

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE
4 RICHARD BOEKEN,)
5 PLAINTIFF,)
6)
7 VS.) CASE NO. BC226593
8 PHILIP MORRIS,)
9 INCORPORATED, A)
10 CORPORATION; INTERNATIONAL)
11 HOUSE OF PANCAKES)
12 INCORPORATED, A)
CORPORATION.)
DEFENDANTS.)
_____)

13 REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS
14 THURSDAY, APRIL 26TH, 2001
15 APPEARANCES:
16 (FOR PLAINTIFF) LAW OFFICES OF
MICHAEL J. PIUZE
17 11755 WILSHIRE BLVD.
SUITE 1170
18 LOS ANGELES, CA 90025
19 (FOR DEFENDANTS) ARNOLD & PORTER
BY: MAURICE A. LEITER
20 JOHN CARLTON
777 S. FIGUEROA ST.
21 44TH FLOOR
LOS ANGELES, CA 90017

22 LISA C. RIDLEY
23 OFFICIAL REPORTER
600 S. COMMONWEALTH AVE.
24 ROOM 308
LOS ANGELES, CA 90005

25 VOLUME 24A OF
26 PAGES 3762 THROUGH 3870
27
28

1 LOS ANGELES, CALIFORNIA; THURSDAY, APRIL 26TH, 2001

2 9:00 A.M

3 DEPARTMENT 308 HON. CHARLES MC COY, JUDGE

4

5 (THE FOLLOWING PROCEEDINGS
6 WERE HELD IN OPEN COURT OUT
7 OF THE PRESENCE OF THE JURY:)

8

9 THE COURT: WE ARE ON THE RECORD OUTSIDE
10 THE PRESENCE READY TO TAKE THE MATTER OF THE WHITE
11 PAPER.

12 MR. PIUZE: YOUR HONOR, YESTERDAY WE WERE
13 DISCUSSING EXHIBIT 143.00 AND I THINK, I MUST
14 APOLOGIZE TO EVERYONE HERE FOR PUTTING THE WRONG
15 SPIN ON THIS AND LEADING EVERYONE OFF IN THE WRONG
16 DIRECTION.

17 I DON'T THINK THIS IS A HEARSAY
18 DOCUMENT BECAUSE IT IS NOT USED TO PROVE THE TRUTH
19 OF THE MATTER STATED IN HERE.

20 SO, FOR INSTANCE, THE THINGS THAT
21 ARE SAID IN HERE ARE THAT MARLBORO DOMINATES THE 17
22 AND YOUNGER AGE CATEGORY, THAT THERE'S A 50 PERCENT
23 MARKET SHARE AND GOES INTO EXACT LITTLE DETAILS
24 LIKE THAT.

25 I DON'T KNOW IF IT'S TRUE, IF THOSE
26 DETAILS ARE TRUE OR NOT. AND I REALLY DON'T CARE
27 IF THEY ARE TRUE OR NOT. THAT'S NOT WHY I AM
28 OFFERING THIS.

1 I AM OFFERING THIS DOCUMENT WHICH
2 IS DATED MARCH 29, 1979, TO SHOW KNOWLEDGE ON THE
3 PART OF PHILIP MORRIS, THAT YOUNG KIDS WERE SMOKING
4 THEIR CIGARETTES AND ALSO SMOKING THEIR CIGARETTES
5 PREDOMINANTLY.

6 THE FOUNDATION FOR THIS PARTICULAR
7 DOCUMENT HAS BEEN ACCEPTED, AT LEAST THAT'S WHAT I
8 HEARD YESTERDAY, SO THE FOUNDATION HAVING BEEN
9 ACCEPTED, AND IT COMES OFF OF THEIR WEB SITE AND
10 IT'S OFF THAT LETTERHEAD, THE FOUNDATION HAVING
11 BEEN ACCEPTED, THEN I AM SIMPLY SAYING, I AM
12 OFFERING THIS TO SHOW THAT PHILIP MORRIS HAD
13 KNOWLEDGE 22 YEARS AGO, WAS ON NOTICE 22 YEARS AGO,
14 THAT YOUNG KIDS WERE SMOKING THIS BRAND AND SMOKING
15 THIS BRAND PREDOMINANTLY.

16 I DON'T REALLY CARE WHETHER THEIR
17 WHITE PAPER IS EXACTLY ACCURATE OR NOT, BUT THEY
18 HAD IT AND THEY KNEW ABOUT IT.

19 MY CITATION FOR THIS, WHITKIN
20 EVIDENCE CODE --

21 THE COURT: I DON'T NEED TO SITE
22 AUTHORITY. I HAVE THE PROPER INFORMATION.

23 MR. PIUZE: THANKS.

24 THE COURT: ALL RIGHT.

25 MAY I SEE THE DOCUMENT ACTUALLY.

26 I DON'T BELIEVE IT'S BEEN HANDED TO
27 ME AND I WOULD LIKE TO TAKE A MOMENT TO LOOK AT THE
28 WHOLE DOCUMENT.

1 THE COURT: ALL RIGHT.

2 MR. CARLTON.

3 MR. CARLTON: TWO POINTS. ONE, HE SAYS
4 HE DOESN'T CARE WHETHER IT'S TRUE OR NOT AND YET HE
5 WANTS TO ATTRIBUTE KNOWLEDGE OF THAT FACT TO PHILIP
6 MORRIS. I THINK YOU ARE STILL TALKING A HEARSAY
7 PROBLEM, IT DOESN'T MAKE ANY -- IT'S NOT RELEVANT
8 IF IT IS NOT TRUE.

9 AND WHAT HE IS SAYING IS, PHILIP
10 MORRIS HAD KNOWLEDGE OF A FACT.

11 THE ONLY WAY THE FACT EXISTS IS IF
12 THAT INFORMATION IN THAT DOCUMENT IS TRUE.

13 SO I THINK HE HAS SORT OF GOT A
14 CIRCULAR ARGUMENT AS TO HEARSAY.

15 TWO, WE STILL DON'T KNOW WHO WROTE
16 THE DOCUMENT OR WHO IT WENT TO.

17 HOW CAN YOU ATTRIBUTE KNOWLEDGE TO
18 PHILIP MORRIS IF YOU DON'T KNOW WHO AT PHILIP
19 MORRIS, IF ANYBODY, ACTUALLY SAW THAT AND READ IT.

20 WE DON'T KNOW WHERE IT CAME FROM
21 IF THIS WAS SOMETHING PUT TOGETHER
22 BY A CLERK, NEVER MADE IT OUT OF THE FILE ROOM OR
23 SOME LOW LEVEL PLACE, HOW IT CAN BE ATTRIBUTED TO
24 PHILIP MORRIS?

25 THE COURT: WELL, THAT'S THE CENTRAL
26 PROBLEM, HAVING READ THE DOCUMENT, THERE'S NO
27 QUESTION IN MY MIND THAT IT IS RELEVANT ON THE
28 ISSUE OF -- AND FOR ONE PURPOSE, AT LEAST, DOESN'T

1 GO TO A HEARSAY PURPOSE, AND THAT IS IF THIS IS, IN
2 FACT, A GENUINE PHILIP MORRIS DOCUMENT, WRITTEN BY
3 PHILIP MORRIS, THAT IT INDICATES AN INTEREST ON THE
4 PART OF PHILIP MORRIS MANAGEMENT IN THE FACT THAT
5 THE BRAND IS PENETRATING OR MAY BE PENETRATING THE
6 MARKETPLACE, SO-CALLED MARKETPLACE FOR 17 AND
7 YOUNGER AGE CATEGORY.

8 THE FACT THAT THEY ARE INTERESTED,
9 THE FACT THAT THEY ARE MONITORING THAT IS A
10 NON-HEARSAY FACT THAT IS RELEVANT TO THE CASE.

11 NOW, THE QUESTION BECOMES, IS THIS
12 A PHILIP MORRIS DOCUMENT.

13 AND ALL I HAD BEFORE ME IS A WHITE
14 PAPER WITH PHILIP MORRIS LETTERHEAD ON IT AND I
15 DON'T KNOW ANYTHING MORE ABOUT THIS DOCUMENT.

16 IF IT INVOLVES THE CREDIBILITY OF
17 PEOPLE AT PHILIP MORRIS WHO ARE INTERESTED IN THIS,
18 THEN IT'S GOING TO COME IN.

19 MR. CARLTON: WELL, YOUR HONOR, WE ARE
20 NOT CHALLENGING THAT IT IS A DOCUMENT THAT CAME
21 FROM PHILIP MORRIS'S FILES SOMEPLACE. AT THIS
22 POINT, WE DON'T KNOW WHERE. IT WAS WITHIN PHILIP
23 MORRIS'S FILES. THAT'S ALL THAT CAN BE SAID.

24 THE COURT: IS THERE ANY INFORMATION?

25 MR. PIUZE: WELL, THERE MAY BE. I WAS
26 TAKING THIS ONE STEP AT TIME.

27 THANK YOU, MR. CARLTON, BECAUSE I
28 WAS ABOUT TO REMIND THE COURT YESTERDAY PHILIP

1 MRRIS HAD SAID THE SAME THING, THEY HAVE ADMITTED
2 THAT IT'S THEIR DOCUMENTS.

3 THE COURT: I WAS AWARE OF THAT.

4 BUT THE FACT THAT IT CAME FROM
5 PHILIP MRRIS' FILES DOES NOT, IN THIS COURT'S
6 VIEW, RISE TO THE CORRECT LEVEL.

7 THERE NEEDS TO BE SOMETHING MORE
8 THAN THAT.

9 MR. PIUZE: WITH THAT -- THANK YOU.

10 THEN WE HAVE FUNNELED IT DOWN TO
11 THAT ONE ISSUE, I AM DEPENDENT UPON MR. GOLDSTEIN
12 WHO IS NOT HERE YET ON THAT ISSUE AND SO AT LEAST
13 WE KNOW WHERE TO GO.

14 BUT THE REASON I BROUGHT IT UP
15 RIGHT NOW IS BECAUSE THE COURT DIDN'T WANT TO LET
16 IT SLIDE TOO LONG AND SO I THINK WE CAN TAKE CARE
17 OF IT ONE WAY OR THE OTHER TODAY.

18 THE COURT: AND WE WILL JUST HOLD THE
19 TESTIMONY AS WELL.

20 MR. PIUZE: YES.

21 THE COURT: ALL RIGHT.

22 SO THE DEFENSE WILL THEN BE CALLING
23 THE FIRST WITNESS?

24 MR. LEITER: YES, YOUR HONOR.

25 THE COURT: DO WE HAVE OUR JURY?

26 THE COURT LIAISON: YES, WE DO.

27 THE COURT: THANK YOU, MA'AM IF YOU
28 WOULD PLEASE HONOR US WITH THEIR PRESENCE.

1 (THE FOLLOWING PROCEEDINGS
2 WERE HELD IN OPEN COURT IN
3 THE PRESENCE OF THE JURY.)

4
5 THE COURT: OUR JURY PANEL IS WITH US,
6 COUNSEL ARE PRESENT AS WELL.

7 LADIES AND GENTLEMEN, TOMORROW THE
8 COURT WILL BE IN SESSION BUT NOT WITH YOU.

9 SO YOU ARE GOING TO HAVE ALL DAY
10 TOMORROW OFF WHILE THE COURT DOES SOME THINGS THAT
11 THE COURT MUST DO AND THEN WE WILL SEE YOU ON
12 MONDAY.

13 ACTUALLY, THAT'S PROBABLY -- THAT
14 TIMING OF THAT -- WHICH OFTEN HAPPENS IN THE MIDDLE
15 OF TRIALS OF THIS LENGTH, BUT THAT'S KIND OF A GOOD
16 THING BECAUSE THAT WILL GIVE MY JURY A THREE-DAY
17 WEEKEND.

18 WE ARE READY TO CALL THE FIRST
19 WITNESS FROM THE DEFENSE.

20 MR. LEITER: THANK YOU, YOUR HONOR,
21 PHILIP MORRIS CALLS DOCTOR LISA HOFFMAN.

22

23 D E F E N S E

24

25

26 ELIZABETH COBBS HOFFMAN,
27 CALLED AS A WITNESS BY THE DEFENSE, WAS SWORN
28 AND TESTIFIED AS FOLLOWS:

1 THE CLERK: YOU DO SOLEMNLY SWEAR THE
2 TESTIMONY YOU MAY GIVE IN THE CAUSE NOW PENDING
3 BEFORE THIS COURT, SHALL BE THE TRUTH, THE WHOLE
4 TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.

5 THE WITNESS: I DO. IS THAT YES, I
6 SWEAR?

7 THE CLERK: WOULD YOU HAVE A SEAT RIGHT
8 THERE.

9 AND IF YOU COULD JUST STATE YOUR
10 FIRST AND LAST NAME.

11 THE WITNESS: MY NAME IS ELIZABETH COBBS
12 HOFFMAN.

13 MR. LEITER: GOOD MORNING, LADIES AND
14 GENTLEMEN.

15 GOOD MORNING, DR. HOFFMAN.

16

17 DIRECT EXAMINATION

18

19 BY MR. LEITER:

20 Q. LET'S BEGIN BY CORRECTING THE FIRST
21 MISTAKE I MADE. WHEN I INTRODUCED YOU, I CALLED
22 YOU DOCTOR LISA HOFFMAN. IS LISA A NICKNAME THAT
23 YOU GO BY?

24 A. THAT IS CORRECT.

25 Q. DR. HOFFMAN, WHERE DO YOU WORK?

26 A. I WORK AT SAN DIEGO STATE
27 UNIVERSITY.

28 Q. AND WHAT IS YOUR JOB AT SAN DIEGO

1 STATE UNIVERSITY?

2 A. MY JOB IS AS A PROFESSOR OF
3 HISTORY.

4 Q. AND ARE YOU A FULL PROFESSOR?

5 A. YES, I AM

6 Q. I WANT TO ASK YOU IN A MINUTE ABOUT
7 YOUR BACKGROUND. BUT RIGHT UP FRONT, WHAT ARE YOU
8 HERE TO TALK TO THE JURY ABOUT TODAY?

9 A. WELL, I AM HERE TO TALK ABOUT THE
10 QUESTION OF WHAT PEOPLE KNEW ABOUT THE DANGERS OF
11 SMOKING AND HOW THEY CAME TO KNOW IT AND
12 APPROXIMATELY WHEN THE GENERAL PUBLIC UNDERSTOOD
13 THAT SMOKING WAS BAD FOR YOU.

14 Q. AND WE ARE GOING TO BE TALKING
15 ABOUT A LARGE PERIOD OF TIME. BUT WHAT IS THE
16 PERIOD OF TIME THAT WE ARE GOING TO BE FOCUSING ON
17 PRIMARILY?

18 A. THE FOCUS OF THE PERIOD, AS I HAVE
19 DEFINED IT AS 1950 TO 1994.

20 Q. WHY DID YOU SELECT 1950 TO 1994?

21 A. WELL, I UNDERSTAND THAT MR. BOEKEN
22 WAS BORN IN 1944 AND SO THAT HE WOULD HAVE BEEN,
23 ROUGHLY, SIX YEARS OLD OR SO, MAYBE READING BY THE
24 TIME HE WAS SIX, LET'S SAY. AND SO 1950 WAS A SORT
25 OF AREA OF HIS EARLY CHILDHOOD.

26 AND UP TO 1994, BECAUSE I
27 UNDERSTAND THAT'S A POINT WHICH HE SAYS THAT HE
28 CAME TO UNDERSTAND THAT SMOKING COULD GIVE YOU LUNG

1 CANCER AND COULD, PERHAPS, EVEN KILL YOU.

2 Q. BEFORE WE TALK ABOUT THE SUBSTANCE
3 OF YOUR TESTIMONY, LET'S SPEND A LITTLE BIT OF TIME
4 ON YOUR BACKGROUND.

5 FIRST, WHERE WERE YOU BORN?

6 A. I WAS BORN IN GARDENA, WHICH IS
7 HERE IN THE L. A. AREA.

8 Q. AND WHERE DID YOU GROW UP?

9 A. I GREW UP IN SAN DIEGO.

10 Q. CAN YOU TELL THE JURY A LITTLE BIT
11 ABOUT YOUR EDUCATIONAL BACKGROUND, STARTING WITH
12 COLLEGE.

13 A. OKAY. I WAS A STUDENT AT THE
14 UNIVERSITY OF CALIFORNIA AT SAN DIEGO, SO IN MY
15 HOME TOWN. AND I GOT MY BACHELORS DEGREE IN
16 LITERATURE THERE AND INTERNATIONAL RELATIONS AND
17 THEN I WENT TO STANFORD UNIVERSITY WHICH, OF
18 COURSE, IS IN NORTHERN CALIFORNIA. AND I GOT MY
19 MASTERS DEGREE IN AMERICAN HISTORY THERE AND ALSO
20 MY PH. D. IN AMERICAN HISTORY AT STANFORD.

21 Q. AND WHAT DO YOU HAVE TO DO TO GET A
22 PH. D. ?

23 A. A LOT OF WORK.

24 YOU HAVE TO, YOU HAVE TO MASTER A
25 BODY OF KNOWLEDGE, AND IN THIS CASE, AMERICAN
26 HISTORY. AND IT'S A KIND OF A TO Z, YOU KNOW, VERY
27 BEGINNING, TO REALLY THE PRESENT.

28 AND SO THERE'S ABOUT TWO YEARS OF

1 COURSE WORK, CLASSES THAT YOU TAKE THAT ARE BEYOND
2 YOUR BACHELORS DEGREE AND THEN YOU SPEND, IT
3 DEPENDS ON HOW FAST YOU WORK, YOU SPEND THREE YEARS
4 TO TEN YEARS WRITING A MASTERS -- A THESIS, A
5 DISSERTATION IN AMERICAN HISTORY IN THIS CASE,
6 WHICH IS ESSENTIALLY A BOOK.

7 Q. SINCE YOU HAVE RECEIVED YOUR PH. D. ,
8 TELL US A LITTLE BIT ABOUT WHAT YOU HAVE DONE IN
9 YOUR CAREER.

10 A. WELL, I HAVE BECOME A HISTORY
11 PROFESSOR, OF COURSE, AND I HAVE TAUGHT FOR ABOUT
12 13 YEARS. I HAVE TAUGHT AT THREE DIFFERENT
13 UNIVERSITIES, IN SAN DIEGO, ACTUALLY, YOU PROBABLY
14 DON'T WANT TO KNOW WHAT THEY ALL WERE.

15 BUT I WAS JUST BRIEFLY AT UCSD FOR
16 ONE YEAR. I WAS AT THE UNIVERSITY OF SAN DIEGO
17 WHICH IS A PRIVATE SCHOOL FOR NINE YEARS. I
18 EVENTUALLY WAS THE CHAIR OF THE HISTORY DEPARTMENT
19 THERE AND THE LAST THREE YEARS SAN DIEGO STATE.

20 Q. AND YOU ARE TENURED AT SAN DIEGO
21 STATE?

22 A. YES, I AM I ACTUALLY HAVE AN
23 ENDOWED CHAIR AT SAN DIEGO STATE WHICH IS A LITTLE
24 BIT BETTER THAN TENURE, FORTUNATELY.

25 Q. WHAT IS AN ENDOWED CHAIR? WE HAVE
26 HEARD A LITTLE BIT ABOUT THOSE.

27 A. WELL, IT'S KIND OF A FUNNY THING TO
28 EXPLAIN BECAUSE PEOPLE THINK IT MEANS THAT YOU ARE

1 THE CHAIR OF THE DEPARTMENT WHICH SOUNDS LIKE YOU
2 ARE THE SORT OF THE BOSS OF THE DEPARTMENT. AND
3 ACTUALLY I DID DO THAT AT THE UNIVERSITY OF
4 SAN DIEGO.

5 BUT AT SAN DIEGO STATE, WHAT AN
6 ENDOWED CHAIR IS IS A POSITION WHERE YOU HAVE EXTRA
7 TIME OFF FOR RESEARCH. IT'S A RECOGNITION OF WHAT
8 YOU HAVE ACHIEVED IN YOUR CAREER.

9 AND SO IT'S EXTRA COMPENSATION AND
10 IT'S MORE TIME FOR RESEARCH. SO IT IS A
11 RECOGNITION THAT YOU ARE A SCHOLAR, IN ADDITION TO
12 BEING A TEACHER.

13 Q. BY THE WAY, IS THIS THE FIRST TIME
14 YOU TESTIFIED AT TRIAL AS AN EXPERT WITNESS?

15 A. YES, IT IS.

16 Q. I AM GOING TO ASK YOU TO SLOW DOWN
17 JUST A LITTLE BIT. OKAY.

18 YOU MENTIONED THAT AT YOUR JOB, AS
19 A PROFESSOR, YOU DO SOME TEACHING. COULD YOU TELL
20 THE JURY WHAT COURSES YOU HAVE TAUGHT?

21 A. WELL, TEACHING IS A GREAT PART OF
22 THIS KIND OF JOB, AND I HAVE TAUGHT ON A WIDE
23 VARIETY OF COURSES ALL ON AMERICAN HISTORY.

24 I HAVE TAUGHT THE SURVEY CLASS,
25 THOSE ARE THE CLASSES THAT, AGAIN, SORT OF TAKE YOU
26 FROM POINT A TO, YOU KNOW, TO Z. SO I HAVE TAUGHT
27 BOTH SECTIONS OF AMERICAN HISTORY, BOTH HALVES
28 WHICH ARE SORT OF THE COLONIAL PERIOD UP TO THE

1 AMERICAN CIVIL WAR AND THEN THE PERIOD FROM THE
2 CIVIL WAR UP TO THE PRESENT.

3 I HAVE ALSO TAUGHT CLASSES WHICH
4 ARE LIKE SEMINARS, WHICH WE DO SPECIAL TOPICS. FOR
5 EXAMPLE, I WAS DIRECTOR OF THE HONORS PROGRAM AT
6 THE UNIVERSITY OF SAN DIEGO. WE DID A LOT OF
7 SPECIAL TOPICS KINDS OF CLASSES.

8 SO I TAUGHT, FOR EXAMPLE, A CLASS
9 IN -- ON THE FRONTIER AND I TAUGHT A CLASS ON
10 RACISM AND NATIVISM IN AMERICAN HISTORY. NATIVISM
11 IS ANTI-FOREIGNER SENTIMENT.

12 AND I TAUGHT A CLASS ON THE HISTORY
13 OF WOMEN AND THE FAMILY, FOR EXAMPLE.

14 I HAVE ALSO TAUGHT CLASSES IN
15 AMERICAN FORMULATIONS. I HAVE TAUGHT CLASSES IN
16 HISTORICAL METHOD A NUMBER OF TIMES.

17 Q. NOW, YOU MENTIONED IN ADDITION TO
18 TEACHING, YOU ALSO DO SOME RESEARCH?

19 A. YES, I DO.

20 Q. WHAT KIND OF RESEARCH HAVE YOU BEEN
21 DOING -- HAVE YOU DONE?

22 A. WELL, I HAVE DONE RESEARCH, OF
23 COURSE, BEGINNING WITH MY PH. D. THESIS, WHICH
24 BECAME MY FIRST BOOK, AND THAT WAS A BOOK THAT WAS
25 PUBLISHED BY YALE UNIVERSITY PRESS IN 1992. AND
26 THAT WAS ON NELSON ROCKEFELLER, HENRY KAISER AND
27 THAT'S A LONG STORY. YOU PROBABLY DON'T WANT TO
28 KNOW, BUT A TOPIC IN AMERICAN BUSINESS HISTORY AND

1 PHILANTHROPY AND FORMULATIONS.

2 AND THEN I DID A SECOND BOOK WHICH
3 WAS PUBLISHED TWO YEARS AGO BY HARVARD UNIVERSITY
4 PRESS WHICH WAS A HISTORY OF THE PEACE CORPS IN THE
5 UNITED STATES AND HISTORY OF THE 1960' S,
6 ESSENTIALLY.

7 AND LET' S SEE. SO THOSE ARE THE
8 TWO BOOKS THAT I HAVE DONE AND I HAVE DONE A NUMBER
9 OF ARTICLES IN A WIDE VARIETY OF TOPICS.

10 I AM CURRENTLY WORKING -- WELL, I
11 JUST FINISHED, A MONTH OR SO AGO, A BOOK THAT
12 HASN' T BEEN PUBLISHED YET, A TEXTBOOK ON THE
13 AMERICAN HISTORY AND THIS IS, IT' S CALLED "MAJOR
14 PROBLEMS IN AMERICAN HISTORY" AND IT' S, AGAIN, THE
15 PERIOD THAT' S CALLED RECONSTRUCTION WHICH IS THE
16 ERA RIGHT AFTER THE CIVIL WAR UP THROUGH THE
17 PRESENT. AND I AM NOW WORKING ON A BOOK IN WORLD
18 HISTORY.

19 Q. OKAY. YOUR TEXTBOOK, "MAJOR
20 PROBLEMS IN AMERICAN HISTORY" COVERS BASICALLY THE
21 END OF THE CIVIL WAR TO THE PRESENT?

22 A. RIGHT. SO IT' S, APPROXIMATELY 1865
23 TO THE YEAR 2000.

24 Q. AND THAT' S FOR COLLEGE LEVEL USE?

25 A. RIGHT.

26 Q. AND THE BOOK THAT YOU ARE CURRENTLY
27 WORKING ON IS "HISTORY OF THE WORLD, PART 1?"

28 A. ACTUALLY, ITS "HISTORY OF THE WORLD

1 PART 2. "

2 IN COLLEGES THESE DAYS, A LOT OF
3 STUDENTS DON'T JUST TAKE WESTERN CIVILIZATION LIKE
4 THEY USED TO. NOWADAYS THERE'S AN EMPHASIS ON
5 TEACHING PEOPLE WORLD HISTORY, RATHER THAN JUST
6 FOCUSED ON THE ANCIENT ROMANCE AND THAT KIND OF
7 THING.

8 SO I AM TEACHING -- I AM WRITING A
9 BOOK WHICH IS THE SECOND HALF OF THAT. SO IT'S
10 KIND OF 1492 TO THE PRESENT.

11 Q. AND YOU ARE DOING THAT WITH A
12 COLLEAGUE?

13 A. YES, I AM

14 Q. SO THE COLLEAGUE GOT CREATION TO
15 1492 AND YOU GOT 1492 TO THE PRESENT?

16 A. THAT IS RIGHT.

17 Q. GOING TO BE A BIG BOOK?

18 A. IT COULD BE. BUT, NO, WE ARE
19 TRYING TO MAKE IT MANAGEABLE.

20 Q. YOU ALSO MENTIONED THAT YOU HAVE
21 PUBLISHED IN PEER REVIEWED JOURNALS?

22 A. YES, I HAVE.

23 Q. AND HAVE YOU ALSO ACTED AS A
24 REVIEWER FOR PEER REVIEWED JOURNALS?

25 A. YES, I HAVE.

26 Q. WHAT JOURNALS ARE YOU AFFILIATED
27 WITH?

28 A. WELL, I HAVE REVIEWED ARTICLES FOR,

1 JUDGED ARTICLES FOR THE "JOURNAL OF AMERICAN
2 HISTORY, BUSINESS HISTORY REVIEW," WHICH IS BY
3 HARVARD PRESS, THE "JOURNAL OF AMERICAN
4 FORMULATIONS," ALSO CALLED, BASICALLY, CALLED
5 "DIPLOMATIC HISTORY" AND OTHERS, SORT OF COME TO
6 YOU IN A MISCELLANEOUS WAY. PEOPLE ASK FOR YOUR
7 HELP, BASICALLY.

8 Q. AND HAVE YOU ALSO SERVED ON
9 HISTORICAL ADVISORY COMMITTEES?

10 A. YES, I HAVE.

11 I HAVE SERVED AS, AS A MEMBER OF
12 THE BOARD OF EDITORS OF DIPLOMATIC HISTORY, FOR
13 EXAMPLE, AND I AM ALSO CURRENTLY SERVING ON A
14 COMMITTEE FOR THE DEPARTMENT OF STATE IN WASHINGTON
15 D. C., WHICH, OF COURSE, HANDLES OUR FORMULATIONS.
16 AND THIS COMMITTEE IS A COMMITTEE OF HISTORIANS
17 THAT REVIEWS PAST EVENTS OF THE DEPARTMENT OF
18 STATE.

19 Q. AND OVER THE COURSE OF YOUR CAREER,
20 HAVE YOU RECEIVED VARIOUS AWARDS AND HONORS?

21 A. YES, I HAVE.

22 Q. COULD YOU JUST TAKE A MINUTE AND
23 DESCRIBE SOME OF THOSE.

24 A. WELL, IN MY CAREER AS AN ACADEMIC,
25 I ALSO RECEIVED AWARDS BEFORE I BECAME AN ACADEMIC.
26 BUT MY FIRST BOOK, ACTUALLY, MY THESIS, MY
27 DISSERTATION WON AN AWARD AS THE BEST DISSERTATION
28 WON THAT YEAR IN AMERICAN HISTORY IN THE UNITED

1 STATES.

2 THAT WAS GIVEN BY THE SOCIETY OF
3 AMERICAN HISTORIANS, I THINK.

4 THAT WAS GIVEN IN NEW YORK CITY.
5 AND I ALSO RECEIVED -- MY BOOK,
6 FIRST BOOK, WON ALSO A BOOK PRIZE WHICH WAS GIVEN
7 BY THE SOCIETY FOR HISTORIANS OF AMERICAN
8 FORMULATIONS, FOR THE BEST, AGAIN, FIRST BOOK IN
9 THAT YEAR, IN THAT FIELD.

10 Q. HAS ANY OF YOUR RESEARCH IN WRITING
11 INVOLVED CIGARETTES OR SMOKING?

12 A. IN THIS LAST BOOK I WAS WORKING ON
13 THAT I JUST FINISHED, BECAUSE IT COVERS AMERICAN
14 HISTORY FROM THE TIME OF THE CIVIL WAR UP TO THE
15 PRESENT, THAT IS AN ISSUE THAT COMES UP IN
16 DIFFERENT PERIODS. SO, YES, IN THAT SENSE, IT HAS
17 BEEN A PART OF THAT WORK.

18 Q. NOW, YOU MENTIONED A FEW MINUTES
19 AGO THAT YOU ARE HERE TO TALK ABOUT AWARENESS OF
20 HEALTH RISKS OF SMOKING OVER TIME, WITH THE FOCUS
21 ON 1950 TO 1994.

22 HOW LONG HAVE YOU BEEN RESEARCHING
23 THAT SUBJECT?

24 A. THE SUBJECT OF CIGARETTES?

25 Q. YES.

26 A. I AM SORRY, I HAVE BEEN RESEARCHING
27 THAT SUBJECT ABOUT A YEAR AND A HALF.

28 Q. AND HOW DID IT COME TO PASS THAT

1 YOU STARTED TO RESEARCH THIS SUBJECT?

2 A. I WAS APPROACHED BY AN ATTORNEY FOR
3 PHILIP MORRIS WHO ASKED ME IF I WOULD BE INTERESTED
4 IN LOOKING AT THIS HISTORICAL PROBLEM, WOULD I BE
5 INTERESTED IN RESEARCHING IT.

6 Q. AND HOW MUCH TIME HAVE YOU SPENT
7 SINCE THEN RESEARCHING THIS ISSUE?

8 A. OH, TOTAL NUMBERS OF HOURS, I AM
9 SORRY, I CAN'T TELL YOU THE TOTAL NUMBER OF HOURS.
10 IT HAS VARIED. SOME MONTHS I HAVE SPENT AS FEW AS
11 10 HOURS IN A MONTH DOING IT. OTHER MONTHS I SPENT
12 40 HOURS DOING IT. SO IT HAS VARIED OVER TIME.

13 Q. BUT OVER TIME, A FAIR NUMBER OF
14 HOURS?

15 A. YES, QUITE A NUMBER OF HOURS.

16 Q. WE ARE GOING TO TALK IN A COUPLE
17 MINUTES ABOUT WHAT YOU DID IN THE COURSE OF YOUR
18 RESEARCH ON THE SUBJECT.

19 BUT BEFORE THAT, I HAD LIKE TO TALK
20 ABOUT HISTORICAL METHOD.

21 YOU MENTIONED THAT YOU TEACH
22 HISTORICAL METHOD?

23 A. YES, I DO.

24 Q. IS IT FAIR TO SAY THAT THE
25 HISTORICAL METHOD IS A WAY THAT HISTORIANS KNOW
26 ABOUT DOING RESEARCH?

27 A. YES, IT IS.

28 Q. AND IT IS A COMMONLY ACCEPTED

1 METHODOLOGY AMONG HISTORIANS?

2 A. YES.

3 Q. AND YOU HAVE USED THE HISTORICAL
4 METHODS IN DOING YOUR RESEARCH FOR YOUR BOOKS AND
5 FOR YOUR OTHER RESEARCH ACTIVITIES; CORRECT?

6 A. RIGHT. IT'S A METHOD OF
7 INVESTIGATION THAT YOU WOULD USE, IN EVERY
8 CIRCUMSTANCE, THAT YOU ARE DOING, THAT YOU ARE
9 RESEARCHING A PROBLEM

10 Q. IS THAT THE SAME HISTORICAL METHOD
11 THAT YOU USED IN STUDYING THE SUBJECT OF CIGARETTES
12 IN PREPARATION FOR YOUR TESTIMONY?

13 A. YES, IT IS.

14 Q. I'D LIKE YOU TO DESCRIBE FOR THE
15 JURY WHAT THE HISTORICAL METHOD IS AND IF YOU WOULD
16 LIKE, YOU ARE WELCOME TO COME DOWN AND USE THE
17 CHART TO EXPLAIN TO THEM WHAT THE HISTORICAL METHOD
18 IS.

19 A. THANK YOU. MAY I GET A GLASS OF
20 WATER?

21 Q. SURE.

22 A. A PROFESSOR ALWAYS FEELS BETTER
23 WITH SOMETHING IN THE HAND, YOU KNOW

24 THE HISTORICAL METHOD REALLY IS A
25 WAY OF RESEARCHING SOMETHING. AND WHEN YOU BEGIN A
26 PROBLEM, YOU FOLLOW THE SAME METHOD ALWAYS, BECAUSE
27 IT'S HOW YOU KNOW THAT YOU ARE GOING TO ACHIEVE
28 WHAT YOU ARE SETTING OUT TO DO.

1 AND I THINK THAT ONE THING I WANT
2 TO MENTION IS THAT IN A WAY YOU ALWAYS START WITH A
3 CLEAN SLATE.

4 AND THIS IS SOMETHING THAT I CAME
5 TO UNDERSTAND, IN FACT, WHEN I WAS A GRADUATE
6 STUDENT BECAUSE I WENT TO THE PERSON WHO I WANTED
7 TO HELP ME ADVISE MY THESIS AND I SAID TO HIM, YOU
8 KNOW, THIS IS THE TOPIC I WANT TO LOOK AT.

9 AND HE SAID, WELL, OKAY, THAT'S
10 VERY INTERESTING. I DON'T KNOW A LOT ABOUT THAT
11 TOPIC BUT THAT'S OKAY BECAUSE YOU ARE GOING TO
12 BECOME MORE EXPERT THAN ANY OF US IN THE DEPARTMENT
13 ON THIS TOPIC ANYWAY.

14 AND WHEN HE SAID THAT I WAS A
15 LITTLE TAKEN ABACK BECAUSE I THOUGHT THAT IT SEEMED
16 FUNNY, HERE WAS A FELLOW WHO HAD WON THE PULITZER
17 PRIZE, WOULDN'T HE ALWAYS BE AHEAD OF ME IN WHAT HE
18 KNEW ABOUT EVERYTHING?

19 AND ACTUALLY, I CAME TO REALIZE
20 THAT, NO, IT IS TRUE, YOU COME IN WITH A BROAD
21 HISTORICAL KNOWLEDGE, BUT ESSENTIALLY, EVERY TIME
22 YOU INVESTIGATE A PROBLEM, YOU ARE STARTING ANEW
23 WITH THAT PROBLEM

24 SO YOU HAVE A KIND OF CLEAN SLATE.

25 AND THEN THE METHODS THAT YOU USE
26 TO UNDERSTAND AND TO ACTUALLY RESEARCH A PROBLEM
27 THE FIRST THING YOU DO, WHICH IS A STEP THAT ALWAYS
28 BORES STUDENTS, IS THAT YOU MUST DEFINE THE

1 QUESTION.

2 AND YOU DEFINE, ESSENTIALLY WHAT IT
3 IS. BY DEFINING THE QUESTION, YOU ARE SAYING WHAT
4 IS IT THAT I WANT TO KNOW SPECIFICALLY, WHY DO I
5 WANT TO KNOW IT AND THEN YOU SET UP A BOUNDARY
6 AROUND IT.

7 AS I ALWAYS TELL STUDENTS THAT WHEN
8 YOU ARE RESEARCHING YOU ARE SEARCHING. AND UNLESS
9 YOU KNOW WHAT YOU ARE SEARCHING FOR, THEN YOU WON'T
10 FIND IT.

11 SO YOU HAVE TO DEFINE THE QUESTION
12 AS THE FIRST ITEM OF BUSINESS.

13 AND THE SECOND THING THAT YOU DO IS
14 YOU INVESTIGATE THE SOURCES THAT ARE THE LOGICAL
15 SOURCES THAT WILL HELP YOU ANSWER THIS QUESTION.

16 SO YOU ARE INVESTIGATING YOUR
17 SOURCES.

18 I TELL MY STUDENTS I FORGET HOW TO
19 SPELL AS SOON AS I GET TO A CHALKBOARD. I DON'T
20 KNOW WHY THAT HAPPENS.

21 INVESTIGATE SOURCES.

22 THERE, WHAT YOU ARE THINKING IS
23 OKAY, BASED ON THE QUESTION I HAVE, WHAT ARE THE
24 THINGS THAT ARE GOING TO HELP ME ANSWER THIS
25 QUESTION.

26 AND THIS IS WHY HAVING A GOOD
27 QUESTION IS SO IMPORTANT BECAUSE OTHERWISE YOU
28 COULD JUST GO ANY OLD PLACE, YOU COULD BE SPENDING

1 A LOT OF EXTRA TIME.

2 AND SO THEN YOU INVESTIGATE THE
3 SOURCES AND YOU THINK THEN, WHAT ARE THE LOGICAL
4 THINGS THAT YOU NEED TO COVER TO REALLY ANSWER THIS
5 QUESTION.

6 AND THAT'S A VERY IMPORTANT STEP.

7 THE NEXT STEP IS THAT YOU GET ALL
8 OF THIS STUFF THAT YOU HAVE NOW FOUND BY
9 INVESTIGATING THE SOURCES AND YOU ANALYZE THE
10 INFORMATION.

11 SO THIS TAKES A FAIR AMOUNT OF
12 TIME, RIGHT. THESE TWO STEPS ARE PROBABLY THE MOST
13 TIME-INTENSIVE STEPS, GATHERING THE SOURCES AND
14 THEN REALLY READING THROUGH THEM, YOU KNOW,
15 ANALYZING THEM, TRYING TO FIGURE OUT WHAT THEY
16 ACTUALLY MEAN.

17 AND THEN THE LAST STEP IS TO ANSWER
18 THE QUESTION.

19 Q. NOW, THIS IS THE HISTORICAL METHOD
20 THAT YOU TEACH TO YOUR STUDENTS; RIGHT?

21 A. YES, IT IS.

22 Q. AND IT IS THE METHOD THAT YOU USE
23 IN ALL OF YOUR RESEARCH REGARDLESS OF THE SUBJECT;
24 RIGHT?

25 A. YES, IT IS.

26 Q. AND IT IS COMMONLY USED IN THE, IN
27 THE INDUSTRY BY HISTORIANS?

28 A. RIGHT.

1 Q. IF HISTORIANS HAVE AN INDUSTRY?

2 A. KIND OF.

3 Q. THIS ALL LOOKS KIND OF EASY.

4 CAN ANY OF US DO THIS AT HOME?

5 A. IT IS VERY STRAIGHTFORWARD. IT'S A
6 VERY SIMPLE METHOD, AND IT'S DECEPTIVELY SIMPLE
7 BECAUSE WHEN YOU TELL STUDENTS, WELL, YOU HAVE TO
8 DEFINE YOUR QUESTION FIRST, IT TAKES THEM HALF THE
9 SEMESTER TO DO THIS. IT'S VERY HARD TO KNOW HOW TO
10 DO IT RIGHT. AND IT ACTUALLY TAKES A FAIR AMOUNT
11 OF EXPERIENCE BEFORE YOU HONESTLY GET VERY GOOD AT
12 IT.

13 Q. WHAT ARE THE KINDS OF PITFALLS THAT
14 A HISTORIAN WOULD HAVE TO BE CONCERNED ABOUT?

15 A. WELL, EACH PHASE HAS ITS PITFALLS,
16 IN A SENSE.

17 HERE I THINK WHAT YOU WOULD SAY IS
18 THAT YOU CAN WASTE A LOT OF TIME. YOU CANNOT KNOW
19 WHAT YOU ARE SEARCHING FOR. YOU CAN, YOU KNOW,
20 COLLECT, YOU KNOW, A PILE OF BOOKS THIS HIGH AND IT
21 TURNS OUT THOSE REALLY WEREN'T THE RIGHT BOOKS AND
22 THAT KIND OF THING. SO THAT'S IMPORTANT, YOU HAVE
23 TO REALLY UNDERSTAND YOUR QUESTION.

24 WHEN YOU INVESTIGATE SOURCES, YOU
25 KNOW, THERE ARE THINGS THAT YOU ARE LOOKING FOR
26 HERE AS WELL.

27 FOR EXAMPLE, YOU WANT TO MAKE SURE
28 THAT YOU ARE COMPREHENSIVE, THAT YOU ARE LOOKING AT

1 THE UNIVERSE OF THINGS THAT ARE RELEVANT TO KNOW
2 ABOUT THIS TOPIC.

3 SO INVESTIGATING THEM ACCURATELY IS
4 REALLY IMPORTANT.

5 YOU ALSO WANT TO MAKE SURE THAT YOU
6 ARE SOPHISTICATED ENOUGH THAT YOU ARE LOOKING AT
7 THE CREDIBILITY OF SOURCES AS WELL AS YOU GO.

8 SO THAT BECAUSE -- IF YOU MAKE THIS
9 INTENTIONAL, IF YOU SAY, ALL RIGHT, THIS IS THE
10 PROCESS AND I AM GOING TO DO IT THIS WAY EVERY
11 TIME, THEN YOU ARE MORE LIKELY TO HIT THE RIGHT
12 BASIS EVERY TIME.

13 SO CREDIBILITY, COMPREHENSIVENESS
14 ARE IMPORTANT.

15 ANALYZING THE SOURCES AND
16 INFORMATION, THIS IS WHERE REALLY A LOT OF WAYS YOU
17 DRAW ON YOUR EXPERIENCE, ON YOUR YEARS OF
18 EXPERIENCE, IF YOU ARE LUCKY, AS A HISTORIAN, AND
19 THAT'S WHY IT'S NOT A YOUNG MAN'S GAME.

20 THIS IS WHY, IN SOME WAYS, THE MORE
21 SENIOR THE HISTORIAN GETS, THE BETTER THEY ARE ABLE
22 TO REALLY ANALYZE SOMETHING MORE CORRECTLY AND THE
23 PITFALLS YOU ARE TRYING TO AVOID HERE, FOR EXAMPLE,
24 ARE TAKING THINGS OUT OF CONTEXT. THAT COULD BE
25 DONE VERY EASILY IF YOU DON'T UNDERSTAND HISTORICAL
26 CONTEXT.

27 FOR EXAMPLE, YOU MIGHT THINK THAT
28 THOMAS JEFFERSON INVENTED THE IDEA THAT WE HOLD

1 THESE TRUTHS TO BE SELF-EVIDENT THAT ALL MEN ARE
2 CREATED EQUAL. AND YOU WOULD THINK THAT IT WAS
3 JUST HIM WHO THOUGHT IT UP UNLESS YOU UNDERSTOOD
4 THE CONTEXT AND YOU KNEW THAT WASHINGTON, ADAMS AND
5 PATRICK HENRY AND A TONS OF OTHER FOLKS WERE SAYING
6 THE SAME THINGS AND HE JUST PUT IT TOGETHER IN A
7 GOOD WAY.

8 SO TAKING THOUGHT, TAKING SOMETHING
9 OUT OF CONTEXT.

10 THE OTHER THING THAT WE TRY TO

11 AVOID, IT IS IMPORTANT TO AVOID IS PRESENTISM

12 LET ME EXPLAIN WHAT THAT IS. YOU

13 COULD GUESS, PROBABLY, WHAT IT IS. PRESENTISM IS

14 SORT OF LOOKING AT THINGS FROM THE PRESENT AND

15 READING BACKWARDS, THINKING THAT OUR VALUES TODAY,

16 THE WAY WE SEE THINGS TODAY ARE, OF COURSE, THE WAY

17 PEOPLE SAW THINGS BEFORE. THAT WOULD BE ONE

18 EXAMPLE, PROBABLY THE MOST IMPORTANT EXAMPLE OF

19 PRESENTISM

20 THE OTHER THING I THINK, MODERN

21 PEOPLE TEND TO DO IS WE THINK THAT PEOPLE WERE MORE

22 STUPID BEFORE AND THAT WE ARE REALLY SMART IN THE

23 PRESENT. AND YOU FIND THAT OUT ALL THE TIME THAT

24 THAT'S NOT TRUE, THAT'S NOT THE WAY IT IS.

25 SO THIS WOULD BE IMPORTANT, FOR

26 EXAMPLE, I WAS READING FOR THIS BOOK I AM DOING

27 RIGHT NOW, A SPEECH THAT ADELAIDE STEVENSON, WHO

28 WAS A CANDIDATE FOR PRESIDENT MANY TIMES, GAVE TO

1 THE WOMEN OF SMITH COLLEGE IN THIS ELITE EASTERN
2 COLLEGE IN THE 1950' S.

3 AND HE SAID, YOU KNOW, WELL,
4 LADIES, YOU ARE GRADUATING AND ISN' T IT WONDERFUL
5 BECAUSE NOW YOU CAN GO AND HELP YOUR HUSBANDS WITH
6 YOUR DEGREE OF THESE PAST FOUR YEARS, AND YOUR JOB
7 IN THE FUTURE IS TO MAKE SURE THAT THEY ARE
8 EDUCATED, AND WHEN THEY COME HOME, THEY ARE HAPPY
9 AND THEY UNDERSTAND THE VALUES OF WHAT -- AND HE
10 COULDN' T GIVE THAT SPEECH AT SMITH COLLEGE TODAY
11 WITHOUT WOMEN BEING KIND OF ANNOYED WITH HIM

12 AND SO -- WE DON' T WANT TO LOOK
13 BACK AT THAT AND SAY THAT ADELAIDE STEVENSON, WHAT
14 A JERK FOR SAYING THOSE THINGS. WE WOULD BE TAKING
15 IT BOTH OUT OF CONTEXT AND WE WOULD BE IMPLYING
16 PRESENT VALUES TO PREVIOUS TOPICS.

17 AND THEN ANSWERING THE QUESTION,
18 THAT' S JUST SORT OF SUMMING UP OF THE WHOLE THING,
19 AGAIN, THERE YOU REFER BACK TO THE QUESTION SO YOU
20 REALLY MAKE SURE YOU ARE GETTING AT THE SUBJECT YOU
21 WANTED.

22 Q. SO THE CREDIBILITY OF THE SOURCES
23 IS IMPORTANT AS YOU ANALYZE THEM

24 AND YOU HAVE TO BE CONCERNED ABOUT
25 NOT HAVING BIAS IN THE SOURCE; RIGHT?

26 A. RIGHT.

27 BY CREDIBILITY, YOU ARE REALLY
28 LOOKING FOR BIAS OF THE SOURCES, PERHAPS, IGNORANCE

1 OF THE SOURCES, YOU KNOW, LOOKING AT THOSE THINGS.

2 Q. SO SOME SOURCES ARE GOING TO BE
3 PERCEIVED AS MORE CREDIBLE THAN OTHERS AND MORE
4 BELIEVABLE THAN OTHERS; RIGHT?

5 A. VERY MUCH SO.

6 FOR EXAMPLE, IF YOU WERE GOING TO
7 RESEARCH THE 2000 PRESIDENTIAL ELECTION, LET'S SAY,
8 50 YEARS FROM NOW, AND YOU WERE GETTING ALL OF THE,
9 YOU KNOW, YOU WERE HEARING THAT, YOU KNOW, NOW
10 PRESIDENT BUSH, WHAT HIS SIDE SAYS, AND YOU JUST
11 LOOKED AT WHAT HIS SIDE WAS SAYING ABOUT WHAT
12 HAPPENED IN FLORIDA, WELL, THAT WOULD -- YOU WOULD
13 HAVE TO SAY, OKAY, THIS SOURCE IS BIASED, THEY HAVE
14 THEIR OWN POINT OF VIEW. I NEED TO REMEMBER THAT I
15 NEED TO LOOK AT THIS OTHER SIDE. I NEED TO LOOK AT
16 PEOPLE OUTSIDE OF IT. SO YOU COULD GET REALLY
17 SKEWED INFORMATION IF YOU WEREN'T LOOKING AT
18 CREDIBILITY ISSUES.

19 Q. AND IT IS IMPORTANT TO PUT
20 INFORMATION IN ITS HISTORICAL CONTEXT?

21 A. VERY, VERY MUCH SO. BECAUSE REALLY
22 WHAT YOU ARE DOING HERE, WHEN YOU ARE ANALYZING IT
23 IS YOU ARE LOOKING FOR TRENDS. YOU ARE TRYING TO
24 SAY, WHY IS SOMETHING MEANINGFUL WHEN IT IS AND WHY
25 IS IT MEANINGFUL THERE?

26 THERE IS A LOT ABOUT HISTORY THAT
27 WE CAN GET REALLY COCKEYED IF WE DON'T UNDERSTAND
28 THE WHOLE CONTEXT IN WHICH IT HAPPENS.

1 Q. LET'S START TALKING ABOUT THE
2 SUBJECT OF YOUR TESTIMONY, WHICH IS SMOKING AND
3 AWARENESS.

4 WHY DON'T YOU GO SIT DOWN FOR A
5 MINUTE. I THINK I AM GOING TO ASK YOU TO COME BACK
6 IN A COUPLE MINUTES TO THE CHART.

7 YOU MENTIONED THE FIRST TASK IS
8 DEFINING THE QUESTION. WHAT'S THE QUESTION THAT
9 YOU DEFINED FOR THE PURPOSES OF YOUR TESTIMONY
10 TODAY?

11 A. WELL, THE QUESTION THAT I SET OUT
12 TO RESEARCH WAS WHAT DID PEOPLE KNOW ABOUT THE
13 HAZARDS OF SMOKING, INCLUDING CATASTROPHIC DISEASE
14 AND ADDICTION. WHAT DID THEY KNOW AND HOW DID THEY
15 COME TO KNOW IT AND WHEN, APPROXIMATELY, DID THEY
16 KNOW IT WITHIN THIS PERIOD, 1950 TO 1994 AND
17 PARTICULARLY IN CALIFORNIA, SINCE THIS IS WHERE
18 MR. BOEKEN AND HIS FAMILY LIVED. FOR -- DURING HIS
19 LIFE.

20 Q. OKAY. SO YOU HAVE REALLY
21 IDENTIFIED ESSENTIALLY FOUR PARTS, WHAT DID PEOPLE
22 KNOW, HOW DID THEY COME TO KNOW IT, WHEN DID THEY
23 COME TO KNOW IT, AND YOU TIED TO FOCUS ON
24 CALIFORNIA RELEVANT TO MR. BOEKEN IN THIS CASE; IS
25 THAT RIGHT?

26 A. THAT'S FAIR.

27 Q. NOW, YOU OBVIOUSLY INVESTIGATED
28 SOURCES. IF YOU COULD JUST TAKE A MINUTE AND GIVE

1 US A SENSE OF WHERE YOU FOUND ALL THE STUFF THAT
2 WOULD BE RELEVANT TO FORMING YOUR OPINION.

3 A. WELL, MANY, MANY PLACES THAT I WENT
4 TO DO THE RESEARCH.

5 OF COURSE, BEING AT A UNIVERSITY, I
6 STARTED THERE. YOU KNOW, YOU START WITH YOUR OWN
7 LIBRARY, WHICH IS ALSO PARTICULARLY RELEVANT
8 BECAUSE A LIBRARY LIKE SAN DIEGO STATE UNIVERSITY
9 IS A LIBRARY THAT WAS FOUNDED AS A NORMAL SCHOOL
10 THAT MEANS TEACHERS' COLLEGE, YOU KNOW, MORE THAN A
11 HUNDRED YEARS AGO.

12 SO THEY HAVE HAD INFORMATION ON,
13 FOR EXAMPLE, WHAT EDUCATORS WERE TELLING KIDS AND I
14 GOT A LOT OF GOOD INFORMATION THERE ON, YOU KNOW,
15 WHAT KIDS IN SAN DIEGO AND LOS ANGELES AND
16 THROUGHOUT CALIFORNIA WERE LEARNING IN THEIR
17 SCHOOLS FROM THE 1950'S FORWARD.

18 I ALSO WENT TO NATIONAL RESEARCH
19 CENTERS, FOR EXAMPLE, THE NATIONAL ARCHIVES WHICH
20 IS ACTUALLY RIGHT NOW LOCATED RIGHT OUTSIDE
21 WASHINGTON D. C. IT MOVED.

22 AND I HAVE BEEN THERE MANY, MANY
23 TIMES OVER THE YEARS. BUT I WENT THERE FOR THIS AS
24 WELL.

25 I WENT TO THE SMITHSONIAN BECAUSE
26 THE MUSEUM OF AMERICAN HISTORY IS A TREASURE TROVE
27 OF STUFF ON AMERICAN HISTORY.

28 I WENT TO LIBRARY OF CONGRESS.

1 LIBRARY OF CONGRESS IS VERY IMPORTANT BECAUSE THEY
2 KEEP ALL OF THE NEWSPAPERS AROUND THE COUNTRY, OR
3 MOST OF THEM SO A LOT OF NEWSPAPERS YOU JUST --
4 ARE LONG GONE, YOU KNOW, YOU WILL FIND THERE AS
5 WELL AS MAJOR NEWSPAPER DAILIES.

6 AND I WENT TO SOME RARE BOOKS
7 LIBRARIES. I WENT TO, FOR EXAMPLE, THE NEWBERRY
8 LIBRARY IN CHICAGO WHICH IS VERY IMPORTANT, VERY
9 INTERESTING OLD LIBRARY THAT HAS RARE BOOKS SO THAT
10 I COULD SEE WHAT PEOPLE WERE LEARNING, REALLY LONG
11 AGO, ABOUT THIS SUBJECT.

12 I DID ARCHIVAL RESEARCH AT LOMA
13 LINDA UNIVERSITY WHICH IS NEAR RIVERSIDE. THEY
14 HAVE A MEDICAL COLLEGE THERE AND THAT TURNED OUT TO
15 BE VERY, VERY IMPORTANT ARCHIVE.

16 I DID SOME RESEARCH AT THE SEVENTH
17 DAY ADVENTISTS WHICH ARE, MOST PEOPLE DON'T KNOW,
18 ARE VERY IMPORTANT FOR UNDERSTANDING THIS STORY.

19 THAT GIVES YOU AN IDEA.

20 Q. IN ADDITION TO ALL, DID YOU GET
21 ASSISTANCE FROM RESEARCH ASSISTANTS?

22 A. YES, I DID.

23 Q. IS IT COMMON TO GET HELP FROM
24 RESEARCH ASSISTANTS WHEN YOU ARE DOING HISTORICAL
25 RESEARCH PROJECTS?

26 A. YES, IT IS.

27 Q. THOSE RESEARCH ASSISTANTS WORK
28 UNDER YOUR SUPERVISION AND CONTROL?

1 A. YES, THAT IS RIGHT.

2 Q. AND YOU HAVE A METHODOLOGY OF
3 CHECKING WHAT THEY DID?

4 A. OH, YES.

5 Q. THAT THEY ARE ACCURATE AND HELPFUL?

6 A. RIGHT.

7 Q. WHAT KINDS OF MATERIAL DID YOU LOOK
8 AT IN YOUR RESEARCH?

9 A. WELL, AS I JUST MENTIONED, I LOOKED
10 AT SCHOOL TEXTBOOKS. I LOOKED AT NEWSPAPERS. I
11 LOOKED AT MOVIES AND TELEVISION AND LISTENED TO
12 SOME RADIO, OLD RADIO.

13 I READ A LOT OF BOOKS ON THE
14 SUBJECT, HISTORIANS CALL THOSE SECONDARY SOURCES
15 BECAUSE THEY ARE THINGS THAT PEOPLE HAVE WRITTEN
16 USING ORIGINAL MATERIALS BUT THEY ARE THEIR
17 OPINIONS OR THEIR RESEARCH. AND SO I LOOKED AT A
18 NUMBER OF BOOKS ON THIS TOPIC, THAT KIND OF THING.

19 Q. SO NEWSPAPERS, MAGAZINES, BOOKS,
20 T. V. SHOWS, MOVIES, RADIO, KIND OF POPULAR CULTURE
21 KIND OF THINGS IN LARGE PART; IS THAT RIGHT?

22 A. YES, POPULAR CULTURE AND ALSO
23 STUDIES, YOU KNOW, CERTAINLY ACADEMIC STUDIES ON
24 VARIOUS TOPICS.

25 I LOOKED AT CHURCH RECORDS, YOU
26 KNOW, AS I SAID, AND ALSO SCHOOL RECORDS.

27 Q. AND SOME INFORMATION FROM THE
28 GOVERNMENT ABOUT SMOKING, THINGS LIKE THAT?

1 A. OH, YES, LOTS OF STUFF FROM THE
2 GOVERNMENT. THOSE ARE IMPORTANT SOURCES TOO,
3 SURGEON GENERAL'S REPORTS, AND SURGEON GENERAL'S
4 COMMITTEE, FOR EXAMPLE. THOSE ARE SOME OF THE
5 RECORDS THAT I LOOKED AT THE NATIONAL ARCHIVES
6 BECAUSE THAT COMMITTEE MET IN WASHINGTON D. C.

7 Q. AND WE HAVE SOME EXAMPLES OF SOME
8 OF THE MATERIALS THAT YOU HAVE LOOKED AT THAT WE
9 ARE GOING TO SHOW THE JURY DURING THE COURSE OF
10 YOUR TESTIMONY; IS THAT RIGHT?

11 A. YES.

12 Q. WHY IS IT IMPORTANT TO LOOK AT
13 THINGS LIKE T. V. SHOWS, RADIO PROGRAMS, MOVIES, AS
14 OPPOSED TO SIMPLY NEWSPAPER ARTICLES?

15 A. WELL, WHAT I AM -- I WAS REALLY
16 LOOKING AT WAS COMMON KNOWLEDGE, WHAT IS COMMON
17 KNOWLEDGE.

18 AND COMMON KNOWLEDGE IS SOMETHING
19 THAT PEOPLE GET EVERY WHICH WAY, YOU KNOW, IT COMES
20 AT YOU FROM EVERY SINGLE CONCEIVABLE ANGLE.

21 AND SO IT'S IMPORTANT TO THINK
22 ABOUT, YOU KNOW, WHAT PEOPLE WERE LEARNING FROM
23 POPULAR CULTURE AS WELL AS WHAT PEOPLE WERE
24 LEARNING IN MORE FORMAL SETTINGS.

25 Q. WOULD IT BE HELPFUL, DO YOU THINK,
26 TO THE JURY, FOR YOU TO MAYBE GET UP ONE MORE TIME,
27 GO TO THE CHART AND EXPLAIN IN A LITTLE BIT MORE
28 DETAIL, A LITTLE BIT MORE DETAIL WHAT YOU MEAN BY

1 COMMON KNOWLEDGE AND HOW SOMETHING BECOMES COMMON
2 KNOWLEDGE?

3 A. SURE, I WOULD BE HAPPY TO DO THAT.

4 Q. THANK YOU.

5 A. AS I WAS JUST SAYING, I LIKE TO
6 THINK OF COMMON KNOWLEDGE AS BEING SORT OF YOU OR
7 ME, THE PERSON IN THE MIDDLE OF THEIR SOCIETY.

8 AND WE ARE ALL SURROUNDED, WE ARE
9 SURROUNDED IN WAYS THAT WE ALMOST DON'T EVEN SEE
10 BUT WE ARE COMPLETELY, YOU KNOW, IMMESHED IN OUR
11 CULTURE AND IN THE COMMON KNOWLEDGE THAT IS A PART
12 OF THAT CULTURE.

13 AND COMMON KNOWLEDGE IS SOMETHING
14 THAT, AGAIN, COMES AT YOU FROM ABSOLUTELY EVERY
15 SINGLE ANGLE.

16 IN A WAY, YOU COULD SAY IT COMES
17 FROM ABOVE, IT COMES FROM GOVERNMENT, GOVERNMENT
18 WARNINGS, OFFICIAL GOVERNMENT STATEMENTS ABOUT ALL
19 DIFFERENT KINDS OF SUBJECTS.

20 IT COMES TO US FROM LAW THE LAW
21 TAKES BELIEFS AND PUTS THEM, YOU KNOW, IN CODES,
22 ACTUALLY. SO LAW TELLS US THINGS.

23 WE LEARN IT FROM CHURCHES AND, YOU
24 KNOW, OUR RELIGIOUS BELIEFS TELL US THINGS ALL THE
25 TIME, GIVE US EITHER WARNINGS OR INFORMATION OR
26 ENCOURAGE US TO HAVE CERTAIN VALUES ABOUT
27 OURSELVES, ABOUT OUR WORLD.

28 WE GET INFORMATION FROM FAMILY,

1 RIGHT, WHAT MY MOTHER TOLD ME, YOU KNOW, MOST OF US
2 THINK OUR MOTHERS KNOW MOST EVERYTHING AND FATHERS.

3 SO THESE ARE, YOU KNOW, ALL
4 THESE -- AND THEN, OF COURSE, SCHOOLS, ANOTHER
5 IMPORTANT PART OF IT. YOU KNOW, WHAT I LEARNED IN
6 SCHOOL, WHAT YOU ARE SUPPOSED TO KNOW BY THE TIME
7 YOU GET OUT OF THIRD GRADE, FOURTH GRADE, THAT KIND
8 OF THING.

9 AND WHAT ALSO COMES AT US FROM
10 OTHER ANGLES AS WELL, SORT OF MORE SUBVERSIVE ONE
11 COULD SAY, BUT POPULAR CULTURE.

12 AND POPULAR CULTURE COMPRISES LOTS
13 AND LOTS OF DIFFERENT THINGS. IT WOULD INCLUDE
14 NEWSPAPERS. IT WOULD INCLUDE T. V. IT WOULD
15 INCLUDE RADIO. IT WOULD INCLUDE THINGS LIKE SLANG.

16 SLANG IS A WONDERFUL, I MEAN, I
17 ALWAYS THINK IT IS A WONDERFUL WAY OF UNDERSTANDING
18 A CULTURE IF YOU CAN REALIZE THE KIND OF SLANG THAT
19 PEOPLE USE.

20 TELLS YOU A LOT OF ATTITUDES
21 BECAUSE SLANG ENCOMPASSES A LOT OF WORDS WHICH HAVE
22 A LOT OF FLAVOR, MEANING TO THEM

23 T. V. RADIO, NEWS, MAGAZINES, JOKES
24 ARE REALLY GOOD ONES TOO.

25 JOKES AND HUMOR ARE VERY IMPORTANT
26 BECAUSE, YOU KNOW, YOU DON'T GET THE JOKE. WE
27 ALWAYS -- PEOPLE TALK ABOUT BRITISH HUMOR, YOU JUST
28 DON'T GET BRITISH HUMOR. IF YOU WERE BRITISH, YOU

1 WOULD GET THE JOKES.

2 SO JOKES ARE AN IMPORTANT PART OF
3 CULTURE TOO.

4 I THINK THAT BEHAVIOR TELLS US A
5 LOT. BEHAVIOR IS INTERESTING. IT'S A LITTLE MORE
6 SUBTLE BUT, FOR EXAMPLE, THE THINGS THAT PEOPLE
7 CHOOSE TO USE, PRODUCT USE OR DISUSE, USE OR
8 DISUSE.

9 I THINK EVEN THE SUBTLE THINGS LIKE
10 BODY LANGUAGE, WE LEARN FROM BODY LANGUAGE THINGS
11 THAT YOU ARE SUPPOSED TO DO, THINGS THAT YOU ARE
12 NOT SUPPOSED TO DO. IN FACT, SOMETIMES THAT'S THE
13 BEST CURB OF ALL, A LOOK, RIGHT.

14 BEHAVIOR, AND I THINK THAT GROUP
15 ACTIVITIES, THESE ARE SORT OF INDIVIDUAL CHOICES,
16 GROUP BEHAVIOR IS ALSO IMPORTANT TOO.

17 AND UNDER THIS I WOULD SORT OF LUMP
18 THINGS LIKE REFORM GROUPS, REFORM ORGANIZATIONS,
19 YOU KNOW, ACTIVISTS, THAT KIND OF THING.

20 SO WHAT GROUPS ARE DOING AS WELL,
21 MAYBE SECULAR GROUPS RATHER THAN SAY, RELIGIOUS OR
22 SCHOOLS.

23 Q. SO IF A HISTORIAN WANTS TO FIND OUT
24 WHETHER SOMETHING HAS BECOME COMMON KNOWLEDGE, IT'S
25 IMPORTANT TO LOOK AT AS MANY OF THOSE DIFFERENT
26 SOURCES OR INPUTS AS YOU POSSIBLY CAN; RIGHT?

27 A. ABSOLUTELY.

28 AND YOU WOULD BE TAKING THINGS OUT

1 OF CONTEXT IF YOU SAID, I AM JUST GOING TO STUDY
2 THIS ONE.

3 YOU WOULD LEARN A LOT ABOUT
4 CHURCHES, FOR EXAMPLE, IF YOU DECIDED THAT CHURCHES
5 WERE ALL YOU ARE GOING TO STUDY.

6 AGAIN, IF YOU DEFINED YOUR QUESTION
7 IS AS WHAT DID PEOPLE KNOW, NOT WHAT DID THE CHURCH
8 TEACH PEOPLE, WHAT DID THE CHURCH TELL PEOPLE TAKES
9 YOU TO ONE SOURCE, BUT IF YOU SAY WHATEVER DID
10 PEOPLE KNOW, THEN YOU MUST BE COMPREHENSIVE.

11 Q. THANK VERY MUCH.

12 LET'S TALK ABOUT AWARENESS, COMMON
13 KNOWLEDGE ABOUT THE HEALTH RISKS OF SMOKING.

14 OVER ALL THE, IN THE COURSE OF YOUR
15 RESEARCH, ABOUT HOW MANY PIECES OF INFORMATION DID
16 YOU LOOK AT?

17 A. THOUSANDS AND THOUSANDS.

18 Q. OF ALL DIFFERENT TYPES?

19 A. YES, OF ALL DIFFERENT TYPES.

20 Q. AND YOU OBVIOUSLY DIDN'T BRING ALL
21 THOSE THOUSANDS AND THOUSANDS OF PIECES OF

22 INFORMATION WITH YOU?

23 A. THERE'S NO WAY I COULD LIFT THEM

24 Q. AND I AM GOING TO ASK YOU TO TRY TO
25 SUMMARIZE SOME OF THE CONCLUSIONS THAT YOU HAVE
26 DRAWN FROM THOSE THOUSANDS AND THOUSANDS OF PIECES
27 OF INFORMATION THAT YOU HAVE LOOKED AT; OKAY.

28 DID YOU ALSO REVIEW ANY MATERIALS

1 SPECIFICALLY RELATED TO MR. BOEKEN?

2 A. YES, I DID.

3 Q. WHAT DID YOU LOOK AT?

4 A. WELL, I BEGAN BY READING HIS
5 DEPOSITION AND THE DEPOSITIONS OF HIS FAMILY
6 MEMBERS.

7 Q. ANYTHING ELSE?

8 A. WELL, I SPENT SOME TIME IN L. A.
9 UNIFIED SCHOOL DISTRICT TRYING TO UNDERSTAND WHAT
10 KIDS IN THAT ERA, WHAT BOOKS THEY WERE REQUIRED TO
11 READ.

12 Q. NOW, WE ARE GOING TO TALK IN A
13 MINUTE ABOUT THE SPECIFIC PERIODS, BUT I WOULD LIKE
14 TO ASK YOU, GENERALLY, FIRST, HAVE YOU REACHED AN
15 OPINION AS TO WHETHER, DURING THE PERIOD IF 1950 TO
16 1994, TYPICAL CITIZENS IN SOUTHERN CALIFORNIA OR
17 CALIFORNIA, GENERALLY, WERE AWARE THAT CIGARETTE
18 SMOKING POSES SERIOUS HEALTH RISKS?

19 A. YES, I HAVE REACHED A CONCLUSION.

20 Q. WHAT IS YOUR CONCLUSION?

21 A. WELL, THE ANSWER TO MY QUESTION IS
22 THAT PEOPLE KNEW THAT CIGARETTE SMOKING WAS VERY
23 BAD, THAT IT WAS VERY HAZARDOUS TO HEALTH, THAT IT
24 WAS A RISKY BEHAVIOR, THAT THEY COULD POTENTIALLY
25 BECOME ADDICTED TO IT, AND THAT WOULD BE VERY, VERY
26 DIFFICULT TO QUIT, AND THAT THEY KNEW THIS
27 THROUGHOUT THIS TIME PERIOD.

28 Q. FAIR TO SAY THAT THERE WAS MORE

1 INFORMATION COMING IN OVER TIME, AS WE ARE GOING TO
2 TALK ABOUT IT; RIGHT?

3 A. YES, ABSOLUTELY.

4 Q. BUT IN YOUR OPINION, THERE WAS A
5 LOT OF INFORMATION OUT THERE FROM LOTS OF SOURCES,
6 EVEN TOWARD THE EARLY PART OF THE YEARS?

7 A. YES, BEGINNING REALLY IN 1950 BUT
8 PICKING UP THROUGHOUT THE '50'S, LIKE AN INCESSANT
9 RAIN.

10 Q. IS ONE OF THE SUBJECTS WE ARE GOING
11 TO TALK ABOUT AS WE GO THROUGH THE PERIOD HOW
12 SOCIETY'S ATTITUDE TOWARDS SMOKING AND SMOKERS
13 CHANGED, AS WE MOVE FORWARD FROM 1950 TO 1994?

14 A. YES, IT'S A REALLY DRAMATIC
15 HISTORICAL CHANGE OVER TIME.

16 Q. LET'S START, WE MENTIONED THAT THE
17 PERIOD THAT WE ARE GOING TO BEGIN WITH IS 1950, BUT
18 I UNDERSTAND YOU WOULD ACTUALLY LIKE TO START
19 SOMETIME BEFORE 1950; IS THAT RIGHT?

20 A. BEING A HISTORIAN, YES.

21 Q. OKAY. WHY IS IT THAT YOU WANT TO
22 TALK A LITTLE BIT ABOUT THE PERIOD BEFORE 1950,
23 BEFORE WE GET TO 1950?

24 A. WELL, I FEEL THAT IT IS VERY
25 IMPORTANT TO UNDERSTAND ANY CONTEXT, AS I HAVE SAID
26 BEFORE, PROBABLY SAY A FEW MORE TIMES, THAT WE NEED
27 TO UNDERSTAND WHAT PEOPLE ARE COMING INTO 1950
28 WITH, SO WE DON'T THINK THAT THE WORLD WAS JUST

1 INVENTED THEN.

2 Q. HOW FAR BACK FROM 1950 DO YOU WANT
3 TO GO?

4 A. 1492. BUT BRIEFLY.

5 Q. OKAY. SO LET'S GO BACK TO 1492.

6 A. OKAY.

7 Q. WHY IS 1492 IMPORTANT?

8 A. WELL, 1492 IS IMPORTANT FOR A
9 VARIETY OF REASONS AS YOU KNOW BUT WHEN COLUMBUS
10 CAME TO THE NEW WORLD, THIS IS WHEN TOBACCO COME TO
11 THE OLD WORLD BECAUSE IT WAS A NEW WORLD PLANT.
12 AND UP UNTIL THAT TIME, NOBODY KNEW ABOUT IT, AT
13 LEAST NOBODY ON THAT SIDE OF THE OCEAN.

14 AND IT'S VERY IMPORTANT BECAUSE THE
15 POINT I REALLY WANT TO STRESS IS THAT TOBACCO, IN
16 GENERAL, WAS AN EXTREMELY CONTROVERSIAL PRODUCT
17 FROM THE VERY MOMENT THAT IT WAS DISCOVERED AND IN
18 IT'S EARLIEST USE. JUST RIGHT FROM THE BEGINNING.
19 SORT OF A CHARACTER OF ILL REPUTE I WOULD LIKE TO
20 SORT OF CHARACTERIZE IT AS BEING.

21 AND SO THIS IS VERY IMPORTANT TO
22 UNDERSTAND THAT THERE'S A REALLY DEEP KNOWLEDGE
23 THAT WAS OUT THERE CULTURALLY.

24 ALL RIGHT. SO DO YOU WANT ME TO
25 CONTINUE ON?

26 Q. YES, I AM SORRY. I WAS MOVING THIS
27 OUT OF THE WAY SO THAT PEOPLE COULD SEE THE SCREEN.

28 NOW, YOU MENTIONED THAT SMOKING WAS

1 SOMETHING OF A CHARACTER OF ILL REPUTE, ALL THE WAY
2 BACK IN 1492. DO WE HAVE A DEMONSTRATIVE TO TALK
3 ABOUT THE COLUMBUS PERIOD?

4 A. YES, I DID. I HAVE A SLIDE.

5 Q. LET'S PUT THAT UP, THAT WOULD BE
6 SLIDE NUMBER 1.

7 FOR OUR RECORD, MR. CLERK, WE ARE
8 GOING TO HAVE A NUMBER OF DEMONSTRATIVES AND VIDEO
9 CLIPS, WHICH I HAVE HARD COPIES TO PROVIDE YOU.

10 SO LET'S MARK THIS FIRST ONE, LET'S
11 CALL IT 11,000, WHICH I BELIEVE IS A SAFE NUMBER.

12

13 * (EXHIBIT 11,000, SLIDE,
14 MARKED FOR I. D.)

15

16 Q BY MR. LEITER: SO THIS WILL BE
17 DEFENSE DEMONSTRATIVE 11,000.

18 AND WHAT IS THIS?

19 A. WELL, THIS IS A QUOTE TAKEN FROM A
20 BOOK CALLED THE "HISTORIA DE LAS INDIAS," WHICH WAS
21 WRITTEN BY PROBABLY THE EARLIEST HISTORIAN OF THE
22 NEW WORLD, BARTOLOME DE LAS CASAS.

23 WHAT IT SHOWS IS THAT WHEN THE
24 SPANIARDS FIRST STARTED TO USE THIS, WHICH THEY DID
25 RIGHT AWAY, THE CREW OF COLOMBUS' SHIPS BROUGHT IT
26 BACK TO THE NEW WORLD AND THE FIRST OBSERVATION
27 THAT PEOPLE HAD ABOUT IT WAS THAT IT WAS ADDICTIVE,
28 THAT IT WAS SOMETHING THAT ONCE YOU STARTED USING

1 IT, THAT THESE SPANIARDS SAID THEY WERE UNABLE TO
2 CEASE USING IT.

3 AND THIS IS VERY IMPORTANT BECAUSE
4 WHAT HAPPENED IS ONCE TOBACCO GOT OVER TO THE OLD
5 WORLD, GOT OVER TO EUROPE AND THE WHOLE CONTINENT
6 OF EURASIA AND AFRICA, IS THAT IMMEDIATELY THERE
7 WAS A LOT OF CONCERN ABOUT IT. AND, IN FACT, ONE
8 OF THE FELLOWS WHO WAS ON THE SHIP WHO CAME BACK
9 WAS IN PRISON FOR THREE YEARS BY THE SPANISH
10 INQUISITION BECAUSE THEY THOUGHT HE WAS IN CONTACT
11 WITH THE DEVIL OR SOMETHING BECAUSE HE STARTED
12 SMOKING AND SMOKE STARTED COMING OUT OF HIS MOUTH.
13 SO IT WAS A VERY CONTROVERSIAL
14 THING RIGHT FROM THE BEGINNING.

15 Q. AND A RECOGNITION EVEN BACK THEN
16 THAT IT WAS DIFFICULT TO STOP?

17 A. YES. IN FACT, THAT REALLY IS THE
18 EARLIEST PIECE OF INFORMATION THAT PEOPLE HAD ABOUT
19 TOBACCO.

20 Q. LET'S MOVE FORWARD. WHO WAS KING
21 JAMES?

22 A. KING JAMES.

23 Q. LET'S MOVE TO THE NEXT NUMBER 2.

24 A. THANK YOU.

25

26 * (EXHIBIT 11, 001, SLIDE
27 MARKED FOR I. D.)

28 /// /// ///

1 Q BY MR. LEITER: WHICH WE WILL CALL
2 11,001.

3 A. YOU SEE, I AM TRYING TO --

4 Q. DON'T TALK TOO FAST.

5 A. WE DESCRIBED ABOUT A HUNDRED YEARS.
6 THANK YOU.

7 THIS IS IMPORTANT, KING JAMES WAS
8 KING OF ENGLAND AND BROUGHT US THE KING JAMES BIBLE
9 AMONG HIS OTHER ACCOMPLISHMENTS.

10 AND HE WAS LIKE MANY RULERS OF THE
11 TIME, VERY CONCERNED ABOUT TOBACCO. HE WASN'T
12 QUITE AS EXTREME ABOUT IT, HOWEVER, AS SOME OTHERS.

13 THE CZAR OF SIBERIA, CZAR OF
14 RUSSIA, RATHER, SENT PEOPLE TO SIBERIA AND
15 MUTILATED THEIR NOSES. IN TURKEY YOU COULD HAVE
16 YOUR HEAD LOPPED OFF, ALSO IN CHINA.

17 Q. FOR SMOKING?

18 A. FOR SMOKING. IT WAS A CAPITAL
19 PUNISHMENT, CAPITAL CRIME.

20 KING JAMES, WHAT HE DID IS THAT HE
21 SIMPLY KIND OF RANTED AGAINST IT BUT HE ALSO RAISED
22 THE TAXES ON TOBACCO 1400 PERCENT BECAUSE, AGAIN,
23 THIS WAS BEGINNING TO BE INTRODUCED INTO ENGLAND.

24 AND WHAT HE SAYS HERE IS THAT NOT
25 ONLY DOES HE LIKEN IT TO HELL, TO GOING TO HELL,
26 BECAUSE HE SAYS THE STYGIAN SMOKE OF THE PIT THAT
27 IS BOTTOMLESS, WHICH, OF COURSE, IN THAT ERA WAS
28 ABOUT HOW PEOPLE FELT ABOUT RELIGION, INCREDIBLY

1 STRONG THING TO SAY. BUT HE ALSO SAYS IT IS
2 DANGEROUS TO THE LUNGS, YOU KNOW, AND THAT IT WILL
3 HARM YOUR BRAIN, AND BASICALLY HAVE A VERY BAD
4 EFFECT ON YOU.

5 LATER IN THIS COUNTER-BLAST HE ALSO
6 TALKS ABOUT IT IS BEING ADDICTIVE.

7 SO THIS WAS -- YOU KNOW, THIS IS
8 SORT OF LIKE THE FIRST SURGEON GENERAL'S WARNING.
9 THIS IS WHAT GOVERNMENT WAS TELLING YOU ABOUT
10 CIGARETTES, ABOUT SMOKING.

11 Q. AND THIS COUNTER-BLAST OF TOBACCO
12 BACK IN 1604 WAS SOMETHING THAT WAS HANDED OUT TO
13 PEOPLE OR READ TO PEOPLE?

14 A. WELL, IT WAS WIDELY AVAILABLE. OF
15 COURSE, A PRONOUNCEMENT OF THE KING, IN THAT PERIOD
16 OF TIME, AGAIN, IS A MUCH, MUCH MORE IMPORTANT THAN
17 SOMETHING TO, SAY, THE PRESIDENT MIGHT SAY TODAY.
18 IT'S MUCH MORE WHITE.

19 ALSO, BY THE WAY, I WANT TO POINT
20 OUT THAT THIS DOCUMENT, IT MAY SEEM KIND OF OLD AND
21 SOMETHING YOU HAD NEVER HEARD OF, MOST PEOPLE
22 HAVEN'T. BUT IT IS STILL QUOTED EVEN TODAY.

23 AND IN FACT, I NOTED THAT
24 MR. BOEKEN SAYS THAT HE READ "PLAYBOY" MAGAZINE,
25 THAT IT WAS HIS FIRST, THE FIRST THING HE EVER
26 SUBSCRIBED TO AND THERE WAS A "PLAYBOY" ARTICLE IN
27 1965 ABOUT SMOKING AND ITS HAZARDS WHICH TALKED
28 ABOUT THE COUNTER-BLAST.

1 Q. QUOTED 1604 COUNTER BLAST IN 1965?

2 A. 1965, KING JAMES.

3 Q. LET' S MOVE TO DEMONSTRATIVE NUMBER
4 3 WHICH WILL BE 11, 002.

5

6 * (EXHIBIT 11, 002, SLIDE,
7 MARKED FOR I. D.)

8

9 Q BY MR. LEITER: WHO WAS BENJAMIN
10 RUSH?

11 ARE WE NOW IN THE COLONIES, THE
12 UNITED STATES, WHAT IS ACTUALLY THE UNITED STATES
13 BY 1798?

14 A. WELL, IT IS THE UNITED STATES BY
15 1798.

16 AND I PICKED THIS BECAUSE I WANTED
17 TO BRING US BACK TO THE UNITED STATES TO UNDERSTAND
18 THAT HOW AMERICANS FROM THE EARLIEST PARTS OF OUR
19 HISTORY UNDERSTOOD THIS.

20 BENJAMIN RUSH WAS A FRIEND OF
21 BENJAMIN FRANKLIN, EASY WAY TO REMEMBER THAT.

22 HE WAS ALSO A CLOSE FRIEND OF
23 THOMAS JEFFERSON AND JOHN ADAMS. HE WAS A SIGNER
24 OF THE DECLARATION OF INDEPENDENCE. SO VERY
25 IMPORTANT MAN. HE WAS A PHILADELPHIA PHYSICIAN AND
26 THE MOST EMINENT PHYSICIAN OF HIS DAY, THE BEST
27 KNOWN PERSON. AND HE WROTE A SERIES OF ESSAYS
28 ABOUT MEDICINE THAT WERE WIDELY DISTRIBUTED.

1 AND BENJAMIN RUSH, AGAIN, BASICALLY
2 WAS TELLING PEOPLE THAT, FOR EXAMPLE, IN THIS CASE,
3 HE REFERS TO CANCER OF THE LIP, AND IN THESE DAYS
4 PEOPLE WEREN'T TALKING ABOUT CIGARETTES VERY MUCH
5 BECAUSE THAT WAS REALLY KIND OF A LATER INVENTION.
6 PEOPLE MOSTLY TOOK TOBACCO AS SNUFF OR IN PIPES AND
7 THIS KIND OF THING. SO THOSE ARE THE CANCERS THAT
8 THEY WERE FAMILIAR WITH.

9 SO HE WAS VERY WIDELY READ, VERY
10 EMINENT MAN, VERY IMPORTANT MAN FOR HIS GENERATION
11 AND WIDELY RESPECTED BY JUST PRETTY MUCH EVERYBODY.

12 Q. IN 1798 A PERIOD WHERE PEOPLE ARE
13 PUTTING TOBACCO ESSENTIALLY INSIDE THEIR LIP, HE
14 WAS WARNING PEOPLE ABOUT RISK OF CANCER OF THE LIP?

15 A. THAT IS RIGHT. AND OTHERS HAD
16 WARNED ABOUT CANCER TOO, EVEN EARLIER THAN BENJAMIN
17 RUSH.

18 Q. NOW, THIS IS LONG, LONG, BEFORE
19 SCIENTIFIC STUDIES STARTED TO CONFIRM THE
20 RELATIONSHIP BETWEEN SMOKING AND CANCER; IS THAT
21 RIGHT?

22 A. WELL, THAT IS RIGHT. BECAUSE
23 MEDICINE WAS DIFFERENT BACK THEN, RIGHT, AND WHAT
24 THEY UNDERSTOOD, THEY UNDERSTOOD MORE FROM AN
25 OBSERVATION, OBVIOUSLY, THAN FROM, YOU KNOW, OTHER,
26 THE KINDS OF TESTS WE WOULD DO TODAY.

27 Q. LET'S GO TO DEMONSTRATIVE, THE NEXT
28 ONE, NUMBER 4, WHICH WOULD BE 11, 003.

1 * (EXHIBIT 11, 003, SLIDE,
2 MARKED FOR I. D.)

3

4 Q BY MR. LEITER: THE JURY HAS SEEN
5 THIS ONE BEFORE. BUT WHO IS MARK TWAIN? WHAT TIME
6 PERIOD ARE WE TALKING ABOUT?

7 A. MARK TWAIN WAS THE MOST FAMOUS
8 WRITER OF HIS GENERATION, ALSO PROBABLY THE
9 GREATEST WRITER IN ALL OF AMERICAN HISTORY.

10 HE WAS A HUMDRIST, AMONG OTHER
11 THINGS. HE CAME TO CALIFORNIA WROTE BOOKS ABOUT
12 CALIFORNIA, WROTE "TOM SAWYER" AND "HUCKLEBERRY
13 FINN. "

14 AND HE WAS AN INVETERATE CIGAR
15 SMDKER. AND AS YOU CAN SEE, "GIVING IT UP IS EASY,
16 I HAVE DONE IT A THOUSAND TIMES. "

17 SO, OBVIOUSLY IT' S A JOKE. AND IT
18 IS A JOKE THAT SHOWS US THAT WITHIN POPULAR
19 CULTURE, PEOPLE WOULD LAUGH BECAUSE THEY KNOW THIS
20 IS ADDICTIVE, IT' S VERY HARD TO GIVE IT UP.

21 AND HE WAS ONE OF MANY, MANY, MANY
22 PEOPLE WHO WERE WRITING ABOUT SMDKING OR TALKING
23 ABOUT IT IN THE MID-19TH CENTURY.

24 TWIN IS ALSO IMPORTANT BECAUSE HE
25 WAS A VERY CLOSE FRIEND OF ULYSSES S. GRANT. AND
26 GRANT WAS OBVIOUSLY NOT ONLY PRESIDENT OF THE
27 UNITED STATES BUT PROBABLY THE NUMBER 2 HERO IN THE
28 UNITED STATES IN THE 19TH CENTURY IN THE CIVIL WAR,

1 BECAUSE HE WAS REALLY THE MAN WHO GAVE THE NORTH,
2 THE UNION, VICTORY IN THE CIVIL WAR.

3 SO NEXT TO ABRAHAM LINCOLN, ONE OF
4 THE MOST FAMOUS AMERICANS, AND HE DIED OF CANCER.

5 AND THIS WAS A PERIOD OF TIME WHICH
6 PEOPLE DIDN'T TALK ABOUT CANCER. IT WAS REALLY A
7 TABU SUBJECT.

8 AND TWAIN HELPED GRANT PREPARE HIS
9 MEMOIRS BECAUSE GRANT WANTED TO LEAVE SOMETHING FOR
10 HIS FAMILY. AND SO HE WROTE HIS MEMOIRS WHICH
11 BECAME THE BEST SELLER OF THE ERA.

12 THEY WERE REALLY INCREDIBLY WIDELY
13 SOLD. AND AGAIN, THIS -- IT WAS KNOWN THAT HE GOT
14 CANCER FROM HIS SMOKING. AND THAT WAS WHAT GRANT'S
15 DOCTORS SAID.

16 AND I FOUND THIS VERY INTERESTING
17 BECAUSE I ACTUALLY DIDN'T KNOW THAT UNTIL I STARTED
18 DOING THIS RESEARCH. AND HOW I FOUND IT OUT WAS
19 THAT I KEPT READING THINGS FROM THE 1930'S, '40'S,
20 '50'S AND '60'S WHERE PEOPLE WOULD SAY, MY GRANDMA
21 ALWAYS USED TO TELL ME ABOUT MARK TWAIN -- ABOUT
22 ULYSSES S. GRANT AND ABOUT HOW HE DIED FROM
23 SMOKING. AND SO I REMEMBER THAT.

24 SO I PICKED IT UP FROM THE POPULAR
25 CULTURE LATER AND WENT BACK AND CHECKED ON IT.

26 Q. AND IT IS YOUR CONCLUSION THAT IT
27 WAS WIDELY KNOWN AT THE TIME THAT GENERAL --
28 PRESIDENT, ULYSSES S. GRANT DIED OF CANCER FROM HIS

1 SMOKING?

2 A. YES.

3 Q. AND THAT WAS WHAT WAS TOLD TO
4 PEOPLE AT THE TIME?

5 A. RIGHT. FROM 1885 ONWARD.

6 Q. LET' S MOVE, THE JURY HAS HEARD A
7 LITTLE BIT ABOUT THE INVENTION OF THE CIGARETTE
8 MACHINE. BACK IN MARK TWAIN' S TIME PEOPLE WERE
9 BASICALLY SMOKING PIPES AND CIGARS AND PUTTING
10 TOBACCO ON THEIR LIPS; IS THAT RIGHT?

11 A. UH-HUH.

12 Q. OKAY. ABOUT WHEN WAS THE CIGARETTE
13 MACHINE INVENTED?

14 A. WELL, THE CIGARETTE MACHINE WAS
15 INVENTED IN 1884. AND AGAIN, ONE NEEDS TO REMEMBER
16 THE CONTEXT HERE, AND THAT CONTEXT, FOR THE
17 INVENTION IN 1884 WAS THE INDUSTRIAL REVOLUTION.

18 AND THE INDUSTRIAL REVOLUTION WAS
19 THAT PERIOD IN HISTORY, OF COURSE, IN WHICH
20 MACHINERY TOOK OVER WHAT HAD PREVIOUSLY BEEN DONE
21 BY HAND.

22 AND WHAT THIS DID IS IT TOOK
23 PRODUCTS THAT BEFORE WERE VERY EXPENSIVE AND JUST
24 MADE THEM INCREDIBLY CHEAP. AND IT MADE THEM
25 THEREFORE, INCREDIBLY AVAILABLE. PEOPLE IN WIDE
26 NUMBERS, EVEN PEOPLE WHO ARE PRETTY POOR COULD GET
27 STUFF THAT PREVIOUSLY YOU HAD TO BE A WEALTHY
28 PERSON TO OWN.

1 Q. YOU MENTIONED THAT THE CIGARETTE
2 MACHINE WAS INVENTED 1884; IS THAT RIGHT?

3 A. THAT IS CORRECT.

4 Q. HOW RAPIDLY DID USE OF CIGARETTES
5 BLOSSOM OR MUSHROOM AFTER 1884?

6 A. WELL, AGAIN, LIKE A LOT OF PRODUCTS
7 OF THE INDUSTRIAL REVOLUTION, IT MADE IT WIDELY
8 AVAILABLE, IT QUADRUPLED WITHIN TEN YEARS SO
9 PRODUCTION AND USE OF CIGARETTES QUADRUPLED WITHIN
10 TEN YEARS ONCE THE PRODUCT STARTS GETTING OUT
11 THERE, 1885 TO 1895.

12 Q. THE JURY HAS HEARD EVIDENCE THAT
13 USE OF CIGARETTES INCREASED GREATLY AFTER WORLD WAR
14 I.

15 YOU DON'T DISAGREE WITH THAT, I
16 ASSUME?

17 A. NO.

18 Q. OKAY. BUT USE OF CIGARETTES ALSO
19 INCREASED GREATLY FROM THE INVENTION OF THE
20 CIGARETTE MACHINE WELL BEFORE EVEN THE TURN OF THE
21 20TH CENTURY, ISN'T THAT RIGHT?

22 A. ABSOLUTELY.

23 AND THIS IS IMPORTANT TOO BECAUSE
24 THIS IS A PERIOD, DURING THE INDUSTRIAL REVOLUTION
25 THERE WAS ALSO A RESPONSE TO THE INDUSTRIAL
26 REVOLUTION. IT WAS A TIME WHERE THERE WAS A
27 TREMENDOUS NUMBER OF PROBLEMS THAT WAS CREATED BY
28 ALL THESE PEOPLE CROWING THE CITIES AND BY THE

1 MACHINERY DEVELOPED.

2 AND SO FOR EXAMPLE, WITHIN THREE
3 YEARS OF THIS MACHINE BEING INVENTED AND CIGARETTES
4 BECOMING WIDELY AVAILABLE AND THEIR USE STARTING TO
5 GO UP, THERE WAS A REACTION. AND WITHIN THREE
6 YEARS, FOR EXAMPLE, IN CALIFORNIA, HERE, WE PASSED
7 A LAW CALLED SCIENTIFIC TEMPERANCE LAW WHICH WAS TO
8 EDUCATE KIDS ABOUT THE HARM THAT COULD BE DONE TO
9 THEM BY SMOKING CIGARETTES, BY DRINKING ALCOHOL,
10 AND THAT KIND OF THING.

11 Q. WHEN WAS THAT LAW PASSED?

12 A. 1887.

13 SO THAT'S WITHIN THREE YEARS OF THE
14 MACHINE BEING INVENTED, WHICH ALSO GIVES YOU, IT'S
15 A CLUE TO THE FACT THAT THE PRODUCT IS IN WIDE USE,
16 YOU KNOW, BY EVERYBODY BUT THEY ARE REALLY
17 CONCERNED ABOUT CHILDREN.

18 Q. LET'S MOVE TO THE BEGINNING OF THE
19 20TH CENTURY. YOU MENTIONED WE NOW HAVE THE
20 CIGARETTE MACHINES AND THE CIGARETTES ARE MUCH MORE
21 POPULAR. AND YOU STARTED TO SEE LAWS TO TELL
22 PEOPLE ABOUT HARM, POTENTIAL HARM OF SMOKING.

23 WAS THERE A MORE SERIOUS MOVE IN
24 THE EARLY 20TH CENTURY TO BAN CIGARETTES ALL
25 TOGETHER?

26 A. YES.

27 AND, AGAIN, I THINK THAT MOST OF
28 US, YOU KNOW, WE HAVE HEARD OF PROHIBITION AND WE

1 THINK ALCOHOL, YOU KNOW, THERE WAS A TIME WHEN
2 ALCOHOL WAS PROHIBITED IN THE UNITED STATES BY
3 CONSTITUTIONAL AMENDMENT.

4 BUT THERE WAS ALSO A TIME WHEN
5 CIGARETTES WERE BANNED, NOT FOR THE WHOLE COUNTRY
6 BUT WITHIN, FOR EXAMPLE, 16 STATES HAD LAWS THAT
7 YOU COULD NOT SELL OR SMOKE CIGARETTES AND THAT WAS
8 FOR A PERIOD OF YEARS UP THROUGH THE 20TH, THE TURN
9 OF THE CENTURY UP THROUGH THE '20'S. MOST OF THOSE
10 STATES WERE RURAL STATES.

11 CALIFORNIA NEVER ACTUALLY HAD A LAW
12 BANNING CIGARETTES, EXCEPT TO MINORS.

13 BUT WE DEBATED IT. THE LEGISLATURE
14 DEBATED A LAW, A BILL TO PASS PROHIBITION IN
15 CALIFORNIA IN 1895 AND AGAIN IN 1917 BUT IT DID NOT
16 PASS.

17 Q. 16 STATES IN THE EARLY PART OF THE
18 20TH CENTURY BANNED CIGARETTE SMOKING ALL TOGETHER?

19 A. YES, BANNED IT ABSOLUTELY. AND
20 JAILED PEOPLE FOR DOING IT.

21 Q. NOW, CALIFORNIA DEBATED IT TWICE
22 BUT NEVER ACTUALLY PASSED THE LAW?

23 A. THAT IS RIGHT. CALIFORNIA INSTEAD
24 TOOK THE TACTIC OF FOCUSING ON EDUCATION AND THIS
25 IS INTERESTING BECAUSE AT THIS TIME --

26 Q. LET ME INTERRUPT YOU. BEFORE YOU
27 GET TO THAT, I WANTED TO ASK YOU ONE MORE QUESTION
28 ABOUT STATES BANNING IT.

1 AT THAT PERIOD OF TIME, THERE WAS A
2 TEMPERANCE MOVEMENT GENERALLY; RIGHT?

3 WERE STATES BANNING TOBACCO AND WAS
4 CALIFORNIA PERMITTING IT BECAUSE IT WAS IMMORAL TO
5 SMOKE; BECAUSE IT WAS UNHEALTHFUL TO SMOKE;
6 SOMETHING ELSE, SOME COMBINATION? WHY IS IT THAT
7 STATES WERE INTERESTED IN BANNING SMOKING?

8 A. WELL, THEY WERE INTERESTED REALLY
9 PROBABLY FOR ALL OF THOSE REASONS. THERE WAS
10 EXTREME CONCERN OVER THE HEALTH CONSEQUENCES OF
11 SMOKING, REALLY FOR EVERYBODY, PARTICULARLY FOR
12 CHILDREN IN CALIFORNIA.

13 THERE WAS, YOU KNOW, HAD BEEN LONG
14 TALK ABOUT, THAT IT GIVES YOU CANCER, IT CAN GIVE
15 YOU CANCER IN VARIOUS WAYS, THAT THEY FELT THAT IT
16 DEPLETED PEOPLE'S EFFICIENCY, THAT PEOPLE WERE NOT
17 AS EFFICIENT. THERE WERE A NUMBER OF BIG EMPLOYERS
18 WHO WOULD NOT HIRE YOU IF YOU WERE A SMOKER, FORD
19 MOTOR COMPANY, MARSHAL FIELDS DEPARTMENT STORE, A
20 NUMBER OF THE RAILROADS WOULD NOT HIRE PEOPLE WHO
21 WERE SMOKERS.

22 SO THERE WERE A LOT OF HEALTH
23 ISSUES INVOLVED ON THAT.

24 AND THERE WERE MORAL ISSUES AS WELL
25 BECAUSE IN THOSE STATES THERE WAS A SENSE THAT
26 THOSE TWO THINGS WERE NOT UNRELATED. THAT HAVING A
27 MORAL AND CLEAN LIFE WOULD MAKE YOU HEALTHY AND
28 BEING HEALTHY WOULD MAKE YOU MORE MORAL AND THAT

1 KIND OF THING.

2 Q. LET'S TAKE A LOOK AT DEMONSTRATIVE
3 NUMBER 8 WHICH WE WILL CALL 11, 004.

4

5 * (EXHIBIT 11, 004, SLIDE
6 MARKED FOR I. D.)

7

8 Q BY MR. LEITER: THIS IS A DOCUMENT
9 WRITTEN BY HENRY FORD. IS THAT HENRY FORD WHO
10 STARTED THE FORD MOTOR COMPANY?

11 A. YES. THIS IS HENRY FORD. YOU SEE
12 AT THE BOTTOM OF THE BOOKS THERE, IT IS SORT OF
13 LIGHT, WHITE TYPE, HENRY FORD.

14 HENRY FORD WAS, OF COURSE, PROBABLY
15 THE MOST IMPORTANT INDUSTRIALIST IN AMERICAN
16 HISTORY BECAUSE HE INVENTED THE SYSTEM OF -- REALLY
17 MADE, PUT IN WIDE USE THE SYSTEM OF, YOU KNOW, THE
18 CONVEYER BELT MODE OF PRODUCTION. AND SO THAT
19 THINGS COULD BE PRODUCED MUCH MORE RAPIDLY RATHER
20 THAN ONE PERSON SITTING TOGETHER AND PUTTING A
21 WHOLE CAR, WHICH SOME PEOPLE MIGHT LIKE TO DO ON
22 THE WEAKENED, HE WOULD HAVE PEOPLE, ONE PERSON JUST
23 DID ONE THING AT A TIME AND HIS SYSTEM BECAME THE
24 WORLD STANDARD.

25 SO THIS WAS A PERIOD IN WHICH
26 SOMEONE LIKE THAT HAD AN EMINENCE THAT WAS A LITTLE
27 DIFFERENT FROM HOW SOMEBODY WOULD BE LOOKED UPON
28 TODAY. HE REALLY TOOK IT UPON HIMSELF TO TELL

1 PEOPLE ABOUT LOTS OF ISSUES AND PEOPLE LISTENED
2 WHEN HENRY FORD TALKED, AROUND THE WORLD THEY DID.

3 AND ONE OF THE BOOKS HE WROTE IS
4 CALLED "THE CASE AGAINST THE LITTLE WHITE SLAVER."

5 Q. AND THE LITTLE WHITE SLAVER WAS
6 CIGARETTES?

7 A. YELL, THAT WAS ONE OF THE SLANG
8 TERMS FOR CIGARETTES.

9 AND OF COURSE YOU HAVE TO
10 UNDERSTAND IN THIS PERIOD OF TIME AGAIN.

11 Q. YOU NEED TO SLOW DOWN JUST A LITTLE
12 BIT.

13 A. THAT'S ALL RIGHT. THANK YOU FOR
14 REMINDING ME.

15 SLAVERY WAS SOMETHING THAT PEOPLE
16 COULD REMEMBER, YOU KNOW, AT THE TURN OF THE
17 CENTURY. AND WHITE SLAVERY, BY THE WAY, WAS
18 REFERENCE TO PROSTITUTION, WHICH WAS A BIG ISSUE IN
19 THE INDUSTRIAL AGE, THE INDUSTRIAL REVOLUTION.

20 AND SO TO CONNOTE OR TO CONNECT
21 CIGARETTES WITH THESE VERY, YOU KNOW, AWFUL
22 INSTITUTIONS, WAS A VERY STRONG STATEMENT ABOUT
23 HIM

24 YOU SEE HE ADDRESSED CHILDREN, BOYS
25 IN SCHOOL WHO WERE IN THE CLUTCHES OF THE CIGARETTE
26 HABIT CALLED SLAVERS. SO HE TALKED ABOUT
27 ADDICTION.

28 HE ALSO TALKED ABOUT THE WORK OF

1 THE INSURANCE COMPANIES WHICH REALLY WERE LEADERS
2 IN HELPING PEOPLE UNDERSTAND THE EFFECT OF SMOKING
3 UPON MORTALITY, THAT SMOKING WOULD DIMINISH YOUR
4 LIFESPAN. AND SO THAT'S WHAT YOU SEE IN THAT
5 SECOND QUOTE THERE.

6 Q. SO THIS QUOTE TALKS ABOUT, STUDIES
7 OF INSURANCE COMPANIES OR PEOPLE WHO WERE INSURED
8 FINDING THAT NON-SMOKERS, MORTALITY RATE OF
9 NON-SMOKERS TO BE 59 AND THAT OF MODERATE SMOKERS
10 TO BE 93. IN OTHER WORDS, SMOKERS HAVE A HIGHER
11 MORTALITY RATE THAN NON-SMOKERS?

12 A. THAT IS CORRECT.

13 AND THE INSURANCE COMPANY STUDIES
14 WERE WIDELY PUBLISHED IN A NUMBER OF PLACES. BY
15 THE WAY, THEY MADE THEIR WAY INTO ALL KINDS OF
16 POPULAR LITERATURE. THIS IS A PERIOD OF TIME WHERE
17 THERE WAS KIND OF A PHYSICAL FITNESS CRAZE.

18 I KNOW WE SORT OF THINK OF THAT AS
19 A MODERN THING. BUT TEDDY ROOSEVELT WAS THE
20 PRESIDENT IN THIS ERA, AND HE WAS KNOWN FOR
21 PUSH-UP'S AND EXERCISE AND BOXING AND THINGS. SO
22 THERE WAS A LOT OF CONCERN ABOUT PHYSICAL
23 WELL-BEING.

24 AND I BRING TO YOU FORD BECAUSE I
25 WANT TO SHOW YOU ONE EXAMPLE. BUT THERE ARE
26 HUNDREDS OF EXAMPLES THAT I COULD SHOW YOU.

27 AND IN FACT, BY THE WAY, HENRY FORD
28 WORKED WITH THOMAS EDISON ON THIS VOLUME, BECAUSE

1 THOMAS EDISON WAS ALSO VERY CONCERNED ABOUT
2 SMOKING, AND HE WOULD NOT EMPLOY PEOPLE WHO SMOKED.
3 OF COURSE, HE SMOKED CIGARS, BY THE WAY.

4 Q. I WANTED TO SHOW THE JURY THE NEXT
5 DEMONSTRATIVE, NUMBER 5. LET'S CALL IT 11005.

6

7 * (EXHIBIT 11,005, SLIDE,
8 MARKED FOR I. D.)

9

10 Q BY MR. LEITER: AND WE HAVE A
11 COUPLE OF PICTURES OF THIS. WHAT IS "THE SHIELD"?

12 A. "THE SHIELD" IS A PUBLICATION, WAS
13 A PUBLICATION FROM 1920 TO 1950 THAT WAS PUBLISHED
14 HERE IN LOS ANGELES. AND AGAIN I WANT TO BRING US
15 HOME, SO TO SPEAK, TO L. A.

16 THERE WAS A TREMENDOUS ACTIVISM AND
17 STATEMENTS NOT JUST BY INDUSTRIALISTS AND NOT JUST
18 BY DOCTORS AND GOVERNMENT, BUT THERE WAS A LOT OF
19 POPULAR ORGANIZING AROUND WHAT WERE CALLED
20 TEMPERANCE ISSUES AND PARTICULARLY CIGARETTES.

21 AFTER CONGRESS AND THE STATES
22 RATIFIED THE AMENDMENT TO PROHIBIT ALCOHOL, THEN A
23 LOT OF THESE ACTIVISTS GROUPS TURNED THEIR FULL
24 ATTENTION UPON CIGARETTES.

25 AND "THE SHIELD" WAS PUBLISHED HERE
26 IN LOS ANGELES AND TALKS ABOUT, AGAIN, THESE WERE
27 ADDICTIVE, THAT THERE WERE DANGEROUS CHEMICALS LIKE
28 ARSENIC IN TOBACCO. AND ALWAYS WHEN PEOPLE

1 REFERRED TO TOBACCO IN THIS PERIOD, THEY CALLED IT
2 A NARCOTIC, WHICH IS KIND OF INTERESTING. I DIDN'T
3 REALLY, AGAIN, REALIZE THAT UNTIL I STARTED
4 RESEARCHING IT.

5 Q. YOU MEAN NARCOTIC AS IN DRUG?

6 A. AS IN DRUG.

7 Q. THIS GRAPHIC IS SHOWING THE JURY AN
8 ARTICLE IN WHICH THE HEADLINE IS "ARSENIC IN
9 TOBACCO CAUSES CANCER. HITS TOBACCO AS POISON."
10 HOW FREQUENTLY WAS THIS PUBLISHED
11 AND DISSEMINATED?

12 A. "THE SHIELD" WAS PUBLISHED MONTHLY.
13 AND THE FELLOW WHO WAS THE PUBLISHER AND HEAD OF
14 THE ANTI-CIGARETTE LEAGUE SPOKE TO SCHOOLS AND
15 CHURCHES, BETWEEN 40- AND A HUNDRED THOUSAND PEOPLE
16 EVERY YEAR IN SOUTHERN CALIFORNIA, AND TO SOME
17 EXTENT, NORTHERN CALIFORNIA FROM 1950 -- PARDON ME,
18 1920 TO 1950, REACHING ABOUT TWO MILLION PEOPLE
19 JUST IN HIS PUBLIC TALKS. AND THEN HE ALSO
20 DISTRIBUTED "THE SHIELD," WHICH IS ABOUT 6,000
21 COPIES A MONTH.

22 Q. LET'S TAKE A LOOK AT NUMBER 6,
23 WHICH IS 11,006.

24

25 * (EXHIBIT 10,006, SLIDE,
26 MARKED FOR I. D.)

27

28 Q BY MR. LEITER: WE JUST HAVE A

1 COUPLE MORE DEMONSTRATIVES FROM THIS PERIOD.

2 AND THIS IS ANOTHER COPY OF "THE
3 SHIELD" FROM FEBRUARY 3RD, 1932. AND WHO IS THAT
4 PERSON WHOSE PICTURED ON THE LEFT?

5 A. THE PERSON WHOSE PICTURED ON THE
6 LEFT IS CHARLES LINDBERGH WHO, AGAIN, WAS A HERO OF
7 HIS ERA. VERY DIFFERENT KIND OF HERO FROM SOMEONE
8 LIKE HENRY FORD, OF COURSE. THE FAMOUS AVIATOR WHO
9 MADE THE FIRST SOLO FLIGHT ACROSS THE ATLANTIC AND
10 WAS ACTUALLY, BY THE WAY, A KIND OF A CALIFORNIA
11 HERO TOO. I KNOW THIS BEING FROM SAN DIEGO. OUR
12 AIRPORT IS CALLED LINDBERGH FIELD BECAUSE HE
13 DEVELOPED HIS PLANE IN SAN DIEGO.

14 AND SO THIS IS AN EXAMPLE OF HOW
15 "THE SHIELD" AND LOTS OF OTHER GROUPS USED POPULAR
16 SORT OF ENDORSEMENTS OF HOW BAD CIGARETTES WERE FOR
17 YOU BY DRAWING UPON POPULAR FIGURES.

18 FOR EXAMPLE, BABE RUTH MADE A
19 STATEMENT.

20 TY COBB CAME OUT AGAINST
21 CIGARETTES. COLONEL LINDBERGH, OTHER POPULAR
22 FIGURES OF THE TIME.

23 Q. THE PART THAT'S HIGHLIGHTED WHICH
24 WE WON'T READ IN ITS ENTIRETY IS TALKING ABOUT A
25 CONFERENCE OF SOMETHING CALLED THE ANTI-CIGARETTE
26 LEAGUES HELD IN LOS ANGELES, AND A DOCTOR WHO WAS
27 QUOTED AS SAYING, "I DO NOT KNOW ANY GREATER ENEMY
28 THAT WE PHYSICIANS HAVE TO FIGHT THAN NICOTINE, THE

1 TOBACCO EVIL, " AND THEN REFERS IN THE LAST
2 PARAGRAPH TO PEOPLE DYING FROM HEART DISEASE WHICH
3 HE ESTIMATED TO NICOTINE AT THE TIME?

4 A. THAT IS RIGHT.

5 Q. LET' S LOOK AT NUMBER 19, WHICH IS
6 11, 007.

7

8 * (EXHIBIT 11, 007, SLIDE,
9 MARKED FOR I. D.)

10

11 Q BY MR. LEITER: AND I' D LIKE TO
12 TALK BRIEFLY ABOUT "READER' S DIGEST. "

13 WHY IS "READER' S DIGEST" A
14 SIGNIFICANT PUBLICATION IN THIS PERIOD, AND AS WE
15 MOVE INTO THE 1950' S?

16 A. THE "READER' S DIGEST" WAS AND IS
17 THE LARGEST CIRCULATION MAGAZINE IN THE UNITED
18 STATES. AND THIS IS A PERIOD OF TIME WHERE THERE
19 WASN' T TELEVISION, OF COURSE, YOU KNOW, SO PEOPLE
20 READ A LOT MORE THAN THEY DO NOW.

21 IT WAS -- CIRCULATED JUST
22 INCREDIBLY, TO MILLIONS OF PEOPLE APPROXIMATELY 30
23 MILLION PEOPLE READ THE "READER' S DIGEST, " WHICH IS
24 A PHENOMENAL AMOUNT.

25 SO IT WAS WIDELY RECOGNIZED AS
26 BEING A VERY, VERY IMPORTANT PUBLICATION.

27 IT ALSO PUBLISHED, IT WAS VERY MUCH
28 AGAINST SMOKING. THEY PUBLISHED MORE THAN 200

1 ARTICLES IN THIS PERIOD FROM THE '30'S UP TO THE
2 '90'S AGAINST CIGARETTES, TELLING PEOPLE THEY
3 SHOULD NOT SMOKE.

4 AND I PUT THIS IN THERE PARTLY
5 BECAUSE I WANT THE JURY TO UNDERSTAND THAT THERE IS
6 JUST -- THAT, AGAIN, THIS COMMON KNOWLEDGE COMING
7 AT PEOPLE FROM EVERY POSSIBLE ANGLE. THIS ALSO IS
8 IMPORTANT BECAUSE THIS PARTICULAR ARTICLE, AND WHY
9 I SELECTED THIS ONE OUT OF THE 200 SOMETHING I
10 COULD HAVE, IS THAT IT TALKED ABOUT THE FINDINGS OF
11 RAYMOND PEARL. AND I ASSUME THAT MAYBE YOU HAVE
12 HEARD ABOUT THOSE. I DON'T KNOW IF OTHERS HAVE
13 TESTIFIED ABOUT.

14 OKAY, WELL, RAYMOND PEARL WAS A
15 VERY IMPORTANT PHYSICIAN OR DOCTOR, RATHER, AT THE
16 TIME. HE WAS AT JOHNS HOPKINS. JOHNS HOPKINS WAS
17 ONE OF THE MOST IMPORTANT AND FAMOUS MEDICAL
18 SCHOOLS, ONE OF THE MOST, YOU KNOW, OUTSTANDING OF
19 THE MEDICAL SCHOOLS. AND WHAT HE FOUND WAS THAT
20 PEOPLE LIVED A LOT LESS -- LIVES, THEIR LIVES WERE
21 MUCH SHORTER IF THEY SMOKED.

22 AND HIS FINDINGS WERE REPRINTED IN
23 "TIME" MAGAZINE. THEY WERE REPRINTED IN "READER'S
24 DIGEST." HE ACTUALLY PUBLISHED THEM IN A SCIENCE
25 JOURNAL SO THAT'S WHERE THEY STARTED.

26 BUT IMMEDIATELY IT GOT OUT TO
27 EVERYBODY AND WHAT I FOUND QUITE INTERESTING ABOUT
28 THIS IS THAT RAYMOND PEARL IS REFERRED TO AGAIN AND

1 AGAIN THROUGHOUT THE YEARS. HIS WORK WAS IN ALL OF
2 THE CHILDREN'S TEXTBOOKS THAT I LOOKED AT.

3 FOR EXAMPLE, THEY DIDN'T TELL
4 FOURTH GRADERS, THIS IS RAYMOND PEARL, BUT THEY
5 WOULD SAY IT IN SUCH A WAY YOU KNEW THIS IS THE
6 STUDY THEY WERE RELYING UPON.

7 A PHYSICIAN HERE IN THE L. A. AREA,
8 A PHYSICIAN FOR THE L. A. TIMES CALLED DR. WALTER
9 ALVAREZ, AND HE WROTE THE DOCTOR'S COLUMN FOR ABOUT
10 25 YEARS WAS A FRIEND OF RAYMOND PEARL'S. AND HE
11 WAS ALWAYS REFERRING BACK TO HIM AND MY FRIEND
12 RAYMOND PEARL TOLD ME BACK IN 1938 AND THIS
13 INFORMATION.

14 Q. OKAY. LAST CLIP THAT I WANT TO
15 SHOW PEOPLE FROM THE PERIOD BEFORE 1950 THAT YOU
16 SELECTED. YOU MENTIONED IN POPULAR CULTURE COMES
17 TO PEOPLE FROM ALL SORTS OF ANGLES AND THIS, OF
18 COURSE, BRINGS US TO THE THREE STOOGES.

19 NOW, PEOPLE ARE PROBABLY FAMILIAR
20 WITH THE THREE STOOGES BEING ON TELEVISION IN THE
21 '50'S AND '60'S AND '70'S AND BEYOND.

22 THIS IS A CLIP THAT COMES FROM, I
23 BELIEVE, 1938?

24 A. RIGHT. THIS IS A CLIP, IN EARLY
25 THREE STOOGES PRODUCTION. THREE STOOGES, THEY ARE
26 LITTLE SHORTS MADE TO RUN IN THE MOVIE THEATER
27 INITIALLY. AND THEN THEY WERE LATER PUT ON T. V.
28 AND OF COURSE, YOU KNOW, PEOPLE SAW THEM FOR

1 GENERATIONS UPON GENERATIONS AND STILL TODAY THEY
2 ARE POPULAR.

3 Q. THIS IS A VERY SHORT CLIP FROM
4 1938.

5 (AT THIS TIME, A VIDEO
6 WAS PLAYED.)

7

8 Q BY MR. LEITER: IT SHOWS,
9 ESSENTIALLY, YOU GOT A \$50,000 PRICE BUT AFTER
10 EXPENSES YOU GOT ABOUT \$4.95?

11 A. THAT'S RIGHT, AFTER TAXES.

12 OF COURSE, THIS IS THE ERA OF THE
13 NEW DEAL WHEN THE GOVERNMENT STARTS TO TAX PEOPLE
14 AND THE INCOME TAX BECOMES A BIG DEAL. AND SO,
15 YES, IT'S \$5.

16 Q. WHAT'S THE SIGNIFICANCE OF BACK IN
17 1938 USING THE PHRASE COFFIN NAILS?

18 A. AS I HAVE MENTIONED BEFORE, SLANG
19 WAS, HAS ALWAYS BEEN AN IMPORTANT PART OF AMERICAN
20 CULTURE. AND COFFIN NAIL WAS PROBABLY THE MOST
21 FREQUENT TERM THAT PEOPLE USED FOR CIGARETTES AT
22 THAT TIME. IT CHANGED OVER TIME. WHERE, YOU KNOW,
23 I THINK THE MORE MODERN SLANG IS CIGARETTE AND
24 OTHER TERMS LIKE THAT.

25 BUT AT THE TIME, COFFIN NAIL WAS
26 THE MOST FREQUENT, THERE ARE OTHER THINGS, LITTLE
27 WHITE SLAVER, DOPE STICKS, PILLS, GASPERS, LUNG
28 DUSTERS. THERE ARE JUST A WHOLE NUMBER OF THINGS.

1 Q. THIS BRINGS US TO 1950, AND THE
2 BEGINNING OF THAT NEXT PERIOD. I WONDER IF THIS
3 WOULD BE A GOOD TIME TO TAKE A BREAK.

4 THE COURT: A FINE TIME. THANK YOU VERY
5 MUCH, COUNSEL. LET'S TAKE OUR BREAK. BE BACK AT
6 QUARTER TILL 11:00.

7

8 (AT THIS TIME, A RECESS
9 WAS TAKEN.)

10

11 (THE FOLLOWING PROCEEDINGS
12 WERE HELD IN OPEN COURT IN
13 THE PRESENCE OF THE JURY.)

14

15 THE COURT: THE WITNESS IS ON THE STAND,
16 THE JURY IS HEAR. COUNSEL ARE PRESENT.

17 YOU UNDERSTAND YOU ARE STILL UNDER
18 OATH.

19 THE WITNESS: YES.

20

21

22 ELIZABETH COBBS HOFFMAN,
23 CALLED AS A WITNESS BY THE DEFENSE, HAVING BEEN
24 PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND
25 AND TESTIFIED FURTHER AS FOLLOWS:

26 /// /// ///

27 /// /// ///

28 /// /// ///

1 DIRECT EXAMINATION (RESUMED)

2

3 BY MR. LEITER:

4 Q. DR. HOFFMAN, BEFORE THE BREAK, WE
5 TALKED, AMONG OTHER THINGS, ABOUT THE PERIOD FROM
6 COLUMBUS UP TO 1950.

7 WE STARTED IN 1492 AND YOU HAD
8 GENERALLY CHARACTERIZED HOW THE CIGARETTE WAS
9 CHARACTERIZED AS WHAT DURING THIS PERIOD?

10 A. SUBSTANCE OF ILL REPUTE.

11 Q. I APOLOGIZE FOR MY POOR WRITING.

12 OKAY, LET'S MOVE NOW TO 1950 --
13 WELL, LET ME ASK YOU THE QUESTION BEFORE I WRITE IT
14 DOWN. THE PERIOD FROM 1950 TO 1994, HAVE YOU
15 DIVIDED THAT INTO SECTIONS?

16 A. YES, I HAVE.

17 Q. AND WHAT ARE THE SECTIONS?

18 A. WELL, ANY HISTORIAN TRIES TO LOOK
19 AT HOW THINGS CHANGE OVER TIME. AND SO WE TEND TO
20 LOOK AT, YOU KNOW, PERIODS AS HAVING CERTAIN
21 SIMILARITIES THAT THEN CHANGE AND THEY MOVE INTO
22 ANOTHER PERIOD. AND I THINK THE PERIOD 1950 TO
23 1964 IS A DEFINITE HISTORICAL PERIOD. AND IN THAT
24 PARTICULAR PERIOD, HOW I CHARACTERIZE THAT, AS A
25 PERIOD IN WHICH THE DANGER WAS ESTABLISHED. SO
26 DANGER ESTABLISHED, 1950 TO 1964.

27 Q. AND WE ARE GOING TO TALK ABOUT THAT
28 PERIOD, BUT JUST SO THAT WE CAN SEE WHERE WE ARE

1 GOING, WHAT ARE THE OTHER TWO PERIODS THAT WE ARE
2 GOING TO TALK ABOUT A LITTLE BIT LATER?

3 A. THE SECOND MAJOR PERIOD I WOULD
4 LOOK AT HERE IN THIS CHUNK OF TIME IS THE PERIOD
5 1964 TO 1980.

6 Q. OKAY. AND THE THIRD PERIOD WOULD
7 THEN BE 1980 TO 1994?

8 A. THAT IS CORRECT.

9 Q. OKAY. LET'S TALK ABOUT THE PERIOD
10 1950 TO 1964, IF YOU COULD SUMMARIZE BRIEFLY WHAT
11 ARE THE MAJOR THEMES THAT YOU WANT TO TALK ABOUT
12 DURING THIS PERIOD AND THEN WE WILL GO BACK AND
13 TALK ABOUT EACH OF THEM IN A LITTLE BIT OF DETAIL.

14 A. WELL, WHAT I WANT TO DO IS, THERE
15 ARE SEVERAL IMPORTANT POINTS THAT CAN BE MADE TO
16 UNDERSTAND THE CONTEXT FOR PEOPLE'S UNDERSTANDING
17 ABOUT SMOKING AND CIGARETTES IN PARTICULAR.

18 ONE OF THE POINTS IS THAT THIS IS A
19 PERIOD, JUST THE '50'S IN GENERAL AND UP THROUGH
20 THE EARLY '60'S IN WHICH THERE WAS A TREMENDOUS
21 RESPECT AND CONFIDENCE IN SCIENCE AND MEDICINE AND
22 TECHNOLOGY. SO THAT'S ONE OF THE POINTS I WANT TO
23 DISCUSS.

24 Q. SO RESPECT FOR SCIENCE AND
25 TECHNOLOGY AND WE WILL COME BACK AND TALK ABOUT
26 EACH OF THOSE.

27 A. THE OTHER THING IS THAT THIS IS A
28 PERIOD OF TIME IN WHICH THE NEWS ABOUT CANCER IS

1 INCREDIBLY DRAMATIC. CANCER IS CALLED THE BIG "C"
2 WHEN IT WAS TALKED ABOUT AT ALL.

3 SO THAT'S A VERY IMPORTANT CONTEXT
4 FOR UNDERSTANDING WHY PEOPLE WOULD HAVE BEEN ALERT
5 TO THE NEWS THAT THEY WERE HEARING.

6 Q. OKAY. AND WHAT ELSE?

7 A. ANOTHER IMPORTANT POINT IS, YOU
8 KNOW, SORT OF THE HOW PEOPLE KNEW WHAT THEY NEW

9 THIS IS A PERIOD, FOR EXAMPLE, IN
10 THE '50'S, IN WHICH TELEVISION IS INVENTED AND
11 COMES INTO ITS OWN. YOU START OUT AT THE BEGINNING
12 OF THE DECADE WHERE A TINY, TINY PERCENTAGE HAS
13 THIS TECHNOLOGY AND BY THE END OF THE 1950'S,
14 VIRTUALLY EVERY HOME HAS IT.

15 SO INFORMATION SOURCES.

16 AND LASTLY, THIS IS A PERIOD OF
17 TIME IN WHICH A LOT OF PEOPLE SMOKED, A BIG PORTION
18 OF THE POPULATION SMOKES.

19 SO PEOPLE TEND TO BE RECEPTIVE OR
20 INTERESTED IN INFORMATION THAT CONCERNS THEM
21 PERSONALLY.

22 SO THAT'S ANOTHER IMPORTANT POINT.

23 Q. LET'S START BY TALKING FOR A FEW
24 MINUTES ABOUT RESPECT FOR SCIENCE AND TECHNOLOGY.
25 WE ARE NOW JUST A FEW YEARS AFTER WORLD WAR II; IS
26 THAT RIGHT?

27 EXPLAIN TO THE JURY, PLEASE, WHAT
28 YOU MEAN BY THEIR BEING GREAT RESPECT FOR SCIENCE,

1 SCIENTISTS, TECHNOLOGY, DURING THIS PERIOD.

2 A. WELL, THIS IS A PERIOD OF TIME IN
3 WHICH KNOWLEDGE SEEMS TO JUST GROW EXPONENTIALLY,
4 ALL KINDS OF PRODUCTS ARE INVENTED THAT PEOPLE DID
5 NOT HAVE BEFORE, EXPERTS, YOU KNOW, HAVE SOLVED,
6 SEEM TO HAVE SOLVED MAJOR WORLD PROBLEMS, THE GREAT
7 DEPRESSION, WORLD WAR II THAT BROUGHT THAT WAR TO A
8 CLOSE. AND IT'S ALSO A PERIOD IN WHICH MEDICINE,
9 IN PARTICULAR, IS ONE BRANCH OF SCIENCE HAS JUST
10 ACCOMPLISHED SUCH PHENOMENAL FEATS THAT PEOPLE HAVE
11 TREMENDOUS RESPECT FOR WHAT MEDICINE KNOWS.

12 THIS IS RIGHT BEFORE, THIS IS A
13 PERIOD IN WHICH INSULIN IS INVENTED FOR DIABETES.
14 IT'S A PERIOD OF TIME IN WHICH PENICILLIN COMES OUT
15 OF WORLD WAR II SO PEOPLE HAVE ANTIBIOTICS FOR THE
16 FIRST TIME FROM THE '40'S THROUGH THE '50'S.

17 IN 1950, MID-50'S, POLIO VACCINE
18 WAS DISCOVERED AND INVENTED BY JONAS SALK.

19 SO WHEN DOCTORS TOLD PEOPLE
20 SOMETHING, THEY TOLD THEM IN THIS CONTEXT. THERE
21 WAS THIS TREMENDOUS RESPECT FOR WHAT KNOWLEDGE HAD
22 DONE FOR THE HUMAN CONDITION.

23 Q. SO WHEN PEOPLE READ THE NEWSPAPERS
24 OR LISTENED TO THE RADIO OR TO THE EXTENT THAT THEY
25 STARTED WATCHING TELEVISION AND THEY HEARD
26 SCIENTISTS OR NEWS ABOUT SCIENTISTS AND SCIENTIFIC
27 DISCOVERIES AND MEDICAL DISCOVERIES, IT WASN'T JUST
28 TOBACCO AND CANCER THAT THEY WERE HEARING ABOUT

1 WHEN THEY WERE HEARING ABOUT SCIENTISTS AND
2 MEDICINE?

3 A. RIGHT. THEY WERE HEARING ABOUT
4 PEOPLE WHO WERE SAVING LIVES, WHO WERE, YOU KNOW,
5 TURNING AROUND THE WHOLE COURSE OF HUMAN HISTORY
6 AND, IN THE COURSE OF A FEW DECADES.

7 Q. AND A YEAR WHERE THERE WERE LOTS OF
8 NEW TECHNOLOGIES, NEW DEVELOPMENTS COMING ON A
9 REGULAR BASIS?

10 A. THAT IS RIGHT. AND YOU SEE THIS IS
11 NOT ONLY REFLECTED IN THE NEWS BUT YOU SEE IT
12 REFLECTED IN POPULAR SHOWS THAT GET DEVELOPED IN
13 THE '50'S AND '60'S, DR. KILDAIRE AND DR. CASEY AND
14 THOSE SHOWS WHERE THE GOOD GUYS ARE THE DOCTORS.

15 Q. NOW, IT IS IN THIS CONTEXT THAT
16 PEOPLE STARTED READING IN THE 1950'S ABOUT
17 SCIENTIFIC STUDIES LINKING SMOKING WITH CANCER; IS
18 THAT RIGHT?

19 A. THAT IS CORRECT.

20 Q. AND THE JURY HAS HEARD A FAIR
21 AMOUNT ABOUT THE SCIENTIFIC STUDIES THEMSELVES AND
22 I'D LIKE TO ASK YOU ABOUT THE COVERAGE OF THOSE
23 STUDIES IN THE MEDIA.

24 FIRST, WAS HEARING SOMETHING ABOUT
25 CANCER IN THE MEDIA IN THE 1950'S A BIG DEAL?

26 A. IT WAS A VERY BIG DEAL.

27 Q. WHY?

28 A. AN INCREDIBLY BIG DEAL.

1 Q. WHY?

2 A. WELL, THIS RELATES TO MY SECOND
3 HISTORICAL POINT WHICH IS HOW PEOPLE THOUGHT ABOUT
4 CANCER, WHICH IS VERY DIFFERENT IN THIS CASE THAN
5 HOW WE THINK ABOUT IT TODAY.

6 CANCER BEFORE THE '50'S WAS A VERY
7 TABU TOPIC. IT WAS PROBABLY THE ONLY MAJOR DISEASE
8 THAT SCIENCE HAD NO CLUES ABOUT.

9 MOST PEOPLE THOUGHT IT WAS
10 CONTAGIOUS. SO IF YOUR MOTHER OR YOUR FATHER GOT
11 CANCER, YOU WOULDN'T, IT IS NOT SOMETHING YOU WOULD
12 TELL ANYBODY.

13 AND THE OTHER THING IS THAT DOCTORS
14 DIDN'T WANT TO TELL PATIENTS IF THEY HAD IT EVEN,
15 BECAUSE IT WAS REALLY CONSIDERED A DEATH SENTENCE.
16 IF YOU GOT CANCER, YOU KNOW, THAT WAS IT.

17 THE MORTALITY FOR BREAST CANCER
18 WAS, YOU KNOW, PEOPLE WHO SURVIVED WERE ONLY ABOUT
19 5 PERCENT. TOTALLY DIFFERENT FROM TODAY.

20 SO IT WAS INCREDIBLY SENSATIONAL
21 STORY WHEN DOCTORS COULD FINALLY SAY, UH-HUH, THERE
22 IS SOMETHING THAT MANY, MANY PEOPLE DO THAT COULD
23 LIKELY CAUSE CANCER.

24 SO IT WAS AN INCREDIBLY BIG STORY,
25 PROBABLY BIGGER THAN THE STORY ABOUT AIDS IN THE
26 1980'S PROBABLY.

27 Q. NOW, YOU MENTIONED THAT STORIES
28 LINKING -- STORIES ABOUT THE SCIENTIFIC STUDIES

1 LINKING SMOKING AND CANCER WERE A VERY BIG NEWS
2 STORY IN THE 1950'S; IS THAT RIGHT?

3 A. THAT IS RIGHT. IT WAS COVERED, IN
4 JUST EVERY MEDIA SOURCE POSSIBLE.

5 Q. AND YOU SAID IT MIGHT HAVE BEEN
6 BIGGER THAN COVERAGE ABOUT AIDS IN THE 1980'S?

7 A. I THINK IT WAS. IT WOULD BE LIKE
8 SAYING, YOU KNOW, COULD YOU HAVE LIVED THROUGH THE
9 '80'S AND NOT HEARD ABOUT AIDS. IT WOULD BE VERY
10 DIFFICULT. BUT IN THIS CASE, CANCER WAS EVEN MORE
11 SENSATIONAL.

12 Q. NOW, YOU HAVE LOOKED AT, I ASSUME,
13 A NUMBER OF PUBLICATIONS DURING THE 1950'S; IS THAT
14 RIGHT?

15 A. YES, I HAVE.

16 Q. AND YOU BROUGHT A DEMONSTRATIVE
17 THAT FOCUSED PARTICULARLY ON THE "LOS ANGELES
18 TIMES"?

19 A. THAT IS CORRECT.

20 Q. LET'S TAKE A LOOK AT THAT. IT IS
21 NUMBER 10.

22 AND WE WILL MARK IT AS 11,008.

23 WHAT IS THIS?

24 A. THESE --

25 THE CLERK: EXCUSE ME, 11,009.

26 MR. LEITER: I AM SORRY, 11,009, THANK
27 YOU.

28 /// /// ///

1 * (EXHIBIT 11, 009, SLIDE,
2 MARKED FOR I. D.)

3
4 THE WITNESS: THESE ARE A HANDFUL OF THE
5 HUNDREDS OF ARTICLES THAT I HAD FROM THE 1950' S,
6 HUNDREDS AND HUNDREDS OF ARTICLES, IN THE "LOS
7 ANGELES TIMES," THESE ONES ARE PARTICULARLY USEFUL
8 TO SEE BECAUSE THE HEADLINES BLURTED IT RIGHT OUT
9 AT YOU. "CIGARETTES LISTED AS THE TOP CANCER
10 PERIL. "

11 "DOCTOR SAYS NEWS TESTS LINK CANCER
12 AND CIGARETTES. "

13 "LUNG CANCER, SMDKING LINKED BY
14 RESEARCHER. "

15 THESE ARE THE ARTICLES WHERE YOU
16 WOULD NOT HAVE TO READ ANYTHING IN THE ARTICLE EVEN
17 TO KNOW THE GIST OF THE ARTICLE.

18 BUT AGAIN, THIS IS ONE OF THE WAYS
19 IT CAME AT YOU THROUGH STRICT NEWS. BUT YOU WOULD
20 HAVE ALSO, IF YOU READ "DEAR ABBY" OR IF YOU READ
21 THE DOCTOR' S COLUMNS OR IF YOU HAVE READ SORT OF
22 LIFESTYLE COLUMNS, OR IF YOU HAD READ THE NEWS PART
23 OF THE PAPER, YOU KNOW, LIKE YOU WANTED TO LEARN
24 ABOUT STOCKS, OR IF YOU READ THE EDITORIAL SECTION,
25 YOU' D BE HEARING ABOUT IT IN EVERY SECTION.

26 Q. SO EVEN IF ALL YOU DID WAS READ THE
27 "LOS ANGELES TIMES," YOU WOULD BE READING ABOUT
28 STORIES ABOUT SCIENTIFIC LINK THAT WAS BEING TALKED

1 ABOUT NOT JUST IN THE FRONT PAGE SECTION BUT
2 THROUGHOUT THE NEWSPAPER; IS THAT RIGHT?

3 A. EVEN TO THE FUNNY PAGES.

4 Q. OKAY. AND BEYOND THE "LOS ANGELES
5 TIMES," WHAT DID YOU FIND?

6 A. WELL, I ALSO LOOKED BEYOND THE "LOS
7 ANGELES TIMES" BECAUSE MR. BOEKEN HAD MENTIONED IN
8 HIS DEPOSITION THAT HE READ "TIME" MAGAZINE AND
9 "NEWSWEEK" AND "PLAYBOY" AND A NUMBER OF OTHER
10 PUBLICATIONS AND SO I LOOKED AT NEWS MAGAZINES AS
11 WELL AND OTHER SORTS OF GENERAL INTEREST
12 PUBLICATIONS.

13 Q. LET'S LOOK AT NUMBER 12 WHICH IS
14 11, 010.

15

16 * (EXHIBIT 11, 010, SLIDE,
17 MARKED FOR I. D.)

18

19 Q BY MR. LEITER: WHAT'S THAT?

20 A. WELL, THIS WAS ONE OF THE MOST
21 FAMOUS STUDIES THAT WAS DONE. AND YOU SEE COVERAGE
22 HERE FROM THE "NEW YORK TIMES" WHICH MR. BOEKEN
23 REFERRED TO AND "TIME" MAGAZINE AND "LIFE. "

24 "LIFE" WAS, YOU KNOW, PROBABLY THE
25 BIGGEST AND MOST POPULAR OF ALL THE NEWS MAGAZINES.
26 IT WAS MORE FUN TO READ, PROBABLY, AS A PUBLICATION
27 BECAUSE THEY HAD A LOT OF INTERESTING PICTURES AND
28 THINGS.

1 AND THIS WAS THE COVERAGE OF THE
2 WYNDER/GRAHAM STUDY IN 1953 WHICH WAS SO IMPORTANT
3 BECAUSE ALL OF THE EARLIER STUDIES HAD BEEN BASED
4 ON STATISTICS WHICH WERE A KIND OF NEW EVIDENCE
5 THAT DOCTORS WERE BECOMING FAMILIAR WITH BY THE
6 1950' S.

7 BUT WHAT WYNDER AND GRAHAM WERE
8 ABLE TO DO IS ACTUALLY GET SOME BIOLOGICAL KIND OF
9 EVIDENCE. SO IT BECAME VERY CONVINCING TO PEOPLE
10 THAT HERE WAS A CANCER THAT, YOU KNOW, YOU COULD
11 TAKE A PICTURE OF THAT WAS CREATED BY PAINTING
12 THESE MICE WITH TAR FROM CIGARETTES.

13 Q. NOW, IN ADDITION TO NEWSPAPERS AND
14 MAGAZINES, YOU HAVE ALSO MENTIONED RADIO AND
15 TELEVISION. AND I SEE YOU HAVE A CLIP FROM 1953
16 FROM WALTER WINCHELL.

17 WHO IS WALTER WINCHELL -- WAS
18 WALTER WINCHELL?

19 A. WALTER WINCHELL WAS ONE OF THE
20 PREMIER JOURNALISTS OF HIS TIME, ONE OF THE MOST
21 IMPORTANT MEN OF HIS TIME. HE WAS A RADIO
22 JOURNALIST AND THEN AS TELEVISION WAS DEVELOPED
23 BECAME A T. V. NEWS MAN.

24 AND AS YOU WILL SEE FROM THE CLIP,
25 IT' S REALLY THAT SORT OF A STYLE OF THE EARLY NEWS,
26 NEWS INFORMATION. SO THIS SHOW WAS VERY, VERY
27 WIDELY WATCHED. AND WE NEED TO REMEMBER THIS IS A
28 PERIOD OF TIME WHICH THERE ARE ONLY THREE

1 NETWORKS -- ACTUALLY, AT THE TIME, THERE ARE ONLY
2 TWO NETWORKS. SO WHEN YOU SAY IT WAS ON THE NEWS,
3 IT IS NOT LIKE SAYING IT WAS ON ONE OF 100
4 CHANNELS. IT WAS LIKE ON THE ONLY CHANNELS YOU
5 COULD WATCH.

6 Q. LET'S TAKE A LOOK AT THIS CLIP.
7 IT'S 2.14.

8
9 (AT THIS TIME, THE VIDEO
10 WAS PLAYED)

11

12 Q. THIS IS 1953. AND YOU HEARD HE
13 MADE A REFERENCE TO EXCESSIVE SMOKING.

14 DO YOU HAVE AN UNDERSTANDING AS TO
15 WHY, AS TO WHETHER THAT WAS THE STANDARD OF LOGIC
16 USED IN 1953 ABOUT EXCESSIVE SMOKING?

17 A. YES, THAT WAS A PART OF THE
18 QUESTION. THIS RESEARCH IS ALL VERY NEW AND THEY
19 KNEW, AS HE SAYS, THAT THE VAST MAJORITY OF PEOPLE
20 WHO SMOKED DO NOT GET LUNG CANCER.

21 SO THEN THE QUESTION BECOMES, WELL,
22 WHO DOES AND ARE THEY PARTICULARLY, UNIQUELY
23 SUSCEPTIBLE. IS IT THAT THEY HAVE SMOKED WAY TOO
24 MUCH AND HOW MUCH IS TOO MUCH. AND SO THOSE WERE
25 QUESTIONS THAT WERE REALLY, IN A WAY, STILL OUT
26 THERE TO BE ANSWERED.

27 AND I WANT TO MENTION ONE OTHER
28 THING.

1 VE TALKED ABOUT CANCERS OF THE
2 LUNG. ONE OF THE OTHER REASONS WHY CANCER WAS SO
3 SENSATIONAL IS THAT BEFORE THE 1930'S, THERE WASN'T
4 CANCER OF THE LUNG OR IT WAS SO RARE THAT IT WAS
5 CONSIDERED INCREDIBLY UNIQUE AND EXOTIC THING.

6 AND THERE BEGAN TO AN EPIDEMIC.
7 BEFORE, WOMEN DIED MUCH MORE OFTEN OF CANCER THAN
8 MEN, DISPROPORTIONALLY OF CANCER. BUT THE LUNG
9 CANCER EPIDEMIC SHOT MEN'S DEATHS UP ABOVE WOMEN
10 FOR THE FIRST TIME SO THAT MADE IT REALLY DRAMATIC
11 NEWS.

12 Q. WHAT OTHER NEWS EXAMPLES DO YOU
13 WANT TO SHOW THE JURY FROM THIS PERIOD?

14 A. WELL, I'D LIKE TO SHOW A COUPLE.
15 THERE IS ONE BY MR. KIRLANDER.

16 Q. EXPLAIN TO THE JURY --

17 A. CAN WE SHOW THAT.

18 Q. -- WHO MR. KIRLANDER WAS AND WHAT
19 TIME PERIOD WE ARE TALKING ABOUT.

20 A. WELL, THIS IS FROM THE LATE 1950'S,
21 1959, WHAT YOU WILL SEE IS A CLIP OF A FELLOW WHO
22 WAS THE DEPUTY SURGEON GENERAL AT THAT TIME. AND
23 HE WAS SPEAKING FOR THE SURGEON GENERAL WHOSE NAME
24 WAS LEROY BIRNEY. AND LEROY BIRNEY, LIKE ALL, YOU
25 KNOW, LIKE THESE RESPONSIBLE GOVERNMENT OFFICIALS
26 WAS VERY CONCERNED ABOUT THIS NEW EPIDEMIC OF LUNG
27 CANCER AND ALL THE RESEARCH THAT THE EPIDEMIC HAD
28 REALLY BEEN GIVEN, YOU KNOW, SPEAK TO ABOUT WHY

1 PEOPLE MIGHT BE GETTING THIS AT THIS POINT IN TIME.
2 AND SO THE SURGEON GENERAL CAME OUT
3 IN 1957 AND WARNED THE AMERICAN PUBLIC THAT IT
4 LOOKED LIKE LUNG CANCER WAS BEING CAUSED BY
5 CIGARETTE SMOKING.

6 AND THEN IN 1959 THEY CAME OUT AND
7 MADE AN EVEN STRONGER STATEMENT. AND WHAT YOU WILL
8 SEE IS THE TELEVISION CLIP FROM DR. KIRLANDER
9 TALKING ABOUT IT.

10 Q. OKAY, IT'S 2.7. LET'S PLAY THAT.
11 PLEASE.

12
13 (AT THIS TIME, THE VIDEO
14 WAS PLAYED)

15
16 Q BY MR. LEITER: I APOLOGIZE FOR
17 THE SOUND ON THAT. IT WASN'T QUITE AS GOOD AS SOME
18 OF THE OTHER CLIPS.

19 DR. HOFFMAN, TOWARDS THE END OF
20 THAT CLIP, AFTER HE HAD TALKED ABOUT SCIENTIFIC
21 EVIDENCE, HE WAS ASKED WHETHER HE SMOKED AND HE
22 SAID, I AM AWARE OF THE STUDIES AND I SMOKE AND
23 PEOPLE MAKE CHOICES.

24 WHAT'S THE IMPORTANT ANSWER OF THAT
25 STATEMENT FROM A PUBLIC HEALTH OFFICIAL IN 1959?

26 A. THIS STATEMENT IS IMPORTANT AND I
27 WANTED TO SHOW THIS TO THE JURY BECAUSE IT IS SO
28 DIFFERENT FROM ANYTHING A PUBLIC HEALTH OFFICIAL

1 WOULD SAY TODAY. IT REALLY SHOWS YOU, WE ARE IN A
2 DIFFERENT PERIOD OF TIME.

3 AND WHAT THAT PERIOD OF TIME WAS
4 WAS A PERIOD IN WHICH THE NOTION OF YOU, YOU SHOULD
5 MAKE YOUR OWN CHOICES AND THE GOVERNMENT CAN'T TELL
6 YOU WHAT YOU CAN AND CAN'T DO. AND THIS IS A FREE
7 SOCIETY. THAT WAS A REAL EMPHASIS OF THE 1950'S
8 AND THE EARLY 1960'S.

9 AND HIS STATEMENT IS FAIRLY
10 TYPICAL. BY THE WAY, CUYLER HAMMOND, WHO IS THE
11 GREAT STATISTICIAN OF THE HAMMOND AND HORN STUDY,
12 SAID AT ONE POINT WHEN HE WAS INTERVIEWED, I THINK,
13 A PERSON MUST DECIDE FOR THEMSELVES, AND WE ARE
14 CERTAINLY NOT GOING TO TELL ADULTS WHAT THEY CAN
15 AND CAN'T DO.

16 AND THIS REALLY FITS WITH THE
17 PERIOD IN WHICH THE NOTION OF WHAT AMERICA WAS,
18 THIS WAS THE PERIOD OF ANTI-COMMUNISM, THE PERIOD
19 IN WHICH THE NOTION THAT WE ARE A FREE SOCIETY AND
20 WE ARE DIFFERENT FROM THOSE RUSSIANS, RUSSIAN
21 SATELLITES AND THE RUSSIAN BLOCK. SO THERE WAS A
22 LOT OF EMPHASIS ON AMERICA THE FREE. SO THIS WAS
23 VERY CONSISTENT WITH HOW THEY WERE HANDLING SMOKING
24 AS WELL.

25 Q. SO HERE'S A PUBLIC HEALTH OFFICIAL
26 WARNING PEOPLE ABOUT THE RISKS OF SMOKING. BUT
27 THEN SAYING, I HAVE READ THE STUDIES AND I CHOOSE
28 TO SMOKE, AND PEOPLE HAVE TO MAKE CHOICES, IS THAT

1 WHAT HE IS SAYING?

2 A. RIGHT, AND HE COULD SAY THAT
3 WITHOUT PEOPLE GETTING UPSET WITH HIM AS I AM SURE
4 THEY WOULD TODAY BECAUSE OF THIS RECOGNITION THAT,
5 AGAIN, THAT FREE CHOICE WAS ACCEPTABLE. HE DID NOT
6 HAVE TO BE A PERSONAL ROLE MODEL FOR THE WORLD
7 BECAUSE PEOPLE MAKE THEIR OWN CHOICES.

8 Q. NOW, YOU MENTIONED THAT ONE OF THE
9 TOPICS YOU WANTED TO TALK ABOUT WAS HOW PEOPLE KNEW
10 WHAT THEY KNEW DURING THIS PERIOD.

11 WOULD YOU EXPAND A LITTLE MORE ON
12 WHAT YOU MEAN BY THAT?

13 A. WELL, THE HOW, THAT'S AN IMPORTANT
14 PART OF SEARCHING OUT THE QUESTION AND THE ANSWER
15 TO THE QUESTION BECAUSE YOU WANT TO SAY, OKAY,
16 WELL, YOU KNOW, T. V. , RADIO, SLANG, ET CETERA,
17 THERE ARE LOTS OF DIFFERENT WAYS THAT THEY ARE
18 GOING TO GET STUFF AND SO THAT WOULD BE ONE
19 EXAMPLE.

20 Q. DID WE START SEEING WARNINGS COMING
21 NOT JUST FROM THE GOVERNMENT BUT FROM OTHER SOURCES
22 AS WELL?

23 A. YES.

24 THE PERIOD OF THE 1950'S IS THE
25 PERIOD IN WHICH THE AMERICAN CANCER SOCIETY REALLY
26 BECOMES A VERY, VERY POWERFUL FORCE IN AMERICAN
27 LIFE. REALLY FROM THE '30'S ONWARD BUT BY THE
28 '50'S IT'S THE LARGEST OF THESE ORGANIZATIONS WHICH

1 ARE HEALTH ORGANIZATIONS TELLING AMERICANS ABOUT
2 RISKS TO THEMSELVES.

3 AND FOR EXAMPLE, THEY HAD A RADIO
4 AND A TELEVISION DIVISION AND EVEN, YOU KNOW, BACK
5 IN THE '50'S, THEY HAD ANNOUNCEMENTS ON RADIO AND
6 T.V., THEY ESTIMATED THAT AT ONE POINT ONE OF THEIR
7 ANNUAL REPORTS SAID THAT THEY HIT EVERYBODY FOUR
8 TIMES IN THE MONTH OF APRIL IN THE NATION WITH
9 THEIR MESSAGES ABOUT CANCER AND ABOUT SMOKING AND
10 THE THINGS THAT THEY WERE CONCERNED ABOUT,
11 PARTICULARLY THE NEW STUDIES WHICH THEY, OF COURSE,
12 HAD SPONSORED, SOME OF WHICH THEY HAD SPONSORED.

13 NOW, YOU HAVE SELECTED TO SHOW THE
14 JURY AN ARTICLE FROM THE "LOS ANGELES TIMES" FROM
15 1959. THAT'S NUMBER 11. AND WE WILL MARK IT AS
16 11, 011.

17
18 * (EXHIBIT 11, 011, SLIDE,
19 MARKED FOR I. D.)

20

21 Q BY MR. LEITER: IS THIS PART OF
22 WHAT YOU WERE JUST TALKING ABOUT?

23 A. WELL, THIS IS A PART OF THAT LARGE
24 CLIMATE OF RESEARCH. BY THE WAY, IT SAYS, THE
25 MEDIC SAYS THAT SMOKERS PLAY RUSSIAN ROULETTE.
26 THAT IS DR. LESTER BRESLOW AND HE WAS ONE OF THE
27 VERY IMPORTANT PUBLIC HEALTH FIGURES FOR THE STATE
28 OF CALIFORNIA.

1 CALIFORNIA WAS REALLY THE FIRST
2 STATE TO WARN ITS OWN CITIZENS, RESIDENTS OF THE
3 STATE ABOUT CANCER.

4 AND DR. BRESLOW HAD STARTED A STUDY
5 IN 1949 BECAUSE OF THIS LUNG CANCER EPIDEMIC THAT
6 PUBLIC HEALTH OFFICIALS WERE REALLY CONCERNED
7 ABOUT.

8 AND SO DURING THE 1950' S,
9 CALIFORNIA CONDUCTED FOUR MAJOR STUDIES INVOLVING
10 HUNDREDS OF THOUSANDS OF CALIFORNIANS WHO THEY
11 THOUGHT MIGHT BE AT RISK OF LUNG CANCER AND NOT
12 ONLY DID HE TELL THE PUBLIC AND, THROUGH, IN THIS
13 CASE, THE ARTICLE OF THE L. A. TIMES THAT YOU PLAY
14 RUSSIAN ROULETTE, YOU MAY NOT DIE, BUT, YOU KNOW,
15 THE BULLET COULD GET YOU.

16 AND HE NOT ONLY WARNED THEM BUT HIS
17 STUDIES WERE USED BY THE U. S. SURGEON GENERAL. THE
18 SURGEON GENERAL' S REPORT WAS IN MANY WAYS A
19 COMPILATION OF ALL THE STUDIES THAT HAD BEEN DONE
20 BEFORE. AND THE BIG NAMES IN THOSE WERE HAMMOND
21 AND HORN, DOLL AND HILL, LESTER BRESLOW AND HIS
22 GROUP AND A NUMBER OF OTHERS. SO CALIFORNIA WAS
23 RIGHT OUT THERE IN FRONT.

24 Q. LET' S TAKE A LOOK AT NUMBER 15,
25 WHICH WE WILL CALL 11, 012.

26

27 * (EXHIBIT 11, 012, SLIDE,
28 MARKED FOR I. D.)

1 Q BY MR. LEITER: WHAT'S THAT?

2 A. THIS IS ONE OF THE NUMEROUS
3 PUBLICATIONS OF THE SEVENTH DAY ADVENTISTS. AND I
4 MENTIONED EARLIER ON THAT THIS IS A FAIRLY SMALL
5 RELIGIOUS DENOMINATION IN THE UNITED STATES.

6 SO ONE IS TEMPTED TO THINK THAT,
7 WELL, IT PROBABLY JUST EFFECTS A FEW PEOPLE BUT
8 THEY WERE AMAZING, YOU KNOW, OUTSTANDING IN THEIR
9 CONTRIBUTIONS ON THIS SUBJECT.

10 THIS IS A PUBLICATION THAT THEY PUT
11 OUT FROM 1955 TO 1985 FOR THREE -- 30 YEARS TWO
12 MILLION COPIES A MONTH, PUBLISHED IN CALIFORNIA,
13 DISTRIBUTED TO SHOPPING CENTERS, SCHOOLS AND
14 CHURCHES.

15 AND WHAT IT'S PURPOSE WAS WAS TO
16 TAKE THIS NEW RESEARCH THAT HAD BEEN COMING OUT AND
17 TO GET IT OUT TO THE PUBLIC AND SO THEY GOT IT OUT
18 JUST ABOUT EVERYWHERE. THEY ARE ALSO IMPORTANT
19 BECAUSE THEY WERE ACTIVE ON THE MEDICAL FRONT
20 THROUGH LOMA LINDA UNIVERSITY.

21 ONE OF THE MOST IMPORTANT STUDIES
22 OF THE PERIOD, BY THE WAY, WAS CALLED THE SEVENTH
23 DAY ADVENTIST STUDY WHERE THEY WERE INTERESTED IN
24 THE FACT THAT SEVENTH DAY ADVENTISTS WEREN'T
25 GETTING LUNG CANCER AND YET THEY WERE LIVING IN
26 L. A. AND SOME PEOPLE AT THAT TIME THOUGHT SMOG
27 MAYBE WAS THE CULPRIT. AND THEY SAID BUT HOW COULD
28 ALL THESE SEVENTH DAY ADVENTISTS LIVING IN L. A. ,

1 SOME OF THEM SMOGGIER PARTS, NOT BE GETTING IT?

2 SO THAT WAS ONE OF THE IMPORTANT
3 STUDIES THAT ESTABLISHED IS BECAUSE THEY DON' T
4 SMOKE.

5 SO THAT WAS AN IMPORTANT STUDY.

6 THEY WERE ALSO THE FIRST GROUP TO
7 DEVELOP SMOKING CESSATION CLINICS.

8 THEY CALLED THEM THE FIVE-DAY PLAN
9 AND THEY DID THIS IN 1962, TWO YEARS BEFORE THE
10 SURGEON GENERAL' S REPORT. AND THESE WERE GIVEN OUT
11 FREE. THESE WERE FREE CLINICS, HELD THROUGHOUT THE
12 COUNTRY, THROUGHOUT THE WORLD, AND DEVELOPED BY
13 PHYSICIANS AT LOMA LINDA UNIVERSITY.

14 AND THEN THEY HAD NUMEROUS
15 PUBLICATIONS LIKE "SMOKE SIGNALS. "

16 Q. SO ONE OF THE FIRST SYSTEMATIC
17 SMOKING CESSATION ORGANIZATIONS, "SYSTEMATIC"
18 MEANING IT WAS SPREAD THROUGHOUT THE COUNTRY AND
19 THE WORLD, WAS IT BEGUN IN 1962 BY A DOCTOR AT LOMA
20 LINDA?

21 A. RIGHT, ALONG WITH A PASTOR ALSO
22 FROM THE SEVENTH DAY ADVENTISTS AND PUBLISHED BY
23 PRENTICE HALL, PICKED UP BY THE WORLD HEALTH
24 ORGANIZATION.

25 Q. THE SMOKE SIGNALS THAT CAME OUT FOR
26 30 YEARS, HOW FREQUENTLY WAS THAT PUBLISHED?

27 A. MONTHLY.

28 Q. IT WAS DISTRIBUTED FREE, WHOEVER

1 WANTED TO LOOK AT IT?

2 A. FREE TO WHOEVER WANTED TO LOOK AT
3 IT, JUST LIKE THE CLINICS, ALL THEIR STUFF WAS
4 FREE.

5 Q. NOW, WHEN WE ARE TALKING ABOUT HOW
6 PEOPLE KNEW WHAT THEY KNEW, THIS PERIOD OF 1950 TO
7 1964, WHAT OTHER AVENUES ARE IMPORTANT TO MENTION?

8 A. I WOULD LIKE TO MENTION THE WORK,
9 AGAIN, OF THE AMERICAN CANCER SOCIETY. THIS IS
10 IMPORTANT BECAUSE NOT ONLY DID THEY DO LOTS OF
11 MEDIA STUFF, BUT THEY HAD POSTURES, THEY HAD
12 PAMPHLETS, THEY PUT TOGETHER SOME OF THE EARLIEST
13 FILMS ALONG WITH THE SEVENTH DAY ADVENTIST. THEY
14 WERE BIG INTO FILMS AND THEY FELT SO PASSIONATELY
15 ABOUT IT THAT THEY MADE THEM IN THEIR GARAGES AND
16 TOOK MORTGAGES ON THEIR HOMES TO MAKE THESE FILMS.
17 THAT'S VERY INSPIRATIONAL TO ME.

18 AND THE AMERICAN CANCER SOCIETY
19 ALSO DEVELOPED A PROGRAM PARTICULARLY AIMED AT
20 YOUNG PEOPLE, AND IN FACT, THE YEAR THAT MR. BOEKEN
21 BEGAN HIGH SCHOOL THEY DEVELOPED A PROGRAM IN 1959
22 WHICH WAS FOR CALIFORNIA SCHOOLS AND THEY HAD THIS
23 BIG PROGRAM, FILMS, TRIPS, FILMS, YOU KNOW,
24 PAMPHLETS, THEY BROUGHT IN DOCTORS TO TALK WITH
25 KIDS. IT WAS SUCH A BIG PROGRAM BEGINNING IN 1959
26 THROUGH THE EARLY '60'S THAT THEY WON A NATIONAL
27 AWARD FOR IT AS BEING THE MOST OUTSTANDING PROGRAM
28 IN THE NATION.

1 Q. LET ME STOP THERE FOR A MOMENT.
2 YOU WERE JUST MENTIONING BASICALLY
3 INFORMATION WARNING ABOUT THE HEALTH RISKS OF
4 SMOKING THAT WAS SHOWN IN SCHOOLS IN LOS ANGELES AT
5 ABOUT THIS TIME; RIGHT?

6 AND THIS IS -- YOU HAVE TO ANSWER
7 YES OR NO.

8 A. YES.

9 Q. AND THIS IS THE PERIOD OF TIME WHEN
10 MR. BOEKEN WAS IN HIGH SCHOOL?

11 A. THAT IS CORRECT.

12 Q. NOW, WE DON'T KNOW FOR SURE WHAT
13 MR. BOEKEN SAW OR DIDN'T SEE; RIGHT?

14 A. NO, WE CAN'T KNOW.

15 Q. SO WE CAN'T SAY FOR SURE THAT HE
16 SAW THOSE FILM STRIPS OR SAW ONE OF THOSE LECTURES.
17 BUT THAT WAS WHAT WAS BEING OFFERED AT HIGH SCHOOL
18 WHEN HE WAS IN HIGH SCHOOL. IS THAT FAIR TO SAY?

19 A. THAT'S ONE OF THE THINGS THAT WAS
20 BEING OFFERED TO TEACH KIDS ABOUT NOT SMOKING IN
21 HIGH SCHOOL.

22 Q. WHAT ELSE WAS BEING OFFERED IN HIGH
23 SCHOOLS AT THAT TIME TO TEACH KIDS ABOUT THE RISKS
24 OF SMOKING?

25 A. WELL, FOR EXAMPLE, HERE IN LOS
26 ANGELES, ONE OF THE CLASS OR THE CLASS IN SCIENCE
27 THAT WAS REQUIRED IN THE TENTH GRADE WHEN HE WAS AT
28 HOLLYWOOD HIGH SCHOOL WAS A CLASS CALLED LIFE

1 SCIENCE AND ALL TENTH GRADERS TOOK THIS CLASS.

2 AND ONE OF THE AUTHORIZED TEXTS BY
3 L. A. CITY SCHOOLS WHICH PICKED ITS OWN TEXTBOOKS AT
4 THE HIGH SCHOOL LEVEL WAS SOMETHING ON THE BOOK
5 CALLED THE EFFECTS OF ALCOHOL AND TOBACCO, YOU
6 KNOW, ON YOU, SOMETHING, LIKE THAT, APPROXIMATELY.

7 AND IT WAS A TEXTBOOK THAT TALKED
8 ABOUT THE RAYMOND PEARL STUDIES. IT TALKED ABOUT
9 THE INCREASING INCIDENCE OF LUNG CANCER AND THE
10 FACT THAT THERE HAD NOW BEEN PROVED A CONNECTION.

11 IT ALSO TALKED, BY THE WAY, ABOUT
12 ADVERTISING AND HOW ADVERTISERS WANT YOU TO USE
13 PRODUCTS BUT YOU NEED TO USE YOUR COMMON SENSE.

14 AND THIS WAS THE BOOK THAT WAS IN
15 THE L. A. CITY SCHOOLS AT THE TIME. IT WAS VERY
16 EXPLICIT.

17 Q. AND THIS IS LATE 1950'S AND INTO
18 THE EARLY 1960'S; IS THAT CORRECT?

19 A. THAT IS RIGHT, EVERY ONE OF THOSE
20 YEARS.

21 Q. SO WE ARE STILL IN THE PERIOD
22 BEFORE WE EVEN GET TO THE 1964 SURGEON GENERAL'S
23 REPORT; RIGHT?

24 A. YES, THAT IS CORRECT.

25 Q. ANYTHING ELSE ABOUT SCHOOLS OR
26 SHOULD WE MOVE ON TO OTHER THINGS?

27 A. I COULD TALK ABOUT THE ELEMENTARY
28 SCHOOLS BUT MAYBE THERE IS NOT TIME.

1 Q. AND WE THINK MR. BOEKEN WAS PAST
2 ELEMENTARY SCHOOL AT THAT TIME?

3 A. CORRECT.

4 Q. BUT THERE WERE ANTI-SMOKING CLASSES
5 OR INFORMATIONAL MATERIALS EVEN AT THE ELEMENTARY
6 SCHOOL LEVEL?

7 A. YES, AND THESE WERE STATE MANDATED
8 TEXT. THE SCHOOLS WERE FINED IF THEY DID NOT USE
9 THE TEXT. IN FOURTH GRADE, FIFTH GRADE, SIXTH
10 GRADE, SEVENTH GRADE AND EIGHTH GRADE THERE ARE ALL
11 DISCUSSIONS IN THE SCHOOL HEALTH TEXTBOOKS.

12 Q. WHAT ABOUT POPULAR CULTURE, MOVIES,
13 T. V. , WHICH WAS BECOMING MORE POPULAR, YOU SAID,
14 HOW DID THIS INFORMATION SEEP INTO POPULAR CULTURE
15 LIKE THAT?

16 A. WELL, I THINK THE WORD SEEP IS A
17 GOOD ONE. IT SEEPED DEEPLY INTO AMERICAN CULTURE.
18 YOU SAW IT IN ALL KINDS OF TELEVISION PROGRAMS,
19 JOKES, CARTOONS, MOVIES, MOVIES WITH ALL THE MAJOR
20 STARS, THE REFERENCES TO SMOKING IS BAD FOR YOU IN
21 DIFFERENT WAYS. OFTEN IT WASN'T VERY PREACHY. IT
22 WAS JUST THERE. IT WAS A PART OF CULTURE.

23 Q. DID YOU BRING AN EXAMPLE?

24 A. YES, I DID.

25 Q. I SEE IT IS FROM THE MOVIE "SEVEN
26 YEAR ITCH," FROM 1955?

27 A. YES, MID-50'S.

28 Q. BEFORE WE SHOW THE CLIP AND REMIND

1 THE JURORS WHO MIGHT NOT HAVE SEEN IT, WHETHER IT
2 WAS POPULAR, NOT POPULAR MOVIE?

3 A. THIS WAS ONE OF THE BIG MOVIES OF
4 THE 1950'S, THE "SEVEN YEAR ITCH" STARRED MARILYN
5 MONROE. AND PROBABLY MOST OF US HAVE SEEN THE
6 FAMOUS PICTURE OF MARILYN MONROE AS SHE IS HOLDING
7 DOWN HER SKIRT AS THE SUBWAY IS BLOWING IT UP. SHE
8 IS WEARING A WHITE DRESS.

9 AND THAT WAS THE PICTURE IN WHICH,
10 THIS IS THE FILM IN WHICH THAT SCENE WAS SHOT. AND
11 SO SHE WAS A REALLY BIG STAR.

12 THE FILM "SEVEN YEAR ITCH" WAS
13 BASED ON A PLAY THAT HAD RUN ON BROADWAY FOR A
14 NUMBER OF YEARS AND THE FELLOW WHO RECREATES THE
15 FILM ROLE WAS ALSO THE FELLOW WHO PLAYED IT ON
16 BROADWAY. SO IT WAS A REALLY, REALLY BIG SHOW

17 Q. AND WE HAVE A SHORT CLIP FROM THAT
18 MOVIE, IT IS 2.12.

19

20 (AT THIS TIME, THE VIDEO
21 WAS PLAYED)

22

23 Q BY MR. PIUZE: 1955.

24 A. HE NEEDS THAT TO CALM HIS NERVES
25 AFTER SEEING MARILYN MONROE.

26 Q. NOW, YOU ALSO TALKED A LITTLE BIT
27 BEFORE ABOUT SLANG.

28 HOW IS SLANG IMPORTANT DURING THIS

1 PERIOD?

2 A. WELL, AGAIN, SLANG IS A VERY RICH
3 CULTURAL INDICATOR OF WHAT PEOPLE FEEL ABOUT
4 THINGS. SLANG IS SORT OF CALL IT LIKE IT IS, SO TO
5 SPEAK.

6 Q. LET'S TAKE A LOOK AT NUMBER 22,
7 WHICH IS 11, 103. WHAT IS THAT?

8 A. THIS IS THE RANDOM HOUSE HISTORICAL
9 DICTIONARY OF AMERICAN SLANG THAT I GOT AT
10 SAN DIEGO STATE UNIVERSITY LIBRARY.

11 AND WHAT IT SHOWS HERE, BY THE WAY,
12 IS IT SHOWS THE CHANGE IN THE, WHAT WE CALL
13 CIGARETTES.

14 THE FIRST ONE YOU SEE IN 1959
15 THAT'S O. E. D. S. IS THE OXFORD ENGLISH DICTIONARY
16 SUPPLEMENT. "FIRST CANCER STICK TODAY. "

17 THEN YOU SEE "1964 NEW YORK HIGH
18 SCHOOL STUDENT: I QUIT SMOKING THEM DAMN CANCER
19 STICKS. "

20 WHAT I FOUND ALSO IN OTHER
21 HISTORICAL DICTIONARY OF SLANG IS BASICALLY THEY
22 PEG THE USE OF THE PHRASE "CANCER STICK" FROM ABOUT
23 1954, '56. AND THAT'S THE MODERN SLANG.

24 "COFFIN NAIL" HAS A MUCH OLDER
25 HISTORY. AND IF YOU LOOKED AT THAT SMALL PRINT A
26 LITTLE MORE FINELY, YOU WOULD SEE THAT THAT GOES
27 BACK REALLY TO THE 19TH CENTURY AS A TERM

28 Q. AND WE SAW "COFFIN NAILS" IN THAT

1 THREE STOOGES CLIP?

2 A. THAT IS RIGHT. THAT WAS THE COFFIN
3 NAIL CIGARETTE COMPANIES.

4 Q. BY THE WAY, COFFIN NAILS COME UP TO
5 1979 IN THE FILM "ROGER RABBIT," COFFIN NAILS, TWO
6 BUCKS A PACK.

7 NOW, DURING THIS PERIOD, 1950 TO
8 1964, WHICH YOU CHARACTERIZED AND I HAVE WRITTEN
9 DOWN ON THE CHART AS DANGER ESTABLISHED, I TAKE IT
10 THAT MEANS THAT AS WE MOVE FORWARD THROUGH THAT
11 PERIOD, THERE IS MORE AND MORE INFORMATION
12 ESTABLISHING THE DANGER IN THE POPULAR CULTURE, IS
13 THAT FAIR?

14 A. THAT'S RIGHT. IT IS, PEOPLE ARE
15 HAMMERED WITH THIS INFORMATION THROUGHOUT THE '50'S
16 AND SCIENTISTS ARE CLOSING DOWN ON MAKING THEIR
17 CASE.

18 Q. AND YOU HAVE FOUND VERY LARGE
19 VOLUMES OF INFORMATION ABOUT THE HEALTH RISKS
20 DURING THAT PERIOD FROM ALL SORTS OF DIFFERENT
21 SOURCES; RIGHT?

22 A. THAT'S TRUE. IN FACT, TO THE
23 EXTENT THAT BY 1963 THERE WAS A GAME SHOW CALLED
24 "PASS WORD," IT WAS AN OLD GAME SHOW AND SOMEBODY
25 WAS SUPPOSED TO ASSOCIATE ONE TERM WITH ANOTHER.

26 AND THERE WAS A SHOW WITH FLORENCE
27 HENDERSON AND TONY RANDALL, THE ACTOR, AND ONE OF
28 THEM SAYS "CANCER," AND THE OTHER ONE SAYS

1 "CIGARETTES," AND SO THIS, YOU KNOW, ONE-TO-ONE
2 CORRELATION IS BEING MADE BY THE END OF THAT
3 PERIOD.

4 Q. DURING THIS PERIOD, 1950 TO 1964,
5 DID YOU ALSO LOOK FOR MEDIA COVERAGE OF STATEMENTS
6 BY THE TOBACCO INDUSTRY ON HEALTH RISKS?

7 A. I DIDN'T LOOK FOR IT, PER SE, BUT
8 IT WAS THERE, BECAUSE IT WAS A PART OF THAT, YOU
9 KNOW, THAT WHOLE PERIOD AND ALL OF THE ARTICLES,
10 ESPECIALLY IN THE "LOS ANGELES TIMES" THAT I LOOKED
11 AT.

12 Q. THE FIRST QUESTION I WANTED TO ASK
13 YOU ABOUT THAT IS IN TERMS OF VOLUME, HOW WOULD YOU
14 COMPARE THE VOLUME OF INFORMATION THAT YOU FOUND
15 ABOUT THE HEALTH RISK OF SMOKING AS COMPARED TO THE
16 VOLUME OF INFORMATION SETTING FORTH THE TOBACCO
17 INDUSTRY'S POSITION?

18 A. THAT'S A VERY GOOD AND IMPORTANT
19 QUESTION BECAUSE VOLUME IS A PART OF WHAT YOU LOOK
20 AT AS A HISTORIAN TO SEE HOW IMPORTANT SOMETHING
21 IS. IT'S MENTIONED ONLY OCCASIONALLY AND YOU LOOK
22 AT IT WITH A DIFFERENT EYE FROM SOMETHING YOU SEE
23 ALL THE TIME.

24 AND IT WAS THERE BUT IT WAS VERY
25 INFREQUENT. AND IT WAS CERTAINLY VERY FEW, MAYBE 5
26 PERCENT OF THE ARTICLES MIGHT HAVE MADE A REFERENCE
27 TO THE TOBACCO INDUSTRY'S POSITION BUT
28 OVERWHELMINGLY IT'S THE HEADLINES THAT YOU SAW

1 BEFORE WHICH IS SCIENTISTS, DOCTORS ARE TELLING YOU
2 THIS IS BAD FOR YOU.

3 Q. FIVE PERCENT OF THE ARTICLES MIGHT
4 HAVE HAD A MENTION OF THE TOBACCO INDUSTRY' S
5 POSITION, DO YOU MEAN ANYWHERE IN THE ARTICLE?

6 A. THAT' S CORRECT, USUALLY TOWARDS THE
7 TAIL END OF IT.

8 Q. WAS THE VOLUME OF ARTICLES THAT
9 WERE PREDOMINANTLY ABOUT THE TOBACCO INDUSTRY' S
10 POSITION EVEN SMALLER THAN THAT?

11 A. OH, YES. VERY, VERY -- VERY SMALL.

12 Q. THE JURY HAS HEARD ABOUT THE FRANK
13 STATEMENT FROM 1954. DID YOU RUN ACROSS THAT?

14 A. YES, I DID.

15 Q. AND THAT WAS IN EARLY 1954; IS THAT
16 RIGHT?

17 A. THAT IS RIGHT.

18 Q. PUBLISHED IN A LOT OF NEWSPAPERS?

19 A. THAT IS RIGHT.

20 Q. HOW MANY DAYS DID IT RUN, TO YOUR
21 KNOWLEDGE?

22 A. IT RAN ONE DAY.

23 Q. SO OVERALL, WOULD YOU CONSIDER IT
24 ABOUT AN EVEN MATCH BETWEEN INFORMATION ABOUT THE
25 HEALTH RISKS AND THE TOBACCO INDUSTRY' S POSITION OR
26 SOMETHING DIFFERENT?

27 A. OVERWHELMINGLY, VERY, VERY TINY
28 PERCENTAGE OF INFORMATION, VERY TINY, FAR LESS THAN

1 ONE PERCENT OF THE TOBACCO INDUSTRY' S POSITION AS
2 BEING THE FOCUS. AND, YOU KNOW, OVERWHELMING
3 AMOUNT OF INFORMATION THAT WAS JUST ABOUT THE
4 HEALTH RISKS.

5 Q. DURING THIS PERIOD, 1950 TO 1964,
6 WHEN YOU DID SEE COVERAGE OF THE TOBACCO INDUSTRY' S
7 POSITION, WAS IT REPORTED NEUTRALLY OR WAS IT
8 REPORTED WITH EDITORIALIZING WITHIN THE STORY?

9 A. IT WAS REPORTED VERY NEUTRALLY.
10 HOW WE FELT, HOW THE PEOPLE IN THE CULTURE FELT
11 ABOUT BUSINESS WAS FAIRLY DIFFERENT IN THE 1950' S
12 AND EARLY 1960' S AND HOW BUSINESS NEWS MIGHT BE
13 TREATED TODAY, BUSINESS REACTIONS.

14 THIS WAS A PERIOD THAT WAS MADE
15 FAMOUS BY ONE OF -- DURING THE EISENHOWER PERIOD
16 WHERE SOMEONE SAID, WELL, WHAT' S GOOD FOR GENERAL
17 MOTORS IS GOOD FOR AMERICA.

18 SO BUSINESS, IN GENERAL, WAS
19 TREATED WITH A FAIR AMOUNT OF RESPECT.

20 Q. SO THE TOBACCO INDUSTRY' S POSITION,
21 AS YOU HAVE SEEN IT THROUGH WHAT YOU HAVE LOOKED
22 AT, NOT MUCH OF IT BUT REPORTED FAIRLY NEUTRALLY?

23 A. YES, BLANDLY.

24 Q. AND HOW IT WAS REPORTED IS, I
25 BELIEVE, GOING TO CHANGE OVER TIME?

26 A. IT CHANGES DRAMATICALLY OVER TIME.

27 Q. WE ARE GOING TO GET TO THAT A
28 LITTLE BIT LATER.

1 ANYTHING ELSE WE WANT TO TALK ABOUT
2 1950 TO 1964 OR ARE WE READY TO MOVE ONTO '64 TO
3 '80?

4 A. NO, I THINK THAT COVERS IT.

5 Q. OKAY. LET'S MOVE ON THEN TO 1964
6 TO 1980.

7 YOU CAN TAKE THAT OFF THE SCREEN,
8 PLEASE.

9 NOW, YOU CHARACTERIZED THE '50 TO
10 '64 AS DANGER ESTABLISHED.

11 HOW WOULD YOU CHARACTERIZE THE
12 PERIOD 1964 TO '80?

13 A. WELL, LET ME SAY THAT THE SURGEON
14 GENERAL'S REPORT KIND OF CONCLUDES THAT THIS IS ONE
15 OF THE BIG PUNCH LINES IS SOMETHING TO THE EFFECT
16 THAT THIS IS A SUFFICIENT HAZARD TO HUMAN HEALTH,
17 THAT THE GOVERNMENT MUST TAKE APPROPRIATE REMEDIAL
18 ACTION.

19 SO I THINK OF THIS AS THE PERIOD IN
20 WHICH REMEDIAL ACTION IS TAKEN.

21 Q. OKAY.

22 A. THERE'S A MOVE AWAY FROM A
23 SCIENTIFIC DEBATE, REALLY, FROM -- TOWARDS
24 ACTION-ORIENTED POLICIES.

25 Q. OKAY. REMEDIAL ACTION TAKEN. I
26 HAVE ILLEGIBLY SCRAWLED.

27 NOW, AGAIN, WHAT ARE THE PRINCIPLE
28 THEMES THAT YOU WANT TO TALK ABOUT FOR 1964 TO 1980

1 AND THEN WE WILL GO BACK AND TALK ABOUT EACH ONE
2 INDIVIDUALLY?

3 A. I THINK AN IMPORTANT PRINCIPLE
4 THEME OF THIS PERIOD, 1964 TO 1980, IS THAT IT'S A
5 PERIOD OF GOVERNMENT ACTIVISM WE NEED TO REMEMBER
6 WHO PUT THIS REPORT OUT AND WHAT GOVERNMENT'S ROLE
7 WAS AT THIS TIME.

8 THE REPORT ITSELF WAS UNDERTAKEN BY
9 JOHN KENNEDY. IT WAS PUBLISHED ABOUT A MONTH AND A
10 HALF AFTER HE WAS KILLED.

11 IT WAS PUBLISHED DURING THE SAME
12 MONTH THAT THE GOVERNMENT, UNDER LYNDON JOHNSON,
13 ANNOUNCED THE WAR ON POVERTY AND, OF COURSE, THIS
14 WAS THE YEAR OF THE 1964 CIVIL RIGHTS ACT.

15 IT WAS A PERIOD IN WHICH GOVERNMENT
16 TOOK UPON ITSELF THIS IDEA OF REALLY MAKING A
17 DIFFERENCE IN PEOPLE'S LIVES AND TRYING TO PROMOTE
18 JUSTICE AND GOOD HEALTH AND ALL KINDS OF THINGS.

19 SO A PERIOD OF GOVERNMENT ACTIVISM
20 IS ONE PART OF THIS.

21 ANOTHER THING THAT I THINK IS
22 IMPORTANT IS THAT IT IS A PERIOD OF TIME IN WHICH
23 MILLIONS OF PEOPLE TAKE APPROPRIATE REMEDIAL
24 ACTION.

25 THIS IS A PERIOD OF TIME IN WHICH
26 MILLIONS OF PEOPLE QUIT SMOKING CIGARETTES, SMOKING
27 CESSATION CLINICS ARE NOT ONLY SPONSORED BY THE
28 SEVENTH DAY ADVENTISTS AND BY THE AMERICAN CANCER

1 SOCIETY BUT BY THE L. A. COUNTY DEPARTMENT OF PUBLIC
2 HEALTH, BY SCHOOLS, BY, YOU KNOW, ALL KINDS OF
3 ORGANIZATIONS. IT'S ALSO A PERIOD OF TIME IN WHICH
4 THERE'S COMMERCIALS. ANTI-SMOKING CLINICS GET
5 INVENTED AND SCHICK AND ALL THOSE PEOPLE START
6 DOING IT TOO.

7 SO TAKING ACTION RESULTS IN
8 MILLIONS AND MILLIONS OF PEOPLE QUITTING SMOKING.

9 IT'S ALSO A PERIOD OF TIME IN WHICH
10 THE SURGEON GENERAL'S REPORT KIND OF EFFECTIVELY
11 CLOSES DEBATE ON THE ISSUE. IT'S, AS I SAID, IT'S
12 THAT KIND OF PASS WORD ASSOCIATION OF CANCER,
13 CIGARETTES.

14 SO WE MOVE TOWARDS THIS
15 ACTION-ORIENTED PERIOD.

16 IT'S ALSO A PERIOD OF TIME IN WHICH
17 THERE'S A RISE IN THE ECOLOGY AND THE CONSUMER
18 MOVEMENTS. AND THIS IS IMPORTANT. PEOPLE LIKE
19 RALPH NADIR START TO PUT A LOT OF PRESSURE ON
20 BUSINESS TO MAKE SAFER PRODUCTS.

21 THERE'S ALSO A PERIOD OF TIME IN
22 WHICH PEOPLE ARE BEGINNING TO WORRY REALLY A LOT
23 ABOUT POLLUTION AND, YOU KNOW, DOING THE
24 ECOLOGICALLY CORRECT THING.

25 AND THE LAST MAJOR POINT I WOULD
26 LIKE TO MAKE ABOUT THE '60'S, WHICH I THINK MOST
27 PEOPLE WILL RECOGNIZE IT WAS A PERIOD OF TIME IN
28 WHICH EVEN THOUGH PEOPLE WERE INCREASINGLY

1 CONCERNED ABOUT HEALTH, THERE WAS A LOT OF EMPHASIS
2 ON CHOICES AND TOLERANCE OF DIFFERENT LIFESTYLES,
3 AND PEOPLE KIND OF DOING THEIR OWN THING. AND EVEN
4 IF I DON'T APPROVE OF YOUR DOING SOMETHING, I HAVE
5 GOT TO LET YOU SORT OF DO IT BECAUSE, YOU KNOW,
6 THAT'S PART OF THE LIBERAL ERA OF THE 1960'S.

7 Q. IS THAT LAST POINT SOMETHING THAT
8 FOLLOWED CONSISTENTLY WITH WHAT WE SAW MR.
9 KIRLANDER FROM THE PUBLIC HEALTH SERVICE TALKING
10 ABOUT?

11 A. YES. ALTHOUGH IN THE '50'S THERE
12 WAS A LITTLE BIT OF A DIFFERENT FLAVOR THERE, IN
13 THE '50'S, THERE IS AN EMPHASIS ON AMERICA AND THE
14 AMERICAN WAY OF LIFE GIVES YOU FREE CHOICE.

15 IN THE '60'S, IT WAS MUCH MORE, YOU
16 KNOW, THIS IDEA OF LIFESTYLE TOLERANCE AND CHOICES
17 AND BEING YOUR OWN PERSON AND DOING THINGS YOUR OWN
18 WAY.

19 Q. LET'S GO BACK AND TALK ABOUT SOME
20 OF THESE AND MAYBE WE SHOULD START WITH THE 1964
21 SURGEON GENERAL'S REPORT, WHICH CAME OUT IN
22 JANUARY, 1964. WAS IT A BIG DEAL?

23 A. IT WAS AN INCREDIBLY BIG DEAL.

24 Q. WHAT DO YOU MEAN BY THAT?

25 A. WELL, AGAIN, THIS WAS SORT OF THE
26 LAST TESTAMENT OF THE KENNEDY ADMINISTRATION WHICH
27 WAS WIDELY MOURNED AT THE TIME.

28 Q. YOU MENTIONED A FEW MINUTES AGO

1 THIS REPORT CAME OUT JUST ABOUT SIX WEEKS AFTER
2 PRESIDENT KENNEDY WAS ASSONATED?

3 A. THAT IS RIGHT. AND THE REPORT HAD
4 BEEN LONG ANTICIPATED ANYWAY BECAUSE IT HAD BEEN
5 UNDER WAY FOR ABOUT 18 MONTHS OR SOMETHING AND ITS
6 FORMATION HAD BEEN REPORTED. HOW IT WAS COMING
7 ALONG HAD BEEN REPORTED. AND THEN WHEN IT WAS
8 GOING TO COME OUT, THAT, ITSELF, BECAME A BIG NEWS
9 STORY.

10 AND I THINK THAT WE REALLY HAVE TO
11 UNDERSTAND THAT IN THAT CONTEXT OF THE KENNEDY ERA,
12 AND ALSO THIS CONTEXT IN WHICH MEDICAL DOCTORS ARE
13 HELD IN ENORMOUS ESTEEM, MUCH, MUCH GREATER ESTEEM
14 THAN THEY ARE TODAY.

15 Q. LET'S SHOW SOME EXAMPLES OF
16 COVERAGE OF THE SURGEON GENERAL'S REPORT.

17 COULD YOU PUT UP 24, PLEASE. AND
18 WE WILL CALL THIS 11, 014.

19

20 * (EXHIBIT 11, 014, SLIDE,
21 MARKED FOR I. D.)

22

23 Q BY MR. LEITER: AND WHAT IS THAT?

24 A. WELL, THIS IS ONE OF THE
25 PRE-RELEASED NEWS ARTICLES THAT WAS, IN THIS CASE,
26 IN THE "L. A. TIMES," TELLING PEOPLE, OKAY, WE KNOW
27 YOU HAVE BEEN WAITING ON PINS AND NEEDLES, THE
28 REPORT IS GOING TO COME OUT THIS SATURDAY.

1 Q. LET' S LOOK AT 25, WHICH IS 11, 015.

2

3 * (EXHIBIT 11, 015, SLIDE,
4 MARKED FOR I. D.)

5

6 THE WITNESS: YES, THESE WERE THE FRONT
7 PAGE ARTICLES THAT RAN IN THE "L. A. TIMES" ON THE
8 DAY OF THE REPORT. SOME OF THEM, THERE WERE
9 ACTUALLY A NUMBER OF OTHER ARTICLES, BUT IT WAS
10 FRONT-PAGE NEWS. IT WAS NOT JUST FRONT-PAGE NEWS
11 IN THE "L. A. TIMES," IT WAS FRONT-PAGE NEWS IN
12 EVERY NEWSPAPER IN THE COUNTRY.

13 Q. AND DID THE "L. A. TIMES" IN
14 PARTICULAR COVER THIS STORY EXTENSIVELY?

15 A. YES. AND, YOU KNOW, I THINK IT IS
16 SO IMPORTANT FOR US TO REMEMBER THIS BECAUSE,
17 AGAIN, CALIFORNIA WAS A LEADER. IN FACT, "TIME"
18 MAGAZINE, PART OF THEIR LEAD ARTICLE ON THE SURGEON
19 GENERAL' S REPORT WAS -- I KNOW THAT IT' S BEEN
20 COVERED SO EXTENSIVELY, THE "L. A. TIMES" GAVE IT
21 44 RUNNING FEET OF COVERAGE THE DATE OF THE REPORT,
22 THE DAY AFTER THE REPORT.

23 Q. ONE QUESTION I FORGOT TO ASK YOU
24 BEFORE, A LITTLE LATER ON IN YOUR TESTIMONY WE ARE
25 GOING TO BE TALKING ABOUT SMOKING RATES AND
26 OBVIOUSLY MANY MORE PEOPLE SMOKED IN THE ' 50' S AND
27 ' 60' S THAN SMOKE TODAY; CORRECT?

28 A. THAT IS CORRECT.

1 Q. BACK IN THE 1950' S, HOW DID
2 CALIFORNIA SMOKING RATE COMPARED TO THE SMOKING
3 NATIONALLY?

4 A. WELL, CALIFORNIA LED IN A NUMBER OF
5 THINGS. ONE OF THE THINGS IT LED IN WAS SMOKING.
6 ACTUALLY, SMOKING WAS MORE WIDE SPREAD IN
7 CALIFORNIA THAN IN MOST OTHER PARTS OF THE COUNTRY.
8 IT WAS, YOU KNOW, A FAIR AMOUNT ABOVE THE NATIONAL
9 AVERAGE.

10 Q. BACK IN THE 1950' S?

11 A. IN THE 1950' S.

12 Q. AND WE ARE GOING TO SEE HOW THAT
13 CHANGES OVER TIME; CORRECT?

14 A. CORRECT.

15 Q. LET' S TAKE A LOOK AT NUMBER 26
16 WHICH IS 11, 016.

17

18 * (EXHIBIT 11, 016, SLIDE,
19 MARKED FOR I. D.)

20

21 Q BY MR. LEITER: THIS IS MORE OF
22 THE COVERAGE IN THE "LOS ANGELES TIMES" OF THE ' 64
23 SURGEON GENERAL' S REPORT?

24 A. THAT IS RIGHT. AND IT GIVES YOU A
25 SENSE OF ALL OF WHO IS INVOLVED IN THIS, YOU KNOW,
26 THE U. S. HEALTH SERVICE, THE AMERICAN CANCER
27 SOCIETY, THE FEDERAL TRADE COMMISSION, SCIENTIFIC
28 EXPERTS, LONDON, THE LAST ARTICLE BELOW IS ON THE

1 BRITISH STUDIES. SO IT'S EVERYWHERE.

2 Q. AND NUMBER 27, 11, 017.

3

4 * (EXHIBIT 11, 017, SLIDE,
5 MARKED FOR I. D.)

6

7 Q BY MR. LEITER: AGAIN, I SEE YOU
8 HAVE A SUMMARY OF THE SMOKING REPORT CONTAINED IN
9 THE "LOS ANGELES TIMES"?

10 A. YES, THEY ACTUALLY DID. THE
11 REPORT, OF COURSE, IS HUNDREDS OF PAGES SO THEY HAD
12 TO BOIL IT DOWN. BUT THEY RAN SEVERAL PAGES OF
13 EXCERPT FROM THE REPORT SO YOU COULD READ THE
14 REPORT YOURSELF, SORT OF LIKE PRESIDENTS THEN,
15 INAUGURAL SPEECHES OR SOMETHING.

16 AND THEY ALSO HAD ARTICLES ON
17 CULTURE. ONE ON THE LEFT, "AMERICANS KNEW THE
18 SMOKING HAZARDS LONG BEFORE THE REPORT WAS
19 STARTED," THAT WAS ON THE, YOU KNOW, ALL THIS
20 EARLIER COVERAGE, THIS 1950 TO 1964 PERIOD THAT WE
21 HAVE DISCUSSED.

22 Q. NOW, BY 1964, MOST PEOPLE HAD
23 TELEVISION; RIGHT?

24 A. THAT IS CORRECT.

25 Q. AND TELEVISION WAS A FAIRLY BIG
26 DEAL BY THEN?

27 A. OH, YES.

28 Q. AND THIS REPORT CAME OUT ON A

1 SATURDAY?

2 A. YES, IT DID.

3 Q. AND HOW DID THE T. V. NETWORKS,
4 THERE WERE ONLY THREE NETWORKS AT THE TIME; RIGHT?

5 A. RIGHT.

6 Q. HOW DID THE T. V. NETWORKS COVER THE
7 STORY?

8 A. WELL, THE T. V. NETWORKS, YOU KNOW,
9 FOCUSED ALL THEIR ATTENTION ON IT. AND IN FACT, I
10 THINK IT, IN A WAY, IS SLIGHTLY COMPARABLE TO WHEN
11 THE PRESIDENT WAS KILLED WEEKS BEFORE WHERE THE
12 T. V. 'S DID NOTHING FOR DAYS BUT COVER THIS.

13 AND IN THIS CASE, WHAT THEY DID
14 SPECIFICALLY WAS THAT THEY ALL THREE OF THE
15 NETWORKS RAN AN HOUR-LONG SPECIAL THE DAY OF THE
16 REPORT. AND THEY, YOU KNOW, HAD FOOTAGE OF DOCTOR
17 LUTHER TERRY WHO WROTE THE, PUT THE REPORT TOGETHER
18 AND WE BROUGHT A DEMONSTRATIVE ON THAT.

19 Q. LET'S SHOW A LITTLE CLIP, THIS IS
20 FROM THE CBS REPORT. IT'S 2.1. AND I THINK THE
21 COMMENTATOR IS A YOUNGER HARRY REASONER.

22

23 (AT THIS TIME, THE VIDEO
24 WAS PLAYED)

25

26 Q BY MR. LEITER: NOW, IN THE LAST
27 PART OF THAT CLIP, THE COMMENTATOR, MR. REASONER,
28 TALKED ABOUT CHOICE. WHAT EFFORTS WERE UNDERTAKEN

1 AFTER THE SURGEON GENERAL'S REPORT CAME OUT TO GET
2 THE WORD OUT ABOUT HEALTH RISKS OF SMOKING?

3 A. WELL, THE EFFORTS WERE ENORMOUS.
4 FOR EXAMPLE, ONE OF THE THINGS THAT THE SURGEON
5 GENERAL'S OFFICE DID IS THAT THEY SENT A COPY TO
6 EVERY PHYSICIAN IN THE UNITED STATES. AT THAT
7 TIME, THERE WERE 200,000 AMERICAN PHYSICIANS, AND
8 EVERY ONE OF THEM GOT A FREE COPY OF THE REPORT.

9 THEY ALSO TOOK ENORMOUS EFFORTS,
10 THEY BEGAN TO WORK WITH THE FEDERAL TRADE
11 COMMISSION AND OTHER GROUPS TO FIGURE OUT ABOUT
12 LABELING LAWS.

13 THEY BEGAN TO FUND RESEARCH ON
14 SAFER CIGARETTES. THAT'S PART OF THE REMEDIAL
15 ACTION, TRYING TO FIGURE OUT DO FILTERS DO
16 ANYTHING, WHAT IS THEIR ROLE.

17 AND THEN, OF COURSE, GROUPS LIKE
18 THE SEVENTH DAY ADVENTIST AND THE FIVE-DAY PLAN
19 MADE "TIME" MAGAZINE AND THE NATIONAL NEWS REPORTS.
20 AND FILMS WERE MADE ABOUT THEM

21 AND THE SCHOOLS, CALIFORNIA WAS,
22 AGAIN, A REALLY SIGNIFICANT LEADER IN THIS. AND IN
23 FACT, OUR GOVERNOR WAS THE FIRST GOVERNOR TO WARN
24 THE CITIZENS ABOUT SMOKING. AS HAD OUR DEPARTMENT
25 OF PUBLIC HEALTH EARLIER, THE CALIFORNIA MEDICAL
26 ASSOCIATION WHICH MET HERE IN LOS ANGELES, WHICH IS
27 THE MEDICAL ASSOCIATION FOR THE STATE OF
28 CALIFORNIA, WAS THE FIRST MEDICAL ASSOCIATION TO

1 COME OUT WITH A STAND, AGAIN, EVEN BEFORE THE
2 SURGEON GENERAL'S REPORT IN 1963, AND SAY, YOU
3 KNOW, WE KNOW THAT THERE IS THIS CONNECTION AND YOU
4 SHOULD NOT SMOKE FOR YOUR HEALTH. SO THERE WAS A
5 LOT THAT WAS DONE.

6 Q. IN ADDITION TO WARNINGS GOING ON
7 THE PACK WHICH WAS 1966; IS THAT CORRECT?

8 A. YES, THAT IS CORRECT.

9 Q. AND A FEW YEARS LATER THEY WENT ON
10 ADVERTISEMENTS; CORRECT?

11 A. THAT IS RIGHT, IN 1972.

12 Q. SO THOSE WERE REFERENCED BY THE
13 GOVERNMENT, AT THE FEDERAL LEVEL, AND YOU WERE
14 MENTIONING EFFORTS BY THE GOVERNMENT HERE IN
15 CALIFORNIA, AT THE STATE LEVEL AND AT THE LOCAL
16 LEVEL; IS THAT RIGHT?

17 A. THAT IS RIGHT.

18 Q. AND WHAT ABOUT PUBLIC HEALTH
19 ORGANIZATIONS LIKE THE AMERICAN CANCER SOCIETY?

20 A. WELL, ONE OF THE THINGS THEY DID
21 WAS TO CONTINUE TO DEVELOP THEIR FILM AND RADIO AND
22 T. V. DIVISIONS AND THEY, FOR EXAMPLE, ALONG WITH
23 THE AMERICAN LUNG ASSOCIATION AND OTHER GROUPS,
24 DEVELOPED AN INCREDIBLE ASSAULT THROUGH THE
25 AIRWAVES, THROUGH WHAT ARE CALLED PUBLIC SERVICE
26 ANNOUNCEMENTS. AND THESE ARE ANNOUNCEMENTS THAT
27 TELEVISION AND RADIO STATIONS AIR FOR FREE.
28 ALTHOUGH, OF COURSE, IT COSTS THE SOCIETIES A FAIR

1 AMOUNT OF MONEY TO PUT THEM TOGETHER AND MAKE THEM
2 REALLY LOOK GOOD.

3 AND SO THAT WAS ENORMOUSLY
4 EFFECTIVE AS WELL. PEOPLE, YOU KNOW, IF THEY
5 TURNED ON THE T. V. , IF THEY TURNED ON THE RADIO,
6 EVEN IF THEY WEREN'T A NEWSPAPER WATCHER, IN OTHER
7 WORDS, THE GOVERNMENT, FOR EXAMPLE, ONE OF THE
8 THINGS THE GOVERNMENT DID WAS THAT IT PUT POSTERS
9 ON THE SIDES OF ALL THE MAIL TRUCKS THAT SAID
10 100,000 DOCTORS HAVE QUIT, MAYBE THEY KNOW
11 SOMETHING YOU DON'T.

12 AND SO, YOU KNOW, BILLBOARDS, POST
13 OFFICE TRUCKS, BUSES HAD SIGNS ON THEM I KNOW
14 SAN DIEGO COUNTY OF WHICH, OF COURSE, I AM A BIT
15 MORE FAMILIAR EVEN, THERE WAS A WHOLE CAMPAIGN
16 INSIDE THE CITY TRANSIT BUSES.

17 SO IF YOU DIDN'T OWN A CAR, YOU
18 KNOW, YOU DIDN'T OWN A T. V. , IT'S, AGAIN, IT'S THIS
19 WHOLE NOTION OF COMMON KNOWLEDGE. IT'S NOT
20 SOMETHING YOU CAN GET AWAY FROM

21 Q. AND IT'S NOT SOMETHING THAT PEOPLE
22 HEARD JUST FROM THE WARNINGS ON THE PACK FROM THE
23 SURGEON GENERAL; FAIR?

24 A. THAT'S QUITE FAIR.

25 Q. HEARD FROM LOTS OF DIFFERENT
26 SOURCES, GOVERNMENT, NON-GOVERNMENT, PUBLIC HEALTH
27 ORGANIZATIONS; IS THAT RIGHT?

28 A. YES. THEY JUST HEARD IT FROM

1 EVERYWHERE. IT REALLY BECAME TRULY COMMON
2 KNOWLEDGE.

3 Q. AND YOU TALKED ABOUT, YOU TALKED
4 ABOUT FAMILY INTERACTION AS WELL TOO.

5 HOW DOES THAT PLAY A ROLE HERE?

6 A. WELL, THAT'S AN INTERESTING THING.
7 THERE'S ACTUALLY, BELIEVE IT OR NOT, A BRANCH OF
8 HISTORY CALLED FAMILY HISTORY. REALLY MOST PEOPLE
9 THINK FAMILY ARE NOT A HISTORICAL SUBJECT BUT THEY
10 ACTUALLY ARE, AND THAT'S, IN FACT, I HAVE TAUGHT A
11 CLASS ON THAT.

12 ONE OF THE INTERESTING THINGS TO ME
13 AS A HISTORIAN IS TO LOOK AT THE ROLES THAT
14 FAMILIES HAVE PLAYED IN SMOKING. ALL OF THE
15 STUDIES THAT WERE DONE OR MOST OF THE STUDIES
16 THROUGHOUT THE '50'S AND '60'S ON SMOKING AND
17 FAMILY SHOWS THAT THE GREATEST PREDICTOR OF WHETHER
18 SOMEBODY WOULD SMOKE IS WHETHER THEIR PARENT
19 SMOKED. IF TWO PARENTS SMOKED, THEY WERE MORE THAN
20 LIKELY TO SMOKE. IF ONLY ONE PARENT SMOKED, A
21 LITTLE LESS LIKELY. IF YOU WERE A GIRL AND YOUR
22 MOTHER SMOKED, YOU WERE MORE LIKELY TO SMOKE. IF
23 YOU WERE A BOY AND YOUR FATHER SMOKED THAT HAD A
24 MORE PROFOUND INFLUENCE. IF YOUR OLDER SIBLING
25 SMOKED, THAT HAD A VERY PROFOUND -- SO THE
26 INTERESTING THING IS THAT THE OLDER MEMBERS OF THE
27 FAMILY INFLUENCED THE YOUNGER MEMBERS OF THE FAMILY
28 TO SMOKE.

1 AND THIS WAS CONSIDERED WIDELY BY
2 DR. HORN, FOR EXAMPLE, WHO DID THE FIRST STUDIES ON
3 THIS, THAT THIS WAS THE BIGGEST INDICATOR. BUT
4 THERE WAS ALSO A DIFFERENT EFFECT COMING OUT FROM
5 BELOW BECAUSE CHILDREN EMERGED AS MOST IMPORTANT
6 CRUSADERS FOR GETTING PARENTS NOT TO SMOKE, WHICH I
7 THINK HAS A VERY POIGNANT, HOW THEY'RE SORT OF
8 GOING IN DIFFERENT DIRECTIONS.

9 AND THE HEALTH, H. E. W., HEALTH,
10 EDUCATION AND WELFARE DID A STUDY WHICH SHOWED THAT
11 MOTHERS, 50 PERCENT OF MOTHERS HAD BEEN TOLD BY
12 THEIR KIDS, "MOM, DON'T SMOKE."

13 Q. FAIR TO SAY THAT IN YOUR SEARCH OF
14 THIS PERIOD, 1964 TO 1980, THE VOLUME OF
15 INFORMATION THAT WAS OUT THERE ABOUT THE HEALTH
16 RISK WAS, YOU PICK A WORD, BIG? SMALL? MASSIVE?
17 ENORMOUS?

18 A. GIGANTIC.

19 IT WAS, IT WAS EVERYWHERE. IT WAS
20 AN OVERWHELMING VOLUME. IT WOULD BE LIKE BEING IN
21 A DOWNPOUR. YOU KNOW, YOU DON'T KNOW WHICH DROP
22 MAKES YOU WET, BUT IT DOESN'T REALLY MATTER BECAUSE
23 YOU GET WET.

24 Q. NOW, WE CAN'T SHOW THE DOWNPOUR,
25 BUT WE CAN SHOW A FEW EXAMPLES. AND MAYBE WE
26 SHOULD START WITH NUMBER 20, WHICH WE WILL CALL
27 11, 018.

28 /// /// ///

1 * (EXHIBIT 11, 018, SLIDE,
2 MARKED FOR I. D.)

3

4 Q BY MR. LEITER: WHAT IS THAT?

5 A. WELL, THIS SHOWS THE LOGO OF THE
6 AMERICAN CANCER SOCIETY. THIS IS A COPY OF THEIR
7 ANNUAL REPORT FROM 1965. AND THEY WERE, THEY
8 SHOWED IN A REPORT ONE OF THEIR POSTERS. AND THEY
9 HAD POSTERS OF ALL DIFFERENT TYPES, JUST AN
10 AMAZINGLY EFFECTIVE CAMPAIGN.

11 AND THIS PARTICULAR POSTER REFERS
12 DIRECTLY, OF COURSE, TO THE SURGEON GENERAL'S
13 WARNING, "CONGRESS HAS ACTED, THE NEXT STEP IS
14 YOURS. "

15 SO THIS EMPHASIS ON REMEDIAL
16 ACTION, YOU MUST TAKE THE FIRST STEP.

17 Q. LET'S TAKE A LOOK AT NUMBER 36,
18 WHICH IS 11, 019.

19

20 * (EXHIBIT 11, 019, SLIDE,
21 MARKED FOR I. D.)

22

23 Q BY MR. LEITER: NOW, YOU
24 MENTIONED, DR. HOFFMAN, EARLIER, ABOUT INFORMATION
25 ABOUT THE HEALTH RISKS BEING ALL OVER THE
26 NEWSPAPER, NOT JUST IN THE NEWS SECTION.

27 IS THIS AN EXAMPLE OF PEOPLE
28 FINDING INFORMATION IN OTHER PARTS OF THE

1 NEWSPAPER?

2 A. YES. THESE ARE PRIMARILY, NOT
3 ENTIRELY, BUT PRIMARILY EDITORIAL SECTIONS AND
4 BECAUSE THE TYPE IS SMALL, I AM GOING TO TELL YOU
5 WHAT IT SAYS.

6 THE CARTOON SAYS, "COME NOW, CLANCY
7 - YOU CAN'T GIVE UP BREATHING." AND IT SHOWS A NEW
8 YORK POLICE OFFICER HOLDING HIS BREATH BECAUSE IN
9 THE BACKGROUND THE NEWSPAPER IS BEING HELD BY
10 SOMEBODY WHICH COMPARES BREATHING NEW YORK CITY AIR
11 TO TWO PACKS OF CIGARETTES.

12 Q. BREATHING NEW YORK AIR EQUAL TO
13 MAYBE TWO PACKS OF CIGARETTES A DAY?

14 A. RIGHT. AND I TOOK MOST OF THIS,
15 PARTICULARLY BY THE WAY, BECAUSE MR. BOEKEN, IN HIS
16 DEPOSITION, SAID, OH, YEAH, I SAW NEWS ABOUT SMDG
17 ALL THE TIME. AND WE ALWAYS HEARD, BEING IN L. A,
18 OF COURSE, THAT SMDG IS DANGEROUS.

19 AND WHAT I FOUND SO INTERESTING IS
20 EVERY TIME I FOUND AN ARTICLE ON SMDG, I FOUND
21 REFERENCES TO CIGARETTES BECAUSE PEOPLE WOULD
22 COMPARE IT, THEY WOULD SAY, OKAY, THE SMDG TODAY IS
23 LIKE SMOKING TWO CIGARETTES. OR, YOU KNOW, WHICH
24 IS WORSE, SMDG OR CIGARETTES.

25 SO THAT WAS A PART OF THOSE
26 DISCUSSIONS ALL ALONG. AND YOU SEE IT HERE ON THE
27 EDITORIAL PAGE IN A CARTOON.

28 SOME OF THESE OTHERS, THE UPPER

1 RIGHT ONE SHOWS TOMBSTONES AND A GRAVEYARD. AND,
2 OF COURSE, MARLBORO IS THE FRONT TOMBSTONE, SALEM
3 AND I GUESS IT GOES BACK ALL THESE CIGARETTE
4 BRANDS.

5 AND THE ONE IN THE MIDDLE BELOW
6 SHOWS A MEDICAL WARD, AND AT THE BACK IT SAYS
7 "CANCER WARD." AND THEN SAYS "COME TO WHERE THE
8 FLAVOR IS."

9 Q. AND "COME TO WHERE THE FLAVOR IS"
10 WAS ONE OF THE ADVERTISING SLOGANS OF?

11 A. OF PHILIP MORRIS. OF THE MARLBORO
12 CAMPAIGN, RIGHT. AND ACTUALLY THEY USED THAT A LOT
13 IN THESE SORTS OF ADVERTISING SLOGANS.

14 THE BOTTOM RIGHT ONE, BY THE WAY, I
15 WANT TO SHOW YOU, COMES FROM A LITTLE BIT LATER IN
16 THE SAME PERIOD, 1979. THIS I ACTUALLY TOOK OUT OF
17 THE H. E. W. PUBLICATION CALLED "SMOKING DIGEST."
18 AND IT SAYS, YOU KNOW, "SMOKERS HAVE BECOME A
19 TROUBLED MINORITY."

20 YOU REMEMBER THAT HARRY REASONER
21 SHOW, AND IT SHOWED ALL THOSE SMOKERS JUST HAVING A
22 GOOD TIME OUT THERE SMOKING AND LAUGHING. AND,
23 BOY, BY THIS TIME, IT IS VERY DIFFERENT. THE BODY
24 LANGUAGE ITSELF HAS CHANGED. A SMOKER HAS HIS
25 CIGARETTE BEHIND HIS BACK. EVERYBODY IS KIND OF
26 LOOKING AT HIM LIKE WHAT'S WRONG WITH YOU, WHAT ARE
27 YOU DOING. AND SO I THINK IT CAPTURES VERY WELL
28 THE DIFFERENT MOODS OF THIS LATER PERIOD.

1 Q. JUST BEFORE WE BREAK FOR LUNCH, I
2 WANT TO SHOW A COUPLE MORE VIDEO CLIPS. THE FIRST
3 ONE IS 2.4, A CBS REPORT CALLED "IF YOU MUST
4 SMOKE," AND CAN YOU JUST TELL US WHAT THAT'S ABOUT
5 AND WE WILL SHOW IT IN A SECOND.

6 A. YES. THE FEDERAL GOVERNMENT BECAME
7 CONCERNED ABOUT HOW TO HELP PEOPLE WHO WERE GOING
8 TO SMOKE, WHO DECIDED THAT THEY WERE GOING TO SMOKE
9 AND WEREN'T QUITTING, WEREN'T TAKING THIS
10 APPROPRIATE REMEDIAL ACTION.

11 AND SO REMEDIATION AS A TERM MEANS
12 GETTING CLOSER TO DOING WHAT'S RIGHT. AND SO ONE
13 OF THE THINGS THAT THEY EMPHASIZED, AND THERE WAS A
14 LOT OF RESEARCH BY DR. HAMMOND AND ALSO BY
15 DR. WYNDER ON FILTERS. AND SO THEY PUT OUT A
16 PAMPHLET THAT THEN WAS PICKED UP ON BY THE NEWS.
17 THE NEWS TOLD YOU ABOUT THE PAMPHLET ABOUT, YOU
18 KNOW, HOW YOU CAN MODIFY YOUR SMOKING TO LESSEN
19 YOUR RISK OF CANCER.

20 Q. LET'S TAKE A LOOK AT THAT CLIP,
21 2.4.

22

23 (AT THIS, THE VIDEO WAS
24 PLAYED)

25

26 Q BY MR. LEITER: AND THAT CAME FROM
27 WHO AGAIN?

28 A. THAT WAS A FEDERAL PAMPHLET ON HOW

1 TO STOP, NOT HOW TO STOP, IN THIS CASE, BUT WHAT TO
2 DO IF YOU CONTINUED TO SMOKE.

3 Q. ADVISING PEOPLE THAT IF THEY ARE
4 GOING TO CONTINUE TO SMOKE, THEY SHOULD SWITCH TO A
5 LOW TAR CIGARETTE AND NOT INHALE AS MUCH?

6 A. THAT IS RIGHT. AND YOU, BY THE
7 WAY, SEE THAT THIS MESSAGE GETS THROUGH IN A
8 VARIETY OF WAYS. ONE IS THAT CONSUMPTION OF LOW
9 TAR CIGARETTES GOES WAY UP, CONSUMPTION OF FILTER
10 CIGARETTES GOES WAY UP. VERY, VERY FEW PEOPLE NOW
11 SMOKE UNFILTERED, HIGH TAR, HIGH NICOTINE
12 CIGARETTES.

13 Q. RIGHT. NOW, THE LAST THING I WOULD
14 LIKE TO DO BEFORE LUNCH, WE JUST HAVE A COUPLE
15 MINUTES TO GO, THIS PERIOD WAS ALSO WHEN THERE WAS
16 A LARGE INCREASE IN PUBLIC SERVICE ANNOUNCEMENTS ON
17 TELEVISION, RADIO, ELSEWHERE; IS THAT CORRECT?

18 A. THAT IS CORRECT.

19 Q. PUBLIC SERVICE ANNOUNCEMENTS
20 WARNING PEOPLE ABOUT THE RISKS OF SMOKING; IS THAT
21 RIGHT?

22 A. THAT IS RIGHT.

23 Q. OKAY. YOU HAVE SELECTED FOUR
24 EXAMPLES, EACH ONE IS EITHER 30 SECONDS OR A
25 MINUTE. WHY DON'T WE SHOW THE JURY THOSE.

26 A. OKAY, THANK YOU.

27 Q. AND THESE WERE PUT OUT BY WHOM I
28 AM SORRY?

1 A. ALL OF THESE ARE THE AMERICAN
2 CANCER SOCIETY. BUT I WANT TO MENTION THAT ANOTHER
3 BIG CAMPAIGN WAS BY THE AMERICAN LUNG ASSOCIATION,
4 WHOSE SLOGAN WAS "IT'S A MATTER OF LIFE AND
5 BREATH," WHICH, FRANKLY, IS THE ONE I REMEMBER FROM
6 MY CHILDHOOD BEST.

7 Q. LET'S TAKE A LOOK AT THESE FOUR.
8 2.8 IS THE FIRST ONE.

9

10 (AT THIS TIME, THE VIDEO
11 WAS PLAYED)

12

13 MR. LEITER: NEXT ONE IS 2.9.

14

15 (AT THIS TIME, THE VIDEO
16 WAS PLAYED)

17

18 MR. LEITER: 2.3.

19

20 (AT THIS TIME THE VIDEO
21 WAS PLAYED)

22

23 MR. LEITER: THE LAST ONE IS 2.15.

24

25 (AT THIS TIME, THE VIDEO
26 WAS PLAYED)

27 /// /// ///

28 /// /// ///

1	DESCRIPTION	IDENTIFICATION	EVIDENCE	VOL.
2	11,000 - SLIDE	3800		24
3	11,001 - SLIDE	3801		24
4	11,002 - SLIDE	3804		24
5	11,003 - SLIDE	3806		24
6	11,004 - SLIDE	3818		24
7	11,005 - SLIDE	3816		24
8	11,006 - SLIDE	3817		24
9	11,007 - SLIDE	3819		24
10	11,009 - SLIDE	3831		24
11	11,010 - SLIDE	3832		24
12	11,011 - SLIDE	3839		24
13	11,012 - SLIDE	3840		24
14	11,013 - VIDEO			
15	11,014 - SLIDE	3857		24
16	11,015 - SLIDE	3858		24
17	11,016 - SLIDE	3859		24
18	11,017 - SLIDE	3860		24
19	11,018 - SLIDE	3867		24
20	11,019 - SLIDE	3867		24
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