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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DANNY AGUAYO, an individual, )  
et al., )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
BETZ LABORATORIES, INC., a )  
California corporation, et al., )  
 )  
Defendants. )  
\_\_\_\_\_)  
AND RELATED CASES. )  
\_\_\_\_\_)

No. BC 123749  
BC 158588  
BC 161669

DEPOSITION OF TONY YE  
San Francisco, California  
Tuesday, March 11, 2003  
Volume 3

LAURIE HELD-BIEHL  
CSR NO. 6781  
JOB NO. 203174

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3

4 DANNY AGUAYO, an individual, )  
 et al., )

5 )  
 Plaintiffs, )

6 )

7 vs. )

No. BC 123749

8 )

BC 158588

9 BETZ LABORATORIES, INC., a )  
 California corporation, et al., )

BC 161669

10 )

11 Defendants. )

12 )

13 )  
 AND RELATED CASES. )

14 )

15

16

17

18 Deposition of TONY YE, Volume 3,

19 taken on behalf of the Plaintiffs, at

20 505 Montgomery Street, San Francisco,

21 California, commencing at 9:03 a.m.

22 and ending at 11:30 a.m. on Tuesday,

23 March 11, 2003, before LAURIE

24 HELD-BIEHL, Certified Shorthand

25 Reporter No. 6781.

## 1 APPEARANCES:

2

## 3 For Plaintiffs:

4 LAW OFFICES OF ENGSTROM, LIPSCOMB & LACK  
5 BY: GARY A. PRAGLIN  
6 10100 Santa Monica Boulevard  
7 16th Floor  
8 Los Angeles, California 90067-4107

9 GIRARDI & KEESE  
10 Attorneys at Law  
11 1126 Wilshire Boulevard  
12 Los Angeles, California 90017  
13 (No appearance made.)

## 14 For Defendant Pacific Gas &amp; Electric:

15 LATHAM & WATKINS  
16 Attorneys at Law  
17 BY: KIRK A. WILKINSON  
18 633 West Fifth Street  
19 Suite 4000  
20 Los Angeles, California 90071-2007

21 JOHNSON & TEKOSKY LLP  
22 Attorneys at Law  
23 444 South Flower  
24 31st Floor  
25 Los Angeles, California 90071  
(No appearance made.)

## For The Witness:

REYNOLDS PRICE CASAS & RILEY LLP  
Attorneys at Law  
BY: DANIEL L. CASAS  
4920 El Camino Real  
First Floor  
Los Altos, California 94022-1409  
(650) 960-3400

## 23 Also Present:

24 BOB BEHMKE, Videographer

25

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1 San Francisco, California, Tuesday, March 11, 2003

2 9:03 a.m. - 5:27 a.m.

3

4 THE VIDEOGRAPHER: Good morning. Here begins  
5 videotape number one of Volume 3 in the deposition of  
6 Tony Ye in the matter of Aguayo versus  
7 Betz Laboratories, et al., in the Superior Court of the  
8 State of California, County of Los Angeles, the lead  
9 case number of which is BC 123749.

10 Today's date is March 11, 2003. The time is  
11 9:03.

12 This deposition is being taken at  
13 505 Montgomery, Suite 1900, San Francisco, California,  
14 and was at the request of Gary Praglin, attorney at law,  
15 of Engstrom, Lipscomb & Lack.

16 The videographer is Bob Behmke, a CLVS and  
17 notary public, subcontracted by Biehl & Bell, et al., of  
18 Orange, California.

19 Would counsel please voice identify yourselves  
20 and state whom you represent.

21 MR. PRAGLIN: Good morning. Gary Praglin of  
22 Engstrom, Lipscomb & Lack representing the plaintiffs.

23 MR. CASAS: Dan Casas for the witness, Tony Ye.

24 MR. WILKINSON: Kirk Wilkinson for Defendant PG&E.

25 THE VIDEOGRAPHER: Would the reporter please swear

1 in the witness.

2

3

TONY YE,

4

having been first duly sworn,

5

was examined and testified as follows:

6

7

EXAMINATION

8

BY MR. PRAGLIN:

9

Q Good morning, Mr. Ye.

10

A Good morning, Mr. Praglin.

11

Q This is day three of your deposition, we're

12

going to wrap it up here today. I have just a limited

13

area of questioning for you. I'm going to try not to

14

ask you questions that I've asked before. There may be

15

some questions by way of background that I repeat but

16

that's not my intention to do so.

17

A Okay.

18

Q Do you have in mind the ground rules that we

19

gave you at the beginning of the first two sessions of

20

your depositions regarding the fact that this deposition

21

is under oath?

22

A Yes.

23

Q You're aware that you're under oath?

24

A Yes.

25

Q And you know that it's a crime to lie in this

1 deposition?

2 A Yes.

3 Q And you're aware that you'll have a chance to  
4 make changes in your testimony once you receive the  
5 transcript?

6 A Yes.

7 Q And you're aware that either myself or any  
8 other attorney who takes this case to trial can comment  
9 on any of the changes that you may make?

10 A Yes.

11 Q Any reason why we cannot get your best  
12 deposition testimony here today?

13 Is there any reason why we cannot get your best  
14 deposition testimony here today?

15 A No.

16 Q You're feeling okay?

17 A I'm feeling okay.

18 Q All right. And I think as we established last  
19 time, you understand my English, yes?

20 A Yes.

21 Q If you don't understand me, please ask me to  
22 repeat my question or to rephrase it and I'll be happy  
23 to do that but if you answer my question, I'm going to  
24 assume that you heard me and that you understood me. Is  
25 that fair?

1           A     Yes.  Fair.

2           Q     Okay.  Since the last time of your deposition,  
3 have you reviewed any documents to prepare for today's  
4 deposition?

5           A     Yes, I have.

6           Q     What documents have you reviewed?

7           A     I reviewed two depositions, one is Tom Flahive,  
8 one is Tony Wong.  I briefly look over those two  
9 depositions.  Didn't read them line by line or page by  
10 page, but I have those materials.

11          Q     Did you review the exhibits to those  
12 depositions?

13          A     No, I have not.

14          Q     Where did you get those depositions?

15          A     My attorney provided those to me.

16          Q     Other than those two depositions, have you  
17 reviewed anything in connection with preparation for  
18 this deposition here today since your last deposition?

19          A     I reviewed two documents sent to you -- me from  
20 you which are Chinese and the translation of those  
21 Chinese documents.

22          Q     All right.  And I'll be attaching those as  
23 exhibits today.

24                 Did you bring your copy of what you reviewed?

25          A     Yes, I did.



1 Q May I see it, please?

2 A Sure.

3 Q Among the documents that you reviewed that your  
4 attorney just handed me are two declarations, one for  
5 you and one for Bill Butler. You saw that?

6 A Yes, I saw that.

7 Q And the declaration for you basically says that  
8 you've forwarded all of the documents that were in your  
9 possession to your lawyers in response to the subpoena  
10 that we had sent to you, correct?

11 A Yes.

12 Q And that those documents were Bates stamped  
13 1 through 926; in other words, there were 926 pages,  
14 correct?

15 A Yes.

16 Q And that those documents were kept by you in  
17 the ordinary course of your business, correct?

18 A Yes.

19 Q Okay. And is all of that true?

20 A All of that is true.

21 MR. PRAGLIN: Would you have any problem, Mr. Casas,  
22 with having Mr. Ye sign this verification, this  
23 declaration?

24 MR. CASAS: Yes, I do.

25 MR. PRAGLIN: What's the problem?

1 MR. CASAS: You're asking me to disclose something  
2 that's attorney/client privilege. I'm happy to discuss  
3 it with you off the record.

4 And just to note for the record, there was a  
5 document that was not produced in response to the  
6 subpoena but was later provided at his second deposition,  
7 I think it was the Wang article.

8 MR. PRAGLIN: I understand that.

9 With the exception of the Wang article, do you  
10 have a problem with Mr. Ye signing this declaration?

11 MR. CASAS: Yes.

12 MR. PRAGLIN: Annotated?

13 MR. CASAS: Yes, I do.

14 MR. PRAGLIN: So that's something you want to  
15 discuss off the record; is that right?

16 MR. CASAS: Sure.

17 MR. PRAGLIN: Okay.

18 Q Mr. Ye, as you sit here now, are you aware of  
19 anything that's not true in this declaration that we  
20 prepared for you to sign? And I'll put it in front of  
21 you.

22 A No.

23 Q And you're not aware of any documents that you  
24 have in response to our subpoena other than the 926 pages  
25 that you produced and the Wang article; is that right?

1           A     That's right.

2           Q     Since the time of your last deposition, have  
3 you had any conversations or any contact of any nature  
4 whatsoever with anyone in connection with the Zhang '97  
5 article, other than your lawyer?

6           A     I briefly talked with Bill Butler.

7           Q     When was that?

8           A     Right after deposition or in January. It's not  
9 a -- in any way long or deep conversation, it's just I  
10 went back to my office, I'm still in the same office  
11 with Mr. Butler, and Butler with me, and say morning  
12 Tony. And then finish your depo? And I say yeah, I  
13 finish my depo. So just on the surface of a  
14 conversation of the deposition.

15          Q     Bill Butler is your boss, right?

16          A     Yes, he is.

17          Q     Is that the full extent of your conversation  
18 with him about your deposition?

19          A     To my memory, yes.

20          Q     So you didn't discuss the substance of your  
21 testimony regarding the Zhang '97 article with your boss  
22 when you returned after your deposition; is that right?

23          A     No.

24          Q     That is right or that's not right?

25          A     That's right.

1 Q Okay. So you didn't talk to Bill Butler about  
2 your testimony regarding the Zhang '97 article; is that  
3 your testimony?

4 A Other than we may -- because when we talk with  
5 my attorney, if Bill and I both on the phone with your  
6 document, we may discuss a little bit more matters, but  
7 I think that's under the privilege of --

8 Q You're right, that's privileged. But let's set  
9 aside any conversation where your lawyer was present.

10 When you came back into the office and you  
11 talked to your boss, Bill Butler --

12 A Uh-huh.

13 Q -- about your deposition, you didn't discuss  
14 anything of substance about the '97 Zhang article; is  
15 that your testimony?

16 MR. CASAS: That's been asked and answered.

17 THE WITNESS: My previous answer is yes, and it's  
18 still yes.

19 BY MR. PRAGLIN:

20 Q And other than your conversation with  
21 Bill Butler or with your lawyer, have you discussed  
22 anything about the Zhang '97 article or your deposition  
23 with anyone else since the time of your last deposition?

24 A No.

25 Q So you haven't had any contact or conversations

1 with anyone in China about the Zhang '97 article; is  
2 that true?

3 A That's true.

4 Q And you haven't had any contacts with the  
5 journal known as JOEM regarding the Zhang '97 article  
6 since your last deposition; is that right?

7 A That's right.

8 Q And you haven't had any other papers that  
9 you've been publishing with JOEM since the last time of  
10 your deposition, have you?

11 A No.

12 Q So you wouldn't have had any reason to contact  
13 JOEM since your last deposition, would you?

14 A No.

15 Q Other than reviewing the depositions of  
16 Tom Flahive and of Tony Wong, has anyone read to you any  
17 documents in connection with your preparation of this  
18 deposition?

19 A No.

20 MR. PRAGLIN: Does anyone know what the last exhibit  
21 number was?

22 THE REPORTER: 72.

23 MR. PRAGLIN: So 73 is next up?

24 THE REPORTER: Correct.

25 MR. PRAGLIN: Okay.

1           Q     Mr. Ye, some of the documents that I sent to  
2 your lawyer since your last deposition that we had  
3 translated I have here, I'm going to mark them as  
4 exhibits. I realize that you already have a copy, you  
5 can use whichever you like.

6                     I'm going to ask that this next one be marked  
7 as Exhibit 73. And this is an English translation,  
8 which is two pages, of a page that you produced,  
9 Bates stamped TY 534, which is attached at the back; so  
10 you have both the English and the Chinese version of the  
11 same document all marked as Exhibit 73 here.

12                     (Plaintiffs' Exhibit 73 was  
13 marked for identification, a copy of  
14 which is attached hereto.)

15           MR. PRAGLIN: Mr. Wilkinson, I started to highlight  
16 your copy by mistake --

17           MR. WILKINSON: Why, thank you.

18           MR. PRAGLIN: -- so you may use it or disregard it.  
19 I got carried away last night with the highlighter.

20           MR. WILKINSON: I appreciate it.

21 BY MR. PRAGLIN:

22           Q     Do you have Exhibit 73 in front of you?

23           A     Yes, I do.

24           Q     And you've seen this before because your lawyer  
25 sent it to you, right?

1           A     Yes.

2           Q     And as you look at the third page of  
3 Exhibit 73 --

4           A     Yes.

5           Q     -- that's the Chinese letter that Dr. Zhang  
6 sent to you on or about February 26, 1996, correct?

7           A     Yes, that's dated on the -- on the bottom of  
8 the page, yes.

9           Q     At some point around February of 1996 after  
10 you received Dr. Zhang's Chinese letter, Bates stamped  
11 TY 534, you translated it for someone at ChemRisk or  
12 Environmental Risk Analysis, didn't you?

13          A     I either verbally or in writing, yes, but I --  
14 at this time of February of 1996, I already worked in  
15 Environmental Risk Analysis, which is a different  
16 company than ChemRisk.

17          Q     Right.

18          A     So I may verbally translate it to Bill Butler  
19 and I may -- I think I have verbally translate it and  
20 communicate it over the phone to ChemRisk.

21          Q     And probably to Dr. Kerger at ChemRisk, right?

22          MR. CASAS:  Objection.  Calls for speculation.

23                    If you know.

24          THE WITNESS:  I -- I don't.

25                    Around that time my impression is I did not

1 talk with Brent Kerger that often anymore; so I may just  
2 talk to Corbett or Flahive or someone in the office but  
3 I -- I don't remember who that is.

4 BY MR. PRAGLIN:

5 Q And you haven't been able to locate your own  
6 English translation of this Chinese letter from  
7 Dr. Zhang that's been Bates stamped TY 534, have you?

8 A I didn't look in the 900 or so pages, but my  
9 impression when I organize my material, I did not see a  
10 translation of this in my current file.

11 Q Okay. And you've had a chance to read our  
12 English translation done by a gentleman by the name of  
13 Allen Choi, which is the first two pages of Exhibit 73,  
14 haven't you?

15 A Yes. Yes, I have.

16 Q Okay. And you knew Allen Choi from your  
17 involvement in the Zhang and Wang projects in the '95,  
18 '96 time frame with ChemRisk, didn't you?

19 A No, I do not.

20 Q You never spoke with Allen Choi?

21 A I never did.

22 Q Did you know he was the translator that PG&E  
23 hired to work on the Zhang and Wang articles?

24 A Not until the last deposition that you mention.

25 Q Okay. Now that you've had a chance to look at



1 Allen Choi's English translation --

2 A Uh-huh.

3 Q -- of the Chinese document Bates stamped  
4 TY 534, do you have any reason to disagree that it is an  
5 accurate English translation of Dr. Zhang's Chinese  
6 letter?

7 A Yes.

8 Q You have a basis for disagreement?

9 A Yes.

10 Q Tell me where you disagree with the translation  
11 by Allen Choi.

12 A Certainly.

13 On the second page of English translation by  
14 Allen Choi, the first sentence, I'll read it out. It  
15 state, "It is not possible for me to go to Southeast  
16 Asia again recently."

17 The original Chinese on the third page when I  
18 review this is translated to be "It is possible for me  
19 to go to Southeast Asian again in the near future."

20 So Mr. -- in this particular sentence,  
21 Mr. Allen Choi's translation is totally reversed the  
22 original meaning in the Chinese language.

23 Q Okay. Other than that sentence, which I don't  
24 have in any questions for you about that sentence --

25 A Okay.

1 Q -- are you aware of any errors or  
2 mistranslations by Allen Choi of this Chinese letter  
3 from Dr. Zhang Bates stamped TY 534?

4 A The -- I will not phrase it as a error because  
5 I think that in the translation you can choose different  
6 wording to make the translation more precise or more  
7 accurate represent the original author's meaning in the  
8 original language; so I would not say Mr. Allen Choi's  
9 translation is wrong or has error, other than the one I  
10 just stated.

11 But I do have difference in couple sentence I  
12 like to put in other translation if I do it.

13 Q Okay. Which sentences are those?

14 A I will -- when I review this document, I -- I  
15 just briefly looked into it, there's one sentence I'd  
16 like to rephrase, which is the last sentence on the  
17 second page.

18 Allen Choi's translation is, "So please relay  
19 to the American party that I will continue to work to  
20 the end on the chromium (VI) pollution issue that we  
21 fight together."

22 Q Yes.

23 A There are a couple of wording where English --  
24 a couple of wording that Allen Choi choose in this  
25 translation I don't think is precise.

1 Q Which words?

2 A First one is "chromium (VI) pollution issue."  
3 The original Chinese is "chromium (VI) pollution  
4 questions."

5 And "we fight together," which the last one, I  
6 will translate that into "we struggled with."

7 So if I rephrase this translation in the --  
8 Allen Choi's basic same framework, which is, "So please  
9 relay to the American party that I will continue to work  
10 to the end on the chromium (VI) pollution questions that  
11 we struggled with together."

12 Q So you would substitute the phrase "struggled  
13 with" for the word "fight"?

14 A Yes. And I will change the word "issue" into  
15 "questions."

16 Q And you'd agree that the translation of the  
17 Chinese into the English of that sentence has, to some  
18 extent, a degree of interpretation by the translator,  
19 wouldn't you?

20 MR. CASAS: Objection. That's ambiguous.

21 He's not an expert translator as well.

22 THE WITNESS: I would say this depends on if a  
23 translator, when the translator provide the different  
24 selections of wording to tell the readers that there are  
25 different selection of this wording. I think the

1 readers can understand the original meaning; so it's not  
2 subject to the translator interpretation, if the  
3 translator provide a -- a complete options of the  
4 wording.

5 BY MR. PRAGLIN:

6 Q When you were having your conversations with  
7 Dr. Zhang in the '95/'96 time frame, did you ever tell  
8 him that he and ChemRisk, on behalf of PG&E, were  
9 working on the chromium (VI) pollution question that you  
10 struggled with together?

11 A Yes.

12 Q And did you lead him to believe that PG&E was  
13 for or against chromium (VI) pollution?

14 MR. CASAS: Objection. Calls for speculation.

15 THE WITNESS: I -- I don't know how to answer your  
16 question phrased in that way, but what I told him, and  
17 he understood, is PG&E had a chromium contamination  
18 problem and he understood PG&E is our ultimate client,  
19 PG&E is ChemRisk's client, and ChemRisk pay Dr. Zhang,  
20 compensate for certain small amount of money.

21 So all of that information has been disclosed  
22 to Dr. Zhang.

23 So if you ask me what Dr. Zhang's  
24 interpretation of this information, I don't know, you  
25 have to ask him. But the information, like I just

1 stated, that's all disclosed to him.

2 BY MR. PRAGLIN:

3 Q You said I'd have to ask him. He's dead, isn't  
4 he?

5 A And then I would -- I will not have a basis to  
6 guess.

7 If I have to put my guess, I will say anyone in  
8 Dr. Zhang's position would understand that -- what his  
9 work is for and -- and to clarify the scientific issue  
10 that's -- which is a chromium pollution question or  
11 study.

12 Q Did you ever send Dr. Zhang anything in  
13 writing that indicated PG&E's position regarding its  
14 chromium (VI) contamination in Hinkley?

15 A I think that in multiple places I mention  
16 PG&E. And in multiple places, in my 900 or so pages,  
17 you also see Dr. Zhang, in Dr. Zhang's handwriting,  
18 mentioned PG&E, the English letter PG&E. That, to me,  
19 is the documentation I have so far to -- as evidence  
20 that Dr. Zhang knew the whole issue of PG&E's  
21 involvement and PG&E's issue around that time on the  
22 chromium contamination.

23 Q I understand that the name "PG&E" appears in  
24 some documents --

25 A Yes.

1 Q -- that you sent to Dr. Zhang. I'm asking you  
2 a different question.

3 A Okay.

4 Q Did you ever send him any documents that  
5 indicated what PG&E's position was with regard to its  
6 chromium (VI) contamination of Hinkley?

7 A My recollection is Dr. Zhang knew the position  
8 of PG&E around that time.

9 Q Show me a document in your 930-some-odd pages  
10 that you've produced that indicates PG&E's position  
11 regarding the chromium (VI) contamination in Hinkley.  
12 Is there one?

13 MR. CASAS: I'm going to object.

14 Unless you want him to take the time now to  
15 look through all the documents, I'm not going to have  
16 him answer it without looking through them.

17 MR. PRAGLIN: Feel free.

18 Q Go ahead, take as much time as you need to look  
19 through them, Mr. Ye. I've been through them, I haven't  
20 seen it, but maybe I missed it.

21 A When I organized the material I don't remember  
22 I saw a document that stated in writing of this 900 or  
23 so pages of what is PG&E position, no.

24 And like what I stated last time, when I  
25 participated in this project in about June of '95,

1 Dr. Zhang already established a consulting relationship  
2 with ChemRisk, which has happened before my time. And I  
3 think that it would be Brent Kerger or someone who  
4 initially established that relationship would also have  
5 told Dr. Zhang of the overall circumstances of the  
6 research.

7           So by the time when I talk with Dr. Zhang, my  
8 understanding was Dr. Zhang understood this, and from  
9 multiple conversations, many, many conversations  
10 Dr. Zhang had with us, that's the same impression that I  
11 have. Reinforced my previous understanding that  
12 Dr. Zhang knew who's PG&E, what PG&E's position is,  
13 which is chromium contamination.

14       Q     So did you tell Dr. Zhang that he would be  
15 working on the same side as PG&E of this chromium (VI)  
16 pollution issue?

17       A     Yes. And I remember that.

18           I remember in one of my document in the 900 or  
19 so pages I said to Dr. Zhang that ChemRisk will have a  
20 meeting with PG&E shortly, and I -- I remember such  
21 sentence in my 900 or so pages; so if you want me to  
22 look for that page, I think you -- you know which page  
23 I'm talking about, but yes.

24           So I -- I -- I told Dr. Zhang PG&E's  
25 involvement.

1 Q I didn't understand the last part of your  
2 answer. You told Dr. Zhang what?

3 A PG&E's involvement in this whole issue with  
4 chromium.

5 Q No, I understand that you told him that PG&E  
6 was involved, but my question is is there a document  
7 that you sent Dr. Zhang that explained PG&E's position  
8 regarding chromium (VI)? I understood you to say before  
9 that you haven't yet seen that document.

10 A Yes. That's still true.

11 Q Okay.

12 A Okay.

13 Q On Exhibit 73 on the first page --

14 A Yes.

15 Q -- do you have any problems with Allen Choi's  
16 English translation of any part of the first page?

17 A Yes, I do.

18 On the first -- in the second paragraph of the  
19 letter, the last sentence, Allen Choi's translation was,  
20 "Last time the \$800 U.S. dollar draft was received,  
21 please do not worry about it."

22 The -- I have a question -- I have a problem or  
23 I have an uncertainty of whether Allen Choi's  
24 translation of "\$800 U.S. dollar draft," the word  
25 "draft" I have a question -- I have a difference on



1 that.

2           The original Chinese wording is a -- is more  
3 like -- I -- I don't know the direct translation of this  
4 financial term but it's more like a money order which  
5 you can obtain from -- I believe you obtain that -- or  
6 cashier check you obtain from a -- a bank; so whether  
7 that's the same meaning of a -- as a draft, I -- I don't  
8 know, depends on how you read it. But I provide this  
9 alternative translation, which is money order or cashier  
10 check just for you to be clear on what's the original  
11 Chinese document was trying to say.

12       Q     Is that the only difference of opinion that you  
13 have with regard to Allen Choi's translation on page 1  
14 of Exhibit 73?

15       A     So far that's the only one. Depends on if you  
16 have different interpretation of this document.

17           I may -- I may offer -- if I -- if you  
18 demonstrate to me that there's some sentence, you may  
19 have a different understanding of that sentence and --  
20 as compared to I read the Chinese document, I may  
21 provide additional alternatives. But other than that,  
22 so far I think the document is clear.

23       Q     In the middle of page 1 of Exhibit 73,  
24 according to the English translation, Dr. Zhang wrote,  
25 "Starting from today, my address for correspondence is

1 changed as follows. Please do not contact Jinzhou to  
2 reach me," and then he provides a mailing address in  
3 China, correct?

4 A That's right.

5 Q And you think that Allen Choi correctly  
6 translated that sentence?

7 A I think so.

8 Q Now, this letter was sent by Dr. Zhang on or  
9 about February 26, 1996, right?

10 A That's right.

11 Q And the paper had already been written by  
12 ChemRisk as of November or December of '95 and submitted  
13 to at least two journals, right?

14 A That's a very compound question. And like what  
15 we discuss last time, I do not agree on a representation  
16 that ChemRisk wrote the article. I stated in my  
17 previous deposition that's not true.

18 But if you ask me that -- whether the article  
19 has been submitted for publication in '95 before this  
20 time of this document by Allen Choi transferred --  
21 translated, I will say yes.

22 Q We previously marked a collection of documents  
23 to your deposition as Exhibit 21, and just for ease of  
24 reference, I'm going to give you another copy of  
25 Exhibit 21.

1           A     Thank you.

2           Q     You can confirm for yourself or have Mr. Casas  
3 confirm for yourself that this is an accurate copy of  
4 Exhibit 21 to your deposition. I'm not going to remark  
5 it. But you can see the exhibit stamp on the front.

6           A     I take your word for it.

7           Q     And it's a Bates stamped range of TY 453  
8 through, I guess it's a collection of documents. But go  
9 ahead and take a moment and look at Exhibit 21 to your  
10 deposition, please.

11          A     Yes.

12          Q     It's an accurate copy of Exhibit 21, isn't it?

13          A     I didn't compare page by page but I -- I have  
14 no reason to believe it's not.

15          Q     Okay. We copied it out of your deposition;  
16 so --

17          A     Okay.

18          Q     -- I think it probably is.

19          A     Uh-huh.

20          Q     And I've got some more questions for you about  
21 this exhibit in light of your testimony.

22                    In Exhibit 21 when you look at the first draft  
23 document starting with page TY 454 --

24          A     Yes.

25          Q     -- this is a draft of the Zhang '97 article,

1 isn't it?

2 A I'm not sure. It's a different title but  
3 similar document, I will agree. I'm not sure this is  
4 the one with the version. There are many, many versions  
5 of that same article.

6 Q And this document, beginning with TY 454, this  
7 was drafted by McLaren/Hart-ChemRisk in Alameda and sent  
8 to McLaren/Hart-ChemRisk in Irvine, wasn't it?

9 A It's printed by Alameda.

10 MR. WILKINSON: Objection. Vague, misstates the  
11 testimony.

12 THE WITNESS: It's printed by McLaren/Hart and  
13 it's -- I will say it's typed by McLaren/Hart, sure.

14 BY MR. PRAGLIN:

15 Q And there's English changes, right?

16 A Yes, they are.

17 Q Those English handwritten changes, those  
18 weren't by Dr. Zhang, were they?

19 A The person who write down this English  
20 certainly not Dr. Zhang.

21 Q And then if you go to the next draft document  
22 in Exhibit 21 --

23 A Yes.

24 Q -- starting at page TY 468, do you see that?

25 A Yes. Yes, I do.

1 Q And this is a fax transmittal sheet from  
2 Brent Kerger to you, right?

3 A Yes, it is.

4 Q And he says, "Please review and give copy to  
5 Billy B.," that's Bill Butler, right?

6 A I believe so.

7 Q And then he says, "Thanks. Send edits to me or  
8 call me," right?

9 A Yes.

10 Q And that's Dr. Kerger's writing, right?

11 A I have no way of recognizing his writing. I  
12 don't know.

13 Q It's not Dr. Zhang's writing, is it?

14 A No, I don't think so.

15 Q And then you go to the next page, and it's the  
16 draft of the Zhang '97 article dated November 14, 1995,  
17 right?

18 A It looks like that way, yes.

19 Q Begins on page TY 469, right?

20 A Yes.

21 Q And this document is typed in English, right?

22 A It is.

23 Q Dr. Zhang didn't type this document, did he?

24 A No, he did not.

25 Q And then there are handwritten changes on this

1 November 14, '95 draft by ChemRisk starting with TY 469,  
2 aren't there?

3 A Yes.

4 Q And these handwritten changes are in English,  
5 aren't they?

6 A They are.

7 Q Dr. Zhang didn't write those handwritten  
8 changes, did he?

9 A He did not write those.

10 Q They were done by someone at ChemRisk, weren't  
11 they?

12 A Yes.

13 Q And then if you go to the next document  
14 beginning with TY 0089, and that's another version of a  
15 draft of the Zhang '97 article but this one is dated  
16 November 16, 1995, correct?

17 A That's the date on the bottom of the file, yes,  
18 of -- of the page.

19 Q And this November 16, '95 draft is typed in  
20 English, right?

21 A It is typed in English, yes.

22 Q Dr. Zhang didn't type it, did he?

23 A No.

24 Q It was typed by someone at ChemRisk, right?

25 A Yes.

1 Q And then if you go to the next document, which  
2 begins at TY 102 --

3 A Yes, I'm there.

4 Q -- this is another draft of the Zhang '97  
5 article dated November 25, 1995, right?

6 A It looks like that way.

7 Q And it's in English, isn't it?

8 A It is.

9 Q Dr. Zhang didn't write this, did he?

10 A He didn't type the English.

11 Q And there are some shaded edits --

12 A Yep.

13 Q -- right?

14 A Yes, they are.

15 Q Those were made by ChemRisk, weren't they?

16 A The shading are made by -- by a computer  
17 program which is in ChemRisk, I believe.

18 Q It wasn't made by Dr. Zhang, was it?

19 A Information came from Dr. Zhang.

20 Q How do you know?

21 A For example, I will -- I will just briefly look  
22 at this page.

23 For example, the first one, the first shaded  
24 one is "recently deceased." I think this refer to the  
25 second author, Shu Kun Li, and whether Shu Kun Li

1    deceased or not, I believe that's only came from -- that  
2    information is only came from Dr. Zhang.  At here in the  
3    U.S., we have no way to know whether Shu Kun Li is dead  
4    or alive by this time of November 25, 1995; so it's got  
5    to be Dr. Zhang told us whether Ms. Li or Dr. Li still  
6    alive around that time or not.

7                So the -- so the -- so the shading -- I think  
8    the shading has -- there might be some changes on that;  
9    so the reason for the change of "recently deceased" got  
10   to be coming from Dr. Zhang saying that no, no, no,  
11   Shu Kun Li alive; so this is just one example.

12           Q     What about the changes to the journals to which  
13   the article was submitted, those weren't made by  
14   Dr. Zhang were they?

15           A     I don't recall.

16           Q     Well, Dr. Zhang didn't have any contact with  
17   the journals, did he?

18           A     He did not.

19           Q     Only ChemRisk and you, right?

20           A     Although Dr. Zhang does not have direct contact  
21   with journals, I don't know or I don't remember on this  
22   particular one whether Dr. Zhang involved in naming or  
23   in selecting a journal, although he didn't contact  
24   journal, but I think that at one point in time we  
25   provided him with the journals and he may have some



1 preference or not. I -- I just don't recall.

2 Q Is it your sworn testimony that you have a  
3 document in your file where you gave Dr. Zhang a list of  
4 journals to choose from to submit his article to?

5 MR. CASAS: Objection.

6 He's not going to answer that question without  
7 going through all of his documents, unless you can  
8 remember.

9 THE WITNESS: I don't remember I -- I saw such a  
10 document in my papers -- in my 900 or so pages, but I  
11 think that at one point of time we may have discussed  
12 that journal articles -- which journal to send it. And  
13 I think in this document you see a Chinese document,  
14 Dr. Zhang in his handwriting, saying that okay,  
15 regarding of the journals, I defer to ChemRisk and you  
16 to select the journal. I think you saw that sentence.

17 So I think that a evidence to say that before  
18 that time we have some discussion of what journals.

19 BY MR. PRAGLIN:

20 Q As you look through this November 25, 1995  
21 draft of the '97 Zhang article, you see various edits  
22 made through additions that are shaded and deletions  
23 that are cross-outs, right?

24 A Yes, I do.

25 Q And that's from a computer program, right?

1 A Yes.

2 Q That's an English computer program, right?

3 A My understanding is that.

4 Q That means it wasn't used by Dr. Zhang, right?

5 MR. CASAS: Objection. Calls for speculation.

6 This seems to be outside the scope of what I  
7 understood the remaining deposition was going to cover.

8 Is there some relationship between this  
9 question or these set of questions that you're asking  
10 and the two documents that we were supposed to be  
11 covering?

12 MR. PRAGLIN: We'll get to the --

13 MR. CASAS: The translation?

14 MR. PRAGLIN: We've covered one of the documents and  
15 we'll get to the second one, but I'm following up on his  
16 testimony that ChemRisk didn't write the Zhang '97  
17 article.

18 MR. CASAS: Well, he already testified to that in  
19 his previous two depositions.

20 MR. PRAGLIN: And he --

21 MR. CASAS: So we're covering the same ground.

22 MR. PRAGLIN: No, he brought this up here today and  
23 I'm following up on it.

24 THE WITNESS: I believe I already gave my answer,  
25 but if you like to continue on this, this is a -- to

1 reanswer your question, this is a -- a edit by English  
2 word processing program. I'm not sure that Dr. Zhang  
3 did not use this program. But to the degree that this  
4 document, I -- I agree with you, that this document is  
5 edit by ChemRisk. Those edits are put on by ChemRisk.

6 BY MR. PRAGLIN:

7 Q Did you see any documents from Dr. Zhang that  
8 he typed in English using an English word processing  
9 program?

10 A No, I did not.

11 Q And on the page TY 107 --

12 A Okay.

13 Q -- of the November 25, '95 draft of the Zhang  
14 '97 article --

15 A Uh-huh.

16 Q -- those changes, the additions that are shaded  
17 and the deletions that are crossed out, those were all  
18 made by ChemRisk, weren't they?

19 A Those are --

20 MR. CASAS: Objection. Misstates the testimony.

21 THE WITNESS: Those are executed by ChemRisk  
22 program.

23 BY MR. PRAGLIN:

24 Q Getting back to Exhibit 73 the first page --

25 A Sure.

1           Q     -- where Dr. Zhang indicates that he can no  
2 longer be reached in JinZhou, China as of February 26,  
3 1996, you never forwarded that information to any of the  
4 journals that his article was submitted to, did you?

5           A     I did not. The reason was the -- when we  
6 submit this article to the journals I remember in the  
7 cover letter I said well, if the journal has any  
8 contact, please contact me and I will try to locate  
9 Dr. Zhang around that time to talk to him; so the  
10 journal doesn't really need to know where is Dr. Zhang  
11 around that time because around that time in '96  
12 Dr. Zhang, my understanding is he traveled a lot.

13          Q     Well, if the journal didn't need an address for  
14 Dr. Zhang, why was the article published with an address  
15 for Dr. Zhang?

16          A     The -- I believe the article -- this is  
17 instructed from ChemRisk Irvine, but I think the  
18 requirement from journal article is we need a  
19 permanent -- permanent address of the author; so it's  
20 got to be provided, required by the journal. And a  
21 person can certainly travel away from their permanent  
22 home, but I think to the journal standards they just  
23 want the permanent residence address; so we provide it.

24          Q     So if the journal wanted a permanent address --

25          A     Uh-huh.

1 Q -- look at the '97 Zhang article, which  
2 is Exhibit 2 to your deposition here, and tell me what  
3 address the journal was given for Dr. Zhang.

4 A Sure. It's address in JinZhou City.

5 Q And he wasn't there anymore, was he?

6 A My understanding is his permanent address still  
7 in JinZhou.

8 Q What's the basis for that understanding?

9 A His home is in JinZhou, his wife is in JinZhou,  
10 his daughter is in JinZhou.

11 Q Look at Exhibit 73 --

12 A Yes.

13 Q -- page 1.

14 A Yes.

15 Q Isn't it true that as of February 26, 1996,  
16 Dr. Zhang said don't send any more correspondence to  
17 JinZhou, you can't reach him there?

18 MR. CASAS: Objection. Misstates the statement on  
19 the letter.

20 Go ahead, you can read it.

21 THE WITNESS: The -- my reading of this letter is  
22 just in a period of time, I don't know how long that  
23 would be, that Dr. Zhang is traveling away from JinZhou,  
24 but my understanding was Dr. Zhang would go back to  
25 JinZhou after his trip.

1 BY MR. PRAGLIN:

2 Q Did he tell you that?

3 A That's my impression. I think so.

4 Q In all of your conversations with Dr. Zhang,  
5 did you ever find out the reason why he left JinZhou,  
6 China?

7 A No.

8 Q And so you don't have any basis for saying that  
9 he was going to go back there, do you?

10 A His home is in JinZhou.

11 Q How do you know?

12 A One time I call him, I try to call him at his  
13 home phone number, his wife pick up the phone.

14 Q And --

15 A And I told her that I'm trying to reach  
16 Dr. Zhang and she told me she was the -- she -- she told  
17 me she is the wife of Dr. Zhang; so my understanding is  
18 Dr. Zhang's home is in JinZhou. And my understanding  
19 from this document is only Dr. Zhang is on the trip, not  
20 with his wife, not with his daughter; so my  
21 understanding is at that time his home still in JinZhou.

22 Q So he told you he was on a trip?

23 A Yeah.

24 Q How long was this trip?

25 A He said he will travel to -- possibly travel to

1 South -- he said he's going to travel to Southeast Asia,  
2 I assume it is Malaysia, and my understanding is his  
3 trip to Malaysia relate to -- related to a academic  
4 research project. My understanding he would be back in  
5 one month, two months, not more than that.

6 Q And he told you that?

7 A My impression was that.

8 Q Your impression or he told you?

9 A I don't -- I don't recall sitting here exactly  
10 the conversation but around that time that's my  
11 understanding; so it must be he -- he told me that. Or  
12 he gave me that impression.

13 Q So here's what I don't understand: If he wrote  
14 to you on February 26, '96 --

15 A Uh-huh.

16 Q -- and he told you, "Starting from today, my  
17 address for correspondence is changed as follows" --

18 A Yep.

19 Q -- and he gave you a new address, and he says,  
20 "Please do not contact Jinzhou to reach me," and if you  
21 knew that the journal needed a permanent address, why  
22 didn't you give the journal his current address?

23 A His permanent address, I believe, still in  
24 JinZhou.

25 Q So you thought about it and you chose not to

1 tell the journal about his new address?

2 A No, I didn't really put too much thinking in  
3 that because my impression is his permanent home is in  
4 JinZhou; so it doesn't matter around that time where he  
5 traveled to, his permanent address is -- he still have  
6 to go back to JinZhou.

7 Q And the address that got listed in the  
8 '97 Zhang article --

9 A Uh-huh.

10 Q -- of Renmin Street, R-e-n-m-i-n, Section 3,  
11 Number 12 to 15, Guta, G-u-t-a, District, JinZhou  
12 City --

13 A Yep.

14 Q -- it's your sworn testimony that that's  
15 Dr. Zhang's home address?

16 A I -- I believe I saw this address on one piece  
17 of paper Dr. Zhang sent to us.

18 Q That didn't mean it was his home address, does  
19 it?

20 A Dr. Zhang prefer to use that address. I have  
21 no way to disagree with that.

22 Q But do you have any reason to believe that that  
23 was his home address?

24 A I have no reason to -- to believe it's not. I  
25 certainly didn't go there to confirm that if you ask me



1 that, but I'm -- if someone tells you that, here's my  
2 home address and it's look like not a business address,  
3 I will assume so.

4 Q Are you aware of any person who ever was able  
5 to reach Dr. Zhang at this Renmin Street address after  
6 February of '96?

7 A I don't know. I did not. I did not write to  
8 him on this address, I believe.

9 Q Are you aware of any person in the world who  
10 ever contacted Dr. Zhang about the '97 article as a  
11 result of its publication in JOEM?

12 A I think not. I -- no, I -- I do not aware of  
13 any.

14 Q Would you agree that if you provided JOEM, the  
15 Journal of Occupational and Environmental Medicine, a  
16 nonexistent address for Dr. Zhang, that nobody in the  
17 world could have contacted him about his '97 article?

18 MR. WILKINSON: Objection. Calls for speculation,  
19 vague, misstates the testimony.

20 THE WITNESS: Number one, the address on the article  
21 is -- I believe I may find this address on a piece of  
22 paper Dr. Zhang sent to me or send to ChemRisk around --  
23 in 1995, in my 900 or so pages.

24 So this is the address Dr. Zhang provided. I  
25 have no reason to believe it's not an accurate address

1 of his home address; so that's what I translated. So  
2 that doesn't really bother me if he travel away from  
3 address for a period of time, no.

4 BY MR. PRAGLIN:

5 Q People change addresses from time to time,  
6 don't they?

7 A They do.

8 Q You do that, don't you?

9 A I do.

10 Q You've done it, right?

11 A Yes.

12 Q In fact, you changed your address and you gave  
13 the journal your new address, didn't you?

14 A Yes. Yes, I did.

15 Q But you didn't give the journal Dr. Zhang's new  
16 address, did you?

17 MR. CASAS: Objection. That misstates the testimony  
18 and it misstates the statement in Exhibit 73. It  
19 doesn't state that that's his new address.

20 Go ahead, you can answer it.

21 THE WITNESS: Dr. Zhang, my understanding is, didn't  
22 change his permanent home address. And as your  
23 demonstrated in Exhibit 73, Dr. Zhang mention in here  
24 that from now on, please send your -- if you have any  
25 correspondence, to Shu Kun Li, or Li, Shu Kun. You may

1 recognize that's the name of the second author.

2           So if Dr. Zhang saying that okay, now I am  
3 going to travel, please relay any information to my  
4 second author, I don't think that's an indication of  
5 Dr. Zhang changed his permanent address.

6 BY MR. PRAGLIN:

7           Q     But Dr. Li didn't write any portion of the  
8 '97 Zhang article; isn't that true?

9           MR. WILKINSON:  Objection.  Asked and answered.

10          THE WITNESS:  That's a question we went through  
11 before.  And according to Dr. Zhang, Dr. Li helped him,  
12 helped Dr. Zhang in collecting data, in -- in organizing  
13 data, in organizing material, and a fax to and  
14 communicate to ChemRisk.  To that degree, Dr. Li  
15 participated in writing the article; so I take  
16 Dr. Zhang's word for it.

17                   I didn't work with Dr. Li personally but I  
18 believe in Dr. Zhang.

19 BY MR. PRAGLIN:

20           Q     Can you point to a word or a sentence in the  
21 '97 Zhang article that you believe Dr. Li wrote?

22           MR. CASAS:  Objection.

23           MR. WILKINSON:  Objection.  Asked and answered,  
24 argumentative.

25          THE WITNESS:  I will say according to Dr. Zhang,

1 what Dr. Zhang told me, the data and the -- to the  
2 degree all the consequent -- all the conclusions and  
3 based on the data in 1997 article, Dr. Li contributed.

4 BY MR. PRAGLIN:

5 Q I understand what you're saying about Dr. Li's  
6 contribution to the data.

7 A Yes.

8 Q I'm asking you, can you point me to a word or a  
9 sentence or a portion of the '97 Zhang article that you  
10 believe Dr. Li wrote?

11 MR. CASAS: Same objection.

12 THE WITNESS: I -- I -- that's the type of question  
13 that I -- I just don't think apply to scientific  
14 article, because in scientific research when Dr. Zhang  
15 and Li worked together, they processed the data, they  
16 looked into the data, they tabulate or generate table of  
17 the data and have some conclusion, and Dr. Zhang  
18 communicated that into this article.

19 To the degree all of the conclusion was reached  
20 in connection -- in discussion with Mr. Li -- with  
21 Dr. Li, I would say Dr. Li participated; so you -- I  
22 cannot pinpoint to you which exactly word Dr. Li wrote,  
23 but I can certainly say that this entire conclusion and  
24 the study is done according to Dr. Zhang, is done by --  
25 in connection with Dr. Li; so I respect Dr. Zhang's

1 decision of including her into -- as the author.

2 BY MR. PRAGLIN:

3 Q You just said Mr. Li and then you said Dr. Li  
4 as her. Which is it? Is Dr. Li a man or a woman?

5 A I think she's a woman.

6 Q How do you know?

7 A That's my impression from Dr. Zhang.

8 Q You never talked to Dr. Li, did you?

9 A No, I did not.

10 Q And you really don't know if Dr. Li is a man or  
11 a woman, do you?

12 A I think at one point of time Dr. Zhang told me  
13 and my impression, or my recollection around that time  
14 and now is Dr. Li is a woman.

15 Q And you think you can swear to that?

16 A I can swear to you I think I believe, but I  
17 cannot swear to which conversation Dr. Zhang gave to me  
18 that information. I just -- I just told you this is my  
19 best recollection. And still, that's my best  
20 recollection, I swear to that.

21 Q I understand the difference between data  
22 collection --

23 A Yes.

24 Q -- and writing an article. What I want to  
25 know --

1 A Okay.

2 Q -- is even though Dr. Li was involved in the  
3 data --

4 A Yep.

5 Q -- can you point me to a word or a phrase or a  
6 sentence of the '97 Zhang article that you believe  
7 Dr. Li wrote?

8 MR. WILKINSON: Objection. Asked and answered  
9 several times.

10 MR. CASAS: It's been asked and answered, it's  
11 argumentative.

12 MR. PRAGLIN: He hasn't answered it, gentlemen.

13 MR. CASAS: He has answered it.

14 MR. WILKINSON: You don't like the answer so you're  
15 asking it again just like the previous deposition.

16 MR. PRAGLIN: I'd like to have the answer. I can't  
17 find it in my transcript.

18 Q Go ahead, Mr. Ye.

19 MR. CASAS: You don't have to answer it.

20 MR. PRAGLIN: Well, he hasn't answered the question.  
21 I'm happy to turn my computer around for you,  
22 Mr. Casas, so you can see his answer, or I'll read it to  
23 you, but he hasn't answered the question.

24 MR. CASAS: Well, he's answered it. Either it's not  
25 understood --

1 MR. PRAGLIN: What's his answer? Tell me.

2 MR. CASAS: I'm not going to repeat it. He's  
3 already answered it twice.

4 MR. PRAGLIN: He hasn't.

5 MR. CASAS: Yes, he has.

6 BY MR. PRAGLIN:

7 Q Show me a word or a sentence that you believe  
8 Dr. Li wrote in the '97 change article.

9 MR. WILKINSON: Same objection.

10 MR. CASAS: Same objection.

11 BY MR. PRAGLIN:

12 Q Can you identify any word or sentence?

13 A I will repeat my previous answer.

14 I think that maybe I -- I didn't speak clearly,  
15 which is I think that in a scientific research project,  
16 when you say a person participated in the writing or in  
17 composing an article, it's not a word or sentence say  
18 which sentence you typed, which sentence come from you.  
19 It's a, you know, process of coming to that scientific  
20 conclusion, not only data collection but the research on  
21 the data, how to read the data, how to understand the  
22 data.

23 And in the process of reaching that conclusion,  
24 researchers frequently discuss with -- with each other  
25 research -- researchers frequently dump ideas from each

1 other and then that is the type of ideas, that is the  
2 type of contribution each researchers contribute; so in  
3 the last -- when the -- when the article finally  
4 wrote -- written, the authorship is -- depends on which  
5 researcher contribute how much of this data collection,  
6 data processing, understanding of the data.

7           So even a person may not have a single word  
8 saying exactly type that word in the -- in that article  
9 doesn't mean -- he still or she still qualify as an  
10 author.

11           So I say Dr. Li, according to Dr. Zhang, helped  
12 Dr. Zhang in reaching that conclusion, in collecting  
13 data, not only in collecting data but processing data,  
14 understanding the data and then coming to a conclusion.  
15 To that degree, if Dr. Zhang told me that Dr. Li helped  
16 me with all of this and I -- Dr. Zhang thought Dr. Li  
17 should be an author, well, she should be author. I -- I  
18 have no trouble with that.

19           Q     So you're saying that even though she may not  
20 have written part of the article, if she contributed to  
21 the data that went into the article, she should be  
22 listed as an author; is that your testimony?

23           MR. CASAS:  Objection.

24           MR. WILKINSON:  Objection.

25           MR. CASAS:  Asked and answered.



1           He's not going to answer it again.

2           MR. WILKINSON: Misstates his testimony.

3 BY MR. PRAGLIN:

4           Q     Go ahead, Mr. Ye.

5           A     I don't think I have a basis to judge how much  
6 contribution Dr. Li contributed. I relied on Dr. Zhang  
7 to make that decision and he made that decision, I  
8 respect.

9           Q     And you don't know how much contribution Dr. Li  
10 made to the article, do you?

11          A     I have no basis to know. I have no basis to  
12 assess.

13          Q     Let's set aside writing the article and just  
14 talk about data --

15          A     Okay.

16          Q     -- the numbers.

17          A     Yep.

18          Q     Can you point me to any data in the '97 Zhang  
19 article that was generated by Dr. Li?

20          MR. CASAS: Objection. It's ambiguous, calls for  
21 speculation.

22                    Go ahead.

23          THE WITNESS: I know in the '97 article all of the  
24 data, raw data of cancer mortality rate in this small  
25 region in JinZhou were collected by Dr. Zhang and

1 Dr. Li. Dr. Zhang told me or represented to me that  
2 Dr. Li participated in collecting the data. I have no  
3 reason to disbelieve Dr. Zhang's statement; so that's  
4 all I can say.

5 I believe all the numbers presented in the '97  
6 article regarding of cancer mortality rates for the  
7 villages surrounding the alloy plant, I believe those  
8 numbers came from Dr. Zhang and Dr. Li. I only base my  
9 statement on Dr. Zhang's representation.

10 BY MR. PRAGLIN:

11 Q But specifically what data was generated by  
12 Dr. Li as opposed to Dr. Zhang, you don't know; is that  
13 true?

14 A That's true. I don't know which numbers.

15 MR. PRAGLIN: Why don't we take a short break.

16 THE WITNESS: Sure.

17 THE VIDEOGRAPHER: Going off the record. The time  
18 is 10:01.

19 (Off the record.)

20 THE VIDEOGRAPHER: We're back on the record. The  
21 time is 10:08. Please begin.

22 BY MR. PRAGLIN:

23 Q All set, Mr. Ye?

24 A Yes.

25 Q During the '95/'96 time frame when you were

1 involved in the '97 Zhang article, did you personally  
2 ever review the rules for publication of articles by  
3 authors that were issued by JOEM, Journal of  
4 Occupational and Environmental Medicine?

5 MR. CASAS: Objection. It's been asked and  
6 answered.

7 THE WITNESS: I did not.

8 BY MR. PRAGLIN:

9 Q You did?

10 A I did not.

11 Q You never did?

12 A I don't believe I did.

13 Q And so you left all of the compliance with  
14 those rules up to people at ChemRisk; is that right?

15 A Yes.

16 Q And it was your impression that who at ChemRisk  
17 was complying with the rules of JOEM in having the '97  
18 article published?

19 A I think the -- I think the person directly read  
20 the rules is Tom Flahive, under the instruction and the  
21 supervision of Brent Kerger.

22 Q Now, the second document that I had sent to  
23 your lawyer for today's deposition, I'm going to mark as  
24 Exhibit 74.

25 A Okay.

1 Q This is an English translation totalling three  
2 pages by Allen Choi --

3 A Yep.

4 Q -- of a two-page Chinese document from your  
5 file Bates stamped TY 53 and 54.

6 A Uh-huh.

7 Q And I'm going to ask you questions about it,  
8 and so Exhibit 74 is both the English translation and  
9 the Chinese document --

10 A Okay.

11 Q -- from your file.

12 A Fine.

13 (Plaintiffs' Exhibit 74 was  
14 marked for identification, a copy of  
15 which is attached hereto.)

16 BY MR. PRAGLIN:

17 Q Do you have Exhibit 74 in front of you, Mr. Ye?

18 A Yes, I do. Yes.

19 Q You ready?

20 A Yes, I am.

21 Q On Exhibit 74 --

22 A Uh-huh.

23 Q -- the last two pages, which are Bates stamped  
24 TY 53 and 54 --

25 A Yes.

1 Q -- there's a mixture of typewritten Chinese and  
2 handwritten Chinese, right?

3 A Yes.

4 Q Handwritten Chinese appears darker on the  
5 document than the typewritten, correct?

6 A That's right.

7 Q And the handwritten Chinese is Dr. Zhang's  
8 handwriting and not yours; is that right?

9 A I believe so.

10 Q And the typing in Chinese on document TY 53 and  
11 54 is your typing in Chinese, right?

12 A Yes.

13 Q And you had that on a word processing program  
14 in Chinese, right?

15 A Yes.

16 Q And so if I understand this document correctly  
17 that's been Bates stamped TY 53 and 54, you typed  
18 something in Chinese, you sent it to Dr. Zhang and he  
19 returned it with his handwritten comments in Chinese,  
20 correct?

21 A Yes.

22 Q And did you translate what Dr. Zhang had  
23 written --

24 A Uh-huh.

25 Q -- in Chinese back to you for someone at

1 ChemRisk or for Bill Butler at Environmental Risk  
2 Analysis?

3 A This time, this document I believe is in  
4 September of '95, which is the time Mr. Butler and I  
5 were both employee of ChemRisk.

6 Q Okay. So did you translate Dr. Zhang's  
7 comments for someone at ChemRisk?

8 A Yes, I did.

9 Q Did you translate --

10 A I believe I did.

11 Q -- it in writing?

12 A I may have. I don't recall. I may have.

13 Q You're not able to locate a document in your  
14 file that is an English translation of the Chinese  
15 comments from Dr. Zhang, are you?

16 MR. CASAS: Objection. Not without looking through  
17 the documents.

18 Unless you know.

19 THE WITNESS: I don't know -- I don't remember in my  
20 900 or so pages if I saw a direct word-by-word  
21 translation of this Chinese document.

22 BY MR. PRAGLIN:

23 Q Well, we looked and we couldn't find one.

24 A I will take your word for it then.

25 Q So let me ask you: Did you find a document in

1 your 900 or so pages that you produced that even though  
2 it wasn't a word-for-word translation of Dr. Zhang's  
3 handwritten comments, you believe was a translation of  
4 his handwritten comments, or did you just translate it  
5 verbally for ChemRisk?

6 A Your question has two parts. Number one is did  
7 I see a document in my current file that is a  
8 translation of this comments from Dr. Zhang. I don't  
9 believe I saw one in my current file.

10 Second part is did I translate only verbally or  
11 both in writing and verbally. I don't recall. But I  
12 remember I translated it.

13 Q The English translation --

14 A Uh-huh.

15 Q -- by Allen Choi --

16 A Yes.

17 Q -- of the Chinese document TY 53 and 54 --

18 A Yes.

19 Q -- do you have any disagreement with any of  
20 Mr. Choi's English translation?

21 A Again, I do not have disagreement or I -- I do  
22 not have a -- I did not find Mr. Choi's translation  
23 totally incorrect or wrong on any of the sentence but  
24 they are sentences -- because this is a research  
25 document, it's subject to interpretation of the audience

1 or readers; so if you read this document, read  
2 Allen Choi's translation I mean, which is in English, if  
3 you have any part that I believe you were being misled,  
4 different impression of the Chinese document, I would  
5 provide a different version of the translation, just  
6 give you a selection of wording that Dr. Zhang actually  
7 used, although they do not corresponding one to one in  
8 English, but that may provide you with a better picture  
9 of what Dr. Zhang trying to say.

10           There's one place I like to point out at this  
11 point, which is in Allen Choi's translation on the  
12 page -- on the third -- no, sorry, on the second page,  
13 okay, the very -- the paragraph on the bottom of the  
14 second page, and I'm going to read the first sentence of  
15 that paragraph -- of that paragraph.

16           Allen Choi's translation is, "It is natural  
17 that a toxic chemical, upon reacting with the human  
18 body, will (should?) show its corresponding  
19 dosage/effect correlation."

20           That's a sentence Allen Choi translated.

21           In the original Chinese, what in the  
22 parentheses is not "should, question mark." It is two  
23 Chinese letters, one is "seems," s-e-e-m-s. The other  
24 one is "ought to."

25           So if I read it, it will be well, and Dr. Zhang



1 provided another version of the well saying "seems/ought  
2 to show its corresponding"; so those wording choice also  
3 represent Dr. Zhang's uncertainty of what word to select  
4 in this part of sentence.

5 Q I want to make sure I understand what you're  
6 saying.

7 A Okay.

8 Q The part of the translation that you're talking  
9 about is at the bottom of page 2 of Exhibit 74.

10 A Yes.

11 Q And it's the first sentence of the translation  
12 of Dr. Zhang's handwritten annotation.

13 A Yep.

14 Q Okay. And what you're saying is that you  
15 believe a more correct translation would be that  
16 Dr. Zhang wrote, quote, It is natural that a toxic  
17 chemical, upon reacting with the human body, will or  
18 seems or ought to show its corresponding dosage/effect  
19 correlation; is that right?

20 A That's right.

21 Q And so you think that rather than Mr. Choi  
22 raising the question of whether that word meant  
23 "should," that a better choice of words or phrase would  
24 be either "seems" or "ought to"?

25 A Or combination of "seems/ought to."

1 Q Okay. And you would agree that the meaning of  
2 this sentence is that it is natural that a toxic  
3 chemical, upon reacting with the human body, ought to  
4 show its corresponding dosage/effect correlation,  
5 correct?

6 A I would say the sentence is -- seems it's --  
7 when chemical, toxic chemical react on human beings,  
8 human bodies, seems that there should be --

9 Well, one moment. Seems ought to show its  
10 corresponding dose/effect correlation.

11 Q And you knew that to be a concept that  
12 Dr. Zhang believed in, didn't you?

13 A That what he wrote here.

14 Q You remember from his '87 article that was  
15 published in the journal of Chinese Preventive Medicine  
16 that he wrote that chromium (VI) contamination causes  
17 diarrhea, dyspepsia, vomiting, other GI problems,  
18 right?

19 A You mean acute symptoms?

20 MR. WILKINSON: Objection. Misstates the document  
21 and the evidence.

22 THE WITNESS: My impression is '87 article he  
23 documented some acute symptoms from a -- several  
24 village, and around that time they're both contamination  
25 of chromium, and I think also including sulfate; so I --

1 that's what he wrote.

2 BY MR. PRAGLIN:

3 Q It's interesting that you should mention the  
4 word "acute."

5 A Yes.

6 Q Dr. Zhang doesn't use the word "acute" in his  
7 '87 article, does he?

8 A I don't recall, but I can read the 1987 article  
9 again. Sitting here, I don't recall.

10 But you and I both know that diarrhea is an  
11 acute symptom, right, because it's not a prolonged  
12 chronic symptom, it's not cancer, it's acute, it's a  
13 short-term. The symptoms you just listed are short-term  
14 symptoms.

15 Q If I understood your testimony the first time  
16 around in your deposition, you're not an expert on  
17 chromium, are you?

18 A I'm not.

19 Q And you mentioned the term "sulfate."

20 A Yes.

21 Q Dr. Zhang doesn't mention sulfate in his '87  
22 article published in the journal of Chinese Preventive  
23 Medicine, does he?

24 A To be honest I didn't read the 1987 article for  
25 more than seven years. I -- I really don't recall.

1           But what I recall was the -- Dr. Zhang, after  
2 1987 -- in 1995, provided ChemRisk with five or six  
3 manuscripts which provide much more information than the  
4 1987 article. And I remember in one of these -- in  
5 multiple manuscript Dr. Zhang provided as extension of  
6 1987 article, I -- I remember he mention sulfate --

7           Q     But your answer --

8           A     -- which I translated.

9           Q     But your answer to my previous question was  
10 that your impression is that the '87 article, Dr. Zhang  
11 documented some acute symptoms from several villages and  
12 around that time they're both contamination of chromium  
13 and I think also including sulfate --

14          A     Yes.

15          Q     -- and then you said, "that's what he wrote."

16          A     That's -- I -- I put on the -- emphasize on I  
17 haven't read the article for many, many years and  
18 just -- in my impression, my impression is this entire  
19 contamination, this entire story, whether he stated one  
20 sentence or -- or another in 1987 article, sitting here,  
21 I really don't recall.

22          Q     Let me ask you a question. When I started out  
23 this deposition --

24          A     Yep.

25          Q     -- and I asked you about the documents that you

1 reviewed and you told me that you reviewed Tony Wong's  
2 deposition --

3 A Yes. Not -- yes, I did. I didn't read line by  
4 line just paged through it.

5 Q And Tom Flahive, you paged through that  
6 deposition --

7 A Yes --

8 Q -- right?

9 A -- I did.

10 Q Could it be that you paged through the  
11 deposition transcript of the second volume of  
12 Dr. Kerger's deposition as well?

13 A I did not.

14 Q You haven't ever seen that?

15 A Actually, I -- I'm given that document but I  
16 didn't have time to read it or page through it.

17 Q You sure?

18 A Yes. I have the document last Friday, and the  
19 Saturday and Sunday I was preoccupied with my family.  
20 And on Monday when I started looking into this document,  
21 I just don't have time to page through it.

22 Q So why didn't you mention for me that you had  
23 the Kerger deposition, Volume 2, as well?

24 A You asked me which document I paged through or  
25 did I read. And I don't think that's an accurate

1 representation to you that if I mention I read it --  
2 Kerger's second depo, I did not.

3 Q So what other documents besides the deposition  
4 transcripts of Flahive, Wong and Kerger did you receive  
5 to review prior to this deposition?

6 A Corbett.

7 Q And did you page through the Corbett  
8 deposition?

9 A I start trying to do that but I -- that's --  
10 yesterday around afternoon, 5 o'clock, I decided not  
11 going to do that.

12 Q So you paged through Flahive, you paged through  
13 Wong --

14 A Yes.

15 Q -- you started to page through Corbett but you  
16 didn't page through Kerger at all; is that your  
17 testimony?

18 A I saw the first page of Kerger. If you mention  
19 that Kerger is a document -- open document put on my  
20 desk, but I didn't try to read it.

21 Q Have you now listed for me all of the documents  
22 that you were given to read to prepare for this  
23 deposition?

24 A I was given five documents.

25 Q What's the fifth?

1           A     The fifth one is Kerger's depo in December of  
2 2002. The Kerger second depo is what we just mentioned.

3           Q     So you have both volumes of Kerger, right?

4           A     Yes, I do.

5           Q     And you have read neither one; is that your  
6 testimony?

7           A     No. The first one -- I read the first one  
8 before my deposition of December 2002. I did not reread  
9 Kerger's first deposition to prepare today's deposition  
10 with you. And I did not read Kerger's second  
11 deposition, which I believe is sometime in February.

12          Q     Let's get back to Exhibit 74.

13          A     Yes.

14          Q     Other than the sentence that Allen Choi  
15 translated that you think might have a slightly  
16 different interpretation that you've already testified  
17 about at the bottom of page 2 of Exhibit 74, is there  
18 any other part of Allen Choi's English translation of  
19 the two-page Chinese document Bates stamped TY 53 and 54  
20 that you believe is incorrect in any way?

21          A     Sitting here, I don't have further comments on  
22 his translation until someone read his translation. And  
23 if you -- if your interpretation of his translation  
24 different from my understanding of the Chinese, I would  
25 tell you.

1           Q     But as you sit here now, now that you've had a  
2 chance to look at Allen Choi's translation and review  
3 Exhibit TY 53 and 54, you can't think of any other  
4 questions that you have about the translation by  
5 Allen Choi; is that right?

6           A     I do not. Since I read the Chinese document, I  
7 know what the Chinese document, so I'm pretty -- I'm  
8 preoccupied by my belief of what's in this. To compare  
9 my preoccupied belief to Allen Choi's translation, I  
10 didn't change my previous belief at all, but if you -- I  
11 understand, though, that you don't read Chinese, but if  
12 you read Allen Choi's English translation, you come up  
13 with some other interpretation different than my  
14 preoccupied belief, I'll certainly like to clarify  
15 those, but it's certainly I -- I like to help you when  
16 you go through this document.

17          Q     Okay.

18          A     Okay? Fair enough?

19          Q     Fair enough.

20                    On Exhibit 74, the page that's Bates stamped  
21 TY 53, which is the first page of the Chinese  
22 document --

23          A     Yes.

24          Q     -- on the right margin there's a symbol that I  
25 will call a universal editing symbol that's a series of



1 half circles that looks like the universal delete  
2 symbol. Do you see that I'm talking about?

3 A I see that circles, yes.

4 Q Okay. And I've just drawn it on a Post-it so  
5 you can see what I'm talking about.

6 A Oh, yes.

7 Q You understand what I mean by the universal  
8 delete symbol?

9 A I think to some people that means delete. To  
10 me, it means delete.

11 Q To you it does mean delete?

12 A Yes.

13 Q Okay. And is that what you understood that  
14 Dr. Zhang meant by that symbol in the right margin was  
15 to delete the circled sentence next to the universal  
16 delete symbol?

17 A I don't recall exactly what Dr. Zhang told me  
18 in the phone conversation after he send this fax, but  
19 my -- sitting here, my understanding is I have no reason  
20 to disbelieve it's not a deletion symbol.

21 Q And so what he was saying is delete the last  
22 sentence of the first paragraph --

23 A Uh-huh.

24 Q -- of the Chinese document on page TY 53 and  
25 substitute for it what he wrote beneath in handwriting

1 in Chinese, right?

2 A You can interpret his handwriting comments here  
3 in that way, I believe so.

4 Q And you understand that that's the way  
5 Allen Choi interpreted the document, don't you?

6 A My understanding is that that's Allen Choi's  
7 way to interpret that, yes.

8 Q And when you look at Allen Choi's notes at the  
9 top of his English translation, he tells you how he  
10 translated this document, indicating that the portions  
11 that are marked by hand to be deleted from the original  
12 are in brackets and in italics; do you see that?

13 A I saw that, yes.

14 Q That's his note number 2, right?

15 A Yes, I did. I did see that.

16 Q All right. And you understand what he's  
17 saying, that wherever he indicates something is in  
18 italics and brackets, that it was Dr. Zhang's intention  
19 to have that sentence deleted and substituted by  
20 something else, right?

21 A That's my understanding of Dr. -- of  
22 Allen Choi's translation style.

23 Q And you think that's a correct interpretation  
24 of what Dr. Zhang did with this Chinese document; is  
25 that right?

1           A     To my belief, it is right.

2           Q     Okay. So let's look at this first paragraph of  
3 TY 53, both in Chinese and in English. Isn't it true  
4 that what Dr. Zhang was saying is that the sentence that  
5 says, "This fact reveals that lifestyle of residents and  
6 environmental factors may be the cause of variation in  
7 mortality," should be deleted and substituted with a  
8 different sentence?

9           A     What Dr. Zhang wrote of the substitution is,  
10 "The cause of this variation in cancer mortality has yet  
11 to be further studied."

12          Q     And wasn't it Dr. Zhang's intention to delete  
13 the circled sentence and substitute the sentence that  
14 you just read?

15          MR. WILKINSON: Objection. Calls for speculation.

16          THE WITNESS: Just read this document, document  
17 states that way. The document state that Dr. Zhang  
18 wants to replace this sentence with the substitution  
19 that I just read.

20          BY MR. PRAGLIN:

21          Q     Now, the sentence that says, "This fact reveals  
22 that lifestyle of residents and environmental factors  
23 may be the cause of variation in mortality" that  
24 Dr. Zhang wanted deleted, that wasn't deleted from the  
25 '97 Zhang article, was it?

1           A     I remember in '97 Zhang article there is  
2 similar sentence.

3           Q     Let's look at the article. I think it's  
4 Exhibit 2 to your deposition, we had it out before.

5           A     Yep.

6           Q     And I'll help you out.

7           A     Okay.

8           Q     It's at the last page of the article,  
9 page 319 --

10          A     319.

11          Q     -- of Exhibit 2 to your deposition.

12          A     Okay.

13          Q     In the middle column, starting with the second  
14 sentence --

15          A     Uh-huh.

16          Q     -- it reads, in the '97 article, "Nonetheless,  
17 these results suggest that lifestyle or environmental  
18 factors not related to the chromium (VI) contamination  
19 are the likely source of the variation in these cancer  
20 rates."

21          A     Okay.

22          Q     Do you see that?

23          A     Yes, I saw that.

24          Q     So isn't it true that the sentence that  
25 Dr. Zhang requested to be deleted from the first

1 paragraph --

2 A Uh-huh.

3 Q -- of that document in Chinese, Bates stamped  
4 TY 53, was, in fact, not deleted in the '97 article?

5 MR. WILKINSON: Objection. Misstates the documents  
6 and the testimony.

7 THE WITNESS: First, these are not -- two different  
8 sentence.

9 If you read Allen Choi's translation, it's  
10 mentioned lifestyle factors and the environmental  
11 factors may be the cause of variation in mortality. The  
12 sentence in '97 article is a -- is a totally different  
13 sentence. It's stated "Nonetheless, these results  
14 suggest" --

15 It doesn't say the fact reveals, it's a  
16 different thing.

17 -- "lifestyle or environmental factors" other  
18 than "not related to chromium (VI) contamination are the  
19 likely source."

20 It's just different sentence, isn't it? Am I  
21 right or wrong? If you compare this sentence, they are  
22 not exactly the same sentence.

23 BY MR. PRAGLIN:

24 Q If you're asking me, I think you're very wrong.

25 A Okay. Then, no, they are two different

1 sentence to me and they are located in different part of  
2 the manuscript.

3 Q How did that happen?

4 A Well --

5 Q Dr. Zhang didn't do that, did he?

6 A Dr. Zhang --

7 MR. WILKINSON: Objection. Argumentative, misstates  
8 the documents and the testimony.

9 THE WITNESS: I -- I -- here's what I -- I think I  
10 told you before in my deposition on these two -- on  
11 TY 53 and 54, which is -- TY 53 and TY 54 is in  
12 September of '95, there is such a document. I did not  
13 remember that -- how this document finally turned into  
14 or correlated with the '97 JOEM article.

15 The -- what my testimony before was I believe  
16 these two document have consistent conclusion; so as of  
17 this document in TY 53, TY 54, I believe is demonstrated  
18 Dr. Zhang, in September of '95, already have the same  
19 consistent conclusion as he -- as in his article in  
20 JOEM '97, which I still believe that's true.

21 So if you want me to compare these two-page  
22 document in Chinese and this translation by Allen Choi,  
23 if you want me to compare the Allen Choi translation to  
24 '97 article, JOEM article, they are certainly different,  
25 they are -- they are not the same, even paragraph

1 structure are not the same; so it's -- I -- I -- I don't  
2 know whether we should compare them or not.

3 If we compare the conclusion of these two  
4 document, I will say Allen Choi's translation has the  
5 same conclusion as JOEM article, but that's so far I can  
6 read from this English version as my understanding.

7 But if you want me to compare word by word and  
8 sentence by sentence of these two document, I can -- I  
9 agree with you, they are not the same, right away.

10 BY MR. PRAGLIN:

11 Q The sentence that Dr. Zhang marked for deletion  
12 in the first paragraph of TY 53 --

13 A Uh-huh.

14 Q -- uses the term or the phrase, quote, may be,  
15 close quote. Do you see that?

16 A Yes, I do.

17 Q Now, you understand "may be" to be a phrase  
18 that means that something might be the cause of the  
19 variation in mortality in this case, right?

20 A It's a conjecturing from the party who wrote  
21 this or from -- from the person who -- who said it,  
22 yes.

23 Q Now, look at the way that sentence got changed  
24 in the '97 article on the last page of Exhibit 2 to your  
25 deposition on page 319 --

1 A Uh-huh.

2 Q -- in the middle column where the words read,  
3 "are the likely source of the variation in these cancer  
4 rates."

5 A Uh-huh.

6 Q Do you see that?

7 A I saw that.

8 Q Do you see that the phrase "may be" got changed  
9 to the word "are"?

10 MR. WILKINSON: Objection. Misstates the documents  
11 and the testimony, argumentative.

12 THE WITNESS: First, by comparing these two  
13 document, I am just comparing these two sentence that  
14 you pointed out to me, "may be" and "likely" is the same  
15 representation of uncertainty. Uncertain. Don't know.  
16 Conjecture.

17 So I disagree that you represent that "may be"  
18 change to "are," that's -- no. "Are" the likely.  
19 Likely is the key, which means well, it's possible.  
20 "May be" is it's also possible.

21 So to that degree, I mean, I -- I -- I -- I  
22 just compare these two sentence without saying --  
23 comparing these two entire document, even just these two  
24 sentence, "may be" and "likely" both represent a  
25 possibility and uncertainty.



1 BY MR. PRAGLIN:

2 Q So you think that it's saying the same thing if  
3 I say that something may be the cause or if I say that  
4 something are the likely causes; is that right? Do you  
5 think that's the same?

6 A I will say you have to put in the context of  
7 the document and if you put in the context of the  
8 document, in certain scenario they are the same.

9 Q So you don't think that it's a more definitive  
10 statement to say that something are the likely causes  
11 rather than something may be the cause?

12 A Depend on which context you put something in.

13 Q Well, let's look at the context of the '97  
14 article. Don't you think that it's a more definitive  
15 statement to say that "these results suggest that  
16 lifestyle or environmental factors not related to the  
17 chrome (VI) contamination are the likely source of the  
18 variation in these cancer rates" rather than saying "may  
19 be the likely source of the variation in these cancer  
20 rates"?

21 MR. CASAS: Objection. Ambiguous.

22 MR. WILKINSON: Misstates the documents.

23 THE WITNESS: I will say that if anyone read  
24 JOEM article and if anyone read this article just by  
25 briefly look through this article, you know, not trying

1 to read line by line, I think anyone's conclusion from  
2 the -- from this "Conclusion" section is there's no  
3 dose-response relationship; so other factors may be  
4 likely, possible, depends on how you phrase it.

5 But the conclusion a reader or a scientific  
6 audience take from this JOEM article is the same. It  
7 doesn't really matter what -- what wording you are using  
8 in the last few sentence. It is the whole document  
9 stated there's no dose-response relationship. That's  
10 the bottom line.

11 And I -- I don't think materialize just saying  
12 that -- saying that -- I think that this Allen Choi  
13 translation have the same conclusion of the  
14 JOEM article. If two -- if a scientist reads both  
15 article, they would come to the same conclusions saying  
16 that oh, in this small reading, the cancer mortality  
17 rate didn't show a positive dose-response relationship  
18 closer to the contamination site, nearer the site, it  
19 doesn't show that; so other factors are likely.

20 Further analysis certainly needed. And this  
21 analysis has a limitation on the -- on the short term  
22 and on the number of the mortality and the number of  
23 people and number of years follow up.

24 Given all of that, that's -- the data doesn't  
25 support the positive correlation of contamination in

1 this region with higher cancer rate. And that's the  
2 conclusion any scientific reader will -- will obtain  
3 from reading any of this document in front of me here.  
4 I -- to that degree, I -- I don't think any wording here  
5 really make a difference at all.

6 BY MR. PRAGLIN:

7 Q So if it doesn't make a difference at all, why  
8 didn't ChemRisk use the language that Dr. Zhang wanted  
9 and instead substituted the word "are"?

10 MR. WILKINSON: Objection. Misstates the documents  
11 and the testimony, argumentative, asked and answered.

12 THE WITNESS: The document Allen Choi translated is  
13 a September '95 document. The article sent to JOEM was  
14 sent in -- I believe in the end of November or beginning  
15 of December. Over that two-month or three-month period  
16 of time, the wording changed back and forth. Discussion  
17 of wording, different wording change from Dr. Zhang with  
18 ChemRisk back and forth, many, many times.

19 So around that time, what happened on each of  
20 these small wording, I really don't recall, but sitting  
21 here I will say that's some similar or consistent  
22 conclusion to me. Whether it's likely, whether it's the  
23 may be, whether it's possible, it's just a -- it's not a  
24 conclusion part. The conclusion part is data doesn't  
25 show positive dose-response relationship, then you can

1 conjecture some reason for it. You can conjecture  
2 saying oh, weather or diet or environmental, you can  
3 conjecture anything, but bottom line is you have to do  
4 further analysis.

5           So if you put in that structure of this  
6 reasoning, the reasoning in JOEM article is the same  
7 reasoning of this Chinese document, which is in  
8 September of '95.

9           Any wording difference -- they are different,  
10 they are different in wording, but that's a lot of time  
11 people discussed and come to the finalized wording.

12 BY MR. PRAGLIN:

13       Q     So the question is why didn't ChemRisk use  
14 Dr. Zhang's wording?

15       MR. CASAS: Objection. Calls for speculation,  
16 misstates the testimony.

17       MR. WILKINSON: Misstates the exhibits as wells.

18 BY MR. PRAGLIN:

19       Q     If you don't know, just tell me.

20       A     This is '95 document -- this is  
21 September document, JOEM is a November document. Around  
22 that time, there are a lot of discussion of change  
23 difference, small wordings; so when you compare  
24 '95 September to '95 end of November, they're  
25 different -- they're different, but I'm not sure that

1 the representation of saying that if the wording  
2 different from November, end of November different from  
3 September, represent ChemRisk didn't take Dr. Zhang's  
4 wording.

5 I just don't know that because the wording  
6 from Dr. Zhang in the time between September to November  
7 to December is not on these two document; so Dr. Zhang  
8 may change it, but from what you gave me, one would  
9 compare here, doesn't show.

10 Q Can you give me any reason why ChemRisk didn't  
11 use Dr. Zhang's language suggested in the first  
12 paragraph on the first page of Exhibit 74 to your  
13 deposition?

14 MR. CASAS: Same objection. Calls for speculation.

15 MR. WILKINSON: You're back to the first paragraph  
16 now?

17 MR. PRAGLIN: Right.

18 MR. WILKINSON: The cause of this variation?

19 MR. PRAGLIN: We're talking about the first  
20 paragraph --

21 MR. WILKINSON: I'm sorry, I'll just say vague.

22 I don't understand what language you're  
23 referring to so I'm not sure the witness does.

24 MR. PRAGLIN: Okay. Let's start over.

25 Q On Exhibit 74 --

1           A     Uh-huh.

2           Q     -- the first paragraph, Dr. Zhang wrote in  
3     handwriting a sentence to substitute for a sentence that  
4     he wanted deleted, right?

5           A     Yes. You can represent that in that way,  
6     okay.

7           Q     And the sentence that he marked to be deleted  
8     was, in fact, not deleted from the '97 article; isn't  
9     that true?

10          A     The sentence -- the only reason I can give you  
11     is the time between September to November, I remember  
12     there are discussions of wording back and forth, and I  
13     just don't remember this particular sentence. There are  
14     so many change of the wording between September to  
15     November, there are always discussions. But in my mind,  
16     it's that -- all that discussion doesn't make much  
17     difference because by September it's already concluded  
18     what is the conclusion of this article.

19          Q     So if it didn't make much difference, why not  
20     just use the wording that Dr. Zhang suggested in  
21     Exhibit 74?

22          MR. CASAS: Objection. Calls for speculation,  
23     misstates the testimony.

24                     He doesn't know that ultimately the exact  
25     wording that the doctor wanted wasn't used; so go ahead.

1 MR. PRAGLIN: Let's not coach him.

2 Just state your legal objection, don't coach  
3 him.

4 MR. CASAS: I'm not coaching him.

5 THE WITNESS: Like I just stated, from September to  
6 November, end of November, a lot of changes in the  
7 wording. And this particular sentence may have been  
8 discussed in the conversation but I do not find evidence  
9 or just tell you exactly what the conversation is about  
10 because I just don't remember that.

11 But I -- I think that what you indicate here is  
12 that a difference between September's wording to a  
13 November document wording, and in that time to my  
14 knowledge there are a lot of conversations going on  
15 around that time of discussing different wording; so  
16 it's not surprise to me some of the wording get  
17 changed. But as long as the conclusion is the same, it  
18 doesn't matter to me.

19 This doesn't really register into my mind that  
20 this is a big deal at all.

21 BY MR. PRAGLIN:

22 Q Well, if a reader --

23 A Uh-huh.

24 Q -- sees a difference between saying that  
25 something may be a cause and something is the cause,

1 that's a big deal, right?

2 MR. WILKINSON: Objection.

3 MR. CASAS: Objection.

4 MR. WILKINSON: Argumentative, misstates the  
5 documents, asked and answered.

6 BY MR. PRAGLIN:

7 Q You see a difference there, don't you?

8 A I will say if the reader concludes in that way,  
9 the reader just probably misinterpreted the '97  
10 article.

11 Certainly I cannot stop any reader to conclude  
12 in that fashion. But if you want me to conclude or if I  
13 make suggestion to such reader, I will say reread it,  
14 that's not what the '97 article trying to say.

15 Understand the article didn't say environmental  
16 factors other than chromium contamination or lifestyle  
17 is the cause. It says it's likely, it's possible. And  
18 you have to read the entire '97 article to get a good  
19 understanding of that article trying to say.

20 So if you ask me whether a reader is wrong in  
21 concluding from '97 article that dietary or lifestyle  
22 factor is a cause, I will say that's not how I read the  
23 article and that I don't think most scientists will read  
24 the article in that way.

25 Q When you received Dr. Zhang's Chinese



1 modifications of TY 53 and 54, did you communicate them  
2 to the scientists at ChemRisk, Dr. Kerger and his crew?

3 A I believe I did, yes.

4 Q And was there some discussion with Dr. Kerger  
5 about whether Dr. Zhang's changes should be made in the  
6 article?

7 A Certainly. Always discussions. Not only on  
8 this document, also on other conversations with  
9 Dr. Zhang saying I think -- which sentence needs to be  
10 revised a little bit, I always communicate them back to  
11 Bill Butler or Brent Kerger; most likely Bill Butler  
12 because we're in the same office.

13 Q But you were talking to Dr. Kerger about the  
14 writing of the '97 Zhang article, weren't you?

15 A Pardon?

16 Q You were talking to Dr. Kerger about the  
17 writing of the '97 article, weren't you?

18 A Not as often as I report to Bill Butler.

19 Q So did you tell Bill Butler that Dr. Zhang  
20 wanted this sentence that he circled in the first  
21 paragraph out of the article?

22 A Around that time, everything Dr. Zhang informed  
23 me, I would have told Bill Butler. There's no  
24 reservation on my part; so I must have.

25 Q And did Dr. Butler or Dr. Kerger tell you that

1 they wouldn't do that, that they wouldn't delete that  
2 sentence?

3 A I don't remember such conversation. But I  
4 think that there are multiple conversations around that  
5 time from Bill Butler or Brent Kerger and from ChemRisk  
6 to Dr. Zhang saying in the subsequent conversations  
7 those issues came up, certainly, but I just -- because  
8 in my -- registered in my mind is as of September,  
9 everyone agreed that there was no dose-response  
10 relationship; so all the remaining part are just how the  
11 wording of the documents. There is no substantial  
12 change, as I say.

13 So anything discussed as of September, I don't  
14 really recall exact sentence how that discussed, but my  
15 recollection, those are just wording issue; so I just  
16 translate them back and forth without really thinking  
17 about it too much.

18 Q Bill Butler is an epidemiologist by training,  
19 right?

20 A He is a biostatistician.

21 Q Does he do epidemiology?

22 A He review epidemiology documents but I don't --  
23 I don't think by training he has a title of  
24 epidemiologist.

25 Q What sort of training did Dr. Zhang have in

1 epidemiology?

2 MR. WILKINSON: Objection. Asked and answered.

3 THE WITNESS: My recollection is Dr. Zhang is a  
4 medical doctor by training and he extended his interest  
5 in epidemiology, and that he probably learned during his  
6 duty as the JinZhou Anti-Epidemic Station, when he  
7 worked there, he picked up those experience. That's my  
8 understanding.

9 BY MR. PRAGLIN:

10 Q So on-the-job training in epidemiology; is that  
11 what you're saying?

12 A Yes. Very well represent my position.

13 Q And did you translate all of the  
14 epidemiological statements in the '97 article for  
15 Dr. Zhang?

16 A I believe so.

17 Q Where are those written translations?

18 A Some of them early, some of them in different  
19 files, in different version. I -- for example, you  
20 point out to me this TY 53, TY 54. TY 53, TY 54,  
21 although it's an earlier document than the '97 article  
22 or the submission of the '97 article because this is in  
23 September, but in this document it's already stated the  
24 conclusion similar to or consistent with the '97  
25 article.

1           Dr. Zhang read this Chinese, comments on -- in  
2 Chinese. That's the best document actually you find to  
3 support that Dr. Zhang knew exactly what's the  
4 epidemiology is about on this story.

5           Q     But aren't there a lot of statements about  
6 epidemiology in the '97 article that are not contained  
7 in TY 53 and 54?

8           A     I agree. There -- there are statement in '97,  
9 '93 -- no, in '97 article not contained in TY 53, 54.  
10 But TY 53 and 54 has the same conclusion as the '97  
11 article. That's all that matter.

12          Q     For example, on Exhibit 2 to your deposition,  
13 the '97 Zhang article --

14          A     Uh-huh.

15          Q     -- page 317 --

16          A     Hold on for a minute. 317. Oh, okay. I know  
17 which one you are talking about. Yes, I'm here.

18          Q     On the first column --

19          A     Uh-huh.

20          Q     -- on the left side --

21          A     Uh-huh.

22          Q     -- in the first partial paragraph, the last  
23 sentence reads, "Thus, it is apparent that the increased  
24 mortality rate was not a result of the contaminated  
25 water," right?

1           A     Well, hold on. I try to locate that sentence.  
2     Still trying.

3                     Can you direct me again?

4           Q     Sure. It's the first column on the left, the  
5     first partial paragraph of it --

6           A     Uh-huh.

7           Q     -- the last sentence --

8           A     Okay.

9           Q     -- it says --

10          A     Okay.

11          Q     -- "Thus, it is apparent that the increased  
12     mortality rate was not a result of the contaminated  
13     water."

14          A     Yes, I saw that sentence.

15          Q     Now, that sentence means that the chromium  
16     didn't cause the increase in cancer, right?

17          A     I will say this sentence stated that in the  
18     water, which we know there are contamination in this  
19     region, the contamination water from this data doesn't  
20     support there is a increased mortality rate in that  
21     region.

22                     Whether chromium cause cancer or not doesn't  
23     really stated in this sentence at all, because chromium  
24     in what form? This is only say contaminated water. And  
25     the water has -- contaminated with different -- around

1 that time not only chromium, also other chemicals.

2 Q This sentence that says, "Thus, it is apparent  
3 that the increased mortality rate was not a result of  
4 the contaminated water," you never translated that in  
5 writing for Dr. Zhang, did you?

6 A I don't know whether it's in my 900 or so  
7 pages. I may have translated, I don't recall.

8 Q If you did you can't locate it in your  
9 production, can you?

10 A I don't remember I saw such a page when I  
11 organized my material.

12 Q And who actually wrote the abstract for the  
13 '97 article?

14 A Well, the entire article is -- around that time  
15 is back and forth discussed by ChemRisk -- between  
16 ChemRisk and Dr. Zhang. And the Brent Kerger and his --  
17 and Dr. Butler are responsible for making the final  
18 edits with Dr. Zhang.

19 Q Any conversations between Kerger and Butler and  
20 Zhang went through you, right?

21 A I believe that later than September, that's  
22 true. Before September that was what I stated in my  
23 earlier statement. When I joined this project, it's  
24 already -- Dr. Zhang already talked with Mr. Kerger; so  
25 those conversations certainly didn't go through me.

1 Q Now, on Exhibit 74 --

2 A Uh-huh.

3 Q -- on the second page of the English  
4 translation --

5 A Okay.

6 Q -- under the section "Conclusion" --

7 A Yes.

8 Q -- Dr. Zhang has circled two sentences that he  
9 wanted to be removed and he wanted to substitute an  
10 entire paragraph which he hand wrote out on TY 54 in  
11 their place, correct?

12 A That's what this document stated, yes.

13 Q And he wrote in Chinese at the bottom of TY 54,  
14 just before the paragraph that he added, he wrote  
15 something to the effect, "Here should be changed," and  
16 then came his suggested change, correct?

17 A Yes.

18 Q Now, did you communicate that suggested change  
19 to the last paragraph of the document TY 53 and 54 to  
20 Drs. Kerger and Butler?

21 A Yes.

22 Q Did you --

23 A Not only that, you can -- from '97 article, you  
24 can find very similar language of mentioning of this  
25 Allen Choi translation, which is the, for example,

1 limited observation period, limited number of  
2 observation. I believe you can find those exact wording  
3 in '97 article.

4 Q Did you translate it in writing?

5 A I may have. I don't recall. I don't recall.

6 But to the degree that I -- in '97 article I  
7 saw those wording from Allen Choi, your translator, of  
8 translating it, consistent with '97 article, part of the  
9 '97 article of this limitation of this study, I'm glad  
10 that -- that you find him.

11 Q And did you think it was important to let  
12 Dr. Zhang know what it was that ChemRisk was writing in  
13 this article in his name?

14 MR. CASAS: Objection. Misstates the testimony.

15 THE WITNESS: It's communicated to Dr. Zhang and  
16 it's certainly important.

17 BY MR. PRAGLIN:

18 Q You thought it was important, right?

19 A Oh, sure. Sure it's important.

20 Q Weren't you Dr. Zhang's only hope of knowing  
21 what was being written in this '97 article because he  
22 doesn't speak or read English?

23 MR. CASAS: Same objection.

24 THE WITNESS: It's important for him to know, I  
25 agree, and that he was informed. That's all.



1 BY MR. PRAGLIN:

2 Q So in the '97 article --

3 A Yeah.

4 Q -- which is Exhibit 2 to your deposition --

5 A Uh-huh.

6 Q -- on page 317 --

7 A Okay.

8 Q -- on the third column on the right --

9 A Yes.

10 Q -- under the "Discussion" section --

11 A Yes.

12 Q -- toward the bottom of that column --

13 A Yes.

14 Q -- the article states, "Neither stomach cancer  
15 nor lung cancer indicated a positive association with  
16 chromium (VI) concentration in well water" --

17 A Yes.

18 Q -- right?

19 A Yes.

20 Q You never translated that sentence into Chinese  
21 for Dr. Zhang, did you?

22 A I disagree. I translate that.

23 Q Show me where it appears.

24 A Okay. I -- although there are other documents  
25 or other conversations, I can tell you that I translate

1 that. Just on this September document --

2 Q Okay. So you're talking now about Exhibit 74?

3 A Correct.

4 Q Show me where Exhibit 74 has that language that  
5 "Neither stomach cancer nor lung cancer indicated a  
6 positive association with chrome (VI) concentration in  
7 well water"; show me where you translated that into  
8 Chinese for Dr. Zhang.

9 A Okay. Before we keep going, I'm going to reach  
10 one point.

11 I believe in my original document similar to  
12 the -- in my original document of TY 53/54, I also send  
13 to Dr. Zhang a table, you can say it is Excel table,  
14 which tabulate the cancer mortality rate, stomach cancer  
15 mortality rate and lung cancer mortality rate. I can  
16 find them in my --

17 Q Well, before you go off finding tables, show me  
18 where you translated --

19 MR. WILKINSON: I'm sorry, let him answer the  
20 question.

21 BY MR. PRAGLIN: --

22 Q -- in words --

23 MR. WILKINSON: No.

24 MR. PRAGLIN: He's answered it.

25 MR. WILKINSON: No.

1 MR. PRAGLIN: I'm asking him about words.

2 MR. WILKINSON: He's telling you that there's a part  
3 of the document and you cut him off.

4 MR. PRAGLIN: Mr. Wilkinson --

5 MR. WILKINSON: If you don't want to let him answer  
6 your question, then, you know --

7 MR. PRAGLIN: He'll answer it.

8 The witness has a lawyer here. The lawyer for  
9 Mr. Ye is not even objecting. Don't interject yourself  
10 here.

11 MR. WILKINSON: Well, don't interject yourself in  
12 his answers.

13 BY MR. PRAGLIN:

14 Q Okay. Here's the question, Mr. Ye. Show me  
15 where in any document you ever translated into Chinese  
16 for Dr. Zhang the sentence from the '97 article that  
17 says, "Neither stomach cancer nor lung cancer indicated  
18 a positive association with chrome (VI) concentration in  
19 well water," and I'll give you a red pen and you can  
20 circle it and show me where you translated it.

21 Here's your red pen.

22 A Okay. Now, in the Allen Choi's translation,  
23 I'll take your translation as it, and I will take two  
24 parts of this translation, and I am going to point out  
25 two sentences for you, okay, without the table. You

1 didn't allow me to --

2 Q We'll talk about the table later. Show me  
3 where the words were translated.

4 A You won't let me go to the table, that's fine.

5 MR. WILKINSON: Again, I'll object that you're  
6 limiting his ability to answer by showing him a portion  
7 document.

8 He's told you that there are other portions of  
9 the document he referred to.

10 BY MR. PRAGLIN:

11 Q Go ahead, Mr. Ye.

12 A I'm going to show you the table later.

13 Q You will. Let's get the answer to my question.

14 A The Allen Choi translation in the survey -- in  
15 the results of the survey, which the Section 3 on  
16 Allen Choi's second page, the last sentence says, "For  
17 each village, we calculated the cancer death rate, lung  
18 cancer death rate and stomach cancer death rate." And  
19 amortized in a parentheses saying that "(Stomach cancer  
20 is the most common cancer among males and females in  
21 China). The results is listed in Table 1."

22 Q So wherever that --

23 A So there's a table -- there's a Table 1.

24 And in this section, clearly in Allen Choi  
25 translation is saying that in this document -- it is

1 represented in this document not only overall mortality  
2 cancer, it is also lung cancer and stomach cancer. You  
3 will agree with me on that.

4 Q So wherever that appears would you circle it in  
5 red, please.

6 A Sure. Okay.

7 Q Would you mind putting your initials in the  
8 margin next to that, please.

9 A Sure.

10 Q And is it your testimony that what you just  
11 circled in red is something that you translated into  
12 Chinese for Dr. Zhang to read as the translation of the  
13 sentence that appears in the '97 article that reads,  
14 "Neither stomach cancer nor lung cancer indicated a  
15 positive association with chromium (VI) concentration in  
16 well water"?

17 A No, that's not my -- that's not my statement.

18 Q Okay.

19 A I have not finished my answer to your question  
20 yet, actually.

21 Q Go ahead and continue.

22 A Actually, in the "Conclusion" part of the  
23 Allen Choi translation, in the "Conclusion" part I  
24 will -- I will go to the fifth line from the bottom  
25 saying, "However, there is no negative correlation

1 between cancer mortality of each village and the  
2 distance from the Ferroalloy Plant, nor is there a  
3 positive correlation to the level of contamination."

4 I will put my name next to it.

5 This Chinese document stated we tabulated -- we  
6 started three cancer rates, all cancer, lung cancer,  
7 stomach cancer and they're shown in Table 1, which I  
8 will show you later. And the conclusion saying that  
9 cancer rate does not show a positive correlation with  
10 the contamination.

11 This cancer rates in the "Conclusion" part --  
12 this cancer rate mentioned is in the "Conclusion" part,  
13 which is the -- right next to the results of the survey,  
14 represent the overall cancer, represent the lung cancer,  
15 represent the stomach cancer because in result of survey  
16 we just mentioned three cancer risks; so in the  
17 "Conclusion" part, the conclusion of cancer rate  
18 mortality risk refer to all of them.

19 And Dr. Zhang saw it in Table 1, clearly  
20 there's no dose-response relationship, which he did not  
21 even include Table 1 in these documents, that's fine,  
22 which is Dr. Zhang agreed for stomach cancer, for lung  
23 cancer in these five village there is no positive  
24 dose-response relationship, and that's what Dr. Zhang  
25 knew by September of 1995. That's what Dr. Zhang agree

1 in September 1995.

2 Is that the same wording of the JOEM article?

3 No, they're not same wording. Like what we discuss  
4 before, word change from September to November to  
5 December, but the conclusion is there, it's the same  
6 conclusion.

7 Q So you'd agree with me that the language that  
8 ended up in the '97 article that says, "Neither stomach  
9 cancer nor lung cancer indicated a positive association  
10 with chrome (VI) concentration in well water" was never  
11 translated in those words into Chinese for Dr. Zhang --

12 MR. WILKINSON: Objection. Misstates the documents  
13 and the testimony.

14 BY MR. PRAGLIN:

15 Q -- correct?

16 MR. CASAS: Same objection.

17 THE WITNESS: I'm saying that I do not find a piece  
18 of paper right on here to have that exact translation.  
19 I believe I have translated it, but I don't recall in  
20 which form.

21 BY MR. PRAGLIN:

22 Q Okay. And if --

23 A But I will say even in September, this  
24 Exhibit 74 already demonstrated Dr. Zhang had the same  
25 conclusion. That's the most important thing to you, I

1 think.

2 Q But as you sit here now you can't lay your  
3 hands on a document where you translated that sentence  
4 in those words for Dr. Zhang into Chinese, can you?

5 A No, I don't think I can.

6 MR. PRAGLIN: Okay. We're going to change tapes  
7 here and then we'll resume.

8 THE WITNESS: Sure.

9 THE VIDEOGRAPHER: This marks the end of videotape  
10 number one in the deposition of Tony Ye. We're going  
11 off the record. The time is 11:08.

12 (Off the record.)

13 THE VIDEOGRAPHER: We're back on the record. Here  
14 marks the beginning of videotape number two in the  
15 deposition of Tony Ye. The time on the video monitor is  
16 11:19. Please begin.

17 BY MR. PRAGLIN:

18 Q All set, Mr. Ye?

19 A Yes.

20 Q The last part of Exhibit 74 --

21 A Yes.

22 Q -- where Dr. Zhang hand wrote in Chinese the  
23 paragraph that he wanted to substitute for the two  
24 sentences that he wanted deleted --

25 A Okay.



1 Q -- that paragraph was not included in the way  
2 that he wrote it in the '97 article, was it?

3 MR. WILKINSON: Objection. Vague, misstates the  
4 documents and the testimony.

5 THE WITNESS: It's -- in the '97 article it's not  
6 the exact wording of this paragraph.

7 BY MR. PRAGLIN:

8 Q Did you translate that paragraph for  
9 Drs. Kerger and Butler?

10 A Yes, I have.

11 Q Did you translate it in writing or just  
12 verbally?

13 A I don't recall.

14 Q You can't find a written translation of that  
15 paragraph, other than Allen Choi's here that I provided  
16 you with, can you?

17 A I don't think that's in my 900 or so pages,  
18 right, but the -- I will point out a couple of factors  
19 on this sentence.

20 Do you see the limited observation period, the  
21 limited number of observation? I think those sentence  
22 are -- if you check the -- 1997 JOEM article, those  
23 words are nearly identical to the 1997 article in the  
24 "Conclusion" portion.

25 Q You really think they're nearly identical?

1           A     Yes.

2           Q     Why don't you show me where they're nearly  
3 identical.

4           A     Sure. Okay. This is in JOEM article in my  
5 Exhibit 2, in the page 319, the right most column.

6           Q     You mean the left most column, don't you?

7           A     Oh, sorry, the left most column. Yes, I do.

8                     The -- nearly the second -- the lower part of  
9 that column, in the -- start from the middle saying that  
10 "The relatively short latency period covered in this  
11 study limits the conclusiveness of these findings  
12 regarding cancer and chromium (VI) contamination,  
13 although the number of person-years represented is  
14 substantial...A mortality study with a longer follow-up  
15 period would be worthwhile."

16          Q     You left out the part that says "approximately  
17 99,000" person-years represented, right?

18          A     I didn't -- I didn't read in the parentheses,  
19 yes.

20          Q     So that portion that you just read, that's not  
21 the same as what Dr. Zhang wanted included, is it?

22          MR. CASAS: Objection. Argumentative.

23          THE WITNESS: It's -- if we go back to Allen Choi's  
24 translation on the second page from the second sentence  
25 from the bottom, saying, "Our result reveals that cancer

1 mortality in this area is certainly affected by the  
2 limited observation periods, limited number of  
3 observations" --

4 I will stop here.

5 The limited observation periods, limited number  
6 of observations means the same thing of relatively short  
7 latency period covered in this study. It's just not  
8 enough observation can be made in that short period of  
9 time to get a very conclusive study on this.

10 BY MR. PRAGLIN:

11 Q I understand that you think that the '97  
12 article says the same thing, but won't you agree with me  
13 that the '97 article does not include the language as  
14 Dr. Zhang wrote it for this last paragraph --

15 A I will --

16 Q -- on TY 54?

17 A I will agree not exactly the same sentence.  
18 Not same wording, I would agree.

19 Q And don't you think that Dr. Zhang's wording  
20 should have been used since the article bears his name?

21 MR. WILKINSON: Objection.

22 MR. CASAS: Objection.

23 MR. WILKINSON: Asked and answered, argumentative,  
24 misstates the documents and the testimony.

25 THE WITNESS: The answer to that is certainly yes.

1           And from September of '95 to November, end of  
2 November of '95 when the JOEM article was finalized,  
3 there are different changes in the wording, there are  
4 different discussions of the wording; so when you  
5 compare this document of '95 September to this  
6 JOEM article, they're different wording, I would not be  
7 surprised.

8           MR. PRAGLIN: Thanks, Mr. Ye, I don't have any other  
9 questions.

10          THE WITNESS: Thank you.

11

12   EXAMINATION

13 BY MR. WILKINSON:

14          Q     Mr. Ye, as you know from our previous sessions,  
15 my name is Kirk Wilkinson. I have just a couple of  
16 follow-up questions for you on Exhibit 74, if we could,  
17 before we conclude today.

18          A     Okay.

19          Q     Let me turn to page TY 53 of Exhibit 74 if you  
20 we could.

21          A     Yes.

22          Q     In the upper right-hand corner there is some  
23 handwritten Chinese --

24          A     Yes.

25          Q     -- and the English name "Li Shu Kun."

1 A Yes.

2 Q Is that your handwriting?

3 A No, it's not. It's Dr. Zhang's handwriting.

4 Q Okay. Was the name Li Shu Kun part of this  
5 Chinese typed version when you provided it to Dr. Zhang?

6 A No, it's not.

7 Q Okay. Is that something that he added in  
8 sending it back to you?

9 A Yes.

10 Q Did you discuss that with him?

11 A Not extensively.

12 Q Okay. What were your discussions with him  
13 regarding Li Shu Kun's role?

14 A I believe that in my conversation with him all  
15 the documents on one page of my 900 or so pages,  
16 Dr. Zhang answered ChemRisk inquiry of the second  
17 author, and Dr. Zhang said that Li Shu Kun helped him in  
18 collecting data and participated in drafting a lot of  
19 materials sent to ChemRisk; so Dr. Zhang think that  
20 Li Shu Kun should be considered as the second author.  
21 And he in the documents stated that he hoped that  
22 ChemRisk would not object, then I believe what we told  
23 him is we respect his decision.

24 Q Let me turn your attention to the box on  
25 page TY 54 and the substitute paragraph that Mr. Praglin

1 asked you a few questions about.

2 A Yep.

3 Q In turning back to Mr. Choi's translation --

4 A Yes.

5 Q -- Mr. Praglin read you the first sentence.

6 The second sentence goes on to say, "Our result reveals  
7 that cancer mortality in this area is certainly affected  
8 by the limited observation period, limited number of  
9 observations, plus the lifestyle and other  
10 non-chromium...factors."

11 Do you see that?

12 A I saw that.

13 MR. PRAGLIN: I think you left a word out there.

14 MR. CASAS: It says, "non-chromium contamination  
15 factors."

16 MR. WILKINSON: Non-chromium.

17 Q Let me read it again just so we've got a clean  
18 record, Mr. Ye.

19 A Yes.

20 Q I'll start from the beginning of that sentence.

21 "Our result reveals that cancer mortality in  
22 this area is certainly affected by the limited  
23 observation period, limited number of observations, plus  
24 the lifestyle and other non-chromium contamination  
25 factors."

1           Did I read that correctly?

2           A     You did.

3           Q     And did you have a chance to review that  
4 translation in light of the Chinese handwritten comments  
5 from Dr. Zhang?

6           A     I -- I -- I briefly review that.

7           Q     Okay. And did you find that to be an accurate  
8 representation of the comments that he provided to you?

9           A     I think it's fair.

10          Q     And did you discuss those comments with  
11 Dr. Zhang after receiving the Chinese draft and the  
12 comments that is pages TY 53 and TY 54 of Exhibit 74?

13          A     We have.

14          Q     And what was the substance of your discussions  
15 with Dr. Zhang regarding those comments?

16          A     Although I don't recall exactly, but I think  
17 that the -- around that time that there are  
18 conversations back and forth on the wording of the  
19 conclusion, and the common conclusion from Dr. Zhang  
20 and -- to ChemRisk communicated through me was there is  
21 no dose-response relationship so that chromium -- the  
22 data doesn't support chromium contamination in this  
23 region as a cause of the higher lung cancer or cancer  
24 mortality rate so that some other factors are likely or  
25 are possible; lifestyle factors or other factors other

1 than chromium contamination.

2 But again, further study are recommended and  
3 needed; so that's the line of conclusion way -- back and  
4 forth many, many times.

5 MR. WILKINSON: I have no further questions.

6 THE WITNESS: Okay.

7 MR. PRAGLIN: Same stip?

8 MR. CASAS: What's that?

9 MR. PRAGLIN: Same as the stipulation from the last  
10 two sessions?

11 MR. CASAS: Yes.

12 MR. PRAGLIN: 30 days?

13 MR. CASAS: 30 days, and that's to review the entire  
14 transcript, because he didn't have the complete  
15 Exhibit 1 for the first two days.

16 MR. PRAGLIN: Yes. I think we already gave him the  
17 time on the first two. He can have 30 days on this  
18 one. It's substantially less.

19 MR. CASAS: He's going to need more time than to  
20 March 18th if he's going to certify the first part of  
21 his deposition if he doesn't have a complete Exhibit 1.

22 MR. PRAGLIN: I thought he already did certify the  
23 first part of his deposition?

24 MR. CASAS: I don't believe so.

25 THE WITNESS: The first part?



1           No, I --

2           MR. PRAGLIN: The time has run, I think.

3           THE WITNESS: I have not because without the  
4 first --

5           MR. PRAGLIN: Well, let's propose a stipulation for  
6 this session, then. I mean, the time has long since run  
7 for his first depo.

8           MR. CASAS: Well, I suppose that it has, although he  
9 wasn't provided the entire deposition --

10          MR. PRAGLIN: No, he --

11          MR. CASAS: -- transcript --

12          MR. PRAGLIN: -- said --

13          MR. CASAS: -- with exhibits.

14          MR. PRAGLIN: All right. If that becomes an issue,  
15 we'll take it up.

16                 I'll propose that the original be sent to my  
17 office to forward to Mr. Casas and have the witness sign  
18 it under penalty of perjury with no need for a notary.  
19 We'll then ask that the witness sign within 30 days of  
20 his receipt and advise us of any changes. If not so  
21 advised, then a certified copy can be used in lieu of  
22 the original for all purposes at trial. And we can  
23 relieve the reporter of her responsibilities under the  
24 Code.

25          MR. CASAS: That's fine.

1                   Are you going to send me the rest of  
2 Exhibit 1?

3           MR. PRAGLIN: I will. If the part of Exhibit 1 got  
4 omitted, I'll send you a full set.

5           MR. CASAS: Yes, pages 1 through 483, I think it  
6 was.

7           MR. PRAGLIN: Yes, we'll do that.

8           MR. CASAS: Okay.

9           MR. WILKINSON: So stipulated.

10          THE VIDEOGRAPHER: Finished?

11          MR. PRAGLIN: Off the record.

12          THE VIDEOGRAPHER: This concludes the deposition of  
13 Tony Ye. The number of tapes used was two. The  
14 original videotapes will be retained by Biehl & Bell of  
15 Orange, California.

16                   We're going off the record. The time is  
17 11:30.

18 /

19 /

20

21

22

23

24

25

1 STATE OF \_\_\_\_\_ )  
2 COUNTY OF \_\_\_\_\_ ) ss.

3  
4  
5  
6  
7  
8

9 I, the undersigned, say that I have read the  
10 foregoing deposition, and I declare, under penalty of  
11 perjury under the laws of the State of California, that  
12 the foregoing is a true and correct transcript of my  
13 testimony contained therein.

14 EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2003,  
15 at \_\_\_\_\_.

16  
17  
18  
19  
20  
21  
22

\_\_\_\_\_  
TONY YE  
Volume 3

25

1

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3

4 I, the undersigned, a Certified Shorthand  
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken  
7 before me at the time and place herein set forth; that  
8 any witnesses in the foregoing proceedings, prior to  
9 testifying, were placed under oath; that a verbatim  
10 record of the proceedings was made by me using machine  
11 shorthand which was thereafter transcribed under my  
12 direction; further, that the foregoing is an accurate  
13 transcription thereof.

14 I further certify that I am neither financially  
15 interested in the action nor a relative or employee of  
16 any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date subscribed  
18 my name.

19

20 Dated: \_\_\_\_\_

21

22

23

24

25

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LAURIE HELD-BIEHL, CSR, RPR, CRR  
CSR No. 6781

