Orig. Due by Defts. 66 2

Filed
Jan 3 1965
File mark on
Envelope

CIVIL ACTION NO. 5402

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

CLAUDE J. TOMPLAIT

VS.

COMBUSTION ENGINEERING,
INC., ET AL

DEPOSITION OF CLAUDE J. TOMPLAIT

(Taken by Defendants)

ORIGINAL

JO WOLAVER
SHORTHAND REPORTER
ORANGE, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/1

CIVIL ACTION NO. 5402

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

CLAUDE J. TOMPLAIT :
:
VS. :
:
COMBUSTION ENGINEERING, INC., ET AL :

Answers and deposition of CLAUDE J. TOMPLAIT, the Plaintiff, called as a witness by the Defendants, taken on the 8th day of December, 1967, beginning at 1:30 P.M., said deposition being taken before Jo Wolaver, Official Court Reporter in and for the 163rd Judicial District Court of Orange County, Texas, in the Law Offices of Stephenson, Thompson and Morris, 712 Division Street, Orange, Texas, pursuant to the agreement hereinafter set forth:

A P P E A R A N C E S:

John Cash Smith; of the Law Firm of
Stephenson, Thompson and Morris,
712 Division Street, Orange, Texas,
Counsel for Plaintiff

JO WOLAVER
SHORTHAND REPORTER
ORANGE COUNTY COURTHOUSE
ORANGE, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/2

John D. Rienstra; of the Law Firm of
King, Sharfstein & Rienstra,
707 Beaumont Savings Bldg., Beaumont, Texas
Counsel for Defendant
Owens-Corning Fiber Glass Corp.

George A. Weller; of the Law Firm of
Weller, Wheelus and Green, Goodhue Building,
Beaumont, Texas,
Counsel for Defendant Fiberboard
Paper Products Corporation

Gordon R. Pate, Attorney at Law,
1119 Beaumont Savings Bldg., Beaumont, Texas
Counsel for Defendants
Johns-Manville Sales Corporation,
Johns-Manville Products Corporation,
Johns-Manville Fiber Glass, Inc.

Ben L. Reynolds; of the Law Firm of
Royston, Rayzor & Cook, 877 San Jacinto Bldg.,
Houston, Texas
Counsel for Defendant Eagle-Picher
Industries, Inc.

* *

ATTORNEYS OF RECORD:

Stephenson, Thompson and Morris, 712 Division Street,
Orange, Texas, Counsel for Plaintiff

Royston, Rayzor & Cook, 877 San Jacinto Building,
Houston, Texas, Counsel for Defendant Eagle-Picher
Industries, Inc.

King, Sharfstein & Rienstra; 707 Beaumont Savings Bldg.,
Beaumont, Texas Counsel for Defendant Owens-Corning
Fiber Glass Corporation

Orgain, Bell & Tucker; Beaumont Savings Building,
Beaumont, Texas, Counsel for Defendant Gustin-Bacon
Manufacturing Company

JO WOLAVER
SHORTHAND REPORTER
ORANGE COUNTY COURTHOUSE
ORANGE, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/3

Weller, Wheelus and Green, Goodhue Building, Beaumont, Texas, Counsel for Defendant Fiberboard Paper Products Corporation

Strong, Pipkin, Strong & Nelson, San Jacinto Building, Beaumont, Texas, Counsel for Defendants Combustion Engineering, Inc., and Refractory & Insulation Corporation

Wells, Duncan & Beard, Beaumont Savings Building, Beaumont, Texas, Counsel for Defendants Pittsburgh Plate Glass Company and Pittsburgh Corning Corporation

Gordon R. Pate, 1119 Beaumont Savings Building, Beaumont, Texas, Counsel for Defendants Johns-Manville Sales Corporation, Johns-Manville Products Corporation, Johns-Manville Fiber Glass, Inc.

* *

JO WOLAVER
SHORTHAND REPORTER
ORANGE COUNTY COURTHOUSE
ORANGE, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/4

* *

IT IS STIPULATED AND AGREED by and between counsel for the respective parties hereto that the deposition of CLAUDE J. TOMPLAIT, the witness named in the caption hereto, may be taken at this time and place by the herein named Court Reporter; time, notice, the issuance of a Commission, reading of the deposition by the witness and signing of same by him being waived; and that said deposition, or any part thereof, when so taken, may be used on the trial of this cause with the same force and effect as if the witness were present in Court and testifying in person.

IT IS FURTHER STIPULATED AND AGREED by and between counsel for the respective parties hereto that the necessity for preserving objections at the time of taking is waived, and that any and all legal objections to this deposition, or any part thereof, may be urged at the time same is sought to be offered in evidence on the trial of this cause.

* *

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 5 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/5

CLAUDE J. TOMPLAIT,

called as a witness by the Defendants, having been duly sworn, testified as follows:

EXAMINATION

BY MR. WELLER:

Q What is your name, please?

A Claude J. Tomplait.

Q Mr. Tomplait, my name is George A. Weller and I represent one of the Defendants in this case, and I'm going to ask you some questions the same as if you were in Court, under oath -- I assume that you understand what we are doing here?

A Yes, sir.

Q You have given your deposition in law suits before, haven't you?

A Yes, sir.

Q Now, if my questions to you are not clear and you don't understand my question, I want you to tell me in order that you might give a proper, truthful and correct answer to it. You are being represented here today by Mr. Jack Smith and if at any time you want to stop the questioning and confer with your attorney, well, you just tell me; you have the right to do that and I'm sure Mr. Smith will tell you the same thing. So, can we agree that if you don't understand my question, you will tell me?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 6 of 90 asbestosclaims.law/library/10792/6

A Yes, sir.
Q How old are you?
A Forty-six -- forty-seven.
Q In what year were you born?
A 1920.
Q Where were you born?
A Port Arthur.
Q Port Arthur?
A Port Arthur, Texas.
Q Now, generally -- well, where did you grow up?
A Port Arthur.
Q When did you leave Port Arthur?
A Well, I left Port Arthur -- it has been about eight years ago.
Q So you continued to live in Port Arthur up until about 1956, or what year?
A Well, I would say roughly around -- I would say about eight years.
Q About eight years ago?
A Uh-huh.
Q Where did you live in Port Arthur?
A Well, I had different places I've lived as far as that. All through my life I was brought up on the west side of Port Arthur, mostly between the Three and Four Hundred Block on West Fifteenth, and various times it has

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 7 of 90 asbestosclaims.law/library/10792/7

been here and there -- different locations -- just renting.
Q Did you get married in Port Arthur?
A Yes, sir.
Q What year?
A January the 31st, 1939.
Q Are you still married to the same wife?
A Yes, sir.
Q What is her name?
A Gladys.
Q Were you in World War II?
A No, sir.
Q When did you first start to work?
A You mean at this business?
Q No, any kind of work.
A Well, let's see -- well, as far back as I can remember, I guess, from shining shoes on up. You see, my daddy was blind and crippled and I left school, I would say, at the age of about seventeen and started working on the WPA and where ever I could get work.
Q Where did you go to school?
A Port Arthur.
Q Did you go to Port Arthur High School?
A Well, no, I got as far as Junior High is as far as I could go.
Q You went as far as Junior High?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 8 of 90 asbestosclaims.law/library/10792/8

A Uh-huh.
Q You left school at age seventeen?
A I'd say roughly about that.
Q Roughly?
A Uh-huh.
Q What sort of work did you start out doing besides shining shoes -- miscellaneous jobs?
A Well, insulation.
Q When did you start working in the insulation field?
A Well, let's see -- my boy was born in '41 -- it was '40.
Q In 1940?
A Uh-huh.
Q Now, when you say you were working in the insulation field, what type of work did you do?
A Construction.
Q You were following construction?
A Uh-huh.
Q What type of insulation work would you do?
A Well, boiler work, pipe work, ship work --
Q When you say "boiler work", what is involved in insulating a boiler?
A Well, you've got your boiler walls, and piping coming off of the boiler.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 9 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/9

Q All right, and piping --
A And in a lots of cases you've got tubing on some of them boilers on the inside -- different type of boilers, some of them is tubed inside covers.
Q Do you insulate those?
A Yes, sir.
Q And what other type of insulation work would you do at that time besides the boiler and piping work?
A Well, we did towers.
Q What work is involved in working on a tower?
A Well, it could be several different things. It could be -- a lot of cases we put rock wool; lots of places we would put, like, magnesium or Hightemp or Calo -- different kinds as far as that. I guess it all depends on the temperature of the tower or just whatever the company was wanting on it.
Q What sort of work would you do on ship insulations?
A Well, piping and manifolds and boilers.
Q Now when you first started out, you would use rock wool, magnesium, and what is Hightemp; is that a --
A Well, that is something -- it's a high temperature magnesium I'd say.
Q High temperature magnesium?
A That's what I would class it as.
Q Have you continued in this work from 1940 right on

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 10 of 90 asbestosclaims.law/library/10792/10

up until the present time?
A Yes, sir.
Q Are you still doing insulation work?
A Well, I'm not insulating; I'm working through the mercy of men working with me, keeping me on the job, right now because we've got plenty of work and I can stand around as a steward.
Q Well, we'll get back to that a little bit later --
A But I had been out of work for over two and a half years until work picked up.
Q Were you in World War II?
A No, sir.
Q Were you physically incapacitated?
A Well, they turned me down on account of my leg was broken -- I had a bad leg.
Q Which leg is that?
A My left leg.
Q Was that crushed when you were a child?
A Yeah, uh-huh, I got hit by a car.
Q Well, now what individuals or what companies did you first work for doing insulation work?
A Well, let's see -- the first company I ever worked for in my life was a company by the name of Brooks-Fisher, I believe it was. It was over there in Jacksonville, Florida. I had went to work over there on a permit as a

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 11 of 90 asbestosclaims.law/library/10792/11

helper, and from there I went to work at the Pure Oil for Eagle-Picher.

Q For Eagle-Picher Lead?

A Eagle-Picher was my first job at home.

Q What sort of insulation work did you do there?

A I was just hustling material but we was putting on some three inch rock wool blankets on some towers. I say "we", they were -- me and the other helper was pulling it up and mixing the mud.

Q Now when you started, were you a member of the Union?

A No, sir.

Q How long was it before you were a member of the Union?

A Well I got in March the 29th, 1942.

Q What was the name of the Union?

A Local 76, Albuquerque, New Mexico.

Q Well, what is the name of the Union?

A Asbestos Workers.

Q Asbestos Workers. In other words, in your type of employment, you contemplate that you are going to work with asbestos and asbestos products --

A Uh-huh.

Q -- or insulation products that contain calcium and so forth?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 12 of 90 asbestosclaims.law/library/10792/12

A Well, what we are classed as is the Heat and Frost Insulators and Asbestos Workers.
Q In doing your work over the years, have you known that you were working with asbestos?
A Yeah, well, we know it's asbestos.
Q All right. Have you known that you were working with calcium products and that sort of thing?
A All we know is it's just material -- just like a pipe is a pipe or anything else.
Q Well, have you known that you were working with magnesium products?
A Well, we didn't even know what the stuff was. All we knew was it was insulation.
Q Well, you told me a while ago that you were working with rock wool --
A Yeah, rock wool, yeah.
Q You told me you were working with magnesium.
A Yeah. I seen the name on the box. The name is on the box of them.
Q Well, you understood, then, that contained magnesium, didn't you?
A Well, it could be the name of the products. Just like this, now, for instance now I say "magnesium" -- I might be pretty dumb and all of that but like there is some companies that to me it is the same material -- Johns-

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 13 of 90 asbestosclaims.law/library/10792/13

Manville 85% magnesium, and you've got Phillip Carey, a similar company, it's Calo, and it's all different names, but now what it contains in them, I wouldn't know.

Q I wasn't asking you the content; I was just asking you if you didn't know that you were working with magnesium --

A Oh, yeah.

Q -- from time to time?

A Well, I guess I knew that it had it in it.

Q All right, and if you didn't know that you were working with calcium and lime products from time to time?

A Well, I wouldn't know that it contained anything. It could have been just a name to me.

Q How would you -- for instance you worked for the Eagle-Picher at Pure Oil back there in 1941 -- what products did you use on that job, do you know?

A Well, it was just -- the Eagle-Picher Company we was working for and it was rock wool blanket.

Q Did you get any injury as a result of working with that product?

A Well, if I got any I don't know of it.

Q Well, in 1959 you worked for Brooks-Fisher Insulating Company for nine or ten months in Tennessee.

A Uh-huh.

Q I believe you claim that you used asbestos and

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 14 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/14

magnesium. Do you know -- how do you know that you were using asbestos on that job?

A Well, I'll say this: It's just our trade name and whether it was asbestos or magnesium, I don't know, to say which product it is, but I know it was insulation.

Q You just know it was insulation material that you were using on that job?

A Yeah.

Q Do you know whether that contained magnesium or not?

A No, I sure don't.

Q You don't. Did you get any injury on the Brooks-Fisher Insulation Company job?

A Well, I got my elbow hurt; that's all.

Q Did you get any injury as a result of the use of these products?

A Well, if I did, I wouldn't know.

Q You wouldn't know?

A No, not on that part. I guess if I did it just come up on me that I didn't know at that time.

Q All right, in 1959 you allege that you were employed by B & B Engineering and Supply Company at DuPont in Orange, Texas. Do you know what products were used on that job?

A Well, let's see --I don't know whether they use --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 15 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/15

if they use Phillip Carey's material or Johns-Manville -- I really couldn't say.

Q Well, did you get any injury from any materials that you used on the B & B Engineering job?

A Well, it would be just like all the rest of them -- whatever injury I've got out of it, it's just -- at the time I didn't realize it.

Q You don't know whether you got any injury or not, is that what you are saying?

A Well, I wouldn't know positively that I got injured. Now it could have injured me -- it could have injured my health on any of it and I wouldn't know it.

Q Well, up until -- I will go a little further -- in 1960 you allege that you were working for the Fluor Corporation, Ltd. at Kaplan, Louisiana on the Cow Island Job. Do you know what products you used on that job -- what material you used on that job?

A No, I sure don't.

Q Did you get any injury on that job that you know of?

A Well, it's just like the rest of them. It's just like all the rest of these jobs, I never knew from one day to the next.

Q Well, there wasn't any --

A As far as injury to my body, like a leg broken or --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 16 of 90 asbestosclaims.law/library/10792/16

Q I am talking now about whether you got any injury from the use of these products.
A I've got stuff in my eyes at different times -- something like that, as far as that, but otherwise I don't know of anything any more than the rest of them.
Q Did you suffer any extensive period of disability while you were on any of these early jobs through 1960?
A Well, I have, but I never have to say complained.
Q Well, what caused you to lay off or to be disabled?
A Well, I got to where I just couldn't breathe no more -- just like I am now.
Q In 1960?
A Well, that's when I started, about.
Q You started about 1960?
A I'd say it was right close to there when it started affecting me.
Q In what way were you affected? Did it start back in 1959 -- maybe a little earlier than that?
A No, I first started noticing it -- oh, when I really noticed it more than ever I was working for Armstrong at Firestone.
Q That was a little bit later.
A Yeah, but I mean that is when I first started noticing it more than ever. That is when it started getting

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 17 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/17

to me more.

Q All right, now before you started working for Armstrong had you had some trouble with your breathing?

A Well, I had, but not enough to pay it no mind.

Q Had you had trouble with a cough before that time?

A No.

Q Had it affected you in any way as far as your hands and fingers are concerned?

A No, sir.

Q You claim that it now has caused you some disability in your fingers?

A I am so clumsy in my hands right now I can't hardly hold nothing in them no more.

Q Up to that time had you had any trouble with your feet?

A No, sir.

Q Do you have any trouble with your feet now?

A My feet is the same as my fingers.

Q The same as your fingers. Then would it be correct that on none of these jobs that you had any unusual exposure or any accident or anything that you can point to and say "I got injured on this job"?

A Well, I can't state that I was feeling it at the time. I could have had it, see; I could have got some injury but didn't know it.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 18 of 90 asbestosclaims.law/library/10792/18

Q But you can't pin point and point out any particular job and any particular product that caused you any disability, can you?
A No.
Q Is that true from the beginning right down up to date?
A Yeah. I can't tell one material from the other, like that.
Q My point is regardless of whether you can tell that material, you can't say whether this product caused you harm or whether the other product caused you harm --
A No.
Q -- or whether it was magnesium --
A No, sure can't.
Q You can't say?
A I can't say, myself. All I know, something did.
Q All you know is that something caused you to have some trouble in your chest and in your throat?
A Well, it's mostly in my chest.
Q Mostly in your chest?
A It is my chest as far as that; my chest and my hands and feet.
Q Do you still smoke?
A No, sir.
Q When did you stop smoking?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 19 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/19

A Oh, it's been about four years, maybe a little more.
Q About four years. Didn't a doctor examine you and tell you that you had emphysema and that you had better stop?
A No, sir, the first doctor I went to -- in other words, the first doctor I went to was my doctor in Bridge City. I left the job -- I told my foreman -- I was foreman on the job at the time -- I told my superintendent, I said, "I'm going to have to take off and go to the doctor", and I went to the doctor, and I thought it was my heart at first, and he examined it and said it was nothing wrong with my heart. He wanted me to go get an X-ray of my chest, so I went to Orange Memorial Hospital and I was wondering about it myself, so I went and had that X-ray made and I went back in his office and he told me, said, "There's something wrong in your chest that I cannot understand". He said, "I wish you would just go ahead and see a specialist on that", says, "however, I do not know where one is at", said, "it might be in New Orleans or Houston, I don't know;" he said, "but if you will, I will try and contact you one". So he finally made an appointment with this Dr. Tom Jones out of Houston, so I went over there and he examined me there at his office and he wanted to put me in the hospital that same day, and like I told him, I says, "I am responsible for a job, I would like to have a couple of days to get somebody else in my place to take care of the men", so he said, "All right",

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 20 of 90 **asbestosclaims.law/library/10792/20**

so I reported back at the hospital a few days later and they passed me through all kinds of tests in that hospital and whenever I left there he told me there was nothing he could do for me, said, if I had one good lung he could help me he said, but one was just as bad as the other. He said if I had one good lung they would block one off and let it rest, he said, but one was just as bad as the other. He said, "the only thing I can advise you to do is get out of that business and quit smoking".

Q Now this was Dr. Tom Jones in Houston?

A Yes, sir.

Q Whatever date that was, why, that's when you got that information about getting out of the insulation business --

A Yes, sir.

Q -- insulation work and quit smoking?

A Yes, sir, he told me if I wanted to live -- he said if I wanted to live. He said I wouldn't get no better or no worse if I would just quit.

Q Have you gotten better or worse or what?

A Well, I felt myself improving a little bit, but just like I say, I started back to work. I couldn't make a living off of a Hundred and Thirty-One ($131.00) Dollars a month -- that's what I get total disability.

Q You are under total disability for Social Security purposes, aren't you?

A Yes, sir.
Q When did you first get this total disability under Social Security?
A Well, it took me six months after I quit working.
Q Well, was it before you had your comp suit or --
A No, it was afterwards.
Q Sir?
A It was afterwards.
Q You remember you had a comp suit against the Aber Company --
A Yeah.
Q -- and several other employers?
A I believe it was around the month of November when I first got my first check from Social Security.
Q Well, '60 or '61 or '62?
A It's been a couple of years anyhow. I never keep track of none of them dates.
Q All right, we will get back to that, but you are drawing total disability --
A Yes, sir.
Q -- and have been for some time?
A Uh-huh.
Q Have you worked in insulation work since you tried your comp suit, the one that involved the insulation materials?
A No, sir, I hadn't been on no job to say work; but --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 22 of 90 asbestosclaims.law/library/10792/22

now here a year ago last August when work started picking up, well they told me if I wanted to come out there and just stand around they would help me out, so I went out to the job and I started doing that and I'm going to keep on doing it as long as we've got work. Of course if I had to go back to work today I would quit because I wouldn't be able to stand it.

Q Mr. Tomplait, are you telling us that you have not been subjected to any of these materials, handling them or coming in contact with them since you had your comp suit?

A No, sir, the only thing I fool with is metal bands and aluminum.

Q The only thing that you now fool with are metal bands and aluminum?

A Uh-huh.

Q Now is that the only products that you come in contact with since you settled your comp suit?

A Well, I guess I will come in contact with dust because you could be working a block away from it and that dust is in the air right on as far as that.

Q Well, that's the dust that everybody that is in and around that job is going to come in contact with?

A Well, that's what I say, I could be, just as well to say, working and I will get some of it right on, regardless.

Q All right. We might be able to shorten this --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 23 of 90 asbestosclaims.law/library/10792/23

would it be correct that up until 1960 when you went to see Dr. Greco, or whatever time it was -- it could have been '61 or '62 -- up to the time you went to see Dr. Greco and then saw Dr. Jones in Houston, if you came in contact with any particular product, you are not able to identify it as to time or place as to causing you any particular injury?

A No, sir, I can't.

Q You can't do that?

A No.

Q And after you saw Dr. Jones and he told you to get out of this work, then did you have any further contact with any of these materials --

A No, sir.

Q -- about which you are talking about?

A No, sir.

Q So from and after the time you saw Dr. Jones and later Dr. Leary in Houston -- well, we will say after you saw Dr. Jones in Houston, you haven't had any contact with any of these products?

A Well, now after I seen Dr. Jones, I didn't quit working right then and there. I worked on for a short while; I don't remember how long it was, but I do know I was working at DuPont at the time that I took this double pneumonia. I left the job -- my chest was still hurting me at the time -- I thought it was just my chest hurting me and that was it,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 24 of 90 asbestosclaims.law/library/10792/24

and I told my foreman, I says,"I'm hurting so bad I've just got to go home", so I went home and my wife says, "Well, let's go on to the doctor", and she took me to Dr. Greco and when I got there, the Doctor, he wanted to send me to St. Elizabeth's Hospital and he told my wife, he says, "You had better rush that man to the hospital, he's got double pneumonia right now", and like my wife told him, we didn't have no transportation for her to go back and forth and this and that, so he made arrangements -- he put me in over here at the Orange Memorial Hospital. I stayed in there with double pneumonia for I don't know how long, so anyhow I got out and I was out, I'd say, about a week -- maybe two weeks -- I took double pneumonia again and I had to go back again.

Q You say you were working for DuPont then?

A I was working on the DuPont job when I developed the pneumonia.

Q What company were you working for?

A B & B.

Q B & B Engineering?

A Uh-huh.

Q Now, after that time did you ever work any more with insulation products?

A Not that I recall, no, sir.

Q So whatever contact that you had with any insulation products that you are talking about in this suit you would

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 25 of 90 asbestosclaims.law/library/10792/25

have had prior to the time that -- at the time or prior to the time that you were working for DuPont -- I mean working for B & B Engineering on the DuPont job?

A Well, I don't quite get that question.

Q All right. According to my information, you first went to Dr. Greco in Bridge City -- at that time you were working for Armstrong --

A Uh-huh.

Q -- and Dr. Greco then sent you to see Dr. Jones, Tom Jones, in Houston and Dr. Jones told you not to work with any asbestos products or any insulating materials after that time and to quit smoking, didn't he?

A Uh-huh.

Q Now, after that date who did you work for in using insulation materials?

A Well, I believe my next job was B & B at DuPont. You see, we work for so many companies -- I might work for maybe B & B for three or four days this week, then maybe next week I might work for Johns-Manville, maybe two or three weeks, and it's just like that back and forth all the time, to where I can't remember one from the other from one day to the next.

Q Well, did you come in contact with any insulating materials after this job at DuPont for B & B Engineering?

A Well, not that I recall.

Q Well now do you recall any occurrence after you had

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 26 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/26

seen this doctor in Houston whereby you got any additional injury?

A No.

Q Do you recall any occurrence that you could trace to any particular product or any particular type of insulating material whereby you got any particular injury?

A No. I know they are all insulation and I know I've used just about every type there is, but as far as knowing which is which when I look at it, I don't know and as far as me knowing which company uses which, unless I would just make a notation of it to know it, well, I wouldn't know it because I just don't pay it no mind. Like B & B, they might buy from Phillip Carey sometimes and then tommorrow they might buy from somebody -- or might buy from Johns-Manville or just any of them as far as that. I don't know -- whichever material they send on the job, that is what we use.

COURT REPORTER'S NOTE: At this point the deposition was recessed because of the physical condition of the witness, after which the deposition was resumed as follows:

Q Are you ready to go?

A Yes, sir, I'll try it again.

Q Now if you want to stop and go get a drink of water or --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 27 of 90 asbestosclaims.law/library/10792/27

A No, these things I never know, sir. They just come up on me just like that, at home or any time.
Q Okay. In February, 1963 you gave your deposition, your oral deposition, in Claude J. Tomplait versus Travelers Insurance Company, No. 13,196, in the District Court of Orange County. Do you recall when Mr. Marcus and Mr. Bachman and this gentleman over here, Mr. Pate, examined you?
A I remember Mr. Pate, yes, sir.
Q Didn't you testify at that time that you were totally disabled and unable to work as a result of an injury -- an occupational disease --
A Yes, sir.
Q -- known as asbestosis?
A Yes, sir.
Q And did you continue to be disabled from and after that time?
A Yes, sir. I even went over here to the State Welfare to try and get -- to see if I could get something out of them to help me along and them people over there wanted me to sell my house and this and that before they would even consider helping me.
Q All right. Now, it was 1961 that you went to Dr. Greco -- did he send you the same year over to see Dr. Jones?
A That's the only time I've ever been to Greco. I

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 28 of 90 asbestosclaims.law/library/10792/28

went to Greco one time before when I was working for Armstrong at the time and I had got my -- this arm here (indicating) burned, and I went to him for treatment because I was taking infection and I didn't know him from nobody else.

Q Let me ask you this: Did you get any skin disease from your contact with these insulating materials?

A No, not no skin disease that I know of. There ain't but one material that will affect your hands and that's that stuff they call one-coat mud but we use rubber gloves for that.

Q So you've never had any dermatitis or any skin irritations?

A No, I ain't never had no skin trouble in my life.

Q Everything that you are complaining of is down in your chest?

A In my chest.

Q Nothing outside?

A No, sir.

Q All right. Now, you mentioned rubber gloves; who told you to use rubber gloves?

A We use them to keep that there one-coat -- we seen it was hurting our hands so we used that to keep that cement -- anybody knows that cement, you see, we know it's got cement in it -- it sets up so fast.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 29 of 90 asbestosclaims.law/library/10792/29

Q Based on your long experience in the insulating field you know that if you work with cement and don't wear gloves that you will get cement dermatitis, don't you?
A It will affect your skin; I know that.
Q It will affect your skin. All right, now, over the years have you ever adopted any other safety practices in the insulating work?
A Well, I never did think of it being a hazard all through my life.
Q Well, now at times did your Union ever give you any instructions, safety instructions?
A No, sir, our Union never give us anything like that, and we are just one group and we would know -- one would know just about as much about the materials as the other. We knew that it wouldn't be nothing there that would get you all greasy -- greased-up -- or this and that. We just thought it was something good to work in as far as that.
Q Now, over the years you've been subjected to dust many, many times, haven't you?
A All through my insulation days.
Q All through your insulation days. Now, do not some of the employees wear masks --
A No, sir.
Q -- when they are working with insulation materials?
A Well, nobody ever told us about it.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 30 of 90 asbestosclaims.law/library/10792/30

Q Well, didn't you at one time wear a mask and quit wearing it because it was uncomfortable?
A They gave us masks on one or two jobs on the inside of boilers because we was working with fiberglass and the doggone thing would just cut you right around where your respirator was at.
Q Well, what you are saying is that you quit wearing the mask because it was uncomfortable?
A Well, you couldn't breathe through them and it kept your face irritated all the time. I've seen myself working in that fiber glass as far as that -- like there at Pecos, Texas -- and I would take four or five baths a night. I was working at the Army Base -- I'd bring me some clean clothes to work -- they had twenty-one hot water heaters to cover on that job -- and I'd bring me some clean clothes to work and in the evening time I would take a shower and by the time I would get home I couldn't stand my clean clothes on me I'd be itching so bad. The only thing that would ease me, I would get up three and four times a night and take a bath; that's the only thing that would ease me.
Q All the time that you were doing insulation work you knew that these insulation fibers would be in the air and dust would be in the air and that you would breathe it, didn't you?
A Yeah.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 31 of 90 asbestosclaims.law/library/10792/31

Q And knowing that, you still continued in this type of work, didn't you?
A Yes, sir.
Q And that went on from the very time you began in insulating work right on up until the time you gave this deposition, didn't it?
A Uh-huh.
Q Are you saying "yes"?
A Yes, sir.
Q Now, when you went to see Dr. Greco in 1961, didn't he have some X-rays made here at the Orange Memorial Hospital of your chest?
A Well, I'll tell you, I've had so many X-rays of my chest made I believe I could paste them on this wall.
Q Well, I'm just asking you: After you first saw Dr. Greco if he didn't immediately have some X-rays made --
A Yes, sir.
Q -- and he told you that you had some spots on your lungs?
A Yes, sir.
Q And that was in July of '61?
A Yes, sir.
Q Now, at that time didn't you have a discussion with Mr. Williams -- Lynn Williams -- the superintendent for Armstrong --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 32 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/32

A Uh-huh.
Q -- on the Firestone job and tell him that you were unable to breathe and that you had to go to a lung specialist?
A Yes, sir.
Q And then it was after that that you went to see Dr. Jones in Houston?
A Yes, sir.
Q That is Dr. Thomas R. Jones?
A Yes, sir.
Q And he hospitalized you for three days for his examination, didn't he?
A I would say three or four days; I don't recall.
Q Now, didn't Dr. Jones tell youat that time that your lungs had a lot of insulation materials on them?
A Uh-huh.
Q And that both lungs were in a bad condition?
A Yes, sir, he sure did.
Q And at that time didn't you tell him that you were smoking about a pack of cigarettes a day?
A Yes, sir.
Q And you were advised to discontinue smoking if you wanted to live, weren't you?
A Yes, sir. He told me -- he didn't say smoking -- he said "I would advise you to quit -- get out of that business and quit smoking altogether", just like that.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 33 of 90 asbestosclaims.law/library/10792/33

Q All right, he told you to get out of that line of business?
A Yes, sir.
Q But despite that, you did return and work for Armstrong, didn't you?
A Yes, sir, I went ahead and finished the job and I believe I made one more job after that.
Q Well, you worked on several jobs after that, didn't you?
A Well, I'll tell you, I couldn't recall because it's been -- if it had been something that I had to keep dates on, well I could give you the exact date now, but --
Q I'm talking now about records that --
A Well, I don't recall because it's been quite a while back and I can't really remember. If I would say something I would have to give a false statement and I couldn't.
Q But up until that time -- up until that time, now, you can't pin point any particular job or any particular place where you had an undue exposure of materials or had any particular product that caused you damage, can you?
A No, sir.
Q Now when you first tried to wear this safety mask, these materials were just as bad then as they were later, weren't they?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 34 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/34

A Yeah.
Q And they continued, as far as you are concerned, as far as a person's health --
A As a matter of fact there ain't no company that's ever furnished us respirators -- furnished them to us voluntarily. If we wanted respirators we had to raise seven kinds of hell to make them get us one and then they would get us one that maybe anybody else would breathe through as far as that -- it was a long ways from being sanitary. There ain't but one job I've been on in my life that I could say they believed in safety, and on something like that too, would be DuPont. All of these other companies don't give a dadgum if you live or die.
Q Well, when you worked on the DuPont job, did you have to wear a respirator?
A They had them respirators right there for you. Now if you didn't want to wear them it was your hard luck.
Q Did you wear them on that job?
A Well, as long as I worked for DuPont I never did wear them.
Q You never did wear them?
A No.
Q But they were there available for you?
A Yeah, on that job, yeah.
Q And you knew that that was a safety device?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 35 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/35

A On that job, yeah. But otherwise, there ain't a job that I recall that would come up to us and say, "now, you've got a job here -- now here's your respirator." They ain't never issued me a respirator that I can recall.

Q The question I was asking you, though, was: These materials, insulating materials, have been bad all the time as far as breathing and breathing dust is concerned?

A Uh-huh.

Q Isn't that right?

A Yeah.

Q Now if you worked with insulation materials after you went over there to Houston and saw Dr. Jones, you knew that they could do you harm -- could do your chest harm, didn't you?

A Uh-huh, sure did.

Q And knowing that, you went ahead and worked because you say you had to work?

A Well, I had to -- that or starve, one.

Q All right. But in working, you knew that you might get injured and --

A Yeah.

Q -- and the materials might cause you further injury?

A Yeah, I knew it after he told it to me.

Q And there wasn't any doubt in your mind that you

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 36 of 90 asbestosclaims.law/library/10792/36

were taking a risk by continuing to work?
A Well, it's a do or die because if you are going to see your family without nothing, it will make you do a lot of things you don't want to do. Because at that time I wasn't getting nothing, period. My pay check had stopped and you try to live without work for six months and see how long you are going to live on this earth.
Q Now the Industrial Accident Board also sent you to a Dr. Leary in Houston, didn't they?
A Yes, sir.
Q Did you give Dr. Leary the history of your trouble?
A Yes, sir.
Q Did you tell -- I believe that examination was in October of 1962 -- did you tell Dr. Leary that you had worked in insulation work since 1941 using fiber glass, foam glass, rock wool, band rock, magnesia, therm-asbestos, "Kalo", a trade name -- did you tell him that?
A Well, I don't recall if I gave him the name of any materials because, you see, somebody had requested that I went to Dr. Leary for an examination and I was over there for one day only.
Q All right, but didn't you give him a history of when you started to work and the materials you were working with?
A Well, I don't recall. I might have, but I don't

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 37 of 90 asbestosclaims.law/library/10792/37

recall.

Q Did you tell him that -- are all of those substances dusty? Do they get dust in the air?

A Well, if I give him a history on it, I don't recall it. All I recall is I went over there for the examination and that was it. As a matter of fact, he didn't give me no findings or nothing. He didn't tell me nothing. He examined me a little bit, then he'd let me go to town for maybe thirty or forty minutes, and then I would come back again, and it was like that all day long.

Q All right, now this was in October, '62 and you saw Dr. Jones in 1961. Didn't you continue to work from the time that you saw Dr. Jones until the time that you saw Dr. Leary?

A I don't remember, sir.

Q You don't remember?

A No, sir.

Q Well, when did you first start noticing that your fingers were clubbing up on you?

A Well, I had noticed that, I'd say, oh, I'd say about six or seven months before I even went to Dr. Greco, but I never paid it no mind.

Q Six or seven months before you went to Dr. Greco?

A I'd say I started noticing it, but I didn't pay it no mind.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 38 of 90 asbestosclaims.law/library/10792/38

Q Were your toes clubbing too?
A I wasn't paying it no mind either at that time.
Q I mean six or seven months before you went to Dr. Greco?
A Well, I never noticed my toes until way after my fingers. It was way after my fingers before I noticed my toes getting that way.
Q Well, didn't Dr. Jones when you saw him in June of '61 tell you that you had silicosis?
A He told me that, yes, sir.
Q And advised you to get out?
A Not silicosis, asbestosis, or something -- I don't --
Q He told you to get out of this type of work?
A Yes, sir.
Q Now, when you were working with these insulation materials, you knew what they were -- I mean basically that they were for insulation purposes and either contained asbestos or magnesium or products that would cause dust and get into your lungs, didn't you?
A I was so doggone dumb, I wasn't even thinking that it would even get to my lungs. I thought that it would get to your nose and that would be it.
Q Well, what were these products that you were working with, what were they used for?
A Which products are you referring to?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 39 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/39

Q Any of them that you are talking about -- what were they used for?
A Well, like I said before, you've got different products they use on different things.
Q Well,name the products that you used and tell me what you used them for.
A Well, like magnesium, Calo or Careytemp or different things like that, it come in different forms. They come in a block form -- you could block in a boiler wall with that as far as that, or you can have it in pipe covering form or you can have it in -- just different ways.
Q Well, are you able to identify any particular product? You say a "block form", now did you ever get any injury from a block form?
A Well, now your block form is the same material. It's just like you take a rubber tire; it can fit a bicycle or it can fit a car. It is insulation and it could be block form or pipe covering form.
Q Or pipe covering form?
A Yeah. You see, you can either put it on a pipe cover -- pipe, itself -- it is bolted the size of the pipe, and you just tie it on.
Q In other words, it comes formed and all you do is --
A Tie it on.
Q -- you fit it around the pipe --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 40 of 90 asbestosclaims.law/library/10792/40

A Tie it on -- you tie it on with a wire.
Q Uh-huh. Does it have some sort of covering on it or rosin on it to keep it in shape, or not?
A Some of it has canvas on it, and some of it don't have any.
Q Well, do you contend that you got any injury from the use of any of those -- that type of products -- we will say insulation that went around pipe?
A Well, it's the same thing. Your insulation that goes around a pipe, it's just an insulation, that's all.
Q All right, what you are saying is that -- or if I am correct, now -- is that you are saying that some of these particles would come off of the materials that you were using and get in the air and you would breathe them; is that what you are saying?
A Uh-huh.
Q Is that the only way you claim you were injured?
A Yeah, yes, sir.
Q And all the time you knew that these particles were in the air and that you were being subject to breathing them, didn't you?
A Well, subject to breathing them, but I didn't know they was harmful. We -- just like we breathe the air, but the air ain't harmful. In other words, I didn't know they was harmful. If I had known they was harmful I could have

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 41 of 90 asbestosclaims.law/library/10792/41

added maybe fifty years onto my life.
Q Well, from the time that you saw Dr. Greco and Dr. Jones, you knew they were harmful?
A Oh yeah, from that time, yeah.
Q And you didn't need anybody to tell you --
A And I don't feel --
Q Now from and after the time you saw Dr. Jones, you didn't need anybody to tell you that you were getting more of this stuff in your lungs when you worked with it and that it was harmful, did you?
A No, I sure didn't. I wish I had found that out about twenty years sooner.
Q Yeah. Now, these -- all these products that you worked with were insulating materials?
A Yeah.
Q They were used for insulation on the job, weren't they?
A Yes, sir.
Q Was your work accepted as having been properly performed -- the work that your employer did?
A I wouldn't be afraid to go back to any job I've ever been on in my life, yet. As a matter of fact, I've got an honor right here (indicating) -- I've got my twenty-five year button right here that I'm proud of.
Q All right, then these insulating materials were

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 42 of 90 asbestosclaims.law/library/10792/42

used -- were installed for the very purpose for what they were designed?

A Yes, sir.

Q Now do other insulators work with this type of material?

A Yes, sir.

Q All over the --

A All over the world -- all over the country.

Q All over the world -- all over the country. Have you ever seen any other insulators use any type of safety devices or respirators day in and day out in working with these materials?

A Not until here lately.

Q Well, how lately?

A Well, since I've been having my trouble, we've got quite a few of them now that's wearing them respirators.

Q Does your Union recommend that you wear these respirators now?

A Well, they tell us about it. As a matter of fact, they mention it that we should wear them now.

Q How long have they been telling you about them?

A Well, nobody knew nothing about it until -- mostly until my health got bad like this here. Nobody realized that it was harmful.

Q Now, you have worked certain places on the job that

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 43 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/43

don't they use ventilators and fans and that sort of thing?
A Well, some places they've got fans, but it's something -- if you ain't never been on a construction job, you wouldn't realize -- just like you are in this room here working, all right, this building is closed just like it is now -- let's say that lamp right there is a pipe -- well, I've got to cover it -- I'm in this building with this pipe, covering that pipe, well the air -- you've got a certain amount of air in this room -- well, you are cutting it with your handsaw, well, when you are cutting that covering to fit your pipe, whatever length you want it, well you are breathing that stuff right on. There ain't no way you can keep it away from you.
Q Well, but when you were breathing it, you knew you were breathing it, didn't you?
A Yeah. I know now, yeah.
Q Well, nobody didn't have to tell you, you knew at the very time you were breathing it?
A Yeah.
Q Nobody didn't have to tell you?
A No, sir.
Q And you know it's not good to breathe stuff --
A Well, I didn't think it would hurt me anymore than the air. If you don't know something, it's something different.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 44 of 90 asbestosclaims.law/library/10792/44

Q Well, now, was this product just like it came from the factory?
A Yes, sir.
Q Was it cut up or did you have to cut it up?
A Well, just like on your pipe covering for instance, it come in three feet sections, and it --
Q How was it packed?
A Well, some boxes has got two sections in it, depending on what size covering it is to go in the box. Like on your half inch you might have twenty sections to a box; your four inch, you might have, maybe, maybe eight sections to a box.
Q Now are these products solid when they come in?
A Yeah.
Q And you pull them out and the dust doesn't get there until you start sawing them, huh?
A When you start sawing them and putting them on -- tieing them on. Whenever you take a covering out of your box, you've got this rag on it, canvas -- well, some jobs wants the canvas on it, especially on the inside jobs because that's the finishing, but on construction outside, well, you take the rag off and you tie it with a wire -- tie the covering on with a wire instead of pasting it on and when you are beating them wires in, well, you are beating that dust and when you are cutting, you've got to have dust. There

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 45 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/45

ain't no way to get around it.
Q The work that you did created the dust, didn't it?
A Yes, sir.
Q So up to that time the product was just like it came from the factory, it was wrapped up and --
A Yeah, it was just as solid as if you had something in that briefcase closed up just like that until the box was opened.
Q In other words, you are telling me that the product was sealed until you started working with it?
A That's right.
Q And if you had laid it out here on the floor there wouldn't have been any dust, would there?
A No, if I just set it down.
Q Just set it down --
A It couldn't have come out of the box, no.
Q And the only time that the dust was created was when you worked with it; cut it or broke the surface of it or something of that nature?
A Uh-huh.
Q And you would be the man who would -- you or your fellow employees would be the man who would cut into it and break it or whatever was necessary and size it up?
A We've got to break into it to get the material on the line.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 46 of 90 asbestosclaims.law/library/10792/46

Q All right. Well, any alterations in the material would be done by the workmen, wouldn't it?
A Uh-huh.
Q Mr. Tomplait, is it correct that the only injury that you claim is whatever occurred from the inhalation of dust in the air; is that what you are telling us?
A Yes, sir.
Q Now, did you need any instructions to tell you how to work with the insulating products?
A No, sir, I don't have to have that because in my trade we've got to serve four years apprentice. In other words, you start from scratch. You don't have to know nothing and you learn the business in that four year period.
Q All right, so as far as having any instructions on the outside of the box as to how to use that product or --
A They don't have nothing.
Q -- anything like that, you didn't have to have any?
A None whatsoever. They ain't got nothing on the box besides the name of the products and the size of whatever it is.
Q And then dust in the air is something that you've seen ever since you started your career, isn't it?
A Yeah.
Q And you know when you use a saw on these insulation products that it is going to cause dust particles to be in

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 47 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/47

the air?

A Yes, sir. It's the same way -- I always took it like a carpenter as far as that -- he's sawing that wood, he's going to accumulate some dust as far as that.

Q All right and you know, just common knowledge, that if you've got, we will say, some smelly fumes in this room and you breathe it, you know you are breathing the same type of fumes that you are smelling, don't you?

A Yes, sir.

Q And you know that if you are in a room where there is dust and dust particles, if you breathe it, you are going to get some of that dust and dust particles in your nose, don't you?

A I know it is going to get to my nose, yeah. I have had it to cake in my nose a many a time. In fact I've come home many days and my wife thought I had fell in a barrel of flour.

Q Now, do some of these products, or most of them, come with a hard surface on them? Say you are going to put something around pipe, isn't that insulation sort of a hard surface?

A Well, it is a hard surface. Let me see how can I explain it --

Q Does it sort of have a rind on it or --

A No, sir, it's just the same material all the way

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 48 of 90 asbestosclaims.law/library/10792/48

through. It's just like, say for instance you would -- oh, I can't even think of what to say -- it's just like any doggone material and you put it out and cure it, for instance; it's the same way all the way through. In other words, the middle of it is just --

Q Is it solid?

A Yes, sir.

Q Does some of it have sort of a polyethylene surface on it, or rosin surface where the surface is sealed?

A No, sir.

Q It doesn't have that?

A No, sir, you ain't got but one of them that's got sort of a coat on it -- on the outside -- and that's unibestos or thermobestos or something like that -- one of the two; I don't know which is which, but that's one material I can't stand.

Q Why can't you stand it?

A Well, I'll tell you, that's one of them by God, that you'll get them splinters in your hands, I don't care if you do wear gloves.

Q Well, did you wear gloves when you were working with --

A Yeah.

Q All the time?

A Not all the time, no, most of the time.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 49 of 90 asbestosclaims.law/library/10792/49

Q Most of the time you would wear gloves. Now, is there any particular product -- any particular named product that you claim you got any special injury from?
A No, sir, I wouldn't know.
Q You wouldn't know?
A No, sir, I sure wouldn't.
Q So if we sat down and we named all the products that all of these Defendants might manufacture, you wouldn't know whether you used that particular product or whether you got any part of that product in your system or not, would you?
A No, sir, I sure wouldn't.
Q Most of this insulation that you do, is it sort of protection against heat -- trying to insulate boilers and hot pipes and that sort of thing?
A Well, we've got some of it to hold the heat in the pipe and others -- we've got some others that keep the cold in the pipe.
Q Keep the cold in the pipe, all right.
A And we insulate as many hot pipe as we do cold pipe.
Q Now, have you been under the treatment of any doctor since you saw Dr. Jones?
A No, sir. Well, I've been to Dr. Leary and then another company sent me to another doctor during them days,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 50 of 90 asbestosclaims.law/library/10792/50

a doctor --

Q Dr. Lombardo?

A Dr. Lombardo.

Q Thomas Lombardo.

A And I tried that -- Dr. Greco is the onliest one I go to. I went to Dr. Greco here a while back for him to give me a check-up again. Like I told him, I'm keeping colds all the time and I was afraid it was developing into pneumonia. He said, well, I had a slight infection and he gave me some pills to take for it.

Q But other than these check-ups, you haven't been under any medical treatment since your compensation case?

A No, sir, because them doctors done told me there was nothing they could do for me.

Q Nothing they could do for you. And whatever trouble that you have now you had when you saw Dr. Jones and when you saw Dr. Leary, didn't you?

A Yes, sir.

Q It's the same trouble?

A Same thing, yes, sir.

Q The same thing. And you had it back there then, didn't you?

A Yes, sir.

MR. WELLER: John, he's yours.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 51 of 90 asbestosclaims.law/library/10792/51

EXAMINATION

BY MR. RIENSTRA:

Q Mr. Tomplait, I've got a number of questions I want to ask you. If you want to get a drink of water first, why --

A I believe I'm all right now for a while.

Q Any time you want to stop now --

A Yes, sir -- well, I hated for it to happen like it did a while ago. Sometimes it happens right in my yard at home.

Q You can't tell?

A No, sir. I can be going down that bridge down here -- well I didn't bring my bottle with me today, but I usually keep my oxygen bottle in the car with me. I was going down the Port Arthur Bridge the other day and it was a good thing that boy of mine was in the back seat to grab that wheel when I went to coughing because I usually just black out.

Q Mr. Tomplait, do you remember how many times you've worked on jobs in the DuPont Plants?

A No, sir, I've worked at that Plant ever since it come out from construction. It was nothing out there but a mud hole.

Q You are talking about the Sabine River Works here in Orange?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 52 of 90 asbestosclaims.law/library/10792/52

A Yeah. I have worked out there ever since it started from scratch. It was nothing but a mud hole and from that time on I've worked in there, maybe, two or three weeks at a time, maybe, oh, four or five different times.
Q Did you ever work at the DuPont Plant in Beaumont?
A I worked there one time for, oh, about three or four days.
Q Insulating work?
A Yes, sir.
Q And I believe you said all together you worked about five times for the DuPont Plant here at Orange?
A Yeah, I know I worked there that much and at the DuPont Plant in Beaumont, I worked there one time.
Q Yeah, but working in the DuPont Plant here in Orange -- do you remember who you were working for?
A Yes, sir, the same man, Ivan Johnson.
Q I know, but what company?
A B & B.
Q B & B?
A Yes, sir, they've been in there for years.
Q Do you remember about the date of the first insulating job you did in the DuPont Plant here in Orange?
A Well, that was from construction -- whatever date that DuPont insulation first started from scratch over there.
Q When they first started from scratch?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 53 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/53

A That was way back during the War -- right around that time -- because I know we left the shipyard -- it was after the War -- right after the War.
Q Right after World War II?
A Yes, sir because I remember I left the shipyard and went right over to DuPont.
Q That would be about '46 or 1947, around in there, is that right?
A Probably so.
Q The War ended in 1945 I believe.
A Well, I don't know, but I know whatever date they started that DuPont job, I was working for Phillip Carey on that job.
Q Did you work there pretty continuously whil e they were constructing the DuPont Plant?
A Yes, sir, I worked all through that job.
Q I believe you told us that whenever you worked over there they had respirators available for you, didn't they?
A Well, not during them days, no.
Q Well, when did they start having respirators?
A B & B worked sub-contract for DuPont now.
Q I understand.
A We are not working directl y for DuPont, we are working sub-contract --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 54 of 90 asbestosclaims.law/library/10792/54

Q Yeah.
A -- and DuPont sees that all of them contractors obeys their safety rules --
Q That's right.
A -- from safety belts on up.
Q You know, having worked in DuPont Plants, they are pretty strict on this safety business, aren't they?
A Yes, sir.
Q And even if you are in there working for a sub-contractor and not working for DuPont directly, DuPont makes the sub-contractors obey their safety rules.
A Yes, sir, I've seen myself have to buy safety shoes when I had brand new shoes on, if I wanted to stay there.
Q All right, now when is the first job at DuPont where they had respirators?
A Well, they've got them all the time. Any time you want something, a safety device, they've got it.
Q Well, did they have them there the first time you went to work in DuPont Plant?
A During construction?
Q Yeah.
A No, sir, see, because DuPont -- they don't buy the job until you are through with it. DuPont don't have nothing to do with it. All DuPont is interested in is their safety.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 55 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/55

Q I understand. Now after DuPont completed their Plant you worked back in the Plant for sub-contractors then didn't you?
A Yes, sir.
Q For B & B?
A B & B, yes, sir, several times.
Q Now when you would do that, respirators were available to you for doing asbestos work, weren't they?
A Yes, sir.
Q Did you ever wear them?
A No, sir.
Q Do you know why they had them?
A Well, they've got it for all their people that they want them. If it is places -- as a matter of fact if DuPont would know that -- of all these hazards on -- like myself for instance, they -- I imagine they would have them all wearing them, but it's something that they don't know.
Q You knew then when you were working for B & B in the DuPont Plant that they had respirators there available for asbestos workers, didn't you?
A Yes, sir -- well, for everybody, not just for asbestos workers, everybody.
Q That's right, but for asbestos workers too, and the purpose of that would be to keep that stuff out of your nose and lungs, wasn't it?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 56 of 90 asbestosclaims.law/library/10792/56

A Nobody never did tell us no hazard of it.
Q Well, what did you think the respirators were there for?
A Well, painters use respirators a lot. They are about the only people that you can go in a plant and see with a respirator on and that's mostly just when they are spraying too.
Q Did any of the men you work with at DuPont doing asbestos work wear a respirator?
A No, sir.
Q How did you know they were available to you if you wanted to use them?
A Well, at DuPont anything is available. Anything that pertains to safety is available at DuPont.
Q All right. Now, I believe in your Complaint here that Mr. Stephenson filed for you, the first employer that he mentions anything about you working for was in 1959 when you were employed by B & B Engineering at the DuPont Plant in Orange. Do you remember that, back in 1959?
A '59 -- I don't recall the years because like I said before, from one week to the next we change so much.
Q You don't remember that particular employment?
A No, sir.
Q With respect to these employments that Mr. Stephenson has listed here that you worked at, you don't know where he

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 57 of 90 asbestosclaims.law/library/10792/57

got that information?
A Well, I had probably give it to him at the time.
Q Did you give him W-2 Forms --
A Yes, sir.
Q -- from employers that you worked for?
A Yes, sir, I brought a bunch of my W-2 Forms in that I had at home.
Q Does he have all of those now, Mr. Stephenson?
A I don't know; I'm pretty sure he does.
Q He didn't give them back to you?
A Well, I don't know. I'd have to look in my box at home.

MR. WELLER: John, he got those from the information developed on deposition before the Texas Employment Commission.

THE WITNESS:
A Well, I brought a bunch of them in here, as far as that, but I don't know which is which.

BY MR. RIENSTRA:
Q It says here that on this DuPont job you came in contact with the following materials: "Foamglas, magnesium and fireproofing". Now did you give him that information?
A Yes, sir. Fireproofing, I remember working around fireproofing.
Q And that was on the DuPont job?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 58 of 90 asbestosclaims.law/library/10792/58

A Yes, sir, we was fireproofing some beams over there.
Q But you don't know whose product that was that you were working with?
A No, sir.
Q Do you remember what kind of work you were doing; was it piping or boilers --
A No, sir, we was fireproofing those beams on a pipe rack. As a matter of fact, that fireproofing, that is something -- that's the only place I ever done fireproofing in my life, right there at DuPont.
Q All right, then also in 1959 you worked for Brooks-Fisher Insulating Company in Gallitan, Tennessee --
A Yes, sir.
Q -- do you remember that?
A Yes, sir.
Q How long did you work for Brooks-Fisher in Gallitan?
A Well, I'd say about nine months.
Q Do you remember what products you used on that job?
A No, sir, I don't know what products, but it was either Calo or 85 % Mag -- whatever it was that they had, now which one it was, I don't know.
Q You mentioned "Calo"; what is Calo?
A Well, I can't tell the difference between that and Johns-Manville Mag. Johns-Manville is 85% Magnesium -- it says 85% Magnesium on their box. Now the other one, I don't

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 59 of 90 asbestosclaims.law/library/10792/59

know who makes it, if it is Carey or who it is -- I never paid no mind to it, but the other material, it is Calo. It's just the same thing to me.

Q Is that the trade name; is that what you mean?

A Yes, sir.

Q All right, then in 1960 it says here you worked for Fluor at Kaplan, Louisiana on Cow Island, do you remember that job?

A Yes, sir.

Q How long did you work there?

A Oh, it wasn't too long -- I'd say -- it couldn't have been over about a month, I'd say, roughly.

Q Do you remember what kind of work you were doing on that job, was it piping or --

A Yes, sir, piping.

Q Piping?

A Piping.

Q Do you have any idea of what type products you used?

A No, sir, because I don't know what materials -- what manufacturer they buy their materials from.

Q Then in 1960 you worked again for B & B Engineering in the DuPont Plant in Orange. Do you remember that occasion?

A Now what date was that?

Q 1960.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 60 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/60

A 1960 --well, that must have been that same year I got that pneumonia. That's the last time I had worked over there at the time.

Q Do you remember what kind of work you were doing then in 1960 at the DuPont Plant?

A Well, the last -- I was fireproofing.

Q Fireproofing. It says here you came in contact with foamglas, magnesium and fireproofing. Does that indicate to you that you were doing fireproofing?

A Uh-huh.

Q But you don't know anything about whose product it was?

A We work one day to the next on different things. I might be working with fireproofing today and tommorrow I might be working with rock wool and the next day I might be working with foamglas. It's just where ever the man has got the job for us -- just whatever materials the line gets.

Q When you say "fireproofing", what do you do?

A Well, now that's just like -- to me it's a mortar just like a bricklayer uses as far as that. It's a cement and sand stuff like that.

Q Well, there is not dust that comes from that, is there?

A No, sir. No, there ain't no dust -- we don't get no dust from that part, no. We just apply it on the beam,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 61 of 90 asbestosclaims.law/library/10792/61

just for fireproofing the beam, that's all.
Q Then it says in 1960 you worked for Armstrong in the Firestone Plant at Orange. Do you remember that?
A Yes, sir.
Q What kind of insulating work did you do there?
A Well, I done a little bit of different kinds. We had mostly mag over there too.
Q You mean magnesium?
A When I say "magnesium", I don't know which is which, whether it's magnesium or Calo or which, but I know it was pipe covering.
Q You were doing pipe work there?
A Yes, sir.
Q Then in '61 you were again working for Armstrong in the Firestone Plant at Orange. Do you remember what kind of work you were doing then in 1961?
A All of my work pertained to just about the same on every job.
Q Pipe insulation?
A Pipe insulation -- ninety per cent of our job. If it ain't piping, it's towers.
Q All right. Now, it was while you were working for Armstrong that -- or maybe even before that -- that you started having trouble with your breathing, wasn't it?
A No, sir, the last time I was working for Armstrong

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 62 of 90 asbestosclaims.law/library/10792/62

is the time that I had started my trouble with my breathing. As a matter of fact, I don't recall ever working for Armstrong since that -- since I left that job after I come out of the hospital. I don't recall working for Armstrong anymore.

MR. RIENSTRA: Would you mark this, please.

(Thereupon an instrument was marked for (identification as "Dx-1, 12-8-67, jw", and the (same is made a part of this deposition at the (conclusion hereof).

Q Mr. Tomplait, I show you here an instrument that has been marked Defendant's Exhibit 1; is that your signature on that?

A Yes, sir.

Q And that is the Claim for Compensation you filed, is that right? Can you look at it and tell that is what it is, a Claim for Compensation that you filed?

A Yes, sir.

Q Now, it's not dated down here, but it shows it was received by the Industrial Accident Board on December 11, 1961; do you see that?

A Yes, sir, uh-huh.

Q Now, in that, up here at the top you say that the first distinct manifestation of occupational disease -- do you know what that means?

A No, I don't believe so.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 63 of 90 asbestosclaims.law/library/10792/63

Q Well, that means that the first you knew or the appearance of this difficulty you were having occurred in July of 1961 --

A Uh-huh.

Q That would be correct, wouldn't it?

A Well, according to that.

Q Well, that's the information that you gave, apparently, to your attorney at that time, wasn't it, because you signed it?

A Well, I signed it as far as that. Is this something I am supposed to have made up over here?

Q Yes, sir.

A Well, I can't -- I don't recall.

Q Well, all right. Now, the next question here, it says; what doctor have you gone to and it says "Dr. T. R. Jones", in Houston.

A Yes, sir.

Q And that is the doctor you went to?

A Yes, sir.

Q Now before you went to Dr. Jones, you went to Dr. Greco, didn't you?

A Yes, sir.

Q And Dr. Greco is the one that sent you to Dr. Jones?

A Yes, sir.

Q So that at the time of the filing of this claim

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 64 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/64

that you made, you had already been to Dr. Greco and you had already been to Dr. Jones?

A Uh-huh.

Q And Dr. Jones is the doctor that told you that you had this lung condition and for you to quit this asbestos work, isn't that right?

A Uh-huh.

Q He's the one that told you that?

A Uh-huh.

Q You will have to speak out; she may not be able to get this "uh-huh". That's right -- that's correct what I said?

A Yes, sir.

Q Dr. Jones is the doctor that told you to quit this asbestos work?

A That's right.

Q Now, you didn't quit, did you?

A Not right then, no.

Q Well, you worked for a long time at asbestos work after that, didn't you?

A Well, I worked long enough to where I could have me a few dollars to where I could -- well, what I did, I drawed my unemployment for a good while, until I could get enough time for my Social Security. I had A Hundred-and-some-odd Dollars I could draw.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 65 of 90 asbestosclaims.law/library/10792/65

Q It says here in 1961, from September, 1961 to January, 1962, you were employed by the Aber Company at the Gulf States Power House in Bridge City, is that right?
A Yes, sir.
Q And were you doing insulating work?
A That was at Gulf States -- what date was that now?
Q September, 1961 to January, 1962.
A Uh-huh.
Q You were working for the Aber Company at the Gulf States Power House in Bridge City?
A Uh-huh.
Q Doing insulating work?
A Uh-huh.
Q And in here it says you became exposed to various materials including Kaytherm -- did you ever hear of Kaytherm?
A Uh-huh, Kaytherm -- Kaytherm, it's almost like Calo or any of the others.
Q And Aber 2 to 3 cement -- what is that?
A Well, that's just like Johns-Manville 301 or 352.
Q Is that asbestos material?
A It's a mud.
Q All right, that's a mud?
A Yeah.
Q And Foamglas?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 66 of 90 asbestosclaims.law/library/10792/66

A Uh-huh.
Q That's an asbestos material, isn't it?
A No, it's not no asbestos, Foamglas.
Q What is that for?
A Foamglas is more like a coke.
Q Like a what?
A Coke.
Q Coke?
A Yeah. Coke like you use to burn them old heaters.
Q Well, what do you use that for, Foamglas?
A Well, they use that there on cold stuff -- a lot of cold stuff.
Q It makes dust?
A Oh, yeah.
Q And you breathe it?
A It just -- as a matter of fact, what you can do, you can get you a brand new hand saw right now -- that is, in the morning, and start cutting that stuff and by the day-time end, you won't have a tooth left on that saw. The only thing we can use to cut that is a hacksaw blade.
Q And it makes dust?
A Yeah.
Q You breathe it?
A Uh-huh.
Q It goes in your nose?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 67 of 90 asbestosclaims.law/library/10792/67

A Yeah.
Q Of course you know what goes in your nose goes in your lungs, don't you?
A Well, I must be pretty dumb because I never realized it until --
Q Well, that is where your air goes, you know that don't you?
A Yeah.
Q What is Sealfas?
A That's a cement -- not a cement -- like a glue.
Q Mastic?
A Uh-huh.
Q What is aluminum rolls?
A Well, that's -- you've got -- now you've got your aluminum rolls that you can cut whatever length you want that you are covering with. It's a waterproofing -- weatherproofing.
Q Does that make dust?
A No, that's just an aluminum jacket.
Q All right, and Overkote, is that a covering too?
A No, sir.
Q What is that?
A Overkote, that's just a weatherproofing too.
Q What is Unibestos?
A Unibestos, it's -- that's used mostly on hot pipe

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 68 of 90 asbestosclaims.law/library/10792/68

too. Unibestos and Thermobestos is the ones I was talking about a while ago.

Q It's a fiber?

A It's got fiber in it, yeah, fiber and silicate.

Q It makes dust?

A What it is -- to me, it's a fiber that is compressed with silicate in it.

Q It makes dust when you work with it?

A Uh-huh.

Q Now you used all those materials on this Aber Company job at Gulf States between September of '61 and January of '62; is that correct?

A Uh-huh, I imagine right around that time.

Q And that was after Dr. Jones told you to quit messing with it, wasn't it?

A Well, it might have been.

Q All right, then Mr. Stephenson says here in this suit that he filed for you that from March, 1962 to May, 1962 you worked for the Aber Company at the Gulf Oil Plant in Port Arthur as an insulator.

A Uh-huh.

Q Do you remember that?

A Uh-huh.

Q Did you work there?

A Yeah.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 69 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/69

Q And you came in contact, he says, "with the following materials: Kaytherm" --
A There was a lot of foam glass on that job, I remember that.
Q -- "Overkote, Unibestos" --
A Uh-huh.
Q Did you use that on that job?
A I don't know if I used any Unibestos on that job or not. I know we had a lot of foam glass now. I can't recall all the jobs and what we used on every job.
Q On that job the things you were working with made dust and you breathed it in and it went in your lungs, didn't it?
A Uh-huh.
Q All right, then next he says that during the year 1962, apparently after May, after you left the Aber Company at Gulf Oil, you went to work for Sabine Insulation Company at the Firestone Plant here in Orange.
A Uh-huh.
Q Do you remember that?
A Uh-huh.
Q Did you work there?
A Uh-huh.
Q And also at the Levingston Shipbuilding Company?
A Yes, sir.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 70 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/70

Q And you used Calcium silicate -- what is that?
A Well, the same thing as Calo or Kaytherm -- all of them -- that's just another company that makes them with another name to it.
Q But you don't know who makes it?
A No, I don't.
Q Probably different companies make it, don't they?
A No, whatever -- Kaytherm is manufactured by one company. Like Calo is manufactured by one, but which is which, I don't know.
Q And what is mineral wool insulating cement?
A That is --
Q Is that cement that you bind it with?
A Uh-huh.
Q What did you do, pipe work on that Levingston, or what kind of work did you do at Levingston?
A Well, at Levingston I don't recall. I believe we had covered some mufflers though, I'm not sure.
Q And also during the year 1962 you went back to work for Armstrong Contracting and Supply, didn't you, at the Firestone Plant in Orange?
A That's where I went to work at -- the last work that I can recall is over there.
Q This is in '62. This is way after you had been to Dr. Jones.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 71 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/71

A Way back in '62 -- now, wait a minute --
Q I'm just going by what your lawyer put in your petition here.
A Now, wait a minute -- I'm trying to think too. Like I said, I didn't keep no record on none of this, but I'm trying to think. I thought I had worked at Firestone once for Armstrong. Well, I can't say on that because --
Q Mr. Stephenson must have got this information from W-2 Forms you gave him or checking their records or something --
A Like on them dates, I might say "yes" on some things, some dates, but really and truly, I can't say on no date because I don't know from one time to the next what company I've worked for.
Q Well, do you remember in 1962 you worked for Johns-Manville Sales Corporation at the Bridge City Power House in Bridge City?
A I remember working for Johns-Manville at the Bridge City Power House.
Q Do you remember working there in '62?
A Well, I wouldn't say that's the date either, as far as that, but I remember working for them on different jobs, but the date I don't know.
Q Well, if it was in '62 --
A I might have made a mistake a while ago on them

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 72 of 90 asbestosclaims.law/library/10792/72

dates because I -- like I say -- I can't recall them dates. If I would be that smart to keep up with them dates, I wouldn't be covering pipe like I've did -- I would have kept me a record of it.

Q Well, let's go on a little bit further and we will get a little closer down to now --

A Yeah.

Q -- and maybe you will remember the dates. Do you remember in 1962, between June 11 and June 15th, four or five days, you worked for B & B Engineering at the Big Three Welding Plant in Orange?

A Uh-huh.

Q Do you remember that was in 1962?

A Well, I don't know whether it was 1962, but I remember doing that job.

Q Do you remember doing a job in November 30, 1962 to January the 18th, 1963 at the Aber Company, Gulf States Power Plant in Bridge City?

A I went there too.

Q Were you insulating?

A Uh-huh.

Q On all these jobs?

A Uh-huh.

Q You were doing regular insulating work?

A I've been insulating all my life. The only thing

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 73 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/73

I can't say nothing on is the dates because I don't know because I worked for Johns-Manville God knows how many times in my life, and I've worked for Aber -- or nothing like that, now I can't say nothing on them dates.

Q Let me ask you this: Where did Mr. Stephenson get this information about the dates that you worked on these jobs?

A Well, he might have got it -- at one time I had brought him some papers in from the Unemployment -- where the Employment sent me a copy of all them places that I've worked and how much I had made and this and that, when I filed for my unemployment. And he might have got it from some of my W-2 forms -- I mean my pay checks. I brought in a bunch of my pay checks -- pay check stubs -- here at one time.

Q Well, if he got them from those records, whatever those dates are, that would be correct?

A He got them -- well, if I give him those dates, they are on record and he got them.

Q And if these dates are correct, all of these took place after Dr. Jones told you to quit this work, isn't that true?

A Uh-huh, it could be if it's after that date.

Q In 1963 you worked for Sabine Insulation Company at the Firestone Plant and Levingston, again, in Orange; do

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 74 of 90 asbestosclaims.law/library/10792/74

you remember that, '63?

A I worked for Sabine several times.

Q All right, do you remember working for B & B Engineering at the DuPont Plant in Orange in 1963?

A Well, I'll tell you, I've worked for them -- like I say, I've worked for -- at DuPont about three or four different times and for short whiles at a time, and all the rest of them, it's just going back and forth all the time to where -- I don't know the dates. If you would just call out the name of the company and what job I would come closer to remembering, but as far as knowing what product they used at that time or this and that, you can't say because I might work for Johns-Manville today and use, say, one material, and maybe next week I would go back with Johns-Manville on another job and it might be another stuff that they wanted used. It might be a cold line and it might be a different material.

Q Here is one you ought to remember -- do you remember in July and August of '63 working for Insulation Engineers at Pascagoula, Mississippi?

A Yeah.

Q Is that the only time you ever worked in Pascagoula?

A Yeah.

Q You did asbestos work there?

A Yes, sir.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 75 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/75

Q Do you remember using magnesium?
A At Pascagoula we used a heck of a lot of it . We built that there -- I don't remember the name of that plant now. It was a new plant we built. We was on strike at the time over here or something -- I don't know what was wrong and I went to work over there.
Q Did you have to go to any doctor while you were over at Pascagoula?
A No, sir.
Q All right, then, do you remember in '63 also working for the Triangle Insulation Company at the Houston Chemical Plant in Beaumont?
A Houston Chemical, uh-huh.
Q You were doing insulating work?
A Uh-huh.
Q Then in January of 1964 you worked for the B & B Engineering & Supply at the Big Three Welding Company plant in Orange --
A Uh-huh.
Q -- do you remember doing that?
A Yes, sir.
Q And in 1964, the Triangle Insulation Company at the Houston Chemical Plant in Beaumont again -- 85% magnesium, do you remember that?
A I believe I worked at Houston Chemical one time.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 76 of 90 asbestosclaims.law/library/10792/76

I don't remember twice.

Q You were working for Triangle Insulation at the Houston Chemical Plant --

A Yeah, uh-huh, I know.

Q Then do you remember working in 1964 for Industrial Insulation Company at the Jefferson Chemical Plant in Port Neches?

A Yeah.

Q In 1964 --

A Yeah, I remember that job.

Q -- that would be three years ago.

A I remember that job.

Q And that was in 1964?

A Uh-huh -- well, I don't know if it was in 1964, but I remember the job.

Q And in 1964 you also worked for the Sabine Insulation Company at the Firestone Plant in Orange and Levingston, again, do you remember that?

A Well, I can't say I remember because like I said before, it's so much back and forth I can't remember from one time to the next.

Q All right, here is the last one -- in 1964 you worked for Johns-Manville at the Gulf States Power Plant in Bridge City; do you remember that job?

A Yeah.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 77 of 90 asbestosclaims.law/library/10792/77

Q Doing insulation work?
A Part of the time and part of the time I was foreman on the job.
Q Now on all of these jobs -- did you hire out of the Union Hall; is that the way you get your work?
A No, sir -- well, some of them do, but myself -- my record always spoke for myself -- I would go and find out where the job is at and all I've got to do is call the man and tell him I wanted to go to work and I'd go to work on any job. I never did have no trouble. A lot of people, if they've got to come in through the Local, they would never get a job.
Q Did you have to take physical examinations now before you went to work on any of these jobs?
A Sir?
Q Did you have to take a physical examination before going to work on any of these jobs?
A No, sir, we never have to have no kind of examination in my life to go to work no where.
Q All of these jobs, I guess you would draw union scale?
A Yes, sir.
Q Now what is the last job you did as an insulator?
A Well, the last one is what I'm doing right now.
Q Well, you've told us about that. Now before the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 78 of 90 asbestosclaims.law/library/10792/78

one you are doing right now when is the last job that you had as an insulator?

A Well, I don't recall which was the last one.

Q Do you remember who you were working for?

A No, sir, I don't.

Q About how long ago was it?

A Let's see -- let me try to think -- I ain't got no bright memory as far as that -- I was working for B & B.

Q Whereabouts?

A At DuPont.

Q Here in Orange?

A Uh-huh.

Q And do you remember when that was?

A Well --

Q About when?

A Well, right at last Christmas.

Q Last Christmas?

A Uh-huh.

Q Doing insulating work?

A Well, I was in the shop fabricating.

Q Fabricating?

A Uh-huh.

Q What kind of material?

A Canvassing -- just putting rags on the fittings that they were shipping to Chattanooga.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 79 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/79

Q Were you exposed to any dust or anything like that?
A No, sir. I was off to myself at a table.
Q When is the last time you've been to a doctor?
A I was at Doctor -- last week I believe it was or the week before last.
Q Dr. Greco?
A Uh-huh.
Q Was that just for a check-up, or what?
A Yes, sir, for a check-up and my cold. I keep a cold all the time.
Q When is the last time you had to go to a doctor for a treatment of this chest condition?
A There ain't no sense in me spending money going to no doctor for that when they tell me they can't do nothing for me.
Q Who told you that?
A Dr. Jones told me there was nothing that could be done for me.
Q How many times have you seen Dr. Jones, just one time?
A One time.
Q And that one time was back there in 1961?
A Whatever date it was.
Q Whatever date it was?
A Uh-huh.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 80 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/80

Q And of course he's the doctor that told you to quit working around this stuff?
A Uh-huh.
Q And --
A I have even had X-rays sent to Washington, D. C. to a lung specialist over there.
Q It was New York, wasn't it?
A Well, somewheres up in there. It's our International doctor. If there was something I could do for my health, I would sure do it.
Q Did you ever do any sandblasting?
A No, sir.
Q The job you are working at now, what is your wages?
A Four, eighty ($4.80).
Q An hour?
A Four, eighty-five ($4.85).
Q What?
A Four, eighty-five ($4.85).
Q How many hours a day do you work?
A Eight.
Q How many days a week?
A Five. Well, it depends on -- I don't work that often -- last week I worked three days. I just work when I feel like it. I worked three days last week and this week all I worked was three days. Next week I might work

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 81 of 90 asbestosclaims.law/library/10792/81

two days or I might make five, it depends on how I feel. It ain't no work to it, what I'm doing now, as far as that.

Q Did you tell us who you are working for now?

A Sabine Insulation.

Q Sabine Insulation?

A Uh-huh.

Q What job?

A Paper mill.

Q Out at Echo?

A Uh-huh.

Q That's Owens-Illinois?

A Uh-huh.

Q How long have you been working there?

A I've been there about, roughly I'd say, oh, about three or four months.

Q What do you do -- what's your job?

A Well, I'm just putting metal on covering -- different things around there, cut bands.

Q You mean put metal on covering of asbestos that's already been put on pipe --

A Uh-huh.

Q -- or boilers or what-have-you?

A Uh-huh, yeah, pipe -- yeah.

Q Are you working around dust?

A No.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 82 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/82

Q Well, who does this work --
A They are ahead of me -- a way ahead of me -- they have the pipe already covered. All I'm doing is the finishing -- putting the jacket on it.
Q Are you able to do that work all right?
A Well, right now I am, when I don't have much climbing to do. Like I told them, if I've got to climb, I can't make it. If I get up in them pipes and get caught like I did a while ago, I wouldn't come out. That's the reason I just piddle around -- as long as I can get by with it -- right around the ground.
Q You didn't have to take a physical before you went to work out there?
A No, sir. I ain't had a physical in my life, to say a physical, besides when I went for the Army -- for my Army examination and since my health started getting bad. I ain't been sick a day in my life.
Q Let me ask you this: Before the first time you went to Dr. Greco, did you ever go to a doctor for your breathing or your lungs or anything?
A No. I've been a picture of health, as far as my health. I ain't never had no trouble. There ain't a doctor in the world that can say they treated me for any kind of sickness. That's what is such a great disappointment to me, I thought by gosh I could work until I was

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 83 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/83

sixty-five and then retire, and when it hit me like it did, like a cyclone, before I knew it -- I would have saved my money up years ago so I could have something for today, but I thought I had plenty of time to do it.

Q Two or three other little matters, Mr. Tomplait -- since 1964 have you worked for anybody besides Sabine Insulation out here on this Owens-Illinois job?

A Well, I've worked -- like I say, I've worked for Sabine Insulation and B & B out there with DuPont.

Q Is that since 1964?

A That's been since last Christmas.

Q Oh, yeah, that's last Christmas.

A Uh-huh, and before that I hadn't worked -- before I started back to work I hadn't worked in about two to two and a half years.

Q Now this job at DuPont for B & B, what kind of work did you do there?

A Well, I was working at a table putting canvas on covering.

Q Yeah. And how long did that job last?

A Oh, I was over there, oh, I'd say about three or four months.

Q Then as I understand it, since you settled your compensation cases, that is the only two people you've worked for?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 84 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/84

A That I recall.
Q And that is B & B and Sabine Insulation?
A Yeah, B & B and Sabine.
Q All right, now since you settled your compensation cases have you been to any doctor for any reason at all except Dr. Greco for a cold a week ago?
A No, sir.
Q You have not been to any doctor?
A No, sir.
MR. RIENSTRA: That is all.

RE EXAMINATION

BY MR. WELLER:
Q Did Social Security have you examined by some special doctor?
A No, sir, I brought them all my findings in from Dr. Leary, Dr. Lombardo and Dr. Jones -- I brought that to Social Security and they took it from there.
Q All right, now, since you have been working, is your Social Security suspended while you are working?
A No, sir.
Q You continue to draw?
A They give me a nine months trial period.
Q You still draw your full Social Security --
A Yes, sir.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 85 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/85

Q And you are working and have been working four months one place and about four months or five months at the other place --
A Uh-huh.
Q -- and making Four and a Half ($4.50) an hour --
A Yes, sir.
Q -- and you are still drawing Social Security?
A Yes, sir.
Q When you were working for Combustion Engineering, do you claim that you got any injury on their job, any specific date, time or place or anything?
A Combustion Engineering?
Q Yeah.
A Let me see where that was at -- let me think about that a minute.
Q Did you ever work for Combustion Engineering?
A Well now that Gulf States job was Combustion Engineering, but we was working for these other companies.
Q Well, did you get any injury on that Gulf States job?
A You see, Combustion was the people doing the contracting, and all of our work is sub-contracted.
Q All right, in Paragraph 25 of your Petition you allege that during the year 1962, the exact dates being unknown, you worked for Johns-Manville Sales Corporation at

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait
ACL Doc 10792 · Page 86 of 90
Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/86

the Bridge City Power House in Bridge City -- now do you contend that you got any injury on any specific date out there that you can tell us about?

A Not that I can recall now.

Q There wasn't anything specific or unusual that happened on that job that you can point your finger to, is there?

A No. On that job I remember one time that I stumbled and had hurt my -- sprung my ankle, like, but there wasn't nothing to that -- there wasn't nothing to it.

Q All right, in Paragraph 36 of this Petition you allege that during the year 1964 you were also employed by Johns-Manville at Gulf States Power Plant, and do you recall any unusual occurrence, any specific injury, at that time?

A No.

Q That is true about all of these complaints and every company, isn't it?

A Yeah. Like I say, the only thing -- I can't say nothing as to dates. Now these different jobs, I can remember the job and remember the company that had the job, but them dates I just can't remember because I worked back and forth, back and forth, so many times to where I do good to remember what I'm doing now.

Q Did you file an income tax return last year?

A No, sir -- wait a minute -- last year --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Claude Tomplait Published by AsbestosClaims.Law
ACL Doc 10792 · Page 87 of 90 asbestosclaims.law/library/10792/87

Q '66?
A Yes, sir.
Q Did you file one in '65?
A No, sir.
Q '64?
A No, sir.
Q You did file one in '63?
A I believe so.
Q Now in all of these places that you worked right up through 1964 that Mr. Rienstra called your attention to, you were subject to the same type of dust and exposure to dust as you were ever since you started working, weren't you?
A That's right.
Q So that after Dr. Jones saw you in July of 1961, you continued to do this type of work right through 1964 with full knowledge that you were subjecting yourself to possible injury?
A That's right.
Q And subjecting yourself to the very conditions that you are complaining of in this suit?
A That's right.

MR. WELLER: That's all.

MR. RIENSTRA: That's all.

(Deposition Concluded)

JO WOLAVER
SHORTHAND REPORTER
ORANGE COUNTY COURTHOUSE
ORANGE, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/88

1
2
3
4

NOTICE OF INJURY AND CLAIM FOR COMPENSATION
Texas Workmen's Compensation Law

My Full Name Is _____ Social Security No _____ Age _____
(FIRST) (MIDDLE) (LAST)

My Employer Was Houston Contracting and Supply Co., 7[illegible] (NAME) [illegible] (ADDRESS) [illegible]

I Was Injured on First distinct manifestation of occupational disease in July, 1961 (MONTH DAY YEAR) in Orange (CITY) Orange (COUNTY) Texas (STATE)

Were You Hired in Texas? Yes If Accident Occurred Outside Texas, On What Date Were You Transferred to State Where Accident Occurred? (MONTH DAY YEAR) Did You Work In Texas For This Employer Before Being Transferred?

I Was Working 5 Hours per Day 5 Days per Week at $ 4.25 per (HOUR DAY WEEK MONTH)

My Average Weekly Wage Was $ 170.00 How Long Had You Been Working For This Employer? Approximately nine years

Were You Paid Wages for Date of Injury? ___ ___ ___ I Started Losing Time On (MONTH DAY YEAR)

Are You Now Receiving Compensation? _____ Have You Been Paid Any Compensation? _____ If So, How much per Week? _____ For How Many Weeks Have You Been Paid? _____

Have You Returned to Work? _____ If So, On What Date? (MO DAY YR) _____ At What Wage? (HOUR DAY WEEK MONTH) _____

Describe Accident and Your Injury (in your own words) Injury to my body caused by asbestosis and silicosis causing severe external and internal injuries, including pulmonary fibrosis, restrictive ventilatory defect, and [illegible] desaturation.

Was Any Part of Your Body Amputated? No If So, Name Member and Give Point of Amputation _____

Were You Sent to a Doctor or Hospital By Your Employer or His Insurance Company? _____

PLEASE GIVE AS MUCH OF THE FOLLOWING INFORMATION AS YOU HAVE

Name and Address of Doctor Dr. T. R. Jones, 1508 Memorial Professional Building, Houston, Texas

Name and Address of Hospital _____

I Was Hospitalized From _____ To _____

Name of Employer's Insurance Company _____

Wife:

Name and Address of Nearest Relatives _____

I hereby give notice of injury and file claim for compensation due me under Workmen's Compensation Law of Texas

I REQUEST THAT THE INDUSTRIAL ACCIDENT BOARD CHECK ONE

☐ Not Take Further Action Until Requested by Me

☒ Act on My Claim as Soon as Possible.

Date Signed _____ Signature of Injured Employee Claude J Tomplait

WITNESS TO SIGNATURE _____ STREET ADDRESS _____

CITY AND STATE _____

THE STATE OF TEXAS :

COUNTY OF ORANGE :

I, Jo Wolaver, Official Court Reporter in and for the 163rd Judicial District Court of Orange County, Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the above and foregoing answers of the witness, CLAUDE J. TOMPLAIT, to the questions as indicated were made before me by the said witness, after said witness had been first duly cautioned and sworn to testify to the truth, the whole truth, and nothing but the truth, and the same were thereafter reduced to typewriting by me; that the above and foregoing deposition as set forth in typewriting is a full, true, and correct transcript of the proceedings had at the time of taking said deposition.

I further certify that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of any counsel employed by the parties hereto, or financially interested in this Action.

WITNESS MY HAND this 29th day of December, 1967.

Jo Wolaver

Jo Wolaver, Official Court Reporter,
163rd Judicial District Court of
Orange County, Texas

JO WOLAVER
SHORTHAND REPORTER
ORANGE COUNTY COURTHOUSE
ORANGE, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10792/90