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UNITED STATES DISTRICT COURT

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DISTRICT OF MASSACHUSETTS

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 ANNE ANDERSON, et al.
 vs
 CRYOVAC, Division of W. R. Grace & Co.,
 et al.

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 * Civil Action
 * No. 82-1672-S
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Deposition of STANLEY BIALACH, taken on behalf of the Plaintiffs, pursuant to the applicable provisions of the Federal Rules of Civil Procedure, before Valerie T. Wong, Notary Public within and for the Commonwealth of Massachusetts, at the offices of Schlichtmann, Conway & Crowley, 171 Milk Street, Boston, Massachusetts, commencing at 2:20 o'clock P.M. on Friday, May 24, 1985.

Appearances:

Kevin P. Conway, Esq.
Schlichtmann, Conway & Crowley
171 Milk Street
Boston, Massachusetts
for the Plaintiffs.

William J. Cheeseman, Esq.
Foley, Hoag & Eliot
One Post Office Square
Boston, Massachusetts
for the Defendant W. R. Grace & Co.

Donald R. Frederico, Esq.
Hale & Dorr
60 State Street
Boston, Massachusetts
for the Defendant Beatrice Foods Co.

Roberta K. Schnoor, Esq.
Goodwin, Procter & Hoar
28 State Street
Boston, Massachusetts
for the Defendant Unifirst Corporation.

Present:

James Gordon

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I N D E X

<u>Deposition of:</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Stanley Bialach	4	49	50	--

EXHIBITS

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S T I P U L A T I O N S

It was agreed and stipulated by and among counsel for the respective parties that the witness will read the transcript and sign under the pains and penalties of perjury. The parties have agreed to waive the filing.

It was further agreed and stipulated all objections, except as to the form of the question, and all motions to strike are reserved to the time of trial.

STANLEY BIALACH,

a witness called by the Plaintiffs, first having been duly sworn, on oath deposes and says as follows:

Direct Examination

Q (By Mr. Conway) Would you state your name, please?

A My name is Stanley Bialach, B-I-A-L-A-C-H.

Q Where do you live, Mr. Bialach?

A Arlington.

Q What street?

A 2 Belton, B-E-L-T-O-N.

Q Now, you work for W. R. Grace; is that correct?

A Yes.

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Q How long have you worked for W. R. Grace?

A 25 years and three months.

Q So you were working there in 1974?

A No; 1959.

Q But you were also working there in 1974?

A Yes.

Q Now, Mr. Bialach, do you know that in 1974 a pit was dug to the rear of the property to bury barrels in?

A No, sir.

Q You don't know that?

A No, sir.

Q You don't know anything about that?

A No, sir.

Q Have you ever been out in the yard to the rear of Grace?

A Yes; a few times.

Q Why would you go out there?

A Just to get fresh air.

Q For fresh air?

A Uh-huh.

Q Have you ever seen any barrels?

A No.

Q You have never seen any barrels out there?

A No. Empty one, yes.

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2 MR. CHEESEMAN: I would suggest with this
3 witness you make sure your questions are very
4 explicit.

5 MR. CONWAY: Okay.

6 Q You say you did see empty barrels outside?

7 A Yes.

8 Q When did you see empty barrels outside?

9 A I do not recall the time or year.

10 Q How many barrels would you say you would see at one
11 time?

12 A About five, six barrels.

13 Q Five, six barrels?

14 A Uh-huh.

15 Q You began working in 1960 when the Cryovac plant
16 opened?

17 A Before that, sir.

18 Q You worked for Dewey and Almy?

19 A No. When the building was building I really was
20 working for them.

21 Q That was in 1960?

22 A '60; early in the spring.

23 Q Did you see barrels out there in the 1960s?

24 A I do not recall, sir.

25 Q How about the 1970s?

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A Empty ones, sir.

Q In the 1970s, you saw five or six barrels?

A Yes.

Q How long were they there?

A I took them home.

Q You took the six empty barrels home?

A Yes.

I built swimming craft on my summer place.

Q Are these the only six barrels you ever saw out there?

A No. I took more, but period longer time, empty ones.

Q How many more did you take home?

A Maybe eight.

Q Eight more?

A No, no; together.

Q Eight all together?

A Right.

Q Do you know of any other people taking barrels home from the back?

A I don't know, sir.

Q But you have no knowledge about a pit being dug in 1974?

A No, sir.

Q Has anyone ever told you about a pit being dug in 1974?

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A No, sir.

Q To this day, sir, no one has ever told you?

A No.

Q Do you know that the EPA dug up drums that were buried in the back?

A That is what I find out from other people.

Q You found it out from other people?

A Right.

Q Who told you that?

A After they got them out of the ground there, they find some barrels. That is the only thing I know.

Q That is the first knowledge you ever had there were drums buried there?

A After EPA get them out of the ground; yes.

Q That was a surprise to you?

A Yes.

Q Did you ever tell anyone, Mr. Bialach, that the EPA was digging in the wrong place?

A No, sir. I got no idea.

Q Did you ever tell your brother Jan that the EPA was digging in the wrong place when they were digging?

A I never discuss with my brother about it.

Q You never talked to him about it?

A (Witness nods in negative).

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2 Q Where were you born, Mr. Bialach?

3 A In Poland.

4 Q What year?

5 A September 26, 1925.

6 Q When did you come to the United States?

7 A Should I tell him?

8 MR. CHEESEMAN: When you came to the United
9 States?

10 THE WITNESS: Should I say?

11 MR. CHEESEMAN: May I have a moment?

12 (Pause)

13 MR. CHEESEMAN: He feels that that is
14 getting into an area he would rather not discuss. If
15 you could perhaps tell me why you want to know, there
16 may be another way.

17 MR. CONWAY: I am not even sure why I
18 asked the question, to be honest with you. I guess I
19 was trying to determine how many years of speaking
20 English he has had.

21 MR. CHEESEMAN: That is what I thought you
22 were driving at.

23 May I go out in the hall with him for a
24 minute?

25 MR. CONWAY: Sure.

(Recess)

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3 MR. CHEESEMAN: He will answer when he came
4 to this country.

5 THE WITNESS: '57.

6 Q Are you a citizen of this country?

7 A Yes.

8 Q When did you build the swimming pool?

9 MR. CHEESEMAN: What swimming pool are you
10 talking about?

11 MR. CONWAY: Didn't he say he used the
12 barrels to --

13 MR. CHEESEMAN: Swimming raft in his summer
14 place.

15 Q When did you build the swimming raft at your summer
16 place?

17 A It was between -- after '70, 1970.

18 Q Around 1970?

19 A Yeah; after. I don't know exactly what year.

20 Q Before 1975?

21 A Before that, yes.

22 Q Mr. Bialach, you work in the machine shop, don't you?

23 A Yes.

24 Q You are a supervisor in the machine shop?

25 A Yes, I am.

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2 Q Could I ask you to draw a diagram of the main
3 building and show me where the machine shop is
4 located?

5 MR. CHEESEMAN: You're talking about
6 currently?

7 MR. CONWAY: Currently.

8 Q And where Washington Street is, Mr. Bialach?

9 A (Witness complies).

10 Q Okay.

11 A This is front office, entry to the office, entry to
12 machine shop (Indication).

13 Q Would you put an MS in that area to indicate machine
14 shop?

15 A (Witness complies).

16 MR. CHEESEMAN: You should label Washington
17 Street.

18 Q And please label Washington Street.

19 A (Witness complies).

20 Q Now, how long has the machine shop been at that
21 location?

22 A Since the place been built, from the beginning.

23 Q Can you show me where the sheet metal shop is?

24 A This side (Indication).

25 Q How about the paint shop?

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MR. CHEESEMAN: Let the record reflect he has marked SM for sheet metal.

MR. CONWAY: Thank you.

A In this area some -- This is not right. It is here some place (Indication).

MR. CHEESEMAN: What is that you have now drawn?

THE WITNESS: That is the painting area, used to be.

Q Why don't you put a "P" in there?

A (Witness complies).

Q What is this area here (Indication)?

A I made a mistake. This is office area.

Q Would you indicate the office area?

A (Witness complies).

Q What is over here (Indication)?

A That is office area.

Q That is also office area?

A Yes.

Q Mr. Bialach, where did you work when you first came to the Cryovac plant in Woburn?

A In Charlestown for Doran's Manufacturers.

Q In Charlestown?

A Behind Sullivan Square.

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Q In 1960 when you came to work for Cryovac in Woburn, what departments of Cryovac did you work in?

A (Pause).

Q Did you work in the machine shop then?

A Yes.

Q You always worked in the machine shop?

A Yes.

Q What were your duties when you first came?

A I was machinist.

Q A machinist?

A Yes.

Q Who was your supervisor?

A Used to be Tony Fiore.

Q How long was he your supervisor?

A About two years, two and half years.

Q Then who became your supervisor?

A Joe Parisi.

Q He was the supervisor of the machine shop?

A Right.

Q How about after Mr. Parisi?

A Andy Moroni.

Q What year did you become supervisor?

A It was 17 years ago.

Q Did you say 17 years ago?

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A Probably, yes.

Q So that is --

A 1972.

Q -- about 1968?

A About.

Q Now, there is a degreasing tank in the machine shop;
is that correct?

A Yes.

Q How long has the degreasing tank been there?

MR. CHEESEMAN: The one currently there?

MR. CONWAY: The one currently there.

A This present one?

MR. CHEESEMAN: Yes.

THE WITNESS: Maybe three, four years.

Q Three or four years?

A Yes.

Q What are the dimensions of that tank?

A This one?

Q Yes.

A This one is quite large one, maybe four feet by four
feet -- no; three feet by three feet square.

Q Deep?

A Maybe three feet deep.

Q Do you know the volume of the tank?

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A No, sir.

Q You don't know?

A No.

Q Was there a degreasing tank prior to this one?

A No, sir.

Q This is the first degreasing tank that was ever there?

A No. We had one before, a small one.

Q Describe the dimensions of that one to me.

A Approximately between 18 and 20 inch diameter.

Q 18 to 20 inch square?

A Square, approximately.

Q What was the depth of the tank?

A Approximately the same.

Q About three feet also?

A No; inch.

MR. CHEESEMAN: He means 18 to 20 inches.

Q 18 to 20 square and deep?

A Approximately.

Q Do you know the volume of that tank?

A Maybe 16 gallon.

Q Was that tank there, Mr. Bialach --

A Since beginning.

Q -- from 1960 up until approximately 1980?

A Approximately.

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Q Were there other tanks in the machine shop besides that degreasing tank?

A No.

Q Just one?

A Yes.

Q Were there any other degreasing tanks in the building?

A I don't know, sir.

Q You don't know?

A No, sir.

Q Were you ever in the sheet metal shop?

A I don't know, sir.

Q Were you ever in the sheet metal shop?

A I was. But I didn't look for tanks.

Q You don't know?

A No, sir.

Q How about the paint shop?

A I don't know, sir.

Q The assembly shop?

A I don't know, sir.

Q This degreasing tank was used to clean metal; is that correct?

A Correct.

Q And solvents were put in the tank to clean the metal?

A Yes.

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Q Do you recall which solvents you put in there between the years 1960 and 1980?

A I don't know the brand. I don't know the name of it.

Q Do you recall using Syn-Electro Cleaner? Do you recall that name?

A I don't know, sir. I don't recall.

Q Do you recall using Magnus Solvent Number 9?

A I am not positive.

Q Do you recall using Magnus Solvent Number 1219?

A I don't recall.

Q You do recall using solvents?

A Yes.

Q How did these solvents come?

A Came 50-gallon barrels.

Q How long would it take to use up a 50-gallon barrel?

A We clean about twice a year in my knowledge.

Q How long would it take to use up a 50-gallon barrel?

A A year or more.

Q A year or more for one barrel?

A Yes.

Q Whose responsibility was it to order a new barrel when you needed a new barrel?

A I had to request.

Q You would make a request?

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- 2 A Yes.
- 3 Q What would you request?
- 4 A For another replacement.
- 5 Q You would request another barrel of solvent?
- 6 A Yes.
- 7 Q Who decided what solvents were used?
- 8 A I don't know, sir.
- 9 Q Was it you?
- 10 A I would request for same kind to be bought.
- 11 Q Did you request that the same solvent be used for all
- 12 20 years, from 1960 to 1980?
- 13 A I don't know, sir.
- 14 Q Did you ever change solvents, do you recall?
- 15 A Yes; once.
- 16 Q Once?
- 17 A Yes.
- 18 Q When was that?
- 19 A I don't remember the year, sir.
- 20 Q Do you remember why you changed it?
- 21 A Representative salesman present -- He present
- 22 supposedly better material to clean oil and the
- 23 products.
- 24 Q Based upon his recommendation you changed it?
- 25 A Right.

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Q Do you remember the name of the company?

A Not exactly, sir.

Q I don't have to have an exact answer.

A He was just salesman, sir. I didn't ask him.

Q Did you from time to time, sir, clean this degreasing tank?

A Yes, I did.

Q How often would you clean it?

A About twice a year.

Q When you cleaned it, did you take out the solvent that was in it?

A Usually came to the bottom, to the point very dirty. Yes, I took it and put in the sewerage drain.

Q Which sewerage drain?

A Inside the plant.

Q Can you indicate on the drawing where that sewerage drain is?

A That is the wall facing Washington Street right here (Indication).

Q Why don't you put a D there?

A (Witness complies).

Q Is that in the floor or wall?

A On the floor.

It is closer to this here (Indication). I

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put too far.

Q It is on the floor?

A Right.

Q This blacked-in circle, what is that?

A The drain.

Q Okay.

A This is degreasing tank (Indication).

Q That is a degreasing tank?

A Yes.

Q Why don't you put a DT next to that?

A (Witness complies).

Q And this other box, what is that?

A Blancher.

Q What?

A Blancher grinder.

Q What is a blancher grinder?

A A machine that grinds material.

Q Grinds metal?

A Yes.

Q Did you use cooling fluid in connection with the grinding machine?

A Yes. We use water.

Q Did you use cutting oils?

A Yes; for cutting material.

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Q Do you recall the name of the cutting oils you used over that 20-year period from 1960 to 1980?

A No, sir. I know it was cutting oil.

Q Do you recall using Cool Tool?

A Yes.

Q Did Cool Tool also come in 55-gallon drums?

A Yes.

Q Approximately how long would it take to use up a drum of Cool Tool?

A Depends on the size of the machine, on the pump.

Q On average?

A The Cool Tool is five to one, like one coffee cup to 50 gallon water. We never use that amount; we use five gallon water. We use it one over 50 percent Cool Tool.

Q How long would it take to use up a 55-gallon drum of Cool Tool?

A Approximately a couple of months from -- No, no. I mean about one year from beginning to -- say about eight months up to a year.

Q Did you use Cool Tool from 1960 until 1980?

A I do not recall, sir. I came in 1960. I don't know what year we start using it.

Q Do you still use it?

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A Yes.

Q What would you do with the waste, the cutting oil?
Would you put that in the same drain?

A Yes.

Q Have you been doing that from 1960 to the present time?

A No, sir.

Q When did you begin doing that, sir?

A We stopped doing this since the environment regulation,
state or federal, come in effect.

Q You stopped putting it down the drain?

A Right.

Q Approximately when was that?

A I do not know, sir, what year they came.

Q Would you say about 1980, five years ago?

A I do not know what year, sir.

Q Could it have been five years ago?

A I don't know exactly, sir.

Q Until that time, though, you put it down the drain?

A Before that.

Q Until then?

A We put in one area. We put a lid on it and we go
through the proper channels of disposal.

MR. CHEESEMAN: He is talking now since
the regulations went in effect.

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Q Where did you put it since the regulations?

A We have one area by the painting area.

Q Do you put it in a drum?

A Yes.

Q You pour it into a 55-gallon drum?

A Yes.

Q What do you do with the waste solvent from the degreasing tank now?

A Same thing.

Q In the same drum?

A Not same drum. We put in a different one. We have different label.

Q Is that drum also in the paint shop?

A Yes.

The different solution, we have to identify.

Q Prior to 1980, sir, where would you put the waste material from the degreasing tank? You would put that in the drain?

A Only liquid.

Q Liquids?

A At the bottom of the chips and everything, we would put in a barrel with the chips. The dump truck picks it up.

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Q Is that what you do now with this material?

A No, sir.

Q What do you do now with it?

A There is a special person to do this thing. I am not involved with it.

Q Someone else cleans it out for you?

A Right.

I don't know if he do it on Saturday or what.

Q Now, Mr. Bialach, did you ever empty out waste material from the degreaser on the ground to the rear of the plant?

A No, sir.

Q You never did?

A No, sir.

Q Did anyone in the machine shop, to your knowledge, ever do that?

A Not to my knowledge.

Q Do you know where the pipe that runs along the Washington Street wall, do you know where that went?

MR. CHEESEMAN: You're referring to the pipe relating to the drain that is marked D?

MR. CONWAY: That is right.

Q There is a pipe that runs along the wall, isn't there?

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A Yes.

Q On the Washington Street side?

A Onto the ground. I don't know, sir.

Q It just goes in the ground? You don't know where it goes?

A No, sir.

MR. CHEESEMAN: Let's not forget to mark the sketch as an exhibit.

MR. CONWAY: Why don't we mark that now.

(Sketch, marked Exhibit No. 1.)

Q On your little map, Mr. Bialach, where are the bathrooms?

A Here is the cafeteria (Indication).

Q Okay.

A This is hallway, office, office space, and here is men's locker (Indication).

Q Men's locker?

A Right.

Bathroom is over here in this area (Indication).

Q Why don't you put "bath" in there?

A (Witness complies).

Q Now, are those the only bathrooms in the building?

A No. There is another one from the office side.

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2 Q Why don't you indicate that one?

3 A The ladies' room is here and men's right here
4 (Indication).

5 Q Why don't you put ladies' and men's bathroom in there?

6 A (Witness complies).

7 Q LB indicates ladies' bathroom?

8 A Yes.

9 Q And MB is for men's bathroom?

10 A Yes.

11 Q Thank you.

12 Mr. Bialach, were you ever given any
13 instructions as to the safe handling of the solvents
14 used in the degreaser?

15 A My recollection, I been using and people been using
16 and they never complain. No complaint and no
17 discoloration of hand or --

18 Q You never had a complaint?

19 A No, sir.

20 I assume it was best liquid we use to clean
21 the material.

22 Q Did you ever receive any instructions from anybody
23 at Grace as to how to use the solvents safely?

24 A (Pause).

25 Q Did Mr. Shalline ever give you instructions?

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A Well, we was aware -- We indicate use carefully, not get splash on you or something.

Q You were aware of that?

A Yes.

Q Do you remember how you were aware of that?

A I don't know. I don't recall, sir.

Q How about the cutting oils, did anyone ever advise you as to the safe use of cutting oils?

A I don't know, sir. If I do, I don't pay attention. I get no complaints.

Q Did anyone ever advise you how to dispose of solvents in the degreasing tank?

A No, sir.

Q Did anyone ever advise you how to dispose of waste material from the cutting oil?

A No, sir.

Q Were there ever any spills of solvents in the degreaser?

A Maybe sometime.

Q How often were the spills?

MR. CHEESEMAN: Object to the form of the question.

Q How many spills were there?

A Just when you dip your product in the tank and lift

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it up, it might be drops.

Q Were there ever any spills beyond that?

A No.

Q Any major spills?

A No.

Q Did the tank ever tip over?

A No, sir.

Q No accidents involving the degreasing tank?

A No.

Q Did you ever put the solvent in the degreasing tank --
from the degreasing tank any place else other than in
that drain?

A No, sir.

Q Did you ever put it in a manhole?

A No, sir.

Q Did you ever put it to the rear of the property?

A No, sir.

Q Did you ever put it in a ditch?

A No, sir.

Q Are you the person who would be responsible for the
disposal of the solvents in the degreaser?

A Not necessary.

Q Who might it be?

A I don't know. You mean now or before?

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Q In the 1960s.

A I don't know, sir.

Q How many people worked in the machine shop?

A About 32 to 16.

Q 13?

A 32.

Q Of these people, could anyone have disposed of the waste?

A No, sir.

MR. CHEESEMAN: I think he said anywhere from 32 to 16.

Q During the years it ranged from 32 to 16?

A Right.

Q Now, at any one time, sir, how many people in the machine shop would have the job of disposing of solvents?

A None.

Q None?

A No.

Q You became supervisor in 1968?

A About that.

Q In 1968, who had the responsibility of disposing of the solvents?

A I did. I was -- The best method of disposal, put in

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sewerage.

Q Were you responsible throughout the 1970s?

A Not direct; most of the time, yes.

Q Who actually would pour the solvents in the drain?

A Me or I told another person.

Q Who would you tell?

A To clean it up.

Q Who would you tell?

A One of the workers.

Q Which worker?

A They would -- They no longer work there anymore.

Q What is the person's name?

A Gee, so many people been going, been working. I don't recall the names, sir.

Q You don't recall the names of any of the people who you would tell to --

A Because I -- It happened only once a year or twice a year. I don't recall.

(Interruption)

Q Is the drain still there?

A Yes.

Q Do you put anything in that drain now?

A No.

Q Nothing whatsoever?

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A (Witness nods in negative).

Q Who told you not to put anything down the drain any+
more?

A Mr. Paul Shalline.

Q Is Mr. Paul Shalline your supervisor now?

A No, sir.

Q Was he in 1980?

A Yes, sir.

Q Did he tell you why you weren't suppose to put it down
the drain anymore?

A Yes.

Q What did he tell you?

A Because the new environment regulation came, state or
federal, OSHA regulation, and we should not put
anything in the sewer or any place else; everything
should be placed in storage.

Q It is your understanding that drain went into the
town sewerage system?

A I assume so.

Q Do you know?

A I don't know. I assume.

Q When you got full drums of solvent for the degreaser,
or cutting oils, where did you keep those full drums,
sir?

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A In back of the machine shop.

Q Could you indicate that on your little drawing?

A (Witness complies).

Q Maybe write the word "drum" in there?

A It would be in this area here (Indication).

Q Where did those drums come from?

MR. CHEESEMAN: Who was the supplier or

how did they get in the plant?

Q Who brought those drums to the machine shop?

A Delivery truck.

Q A delivery truck?

A And the person who -- the material dispatcher.

Q Material dispatcher?

A Yes.

Q Was he a Cryovac employee?

A Yes.

Q Do you remember what his name was?

A Been three or four guys since then working on that position.

Q Do you remember any of their names?

A No, sir.

Q You don't remember any names?

A Not exact.

Q Who is it now?

- 1
- 2 A John Longly.
- 3 Q How do you spell that?
- 4 A L-O-N-G -- I don't know.
- 5 Q How long has he been doing it?
- 6 A About two, three years.
- 7 Q Do you know who it was before him?
- 8 A The person is retired and passed away.
- 9 Q What is his name?
- 10 A I forget, sir.
- 11 Q Did you ever serve on the Safety Committee?
- 12 A Every month, sir.
- 13 Q Every month?
- 14 A Yes.
- 15 Q Do you ever remember discussing chemicals at the
- 16 Safety Committee?
- 17 A Yes. We discuss every Safety Committee, sir.
- 18 Q You discuss chemicals at every Safety Committee?
- 19 A I mean, how you should handle.
- 20 Q How you should handle chemicals?
- 21 A Yes.
- 22 Q Do you discuss how you should dispose of chemicals at
- 23 the meetings?
- 24 A We don't use chemicals. We don't work with chemicals.
- 25 Q I am asking if you ever discuss how to use them in

1
2 these Safety Committee meetings.

3 A Well, we serve on the Safety Committee. I am
4 permanent member and one person from each department.

5 Q How long have you been a permanent member?

6 A Since '68.

7 Q Do you recall ever discussing the safe handling of
8 solvents used in the degreaser during the period from
9 1968 to the present?

10 A Each person was aware how to use it. It was not --
11 You don't wash your hands and eyes with it.

12 Q Did you ever discuss the safe handling of cutting oils
13 in any of these meetings?

14 A Not in the meeting, sir.

15 Safety was practice; be sure everything is
16 safe in the shop no matter what we do.

17 Q Did you ever discuss --

18 A Safe working conditions.

19 Q Did you ever discuss the disposal of solvents in the
20 Safety Committee meetings?

21 A No, sir. I don't recall.

22 Q Did you ever discuss the disposal of cutting oils in
23 the Safety Committee meetings?

24 A No, sir. I don't recall.

25 Q Do you have any knowledge, Mr. Bialach, of any drums

1
2 that are buried on the Grace property presently?

3 A No, sir.

4 Q Do you have any knowledge of disposal of chemical
5 waste on the Grace property by any person?

6 A No, sir.

7 Q You said there were some -- you took some drums home
8 approximately 1970?

9 MR. CHEESEMAN: He said sometime after 1970.

10 Q Between 1970 and 1975?

11 A Yes.

12 Q Did you ask permission to take those drums?

13 A No, sir.

14 Q Did other people from time to time take drums from the
15 rear of the property?

16 A Not to my knowledge.

17 Q Where were the drums that you took located in the rear
18 of the property?

19 A Close to the building, back of the building.

20 Q Could you look at Kelly Exhibit 1, please. Do you
21 recognize that as the Grace plant?

22 A Yeah; right here (Indication).

23 Q Is there a blue mark there?

24 A Right here (Indication).

25 Q Could you mark with this yellow pen where this is?

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A (Witness complies).

Q They were empty drums?

A Yes.

Q You believe there were six to eight drums?

A Approximately.

Q How did --

A About eight.

Q How did you take those home?

A Excuse me, sir. Before we don't have a fence here. Now we have a fence here. Before we didn't have a fence in back.

Q So you took them before the fence was there?

A Right.

Q Was it before the second addition was put up?

A I do not know, sir. I don't recall, sir.

Q I am showing you Stewart Exhibit 1. Do you recognize that as being --

A Yes.

Q -- the plant after the second addition?

A Uh-huh.

Q Does that help you to remember whether you took the drums before or after the second addition was put on?

A I think in this area here (Indication).

Q Would you draw that in, please, with the yellow pen?

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2 A (Witness complies).

3 MR. CHEESEMAN: He has marked on Stewart
4 Exhibit 1 a yellow mark along the wall near the
5 junction of the first addition and the second
6 addition.

7 THE WITNESS: Right here some place
8 (Indication).

9 Q Now, when you took the drums, was the second addition
10 finished?

11 A I think so.

12 Q How do you say you took them?

13 A I got a small Vega stationwagon. I took it two at a
14 time.

15 Q Two at a time?

16 A Yes.

17 Q Would this be a regular work day you would take them?

18 A After work.

19 Q After work?

20 A Yes.

21 Q Did you believe it was company policy that it was
22 okay to take drums home?

23 A No, sir.

24 Q Did you think it was company policy to take them
25 home?

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A I assume so.

Q Mr. Bialach, how did you determine what solvents you would use in the degreaser?

A What type?

Q Yes.

A I don't know, sir. I just know it was solvent.

Q You don't know how you determined which solvent to use?

A No, sir.

MR. CHEESEMAN: You're asking him how he determined what kind the company should buy? He already said he didn't make that decision. Or are you asking him which drum on the rack to take it out of? I don't understand the question.

Q Who at the company decided which solvent would be used in the degreasing tank?

A The one we used was not harmful to people.

Q Did you make the decision which one would be used?

A No, sir. I would request.

Q You never made that decision?

A I request it.

Q You request solvents?

A Yes.

Q But you don't determine which solvents would be purchased?

- 1
- 2 A No, sir. I don't have knowledge.
- 3 Q You don't determine which solvents would be used?
- 4 A No, sir.
- 5 Q Do you remember the name of the salesman who made you
- 6 change the type of solvent?
- 7 A It was a young gentleman.
- 8 Q Do you remember the company he worked for?
- 9 A He was a representative Buffler Chemical. I don't
- 10 recall the company, sir.
- 11 Q Buffler and --
- 12 A He was a -- He was distributor and salesman. He is
- 13 not a company.
- 14 Q Do you have a brother named Jan?
- 15 A Yes.
- 16 Q Jan worked for the Cryovac plant?
- 17 A Yes.
- 18 Q What years did Jan work?
- 19 A Since 1964 to '78, 14 years.
- 20 Q 1964 to 1978?
- 21 A I assume.
- 22 Q Where did Jan work?
- 23 A He work in polishing and grinding from beginning to --
- 24 as a welder.
- 25 Q Was one of Jan's duties to remove burn marks from

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stainless steel?

A I assume so, sir.

Q Did he ever tell you that?

A No. We didn't discuss that work.

Q Did you ever see him do that?

A I never pay attention.

Q Did you ever see Jan removing burn marks from stainless steel to the rear of the plant?

A No, sir.

Q Did you ever see him put solvent on stainless steel to remove burn marks?

A No.

Q Did you ever see him wear glasses while he was doing it?

A I assume so, sir.

Q Did you ever see him wearing a shield?

A Yes.

Q Didn't he do this every day?

A When he was using the grinder.

Q When he --

A Because the wire was -- If you didn't have a shield, it can get in your eyes, on your face.

Q Do you know what type of solvent Jan used when he was doing this?

- 1
- 2 A I didn't use solvent.
- 3 Q What he used.
- 4 A I don't know, sir. Maybe soap and water.
- 5 Q Did Jan ever work with the okite tanks?
- 6 A I assume so.
- 7 Q Can you indicate on there where the okite tanks were?
- 8 A I get lost. I guess this area (Indication).
- 9 Q How many tanks were there?
- 10 A Three.
- 11 Q What were the dimensions of these tanks?
- 12 A About four feet by eight.
- 13 Q Feet?
- 14 A Yes.
- 15 And probably three feet high.
- 16 Q Three feet high or three feet deep?
- 17 A Approximately.
- 18 Q Do you know what type of liquid was put in these tanks?
- 19 A No, sir.
- 20 Q Do you know how the liquid in these tanks was disposed
- 21 of?
- 22 A No, sir.
- 23 Q Did your brother Jan ever tell you?
- 24 A No, sir.
- 25 Q Are the tanks still there?

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A Yes; one or two.

3

Q What was the most number of okite tanks that were there from 1960 up until 1980?

4

5

A Three or four.

6

Q Could there have been eight?

7

A I am not sure, sir.

8

Q How many are remaining?

9

A One or two.

10

Q Do you know Tom Barbas?

11

A Yes.

12

Q He is the painter?

13

A Yes; was.

14

Q Was the painter?

15

A Yes.

16

Q Did you ever see Tom Barbas dump waste material to the rear of the plant?

17

18

A No, sir.

19

Q Ever?

20

A Never.

21

Q Do you know Joe Meola?

22

A Yes.

23

Q Did you ever see Joe Meola dump waste material to the rear of the plant?

24

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A I never seen him dump anything.

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2 Q Do you know Frank Kelly?

3 A Yes.

4 Q Did you ever see Frank Kelly dump waste material to the
5 rear of the plant?

6 A No, sir.

7 Q Do you know Paul Kelly?

8 A Yes.

9 Q Did you ever see Paul Kelly dump waste material to the
10 rear of the plant?

11 A No.

12 Q Did you know Billy Lloyd?

13 A Yes.

14 Q Did you ever see Billy Lloyd dump waste material to
15 the rear of the plant?

16 A No, sir.

17 Q Did you ever see anyone dump waste material to the
18 rear of the plant?

19 A No, sir.

20 MR. CONWAY: Why don't you give us a minute,
21 Bill.

22 (Recess)

23 Q Mr. Bialach, the sewer and pipe along the Washington
24 Street side of the machine shop, did you ever clean
25 out that pipe?

- 1
- 2 A No, sir.
- 3 Q To your knowledge, sir, did anyone ever clean out that
- 4 pipe?
- 5 A No, sir.
- 6 Q Did you ever repair the pipe?
- 7 A No, sir.
- 8 Q Did anyone ever repair the pipe?
- 9 A Not to my knowledge.
- 10 Q Did you ever replace the drain or the pipe?
- 11 A No, sir.
- 12 Q To your knowledge, did, did you ever replace or repair
- 13 the drain or pipe?
- 14 A Not to my knowledge.
- 15 Q Did you ever dig it up for any reason?
- 16 A Not to my knowledge.
- 17 Q Did anyone ever dig it up for any reason?
- 18 A No, sir.
- 19 Q Is there a septic system, to your knowledge, on the
- 20 Grace property?
- 21 A I do not know.
- 22 Q You do not know of any?
- 23 A No, sir.
- 24 Q Is there a picnic table to the rear of the plant?
- 25 A I assume so. We have a -- two in the front. I am not

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sure.

Q Two in the front?

A Yes.

Q Is there one in the rear?

A Maybe. I am not sure.

Q Have you ever been in the rear?

A A few times.

Q Have you ever sat at the table in the rear?

A No, sir.

Q Have you ever noticed a manhole next to the table in the rear?

A No, sir.

Q Did you ever notice a manhole that was under what is now the first addition?

A Not to my knowledge.

Q Did you ever receive any drums of solvent through the door which leads from the outside directly into the machine shop?

A No, sir.

Q You always received them from the receiving department at Grace?

A I assume so.

Q Do you know?

A That is the only way they come in, sir.

1

2 Q From the receiving department at Grace?

3 A Correct.

4 Q When you have empty drums in the machine shop, where
5 would the empty drums go?

6 A Usually we push in the alley between entry and the
7 wall of the machine shop.

8 Q Would you indicate that on the drawing?

9 A Between this wall and hallway (Indication).

10 Q Along the south side of the building?

11 A Inside is the hallway.

12 Q Along the south side of the main building?

13 A Yes.

14 Q You put them in a hallway?

15 A Yes.

16 Q What would happen to them?

17 A I assume the man who pick up the trash and chips, he
18 move them outside or inside the plant. I have no
19 idea.

20 Q You don't know who would move the drums?

21 A The guy who pick up the waste material and chips.

22 Q Do you know that person's name?

23 A No, sir. I do not remember exact name.

24 Q What is the greatest number of drums that you would
25 have in the machine shop at a single time?

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MR. CHEESEMAN: Are you talking full or empty?

MR. CONWAY: Full or empty.

A About nine barrels, sir.

Q Of these nine, how many would be full?

A Maybe three or four.

Q And the rest would be empty?

A Not necessarily.

Q Okay.

A Hydraulic oils.

Q What --

A Maybe three different types, light and heavy duty oil.

Q I'm sorry?

A For hydraulic system.

Q How many barrels would contain hydraulic oil?

A Four barrels.

Q How many barrels would be empty?

A Maybe halfway empty, quarter full, hard to say. I can't say.

Q Well, sir --

A They would be on the stand.

Q On a stand in the machine shop?

A On the wheels.

Q On wheels?

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A Right.

I couldn't tell you how many was full, how many empty.

Q Four barrels would contain --

A Hydraulic oil.

Q One would contain cutting oil?

A Approximately.

Q Or two barrels would contain cutting oil?

A Maybe two different types.

Q Different types of cutting oil?

A Yes. There is heavy oil and light oil for cutting materials.

Q The remainder of the barrels would contain solvents for degreasing tanks?

A One.

Q One barrel?

A Yes.

Q Do you ever recall an incident, Mr. Bialach, where some children punctured some drums in the rear of the plant and solvent was spilled?

A No idea.

Q It spilled into the parking lot?

A No.

Q Did you hear about that?

1
2 A No, sir.

3 MR. CONWAY: All right, Bill.
4

5 Cross Examination

6 Q (By Mr. Cheeseman) Do you know why your brother Jan
7 stopped working at Cryovac?

8 A Yes. He never got along with management and with some
9 fellow workers. He had always some kind of misunder-
10 standing.

11 Q Did he quit?

12 A No, sir.

13 Q He was fired?

14 A Well --

15 Q Or layed off?

16 A We don't fire people. We give a layoff.

17 Q Do you know if he was ever subjected to disciplinary
18 action?

19 A About three, four times.

20 Q Do you know what sort of disciplinary action was
21 imposed upon him on those occasions?

22 A Well, he was always warning about continuing -- about
23 next time he will be -- the company will take
24 disciplinary action, because each time I have to go
25 and translate for him. I was going to conference room

1
2 and translate for him.

3 Q Does he have any difficulty speaking English?

4 A Yes.

5 Q Does he have difficulty understanding English?

6 A From beginning when he came to this country.

7 Q Is that still true now?

8 A In occasion, yes.

9 Q In what?

10 A Occasion.

11 Q Since your brother stopped working for Cryovac, has he
12 ever told you he was going to get even or get revenge
13 on the company?

14 A Yes, he did.

15 Q About how many times has he told you that?

16 A Many times, sir.

17 MR. CHEESEMAN: Your witness.

18
19 Redirect Examination

20 Q (By Mr. Conway) Do you consider your brother to be a
21 truthful person?

22 A I consider him as my brother. His character is not
23 reliable.

24 Q Is he truthful?

25 A I assume. I hope so.

1
2 Q Mr. Bialach, I will ask you one more time: Is he
3 truthful?

4 MR. CHEESEMAN: I think he said he assumes
5 so and hopes so.

6 Q Did you ever tell your brother that the EPA was digging
7 in the wrong place?

8 A No, sir.

9 Q Did your brother ever say to you "Why don't you tell
10 the EPA?"

11 A Never, sir. I never discuss with my brother.

12 Q Did you ever tell your brother that you were afraid
13 if you told the EPA you would lose your job?

14 A No. I never discuss with my brother.

15 Q So if your brother said that, that would not be a
16 truthful statement?

17 A Yes, sir; is false.

18 MR. CONWAY: No questions.

19 (Whereupon the deposition was
20 adjourned at 3:50 P.M.)
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J U R A T

I, STANLEY BIALACH, have read
the foregoing transcript of
testimony and the same contains
a true and accurate recording of
my answers given to the
questions therein set forth.

Signed under the pains and
penalties of perjury this _____
day of _____,
1985.

STANLEY BIALACH

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF NORFOLK)

I, Valerie T. Wong, Notary Public within
and for the Commonwealth of Massachusetts, do hereby
certify:

That STANLEY BIALACH, the witness whose
deposition is hereinbefore set forth, was duly sworn by me
and that such deposition is a true record of the testimony
given.

I further certify that I am not related to
any of the parties to this action by blood or marriage,
and that I am in no way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed my seal of office this 27th day of
May, 1985.


NOTARY PUBLIC

My Commission Expires:
November 5, 1987.

J U R A T

I, STANLEY BIALACH, have read
the foregoing transcript of
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STANLEY BIALACH

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