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JEFFERSON CIRCUIT COURT
COMMON PLEAS BRANCH
SEVENTH DIVISION

THE LOUISVILLE TRUST COMPANY, administrator of the estate of WILLIAM VIRGIL SAMPSON

VS

JOHNS MANVILLE CORPORATION

DEPOSITION
OF
DR. KENNETH WALLACE SMITH

4/21/76

REDACTED
J-M 83



E. BERYL MACMILLAN
Special Examiner
County of Essex
Windsor, Ontario

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NO. 164-922

JEFFERSON CIRCUIT COURT
COMMON PLEAS BRANCH
[illegible]

THE LOUISVILLE TRUST COMPANY, administrator of the estate of WILLIAM VIRGIL SAMPSON

Plaintiff

VS

JOHNS MANVILLE CORPORATION

Defendant

APPEARANCES:
A. Schmitt, Solicitor for the Plaintiffs
T. Henderson, Solicitor for the Plaintiffs
L. Wilson, Solicitor for the Defendant
D. Markusson, Solicitor for the Defendant

The Deposition of DR. KENNETH WALLACE SMITH, taken pursuant to notice at the office of Dr. Kenneth Smith, 400 Huron Church Road, Windsor, Ontario, Canada, on April 21, 1976, said deposition taken for purpose of discovery, to be used in accordance with the Kentucky Rules of Civil Procedure.

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Q. Was Johns Manville also a funding participant or a participant to the extent money was provided from the corporation in the Seranac Laboratory studies? A. Through the Metropolitan Life and directly from Johns Manville to Seranac.

Q. What was the relationship between Metropolitan Life and Johns Manville at that time? A. Metropolitan Life was the insurance carrier for non-occupational disease in Canada and occupational and non-occupational disease and accidents in the United States.

Q. You mean for Johns Manville? A. Right.

Q. Did you at any pint become knowledgeable with respect to the relationship between the inhalation of asbestos fibers and the resulting lung condition known as asbestosis ~~any~~ persons other than employees at Johns Manville Corporation? A. First knowledge that I had with people other than occupationally exposed or employees, other people can be developing disease was in the late 1940s I believe when Dr. Paul Cartier and I went with Dr. Stevenson to Seranac Lake and reviewed several bundles of x-ray films that he had taken of workers and civilian population in the Town of Thetford Mines.

Q. Describe what you mean by civilian population. A. I differentiate the worker, the occupationally exposed person and the civilian population meaning perhaps the worker's family,

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perhaps the merchant who has a store on the street right under one of the asbestos mines or mill operations, any town's persons not employed and occupationally exposed to the asbestos fiber.

Q. What were the results of the x-rays that Dr. Cartier was describing to you and Dr. Stevenson and perhaps others at Seranac Lake Laboratory back in the late 40s with respect to the civilian population in the Thetford Mines? A. The x-ray patterns were undistinquishable in many cases from those who were working in the mining and milling operation.

Q. Was there a specific incident when Mr. Fisher was in Asbestos, Quebec along about that time consulting with you or discussing matters relating to occupational exposure and various hazard incidence to the inhalation of asbestos fibers? A. Mr. Fisher was up there many times discussing the general health of our employees and general conditions in our operations in the town.

Q. Did you make him knowledgeable with respect to what you deemed to be potential occupational hazards as well as potential civilian hazards with respect to inhalation of asbestos fibers?

BY MR. WILSON: I object to the question.

BY MR. HENDERSON: Bases of the objection?

BY MR. WILSON: To the form and the assumption the question is based on.

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Q. Did you or did you not have discussion with Mr. A. R. Fisher with respect to the relationship between the inhalation of asbestos fiber and the pulmonary lung condition known as asbestosis both with respect to employees of Johns Manville and what you defined as the civilian population?

BY MR. WILSON: Same objection.

BY DR. SMITH: Definitely, we discussed the whole subject many times about dust and what it does to people, whether they are employed or not employed. I can remember one occasion when I was standing on the edge of the pit with A.R.

Q. Who is A. R.? A. I am sorry, Mr. Fisher and Dr. Stevenson and McGaw. We were standing at the edge of the great big open pit, the eastern side and looking at the dust as it came out of the open pit and from the mill -- if this is the open pit and the mill adjacent to it, on the western side upwind was a nice big hill. The town was situated behind us downwind from the mill and the mine. Dr. Stevenson turned to A.R. and they both said, "My God, why didn't we build the town on that hill over there instead of having the dust going all over the town." As going through town that day from one part of the operation to the other, being a dry summer day you could often see bundles of fiber and other dust material that picked up on the street rolling like tumbleweed down the main streets of the town.

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Q. Dr. Smith, what was your experience as to the effective or ineffective operation of various dust control devices which you have already described by Johns Manville as opposed to other manufacturers or persons who were not employees of Johns Manville? A. Well, I think when the J.M. people saw the problem they started to do someting about it and did a damn good job. I am speaking now primarily of the Town of Asbestos, Quebec where we had a big mine and mill and when they started controlling dust we controlled our problems. And in our Canadian Workmen's Compensation procedures are different than those in the U.S. We have compensation commissions, there are no private insurer or self insurers and the different types of manufacturers or producers are grouped as an industry entity. So in the Province of Quebec all asbestos mining milling operations were grouped together for Workmen's Compensation. The Canadian Johns Manville mine at Asbestos, Quebec and the five or six operations at Thetford were all grouped. Now we identified potential problems in accident and disease at the Asbestos, Quebec location and eventually our operation was segregated from the other Thetford operation for Workmen's Compensation insurance premium rates. We went on the merit rate system and the others were still grouped and some behaving themselves in preventing dust and the others were creating dust and paying no attention; all paid the same

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rate. In our merit rating system we saved several hundreds of thousands of dollars per year in Workmen's Compensation premiums as compared to the other group.

Q. What was your -- do you have a present recollection of the observation of a particular insulation pipe covering plant in St. Lambert in the suburb of Montreal with specific respect to the potential health hazard incidence of that type of operation? A. I can recall an insulating manufacturer in the suburb of Montreal where they were making pipe covering and the operation was very similar to that which we had in our factory operation in the Town of Asbestos. In the suburb of Montreal this operation was not disease conscience and they were creating a great amount of dust.

Q. What was the nature of that pipe covering operation, did it include the use of the products as well as the manufacturing of the products? A. I assume that you mean did they manufacture and install the products.

Q. Yes, did they manufacture and install the products? A. I believe they did.

Q. Could you distinquish between the potential health hazard of an installer where dust is created as opposed to the potential health hazard of a manufacturer where dust is created? A. I think there's a time dose factor in the inhalation of a dust and the production of a disease, so to

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