IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

CLARENCE BOREL |

VS | Civil Action No. 6449

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL |

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JAN 26 1971

JAMES R. COONEY, CLERK
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DEPOSITION OF LOUIS A. MATEO, M. D.

(ORIGINAL)

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COURT REPORTERS
HOUSTON FIRST SAVINGS BLDG.
HOUSTON, TEXAS

IN THE DISTRICT COURT OF THE UNITED STATES

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CLARENCE BOREL	)	
VS.	)	Civil Action No. 6449
FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL	)	

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DEPOSITION OF LOUIS A. MATEO, M.D., taken on the 22nd day of January, 1971, at Memorial Baptist Hospital, Houston, Texas, between the hours of 1:10 p.m. and 1:55 p.m., pursuant to notice and stipulation.

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

IT IS STIPULATED by and between counsel for the respective parties hereto, that the deposition of LOUIS A. MATEO, M.D., may be taken at this time and place, before RONALD D. MILLER, an Official Court Reporter, certified under the laws of the State of Texas, all formalities and requirements for the taking of deposition, including time and issuance of notice, and all formalities in the taking and return of this deposition being waived, including the signature of the witness.

IT IS FURTHER STIPULATED that the necessity for the making of objections to the questions and answers at the time of the taking of this deposition is waived, and that such objections may be made when the deposition or any part of it is offered in evidence, with the same force and effect as if the witness were present and testifying in person.

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LOUIS A. MATEO, M.D.,

the witness, was by the notary duly cautioned and sworn to testify the truth, the whole truth and nothing but the truth, and thereupon in answer to questions propounded by counsel, testified as follows:

DIRECT EXAMINATION

By Mr. Stephenson:

Q Doctor, I am Ward Stephenson, attorney from Orange, Texas, and representing Mrs. Clarence Borel, the widow of Clarence Borel, in a lawsuit while we have brought against several manufacturers of asbestos insulating products. We are here today to take your deposition, and this is the same as if you were appearing in court before the Court and jury. The court reporter has placed you under oath, and you will be asked questions, and then this deposition may be used at the time of trial. If you have any questions about it or you are uncertain about what the proceedings are, let me know and I will be glad to explain.

A No. Right now I don't have any questions.

Q Doctor, what is your name for the record, please?

A Louis A. Mateo.

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Q You reside in Houston, Texas?
A Houston, Texas.
Q Are you a medical doctor?
A I am a medical doctor.
Q Where did you get your medical training, Doctor?
A In the University of Havana.
Q When did you complete your formal medical training?
A 1949.
Q What did you do, if anything, following that to work towards a specialty?
A Well, I took my formal training in pathology from 1950 to 1954, then again I took another year of residency in 1960 here in this country.
Q When did you start the practice of medicine here in the United States?
A In 1961.
Q What has previously been your medical work since 1961?
A Pathology.
Q Explain to us, please, what pathology means.
A Well, what we have been doing in pathology is examination of tissue of those removed from surgical cases, and also autopsies. That completes the spectrum of the whole body, and

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also clinical pathology, which includes the clinical laboratory.

Q As such do you work frequently on request of other doctors? In other words, if Dr. P. O. Jones, who had this case, wanted pathology studies made of certain tissues of his patient, is this in line with what you do?

A That's right. Most of my work is case referred by either clinicians of surgeons or general practitioners, any other M.D.'s.

Q And most of your pathology work regards the study of specimens of tissue and would be done without you even seeing the patient?

A I would say that most of the time that's the case.

Q Now, what we are interested in here, do you have a license to practice medicine on record here in Harris County?

A Yes, sir.

Q You do practice medicine, I assume, as a full time occupation?

A That's right, sir.

Q Now, Doctor, on or about March 7, 1969, did you have occasion to make tissue studies of a man by the name of Clarence Borel?

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A According to the records we have in the hospital, I did, yes, sir.

Q Are you referring to the record now?

A I am referring to the record.

Q Would you please tell us what tissue was submitted and what you did to make your pathology studies of this tissue?

A Well, according to this record I received five different specimens, which is usually the case in lung cases, in cases of any importance. It depends upon the region from where the specimen is removed so we can identify those tissue from where they were removed. According to this, I received tissues submitted as hilar nodes, and a second specimen, was, say, from the open lobe of the lung, and then a third specimen submitted as lung tissue coming from the lung itself, and another specimen submitted as tissue from the chest wall, and then another specimen submitted as biopsy of right lung.

Of course, to specimen with the patient, we have to refer to the patient's chart and usually to the surgeon's report.

Q After having received this tissue, would you explain what you did then?

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A Well, I did what we usually do. We do a gross description of the specimen first, and then we select a portion of that specimen for microscopic studies, and usually the following day we do that microscopic study, which I did in this case, too, according to this report.

Q This report you are referring to is the official records of Memorial Baptist Hospital?

A That's correct.

Q Doctor, what type of studies did you make of the tissue that you got?

A Well, I did here what we call the routine study, and that consists of usually hematoxylin and arosene, historical preparation. We do this type of a study in all cases, and when we see in it for something more, we do it. In this case I didn't see the need to do any other studies, so that was limited to that type of thing.

Q Now, can you tell us what you found from making the studies that you did there on March 7, 1969?

A Right. Well, in this second page I was looking this over yesterday and I found a mistake in the first line. It says, "Specimen No. 5."

The first line of the report says,

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"Portal," and it should read, "Pleural."

Q Thank you for calling that to our attention.

What did you find, then, upon examining these studies?

A In those specimen labelled two, three and four, I found only fibrosis, and that consists of fibrous connective tissue usually replacing the tissue either from the pleura or from any other structure from where the specimen were removed, and specimen number five, which is the most important of them all, I found lesions that are usually produced by any kind of injury to the lung, and also I found within the tissue what we call the asbestos bodies.

So, my conclusion was that this lung biopsy was that of a case of asbestosis.

Q How did you make the determination that these were asbestos bodies and that the patient had asbestosis?

A Well, asbestos bodies are characteristic on microscopic study, so they are easy to recognize as such. Very seldom do you have any doubt about it.

Secondly, when you see those bodies within fibrous tissue and with the tissue

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reaction around them, then your conclusion would be that the lesion is produced by the bodies, and in this case, that was asbestosis.

Q Does the fibrous tissue grow around the spicula or the portion of the asbestos fiber in an identifiable fashion?

A The tissue reaction itself is not characteristic. It's characteristic if you put everything together and you see that reaction and the asbestos bodies.

Q You did actually see the asbestos bodies?

A Yes. If you see that reaction without the asbestos bodies or any other organism or particle, you cannot be sure what you are dealing with.

Q Then did you make any other tests, or does this conclude the tests that you, yourself, made?

A That was all I did in this particular case.

MR. STEPHENSON: I believe that's all the questions I have.

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CROSS EXAMINATION

By Mr. Weller:

Q Doctor, you said that you took some training in this country in 1960?

A That's right.

Q Where did you take your training, and for what length of time?

A I went to the Children's Hospital in Pittsburgh, and I stayed there a year and a half.

Q Was that in your specialty or not?

A That's right, it was, pathology.

Q Prior to coming to the States, had you had any occasion to diagnose any cases of asbestosis or tissues involving asbestosis?

A Yes. Now, I have to quote by memory. I don't remember the number of cases specifically, but probably two or three cases, yes, sir.

Q Where was that, in Cuba?

A In Cuba, and I don't remember if here in the United States. Not counting those cases you see in seminars and study sets. Usually we don't count them as a number of cases in our own experience.

Q Doctor, in these first specimen, I believe, Specimen No. 1, did you find any asbestos in

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that specimen? Asbestos?

A No, I did not.

Q Did you find any -- where was Specimen No. 1 from?

A Number one, according to this report, was from -- was a lymph node taken from the hilar region of the lung.

Q What region is that?

A That is that source close to the mediastinal or the bronchus and the blood vessels into the lungs.

So, it would actually -- it may come where the lung is attached to the trachea and connected to the heart and other organs.

Q Specimen No. 2, where is that from?

A Specimen No. 2? That was submitted as a node from the upper lobe, and probably this means the upper -- right upper lobe.

Q So --

A We are dealing with the right side.

Q Solely the right side?

A Yes, and that was a node they removed from the lung itself, from the surface of the lung.

Q Did you find any asbestos bodies in that?

A Number two?

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Q Number two.

A No, sir, only fibrosis.

Q Where was Specimen No. 3 from?

A Three was submitted as tissue from the lung. I don't have any other way to determine from where it was, except that from the right lung.

Q Did it have any asbestos bodies in it?

A No.

Q And Specimen No. 4, where was that from?

A Specimen No. 4 was submitted as material from the chest wall.

Q Did you find any asbestos bodies in that?

A No, sir.

Q This Specimen No. 5, what part of the lung was that from?

A Well, they didn't give me that information, just that it was a portion of the right lung.

Q You don't know what --

A No, sir.

Q Well, how would you account for the fact that there were four samples of tissue taken from a lung that didn't have any asbestos bodies in it, and then there was only one that did?

A Usually asbestosis is more common in the lower portion of the lung than in the upper lobe since

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gravity has something to do with it.

Q If you don't know where Specimen No. 5 came from, you don't know whether that came from the lower lobe or not, do you?

A No.

Q There were no specimen taken of the left lung, were there?

A I don't have any information on that.

Q You don't have any information. Now, Doctor, in your opinion is the presence of asbestos fibers in a section of the lung alone sufficient to justify a diagnosis of asbestosis in your opinion?

A Well, the presence of asbestos bodies alone do not make a diagnosis of asbestosis.

Q Then, that's all you found, wasn't it?

A No, not exactly. I found besides the asbestos bodies, a fibrous reaction, an inflammatory reaction around those bodies.

Q You found an inflammatory reaction. Could that inflammatory reaction be caused by an old condition of pneumonia?

A Pneumonitis? Well, that's very difficult to say. We have got to abide by the relation of the two agents. We have here -- let's say the

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asbestos body and the reaction that is around them. If we believe that there is a relationship between the two because they are together or rather the asbestos body within the fibrous tissue, we usually assume that was the cause of it.

Q If you assume that this particular patient had had a prior case or cases of pneumonia and these effects in the lungs from pneumonia, could the condition that you found have been caused by that, that is scar tissue developing from the pneumonia and so forth?

A That's possible, yes.

Q Well, it's probable, isn't it? Part of this condition that you found was due to the scar tissue from the pneumonia?

A I would say that it's possible. I wouldn't say --

Q Then would it be correct that you did not attempt to rule out other causes based on this man's history and medical history?

A Well, if I may -- a little better than this, as I said before, if we see a relationship between the two in the microscopic section in which the asbestos bodies are actually within

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the fibrous tissue, we have to make the diagnosis of asbestosis because this can be characteristic that we are required to make the diagnosis.

Q Doctor, in your opinion can asbestos fibers appear in a person's lungs in the absence of asbestosis?

A Yes.

Q In your opinion are asbestos bodies present in the lungs of thousands of people who do not have asbestosis?

A Probably a thousand may be correct. I would say in a large number, yes.

Q Those people never develop asbestosis, do they?

A That's right.

Q Now, then, would it be correct that the mere presence of asbestos fibers in a person's lungs does not always cause a reaction?

A That's correct, too.

MR. WELLER: I believe that's all.

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FURTHER CROSS EXAMINATION

By Mr. Pate:

Q Doctor, did I understand you to say that you found fibrosis in one of the other specimens here, either number one, two, three or four?

A That's correct.

Q You did or did not?

A I say I did find fibrosis in Specimen No. 2, 3 and 4.

Q But you found no asbestos --

A Bodies.

Q -- bodies in two, three or four?

A Right, that's correct.

Q But you are saying that you found an asbestos body in No. 5?

A That's correct.

Q Which was accompanied by fibrosis, is that correct?

A That's correct.

Q And isn't it just not probable that the fibrosis was caused by old pneumonia as the presence of the asbestos in No. 5? Affects that?

A Would you state that question again?

Q You found in two, three and four, as I understand it, fibrosis?

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A Right.
Q In five you found asbestos bodies. But now in No. 5 was it accompanied by fibrosis or an inflammatory reaction?
A Right.
Q Where is that in your report, Doctor?
A In the second page of my report where it says, "Specimen No. 5," I said the, "The pleura has marked thickening due to fibrosis and edema. Numerous inflammatory cells are noted. In some air spaces are asbestos bodies surrounded by macrophages with brown granules."
Q To what do you attribute the fibrosis tissues in two, three and four?
A When you have a deceased like this, you do not always find the agent that produced the changes.
Q What are the agents that could produce the changes?
A Oh, there are many, many agents that could produce these changes.
Q Tell us some of the more common ones.
A Any other kind of material that could be inhaled, also a bacterial disease that this patient may have had in the past.
Q Like pneumonia?

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A Any type of pneumonia may produce fibrosis.
Q So, pneumonia could have produced the fibrosis in tissues two, three and four?
A It's possible, yes.
Q All right. And could also have produced the fibrosis in five?
A It's possible.
Q Isn't it probable?
A Well, without knowing, having more information about the past history of this patient I wouldn't be able to say if it was probable.
Q Assume that this man did have two prior, as I recall, bad cases of pneumonia, would it not be probable that the fibrosis in tissues two, three and four were caused by the old pneumonia, so to speak?
A It's possible, yes.
Q If that's the case, it's just as likely that the fibrosis in tissue five was likewise produced by the old pneumonia?
A Yes, it's possible that it could be the cause.
Q You cannot tell us with any degree of reasonable medical certainty that the presence of the asbestos body in tissue five caused the fibrosis, can you?

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A I think I could see a relation between the two, because if those asbestos bodies had been inhaled after the fibrosis was established, you wouldn't find them within the fibrous tissue because usually they are kind of inert bodies, and they don't penetrate, but they are surrounded by the fibrous tissue.

Q What was the condition of the asbestos body that you found in five?

A In five I found those asbestos bodies within air spaces and within fibrous tissue. This is not real clear as stated in this report, but I did review the sections and found that was the case.

Q Was it surrounded by fibrosis?

A By fibrosis, yes, sir.

Q Is it your opinion that it was there before or after the fibrosis?

A I think my opinion was that they were before.

Q You don't know from what point of the lung tissue five came?

A No. The information in this report with regard to the location of the tissue is information sent to us by the surgeon or the referring physician, and we go by that information.

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Q Now, if this man had been an asbestos worker for some years and if he had inhaled these asbestos fibers or bodies prior to having pneumonia, it could have been in there and caused no reaction, and then he could have had the pneumonia which set up the fibrosis or inflammation?

A That's a possibility.

Q Sir?

A That's a possibility, yes.

Q It's a reasonable possibility considering the fact there were no bodies in tissues two, three and four?

A Well, that would depend upon from where those tissue biopsies were removed, but that you can postulate. It's possible.

Q What effect would smoking have on his lungs? Would that set up the fibrosis?

A Yes, it's possible. Usually fibrosis in the lung due to smoking is a condition that follows emphysema and repeated bronchitis and bronchiolitis and pneumonitis.

Q You mentioned bronchitis. Did this man have bronchitis?

A By this report I cannot answer that question.

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I don't have enough material to make that statement.

Q You don't know whether he had been diagnosed several years ago as having chronic bronchitis?

A No, sir, I don't.

Q What I am really driving at, Doctor, is this. Let me state it once again. I'm trying to clarify -- that tissues two, three and four that had the fibrosis, as well as five, which had the fibrosis yet you only found an asbestos body in tissue five?

A Right.

Q Therefore, you cannot say that this fibrosis caught in these four tissues, two, three, four and five, were caused by asbestos, can you?

A No, I cannot say that the tissues two, three and four were caused by that. I probably could say that in tissue five there is a relation of location between the two.

Q Possibility?

A Possibility.

Q Isn't that as far as you can go?

A I would say that. In this particular one in which I made the diagnosis of asbestosis is where I found the asbestos body, and the reaction

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in the surrounding tissue, in the tissue where they are mainly the lung perichema, and here this relation exists.

Now, in regard to specimens two, three and four, a fibrosis may be due to many, many different things, and sometimes you find a reaction in this type of location to one agent that is in another area producing fibrosis. Sometimes the mechanism of that fibrous reaction is not clear, but it's there. We find it.

Q All right. But still as far as you can really go in reasonable medical certainty is to say that there is a possibility as to No. 5?

MR. STEPHENSON: He didn't say that. That's a loaded question.

THE WITNESS: Well, what I say about No. 5 was probably what I already said, that I found in the study in the tissue that was submitted to me the relationship we usually look for to make that diagnosis, which is the asbestos body within fibrous tissue with a reaction, usually an inflammatory reaction.

Q Pneumonia can cause the same inflammatory reaction?

A Yes, it could.

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Q Doctor, let me clarify one thing. When we are talking about inflammatory reaction and fibrosis, are we talking about two different things?

A In a way, yes. We are talking -- usually fibrosis is established as a result of an old inflammatory reaction. You get first the normal tissue. There is an agent, usually a foreign body or bacteria or whatever it might be, and you get an acute inflammatory reaction, and then the body, trying to reject that offender, reacts trying to isolate in this particular case a foreign body and produces fibrous tissue, and that is what we are talking about, fibrosis.

Q I think I asked you this a moment ago. The common agents that produce the same reaction -- we know pneumonia does. What else does?

A Any inflammatory disease, which pneumonia -- pneumonia is a very broad term, and that includes most -- any inflammatory reaction of the lung would be called pneumonia, and usually we refer to that when it is bacterial in origin, and that may cause a fibrosis. Any type of a chronic inflammation like --

Q Bronchitis?

A Bronchitis may produce a fibrosis.

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Q The same one that you found here?

A Yes. If I don't find the agents, I won't be able to classify it. Then I would refer only to interstitial fibrosis, probably, without giving any other name.

Q You had five specimens here, all from the right lung?

A No, all from the cavity.

Q The right side?

A The right side, yes.

Q Is it not unusual that you would not have found asbestos bodies in one of the other specimens?

A No, it is not.

Q Did you have any specimens from the left lung?

A No, I don't.

Q So you don't know whether there were any asbestos bodies in the left lung?

A I don't.

Q Of those that were submitted to you, you found only asbestos bodies in specimen five?

A That's right.

MR. PATE: That's all I have.

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REDIRECT EXAMINATION

By Mr. Stephenson:

Q Doctor, let me try and put this in perspective. In your medical opinion based upon reasonable medical and scientific certainty, did this patient have the disease, asbestosis?

A That's correct.

Q Now, I am not talking about possibilities to you because the law doesn't recognize that. If you find in a patient fibrosis, do you then look to find what the cause of the fibrosis is?

A Yes. We try to find out which agents, if any, caused it.

Q In this specimen did you find the agent that caused the fibrosis to be asbestos fibers?

A That's correct.

Q No pneumonia could cause fibers like this surrounding an asbestos agent, could it?

A I don't believe I understand the question.

Q Pneumonia would not cause a fibrous growth around an asbestos agent such as you found in this case, would it?

A To begin with, we have to have the asbestos body there.

Q And you found the asbestos bodies in the air

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spaces as well as in the fibrous tissue?

A In the fibrous tissue, that's correct.

Q So you can say without any question or doubt that asbestos fibers were present in this man's lung?

A That's correct.

Q Now, you found more than one asbestos fiber, I take it?

A Yes, I did find more than one.

Q Because you found them in air spaces as well as surrounded by fibrous tissue?

A Right.

Q Is this correct?

A That's correct.

Q Now, is the reason you did not diagnose the other fibrous growth as asbestosis because you did not actually observe the asbestos agents in the fibrous growth?

A That's correct.

Q All right. Now, does that fact diminish or take away from your opinion in any regard that this man had asbestosis?

A No, sir.

MR. STEPHENSON: That's all.

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RECROSS EXAMINATION

By Mr. Weller:

Q Doctor, if this patient had pneumonia on two prior occasions, could not this have caused a reaction which would have developed fibrous tissues?

A Let me say first that the fact that a person has pneumonia, it doesn't mean that he's going to have fibrosis. Pneumonia can be resolved without leaving any trace of it. So I would have to know a little more about this as to what sort of pneumonia in order to be able to give an opinion in that respect.

Q But you can have cases of pneumonia that will leave scars on your lungs, isn't that correct?

A It's possible, yes. There are cases, and it happens.

Q These scars will show up in x-rays, won't they?

A They usually do. Let me qualify that answer. They usually do if they are large enough.

Q Did you find any indication at all in this man's lungs that this fibrosis could have been produced by cigarette smoking?

A No, I didn't find that evidence. Usually the fibrosis caused by cigarette smoking is an

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indirect result. Usually you get something prior to that like emphysema, and then the fibrosis, but the cigarette smoking as far as I know doesn't just produce fibrosis. Usually it --

Q Well --

MR. STEPHENSON: Go ahead and complete your statement.

Q Complete your statement, Doctor.

A I said usually it follows some other type of entities that are more likely to be linked to the cigarette smoking.

Q If the man had emphysema and bronchitis such that he was treated for it, and bronchiectasis, this could produce the fibrous tissue, couldn't it, if he smoked?

A Yes, it certainly could.

Q In reasonable medical probablilty, it could, couldn't it?

A Not to such a degree as we see here. Usually the fibrosis is more diffuse, and --

MR. STEPHENSON: Go ahead and finish your statement, Doctor.

Q Doctor, in your biopsy did you see any cancer cells?

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A No, sir.

Q Then you didn't make any diagnosis of cancer in this patient, did you?

A No.

MR. WELLER: That's all.

FURTHER RECROSS EXAMINATION

By Mr. Pate:

Q I have one question, Doctor. Mr. Stephenson asked you a moment ago about whether or not the fibrosis which you saw in the specimens here could have been caused by pneumonia, and the truth of the matter is that the condition which you found in specimens two, three, four and five could have been caused by pneumonia, could it not?

A Yes, it could.

MR. PATE: That's all.

MR. STEPHENSON: Doctor, he included in that number five.

A Let me -- did you include number five?

MR. PATE: Yes.

THE WITNESS: Well, I would then modify my answer because number four, although

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medically almost everything is possible -- there's a remote possibility this could be by pneumonia because this was according to my records from the chest wall. It's not in the lung itself.

So, that's a very remote possibility. In number five, from the microscopic picture, I will have to say again that probably any qualified pathologist would make a diagnosis of asbestosis because of the relationship of the asbestos bodies and the fibrous tissue.

Q (By Mr. Pate) But if you had not found the asbestos body present and saw the same fibrosis condition?

A That's correct. The fibrous reaction is almost the same in a number of entities, and that includes fibrosis due to asbestosis or due to any other irritant or many other conditions.

Q Old pneumonia, for instance?

A Sir?

Q Old pneumonia, for instance?

A An old pneumonia, yes, sir.

Q So, if you had not found the presence of the asbestos body in tissue No. 5, Specimen No. 5, it would have been just as reasonable to have

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concluded that that condition was caused by pneumonia?

A Well, I will say this, that the cause of that condition was not clear, and I would have to make -- couldn't make any diagnosis in that respect.

MR. STEPHENSON: Doctor, to summarize this, is it still your medical and scientific opinion based upon reasonable and medical certainty that that patient had asbestosis according to your studies of his tissue?

A That's exactly correct.

MR. STEPHENSON: Thank you, Doctor.

(Signature Waived)
Louis A. Mateo, M.D.

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THE STATE OF TEXAS:

COUNTY OF HARRIS:

I, RONALD D. MILLER, an Official Court Reporter, certified under the laws of the State of Texas, and a Notary Public in and for said county and state, duly commissioned and qualified and authorized to administer oaths, and to take and certify depositions, do hereby certify that the above and named witness appeared at the time indicated and was by me first carefully examined and cautioned, and duly sworn to testify the truth, the whole truth and nothing but the truth, and that said witness thereupon testified as is above set forth; that the answers of said witness to the oral interrogatories propounded to him were taken by me in shorthand, and thereafter reduced to typewriting under my personal direction and supervision.

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I FURTHER CERTIFY that the facts stated in the caption hereto are true, and that all of the proceedings in the course of the taking of said deposition are correctly and accurately set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and seal as such notary public in and for the County of Harris, State of Texas, on this the 24th day of January, 1971.

Ronald D. Miller, Official Court Reporter, Certified under the laws of the State of Texas, and a Notary Public in and for Harris County, Texas

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