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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MIDDLESEX COUNTY
DOCKET NO. MID-L-1628-09 (AS)

GARY R. CHAVAN,

Plaintiff,

vs.

3M COMPANY, et al.,

Defendants.

VIDEOTAPE
DEPOSITION UPON
ORAL EXAMINATION
OF
HOWARD SCHUTTE

Transcript of the deposition of the witness,
called for Oral Examination in the above-captioned
matter, said deposition being taken pursuant to
Superior Court Rules of Practice and Procedure by
and before MARC BRODY, a Notary Public and Certified
Court Reporter of the State of New Jersey, taken at
the law offices of LYNCH DASKAL EMERY, 264 West
40th Street, 18th floor, New York, New York, on
Wednesday, August 10, 2011, commencing at
approximately 11:00 in the forenoon.

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Dynamic Evidence

25

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WITNESS

PAGE

HOWARD SCHUTTE

Direct by Mr. Placitella

11

1 THE VIDEOGRAPHER: The time is
2 approximately 11:03 a.m. We are now on the video
3 record. Today's date is August 10, 2011. This is
4 the videotaped deposition of Mr. Howard Schutte. All
5 appearances will be noted in the transcript. Please
6 swear in the witness and then you may proceed.

7
8 H O W A R D A. S C H U T T E,
9 3901 North Stratford Road, Northeast,
10 Atlanta, Georgia, sworn.

11
12 DIRECT EXAMINATION BY MR. PLACITELLA:

13 Q. Mr. Schutte, how are you?

14 A. Fine, thank you.

15 Q. You recall I took your deposition before
16 on a couple of other occasions?

17 A. At least once, yes.

18 Q. I'm not going to repeat all the questions
19 I asked the first time. I'll try to keep this
20 relatively brief.

21 A. Okay.

22 Q. Are you still currently the Vice-President
23 of Strategy and New Product Development?

24 A. No, sir.

25 Q. What is your current job?

1 A. I'm an independent consultant.

2 Q. What does that mean?

3 A. I'm a consultant. I do consulting work.

4 Q. You no longer are employed by
5 Georgia-Pacific?

6 A. No, I'm not. No, sir.

7 Q. But you still testify around the country
8 for them as their corporate witness?

9 A. That's correct.

10 Q. Is that your sole means of income?

11 A. No, sir.

12 Q. What is your other means of income?

13 A. I consult for a Mexican gypsum mining
14 company.

15 Q. It is up to you if you face the camera. I
16 know it is not that easy. You will probably show a
17 better side, otherwise we are going to see the side
18 of your face. I'm not sure you want that. That is
19 up to you.

20 A. All right.

21 Q. What percentage of your time is spent
22 doing work for Georgia-Pacific?

23 A. Approximately 30 percent of my time.

24 Q. How many days a year does that require of
25 your time, approximately?

1 A. Sort of varies. 30 percent of my
2 time. Sometimes I'm doing other things.

3 Q. When did you leave the employ of
4 Georgia-Pacific?

5 A. January of 2008.

6 Q. Since January 2008 approximately how much
7 money have you been paid by Georgia-Pacific to
8 consult for them in litigation?

9 A. I hadn't really -- maybe \$400,000
10 something.

11 Q. Total?

12 A. Total.

13 Q. When you were last employed by
14 Georgia-Pacific, you were making about \$500,000 a
15 year. Is that correct?

16 A. With the last couple of years salary plus
17 bonuses, yes, sir.

18 Q. Did you testify yesterday here in New York
19 City?

20 A. No, sir.

21 Q. Are you scheduled to testify in New York
22 City this week?

23 A. No, sir.

24 Q. When is the last time you testified in a
25 trial?

1 A. Approximately six weeks ago.

2 Q. I was told that you could not come to New
3 Jersey for your deposition because you were here to
4 give testimony. Is that not a true statement?

5 MS. HANSEN: Objection to the form.

6 A. I was scheduled to testify this week, but
7 that has changed and I'm not. The question is I'm
8 not scheduled, so I'm not. I was supposed to be
9 testifying, yes.

10 Q. You began at Georgia-Pacific in 1973. Is
11 that correct?

12 A. That's correct.

13 Q. And am I correct that you were involved in
14 the manufacturing operations for gypsum wallboard
15 for your entire career?

16 A. I was part of the Gypsum Division of
17 Georgia-Pacific for my entire career, yes.

18 Q. And in 1975 did you work at Acme, Texas in
19 the gypsum wallboard plant?

20 A. Yes. There was a joint compound plant
21 there that I worked. Essentially a complex that had
22 two wallboard lines.

23 Q. Did part of your responsibilities involve
24 wallboard in addition to joint compound?

25 A. Starting in, sometime in 1975, that's

1 correct. And the rest of my career.

2 Q. In 1976 --

3 (Discussion off the record)

4 Q. In approximately 1976 did you go to work
5 at the wallboard plant in Iowa for approximately two
6 years?

7 A. Yes.

8 Q. And what were your job responsibilities
9 there?

10 A. I was quality superintendent when I went
11 there and then about a year of that two-year period
12 I went over into manufacturing and became, I think
13 my title was general foreman or process engineer.

14 Q. Were you familiar with the wallboard
15 manufacturing process for Georgia-Pacific?

16 A. Yes.

17 Q. And were you personally involved
18 with wallboard plants for Georgia-Pacific at Acme,
19 Texas?

20 A. Yes.

21 Q. Fort Dodge, Iowa?

22 A. Yes.

23 Q. Brunswick, Georgia?

24 A. Yes.

25 Q. And Wilmington, Delaware?

1 A. Yes.

2 Q. And am I correct Georgia-Pacific also made
3 wallboard in Buchanan, New York?

4 A. I'm sorry. Your question?

5 Q. Georgia-Pacific also made wallboard in
6 Buchanan, New York?

7 A. During some period of time, yes.

8 Q. Blue Rapid, Kansas?

9 A. For some period of time, yes, sir.

10 Q. Lovell, Wyoming?

11 A. Yes.

12 Q. And Seger, Utah?

13 A. Yes.

14 Q. And you have been previously designated by
15 Georgia-Pacific, have you not, as the person with
16 the most knowledge about the formulations that went
17 into Georgia-Pacific wallboard?

18 A. I'm as knowledgeable as anyone, yes, sir.

19 Q. Now, your job for Georgia-Pacific at this
20 point is basically to testify all over the country
21 as a corporate representative for Georgia-Pacific,
22 correct?

23 MS. HANSEN: Objection to the form.

24 A. I'm not sure about all over the country,
25 when I'm asked to testify, I testify.

1 Q. Can you tell me what states you haven't
2 testified in yet?

3 A. Haven't?

4 Q. Yes.

5 A. I guess the only states I have testified
6 in have been, as I recall, Kentucky, Illinois,
7 Georgia, with you in New Jersey and here. I think
8 maybe one other.

9 Q. The only places you have given deposition
10 testimony?

11 A. Yes, sir.

12 Q. Have you testified about Georgia-Pacific's
13 historical knowledge about the dangers of asbestos?

14 A. In part, yes.

15 Q. And about the issue of warnings? Have you
16 testified about that for Georgia-Pacific?

17 A. I have been asked about various warnings,
18 yes, sir.

19 Q. And formulations of Georgia-Pacific
20 products? Have you testified about that?

21 A. Yes.

22 Q. You are also the person who swears to the
23 truth and accuracy of every set of Interrogatory
24 answers submitted by Georgia-Pacific in asbestos
25 litigation?

1 MS. HANSEN: Objection. Vague as to time.

2 Q. Am I correct?

3 A. I don't know what the total universe is,
4 but I signed various documents.

5 Q. Is there anybody else that signs
6 interrogatories to your knowledge on behalf of
7 Georgia-Pacific other than yourself?

8 A. I don't know.

9 Q. Approximately how many sets of
10 interrogatories have you signed from around the
11 country over the last three years?

12 A. I don't know.

13 Q. How many times a week do you have to sign
14 them?

15 A. I generally am sent a packet of documents
16 about every four to six weeks.

17 Q. And a packet of documents, what is in that
18 packet of documents?

19 MS. HANSEN: Objection to the extent it
20 calls for privileged information.

21 Q. When you say packets of documents, are you
22 talking about discovery responses?

23 A. Yes. A variety of different affidavits,
24 interrogatory responses. I'm not sure what all the
25 legal terms are. They sort of vary.

1 Q. Have you signed and affirmed to the truth
2 of discovery responses in every case in every state
3 that Georgia-Pacific has been a defendant in an
4 asbestos case?

5 A. I don't know.

6 Q. Have you done that in more than 30 states?

7 A. I don't know.

8 Q. Do you keep a record of all the states
9 that you attest to the truth and accuracy of the
10 discovery responses?

11 A. I don't keep any records, no, sir.

12 Q. Can you tell me what you did to prepare
13 for today's deposition?

14 A. Well, as you said, I've worked for
15 Georgia-Pacific for 30 some years. My preparation
16 goes back 30 some years. So that questions about,
17 for example, wallboard manufacturing, as it relates
18 to this specific case, I looked at the Deposition
19 Notice, I looked at the packet of documents that I
20 understand were provided to you and I scanned
21 Mr. Chavan's, if that's the proper pronunciation,
22 his depositions.

23 Q. To prepare for this deposition
24 specifically you looked at the Deposition Notice,
25 correct?

1 A. Right.

2 Q. Do you have that with you?

3 A. No, sir.

4 MR. PLACITELLA: Do you have it, counsel?

5 MS. HANSEN: I do.

6 MR. PLACITELLA: Can we mark that as P-1?

7 MS. HANSEN: I do. Let me see if I have --
8 my copy is clean.

9 (The above document is marked Exhibit
10 P-1 for Identification.)

11 Q. I want to show you what has been marked as
12 P-1 for Identification and ask you if you have
13 reviewed -- do you have a copy?

14 MS. HANSEN: I have to copy to look at.

15 Q. Is this the notice you looked at?

16 A. Yes.

17 Q. Are you the person that is designated
18 pursuant to this notice?

19 A. I believe so, yes, sir.

20 Q. And the second page of the notice asks for
21 documents to be produced. Do you see that?

22 A. Yes.

23 Q. Did you bring those documents with you?

24 A. No, sir.

25 Q. Why not?

1 A. I wasn't advised to bring these documents.
2 You have to ask my lawyers that, I guess.

3 MS. HANSEN: Counsel, you were provided
4 with the documents in advance of the deposition.
5 They would be the same documents.

6 MR. PLACITELLA: So all the documents that
7 are responsive to 1, 2 and 3 are the documents you
8 sent to us?

9 MS. HANSEN: That's correct.

10 MR. PLACITELLA: Are they the documents
11 Mr. Schutte was shown?

12 MS. HANSEN: Yes.

13 Q. Were you shown anything other than what's
14 responsive to 1, 2 and 3?

15 A. No, sir.

16 Q. Other than your lawyer, did you meet with
17 anybody in order to prepare for this deposition?

18 A. Specific to this deposition, no, sir.

19 Q. Did you speak to any employee or former
20 employee of Georgia-Pacific with respect
21 specifically to this deposition?

22 Q. Are you familiar with a product, a gypsum
23 wallboard, manufactured by Georgia-Pacific, known as
24 FireStop?

25 A. Yes.

1 Q. And do you know what period of time that
2 Georgia-Pacific manufactured a FireStop gypsum
3 wallboard?

4 A. I'm not sure of the start date, but
5 certainly over my entire career. I know it goes
6 back into the '60s at least.

7 Q. Is FireStop a trade name for
8 Georgia-Pacific?

9 A. I believe so, yes, sir.

10 Q. And was that product ever manufactured at
11 any of the plants that you were in charge of?

12 A. All of them, yes.

13 Q. What kind of applications is FireStop used
14 for?

15 A. By definition, it is sort of a fire rated
16 product, so it could be used in some cases, some
17 applications for residential. More likely in
18 commercial applications.

19 Q. What kind of commercial applications
20 would it be used for?

21 A. Wherever the building code requires a
22 certain fire rating, it was many times accomplished
23 to get that rating and FireStop was required.

24 Q. Was it used in pharmaceutical laboratories?

25 A. Could be, I guess.

1 Q. From your perspective what kind of
2 specific applications would it be used for? Would
3 you use it in a boiler room, a laboratory, in a
4 Mall? Where did you know these kinds of products
5 were being installed?

6 A. Could be used anywhere. Again, wherever
7 the building code required a certain fire rating it
8 was often accomplished with using a system that
9 incorporated the use of FireStop wallboard.

10 Q. Was it sold in New Jersey?

11 A. Yes.

12 Q. Was it sold in Pennsylvania?

13 A. Yes.

14 Q. Was it sold in New York?

15 A. Yes.

16 Q. The FireStop product that was sold in New
17 Jersey, New York and Pennsylvania, where was that
18 manufactured?

19 A. Either Wilmington, Delaware. Well,
20 depending on the time period. I guess we should
21 narrow the time period.

22 Q. Say from 1967 to 1985. Where was it
23 manufactured?

24 A. Either Wilmington, Delaware or Buchanan,
25 New York.

1 Q. And do you have any idea how much FireStop
2 product in terms of volume that Georgia-Pacific sold
3 during the years from say 1967 to 1985?

4 A. Total volume, no, sir.

5 Q. How was it packaged?

6 A. Like all other wallboard products, bundles
7 of two products packaged face-to-face and taped,
8 bundled.

9 Q. How was it distributed?

10 A. Georgia-Pacific sold through their
11 distribution division, so it could go directly to a
12 distribution -- Georgia-Pacific's distribution
13 center for re-distribution or it could go directly
14 to customers.

15 Q. When you say directly to customers, what
16 do you mean by that?

17 A. For example, here in New York City there
18 are certain big factor accounts, we would sell
19 directly to them and they in turn, they would take
20 the material and redistribute or stock it on job
21 sites, et cetera.

22 Q. In New York, who would those accounts be?

23 A. I don't know.

24 Q. Who would know that?

25 A. I don't know who would know that

1 specifically.

2 Q. Did you sell this product through similar
3 kinds of account in New Jersey?

4 A. Yes.

5 Q. Did you have distribution outlets for this
6 product like Rickels or 84 Lumber or Home Depot or
7 something like that?

8 A. Yes, sir. There were those types of
9 customers, yes, sir.

10 Q. Did you sell these products through 84
11 Lumber?

12 A. I believe so, yes, sir.

13 Q. Did you ever sell the product through
14 Rickels?

15 A. I don't recall. I don't know.

16 Q. Did you ever sell the product through
17 Channel?

18 A. Who?

19 Q. Channel Home Centers?

20 A. I don't know.

21 Q. Did you sell the FireStop product through
22 the same distribution mechanism and the same vendors
23 you sold your joint compound?

24 A. Probably. Could be different customers,
25 but through the same channel, same method, yes, sir.

1 Q. Did the FireStop name appear on the board
2 or the packaging?

3 A. I believe in both to ensure, since these
4 products had to be installed to code, we would put
5 some in the tapered area that would be ultimately
6 finished. There would be some designation showing
7 it was a Georgia-Pacific fire rated product so the
8 inspector could say that is a fire rated product.

9 Q. Would the word FireStop be on it?

10 A. I don't remember what we put on there,
11 whether it was Type X or FireStop or what it said
12 exactly. I don't recall.

13 Q. Who would know that?

14 A. We could go to the records and see there
15 was a manufacturing manual that laid that out if it
16 is available. I could find that out. I don't
17 recall?

18 MR. PLACITELLA: I make a request for that
19 manual.

20 Q. Do you actually have photographs or
21 pictures of the wallboard as manufactured and sold
22 by Georgia-Pacific from 1967 to 1985?

23 A. There were, I think -- I don't know if it
24 was yearly, but periodically there were product
25 brochures for the wallboard line of products. I'm

1 sure they have some photographs in there. I'm not
2 sure exactly what the photos were.

3 MR. PLACITELLA: I'll make a request for
4 such brochure or photos and packaging.

5 Q. Was it stamped on every board?

6 A. What?

7 Q. Every FireStop board that was
8 manufactured, did the identification as a fire rated
9 product, was it stamped on every board?

10 A. They were UL rated. We had to go to
11 UL to get rated. So there was a label put on the
12 back of every panel. In fact, it appeared
13 repetitively maybe more than once on every panel
14 and, as I said, there was something, I don't recall
15 what, put into the tapered area to designate it as a
16 fire rated product on every few feet.

17 Q. When you say a tapered area, what do you
18 mean?

19 A. If we are talking about a four by eight
20 sheet of wallboard.

21 Q. Right.

22 A. The long edges are tapered so when you
23 install them side by side, that's where you apply
24 the joint compound to finish the joint to get that
25 monolithic look.

1 Q. If someone is going to be asked the
2 question whether they used a Georgia-Pacific fire
3 rated wallboard, what identifying characteristics on
4 the wallboard would you ask that question, would you
5 ask?

6 A. Would you repeat that?

7 Q. If you wanted to determine whether the
8 wallboard somebody was installing was fire rated
9 wallboard, and you wanted to ask them the question
10 to find out if it was, what characteristics would
11 you ask them about?

12 A. If it was a Georgia-Pacific product, it
13 would have Georgia-Pacific end tape on the bundle or
14 tube, which would say FireStop type X or triple x,
15 whatever the product was.

16 It would be color coded. It would be on
17 the back. It would be labeled and on the face you
18 would have the designation I mentioned in the
19 tapered area.

20 Q. So on a bundle you would have like a strip
21 or something around the bundle?

22 A. No, sir. on -- if you go to a Home Depot
23 today, it is still the same today. There's a bundle
24 of two sheets, four by eight. Then the unfinished
25 edge there's what we call an end tape, which has the

1 information about the manufacturer being
2 Georgia-Pacific and it's color coded it and has the
3 information about the panel being four by eight as,
4 an example, whether it is regular or FireStop or
5 whatever.

6 Q. What was the color code for FireStop?

7 A. Generally it was red. That was the
8 predominant color versus regular wallboard which the
9 Georgia-Pacific was blue.

10 Q. When you say red, you are talking about
11 the border on the wallboard? What is red?

12 A. I'm talking about the end tape.

13 Q. The end tape was red?

14 A. Yes.

15 Q. The regular wallboard, non fire rated,
16 would be blue?

17 A. Generally, yes. More blue than red. I
18 don't think there was any red on a regular end tape.

19 Q. Was red used for anything other than fire
20 rated wall board manufactured by Georgia-Pacific?

21 A. I don't recall.

22 Q. Who were your competitors for a fire rated
23 wallboard product from 1967 to 1985?

24 A. I assume we are talking about this area,
25 the northeast of the U.S.?

1 Q. Yes.

2 A. United States Gypsum, National Gypsum,
3 there were various companies that came and went.
4 I'm not sure again, what time period you are looking
5 for.

6 But there was Flintkote, Domtar at one
7 time, CertainTeed at one time. Kaiser Gypsum at one
8 time. Probably some others as well.

9 Q. What percentage of the national market did
10 you have for this product, this type of product from
11 say 1967 to 1985 on average?

12 MS. HANSEN: Objection to the form.

13 A. As I recall it was around plus or minus
14 ten percent of the wallboard market.

15 Q. Now, was this product, this FireStop
16 product, cut on job sites?

17 A. Yes.

18 Q. What was it cut with?

19 A. Generally people call them box cutters.
20 We call them utility knives.

21 Q. Was it expected that in order to be
22 installed on a job site a certain percentage of the
23 product would have to be cut?

24 A. Yes. Scored and broken. Not really cut
25 per se, but yes.

1 Q. Did you ever witness that?

2 A. Many times, yes, sir.

3 Q. Did the cutting of that product create
4 dust in any way?

5 A. Very little, but it did, yes.

6 Q. If you were cutting that product with your
7 dark blue suit on, would you expect to see white
8 dust on your suit after you finished cutting that
9 product?

10 MS. HANSEN: Objection to the form.

11 A. I would expect some dust, yes, sir.

12 Q. I previously asked you questions at prior
13 depositions about whether there was ever any
14 asbestos in the wallboard, any wallboard
15 manufactured by Georgia-Pacific. Do you recall
16 that?

17 A. I don't recall that.

18

(Discussion off the record.)

19

20 Q. One of the lawyers during the break,
21 Mr. Schutte, asked is FireStop one word or two. I
22 answered the question, but it is probably better
23 coming from you.

24 A. One word, yes, sir.

25 Q. In the DeMayo case I took your deposition

1 in New Jersey. Do you recall that?

2 A. I believe you were deposing me, yes.

3 Q. And Mr. Kelly was there defending the
4 deposition. Do you recall that?

5 A. I don't know what his name was.

6 Q. I asked you on 426 of the deposition, I
7 put it up here. It says there's no asbestos fiber
8 in gypsum wallboard manufactured by Georgia-Pacific,
9 nor to our knowledge in other domestic gypsum
10 wallboard manufactured. Do you see that?

11 A. Yes.

12 Q. You said yes, that's correct. And I said
13 that's not exactly true, is it? And your answer was
14 again, we did not have any asbestos in our
15 wallboards. Correct?

16 A. That's what I said, yes, sir.

17 Q. And you have provided testimony to that
18 effect in other places around the country as well,
19 correct?

20 A. Yes, what I've said is, it was never. If
21 you look at the formula, it was never a constituent
22 ingredient in our products, that's correct.

23 Q. What are you trying to say to me, that you
24 actually had asbestos in the wallboard, but it
25 wasn't a specified ingredient?

1 A. Well --

2 MS. HANSEN: Objection, form.

3 A. Some of our FireStop products, generally
4 speaking, those manufactured in our western plants,
5 contained vermiculite. That vermiculite at those
6 plants in the western part of Georgia-Pacific
7 systems, that vermiculite came from Libby, Montana.
8 I learned it was contaminated with trace amounts of
9 asbestos.

10 Q. Before today had you ever given that
11 testimony under oath anywhere?

12 A. I don't know if I have or not.

13 Q. Haven't you been asked on multiple
14 occasions whether there's asbestos in the wallboard
15 that you manufactured and sold and you said
16 categorically that it never contained asbestos?

17 A. I don't recall my exact wording. I see it
18 here, what it says.

19 Q. Here you say, again, we didn't have any
20 asbestos in our wallboard products. Isn't that what
21 you said?

22 A. That's what it says, yes.

23 Q. And I asked you again, in the same
24 deposition, and I put it up here, as we sit here
25 today, we know this statement that there's no

1 asbestos in gypsum wallboard is misleading, true and
2 you said, your answer was no, sir. Correct?

3 A. It says what it says, yes, sir. That's
4 what it says.

5 Q. You also, for example, gave testimony in
6 Atlanta, Georgia more than ten years ago and were
7 asked the same exact question, right?

8 A. I don't know, Gary Rickerts. Is that my
9 testimony?

10 Q. That's Gary Rickerts, the name of the
11 case. Do you recall that case?

12 A. Gary Rickerts is an employee of
13 Georgia-Pacific. That's why I'm asking. So I'm not
14 sure --

15 Q. And if he's an employee, and that is not
16 your testimony, who is Gary Rickerts?

17 A. Gary Rickerts was a long time employee of
18 Georgia-Pacific. He had numerous responsibilities,
19 including responsibilities for the R and D facility
20 for some period of time.

21 Q. You have answered interrogatories, sworn
22 Answers to Interrogatories in the States of New
23 Jersey, New York and Pennsylvania, have you not?

24 A. I don't remember what state they were in,
25 but I've signed numerous documents, yes, sir. So it

1 is likely I have, but I just don't recall
2 specifically what state.

3 Q. I have up here your certification for the
4 State of New Jersey for all the cases filed in the
5 State of New Jersey. Is that your signature?

6 A. Yes. That's my signature, yes,
7 sir.

8 Q. And when you do that, you attest to the
9 truth to the best of your knowledge, correct?

10 A. Yes.

11 Q. And what do you do to verify that the
12 information in the interrogatory answers are true to
13 the best of your knowledge?

14 A. I review the answers and if they are
15 consistent with what I know or believe, then I sign
16 it.

17 Q. You were asked in the State of New Jersey
18 on multiple occasions for multiple years to identify
19 all products that Georgia-Pacific manufactured or
20 sold that contained asbestos, were you not?

21 A. As a constituent ingredient, yes.

22 Q. And never once did you ever say that you
23 sold wallboard that contained asbestos, did you?

24 A. I don't believe so. That's correct, yes,
25 sir.

1 Q. And you did the same thing in the State of
2 New York. You never once said that you sold
3 asbestos-containing wallboard, did you?

4 A. I believe that is a correct statement,
5 yes, sir.

6 Q. You also swore to answers in California,
7 did you not?

8 A. I believe that's correct, yes, sir.

9 Q. And they asked the same question, tell me
10 all the products that Georgia-Pacific ever sold that
11 contained asbestos, correct?

12 A. As a constituent ingredient, that's how we
13 answered, yes, sir.

14 Q. You didn't say constituent ingredient, you
15 just listed all the products, you didn't try to dice
16 your words, did you?

17 MS. HANSEN: Objection.

18 A. I signed, I believe it said constituent
19 ingredients, yes, sir.

20 Q. So when you answered Interrogatories, for
21 example, in California asking for all the products
22 that contained asbestos, you never mentioned
23 FireStop wallboard, did you?

24 A. I believe so.

25 Q. Why not?

1 A. Again, because it wasn't a constituent
2 ingredient.

3 Q. So even though it contained asbestos,
4 because you didn't call for it to be in the
5 wallboard, you saw fit not to tell anybody that it
6 had asbestos, correct?

7 MS. HANSEN: Objection to the form,
8 foundation.

9 A. Again, these are trace amounts we are
10 talking about.

11 Q. Now, you have gone back and looked at the
12 asbestos that was in the wallboard that you sold and
13 determined that it was in trace amounts?

14 MS. HANSEN: Again, objection to the form
15 and foundation.

16 A. I haven't done any investigative work
17 about the specific amounts, no.

18 Q. Well, you said trace amounts. What is the
19 basis for your knowledge that there was only trace
20 amounts of asbestos in the Georgia-Pacific
21 wallboard?

22 MS. HANSEN: Objection. Misstates prior
23 testimony.

24 MR. PLACITELLA: I'll go with my question.

25 A. Again, we are talking about western plants

1 that would have used vermiculite from Libby,
2 Montana. Generally, the amount of vermiculite is
3 approximately two percent of the product weight and
4 the level of asbestos contamination in that
5 vermiculite, my understanding is, it's, you know, a
6 very small percentage that's used in the ultimate
7 wallboard.

8 Q. And where did you get that understanding
9 from? Where did you get that information from?

10 A. I'm not sure exactly where I got it from.
11 I've seen that information.

12 Q. When? When is the first time you saw that
13 information?

14 A. Well, it first became an issue in 1981
15 when I was the plant manager at Fort Dodge, Iowa
16 where W.R. Grace began labeling their bags of
17 vermiculite. It was brought to my attention by the
18 people at the plant.

19 We did some sampling and air monitoring of
20 our employee who was discharging those bags into an
21 elevator into a hopper for the manufacturing
22 process. And those air sampling results showed that
23 there was zero airborne asbestos at those locations.
24 So it would be a very, very small amount, even in
25 raw vermiculite, much less the finished products.

1 Q. So you have known personally since at
2 least 1981 that there was asbestos in wallboard sold
3 by Georgia-Pacific?

4 MS. HANSEN: Objection to the form.
5 Misstates prior testimony.

6 Q. Correct?

7 MS. HANSEN: Lacks foundation,
8 argumentative.

9 A. I've know since 1981 that there was
10 asbestos contamination in the vermiculite from
11 Libby, Montana that ultimately went the product,
12 yes, sir.

13 MR. PLACITELLA: Could you read my
14 question back?

15 (The above question is read by the
16 Reporter.)

17 Q. Can you answer that question?

18 A. I thought I did. I just said yes.

19 Q. Okay. Now, so when I asked you the
20 questions in the DeMayo case about whether there was
21 asbestos in wallboard and you told me no, that was
22 an inaccurate and untruthful statement, was it not?

23 MS. HANSEN: Objection to the form.

24 A. Again, I was looking at it from the
25 standpoint of whether it was an ingredient in the

1 formula, so therefore, it was a correct answer.

2 Q. Well, you didn't tell me, you didn't dice
3 your words by saying an ingredient in the formula,
4 you told me there was never any asbestos in any
5 gypsum wallboard, did you not?

6 A. That's what it said, that you showed me,
7 correct.

8 Q. But it is not until today, when I finally
9 called you on it as the first one ever to do it, you
10 now admitted you had asbestos in the gypsum
11 wallboard, correct?

12 A. There are trace amounts of asbestos in
13 some FireStop product produced by Georgia-Pacific.
14 That's correct.

15 Q. But no one has ever asked you that
16 question in a deposition or trial until today,
17 correct?

18 MS. HANSEN: Objection to the form.

19 A. I don't recall.

20 Q. Do you recall ever testifying under oath
21 anywhere, telling anybody that there was asbestos in
22 your wallboard?

23 MS. HANSEN: Objection.

24 A. Not as I recall.

25 Q. Do you recall ever telling any customer

1 that purchased your wallboard that you had asbestos
2 in it?

3 A. Not as I recall.

4 Q. You, Georgia-Pacific, started manufacturing
5 FireStop wallboard in 1967, correct?

6 MS. HANSEN: Objection, foundation.

7 A. I'm not exactly sure of the year. That
8 would seem to be correct, yes, sir.

9 Q. And you took that operation over from Best
10 Wall?

11 A. In 1965, yes.

12 Q. In 1965?

13 A. Yes.

14 Q. And before that was the product
15 manufactured by CertainTeed?

16 A. Before Best Wall?

17 Q. Correct.

18 A. That's why I say I don't know when
19 FireStop as a product was developed specifically, so
20 I can't speak to that.

21 Q. Am I correct that you, Georgia-Pacific,
22 sold and manufactured asbestos-containing wallboard
23 in 1967 up until at least 1985?

24 MS. HANSEN: Objection, form, foundation,
25 argumentative. Object specifically to the term

1 asbestos-containing wallboard.

2 A. Georgia-Pacific did produce, during that
3 time period, FireStop wallboard and at some of the
4 plants it contained vermiculite from Libby, Montana,
5 which was in fact contaminated with asbestos, trace
6 amounts, yes, sir.

7 Q. Trace amounts is your word, correct?

8 A. Yes.

9 Q. You have no scientific basis for saying
10 the word trace amounts, that's just your words,
11 correct?

12 MS. HANSEN: Objection. Calls for expert
13 conclusion, speculative.

14 A. Those are my, words, yes.

15 Q. How much asbestos or how much vermiculite,
16 by whatever measure you want to provide, was used in
17 the FireStop wallboard?

18 A. I would have to go -- if you provide the
19 formulas, we can look at the formulas real quick and
20 I could do the calculations. As I recall it might
21 be 50 pounds as a product that weighs 2300 pounds,
22 five-eighths FireStop. Two percent would be
23 vermiculite.

24 Q. So you had about 50 pounds of vermiculite
25 in each wallboard?

1 A. No, sir. In each thousand square feet of
2 wallboard.

3 Q. So in each piece of wallboard, how much?

4 A. Four by eight sheets there's I think 32
5 pieces, so something around a pound and a half of
6 vermiculite in each sheet.

7 Q. So you had about a pound and a half of
8 vermiculite in each sheet of FireStop wallboard that
9 you sold?

10 MS. HANSEN: Objection to the form. Lack
11 of foundation.

12 A. I would like to go back to the formulas to
13 be certain, but that seems to be, relatively speaking,
14 close, yes, sir.

15 Q. Did you ever go back to calculate the
16 amount of asbestos-containing vermiculite that you
17 purchased and incorporated into your products over
18 the years?

19 MS. HANSEN: Objection to the form.
20 Overly broad, foundation.

21 A. No, sir, I have not.

22 Q. Do those records exist?

23 A. I don't know.

24 MR. PLACITELLA: Mark this as P-2.

25 (The above document is marked

1 Exhibit P-2 for Identification.)

2 Q. You have in front of you P-2 for
3 Identification. Have you had ever seen this before?

4 A. No, sir.

5 Q. You were aware at some point in time that
6 the EPA conducted an investigation of
7 Georgia-Pacific as it related to the use of
8 asbestos-containing vermiculite in its wallboard?

9 A. I wasn't aware of that, no, sir.

10 Q. You never knew that?

11 A. No, sir.

12 Q. You never knew that the EPA came in and
13 actually interviewed the people in the plants at
14 Georgia-Pacific who made the wallboard?

15 MS. HANSEN: Objection, foundation.

16 A. I didn't know that, no, sir.

17 Q. What is in front of you is, as I understand
18 it, is a document prepared by the EPA summarizing
19 the sales of asbestos-containing vermiculite for
20 use in Georgia-Pacific plants. Do you see that?

21 MS. HANSEN: Objection as to the
22 foundation of this document.

23 A. I have a document. I have no idea where
24 it came from or put together.

25 Q. Well, I'll establish it. Can you go to

1 the second page of the document?

2 A. Okay, yes, sir. I think I'm there.

3 Q. The document sets forth the date of the
4 invoice, the name of the plant, where it was shipped
5 to and the amount, correct?

6 A. All that information is there. Who
7 prepared this document -- I recognize the plants and
8 I recognize.

9 Q. Can you flip through this --

10 MS. HANSEN: Objection, counsel, your
11 phone is not muted.

12 Q. All of the plants that are set forth in
13 P-2 were Georgia-Pacific plants that made FireStop
14 wallboard, correct?

15 MS. HANSEN: Not to interrupt every
16 question, I would ask for a continuing line of
17 objections to any questions related to this document
18 for which there's no foundation.

19 Also, there appears to be another document
20 attached to the top. Did you intend that to be part
21 of the same exhibit relating to a company called
22 Temple Gypsum Company?

23 MR. PLACITELLA: No. That should come
24 out.

25 MS. HANSEN: Could I remove the last two

1 pages?

2 MR. PLACITELLA: Yes.

3 A. Again, there's a heading on this document
4 on each page entitled ship to location. I recognize
5 all of those as being Georgia-Pacific wallboard
6 plants, western U.S. that manufactured FireStop.

7 Q. And it talks about a number 4 crude
8 vermiculite. Is that the vermiculite you
9 incorporated into the wallboard, you, meaning
10 Georgia-Pacific?

11 MS. HANSEN: Objection, foundation.

12 A. Again, I don't know who created this
13 document. I think it could be -- I don't know. I
14 can't answer that specifically.

15 Q. Well, did you use something known as a
16 number 4 crude vermiculite in your gypsum wallboard?

17 A. We would have to go and I think you were
18 provided the raw material specifications.

19 Q. As you sit here today you don't know?

20 A. I don't know if it was designated as
21 number 4. Could be.

22 Q. So, for example, on the first entry it
23 says February 3, 1967, 50 tons were delivered to your
24 Fort Dodge, Iowa, plant, correct?

25 A. That's what his documents says, yes, sir.

1 Q. And then a couple of weeks later there was
2 90 tons delivered to your Utah plant, correct?

3 A. That's what this document says, yes. sir.

4 Q. And then six days after that there was 42
5 tons delivered to your Kansas plant, correct?

6 A. Again, that's what the document says, yes,
7 sir.

8 Q. And these entries go all the way up to May
9 1985, correct?

10 A. That's what this document shows, yes,
11 sir.

12 Q. Who is it at Georgia-Pacific do I have to
13 ask questions to verify that this is the actual
14 volume of material that you purchased in these
15 various plants?

16 A. Who would you ask? I don't know who you
17 would ask. I don't know if those records are
18 maintained.

19 Q. Did you maintain records at these various
20 plants of the purchases of this material, the Libby
21 vermiculite?

22 A. As plant manager, we kept weekly, monthly
23 inventory of all raw materials. I'm not sure if
24 those records have been maintained.

25 Q. Do you know if those records still exist?

1 A. I do not.

2 MR. PLACITELLA: If those records do
3 exist, I would appreciate those being produced.

4 Q. Now, the first time that W.R. Grace
5 actually warned you that there was asbestos in the
6 Libby vermiculite that you were using in your
7 wallboards dated back before 1981, did it not?

8 MS. HANSEN: Objection to the form,
9 foundation.

10 A. Not to my knowledge, no, sir.

11 MR. PLACITELLA: Mark this as P-3.

12 (The above document is marked
13 Exhibit P-3 for Identification.)

13 Q. I show you what's been marked P-3 for
14 identification, a copy for your counsel.

15 You have in front of you P-3 for
16 Identification. This is an April, 1977 Material
17 Safety Data Sheet for the vermiculite for number 4
18 order. Do you see that?

19 A. I'm looking for the date. It says revised
20 May --

21 Q. Upper left hand corner.

22 A. Okay. April 28, 1977, okay.

23 Q. That's when you started getting this,
24 around April, 1977, pursuant to the direction of the
25 U.S. Department of Labor, correct?

1 MS. HANSEN: Objection, foundation.

2 A. I don't know when these were required by
3 or when that was enacted.

4 Q. When did you start supplying Material
5 Safety Data Sheets for the industrial products you
6 were selling?

7 A. I don't recall.

8 Q. Was it before 1977?

9 A. I don't recall. I should say I don't
10 know. I never have been asked that question. I
11 never looked into that. It is not a matter of
12 recalling. I don't know.

13 Q. This Material Safety Data Sheet, you would
14 agree, references April 28, 1977, correct?

15 MS. HANSEN: For the record, again, I
16 would like a continuing objection to this
17 particular -- the first couple of pages of this
18 exhibit as lacking foundation.

19 A. Sorry. Your question again, sir?

20 Q. The date for this is April 28, 1977.
21 That's all I'm trying to establish.

22 A. That's correct.

23 Q. And this Material Safety Data Sheet does
24 indicate, does it not, that there is asbestos in
25 this product?

1 A. I see you are talking about on page 2?

2 Q. Yes.

3 MS. HANSEN: Do you have both pages?

4 Okay.

5 A. Again, it says threshold limit value. I
6 don't know if that's the threshold limit or if
7 that's in fact the fiber count for this asbestos.
8 I'm not sure how to read that particular section,
9 but the word asbestos, airborne asbestos fiber
10 appears there, yes, sir.

11 Q. And you understand that the contaminant
12 asbestos in the Libby vermiculite was a mineral
13 known as tremolite, correct?

14 A. I don't know that, but it could be, yes,
15 sir.

16 Q. Do you see that the front page where it
17 talks about tremolite?

18 A. Section 2 says contains less than 2.4
19 percent by weight of natural occurring contaminant
20 tremolite.

21 Q. And you know the difference between an
22 amphibole asbestos fiber and chrysotile fiber, for
23 example?

24 A. I only testified about joint compounds.
25 We used chrysotile. I'm not familiar with various

1 fiber types.

2 Q. And you, Georgia-Pacific, you pay
3 experts, do you not, to blame tremolite as a cause
4 for mesothelioma in cases where you say you only
5 sold chrysotile?

6 MS. HANSEN: Objection to the form,
7 foundation, argumentative, improper.

8 A. I don't know what Georgia-Pacific says or
9 what their experts say.

10 Q. You know that tremolite causes
11 mesothelioma, do you not?

12 MS. HANSEN: Objection to the form,
13 foundation.

14 A. I don't know, sir, I'm not a doctor.

15 Q. Have you ever signed Answers to
16 Interrogatories indicating that you only sold a
17 product that contains chrysotile, therefore, it does
18 not cause mesothelioma?

19 MS. HANSEN: Objection, foundation.

20 A. I don't recall saying that, no.

21 Q. In 1982, there were actually internal
22 discussions at Georgia-Pacific about what to do over
23 the fact that there was asbestos in the
24 vermiculite you were putting in your wallboard,
25 correct?

1 A. Again, what I've said earlier was I was
2 the plant manager at Fort Dodge when it was brought
3 to my attention by hourly workers through their
4 union, that these warnings were in the rail cars
5 from a vermiculite received from Libby, Montana.
6 And as a result of that, we did have discussions and
7 we did do some air sampling and monitoring at our
8 Fort Dodge plant when I was there.

9 Q. Well --

10 A. So there were discussions, but I don't
11 recall any other discussions brought than that.

12 Q. Well these discussions went on throughout
13 Georgia-Pacific for years, correct?

14 MS. HANSEN: Objection, vague, lacking in
15 foundation.

16 A. I haven't seen any documents to that
17 effect. I don't recall any other discussions.

18 Q. Who is Jack Rauch?

19 A. I was the plant manager at Fort Dodge. He
20 was of the plant manager at Blue Rapids, Kansas.

21 Q. Did you ever have conversations with him
22 about it?

23 A. I don't recall. I remember that -- I
24 believe we both had the same union, so when he was
25 discussing it, we were discussing it at Fort Dodge,

1 but I don't think he and I talked about it as I recall.

2 MR. PLACITELLA: Can we mark this next.

3 (The above document is marked

4 Exhibit P-4 for Identification.)

5 Q. I show you what has been marked P-4 for
6 Identification, and I also put it up on the screen.

7 Have you ever seen that before?

8 A. Yes, I have.

9 Q. And this memo is from Jack Rauch, this
10 handwritten memo?

11 A. Yes, it is.

12 Q. And it is under a warning label that he
13 found, or someone at his plant found, and brought to
14 his attention, correct?

15 A. Correct.

16 Q. And the warning label says that the
17 vermiculite that is being used in the
18 Georgia-Pacific wallboard contains asbestos,
19 correct?

20 A. This is the same warning label that
21 Georgia-Pacific put on its joint compound products.
22 This is the OSHA language required.

23 Q. And it says it can cause serious bodily
24 harm?

25 A. That's what the label says, yes.

1 Q. And Mr. Rauch writes, he gets it and he
2 writes to a man named Joe. Who is Joe?

3 A. Joe Watt.

4 Q. Where did he work?

5 A. At this point in time he would have been
6 in Tiger, Oregon.

7 Q. What was his job?

8 A. I'm not sure what his title was, but he
9 had over site responsibilities for some formulations
10 for wallboard, kind of a technical support person
11 for the Gypsum Division of Georgia-Pacific for the
12 western plants.

13 Q. So a year after you first have your
14 discussions, there's more discussions at Jack
15 Rauch's plant and he actually brings it to the
16 attention of executives at Georgia-Pacific, correct?

17 A. Joe wasn't an executive, but he did bring
18 to it Joe's attention and I think it was a couple of
19 months or a month after my Fort Dodge matter. It
20 was about the same time period.

21 Q. And as soon as you got these warnings and
22 and you were made aware of them, you went out and
23 told all your customers that you were selling the
24 wallboard to that there was asbestos in your
25 wallboard, right?

1 MS. HANSEN: Objection to the form,
2 foundation.

3 A. What we did is it was brought to my
4 attention as plant manager by the hourly workers,
5 the union, and we contacted Tiger. I don't know if
6 I did directly or not. They had a gentleman, and
7 it is in the set of documents you have, a gentleman
8 named George Fowler came to the Fort Dodge plant and
9 did air sampling and monitoring of the individual
10 who actually broke open the bags and put them into
11 the elevator to go into the hopper, which ultimately
12 fed the mixer.

13 Those results showed that there was no
14 airborne asbestos fibers at that point, which then
15 meant to us, to me, to the union, that everything
16 was okay.

17 Q. My question was what?

18 A. Excuse me?

19 Q. What was my question?

20 MS. HANSEN: Objection.

21 A. Your question was about did we tell
22 customers.

23 Q. I said as soon as you found this out, you
24 went out and told your customers, correct?

25 A. No, sir. I told you what we did as soon

1 as we found out, but it wasn't contacting customers.

2 Q. Well, right then and there didn't you
3 start to look for substitutes for asbestos in your
4 wallboard?

5 MS. HANSEN: Objection to the form,
6 foundation.

7 A. Again, the test results, I haven't
8 talked to anybody about this issue that was there in
9 a management role. Again, being at Fort Dodge,
10 once we did the air sampling and determined there
11 was no exposure at the plant, somebody using the raw
12 vermiculite, we didn't go any further. We didn't do
13 anything in terms of looking, as I know, for a
14 substitute.

15 Q. Well who is Pat Hudgens?

16 A. Well, Pat Hudgens he is a former employee
17 of Georgia-Pacific.

18 Q. He worked in the Atlanta office?

19 A. Yes.

20 Q. What was his title?

21 A. I believe -- at what point in some time?

22 Q. 1983.

23 A. I believe he was the purchasing manager
24 for the Gypsum Division of Georgia-Pacific at that
25 point in time.

1 Q. He was the guy in charge of going out and
2 buying all the materials that went into the
3 wallboard, right?

4 A. Many of them, yes, sir.

5 Q. And he worked at corporate headquarters?

6 A. Yes.

7 Q. And after you had these internal
8 discussions about there being asbestos in the
9 vermiculite that you were putting in the wallboard,
10 Mr. Hudgens went out and tried to find a substitute
11 for asbestos in the wallboard, right?

12 A. I don't know what drove his decision.
13 Georgia-Pacific moved its offices in 1982, so that's
14 when Pat would have -- up until then a gentleman
15 named Ed Eason was in charge of purchasing. I'm not
16 sure exactly when Pat Hudgens -- it would probably
17 be sometime in '82 or '83 when he took that
18 position. So he may not have any knowledge. I
19 don't know what knowledge he had about what happened
20 in 1981 or early '82, as an example.

21 Q. You don't know that he, as the executive
22 in the home office of Georgia-Pacific in 1983, was
23 out looking for substitutes for asbestos for your
24 wallboard?

25 MS. HANSEN: Objection to the form.

1 A. Are you referring to a document? I
2 haven't looked at that issue. I don't know.

3 Q. I'm just trying to get a sense of
4 everything Georgia-Pacific was doing once they found
5 out that there was asbestos in the wallboard. One
6 of the things I thought I found out was they were
7 out looking for substitutes. Did you know that?

8 MS. HANSEN: Objection,

9 A. I just said I haven't seen any documents.
10 If there's a document.

11 MR. PLACITELLA: Can we mark this.

12 (The above document is marked
13 Exhibit P-5 for Identification.)

14 Q. I show you what's been marked P-5 for
15 Identification. It is a letter from Steve Williams
16 to Pat Hudgens, July 22, 1983, and I ask you if you
17 have ever seen that before?

18 A. I don't know that I've seen this before,
19 no.

20 Q. Does this document, in fact, reflect Mr.
21 Hudgens, who was in charge of purchasing, as you
22 have indicated, materials for the wallboard, that he
23 was out looking for substitutes for asbestos in the
24 wallboard? Is that the essence of what this
25 document shows?

1 MS. HANSEN: Objection, foundation.

2 Q. In the packet of documents you were given
3 there includes material specifications and this
4 particular vermiculite shows up as an approved
5 vermiculite for FireStop products, but in that same
6 specification, the W.R. Grace product is listed as
7 well.

8 A. I can't characterize it as substitute.
9 It is a secondary source, but not necessarily a
10 substitute.

11 Q. It doesn't talk about in that document,
12 sir, that one of the reasons they should buy it is
13 because it is asbestos free?

14 A. This is a document provided by the
15 Strong-Lite Corporation. This isn't an internal
16 Georgia-Pacific memo. It does say that as we
17 discussed by phone last week we are now in a
18 position to supply you with an asbestos free
19 vermiculite for meeting your specifications for
20 your fire rated wallboard. That is what it says.

21 Q. My question earlier was, Georgia-Pacific
22 was out looking and talking to people about getting
23 an asbestos free product to put in their wallboard?

24 MS. HANSEN: Objection to the form.
25 Speculative. The document speaks for itself.

1 A. Yes. Again, what I'm saying is they were
2 certainly out, or somebody approached them about
3 selling them this vermiculite and it was in fact
4 ultimately approved as a vermiculite for the use in
5 fire rated products.

6 Q. That took what, another three years to do?

7 A. Excuse me?

8 Q. That took another three years to approve
9 that product?

10 A. I don't know what the time line exactly
11 is. We haven't been able to determine exactly when
12 we stopped buying from Libby, Montana.

13 Q. Well, I showed you the EPA summaries that
14 showed you stopped buying it in May of 1985. Does
15 that refresh your recollection?

16 A. Again, I don't know where this document
17 came from. I agreed with you that was the date.
18 First time I've seen it, sir.

19 Q. Four years after you had your
20 conversations in your plant about asbestos being in
21 the Georgia-Pacific wallboard, they were still
22 discussing what to do about it in 1985, correct?

23 MS. HANSEN: Objection to the form,
24 argumentative, lacks foundation.

25 A. I don't see any documents to that effect.

1 Q. Who is P.W. Larson?

2 A. Paul Larson, long time employee of the
3 Gypsum Division of Georgia-Pacific.

4 Q. What was his job?

5 A. He had various jobs.

6 Q. What was his job in 1985?

7 A. I believe he was plant manager at the
8 Lovell, Wyoming plant.

9 Q. And who was T.W. Richards?

10 A. That would have been his boss at that
11 time, operations manager for the western plants.

12 Q. And J.R. Hurd, who was he?

13 A. He was the safety and personnel manager
14 for the Gypsum Division of Georgia-Pacific.

15 Q. And you are aware, are you not, that
16 Mr. Larson circulated a memo about what to do about
17 the asbestos in the W.R. Grace vermiculite in
18 May 1985?

19 A. I have seen a memo that Mr. Larson
20 authored at that point, yes, sir.

21 Q. And when is the first time you saw that
22 memo?

23 A. I don't recall.

24 Q. Was it in the last two weeks? The last
25 months? Two years ago?

1 A. I've seen it, obviously, as part of the
2 package you were provided in the last few weeks.
3 Whether I saw it beforehand is really where my
4 uncertainty comes. I don't recall.

5 MR. PLACITELLA: Mark this next.

6 (The above document is marked
7 Exhibit P-6 for Identification.)

8 Q. I'm going to show you what's been marked
9 P-6 for Identification and ask you if you can
10 identify it. I put a copy up on the screen.

11 A. Yes, I've seen this. I reviewed it in
12 preparation for this deposition.

13 Q. This memo from May 29, 1985, would that
14 indicate to you you were still purchasing
15 asbestos-containing vermiculite from W.R. Grace?

16 A. Yes.

17 Q. And this would have been four years after
18 you had your discussion?

19 A. Approximately, yes, sir.

20 Q. And do you see in that document where it
21 talks about reviewing the Material Safety Data
22 Sheets for the product?

23 A. He will send me copies of manufacturers
24 safety data sheets, yes.

25 Q. So you did have access to the Material

1 Safety Data Sheets for the W.R. Grace Libby
2 vermiculite, correct?

3 A. We did have access?

4 Q. Yes.

5 A. I assume so, yes, sir.

6 Q. And this is the same warning that they were
7 discussing back in 1982 and what to do about it, right?

8 A. It is the same warning, yes, sir.

9 Q. And from 1981 until 1985, no warning was
10 provided to any customer, correct?

11 A. That's correct.

12 Q. No warning was ever provided to any
13 customer, correct?

14 A. That's correct.

15 Q. In fact, the first people to ever find
16 out, other than government officials, that there was
17 asbestos in your wallboard are the people that are
18 sitting in this room today, correct?

19 MS. HANSEN: Objection to the form,
20 foundation, speculative and improper.

21 A. I don't know.

22 Q. To your knowledge?

23 A. I don't know.

24 Q. To your knowledge has anyone outside the
25 corporation of Georgia-Pacific been told up until

1 today that there was asbestos in your wallboard
2 other than government officials?

3 MS. HANSEN: Objection, foundation.

4 Mr. Schutte is not in a position to say what
5 Georgia-Pacific has produced to other lawyers prior
6 to today. He testified to that.

7 A. You have to repeat the question. I'm
8 sorry.

9 Q. Maybe it was a bad question.

10 Do you have any evidence or any
11 information to indicate that before today in this
12 deposition that Georgia-Pacific ever told anybody
13 that there was asbestos in the wallboard, other than
14 Georgia-Pacific employees?

15 MS. HANSEN: Same objections.

16 A. I'm trying to think. I seem to have a
17 recollection of being asked and commenting on the
18 contaminated vermiculite at a deposition, but that
19 would have been the extent of it as I recall.

20 Q. What did you say in that deposition?

21 A. I think I acknowledged there was a minute
22 amount of asbestos in it as a contaminant to the
23 vermiculite, to some vermiculite.

24 Q. Where did you give that deposition?

25 A. It was Atlanta, Georgia. I don't recall

1 the specifics.

2 Q. Who was the lawyer that was there
3 representing you?

4 A. I don't recall.

5 Q. Did you know that the EPA visited the
6 Lovell, Wyoming plant in May 2000 to investigate the
7 use of asbestos in your wallboard?

8 A. No, sir.

9 MR. PLACITELLA: Mark this P-7.

10 (The above document is marked
11 Exhibit P-7 for Identification.)

12 Q. You have in front of you P-7 for identification.

13 A. Yes, I do.

14 Q. I'll represent to you that I pulled this
15 off the EPA's website with the site at the top,
16 www.gao.gov. Do you see that?

17 A. Yes.

18 Q. For example, the first page talks about
19 that this plant received over 2,000 tons of
20 asbestos-containing vermiculite, correct?

21 MS. HANSEN: I would like to insert an
22 objection here to the use of this document for which
23 no foundation has been established.

24 MR. PLACITELLA: Okay.

25 A. The opening under the results of

1 evaluation, it says, "According to an EPA database
2 compiled from W.R. Grace shipping invoices, 2,040
3 tons of vermiculite from the Libby mine were shipped
4 to this site, meaning the Lovell plant, between
5 February 1968 and January 1979." And it indicates,
6 does it not, that the EPA actually interviewed
7 people at the plant for Georgia-Pacific?

8 A. Taking a look at it, I have never seen it
9 before.

10 Q. Look at the right column where it says
11 according to Georgia-Pacific officials.

12 MS. HANSEN: Counsel, again we have no
13 foundation for this document. Mr. Schutte has no
14 personal knowledge, but the document says what it
15 says.

16 A. That's what it says, according to
17 Georgia-Pacific officials. It goes on to say when
18 the plant was built, and so on.

19 Q. And he said he was, whoever it was, was
20 told by Georgia-Pacific officials that they stopped
21 purchasing Libby vermiculite in the late 1970s,
22 correct?

23 A. Late '70s or '80s. The documents says
24 what it says, sir. Are you asking me beyond that?

25 Q. As you sit here today you never knew that

1 various Georgia-Pacific officials were interviewed
2 about the asbestos in use in its wallboard, correct?

3 A. I said I wasn't aware that the EPA visited
4 the Lovell plant. That is what I testified, yes,
5 sir.

6 Q. Now, are there occasions in the course of
7 renovations where wallboard is ever knocked down and
8 demolished?

9 A. Walls are knocked down and demolished
10 periodically, yes, sir.

11 Q. And that includes wallboard?

12 A. Yes.

13 Q. And that would include, on some occasions,
14 fire rated wallboard, correct?

15 A. It could, yes, sir.

16 Q. And is that a clean or dusty process?

17 A. Depends on who does it and how they do
18 it.

19 Q. Have you had ever seen it done where it
20 was a real dusty process?

21 A. No, sir.

22 Q. If you were in a room where they were
23 knocking down your wallboard with that blue suit, on
24 would you come out full of white dust?

25 A. I would have some white dust, but I'm not

1 sure it came from wallboard. There could be dust.
2 Demolition is a dirty process.

3 Q. Right. It could also come from your joint
4 compound, for example?

5 A. It could come from a variety of things
6 yes.

7 Q. And Georgia-Pacific never went back and
8 warned anyone that the demolition of wallboard that
9 it had installed all over the United States could
10 release asbestos fibers during demolition, did it?

11 MS. HANSEN: Objection. Lack of
12 foundation, vague, speculative, argumentative.

13 A. No, sir.

14 Q. You never warned anybody that people
15 cutting fire rated wallboard would be cutting into
16 wallboard that contained asbestos, did you?

17 MS. HANSEN: Same objections.

18 A. Again, it contained vermiculite that was
19 contaminated with trace amounts of asbestos. So we
20 did not warn anyone, no, sir. There wasn't a need
21 to.

22 Q. There was no need to?

23 A. No, sir.

24 Q. And who made that determination, you?

25 A. Well, again, there was no airborne dust at

1 the plant when we were using the raw asbestos. I
2 wasn't the decision maker, no, sir.

3 Q. Who is the one that decided that people
4 didn't need to be warned, that when they knocked
5 wallboard down in demolition that they might be
6 exposed to asbestos from your product? Who made
7 that decision?

8 MS. HANSEN: Objection, foundation.

9 A. I don't know. Whoever discussed or who
10 would have made that decision. It don't know. It
11 wasn't me.

12 Q. Is that a decision you would have made?

13 A. Excuse me?

14 Q. Is that a decision you would have made?
15 Is that something you would have recommended, no
16 warning to those kinds of people,, those kinds of
17 workers?

18 MS. HANSEN: Objection, argumentative.

19 Q. So you don't think that it warrants a
20 warning for people who would go knock down your
21 wallboard and demolish rooms full it of it, that
22 there might be asbestos in the wallboard?

23 MS. HANSEN: Objection, argumentative.

24 A. You are talking about trace amounts of
25 asbestos and I'm not sure, I haven't done, talked to

1 anyone about where the asbestos is in the
2 platelets in the unexpanded vermiculite, whether
3 it could or would be released at all under any
4 circumstances.

5 Q. You were warned by your own suppliers,
6 were you not that even slight exposure to asbestos
7 can cause mesothelioma?

8 MS. HANSEN: Objection, foundation.

9 A. No, sir.

10 Q. Yes, you were, weren't you?

11 A. No, sir.

12 Q. Have you ever tried to estimate how many
13 people came into contact with your fire rated
14 wallboard that either had to cut the wallboard or
15 demolish it?

16 A. No, sir.

17 Q. Did you ever issue a recall on any of the
18 wallboard that you had sold that contained asbestos?

19 MS. HANSEN: Objection, foundation.

20 Assumes facts not in evidence, specifically object
21 to the term asbestos in wallboard.

22 A. To my knowledge there was no recall of our
23 wallboard.

24 Q. And you never mentioned that you had
25 asbestos in the wallboard in the thousands of

1 interrogatories answers that you certified on behalf
2 of Georgia-Pacific over the last ten years, did you?

3 MS. HANSEN: Same objections.

4 A. Again, I already testified to that.
5 That's correct.

6 Q. And you sold other products,
7 Georgia-Pacific, that contained this asbestos
8 contaminated vermiculite, didn't you?

9 A. I don't believe so.

10 Q. You didn't sell products for fertilizer
11 that contained asbestos all over the United States?

12 MS. HANSEN: Objection, foundation.

13 A. I'm not sure what products you are
14 referring to.

15 Q. Did you ever hear of a product known as
16 Redi Earth that was sold by Georgia-Pacific?

17 A. Never heard of it.

18 Q. Did you have a plant in Cottage Grove,
19 Oregon and Fort Bragg, California, you,
20 Georgia-Pacific?

21 A. No one asked me to look at that. I
22 recognize the name Fort Bragg. Beyond that, I don't
23 know anything about those facilities.

24 MS. HANSEN: Objection to the extent these
25 questions call for knowledge and information of a

1 corporate witness beyond the scope of this
2 deposition notice and beyond the scope of the
3 Georgia-Pacific Gypsum Division

4 Q. Was there a separate division for the
5 plant at Eugene, Oregon or Cottage Grove, Oregon?

6 A. I have no idea. It wasn't part of the
7 Gypsum Division.

8 MR. PLACITELLA: Mark these as a
9 group.

10 (The above documents are marked
11 Exhibit P-8 for Identification.)

12 Q. You have in front of you P-8. There are
13 various documents relating to the purchase by
14 Georgia-Pacific of a product known as Redi Earth.
15 Do you see that?

16 A. Again, these are all new to me, so I'll
17 have to -- I'm not sure what I'm even looking at.
18 Are you looking at a specific page or portion?

19 Q. I can go through each one. Do you see
20 there's invoices in the back for bags of Redi
21 Earth, 1,000 bags to Cedar Grove or Eugene, Oregon?

22 A. I see that, yes.

23 Q. The reason I'm asking --

24 MS. HANSEN: May I interpose an objection?

25 MR. PLACITELLA: Sure.

1 MS. HANSEN: Thank you, very much. I
2 object to this exhibit as lacking in foundation and
3 beyond the scope of this Deposition Notice, and it
4 is also very likely beyond the scope of knowledge
5 and information of this witness who is testifying
6 with respect to the knowledge and information of
7 Georgia-Pacific's Gypsum Division.

8 Q. The reason I ask the question is when you
9 certify your Answers to Interrogatories about
10 asbestos products that you used and sold, you didn't
11 include anything about fertilizer that you were
12 spreading around the United States that contained
13 asbestos, did you?

14 MS. HANSEN: Same objection.

15 A. Sir. I don't know anything about these
16 documents. Never saw them before. I don't know the
17 product. Can't speak to what these products contain
18 or didn't contain.

19 Q. How about attic insulation? Was that part
20 of your division? Did you make attic insulation?

21 A. No, sir.

22 Q. So you don't know anything about
23 Georgia-Pacific buying vermiculite from W.R. Grace
24 for attic insulation?

25 MS. HANSEN: Same objections.

1 A. I don't know if they did or didn't, no,
2 sir.

3 Q. Just go to the last page.

4 A. Excuse me? The last page? Okay.

5 Q. Do you see here shipments to
6 Georgia-Pacific in Washington of 1,355 bags of attic
7 fill?

8 A. I see that, yes, sir.

9 Q. You don't know anything about that?

10 A. No, sir.

11 Q. So when you provided Answers to
12 Interrogatories about asbestos-containing products
13 that were sold by Georgia-Pacific, you didn't know
14 anything about potential sales of attic fill?

15 MS. HANSEN: And I repeat my same
16 objections as stated earlier.

17 A. I don't know anything about attic fill,
18 what it contained, didn't contain.

19

(Short recess)

20

21 Q. Mr. Schutte, referring back to your
22 testimony about steps you took, meaning you,
23 Georgia-Pacific, as it relates to the Libby
24 vermiculite in your plants.

25 I take it that you did whatever was

1 necessary to make sure the employees in your plant
2 were protected, correct?

3 A. Well, again, based on the sampling we did,
4 the testing we did, there was no protection that we
5 had to give to our employees.

6 Q. Well, was there --

7 A. There was no asbestos found on the air
8 sampling.

9 Q. Was there ventilation in the place where
10 the vermiculite was being dumped?

11 A. Not as I recall.

12 Q. How about in the other plants? Was there
13 ventilation in plants where the vermiculite was
14 being dumped?

15 A. I can't speak with certainty.

16 Q. Can you pick up P-3 for Identification?

17 MS. HANSEN: Which one was that,
18 counsel?

19 MR. PLACITELLA: The Material Safety Data
20 Sheet.

21 A. I have it.

22 Q. In reference to your testimony about trace
23 amounts, you see on the first page where it says the
24 normal physical handling given to vermiculite
25 concentrate can create airborne fiber level in

1 excess of OSHA limits? Do you see that?

2 A. Excuse me one second, yes. I see that,
3 yes, sir.

4 Q. And it says things you should do to make
5 sure that people who are handling the product
6 include enclosure. Do you see that?

7 A. Compliance with standards can be assured
8 by various methods, including enclosure. Yes, sir,
9 I see that.

10 Q. Did you do enclosure for your employees?

11 A. Again, I don't recall that we did, no,
12 sir.

13 Q. Did you do it for the customers?

14 A. Wouldn't be any need to. Again, we
15 tested. There was no airborne asbestos fibers at
16 the point where the individual was handling the
17 vermiculite.

18 Q. How many tests did you run?

19 A. As far as I know that is the only one we
20 did.

21 Q. You only ran one test in your plant one
22 time?

23 A. That's all I'm aware of.

24 Q. Do you have those tests results?

25 A. There's a document in the package you got

1 to that effect. That's all I've seen and that's
2 consistent with my recollection.

3 Q. And you gave those test results to
4 everybody else in the Georgia-Pacific Corporation?

5 A. I don't know how it was disseminated to
6 others.

7 Q. What method did you use for counting the
8 asbestos fibers?

9 MS. HANSEN: Objection, foundation.

10 A. Again, what I remember the test being
11 done, was at Fort Dodge. It came back there was no
12 issue given the results, but I don't know the
13 specifics.

14 Q. Who ran the test?

15 A. A gentleman named George Fowler.

16 Q. And did you test whether asbestos was
17 going to be released when you cut the wallboard?

18 A. No.

19 Q. Did you test to determine whether asbestos
20 would be released when you had to demolish the
21 wallboard?

22 A. No. There was no other testing done to my
23 knowledge.

24 Q. This also says that in order to make sure
25 people work safely with the product that exhaust

1 ventilation should be used.

2 Did you ever warn customers to use exhaust
3 ventilation?

4 MS. HANSEN: Objection to the form and
5 foundation.

6 A. What it says is compliance with standards
7 can be insured. I don't know what the standard
8 actually was and whether it was required for
9 customers. I don't think so. Again, I'm not expert
10 on that.

11 Q. Well, according to Grace, they did tests
12 and they found out that airborne asbestos levels
13 could exceed OSHA limits, didn't they?

14 A. That's what it says.

15 Q. They also say that people who are handling
16 this product should be given respirators, don't
17 they?

18 MS. HANSEN: Objection to the form and
19 foundation.

20 A. Does it say that?

21 Q. Look under the section, Special Protection
22 Information.

23 A. Again, what it says is also see OSHA
24 standard 1910.1001 personal protective equipment for
25 dealing with work environments in excess of exposure

1 limits, and we tested the exposure at our plant,
2 individual using, handling the vermiculite and there
3 was no exposure. There were no fibers.

4 Q. How many bags did that person dump?

5 A. It is in there. I'm trying to think. It
6 is in that report. I don't recall.

7 Q. You don't remember whether there was
8 exhaust or not?

9 A. I don't recall there being an exhaust at
10 that point, no, sir.

11 Q. Now, I asked you specifically before. I
12 want to make sure we are clear. You indicate that
13 no supplier ever told you that even slight exposure
14 under the threshold limit can cause mesothelioma,
15 correct? When I say you, I mean Georgia-Pacific.

16 MS. HANSEN: Objection to the form,
17 foundation.

18 A. Again, I don't know who told who what. I
19 certainly wasn't told that.

20 Q. Do you know who John Walsh is?

21 A. Yes, sir.

22 Q. You have met him personally?

23 A. I did recall meeting him, but it is
24 possibly, yes, sir.

25 Q. He actually met with you while you worked

1 for Georgia-Pacific at the plant, correct?

2 MS. HANSEN: Objection,
3 foundation.

4 A. Yes, again, it is my understanding from a
5 call report that he did, yes, sir.

6 Q. You don't recall that?

7 A. No, sir.

8 Q. John Walsh testified that he told you,
9 Georgia-Pacific, specifically, that slight exposure
10 to asbestos can cause mesothelioma, correct?

11 MS. HANSEN: Objection, foundation.

12 A. I don't recall what he testified to.

13 MS. HANSEN: I'll have a continuing
14 objection to this line of questioning as beyond the
15 scope of this Deposition Notice.

16 MR. PLACITELLA: I just asked him
17 questions. He said it never happened.

18 Q. I'm going to show you what Mr. Walsh
19 testified to a few months ago. You tell me if it is
20 true or not.

21 VIDEO OF JOHN WALSH DEPOSITION BEING PLAYED:

22 "You have in front of you Plaintiff's
23 Exhibit 2 in this case. Can you tell me what this is?

24 Answer: This is our 1969 toxicology
25 report which replaced the '64 report.

1 Question: Is it the report that you
2 indicated that Dr. Rhodes was giving out to
3 customers, including Georgia-Pacific?

4 Answer: This is what he would have been
5 giving to Georgia-Pacific because I don't think they
6 began to buy until about '69, '68 until they would
7 have gotten this report.

8 Question: And does this report again
9 reiterate some of the same information that was in
10 your 1968 brochure for tape joint compound?

11 Answer: Well, it talks a little bit about
12 that Walsh-Healey deal, the number and in this
13 particular report it also talks a little bit more
14 about specific type of cancer, mesothelioma.

15 Question: And does this report once again
16 warn about the tingle effect on the first page of
17 the report?

18 Answer: Yes, it talks about tingle.

19 Question: In other words, you are telling
20 your customers that the only way you can really ever
21 see all the dust in the air related to asbestos
22 would be through a tingle beam, correct?

23 Answer: It is the same wording as was in
24 the '68 brochure.

25 Question: And in your toxicology report,

1 also related to customers information on a cancer
2 known as mesothelioma?

3 Answer: Yes. The last paragraph of the
4 first page.

5 Question: Was this important information
6 for you to provide?

7 Answer: Well, we provided information on
8 the health aspects of our product, yes.

9 Question: Did you tell the customers
10 whether there was an issue about whether you could
11 get mesothelioma through asbestos exposure above or
12 below the threshold limit value?

13 Answer: Would you ask that question
14 again?

15 Question: Sure. You indicate here, do
16 you not, for the data available it appears that the
17 TLV, that means threshold limit value, of 5 million
18 particles per cubic foot may not be low enough to
19 protect against mesothelioma, correct?

20 Answer: That was Dr. Dunell, the head of
21 our medical department's opinion, yes.

22 Question: And you also told your
23 customers, including Georgia-Pacific, that even
24 slight exposures, 20 to 40 years ago, may cause
25 mesothelioma on that same paragraph?

1 Answer: Specific to that, yes.

2 Question: Counsel referred to the
3 toxicology report, which was Exhibit 2. Did you not
4 tell Georgia-Pacific in your toxicology report that
5 you can't rely upon the threshold limit value when
6 it comes to mesothelioma?

7 (Form Objection)

8 Question: Let me rephrase it. Looking at
9 the last paragraph, first page, what did you tell
10 Georgia-Pacific about relying upon the TLV when it
11 came to mesothelioma?

12 Answer: Again, it is the same thing.
13 This was a very fluid situation. New information
14 was coming into the market on a regular basis. I
15 believe our health people, the last sentence on the
16 first page of our toxicology report says research on
17 the problem continues. We said it may not be low
18 enough to protect against mesothelioma.

19 Question: And did you tell them that even
20 slight exposure might cause mesothelioma?

21 (Form Objection)

22 Answer: We gave them this report.

23 MR. PLACITELLA: What's wrong with the
24 form?

25 GP ATTORNEY: Calls for speculation.

1 Question: Did you say on this report you
2 gave to Georgia-Pacific, you, meaning Union Carbide,
3 "only slight exposure" can cause mesothelioma, on
4 the last paragraph, first page of the report, first
5 page?

6 Answer: First page, last paragraph. What
7 is your question?

8 Question: Did you say these tumors, while
9 rather few in number to date, may occur in
10 individuals histories of only slight exposures?

11 Answer: That's in the report, yes."

12 END OF VIDEO CLIP

13 BY MR. PLACITELLA:

14 Q. Had you heard that testimony before today?

15 A. No, sir.

16 Q. Do you have any evidence as you sit here
17 today to refute Mr. Walsh's testimony that he
18 specifically told, that Union Carbide specifically
19 told Georgia-Pacific that slight exposure to
20 asbestos was capable of causing mesothelioma?

21 MS. HANSEN: Objection.

22 A. No. What I can say is I didn't see the
23 document he is referring to. And my understanding
24 is others have testified that they haven't seen the
25 documents that he is referring to and to our

1 knowledge no one received the documents he is
2 referring to. Beyond that I can't really speak to
3 it.

4 Q. Do you have any evidence as you sit here
5 today to dispute Mr. Walsh's testimony that he
6 specifically, that is Union Carbide, specifically
7 told Georgia-Pacific that slight exposure to
8 asbestos can cause mesothelioma?

9 MS. HANSEN: Objection. Asked and
10 answered.

11 MR. PLACITELLA: Not a valid objection.

12 MS. HANSEN: Sure it is.

13 A. I don't have any proof of that, no, sir.

14 Q. Now, you saw the picture of this man.
15 Does that refresh your memory of whether you saw him
16 in the plant?

17 A. No, sir.

18 Q. I asked him if he remembered you and he
19 seems to remember you, so maybe this will refresh
20 your memory.

21 VIDEO OF JOHN WALSH DEPOSITION BEING PLAYED:

22 "Question: Did you know, while you were
23 working for Union Carbide, a man who worked for
24 Georgia-Pacific, an many by the name of Howard
25 Schutte?

1 Answer: Yes. He was in Quannah when I knew
2 Howard. He was in the quality control.

3 Question: And did you have personal
4 contact with him?"

5 END OF VIDEO CLIP

6 Q. Were you in Quannah?

7 A. Yes.

8 Q. Were you in quality control?

9 A. Yes, sir.

10 Q. Did Mr. Walsh specifically tell you that
11 in order to protect people who were using your
12 products that you should make sure that they only
13 wet sand your joint compound and also make sure they
14 take appropriate precautions? Did he tell that?

15 A. I don't have any recollection of meeting
16 him, which I testified to already.

17 VIDEO OF JOHN WALSH DEPOSITION BEING PLAYED:

18 "Question: What should be placed on any
19 Georgia-Pacific Redi Mix Joint Compound?

20 Answer: The only two subjects I recall in
21 that area is one time at the Marietta plant
22 Mr. Flavano had asked me or told me they were in the
23 process of putting a label on their joint cement
24 can. Did we have any input we wanted to put in
25 there? I suggested they put if sanding is being

1 done, to wet sand or wet sponge.

2 Another instance was at Quanah with
3 Mr. Schutte, Mr. Howard Schutte where he was asking,
4 I'm not sure if it was about their pails or a
5 contractor was asking him what should he do and I
6 suggested the same thing.

7 Question: You told him to the wet
8 sanding?

9 Answer: Wet sanding and wet sponging?

10 Question: Why did you tell him that?

11 Answer: It would eliminate degeneration."

12 END OF VIDEO CLIP

13 BY MR. PLACITELLA

14 Q. Do you recall their conversation with him?

15 A. No, sir.

16 MR. PLACITELLA: Mark this next.

17 (The above document is marked
18 Exhibit P-9 for Identification.)

19 Q. I show you what's been marked P-9 for
20 Identification, a copy for counsel. This is a May
21 19, 1975 memo from this Mr. Walsh. Do you see that?

22 A. Yes.

23 Q. And it talks about the Georgia-Pacific
24 Quanah, Texas plant. Do you see that?

25 A. Correct.

1 Q. You were there then, correct?

2 A. Yes.

3 Q. And it talks about people who he
4 interviewed and he said he interviewed the plant
5 manager, Sterling Clark?

6 A. If he interviewed, Sterling, Sterling was
7 not plant manager.

8 Q. Then it talks about talks Howard Schulde,
9 but that is misspelled. Should be Schutte?

10 A. Yes.

11 Q. You didn't have a Howard Schulde there at
12 the time?

13 A. No, sir.

14 Q. It says Howard Schulde was involved in
15 quality control and technical service, correct?

16 A. That's what he says. And I was involved
17 in quality control at that time.

18 Q. And in fact, this memo verifies what Mr. Walsh
19 just said, that he had a conversation with you and if
20 he told you that you should be using wet sanding and
21 and telling people to use wet sanding in order to
22 protect people who are using your product, right?

23 A. The document says what it says. As I
24 testified, I don't remember him meeting with me.

25 Q. Do you have any evidence to dispute either

1 his testimony or this document?

2 A. I don't have any, no, sir.

3 Q. Now, you also told me in prior depositions
4 that you, Georgia-Pacific, never received any
5 warning from Union Carbide on their bags, correct?

6 A. What I said is I don't recall seeing any
7 warnings on their bags, that's correct.

8 Q. And I asked Mr. Walsh a couple of months ago
9 that question. Did they ever tell you, and this is what
10 he said.

11 VIDEO OF JOHN WALSH DEPOSITION BEING PLAYED:

12 "Question: I asked Mr. Schutte the
13 following question. I said did you have an
14 opportunity to see bags from Union Carbide? His
15 answer, yes, sir.

16 Did any of those bags ever have a warning or
17 caution label on them? His answer, not as I recall.

18 Is that an accurate statement, Mr. Walsh?

19 Answer: Our bags from July 1968 forward
20 all contained the asbestos warning. We labeled all
21 bags. So I don't know. Maybe he didn't see it. I
22 don't know.

23 Question: But as far as you understand,
24 that is an inaccurate or a wrong statement that
25 there was no warning on your asbestos bags?

1 (Form objection)

2 Answer: To me that statement is incorrect."

3 END OF VIDEO CLIP

4 BY MR. PLACITELLA:

5 Q. How do you respond to that?

6 MS. HANSEN: Objection to the form.

7 A. Same way I always have. I don't recall
8 seeing any warning label on the bags.

9 Q. So as we sit here today, for the jury who
10 watches this tape, you dispute that Union Carbide
11 told you that beginning in 1968 that there was a
12 danger from using asbestos on bags, correct?

13 MS. HANSEN: Objection.

14 A. Dispute?

15 Q. You dispute it?

16 A. My testimony is I didn't receive that
17 document he was talking about. And to my knowledge
18 did anyone else. I'm saying I don't recall meeting
19 him. I'm saying I don't recall seeing a label on
20 the bags. That's what I'm testifying to.

21 Q. So if you are asked in trial before a jury
22 do you dispute Mr. Walsh's testimony that there were
23 warning labels on the bags that went to all of your
24 plants, what is your testimony going to be?

25 A. I don't recall seeing a warning label on

1 those bags. If that's a dispute of his testimony,
2 it is. That's what I testified and that's what I
3 will testify.

4 Q. And you are also going to dispute that
5 Union Carbide gave you their toxicology report that
6 says slight exposures to asbestos can cause
7 mesothelioma, correct?

8 A. I'm going to testify that I don't recall
9 getting that document.

10 Q. I'm not talking about you personally, I'm
11 talking about you, Georgia-Pacific. You are here to
12 talk about what Georgia-Pacific got, not just what
13 you got?

14 A. I did testify on behalf of
15 Georgia-Pacific. I said others have testified that
16 they didn't receive those documents and to my
17 knowledge no one has knowledge they received those
18 documents.

19 Q. So it is up to the jury to determine who
20 is telling the truth?

21 MS. HANSEN: Objection to the form.

22 A. I guess so, yes.

23 Q. Do you think he is not telling the truth?

24 MS. HANSEN: Objection to the form.

25 A. Do I think he is not telling the truth?

1 There's no reason -- I'm not going to call him a
2 liar. I don't know. I don't recall.

3 Q. This is a pretty significant issue, don't
4 you think, whether or not you were told that the
5 asbestos that was going in your product could kill
6 people?

7 MS. HANSEN: Objection to the form.
8 Argumentative. You have moved into badgering this
9 witness.

10 A. I don't know what you are asking me really
11 beyond what I already answered.

12 Q. It is a significant issue in these cases,
13 is it not, as to whether or not Union Carbide
14 specifically told Georgia-Pacific that slight
15 exposure to asbestos could kill people?

16 MS. HANSEN: Objection to the form,
17 argumentative, lacking in foundation, vague,
18 speculative.

19 A. I'm not a trial attorney. I don't know
20 what's significant or not. I'm just here to tell
21 people what happened, and tell the truth, what I
22 tried to do here today.

23 Q. You have told the truth for the last 20
24 years about whether there was asbestos in your
25 wallboard, right?

1 A. I believe so, yes, sir.

2 Q. And you have told everybody that has ever
3 asked you the question, up until today, that there
4 was asbestos in your wallboard, correct?

5 MS. HANSEN: Objection to the form.

6 A. No, sir.

7 Q. And when I asked you in the DeMayo case
8 would it be misleading to tell people that there was
9 no asbestos at all in your wallboard, and you told
10 me no, it would not be misleading, do you change
11 that testimony today?

12 A. Again, I'm sure at that time I was
13 thinking about the formulas, ingredients. I wasn't
14 thing about the asbestos.

15 Q. You weren't --

16 A. And minute amounts of asbestos that was
17 carried in the Libby vermiculite, no, sir.

18 Q. So you knew, but you just forgot to talk
19 about it?

20 MS. HANSEN: Objection to the form.

21 A. I believe that would be fair, yes, sir.

22 Q. Even though multiple people have asked you
23 this question on multiple occasions, it slipped your
24 mind every time?

25 MS. HANSEN: Objection.

1 A. I think when I was asked the question in a
2 deposition, I'll have to go back and look, I believe
3 I testified about the contamination issuance before.

4 Q. When I asked the question point blank, you
5 told me there's no asbestos in your wallboard,
6 without qualification, correct?

7 A. Again, I'm sure I was thinking about the
8 formulas and whether it was asbestos in the formula
9 versus any contamination.

10 Q. I didn't ask you about the formula though,
11 did I?

12 A. I don't recall exactly how you phrased it.

13 Q. So are you going to go back now and change
14 all your Interrogatory answers and write to all the
15 people who you testified where you said no asbestos
16 and say, oops, I made a mistake?

17 MS. HANSEN: Objection to the form.

18 A. I don't know what we will do, if anything.

19 Q. Well, do you think it would be fair at
20 this point to go back and change all of your sworn
21 answers to reflect the truth, which was that there
22 was in fact asbestos in your wallboard?

23 MS. HANSEN: Objection to the form.

24 Misstates prior testimony, argumentative, no
25 foundation.

1 A. I'm not the expert on that to say what we
2 as a company should or should not do.

3 Q. Well, sir, the next time you are asked to
4 certify a set of interrogatory answers as to what
5 products had asbestos in them, are you going to
6 insist that they include wallboard --

7 MS. HANSEN: Objection,

8 Q. Before you sign the answer?

9 MS. HANSEN: Objection. Form,
10 speculation, now you are getting into privileged
11 attorney/client communication.

12 A. Do I answer?

13 Q. You can answer.

14 MS. HANSEN: You can answer to the extent
15 it doesn't require you to talk before or speculate
16 about what communications you had with
17 Georgia-Pacific lawyers.

18 A. Frankly, it would be up to them to decide.
19 I'll talk to them.

20 Q. Why is it up to them to decide the truth?
21 I thought it was up to you?

22 MS. HANSEN: Objection to the form.
23 Argumentative, asked and answered.

24 A. You asked if I was going to change the
25 interrogatory answers, I think was your question. I

1 don't know if we will or not.

2 Q. I said will you insist before certifying
3 another interrogatory --

4 MS. HANSEN: Same objection,

5 Q. That asks for all the asbestos products,
6 asbestos-containing products ever sold, are you
7 growing to insist that they include wallboard before
8 you sign and certify the interrogatory?

9 MS. HANSEN: Objection,

10 A. The answer is, I don't know.

11 Q. What do you mean, you don't know?

12 MS. HANSEN: Calling for confidential
13 communications.

14 A. I don't know.

15 Q. Do you think your prior interrogatory
16 answers should be amended, given what we now know
17 about asbestos being in the Georgia-Pacific
18 wallboard?

19 MS. HANSEN: Objection. Improperly
20 calling for a legal conclusion. This witness has
21 been asked this question and now answered probably
22 four or five times. This is repetitive and
23 harassing the witness.

24 A. I don't believe so, no, sir.

25 Q. You are not going to go back and fix it?

1 MS. HANSEN: Objection. Same objection.

2 Q. I just want to make sure.

3 MS. HANSEN: Same objection. Calling for
4 a legal conclusion. Calling for --

5 MR. PLACITELLA: What is the legal
6 conclusion?

7 MS. HANSEN: As to what any individual
8 company or defendant in litigation is going to do
9 with respect to discovery responses is certainly a
10 legal conclusion. This witness is not going to talk
11 about what lawyers will or will not do nor is he
12 going to talk about communications he is going to
13 have or will not have with lawyers.

14 MR. PLACITELLA: I didn't ask him any of
15 those questions, did I? How about you? Are you
16 going to go back and change any of the answers?

17 MS. HANSEN: I interposed my objection.

18 MR. PLACITELLA: Okay.

19 Q. Do you think that it is completely
20 truthful to swear to Answers to Interrogatories
21 that ask for all products that contain asbestos that
22 were sold by Georgia-Pacific and leave out the
23 wallboard?

24 A. Do I think?

25 Q. Completely truthful?

1 MS. HANSEN: Same objection.

2 A. Again, I acknowledged that fire rated
3 produced in the western plants, Libby vermiculite
4 and vermiculite was in fact contaminated with minute
5 amounts of asbestos.

6 What we are required and how we are
7 required to answer the interrogatory, I'll have to
8 talk to the lawyers and see. I don't know.

9 MR. PLACITELLA: Read my question back.

10 (The above question and answer is read.)

11 MS. HANSEN: Asked and answered. Same
12 objection.

13 A. I believe so, yes.

14 MR. PLACITELLA: I'll take two minutes and
15 I think I'm almost done.

16 (Recess taken)

17 MR. PLACITELLA: That's all the questions
18 I have. Thank you.

19 (The deposition is concluded at 1:14 p.m.)
20
21
22
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25

C E R T I F I C A T E

1
2
3 I, MARC BRODY, Notary Public and
4 Certified Shorthand Reporter of the State
5 of New Jersey, do hereby certify that prior
6 to the commencement of the examination

7 HOWARD SCHUTTE

8 was duly sworn by me to testify the truth,
9 the whole truth and nothing but the truth.

10 I DO FURTHER CERTIFY that the
11 foregoing is a true and accurate transcript
12 of the testimony as taken stenographically
13 by and before me at the time, place and on
14 the date hereinbefore set forth.

15 I DO FURTHER CERTIFY that I am neither
16 a relative of nor employee nor attorney nor
17 counsel for any of the parties to this
18 action, and that I am neither a relative
19 nor employee of such attorney or counsel,
20 and that I am not financially interested in
21 the action.

22
23 Notary Public of the State of New Jersey
24
25

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