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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 Lowe

CLARENCE BOREL

vs.

FIBREBOARD PAPER PRODUCTS CORPORATION, ET AL

CIVIL ACTION NO. 6449

SUMMARY OF DEPOSITION OF PAUL E. PETROFSKY, TAKEN JANUARY 26, 1971

Paul E. Petrofsky, President of the Aber Company, whose home address is 207 Paul Revere Drive, Houston, Texas, testified that the Aber Company was an insulation contracting company. The principal work performed by the Aber Company is to apply insulation materials for the heat and cold requirements in refineries and petrochemical plants, primarily in building new plants. The company does not do so-called commercial work. 6, 7

Mr. Petrofsky has been with the Aber Company for twenty-one years and has spent the same amount of time in the insulation contracting business. 6

He was asked to describe the safety devices and appliances utilized by insulation contractors, with respect to dust prevention, to which he answered that ventilation facilities were provided by fans, even in open-air shops, as far as it is open on the job. In addition, his company supplies the paper-type respirators to the men and it was his testimony that in some places they will wear them and in some, they do not. He stated that that's about all that his company would do to keep the dust away. 7

With respect to a dust collecting system, he stated that dust collection systems are used in some shops, for example, in the Aber Company shop in Houston, but that this was principally for a firm glass material, not an asbestos-type material. 7, 8

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He testified that some of his company's shops are temporary shops at the job site, and that 90% of the time fans would be the ventilation source set up on the job site. This is basically the uniform practice throughout the years, and it has not changed, even in the last few years. 8

The first time he heard the terminology with respect to the disease of asbestosis was in the Tomplait case, which was filed some three or four years ago, and he stated that this was the first knowledge he had that it was an occupational disease, and that prior to that time he had never heard the term really applied. 8, 9

He was asked if he had checked his records with respect to the employment of Clarence Borel, and he stated that his company employed Borel in the first quarter of 1964, and that Borel had earned approximately $2,000.00 in wages, and that was all he had showing that Borel was employed by Aber Company. 9

Mr. Petrofsky did not know what jobs Borel worked on, or what products were used on the jobs, but that on all of the jobs there was available the paper-type cup mask as a respirator. 9

As an insulation contractor, he testified that his company bought materials from various manufacturers, and that these manufacturers are scattered throughout the United States. 10

His company had never used any material from Fibreboard Paper Products Company; had never obtained or used material manufactured by Combustion Engineering Company. 10

On cross-examination he was asked if the Aber Company had performed a job in 1958 at Jefferson Chemical Company Plant at Port Neches, but Mr. Petrofsky was unable to recall any definite job, although his company had had several jobs in that plant; nor was he able to testify what products were used at that time in 1958 on the Jefferson Chemical job. 22

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He was asked if the Aber Company had worked on a construction for TPA-Mobil Chemical in Beaumont, Texas in 1964, and he answered that he did recall that, but that he was unable to recall what materials were used on the job. 23

He testified that generally, asbestos insulation contractors obtain the material from various manufacturers if they run out, and he agreed that this was true. 23

He was then asked whether or not the insulation contractors would trade materials around, and if one contractor would run out of material, he would trade with another contractor for the particular type of material which such contractor needed. Mr. Petrofsky answered that occasionally this could happen. 23

He was then asked about a Jefferson Chemical Company job at Port Neches, in 1958, 1964 and 1965, and whether or not the Aber Company had worked on those jobs, but Mr. Petrofsky was unable to recall.

He stated that there had been several jobs at Jefferson Chemical Company over the years, and that some had been primarily cold work and some hot work, and he just did not recall the materials used, and stated that they could have used any number of different materials. 24

When asked if he purchased materials from Pittsburgh Corning Corporation, he answered that his company had purchased some asbestos materials, as well as their foam and siliculose. 24

He was asked if his company had bought Unarco Industries products and he answered that his company was distributors for them prior to their selling the Unibestos Division to Pittsburgh Corning. 24,25

When asked about Eagle-Picher Industries, he stated that his company had not bought materials from them in recent years, at least since the 1950's. 25

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When asked about Pabco's materials, he stated that to his knowledge his company had never used that company's materials. 25

He stated that his company had used Johns-Manville Products Corporation materials. 25

His company had used materials from Ruberoid Company. 25

His company had not used any materials from Armstrong Cork Company, or from Armstrong Supply Company. 25

His company had used materials from Philip Carey Corporation. 26

When asked if his company had used materials from Standard Asbestos, he answered that only Aerosol pipe covering had been used by his company in the early 1950's. 26

His company has used the products of Owens-Corning Fibreglass Corporation. 26

On direct examination, he was asked whether warnings had been placed on bags containing asbestos materials, to which he answered that since the Tomplait case there were several companies who put different data on their bags, but that he himself had not particularly read them, to see what they said. 10

He stated that his company had received literature from the National Contractors Association with respect to dust prevention and safety with respect to such problems, and that this had originated approximately a year and a half ago. It was his testimony that Johns-Manville and the International Association of Asbestos Workers had employed Dr. Selikoff, who has done some basic work into the asbestosis problem, and that the Contractors Association was advised of Dr. Selikoff's findings. 11

With respect to safety measures suggested by the National Contractors Association, he stated that basically it was more in setting up funds to investigate the matter further to see what additional safety factors could be installed that

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would involve this problem. He stated that the only direct recommendation that has come out was in New York, where they have stopped the spraying of asbestos, primarily in buildings for fire-proofing, and that to his knowledge, this was the prime idea which had come out of such program. 11

He was asked whether or not any notice had been given through the Contractors Association to the workers of the dangerous nature of breathing asbestos, to which he answered that he doubted that this had been done through individual associations. However, he stated that there had been publications through the Asbestos Workers' Journal, which publicized their working with the International Contractors' Association about the hazardous nature of asbestos. 26, 27

This had all been about 1969, and that, insofar as he was aware, there had been no notice going to the workers, prior to that date. 27

Mr. Stephenson then exhibited to him a warning that was supposedly taken from an asbestos insulating box, and he was asked if he recognized the manufacturer. He answered that this was probably Pittsburgh Corning's warning, but that he was not sure of this, and could identify it only by the color of the printing. 27, 28

When asked if he had ever seen these warnings on any of the boxes of materials that his company handled, he stated that he was sure that he had, but that he did not go out and check all of the boxes of materials handled by his company. He could not tell which companies used the warning labels on their boxes, but that he had assumed that at the present time, all of them did. 28

He was asked if this small letter warning was doing any good, changing working conditions, to which he answered that this was a possibility, with the advertising that is had in the Asbestos Workers' Journal, bringing this to the workers' attention,

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and that they may notice these precautions warnings on the boxes. 29

He was asked the following question by Mr. Stephenson: "Have you as President of the Aber Company done anything at all to safeguard the workers from breathing asbestos dust since these warnings have been posted on boxes?

"A. I don't know that you would say since the warnings have been posted on boxes, we have provided more ventilation, I would say, than we would at one time. But our problem with this is when we start doing this at the job site we are blowing the dust in some other person's face in another area, so we have been a little bit restricted, as a contractor, just what we can do in this matter." 29

He was then asked if dust was created in opening boxes of asbestos insulating material, to which he answered that you would not create any upon opening them. 30

He was asked if he was aware of anybody having come out to any of his jobs and taking a dust count to see how the asbestos insulation material is affecting the air, to which he answered, "No." 31

A discussion was then had with respect to different types of respirators, other than the paper respirator, and Mr. Petrofsky answered that there was a respirator approved by the U. S. Bureau of Mines, but that in wearing such a respirator it is, in some degree, something like wearing goggles, "A man has to be a little careful with either one, to not endanger his life with something other than what he is trying to protect himself from. Some of the people I would rather imagine wouldn't want to use a heavy type respirator that's always slipping down and spending half their time pushing it back in place and you might fall off the scaffold. The same way with goggles, if you start sweating

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and fogging up your glasses, you don't like it. It's good to protect his eyes, but it doesn't protect his life very much sometimes." 31, 32

He was asked if the safeguards in use in 1971 by the contractor groups, to keep workers from inhaling asbestos are substantially the same safeguards in use when he started in the business, to which he answered, "With the exception of ventilation." Other than that, he stated the safeguards were basically the same. 32

On cross-examination, Mr. Petrofsky was questioned regarding whether or not, during the 20-odd years that he had been in the business, he had ever been contacted by any of the defendants and advised of the dangerous nature to his workers as they breathed asbestos dust, to which he answered, "No." 13

He was asked whether or not one manufacturer is putting his asbestos cement in plastic bags with a garden hose attachment, so that the water can be mixed and kneaded with the cement to reduce the dust, and he stated that he had never seen any of them, although it had been reported that they were trying this with Dr. Selikoff. He stated that, insofar as the insulating contractors are concerned, the cement is still mixed in a box with water and a shovel. 14

Mr. Stephenson then exhibited a series of slides to Mr. Petrofsky, picked the slide identified by #1. Mr. Petrofsky stated that he could not tell what that insulation block is being applied to and that this was not a normal type of application, because in this slide the worker is working in an overhead condition, and 99% of the work of his company is on vertical shelves with equipment in the plant. 15

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There is very little direct overhead application. He further stated that this was an abnormal circumstance of application of an insulation block. 15

With respect to Slide #2, he identified this as a mixing vat to mix insulation, and that this was the common way in which it was done. 15, 16

In Slide #3, which was a paper mask, he could identify it, saying this was the same type which his company used. He further stated this slide depicted mixing cement indoors, and that this was not normally done - it was usually mixed outdoors. 16

In Slide #4, he was asked if this was a typical scene, where everything was contaminated with asbestos, and he stated that he did not recognize that there; that the men were spraying insulation on overhead joists, and that his company had never used that type of application, and that this was spraying asbestos on a building, and that his company does not do any building work. 17

In Slide #5, which portrays the outside column of the building, he stated that this was not the type of work that his company did, and that he has never seen asbestos sprayed on a column. 18

In Slide #6, he testified that this portrayed a man putting a pipe cover over some pipe, which was a typical scene. He was asked whether or not to put the bindings on, the man would have to hammer them in place. He stated that this is possible, but that the normal way of putting pipe covering on was two-fold: one is with a tie wire and the second with bands, after which it is twisted or tightened up with a mallet. 18

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In this connection the only precautions which could be taken to keep the worker from inhaling asbestos dust was the use of a respirator. 19

Mr. Petrofsky himself has never worn a respirator, whether on a job which his company was performing, or at any other time, because he stated, "I have nothing that tells me, that I am going to have asbestosis. Secondly, if I did, I have nothing to tell me what kind of respirator I'd have to wear that would do any good in the second place." 20

He stated that there was published at one time, as he recalled,a government-approved mining respirator, which was a cumbersome respirator and his employees would not wear them . 20

He was then shown Slide #6, which showed a vehicle covered with asbestos, and he stated that he could not recognize it. 21

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