

In the Matter Of:

DENNIS/PAMELA ZAMPA vs. GEORGIA-PACIFIC LLC, et al.,

JOHN HENSHAW, MPH, CIH

March 03, 2017

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1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF ALAMEDA

3 ---o0o---

4 DENNIS ZAMPA and PAMELA ZAMPA,

5 Plaintiffs,
6 vs.

No. RG16836998

7 GEORGIA-PACIFIC, LLC, et al.,

8 Defendants.
9 _____/

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13 TELEPHONIC DEPOSITION OF JOHN HENSHAW, MPH, CIH

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17 Taken before Catherine M. Meyer, RPR, CSR

18 CSR No. 11596

19 March 3, 2017

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PLAINTIFFS' PAGE

Exhibit 8 Documents referencing the 55
safety program for the
construction division of
DuPont for the years from '61
through '65

(All exhibits not received by reporter at the time of
transcription.)

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1 TELEPHONIC DEPOSITION OF JOHN HENSHAW, MPH, CIH

2
3 BE IT REMEMBERED, that pursuant to Notice, and on
4 the 3rd day of March 2017, commencing at the hour of
5 7:42 a.m., Pacific Standard Time, telephonically, before
6 me, Catherine M. Meyer, a Certified Shorthand Reporter,
7 personally appeared JOHN HENSHAW, MPH, CIH, produced as
8 a witness in said action, and being by me first duly
9 sworn, was thereupon examined as a witness in said
10 cause.

11
12 ---o0o---

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1 MR. JONES: The parties stipulated that the
2 court reporter could swear in the witness remotely as
3 she's not in the same location as the witness. The
4 parties also stipulate an objection by any defense
5 counsel is good for all present. That includes motions
6 to strike. Counsel need not opt out of a motion or an
7 objection. Should they choose to do so, they can make
8 that election at trial. So stipulated?

9 MS. DIVELEY: Yes.

10 JOHN HENSHAW, MPH, CIH,
11 sworn as a witness,
12 testified as follows:

13 EXAMINATION BY MR. JONES:

14 Q. Please introduce yourself.

15 A. My name is John Henshaw.

16 Q. What do you do for a living?

17 A. I am an occupational safety and health
18 scientist, principally a certified industrial hygienist
19 and a consultant.

20 Q. For whom do you work?

21 A. I work for John Henshaw & Associates, Inc.

22 Q. And I deposed you recently. If I remember
23 correctly, you have recently gone on your own, but you
24 still get some assistance from Cardno ChemRisk; is that
25 right?

1 A. I have my own company, and I do contract some
2 services from staff members that currently work for
3 Cardno ChemRisk.

4 Q. So I deposed you I think a couple, three weeks
5 ago in the Parker matter. And I think we went through
6 all this, so I'm not going to do it again. But
7 you've -- just to tighten up real quick, you formerly
8 worked for Cardno ChemRisk and then started on your own
9 in the last month or two and now you'll contract out
10 work from Cardno ChemRisk for things like summarizing
11 case materials; is that all true?

12 MS. DIVELEY: Objection. Overbroad.

13 THE WITNESS: Well, sir, I started on my own
14 February 1, 2017. Prior to that I was an employee of
15 Cardno ChemRisk. And I currently contract with some of
16 the staff members on various kinds of issues including
17 research, including identifying key documents that may
18 be relevant to my areas of interest.

19 BY MR. JONES:

20 Q. Is anyone in the room with you right now?

21 A. No, sir.

22 Q. You should know that I think there's a court
23 reporter at your office in Florida.

24 A. Well, sir, the door is locked, so I don't
25 believe there's somebody in my office.

1 Q. They might be knocking on the door. Sorry
2 about the mixup. We apparently sent the court reporter
3 to the wrong state.

4 MS. DIVELEY: Trey, just on that point, there
5 is a letter dated February 22nd from Glynn & Finley
6 advising counsel that the deposition of both Mr. Henshaw
7 and Diette would take place at Crowell & Moring's
8 offices in D.C.

9 MR. JONES: I was apologizing. That's the way
10 that happened. I said I'm sorry.

11 MS. DIVELEY: Thank you.

12 MR. JONES: So don't rub it in. When somebody
13 apologizes, you just say oh, I accept your apology.

14 MS. DIVELEY: Well, you know, I kind of like
15 having that on the record. So...

16 BY MR. JONES:

17 Q. Mr. Henshaw, have you been retained in this
18 matter?

19 A. Yes, sir, I have.

20 Q. Who retained you?

21 A. I've been retained by DuPont de Nemours.

22 Q. Have you been retained by any other defendant
23 in the Zampa matter?

24 A. No, sir, I have not.

25 Q. What were you tasked to do in the Zampa matter?

1 A. My principal interest was determining the
2 extent to which Mr. Dennis Zampa may have been exposed
3 to his father's -- Mr. Richard Zampa's clothing and
4 whether, in fact, while he worked at the DuPont facility
5 and whether, in fact, that potential exposure would put
6 him at risk of asbestos-related disease.

7 Q. Were you provided any materials to review in
8 this matter?

9 A. Yes, sir.

10 Q. What were you provided?

11 A. I was provided several documents. The first
12 one would be the plaintiff's response to joint defense
13 interrogatories dated November 28, 2016, which included
14 Social Security records as Exhibit A.

15 Q. Are these summarized somewhere? Is there a
16 list of the materials you were provided? I didn't see
17 it, but I might have missed it.

18 A. Well, yes, sir, I do have a listing of the
19 items I received in respect to this case.

20 MR. JONES: Marie, I don't think I got that or
21 maybe I missed it in e-mails. I got some case notes,
22 some DuPont-specific documents he was going to rely on.
23 I don't think I got a list of materials. Is that
24 something you could e-mail to me?

25 MS. DIVELEY: Yeah. But that would require me

1 to go back into the room with him and get a copy or get
2 the document to make a copy.

3 MR. JONES: You don't have it electronically?

4 MS. DIVELEY: I do not.

5 MR. JONES: Was that sent to me? Am I wrong?

6 MS. DIVELEY: No, I don't think you were sent
7 it. He brought it with him today. I think we were
8 assuming we would give it to the court reporter. But we
9 can -- I'm happy to either get it now and have my
10 secretary make a copy of it or do it at a break,
11 whichever you prefer.

12 MR. JONES: Well, how much stuff does he have
13 that I don't have that I need to have, that I want to
14 have?

15 MS. DIVELEY: Well, that's a pretty broad
16 question. So I'm not sure. But if you want to ask him
17 what he brought with him today, maybe you could do that.

18 BY MR. JONES:

19 Q. Mr. Henshaw, what do you got with you in that
20 room?

21 A. Basically I have the list of the materials that
22 I have reviewed. And it's a total of about 12 items.

23 Q. What else do you have in the room with you
24 today?

25 A. Well, that's what I have in the room is the

1 case material.

2 Q. Well, what I mean is you got a list of the
3 materials that you received, right?

4 A. Yes, sir, I do.

5 Q. And then do you have actual printed out copies
6 of all the stuff referenced in that list?

7 A. Yes, sir.

8 Q. Do you have your case notes?

9 A. Yes, sir.

10 Q. Anything else?

11 A. I have my CV.

12 Q. Okay.

13 A. Which is dated February 9, 2017.

14 Q. Okay.

15 A. I have a list of references which is a total of
16 ten pages.

17 Q. Okay.

18 A. And I have a list of recent testimony from
19 February 2013 to February 2017.

20 Q. Anything else?

21 A. And the instructions for phoning into this
22 deposition. And that's it.

23 MR. JONES: So I don't have the list of
24 materials, the CV, the list of references, the list of
25 recent testimony. And I know you said you were going

1 to, Marie, give that to the court reporter. But you
2 knew this was a phone deposition, so that wouldn't have
3 gotten me anywhere. Can we take a break and get those
4 materials e-mailed to me?

5 MS. DIVELEY: If you want to go off the record?

6 MR. JONES: Yeah, let's go off the record.

7 MS. DIVELEY: Yeah.

8 (Break taken from 7:52 a.m. to 8:11 a.m.)

9 MR. JONES: I'm going to attach as Exhibit 1 a
10 document entitled "Items received for Dennis John Zampa
11 and Pamela S. Zampa vs. Georgia-Pacific, LLC, et al."

12 (Plaintiffs' Exhibit 1 marked for
13 Identification.)

14 BY MR. JONES:

15 Q. Mr. Henshaw, what is Exhibit 1?

16 A. Exhibit 1 are the items specific to this case.
17 They should be a list of nine; however, there's three
18 other additional documents that are not listed on that
19 document.

20 Q. What are they?

21 A. The tenth item would be the deposition of
22 Michael Ellenbecker, Volume I, dated February 23rd,
23 2017. The 11th item would be the safety program
24 construction division documents. The dates on those
25 documents are 1961, 1962, 1963, and 1964. And then the

1 12th set of documents would be 15 photographs from
2 9-20-62 through 3-29-66.

3 MR. JONES: Okay. Marie, do I have that stuff?

4 MS. DIVELEY: The safety item -- well,
5 obviously you have Ellenbecker. But the safety
6 documents and the photos as I understand it were part of
7 the production that was made to you guys last night.

8 MR. JONES: I've got two zip folder, one titled
9 '55 through '67 and one '68 through '71. Is that what
10 you're talking about?

11 MS. DIVELEY: Those might be the DuPont
12 documents. But I think you already had those. What
13 does it say? It says what, '55?

14 MR. JONES: There are two folders with many
15 documents in each folder. The folders are -- one says
16 1955 through 1967 docs and the other one says 1968
17 through 1971 docs.

18 MS. DIVELEY: I'm trying to reach out to Peter
19 and see if that's what these documents were titled.

20 MR. JONES: It's like a lot of documents.

21 MS. DIVELEY: Oh, okay. I believe then -- let
22 me verify with Peter.

23 MR. JONES: There's probably 30 in each folder,
24 20 to 30.

25 BY MR. JONES:

1 Q. Mr. Henshaw, I've got a couple folders of
2 documents. You heard us talking about it. One is a
3 folder 1955 to 1967, the other one is a folder 1968 to
4 1971. And those folders appear to have different
5 correspondence, memos, things like that from the DuPont
6 company. They look like corporate records. Have you
7 seen all this stuff?

8 A. Well, sir, I don't know exactly what you have.
9 But if you look on my list of references, on the last
10 page I cite 136 DuPont documents from the years 1955
11 through 1971.

12 Q. I actually don't see that. Where is that?
13 That's on your CV? Where is that?

14 A. No, sir. That's on my reference list. You
15 should have a copy of list of references documents for
16 DuPont de Nemours.

17 Q. Wouldn't that be a document that you received
18 from counsel?

19 A. No, sir, not specifically for this case. These
20 are a list of references many of which -- except for the
21 last item which is the 136 DuPont documents are
22 available on the -- in the public literature.

23 Q. The 136 DuPont documents are?

24 A. No, sir. All of them but the 136 documents,
25 DuPont documents.

1 Q. Why is the 136 documents on your list of
2 materials received from counsel? You got it from
3 counsel, right?

4 A. Yes, I did.

5 Q. So if we're making a list of materials that you
6 received from counsel, you would add that -- those 136
7 documents, right?

8 A. Well, sir, the list -- the items received are
9 specific to the Dennis John Zampa case. And those are
10 the 12 items that we just spoke about and I believe on
11 Exhibit 1. The list of references are the documents
12 that inform my opinion as it relates to DuPont de
13 Nemours' work. State of the art, that deals with what
14 was known when about the hazards associated with
15 asbestos. And included in that list of references are
16 136 DuPont corporate documents.

17 Q. The items that you received from counsel for
18 your work in this case include the nine items listed in
19 Exhibit 1, true?

20 A. Yes, sir, in addition to the three that I spoke
21 about earlier.

22 Q. Yes, sir, the Ellenbecker deposition, the
23 safety program construction division documents 61, 62,
24 63, 64, 15 photographs, right?

25 A. Yes, sir.

1 Q. You also received 136 DuPont documents dated
2 1955, 1971, true?

3 A. Yes, sir, that's correct.

4 Q. So any other materials that you received from
5 counsel for your opinions in the Zampa matter?

6 A. No, sir. And as I said earlier, I received the
7 DuPont documents not specifically for the Zampa matter.
8 That's why they're not on Exhibit 1.

9 Q. When did you get the DuPont documents?

10 A. I don't recall. Possibly maybe a month or so
11 ago.

12 Q. Why did you get the DuPont documents?

13 MS. DIVELEY: Objection. Calls for
14 speculation, vague.

15 THE WITNESS: Well, sir, my opinions related to
16 this case and other DuPont cases deal with what DuPont
17 did over the course of our understanding of the hazards
18 associated with asbestos, the state of the science. And
19 so my review of the corporate documents have been
20 ongoing and not specific to any one particular case.
21 But obviously it's relevant as I offer my opinions as to
22 what DuPont did over the course of time. And that's why
23 this time frame of '55 through '71, while not
24 necessarily relevant to the Zampa case, it's relevant to
25 what DuPont did as a company as the science was

1 developed and understood around the hazards associated
2 with asbestos.

3 BY MR. JONES:

4 Q. My only point is did you get those materials,
5 the 136 DuPont documents, for this case or some other
6 DuPont case you've been working on? Why did they send
7 them to you?

8 MS. DIVELEY: Objection. Same objections,
9 vague, calls for speculation.

10 THE WITNESS: Well, sir, I received the DuPont
11 documents prior to being retained in the Zampa case and
12 to get an understanding of what -- what DuPont did from
13 my read of the documents over the course of time, more
14 specifically from '55 to '71.

15 BY MR. JONES:

16 Q. Have you received any other materials from
17 counsel for DuPont, be they for this case, any other
18 case or for your work for DuPont in general that you're
19 going to rely on for your opinions in the Zampa matter?

20 MS. DIVELEY: Objection. Overbroad.

21 THE WITNESS: Well, sir, I don't know what
22 other documents may be presented to me during trial.
23 These are the documents that I have reviewed. These are
24 the documents that inform my opinion. But I don't know
25 what other additional documents you may have or others

1 may have that I may be asked to opine on.

2 BY MR. JONES:

3 Q. Do you have the correspondence sending you the
4 136 DuPont documents?

5 A. No, sir, I do not.

6 Q. How did you get those documents?

7 A. I received them in a meeting that I had with
8 counsel to go over those documents.

9 Q. When was that meeting?

10 A. I don't recall precisely, but I believe it was
11 sometime in January.

12 Q. How long did you meet with counsel for DuPont?

13 A. I believe I met maybe a day to talk about the
14 DuPont documents.

15 Q. What does a day mean?

16 A. A day means a number of hours. I don't recall
17 if it was a full day or six hours, but it was what I
18 would refer to as a day.

19 Q. Where were you?

20 A. I was in the Crowell Moring office here in
21 Washington D.C.

22 Q. On how many occasions have you met with counsel
23 for DuPont to discuss what's in those 136 documents?

24 MS. DIVELEY: Objection. Vague.

25 THE WITNESS: Well sir, I don't recall

1 precisely how many hours or days, but I was here
2 yesterday as well and reviewed documents, corporate
3 documents. So it's a matter of here on the premises
4 maybe two days over the course of the last couple
5 months.

6 MR. JONES: Marie, are you working on sending
7 me the photographs and the safety program things?

8 MS. DIVELEY: I am. And let me just tell you
9 it's probably, I don't know, maybe 30 pages, maybe
10 40 pages. So my secretary is going to send them to me
11 and send them to you. But it might -- you know, they
12 might have to be broken up into a couple e-mails so you
13 can get them.

14 BY MR. JONES:

15 Q. Mr. Henshaw, how long have you been in
16 Washington D.C. for this trip?

17 A. I came in yesterday morning.

18 Q. What time did you meet with the DuPont
19 attorneys yesterday?

20 A. I believe I signed in at about 11:15 yesterday
21 morning.

22 Q. How long were you there?

23 A. Until about 5:00 p.m.

24 Q. What did you talk to the attorneys about from
25 11:00 to 5:00 p.m.?

1 A. Well, in the review of the corporate documents,
2 reviewing those documents, and in respect to this case
3 we talked about the logistics of this testimony and --
4 of this deposition and then, of course, what my opinions
5 are in respect to this case.

6 Q. Well, it took you six hours to do all that?

7 MS. DIVELEY: Objection. Argumentative.

8 THE WITNESS: Well, I believe I came during
9 lunch, and so there was a lunch period. But generally
10 going through the corporate documents and then, of
11 course, my opinions as it relates to the Zampa case, and
12 there were probably several breaks in between. But
13 that's generally the time frame I was here in the
14 office.

15 BY MR. JONES:

16 Q. So you met with counsel for DuPont in person on
17 only two occasions to discuss those 136 DuPont
18 documents?

19 A. Well, sir, again, I can't give you the precise
20 times or dates. I don't recall those precise dates.
21 But I was asked to review the corporate documents a few
22 months ago, and I did meet, like I said, sometime I
23 believe it was in January and then, of course, yesterday
24 before -- before the deposition today.

25 Q. Are those the only two times you've met in

1 person with DuPont's counsel to discuss the 136
2 corporate DuPont documents?

3 MS. DIVELEY: Objection. Asked and answered.

4 THE WITNESS: Well, sir, again, I don't know
5 all the dates and times precisely. But in respect to
6 being prepared to address the questions leading up to
7 this Zampa case, I met with counsel I believe it was
8 twice in respect to the DuPont matter, and like I said,
9 sometime in January I believe for about a day and, of
10 course, yesterday as I already mentioned.

11 BY MR. JONES:

12 Q. What did the DuPont lawyers tell you they
13 thought the documents meant?

14 MS. DIVELEY: Objection. Vague, overbroad.

15 THE WITNESS: Well, sir, I read the documents
16 and I developed my own opinion in respect to the
17 documents, what was meant to the extent I understood the
18 language, who the individuals were. And certainly
19 DuPont counsel provided some titles of who these
20 individuals were that may have not been on the
21 documents. But I rendered my opinions in respect to
22 what DuPont was doing as it relates to the state of the
23 science at the time on my own based on what I know about
24 the science, what I know about companies during this
25 time frame, what they were doing, what they were

1 thinking about and what the scientific community
2 understood during that time frame as it relates to the
3 risk and hazards associated with asbestos.

4 BY MR. JONES:

5 Q. And my question is not -- I'm not asking you
6 what you told them. My question is specifically about
7 what they told you. Do you understand that?

8 MS. DIVELEY: And again objection. Vague,
9 ambiguous, overbroad and also assumes that there was
10 actually something said.

11 MR. JONES: That's a speaking objection, and I
12 would prefer you not have anymore speaking objections.
13 The law of the great state of California is that you
14 make a legal objection. So if you thought perhaps my
15 question assumes facts that weren't in evidence, you
16 would say assumes facts not in evidence. You wouldn't
17 suggest to the witness how he might answer my question
18 in your objection. So I would appreciate it if you
19 would refrain from doing that in the future.

20 MS. DIVELEY: Okay. Thank you. I will say
21 assumes facts not in evidence.

22 MR. JONES: Thank you.

23 BY MR. JONES:

24 Q. Mr. Henshaw, do you understand that I'm asking
25 you not what you told them and not your process for

1 forming your opinions? I'm asking you specifically
2 about what the lawyers told you. Do you understand
3 that?

4 A. Yes, sir, I do. And I already answered that.

5 Q. So now my question is in those two occasions
6 what did DuPont's lawyers tell you about what was in the
7 136 pages -- 136 DuPont corporate documents?

8 MS. DIVELEY: Same objections.

9 THE WITNESS: Well, sir, as I said earlier, I
10 did not know the titles or areas of responsibility by
11 some of the individuals who -- who were writing some of
12 these documents or memos. So a great deal of my
13 questions to them is who is this person? And the
14 response was they were medical director or whatever
15 their roles were. So that was the principal responses
16 that I recall. I don't recall any specific document or
17 discussion other than helping me understand who these
18 people were in relationship to -- to the company.

19 BY MR. JONES:

20 Q. Have you had any telephone conversations with
21 counsel for DuPont concerning these 136 corporate
22 documents?

23 MS. DIVELEY: Objection. Vague.

24 THE WITNESS: The only conversations I recall
25 are communications did I receive those documents and

1 have I had a chance to review those documents.

2 BY MR. JONES:

3 Q. I think you told me before you physically -- or
4 strike that.

5 Is the first time you ever saw those documents
6 the time when you met with DuPont's lawyers in
7 Washington D.C. in January?

8 A. Certainly in respect to -- the first time I saw
9 the documents certainly were in Washington D.C. I also
10 received an electronic version of those documents which
11 I have reviewed on my own subsequently as I read
12 through or as I have read through those corporate
13 documents.

14 Q. So did you receive an electronic copy before,
15 during or after your meeting with DuPont's counsel in
16 Washington D.C. in January?

17 A. I received -- I don't recall, but I believe --
18 I certainly didn't review, but I don't recall receiving
19 them before the meeting. But my subsequent review
20 was -- occurred for the most part -- and again, I don't
21 recall reviewing it before the meeting but I do recall
22 reviewing after the meeting.

23 Q. You reviewed the documents at the meeting?

24 A. Well, sir, yes. There were, as I said earlier,
25 discussions about who these individuals were and their

1 roles and responsibilities within the corporation. As I
2 said, subsequent to that meeting I have reviewed those
3 documents in detail.

4 Q. So while -- when is the first time you ever
5 reviewed the documents in detail?

6 MS. DIVELEY: Objection. Asked and answered.

7 THE WITNESS: Well, sir, I don't recall the
8 specific time. I know that I did review or did see
9 physical copies here in the office, here in the Crowell
10 Moring's offices. And I do have electronic copies, and
11 that's why they're on my reference list of those 136
12 corporate documents.

13 BY MR. JONES:

14 Q. But did you review those documents for the
15 first time in detail at that meeting in January or was
16 it after that meeting in January where you read them in
17 detail?

18 MS. DIVELEY: Objection. Asked and answered.

19 THE WITNESS: Well, sir, again, I don't recall
20 the specifics. I doubt -- I was not able to review in
21 detail 136 documents in a meeting in a day. There were
22 some documents certainly as it relates to people and
23 what their roles and responsibilities during my
24 discussions with the attorneys. But the reason why I
25 certainly wanted the electronic copies is so that I can

1 review those in detail and render my opinions based on
2 what the documents told me as it relates to DuPont's
3 actions relevant to the state of the science.

4 BY MR. JONES:

5 Q. So the first time you reviewed them in detail
6 then was after that January meeting with DuPont's
7 counsel in Washington D.C., true?

8 MS. DIVELEY: Asked and answered.

9 THE WITNESS: Well, again, I don't recall
10 specifically. There may have been a document or two
11 that was reviewed in detail prior to that time, prior to
12 receiving the electronic copy. As I said, there were
13 paper copies that I looked at. Some documents were
14 short, and, therefore, there's not a lot of detail
15 necessary or time necessary to review, and other
16 documents were lengthy and, of course, required more
17 time to review them in detail.

18 BY MR. JONES:

19 Q. I'm just trying to get the timeline. The first
20 time you ever saw the documents, the 136 DuPont
21 corporate documents, was at that meeting in Washington
22 D.C. with DuPont's counsel, true?

23 MS. DIVELEY: Objection. Asked and answered.

24 THE WITNESS: Well, as it relates to my
25 engagement with DuPont and retention as it relates to

1 this case or prior to this case, the first time that I
2 reviewed these for this retention was in January, as I
3 said, I believe it was in January, and then, of course,
4 yesterday prior to this deposition.

5 BY MR. JONES:

6 Q. My question is when is the first time you ever
7 reviewed the 136 DuPont corporate documents, be it for
8 this case or any other or just for your own personal
9 edification or any reason? When is the first time you
10 ever saw the 136 corporate DuPont documents?

11 MS. DIVELEY: Objection. Asked and answered.

12 THE WITNESS: Well, sir, I can't -- the 136 as
13 they're identified in my reference list, the first time
14 I saw that grouping was in January of this year and
15 began to review those in detail. I may have seen
16 documents that were included in that 126 (sic) from
17 other cases that I've been involved in. I can't exclude
18 that. I just don't recall.

19 BY MR. JONES:

20 Q. Fair enough. Mr. Henshaw?

21 A. Yes.

22 Q. Have you billed for your time when you've
23 reviewed these 136 DuPont corporate documents?

24 A. Yes, sir, I have.

25 Q. And do you keep records for billing purposes?

1 A. Certainly as it relates to an invoice, yes,
2 sir, there are invoices submitted. I believe it was for
3 my meetings that took place in respect to reviewing the
4 DuPont cases, and they should be available.

5 Q. So you have your billing records where you
6 billed DuPont for reviewing the 136 corporate documents,
7 true?

8 A. Well, to the extent there's invoices submitted
9 and those invoices would have been issued. Certainly
10 the work in February or January, I don't know that those
11 invoices would be available. But certainly invoices
12 prior to that would be.

13 Q. But you've certainly kept track of your time so
14 that you can invoice DuPont later, right?

15 A. Yes, sir. They're certainly listed and to be
16 invoiced at some point, yes, sir.

17 Q. So you have records of the work you've done for
18 DuPont that involved reviewing the 136 corporate
19 documents, true?

20 A. I certainly -- I do have notations as to how
21 much time I've spent reviewing the DuPont documents.

22 Q. How much time have you spent reviewing the
23 DuPont documents?

24 A. I don't recall specifically. And as I think
25 about the invoices, I believe there may be an invoice

1 for December. I mentioned January. There may be one
2 for December. I just don't recall reviewing DuPont
3 documents. But my estimate would be maybe all total
4 somewhere in the neighborhood of maybe 20 hours, 15 to
5 20 hours.

6 Q. Does that include time spent meeting with
7 DuPont lawyers?

8 A. Yes, sir.

9 Q. Approximately how much time did you spend
10 reviewing the 136 DuPont corporate documents on your
11 own?

12 MS. DIVELEY: Objection. Asked and answered.

13 THE WITNESS: Well, sir, as I said, I believe
14 the meeting that I had with the -- here in Washington
15 may have been in December. I said January, but maybe
16 it's December. And that was about a day, somewhere in
17 the neighborhood of six hours I believe, and then, of
18 course, here yesterday for a few hours. The majority of
19 the time was on my own in my office or at the time I
20 was -- I could have been traveling. But nonetheless, I
21 was reviewing it on my own.

22 BY MR. JONES:

23 Q. Your estimate, your total estimate was 20 or
24 25 hours; is that right?

25 A. Well again, I don't know. I don't recall. But

1 I would say it's somewhere in the neighborhood of
2 20 hours.

3 Q. Did you bill that work for a particular case?

4 A. No, sir, I have not. As I said earlier, it was
5 before my retention in the Zampa case.

6 Q. Did you bill it to any other case?

7 A. No, sir.

8 MS. DIVELEY: Objection. Asked and answered.

9 BY MR. JONES:

10 Q. I didn't hear the answer. I'm sorry.

11 A. No, sir.

12 MS. DIVELEY: Trey, I just sent you those
13 additional documents. So hopefully they will get
14 through.

15 BY MR. JONES:

16 Q. Who selected the corporate documents that were
17 included in the 136 DuPont documents given to you?

18 MS. DIVELEY: Objection. Vague.

19 THE WITNESS: I don't know.

20 BY MR. JONES:

21 Q. What's that?

22 A. No, sir, I don't know.

23 Q. All you know is that DuPont's lawyers gave them
24 to you?

25 MS. DIVELEY: Objection. Vague.

1 THE WITNESS: Well, sir, all I know is that
2 these were the documents that were provided to me and
3 the ones that I have reviewed.

4 BY MR. JONES:

5 Q. The documents were given to you by DuPont's
6 lawyers, right?

7 MS. DIVELEY: Asked and answered.

8 THE WITNESS: Yes, sir.

9 BY MR. JONES:

10 Q. Do you know if they were selected from a
11 collection by DuPont's lawyers?

12 A. Sir, I don't know. All I know is I have 136
13 corporate documents.

14 Q. Is it your understanding that those documents
15 are authentic records of DuPont?

16 MS. DIVELEY: Objection. Calls for
17 speculation.

18 THE WITNESS: Well, sir, as I read those
19 documents, the material is relevant to the time frame.
20 And I don't know -- I don't know all the origin of those
21 documents. They appear to me to be corporate documents
22 from the DuPont file.

23 BY MR. JONES:

24 Q. Did DuPont's lawyers tell you that these are
25 corporate documents from DuPont's files?

1 A. I don't recall the specific conversation about
2 these documents except that these are relevant documents
3 that deal with what DuPont did and knew over that time
4 period.

5 Q. Is it your understanding that these are DuPont
6 corporate records?

7 A. It is my understanding that they come from the
8 DuPont files. Not all documents, of course, are written
9 by DuPont. Some of them were copies of publications or
10 other sorts of references that are available in the
11 public domain.

12 Q. How do you know that these are copies of
13 records from DuPont's file?

14 MS. DIVELEY: Objection. Asked and answered.

15 THE WITNESS: Well, sir, they're documents that
16 have -- that talk about relevant issues or timely issues
17 that I'm aware of. They talk about activities that went
18 on over certain periods of time which I'm aware of and
19 have studied, so they're consistent with my
20 understanding of the development of the science around
21 hazards associated with asbestos. And the names of some
22 of the people in these documents I knew or have read
23 about in the scientific literature and at scientific
24 meetings.

25 MR. JONES: I just got the documents you sent

1 me. I would say we're very unlikely to complete this
2 deposition today. I mean, these documents are looks
3 like pretty specific to this case. I'm going to need
4 more time to look these over than probably I can do in
5 this deposition. I still don't think I have the
6 photographs. Well, maybe I do.

7 BY MR. JONES:

8 Q. Mr. Henshaw, are the photographs you have in
9 black and white?

10 A. Yes, sir, they are.

11 MS. DIVELEY: Objection. Sorry. Not
12 objection. But I just wanted to clarify. Actually what
13 we have are copies of photographs.

14 THE WITNESS: Yes, sir, I don't have
15 photographs. I have a xerox copy that's black and white
16 of photographs.

17 MR. JONES: Okay. Mr. Henshaw, let's attach
18 as -- I would say let's attach as Exhibit 2 a DVD of
19 some sort of the 136 DuPont corporate documents. We'll
20 figure that out.

21 (Plaintiffs' Exhibit 2 marked for
22 Identification.)

23 MR. JONES: Let's attach as Exhibit 3 a
24 document entitled "John Henshaw MPH/CIH, list of
25 reference documents for DuPont de Nemours."

1 (Plaintiffs' Exhibit 3 marked for
2 Identification.)

3 BY MR. JONES:

4 Q. Mr. Henshaw, what is Exhibit 3?

5 A. Exhibit 3 I mentioned earlier is a list of
6 references that help inform my opinion in respect to the
7 Zampa case.

8 Q. Have you reviewed and considered all of the
9 documents included in Exhibit 3?

10 A. Yes, sir, I have considered all the documents
11 that are in Exhibit 3. They do help inform my opinion
12 in respect to this case.

13 Q. Thank you.

14 Let's attach your CV as Exhibit 4.

15 (Plaintiffs' Exhibit 4 marked for
16 Identification.)

17 BY MR. JONES:

18 Q. And the CV I'm referring to I got this morning.
19 And it's got a date on the bottom of February 9, 2017.
20 Is Exhibit 4 your most recent CV?

21 A. Yes, sir, it is.

22 Q. Does it accurately describe your educational
23 and employment history?

24 A. Yes, sir, to the best of my knowledge.

25 Q. You authored this document?

1 A. Yes, sir.

2 Q. So does it also accurately reflect your
3 experience generally as an industrial hygienist?

4 A. Well, sir, generally. It's not -- this is
5 simply a CV that discusses my -- the jobs I've had over
6 the years, my employment, and then, of course, as the
7 titles indicate, publications, memberships, professional
8 associations, honors and things of that sort.

9 Q. Let's attach as Exhibit 5 a document entitled
10 "Deposition and Trial Testimony February '13 to
11 February '17," and it says "John L. Henshaw" at the top
12 left. Mr. Henshaw, what is Exhibit 5?

13 A. Exhibit 5 is a listing of testimony either by
14 deposition or trial from February 2013 through
15 February 2017.

16 (Plaintiffs' Exhibit 5 marked for
17 Identification.)

18 MR. JONES: Let's attach as Exhibit 6 a
19 document entitled "General Case Summary." At the top
20 left it says "Notes of John L. Henshaw, Dennis John
21 Zampa and Pamela S. Zampa vs. Georgia-Pacific, et al,
22 March 2, 2017.

23 (Plaintiffs' Exhibit 6 marked for
24 Identification.)

25 BY MR. JONES:

1 Q. What is Exhibit 6?

2 A. Exhibit 6 is my summary of the materials that I
3 reviewed that are relevant to my opinions and areas of
4 interest that deal with the materials that I received
5 specifically for the Zampa case which is the same items
6 that are listed in the items received which I think is
7 Exhibit 1. This doesn't include my opinions, but it
8 does summarize the specific detail that is listed
9 primarily from the deposition transcripts that I
10 reviewed and the responses to interrogatories that I
11 reviewed.

12 Q. Did you take any notes during your review --
13 well, strike that.

14 Do you have any notes from your review of the
15 136 DuPont corporate records that we've attached as
16 Exhibit 2.

17 A. No, sir, I do not.

18 Q. Do you have any correspondence, be it e-mail,
19 fax, letter, anything from counsel for DuPont related to
20 those 136 DuPont corporate records?

21 A. No, sir, with the exception of a transmittal
22 identifying here are documents for review, but nothing
23 of any substance.

24 Q. Did that come as a letter or a FedEx or an
25 e-mail? How did you get those documents?

1 A. They came as an electronic version. Yes, they
2 were electronic versions.

3 Q. So you have the e-mail sending you these
4 documents?

5 A. I don't know.

6 Q. Did you delete it?

7 A. I don't know. I don't recall. As I said,
8 there was nothing in the e-mail except attached are the
9 documents for your review or something of that sort.
10 There was no discussion of any document.

11 MR. JONES: Let's attach as Exhibit 7 the
12 e-mail sending the 136 DuPont documents.

13 (Plaintiffs' Exhibit 7 marked for
14 Identification.)

15 MS. DIVELEY: I'm going to object to that
16 because it's not clear from his testimony there actually
17 is an e-mail.

18 MR. JONES: That's again not an objection.

19 MS. DIVELEY: Okay. Clarification then.

20 MR. JONES: You don't do that. In California
21 clarification is Spanish for speaking objection. So
22 please refrain from speaking objections.

23 MS. DIVELEY: Okay. Objection to facts not in
24 evidence. How is that one?

25 MR. JONES: I have no comment about your

1 objections. I'm not the one that decides whether
2 they're legit or not. A judge does that. I'm just
3 concerned about the speaking.

4 BY MR. JONES:

5 Q. Mr. Henshaw, what are your opinions in this
6 matter?

7 A. Well, my opinions are several. One, more
8 specifically for Mr. Dennis Zampa is that any exposure
9 that he may have received, asbestos exposure he may have
10 received from his father's work clothing as a result of
11 his father working for a short period of time, I would
12 estimate less than a year's time total at the DuPont
13 facility, would be de minimus and would not have put him
14 at risk of asbestos-related disease. I would also offer
15 the opinion that Mr. Robert Zampa, his exposure period
16 or potential exposure period would be infrequent if at
17 all, short in duration and low intensity given the work
18 that he was asked to do at this DuPont facility. And
19 that potential exposure that he may have received at the
20 DuPont facility would be well below any contemporaneous
21 exposure standard, well below the relevant guidelines at
22 the time. We do know that those who are exposed to high
23 concentrations of amphibole asbestos are at increased
24 risk of developing asbestos-related disease. But given
25 Mr. Zampa's testimony and the evidence that I've

1 reviewed in this case, including the photographs,
2 including the discussion that I had with Mr. Karish
3 (phonetic), or I'm pronouncing his name incorrectly, but
4 Karish which is listed on page 7 of my notes, given that
5 information, Mr. Robert or Richard Zampa's potential
6 exposure would be infrequent, low and would not have put
7 him at risk of asbestos-related disease. And then an
8 additional opinion would be around what DuPont did in
9 respect to -- during this time frame in respect to how
10 they addressed asbestos, the hazards associated with
11 asbestos and the fact that they were consistent with and
12 in my view advanced in the state of -- in respect to
13 what the scientific community understood the hazards
14 were associated with asbestos during -- and more
15 specifically during the time frame of when Mr. Richard
16 Zampa worked at the DuPont facility. DuPont acted
17 appropriately, responsibly and, in fact, in my view they
18 were, as I said, advanced in respect to taking action
19 and understanding what the science told us at the time
20 and took appropriate precautions in respect to
21 controlling exposures at their sites.

22 Q. You would agree with me that it's your opinion
23 that DuPont was aware of the medical and scientific
24 literature as it related to asbestos hazards in the
25 1950s?

1 MS. DIVELEY: Objection. Vague, overbroad.

2 THE WITNESS: Well, sir, as I stated when I
3 talked about my opinions, DuPont was and did keep
4 abreast of the science as it was known and developed
5 over time. In reading the documents, they were aware
6 and they were taking appropriate and positive actions as
7 a result of that knowledge and in my view led and
8 participated in the engagement around that learning by
9 engaging experts at various time frames. So they would
10 have been aware of what the science told us in respect
11 to the hazards associated with high exposures to
12 asbestos over time.

13 BY MR. JONES:

14 Q. I got your opinions that you're going to offer
15 in this case in three categories. I'm going to run them
16 back to make sure I got everything.

17 The first is that any exposure to Mr. Dennis
18 Zampa from the clothing of Richard Zampa from DuPont was
19 de minimus and did not put Dennis Zampa at risk of
20 developing an asbestos-related disease; two, that
21 Richard Zampa's exposure was infrequent, short in
22 duration and it was low intensity, well below the
23 contemporaneous exposure standards. You mentioned that
24 your opinion was informed by the testimony of Mr. Zampa
25 and your conversation with the gentleman named Karish;

1 and third, that what DuPont did concerning asbestos
2 hazards, how they addressed and reacted to asbestos
3 hazards was appropriate and responsible, that they took
4 the appropriate precautions, that they were advanced in
5 their knowledge of asbestos hazards and in their
6 reaction to asbestos hazards. Anything else?

7 A. Well, sir, when I say advanced, what I mean is
8 their responses were advanced. They, in my view, kept
9 abreast of what was being studied and what was known at
10 the time in respect to hazards associated with high
11 exposures to asbestos. My discussion about being
12 advanced means they were engaged in understanding that
13 science and took advanced action, advanced prior to OSHA
14 standards coming into place, for example, reducing the
15 threshold limit values or the guidelines before the TLVs
16 were lowered. They took actions that provided even
17 greater protection for the workers associated with their
18 facilities. They kept abreast of the science as it was
19 developed over time.

20 Q. With that clarification, did I correctly state
21 the opinions you intend to offer in the Zampa case?

22 MS. DIVELEY: Objection. Vague, overbroad.

23 THE WITNESS: Well, sir, those are sort of
24 general opinions. Of course, there are opinions
25 implicit in those general opinions. As it relates to

1 the kind of potential exposure Mr. Dennis Zampa may have
2 had, if any, from his father's clothes associated with
3 the DuPont work, there are more specific opinions
4 dealing with Mr. Robert or Richard Zampa's exposure
5 potential at the DuPont facility for that relatively
6 short period of time as an ironworker, what an
7 ironworker would do, certainly more specific opinions
8 that relate to the photographs that you have a copy of
9 or a copy of the photographs that deal with the lay-down
10 of the pigments unit at this facility, what Mr. Richard
11 Zampa's work may have been or involved, more specific
12 opinions as it relates to what Mr. Karish spoke about in
13 my discussions with him in respect to the potential for
14 insulation or an ironworker coming in contact with
15 asbestos insulation, and then, of course, as it relates
16 to what DuPont did over time as the state of the science
17 came to light in the '50s through the '70s. There are
18 more specific opinions depending on what issues we're
19 talking about and what time frame we're talking about.

20 BY MR. JONES:

21 Q. With that clarification and the previous
22 clarification and the understanding that you'll have
23 more specific opinions under those general opinions, did
24 I correctly state the general opinions that you're going
25 to have in this matter?

1 MS. DIVELEY: Objection. Vague, ambiguous,
2 compound.

3 THE WITNESS: Well, sir, again, those are my
4 general opinions as I cited earlier. Mr. Dennis Zampa's
5 potential from contact with his dad and his dad's
6 potential exposure to asbestos and then DuPont in the
7 state of the science, those general areas are --
8 encompass my opinions in this case.

9 MS. DIVELEY: Trey, whenever is a good time, we
10 should maybe take a bathroom break.

11 MR. JONES: Now is a good time.

12 (Break taken from 9:15 a.m. to 9:25 a.m.)

13 BY MR. JONES:

14 Q. Mr. Henshaw, what was the name of the
15 individual you spoke to who told you more about DuPont's
16 Antioch facility?

17 A. That was Charles Karish.

18 Q. And how did you learn of Mr. Karish's identity?

19 A. The counsel alerted me that he was a DuPont
20 construction engineer at the Antioch facility during the
21 basic time frame that Mr. Richard Zampa was there.

22 Q. When did counsel tell you this?

23 A. I don't recall precisely, but it was within the
24 last -- within the last week.

25 Q. Did you get Mr. Karish's contact information?

1 A. I believe it was a conference call that I
2 called into.

3 Q. Explain that to me.

4 A. A call was arranged. And I simply accessed the
5 call by using the right telephone number and access
6 code.

7 Q. Who was on the call?

8 A. I believe Marie Diveley as well as Mr. Karish.
9 I don't recall if anybody else was on the phone.

10 Q. What did -- so Marie Diveley is counsel for
11 DuPont in this matter, true?

12 A. Yes, sir.

13 Q. She's a lawyer for DuPont, right?

14 A. Yes, sir.

15 Q. What did the lawyers for DuPont tell you about
16 Mr. Karish before you had your conversation with him?

17 A. Well, sir, I don't recall all the detail. But
18 I believe it was associated with he was there at the
19 facility and he had particular knowledge as to what --
20 what the construction division or what kind of work
21 would have taken place at that facility around this time
22 frame.

23 Q. Had counsel for -- had the lawyers for DuPont
24 talked to Mr. Karish before you talked to him?

25 MS. DIVELEY: Objection. Calls for

1 speculation.

2 THE WITNESS: Well, sir, I don't know. All I
3 know is he was identified as a person who had worked at
4 that facility and part of the DuPont construction
5 division.

6 BY MR. JONES:

7 Q. Did you take any notes from your conversation
8 with Mr. Karish?

9 A. Yes, sir. Those notes are reflected in -- on
10 page 7 and 8 of my notes as it relates to this case.

11 Q. Did you type them up while you were talking to
12 him?

13 A. No, sir, I did not. But I did type them up.
14 All of my notes are included on these two pages.

15 Q. When did you type them up?

16 MS. DIVELEY: Objection. Relevance.

17 THE WITNESS: Well, sir, I don't recall
18 precisely. It was shortly after the call, but I
19 don't -- I don't recall exactly when.

20 BY MR. JONES:

21 Q. When was the call?

22 A. Well, sir, as I said earlier, I don't recall
23 the precise date, but it was within the last week.

24 Q. Your note says that the conversation was on
25 February 28, 2017; is that right?

1 A. Yes, sir, that's correct. That's precisely
2 when the call took place.

3 Q. When did you type up your notes? So that would
4 have been on -- this is Tuesday, right? Three days ago?

5 A. Yes, sir. I did not look at my notes on page
6 7, but it does say exactly when the call took place, and
7 I typed them that afternoon.

8 Q. So you typed them the same afternoon that you
9 talked to him?

10 MS. DIVELEY: Objection. Asked and answered.

11 THE WITNESS: Yes, sir.

12 BY MR. JONES:

13 Q. Was anyone on that call other than you,
14 Mr. Karish and Ms. Diveley, the lawyer for DuPont?

15 MS. DIVELEY: Diveley. Diveley with a D.

16 THE WITNESS: Well, sir, again, I don't recall.
17 The only voices I remember hearing were Ms. Diveley and
18 Charles Karish.

19 BY MR. JONES:

20 Q. Okay. Do you have Mr. Karish's contact
21 information?

22 A. No, sir, I do not.

23 Q. Do you know how DuPont found Mr. Karish?

24 A. No, sir.

25 Q. How do you know that Mr. Karish worked at

1 DuPont?

2 A. Well, he said so.

3 Q. Did he know Mr. Zampa?

4 A. I don't recall that question was ever raised.

5 I just don't recall.

6 Q. You didn't ask him do you know Mr. Zampa,

7 Richard Zampa?

8 A. No, sir.

9 Q. Wasn't the whole point of the conversation to
10 find out what this guy knows about Richard Zampa's work
11 at Antioch?

12 MS. DIVELEY: Objection. Asked and answered.

13 THE WITNESS: Well, sir, the conversation was
14 about what work went on at that facility and what kind
15 of material. As I talk about in my notes, when the
16 facility was under construction, whether fireproofing
17 the steel structure would be -- would be applied to this
18 TIO2 facility, what kind of work that was done, what
19 kind of insulation may have been provided or may have
20 been used at the site, that was the discussion. What an
21 individual -- because there were a number of individuals
22 working at this site, I would not expect Mr. Karish to
23 know what -- in the 1960s what -- recall what a person
24 did on particular day. I was more concerned about what
25 was going on, what material was being used, how was it

1 being used, when the facility was under construction and
2 whether any piping may have been preinsulated which I
3 discuss in page 8, and what kind of work an ironworker
4 may have done during that time frame.

5 BY MR. JONES:

6 Q. Where did Mr. Karish live?

7 A. Sir, I don't know.

8 Q. How long did Mr. Karish work for DuPont?

9 A. I don't know precisely. But I do recall that
10 he had a fairly long work history with DuPont, but I
11 don't recall precisely.

12 Q. Did Mr. Karish know that y'all were calling
13 because one of his co-worker's son had mesothelioma?

14 MS. DIVELEY: Objection. Vague, ambiguous,
15 misstates facts.

16 THE WITNESS: Well, sir, I don't know the --
17 all the discussion that anyone may have had with
18 Mr. Karish. I don't know the detail. But I do believe
19 he knew that this was an ironworker that allegedly or
20 worked at the facility. But I don't know all or what
21 Mr. Karish may have known about this particular case.

22 BY MR. JONES:

23 Q. Do you know if he knew that the allegation was
24 that someone that worked in Antioch was exposed to
25 asbestos, that asbestos went home on his clothing and

1 exposed his son who now has mesothelioma?

2 MS. DIVELEY: Objection. Asked and answered.

3 THE WITNESS: Well, again, sir, I don't know
4 what he knew about this particular case. My questions
5 were about what an ironworker may have been doing as
6 well as what the --

7 BY MR. JONES:

8 Q. Mr. Henshaw, I'm going to interrupt you. You
9 need to answer my question. And I asked you a specific
10 question about what you talked to him about. You've
11 already told me what you generally talked to him about.
12 I'm paying you by the hour. I'm paying you. I need you
13 to answer my question. If we can't do that, I'll have
14 to get some assistance from the court so that when I ask
15 a question, you answer the question and not tell me a
16 bunch of stuff that I'm not asking. Do you understand
17 that?

18 MS. DIVELEY: Objection. Vague, ambiguous
19 argumentative, misstates the facts.

20 BY MR. JONES:

21 Q. Do you understand that?

22 MS. DIVELEY: Asked and answered. Sorry asked
23 and answered.

24 BY MR. JONES:

25 Q. Mr. Henshaw?

1 A. Counselor, I'm trying to answer your question
2 as precisely as I can.

3 Q. Okay. I just need you to answer the question.
4 I don't need you to tell me everything you might know
5 about the subject. Okay? So I'm going to ask this
6 question again. And I guess either you answer it or you
7 don't. If you don't, we're going to do this deposition
8 in another session. In the meantime we'll bring a
9 motion to compel an answer to deposition questions and
10 we'll get a court order for you to answer the question.
11 But my question is simple and it's a yes, no or really I
12 don't know answer would be sufficient. Do you know
13 whether or not Mr. Karish was aware that the allegations
14 in this matter were that an ironworker at Antioch in the
15 early 1960s was exposed to asbestos, that the allegation
16 was that asbestos went home with him on his clothing and
17 exposed his son who now has mesothelioma.

18 MS. DIVELEY: And I will form an objection
19 there for the narrative, the colloquy from counsel and
20 the argumentative nature.

21 THE WITNESS: Well, Counselor --

22 BY MR. JONES:

23 Q. Go ahead, Mr. Henshaw.

24 A. Counselor, again, I don't know all the detail.
25 You've described fairly lengthy detail in respect to

1 this case. I don't know whether he had this detail,
2 whether he knew that detail or not.

3 Q. How did you identify yourself to Mr. Karish?

4 A. I don't recall all the specifics, but it was
5 around the issue of what was going on at this facility
6 as I said earlier, what was being built, what did the
7 facility --

8 Q. No, no. My question is -- no, no. My question
9 is how did you identify yourself to Mr. Karish?

10 MS. DIVELEY: Objection. Asked and answered.

11 THE WITNESS: Well, sir, I'm trying to tell
12 you. I don't know that I said anything in particular.
13 I just said that I'm interested in knowing what was
14 going on at this facility during this time frame.

15 BY MR. JONES:

16 Q. Did you tell him your name?

17 A. Yes, sir, I probably did.

18 Q. Did you tell him what you do for a living?

19 A. I don't believe I said so.

20 Q. Did you tell him that you were a retained
21 expert in a personal injury matter?

22 A. I did not specifically make that statement. I
23 did say I'm interested in what went on at that facility
24 during this time frame.

25 Q. Did you tell him that you were an expert hired

1 by DuPont in a lawsuit?

2 MS. DIVELEY: Objection. Asked and answered,
3 argumentative.

4 THE WITNESS: No, sir, I don't believe -- I
5 certainly did not say that. As I said earlier, I was
6 interested in what went on at this facility.

7 BY MR. JONES:

8 Q. Did Ms. Diveley identify herself as a lawyer
9 for DuPont?

10 A. Sir, I don't know every statement made in a
11 phone conversation. I don't recall.

12 Q. As you sit here today, you don't recall
13 Ms. Diveley informing Mr. Karish that she was a lawyer
14 for DuPont, true?

15 MS. DIVELEY: Objection. Asked and answered,
16 misstates testimony.

17 THE WITNESS: Sir, I don't recall what -- the
18 details of the conversation that led up to my area of
19 interest which was what went on at this facility during
20 this time frame.

21 BY MR. JONES:

22 Q. Did anyone on the call mention to Mr. Karish
23 that the matter involved Richard or Dennis Zampa?

24 MS. DIVELEY: I'm sorry, Trey. You kind of
25 faded out there. I didn't hear the question.

1 BY MR. JONES:

2 Q. Did anyone on the call tell Mr. Karish that the
3 matter at hand involved Richard or Dennis Zampa?

4 MS. DIVELEY: Asked and answered.

5 THE WITNESS: Sir, again, as I said earlier, I
6 believe I may have mentioned Richard Zampa as an
7 ironworker. I don't recall whether Dennis Zampa's name
8 came up.

9 BY MR. JONES:

10 Q. Are you saying you said Richard Zampa's name or
11 you said that the issue involved an ironworker
12 generically?

13 A. Well, again, I don't recall the detail
14 specifically. I may have mentioned Richard Zampa's
15 name. I don't recall. My concern was -- as I said
16 earlier was ironworkers and what ironworkers did during
17 this time frame and what the facility looked like at the
18 time.

19 Q. This is a conversation that happened three days
20 ago, true?

21 A. Yes, sir, that's correct.

22 Q. How long was the conversation?

23 A. I don't recall precisely, but it was probably
24 in the neighborhood of maybe an hour.

25 Q. Can you recall anything that Mr. Karish told

1 you about DuPont beyond what's found in your case
2 summary attached as Exhibit 6 to the deposition?

3 A. Well, sir, the specifics that relate to the
4 work activity I was interested in are spelled out in my
5 notes here. What I didn't include was Mr. Karish's
6 comments about how serious DuPont was in respect to
7 safety, the various meetings which Mr. Zampa talked
8 about in his testimony, about how serious they were in
9 safety, the meetings they had on a regular basis. And I
10 didn't include that in my notes because Mr. Zampa,
11 Richard Zampa has already talked about those. But
12 that's what I recall. I don't recall any other more
13 specific detail.

14 Q. Anything else about DuPont's safety policies
15 that you learned from Mr. Karish that aren't found in
16 your case summary?

17 A. Well, sir, he did mention, which I think you
18 have a copy of, which is the safety program for the
19 construction division. He did mention those booklets or
20 those documents and which I had not seen and which I
21 have now. But generally that was the only information I
22 did not have prior to the conversation with respect to
23 documents.

24 Q. The documents you're referring to -- let's see.
25 The documents you just referred to, are those the safety

1 program documents dated 1961, 1962, 1963, 1964, and
2 1965?

3 A. No, sir. It's from '61 to '64.

4 Q. What I just read from you is what DuPont's
5 lawyers sent me this morning as documents that you have
6 been sent.

7 A. Yes. I'm sorry. The '64 the '65 is stapled to
8 that '64 document. Yes, sir, from '61 to '65.

9 MR. JONES: Let's attach those exhibits --
10 let's attach those documents collectively as Exhibit 8.

11 (Plaintiffs' Exhibit 8 marked for
12 Identification.)

13 BY MR. JONES:

14 Q. What is Exhibit 8?

15 A. Well, Exhibit 8 is a series of documents that
16 represent the safety program for the construction
17 division of DuPont for the years from '61 through '65.

18 Q. Are these documents that you rely on for your
19 opinions in this matter?

20 A. Well, sir, they support certainly my opinions.
21 I did not critically evaluate each one. But they
22 support the opinion that DuPont was serious about safety
23 as Mr. Karish said and Mr. Richard Zampa also said. And
24 so they're supportive in that nature that they had as
25 early as the '61 time frame programs specific --

1 specifically addressing the construction work that
2 Mr. Richard Zampa was involved in.

3 Q. Have you seen any evidence that DuPont was
4 taking any steps to prevent asbestos exposures to its
5 employees at the Antioch facility from 1961 to 1965?

6 MS. DIVELEY: Objection. Vague, overbroad.

7 THE WITNESS: Well, sir, I don't have specific
8 documents from the Antioch facility. I do have in read
9 of the corporate documents that DuPont was interested in
10 minimizing exposures to dust and exposures to hazardous
11 materials, more specifically asbestos through the '60s
12 and certainly beyond assuring that exposures are below
13 the contemporaneous exposure guidelines. But DuPont had
14 been focused on and continues to be focused on
15 minimizing exposures to hazardous materials including
16 dust, including -- including fibers and more
17 specifically asbestos during the time frames asbestos
18 was used.

19 BY MR. JONES:

20 Q. And my questions now are going to be specific
21 to asbestos. Do you understand that?

22 A. Yes, sir.

23 Q. I understand DuPont may have had general
24 hazardous substance policies and might have done things
25 to protect people from gunpowder or other dust. My

1 questions now are specific to asbestos. Do you
2 understand that?

3 A. Yes, sir.

4 MS. DIVELEY: Objection. Vague, ambiguous
5 argumentative.

6 MR. JONES: There is nothing vague or ambiguous
7 about it. Specific to asbestos.

8 BY MR. JONES:

9 Q. Mr. Henshaw, is it your testimony that DuPont
10 was taking steps to prevent employees from being exposed
11 to asbestos and specifically asbestos in 1965 or
12 previous?

13 A. Yes, sir, they were. They were taking steps to
14 minimize exposures to asbestos and all dust or
15 potentially dust generating activities.

16 Q. What document do you rely on that says that in
17 1965 or before DuPont was taking steps specifically to
18 prevent asbestos exposures to its employees?

19 A. Well, the fact that DuPont was focused on
20 assuring that, number one, the guidelines are being met,
21 exposure guidelines. And as early as 1961, there were
22 specific standards. The S2T document describes
23 maintaining exposures to asbestos and other compounds
24 below the exposure standards or the TLV. They were --
25 they provided or focused on assuring dust in general

1 which includes asbestos.

2 Q. My question was to identify the document. Can
3 you identify the document that you -- or documents,
4 plural, that you rely on for your opinions that DuPont
5 was taking steps to prevent exposures to asbestos and
6 specifically asbestos in its employees in 1965 or
7 earlier?

8 MS. DIVELEY: Objection. Mr. Jones, he was, in
9 fact, doing that when you interrupted him.

10 BY MR. JONES:

11 Q. Go ahead, Mr. Henshaw. And I've got those
12 documents open. So if you tell me the documents, I'll
13 try to scoot to it right now. I've got the folder 1955
14 to 1967 open. And they're all dates. So you just give
15 any date and I'll zip to it. Okay?

16 A. Yes, sir. That would be fine.

17 Q. All right.

18 A. And I'm trying to answer your question.

19 Q. My question was to identify documents. I
20 didn't ask anything else. So let me just make sure it's
21 clear this is my question: Please identify the
22 documents by date, month, day and year that you rely on
23 for your opinion that DuPont was taking steps to protect
24 its employees from asbestos and specifically asbestos at
25 any time in 1965 or before 1965.

1 A. Sir, I'm not going to recall every single
2 document and every single date. But I do recall more
3 specifically a 1961 document which is the -- I think
4 they refer to it as S2T which specifically mentions
5 asbestos and specifically identifies exposure guideline.
6 That, my recollection is, came out '61 or earlier.
7 There are other documents that deal with minimizing
8 exposures to dust, assuring safety performance which
9 includes exposures to various chemicals or compounds
10 including dust.

11 Q. Can you identify any document that specifically
12 discusses asbestos, one of the DuPont corporate
13 documents dated in or before 1965? You've identified
14 and I've located a document titled S2T. And at the top
15 it says "Toxicity maximum acceptable concentrations of
16 air contaminants" issued April 1961, revised
17 December 1961, and it's a five-page document. Is that
18 the document you were referring to?

19 A. Well, sir, I don't have that document in front
20 of me and I don't recall specifically the number of
21 pages.

22 Q. Do you have these documents with you?

23 A. No, sir, I don't.

24 Q. Well, how are you going to answer questions
25 about them?

1 A. Well, sir, I don't have those documents. We've
2 already talked about what documents I have before me. I
3 don't have those documents.

4 MR. JONES: I'll tell what you we'll do. I
5 just got these documents last night, so I haven't had an
6 opportunity to review them. The witness doesn't have
7 the documents with him and has indicated that -- well,
8 he said whatever he said about his memory. I don't need
9 to restate it. But I am unable to have a meaningful
10 examination of this witness about these documents in my
11 time. So we'll have to schedule another deposition of
12 the witness. And at that time the witness will need to
13 have these documents in front of him so I can examine
14 him about it.

15 BY MR. JONES:

16 Q. Mr. Henshaw, did Mr. Karish indicate to you
17 that DuPont was taking any steps specific to preventing
18 asbestos exposures at the Antioch facility between 1960
19 and 1965?

20 A. Well, sir, he did say that DuPont was
21 interested in minimizing dust exposures including
22 exposures from asbestos. He also noted that I noted in
23 my notes that in respect to the TIO2 unit he did not see
24 where asbestos would have been needed. But he does talk
25 about there was at least four different types of

1 asbestos -- or excuse me, of insulation that was used in
2 the TI02 which included fiberglass, poly foam, mineral
3 wool and asbestos. So he did talk about that they were
4 steps as DuPont did during that time frame and before to
5 minimize exposures to dust including asbestos.

6 Q. Is it your testimony that Mr. Karish indicated
7 that he knew that asbestos was a hazardous substance in
8 1961?

9 MS. DIVELEY: Objection. Vague, ambiguous,
10 misstates testimony.

11 THE WITNESS: Well, I did not ask Mr. Karish or
12 I don't recall him commenting on the hazard potential.
13 He mentioned -- my specific question was what sorts of
14 insulation may have been used in the TI02 unit. And he
15 cited those at least those four forms of insulation.

16 MR. JONES: Move to strike. Nonresponsive.

17 BY MR. JONES:

18 Q. Did Mr. Karish, at any point in his
19 conversation, indicate that he had been trained by
20 DuPont specifically about asbestos hazards at any time
21 before 1965?

22 MS. DIVELEY: Objection. Vague and ambiguous.

23 THE WITNESS: Well, sir, I don't recall whether
24 he mentioned anything in that nature. I certainly
25 didn't ask the question in respect to his specific

1 knowledge or training.

2 BY MR. JONES:

3 Q. Okay. Did Mr. Karish -- this is a yes or no
4 question or I'll take an I don't remember also. Did
5 Mr. Karish indicate to you that at the time he was
6 working at Antioch between 1961 and 1965 he was aware
7 that asbestos exposure was hazardous to human health?

8 MS. DIVELEY: Objection. Asked and answered,
9 vague and ambiguous.

10 THE WITNESS: Well, sir, again, I don't recall
11 the detail. I certainly didn't ask the question as to
12 what he knew about asbestos or potential hazards. His
13 comments to me in response to my questions were what
14 kind of insulation may have been present at that site.

15 BY MR. JONES:

16 Q. Can you identify for me any documents you rely
17 on that indicate not only that DuPont was aware that
18 asbestos was a hazardous substance but that DuPont was
19 taking steps specifically related to preventing asbestos
20 exposures in its employees?

21 MS. DIVELEY: Objection. Vague, ambiguous,
22 compound and asked and answered.

23 THE WITNESS: Well, sir, I can only go with the
24 documents that I have reviewed. And certainly the 1961
25 document informs my opinion that DuPont was focused on

1 reducing and minimizing exposures certainly below these
2 guidelines which included asbestos. The nature and
3 certainly the documents that I have read makes it clear
4 in my mind that DuPont was abreast of what was the
5 hazards associated with high exposures to asbestos in --
6 at that time in the asbestos industry which is mining,
7 milling and the textile, asbestos textile industry.
8 They clearly identify TLVs --

9 BY MR. JONES:

10 Q. Okay, okay. You're going beyond my question.
11 I'm only asking you to identify documents. Is there any
12 other document other than the 1961 document that
13 indicates not just that DuPont is aware that asbestos is
14 a human health hazard but indicate that DuPont is taking
15 steps specifically to prevent asbestos exposures in its
16 employees?

17 MS. DIVELEY: And I'll say all of the same
18 objections and please ask counsel to stop interrupting
19 the witness.

20 BY MR. JONES:

21 Q. Any other documents?

22 A. Well, sir, there are other documents that occur
23 in later years which indicate that DuPont, as I said
24 earlier, was keeping abreast of the knowledge of the
25 science as it relates to high exposures to asbestos and

1 the hazards associated with high exposures to asbestos
2 in specific industries and then obviously keeping
3 abreast of the new information that came to light in the
4 mid '60s, through the '60s and '70s time frame.

5 Q. What did I ask you?

6 MS. DIVELEY: Objection. Argumentative.

7 BY MR. JONES:

8 Q. Mr. Henshaw, what was my last question to you?

9 A. Counselor, I gave you my response to the last
10 question. If you want me to read back the question, you
11 must ask the court reporter.

12 Q. No. I want to know if you understood it. I
13 think it's possible maybe we're not communicating. I
14 think maybe you didn't understand it. What's your
15 interpretation of what I asked you?

16 MS. DIVELEY: Objection to the colloquy and
17 argumentative, asked and answered.

18 BY MR. JONES:

19 Q. Do you understand my question?

20 A. Yes, sir, I did.

21 MR. JONES: Okay. I'm going move to strike
22 your last response as nonresponsive and I'll ask my
23 question again.

24 BY MR. JONES:

25 Q. Mr. Henshaw, and again -- I guess we're going

1 to do this again. You can either answer it or not. If
2 you don't answer it, we'll go to court in between the
3 next -- now and the next deposition and I guess I'll get
4 some assistance from the court. I hope I don't need to
5 do that because I feel like I'm asking a fairly simple
6 question. My question is --

7 MS. DIVELEY: I object to the colloquy and the
8 attempts to intimidate the witness. Now, if you want
9 him to look at documents, you should have asked him to
10 bring some documents. You should have brought some
11 documents yourself for him to look at. So I really
12 object to your abusive attitude.

13 BY MR. JONES:

14 Q. Mr. Henshaw, my question is can you identify
15 for me any other documents other than the 1961 S2T
16 document you identified that indicates that DuPont was
17 taking steps specifically related to asbestos exposure
18 to prevent asbestos exposure in its employees in 1965 or
19 before?

20 MS. DIVELEY: Objection. Vague, ambiguous,
21 compound, argumentative, asked and answered.

22 THE WITNESS: Well, sir, as I said earlier, the
23 '61 document is a document which describes the
24 guidelines that were available in the scientific
25 community that DuPont adopted and was telling its

1 facilities to maintain these exposures below these
2 numbers. That's specific to asbestos. In reading other
3 documents, it's clear in my mind that DuPont was focused
4 on minimizing exposures to hazardous circumstances in
5 respect to asbestos or any other compounds that workers
6 may be exposed to and where conditions may present
7 themselves to create hazards. That was in the documents
8 that I read. That's in the training and experience of
9 the individuals who worked there some of which I knew.
10 They were focused on reducing risk and hazards as
11 appropriate for their facilities. The first document
12 that I have that specifically mentions asbestos in
13 respect to exposure potential would be the S2 -- or the
14 S2T '61 reference. Asbestos is mentioned in other
15 documents over time including in 1955. But specifically
16 from an exposure standpoint, my recollection is the '61
17 document specifically mentions asbestos and the TLV.

18 BY MR. JONES:

19 Q. What's the 1955 document that specifically
20 mentions asbestos?

21 A. Well, sir, I don't have that document in front
22 of me. My recollection is that that 1955 dealt with
23 pulmonary function testing of air pollutants, dust in
24 general. I don't recall specifically whether asbestos
25 was mentioned in that 1955 corporate document.

1 Q. Is it your understanding -- and I have that
2 document. I'm looking at it. It's dated December 19,
3 1955. It's a memorandum from Edward P. Radford, Jr., to
4 Dr. John A. Zapp, Jr., and it's a three-page document.
5 And the title of the document is "Pulmonary function
6 tests for possible in-plant use." And I'll represent to
7 you that is the only document provided to me as one of
8 your reliance materials that's dated in 1955. Is this
9 the document you're referring to?

10 A. Sir, I don't have that document in front of me
11 and I don't know what document you are looking at. I do
12 recall a 1955 document that dealt with pulmonary
13 function testing. I cannot verify that what you have in
14 front of you is the document that I'm thinking about.

15 Q. Is it your understanding that in 1955 DuPont
16 was considering pulmonary function tests to detect
17 injuries including asbestos injuries?

18 A. Sir, again, I don't have that document in front
19 of me. But the '55 document that I'm referring to that
20 I recall dealt with the proposal to do pulmonary
21 function for air pollutants in general as a means of
22 medical surveillance and came out of the medical
23 department. As I said, DuPont, in my view, was working
24 to understand risk, understand potential exposures,
25 understand effects and were doing things such as looking

1 at the pulmonary function testing techniques to see
2 whether it could be employed at their facilities to
3 provide surveillance for their employees. This is what
4 I meant by they were advanced in assuring their workers
5 were properly protected.

6 Q. Is it your opinion that in 1955 DuPont was
7 aware that pulmonary function tests might identify
8 people with asbestos injuries?

9 MS. DIVELEY: Objection. Vague and ambiguous,
10 compound.

11 THE WITNESS: Well, sir, again, I don't have
12 that document in front of me or recall every specific
13 detail or nuance of that document. What I recall is
14 that they were evaluating or looking at the potential
15 utility of pulmonary function testing in general. In my
16 read of other documents subsequent of that there was no
17 reason for DuPont to believe that their employees as it
18 relates to asbestos were at increased risk of disease.
19 That was -- as I recall, that '55 document was a general
20 document evaluating the utility of pulmonary function
21 testing.

22 BY MR. JONES:

23 Q. So my question is not about your recollection
24 of the document but my question is about your opinion
25 based on reviewing the document. Is it your opinion

1 that as of --

2 MS. DIVELEY: Objection. Argumentative. And
3 again object to the colloquy and your instruction to the
4 witness. Just ask your questions, Counsel.

5 MR. JONES: I am asking my question. But I
6 feel like -- I don't need to talk to you. I withdraw
7 everything I just said to you.

8 BY MR. JONES:

9 Q. Mr. Henshaw, my question is specifically about
10 your opinion about your review of documents, not your
11 recollection of specific documents. Is it your opinion
12 that in 1955 DuPont was aware that asbestos was
13 hazardous to humans?

14 MS. DIVELEY: Same objections.

15 THE WITNESS: Well, sir, it's my opinion in
16 reading all the documents, the corporate documents that
17 DuPont was aware of the potential hazards to high
18 exposures to asbestos, more specifically in the 19 -- in
19 the early 1950s and '60s time frame of those that were
20 exposed to high exposures in the asbestos industries
21 which include mining, milling and textile industries.
22 It's my opinion they were aware of those risks
23 associated in those industries due to the high exposures
24 to asbestos.

25 BY MR. JONES:

1 Q. They were aware of those risks as of when?

2 A. Well, sir, I don't have a specific document as
3 to what date. DuPont, as I read the corporate
4 documents, DuPont had reputable scientists engaged in
5 evaluating risk, evaluating hazards. And I do believe
6 they were aware that in the asbestos industries where we
7 see and we saw high exposures to asbestos that
8 individuals were at risk of developing, more
9 specifically in the '50s, asbestosis. It was not until
10 the '60s did we have data or DuPont had data or
11 information that there may be a risk associated with
12 high exposures to asbestos for developing mesothelioma.

13 Q. Are your opinions about DuPont's conduct based
14 on anything other than your review of the 136 DuPont
15 corporate documents provided to you by DuPont's lawyers?
16 To clarify that, I'm not including your knowledge of
17 general state of the art. I'm only talking about your
18 knowledge of DuPont specifically.

19 MS. DIVELEY: Objection. Vague, overbroad.

20 THE WITNESS: Well, sir, again, the major input
21 to my opinion or the documents that inform my opinion
22 are those 136 corporate documents. However, I did know
23 DuPont and knew some of the individuals that are cited
24 in some of those documents and I respected those
25 individuals as top scientists in their fields and I had

1 worked with some of those individuals in the '70s and
2 '80s and I respected their opinions, respected their
3 knowledge and wholeheartedly believe they were keeping
4 abreast of what was known at the time and taking
5 appropriate actions which are all supported by the facts
6 and the details that are described in those 136
7 documents.

8 BY MR. JONES:

9 Q. Can you identify those DuPont employees that
10 you know or knew?

11 A. I knew Dr. Zapp. I knew Dr. Trokonovich, Hank
12 Trokonovich. I knew Charley Reinhardt, Adrian Lynch.
13 They are some of the individuals that are included in
14 those documents.

15 Q. And what are you relying on from your
16 conversations with those individuals that support your
17 opinions concerning DuPont's conduct in this matter?

18 MS. DIVELEY: Objection. Vague and ambiguous,
19 misstates testimony.

20 THE WITNESS: Well, sir, as I said earlier in
21 my previous answer, I knew those individuals and
22 respected them and worked with them on a number of
23 topics. I don't recall specifically whether it was
24 asbestos related. However, in reviewing the corporate
25 documents from 1955 to 1971, that is -- or the science

1 described in those documents is consistent with my
2 understanding, my knowledge and my study of what was
3 known about asbestos and the hazards of asbestos during
4 that time frame. These were, from my knowledge at least
5 the individuals that I knew, these were top scientists
6 in the field who were dedicated in preserving the health
7 and safety of their employees.

8 BY MR. JONES:

9 Q. When was it established in the medical --

10 (The reporter speaks.)

11 BY MR. JONES:

12 Q. When was it established in the medical and
13 scientific literature that exposure to asbestos can
14 cause the disease asbestosis?

15 A. Well, sir, the first epidemiological valuation
16 in respect to asbestosis occurred -- was published in
17 1930 by Merewether and Price and then a further study in
18 U.S. by Dreeson in the late '30s where these were in the
19 textile industries or the asbestos industries where it
20 was clear that high exposures to asbestos put one at
21 risk of developing asbestosis.

22 Q. When was it first established in the medical
23 and scientific literature that exposure to asbestos can
24 cause a disease lung cancer?

25 A. Well, the first epidemiologic evidence was the

1 1955 with Dir Richard Dahl and his publication dealing
2 with those who had asbestos what the potential for risk
3 of cancer or lung cancer associated with that high
4 exposure to asbestos. And that was published in 1955.

5 Q. When was it first established exposure -- when
6 was it first established in the medical and scientific
7 literature that exposure to asbestos can cause the
8 disease mesothelioma?

9 A. Well, the first epidemiological evidence was
10 when Selikoff released his findings at the conference in
11 '64 and then subsequently published in '65 of his work
12 associated with insulators, primarily out of the
13 New York and New Jersey area. That was when the
14 scientific community was alerted to the possibility of
15 high exposures to asbestos resulting in a mesothelioma.

16 Q. What's the significance of Dr. Wagner's 1960
17 article about asbestos and mesothelioma?

18 A. Well, that publication dealt with case reports
19 basically or 33 cases of individuals with mesothelioma
20 and its relationship with mining of crocidolite in South
21 Africa. That was sort of an indication that there may
22 be a difference in potential exposures showing that
23 crocidolite -- we saw 33 cases of meso from crocidolite
24 exposures and we did not see it for the other forms of
25 asbestos.

1 Q. What's the basis for your opinion that any
2 exposure from work -- from the work clothing of Richard
3 Zampa from DuPont to Dennis Zampa was de minimus and did
4 not put Dennis Zampa at risk of developing an
5 asbestos-related disease?

6 A. Well, sir, first of all, Mr. Richard Zampa, he
7 was an ironworker working at the Antioch facility, the
8 TI02 unit. And as an ironworker he's not going to be
9 routinely or exposed to asbestos. He's not working with
10 asbestos. He's working outdoors erecting steel as he
11 describes in his testimony. He also talks about
12 erecting a grated flooring as well as sheet metal that
13 would go into buildings, sheds that are depicted in the
14 photographs, in fact.

15 His potential exposure, if you add all the time
16 up that he was at the DuPont facility, would be less
17 than a year based on my estimates in total time. The
18 first part of that time, which is in the '62/'63 time
19 frame, would have been the time, and the photographs
20 support that, would have been the time when the steel
21 structures would be erected and the buildings would have
22 put metalclad on the buildings represented maybe
23 25 weeks of work.

24 He went back to that facility again in '64 for
25 maybe eight weeks or so in the first quarter and then

1 third quarter about a week and a half and the fourth
2 quarter maybe 13 weeks. Again, that second period would
3 have been after the unit had started up more likely than
4 not. But the first period would have been green field
5 erecting steel and would not have involved anything
6 associated in my view with asbestos.

7 He did talk about in his testimony of knocking
8 off insulation when he's erecting pipe or installing
9 pipe. That would have been a short period of time in
10 his total work history at the site. Again, looking at
11 the photographs, most of the steel work or ironwork
12 would have involved grating, floor grating that you're
13 not going to insulate, steel beams that you're not going
14 to insulate. The only potential exposure to asbestos or
15 having to do with asbestos may have been piping, the
16 pipes. That would have been a short period of time.
17 Much of the pipe, as Mr. Karish said, was not insulated.
18 And there's four different kinds of insulation. So if
19 there was any potential exposure to asbestos during the
20 time he's lifting and putting in place piping, it would
21 have been a very short period of time as he describes to
22 knock off insulation.

23 All of that adds up to a very infrequent, very
24 short duration and outdoors in the open environment, a
25 low intensity potential exposure which adds up to my

1 opinion that his exposure would have been well below any
2 exposure guideline and in my view did not put him at
3 risk associated with asbestos-related disease at the
4 DuPont facility taking Mr. Dennis Zampa's potential
5 exposure, Mr. Richard Zampa working less than a year at
6 the DuPont facility, came home and played with his son.
7 I do know based on my own research that the take-home
8 potential for exposure is a fraction of what the
9 individual may have been exposed in the work environment
10 based on two studies that I'm an author in that's
11 described in my CV. And under very worst case
12 conditions we're talking about a fraction of the
13 exposure could be transported home to individuals who
14 are shaking clothes for 15 minutes and directly shaking
15 clothes. Mr. Dennis Zampa did not shake clothes. He
16 may have -- he testified that he may have seen his
17 mother shake clothes. But that's as a bystander, so
18 it's a much reduced exposure. And the testimony talks
19 about playing with his son. Over that period of time
20 all of that means that any potential exposure Mr. Dennis
21 Zampa may have had associated with his father's work
22 clothes coming from the DuPont facility would be de
23 minimus in my view and would not put him at risk of
24 developing asbestos-related disease.

25 Q. Let me ask you this: Do you have an opinion as

1 to whether or not the pipe covering at the Antioch
2 facility where Richard Zampa worked was
3 asbestos-containing?

4 A. Well, sir, I don't know precisely what, if any,
5 insulation that Mr. Zampa handled contained asbestos.
6 We do know from Charles Karish's -- my discussion with
7 him is that there were at least four different types of
8 insulation used at the TI02 unit. But based on
9 Mr. Zampa's testimony, the insulation that he may have
10 knocked off could have been mineral wool or could have
11 been any other kind of insulation that he says took one
12 or two minutes to knock off. So there's no evidence
13 that he was exposed to asbestos at this facility. He
14 didn't recall specifically whether it was asbestos or
15 not. At least my read of the testimony did not inform
16 my opinion that he knew. So I can't say whether he was,
17 in fact, exposed to asbestos in handling insulated pipe.

18 Q. Would you agree with me that not all industrial
19 pipe covering used in 1960s was asbestos-containing?

20 A. Yes, sir, not all insulation was
21 asbestos-containing and not all pipes were insulated.

22 Q. You would agree with me that in the 1960s there
23 were non-asbestos pipe insulation products on the
24 market?

25 A. Well, sir, I would agree that there were a

1 variety of insulation material available for given
2 circumstances or given conditions. Some conditions you
3 would use poly foam and other conditions you might use
4 asbestos. It depends on the kind of condition or the
5 kind of insulating properties that one required for the
6 process.

7 Q. If pipe covering was used for heat insulation
8 at the Antioch facility, you would agree with me that
9 more likely than not that that pipe covering was
10 asbestos-containing in the 1960s?

11 MS. DIVELEY: Objection. Vague, ambiguous and
12 assumes facts not in evidence.

13 THE WITNESS: Well, sir, when you say for heat
14 related, I think it would be dependent on the degree of
15 heat or the degree of the temperature within the piping.
16 So there are specific specifications that would warrant
17 asbestos-containing versus some other form of insulation
18 such as mineral wool which would work in some
19 conditions.

20 BY MR. JONES:

21 Q. So just because it's a high-heat application
22 does not mean that the pipe covering was asbestos in the
23 1960s, true?

24 MS. DIVELEY: Objection. Vague, overbroad.

25 THE WITNESS: Well, sir, again, it depends on

1 the temperature we're talking about or the conditions
2 under which it's going to be used. Certainly
3 fiberglass, mineral wool, there may be certain
4 parameters and there certainly are specific parameters
5 where one may be appropriate versus another. I don't
6 have that detail. But certainly the engineers would
7 specify what was desirable or required given the
8 conditions of the process.

9 BY MR. JONES:

10 Q. So you wouldn't know the asbestos content of
11 industrial insulation without looking at the
12 specifications, and I'm talking about during the 1960s,
13 true?

14 MS. DIVELEY: Objection. Vague.

15 THE WITNESS: Well, sir, certainly the
16 specifications more likely than not would have a good
17 indication of what would be required in respect to
18 insulating properties. I do know that in ships, for
19 example, it was specified and it was most commonly used
20 certainly for steam applications. But certainly
21 specifications would be an indication of what was
22 specified. What was actually installed may have to be
23 determined by actual sampling.

24 BY MR. JONES:

25 Q. Do you have an opinion as to whether or not

1 amphibole insulation was used at the Antioch facility
2 when Richard Zampa worked there in the 1960s?

3 A. Well, sir, I don't have the specifics as to
4 what was at the Antioch facility over any given time
5 frame. What I have is what Mr. Karish said that there's
6 at least four different kinds that were available in his
7 opinion in the TI02 unit. So I don't have any specific
8 detail as to what kind of asbestos, if any, was used at
9 that facility.

10 Q. You understand the allegation against DuPont in
11 this matter is that thermal -- strike that.

12 You understand that the allegation against
13 DuPont in this action is that industrial thermal
14 insulation caused Richard Zampa to be exposed to
15 asbestos and that Richard Zampa then took that asbestos
16 dust home on his clothing and exposed his son Dennis
17 Zampa?

18 MS. DIVELEY: Objection. Vague.

19 THE WITNESS: Well, sir, I understand generally
20 the allegations here in reading the testimony and the
21 answers to interrogatories. I do know, however, that
22 Mr. Zampa was an ironworker. His job was not to handle
23 asbestos. As is --

24 BY MR. JONES:

25 Q. I'm not asking about -- I'm just asking you

1 about is what -- is how I stated the allegation your
2 understanding? I'm not asking you about your opinion.
3 I know your opinion about your opinion about -- I know
4 your opinion about the allegation. You just told me.
5 Did I correctly state your understanding of the
6 allegations in this case?

7 MS. DIVELEY: Objection again to interrupting
8 the witness and vague and looks like you must be calling
9 for a legal conclusion.

10 THE WITNESS: Well, sir, again, I'm not a
11 lawyer, so I don't know what the legal implications are
12 in respect to what you said. In general it deals with
13 Mr. Zampa and his potential exposure at the DuPont
14 facility and the potential for taking an exposure home
15 to his son and whether that, at least my opinion, deals
16 with whether, in fact, that increased his risk of
17 disease.

18 BY MR. JONES:

19 Q. But you knew it dealt with insulation. You
20 specifically asked Mr. Karish about insulation, right?

21 MS. DIVELEY: Objection. Vague, overbroad,
22 confusing.

23 THE WITNESS: Well, sir, if you read my notes,
24 I'm referring to where there's a potential for
25 asbestos-containing material. That would include the

1 fireproofing as well as thermal insulation or other
2 forms of insulation. And that was the basis for my
3 questioning with Mr. Karish is whether fireproofing
4 would be something that would be required in TI02 as
5 well as what form of insulation may be around or used in
6 the TI02 unit that Mr. Zampa may have observed or as he
7 testified may have knocked off of pipe when he rigged
8 them for installation.

9 BY MR. JONES:

10 Q. Are you aware of nonasbestos industrial
11 fireproofing products on the market in the 1960s?

12 A. I believe there were non-asbestos fireproofing
13 during that time frame. But my concern was whether
14 fireproofing would have been used in the TI02 unit. And
15 Mr. Karish confirmed -- my view is that it would not
16 require fireproofing of the steel structure since the
17 floors were grated, meaning open. You're not going to
18 spray the floors either. So it's my opinion, and that's
19 supported by Mr. Karish's information, is that
20 fireproofing would not have involved -- been involved in
21 the TI02 construction.

22 Q. That's not my question. My question is just
23 about the availability of nonasbestos fireproofing.
24 Would you agree with me that industrial fireproofing
25 used in the 1960s more likely than not was

1 asbestos-containing?

2 MS. DIVELEY: Objection. Vague, calls for
3 speculation.

4 THE WITNESS: Well, sir, the fireproofing
5 requirements would be specified by the specifications.
6 And sometimes even building codes would specify a
7 certain heat insulation properties or flame propagation
8 properties. Those would be specified in various kinds
9 of documents, engineering documents or building codes.
10 So it would depend on what the requirements are, what
11 the code requirements are or the building specifications
12 are for a particular projects.

13 BY MR. JONES:

14 Q. So you wouldn't know if a fireproofing was
15 asbestos or not without having that information, true?

16 MS. DIVELEY: Objection, misstates.

17 THE WITNESS: Well, sir, certainly the
18 specifications tell you what's required, what's
19 desirable for a particular issue. I do know that in
20 refineries as an example that the asbestos-containing
21 fireproofing was commonly used. Whether it was used in
22 any particular facility would be dependent on the
23 records as to what was used in the particular facility.

24 BY MR. JONES:

25 Q. Would your answer about asbestos-containing

1 thermal insulation be the same: you would need to have
2 information about the specific facility to determine
3 whether or not that insulation was asbestos-containing?

4 MS. DIVELEY: Objection. Vague, overbroad.

5 THE WITNESS: Well, sir, not if you're asking
6 me what more likely than not. Certainly as I said
7 earlier, in steam plants during the '60s or in -- aboard
8 ships for engine rooms and turbines those would be more
9 likely than not insulated with asbestos. We know that
10 from the records. We know that from the literature.
11 Whether, in fact, a particular facility had a particular
12 type of material, we would have to look at the
13 specifications for that particular material or site.

14 MS. DIVELEY: Trey, whenever you are at a good
15 breaking point, I think it's time for a little break
16 again.

17 MR. JONES: Are you covering the next
18 deposition also?

19 MS. DIVELEY: Yes.

20 MR. JONES: You are?

21 MS. DIVELEY: I am. And it's sounds like
22 you're taking it?

23 MR. JONES: Yeah. So we're probably going to
24 quit pretty soon.

25 MS. DIVELEY: Okay.

1 MR. JONES: We'll just have to -- we'll have to
2 resume this some other time. So we can -- my thought is
3 we can push on for another 15 minutes, take an hour to
4 get lunch and whatnot or we could take a break. But I'm
5 going need some time to get lunch in between the
6 depositions. You probably are, too.

7 MS. DIVELEY: Yeah. I guess, Mr. Henshaw, are
8 you okay to go another 15 minutes?

9 THE WITNESS: Yeah. I don't know if I can go
10 much further than that, but yes.

11 BY MR. JONES:

12 Q. Well, you know, I don't mean -- it's not a
13 marathon. If you need a break, we can take a break.
14 But my thought is we would be quitting pretty soon.

15 A. Like I said, I can hold out for another
16 15 minutes. If it's going to go any longer, I'd like to
17 take a break.

18 Q. Sounds good.

19 Is there a safe level of exposure to amphibole
20 asbestos where mesothelioma will not be induced?

21 A. Well, I don't have a particular threshold in
22 mind in respect to amphibole asbestos except to say that
23 certainly in the '60s and '70s and '80s time frame there
24 were background levels of asbestos including amphibole
25 asbestos and we don't see an increased risk of

1 asbestos-related disease outside of somebody working
2 adjacent to a factory where amphibole asbestos was
3 handled and I also know that our current OSHA standard,
4 which represents six different mineral types of
5 asbestos. At the current standard of 0.1 fibers per cc,
6 we don't see an incidence of disease for all fiber
7 types. And that standard has been in place for over
8 22 years. So I don't have a specific threshold,
9 cumulative exposure threshold for amphiboles. But there
10 is background levels and there are -- our current
11 standard has been in place for 22 years, and we don't
12 see increased risk associated with that exposure.

13 Q. What's the basis for your opinion that
14 amphibole exposure at the current OSHA-regulated levels
15 has not resulted in mesotheliomas?

16 A. Well, sir, I don't have any data. We don't
17 have -- when I was head of OSHA or to my knowledge any
18 other OSHA administrator has never been petitioned or
19 presented data would indicate that our current standard
20 is not preventative for asbestos-related disease. And
21 that's been in place as I said for over 22 years. We
22 just don't have any data to say -- even case reports
23 that tells us that exposures at our current OSHA
24 standard are putting people at risk of developing
25 asbestos-related disease including mesothelioma.

1 Q. You don't have any data one way or the other,
2 right?

3 MS. DIVELEY: Objection. Misstates his
4 testimony.

5 THE WITNESS: Well, sir, we have data on
6 asbestos. Asbestos is the most studied -- in my view
7 the most studied compound in our history with respect to
8 occupational disease. We have epidemiological evidence.
9 We have exposure assessments. We have a great deal of
10 information that's certainly taken place over the last
11 20 or 30 years after incidentally OSHA came up with
12 their quantitative risk as meant in the '80s which was
13 the basis for the '86 and '94 standard. We have a great
14 deal of data showing the possible increased risk
15 associated with disease and we don't see it at our
16 current OSHA standard, like I said, which has been in
17 place for over 22 years.

18 BY MR. JONES:

19 Q. So is it your opinion that exposures to
20 asbestos at or below the current OSHA -- well, strike
21 that.

22 Is it your opinion that exposures to amphibole
23 asbestos at or below the current OSHA regulated levels
24 would not induce a mesothelioma?

25 A. Well, sir, I look at increased risk and where

1 the data tells us there's an increased risk. We don't
2 have -- we don't see an increased risk at the current
3 OSHA standard. And that's based on the available data
4 that's been generated over the years. Again, I don't
5 have a particular threshold for mesothelioma and a
6 particular mineral type except to say chrysotile, we
7 don't see mesothelioma at any exposure level for
8 chrysotile only. But I don't have a specific threshold
9 for the amphiboles. I just don't have that specificity
10 or that detail or have not rendered an opinion in
11 respect to what the threshold might be for amosite or
12 crocidolite except to say that we don't see increased
13 risk of disease at our current standard.

14 Q. What studies would you rely on specifically
15 where someone looked at exposures up to the current
16 standards -- exposures to amphibole asbestos up to the
17 current standards and no mesotheliomas were reported?

18 A. Well, the studies that I'm referring to most of
19 which deal with chrysotile. The current standard, of
20 course, deals with six mineral types including
21 chrysotile. But our exposures that occur today and are
22 being controlled below the OSHA standard represent
23 several mineral types, and we don't see disease in those
24 populations. What those specific exposure levels are
25 would be dependent on the kind of work that's being

1 done.

2 Q. Well, what documents do you rely on -- what
3 documents do you rely on for your opinion -- what
4 studies you rely on for your opinion that you don't see
5 mesotheliomas from exposures to amphibole asbestos at or
6 below the current OSHA regulated level?

7 A. Well, sir, I review on every document that's
8 been published that tells me we don't see disease at our
9 current OSHA standard. Now, so I can only go with what
10 studies have been done. And my opinion deals with all
11 of those studies and the quality of the studies that we
12 don't see disease at our current OSHA standard. If we
13 did, if somebody believes there is, then they should
14 have petitioned me or another administrator or OSHA to
15 argue that these standards should be lowered. No such
16 petition occurred when I was there and to my knowledge
17 no other administrator. So we don't have data to say
18 that our current standard is putting people at risk of
19 asbestos-related disease.

20 Q. Can you identify the specific studies that you
21 rely on for your opinion that exposure to amphibole
22 asbestos up to and under the current OSHA regulated
23 levels has not resulted in mesotheliomas?

24 MS. DIVELEY: Objection. Asked and answered.

25 THE WITNESS: Sir, I'm looking at the total,

1 all the studies that have been generated over time and
2 the quality of those studies. There's been no study
3 that would indicate -- a quality study that would
4 indicate that exposures at our current OSHA standard
5 would put one at risk of developing asbestos-related
6 disease. That's a fact. And that's based on all of the
7 work that's been done or even case reports. And
8 certainly as I said, if someone believed there were data
9 out there that weren't published, then that information
10 should be brought forward either in a published article
11 or petition the agency. And no such action took place
12 when I was there or in any other administrator as far as
13 I know.

14 BY MR. JONES:

15 Q. Is it your opinion that Mr. Zampa was incorrect
16 in his description of potential asbestos products used
17 at the DuPont Antioch facility?

18 MS. DIVELEY: Objection. Vague, argumentative.

19 THE WITNESS: Well, sir, I'm not going to
20 quibble over Mr. Zampa's recollection of one facility
21 that he worked at for less than a year 50 years ago to
22 have that detail of recollection. I'm not going to
23 argue with that or say that DuPont facility had a
24 particular material that he may have observed. My focus
25 was on what took place in the work he was doing.

1 Whether he walked by something going to and from a
2 facility, I don't know all of his activity. I do know
3 from his description of the work that he says that he
4 did there as well as Mr. Karish's recollection of what
5 took place there that there were at least four different
6 types of insulation that may have been used in the TI02.
7 There's nothing in the data that says he worked anywhere
8 else but the TI02 unit. And based on the description,
9 based on my understanding and knowledge associated with
10 ironworkers, the photographs that I've seen in respect
11 to the condition of the site during certain periods of
12 time inform my opinion that if he was associated with
13 any insulation during the construction and his work in
14 the TI02 unit, that would have been short duration,
15 short frequency, short -- low intensity and would not
16 have put his son at risk of developing asbestos-related
17 disease.

18 BY MR. JONES:

19 Q. Do you trust Mr. Karish's memory over that of
20 Richard Zampa's?

21 MS. DIVELEY: Objection. Vague.

22 THE WITNESS: Well, sir, I'm not quibbling on
23 anyone's recollection. Mr. Karish was an engineer who
24 focused on specifics in respect to construction.

25 Mr. Zampa was not an insulator. He was an ironworker.

1 So his familiarity with insulation, I don't know what
2 his basis would be, but his normal job did not involve
3 insulation unlike maybe an insulator who might know what
4 forms of insulation what they may look like. But I'm
5 not going to quibble. He says he was there, he says he
6 knocked off insulation, and he says that he saw certain
7 types of insulation at the site. I'm not going to
8 quibble over that recollection. But his knowledge base
9 and need to know in respect to insulation as an
10 ironworker in my view is much different than the
11 knowledge base and need to know that Mr. Karish had as a
12 construction engineer.

13 BY MR. JONES:

14 Q. How did Mr. Karish know the types of insulation
15 used at DuPont's Antioch facility for the TI02 plant?

16 A. Well, I don't know all the basis for his -- his
17 understanding of the kinds of insulation. It was clear
18 in my discussion with him that there were a variety of
19 forms of insulation at that site and he described them:
20 fiberglass, poly foam is probably a polyurethane foam,
21 and mineral wool and asbestos.

22 Q. What expertise do you have in the design and
23 construction of facilities like that found at DuPont's
24 Antioch facility?

25 A. Well, I've been involved a good bit of my

1 career in evaluating construction of various units,
2 chemical plants and understanding what kind of
3 insulation may be appropriate and whatnot. So it's
4 based on my experience in the '70s and '80s, my
5 assessment of the use of insulation whether it be
6 fireproofing or thermal insulation, given the kinds of
7 conditions at a chemical plant much like the Antioch
8 facility. That was my job in the '70s to understand
9 where asbestos was being used and assure that obviously
10 the exposures were under control to the point where
11 individuals were not at risk of adverse health effects.

12 Q. You've never been involved in the design or
13 construction of a chemical plant, true?

14 MS. DIVELEY: Objection. Vague.

15 THE WITNESS: I have been involved in
16 evaluating design and looking at potential exposures
17 during the construction and implementation and
18 production of chemicals and the facilities associated
19 with those chemicals. A good bit of my job was
20 evaluating the design and evaluating and determining
21 where potential exposures may occur not only in the
22 construction but also in the operation of that facility.

23 MR. JONES: Okay. It's 11:00. We will adjourn
24 the deposition for now. The deposition is not complete.
25 I would request that the witness have the documents, the

1 136 DuPont corporate documents with him when we continue
2 the deposition. But for now I'm going to go get lunch
3 and get ready for the next deposition.

4 MS. DIVELEY: And we will discuss these matters
5 off the record. But we're not necessarily conceding to
6 anything that Mr. Jones just said, but we'll talk about
7 it off the record.

8 MR. JONES: Okay.

9 (Whereupon, the deposition was adjourned at
10 11:01 a.m.)

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REPORTER'S CERTIFICATE

I, CATHERINE M. MEYER, a Shorthand Reporter,
State of California, do hereby certify:

That JOHN HENSHAW, MPH, CIH, in the foregoing
deposition named, was present telephonically and by me
sworn as a witness in the above-entitled action at the
time and place therein specified;

That said deposition was taken before me at said
time and place, and was taken down in shorthand by me, a
Certified Shorthand Reporter of the State of California,
and was thereafter transcribed into typewriting, and
that the foregoing transcript constitutes a full, true
and correct report of said deposition and of the
proceedings that took place;

IN WITNESS WHEREOF, I have hereunder subscribed
my hand this 9th day of March 2017.



CATHERINE M. MEYER, CSR NO. 11596
State of California

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