

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. L-10358-86

IRONBOUND HEALTH RIGHTS :
ADVISORY COMMISSION, et al, :
 :
 :
 :
 Plaintiffs, : DEPOSITION OF:
 : ROGER H. BRODKIN
 vs. :
 :
 :
 DIAMOND SHAMROCK CORPORATION, :
 et al, :
 :
 :
 Defendants. :

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ESSEX COUNTY
DOCKET NO. L-045269-85

JOHN BRENNAN, et al, :
 :
 :
 Plaintiffs, :
 :
 :
 vs. :
 :
 :
 DIAMOND SHAMROCK CHEMICAL :
 COMPANY, et al, :
 :
 :
 Defendants. :

Wednesday, November 9, 1988
Cranford, New Jersey

Reporting Services Arranged Through
ROSENBERG & ASSOCIATES
161 Eagle Rock Avenue
Roseland, New Jersey 07068
(201) 228-9100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S:

MESSRS. GORDON, GORDON & HALEY
BY: MICHAEL GORDON, ESQ.,

-and-

BY: TIMOTHY S. HALEY, ESQ.,

-and-

MELVIN M. BELLI, SR., ESQ.,
BY: PAUL M. MONZIONE, ESQ.,
Attorneys for the Plaintiffs.

MESSRS. MC CARTER & ENGLISH

BY: GEORGE W.C. MC CARTER, ESQ.,
Attorneys for Defendant Diamond Shamrock.

MESSRS. HOAGLAND, LONGO, OROPOLLO & MORAN

BY: MARY SIOBHAN BRENNAN, ESQ.,
Attorneys for Defendant Aetna.

MESSRS. DUGHI & HEWIT

BY: LOUIS J. DUGHI, JR., ESQ.,

-and-

BY: PATRICIA M. BASS, ESQ.,
Attorneys for Defendant Roger H. Brodtkin.

A L S O P R E S E N T:

CHRISTOPHER WEBER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIR</u>	<u>RECR</u>
ROGER H. BRODKIN By Mr. Haley	4			

E X H I B I T S

<u>FOR IDENT.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
PB-1	Curriculum vitae of Dr. Brodkin	9
PB-2	File containing Baisley documents	122
PB-3	Baisley treatment card	129
PB-4	Surgical pathology report from Dr. Kannerstein dated 4/18/63	131
PB-5	Document dated 5/20/83 Re: Baisley	131
PB-6	Attending physician's statement	132
PB-7	Letter from Dr. Bleiberg to Aetna dated 2/25/63	136
PB-8	File containing Burke documents	170
PB-8A	Burke treatment card	170

1 (Before Gary M. Talpins, a Certified
2 Shorthand Reporter and Notary Public of the State
3 of New Jersey, held at the offices of Messrs. Dughi
4 & Hewit, 340 North Avenue, Cranford, New Jersey, on
5 Wednesday, November 9, 1988, commencing at 9:15
6 a.m.)

7 - - - - -

8
9 R O G E R H. B R O D K I N, 101 Old Short Hills
10 Road, West Orange, New Jersey, Sworn.

11
12 DIRECT EXAMINATION BY MR. HALEY:

13 Q. Good morning, doctor. Before we get
14 started, my name is Tim Haley. We did that off the
15 record.

16 MR. HALEY: A couple of things I want
17 to note. Mary Brennan, who is the attorney for
18 Aetna in this case, according to what Ms. Bass has
19 represented to me, is going to be late this morning
20 and I understand we have her permission to start
21 the deposition without her presence. Is that
22 correct?

23 MS. BASS: That's my understanding,
24 yes.

25 MR. HALEY: In addition, I was

Brodkin - direct

1 wondering, before we get started, is Mr. Gerrod
2 going to be here today?

3 MR. DUGHI: No.

4 MR. HALEY: Then we can proceed without
5 him, also.

6 Q. Doctor, my name is Tim Haley, as I
7 said. I'm an attorney with the firm of Gordon,
8 Gordon & Haley in West Orange. We are the
9 attorneys for the plaintiffs in this case. On my
10 left is Paul Monzione from the law offices of
11 Melvin Belli, who has been admitted pro hac vice in
12 this case, and on my right is Michael Gordon.

13 Am I correct in assuming you have had
14 your deposition taken before?

15 A. Yes, I have.

16 Q. I would just like to go over a few
17 things about taking a deposition so we can
18 understand the ground rules and get everything
19 straight from the beginning. First of all, as you
20 know, I'm going to be asking you a series of
21 questions and asking you for responses to those
22 questions during the course of the deposition. I
23 don't want you to guess, I don't want you to
24 speculate as to answers. However, I expect you to
25 answer those questions as truthfully and as

Brodkin - direct

1 directly as possible.

2 The second thing that I would like to
3 inform you of today is that if you don't hear me or
4 if you don't understand a question, I would like
5 you to ask me to repeat it or tell me what it is
6 that you don't understand so that I can restate the
7 question in a manner which is going to make you
8 feel comfortable giving an answer.

9 The third thing I would like to inform
10 you of is if at some point you want to take a
11 break, whether it's to talk to your attorney or to
12 go to the bathroom or something like that, please
13 feel free. We are not here today to try and beat
14 anybody up in terms of time or stretch you beyond
15 what you feel comfortable with in terms of
16 comfort. If you need a break, just tell me and we
17 will take it.

18 So doctor, it would be, then, my
19 understanding that if I ask you a question and you
20 answer it, that you have basically understood the
21 question and that you don't have any questions in
22 terms of my phrasing. Do you understand what I'm
23 saying in terms of that?

24 A. Yes, I do.

25 Q. Fine. First of all, before we get

Brodkin - direct

1 started, did you bring any materials with you to
2 the deposition today?

3 A. No, I didn't.

4 Q. So you didn't bring originals, for
5 example, of medical records?

6 MR. DUGHI: You asked a direct
7 question, you got a direct answer. No, he did
8 not. I picked up yesterday the original office
9 records. They are in the next room. I will tell
10 you right now I haven't been through them but I do
11 know that Mr. Morrissey's original chart is not
12 among them. We are trying to track it down, what
13 happened to it, if it's still around or whatever.
14 But if you want to go through those now --

15 MR. HALEY: Fine. I was thinking I
16 might want to mark them at the beginning so we can
17 have them.

18 MR. DUGHI: Why don't we mark them at a
19 break or something.

20 MR. HALEY: Fine, good enough. Other
21 than the medical records themselves, is there
22 anything that has been brought in today for the
23 deposition?

24 MR. DUGHI: Not by the doctor. He
25 brought his coffee cup.

Brodkin - direct

1 MR. HALEY: Fine. How about his C.V.?

2 I have a C.V.

3 MR. DUGHI: Maybe we are going to have
4 a proffer. If we do, we will stop. We produced so
5 much stuff, I just assumed you had everything you
6 needed. I have not put together a bunch of stuff
7 for document production other than the office
8 records.

9 MR. HALEY: My only question being, Mr.
10 Dughi, I have a C.V. from Dr. Brodkin which,
11 amongst other things, lists his office at 769
12 Northfield Avenue in West Orange, New Jersey.

13 MR. DUGHI: Correct.

14 MR. HALEY: It is correct that you have
15 produced a C.V. in this case. I doubt, I don't
16 know, I suppose I can ask the doctor if he has
17 revised his C.V.

18 MR. DUGHI: Of course.

19 MR. HALEY: Since it has been done.

20 MR. DUGHI: Fine.

21 MR. HALEY: Can we mark that copy?

22 MR. DUGHI: Absolutely.

23 MR. HALEY: For the record, and I think
24 I will use the numbers PB, the letters PB with
25 numbers, for marking of exhibits in this case. The

Brodkin - direct

1 first exhibit I would like marked is PB-1, which is
2 a curriculum vitae of Roger Harrison Brodkin, M.D.
3 It's nine pages and it has attached to it at the
4 sixth page a bibliography that states Roger H.
5 Brodkin, M.D.

6 (Whereupon the document was received
7 and marked PB-1 for identification.)

8

9 BY MR. HALEY:

10 Q. Doctor, I note this morning as I'm
11 going over your C.V. that you attended Lafayette
12 College, graduated in 1954. Is that correct?

13 A. Yes.

14 MR. DUGHI: Let the doctor see --

15 MR. HALEY: He doesn't necessarily --
16 it doesn't matter.

17 MR. DUGHI: It seems reasonable.

18 Q. Could you tell me what you majored in?

19 A. English literature.

20 Q. And I see, am I correct, that you
21 received an M.D. degree from Jefferson Medical
22 College in 1958?

23 A. Yes, that's correct.

24 Q. Would you tell me where that is?

25 A. Jefferson?

Brodkin - direct

1 Q. Yes.

2 A. In Philadelphia.

3 Q. In Philadelphia. And that was your
4 medical degree. Could you tell me did you have any
5 special areas of study at the Jefferson Medical
6 College?

7 A. No.

8 Q. Were there specializations which were
9 available in the medical college in 1958?

10 A. No.

11 Q. And after that, did you go directly
12 from there to Lenox Hill Hospital in New York?

13 A. Yes.

14 Q. And am I correct in stating that in
15 1958 and 1959, you participated in a rotating
16 general internship there?

17 A. Yes.

18 Q. Would you tell me what that consisted
19 of?

20 A. Approximately three months each of
21 surgery, of medicine and pediatrics, obstetrics and
22 gynecology -- I'm sorry, four months each.

23 Q. Four months each of what, doctor?

24 A. Four months of surgery, four months of
25 medicine, two months of pediatrics, two months of

Brodkin - direct

1 obstetrics and gynecology.

2 Q. So that would have been two months
3 combined of obstetrics and gynecology?

4 A. Correct.

5 Q. And am I correct in stating after that,
6 that you went to the New York University
7 Postgraduate Medical College, Skin and Cancer Unit?

8 A. Yes.

9 Q. And that was during 1959-1960. Is that
10 correct?

11 A. Yes, it is.

12 Q. And you were a student matriculating
13 there. Am I also correct in stating that?

14 A. Yes.

15 Q. And you were a student matriculating in
16 dermatology, were you not?

17 A. Yes.

18 Q. Would you tell me what a student
19 matriculate is?

20 A. It's a person who has fulfilled the
21 qualifications for admission to a specialty and
22 then studies that specialty in a series of lecture,
23 laboratory and clinical settings.

24 Q. Could you tell me what it took to
25 fulfill the qualifications for admission into the

Brodkin - direct

1 specialty?

2 A. Yes. You have to have an M.D. degree,
3 you have to have a year's internship, unspecified
4 internship, and you have to qualify as far as their
5 standards for admission in terms of your academic
6 record and your recommendations.

7 Q. And I assume that you received
8 recommendations in order to be admitted to this
9 program. Is that correct?

10 A. Yes.

11 Q. Do you recollect from whom you received
12 recommendations?

13 A. They would probably have to come from
14 your program director of your internship and other
15 people who might be in that specialty know of your
16 character and ability.

17 Q. But you don't recollect any specific
18 names?

19 A. No, I don't.

20 Q. After you completed your work at the
21 Postgraduate Medical Center, am I correct in saying
22 that you became a resident at Bellevue Hospital in
23 New York?

24 A. Yes.

25 Q. And that was a residence in

Brodkin - direct

1 dermatology. Is that correct?

2 A. Yes.

3 Q. Could you tell me what your duties
4 consisted of as a resident in dermatology at
5 Bellevue?

6 A. Yes. I had clinical responsibility for
7 inpatients and outpatients with skin diseases as
8 well as consultation responsibilities within
9 Bellevue and was required to attend conferences and
10 so forth.

11 Q. Do you recollect the types of
12 conferences that you attended when you were working
13 at Bellevue?

14 A. They were conferences on the various
15 subsubjects of dermatology such as pathology,
16 microbiology, allergy, surgery, physical therapy.

17 Q. Doctor, at the time you were a resident
18 in Bellevue, did you see any people who were
19 alleged to have suffered a skin condition from an
20 occupational exposure?

21 A. I don't specifically recall that.

22 Q. Was the subject of occupational skin
23 diseases ever identified as a subject matter which
24 you studied in your residency there?

25 A. Yes, it was.

Brodkin - direct

1 Q. And could you tell me what that study
2 consisted of?

3 A. It consisted of lectures, reading
4 assignments and in the course of treating the
5 clinical problems in dermatology, they may present
6 themselves as would occupational disease.

7 Q. Doctor, I don't understand when you say
8 as would occupational, present themselves as would
9 occupational disease. Could you explain what you
10 mean by that?

11 A. Yes. For example, if a person works
12 with a material to which he is allergic, he gets an
13 allergic contact dermatitis. If he goes into a
14 poison ivy bush and is allergic to poison ivy, he
15 also gets an allergic contact dermatitis. Although
16 the settings of acquiring the disease are
17 different, the clinical signs and symptoms and the
18 treatment, the management may be the same or
19 similar.

20 Q. Could you tell me, if you recall, what
21 the readings were in occupational dermatology that
22 you engaged in when you were a resident at
23 Bellevue?

24 A. I can't tell you exactly because it was
25 more or less the current literature, wherever it

Brodkin - direct

1 was.

2 Q. How did you keep yourself abreast,
3 then, of what the current literature was when you
4 were at Bellevue?

5 A. Reading journals.

6 Q. Do you recollect what journals those
7 were?

8 A. Certainly the AMA Archives of
9 Dermatology and Syphilology.

10 Q. Would there have been anything else?

11 A. Not that I specifically recall.

12 Q. And would you tell me --

13 A. Pardon me. I will also add the Journal
14 of Investigative Dermatology. That was at that
15 time.

16 Q. Could you tell me if you recall what
17 the lectures were concerning industrial
18 occupational dermatology and who may have given
19 them when you were at Bellevue?

20 A. I certainly can recall that a series of
21 lectures were given by Dr. Birmingham.

22 Q. Would there have been anyone else that
23 you recall?

24 A. I'm sorry, I don't remember.

25 Q. Do you recall what the subject matter

Brodkin - direct

1 of Dr. Birmingham's lectures were?

2 A. Not specifically. The subject matter
3 was occupational diseases, skin diseases.

4 Q. But more specifically than that, you
5 can't remember what he said?

6 A. I can't remember what he said.

7 Q. And doctor, after you left Bellevue, am
8 I correct in stating that you became a preceptee in
9 dermatology with Maurice Costello from 1961 to
10 1962?

11 A. Yes.

12 Q. And where was that at, doctor?

13 A. That was at his office.

14 Q. Which was where?

15 A. I could tell you about where it was.

16 It was in the East Sixties in New York.

17 Q. So it was in Manhattan?

18 A. Yes.

19 Q. And could you tell me what a preceptee
20 is in dermatology?

21 A. Let me tell you that a preceptor is a
22 person who is accepted by the American Board of
23 Dermatology as able to have preceptees, supposedly
24 a person of fame and outstanding reputation in the
25 field, and a preceptee works in his private office

Brodkin - direct

1 as his assistant half of the day and then the other
2 half of the day, must work within a hospital
3 setting. I was back at New York University the
4 rest of the day and that goes on for a year.

5 Q. So that during the period from 1961 to
6 1962, you were still at NYU?

7 A. Yes, I was.

8 Q. And what were you doing at NYU in that
9 half day?

10 A. Working in the clinic.

11 Q. Would your duties have been any
12 different than those duties which you described at
13 Bellevue that you undertook at Bellevue in 1960 to
14 1961? I'm asking specifically about NYU here.

15 A. There might have been some differences.

16 Q. Do you recall what those were?

17 A. As a senior resident, you would teach
18 the junior residents.

19 Q. So, then, this was part, the
20 precepteeship, for lack of a better word, was part
21 of your residency in dermatology. Is that correct?

22 A. That's right.

23 Q. So, then, in actuality, you spent from
24 1960 through 1962, then, as a resident in
25 dermatology. Is that correct?

Brodkin - direct

1 A. No, not really. I was only a resident,
2 designated resident in '60 to '61.

3 Q. Is a precepteeship something that one
4 does after a residency?

5 A. They can.

6 Q. Let me ask this another way. Is it
7 necessary, for example, to have a precepteeship in
8 order to obtain board certification?

9 A. No, it is not.

10 Q. Before I get into the next part,
11 doctor, would you give me an estimate, if you can,
12 of how many times you have had your deposition
13 taken?

14 A. As an expert witness?

15 Q. We will start with that, fine.

16 A. Half a dozen times, maybe. That's a
17 rough guess.

18 Q. And have there been any circumstances
19 in which you had your deposition taken not as an
20 expert witness?

21 A. Yes.

22 Q. And what were those circumstances and
23 how many times did you have your deposition taken?

24 A. There were, I think, a couple of
25 liability cases in which I had my deposition taken

Brodkin - direct

1 relating to my responsibility, my liability.

2 Q. A case such as this, in other words?

3 A. Yes.

4 Q. Doctor, again, going back to your C.V.,
5 I notice that in 1962 -- am I correct in stating
6 that you received a residents' prize in dermatology
7 of the New York Academy of Medicine?

8 A. Yes.

9 Q. Could you tell me what that prize was
10 and how you received that?

11 A. I presented a case at the New York
12 Academy of Medicine and discussed my management of
13 this case and was declared the winner of a prize.

14 Q. And what was the case that you
15 presented, if you can recall?

16 A. I think it was a case of sarcoidosis.

17 Q. I notice chronologically, doctor, I
18 believe the next entry is the fifth one on here, in
19 that section, which is President, Fourth Mexican
20 Congress of Dermatology in April 1967. Would you
21 explain to me what that was? Do you see that on
22 the C.V.?

23 A. Yes. I presented a paper at the Fourth
24 Mexican Congress of Dermatology.

25 Q. And that's how you became president of

Brodkin - direct

1 the Fourth Mexican --

2 A. They make you president if you present
3 a paper.

4 Q. Could you remember or do you remember
5 what the subject matter of that paper was?

6 A. Yes, I do. It was on the -- it was
7 research I had done at Bellevue over a period of --
8 I'm sorry, at New York University over a period of
9 seven years on the distribution of basal cell
10 carcinoma.

11 Q. Is that a type of skin cancer?

12 A. Yes, it is.

13 Q. Am I correct in stating, then, after
14 that, at some time you became chairman of the
15 section on venereal disease of the Essex County
16 Medical Society in 1970 to '71?

17 A. Yes.

18 Q. I also notice, doctor, am I correct in
19 stating that you also were later, in 1984 and '85,
20 chairman of the committee on sexually transmitted
21 diseases of the Essex County Medical Society? Is
22 that correct?

23 A. Yes.

24 Q. Doctor, am I also correct in stating
25 that you have limited your practice to dermatology

Brodkin - direct

1 since 1962?

2 A. Yes.

3 Q. And am I also correct in stating that
4 at some point, the dermatology and venereal
5 diseases were studied together or written about
6 together as a discipline? Is that a correct
7 statement?

8 A. Yes.

9 Q. And doctor, would I be correct in
10 stating that one of the reasons for that is, for
11 example, with syphilis, that the first
12 manifestation of syphilis is a cutaneous
13 manifestation?

14 MR. DUGHI: Objection. Certainly
15 leading questions are appropriate to certain
16 matters but this is a factual deposition. I don't
17 know where you are going with venereal disease. I
18 think you ought to pose these as questions as
19 opposed to you make a statement and get his yes or
20 no. Why don't you put it in the appropriate form.
21 I object to the form of the question and ask it be
22 rephrased.

23 MR. HALEY: I don't honestly understand
24 what was wrong with the phrasing of the question.

25 MR. DUGHI: It's suggesting -- not so

Brodkin - direct

1 much suggesting an answer as to directing him to
2 your view of what the state of medicine or medical
3 literature was at that time and asking him for
4 his --

5 MR. HALEY: I disagree with that.

6 MR. DUGHI: Fine.

7 Q. Please answer.

8 MR. DUGHI: No, he is not going to
9 answer unless you rephrase it.

10 MR. HALEY: I'm not going to rephrase
11 the question.

12 MR. DUGHI: Then don't. Mark the
13 question and let's go.

14 Q. Doctor, is the first manifestation of
15 syphilis a cutaneous manifestation?

16 A. Yes.

17 Q. And could you tell me what that
18 cutaneous manifestation is?

19 A. Usually a sore on the genitals, a
20 lesion on the genitals.

21 Q. Would you tell me is that one of the
22 reasons, for example, that syphilis and dermatology
23 are mentioned together, because that first
24 cutaneous --

25 A. Yes.

Brodkin - direct

1 Q. If I could just finish the question.

2 -- because the first manifestation is a
3 cutaneous manifestation?

4 A. You ask a very broad question. There
5 are many reasons why the two are associated but
6 that is an example.

7 Q. What are the --

8 MR. DUGHI: Excuse me.

9 (Whereupon a discussion took place off
10 the record.)

11 MR. HALEY: For the record, I would
12 like to note that there was a conference going on
13 between Dr. Brodkin and counsel.

14 MR. DUGHI: Are you suggesting he can't
15 talk to his lawyer and I can't talk to him?

16 MR. HALEY: I'm just noting it for the
17 record.

18 Q. Doctor, what are the other reasons why
19 syphilis and dermatology are studied together?

20 A. Dermatologists came out of surgery
21 through urology and confined themselves to or
22 interested themselves in the treatment of venereal
23 diseases, which when originally this association
24 was made, was a very complicated form of treatment,
25 and in order to treat patients with arsenicals,

Brodkin - direct

1 which was the main form of treatment at that time,
2 and other complicated drugs, one had to have a
3 substantial knowledge of these drugs and so forth.
4 That's really why it's a historical association.

5 Q. Urology is the study of what, doctor?

6 A. Diseases that affect the genitals, the
7 urogenital system.

8 Q. And I believe you mentioned the drugs
9 arsenicals?

10 A. Arsenicals.

11 Q. Could we maybe have that spelled for
12 the court reporter?

13 A. A-r-s-e-n-i-c-a-l.

14 Q. Those would be arsenic derivatives?

15 A. Yes.

16 Q. And those were used for the treatment
17 of syphilis?

18 A. Yes, organic arsenic compounds.

19 Q. Could you describe for me how that
20 would be used in the treatment?

21 MR. DUGHI: Objection. He is here as a
22 fact witness respecting allegations in this case.
23 He is the defendant, treating physician of the
24 plaintiffs. You are now getting into an area that
25 has no relationship to this case. I'm not aware of

Brodkin - direct

1 any syphilis in any of this population, A;
2 certainly he wasn't treating for it, B. You are
3 asking questions that I think are expert witness
4 type questions and I'm not going to permit him to
5 answer expert witness questions today. You need to
6 show me some relevancy.

7 MR. HALEY: I think, counsel, I'm
8 allowed to ask him questions about his knowledge,
9 training and experience.

10 MR. DUGHI: Absolutely.

11 MR. HALEY: He has posited on his
12 curriculum vitae, among other things, that he
13 obviously has experience in sexually transmitted
14 and venereal diseases. He has also stated so far
15 that it's a field of study which he feels to be,
16 first of all, within his competence and second of
17 all, related to dermatology.

18 MR. DUGHI: Absolutely. And how is
19 that relevant to this lawsuit?

20 MR. HALEY: Finally, I don't think I
21 need to sit here and posture to you the relevance
22 of every single one of my questions.

23 MR. DUGHI: No, sir, you don't, and I
24 suggest you don't have to. But I'm telling you
25 that that question as just asked, other questions

Brodkin - direct

1 preceding it, is the question of an expert in the
2 case and I'm objecting to the form and directing
3 him not to answer. If you can show me how it's
4 relevant to this case, I will rethink my objection
5 but you don't have an obligation to sit here and
6 tell me the relevance of a question. That's
7 correct.

8 MR. HALEY: We can do one or two things
9 in this deposition, quite frankly. First of all,
10 if he is not going to answer questions at your
11 direction, you are aware of what my remedies are
12 and what I'm going to seek. I'm going to seek
13 costs --

14 MR. DUGHI: You can seek costs to the
15 end of the moon. He is not going to answer the
16 questions. It's an expert question. If you show
17 me why it's relevant, I will rethink it. That
18 question has nothing to do with this case. It
19 certainly would have relevance to his knowledge of
20 venereal diseases if this case was an expert
21 involved in the treatment of syphilis, it might be
22 germane. I don't think I should sit here and
23 listen to questions that are irrelevant. If I'm
24 wrong, tell me I'm wrong.

25 MR. HALEY: I can tell you you are

Brodkin - direct

1 wrong, counsel, and I also tell you at this point,
2 I quite frankly don't want to disclose to you --

3 MR. DUGHI: Absolutely appropriate.

4 MR. HALEY: -- what the relevance of
5 the question is.

6 MR. DUGHI: Mark the question and let's
7 go to the next one.

8 Excuse me.

9 (Whereupon a discussion took place off
10 the record.)

11 MR. DUGHI: I have been overruled by my
12 client. He will answer your question. He doesn't
13 want to take the opportunity to come back. Restate
14 the question, please.

15 MR. HALEY: Could we have the question
16 read.

17 (Whereupon the record was read.)

18 A. How organic arsenic compounds were used
19 in the treatment, they were administered by
20 injection.

21

22 BY MR. HALEY:

23 Q. And what was the purpose of injecting,
24 what function were they supposed to serve within
25 the body?

Brodkin - direct

1 A. To kill the causative germ of the
2 disease.

3 Q. Could you tell me, doctor, how one
4 becomes chairman of a section of the Essex County
5 Medical Society? Is that something, for example,
6 which is voted on by your peers?

7 A. I think it's just an appointment.

8 Q. It's an appointed position. Is that
9 your understanding, it's an appointed position?

10 A. Yes.

11 Q. By, for example, the president of the
12 society or whatever?

13 A. You are sent a postcard asking will you
14 serve on committees and they list committees and
15 you check, you are supposed to check two or three.
16 So you check them off and then the president gets
17 this and he designates you on a committee and you
18 are positioned on it.

19 Q. I notice, also, doctor, that you are
20 chairman of the Section on Dermatology of the
21 Academy of Medicine in New Jersey, 1971 and '72.
22 Does one become a chairman in that organization the
23 same way one becomes a chairman in the Essex County
24 Medical Society?

25 A. Yes, one goes up through the ranks by

Brodkin - direct

1 appointment.

2 Q. Could you tell me, doctor, am I correct
3 in stating, doctor, that you received a certificate
4 of appreciation from the Academy of Medicine of New
5 Jersey in 1973 to 1976? For your information, I
6 think it's fifth from the bottom on the first
7 page.

8 A. Yes.

9 Q. Could you tell me what that was for?

10 A. For being a member of the Board of
11 Trustees.

12 MR. HALEY: And just for the record,
13 Mr. Gordon has a partially ruptured disk in his
14 back and it may be necessary for him from time to
15 time just to stand up because he physically
16 can't --

17 MR. DUGHI: I absolutely do not want
18 him in pain, counsel.

19 MR. HALEY: Sometimes he can't sit
20 down.

21 MR. DUGHI: I don't think this needs to
22 be on the record.

23 (Whereupon a discussion took place off
24 the record.)

25 Q. Doctor, could you tell me what the

Brodkin - direct

1 Physicians' Recognition Award of the American
2 Medical Association is?

3 A. Yes. It's an award given after one
4 shows proof of having fulfilled certain continuing
5 medical education requirements.

6 Q. And what would those continuing medical
7 education requirements be?

8 A. You get category one credits for
9 reading journals and going to meetings and for
10 writing articles, whatever. I can't recall
11 specifically what they are given for, but they send
12 you a sheet and they keep track of all your things,
13 when you send them little computer cards.

14 Q. Could you explain to me, also, this is
15 the second entry under honors, awards and honorary
16 appointments, how one becomes a fellow of the
17 American College of Physicians?

18 A. That is given for writing a certain
19 number of articles in medicine of a certain
20 quality. The rules have changed but in my day, one
21 had to fulfill the requirement by publishing
22 articles.

23 Q. And your day would have been 1967. Is
24 that correct, doctor?

25 A. Correct.

Brodkin - direct

1 Q. Do you recall how many articles one
2 might have had to have published?

3 A. I think you had to publish five
4 articles.

5 Q. And would it have been necessary for
6 those articles, for example, to have been accepted
7 by certain journals?

8 A. Yes.

9 Q. For publication?

10 A. Yes.

11 Q. Do you recollect what journals those
12 may have been, some of them?

13 A. Probably the Archives of Dermatology.

14 Q. And doctor, I also note that you have
15 included Who's Who in Health Care. Could you tell
16 me how one gets in Who's Who in Health Care?

17 A. I have no idea.

18 Q. I accept that answer. And you would
19 have no idea how one gets in, for example, Who's
20 Who in the East?

21 A. I would have less of an idea.

22 Q. Doctor, could you tell me what the
23 clinical research review committee of Allied
24 Chemical Corporation was in 1977?

25 A. At that time, Allied Chemical

Brodkin - direct

1 Corporation had been studying the toxicity of its
2 fiber production operation and I was asked to join
3 a committee to consider the research that was being
4 done and their approach to researching whatever
5 problems they had.

6 Q. Was that a paid position?

7 A. No.

8 Q. And doctor, finally, I note that you
9 are medical consultant for the New Jersey State
10 Dioxin Commission. Could you tell me how you
11 obtained that position or how you got on the
12 Commission?

13 A. I don't know how I was asked to come on
14 the Commission.

15 Q. Who asked you to be on the Commission?

16 A. I really don't remember that. I
17 believe it was the chairman of the Commission, Dr.
18 Morrow, Laura Morrow?

19 Q. Are you still a member of that
20 Commission?

21 A. I don't know if it still exists. I
22 wasn't given official notice of termination.

23 Q. So it would have been, for example,
24 something that would have been very episodically,
25 anyway. Is that correct?

Brodkin - direct

1 A. Yes.

2 Q. Doctor, turning to the next page of
3 your C.V., am I correct in stating that this
4 section is essentially organized from bottom to top
5 in chronological order of your positions?

6 A. That's correct.

7 Q. And that from 1962 to 1964, you were a
8 teaching assistant in dermatology at the NYU
9 Postgraduate Medical College?

10 A. That's correct.

11 Q. Would you tell me what your duties
12 consisted of there?

13 A. Going one half day a week to the clinic
14 and supervising residents while they saw patients,
15 attending conferences and in addition to that, I
16 had to go to the meetings of the New York Academy
17 of Medicine and present cases there and at the
18 meetings of the New York University Department of
19 Dermatology.

20 Q. Am I correct in stating after that,
21 from 1964 to '66, you served in the same medical
22 college as an instructor in clinical dermatology?

23 A. Yes.

24 Q. Could you describe what the differences
25 were between being an instructor in clinical

Brodkin - direct

1 dermatology and a teaching assistant in
2 dermatology?

3 A. There is no real difference. It's just
4 a title.

5 Q. Would that have been considered, for
6 example, a promotion?

7 A. Yes.

8 Q. Did you leave NYU Postgraduate Medical
9 College in 1966?

10 A. Yes.

11 Q. Would you tell me why?

12 A. My research was concluded and I thought
13 I would die on Route 22.

14 Q. When you say your research was
15 concluded, could you tell me what you were
16 researching?

17 A. The distribution of basal cell
18 carcinoma and cutaneous elastosis.

19 Q. You went, then, am I correct in
20 stating, in terms of academic affiliation, to the
21 College of Medicine and Dentistry of New Jersey in
22 1966?

23 A. Yes.

24 Q. And that would have been as a clinical
25 assistant professor and acting director of the

Brodkin - direct

1 Division of Dermatology?

2 A. Yes.

3 Q. Would you tell me what your duties were
4 there in that role?

5 A. The university, at that time the
6 College of Medicine had moved from Jersey City to
7 the VA Hospital in East Orange. They had no
8 established Division of Dermatology and they asked
9 me to come there and teach the students
10 dermatology, students and residents.

11 Q. Would you have been the first director,
12 then, of the Division of Dermatology there?

13 A. Yes.

14 Q. And I note, am I correct in stating,
15 doctor, that you were an assistant professor from
16 1966 to 1969?

17 A. Yes.

18 Q. Doctor, and I apologize for this, how
19 much time did you spend doing the assistant
20 professorship per week?

21 A. I really don't remember. It may have
22 been two or three mornings.

23 Q. And am I correct in stating that after
24 you were a clinical assistant professor, you were
25 promoted to associate professor at that same

Brodkin - direct

1 college in 1969?

2 A. Yes.

3 Q. And did your duties in any way as an
4 associate professor differ from what your duties
5 had been as an assistant professor?

6 A. No.

7 Q. Then that would have been simply, and I
8 mean that with no negative context, a promotion?

9 A. Yes.

10 Q. And that position lasted until 1979.
11 Is that correct?

12 A. Yes.

13 Q. And doctor, in 1979, am I correct in
14 stating that you were promoted to a full
15 professorship in what is now the University of
16 Medicine and Dentistry?

17 A. Yes.

18 Q. Am I also correct in stating that in
19 1979, you no longer became -- you no longer were
20 acting director of the Division of Dermatology but
21 became director of the Division of Dermatology?

22 A. I really don't recall. My status did
23 change, though, at that time.

24 Q. And at some time within that time
25 period, your status changed, roughly?

Brodkin - direct

1 A. When I was appointed professor of
2 medicine, my status changed somewhat.

3 Q. Could you explain to me how your status
4 did change?

5 A. First of all, I went from quarter time
6 salaried faculty to half time salaried faculty. My
7 time there was substantially increased and my
8 duties were also substantially increased. However,
9 I am not at present the director and after a couple
10 of years, I was half time, I recruited a full-time
11 director.

12 Q. And would that be the reason, for
13 example, doctor, that your C.V. changes to the top
14 one on the list under academic appointments, where
15 it no longer indicates that at the present, you are
16 no longer director of the Division of Dermatology?

17 A. Correct.

18 MR. DUGHY: Objection. The form of the
19 question was abysmal but I think the message got
20 across.

21 Q. Doctor, how did your duties markedly
22 increase when you became director as opposed to
23 acting director?

24 MR. DUGHY: This is 1979 we are talking
25 about?

Brodkin - direct

1 Q. Of the Division of Dermatology?

2 A. First of all, my time increased because
3 I was half time. Second of all, it became my task
4 to begin the steps that would develop a residency,
5 a training program in dermatology at the
6 university. So I spent more time at the University
7 of Medicine and I spent more time outside of it,
8 also, working on this program.

9 Q. Did the university have a residency
10 program in dermatology prior to you becoming
11 director as opposed to acting director?

12 A. No.

13 Q. Turning to the next section, doctor, am
14 I correct in stating that at one time, you were an
15 attending dermatologist at University Hospital in
16 Newark?

17 A. Yes.

18 Q. Do you currently hold that position?

19 A. Yes.

20 Q. And how long have you been an attending
21 dermatologist there?

22 A. So long as it's existed.

23 Q. And am I correct in stating that you
24 have also been an attending dermatologist at the VA
25 Hospital in East Orange?

Brodkin - direct

1 A. Yes.

2 Q. And how long have you been an attending
3 dermatologist in that position?

4 A. I don't know. I presume it was at the
5 time when they had moved to the VA, 19 --

6 Q. Meaning the medical college?

7 A. Right.

8 Q. And could you tell me, doctor, how much
9 time you spent as an attending dermatologist at
10 University Hospital?

11 MR. DUGHI: Now?

12 MR. HALEY: Now.

13 A. Now?

14 Q. I'm specifically interested in now.

15 MR. DUGHI: I object to relevance but
16 go ahead.

17 A. Basically now two mornings a week
18 regularly. However, I do give a number of
19 courses. Do you want the courses?

20 Q. Yes, I would be interested in hearing
21 those, doctor.

22 A. I teach in what is called the
23 introduction of clinical science, which we used to
24 call physical diagnosis, which is for sophomores,
25 and my time there, when last I did it, was about

Brodkin - direct

1 three hours.

2 Q. That would be for sophomores in medical
3 school, doctor?

4 A. Yes.

5 Q. Are there other courses which you have
6 taught there?

7 A. Yes. I teach the review course in
8 internal medicine for residents taking their boards
9 in internal medicine, which is about an hour, and I
10 have taught -- these are regularly yearly events.
11 Then there are a lot of other courses that come
12 along I participate in.

13 Q. You stated an hour to teach a review
14 course in internal medicine. The entire course is
15 an hour?

16 A. My part.

17 Q. Your part. Have your duties in any way
18 changed from when you became an attending
19 dermatologist at University Hospital to the
20 present?

21 MR. DUGHI: Objection. Duties as to
22 education just discussed or duties completely?

23 MR. HALEY: Duties completely.

24 MR. DUGHI: Fine. Go ahead.

25 A. They change just about every year.

Brodkin - direct

1 Q. And you don't recollect the specific
2 year when you began at the University Hospital?

3 A. I was an attending dermatologist at
4 Martland. So when Martland shut down and moved to
5 University, I just moved over.

6 Q. Could you tell me, doctor, how much
7 time presently, again, we will start with that, you
8 spend as an attending physician at the VA Hospital
9 in East Orange?

10 A. At the present? None.

11 MR. DUGHI: I don't know why we are
12 going over this now. I don't see it's relevancy.
13 I'm not going to stop it.

14 MR. HALEY: What I'm really trying to
15 do is he said he held these positions over a number
16 of years.

17 MR. DUGHI: I don't want to waste any
18 time but I don't know why we are doing it. Go
19 ahead. My understanding is it's of no moment.

20 Q. You spent no time?

21 A. At present, I spend no time.

22 Q. Could you tell me, for example, in the
23 1960's, how much time you would have spent as an
24 attending dermatologist at the VA Hospital?

25 A. I really don't recall.

Brodkin - direct

1 Q. You don't recall. Am I correct in
2 stating, also, doctor, you have been an attending
3 dermatologist at the Newark Eye and Ear Infirmary?

4 A. Yes.

5 Q. Do you presently hold that position?

6 A. Yes.

7 Q. Could you tell me when you first
8 started as an attending dermatologist at Newark Eye
9 and Ear Infirmary?

10 A. Early in my career.

11 Q. Would that have been --

12 A. 1960's.

13 Q. Could you tell me, then, what your
14 roles were as an attending dermatologist?

15 A. Only consultations.

16 Q. So am I correct in stating that you
17 would not have spent, for example, a regular amount
18 of time such as half a morning a week?

19 A. That's correct.

20 Q. It would have just been on an ad hoc
21 basis that you would have been over there?

22 A. Exactly.

23 MR. DUGHY: He is good, in fact, I
24 think he is probably the best around, but he can't
25 do it if you are talking over his questions.

Brodkin - direct

1 Listen to the question, then answer it, like
2 Ping-Pong.

3 Q. Doctor, am I correct in also stating
4 you were an attending dermatologist at Babies
5 Hospital Unit of Newark, New Jersey?

6 A. Yes.

7 Q. Is that part of another hospital,
8 Babies Hospital Unit?

9 A. Yes.

10 Q. Which hospital was that, doctor?

11 A. United Hospitals.

12 Q. And could you tell me what your role --
13 how long have you been doing that, first of all, if
14 you recall?

15 A. 1960's.

16 Q. And can you tell me, again, back in the
17 1960's, how much time you would have spent doing
18 that attending work?

19 A. I can't tell you in the sixties.

20 Q. Would that have been an ad hoc basis or
21 would it have been part of a regular rotation?

22 A. I would guess, if I may guess, that I
23 worked in a clinic there.

24 Q. In the Babies Hospital Unit?

25 A. Yes.

Brodkin - direct

1 Q. And --

2 A. As well as consultations.

3 Q. Is that a present position? Do you
4 still hold that?

5 A. Yes.

6 Q. And doctor, I also -- am I also correct
7 in stating that you are an attending dermatologist
8 at Presbyterian Hospital in Newark?

9 A. Yes.

10 Q. Is that a present position which you
11 hold?

12 A. Yes.

13 Q. Have you also held that position since
14 the early to mid-sixties?

15 A. Yes. May I explain something?

16 Q. Certainly.

17 A. I might not have been an attending
18 physician, but if you will allow, I was an
19 associate or an assistant attending. You know, I
20 just went up the ladder.

21 Q. I understand that as an answer.

22 You have also served, am I correct in
23 stating, as a consultant in dermatology at the
24 various other medical facilities?

25 A. Yes.

Brodkin - direct

1 Q. Could you tell me what you did as a
2 consultant in dermatology at St. James Hospital in
3 Newark?

4 A. When I was asked to see consultations,
5 I saw them.

6 Q. That would have been on an ad hoc
7 basis, again?

8 A. Yes.

9 Q. And am I correct in stating that you
10 have also consulted at Clara Maass Hospital in
11 Belleville, New Jersey?

12 A. Yes.

13 Q. Would that have been the same type of
14 ad hoc consultation?

15 A. Yes.

16 Q. And am I correct in stating that you
17 also served as a consultant in dermatology at the
18 Kessler Institute for Rehabilitation in West
19 Orange?

20 A. Yes.

21 Q. And would that have also been on an ad
22 hoc basis?

23 A. Yes.

24 Q. And finally, doctor, am I correct in
25 stating that you have been a consultant in

Brodkin - direct

1 dermatology for the Daughters of Israel Home for
2 the Aged in West Orange?

3 A. Yes.

4 Q. And again, is that on an ad hoc
5 basis --

6 A. Yes.

7 Q. -- where you would see patients there?
8 Doctor, could you tell me what your
9 function has been as an attending dermatologist at
10 St. Barnabas Medical Center?

11 A. Only to see consultations and give
12 conferences.

13 Q. And am I correct, also, in stating that
14 you have been an attending dermatologist at Newark
15 Beth Israel Medical Center?

16 A. Yes.

17 Q. And could you tell me what that work
18 has consisted of, doctor?

19 A. Working in the clinic, teaching the
20 residents, giving conferences and seeing
21 consultations.

22 Q. Doctor, you have also maintained a
23 private practice. Is that correct?

24 A. Yes.

25 Q. Could you tell me when you started in

Brodkin - direct

1 private practice?

2 A. 1962.

3 Q. Would that have been after you finished
4 your precepteeship with Dr. Costello that you went
5 into private practice?

6 A. Yes.

7 Q. And where was your office initially
8 located?

9 A. 22 Ball Street, Irvington, New Jersey.

10 Q. And how long were your offices there?

11 A. About a year and a half.

12 Q. Have you maintained a practice, doctor,
13 private practice, from 1962 to the present?

14 A. Yes.

15 Q. Could you tell me after you were at 22
16 Ball Street, where your next office location was?

17 A. 40 Union Avenue.

18 Q. Again, that's in Irvington. Am I
19 correct?

20 A. Yes.

21 Q. And how long were you there?

22 A. I don't know exactly, maybe five years.

23 Q. Approximately five years. Would that
24 be correct?

25 A. Yes.

Brodkin - direct

1 Q. And did your office relocate at some
2 point from 40 Union Avenue to somewhere else?

3 A. Yes, it did.

4 Q. Would you tell me where that was?

5 A. To 769 Northfield Avenue.

6 Q. And that's in West Orange. Is that
7 correct?

8 A. Yes.

9 Q. And at some point, am I correct in
10 stating that you moved your office from 769
11 Northfield Avenue to 101 Old Short Hills Road in
12 West Orange?

13 A. Yes.

14 Q. And could you tell me approximately
15 when that was, doctor?

16 A. Almost two years ago.

17 Q. So that would have been perhaps
18 sometime in '86?

19 A. Yes.

20 Q. Doctor, other than the hospitals which
21 we have discussed which have been listed on your
22 C.V. and the offices which you have discussed, is
23 there any other place where you would have seen
24 patients on a regular basis?

25 A. The only place I saw patients other

Brodkin - direct

1 than hospitals and my office was at the Diamond
2 Shamrock Chemical Company.

3 Q. When you began your private practice in
4 1962, doctor, was that a solo practice or did you
5 have a partner or was it some other type of
6 business arrangement?

7 A. Originally, it began as a solo
8 practice.

9 Q. And at some point, did that change?

10 A. Yes, it did.

11 Q. Could you tell me when that change was,
12 approximately?

13 A. I started after awhile to assist Dr.
14 Bleiberg in his office, Dr. Jacob Bleiberg, and in
15 time, he asked me if I would like to become
16 associated with him and combine my practice with
17 his, which we eventually did do.

18 Q. Would you tell me how you met Dr.
19 Bleiberg?

20 A. I met Dr. Bleiberg because I thought 22
21 Ball Street was a nice location for a practice and
22 I went into the building and he was there and I
23 asked him about getting an office there and he
24 invited me to share his office.

25 Q. The 22 Ball Street location at that

Brodkin - direct

1 time was a medical office building?

2 A. Yes.

3 Q. Did you enter into a partnership at
4 some point with Dr. Bleiberg?

5 A. Later on, yes.

6 Q. When you say later on, could you tell
7 me when that was?

8 A. I would say about two years -- a year
9 or two after I had opened my office.

10 Q. That would have been sometime in 1963
11 or 1964, approximately?

12 A. Yes, as I became an actual employee
13 status.

14 MR. DUGHI: Just get on the record here
15 you know what a partnership is, I know what a
16 partnership is. I'm not sure the doctor does.

17 MR. HALEY: Fine, I will ask him that.

18 Q. I did use the word partnership. Could
19 you at least explain for me when I use the word
20 partnership, what that connotes to you?

21 MR. DUGHI: Wait, excuse me.

22 MR. HALEY: He answered the question.

23 MR. DUGHI: Rather than wasting time as
24 to whether or not it's a legal partnership, why
25 don't you ask what the relationship with Bleiberg

Brodkin - direct

1 was and get the whole run.

2 MR. HALEY: I thought that's what I was
3 doing.

4 MR. DUGHI: Tell him how you got
5 involved with Bleiberg.

6 MR. HALEY: No, counsel, I'm going to
7 ask the questions, you are not going to ask the
8 questions here.

9 MR. DUGHI: Fine. Then you are not
10 going to ask him to define a partnership from a
11 legal standpoint.

12 MR. HALEY: Fine. I thought I was
13 helping you.

14 MR. DUGHI: Believe me, you are not
15 helping me and I have no intention of helping you.

16 MR. HALEY: And that's fine with me.

17 Q. Doctor, could you describe for me the
18 office which you shared at 22 Ball Street in terms
19 of its physical layout and number of rooms and so
20 on?

21 A. Yes. It had 750 square feet, which
22 included a waiting room and a receptionist's area,
23 a consultation room and three treatment rooms plus
24 a hallway and a toilet, lavatory.

25 Q. Did you have a nurse working for you at

Brodkin - direct

1 that time?

2 A. Yes.

3 Q. And do you recall what her name is?

4 A. Yes, I do, her name was Paulette Flait,
5 F-l-a-i-t. My nurse, you mean? She was my nurse,
6 receptionist and everything.

7 Q. Did you and Dr. Bleiberg at the time
8 share nurses or share receptionists or did you each
9 have your own?

10 A. We had our own. Understand that I was
11 not there when Dr. Bleiberg was there originally.

12 Q. Perhaps I misunderstood, doctor. I
13 thought you had stated, am I correct that you
14 shared office space with Dr. Bleiberg?

15 A. Yes.

16 Q. Could you tell me maybe a little bit
17 better about what that arrangement was?

18 A. Yes. Dr. Bleiberg was a sick man. He
19 had severe heart valve disease. He worked two
20 mornings and two afternoons. I, therefore, had
21 three mornings -- four mornings and whatever
22 afternoons were available. So we did not occupy
23 this office at the same time. It was a very small
24 office.

25 Q. But Ms. Flait, for example, would she

Brodkin - direct

1 have been working in the office for Dr. Bleiberg
2 when you weren't there?

3 A. No, she worked only for me.

4 Q. She worked exclusively for you.

5 (Whereupon a discussion took place off
6 the record and a recess was taken.)

7 Q. Dr. Brodkin, was there a point at which
8 you and Dr. Bleiberg assumed a shared
9 responsibility for treating patients?

10 A. Yes.

11 Q. Could you tell me when that was?

12 A. The first point was when Dr. Bleiberg
13 approached me and asked me if I would like to
14 assist him in his office on Mondays, which was his
15 long day in the office, which I began to do. After
16 that, he asked me if I would like to assist him in
17 seeing patients at the chemical factory.

18 Q. That would have been Diamond Shamrock?

19 A. Yes, which I began to do.

20 Q. First of all, when did you begin to
21 assist Dr. Bleiberg in seeing patients on Mondays,
22 if you recall?

23 A. I would say four or five months after I
24 opened my practice.

25 Q. That would have been in either late

Brodkin - direct

1 1962 or early 1963, somewhere in there?

2 A. I would say.

3 Q. And when did you assist Dr. Bleiberg in
4 seeing patients, begin to assist Dr. Bleiberg in
5 seeing patients at Diamond Shamrock?

6 A. A little bit later than that.

7 Q. Again, sometime in 1963?

8 A. Yes.

9 Q. Was there some point after you assisted
10 Dr. Bleiberg in seeing the patients on Monday and
11 seeing the patients at Diamond Shamrock that your
12 business relationship with Dr. Bleiberg changed?

13 A. Yes.

14 Q. And could you tell me when that was,
15 again, approximately?

16 A. I would guess at about the end of a
17 year.

18 Q. Which would have been the middle of
19 '63, somewhere around there, would that have been
20 correct?

21 A. Yes.

22 Q. And could you tell me what that change
23 was?

24 A. Dr. Bleiberg asked me if I would like
25 to become associated with him.

Brodkin - direct

1 Q. When you say associated, doctor, could
2 you explain to me what that means?

3 A. That it would then be -- I would
4 combine my practice with his and work along with
5 him in his office.

6 Q. And how long did that relationship
7 last, doctor?

8 A. Actually, until --

9 Q. Until Dr. Bleiberg died?

10 A. Yes.

11 Q. And Dr. Bleiberg died in '72. Is that
12 correct?

13 A. Something like that, '72, '73.

14 Q. It would have been the early seventies
15 at some time?

16 A. Yes.

17 MR. DUGHI: I think the date was March
18 '74.

19 THE WITNESS: '74 or '73.

20 MR. DUGHI: I'm not representing that,
21 I just believe that to be the date.

22 Q. Doctor, after you left NYU in 1962, I
23 believe, did you continue to try and keep abreast
24 of developments in dermatology through reading
25 literature?

Brodkin - direct

1 A. Yes, I did.

2 Q. And could you tell me what journals
3 that you read, if you can recall, what journals you
4 read in order to keep informed on developments in
5 the field?

6 A. I read the Archives of Dermatology, I
7 read the Journal of Investigative Dermatology and
8 as new journals appeared, I started reading them.
9 I don't remember the dates when they began.

10 Q. Could you give me some examples of what
11 those new journals are?

12 A. The Journal of the American Academy of
13 Dermatology, the International Journal of Tropical
14 Dermatology, Cutis, there is -- I can't remember
15 any more, although it seems all I do is read
16 dermatology journals. There is the Journal of
17 Pediatric Dermatology, there is the Journal of
18 Dermatologic Surgery and Oncology, there is the
19 Journal of the American -- there is the Journal
20 of -- I'm missing one or two.

21 MR. DUGHI: That's fine.

22 Q. Has it been pretty much that way since
23 1962, doctor, that you have worked to keep yourself
24 abreast of developments in the field by reading
25 these types of journals?

Brodkin - direct

1 A. Yes.

2 Q. Doctor, I would like you, if you would,
3 for a second, to turn to the bibliography section
4 of your C.V., which I think begins after page
5 five. I could be wrong about that. I think it
6 begins on the next page, doctor. And I would like
7 you to turn to the back of that just for a second.
8 The last publication which is there is a 1985
9 article and it also notes under number 50 that
10 another one was in press. Could you tell me have
11 you published any articles since then?

12 A. Yes.

13 Q. Could you give me, as best you can
14 recall, what they are?

15 A. I published an article on
16 superficial -- on malignant disseminated
17 porokeratosis.

18 Q. Do you know what journal that would
19 have been in?

20 A. That was in the Archives of
21 Dermatology.

22 Q. Were there any others?

23 A. Yes, there were, but I published
24 chapters of a couple of books.

25 Q. Do you recall the names of those books?

Brodkin - direct

1 A. Yes, the Gynecologic Diseases of the
2 Elderly Patient, I published a chapter on
3 dermatologic problems. There is another book
4 chapter. I can't recall.

5 Q. Do you recollect the name of the book
6 that that chapter appears in?

7 A. The one I can't remember?

8 Q. No, the one on the gynecological thing
9 which you just discussed. Was that the name of the
10 textbook?

11 A. Yes, the textbook is Gynecologic
12 Diseases of the Elderly or the Geriatric Patient.

13 Q. I apologize. Could you tell me what
14 the subject matter of the chapter you wrote was?

15 A. Dermatologic problems in the elderly
16 gynecologic patient.

17 MR. HALEY: I'm going to make a request
18 of counsel, if I could, that if there are others,
19 because I certainly don't expect the doctor to
20 remember off the top of his head everything that he
21 has written --

22 MR. DUGHI: I doubt that's an
23 up-to-date C.V.

24 MR. HALEY: If we would be provided
25 with an up-to-date list of his publications.

Brodkin - direct

1 MR. DUGHI: Let me just make a comment
2 now. I know what happens in a deposition when I
3 ask a request or someone makes one of me, you
4 forget about it. So no, I will not and send me a
5 letter and of course, I will.

6 MR. HALEY: Fine, counsel.

7 MR. DUGHI: I will make a note of it.

8 MR. HALEY: I have had that same
9 problem many times.

10

11 BY MR. HALEY:

12 Q. Doctor, turning to the front of your
13 bibliography, I notice -- am I correct in stating
14 you published at least two articles before you
15 completed your residency?

16 A. Yes, I may well have; yes.

17 Q. Has that been an interest of yours or
18 was that an interest of yours at the time,
19 publishing?

20 A. Not really -- I mean yes, obviously.

21 Q. Let me ask you this: Why did you
22 engage in the writing and publication of articles
23 back then, in '61?

24 A. I was an English literature major,
25 force of habit.

Brodkin - direct

1 Q. Would it be accurate for me to say that
2 one of the reasons that you published information
3 was to disseminate information to the medical
4 community?

5 A. Yes.

6 Q. Are there any reasons other than the
7 two which we have discussed for your publication?

8 A. I enjoy writing articles.

9 Q. Doctor, would I be correct in saying
10 that when you write an article, that that contains
11 a truthful and accurate recollection to the best
12 extent possible of your facts and opinions
13 concerning that subject matter?

14 MR. DUGHI: Do you understand the
15 question?

16 THE WITNESS: I think I do.

17 A. I will say that at that time that I
18 write it, the answer is yes.

19 Q. In other words, doctor, for example,
20 you can't anticipate future developments in the
21 field?

22 A. That's right. My opinions changed.

23 Q. I understand that, doctor. But then
24 again, contemporaneous with the writing of the
25 article, again, it would contain a truthful recount

Brodkin - direct

1 of whatever your opinions would be?

2 A. Yes, based on the experience I have at
3 the time of writing it, yes.

4 Q. And doctor, again, I'm going to go back
5 and hopefully finish up your C.V. here. Am I
6 correct in stating that you are a diplomate of the
7 American Board of Dermatology?

8 A. Yes.

9 Q. And is that what we lawyers would refer
10 to as Board Certified?

11 A. Yes.

12 Q. Could you tell me when you became Board
13 Certified in dermatology? It's on the bottom of
14 the second page, doctor, of your C.V., I believe.

15 A. I'm sorry, right after I finished my
16 training, 1963 or '64, some period of time before
17 you can sit for the examination and get certified.

18 Q. Doctor, could you tell me what the
19 requirements are, if you would, to become Board
20 Certified in dermatology when you became Board
21 Certified?

22 A. Yes. You have to complete your
23 training in an approved program and be recommended
24 to the board to take their exam and then you have
25 to take a written examination and an oral

Brodkin - direct

1 examination.

2 Q. Could you tell me, if you would, who
3 recommended you for board certification, if you
4 recall?

5 A. I don't remember. I presume the
6 program director.

7 Q. Would that have been the program
8 director at NYU?

9 A. Yes.

10 Q. And have the requirements in any way
11 changed, if you know, doctor, for board
12 certification between 1963 or 1964 and the present?

13 A. Yes.

14 Q. Could you tell me how they have
15 changed?

16 A. I know -- I think there no longer is
17 given an oral examination.

18 Q. So now it would just be a written
19 examination, as far as you know?

20 A. I believe that's true.

21 Q. Let me ask you this, doctor: How does
22 one become a fellow in the American Academy of
23 Dermatology?

24 A. I think you are required to have board
25 certification to become a fellow and then I think

Brodkin - direct

1 you apply and again have to be recommended and
2 that's it.

3 Q. Is the American Academy of Dermatology
4 the same as the American Board of Dermatology?

5 A. No.

6 Q. Would you explain what the difference
7 is, if you would, between the two organizations?

8 A. The American Board of Dermatology
9 indicates that you are qualified by virtue of
10 training and so forth to be certified as a
11 specialist in this field by them. The American
12 Academy of Dermatology is an organization that's
13 devoted to continuing the training -- not the
14 training, the educational functions in a national
15 or international way of dermatology. In other
16 words, they have a meeting and give courses,
17 endless variety of courses and other functions that
18 have nothing to do with certifying you.

19 Q. It's more of an academic type of
20 organization?

21 A. Yes.

22 Q. As I suppose the word "academy"
23 implies.

24 Would you tell me how one becomes a
25 fellow of the American College of Physicians?

Brodkin - direct

1 A. When I became, it was by publication.
2 I believe it was five accepted publications.

3 Q. And when did you become a member of
4 that organization, if you recall? Doctor, I think
5 if it would help refresh your recollection, if you
6 take a look at the second item on your honors,
7 awards and prizes, is that the same thing we are
8 talking about here?

9 A. Yes.

10 Q. So that would have been in November of
11 1967?

12 A. Yes.

13 Q. Doctor, could you explain to me how one
14 becomes a fellow of the New York Academy of
15 Medicine?

16 A. I think you just pay your dues and send
17 your application in.

18 Q. And if you recall, I will state
19 parenthetically I don't see any similar reference
20 to the front page, do you recall when you became a
21 member of the New York Academy of Medicine?

22 A. I would presume as soon as I was
23 eligible, which would have been right after my
24 residency.

25 Q. And would the same standards apply for

Brodkin - direct

1 the Academy of Medicine of New Jersey as would for
2 the New York Academy of Medicine?

3 A. Yes.

4 Q. In terms of fellowship? And do you
5 recall when you became a fellow of the Academy of
6 Medicine of New Jersey?

7 A. Shortly after I finished my training.

8 Q. So that would have been probably '63,
9 '64, somewhere in that time frame?

10 A. Yes.

11 Q. Going down, could you tell me how one
12 becomes a member of the Society of Investigative
13 Dermatology?

14 A. Yes, you apply and again, you have
15 recommendations and you send your dues.

16 Q. There is no written examination, for
17 example, to get into that?

18 A. No.

19 Q. Do you recall when you joined that
20 society?

21 A. The Society of Investigative
22 Dermatology?

23 Q. That's correct, doctor, that was the
24 question.

25 A. I did that right after I finished my

Brodkin - direct

1 residency. My membership lapsed and I joined it
2 again about two years ago.

3 Q. And what does that society do, the
4 Society of Investigative Dermatology?

5 A. That is a highly research oriented
6 society that has meetings and publishes journals on
7 research in dermatology.

8 Q. Could you tell me where they are
9 located, if you know, where their main office is?

10 A. If I wanted to get ahold of them, I
11 could tell you who I would call, Dr. D. Martin
12 Carter at the Rockefeller University in New York.

13 Q. And doctor, could you tell me how one
14 becomes a member of the Association of Professors
15 of Dermatology?

16 A. I don't remember.

17 Q. Would you tell me how one becomes a
18 member of the American Society for Dermatologic
19 Surgery?

20 A. In answer to your last question, I
21 think if you are a professor of dermatology,
22 somehow they find you. I don't remember applying.

23 Q. For example, it wouldn't be, as I go
24 down, doctor, to where you are a member, the second
25 to last entry on the second page, for example, the

Brodkin - direct

1 American Association of University Professors,
2 that's a union, isn't it?

3 A. Yes, it is.

4 Q. It wouldn't be, for example, something
5 like that, the Association of Professors of
6 Dermatology?

7 A. No.

8 Q. It's more of an academic society?

9 A. Yes.

10 Q. So could you tell me how one becomes a
11 member of the American Society for Dermatologic
12 Surgery?

13 A. I am not sure now, but when I became a
14 member --

15 Q. When you became, that's fine.

16 A. I think I applied and in some way
17 indicated my expertise or interest in that field.

18 Q. And there is no test, for example, one
19 takes?

20 A. No, there is no test.

21 Q. And do you recall when you joined that
22 organization?

23 A. Five years ago.

24 Q. That would have been in the eighties,
25 at least, sometime. Is that correct?

Brodkin - direct

1 A. I think so.

2 Q. Do you know how long that society has
3 been in existence?

4 A. Approximately the same length of time.

5 Q. So you would have joined it roughly
6 when it started. Is that correct?

7 A. Yes.

8 Q. What about the International Society
9 for Tropical Dermatology, how does one become a
10 member of that organization?

11 A. Again, I think you simply apply or are
12 recommended.

13 Q. How long have you been a member of that
14 organization, if you can recall?

15 A. Maybe ten years.

16 Q. Have you been a member of that
17 organization since it was founded or did it --

18 A. Approximately, yes.

19 Q. Thank you, doctor. Again going down
20 the list, how does one become a member of the
21 Society of Pediatric Dermatology, if you can
22 recall, when you became a member?

23 A. When I became a member, it was recently
24 and by applying for membership.

25 Q. There is no, again, written or oral

Brodkin - direct

1 test?

2 A. No examination.

3 Q. Are you aware of any, other than having
4 completed a residency in dermatology, are there any
5 other requirements, foundational requirements for
6 that organization?

7 A. I don't think so, but I know many
8 dermatologists today take residencies in
9 pediatrics, as well.

10 Q. Doctor, am I correct in stating that at
11 some point in your career, you have also been a
12 member of the Dermatologic Society of Greater New
13 York?

14 A. Yes.

15 Q. Could you tell me how one becomes a
16 member of that organization when you became a
17 member?

18 A. By applying and recommendation and I
19 think I became a member over five years ago.

20 Q. Are there any requirements that you
21 know of, other than having completed a residency in
22 dermatology, for membership to that organization?

23 A. There may be geographic requirements
24 but there is no examination.

25 Q. Doctor, would you tell me how one

Brodkin - direct

1 becomes a member of the American Association for
2 Advancement of Science, again, when you became a
3 member?

4 A. I have no recollection of how or when.

5 Q. And finally, doctor, I note -- am I
6 correct in stating that at some point in your
7 career or presently you have been a member of the
8 American Federation of Clinical Research?

9 A. Yes.

10 Q. Could you tell me how one becomes a
11 member of that organization?

12 A. I don't recall.

13 Q. Doctor, could you tell me how one
14 becomes an associate member of the Royal Society of
15 Medicine?

16 A. If one has gone through a series of
17 things, for example, I had to be a Board Certified
18 dermatologist to allow me to become a fellow of the
19 American College of Physicians, which then allowed
20 me to become an associate member of the Royal
21 Society of Medicine and I am now a fellow of the
22 Royal Society of Medicine, as you will see on my
23 up-to-date C.V., and that, beyond associate
24 membership, requires recommendations of fellows.

25 Q. Could you tell me, doctor, what your

Brodkin - direct

1 purpose was in joining the Society of Investigative
2 Dermatology?

3 A. Originally, it was to be aware of
4 research in dermatology. Recently, and my
5 membership lapsed because this is a difficult area
6 to keep up with, I rejoined because they asked me,
7 assuring me that it had become a more clinical
8 journal and meetings, so I rejoined.

9 Q. When you say it had become a more
10 clinical journal, what do you mean by that?

11 A. The Journal of the Society of
12 Investigative Dermatology concerns itself mainly
13 with research on the stump-tailed macaque monkey
14 and the sea anemone. It has really little clinical
15 relevance.

16 Q. And then the statement would be that
17 the journal deals more with the experience of
18 clinicians in treating patients than it used to?

19 A. That's what they told me.

20 Q. Could you tell me what your purpose was
21 in joining the American Society for Dermatologic
22 Surgery?

23 A. Yes, I wanted their journal and I also
24 took some of their courses.

25 Q. Would that have been the same for the

Brodkin - direct

1 International Society of Tropical Dermatology?

2 A. Yes.

3 Q. And would that have been the same for
4 the Society of Pediatric Dermatology?

5 A. Yes. Well, at that time, I was the
6 chief of pediatric dermatology in two hospitals and
7 I thought I should have the journal and keep up.

8 Q. Doctor, would it be a fair statement to
9 say that in the societies which you have become a
10 member, that a major purpose in your joining those
11 organizations is to keep up with their journals and
12 the developments in the field?

13 A. To go to their meetings and keep up
14 with their journals, yes, keep abreast.

15 Q. Other than Ms. Flait, whom we discussed
16 before, you stated was a nurse of yours when you
17 were practicing at 22 Ball Street, were there any
18 other nurses that worked with either you or Dr.
19 Bleiberg at that address?

20 A. Do you mean when Dr. Bleiberg and I
21 combined our practices?

22 Q. At any time during that period.

23 A. At any time? Oh, yes.

24 Q. Could you tell me their names to the
25 best you can recollect?

Brodkin - direct

1 A. Yes. One of them was named Cynthia
2 Fahs, F-a-h-s; Iris Blumenau, B-l-u-m-e-n-a-u; Kate
3 Chayet, C-h-a-y-e-t; Judith Schwartz,
4 S-c-h-w-a-r-t-z; Nancy Dalley, D-a-l-l-e-y, I
5 believe; Ruth Gelber; Sylvia Kolber. I can think
6 of many whose names I cannot remember, if you will
7 forgive me.

8 Q. Did any of these nurses whom we
9 discussed ever accompany you to Diamond Shamrock
10 for the purpose of treating the workers who were
11 the subject of this lawsuit?

12 A. Iris Blumenau did.

13 Q. Do you know if she is around today?

14 A. Yes.

15 Q. Do you know where she is?

16 A. In my office.

17 Q. She works in your office. And how long
18 has Miss Blumenau been with you?

19 A. She was Dr. Bleiberg's nurse. I don't
20 know when she started with him. She has continued
21 uninterrupted since I joined practices with
22 Bleiberg.

23 Q. So would it be correct for me to say
24 that she has been continuously working with either
25 you or Dr. Bleiberg since 1962?

Brodkin - direct

1 A. That's correct, since before 1962.

2 Q. Did any of the other names which you
3 mentioned -- I shouldn't say names, did any of the
4 other people whom you mentioned go, accompany you
5 to Diamond Shamrock to treat these workers?

6 A. Not that I can recall.

7 Q. Do you know the present whereabouts
8 today of any of the nurses whom you just mentioned
9 other than Ms. Blumenau?

10 A. Yes.

11 Q. And doctor, could you tell me which
12 ones and where they are at?

13 A. Mrs. Chayet is dead. She was in the
14 original crew for Dr. Bleiberg. I do not know
15 where Judith Schwartz is, I do not know where
16 Cynthia Fahs is, I do not know where Sylvia Kolber
17 is except that I presume she is alive.

18 Nancy Dalley and Ruth Gelber work for
19 us still.

20 Q. Would that be at the Centers for
21 Dermatology?

22 A. Yes.

23 Q. And how long has Ms. Dalley been with
24 you?

25 A. I don't know, a number of years, ten

Brodkin - direct

1 years.

2 Q. Since mid-seventies, approximately?

3 A. Yes.

4 Q. And what about Ms. Gelber?

5 A. Same thing.

6 Q. Doctor, am I correct in my
7 understanding that this list of nurses is a list,
8 as best you can recall, of the nurses who worked
9 with you and/or Dr. Bleiberg since '62?

10 A. Yes. I know there are a number
11 missing.

12 Q. But these are the ones you can recall
13 at the present time?

14 A. Yes.

15 Q. When you moved from Ball Street in
16 Irvington to Union Avenue in Irvington, can you
17 tell me why that move was made?

18 A. Yes. We simply needed more space.

19 Q. Doctor, you also stated that Dr.
20 Bleiberg worked two mornings and two afternoons a
21 week when you started with him. Did that change
22 over time?

23 A. Other than at the times I went on
24 vacation, he pretty much stuck to that throughout
25 or when he was sick or on vacation himself.

Brodkin - direct

1 Q. And was there a time that your office
2 time, for lack of a better phrase, changed from
3 three mornings and three afternoons a week?

4 A. Yes.

5 Q. Could you tell me when that was?

6 A. From the time we were associated, even
7 before we moved into a larger office, I spent time
8 with him and by myself. This was pretty much, if I
9 may say, I kept my hours, moved into his hours, not
10 all his hours, but some of his hours.

11 Q. Would it be fair to say that you became
12 essentially practicing full-time?

13 A. Yes.

14 Q. As opposed to the three mornings and
15 three afternoons?

16 A. No, I mean I had duties at the medical
17 school.

18 Q. I didn't mean to cut your answer short,
19 doctor. Was there anything else you wanted to say?

20 A. No.

21 Q. How did you happen to go to 22 Ball
22 Street to ask Dr. Bleiberg if he had office space
23 available, if you recall?

24 A. I was looking for an office. I had
25 appointments, hospital appointments when I began at

Brodkin - direct

1 St. Barnabas, Beth Israel and Martland and
2 Presbyterian, which are in Newark. 22 Ball Street,
3 and I was living in New York, 22 Ball Street is at
4 the intersection of the Garden State Parkway and
5 all of the main arteries into Newark, Lyons Avenue,
6 Clinton, they all cross there. So that I had
7 convenient access to these hospitals in Newark and
8 to get back into New York or from New York.

9 Q. Prior to your going to 22 Ball Street,
10 had anyone suggested to you that Dr. Bleiberg might
11 be looking for someone to share office space?

12 A. In retrospect, they had but I had
13 forgotten about it.

14 Q. Can you recall who that was?

15 A. Yes. At some point later, I was made
16 aware of a conversation between Dr. Bleiberg's wife
17 and my mother-in-law that took place because they
18 both had mothers in the same nursing home and she
19 said I have a marvelous son-in-law who is starting
20 a career in dermatology and apparently, a
21 suggestion was made why don't you contact my
22 husband. I never did that and I didn't realize
23 that until later.

24 MR. MONZIONE: Did you say your
25 mother-in-law called you marvelous?

Brodkin - direct

1 THE WITNESS: Still does.

2 MR. DUGHI: It can be a matter of
3 record. It's probably the kind of credential that
4 makes sense in life. I might point out that I also
5 carry the same honor.

6 Q. Could you tell me about the difference
7 in office space and size between 22 Ball Street and
8 40 Union Avenue?

9 A. Yes. 40 Union Avenue was over 1,200
10 square feet.

11 Q. And how many treating rooms did you
12 have there?

13 A. I think we had five and two
14 consultation rooms.

15 Q. And later, did you move to 769
16 Northfield Avenue before or after Dr. Bleiberg
17 died?

18 A. After, I'm quite sure.

19 Q. And how physically did 769 Northfield
20 Avenue differ from 40 Union Avenue in terms of the
21 offices?

22 A. In practical terms, in terms of square
23 feet, efficiency and so forth, very little. It was
24 necessary to move out of Irvington for other
25 reasons.

Brodkin - direct

1 Q. And in 1986, when you moved to Old
2 Short Hills Road, how did that office differ in
3 terms of its physical layout?

4 A. That's a much larger office in many
5 ways. It has more rooms, more square footage.
6 It's superior in many ways.

7 Q. Also happens to be right across the
8 street from St. Barnabas Hospital?

9 A. Yes.

10 Q. Other than Dr. Bleiberg, have you ever
11 been associated with another physician in your
12 practice?

13 A. Yes.

14 Q. Could you tell me the name of that
15 physician?

16 A. At the present time, Dr. Abbey, Albert
17 A. Abbey, who joined our practice I think in about
18 1972, while Dr. Bleiberg was alive, or while he was
19 practicing, and prior to Dr. Abbey -- do you want
20 other people who I can recall?

21 Q. Yes, I do.

22 A. There was a Dr. Lewis Stollman,
23 S-t-o-l-l-m-a-n, there was a Dr. Philip -- pardon
24 me, Stewart Miller.

25 Q. Stewart Miller?

Brodkin - direct

1 A. Pardon me, I don't think he ever
2 really -- there were people who helped out like on
3 a Saturday or something, but associated themselves
4 with the practice, I suspect there were others but
5 I have forgotten.

6 Q. Dr. Stollman, is that correct, was
7 he --

8 A. He was with us for one year.

9 Q. Could you tell me when that was?

10 A. I would guess about ten years ago.

11 Q. It would have been in the mid-'70's at
12 some point, in any event, roughly speaking?

13 A. Early or mid-seventies.

14 Q. Do you recall if that would have been
15 before or after Dr. Bleiberg died?

16 A. It was before.

17 Q. Was Dr. Stollman ever involved in
18 treating the workers in Diamond Shamrock, if you
19 can recall?

20 A. No.

21 Q. What about Dr. Abbey, has he ever been
22 involved in the treatment of workers at Diamond
23 Shamrock?

24 MR. DUGHI: To make sure the question
25 is clear, not workers at Diamond Shamrock but --

Brodkin - direct

1 MR. HALEY: Yes, workers from Diamond
2 Shamrock, not necessarily at the facility.

3 A. Allowing that he might have treated a
4 worker at some point, I would answer that question
5 as no. If it so happened that he did at some time
6 see a worker --

7 Q. Let me state the question perhaps
8 another way. It would not have been a regular part
9 of Dr. Abbey's job to see -- strike that. I will
10 leave it where it is.

11 Doctor, do you recall the street
12 address of the Diamond Shamrock plant in Newark, by
13 any chance?

14 A. Lister Avenue.

15 Q. Do you recall the first occasion you
16 had to visit the facility on Lister Avenue?

17 A. I recall some early time when I went
18 there. You mean the date?

19 Q. Approximately. I'm not asking you to
20 say like November 11, 1960, you know.

21 A. I would say sometime in 1963.

22 Q. And was the purpose of your visit there
23 to examine patients?

24 A. It was to assist Dr. Bleiberg and that
25 was examining, treating patients.

Brodkin - direct

1 Q. Am I correct in stating that you would
2 normally go to the plant one afternoon per week,
3 and I don't want to say necessarily you, but the
4 treatment by either you or Dr. Bleiberg would be
5 given at the plant one day a week?

6 MR. DUGHI: Let me object. We are
7 talking about a period of time that starts sometime
8 perhaps in 1963 up until the plant closed.

9 MR. HALEY: I understand what you are
10 saying, counsel.

11 Q. In 1963, when you started treating the
12 workers at Diamond Shamrock, could you tell me how
13 often you personally visited the plant?

14 A. More or less weekly.

15 Q. And that would be for the purpose of
16 treating the workers?

17 A. Yes.

18 MR. DUGHI: Excuse me one second.

19 (Whereupon a discussion took place off
20 the record.)

21 Q. Would Dr. Bleiberg accompany you on
22 these visits?

23 A. Yes.

24 Q. Am I correct in stating that normally,
25 then, both of you would go to the plant together?

Brodkin - direct

1 A. Yes.

2 Q. And for how long did you continue to go
3 to the Diamond plant on a more or less weekly
4 basis?

5 A. More or less weekly basis, I don't
6 know, until 19 -- mid-1960's, for a few years,
7 three, four, five years.

8 Q. But you continued to treat some
9 patients, did you not, after the mid-sixties?

10 A. Yes.

11 Q. Some of these workers. Between the
12 mid-sixties -- do you know when the plant closed?
13 Let me put it to you that way.

14 MR. DUGHI: Does he know the date?

15 MR. HALEY: Roughly when the plant
16 closed.

17 MR. DUGHI: Do you recall the date? I
18 think we can agree.

19 MR. HALEY: It was 1970.

20 MR. DUGHI: It was August 1969, is my
21 understanding.

22 MR. HALEY: 1969, that's fine, we will
23 take that date.

24 MR. DUGHI: Is that your
25 understanding?

Brodkin - direct

1 MR. HALEY: It's roughly then but it's
2 not that important to the question but that's my --

3 MR. DUGHI: For the purposes today,
4 August '69 is fine?

5 MR. HALEY: August '69 is fine.

6 A. Then may I modify my answer to say so
7 long as there was a substantial working force
8 there.

9 Q. You would go to the plant more or less
10 weekly?

11 A. Yes, and understanding that the plant
12 closed in '69, I would imagine it was working at
13 least until the mid-sixties with workers.

14 Q. Prior to the plant closing, was there
15 ever a time period when you would normally treat
16 the employees at your office as opposed to the
17 plant? Do you understand my question?

18 A. Not on an emergency basis, you mean?

19 Q. Right.

20 A. In other words, was there a time when
21 we gave them appointments to come see us at our
22 office?

23 Q. That's correct.

24 MR. DUGHI: As opposed to going to the
25 plant.

Brodkin - direct

1 MR. HALEY: As opposed to going to the
2 plant.

3 A. I don't think so. To my recollection,
4 we treated them on a regular basis at the plant.
5 If an emergency arose, we didn't have them wait.

6 Q. And between the time that you, you
7 personally, first started going there and the time
8 the plant closed, was there a time when Dr.
9 Bleiberg stopped going with you on the weekly
10 visits?

11 A. I think toward the end, I was going
12 alone for a period of time and of course, if he was
13 on vacation or sick, I was going.

14 Q. Would it be fair to say, though, that
15 for most of the time that you were treating workers
16 at that plant, you and Dr. Bleiberg would go
17 together?

18 A. Yes.

19 Q. Doctor, I recognize this is many years
20 ago. Could you describe for me as best you can
21 recall the layout of the different buildings? How
22 many buildings, first of all, were at the
23 facility?

24 MR. DUGHI: Are you talking about the
25 medical facility or are you talking about the whole

Brodkin - direct

1 plant?

2 MR. HALEY: I want to find out first
3 and work it down because I'm not sure where he
4 treated these guys.

5 MR. DUGHI: If you are asking him to
6 surmise, as you have several times this morning,
7 fine. I have no idea what knowledge this witness
8 has of the plant. He is not being offered as an
9 employee of Diamond Shamrock. I don't know if he
10 even went around the plant. Let's do the
11 foundation.

12 MR. HALEY: Why don't I ask that
13 question.

14 MR. DUGHI: I'm not objecting to doing
15 it.

16 Q. Doctor, did you ever have an occasion
17 to tour the plant at 80 Lister?

18 A. Yes, but I don't know how much of the
19 plant I toured.

20 Q. Did you ever have an opportunity to
21 tour the 2,4,5-T manufacturing facility?

22 A. Maybe. I seem to have --

23 MR. DUGHI: Wait. Him personally now?

24 MR. HALEY: Him personally, that's
25 correct.

Brodkin - direct

1 A. I seem to have some recollection of
2 seeing a building where the stuff was being made.

3 Q. When you would go down to treat the
4 workers, where would that be?

5 A. Let me explain that there is big
6 factories all over the place and a driveway and a
7 railroad track. We entered the driveway, crossed
8 the railroad track and I know there was a big paint
9 factory to the right. I didn't know whether it was
10 Diamond or the paint factory and where it stopped
11 and Diamond began, I had no idea. I know there was
12 some sort of an administration building and
13 laboratory to the left. We went into this area
14 which was mainly a driveway and on the left
15 diagonally, you saw a building. In that building
16 was the first aid station and medical room. So I
17 don't really know -- I knew there was an
18 administration building and I had been in it. I
19 knew there was a medical room and I had been in it
20 and beyond that, I have very little recollection of
21 whose was what and how many or where the buildings
22 were.

23 Q. Do you know, other than the first aid
24 station and the medical room, can you recall
25 anything else that was in the building where you

Brodkin - direct

1 treated the workers?

2 A. No. It seems to me this was a large
3 building with an entrance. We went into the
4 entrance, we were in a medical room and that was as
5 far as I knew.

6 Q. Are you aware, doctor, that Diamond had
7 a 2,4,5-T manufacturing process?

8 MR. DUGHI: Is he aware today?

9 MR. HALEY: Is he aware today.

10 A. Yes.

11 Q. Could you tell me when you first became
12 aware of them?

13 A. I suppose sometime after I started
14 going down there, maybe a year after I opened my --
15 after I was going with Bleiberg for awhile, these
16 things were discussed.

17 Q. When you say discussed, between you and
18 Dr. Bleiberg?

19 A. Yes.

20 Q. And when you say, "these things," that
21 was, for example, the 2,4,5-T process?

22 A. Yes.

23 Q. Related to Diamond Shamrock, what were
24 the other types of things that you and Dr. Bleiberg
25 would discuss?

Brodkin - direct

1 A. We discussed a lot of things. We
2 discussed the problem, how we might prevent it; we
3 discussed facilities like the shower facilities and
4 so forth and certain patients who were very
5 hygienic and others who were not as hygienic and a
6 bunch of anecdotal stuff.

7 Q. When you say, "the problem," could you
8 tell me what you mean by "the problem"?

9 A. I mean chloracne.

10 Q. And when you Dr. Bleiberg would discuss
11 means to prevent it, what would those discussions
12 have been?

13 A. For one thing, Dr. Bleiberg thought
14 that perhaps we should not -- they should not hire
15 patients who had had prior acne; perhaps they
16 should protect their workers in a different way;
17 for example, at that time, barrier creams were
18 present and people were trying to make better --

19 Q. Not to interrupt you, doctor, when you
20 say, "they," you mean Diamond Shamrock?

21 A. Would you repeat --

22 Q. You used the word "they." Do you mean
23 Diamond Shamrock by that?

24 A. I might have meant the literature, the
25 people dealing with industrial diseases.

Brodkin - direct

1 Q. Fine.

2 MR. DUGHI: This is Dr. Bleiberg's --

3 THE WITNESS: Reading, yes, telling
4 me --

5 MR. DUGHI: You said Dr. Bleiberg
6 thought and you said a couple of things.

7 MR. HALEY: I didn't mean to confuse
8 him, I really didn't.

9 MR. DUGHI: I know you didn't.

10 MR. HALEY: Why don't we read back the
11 question and read back the partial answer.

12 MR. DUGHI: Just a minute. Why don't
13 we read back the question and partial answer.

14 Before you do that, let's get one thing
15 on the record. I'm not going to abridge your
16 questioning in this area at all, obviously, but we
17 are talking about from '63 sometime to '69 sometime
18 and we have to keep the time frames in mind.

19 MR. HALEY: I understand that.

20 MR. DUGHI: General questions are going
21 to get us all in trouble in terms of time frames.
22 Go ahead. Do you remember the question or do you
23 want it read back?

24 THE WITNESS: We talked about they
25 taking measures to prevent. My answer was not

Brodkin - direct

1 simply limited to Diamond, but for example, we
2 discussed the general use of barrier creams. These
3 were being used in many, many industries, including
4 in Diamond.

5 Q. And the purpose of the barrier creams
6 would have been to prevent contact with the skin of
7 the offending agent?

8 A. Yes. I had heard about such things. I
9 had no experience with them. Dr. Bleiberg told me
10 that they were ineffectual and so on and so forth.

11 Q. Doctor, you also stated that it was Dr.
12 Bleiberg's opinion that those who had acne or
13 severe acne, I don't remember exactly what you
14 said, since adolescence should perhaps not be
15 employed there, meaning Diamond Shamrock. Is that
16 a correct -- do you recall making that statement?

17 A. He had suggested that.

18 Q. Do you recall when he first suggested
19 that?

20 A. I would guess early on in 1963
21 sometime.

22 MR. DUGHI: Suggested to Dr. Brodkin or
23 suggested to Diamond Shamrock?

24 THE WITNESS: To me.

25 MR. HALEY: That was my question.

Brodkin - direct

1 A. He mentioned to me this as a possible
2 solution to the problem.

3 Q. Did you share that opinion?

4 A. I didn't have much of an opinion
5 because this was sort of new territory to me. It
6 sounded reasonable.

7 Q. That was in 1963?

8 A. Yes.

9 Q. Was there ever a time after 1963 or
10 later on when you came to accept or reject that
11 opinion?

12 A. When I began to acquire enough
13 experience to have my own feelings about that, yes.

14 Q. And did you accept or reject that
15 opinion or come to some other conclusion?

16 A. I concluded that it did not necessarily
17 correlate positively or negatively and so did Dr.
18 Bleiberg.

19 Q. Do you have an idea, doctor, when you
20 came to that conclusion?

21 A. No, I don't recall; in time, gradually.

22 Q. Would it have been sometime, in a
23 general sense, before or after the plant closed?

24 A. Before the plant closed.

25 Q. When you first began going down to the

Brodkin - direct

1 plant in 1963, do you recollect approximately how
2 many patients you would see on a visit there?

3 MR. DUGHI: This is '63?

4 MR. HALEY: In '63.

5 MR. DUGHI: Go ahead.

6 A. Yes, I would guess between ten and 20.

7 Q. That would be ten and 20 per week?

8 A. In that afternoon, and I would suggest
9 that it was somewhere a little bit narrower, 12 to
10 18.

11 Q. And how much time would you spend at
12 the plant seeing these 12 to 18 patients?

13 MR. DUGHI: Excuse me. Him alone or
14 him and Bleiberg?

15 Q. You and Dr. Bleiberg.

16 A. Maybe a couple of hours.

17 Q. And would you both see the same
18 patients or would you see patients individually or
19 was there some other method?

20 A. We did it all ways. Sometimes he was
21 not in the room with me. There were such times.
22 In fact, obviously, there were times when he wasn't
23 in the factory. But for the most part, we were
24 there together in the room.

25 Q. So you would both see the patient at

Brodkin - direct

1 the same time?

2 A. Yes.

3 Q. Again, I'm going to stick to the 1963
4 time frame just so I qualify the question. Who
5 would you discuss at Diamond your findings with, if
6 anyone?

7 MR. DUGHI: I recognize the problem but
8 I think you have got to be more precise. When you
9 say, "you," that can mean to me Dr. Brodkin, Dr.
10 Brodkin and Bleiberg as a unit or Dr. Bleiberg. I
11 think if you want to know what he did, fine; if you
12 want to know what they did, fine.

13 Q. Let me put it to you this way: When I
14 say the word "you," I mean Roger Brodkin and if I'm
15 asking about Dr. Bleiberg, I will mention his name,
16 also.

17 MR. DUGHI: Fine.

18 MR. HALEY: I think that's fair.

19 MR. DUGHI: Certainly. Go ahead.

20 Q. Would you like the question read back?

21 A. Yes.

22 (Whereupon the record was read.)

23 A. The workers constantly asked me
24 questions, me and Dr. Bleiberg. I discussed it
25 with no one else. You are talking about 1963,

Brodkin - direct

1 that's what you said.

2 Q. Right. You said that's when you began
3 coming into the factory.

4 A. Yes. Workers asked me questions, I
5 answered their questions.

6 Q. Do you know if Dr. Bleiberg discussed
7 his findings at all or what was going on in the
8 plant with anyone in a management capacity?

9 A. Yes, he did.

10 Q. Do you know who that would have been?

11 A. There was a Mr. Guidi there, I remember
12 him.

13 Q. Does the name Dr. McBurney --

14 A. Yes.

15 Q. Would that have been another one with
16 whom findings would have been discussed?

17 A. He came from Cleveland.

18 MR. DUGHI: The question was did he
19 discuss it with Bleiberg, to your knowledge.

20 THE WITNESS: Yes, I think he did. I
21 didn't see the two of them discussing.

22 Q. Did Dr. Bleiberg, and again, in the '63
23 time frame just so we are focusing, ever have an
24 occasion to tell you about his conversations or
25 reporting to Mr. Guidi?

Brodkin - direct

1 A. I'm sure he did tell me.

2 Q. And what about Dr. McBurney?

3 A. I'm sure he discussed a lot of his
4 conversations with the management of the factory
5 with me.

6 Q. Was there ever a time after 1963 when
7 you personally, again, I'm not talking about Dr.
8 Bleiberg, discussed your findings or consultations
9 with management personnel at Diamond?

10 A. I don't think I ever did.

11 Q. Would I be accurate in saying that Dr.
12 Bleiberg was the primary means of communication
13 between your office and Diamond management
14 personnel?

15 A. Yes.

16 Q. Do you recall, again, I'm focusing in,
17 doctor, on the 1963 time frame, do you recall
18 meeting a gentleman named, I believe, Donald
19 Birmingham?

20 A. Yes.

21 Q. At some point in 1963?

22 A. I don't know exactly the date but I
23 certainly do know who Dr. Birmingham is.

24 Q. Let me ask the question another way.
25 Was there a time shortly after you began working

Brodkin - direct

1 with the Diamond Shamrock workers that you had an
2 occasion to meet Dr. Birmingham?

3 A. I don't know if it was shortly after
4 but I remember Dr. Birmingham being there for a
5 visit.

6 Q. At the Diamond Shamrock plant?

7 A. Yes.

8 Q. Did anyone accompany him on that visit?

9 A. Yes, there was a Dr. Marcus Key, a Dr.,
10 I think, Silas O'Quinn and some people from the
11 state government.

12 Q. Did you participate at all in arranging
13 that visit?

14 A. No.

15 Q. Do you know if Dr. Bleiberg did?

16 A. Yes, I do; he did.

17 Q. And to the best you can recall, can you
18 tell me what the purpose of that visit was?

19 MR. DUGHI: Stop. You are asking him
20 now for what he knew at the time, I presume.

21 MR. HALEY: That's correct.

22 MR. DUGHI: So why don't you ask the
23 foundation question, whether he has that
24 knowledge. He may have learned things since.

25 Q. Doctor, did you accompany Dr.

Brodkin - direct

1 Birmingham on his tour of the facility when he
2 visited it?

3 A. I think I partly did. Bleiberg, I
4 think I picked up after I treated the patients.
5 Birmingham was there for a period of some hours
6 with Bleiberg and I was treating patients. I may
7 have joined him.

8 Q. Did Dr. Bleiberg ever have an occasion
9 to tell you why he requested Dr. Birmingham to
10 visit the facility in 1963?

11 A. Only that Dr. Birmingham is an expert
12 in occupational diseases, dermatologic diseases. I
13 knew that.

14 Q. Doctor, do you recall, and again, I'm
15 focusing in on the 1963 time frame, do you recall
16 if a report was ever produced by Dr. Birmingham
17 and/or Key as a result of their visit?

18 A. Yes.

19 Q. And if you recall, do you remember did
20 they make any recommendations concerning facilities
21 at the plant or improving conditions or so on?

22 MR. DUGHI: I think you are going to
23 have to distinguish what his involvement was in
24 '63-'64, whenever this was, as opposed to what he
25 may have learned as part of this lawsuit.

Brodkin - direct

1 MR. HALEY: I think when you were
2 talking to Miss Bass, I said I'm talking about the
3 '63 time frame.

4 MR. DUGHI: Okay, I apologize, but I
5 still think the question isn't clear.

6 A. I discovered this report when I was
7 shown it by Mr. Dughi.

8 Q. So, then, Doctor, up until sometime
9 after the commencement of the lawsuit, you never
10 saw a report from Dr. Birmingham?

11 A. That's correct.

12 MR. DUGHI: The record will reflect in
13 1963, I was at Blair Academy and very happy and not
14 aware of any of this.

15 MR. HALEY: Let the record reflect that
16 I attended public school.

17 Q. Other than the plant visit from Dr.
18 Birmingham, in 1963, again, focusing on that time
19 frame, did you have any occasions to discuss with
20 Dr. Birmingham what his findings may or may not
21 have been at the plant?

22 A. No, I did not.

23 Q. So, then, just so I'm clear, doctor,
24 other than potentially when he was touring the
25 factory, you had no discussions with Dr. Birmingham

Brodkin - direct

1 in the 1963 time frame?

2 A. That's right.

3 Q. What about Dr. Key?

4 A. No discussion with Dr. Key.

5 Q. And would it be accurate for me to say
6 that you didn't have discussions with any of the
7 other members of the visiting team that came in?

8 A. That's correct, I did not.

9 MR. HALEY: I would like five minutes,
10 please.

11 (Whereupon a recess was taken.)

12 Q. Doctor, could you describe the first
13 aid room at the Diamond Shamrock plant as it
14 existed in 1963, if you can recall?

15 A. It was a room that I would guess was
16 about ten by 15 or 20 in size and with a regular
17 eight foot ceiling. The furnishings consisted of a
18 desk and chair, some other chairs. There may have
19 been an examining chair or examining table. There
20 was a light, a freestanding examining light. I
21 believe there was a cabinet, there was a cabinet
22 consisting of something on the floor and something
23 on the wall and that's about all I remember.

24 Q. What medical implements and supplies
25 were necessary for you to conduct the examinations

Brodkin - direct

1 at the plant?

2 A. Were necessary for me?

3 Q. For you. In other words, what did you
4 have to have implementwise in order to conduct --

5 A. To examine a patient?

6 Q. To examine a patient at the Diamond
7 Shamrock facility.

8 MR. DUGHI: In 1963?

9 MR. HALEY: In 1963.

10 A. To examine a patient, all I needed was
11 my eyes.

12 Q. What about to treat a patient?

13 A. To treat a patient, I needed surgical
14 instruments that included needles and syringes for
15 local anesthesia, various cutting instruments,
16 scissors and scalpels, and various holding
17 instruments, such as forceps, clamps, plus
18 dressings, medication, Band-Aids.

19 Q. Would you bring any equipment with you,
20 was it supplied by Diamond Shamrock or how did that
21 work in terms of getting the implements there?

22 A. Diamond Shamrock had first aid
23 equipment, Band-Aids, cotton tipped applicators,
24 alcohol, antiseptics, that sort of thing, some
25 dressings. The surgical instruments we brought and

Brodkin - direct

1 the needles and syringes and medication which we
2 administered were brought by us.

3 Q. In 1963, did they have disposable
4 syringes and needles?

5 A. Did they have them? Yes, they did.

6 Q. Did you use disposable needles and
7 syringes at this facility?

8 A. When I went into practice, I never used
9 anything but.

10 Q. Doctor, in 1963, correct me if my
11 understanding is wrong, one of the things that was
12 done in terms of surgery was to lance or remove
13 cysts, boils and other manifestations of the
14 chloracne. Is that a correct understanding?

15 A. That's correct.

16 Q. And you stated, did you not, doctor,
17 that you would typically see somewhere between 12
18 and 18 patients, approximately, when you visited
19 the plant. Is that correct?

20 A. Yes, it is.

21 Q. Did you bring down 12 different sets of
22 surgical instruments with you or 18 different sets
23 of surgical instruments?

24 A. No.

25 Q. When you went from working on one

Brodkin - direct

1 patient to another, what would you do to make sure
2 that your surgical instruments were sterilized?

3 A. We took out a new blade. You mean for
4 a scalpel?

5 Q. Exactly.

6 A. A scalpel, we changed the blade.

7 Q. Changed the blade. Was there any need
8 with any of the other instruments to make sure they
9 were antiseptic prior to use?

10 A. If we had a cutting case, a legitimate
11 cutting case, that might have consisted of one or
12 two patients, and we had sufficient equipment to
13 handle that, I mean for each case, they had their
14 own instruments.

15 Q. And that includes lancing, also?

16 A. Yes.

17 Q. I would like to go back, doctor, for a
18 second, if I could, to Dr. Bleiberg and your
19 business relationship with him. Was there ever a
20 written partnership agreement between you and Dr.
21 Bleiberg?

22 A. I think there eventually was.

23 Q. And when you say eventually, could you
24 tell me when that would have been?

25 A. I can't tell you when it was but I know

Brodkin - direct

1 there was a considerable delay.

2 Q. A considerable delay from when you
3 first became associated with him?

4 A. That's correct.

5 Q. Was it your practice with Dr. Bleiberg,
6 and again, I'm focusing in on the period between
7 your association and the written agreement, where
8 you would, for example, split fees on patients?

9 MR. DUGHI: Let's take the word "split
10 fees" out.

11 A. Yes, that has a connotation --

12 Q. Or share fees?

13 MR. DUGHI: How was he paid, maybe, ask
14 him as opposed to the characterization.

15 MR. HALEY: Fine, I will accept that.

16 Q. What were the financial arrangements
17 between you and Dr. Bleiberg?

18 A. As best I can recall, when we first
19 combined our salary, I was paid a salary -- first
20 combined our practices, I was paid a salary. How
21 long exactly that was, I would say it was at the
22 most for a year and that salary was more than my
23 income with my practice, so that -- then the next
24 year, I was given a percentage of the gross -- or
25 of the available income and the year after that, it

Brodkin - direct

1 was two or three years, I was given more of a
2 percentage until in the end, and I think it was
3 three or four years, I was a 50-50 division of
4 income in the practice.

5 Q. If you can recall, when you say that
6 your salary was paid, was that in the form of a
7 draw or was that in the form of wages? Do you
8 understand my question?

9 A. No.

10 Q. You don't understand my question?

11 A. What is the difference between a draw
12 and wages? I was paid wages, as far as I
13 understand them to be, originally. I was given
14 such and such money per week originally.

15 Q. And that would have been pursuant to an
16 oral agreement or understanding between you and Dr.
17 Bleiberg?

18 A. Correct.

19 Q. Was there ever, as part of your
20 agreement, did you agree each to share
21 responsibility for the care and treating of in this
22 case specifically the worker patients?

23 A. You mean time responsibility?

24 Q. And treatment responsibility, also.

25 MR. DUGHI: Whose patients were they?

Brodkin - direct

1 MR. HALEY: Yes.

2 A. It was our understanding that patients
3 were to be treated by either/or and both, any and
4 all patients. Of course, there were patients who
5 didn't want to see me and there were some patients
6 who didn't want to see Bleiberg.

7 Q. You would go down to the Diamond
8 Shamrock plant and treat the workers during the
9 afternoon. Were treatment records prepared from
10 these visits?

11 A. Yes.

12 Q. Could you tell me who prepared those
13 treatment records?

14 A. You mean who wrote in our charts?

15 Q. Yes.

16 A. For the most part, Dr. Bleiberg, but I
17 did, too.

18 Q. You did, too. And when would those
19 notations in the records be made, in the charts?

20 A. At the time we treated the patient.
21 The charts went to the factory with us.

22 Q. And the charts, doctor, one of the
23 purposes of keeping the charts would be, again, I
24 ask you to correct me if my understanding is wrong,
25 one of the purposes of the charts would be to

Brodkin - direct

1 provide yourselves with a record of exactly the
2 treatment that was being administered and how many
3 times the person had visited. Is that correct?

4 A. That's correct.

5 Q. And another purpose would be, would it
6 not, to record recommendations that had been made
7 to the patient? Would that be another reason for
8 writing down things in the chart?

9 A. Recommendations to the patient might be
10 noted in the chart.

11 Q. And am I also correct in saying that
12 one of the purposes of keeping a chart and
13 notations in the chart would also be to inform
14 other physicians potentially of significant
15 findings and diagnoses relating to the condition of
16 the patient being seen?

17 MR. DUGHI: This is his office chart?

18 A. I wouldn't say that. The purpose of a
19 chart is really so you have some idea of what you
20 have been doing, what this guy is taking.

21 Q. Would there be any other reasons for
22 forming a chart other than the ones we discussed?

23 A. You could stretch it but that was the
24 main reason.

25 Q. I understand. Would it have been your

Brodkin - direct

1 practice then to record those things in the medical
2 charts which would have been significant to you as
3 a doctor in terms of the patient's condition?

4 MR. DUGHI: You are again referring
5 just to him personally in these charts?

6 MR. HALEY: Him personally in these
7 charts, yes.

8 MR. DUGHI: Go ahead.

9 A. Yes, what I wrote down was mainly
10 significant to me.

11 Q. Did you and Dr. Bleiberg discuss,
12 again, in this time frame, the preparation of
13 charts?

14 A. Did we discuss the preparation of
15 charts?

16 Q. For example, doctor, let me give you an
17 example, perhaps it will make my question clearer,
18 did you and Dr. Bleiberg or Dr. Bleiberg say to you
19 Dr. Brodkin, there are certain things I need to see
20 in the charts that we are preparing so that since
21 potentially we are sharing patients, I'm just
22 giving you a hypothetical, I need to know X, Y and
23 Z and I want to make sure that these things enter
24 the charts?

25 A. We never discussed them in that way.

Brodkin - direct

1 Q. Were you ever trained in either medical
2 school or residency or internship into the
3 preparation of a chart?

4 A. Yes.

5 Q. And when specifically was that?

6 A. In medical school.

7 Q. And what course, if you can recall, was
8 that training in?

9 A. Physical diagnosis, sophomore year.

10 Q. And is that fairly standard in medical
11 schools, doctor, that that's where the preparation
12 of charts is taught?

13 A. Yes.

14 Q. Did Dr. Bleiberg ever discuss with you
15 or tell you that Dr. Birmingham had prepared a
16 report on his visit in '63?

17 A. No, to the best of my recollection.

18 Q. And did he discuss with you prior to
19 Dr. Birmingham's visit the reasons why he wanted
20 Dr. Birmingham to come into the factory?

21 A. No. I know he said to me he was going
22 to ask Dr. Birmingham to come.

23 Q. But he didn't tell you why?

24 A. He didn't tell me why.

25 Q. At some time in 1963, do you recall the

Brodkin - direct

1 hospitalization of some of the workers who had been
2 treated by you and Dr. Bleiberg?

3 A. Yes.

4 Q. And one of them is known as Griffin
5 Baisley, who is a plaintiff in this lawsuit?

6 A. Yes.

7 Q. Whose decision was it to recommend that
8 these workers be put in the hospital?

9 A. Dr. Bleiberg's.

10 Q. Did you participate in that at all?

11 A. In the decision, I did not.

12 Q. Did Dr. Bleiberg discuss with you the
13 reasons why he wanted these people to be
14 hospitalized?

15 A. Yes.

16 Q. And what did he tell you?

17 A. What he told me, as I recall, was that
18 he wanted some in-depth testing done of these
19 patients which could not be done, he felt, on an
20 outpatient basis.

21 Q. For the purposes of doing what, doctor,
22 testing?

23 A. What tests?

24 Q. What tests for the purposes --

25 A. The only thing I remember is I think he

Brodkin - direct

1 wanted to do liver biopsies on them.

2 Q. And again, correct me if I'm mistaken,
3 but as I understand it, and am I correct in stating
4 that a liver biopsy is a procedure whereby a needle
5 or some other thing is inserted into the liver?

6 A. A closed biopsy, yes.

7 Q. Actually to get a piece of the
8 material --

9 A. Yes.

10 Q. -- for analysis?

11 Other than the liver biopsy, did you
12 and Dr. Bleiberg ever discuss the medical protocol
13 and testing protocol that was to be used on the
14 people who were hospitalized?

15 A. Would you repeat -- other than Dr.
16 Bleiberg --

17 MR. HALEY: Would you read back the
18 question, please.

19 (Whereupon the record was read.)

20 A. Yes.

21 Q. And did you concur in that protocol?

22 A. As my station would allow, yes.

23 Q. Did you disagree with the protocol?

24 A. No.

25 MR. DUGHY: I don't know if I want the

Brodkin - direct

1 record to sit like that. I'm not sure there was
2 any indication whether he was ever asked to agree
3 or disagree with the protocol.

4 MR. HALEY: I don't care whether he was
5 asked or not. He said he discussed it and I asked
6 him if he agreed with it.

7 MR. DUGHI: Fine.

8 MR. HALEY: And he testified that he
9 did.

10 MR. DUGHI: I was just -- I don't know
11 what I was doing. Can we go on.

12 MR. HALEY: I understand.

13 Q. When Griffin Baisley was hospitalized
14 in '63, this was done at least on a partial
15 consultation with Dr. Applebaum. Isn't that
16 correct? Let me --

17 A. Dr. Applebaum was involved in the care
18 of these patients.

19 Q. Could you explain to me how Dr.
20 Applebaum was involved in the care of these
21 patients?

22 MR. DUGHI: What he knew in '63?

23 MR. HALEY: What he knew in '63,
24 absolutely.

25 A. Dr. Applebaum was the director of

Brodkin - direct

1 medical education, he was a senior physician at the
2 Beth Israel Hospital and a well known internist.
3 Dr. Bleiberg called him to conduct the internal
4 medical examination of these patients.

5 Q. Again, to the extent you know, other
6 than in the hospitalization of, I believe, Mr.
7 Kalena and Mr. Baisley, how else was Dr. Applebaum
8 involved in the treatment of these patients?

9 A. I don't think he was involved.

10 Q. So, then, it was at Dr. Bleiberg's
11 suggestion that Dr. Applebaum became involved?

12 A. That's correct.

13 Q. In 1963, again, the time frame, did he
14 ever discuss an involvement with you?

15 MR. DUGHI: Who is "he," Bleiberg?

16 MR. HALEY: That's correct, Bleiberg.

17 A. Nothing more than to say he was asking
18 Dr. Applebaum to manage these patients.

19 Q. He didn't say why, for example, that he
20 felt it was necessary to get an internist involved?

21 A. Yes, they were doing examinations of an
22 internal medical nature and for that reason, he
23 wanted an internist involved.

24 Q. One of those things being the liver
25 biopsies of which we spoke. Is that correct?

Brodkin - direct

1 A. Yes.

2 Q. Doctor, did you become aware at some
3 point that Dr. Applebaum, at least as to Griffin
4 Baisley, wrote a report concerning the
5 hospitalization of Griffin Baisley in 1963?

6 A. No.

7 Q. So, then, doctor, is it my
8 understanding that -- had you ever seen a report of
9 Dr. Applebaum related to Griffin Baisley's
10 hospitalization in 1963?

11 A. Have never seen it.

12 Q. Doctor, in 1963, and I think this will
13 be my last question before we take a break --

14 MR. DUGHI: It gave me a wonderful
15 feeling. Go ahead.

16 MR. HALEY: It's a good time for a
17 break.

18 MR. DUGHI: Yes.

19 Q. Other than the hospitalization of these
20 two workers, the weekly visits to the plant by
21 yourself and Dr. Bleiberg and surgery conducted
22 there, and the visit of Dr. Birmingham and his team
23 to the facility, what other tests, if any, or
24 treatment that you are aware of were run on these
25 workers in 1963?

Brodkin - direct

1 MR. DUGHI: I apologize. Can I hear
2 that back, please.

3 (Whereupon the record was read.)

4 MR. DUGHI: Again, you are seeking his
5 personal knowledge?

6 MR. HALEY: His personal knowledge.

7 MR. DUGHI: Go ahead, whatever you
8 know, if you know.

9 A. I think there were some urine
10 examinations but I'm not sure.

11 Q. And is that, doctor, of your own
12 personal knowledge or is that something that you
13 recollect Dr. Bleiberg telling you?

14 A. I seem to recollect it. It certainly
15 is not my personal knowledge. I seem to recollect
16 Dr. Bleiberg telling me that and I may be wrong.

17 MR. HALEY: Fair enough.

18 MR. DUGHI: Break for lunch?

19 MR. HALEY: I think we will break for
20 lunch, yes.

21 (Whereupon the luncheon recess was
22 taken.)

23

24 Q. Doctor, I can't recollect which
25 question, honestly, it was in answer to but I think

Brodkin - direct

1 it was one of the ones in answer to one of the last
2 ones I asked before we broke for lunch. You used
3 the phrase in your station. Do you recall using
4 that phrase?

5 A. Yes.

6 Q. Would you tell me what you meant by
7 that?

8 A. As I recollect the question, you asked
9 me about a discussion of the workup of these
10 patients.

11 Q. Would you prefer to have the question
12 read back?

13 MR. DUGHI: No, I think he is doing all
14 right.

15 MR. HALEY: Okay.

16 A. A considerable amount of the discussion
17 of the workup of the patients went on between Dr.
18 Bleiberg and the management at the factory as to
19 what was proposed to be done and so forth. I was
20 not in that conference. I don't know all the
21 reasoning that went behind what was proposed and
22 therefore, there was some limitation or constraint
23 about what I could offer in my assessment of the
24 proposed workup.

25 Q. So, then, your station was the lack

Brodkin - direct

1 of -- I hate to use this word -- interface --

2 MR. DUGHI: How about involvement.

3 Q. Involvement between you and Diamond
4 Shamrock management staff?

5 A. They had a discussion about these
6 things. I wasn't present at the discussion.

7 MR. DUGHI: Excuse me.

8 (Whereupon a discussion took place off
9 the record.)

10 Q. And that's what you meant by your
11 station. Is that correct?

12 A. Also I was not -- I was just new at the
13 factory.

14 Q. And what --

15 A. And I was an employee of Bleiberg's. I
16 wasn't even an employee, really, of the factory
17 directly.

18 MR. HALEY: I'm going to need in a
19 couple of minutes Baisley's charts, if we can get
20 to those.

21 Q. You were aware that Dr. Applebaum
22 performed a liver biopsy of Griffin Baisley in
23 1963. Is that correct?

24 A. Dr. Applebaum himself?

25 Q. Or that --

Brodkin - direct

1 A. I doubt it.

2 Q. Under his supervision?

3 A. Yes.

4 Q. A liver biopsy was performed?

5 A. Yes.

6 Q. Did you ever see the results of that
7 liver biopsy?

8 A. Did I see the liver biopsy, did I see
9 the report or was it just told to me secondhand?

10 Q. Let's take each one of them severally.
11 Did you see the clinical report of the liver biopsy
12 itself?

13 A. The report? I don't recall. I may
14 have.

15 Q. Did you discuss with either Dr.
16 Applebaum or Dr. Bleiberg the results of the liver
17 biopsy?

18 A. I think I was present, I would be quite
19 sure I was present at some discussions of that.

20 Q. Would that have been with Dr. Bleiberg
21 singly, with Dr. Applebaum singly or with them
22 together?

23 A. I certainly would think it would be
24 with Dr. Bleiberg singly and it could have been
25 with the two of them.

Brodkin - direct

1 Q. What did Dr. Bleiberg tell you, if you
2 can recall, about the results of the liver biopsy?

3 MR. DUGHI: This is at the time of the
4 hospitalization?

5 MR. HALEY: Let me lay a predicate to
6 that.

7 Q. When do you recall, if you can recall,
8 approximately when Dr. Bleiberg and you discussed
9 the liver biopsy?

10 A. At some time after it was performed,
11 shortly after it was performed.

12 Q. Would that have been sometime in 1963?

13 A. Yes.

14 Q. Do you recollect what Dr. Bleiberg's
15 statements were to you about the liver biopsy?

16 A. My only recollection in a positive
17 sense is that the specimen fluid, preservative, the
18 fixative into which the tissue was placed was
19 examined by a Woods' lamp examination and was
20 fluorescent. Whether my recollection of what was
21 told me beyond that is to some extent vitiated by
22 my knowledge of what the facts are, I don't know.
23 But I do recall nothing specific was found.

24 Q. Let's start with the fluorescence under
25 Woods' lamp, doctor. At the time, again, I want to

Brodkin - direct

1 focus you back to 1963, what was your understanding
2 of the significance of the fluorescence under
3 Woods' lamp?

4 MR. DUGHI: Let me object. I don't
5 know whether we can get around this or not. These
6 are not studies being conducted by this doctor,
7 these are studies being conducted by Bleiberg,
8 Applebaum, et cetera. Since you are asking
9 questions quasi-expert, not expert in the sense he
10 is giving an opinion --

11 MR. HALEY: Let me straighten it out.

12 Q. You treated Griffin Baisley, did you
13 not, doctor?

14 A. Yes.

15 Q. And doctor, would it be a fair
16 statement for me to say that part of the role of
17 the treating physician is to be aware of those
18 medical tests and treatments which are being
19 performed on a patient?

20 A. Yes.

21 Q. Did you make an attempt --

22 A. To attempt to be as aware as possible.

23 Q. Did you make an attempt to become aware
24 of the other treatments that were being given and
25 other tests that were being done to Griffin

Brodkin - direct

1 Baisley?

2 MR. DUGHI: Objection. This is where
3 we have the problem. If this were a situation
4 where Dr. Brodkin were, say, an internist over here
5 and Dr. Bleiberg were an oncologist over here,
6 there might be an independent duty. Dr. Bleiberg
7 is his associate who is also treating his
8 patients. So you are suggesting he had a separate
9 and distinct duty to find out what Bleiberg was
10 doing. That's what I have trouble with.

11 MR. HALEY: I'm not suggesting that at
12 all, Mr. Dughi. What I am suggesting, and I think
13 the evidence supports this, is that Griffin Baisley
14 was Dr. Brodkin's patient.

15 MR. DUGHI: Without question. I didn't
16 say he wasn't. But insofar as you are now trying
17 to suggest he should have done more than what
18 Bleiberg was doing or do something independent of
19 Bleiberg is the trouble I have.

20 MR. HALEY: I'm trying to find out what
21 the basis of his knowledge is. That's not what the
22 question was directed to.

23 MR. DUGHI: That's where I come out.
24 I'm just stating my concern on the record.

25 MR. HALEY: Could I have the question

Brodkin - direct

1 before the last question read back.

2 (Whereupon the record was read.)

3 MR. HALEY: You are saying he can
4 answer the question?

5 MR. DUGHI: Absolutely. I'm trying to
6 make it clear I don't think you are being
7 completely fair in the transcript. Go ahead.

8 MR. HALEY: Fine.

9 A. Do you want my answer?

10 Q. Yes.

11 A. The findings on Griffin Baisley were
12 given to me, for the most part, by Dr. Bleiberg.

13 Q. Did you make any other attempts besides
14 your discussions with Dr. Bleiberg to find out what
15 the results of Griffin Baisley's tests were?

16 A. Reports that went into his file I might
17 have read.

18 Q. You might have read?

19 A. Yes.

20 Q. At this point, let's mark the file,
21 which is a manila envelope that has "Baisley,
22 Griffin," on the outside and "Diamond" on the front
23 cover as PB-2 and has various contents of medical
24 records.

25 (Whereupon the file folder was received

Brodkin - direct

1 and marked PB-2 for identification.)

2 Q. Doctor, the file which has been handed
3 to me and marked as PB-2, is that the entire file
4 which you have on Griffin Baisley?

5 A. Yes.

6 Q. Let me just go to another area for a
7 second. Could you tell me how correspondence with
8 the company was kept? Was it kept in the
9 individual's files or was there a separate
10 correspondence file with Diamond Shamrock or was
11 there something other than that which I haven't
12 discussed?

13 MR. DUGHI: Are you talking
14 correspondence Dr. Brodkin had with the company or
15 correspondence Dr. Bleiberg had?

16 Q. Let's start with you.

17 A. I think everything was kept in the
18 chart.

19 Q. And by "chart," do you mean the entire
20 contents of PB-2 or a portion of what would be in a
21 file such as what I'm holding?

22 MR. DUGHI: Just Baisley?

23 MR. HALEY: Just Baisley.

24 MR. DUGHI: Any correspondence about
25 just Baisley?

Brodkin - direct

1 MR. HALEY: No. His testimony was that
2 it would be kept in the patient's file.

3 MR. DUGHI: No, that wasn't his
4 testimony.

5 MR. HALEY: Let's read back the answer
6 to the question.

7 MR. DUGHI: He said it would be kept in
8 the chart.

9 MR. HALEY: Let's read back his
10 answer.

11 MR. DUGHI: No, I'm not talking about
12 that. I don't understand. We are talking about
13 correspondence about the patient or correspondence
14 about generally Diamond Shamrock?

15 MR. HALEY: I'm asking correspondence
16 generally with Diamond Shamrock.

17 MR. DUGHI: Insofar as he knows. Go
18 ahead.

19 A. Correspondence generally with Diamond
20 Shamrock was not kept in patients' charts, it was
21 kept in a file.

22 Q. In a separate file?

23 A. Yes, correct.

24 Q. Doctor, did you have access -- that's
25 your specific correspondence? I'm speaking of you

Brodkin - direct

1 as opposed to Dr. Bleiberg or the partnership.

2 A. If I ever had correspondence with
3 Diamond Shamrock, it would have been kept
4 separately from a patient's file unless it
5 pertained to the patient.

6 Q. Were you aware prior to your
7 partnership of how Dr. Bleiberg kept his file
8 relating to correspondence with Diamond Shamrock?

9 A. No.

10 Q. How did the partnership keep its files?

11 A. So far as I knew, and I really had
12 little to do with filing other than keeping logs on
13 the patient day-to-day, all material pertaining to
14 a specific patient was kept in that patient's
15 chart.

16 Q. Doctor, there was correspondence
17 between yourself and/or Dr. Bleiberg with Diamond
18 Shamrock after the partnership was formed. Isn't
19 that correct?

20 A. Yes.

21 Q. Where would that correspondence have
22 been kept?

23 A. In a separate file unless it pertained
24 directly to a patient.

25 Q. During the time when you and Dr.

Brodkin - direct

1 Bleiberg were treating the workers prior to the
2 formation of your partnership, were there any files
3 of Dr. Bleiberg's relating to Diamond Shamrock to
4 which you were denied access?

5 A. I was never denied access to a file.

6 Q. So had you had the desire to look at
7 what Dr. Bleiberg's correspondence was with Diamond
8 Shamrock, you could have done that?

9 A. Yes.

10 MR. DUGHI: Just a minute.

11 (Whereupon a discussion took place off
12 the record.)

13 Q. Doctor, I'm going to hand you PB-2 and
14 could you pull from that what you would describe as
15 the chart?

16 A. First the whole business constitutes
17 the chart but this is the part that I'm most
18 intensely interested in, the management of the
19 patient.

20 Q. I would like to make this clear, as
21 clear for the record as I can, doctor: When you
22 were saying chart in response to the answer to my
23 question, did you really mean the whole file that's
24 contained in PB-2?

25 A. Yes.

Brodkin - direct

1 Q. Okay, fine. Doctor, were you ever told
2 at any point that Griffin Baisley's liver had
3 fluoresced under Woods' lamp? Do you recall?

4 A. I recall that one of them had, one of
5 the people in the hospital.

6 Q. Was your understanding of that in 1963
7 or was that something you learned later?

8 A. I learned it in 1963.

9 Q. And what was the medical significance
10 of his liver having fluoresced under Woods' lamp?

11 A. You could only say that there were
12 uroporphyrins present.

13 Q. Doctor, do you ever recall seeing or
14 being told about cellular changes in Griffin
15 Baisley's liver in 1963?

16 A. I never saw cellular changes in
17 Baisley's liver. I don't recall being told it but
18 I presume I was.

19 Q. PB-2 for identification, am I correct
20 in saying that PB-2 for identification was started
21 at a time prior to your partnership with Dr.
22 Bleiberg?

23 MR. DUGHI: As distinct from his his
24 original association with Dr. Bleiberg?

25 MR. HALEY: I think he wants to refresh

Brodkin - direct

1 himself on a date.

2 MR. DUGHI: You are talking about
3 partnership, at the time he became partners as
4 opposed to working with Bleiberg?

5 MR. HALEY: I said prior to his
6 partnership, that's what the question was.

7 A. Yes.

8 Q. And the first examination date was, in
9 fact, January 24, 1963. Isn't that correct?

10 A. Yes.

11 Q. Was there any change in the way in
12 which that file was kept as between the time prior
13 to when you became Dr. Bleiberg's partner as
14 opposed to after you became Dr. Bleiberg's partner?

15 A. Could you tell me a little bit more
16 specifically what you mean?

17 Q. Were things filed differently?

18 A. No.

19 Q. So the filing system, then, would have
20 been the same prior to your partnership and after
21 your partnership with Dr. Bleiberg?

22 A. I should think so.

23 Q. I'm going to mark a medical chart which
24 is in reality four pages with the outside date of
25 1/24/63 pertaining to Baisley, Griffin, as PB-3.

Brodkin - direct

1 MR. DUGHI: Let me just state for the
2 record I would refer to that as treatment card
3 because we have already referred to the whole thing
4 as the chart.

5 MR. HALEY: That's fine, the treatment
6 card. I have no problem with that.

7 (Whereupon the document was received
8 and marked PB-3 for identification.)

9 Q. Doctor, you had, have you not, numerous
10 occasions to review and read Dr. Bleiberg's
11 handwriting. Is that not correct?

12 A. Yes.

13 Q. I was wondering if you could point out
14 to me, as a start, anyway, an example of what in
15 this record is Dr. Bleiberg's handwriting as
16 opposed to your own. Again, we are referring to
17 PB-3, the treatment card.

18 A. This is mine, the face sheet, and the
19 first treatment is mine.

20 MR. DUGHI: What date, please?

21 Q. Would that be the 1/31 treatment,
22 doctor?

23 A. 1/24/63, that's my writing. This is
24 his basic face sheet but this is my treatment. I
25 can't interpret whose the dittos are. Here is an

Brodkin - direct

1 example of my handwriting.

2 Q. Under what treatment date would that
3 be, doctor?

4 A. 8/29, presumably '63, 9/5/63.

5 Q. Am I correct in assuming other than
6 those ditto marks, and I have to tell you in asking
7 this question that we have had several handwriting
8 experts analyze the ditto marks and we have been
9 unable to discern yours from Dr. Bleiberg's, am I
10 correct in stating other than the ditto marks, that
11 the treatments between those two and the
12 handwriting would be Dr. Bleiberg's?

13 MR. DUGHI: That question made no sense
14 to me. Why don't you point them out.

15 A. The handwriting is all Dr. Bleiberg's.

16 MR. HALEY: He said, and I don't --

17 MR. DUGHI: Go ahead.

18 Q. Is there any other handwriting in there
19 which you can identify as either your own or Dr.
20 Bleiberg's?

21 A. All the rest is Dr. Bleiberg's. It
22 looks -- it all looks like Bleiberg's. This might
23 have been mine here.

24 Q. Under what date is that, doctor?

25 A. February 20, 1964.

Brodkin - direct

1 Q. What you have identified as the face
2 sheet, which I understand to be the first page of
3 PB-3, you filled that out yourself?

4 A. Yes, I did.

5 Q. Doctor, I see nothing in PB-2, and I
6 would ask you to review the file to correct me if
7 I'm wrong, which indicates anything about Griffin
8 Baisley's hospitalization in 1963.

9 A. It's hard to tell whether this is
10 inpatient or outpatient. It's hard to tell. So a
11 skin biopsy was done in the hospital.

12 Q. While you are looking through, I'm
13 going to mark these.

14 MR. HALEY: PB-4 is a surgical
15 pathology report from Milton Kannerstein,
16 K-a-n-n-e-r-s-t-e-i-n, M.D., dated 4/18/63.

17 (Whereupon the document was received
18 and marked PB-4 for identification.)

19 MR. HALEY: PB-5 is a typed sheet dated
20 May 20, 1963, it's very difficult to tell if this
21 is the entire document or not, but it indicates, it
22 says Re: Baisley, Griffin, and talks about nine
23 hospital visits, amongst other things.

24 (Whereupon the document was received
25 and marked PB-5 for identification.)

Brodkin - direct

1 MR. HALEY: And PB-6 states at the top
2 "Attending physician's statement," and in
3 parentheses below that "group insurance." It says
4 "file copy" and it's signed by Jacob Bleiberg, M.D.

5 (Whereupon the document was received
6 and marked PB-6 for identification.)

7 Q. Doctor, at the time back in '63, did
8 your office commonly or ever employ, for example,
9 date stamps to show when certain documents were
10 received?

11 A. I think we didn't.

12 Q. I was wondering if you could explain
13 for me, if you know, and I'm looking at the back of
14 PB-6, why something which is stamped "received," I
15 believe that's Diamond Alkali Company, would be in
16 your file?

17 A. I have no idea.

18 Q. Doctor --

19 MR. DUGHI: Why don't we identify that
20 for the record as PB-6.

21 MR. HALEY: That's PB-6. I thought I
22 had but if I haven't, I apologize.

23 Q. I'm looking now here at PB-4. First of
24 all, doctor, do you know who Dr. Milton Kannerstein
25 is or was?

Brodkin - direct

1 A. I do know him.

2 Q. Could you tell me what he does?

3 A. He is a pathologist.

4 Q. And would Dr. Kannerstein have been the
5 one who examined, for example, who would have
6 examined the skin specimen of Griffin Baisley, if
7 you know?

8 A. Yes.

9 Q. Doctor, do you know who provided Dr.
10 Kannerstein with the specimen to be analyzed?

11 A. No, I don't.

12 Q. Could you explain to me, doctor, why
13 your name appears in the upper right-hand corner of
14 PB-4?

15 A. I probably provided it.

16 Q. On PB-5 for identification, it
17 indicates nine hospital visits from 4/17/63 through
18 4/27/63. Do you know who made those?

19 A. No.

20 Q. You did not make those?

21 A. I might have made some of them.

22 Q. You might have made some of them.

23 Doctor, am I correct in stating that neither the
24 hospital treatments nor the skin specimen taken are
25 noted on the treatment card for Griffin Baisley?

Brodkin - direct

1 A. That's correct.

2 Q. So, then, am I correct in stating that
3 this treatment record does not represent the sum
4 and substance of either your activity or Dr.
5 Bleiberg's activity with Griffin Baisley?

6 MR. DUGHI: You are referring to the
7 treatment card?

8 MR. HALEY: I'm talking about the
9 treatment card.

10 A. That this does not represent the
11 substance of our treatment of Griffin Baisley?
12 Well, not his hospitalization, certainly.

13 Q. So you would not have kept records of
14 your involvement with his hospitalization on that
15 treatment card?

16 A. That's right.

17 Q. Where would those have been kept?

18 A. At the hospital.

19 Q. Those would have been kept at the
20 hospital?

21 A. Yes.

22 Q. So other than the report of the
23 pathologist and what I believe to be a billing
24 record, PB-5, and again, the attending physician's
25 statement, is there anything in that file which

Brodkin - direct

1 indicates what was done to Griffin Baisley when he
2 was in the hospital?

3 A. No.

4 Q. How would you, doctor, be able to
5 review your treatment of Griffin Baisley if all of
6 his treatment which you rendered was not included
7 on the treatment card?

8 MR. DUGHI: When, in 1963?

9 MR. HALEY: In 1963.

10 A. My treatment of Griffin Baisley was,
11 for the most part, targeted to skin. When his
12 internal medical problems were in question, an
13 internist was involved in his management. There
14 came back to his chart those things, those
15 documents relating to his skin and I knew of the
16 rest of this as I was advised by my associate, Dr.
17 Bleiberg, and had access to the details of that,
18 that is, his internal examination, from the records
19 at the hospital.

20 Q. Doctor, am I correct in stating when
21 you originally examined Griffin Baisley on January
22 24, 1963, that he did have a skin condition, if you
23 understand what I mean by that?

24 A. Do I understand that he had a skin
25 condition?

Brodkin - direct

1 Q. Right.

2 A. Yes.

3 Q. And am I also correct in stating that
4 your diagnosis on January 24th of 1963 was that
5 this skin condition was not chloracne?

6 A. From the record, it would seem that it
7 was not. His complaint was a darkening of the
8 skin, a highly nonspecific complaint.

9 MR. HALEY: I'm going to ask that this
10 document be marked PB-7 -- actually, it's copies of
11 the same letter so we can just -- you can look at
12 that, February 25th, it's all the same letter,
13 copies.

14 MR. DUGHI: Read it over and give it to
15 the reporter.

16 (Whereupon the letter from Dr. Bleiberg
17 to Aetna dated February 25, 1963, was received and
18 marked PB-7 for identification.)

19 Q. Doctor, first of all, do you recollect
20 having ever read this letter before which we have
21 marked PB-7?

22 A. I don't recollect -- ever before this
23 moment today?

24 Q. Ever before this moment today.

25 A. Yes, I did.

Brodkin - direct

1 Q. Do you recollect having read this
2 letter at any time in 1963?

3 A. I don't recollect it.

4 Q. Do you recollect having discussions
5 with Dr. Bleiberg about the subject matter of this
6 letter?

7 A. I'm sure I had discussions with Dr.
8 Bleiberg.

9 Q. And did Dr. Bleiberg discuss with you
10 his suspicion that Mr. Baisley's condition was
11 characteristic pigmentation of porphyria?

12 MR. DUGHI: This letter is dated
13 February 1963, before they were associated in
14 practice.

15 MR. HALEY: The doctor --

16 MR. DUGHI: Let's get it on the
17 record. The letter is dated February '63, before
18 the association of these two. I would like to find
19 out when this discussion took place.

20 MR. HALEY: Let the record reflect I
21 don't agree with counsel's characterization related
22 to his association.

23 MR. DUGHI: The facts speak for
24 themselves, sir.

25 MR. HALEY: I don't want to get into a

Brodkin - direct

1 long-winded argument but I wanted to put that down
2 for the record. Could I have the question read
3 back and see if we can get an answer.

4 (Whereupon the record was read.)

5 MR. DUGHI: I object to the question
6 unless a time frame is given, or he gives a time
7 frame in his answer.

8 MR. HALEY: He can give a time frame in
9 his answer.

10 A. At some point in the history of this
11 association with Dr. Bleiberg and Diamond Shamrock
12 Chemical Company, a discussion was in all
13 likelihood held.

14 Q. Could you possibly pinpoint that more
15 as to a date or a year?

16 A. I think discussions were held relating
17 to that over a period of time, probably from my
18 initial examination.

19 Q. That would have been, in all
20 probability, beginning in early 1963?

21 A. I would think so.

22 Q. At the time, again, did you agree with
23 Dr. Bleiberg concerning his statement that Griffin
24 Baisley's condition was, I'm quoting, and I will
25 show you where I get that from in the letter, a

Brodkin - direct

1 characteristic -- I'm sorry, I lost my place -- a
2 characteristic pigmentation of porphyria? Let me
3 find that for you. I don't want you to accept
4 that. Yes, that's correct, in the first line of
5 the third paragraph of the letter?

6 A. I would have phrased that sentence
7 differently, counselor.

8 Q. How would you have phrased it
9 differently, doctor?

10 A. There are many causes of this type of
11 pigmentation, one of them being porphyria.

12 Q. And is that based upon your knowledge
13 then or your knowledge now?

14 A. Then.

15 Q. That was based upon your knowledge
16 then. What were the other causes other than
17 porphyria, as you understood them then?

18 A. There are numerous photosensitivity
19 diseases.

20 Q. Could you tell me --

21 A. If I can put this very specifically,
22 not wander too far afield, there are a number of
23 drug reactions, photosensitizing drug reactions, if
24 you want to know them, things like diuretics,
25 Diuril, things like the tetracycline antibiotics,

Brodkin - direct

1 particularly demethylchlorotetracycline, things
2 like Thorazine, the major tranquilizers, things
3 like sulfonamides, innumerable drugs that can cause
4 virtually precisely the same pigmentation.

5 There are diseases like Addison's
6 disease, there are diseases like the idiopathic
7 photosensitizing dermatoses and then there are
8 quite a number of diseases that are very close to
9 this but may not be precise and this is simply what
10 comes to my mind offhand. It's a vast list.

11 Q. So it would be a fair statement for me
12 to make, then, doctor, that his skin pigmentation,
13 which Dr. Bleiberg has described as characteristic
14 pigmentation of porphyria, could have come from a
15 number of different things?

16 A. I would say that the word
17 "characteristic" was stronger, considerably, than I
18 would have used.

19 Q. Could you show me, doctor, where in
20 this file anywhere the other causes which you
21 described were analyzed and ruled out?

22 A. Many of them could be ruled out by
23 history, further clinical examination.

24 Q. Could you show me on January 24th of
25 1963, if you did, where you took a history of this

Brodkin - direct

1 patient that's in that file?

2 A. (Handing).

3 MR. HALEY: For the record, the doctor
4 has just handed me PB-3 for identification.

5 Q. Doctor, am I correct in stating that
6 the family history portion of this face sheet is
7 totally blank?

8 A. You are correct.

9 Q. Doctor, am I also correct in stating
10 that the past history section of this face sheet is
11 totally blank?

12 A. You are correct.

13 Q. And where, if not there, is this
14 patient's history on this face card?

15 A. The positive findings are his chief
16 complaint relevant to his dermatologic problem.

17 Q. Doctor, that's your handwriting. Am I
18 correct?

19 A. Yes, it is.

20 Q. Could you read for me what that says?

21 A. It says, "Darkening of the skin of two
22 weeks duration."

23 Q. And that was your history?

24 A. That's what I wrote down. That was not
25 my history.

Brodkin - direct

1 Q. So, then, you took a history which is
2 not reflected on the face sheet in that
3 examination?

4 A. There is a lot of the history that is
5 not reflected on that face sheet.

6 Q. Where in PB-2 for identification would
7 that history, if it is, would that history be
8 reflected?

9 A. I listed no negative findings and no
10 findings, positive findings which I considered
11 irrelevant to his dermatologic complaint.

12 Q. Let's take each of those in turn. You
13 listed no negative findings. What negative
14 findings were those?

15 A. I might have said to the patient how do
16 you feel? He might have said fine. I did not
17 write down the patient says he feels fine.

18 MR. HALEY: Could I please have that
19 last question and answer read back, please.

20 (Whereupon the record was read.)

21 Q. Doctor, do you recollect what you did
22 say as opposed to what you might have said?

23 A. No, I don't recollect.

24 Q. So, then, you have no recollection, am
25 I correct, of taking any history of this patient in

Brodkin - direct

1 that examination?

2 A. I have a recollection of taking a
3 considerably longer history than is -- than what my
4 writing down is.

5 Q. Could you tell me what that history
6 consisted of?

7 A. Do you take any medication? Any
8 patient who complains to me of pigmentation, I
9 would ask do you take any medication; I would ask
10 how do you feel generally; has there been -- are
11 there any other complaints.

12 MR. HALEY: And again, could you read
13 back the question and the answer.

14 MR. DUGHI: You don't need to read back
15 the question and answer. He remembers it. There
16 is no jury here. Let's go.

17 MR. HALEY: I'm concerned for my own --

18 MR. DUGHI: Then go right ahead.

19 (Whereupon the record was read.)

20 Q. Do you recollect specifically asking
21 Griffin Baisley what medication he took?

22 A. Do I specifically recollect what I
23 asked Griffin Baisley?

24 Q. That's correct.

25 A. No.

Brodkin - direct

1 Q. Doctor, there is a place, is there not,
2 on the face sheet, and I'm going to point you to
3 "reactions to" and then there is a colon, four
4 reactions, adverse reactions to any medication. Is
5 that not correct?

6 A. That's correct.

7 Q. And there is no entry?

8 A. That's correct.

9 Q. So doctor, do you have any specific
10 recollection of what steps you took in this
11 examination to rule out other potential causes of
12 his skin pigmentation?

13 MR. DUGHI: As opposed to his standard
14 and usual practice?

15 MR. HALEY: No, I want to know what his
16 specific recollection is.

17 MR. DUGHI: Fine, but if you are
18 suggesting he can't give you a standard and usual
19 practice situation, it's completely unfair. You
20 are going back to 1963.

21 MR. HALEY: Are you directing him not
22 to answer the question?

23 MR. DUGHI: No. Go ahead.

24 A. For the sake of sparing a rereading of
25 the question, do I recollect specifically what I

Brodkin - direct

1 asked him?

2 Q. Yes.

3 A. I would have asked him anything
4 relating to this complaint, some of which is -- I
5 will stop there.

6 Q. When you say you would have asked him,
7 do you mean that it's your standard practice to ask
8 him?

9 A. Yes.

10 Q. But you have no specific recollection
11 of the questions which you asked him that day?

12 A. The patient comes to me with a
13 complaint, I want to try to make a diagnosis and
14 find out what is going on. I can only assume that
15 I asked him questions relating to that complaint.

16 MR. HALEY: For the record, I'm going
17 to move to strike that answer as nonresponsive.

18 MR. DUGHI: You go right ahead.

19 Q. Dr. Bleiberg, after that January
20 24th -- Dr. Brodkin, I'm sorry, Dr. Brodkin, after
21 that January 24th examination, up until, I believe
22 it's either 8/23 or 8/29, you testified that all of
23 the answers in this treatment card, I think we are
24 calling it, or treatment record, were done by Dr.
25 Bleiberg. Can you tell me how Dr. Bleiberg could

Brodkin - direct

1 have found out from this treatment card what your
2 examination was and your findings and your medical
3 history would have been as to Mr. Baisley?

4 MR. DUGHI: Objection as to form. Go
5 ahead.

6 A. He was my associate. He asked me.

7 Q. So, then, you discussed Griffin
8 Baisley's condition with Dr. Bleiberg?

9 A. Yes, I did.

10 Q. And was that your standard practice, to
11 discuss the conditions of those patients which you
12 mutually treated?

13 A. Yes.

14 Q. And is that the common method by which
15 you and Dr. Bleiberg shared information on the
16 patients, was by conversation?

17 A. Yes.

18 MR. HALEY: I could use five minutes.

19 MR. DUGHI: Fine.

20 (Whereupon a recess was taken.)

21 Q. Doctor, I believe, and you can correct
22 me if I'm wrong, that you stated this morning that
23 you teach a course in medical school called
24 physical diagnosis or you have taught --

25 A. Yes.

Brodkin - direct

1 Q. -- that course? And I believe you said
2 that was a sophomore course in medical school?

3 A. Yes.

4 Q. And I believe you also testified this
5 morning, did you not, that that's the course in
6 which medical students are taught to keep charts?

7 A. Yes.

8 Q. And do you teach in that course,
9 doctor, to write down such things in a medical
10 chart as medication that a patient is taking, for
11 example?

12 MR. DUGHI: Excuse me. Did you assume
13 that he was teaching that part of the course
14 respecting charts in that question?

15 MR. HALEY: Let me ask. That's fair.

16 Q. Do you teach that part of the course
17 which relates to the keeping of charts?

18 A. No.

19 Q. What do you teach in that course,
20 doctor?

21 A. I teach how to conduct a dermatologic
22 history, medical examination and do laboratory
23 work.

24 Q. And when you talk about teaching that
25 part of the course that relates to dermatologic

Brodkin - direct

1 history, does that include keeping a chart relating
2 to the dermatologic history?

3 A. No.

4 Q. Do you recommend to your students,
5 concerning the taking of a dermatologic history,
6 that the dermatologic history be committed to
7 writing?

8 A. No.

9 Q. Doctor, in your classes as a sophomore
10 in medical school taking clinical diagnosis, what
11 were you instructed, if you can recall, as to what
12 should be kept in a chart?

13 A. I was given a booklet that instructed
14 me on a series of questions I was to ask. The
15 title of the booklet was something like "the
16 medical history." And as a sophomore medical
17 student, we would laboriously go through this
18 entire list of questions and record every question
19 and every answer.

20 Q. And --

21 MR. DUGHI: Finished?

22 MR. HALEY: I thought he was finished.

23 Q. I didn't mean to interrupt your
24 answer.

25 A. I was finished.

Brodkin - direct

1 MR. HALEY: I'm sorry, I lost my train
2 of thought. Could you repeat the last answer for
3 me.

4 (Whereupon the record was read.)

5 Q. Doctor, could you tell me what those
6 series of questions were to the best of your
7 recollection?

8 A. I remember some of the questions. I
9 certainly don't remember all of them.

10 Q. Could you tell me those that you do
11 remember?

12 A. Does your house contain indoor plumbing
13 facilities.

14 Q. That was one of the questions?

15 A. That was one which I certainly
16 remember.

17 Q. Any others that you recollect?

18 A. There were certainly questions like do
19 you have pains in your head, do you have periods of
20 dizziness, do you have periods of loss of
21 consciousness, do you have periods of involuntary
22 movements, feelings of numbness. I could go on for
23 quite a long time.

24 Q. Let me ask one specifically. Would one
25 of those be what medication you were receiving?

Brodkin - direct

1 A. Yes.

2 Q. And doctor, at some point, am I correct
3 in stating that at some point you believed that it
4 was no longer necessary to write the answers to all
5 those questions down?

6 A. As histories are taken by medical
7 students, interns, residents and attendings, they
8 become entitled history and physical examination in
9 the attending's note.

10 Q. Attending's note, is that what you
11 stated?

12 A. Yes. That is when the attending
13 physician comes in and makes note of relevant facts
14 in the case pertaining to that clinical situation.

15 Q. I'm sorry, I didn't mean -- did you
16 finish your answer?

17 A. I finished my answer. That may be
18 positive and negative, incidentally.

19 Q. Is it an accurate statement for me to
20 say that the skin condition which was diagnosed by
21 you on January 24, 1963, was of unknown etiology at
22 that time?

23 A. That would be accurate.

24 Q. And would it be the job of the
25 physician, of the dermatologist, to attempt to

Brodkin - direct

1 ascertain what the etiology of that disease was or
2 skin condition? I don't want to say disease, skin
3 condition was?

4 A. To some extent, yes.

5 Q. Could you tell me what you mean when
6 you say, "to some extent"?

7 A. Yes. Since hyperpigmentation may be
8 caused by quite a number of things, if, in fact,
9 this was caused by a systemic disease, for example,
10 one of the causes of this is carcinoma of the lung,
11 if I did not find this thing reasonably related to
12 dermatology, I would refer the patient on to his
13 physician.

14 Q. Was the relationship of this skin
15 condition and carcinoma of the lung known in 1963?

16 A. That a person can get hyperpigmentation
17 with carcinoma of the lung?

18 Q. Yes, that was the question. Was that
19 known in 1963?

20 A. Yes, I presume. It certainly has been
21 known for a long time. There are many such
22 conditions. I didn't mean to pick out carcinoma of
23 the lung.

24 Q. I understand that, doctor. And I
25 believe, and again, I don't want to mischaracterize

Brodkin - direct

1 what you said and please correct me if I'm stating
2 it incorrectly, that again, looking at PB-7 for
3 identification, in the first line of the third
4 paragraph, the issue of pigmentation of porphyria
5 is mentioned by Dr. Bleiberg and I believe you said
6 you discussed that with him, is that correct, at
7 the time?

8 MR. DUGHI: Discussed the letter or
9 discussed the fact?

10 MR. HALEY: Discussed the fact.

11 A. Yes.

12 Q. And did you and Dr. Bleiberg ever
13 discuss the method by which it might be ascertained
14 specifically whether this man was, in fact,
15 suffering from porphyria or not?

16 A. Yes.

17 Q. And could you tell me to the best as
18 you can recollect what Dr. Bleiberg said or what
19 Dr. Bleiberg said in terms of finding out whether
20 or not this condition was being caused by
21 porphyria?

22 A. I could only guess, counselor. I don't
23 know.

24 Q. You don't recollect what those
25 discussions were?

Brodkin - direct

1 A. How we could determine this, I don't
2 recollect them. I'm sure discussions were had.

3 Q. Let me ask this question another way.
4 What was your understanding, doctor, in 1963, of
5 how one would go about determining whether this
6 pigmentation was, in fact, porphyria?

7 A. One good way is to examine the urine.

8 Q. For urinary porphyrins?

9 A. Yes.

10 Q. And would another way have been
11 potentially to do a liver biopsy and see whether
12 the liver fluoresced under Woods' light?

13 A. I would answer that question no, not at
14 that stage of the game.

15 Q. And could you tell me why that is?

16 A. You are talking about a procedure that
17 carries with it some pain, risk and so forth as
18 opposed to a completely risk-free procedure.

19 Q. So am I correct in saying that you are
20 saying as a first step, one would first look at the
21 urine to determine whether porphyrins were there?

22 A. That's correct.

23 Q. What would be the next step that one
24 would take -- again, we are talking about the 1963
25 time frame -- once the porphyrins in the urine had

Brodkin - direct

1 been discovered?

2 A. One might do blood tests.

3 Q. For the purpose of finding what,
4 doctor?

5 A. For the purpose of finding the status
6 of the internal organs.

7 Q. Do you know if that was done in Mr.
8 Baisley's case?

9 A. I'm sure it was. It's a standing rule
10 of the hospital when you are admitted.

11 Q. To do a blood test?

12 A. Yes.

13 Q. And what would you be looking for in
14 that blood test in order to determine whether this
15 condition might be porphyria?

16 MR. DUGHI: A dermatologist?

17 MR. HALEY: I can ask the question. I
18 don't know what you mean when you say from a
19 dermatology standpoint.

20 MR. DUGHI: Once he is in the hospital,
21 he is under the care of an internist. I don't want
22 to confuse that. If you want to ask about a
23 dermatological condition to rule out --

24 MR. HALEY: I'm asking as to his
25 experience as a medical doctor.

Brodkin - direct

1 MR. DUGHI: Wait a second, he is a
2 dermatologist and we are not going to cross over
3 specialties.

4 MR. HALEY: Counsel, that's your
5 position.

6 MR. DUGHI: I'm very glad you said
7 that. Let's go.

8 MR. HALEY: He can answer the
9 question?

10 MR. DUGHI: No, he can't. I direct
11 him. Rephrase it.

12 MR. HALEY: Could you read the question
13 back, please.

14 (Whereupon the record was read.)

15 MR. DUGHI: Go ahead.

16 A. I think you more or less hit it on the
17 head. If this person has any associated internist,
18 I would suggest he look.

19 Q. Is porphyria typically a diagnosis
20 which is made by a dermatologist?

21 A. It could be.

22 Q. And it can also be made by another
23 doctor. Is that correct?

24 A. Yes.

25 Q. So would the method for performing a

Brodkin - direct

1 diagnosis as to whether or not something was
2 porphyria change based upon one's medical
3 specialty?

4 A. Would the diagnosis change, no.

5 Q. Would the method by which one would go
6 about making the diagnosis change?

7 A. Yes.

8 Q. And could you explain what those
9 differences are?

10 A. Certainly dermatologists don't do liver
11 biopsies or more sophisticated tests of internal
12 organs other than screening tests.

13 Q. And could you give me an example of
14 what a screening test would be?

15 A. One might do a blood chemistry and be
16 concerned about, let's say, the liver enzymes or
17 the kidney function.

18 Q. And that would be whether one is a
19 dermatologist or an internist, could look at that?

20 A. A dermatologist might do that. Some
21 dermatologists would, some dermatologists would
22 not.

23 Q. So doctor, let me ask you another
24 question. During this time period, 1963, other
25 than during the period at which he was

Brodkin - direct

1 hospitalized, are you aware of whether Griffin
2 Baisley was seeing any other medical people besides
3 yourself and Dr. Bleiberg?

4 A. You mean for a problem?

5 Q. I just mean do you know if he was
6 seeing other doctors?

7 A. Routine exams, colds?

8 Q. Do you know if he was seeing other
9 doctors? I'm not really specifically interested in
10 what for.

11 MR. DUGHI: Let me just object. Are
12 you testing his memory? The record makes it very
13 clear who was seeing him.

14 MR. HALEY: He hasn't put down what
15 drugs he has taken, he hasn't put down all kinds of
16 information in his medical records that he has
17 testified that he asked him and I think it's
18 perfectly fair for me to ask him because it's not
19 indicated in the medical records, in fact, if he
20 knew if he was seeing other doctors.

21 MR. DUGHI: PB-7, "Mr. Baisley's
22 private physician is Dr. Koralek in the Medical
23 Tower and I got in touch with him," quote Dr.
24 Bleiberg. What are you asking a question like that
25 for when you have it in the record right in front

Brodkin - direct

1 of you? You are being unfair. Go ahead.

2 MR. HALEY: But is he answering this
3 question?

4 MR. DUGHI: Go ahead and answer the
5 question. Of course he can answer the question. I
6 just think you are being unfair. I think -- what I
7 think doesn't matter. Answer the question.

8 A. He was not under active treatment for
9 disease by another doctor and did not tell me he
10 was taking medication from another doctor.

11 Q. And you asked him as part of that
12 medical history whether he was seeing another
13 doctor at the time, to the best of your
14 recollection, doctor?

15 A. I was aware that he was not.

16 Q. You were aware that he was not.

17 Did you ever attempt to get the results
18 of the liver biopsy or the blood screening from the
19 hospital?

20 A. Did I personally?

21 Q. Yes.

22 A. No.

23 Q. Did you and Dr. Bleiberg ever discuss
24 that subject, to the best of your recollection?

25 A. I would think we did.

Brodkin - direct

1 Q. You would think that he did?

2 A. We did.

3 Q. That you did discuss it?

4 A. That Dr. Bleiberg and I discussed it.

5 Q. To the best of your knowledge, did Dr.

6 Bleiberg ever make an attempt or did he obtain the

7 blood screening and the results of the liver

8 biopsy?

9 A. To the best of my knowledge, he did.

10 Q. He did. Doctor, is it, and with that
11 caveat to counsel, I don't believe I have seen that
12 in PB-2, either of those results --

13 MR. DUGHI: Seen what?

14 MR. HALEY: The results of the blood
15 screening or the results of the liver biopsy. Are
16 they, in fact, in PB-2 and I missed that?

17 MR. DUGHI: Not to my knowledge --

18 THE WITNESS: It was not.

19 MR. DUGHI: -- but you asked him
20 earlier to go into the chart for anything from the
21 hospital and it wasn't pulled out so I assume it
22 was not there.

23 MR. HALEY: I would like the witness to
24 answer that question.

25 MR. DUGHI: He said "it was not."

Brodkin - direct

1 MR. HALEY: Fine.

2

3 BY MR. HALEY:

4 Q. Do you have an idea why it would not be
5 in PB-2?

6 A. I have an idea.

7 Q. Would you explain to me what that is?

8 A. Have you ever seen the size of a
9 hospital chart?

10 Q. Yes, I have, doctor.

11 A. These charts were carried, were
12 transported back and forth between the office and
13 Diamond Shamrock. That simply is an idea. It just
14 would have been unwieldy. But there are probably
15 other ideas. We didn't need in the day-to-day or
16 week to week management of a dermatologic problem
17 all the details of his findings on
18 hospitalization. That's probably the major reason
19 why it's not in the chart.

20 Q. Doctor, were these records stored at
21 your office or were they stored at Diamond Shamrock
22 when you were treating these patients?

23 A. These records here?

24 Q. Yes.

25 A. They were at my office, at our office.

Brodkin - direct

1 Q. So you would take them from yours or
2 Dr. Bleiberg's office down to the plant weekly?

3 A. That's correct.

4 Q. And then would return them back?

5 A. That's correct.

6 Q. Are you aware of any, other than
7 potentially the Diamond Shamrock correspondence
8 which we talked about earlier, are you aware of any
9 other file in your office which contains medical
10 records of Griffin Baisley?

11 MR. DUGHI: Today?

12 MR. HALEY: Today.

13 A. No.

14 Q. Would you have maintained a separate
15 file to contain those hospital records or did you
16 maintain a separate file?

17 A. We did not maintain his hospital or
18 anyone else's hospital records. They were
19 available to us in the record room of the hospital.

20 Q. So if you would have wanted to look at
21 his hospital records, you would have gone to the
22 hospital and looked at it?

23 A. That's correct.

24 Q. Do you know if the face card, for
25 example, which we have -- and chart which we

Brodkin - direct

1 have -- treatment card, excuse me, which we have
2 referred to as PB-3, was provided to Dr. Applebaum
3 prior to the hospitalization or during the
4 hospitalization?

5 A. This?

6 Q. Yes.

7 A. No. I doubt that it was but I don't
8 know for sure.

9 Q. You don't know for sure. What was the
10 purpose of having either you or Dr. Bleiberg go to
11 the hospital during the period at which Griffin
12 Baisley was hospitalized in 1963?

13 A. Apparently, I went to the hospital to
14 do a skin biopsy and Dr. Bleiberg was there to see
15 these patients rather consistently.

16 Q. Other than the liver biopsy, which I
17 note was done, or the biopsy, skin biopsy -- is
18 that a skin biopsy or liver biopsy, do you know?

19 A. That would be a skin biopsy.

20 Q. So, then, the skin biopsy, which I
21 believe cost \$25, mentioned on 4/19/63, would that
22 have been the same skin biopsy that we are talking
23 about here on PB-4?

24 A. Yes.

25 Q. Was any treatment other than, I will

Brodkin - direct

1 say, skin biopsy under the rubric of treatment, was
2 any treatment being administered either by you or
3 Dr. Bleiberg, to the best of your knowledge, to
4 Griffin Baisley while he was in the hospital in
5 1963?

6 A. I don't know.

7 Q. Would it be fair for me to say that you
8 don't recollect personally yourself having given
9 him any treatment in the hospital?

10 A. That's true.

11 Q. When, if ever, doctor, did you become
12 aware that Griffin Baisley was, in fact, suffering
13 from porphyria? I don't mean to hold these. If
14 you need to refer to these, please do.

15 MR. DUGHI: It's also important for the
16 record to note that we do not have the hospital
17 chart of Mr. Baisley.

18 A. If I can explain my delay, porphyrins
19 in the urine does not make a diagnosis of
20 porphyria. But there was a point when this man had
21 vesicles and --

22 Q. Doctor, I believe I saw vesicles on the
23 treatment card. I believe I saw mention of that on
24 the treatment card. I don't mean to focus
25 anywhere.

Brodkin - direct

1 A. Yes, you are right. Here it is.

2 August 23rd.

3 Q. And --

4 MR. DUGHI: What year?

5 Q. Of 1963, doctor?

6 A. Yes.

7 Q. And what would be the significance of
8 vesicles?

9 A. That, I would say, is more
10 characteristic, again, not specific, of the disease
11 porphyria and when you put them together, then you
12 begin to -- (no further response).

13 Q. Doctor, I note in your records or in
14 the combined records here that certainly in the
15 early part of 1963, porphyrin was observed in Mr.
16 Baisley's urine and now we are talking about
17 vesicles in August of 1963. Could you tell me
18 when, if ever, you became aware that Mr. Baisley
19 suffered from porphyria?

20 A. One might suspect it when -- one would
21 consider it in the differential diagnosis of
22 hyperpigmentation. One would be to some extent
23 convinced or confirmed or further suspect it when
24 there are porphyrins found in the urine. With the
25 appearance of vesicles, I would accept this, given

Brodkin - direct

1 the whole picture, as very, very suggestive of
2 porphyria cutanea tarda.

3 Q. Let me perhaps ask my question in a
4 different way, doctor. Did you ever make a
5 diagnosis in Mr. Baisley of porphyria cutanea
6 tarda?

7 A. I don't know what you mean by did I
8 ever make a diagnosis. I didn't do a quantitative
9 uroporphyrin test and I don't think one was ever
10 done. But based on what was commonly done in 1963,
11 I think that although I don't even know if that
12 would have been entirely accepted, certainly there
13 is a strong suspicion that this was the diagnosis.

14 Q. A strong suspicion that porphyria
15 cutanea tarda was the diagnosis?

16 A. Yes.

17 Q. And doctor, you discussed a
18 differential diagnosis. Can you tell me, if you
19 can recall, what factors you considered might be
20 the cause of this skin condition and what you
21 proceeded to rule out and how you did that?

22 A. I think I told you before. Do you want
23 me to repeat that?

24 Q. Maybe I'm asking the same question. I
25 thought I was asking a different one but that

Brodkin - direct

1 doesn't always mean that I am.

2 A. The history of weakness, fatigue, of
3 taking medications, that sort of thing, clinical
4 findings, hairiness, discoloration, blistering of
5 the skin, miliaria, scarring, plus sufficient
6 quantitative uroporphyrin levels in the urine.

7 Q. Doctor, would I be correct when I say
8 that the fact that there were many possible
9 etiologies of this skin condition in 1963, and
10 again, I'm referring to that time frame --

11 A. Of hyperpigmentation and porphyria --

12 Q. Of hyperpigmentation.

13 A. There are many etiologies.

14 Q. That it would make a thorough history
15 of that patient very important?

16 MR. DUGHI: Objection, argumentative.
17 Don't answer the question.

18 MR. HALEY: How is that question
19 argumentative?

20 MR. DUGHI: If you don't know, I'm not
21 going to sit here and explain it to you.

22 MR. HALEY: How is asking if something
23 was important in forming a diagnosis --

24 MR. DUGHI: The way you asked it. You
25 lay out all this stuff that you allege he didn't do

Brodkin - direct

1 and then you say wasn't that important. You are
2 trying to set a standard.

3 MR. HALEY: That's not what I asked.

4 MR. DUGHI: Maybe I'm asleep at the
5 switch. Let me hear it again.

6 (Whereupon the record was read.)

7 MR. DUGHI: You are trying to say now
8 because of this, this is important. You are trying
9 to set a standard in a malpractice case. This is a
10 witness.

11 MR. HALEY: I'm asking him --

12 MR. DUGHI: I know what you are asking
13 him. He is not going to answer it. Rephrase it so
14 it's useful or forget it. Let's go.

15 MR. HALEY: I would suggest that we do
16 this --

17 MR. DUGHI: Are you serious about
18 this?

19 MR. HALEY: I'm absolutely dead
20 serious.

21 MR. DUGHI: Important as to what,
22 important as to the standard of medical care,
23 important as to making a diagnosis?

24 MR. HALEY: Important to the patient.

25 MR. DUGHI: Thank you. It's a bullshit

Brodkin - direct

1 question. Put that in the record; and you know
2 it. It's already 2:54 and my patience, which is
3 slim, anyway, is starting to slip. Let's go.

4 MR. HALEY: Important to the treatment
5 of the patient.

6 A. Is a thorough -- is that the word you
7 used? -- physical examination important?

8 Q. I said history.

9 A. Yes.

10 MR. HALEY: Do we have a copy of the
11 doctor's interrogatories handy that he can work
12 from?

13 MR. DUGHI: On Baisley or on someone
14 else?

15 MR. HALEY: That's where I was going to
16 next. Just his interrogatories. I'm going to use
17 Jim Burke's but the answers are going to be the
18 same.

19 MR. DUGHI: How long are you going to
20 be on it?

21 MR. HALEY: Probably today and a good
22 part of tomorrow.

23 MR. DUGHI: Do you want to do it
24 tomorrow and start there?

25 MR. HALEY: I can always keep myself

Brodkin - direct

1 busy for a half hour.

2 MR. DUGHI: All right.

3 MR. HALEY: I think I am going to start
4 on the interrogatories now.

5 MR. DUGHI: Are you going to use
6 Burke's?

7 MR. HALEY: I'm going to use Jim
8 Burke's.

9 MR. DUGHI: Let's take a short break.

10 MR. HALEY: Sure.

11 (Whereupon a recess was taken.)

12

13 BY MR. HALEY:

14 Q. Doctor, do you recollect treating one
15 of the clients of ours in this case named James
16 Burke?

17 A. Yes.

18 Q. Do you remember when you started
19 treating him?

20 A. If I can't refer to my chart, I would
21 guess --

22 Q. I would rather have you refer to the
23 chart, doctor, honestly.

24 MR. DUGHI: Why don't you do it from
25 the interrogatories. I don't care.

Brodkin - direct

1 MR. HALEY: For someone who doesn't
2 care, I'm hearing a lot about it.

3 MR. GORDON: He asked for the records.

4 MR. DUGHI: Okay.

5 A. The first recording of my treatment of
6 this patient is in November of 1962, at least the
7 first appearance of my handwriting, maybe
8 September.

9 MR. HALEY: So long as the doctor is
10 referring to that, for the record, let's mark the
11 file, the manila folder of James Burke as PB-8 and
12 the treatment card which Dr. Brodkin has in his
13 hand we will mark as PB-9 and I think I'm correct,
14 doctor, that you referred to PB-9 in giving me that
15 answer?

16 THE WITNESS: Yes.

17 MR. DUGHI: May I suggest you make it
18 PB-8 A.

19 MR. HALEY: Fine, PB-8 and PB-8 A.

20 (Whereupon the documents were received
21 and marked PB-8 and PB-8 A for identification.)

22 Q. And would it be accurate for me to say,
23 then, doctor, that your particular treatment of
24 him, as best we can tell, started in November of
25 '62?

Brodkin - direct

1 A. That I know for a fact.

2 Q. I'm going to refer you, doctor, to
3 interrogatory question number 11, the answer.

4 MR. DUGHI: The more specific set?

5 MR. HALEY: It's in the original
6 answers.

7 MR. DUGHI: Number 11?

8 MR. HALEY: Number 11, question and
9 answer. I will read the question and the answer
10 for the record.

11 Q. Doctor, before I do that, however, am I
12 correct in assuming that you have seen these
13 interrogatories and these answers before?

14 A. Yes.

15 Q. And the signature which is on the
16 second to last page, that's your signature?

17 A. Yes.

18 Q. And that doctor, are you aware that in
19 filling those out, that you were certifying to the
20 truthfulness of those answers? You were aware of
21 that when you were doing that?

22 A. Yes.

23 Q. Question number 11 from the
24 interrogatories, and I will read it, 11 "(a), did
25 defendant refer to, or rely on, any books or other

Brodkin - direct

1 publications in treating plaintiff or in forming an
2 opinion concerning the diagnosis and treatment of
3 plaintiff's condition? If so, for each such book
4 or other publications indicate: (b), its title;
5 (c), the page references of the part defendant
6 referred to or relied on; (d), what information
7 defendant sought or relied on; (e), the date of
8 each such occasion defendant referred to it."

9 And I will read the answer to that
10 question, which is "Dr. Brodkin did not rely on any
11 particular medical text in his treatment of the
12 plaintiff but rather on his training, experience
13 and continuing medical education."

14 Doctor, could you tell me what it is
15 about your training, experience and continuing
16 medical education in 1962 that was useful to you in
17 treating Mr. Burke?

18 A. If you see a comedo, c-o-m-e-d-o, in
19 1962, you express it. This has been done since
20 1862 and is still being done. This is a basic
21 treatment.

22 Q. And by "express it," you mean remove
23 it?

24 A. Yes, empty it.

25 Q. If I could just have the treatment card

Brodkin - direct

1 for a second.

2 Doctor, just for my information, could
3 you tell me, when you said November of '62, which
4 date that was? You may have said it already. That
5 would be November 1st?

6 A. Right.

7 Q. Thank you. And am I correct when I
8 read that as saying that on that day, you excised a
9 cyst from his penis? Is that correct?

10 A. Yes, that's correct.

11 Q. And as I look at the treatment, the
12 treatment for that, it says, as I read it,
13 T-e-r-r-a, would that mean Terramycin?

14 A. Yes.

15 Q. And what was the purpose of
16 administering the Terramycin to him on that
17 occasion?

18 A. I could only guess.

19 Q. If you can only guess, that's the best
20 I can do.

21 A. The cyst may have been infected.

22 Q. What is Terramycin, if you could
23 explain that?

24 A. It's a broad spectrum antibiotic.
25 Perhaps I did not want extension of the infection

Brodkin - direct

1 from the cyst to surrounding tissues.

2 Q. Was that something which you saw in a
3 number of these workers?

4 A. Yes.

5 Q. And was that part of your medical
6 training which was useful to you?

7 A. Yes.

8 Q. In treating Mr. Burke. Did you have
9 any experience or training prior to November of
10 1962 in occupationally caused dermatological
11 conditions?

12 A. I have the lectures of Birmingham and
13 some readings I had done, very little more.

14 Q. Do you recall at all what some of those
15 writings might have been? Would they be in medical
16 texts, for example?

17 A. Could be.

18 Q. If you can recall, doctor, can you --
19 MR. DUGHI: A specific text on
20 occupational --

21 MR. HALEY: No.

22 Q. If you can recall what it was that you
23 knew about occupational dermatology in 1962?

24 MR. HALEY: And I realize that's a
25 somewhat broad, very broad question. But I don't

Brodkin - direct

1 know how else to phrase it in order to find out --
2 I suppose I can go the other way, which is ask him
3 about the texts, but I don't know how else to get
4 at it.

5 MR. DUGHI: Let me just put an
6 objection. I'm going to let him answer the
7 question but I'm going to put an objection on the
8 record. How you can ask a doctor in 1988, the
9 latter stages thereof, about what he knew of
10 outpatient medicine circa 1962 is beyond me. I
11 would be glad to ask you what you knew about future
12 interests in law school. But I don't think we
13 would be here too long. We may be here forever, we
14 may not be. If you can answer that question,
15 doctor, go right ahead.

16 A. I had lectures from Dr. Birmingham
17 during my training and also I had the experience of
18 Dr. Bleiberg. I did a fair amount of that work.

19 Q. Did Dr. Bleiberg ever discuss with you,
20 for example, before you started treating Jim Burke,
21 what his feeling was as to the condition from which
22 Jim Burke was suffering?

23 A. Before I started treating Jim Burke,
24 did Dr. Bleiberg --

25 Q. In other words, in anticipation of your

Brodkin - direct

1 beginning to treat the Diamond Shamrock workers,
2 and maybe I can phrase it a little bit more
3 generally, did Dr. Bleiberg discuss with you what
4 his feeling was as to the conditions from which
5 they were suffering?

6 A. When Dr. Bleiberg informed me that he
7 was involved in the treatment of patients in an
8 industrial setting, in a factory, I asked what and
9 why.

10 Q. And what was his response?

11 A. He said these workers have chloracne
12 and I am going there, there are a lot of them, I'm
13 going there to treat them. I assumed this
14 responsibility, assume this responsibility.

15 Q. Did he discuss at all with you a view
16 as to what might be causing the chloracne, again,
17 prior --

18 A. Only to tell me that it was not known.

19 Q. So, then, let's say, again, for lack of
20 a better word, the etiology as you understood your
21 conversations with Dr. Bleiberg, the etiology of
22 the chloracne in these workers was not known to him
23 in 1962?

24 A. The chemicals.

25 Q. The chemicals what, doctor?

Brodkin - direct

1 A. They were working with chemicals, they
2 were getting chloracne.

3 Q. So, then, other than the fact that they
4 were working with chloracnogens as chemicals,
5 again, I think we both understand what that term
6 is, he didn't know anything more than that
7 specifically as to what was causing the condition?

8 A. He did not.

9 MR. DUGHI: He has got patients
10 starting at 3:30. He would like to get out of
11 here. I told you until 3:30 and --

12 MR. HALEY: I'm not going to quibble
13 over seven minutes.

14 MR. DUGHI: All right.

15 MR. HALEY: If he has got patients.

16 Q. So would it be a fair statement for me
17 to say, doctor, that when you began treating these
18 patients, that you knew first that they had
19 chloracne?

20 A. Yes.

21 Q. And would it also be fair for me to say
22 that you also knew when you began treating these
23 workers that the cause of that chloracne was the
24 chemicals with which they were working?

25 A. Yes.

Brodkin - direct

1 MR. HALEY: That's all.

2 MR. DUGHI: Fine. Thank you very
3 much. We will see you at nine sharp tomorrow.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

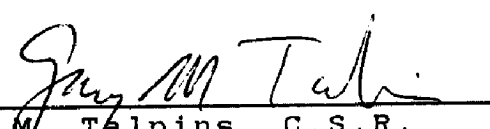
25

C E R T I F I C A T E

1
2
3 I, GARY M. TALPINS, a Notary Public and
4 Certified Shorthand Reporter of the State of New
5 Jersey, do hereby certify that prior to the
6 commencement of the examination, ROGER H. BRODKIN
7 was duly sworn by me to testify the truth, the
8 whole truth and nothing but the truth.

9 I DO FURTHER CERTIFY that the foregoing is a
10 true and accurate transcript of the testimony as
11 taken stenographically by and before me at the
12 time, place and on the date hereinbefore set forth,
13 to the best of my ability.

14 I DO FURTHER CERTIFY that I am neither a
15 relative nor employee nor attorney nor counsel of
16 any of the parties to this action, and that I am
17 neither a relative nor employee of such attorney or
18 counsel, and that I am not financially interested
19 in the action.
20

21 
22 _____
23 Gary M. Talpins, C.S.R.
24 License No. XI00561
25