

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

GERALD F. RODRIGUEZ CIVIL ACTION

NO. 2005-4764

VERSUS DIVISION L
SECTION 6

ANCO INSULATIONS, INC., ET AL

CORPORATE DEPOSITION OF
E. I. DUPONT DE NEMOURS AND COMPANY

BY

BRUCE W. KARRH, SR.,

7 Pepper Bush Circle, Savannah, Georgia 31411
taken in the offices of ABBOTT, SIMSES &
KUCHLER, 400 Lafayette Street, Suite 200, New
Orleans, Louisiana on Wednesday, November 8,
2006.

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1 STIPULATION
2
3 IT IS STIPULATED AND AGREED by and between
4 counsel for the parties hereto that the
5 deposition of the aforementioned witness is
6 hereby being taken under the Louisiana Code of
7 Civil Procedure, Article 1421, et seq., for
8 all purposes, in accordance with law;
9 That the formalities, save reading and
10 signing of the original transcript, are
11 specifically waived;
12 That the formalities of sealing,
13 certification and filing are specifically
14 waived;
15 That all objections, save those as to the
16 form of the question and the responsiveness of
17 the answer, are hereby reserved until such
18 time as this deposition, or any part thereof,
19 may be used or sought to be used in evidence.
20 * * * * *
21 ROGER D. JOHNS, Certified Shorthand
22 Reporter, in and for the State of Louisiana,
23 officiated in administering the oath to the
24 witness.
25

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ROGER D. JOHNS, RDR, CRR, RMR
13 Certified Court Reporter
State of Louisiana
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1 CORPORATE DEPOSITION OF
 2 E. I. DUPONT DE NEMOURS AND COMPANY
 3 BY
 4 BRUCE W. KARRH, SR.,
 5 7 Pepper Bush Circle, Savannah, Georgia 31411,
 6 after having been duly sworn by the
 7 before-mentioned court reporter, did testify
 8 as follows:

9 MR. COTTEN:
 10 Do we want to put something on
 11 the record about -- I guess I do. On
 12 the pro hac motion? This is Larry
 13 Cotten. I represent DuPont. A motion
 14 for pro hac vice has been prepared and
 15 filed with the Court. It's not yet
 16 been ruled on, as I understand it, but
 17 I think we have an agreement with
 18 Counsel that it's okay for us to
 19 proceed under those circumstances.

20 MS. ROUSSEL:
 21 That is correct.

22 MR. COTTEN:
 23 Right.

24 EXAMINATION BY MR. CLEMENT:

25 Q. Dr. Karrh, my name is Jonathan

1 you given before?
 2 A. I have no idea. I get asked that
 3 every time. And the last time I was asked, I
 4 said somewhere around 50.

5 Q. Around 50? Okay. So I am guessing
 6 you're very familiar with the ground rules.

7 A. Generally, yes.

8 Q. So I won't bore you with that. But
 9 you do have a right to read and sign your
 10 deposition.

11 MR. CLEMENT:

12 Yes?

13 MR. COTTEN:

14 We want to do that.

15 EXAMINATION BY MR. CLEMENT:

16 Q. Okay. Basically just let me know if
 17 there's a question you don't understand that I
 18 am asking and I will try my best to clarify
 19 it.

20 A. All right.

21 Q. In these 50 or so cases you said you
 22 have testified in, have they all been on
 23 behalf of DuPont?

24 A. Not all of them. Most of them.

25 Q. Most of them have? All right. And

1 Clement. I'm one of the attorneys for the
 2 Plaintiff in this case. Basically just to go
 3 ahead and begin, would you state your name for
 4 the record?

5 A. First name is Bruce, B R U C E,
 6 initial W, K A R R H, Sr.

7 Q. And your Social Security number,
 8 please?

9 A. 422-46-6642.

10 Q. All right, sir. Your date of birth?

11 A. August 29, 1936.

12 Q. And your home address one more time?

13 A. 7 Pepper Bush Circle, three words,
 14 Savannah, Georgia 31411.

15 Q. You're retired, as I understand it;
 16 correct?

17 A. That's correct.

18 Q. When did you retire?

19 A. March 31st of 1996.

20 Q. And is it your understanding that
 21 you're here to give testimony as the corporate
 22 representative of E. I. DuPont de Nemours and
 23 Company?

24 A. Yes. Yes.

25 Q. Sir, about how many depositions have

1 about how many of them were asbestos or silica
 2 type cases?

3 A. Asbestos was the majority of the
 4 ones I have testified on. But there have been
 5 others.

6 Q. And your most recent one, sir?

7 A. I testified in trial July before
 8 last; and I think the deposition prior to that
 9 was perhaps a month prior to that, so it would
 10 have been sometime perhaps in June of 2005.

11 Q. And where was this trial at?

12 A. Dallas.

13 Q. Texas?

14 A. Texas.

15 Q. Okay. And so you have testified at
 16 trial on behalf of DuPont in asbestos cases?

17 A. Only that one.

18 Q. Only that one?

19 A. At trial.

20 Q. Okay. And have you ever given any
 21 testimony at trial as far as an expert, where
 22 you have been qualified as an expert?

23 A. Yes.

24 Q. And what have you been qualified in,
 25 if you recall?

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1 A. Well, one was a personal injury
2 lawsuit, an automobile accident where I
3 testified on behalf of the Plaintiffs.
4 Another one was a child rape case when I was
5 in practice in Alabama, or right after I left
6 practice in Alabama. One was an unlawful
7 discharge case. I'm thinking back through.
8 It's been many years. I have probably
9 testified at trial -- at trial about six or
10 seven times.
11 Q. All right. Have you ever been
12 qualified as an expert in any type of asbestos
13 case?
14 A. No.
15 Q. No?
16 A. Not qualified as one.
17 Q. Okay. What did you do to prepare
18 for this deposition today?
19 A. I just reviewed some documents.
20 Q. Do you know about how many documents
21 you reviewed or what documents you reviewed?
22 A. There were perhaps 15 or 20
23 documents. I don't remember specifically
24 which ones.
25 Q. Sir, have you reviewed the Notice of

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1 Deposition --
2 A. Yes.
3 Q. -- that we sent out? Which items
4 are you prepared to talk to? Is that
5 something I should ask your Counsel?
6 A. You need to ask my Counsel. I don't
7 have a copy with me right now.
8 MR. COTTEN:
9 If you have got your notice in
10 front of you, we can set this out.
11 Your first topic, corporate history.
12 The second topic, corporate
13 structure. Topic 3, business
14 operations. Topic 5, ventilation
15 programs. Topic 12, identification of
16 personnel with responsibility for
17 recognition and identification of
18 asbestos hazards.
19 Some of these, due to Dr. Karrh's
20 position with the company, he can
21 describe those areas pretty well, but
22 more generally as opposed to maybe
23 giving you names.
24 Topic 13, with the same
25 qualification on responsibility for

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1 dissemination of information
2 concerning hazards. Topic 16, medical
3 surveillance. Topic 17, membership in
4 professional associations.
5 As you might imagine, with
6 respect to a company the age of
7 DuPont, probably can't tick off every
8 one, but if you have ones of interest
9 and you want to ask him about it, he
10 may be in a position to tell you
11 whether DuPont was a member of that
12 organization.
13 Topic 19, instructions and
14 warnings to workers concerning
15 asbestos, he can speak to that from
16 the corporate level. Topic 24,
17 knowledge of asbestos-related hazards
18 obtained. Topic 26, safety manuals.
19 He's got general familiarity with
20 those.
21 Topic 29, warnings, safety
22 programs, governmental compliance,
23 surveillance programs, et cetera.
24 Topic 33, that again is
25 memberships in trade associations with

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1 the same qualification.
2 Topic 34, state and Federal
3 agencies with whom DuPont had to
4 comply, again, probably a little more
5 general in that area.
6 Topic 37, health hazards
7 associated with asbestos exposure. He
8 can -- He can talk about those health
9 hazards. With respect to those
10 specific products that are listed in
11 the topic, he's probably not
12 knowledgeable about the specifics as
13 to each product.
14 Topic 38, recommendations
15 concerning installation of
16 asbestos-containing products, I think
17 he can cover that, but it would be
18 rather broadly. Again, not having
19 specific information on particular
20 product manufacturers.
21 Topic 39, I don't think, other
22 than this last trial that he referred
23 to, he probably has information on
24 that.
25 Topic 45, he has knowledge

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1 concerning some of the communications
2 to DuPont concerning asbestos hazards
3 such as NIOSH, OSHA, those type of
4 things.
5 Topic 48, policies and procedures
6 to keep up with developments
7 concerning hazards.
8 Topic 50, DuPont's documents with
9 respect to asbestos hazards. Again,
10 this is a pretty broad request, so it
11 depends on what document you may ask
12 him about.
13 Topic 54, reports, memos,
14 research related to research,
15 experiments tests and/or studies by
16 DuPont concerning the propensity of
17 asbestos to cause disease, again, he
18 can talk about that fairly generally.
19 Topic 56, air monitoring
20 results. Probably no specifics with
21 respect to any given site, but he can
22 talk generally about those as they
23 affected DuPont's information and
24 program.
25 Topic 57, studies regarding fiber

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1 release of products used by DuPont.
2 Topic -- And that would be with
3 respect to products used by the
4 company.
5 Topic 58, he can talk about that
6 topic.
7 So those are the ones that he can
8 cover.
9 EXAMINATION BY MR. CLEMENT:
10 Q. All right. Basically, Dr. Karrh,
11 first I am just going to go through your
12 background. What I have is basically in 1958,
13 you received a Bachelor of Science in
14 chemistry from the University of Alabama?
15 A. That's correct.
16 Q. Okay. And then you received your
17 medical degree from the Medical College of
18 Alabama?
19 A. Yes.
20 Q. Is that correct? Okay. And
21 throughout your time as far as in your
22 chemistry studies or your medical college
23 studies, have you taken any type of courses
24 that referred to asbestos or covered asbestos?
25 A. I have taken several what you might

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1 call continuing medical education courses over
2 the years, some of which would have asbestos
3 as one of the topics that was being covered.
4 Q. You said over the years. What about
5 prior to your graduation from medical school;
6 had you ever taken any type of course in
7 medical school?
8 A. In medical school we had -- we had a
9 section on public health, of which asbestos
10 was one of the topics that was covered in
11 that.
12 Q. Do you have any recollection of what
13 was actually talked about?
14 A. No recall.
15 Q. That was in 1962 when you graduated?
16 A. It was prior to '62.
17 Q. Okay.
18 A. Somewhere between '58 and '62.
19 Q. All right. So then once you
20 graduated from I guess medical school, you
21 went into the U.S. Army?
22 A. Yes.
23 Q. What exactly did you do there?
24 A. I was an intern my first year at
25 Brook General Hospital in San Antonio, Texas.

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1 Then I went through the U.S. Army Medical
2 Field Service School, the U.S. Air Force
3 School of Aerospace Medicine and U.S. Army
4 School of Aviation Medicine.
5 Q. And what years would that bring us
6 through, from '63 through?
7 A. To the end of '63. About November,
8 mid November of '63.
9 Q. And then the next thing I have on
10 here is from '63 to '65 you were a flight
11 surgeon in the U.S. Army?
12 A. That's correct.
13 Q. Is that the next thing?
14 A. That's correct.
15 Q. What basically did you do there?
16 A. Took care of flight crews. That was
17 the U.S. Army, primarily helicopter school in
18 Fort Walters, Texas, and our job as flight
19 surgeon was -- we had a lot of students coming
20 through being trained to be helicopter pilots
21 and our job there was to make sure they were
22 physically qualified to fly and then keep up
23 with any illness they may have or any medical
24 problem they may have incurred.
25 Q. So then after that, from I guess '65

1 through '70, you were in private practice in
 2 Alabama?
 3 A. That's correct.
 4 Q. And what type of practice was this?
 5 A. General practice.
 6 Q. Just general practice?
 7 A. Yes.
 8 Q. Okay. And throughout this time from
 9 '65 to '70, or I guess prior to '70 besides
 10 that one class you mentioned, had you had any
 11 type of dealings with asbestos-related
 12 diseases or anything like that as far as
 13 treating a patient or anything like that?
 14 A. No.
 15 Q. No? So then you became the medical
 16 supervisor for DuPont's Spruance plant? Is
 17 that correct?
 18 A. That's correct.
 19 Q. From '70 through '73?
 20 A. Yes.
 21 Q. Where is the Spruance plant?
 22 A. Richmond, Virginia.
 23 Q. Was this the first time that you
 24 came into contact with issues regarding
 25 asbestos --

1 A. Yes.
 2 Q. -- at this time? And as the medical
 3 supervisor for DuPont's Spruance plant, what
 4 were your job responsibilities?
 5 A. This was a multi-fibrous plant that
 6 made four different fibers, textile fibers,
 7 synthetic fibers that we put in effect while I
 8 was there, but it used several different
 9 chemicals of different types. We had a work
 10 force of about 2,400 when I first got there.
 11 And by the time I left we were up around 3,000
 12 because we were putting in a new process. And
 13 my job was to supervise the medical program
 14 there, the occupational medical program.
 15 There was another physician who was there and
 16 we had six nurses, and they all worked under
 17 my supervision. And what we were trying to do
 18 was make sure that the people were physically
 19 capable of doing the jobs to which they were
 20 assigned and then we did periodic physical
 21 examinations on all employees, so that we had
 22 responsibility to do that and make sure that
 23 they were not suffering any personal medical
 24 problem or any ill effects from the workplace.
 25 Q. And these medical surveillances

1 between '70 and '73, were you checking for
 2 asbestosis or anything?
 3 A. Yes.
 4 Q. You were? Then the next thing I
 5 have, your next title I guess was from '73 to
 6 '74 you were research manager of the
 7 Environmental Services Group at the Haskell
 8 Laboratory?
 9 A. Yes.
 10 Q. What is the Haskell Laboratory
 11 exactly?
 12 A. Haskell Laboratory for Toxicology
 13 and Industrial Medicine. It was started by
 14 DuPont in 1935. And it's a laboratory that
 15 the principal responsibility is to make sure
 16 that the products that DuPont makes are safe
 17 for use by others and by consumers, and that
 18 if there's not enough toxicological
 19 information on the products that we may use in
 20 the manufacturing of these other products, to
 21 find out more about them toxicologically.
 22 Q. All right. And would part of the I
 23 guess task of the Haskell Laboratory be to
 24 protect the employees from health hazards,
 25 exposure to things like asbestos?

1 A. The primarily responsibility was
 2 protecting employees in any health hazard they
 3 might encounter in the workplace and to help
 4 protect the public from any exposure they
 5 might have encountered from our products that
 6 were being made. Asbestos was just one of the
 7 many that were being looked at.
 8 Q. Okay. And did Haskell -- I think I
 9 thought I read somewhere that they may have
 10 had a library or something where they kept
 11 medical literature? Did that date all the way
 12 back to 1935 when it started?
 13 A. Yes.
 14 Q. Was there somewhere before the
 15 Haskell Laboratory that DuPont would gather
 16 literature, articles, journals, things of that
 17 nature?
 18 A. The Medical Division, of which
 19 Haskell was originally a part, had a smaller
 20 library, and I can't tell you what all was in
 21 there prior to the start of Haskell. But when
 22 Haskell started in 1935, Haskell then became
 23 the repository of all medical and
 24 toxicological information.
 25 Q. When did the Medical Division start?

1 A. In 1917.
 2 Q. 1917?
 3 A. 1915. I'm sorry.
 4 Q. Just so I can get my bearings, when
 5 did DuPont first start out?
 6 A. 1802.
 7 Q. 1802. Who was responsible for
 8 implementing the safety policies that would go
 9 out through all of the DuPont plants? Was it
 10 Haskell, or how did that work?
 11 A. Implementation and follow-up would
 12 be the responsibility of the site, the plant.
 13 Q. Okay.
 14 A. Haskell and the Medical Division and
 15 the Safety and Fire Protection Division all
 16 had responsibility to disseminate that
 17 information, make sure that it was understood,
 18 and that they had -- that the plants had the
 19 information they needed to implement it and
 20 carry it out. And then the plant was
 21 responsible for implementation in carrying it
 22 out.
 23 Q. As far as let's say Haskell, you
 24 know, if they came across something they
 25 thought was hazardous, would they have to go

1 up to a higher corporate level and discuss it
 2 with the executives on the corporate level and
 3 then y'all would, like Haskell, along with the
 4 corporate execs, come to a conclusion that
 5 this is going to be our safety policy and
 6 implement it throughout the plants and send it
 7 out?
 8 A. It was somewhat --
 9 MR. COTTEN:
 10 Excuse me. Objection to form.
 11 It's multifarious.
 12 THE WITNESS:
 13 It was somewhat like that. It
 14 didn't have to go to the corporate
 15 management. DuPont used a reiterative
 16 type process to get something right
 17 before it was sent out. So every --
 18 At that time DuPont was organized in
 19 operating departments. Like the
 20 Fibers Department, the Films
 21 Department, depending on what the
 22 products were that were being made.
 23 So a representative of each department
 24 would meet with the representatives
 25 from Haskell or from the Medical

1 Division or the Safety and Fire
 2 Protection Division, or all three and
 3 then we'd come to a conclusion on what
 4 type of program was appropriate for
 5 whatever the hazard was deemed to be.
 6 And then that would be finalized over
 7 a reiterative process to make sure
 8 everyone had an opportunity to put
 9 their inputs into it and then it would
 10 be sent out to the plants.
 11 EXAMINATION BY MR. CLEMENT:
 12 Q. All right. And then once you were
 13 finished with your time spent at Haskell, you
 14 then became the -- First of all, where is
 15 Haskell located?
 16 A. Newark, Delaware.
 17 Q. Then you became Assistant Medical
 18 Director in '74 to '77?
 19 A. That's correct.
 20 Q. Did you have a change of location,
 21 or were you still at Haskell?
 22 A. I went to downtown Wilmington,
 23 Delaware, 16 miles away.
 24 Q. Is that corporate headquarters?
 25 A. Yes.

1 Q. And was this I guess Assistant
 2 Medical Director of the entire DuPont
 3 organization?
 4 A. Yes. Worldwide.
 5 Q. And basically you just kind of
 6 discussed what your job responsibilities were
 7 as the Assistant Medical Director?
 8 A. My primary job was to assist the
 9 Medical Director in making sure we had proper
 10 medical programs in place and policies in
 11 place and that the plants were aware of these
 12 and were implementing them to the best of
 13 their ability depending upon what they needed
 14 for that particular site. And then to follow
 15 up on that and make sure that they were doing
 16 the job that they should have been done. We
 17 also had an Epidemiology Group in the Medical
 18 Division that reported to me and we had -- at
 19 the time when I got there we had five people
 20 in epidemiology. It expanded later. So we
 21 did periodic plant surveys in the Epidemiology
 22 Group every two years. We would survey all
 23 the plants to see if they had an unusual
 24 incidence of certain diseases and then any
 25 study that needed to be done, specific study

1 to be done by the department.
 2 Q. Are you aware of whether there was a
 3 policy at the DuPont organization for each
 4 plant to have like a plant physician?
 5 A. The policy on that depended on the
 6 size of the plant. Each plant had to have
 7 some relationship with a physician. Smaller
 8 plants would be a contract physician that was
 9 out in the community, in private practice in
 10 the community and DuPont, the plant, would
 11 contract with them to provide medical programs
 12 for the plant. The larger plants would have
 13 one or more physicians on the plant full
 14 time.
 15 Q. And then '77 to '83 you became the
 16 actual Medical Director of DuPont. So
 17 everything that you assisted with, you were
 18 the main guy; correct?
 19 A. That's correct. Yes.
 20 Q. Then '83 to '84 you were the General
 21 Director for Fire Safety and Environmental
 22 Affairs? Is that correct?
 23 A. No, Medical, Safety and Fire
 24 Protection.
 25 Q. Medical, Safety and Fire

1 responsibilities for worldwide environmental
 2 activities for the corporation.
 3 Q. And finally in 1993 to 1996 you were
 4 Vice President for Integrated Health Care?
 5 A. Yes.
 6 Q. What did that entail?
 7 A. We had -- We were insuring about
 8 300,000 lives in the United States on health
 9 insurance and we were running a \$500 million a
 10 year bill for that and it was deemed it was
 11 probably going to go to a billion within the
 12 next five years. With my background and
 13 experience, it was decided that we needed to
 14 redesign our healthcare benefit to try to
 15 allay some of the costs that would likely be
 16 incurred. So I was moved over to that job to
 17 redesign the healthcare benefit.
 18 Q. Dr. Karrh, have you ever visited
 19 DuPont's Burnside facility in Louisiana?
 20 A. No.
 21 Q. Never visited? Okay. What about
 22 the Pontchartrain West facility?
 23 A. Yes.
 24 Q. Do you remember when?
 25 A. The first time would have been

1 Protection?
 2 A. Yes.
 3 Q. Can you explain, is that a different
 4 group I am guessing from the Medical? Is that
 5 a different division?
 6 A. Well, the Director of Safety and
 7 Fire Protection Division died and it was
 8 decided that with my background and
 9 experience, that it would be appropriate to
 10 roll the Safety and Fire Protection Division
 11 and the Medical Division into one group, which
 12 was done and I became General Director of
 13 Medical, Safety and Fire Protection.
 14 Q. Would your job responsibilities have
 15 been the same as far as --
 16 A. They were the same, plus I had
 17 corporate responsibility of the Safety and
 18 Fire Protection.
 19 Q. And I think we're at '84 now. What
 20 did you do after '84?
 21 A. Became Vice-president of Safety,
 22 Health and Environmental Affairs.
 23 Q. Would you have the same
 24 responsibilities at that point?
 25 A. The same responsibilities plus

1 somewhere -- I have to give you a range,
 2 because I don't remember the exact date.
 3 Somewhere in the range of '75 to '77 would
 4 have been the first time.
 5 Q. Do you remember why you went there?
 6 A. Periodic review of plant sites. I
 7 had not been to that plant prior and it was an
 8 opportunity for me to see the plant, to meet
 9 the physician who was there, and to meet the
 10 plant personnel and to, on a kind of a quick
 11 survey, to see if they had the information
 12 they needed for the medical surveillance
 13 program, that they were carrying it out.
 14 Also, generally when I would go to a plant
 15 site, I would meet with physicians in the
 16 local community to try to encourage their
 17 support and help out the plant physician in
 18 making sure that employees were being treated
 19 for any condition they may have.
 20 Q. All right. From my reading your
 21 prior deposition, is my understanding correct
 22 that DuPont was aware that asbestos could
 23 cause asbestosis in the '40s and '50s?
 24 A. I am not sure exactly of those
 25 dates. I was looking back through some

1 material that led me to believe that maybe it
2 was DuPont became aware of some of these in
3 perhaps the '50 to '60 range, but these were
4 in the milling and mining, asbestos milling
5 and mining industries, not in an
6 insulation-using industry.

7 MS. ROUSSEL:

8 Move to strike, non-responsive.

9 EXAMINATION BY MR. CLEMENT:

10 Q. Would they have been aware in the
11 '40s and '50s just in general that asbestos
12 was hazardous, maybe not relating to asbestos?

13 A. I can't give you a specific date on
14 that. I may have given a date on that in a
15 deposition before. I can't give you a
16 specific date at this time.

17 Q. So if you have given a date in a
18 prior deposition, would you have any reason to
19 dispute that date now?

20 A. I'd have to see it.

21 Q. I mean, if there's a range?

22 A. I would have to see it and see what
23 context it was in.

24 Q. Sir, is it DuPont's position that
25 they were aware that asbestos could cause lung

1 cancer in the '40s and '50s?

2 A. Again, I have to give you the same
3 answer I gave you before. Whatever date we
4 were aware of the hazard of asbestos, then
5 shortly after that our knowledge of cancer
6 would have been comparable.

7 Q. Comparable? Is that the same thing
8 with mesothelioma? Would they have been aware
9 at the same time?

10 A. Yes.

11 Q. In regards to safety at DuPont, did
12 DuPont ever have to abide by any regulations
13 set forth by the Federal government?

14 A. Well, prior to OSHA in 1970, DuPont
15 complied with the Walsh-Healey Act
16 requirements which also incorporated some
17 safety and health requirements, but DuPont had
18 its own safety and health program and so we
19 would always comply with corporate policy or
20 the appropriate regulation, whichever was more
21 strict. That was the company's policy. And
22 if there was not an existing regulation, the
23 company would have a policy with which the
24 plant would comply.

25 Q. How far back, if you have knowledge

1 of this, did DuPont actually have contracts
2 with the government in excess of like
3 \$10,000? How far back would they have been
4 doing business with the government?

5 A. I can't answer that except to say
6 that DuPont ran a lot of munitions plants for
7 the government, Newport, Indiana, for
8 instance, and then others. DuPont ran the
9 Hanford Works in Richland, Washington, which
10 built the atomic bomb. That was started about
11 1942. DuPont built and ran the Savannah River
12 plant starting in 1950. So at least from
13 those periods of time probably -- The least I
14 can say is we had contracts with the
15 government exceeding \$10,000 starting about
16 1942.

17 Q. 1942?

18 A. And possibly prior to that, but I
19 don't know.

20 Q. Do you still have contracts with the
21 government through today?

22 A. I don't know. I retired in '96.

23 Q. Well, through '96 were you aware --

24 A. We no longer were operating the
25 Savannah River plant. We canceled that

1 contract in '89. I don't know -- I don't
2 know.

3 Q. So at least through '89 they would
4 have had contracts with the government?

5 A. Yes. Yes.

6 Q. All right. It's also my
7 understanding from reading prior depositions
8 that DuPont incorporated the TLVs promulgated
9 by the ACGIH? Is that correct?

10 A. That's correct.

11 Q. And is it your understanding or
12 DuPont's understanding that these TLVs are not
13 known to protect against diseases,
14 asbestos-related diseases at these levels?

15 MR. COTTEN:

16 Objection to form.

17 THE WITNESS:

18 It was DuPont's understanding at
19 the time that they were incorporated
20 that they were protected. Because
21 that's what the ACGIH said they were.
22 That they would, if applied
23 appropriately, eight hour TLV, TWA,
24 time-weighted average, that those TLVs
25 would be adequate to protect. Now,

1 the TLVs have changed over time as
 2 more and more knowledge came out.
 3 They haven't been static. They have
 4 been progressive. And as ACGIH or
 5 OSHA or others would get new data and
 6 change the TLVs, then DuPont would
 7 change their compliance with them.
 8 EXAMINATION BY MR. CLEMENT:
 9 Q. Is DuPont aware that these TLVs will
 10 not protect against lung cancer?
 11 MR. COTTEN:
 12 Objection to form. It fails to
 13 state a time frame.
 14 EXAMINATION BY MR. CLEMENT:
 15 Q. Sir, when was DuPont aware that the
 16 TLVs would not protect against mesothelioma?
 17 A. I don't know that DuPont was ever
 18 aware of that as such. DuPont always complied
 19 with the TLVs, in which case they had superior
 20 knowledge of what the TLVs were based on and
 21 felt they were adequately protected. The
 22 ACGIH itself said that the TLVs would be
 23 adequately protective if applied appropriately
 24 the way they were intended to be applied. And
 25 so DuPont had every confidence in the ACGIH,

1 which was a governmental entity, to comply
 2 with the TLVs, and the TLV Committee had the
 3 most recent data.
 4 MS. ROUSSEL:
 5 Move to strike as
 6 non-responsive.
 7 EXAMINATION BY MR. CLEMENT:
 8 Q. Sir, are you aware that the OSHA
 9 standard states in the preamble that the TLVs
 10 will not protect against mesothelioma?
 11 A. You would have to show me a document
 12 saying that. I am not right now -- at this
 13 point in time I am not aware of it.
 14 Q. Dr. Karrh, is it your understanding
 15 that if you could see dust, that you would be
 16 above the TLV limits?
 17 A. Not necessarily. DuPont operated in
 18 such a way that you didn't have visible dust
 19 in the workplace. And so it was always
 20 DuPont's -- housekeeping was a primary part of
 21 our safety program. It was always DuPont's
 22 program to keep dust to an absolute minimum;
 23 and certainly if you saw visible dust, that
 24 was not good for housekeeping.
 25 MS. ROUSSEL:

1 Move to strike as
 2 non-responsive.
 3 EXAMINATION BY MS. ROUSSEL:
 4 Q. So if you saw visible dust, you were
 5 aware that it was more likely than not, if it
 6 were coming from an asbestos-containing
 7 product, it was in excess of the TLV?
 8 MR. COTTEN:
 9 I am not sure that I understood
 10 the question. I apologize. Could you
 11 restate the question?
 12 MS. ROUSSEL:
 13 I moved to strike his answer as
 14 not being responsive.
 15 MR. COTTEN:
 16 Understood.
 17 EXAMINATION BY MS. ROUSSEL:
 18 Q. The question was, were you aware
 19 that if visible dust was being emitted from an
 20 asbestos-containing product, that more likely
 21 than not there was an excess of the TLV?
 22 MR. COTTEN:
 23 Objection to the form of the
 24 question. Assumes facts not in
 25 evidence.

1 THE WITNESS:
 2 Absent any air monitoring data, I
 3 don't think you can make that
 4 assumption, because you don't know
 5 what else might have been in the dust.
 6 EXAMINATION BY MS. ROUSSEL:
 7 Q. So you would agree that whenever an
 8 asbestos-containing product was being
 9 manipulated, at that point air monitoring
 10 should have been conducted to determine a
 11 level that was being emitted from that
 12 product?
 13 MR. COTTEN:
 14 Go ahead and answer.
 15 THE WITNESS:
 16 Once the air monitoring
 17 capability came out, which didn't come
 18 out until later, then that may well be
 19 true.
 20 EXAMINATION BY MS. ROUSSEL:
 21 Q. You are aware that TLVs were set
 22 based upon air monitoring?
 23 A. No.
 24 MR. COTTEN:
 25 Objection, form.

1 EXAMINATION BY MS. ROUSSEL:
 2 Q. Okay. When is your understanding
 3 that air monitoring capabilities first came
 4 out?
 5 MR. COTTEN:
 6 Objection to form. Vague.
 7 THE WITNESS:
 8 The early form of air monitoring
 9 was for total particulate dust.
 10 EXAMINATION BY MS. ROUSSEL:
 11 Q. When did that come out?
 12 A. I couldn't give you a date on that.
 13 Q. And existed at least in the '30s and
 14 '40s, didn't it?
 15 A. I don't know that.
 16 Q. Okay. So you don't have a response
 17 to that question?
 18 A. I responded I don't know.
 19 MS. ROUSSEL:
 20 Okay.
 21 EXAMINATION BY MR. CLEMENT:
 22 Q. Dr. Karrh, whenever DuPont would I
 23 guess find out certain safety problems or
 24 safety issues, how would they go about
 25 informing their various plants? What was the

1 you the date. I know that that program
 2 started somewhere around '67, '68. It was a
 3 special asbestos monitoring program, whereas
 4 workers who were working with asbestos as
 5 insulators, ladders and people like that,
 6 would have a chest X-ray every six months, an
 7 examination by a physician or a nurse every
 8 six months, and then plus their regular
 9 physical exam, which was every year if they
 10 were over 40 years old and every two years if
 11 they were 40 and under.
 12 Q. Do you know when this information
 13 was disseminated to the Burnside plant?
 14 A. No, I don't.
 15 Q. The same question with respect to
 16 the Pontchartrain facility.
 17 A. No, I don't.
 18 Q. Sir, do you feel that DuPont has a
 19 responsibility to provide a safe working place
 20 for its employees that are on its premises?
 21 A. DuPont's policy, corporate policy
 22 was to provide a safe and healthful workplace
 23 while in place.
 24 Q. And do you feel that DuPont has a
 25 responsibility to provide a safe working

1 procedure?
 2 A. Again, I described the procedure for
 3 you earlier in my testimony today, that when
 4 the data came out, whoever got the data in
 5 DuPont, whether it was Haskell Medical
 6 Division or the medical operating departments
 7 or someone else, they would then analyze the
 8 data and put together an appropriate group
 9 made up of the appropriate people to assess
 10 the data and determine the validity of the
 11 data first and then what programs needed to be
 12 put in place and then they would go through a
 13 reiterative process repeatedly to make sure
 14 that whatever we communicated to the plants
 15 was going to be proper and appropriately
 16 protected.
 17 Q. And so that would have been done
 18 with regards to asbestos and the hazards?
 19 A. Yes.
 20 Q. Do you know when this was done?
 21 A. Well, it was done -- Before I came
 22 to the company in 1970, it was being done,
 23 because there was already an asbestos
 24 surveillance program in place at the Spruance
 25 plant when I got there. And so I can't tell

1 environment for other contractors who are on
 2 its premises?
 3 A. DuPont has a responsibility to
 4 inform the contracting company, the
 5 contracting agency what hazard might be on
 6 that plant and what measures are being taken
 7 to control those hazards and to -- and to
 8 inform that contracting company or agency or
 9 whatever it was that it was highly recommended
 10 that they do the same for their employees.
 11 Q. Are you aware of when DuPont would
 12 have begun to warn these other contractors
 13 that asbestos was harmful?
 14 A. DuPont would warn the contractors
 15 whenever they got the information that caused
 16 DuPont to take action as far as their own
 17 workplace, their own workers were concerned.
 18 The contracting companies or contractors would
 19 be informed of what we knew and what steps we
 20 were taking and would help them get whatever
 21 programs they needed to put in place put in
 22 place.
 23 Q. Dr. Karrh, do you know if that was
 24 done at the Burnside facility?
 25 A. It was company policy that it be

1 done. Now, --
 2 MS. ROUSSEL:
 3 Move to strike as non-responsive.
 4 MR. COTTEN:
 5 I'm sorry, he wasn't through with
 6 his answer.
 7 You can go ahead.
 8 THE WITNESS:
 9 Can I finish?
 10 MS. ROUSSEL:
 11 Yes.
 12 THE WITNESS:
 13 Thank you. I can't tell you when
 14 it was in place at the Burnside plant,
 15 but it would have been communicated
 16 throughout the company at the time
 17 DuPont had that knowledge and it would
 18 have been expected that Burnside would
 19 comply with whatever the company
 20 policy was.
 21 MS. ROUSSEL:
 22 Move to strike as non-responsive.
 23 EXAMINATION BY MR. CLEMENT:
 24 Q. Dr. Karrh, do you know when the
 25 contractors at the Pontchartrain facility were

1 warned?
 2 A. That would be the same answer --
 3 Q. The same answer?
 4 A. -- as I gave before.
 5 MS. ROUSSEL:
 6 So the answer is no, you don't
 7 know.
 8 THE WITNESS:
 9 No, I don't know, but it would be
 10 company policy that would be
 11 communicated to the plants and the
 12 plants would be responsible for
 13 communicating it to their
 14 contractors.
 15 MS. ROUSSEL:
 16 Move to strike as non-responsive
 17 the second part of the answer.
 18 EXAMINATION BY MR. CLEMENT:
 19 Q. Did DuPont ever have any -- did they
 20 implement any ventilation or engineering
 21 control programs in the 1950s with regards to
 22 asbestos?
 23 A. Well, as I answered earlier, dust
 24 was a housekeeping problem. So whatever
 25 ventilation programs were needed to keep dust

1 to a complete minimum, they would have been
 2 implemented.
 3 Q. Do you know if this was done at the
 4 Pontchartrain facility in the 1960s?
 5 A. DuPont was -- I mean, the
 6 Pontchartrain was built, I forget when it was
 7 built, but it was in the '60s and it would
 8 have been a part of the operation of the plant
 9 from the time the plant started up.
 10 Q. Would your answer be the same with
 11 regards to the Burnside plant in the 1960s
 12 when it was built?
 13 A. Yes.
 14 Q. In the 1950s did DuPont implement
 15 medical surveillance programs?
 16 A. DuPont implemented medical
 17 surveillance programs in 1935.
 18 MS. ROUSSEL:
 19 For asbestos.
 20 THE WITNESS:
 21 I'm sorry.
 22 MS. ROUSSEL:
 23 For asbestos.
 24 MR. COTTEN:
 25 That wasn't the question.

1 THE WITNESS:
 2 That was not the question.
 3 EXAMINATION BY MR. CLEMENT:
 4 Q. Let me clarify that.
 5 A. Who do I respond to? I'm getting a
 6 little confused.
 7 MR. COTTEN:
 8 I don't mind both of you
 9 participating, but if we could do it
 10 one at a time, it would helpful.
 11 MS. ROUSSEL:
 12 Sure.
 13 EXAMINATION BY MR. CLEMENT:
 14 Q. With regard to asbestos, when did
 15 DuPont begin to implement medical surveillance
 16 programs?
 17 A. That would have been sometime in the
 18 '60s, around '6- -- somewhere between '65 and
 19 '68. Because when I got to Spruance, the
 20 program was in place and it had been put in
 21 place there by '68.
 22 Q. Do you know if medical surveillance
 23 programs were implemented at the Pontchartrain
 24 Works facility in the '60s?
 25 A. Medical surveillance programs, as I

1 said, were implemented in 1917. That's when
 2 the Medical Division was started. And
 3 Pontchartrain was not built until the '60s.
 4 Pontchartrain would have come on line with a
 5 medical surveillance program.
 6 Q. That would be with regards to
 7 asbestos?
 8 A. No, that wasn't the question you
 9 asked.
 10 Q. I'm asking that one now, though.
 11 A. Would you ask your question again?
 12 Q. Yes, sir, I will. With regards to
 13 asbestos, did DuPont implement a medical
 14 surveillance program at the Pontchartrain
 15 Works facility in the 1960s?
 16 A. I can't answer that regarding
 17 Pontchartrain. I'm sure that Pontchartrain
 18 Works DuPont can.
 19 Q. With regards to asbestos, did DuPont
 20 implement a medical surveillance program at
 21 the Burnside facility in the 1960s?
 22 A. The same answer.
 23 Q. You don't know for sure whether it
 24 was implemented at the Burnside plant? Is
 25 that the answer?

1 A. That's what I said.
 2 Q. With regards to asbestos, did DuPont
 3 provide respirators to the various plants in
 4 the 1950s?
 5 A. DuPont would have provided to the
 6 plant managements the recommendations
 7 regarding whether or not respirators should be
 8 used, under what conditions, and then the
 9 plant would have the responsibility to provide
 10 those respirators.
 11 Q. With regards to asbestos, was this
 12 done at the Pontchartrain facility in the
 13 1960s?
 14 A. It would have been done at all
 15 facilities whenever the corporate
 16 recommendation came out.
 17 Q. Would you have any knowledge, like
 18 personal knowledge of whether those plants
 19 actually did provide respirators at the
 20 Pontchartrain plant with regard to asbestos?
 21 MR. COTTEN:
 22 Again, we're talking in the
 23 1960s?
 24 MR. CLEMENT:
 25 1960s, yes.

1 THE WITNESS:
 2 I don't have special knowledge.
 3 EXAMINATION BY MR. CLEMENT:
 4 Q. Again with regards to asbestos in
 5 the 1960s, would you have personal knowledge
 6 of whether these plants, the Burnside plant in
 7 particular, provided respirators to its
 8 employees in the 1960s?
 9 A. I don't have personal knowledge.
 10 Q. In the 1950s did DuPont implement
 11 any programs with regards to asbestos where
 12 they would have required the different crafts
 13 who were working on its premises to be
 14 isolated when asbestos was involved with one
 15 of the crafts?
 16 MR. COTTEN:
 17 Objection.
 18 THE WITNESS:
 19 I don't have any personal
 20 knowledge.
 21 MR. COTTEN:
 22 Objection to form.
 23 EXAMINATION BY MR. CLEMENT:
 24 Q. In the '60s with regard to asbestos,
 25 would DuPont have implemented a policy

1 regarding the various plants, whenever a craft
 2 was working with asbestos, to isolate the
 3 other crafts from that craft?
 4 MR. COTTEN:
 5 Objection, form.
 6 THE WITNESS:
 7 I know in '68 when the medical
 8 surveillance, asbestos medical
 9 surveillance program started at
 10 Spruance that that would have been the
 11 policy, that the insulators would have
 12 had their own work area. And they
 13 would have been, if they were out in
 14 the general work area, then their area
 15 would have been isolated from the
 16 others.
 17 EXAMINATION BY MR. CLEMENT:
 18 Q. Do you have any personal knowledge
 19 with regards to asbestos at the Pontchartrain
 20 facility whether that was done?
 21 A. No. No personal knowledge.
 22 Q. The same question with regards to
 23 the Burnside facility.
 24 A. No.
 25 Q. In the 1950s, with regards to

1 asbestos, did DuPont require its employees to
2 change their clothes before going home from
3 work?

4 A. What was the time frame?

5 Q. 1950s.

6 A. I don't have any knowledge of that.

7 Q. No knowledge of that. Okay. The
8 same question, 1960s.

9 A. As I answered earlier on an earlier
10 question, starting somewhere in the late '60s,
11 around '67, '68, DuPont began the special
12 medical surveillance for asbestos workers and
13 that would have included having separate
14 change facilities or separate clothes, a
15 locker for street clothes, a locker for work
16 clothes.

17 Q. Do you have any personal knowledge
18 of whether in the 1960s with regards to
19 asbestos these facilities were provided at the
20 Pontchartrain facility?

21 A. I don't have any personal
22 knowledge.

23 Q. The same question with regard to the
24 Burnside facility?

25 A. No personal knowledge.

1 Q. Dr. Karrh, are you aware of when the
2 first occupational lung disease was brought
3 against DuPont?

4 A. I'm sorry would you answer that -- I
5 mean, give me that question again?

6 Q. Sure. Are you aware of when the
7 first occupational lung disease claim was
8 brought against DuPont, what year?

9 A. Are you asking regarding asbestos or
10 --

11 Q. Just in general right now.

12 A. A general question, I can't answer.

13 Q. Okay. A claim -- Now the same
14 question, when was the first asbestosis claim
15 that was brought against DuPont?

16 A. There was not a claim brought
17 against DuPont. In 1974 we detected the first
18 two cases of what turned out to be
19 asbestosis. DuPont did not wait for claims to
20 be filed if an employee had been injured.
21 DuPont would go ahead and get the employee the
22 proper medical care and then provide whatever
23 workers' comp or other medical provisions they
24 needed or were called for by law.

25 MS. ROUSSEL:

1 Move to strike as non-responsive.

2 EXAMINATION BY MR. CLEMENT:

3 Q. When was the first lung cancer claim
4 with regards to asbestos brought against
5 DuPont?

6 A. 1977.

7 Q. 1977? When was the first claim
8 regarding mesothelioma brought against
9 DuPont?

10 A. You keep using the phrase "claim
11 brought against", and I have try to explain
12 claims were not necessarily brought against
13 DuPont. DuPont would find these cases and
14 then would take care of them before any claim
15 was filed, or even help the employee file a
16 claim if it was appropriate under worker's
17 comp. So your phraseology I am having a
18 little trouble with, but with the question I
19 can't answer specifically with regards to
20 mesothelioma.

21 MS. ROUSSEL:

22 Move to strike as non-responsive.

23 EXAMINATION BY MR. CLEMENT:

24 Q. You said you went around to the
25 various plants from time to time as part of

1 your job responsibilities, so I guess you
2 viewed what was going on, stuff like that? Is
3 that correct?

4 A. That's correct.

5 Q. Did you ever witness any pipe
6 insulation ever being removed?

7 A. Yes.

8 Q. So you would be familiar with the
9 procedures I guess in general, in a general
10 way?

11 A. Yes.

12 Q. Could you describe how the
13 insulation would be removed?

14 A. It would depend upon the operation
15 of the plant, what the plant was making, how
16 the insulation was being used, and it would
17 also depend upon the time that you're talking
18 about.

19 Q. Let's go with the 1950s first.

20 A. I wasn't there in the 1950s. I
21 would have started in 1970.

22 Q. Let's go to the 1970s then.

23 A. Okay.

24 Q. Do you have any recollection of pipe
25 insulation being removed?

1 A. Yes.
 2 Q. In the 1970s?
 3 A. Yes.
 4 Q. Could you just kind of describe what
 5 you saw or how it was removed?
 6 A. Well, in the early '70s, in the
 7 1970s it would have been removed by the
 8 insulators, who were the ones that would be
 9 removing, wearing masks, either -- depending
 10 upon how dusty they thought the operation
 11 would be, either just a Confo mask or an
 12 air-supplied respirator or a mask with a
 13 cartridge respirator. And then it would be
 14 split or sawed and then removed and, depending
 15 upon the operation and how the asbestos was
 16 going to be handled later, it would either be
 17 removed intact so it could be reapplied, which
 18 occurred on the fibers plants and some of the
 19 other plants, or it might be, if it was
 20 already friable or something, it might be
 21 destroyed.
 22 EXAMINATION BY MS. ROUSSEL:
 23 Q. Where did you see asbestos being
 24 removed?
 25 A. Spruance.

1 Q. Okay. Did you ever see it being
 2 removed from the Burnside facility?
 3 A. I haven't been to Burnside, as I
 4 answered earlier.
 5 Q. What about the Pontchartrain LaPlace
 6 facility? Did you ever see it being removed
 7 from the Pontchartrain LaPlace facility?
 8 A. I don't recall seeing it being
 9 removed.
 10 Q. When was the first time that you
 11 went to the LaPlace DuPont facility?
 12 A. I answered that earlier. It would
 13 have been somewhere around '75 to '77.
 14 Q. And how many times have you been
 15 there?
 16 A. I have been there three to five
 17 times. I am not sure whether it was three or
 18 whether it was five. But somewhere in that
 19 range.
 20 Q. Let's take the first time that you
 21 went there. Why did you go there?
 22 A. I have answered that previously
 23 also.
 24 MR. COTTEN:
 25 That was.

1 EXAMINATION BY MS. ROUSSEL:
 2 Q. What was it?
 3 A. To go there to familiarize myself
 4 with the plant, to meet with the plant
 5 physician, to meet with the plant management
 6 and to meet with the local medical community.
 7 Q. And the local medical community, who
 8 did you meet with?
 9 A. Physicians in the LaPlace area.
 10 Q. Who specifically?
 11 A. I can only tell you who our plant
 12 physician was at that time. I don't -- Ma'am,
 13 I never kept up with who practiced in what
 14 city or what state.
 15 Q. Who was your plant physician at that
 16 time?
 17 A. Dr. Billy St. Martin.
 18 Q. And Dr. St. Martin, what -- isn't he
 19 just a GP?
 20 A. Yes.
 21 Q. So he certainly doesn't have any
 22 particular training in occupational lung
 23 diseases, does he?
 24 A. No, but as a plant physician you
 25 don't need that. You need someone who can do

1 the medical program, look for abnormalities,
 2 and then refer them to the proper specialist
 3 after that.
 4 Q. The next time that you went to the
 5 LaPlace facility, why did you go there?
 6 A. The same reason.
 7 Q. Okay. Every time that you went
 8 there, it was for the same reason?
 9 A. Except one time. And -- Well, it
 10 was the same reason.
 11 Q. When you went for the reason that
 12 you have explained, did you go into the
 13 workings of the plant to watch what the
 14 workers were doing?
 15 A. Yes.
 16 Q. And what specifically did you --
 17 where did you go specifically in a plant?
 18 A. Ma'am, I don't know. You know, I
 19 went -- I went wherever they carried me,
 20 wherever they directed me to go and show me
 21 work being done to get a sense of the
 22 operation.
 23 Q. Who directed you to go there?
 24 A. Either Dr. St. Martin or the safety
 25 supervisor or whoever my host was at that

1 time.

2 Q. The first time that you went to the

3 LaPlace plant, who was the safety supervisor?

4 A. I don't know.

5 Q. On any of the occasions that you

6 went to the LaPlace DuPont plant, who was the

7 supervisor?

8 A. I don't recall.

9 Q. Did you ever meet with any other

10 physician at the DuPont facility other than

11 Dr. St. Martin?

12 A. At the Pontchartrain facility?

13 Q. Yes.

14 A. Yes.

15 Q. And who else did you meet with at

16 the DuPont facility?

17 A. Dr. George Herman. Actually, after

18 Dr. Herman was put there as a full time

19 position.

20 Q. When was Dr. Herman put there first

21 as a full time physician?

22 A. Sometime in the early '80s. I can

23 only give you a range.

24 Q. And as a full time physician, did he

25 do things like conduct pre-employment

1 physicals, that type of thing?

2 A. Yes.

3 Q. Did DuPont ever employ at its

4 LaPlace facility an occupational medicine

5 physician?

6 A. These were all considered

7 occupational medical physicians even though

8 they were not Board Certified in occupational

9 medicine.

10 Q. Do you know when Dr. St. Martin

11 first became aware of asbestos-related

12 hazards?

13 A. No.

14 Q. Do you know when Dr. Herman first

15 became aware of asbestos-related hazards?

16 A. No.

17 Q. At any time that you went to the

18 DuPont LaPlace facility, were there

19 contractors working on the premises?

20 A. I don't recall whether they were or

21 not.

22 Q. At any time that you went to the

23 DuPont LaPlace facility, was it during a

24 turnaround?

25 A. I don't recall there being a

1 turnaround when I was there.

2 Q. So just the normal day-to-day

3 activities were going on?

4 A. Yes.

5 Q. Did you see any normal day-to-day

6 activities involving changing of gaskets?

7 A. No.

8 Q. Did you just not pay attention or

9 did you specifically know there were no

10 changing of gaskets today?

11 A. Ma'am, I paid attention to

12 everything I saw. I just don't recall having

13 seen any.

14 Q. You would agree that in a plant the

15 size of DuPont LaPlace, changing of gaskets is

16 something that occurred on a regular basis?

17 MR. COTTEN:

18 Objection, form.

19 THE WITNESS:

20 I can't speak to the operations

21 of the LaPlace because I wasn't in

22 operations there. I can't tell you

23 how many times they changed gaskets.

24 EXAMINATION BY MS. ROUSSEL:

25 Q. Well, the first time that you went

1 there, how long did you stay there?

2 A. I was at the plant for one day.

3 Q. The second time you went, how long

4 were you there?

5 A. Approximately the same time.

6 Q. Each time you went, it was about a

7 day of time?

8 A. Yes.

9 Q. And during this day time you were

10 meeting with the physicians?

11 A. With the plant physician, usually

12 the safety supervisor, and usually the plant

13 manager.

14 Q. You have already told me you didn't

15 remember the name of any of the safety

16 supervisors that were there when you went

17 there. Correct?

18 A. That's correct. That's correct.

19 Q. Do you know the names of any of the

20 plant managers who where there when you were

21 there?

22 A. No.

23 Q. Now, you talked about Confo and

24 air-supplied respiratory equipment. You would

25 agree that a 3M white dust mask, those

1 surgical looking masks with a rubber band
 2 around the head, is not designed to protect
 3 against asbestos, would you not?
 4 A. I wouldn't necessarily agree with
 5 that. I think it depends upon the
 6 circumstances in the workplace, what work was
 7 being done.
 8 Q. Well, when you left DuPont, are you
 9 aware that NIOSH prohibited the use of white
 10 dust masks for protection against asbestos?
 11 A. Yes, but I left in 1996.
 12 Q. When you started at DuPont was what
 13 year? Give me that year again.
 14 A. 1970.
 15 Q. And in 1970, was any of the 3M white
 16 dusk masks approved for use with asbestos?
 17 A. I don't recall.
 18 Q. If I were to tell you that they were
 19 not, would that surprise you?
 20 A. That wouldn't surprise me, but I
 21 wouldn't agree with it unless I got published
 22 information.
 23 Q. Do you know the 3M white dusk mask
 24 did not contain a HEPA filter?
 25 A. I do know that, yes.

1 Q. You know you can't get a proper fit
 2 with a 3M type white dust mask to protect
 3 against asbestos, don't you?
 4 A. I don't know that.
 5 Q. Who at DuPont would know that?
 6 A. I can't answer that. I don't know.
 7 Q. Are you aware that under the
 8 standards as they exist today, that if air
 9 monitoring is not done to determine the level
 10 of asbestos, that any time an asbestos product
 11 is manipulated in any way, that air-supplied
 12 equipment is required?
 13 A. I am not familiar with regulations
 14 now. They have been evolving over the years
 15 since they came out in the early '70s.
 16 Q. And in any event, you don't know
 17 what was done at the DuPont LaPlace facility
 18 in that regard anyhow, do you?
 19 A. That's correct.
 20 Q. Nor do you know what was done at the
 21 Burnside facility in that regard, do you?
 22 A. That's correct.
 23 Q. You have talked about certain things
 24 happening starting in about '68 or '69 with
 25 regard to asbestos at the corporate policy

1 level. What happened in '68 or '69 that
 2 changed the policy at the corporate policy
 3 level?
 4 A. I don't know that anything specific
 5 happened. Starting about the mid '60s, DuPont
 6 became aware that people who were in the
 7 insulating area, not in the milling, --
 8 asbestos milling and mining industry, but in
 9 the use of insulation materials like in a
 10 chemical facility, that they had some exposure
 11 to asbestos that had not previously been
 12 known. So DuPont started this reiterative
 13 process that I mentioned four or five times
 14 trying to develop what would be the
 15 appropriate policy for DuPont to communicate
 16 to the plants and have the plants implement to
 17 make sure that our asbestos workers,
 18 insulators were being properly protected.
 19 Q. Now, you're familiar with the 1943
 20 Maritime and Navy standards?
 21 A. No, I am not.
 22 Q. Are you familiar with the
 23 Fleischer-Drinker studies?
 24 A. No, I am not.
 25 Q. You would assume that DuPont would

1 have been familiar with the studies that
 2 existed during that time period, correct?
 3 A. I can't say yes or no to that.
 4 Q. You talked about the fact that you
 5 had a laboratory to determine what the health
 6 hazards were that were associated with various
 7 toxins; correct?
 8 A. Various what? I'm sorry.
 9 Q. Toxins.
 10 A. Haskell Laboratory was built in 1935
 11 to assure that DuPont had the toxicological
 12 information that they needed to provide safe
 13 and healthful workplaces.
 14 Q. And that would have included
 15 asbestos, which was something used on the
 16 DuPont premises, was it not?
 17 A. In the 1935 year they would not have
 18 been, because there was no data at that time
 19 that indicated that asbestos could be a threat
 20 to anybody that wasn't working in the milling
 21 and mining industry.
 22 Q. Move to strike as non-responsive.
 23 A. What was the answer --
 24 Q. During the 1930s time period, was
 25 there asbestos on DuPont's premises?

1 A. I can't answer that specifically. I
2 wasn't there.

3 Q. During the 1940s time period, was
4 there asbestos on DuPont's premises?

5 A. I can't answer that specifically.

6 Q. During the 1950s time period, was
7 there asbestos on DuPont's premises?

8 A. I can't answer that specifically.

9 Q. During the 1960s time period, was
10 there asbestos on DuPont's premises?

11 A. Yes.

12 Q. Okay. How do you know that?

13 A. Because when I got there in 1970
14 there was asbestos in use at the Spruance
15 plant in the 1970s.

16 Q. And how long had that plant been in
17 operation?

18 A. That plant was built in 1928, 1929,
19 something like that.

20 Q. And what you saw there was their
21 equipment that had been in there since the
22 beginning?

23 A. No, because the process had
24 changed. The plant was built as a rayon
25 plant. Rayon was no longer being

1 manufactured. Nylon was now being
2 manufactured.

3 Q. When did that occur?

4 A. I think that plant converted from
5 rayon to nylon about 1964.

6 Q. And when it converted from making
7 rayon to nylon, did it keep the same units in
8 operation?

9 A. No. Totally different process.

10 Q. Did they go in and rip out all the
11 piping?

12 A. I wasn't there so I can't answer
13 that. But they put in a totally new process.

14 Q. Okay. Now, putting in a new
15 process, what would that have involved?

16 A. It would have involved whatever
17 equipment changes had to be made to make nylon
18 instead of rayon.

19 Q. And what would that have required?

20 A. Ma'am, I am not an expert on that.
21 I'm sorry.

22 Q. Was some of the original equipment
23 left in place?

24 A. I never was told that there was
25 original equipment there, so I don't know.

1 Q. You don't know one way or the other?

2 A. No, I don't.

3 Q. Was there original piping that was
4 left in place?

5 A. I don't know.

6 Q. Was there original boilers or
7 turbines that were left in place?

8 A. I don't know. Well, let me retract
9 that question partially. They had a large
10 pipe that provided power and steam for the
11 whole plant. The turbine in the power plant,
12 in answer to your -- specific answer to your
13 question, the power plant was built when the
14 rayon facility first came in and so that --
15 the turbine would still have been there in the
16 steam generating plant.

17 Q. Okay. So the power plant was the
18 original power plant?

19 A. Yes.

20 Q. And are you aware that in connection
21 with the power plant there were
22 asbestos-containing products?

23 A. I am not aware of that.

24 Q. Are you aware that the piping to and
25 from turbines and boilers would have been

1 insulated with asbestos-containing products?

2 A. I am not aware of that.

3 Q. You don't know? You have never
4 learned that as you sit here?

5 A. I don't recall having learned it.

6 Q. As a medical doctor, more likely
7 than not you would agree that those, the
8 piping to and from turbines and boilers during
9 the 1950s, '60s, '70s, and early -- early to
10 mid '70s would have contained asbestos;
11 correct?

12 A. No.

13 Q. You don't know that one way or the
14 other?

15 A. I don't know that.

16 Q. Did you as a medical doctor ever
17 investigate to determine if that was true?

18 A. No.

19 Q. Who, if anybody, at DuPont would
20 have been in charge of determining that?

21 A. The powerhouse supervisor, the
22 insulation supervisor, and the safety
23 supervisor, as well as the plant manager.

24 Q. You would agree that the Medical
25 Department, which was part of your department,

1 had an obligation to determine where and if
2 employees were being exposed to asbestos;
3 correct?

4 MR. COTTEN:

5 Objection to form.

6 THE WITNESS:

7 Answer? We had an obligation to
8 find out from the supervisors of those
9 various other entities that I
10 mentioned where people were possibly
11 being exposed to anything that could
12 be harmful to them and then to take
13 appropriate medical steps to make sure
14 their health was being protected.

15 EXAMINATION BY MS. ROUSSEL:

16 Q. Now, are you Board Certified?

17 A. Yes.

18 Q. In what areas?

19 A. Occupational medicine.

20 Q. When did you become Board Certified
21 in occupational medicine?

22 A. 1977.

23 Q. Are you Board Certified in any other
24 areas?

25 A. No. But that's by the American

1 Board of Preventive Medicine.

2 Q. You're not a Board Certified
3 toxicologist, are you?

4 A. No.

5 Q. You're not a Board Certified
6 epidemiologist, are you?

7 A. I have never held myself out to be
8 either.

9 Q. Prior to 1977 did you hold any board
10 certifications?

11 A. No.

12 Q. Now, when you were answering
13 questions earlier, did you say that asbestos
14 was a component of certain of the products
15 manufactured by DuPont?

16 A. I don't recall having said that.

17 Q. Was asbestos a component of any of
18 the products manufactured by DuPont?

19 A. Asbestos was used in a few products
20 that DuPont made.

21 Q. What were those products?

22 A. DuPont owned Remington Arms, and
23 asbestos at one time was used for the shotgun
24 shell wadding. There was a radiator stop-leak
25 that DuPont manufactured and sold that had

1 some asbestos in it. That's all that I can
2 recall right now.

3 Q. And when was asbestos a component of
4 these DuPont products? What was the earliest
5 date that asbestos would have been a component
6 of those products?

7 A. I don't know the earliest date.

8 Q. When was the latest date that
9 asbestos would have been a component of those
10 products?

11 A. I think the shotgun shell wadding
12 asbestos was discontinued in that in the early
13 '70s. I can't tell you a date certain. The
14 same thing with radiator stop-leak.

15 Q. And so because asbestos was a
16 component of these products, that was one of
17 the things that the Haskell Laboratory would
18 have been evaluating, the hazards of those
19 products with asbestos?

20 A. The Product Manufacturing Department
21 would have had the responsibility to get the
22 appropriate data on that. They would have
23 come to Haskell if they needed more data or
24 they needed Haskell to get that data.

25 Q. But the bottom line is that DuPont

1 had a responsibility to know the health
2 hazards associated with the components of its
3 various products. You would agree with that?

4 A. Yes, DuPont had a responsibility to
5 know the health hazards.

6 Q. Now, you said you have been to the
7 DuPont LaPlace facility. How many employees
8 were actually DuPont employees at that
9 facility when you first went there?

10 A. Over time it varied. LaPlace was
11 never what you would call a big plant, but it
12 was a good sized plant. And as I recall, and
13 this is going back to somewhere in the mid
14 '70s, LaPlace would have had around 900
15 employees, DuPont employees. Could have been
16 1,000, could have been 800. But somewhere in
17 that range.

18 Q. And in addition to having direct
19 employees itself, it also had contractors who
20 were working on the premises?

21 A. I don't know that, because, you
22 know, I wasn't there enough to know what their
23 contracting relationships were.

24 Q. And how many feet of insulated
25 piping would you approximate that they had at

1 that plant when you first went there?
 2 A. I have no way of estimating that.
 3 Q. Miles?
 4 A. I have no idea.
 5 Q. You would agree that when an
 6 asbestos-containing product is being
 7 manipulated that it can be emitting asbestos
 8 in excess of the TLV even if no visible dust
 9 is seen?
 10 MR. COTTEN:
 11 Objection, form.
 12 EXAMINATION BY MS. ROUSSEL:
 13 Q. Is that correct?
 14 MR. COTTEN:
 15 Objection, form.
 16 THE WITNESS:
 17 I don't have knowledge that would
 18 tell me that.
 19 EXAMINATION BY MS. ROUSSEL:
 20 Q. You don't know one way or the other?
 21 A. That's correct.
 22 Q. And you're not an industrial
 23 hygienist?
 24 A. No.
 25 Q. You have never tested an

1 A. The insulator and insulation
 2 supervisor.
 3 Q. What was being done to the
 4 insulation?
 5 A. At Spruance they had an insulation
 6 shop where all the work was being done.
 7 Fabricating and everything was being done in
 8 this insulation shop. Then once it was ready
 9 to be applied, it would taken out to the field
 10 and put on the application. What I witnessed
 11 was in the insulation shop, samples were being
 12 taken as material was being manipulated or
 13 sawed or cut. And then out in the field, the
 14 same thing would be happening as it was being
 15 applied.
 16 Q. So did you see it being applied in
 17 the field?
 18 A. Yes.
 19 Q. Did you see it being cut in the
 20 field?
 21 A. Yes.
 22 Q. Did you see the saw that they were
 23 cutting it with?
 24 A. In the field.
 25 Q. In the field?

1 asbestos-containing product to determine the
 2 levels of emissions when it's manipulated,
 3 have you?
 4 A. No.
 5 Q. No, you have not?
 6 A. I answered no.
 7 Q. No, you haven't?
 8 A. Well, I answered the question. I'll
 9 answer it -- All it needed was a "yes" or "no"
 10 answer and I gave you a "no" answer.
 11 Q. Have you ever witnessed a person
 12 taking a sample from an asbestos-containing
 13 product?
 14 A. Yes.
 15 Q. When and where?
 16 A. In Spruance when I was there from
 17 '70 to '73.
 18 Q. And who was doing it?
 19 A. One of the insulators and insulation
 20 supervisor.
 21 Q. Who was testing it?
 22 A. I don't recall where it was being
 23 sent for testing, so I don't know.
 24 Q. Who was actually capturing the
 25 sample?

1 A. And in the insulation shop, both,
 2 yes.
 3 Q. In the field what kind of saw were
 4 they cutting it with?
 5 A. I don't recall, because this would
 6 have been in the early '70s period of time.
 7 Q. Do you remember if it was a hand saw
 8 or was it an electrical saw?
 9 A. I don't recall which it was.
 10 Q. Was there any air capturing device
 11 on the saw itself?
 12 A. In the early '70s, no. But later
 13 there were.
 14 Q. How much later?
 15 A. Somewhere in the early '70s, '71,
 16 '72 time frame.
 17 MR. COTTEN:
 18 Excuse me. Just for
 19 clarification, are we talking about
 20 the saw in the field or the saw in the
 21 shop?
 22 MS. ROUSSEL:
 23 I'm talking about the saw in the
 24 field.
 25 MR. COTTEN:

1 That's what I thought. Okay.
 2 EXAMINATION BY MS. ROUSSEL:
 3 Q. And so DuPont at the facility that
 4 you were at -- again, and which facility was
 5 that?
 6 A. Spruance textile fibers plant.
 7 Q. And what state is that in?
 8 A. Richmond, Virginia.
 9 Q. Okay. So in this Virginia plant in
 10 the early '70s, out in the field DuPont
 11 actually implemented onto its equipment fiber
 12 capturing devices?
 13 A. They implemented dust capturing
 14 devices. I can't tell you exactly what time
 15 frame that was. But I know it was prior to my
 16 leaving there in January of '7- -- March of
 17 '73.
 18 Q. And, sir, from your standpoint why
 19 would that be important, to have an air
 20 capturing device on a hand saw being used to
 21 manipulate an asbestos-containing product?
 22 A. As I have testified earlier, you
 23 wanted to minimize any dust in the workplace,
 24 any housekeeping problems, and so it was
 25 important to try to minimize that wherever you

1 cumulative disease?
 2 A. It -- It has many exposure-related
 3 things. It depends upon the amount of
 4 exposure you have and the length of time that
 5 you have that exposure. That's why they use a
 6 time-weighted average exposure. So if you can
 7 get the exposure low enough or extend -- you
 8 know, have the time exposure short enough,
 9 then you don't have to worry about it. It's
 10 all dependent upon the exposure level and the
 11 time the person is exposed.
 12 Q. Move to strike as non-responsive.
 13 Maybe my question wasn't clear.
 14 But let's assume an individual develops
 15 asbestosis. You would agree that that
 16 asbestosis that is ultimately diagnosed
 17 resulted because of the cumulative effect of
 18 the exposure over a period of time?
 19 MR. COTTEN:
 20 Objection to form.
 21 THE WITNESS:
 22 Yes, depending upon the amount of
 23 exposure and the length of time.
 24 EXAMINATION BY MS. ROUSSEL:
 25 Q. When you started with DuPont, what

1 could minimize it. At the source if possible,
 2 and that's what that would have been, at a
 3 source, a collection system.
 4 Q. And when you came to DuPont LaPlace,
 5 did you discuss the fact that that type of
 6 equipment should be used in DuPont LaPlace?
 7 A. I don't remember having such a
 8 discussion.
 9 Q. Now, you said when you first started
 10 with DuPont out in the field there was no air
 11 capturing or particle capturing device on the
 12 equipment. Do you know how long it was before
 13 that was actually begun?
 14 A. No, I don't.
 15 Q. Do you know if it was years or
 16 months?
 17 A. I don't know.
 18 Q. As a medical doctor, you are aware
 19 that there is no known safe limit, with regard
 20 to development of mesothelioma, as to exposure
 21 to asbestos? Or are you aware of that?
 22 A. I am not aware of a stated safe
 23 level.
 24 Q. With regard to asbestosis, are you
 25 aware -- you would agree that that's a

1 was its corporate name?
 2 A. E. I. DuPont de Nemours and
 3 Company. Which is what it's been since it was
 4 founded in 1802.
 5 Q. And the facility which existed at
 6 LaPlace, the Pontchartrain facility, is that
 7 the name of that company as well, E. I. DuPont
 8 de Nemours and Company?
 9 A. De Nemours, yes.
 10 Q. The same thing with Burnside? Is
 11 that the name of that company?
 12 A. They're not separate companies.
 13 They're all a part of the E. I. DuPont de
 14 Nemours, Incorporated company, but not
 15 incorporated -- an E. I. DuPont de Nemours and
 16 Company company.
 17 Q. At the Burnside facility, give me
 18 the corporate structure.
 19 A. I -- As I have told you, I have
 20 never been to Burnside, but I can tell you
 21 what a typical corporate structure would have
 22 been.
 23 Q. Okay.
 24 A. The head person from DuPont at the
 25 plant would be the plant manager. Then he or

1 she would have various supervisors under them
2 that would have responsibility for various
3 areas of the plant or various work type --
4 work sites at the plant. They would report to
5 the plant manager. Then the plant manager
6 would report to his or her boss, who then
7 reported up through their department line or
8 their business line to the head of that
9 department or that business, depending on what
10 period of time you're talking about.

11 Q. With regard to the Burnside plant,
12 and this is with regard to corporate
13 structure, to whom would the plant manager of
14 the Burnside plant have reported?

15 A. He or she would have what we call a
16 production manager that -- to whom they would
17 report.

18 Q. And during the 1960s time period,
19 what is the name of the production manager to
20 whom the Burnside plant manager would have
21 reported?

22 A. I don't know.

23 Q. Okay.

24 MS. ROUSSEL:

25 Are y'all going to be producing

1 somebody to answer those questions?

2 MR. COTTEN:

3 I think we can -- I think we can
4 either provide you with the answers or
5 find someone who can. I don't know if
6 -- Those seems like things we could
7 provide in a written answer to you.

8 MS. ROUSSEL:

9 By when would you be able to
10 provide a written answer to that?

11 MR. COTTEN:

12 I don't know. I need to --

13 MS. MACCHERONE:

14 We need to investigate that.

15 MS. ROUSSEL:

16 While we're on this, topic number
17 2 was one of the areas that was
18 indicated this morning this gentleman
19 would be testifying about.

20 MR. COTTEN:

21 With respect to the corporate
22 structure.

23 MS. ROUSSEL:

24 With regard to the corporate
25 structure.

1 MS. MACCHERONE:

2 It wasn't that specific. He is
3 testifying with regard to the
4 corporate structure of DuPont.

5 MS. ROUSSEL:

6 Well, we all know, and the notice
7 specifically talks about LaPlace,
8 Louisiana and Burnside, Louisiana, and
9 so we know that at each of those
10 facilities the top person would be the
11 plant manager.

12 EXAMINATION BY MS. ROUSSEL:

13 Q. Is that correct, sir?

14 A. At the facility, yes.

15 Q. Okay. But then the plant manager
16 would report to somebody in the corporate
17 level. Correct?

18 A. Yes.

19 Q. Okay.

20 MS. ROUSSEL:

21 So with regard to that corporate
22 structure, we are going to call for
23 production of to whom the plant
24 manager at Burnside and the plant
25 manager at LaPlace would have reported

1 to.

2 MS. MACCHERONE:

3 And we produced a witness to
4 discuss Burnside yesterday and someone
5 will be discussing Pontchartrain Works
6 this afternoon.

7 MS. ROUSSEL:

8 Well, my understanding is neither
9 one of those individuals is going to
10 know at the corporate level --

11 MS. MACCHERONE:

12 Okay.

13 MS. ROUSSEL:

14 -- to whom to plant manager
15 would have reported, but if I am wrong
16 about that, I guess we'll learn that
17 later. I can tell you the gentleman
18 yesterday had no clue about corporate.

19 MS. MACCHERONE:

20 Okay. Well, I will check on
21 that.

22 MS. ROUSSEL:

23 By when am I going to have a
24 written response as to corporate
25 structure?

1 MS. MACCHERONE:
 2 What time frame do you want?
 3 MS. ROUSSEL:
 4 '51 through '86.
 5 MS. MACCHERONE:
 6 Okay. Those plants didn't exist
 7 until the late '60s, so I am assuming
 8 when they came into existence.
 9 MS. ROUSSEL:
 10 Well, yes.
 11 MS. MACCHERONE:
 12 Okay.
 13 MS. ROUSSEL:
 14 Whoever was responsible for --
 15 set out the design for them. I want
 16 to know -- This goes from '51 to '86.
 17 Our notice also requests corporate
 18 structure of DuPont including
 19 executive management, safety
 20 personnel, design research personnel,
 21 management and sales management.
 22 MS. MACCHERONE:
 23 And I believe Dr. Karrh has
 24 addressed the corporate structure of
 25 the DuPont Company.

1 MS. ROUSSEL:
 2 Okay. Then maybe I'm just having
 3 a problem hearing Dr. Karrh.
 4 EXAMINATION BY MS. ROUSSEL:
 5 Q. To whom did the plant manager at
 6 Burnside report to at the corporate level?
 7 A. He or she, as I have answered, I
 8 think twice already, would have reported to
 9 the production manager for that particular
 10 product line.
 11 Q. Okay. What was the product line at
 12 Burnside?
 13 A. Acid, sulfuric acid, and then
 14 there's sulfur dioxide and sulfur trioxide.
 15 Q. What was the product manager to whom
 16 the Burnside would have reported at the
 17 corporate level?
 18 A. And I have already answered, I don't
 19 recall. I don't know.
 20 Q. Okay. Then I wasn't having a
 21 problem hearing.
 22 MS. ROUSSEL:
 23 By when am I going to be given a
 24 response to the corporate organization
 25 with regard to Burnside and LaPlace?

1 MR. COTTEN:
 2 Would it be acceptable if, since
 3 we know specific -- the specifics of
 4 your inquiry right now, to be able to
 5 tell you that by the end of the day
 6 today?
 7 MS. ROUSSEL:
 8 That would be great. Yes. If we
 9 could have -- Are we going to attach
 10 it as a written response to this
 11 deposition?
 12 MR. COTTEN:
 13 What I am saying is when we can
 14 tell you.
 15 MS. ROUSSEL:
 16 Oh, I see what you're saying.
 17 MR. COTTEN:
 18 Because I just don't know how
 19 long it will take us to determine
 20 those answers. But I think I know
 21 where you're going. You want the
 22 names of the individuals to whom these
 23 plant managers would have reported
 24 during that time frame.
 25 MS. ROUSSEL:

1 Correct. And for each of these
 2 areas in the notice. And that's at --
 3 Item 2 is the question that I am on
 4 right now.
 5 EXAMINATION BY MS. ROUSSEL:
 6 Q. To whom would the plant manager at
 7 DuPont LaPlace have reported?
 8 A. To the production manager for that
 9 product line.
 10 Q. And what was the product line of
 11 DuPont LaPlace?
 12 A. Primarily it was chloroprene used in
 13 -- as an intermediate in making neoprene.
 14 Also I think there were some other
 15 intermediates that were made there.
 16 Q. What were the other intermediates?
 17 A. I'm sorry, I don't recall
 18 specifically what was made on that plant over
 19 time. Plants -- Plants were sort of evolving
 20 types of things and the product line changes
 21 as more or less demand for whatever product
 22 they're making, whatever intermediate they're
 23 making.
 24 Q. Would the plant manager have
 25 reported to different types of product

1 managers, the plant manager at LaPlace?
2 A. It's possible if there was -- if the
3 product lines were varied enough that they
4 came out of different departments or different
5 business systems, then it's possible that the
6 plant manager could report to more than one
7 production manager.

8 Q. When the DuPont LaPlace plant was
9 first built, who was in charge of safety?

10 A. That would have -- When it was being
11 built, that would have come under the
12 Construction Division, which was responsible
13 for all the new construction in the company
14 and I don't know who the safety supervisor
15 would have been at that site, but there would
16 have been a Construction Division safety
17 supervisor.

18 Q. And to whom would that person have
19 reported?

20 A. That person would have reported to
21 either the site construction manager during
22 construction or to the site manager if it was
23 after construction and the plant was started.

24 Q. And that safety manager would have
25 been on site at DuPont LaPlace when that plant

1 was being constructed?

2 A. I used the term "safety supervisor",
3 but the answer to the question is yes, the
4 safety supervisor would have been on site.

5 Q. The same thing with regard to
6 Burnside; would the safety supervisor have
7 been on site when that plant was being
8 constructed?

9 A. Yes.

10 Q. Now, after the plant was
11 constructed, was there an on site safety
12 supervisor?

13 A. At Pontchartrain the answer is yes,
14 because Pontchartrain was large enough to have
15 a full time safety supervisor. At Burnside,
16 it's possible, and I don't know this, but it's
17 possible that there could have been someone
18 else that was supervising some other operation
19 there who had the responsibility as safety
20 supervisor for that site.

21 Q. Who would know that?

22 A. Someone that was at Burnside at that
23 time.

24 Q. Well, the gentleman at Burnside
25 yesterday said that there was no one there

1 with the title of safety supervisor.

2 A. Well, that's what I just explained.
3 He or she may have had some other title, some
4 other responsibilities, but they would have
5 also had the responsibility as a safety
6 supervisor.

7 Q. Who would have assured that that
8 safety supervisor knew what the hazards were
9 that were associated with the operations of
10 that plant?

11 A. Now we're talking two different
12 things now. I'm trying to separate them out.
13 If you want to talk about construction, then
14 that person would have been reporting through
15 the Construction Division to the safety
16 supervisor in Construction Division in
17 addition to reporting to the site supervisor
18 of construction. If we're just talking about
19 operations once the plant goes into operation,
20 that safety supervisor there would have been
21 reporting to the plant manager, but then he
22 would have had -- he or she would have had a
23 secondary reporting position to the
24 departmental safety supervisor for whatever
25 department the plant was in, or business

1 operation.

2 Q. So at the corporate level you're
3 talking about?

4 A. Yes.

5 Q. Do you know who the safety -- the
6 person in safety during operations was once
7 the LaPlace facility was in operation?

8 A. No, I don't. But the safety
9 supervisor would change like every other job
10 in a company. As the plant manager changes
11 every two or three years, the safety
12 supervisor would change in some period of time
13 depending upon other opportunities for them,
14 where their expertise was needed.

15 Q. If Burnside did not have a safety
16 supervisor once that plant was in operation,
17 who would have had the responsibility for
18 safety in that facility?

19 A. At all of DuPont's plants, the plant
20 manager is ultimately responsible for all
21 safety. If he or she did not have a
22 designated safety supervisor, then he or she
23 would have that direct responsibility.

24 Q. At DuPont LaPlace, during the
25 construction phase, there would have been a

1 safety supervisor for construction?
 2 A. There would have been someone there
 3 with that responsibility. Now, it may --
 4 Again, depending on how many people they had
 5 involved, it may have been the site
 6 construction superintendent himself or
 7 herself. But there would have been someone
 8 with that ultimate responsibility for that
 9 site and the safety supervisor, if there was
 10 one, would have assisted that person carrying
 11 out those responsibilities.
 12 Q. During the construction activities?
 13 A. Yes.
 14 Q. And that would be true for both the
 15 LaPlace facility and the Burnside facility?
 16 A. That's correct.
 17 Q. And this safety supervisor would
 18 have also had responsibility for the safety of
 19 all individuals working on that premises?
 20 A. It gets a little bit complicated,
 21 but at DuPont a site manager is ultimately
 22 responsible for the safety and health of
 23 everyone on that site. The safety supervisor
 24 assists that plant manager carrying out his or
 25 her responsibilities.

1 Q. And the site manager and the safety
 2 supervisor would be a DuPont employee?
 3 A. Yes.
 4 Q. And the site manager and/or the
 5 safety supervisor would be responsible for the
 6 safety of everything going on at that site,
 7 whether it be done by a direct employee or by
 8 a contractor?
 9 A. The site manager, like I just
 10 explained, has ultimate responsibility for the
 11 operation, safe and healthful operations of
 12 that site. The safety supervisor assists the
 13 site manager in carrying that out. Now, in
 14 the case where there are contractors on the
 15 site and the contractors are employed by
 16 someone other than DuPont, that contractor,
 17 contracting company has the responsibility for
 18 the safety and health of their own employees,
 19 but DuPont would need to provide a safe and
 20 healthful workplace for the contractor
 21 employees and to provide the contracting
 22 company with the information they needed to
 23 assure that they were protecting the safety
 24 and health of their employees.
 25 Q. So the site manager, with the

1 assistance of the safety supervisor, has an
 2 obligation to oversee the operation,
 3 regardless of who it's being done by and to
 4 assure that it's being done in a safe manner?
 5 MR. COTTEN:
 6 Objection, form.
 7 EXAMINATION BY MS. ROUSSEL:
 8 Q. Correct?
 9 A. No, I wouldn't agree with that. I
 10 tried to explain it. I'll try it one more
 11 time --
 12 Q. Please.
 13 A. -- if I can.
 14 Q. And now let me get you to narrow
 15 it. Now specifically I am talking about
 16 contract employees working on a DuPont
 17 facility.
 18 A. As I tried to explain a couple of
 19 minutes ago, the plant manager has the
 20 responsibility to make sure that the workplace
 21 is safe and healthful. The contracting
 22 company has the responsibility to make sure
 23 that their employees are being adequately
 24 protected from any health or safety hazards on
 25 the work site. Now, the site manager, the

1 DuPont Company site manager has the
 2 responsibility to make sure that contracting
 3 company has the information they need to have
 4 to make sure that they are provided safe and
 5 healthful workplaces for their employees.
 6 Q. If a site manager sees an insulator
 7 doing work in an unsafe manner, is the site
 8 manager obligated to correct that?
 9 MR. COTTEN:
 10 Objection, form.
 11 THE WITNESS:
 12 If it's a DuPont employee
 13 insulator, the site manager is
 14 responsible to correct it with that
 15 employee at the time and to go to that
 16 employee's supervisor and make sure
 17 the supervisor is aware of it and is
 18 following through. If it's a
 19 construction employee that the site
 20 manager sees doing something that's
 21 unsafe, then he has an obligation to
 22 go to that construction company
 23 employee's supervisor and tell them
 24 that their employees are not following
 25 what are the safety rules and

1 regulations.

2 EXAMINATION BY MS. ROUSSEL:

3 Q. And --

4 MR. COTTEN:

5 For clarification, you said

6 "construction". Are you meaning a

7 contractor employee?

8 THE WITNESS:

9 Yes, I'm sorry. I misspoke. I

10 meant contracting company employee.

11 Yes.

12 EXAMINATION BY MS. ROUSSEL:

13 Q. Now, we have been talking about

14 construction activities. Let's talk about

15 once the plant is built and it's in regular

16 operation. Do you still have the site manager

17 and the safety supervisor under typical

18 circumstances?

19 A. Yes.

20 Q. And it would be the same type of

21 situation that you're describing now, whether

22 it be a contract employee or a direct

23 employee? Once it went into operation.

24 A. If it was in operation, then the

25 site manager has the responsibility to provide

1 Q. But the site manager would have an

2 obligation to make certain that it was

3 corrected ultimately?

4 A. I don't think that's true. The site

5 manager would have the responsibility to tell

6 the contractor company that that contracting

7 company employee was operating in an unsafe

8 manner. And then the contracting company has

9 an obligation then, because they're an

10 employer, too, they have an obligation then to

11 correct whatever unsafe act that employee is

12 doing.

13 Q. And does the site manager have an

14 obligation to make certain that it ultimately

15 got corrected?

16 A. Well, if the site manager saw it

17 occurring again, then he or she would go back

18 to that contracting company representative and

19 insist it be corrected.

20 Q. And so that that's simply my

21 question. So the site manager would have an

22 obligation to make certain that that situation

23 was ultimately corrected?

24 A. I'm trying to answer that as best I

25 can, but not necessarily. DuPont site

1 a safe and healthful workplace. If there are

2 contractor employees on there that are

3 employed by a contracting company, then that

4 contracting company has an obligation to

5 provide a safe and healthful workplace for

6 their employees, but then the DuPont site

7 manager has the responsibility to provide that

8 contracting company person adequate

9 information to tell them what hazards might be

10 there and what protections DuPont recommends

11 be taken.

12 Q. And likewise, if a contract employee

13 is operating in an unsafe manner, it is the

14 site manager's obligation to make certain that

15 that is corrected?

16 A. If it's a contracting employee as

17 you have described it here, the site manager,

18 as I mentioned, has the responsibility to go

19 to the contracting company representative and

20 let them know that he or she observed someone

21 operating in an unsafe manner, that it was one

22 of their employees, one of the contractor

23 employees, and then the contracting company

24 would have the responsibility then to correct

25 that.

1 managers have an obligation, if they see a

2 contractor employee doing something unsafe, to

3 inform that employee's boss, the contractor,

4 that something unsafe is being done and then

5 have every expectation that that company

6 person, that contracting company person would

7 make sure it was corrected.

8 Q. And so if they went back the next

9 day and it wasn't, what would be the site

10 manager's responsibility?

11 A. As I have described once before, to

12 go back to that company representative, the

13 contracting company representative and inform

14 them again it was not being corrected.

15 Q. And if they went back the next day

16 and it was not being corrected, what would

17 they do?

18 A. I don't know how many days they

19 would go through this, but ultimately the

20 contractor would lose the contract.

21 Q. Okay. So the site manager would

22 continue to evaluate the situation?

23 A. To the extent that he or she could

24 or became aware of it.

25 Q. Once they became aware of a

1 situation, would they continue to follow up on
2 it?

3 MR. COTTEN:

4 Go ahead.

5 THE WITNESS:

6 Not necessarily. Because the
7 contractors, when they come on site,
8 they are given the contract and
9 they're given some outline of what the
10 hazards are on the plant and then it's
11 expected that that employer, that
12 contractor company employer would
13 provide a safe and healthful workplace
14 for his or her employees. And so
15 DuPont had an obligation to inform the
16 contractor, the contracting company
17 representative, of what might create
18 safety or health problems and then
19 have every expectation that that
20 contracting company is going to carry
21 that responsibility out.

22 EXAMINATION BY MS. ROUSSEL:

23 Q. And once they informed them of the
24 hazards that they expected they might
25 encounter, did DuPont have anything in place

1 A short break.

2 MS. ROUSSEL:

3 Okay. I actually am almost
4 finished with this witness. So I
5 don't have a problem taking a short
6 break.

7 MR. COTTEN:

8 If I could have about five to ten
9 minutes? Thank you.

10 (Recess.)

11 EXAMINATION BY MS. ROUSSEL:

12 Q. We were earlier talking about the 3M
13 white dust mask, and are you aware of any
14 internal correspondence from DuPont indicating
15 that 3M's dust mask should not be used around
16 asbestos at any period of time?

17 A. I am not aware of any.

18 Q. Were you aware that the 3M dust mask
19 was known by DuPont not to protect against a
20 carcinogen, including asbestos?

21 A. I am not aware of that knowledge.

22 Q. As you sit here today, are you aware
23 that the 3M dust mask does not protect against
24 asbestos?

25 A. I am not aware of that knowledge.

1 to make certain that those contract employees
2 would not be harmed by that hazard?

3 A. They were not DuPont employees.
4 They were contractor company employees. The
5 contractors have an equal obligation to DuPont
6 to provide a safe and healthful workplace.

7 Q. Okay. And so what you're saying is
8 there was an obligation to provide a safe and
9 healthful workplace and it was an obligation
10 of DuPont as well as the contractor?

11 A. It's DuPont's responsibility to make
12 sure that the workplace is safe and healthful
13 and that the contractor employee -- employer
14 knows what needs to be done to protect their
15 employees. It's the contractor employer that
16 has the responsibility to carry those out and
17 make sure they're carried out.

18 MR. COTTEN:

19 If you are reaching a good
20 breaking point, I would like to take a
21 break.

22 MS. ROUSSEL:

23 Sure. Did you all want to take a
24 short break or a lunch break?

25 MR. COTTEN:

1 Q. Okay.

2 MS. ROUSSEL:

3 I am going to attach as exhibit

4 -- Off the record.

5 (Whereupon a discussion was held
6 off the record.)

7 EXAMINATION BY MS. ROUSSEL:

8 Q. Let me ask you, before we go into
9 this document, who is F. H. Hixson, H I X S O
10 N?

11 A. I'm not familiar with that name.

12 Q. C. A. Mata, M A T A?

13 A. I am not familiar with that name.

14 Q. D. E. Thompson, T H O M P S O N?

15 A. Not familiar with that name.

16 Q. W. H. Webb, W E B B?

17 A. Not familiar with that name.

18 Q. E. E. Kirby, K I R B Y?

19 A. Not familiar with that name.

20 Q. DuPont has produced in connection
21 with this corporate deposition a document
22 which is Bates stamped as DUP-0903470. I am
23 going to ask you to take a few minutes to read
24 that document. And we're going to attach it
25 to the deposition as Exhibit Number 1.

1 A. Okay.
 2 Q. Is today the first day you have ever
 3 seen that document?
 4 A. Yes, it is.
 5 Q. Okay. Do you recall having any
 6 discussions with anybody at DuPont at any
 7 level with regard to the inadequacy of the
 8 white dust mask to protect against
 9 carcinogens, including asbestos?
 10 A. I don't recall such discussion.
 11 Q. And the question was asked earlier
 12 with regard to claims filed against DuPont for
 13 asbestos-related diseases. Do you know when
 14 the first claim was filed against DuPont for
 15 an asbestos-related condition?
 16 A. I tried to explain it earlier and I
 17 may not have done a very good job. The first
 18 cases that we saw that we recognized as being
 19 asbestos --
 20 Q. I heard that answer. I heard that
 21 answer.
 22 A. Okay. I don't -- Your question is
 23 different?
 24 Q. My question was specifically with
 25 regard to claims. I.e., be it a comp claim or

1 a lawsuit. When was the first claim filed
 2 against DuPont?
 3 A. DuPont helped the employees file the
 4 claims against DuPont's workers' comp carriers
 5 in 1974, as I tried to explain earlier. Now,
 6 if that answers your question as far as a
 7 claim or if you're talking about a de novo
 8 claim that DuPont did not know anything about,
 9 including a HIPPA claim, I cannot answer that.
 10 Q. Did DuPont have a list of claims
 11 that have been filed against them?
 12 A. For what purpose?
 13 Q. For asbestos-related diseases.
 14 A. There was such a list when I
 15 retired. But again, I am trying to make it
 16 clear that DuPont didn't wait for a claim to
 17 be filed. If DuPont detected that an employee
 18 or pensioner had an asbestos-related medical
 19 condition, DuPont would help that employee or
 20 pensioner file that claim. So there's a -- I
 21 am trying to describe a distinction between a
 22 de novo claim and a claim that DuPont itself
 23 generated.
 24 Q. Move to strike as non-responsive.
 25 MS. ROUSSEL:

1 We're going to call for
 2 production of the list of claims
 3 against DuPont for asbestos-related
 4 diseases.
 5 MR. COTTEN:
 6 Say again?
 7 MS. ROUSSEL:
 8 We're calling for production of
 9 the list of claims against DuPont for
 10 asbestos-related diseases. When can
 11 that be provided to us?
 12 MR. COTTEN:
 13 Was it part of your notice?
 14 MS. ROUSSEL:
 15 Yes.
 16 MR. COTTEN:
 17 I don't know of a list outside of
 18 -- I know what he just testified to,
 19 but not -- I'm unaware of that list.
 20 MS. ROUSSEL:
 21 It's item number 41.
 22 MR. COTTEN:
 23 But I am unaware --
 24 MS. ROUSSEL:
 25 Are you going to today, at the

1 end of the day tell me as with regard
 2 to the other information?
 3 MR. COTTEN:
 4 My commitment was a date by which
 5 we could tell you the information.
 6 MS. ROUSSEL:
 7 By the end of today?
 8 MR. COTTEN:
 9 And I have to make a
 10 determination as to whether or not
 11 that list exists and then, secondly,
 12 whether or not that list is -- whether
 13 there's a privilege that attaches to
 14 that list. So we'll make those --
 15 we'll make a commitment to you to
 16 communicate to you in writing today a
 17 time frame with which we can give you
 18 the answer.
 19 EXAMINATION BY MS. ROUSSEL:
 20 Q. And, sir, you said you testified at
 21 trial in the summer of '05 with regard to an
 22 asbestos-related claim. Correct?
 23 A. That's correct.
 24 Q. What type of disease was involved in
 25 that?

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1 A. That was an asbestosis.
2 Q. And what was the verdict?
3 A. Not guilty.
4 Q. Have you testified at any other
5 cases?
6 A. As I mentioned earlier, I have
7 testified in other cases, but that's the only
8 --
9 Q. Asbestos-related cases.
10 A. Okay. You didn't make it clear.
11 Q. I'm sorry. That was my fault.
12 A. No, I haven't.
13 Q. So the only trial, and just for
14 clarification, you only testified once at
15 trial in an asbestos-related case?
16 A. That's correct.
17 Q. And that was in the summer of '05?
18 A. That's correct.
19 Q. Were you qualified as an expert at
20 that time?
21 A. No, I was a fact witness.
22 Q. And what was the site at issue in
23 that case?
24 A. La Porte, Texas.
25 Q. And was a claim brought by an

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1 employee or -- a direct employee or someone
2 other than a direct employee?
3 A. A direct employee who had been
4 retired for I believe about ten years.
5 Q. And who represented that employee?
6 A. It was a Baron & Budd subsidiary,
7 but I can't think of the name of the firm.
8 Q. What was the name of the plaintiff?
9 A. Berry, B E R R Y.
10 MS. ROUSSEL:
11 We're going to call for
12 production of Dr. Karrh's --
13 EXAMINATION BY MS. ROUSSEL:
14 Q. You were the corporate
15 representative in that case?
16 A. Yes.
17 MS. ROUSSEL:
18 We're going to call for
19 production of that testimony. It's
20 responsive to item number 42. Will
21 that be produced to us?
22 MR. COTTEN:
23 Well, first it depends on whether
24 or not that testimony was
25 transcribed. But if it was and it's a

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1 subject of proper production, we'll
2 provide it to you.
3 MS. ROUSSEL:
4 And by when?
5 MR. COTTEN:
6 We'll communicate that to you in
7 the same correspondence as the two
8 other questions at issue.
9 MS. ROUSSEL:
10 That's all I have. Thank you,
11 Dr. Karrh.
12 THE WITNESS:
13 Thank you.
14 MR. COTTEN:
15 Anybody else have any other
16 questions? We'll reserve our
17 questions for the time of trial.
18 (Recess in testimony.)
19 MS. ROUSSEL:
20 We got all the issues so we can
21 go on and discuss them?
22 MS. WEINER:
23 Thank you.
24 MS. ROUSSEL:
25 Let's go on. We're back on the

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1 record with regard to earlier this
2 morning we were told we would be
3 provided with information at the
4 conclusion of the corporate
5 deposition, and Monique Weiner has
6 some.
7 MS. WEINER:
8 I'll respond on behalf of DuPont
9 to the issues that were outstanding
10 from the deposition obtained from Dr.
11 Bruce Karrh as the corporate deponent
12 for DuPont. The issues that were
13 outstanding, as I understand them,
14 were whether the trial testimony from
15 Dr. Karrh would be produced as to the
16 Berry trial. We will agree to produce
17 that and we'll provide that to Counsel
18 for Plaintiff as soon as it can be
19 obtained.
20 MS. ROUSSEL:
21 But no later than --
22 MS. WEINER:
23 But no later than -- What date
24 would you suggest?
25 MS. ROUSSEL:

1 This Friday.
 2 MS. WEINER:
 3 I can't get it within two days.
 4 Because he said --
 5 MS. ROUSSEL:
 6 What is today?
 7 MS. WEINER:
 8 Today is Wednesday.
 9 MS. ROUSSEL:
 10 Two days is plenty of time.
 11 Okay. When can you provide it?
 12 MS. WEINER:
 13 Why don't -- Since we have agreed
 14 to provide other information, why
 15 don't we say that we'll work to
 16 provide it to you by the close of
 17 business Thursday, November --
 18 November 16, I believe is next
 19 Thursday.
 20 MR. ENGERON:
 21 Yes.
 22 MS. WEINER:
 23 So we'll provide you with the
 24 Berry trial transcript. If there is
 25 any problem in connection with the

1 outstanding issue, as I understand it,
 2 is whether DuPont will agree to
 3 provide the information as to the
 4 plant managers at the Pontchartrain
 5 facility from '64 to '86 and who their
 6 reports to, their direct reports to
 7 were in the corporate organization.
 8 We will work to provide that
 9 information and we'll have responsive
 10 information to you by the close of
 11 business on Thursday.
 12 To the extent that plant managers
 13 aren't living and we can't find that
 14 information, we'll make our best
 15 effort to return what we can by the
 16 close of business Thursday, November
 17 16.
 18 MS. ROUSSEL:
 19 Okay. And just for further
 20 clarification, the plant managers at
 21 the time period that they were plant
 22 managers, if they're currently
 23 existing, their current addresses.
 24 MS. WEINER:
 25 Say that again.

1 Court Reporter, that it hasn't been
 2 transcribed or something in that
 3 respect, I will let you know in
 4 advance of that date.
 5 With respect to the request that
 6 has been made for all workers'
 7 compensation claims and personal
 8 injury lawsuits, we have the same
 9 objection to producing that material
 10 as was stated in connection with the
 11 deposition of Pat Falterman that was
 12 taken yesterday, and I am losing track
 13 of the dates. That would be --
 14 MR. ENGERON:
 15 November 7.
 16 MS. WEINER:
 17 7th. Thank you. So we have the
 18 same objection that we stated on the
 19 record at that time.
 20 MS. ROUSSEL:
 21 And we ask that the deposition be
 22 marked at this point, because we do
 23 intend to file a motion on that.
 24 MS. WEINER:
 25 Sure. And then the last

1 MS. ROUSSEL:
 2 If they are living, their current
 3 address, last known addresses.
 4 MS. WEINER:
 5 Sure. We can provide that.
 6 MS. ROUSSEL:
 7 Okay. And then the individuals
 8 at the corporate level to whom they
 9 reported, their names, positions and
 10 addresses.
 11 MS. WEINER:
 12 And those would have to be the
 13 same situation. If they're no longer
 14 with the company, last known
 15 addresses, last positions they held.
 16 MS. ROUSSEL:
 17 Correct.
 18 MS. WEINER:
 19 Okay. That's fine. I think that
 20 concludes the issues that we had
 21 outstanding.
 22 * * *
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WITNESS'S CERTIFICATE

I, BRUCE KARRH, read or have had the preceding testimony read to me, and hereby certify that it is a true and correct transcription of my testimony, with the exception of any attached corrections or changes.

(Witness' Signature)

DATE SIGNED

DEPONENT PLEASE INITIAL ONE:

____ Read with no corrections

____ Read and correction sheet attached

DATE TAKEN: NOVEMBER 8, 2006

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REPORTER'S CERTIFICATE

I, ROGER D. JOHNS, RMR, RDR, CRR, Certified Court Reporter, do hereby certify that the above-named witness, after having been first duly sworn by me to testify to the truth, did testify as hereinabove set forth; that the testimony was reported by me in shorthand and transcribed under my personal direction and supervision, and is a true and correct transcript, to the best of my ability and understanding; that I am not of counsel, not related to counsel or the parties hereto, and not in any way interested in the outcome of this matter.

ROGER D. JOHNS
CERTIFIED COURT REPORTER
STATE OF LOUISIANA