WLR 17802

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

803-0002729

--o0o--

FILE COPY

PLAINTIFF'S EXHIBIT 18 77-518-N CP 77-1

HAROLD BROWNER,

Plaintiff,

vs.

JOHNS-MANVILLE, et al.,

Defendants.

NO. 162,127

RECEIVED MAR - 1 1978

DEPOSITION OF WILBUR LESLIE RUFF

Taken before JANICE Y. THOMAS, Certified Shorthand Reporter, License No. 2084, and Notary Public in and for the State of California

February 14, 1978

--o0o--

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER, JANICE Y. THOMAS & TAYLOR T. WHEELER JR.
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 893-2507

PRODUCED JM - 83

Published by AsbestosClaims.Law
asbestosclaims.law/library/11221/1

BE IT REMEMBERED, that pursuant to Notice of taking Deposition, and on Tuesday, February 14, 1978, commencing at the hour of 10:00 a.m. thereof, at the law offices of MESSERS. CRADDICK and CANDLAND, 1801 North California Boulevard, Walnut Creek, California, before me, JANICE Y. THOMAS, a Certified Shorthand Reporter and Notary Public of the State of California, there personally appeared

WILBUR LESLIE RUFF

a witness herein, called as a witness by the defendants, who, being by first duly sworn, was then and there examined and interrogated as hereinafter set forth.

--oOo--

RICHARD KENNETT, Attorney at Law, 620 Contra Costa Boulevard, Pleasant Hill, California, appeared as counsel on behalf of plaintiffs, and

STEVEN KAZAN, Attorney at Law, 110 Eleventh Street, Oakland, California 94607, appeared a counsel on behalf of plaintiffs.

CRADDICK & CANDLAND, Attorneys at Law, 1801 North California Boulevard, Walnut Creek, California, represented by MARRS A. CRADDICK, appeared as counsel on behalf of Defendant Dr. Kent Wise.

MOORE, CLIFFORD, WOLFE, LARSON & TRUTNER, Attorneys at Law, 201 19th Street, Oakland, California, represented by A. J. MOORE, appeared as counsel on behalf of Defendants JOHNS-MANVILL

RICHARD CONTI, Attorney at Law, was also present.

MRS. GERRY WISE, was also present.

--oOo--

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER,
JANICE Y. THOMAS & TAYLOR T. WHEELER JR.
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 893-2507

PRODUCED
JM - 83

INDEX

EXAMINATION BY:	pages
MR. CRADDICK:	4, 108
MR. KAZAN:	42, 111, 115
MR. KENNETT:	98, 114
MR. MOORE:	107, 115

--oOo--

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER,
JANICE Y. THOMAS & TAYLOR T. WHEELER JR.
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 893-2507

PRODUCED
JM - 83

by either Dr. Wise or the plant nurse.

Dr. Wise had a schedule of two one-half days per week. I don't remember if it was a Tuesday and Thursday or Monday and Friday or what it was, but there were two specific days per week that Dr. Wise came for half a day and did treatment and pre-employment physicals and scheduled annual physicals if you want to call them annual, and that is the way they were handled.

Q. Now suppose an industrial accident occurred involving a Manvi employee at the time when Dr. Wise was not at the plant. What was the arrangement if any?

A. Dr. Wise would, his office would be contacted and see if he was available, depending on the seriousness of the accident, and if he was available we would send the employee to the hospital in one of our company vehicles and Dr. Wise would meet them at the hospital and do whatever treatment was necessary. If Dr. Wise was not available, we had another physician in Pittsburg whom I have never met, but his name was Dr. Kelso.

Q. Kelso?

A. Kelso. And he was used on occasion when Dr. Wise was not available.

Q. So that was the arrangement, that Dr. Wise would be called first?

A. Yes.

Q. Did he have any obligation to be available except during the period of the two one-half days per week when he was at the plant?

A. No.

Q. Now was there any company policy as to whether Dr. Wise was expected or required to discuss the findings from his examination performed at the request of the company of Manville employees?

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER,
JANICE Y. THOMAS & TAYLOR T. WHEELER JR.
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 834-2507

PRODUCED
JM - 83

A. No, that was to be --

Q. The question was whether company policy --

A. It was company policy for him not to discuss his findings with the employee.

Q. Why was that policy in effect, if you know?

MR. MOORE: Object, calls for the opinion and conclusion of the witness.

MR. CRADDICK: Q. If you know.

A. That was our policy because the records were the property of Johns-Manville Product Corporation. They were paying for the examination, including the time the employee was spending with the doctor, and therefore it was Johns-Manville's property, it was up to the industrial relations department to discuss with the employee if there were any problems involved.

Q. Would that have been Mr. Brewer or Mr. Gadway during the time that you were plant manager there?

A. That's correct.

MR. KAZAN: Off the record for a second.

(Discussion off the record.)

MR. CRADDICK: Q. To your knowledge what was the purpose of the company policy requiring employees to be submitted for periodic examinations?

A. I believe --

MR. MOORE: Objection, calls for the opinion and conclusion of the witness.

MR. CRADDICK: Go ahead and answer.

THE WITNESS: I believe any corporation is entitled to know the condition of the health of the employee as to in regards

PRODUCED
JM - 83

whether he can't do his job properly, safely, so that he is not endangering himself or the others. He may have some physical defects which would be aggravated by the particular job he is on. And I think that was a necessity, it always has been as long as I have been with Johns-Manville that the employer has that responsibility and obligation to himself and to the employee, and that is what I base my opinion on.

Q. Okay. Well the requirement for the employees while you were plant manager to submit to examination was to enable the employer, so the company could evaluate the health and the condition of the employees? A. Right, that's correct.

Q. And now you mentioned that the policy of the company was for the examining physician, in this case Dr. Wise, not to discuss the findings of examination with the employees, but for the industrial relations department to do so instead?

A. Yes.

Q. A question came up awhile ago and hasn't been answered yet as to what you based your knowledge on, how do you know that?

A. From my own experience.

Q. And your experience was as plant manager?

A. As plant manager.

Q. And your years of experience as an employee, an executive with Johns-Manville Corporation? A. That's correct.

Q. Was that policy in effect all during the time that you were plant manager at Pittsburg? A. Yes, it was.

Q. Did that policy ever change in the company up until the time of your retirement? A. Yes.

Q. When was that?

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER,
JANICE Y. THOMAS & TAYLOR T. WHEELER JR.
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 893-2507

PRODUCED
JM - 83

A. Around 19[illegible] between 1970 and 1972, [illegible] in there.

Q. And that was during the period of time that you were an executive at the Manville plant in New Jersey, is that right?

A. That's right.

Q. Until the time that it changed in 1970 or 1972 was the same policy in effect to your knowledge during the entire period of time that you had been employed by the company? A. Yes.

Q. That is the policy was that the examining physician did not discuss findings with you, the industrial relations department discussed the physical findings from the examination of employees with the employee, is that right?

MR. MOORE: I object, calls for opinion and conclusion of the witness.

MR. CRADDICK: You can answer that.

THE WITNESS: That is correct.

MR. CRADDICK: Q. Incidentally, did Dr. Kenneth Smith ever tell you whether he had given any instructions to Dr. Kent Wise regarding discussion of findings with employees?

MR. MOORE: Object, leading and suggestive. Go ahead.

MR. CRADDICK: Q. Yes.

A. He was told that was the responsibility of Johns-Manville.

MR. MOORE: I further object on the grounds --

MR. CRADDICK: Don't interrupt, please.

THE WITNESS: And not as the physician --

MR. MOORE: I would further object to the question on the grounds it is not responsive.

MR. CRADDICK: Q. That is what Dr. Kenneth Smith told you?

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER,
JANICE Y. THOMAS & TAYLOR T. WHEELER JR.,
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 893-2507

PRODUCED
JM - 83

THE WITNESS: And that is what Dr. Smith said he told Dr. Wise.

MR. KAZAN: Objection overruled.

MR. MOORE: We need somebody with robes on.

THE WITNESS: I don't recall the exact date, but it was during his visit to the Pittsburg plant after we had hired Dr. Kent Wise as our doctor.

MR. CRADDICK: Q. Dr. Wise, you mean?

A. Dr. Wise, right.

Q. Dr. Kent Wise? A. Yes.

Q. Dr. Smith told you that during his visit to the plant after you hired Dr. Kent Wise on the terms which you previously mentioned, is that right?

MR. MOORE: Objection, leading and suggestive.

MR. CRADDICK: Q. Well his instructions to your knowledge, his instruction was that he told you he had given Dr. Wise were consistent with the company policies at that time?

MR. MOORE: Object, leading and suggestive.

MR. CRADDICK: Q. Is that right?

THE WITNESS: That is right.

MR. MOORE: Same objection.

MR. CRADDICK: And that was a hush-hush policy, was it?

MR. MOORE: Object to the question on the ground of ambiguity, unintelligible, and calls for the opinion and conclusion of the witness.

MR. CRADDICK: Q. Let me ask you this, Mr. Ruff, when I asked you about the company policy in this respect at the time I

B. E. O'HARA, THOMAS J. STACK, TAYLOR T. WHEELER, JANICE Y. THOMAS & TAYLOR T. WHEELER JR.
CERTIFIED SHORTHAND REPORTERS
1504 FRANKLIN STREET - SUITE 306
OAKLAND, CALIFORNIA 94612
(415) 893-2507

PRODUCED
JM - 83

took your statement, you referred to the policy that existed until it was changed in 1970 to 1972 as a "hush-hush" policy, did you not?

MR. MOORE: Objection, leading and suggestive.

THE WITNESS: Yes.

MR. CRADDICK: Q. Didn't you? A. Yes.

MR. MOORE: Same objection, leading and suggestive.

MR. CRADDICK: Q. And when that policy was changed, how were you made aware of the change in policy?

A. By visitation of Dr. Kenneth Smith and other executives of the corporation. They visited several locations to discuss the problem and had visited the plant manager and his industrial relations manager and from that date on said we were going to inform the employees involved and tell them of their condition. And that would be done through the industrial relations manager. And that was in the presence of either Dr. Smith or Cliff Scheckler.

MR. CRADDICK: Q. Okay. Well now how are you personally made aware of this, someone came to visit you?

A. Yes, that was while I was back at the Manville plant. It was after the dismissal of Dr. Smith and this was done by Dr. George Wright and Mr. Scheckler.

Q. Was Dr. George Wright the new medical director after Dr. Smith?

A. He was a consultant and I have found out since that he was not a Johns-Manville employee, he was hired on a temporary basis as a consultant after Dr. Smith had been released from the company.

Q. Well now what you are telling me is since I took your statemen last month in January you have learned more details about the

PRODUCED
JM - 83