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A P P E A R A N C E S

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S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and among counsel for the parties hereto that the deposition of the aforementioned witness is hereby being taken for all purposes allowed pursuant to the Federal Rules of Civil Procedure, in accordance with law, pursuant to notice;

That the formalities of reading and signing are specifically not waived;

That the formalities of filing, sealing, and certification are specifically waived;

That all objections, save those as to the form of the question and the responsiveness of the answer, are hereby reserved until such time as this deposition or any part thereof may be used or sought to be used in evidence.

* * * *

DENISE M. CENTANNI, Certified Court Reporter, in and for the State of Louisiana, officiated in administering the oath to the witness.

1 LAURENCE R. DURIO, CIH, Durio Consulting
2 Services, 8762 Quarters Lake Road, Baton
3 Rouge, Louisiana 70809, having first been
4 duly sworn, was examined and testified as
5 follows:

6 EXAMINATION BY MR. GAULT:

7 Q. Did you bring your file with you
8 today?

9 A. I did not.

10 Q. Okay. Did you bring anything with
11 you today?

12 A. A little bit.

13 Q. All right. What did you bring?

14 A. I brought a copy of my report; the
15 CV; four-year testimony list; and then the
16 Cajun Insulation or Cajun Industries,
17 whatever their -- term they're going by, OSHA
18 inspection history.

19 Q. Okay. In addition to what you
20 brought with you today, you listed in your
21 report some things that you have reviewed.

22 A. Yes, sir.

23 Q. So in addition to what you have
24 reviewed here and what you have brought with
25 you, what else is in your file on this case?

1 A. Just some notes I took during the
2 review of these documents.

3 Q. Okay.

4 A. That's about it. Let's see. I've
5 got, probably just on some sticky notes,
6 time. But that's it.

7 Q. Okay. May I see that?

8 A. Sure.

9 Q. Can we attach your testimony?

10 A. Yeah. Those copies are for you,
11 sir.

12 Q. Correct. All right. So as Exhibit
13 1, we will attach a three-page document with
14 your testimony list.

15 And Exhibit 2 -- we will attach
16 your CV as Exhibit 2.

17 And then the last thing you brought
18 with you today is a printout from the OSHA
19 website?

20 A. That's correct.

21 Q. And we'll attach that as Exhibit 3.

22 The printout that you have done
23 from OSHA, I don't think you referenced that
24 in your May 22nd report, did you?

25 A. No, I don't believe I did.

1 Q. All right. Do you have any
2 opinions based on the OSHA information that
3 is attached as Exhibit 3?

4 A. Essentially, as contained in my
5 report. And I may have referenced it. It
6 would be odd that I did not reference it.
7 No. That was an oversight apparently. I
8 apologize.

9 Q. All right. So --

10 MR. COLE:

11 Well, he does talk about the OSHA
12 inspection here in history in the report.

13 THE WITNESS:

14 Yeah. But I did not list it in
15 the --

16 MR. COLE:

17 Yeah. He talks about it in his
18 report but apparently didn't put it on the
19 front page.

20 BY MR. GAULT:

21 Q. So any opinions you have based on
22 the documents attached as Exhibit 3 would be
23 contained in your report already?

24 A. That's correct. Now, obviously,
25 there's -- if you ask questions in detail, I

1 can go into more detail than is in the
2 report.

3 Q. Understood.

4 A. But my fundamental opinion is in
5 the report.

6 Q. Other than the materials you
7 brought with you today which we've attached
8 as exhibits, other than the things listed on
9 the first two pages of your report, and other
10 than the handwritten notes you've made, is
11 there anything else in your file in this
12 case?

13 A. No, sir.

14 Q. Is there anything else you have
15 reviewed that is not attached as an exhibit
16 or listed in your report?

17 A. I don't believe so.

18 MR. COLE:

19 Well, there is the reference in
20 here. You already -- Chevron already has
21 it -- but the Cajun Safety Handbook he talks
22 about in this report. That's another
23 document. I'm just --

24 THE WITNESS:

25 But that was either included in or

1 an exhibit to one of these documents that
2 I've listed.

3 MR. GAULT:

4 Fair enough.

5 MR. COLE:

6 And I'm not going to go through it
7 for him. But you asked what else is
8 referenced in the report. I'm just glancing
9 through it to see.

10 BY MR. GAULT:

11 Q. Other than -- withdraw that.

12 Are there any additional or new
13 opinions that you have that are not contained
14 in your May 22 report?

15 A. No, sir.

16 Q. You reviewed a -- one of the things
17 listed was a deposition of Stanley Dryden?

18 A. Yes, sir.

19 Q. Who is that?

20 A. Not being intimately familiar with
21 Chevron's corporate structure, I probably
22 will butcher the title. But, basically, he
23 was the head industrial hygienist for Chevron
24 in the what, '70s through perhaps early '90s,
25 something of that nature.

1 Q. Prior to this case, have you ever
2 been retained by Cajun? And I say Cajun.
3 Can we just say it's Cajun Company or
4 Insulation? Can we just call it Cajun?

5 A. I believe once before.

6 Q. If I say "Cajun," can we have an
7 understanding that it means either Cajun
8 Company or Cajun Insulation?

9 A. Oh, yeah. And that's why I said
10 Cajun Insulation or whatever name applies at
11 the time.

12 Q. Have you ever been retained by
13 Cajun?

14 A. Not directly, but through
15 NeunerPate, yes.

16 Q. And when was that?

17 A. Three or four years ago.

18 Q. Do you remember the case?

19 A. Busby versus Cajun or something of
20 that nature.

21 Q. Is it listed on here?

22 A. No. I don't think it is because I
23 was never deposed. It never went to trial.

24 Q. And what kind of case was that?

25 A. Asbestosis, I believe.

1 Q. Were you retained by anybody in the
2 case that was -- the lawsuit filed by Randy
3 Dufrene?

4 A. Yes, I was.

5 Q. Who were you retained by?

6 A. Bradley Murchison representing
7 Monsanto, Pharma CIO, whatever name they
8 happened to be sued under.

9 Q. Were you deposed?

10 A. I don't think so. If I was, it
11 would be in that list.

12 Q. Did you do a report?

13 A. I don't think so also. That was
14 state court in Louisiana. Reports are not
15 required.

16 Q. Have you ever, either through a
17 report or in a deposition or trial, offered
18 any opinions on employer responsibility under
19 OSHA?

20 A. Yes, I have.

21 Q. If I hand you this list; that is,
22 Exhibit 1, are any of those cases -- in any
23 of those cases, did you offer testimony about
24 what an employer is required to do under
25 OSHA?

1 A. Richard, I don't remember.
2 Wiggins, I doubt. Talamo and Landry, Naquin,
3 Punch, Comardelle, almost certainly. Oddo,
4 I'm not sure. Mayfield, yes. Trigueros,
5 yes. Muscarello, probably. Petrie, I doubt.
6 Kelley, I did.

7 Q. Okay. Just so we make sure, do you
8 mind putting a checkmark? Because you kind
9 of ran through those.

10 A. Okay.

11 Q. Can you put a checkmark beside each
12 case --

13 MR. COLE:

14 Here you go. You got a pen?

15 THE WITNESS:

16 Yeah.

17 BY MR. GAULT:

18 Q. -- if you believe you gave
19 testimony regarding an employer's obligations
20 under OSHA?

21 A. Okay. If you don't mind, I will
22 put a question mark beside the ones I'm
23 really uncertain, a checkmark besides the one
24 I'm fairly sure.

25 Q. Perfect.

1 A. There you go.

2 Q. Thank you. And that's on Exhibit

3 1.

4 All right. You have your report in
5 front of you. Can you take a look at that
6 for me?

7 A. Sure.

8 Q. All right. On the bottom of page

9 2 --

10 MR. COLE:

11 Did you attach his report, or were
12 you?

13 MR. GAULT:

14 (Shakes head.)

15 MR. COLE:

16 Okay.

17 MR. GAULT:

18 No.

19 BY MR. GAULT:

20 Q. Bottom of page 2.

21 A. Yes, sir.

22 Q. You say that Mr. Dufrene worked at
23 Chevron for a total of roughly 600 hours?

24 A. That's correct.

25 Q. All right. And what's the basis of

1 600 hours?

2 A. I went through the time sheets, for
3 lack of a better term, that were part of the
4 contract documents in this case, and just
5 noted -- I think by Bates number, but I don't
6 recall. It was just scratch paper -- how
7 many hours he reported that he worked or that
8 were reported that he worked.

9 Q. Thank you. Can you look on page 3?
10 The first paragraph at the top, you say that
11 it would be unlikely that Mr. Dufrene did
12 more than 100 hours of removal of insulation.
13 Do you see that?

14 A. Yes, sir.

15 Q. What's the basis for that 100
16 hours?

17 A. As I said in the report, the
18 removal is a much faster process than
19 installation. And a substantial part of his
20 time was for the purely insulation project,
21 plus on the maintenance. Maybe a quarter of
22 the time, total time expended, would have
23 been on removal versus reinsulation.

24 Q. And around 100 hours, it would be a
25 good estimate for you?

1 A. I think 100 is high. But I'm
2 willing to accept that as a figure.

3 Q. Okay. You wouldn't say it would be
4 lower than 50 hours, though, would you?

5 A. I mean, by his testimony, it could
6 be. I don't know. I couldn't give you a
7 bottom end figure. That's why I put 100. It
8 is unlikely to be more. Just a -- I thought
9 a fairly liberal upper bounds assessment.

10 Q. But in terms of an estimate from
11 you, you're comfortable with using the term
12 "around 100 hours"?

13 A. Yes.

14 MR. COLE:

15 I object. That's not what that
16 says.

17 THE WITNESS:

18 I said it's unlikely he did more
19 than 50. I think the most likely number was
20 probably pretty close to a 50, the 50 that
21 you threw out. But I'm willing to concede an
22 upward bounds of no more than 100.

23 BY MR. GAULT:

24 Q. Fair enough.

25 Have you talked to anyone who is a

1 current or former employee of Cajun since you
2 have been retained in this case?

3 A. I have not.

4 Q. Have you ever talked to anybody
5 that is a current or former employee of
6 Cajun?

7 A. Not knowing the corporate structure
8 of Cajun, I don't know if I can give a yes or
9 no answer to that. I have spoken to Mr. Duhe
10 multiple occasions. Whether he is
11 statutorily an employee or not, I don't know.

12 Q. And when was the last --

13 A. And I have also spoken to various
14 subordinates of his in the field. But I do
15 not recall names. That was a long time ago.

16 Q. And the last time you spoke to
17 Mr. Duhe was when?

18 A. Probably the mid-'80s.

19 MR. GAULT:

20 Off the record.

21 (OFF-RECORD DISCUSSION)

22 BY MR. GAULT:

23 Q. So other than the lawyers at
24 NeunerPate, have you talked to anybody else
25 about this case?

1 A. Chevron versus Cajun?

2 Q. Yes.

3 A. No.

4 Q. Thank you. That's a --

5 A. I wanted to distinguish.

6 Q. That's a fair clarification.

7 A. I wanted to distinguish that from
8 the basic or underlying or prompting
9 Comardelle case.

10 Q. Sure.

11 A. Dufrene case. I'm sorry.

12 Q. Sure.

13 And so as we go forward, if I have
14 to refer to Mr. Dufrene's lawsuit, I'll call
15 it the underlying case.

16 A. Okay.

17 Q. And the Chevron versus Cajun, I'll
18 call "this case" or Chevron versus Cajun.

19 A. That's fine.

20 Q. But in terms of this lawsuit that
21 we're here on today, other than the lawyers
22 at NeunerPate, have you spoken to anybody
23 else about this case?

24 A. Paralegal at NeunerPate. But yeah,
25 no one outside of the NeunerPate structure.

1 Q. Did you review any safety handbook
2 from Cajun?

3 A. Yes, sir, I did.

4 Q. And that is not listed, I don't
5 think, in the documents. Do you have a copy
6 of that?

7 A. I do. I did not bring it with me.
8 And it is in one of the documents listed.

9 Q. Do you know the date of that?

10 A. The handbook?

11 Q. Yes, sir.

12 A. March of 1979.

13 Q. What do you recall was in the
14 handbook with respect to -- what do you
15 recall that was in the handbook that would be
16 relevant to protecting the workers from
17 exposure to asbestos?

18 A. There was a fairly nonspecific
19 section on respiratory protection. And then
20 there were detailed sections on a general
21 asbestos-handling procedure, for lack of a
22 better term, and then one specific to the
23 Monsanto plant in Luling.

24 Q. In terms of the handbook's
25 discussion of respiratory protection, is what

1 is -- is the information contained in the
2 handbook sufficient under the OSHA
3 requirements?

4 A. I don't recall. I don't recall
5 enough about what's in the handbook to give
6 you an answer on that.

7 MR. COLE:

8 Did you bring it with you?

9 MR. GAULT:

10 (Shakes head.)

11 MR. COLE:

12 You didn't?

13 MR. GAULT:

14 (Shakes head.) No. I haven't seen
15 it. That's why I was asking about it.

16 MR. COLE:

17 Well, it's been produced. Do you
18 want it? I don't want to -- (hands document
19 to Mr. Gault.)

20 MR. GAULT:

21 All right. Thank you.

22 MR. COLE:

23 At least this is part of it. I
24 mean, this is...

25 And just for the record, it's got a

1 Bates stamp on it, you know. It was from
2 Cajun ESH. This one does anyway, CAJUN ESH76
3 through 155.

4 BY MR. GAULT:

5 Q. Do you know who wrote this handbook
6 for Cajun?

7 A. It's my understanding that
8 Mr. Duhe's son or one of Mr. Duhe's sons was
9 their safety director, manager, or whatever,
10 and that he was the primary author of that.

11 Q. And where did you get that
12 understanding?

13 A. Gee. I really don't recall.

14 Q. All right. So I'll show you then
15 this handbook page on respiratory protection,
16 let you have a look at it. And then when
17 you're through, you can tell me.

18 A. Okay.

19 Q. Do you recall any other pages in
20 there on respiratory protection, or is that
21 the only one?

22 A. That's what I recall. There may be
23 something else hidden in there. But I don't
24 recall anything else.

25 Q. Does that page set forth all of the

1 requirements for -- all the requirements of
2 OSHA for respiratory protection?

3 A. No, sir.

4 Q. Do you believe that this page on
5 respiratory protection contained in this
6 handbook is sufficient under the OSHA
7 regulations?

8 A. As a standalone, no, it is not.

9 Q. If someone is removing asbestos
10 insulation, what type of respiratory
11 protection would be required?

12 A. It depends upon the conditions of
13 the removal, the exposure levels that are
14 encountered.

15 Q. Thought you would say that. Is
16 a -- are you familiar with the 3M dust mask?

17 A. Yes.

18 Q. Do you know what that's called,
19 what number? 3M?

20 A. Well, there's a whole series of
21 numbers.

22 Q. Fair enough. Fair enough.

23 Is a -- and when I say a dust mask,
24 you understand I'm talking about a disposable
25 respirator?

1 A. Yes, sir.

2 Q. As opposed to a cartridge
3 respirator?

4 A. Correct.

5 Q. And in your opinion, would --

6 A. Let's back up.

7 Q. Yes, sir.

8 A. Particularly, 3M made a lot of
9 cartridge-type respirators that were
10 disposable as well. So simply saying
11 "disposable" doesn't necessarily make it a
12 dust mask.

13 A dust mask is generally a single
14 use -- the term is "filtering face piece" is
15 the technical term. It's basically a
16 paper-pressed fiber device, no specific
17 sorbent or high-efficiency filter in it.

18 Q. Fair enough.

19 Would you believe that it would be
20 proper to have someone wear a dust mask when
21 removing insulation materials in the 1970s?

22 A. In the '70s? Depending on how you
23 define "proper," which is a real loaded term,
24 it probably would have been. By today's
25 standards, no.

1 Q. So in the 1970s, if you were in
2 charge, understanding the OSHA regulations,
3 you think it would have been acceptable to
4 use a dust mask -- for an employee to wear a
5 dust mask while removing insulation?

6 A. Well, "acceptable" is another term,
7 just like "proper." As a certified
8 industrial hygienist, I would not have
9 accepted it. Regulatorily, and in comparison
10 to the exposure standards of the day,
11 depending upon the work practices that were
12 utilized, yes, it could have been.

13 Q. The opinions that are contained in
14 your report, all of these could have been
15 given by you in the underlying case if you
16 were retained to do so. Would you agree with
17 that?

18 A. I believe so. I think this is
19 entirely consistent with my opinions in the
20 underlying case, though I must say that in
21 the underlying case, my emphasis was not on
22 Chevron. So any opinion -- let's back up.

23 The third opinion -- I mean, I have
24 general information along the lines of the
25 third opinion, but my focus was not Chevron.

1 I didn't have any detail that would support
2 that opinion.

3 Q. Understood. So in your opinions,
4 Opinion No. 1 that has several subparts, and
5 Opinion No. 2, those could have been given in
6 the underlying case if you were retained to
7 do so; is that right?

8 A. Correct. Not in the detail or
9 specificity that there are in this case
10 because I didn't have the detail pertaining
11 to Chevron. But yes.

12 Q. Right. But if somebody had
13 retained you and given you the detail, the
14 opinions that you have given in No. 1 and 2
15 could have been given by you in the
16 underlying case?

17 A. Yes, sir.

18 Q. Could you look at page 3, please?

19 A. Okay. Where on page 3, sir?

20 Q. Subsection d).

21 A. Okay.

22 Q. So let's kind of go sentence by
23 sentence. And I'll just simply want to ask
24 you the basis for your opinions. The first
25 sentence in bold we can skip. The second

1 sentence that starts with "Experience," can
2 you give me the basis for that opinion,
3 please, sir?

4 A. An awful lot of experience in
5 asbestos abatement oversight.

6 Q. Anything else?

7 A. Well, that would be my experience
8 there.

9 Q. Anything else that is the basis for
10 that statement?

11 A. A lot of monitoring data. It's all
12 part and parcel of the oversight of asbestos
13 abatement projects.

14 Q. The next sentence begins, "Such
15 exposures." What's your basis for that
16 sentence?

17 A. Okay. Hold on a second.
18 Again, that's the data gathered
19 during a large number of asbestos abatement
20 projects that I have overseen.

21 Q. The next sentence starts
22 "Inasmuch." What's the basis for your
23 statements in this sentence?

24 A. Descriptions of the facility, that
25 it was outdoors. The time sheets, it says it

1 was certainly not a full-time job for
2 Mr. Dufrene. The fact that even by his own
3 testimony, mostly it was application of
4 insulation rather than removal of insulation.
5 And it goes back to the data from these
6 projects.

7 The 1979, 1980 era sampling and
8 analytical techniques did not have the
9 sensitivity of those we have today. His
10 overall exposures, based on my experience,
11 would have been too low to measure with those
12 techniques, with those sampling analytical
13 techniques.

14 Q. Do you agree that in 1978 and
15 during all of the years that Mr. Dufrene
16 worked for Cajun at Chevron, OSHA placed
17 certain requirements on Cajun?

18 MR. COLE:

19 I'm going to object to the form.

20 BY MR. GAULT:

21 Q. Let me withdraw that question, and
22 let's see if I can ask it without an
23 objection to form.

24 During the time that Mr. Dufrene
25 worked for Cajun at Chevron, do you agree

1 that OSHA placed certain obligations on
2 Cajun?

3 A. Yes, they did.

4 Q. All right. What obligations did
5 OSHA place on Cajun with respect to potential
6 asbestos exposure?

7 A. Those laid out in the asbestos
8 standard. It was issued as 29 CFR 191093 --
9 I want to say "A," but I'm not sure. It was
10 subsequently renumbered 29 CFR 19101001. And
11 I don't recall the exact renumbering date.

12 Q. Okay. Well, within those sections,
13 what are the requirements that were placed on
14 an employee?

15 A. And I'm just going to hit the high
16 spots.

17 Q. Understood.

18 A. Monitoring to determine exposures,
19 wet work where feasible, protective measures
20 appropriate to exposure levels. I believe
21 there was some medical surveillance
22 requirements, some notification,
23 labeling-type requirements. And waste
24 disposal was addressed.

25 Q. And in terms of Mr. Dufrene's work

1 at Chevron, you would agree that OSHA placed
2 those obligations on Cajun, not Chevron, as
3 to Mr. Dufrene?

4 A. Under the regulations and
5 enforcement policies in place at the time,
6 that's correct.

7 Q. Do you have a copy of Mr. Hentgen's
8 report?

9 A. I don't have a paper copy. I do
10 have it on --

11 Q. You've read it?

12 A. I've read it.

13 MR. GAULT:

14 I'm just going to go through and
15 ask him a few questions. If you've got a
16 copy, it might be easier and quicker for you.

17 THE WITNESS:

18 I have it on a laptop behind me if
19 that would help.

20 MR. GAULT:

21 Whatever is fine.

22 THE WITNESS:

23 If he has a paper copy --

24 MR. COLE:

25 Let me see if I've got one here.

1 Or maybe -- I think I've got it. The only
2 problem with mine is I wrote all over it.

3 MR. GAULT:

4 I'm not going to look at it.

5 MR. COLE:

6 I don't really need him looking
7 at --

8 MR. GAULT:

9 Let's go off the record.

10 (OFF-RECORD DISCUSSION)

11 BY MR. GAULT:

12 Q. So I've handed you page 12 and 13
13 from Michael Hentgen's report. And I'd like
14 to go -- and this is the summary of his
15 opinions. And let me just go through and ask
16 you a few questions about these, please.

17 A. Okay.

18 Q. All right. Let's look at the
19 second bullet point.

20 A. Okay.

21 Q. Do you agree with the two sentences
22 in that bullet point?

23 A. Regulatorily? Yes, I do.

24 Q. Thank you.

25 Third bullet point. Do you agree

1 with that?

2 A. Again, regulatorily, that is
3 correct.

4 Q. Fourth bullet point. Do you agree
5 with that?

6 A. In terms of the requirement, yes, I
7 do.

8 Q. Well, is there some part of that
9 you do not agree with, some part of Bullet
10 Point No. 4 on page 12 that you do not agree
11 with?

12 A. Only in the context of the body of
13 the report in comparison to that bullet
14 point.

15 Q. Okay. I'm not following you there.
16 Could you --

17 A. The implication or -- in the bullet
18 point and the direct statements in the body
19 of the report that likely exposures were in
20 excess at that level.

21 Q. Fifth bullet point. Do you agree
22 with that?

23 A. I agree as it is written. I
24 disagree factually.

25 Q. Okay. So explain that to me,

1 please.

2 A. I know for an absolute fact that
3 Mr. Duhe was aware of the OSHA regulations
4 pertaining to asbestos prior to that time.

5 Q. Okay. How do you know that?

6 A. Because I discussed them with him.

7 Q. All right. So why then do you say
8 you agree with this bullet point as written?

9 A. Because this bullet point is based
10 on the documents Mr. Hentgen reviewed. And
11 in those documents were a couple of
12 depositions in which Mr. Duhe, reaching back
13 into his memory, used the 1980s as a time
14 frame. I know for a fact that it was before
15 that.

16 Q. I see. So --

17 A. And I'm not saying Mr. Duhe tried
18 to deceive anybody. It would have been in
19 his interest, perhaps, to have said sooner
20 than that. I think he simply misremembered.

21 Q. Let's see if I can maybe get this
22 stated this way, and we can move on.

23 A. Okay.

24 Q. Based on the deposition of Mr. Duhe
25 cited into the fifth bullet point, the

1 statement in that bullet point is correct?

2 A. That is correct.

3 Q. But based on other conversations
4 you've had with Mr. Duhe, you believe they
5 knew about OSHA prior to the '80s?

6 A. I know they knew about OSHA well
7 prior to the '80s.

8 Q. Is there anything about OSHA
9 contained in the Cajun handbook?

10 A. I don't recall. I suspect there is
11 some peripheral references. But it --
12 particularly, as it pertains to the asbestos
13 standard, it's not outlined in detail by
14 sections, subsection, et cetera.

15 Q. Let's go to the sixth bullet point,
16 please.

17 A. Okay.

18 Q. The sixth bullet point begins, "The
19 president of Cajun Insulation." Do you agree
20 with the first sentence?

21 A. Yes.

22 Q. Do you agree with the second
23 sentence?

24 A. Yes.

25 Q. Do you agree with the third

1 sentence beginning, "I have not reviewed"?

2 MR. COLE:

3 Which one are you on? I'm sorry.

4 MR. GAULT:

5 The sixth bullet point.

6 MR. COLE:

7 Got it.

8 BY MR. GAULT:

9 Q. Do you agree with the third
10 sentence -- make sure it's --

11 A. The one that reads, "I have not
12 reviewed?"

13 Q. Yes. Yes. Thank you. Do you
14 agree with that sentence?

15 A. That's a very difficult one because
16 you're asking me to put myself in
17 Mr. Hentgen's head.

18 Q. Understood. So let me ask it this
19 way then. Do you know of any evidence
20 showing that Cajun made efforts to comply
21 with OSHA, with the OSHA asbestos standard at
22 Chevron Oronite during the time Mr. Dufrene
23 worked there?

24 A. Specific to their work -- specific
25 and exclusive to the work at Chevron Oronite?

1 No.

2 Q. Have you reviewed, as part of your
3 work in this case, have you reviewed
4 documents or depositions that would lead you
5 to believe that Cajun violated the OSHA
6 regulations while Mr. Dufrene was working at
7 Chevron Oronite?

8 A. That would lead me to believe that
9 they did? No.

10 Q. Okay. All right. I'll restate the
11 question. Anything you've reviewed in this
12 case, did Cajun violate the OSHA regulations
13 with respect to Mr. Dufrene's work at Chevron
14 Oronite?

15 A. At the risk of restating your
16 question and my answer, to make sure that I'm
17 clear, I have not seen anything that
18 indicated that Cajun, relative to
19 Mr. Dufrene's work or otherwise, violated the
20 OSHA asbestos regulations during their work
21 at the Chevron Oronite facility.

22 Q. Have you -- in the materials that
23 you've read, did you find any evidence that
24 Cajun complied with the OSHA regulations with
25 respect to Mr. Dufrene and his work at

1 Chevron Oronite?

2 A. I did not see anything explicit.

3 Implicitly, yes.

4 Q. Okay. What was implicit?

5 A. From the testimony of principally
6 Mr. Fosty, Mr. McDermott, I don't think
7 Mr. Dryden, but possibly Mr. Dryden, they --
8 in the contract documents, Chevron had a
9 mechanism in place to ensure that Cajun
10 complied with the OSHA regulations, as well
11 as plant regulations and policies, and that
12 there was no objection made to the work that
13 Cajun had done.

14 Q. Now, anything that was in the
15 contract between Cajun and Chevron would not
16 have affected Cajun's duties under OSHA;
17 correct?

18 A. You can't contract out of the
19 regulation, if that's what you mean.

20 Q. That's exactly my question.

21 A. No. You cannot do that.

22 Q. Could Cajun have delegated its
23 responsibilities under OSHA to some other
24 company? Do you understand?

25 A. They have a regulatory requirement

1 to comply. Had they chosen -- and I'm not
2 being evasive. Just making sure we're very
3 clear. Had they chosen to delegate the
4 tasks, say, if they had retained me as a
5 consultant, yeah, they're free to do that.
6 But they can't delegate the responsibility.

7 Q. And is it acceptable during this
8 time frame in the late '70s for Cajun to say,
9 "Well, I thought Chevron was doing it, so I
10 didn't think I had to do the things that OSHA
11 requires"?

12 A. That would not be regulatorily
13 acceptable. I've heard that. I haven't
14 heard it from Cajun. But I have heard that.

15 Q. All right. Let's now go back to
16 page 12.

17 A. Okay.

18 Q. The seventh bullet point begins,
19 "It is reasonable." Do you agree with that,
20 that sentence?

21 A. Yes, I would.

22 Q. The eighth bullet point begins,
23 "Cajun Insulation did not have a respiratory
24 program." Do you agree with the first
25 sentence of that bullet point?

1 A. I agree with that, yes.

2 Q. The second sentence that begins,
3 "Cajun Insulation was cited by OSHA," do you
4 agree with that sentence?

5 A. I agree that they were.

6 Q. Okay.

7 A. So yeah. I mean, I agree with that
8 sentence as it's written.

9 Q. All right. Well, did Cajun have a
10 respiratory protection program in 1986?

11 A. Unless they had discontinued it,
12 yes, they did.

13 Q. And what -- how do you know that?

14 A. That goes back to my dealings with
15 Cajun back in the late '70s.

16 Q. Okay. So is your testimony that
17 they were cited by OSHA for failing to have a
18 respiratory protection program in 1986, but
19 they had one at the time?

20 A. Yeah. Well, they had one prior to
21 1986. In the abstract, yeah, they could have
22 said, "Yeah. We're bored with respiratory
23 protection. We're not going to do it."

24 It's unlikely. But, you know, I
25 don't have anything objective that says that

1 they did or did not.

2 Q. Okay. So is it your testimony that
3 at one time they had a respiratory protection
4 program prior to 1986 but then just ceased
5 having one after?

6 MR. COLE:

7 Object.

8 THE WITNESS:

9 No.

10 MR. COLE:

11 Object to the form.

12 THE WITNESS:

13 I am not saying that. I am saying
14 that unless, for some reason, they had
15 decided to discontinue the respiratory
16 protection program that they had had prior to
17 1986, they did have one in place in '86.

18 BY MR. GAULT:

19 Q. When did they first get a
20 respiratory protection program?

21 A. Compliant with OSHA regulations?
22 To my knowledge, late '78, early '79.

23 Q. Okay. And what do you base that
24 knowledge on?

25 A. Working with them.

1 Q. So --

2 A. And let me rephrase that. Had some
3 oversight responsibility for their work.

4 Q. You had oversight responsibility?

5 A. Yes, sir.

6 Q. Tell me what you mean by that.

7 A. They were the insulation contractor
8 at Monsanto in Luling. That was one of the
9 plants I had responsibility for and it was
10 the plant that my offices were at. We
11 recognized -- "we" being Monsanto --
12 recognized the regulatory, legal, social
13 onslaught, let's say, of awareness and
14 concern about asbestos.

15 We had actually done asbestos work
16 internally and elected to transfer that to a
17 specialist insulation company. We used
18 Cajun. And we brought them up to speed on
19 what was required from a regulatory and also
20 plant policy and procedure standpoint.

21 Q. And what year was this?

22 A. It probably started in 1978. It
23 was in place in 1979.

24 Q. And what was -- did you work for
25 Monsanto at the time?

1 A. Yes, sir.

2 Q. What was your title?

3 A. Industrial hygiene supervisor.

4 Q. So you were involved with
5 insulation contractors at Monsanto?

6 A. In terms of making sure that they
7 worked per our policies, procedures, and
8 regulations, yes. I have no involvement in
9 the letting of the contracts.

10 Q. Sure. You were involved with
11 making sure they were complying with OSHA
12 regulations?

13 A. That's correct.

14 Q. And so what kind of respiratory
15 protection did the insulation contractors
16 wear at Monsanto during this 1975 time frame?

17 A. I never said 1975.

18 Q. Excuse me. '79. Sorry about that.
19 '79.

20 A. I believe it was a half-faced piece
21 twin cartridge. There could have been some
22 full-faced piece work.

23 Q. What's the protection factor for
24 those?

25 A. The regulatory protection factor

1 for a half-face piece is 10. It's 50 for a
2 full-face piece.

3 Q. So in your discussions with
4 Mr. Duhe, did you ask him, "Why did you not
5 have a respiratory protection program in
6 place in 1986"?

7 MR. COLE:

8 Object to the form.

9 THE WITNESS:

10 You have lost me there.

11 BY MR. GAULT:

12 Q. Okay. I'm sorry.

13 A. What discussions?

14 Q. Well, you told me earlier that you
15 have talked to Mr. Duhe in the past.

16 A. Yes.

17 Q. All right. And in the course of
18 those discussions, did you say, "Well, you
19 had a respiratory protection program in the
20 past. Why did you not have one in 1986"?

21 A. I told you the last time I had
22 talked with Mr. Duhe was in the mid-'80s.
23 And so it conceivably was past 1986. But
24 certainly there would have been no impetus
25 for me to address the topic of: Why did you

1 drop your program? I doubt if he actually
2 did.

3 Q. The last bullet point listed on
4 page 12.

5 A. Okay.

6 Q. You agree with the first sentence?

7 A. I disagree with the first sentence.

8 Q. Why?

9 A. Because I have seen evaluations
10 done of Cajun employees' exposure. Now, it
11 is possible they did not sample Mr. Dufrene
12 as an individual. But they did conduct
13 monitoring to represent their employees'
14 exposures during removal or abatement of
15 asbestos insulation, as Mr. Dufrene
16 supposedly did.

17 Q. And that was at Monsanto?

18 A. That was at Monsanto that I have
19 seen that.

20 Q. Okay. So let's then focus on the
21 Chevron Oronite facility and Mr. Dufrene's
22 work there. Did Cajun evaluate Mr. Dufrene's
23 potential exposure to asbestos at Chevron
24 Oronite?

25 A. Mr. Dufrene, as an individual, we

1 have no way of knowing.

2 Q. All right. Did Cajun evaluate its
3 employees' potential exposures to asbestos at
4 Chevron Oronite in the late 1970s and early
5 1980s?

6 A. According to Mr. McDermott, yes.

7 Q. The second sentence of the last
8 bullet point on page 12, you agree or
9 disagree?

10 A. As a factual matter, I agree.

11 Q. Okay. You want to explain that?

12 A. It's right there in black and
13 white. The citation was withdrawn, but it
14 was issued. "Withdrawn" is OSHA's way of
15 saying, "Oops. We messed up."

16 Q. Next page.

17 A. Okay.

18 Q. The first bullet point on the top
19 of page 13. Do you agree or disagree with
20 that bullet point?

21 A. I would agree with that bullet
22 point.

23 Q. And this is -- it probably has some
24 typos in this bullet point in the sense that
25 I think they're -- it doesn't read just

1 right.

2 A. Well, I'm sorry. But you asked me
3 as it was written. And I'm not responsible
4 for either Mr. Hentgen's thought processes or
5 Mr. Hentgen's sloppy writing.

6 Q. Is that really necessary? I mean,
7 I didn't ask -- I wasn't --

8 A. I didn't mean -- no. Let me
9 apologize to you personally.

10 Q. I mean --

11 A. It was not meant as an affront or
12 challenge to you.

13 Q. Well, I didn't take it that way.
14 But, I mean, I just --

15 MR. COLE:

16 Well, if he had his transcript, he
17 did explain this. He did rephrase this.
18 Because I pointed it out to him. I said I
19 couldn't understand it. I don't think Win
20 could understand it. But he recognized he
21 had a typo or something in there.

22 BY MR. GAULT:

23 Q. So let's do this. All right?
24 Let's take this sentence and let's take out
25 the "none of the documentation provided to

1 me." All right? So it makes the sentence
2 read a little better. So if we do that, you
3 see that part?

4 A. Okay.

5 Q. "None of the documentation provided
6 to me." You see that?

7 A. Yeah.

8 Q. All right. So let's kind of take
9 that out of this sentence. All right. So do
10 you agree with the bullet point as written
11 without that part?

12 A. I'd have to go through the
13 documents that were provided to him. From
14 the documents I reviewed, there was nothing
15 explicit that addressed each and every
16 section of the OSHA regulation.

17 But, again, I go back to the
18 implication from the contract documents, from
19 Mr. Fosty's deposition, Mr. McDermott's
20 depositions, that that is an erroneous
21 statement.

22 Q. So you disagree with this bullet
23 point?

24 MR. COLE:

25 As restated by you?

1 MR. GAULT:

2 Yes. As restated by me. Right.

3 Right.

4 THE WITNESS:

5 I disagree with the accuracy of
6 that.

7 BY MR. GAULT:

8 Q. All right.

9 A. I think it's an erroneous
10 statement. I agree -- I can't disagree that
11 that was Mr. Hentgen's opinion based on...

12 Q. All right. So let's break that
13 down a little bit. Did Cajun provide
14 Mr. Dufrene with proper respiratory
15 equipment?

16 A. There's nothing objective that
17 says -- a document that says Cajun
18 Insulation, Cajun Corporation, whatever their
19 name is, provided Mr. Dufrene with
20 appropriate respiratory protection. That is
21 correct.

22 Q. All right. You know what's proper
23 respiratory protection and what's not;
24 correct?

25 A. According to the conditions that

1 you're exposed to, yes, I do.

2 Q. Exactly. So have you seen anything
3 in all of your materials where you can say
4 Cajun gave Mr. Dufrene proper respiratory
5 protection?

6 A. Not as an explicit statement or
7 explicit databased conclusion. No, I have
8 not.

9 Q. And I'm not asking about an
10 explicit statement. You've read everything
11 you've read. Have you seen anything in the
12 materials which would let you stand here
13 today or sit here today and say, "Yes. Cajun
14 gave Mr. Dufrene the proper respiratory
15 protection while he worked at Chevron
16 Oronite"?

17 A. Well, I'm not sure that I
18 understand how you can make that question and
19 make it any different than what I've
20 answered. I have not seen a document. The
21 totality of the evidence indicates that yes,
22 they did.

23 But there's nothing explicit that
24 says that yes, Cajun, on a certain day, gave
25 Mr. Dufrene a certain respirator for

1 protection against a certain level of
2 asbestos. But the totality is that his
3 exposures were so low, that they were
4 probably too low to measure and certainly
5 below the level that would require any
6 respirator protection, and that Cajun did
7 comply with the OSHA regulations and the
8 plant requirements.

9 Q. Okay. So did Cajun give
10 Mr. Dufrene respiratory protection to wear or
11 not?

12 A. That's what I keep saying. There
13 is nothing explicitly that states that.

14 Q. So as you sit here today, you do
15 not know whether Cajun gave Mr. Dufrene
16 respiratory protection to wear while working
17 at Chevron or not?

18 A. That's correct.

19 Q. And your opinion is that's okay
20 because he wasn't exposed to asbestos anyway?

21 MR. COLE:

22 Object to the form.

23 THE WITNESS:

24 I didn't say he wasn't exposed to
25 asbestos. We're exposed to asbestos sitting

1 here in this conference room.

2 BY MR. GAULT:

3 Q. All right. Then let me see if I
4 can rephrase it and get you to where you can
5 agree.

6 Is it your opinion that while
7 working at Chevron Oronite, Mr. Dufrene did
8 not need respiratory protection because the
9 levels of his exposure to asbestos, if any,
10 were below the OSHA regulatory limit?

11 A. In a regulatory context, that is
12 correct.

13 Q. All right. What about a
14 nonregulatory context?

15 A. By today's professional standards,
16 yes, we would have put him in respiratory
17 protection.

18 Q. All right.

19 A. But they were not regulatorily
20 required.

21 Q. Would you allow Cajun's employees
22 working at Monsanto in 1979 to remove
23 insulation without wearing a respirator?

24 A. No. I don't believe I did.

25 Q. Do you -- do you believe that Cajun

1 should have allowed Mr. Dufrene to work at
2 Chevron Oronite without a respirator while
3 removing insulation?

4 A. Okay. There's two issues that need
5 to be clarified. First, are we talking
6 asbestos insulation or just insulation in
7 general?

8 Q. Okay. I'll reask the question.

9 A. Okay.

10 Q. All right. Do you believe that
11 Cajun should have allowed Mr. Dufrene to
12 remove insulation without wearing a
13 respirator at Chevron Oronite?

14 MR. COLE:

15 Object to the form.

16 THE WITNESS:

17 I don't see that as a different
18 question. But had it been
19 asbestos-containing, should, meaning the
20 preferred course of action to remove it
21 without respiratory protection? No. I do
22 not think they should have. Was it
23 regulatorily permissible given the likely
24 exposures? Yes.

25 BY MR. GAULT:

1 Q. The second bullet point on page 13.

2 A. Okay.

3 Q. I take it you disagree with that?

4 A. Absolutely.

5 MR. COLE:

6 Well, I'm going to object to the
7 form. Go ahead.

8 MR. GAULT:

9 Object to the form of the question,
10 "Do you disagree with that"?

11 MR. COLE:

12 Well, I didn't -- maybe I
13 misunderstood.

14 MR. GAULT:

15 Because if there's a problem with
16 the form, I want to clear it up is all I'm
17 saying.

18 MR. COLE:

19 Well, I'm not sure about the
20 communication. And I'm going to go ahead and
21 say it because you're doing it. But this
22 talks about -- it was explained by
23 Mr. Hentgen. He was talking about his entire
24 employment at Cajun Insulation. And I think
25 you've been talking about his employment at

1 Chevron Oronite. And so I just -- I wasn't
2 sure if you guys were communicating.

3 MR. GAULT:

4 Fair point.

5 MR. COLE:

6 Because I brought that up with
7 Hentgen.

8 MR. GAULT:

9 Fair point.

10 BY MR. GAULT:

11 Q. So the second bullet point there,
12 as Mr. Hentgen explained, this was -- this
13 bullet point addressed his work in general,
14 not just at Chevron Oronite. In light of
15 that, do you agree or disagree with the
16 second bullet point on page 13 of
17 Mr. Hentgen's report?

18 A. I generally disagree with that
19 because apart from Chevron Oronite having
20 oversight, apart from what he did at Monsanto
21 where we had oversight -- and they had a
22 specific procedure that they had to follow.
23 They had a general procedure that had they
24 followed it would not have resulted in
25 exposures in excess of the OSHA regulation

1 limits.

2 Q. The third bullet point on page --
3 the third and last bullet point of
4 Mr. Hentgen's summary of opinions -- excuse
5 me. The third one on page 13. Do you agree
6 or disagree with that one?

7 A. I agree with the straight wording
8 of the question. I disagree with the
9 implication that there was not compliance
10 with the OSHA regulations and that there were
11 exposures in excess of prevailing OSHA PEL.

12 Q. So can you turn to Mr. Hentgen's
13 report, page 8, please?

14 A. I'm going to have to get it.

15 MR. COLE:

16 I'll just show you mine. Just
17 don't read all my scribble notes all in the
18 columns.

19 THE WITNESS:

20 Okay.

21 MR. COLE:

22 Go ahead.

23 THE WITNESS:

24 Where on page 8, sir?

25 BY MR. GAULT:

1 Q. Yeah. So I'd like for you to just
2 take a minute and -- so that entire section
3 there on page 8 and then the top of page 9.
4 I'd like to ask you to read it to yourself.
5 And then what I'm going to ask -- what I'm
6 going to ask you after is: Are there any
7 statements in here that you disagree with.

8 MR. COLE:

9 Just to clarify, you're asking him
10 to read those ten bullet points?

11 MR. GAULT:

12 No. No. The entire section
13 that --

14 MR. COLE:

15 Oh, that starts with "Summary"?
16 Okay.

17 MR. GAULT:

18 Yeah.

19 BY MR. GAULT:

20 Q. So take your time. Read it to
21 yourself. And then when you get ready, I'm
22 going to ask you are there any things in
23 there you disagree with.

24 MR. COLE:

25 Want to take a break for a second?

1 MR. GAULT:

2 Yeah.

3 (OFF RECORD)

4 (RECESS)

5 BY MR. GAULT:

6 Q. All right. On page -- beginning on
7 page 8, the section entitled, "Summary of
8 OSHA Regulatory Requirements for Employers
9 with Workers Engaged in the Removal of
10 Asbestos-Containing Insulation, 1977 through
11 1983," have you had an opportunity to read
12 that whole section that is on page 8 and on
13 the top of page 9?

14 A. Yes, I have.

15 Q. All right. If you could go through
16 this and tell me if there are any statements
17 in here that you disagree with. And maybe we
18 can start with the first paragraph,
19 beginning, "The responsibility."

20 A. Okay. That first sentence is
21 incorrect.

22 Q. Okay. What's incorrect about it?

23 A. First off, OSHA had no regulations
24 before -- I believe it was May of 1971. And
25 second, the responsibility is not placed on

1 the employer by regulation.

2 Q. Okay.

3 A. Other than that, it's correct.

4 Q. All right. How is it placed on the
5 employer?

6 A. By statute.

7 Q. All right. So --

8 A. It's also placed on the employer by
9 professional practice.

10 Q. Regulatory-wise then, you would
11 agree that responsibility of protecting
12 employers (sic) is on the employer by --
13 regulatorily, at least?

14 A. No. Statutorily on the employer.

15 Q. Okay.

16 A. The regulations prescribe what is
17 permissible, what is impermissible.

18 Q. All right. So would you agree then
19 by 1971, statutorily, the responsibility of
20 protecting employees was placed directly on
21 the employer?

22 A. That is correct.

23 Q. All right. The second sentence of
24 that paragraph says what?

25 A. It is a statement of OSHA's

1 general --

2 Q. I'm sorry. That was a bad
3 question. Do you agree or disagree with the
4 second sentence of that paragraph?

5 A. If that's not a quote, it's an
6 exceptionally close paraphrase of the general
7 duty clause, that is correct.

8 Q. Thank you. The next paragraph
9 begins, "OSHA regulations."

10 A. Okay.

11 Q. Can you tell me is there anything
12 in this paragraph that you disagree with?

13 A. The last word of the first
14 sentence, I don't know when he was assigned
15 to work on Chevron contracts. But the
16 first time that was recorded against Chevron
17 contracts was 1979, that I saw anyway.

18 Q. All right. The sentence that
19 follows that begins "Compliance."

20 A. Okay.

21 Q. Anything in there you disagree
22 with?

23 A. Yes. I disagree with his use of
24 the word "sequentially." It's both
25 unnecessary and incorrect.

1 Q. All right. Tell me why it's
2 incorrect.

3 A. Because you don't comply in
4 sequence. You comply all at once. It's very
5 simple. There's a compliance date or an
6 application date to the standard, and you
7 have to comply by that date.

8 Q. All right. Let's look at the
9 numbers there. Number 1, do you agree or
10 disagree with No. 1?

11 A. I agree with No. 1. I'm not sure
12 why we have distinguished between No. 1 and
13 No. 2 at the risk of getting ahead.

14 Q. Do you agree with No. 2?

15 A. I agree with No. 2 as written, yes.

16 Q. All right.

17 A. Each place of employment, as is
18 applied, was not specific to the work site.
19 And as more contemporary practice has
20 actually codified in the regulations, it is
21 not each site. It would be each
22 establishment so long as the data are
23 representative.

24 Q. Thank you. Do you agree or
25 disagree with No. 3?

1 A. I disagree.

2 Q. All right. Tell me what parts you
3 disagree.

4 A. The first sentence, the second
5 sentence --

6 Q. Can I stop you?

7 A. Okay.

8 Q. The first sentence says, "Provide
9 Mr. Dufrene a respirator." Why do you
10 disagree with that?

11 A. Because that's not what the
12 regulation says.

13 Q. Okay. And that is because you do
14 not believe he was exposed to asbestos in
15 levels that exceed the regulatory limit?

16 A. Regardless of his exposure, the
17 regulation does not require specifically the
18 provision, and unconditionally the provision
19 of a respirator.

20 Q. Okay. If someone is exposed to
21 asbestos at levels that exceed the regulatory
22 limit, would the regulations require a
23 respirator?

24 A. Yes.

25 Q. And so the basis for your

1 disagreement here is your belief that he was
2 not exposed to asbestos at levels in excess
3 of the permissible limits?

4 A. That is correct.

5 Q. All right. Next --

6 A. What you have asked is correct.
7 What Mr. Hentgen wrote is incorrect.

8 Q. The next sentence, "Cajun
9 Insulation was required." You --

10 A. Again, they are not required. In
11 the context of particularly his Point 1,
12 "Workers engaged in the removal of demolition
13 of friable asbestos-containing material,"
14 They are not required to provide a
15 respirator.

16 Q. Again, because they're only
17 required to do that if the levels exceed the
18 permissible?

19 A. It's a conditional requirement or
20 conditioned requirement.

21 Q. All right. And the condition is if
22 asbestos levels exceed the regulatory limit
23 or the permissible limit, then those
24 requirements kick in?

25 A. Yes.

1 Q. All right. Thank you. Number 4.

2 A. That is a somewhat conditioned
3 requirement. For the type of work that is
4 done in construction, that was generally an
5 inapplicable requirement.

6 Q. Okay.

7 A. If it was geared to a manufacturing
8 or continuous operation, not to the
9 short-term mobile, for lack of a better term,
10 operations that would be done in construction
11 and demolition.

12 Q. All right. I don't think I need to
13 ask you about any of the other points on this
14 particular summary. But if I could get you
15 to flip to page 9 for me.

16 A. Okay.

17 Q. And so these are -- this section
18 goes through and lists some OSHA citations.
19 Is there anything in here in this section you
20 disagree with?

21 A. Okay. We've moved on to a
22 different section of the regulation.

23 MR. COLE:

24 He's right here.

25 BY MR. GAULT:

1 Q. Yep. And if you need to take a
2 minute to read it to yourself, please do. My
3 question to you is: Is there anything in
4 this section on page 9 and 10 about OSHA
5 violations that you disagree with? Take a
6 minute and read it and let me know when
7 you're ready.

8 A. (Reading.) I'm ready when you are.

9 Q. Okay. So you have reviewed the
10 section on OSHA violations that begins on
11 page 9 and goes through page 10?

12 A. That's correct.

13 Q. Is there anything in this section
14 that you disagree with?

15 A. Factually, no.

16 Q. Okay. All right. Anything you
17 want to state with respect to what you read?

18 A. You know, I would go back to what I
19 put in my report, the November 1973 general
20 duty clause. That's very nice. It had
21 absolutely nothing to do with asbestos. But
22 I don't know what it was. But I do know it
23 would not be for asbestos.

24 February of '82, I was quite
25 familiar with that operation because I took

1 part in that inspection. That is factually
2 correct. But they were pretty minimal
3 issues, particularly the waste disposal.

4 In the case of that inspection and
5 the waste disposal, there were a small number
6 of bags. I don't remember. I think it was
7 more than one, certainly less than five, that
8 had not yet been taped closed. They did not
9 contain removed material. They contained
10 discarded protective clothing.

11 During that inspection -- and this
12 lapses over into the next -- September of
13 '85 -- the inspector took air samples,
14 exposure monitoring of the Cajun crew. And
15 he was limited in the number of samples or
16 employees that he could sample because at the
17 time, all but one of Cajun's employees were
18 being sampled by Cajun.

19 And they were being sampled by
20 Cajun at the time the inspector showed up at
21 the plant gate, which kind of makes the
22 failure to conduct exposure monitoring from
23 the September of '85 citation incorrect. And
24 that's why, particularly the repeat issuance
25 of that citation, was withdrawn. And that

1 was the January of '86 repeat violation.

2 I would point out, as I did in my
3 report, that none of these citations were for
4 an exposure. They were all for ancillary or
5 subsidiary violations. And asbestos was an
6 emphasis area. And exposures would have been
7 monitored or measured by OSHA during the
8 course of an industrial hygiene inspection.
9 And I know that they were in 1982 because I
10 was there.

11 Q. All right. Thank you, sir. Switch
12 gears on you.

13 A. Okay.

14 Q. If Mr. Dufrene removed insulation
15 while working at Chevron Oronite, do you
16 think it is more likely than not that the
17 insulation was -- the insulation contained
18 asbestos?

19 A. Some of it, yes. On any given
20 removal job, can't tell.

21 Q. So your report, you reviewed
22 depositions of Raterman and Lemen?

23 A. Yes, I have.

24 Q. And were those Mr. Dufrene's expert
25 in the underlying -- experts in the

1 underlying case?

2 A. That's my recollection, yes.

3 Q. Do you recall their opinions
4 regarding the exposure of Mr. Dufrene to
5 asbestos at Chevron Oronite?

6 A. My recollection in a broad sense is
7 that they were rather shy about expressing a
8 direct opinion but expressed it in terms of
9 based upon Mr. Dufrene's deposition and what
10 he related.

11 Q. Did the -- did those two experts
12 give an opinion that Mr. Dufrene was exposed
13 to asbestos at Chevron Oronite at levels that
14 exceeded the OSHA or the regulatory
15 permissive limits?

16 A. As I say, they were shy about
17 making a direct personal expression of
18 opinion, but, rather, expressed it based upon
19 what Mr. Dufrene testified to. I don't
20 recall whether they expressed that
21 specifically to Chevron or to his employment
22 in general.

23 Q. Okay. So as you sit here, can you
24 recall whether or not in the underlying case,
25 Mr. Dufrene's expert said he was exposed to

1 asbestos at Chevron Oronite at levels that
2 exceeded the permissible limits?

3 A. I cannot recall. From what I do
4 recall, I doubt if they made such a flat
5 declaration or expression of opinion.

6 MR. GAULT:

7 All right. I don't have anything
8 else. Thank you.

9 THE WITNESS:

10 All right.

11 WITNESS EXCUSED AT 12:40 P.M.

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1 REPORTER'S CERTIFICATION
2

3 This certification is valid only for a
4 transcript accompanied by my original
5 signature and original required seal on this
6 page.

7 I, DENISE M. CENTANNI, a Certified Court
8 Reporter and Registered Professional Reporter
9 in and for the State of Louisiana, as the
10 officer before whom this testimony was taken,
11 do hereby certify that LAURENCE R. DURIO,
12 CIH, to whom oath was administered, after
13 having been duly sworn by me upon authority
14 of R.S. 37:2554, did testify as hereinbefore
15 set forth in the foregoing 66 pages; that
16 this testimony was reported by me in the
17 Stenotype reporting method, was prepared and
18 transcribed by me or under my personal
19 direction and supervision, and is a true and
20 correct transcript to the best of my ability
21 and understanding; that the transcript has
22 been prepared in compliance with transcript
23 format guidelines required by statute or by
24 rules of the board, and that I am informed
25 about the complete arrangement, financial or
otherwise, with the person or entity making
arrangements for deposition services; that I
have acted in compliance with the prohibition
on contractual relationships, as defined by
Louisiana Code of Civil Procedure Article
1434 and in rules and advisory opinions of
the board; that I have no actual knowledge of
any prohibited employment or contractual
relationship, direct or indirect, between a
court reporting firm and any party litigant
in this matter, nor is there any such
relationship between myself and a party
litigant in this matter. I am not related to
counsel or to the parties herein, nor am I
otherwise interested in the outcome of this
matter.

24 _____
DENISE M. CENTANNI

DATE

25 Certified Court Reporter

Registered Professional Reporter

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