IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MAY 17 1971
JAMES R. COONEY, CLERK
BY DEPUTY Margaret Brewer

CLARENCE BOREL

vs.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

CIVIL ACTION NO. 6449

DEFENDANTS' SUMMARY OF THE DEPOSITION OF DR. KENNETH WATKINS

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SUMMARY OF DEPOSITION

OF

DR. KENNETH WATKINS

Dr. Watkins is a white male osteopath, who has practiced in Groves since 1959, after having graduated from Kirksville College of Osteopathy at Kirksville, Missouri. He is fifty-two years of age, is licensed to practice medicine in Texas, and his license is on file in Jefferson County, Texas.

Dr. Watkins testified that he first started treating Clarence Borel for his chest problem on January 19, 1969, at which time Borel complained to him of pain in his right chest, productive cough, dyspnea and general weakness; that Dr. Watkins put Mr. Borel in the hospital, where the patient received antibiotics, positive pressure and supportive therapy. X rays taken at this time showed a wedge-like mass in the right lower chest; that Dr.

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Watkins obtained the X-ray report from the radiologist setting this out, but also looked at the X rays himself; that these X rays are presently at Doctors Hospital in Groves. Dr. Watkins said that he thought that this mass that he saw was either pneumonitis or a possible tumor; that it did not respond to therapy and on repeat X rays, he observed no change so he referred Mr. Borel to Dr. Milton Self, a Beaumont lung specialist, and thereafter continued to follow Mr. Borel's condition through the family. Mr. Borel and Dr. Self did not get along very well, so the patient returned home and his family requested that he see someone in Houston. This turned out to be Dr. P. O. Jones, a Houston internist, who was a friend of the family, and Dr. Jones subsequently made a report to Dr. Watkins concerning Mr. Borel's condition. Dr. Watkins understands that in Houston Mr. Borel had a lung section study made and subsequently had his right lung removed totally.

The doctor further stated that on March 20, 1970, he admitted Borel to the hospital because of considerable pain in Mr. Borel's right chest, and that the patient received no relief from narcotics; that Dr. Watkins, learning that Borel had surgery in Houston, called Dr. Jones in Houston considering the possibility of tapping the right lung because there was quite a fluid level in there, but Dr. Jones advised him not to do this, saying that this was to be expected and requested Dr. Watkins not to disturb the natural formation post-surgical; that all of this occurred following the removal of Mr. Borel's right lung. He said that Borel remained in the hospital until March 27, 1970, continuing to receive supportive therapy, mostly in the form of vitamins, diet and keeping him comfortable; that he was in quite a bit of pain and required narcotics for relief.

Again on May 20, 1970, Dr. Watkins said that he readmitted Borel to the hospital, at which time the patient was in a terminal state of general debilitation from the carcinomatosis, but after approximately nine days the family requested that Mr. Borel be returned

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home and this was done.

With reference to medical expenses, Dr. Watkins stated that the total hospital charges for the two periods of hospitalization amount to $1,178.15, and that said charges are reasonable and were necessary; that Dr. Watkins' charges amounted to $314.00 in the care and treatment of Mr. Borel, which charge he said was reasonable and was necessary for treating the patient's lung condition and chest condition.

He deposed that Mr. Borel suffered all along a lot of pain, even more than average; that he was comatose the last few days of his life with general debilitation, weakness and a gradual decline; that everything possible was done to save his life (other than remove him from the irritating factor); that removing him from the irritating factor should have been done years ago; that he showed cause of death as generalized carcinomatosis of the right lung. Dr. Watkins admitted that no lung section studies had been made of the patient's left lung; that it was reported to him that Borel had a mesotholioma; that this report was made to him by telephone from the operating surgeon and was not in the form of a written report, which is the usual mode of reporting such matters; that he received no report, either written or by telephone from Dr. Jones of Houston.

Dr. Watkins can state within his own knowledge the cause of Mr. Borel's death as generalized carcinomatosis, which had spread throughout the system; that he knows this by X-ray studies made at Doctors Hospital in Groves, which X rays were made under his direction and supervision; that he looked at the X rays and the X-ray studies, thereafter arriving at an independent conclusion based upon seeing such X rays; that his conclusion also was based upon the operating surgeon's telephone report to him. He said that he does not recall whether the left lung was involved in the carcinomatosis or not; that since one lung was removed, there was no reason to make exploratory procedures of the remaining lung because if something had been found in the remaining lung, it would not do any good because surgically it could not have been treated.

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Before he referred Borel to Dr. Self, he said that he had diagnosed the patient's condition as asbestosis based upon Mr. Borel's history, in that Borel told him he had been in the asbestos insulation work thirty-three years, had dyspnea, loss of weight and cough, all typical findings of one with asbestosis; that nevertheless, he noticed no clubbing of the patient's fingers or toes. The doctor admitted that it would immediately place him on suspicion when someone would give him a history of being an asbestos worker and have a lung complaint; that Dr. Watkins was taught about asbestosis in medical school; that it and silicosis in about 1951 was studied by him in school and now both diseases are generally recognized maladies of asbestos workers; that asbestosis was one of the pneumoconioses he was taught in medical school; that he has made no detailed study of asbestosis himself.

He said that Mr. Borel's history, connected with the physical and clinical findings, including X-ray studies, indicated to him that Borel might have asbestosis; that the X-ray studies showed fibrosis or rather a ground glass appearance; that he was mostly concerned with the wedge-like appearance in the lower right lung in that it did not appear like a calcification, but more of an atelectasis, a partial collapse of the lung; that the tumor formation would account for this partial collapse.

According to the doctor, Borel had been a patient of his for a number of years and before the times testified to above, Borel never had any serious chest or lung conditions that Dr. Watkins treated him for; that the Borel family also were patients of Dr. Watkins as well; that Mr. Borel was a co-operative patient during his last sickness in that he never complained, and in fact acted just the opposite of a hypochondriac; that he believed Borel was sincerely and honestly having pain when he gave him narcotics to relieve it.

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Upon cross-examination, the doctor said that he studied at Kirksville, Missouri for approximately four years and does not hold himself out as a specialist in the diagnosis of asbestosis; that he had regular training in medical school in the reading of X rays by taking a radiology course, but that any questionable X rays he saw, he relied upon the interpretation of the radiologist who took them. He said that no history was given him by Mr. Borel that the patient had trouble and coughing over a period of years. The radiologist's report relied upon by Dr. Watkins concerning Borel's lung condition was made by a Dr. Ruffle, connected with Doctors Hospital in Groves, and Dr. Watkins upon deposition agreed to arrange to have these X rays sent to the court reporter for inclusion in this deposition.

When he first saw these X rays, Dr. Watkins thought that Mr. Borel had pneumonitis and atelectasis, the former being an inflammation of the lung tissue; that the first thing Dr. Watkins would have thought about would have been asbestosis after taking such an X ray and taking the history from one that had been working in the asbestos insulation industry, had shadows on his lungs and shortness of breath.

Dr. Watkins' diagnosis of generalized carcinomatosis was based upon the report he received by telephone from Houston and Dr. Watkins did not make an original diagnosis in this regard, in that he was not reporting what he had found but what had been reported to him by another doctor; that this was also true with regard to the diagnosis of mesothelioma; that one cannot make an affirmative diagnosis of asbestosis solely from X rays; that he diagnosed Mr. Borel's cancer as having spread throughout the system on Borel's first hospitalization in March 1970 after the lung surgery; that the tumor located by the Houston doctor was in Mr. Borel's right lung; that his left lung was completely clear at the time of the right lung operation and X rays; that the medical profession does not know the cause of cancer; that he did not diagnose Borel as having asbestosis and he has made no studies of this disease.

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Dr. Watkins said he had no history that Borel was a constant cigarette smoker and does not remember whether he did or did not smoke. Assuming that Borel was a moderately heavy smoker for some thirty or thirty-three years, he admitted that cigarettes do have an adverse effect upon one's lungs and has seen people who smoke cigarettes who have lung cancer; that smoking also contributes to emphysema and bronchiectasis; that Borel did have a severe case of emphysema.

Turning to the X-rays, he said that no malignancy had been noted in the lungs on the basis of the records of Memorial Baptist Hospital in Houston of February 11, 1970, under report from Dr. Peter Valdez; that this would indicate that Borel had no malignancy at that time; that he was familiar with the X rays taken on January 20, 1969 at Doctors Hospital in Groves and those revealed that Borel's left lung was not involved; that the pleural effusion occupying approximately one-fourth of Borel's lower right lung field as seen in the X rays could have been caused by excessive smoking, but probably it would have been secondary to some infection; that this can also be caused by pneumonia and the same thing would show up on the X rays; that Borel told him he had had frequent chest X rays over the years because of his occupation, but Dr. Watkins is familiar only with two X-ray studies, both having been taken at Doctors Hospital in Groves, although Borel could have gone somewhere else and had X rays made.

In Dr. Watkins' opinion, Borel did have asbestosis and he believed that Borel's death was brought about by carcinoma, secondary to the infection of the fibrous tissue caused by the asbestosis; that except for his physical examinations and X rays, he never made an individual diagnosis of asbestosis and personally never made a diagnosis of asbestosis as to Mr. Borel; that he personally never made a diagnosis of cancer either until after he had known that Borel had his operation and after there had been a diagnosis in Houston; that he does not know the cause of cancer; that

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he does not know what produced cancer in Mr. Borel.

Dr. Watkins said that he dismissed Borel on January 29, 1969, and referred him to Dr. Self, at this time signing a summary report reviewing Borel's hospitalization in general; that in said report dated January 29, 1969, it states, "This patient works as an insulator around asbestos and is concerned about this condition;" that this is what Borel told him, but Borel did not indicate to him how long he had been concerned about this, only that he had been coughing and ill for about six weeks prior to his admittance. Dr. Watkins guesses that Borel suspected this was all because of his occupation, but he did not express to Dr. Watkins his concern about his occupation.

Finally, Dr. Watkins said that his findings as to Borel, both clinical and objective, were completely compatibale with one having asbestosis.

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