

IN THE COURT OF APPEALS

FILED IN OFFICE

STATE OF GEORGIA

APR - 6 2010

CLERK, COURT OF APPEALS OF GEORGIA

JOHN D. ADAMSON, etc.,  
Plaintiff/Appellant,

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v.

CASE NO. A09A2302

GENERAL ELECTRIC CO., et al.,  
Defendants/Appellees.

MOTION FOR REHEARING

David A. Webster  
Georgia Bar No. 744975  
127 Peachtree Street, N.E.  
415 Candler Building  
Atlanta, Georgia 30303-1810  
(404) 681-3070

*David A. Webster*  
CLERK/COURT ADMINISTRATOR  
COURT OF APPEALS OF GEORGIA

2010 APR - 6 AM 10: 39

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G. Patterson Keahey  
Member, Alabama Bar  
Law Offices of G. Patterson Keahey  
One Independence Plaza  
Suite 612  
Birmingham, AL 35209  
(205) 871-0707  
Attorneys for Plaintiff/Appellant

Counsel apologize for the several citation errors in their briefs. These lapses obviously caused the Court much unnecessary trouble. Appellant deeply regrets the extra investment required of the Court.

This Motion is addressed to two portions of the Court's opinion that suggest evidence was newly created for purposes of this appeal and Appellant's briefs. Those places are footnote 7 of the slip opinion, at page 15; and the first full sentence on page 17. Both segments deal with the deposition testimony of Bill Moore.

The problem is that Bill Moore gave more than one deposition in this case. His depositions were given back-to-back, on the same morning. They were taken down by the same court reporter. They were paginated separately, each beginning with page 1. The deposition included in this appellate record was Moore's second of the day. The first one, relatively short, is attached to this Motion as Exhibit A. For reasons unknown, that first deposition was not forwarded with this record. Both excerpts isolated in this Motion appear in that first deposition.

Moore's testimony cited on p. 22 of Appellant's brief, and referred to at pages 16-17 of the Court's slip opinion, appears at pages 43-44 of that earlier deposition. His testimony cited on page 13 of Appellant's reply brief, and referred

to in footnote 7 of the slip opinion, appears at pages 35-37 of that earlier deposition.

Due to miscommunication between counsel's offices, the cited excerpts were attributed to the deposition found in the appellate record, and Appellant omitted to file a relevant motion to supplement the record.

### CONCLUSION

Because Appellant did not make up evidence, he respectfully requests that the Court delete its footnote 7, on page 15 of the slip opinion; and the first full sentence on page 17.

This 31<sup>st</sup> day of March, 2010.



DAVID A. WEBSTER  
Georgia Bar No. 744975  
127 Peachtree Street, N.E. #415  
Atlanta, Georgia 30303-1810  
(404) 681-3070

  
G. Patterson Keahey (by *DAW*)  
Member, Alabama Bar

Law Offices of G. Patterson Keahey  
One Independence Plaza, Suite 612  
Birmingham, AL 35209  
(205) 871-0707  
Attorneys for Plaintiff/Appellant

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that I have caused to be mailed by United States Mail, postage prepaid, a true and correct copy of the above and foregoing to the following:

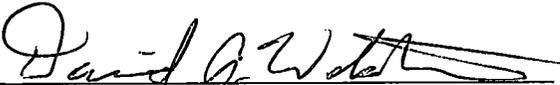
Everett Weathersby Houff  
3405 Piedmont Road  
Suite 200  
Atlanta, GA 30305

Robert A. Barnaby, II  
1050 Crowne Pointe Parkway  
Suite 1600  
Atlanta, GA 30338

Erin Elaine Shofner  
303 Peachtree Street  
Suite 4000 Suntrust Plaza  
Atlanta, GA 30308

John D. Dalbey  
3127 Maple Drive  
Atlanta, GA 30305

This 31<sup>st</sup> day of March, 2010.

  
\_\_\_\_\_  
David A. Webster

THIRD DIVISION  
BLACKBURN, P. J.,  
ADAMS and DOYLE, JJ.

NOTICE: Motions for reconsideration must be  
*physically received* in our clerk's office within ten  
days of the date of decision to be deemed timely filed.  
(Court of Appeals Rule 4 (b) and Rule 37 (b), February 21, 2008)  
<http://www.gaappeals.us/rules/>

March 22, 2010

In the Court of Appeals of Georgia

A09A2302. ADAMSON v. GENERAL ELECTRIC, et al.

AD-105

ADAMS, Judge.

John H. Adamson contracted and died from mesothelioma, a form of cancer caused by exposure to asbestos. Prior to his death, he brought suit against numerous parties allegedly responsible for his contact with asbestos. After his death, his son John D. Adamson took over the litigation as the executor of the estate. At issue in this appeal is whether the trial court properly granted summary judgment to six of the defendants.

The broad outline of the facts is not in dispute although the details are. The broad outline is that Adamson,<sup>1</sup> who was born on October 25, 1925, worked as an

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<sup>1</sup> In this opinion, we will refer to the decedent as “Adamson” and his son as the appellant.

electrician and an electrical crew supervisor for his entire 35-plus year career. From the early-1950s to 1967, he spent between 70 and 80 percent of his time at The National Test Reactor Station in Arco, Idaho known as "The Site" and the rest of the time at "a few jobs that I had back in around Pocatello and Idaho in a place called Soda Springs [a Monsanto Phosphate Plant]. I [also] worked on a phosphate plant [run by FMC Corporation]"; Adamson mentioned other jobs as well. At FMC, Adamson was employed by an electrical contractor—Bechtel Corporation—that had been hired by FMC. FMC admits that it supplemented its in-house electricians with electrical contractors from time to time.

From 1967 through his retirement, Adamson worked as a supervisor for an electrical contractor named EBASCO Services, which designed and built electrical power houses. During this time, he often worked in electric generating facilities. He stated several times that as a supervisor he did not do any hands-on work and that he had, at times, hundreds of electricians working for him. During this time, Adamson worked at many sites, and in his entire career, he worked at 18 or more job sites.

In his complaint, Adamson alleged that throughout his career he came into contact with "asbestos related materials and other asbestos containing products mined, manufactured, processed, imported, converted, compounded, sold or distributed by"

each of 119 named defendants as well as an unknown number of unidentified defendants. The trial court had denied summary judgment for some of the defendants and granted summary judgment for others; some parties have settled.

Relative to this appeal, the trial court granted summary judgment to FMC and five defendants who have manufactured asbestos-containing products in the past—A. W. Chesterton Company, Garlock Sealing Technologies, LLC, CBS Corporation (a successor to Westinghouse Electric Corporation), General Electric Company, and Union Carbide Corporation. FMC successfully invoked the exclusive remedy bar of workers' compensation. The five manufacturer defendants all claimed lack of proof of exposure to their products, and the trial court ruled in their favor on that issue.

Summary judgment is proper when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. OCGA § 9-11-56 (c). We review a grant or denial of summary judgment de novo and construe the evidence in the light most favorable to the nonmovant. *Home Builders Assn. of Savannah v. Chatham County*, 276 Ga. 243, 245 (1) (577 SE2d 564) (2003).

1. As an initial matter, the appellant relies on some documents that are not admissible evidence and therefore cannot be used to support his contentions. He several times cites to a report dated June 10, 2005 prepared by Jerry F. Lauderdale

(the "Lauderdale Report"), and to another dated March 20, 2005 prepared by Thomas A. Selders, both of which were attached as an exhibit to the plaintiff's "Master Memorandum" in opposition to all the summary judgment motions. But both reports are hearsay themselves, and they contain more hearsay. They are unsworn, unauthenticated documents that include assertions of fact about Adamson's personal exposure to asbestos about which the authors have no personal knowledge.<sup>2</sup> Such reports must fit within a hearsay exception before they can be considered as substantive evidence in support of a claim. *Henson v. Georgia-Pacific Corp.*, 289 Ga. App. 777, 780 n. 2 (1) (658 SE2d 391) (2008). The appellant has shown no such exception for these reports and they therefore have no weight or force whatsoever. *White Missionary Baptist Church v. Trustees of First Baptist Church of White, Ga.*, 268 Ga. 668, 669 (1) (492 SE2d 661) (1997).

Second, several of the appellant's citations to the record do not reveal the information allegedly found at that location in the voluminous record. "[I]t is not the function of this court to cull the record on behalf of a party in search of instances of error. The burden is upon the party alleging error to show it affirmatively in the

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<sup>2</sup> Moreover, the Lauderdale Report purports to be based on a single inspection of the FMC plant on May 30, 2005, almost 40 years after Adamson could possibly have worked at the site.

record.” (Punctuation and footnotes omitted.) *Fortson v. Hotard*, 299 Ga. App. 800, 801 (1) (684 SE2d 18) (2009). Moreover, appellant’s citations to the record are not in proper form. Citations should be made to the volume and page number of the appellate record, not to the first page of a certain document and then to the internal page number of that document. See Rules of the Court of Appeals of Georgia, Rule 25 (c) (2) (iii). It is a disservice to the client to not follow the rules of this Court which are designed to facilitate review.

2. FMC, the owner of an Idaho phosphate plant where Adamson at one time worked as a contractor, moved for summary judgment on the ground that the appellant’s tort claims were barred by the exclusive remedy provision of the Georgia Workers’ Compensation Act because it was Adamson’s statutory employer. The appellant responded that Georgia law was inapplicable—that under the rule of *lex loci delicti*, the law of Idaho and the Idaho Worker’s Compensation Act controlled the issue. Although in an awkward fashion, the trial court ultimately applied Idaho law to the question of whether FMC was immune from suit.<sup>3</sup> The appellant now contends

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<sup>3</sup>The trial court first recognized the applicable Georgia law, which is that a property owner who hires an independent contractor “*is not* a statutory employer who is liable for workers’ compensation benefits or immune to tort liability by reason of the exclusive remedy provision of the Act, OCGA § 34-9-11.” (Emphasis supplied.) *Manning v. Georgia Power Co.*, 252 Ga. 404, 405 (314 SE2d 432) (1984). See also

that the trial court should not have applied Idaho law and that, even so, it applied the incorrect version of Idaho law.

With regard to Idaho law, the appellant cannot now be heard to complain given that he argued for its application in the trial court. “Induced error is impermissible. *Edwards v. State*, 235 Ga. 603, 604 (221 SE2d 28) [(1975)]. A party cannot claim error . . . where he himself committed or invited the error. . . .[Cit.]” (Punctuation omitted.) *Westmoreland v. State*, 192 Ga. App. 173, 176 (2) (b) (384 SE2d 249) (1989).

With regard to the correct Idaho law, we find no reversible error. The trial court relied on *Robison v. Bateman-Hall, Inc.*, 76 P3d 951 (Idaho 2003), for the rule that a premises owner will be deemed to be a statutory employer responsible for worker’s compensation benefits if in the course of its usual trade or business it employs persons

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*Creeden v. Fuentes*, 296 Ga. App. 96, 98-99 (1) (673 SE2d 611) (2009). But the trial court went on to explain, “[h]owever, where the premise owner is potentially liable for workers’ compensation benefits it is entitled to tort immunity,” citing *Wright Assocs. v. Rieder*, 247 Ga. 496 (277 SE2d 41) (1981). It then determined that FMC, which is located in Idaho, would be deemed a statutory employer under Idaho law under the facts of the case and that, therefore, it was “entitled to immunity under OCGA § 34-9-11.”

and is equipped to perform the function performed by the independent contractor.<sup>4</sup> The appellant contends that the correct rule is found in *Adam v. Titan Equip. Supply Corp.*, 470 P2d 409 (1) (Idaho 1970), because the relevant statute (Idaho Code § 72-223) was amended in 1996. But as explained by the Supreme Court of Idaho, under Idaho law the date that an occupation disease first manifests itself governs which version of the Worker's Compensation Act is to be applied:

This Court has previously held the law to be applied to a [worker's compensation] case is the law in effect at the time that the cause of action arose. [Cits.] In the case of an occupational disease, the cause of action arises at the time of the first manifestation of the disability. [Cit.]

*Alexander v. Harcon, Inc.*, 992 P.2d 780, 782 (Idaho 2000). Here, the appellant admits that Adamson's mesothelioma first manifested itself on or after March 12, 2002. Thus, only the post-1996 version of Idaho Code § 72-223 can be applicable here.

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<sup>4</sup> The court then referred to undisputed evidence that when Adamson worked as an independent contractor at FMC, FMC maintained electrical arc furnaces, it regularly employed full-time electricians, and contractors were hired to allow FMC electricians to perform other necessary electrical work at the plant. (The appellant does not challenge these factual findings.) Accordingly the trial court held that since FMC was potentially liable for workers' compensation benefits in Idaho, it was entitled to tort immunity under the Georgia Act.

Accordingly, we find no legal error in the trial court's decision to rely on *Robison v. Bateman-Hall, Inc.* and no cause for reversal.

### 3. *The Manufacturer Defendants.*

“To survive summary judgment, the appellant “needed to present evidence that [the manufacturer defendants’] asbestos-containing product was used at [the location of Adamson’s employment] and that [he] was in proximity to that product at the time it was being used.” (Citations and punctuation omitted.) *Williams v. Flintkote Co.*, 256 Ga. App. 205, 206 (568 SE2d 106) (2002), quoting *Hoffman v. AC&S, Inc.*, 248 Ga. App. 608, 611 (2) (548 SE2d 379) (2001). A plaintiff may testify to this information from personal knowledge; he may also meet this burden other ways, including “by offering the testimony of a co-worker who can identify (the) plaintiff by name as having worked with or around a particular defendant’s asbestos-containing products.” *Williams*, 256 Ga. App. at 206.

Here, the five manufacturer defendants asserted an absence of evidence of proximity as required by the above law. “A defendant who will not bear the burden of proof at trial need only show an absence of evidence to support an essential element of the nonmoving party’s case. *Lau’s Corp. v. Haskins*, 261 Ga. 491 (405 SE2d 474) (1991).” *Latson v. Boaz*, 278 Ga. 113 (598 SE2d 485) (2004). “If the moving party

discharges this burden, the nonmoving party cannot rest on its pleadings, but rather must point to specific evidence giving rise to a triable issue.” *Lau’s*, 261 Ga. at 491. Finally, “[a]lthough the plaintiff is entitled to the benefit of all reasonable inferences to be drawn from the evidence, such inferences cannot be based on mere conjecture or possibility or upon evidence which is too uncertain or speculative.” *Hoffman*, 248 Ga. App. at 611 (2). Here, the appellant has not cited to any deposition testimony from the defendants. Rather, he relies on his father’s depositions, the depositions of several alleged coworkers, and the defendants’ discovery responses.

(a) With regard to Chesterton, the appellant contends that several pieces of evidence establish his father’s proximity to Chesterton asbestos-containing products. We disagree. The evidence does show that some Chesterton products, including gaskets and packing material, have been used at FMC. Adamson worked at the FMC facility for five or six months in 1951 and 1952, and for other unspecified times during the 1960s totaling about three months.<sup>5</sup> But the appellant has not cited any

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<sup>5</sup> The appellant’s reply brief attempts to show that Adamson’s service at FMC was more significant. He states therein that Bill Moore “testified that he worked with Decedent at FMC on and off from 1953 until 1957.” He cites the wrong page of Moore’s deposition for this point. And, more importantly, the deposition does not support the statement. Moore testified that he, himself, worked at FMC for a total of about two years, on and off during the period of 1953 to 1957. But Moore denied that Adamson was there all of the time that he was. The rest of his testimony was

evidence to show that his father was ever in proximity to any *asbestos-containing* gaskets or packing material manufactured by Chesterton. Adamson testified that the only names he recalled in relation to gaskets and packing material were "Garland" or "Garlock."

Instead the appellant cites testimony of Aldon W. Crockett and Bill Moore. Crockett averred that Chesterton products accounted for perhaps 25% of the packing materials used at the FMC plant. But Crockett's testimony is insufficient: he never identified Adamson by name as being a coworker and did not otherwise correlate his testimony to Adamson's work at FMC; he did not testify that Adamson was in proximity with Chesterton products; and he did not identify the time period that Chesterton products were present at the FMC facility, which was necessary because he worked at FMC 19 years past when Adamson worked there.

Similarly, witness Moore's testimony is inadequate. He testified that he worked with Adamson for the first time at FMC in 1953, that the two had the same type of job, and that they worked side by side at times. But he did not link Adamson to any

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speculative: Moore "believed" that Adamson was at FMC when he arrived, could not remember if Adamson was there when he left, and he did not know how long Adamson had worked at FMC overall but "as my memory serves me, he was there longer than I was."

Chesterton asbestos-containing products and did not place Adamson in proximity to any such products. Finally, Chesterton established that it manufactured both asbestos-containing and non-asbestos-containing packing products during the 1950s and 1960s, yet the appellant has cited no evidence to show that any of Chesterton's asbestos-containing products were at use in the FMC plant when Adamson was working there, let alone that Adamson was in close proximity to them. Thus the appellant has not shown that his father either used or was in proximity to a Chesterton manufactured asbestos-containing product at a time that it was being used at FMC. Summary judgment for Chesterton was proper.

(b) The appellant contends the following evidence establishes his father worked in proximity with Garlock's asbestos-containing products. Crocket testified that Garlock's products accounted for about 75% of the packing material used at the FMC plant, but he did not specify a time period. Adamson remembered having to cut gaskets out of sheets of gasket material, although he did not recall the manufacturer. Moore testified that Garlock made sheets of gasket material and rope gaskets; he even recalled that the name "Garlock" was printed on both items. He added that the only gasket material he saw at FMC was what he considered to be asbestos-containing material. Moore testified that he worked with both Garlock products at FMC in areas

where both he and Adamson worked, and that Adamson was “part of the crew and did what all the rest of us did.” He was “quite sure” that Adamson had used the gasket material. But he admitted that he did not specifically recall seeing Adamson using sheet gasket material or rope gaskets. Finally, he testified that it was the general knowledge of the electricians and other workers that there was asbestos in both the gasket material and the rope gaskets and that it would not have withstood the heat and pressure otherwise; he admitted, however, that he did not know the specific composition of the products.

Garlock asserts that it manufactured gaskets with and without asbestos and that the evidence does not show that Adamson worked in proximity with any of its asbestos-containing products. Garlock also argues that Moore failed to correlate his testimony to the time of Adamson’s employment and that it is otherwise inadequate to create an issue of fact as to whether Adamson worked in proximity with any asbestos-containing products manufactured by Garlock.

We agree that the evidence is not sufficient to withstand summary judgment. Moore never connected any of Garlock’s asbestos-containing products to a place in proximity to Adamson at a time that Adamson worked at FMC. See *Hoffman*, 248 Ga. App. at 611-612 (no evidence that defendants’ product were present during brief

period that injured party worked there; evidence that the products were there “over the years” was insufficient). Neither Moore nor Crockett specified that Adamson and the injurious products were present at the same time in the same place. See *Williams*, 256 Ga. App. at 207 (broad statement that witness used products at issue “all over” the plant is not sufficient to link a specific product to the plaintiff). “Guesses or speculation which raise merely a conjecture or possibility are not sufficient to create even an inference of fact for consideration on summary judgment.” (Citations and punctuation omitted.) *Id.* Compare *John Crane, Inc. v. Wommack*, 227 Ga. App. 538 (489 SE2d 527) (1997) (plaintiff specifically remembered using defendant’s asbestos-containing product).

(c) The appellant contends the following evidence establishes that his father worked in proximity with CBS’s (a successor in interest to Westinghouse) asbestos-containing products. Adamson recalled working with or around Westinghouse products, including switchgears, motors control panels, high-temperature motors, turbines, and a product called “Micarta.” There was also evidence that Westinghouse

circuit breakers were used at FMC. CBS admits that these Westinghouse products may have contained asbestos at the time.<sup>6</sup>

Westinghouse concedes that Adamson worked with or near Westinghouse products that may have contained asbestos. But Westinghouse made these products both with and without asbestos over the years, and it argues that the evidence must specifically show that the plaintiff worked in proximity with the defendant's asbestos-containing products, and that the product was being used in a way that might cause the asbestos fibers to become airborne.

We agree with Westinghouse that the plaintiff failed to present any evidence that Adamson was exposed to its asbestos-laden products as opposed to its products generally. "When a party is relying on inferences to prove a point, not only must those inferences tend in some proximate degree to establish the conclusion sought, but must also render less probable all inconsistent conclusions. [Cits.]" *Page v. Atlanta Center*, 219 Ga. App. 422, 424 (465 SE2d 456) (1995). Here, the appellant has not introduced any depositions of CBS/Westinghouse nor any other witness to parse out when and where its various products have been used, what types were used at the places where

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<sup>6</sup> The appellant also offers the deposition of Leo Hoffman, but Hoffman only worked at FMC beginning in 1966, and there is no evidence that Adamson was still there when Hoffman arrived.

Adamson worked at the time that he worked there, and which ones contained asbestos. Nor did Adamson testify to any such link. The appellant relies solely on an inference that Westinghouse products constitute a proximate cause of his father's injury; and the evidence does not render less probable the possibility that Adamson worked solely with Westinghouse's non-asbestos products.<sup>7</sup> The trial court did not err in granting summary judgment.

(d) The appellant contends the same evidence offered for Westinghouse establishes his father worked in proximity with General Electric's asbestos-containing products, in part because "Westinghouse and GE are synonymous to electrical." But again, although Adamson may have recalled working around GE products, he did not testify that he worked around any GE product that contained asbestos. He admitted that he did not know much about asbestos during the 1950s, 1960s, or 1970s. Rather, the appellant cites the discovery responses of GE and the depositions of Hoffman, John Walters, John Caston, and Gordon Scherbel. But, as shown above, Hoffman's

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<sup>7</sup> The appellant's citations to Moore's deposition relative to Westinghouse are belied by the record. First, the information is not at the page cited. In one example, information similar to the purported quote is found on page 66 of the deposition, yet the appellant cites to page 35-37. And the purported quotation is simply not in the deposition. Moreover, the appellant provides no citations placing Adamson in proximity with a Westinghouse product known to contain asbestos.

testimony is not relevant. The appellant claims that Walters “associated asbestos with the GE products around which he and [Adamson] worked.” But the cited pages in the record belie that statement. Deponent Caston did not know Adamson nor link him to GE asbestos-containing products. And Scherbel described a GE transformer that contained asbestos, but he did not know Adamson and he failed to link the transformer to him.

GE acknowledges that it made many of the types of equipment that Adamson worked with. But, like Westinghouse, it contends there is not evidence that Adamson worked in proximity with any asbestos-containing products that it manufactured. We agree and affirm the trial court.

(e) With regard to Union Carbide, the appellant only cites to evidence that his father recalled working with a product called “Bakelite,” and he was exposed to dust from the product when it was cut or drilled. Union Carbide admits that it manufactured a product with that name. But Adamson admitted that he used the name as a generic representation of the type of board to which he was referring, that he did not know whether it contained asbestos, and that he did not know who manufactured it. After being asked about Bakelite, Adamson even admitted that he could not associate any specific products with the name Union Carbide. The appellant also cites

Bill Moore's testimony. Again, there is nothing on point on the cited pages. Moore was uncertain as to whether he worked with the product at FMC. The only place he saw Adamson work with the product was at The Site. But Moore, too, used the term as a generic identifier. He testified that many companies made the product and he did not know the manufacturer of the product that he used. Neither this evidence, nor any other suggested by the appellant satisfies the requirement of presenting evidence that Adamson was ever in proximity to a Union Carbide asbestos-containing product at the time it was being used.

*Judgment affirmed. Blackburn, P. J., and Doyle, J., concur.*



05-24-04 Moore (trial) - Adamson vs. General Electric.txt  
BE IT REMEMBERED that the video deposition of  
BILL MOORE was taken by the attorney for the  
plaintiff, at the office of Plumbers and Pipefitters  
#648, located at 456 North Arthur Street, Pocatello,  
Idaho, before Sandra D. Terrill, Court Reporter and  
Notary Public, in and for the State of Idaho, on  
Monday, the 24th day of May 2004, commencing at the  
hour of 9:25 a.m., in the above-entitled matter.

A P P E A R A N C E S

For the Plaintiff:

LAW OFFICES OF G. PATTERSON KEAHEY  
By G. PATTERSON KEAHEY, ESQ.  
One Independence Plaza, Suite 612  
Birmingham, Alabama 35209  
(205) 871-0707

For the Defendant Ingersoll Rand:

HUNTER MACLEAN  
By CLINT G. SALISBURY  
200 East Saint Julian Street  
Post Office Box 9848  
Savannah, Georgia 31412-0048  
(801) 328-2200

For the Defendant Garlock Corporation:

CARTER & ANSLEY  
By REBECCA CRUMRINE, ESQ.  
(By telephone)  
1180 West Peachtree Street, Suite 2300  
Atlanta, Georgia 30309  
(404) 965-4992

Page 2

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I N D E X (CONTINUED)

For the Defendant Emerson Electric and Daniel Value  
Company:

VONBRIESEN & ROPER  
By JOHN G. GOLLER, ESQ.  
411 East Wisconsin Avenue, Suite 700  
Milwaukee, Wisconsin 53202  
(414) 287-1242

Page 2

For the Defendant American Standard:

McGUIRE WOODS, LLP  
By JOHN A. LOCKETT, III, ESQ.  
1170 Peachtree Street, N.E., Suite 2100  
Atlanta, Georgia 30309  
(404) 443-5500

For the Defendant Georgia Pacific, Pfizer, Inc., and  
Special Appearance for Quigley Company, Inc.:

NELSON MULLINS RILEY & SCARBOROUGH  
By LEE ANN SPARKS, ESQ.  
First Union Plaza, Suite 1400  
999 Peachtree Street, N.E.  
Atlanta, Georgia 30309  
(404) 817-6595

For the Defendant Monsanto, A.W. Chesterton, Foster  
wheeler, Westinghouse, Carborundum, and FMC:

EVERT & WEATHERSBY  
By JEFF M. ODOM, ESQ.  
3405 Piedmont Road, Suite 225  
Atlanta, Georgia 30305  
(404) 233-8718

For the Defendant General Electric:

CHILIVIS, COCHRAN, LARKINS & BEVER  
By J.D. DALBEY, ESQ.  
(By telephone)  
3127 Maple Drive  
Atlanta, Georgia 30305  
(404) 233-4171

For the Defendant Kennecott Copper:

RAY QUINNEY & NEBEKER  
By RICK L. ROSE, ESQ.  
36 South State Street, Suite 1400  
Salt Lake City, Utah 84111  
(801) 532-1500

I N D E X (CONTINUED)

For the Defendant National Service Industries, Inc.,  
Cooper Industries, Inc., DB Riley:

HAWKINS & PARNELL  
By CHRIS GALLA, ESQ.  
4000 Suntrust Plaza  
303 Peachtree Street N.E.  
Atlanta, Georgia 30308-3243  
(404) 614-7400

For the Defendant CertainTeed, Am Chem, Riley Stoker,  
Union Carbide:

05-24-04 Moore (trial) - Adamson vs. General Electric.txt

HAWKINS & PARNELL  
By KIMBERLY D. STEVENS, ESQ.  
4000 Suntrust Plaza  
303 Peachtree Street N.E.  
Atlanta, Georgia 30308-3243  
(404)614-7400

For the Defendant Crown Corp., Mundet:

JOHNSON OLSON  
By CHARLES JOHNSON, ESQ.  
Post Office Box 1725  
Pocatello, Idaho 83204-1725  
(208) 232-7926

For Rockwell:

WEINBERG WHEELER HUDGINS GUNN & DIAL  
By ERIK WOODBURY, ESQ.  
(By telephone)  
950 East Paces Ferry Road, Suite 3000  
(404) 832-9528

Also Present:

JOHN TERRILL, Videographer

□

I N D E X  
E X A M I N A T I O N

WITNESS	EXAMINATION BY	PAGE
BILL MOORE	MR. KEAHEY. . . . .	10

No.		Page
1.	Notice of Video Deposition. . . . .	6
2.	Photograph. . . . .	6

1 (The deposition proceeded as follows:)

2 (Exhibits \*-001 and \*-002 marked.)

3

4 THE VIDEOGRAPHER: We will now go on the  
5 record. My name is John Terrill, the video  
6 technician; and Sandra Terrill is the court reporter,  
7 from T&T Reporting, at 525 Park Avenue, Suite 1E, in  
8 Idaho Falls, Idaho.

9 We are here today, May 24 of 2004, at  
10 approximately 9:25 a.m. Mountain Time at the Plumbers  
11 and Pipefitters No. 648, at 456 North Arthur Street,  
12 Pocatello, Idaho, to videotape the deposition of Bill  
13 Moore, being taken at the instance of the plaintiff  
14 in the matter of John H. Adamson, plaintiff, versus

15 General Electric, et al, defendants, Civil Action No.  
16 2003CV3560. The court reporter will now swear the  
17 witness and then counsel will introduce themselves  
18 and the parties they represent.

19

20

BILL MOORE

21 Produced as a witness at the instance of the  
22 Plaintiff, was sworn, examined, and testified as  
23 follows:

24

25 MR. KEAHEY: All right. This is Pat Keahey

□

1 for the judge and jury and I'm the plaintiff's  
2 counsel here for Mr. John or Jack Adamson in his  
3 asbestos lawsuit, and I will ask all the defense  
4 counsel present either here physically or the ones on  
5 the speakerphone to identify themselves and which  
6 defendants they represent. I realize they don't --  
7 they may not want to call out the name of the  
8 defendant they represent in front of the witness, but  
9 I do ask for the agreement by everybody present on  
10 the phone and here that they will -- they do agree to  
11 provide the court reporter with the individual  
12 defendants that they represent in the action.

13 Do I have that agreement from everybody  
14 after the deposition? Either you all give it to her  
15 now or after the deposition, right? We have that  
16 agreement with everybody present?

17 DEFENSE COUNSEL: Yes.

18 MR. KEAHEY: Okay. All right. Well, if you  
19 all -- let's go around the room and everybody just  
20 call off who they are and who they represent. Thank  
21 you.

22 MR. ODOM: Jeff Odom with Evert and  
23 Weathersby on behalf of several defendants in this  
24 lawsuit.

25 MS. SPARKS: Lee Ann Sparks from Nelson

1 Mullins on behalf of several defendants.

2 MR. LOCKETT: John Lockett, Maguire Woods.

3 MR. ROSE: Rick Rose, Ray Quinney and  
4 Nebeker.

5 MR. SALISBURY: Clint Salisbury, Berman  
6 Tomsic and Savage.

7 MR. GOLLER: John Goller, Vonbriesen and  
8 Roper.

9 MS. STEVENS: Kimberly Stevens, Hawkins and  
10 Parnell.

11 MR. JOHNSON: Charles Johnson, Johnson  
12 Olson.

13 MR. GALLA: Chris Galla from Hawkins and  
14 Parnell for several defendants.

15 MR. WOODBURY: Erik Woodbury from Wineberg  
16 Wheeler Hudgins Gunn and Dial for several defendants.

17 MS. CRUMRINE: Rebecca Crumrine from Carter  
18 and Ansley for a defendant.

19 MR. DALBEY: J.D. Dalbey for a defendant.

20 MR. KEAHEY: Okay. Is that everybody on the  
21 phone now?

22 MR. ODOM: Yes.

23 MR. KEAHEY: Okay. This is Pat Keahey again  
24 for the judge and jury. I want to just put in two  
25 exhibits here. One was just the notice of the video

1 deposition by us with the exhibits attached, which is  
2 the witness's product identification list, and then  
3 Exhibit No. \*-002, which is a photograph and --

4 MR. ODOM: Pat, can we just make sure the --

5 MR. KEAHEY: Stipulations you mean?

6 MR. ODOM: Yes.

7 MR. KEAHEY: All right. We have normal  
8 stipulations. One objection by one defendant is good  
9 for all except as to form or responsiveness. All  
10 objections otherwise are reserved until the time of  
11 trial.

12 MR. ODOM: I just want to -- we won't hash  
13 this out because it's been hashed out before but just  
14 reinstate the objection that we had of the videotape  
15 of this deposition going forth prior to the  
16 opportunity for us to have a discovery deposition of  
17 this witness, and so we object to the entrance of  
18 this deposition, a transcript or any use of it at  
19 trial. But we just want you to know we're not  
20 waiving any objections in that manner. We'll take it

21 up later just like we took it up with the previous  
22 depositions.

23 MR. KEAHEY: Okay. And it's also, as I said  
24 before, just as a housekeeping measure it's my  
25 understanding that all defendants present still in

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1 the case have been noticed with the depositions and  
2 if they're attending, either by phone or here they  
3 have told the court reporter which law firm they are  
4 and which defendants they represent. So it's my  
5 understanding and assumption that that's been done.

6 All right, sir. Again for the judge and  
7 jury, I'm Pat Keahey. I'm from Birmingham.

8

9

EXAMINATION

10 BY MR. KEAHEY:

11 Q. Sir, would you state your full name and  
12 spell your last name, please?

13 A. Bill Moore, M double o-r-e.

14 Q. All right. And is that your full  
15 Christian name, Bill, or what --

16 A. No. My real Christian name is John  
17 William Moore.

18 Q. All right.

19 A. I've never been called that throughout  
20 my whole life except occasionally, but that's my  
21 legal name.

22 Q. All right. And how old are you today,  
Page 9

23 sir?

24 A. I'm 81.

25 Q. And what is your -- what is your full

1 residential address, please?

2 A. 745 South 19th, Pocatello 83201.

3 Q. And can you tell me whether or not you  
4 did know and work with a man by the name of Jack  
5 Adamson.

6 A. I did, and I worked with him for several  
7 years off and on.

8 Q. And is his real full Christian name John  
9 Adamson?

10 A. Yes.

11 Q. All right. But you know him as Jack; is  
12 that --

13 A. Correct.

14 Q. -- correct?

15 A. That's correct.

16 Q. And what was your -- are you retired  
17 now?

18 A. More or less.

19 Q. What was your trade or occupation during  
20 your working life? And if you had several, just  
21 briefly just give us an outline of that.

22 A. Well, when I came out of the Navy in '45  
23 I went into an apprenticeship here in Pocatello with  
24 CL Electric as an electrical apprentice. And at the

25 same time my wife bought a neighborhood grocery store

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1 and started running that. And business got so good  
2 that after a year I quit to help her. And then I  
3 went back into my apprenticeship, completed it, and  
4 went to work as a journeyman electrician in 1951.

5 Q. All right, sir. And then just briefly  
6 outline where -- the major job sites and aspects of  
7 your life from 1951 on. Where did you work?

8 A. Well, the first major job I had was at  
9 FMC here in Pocatello and I worked directly for them  
10 for a year. And then I was sent by the IBW449  
11 electrical union right here in this building out to  
12 the desert as a journeyman electrician, and I worked  
13 with Jack and his father out there at that time on a  
14 couple of projects, and we were in construction all  
15 this time so the jobs came and went.

16 Q. All right.

17 A. Do you need job sites?

18 Q. Well, just let me ask you, what do you  
19 remember off the top of your head, what job sites do  
20 you actually remember working with Jack on?

21 A. The first one was --

22 Q. Let me step back. Just tell us though  
23 -- take us up to the time you fully -- you stopped  
24 work as an electrician. Where all did you work?

25 A. Well, I worked at CPP on the site and

1 then I worked at MTR, which was across the highway.  
2 I worked at EBR-2, which was another site several  
3 miles away. I worked at Westinghouse building the  
4 nuclear aircraft carrier module. And I worked out at  
5 what they call TAN, Test Area North, where they were  
6 preparing to build the atomic powered aircraft  
7 engine. I worked there for a couple, three years.

8 Q. And where did you go from there -- and  
9 let me just back -- just to clarify for the judge and  
10 jury. All the job sites you just named, are they  
11 part -- can you tell me whether or not they're part  
12 of what is known as the Idaho National Engineering  
13 Environmental Laboratory?

14 A. That's correct.

15 Q. Which is better known as the acronym the  
16 INELL -- or the INEEL; is that correct?

17 A. That's correct. In those days it was  
18 known as the AEC site.

19 Q. Is it best known today by everybody that  
20 worked out there simply as, quote, the Site, closed  
21 quote?

22 A. Yes. That's correct.

23 Q. If we come back to it later in the  
24 deposition we'll just understand that when you're  
25 talking about that work out there you just refer to

1 it as the Site --

2 A. That's correct.

3 Q. -- just to make it clear for the record.  
4 okay. All right. Well, take us on. After you left  
5 the TAN site, where did you work then?

6 A. To the best of my recollection I worked  
7 in town for a contractor called Power Electric doing  
8 all kinds of electrical work, commercial,  
9 residential. And I also worked -- in that same  
10 period from 1951 to '63 I was in and out of Pocatello  
11 working for various contractors, Mountain Electric,  
12 Power Electric, Pocatello Electric. They were all  
13 just businesses that wired houses and sold  
14 appliances, what we call job shop work.

15 Q. And then where did you go from that?

16 A. Well, in 1963 I had the opportunity  
17 to -- and I was working at the Site at that time. I  
18 had the opportunity to buy into a wholesale --  
19 electrical wholesale business here in Pocatello, and  
20 me and two other fellows bought that out, and I was  
21 there for 19 years as the part owner and the manager.

22 Q. All right. Well, to take you back to --  
23 let's just go back and focus on when and where you  
24 worked with Jack Adamson, so let me ask you that  
25 question. Just off the top of your head right now

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1 where do you recall -- what job sites do you recall

2 ever working with Jack Adamson?

3 A. At FMC Corporation for the Bechtel --  
4 Bechtel Corporation was the contractor and both he  
5 and his dad and possibly even his brother worked  
6 there along with me, and it was just eight miles out  
7 of town. We worked there on and off for, oh, about  
8 three years.

9 Q. Can you give us an approximate time  
10 frame of when that would have been, if you can, if  
11 you remember?

12 A. I think about 1954 was the first time.

13 Q. All right. And when was the last time  
14 you --

15 A. '53. '53.

16 Q. So approximately 1953 was the first time  
17 you worked with Jack Adamson at the FMC plant here in  
18 Pocatello?

19 A. Yes.

20 Q. And then would have been -- and then you  
21 all worked on and off together out there from that  
22 time; is that correct?

23 A. I worked with him in 1952 at CPP at the  
24 site.

25 Q. But just on FMC, after you first worked

□

1 with Jack Adamson at FMC in approximately 1953 or so,  
2 did you then thereafter work with him at FMC after

05-24-04 Moore (trial) - Adamson vs. General Electric.txt  
3 that time?

4 A. Yes.

5 Q. And then when would have been the last  
6 time that you worked with Jack Adamson at FMC,  
7 approximately, if you recall?

8 A. I think about 1957.

9 Q. So between 1953 and 1957 you and Jack  
10 Adamson worked together on an on and off basis at  
11 FMC; is that correct?

12 A. That's correct.

13 Q. Were both of you working out there as  
14 what they call outside contractors at that time?

15 A. Yes.

16 Q. Well, let's talk about that. Let's go  
17 back and tell us about what you recall sitting here  
18 today -- what you recall today about working with  
19 Jack Adamson at FMC. And I guess the best way to  
20 start that off is tell the judge and jury what is  
21 FMC, what kind of plant is it?

22 A. Well, FMC is called --

23 MR. ODOM: Object to form.

24 THE WITNESS: -- Food Machinery Corporation,  
25 and it evolved through the years to different names

1 but it was basically owned by the same company. They  
2 make elemental phosphorus, which is used in the food  
3 and chemical and beverage industry. One of the minor  
4 things that everybody's aware of is phosphorus in

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5 matches. It's a very deadly product. Exposed to air

6 it immediately bursts into flame and it burns --  
7 until it burns itself out. Very hazardous material.

8 Q. BY MR. KEAHEY: And just tell the judge  
9 and jury how many men were working in that plant --  
10 how many people were working in that plant when you  
11 and Jack were out there, if you recall?

12 A. All trades?

13 Q. All trades, yes.

14 A. I'd say a couple hundred.

15 Q. Just, in general, what would you see  
16 them doing around you and Jack out there?

17 A. All kinds of construction work, steel  
18 work, concrete, everything from building these  
19 furnaces out of huge graphite blocks and encasing  
20 them with steel, running ridged conduit. That's all  
21 they had in those days was ridged conduit. They  
22 didn't have plastic. And we would set motors, set  
23 control panels, power panels, all phases of building  
24 a huge chemical plant, pumps, electric valves,  
25 thermocouples. This plant out here used more power

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□

1 than the whole city of Pocatello, and so there was  
2 lots of electrical.

3 Q. And when you say lots of electrical,  
4 what do you mean?

5 A. Well, wiring up those huge furnaces.  
6 All of them were three-phase furnaces, which means

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7 they used all phases of the generator that was  
8 putting power into the plant, and huge electrical  
9 cables, sometimes that big around, solid copper -- or  
10 not solid but woven copper. Just a real, real  
11 powerful plant.

12 Q. These other men that you -- and  
13 including yourselves, the other men you talked about  
14 seeing there in the FMC plant and the contractor,  
15 just in general, what kind of materials or equipment  
16 were being used out there?

17 A. Well, lots of -- all types of copper  
18 cable, lots of asbestos-covered cable, both in the  
19 construction of the plant and in the operation of the  
20 plant.

21 Q. You mentioned the furnace area. What  
22 was the furnace area? Can you describe that to the  
23 judge and jury, at FMC, and what went on there?

24 A. In the furnace?

25 Q. Yes.

□

1 A. Well, these cables that supplied the  
2 furnace carried so much electricity that the cables  
3 were water cooled. They had a water jacket around  
4 them where they went into the furnace, and they kept  
5 that insulated from the water with asbestos seals,  
6 huge ropes of asbestos. And as the electrodes went  
7 in and out of the furnace, and they went very slowly,  
8 to adjust the load, why, the asbestos would seal the

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9 gases from coming out of the furnace. Of course, it  
10 wasn't a total seal so there was lots of pollution.

11 Q. How did you know these products --  
12 you've been referring to them as asbestos. How did  
13 you know they had -- how do you know today that they  
14 had asbestos in them or how did you know then?

15 A. Well, they were labeled on the reels  
16 that they came with. And you could tell it was  
17 asbestos when you handled it.

18 Q. Did you personally handle it?

19 A. On occasion, yes.

20 Q. All right. To the best of your  
21 knowledge did Jack Adamson personally handle these  
22 products you're talking about?

23 A. Yes.

24 Q. What were the work conditions like in  
25 the FMC plant when you were working out there with

1 Jack, if you recall, in general?

2 A. Very, very -- very, very contaminated.  
3 You had to watch where you stepped. You had to watch  
4 -- if you got the -- the liquid mud that came out of  
5 this furnace, if you got any of it on your clothes or  
6 your shoes you had to go wash it off because if you  
7 didn't it would burst into flames. There were times  
8 I'd be walking across the parking lot and my shoes  
9 would get on fire and the first thing you'd know is  
10 the rivets on your shoes would start burning your

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11 feet. You'd immediately have to find an emergency

12 shower.

13 Q. Do you recall whether or not you ever  
14 saw dust being created in that plant when you and  
15 Jack were there?

16 A. Every day of my life out there.

17 MR. ODOM: Object to form.

18 Q. BY MR. KEAHEY: And where was this dust  
19 coming -- what sources, if you recall?

20 A. Well, after the plant was built and that  
21 was -- it was built in phases, of course, over maybe  
22 10, 15 years. Built one furnace and got it going and  
23 perfected and then they'd build another furnace and  
24 so on and so on. So after the first furnace was  
25 built there was lots of pollution from that first

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□

1 one. And as each one was added, why, more and more  
2 pollution, dust -- especially dust from the raw  
3 product and the finished product -- or the  
4 finished -- partially finished product.

5 Q. If you had to describe the level of dust  
6 that you and Jack were in out there at FMC during the  
7 fifties when you were there, how would you describe  
8 it to the judge and jury?

9 A. Well, a lot of it, of course, was  
10 created by the wind and whenever you were around  
11 equipment installing it you'd have to clean off the  
12 area where you were installing it to make sure it was

05-24-04 Moore (trial) - Adamson vs. General Electric.txt  
13 being put on a clean surface, which necessitated  
14 sometimes blowing it off with compressed air. There  
15 was always lots of dust.

16 Q. And I think you mentioned at least one  
17 of the contractors you and Jack Adamson worked for  
18 out there at FMC. Do you recall the names of all of  
19 the -- can you tell us again the names of the  
20 contractors or was it just one, or what do you recall  
21 on that?

22 MR. ODOM: Object to form.

23 THE WITNESS: Bechtel Corporation comes to  
24 mind. Foster-Wheeler. I'm sorry. That's about all.

25 Q. BY MR. KEAHEY: When you and Jack were

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0  
1 working at FMC, did FMC ever warn you in any way  
2 about the hazards of asbestos?

3 A. No.

4 Q. And to the best of your knowledge did  
5 they ever warn Jack Adamson about the hazards of  
6 asbestos?

7 A. No. There was never any signage. They  
8 had -- they had inspectors -- safety inspectors, both  
9 the -- for the unions and for FMC, but they never --  
10 they never warned us about that.

11 Q. All right. Did FMC warn you about other  
12 hazards, do you recall seeing any kind of warning by  
13 FMC about any other work hazard --

14 A. No.

Page 20

15

Q. -- at FMC?

16

A. No.

17

Q. Did you assume that if there was a

18

hazard FMC knew about, they'd warn you about it?

19

A. Yes. I can remember one thing that

20

disturbs me to this day is the extensive use of

21

carbon tetrachloride for cleaning, cleaning bearings,

22

cleaning motors. They'd use it by the gallons.

23

That's strictly -- what do you call it -- toxic. The

24

gas is toxic. It's used in fire extinguishers -- or

25

it was, and it's totally banned nowadays. It's one

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□

1

of the products I can remember there were extensive

2

use of both in construction and in the operation of

3

the plant.

4

Q. Now when you and Jack were working out

5

there as the outside contractors how close would you

6

be to the FMC employees themselves when they were

7

doing their work?

8

A. As close as we are.

9

Q. All right. Is it fair to say, and tell

10

me whether or not, you were in close proximity to

11

these people when you were working there?

12

A. Absolutely.

13

MR. ODOM: Object to form.

14

Q. BY MR. KEAHEY: All right. Were you in

15

close proximity to them when you would see them using

16

these materials and equipment that you talked about?

17 MR. ODOM: Form.

18 THE WITNESS: Yes. In fact, we used the  
19 same things.

20 Q. BY MR. KEAHEY: Well, let's talk about  
21 that a little bit. Why don't you just tell the judge  
22 and jury to the best of your knowledge what you  
23 remember today about what you did out there at FMC in  
24 the -- in the mid fifties -- in the fifties, as we'll  
25 call it. And then I'll ask you the same question

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1 about what you saw Jack Adamson do. So tell us just  
2 typically as an outside contractor, electrician, what  
3 would you -- what kind of work would you do out there  
4 at FMC in the fifties?

5 A. Well, everything from digging ditches to  
6 lay conduit in, to running conduit in the ditches,  
7 lots and lots of conduit runs and banks of conduit  
8 inside the building. Lots and lots of work with  
9 electric cables that big around, so big they couldn't  
10 put them in conduit. They'd run them on the side of  
11 the building in racks of maybe a dozen or so cables  
12 to carry the power to these furnaces and from the  
13 switch gear. And we'd do the pulling of the cables  
14 off of the reels, hanging them on the racks,  
15 terminating them in the switch gear rooms, and taking  
16 them to the -- from the switch gear rooms where they  
17 were switched on and off out to the furnaces.

18 Q. And what were the dust conditions like,

05-24-04 Moore (trial) - Adamson vs. General Electric.txt  
19 in general, when all this was going on that you just  
20 described?

21 A. Well, they were so bad that when you got  
22 through with a shift of work out there -- when I'd  
23 get home I'd have to take my work clothes off out in  
24 the garage because my wife would wash them every  
25 night. They were so terribly smelly from the

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1 phosphorus and so dirty.

2 Q. What about -- let's turn over to Jack  
3 Adamson now. What do you personally recall seeing  
4 Jack doing, in general, out there when you were there  
5 in the 1950s at FMC?

6 A. Well, he'd do the same as I would and he  
7 did also a lot of the cable hookups and termination  
8 in the power panels and motor control systems.  
9 You've got to realize that this plant was switching  
10 power on and off to these furnaces in such huge  
11 amounts that it dwarfed the total amount used by the  
12 City of Pocatello. When they'd dump a furnace out  
13 there -- what they called dumping in an emergency  
14 situation the lights in Pocatello would flicker up  
15 and down just momentarily.

16 Q. Based on what you said, did you ever  
17 have occasion to see Jack -- do you recall seeing  
18 Jack, the state of his clothing at the end of a  
19 workday out there at FMC?

20 A. Oh, we were all the same. We rode in a

05-24-04 Moore (trial) - Adamson vs. General Electric.txt  
21 carpool back and forth for a long, long time, and we  
22 were all in the same situation. My brother was  
23 working for me -- with us, and his dad rode with us.  
24 That was Lionel Adamson and Jack. And we'd pick up  
25 other crafts to make up a carpool.

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1 Q. And, Mr. Moore, I want to ask you about  
2 something I've put in as an exhibit here and just ask  
3 you if you recognize it, and put in front of you what  
4 has been labeled as Exhibit No. \*-002 or Plaintiff's  
5 Exhibit No. \*-002 to the deposition. Just take a  
6 minute and look at that and I'm going to ask you a  
7 few questions about it. Can you tell the judge and  
8 jury, is that a photograph you're looking at there?

9 A. Yes.

10 Q. Is it a black and white photograph?

11 A. Yes.

12 Q. Can you tell us what you recognize in  
13 that photograph, if you would, please, or who you  
14 recognize first.

15 A. Well, there's Jack and there's his dad,  
16 Lionel, and myself. And I don't know who that fourth  
17 person is.

18 Q. All right. Now when you point to  
19 yourself, which man are you pointing to there?

20 A. This one right here in the lower right  
21 corner.

22 Q. And you have a hat on, a hard hat on, is

05-24-04 Moore (trial) - Adamson vs. General Electric.txt  
23 that correct?

24 A. Yes, with an IBW label on the left side.

25 Q. All right. And why do you recognize

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1 that picture of yourself there after 60 --

2 A. I remember that shirt. It was one of my  
3 famous -- or favorite shirts.

4 Q. And you say that the plaintiff, Jack  
5 Adamson, is the man standing up to the left?

6 A. On the left side, correct.

7 Q. And he also has a white hard hat on; is  
8 that correct?

9 A. Yes.

10 Q. What is that piece of equipment or  
11 material that Jack is leaning on right there? Can  
12 you tell the judge and jury what that is?  
13 Describe -- tell us what that is.

14 A. Well, it's a self-standing relay panel  
15 controlling probably -- this is a guess, of course,  
16 at this stage. I would say a series of pumps. It's  
17 got -- it's got some stepping relays in it. It has  
18 lots of terminal blocks, some transformers, control  
19 transformers as well as power transformers, and  
20 circuit breakers. It's a three-phase control panel.

21 Q. We're going to move on now to -- let's  
22 go to where you worked with Jack Adamson. Let's move  
23 on from the FMC plant and let's go to -- I believe  
24 you stated earlier, I'm not sure -- let me ask just

0  
1 worked at the Monsanto plant over here at Soda  
2 Springs with Jack Adamson?

3 A. Yes, I did.

4 Q. Approximately when, what time -- general  
5 time frame did you work with Jack Adamson at the  
6 Monsanto plant in Soda Springs, Idaho?

7 A. It was the late fifties, very late  
8 fifties.

9 Q. What do you recall about that, working  
10 on that job with Jack, in general, what do you  
11 recall?

12 A. Well, it was in the middle of an Idaho  
13 winter and it was colder than a well digger's knees.  
14 And, again, a phosphorus producing plant. They used  
15 a little separate -- different system than FMC did,  
16 but it was still dirty and smoky and lots of possible  
17 chances to breathe phosphorus gases and things like  
18 that, dust, phosphorus gas.

19 Q. Do you recall whether or not you saw --  
20 what types of materials and equipment you saw out  
21 there at the Monsanto plant?

22 MR. ODOM: Object to form.

23 THE WITNESS: That was a rehabilitation  
24 project where we were just bringing it up to speed,  
25 modernizing it, putting in new thermocouple leads to

1 the furnace, quite a bit of that, and new cal rod  
2 units on the side of the furnace to keep the  
3 phosphorus liquid form. I remember that. And out in  
4 the switchyards outside I remember how damn cold it  
5 was.

6 Q. BY MR. KEAHEY: Do you recall what  
7 capacity you and Jack were working out there as?

8 A. Just journeyman electricians.

9 Q. Yes. But what I was really getting at,  
10 were you out there as employees or outside  
11 contractors or what?

12 A. Outside contractors.

13 Q. Do you recall who your contractor was  
14 that you were working for out there --

15 A. Uh-uh.

16 Q. -- at Monsanto?

17 A. I don't.

18 Q. Did you see -- as at the FMC plant, can  
19 you tell me whether or not you saw a variety of other  
20 crafts and workers around you at Monsanto?

21 A. Yes. We had plumbers and millwrights  
22 and people that were putting insulation on pipes, a  
23 lot of them, because they would reinsulate these  
24 pipes. They would get so contaminated with junk from  
25 the furnace that they'd scoop the asbestos off and

1 put new stuff on.

2 Q. When they did this kind of work did you  
3 see dust created?

4 A. Oh, all the time.

5 Q. Would Jack have been working with you in  
6 the same crew or where was he?

7 A. He'd be in the same crew or in another  
8 crew just like ours.

9 Q. What were the dust conditions like, in  
10 general, in the Monsanto plant at Soda Springs when  
11 you worked there with Jack?

12 A. Well, I'd say very, very similar to FMC,  
13 lots of smoke, lots of odors from the product, dust  
14 flying all over.

15 Q. Did you and Jack carpool to that job  
16 together?

17 A. Yes.

18 Q. Did you have occasion to see the state  
19 of his clothing when he left the Monsanto plant on  
20 those jobs?

21 A. Well, he would be sitting in the car  
22 with me so, yeah, they would be as bad as mine.

23 Q. At any time in any way by any means did  
24 anybody from the Monsanto plant warn you -- warn you  
25 all about asbestos?

1 A. Not that I recall.

2 Q. Did you see any kind of warnings out  
3 there about any kind of hazard at the Monsanto plant?

4 A. Just electrical.

5 Q. And, again, if -- did you assume that if  
6 Monsanto would warn you -- that if Monsanto knew  
7 about a danger or hazard they would warn you about it  
8 as an outside contractor?

9 A. Well, I remember that both those plants  
10 would -- they were quite aware of electrical hazards  
11 and they'd furnish danger signs and padlocks with  
12 little signs on them saying do not energize this  
13 circuit, things like that, minor things. And, of  
14 course, high voltage signs all over the place.

15 Q. And again I just want to ask you the  
16 same two questions I asked you about the FMC plant.  
17 As best you can remember -- I know it's going back a  
18 long way, but what would you do typically on that job  
19 at Monsanto as an outside contractor and electrician?  
20 Then I want to ask you to describe what you'd see  
21 Jack doing, so just tell us first what you would do.

22 A. Well, mostly it was tearing out obsolete  
23 or unneeded equipment, conduit, wire, motors,  
24 starters, and putting in new and different equipment  
25 to upgrade the plant.

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1 Q. When you did this kind of work, just in  
2 general, what were the dust conditions like around  
3 you?

4 A. Well, sometimes they were pretty bad.

5 Q. Then same question --

6 A. Especially if you were in the plant  
7 where the furnace was. There were buildings that we  
8 worked in that weren't too bad, but anytime you were  
9 outside or in around the furnace it was bad.

10 Q. Then I want to ask you the same question  
11 about what you recall in general seeing Jack Adamson  
12 do out there at Monsanto; what do you recall about  
13 that, or would it be as you've stated before?

14 A. Specifically, I don't remember just what  
15 he did. But he was -- we were five-man crews or  
16 ten-man crews. We all did the same thing,  
17 collectively, running conduit to pulling wire to  
18 stripping out old stuff. That was about it.

19 Q. All right. I'm going to move from there  
20 to the next job that you stated that you worked with  
21 Jack Adamson, and I can't remember now whether you  
22 stated -- I think there were one or two jobs. Can  
23 you tell me whether or not you ever worked at the  
24 Simplot plant together here in Pocatello?

25 A. Very briefly, yes.

□

1 Q. All right. And what kind of plant, tell  
2 the judge and jury, is the Simplot plant here in  
3 Pocatello?

4 A. Simplot makes a pelletized fertilizer  
5 and also they make ammonia. And I forget what else.

6 They make a couple of liquids and they make  
7 pelletized farm fertilizer.

8 Q. Well, is it fair to say -- can you tell  
9 me whether or not it's fair to say it's basically a  
10 chemical plant like Monsanto and FMC?

11 A. Well, to an extent, yes.

12 Q. What do you recall about that plant,  
13 about the kind of work you saw going on there when  
14 you were at Simplot; what was going on in there?

15 A. There would be a lot of work repairing  
16 pumps and motors, more specific than at FMC and  
17 Monsanto.

18 Q. Again, what was your job role there,  
19 were you an employee -- were you and Jack employees  
20 or were you outside contractors or what?

21 A. Outside contractors.

22 Q. Do you recall the contractor you all  
23 were working for there?

24 A. Well, I'm -- I'm speculating but I think  
25 maybe it was Foster-Wheeler.

□

1 Q. And when you and Jack were working at  
2 the Simplot plant here in Pocatello as outside  
3 contractor electricians, just tell us what you --  
4 what other types of crafts and workers were out there  
5 at that plant?

6 A. There was a lot of what they call  
7 millwrights setting -- there was always a lot of

8 contention between electricians and millwrights, who  
9 was going to set a motor, who was going to set it and  
10 align it and get the couplings all adjusted and  
11 things like that. But there was millwrights and  
12 electricians and carpenters and lots of pipefitters  
13 and laborers, of course.

14 Q. All right. What were the pipefitters  
15 doing, if you recall, at Simplot?

16 A. Replacing pipes and also adding pipes.

17 Q. When they did that, did they ever have  
18 to do any work on insulation?

19 A. Oh, yes. There would be a lot of work  
20 done on insulation and making new joints where there  
21 was gaskets, things like that.

22 Q. Did you ever see any dust created when  
23 they did that work?

24 A. Oh, when they tore that insulation off,  
25 yes.

□

1 Q. When you and Jack were there at Simplot  
2 what were the work conditions like, in general, if  
3 you recall, in the plant?

4 A. Well, Simplot is dusty but it's the  
5 product. It shifts around quite a bit but not as bad  
6 as FMC. There's lots of smoke and there's lots of  
7 gas, but the product, it isn't quite so dusty.

8 Q. Did you also see dust created from  
9 various materials out there at Simplot that were

10 being used?

11 A. Yes, because both of those plants use  
12 shale, which was mined up at the Fort Hall mine, and  
13 it was crushed and turned into a fine powder.

14 Q. When you saw these other crafts you  
15 talked about doing their work, did they ever have to  
16 work with any kind of products that today you know  
17 possibly contained asbestos?

18 A. Oh, yes, the millwrights, the plumbers,  
19 especially the plumbers. We were working right  
20 around them while they were -- while they were  
21 joining pipes and flanges and gaskets were being put  
22 in, why, we'd be wiring up the motors.

23 Q. Do you recall seeing dust created where  
24 these crafts were doing their work?

25 A. Well, not specifically, no. When they

□

1 were insulating there was always dust, both tearing  
2 off the old stuff and putting on the new.

3 Q. Do you recall what the state of your  
4 clothing was at the end of a workday at Simplot?

5 A. Yes, it wasn't near as bad.

6 Q. And what about the clothing of Jack  
7 Adamson, did you have occasion to personally observe  
8 his clothing at the end of a workday?

9 A. No.

10 Q. Did you ever see any kind of warning  
11 about asbestos at Simplot?

12 A. No. This was before OSHA, you remember,  
13 so there wasn't near the relevance to safety as there  
14 is nowadays.

15 Q. Based on what you know today, do you  
16 believe you were exposed to asbestos products at  
17 Simplot?

18 A. Oh, yes.

19 Q. All right. And based on what you know  
20 today, to the best of your knowledge, do you believe  
21 that Jack Adamson was exposed to asbestos products?

22 A. Yes. He would have been in the same  
23 boat as me.

24 In addition to these pipe coverings that  
25 were creating dust we had to fabricate things like

□

1 Formica and asbestos board made use of in the backs  
2 of panels and things like that. We'd have to cut --  
3 it would come in in big sheets about four by -- oh,  
4 four-by-four, four-by-eight, something like that.  
5 Kind of like sheetrock today. It would come in in  
6 wooden crates and we'd go to the warehouse and pick  
7 up sheets of that and fabricate it to insulate  
8 panels. Bus bar and panels is separated by asbestos  
9 board and Formica and it's made by GE. It's made by  
10 Westinghouse. It's made by -- oh, several companies.  
11 But it's all basically the same stuff and you'd have  
12 to cut it and drill it and in some instances tap it  
13 for a bolt.

14 Q. Now what you just said just now in your  
15 last response, would that be --

16 MR. ODOM: Object to form as nonresponsive.

17 Q. BY MR. KEAHEY: Can you tell me whether  
18 or not that scenario you painted and what you've just  
19 described and stated, would that be applicable to the  
20 FMC plant?

21 A. Yes.

22 Q. Would it be applicable to the Monsanto  
23 plant?

24 A. Yes, and Simplot.

25 Q. All right. And so from here on -- all

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1 the questions I'm going to ask you from here on are  
2 going to be based on times and areas and places that  
3 you testified to at FMC, Simplot, and Monsanto  
4 working with Jack Adamson. And what I wanted to ask  
5 you is something you just touched on right here, I  
6 think what you were just saying about two or three  
7 questions back when you were talking about the panel  
8 boards and things of that nature. I want to refer  
9 you back to Plaintiff's Exhibit No. \*-002, and just  
10 tell us, what is that -- given what you just said,  
11 how would that factor in to what that piece of  
12 equipment or material is that is in Plaintiff's  
13 Exhibit No. \*-002 there? Can you elaborate on, add  
14 anything to that?

15 MR. ODOM: Object to form.

16 THE WITNESS: Well, that panel may have come  
17 from the factory with that board installed in the  
18 back or it may have been something we fabricated. I  
19 don't remember. But that was the type of thing that  
20 we would do to make up a special panel to fit a  
21 certain situation that they hadn't ordered a panel  
22 for or there wasn't time to order it or whatever.

23 Q. BY MR. KEAHEY: All right. Now prior to  
24 this deposition it might have been some time back you  
25 identified brand names of -- manufacturer names of

1 equipment, materials, and things of that nature, and  
2 we published a list of that out to the defendants  
3 with this deposition. That list is in Plaintiff's  
4 Exhibit No. \*-001 but I wanted to ask you, just  
5 sitting here today you don't have that list in front  
6 of you, but off the top of your head what do you  
7 remember as far as some of the products, brand names,  
8 company names, that you saw used on jobs with Jack  
9 Adamson? What names do you recall sitting here right  
10 now?

11 A. Well, of course, the motor control  
12 companies were Alan Bradley, Westinghouse, lots of  
13 Westinghouse, Square D, Clark, ITE, which was later  
14 changed to Gould. In those days it was ITE. And  
15 then what do you need to know in the way of --

16 Q. Well, I'm going to come back and ask  
17 you some --

18 A. Wiring?

19 Q. Yes. Do you recall any brand or  
20 manufacturer's names of wiring?

21 MR. ODOM: Object to form.

22 THE WITNESS: Yeah, General Cable, Anaconda,  
23 Westinghouse -- or not Westinghouse. Excuse me. GE.  
24 I don't think Westinghouse made wire. I could be  
25 wrong.

1 Q. BY MR. KEAHEY: Do you think there might  
2 be other brand names, manufacturer's names --

3 A. Oh, yes.

4 Q. -- of products that you simply don't  
5 recall --

6 A. Oh, yes.

7 Q. -- sitting here right now?

8 A. There were lots of them.

9 MR. ODOM: Object to form.

10 Q. BY MR. KEAHEY: Would it help refresh  
11 your memory if I called out some of those names?

12 A. Well, there was Okanite, which made  
13 these big cables. And go ahead.

14 Q. All right. Well, I guess, again, just  
15 for -- would it help -- can you tell me whether or  
16 not it would help refresh -- possibly help refresh  
17 your recollection or memory if I called out some  
18 names that you previously identified that you don't  
19 recall today?

20 MS. SPARKS: Object to the form.

21 Q. BY MR. KEAHEY: Can you tell me whether  
22 or not you recall the name Union Carbide?

23 A. Oh, yes.

24 Q. Can you tell me whether or not you  
25 recall a product called Bakelite?

1 A. Oh, yeah. Oh, yeah.

2 Q. What can you tell the judge and jury  
3 about this Bakelite product, what do you remember  
4 about that?

5 A. Well, Bakelite, again, it came in sheets  
6 either as a finished product in these panels or in  
7 its bulk stage, sheets anywhere from a quarter-inch  
8 to maybe, oh, up to an inch thick, and we'd fabricate  
9 insulators out of those, insulators being used in  
10 switch gear to keep the phases of the copper buses  
11 apart. It was pretty standard. It would either come  
12 from the factory that way or we'd have to -- we had  
13 to alter a piece of switch gear.

14 We'd have the copper bus bent and then  
15 we'd take these blocks of Bakelite that we'd cut in  
16 the saw shop into blocks anywhere from, oh, four  
17 inches to ten inches wide and keep them as insulators  
18 between these bus bars because once power's applied  
19 to these huge bus bars -- and we're talking bus bars  
20 of copper that wide, that thick, you know, a half  
21 inch to a quarter of an inch thick, depending on the

22 capacity. Once you'd apply power to those, why, they  
23 tend to move due to the surge of electricity. So you  
24 have to have a real good product to keep them  
25 separated. The standard insulators was Bakelite and

1 other manufacturers, asbestos board and Formica.

2 Q. Did you have to use any kind of certain  
3 tools to adapt this Bakelite product for  
4 installation?

5 A. Yeah. They had to be cut with special  
6 saws because it was real hard and it created a lot of  
7 dust when you cut it. And it was so hard you could  
8 drill it and tap it. When you drilled it, if you  
9 drilled it too fast, why, it would start smoking on  
10 you, create a gas.

11 Q. I want to refer you back to Plaintiff's  
12 Exhibit No. \*-002, this photograph here of you and  
13 Jack Adamson. Can you tell me whether or not there's  
14 anything in there that would be similar to this  
15 Bakelite product you're talking about?

16 A. Well, those terminal blocks definitely.  
17 Probably inside part of those breakers there's  
18 Bakelite, breakers being these black three phase  
19 switches up there.

20 Q. And would those products have been  
21 prepared, as you've described, for insulation -- for  
22 installation as you've described? I know I didn't  
23 make that clear. would they have been to be cut,

24 sawed, or worked with to install them?

25 A. No.

1 Q. Okay.

2 A. Let me back up just a little bit. The  
3 terminal blocks, on occasion we had to cut because  
4 they -- we didn't have the right number of  
5 connections on them so we'd have to gang them up and  
6 make our own lengths and widths and stuff. But that  
7 wasn't -- that wasn't very often.

8 Q. Where would Jack Adamson have been when  
9 those materials were being cut like that?

10 A. Well, some of the time Jack was a  
11 foreman, as his dad was, and he could have been  
12 anywhere, but he'd be right down there showing  
13 them -- showing us where they were to go and he'd be  
14 involved with it.

15 Q. And in general --

16 A. And when he was working as an  
17 electrician he'd be right in there like it shows him  
18 here. I don't remember. I don't think he was a  
19 foreman there but his dad probably was.

20 Q. And, in general, when this Bakelite  
21 product was used, whether as depicted in that picture  
22 or otherwise, you did see dust created?

23 A. Yes.

24 Q. And to the best of your knowledge how  
25 close would Jack Adamson be to this dust when it was

1 -- would he be around these products when they were  
2 used, I suppose?

3 A. Yeah. When you were drilling or cutting  
4 asbestos it was just in very, very close proximity to  
5 the product, especially when you were drilling it.  
6 You'd be drilling it with a drill press and it would  
7 be right in front of you.

8 Q. And to the best of your knowledge would  
9 Jack Adamson have been exposed to this Bakelite dust  
10 when he was around it?

11 A. Absolutely.

12 Q. And why do you say that?

13 A. Because I was, and I was doing the same  
14 thing.

15 Q. Can you tell me whether or not this  
16 Bakelite product would have been used on a regular  
17 and frequent basis on jobs where you were with Jack?

18 A. Well, it was used on a regular basis but  
19 not real frequent.

20 Q. Would it have been used --

21 A. It wouldn't have to be remodeled on a  
22 frequent basis.

23 Q. How close would Jack typically be to  
24 this Bakelite product when it was being used?

25 A. Well, when you're installing it in the

1 switch gear you have to be handling it, of course,  
2 and you'd have to be putting it in between the bus  
3 duct we called it and drilling it and tapping it to  
4 fit on the sides of the panel so it's real close  
5 proximity. We'd be drilling it with an electric  
6 drill right in front of you or on a drill press  
7 alongside of you.

8 Q. All right. And you've touched on --  
9 earlier you mentioned Westinghouse products. What  
10 Westinghouse products, in general, do you remember  
11 seeing on jobs, the jobs we're talking about now,  
12 FMC, Simplot, Monsanto, what Westinghouse products do  
13 you remember seeing out there on those jobs?

14 MR. ODOM: Object to form.

15 THE WITNESS: Specifically lots of motors,  
16 electric, big motors, Westinghouse exhaust motors.  
17 At FMC the electrical gear was almost entirely  
18 Westinghouse, the big gear. The stuff that switched  
19 the furnaces on and off was Westinghouse.

20 Q. BY MR. KEAHEY: What do you recall about  
21 that equipment, and what I'm really getting at is  
22 how, if ever, would Jack Adamson be pulled in contact  
23 with any of that Westinghouse product that you've  
24 just talked about?

25 MR. ODOM: Object to form.

1 Q. BY MR. KEAHEY: Can you describe that to  
2 us?

3 A. Quite frequently. In the switch gear  
4 room we'd work in there for weeks at a time making  
5 connections, altering cables and things like that.  
6 Very slow tedious work.

7 Q. And how close would Jack have to be to  
8 those Westinghouse products?

9 A. Right in front of you. If you're going  
10 to work with it, you've got to have it right in front  
11 of you.

12 Q. What, in general, were the dust  
13 conditions like in there when he was working with or  
14 around those Westinghouse products?

15 A. Unless they were sawing Bakelite or some  
16 other form of insulation you wouldn't be creating a  
17 lot of dust because they came from the factory and  
18 those switches were as big as this table and weighed  
19 hundreds and hundreds of pounds.

20 Q. Did they still create enough dust that  
21 you could see some dust in there?

22 MR. ODOM: Object to form.

23 THE WITNESS: Oh, yes, all the time. The  
24 room in which they were used had big exhaust fans to  
25 keep the air coming from a clean source which was

□

1 filtered through that gear and out just to keep down

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2 the hazard of dust mostly for -- to prevent flashes.

3 Q. BY MR. KEAHEY: All right. Can you tell  
4 me whether or not you recall the name Micarta?

5 A. Yes.

6 Q. And what is Micarta, please?

7 A. Well, it's another form of insulation  
8 like Bakelite.

9 Q. All right. Can you describe if you ever  
10 saw Jack Adamson working with or around Micarta?

11 A. Yes.

12 Q. What can you tell us about that, please?

13 A. Well, just like -- just like the other  
14 products, it just depended on what the manufacturer  
15 specified.

16 Q. Do you know whether or not he would have  
17 worked with Micarta on the jobs you were on with him  
18 on a regular and frequent basis?

19 A. I'd say a very infrequent basis.

20 Q. And did you ever observe -- going back  
21 to the Westinghouse motors at FMC, can you tell me  
22 whether or not those motors were worked on there or  
23 were they shipped out of the plant?

24 A. Almost entirely worked on right there  
25 because I worked on them.

□

1 Q. Would Jack have been around where they  
2 were being worked on?

3 A. Oh, yes.

4 Q. Did you ever know -- to the best of your  
5 knowledge, did he ever work on them himself?

6 A. Yes, he did. We're talking about  
7 working on them, tearing them down, cleaning the  
8 bearings, blowing them out with a high pressure hose,  
9 putting new bearings -- new grease in the bearings,  
10 things like that, reassembling them.

11 Q. When these motors were blown out with  
12 this air hose, the judge and jury may not know what a  
13 air hose is. What is an air hose?

14 A. Just a high pressure air hose like you  
15 see in a service station, only bigger, more powerful.

16 Q. What effect, if any, would that air hose  
17 have on -- what would happen when you blew this motor  
18 out with this air hose is what I'm getting at; what  
19 would you see happen?

20 A. Well, lots and lots of dust because of  
21 the inherent atmosphere in that plant. Why, they  
22 sucked in this air for cooling and even though they  
23 may be explosion proof motors, some of them -- or  
24 waterproof motors, they still had to be cooled.

25 Q. To the best of your knowledge did these

1 motors, or at least some of them at -- these electric  
2 motors at FMC contain asbestos?

3 A. Yes. Internally in the motor out to the  
4 point of connection on the outside of the motor.

5 Q. Okay. And you mentioned earlier the

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6 name General Electric. What do you recall about

7 General Electric products in general that would have  
8 been on these jobs with you and Jack?

9 A. Well, there was General --

10 MR. DALBEY: Excuse me. I need to object to  
11 the form of that question. Pat, I also understand  
12 that you previously represented to the court that you  
13 would be bound by your product ID list, and I do not  
14 see the name General Electric anywhere on that  
15 product ID list. I'd also like to note that you are  
16 eliciting testimony as to two job sites which,  
17 likewise, are not identified on your product ID list,  
18 and I just would like for you to please confirm  
19 whether or not you are, in fact, going to agree to be  
20 bound by the product ID list that you distribute?

21 MR. KEAHEY: Well, I believe I am, but I  
22 believe what the agreement is, Randy, is that if they  
23 identify something outside what's on the exhibit list  
24 that you have the right to redepose them at a new  
25 date, so I think you are here listening in, aren't

□

1 you?

2 MR. DALBEY: I am but, frankly, had I known  
3 all this I might well have elected to attend.

4 MR. KEAHEY: Okay. Well, I thought you were  
5 attending by listening in but, you know, if you want  
6 to take his deposition again you can, but I'm  
7 certainly going to live up to the agreement that we

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8 made back -- I believe it was back at Christmas,  
9 whenever it was, but I'm going to go ahead and ask  
10 him these questions.

11 Q. BY MR. KEAHEY: But you can go ahead,  
12 please, sir and just tell us about the General  
13 Electric products that you recall seeing Jack Adamson  
14 either use or work around at FMC, Simplot, and  
15 Monsanto.

16 MR. DALBEY: Same objection.

17 Q. BY MR. KEAHEY: But you can go ahead and  
18 answer now.

19 A. I don't recall any large GE panels.  
20 There were small GE panels, but I don't think there  
21 was any major switch gear of GE. I think it was  
22 mostly Westinghouse. Now at J.R. Simplot Company  
23 there may have been some there, but I don't recall it  
24 specifically.

25 Q. What do you recall about General

1 Electric at FMC? I might have misunderstood what  
2 you told me.

3 A. I don't recall any of it there on any of  
4 the main installations we did. There might have been  
5 a panel here and there supplied by a manufacturer of  
6 a specific piece of equipment. But to the best of my  
7 knowledge FMC at that time there was some sort of  
8 connection to Westinghouse moneywise because they  
9 emphatically specified Westinghouse gear.

10 Q. To move on here, you've stated that --  
11 you called out a name, Allen Bradley. What do you  
12 recall about Allen Bradley, can you tell us what that  
13 is?

14 A. Well, it's the premier motor starter of  
15 the -- as far as I'm concerned, of the electrical  
16 industry. I represented it and sold it and went to  
17 their schools for 18 years. It's first-class gear.  
18 The company was started by two men and was owned by  
19 two families which boiled down eventually to just  
20 one -- a family. It wasn't even on the stock market  
21 but it was the very best switch gear manufacturer in  
22 the country and it competed with anything even from  
23 Europe.

24 Q. All right. Do you recall whether or not  
25 those products would have been used at FMC, Simplot,

□

1 or Monsanto?

2 A. Yes. Yes.

3 Q. Would they have been --

4 A. Both plants. Especially at Simplot.

5 Q. Were they used at FMC?

6 A. Yes.

7 Q. And did you personally see them used  
8 over at Monsanto?

9 A. No. But they did have them because when  
10 I got in the wholesale business I remember a few  
11 orders where we sold small ones to them.

12 Q. To the best of your knowledge when you  
13 saw these Allen Bradley products used at these job  
14 sites, would Jack have ever been in close proximity?

15 A. I can't tell you.

16 Q. Were they used on a regular and frequent  
17 basis at these job sites?

18 A. Yes. From the amount of -- from the  
19 amount of Allen Bradley products that I sold them in  
20 those 18 years there had to have been a ton of it out  
21 there. It was one of our major customers.

22 Q. And did you see them used out there in  
23 general when Jack was out at those jobs with you?

24 A. Well, it would have been there but at  
25 that time I wasn't aware of the name specifically

1 because I wasn't associated with it. I remember  
2 Westinghouse because of the proliferation of the  
3 product throughout the plant. That wasn't the case  
4 with Allen Bradley at FMC to begin with. That came  
5 about later.

6 Q. Can you tell me whether or not you  
7 recall the name Square D?

8 A. Yes.

9 Q. And what is Square D?

10 A. Square D is another company like GE and  
11 Westinghouse. It's a very, very big company, well  
12 known, well respected.

13 Q. All right. And what kind of products

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14 does Square D make?

15 A. They make all kinds of products from  
16 home panels and the cheapest -- or not the cheapest  
17 but the -- well, I guess you would say the cheapest  
18 breakers to the very best.

19 Q. What can you say about Square D products  
20 and Jack Adamson, would he have ever personally  
21 worked with or around Square D products --

22 A. Yes.

23 Q. -- at your jobs?

24 A. Yes.

25 Q. And what can you tell us about that?

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□

1 why is that?

2 A. Well, just from the sheer amount that  
3 was on every job I was ever on. The reason I say  
4 that is because since I had Allen Bradley exclusive  
5 dealership, Square D never would give me the product.  
6 So I was well aware of my competition, which was  
7 Square D.

8 Q. Okay. And --

9 A. At the time you're speaking of though, I  
10 couldn't speak to the number -- or the quantity of  
11 Square D on the jobs. There was a lot of it there,  
12 but certainly not to the same extent as Westinghouse.

13 Q. Do you recall any Square D products  
14 having to be prepared, like you've stated, cut,  
15 sawed, drilled, anything like that?

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16 A. I'm afraid I can't.

17 Q. Can you tell me whether or not you  
18 recall the name Crouse-Hinds?

19 A. Yes.

20 DEFENSE COUNSEL: Object to the form.

21 Q. BY MR. KEAHEY: What is Crouse-Hinds,  
22 please, for the judge and jury? Just explain --

23 A. Crouse-Hinds is a product manufactured  
24 exclusively for the electrical industry to make all  
25 kinds of cast steel, cast aluminum fittings to --

1 that would go on the end of conduit and in various  
2 products to facilitate the entry and exit of wiring  
3 to that product and in some cases to seal it off from  
4 the environment or contain it within that product so  
5 there can't be an explosion that results from the  
6 product getting outside the environment and  
7 escalating to another site.

8 Q. When you saw these Crouse-Hinds products  
9 used -- well, first let me -- did you see them used  
10 on any of these three jobs you worked on with Jack?

11 A. Oh, extensively. It was almost -- it  
12 was almost exclusively used.

13 Q. When you saw these Crouse-Hinds products  
14 used on these jobs with Jack, did you see any dust  
15 created?

16 A. Only when you were mixing what they  
17 called -- it was a sealant to seal off these

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18 explosion proof devices that went on every piece of  
19 conduit going into and out of a piece of switch gear  
20 or motor control. You see them today in every  
21 service station to seal the conduit going up into the  
22 gas pump so that gasoline leaking can't go down that  
23 conduit. And it's called Chico. They pour Chico  
24 into a side port on the side of the fitting and it's  
25 mixed with water. But when you open the can and

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1 start mixing it, why, it's an asbestos product, I  
2 presume, to the best of my knowledge. And it creates  
3 a lot of dust while you're mixing it with water and  
4 then it -- once it's a liquid, why, you can just pour  
5 it in where you want it.

6 Q. How close, typically, in general, would  
7 you have been to that dust you just described?

8 A. Oh, very close. Almost -- you almost  
9 have to handle it.

10 Q. How about Jack Adamson, how close --

11 A. Same way. I remember on jobs where he  
12 and I mixed that stuff and poured it.

13 Q. Did you breathe that dust?

14 A. Oh, yes.

15 Q. Did he breathe it?

16 A. Yes. Had to of. If you're going to  
17 stir it up right in front of you, why, you're going  
18 to be breathing it.

19 Q. I want to ask you whether or not you

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20 recall the name Emerson?

21 MR. GOLLER: Object to the form.

22 Q. BY MR. KEAHEY: You can go ahead and  
23 answer. He's making an objection, but that's --

24 A. Emerson, yes.

25 Q. And what is Emerson, please, for the

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1 judge and jury?

2 A. Well, to my first recollection, it was  
3 motors, Emerson motors.

4 Q. And what do you remember about  
5 Emerson -- are you talking about electrical motors  
6 now?

7 A. Uh-huh.

8 Q. All right. What do you recall about  
9 Emerson electrical motors?

10 MR. GOLLER: Same objection. Object to the  
11 form.

12 Q. BY MR. KEAHEY: You can go ahead and  
13 answer.

14 A. Really not very much.

15 Q. Did you ever see those motors on these  
16 three jobs you worked on with Jack?

17 A. I can't recall.

18 Q. Okay. Can you tell me whether or not  
19 you recall the name Honeywell?

20 A. Oh, yeah.

21 Q. What do you recall about the name

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22 Honeywell?

23 A. Well, Honeywell, as you know, makes  
24 thousands and thousands of different types of  
25 controls, controls for practically everything, and

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1 recorders, Honeywell recorders to record temperature,  
2 pressure, whatever.

3 Q. Did you ever see any of these Honeywell  
4 products at the three job sites we've been talking  
5 about here today with Jack?

6 A. Yes, but I can't really pin it down to  
7 which one.

8 Q. All right. Can you tell me whether or  
9 not you recall the name -- or a product called Victor  
10 gaskets?

11 A. Victor gaskets came in sheets, typically  
12 an eighth of an inch on up.

13 Q. Did you ever see these Victor gaskets  
14 used at any of these three job sites, FMC --

15 A. Oh, yes.

16 Q. -- Simplot, or Monsanto?

17 A. Plumbers would take these sheets and cut  
18 them with a pair of tin snips and lay them across the  
19 flanges that they were trying to insulate and take a  
20 hammer and tap around the edges and tap where the  
21 hole was and cut out the center and that was how they  
22 made them.

23 Q. All right. When you saw this kind of

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24 work done later in the day or later in time on that  
25 job, would you ever see a craft called laborers come

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1 through there and clean up?

2 A. Yes.

3 Q. When they cleaned up did you ever see  
4 what kind of tools or instruments they were using to  
5 clean up?

6 A. Just standard brooms and -- brooms and  
7 dustpans.

8 Q. All right. Did you ever see them use  
9 air hoses?

10 A. No, but I think probably the plumbers  
11 probably did.

12 Q. When you saw this cleanup go on did you  
13 see dust created?

14 A. Oh, yes.

15 Q. All right. Would -- to the best of your  
16 knowledge would Jack Adamson have been around from  
17 time to time when this happened?

18 A. Very possible, but there's no way I can  
19 remember him being there specifically.

20 Q. Okay.

21 A. Now, remember, when they were using  
22 these air hoses to do cleanup work, it's all kinds of  
23 dust, whatever is laying there, whatever's on the  
24 floor, whatever's on the product, whatever was caused  
25 by the product.

1 Q. Did you see these cleanup operations at  
2 just FMC or did you see them at all three plants?

3 A. Oh, every job. Every job. That's one  
4 of the things craftsmen take pride in is cleaning up  
5 afterwards, cleaning up your job site. You don't  
6 just create a mess and walk off.

7 Q. When this cleanup would happen, what, if  
8 anything, would that do to the dust levels?

9 MR. ODOM: Object to the form.

10 THE WITNESS: Well, it would have to have  
11 raised the dust level considerably depending on the  
12 product, how big a mess it was. It's pretty hard to  
13 pin down. You can't clean up a job site without --  
14 with an air hose without creating dust.

15 Q. BY MR. KEAHEY: And did you personally  
16 observe from time to time this kind of operation  
17 going on at these three job sites?

18 A. Yes.

19 Q. And if you personally observed it would  
20 it be -- can you tell me whether or not Jack Adamson  
21 would have been in the same general area?

22 A. Yes.

23 Q. Were you exposed to the dust that --

24 A. Yes.

25 Q. -- was created?

1 A. Yes.

2 Q. To the best of your knowledge was Jack  
3 exposed to that dust?

4 A. If I do say so, electricians were very  
5 meticulous about dust, cleaning it up, blowing out  
6 the panels and cleaning them up. That was part of  
7 finishing up the job site is cleaning the panel out,  
8 whether it was just a lighting panel with breakers in  
9 it, take an air hose and blow it out. A control  
10 panel, when you got through wiring it up like this  
11 one, take an air hose and blow out the dust because a  
12 lot of those panels had gaskets on them to keep the  
13 dust out and naturally you wanted to leave them in a  
14 clean condition when you closed the door and locked  
15 it.

16 Q. And when electricians -- would  
17 electricians like Jack have done this kind of  
18 cleanup?

19 A. Oh, yes.

20 Q. When he would have done this kind of  
21 cleanup would he have been exposed to the dust  
22 created?

23 A. Had to of.

24 Q. And by that what I mean is to the best  
25 of your knowledge would he ever breathe that dust?

1 A. Uh-huh.

2 Q. Is that a yes? You have to say yes.

3 A. Yes. Because I can specifically  
4 remember myself having lots of temporary lung  
5 problems some days coming home from these jobs from  
6 breathing all this dust.

7 Q. Can you tell me whether or not you  
8 recall the name Gould?

9 A. Yes.

10 Q. And why do you recall the name Gould,  
11 please?

12 A. Gould, let's see, they made -- Gould  
13 made fittings, electrical fittings. They may have  
14 even made some panels. I don't recall just what was  
15 made but I remember that name.

16 Q. Do you recall whether or not you would  
17 have seen these Gould products on any of these three  
18 jobs you worked on with Jack?

19 A. Oh, yes. Yeah.

20 MS. SPARKS: Object to form.

21 THE WITNESS: Especially FMC and Simplot.

22 Q. BY MR. KEAHEY: All right. Would these  
23 products have been in use out there or being used?

24 A. Yes.

25 DEFENSE COUNSEL: Object to form.

□

1 Q. BY MR. KEAHEY: Can you tell me whether  
2 or not you recall the name Viking?

3           A. Viking was a gasket product, I believe.  
4 I think that was it. It used to come in cardboard  
5 boxes, as I recall.

6           Q. Do you recall whether or not -- you  
7 talked about seeing pumps and valves and things out  
8 at these three plants. Do you recall the brand name  
9 or manufacturer name of any pump valve manufacturers  
10 out there, sitting here today?

11          A. Well, there was two or three outstanding  
12 ones that were almost on every job. I can't bring up  
13 their name right now.

14          Q. Would it help you if I called the names  
15 out to you?

16          A. Yeah.

17          MR. ODOM: Form.

18          Q. BY MR. KEAHEY: Would it help you to  
19 remember if I called the names out to you?

20          A. Yes.

21          Q. All right, sir. Do you recall the name  
22 Warren, w-a-r-r-e-n?

23          A. I think Warren made pumps.

24          Q. What do you recall about Warren pumps?

25          A. Nothing. Nothing. They used -- they

1 had asbestos gaskets around the shaft where you screw  
2 in a couple of hex nuts to compress the gasket, and  
3 the gaskets were almost always rope, asbestos rope.

4           Q. Did you ever see those Warren pumps at

5 any of those jobs we're talking about, FMC, Simplot,  
6 or Monsanto?

7 A. Well, I would have had to or I wouldn't  
8 remember them, but I can't -- I couldn't tell you to  
9 this day which job.

10 Q. All right. Do you recall ITT --

11 A. Yes.

12 Q. -- pumps? What can you tell us about  
13 ITT pumps, please?

14 A. Just that I worked around them.

15 Q. All right. Did you see them on any one  
16 of these three jobs we've talked about here today  
17 with Jack Adamson, FMC, Simplot, or Monsanto?

18 A. I don't think I could.

19 Q. Do you recall a acronym or a name ITE?

20 A. Yes.

21 Q. What is ITE, please?

22 A. ITE makes electrical switch gear.

23 Q. Did you see any of that switch gear at  
24 Monsanto, FMC, or Simplot?

25 A. Probably. They made small things like

1 small control transformers and control relays, things  
2 like that. Here again, I couldn't tell you which job  
3 I saw them on but I had to have seen them on some of  
4 these jobs or I wouldn't know what it was.

5 Q. Okay.

6 A. I ended up selling ITE for years when I  
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7 was in the wholesale business but I was already  
8 familiar with it after having come off construction.

9 Q. You stated earlier a couple of times at  
10 least that you remember seeing pipefitters using or  
11 working with pipe insulation; is that correct?

12 A. Uh-huh.

13 Q. And can you tell me whether or not you  
14 recall the name Owens-Illinois?

15 A. Yes, very definitely.

16 Q. Do you associate that name with pipe  
17 covering?

18 A. Yes.

19 Q. And did you see that product used in the  
20 1950s on any of these jobs with Jack?

21 A. Yeah, out at the site specifically and  
22 possibly -- I couldn't swear to it but possibly at  
23 FMC.

24 Q. When you saw this --

25 A. Very definitely out on the site.

1 Q. All right. When you saw this  
2 Owens-Illinois pipe covering used did you see any  
3 dust created?

4 A. Oh, yes. Just taking it out of the  
5 carton would create dust.

6 Q. Did you breathe that dust?

7 A. Yes.

8 Q. Did Jack breathe it, to the best of your

9 knowledge?

10 A. Oh, yes. See, pipefitters and  
11 electricians usually work in close proximity to each  
12 other, depending on the progress of the job, so we  
13 were always exposed to whatever they used and vice  
14 versa.

15 Q. And did that happen more than once?

16 A. Oh, yes.

17 Q. Would it be fair to say it happened on a  
18 fairly regular and frequent basis?

19 A. I'd say throughout my --

20 MR. ODOM: Object to form.

21 THE WITNESS: -- construction career, 15  
22 years.

23 Q. BY MR. KEAHEY: And how close, in  
24 general, would you and Jack be to this Owens-Illinois  
25 product when it was being used?

1 A. Oh, we could have been in the same room.  
2 We could have been right on top of it wiring a motor  
3 or running conduit. Conduit and plumbers pipe and  
4 steamfitters pipe usually runs right in the same  
5 trenches or the same hallways or the same raceways,  
6 so, yes, we would always be in the same proximity.

7 Q. Did you ever have occasion to -- well,  
8 let me ask you this. Any of these three jobs we've  
9 talked about, FMC, Monsanto, Simplot, do you recall  
10 whether or not they had any boiler rooms in those

11 plants?

12 A. Yes.

13 Q. Did you ever go in the boiler rooms?

14 A. Yes.

15 Q. Was it part of your job to have to go in  
16 the boiler rooms?

17 A. Yes.

18 Q. Why was that?

19 A. To run conduit and set panels. The  
20 first time I was in a boiler room was out at the  
21 Site and then -- no, the first time I was in it was  
22 at FMC and then out at the Site and then again back  
23 -- when we went back to FMC.

24 Q. Do you recall whether or not you saw any  
25 kind of insulations --

1 A. Yes.

2 Q. -- being used in there?

3 A. Yes, I did.

4 Q. What do you recall?

5 A. I very clearly remember that, blocks of  
6 insulation coming out of these huge cartons. They'd  
7 be big cartons and they'd lift them out, big white  
8 blocks of insulation. Some of it was curved or  
9 semi-curved, and slapping it on these pipes and then  
10 wrapping wire around to keep it in place. And these  
11 guys that installed it always wore white coveralls  
12 and white sweatshirts or white clothing, and I'll bet

13 not many of them escaped getting this disease.

14 Q. Do you recall seeing how they were  
15 working with that product, were they having to cut  
16 and saw on it in any way?

17 A. Oh, yeah, just cut it any which way they  
18 had to.

19 Q. Did you see dust created?

20 A. Yes, lots of dust. It was like cutting  
21 into a rotted log. Dust flew every which way.

22 Q. Do you recall whether or not since you  
23 were in and out of these boiler rooms at these three  
24 plants, would Jack --

25 MR. ODOM: Object to form.

1 Q. BY MR. KEAHEY: -- in the course of his  
2 work --

3 A. Yes.

4 Q. -- would he have had to have done the  
5 same thing?

6 A. Yes. I think I can remember having to  
7 leave the vicinity while they were doing it on  
8 occasion or two, the dust would get so bad. Just  
9 walk away from it while they were cutting it.

10 Q. And to the best of your knowledge would  
11 Jack have been in there when they were cutting --  
12 sawing some of this insulation?

13 A. Uh-huh. Uh-huh. He was on the same  
14 crew as I was and he was also the foreman of a crew I

15 was on.

16 Q. All right. And you stated you do recall  
17 the name Foster-Wheeler; is that correct?

18 A. Uh-huh. Uh-huh.

19 MR. ODOM: Object to the form.

20 Q. BY MR. KEAHEY: Can you also tell me  
21 whether or not you recall the name Babcock and  
22 Wilcox?

23 A. Yes.

24 Q. All right.

25 A. That was the name of a boiler company

□

1 and they made steam valves and associated equipment,  
2 site gauges.

3 Q. All right. I'm about to wrap up here,  
4 Mr. Moore. Are these all the products that you can  
5 recall as of today that we've talked about, or are  
6 there any others?

7 MR. ODOM: Object to form.

8 THE WITNESS: I remember Garlock.

9 Q. BY MR. KEAHEY: What do you recall about  
10 Garlock?

11 A. Garlock -- cases of Garlock gasket  
12 material, finished gaskets, unfinished material, and  
13 the sheets of it that was stamped Garlock.

14 Q. Did you see this Garlock product used at  
15 any of these three plants we're talking about?

16 A. Yes. Yes.

17 Q. Did you see it used at FMC?

18 A. Yes. The plumbers, as I stated earlier,  
19 would cut out a square, put it over the top of a  
20 flange and take a ball pin hammer and gently tap out  
21 the design.

22 Q. Was it used in areas where Jack would  
23 be?

24 A. Well, I presume it was because we were  
25 all together.

1 Q. How about at Simplot, did you see this  
2 Garlock product you described ever used at Simplot?

3 A. I can't say specifically, no.

4 Q. How about Monsanto, did you ever see it  
5 out at Monsanto?

6 A. Again, all I remember is that it was  
7 very prevalent on most jobs I was on, on big jobs.

8 Q. Okay. All right. And would -- going  
9 back to the laborers and the cleanup, would you ever  
10 see the laborers clean up where this Garlock product  
11 had been used?

12 A. Well, somebody had to clean -- somebody  
13 cleaned up the mess that was left over. It would  
14 have been the laborers.

15 Q. And generally when these cleanup  
16 operations took place would dust be created from  
17 that?

18 A. Well --

19 Q. Or would it stir the dust up, in other  
20 words?

21 A. Yeah, you had to. It was all done with  
22 a broom and a shovel, so I presume there was lots of  
23 dust or some dust. This was new construction so  
24 we're not talking about necessarily a lot of plant  
25 dust. It would have been construction dust.

1 Q. And to the best of your knowledge would  
2 Jack Adamson have been in the same general area with  
3 these Garlock products when they were being used?

4 A. Yes. That's very typical.

5 Q. And you're referring to Plaintiff's  
6 Exhibit No. \*-002 now? Why are you referring to  
7 Plaintiff's Exhibit No. \*-002?

8 A. Well, this was how we were as a crew,  
9 working that close together. Sometimes -- always at  
10 least two men together for safety reasons. Sometimes  
11 more.

12 Q. All right. And I have just a few  
13 questions here to wrap up. I know you talked a lot  
14 here today. Do you think you might remember more  
15 about everything I've asked you about later?

16 A. Yeah.

17 MR. ODOM: Object to form.

18 THE WITNESS: Yeah, you caused me a  
19 sleepless night trying to remember some of what you  
20 showed me yesterday, trying to remember some of that

21 stuff.

22 Q. BY MR. KEAHEY: Is there any way anybody  
23 could have worked at FMC and not be exposed to  
24 asbestos?

25 A. No way. If you did anything --

1 MR. ODOM: Object to the form --

2 THE WITNESS: -- down on the floor or in  
3 these control rooms and stuff, especially the pump  
4 rooms, you'd be exposed to the dust and particularly  
5 the furnace room and the boiler rooms. Lots and lots  
6 of asbestos both on the boilers and on the pipes.  
7 Parts of the furnace were wrapped with asbestos --  
8 not wrapped. They were blocks of asbestos to keep  
9 the heat in. And we're talking a furnace that you  
10 couldn't get in this room -- couldn't get in two or  
11 three of these rooms and they'd be two stories high.

12 MR. KEAHEY: All right. Mr. Moore, that's  
13 all I have for you right now. I'm going to stop.  
14 We'll take a little short break and we'll come back  
15 and let the defense ask you their questions. Thank  
16 you.

17 THE VIDEOGRAPHER: We'll now go off the  
18 record.

19 (Mr. Moore waived his right to read and  
20 sign his transcript per Mr. Keahey.)

21 (The deposition concluded at 10:50 a.m.)

23  
24  
25

REPORTER'S CERTIFICATE

STATE OF IDAHO )  
COUNTY OF BONNEVILLE ) ss.

I, Sandra D. Terrill, CSR, RPR, and Notary Public in and for the State of Idaho, do hereby certify:

That prior to being examined BILL MOORE, the witness named in the foregoing deposition, was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and that the foregoing transcript contains a full, true and verbatim record of said deposition.

I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 2nd day of June 2004.

Sandra D. Terrill  
Idaho CSR No. 702,  
Notary Public in and for  
the State of Idaho.

My Commission Expires: 11-10-04

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