

1 MR. BERFIELD: Your Honor, this is --

2 MS. GEISE: That's a misrepresentation.

3 MR. BOSL: It's not a misrepresentation.

4 MR. BERFIELD: I don't want to...

5 (Whereupon, Court and counsel convened in the
6 Court's chambers out of the presence of the jury, not
7 reported.)

8 BY MR. BOSL:

9 Q. Mr. Van Orden, when was the first time that
10 CertainTeed told you of the existence of the postmortem
11 tissue?

12 A. If I remember correctly, it was shortly before
13 my deposition.

14 Q. To your knowledge, did CertainTeed ever ask to
15 test postmortem tissue?

16 A. I don't know.

17 Q. You were aware Mrs. Ortwein died of
18 mesothelioma in September of 2014?

19 A. I don't know when she died.

20 Q. Let me -- you were asked some questions about
21 Richard Ortwein -- I'm sorry. You were asked some
22 questions about crocidolite gaskets. Do you remember
23 that, about whether there was crocidolite in gaskets?

24 A. That's -- that's correct.

25 Q. You can't say it's more likely than not that

1 Richard Ortwein was working with crocidolite gaskets at
2 any time; correct?

3 A. I think there was some testimony that he might
4 have, but I don't know for sure.

5 Am I flipping to something?

6 Q. We'll see. Give me just a moment.

7 Can you say it is more likely true than not
8 true that the gaskets Mr. Ortwein was working with were
9 crocidolite gaskets?

10 A. Are you reading my -- some testimony?

11 Q. Right now I'm just asking you a question.

12 A. I -- I'm not sure.

13 Q. You were asked earlier -- by the way, would you
14 have liked to have tested the postmortem tissue?

15 A. Sure.

16 Q. You were asked earlier about some of the
17 publications on your CV, and I wanted to ask you about
18 a few of them. You published three of them in 2012 in
19 a journal called the Annals of Respiratory Medicine;
20 right?

21 A. Yes.

22 Q. One was "Evaluation of Airborne Crocidolite
23 Fibers At an Asbestos Cement Plant." Right?

24 A. Yes, sir.

25 Q. And then "The Size Distribution of Airborne

1 Bolivian Crocidolite Fibers"?

2 A. Yes, sir.

3 Q. And then "Further Evidence For Fiber Width As a
4 Determinant of Mesothelioma Induction and Threshold,"
5 et cetera, right, it goes on?

6 A. Yeah.

7 Q. What's the impact factor for that journal?

8 A. I have no idea.

9 Q. Have you ever published in that journal before?

10 A. No.

11 Q. Do you have copies of those journals there in
12 front of you -- actually you do.

13 A. Do I?

14 Q. Yeah.

15 A. Okay.

16 Q. Let's see if I can find it here.

17 If you look at Tab 2, do you see that?

18 A. Yes.

19 Q. This is "The Size Distribution of Airborne
20 Bolivian Crocidolite Fibers"?

21 A. Yes, sir.

22 Q. You submitted this paper on the 18th of April,
23 2012; right?

24 A. Yes, sir.

25 Q. It was accepted on the 30th of April, 2012?

1 A. That's what it says.

2 Q. And then it says "Publicatixon date,"
3 P-u-b-l-i-c-a-t-i-x-o-n date?

4 A. Yes, sir.

5 Q. Have you ever seen "publication" misspelled in
6 a high quality journal?

7 A. No.

8 Q. And that was 26 July, 2012; right?

9 A. Yes, sir.

10 Q. And then if you look down at the bottom -- what
11 happens with academic journals is they have citation
12 cites, right, somewhere on the paper so you can look it
13 up on PubMed or something like that?

14 A. You mean a volume, is that what you're asking?

15 Q. That's right.

16 A. Yes.

17 Q. This one, the volume says "AORM2012000:000."
18 Do you see that?

19 A. Yes, sir.

20 Q. Then it says "month 2012."

21 A. Right.

22 Q. It doesn't even list a month?

23 A. But this is my author's copy.

24 Q. Oh. Has it ever been published?

25 A. As far as I know, this journal got sold to the

1 Indians and then some Chinese company, and as far as
2 I -- I've never seen it in print.

3 Q. In fact, www.slm-respiratory dot.com is listed
4 as the Web site for this journal?

5 A. I don't think that exists anymore.

6 Q. Right. If you go there, it says "domain for
7 sale"?

8 A. Oh, does it?

9 Q. Well, did -- do you know that?

10 A. I don't know.

11 Q. In fact -- well, let's see.

12 MR. BERFIELD: I'm going to object, Your Honor.

13 Unless we have a copy.

14 MR. BOSL: Here, you want to see it? Here you
15 go.

16 MR. BERFIELD: Sure. Do you want to print it?

17 MR. BOSL: No. It's for sale. It's for sale.

18 Nothing special.

19 MR. BERFIELD: I'm going to object, Your Honor.

20 This is improper.

21 THE COURT: I don't know what he's doing.

22 What are you doing?

23 BY MR. BOSL:

24 Q. I'm just showing you -- is that the Web site
25 that's listed on your paper?

1 MR. BERFIELD: I'll object, Your Honor. I'd
2 like to have an exhibit identified for the record, and
3 we don't have that.

4 MR. BOSL: I would be happy to print it out and
5 submit it with the record, Your Honor.

6 THE COURT: Well, until you do that, we're not
7 going to examine him on it.

8 MR. BOSL: Fair enough.

9 BY MR. BOSL:

10 Q. You have no idea if you go to the Web site
11 listed on your paper what it says, do you?

12 A. I have in looked in, I don't know how many
13 years now.

14 Q. In fact, the only place we can find this paper
15 that you list as being published in the Annals of
16 Respiratory Medicine is on your company's Web site;
17 true?

18 A. It should also be at the Society of Mining
19 Engineers on one mine, but you're -- that's right.

20 Q. You have a watermark on there for San Lucas
21 Medical?

22 A. Where?

23 Q. On -- I guess it doesn't show up very easily.

24 If you look at Tab 3, though, you can see on
25 the paper there's a little watermark for San Lucas