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ELBERT DAVIDSON,)
)
PLAINTIFF,)
)
VS.) NO. 429088
)
BURNS INTERNATIONAL SERVICES)
CORP., ET AL.,)
)
DEFENDANTS.)
_____)

REPORTED BY:
MARIA A. MORA
C.S.R. NO. 12001, R.P.R.

JOB NO.
37901HAN

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ELBERT DAVIDSON,
PLAINTIFF,
VS.
BURNS INTERNATIONAL SERVICES
CORP., ET AL.,
DEFENDANTS.

DEPOSITION OF THOMAS JOSEPH ZAGURSKI, VOLUME I,
TAKEN ON BEHALF OF THE PLAINTIFF AT 4300 EAST
WASHINGTON STREET, PHOENIX, ARIZONA, COMMENCING
ON WEDNESDAY, AUGUST 11, 2004, 9:03 A.M.,
BEFORE MARIA A. MORA, CSR NO. 12001, RPR, A
CERTIFIED SHORTHAND REPORTER IN AND FOR THE
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

003

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 PAUL, HANLEY & HARLEY, L.L.P.

4 BY: STEPHEN M. FISHBACK

5 ATTORNEY AT LAW

6 1608 FOURTH STREET

7 SUITE 300

8 BERKELEY, CALIFORNIA 94710-1709

9 510.559.9980

10 FOR THE DEFENDANT GENUINE PARTS COMPANY:

11 POND NORTH, L.L.P.

12 BY: MICHAEL A. GRAHAM

13 ATTORNEY AT LAW

14 611 WEST SIXTH STREET

15 SUITE 2300

16 LOS ANGELES, CALIFORNIA 90017

17 213.236.2802

-AND-

18 RILEY, HEWITT & SWEITZER

19 BY: PATRICK R. RILEY

20 ATTORNEY AT LAW

21 650 WASHINGTON ROAD

22 SUITE 300

23 PITTSBURGH, PENNSYLVANIA 15228

24 412.341.9300

25

TELEPHONIC APPEARANCES:

18 FOR THE DEFENDANT DANA CORPORATION:

19 BRYDON HUGO & PARKER

20 BY: JOHN BRYDON

21 ATTORNEY AT LAW

22 135 MAIN STREET

23 20TH FLOOR

24 SAN FRANCISCO, CALIFORNIA 94105

25 415.808.0300

004

1 TELEPHONIC APPEARANCES (CONTINUED):
2 FOR THE DEFENDANT PARKER HANNIFIN CORP.:
3 TOWLE, DENISON, SMITH & TAVERA, L.L.P.
BY: LEONARD TAVERA
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5 SUITE 500
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6 310.446.5445
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I N D E X

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MARKED QUESTIONS
(NONE)

INFORMATION TO BE SUPPLIED
(NONE)

006

1 PHOENIX, ARIZONA, WEDNESDAY, AUGUST 11, 2004
2 9:03 A.M.

3
4 THOMAS JOSEPH ZAGURSKI,
5 HAVING BEEN FIRST DULY SWORN, WAS
6 EXAMINED AND TESTIFIED AS FOLLOWS:

7
8 EXAMINATION

9 BY MR. FISHBACK:

10 Q SIR, GOOD MORNING. CAN I ASK YOU TO STATE YOUR
11 NAME, PLEASE, AND SPELL IT FOR THE RECORD.

12 A THOMAS J. ZAGURSKI.

13 Q HOW DO YOU SPELL YOUR LAST NAME?

14 A Z-A-G-U-R-S-K-I.

15 Q MR. ZAGURSKI, HAVE YOU EVER BEEN DEPOSED
16 BEFORE?

17 A SEVERAL YEARS AGO.

18 Q OKAY. LET ME JUST BRIEFLY RUN THROUGH JUST
19 SOME OF THE -- THE STANDARD MANTRA OF A DEPOSITION, A
20 COUPLE OF THINGS, ONE BEING YOU'RE UNDER OATH. THE
21 COURT REPORTER JUST PUT YOU UNDER OATH, AND YOUR
22 TESTIMONY, EVEN THOUGH WE'RE IN A ROOM, HAS THE SAME
23 FORCE AND EFFECT AS IF YOU WERE IN A COURT OF LAW.

24 DO YOU UNDERSTAND THAT?

25 A RIGHT.

007

1 Q IT'S IMPORTANT THAT YOU LET ME ASK MY QUESTIONS
2 IN FULL BEFORE YOU ANSWER THEM, A COUPLE OF REASONS: TO
3 MAKE SURE YOU UNDERSTAND FULLY MY QUESTION; AND,
4 SECONDLY, TO MAKE SURE THE COURT REPORTER CAN PUT DOWN
5 EVERYTHING AND WE'RE NOT INTERRUPTING EACH OTHER 'CAUSE
6 SHE CAN'T TYPE BOTH OF OUR SENTENCES AT ONE TIME.
7 I'M ENTITLED TO YOUR BEST ESTIMATION TODAY. I
8 DON'T WANT YOU TO GUESS OR SPECULATE. IS THERE ANY
9 REASON WHY YOU THINK THAT YOU COULDN'T GIVE YOUR BEST
10 TESTIMONY TODAY?
11 A NO, THERE'S NO REASON THAT I CAN'T.
12 Q OKAY. IT'S IMPORTANT THAT IF YOU ARE GOING TO
13 ANSWER A QUESTION WITH -- RATHER THAN WITH AN "UH-HUH"
14 OR AN "UNH-UNH," YOU GIVE "YES" OR "NO" SO THAT SOMEONE
15 READING THIS LATER CAN UNDERSTAND YOUR ANSWER.
16 HAVE YOU TAKEN ANY MEDICATIONS OR ANY KIND OF
17 DRUGS THAT MIGHT IMPACT YOUR ABILITY TO RECALL PAST
18 EVENTS OR YOUR ABILITY TO PROVIDE TRUE AND ACCURATE
19 TESTIMONY THIS MORNING?
20 A NO, I HAVE NOT.
21 Q OKAY. YOU'RE ENTITLED TO A BREAK IF YOU NEED
22 ONE VIRTUALLY AT ANY TIME; SO JUST LET ME KNOW, AND
23 WE'LL TAKE A BREAK FOR WHATEVER REASON.
24 SIR, WHAT IS YOUR PRESENT ADDRESS?
25 A 15315 EAST REDROCK DRIVE.

008

1 Q WHAT CITY?
2 A FOUNTAIN HILLS, ARIZONA.
3 Q CAN YOU BRIEFLY TELL ME WHERE MOUNTAIN HILLS
4 IS?
5 A FOUNTAIN.
6 MR. RILEY: FOUNTAIN.
7 BY MR. FISHBACK:
8 Q FOUNTAIN HILLS. WHERE IS THAT?
9 A IT'S IN THE NORTHEAST SECTION OF THE VALLEY.
10 Q SO IT'S SOMEWHERE -- A SUBURB OF PHOENIX?
11 A YES.
12 Q HOW LONG HAVE YOU LIVED THERE, SIR?
13 A FOUR YEARS.
14 Q ARE YOU CURRENTLY EMPLOYED?
15 A MY WIFE HAS A BUSINESS, AND I WORK WITH HER,
16 YES.
17 Q OKAY. WHAT'S THE NAME OF THAT BUSINESS?
18 A MARIPOSA IMPRESSIONS.
19 Q AND WHAT'S THE NATURE OF THE BUSINESS?
20 A WE IMPRINT GOLF BALLS.
21 Q WELL --
22 MR. RILEY: WE CAN GET YOU A DISCOUNT.
23 BY MR. FISHBACK:
24 Q PLENTY OF BUSINESS IN THESE PARTS. THERE ARE
25 PLENTY OF GOLF COURSES. WHENEVER I COME DOWN HERE, I'M

009

1 AMAZED THAT -- PROBABLY GOLF 12 MONTHS A YEAR HERE,
2 CAN'T YOU?
3 A UH-HUH.
4 Q HOW LONG -- ARE YOU JUST AN EMPLOYEE OF
5 MARIPOSA IMPRESSIONS, OR ARE YOU AN OFFICER?
6 A I'M AN OFFICER.
7 Q OKAY. HOW LONG HAVE YOU BEEN INVOLVED WITH
8 MARIPOSA IMPRESSIONS?
9 A SINCE MY RETIREMENT FROM GENUINE PARTS COMPANY.
10 Q WHEN WAS THAT?
11 A JUNE 30, 1999.
12 Q DID YOU HAVE ANY OTHER EMPLOYMENT BETWEEN YOUR
13 WORK AT GENUINE PARTS AND THEN MARIPOSA IMPRESSIONS?
14 A NO, I DID NOT.
15 Q DID YOU HAVE -- DID YOU GO TO HIGH SCHOOL?
16 A YES.
17 Q WHERE WERE YOU BORN, FIRSTLY?
18 A OMAHA, NEBRASKA.
19 Q WHAT'S YOUR DATE OF BIRTH?
20 A 10/3/38.
21 Q DID YOU GO TO HIGH SCHOOL?
22 A YES.
23 Q IN OMAHA?
24 A YES.
25 Q WHAT'S THE NAME OF THE HIGH SCHOOL?

010

1 A CREIGHTON PREP.

2 Q PRIVATE OR PUBLIC SCHOOL?

3 A PRIVATE.

4 Q DID YOU GRADUATE FROM HIGH SCHOOL, AND THEN
5 WHERE DID YOU GO AFTER THAT? ANY SECONDARY EDUCATION?

6 A I ATTENDED OMAHA UNIVERSITY FOR ONE SEMESTER,
7 DROPPED OUT OF THERE, AND THEN WENT TO WORK FOR GENUINE
8 PARTS COMPANY FEBRUARY 25TH, 1957.

9 Q HAVE YOU AT ANY TIME GONE BACK AND RECEIVED A
10 POSTSECONDARY EDUCATION DEGREE?

11 A NO, I HAVE NOT.

12 Q ALL RIGHT. WHEN YOU FIRST STARTED WORKING AT
13 GENUINE PARTS, WHERE WERE YOU WORKING?

14 A IN THE STOCKROOM OF THE DISTRIBUTION CENTER AS
15 A STOCKER.

16 Q WHERE WAS THE DISTRIBUTION CENTER?

17 A IT WAS ON HARNEY STREET, 2011, AS I RECALL.

18 Q IN WHAT CITY?

19 A OMAHA.

20 Q WAS THERE SOME -- DID YOU KNOW SOMEONE THAT
21 WORKED AT THE STOCKROOM THAT GOT YOU THE JOB, OR WAS
22 THERE SOME OTHER REASON WHY YOU SOUGHT EMPLOYMENT THERE?

23 A MY FATHER OWNED A BAR. ONE OF HIS CUSTOMERS
24 KNEW A PERSON IN THE MACHINE SHOP AND RECOMMENDED THAT I
25 GO DOWN THERE AND APPLY FOR A JOB.

011

1 Q SO YOU WERE JUST LOOKING FOR A -- FOR WORK,
2 THEN?

3 A CORRECT.

4 Q IS THERE SOME REASON WHY AFTER ONLY A COUPLE OF
5 MONTHS AT THE UNIVERSITY OF OMAHA, I THINK YOU SAID --

6 A RIGHT.

7 Q -- YOU DECIDED TO PURSUE OTHER INTERESTS?

8 A THE PRIMARY REASON BEING THAT, FIRST OF ALL, I
9 COULDN'T AFFORD TO GO THERE, SECONDARY REASON BEING THAT
10 I WASN'T ALL THAT IMPRESSED WITH THE ACADEMIA THERE AND
11 DECIDED THAT I WAS WASTING MY TIME.

12 Q OKAY. HOW BIG WAS THE DISTRIBUTION CENTER IN
13 OMAHA?

14 A VERY SMALL.

15 Q ARE THERE MULTIPLE DISTRIBUTION CENTERS AROUND
16 THE COUNTRY FOR GENUINE PARTS?

17 A YES, THERE ARE.

18 Q WHAT DID THE OMAHA DISTRIBUTION CENTER SERVICE,
19 WHAT GEOGRAPHIC AREA?

20 MR. RILEY: ARE YOU TALKING IN 1957?

21 BY MR. FISHBACK:

22 Q YEAH. JUST WHEN YOU STARTED THERE TO THE
23 EXTENT THAT YOU KNOW.

24 A NEBRASKA, WITH THE EXCEPTION OF THE PANHANDLE,
25 THE TWO WESTERNMOST TIERS OF COUNTIES IN IOWA, ONE STORE

012

1 IN KANSAS, AND A COUPLE OF STORES IN SOUTH DAKOTA.

2 Q CAN YOU BRIEFLY DESCRIBE FOR ME YOUR DUTIES AS
3 A STOCKROOM CLERK.

4 A I BEGAN BY RECEIVING SHIPMENTS FROM
5 MANUFACTURERS, PUTTING THEM IN NUMERICAL ORDER ON A
6 SHELF, PROGRESSED FROM THERE TO ACTUALLY FILLING ORDERS
7 TO BE SHIPPED TO CUSTOMERS.

8 Q HOW LONG DID YOU WORK IN THE STOCKROOM IN
9 OMAHA?

10 A INCLUDING THE TIME THAT I WAS ALSO THE
11 STOCKROOM MANAGER, IT WOULD HAVE BEEN SEVEN OR EIGHT
12 YEARS.

13 Q SO SOMETIME MAYBE UNTIL 1965 APPROXIMATELY?

14 A YEAH, YES.

15 Q DURING THE TIME IN 1957 TO 1965, DID YOU BECOME
16 FAMILIAR WITH THE BRANDS OF MATERIALS THAT WERE BEING
17 RECEIVED BY GENUINE PARTS AT THAT OMAHA, NEBRASKA
18 DISTRIBUTION CENTER?

19 A YES, I DID.

20 Q HAVE YOU EVER HEARD OF A COMPANY CALLED BENDIX?

21 A YES, I HAVE.

22 Q AND DURING THE TIME 1957 TO 1965, DO YOU RECALL
23 RECEIVING SHIPMENTS FROM BENDIX TO THE OMAHA, NEBRASKA
24 DISTRIBUTION CENTER?

25 A NO. THERE WERE NONE.

013

1 Q HOW ARE YOU FAMILIAR WITH BENDIX?

2 A IT'S A WELL-KNOWN BRAND NAME ADVERTISED
3 REGULARLY IN THE TRADE MAGAZINES.

4 Q HAD YOU -- HAD YOU HEARD OF IT -- IF YOU CAN
5 TAKE YOURSELF BACK TO THE YEARS 1957 TO '65 AND SEPARATE
6 THAT OUT FROM WHAT YOU NOW KNOW, DURING THAT TIME PERIOD
7 HAD YOU HEARD OF BENDIX BEFORE?

8 A CERTAINLY. WE HAD A COMPETITOR UP THE STREET
9 THAT STOCKED BENDIX.

10 Q WHO WAS THE COMPETITOR?

11 A STORZ SUPPLY.

12 Q STORE SUPPLY?

13 A STORZ, S-T-O-R-Z.

14 Q WAS THAT A LOCAL DISTRIBUTOR?

15 A YES.

16 Q WAS IT ALSO A RETAILER, RETAIL OUTFIT?

17 A YES.

18 Q WAS THE GENUINE PARTS DISTRIBUTION CENTER, DID
19 IT ALSO HAVE A CORRESPONDING RETAIL OUTLET AT THE SAME
20 LOCATION?

21 A YES, IT DID.

22 Q AND WHAT WAS THE NAME OF THAT?

23 A GENUINE PARTS COMPANY.

24 Q SO YOU COULD -- YOU COULD AS A CUSTOMER -- A
25 GUY WHO NEEDED TO DO AUTO REPAIRS COULD COME INTO THE

014

1 GENUINE PARTS COMPANY IN OMAHA, NEBRASKA AND PURCHASE
2 AUTOMOBILE PARTS?

3 A YES, ALTHOUGH IN THE EARLY YEARS THAT I WORKED
4 IN THE BUSINESS, THE -- WHAT YOU CALL THE RETAIL OUTLET
5 WAS MORE PRIMARILY FOR PEOPLE IN THE TRADE, MECHANICS,
6 CAR DEALERS, THINGS OF THIS NATURE. FOR YOU TO WALK
7 INTO A STORE, THEY MIGHT -- WOULD WAIT ON YOU IF YOU
8 WERE THE LAST MAN STANDING. NOW, THAT CHANGED OVER THE
9 YEARS, BUT THAT'S THE WAY IT WAS WHEN WE STARTED.

10 Q FAIR TO SAY THAT THE MAJORITY OF YOUR BUSINESS
11 BETWEEN THE YEARS '57 TO '65, IF IT WAS CUSTOMERS COMING
12 IN TO PURCHASE, IT WASN'T THE AVERAGE -- WELL, LET ME
13 STATE IT A DIFFERENT WAY.

14 DURING THE YEARS '57 TO '65, WOULD IT BE FAIR
15 TO SAY THAT MOST OF THE CUSTOMERS WERE IN FACT MECHANICS
16 AND THOSE ENGAGED IN AN OCCUPATION IN THE SERVICE OF
17 AUTOMOBILES AND VEHICLES?

18 A THAT'S CORRECT.

19 MR. GRAHAM: I'LL JUST STATE A BELATED
20 OBJECTION. VAGUE AND AMBIGUOUS. I HAVE TO ASK: ARE
21 YOU TALKING ABOUT CUSTOMERS OF THE DISTRIBUTION CENTER
22 OR CUSTOMERS OF THE RETAIL OUTLET AT THE DISTRIBUTION
23 CENTER?

24 MR. FISHBACK: NO. CUSTOMERS OF THE RETAIL
25 OUTLET.

015

1 MR. GRAHAM: THANK YOU.

2 BY MR. FISHBACK:

3 Q AND THAT'S HOW YOU ANSWERED THE QUESTION;
4 RIGHT?

5 A YES.

6 Q OKAY. DURING THAT '57 TO '65 TIME PERIOD,
7 WAS -- WAS THERE A RAIL SPUR ATTACHED TO THE
8 DISTRIBUTION CENTER?

9 A NO, THERE WAS NOT.

10 Q DID -- HOW DID ALL OF THE PARTS -- HOW WERE
11 THEY DELIVERED?

12 A BY TRUCK.

13 Q LARGE 18-WHEELER-TYPE TRUCK?

14 A TYPICALLY, YES.

15 Q WITH A SEPARATE CARGO AREA FROM THE CAB?

16 A THAT'S RIGHT.

17 Q THOSE KINDS OF VEHICLES?

18 A YEAH.

19 Q AND HOW OFTEN DID SHIPMENTS ARRIVE THERE?

20 A DAILY.

21 Q AND WERE -- WAS THE DISTRIBUTION CENTER A
22 SEVEN-DAY-A-WEEK OPERATION?

23 A NO, IT WAS NOT.

24 Q HOW MANY --

25 A FIVE DAYS.

016

1 Q -- DAYS -- FIVE DAYS. REGULAR BUSINESS HOURS?

2 A CORRECT.

3 Q THE DISTRIBUTION CENTER AT THAT TIME DID STOCK
4 BRAKE PARTS, DIDN'T IT?

5 A THAT'S RIGHT.

6 Q DO YOU KNOW FROM WHOM THOSE -- WHO WAS THE
7 MANUFACTURER OF THE BRAKE PARTS?

8 A THE BRAND NAME WAS RAYLOC, AND THEY WERE
9 SUPPLIED TO US BY RAYLOC, ATLANTA, GEORGIA.

10 Q WERE THERE ANY OTHER BRANDS OF BRAKES THAT WERE
11 SUPPLIED TO THE DISTRIBUTION CENTER DURING THE YEARS '57
12 TO '65?

13 A SAY AGAIN. I'M SORRY.

14 Q WERE THERE ANY OTHER BRANDS OF BRAKES THAT WERE
15 SUPPLIED TO THE DISTRIBUTION CENTER IN OMAHA DURING THIS
16 1957 TO '65 TIME PERIOD?

17 A THERE WAS ALSO A BRAND OF LININGS PRIMARILY FOR
18 LARGE TRUCKS, OCCASIONALLY FOR PASSENGER CAR --
19 PASSENGER CAR-SIZED VEHICLES, AND THAT PRODUCT WAS
20 SUPPLIED BY AMERICAN BRAKEBLOK.

21 Q DO YOU KNOW IF DURING -- IF RAYLOC BRAKES HAD
22 BEEN SUPPLYING BRAKES TO THE OMAHA DISTRIBUTION CENTER
23 FOR SOME TIME BEFORE YOU GOT THERE?

24 A I DON'T SPECIFICALLY KNOW THAT, BUT I WOULD
25 ASSUME THAT.

017

1 Q NO ONE INFORMED YOU THAT THERE HAD BEEN A
2 CHANGE, FOR EXAMPLE, IN THE MANUFACTURER OF THE BRAKES
3 THAT WAS NOW SUPPLYING THE DISTRIBUTION CENTER AT OMAHA?
4 A NO. AS A MATTER OF FACT, GENUINE PARTS COMPANY
5 ACQUIRED THE OMAHA DISTRIBUTION CENTER IN 1955.
6 Q WHAT WAS IT BEFORE THAT?
7 A DON'T RECALL THE NAME. THE OWNER'S NAME WAS
8 MAKINICH.
9 Q WAS IT AN AUTO PARTS DISTRIBUTION CENTER?
10 A YES, IT WAS.
11 Q HOW LONG HAS GENUINE PARTS BEEN IN EXISTENCE?
12 A AS I RECALL, SINCE 1928.
13 Q YOU HAD SAID THAT THERE WERE BRAKE LININGS
14 SUPPLIED BY AMERICAN BRAKEBLOK. WERE THERE OTHERS WHO
15 SUPPLIED BRAKE LININGS DURING THAT TIME?
16 A NO, THERE WERE NOT.
17 Q AND WERE THE NAMES OF THE MANUFACTURERS PRINTED
18 ON THE PRODUCT BOX?
19 A YES.
20 Q SO THE -- THE BRAKES SAID RAYLOC?
21 A THAT'S CORRECT.
22 Q AND THE BRAKE LININGS SAID AMERICAN BRAKEBLOK?
23 A THAT'S RIGHT.
24 Q DID THEY ALSO INCLUDE THE NAME GENUINE PARTS ON
25 THEM ANYWHERE?

018

1 A NO.

2 Q AND DO YOU KNOW AT THAT TIME -- OR DID ANYONE
3 TELL YOU -- I SHOULD ASK IT THAT WAY.

4 DID ANYONE EVER TELL YOU DURING THAT TIME THAT
5 THE BRAKES AND BRAKE LININGS WERE AN ASBESTOS-CONTAINING
6 PRODUCT?

7 A NO.

8 Q DO YOU RECALL SEEING ANY WARNINGS ON ANY OF THE
9 BOXES REGARDING AN ASBESTOS HAZARD?

10 A I DON'T RECALL THAT, NO.

11 Q AT THE DISTRIBUTION CENTER, HOW WAS THE -- HOW
12 WERE THE PRODUCTS ARRANGED AND SORTED? WAS IT BY BRAND
13 NAME OR BY APPLICATION OR BY VEHICLE TYPE OR SOMETHING
14 ELSE?

15 A BY BRAND NAME, BY PART NUMBER.

16 Q SO ALL OF THE RAYLOC BRAKES WERE IN A SEPARATE
17 AREA FROM THE AMERICAN BRAKEBLOK PRODUCTS?

18 A THAT'S CORRECT.

19 Q AND THE PART NUMBER, WAS THAT A GENUINE PARTS
20 PART NUMBER OR SOMEONE ELSE'S PART NUMBER?

21 A IN THE -- IN THE CASE OF THE BRAKES, THERE WAS
22 A -- SOME SORT OF COUNCIL THAT CAME UP WITH A
23 STANDARDIZED NUMBERING SYSTEM FOR BRAKES, AND THAT BRAKE
24 NUMBER WAS ADOPTED BY RAYLOC.

25 Q HAVE YOU EVER HAD HEARD OF THE F.M.S.I. OR

019

1 FRICTION MATERIALS STANDARDS INSTITUTE?

2 A RIGHT.

3 Q DO YOU KNOW THAT THEY WERE THE ONES WHO CAME UP
4 WITH THE NUMBERING SYSTEM FOR BRAKE PARTS?

5 A I BELIEVE THAT TO BE CORRECT.

6 Q OKAY. AND THAT'S THE NUMBER THAT, TO YOUR
7 KNOWLEDGE, RAYLOC AND AMERICAN BRAKEBLOK ADOPTED?

8 A RAYLOC ADOPTED IT. AMERICAN BRAKEBLOK DID NOT
9 BECAUSE IT WASN'T A SHOE. AMERICAN BRAKEBLOK WAS SIMPLY
10 LINING.

11 Q HOW WERE THE AMERICAN BRAKEBLOK PRODUCTS
12 THEN -- WHAT WAS THE PART NUMBER FOR THEM?

13 A THERE WERE SEVERAL PART NUMBERS DEPENDING ON
14 THE APPLICATION AND TYING BACK TO THEIR CATALOG.
15 WHETHER THERE WAS ANY EXTERNAL INFLUENCE TO THAT
16 NUMBERING SYSTEM I AM NOT AWARE OF.

17 Q DID GENUINE PARTS HAVE ANY SAY-SO IN TERMS OF
18 THE NUMBERING SYSTEM UTILIZED BY AMERICAN BRAKEBLOK FOR
19 THE PARTS?

20 A I DON'T BELIEVE SO.

21 Q AND YOU HAD REFERENCED THE AMERICAN BRAKEBLOK
22 CATALOG. HAVE YOU SEEN THAT BEFORE?

23 A YES, I HAVE.

24 Q DID GENUINE PARTS HAVE ITS OWN CATALOG AT THAT
25 TIME?

020

1 A NO, GENUINE PARTS DID NOT HAVE ITS OWN CATALOG
2 AT THAT TIME.

3 Q WHAT WAS GENERALLY THE BUSINESS OF GENUINE
4 PARTS IN THE YEARS '57 TO '65 AS YOU UNDERSTAND IT?

5 A WE WERE PRIMARILY WAREHOUSE DISTRIBUTORS
6 SELLING TO INDEPENDENT OWNERS ALONG WITH OWNING AND
7 OPERATING SOME OF OUR OWN STORES IN METROPOLITAN AREAS.

8 Q DO YOU KNOW DURING THAT TIME HOW MUCH TOTAL
9 BUSINESS GENUINE PARTS WAS DOING?

10 A AT THE TIME THAT I WENT TO WORK FOR GENUINE
11 PARTS COMPANY, THEY OWNED AND OPERATED 11 DISTRIBUTION
12 CENTERS, EMPLOYED 1,500 PEOPLE, AND I BELIEVE THAT THE
13 TOTAL SALES WERE SOMEWHERE IN THE AREA OF \$100 MILLION.

14 Q AT THAT TIME WAS -- WERE YOU ONE OF THE
15 LEADERS -- WAS GENUINE PARTS ONE OF THE BIGGER COMPANIES
16 INVOLVED IN THIS KIND OF A BUSINESS, OR WERE THERE JUST
17 A BUNCH OF PEOPLE WHO HAD, SAY, A WHOLE BUNCH MORE SALES
18 AND A LOT MORE DISTRIBUTION CENTERS AND MANY MORE
19 EMPLOYEES?

20 MR. RILEY: OBJECTION. VAGUE AS TO WHAT TYPE
21 OF BUSINESS MEANS, BUT IF YOU UNDERSTAND IT --
22 BY MR. FISHBACK:

23 Q DO YOU UNDERSTAND THE QUESTION, SIR?

24 A I THINK I DO. N.A.P.A. IS AN ASSOCIATION,
25 NATIONAL AUTOMOTIVE PARTS ASSOCIATION. GENUINE PARTS

021

1 COMPANY WAS A PART OF N.A.P.A., AND AT THAT TIME I THINK
2 THERE WERE SOMETHING LIKE MAYBE 28 OWNERSHIPS WITHIN
3 N.A.P.A., AND IF YOU PUT ALL THAT TOGETHER, THEY WOULD
4 HAVE BEEN THE DOMINANT FORCE IN THE AFTERMARKET.

5 Q LET ME MAKE SURE I UNDERSTAND THIS. GENUINE
6 PARTS, ALONG WITH OTHER COMPANIES, WERE ALL MEMBERS BY
7 CHOICE OF THE NATIONAL AUTO PARTS ASSOCIATION?

8 A THAT'S CORRECT.

9 Q AND THE NATIONAL AUTO PARTS --
10 MR. RILEY: AUTOMOTIVE PARTS.

11 BY MR. FISHBACK:

12 Q NATIONAL AUTOMOTIVE PARTS ASSOCIATION. HOW
13 LONG HAD THAT ASSOCIATION BEEN IN EXISTENCE?

14 A SINCE 1925.

15 Q DO YOU KNOW THE PURPOSE OF ITS ORGANIZATION?

16 A THEY WERE A GROUP OF CONTINENTAL RED SEAL
17 ENGINE DISTRIBUTORS WHO DECIDED THAT THEY WOULD NEED TO
18 TAKE REPLACEMENT PARTS CLOSER TO THE MARKETPLACE AS
19 OPPOSED TO CENTERED IN DETROIT AS VEHICLES BECAME MORE
20 POPULAR.

21 Q WAS GENUINE PARTS AN ORIGINAL MEMBER?

22 A I BELIEVE IT WAS. THE FOUNDER OF OUR COMPANY
23 WAS CARLISLE FRAZER. I BELIEVE HE WAS ONE OF THE
24 ORIGINAL FOUNDERS. HOWEVER, AT THAT TIME HE HAD A
25 FACILITY IN WHEELING, WEST VIRGINIA.

022

1 Q WHEN YOU SAY A --

2 MR. RILEY: CAN I CLARIFY?

3 MR. FISHBACK: SURE.

4 MR. RILEY: NATIONAL AUTOMOTIVE PARTS
5 ASSOCIATION WAS FOUNDED IN 1925. GENUINE PARTS WASN'T
6 INCORPORATED UNTIL 1928. MR. FRAZER WAS AN EMPLOYEE OF
7 THE OWNER OF THE PITTSBURGH MEMBER OF N.A.P.A. AND THEN
8 CAME DOWN AND FORMED GENUINE PARTS COMPANY IN ATLANTA,
9 GEORGIA THREE YEARS LATER. SO TECHNICALLY GENUINE PARTS
10 COMPANY WAS NOT A FOUNDER, BUT ITS FOUNDER WAS AN
11 EMPLOYEE OR PARTNER OF ONE OF THE OTHER FOUNDERS.

12 MR. FISHBACK: OKAY. THANK YOU.

13 Q MR. ZAGURSKI, WITH RESPECT TO THE NATIONAL
14 AUTOMOTIVE PARTS ASSOCIATION AND GENUINE PARTS'
15 INVOLVEMENT, WAS IT YOUR UNDERSTANDING THAT SINCE
16 GENUINE PARTS HAS BEEN IN BUSINESS THEY'VE BEEN A PART
17 OF THE NATIONAL AUTOMOTIVE PARTS ASSOCIATION?

18 A YES.

19 Q YOU HAD SAID THAT THERE WERE -- THAT GENUINE
20 PARTS HAD DISTRIBUTION CENTERS AND STORES IN MAJOR
21 METROPOLITAN AREAS DURING THE YEARS '57 TO '65. WHICH
22 METROPOLITAN AREAS DID THAT INCLUDE, TO YOUR KNOWLEDGE?

23 A WHAT I STATED IS THAT WHEN I WENT TO WORK FOR
24 THE COMPANY THERE WERE 11 DISTRIBUTION CENTERS AT THAT
25 TIME, AND THOSE 11 DISTRIBUTION CENTERS WERE -- AND I

023

1 DON'T KNOW THAT THAT COULD BE CALLED ALL OF THEM --
2 OBVIOUSLY ATLANTA, GEORGIA, THE HEADQUARTERS; MEMPHIS,
3 TENNESSEE; OMAHA, NEBRASKA; PROBABLY IN FLORIDA. I
4 DON'T RECALL THE REST.

5 MR. RILEY: RATHER THAN TAX HIM --

6 THE WITNESS: THEY WERE IN THE SOUTHEAST
7 MOSTLY.

8 MR. RILEY: RATHER THAN TAX HIM, IF YOU NEED TO
9 KNOW SPECIFICALLY, I THINK THAT INFORMATION IS
10 AVAILABLE. I CAN GET THAT FOR YOU IN RESPONSE TO A
11 LETTER.

12 BY MR. FISHBACK:

13 Q OKAY. WERE THERE ANY DISTRIBUTION CENTERS WEST
14 OF OMAHA?

15 MR. RILEY: OWNED BY GENUINE PARTS COMPANY?

16 MR. FISHBACK: YES. DURING THE YEARS '57 TO
17 '65.

18 THE WITNESS: '57 TO '65.

19 BY MR. FISHBACK:

20 Q YES, SIR.

21 A THEN THE ANSWER WOULD BE YES. DENVER, COLORADO
22 WAS ACQUIRED IN 1959, AND COLYEAR MOTOR SALES I BELIEVE
23 WAS ACQUIRED IN 1965.

24 Q WHAT DID COLYEAR MOTOR SALES SERVICE, WHAT
25 AREA?

024

1 A THE WESTERN UNITED STATES.

2 Q INCLUDING CALIFORNIA?

3 A INCLUDING CALIFORNIA.

4 Q THAT WOULD INCLUDE ALL OF CALIFORNIA?

5 A YES.

6 MR. RILEY: CAN WE DEFINE WESTERN UNITED STATES
7 AS WEST OF THE ROCKIES FROM CANADA TO MEXICO?

8 BY MR. FISHBACK:

9 Q IS THAT WHAT COLYEAR MOTORS --

10 MR. RILEY: WELL, WE HAD THIS DISCUSSION LAST
11 NIGHT. FROM PITTSBURGH, "WEST" MEANS FROM WESTERN
12 MISSISSIPPI. COLYEAR WAS WEST OF THE ROCKIES.

13 BY MR. FISHBACK:

14 Q SO COLYEAR MOTORS SERVICED THE AREA WEST OF THE
15 ROCKIES INCLUDING ALL OF THE STATES THEREIN AND PARTS OF
16 MEXICO?

17 A NOT NECESSARILY, NO.

18 MR. RILEY: I DIDN'T SAY MEXICO.

19 THE WITNESS: NO.

20 BY MR. FISHBACK:

21 Q OKAY.

22 A COLYEAR SERVED PRIMARILY CALIFORNIA, OREGON,
23 WASHINGTON.

24 Q NEVADA?

25 A THERE ARE NO DISTRIBUTION CENTERS IN NEVADA.

025

1 PRIMARYLY THOSE THREE STATES.
2 Q ANYTHING IN ARIZONA?
3 A YES, ARIZONA, PHOENIX.
4 Q ANYTHING IN IDAHO?
5 A NO.
6 Q DO YOU RECALL WHEN COLYEAR MOTORS WAS ACQUIRED?
7 A 1965.
8 Q BEFORE THAT TIME PERIOD, DID GENUINE PARTS HAVE
9 A PRESENCE IN THE WESTERN UNITED STATES?
10 A WITH THE EXCEPTION THAT I MENTIONED THAT THEY
11 ACQUIRED THE DENVER, COLORADO DISTRIBUTION CENTER IN
12 1959.
13 Q WAS THE DENVER, COLORADO FACILITY UTILIZED TO
14 PROVIDE PARTS TO THE AREA WEST OF THE ROCKIES DURING
15 THAT TIME PERIOD BUT BEFORE COLYEAR MOTORS WAS ACQUIRED?
16 A WEST OF THE ROCKIES.
17 Q IN OTHER WORDS, WEST OF DENVER?
18 A THE DISTRIBUTION CENTERS BASICALLY SERVED A
19 MARKET THAT THEY COULD DELIVER TO ON AN OVERNIGHT BASIS
20 BY COMMON CARRIER, "OVERNIGHT" BEING THE KEY WORD. SO
21 DID THE DENVER FACILITY SHIP TO SAN FRANCISCO? NO.
22 Q SO THEN DID GENUINE PARTS NOT SUPPLY TO ANY
23 AREA WEST OF DENVER UNTIL -- UNTIL 1965?
24 A RIGHT.
25 Q AND THAT WOULD INCLUDE GENUINE PARTS DIDN'T

026

1 SUPPLY TO ARIZONA?
2 A THAT'S CORRECT.
3 Q THEREFORE, GENUINE PARTS WAS DOING NO BUSINESS
4 IN THE WESTERN UNITED STATES WEST OF DENVER UNTIL 1965?
5 A THAT'S CORRECT.
6 Q THERE WERE OTHER BRANDS OF BRAKES AND BRAKE
7 LININGS BESIDES RAYLOC AND AMERICAN BRAKEBLOK THAT
8 GENUINE PARTS DISTRIBUTED BETWEEN '57 AND '65; IS THAT
9 CORRECT?
10 A NO, THAT'S NOT CORRECT.
11 Q THOSE WERE THE ONLY TWO BRANDS?
12 A THAT'S RIGHT.
13 Q THERE WERE OTHER TYPES OF AUTOMOTIVE PARTS
14 BESIDES BRAKE LININGS AND BRAKE PARTS THAT GENUINE PARTS
15 WAS DISTRIBUTING DURING THAT TIME; CORRECT?
16 A YES.
17 Q WHAT OTHER KINDS OF -- WELL, STRIKE THAT. DO
18 YOU KNOW IF GENUINE PARTS WAS SUPPLYING AUTOMOTIVE
19 GASKETS DURING THAT TIME?
20 A YES, THEY WERE.
21 Q DO YOU KNOW WHAT BRAND OF AUTOMOTIVE GASKETS?
22 A VICTOR GASKETS.
23 Q WHAT OTHER BRANDS OF AUTOMOTIVE GASKETS DID
24 GENUINE PARTS STOCK AND DISTRIBUTE?
25 A NO OTHER BRANDS.

027

1 Q AND WOULD THE VICTOR GASKETS THAT WERE
2 DISTRIBUTED BY GENUINE PARTS, WOULD THEY BE UTILIZED ON
3 ALL TYPES AND BRANDS AND MANUFACTURERS OF VEHICLES?
4 MR. BRYDON: THIS IS JOHN BRYDON. I'M GOING TO
5 OBJECT. VAGUE, AMBIGUOUS, AND OVERBROAD.
6 BY MR. FISHBACK:
7 Q DO YOU UNDERSTAND THE QUESTION?
8 A YEAH, BUT WHAT'S THAT MEAN?
9 MR. RILEY: IGNORE IT. JUST GO AHEAD, AND YOU
10 CAN ANSWER THE QUESTION.
11 THE WITNESS: OH, SAY AGAIN. I'M SORRY.
12 BY MR. FISHBACK:
13 Q SURE. I'LL BREAK IT DOWN A LITTLE BIT. WERE
14 THE VICTOR GASKETS THAT WERE DISTRIBUTED BY GENUINE
15 PARTS DURING THE '57 TO '65 TIME PERIOD AVAILABLE FOR
16 VARIOUS AUTOMOTIVE APPLICATIONS AND -- WELL, START WITH
17 THAT.
18 A YES, THEY WERE.
19 Q AND WERE THEY AVAILABLE FOR VARIOUS MAKES OF
20 VEHICLES?
21 A YES.
22 Q AND VARIOUS MODELS OF VEHICLES?
23 A THAT'S RIGHT.
24 Q DID THAT INCLUDE BOTH FOREIGN AND DOMESTIC
25 VEHICLES?

028

1 A IN THOSE -- IN THAT TIME PERIOD, WHATEVER
2 FOREIGN VEHICLES MAY -- WE HAVE -- THAT WE MAY HAVE
3 APPLICATION FOR WAS VERY LIMITED BECAUSE THE FOREIGN CAR
4 MARKET DIDN'T HIT THE UNITED STATES IN 1957.

5 Q WELL, CERTAINLY IF YOU HAD A -- YOU NEEDED A
6 GASKET FOR A CHEVY OR FORD OR CHRYSLER PRODUCT, GENERAL
7 MOTORS PRODUCT INCLUDED, YOU COULD GET IT FROM GENUINE
8 PARTS?

9 A THAT'S CORRECT.

10 Q WAS THERE ANY KIND OF MAKE OR MODEL OR
11 MANUFACTURER THAT GENUINE PARTS JUST DIDN'T SUPPLY FOR
12 IN TERMS OF A DOMESTIC PRODUCT?

13 MR. BRYDON: OBJECTION. VAGUE, AMBIGUOUS.
14 OVERBROAD. LACKS FOUNDATION.

15 MR. RILEY: YOU'RE TALKING PASSENGER AUTOMOTIVE
16 AS OPPOSED TO INDUSTRIAL FORKLIFTS OR SOMETHING LIKE
17 THAT?

18 MR. FISHBACK: YES.

19 Q DO YOU UNDERSTAND THE QUESTION, SIR?

20 A NOT COMPLETELY.

21 Q ALL RIGHT. LET ME KIND OF TRY TO REPHRASE IT.

22 A ALL RIGHT.

23 Q WAS THERE A PARTICULAR MAKE OR MODEL OF
24 PASSENGER VEHICLE THAT GENUINE PARTS DIDN'T SUPPLY OR
25 DISTRIBUTE PARTS FOR?

029

1 MR. BRYDON: OBJECTION. LACKS FOUNDATION.
2 CALLS FOR SPECULATION.

3 THE WITNESS: NOT THAT I'M AWARE OF.

4 MR. GRAHAM: OBJECTION. VAGUE AND AMBIGUOUS.
5 ARE YOU TALKING ABOUT SPECIFIC PARTS OR GASKETS?

6 MR. RILEY: HE JUST SAID PARTS.

7 BY MR. FISHBACK:

8 Q IS THERE THEN -- WOULD THE SAME BE TRUE THAT
9 THERE IS NOT A PARTICULAR TYPE OF VICTOR GASKET THAT
10 GENUINE PARTS JUST DIDN'T STOCK, DIDN'T DISTRIBUTE?

11 A NOT THAT I'M --

12 MR. BRYDON: LACKS FOUNDATION. CALLS FOR
13 SPECULATION.

14 THE WITNESS: NOT THAT I'M AWARE OF.

15 BY MR. FISHBACK:

16 Q TO YOUR KNOWLEDGE, WAS THE VICTOR GASKET
17 DISTRIBUTION SOMETHING NEW THAT HAD JUST STARTED WHEN
18 YOU BEGAN WORKING FOR GENUINE PARTS?

19 A I DON'T BELIEVE IT WAS SOMETHING NEW. I
20 BELIEVE THAT THERE WAS -- THERE WAS A RELATIONSHIP
21 BETWEEN VICTOR GASKETS AND GENUINE PARTS COMPANY FOR A
22 LONG TIME.

23 Q WHY DO YOU SAY THAT?

24 A PRIMARILY FROM AN OLD CATALOG THAT I HAPPEN TO
25 HAVE THAT HAS VICTOR GASKETS IN IT.

030

1 Q DO YOU STILL HAVE THAT CATALOG IN YOUR
2 POSSESSION?
3 A NO, I DO NOT.
4 Q WHEN WAS THE LAST TIME YOU SAW THAT CATALOG?
5 A FIVE OR SIX YEARS AGO.
6 Q AND DO YOU RECALL THE DATE OF THE CATALOG?
7 A NO, I DO NOT.
8 Q WAS IT SOMETHING OLDER THAN 1950?
9 A YES.
10 Q AND IT WAS A GENUINE PARTS CATALOG?
11 A NO. IT WAS A N.A.P.A. CATALOG.
12 Q DID GENUINE PARTS HAVE ITS OWN CATALOG?
13 A NO, THEY DID NOT.
14 Q DID ANY OF THE INDIVIDUAL COMPANIES OR ENTITIES
15 THAT -- THAT WERE MEMBERS OF N.A.P.A. HAVE THEIR OWN
16 CATALOGS?
17 A I WOULDN'T KNOW THAT.
18 Q HAVE YOU EVER SEEN A CATALOG OF A MEMBER
19 ORGANIZATION OF N.A.P.A. THAT WASN'T A N.A.P.A. CATALOG?
20 A NO.
21 Q WERE THE OTHER MEMBER COMPANIES OF N.A.P.A.
22 COMPETITORS OF GENUINE PARTS?
23 A NO, THEY WERE NOT. THEY EACH -- THEY EACH
24 OPERATED IN THEIR OWN GEOGRAPHIC AREAS.
25 Q YOU HAD ORIGINALLY SAID -- WELL, ACTUALLY,

031

1 STRIKE THAT. HOW MANY MEMBERS OF N.A.P.A. WERE THERE IN
2 THE YEARS 1957 TO '65?

3 MR. RILEY: WELL, YOU HAVE TO PICK A TIME
4 PERIOD. START WITH '57. THAT'S THE ONE HE ANSWERED TO,
5 AND THE REASON I SAY THAT IS BECAUSE HE'S ALREADY
6 INDICATED THERE WERE ACQUISITIONS MADE DURING THAT TIME
7 PERIOD.

8 MR. FISHBACK: THAT'S WHAT I'M TRYING TO
9 ASCERTAIN THE INFORMATION ABOUT.

10 Q HOW MANY MEMBERS WERE THERE IN 1957, IF YOU
11 KNOW?

12 MR. RILEY: MEMBERS OF N.A.P.A. OR --

13 MR. FISHBACK: MEMBERS OF N.A.P.A.

14 MR. RILEY: OH.

15 THE WITNESS: YOU KNOW, I DON'T KNOW FOR
16 CERTAIN. I RECALL THAT THERE WERE 28 FOUNDING FATHERS.
17 WHETHER THEY ALL EXISTED IN 1957, I COULDN'T TELL YOU.
18 BY MR. FISHBACK:

19 Q AS GENUINE PARTS WAS ACQUIRING MORE
20 DISTRIBUTION CENTERS, DID IT DO SO BY NEW CONSTRUCTION
21 AND OPENING NEW MARKETS, OR WAS IT ACQUIRING OTHER
22 COMPANIES?

23 A A COMBINATION OF BOTH.

24 Q SO DO YOU KNOW WHO IN THE N.A.P.A. ORGANIZATION
25 WAS THE SUPPLIER FOR CALIFORNIA DURING THE TIME PERIOD

032

1 1957 TO 1964, BEFORE COLYEAR MOTORS WAS -- WAS PURCHASED
2 OR ACQUIRED?

3 A WHO WAS THE SUPPLIER?

4 Q YES. IN OTHER WORDS, WHICH N.A.P.A. ENTITY WAS
5 RESPONSIBLE FOR CALIFORNIA DURING THE TIME WHEN GENUINE
6 PARTS WASN'T INVOLVED?

7 A IT WAS COLYEAR MOTOR SALES, WHO WERE -- AND
8 THEY WERE A MEMBER OF N.A.P.A.

9 Q WHAT NEW MARKETS -- AS OPPOSED TO THE
10 ACQUISITION OF AN EXISTING COMPANY, WHAT NEW MARKETS DID
11 GENUINE PARTS ENTER BETWEEN '57 AND '65? DO YOU
12 UNDERSTAND THE QUESTION?

13 A NO. I UNDERSTAND THE QUESTION. I DON'T KNOW
14 THE ANSWER.

15 MR. RILEY: LET ME GO OFF THE RECORD.

16 MR. FISHBACK: SURE.

17 (DISCUSSION HELD OFF THE RECORD.)

18 BY MR. FISHBACK:

19 Q SIR, DO YOU HAVE MY LAST QUESTION IN MIND?

20 A NO, I DO NOT.

21 Q LET ME HAVE THE COURT REPORTER READ IT BACK.

22 (RECORD READ.)

23 THE WITNESS: I DON'T KNOW THAT I CAN ANSWER
24 THAT QUESTION BECAUSE I DON'T KNOW THE ANSWER TO IT.
25

033

1 BY MR. FISHBACK:

2 Q SIR, BETWEEN 1957 AND 1965, DID GENUINE PARTS
3 RECEIVE PRODUCTS FROM THE ORIGINAL EQUIPMENT
4 MANUFACTURERS?

5 A NO.

6 Q WAS THERE ANY -- STRIKE THAT. DID GENUINE
7 PARTS SUPPLY PRODUCTS FOR ALL PARTS OF THE VEHICLE BRAKE
8 SYSTEM? IN ADDITION TO THE LININGS OR DRUMS, WERE THERE
9 OTHER BRAKE MATERIALS THAT GENUINE PARTS STOCKED?

10 A THE PREMISE OF THE DISTRIBUTION SYSTEM AT
11 GENUINE PARTS WAS TO -- TO SUPPLY REPLACEMENT PARTS FOR
12 VEHICLES THAT WERE NORMALLY REPLACED DURING THE WEAR AND
13 TEAR OF THE VEHICLE; SO THE ANSWER IS YES. HOWEVER, IF
14 YOU WERE SAYING DID THEY HAVE A BACKING PLATE FOR A 1957
15 BUICK, THE ANSWER WOULD BE NO, THAT'S NOT AN ITEM
16 NORMALLY REPLACED. DID WE REPLACE THE SPRINGS? YES.
17 CYLINDERS? YES.

18 Q IF SOMEBODY WANTED A BACKING PLATE FOR A '57
19 BUICK, COULD THEY COME TO GENUINE PARTS AND ASK IT TO BE
20 ORDERED?

21 A NO. THEY'D HAVE TO GO TO THE DEALER.

22 Q DID THAT PHILOSOPHY CHANGE, TO YOUR KNOWLEDGE,
23 AFTER THE YEAR '65?

24 A DON'T BELIEVE SO.

25 Q YOU THINK IT'S STILL THE SAME PHILOSOPHY TODAY?

034

1 A IT WAS UNTIL MY RETIREMENT.

2 Q WITH RESPECT TO THE VICTOR GASKETS THAT WERE
3 DISTRIBUTED BY GENUINE PARTS, WERE THOSE GASKETS
4 OBTAINED DIRECTLY FROM THE VICTOR GASKET COMPANY OR
5 VICTOR MANUFACTURING COMPANY?

6 A YES.

7 Q DID THEY -- DID THEY COME IN TRUCKS THAT WERE
8 DRIVEN FROM THE VICTOR GASKET COMPANY, THE MANUFACTURING
9 FACILITY?

10 A IS YOUR QUESTION DID VICTOR SHIP THE GASKETS ON
11 THEIR OWN TRUCKS? THE ANSWER'S NO.

12 Q DIFFERENT QUESTION.

13 A OKAY.

14 Q WERE THERE GENUINE PARTS TRUCKS THAT WERE
15 PICKING UP VICTOR GASKETS AND BRINGING THEM TO THE
16 DISTRIBUTION CENTERS?

17 A NO.

18 Q DID THE VICTOR GASKETS COME IN VICTOR GASKET
19 BOXES?

20 A THAT'S CORRECT.

21 Q DID THEY SAY -- SHOW THE NAME VICTOR GASKET
22 COMPANY ON THEM SOMEWHERE?

23 A THAT'S RIGHT.

24 Q AND DID THEY INCLUDE ANY PART NUMBER ON THEM?

25 A YES.

035

1 Q DO YOU KNOW WHAT PART NUMBER WAS INCLUDED? WAS
2 IT A GENUINE PARTS PART NUMBER OR A VICTOR PART NUMBER?

3 A IT WAS A VICTOR PART NUMBER. GENUINE PARTS
4 COMPANY DID NOT ASSIGN ANY PART NUMBERS TO MANUFACTURERS
5 TO SHIP THEM PARTS.

6 Q DO YOU RECALL IF THERE WERE VICTOR GASKETS
7 INCLUDED IN N.A.P.A. CATALOGS?

8 A YES, THERE WERE.

9 Q THE N.A.P.A. CATALOGS WERE -- WERE PUBLISHED BY
10 THE GENUINE PARTS COMPANY AND THE N.A.P.A. GROUP
11 GENERALLY?

12 A MANUFACTURERS -- EACH MANUFACTURER INCLUDING
13 VICTOR PROVIDED CATALOGS WITH THEIR COVER ON IT PRODUCED
14 BY THEM AND USED TO FACILITATE THE SALE OF PARTS.

15 Q DID N.A.P.A. HAVE ITS OWN CATALOG WITH A
16 N.A.P.A. LOGO ON THE FRONT?

17 A IT HAD A QUICK REFERENCE CATALOG THAT WAS USED
18 SOMEWHAT AS A SALES PIECE, A VERY ABBREVIATED, LIMITED
19 NUMBER OF APPLICATIONS LISTED.

20 Q SO, FOR EXAMPLE, THEN, IF SOMEBODY DURING THE
21 '57 TO '65 TIME PERIOD CAME IN AND NEEDED A GASKET FOR A
22 1960 BUICK, YOU'D GET THE VICTOR CATALOG OUT AND SAY,
23 "OKAY. LET'S FIGURE OUT WHAT GASKET FITS ON YOUR CAR?"

24 A RIGHT. THAT'S CORRECT.

25 Q DO YOU RECALL THERE BEING ANY -- STRIKE THAT.

036

1 DID ANYONE EVER TELL YOU THAT DURING THE '57 TO '65 TIME
2 PERIOD THE VICTOR GASKETS HAD AN ASBESTOS COMPONENT TO
3 THEM?

4 A NO.

5 MR. BRYDON: OBJECTION. OVERBROAD.

6 BY MR. FISHBACK:

7 Q DID ANYONE FROM VICTOR EVER COME IN AND EXPLAIN
8 TO YOU ABOUT THE HAZARD ASSOCIATED WITH WORKING WITH
9 THEIR ASBESTOS-CONTAINING GASKETS?

10 MR. BRYDON: OBJECTION. LACKS FOUNDATION.
11 CALLS FOR SPECULATION. ASSUMES FACTS NOT IN EVIDENCE.
12 OVERBROAD.

13 MR. GRAHAM: JOIN.

14 THE WITNESS: NO.

15 BY MR. FISHBACK:

16 Q DO YOU RECALL SEEING ANY WARNING OR CAUTION OF
17 ANY KIND ON THE VICTOR GASKET BOX OR PACKAGING?

18 A NO.

19 Q THAT WOULD INCLUDE NO WARNING OF AN ASBESTOS
20 HAZARD; CORRECT?

21 A THAT'S CORRECT.

22 MR. BRYDON: OBJECTION. LACKS FOUNDATION.
23 CALLS FOR SPECULATION. ASSUMES FACTS NOT IN EVIDENCE.

24 MR. GRAHAM: JOIN.

25

037

1 BY MR. FISHBACK:

2 Q HAVE YOU EVER SEEN A VICTOR GASKET CATALOG?

3 A YES.

4 Q DO YOU RECALL EVER SEEING A WARNING PLACED IN
5 CATALOG REGARDING THE ASBESTOS CONTENT AND THE HAZARDS
6 ASSOCIATED THEREWITH?

7 MR. BRYDON: OBJECTION. COMPOUND. LACKS
8 FOUNDATION.

9 MR. GRAHAM: JOIN.

10 MR. RILEY: NOW YOU CAN ANSWER.

11 THE WITNESS: NO.

12 BY MR. FISHBACK:

13 Q DO YOU KNOW A COMPANY CALLED DANA CORPORATION?

14 A YES, I DO.

15 Q HOW ARE YOU FAMILIAR WITH THAT COMPANY?

16 A THEY WERE A SUPPLIER TO US.

17 Q DO YOU REMEMBER WHEN THEY WERE A SUPPLIER?

18 A NO, I DO NOT.

19 Q DO YOU RECALL IF THEY WERE SUPPLYING PRODUCTS
20 BETWEEN THE -- IN THE 1957 TO '65 TIME PERIOD?

21 A DANA ACQUIRED SEVERAL COMPANIES OVER THE YEARS,
22 VICTOR GASKETS BEING ONE OF THEM, WEATHERHEAD FITTINGS
23 BEING ANOTHER, AND WHEN THAT -- THOSE ACQUISITIONS TOOK
24 PLACE, I CAN'T RECALL, BUT THE BRAND NAMES REMAINED THE
25 SAME.

038

1 Q DO YOU RECALL THAT DANA CORPORATION WAS A
2 SUPPLIER TO N.A.P.A. AND GENUINE PARTS OR JUST ONE OF
3 THOSE ENTITIES?

4 A GENUINE PARTS IS A MEMBER OF N.A.P.A.

5 Q CORRECT.

6 A ALL RIGHT? SO DID THEY SUPPLY GENUINE PARTS?
7 YES. DID THEY SUPPLY OTHER MEMBERS OF N.A.P.A.? YES.
8 Q WAS -- DID VICTOR GASKET COMPANY OR DANA
9 CORPORATION, TO YOUR KNOWLEDGE, HAVE AN EXCLUSIVE
10 DISTRIBUTORSHIP THROUGH N.A.P.A.?

11 MR. BRYDON: OBJECTION. LACKS FOUNDATION.
12 CALLS FOR SPECULATION.

13 THE WITNESS: ARE YOU ASKING DID VICTOR
14 DISTRIBUTE ITS PRODUCTS THROUGH -- THROUGH DISTRIBUTION
15 POINTS OTHER THAN N.A.P.A.?
16 BY MR. FISHBACK:

17 Q SURE.

18 A YES, THEY DID.

19 Q HOW DO YOU KNOW THAT?

20 A I KNOW THAT BECAUSE COMPETITORS STOCKED THE
21 PRODUCT.

22 Q NON-N.A.P.A. --

23 A CORRECT.

24 Q -- COMPANIES?

25 A YES.

039

1 Q DURING THE '57 TO '65 TIME PERIOD, WERE THERE
2 AUTOMOTIVE RETAIL OUTLETS THAT HAD THE NAME N.A.P.A. ON
3 THEM?

4 MR. GRAHAM: OBJECTION. VAGUE AND AMBIGUOUS.

5 THE WITNESS: THE -- THE AUTO PARTS STORES IN
6 THOSE DAYS EACH HAD THEIR OWN STORE NAME, AND THEY MAY
7 HAVE DISPLAYED AND PROBABLY DID DISPLAY A N.A.P.A. SEAL
8 ON THEIR BUILDING.

9 BY MR. FISHBACK:

10 Q WHAT DID THE N.A.P.A. SEAL LOOK LIKE DURING THE
11 '57-'65 TIME PERIOD?

12 A IT LOOKED LIKE AN OUTLINE OF THE UNITED STATES.
13 THE OUTLINE WAS IN BLACK. THE BACKGROUND WAS YELLOW.

14 Q AND WHY DO YOU SAY THAT THEY -- WELL, STRIKE
15 THAT. DO YOU KNOW DURING THAT TIME PERIOD HOW MANY
16 RETAIL OUTLETS N.A.P.A. HAD?

17 MR. RILEY: OBJECT TO THE FORM OF THE QUESTION.
18 ARE YOU ASKING HOW MANY RETAIL OUTLETS WERE SERVICED BY
19 N.A.P.A. DISTRIBUTION CENTER --

20 MR. FISHBACK: WELL, LET ME START --

21 MR. RILEY: -- OR ARE YOU ASKING HIM IF
22 N.A.P.A. OWNED RETAIL OUTLETS?

23 MR. FISHBACK: SURE. LET ME ASK A DIFFERENT
24 QUESTION.

25 Q YOU HAD SAID THAT THE GENUINE PARTS FACILITY AT

040

1 WHICH YOU WORKED ALSO INCLUDED A RETAIL OUTLET.

2 A CORRECT.

3 Q DID IT HAVE THE N.A.P.A. LOGO ON ITS WINDOW OR
4 ON ITS SIGN?

5 A YES.

6 Q DO YOU KNOW HOW MANY RETAIL OUTLETS THERE WERE
7 THAT INCLUDED THE N.A.P.A. LOGO OR N.A.P.A. SEAL ON
8 THEIR SIGN OR IN CONJUNCTION WITH THEIR SHOP?

9 A NO, I DO NOT.

10 Q DO YOU KNOW IF IT WAS A NUMBER THAT RANGED OVER
11 A HUNDRED?

12 A NO, I DO NOT.

13 Q COULD YOU GIVE ME AN ESTIMATION?

14 A IF I WERE TO ESTIMATE AND ASSUME, I WOULD
15 ASSUME THE MAJORITY OF THEM HAD A SEAL ON THEIR
16 BUILDING, BUT I DON'T KNOW THAT.

17 Q HOW MANY RETAIL OUTLETS WERE SERVICED BY
18 N.A.P.A. DISTRIBUTION CENTERS?

19 MR. RILEY: NATIONWIDE IN 1957?

20 MR. FISHBACK: '57 TO '65.

21 THE WITNESS: I COULDN'T TELL YOU THAT NUMBER,
22 AND THAT NUMBER CHANGED YEARLY BECAUSE THE -- THE
23 OBVIOUS GOAL OF BUSINESS IS TO INCREASE SALES, INCREASE
24 STORES THEY COULD SERVE. FOR AN EXAMPLE, IN OMAHA,
25 NEBRASKA THERE WERE 22 STORES WHEN I WENT TO WORK FOR

041

1 THE COMPANY, AND WHEN I LEFT IN 1971, THERE WERE 71.
2 BY MR. FISHBACK:

3 Q WOULD IT BE TRUE, THEN, THAT BETWEEN 1957 AND
4 1965 THERE WAS AN INCREASE IN RETAIL OUTLETS SERVICED BY
5 THE N.A.P.A. DISTRIBUTION CENTERS?

6 A YES.

7 Q DO YOU KNOW WHO WAS RUNNING COLYEAR MOTORS
8 PRIOR TO THE ACQUISITION OF THE COMPANY BY N.A.P.A. OR
9 BY GENUINE PARTS?

10 A THE SON OF THE FOUNDER WHO WAS KILLED IN AN
11 ACCIDENT.

12 Q WHAT WAS HIS NAME?

13 A LAST NAME COLYEAR, BUT I DON'T RECALL HIS FIRST
14 NAME.

15 Q WHEN YOU HAD DISCUSSED EARLIER ABOUT THE
16 ACQUISITION OF COLYEAR MOTORS, WAS IT GENUINE PARTS THAT
17 ACQUIRED COLYEAR MOTORS?

18 A THAT'S CORRECT.

19 Q DID N.A.P.A. OWN OR ACQUIRE ANYTHING?

20 A N.A.P.A. DIDN'T OWN ANYTHING.

21 Q OKAY.

22 A N.A.P.A. IS AN ASSOCIATION.

23 Q JUST A GROUP OF COMPANIES?

24 A THAT'S CORRECT.

25 Q DO THEY DO -- DO YOU KNOW IF N.A.P.A. IS A

042

1 CORPORATION?

2 A I DON'T PERSONALLY KNOW.

3 Q DO YOU KNOW IF N.A.P.A. AS AN ORGANIZATION HAD
4 ANY RETAIL OUTLETS?

5 A THEY DIDN'T OWN ANYTHING.

6 Q DID THEY RUN ANY -- ANY RETAIL OUTLETS?

7 A NO, THEY DID NOT.

8 Q ALL OF THE RETAIL OUTLETS, THEN, WERE OWNED AND
9 OPERATED BY THE MEMBERS OF N.A.P.A.?

10 A THAT'S CORRECT.

11 MR. RILEY: WHOA, WHOA. RETAIL OUTLETS OR
12 DISTRIBUTION CENTERS?

13 BY MR. FISHBACK:

14 Q I'M SORRY. THE DISTRIBUTION CENTERS WERE OWNED
15 AND OPERATED BY MEMBERS OF N.A.P.A.?

16 A THAT'S RIGHT. YES.

17 Q DO YOU KNOW IF ANY OF THE MEMBERS OF N.A.P.A.
18 ALSO OWNED RETAIL OUTLETS UNDER A DIFFERENT NAME?

19 A I DON'T KNOW THAT.

20 Q YOU HAD SAID THAT -- WELL, STRIKE THAT. HOW
21 DID SOMEONE BECOME A MEMBER OF N.A.P.A.?

22 MR. GRAHAM: I WANT TO OBJECT. WHAT DO YOU
23 MEAN BY "SOMEONE"?

24 MR. FISHBACK: SOMEONE OR SOMETHING.

25 MR. RILEY: IF HE KNOWS.

043

1 THE WITNESS: I DON'T KNOW THAT.

2 MR. RILEY: FOR THE RECORD, HIS OFFER IS IN
3 RESPONSE TO THE NOTICE OF DEPOSITION OF P.M.K. WHICH IS
4 MUCH MORE LIMITED, BUT I'M -- YOU KNOW, HE'S NOT OFFERED
5 AS THE P.M.K. ON EVERYTHING FOR GENUINE PARTS, BUT GO
6 AHEAD.

7 MR. FISHBACK: OKAY. LET ME MARK AS 1A, B, AND
8 C THE NOTICE OF TAKING DEPOSITION OF GENUINE PARTS'
9 PERSON MOST KNOWLEDGEABLE AND THEN THE TWO LETTERS
10 REGARDING THE SCHEDULING OF THIS DEPOSITION, AND D IS
11 THE SUBPOENA FOR PERSON MOST KNOWLEDGEABLE.

12 (PLAINTIFF'S EXHIBITS 1A, 1B, 1C, AND 1D WERE MARKED
13 FOR IDENTIFICATION BY THE CERTIFIED SHORTHAND REPORTER.)

14 MR. FISHBACK: CAN YOU READ MY LAST QUESTION
15 BACK.

16 (THE RECORD WAS READ AS FOLLOWS:

17 "Q YOU HAD SAID THAT -- WELL,
18 STRIKE THAT. HOW DID SOMEONE BECOME A
19 MEMBER OF N.A.P.A.?

20 "MR. GRAHAM: I WANT TO OBJECT. WHAT
21 DO YOU MEAN BY 'SOMEONE'?

22 "MR. FISHBACK: SOMEONE OR SOMETHING.

23 "MR. RILEY: IF HE KNOWS.

24 "THE WITNESS: I DON'T KNOW THAT.")
25

044

1 BY MR. FISHBACK:

2 Q TO YOUR KNOWLEDGE, DURING THE 1957 AND 1965
3 TIME PERIOD, WERE THE MEMBER COMPANIES OF N.A.P.A.
4 EXPANDING? WERE THERE MORE OF THEM OR LESS OF THEM?

5 A I DON'T BELIEVE THAT THERE WERE MORE MEMBERS,
6 BUT PERHAPS MEMBERS ADDED FACILITIES.

7 Q AND AS YOU SIT HERE TODAY, YOU CAN'T TELL ME
8 ALL OF THE NAMES OF THE MEMBERS OF N.A.P.A. DURING THAT
9 TIME PERIOD; CORRECT?

10 A THAT'S CORRECT.

11 Q YOU BELIEVE THAT'S LISTED SOMEWHERE, THOUGH,
12 DON'T YOU?

13 A I'M CERTAIN IT IS.

14 Q IT'S INFORMATION THAT IF YOU WERE -- IF YOU
15 WERE ASKED TO ACQUIRE IT, YOU COULD FIND THAT OUT;
16 RIGHT?

17 A IF I WERE ASKED TO ACQUIRE?

18 Q YES, SIR.

19 A I'M A RETIREE. WHO WOULD GIVE ME THAT
20 INFORMATION?

21 MR. RILEY: WELL, GENUINE PARTS COULD ANSWER
22 IT.

23 BY MR. FISHBACK:

24 Q YOU STILL KNOW PEOPLE AT GENUINE PARTS, DON'T
25 YOU?

045

1 A YES, I DO.

2 Q YOU HAD SAID THAT YOU HAD THOUGHT THAT THE
3 N.A.P.A. SEAL OR LOGO WAS PROBABLY PUBLISHED ON THE
4 STORE, IN THE INDIVIDUAL RETAIL STORE; IS THAT CORRECT?

5 A YES, SIR.

6 Q WHY DO YOU THINK THAT IT'S MORE LIKELY THAN NOT
7 LIKELY THAT THE N.A.P.A. SEAL WAS DISPLAYED?

8 A IT WOULD BE A MARKETING ADVANTAGE TO AN
9 INDEPENDENT OWNER TO ALIGN HIMSELF WITH A NATIONALLY
10 RECOGNIZED SYMBOL.

11 Q HOW DID A RETAIL OUTLET BECOME AFFILIATED WITH
12 N.A.P.A. IN TERMS OF WORKING WITH N.A.P.A.'S
13 DISTRIBUTION SYSTEM?

14 A THE INDEPENDENT OWNERS SERVED BY GENUINE PARTS
15 COMPANY -- AND THOSE ARE THE ONLY ONES THAT I CAN SPEAK
16 TO -- SHOOK HANDS WITH THE DISTRIBUTION CENTER, AND THEY
17 AGREED TO BUY PARTS FROM THE DISTRIBUTION CENTER, AND
18 THE DISTRIBUTION CENTER AGREED TO SELL THEM TO THEM.

19 Q DID THOSE RETAIL OUTLETS THAT WERE SUPPLIED BY
20 GENUINE PARTS, WAS THAT AN EXCLUSIVE ARRANGEMENT?

21 A IN WHAT SENSE?

22 Q MEANING THAT ALL OF THE AUTOMOTIVE PARTS THAT
23 WERE ACQUIRED BY THE RETAIL OUTLET WERE SOLELY
24 DISTRIBUTED THROUGH THE GENUINE PARTS OUTLET.

25 A THERE WERE NO CONTRACTS, NO AGREEMENTS. YOU

046

1 KNOW, THE OBVIOUS GOAL WAS EXCLUSIVITY. HOWEVER, THAT
2 WOULD NOT HAVE PREVENTED AN INDEPENDENT OWNER WITH A
3 N.A.P.A. AUTO PARTS STORE, FOR AN EXAMPLE, TO BUY BENDIX
4 BRAKES.

5 Q SO THE INDEPENDENT RETAIL OPERATOR COULD IN
6 FACT BE SHOPPING WITH YOU AND YOUR COMPETITORS?

7 A THAT'S CORRECT.

8 Q DID THERE COME A TIME WHEN THAT CHANGED, IN
9 OTHER WORDS, WHEN IT BECAME AN INDEPENDENT RETAIL
10 OUTLET, WAS SOLELY BOUND TO THE N.A.P.A.
11 DISTRIBUTORSHIP?

12 A I CAN ONLY SPEAK TO 1999, AND THE ANSWER'S NO.

13 Q SO DURING -- DOES THAT MEAN UP UNTIL 1999 IT
14 HAD BEEN AS YOU PREVIOUSLY DESCRIBED?

15 A RIGHT.

16 Q I'M ASSUMING THERE WERE SOME CONTRACTS BY THAT
17 TIME, THOUGH. CORRECT?

18 A NO, THERE WERE NOT.

19 Q THEY WERE STILL JUST HANDSHAKE DEALS?

20 A THAT'S RIGHT.

21 Q YOU'VE NEVER SEEN A CONTRACT BETWEEN A
22 RETAIL -- RETAIL OUTLET, AN INDEPENDENT RETAIL OUTLET,
23 AND GENUINE PARTS OUTLINING THE TERMS OF THE AUTOMOTIVE
24 EQUIPMENT DISTRIBUTORSHIP?

25 A I HAVE NOT.

047

1 Q WHO PROVIDES THE SEAL OR SIGN TO THE RETAIL
2 OPERATOR THAT SAYS N.A.P.A.?

3 A TYPICALLY THE DISTRIBUTION CENTER.

4 Q DOES THE RETAIL OPERATOR HAVE TO PURCHASE THAT,
5 OR IS IT JUST GIVEN TO THE -- GIVEN TO THE RETAIL OUTLET
6 BY N.A.P.A. IN AN EFFORT TO FACILITATE N.A.P.A. SALES?

7 A IN THE EARLY YEARS, THE INDEPENDENT OWNER
8 PARTICIPATED IN THE PURCHASE OF THE SIGN, AND AS TIME
9 WENT BY, THE DISTRIBUTION CENTER BASICALLY BORE THAT
10 EXPENSE.

11 Q DID N.A.P.A. SUPPLY CATALOGS TO THE INDEPENDENT
12 RETAIL OUTLETS?

13 A YES, THEY DID.

14 Q AND THESE WERE THE SAME CATALOGS THAT, FOR
15 EXAMPLE, WOULD HAVE BEEN IN THE GENUINE PARTS OUTLET IN
16 OMAHA, NEBRASKA?

17 A THAT'S RIGHT, SUPPLIED BY THE MANUFACTURERS.

18 Q AND DID N.A.P.A. SUPPLY N.A.P.A. CATALOGS OR
19 BROCHURES TO THE INDEPENDENT RETAIL OUTLETS?

20 A THEY MADE AVAILABLE THE QUICK REFERENCE CATALOG
21 THAT I DISCUSSED EARLIER THAT WAS A ONCE-A-YEAR
22 PUBLICATION AND VERY LIMITED IN DISTRIBUTION.

23 Q WHAT PRODUCTS CAME PACKAGED IN N.A.P.A. BOXES
24 OR WITH THE N.A.P.A. LOGO ON THE BOXES THAT WERE -- THAT
25 WERE DESTINED TO THE INDEPENDENT RETAIL OUTLETS?

048

1 A SAY THAT AGAIN, PLEASE.

2 Q WHAT AUTOMOTIVE PRODUCTS INCLUDED THE N.A.P.A.
3 LOGO ON THEM THAT WERE DESTINED FOR THE INDEPENDENT
4 RETAIL OUTLETS?

5 A THERE WERE QUITE A FEW MANUFACTURERS WHO
6 SUPPLIED PARTS AND PARTS LINES TO US WITH THE N.A.P.A.
7 LOGO. THE EXCEPTION TO THAT WOULD BE VICTOR GASKETS,
8 WHICH WE SPOKE TO -- SPOKE OF EARLIER WHERE THEY HAD
9 MORE DISTRIBUTION THAN JUST N.A.P.A. WEATHERHEAD
10 FITTINGS WOULD BE ANOTHER EXAMPLE, TRICO WIPER BLADES,
11 AND IT COULD GO ON AND ON. SO I WOULD SAY THE MAJORITY
12 OF OUR PRODUCT DID HAVE A N.A.P.A. LOGO ON BUT THERE WAS
13 A GREAT DEAL THAT DID NOT.

14 Q DO YOU KNOW WHO ELBERT DAVIDSON IS?

15 A NO, I DO NOT.

16 Q NEVER MET HIM THAT YOU KNOW OF; RIGHT?

17 A NO, SIR.

18 Q EVER BEEN TO MENDOTA, CALIFORNIA?

19 A MENDOTA, YES, I HAVE.

20 Q WHAT WAS THE REASON FOR YOU GOING THERE?

21 A I WAS THE GENERAL MANAGER OF THE FRESNO
22 DISTRIBUTION CENTER, AND MENDOTA WAS IN MY MARKET.

23 Q MR. DAVIDSON, WHO IS THE PLAINTIFF IN THIS
24 CASE -- YOU UNDERSTAND THERE'S A LAWSUIT PENDING AND
25 THAT'S WHY YOU'RE HERE; RIGHT?

049

1 A CERTAINLY.

2 Q MR. DAVIDSON AS THE PLAINTIFF HAS TESTIFIED
3 THAT HE RECALLS PURCHASING BRAKES FROM N.A.P.A. OUTLETS
4 AND ON THE BOX OF THOSE BRAKES THERE WAS CONTAINED A --
5 THE N.A.P.A. LOGO OR SEAL. IS THAT -- IN YOUR
6 ESTIMATION, DO YOU DISAGREE WITH MR. DAVIDSON'S
7 RECOLLECTION OF EVENTS?

8 A IF HE'S BUYING THE PRODUCT RAYLOC, I WOULD
9 ASSUME YES, THERE WAS A N.A.P.A. LOGO ON THEM.

10 Q OKAY. SO THE BRAKES AND BRAKE LININGS INCLUDED
11 THE N.A.P.A. LOGO ON THE BOX?

12 A THOSE LININGS SUPPLIED BY RAYLOC, YES.

13 Q AND THE BRAKES --

14 MR. RILEY: WELL --

15 BY MR. FISHBACK:

16 Q WELL, THE BRAKES WERE SUPPLIED BY RAYLOC,
17 CORRECT?

18 A CORRECT.

19 Q SO THE RAYLOC BRAKES INCLUDED NOT ONLY THE NAME
20 RAYLOC ON THEM BUT ALSO THE N.A.P.A. LOGO?

21 A THAT'S RIGHT.

22 Q AND THE RAYLOC BRAKES WEREN'T REPACKAGED BY
23 N.A.P.A. AND/OR GENUINE PARTS INTO A DIFFERENT BOX THAN
24 THEY CAME IN, BUT WHEN THEY ORIGINALLY GOT TO GENUINE
25 PARTS, FOR EXAMPLE, IN OMAHA, THEY HAD THE N.A.P.A. LOGO

050

1 AS WELL AS THE RAYLOC LOGO ON THE BOX?

2 A YES.

3 Q AND WOULD THE SAME BE TRUE FOR THE AMERICAN
4 BRAKEBLOK LININGS?

5 A NO.

6 Q DID THOSE LININGS CONTAIN THE N.A.P.A. SEAL OR
7 LOGO ON THE BOX?

8 A NO, IT DID NOT.

9 Q DID THEY COME PACKAGED IN A BOX?

10 A YES, THEY DID.

11 Q THEY ONLY INCLUDED THE AMERICAN BRAKEBLOK LOGO?

12 A AGAIN, AMERICAN BRAKEBLOK WAS DISTRIBUTED
13 THROUGH SEVERAL DISTRIBUTORS; THEREFORE, NO, THERE WAS
14 NOT A N.A.P.A. LOGO.

15 Q WHO WAS THE -- STRIKE THAT. WHAT WAS THE
16 RELATIONSHIP BETWEEN -- STRIKE THAT AGAIN. LET ME START
17 OVER.

18 TO YOUR KNOWLEDGE, WAS RAYLOC BRAKES ITS OWN
19 COMPANY?

20 A YES.

21 Q WAS IT A MEMBER OF N.A.P.A.?

22 A I'M NOT QUITE CERTAIN HOW TO ANSWER THAT. I
23 DON'T BELIEVE THAT THEY WERE NECESSARILY MEMBERS OF
24 N.A.P.A., BUT I DO BELIEVE THAT PERHAPS THEY WERE PAYING
25 DUES OR SOMETHING OF THIS NATURE.

051

1 MR. RILEY: THIS IS IN THE AREA WHERE HE'S
2 NOT -- WHERE HE'S NOT KNOWLEDGEABLE.

3 MR. FISHBACK: OKAY. HE'S ANSWERED.

4 MR. RILEY: CAN I CLARIFY FOR YOU ON THE
5 RECORD?

6 MR. FISHBACK: YOU CAN CLARIFY. SURE.

7 MR. RILEY: THAT RAYLOC IS A DIVISION OF
8 GENUINE PARTS COMPANY AND IS NOT A SEPARATE
9 CORPORATION --

10 MR. FISHBACK: OKAY.

11 MR. RILEY: -- AND HAS ALWAYS BEEN.

12 MR. FISHBACK: OKAY.

13 Q HOW LONG HAS GENUINE PARTS BEEN HEADQUARTERED
14 IN ATLANTA?

15 A TO MY KNOWLEDGE, FROM THE BEGINNING, 1928.

16 Q SO IT SOUNDS LIKE ANY AUTOMOTIVE PART THAT WAS
17 SOLD EXCLUSIVELY THROUGH THE N.A.P.A. DISTRIBUTORSHIP
18 INCLUDED THE N.A.P.A. LOGO ON THE BOX AND THOSE
19 AUTOMOTIVE PARTS THAT WERE SOLD TO -- THROUGH BOTH
20 N.A.P.A. AND OTHER ORGANIZATIONS DIDN'T HAVE THE
21 N.A.P.A. LOGO?

22 A THAT'S AS I UNDERSTOOD IT, YES.

23 Q DID N.A.P.A. DO ANY OF ITS -- ANY REPACKAGING
24 OF MATERIALS THAT DIDN'T INCLUDE THE -- THE N.A.P.A.
25 LOGO ON THE MANUFACTURER'S BOX BUT THEN N.A.P.A. TOOK

052

1 THEM OUT, PUT THEM IN THEIR OWN BOX?

2 A NO, NO.

3 MR. RILEY: AND AGAIN, FOR THE RECORD, HE'S NOT
4 OFFERED AS THE PERSON MOST KNOWLEDGEABLE IN REGARD TO
5 THE N.A.P.A. LOGO'S USE, AND I WOULD REFER YOU TO ROSS
6 KENNEDY'S TESTIMONY THAT WE MADE AVAILABLE, WHO IS FROM
7 N.A.P.A.

8 MR. FISHBACK: YEAH. AND I'LL JUST RESPOND
9 JUST BRIEFLY. I'VE LOOKED AT MR. KENNEDY'S TESTIMONY,
10 AND WE MAY NEED TO TALK WITH MR. KENNEDY BECAUSE I DON'T
11 THINK THAT HIS -- HIS TESTIMONY DOESN'T ANSWER SOME OF
12 THE QUESTIONS I HAVE. BUT I UNDERSTAND THAT THIS
13 INDIVIDUAL, HE'S NOT THE SO-CALLED PERSON MOST
14 KNOWLEDGEABLE, BUT HE HAS BEEN WITH THE COMPANY FOR SO
15 MANY YEARS.

16 MR. RILEY: RIGHT. BUT HE'S GIVING YOU HIS
17 RECOLLECTION.

18 MR. FISHBACK: I APPRECIATE THAT.

19 Q IN TERMS OF THE OMAHA DISTRIBUTION CENTER WHERE
20 YOU WERE EMPLOYED UNTIL '65, DID --

21 MR. RILEY: NO. HE DIDN'T SAY THAT. HE SAID
22 HE WAS THERE UNTIL '71. HE WAS STOREROOM MANAGER UNTIL
23 '65 AND --

24 MR. FISHBACK: RIGHT. I'M ONLY TALKING ABOUT
25 THE YEARS UP UNTIL 1965.

053

1 Q DO YOU UNDERSTAND?

2 MR. RILEY: YEAH. BUT YOU JUST SAID HE WAS
3 ONLY EMPLOYED THERE UNTIL '65.

4 MR. FISHBACK: NO. I SAID HE WAS EMPLOYED
5 THERE UNTIL, WHERE HE WAS EMPLOYED UNTIL 1965. I'M ONLY
6 TALKING ABOUT THAT TIME PERIOD.

7 MR. RILEY: ALL RIGHT.

8 BY MR. FISHBACK:

9 Q '57 TO '65 IN OMAHA --

10 A FINE.

11 Q -- DID GENUINE PARTS HAVE ITS OWN FLEET OF
12 TRUCKS?

13 A NO, IT DID NOT.

14 Q HOW DID IT MOVE SUPPLIES FROM THE DISTRIBUTION
15 CENTER TO THE RETAIL OUTLETS?

16 A BY COMMON CARRIER.

17 Q DID THE COMMON CARRIERS HAVE THE N.A.P.A. LOGO
18 ON THEM?

19 A NO.

20 Q AT SOME POINT THERE WERE TRUCKS WITH THE
21 N.A.P.A. LOGO ACQUIRED; CORRECT? SEEMS LIKE I'VE SEEN
22 THEM.

23 A N.A.P.A. DISTRIBUTION CENTERS BEGAN FREIGHT
24 DELIVERY TO THEIR CUSTOMERS IN MAYBE THE '70S, LATE '60S
25 PERHAPS.

054

1 Q DID GENUINE PARTS HAVE ITS OWN SALES FORCE THAT
2 SOUGHT TO PERSUADE THOSE RETAIL OUTLETS TO DO BUSINESS
3 WITH GENUINE PARTS AND N.A.P.A.?

4 A YES.

5 Q WAS THERE A SALES FORCE IN OMAHA?

6 A YES, THERE WAS.

7 Q WAS THERE SALES FORCES LOCATED THROUGHOUT THE
8 COUNTRY?

9 A TO MY KNOWLEDGE, THERE WERE.

10 Q WERE THERE SALES FORCES LOCATED IN STATES WHERE
11 GENUINE PARTS DIDN'T OPERATE A DISTRIBUTION CENTER?

12 A NO.

13 Q IN OTHER WORDS, PRIOR TO 1964, '65, THERE WAS
14 NO SALES FORCE THAT WAS OPERATING IN CALIFORNIA?

15 A NO, THERE WAS NOT.

16 MR. RILEY: FROM GENUINE PARTS COMPANY.

17 MR. FISHBACK: FROM GENUINE PARTS.

18 Q THE -- WELL, AFTER 1965, WHEN YOU -- YOU
19 STOPPED WORKING IN THE STOCKROOM, WHAT DID YOU DO?

20 A I BECAME THE SERVICE MANAGER, AND I OPERATED IN
21 THAT CAPACITY UNTIL I BECAME WHAT WAS CALLED AN
22 OPERATIONS MANAGER.

23 Q HOW LONG WERE YOU THE SERVICE MANAGER?

24 A AS I RECALL, FOUR YEARS.

25 Q UNTIL 1969?

055

1 A YES.

2 Q WHAT WERE YOUR RESPONSIBILITIES AS A SERVICE
3 MANAGER?

4 A ESSENTIALLY THE -- THE INTERNAL OPERATION:
5 OVERSEEING THE STOCKROOM MANAGER, OVERSEEING THE
6 PURCHASING DEPARTMENT. AND THOSE WOULD HAVE BEEN THE
7 TWO PRIMARY AREAS OF MY RESPONSIBILITY.

8 Q HAD YOU EVER WORKED IN -- DIRECTLY IN THE
9 PURCHASING DEPARTMENT BEFORE?

10 A NO.

11 Q WHAT WAS THE -- DO YOU KNOW HOW THE PURCHASING
12 DEPARTMENT OPERATED?

13 A OH, CERTAINLY.

14 Q HOW DID IT WORK?

15 A IT WAS ON A CARD SYSTEM.

16 Q WHAT DO YOU MEAN BY THAT?

17 A EACH PART NUMBER WAS RECORDED ON A STOCK CARD.
18 SALES WERE POSTED FROM THOSE STOCK CARDS. FROM THE
19 BALANCES OF THOSE STOCK CARDS, RECEIPTS WERE ADDED TO
20 THEM, AND THEN SOMEONE WAS RESPONSIBLE FOR REVIEWING
21 THEM AND PICKING A PERIOD OF TIME, WHETHER IT BE 30, 45
22 DAYS, TO DETERMINE THE NUMBER OF SALES, WHICH THEN
23 BECAME WHAT WAS KNOWN A PREMARK.

24 Q A WHAT?

25 A A PREMARK.

056

1 Q PREMARK. OKAY.

2 A SO THEN THE ORDER QUANTITY FOR THE ORDER TO BE
3 PLACED WEEKLY WITH THE MANUFACTURER WAS THE DIFFERENCE
4 BETWEEN THE BALANCE ON HAND AND THAT PREMARK NUMBER. SO
5 IF THE PREMARK NUMBER IS 45 AND THE BALANCE ON HAND IS
6 15, THEN THE ORDER QUANTITY IS 30.

7 Q WHO SET THE AMOUNT OF STOCK ON HAND? WHO SET
8 THAT AMOUNT? IN OTHER WORDS, THE AMOUNT OF PRODUCT THAT
9 YOU WANTED TO HAVE AVAILABLE, WHO DETERMINED THAT?

10 A THERE WAS A CLERK THAT DID THAT MANUAL
11 CALCULATION.

12 Q HOW WAS THAT -- HOW WAS THE CALCULATION
13 PERFORMED? WAS IT BASED ON PRIOR SALES IN SOME RELATION
14 TO UPCOMING FUTURE SALES? WHAT WAS DRIVING THAT NUMBER?

15 A PRIMARILY PRIOR SALES.

16 Q HOW MANY PEOPLE WERE EMPLOYED -- BY THE WAY,
17 WAS THE OMAHA DISTRIBUTION CENTER STILL RUN BY GENUINE
18 PARTS DURING THE '65 TO '69 TIME PERIOD?

19 A YES.

20 Q AND IT STILL HAD A RETAIL OUTLET IN THE FRONT?

21 A YES.

22 Q DID IT HAVE A -- DID IT ADVERTISE IN TELEPHONE
23 BOOKS?

24 A YES.

25 Q DID IT ADVERTISE UNDER THE NAME GENUINE PARTS?

057

1 A I THINK PRIMARILY THE ADVERTISEMENT WAS UNDER
2 THE NAME N.A.P.A.

3 Q WAS THAT GENERALLY THE CASE FOR OTHER GENUINE
4 PARTS RETAIL OUTLETS?

5 A YES. NOW, YOU'RE TALKING ABOUT COMPANY-OWNED
6 RETAIL OUTLETS.

7 Q COMPANY-OWNED RETAIL OUTLETS, YES, SIR.

8 A YES, UH-HUH.

9 Q AND WHAT ABOUT THOSE STORES THAT WERE NOT
10 COMPANY OWNED BUT WERE AFFILIATED WITH N.A.P.A.? DO YOU
11 KNOW WHAT THEIR ADVERTISING PRACTICES GENERALLY WERE?

12 A IT WAS THEIR CHOICE. THEY COULD USE THE
13 N.A.P.A. LOGO AS PART OF THEIR YELLOW PAGE ADVERTISING,
14 FOR EXAMPLE, IF THEY WISHED, OR THEY COULD CHOOSE NOT
15 TO.

16 Q ONCE A RETAIL OUTLET WAS AFFILIATED WITH
17 N.A.P.A., WERE THERE ANY RESTRICTIONS ON THEIR USE OF
18 THE N.A.P.A. LOGO OR SEAL?

19 A NO.

20 Q WERE THERE ANY GUIDELINES THAT GOVERNED THE USE
21 OF THE N.A.P.A. LOGO AND SEAL?

22 A THERE WOULD HAVE BEEN GUIDELINES REGARDING THE
23 MENTION, PERHAPS COLORS, THINGS OF THIS NATURE, YES.
24 THOSE WERE GUIDELINES. YES, THEY WERE.

25 Q SO BASICALLY ALL OF THE N.A.P.A. LOGOS LOOKED

058

1 THE SAME, THOUGH, AT THAT TIME?
2 A PRETTY MUCH.
3 Q AT SOME POINT THE SEAL CHANGED FROM THE BLACK
4 BACKGROUND WITH THE YELLOW OUTLINE TO SOMETHING ELSE;
5 RIGHT?
6 A THAT'S CORRECT.
7 Q WHAT DID IT CHANGE TO?
8 A A HEXAGON-SHAPED SYMBOL WITH THE WORDS N.A.P.A.
9 IN THE CENTER.
10 Q IS THAT WITH A BLUE BACKGROUND?
11 A YOU KNOW, TO BE HONEST, I DON'T REMEMBER.
12 Q THE WORDS -- BY THE WAY, THE WORD N.A.P.A.
13 APPEARED ON THE -- ON THE PRIOR LOGO, CORRECT, WITH THE
14 BLACK BACKGROUND AND THE YELLOW OUTLINE?
15 A AS I REMEMBER, IT WAS SPELLED OUT IN SCRIPT,
16 "NATIONAL AUTOMOTIVE PARTS ASSOCIATION," AND I THINK
17 THAT THERE WAS -- THERE WERE THE LETTERS N.A.P.A. IN
18 THERE, BUT I HAVEN'T SEEN ONE OF THOSE FOR YEARS.
19 Q WHEN DID THE LOGO CHANGE TO THE HEXAGON, IF YOU
20 RECALL?
21 A I DON'T RECALL.
22 Q DO YOU BELIEVE IT WAS WHILE YOU WERE STILL
23 WORKING AS THE SERVICE MANAGER IN OMAHA?
24 A NO. I THINK IT WAS SOMETIME AFTER THAT.
25 Q OKAY. BY THE TIME YOU BECAME SERVICE MANAGER

059

1 IN THE YEARS '65 TO '69, DO YOU KNOW HOW MANY
2 DISTRIBUTION CENTERS GENUINE PARTS HAD?

3 A NO, I DO NOT.

4 Q WAS THERE AN AREA OF THE COUNTRY THAT YOU KNOW
5 GENUINE PARTS DIDN'T SUPPLY OR SERVICE?

6 MR. RILEY: DID NOT?

7 MR. FISHBACK: DID NOT.

8 THE WITNESS: WELL, FROM THE TIME FRAME
9 WHICH --

10 BY MR. FISHBACK:

11 Q DURING THE TIME PERIOD '65 TO '69.

12 A '65 TO '69 WOULD HAVE THEN INCLUDED THE
13 ACQUISITION OF COLYEAR MOTOR SALES IN THE WEST COAST.
14 FROM '57 TO '69, THERE WOULD HAVE BEEN AN ACQUISITION IN
15 MINNEAPOLIS, ONE IN DENVER, BUT TO GIVE YOU A TOTAL
16 NUMBER, THAT WASN'T REALLY MY RESPONSIBILITY.

17 Q BY 1969 IS IT YOUR UNDERSTANDING THAT GENUINE
18 PARTS COMPANY WAS SUPPLYING OR COULD SUPPLY AUTOMOBILE
19 AFTERMARKET PARTS TO THE 48 CONTINENTAL STATES?

20 A NO.

21 Q WHICH AREA OF THE COUNTRY WAS GENUINE PARTS NOT
22 ACTIVE IN?

23 MR. RILEY: AS --

24 THE WITNESS: GENUINE PARTS WAS NOT ACTIVE IN
25 THE TEXAS MARKET, IN THAT BELT --

060

1 BY MR. FISHBACK:

2 Q AND THIS IS --

3 A -- AND OKLAHOMA, PENNSYLVANIA, AND THERE WERE
4 SEVERAL STATES THAT WE WERE NOT ACTIVE IN.

5 Q IS THAT BECAUSE THERE WERE OTHER N.A.P.A.
6 MEMBERS THAT ALREADY HAD CLAIMED THAT TERRITORY?

7 A I DON'T KNOW IF THE WORD "CLAIMED THAT
8 TERRITORY" IS CORRECT, BUT THERE WERE OTHER MEMBERS
9 SERVING THAT MARKET AND THERE WERE PERHAPS SOME MARKETS
10 THAT DIDN'T -- WOULDN'T SUPPORT THE INVESTMENT OF A
11 DISTRIBUTION CENTER, MONTANA BEING A GOOD EXAMPLE.
12 500,000 PEOPLE IN MONTANA, NOT ALL THAT MANY CARS, A LOT
13 OF DISTANCE -- WASN'T ECONOMICAL.

14 Q SO, FOR EXAMPLE, THERE WERE NO RETAIL OUTLETS
15 THAT BORE THE NAME N.A.P.A. OR LOGO OR SEAL OF N.A.P.A.
16 IN MONTANA THROUGH 1969?

17 A COULD HAVE BEEN AN INDEPENDENT -- COULD HAVE
18 BEEN AN INDEPENDENT BUYING PARTS FROM MINNEAPOLIS, FOR
19 EXAMPLE. MINNEAPOLIS DISTRIBUTION CENTER BOASTED THAT
20 ITS FURTHEST CUSTOMER WAS 1,009 MILES AWAY. I HAPPEN TO
21 REMEMBER THAT NUMBER.

22 Q THE MINNEAPOLIS DISTRIBUTION CENTER WAS A
23 GENUINE PARTS FACILITY?

24 A BECAME ONE.

25 Q BY '69 IT WAS A GENUINE PARTS FACILITY?

061

1 A YES.

2 Q WAS THERE ANY PORTION OF THE UNITED STATES THAT
3 A GENUINE PARTS DISTRIBUTION CENTER COULD NOT REACH IF
4 IT WAS REQUESTED TO DO SO?

5 A WELL, FIRST --

6 MR. RILEY: I WILL OBJECT ON THAT AS VAGUE AND
7 SPECULATIVE.

8 THE WITNESS: I DON'T KNOW WHO WOULD HAVE BEEN
9 THE REQUESTER.
10 BY MR. FISHBACK:

11 Q WELL, FOR EXAMPLE, YOU SAID THAT THERE WAS NO
12 GENUINE PARTS OUTLET IN TEXAS, NOT A FACILITY OF GENUINE
13 PARTS FOR SERVICING. RIGHT?

14 A THAT'S CORRECT. BUT IT WAS SERVED BY A MEMBER
15 OF N.A.P.A.

16 Q CORRECT. BUT IS IT ALSO TRUE THAT THERE WAS A
17 DISTRIBUTION CENTER THAT COULD FEASIBLY SERVICE THE
18 TEXAS MARKET THAT WAS -- WAS OWNED AND OPERATED BY
19 GENUINE PARTS?

20 MR. GRAHAM: I HAVE TO OBJECT. VAGUE AND
21 AMBIGUOUS AND CALLS FOR SPECULATION. YOU MEAN A GENUINE
22 PARTS DISTRIBUTION CENTER?

23 THE WITNESS: I'M NOT -- I'M NOT CERTAIN. YOU
24 KNOW, I DON'T UNDERSTAND THE QUESTION THERE.
25

062

1 BY MR. FISHBACK:
2 Q WELL, LET ME GIVE YOU ANOTHER EXAMPLE. YOU HAD
3 SAID THAT PENNSYLVANIA, FOR EXAMPLE, WAS AN AREA THAT
4 WAS NOT SERVICED BY GENUINE PARTS --
5 A RIGHT.
6 Q -- UP THROUGH 1969; CORRECT?
7 A THAT'S CORRECT.
8 Q BUT THE SURROUNDING AREAS WERE SERVICED BY
9 GENUINE PARTS: MARYLAND, NEW YORK --
10 MR. RILEY: HE HAS --
11 MR. FISHBACK: -- VIRGINIA.
12 MR. RILEY: HE HASN'T SAID THAT.
13 MR. FISHBACK: I UNDERSTAND.
14 Q IS THAT CORRECT, SIR?
15 A I WAS NOT FAMILIAR WITH WHAT GENUINE PARTS
16 COMPANY SERVED IN THE EASTERN UNITED STATES. I'M A
17 MIDWESTERN BOY, AND I VAGUELY KNOW WHERE MARYLAND IS.
18 COULD WE TAKE A RECESS?
19 Q SURE.
20 A THANKS.
21 (RECESS.)
22 BY MR. FISHBACK:
23 Q WHAT DID YOU DO AFTER YOU CEASED BEING A
24 SERVICE MANAGER IN '69?
25 A I BECAME THE OPERATIONS MANAGER.

063

1 Q STILL IN OMAHA?

2 A YES, UNTIL JANUARY 9, 1971.

3 Q WHAT WERE YOUR GENERAL JOB DUTIES IN CONNECTION
4 THEREWITH?

5 A AN EXPANSION OF THE SERVICE MANAGER'S JOB WHICH
6 ALSO INCLUDED OVERSEEING THE BOOKKEEPING DEPARTMENT.

7 Q DID YOU BECOME FAMILIAR WITH THE AMOUNT OF --
8 OR MORE FAMILIAR WITH THE TOTAL SALES OF GENUINE PARTS
9 UP THROUGH 1971 ON A YEARLY BASIS?

10 A GENUINE PARTS ALWAYS SUPPLIED ON A MONTHLY
11 BASIS A SALES REPORT COVERING ALL OPERATIONS OF THE
12 COMPANY INCLUDING A YEAR-END REPORT. IF YOU ASK ME FOR
13 A SPECIFIC DOLLAR AMOUNT OF A SPECIFIC YEAR, CHANCES ARE
14 I CAN'T TELL YOU.

15 Q CAN YOU GIVE ME -- YOU HAD EARLIER SAID THAT
16 TOTAL SALES APPROXIMATED A HUNDRED MILLION DOLLARS A
17 YEAR.

18 A IN 1957.

19 Q CORRECT. WHAT WAS THE -- CAN YOU GIVE ME SOME
20 ESTIMATION IN 1971?

21 A NO.

22 Q IS IT YOUR UNDERSTANDING THAT THE SALES HAD
23 INCREASED DOLLAR AMOUNT BY THAT TIME?

24 A OH, YES, SUBSTANTIALLY.

25 Q DO YOU KNOW WHAT THE TOTAL SALES ARE TODAY OR

064

1 BY THE TIME YOU WERE WORKING -- IN 1999?

2 A I BELIEVE NOW GENUINE PARTS COMPANY IS AN
3 8-BILLION-DOLLAR-A-YEAR COMPANY OPERATING IN FOUR
4 DIFFERENT AREAS OF INDUSTRY INCLUDING THE PARTS
5 BUSINESS.

6 Q DURING THE YEARS UP UNTIL 1971, DID YOU SEE
7 SIGNIFICANT CHANGES IN THE BRANDS OF AUTOMOTIVE PARTS
8 THAT GENUINE PARTS WAS DISTRIBUTING?

9 A NO.

10 Q THEY WERE STILL USING RAYLOC BRAKES?

11 A CORRECT.

12 Q AND AMERICAN BRAKEBLOK LININGS?

13 A YES.

14 Q AND VICTOR GASKET MATERIALS?

15 A YES.

16 MR. BRYDON: OBJECTION. VAGUE, AMBIGUOUS.
17 OVERBROAD. LACKS FOUNDATION.

18 BY MR. FISHBACK:

19 Q HAD YOU BY THAT TIME SEEN ANY WARNINGS
20 REGARDING ASBESTOS HAZARD ON ANY OF THOSE PRODUCTS: THE
21 BRAKES, BRAKE LININGS, OR GASKETS?

22 A NOT THAT I RECALL.

23 MR. BRYDON: OBJECTION. OVERBROAD.

24 BY MR. FISHBACK:

25 Q WERE YOU GIVEN ANY -- ANY PARTICULAR TRAINING

065

1 OR SCHOOLING BY GENUINE PARTS TO BECOME AN OPERATIONS
2 MANAGER?

3 A IN 1968, I ATTENDED AN EXECUTIVE DEVELOPMENT
4 SEMINAR.

5 Q WHERE WAS THAT?

6 A THAT WAS IN ATLANTA, GEORGIA.

7 Q PUT ON BY?

8 A GENUINE PARTS COMPANY.

9 Q HOW LONG WAS THE COURSE?

10 A APPROXIMATELY A WEEK.

11 Q AT THE END OF IT YOU GOT A CERTIFICATE OF SOME
12 SORT THAT SAID YOU COMPLETED THE COURSE?

13 A YES.

14 Q ANY ADDITIONAL CONTINUING EDUCATION THAT
15 GENUINE PARTS PROVIDED TO YOU IN AN EFFORT TO STRENGTHEN
16 YOUR SKILLS AS AN OPERATIONS MANAGER OR A SERVICE
17 MANAGER?

18 A I ATTENDED DALE CARNEGIE.

19 Q HOW LONG -- WHEN WAS THAT?

20 A LONG TIME AGO.

21 Q OKAY. WAS THAT DONE AT -- ON -- AT THE REQUEST
22 OF GENUINE PARTS OR INSISTENCE OF GENUINE PARTS?

23 A NO, THEY DID NOT INSIST. IT WAS A
24 RECOMMENDATION.

25 Q HOW LONG -- HOW LONG DID THAT LAST, AND WHAT

066

1 WERE THE -- WHAT WAS THE COURSE, EDUCATION?

2 A HOW TO WIN FRIENDS AND INFLUENCE PEOPLE, AND I
3 DON'T KNOW HOW LONG IT TOOK --

4 Q OKAY.

5 A -- BUT I WENT TO IT.

6 Q IT WAS PAID FOR BY GENUINE PARTS?

7 A JOINTLY.

8 Q BETWEEN YOU AND GENUINE PARTS?

9 A I HAD AN INVESTMENT IN IT.

10 Q ANY OTHER CONTINUING EDUCATION THAT WAS
11 PROMOTED BY GENUINE PARTS TO YOU?

12 A OH, BACK IN 1961 I WENT TO SPICER SCHOOL, WHICH
13 WAS TO LEARN ABOUT TRANSMISSIONS AND CLUTCHES AND DRIVE
14 LINES AND POWER TAKE-OFFS.

15 Q WHY DID YOU -- WHY WAS THAT IMPORTANT?

16 A IT'S A VERY COMPLICATED PRODUCT LINE, AND IT
17 REQUIRED A LEVEL OF EXPERTISE, AND IT WAS A VERY
18 LUCRATIVE PRODUCT LINE FOR US.

19 Q SO THAT -- THAT WAS A COURSE THAT GENUINE PARTS
20 REQUESTED THAT YOU ATTEND?

21 A YES.

22 Q AND WAS THAT JUST IN AN EFFORT SO THAT YOU
23 COULD FULLY AND BETTER SERVE THE CUSTOMERS IN TERMS OF
24 WHAT THEY -- WHAT PARTICULAR PRODUCT THEY NEEDED FOR THE
25 VEHICLE?

067

1 A THAT'S CORRECT.
2 Q WERE THERE OTHERS FROM GENUINE PARTS WHO
3 ATTENDED THE CLASS WITH YOU?
4 A THE SPICER CLASS?
5 Q YES, SIR.
6 A YES.
7 Q WAS IT SOLELY A CLASS DESIGNED FOR GENUINE
8 PARTS EMPLOYEES?
9 A I DON'T RECALL. THAT WAS 1961.
10 Q WHERE DID THE CLASS TAKE PLACE?
11 A TOLEDO, OHIO.
12 Q DO YOU KNOW THE RELATIONSHIP BETWEEN DANA
13 CORPORATION AND SPICER COMPANY OR CORPORATION?
14 A I BELIEVE IN 1961 SPICER WAS ITS OWN COMPANY,
15 LATER TO BE ACQUIRED BY DANA. I BELIEVE THAT'S CORRECT.
16 Q WHAT PRODUCTS WAS SPICER SUPPLYING TO GENUINE
17 PARTS?
18 A POWER TAKE-OFFS, DRIVE LINE COMPONENTS,
19 OCCASIONALLY TRANSMISSIONS, ALTHOUGH WE DIDN'T
20 NECESSARILY STOCK THE TRANSMISSIONS AT THE DISTRIBUTION
21 CENTER LEVEL.
22 Q AND TO YOUR KNOWLEDGE, SPICER HAD BEEN A
23 SUPPLIER TO GENUINE PARTS FOR SO MANY YEARS; CORRECT?
24 A I BELIEVE THAT'S CORRECT.
25 Q WAS SPICER A MEMBER OF N.A.P.A.?

068

1 A I DON'T KNOW.

2 Q WHEN YOU STOPPED BEING THE OPERATIONS MANAGER
3 IN OMAHA, WHAT -- WHAT DID YOU DO NEXT?

4 A I WAS TRANSFERRED TO SACRAMENTO, CALIFORNIA AS
5 A GENERAL MANAGER.

6 Q WHO WAS YOUR EMPLOYER AT THAT TIME? GENUINE
7 PARTS?

8 A GENUINE PARTS COMPANY.

9 Q HOW LONG WERE YOU A GENERAL MANAGER?

10 A OF THAT FACILITY?

11 Q IN SACRAMENTO. YES, SIR.

12 A TO THE END OF JUNE 1973.

13 Q WAS THIS A DISTRIBUTION CENTER?

14 A CORRECT.

15 Q DID GENUINE PARTS ALSO HAVE A RETAIL OUTLET
16 LOCATED THERE AS WELL?

17 A NO, THEY DID NOT.

18 Q WHAT WAS THE CLOSEST GENUINE PARTS RETAIL
19 OUTLET TO SACRAMENTO?

20 A I'M NOT -- I'M NOT REAL CERTAIN BECAUSE WHEN WE
21 ACQUIRED COLYEAR MOTOR SALES, COLYEAR MOTOR SALES HAD A
22 LITTLE DIFFERENT APPROACH TO OPERATING RETAIL STORES.
23 SO WE DIDN'T HAVE A RETAIL STORE IN THE SACRAMENTO
24 METROPOLITAN AREA, AND YOU RECALL I TOLD YOU THAT WE
25 PRIMARILY FOCUSED ON METROPOLITAN AREAS FOR OUR OWN

069

1 COMPANY-OWNED STORES. WE DIDN'T HAVE ONE IN FRESNO,
2 CALIFORNIA WHICH THEN DID EXIST. WE HAD HAD A
3 DISTRIBUTION CENTER IN SAN FRANCISCO WHICH WE CLOSED IN
4 1972 AND MOVED IT TO MORGAN HILL, CALIFORNIA, AND IT DID
5 NOT HAVE RETAIL. SO I WOULD SAY THE CLOSEST ONE PERHAPS
6 WAS LOS ANGELES.

7 Q WHAT DO YOU MEAN BY COLYEAR MOTORS TOOK A
8 DIFFERENT APPROACH TO THE RETAIL OUTLETS?

9 A THEY PROMOTED INDEPENDENT OWNERSHIPS EVEN
10 WITHIN THE METROPOLITAN AREAS, WHEREAS IN ATLANTA,
11 GEORGIA, FOR AN EXAMPLE, THAT WHOLE MARKET WAS SERVED BY
12 GENUINE PARTS COMPANY, THE PHILOSOPHY BEING THAT YOU AND
13 I ARE TWO INDEPENDENT BUSINESS PEOPLE AND WE'RE 12 MILES
14 APART AND THERE'S THIS VERY LUCRATIVE MARKET RIGHT
15 BETWEEN US AND YOU DON'T WANT TO AND YOU CAN'T EXPAND
16 AND I DON'T WANT TO EXPAND BUT NEITHER ONE OF US WANTS
17 TO SEE SOMEBODY IN THE MIDDLE OF US. AND THE WHOLE IDEA
18 OF DISTRIBUTION WAS TO MAXIMIZE DISTRIBUTION, NOT HAVE
19 EVERYBODY HAVE THEIR OWN PRIVATE PLAYGROUND.

20 Q SO COLYEAR MOTORS WAS MORE ACCEPTING OF THE
21 PRIVATE PLAYGROUND?

22 A YES.

23 Q WERE THERE -- AFTER GENUINE PARTS ACQUIRED
24 COLYEAR MOTORS, WERE THERE STILL COLYEAR MOTORS RETAIL
25 OUTLETS? DID THEY SAY COLYEAR MOTORS ON THE TOP OF

070

1 THEM?

2 A NO.

3 Q WHAT DID THEY SAY?

4 A THEY WERE INDEPENDENT OWNERSHIPS.

5 Q AND THEY HAD THE N.A.P.A. LOGO ON THE WINDOW?

6 A CORRECT.

7 Q PRIOR TO THAT ACQUISITION OF COLYEAR MOTORS BY

8 GENUINE PARTS, WAS COLYEAR MOTORS A AUTOMOTIVE SUPPLY

9 OUTFIT? IS THAT WHAT THEIR BUSINESS WAS?

10 A THEIR BUSINESS WAS THE DISTRIBUTION OF

11 AUTOMOTIVE PARTS TO PARTS STORES, N.A.P.A. PARTS.

12 Q THE SAME THINGS THAT GENUINE PARTS WERE DOING,

13 JUST THEY WERE DOING IT IN A DIFFERENT AREA?

14 A CORRECT.

15 MR. RILEY: AND WITHOUT THE RETAIL OUTLETS.

16 BY MR. FISHBACK:

17 Q AND NO RETAIL OUTLETS BY COLYEAR MOTORS?

18 A THAT'S RIGHT.

19 Q UPON THE ACQUISITION OF COLYEAR MOTORS BY

20 GENUINE PARTS, WAS THERE A CHANGE IN MANAGEMENT, DO YOU

21 KNOW?

22 MR. RILEY: WHERE?

23 MR. FISHBACK: AT COLYEAR MOTORS.

24 MR. RILEY: THEY WERE ACQUIRED.

25 THE WITNESS: THEY WERE ACQUIRED. THEIR

071

1 HEADQUARTERS CEASED TO EXIST. THEIR HEADQUARTERS THEN
2 WAS IN ATLANTA, GEORGIA.
3 BY MR. FISHBACK:

4 Q WHAT WERE YOUR RESPONSIBILITIES AS GENERAL
5 MANAGER IN SACRAMENTO?

6 A THE DISTRIBUTION CENTERS OPERATED AUTONOMOUSLY.
7 YOU WERE RESPONSIBLE FOR SALES, PROFITS, PAYING YOUR OWN
8 BILLS, HIRING YOUR OWN PEOPLE.

9 Q HOW MANY PEOPLE WERE YOU SUPERVISING?

10 A THAT WAS A SMALL OPERATION AT THE TIME THAT I
11 WAS THERE. THERE WERE PERHAPS 40.

12 Q SO MUCH SMALLER OPERATION THAN THE DISTRIBUTION
13 CENTER OF OMAHA?

14 A YES.

15 Q DID YOU GO TO SACRAMENTO BY CHOICE, OR SOMEONE
16 TELL YOU YOU HAD TO GO?

17 A I WAS OFFERED AN OPPORTUNITY TO BE PROMOTED,
18 AND I ACCEPTED IT.

19 Q OKAY. DURING THE TIME UP TO 1973, DID YOU SEE
20 A CHANGE IN THE BRANDS OF PRODUCTS THAT WERE BEING
21 SUPPLIED OR DISTRIBUTED THROUGH THE N.A.P.A. SACRAMENTO
22 OFFICE AS COMPARED WITH THOSE PRODUCTS THAT HAD BEEN
23 DISTRIBUTED THROUGH THE OMAHA OUTLET?

24 MR. BRYDON: OBJECTION. OVERBROAD.

25 THE WITNESS: YES, AND THE PRIMARY ONE BEING

072

1 BRAKES. IN SACRAMENTO, CALIFORNIA, WE WERE SUPPLIED AND
2 SOLD CALI-BLOK BRAKES.
3 BY MR. FISHBACK:
4 Q CALI-BLOK?
5 A CALI-BLOK.
6 Q HAD YOU BEEN FAMILIAR WITH CALI-BLOK IN YOUR
7 WORK OUT OF THE OMAHA, NEBRASKA DISTRIBUTING FACILITY?
8 A NO. I HAD NOT HEARD OF IT BEFORE.
9 Q WHAT IS CALI-BLOK BRAKES? JUST A BRAND NAME?
10 A YES. A COMPANY IN SOUTHERN CALIFORNIA.
11 Q DO YOU KNOW THE RELATIONSHIP THAT CALI-BLOK HAD
12 WITH COLYEAR MOTORS?
13 A NO, I DO NOT.
14 Q WAS CALI-BLOK A NEW SUPPLIER OF AUTOMOTIVE
15 BRAKES WHEN YOU TOOK OVER THE GENERAL MANAGER DUTIES
16 AT -- IN SACRAMENTO IN 1971?
17 A MY IMPRESSION IS THAT IT WAS A NEW SUPPLIER,
18 YES.
19 Q PRIOR TO THAT TIME, DO YOU KNOW WHO WAS
20 SUPPLYING BRAKES TO THE N.A.P.A. OUTLETS IN CALIFORNIA?
21 A NO, I DO NOT.
22 Q SO IT COULD HAVE BEEN CALI-BLOK, THEN; CORRECT?
23 A COULD HAVE BEEN.
24 MR. RILEY: WAIT A SECOND.
25 (MR. RILEY AND THE WITNESS CONFERRED OFF

073

1 THE RECORD.)

2 THE WITNESS: I'M REMINDED THAT WHEN WE
3 ACQUIRED COLYEAR THERE WAS A BONDING PLANT IN OAKLAND,
4 CALIFORNIA OWNED BY COLYEAR. SO THAT WOULD HAVE BEEN
5 THE SUPPLIER TO THE DISTRIBUTION CENTERS.

6 BY MR. FISHBACK:

7 Q A COLYEAR BRAKE BONDING PLANT IN --

8 A OAKLAND.

9 Q -- IN OAKLAND?

10 A RIGHT. AND THAT PLANT PROBABLY CLOSED JUST
11 BEFORE I GOT TO SACRAMENTO.

12 Q SO UP PRIOR TO THAT TIME, THEN, BRAKE LININGS
13 WERE BEING SUPPLIED BY COLYEAR DIRECTLY?

14 A IT WOULD SEEM THAT WAY, YES, SIR.

15 Q DO YOU KNOW WHY IT WAS THAT CALI-BLOK BECAME
16 THE BRAND OF BRAKES DISTRIBUTED THROUGH N.A.P.A. IN
17 CALIFORNIA AS OPPOSED TO RAYLOC OR AMERICAN BRAKEBLOK?

18 A NO, I DO NOT.

19 Q DO YOU KNOW IF CALI-BLOK BRAKES -- BY THE WAY,
20 WERE THEY BRAKE OR BRAKE LININGS OR BOTH?

21 A BRAKES.

22 Q DO YOU KNOW IF CALI-BLOK WAS SOLD THROUGH --
23 STRIKE THAT. DO YOU KNOW IF CALI-BLOK WAS DISTRIBUTED
24 THROUGH THE N.A.P.A. DISTRIBUTION CENTER ALONG WITH THE
25 RAYLOC BRAND BRAKES IN CALIFORNIA, OR WAS IT ONE OR THE

074

1 OTHER?

2 A IT WAS CALI-BLOK. IT WAS NOT RAYLOC.

3 Q SO IF YOU BOUGHT BRAKES IN CALIFORNIA FROM A
4 N.A.P.A. STORE THAT WAS UTILIZING THE N.A.P.A.
5 DISTRIBUTION NETWORK, THEN IT WAS A CALI-BLOK BRAND
6 BRAKE?

7 A THAT'S CORRECT.

8 Q AND THAT STARTED AT LEAST, TO YOUR KNOWLEDGE,
9 AS EARLY AS 1970?

10 A CORRECT.

11 Q DO YOU KNOW WHEN THAT RELATIONSHIP CEASED
12 BETWEEN N.A.P.A. DISTRIBUTION AND CALI-BLOK?

13 A NO, I DO NOT, BECAUSE I WAS TRANSFERRED TO THE
14 NORTHWEST IN 1973, AND IT EXISTED THEN.

15 Q IN THE NORTHWEST WERE THEY -- WAS N.A.P.A.
16 DISTRIBUTING CALI-BLOK BRAKES?

17 A NO, NO. WE HAD OUR OWN BONDING PLANT IN
18 PORTLAND, OREGON.

19 Q WHEN YOU SAY "WE," WHO'S THE "WE"?

20 A GENUINE PARTS.

21 Q SO THE BRAKES NOW ARE BEING MANUFACTURED BY
22 GENUINE PARTS?

23 A IN PORTLAND FOR DISTRIBUTION TO SEATTLE,
24 SPOKANE, PORTLAND DISTRIBUTION CENTERS. IT WAS A SMALL
25 SEPARATION.

075

1 Q HOW LONG WAS THAT BONDING PLANT IN PORTLAND --
2 HOW LONG HAD IT BEEN IN OPERATION?

3 A YOU KNOW, I DON'T KNOW. AGAIN, I WOULD MAKE
4 THE ASSUMPTION THAT IT WAS A FACILITY STARTED BY COLYEAR
5 AND ACQUIRED BY GENUINE PARTS IN 1965.

6 Q DO YOU KNOW WHEN THE GENUINE PARTS BONDING
7 PLANT IN PORTLAND CEASED OPERATION?

8 A SOMEWHERE -- LET'S SEE. I WAS THERE, I
9 BELIEVE. SO IT WOULD HAVE BEEN BETWEEN '79 AND '86. IT
10 WOULD HAVE MOVED TO SALT LAKE CITY.

11 Q IN WHAT YEAR, THEN?

12 A BETWEEN '79 AND '86.

13 Q YOU CAN'T GET ANY CLOSER THAN THAT?

14 A THAT'S HOW I EVEN KNOW WHAT MY CLOTHES ARE: "I
15 BOUGHT THAT SUIT WHEN I WAS IN PORTLAND" OR "I BOUGHT
16 THAT SUIT WHEN I WAS IN SEATTLE." SO I CAN GIVE YOU
17 FIVE-YEAR SPANS.

18 Q IN THE TIME PERIOD AFTER THE GENUINE PARTS
19 BONDING PLANT IN PORTLAND CEASED MANUFACTURING --

20 A UH-HUH.

21 Q -- BRAKES, WHO -- WHAT WAS THE BRAND NAME OF
22 THE SUPPLIER TO THEN -- WHAT WAS THE BRAND NAME OF THE
23 BRAKE LINING OR BRAKE ITSELF FOR PORTLAND, SEATTLE IN
24 THE NORTHWEST MARKET?

25 A RAYLOC, AND IT REMAINED SO WHEN THE FACILITY

076

1 MOVED TO SALT LAKE.

2 Q HAVE YOU EVER HEARD OF A COMPANY CALLED E.I.S.
3 BRAKES?

4 A E.I.S., YES, I HAVE.

5 Q HOW ARE YOU FAMILIAR WITH THAT COMPANY?

6 A SAME THING: I SEE IT IN TRADE JOURNALS, THINGS
7 OF THIS NATURE. KIND OF A DISTINCTIVE LOGO.

8 Q HAVE YOU SEEN IT IN -- DO YOU KNOW IF THERE WAS
9 A RELATIONSHIP BETWEEN E.I.S. BRAKES AND N.A.P.A.?

10 A NOT THAT I'M AWARE OF.

11 Q IN 1986, THERE WAS A BONDING -- BETWEEN '79 AND
12 '86 THERE WAS A GENUINE PARTS BRAKE BONDING PLANT IN
13 SALT LAKE CITY?

14 A IT WAS IN OMAHA, WENT TO SALT LAKE CITY.

15 MR. RILEY: WAS IN PORTLAND.

16 THE WITNESS: PORTLAND. I'M SORRY.

17 MR. RILEY: PORTLAND.

18 THE WITNESS: IT WAS IN PORTLAND AND THEN WENT
19 TO SALT LAKE CITY.

20 MR. RILEY: IT WAS ACTUALLY LISTED AS PAYSON,
21 UTAH, WHICH IS JUST SOUTH OF SALT LAKE CITY.
22 BY MR. FISHBACK:

23 Q WAS THERE A PARTICULAR BRAND OF BRAKES THAT
24 WERE BEING MANUFACTURED IN THOSE FACILITIES? WAS IT A
25 GENUINE PARTS BRAND BRAKE?

077

1 A IT WAS RAYLOC. IT WAS A GENUINE PARTS
2 FACILITY.

3 Q SO THE BRAKES, THOUGH, WERE RAYLOC BRAND?

4 A CORRECT.

5 Q AT THE COLYEAR BONDING PLANT IN OAKLAND, WERE
6 THE BRAND OF BRAKES BEING MANUFACTURED ALSO RAYLOC, OR
7 WERE THEY SOME OTHER BRAND?

8 A I WOULD MAKE THE ASSUMPTION THAT THEY WERE
9 RAYLOC SINCE RAYLOC -- IT WAS A DERIVATIVE OF THE NAME
10 COLYEAR.

11 Q WHAT DO YOU MEAN, "DERIVATIVE OF THE NAME
12 COLYEAR"?

13 A TURN IT AROUND BACKWORDS, AND COLYEAR SPELLS
14 RAYLOC WITHOUT AN E IN IT.

15 Q HOW DO YOU SPELL COLYEAR?

16 A C-O-L-Y-E-A-R.

17 Q SOMEBODY TELL YOU THAT ONE TIME OR ANOTHER?

18 A SURE. EVERYTHING IN LIFE IS LEARNED.

19 Q DID YOU EVER SEE A -- STRIKE THAT. WERE THE
20 CALI-BLOK BRAKES PACKAGED BY CALI-BLOK BRAKE COMPANY?

21 A YES, SIR.

22 Q AND THEY CAME TO N.A.P.A. DISTRIBUTION CENTERS
23 ALREADY PACKAGED AND IN BOXES?

24 A THAT'S CORRECT.

25 Q DID THEY HAVE THE CALI-BLOK NAME ON THEM OR

078

1 LOGO?

2 A MY RECOLLECTION IS THAT THEY DID, YES.

3 Q DO YOU KNOW IF THEY ALSO HAD THE N.A.P.A. SEAL
4 OR LOGO ON THEM?

5 A I DON'T RECALL THAT.

6 Q DO YOU RECALL THERE EVER BEING A WARNING
7 IMPRINTED REGARDING ASBESTOS HAZARD REGARDING THE USE OF
8 CALI-BLOK BRAKES?

9 A I DON'T RECALL, NO.

10 Q DID ANYONE FROM CALI-BLOK EVER -- OR A
11 REPRESENTATIVE FROM THAT COMPANY EVER COME UP AND TALK
12 WITH YOU WHEN YOU WERE IN SACRAMENTO ABOUT THE HAZARDS
13 ASSOCIATED WITH WORKING WITH AND AROUND CALI-BLOK
14 ASBESTOS-CONTAINING BRAKES?

15 A NO.

16 Q DID CALI-BLOK SUPPLY A CATALOG?

17 A YES, SIR.

18 Q DO YOU RECALL LOOKING AT THAT CATALOG, SEEING
19 IT?

20 A I'M SURE I LOOKED AT IT.

21 Q DO YOU REMEMBER THAT THERE WAS A WARNING
22 REGARDING THE HEALTH HAZARDS ASSOCIATED WITH ASBESTOS AS
23 A RESULT OF WORKING WITH OR AROUND THE CALI-BLOK BRAKES
24 CONTAINED IN THAT CATALOG?

25 A I DON'T RECALL THAT THERE WAS ONE OR IF THERE

079

1 WASN'T ONE.

2 Q WAS THE CALI-BRAKE --

3 MR. RILEY: CALI-BLOK.

4 BY MR. FISHBACK:

5 Q -- CALI-BLOK CATALOG --

6 A IT'S --

7 Q -- SUPPLIED TO THE VARIOUS N.A.P.A. RETAIL

8 OUTLETS? STRIKE THAT QUESTION. I DON'T WANT TO CONFUSE
9 THIS.

10 WERE THE CALI-BLOK CATALOGS SUPPLIED TO THE
11 VARIOUS RETAIL OUTLETS THAT WERE IN THE N.A.P.A.
12 DISTRIBUTION NETWORK?

13 A TO CLARIFY THE CATALOG DISTRIBUTION: I EARLIER
14 TOLD YOU THAT MANUFACTURERS SUPPLIED CATALOGS FOR THE
15 SALE OF THEIR PRODUCT. GENERALLY THEY WERE SHIPPED IN
16 BULK TO A DISTRIBUTION CENTER, THEN REDISTRIBUTED TO THE
17 VARIOUS RETAIL OUTLETS BECAUSE OF THE COST AND HANDLING
18 THAT KIND OF PRODUCT. IF YOU HAVE A 10-POUND CATALOG,
19 EVEN IF YOU'RE TRYING TO SEND IT PARCEL POST, IT GETS
20 MIGHTY EXPENSIVE. THIS WAS AN ECONOMICAL FORM OF
21 DISTRIBUTION.

22 Q SO DID GENUINE PARTS, THEN, ASSEMBLE THE
23 VARIOUS MANUFACTURERS' CATALOG INTO ONE BIG CATALOG?

24 A NO.

25 Q SO THERE WAS A CATALOG FOR EVERY DIFFERENT KIND

080

1 OF PART OR MANUFACTURER?

2 A THAT'S CORRECT. AND THERE WAS AN INDUSTRY
3 STANDARD CALLED THE WEATHERLY INDEX SYSTEM THAT
4 EVERYONE'S CATALOG FIT INTO. FOR AN EXAMPLE, ALL MOTOR
5 PARTS CATALOGS WENT UNDER 001; ALL RADIATOR PRODUCTS
6 WENT UNDER 400. SO THAT'S HOW A RETAIL OUTLET ACTUALLY
7 ASSEMBLED WHAT WE WOULD CALL A COUNTER CATALOG.

8 Q SO WHEN YOU WALK INTO AN AUTOMOTIVE RETAIL
9 STORE, THEY HAVE THAT BIG STACK OF CATALOGS ON THE
10 COUNTER. IT'S ALL ORGANIZED IN SOME VARIOUS FASHION
11 WITH THE VARIOUS MANUFACTURERS' CATALOGS UNDER DIFFERENT
12 TABS.

13 A SURE.

14 Q GENUINE PARTS DIDN'T PUT TOGETHER THAT CATALOG
15 FOR THE RETAIL OUTLETS?

16 A NO.

17 Q YOU JUST SENT IT OVER THERE, AND THEN THE
18 RETAIL OUTLET KNEW HOW TO ASSEMBLE THEM ACCORDINGLY?

19 A RIGHT.

20 Q AND BY -- BY THE WAY, CONCERNING THE TIME
21 PERIOD UP TO 1973, DID GENUINE PARTS PUBLISH ITS OWN
22 CATALOG?

23 A ONLY THE QUICK REFERENCE CATALOG THAT I HAD
24 MENTIONED TO YOU EARLIER.

25 Q WHAT KIND OF INFORMATION IS CONTAINED IN THE

081

1 QUICK REFERENCE CATALOG?

2 A OH, IT'S JUST SUPER-POPULAR NUMBERS, MAKES AND
3 MODELS, THE IDEA BEING TO GIVE IT TO A DEALER WITH THE
4 HOPE THAT HE WOULD BOTHER TO LOOK UP HIS OWN PARTS AND
5 CALL THE PARTS STORE AND SAY, "SEND ME A CS786 ECHLIN"
6 INSTEAD OF "SEND ME A CONTACT SET FOR CHEVROLET."

7 Q RIGHT. HOW WELL DID THAT WORK?

8 A I GUESS YOU PICKED UP ON MY INFLECTION OF THE
9 WORD "HOPE," DIDN'T YOU? NOT VERY WELL.

10 Q DID N.A.P.A. PUBLISH ITS OWN CATALOG BY THAT
11 TIME?

12 A N.A.P.A. BEING THE ASSOCIATION?

13 Q YES, SIR.

14 A I DON'T BELIEVE SO.

15 Q DID GENUINE PARTS HAVE TO PAY DUES TO N.A.P.A.
16 TO BE -- TO MAINTAIN ITS MEMBERSHIP?

17 A IN THAT THE INDEPENDENT OWNERS DID NOT PAY
18 DUES, I WOULD ASSUME THAT THEY DIDN'T PAY DUES.

19 Q THE INDEPENDENT OWNERS MEANING OF THE RETAIL
20 OUTLETS?

21 A RIGHT.

22 Q DO YOU KNOW WHO WAS IN CHARGE OF N.A.P.A.
23 DURING THE TIME PERIOD UP TO SAY BETWEEN '65 AND '73?
24 DID IT HAVE A PRESIDENT OR A C.E.O. OR --

25 A GENERAL MANAGER.

082

1 Q GENERAL MANAGER?

2 A '65 TO '73. COULD HAVE BEEN A GENTLEMAN NAMED
3 DICK DEGNAN WHO SINCE PASSED AWAY. THERE HAVE BEEN
4 SEVERAL GENERAL MANAGERS OF N.A.P.A. OVER THE YEARS.

5 Q WHO'S THE GENERAL MANAGER OF N.A.P.A. TODAY?
6 DO YOU KNOW?

7 A NO, I DO NOT.

8 Q WHO WAS THE GENERAL MANAGER OF N.A.P.A. WHEN
9 YOU WERE LAST EMPLOYED BY GENUINE PARTS?

10 A I BELIEVE IT WAS STEVE HANDSCHU, BUT I DON'T
11 KNOW THAT FOR SURE.

12 Q WHERE IS N.A.P.A. HEADQUARTERED?

13 A CURRENTLY IN ATLANTA, GEORGIA. STARTED IN
14 DETROIT AND MOVED TO CHICAGO. NOW IT'S IN ATLANTA.

15 Q DOES IT OCCUPY OFFICES DIFFERENT FROM THOSE OF
16 GENUINE PARTS?

17 A THEY'RE ON THE SAME CAMPUS.

18 Q HOW LARGE IS THE GENUINE PARTS CAMPUS?

19 A SURPRISINGLY SMALL FOR A COMPANY THAT BIG.
20 THREE-STORY BUILDING.

21 Q IN ATLANTA PROPER?

22 A IN THE SUBURB, CIRCLE 75 PARKWAY.

23 Q DOES N.A.P.A., AS YOU KNOW IT, HAVE ITS OWN
24 FULL STAFF OF -- OF EMPLOYEES?

25 A IT'S MY UNDERSTANDING, YES.

083

1 I'M SORRY.

2 MR. FISHBACK: YOU NEED TO TAKE A BREAK? SURE.

3 (RECESS.)

4 BY MR. FISHBACK:

5 Q WHAT TERRITORY OR REGION DID YOU COVER AS THE
6 GENERAL MANAGER FOR THE SACRAMENTO, CALIFORNIA
7 DISTRIBUTION CENTER?

8 A SACRAMENTO DISTRIBUTION CENTER SERVED TO THE
9 OREGON BORDER, TO THE COASTAL MOUNTAINS ON THE WEST, AND
10 TO NEVADA -- TO RENO, CARSON CITY, GARDNERVILLE -- AND
11 TO THE SOUTH TO STOCKTON, CALIFORNIA.

12 Q SO YOU DIDN'T -- SACRAMENTO DIDN'T SERVICE THE
13 SACRAMENTO BAY AREA?

14 A NO, IT DIDN'T.

15 Q STOPPED JUST BEFORE THAT?

16 A RIGHT.

17 Q DID IT GO AS FAR AS FAIRFIELD?

18 A FAIRFIELD WAS SERVED BY THE THEN-SAN FRANCISCO
19 DISTRIBUTION CENTER --

20 Q OKAY.

21 A -- AND CONTINUED TO BE SERVED WHEN THE FACILITY
22 WAS MOVED TO MORGAN HILL. SO IT WASN'T A SQUARE BLOCK.

23 Q WHAT ABOUT -- WHO SERVICED THE AREA BETWEEN
24 SACRAMENTO AND FAIRFIELD?

25 A THE ONLY OTHER --

084

1 Q IF THERE WAS --

2 A THERE WERE TWO STORES, TWO TOWNS THERE.
3 VACAVILLE BEGAN BEING SERVED BY SAN FRANCISCO. THAT
4 TRANSFERRED TO SACRAMENTO, AND SACRAMENTO ALWAYS DID
5 SERVE DAVIS.

6 Q YEAH. WHAT ABOUT THE AREA EAST OF STOCKTON TO
7 THE NEVADA BORDER? TO THE EXTENT THAT THERE WERE ANY
8 OUTLETS THERE, THAT WOULD INCLUDE SONORA, FOR EXAMPLE?

9 A SONORA ENDED UP BEING SERVED BY THE FRESNO
10 DISTRIBUTION CENTER.

11 Q AND WHAT ABOUT THE NORTHWEST COAST OF
12 CALIFORNIA? WAS THAT SERVICED BY SACRAMENTO OR BY SOME
13 OTHER DISTRIBUTION CENTER LIKE SAN FRANCISCO?

14 A SAN FRANCISCO, THEN MORGAN HILL. RIGHT.

15 Q WHAT IS A N.A.P.A. JOBBER?

16 A HE'S AN INDEPENDENT OWNER THAT OWNS A PARTS
17 STORE. JOBBER IS AN ANCIENT TERM THAT EVERY EFFORT HAS
18 BEEN MADE TO CHANGE THAT. A JOBBER IS A GUY THAT IS IN
19 THE DIRTY WAREHOUSE WITH A CIGAR IN HIS MOUTH.

20 Q SO ALL OF THE INDEPENDENT RETAIL OUTLETS THAT
21 WERE SUPPLIED THROUGH THE N.A.P.A. DISTRIBUTION NETWORK
22 WERE CALLED N.A.P.A. JOBBERS --

23 A CORRECT.

24 Q -- OR COULD BE REFERRED TO AS N.A.P.A. JOBBERS?

25 A THAT'S RIGHT.

085

1 Q IS THERE A LIST THAT YOU KNOW OF OF N.A.P.A.
2 JOBBERS IN CALIFORNIA FOR THE YEARS UP TO 1980?

3 A IF YOU'RE LOOKING FOR A SPECIFIC YEAR, I'M NOT
4 CERTAIN. THAT LIST IS AN EVOLVING LIST. AS -- AS
5 STORES ARE ADDED, THEY'RE ADDED TO THE LIST. AS STORES
6 CLOSE, THEY'RE DELETED FROM THE LIST.

7 Q BUT IT'S CERTAINLY THE PRACTICE OF GENUINE
8 PARTS TO MAINTAIN ITS CUSTOMER LIST; CORRECT?

9 A BY LOCATION, YES.

10 Q AND THEN THE QUESTION IS, THEN: HOW OFTEN IS
11 THE LIST UPDATED? DO YOU KNOW?

12 A WE MAINTAIN A LIST NAME, ADDRESS, PHONE NUMBER,
13 NUMBER OF CATALOGS REQUIRED, OWNER, MANAGER,
14 SALESPERSON, WHATEVER, AND WE MAINTAIN THAT ANNUALLY.
15 IT'S UPDATED ANNUALLY.

16 Q HOW LONG ARE THOSE LISTS KEPT?

17 A WHEN I WAS THE MANAGER, THEY WEREN'T KEPT.

18 Q THEY WERE JUST DISCARDED YEARLY?

19 A RIGHT.

20 Q DO YOU KNOW IF GENUINE PARTS HAS A DOCUMENT
21 RETENTION POLICY CONCERNING THOSE CUSTOMER LISTS?

22 A I DO NOT KNOW.

23 Q WHAT OTHER WAYS DID GENUINE PARTS COMPANY TRACK
24 ITS CUSTOMERS, INDEPENDENT RETAIL OUTLET CUSTOMERS?

25 A I ASSUME YOU'RE TALKING ABOUT TRACKING THEIR

086

1 SALES OR THEIR PURCHASES FROM THE DISTRIBUTION CENTER.

2 Q DID THEY --

3 A TRACKED THEM THAT WAY.

4 Q WHERE IS THAT -- WHERE WAS THAT INFORMATION
5 MAINTAINED?

6 A IT BEGAN TO BE COMPUTERIZED SOMEWHERE IN THE
7 MIDDLE '60S, BUT I DON'T RECALL HOW LONG THE HISTORY WAS
8 KEPT. YOU KNOW, TYPICALLY IF I WERE LOOKING AT A
9 PURCHASE SUMMARY, WHICH IS WHAT THAT WAS CALLED, IT
10 WOULD SHOW ABOUT THREE YEARS OF HISTORY.

11 Q DO YOU KNOW IF THE SALES MANAGERS KEPT MORE
12 DETAILED RECORDS OF CUSTOMERS?

13 A NO, SIR.

14 Q WAS THERE A SALES TEAM THAT OPERATED OUT OF
15 SACRAMENTO?

16 A YES.

17 Q DID THE SALES TEAM OPERATE OUT OF ALL THE
18 DISTRIBUTION CENTERS?

19 A TO MY KNOWLEDGE, YES.

20 Q WHAT DID YOU DO AFTER YOU LEFT SACRAMENTO AS A
21 GENERAL MANAGER?

22 A I WENT TO SEATTLE, WASHINGTON AS A GENERAL
23 MANAGER.

24 Q AND WERE YOUR JOB DUTIES DIFFERENT THAN WHEN --
25 THAN THE DUTIES YOU HAD AT SACRAMENTO?

087

1 A NO. THEY WERE THE SAME, JUST A LARGER
2 OPERATION.

3 Q OTHER THAN THE DISTINCTION IN THE BRAKES THAT
4 WERE DISTRIBUTED THROUGH N.A.P.A. FOR THE PACIFIC
5 NORTHWEST THAT YOU DESCRIBED EARLIER, DID YOU SEE A
6 DIFFERENCE IN ANY OF THE OTHER AUTOMOTIVE PRODUCTS THAT
7 WERE SUPPLIED BY N.A.P.A.?

8 A IN THE NORTHWEST, THERE WAS A SUPPLIER OF OTHER
9 REBUILT PRODUCTS, NOTABLY ELECTRICAL, WATER PUMPS, AND
10 THAT WAS A COMPANY CALLED PARTEX, P-A-R-T-E-X, AND THEY
11 WERE HEADQUARTERED IN -- AT THAT TIME IN SEATTLE.

12 Q AND SO PARTEX WAS THEN SELLING PRODUCTS TO
13 GENUINE PARTS FOR DISTRIBUTION THROUGH ITS N.A.P.A.
14 NETWORK?

15 A THAT'S RIGHT.

16 Q AND THAT WAS ONLY THROUGH THE PACIFIC
17 NORTHWEST; CORRECT?

18 A YES.

19 Q BY 1973 DO YOU KNOW IF THERE WAS AN AREA OF THE
20 CONTINENTAL UNITED STATES THAT WASN'T BEING SERVICED BY
21 A N.A.P.A. ENTITY?

22 A AN ENTITY BEING THE DISTRIBUTION CENTER?

23 Q YES. A N.A.P.A. DISTRIBUTION CENTER, WHETHER
24 IT BE OWNED BY GENUINE PARTS OR SOME OTHER MEMBER OF
25 N.A.P.A.

088

1 A I DON'T BELIEVE THAT THERE WERE ANY VOIDS. IT
2 MAY HAVE BEEN SPARSE IN CERTAIN PARTS OF THE COUNTRY BUT
3 NO VOIDS.

4 Q PRIOR TO 1973, WAS THERE A -- AN EARLIER DATE
5 IN TIME WHEN YOU BELIEVED THAT THERE WERE NO VOIDS IN
6 DISTRIBUTION OF N.A.P.A. ACROSS THE COUNTRY?

7 A NO.

8 Q SO 1973 WOULD HAVE BEEN THE FIRST YEAR, TO YOUR
9 KNOWLEDGE, THAT N.A.P.A. DISTRIBUTION CENTERS COVERED
10 THE ENTIRE CONTINENTAL UNITED STATES?

11 A I DON'T KNOW THAT THAT'S CORRECT. IT COULD
12 HAVE VERY WELL BEEN MUCH EARLIER THAN THAT.

13 Q YOU JUST DON'T HAVE THE INFORMATION?

14 A NO, SIR, I DON'T.

15 Q WHY WERE YOU MOVED FROM SACRAMENTO TO SEATTLE?

16 A I WAS PROMOTED.

17 Q WHY WAS IT A PROMOTION IF YOU WERE STILL A
18 GENERAL MANAGER?

19 A A LARGER OPERATION GENERATING MORE SALES AND
20 PROFITS.

21 Q DID GENUINE PARTS DISTRIBUTE INTO CANADA?

22 A NO.

23 Q DO YOU KNOW HOW MANY N.A.P.A. JOBBERS THERE
24 WERE WEST OF THE ROCKIES BY 1973?

25 A NO, I DO NOT.

089

1 Q CAN YOU GIVE ME AN ESTIMATION? WAS THERE OVER
2 A HUNDRED?

3 A OH, CERTAINLY.

4 Q WAS IT OVER A THOUSAND?

5 A GIVEN THAT THERE ARE PROBABLY -- LET'S SEE. I
6 THINK THERE ARE 11 OR 12 N.A.P.A. DISTRIBUTION CENTERS
7 WEST OF THE ROCKIES. A THOUSAND WOULD PROBABLY BE A
8 PRETTY GOOD NUMBER.

9 Q COULD -- COULD IT BE MORE?

10 A NOT MUCH MORE.

11 Q WHO WERE YOUR MAIN COMPETITORS AS OF 1973 LET'S
12 SAY THAT IN THE AREA WEST OF THE ROCKIES FOCUSING
13 PRIMARILY ON CALIFORNIA?

14 A NATIONALLY, AMERICAN PARTS, WHICH THEN BECAME
15 KNOWN AS BIG A; A LOT OF LOCAL INDEPENDENT DISTRIBUTORS
16 ALMOST IN EVERY MARKETPLACE, NOT TOO MANY TIED TO A
17 NATIONAL UMBRELLA.

18 Q WAS BIG A A NATIONAL -- TIED TO THE NATIONAL
19 UMBRELLA, AS YOU SAID?

20 A PRETTY MUCH.

21 Q WHEN YOU SAY LOCAL DISTRIBUTORS, ARE YOU
22 REFERRING TO SOMETHING LIKE A LOCAL WHOLESALE OUTLET?

23 A YES.

24 Q IS THERE ANY OF THOSE PARTICULAR LOCAL
25 DISTRIBUTORS THAT YOU FOUND TO BE PARTICULARLY

090

1 COMPETITIVE?

2 MR. RILEY: WHERE?

3 MR. FISHBACK: IN CALIFORNIA.

4 MR. RILEY: NOT SEATTLE?

5 MR. FISHBACK: NO.

6 Q AGAIN, MY QUESTION WAS FOCUSING ON THE WEST
7 COAST WEST OF THE ROCKIES WITH A FOCUS ON CALIFORNIA,
8 BUT IF YOU --

9 A SOME COME TO MIND. IN SACRAMENTO THERE WAS A
10 COMPANY CALLED C & L, CHANCER & LYON, A VERY GOOD HOUSE
11 AND A GOOD COMPETITOR. EVERY METROPOLITAN MARKET THAT I
12 HAVE WORKED IN HAS HAD A STRONG COMPETITOR.

13 Q WAS THERE ANY AREA OR METROPOLITAN AREA OR
14 REGION WHERE GENUINE PARTS WERE DRIVEN OUT OF BUSINESS
15 BECAUSE OF A LOCAL DISTRIBUTOR --

16 A NO.

17 Q -- YOU KNOW, HAD TO SHUT DOWN THEIR OPERATION
18 BECAUSE THEY COULDN'T COMPETE?

19 A NO.

20 Q WAS THERE TIMES WHEN IT WAS THE OTHER WAY
21 AROUND, WHEN THE LOCAL DISTRIBUTORS WERE UNABLE TO
22 COMPETE WITH GENUINE PARTS AND WERE FORCED OUT OF
23 BUSINESS?

24 A NOT TO MY KNOWLEDGE.

25 Q WAS THERE ANY PARTICULAR LOCATION IN CALIFORNIA

091

1 UP TO 1973 THAT GENUINE PARTS DIDN'T SERVICE THROUGH ITS
2 N.A.P.A. JOBBERS?

3 A SAN FRANCISCO.

4 Q SO THERE WERE NO N.A.P.A. OUTLETS IN
5 SAN FRANCISCO?

6 A NO.

7 Q WHY WAS THAT?

8 A THE RENT'S TOO HIGH, THE LABOR'S TOO EXPENSIVE,
9 THE MARKET'S TOO COMPETITIVE, AND YOU CAN'T FIND A PLACE
10 TO PARK YOUR CAR. OTHER THAN THAT, IT WOULD BE A GREAT
11 PLACE TO DO BUSINESS.

12 BY MR. FISHBACK:

13 Q ANY OTHER AREAS WHERE THERE WAS NO N.A.P.A.
14 PRESENCE?

15 A THERE COULD BE. THEY JUST DON'T COME TO MIND.
16 THAT ONE WAS SIGNIFICANT BECAUSE THAT'S A LARGE CITY.

17 Q WERE THERE ATTEMPTS MADE TO ACCESS
18 SAN FRANCISCO BUT IT JUST NEVER WORKED OUT RIGHT?

19 A NEVER WORKED OUT RIGHT.

20 Q WAS THERE AT ANY TIME PRIOR TO 1973 A
21 PROFITABLE N.A.P.A. OUTLET, MEANING A RETAIL
22 INDEPENDENTLY OWNED RETAIL OUTLET, IN SAN FRANCISCO FOR
23 ANY SIGNIFICANT AMOUNT OF TIME?

24 A I DON'T KNOW.

25 Q WHAT DID YOU DO AFTER YOU -- STRIKE THAT. HOW

092

1 MANY PEOPLE WERE YOU SUPERVISING AS A GENERAL MANAGER IN
2 SEATTLE?

3 A OH, I DON'T KNOW. A HUNDRED, SOMEWHERE IN
4 THERE.

5 Q YOU HAD BEEN WITH THE COMPANY WHEN YOU WERE IN
6 SEATTLE NEARLY 20 YEARS. WERE THERE OTHERS WHO HAD BEEN
7 THERE LONGER?

8 A IN SEATTLE?

9 Q NO. IN GENUINE PARTS.

10 A OH, CERTAINLY.

11 Q WHO WAS YOUR -- WHO WAS YOUR BOSS WHEN YOU WERE
12 IN SEATTLE?

13 A THAT WAS WHAT WAS CALLED THE NORTHWEST
14 DIVISION, AND WHEN I WENT THERE, A GENTLEMAN NAMED BEN
15 GARVIN WAS THE NORTHWEST DIVISION MANAGER. HE IS WHO I
16 ANSWERED TO.

17 Q WHERE DID YOU GO AFTER YOU LEFT SEATTLE?

18 A IN 1979, I WENT TO PORTLAND, OREGON.

19 Q WHAT WAS YOUR JOB TITLE THERE?

20 A GENERAL MANAGER.

21 Q HOW LONG WERE YOU IN PORTLAND?

22 A TO 1986.

23 Q HOW WERE YOUR DUTIES DIFFERENT FROM YOUR
24 POSITIONS IN SACRAMENTO AND SEATTLE?

25 A NONE.

093

1 Q WERE THE PRODUCTS THAT N.A.P.A. WAS -- AND
2 GENUINE PARTS WERE SUPPLYING MARKEDLY DIFFERENT FROM
3 THOSE PRODUCTS YOU HAD PREVIOUSLY SEEN SUPPLIED THROUGH
4 THE N.A.P.A. DISTRIBUTION NETWORK?

5 A NOT REALLY, NO.

6 Q AND THROUGHOUT THIS TIME UP TO 1986, IS IT YOUR
7 UNDERSTANDING THAT THE COMPANY WAS GROWING BOTH IN
8 NUMBER OF EMPLOYEES AND TOTAL SALES?

9 A YES.

10 Q AND AS WELL AS IN ITS ACQUISITION OF OTHER
11 COMPANIES; CORRECT?

12 A I WISH I COULD TELL YOU THE DATES OF THE
13 ACQUISITIONS, BUT I CANNOT. YOU KNOW, ACQUISITIONS
14 CONTINUED. FOR EXAMPLE, WHEN I WAS IN PORTLAND,
15 SOMEWHERE BETWEEN -- AGAIN, SOMEWHERE BETWEEN '73 AND
16 '79, THE N.A.P.A. DISTRIBUTION CENTERS IN CHICAGO AND
17 NORMAL, ILLINOIS WERE ACQUIRED. THE ONES HEADQUARTERED
18 IN DALLAS WERE ACQUIRED. SO --

19 MR. RILEY: WHILE YOU WERE IN PORTLAND, YOU
20 SAID, SEVENTY -- YOU SAID WHILE YOU WERE IN SEATTLE.

21 THE WITNESS: I'M SORRY.

22 MR. RILEY: YOU MEAN '79 TO '86?

23 THE WITNESS: '79 TO '86. THANK YOU.

24 BY MR. FISHBACK:

25 Q DID YOU SEE ANY DIFFERENCE WHEN YOU WERE IN

094

1 PORTLAND AS TO THE RELATIONSHIP BETWEEN GENUINE PARTS
2 AND THE N.A.P.A. JOBBERS?

3 A IN WHAT RESPECT?

4 Q WELL, FOR EXAMPLE, YOU HAD TALKED EARLIER ABOUT
5 THE HANDSHAKE DEALS REGARDING DISTRIBUTION. DID THAT
6 CHANGE, TO YOUR KNOWLEDGE?

7 A THAT CONTINUED ON THROUGHOUT MY CAREER.

8 Q DID GENUINE PARTS STILL OPERATE ITS OWN RETAIL
9 OUTLETS?

10 A WE DID IN PORTLAND. WE HAD LIMITED COVERAGE IN
11 SEATTLE. SEATTLE WAS A MIXTURE OF A COUPLE OF
12 COMPANY-OWNED STORES, AND THE BALANCE OF THEM BEING
13 INDEPENDENT OWNERSHIPS.

14 Q WAS THERE A LIST OF COMPANY-OWNED STORES?

15 A YES.

16 Q DID YOU HAVE THAT LIST?

17 A DO I HAVE THAT LIST? NO.

18 Q DID YOU?

19 A DID I HAVE THAT? YES, I HAD THE LIST.

20 Q HOW REGULARLY WAS THAT LIST UPDATED?

21 A ANNUALLY, ALONG WITH THE OTHERS.

22 Q IT WAS A DIFFERENT LIST, THOUGH, THAN THE
23 INDEPENDENT N.A.P.A. JOBBERS LIST; RIGHT?

24 A WE WERE RATHER ECONOMICAL. IT WAS ON THE SAME
25 8 1/2-BY-11 PIECE OF PAPER.

095

1 Q CAN YOU TELL ME ALL OF THE RETAIL OUTLETS
2 OPERATED BY GENUINE PARTS IN CALIFORNIA IN THE YEAR 1959
3 TO 1980?

4 A NO, SIR, I CANNOT.

5 Q CAN YOU GIVE ME ANY OF THE NAMES -- OR
6 LOCATIONS OF ANY GENUINE PARTS RETAIL OUTLETS IN
7 CALIFORNIA BETWEEN 1959 AND 1980?

8 A YOUR QUESTION WOULD BE MORE APPROPRIATELY 1965
9 TO 1980 'CAUSE THAT'S WHEN GENUINE PARTS CAME TO
10 CALIFORNIA. AND I CANNOT GIVE YOU THOSE, NO, SIR.

11 Q CAN YOU GIVE ME THE NAMES OF ANY?

12 A NO, SIR. THE OPERATION I MANAGED FROM '71 TO
13 '73 DID NOT HAVE COMPANY-OWNED STORES.

14 Q YOU HAD EARLIER MENTIONED, I THOUGHT, THAT
15 THERE WAS A RETAIL OUTLET IN SACRAMENTO?

16 A THERE -- THERE WAS AN INDEPENDENT RETAIL OUTLET
17 IN SACRAMENTO.

18 Q BUT IT WASN'T A GENUINE PARTS-OWNED --

19 A NO, SIR.

20 Q AND AS YOU SIT HERE TODAY, YOU CAN'T RECALL THE
21 NAMES OR LOCATIONS OF ANY OF THE GENUINE PARTS-OWNED
22 RETAIL OUTLETS IN CALIFORNIA?

23 A AS I HAD MENTIONED TO YOU EARLIER IN -- I
24 DIDN'T BELIEVE THERE WERE ANY IN FRESNO, CALIFORNIA.
25 THERE WERE NONE IN SAN FRANCISCO, THEN TO BECOME MORGAN

096

1 HILL, AND I'M NOT CERTAIN ABOUT LOS ANGELES AND SAN
2 DIEGO.

3 Q THE RETAIL OUTLETS WERE NOT ALWAYS AT THE SAME
4 LOCATION AS THE DISTRIBUTION CENTER; RIGHT?

5 A THAT'S CORRECT.

6 Q THERE WAS A DISTRIBUTION CENTER IN CITY X AND
7 THEN A GENUINE PARTS RETAIL OUTLET IN CITY Y. LET ME
8 BACK UP AND MAKE IT MORE SPECIFIC. SEATTLE HAD A
9 DISTRIBUTION CENTER; CORRECT?

10 A RIGHT.

11 Q SEATTLE ALSO HAD A RETAIL OUTLET, GENUINE PARTS
12 RETAIL OUTLET; CORRECT?

13 A CORRECT.

14 Q WERE THEY ON THE SAME PHYSICAL PROPERTY?

15 A THEY WERE NOT, BUT THEY WERE IN THE SAME CITY.

16 Q CORRECT. SO THERE WAS -- THERE WERE OTHER
17 LOCATIONS WHERE GENUINE PARTS HAD A DISTRIBUTION CENTER
18 WHERE THE RETAIL OUTLET WAS LOCATED AT THE SAME PROPERTY
19 LOCATION; IS THAT CORRECT?

20 A THAT'S RIGHT.

21 Q LIKE OMAHA, FOR EXAMPLE?

22 A RIGHT.

23 Q AND THEN THERE -- THERE WAS THE ALTERNATIVE TO
24 THAT WHERE GENUINE PARTS OPERATED A DISTRIBUTION CENTER,
25 AND IN THE SAME CITY BUT A DIFFERENT PROPERTY, GENUINE

097

1 PARTS ALSO OPERATED A RETAIL STORE.

2 A IT WASN'T AN ALTERNATIVE. THE CRITERIA WOULD
3 HAVE BEEN THAT IF THE DISTRIBUTION CENTER WERE LOCATED
4 IN AN AREA THAT WAS CONDUCIVE TO RETAIL-TYPE BUSINESS
5 AND THE BUILDING COULD ACCOMMODATE THE FACILITY, THEN
6 THERE WAS A RETAIL OUTLET WITHIN THAT FACILITY, BUT
7 THERE WERE ALSO ALWAYS ADDITIONAL WHAT WE WOULD CALL
8 BRANCH STORES LOCATED AWAY FROM THE DISTRIBUTION CENTER.

9 Q TO YOUR KNOWLEDGE, WERE THERE ALWAYS BRANCH
10 STORES IN CALIFORNIA AFTER 1965?

11 MR. RILEY: ASKED AND ANSWERED. HE SAID
12 SEVERAL TIMES THAT THERE WERE NOT.

13 MR. FISHBACK: NO. IT'S NOT WHAT HE SAID. HE
14 SAID HE COULDN'T TELL ME WHERE THEY WERE.

15 THE WITNESS: WHAT I SAID WAS THAT THERE WERE
16 NO COMPANY-OWNED STORES IN SACRAMENTO, FRESNO, MORGAN
17 HILL/SAN FRANCISCO, AND WHETHER THERE WERE COMPANY-OWNED
18 STORES IN LOS ANGELES AND SAN DIEGO, I COULDN'T TELL.
19 BY MR. FISHBACK:

20 Q WHAT ABOUT ALL THE OTHER CITIES IN CALIFORNIA?

21 A THOSE ARE THE CITIES THAT WE OPERATED
22 DISTRIBUTION CENTERS.

23 Q I UNDERSTAND, BUT YOU ALSO JUST TOLD ME THAT
24 THERE WERE LOCATIONS WHERE GENUINE PARTS OPERATED A
25 DISTRIBUTION CENTER -- STRIKE THAT. ISN'T IT ALSO THE

098

1 CASE THAT GENUINE PARTS HAD BRANCH STORES IN CITIES
2 WHERE THERE WAS NO DISTRIBUTION CENTER?

3 A FROM THE DEFINITION THAT IT COULD BE A TOWN
4 WITHIN THE METROPOLITAN AREA. SO, FOR AN EXAMPLE, IF
5 WE'RE LOOKING HERE IN PHOENIX, OUR DISTRIBUTION CENTER
6 HERE IS IN PHOENIX. WE HAVE A BRANCH STORE IN TEMPE.
7 WE HAVE A BRANCH STORE IN MESA. WE HAVE A BRANCH STORE
8 IN SCOTTSDALE, BUT WE DO NOT HAVE A BRANCH STORE 50,
9 60 MILES AWAY IN PAYSON, UTAH.

10 Q SO THAT ONLY SUGGESTS THAT THE BRANCH STORES
11 ARE WITHIN SOME REASONABLE PROXIMITY OF A DISTRIBUTION
12 CENTER?

13 A GENERALLY THERE ARE BOUNDARIES WHERE YOU DON'T
14 KNOW IF YOU'RE IN ONE OR YOU'RE IN ONE OF THE OTHER,
15 GENERALLY SPEAKING.

16 Q WHAT DID YOU DO AFTER YOU WERE GENERAL MANAGER
17 IN PORTLAND?

18 A I MOVED TO FRESNO IN 1986.

19 Q AND YOU WERE A GENERAL MANAGER THERE?

20 A CORRECT.

21 Q TILL WHAT TIME?

22 A TILL 1992, AND I WAS TRANSFERRED HERE TO
23 PHOENIX AS THE GENERAL MANAGER UNTIL THE TIME THAT I
24 RETIRED.

25 Q YOU RETIRED IN 1999; RIGHT?

099

1 A YES, SIR.
2 Q DID YOU TAKE REGULAR RETIREMENT?
3 A EARLY RETIREMENT. I'M YOUNGER THAN I LOOK.
4 Q ARE YOU RECEIVING A PENSION --
5 A YEAH.
6 Q -- FROM GENUINE PARTS?
7 A YES, SIR.
8 Q ARE YOU A STOCKHOLDER IN THE COMPANY?
9 A I'M A MINOR STOCKHOLDER.
10 Q WHAT PERCENTAGE OF YOUR INCOME IS GENERATED AS
11 A RESULT OF YOUR STOCK HOLDINGS IN GENUINE PARTS?
12 A IT WOULDN'T PAY MY PAPER BILL.
13 Q OKAY. HOW LONG HAVE YOU BEEN A STOCKHOLDER?
14 A I FIRST HELD STOCK IN 1959. I BOUGHT AND SOLD
15 STOCK ALL THROUGH THOSE YEARS, AND I HAVE VERY LITTLE AT
16 THIS POINT IN TIME.
17 Q ARE YOU RECEIVING COMPENSATION FOR YOUR TIME
18 TODAY?
19 A NO, I AM NOT.
20 Q IS ANY AMOUNT OF YOUR PENSION LINKED TO THE
21 PROFITABILITY OF GENUINE PARTS?
22 A ONLY TO THE EXTENT THAT PROFITS FUND THE
23 PENSION FUND BUT NOT -- IT DOESN'T FLUCTUATE WITH
24 PROFITABILITY, NO.
25 Q ARE YOU STILL RECEIVING ANY SORT OF HEALTH OR

100

1 INCIDENTAL BENEFITS THROUGH GENUINE PARTS?

2 A I'VE NOW REACHED THE GOLDEN AGE OF MEDICARE.
3 SO I DO HAVE A MEDICARE SUPPLEMENT AVAILABLE THROUGH
4 GENUINE PARTS AT A PRICE WHICH I'VE REVIEWED TO SEE --
5 WHICH SEEMED TO BE COMPETITIVE IN THE INSURANCE MARKET.
6 THERE'S NO SUBSIDY TO IT, IF THAT'S WHAT YOU'RE ASKING.

7 Q WHEN YOU RETIRED, DID SOMEONE TELL YOU YOU
8 MIGHT HAVE TO COME AND DO DEPOSITIONS?

9 A NO.

10 Q WHEN DID YOU FIND OUT ABOUT THIS DEPOSITION?

11 A I -- WELL, I FOUND OUT ABOUT THE DEPOSITION A
12 WEEK AGO. WE'VE HAD CONVERSATION, PAT AND I, ASKING ME
13 QUESTIONS. WE MET A FEW YEARS AGO, AND IT JUST EVOLVED
14 TO THIS. HE ASKED IF I'D BE WILLING TO DO THIS, AND I
15 TOLD HIM YES.

16 Q DID YOU DO ANYTHING IN PARTICULAR IN
17 PREPARATION FOR YOUR DEPOSITION TODAY?

18 A NO, SIR.

19 Q WERE YOU SHOWN ANY DOCUMENTS IN PREPARATION FOR
20 YOUR DEPOSITION?

21 A NO, SIR.

22 Q DID YOU ASK TO SEE ANY DOCUMENTS --

23 A NO.

24 Q -- IN PREPARATION FOR THE DEPOSITION?

25 A NO.

101

1 Q OTHER THAN CONVERSATIONS YOU HAD WITH ANY
2 ATTORNEYS, DID YOU HAVE ANY CONVERSATIONS WITH ANYONE IN
3 PREPARATION FOR THIS DEPOSITION?

4 A NO, I DID NOT.

5 Q DO YOU CURRENTLY HAVE IN YOUR POSSESSION ANY
6 CATALOGS FROM N.A.P.A. OR GENUINE PARTS?

7 A NO, I DO NOT.

8 Q DO YOU CURRENTLY HAVE IN YOUR POSSESSION ANY OF
9 THE LISTS OF N.A.P.A. JOBBERS OR N.A.P.A. -- OR GENUINE
10 PARTS BRANCH STORES?

11 A I HAVE NOTHING.

12 Q ALL RIGHT. CAN I HAVE THE DEPOSITION NOTICE.
13 WHEN YOU WERE IN FRESNO IN 1986 TO 1992, HOW FAMILIAR
14 DID YOU BECOME WITH THE PRIOR OPERATIONS IN FRESNO?

15 A I'M SORRY. YOU HAVE TO CLARIFY THAT FOR ME.

16 Q WELL, HOW LONG HAD THE FRESNO DISTRIBUTION
17 CENTER BEEN IN OPERATION PRIOR TO YOUR BECOMING GENERAL
18 MANAGER?

19 A AS FAR AS I KNOW, FRESNO WAS AN ONGOING
20 OPERATION GOING BACK WELL INTO THE COLYEAR MOTOR SALES
21 DAYS. HOW FAR BACK, I COULDN'T TELL YOU, BUT I DO KNOW
22 WHEN I WAS IN SACRAMENTO IN 1971 FRESNO DISTRIBUTION
23 CENTER WAS ALSO IN EXISTENCE IN 1971.

24 Q DO YOU -- YOU SAID THAT YOU HAD -- YOU'RE
25 FAMILIAR WITH THE CITY OF MENDOTA; CORRECT?

102

1 A YES.
2 Q HAVE YOU BEEN TO MENDOTA?
3 A OH, YES.
4 Q YOU DIDN'T LIVE IN MENDOTA, DID YOU?
5 A NO, NO.
6 Q OKAY. THERE WERE N.A.P.A. JOBBERS IN MENDOTA?
7 A THERE WAS ONE, SOMEWHAT OF A MAVERICK. I'M
8 HAVING TROUBLE RECALLING HIS NAME. FIRST NAME, CHUCK.
9 CAN'T REMEMBER HIS LAST NAME.
10 Q DO YOU REMEMBER HOW LONG CHUCK HAD BEEN A
11 N.A.P.A. JOBBER?
12 A I BELIEVE HE TOOK IT OVER FROM HIS FATHER. I
13 BELIEVE IT'S A LONGTIME OPERATION.
14 Q LET ME SEE IF I CAN GET YOU HIS -- REFRESH YOUR
15 RECOLLECTION AS TO HIS LAST NAME. ONE SECOND.
16 A YEAH. THAT WILL BE FINE. HE WAS A CHALLENGE.
17 Q WELL, MAYBE I CAN'T.
18 A WELL, I'M REACHING THE AGE WHERE I'LL REMEMBER
19 IN A COUPLE OF DAYS AND I'LL CALL YOU.
20 Q YEAH.
21 MR. RILEY: CALL ME, NOT HIM.
22 BY MR. FISHBACK:
23 Q AT ANY RATE, THERE WAS A FELLOW BY THE -- YOU
24 RECALL HIS FIRST NAME BEING CHUCK WHO RAN THE N.A.P.A.
25 JOBBER STORE IN MENDOTA?

103

1 A YES, SIR.

2 Q AND DO YOU KNOW HOW LONG THAT STORE HAD BEEN IN
3 OPERATION?

4 A I HAD MENTIONED EARLIER I THOUGHT THAT HE HAD
5 TAKEN IT OVER FROM HIS FATHER. I THOUGHT IT WAS A
6 LONGTIME OPERATION.

7 Q WHAT INFLUENCE OR ROLE DID GENUINE AUTO PARTS
8 HAVE IN THE DAY-TO-DAY OPERATION OF THE JOBBER STORES?

9 MR. RILEY: GENUINE PARTS, NOT GENUINE AUTO
10 PARTS.

11 MR. FISHBACK: LET ME REPHRASE THE QUESTION TO
12 MAKE SURE IT'S CORRECT.

13 Q WHAT ROLE DID GENUINE PARTS HAVE IN THE
14 DAY-TO-DAY OPERATION OF THE N.A.P.A. JOBBER STORES?

15 A IT WAS THE ROLE OF ASSISTANCE, SUPPLYING THEIR
16 PARTS NEEDS ON A REGULAR BASIS AND PROMPTLY, BUT AS FAR
17 AS DICTATING POLICY, PROCEDURE, NONE.

18 Q DID GENUINE PARTS REQUIRE THAT THE N.A.P.A.
19 LOGO BE DISPLAYED?

20 A NO, IT DID NOT. AS I HAD MENTIONED EARLIER,
21 THERE WERE NO CONTRACTS OR AGREEMENTS.

22 Q WAS IT PART OF THE UNSPOKEN AGREEMENT, THAT IN
23 FACT THE N.A.P.A. LOGO WOULD BE DISPLAYED IN A PROMINENT
24 LOCATION AT THE JOBBER STORE?

25 A THERE WAS AN ENCOURAGEMENT TO DISPLAY IT.

104

1 HOWEVER, I CAN THINK OF A VERY, VERY LARGE CUSTOMER IN
2 CALIFORNIA THAT DID NOT HAVE A N.A.P.A. LOGO ON THE
3 STORE.

4 Q WHO IS THAT?

5 A NAME IS BART RIEBE, AND HE WAS IN GRASS VALLEY,
6 CALIFORNIA.

7 Q BART RIEBE?

8 A UH-HUH.

9 Q WAS -- THAT WOULD BE THE EXCEPTION TO THE
10 NORMAL WHERE A N.A.P.A. JOBBER WOULDN'T DISPLAY A
11 N.A.P.A. SEAL OR LOGO IN A PROMINENT LOCATION OF THE
12 STORE; CORRECT?

13 A I'M SURE THERE ARE OTHERS, BUT, YES, YOU KNOW,
14 TO SPEAK BROADLY, IT'S OBVIOUSLY AN EXCEPTION OR IT
15 WOULDN'T BE SO PREVALENT.

16 Q PART OF GENUINE PARTS' SALES FORCE
17 RESPONSIBILITY WAS TO INCREASE THE FAMILIARITY WITH THE
18 N.A.P.A. BRAND, N.A.P.A. LOGO; CORRECT?

19 A YES.

20 Q THEY EVEN -- THEY HAVE A NASCAR -- THEY SPONSOR
21 A NASCAR VEHICLE?

22 A CURRENTLY I THINK THAT'S PART OF THE MARKETING
23 STRATEGY.

24 Q DOES GENUINE PARTS HAVE ITS OWN MARKETING
25 FORCE, OR IS IT RELATED SOLELY TO THAT OF N.A.P.A.?

105

1 A WELL, THEY HAVE THEIR OWN MARKETING FORCE.

2 Q WHAT DOES THE GENUINE PARTS LOGO LOOK LIKE
3 TODAY?

4 A GENUINE PARTS NEVER DID HAVE A LOGO. IT USES
5 THE N.A.P.A. LOGO.

6 Q SO WHEN GENUINE PARTS MARKETS, IT ACTUALLY IS
7 MARKETING N.A.P.A.?

8 A YES.

9 MR. RILEY: TODAY.
10 BY MR. FISHBACK:

11 Q TODAY. HAS IT BEEN DIFFERENT THAN THAT IN THE
12 PAST?

13 A HAS IT BEEN DIFFERENT? I DON'T BELIEVE SO.
14 GENUINE PARTS COMPANY MARKETS N.A.P.A. WHERE THEY ARE AS
15 A BRAND RECOGNITION. IF THAT'S CALLED MARKETING, THAT'S
16 WHAT IT IS.

17 Q MR. DAVIDSON HAD RECALLED PURCHASING BENDIX
18 BRAKES FROM THE MENDOTA N.A.P.A. AUTO PARTS STORE. WERE
19 THOSE BENDIX BRAKES SUPPLIED THROUGH GENUINE PARTS AND
20 N.A.P.A. DISTRIBUTION?

21 A ABSOLUTELY NOT, BUT THAT DOES NOT MEAN THAT HE
22 DID NOT PURCHASE BENDIX BRAKES FROM THE MENDOTA STORE
23 BECAUSE, AS WE HAD TALKED ABOUT EARLIER, THE INDEPENDENT
24 OWNERS HAD THE LATITUDE TO DO WHATEVER.

25 Q DID GENUINE PARTS SUPPLY BORGLANDER BRAND

106

1 CLUTCHES?
2 A NO.
3 Q HOW DO YOU KNOW THAT?
4 A 'CAUSE I'VE NEVER SEEN IT.
5 Q YOU EVER HEARD OF BORGWARNER?
6 A HEARD OF BORGWARNER.
7 Q WHAT WAS THE BRAND OF CLUTCHES THAT WERE
8 SUPPLIED THROUGH THE N.A.P.A. DISTRIBUTION CHAIN?
9 A RAYLOC.
10 Q RAYLOC BRAKE AND CLUTCHES?
11 A CORRECT.
12 Q DO YOU KNOW -- HAVE YOU EVER BEEN TO THE
13 N.A.P.A. AUTO PARTS STORE -- STRIKE THAT. HAVE YOU EVER
14 BEEN TO THE N.A.P.A. JOBBER IN BLYTHE?
15 A YES, I HAVE.
16 Q WHEN DID YOU GO THERE?
17 A AS PART OF MY DUTIES AS THE GENERAL MANAGER OF
18 THE PHOENIX DISTRIBUTION CENTER, BLYTHE WAS A STORE THAT
19 WE SERVED; SO I'VE BEEN THERE SEVERAL TIMES.
20 Q WERE ALL OF THE PRODUCTS THAT YOU PREVIOUSLY
21 HAD MENTIONED BEING SUPPLIED THROUGH THE GENUINE PARTS
22 AND N.A.P.A. DISTRIBUTION CHAIN SOLD TO THE BLYTHE
23 STORE?
24 A ARE YOU ASKING IF HE HAD ANY OTHER PRODUCTS
25 WITHIN HIS STORE?

107

1 Q NO. MY -- DID THE BLYTHE STORE STOCK BRAKES
2 AND GASKETS, TO YOUR KNOWLEDGE?
3 A YES.
4 Q AND THOSE WERE BRAKES AND GASKETS THAT WERE
5 PURCHASED THROUGH THE N.A.P.A. DISTRIBUTION NETWORK?
6 A AS I RECALL.
7 Q AND THAT WOULD HAVE BEEN THE RAYLOC BRAND?
8 A CORRECT.
9 Q BRAKES AND VICTOR BRAND GASKETS?
10 A YES, SIR.
11 Q WAS THE CALI-BLOK BRAKES EVER SOLD IN ARIZONA?
12 A I DON'T KNOW.
13 Q THEY COULD HAVE BEEN?
14 A COULD HAVE BEEN.
15 Q WAS THE BLYTHE STORE A N.A.P.A. JOBBER OR A
16 BRANCH STORE?
17 A IT WAS A N.A.P.A. JOBBER.
18 Q AND HAS THERE EVER BEEN A BRANCH STORE IN
19 BLYTHE?
20 A NO, SIR.
21 Q HAVE YOU EVER BEEN TO THE EL CENTRO N.A.P.A.
22 JOBBER STORE?
23 A I'VE BEEN TO EL CENTRO. I HAVE NOT BEEN TO THE
24 JOBBER STORE.
25 Q DO YOU HAVE ANY REASON TO DISAGREE THAT THERE

108

1 IS A N.A.P.A. JOBBER STORE IN EL CENTRO?

2 A OH, I KNOW THERE IS. I'VE SEEN THE BUILDING.

3 Q IS IT A BRANCH STORE OR A RETAIL OUTLET?

4 STRIKE THAT. IS IT A BRANCH STORE OR A N.A.P.A. JOBBER?

5 A MY UNDERSTANDING IS THAT IT'S A N.A.P.A.

6 JOBBER.

7 Q WHERE WAS IT -- WHERE WAS ITS DISTRIBUTION

8 CENTER?

9 A IT COULD HAVE BEEN SAN DIEGO OR LOS ANGELES,
10 AND FRANKLY, I DON'T KNOW HOW THEY -- ALL THAT WENT.

11 Q THERE WAS ALSO A N.A.P.A. JOBBER IN FRESNO,
12 CALIFORNIA; IS THAT CORRECT?

13 A YES. MORE THAN ONE.

14 Q AND AS YOU RECALL IT, THERE WAS NEVER A BRANCH
15 STORE IN FRESNO; CORRECT?

16 A THERE WERE BRANCH STORES IN FRESNO BUT NOT
17 DURING THE TIME PERIOD THAT YOU ORIGINALLY ASKED ME.
18 THERE CURRENTLY ARE BRANCH STORES IN FRESNO, CALIFORNIA,
19 IN ADDITION TO INDEPENDENT OWNERS WITHIN THE SAME
20 METROPOLITAN AREA.

21 Q WHEN, TO YOUR KNOWLEDGE, DID THE FIRST BRANCH
22 STORES OPEN IN FRESNO?

23 A I CAN'T SAY FOR CERTAIN. I DON'T KNOW.

24 Q DO YOU THINK IT WAS BEFORE 1970?

25 A IT WAS NOT BEFORE 1970.

109

1 Q DO YOU THINK IT WAS BEFORE 1980?

2 A DON'T KNOW FOR SURE. WHEN I WENT THERE IN
3 1986, WE HAD BRANCH STORES. THEY WERE IN A STATE OF
4 DISARRAY, AND I DON'T THINK THEY HAD BEEN IN EXISTENCE
5 FOR THAT LONG.

6 Q HAVE YOU EVER BEEN TO KERMAN, CALIFORNIA?

7 A YES, SIR.

8 Q THAT WAS SERVICED BY THE FRESNO DISTRIBUTION
9 CENTER?

10 A CORRECT.

11 Q IS THERE ANY BRANCH STORES IN KERMAN?

12 A INDEPENDENT OWNER BUT NOT A BRANCH STORE.

13 Q HAVE YOU EVER BEEN TO THE N.A.P.A. AUTO PARTS
14 STORE OR N.A.P.A. JOBBER STORE IN YUMA, ARIZONA?

15 A IN YUMA?

16 Q YES, SIR.

17 A I KNOW WHERE THEY ARE. I KNOW THE CURRENT
18 OWNER. I HAVE NEVER BEEN IN THE STORES.

19 Q IS IT A BRANCH STORE OR A N.A.P.A. -- OR A
20 JOBBER?

21 A IT'S A JOBBER.

22 Q HAS THERE EVER BEEN A BRANCH STORE IN YUMA?

23 A DON'T KNOW FOR SURE. IF IT WAS, IT WOULD HAVE
24 BEEN UNDER THE COLYEAR DAYS, WHICH WERE A LONG, LONG
25 TIME AGO.

110

1 Q DID GENUINE PARTS PROVIDE PARTS AND EQUIPMENT
2 THROUGH ITS N.A.P.A. DISTRIBUTION NETWORK FOR
3 INTERNATIONAL BRAND VEHICLES?

4 A AS IN VOLVO, SAAB, THOSE KINDS OF VEHICLES?
5 MR. RILEY: OR DO YOU MEAN THE INTERNATIONAL
6 BRAND TRUCK?

7 BY MR. FISHBACK:

8 Q THE INTERNATIONAL BRAND OF TRUCK OR VEHICLE.

9 A WE DID HAVE PARTS FOR INTERNATIONAL TRUCKS.
10 AND I MUST EXCUSE MYSELF AGAIN. I'M SORRY.

11 MR. FISHBACK: OKAY. WE'RE JUST ABOUT --
12 INCIDENTALLY, WE'RE JUST ABOUT READY TO FINISH UP --

13 THE WITNESS: OKAY. ALL RIGHT.

14 MR. FISHBACK: SO --

15 THE WITNESS: I'LL BE RIGHT BACK.

16 MR. FISHBACK: AS I TOLD YOU I WOULD.

17 (RECESS.)

18 BY MR. FISHBACK:

19 Q DO YOU KNOW WHAT A RIO MILITARY VEHICLE IS?

20 A A RIO?

21 Q RIO, YEAH.

22 A SPECIFICALLY, I DON'T KNOW. I'VE HEARD THE
23 WORD RIO, BUT IF YOU ASKED ME TO DESCRIBE ONE TO YOU, I
24 COULDN'T DO THAT.

25 Q YOU WOULDN'T DISPUTE MR. DAVIDSON'S TESTIMONY

111

1 SAYING, THEN, THAT HE BOUGHT PARTS FOR A REASSEMBLY
2 REPAIR OF A RIO MILITARY VEHICLE AT A N.A.P.A. JOBBER
3 STORE IN CENTRAL VALLEY OF CALIFORNIA?

4 A IN THAT I DON'T KNOW THAT WE EVER CARRIED PARTS
5 FOR RIO, I COULDN'T ANSWER.

6 Q OKAY. GENUINE PARK -- DID GENUINE PARTS,
7 THROUGH ITS N.A.P.A. DISTRIBUTION NETWORK, SUPPLY
8 AUTOMOTIVE PARTS FOR LIGHT-DUTY EQUIPMENT LIKE
9 FORKLIFTS?

10 A VERY LIMITED.

11 Q DID GENUINE PARTS HAVE INDIVIDUALS, WHETHER
12 THEY BE SALESMEN OR OTHERWISE, WHO VISITED THE
13 AUTOMOTIVE SERVICE FACILITIES WHERE THE ACTUAL WORK WAS
14 BEING DONE?

15 A THERE WERE MANUFACTURERS' REPRESENTATIVES
16 REPRESENTING CERTAIN PRODUCT LINES, AND YES, THEY WOULD
17 CALL ON REPAIR FACILITIES.

18 Q SO GENUINE PARTS RECOGNIZED THAT THE BRAKES AND
19 BRAKE LININGS THAT IT WAS SUPPLYING WOULD IN SOME
20 INSTANCES BE SANDED OR ARCED AND GROUND? WOULD THAT BE
21 TRUE?

22 MR. RILEY: OBJECTION TO THE EXTENT THAT YOUR
23 QUESTION IMPLIES THAT IT IS IN THE SEQUENCE TO THE PRIOR
24 ANSWER.

25 THE WITNESS: STATE YOUR QUESTION AGAIN,

112

1 PLEASE.

2 BY MR. FISHBACK:

3 Q DO YOU KNOW WHAT ARCING AND GRINDING OF BRAKES
4 IS?

5 A YES, I DO.

6 Q YOU'VE SEEN THAT DONE?

7 A A LONG TIME AGO.

8 Q DO YOU BELIEVE THAT GENUINE PARTS KNEW THAT THE
9 BRAKES AND BRAKE -- AND/OR BRAKE LININGS THAT IT WAS
10 SUPPLYING TO ITS N.A.P.A. JOBBERS AND BRANCH STORES
11 WOULD BE ARCED AND GROUND?

12 A ARCING AND GRINDING, TO MY KNOWLEDGE, HASN'T
13 EXISTED FOR 30 YEARS. THE THING THAT ARCING AND
14 GRINDING REALLY ACCOMPLISHED YEARS AGO WAS TO BE ABLE TO
15 TAKE A SET OF OVERSIZED LINING, FOR AN EXAMPLE, ARC IT
16 TO FIT THE -- TO FIT THE DRUM, AND THEN FINISH THE BRAKE
17 JOB, BUT THAT HASN'T -- THAT HASN'T EXISTED FOR YEARS
18 AND YEARS.

19 Q HAVE YOU EVER SEEN OR HEARD OF A MECHANIC USING
20 AN AIR HOSE TO BLOW OUT THE BRAKE ASSEMBLY OR -- OR
21 WHEEL HUB ASSEMBLY IN THE -- DURING THE COURSE OF BRAKE
22 WORK?

23 A I'M SURE IT EXISTS. YOU KNOW, I DIDN'T -- MY
24 RESPONSIBILITIES DID NOT NECESSARILY INVOLVE CALLING ON
25 REPAIR SHOPS.

113

1 Q WAS THERE EVER A TIME OR CIRCUMSTANCE, TO YOUR
2 RECOLLECTION, THAT GENUINE PARTS BEGAN INCLUDING
3 WARNINGS OF ASBESTOS HAZARDS IN THE BRAKES AND BRAKE
4 LININGS THAT IT WAS DISTRIBUTING TO THE BRANCH STORES OR
5 RETAIL OUTLETS?

6 A NOT THAT I'M AWARE OF.

7 Q WAS THERE EVER A TIME THAT YOU KNOW OF THAT ONE
8 OF YOUR BOSSES DISCUSSED WITH YOU THE POTENTIAL HEALTH
9 HAZARDS ASSOCIATED WITH WORKING WITH OR AROUND
10 ASBESTOS-CONTAINING AUTOMOTIVE PRODUCTS?

11 A NO.

12 MR. FISHBACK: ALL RIGHT. WELL, I DON'T --
13 BEING IT'S -- IT'S AFTER THE NOON HOUR AND I PROMISED
14 YOU THAT WE WOULD END AT YOUR REQUEST OF NOON, I'LL
15 RECESS THE DEPOSITION NOW, AND I DON'T KNOW THAT I MIGHT
16 HAVE ANY ADDITIONAL QUESTIONS FOR YOU, AND IF I DO, I'LL
17 TALK WITH YOUR COUNSEL ABOUT FINDING ANOTHER CONVENIENT
18 DATE SOMETIME SOON THAT WE CAN RESUME THIS, BUT I
19 APPRECIATE YOUR TIME TODAY. YOU'VE BEEN VERY HELPFUL IN
20 THE INFORMATION PROVIDED. THANK YOU.

21 THE WITNESS: YOU'RE WELCOME.

22 MR. FISHBACK: OFF THE RECORD.

23 (ENDING TIME: 12:10 P.M.)

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WITNESS'S CERTIFICATE

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I AM THE WITNESS IN THE FOREGOING PROCEEDINGS.
I HAVE READ THE FOREGOING PROCEEDINGS, AND HAVING MADE
SUCH CHANGES AND CORRECTIONS AS I DESIRE, I CERTIFY THAT
THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO THOSE
MATTERS WHICH ARE THEREIN STATED UPON MY INFORMATION OR
BELIEF, AND AS TO THOSE MATTERS, I BELIEVE IT TO BE
TRUE.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE
LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS
TRUE AND CORRECT.

EXECUTED ON _____,
AT _____.

THOMAS JOSEPH ZAGURSKI

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REPORTER'S CERTIFICATE

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I, MARIA A. MORA, RPR, CSR NO. 12001, A
CERTIFIED SHORTHAND REPORTER IN AND FOR THE STATE OF
CALIFORNIA, DO HEREBY CERTIFY:

THAT PRIOR TO BEING EXAMINED THE WITNESS NAMED
IN THE FOREGOING PROCEEDINGS WAS BY ME DULY SWORN TO
TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT
THE TRUTH;

THAT SAID PROCEEDINGS WERE TAKEN BY ME IN
SHORTHAND AT THE TIME AND PLACE HEREIN NAMED AND WERE
THEREAFTER TRANSCRIBED INTO TYPEWRITING UNDER MY
DIRECTION, SAID TRANSCRIPT BEING A TRUE AND CORRECT
TRANSCRIPTION OF MY SHORTHAND NOTES.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN
THE OUTCOME OF THIS ACTION.

MARIA A. MORA
CSR NO. 12001, RPR