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

-----X
FLORENCE NEMETH and FRANCIS NEMETH,

Plaintiffs,

-against-

WHITTAKER CLARK & DANIELS, INC.

Defendant.
-----X

Index No. 190138/2014

New York Supreme Court
60 Centre Street
New York, New York 10007
March 3, 2017

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

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

LEVY KONIGSBERG LLP
Attorneys for the Plaintiffs
800 Third Avenue
New York, New York 10022
BY: JAMES M. KRAMER, ESQ.
AND: ROBERT KOMITOR, ESQ.
AND: NICHOLAS E. NOVACK, ESQ.

LANDMAN CORSI BALLAINE & FORD P.C.
Attorneys for the Defendant
One Gateway Center - 4th Floor
Newark, New Jersey 07102
BY: CHRISTOPHER S. KOZAK, ESQ.
AND: ANDREW KORNBLAU, ESQ.

Lori Ann Sacco
Official Court Reporter

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2 THE COURT: Good morning. Last week counsel
3 for Whittaker, Clark and Daniels made an in limine
4 motion to preclude the expert testimony of Dr.
5 Jacqueline Moline. That motion was denied without
6 prejudice to seeking an application for a directed
7 verdict or other prayer for relief during the course
8 of this trial.

9 Before the Court is a motion to renew that
10 application or motion seeking in limine relief
11 grounded on a recent Appellate Division decision that
12 was issued this week by the First Department, Juni
13 against Ford Motors.

14 Before the Court is an affirmation of Mr.
15 Kozak. Is there a written opposition?

16 MR. KRAMER: There was, your Honor. It was
17 e-mailed last night.

18 THE COURT: I have not open my e-mail this
19 morning, because I usually check that first. For
20 purposes of the record, I assume you got a copy of
21 that opposition?

22 MR. KOZAK: Received it last night around
23 11:30 or so.

24 THE COURT: Okay. We'll generate it. Part
25 of this record will be your opposition to that
26 renewal motion. Suffice to say, as I mentioned to

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2 counsel yesterday, the entire record, that in limine
3 motion practice, including the exhibits, are deemed
4 to be incorporated by reference and adopted by
5 respective parties here on this application for
6 renewal without the need to renumber, remake, remark
7 that respective Court exhibit. So that part is fully
8 preserved. Is that satisfactorily to respective
9 counsel?

10 MR. KRAMER: Yes, your Honor.

11 MR. KOZAK: Yes. Thank you.

12 THE COURT: Okay. Again without necessarily
13 limiting your remarks, Mr. Kozak, I do recognize that
14 you will have to reference in some part some of the
15 arguments that were made last week. I don't mean
16 argumentative in the pejorative sense.

17 MR. KOZAK: I didn't take it that way.

18 THE COURT: As well as you, Mr. Kramer. That
19 being said, you have properly made a new motion
20 procedurally, as you were apprised of new law that
21 may impact on the issue of causation. So, that part
22 is correct. The issue is whether it would be
23 granted. Fair enough?

24 MR. KOZAK: Fair enough.

25 THE COURT: You may proceed.

26 MR. KOZAK: Your Honor, this is Whittaker's

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2 motion to renew its general and specific causation
3 motion, which we argued last Thursday. Your Honor
4 has said in the past many times before me and other
5 cases, in this case I believe too, that this is a
6 mature litigation. I've also heard you say that
7 litigation is always changing. So, it's interesting
8 to all of us.

9 Until this week we did not have, we the
10 defendants, did not have an upper level court
11 decision advancing the causation prerequisites of
12 Parker, Cornell and Sean R. in an asbestos case. And
13 the defense has sort of been criticized along the
14 way, because there wasn't a connection between those
15 cases in the toxic tort context and an asbestos case.
16 And now we have our first upper level decision that
17 ties those cases with asbestos. And I think that's
18 important. And that's why this motion is so
19 significant.

20 On Tuesday the First Department issued the
21 decision that I believe is binding and controlling on
22 this Court and requires the Court to vacate its
23 February 23rd, 2017 ruling on the record and grant
24 Whittaker's motion to preclude Dr. Moline from
25 testify on general and specific causation based on a
26 limited record provided in this case by Dr. Moline.

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2 And just because I think it helps for, as a preview,
3 for your Honor as to where I'm going, I have about
4 six points, six major areas that I'm going to go
5 into. They are general causation. Specific
6 causation that focuses on the product now as opposed
7 to just asbestos. Visible dust, not the standard
8 anymore. It's now ADF. And I'll explain that to you
9 in a few minutes. The cumulative theory doesn't have
10 science to support it and the ADF problem, amount
11 duration, frequencies. And the fifth area, the
12 contents of the dust being unknown in the Juni case
13 and in this case. And I would like do address the
14 plaintiffs' opposition that I received late last
15 night through no fault of anyone. I got it late last
16 night, but I want to address that.

17 So, on general causation, the Juni court held
18 now that generalizations are no longer acceptable.
19 The Juni court examined on page 11 that broad
20 conclusions on causation necessarily lack foundation
21 and are legally insufficient. And by that I mean,
22 and by that the Court means, as I understood it by
23 reading the decision very thoroughly, many times,
24 trying to piece it together, but I understand that
25 statement to mean, saying increased risk or that
26 there is a known association is no longer acceptable

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2 in an asbestos case. Saying asbestos in low doses is
3 linked to mesothelioma is no longer acceptable.
4 Those two conclusions by the Juni court are on pages,
5 five, six and 11.

6 For the same reasons saying no safe level
7 does not support general causation. What the Court
8 has said is that a lot more needs to be proven and
9 demonstrated pretrial because Parker, Cornell and
10 Sean R. are all pretrial decisions, a lot more needs
11 to be proven before an expert can testify in front of
12 a jury.

13 The concurrence cites Cornell, which explain
14 that the references to risk, linkage and association
15 are not sufficient in themselves to establish
16 causation. That's on page 16.

17 Last week the Court's ruling in this case
18 stated that it assumes there will be a body of
19 literature and studies to support general causation
20 and that was on page 22 of the transcript from last
21 week. I understood that to mean cosmetic talc used
22 by a consumer can cause peritoneal mesothelioma. The
23 Court also said, "There will be a wealth of
24 literature, since the 1960s, that have supported the
25 notion in the scientific community that low dose,
26 short term exposures to asbestos causes

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2 mesothelioma." And that was on page 23.

3 In Juni the Court rejected reports and
4 studies relied on that only showed an association.
5 And that was on page 8, or low doses, and that was on
6 page 11. Here the record is far less than Juni.
7 There have been no reports or studies showing a
8 credible association between cosmetic talc and
9 peritoneal mesothelioma. The only medical evidence
10 that's on this record before this Court pretrial are
11 two articles. The Andrion article, which is the one
12 about the 17-year-old boy. And on page 621 and 622
13 in that article it specifically states that the
14 authors cannot state with certainty that the disease
15 was asbestos related. Can't rely on that one. The
16 Gordon article was the other one. The Gordon article
17 says nothing about cause and effect.

18 So, on general causation there is nothing on
19 this record before this Court that is specific and
20 not a broad conclusion. That is no longer accepted
21 per Juni.

22 On specific causation the Juni Court has now
23 focused on the product and not the mineral asbestos.
24 Specifically the Juni court held that it's
25 insufficient for causation purposes to "merely
26 establish some exposure to a product containing any

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2 amount of asbestos." That was on page 11, at the end
3 of the decision. Rather the Court notes that Parker
4 and Cornell require, that was the First Department's
5 words, not mine, they say, "require that a plaintiff
6 [in an asbestos case] establish some scientific basis
7 for a finding of causation attributable to a
8 particular defendant's product." And I emphasize "a
9 particular defendant's product", because now it's
10 product specific. That was on page 11. There are
11 three or four occasions in the majority decision
12 where it talks about the defendant's particular
13 product.

14 The Court stated that the "causation expert"
15 on page 5 "must establish that the plaintiff was
16 exposed to sufficient levels of the toxin from the
17 defendant's product to have caused his disease." So,
18 with Juni the focus is now on the product and its
19 particular contents and how and whether they get out
20 and no more arguments that asbestos content
21 automatically establishes causation.

22 So, for visible dust and this new ADF
23 standard. The Juni court made clear, and maybe I was
24 a little abrupt on Tuesday night when I read the
25 decision, that I said that it's rejected. I read it
26 closely. Now I understand where the Court is coming

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2 from and our conversation with Mr. Kramer present the
3 other day.

4 The Juni court made clear that Lustenring and
5 Penn and those cases are based on the discreet facts
6 in those cases and the products in those cases, which
7 everyone agrees are not the products in this case.
8 The Juni court went on to explain that the mere
9 presence of visible dust is not sufficient alone to
10 prove causation. That was on page 10.

11 Last week your Honor said something similar,
12 very similar to that. Your Honor said -- I don't
13 have the page quote here, but it is in the record. I
14 could provide the Court with the page in a moment.
15 But "visible dust, among other factors, can be a
16 scientific expression, based on other information
17 that will establish exposure to a product, whether
18 asbestos containing intentionally or unintentionally,
19 with respect to the exposure being regular, in close
20 proximity and with great frequency when in use." To
21 me -- I could provide the Court with a page number.

22 THE COURT: No. I'm okay. Sounds like
23 something I said.

24 MR. KOZAK: To me, having had this discussion
25 with you on the record in this case and many others,
26 to me I understood that to be you talking about

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2 Lohrmann, the Lohrmann sort of concept where you look
3 at a number of factors. And the interesting thing
4 about the Juni decision is that while it comes close
5 to citing Lohrmann in the majority, it does not. It
6 actually takes steps towards the frequency,
7 regularity and proximity standard. And then to me,
8 and this is very important, pivoted and added the New
9 York toxic tort juris prudence. By that I mean this
10 new rule, again not my word, the First Department's
11 word, the rule --

12 MR. KRAMER: Where does it say new rule?

13 MR. KOZAK: It's page 10.

14 MR. KRAMER: Okay.

15 MR. KOZAK: It says, "the rule requiring at
16 least some quantification or means of assessing the
17 amount, duration and frequency of exposure". So
18 instead of --

19 THE COURT: So, let me cut through the chase.
20 And I don't mean to interrupt, because I will let you
21 complete all the six points you want to make for the
22 record, but this is a good point for me to jump in.

23 MR. KOZAK: Understood.

24 THE COURT: First of all, what must be made
25 clear is while Sean R., Cornell and Parker were
26 pretrial decisions, more accurately in the context of

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2 summary judgment, Juni was post-verdict analysis
3 after a fully developed record, with all the
4 testimony in the record. We have done none of that
5 here at this juncture. We have just started jury
6 selection. And, yes, I'm mindful you're making a
7 legal argument to support the propositions you are
8 putting forward. That said, having already been
9 through this process in the Robusto matter, I do not
10 believe it will be unreasonable for me to suggest
11 that part of the prima facie case to support the
12 scientific expression would be an expert presenting
13 testimony and any other competent evidence that could
14 quantify the contamination so as to add that factor
15 to the visible dust factor together with what I
16 expect would be Mrs. Nemeth's deposition testimony,
17 describing frequency with which she used Desert
18 Flower, the regularity in which she used Desert
19 Flower and obviously in her use of it as a personal
20 hygiene product, she was in close proximity to that
21 product within enclosed quarters, her bathroom or
22 other similar situated space, for a period of ten
23 years.

24 So, in anticipating your argument, again we
25 have heard none of that, but I'm anticipating that
26 will be part of the prima facie case, we are not

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2 dealing with visible dust alone arguably. We are not
3 dealing with visible dust of which it's content would
4 not necessarily be determined. When I say that, we
5 know it was talc. The issue here will be if that
6 talc was contaminated with sufficient fibers of the
7 asbestos form kind to cause disease. And in that
8 context it is possible that they will be in a
9 position to establish your prima facie case or not.

10 Again, at this juncture we have no idea what
11 will be the scope of Dr. Moline's anticipated
12 testimony in terms of the scientific literature and
13 other competent information that will support
14 specific causation. Again, I'm not trying to end run
15 the process here. Just using my -- my experience and
16 what I expect will be some of the points of Mr.
17 Kramer will probably say in opposition, even though I
18 do not have the benefit of reading his affirmation in
19 opposition to your motion to renew.

20 Again, I'm mindful of the points you're
21 making. But it is that backdrop that I think you
22 need to now go into your own argument and explain how
23 you can end run that process at this juncture. Was I
24 clear, sir?

25 MR. KOZAK: Yes. I anticipated a lot of what
26 your Honor just said. The -- And thank you. The

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2 rule that I was just talking about, that was post
3 trial, discussed in Juni. The rule cites Parker, a
4 pretrial decision. And your Honor said, at the end
5 of what you were just talking about, that we have no
6 idea what Dr. Moline is going to say. And that's the
7 point of this motion. We know what she's going to
8 say, having seeing Robusto, but on this record we
9 have no idea what she's going to say. That's my
10 point. And upon making this motion the burden then
11 shifted to the plaintiff to demonstrate a foundation
12 and the plaintiff has not.

13 So, getting back to my argument. Instead of
14 the FRP, frequency, regularity, proximity it's now
15 ADF. And what's most important about that for me is
16 that the amount is first and foremost in the Juni
17 decision, again citing Parker. And the Juni court
18 also explains now in the asbestos context rejecting
19 this insurmountable standard that the courts have
20 been concerned about for years, that if it's not
21 possible to actually quantify the plaintiff's
22 exposure, causation "must be", the First Department's
23 words, established through some scientific method
24 such as mathematical modeling, based on a work
25 history, which is obviously not relevant here, or
26 comparing exposure to reported subjects. That's on

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pages five and six.

There was no mathematical modeling by Dr. Moline, nor will there ever be. We know that. No work history analysis. Already mentioned that. I don't think there is any no dispute on that. There is no comparison to reported subjects' exposures. We have already seen that. That did not happen in Robusto. That's that record. But on this motion there was no comparison.

So, looking at the record in this case, on the issue of specific causation, whether it fits the rule that I just discussed, and the must be scientific method that I just discussed, your Honor assumed last week, and I think your Honor just said it in a different way, but it's very similar, so I anticipated it, that there would be sufficient evidence of conduct -- content. And you said that on page 22. And that there will be specific facts given through a hypothetical to Dr. Moline, from which she will opine on specific causation. You said that on pages 21 and 22.

This does not satisfy the rule. It's not an amount. It's not a scientific method. Anyone can say anything through a hypothetical. And Dr. Moline will opine that it was a substantial factor.

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2 Anything could be presented to her, and she will say
3 it's a substantial factor. That's the definition of
4 junk science, with the weight of an impressively
5 credentialed expert. That's what the Parker court
6 was concerned about. So, that is something that the
7 Court must weigh is the strict wording by the First
8 Department, that there is a rule, and there must be
9 some scientific method announced pretrial.

10 In terms of cumulative exposure, we're all
11 the way up to chapter four, not being a method or
12 amount, the Juni court agreed that the cumulative
13 exposure theory was not sufficient to prove
14 causation. And I explained that science and they
15 examined that science does not support the theory
16 that each exposure cumulatively contributes to an
17 asbestos-related disease. That was on page 10. And
18 the Court goes on to say that that theory, cumulative
19 exposure, is irreconcilable with the rule, the ADF
20 rule, requiring some amount of quantification. So,
21 cumulative anything is not a surrogate for an amount,
22 as I've argued in the past.

23 Now, in terms of the contents of the dust
24 being unknown. Juni is extremely similar to this
25 case, because the parties dispute the contents of the
26 dust. Juni experts contended that it contained an

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2 amount of asbestos, but it could be as little as one
3 percent of the brake drum dust. In Juni the Court
4 said that there were no reports or studies showing
5 that such a low exposure could cause mesothelioma in
6 garage mechanics. That's the general causation
7 issue.

8 Here, on this record, as to specific
9 causation, there is no doubt that the parties dispute
10 the contents of the powder. We dispute whether it
11 was contaminated. And we don't know an amount. If
12 we had an amount, Dr. Moline has failed to put forth
13 any reports or studies showing that any amount of
14 cosmetic talc used could substantially contribute to
15 cause peritoneal mesothelioma.

16 So, the plaintiffs' opposition. I have to
17 address a couple statements made in the opposition,
18 and frankly ask counsel to respond on a couple of the
19 points, because it is at odds with Juni and this
20 record. On page 2 of the opposition counsel states
21 that Dr. Moline will provide a scientific expression
22 relying on five different areas.

23 So, the first area that counsel cites is
24 medical literature revealing that cosmetic talc
25 exposure leads to peritoneal mesothelioma. That is a
26 general causation statement. They're asking Dr.

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2 Moline to testify that medical literature reveals
3 that cosmetic talc exposure leads to peritoneal
4 mesothelioma. That is the type of broad expression
5 that the Juni court said is unacceptable. A link,
6 association, that kind of thing is unacceptable to
7 prove general causation.

8 Second point that counsel raises --

9 THE COURT: I'm sorry. I'm sure he will want
10 to respond to it, but I need to understand that. And
11 perhaps I'm at a disadvantage.

12 My familiarity with the literature generally
13 with mesothelioma, and in particular with pleural
14 mesothelioma, the literature does not merely suggest
15 an association but actually suggests, based on the
16 various studies done in those -- in those studies,
17 that asbestos exposure, as described in those
18 studies, causes disease. It's not a mere
19 association. If you understand what I'm suggesting.

20 I'm confused. I mean I heard what you said
21 about what the Juni court said, but I believe that
22 whenever there was a reference to the scientific
23 literature, that it was not just merely risk per se
24 alone. It was, in fact, it causes. So, for example,
25 Helsinki criteria, as I understand it to be a
26 definitive document by respected scientists, both

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2 first set and the second set did not merely suggest
3 an association but, in fact, stated with a reasonable
4 degree of scientific certainty, that asbestos, all
5 fibers can contribute to mesothelioma, all types as a
6 backdrop. I just use that study. It's just one
7 study. And if I'm not mistaken, and feel free to
8 correct me in argument or as this trial progresses,
9 if I openly -- if I deny your motion to renew, that
10 if I misstate or something misstates what is actually
11 represented in the literature, but my recollection
12 is, and I appreciate you quoting me last week, that
13 upon information and belief there is scientific study
14 to support short term, low dose exposure to all
15 asbestos fibers types can be the competent producing
16 cause of mesothelioma. So that backdrop, I'm trying
17 to understand your comment that they misstated what I
18 understand to be what's out there in the scientific
19 literature. Was I clear?

20 MR. KOZAK: Yes. And on pages five and 11 of
21 the decision, it very specifically says that it's not
22 an asbestos thing anymore. It's defendant's product.
23 So, on general causation the shift has gone to, it's
24 not just about asbestos and these general broad
25 statements. It has to be product specific. As -- I
26 don't believe they actually use these words, but well

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it's an analogy.

MR. KRAMER: That's very important.

THE COURT: See this is important, sir. If we're talking about -- if we're talking about benzene in part, we're talking about benzene as the cancer producing agent, then the question is, how much benzene causes the --

MR. KOZAK: How much benzene as contained in.

THE COURT: Just bear with me for a second. How much benzene causes the cancer. Now, you can have benzene in different products. You can have benzene in a dishwasher, in the plastics. You could have benzene in gasoline. You can benzene in different products. So, bear with me. There is no dispute benzene causes the cancer or the blood cancer described in Parker ALS -- I'm sorry -- AML.

The question is the medium by which that particular chemical or toxic chemical causes the cancer. In this instance we're talking about the asbestos fiber, chrysotile or chrysotile and tremolite or chrysotile or something else, again whatever is determined based on the studies, the Zemplar Studies and things of that nature in medium talc.

So, now you're saying that there has to be

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2 literature about the medium per se versus the fiber
3 and in any medium in which that fiber is located at a
4 particular quantity? Do you understand the question
5 I'm posing or trying to understand here? In other
6 words, if -- if, for the sake of discussion, there
7 was a study out there that said one percent asbestos
8 in a lego, if friable, can cause mesothelioma. Not
9 an association, can cause, if someone is exposed to
10 it with RFP. And if such a study exists. I don't
11 know that. But I'm giving you the hypothetical.
12 That would not run afoul to what the Juni court said.
13 Or is your position there has to be a study about
14 cosmetic talc in order to establish the points that
15 you think they have to or the burden they have to
16 make. Do you hear what I'm saying, sir?

17 MR. KOZAK: Right. As I argued last week and
18 as I'm arguing today, it absolutely has to be the
19 latter. Based on the Juni decision, where I just
20 highlighted four locations on pages five and 11,
21 where it says that it must be the toxin from
22 defendant's products, the toxin in the defendant's
23 product, exposure to a product attributable to the
24 particular defendant's product.

25 THE COURT: You're reading from Juni?

26 MR. KOZAK: I am, on pages five and 11. So,

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2 where I had my chapter on it's now specific to a
3 product and not just the hazard asbestos, that's what
4 the court's talking about. What Justice Jaffe talked
5 about is the as contained in. While the Court didn't
6 adopt those words it seems like, the Court absolutely
7 addressed the fact that it's no longer just about
8 asbestos or chrysotile being linked to mesothelioma.
9 That's not enough. That's on page 5. It's that it
10 has to be about the defendant's product. So, that's
11 what I was --

12 MR. KRAMER: Can you point to page 5 where
13 you're saying the Court said that, please.

14 MR. KOZAK: It says, "A causation expert must
15 establish that a plaintiff was exposed to sufficient
16 levels of the toxin from the defendant's products."

17 MR. KRAMER: Thank you.

18 MR. KOZAK: There is an emphasis on
19 defendant's products. In that statement, the next
20 sentence and the two sentences on page 11. Your
21 Honor, may I continue?

22 THE COURT: Yes.

23 MR. KOZAK: So, I was talking about the five
24 different areas that the plaintiff intends to use to
25 support Dr. Moline's scientific expression of
26 exposure. And the first one was this medical

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2 literature revealing that cosmetic talc leads to
3 peritoneal mesothelioma. There is no such evidence
4 on the record before this Court that it leads to.
5 And regardless the Juni court has rejected such a
6 broad sort of sweeping statement.

7 Now, the second expression that plaintiff
8 intends to come out through Dr. Moline is "scientific
9 literature which measured the airborne levels of
10 cosmetic talcum powder released." There is no level.
11 And if that's talking about an amount, that's not an
12 amount just saying scientific literature. And, by
13 the way, there was no scientific literature that
14 supports this.

15 Number three. "Scientific literature that
16 indicates cosmetic talc may contain significant and
17 high levels of airborne asbestos due to or
18 contamination." May contain significant and high
19 levels is not an acceptable amount or scientific
20 expression per the Juni court.

21 The fourth topic that counsel intends Dr.
22 Moline to talk about in terms of a scientific
23 expression is "laboratory testing of historic samples
24 of the product Ms. Nemeth testified to using which
25 found high levels of amphibole asbestos fibers."
26 High levels, again not defined in any of the exhibits

MOTION

submitted on this record.

Number five. "Historic records from WCD's own consultants as well as other laboratories in cosmetic industries." Also not a level, not a scientific expression disclosed here.

One of the points that counsel raises in a footnote, and I know your Honor hasn't seen it, but I'm just giving you a preview. And if counsel thinks I'm wrong or cited something improperly, I'm sure he'll bring it to the Court's attention. Your Honor will have a chance to review this. But in a footnote they try to distinguish Juni involving a chrysotile product versus the product at issue here, where they claim there could have been amphibole fibers in some, one, all, I don't know how many containers, which is a disputed issue and important for this motion. But what the -- what the plaintiff has not cited through Dr. Moline is that amphibole fibers as a contaminant in cosmetic talc have any connection to peritoneal mesothelioma. There is literally nothing before the Court. And the Juni court, as I cited earlier, does not make a distinction between chrysotile and amphibole being linked to mesothelioma. In fact says the fact that asbestos or chrysotile has been linked to mesothelioma is not enough for a determination of

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2 liability. That's on page 5.

3 I took great issue with footnote number three
4 that plaintiff put in the opposition. And in the
5 footnote it's talking about methodology. In the
6 footnote it says, "Indeed, no such methodology is
7 needed, as it is well recognized that asbestos causes
8 disease." I think I've said a number of times on
9 this record today that that is not sufficient per
10 Juni. This is the whole point of Juni, is that you
11 can't just say that it's well recognized that
12 asbestos causes disease. It talks about the product.
13 There needs to be more. It can't be a broad sweeping
14 link or whatever it is.

15 Then it states in footnote three, "Nor is Dr.
16 Moline required to put forth a methodology for her
17 specific causation opinions." Her method apparently
18 is to listen to a hypothetical and then give an
19 opinion. As I said earlier, that's junk science.
20 She could say whatever she wants to say. And I have
21 literally no idea or no way to stop it, because it
22 will be in front of this jury with no appreciation as
23 to how to accept that as junk science. That's why
24 the Court has to preclude her now, because we have
25 given the plaintiff every opportunity to supplement
26 the record. And now we're sitting here two or three

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2 days before opening statements and there still is
3 nothing on specific causation before this Court. To
4 allow a witness to get up there without any notice to
5 me as to what she's going to say the amount is or if
6 she even considered that in forming her opinion in
7 the first place and just be given a hypothetical is
8 completely unfair. That's not the law in this state.
9 It doesn't follow Parker, Cornell or Sean R., which
10 precluded such testimony, similar testimony before
11 trial.

12 Counsel takes issue with what I said in my
13 e-mail earlier this week, the day I saw the decision
14 on the cumulative exposure theory, and tries to
15 distinguish something in Juni regarding Foster right
16 and that it didn't contain any asbestos. Well,
17 that's not what the decision said. The decision said
18 on page 8 one percent possibly, which is not too
19 dissimilar to what we understand will be the evidence
20 through doctor -- Mr. Fitzgerald in this case, but
21 again not on this record from Robusto.

22 So --

23 THE COURT: I'm sorry. The import of that
24 particular statement is the fact that if -- if there
25 is a basis to establish one percent asbestos if
26 proven to have contaminated the product arguendo, it

MOTION

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2 would be a fiber that was not changed as the
3 chrysotile fiber was arguably changed through the
4 high heat utilized with brakes. I mean, that's a
5 factual distinction which the record in Juni had that
6 we will never have here, because they don't bake
7 talc.

8 MR. KOZAK: Understood. The point here is
9 that the plaintiff follows or tries to support
10 cumulative exposure by saying that "it necessarily
11 follows that accumulative exposure to the same
12 product could not possibly have been found to create
13 an increase risk of disease." Cumulative exposure is
14 a quantitative attempt. And in Juni the courts
15 recognize that cumulative exposure -- that neither of
16 the experts could support cumulative exposure theory
17 as a basis for their assertion that every single
18 exposure to asbestos could be breathed -- that can be
19 breathed is a contributing factor causing asbestos.
20 So, there was no scientific basis for that theory.
21 But I don't think it's a factor in the Court's
22 analysis for this case, but I just wanted to point
23 that out.

24 Counsel in paragraph 15 states that Whittaker
25 erroneously conflates cosmetic talc with the
26 offending product at issue, asbestos. And plaintiff

MOTION

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2 then follows that by saying that there is no need to
3 prove general causation for cosmetic talc, presumably
4 because asbestos is dangerous.

5 The product in this case is cosmetic talc.
6 The toxin that the Court's analysis is looking at is
7 contained in or as contained in the product and
8 whether or how it gets out, whether that can cause a
9 particular disease, that's general causation. That's
10 not on this record. I'm getting a little redundant,
11 but I think your Honor sees where I'm coming from.

12 On visible dust, counsel states that
13 plaintiff will assert that the mere presence of
14 visible dust alone is sufficient to establish
15 causation. The Juni court very clearly said no.
16 That's not. The mere presence is insufficient. Uses
17 those exact words in the decision. It says amphibole
18 is not sufficient. Just saying it's amphibole versus
19 chrysotile, it has got to be more. Amounts, just
20 saying the words amounts or high levels is not
21 sufficient.

22 And the last point from counsel's brief.
23 Counsel says general causation to asbestos will be
24 clearly established by the evidence. Will be.
25 Forecasting. Without any evidence in the record that
26 supports general causation with respect to cosmetic

MOTION

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2 talc and peritoneal mesothelioma. That's not New
3 York toxic tort law. Parker, Cornell and Sean R.
4 were all pretrial rulings. Juni now clearly says
5 that those rulings apply to the asbestos context.

6 So, to close up. Whittaker asks the Court
7 once again based on Juni, Parker, Cornell, Sean R.,
8 that the law be applied to the record in this case
9 and preclude Dr. Moline from testifying on issues of
10 general and specific causation as it relates to
11 cosmetic talc, to perineal mesothelioma and
12 Ms. Nemeth's alleged use of a cosmetic talcum
13 product. Thank you.

14 MR. KRAMER: May I respond, your Honor?

15 THE COURT: Yes.

16 MR. KRAMER: Jim Kramer for the plaintiff. I
17 think your Honor correctly started this oral argument
18 on a procedural basis noting that WCD made their
19 motion pursuant to new law which has come out of the
20 First Department this week. What I think is key to
21 this argument is the fact that while that decision
22 may itself be new, there has been no change in the
23 law under Juni. In fact, the First Department's
24 decision in Juni goes to great lengths to very
25 clearly exemplify that existing law, which all other
26 courts, including Justice Moulton, has acknowledged

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2 does apply in the asbestos context and which is
3 indeed consistent with those -- those pieces of law
4 apply in Juni as well. Namely, the Parker analysis,
5 which is then repeated in Cornell and Sean R. To
6 wit, that there is a three part test in toxic tort
7 cases including asbestos. Number one. You have to
8 have exposure to a toxin. Number two. There must be
9 an association between that toxin and the disease in
10 question, which is known as general causation.
11 Number three. That the person -- that the plaintiff
12 was exposed to sufficient levels to cause the disease
13 that that person has. That's specific causation.

14 Now, what the Juni court determined in that
15 case under those facts, which the Juni court and the
16 First Department says repeatedly applies to that
17 case, was the fact that under those facts, specific
18 causation was not met because of such specific issues
19 as the transformation of chrysotile to forsterite
20 under high heat application and the fact that even
21 any remaining asbestos that could have remained,
22 could possibly been encapsulated. And based on those
23 facts, the plaintiff's experts could not say, when
24 they were cross examined, what, if any, percentage of
25 actual asbestos was released that would have produced
26 the person's disease. Therefore, under a cumulative

MOTION

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2 exposure theory, which the Juni court happened to
3 reject, if you're not exposed in the first instance,
4 you can't cumulatively be exposed in every instance
5 following. Zero plus zero equals zero in other
6 words.

7 Now let's look at the facts of this case and
8 the record in this case. To use defendant's
9 terminology, which I don't agree with, which is the
10 ADF, we have Ms. Nemeth using Desert Flower cosmetic
11 powder from 1960 to 1971. She testified that she
12 used it every day within her bathroom, which was a
13 small space with no ventilation. She said she
14 applied it to her body, her entire body every day.
15 She specifically said that she applied it to her neck
16 and shoulders and her face, which she would then
17 breathe.

18 What we will show through the course of this
19 trial is that the product, with emphasis on the
20 product that this case is about is talc supplied by
21 Whittaker, Clark & Daniels, which we will show
22 through WCD's own documents contained percentages by
23 weight of amphibole asbestos and chrysotile asbestos.
24 We will then show that the specific product, Desert
25 Flower, when tested by WCD's own consultant, was
26 found to contain asbestos. We will show through the

MOTION

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2 medical literature that specifically Dr. Rowe's
3 article, that when cosmetic talc is looked at under
4 the method used by WCD, there could still be billions
5 of fibers, asbestos fibers in and an ounce, in one
6 ounce of talc. We will show using the peer-reviewed
7 published study of Dr. Gordon, Dr. Mallet and
8 Mr. Fitzgerald, that such fibers are released and are
9 indeed found in the pathology of people who used such
10 powders. We will use other medical case studies
11 showing that peritoneal mesothelioma indeed occurred
12 after exposure to talc. We will use other studies
13 showing an association between talc use and disease.
14 We will show through the testimony of Mr. Fitzgerald,
15 who tested both the ore bodies, two of the ore
16 samples in question and the two end products, that
17 when you release talc into the air, you measure
18 releasable asbestos fibers many times above that of a
19 HERA. He has testified to this in the past. He
20 testified to it when Mr. Kozak had the opportunity to
21 cross examine him in a similar case. And we will, by
22 presenting those facts, either in hypothetical or by
23 actually showing her the evidence at the time,
24 depending on who testifies first, we will present
25 those facts in hypotheticals to Dr. Moline, who can
26 then establish general causation and specific

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2 causation. Specifically by stating that general
3 causation has been well established through the
4 Helsinki criteria and the legion of medical
5 literature, that asbestos even in low doses will
6 cause mesothelioma. Also importantly, amphibole
7 asbestos, which is a product or an issue in this
8 case, is known to be much more potent. The most
9 potent type. More potent than chrysotile asbestos.
10 We will be showing amphibole asbestos in this case.

11 Taking it one step further. The medical
12 literature also supports the fact that even low dose
13 exposures will produce peritoneal mesothelioma. Then
14 she will look at the literature. She will take the
15 evidence in this case into account to come to her
16 ultimate conclusion that yes, based on the evidence
17 as stated, based on the scientific expressions as
18 contained in peer-reviewed studies, as contained in
19 the testimony of Mr. Fitzgerald, she will be able to
20 come to the conclusion that yes, the 11 year period
21 or the cumulative exposure to WCD's talc was a
22 significant contributing factor in causing
23 Ms. Nemeth's disease.

24 With those facts in mind, I think it's
25 important to look at what the First Department
26 actually stated in Juni. I know we heard several

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2 times from opposing counsel, and I wrote them down,
3 that it was his understanding, you know, to me my
4 reading of this is. It's very important to note that
5 at no point does the First Department introduce some
6 new rule of law stating that you need to prove
7 general causation to a specific product. We know
8 that because the First Department specifically
9 references Penn v. Amchem and Cararulo.

10 We know from Penn v. Amchem that the product
11 at issue there are dental liners that contain
12 chrysotile asbestos. The evidence in that case
13 showed that based on the plaintiff's testimony,
14 drilling into those dental liners, which produce
15 visible dust, later linked to other evidence that
16 those dental liners contain released chrysotile
17 asbestos. In that case Dr. Moline was able to
18 conclude and the First Department affirmed that such
19 exposure caused disease.

20 There is no requirement either under Penn,
21 definitely not under Lustenring, not even under Juni
22 stating that in order to reach the issue of specific
23 causation, you must be able to show some kind of
24 specific study to that specific product. It just
25 doesn't exist. Those words are nowhere in the
26 opinion.

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2 To respond to some other things mentioned by
3 counsel.

4 THE COURT: Well, I just want to back up a
5 little bit here, because you did cite to Lustenring
6 and Penn. I have read both decisions many times over
7 the years. I do not recall in the body of those
8 decisions affirming the verdicts below on general and
9 specific causation that a specific percentage or
10 actual quantity was actually articulated in those
11 decisions. Am I correct?

12 MR. KRAMER: You're correct, your Honor.

13 THE COURT: So that as I understand the Juni
14 decision, they did not reject Penn or Lustenring.
15 They continued to uphold it and recognized that those
16 decisions stand for the proposition that when you
17 have visible dust coupled with other information, the
18 experts can opine as to specific causation based on
19 the information they had as to the content of those
20 asbestos containing products. Correct?

21 MR. KRAMER: That is correct, your Honor.

22 THE COURT: So, nowhere in the Juni decision,
23 notwithstanding that they have now introduced the
24 notion of ADF, you know, because it does say that
25 here, perhaps when there is a suggestion that the
26 percentage or quantity is very low, perhaps that

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2 triggers that. I don't know that. That's the
3 argument Mr. Kozak is making, that you need a
4 quantitative fact or some -- some -- to support the
5 scientific expression either through mathematical
6 modeling or through a precise study in a certain
7 context in Juni. But what I want to make clear,
8 unless you think I'm not clear about it, none of that
9 was done in Penn or Lustenring. Correct?

10 MR. KRAMER: Just so I'm clear. None of that
11 was done as far as showing some kind of scientific
12 expression?

13 THE COURT: Correct. No. They determined
14 the scientific expression was the information before
15 that court and that jury --

16 MR. KRAMER: That's correct.

17 THE COURT: -- that identified a percentage
18 of asbestos in a particular product. Penn, for
19 example, it was dental liners. I don't remember what
20 the product was in Lustenring.

21 MR. KOMITOR: Asbestos containing gaskets --

22 THE COURT: Gaskets, okay.

23 MR. KOMITOR: -- which were encapsulated.

24 THE COURT: What was the third case they cite
25 here?

26 MR. KRAMER: Cararulo.

1 MOTION

2 MR. KOMITOR: Cararulo.

3 THE COURT: What was the product there?

4 MR. KOMITOR: Asbestos containing gaskets,
5 which were encapsulated.

6 THE COURT: So, we have reason to believe --
7 that's a juror. Let's stop now and move quickly to
8 the back.

9 So I believe that those gaskets were not
10 friction products but gaskets.

11 MR. KOMITOR: Correct.

12 THE COURT: Namely that they were
13 encapsulated and releasable either when they were
14 installed or when scraped from whatever equipment in
15 those cases.

16 MR. KOMITOR: And in those cases the
17 defendants said even when they were released, they
18 were still encapsulated. That was at least an issue
19 in the case.

20 THE COURT: Again, I'm not getting too caught
21 up with the facts. I just needed to remind myself
22 there that I do not recall that the opinions
23 necessarily had to say X percentage of fibers
24 released, you know, through some kind of formula,
25 mathematical method. Evidently there were studies to
26 support the particular experts' opinions there. So,

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2 I just wanted to clear that up in the context of
3 understanding your position that from your point of
4 view nothing has changed.

5 MR. KRAMER: That is correct, your Honor.
6 And to just take it one step further. I think that
7 those cases adhere to Parker, Cornell and Sean R.,
8 which came out later as well, in that the expression
9 that the Court of Appeals has put forth, which Juni
10 carries forward as have every other court that deals
11 with toxic torts, you have to show some kind of
12 scientific expression. They give three examples, but
13 they don't require mathematical modeling or work
14 histories. They just say such as.

15 The scientific expression in this case will
16 be coming in in multiple forms. Mr. Fitzgerald's
17 testimony. He performed a glove box study of the
18 product itself to see what was released. We'll have
19 peer-reviewed published literature. In other words,
20 judge, there is going to be an ample amount of
21 scientific backing for Dr. Moline's opinion.

22 THE COURT: Off the record.

23 (Whereupon a discussion off the record was
24 held.)

25 THE COURT: On the record.

26 MR. KRAMER: I was just saying with regard to

MOTION

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2 the Parker requirement of there has to be some
3 scientific basis. Parker goes on to say, it's not
4 possible in every case to be able to quantify. With
5 that understood, there has to be some sort of
6 scientific expression. As I mentioned, the evidence
7 in this case will be showing such a scientific
8 expression.

9 I mentioned in my footnote rightly that the
10 methodology is not at issue in Juni. In fact,
11 methodology or the experts -- the plaintiff's
12 expert's methodology never comes into question. It's
13 never raised. It's because methodology is used
14 differently in a case of a Frye context or in
15 defendant's so-called, you know, Parker -- request
16 for Parker hearings. There is no methodology such
17 that to be in question here.

18 We have issues of general and specific
19 causation, the methodologies for which are well
20 established. You look at the evidence. You rely on
21 a body of literature or expertise. And then you
22 apply that to whatever is at issue. And you come to
23 your conclusion. That's the methodology. It's
24 actually elicited by the Parker court and stated.

25 Just to reiterate, Parker says that it's not
26 necessary to quantify in every case, because in cases

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2 such as asbestos cases which deal with facts in the
3 past, it's sometimes often impossible to quantify the
4 toxins. But in this case we will be able to do that.

5 Now, also important to note, your Honor, this
6 is not a motion for summary judgment, which defendant
7 could have brought had it wanted to question or see
8 if there are issues of fact before it got to the
9 jury. This is a motion in limine on an evidentiary
10 basis to determine whether or not Dr. Moline has the
11 support to come to her conclusions. I think we made
12 our record very clear by giving the examples we did
13 in the motion last week.

14 As I stated before, and I'll end now, Juni
15 merely takes existing law forward and applies it to
16 the specific facts in a case, just as it claims
17 Lustenring did. And they came to the result that the
18 Juni court did. Nothing under Juni should in any way
19 alter the decision that this Court made on this very
20 motion last week.

21 THE COURT: Off the record.

22 (Whereupon a discussion off the record was
23 held.)

24 THE COURT: We're back on. I know you took
25 some notes and you're just compelled to have to
26 reply. Very quickly.

MOTION

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2 MR. KOZAK: Yes, your Honor. I don't want to
3 repeat what I said earlier, so I'm not going to.

4 THE COURT: Thank you.

5 MR. KOZAK: Just in response to some of the
6 things Mr. Kramer said, and I think if you -- if you
7 take a step back and listen to what he said, a lot of
8 what he said is we will show. There will be this.
9 There will be that. Your Honor, we have respectfully
10 made an evidentiary motion which shifted the burden
11 to the plaintiff to come forward with the evidence
12 that supports before we get into trial so that we
13 don't waste this Court's time and all these jurors'
14 time with junk science. It's just -- it's an
15 evidentiary motion that couldn't have been made at
16 summary judgment stage. I already did that thing
17 last week.

18 In terms of what he said, you know, that
19 there will be this. There will be that. There will
20 be that. And then Dr. Moline will testify about this
21 on specific causation. That's -- that's absolutely
22 legally insufficient to put Whittaker on notice what
23 her foundation is and to put the Court on notice
24 frankly if it should be precluded. So, there is
25 nothing before the Court on this record.

26 In terms of general causation, Mr. Kramer

MOTION

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2 talked about well established through Helsinki, low
3 doses causes mesothelioma and amphibole. Again, Juni
4 court has made it very clear that these kind of
5 general, broad sweeping statements do not establish
6 causation. And in this particular case I still have
7 not heard anything relative to peritoneal
8 mesothelioma, an amount that causes it or is
9 suspected to cause it.

10 In terms of Lustenring and Penn, the Court
11 made it very clear that those are discreet facts that
12 are not before this court and said that visible dust
13 does not establish a level.

14 THE COURT: Alone.

15 MR. KOZAK: Alone. And I made that clear
16 too. Because I understand, you know, a couple
17 hundred, less than a hundred words later it talks
18 about the new rule. So, I think your Honor has to,
19 you know, when Mr. Kramer talks about oh, she used --
20 she allegedly used it from '60 to '71 and every day
21 and all of that, fine. That might go to duration and
22 frequency. By the way, find any of that stuff in
23 terms of how that weighs into her decision in Dr.
24 Moline's very short report, it's not there. She
25 might mechanically report that that's what it is.
26 How does that connect to peritoneal mesothelioma in

MOTION

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2 her report. It's not there.

3 But very specifically the Court asked for an
4 amount to be a scientific expression, that's the A
5 and ADF new rule that the Juni court has announced.
6 And there is no scientific expression. If it's going
7 to come through a hypothetical or something that
8 Mr. Fitzgerald did, I don't know what it is on this
9 record. It's not here.

10 THE COURT: That can't be, because if I
11 misheard, Mr. Kramer, you had an opportunity to
12 depose Dr. Fitzgerald.

13 MR. KOZAK: In this case, no.

14 THE COURT: You didn't?

15 MR. KOZAK: There is no depositions.

16 MR. KRAMER: You didn't ask.

17 THE COURT: I'm sorry. Wasn't there a
18 deposition of Mr. Fitzgerald?

19 MR. KRAMER: There wasn't a deposition in the
20 Nemeth case.

21 THE COURT: The same testimony.

22 MR. KRAMER: I agree.

23 THE COURT: Same foundational witness.

24 MR. KRAMER: Yes.

25 THE COURT: He's not a medical causation
26 expert.

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MR. KRAMER: No.

THE COURT: He's in a position to arguably quantify the arguable contaminated talc exemplar, am I correct?

MR. KRAMER: Correct.

THE COURT: So, they had a full and fair opportunity as a party in the case to depose him and question him both in a deposition as well as at trial, not only at trial here in New York, but also a trial in New Jersey, correct?

MR. KRAMER: A deposition in New Jersey, yes.

THE COURT: Nothing has changed in that regard. So, they can't say prejudice and surprise. The question is, can that information be properly utilized in this case with a medical causation expert vis-a-vis peritoneal mesothelioma. That is what I understand the issue to be here. You can't say you're surprised as to what's coming at this trial, Mr. Kozak.

MR. KOZAK: I absolutely can. I have no idea what he's going to say. So the record is absolutely clear on this. We don't have the right in this case to take his deposition. We don't.

THE COURT: No. I misspoke. I apologize. I was under the impression that you had the ability to

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2 depose him somewhere regarding the material that
3 he -- regarding the proffer. It never happened.

4 MR. KOZAK: In any event, the absolute key
5 here is what Dr. Moline does with that information.

6 THE COURT: I understand that.

7 MR. KOZAK: There is nothing on this record.

8 THE COURT: No. No. Sir, that's fair.

9 MR. KOZAK: Okay.

10 THE COURT: I understand that. That's --
11 that's a fair point. Okay. Are we done?

12 MR. KOZAK: Yes, your Honor.

13 THE COURT: So, suffice to say I've carefully
14 listened to what you had to say, Mr. Kozak. I
15 recognize that the Juni court is imposing a certain
16 standard here in the context of a prima facie case.
17 It suggests there can be scientific expression,
18 certain factors or with other factors. Again I sound
19 obtuse, but what I'm trying to suggest, the Juni
20 court did not totally dismiss the visible dust as a
21 factor alone. It dismissed that, but it didn't
22 dismiss it per se. That's clear.

23 What will be important here is what are the
24 other factors that would arguably support a fact of
25 visible dust, if proven, and a fact of duration,
26 frequency, i.e., the amount to establish whether it

MOTION

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2 was a competent producing cause of peritoneal
3 mesothelioma.

4 Let's be clear here. Peritoneal mesothelioma
5 is even rarer than pleural mesothelioma. And the
6 latter is -- is a very rare cancer, well settled in
7 literature. The literature also is clear that, and
8 I'm not unmindful of your position, but I've had a
9 heads up historically with this disease, that it's --
10 there are other possibilities for peritoneal
11 mesothelioma in women. I'm mindful of that in
12 literature as well. So, I'm not taking what you're
13 saying in a vacuum.

14 At the same time to me, respectfully, your
15 argument here or your position here is really one
16 that is not intentionally appropriately, but it's a
17 disguised summary judgment motion. You're asking me
18 as a matter of law precluding Dr. Moline to grant you
19 a verdict of dismissal or decision of dismissal.
20 Without a medical causation expert, we have no case.
21 That's what this is all about. I'm not making light
22 of it. I'm not suggesting that there was
23 gamesmanship, as has been suggested, at litigation
24 conferences throughout the United States when these
25 types of motions generally are made. All fair.

26 At the same time I cannot emphasize enough

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2 that the Juni decision was a post-verdict decision
3 after a fully developed trial record. It sets
4 certain parameters for cases where the parties have
5 advance notice to be able to address these issues in
6 summary judgment motion practice. But as we sit here
7 now, about to open in a few days, I -- I just can't
8 see granting -- making a determination at this time
9 without the record being fully developed, which means
10 that I'm consistent with my earlier ruling last week,
11 that there may be a basis for directed verdict after
12 I've heard everything. After I and the jury have
13 heard everything.

14 I want to emphasize something else. You used
15 the phrase junk science. I didn't read that in the
16 Juni decision. I didn't read what Juni overruled
17 Weigman, which has made clear, and the subsequent
18 Berger decision by Justice Friedman, which cited to a
19 plethora of appellate and other court decisions
20 making clear that one does not require a Frye hearing
21 to determine specific causation with respect to
22 asbestos and asbestos-related diseases. They
23 certainly didn't suggests a Frye hearing was
24 necessary in the Juni decision.

25 What is clear is how does one competently
26 determine an amount in a particular product that is

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2 at issue to determine that that amount of asbestos in
3 that product was competent enough to cause disease.
4 That's all it said. And if the plaintiffs have the
5 ability to provide competent producing evidence
6 establishing that amount in the exemplars or any
7 other information, that will be part of their case in
8 chief. So, that has to be clear here.

9 So, I'm -- I'm sort of at a loss to
10 appreciate or understand why you're referring to --
11 to an expert's opinion as being junk science. They
12 basically said that cumulative exposures alone is not
13 sufficient. Okay. What they hope to prove is not
14 just cumulative exposures of a variety of asbestos
15 containing products, some amphibole containing, with
16 a greater amount of asbestos in those products
17 against an encapsulated product, which has very
18 little fiber release in that context.

19 Here we're talking about ten years of a
20 consistent use of one product. And if you're using
21 that product each and every day, no different than
22 working with gaskets each and every day or no
23 different than drilling through dental liners each
24 and every day, if that information can be
25 established, and I said if, then I believe they will
26 arguably establish their prima facie case. If they

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2 don't, and I've heard everything you've had to say,
3 somewhere in this record there is a developed record
4 that's akin to the kind of record that was in --
5 before the Juni court, then I have a number of
6 options. I can grant a directed verdict/dismissal at
7 the close of the case. I can let it go to the jury,
8 and the jury will do a weight analysis and render a
9 verdict in your favor. Or if the jury renders a
10 verdict in favor of the plaintiff, entertain a post-
11 verdict decision comparable to the one presented
12 before Judge Jaffe and make the appropriate ruling.
13 There is a whole menu of options out there. So, your
14 rights are fully reserved. So, it's that backdrop
15 that I am denying your renewal motion without
16 prejudice to the trial progressing.

17 This is another court exhibit. I'm not sure
18 what we're up to. I'm letting you know if we're
19 keeping a running tab, whatever the Court exhibit was
20 from last week, this will be deemed that court
21 exhibit collectively, the affirmation in support of
22 the motion for renewal, the e-mails and your
23 affirmation, opposition, all one court exhibit, okay.

24 (Whereupon the Court exhibit was deemed
25 marked as of this date.)

26 (Jury selection continued.)

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Certified to be a true and accurate transcript of the
above-captioned stenographic minutes.

Lori Ann Sacco

Official Court Reporter