

1 Dr. Rosner - For Plaintiff - Redirect/Mr. Block

2 (Whereupon, the jury enters the  
3 courtroom.)

4 THE COURT: Okay, you could be seated, everyone.

5 MR. BLOCK: Plaintiff calls Dr. Albert Miller.

6 THE COURT: Are you using that too?

7 A L B E R T M I L L E R, Doctor, a  
8 witness called by and on behalf of the  
9 Plaintiff, after having first been duly sworn,  
10 testified as follows:

11 THE CLERK: In a loud, clear voice, please state  
12 your name, spell your name, and give us your business  
13 address.

14 THE WITNESS: My name is Albert Miller, M.D.  
15 Spelling is quite obvious. Miller is M-I-L-L-E-R. My  
16 business address is Queens College of the City University  
17 of New York.

18 DIRECT EXAMINATION

19 BY MR. BLOCK:

20 Q Good afternoon, Dr. Miller. I know that you have been  
21 waiting out in the hallway for a long time, so sorry to make  
22 you wait; and we are going to try to move through things as  
23 fast as we can here. Okay?

24 Dr. Miller, are you a doctor?

25 A I'm a physician, yes.

26 Q What kind of physician are you?

1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 A I am a pulmonologist, a specialist in disorders of the  
3 respiratory system.

4 Q And are you Board certified in pulmonary medicine?

5 A Yes, I am.

6 Q You're our first medical doctor. What does it mean to  
7 be Board certified?

8 A Board certification is, is a demonstration of your  
9 training and experience in a specialty of medicine; and it  
10 involves the necessary training period.

11 The training period for the specialty of pulmonology  
12 is at least three years studying the diseases of the  
13 respiratory system after at least three years of training in  
14 the larger specialty of internal medicine. And these six years  
15 follow the four years of medical school.

16 Q Okay. So you're a medical doctor Board certified in  
17 internal medicine and pulmonary medicine?

18 A Yes.

19 Q Okay. Have you also developed a specialty in  
20 occupational medicine and preventative medicine?

21 A Yes, particularly in lung diseases, which are a large  
22 part of pulmonary medicine. And pulmonary medicine is a large  
23 part of occupational medicine.

24 Q Can you tell the jury about your educational  
25 background.

26 A Well, I am a product of New York City public schools.

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 I did my university at the University of Wisconsin, where I  
3 also went to medical school. I then did my post-graduate  
4 medical training, my residency, and my fellowship at the Mount  
5 Sinai Hospital here in New York; and one year of that was at  
6 the V.A. Hospital in the Bronx.

7           Q     Now, had there been a residency or fellowship program  
8 of the type that you attended at Mount Sinai before you started  
9 attending there? Was that something new there?

10          A     Well, when I did my internship, we called it in those  
11 days, and residency and fellowship at Mount Sinai, Mount Sinai  
12 was not yet a medical school. It became a medical school about  
13 10 years after I finished my training, which was a long time  
14 ago; but it was a major center of training in post graduate  
15 medicine, meaning all the different specialties of medicine.

16                   -Continued on next page-

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1 Direct-Miller-Block

2 Q. Okay. How many years was that internship  
3 plus the fellowship at Mount Sinai?

4 A. Six years.

5 Q. Six?

6 A. (Nodding).

7 Q. Okay. What year did you complete your  
8 fellowship?

9 A. 1965.

10 Q. All right. What was happening at Mount Sinai  
11 with respect to asbestos when you arrived there in 19 --  
12 was it 1959 when you arrived there?

13 A. Yes. Yes.

14 Q. What was going on there based upon your  
15 personal experience?

16 A. Within that period of time, there was a  
17 groundbreaking physician who was a pulmonologist and who  
18 won the highest award in American medicine for his work as  
19 a pulmonologist. His name was Irving Selikoff. He became  
20 interested in occupational and environmental lung  
21 diseases, prominent among which were those diseases caused  
22 by asbestos. And he went on to found the First Department  
23 of Occupational Medicine and in American medical school.  
24 It remains one of the major such departments in the world.

25 Q. And did you know Dr. Selikoff personally?

26 A. Very much so. From my first months as a --

1 Direct-Miller-Block

2 as an intern until his death, which was about 45 years  
3 later.

4 Q. And did you do research and publish studies  
5 with Dr. Selikoff?

6 A. Very intermittently worked together, and I  
7 guess our joint names are on at least 40 papers.

8 Q. Forty?

9 A. That were published, yes.

10 Q. Did you leave Mount Sinai for a few years to  
11 perform military service at some point?

12 A. I was still in my training, yes, for two  
13 years from 1964 to '66.

14 Q. Okay. And '62 to '64?

15 A. I'm sorry. '62 to '64, yes.

16 Q. And were you doing your service with the  
17 United States Public Health Service at that time?

18 A. Yes.

19 Q. And just briefly what did you do for the  
20 United States Public Health Service in the 1962, 1964 time  
21 period?

22 A. Well, 99 percent of my time I was the only  
23 specialist in internal medicine at a very busy clinic in  
24 the city of Miami, which took care of the patients whom  
25 the Public Health Service takes care of, merchant seamen,  
26 Coast Guard and American military and their dependents.

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2 The other one percent of the time we were responsible for  
3 radio calls from ships at sea, for medical emergencies.  
4 And I was sent by the U.S. State Department to the country  
5 of Cuba as a medical representative for various diplomatic  
6 dealings with Cuba.

7 Q. Can you tell the ladies and gentlemen of the  
8 jury some of the positions that you've held at Mount Sinai  
9 Hospital or Mount Sinai Medical Center over the years?

10 A. Well, there is a ladder it's called. In any  
11 teaching institution, any academic institution where you  
12 begin as an instructor, and as you gather experience and  
13 reputation and publish research, you are recognized as an  
14 assistant professor, associate professor and then a full  
15 professor. And I climbed that, I would say those ladders,  
16 because I became a full professor in the Department of  
17 Medicine as -- for pulmonary medicine and in the  
18 Department of Community Medicine for occupational  
19 medicine. So, I had a dual appointment.

20 Q. And can you tell us about any teaching  
21 positions that you've had at Mount Sinai over the years?

22 A. Well, those are -- those positions as  
23 professor, et cetera involved teaching, primarily in my  
24 case teaching physicians who were already board certified  
25 in internal medicine, the skills of being a pulmonary  
26 specialist or being an occupational medicine specialist.

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1  
2 Q. What about administrative appointments at  
3 Mount Sinai over the years?

4 A. I was a director of the pulmonary function  
5 lab, which does breathing tests on patients as well as on  
6 large numbers of people who have particular risks of lung  
7 disease, like workers, especially like workers exposed to  
8 asbestos. So, the laboratory I was in charge of over  
9 those years tested at least 20, 30,000 workers in  
10 different industries and trades.

11 Q. And for how many years have you been working  
12 with, as an employee or affiliated in some way with Mount  
13 Sinai?

14 A. I was on the faculty and staff of the medical  
15 school of the hospital for 35 years. I then took a  
16 position at a consortium of Catholic hospitals in Brooklyn  
17 and Queens for the next 15 years. And for the last five  
18 years I have been at an environmental health institute at  
19 Queens College and at Beth Israel Hospital here in  
20 Manhattan, which coincidentally in the last few months  
21 merged with Mount Sinai. So, I'm back again on the  
22 faculty at Mount Sinai.

23 Q. And do you currently see patients as a  
24 pulmonologist?

25 A. I see patients to teach and supervise  
26 physicians in training to be pulmonologists.

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1  
2 Q. How many articles have you published in the  
3 peer literature?

4 A. About 120.

5 Q. Have you contributed to any surgeon general  
6 reports that have been published by our government?

7 A. I contributed a chapter to several of the  
8 annual reports on the effects of the workplace on the  
9 lung.

10 Q. Have you -- have you published specifically  
11 articles in the peer literature regarding the cause of  
12 asbestos-related diseases such as mesothelioma?

13 A. The cause and many other aspects besides the  
14 cause, yes.

15 Q. Have you published an article on people  
16 getting mesothelioma from laundering clothing or having  
17 household contact with asbestos?

18 A. Yes.

19 Q. And what journal was that article published?

20 A. That was published in the American Journal of  
21 Industrial Medicine.

22 Q. And who started that journal?

23 A. That was started by Dr. Selikoff about  
24 30 years ago.

25 Q. Are you a member of any professional  
26 societies?



## Direct-Miller-Block

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A. Yes.

Q. Are you still a member of the Collegium Ramazzini?

A. I am -- Well, let's see what we call a retired member. Retired in the sense I don't go to their meetings in Italy every year. So, I was a founding member and now I am a retired member.

Q. What is the Collegium Ramazzini? And is there a limited number of people that are invited to that organization?

A. Ramazzini is a name of a historic figure in medicine. He was, Ramazzini, he was an Italian physician in the 18 century who became interested in the diseases of the workplace and published a book in the early 18 century about that, which is still quite interesting reading today.

Q. You mentioned doing the pulmonary function testing for thousands of workers at Mount Sinai. What other involvement did you have with studies at Mount Sinai relating to asbestos?

A. The -- I've published probably 50 articles concerning different aspects of all the different diseases caused by asbestos. Looking at how you diagnose it. Using and X-ray. And in recent years how you diagnose it using CT scans, which have largely replaced X-rays. How

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2 you use breathing tests to -- to confirm or to explain the  
3 severity of the disease as related to the particular  
4 exposure, different types and see varieties of exposure.  
5 We have published an article recently, I say we, my  
6 colleagues and I, looking at the different effects of  
7 smoking and exposure and whether that exposure causes  
8 scarring of the lungs, which is called asbestosis. These  
9 three separate elements in causing lung cancer, which is  
10 one of the diseases caused by asbestos.

11 Q. And was that a study that you published  
12 recently with other scientists including Dr. Steven  
13 Markowitz?

14 A. Yes.

15 Q. And did that study -- Was that looking at the  
16 insulator population --

17 A. Yes.

18 Q. -- that Mount Sinai had looked at for those  
19 years?

20 A. Yes, the insulator population was about  
21 20,000 individuals. So, it is by far the largest base of  
22 knowledge about asbestos diseases.

23 Q. Dr. Miller, I would like to invite you to  
24 step up to the pad. And I'm going to ask you to explain  
25 some of the medical principles relating to asbestos for  
26 the jury. And we have three markers for you to choose

## Direct-Miller-Block

1  
2 from. We can -- If you're not using one, you can place it  
3 there.

4 A. We'll start with blue.

5 Q. So, Dr. Miller, before we get into asbestos,  
6 can you explain to the jury about the human respiratory  
7 system.

8 A. Well, the respiratory system is everything  
9 from your nose, mouth, down through the finest structures  
10 in your lungs. So, to -- to kind of abbreviate and  
11 simplify. This is your trachea (indicating). You can  
12 feel it in your neck. It's obviously connected with your  
13 mouth and nose. It's basically an air hose, an air pipe.  
14 It splits into two branches. These are called your --  
15 This is the left (indicating). Doctors always show a body  
16 as if it's looking at you. This is the right side and  
17 this is the left side. This is the left bronchus. The  
18 bronchus is just a continuation of this airway and the  
19 bronchus would then split.

20 Q. Dr. Miller, I'm going to just go like this  
21 and then hopefully everyone can see. Thank you.

22 A. Those sitting over here. It will split and  
23 each branch will split. It will split many times, 15, 18,  
24 20 times. So, just like a tree, each branch will come off  
25 the other branch. Each branch will move off several  
26 branches.

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2 You now have into the finest twigs far out.  
3 And remember that all this is contained within the chest.  
4 It is enclosed by your ribs. So, we have two cavities  
5 within our chest. One containing the right lung. One  
6 containing the left. And in the middle is your windpipe,  
7 your heart and the major blood vessels.

8 Then each chest is just filled by the lung.  
9 And as you get out to the finest twigs, anywhere towards  
10 the surface of the lung, in front, on the side, in the  
11 back, the finest branches, and they are called bronchials.  
12 All bronchial is is a small bronchus which will give off  
13 air sacs. And these are like clusters of grapes, only  
14 they are filled with air (indicating). This is called an  
15 alveolus. The alveolus is an air filled, small blue. The  
16 wall of the blue contains very fine blood vessels. And  
17 this is where the purpose of having lungs is fulfilled.  
18 Because these blood vessels are in contact with the air in  
19 the alveolus, and blood can take up oxygen from the air  
20 and give off carbon monoxide. All of that is then  
21 channeled into these air pipes, to be taken up or to be  
22 discharged into the atmosphere.

23 Q. Does the body have any defense mechanisms,  
24 does the respiratory system have any defense mechanism to  
25 ward off dust and debris as you may breathe in as you walk  
26 around and sit here?

## Direct-Miller-Block

1  
2 A. Well, you have to realize that the surface  
3 area of each of these microscopic air spaces, if we were  
4 added together, would be the size of a tennis court. So,  
5 we have larger than the surface of this room, we have a  
6 membrane that's folded up into these little things, which  
7 is in contact with the outside air. That means we're  
8 always being exposed to whatever is in the air. And this  
9 is all kinds of dusts and gases and germs of every type,  
10 bacteria and viruses and so on. That's why we come down  
11 with different diseases. And the body has evolved, yes,  
12 defense mechanisms against these things, which are  
13 remarkably effective, but obviously not totally effective.

14 Q. What are some of these defense mechanisms  
15 that our body has to ward off the effects of dusts or  
16 debris that you breathe in?

17 A. The body does not know the difference between  
18 a particle of dust, like carbon, which is from combustion.  
19 So, if you have a diesel engine, it gives off a carbon  
20 particle. The body doesn't know whether this is going to  
21 be a carbon particle or an asbestos fiber or a germ which  
22 causes, it will come as a twig structure, which causes  
23 pneumonia. This is called pneumococcal germ. The body  
24 has a way of dealing with all of these foreign particles.  
25 They are all particles. One is to trap them in a mucus  
26 layer of the trachea and the bronchi.

## 1 Direct-Miller-Block

2 The mucus is something we secrete. We could  
3 cough it up. We spit it up. It traps and immobilizes  
4 whatever we -- whatever particles we inhale. And there is  
5 a system of moving the mucus and anything it traps up.  
6 So, it's continuously being elevated. It is called the  
7 mucus ciliary elevator, because the cilia are little ribs  
8 attached to the cells. And they always beat in one  
9 direction, up. And they propel the mucus out of the inner  
10 portions, out to where you could cough it up. So, this is  
11 one mechanism. There could be an asbestos fiber which is  
12 trapped or a germ or whatever.

13 If any one of these is so concentrated, there  
14 are so many of them, the exposure is so great to that germ  
15 or fiber, it can't be handled. Like if there is a garbage  
16 driver, the Sanitation Department is out for two weeks and  
17 the first day it's back, the trucks can't get all the  
18 garbage piled up in the streets. So, some of these fibers  
19 would get into the air sacs and onto the linings of the  
20 air sacs, and a certain type of cell, where it will find  
21 it's way into the air sacs. It's a white blood cell,  
22 which traps and tries to either destroy or dissolve  
23 whatever is trapped.

24 Q. Dr. Miller, just going to a new page here.  
25 You could stay here.

26 A. I'm changing colors.

## Direct-Miller-Block

1  
2 Q. Changing colors. We can go to the new page  
3 or same page. What is asbestos? Can you give a  
4 definition to the jury about what is asbestos. What are  
5 the properties of asbestos that make it so dangerous.

6 A. Asbestos is a mineral fiber. So, that's  
7 already unique. There are a lot of fibers. Cotton, wool,  
8 et cetera. And a fiber is always longer than it is wide.  
9 And asbestos as a fiber, a mineral fiber has certain  
10 properties, which include its resistance to heat and to  
11 chemical destruction.

12 As a fiber you could do a lot of things with  
13 it. You could weave it. You could felt it. You can  
14 compact it, et cetera.

15 Q. And you mentioned that asbestos fibers, are  
16 they very durable?

17 A. This is why, they are classified by their  
18 durability to heat and chemical degradation.

19 Q. Can you taste asbestos fibers? Is that a  
20 taste?

21 A. I guess if you take enough of them, you might  
22 notice some. I don't think they would be especially  
23 tasty. You're breathing in asbestos. Unless the  
24 atmosphere where you're working is clouded by the number  
25 of fibers. So, you're suspicious that there is something  
26 in the air, you would not be aware of it by smelling or

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1  
2 tasting or seeing.

3 Q. How about feeling, is there anything about  
4 asbestos that causes an itch or something you can feel?

5 A. Well, if you're dealing with a material or a  
6 structure which is made out of asbestos, it can be  
7 irritating to the skin, but otherwise you may not be aware  
8 of it at all.

9 Q. Okay. Just floating in the air it's not  
10 necessarily going to cause --

11 A. No.

12 Q. How does asbestos evade the defense  
13 mechanisms and cause harm to people?

14 A. Well, the greater the concentration of it,  
15 the more it's going to get away from the elevator that  
16 wants to eliminate it. It's going to get down into that  
17 air sack (indicating). So, now we have a lot of asbestos  
18 fibers or in the little bronchial that is leading there.  
19 And they finally settle by gravity. Along comes this  
20 white blood cell. It's called a macrophage. It is a  
21 Greek word that means a big eater, big eating machine.  
22 So, big eater. That's what it does. It gobbles up all of  
23 these things. They could be, as I said, they could be  
24 tuberculosis germs or pneumonia germs or asbestos fibers.

25 The trouble with asbestos fibers is what the  
26 macrophage does is releases enzymes, which literally



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1  
2 dissolve whatever is in there. That's for germs in  
3 general. It doesn't work so well against tuberculosis.  
4 The asbestos fiber is resistant to chemical destruction.  
5 So, it is unaffected. Often the asbestos fiber is longer  
6 than the macrophage. So, a bunch of them would be  
7 attacking one fiber. And all of these enzymes finally  
8 destroy the cell because they can't destroy the fiber.  
9 So, the enzymes have a deleterious effect on the cell  
10 itself. The cell is now gone and fiber is still there to  
11 do this. And this is how asbestos persists. Long after  
12 you stop being exposed to it, you still have asbestos  
13 fibers that not only remain in your body but are still  
14 interacting with your body.

15 Q. What diseases does asbestos cause? What are  
16 the primary diseases that asbestos causes?

17 A. Well, the one that's named after asbestos is  
18 called asbestosis.

19 Q. What is that?

20 A. That is a scarring of the lung caused by this  
21 process which brings about an inflammation. All  
22 inflammation ends in scarring. So, that's the scarring of  
23 the lung. It can be severe enough to be the cause of  
24 death or disability. There is a special scarring of the  
25 pleural. The pleura is the lining of the lung.

26 Asbestos fibers migrate to and concentrate.

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1  
2 We'll go back to this one here. This green on top of the  
3 purple is the lining of -- of the lung. There is a  
4 similar net lining on the inside of your ribs. So, there  
5 is a double lining, the outside of the lung and on the  
6 inside of the ribs called the pleura.

7 Q. What's the function of the pleura? What is a  
8 healthy pleura in our respiratory system do?

9 A. It permits the lung to expand and to deflate.  
10 To move within it. It's very smooth. It's glistening and  
11 promotes -- gives no friction.

12 Q. Is it thin?

13 A. It's transparent. If you look at the lung at  
14 surgery when the chest is open, and if you look at the  
15 ribcage, because they are now separated, you see  
16 everything. It's only a couple of cells anyway.

17 Q. Okay.

18 A. So, you can get scarring of the pleura.

19 Q. What's that called?

20 A. Well, one type of scarring is called plaque,  
21 because it's thick and localized. There is something  
22 called diffuse thickening, where it's not just in one  
23 place, it's all over.

24 Q. What are the two primary cancers of the  
25 respiratory system that asbestos causes?

26 A. It causes lung cancer and it works together

1 Direct-Miller-Block

2 with smoking. Each one increases the risk of the other.  
3 So, tobacco and asbestos, if tobacco increases the risk of  
4 lung cancer, will give a rough estimate of 20 times. And  
5 asbestos increases it five to ten times. Together they  
6 will increase the risk 50 or a hundred times. So, that's  
7 cancer of the lung.

8 People who are not exposed to asbestos also  
9 get cancer of the lung. And there is a cancer of the  
10 lining tissue called mesothelioma, in which smoking  
11 doesn't play a role. The only cause we know of  
12 mesothelioma is asbestos. And it is one of the very few  
13 cancers where we know of, let alone the cause, cases of  
14 mesothelioma.

15 Q. Is there a typical amount of time that goes  
16 by between the time a person is first exposed to asbestos  
17 and when the person might develop any of these asbestos-  
18 related diseases?

19 A. Yes. That's called the latency. I'm going  
20 to switch again. We'll go to black this time. It's  
21 called the latency or the latent period. And depending on  
22 the dose, it could be shorter or longer. So, the greater  
23 the dose, especially for asbestosis, it could be as short  
24 as 15 or 20 years. For mesothelioma, it's not unusual and  
25 nowadays it's indeed usual for the latency to be 40 or 50  
26 years.

1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 Q Okay. And could it be even longer?

3 A Yes. It could be if we were living for 200 years, in  
4 some cases 200 years; so it could be 60 years or so.

5 Q Okay. And is there a known level of asbestos exposure  
6 that a person would need to have in order to develop  
7 mesothelioma?

8 A This is something that's been discussed, published  
9 about. We don't know what the lowest level is; so we would  
10 presume now since there is asbestos everywhere, in this room,  
11 outside in the street, in the desert, the ocean, we presume  
12 that that is not a cause; so whatever the minimal concentration  
13 that is; but what greater than that concentration, we don't  
14 know. So almost anything measurable is a risk for  
15 mesothelioma; but the greater the concentration, the greater,  
16 we call it dose, the greater the risk of mesothelioma.

17 Q What about as compared to asbestosis? Is there some  
18 thinking that a person might need a greater exposure to  
19 asbestos to get asbestosis, the scarring of the lung tissue?

20 A Yes, yes. Asbestosis is more clearly dose-related; so  
21 we know that if you're exposed to a tenth of a fiber in a  
22 certain volume of air, you could be exposed to that all your  
23 life, you're not going to get asbestosis. You don't know that  
24 about mesothelioma.

25 Q And is it unusual for a person to develop  
26 mesothelioma, but not have the separate disease of asbestosis

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 simultaneously?

3           A     Nowadays, it's quite unusual that you see mesothelioma  
4 on top of the other one.

5           Q     Okay. So most mesotheliomas you see these days, the  
6 person does not also have asbestosis; is that correct?

7           A     Does not have asbestosis. May or may not have one of  
8 these plaques.

9           Q     Okay. What type -- you touched upon this; but does a  
10 person have to directly work with an asbestos-containing  
11 product to develop mesothelioma?

12          A     No. What you breathe in is not just what you're  
13 working with yourself. I mean, obviously, I walk into my  
14 wife's kitchen and she's baking, I'm going to eat flour.

15                 If you're virtually near someone who is vigorously  
16 using asbestos as a cement or sawing a board or taking off a  
17 pipe covering, those fibers are going to be released into the  
18 air and you're going to breathe it in as well.

19          Q     And is that, is that known as bystander asbestos  
20 exposure?

21          A     That's one way of describing it.

22          Q     Okay. And is there a term called either household or  
23 secondary asbestos exposure? How would you --

24          A     Well, there are indirect exposures. So you could live  
25 in a neighborhood which is near an asbestos camp which is  
26 discharging asbestos fibers, and you're at greater risk for

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 these diseases. You could live near a mine and you could be at  
3 risk for that; or someone who is working in that mine or that  
4 factory could be living in your home and coming home with  
5 clothes that are covered, clothes, hair, shoes with asbestos,  
6 and the house will gradually become concentrated in asbestos.  
7 So that's household, family exposure, etc., yes.

8           Q     And have these household and family exposures and  
9 these neighborhood exposures that you just described been  
10 demonstrated to cause mesothelioma?

11          A     Yes, demonstrated in every one of those examples, yes.

12          Q     Okay. What does it mean to refer to a person's  
13 cumulative exposure to asbestos; and how, if at all, does it  
14 relate to the causation of mesothelioma?

15          A     Well, the dose of asbestos that you get is how much  
16 you receive each hour of your life as long as you live; so each  
17 hour that you're standing next to someone who's putting on  
18 insulation or spraying insulation, or you're doing it yourself,  
19 or you're cleaning the clothes of your husband who brought them  
20 home and they're full of asbestos, each period of time adds to  
21 all the other periods of time; and it's the total dose that  
22 counts in whether you get the disease or not.

23          Q     And so is it a person's cumulative exposure to  
24 asbestos that ultimately causes the mesothelioma?

25          A     Yes. We have no way of saying that on Thursday  
26 November 11, 1974, that's when that fiber initiated the

1 Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 mesothelioma.

3 Q Okay. And do the studies refer to cumulative asbestos  
4 exposures when looking at the risks for mesothelioma?

5 A Yes.

6 Q Okay, Dr. Miller, you could retake the stand. I have  
7 some more questions for you.

8 Dr. Miller, do different people differ in their  
9 susceptibility to develop mesothelioma from asbestos exposure?

10 A Yes.

11 Q And can two -- can a number of people be exposed to  
12 nearly identical working environments and some will develop  
13 mesothelioma and others will not?

14 A Yes.

15 Q And do we know why that's the case?

16 A No. We have various explanations; but we don't really  
17 know which explanation counts and whether the one that counts  
18 is one of the ones we thought of.

19 Q And have you personally evaluated many cases in which  
20 the worker who worked directly with the asbestos product day in  
21 and day out did not get an asbestos-related disease, yet the  
22 spouse who was laundering the clothing or coming in contact  
23 with it at home did?

24 A Right; or we as a bystander worker gets the  
25 mesothelioma, but the insulator didn't.

26 Q What are the different asbestos fiber types?

1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 A There are two basic types which look different under  
3 the microscope and have slightly different chemical  
4 compositions. They have long chemical names. One of them, one  
5 type is called amphibole, and that's actually several different  
6 examples are amphiboles. And the other type is called  
7 chrysotile or serpentine, and that looks a little different.  
8 Basically, both types and all examples of the amphiboles cause  
9 all the diseases we mentioned.

10 Q Okay. With the understanding that all asbestos fiber  
11 types cause mesothelioma, do you have an opinion as to whether  
12 the amphiboles, whether or not they're generally more potent in  
13 causing mesothelioma as opposed to chrysotile?

14 A If you were exposed in the controlled way to known  
15 amounts of asbestos and you could do that with laboratory  
16 animals, the amphiboles would be more potent in causing, more  
17 likely to cause mesothelioma; but to me, that's almost  
18 irrelevant because that's much less a consideration than how  
19 much you're inhaling. So if you're inhaling a lot of something  
20 that's a little less risky, you still got a greater risk.

21 Q Dr. Miller, if a worker reports seeing visible dust  
22 from the use of an asbestos containing product in the air,  
23 what, if anything, does that indicate about the amount of  
24 asbestos in the air?

25 A It's just a shorthand way to say that it's a high  
26 concentration.



1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 Q And a concentration of that's capable of causing  
3 disease?

4 A Yes.

5 Q Earlier we mentioned occupational medicine. The  
6 jurors have heard about that.

7 What is preventative medicine?

8 A Well, preventive medicine and public health  
9 considerations deal with how to safeguard people, not an  
10 individual so much as groups of people.

11 So Ebola that we're reading about so much, how do you  
12 prevent transmission of the Ebola virus. That's a great  
13 example of preventive medicine. The use of vaccines, the  
14 sanitation, clean water, clean air, clean food, all of those  
15 things.

16 Q From an occupational and preventative medicine  
17 perspective, is it important for workers to have information  
18 about the hazards of materials they are working with?

19 A Yeah. I think everyone is entitled, workers, users of  
20 products, consumers. Yes.

21 Q Okay. Dr. Miller, have you reviewed the medical  
22 records for my client Ralph North?

23 A I have.

24 Q Okay. And I want to let you know that we have moved  
25 into evidence without objection all of Mr. North's medical  
26 records, which are Plaintiff's Exhibit 30A and 30B.

1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 MR. BLOCK: I also want to state for the record  
3 that I'm going to be going through some of those medical  
4 records with Dr. Miller that are contained in those  
5 binders, and we can refer collectively to those as 30C.

6 Q Dr. Miller, are you charging an hourly rate for the  
7 time that you've spent reviewing the records and being in court  
8 here testifying?

9 A Yeah, including the four hours I was sitting outside  
10 yes.

11 Q Including the wait time, right. All right.  
12 And what is your hourly rate, sir?

13 A My hourly rate up until July 1 was \$400 an hour for  
14 reviewing records and medical literature, and \$500 for  
15 testifying. I increased both rates July 1.

16 Q And also, Dr. Miller, in addition to reviewing  
17 Mr. North's medical records, have you also reviewed Mr. North's  
18 deposition testimony to obtain information about his exposures  
19 to asbestos?

20 A I have.

21 Q And based upon your review of the materials that  
22 you've reviewed in this case, do you have an opinion within a  
23 reasonable degree of medical certainty as to what caused  
24 Mr. North's mesothelioma?

25 A His cumulative exposure to asbestos.

26 Q And what's the basis of your opinion?

1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 A Over, over many years, at many different sites, doing  
3 many different things.

4 Q And what's the basis of your opinion, Dr. Miller?

5 A The basis of my opinion is that each of those things,  
6 each of those episodes exposed him to a known cause of  
7 mesothelioma.

8 Q Now, Dr. Miller, the jury has heard Mr. North testify  
9 here in court. And I'd like you to assume certain facts in  
10 responding to the next series of questions. Okay?

11 Dr. Miller, I'd like you to assume that the jury has  
12 heard and seen evidence that Ralph North worked at the  
13 Northport Power Plant in Northport, Long Island during six to  
14 seven different times, for approximately two-and-a-half years  
15 total, between approximately 1966 and 1972, during the  
16 construction of the power plant units. Okay?

17 A Yes.

18 Q I'd like you to further assume that Mr. North  
19 testified that he worked as a welder at Northport helping to  
20 construct large steam generating units and related equipment,  
21 and that he worked all over the units he was constructing,  
22 which were approximately eight to 10 stories tall and  
23 approximately 80 feet across each side.

24 I'd like you further to assume that Mr. North  
25 testified to being in close proximity to asbestos being sprayed  
26 under the roof of a boiler at Northport during the course of

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 approximately two-and-a-half to three weeks; and that the  
3 over-spray of this asbestos insulation at times covered  
4 Mr. North's work area, requiring him to blow off his work area  
5 with an air hose.

6           I'd like you to further assume that Mr. North was at  
7 times right next to these individuals spraying the asbestos and  
8 that other times they were a number of feet away, and Mr. North  
9 could see visible dust coming from the spraying of this  
10 asbestos material.

11           Based on the facts that I've asked you to assume, do  
12 you have an opinion within a reasonable degree of medical  
13 certainty as to whether this exposure to asbestos spray was a  
14 substantial factor in causing Mr. North to develop  
15 mesothelioma?

16           A     It was a factor among all his other exposures.

17           Q     And in your opinion, was it a substantial factor in  
18 causing Mr. North to develop mesothelioma?

19           A     By substantial, I mean, if it were the only exposure,  
20 could it cause meso by itself, my answer is yes.

21           Q     And keeping the same facts in mind and considering the  
22 same facts, please, further assume that during the approximate  
23 two-and-a-half years in which Mr. North worked at the Northport  
24 plant, he regularly worked near insulators as they were  
25 insulating piping that was outside and away from the boiler;  
26 that these pipes required very thick insulation; that

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 insulators cut the pipe covering into smaller sections using a  
3 hand saw and attached them to the piping.

4           And I'd like you further to assume that Mr. North  
5 would at times be right next to the insulators and at other  
6 times be as far away as 15 or 20 feet from them while they were  
7 cutting the pipe covering material.

8           I'd you like you further to assume that Mr. North saw  
9 visible dust coming from the pipe covering while they were  
10 being cut.

11           Based upon the facts that I asked you to assume, do  
12 you have an opinion within a reasonable degree of medical  
13 certainty as to whether this exposure to asbestos pipe covering  
14 at the Northport plant was a substantial factor in causing  
15 Mr. North to develop mesothelioma?

16           A     Yes.

17           Q     And your opinion is?

18           A     That it was a substantial factor.

19           Q     Okay. I'd like to -- keeping those same facts in mind  
20 and assuming those same facts, please, further assume that  
21 Mr. North regularly worked near insulators at the Northport  
22 plant as they insulating the units with asbestos block  
23 materials; that the insulators used a saw to cut the block into  
24 sections; and that this cutting caused visible dust to come  
25 from the block material; and that Mr. North was at times right  
26 next to the insulators while this material was being cut and at

1 Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 other times was as far away as 10 to 15 feet or more.

3 Based on the facts I have asked you to assume, do you  
4 have an opinion within a reasonable degree of medical certainty  
5 as to whether this exposure to asbestos block at the Northport  
6 plant was a substantial factor in causing Mr. North to develop  
7 mesothelioma?

8 A Yes, it was.

9 Q Okay. Keeping the same facts in mind, Dr. Miller,  
10 please, further assume that the insulators also took dry  
11 asbestos cement, mixed it with water in a pan, and applied this  
12 mixture to the block material and to the exterior of each unit  
13 to ensure a tight fit.

14 I'd like you further to assume that Mr. North was  
15 often in the immediate area of the insulators as they were  
16 mixing this dry asbestos cement with water in a pan.

17 Based on the facts that I've asked you to assume, do  
18 you have an opinion within a reasonable degree of medical  
19 certainty as to whether this exposure to asbestos cement was a  
20 substantial factor in causing Mr. North to develop  
21 mesothelioma?

22 A Yes. The same answer as to the previous, exposures.

23 Q Okay. And let me ask you this, Dr. Miller, if  
24 Mr. North had only been exposed to asbestos from the Northport  
25 plant in the manner that I've asked you to assume here for only  
26 a few months, to the asbestos pipe covering, to the asbestos

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 block, to the asbestos cement, would that still have been  
3 sufficient to be a substantial factor in causing his  
4 mesothelioma?

5           A     By itself, yes.

6           Q     Okay. And, Dr. Miller, I want you also to assume that  
7 Mr. North had occupational exposures to asbestos from  
8 insulation products while working at a number of other job  
9 sites over many years.

10           Would this change your opinion that Mr. North's  
11 exposure to asbestos at the Northport plant was a cause of his  
12 mesothelioma?

13           A     All the exposures contributed to the causing of his  
14 mesothelioma, including the ones you gave.

15           Q     Dr. Miller, I'd like to now ask you some questions  
16 about Mr. North's medical course related to mesothelioma, okay.

17           Did you see from the medical records what it said  
18 about Mr. North's health before he developed mesothelioma?

19           A     Yes.

20           Q     And was Mr. North in good health before he developed  
21 mesothelioma?

22           A     For a man of his years, yes.

23           Q     Okay. And when did Mr. -- when did Mr. North  
24 initially present to a hospital or medical center complaining  
25 of symptoms about his mesothelioma?

26           A     Somewhere December of 2012, January of 2013 he was

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 already in the hospital. He saw his physician, I guess, in  
3 December. He had symptoms of several months duration already  
4 when he first saw a medical professional.

5           Q     Okay. And looking at one of the initial medical  
6 records in the case dated January 3, 2013, do you see that, Dr.  
7 Miller?

8           A     Yes.

9           Q     Okay. And does it refer to the fact that -- it says,  
10 He stated that it had been a slow progressive change over a few  
11 months; is that right?

12          A     Yes.

13          Q     And then also a later record on January 16, 2013, from  
14 Memorial Sloan-Kettering, does it refer to the fact that  
15 patient noted progressive shortness of breath and cough since  
16 the summer?

17          A     Yes.

18          Q     So going -- that would have gone back to August --

19          A     2012.

20          Q     -- at least August of 2012?

21          A     Yes.

22          Q     Okay. And I'd like to ask you about the presentation,  
23 what was happening with Mr. North when he first went to Good  
24 Samaritan Hospital.

25                 This record from January 3, 2013, said that Mr. North  
26 came in with a left pleural effusion and a left lung collapse;



1 Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 is that right?

3 A Yes.

4 Q What is a pleural effusion?

5 A It's the filling up of the chest with fluid caused by  
6 some kind of disease.

7 There are many diseases that could cause fluid. It's  
8 almost like if you wound yourself, you see it's giving off  
9 serum or pus, some kind of fluid. The same thing is happening  
10 inside the chest.

11 And in his case, his entire chest cavity was filled  
12 with fluid. When they removed it at surgery, there were six  
13 liters of fluid. A liter is a little bigger than a quart, so  
14 there were more than six quarts of fluid in his chest.

15 Q And what type of symptoms does a pleural effusion  
16 where you have six liters of fluid in your chest produce?

17 A Well, what the fluid does is it collapses the lung, so  
18 you get trouble breathing. It's hard for you to breathe, and  
19 often you cough. You may have pain in your chest.

20 Q Okay. And then this same record -- you mentioned  
21 that, what his chest looked like.

22 Have you reviewed the X ray reports from his initial  
23 presentation at Good Samaritan?

24 A Yes.

25 Q And here it says that the chest is totally opacified,  
26 looks like it was filled with fluid with a mediastinal shift?

1 Dr. Miller - For Plaintiff - Direct/Mr. Block

2 A Yes.

3 Q What is -- what does mediastinal shift mean?

4 A Mediastinum is what's in the middle of your chest  
5 between your two lungs. And if one lung -- if one cavity is  
6 now filled with almost two gallons of fluid, that's going to  
7 take up a lot of room and push the other structures away. The  
8 other structures are your heart and your blood vessels.  
9 They'll be shifted to the other side.

10 Q Mr. North, did he have a VATS procedure performed at  
11 Good Samaritan Hospital?

12 A Yes.

13 Q What's VATS procedure?

14 A VATS is abbreviation for video assisted thorascopic  
15 surgery. It means that we put instruments into the chest to do  
16 the operation. You could do that with a smaller incision than  
17 we used to require. And that's now the standard surgery to the  
18 chest. And they did this to obtain tissue from the pleura to  
19 make a diagnosis of what was causing the pleural effusion, as  
20 many different things could do that. And in his case it was  
21 determined that it was a mesothelioma.

22 Q Okay. And looking at this next record, did Mr. North  
23 then shortly thereafter, January 16, 2013, go for a  
24 consultation Memorial Sloan-Kettering?

25 A Yes.

26 Q Okay. And they are going through the history he's had

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 so far. They refer to the VATS procedure you just mentioned,  
3 and they also talk about how he had a left pleural catheter was  
4 placed in his chest.

5           A     Yes, yes.

6           Q     And why, why was that put in his chest?

7           A     Catheter is simply a tube, a drainage tube. And  
8 whatever was causing the fluid in the first place was still  
9 causing it; and if they didn't keep draining it with this tube,  
10 it would collapse the lung again.

11          Q     And based upon your review of the records, what was  
12 the initial treatment that Mr. North had at Memorial  
13 Sloan-Kettering?

14          A     Various treatments were discussed. Had another  
15 surgical exploration of his chest where it was seen that  
16 surgery would not be helpful. The extent of the mesothelioma  
17 was too great for surgery to remove it; and he was given the  
18 option of an experimental treatment, which he had performed.

19          Q     And did Mr. North in the beginning of 2013 have the  
20 vaccinia virus experimental treatment?

21          A     Yes.

22          Q     And can you explain what your understanding is of that  
23 treatment?

24          A     Well, I think we have to put that in context.

25                 Mesothelioma is a notoriously fatal disease where no  
26 treatment, surgery, radiation, chemotherapy, radical, radical

1           Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 surgery, none of these has been shown to be helpful. So there  
3 have been many other theoretical treatments which have been  
4 used; this is one of them using a benign virus to elicit a,  
5 a response from the body that would limit the mesothelioma. And  
6 in Mr. North's case, it seems to have been remarkably helpful.

7           Q     And does Mr. North -- what's the cell type of his  
8 mesothelioma? Do you know?

9           A     There are two cell types. One is called epithelial  
10 and the other is called sarcomatous, or there are different  
11 other names. His is mixed. He has elements of both, which  
12 usually indicates a more severe.

13                     It's hard to say more severe because any mesothelioma  
14 is about as severe a malignancy that you could have; but if you  
15 want to -- I, I think it's getting kind of technical. If it's  
16 mixed or it's more of the fibrous type, it's even worse.

17           Q     Okay. But on diagnosis is it true that Mr. North was  
18 found to have a type of mesothelioma that is generally more  
19 aggressive?

20           A     Yes.

21           Q     Okay. And did Mr. North ultimately have a surgery  
22 called a pleurectomy?

23           A     He had that as part of this other approach.

24                     Pleurectomy means removing the diseased pleura. They  
25 could only do that in part because all the pleura was involved.

26           Q     Okay. Actually, let me -- I'm sorry. Can I -- I

1 Dr. Miller - For Plaintiff - Direct/Mr. Block  
2 think I skipped too far forward.

3 April of 2013. It says from Memorial Sloan-Kettering  
4 April 1, 2013. It's follow-up consultation.

5 And if you go to the medical records, are there a lot  
6 of these follow-up visits where Mr. North is going to Memorial  
7 Sloan-Kettering and they're checking in with him?

8 A They're, they're checking, they're checking the  
9 results of the treatments, and they're planning what else to  
10 do.

11 -Continued on next page-

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## Redirect-Miller-Block

1  
2 Q. Okay. And at this particular visit in April,  
3 it says that the patient's pleural catheter has not been  
4 draining any significant amount of fluid during the past  
5 week or so. So, we recommended that he allow us to remove  
6 that. And then it refers to them draining the fluid at  
7 the office visit, is that right?

8 A. Yeah. This is all pretty expected.

9 Q. Okay. So, is that why the catheter is put  
10 in, because the fluid is constantly accumulating and being  
11 drained out?

12 A. Yes. Then it may reach a stage after  
13 repeated surgeries or other treatments where the disease  
14 may still be present but it is prevented by -- from  
15 forming more fluid because you're sealing off the space.  
16 Can't form the fluid.

17 Q. Okay.

18 A. It doesn't mean the disease is cured.

19 Q. As we get in later in 2013, I'm looking at a  
20 record from Memorial Sloan-Kettering dated November 14th,  
21 2013. It looks like he was admitted and then discharged  
22 three days later?

23 A. Yeah.

24 Q. Okay. And it goes through some of the  
25 history. It says he underwent a CT scan on October 31st,  
26 2013, which showed new small left pleural effusion with

1 Redirect-Miller-Block

2 increase in nodular plural thickening of the left mid  
3 thorax, suspicious for neoplasia. He was scheduled for  
4 left thoracotomy and partial thoracotomy on November 14th,  
5 2013.

6 Now, Dr. Miller, is this -- was this evidence  
7 that Mr. North's cancer was growing at this point in time?

8 A. Yes.

9 Q. Okay. And what is a thoracotomy and what is  
10 a pleurectomy or a partial pleurectomy?

11 A. A thoracotomy is opening the chest with a  
12 larger incision. You can't keep doing the limited  
13 operation, because that is only doable the first time or  
14 the second time. And then the pleurectomy is removing  
15 part of the lining of the lung and of the inner cavity.  
16 And it's to help decrease the spread of the cancer.

17 Q. We have the surgical report from  
18 November 14th, 2013 for the left thoracotomy and partial  
19 pleurectomy. I'm going to freeze this on the screen. I'm  
20 going to bring this up to you, Dr. Miller. And there is  
21 findings that are made by the surgeon.

22 A. (Examining). This is what the surgeon is  
23 seeing.

24 Q. Okay. And what -- Can you explain to us what  
25 the surgeon is seeing and how it relates to Mr. North's  
26 disease so we could understand it?

## Redirect-Miller-Block

1  
2 A. Well, remember this is the third operation  
3 he's had. Each time you operate on the part of the body,  
4 it's going to form scar tissue. It's not going to be the  
5 same as it was before. In addition to that, he's got the  
6 mesothelioma. He's had treatment for it, which was put  
7 into his pleural cavity. And he's had radiation. So, all  
8 of these things are going to produce changes in his  
9 organs. So, they are describing what they are looking at.  
10 I'll read that to you, if you want.

11 Q. Let me ask you about some terms. It says,  
12 they are looking at and seeing extensive pleural fibrosis.  
13 What does that mean or indicate?

14 A. Scarring of the pleura.

15 Q. From asbestos exposure?

16 A. From, no, from the tumor, from the radiation,  
17 from the previous surgeries, from the treatment.

18 Q. Okay. And it said that the pleura was very  
19 sclerotic and not cleanly or completely separable from the  
20 chest wall. What does that indicate? How is that  
21 important in terms of Mr. North's condition?

22 A. Exactly what I said. It was -- Sclerotic  
23 means very scarred, very hard scar tissue. And again that  
24 scar tissue is from the tumor itself. From the radiation.  
25 From the treatment. From the previous surgeries.

26 Q. Okay. And it says that the gross appearance



1 Redirect-Miller-Block

2 was compatible with T4 disease. What does that mean?

3 A. T4 means most widespread malignancy within  
4 the chest cavity.

5 Q. Okay. And was this a major surgery here;  
6 getting the pleura? Are they scraping the pleura trying  
7 to remove all the tumor?

8 A. They are scraping, peeling, cutting. And  
9 they could only do this in -- to a very small degree for  
10 the reasons they described.

11 Q. Okay. And so ultimately were they able to  
12 remove all the mesothelioma from Mr. North's left --

13 A. No. No, nor did they expect to.

14 Q. Okay. Now, the next record I would like to  
15 refer you to, he was discharged from the hospital on  
16 November 17th. He goes back to the hospital on  
17 November 27th. And he goes to see Dr. Rusch. Do you see  
18 that?

19 A. Yes.

20 Q. And then it says that "I discussed with  
21 Mr. North and his daughter-in-law the use of radiation  
22 therapy in locally controlling and addressing mesothelioma  
23 in the chest wall. The method of delivery of radiation to  
24 this area with the use of IMRT is to protect the  
25 underlying tissues. As well as the associated acute and  
26 long-term side effects were reviewed with him." First of

## Redirect-Miller-Block

1  
2 all, what is the purpose now of using radiation to try to  
3 help Mr. North?

4 A. Exactly that. Radiation is one of the ways  
5 we limit spread of cancer. It's not a cure. It can be a  
6 cure, but not in this case. It's just an attempt to slow  
7 the progress.

8 Q. And they mention here that there is potential  
9 acute and long-term side effects with radiation therapy?

10 A. Yes.

11 Q. What do those include?

12 A. Nothing. Nothing comes without cost.  
13 Radiation has effects that you could feel while you are  
14 getting the radiation or that could show up long after.  
15 He suffered from these effects.

16 Q. And what effects from the radiation did you  
17 see that Mr. North has suffered from based upon your  
18 review of the medical records?

19 A. The other parts of the body that are getting  
20 radiated at the same time become damaged, particularly in  
21 this case the esophagus. So, you have pain. You have  
22 difficulty swallowing. You can't eat. You lose weight,  
23 et cetera.

24 Q. And here's a report from March 11th, 2014.  
25 And it says, "Five weeks since left pleural irradiation."  
26 It says, "Mr. North and his son report that he has been

1 Redirect-Miller-Block

2 tired since completing the radiation treatments. He has  
3 no dysphasia". I can't read it. I can't pronounce it.  
4 It says his cough is always there and has production of  
5 whitish phlegm. In your opinion, what is causing  
6 Mr. North to have this cough, this constant cough?

7 A. These are the effects of the radiation. It  
8 says, they point out he has no dysphasia. Dysphasia means  
9 difficulty swallowing or -- because he had had some of  
10 that. It was now getting better. He still has no  
11 appetite. That's an effect of the radiation as well.

12 Q. All right. Looking at this record from the  
13 next month, April 14th, 2014. Does this give the time  
14 period in which Mr. North had the radiation? It says  
15 12/26/13 to 2/6/14.

16 A. Yeah.

17 Q. And was it administered, based upon your  
18 review of the records, on a daily basis?

19 A. Well, usually five days a week or something  
20 like that.

21 Q. Okay. And it says, "Mr. North is slowly  
22 recovering from the side effects of his pleural radiation.  
23 He is eating full meals as well as supplemental shakes and  
24 slowly gaining some weight. He has a persistent dry cough  
25 and continues with occasional Percocet for chest wall  
26 discomfort." Is Percocet a pain killer?

1 Redirect-Miller-Block

2 A. Yes. It's codeine based.

3 Q. Okay. And here there is -- This is a record  
4 from May 28th, 2014. And does this indicate that  
5 Mr. North in April of this year enrolled in another  
6 clinical trial?

7 A. Yes.

8 Q. What's your understanding of this WT1 vaccine  
9 clinical trial that Mr. North has underwent?

10 A. I have no specific knowledge. This is not  
11 a -- These are very specific trials. There have been  
12 literally dozens and dozens of them. Again to elicit some  
13 kind of inflammatory or immune response to limit his  
14 mesothelioma.

15 Q. Dr. Miller, here's a record from June of this  
16 year, and it indicates that Mr. North has mild fatigue and  
17 it's handwritten, no appetite. This is June of this year.  
18 Is this a common symptom of mesothelioma or common symptom  
19 for someone who has had radiation?

20 A. Both.

21 Q. Okay. Have you reviewed the most recent  
22 medical records for Mr. North from July of this year?

23 A. The records I have for July are no different  
24 from June.

25 MR. BLOCK: All right. We put all the  
26 radiology into evidence, your Honor. I would like

1 Redirect-Miller-Block

2 to -- I would like to actually just use this  
3 computer, if counsel doesn't object.

4 MR. BURBRIDGE: I don't object.

5 Q. We have an image. You can step down, Dr.  
6 Miller. We have an image of Mr. North's X-ray.

7 THE COURT: The imaging study is part of 38-A  
8 and B?

9 MR. BLOCK: Yes. Yes, your Honor.

10 THE COURT: You're just merely illustrating,  
11 depicting a copy of --

12 MR. BLOCK: This is an exact copy of this  
13 film that's in with all the radiology that's in  
14 evidence.

15 THE COURT: Okay.

16 Q. All right, Dr. Miller. What is the jury  
17 looking at in terms of -- Let's see if we can --

18 A. If we can down the lights in the room, is  
19 that possible?

20 Q. Let's see what we can do here. How about up  
21 here. Can I do that, Dr. Miller?

22 THE COURT: Can everybody see?

23 JURY PANEL: Yes.

24 Q. So, this was from just over two months ago.  
25 This is Mr. North's chest X-ray?

26 A. Yes.

1 Redirect-Miller-Block

2 Q. Okay. And can you explain to the jury what's  
3 being shown here?

4 A. This X-ray is taken front on and sideways.  
5 We're going to look at the front on one. Remember that  
6 Mr. North is looking at you. So, this is his right side.  
7 This is his right lung. Looks normal. It's black because  
8 it's filled with air. We don't see anything else.  
9 Normally we would see part of the heart and blood vessels.  
10 We don't see that, because they have all been pulled over  
11 to the other side (gesturing). And you see that the other  
12 side is very small, comparing the right side with the left  
13 side. Now they should be roughly equal.

14 There is very little black, air, lung. There  
15 is very little lung left here. What we see is a lot of  
16 white. Parts of it, you know, kind of markings of black.  
17 Basically white. So, the white is not air. The white is  
18 not normal lung. So, the white is a combination of the  
19 other structures that should be there, like the heart and  
20 the tumor itself, the mesothelioma itself and the scar  
21 tissue. The scar tissue from all the things that have  
22 been done. The surgeries and the radiation.

23 So, basically what you see is almost no lung  
24 and a lot of abnormality, which includes the malignancy  
25 and the scar tissue, and you also see that the -- there is  
26 kind of a rim (pointing) around the little bit of lung you

1 Redirect-Miller-Block

2 see. That's probably the mesothelioma on the surface of  
3 the lung. Fortunately, we don't see any spread to the  
4 right side, which is a good sign.

5 Q. Dr. Miller, what symptoms does it produce  
6 when a person has so little lung volume in one of their  
7 lungs? You pointed out the utter lack of lung volume in  
8 Mr. North's left, left side.

9 A. Well, what one would expect, every patient is  
10 different, is difficulty breathing. Limitation of  
11 activity, because the more active you are, the more you  
12 have to breathe. So, I mean, when you go upstairs, you  
13 wouldn't walk very far. You couldn't lift a package. You  
14 would cough.

15 Generally almost invariably with mesothelioma  
16 you have severe chest pain. That may or may not be the  
17 case with Mr. North. If he does not have severe chest  
18 pain, that may be a result of these experimental  
19 treatments.

20 Q. Just keeping the image up, looking at this  
21 appointment, medical appointment of Mr. North just five  
22 days after that image, July 7th, 2014. It reports, "Left  
23 chest wall discomfort with exertion unchanged." And so is  
24 left chest wall discomfort with exertion consistent with  
25 the image the jury sees there?

26 A. Yes. Yes.

1 Redirect-Miller-Block

2 Q. And it also says that Mr. North has a hacking  
3 cough in the morning and evening unchanged, and he takes,  
4 what's the medication?

5 A. Percocet. That's a cough medicine.

6 Q. Cough medicine, okay. Thank you, Dr. Miller.  
7 You can sit down.

8 Dr. Miller, I want to ask you about two more  
9 medical records, please. Actually one more medical  
10 record. This is from August 7th, 2014, so just last  
11 month. And it refers to some medication ordered by Dr.  
12 Krug. Do you see that? It says,  
13 "Oxycodone/acetaminophen, Percocet"?

14 A. Yes.

15 Q. And it says, "PRN. Reason, moderate to  
16 severe pain." Do you see that?

17 A. Yes.

18 Q. Okay. And is this Dr. Krug prescribing pain  
19 medication for Mr. North last month? Does that reflect?

20 A. Yes.

21 Q. Okay. And then for the cough does it show  
22 that Dr. Krug is prescribing some medication. What is  
23 this Guaifenesin, codeine?

24 A. It's a standard over-the-counter cough  
25 medicine.

26 Q. Okay. I would like to ask you about one more



## Redirect-Miller-Block

1  
2 area. I would like to ask you about one more area. And  
3 out of consideration for Mr. North, we just asked him to  
4 walk outside, and he has. Is there a cure for Mr. North's  
5 mesothelioma?

6 A. I've never seen a case cured. So, I couldn't  
7 say there is.

8 Q. And do you have an opinion within a  
9 reasonable degree of medical certainty whether Mr. North  
10 is going to die from the mesothelioma?

11 A. Yes. That he most likely will.

12 Q. And I know it's a difficult question. Are  
13 you able to give the best opinion you can regarding  
14 Mr. North's likely prognosis? How long he will likely  
15 live with the disease that he's been living with for  
16 almost two years?

17 A. I -- I can't give a period of time, because  
18 he's had two experimental treatments that we know nothing  
19 about. That's why they are experimental. He seems to  
20 have had some response to one or both of them, because  
21 most people are not alive two years later. So, it's  
22 already quite unusual. So, I can't say three months, six  
23 months, a year. I certainly hope a year or more.

24 Q. And we're going to ask this jury to evaluate  
25 Mr. North's future pain and suffering. Can you explain to  
26 the jury what Mr. North is likely to experience physically

## Redirect-Miller-Block

1  
2 as his mesothelioma gets more advanced and gets in the end  
3 stages?

4 A. At this time for someone whose had messo. for  
5 two years, he's on remarkably little pain medication.  
6 PRN, PRN means when needed. Percocet, which is what you  
7 take if you have some dental work, is very little. We use  
8 heavy dose narcotics every three, four hours. So, he can  
9 expect, when the good fortune of these experimental  
10 treatments wears out, to need more and more pain  
11 medication, stronger narcotics, more and more frequently.

12 As a result of the tumor itself and all the  
13 narcotics, he's going to lose his appetite and lose weight  
14 and strength and his body is going to waste away and  
15 breathing will be more and more difficult. That is the  
16 usual expectation of a mesothelioma.

17 Q. And in the end, how does mesothelioma  
18 actually cause a person to die?

19 A. By all the things I just said. By wasting  
20 away. By loss of functioning of the lung. And by the  
21 side effects of more and more narcotics.

22 Q. And what is it about the mesothelioma tumor I  
23 guess that produces that response in the body?

24 A. Well, any aggressive, untreatable tumor can  
25 do the same thing. The tumor takes over the -- the  
26 metabolism of the body and directs it to its own purposes.

1 Redirect-Miller-Block

2 And the body wastes away. The narcotics, which are  
3 absolutely necessary, are part of that process too.

4 Q. Thank you, Dr. Miller. I have no further  
5 questions at this time. Thank you.

6 MR. FANNING: May we approach, judge.

7 (Whereupon a side bar conference was held.)

8 THE COURT: Okay. Members of the jury, we're  
9 going to break now. We have had information from the  
10 witness and the witness before. Again keep an open  
11 mind. Please do not do any research. Do not try.  
12 Anything you need to know stays right here. Have a  
13 good evening and we'll see you tomorrow morning.

14 COURT OFFICER: All rise for the jury,  
15 please.

16 (Whereupon the jury panel departed the  
17 courtroom.)

18 (Whereupon the proceedings were adjourned to  
19 September 16, 2014 at 9:30 a.m.)

20

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NEW YORK STATE SUPREME COURT  
NEW YORK COUNTY : CIVIL TERM : PART 1

-----X  
RALPH NORTH,

Plaintiff,

-against-

NATIONAL GRID GENERATION LLC, et al,

Defendants.  
-----X

Index No. 190114-13

CONTINUED JURY TRIAL

New York Supreme Court  
60 Centre Street  
New York, New York 10007  
September 16, 2014

B E F O R E: HON. MARTIN SHULMAN  
Supreme Court Justice

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A P P E A R A N C E S: (Continued)

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Official Court Reporters

## PROCEEDINGS

1  
2 MR. THOMPSON: Plaintiffs are moving into  
3 evidence the following exhibits. They are each  
4 labeled NG prefix, NG 210, NG 211, NG 207, NG 22, NG  
5 205, NG 207, NG 18, NG 20, NG 203, NG 27, NG 26, NG  
6 206.

7 (Whereupon Plaintiff's Exhibits NG 210, NG  
8 211, NG 207, NG 22, NG 205, NG 207, NG 18, NG 20, NG  
9 203, NG 27, NG 26, NG 206 were marked received in  
10 evidence as of this date.)

11 COURT OFFICER: All rise. Jury entering,  
12 please.

13 THE COURT: Good morning everybody. Be  
14 seated. Okay. So much for Acu weather. I thought  
15 it was like a clear week. The rain caught us off  
16 guard. Welcome to day four. We're picking up with  
17 Dr. Miller. Please be seated. Doctor, good morning.

18 THE WITNESS: Good morning.

19 THE COURT: It's unnecessary to re-administer  
20 the oath. Just to remind you to tell the truth. It  
21 is a new day of trial. State your name and business  
22 address for the record.

23 THE WITNESS: My name is Albert Miller, M.D.  
24 and Queens College of City University.

25 THE COURT: Okay. Mr. Fanning, your witness.

26 MR. FANNING: Thank you, judge.

## Cross-Miller-Fanning

1  
2 CROSS EXAMINATION

3 BY MR. FANNING:

4 Q. My name is John Fanning. We never had the  
5 pleasure to meet. Thank you for battling the weather to  
6 get back here. I'm going to be very brief with you today.  
7 I'm going to ask you a few questions about what you told  
8 us yesterday, and then I'm going to ask you some questions  
9 about your report which I'm going to find. Okay. Here we  
10 go.

11 Okay. Doctor, yesterday you told the jury --  
12 By the way, I'm not going to ask you any questions about  
13 your observations regarding the course of treatment for  
14 Mr. North. It's simply about some exposure questions.

15 Okay. Yesterday, doctor, you told us about a  
16 term, which I guess abbreviated here, maybe in the  
17 profession is, I'm abbreviating cumulative exposure. Do  
18 you recall that, sir?

19 A. Yes.

20 Q. And, doctor, you told us that it's the dose  
21 of asbestos that you get is how much you receive each hour  
22 of your life as long as you live. So each hour that  
23 you're standing next to someone whose putting on  
24 insulation or spraying insulation or you're doing it  
25 yourself or you're cleaning the clothes of your husband  
26 who brought them home and they are full of asbestos, each

## 1 Cross-Miller-Fanning

2 period of time adds to all the periods of time. And it's  
3 the total dose that counts whether you get the disease or  
4 not. Could you just very briefly elaborate on that just  
5 for a few seconds.

6 A. I don't know if I could elaborate on it. The  
7 only modification I would make is that whatever exposure  
8 has to be outside of the latent period of the condition.  
9 So, if you were exposed two years ago, that's not going to  
10 play a role, because asbestos takes more than two years to  
11 work its effects.

12 Q. Okay. You also commented on visible dust.  
13 And you told us that it's a shorthand way of saying it's a  
14 high concentration. True?

15 A. In general. Sometimes the dust consists of  
16 particles other than asbestos. I mean, workplaces have  
17 lots of sources of dust.

18 Q. Right.

19 A. But since we don't have actual fiber  
20 measurements --

21 Q. Right.

22 A. -- it's a quick and easy way to say there is  
23 a lot of fiber.

24 Q. And would it be fair to say, doctor, based on  
25 your experience as a physician whose treated -- Would it  
26 be fair to say you've treated hundreds of patients who



## 1 Cross-Miller-Fanning

2 suffer from asbestos-related diseases?

3 A. Yes, it would be.

4 Q. And when you treat them, you normally take a  
5 history of their exposure at some point in time?

6 A. Yes. Detailed history.

7 Q. And if they tell you that they believe they  
8 were exposed to asbestos containing insulation that they  
9 breathed in and that it was visible, based on your  
10 experience you consider that to be a significant dose?

11 A. Yes.

12 Q. Okay. And when you were asked yesterday  
13 about what caused Mr. North's mesothelioma, you told us  
14 that his cumulative exposure to asbestos, right?

15 A. Yes.

16 Q. Okay. And you then further elaborated and  
17 said it was over many years at many different sites, doing  
18 different things, true?

19 A. Yes.

20 Q. Okay. And did you base that on your review  
21 of his deposition transcripts that he gave in this case?

22 A. Yes.

23 Q. Okay. And finally, doctor, from your  
24 testimony, you were asked to assume that Mr. North had  
25 occupational exposure to asbestos from insulation products  
26 while working at a number of other job sites. And you

## Cross-Miller-Fanning

1  
2 were asked, would this change your opinion that  
3 Mr. North's exposure to asbestos at the Northport plant  
4 was a cause of his mesothelioma. And the answer you gave  
5 was, "All the exposures contributed to the causing of his  
6 mesothelioma including the ones you gave." You were  
7 responding to a question at that point, right?

8 A. Yeah.

9 Q. Okay. So, all the exposures with the caveat  
10 that it has to be asbestos insulation. There has to be  
11 latency. Visible dust, et cetera. True?

12 MR. BLOCK: Objection to form. It's  
13 compound. Many different questions.

14 Q. Let me go on to a different topic. I'll get  
15 back to that. Do you have your report with you?

16 A. Yes.

17 Q. Okay. And in addition to your report, it  
18 looks like you have a file there?

19 A. Yes.

20 Q. Could you just tell us, you know, without  
21 any, you know, great detail what is contained in your  
22 file, in your report?

23 A. The medical records, many of which were shown  
24 yesterday, and the greatest portion with these green  
25 stickies are the depositions given by Mr. North.

26 Q. Okay. And when you talk in your report about

## 1 Cross-Miller-Fanning

2 the employment and exposure history of Mr. North, are you  
3 referring to the depositions that you were given?

4 A. Yes.

5 Q. Okay. And I believe you also referred to the  
6 interrogatory answers that you had given, is that true?

7 A. Yes.

8 Q. So, would it be fair to say that the total,  
9 sum total of your file was all the medical records, the  
10 deposition testimony and the interrogatory answers?

11 A. Yes.

12 Q. Anything else in there?

13 A. No.

14 Q. Okay. Thank you. Doctor, is it true that  
15 you did not examine Mr. North?

16 A. I -- I did not meet Mr. North until  
17 yesterday.

18 Q. Okay. And it's not unusual for you to do  
19 what you did yesterday, which is to review the entire  
20 medical record of a patient and then provide an expert  
21 opinion about what may or may not have caused their  
22 asbestos-related disease, true?

23 A. If the medical records are complete enough  
24 for me to form an opinion, it's not necessary for me to  
25 see or examine the patient I'll call him.

26 Q. In this case the records were quite

## Cross-Miller-Fanning

1 voluminous, true?

2 A. They were complete. Actually compared to  
3 many, they were not that voluminous.  
4

5 Q. Okay. And in order to come to the  
6 conclusions that you provided to us yesterday, you did not  
7 need to discuss his course of treatment with any of his  
8 treating doctors, right?

9 A. It was not necessary.

10 Q. Right. And that's pretty routine in terms of  
11 what you've done in the past in other cases, is that true?

12 A. When the cases are straightforward enough as  
13 this one was.

14 Q. Right. Okay. Now, in the report you  
15 indicate that the plaintiff was working near and around  
16 other tradesmen who were working with insulation, dry mix  
17 and gaskets. Do you see that in your report?

18 A. Yes.

19 Q. Okay. I'm just going to ask you a few  
20 questions about that. By tradesmen, would you include  
21 people like boiler makers and insulators and pipe fitters?

22 A. Yes.

23 Q. Okay. And by insulation would you include  
24 pipe covering?

25 A. Yes.

26 Q. You also include asbestos spray?

## 1 Cross-Miller-Fanning

2 A. Spray-on insulation, yes.

3 Q. Okay. I'm writing this so my adversary can't  
4 read it. And by dry mix, doctor, based on your  
5 experience, that would include what's more commonly known  
6 as asbestos cement?

7 A. Yes.

8 Q. Okay. And is it your experience, doctor,  
9 that when other patients you have treated for asbestos-  
10 related diseases, have they told you when you took their  
11 history that when they mix dry mix, that it creates  
12 visible dust?13 A. Yes. When they mix. When they pour it from  
14 the bags, et cetera.15 Q. Right. Okay. Now, you also talked about  
16 gaskets. Is that something that -- I'm assuming it's  
17 something that you derive from reading the deposition  
18 transcripts?

19 A. Yes.

20 Q. And based on your experience, is it true that  
21 when you've dealt with that particular product, that we  
22 are usually talking about asbestos containing gaskets and  
23 packing?

24 A. Yes.

25 Q. Okay. Now, in your report you indicate that  
26 the sites, the work sites that you recite earlier in the

## 1 Cross-Miller-Fanning

2 report include power plants, office buildings and  
3 refineries. Is that true?

4 A. Yes.

5 Q. Okay. Now, did you -- I don't think you did,  
6 but you tell me. You didn't recite the specific power  
7 plants that Mr. North discussed in his deposition  
8 testimony, is that true?

9 A. I did not.

10 Q. And that's not something that you would  
11 normally do in a report such as this, true?

12 A. That's true.

13 Q. Okay. And you did not indicate which office  
14 buildings or refineries that he identified in his  
15 deposition, and that's also common for the purposes of  
16 this report, true?

17 A. True.

18 Q. Okay. Now, again, I'm just trying to, you  
19 know, move through this, but would you agree that each and  
20 every exposure at the power plants that he discusses in  
21 his deposition transcripts, the exposures at those power  
22 plants is an approximate result -- excuse me, that his  
23 mesothelioma is an approximate result of those exposures?

24 A. All those exposures.

25 Q. Right. Okay. And would you also agree,  
26 assuming that there was testimony in the deposition and/or

## 1 Cross-Miller-Fanning

2 at trial, that he was exposed to spray-on insulation at  
3 some of the office buildings where he worked during his  
4 career, that those were also a proximate cause of his  
5 mesothelioma?

6 A. Yes.

7 Q. Okay. And same question for the refineries?

8 A. Yes.

9 Q. Okay. In your report, doctor, you indicate  
10 that Mr. North removed insulation in order to work, is  
11 that true?

12 A. At some of these jobs, yes.

13 Q. Right. Okay. And you also indicate, I  
14 believe, when you were talking to Mr. Block yesterday,  
15 would you consider that to be, to use a layman's term,  
16 would you consider that, doctor, to be a direct form of  
17 exposure to asbestos?

18 A. Yes.

19 Q. Okay. And you also talk about, in your  
20 report, that he was also exposed to asbestos dust working  
21 in and around others who were applying and removing  
22 asbestos insulation. True?

23 A. Yes.

24 Q. And is that another way of what you were  
25 talking about yesterday when you mentioned bystander  
26 exposure?

## Cross-Miller-Fanning

1  
2 A. Yes.

3 Q. Okay. In fact, based on your experience,  
4 your long experience, you could even get mesothelioma from  
5 washing the clothes of someone who works regularly with  
6 asbestos insulation?

7 A. Yes.

8 Q. Okay. Now, in your report you indicate that  
9 Mr. North was exposed, as a bystander, to workers applying  
10 and removing asbestos from a variety of equipment. Is  
11 that true?

12 A. Yes.

13 Q. And just to kind of moving it along. That  
14 would -- You indicated in your report that that includes  
15 boilers?

16 A. Yes.

17 Q. You know, why don't I just read the list and  
18 make it easy.

19 A. Yes.

20 Q. Turbans, pipes, pumps, valves and gaskets.  
21 Do you see that?

22 A. Yes.

23 Q. Okay. And again, not to beat a dead horse,  
24 although I'm doing it, you would agree that each and every  
25 exposure to workers insulating those kinds of equipment or  
26 removing asbestos insulation from that kind of equipment



## 1 Cross-Miller-Fanning

2 was a substantial contributing factor to Mr. North's  
3 mesothelioma?

4 A. Yes.

5 Q. Okay. Now, in your report you refer to  
6 asbestos exposure in boiler tanks. Do you see that?

7 A. (Examining). I was quoting another source.

8 Q. Okay. And is that -- You're talking about,  
9 excuse me, boilers in power plants. Does that refresh  
10 your recollection?

11 A. Boilers could be in refineries and office  
12 buildings as well.

13 Q. Okay. Okay. Now, based on your experience,  
14 doctor -- And again this is more like a general question  
15 than a specific question relevant to your report. Based  
16 on your experience, is exposure to spray-on asbestos  
17 considered, under the right circumstances, an intense form  
18 of asbestos exposure?

19 A. It is.

20 Q. And would I be correct in saying that you've  
21 been doing this a long time. That many of the patients  
22 that you've treated over the years have recounted  
23 histories to you of being exposed to spray-on asbestos?

24 A. Yes.

25 Q. Okay. Now, are you familiar with particular  
26 forms of asbestos insulation based on your experience

## 1 Cross-Miller-Fanning

2 treating other patients?

3 A. Yes.

4 Q. Have you had other patients advise you, when  
5 you have taken histories from them, that they were exposed  
6 to insulation products, for example, manufactured by Johns  
7 Manville?

8 MR. BLOCK: Objection. Scope.

9 THE COURT: Give me a second.

10 MR. BLOCK: And the relevance.

11 MR. FANNING: I'll withdraw the question,  
12 judge.13 Q. Doctor, do you recall Mr. North indicating in  
14 his -- And I know I'm not expecting you to memorize  
15 this -- but do you recall Mr. North indicating in his  
16 deposition transcript that he worked with insulation  
17 products manufactured by Johns Manville?

18 A. I don't recall the specific manufacturers.

19 Q. Okay. I'm going to give you a hypothetical,  
20 okay. I want you to assume -- And I'm going to go a  
21 little quick on this so we can get you off the stand -- I  
22 want you to assume that there is testimony that Mr. North  
23 indicated that he was exposed to insulation products  
24 manufactured by Johns Manville, Owens Corning fiberglass  
25 and Owens Illinois throughout his career as a welder and  
26 sometimes plumber. I want you to assume that fact --

## Cross-Miller-Fanning

1  
2 those facts. And that he -- he observed visible dust from  
3 other people working with those products. That he  
4 breathed that dust. Would you consider that to be a  
5 substantial contributing factor to his mesothelioma?

6 A. Yes.

7 Q. You're not going to believe this, but that's  
8 all I have. Thank you, doctor.

9 THE COURT: Redirect.

## 10 REDIRECT EXAMINATION

11 BY MR. BLOCK:

12 Q. Just a few questions, Dr. Miller. Were the  
13 references to Mr. North's asbestos exposure in his medical  
14 records?

15 A. There were references.

16 Q. Have you seen any statement by Mr. North's  
17 treating doctors or any report in this case that disputes  
18 that Mr. North's mesothelioma was caused by asbestos  
19 exposure?

20 A. No.

21 Q. Okay. And you were asked about exposure to  
22 asbestos when asbestos spray is used. And you were asked  
23 about whether that was a particularly intense exposure.  
24 Do you remember that?

25 A. Yes.

26 Q. Okay. How about exposure to asbestos during

1 Redirect-Miller-Block

2 the new construction of a power plant in the 1960's period  
3 going into the early 70's, particularly when insulators  
4 would be applying the asbestos. Is that a particularly  
5 intense form of asbestos exposure?

6 A. Yes.

7 Q. And back in the 1960's, was it known that to  
8 control asbestos exposures, that it would be a good  
9 practice to isolate the work of the insulators from the  
10 work of the other trades?

11 A. Was it known?

12 Q. Was it something that was being discussed in  
13 the literature in the 1960's and even earlier?

14 A. I -- I would have to speculate yes, but --

15 Q. We don't want you to speculate. But Dr.  
16 Selikoff, who you worked with in 1964, did he publish an  
17 article where he said the floating fibers do not  
18 discriminate by job classification?

19 MR. FANNING: Objection.

20 THE COURT: Sustained.

21 Q. Are you aware of the article, "Asbestos  
22 Exposure of Neoplasia" published in 1964?

23 A. Yes. It's an iconic article.

24 Q. What, if anything, did that article say about  
25 floating asbestos fibers?

26 MR. FANNING: Objection, your Honor.

1 Redirect-Miller-Block

2 THE COURT: Sustained. Beyond.

3 Q. Okay. Dr. Miller, Owens Illinois products,  
4 are you familiar with when Owens Illinois stopped  
5 manufacturing asbestos insulation?

6 A. Not precisely.

7 Q. Okay.

8 MR. BLOCK: I have no further questions.

9 Thank you.

10 MR. FANNING: Thank you, doctor.

11 THE COURT: Thank you very much.

12 (Witness excused.)

13 THE COURT: I assume the doctor can take his  
14 file with him.

15 MR. BLOCK: Sure.

16 THE COURT: Are we going to do the documents?

17 MR. THOMPSON: Yes, judge. I'm going to show  
18 the jury what's been marked NG 27. It's been  
19 admitted into evidence.

20 THE COURT: What's being shown to the jury  
21 and what's been identified as admitted were not  
22 previously admitted. You don't have a record of what  
23 you're showing or not?

24 MR. THOMPSON: We moved them into evidence  
25 with the court reporter.

26 THE COURT: That I understand. I'm trying to