause it was --
16 yeah.

17 Q. So did you start working at Timken
18 around 1974?

19 A. Yeah, right around 1974, but I can't
20 exactly remember how many years, but...

21 Q. Did you work at Timken just about as
22 many years as you worked at Hoechst?

23 A. Oh, yeah, just about as many years,
24 yes.

25 Q. Where did you go work after you worked

1 at Timken?

2 A. C and A.

3 Q. What does C and A stand for; do you
4 know?

5 A. Collins and Aikman.

6 Q. And what kind of business is C and A?

7 A. Yeah, C and A?

8 Q. Yes, sir.

9 A. It's a -- they -- it was a finishing
10 plant. They finished upholstery for auto
11 upholstery.

12 Q. And what was your job when you worked
13 at C and A?

14 A. I had several jobs. I worked on the
15 line where they -- on the machine and took the
16 cloth off on the back.

17 Q. Took the cloth off the back of what?

18 A. Yeah. Yeah. Off the back of the
19 finishing machine. And one -- okay. At one time I
20 was taking the cloth off and putting it in the bag
21 and weighing it. And another time I was inspecting
22 it.

23 I was right behind where it comes down
24 -- when I was on the third shift, I was -- when the
25 cloth was -- when it run by, I had a clipboard and

1 a -- and a pen and inspected all night.

2 Q. So I see that little tag that says
3 inspected by and it gives a number -- that was you
4 at CNA?

5 A. Oh -- yeah. Yeah. I inspected to see
6 if there was any holes in it or anything -- I
7 remember that.

8 Q. I'm just teasing you. It's okay to
9 smile in here a little bit.

10 A. Yeah. Okay.

11 Q. All right. Do you remember about how
12 long you worked at C and A?

13 A. Wow. Oh, yes. I worked -- I remember
14 now. I worked until July 1980 because that's when
15 they closed down. That's when they closed down the
16 plant.

17 Q. Now, how did you remember that date so
18 well?

19 A. Because I remember they closed down,
20 and I was out of a job.

21 Q. Not the best memory, but it's a clear
22 memory?

23 A. That's right. Yes, sir.

24 Q. Mr. Crawford, have you ever done any
25 auto work?

1 A. Well, I helped my brother-in-law.

2 Q. Who is your brother-in-law? What's his
3 name?

4 A. Eddy Gene Clary. He was -- he was a
5 mechanic. He had a garage right in -- right in
6 front of his house -- one he built himself.

7 Q. So what were you doing over at
8 Eddie Gene's garage?

9 A. Well, I live right next to him. I live
10 right next to him.

11 Q. Were y'all -- we're y'all friends?

12 A. He was my brother-in-law, you know?

13 Q. And that means you could be friends and
14 could not be friends is why I ask.

15 A. Well, he was a nice guy.
16 Eddie Gene Clary -- he was a nice guy.

17 Q. Is that right?

18 A. He was.

19 Q. So when he lived next door to you, how
20 often would you be over at his garage?

21 A. All through the weekend -- through the
22 weekend.

23 Q. Pretty much every weekend or just
24 some --

25 A. Yeah -- yeah, just about every weekend.

1 Q. And what would you be doing over at
2 Eddie Gene's garage on the weekends?

3 A. Oh, Eddie had a lot of customers come
4 in and have brakes put on -- a lot of them because
5 he was so cheap. Matter of fact, he was cheap with
6 me too. Mine was a low price, you know, and he --
7 when he put them on -- oh, I would help him -- help
8 him prime up the brakes.

9 Q. Now, for folks who don't know -- what
10 does it mean to prime up brakes?

11 A. He would get up under there and -- what
12 they call bleeding. What I meant -- what I meant
13 was bleeding.

14 Somebody has to mash the -- the brakes
15 seem to be full of brake fluid first, you know, to
16 make sure it's slam full. And then you have to --
17 he'd get under it -- under the wheel -- and then it
18 would -- he'd tell you to start pumping it, pumping
19 it, pumping it -- pump it up.

20 And then he'd tell you to hold it. He
21 would take the -- the pipe that loosens the brake
22 pipe up and let the fluid come out to get the air
23 out of it. And then he'd tighten it back up and
24 then -- so yeah, I usually did that every weekend.
25 I was down there with him.

1 Q. Did you do anything else to help
2 Eddie Gene perform brake jobs at his auto shop?

3 A. It was -- okay. Yes, I'd help him blow
4 it out. Blow the dust out of it.

5 Q. What are you talking about?

6 A. I always had a lot of dust.

7 Q. Huh?

8 A. The brakes -- the brakes always had a
9 lot of dust in it --

10 Q. Okay.

11 A. I would help him blow it out.

12 Q. Now, hang on a second. What -- how do
13 go from bleeding brakes to blowing dust out? What
14 are you talking about?

15 A. Oh, no. When he first opened it up,
16 there'd be dust in there. He had to clean it out.

17 Q. Now, you got -- I warned you. I don't
18 know a lot about brake jobs, so I'm going to have
19 to ask you a bunch of basic questions, okay?

20 A. Okay. All right.

21 Q. When you say open it up, open what up?

22 A. Oh, first he would take -- the car is
23 jacked up. And then take -- you have to take the
24 lubes off to take the wheel off. And then that
25 little hub there -- you have to pull that out, and

1 that would be a -- it would be a lot of dust in
2 there that -- that's from the brakes wore out --
3 wore out brakes -- it would be a lot of dust in
4 there. And he just -- he had a air hose, and he'd
5 blow them out.

6 Q. Now, you're talking about Eddie Gene
7 blowing out the dust. Is that something that you
8 did or were you near him when he did it?

9 A. Yeah -- well, he did it mostly, mostly,
10 mostly -- most of it.

11 Q. So I want to make sure I understand.
12 Is this something you know he did or you actually
13 see him do it?

14 A. Yeah, I actually see him do it because
15 he had to -- to clean it off. Yeah.

16 Q. How close were you to Eddie Gene when
17 he did this?

18 A. I was right there in the building with
19 him, you know, right there with him.

20 Q. Like would you say in the building?

21 A. Yeah. Yeah. In the shop.

22 Q. Were you as close to him as you and I
23 are now, or further away?

24 A. Yeah, about as close as we are now.

25 Q. Okay. And we are probably about two or

1 three feet apart; is that a fair estimate?

2 A. Yeah. Yeah.

3 MR. PHILLIPS: Objection to the form
4 and representation.

5 BY MR. HENDERSON:

6 Q. How far apart would you say we are
7 sitting right now from each other?

8 A. Three and four feet.

9 Q. Three and four feet. All right. So a
10 couple of feet more than I guessed.

11 A. Okay. All right.

12 Q. I'm giving you a tough time.

13 A. Okay.

14 Q. The -- you okay?

15 A. I'm okay.

16 Q. The dust that you are describing that
17 would get created when Eddie Gene was blowing out
18 the drum -- did you breathe any of that dust in?

19 MR. MCLEOD: Object to the form.

20 THE WITNESS: Yes, I did, but I didn't
21 think anything about it at the time.

22 BY MR. HENDERSON:

23 Q. What time period are we talking about
24 when Eddie Gene had this garage?

25 A. Let me see. I'd say from 1960 to 1970.

1 When --

2 Q. Do you remember -- go ahead.

3 A. The garage was still there, but I moved
4 away. In 1970, I moved away --

5 Q. Where did you --

6 A. -- I moved --

7 Q. -- go ahead.

8 A. It was -- I was -- it wasn't really
9 Blacksburg, but it was what they call -- it was a
10 mill village called Cherokee Falls. At that time
11 -- 1970, I moved to -- I move to Gaffney. Yeah.

12 Q. Can you remember what types of cars
13 Eddy Gene was doing work on while you were there
14 working at his garage?

15 A. Oh, yep. Personal cars and also
16 trucks.

17 Q. Can you remember who made the personal
18 cars he did work on?

19 A. He had all kinds, really. He had
20 Fords, Chevrolets, Dodge -- all of them.

21 Q. How about the trucks -- can you
22 remember who made the trucks he did work on?

23 A. Yeah, it was all of them, too. Fords
24 and Chevrolet.

25 Q. About how many times do you think you

1 were helping Eddie Gene perform brake jobs?

2 MS. RIES: Objection.

3 THE WITNESS: The whole time I was
4 there -- let me see. I want to say about -- I
5 don't know exactly. I want to say roughly about
6 75, maybe.

7 BY MR. HENDERSON:

8 Q. Where did Eddie Gene buy the brakes
9 that he replaced?

10 MR. COATES: Object to the form.

11 BY MR. HENDERSON:

12 Q. Let's take it a step back. When
13 Eddie Gene was performing his brake jobs, would it
14 be fair to say he's taking off old brakes and
15 putting on new brakes?

16 A. Oh yes, that's right. New brake shoes.

17 Q. New brake shoes?

18 A. Yeah. Yeah. Yeah, that's right.

19 Q. Do you know where he bought his new
20 brake shoes?

21 A. He bought a lot of them at Advance.

22 Q. Was there any place else he bought new
23 brake shoes?

24 A. Well, he did go to Auto Zone.

25 Q. Any place else you remember?

1 A. Well, there was -- first, there was a
2 new parts place right there on 29 -- right outside
3 of Blacksburg.

4 Q. Do you remember the name of it?

5 A. It was -- I believe it was Harris's.

6 Q. Are those all of the places that you
7 remember Eddie Gene buying brakes -- Advance, Auto
8 Zone, a place you think was called Harris's?

9 A. Yeah. Yeah. It's a -- well, Harris's
10 is still up there but he build a church right over
11 there in front of it. It's right there -- it's a
12 few miles outside -- it's like a few miles north of
13 the -- wait a minute -- south of the city of
14 Blacksburg.

15 Q. Did he ever buy new brakes at auto
16 dealerships?

17 A. Oh, I never did -- I never did saw him
18 do that but --

19 Q. Can you remember -- I'm sorry. I
20 didn't mean to interrupt you.

21 A. It's okay.

22 Q. No. No. I thought you were done
23 talking.

24 A. Okay. Okay.

25 Q. Now, remember you can't fold your arms

1 over your microphone.

2 A. Yeah. Yeah.

3 Q. Do you need to take a break?

4 A. I'm okay.

5 Q. Okay. Now, a couple of times we've
6 been talking you've folded your arms over your
7 chest. Is there a reason why you do that?

8 A. Yes, my chest hurts.

9 MS. SHOFNER: Object to the form.

10 MR. HENDERSON: What's your form of
11 objection?

12 MS. SHOFNER: It's just speculation and
13 relevancy.

14 MR. HENDERSON: Speculation about why
15 he's crossing his arms?

16 MS. SHOFNER: Yes.

17 MR. HENDERSON: Okay.

18 BY MR. HENDERSON:

19 Q. Mr. Crawford, I've noticed you crossing
20 your arms and I'm not sure if the question was
21 clear when I asked you --

22 A. Okay.

23 Q. -- why do you cross your arms over your
24 chest?

25 A. Because my chest feels tight and I got

1 pain.

2 Q. Would you like to take a short break?

3 A. Oh, I'm okay.

4 Q. Tell you what -- we've been talking for
5 almost an hour.

6 A. Oh really?

7 Q. We're going to take --

8 MR. HENDERSON: Is a ten-minute break
9 okay with everybody? We are going to take a
10 ten-minute break and then we'll come back and see
11 if we can't wrap it up, okay?

12 A. Okay.

13 THE VIDEOGRAPHER: The time is
14 10:55 a.m. We are going off of the video record.

15 (A recess transpired.)

16 THE VIDEOGRAPHER: We are back on the
17 record. The time is 11:14 a.m.

18 BY MR. HENDERSON:

19 Q. Mr. Crawford, I think when we stopped I
20 was asking you questions about the brake work you
21 were around Eddie Gene when he did his garage. Do
22 you remember leaving off there?

23 MR. PHILLIPS: Object to the form.

24 THE WITNESS: Yes. Yes, sir.

25 BY MR. HENDERSON:

1 Q. Now, I asked you if you remember where
2 Eddie Gene bought the new brakes that he used. I
3 want to ask you another question.

4 Do you remember who made the new brakes
5 that Eddie Gene used?

6 A. I think it was Dow something.

7 Q. Dow?

8 A. I think.

9 Q. Was it just one company or more than
10 one company?

11 A. Yeah, I think it was -- I'm sure it was
12 more than one company. At the time he was -- time
13 I was there.

14 Q. Can you remember any other companies
15 that made the new brakes that Eddie Gene used?

16 A. I can't -- I can't think of the names
17 right now.

18 Q. Does the name Bendix mean anything to
19 you?

20 A. Oh, yeah. Yeah.

21 MR. PHILLIPS: Object to the form.

22 BY MR. HENDERSON:

23 Q. Why does Bendix mean something to you?

24 MR. PHILLIPS: Same objection.

25 THE WITNESS: Yeah, Bendix. Yeah.

1 BY MR. HENDERSON:

2 Q. And why does that mean something to
3 you?

4 A. Yes, I remember I --

5 Q. You got to let me finish my whole
6 question, okay?

7 A. Okay.

8 Q. Why does Bendix mean something to you?

9 MR. PHILLIPS: Object to the form on
10 foundation.

11 MR. HENDERSON: You can answer.

12 THE WITNESS: Oh, okay. Yeah, I
13 remember that written over there on one of the box.

14 BY MR. HENDERSON:

15 Q. When you say written on one of the
16 boxes --

17 A. Yeah, the brakes he bought.

18 Q. How often do you remember seeing a
19 Bendix brake shoe box?

20 MR. COATES: Object to the form.

21 THE WITNESS: I don't know exactly how
22 many. It was a good bit.

23 BY MR. HENDERSON:

24 Q. And the problem is, I don't know what
25 you mean when you say a good bit.

1 A. Oh, okay.

2 Q. Can you give me a number?

3 A. I say at least 60 -- when I count it
4 all up in my head.

5 Q. And did you see these boxes when you
6 were at Eddie Gene's auto shop, or did you see them
7 at some other time?

8 A. I seen them then, and the other times
9 too.

10 Q. What other times did you see them?

11 A. It was on the -- on the brake shoes
12 that was -- that went on my car. And my -- my
13 son-in-law has been putting the brakes on my car.
14 He's the only one who does it.

15 Q. Now, where did your son-in-law do this
16 brake work?

17 A. He just does it right in the yard.

18 Q. In your yard?

19 A. He does it -- he did it in his yard and
20 my yard too, but mostly in my yard.

21 Q. What time period are we talking about
22 when your son-in-law replaced your brakes?

23 A. Oh, wow. All through 1990, and all
24 through 2000 -- through 2000. And the last time
25 was -- let's see -- 2015. Yep. He put new brake

1 shoes on my -- on my Kia -- on my Kia.

2 Q. So you said you saw Eddie Gene use new
3 Bendix brakes --

4 A. Yeah.

5 Q. What I'm not clear on is --

6 MR. COATES: Object to the form.

7 BY MR. HENDERSON:

8 Q. -- you said you've seen new Bendix
9 brakes 60 times, if I understood you correctly --

10 A. Yeah, I --

11 MR. COATES: Object to the form.

12 MR. PHILLIPS: Object to the form.

13 THE WITNESS: Well, it's hard to say
14 exactly --

15 BY MR. HENDERSON:

16 Q. Okay.

17 A. -- but I would say at least that much.

18 Q. Okay. Here's what I'm asking you,
19 though --

20 A. Okay.

21 Q. -- how many times did you see
22 Eddie Gene use new Bendix brakes?

23 MR. PHILLIPS: Same objection.

24 THE WITNESS: It was a lot. I would
25 say -- I would say about -- if I had to put a

1 number on it, I would say about 60.

2 BY MR. HENDERSON:

3 Q. Do you remember if Eddie Gene worked on
4 anyone's brakes several times?

5 A. Oh, he worked on a lot of people's
6 brakes because people came from all around.

7 Q. Did he have repeat customers?

8 A. Oh yes.

9 MR. PHILLIPS: Object to the form.

10 BY MR. HENDERSON:

11 Q. Can you remember any of his repeat
12 customers?

13 A. Yeah, but most of them I didn't know.
14 But I just -- I know they just keep showing up.

15 Q. Did you recognize them by face but
16 didn't know their names?

17 MR. PHILLIPS: Object to the form.

18 BY MR. HENDERSON:

19 Q. Let me ask you a question -- I think it
20 may be confusing the way I'm asking you.

21 A. Okay.

22 Q. If I understand you correctly, you are
23 saying that you saw some people who were repeat
24 customers at Eddie Gene's garage?

25 MR. PHILLIPS: Object to the form.

1 THE WITNESS: Oh, yes.

2 BY MR. HENDERSON:

3 Q. How many repeat customers do you
4 remember at Eddie Gene's garage?

5 MR. PHILLIPS: Object to foundation.

6 THE WITNESS: There was a lot -- I
7 don't know. Okay.

8 BY MR. HENDERSON:

9 Q. I'm just trying to get a sense of what
10 you mean when you say a lot, that's all.

11 A. Okay. There was people coming in to
12 get their car worked on -- even more than just
13 brakes -- a lot, you know, an old car, spark plugs,
14 the brakes, and they was around Blacksburg and
15 Cherokee Falls.

16 Q. Do you remember anybody coming to
17 Eddie Gene repeatedly -- specifically to have brake
18 work done on their car?

19 MR. PHILLIPS: Object to the form.

20 THE WITNESS: Oh, yes, but it was like
21 about -- like over a year apart, you know?

22 BY MR. HENDERSON:

23 Q. Mr. Crawford, when we talked this
24 morning, I asked you about three different places
25 that you worked. I asked you about Hoechst,

1 Timken, and I asked you about CNA. Those are not
2 the only jobs you've had in your lifetime, are
3 they?

4 A. Oh, no.

5 Q. It was just a few of the places that
6 you worked?

7 A. Oh right. Oh yeah, that's just a few.

8 Q. When you were working at those three
9 jobs, did anybody ever warn you about the dangers
10 of working with or around asbestos?

11 A. Absolutely not.

12 MS. SHOFNER: Objection.

13 MR. HENDERSON: I'm sorry. What was
14 the objection?

15 MS. SHOFNER: To form.

16 BY MR. HENDERSON:

17 Q. Did anybody warn you about the danger
18 of working with asbestos at any of those three jobs
19 we talked about?

20 A. No.

21 MS. SHOFNER: Object to the form.

22 BY MR. HENDERSON:

23 Q. Did anybody ever warn you about the
24 dangers of working around people who were working
25 with asbestos --

1 MR. COX: Object to the form.

2 BY MR. HENDERSON:

3 Q. -- on any of the jobs we've talked
4 about?

5 A. No.

6 Q. Did anybody ever tell you during that
7 time period when you worked at these different jobs
8 that we've discussed that working with or around
9 people who were working with asbestos could cause
10 cancer?

11 MS. SHOFNER: Object to the form.

12 THE WITNESS: No.

13 BY MR. HENDERSON:

14 Q. If you had known that asbestos was
15 dangerous, what would you have done?

16 A. I would have found another job away
17 from asbestos.

18 MR. MAJOR: Object to the form of that
19 question.

20 BY MR. HENDERSON:

21 Q. When did you first find out that
22 something was wrong with your health?

23 A. It was this past year in 2017, about --
24 I think it was about August.

25 Q. What happened?

1 A. Oh, I had -- I was giving out of
2 breath, and I run out of breath quick, you know?
3 So I went to the emergency room and they did a
4 X-ray on my chest and it said it had fluid in my
5 chest -- in my lung. My right lung had fluid in
6 it.

7 Q. Did they do something about it?

8 A. Well -- oh yeah, they drained it out.
9 They put me in the -- in the -- in intensive care
10 up at Mary Black, up here in Gaffney.

11 Q. And you said they drained the fluid
12 after that?

13 A. Oh, yes. Yes, they did.

14 Q. Did they have to drain the fluid one
15 time or more than one time?

16 A. Oh, well, at one time there, and then I
17 went to the chest place the next month. Let me
18 see, that was -- oh yeah, they drewed that out on
19 -- I remember seven -- exactly 17 -- wait a minute.

20 September the 13th -- the first time in
21 Mary Black. And then after that, I went to -- I
22 started going to chest -- the chest place over on
23 221 in Spartanburg. And then that doctor -- it was
24 about a month later. It wasn't over a month. He
25 sent me up here to Spartanburg Regional, and they

1 drawed it out again.

2 Q. So is that three times that you had to
3 have fluid drained?

4 A. Let me see. It was one time there and
5 it was -- wait a minute. I know it was one time
6 over there at Mary -- over here -- over here at
7 Mary Black in Gaffney. And over at Spartanburg
8 Regional -- I know at least twice because, first,
9 the workers up there at Mary Black -- I mean,
10 Spartanburg Regional. I'm sorry.

11 Spartanburg Regional drawed it out, and
12 about a few weeks later it was Dr. O. over there at
13 the chest place. He drawed it out himself. And
14 then after that he told me that -- he would -- he
15 suggested to have the tube put in -- in my lung.

16 Q. Do you have a tube in your lung right
17 now?

18 A. Yes, sir.

19 Q. What's it called?

20 A. They called it a catheter. Catheter.

21 Q. Have you been having trouble with your
22 catheter?

23 A. Well, yes, it -- it -- well, it's --
24 it's -- my wife -- my daughter checked it and said
25 it was -- it's -- she didn't like the looks of it,

1 and also the fluid won't come out. No fluid comes
2 out.

3 Q. Are you having trouble with your
4 catheter today?

5 A. Well, it's -- yeah, I'm having a little
6 bit of trouble with it because it's loose.

7 Q. If you need to stop and take a break,
8 will you tell us?

9 A. I will.

10 Q. Is the catheter painful?

11 A. Well, my chest is painful -- my chest
12 is.

13 Q. What side of your body -- I think
14 you're indicating the right side of your body, but
15 I want to make sure that I understand you.

16 Can you show the jury where the
17 catheter is located on your body.

18 A. It's right -- it's -- it's -- let me
19 see. It's between my side and my back. As a
20 matter of fact, I can feel it right now. Right
21 there. Right here (Indicating).

22 Q. Does that affect the way you sleep?

23 A. Oh, it does. It does.

24 Q. How so?

25 A. Well, I can't -- I lay a certain way

1 and I just lay on -- I can't turn over. I have to
2 lay on my back, and I can't move, you know?

3 Q. When the fluid builds up in your lung,
4 is it painful?

5 A. Oh well, what happens is when fluids
6 builds up, I can't -- it cuts the air off because
7 it's full of fluid instead of air, and I get out of
8 breath a lot.

9 Q. Did they put the catheter in your side
10 so you can drain your fluid at home without having
11 to keep going to the hospital?

12 A. Oh, that's right. That's exactly why.
13 That's exactly.

14 Q. What other treatment are you receiving
15 right now for your Mesothelioma aside from the
16 catheter?

17 A. Chemo. And they got a port right there
18 on my left -- of my chest (Indicating).

19 Q. What do you mean when you say a port?

20 A. It's a -- well, it's what they put
21 in -- they put -- it's -- the chemo nurse puts
22 the -- the little -- a valve -- like the valve goes
23 in right there (Indicating). That's where the
24 chemo goes in -- on a little pipe.

25 Q. So am I understanding you correctly,

1 you had a surgery to put a valve in your chest?

2 A. Uh-huh, that's right. That's right.

3 Q. And when you say chemo, you mean
4 chemotherapy, right?

5 A. That's right. I do. I do.

6 Q. For people who are not familiar with
7 the chemotherapy, can you describe what it's like
8 when you undergo it.

9 A. Well, it's afterwards, it gives you
10 nauseate -- nauseated, you know?

11 Q. You mentioned a nurse earlier -- a
12 chemo nurse?

13 A. Yeah, that's right.

14 Q. Does the chemo nurse come to your house
15 or do you have to go see her at a clinic?

16 A. I go right -- I see her right down here
17 at Gibbs Cancer Clinic.

18 Q. So walk us through what happens when
19 you go to that facility for chemo treatment.

20 A. Oh, okay. I sat down and then she
21 puts -- she's got this -- I don't know what you
22 call it. It's a -- a little thing that moves
23 around with all of those -- what they are going to
24 put in me hooked up to?

25 Q. Yes, sir.

1 A. All these here fluids -- well, the
2 fluids -- and it's got pipes -- little pipes run
3 through it and then she's got a sharp -- like a
4 needle -- on the end of one of them. And then she
5 just pushes it through -- through my skin.

6 The catheter -- you can't even see it.
7 All you can see is just the skin -- the puffed-up
8 skin -- all you can see. But she knows exactly
9 where it is, and she just sticks it right through
10 my skin.

11 Q. And how long do you sit there for chemo
12 treatment?

13 A. Oh man, about -- let me see. Over an
14 hour -- let me see. Let me see. It's like about
15 an -- at least an hour and a half or two hours.

16 Q. How do you feel after chemo? Do you
17 feel better?

18 A. No, I start -- I start feeling weaker.

19 Q. How long do you feel weaker for after
20 you have chemo performed?

21 A. Well, it keeps -- it keeps getting --
22 it's like -- about two weeks. Because what happens
23 is is your immune system starts going down for
24 about -- the chemo nurse says it's like about ten
25 or 11 days it starts -- your immune system keeps

1 going down and then after about 11 days, it
2 gradually starts building back up until three
3 weeks. I take chemo every three weeks and then
4 after three weeks, it starts all over again.

5 Q. So how many times have you gone through
6 that cycle already?

7 A. Three times.

8 Q. When is your next cycle; do you know?

9 A. It's a -- wait a minute. Like about a
10 week away.

11 Q. Are there things that you used to be
12 able to do that you can't do anymore because you
13 have Mesothelioma?

14 MR. PHILLIPS: Object to the form.

15 THE WITNESS: Yeah.

16 BY MR. HENDERSON:

17 Q. Let me ask that a different way to make
18 sure we're clear on this.

19 I want you to tell the jury how having
20 Mesothelioma has affected your life.

21 A. Okay. Well, I can't -- I can't do any
22 yard work like I used to.

23 Q. Did you enjoy doing yard work?

24 A. Yes -- well, like I'm seeing the yard
25 full now. It's full -- my whole yard is slammed

1 full of leaves because I can't get to it.

2 Q. Now, I asked you do you like doing yard
3 work -- you know you're under oath, right?

4 A. That's right. Well, I don't like doing
5 the yard work, but I like the results after.

6 People -- there's a lot of people --
7 well, when my -- my brother goes to church right
8 down -- right down below it, and we have -- I've
9 been going up on Wednesdays on -- to the restaurant
10 up here -- the men meet together and have breakfast
11 together.

12 Q. Yes, sir.

13 A. And I've been going with him, but I
14 can't -- I can't do it now because it's -- when
15 it's a lot of people around -- I got -- I'm
16 supposed to wear a mask when there's a lot of
17 people around, but I can't talk with it on.

18 Q. Why are you supposed to wear a mask?

19 MR. PHILLIPS: Object to the form.

20 THE WITNESS: Because my immune system
21 has gone down. It's down because of the chemo.
22 And then to keep from catching the flu.

23 And anyway, they was a -- a lot of them was
24 making -- was telling me about they ain't never
25 seen so many leaves in the yard when there's

1 nothing I can do about it, you see? And that
2 really gets on my nerves.

3 BY MR. HENDERSON:

4 Q. What is Silver Sneakers?

5 A. Silver Sneakers? That's Humana's
6 program where they let you go into a gym and they
7 pay for it. And -- okay. And I once was on the
8 Silver Sneakers -- before even I found out I had
9 lung cancer, I had to quit because I --

10 Q. Why did you have to -- go ahead. I'm
11 sorry.

12 A. Sorry.

13 Q. It's okay.

14 A. I couldn't -- I couldn't stand up to
15 it -- doing the exercise because I get out of
16 breath.

17 Q. Did you have --

18 A. Yeah, because my lungs was hurting.

19 Q. Did you like to exercise?

20 A. Oh, yes, I did.

21 Q. What kind of exercise did you like to
22 do?

23 A. The kind that was on the stair steps
24 and the bicycle. It was in the gym room. Yeah.

25 Q. Were there things that you like to do

1 with your family that you can't do the same way
2 since your diagnosis?

3 A. Oh, yeah. My daughter got a swimming
4 pool and that's where they have all the parties --
5 at her swimming pool, and I can't -- no, I -- well,
6 it's in the warmer weather, I can't -- but at the
7 end of the year, I didn't have the breath then to
8 -- to get in the pool and do the exercises, you
9 know, and play with them. And --

10 Q. Do your grandkids like ice cream?

11 A. Huh?

12 Q. Do your grandkids like ice cream?

13 A. Oh, they love ice cream. They love it.

14 Q. Do you take them for ice cream?

15 A. Oh, yes, I do. Yeah.

16 Q. Has that been affected by your
17 mesothelioma?

18 A. Oh, yeah, yeah, it really has. It
19 really has.

20 Q. What do you mean?

21 A. Well, I just ain't got the energy to
22 get out -- I don't know.

23 Q. Have your doctors talked to you about
24 what to expect moving forward?

25 A. Okay. They said the chances of getting

1 a cure is about -- in the past -- it's past -- past
2 patients, it cured about 20 percent.

3 MR. PHILLIPS: Object on hearsay.

4 BY MR. HENDERSON:

5 Q. How did it feel to hear that news?

6 A. It was devastating, but I'm just glad I
7 got -- I'm glad I got 20 percent of a chance.
8 That's better than zero. Sorry.

9 Q. It's okay. Take your time. I don't
10 want to rush you. I thought you were about to say
11 something else; I couldn't tell.

12 A. Well, it's devastating to think about
13 I'm going to have to leave my -- I might have to
14 leave my grandchildren and my grand --
15 grandchildren. Oh, I'd like to see them grow up --
16 to be a teenager.

17 I keep thinking back all the time, but
18 that -- I'll see what happens. I don't know what's
19 my next -- what's going to come next. This is -- I
20 only found out about this cancer -- it's been less
21 than a year. But I still got it, and so...

22 Oh, the doctor said that it's in -- I
23 got these -- what do you call them -- what do they
24 call them? Them ol' cells -- cancer cells -- in
25 that there -- it's in that --

1 Q. The pleura?

2 MR. PHILLIPS: Object to the form.

3 THE WITNESS: Yeah. Yeah. It's like a
4 thin -- sheet in there or best I can describe it.
5 And it's all -- where I got the cancer cells is on
6 that, and he can -- he can take them off if it's
7 too -- he has to wait to get in there to see if
8 it's too thick, 'cause see, it's so thin --

9 BY MR. HENDERSON:

10 Q. Are you talking about what to expect at
11 your next doctor visit?

12 A. I'm talking about when the operation
13 comes.

14 Q. Okay.

15 A. When he takes them out -- first, the
16 doctor decided to take chemo before the operation
17 because they said it's a -- they said they have a
18 better chance on the operation if you take the
19 chemo first before the operation.

20 And then he said if it's not all the
21 way through, he can take them off. But if it's all
22 the way through, he can't, you know?

23 Q. So am I understanding you correctly --
24 are you waiting to find out just how bad your
25 condition is?

1 A. That's absolutely right.

2 MR. PHILLIPS: Object to the form.

3 THE WITNESS: That's absolutely right.

4 MR. HENDERSON: Mr. Crawford, I think
5 that's going to do it for me in terms of questions
6 I've got for you this morning.

7 THE WITNESS: Okay.

8 MR. HENDERSON: So I think some of
9 these other lawyers may have some questions for
10 you.

11 THE WITNESS: Okay. Okay.

12 MR. HENDERSON: Are you okay to keep
13 going, or do you need a break?

14 THE WITNESS: I'm okay. I'm okay.

15 MR. HENDERSON: I'm going to scoot over
16 here to the side and let somebody else take this
17 microphone if they need it.

18 THE WITNESS: Okay. Okay.

19 MR. PHILLIPS: If you want to swap
20 seats, you're welcome to.

21 MR. HENDERSON: No, no, I'm okay over
22 here.

23 MS. SHOFNER: Are we doing the same
24 transcript? Just curious.

25 Mr. Phillips: Honestly, I had not

1 considered that. Are we on camera still?

2 THE VIDEOGRAPHER: We're still on; you
3 want to go off?

4 MR. PHILLIPS: For one second, please.

5 THE VIDEOGRAPHER: Sure. The time is
6 11:45. We are going off the video record.

7 (A recess transpired.)

8 THE VIDEOGRAPHER: The time is
9 11:46 a.m. We are back on the video record.

10 EXAMINATION

11 BY MR. PHILLIPS:

12 Q. Mr. Crawford, my name is Mark Phillips.
13 I've got some of the defendants in the case on the
14 other side -- the ones that you've sued. And I've
15 also got a -- so among those is a company called
16 Honeywell International that I'm interested in
17 discussing with you. Let me ask a few background
18 questions that weren't clear to me.

19 Y'all moved to your home on 400 Pacolet
20 Highway in Gaffney -- when was that?

21 A. On April 2007.

22 Q. When was it that -- where was it that
23 you lived right before 400 Pacolet Highway,
24 Gaffney?

25 A. On Goucher Road in Gaffney.

1 Q. I'm sorry. I'm from the country
2 myself.

3 A. Okay.

4 Q. And by the way, I was born on
5 July 20th; weren't you? Weren't you born on
6 July 20th?

7 A. Yes.

8 Q. So was I.

9 A. Oh, okay.

10 Q. Now -- and I'm from the country, but
11 I'm still having trouble understanding you.

12 A. Okay.

13 Q. So tell me what's that address.

14 A. Okay. Wait a minute. Wait a minute.
15 I'm thinking back. It's Goucher Green Bethel Road,
16 and I believe it's number 152.

17 Q. That's where you lived before you moved
18 to Pacolet Highway in April of '07?

19 A. Yes, sir.

20 Q. And 152 -- you said go -- it sounded to
21 me like Goselet, but I couldn't understand --

22 A. Yeah. Goucher.

23 Q. Could you spell that for me.

24 A. Yeah, yes, I can. G-O-U-C-H-E-R.

25 Q. Doecher [sic]?

1 A. Yeah, and then --

2 Q. And Doecher -- tell me -- I'm sorry.

3 Let's stay on Doecher for a second.

4 Is that Doucher Road? Doucher Highway?
5 Doecher Street?

6 A. Goucher Green Bethel Road.

7 Q. Doecher Green Bethel Road?

8 A. Yeah. Yeah.

9 Q. Like Bethel Methodist Church?

10 A. Yeah, B-e-t-h-e-l.

11 Q. Okay. And what town is that in?

12 A. Gaffney.

13 Q. In Gaffney.

14 A. South Carolina.

15 Q. What years did y'all live there?

16 A. I'm not sure about the exact year, but
17 it was around 1995.

18 Q. That was '95 to 2007, correct?
19 Roughly?

20 A. Yes. Yes.

21 Q. Okay. And did you own a house at
22 Doecher Green Bethel Road?

23 A. Yes, I own a mobile home.

24 Q. Okay. Y'all had a mobile home there?

25 A. That's right.

1 Q. And how about right now? Do y'all live
2 in a mobile home or a house?

3 A. House.

4 Q. Okay. Did you own the lot on
5 152 Doecher Green Bethel Road or rent a space at a
6 park?

7 A. Actually, the whole lot belonged to my
8 wife's cousin.

9 Q. What was his or her name?

10 A. Regina Ledbetter.

11 Q. And did y'all pay rent to
12 Regina Ledbetter?

13 A. Oh no. No, no.

14 Q. So she let y'all use the space?

15 A. Yes.

16 Q. Okay. When you moved to Doecher Green
17 Bethel Road in Gaffney, did you move your mobile
18 home there, or did you just -- did y'all buy a
19 house there?

20 A. When I bought a mobile home, just moved
21 the mobile.

22 Q. Just moved it. Oh, I see.

23 A. Yeah.

24 Q. So that's where y'all live now -- in
25 your mobile home on?

1 A. No. No. No, I live on --

2 Q. That's right.

3 A. I moved out of the mobile home and sold
4 it.

5 Q. So you said you sold your trailer in
6 '07; does that sound right?

7 A. Yeah, it was about '07 --

8 Q. About that --

9 A. Or after there -- maybe a little bit
10 after there, but I moved out -- I remember I moved
11 out in '07.

12 Q. Was it a single or a double trailer?

13 A. It was a single.

14 Q. Okay. And your place on 400 Pacolet --
15 is that a house or is that a mobile home?

16 A. It's a two-story house.

17 Q. Two-story house. Now before 1995 --
18 before 152 Doecher Green Bethel Road, where did
19 y'all live? I'm taking you backward one step at a
20 time.

21 A. Yeah. Okay. I lived in a mobile home
22 on Union Highway.

23 Q. Union Highway?

24 A. Yeah. Yeah.

25 Q. How long were y'all in that mobile

1 home, because I think you moved out of it in --

2 A. Yeah, in that one --

3 Q. -- 1995, it looks like?

4 A. Yes -- man it's hard to put the time
5 that way back.

6 Q. I know it's hard to remember sometimes
7 going backwards.

8 A. Yeah. That mobile home, I rented. It
9 was a mobile home lot, and I just rented in the
10 mobile lot right there. Yeah, I've -- before I
11 moved there --

12 Q. Tell you what, let's stay there for a
13 second.

14 A. Okay. Okay.

15 Q. I'm sorry to interrupt you. I'm trying
16 to get this residence before 152 Doecher Green
17 Bethel Road in Gaffney --

18 A. Yeah.

19 Q. -- the trailer that you had at
20 Ms. Regina Ledbetter's --

21 A. Yeah.

22 Q. -- property -- your cousin-in-law --

23 A. Yeah. Yeah.

24 Q. You lived somewhere else until about
25 1995 --

1 A. Yeah. Yeah.

2 Q. -- it sounds like a mobile home?

3 A. Yes.

4 Q. It was on Union Highway, I believe?

5 A. Yes, it was a mobile home. That's
6 right.

7 Q. And how long did you live there?

8 A. Whoa. It was at least a couple of
9 years.

10 Q. What was close -- Union Highway
11 unfortunately doesn't mean anything to me 'cause
12 I'm not from Gaffney; I'm from Charleston.

13 A. Okay.

14 Q. What town was this place on Union
15 Highway?

16 A. Gaffney.

17 Q. In Gaffney. And what was near there --
18 like a landmark? Maybe a store?

19 A. It was -- okay. That was Highway 18.

20 Q. So it was on Union -- Union Highway was
21 Highway 18?

22 A. Wait a minute. Wait a minute. Let me
23 think. Let me think. Oh man. Oh man, oh man, I'm
24 not sure -- Okay. It was the same -- I'm not sure
25 of the number of the highway now, but it was a --

1 it was a bowling alley close to it.

2 Q. Which one?

3 A. Oh, me, I can't think of the name of
4 it, but it's the same road that -- it's the same
5 road that goes in front of the Gaffney Middle
6 School -- that used to be the Gaffney High School
7 before they built another one.

8 Q. So Gaffney Middle was formerly Gaffney
9 High School?

10 A. Right.

11 Q. Okay. Did y'all live on a lot? Did
12 y'all live in a park? Did you live on a property
13 that you owned?

14 Where did you live?

15 A. No. I lived -- oh, wait a minute.
16 Wait a minute. Douglas, Douglas, Douglas.

17 Q. What -- Douglas --

18 A. It was Douglas Trailer Park. I thought
19 that's what it was, but it had to come up in my
20 memory. It was Douglas Trailer Park.

21 Q. Douglas Trailer Park. All right.

22 A. Yes, that's what it was.

23 Q. And that was roughly a couple of years
24 up until 1995?

25 A. Yes, sir.

1 Q. Like when we say a couple -- do you
2 mean two or three?

3 A. About two.

4 Q. All right.

5 A. I don't know exactly, but it was about
6 two.

7 Q. I tell you what -- I'm going cut to one
8 chase. Did you all live in a mobile home or a
9 series of mobile homes before you moved finally to
10 your two-story house on 400 Pacolet Highway?

11 A. Oh, yes, yes, yes, because before I
12 moved to Douglas, I was in Smith's Trailer Park.

13 Q. All right. Let's -- so you were in
14 Smith's Trailer Park until about 1993, maybe?

15 A. Yes, somewhere along there.

16 Q. How long had you been at Smith's
17 Trailer Park?

18 A. Oh, boy. It was like -- roughly two or
19 three years.

20 Q. Two or three years in Smith's Trailer
21 Park?

22 A. Yes, sir.

23 Q. Okay. And what kind of trailer y'all
24 got? What kind of trailer did you have? What
25 brand; do you remember?

1 A. At the Goucher Green Bethel Road?

2 Q. Yeah, I'm sorry. I was just wondering
3 what brand of mobile home it was.

4 A. Oh, that's the only one I owned. The
5 other ones I rented.

6 Q. Oh, I see. You rented those. How
7 about the one you owned at Doecher Green Bethel
8 Road -- what kind of was it?

9 A. Doggone it. Well, I used to know. Oh,
10 man. Yeah, I used to know, but now I just can't
11 think of the name of it. I'm sorry.

12 Q. Okay. How about the rental on Union
13 Highway in Douglas Trailer Park -- do you know what
14 kind you were renting?

15 A. No, sir, I don't. I'm sorry.

16 Q. It's okay. Were you renting one at
17 Smith's Trailer Park also?

18 A. Oh, yeah. Yeah.

19 Q. So it was basically a place where you
20 could move in because they had trailers and lots --

21 A. That's right.

22 Q. -- that you could rent?

23 A. That's right.

24 Q. But you don't remember the brand of the
25 trailer there?

1 A. No, I just don't.

2 Q. Okay.

3 A. I know the trailer's still sittin'
4 there, but -- but I --

5 Q. Do you know what unit number it was or
6 what lot number it was?

7 A. No. But I know exactly where it was
8 sittin'. It was all the way -- all the way down
9 there on the end.

10 Q. Okay.

11 A. On the your right-hand side going -- on
12 your left-hand side going down -- all the way to
13 the end.

14 Q. How about the Douglas Trailer Park --
15 do you remember what lot that y'all were in?

16 A. No, I don't. All I remember was -- I
17 don't know if it went by lot number because I had a
18 post office -- I had a mailbox up at the end. I
19 always went by that.

20 Q. Is that when you were at Smith's
21 Trailer Park or at Douglas Trailer Park?

22 A. Douglas.

23 Q. What box number were y'all there?

24 A. Oh, man. I just can't remember.

25 Q. That's all right. We're just trying to

1 -- we need these addresses if we can get them --

2 A. Yeah, I understand.

3 Q. -- so we can kind of check up on some
4 stuff.

5 How about Smith's Trailer Park -- do
6 you remember what box number y'all had?

7 A. Smith's, no. But I can tell you
8 exactly where it was at. You go down a hill -- it
9 was like a hill -- and you go down --

10 Q. Yes, sir.

11 A. -- and it was the last one on the left.
12 And back up there before that at the Douglas
13 Trailer Park on the Union Highway, there was just
14 one line of mobile homes there, and I was -- I
15 lived in the last one on the left.

16 Before that I lived in about -- about
17 two -- yeah, I lived in about two above it, and my
18 wife wanted -- wanted to change out to the other
19 one. And she talked to Miss Douglas about changing
20 and we moved all the way down to the last one -- at
21 that time on the left.

22 Q. Now --

23 A. Well, it was just one-way, but the road
24 went down on the right.

25 Q. What town was Smith's Trailer Park in?

1 A. Gaffney.

2 Q. Gaffney?

3 A. Gaffney.

4 Q. Okay. And what was it near? I know
5 you told me that Douglas Trailer Park was near a
6 bowling alley and near the old Gaffney High School
7 and became Gaffney Middle School.

8 A. Okay.

9 Q. What was a good marker --

10 A. Okay.

11 Q. -- for me for Smith's Trailer Park?

12 A. Okay. Smith's? Okay. Wait a minute.
13 Daddy Joe's Restaurant and -- doggone it. There
14 was a drugstore right beside of it. Right across
15 the road from it there was a drugstore. Okay. I
16 can't think -- I can't even think of the name of
17 the drugstore.

18 Q. Okay. Does Daddy Joe's Restaurant
19 still exist?

20 A. Huh?

21 Q. Does Daddy Joe's Restaurant still
22 exist?

23 A. Oh, yes.

24 Q. Okay.

25 A. Daddy Joe's is right -- right up here

1 on Floyd Baker Boulevard. Right up here on Floyd
2 Baker Boulevard.

3 Q. Oh, that will help us find it.

4 A. Yeah. Yeah.

5 Q. All right.

6 A. Let me see. It's right in front of --
7 oh, boy. Wait a minute. Advance is right
8 beside -- Advance is right beside of it.

9 Q. Smith's?

10 A. Right beside of Daddy Joe's. It sure
11 is -- no, wait. Wait a minute. Wait a minute. If
12 you get to Advance and then a little gas station
13 and then Daddy Joe's. Daddy Joe's is right there
14 on the corner.

15 Q. So Advance, and a gas station is near
16 Daddy Joe's which is near --

17 A. Oh, you start at the corner -- you go
18 -- it's Daddy Joe's and then there was a gas
19 station and then Advance and then right beside
20 Advance is the furniture store. It's a furniture
21 store. Oh my goodness. I got chemo working on --
22 working on my mind.

23 Q. Uh-oh. Well, what we know is is that
24 Advance Auto is close by, Daddy Joe's Restaurant's
25 close by, there's a drug store close by, and a

1 furniture store close by.

2 A. Kimbrell's. Kimbrell's. Kimbrell's.

3 Q. Sir?

4 A. It come to me. Kimbrell's is the name
5 of the furniture store.

6 Q. Can you spell that?

7 A. It's -- oh, man, I can't. No, I really
8 can't. It starts with k-I-l -- and I've used that
9 -- I've used that furniture store for decades.

10 Q. It's not Ikea, is it?

11 A. No, Kimbrell's.

12 Q. I don't shop much myself, so...

13 A. They had a store downtown before they
14 moved -- before they built that new building --

15 Q. Out there.

16 A. -- yeah, on -- before Floyd Baker
17 Boulevard, yeah.

18 Q. That's Baker Boulevard? I'll write
19 that down.

20 A. Yeah, Floyd Baker Boulevard.

21 Q. Okay. Oh, did you say -- does Baker
22 got a first name? Something Baker Boulevard?

23 A. No -- wait a minute. Wait a minute.
24 My mind -- I'm sorry. My mind is going down.

25 Q. Let me tell you what --

1 Mr. Dave Henderson will tell you, if you need to
2 take a break -- if you would like to take a break,
3 you are welcome to take a break. If you want to go
4 get some lunch at that Bojangles', you can do that
5 too.

6 A. No -- okay. It's not because I'm in
7 here. At this time period, I forget a lot of
8 stuff. My mind is -- I'm losing my memory at this
9 time period.

10 Q. During lunchtime or --

11 A. No, cancer. Ever since I started
12 taking chemo --

13 Q. You have trouble with your memory?

14 A. Yes.

15 Q. Okay.

16 MR. HENDERSON: Mind if we take a
17 ten-minute break?

18 MR. PHILLIPS: Why don't we take ten
19 minutes and y'all can decide if you want to take a
20 lunch or not. You can go get a Diet Coke --
21 whatever you want to do.

22 THE WITNESS: Okay. Thank you.

23 BY MR. PHILLIPS:

24 Q. The only thing is in South Carolina,
25 we've got a funny rule.

1 A. Okay.

2 Q. You can't talk about the case with
3 Mr. Henderson.

4 A. Yeah. Okay.

5 Q. All right.

6 THE VIDEOGRAPHER: The time is
7 12:05 p.m. We are going off the video record.

8 (A recess transpired.)

9 THE VIDEOGRAPHER: The time is
10 12:16 p.m. This ends media unit number one of
11 today's deposition of Mr. Crawford. We are going
12 off the video record.

13 (A recess transpired.)

14 THE VIDEOGRAPHER: Here begins Media
15 Unit Number 2 in today's videotaped deposition of
16 Mr. Crawford. The time is 12:27 p.m.

17 BY MR. PHILLIPS:

18 Q. Mr. Crawford, you took a little
19 break --

20 A. Yeah.

21 Q. -- for about ten minutes or so and got
22 some air, I hope. And I think you just told me
23 there was something -- right before we went on
24 camera that helped you remember -- by the way, I'm
25 Mark Phillips, again.

1 What did you -- you were about to tell
2 me that you remembered something -- maybe about
3 your addresses?

4 A. Oh, we was talking about the addresses
5 in Gaffney in relation to Smith Trailer Park.

6 Q. Yes, sir.

7 A. Okay. I just remembered that right up
8 the road from Smith Trailer Park was a drugstore --
9 I just remembered the name of the drugstore. It
10 was Rite Aid's.

11 Q. Okay. Yeah, you mentioned a drugstore.
12 I'm glad you remembered. So it was a Rite Aid?

13 A. Yeah. Rite Aid.

14 Q. And there was a Advance Auto Parts
15 close by as well?

16 A. That's right.

17 Q. And do you know right now if that's the
18 one where your brother-in-law shopped about 20,
19 30 years earlier?

20 A. Oh, yeah, because --

21 Q. That's the one?

22 A. Right. I was there with him.

23 Q. Because I don't remember Advance Auto
24 existing back in the '60s, but you believe it was?

25 A. Well -- wait a minute. Well, I know he

1 went there after that.

2 Q. Yeah, I'm talking about back when you
3 was his neighbor.

4 A. Oh, yes. Wow. No, I can't -- I really
5 can't remember way back then --

6 Q. Okay.

7 A. -- exactly when.

8 Q. Okay. Is it fair to say that way back
9 when --

10 A. Yeah. Oh, yes.

11 Q. -- that -- I'm talking about in the
12 '60s when you lived next door to your
13 brother-in-law.

14 A. Yes.

15 Q. Is it fair to say that way back when
16 you are not able to remember which auto parts store
17 he was buying his replacements from?

18 MR. HENDERSON: Object to form.

19 THE WITNESS: Okay. Not exactly. I
20 knew that he went up there at Harris's.

21 BY MR. PHILLIPS:

22 Q. Okay. So if I'm not mistaken, you
23 don't think or you can't say under oath that he
24 shopped at Advance Auto, but you do think he
25 shopped at Harris's?

1 MR. HENDERSON: Object to the form. It
2 mischaracterizes his testimony.

3 BY MR. PHILLIPS:

4 Q. And I'm going to let you straighten
5 this out. Straighten us both out.

6 A. Yeah, I can't remember if Advance was
7 up there during that time period.

8 Q. Okay. You don't know if Advance was up
9 there?

10 A. That's right.

11 Q. Okay. But you do think Harris's was up
12 there?

13 A. Oh, yeah. It was -- it was over there
14 on the -- on 29 -- what they call Cherokee Street.
15 Right down from Blacksburg, but it's closed up. He
16 closed it up after that.

17 Q. Where was -- we're going to have to
18 look into that one a little bit, I guess.

19 A. Okay.

20 Q. Do you know who owned Mr. Harris's auto
21 part store?

22 A. Mr. Harris. I think his name was
23 Harris. It's -- he still lives up there, right
24 across -- he lives right across the road right now.

25 Q. Okay.

1 A. I'm sure, because he --

2 Q. And you told us a minute ago, but I
3 don't remember already -- if you believe that --
4 that one of your trailers wasn't too far from --
5 one of them was close to Advance Auto wasn't it?

6 A. Oh, yes. That's right.

7 Q. But not close to Harris's?

8 A. Oh, no. No.

9 Q. Help me understand, please, so we can
10 kind of check back --

11 A. Okay.

12 Q. -- where Harris's auto parts is. You
13 mentioned -- where it used to be on Highway 29,
14 Cherokee Street. Mr. Harris still lives right
15 across the --

16 A. Yeah -- wait a minute. But I think the
17 name was Harris's -- I think it was.

18 Q. Is that like Mr. Harris, H-a-r-r-I-s?

19 A. Yeah, I think.

20 Q. Okay.

21 A. As far as I can remember, that wants to
22 ring a bell -- Harris.

23 Q. Okay.

24 A. But I know exactly where the building
25 was. The building's still there.

1 Q. The building's still there?

2 A. Well, I can tell you exactly where it
3 is.

4 Q. Okay. Tell me where it is.

5 A. Okay. Okay. Over on 29 -- they call
6 that Cherokee Street. Okay.

7 Right there -- if you're coming from
8 Gaffney -- all right. And then you go -- you go
9 over the river bridge going towards Blacksburg --
10 Broad River Bridge. Okay. About two or three
11 miles you'll see a road on the right. They call it
12 Cherokee Falls Road.

13 Q. Turkey Falls?

14 A. Cherokee -- Cherokee Falls Road.

15 Q. All right, sir.

16 A. And there's a fish camp right there on
17 the corner, and they call it the -- I'm not sure if
18 they changed the name, but it was Crystal C --
19 right on your right-hand side. Well, Cherokee
20 Falls Road is on the right-hand side, too. And
21 like about -- (Someone sneezed.)

22 MR. HENDERSON: Bless you.

23 BY MR. PHILLIPS:

24 Q. I'm going to borrow one of your
25 Kleenexes.

1 A. About a mile or so past that, there's a
2 little gas station there on the left. And it was
3 -- a friend of mine runs it. Ted Darr runs it.
4 It's a gas station, and they sell food in there
5 too. But I just can't think --

6 Q. What's -- what's your friends's name
7 that owns that gas station?

8 A. Huh?

9 Q. What's your friend's name that ran that
10 gas station?

11 A. Ted Darr.

12 Q. I'm sorry. I can't --

13 A. Ted, T-e-d.

14 Q. Ted. Sure.

15 A. And Darr, D-a-r-r.

16 Q. Two R's you think?

17 A. They used to live down there on
18 Cherokee Falls.

19 Q. All right. Now, I'm going to recap if
20 you don't mind.

21 A. Okay.

22 Q. For Harris's auto parts -- Highway 29
23 Cherokee Street -- also known as Cherokee Street.
24 Later, it was closed. Was owned by Mr. Harris. We
25 think he still lives right close by.

1 And if you're coming from Gaffney
2 towards Blacksburg, you go over the Broad River
3 Bridge. Go about two or three miles on the right?

4 A. Uh-huh.

5 Q. And you say yes or no, if you don't
6 mind --

7 A. Okay.

8 Q. -- because we got to try to get this
9 thing down in a transcript.

10 A. All right.

11 Q. And then you're still on the Cherokee
12 Falls Road; is that right?

13 MR. HENDERSON: Object to the form.

14 THE WITNESS: No, you -- no. You go --
15 bypass the Cherokee Falls Road.

16 BY MR. PHILLIPS:

17 Q. You bypass it?

18 A. Yeah.

19 Q. There's a fish camp on the corner?

20 A. Yeah, on the right-hand side.

21 Q. Used to be called Crystal C?

22 A. That's right.

23 Q. And then about a mile past that,
24 there's a gas station that's got food?

25 A. Yeah, on the left.

1 Q. On the left. And that was Ted
2 Darr.

3 A. Yeah, but I think they call it a name
4 like Giddy's or something like that.

5 Q. It might be Giddy's?

6 A. Giddy's -- something like that. I wish
7 I had a phone book.

8 Q. I wish I had a phone book too.

9 A. I know it.

10 Q. We're both on our own.

11 A. Oh, my goodness. I just can't think of
12 the name of it. I haven't been by it lately.
13 That's why I don't know.

14 Q. Well, we're going to figure it out.

15 And if you're going from Ted Darr's gas
16 station, which might be called Giddy's now, how do
17 you get from there to what used to be Harris's auto
18 parts?

19 A. It's like about -- less than a quarter
20 of a mile on the left, I'd say.

21 Well, I got to reframe something. The
22 Harris's -- it was something -- it was a long time.
23 It's hard to remember the name, but I -- what comes
24 up in my mind is like Harrison or Harrison's.
25 Harris or Harrison.

1 Q. I see. Do you believe it was Harrison?
2 A. It could have been either one.
3 Q. Or Harris -- you're not sure?
4 A. Oh, it was -- see it was back in the
5 '60s. I used to know the name. I used to shop
6 there a lot.
7 Q. I see.
8 A. I used to buy my gas there.
9 Q. At the auto parts store?
10 A. Yeah, absolutely. At a gas pump, sure
11 did.
12 Q. Oh, it was gas station where you had
13 some parts to sell --
14 A. Well, no, it was a big -- it was a
15 great big parts place, but he also sold gas. At
16 the same time, he also changed oil and worked on
17 people's mufflers. He sold mufflers and had a guy
18 install mufflers and change oil.
19 Q. So he had -- he did a little bit of
20 everything?
21 A. Yeah, yeah, it was.
22 Q. Do you remember Mr. Harris's first
23 name?
24 A. No, I don't.
25 Q. Is he --

1 A. I remember his face. It's just like
2 right in front of me.

3 Q. Is his building still there?

4 A. Last time I came by it was.

5 Q. Okay. And when was that, you reckon?

6 A. It was -- maybe close to a year ago,
7 I'd say.

8 Q. And do you remember how many service
9 bays he had in his shop, because I think you said
10 he changed mufflers, oil, that kind of thing?

11 A. Oh, yeah. It was like an old building.
12 It was like -- but it was -- it had one. You had
13 to drive up, you had to drive up a little -- up a
14 little piece.

15 Q. Was it outside where it lift or was it
16 an indoor service bay?

17 A. It was inside. But it wasn't a lift.
18 You had to drive the car up there.

19 Q. Did it have the pit underneath it?

20 A. Yeah. You had to drive the car up
21 under it and then it went up.

22 Q. Like a little hill?

23 A. Yeah. And it was -- I remember it was
24 real narrow. It was like doing a magic trick,
25 just --

1 Q. A magic trick?

2 A. Yeah, cause driving up to it -- because
3 you had to keep --

4 Q. You had to stay on those two tracks?

5 A. That's right. You had to stay right
6 smack in the middle of it.

7 Q. Otherwise, you were going to fall in
8 the pit, right?

9 A. That's right. The wheels would run
10 off, yeah.

11 Q. All right. I think I understand that.

12 A. Yeah.

13 Q. Now, it sounds like we ought to be able
14 to find it.

15 You don't remember Mr. Harris's first
16 name?

17 A. No.

18 Q. You're 72 years old, right?

19 A. Yes.

20 Q. I know you were born on July 20th, just
21 like I was.

22 A. Okay.

23 Q. Was Mr. Harrison older than you,
24 younger than you, about the same age as you?

25 A. No, he was older.

1 Q. Okay. Do you know the name of anybody
2 who worked for him?

3 A. No, I don't. No, I don't.

4 Q. Did he carry any flag on his business
5 -- like a gas station logo, or you know, like a
6 car-parts logo, oil logo -- some people used to
7 have like a little shell.

8 Any kind of logo on his business --
9 like on his sign --

10 A. Uh-huh.

11 Q. -- where any auto part, muffler part --
12 anything that you remember? I know it was a long
13 time ago.

14 A. Yes -- no, I really don't.

15 Q. Okay.

16 A. Yep.

17 Q. Do you remember the name of anybody who
18 worked for Mr. Harrison?

19 A. He had a guy working with him, but I
20 don't -- I don't know his name.

21 Q. And you said, I think that Mr. Harrison
22 might still live over yonder?

23 A. I think so -- I'm pretty sure he lives
24 across the road. Matter of fact, I think he built
25 a church right cross the road -- right across the

1 road from it.

2 Q. And he's retired, or he shut his
3 business down, at least as best you know?

4 A. Oh, yeah, he closed that down. He sure
5 did.

6 Q. Do you know when he closed it?

7 A. Oh, man. Let me see. Goodness
8 gracious, I don't know exactly when. I don't know
9 if it was the '70s or '80s, 'cause when I moved --
10 after I got married, I didn't go back toward
11 Blacksburg too often.

12 Q. Right. I'm going to get back to where
13 we were. I've obviously got a little side tripped
14 to Mr. Harrison's?

15 A. Okay.

16 Q. What kind of church did he build across
17 the street? And the real reason I'm asking is do
18 they have a denomination that I can recognize it?

19 A. I'm not sure, but I believe it's
20 Baptist. I'm not sure.

21 Q. Is it a big church or really sort of a
22 little meet in the house?

23 A. Well, really I've never been to it, but
24 I remember seeing it out there. I remember seeing
25 it.

1 Q. Oh, I see. So you've never worshiped
2 there, but you've --

3 A. No, no, no.

4 Q. -- seen it from the road?

5 A. Yeah, from the road. From the road.
6 From the road.

7 Q. Got it. Tell you what. I'm going to
8 take us off the record for a second. I'll tell you
9 why. I know you faded a little bit before we took
10 that break --

11 A. Uh-huh.

12 Q. It's makes me -- it's hot in here.

13 A. Uh-huh.

14 Q. And does that make you sleepy?

15 A. A little bit.

16 Q. Do you mind me turning the heat down?

17 A. No, no, no.

18 Q. All right. Let me take -- if you
19 please, let's take a short break and let's do that.

20 THE VIDEOGRAPHER: Time is 12:42 p.m.
21 We are going off the video record.

22 (A recess transpired.)

23 THE VIDEOGRAPHER: The time is
24 12:45 p.m., we are back on the video record.

25 BY MR. PHILLIPS:

1 Q. When -- I'm going to sneak back to your
2 brother-in-law, Eddie Gene's garage days -- back in
3 the 1960s --

4 A. Uh-huh.

5 Q. When he went to buy parts, is the
6 Harrison's place the only one that you know for
7 sure -- that you believe for sure that he bought
8 parts from?

9 MR. MCLEOD: Object to the form.

10 THE WITNESS: No. No, he's not the
11 only one, because I know he bought -- there was a
12 parts -- a parts place in Blacksburg -- in the
13 middle of the town of Blacksburg. And I know he
14 went there a lot, too.

15 BY MR. PHILLIPS:

16 Q. Okay. Any idea what the name of that
17 store was or what kind of flag it had, if you will?

18 A. No, I don't. I really don't.

19 Q. It was in the town of Blacksburg?

20 A. In the town of Blacksburg, yeah.

21 Q. Did Eddie Gene live in Blacksburg more
22 -- was it more like Blacksburg than Gaffney?

23 A. Well, it was actually Cherokee Falls.

24 Q. Okay.

25 A. But now, they call Cherokee Falls --

1 they call it -- they got the address of Blacksburg.

2 Q. Okay.

3 A. Because at one time there was a post
4 office at Cherokee Falls and that's when the mill
5 was running. It was the Burnett mill down there --
6 Burlington. It was a Burlington.

7 Q. A Burlington?

8 A. Yeah. Burlington, yeah.

9 Q. So what was referred to as Cherokee
10 Falls is now referred to as Blacksburg?

11 A. Oh, yeah, that's right.

12 Q. Okay. And as you said -- a marker that
13 might help us is that there was a Burlington
14 mill --

15 A. Right.

16 Q. -- sewing mill in that part of the
17 world?

18 A. Yes. And they closed the -- when
19 Burlington closed the mill down --

20 Q. Yes, sir.

21 A. -- in Cherokee Falls, then they closed
22 the post office down.

23 Q. Okay.

24 A. And then everybody's address changed to
25 Blacksburg.

1 Q. I see. Burlington mills left and the
2 jobs left and the people left; is that right?

3 A. Yeah -- well -- yeah, the town changed
4 its name because it's -- all that's Blacksburg now
5 -- just Blacksburg country.

6 Q. Got it. How far is Blacksburg from
7 Gaffney?

8 A. Wait a minute. I got to -- I've got to
9 think about that, okay. Roughly -- approximately
10 ten miles.

11 Q. All right. Before we head back to
12 where some of your residences and your family, tell
13 me this -- are Harrison's -- was Harrison's called
14 Harrison's garage over there at Cherokee Falls? Or
15 was it called Harrison's -- it wasn't a Harrison's
16 auto?

17 A. I think it was Harrison's auto -- auto
18 but I can't -- I can't -- I can't remember what the
19 sign.

20 Q. You can't remember for sure?

21 A. Yeah, I can't remember for sure, but it
22 was -- it was Blacksburg --

23 Q. Used to be --

24 A. -- on 29. Yeah, I think they call that
25 Cherokee -- when it goes through Blacksburg, they

1 call it Cherokee Street. And I think they still
2 call it Cherokee Street that far out.

3 Q. And it's still got a church across the
4 street?

5 A. Yeah, that's right.

6 Q. Or across the highway from it?

7 A. That's right. That's right.

8 Q. Is it fair to say under the oath --

9 A. Uh-huh.

10 Q. -- that you took this morning that the
11 only auto places that you remember your
12 brother-in-law, Eddie Gene, buying parts from was
13 what used to be Harrison's auto and what used to be
14 a place in downtown Blacksburg?

15 MR. HENDERSON: Object to form.

16 THE WITNESS: Yes, I can't remember. I
17 can't remember no further than that, but --

18 BY MR. PHILIPS:

19 Q. But those are the only two -- I'm sorry
20 to interrupt you.

21 The only two you know for sure are
22 Harrisons' auto parts and the place in downtown
23 Blacksburg?

24 A. Yeah. Yeah.

25 Q. Okay. And that was during the years

1 that you lived next to your brother-in-law?

2 A. Oh, yeah. Yeah.

3 Q. Now, back to the family. Tell you
4 what, I'm going to skip around just a second.
5 You've got three children?

6 A. Oh, that's right.

7 Q. What are their names? I couldn't hear
8 real good --

9 A. Okay.

10 Q. -- when Mr. Henderson -- but I'm
11 getting used to hearing from you and you hearing
12 me.

13 MR. HENDERSON: Object to the form.

14 THE WITNESS: Okay. Patty Kay Giles.

15 BY MR. PHILLIPS:

16 Q. Giles?

17 A. Yeah.

18 Q. That's her last name now?

19 A. Yeah.

20 Q. And how old is Patty Kay? Or when was
21 she born -- that would be even better.

22 A. She was born in '71.

23 Q. Okay. Do you remember her -- can you
24 nail down her birthday offhand?

25 A. March 31st.

1 Q. Outstanding. And what's her husband's
2 name?

3 A. Mark.

4 Q. And have they been married pretty well
5 all along since whenever they got married?

6 A. Oh, yeah. Yeah.

7 Q. Better way to put it -- is that her
8 first and only husband?

9 A. Oh, yeah.

10 Q. Good. And Patty and Mark have how many
11 grandkids, if any?

12 A. Three -- well, they got three. Yeah,
13 those two got three, but Mark has a daughter and a
14 son too.

15 Q. From a previous relationship --

16 A. Right.

17 Q. -- or previous marriage?

18 A. Yeah. Yeah.

19 Q. Do you know who his first wife was?

20 A. I don't know her name. I heard
21 repeated of her, but I just --

22 Q. Don't know it?

23 A. I haven't heard it in a long time.

24 Q. Okay. That daughter and son -- do
25 y'all treat them as your grandchildren? Do you

1 treat them as your own grandchildren -- Mark's
2 daughter and son -- or not really?

3 A. No, they never do come around. No,
4 those two never come around.

5 Q. Okay. So Patty didn't raise those two?

6 A. No. No.

7 Q. Oh, I see. Okay. That's fine.

8 And which three kids are Patty and Mark
9 Giles's? Three of your grands?

10 A. Okay. Okay. Mallory.

11 Q. Mallory?

12 A. Yeah, Mallory.

13 Q. Mallory.

14 A. Yeah, Mallory. Mallory.

15 Q. Okay. A daughter --

16 A. M-a-l --

17 Q. L-o-r-y?

18 A. Oh, yeah, I think that's it.

19 Q. Okay. Who's next?

20 A. That's -- that's her daughter -- that's
21 Miranda's daughter.

22 Q. Excuse me?

23 A. Miranda's daughter. That's Miranda's
24 -- Mallory is Miranda's daughter.

25 Q. Oh, I see. We jumped ahead. How about

1 -- I'm just working on Patty's kids right now.

2 A. Well, that is -- oh yeah, Patty's kids?

3 Q. Yes, sir. Your three grands with Patty
4 -- through Patty.

5 A. Oh, wait a minute. Wait a minute.
6 Wait a minute. I'm sorry.

7 Q. It's all right.

8 A. Patty has got two daughters.

9 Q. Two daughters?

10 A. Yeah, two daughters.

11 Q. Oh, I thought -- I wrote down three.

12 A. Oh, I'm sorry.

13 Q. That's all right. We're getting
14 through it. What are Patty's girls' names?

15 A. Miranda.

16 Q. Miranda.

17 A. Miranda Giles.

18 Q. Excuse me?

19 A. Miranda Giles.

20 Q. Miranda Giles?

21 A. Yeah.

22 Q. How about the other one?

23 A. Is Pamela.

24 Q. Pamela?

25 A. Pamela.

1 Q. Her last name is Giles, too?

2 A. Yeah.

3 Q. Neither one of those girls are married
4 yet?

5 A. No, no, no, sir.

6 Q. Is either one of those the one going
7 off to college up in Boston, Massachusetts?

8 A. No.

9 Q. Okay. And do you know about how old
10 Miranda and Pamela are?

11 A. Okay. Miranda is about 25.

12 Q. About 25. And Pamela?

13 A. Oh, about 28.

14 Q. So Pamela was born first?

15 A. Uh-huh, that's right. That's right.

16 Q. That's fine. Do either of those two
17 girls have husbands or great-grandchildren for you?

18 A. Yes, they have great-grandchildren for
19 me.

20 Q. Miranda did or --

21 A. Both of them.

22 Q. -- both of them?

23 A. Both of them.

24 Q. All right. And what's Miranda's
25 child's name or children's names?

1 A. Oh, Mallory.

2 Q. That's where Mallory came from?

3 A. Oh, yeah. Yeah.

4 Q. And did she have any other children?

5 A. No, just one.

6 Q. And Pamela?

7 A. Two.

8 Q. She's got two. Where are their names?

9 A. Okay. Teagan.

10 Q. Kevin?

11 A. No, Teagan, T.

12 Q. T?

13 A. T-e-a-g-a-n.

14 Q. Do you think it's two Es?

15 MR. BOGLE: T-e-a-g-a-n.

16 MR. PHILLIPS: Teagan.

17 THE WITNESS: Oh, yeah. Okay. Wait a
18 minute. T-e-a -- oh, yeah.

19 BY MR. PHILLIPS:

20 Q. Maybe T-e-a-g-a-n -- does that sound
21 right?

22 A. Yeah. Yeah. I believe that's the way
23 you spell Teagan.

24 Q. All right. Is Teagan a little boy?

25 A. No. No, no, no. A girl.

1 Q. Oh, that's a she.

2 A. Yeah. Yeah.

3 Q. And does Pamela have any other children
4 or just one?

5 A. No, she's got two.

6 Q. What's the other one's name?

7 A. Carson.

8 Q. That's also girl?

9 A. Yes.

10 Q. Now, I'm going to really test you. Do
11 you know the name of Miranda -- is Miranda married?

12 A. No.

13 Q. Is Pamela married?

14 A. No.

15 Q. Do you know Miranda's -- who the boy
16 was -- that is, who's the father of Mallory?

17 A. Mark -- Mark Watts.

18 Q. Watt?

19 A. Watts, I think.

20 Q. Do you think it is W-a-t-t-s?

21 A. I think so.

22 Q. Okay. And I'm going to tell you why
23 I'm asking this question in a second, okay?

24 A. Okay.

25 Q. How about Pamela's -- is -- both Teagan

1 and Carson have the same father?

2 A. Oh, yes.

3 Q. Same father. Okay. What's his name as
4 best you know?

5 A. Gabe.

6 Q. Gabe.

7 A. Ware.

8 Q. W-a-r-e, Ware?

9 A. Yeah. Yeah.

10 Q. Do both of those boys live in
11 Spartanburg County?

12 A. No. Mark lives in -- he's in
13 Greenville County right now.

14 Q. Okay. Does he still -- does he live
15 with Miranda still?

16 A. Oh, wait a minute.

17 Q. Does Mark Watts live with your
18 grandchild, Miranda Giles?

19 A. No.

20 Q. Doesn't live with her. Okay.

21 A. Okay. Mark -- Mark -- no, he lives in
22 Gaffney.

23 Q. Lives in Gaffney. Okay.

24 A. Over there in Greenville community to
25 be exact.

1 Q. Is he still living with Miranda, or are
2 they kind of broken away?

3 A. No, they don't.

4 Q. They're not he-ing and she-ing together
5 still?

6 A. No they're not.

7 Q. How about Pamela's man, Gabe Ware -- is
8 he still with Pamela?

9 A. He was until about -- about two months
10 ago.

11 Q. Okay.

12 A. He was living in -- they did live in
13 Simpsonville.

14 Q. Right.

15 A. For I say about three years.

16 Q. That's when he and Pamela were
17 together, right?

18 A. Well, before that they was in Cherokee
19 County at Corinth.

20 Q. What's that town called?

21 A. It's Corinth community.

22 Q. Corinth?

23 A. It's Corinth community. That's down
24 Union Highway --

25 Q. Yeah.

1 A. -- on the left. They call that
2 Corinth.

3 Q. Corinth.

4 A. It's still in Gaffney, though.

5 Q. Yeah. Is that Corinth -- like
6 Corinthians?

7 A. No, no. The name of the communities is
8 Corinth.

9 Q. Oh wren?

10 A. Corinth -- wait a minute. Corinth.

11 Q. Corinth. Okay. We'll figure that out.

12 A. I don't know how to spell it.

13 Q. Okay. Tell you what the reason is --
14 if we ever have to go to trial, we need to know
15 where these folks live --

16 A. Okay.

17 Q. -- it's because we got to get jurors
18 from Spartanburg County --

19 A. Okay. Okay.

20 Q. So Miranda and Pamela are 25 and 28,
21 roughly?

22 A. Roughly. Roughly.

23 Q. So they don't go out for ice cream with
24 you anymore, do they?

25 A. No.

1 Q. Okay. Now, those are the only two
2 children that your Patty Kay Giles and Mark Giles
3 have --

4 A. Right.

5 Q. -- those two? And your second child's
6 name is what?

7 A. Tessa.

8 Q. Tessa?

9 A. Yeah, T-E-S-S-A.

10 Q. T-E-S-S-A. What's her middle name?

11 A. Lynn.

12 Q. L-y-n-n, maybe?

13 A. Yeah. Yeah.

14 Q. And her last name?

15 A. Wait a minute. Quinn.

16 Q. Quinn?

17 A. Yeah, Quinn.

18 Q. Got it. How old is Tessa Lynn Quinn or
19 when was she born?

20 A. 1972.

21 Q. You know --

22 A. Whoa. Whoa. I'm sorry. Oh, that's
23 right, '72, '72.

24 Q. '72?

25 A. Yeah, '72.

1 Q. All right. It's hard to remember
2 sometimes.

3 A. Oh, yeah.

4 Q. All right. What was her birthday?

5 A. July the 6th.

6 Q. Close to yours.

7 A. Yeah, yeah it was.

8 Q. About two weeks from yours.

9 Now, is Tessa Lynn got any of your
10 grandchildren -- that is, does she have any
11 children?

12 A. Yes.

13 Q. How many?

14 A. Three.

15 Q. Three. Would you give me their names.

16 A. Yes. Tyler.

17 Q. Tyler. Is that a he Tyler or she
18 Tyler?

19 A. A he Tyler. It's a he Tyler.

20 Q. All right. Do you know Tyler -- the
21 rest of his name? Do you know if Tyler -- what the
22 rest of Tyler's name is?

23 A. Okay. Wait a minute. Just give me a
24 minute. I think it's Jerry Reed Tyler.

25 Q. Jerry Reed -- Jerry like the singer?

1 A. Tyler Quinn.

2 Q. Tyler Quinn?

3 A. Right.

4 Q. And reckon how old is Tyler Quinn --
5 best you know approximately?

6 A. I think he's born about 1990 -- I
7 think.

8 Q. I got one about that age, so he's about
9 27 years old, something like that?

10 A. Yeah, I think so.

11 Q. And by the way, Tessa Lynn Quinn --
12 what is her husband's name?

13 A. Michael.

14 Q. And you don't reckon -- you don't know
15 Michael's middle name, do you?

16 A. I really don't.

17 Q. That's all right. Michael from a --
18 those two still married?

19 A. Oh, yes.

20 Q. Still married. Where do they live?

21 A. They live in Gaffney.

22 Q. And by the way, daughter Patty Kay
23 Giles and Mark Giles -- what town do they live in?

24 A. They live in Gaffney, too.

25 Q. In Gaffney. Good. Both in Spartanburg

1 County?

2 A. No, no, no, Cherokee County.

3 Q. Oh, Cherokee County.

4 A. Yeah, Cherokee County.

5 Q. All right. Do you live in Cherokee or

6 Spartanburg right now? Do you live in Cherokee

7 County or Spartanburg --

8 A. Oh, Cherokee County.

9 Q. Cherokee County.

10 A. We are in Cherokee County right now.

11 Q. Yes, sir. All right.

12 A. I live about -- about three miles away.

13 Q. All right. And does Jerry Reed Tyler

14 Quinn, your grandson, have any children?

15 A. No.

16 Q. Okay. Is he the one -- he's not the

17 one going off to college 'cause he's already too

18 old to go to college, right?

19 A. No. No.

20 Q. Now, does Tessa Lynn Quinn, your

21 daughter, have any other children?

22 A. Yes.

23 Q. What's the name? His name or her name?

24 A. Her name is Samantha.

25 Q. Samantha. Do you remember her middle

1 name by chance?

2 A. No, I can't remember.

3 Q. Is Samantha married?

4 A. No.

5 Q. She's still a Quinn?

6 A. Yes.

7 Q. And how old is Samantha?

8 A. Samantha is --

9 Q. Or when was she born if you know that,
10 roughly?

11 A. I'm going to make a guess about --
12 close to '93.

13 Q. Okay. So she's about -- somewhere
14 around 24 years old?

15 A. Yeah, I think so.

16 Q. Does she have any children?

17 A. Oh, yes, she does. She has one.

18 Q. One child. What's his or her name?

19 A. It's Branlin.

20 Q. Grandlin?

21 A. No, Branlin.

22 Q. Branlin?

23 A. Branlin. Branlin. Yeah.

24 Q. Is that the first name or last name?

25 A. First name.

1 Q. Oh, I see. Branlin. And that's a she?
2 Is that a daughter?

3 A. No, no. That's her son.

4 Q. Son?

5 A. Branlin, yeah.

6 Q. Is Branlin the first name?

7 A. Right.

8 Q. Like Brandon?

9 A. Branlin, l-I-n.

10 Q. Okay.

11 A. Branlin.

12 Q. All right. And what -- his last name
13 is Quinn, right?

14 A. No -- well, I really don't know that.
15 I really don't know that.

16 Q. Oh, I see. She -- Samantha's not
17 married?

18 A. No.

19 Q. I see. Do you know what little
20 Branlin's last name is?

21 A. I sure don't. I don't.

22 Q. Okay. And do you know about how old he
23 is -- the great grandson?

24 A. He's over a year.

25 Q. Sir?

1 A. Over a year old.

2 Q. Very good. Now, Tessa has -- I think
3 you said four children, right?

4 A. No, three.

5 Q. Three. All right. Let's talk about
6 the third child.

7 A. Third child is --

8 Q. I'm so sorry. Let me interrupt myself
9 one time.

10 A. Okay.

11 Q. Samantha, the second child -- that is
12 your second grandchild through Tessa?

13 A. Right.

14 Q. She was with somebody who helped them
15 make Branlin?

16 A. Uh-huh.

17 Q. What -- do you know his -- you didn't
18 know his last name; do you know his first name?

19 A. I really don't.

20 Q. Just don't know what the old
21 boyfriend's name was?

22 A. No, I don't. I don't. I really don't.

23 Q. Okay. No, problem. We're just trying
24 to get as many names as we can --

25 A. Okay.

1 Q. -- on the canvas. What is Branlin --
2 so Samantha's third child is who? Excuse me.
3 Tessa Lynn Quinn's third child's name is who?

4 A. Erie.

5 Q. Harry?

6 A. No, Erie.

7 Q. Eric.

8 A. E-r-I-e, I believe is the way you spell
9 it. Erie

10 Q. Oh, E-r-I-e.

11 A. I think. I think.

12 Q. And that's a boy or girl?

13 A. Boy.

14 Q. And Erie Quinn? That's his last name?

15 A. Yeah, Erie Quinn. Right.

16 Q. All right. Okay. Good. And do you
17 know about how old Erie is -- about when he was
18 born?

19 A. I'm going to make a guess around '90 --

20 Q. Okay. Now, we got Jerry Reed Tyler
21 born about 1990 also?

22 A. Okay. About 19 -- well, no. About
23 1996.

24 Q. Okay. '96 -- so about 22 years old?

25 A. Yeah, I think so.

1 Q. Does he have any children?

2 A. No.

3 Q. And is Erie in school or do you know
4 where he is?

5 A. Well, he's right -- now he lives in
6 Spartanburg.

7 Q. Do you know where he works?

8 A. Yes.

9 Q. Where does he work?

10 A. He works at Freightliner.

11 Q. Okay. Very good. Let's talk about
12 your third child. So that's it for all the kids
13 that Tessa Lynn has, right?

14 A. Right.

15 Q. Jerry Reed Tyler Quinn, Samantha Quinn
16 who's got a child, and Erie Quinn who's about
17 20 years old; is that right?

18 A. Roughly. Roughly.

19 Q. About -- that's right?

20 A. About.

21 Q. Now, we've identified two of these --
22 three of these four great-grandchildren?

23 A. Yes.

24 Q. Erie doesn't have any of those
25 children, right?

1 A. No.

2 Q. Okay. Very good. Now, your third
3 child -- what is his or her name?

4 A. His name is Danny Ray Crawford.

5 Q. Danny Ray Crawford?

6 A. Right.

7 Q. How old is Danny Ray or when was he
8 born?

9 A. He was born in 1975.

10 Q. Okay. Do you remember his birthday?

11 A. Yes. It's February the 5th.

12 Q. And how many children does he got?

13 A. Well, he's got -- he's got two children
14 of his own.

15 Q. Yes, sir.

16 A. Plus one stepdaughter when he was
17 married.

18 Q. And does he raise that child?

19 A. Oh, yes, he does.

20 Q. So that's one of your grandkids then?

21 A. Yeah, yeah, he did raise them, he did.

22 Q. Okay. Who is Danny Ray married to?

23 A. Tiffany. Uh-huh, Tiffany.

24 Q. Yes, sir. And do you know what her
25 maiden name was?

1 A. I really know, but I just can't bring
2 it up.

3 Q. Okay. Where do those two live -- Danny
4 and Tiffany?

5 A. Okay. Well, right now, Danny lives in
6 Dallas, Texas.

7 Q. What kind of work is he doing in
8 Dallas?

9 A. He's an engineer.

10 Q. Okay.

11 A. On a -- on an automotive.

12 Q. Okay. Is he like an automaker?

13 A. No, no. No, no. I'm sorry. On a
14 train.

15 Q. Oh, a train engineer?

16 A. Yeah, train engineer. I'm sorry.

17 Q. And does he operate a train -- like
18 drive it?

19 A. Yes, he does. He's an engineer.
20 Right.

21 Q. Do you know which company -- which
22 railroad he works for?

23 A. No, I don't. I know it's one out west.

24 Q. Okay.

25 A. He said there was two rail lines. He

1 said one's out west. One's on the west coast and
2 one's on the east coast. And he had chance to go
3 to work with the one on the east coast, but he
4 chose the one on the west coast.

5 Q. Okay. And Danny's wife, Tiffany, is
6 she out there with him in Dallas?

7 A. No, she's in Colorado Springs,
8 Colorado.

9 Q. Are those two separated? Are they
10 still married or do you know?

11 A. They still married. Yeah, they still
12 married.

13 Q. Okay. And let's see -- does she have a
14 house out in Colorado Springs, or do you know?

15 A. Oh, yeah. Yeah. I think -- I think --
16 I'm not sure, but I think she rents it.

17 Q. She rents out there?

18 A. I think so. I think so now.

19 Q. And are the -- he's got two children of
20 their own and one stepchild?

21 A. Right.

22 Q. And let's -- before I go there, let me
23 just understand where Danny lives. Does he live in
24 a house in Dallas, or have you been out there
25 before?

1 A. No, I haven't --

2 Q. In other words, would you know?

3 A. No, I wouldn't because I never been out
4 there since he moved out there.

5 Q. Okay. How long has Danny been gone?

6 A. Close to two years.

7 Q. And best you know, he and Tiffany are
8 not separated but they just live in different
9 towns?

10 A. Yes.

11 Q. Now, their two -- well, let's start
12 with the stepchild that was sort of raised as
13 Danny's kid and your grandchild. What's that
14 child's name? It's probably a grownup child?

15 A. Yeah. Well, I call her Nikki, but her
16 real name is Nachalie.

17 Q. Yeah, Nicole or something?

18 A. No.

19 Q. Nachalie.

20 A. Nachalie.

21 Q. Like N-a-c-h-a-l-I-e or something like
22 that?

23 A. Yeah, something like that. Yeah.

24 Q. All right. And how old is Nachalie now
25 -- or Nikki? Approximately?

1 A. She was about three years old when
2 Danny was married to Tiffany.

3 Q. Okay.

4 A. And that was in 1999 or 2000. I'm not
5 sure exactly but --

6 Q. One of those two?

7 A. Yeah, close to one of those.

8 Q. So I'm thinking that Tiffany might be
9 about 21 years old, and I added 18 -- this is 2018
10 plus about three years?

11 A. Oh.

12 Q. Does that sound reasonable?

13 A. No, no.

14 Q. U-oh.

15 A. Tiffany is about four years younger
16 than Danny.

17 Q. Oh, Danny, your --

18 A. My son.

19 Q. Oh, okay.

20 MR. HENDERSON: You said Tiffany. Did
21 you mean to say Tiffany or Nikki?

22 MR. PHILLIPS: Please forgive me. I
23 meant to say -- I meant to talk about Nikki.

24 THE WITNESS: Okay.

25 BY MR. PHILLIPS:

1 Q. Is Nikki about 21 years old?

2 A. Wait a minute. Yeah. Yeah.

3 Q. Let me tell you how I do my math.

4 She's about three years old in 2000 when they got
5 married.

6 A. That's right. That's right.

7 Q. Tiffany is about 21. Is Tiffany in
8 college? Oh, I said it again. I didn't mean to.

9 A. Okay.

10 Q. I was writing my notes wrong.

11 A. Okay.

12 Q. Nikki, is she in college right now?

13 A. No. No, she's not.

14 Q. Where does she live, best you know?

15 A. She lives out there in Colorado Springs
16 with her mother.

17 Q. Okay. We're almost there now on these
18 kids.

19 A. Okay.

20 Q. I think we got two more. Danny and his
21 wife, Tiffany -- we're not sure what the maiden
22 name was -- had two other children of their own.
23 What are those two names --

24 A. Oh, yeah. Yeah.

25 Q. -- your two grands?

1 A. Yes. Yes. Haley.

2 Q. Haley. That's a she?

3 A. Yes.

4 Q. H-a-l-e-y, maybe?

5 A. Yeah, Haley. H -- yeah, yeah something
6 like that.

7 Q. Something like that. Haley's last name
8 is Crawford --

9 A. Right.

10 Q. -- just like Danny?

11 A. She's -- she's the one that's got
12 the --

13 Q. She's got the good grades?

14 A. Well, she got accepted for Harvard.

15 Q. She got accepted for Harvard?

16 A. Yeah, recently. Yeah.

17 Q. All right. Good for her. Where did
18 she go to high school?

19 A. Well, out there in Colorado Springs.

20 Q. How about that. Yeah, I guess she's a
21 senior in high school, then?

22 A. Yes. This is the last year, yeah. I'm
23 thinking it's the last year.

24 Q. I bet it is. Okay. We have -- that's
25 good. Congratulations on that child.

1 A. Thank you.

2 Q. She obviously worked hard.

3 And what is their other child's name --

4 Danny and Tiffany?

5 A. Kaylin.

6 Q. Kaylin?

7 A. Kaylin.

8 Q. K-a-y-l-I-n?

9 A. Let me see. Wait a minute. Wait a
10 minute. I really don't know the spelling.

11 Q. I don't either, but we're going to call
12 it Kaylin.

13 A. Yeah, Kaylin. That's it. That's what
14 they name --

15 Q. Let's see K-a-y-l, maybe, y-n?

16 A. Okay.

17 Q. And that's a grandchild. How old is
18 she? Is she a little bit older --

19 A. No, that's a grandson.

20 Mr. Henderson: That's a boy.

21 BY MR. PHILLIPS:

22 Q. Grandson?

23 A. Yes.

24 Q. Oh, Kaylin -- I bet that's K-I-a-l-e-n,
25 maybe. We'll just have to figure it out one day.

1 A. Okay.

2 Q. All right, sir. And his name is

3 Kaelan Crawford?

4 A. Right.

5 Q. Do you know his middle name offhand?

6 A. No, I don't.

7 Q. Probably about 16 years old or a little

8 bit younger than his sister?

9 A. Oh, Kaelan was born in '04.

10 Q. Born in '04. So that's I'm saying --

11 thinking he may be 14 years old?

12 A. Yeah. Yeah.

13 Q. And he probably goes to school out in

14 Colorado Springs?

15 A. Oh, yeah. Yeah.

16 Q. Do you -- you've never been out to

17 Colorado Springs to see Tiffany and the kids out

18 there, have you?

19 A. Yeah, I have.

20 Q. You have? Okay. When did y'all go out

21 there?

22 A. When Kaelan was born.

23 Q. Oh, good. And that was in '04?

24 A. Yes, that's right.

25 Q. Have you been out there since?

1 A. Yes, I was.

2 Q. When did you do that?

3 A. I believe it was a few years after

4 that.

5 Q. A couple of years after that?

6 A. Yeah. I moved -- I went out there to

7 help Tiffany to move back.

8 Q. And she was going move back where?

9 A. To --

10 Q. Colorado Springs to Dallas or back --

11 A. No.

12 Q. -- to this part of the world?

13 A. When -- when I went out there and she

14 moved back, she was living in -- I believe it was

15 Golden, Colorado.

16 Q. Oh, you helped her move from Golden to

17 Colorado Springs?

18 A. No, I helped her move to Colorado to --

19 Q. Golden?

20 A. -- Raleigh, North Carolina.

21 Q. Okay. That was Tiffany and the

22 grandkids moving --

23 A. Right. Right.

24 Q. -- from Colorado to Raleigh?

25 A. Right.

1 Q. And that was a couple of years after
2 Kaelan was born?

3 A. Yes.

4 Q. About 2006?

5 A. Yeah. Pretty close.

6 Q. Did y'all drive a caravan full of
7 furniture and all of that kind of stuff?

8 A. Well, at the time my son was in the
9 army and he was stationed overseas.

10 Q. Oh.

11 A. So that's why I moved out there to help
12 her. They had two cars to pull. And I pulled --
13 she drove her car, and I drove the U-Haul hooked to
14 the --

15 Q. And pulled her car?

16 A. -- jeep. Yeah. It was a jeep hooked
17 up to -- it was Danny's jeep hooked to a U-Haul --

18 Q. I see.

19 A. -- with all of her stuff she wanted to
20 keep in it.

21 Q. I understand. I understand. And why
22 did she go to Raleigh? Is that where her parents
23 are from?

24 A. Danny didn't like Colorado so he got
25 her to move out here, but that's where she decided

1 to go too.

2 Q. To Raleigh, North Carolina?

3 A. Right. Right.

4 Q. And did you see the grandkids more when
5 they were in Raleigh?

6 A. A pretty good bit because they was --
7 they was staying in Goucher with me for just a
8 little while -- oh yeah, she was -- when she moved
9 out here, the kids started staying with me and
10 Tiffany was staying up there in Raleigh. And they
11 went -- they went to school down here when they
12 moved back -- in Goucher School. Goucher
13 Elementary School.

14 Q. Is it Doecher with a D or Goecher with
15 a G?

16 A. A g.

17 Q. Excuse me?

18 A. G-o-u-c-h-e-r.

19 Q. Okay. Some people might look at it and
20 say Goucher.

21 A. Well, they call it that too.

22 Q. It's supposed to be Goucher. Okay.

23 A. Well, I don't know which one it's
24 supposed to be, really.

25 Q. All right. How many years did they

1 stay here and go to school -- Danny and Tiffany's
2 kids?

3 A. They went to school -- okay. About a
4 year.

5 Q. About a -- about a -- say a school year
6 with you?

7 A. Yes. Yes.

8 Q. Okay. And at some point she made her
9 way back out to Colorado?

10 A. Yeah. Okay.

11 Q. Is that right?

12 A. Oh, that's right.

13 Q. So maybe a year later she went back to
14 Colorado?

15 A. Well, let's see. The kids started
16 living with her for just a little while up there in
17 Raleigh.

18 Q. Raleigh, North Carolina?

19 A. Yeah. And matter of fact, they were --
20 Tiffany was going to come by here and let us see
21 the kids and she took off out back to Colorado.

22 Q. All right. She must like that weather
23 out there?

24 A. Oh, I guess so. I guess so. That's
25 where she grew up, around Oklahoma.

1 Q. Okay. She's from out West?

2 A. Yes. That's right.

3 Q. Now, back to their first child, Nikki.

4 Nikki has -- does Nikki have any children?

5 A. Oh, no. No, no.

6 Q. And I'm sure Haley, the granddaughter

7 who's heading up to Harvard, does not have

8 children?

9 A. No.

10 Q. Nor does Kaelan, the little boy who's

11 about 14 years old?

12 A. No.

13 Q. We identified three

14 great-grandchildren, I think, throughout this

15 exercise, and so we're missing one. Didn't you say

16 you had four great-grandchildren?

17 A. Yes.

18 Q. All right. Here's the way I count

19 them.

20 Pamela Giles, who is your daughter,

21 Patty Kay's child, has two great-grands. Excuse

22 me. Your child Patty has two daughters -- Miranda

23 and Pamela, right?

24 A. Right. Right.

25 Q. And Miranda's got one child named

1 Mallory?

2 A. Right.

3 Q. Pamela's got a child named Teagan and
4 one named Carson?

5 A. Right.

6 Q. Okay. And then -- Okay, there's the
7 three. And fourth is your daughter, Tessa Lynn
8 Quinn, has a child named Samantha who's got a child
9 named Branlin who's a male?

10 A. Right.

11 Q. We're not sure of his last name?

12 A. Right.

13 Q. Okay. Very good.

14 MR. HENDERSON: Mr. Crawford, how you
15 holding up?

16 THE WITNESS: I'm okay.

17 MR. PHILLIPS: We can go get lunch or
18 just keep on plowing. Whatever y'all want to do is
19 fine with me.

20 THE WITNESS: Just whatever y'all want
21 to do.

22 MR. HENDERSON: No, no, no. We're
23 going to go by what you say. You are the one we
24 are concerned about.

25 He doesn't like to say if he needs a break;

1 that's my concern. Why don't we take a break real
2 quick. Let's just. Let's just. Let's just.
3 Let's just chat for a few minutes, okay?

4 THE WITNESS: Okay.

5 MR. PHILLIPS: And then y'all figure
6 out what you want to do. We'll just step off the
7 camera for a minute, all right?

8 THE VIDEOGRAPHER: The time is
9 1:26 p.m. We're going off the video record.

10 (A lunch recess transpired.)

11 THE VIDEOGRAPHER: The time is
12 2:33 p.m. We are back on the video record.

13 BY MR. PHILLIPS:

14 Q. Mr. Crawford, Mark Philips, again. We
15 had lunch. I hope everything's all right. As you
16 told me a minute ago, you're a little
17 uncomfortable, but we're going to try to get
18 through it this afternoon. Are you ready?

19 A. I'm ready.

20 Q. Let's do it. We covered the kids
21 pretty hard.

22 A. Uh-huh.

23 Q. And we talked about the grandkids and
24 we had been talking about your old residences.
25 What I didn't ask about the family was your wife,

1 Evelyn Kay Crawford.

2 Are you y'all married?

3 A. Yes.

4 Q. When did you get married?

5 A. May the 10th, 1970.

6 Q. All right. Is Evelyn Kay your first
7 and only wife?

8 A. Yes.

9 Q. Are you her first and only hubby --
10 husband?

11 A. Yes.

12 Q. All right. Where is she from?

13 A. From Gaffney.

14 Q. So did y'all grow up together?

15 A. No, she --

16 Q. Is she older or younger?

17 A. She's younger.

18 Q. How much younger?

19 A. About close to five years.

20 Q. About five years?

21 A. Yeah.

22 Q. Okay.

23 A. But she was from Cherokee Creek --
24 Cherokee Creek, and I was from Cherokee Falls.

25 Q. How far is Cherokee Creek from Cherokee

1 Falls?

2 A. Oh, good gracious. That is -- that's a
3 piece up Number 11.

4 Q. Oh, yeah, sure.

5 A. Cherokee --

6 Q. Toward -- toward Table Rock?

7 A. Not that far. Not that far.

8 Q. I know not that far.

9 A. Yeah, I know it's that way, but not
10 that far. Like about -- wait a minute. Let me
11 see.

12 Q. I know Highway 11 pretty good.

13 A. Yeah, I know how many miles -- I'd say
14 about five miles.

15 Q. Away from --

16 A. North of Highway -- Interstate 85.

17 Q. Yeah, sure. I think I know about where
18 that is. So she's up closer to the mountains,
19 anyway, right?

20 A. Yes, she was.

21 Q. And y'all met somewhere and ultimately
22 got married?

23 A. Yes, sir.

24 Q. Okay. And you got married in 1970?

25 A. Yeah.

1 Q. Now, you mentioned sometimes working
2 around -- let me tell you his name -- Eddie Gene?

3 A. Uh-huh.

4 Q. Who is your brother-in-law?

5 A. Uh-huh.

6 Q. And that's a yes, right?

7 A. Yes.

8 Q. Okay. Eddie Gene is your
9 brother-in-law through who? Through your wife?

10 A. No, no, my sister.

11 Q. Through your sister?

12 A. Yeah.

13 Q. Your sister's name is what?

14 A. Faye.

15 Q. Faye.

16 A. Yes.

17 Q. Okay. What is Faye's last name?

18 A. Clary.

19 Q. Cleary?

20 A. Yeah.

21 Q. Like C-l-e-a-r-y?

22 A. C-l-a-r-y. C-l-a-r-y.

23 Q. Got it. C-l-a-r-y. Is she still
24 married to Eddie Gene?

25 A. Well, Eddie Gene is deceased.

1 Q. Eddie Gene is deceased. When did Eddie
2 Gene die?

3 A. About two years ago.

4 Q. Did sister Faye and Eddie Gene still
5 live at his old house with the garage close by when
6 he died?

7 A. No, he lived at Bear Creek over on
8 Cherokee Falls Road, but he still had a garage --
9 better garage built behind his motor home.

10 Q. So he and Faye moved to Bear Creek
11 right by Cherokee Falls, did you say?

12 A. Yeah. Yeah, close to Cherokee Falls
13 which is -- which is Blacksburg now.

14 Q. Which is Blacksburg?

15 A. Right. Blacksburg address.

16 Q. It's kind of close -- it sounds like
17 it's the area where that Harrison auto is? I might
18 be wrong.

19 A. About three or four miles from it.

20 Q. We are going to talk about Eddie Gene
21 in just a minute.

22 A. Okay.

23 Q. Back to your own residences. We've got
24 -- we've got a little bit of information that we
25 can get a little bit, and I had -- I counted that

1 from 1983 forward, if this information is
2 accurate --

3 A. Okay.

4 Q. -- that y'all lived in about 18
5 different addresses from 1983 until you moved to
6 your big house at 400 Pacolet.

7 Did y'all move a lot?

8 A. Well, a pretty good -- pretty good bit.
9 I don't know exactly how many.

10 Q. Is it possible that y'all moved your
11 trailer every year or two?

12 A. No, I never did move my trailer. I
13 bought it and had it put there -- down there at
14 Goucher.

15 Q. Yes, sir.

16 A. It stayed there until I moved out of
17 it.

18 Q. Oh, I see. So is that trailer you
19 lived in on Goucher -- on Goucher Green Bethel Road
20 -- the only trailer you actually owned?

21 A. Yes.

22 Q. Okay. And that was the one that you
23 lived in from about 1995 to 2007 for about
24 12 years?

25 A. Yes.

1 Q. And in 2007, did you buy the house on
2 400 Pacolet Highway?

3 A. No. My son bought it.

4 Q. That's what I thought I saw
5 somewhere --

6 A. Yeah.

7 Q. -- That was Danny's house?

8 A. Yeah, Danny. That's right.

9 Q. And I guess he had been in the military
10 and he'd been a train engineer and he was -- he
11 bought the house and let you and Mrs. -- excuse me
12 -- Ms. Evelyn Kay live in the house?

13 A. Right.

14 Q. Does Danny still own that house?

15 A. Yes, he does.

16 Q. Okay. And the kids lived with y'all
17 for about a year or two when they went to school,
18 didn't they?

19 A. Oh, yes, yes.

20 Q. They spent --

21 A. When the kids lived with us, we was
22 living down there on Goucher Green Bethel Road.

23 Q. Oh, still in the tailer you had bought?

24 A. That's right. That's right.

25 Q. Did you ever buy any real estate of

1 your own?

2 A. No.

3 Q. Okay. So it is -- and does Danny still
4 got that house? Oh, y'all are still living the
5 house?

6 A. That's right. That's right.

7 Q. I see. So he kind of bought it for an
8 investment, I guess, and let's mom and dad use it;
9 is that fair to say?

10 A. Probably.

11 Q. Did -- he kept the title to the house?

12 A. Yes.

13 Q. Okay. And it's a big house -- it's a
14 two-story house, isn't it?

15 A. Yes.

16 Q. And y'all been there for about -- how
17 long now? '08 to '18, so about ten years?

18 A. No, April '07.

19 Q. April '07. So it would be 11 years
20 this April?

21 A. I think so.

22 Q. Okay. That's good. When did you
23 retire from your regular jobs?

24 A. Well -- now, before I retired, I went
25 on disability.

1 Q. I see. I got it. We'll talk about
2 disability in just a minute then.

3 A. Okay. Okay.

4 Q. So at some point you retired on
5 disability; is that right?

6 A. That's right. That's right.

7 Q. Okay. Tell you what -- do you know
8 what year that was? Best you know?

9 A. '02.

10 Q. About 2002?

11 A. Yeah.

12 Q. So that was -- let's see -- let's think
13 -- do some mathematics -- 16 years ago? About 16
14 years ago? It's '018 now.

15 A. Yeah.

16 Q. And at the time I would think --
17 because you and I are born on the same day, July 20
18 -- that you were about 55 years old, 56 years old?
19 I think 56 years old?

20 A. Yes, I think so.

21 Q. You know how old I am? 56.

22 A. Yeah. Okay.

23 Q. I just figured it all out.

24 What was your disability back then?

25 A. I had two knee replacements.

1 Q. Yes, sir.

2 A. Total knee replacements.

3 Q. Did you get an injury?

4 A. Well, what happened at first I went
5 to -- to Dr. Gardener.

6 Q. Yes, sir.

7 A. My knees -- he cleaned them up, you
8 know.

9 Q. Yes, sir.

10 A. And then it done good.

11 Q. Did pretty good?

12 A. It done pretty good. But I had to go
13 back to work at Wise Food, and I had to climb up
14 and down those ladders -- up and down so much, it
15 just damaged --

16 Q. Couldn't get up and down the ladder?

17 A. Well, no, it damaged my knees -- what
18 he fixed. If I had went on disability first --
19 well, I couldn't go on disability first -- but I'd
20 been okay.

21 I'd been -- I wouldn't needed the knee
22 replacement -- I wouldn't have needed them. But
23 see, it just -- it just broke them down on -- at
24 Wise Food.

25 Q. Oh, so that made it worse?

1 A. It did. It completely started swelling
2 up, and that's why I had to have knee replacements.

3 Q. All right. And I saw that you worked
4 at -- let me just get my notes right.

5 Yeah, Wise potato chips; is that right?

6 A. That's right.

7 Q. Were you like driving a cracker truck,
8 or what were you doing for them?

9 A. No, I was doing a seasoner.

10 Q. Sir?

11 A. Seasoner.

12 Q. What's -- oh, oh, you worked at making
13 Wise potato chips?

14 A. Well, potato chips and also the corn
15 puffs.

16 Q. Yes, sir.

17 A. The cheese puff -- the cheese puffs and
18 the popcorn and potato chips, too. Let's see.

19 Q. Let's see. Popcorn, corn puffs, potato
20 chips?

21 A. Uh-huh. Yes, sir.

22 Q. Anything Wise made, I guess, at that
23 plant?

24 A. Well, yeah -- pretty well. Pretty
25 well.

1 Q. And where was the Wise potato chip
2 plant?

3 A. It was in Spartanburg.

4 Q. Okay.

5 A. Matter of fact, Whitney community --
6 Whitney.

7 Q. Spartanburg County, I guess?

8 A. Yes, it was right close to 221.

9 Q. In the Whitney community?

10 A. Whitney, yeah. Yes, sir.

11 Q. That's all right. Near Highway 221?

12 A. Yes, sir.

13 Q. Is that place still operating?

14 A. No, it's closed down.

15 Q. How many -- when did it close?

16 A. After I left it closed.

17 Q. How many years? I mean, a good bit
18 longer?

19 A. Yeah, I think about two or three years
20 later.

21 Q. Okay. And how long did you work at
22 Wise -- I know you probably retired -- it sounds
23 about '02?

24 A. Uh-huh.

25 Q. Excuse me. Did you say yes?

1 A. Yeah, yes.

2 Q. That's right. I thought you did.

3 And so how long had you been there

4 working at Wise?

5 A. I think I started in 1990.

6 Q. Okay. So a good 12 years then, right?

7 A. Yes, sir.

8 Q. And I saw that before that, it looked

9 like a good chunk of the '80s you worked at a

10 Nestle Stouffer's plant; is that right?

11 A. Yeah, I remember working there, yeah.

12 Q. How long did you work -- was it

13 Nestles, Stouffer's, or was that the same place?

14 A. Oh, that was the same place.

15 Q. Same place. And what were you doing

16 there?

17 A. Oh, I had a lot of jobs there.

18 Q. Okay. Like what?

19 A. First, I started off -- I was an

20 ingredient handler.

21 Q. A what?

22 A. An ingredient handler.

23 Q. Yes, sir.

24 A. And then after that I was a extruder

25 operator.

1 Q. Extruder operator?

2 A. Yeah.

3 Q. I got it.

4 A. That's right where they --

5 Q. Were you extracting something?

6 A. The noodles. Making noodles.

7 Q. Making noodles.

8 A. It started off with dough at the top
9 and it had, you know, mixtures in there and then it
10 came out in -- and the noodles came out and it went
11 through --

12 Q. You operated a machine that was --

13 A. That's right. And it went through the
14 cooker, you know.

15 Q. Yes, sir.

16 A. And it went through and come out on the
17 other end. And it went through the coolers that
18 cooled it down and it dropped out in what they call
19 a V-wag.

20 Q. Yes, sir. So your making Stouffer's
21 bowls of soup and pasta and stuff like that?

22 A. It's a spaghetti.

23 Q. Spaghetti?

24 A. Yeah.

25 Q. All right.

1 A. Spaghetti noodles.

2 Q. So both at Stouffer's and at Wise
3 potato chips you were in the factory working --

4 A. Right.

5 Q. -- to help -- both places making food?

6 A. Right. Now, after that --

7 Q. Yes, sir.

8 A. I was a cook.

9 Q. At Stouffer's?

10 A. That's right.

11 Q. All right. How long were you at
12 Stouffer's?

13 A. Okay. Wait a minute.

14 Q. Best you know.

15 A. Oh, man, that's hard. I think it's
16 about roughly -- about 12 years.

17 Q. About the same as Wise?

18 A. I think so. I think so.

19 Q. Okay.

20 A. Okay. I remember - wait a minute. I
21 started working at Nestles in about --

22 Q. I think we said --

23 A. About '82.

24 Q. All right.

25 A. 1982.

1 Q. Okay.

2 A. About 1982. I think it was about
3 February. It was the first of the year in '82.

4 Q. That was Nestles. Is Nestle and
5 Stouffer's the same thing?

6 A. That's right.

7 Q. Sort of Nestle/Stouffer's?

8 A. Right.

9 Q. So if you were there until about
10 1990 -- it might have been closer to eight years;
11 does that sound right?

12 A. Bear with me. Oh, yeah. Yeah.

13 Q. And then about 12 years at Wise potato
14 chips?

15 A. Yeah, I think so.

16 Q. I think you said at Wise you were a
17 seasoner --

18 A. Right.

19 Q. -- so you -- what did you do? You
20 climbed up a ladder and --

21 A. Well --

22 Q. You tell us.

23 A. Okay. That was on the potato chip
24 line. Okay. What happens -- it goes through --
25 the potatoes is cooked -- I mean, it's sliced and

1 cooked at the back and it comes through -- like a
2 -- what they call buckets.

3 Q. Yes, sir.

4 A. It's a elevator with chips on it. It
5 just vibrates and shakes -- causes them to move up.
6 And they just dump in a -- it's like a belt chain.
7 It's got what they call buckets hooked to it.

8 Q. Yes, sir.

9 A. It's this long (Indicating). They are
10 made long like -- well like that (Indicating). And
11 they came up and the chips dump on them when it
12 goes up -- and when it goes over the top, it dumps
13 them out onto the conveyor.

14 Q. Yes, sir.

15 A. And the conveyor don't move though; it
16 just shakes. And that shaking cause them to move.
17 The vibrations cause them to keep moving. And then
18 they move around and they was dropped in -- on the
19 top up here, it's got the conveyor. And it's got a
20 little hole -- the doors open up and it drops down
21 and it goes down and it runs through a little
22 tumbler. And goes through a machine.

23 If there's no chips on it -- if there's
24 no seasoning on it, it goes straight through. But
25 some of it has got to have a certain -- different

1 kind of seasoning on it. All right. You put the
2 seasoning in the machine -- at the end of the
3 tumbler -- and it goes -- the tumbler goes around
4 and the seasoning goes out and that's the way it
5 gets seasoning on it. And then it drops down into
6 what they call scales. They was like a round piece
7 and like -- well, like a mushroom like right over
8 the top --

9 Q. Uh-huh.

10 A. -- and the conveyors run out and then
11 they come out. If you never seen a seasoning
12 machine -- I mean a potato chip machine, that's
13 what it looked like.

14 And they got little things over here
15 that opens up --

16 Q. Yes, sir.

17 A. -- when it get's filled up. They just
18 open up one a time and it drops -- each one of
19 them --

20 Q. And they bag it up and seal it?

21 A. Yeah, when it goes down and it drops
22 down in a bag.

23 Q. I see.

24 A. And on the floor, the operators have to
25 keep the film on it and then they keep it in and

1 out.

2 Q. They keep it moving?

3 A. What I did is just put -- at that part
4 is putting -- keep the seasoning -- different kind
5 of seasoning.

6 Q. Yes, sir.

7 A. And when I go to another kind of
8 seasoning, have to clean it off -- everything up,
9 and change it to another kind of seasoning. That
10 was the last thing I did, though.

11 Before that, I was over on the puff
12 machine -- the cheese puffs -- cheese puffs before
13 that.

14 Q. Yes, sir.

15 A. And on that, the puffs come out --
16 well, it starts off like a great big ol' bags of
17 grits -- well, it looks like grits, you know, and
18 then they came through.

19 Q. That's when they make it -- turn it
20 into the --

21 A. The puffs.

22 Q. The cheese puffs?

23 A. Yeah, that's right. That's right.
24 Well, it turns into the puffs.

25 Q. Yes, sir.

1 A. And it goes through these hot dye --
2 you know, what we call dye.

3 Q. Is that what makes them orange?

4 A. No, that's not what makes them orange.
5 It doesn't make them orange.

6 Q. I see. Okay.

7 A. But see, what happens, it just puffs --
8 it puffs up.

9 Q. Okay.

10 A. And then it cuts off. Okay. And then
11 it goes through a big -- it blows through a big
12 pipe, and it goes into a great big --

13 Q. Hopper?

14 A. Uh-huh, hopper. It's what they call
15 the hopper.

16 Q. Yes, sir.

17 A. Yeah, a big container. That's what
18 they call a hopper. And at that point is where I
19 took over.

20 First, I had the cheese -- I had to
21 make it. I used about 15 different ingredients.

22 Q. How about that.

23 A. Yeah.

24 Q. So you would make the cheese for those
25 chips?

1 A. That's right.

2 Q. All right.

3 A. Then -- all right. Okay. The
4 seasoning -- okay. All right. When it comes out
5 of the hopper, it goes through --

6 Q. Yes, sir.

7 A. -- it goes up through a -- on a
8 conveyor.

9 Q. Yes, sir.

10 A. And on the top of it, it goes back and
11 forth. It drops them off at the top -- the top of
12 the oven. There's an oven up there -- the top of
13 the oven. And the oven just made it go back and
14 forth and cook it. It was real hot in there in the
15 summertime 'cause it was an oven.

16 Q. I guess it was.

17 A. And they cooked it -- the chips were
18 going back and forth. You know the way that the
19 belt was made was low here on one side -- it was
20 made on -- to drop off. It would drop off on
21 one -- on a line of belts.

22 Q. Right.

23 A. See, the belts went back and forth all
24 the way up -- all the way up to top. It went real
25 high.

1 Q. I see.

2 A. And then they drop off -- drop off on
3 the conveyor, and then it would go off and drop off
4 on this side. It'd keep doing that until it went
5 all the way down.

6 Q. And you were the one who made it --
7 dyed it and turned the color?

8 A. Yes, that's right. Then, it come
9 through a little belt in the back.

10 Q. Yes, sir.

11 A. And it went in the back of the tumbler.

12 Q. Yes, sir.

13 A. It tumbled around and it had the sprays
14 in there, and I had to put that cheese -- went
15 through that spray and sprayed on it.

16 Q. Yes, sir.

17 A. Sprayed cheese on it -- a certain
18 amount, you know.

19 Q. Did it --

20 A. You have to keep weighing it. Make
21 sure you have the same weight, you know.

22 Q. Did it smell good in there?

23 A. Well, no.

24 Q. You get kind of used to that, don't
25 you?

1 A. Yeah, you get used to it. You get used
2 to it.

3 Q. It's not good anymore?

4 A. Yeah.

5 Q. Okay.

6 A. And then after it left there it went on
7 the conveyor belt went over to the -- on to
8 packaging.

9 Q. When you finished working at Wise --

10 A. Uh-huh.

11 Q. -- were you paid on a salary or hourly
12 or both?

13 A. Salary.

14 Q. Salary. What was -- what were they
15 paying you when you were about finished with Wise
16 in 2002?

17 A. \$10.65.

18 Q. \$10.65 --

19 A. That's right.

20 Q. -- times 40 -- that's 400 times 50 --
21 is that about 20,000 bucks a year, maybe? A little
22 bit more?

23 A. Probably more because I worked a lot of
24 overtime.

25 Q. Worked some overtime.

1 A. A lot of overtime.

2 Q. Was it like 30 -- \$35,000, maybe?

3 A. No, not that much.

4 Q. About 25? 28?

5 A. I would say somewhere in the 20s.

6 Q. Yes, sir. All right. In the 20s?

7 A. Yeah.

8 Q. And two questions on the follow-up --
9 have you seen yet -- and we always work on this in
10 these kind of cases -- an earnings history, an
11 employment history generated by the Social Security
12 Administration?

13 Social Security Administration can sort
14 of reproduce everywhere you've ever worked and all
15 the money you made for every quarter. Have you
16 seen that for you yet?

17 A. I haven't.

18 Q. Okay. I don't know if we've got it
19 yet, 'cause I don't -- we're kind of in a hurry in
20 this case, so -- it's okay. We'll get it directly.

21 When you got your disability, was it
22 through the Social Security Administration or
23 through Wise potato chips?

24 A. At first when I started off, it was
25 through Wise.

1 Q. Okay. And then what happened?

2 A. And then when I got -- had the total
3 knee replacement, I got -- I got social security
4 disability.

5 Q. Yes, sir.

6 A. And what I was getting paid from --
7 disability from Wise -- was Liberty.

8 Q. Liberty Insurance?

9 A. Yeah, Liberty Insurance.

10 Q. They must have had some insurance?

11 A. That's right. And then -- but when I
12 got disability, though, I had to pay all the -- all
13 the --

14 Q. They wouldn't let you have both?

15 A. I had to pay them back.

16 Q. Okay.

17 A. I paid them like about -- it was
18 38,000 -- 3,800, I believe. No. Wait a minute. I
19 forgot exactly what it was. It might have been --
20 I had to pay them back. I had to pay them back.

21 Q. Tell you what, when Wise was paying you
22 a check through Liberty Mutual, how much were they
23 paying you -- like a month -- on a month basis?

24 A. Oh, it's hard to remember.

25 Q. It's a long time ago -- 60 years ago.

1 A. Yes. Yeah, I think it was about month.

2 Q. Do you remember how much they were
3 paying?

4 A. I really don't. I really don't.

5 Q. Okay. How much does the Social
6 Security Administration give you for the
7 disability?

8 A. I think it was around 1,400 a month.

9 Q. Okay.

10 A. I think.

11 Q. How about these days -- today -- right
12 now?

13 A. Well, let's see. I'm going to say --
14 well, it was close to 14.

15 Q. Well, I got --

16 A. It might have been 13. I'll tell you
17 exactly what it is right now, though.

18 Q. I was going to say, what did they pay
19 you last month?

20 A. \$1,423.

21 Q. Okay. So that's the --

22 A. That's the -- the --

23 Q. Social security payment?

24 A. That's not the -- that's not the draws;
25 that's the net -- what was left over.

1 Q. Net. I see. After they draw some
2 taxes or whatever they're going to --

3 A. Yes, after that the draw -- after they
4 take out Medicaid.

5 Q. Medicaid?

6 A. Medicaid, yes, sir.

7 Q. So net of Medicaid?

8 A. Right.

9 Q. And I don't even know -- I guess you're
10 72 now -- is it classified as social security
11 disability or social security retirement, or do you
12 know?

13 A. I know when I -- when I changed to
14 65 years old --

15 Q. Yes, sir.

16 A. -- then it changed over to social
17 security.

18 Q. Right.

19 A. Social security.

20 Q. Okay.

21 A. And before that it was disability.

22 Q. Disability. Right. So I know while
23 you were on social security disability and earning
24 those benefits you could not work; is that right?

25 I mean, you didn't work gainfully

1 employed after 2002 did you?

2 A. No, sir.

3 Q. Okay. Got it. Did you have any other
4 household income besides what was a Liberty Mutual
5 check and became the social security check after
6 2002 after you retired?

7 A. No, sir.

8 Q. Okay. And how about -- let's see --
9 make sure I get her name right --
10 Ms. Evelyn Kay Crawford -- did she ever work
11 outside the house once the kids were grown up -- or
12 during the kids growing up?

13 A. Yes. She worked at -- one time at
14 Hoechst.

15 Q. At Hoechst?

16 A. Yes, she went to Hoechst.

17 Q. Is that like the car place, Hertz?

18 A. No, no, Hoechst. Hoechst over on 85.

19 Q. Oh, it's a business over here?

20 A. Yeah, yeah, yeah.

21 Q. Oh, Hoechst Ceeleanese?

22 A. Yeah, that's right.

23 Q. I got you. Sure.

24 A. Yeah, Hoechst Ceeleanese.

25 Q. When did she work there? How long did

1 she work there?

2 A. It was around '74.

3 Q. That's about when you were there,
4 right?

5 A. Yes, yes, she was there when I was
6 there.

7 Q. I mean, did y'all drive in together or
8 anything like that?

9 A. Oh yes, we did.

10 Q. How about that. Which building did she
11 work in?

12 A. She worked over there -- the one -- the
13 one way at the back. Yeah. Now, before that --

14 Q. Yes, sir.

15 A. -- she worked at Musgrove Mills, but
16 she worked from the outside -- for the clean-up
17 company.

18 Q. Is that like janitorial or --

19 A. Something like that. Yeah, well that
20 too, and certain cloth machines. They had to go
21 clean that too.

22 Q. Okay. And after Hoechst Ceeleanese
23 around '74, did she keep working outside the house?

24 A. No.

25 Q. Okay. And so after you were disabled

1 in '02, she did not work outside of the house?

2 A. No.

3 Q. Okay. And so you just got to retire a
4 little bit earlier at age 56?

5 A. Yes.

6 Q. Okay. But you had the bad knees to
7 show for it?

8 A. Yeah. Yeah.

9 Q. Okay. And we talked about one of the
10 girls has a swimming pool -- which one was that?

11 A. Patty.

12 Q. Patty's got a swimming pool?

13 A. Yeah, Patty.

14 Q. I'm not going to even try to start
15 renaming their last names or anything. Let me just
16 look at my notes to tell me who it is.

17 A. Okay.

18 Q. Patty's got two girls -- Mallory and --
19 she has Mallory and she's got a son [sic] named
20 Teagan, right? That's a girl named Teagan?

21 A. Oh, did you say Patty?

22 Q. Yeah. Your Patty. Your baby girl.

23 A. My Patty has two girls named --

24 Q. Miranda and Pamela.

25 A. That's right.

1 Q. Miranda and Pamela. And then she's got
2 some -- a couple of grandkids named Mallory,
3 Teagan, and Carson?

4 A. Right.

5 Q. Okay. And I know you got you're -- I
6 saw your disease was diagnosed -- looks like
7 November 9th, 2017; is that right? Your disease --
8 your mesothelioma -- was November 9th, 2017 -- is
9 when they diagnosed it.

10 A. That sounds right.

11 Q. Does that sound about right?

12 A. Yeah, I knew I had something going on.

13 Q. Yeah.

14 A. I had fluid in my lungs before that,
15 but the doctors didn't know what was causing it --

16 Q. Right.

17 A. -- before that.

18 Q. So I guess we were talking with
19 Mr. Henderson earlier about Patty's -- daughter
20 Patty's swimming pool. You haven't missed a
21 swimming season yet, but we got one coming up if
22 this cold weather ever quits with us, right?

23 MR. HENDERSON: Object to the form.

24 MR. PHILLIPS: Is that right?

25 THE WITNESS: Yeah.

1 BY MR. PHILLIPS:

2 Q. All right. I got you. Now, let's go
3 back to way back when Eddie Gene Clary and your
4 sister were your neighbors. And your sister's
5 name -- just let me refresh myself -- is Faye,
6 right?

7 A. Right.

8 Q. Is Faye older or younger?

9 A. Younger.

10 Q. She's younger?

11 A. Yeah.

12 Q. Was Eddie Gene older or younger?

13 A. Older.

14 Q. He was older.

15 A. Yeah.

16 Q. All right. And I know you're 72 years
17 old, born July 20, 1945.

18 A. Yeah. Yeah.

19 Q. When was Faye born?

20 A. April 8, 1947.

21 Q. Okay. So she's right at 70 years old?

22 A. Wait a minute. I said that wrong.

23 Q. That's all right. Take it back.

24 A. I have to take it back. She was born
25 in 1948 because she puts on her records 8/8/48.

1 Q. 8/8/48?

2 A. Yep, yep.

3 Q. Okay.

4 A. No, not 48 -- well, no, I said that
5 wrong again.

6 Q. (Sneeze) Excuse me. Sorry I sneezed.
7 I got a...

8 A. 4/8/48. Yeah, that's it.

9 Q. So that's sister Faye --

10 A. -- Yeah. Right.

11 Q. -- 4/8/48.

12 A. 4/8/48.

13 Q. You got it.

14 A. That's her birthday.

15 Q. Okay. So she's 69 years old.

16 And how old is Eddie Gene compared to
17 Faye and compared to Mr. Crawford -- you?

18 A. Well, he was -- I don't know how many
19 years older than me. I was -- probably at least
20 five.

21 Q. Okay.

22 A. About five older than me, I think.

23 Q. What kind of work did Eddie Gene do
24 when he wasn't in his garage?

25 A. One time he worked at Minnett Mills at

1 one time.

2 Q. Minnett --

3 A. I just can't remember the places he
4 worked.

5 Q. Did he work at most of these mills and
6 factories like you did? You had a lot of good jobs
7 at manufacturing facilities; is that right?

8 A. Yeah, yeah.

9 Q. You were in manufacturing, really most
10 of your whole career, weren't you?

11 A. Yea.

12 Q. From about age --

13 A. Something like that, yeah.

14 Q. -- 20 to 56?

15 A. Uh-huh.

16 Q. Okay. Now, one thing I didn't really
17 get a good hard understanding of was where -- what
18 kind of work you did in the 1960s?

19 A. Uh-huh.

20 Q. And I'm going to guess you would have
21 been about 17 or 18 years old around 1962, '63; is
22 that right?

23 A. Yeah, I think so.

24 Q. And I'm just going with you --

25 A. Yeah, that's right. That's right.

1 Q. -- being born in 1945?

2 A. Yeah.

3 Q. I gather that you were enlisted in the
4 Navy for a while?

5 A. Yeah, just a while.

6 Q. How -- where did you enlist -- in
7 Charleston?

8 MR. HENDERSON: You okay?

9 THE WITNESS: Yeah, I'm okay. Yeah, I
10 went out to --

11 MR. PHILLIPS: Let me know if you need
12 a break.

13 THE WITNESS: -- to California.

14 BY MR. PHILLIPS:

15 Q. Out in California?

16 A. Yeah.

17 Q. Okay. How did you get out there?

18 A. On a plane.

19 Q. Oh, oh you flew -- you signed up here
20 and then flew --

21 A. Oh yeah --

22 Q. -- out on a plane?

23 A. -- I know what you are asking now.

24 Yeah, I signed up in Gaffney.

25 Q. Okay. When was that? What year was

1 that?

2 A. '63.

3 Q. Okay. And at some point right after
4 that the Navy flew you out to California?

5 A. Yeah, that's right.

6 Q. Was that for like basic training?

7 A. Yes, sir.

8 Q. Had you ever been to California before?
9 Had you ever been to --

10 A. No, I hadn't. No, I hadn't.

11 Q. Had you ever been much out of South
12 Carolina before?

13 A. Maybe a little of North Carolina.

14 Q. Maybe a little bit of North Carolina?

15 A. Yeah, yeah, yes, sir.

16 Q. Sounds about like me.

17 And how long did you stay in the Navy?

18 A. I think two or three months.

19 Q. Okay. Did you get through basic
20 training?

21 A. Yeah, partly. Mostly.

22 Q. Got mostly through it.

23 A. Yeah.

24 Q. Did you graduate from basic training?

25 A. Huh?

1 Q. Did you graduate from basic training?

2 A. Oh, no, no.

3 Q. And what happened that made you decide
4 not to stay in the Navy?

5 A. What happened was -- first, I had to go
6 to talk to the psychologist and he suggested that I
7 was going to -- get me an honorable discharge to
8 get out. And I went before the board -- a great
9 big bunch of generals.

10 Q. Uh-huh.

11 A. I decided -- I had a choice whether to
12 get out or stay in.

13 Q. Yeah.

14 A. And then when I got -- when I said get
15 out -- I wish I would had changed my mind. I wish
16 I would stayed in, but --

17 Q. Yeah.

18 A. -- I was very young.

19 Q. But you got your honorable discharge,
20 right?

21 A. I did. I did.

22 Q. Yeah.

23 A. But I mean, I was young and made bad
24 decisions back then. I was too young. Yep.

25 Q. You were only 17 or 18 years old?

1 A. 18 -- fixing to turn 18.

2 Q. Did you get in trouble or anything?

3 A. No, I didn't. No I didn't.

4 Q. Didn't get in trouble. Did -- was --

5 A. It was peacetime.

6 Q. Was the Navy psychologist worried about
7 you being too young to be in the Navy or just --

8 A. Oh no, no.

9 MR. HENDERSON: Object to the form.

10 BY MR. PHILLIPS:

11 Q. So what was the problem?

12 A. We're talking about going under water,
13 you know.

14 Q. Yeah.

15 A. And then -- and then I told them -- I
16 just went on ahead -- it was uncomfortable doing
17 it, but I just went ahead and done it, you know,
18 because I swim around the swimming pool, you know.

19 Q. Oh, you had trouble -- did you have
20 trouble in the water?

21 A. No, not really, but I just -- my CO
22 decided let me -- I had to go with a different
23 bunch, and then I talked to psychology -- and like
24 I said, I decided --

25 Q. I see.

1 A. -- take it to go out because I had the
2 opportunity to go out with an honorable discharge.

3 Q. I got you.

4 A. See, I had the chance to get out with
5 an honorable discharge, so I went and took the
6 honorable discharge. I wouldn't have took anything
7 else but an honorable discharge, you know.

8 Q. Right. I get that.

9 A. If they had said something different, I
10 would have stayed in.

11 Q. Okay.

12 A. I said I want to stay in.

13 Q. So -- yeah. So you got -- you had a
14 chance -- you were at a crossroads and you had to
15 decide whether to try to stay in and tough it
16 out --

17 A. That's right.

18 Q. -- or come on home with an honorable
19 discharge and -- and come on home; is that right?

20 A. That's right. That's right.

21 Q. And you came home?

22 A. That's right.

23 Q. Good.

24 A. Right.

25 Q. Now, you got home. Were your mom and

1 dad still alive?

2 A. Yes, sir.

3 Q. What was your mom's name?

4 A. Mary Irene.

5 Q. Yeah, for you, it was just mama.

6 A. That's right. It was just mama.

7 Q. Okay.

8 A. Her married name was Moss.

9 Q. Moss, like moss on the tree?

10 A. M-o-s-s, right.

11 Q. M-o-s-s, and of course, the last name

12 Crawford?

13 A. Right.

14 Q. Is she still alive?

15 A. No.

16 Q. And -- well, I guess, she would be real
17 old now. Do you know when she died -- how old she
18 was and when she was?

19 A. It was in early '90s -- I think about
20 '92.

21 Q. Do you know what took her?

22 A. Heart attack, but she had an enlarged
23 heart, and she died right before Christmas.

24 And the doctor told her before she died
25 -- the doctor told her that she wouldn't make it to

1 the next Christmas, but she didn't make it to that
2 Christmas when she died.

3 Q. How old was she?

4 A. Wait a minute. Well, she was born in
5 1919 -- November.

6 Q. Okay.

7 A. Let me see. Let me see. I'm
8 thinking --

9 Q. Let me help you. Probably about 73,
10 74 years old, maybe?

11 A. Probably, I think so. Probably.

12 Q. All right. And your father -- what was
13 his name?

14 A. Howard Wesley Crawford.

15 Q. And what year was he born -- as best
16 you know?

17 A. 1914.

18 Q. 1914 --

19 A. Wait a minute. I got to take that
20 back.

21 Q. Take it back.

22 A. Wait a minute. No, I think it was
23 1913. I think it was 1913.

24 Q. Okay. And let's see, is he -- he's not
25 still alive, is he?

1 A. No.

2 Q. Okay. And when did he pass?

3 A. I think he passed about -- away about
4 two years before my mother passed away.

5 Q. So he was probably a little over
6 mid-70s, like 76 maybe or so?

7 A. Yes, sir. Yes, sir.

8 Q. And what was his ailment? What took
9 your father?

10 A. A stroke. But he had old-timers too,
11 before, because he was in a nursing home. But it
12 was a stroke that what took him.

13 Q. Okay. But he already had the
14 Alzheimers?

15 A. That's right.

16 Q. Has he had -- did he have it for a
17 while?

18 A. Oh yes, for a good while. He knowed he
19 was getting it before he got it. Because the
20 doctor already told him it was -- he was going to
21 have trouble with his mind. The doctor already
22 warned him about it --

23 Q. Yeah.

24 A. -- and he already knew about it.

25 Q. I got you.

1 A. And he told everybody he knowed it was
2 coming.

3 Q. All right. When you came home from the
4 Navy, sometime around 1963 -- did you come back to
5 your mom and dad's house for a while?

6 A. Yes, I did.

7 Q. Where did they live?

8 A. At Cherokee Falls then. I don't know
9 what they call it -- Cherokee Falls or Blacksburg.
10 It was --

11 Q. Cherokee Falls/Blacksburg.

12 A. I don't know. I said I don't know
13 which one to call it because back at that time it
14 was Cherokee Falls because they still had a post
15 office.

16 Q. So it was either Cherokee Falls or
17 Blacksburg?

18 A. Well --

19 Q. Probably, really was Cherokee Falls?

20 A. It was Cherokee Falls back then. Like
21 I said, they had a post office at that time.

22 Q. Did they live in a house?

23 A. They did.

24 Q. Do you know what the address was or
25 what highway it was on?

1 A. On Dill Street.

2 Q. Dell?

3 A. D-I-l-l.

4 Q. Okay.

5 A. Dill Street.

6 Q. And do you remember how long you stayed
7 with them I guess to get on your feet after you
8 were in the Navy and all of that?

9 A. I moved out, but I can't think exactly
10 when I moved out, but --

11 Q. How about we go backwards. Do you know
12 how many years you lived with your mom and dad
13 after 1963?

14 A. Well, it was up to '65 to '66 when I
15 moved out, but Daddy come -- my father --

16 Q. Yes, sir.

17 A. -- and my mother, they wanted me to
18 move back, so I gived over and I moved back.

19 Q. They wanted to have you at home.

20 A. I gived up to them and then --

21 Q. Were you the only --

22 A. -- I should have stayed away.

23 Q. Were you the only adult child living at
24 the house at the time you decided -- you didn't
25 have any sisters or brothers living there with your

1 parents?

2 A. Well, there for a while, my sister -- I
3 got a another sister --

4 Q. I see.

5 A. -- named Evelyn.

6 Q. Yes, sir.

7 A. Well, she moved over there for a while
8 and her three children lived there for a while.

9 Q. Okay.

10 A. And then -- and then she bought a
11 mobile home in Blacksburg and she moved out.

12 Q. Okay. Was Evelyn -- she didn't stay
13 married?

14 A. Well, she was married, but her husband
15 was living in Oakland, California.

16 Q. Okay. Working out there somehow?

17 A. Yeah, he was a truck driver.

18 Q. That's what you call long-haul
19 trucking.

20 A. Yeah, yeah. Well, she moved out here
21 so she can -- she can -- to visit and she didn't
22 move back.

23 Q. I see.

24 A. Because her husband's name was Bud and
25 he had some issue with where he lived and some kind

1 of issue with the house.

2 Q. What was Bud's last name?

3 A. McKinney.

4 Q. McKinney?

5 A. Yeah.

6 Q. And your sister's last name -- is it
7 still McKinney or was it --

8 A. It's still McKinney.

9 Q. Okay. Is Evelyn still alive?

10 A. Yes, she is, but she's in a nursing
11 home up there in Shelby, North Carolina.

12 Q. Shelby?

13 A. Shelby -- Shelby, North Carolina.

14 Q. How old is Evelyn? Is she the oldest?

15 A. Well, no, she's the oldest -- she's the
16 oldest sister and she was born in July either 5 or
17 6 -- I believe the 5th. She was born in '42.

18 Q. Okay. I know we talked a little bit
19 about Evelyn. We talked about sister Faye. What
20 other siblings -- brothers and sisters are there?

21 A. I have two brothers.

22 Q. Two brothers.

23 A. Yes.

24 Q. All right. Older or younger?

25 A. One older and one younger.

1 Q. Who's the older one?

2 A. The older one was Joe Dean.

3 Q. Joe Dean?

4 A. Yeah.

5 Q. Oldest brother. Is he the oldest of
6 all of y'all?

7 A. Yes.

8 Q. Joe Dean Crawford?

9 A. Yes.

10 Q. Is Joe Dean still alive?

11 A. Yes.

12 Q. Okay. When was he born?

13 A. Several years before me to the day.

14 Q. To the day?

15 A. To the day.

16 Q. July 20th, just like you and me?

17 A. That's right. That's right, just like
18 you and me.

19 Q. Okay. 1938?

20 A. That's right.

21 Q. Okay. And he retired now?

22 A. Oh yes.

23 Q. I figured he probably was.

24 A. Yes, he was.

25 Q. So he's about 80 years old, isn't he?

1 Or he's going to be 80 this July 20th?

2 A. He's seven years older than me exactly.

3 Seventy-nine, I believe. I think he's supposed to
4 turn 80 July the 20th.

5 Q. That's what I'm thinking. Where did he
6 retire from?

7 A. Huh.

8 Q. Sir?

9 A. What was that?

10 Q. I'm sorry. What did retire from?

11 MR. HENDERSON: Object to form.

12 THE WITNESS: The last was -- he was in
13 the Army Reserves.

14 BY MR. PHILLIPS:

15 Q. So he was a long time military --

16 A. Right.

17 Q. -- reserve guy?

18 A. Yes. Yes.

19 Q. Okay. And Joe Dean -- does he live in
20 Cherokee County or Spartanburg County?

21 A. Cherokee County.

22 Q. And your younger brother -- what's his
23 name?

24 A. Jimmy Ray.

25 Q. When was he born?

1 A. I think 1950.

2 Q. So Jimmy Ray is about 68 years old?

3 A. I think so.

4 Q. About 68.

5 A. Yeah.

6 Q. And what does he do for a living -- I
7 guess is he retired now?

8 A. I think so.

9 Q. Is he living --

10 A. I'm pretty sure.

11 Q. Is he living in Cherokee County?

12 A. Yeah.

13 Q. Okay. And do you remember what he did
14 when he was working full-time?

15 A. The last place he worked he was a guard
16 over there at the hospital -- security guard.
17 Security guard.

18 Q. Okay. All right, now. Let me tell you
19 what we got. We are about out of tape. We are
20 going to have to replace our tape. Doesn't take a
21 minute. It will take about five minutes, so we're
22 going to take a short break if that's all right --

23 A. Okay. Okay.

24 Q. -- with Mr. Henderson.

25 MR. HENDERSON: I think we have to.

1 THE VIDEOGRAPHER: This will conclude
2 Media Unit Number 2 in today's videotaped
3 deposition of Mr. Crawford. The time is 3:24 p.m.
4 We are going off the video record.

5 (A recess transpired.)

6 THE VIDEOGRAPHER: Here begins Media
7 Unit Number 3 in today's videotape deposition of
8 Mr. Crawford. The time is 3:39 p.m. We are back
9 on the record.

10 BY MR. PHILLIPS:

11 Q. All right. Mr. Crawford, we're going
12 to move fast now, and I will tell you why. We may
13 have to knock off today a little after 4:15 or 4:30
14 or something like that, so let's see what we can
15 do.

16 We left off with your brother
17 Jimmy Ray Crawford -- born about 1950, about
18 68 years old. Lives in Cherokee County. He
19 retired from being a security guard at the
20 hospital; is that right?

21 A. That's right.

22 Q. Did he work at Mary Black?

23 A. At the time he was working there, it
24 wasn't Mary Black at that time.

25 Q. I see. He was working at a hospital?

1 A. The one in Gaffney.

2 Q. The one in Gaffney?

3 A. The one that is Mary Black now.

4 Q. Oh, Mary Black's in Gaffney?

5 A. Yeah.

6 Q. Okay.

7 A. That's it. It's the one hospital in
8 Gaffney. Yeah, Mary Black bought it over recently.

9 Q. Is the one in Spartanburg also named
10 Mary Black?

11 A. That's right.

12 Q. Oh, it's a system now or something?

13 A. That's right.

14 Q. I see. Let me ask you another
15 question. When -- as I mentioned -- if my records
16 are correct --

17 A. Uh-huh.

18 Q. -- y'all lived at a lot of places --
19 different addresses for about 18 years -- I mean,
20 18 different places between 1983 and now.

21 Does that sound about right?

22 A. Not sure how many places we lived,
23 really.

24 Q. Yeah. The ones we talked about -- and
25 I can go through all of them or somebody can

1 tomorrow --

2 A. Okay.

3 Q. -- were -- until you bought your own
4 trailer, it sounded like y'all might move from a
5 park to a different park from time to time; does
6 that sound right?

7 MR. HENDERSON: Object to form.

8 THE WITNESS: Well, like I say, we
9 moved a lot of different places. We lived in
10 houses and mobile homes also.

11 BY MR. PHILLIPS:

12 Q. Right. So y'all would maybe rent a
13 house for a time, or rent a mobile home for a time,
14 and just kind of move with your family as you
15 needed to or as --

16 A. Oh yes. Yes, sir.

17 Q. As you found a different housing
18 situation?

19 A. Yeah, yeah.

20 Q. And did Ms. Evelyn Kay Crawford
21 sometimes decide she wanted to live somewhere else
22 and you just had to follow her?

23 A. Some -- no. Well, sometimes the people
24 that owned the house, sold the house.

25 Q. I see. You'd lose your landlord that

1 way?

2 A. Yeah, yeah. A lot of places there was.

3 Q. Okay. But you always rented places,
4 right?

5 A. Yes, until I bought the mobile home.

6 Q. Until you bought your mobile home.

7 A. That's right.

8 Q. Do you know the brands of any of the
9 mobile homes y'all lived in over the years?

10 A. I really don't.

11 Q. Okay. And none of those were campers
12 like -- the only camper I had ever heard of was the
13 Airstream. Y'all never lived in campers; y'all
14 lived in regular mobile homes?

15 A. That's right.

16 Q. And then they usually have two or three
17 bedrooms in them?

18 A. That's right.

19 Q. Did y'all have your own furniture that
20 you moved around?

21 A. Yeah, we owned our own furniture.

22 Q. Okay. And do y'all have one car or two
23 cars at the house now -- you and Ms. Crawford?

24 A. I have two.

25 Q. Sir?

1 A. I have two cars.

2 Q. Now, your mom and dad's house -- we
3 were close. I thought we had it nailed down. Was
4 it somewhere Cherokee Falls, Blacksburg on Dill
5 Street and you lived there until about 1966; is
6 that right?

7 A. No, I actually lived there to -- I
8 moved out shortly and then I moved right back.

9 Q. That's what I heard. That's right. So
10 you went into the Navy, you came back home, lived
11 there shortly, moved out for a little bit, and came
12 right back --

13 A. Yes.

14 Q. -- your mom and dad wanted you back?

15 A. Yes, yes. Okay.

16 Q. Does that sound right?

17 A. Yes, that's right.

18 Q. And I think you said you moved -- did
19 you stay there until 1970 when you got married?

20 A. That's right.

21 Q. I see. Now, did you sister, Faye --
22 did she live next door?

23 A. Yes.

24 Q. To your mom and dad?

25 A. Yes.

1 Q. Did -- and your mom and dad lived in a
2 house on Dill Street?

3 A. She lived in a house.

4 Q. Who did?

5 A. My mother and father lived in a house.

6 Q. On Dill Street?

7 A. Yeah, on Dill Street.

8 Q. D-I-l-l?

9 A. Yeah, that's right.

10 Q. Like dill pickle?

11 A. Yeah, that's what they call it.

12 Q. Yeah. Okay. Dill Street. And where
13 was sister Faye's house?

14 A. Right down next -- right down below.
15 Actually, my mother and father lived with Faye at
16 her mobile home. And see, what happened was, when
17 the Burlington sold --

18 Q. The mill?

19 A. Yeah, the mill. They sold the mill
20 houses for the people that was living in them.

21 And then they had the surveyor come in
22 and lot the houses off. At that time, mother and
23 father moved one house up, you see.

24 Then, somebody else moved in a house --
25 Owensbys. Owensbys live in it -- Owensbys.

1 Owensbys. Owensbys lived in the house -- lived in
2 the house, and then it burned down when they lived
3 in it.

4 And then Faye and Eddie Gene bought the
5 lot and put a mobile home on it.

6 Q. Okay. I'm listening.

7 A. That was sometime in the -- sometime in
8 the '60s.

9 Q. It was after you got back from the
10 Navy?

11 A. Yeah, yeah.

12 Q. After 1966 because you had moved out
13 for a while and came back?

14 A. No, I only -- but I only moved out for
15 about -- I don't know if it was a whole month or
16 not --

17 Q. Okay.

18 A. -- you see, then shortly moved back.

19 Q. So Faye and Eddie Gene at some point
20 bought a lot and put a mobile home on it?

21 A. Yes, that's right.

22 Q. Was that about 1966 -- best you know?

23 A. Let me see. Yeah, somewhere close to
24 there. Yeah, somewhere close to there. It was
25 either '65 or '66.

1 Q. And Faye and Eddie Gene Clary -- I
2 guess we could check the real estate records and
3 find out for sure --

4 A. Okay. Okay.

5 Q. -- and put a mobile home on that lot?

6 A. That's right.

7 Q. And what's the address of it?

8 A. Well, the street name -- Dill Street
9 was the name of it.

10 Q. Dill Street. That would help. It was
11 either Cherokee Falls or Blacksburg, right?

12 A. Yeah, it was --

13 Q. Which one you think it was?

14 A. Well, at that time it was Cherokee
15 Falls, you see, that's where they got their mail.
16 Their address was Cherokee Falls on their address.

17 Q. And at some point they closed the post
18 office and it became Blacksburg?

19 A. Well, when they sold the mill and --
20 well, Paul was the postmaster and he got in bad
21 health and then he had to quit when they closed the
22 post office up. I don't know which one happened
23 first -- his health or closed the post office.

24 But they closed the post office and
25 then they changed everybody's address to -- I mean,

1 the post office department changed everybody's
2 address to Blacksburg.

3 Q. To Blacksburg?

4 A. That's right.

5 Q. All right. Got it. It's all right.

6 It gets kind of circular, doesn't it?

7 A. Yeah, that's right.

8 Q. Your mom and dad wound up moving into
9 the trailer with Eddie Gene and Faye?

10 A. No. No.

11 Q. No?

12 A. They stayed in the house.

13 Q. They stayed in their house?

14 A. That's right.

15 Q. And that was a mill house?

16 A. It was.

17 Q. And how long did they stay in the
18 house?

19 A. Until they passed away.

20 Q. Oh, until they the passed away. Okay.

21 So you were living in your mom and dad's house,
22 Faye and Eddie Gene were living in the trailer down
23 the street?

24 A. That's right. That's right.

25 Q. And how many doors down was Faye and

1 Eddie Gene's place?

2 A. The next -- just the next door down.

3 Q. Next door?

4 A. That's right.

5 Q. And you stayed at your parent's house
6 until 1970 when you got married?

7 A. That's right.

8 Q. Okay. So now, let's talk about 1966 to
9 1977.

10 A. Okay.

11 Q. Faye and Eddie Gene bought a lot and
12 put a trailer on it?

13 A. That's right.

14 Q. And this was a mill neighborhood?

15 A. It was.

16 Q. Was Eddie Gene working at the mill --
17 and you told me and I forgot. Yeah, he -- you tell
18 me. Where was he working?

19 A. I'm not sure where he was working, but
20 he did -- he did a lot of mechanic work.

21 Q. Okay.

22 A. Like take motors -- take motors apart,
23 transmissions apart, and there was a lot of people
24 came looking for him.

25 Q. Okay.

1 A. I think that's where he made most of
2 his income -- mechanic.

3 Q. Okay.

4 A. He had a '57 Chevrolet and he took that
5 apart several times and put it back together.
6 'Cause one time it rolled into the mobile home and
7 tore the whole front end up, and he rebuilt the
8 whole front it.

9 Q. Front of the car or the front of the
10 mobile home?

11 A. You couldn't tell. You couldn't tell.

12 Q. Yeah.

13 A. You couldn't even tell it was even
14 changed.

15 Q. Okay.

16 A. I mean, it was just like it had come
17 from the factory.

18 Q. All right.

19 A. He had to buy new parts to put on the
20 front end.

21 Q. So he fixed that Chevy?

22 A. That's right.

23 Q. Okay. Now, I got on something called
24 interrogatory answers -- this is sort of your
25 lawyer's first cut 'cause we got some things we

1 filled in today --

2 A. Uh-huh.

3 Q. -- that you worked at -- in the

4 1960s --

5 A. Uh-huh.

6 Q. -- I got Hamrick textile mill, Minnett

7 Mill in Grover, Magnolia Finishing in Spartanburg

8 and Burton and Dixie Mill in Blacksburg.

9 Did you work at all four of those
10 places, or do you want me to take them one by one?

11 A. Wait a minute. Magnolia is in
12 Blacksburg.

13 Q. All right, sir. So I had Spartanburg.

14 So let me ask you this: You in the --
15 this 19 -- maybe '66 to 1970 time period, did you
16 work at Hamrick textile mill in Gaffney?

17 A. In early '63.

18 Q. Sir?

19 A. It was in early '63.

20 Q. So that would be before you went into
21 the Navy?

22 A. I think so, yes. Yes.

23 Q. All right. Let me write that down.

24 What were you doing over at Hamrick?

25 A. Oh, my goodness. I was --

1 Q. I know you were young.

2 A. Oh wow. The first job I did was turned
3 the pick locks on the looms.

4 Q. Yes, sir.

5 A. That took about less than an hour
6 'cause I had to run through and do that. I took a
7 key and all the looms -- I turned the -- they have
8 looms on all the clocks. I had to turn the clock
9 back and somebody else come behind me and read the
10 numbers off, and that's how the -- it had do with
11 how much -- how long each loom ran. That's what I
12 did it for.

13 Q. So it was like a clock?

14 A. Yeah. But that just took less than an
15 hour.

16 After that I took off cloth all night.
17 Took off cloth.

18 Q. Took off cloth?

19 A. Took off cloth, yeah.

20 Q. That means after it was processed or
21 made, you'd take it off of the machine?

22 A. Yeah, when they -- when -- when the
23 flag went up it showed the time to top it off.
24 They'd put a flag up, and I'd go -- I'd put a
25 little ole buggy behind he me --

1 Q. Yes, sir.

2 A. -- it was -- it was like a little
3 narrow wagon with wheels on it and a little string
4 on it, and I'd pull it up to the long -- to the
5 loom --

6 Q. Yes, sir.

7 A. -- and I'd pull it off -- take it off
8 and put another -- I put another tube on it and
9 start it off and get ready to go to the next one.

10 Q. Yes, sir. I got you.

11 A. And I would just keep taking the cloth
12 off all night.

13 Q. And put the tubes?

14 A. Yeah, yeah, putting another one on to
15 get it started on.

16 Q. And that was the 1963 work -- that was
17 probably right before you went in the Navy -- right
18 after you finished school; does that sound right?

19 A. Yeah. Yeah.

20 Q. How about the Minnett Mill,
21 M-I-n-n-e-t-t, or Monet --

22 A. It's Minnett. Minnett.

23 Q. In Grover?

24 A. Yeah, I worked up there because
25 Eddie Gene Clary worked up there. I worked up

1 there with Eddie Gene. I rode to work with him.

2 Yep.

3 Q. And so that was after Eddie Gene and
4 Faye moved on Dill Street --

5 A. Oh yeah.

6 Q. -- close to your parents?

7 A. Yeah.

8 Q. And so that was between 1966 and 1970?

9 A. Somewhere along in there, yeah.

10 Q. Okay. What did y'all do at Minnett or
11 what did you do at Minnett?

12 A. I was a quill skinner.

13 Q. Sir?

14 A. What they call a quill skinner. I took
15 the quills --

16 Q. Yes, sir.

17 A. -- the thread run-on, and when they get
18 broke off I would go and clean them off. And --
19 and I would clean them off. Clean the --

20 Q. Clean off the quills?

21 A. Yeah, because some of the thread would
22 be all broke up --

23 Q. Yes, sir.

24 A. -- it would be no good and have to take
25 them off so they could reuse the quill. So that's

1 what they -- the bobbins -- what they call bobbins
2 and -- off the looms. Okay.

3 What they call the battery filler -- we
4 would go put the little bobbins on the looms and
5 then it would shoot back and forth, and that's how
6 they made the cloth.

7 Q. Okay. I got you.

8 A. And then when they get at the end of
9 them, they'd throw them off -- they fall off in a
10 little container, and I had to go around picking
11 them up. And some of them would be off -- it
12 wouldn't be completely off. Ones that wasn't
13 completely off, I had to make sure they were clean.
14 They had to be clean to start all over with the
15 next one.

16 Q. That's how it worked.

17 A. It is the next -- and where they doff
18 in the doffing department.

19 Q. And that would be the quills?

20 A. Yes.

21 Q. Clean them up and save them.

22 A. Right.

23 Q. And you and Eddie worked 40-hour weeks?
24 50-hour weeks?

25 A. I just don't remember how many -- how

1 many really.

2 Q. Was it full-time work?

3 A. It was full-time, yeah. Back at that
4 time we was on third shift at that time.

5 Q. Third shift?

6 A. Third shift. It was, yeah.

7 Q. And when y'all went home, he went to
8 the mobile home with your sister Faye as newlyweds,
9 and you went to stay with your parents?

10 A. Yes, I think.

11 Q. Is third shift midnight to eight
12 o'clock or eleven o'clock to 7 o'clock?

13 A. I'm not sure which one it was. I
14 believe -- I'm not sure. I'm not sure if it was
15 11:00 to 7:00 or 12:00 to 8:00.

16 Q. But it was after midnight?

17 A. It was -- it was eight hours anyway.
18 It was eight hours.

19 Q. What we call a graveyard shift?

20 A. Yeah, that's right. That's what they
21 called it. Absolutely.

22 Q. Okay. Tell me one more, Mr. Crawford,
23 please. You worked at Magnolia Finishing -- you
24 said it wasn't Spartanburg, though?

25 A. It was in Blacksburg, over on Highway

1 -- right off between Highway 105 and 85.

2 Q. And how many years -- let me go
3 backwards. How many years did you work at Minnett
4 Mill with Eddie Gene Clary?

5 A. I don't -- I really don't know exactly.
6 I don't know.

7 Q. How about Magnolia Finish --

8 A. I think --

9 Q. -- Finishing. Excuse me.

10 A. Yes. I think to the best of my
11 knowledge I started back then -- I think it was
12 year -- was 1964.

13 Q. All right. So that was right after the
14 Navy, then?

15 A. I'm not sure if I worked Magnolia first
16 or Minnett first. Tell you the truth, I don't
17 remember which one but both of them is right close
18 together.

19 Q. Well, it makes sense to me, and I could
20 -- this is your testimony -- is that you worked
21 later at Minnett because you were there with Gary
22 -- I mean, with Andy Gene [sic] and because that's
23 after Andy Gene -- what's your brother-in-law's
24 name again?

25 A. Eddie Gene Clary.

1 Q. Eddie Gene. Excuse me. I said
2 Andy Gene and I meant Eddie Gene.

3 So that's about the time Eddie Gene was
4 living next door close to your parents?

5 A. Yeah.

6 Q. So when Eddie Gene and Faye lived next
7 door to your parents, that's when y'all were
8 working together at Minnett mill; right?

9 A. I think so. Right.

10 (Interruption)

11 MR. PHILLIPS: We were going to take a
12 short break.

13 THE VIDEOGRAPHER: The time is
14 3:58 p.m. We are going off the record.

15 (A recess transpired.)

16 THE VIDEOGRAPHER: The time is
17 4:12 p.m. We are back on the video record.

18 BY MR. PHILLIPS:

19 Q. All right. Mr. Crawford, before we
20 took our break, we are just finishing your job at
21 Magnolia finishing --

22 A. Uh-huh.

23 Q. Between Highway 105 and 85 in
24 Blacksburg. You worked there you think around
25 1964?

1 A. I started in '64.

2 Q. Okay. So that was -- and that was
3 before the Minnett Mill job that we talked about?

4 A. Wait a minute.

5 Q. Tell -- I'll wait. You tell me.

6 A. From Magnolia --

7 Q. Yes, sir.

8 A. I went to Hoechst.

9 Q. You went to Hoechst Ceeleanese?

10 A. Yeah, I went to Hoechst Ceeleanese. I
11 sure did.

12 Q. All right. So Magnolia must have been
13 the late '60s then? Since you went to Hoechst in
14 1970?

15 A. Yeah. Yeah.

16 Q. Okay. I bet you you were at Minnett
17 with your brother-in-law and then you went to
18 Magnolia from there; is that possible?

19 A. That's possible, yeah.

20 Q. All right, sir. How about
21 Burton and Dixie? That's the one last one I got.
22 I got it being a Blacksburg mill?

23 A. Blacksburg. It was a foam plant.

24 Q. Sir?

25 A. It was a foam -- it was some kind of a

1 foam -- it was a foam.

2 Q. Okay.

3 A. Where they -- and then they cut them
4 out to go in furniture -- different shapes to go in
5 furniture.

6 Q. Like a Styrofoam, almost?

7 A. Yeah, yeah, yeah.

8 Q. I used to have a beanbag chair way back
9 when -- it wasn't like that was it?

10 A. I'm not sure.

11 Q. Okay. Anyway, you made foam that was
12 stuffed into furniture?

13 A. That's right.

14 Q. Do you remember what year that was?

15 A. I really don't. I really don't.

16 Q. I see. And sometimes that foam goes
17 underneath the leather like on a couch pillow
18 doesn't it?

19 A. Yeah. Yeah, it goes in like the
20 cushions for chairs and all kind of couches and
21 recliners -- recliners.

22 Q. Okay. Two questions. Let's go
23 backwards one second to Magnolia Finishing, which
24 evidently was one of your last jobs before you got
25 to Hoechst Celanese in 1970?

1 A. Uh-huh.

2 Q. And that's a yes? Again, we think
3 Magnolia Finishing, the job in Blacksburg -- the
4 place in Blacksburg, was the last job you had
5 before Hoechst Celanese?

6 A. I think so. I think so.

7 Q. When you were working at Magnolia
8 Finishing, was Eddie Gene Clary, your
9 brother-in-law, working with you, or were you on
10 your own there just driving to work?

11 Did Eddie Gene work with you at --

12 A. No, Eddie Gene didn't work at Magnolia
13 with me.

14 Q. Okay. He did work with you at Minnett
15 Mill?

16 A. That's right. That's right.

17 Q. How about at Burton and Dixie when you
18 were making that furniture cushions -- cushions for
19 furniture?

20 A. No, I was actually -- when I started
21 off working there --

22 Q. Yes, sir.

23 A. -- I was riding to work with a neighbor
24 because I didn't have a car at that time, and I
25 think I bought a car when I worked at Burton Dixie.

1 Q. Okay. So you were still living with
2 your parents for all four of these?

3 A. Oh yeah, yes, sir.

4 Q. Now, if -- as I understood it, sister
5 Patty [sic] and brother-in-law, Eddie Gene Clary,
6 bought that lot and moved that trailer in about
7 1966?

8 A. Close to there. Somewhere in there.

9 Q. Close to there. All right. When was
10 it that he built a garage?

11 A. It was right after -- right after he
12 had the mobile home moved in. He built it real
13 fast. It was made out of tin. It was -- well, it
14 was aluminum -- it was big beams -- great big beams
15 put in the ground and it had -- it had aluminum
16 siding connected to it.

17 Q. So sort of sheet metal -- aluminum
18 building built around beams?

19 A. Yeah, that's right. At that one, it
20 was.

21 Q. And was the garage a place he could
22 store his tools and his parts and stuff?

23 A. Oh yes, yes. And it had a workbench
24 built at the back of it.

25 Q. Did he have a lift -- like a -- oh, not

1 a block and tackle -- something to lift a motor out
2 of a car? Any kind of rig to lift a motor or
3 engine out of a car?

4 A. Oh yeah, he had to.

5 Q. Where was that? Was that inside or
6 outside?

7 A. Wait a minute. I believe -- I believe
8 that was on the inside. I believe it was. I
9 believe it was.

10 Q. Okay. And how big was that garage?
11 And you and I are in a room that looks to me about
12 the size of a garage, but you tell me.

13 A. Yeah, it was the size -- as big as this
14 room. It was as big as this.

15 Q. Was it a little bit smaller or a little
16 bit bigger?

17 A. It was about the same size. It was the
18 same size because he had room to move a car in, and
19 then there was more room before he got to the
20 workbench.

21 Q. I see.

22 A. He had a little bit of space to walk
23 before you got the workbench.

24 Q. Is that building still standing as best
25 you know?

1 A. I'm not sure because when they moved
2 out -- he moved out and left it.

3 Q. Yes, sir.

4 A. He moved out and left it, so...

5 Q. Do you know when he --

6 A. I believe I went by there a while back.
7 I believe the other people moved it. I believe
8 it's missing.

9 Q. Okay.

10 A. But when he moved to Bear Creek, he
11 built like one of these -- he had one of these
12 buildings built with a -- it was a building a
13 company built.

14 Q. Prefabricated?

15 A. Yeah, it's the one with the dome roof
16 over it. Yeah, it had a dome roof. It's still
17 standing there now. It's still there.

18 Q. Did he make a garage in that one too?

19 A. Oh yes. In that one he had -- it was a
20 lot bigger -- it was a lot because he had a place
21 to drive a car in.

22 Q. Yeah.

23 A. And it had a lift where you mash the
24 button on the wall over there.

25 Q. It lifts the car?

1 A. Yeah, lift the car way up under it and
2 walk under the car.

3 Q. Okay. The first place we know about --
4 when did Eddie Gene and Faye Clary move out of the
5 house on Dill Street -- I mean, the trailer which
6 had a garage in the yard?

7 A. Oh wow.

8 Q. Best you know?

9 A. Oh man.

10 Q. Maybe you think about when you were
11 working at Hoechst. Was it before or after that?

12 A. Well, I think he moved out when -- wait
13 a minute. It was after mother passed away.

14 Q. Oh, it was in the 1990s then?

15 A. Yeah, it must have been. Yeah, 'cause
16 I know mother was still living there.

17 Q. And what's the address -- what's the
18 town called? You said Bear Creek?

19 A. Well, no, that's just the street. It's
20 the street he was living on. It's just a street.

21 Q. Was it called Bear Creek?

22 A. Bear Creek. Yeah, Briar Creek Road.
23 Briar Creek Road.

24 Q. And let me make sure I got it right
25 because I'm from a different country --

1 A. Yeah.

2 Q. -- town in South Carolina. Did you say
3 Briar Creek or Bear Creek?

4 A. Bear. B -- yeah, bear, Bear Creek.

5 Q. Like b-e-a-r, bear?

6 A. Yeah, yeah.

7 Q. Like Smokey the Bear.

8 A. Yeah, Smokey. That's right. Yeah.

9 Q. Sorry. Big bear in the woods, that's
10 what my mom used to say.

11 A. Yeah.

12 Q. Okay. All right. So Bear Creek -- I
13 say bear, you say bar -- is where you moved to
14 later with your sister.

15 A. Yeah.

16 Q. And was that -- did you take over your
17 parents' --

18 A. No, no.

19 Q. Okay. That was the a different house.
20 Bear Creek was in what town?

21 A. Between Cherokee Falls and Blacksburg,
22 actually. Well, right now it's Blacksburg right
23 now, though.

24 Q. Blacksburg?

25 A. All the way down through there is

1 Blacksburg now. It's Blacksburg now.

2 Q. It's now known as Blacksburg?

3 A. Right now.

4 Q. Okay. Bear Creek -- anyway, he built a
5 garage over there too? And a big one?

6 A. Well, I don't think he built it; I
7 think he had it built.

8 Q. Had somebody built it and bring it in
9 and put it on his place?

10 A. They might. They must have built it
11 right there because it was so big --

12 Q. Yes, sir.

13 A. It was behind it. They couldn't move
14 it; they had to put it together right there.

15 Q. All right.

16 A. -- because it's too -- it's too big.

17 Q. All right. Let's go back to the late
18 '60s. I'm focused on 1966 to about 1970 when you
19 went to work at Hoechst. Eddie Gene had that
20 garage in the back -- in his yard. Was it his
21 backyard or front yard from the street?

22 A. Well, Daddy took his father -- when we
23 lived on Dill Street, it was in the front -- in the
24 front part of his mobile home.

25 Q. Okay. You said daddy took what?

1 A. It -- on Dill Street -- when Eddie was
2 on Dill Street, it was in the front.

3 Q. Okay.

4 A. It was in the front of his mobile home.
5 And then when he moved to Bear Creek -- on Bear
6 Creek Road --

7 Q. Uh-huh.

8 A. -- he put a mobile home there and he
9 had the garage built behind his mobile home.

10 Q. Got it. And I'm interested in the time
11 between '76 -- excuse me -- 1966 to 1970 when you
12 were living next door.

13 A. Uh-huh.

14 Q. Is that right? Do you understand?

15 A. Yeah.

16 Q. Okay. Good. So let's focus on that a
17 minute. It sounds like to me the shop was in the
18 front yard and the trailer was behind it --

19 A. That's right.

20 Q. -- facing Dill Street?

21 A. That's right. That's right.

22 Q. Okay. Did cousin -- I mean, not cousin
23 -- brother-in-law, Eddie Gene, have a business
24 there that was with a business license and paying
25 business taxes and with an arrangement with the

1 city or the township of Cherokee Creek or
2 Blacksburg, or did he just run a little shop for
3 cash?

4 A. I think he just run a little shop. He
5 had a lot of customers come in.

6 Q. Did he take credit cards?

7 A. I'm not sure. I really don't know.

8 Q. Okay.

9 A. If I had to make a guess, I would say
10 it was probably cash.

11 Q. Okay. Did the business have a name or
12 did the shop have a name?

13 A. No, it really didn't.

14 Q. Okay.

15 A. Everybody knew his name, Eddie Gene,
16 you know?

17 Q. So basically people come over on
18 Saturdays and he'd do work on cars?

19 A. Uh-huh. Yeah.

20 Q. And on Sunday, I guess y'all went to
21 church, right?

22 A. That's right. That's right.

23 Q. Okay. Where did y'all go to church, by
24 the way?

25 A. Up there at Wesley Church at that time

1 on Pecan Street in Gaffney.

2 Q. Okay. Is it Wesleyan or Wesley?

3 A. Wesley.

4 Q. Yeah.

5 A. Oh, Wesley's -- Wesley Methodist.

6 Q. John Wesley or Charles Wesley, one of
7 the two?

8 A. Yeah, it was Pecan Street.

9 Q. In which town again?

10 A. It's in Gaffney. The church is still
11 there, but I believe -- I believe it's got a
12 different name now.

13 Q. Okay. But you -- but you would go
14 there with your mom and dad?

15 A. Yeah, that's right. Yeah.

16 Q. And then she'd cook a big lunch and
17 y'all take a long nap; is that about right?

18 A. Yeah. I guess so.

19 Q. All right. That's the way it was at my
20 house. All right.

21 Now, let's talk about Saturdays at the
22 garage?

23 Did you get paid to work over there?

24 A. Oh, no, no, no.

25 Q. Oh, I see. So --

1 A. I just played around with him -- fooled
2 around, went bowling together, went out to eat,
3 mostly fish -- to fish places.

4 Q. Okay. That's what I figured. You had
5 to do something for fun just to get work off your
6 ahead.

7 So you'd fish, you'd bowl, sometimes
8 you'd hang around the garage?

9 A. Yeah. Yeah.

10 Q. When would Eddie buy his -- where would
11 he buy his car parts if he went to Harrison's or to
12 the place --

13 A. Oh, I'll tell you the truth. I never
14 was with him when he bought them. I just knowed he
15 just brought them back.

16 Q. Okay.

17 A. And somebody need something done, he'd
18 go get them and he'd have it.

19 Q. Okay. So if he would --

20 A. Now, wait a minute.

21 Q. Yeah?

22 A. He had a business license because I
23 know -- I know when he bought some -- up there at
24 the at the V -- V -- V --

25 Q. Are you talking about Harrison's?

1 A. No, up there at Gaffney. Advance.

2 Advance. When he was at Advance 'cause he got a
3 discount -- he got a discount on them.

4 Q. Now, was this when he was operating on
5 Bear Street, or was this back in the Dill Street
6 days?

7 A. Wait a minute.

8 Q. Because I just don't remember Advance
9 auto parts being around in the 60s.

10 A. Well -- okay. Oh man, I'm not sure
11 which year it was, but -- let me see. Oh man, let
12 me see.

13 Q. You know what? It doesn't matter too
14 much right this second.

15 A. Okay.

16 Q. Do you know if he had a business -- if
17 he called it anything besides -- anything but a
18 shop where he worked on Saturdays?

19 A. He worked all through the week.

20 Q. Yeah. Yeah. But he also worked full
21 shift at Minnett mills too?

22 A. At that time he was, but I'm not sure
23 how long he worked there. I'm not sure.

24 Q. How long he worked where?

25 A. At Minnett.

1 Q. Okay. But you used to ride into work
2 with him?

3 A. Yeah, I did. I did, yeah.

4 Q. Okay. But you can remember that part
5 at least?

6 A. Yeah. Yeah.

7 Q. Okay. Now, so he had a license at some
8 point but you just don't know when -- a business
9 license that is, right?

10 A. Yeah. Yeah.

11 Q. Okay.

12 A. Because he had -- well, he had -- he
13 was able to get parts up there and get a discount
14 on it.

15 Q. Okay.

16 A. At Advance.

17 Q. And that was at Advance Auto?

18 A. Yeah.

19 Q. But we're not sure when that was
20 because we don't know when Advance existed; is that
21 right -- fair?

22 A. I believe it was in the '70s when he
23 bought that 'cause I remember he bought some drums
24 to go on my car.

25 Q. He bought some what, sir?

1 A. Some -- them there drums to go on it.

2 Q. Drums?

3 A. Yeah. Them there. The rotors --
4 rotaries, yeah rotaries. They call them rotaries.

5 Q. Rotors?

6 A. Yeah. Yeah. He bought them when he
7 was up there.

8 Q. Bought drums and rotors?

9 A. Yeah, rotaries.

10 Q. But he was the one working on the cars,
11 not you?

12 A. Oh yeah, yeah.

13 Q. Okay. And same thing -- even when your
14 brother -- son-in-law later on helped you with
15 cars --

16 A. Oh, yeah.

17 Q. -- he would do it and not you?

18 A. He sure would.

19 Q. Which son-in-law was it by the way?

20 A. Michael.

21 Q. Michael Quinn?

22 A. Yeah. Okay.

23 Q. Tessa Lynn's husband?

24 A. Yeah, yeah.

25 Q. And what year those two got married?

1 She was born in 1972, I know that.

2 A. Okay. Yes. Oh man.

3 Q. How about this: How about how old was
4 your girl Tessa Lynn Quinn -- Tessa Lynn when she
5 married Michael Quinn?

6 A. She was around 18. I don't know
7 exactly. She was around 18.

8 Q. So they get married around 1990?

9 A. I know exactly where we was living,
10 yeah. I know I was living on Jackson Street when
11 she got married, yeah.

12 Q. And you were living on where?

13 A. Jackson Street.

14 Q. Jackson?

15 A. Jackson Street.

16 Q. Like Andrew Jackson?

17 A. Yeah, that's right. Up here in
18 Gaffney.

19 Q. Okay. One second. Let me take a look
20 at something. Yeah. Jackson Street, Gaffney.

21 Was it 255 Jackson Street, Gaffney?
22 Does that sound right?

23 A. I'm not sure, but I -- it sounds like
24 it wants to ring a bell. It might have been.

25 Q. Could it have been 1996? Somewhere

1 between 1996 and 1998 that you lived there? On
2 255 Jackson Street, Gaffney 29340?

3 A. Yeah, I think so. I think so. Yeah,
4 the reason I moved out of there was because the
5 house got sold.

6 Q. I see.

7 A. You see.

8 Q. Yeah, you mentioned sometimes those
9 places get sold.

10 A. Oh, that's true. I was going to buy
11 it, but somebody bought it in front of me. Matter
12 of fact, it was the Littles up here.

13 Q. Oh, is that right?

14 A. Littles oil place. Johnny Littles --
15 he bought it.

16 Q. All right, sir. Then you moved from
17 there to 152 Goucher Green Bethel Road?

18 A. Yeah, wait a minute. Wait a minute.
19 No, I didn't move from there.

20 Q. Okay.

21 A. I didn't move from there from there --

22 Q. And move to there?

23 A. -- I moved from Goucher Green Bethel
24 Road from 12th Street.

25 Q. Okay.

1 A. Yeah, right there at the end of
2 12th Street.

3 Q. 12th Street. All right, sir. So --

4 A. That was in -- wait a minute.

5 I moved from 1980 -- 1980 is when I --
6 'cause that's when they closed the plant down and I
7 moved in a house -- wait a minute.

8 Q. Go ahead.

9 A. I moved out first -- before I moved in
10 that mobile house, I lived in a house.

11 Q. Yes, sir.

12 A. On -- right there in the -- right there
13 on the -- on Green Bethel Road -- right off Green
14 Bethel Road.

15 Q. Yes, sir.

16 A. And that's when they closed the plant
17 down over at Collins and Aikman. When they closed
18 the plant down -- I remember it. I moved in a
19 house -- it was a my wife's aunt's house and it was
20 empty and she told Kay she could move in it.

21 Q. So y'all took it?

22 A. We took it; that's right.

23 Q. I would have.

24 A. Yeah.

25 Q. Now, we're really working on your

1 daughter -- Tessa Lynn was born in '72, so maybe
2 she was 24 when she got married in 1996?

3 A. Whoa, whoa. Tessa?

4 Q. Yes, sir. Oh, I'm sorry. It was
5 Michael Quinn, who was the son-in-law who did --

6 A. That's right. Michael Quinn.

7 Q. -- the car work for you?

8 A. Yeah.

9 Q. I got she was married in 1972 and it
10 looks like to me that y'all lived on --

11 A. Wait a minute. '72?

12 Q. -- Jackson Street in 1976 -- 1996?

13 A. No, she couldn't be married in '72
14 because she born in '72.

15 Q. I'm sorry. I miss spoke.

16 A. Yeah. Yeah.

17 Q. And she got married in 1996 when she
18 was about 24?

19 A. Wait a minute. Well -- wait a minute.
20 It was around 1990 when she got married.

21 Q. Okay. But you're sure she lived on
22 Jackson Street when she got married?

23 A. I'm pretty sure.

24 Q. Pretty sure. All right.

25 I've got a record indicating that you

1 lived on Jackson Street from 1996 to 1998.

2 A. Oh, really? Okay. Okay.

3 Q. So that would have made her 24 when she
4 got married; if that's accurate.

5 A. I remember when I lived on Jackson
6 Street -- Michael coming there to date her and
7 that's when I took a vacation up to Virginia when
8 Virginia lived in the Kentucky.

9 Q. Yes, sir.

10 A. Yeah, Virginia lived in Kentucky.
11 Okay. Okay. It was around '90.

12 Q. Okay. We'll leave it right there. And
13 you know what, there's probably a record at the
14 courthouse --

15 A. Okay. All right.

16 Q. -- so we can figure it out.

17 A. Yeah. Okay.

18 Q. Now, so you didn't work at Eddie Gene's
19 garage, but if you weren't hunting -- I mean, if
20 you weren't fishing, if you weren't bowling,
21 sometimes you were there?

22 A. Oh yeah, yeah.

23 Q. There when he was working on cars?

24 A. Oh yeah, yeah.

25 Q. And when Mr. Henderson asked you this

1 morning -- several hours ago --

2 A. Uh-huh. Okay.

3 Q. -- about if you remember any brakes,
4 the first thing you said was Dow?

5 A. Oh yeah.

6 Q. And then he asked you again if there
7 were any others and you didn't remember; does that
8 sound right?

9 A. It was a long time back. It was
10 Bendix. It was Bendix.

11 Q. Okay. And then you said Bendix when he
12 suggested had you ever heard of the name Bendix; is
13 that right?

14 A. Yeah, it was a long time back. It was
15 hard to -- yeah.

16 Q. I mean, are you -- I guess my question
17 is: You're under oath and we're working through
18 this thing, and it was a long time back --

19 A. Yeah.

20 Q. -- do you know for sure if your
21 brother-in-law was working with Bendix brakes at
22 that time or not?

23 MR. HENDERSON: Object to form.

24 MR. PHILLIPS: You can answer.

25 THE WITNESS: I think so. I think so.

1 I'm not sure. I think so.

2 BY MR. PHILLIPS:

3 Q. Okay. Now, what you just said -- just
4 so we're clear -- you said I think so, I'm not
5 sure.

6 A. Yeah. Okay.

7 MR. HENDERSON: Object to form.

8 BY MR. PHILLIPS:

9 Q. Is that right?

10 A. Yeah.

11 Q. That's what you said, isn't it?

12 A. Yeah.

13 Q. Now, when your son-in-law worked on
14 brakes with you or changed brakes -- car brakes for
15 you --

16 A. Yeah.

17 Q. -- do you know what kind of brakes he
18 used?

19 A. I know that was Bendix. I know that
20 was.

21 Q. Okay. And -- how do you know?

22 A. Because it was on the -- it was wrote
23 on it.

24 Q. It was wrote on it. All right.

25 Tell you what. Let me show you

1 something.

2 A. Okay.

3 Q. All right.

4 (DFT. EXH. HW1, HW2, HW3, HW4, HW5,
5 HW6, and HW7, Pictures, were marked for
6 identification.)

7 MR. PHILLIPS: I'll give you one in a
8 minute.

9 BY MR. PHILLIPS:

10 Q. I've got seven exhibits with stickers
11 on it.

12 A. Okay. All right.

13 Q. And they say HWI -- remember that I
14 said I was Honeywell?

15 A. Okay.

16 Q. Honeywell 1, HW2, HW3, HW4, HW5, HW6
17 and HW7.

18 A. Okay.

19 Q. And I represent to you that these are
20 packagings of Bendix boxes?

21 A. Okay.

22 Q. Would you look at those and tell me
23 which one you recognize --

24 A. Okay.

25 Q. -- if any of them --

1 A. Okay.

2 Q. -- from your son-in-law?

3 A. Okay.

4 MR. HENDERSON: Objection. Foundation.

5 BY MR. PHILLIPS:

6 Q. You can name them by number or just
7 tell me -- or you can put them on one side if you
8 think you recognize them. Each one of them are
9 several photographs of the same thing.

10 MR. HENDERSON: Also object as to the
11 form.

12 (Witness complying)

13 MR. HENDERSON: Counsel, I'm a little
14 concerned about what he knows you want him to do.

15 BY MR. PHILLIPS:

16 Q. Yeah, my question was, Mr. Crawford",
17 if you recognize any of those sets of pictures --

18 A. Okay.

19 Q. -- as Bendix packages? I can tell you
20 this was over about a 30-year period --

21 A. Oh, okay.

22 Q. -- of manufacturing.

23 A. Oh wow.

24 MR. HENDERSON: Object again as to
25 form.

1 THE WITNESS: I think it's right there.

2 BY MR. PHILLIPS:

3 Q. All right, sir. And that's marked
4 HW Exhibit 6. So that looks like a -- that box is
5 familiar to you?

6 A. Yes, sir.

7 Q. All right. And that's through your
8 son-in-law doing the work -- Mr. Michael Quinn --
9 is that right?

10 (No verbal response)

11 MR. HENDERSON: Object to the form.

12 BY MR. PHILLIPS:

13 Q. Is that where you believe you saw that
14 box or something like that box?

15 MR. HENDERSON: Object to the form.

16 THE WITNESS: Yeah. Yeah.

17 BY MR. PHILLIPS:

18 Q. All right, sir. And that's when
19 Michael would come over to y'all's place and work
20 on your cars?

21 A. Oh, I take it over there. A lot of the
22 time I take it over to his house.

23 Q. All right, sir. Take the car over to
24 his house?

25 A. Yes.

1 Q. And he didn't have a garage at his
2 house, did he?

3 A. No, he didn't. He didn't.

4 Q. Did he just work on it outside?

5 A. Uh-huh. Yeah.

6 Q. Did you ever help him -- did you ever
7 help him jack up the car or anything like that or
8 did he just pretty well do it?

9 A. Yeah, he just pretty well do it. Yeah,
10 he just pretty well do it.

11 Q. Okay. And that packaging, HW6, looks
12 like the package of brakes he would be working from
13 if he was working with Bendix brakes?

14 A. I say yes. I say yes.

15 Q. All right, sir. Let me ask one more
16 question. Y'all -- have you ever had any other
17 lawsuits -- I know you had to bring a disability
18 claim for the -- against Wise potato chips, right?
19 Was that a lawsuit or was that just --

20 A. No, no, no, no, no.

21 Q. -- when you had your disability?

22 A. That was just -- I just used the
23 insurance.

24 Q. Oh, you didn't have to hire a lawyer or
25 anything?

1 A. No, no. It wasn't anything like that.
2 It was -- it was the fact that I used the insurance
3 -- they had insurance. Disability insurance.

4 Q. So all you had to do is apply?

5 A. That's right. That's all.

6 Q. And then same thing with the Social
7 Security Administration?

8 A. Just applied for it. Just applied for
9 it.

10 Q. Okay. And are -- you said both knees
11 had to be replaced?

12 A. Well, my left knee was replaced in
13 '02 --

14 Q. Give those to her.

15 A. -- and my right knee was replaced in
16 '03.

17 Q. So it was already shot and you had to
18 finally get it replaced?

19 MR. HENDERSON: Object to the form.

20 THE WITNESS: Yeah, that's right.

21 BY MR. PHILLIPS:

22 Q. You can give those to her if you'd
23 like, whatever you want to do with them.

24 A. All right.

25 Q. Have you ever been in a lawsuit where

1 somebody brought an action against you for
2 anything?

3 A. No.

4 Q. Okay.

5 A. I can't -- I don't remember anything.

6 Q. Not that you remember?

7 A. Not that I remember.

8 Q. And -- let's see. Have you ever gotten
9 hurt where you had to bring a lawsuit, like in a
10 car wreck or fall down or anything like that?

11 A. Now, wait a minute. Okay.

12 Q. Yes, sir.

13 A. When I was a -- I was on the way home
14 over here on Furnace Road.

15 Q. Yes, sir.

16 A. And another car pulled in front of me.

17 Q. Uh-huh.

18 A. And I hurt my back and I had to go in
19 the -- I had to go in the hospital and lay in a
20 contraption. First, for a while I had to wear a
21 back brace, and I tried to work with it and I -- I
22 had to -- yeah, it hurt my back. So I had to --
23 yeah, I had to get a lawyer then because --

24 Q. Insurance wouldn't pay you?

25 A. -- I had to get a lawyer to decide how

1 much the insurance was going to pay. They --

2 Q. Right.

3 A. -- they didn't pay much. It was like
4 about -- they paid \$600 on my car to get my car
5 replaced. I had to go the hospital, though. I had
6 to go the hospital and get -- I had bills at the
7 hospital --

8 Q. Right.

9 A. -- where I laid in a contraption.

10 Q. You had to go spend the night in the
11 hospital and stay there for a while?

12 A. Yeah, I stayed there for a while.

13 Q. Do you remember when that was?

14 A. I believe -- I'm not sure, I believe it
15 was in the '70s.

16 Q. Oh, it was a long time ago?

17 A. It was -- it was a long time ago.

18 Q. Do you remember who your lawyer was
19 back then?

20 A. Yeah.

21 Q. Who was it?

22 A. Ray Godshall.

23 Q. Goshel?

24 A. Yeah, Ray Godshall.

25 Q. How do you spell Ray's last name?