68-493
bv

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

CLAUDE J. TOMPLAIT,

Plaintiff,

VS

C. A. NO. 5,402

COMBUSTION ENGINEERING, INC., ET AL,

Defendants.

DEPOSITION OF JOSEPH RALPH SHRODE

Deposition of Joseph Ralph Shrode, taken on the 30th day of August, beginning at 2:10 p.m., in the Law Offices of Messrs. Royston, Rayzor & Cook, San Jacinto Building, Houston, Texas, before Sidney Durand, Jr., a notary public in and for the County of Harris, State of Texas; taken pursuant to notice, with the signature of the witness and formal return being waived, with all objections to be reserved until the time of trial.

JERIVON REPORTING COMPANY
CA 2-9919
HOUSTON, TEXAS

Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/1

APPEARANCES

For the Plaintiff:

Mr. Ward Stephenson
Stephenson Building
Orange, Texas 77630

For Party Defendant Eagle Picher Industries, Inc.:

Mr. Ben L. Reynolds, of
Royston, Rayzor & Cook
San Jacinto Building
Houston, Texas

For Party Defendant Johns-Manville:

Mr. Gordon R. Pate
1119 Beaumont Savings Building
Beaumont, Texas 77701

For Party Defendant Owens-Corning:

Mr. John D. Rienstra
707 Beaumont Savings Building
Beaumont, Texas 77701

For Party Defendant: Pittsburgh Plate Glass Company:

Mr. George E. Duncan
Beaumont Savings Building
Beaumont, Texas 77701

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 2 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/2

JOSEPH RALPH SHRODE,

a witness called by the party defendant Eagle Picher Industries, Inc., being first duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Pate

Q Would you give your full name, please, sir?

A Joseph Ralph Shrode.

Q Mr. Shrode, my name is Gordon Pate and I represent one of the defendants in this lawsuit, Claude J. Tomplait versus Combustion Engineering, Inc., et al. And I believe you have been subpoenaed up to Mr. Reynolds' office this afternoon to give your deposition in this case. Is that correct, sir?

A That is correct.

Q Now, if you will, Mr. Shrode, speak out in a clear and distinct voice and we will move out much faster. Will you do that?

If you do not understand any of my questions, will you tell me before you answer them?

A Yes, sir.

Q All right, sir. Have you ever testified in court, Mr. Shrode?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 3 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/3

A Yes, sir.
Q And so you know generally what this procedure is about, is that correct, sir?
A Yes.
Q All right. Mr. Shrode, where do you live?
A 2220 Camille, C-a-m-i-l-l-e.
Q Is that --
A Pasadena.
Q Pasadena?
A Texas.
Q All right, sir. And how long have you lived at that address?
A Approximately seventeen years.
Q All right. And how old a man are you?
A Forty-nine.
Q Where are you originally from?
A East Texas.
Q Where in East Texas?
A Hopkins County, Sulphur Springs, Texas.
Q How long have you lived in this area?
A In this area, you mean Houston area?
Q In Harris County we'll say.
A In Harris County, about eighteen years.
Q All right. What is your educational background?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 4 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/4

A I finished the tenth grade.
Q In Hopkins County, Sulphur Springs or --
A No. Yes, it was, it was in this vicinity, In Hopkins County.
Q What did you do, quit school then?
A Yes, sir.
Q Go in service or what?
A No.
Q What did you do?
A I went to work.
Q Doing what?
A Farm work at that time.
Q Farm work?
A Yes, sir.
Q And how long did you follow that?
A Not long, till I reached eighteen.
Q What did you do when you reached eighteen?
A I went to Dallas, Texas.
Q Went to work in Dallas?
A Yes.
Q Doing what?
A With a drilling concern.
Q How long did you follow that type work?
A Until 1942.
Q 1942. What did you do then?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 5 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/5

A I came to Orange, Texas, went to work in the shipyard.
Q Is that at Livingston or --
A Consolidated.
Q Consolidated Steel. What type of work did you do at Consolidated Steel?
A Well, I actually was not working for Consolidated, I was working for an insulation contractor who was subcontractor on the project there.
Q All right. Is that -- let me find out a little more about that. That's the first insulation work that you did, in Orange?
A That's correct.
Q You had not done any insulation work prior to that, correct?
A No, sir.
Q That was in 1942?
A Yes, sir.
Q Now, who did you go to work for?
A Asbestos-Magneta Materials out of Chicago.
Q All right. Did you go to work as an apprentice or what?
A Yes. As an apprentice.
Q As an apprentice. And they were doing

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 6 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/6

subcontract work for Consolidated Steel on the ships that were being constructed there, is that right?

A This is correct.

Q And how long did you work for this company out of Chicago?

A I'm going to have to estimate this.

Q That's all right.

A I would say approximately two years.

Q All right, sir. Did you join the asbestos workers union at that time?

A Yes, sir. I joined, not at first, I joined in -- well, my registration number was recorded in May of '44.

Q Now, you worked for two years before you joined the union, is that correct?

A Yes.

Q All right, sir. And what local did you join?

A Local 22.

Q That is the Houston local I believe?

A Yes.

Q And they have overlapping jurisdiction with the Lake Charles union?

A Well, at that time all of it was Local 22.

Q Even Lake Charles?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 7 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/7

A Lake Charles and Orange were included in the jurisdiction at that time.

Q Briefly tell me what type of work you did for that two-year period there.

A Well, I was distributing materials part of the time and part of the time I was applying.

Q All right. And was that as a mechanic, is that what you call it?

A Part of the time when I was applying them. I started as an apprentice and graduated to mechanic's rate.

Q All right. Did you work in the ship, in confined areas or were you working in the shop?

A No. I was -- well, both, I worked in the shop part of the time and part of the time I was on the ship.

Q All right. You recall now what type of materials you were applying or installing at that time?

A Yes. There were various types: 85 per cent magnesia -- we were building some removable fittings out of a cloth and amosite, some cork, vegetable cork, trade name of Aircel, I don't recall who was the manufacturer of it.

Q Do you recall the manufacturers of any of these

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 8 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/8

materials?

A Some of them. Of course, they bought material from various manufacturers.

Q All right, sir.

A I don't recall all of them, I recall some of them.

Q Let me ask you this, back there did you have any dust problem installing or applying these products at that time?

A Yes.

Q Where did you have these dust problems, in the confined area down in the hold of the ships or where did you have them?

A Yes. In any confined area, in the hold of the ship, compartment of the ship and also in the fabricating shop, we had dust problems.

Q All right. Let's take the fabricating shop. For instance, what did you use or what was used, if anything, to control your dust problem?

A The only thing that we had at that time was exhaust fans, they did have a few of those installed in the walls of the building to dispel some of that.

Q How about down in the holds of the ships

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 9 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/9

themselves, what did you use?

A Well, sometimes we had blowers that were directed into the holds. But actually all it did was circulate the air, didn't dispense it.

Q What causes that dust anyway?

A What causes the dust?

Q Yes, sir.

A Cutting and beating the different type of materials.

Q And the materials I take it come with a -- what was it, a wrapping or cloth on them, what do you call that?

A Some come with a canvas jacket, certain material, pipe covering, would come with a jacket covering on them. Different weights --

Q Well --

MR. STEPHENSON: Let him finish. I think you inadvertently cut him off.

A (Continuing) Some of them, depending on the material, for instance, cork had no -- it had no canvas jacket on it.

Q What do you refer to as cork?

A Vegetable cork at that time. This is used basically for cold installation purposes. Of course, we don't use it much any more, but at

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 10 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/10

that time we did. And there was not a whole lot used. The only place that was used was in the refrigeration room on the ships.

Q Do you know what cork is made of, what it contains?

A Yes, sir. Cork is grown in a tree farm actually. And, of course, it's processed, they peel it off, this bark, tending process, mold it into pipe covering.

Q Cork contains no asbestos so far as you know then, is that right?

A No, sir.

Q All right, sir. I take it these various products then with canvas covering over on them and so forth, created no dust problems until you started sawing and applying them to the pipes and boilers and so forth?

A Well, basically speaking this is true. Of course, you create a certain amount of dust taking them out of cartons and transporting them.

Q That would be a minimal amount I suppose?

A I would say yes.

Q Where do you -- where would you normally take those out of cartons, would that be out in the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 11 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/11

open?

A Well, this varied, sometimes you carry the carton, with several sections of materials into the ships, wherever you were applying it, in the departments, if the hole is big enough to get it in there. But basically a lot of times we would take it out at the warehouse and haul it out, different manner.

Q All right. Now, Mr. Shrode, during that two years period of time did you ever wear any kind of a respirator or face mask to protect yourself or did any of the other fellow workers wear any?

A I never did. There was a few of the fellows that did, but I would say this wasn't -- wasn't the rule. Some of them did, but most of them didn't.

Q All right, sir. Can you give me the reason why some did and why most of them did not?

A I really don't know why they didn't. I know why I didn't.

Q Why didn't you?

A Because I couldn't breathe, at least I couldn't breathe freely.

Q All right. Well, I take it then from the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 12 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/12

time you went to work as an insulator in '42, you were aware of the dust problem that was involved in working as an insulator, is that correct, sir?

A Yes. I was aware of the dust problem.

Q And did you realize that it was not good to be breathing and inhaling this dust?

A Well, I was a lot younger then, possibly realized that it was not good, but I wasn't particularly interested, I was not afraid.

Q All right, sir. But nevertheless, you really took no precautionary -- you didn't really try to wear a mask or respirator to prevent you from breathing this stuff?

A In some cases I did. Now, in working in the fabrication job I did wear a respirator most of the time due to the excess amount.

Q That's in '42?

A Yes, in '42 and '43.

Q Can you describe those respirators for me?

A They were -- actually I don't know how to describe them. They were a face mask with a filter.

Q Fit over your nose and mouth?

A Fit over your nose and mouth.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 13 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/13

Q Had an interchangeable filter?
A Had a filter.
Q Did they eliminate any dust problems?
A They didn't eliminate, but they would eliminate some of it.
Q Would you say they eliminated most of it?
A I wouldn't even say.
Q What percentagedid they eliminate?
A I -- well, I would have to guess at that.
Q Yes, sir.
A But I would say you still would inhale the smaller particles, there was no question about that, because you couldn't -- you could tell you were inhaling some of it.
Q How could you tell?
A Well, by coughing it up and, you know, during the day.
Q You were aware then that you were breathing that stuff?
A Oh, yes.
Q Now, what did you start doing in '44? I take it you left the Chicago company at that time?
A Well, I -- actually, I just left that area.
Q All right.
A And moved to the Houston area. Well, actually

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 14 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/14

I moved to the Freeport area.
Q That was in '44?
A No, no. Let me correct that. I didn't move, I went to work. Actually, when I left the shipyard I went to work at the DuPont Plant that was being constructed in Orange.
Q Why did you leave Consolidated in '44?
A Well, the job was complete.
Q They were closing down?
A Yes. They were closing down or had begun to slack off and closing down.
Q Yes. So you saw an opportunity to go to work for DuPont which was starting up about that time?
A Yes, yes.
Q What did you do at DuPont?
A At DuPont, about eighty per cent of the time I worked in the fabrication shop.
Q As an insulator?
A Yes.
Q Were you working as a mechanic at that time?
A Part of the time.
Q Who were you working for at DuPont?
A Philip Carey.
Q Philip Carey?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 15 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/15

A Yes, sir.
Q And how long did you work for Philip Carey?
A Thirty-eight months.
Q Now, did you work out in the open most of that time or in the shop most of the time?
A I worked in the shop most of the time. There were varying phases of the job, there were some times that we were working in the field. But basically I was working in the fabrication shop.
Q Were you using the same kind of materials basically at the DuPont Plant that you were at Consolidated or was it a different type?
A Well, there were some different kind of materials coming on the market at that time. I would say some of them were different, we were stillusing the 85 per cent magnesia.
Q Who manufactured that, do you recall?
A Well, there is -- oh, it depends on the -- there were several manufacturers, Johns-Manville manufactured this, so did Carey.
Q Philip Carey manufactured some also?
A Yes, sir. And I would say on this particular job we were, basically we were using Carey material, unless they just couldn't get it and

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 16 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/16

they would buy it from somebody else. And along about that time is the first experience I ever had with calcium silicate material. They used quite a bit of that on this job.

Q Did you have any dust problems on the DuPont job?

A Yes. We have always had them ever since I've been in it, we have had dust problems.

Q Well, were you aware at that time that the breathing of this dust could be injurious to your health or not?

A Well, I wasn't instructed and told how injurious it was or could be. Again, I think I might have known it wasn't good for me, but I was not too concerned about it.

Q You were younger, as you said, at that time?

A Yes, sir.

Q But you did realize there were dust problems? And you did realize that you were breathing this stuff and getting in your lungs, is that right?

A I wasn't basically interested in getting it in my lungs, I wasn't too concerned about it.

Q But you knew you were coughing some of it up?

A Oh, yes. I knew I was breathing it, yes.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 17 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/17

Q Did you wear a respirator or mask any time while working on the DuPont job?
A Yes. At certain times I would.
Q Why?
A Well, it depended on what I was doing. If I was cutting --
Q Would you explain?
A Yes. Of course, when I was running a saw, actually cutting either fittings or lagging or whatever I was cutting on the power saw, I used the water respirator due to the excess dust. It would just get so thick, to the extent where you couldn't breathe without one.
Q Would they pretty well eliminate that problem with force draft fans, pull that out?
A Well, I would say in recent years they have certainly improved the ventilation at the different fabrication shops. In some of our contracts these things would be negotiated into the contract to try to eliminate or I would say as much as possible, eliminate the dust problem. They haven't completely eliminated it, but I would say they have improved it greatly in the last few years.
Q What period of time are we talking about?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 18 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/18

A Well, I would say in the last ten years especially.
Q Since 1958 we'll say?
A Yes. Somewhere in that neighborhood I think the awareness of the danger of breathing this stuff became more acute.
Q When would you say that it really became acute, so far as you were concerned?
A Well --
Q Sometime in the '50s or what?
A Yes, sir. I would say it became acute in the early '50s.
Q What year would you say?
A I would say starting in about '51, '52.
Q All right, sir.
A Because at that time -- well, at that time I basically worked in other places than the fabrication shop. That is what I like to do, is fabricate --
Q Is it pretty well known --

MR. STEPHENSON: I hate to interrupt, but you are cutting him off before he finishes his answer.

Q Go ahead, Mr. Shrode.
A (Continuing) Well, as I say, this was the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 19 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/19

portion of the work that I enjoyed doing, basically working in the fabricating shop, if possible. It wasn't always possible, but most of the time, I would say eighty per cent of the time I did work in the fabricating shop starting about this time.

Q Now, you say it became -- you became aware of it in about 1951, did you say, Mr. Shrode?

A Yes. I became more aware of it.

Q At that time?

A Along about that time, yes.

Q Was this same knowledge brought to the attention of the other insulators about the same time?

A No. I wouldn't say that it was. They were reminded, some of them were reminded that it would be better if they wore respirators. Even at that time we didn't have a requirement of any kind to wear respirators.

Q But I take it from 1942 up to the present time the jobs that you have worked on, they have always had respirators or some type of mask available, is that right?

A Not always.

Q Can you tell me any job that you remember,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 20 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/20

where they did not have respirators or masks available?

A Oh, yes. I worked on many jobs back in the '40s and early '50s, where you couldn't get -- they weren't available unless you demanded them.

Q Did you demand them?

A Oh, yes. I don't recall a time when I asked for a respirator that I didn't get one.

Q But since what year? I take it sometime in 1950 they started making them available on all jobs?

A Yes. I think it was along in the middle '50s when -- as I say, people began to become more acute of the danger of the -- of inhaling the different fibers and dust that we use from the materials we use. I think this came about more from -- some of our people at that time were becoming affected with lung disease and it became more acute at that time for this reason.

Q About what year would you place that?

A I would place this in the middle '50s.

Q '55?

A '55 and '56.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 21 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/21

Q All right, sir. Do you know of any that were becoming affected with any lung disease at that time?
A Yes.
Q Could you give me that information?
A Well, I could possibly get you records showing in the latter part of the '50s, where some of our people were being diagnosed as having problems.
Q What?
A From breathing the different type of materials.
Q Do you know what the diagnosis was at that time?
A Yes. In some remote cases they were -- they began diagnosing asbestosis.
Q What year would you say that was, Mr. Shrode?
A The first -- the first case that I can recall that they really diagnosed, got a doctor to actually diagnose a case treated as asbestosis, I believe was in either '58 or '59.
Q Do you know who that was?
A Yes. I believe the first one -- now, there was a series along about this time, this was over a period of about two or three years, we had four or five.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 22 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/22

I did make them available.

Q Did you suggest to them that they wear them?

A Yes. I suggested that they wear them.

Q All right, sir. Now, on the Dow Chemical job did you -- were respirators available?

A In the fabrication shop, yes.

Q How about the field workers?

A No, sir. So far as I can recall there wasn't -- they weren't available in the field. Nobody wanted them, nobody was asking for them.

Q Do I understand from you then that in your opinion the dust problem is worse in the fabricating shop than it was in the field, we'll say?

A Oh, yes. It's worse.

Q Why is that?

A Due to the confined area.

Q All right. So it was your opinion people working in the fabricating shop should wear them, is that correct?

A Well, definitely so now and has been for some time.

Q For how long a period of time?

A Well, as I say, since we have been made acutely aware that some of our people are dying.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 23 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/23

Q Could you give me the name of the first man?
A Well, so far as I can recall, the best that I can recall, the first man that was actually diagnosed as having asbestosis was Ralph Anderson.
Q Is he a member of your Local 22?
A Yes, yes.
Q Is he a resident of Houston or where is he from?
A Yes. He was a resident of Houston and had been for many years.
Q Is he still living or do you know?
A No. Deceased.
Q How long has he been deceased, do you know?
A I don't recall. Of course, the records would show this in our office. I don't remember the year he died, but wasn't long after -- after this diagnosis. This was in the early '60s, I don't recall what year it was.
Q All right, sir. Now, you worked for Philip Carey for thirty-eight months on the DuPont job, you say?
A Yes, sir.
Q That would take us up through -- until '47 sometime or --

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 24 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/24

A Yes. The latter part of '47.
Q What did you do, quit that job?
A Yes. Well, the job was complete.
Q All right, sir. Where did you go from there?
A That is when I moved to Freeport, Texas.
Q Latter part of '47?
A Yes. December of '47.
Q Why did you move to Freeport?
A Well, I moved there to go to work.
Q For what company?
A Well, I worked for several different companies. This was at the Dow Chemical Plant located in Freeport. When I first moved down there I went to work for Armstrong.
Q Armstrong?
A Yes, sir.
Q How long did you work for Armstrong?
A Well, as I say, there were three or four contractors in that area or in these plants.
Q Could you give me the name of those you recall?
A Yes, sir. Armstrong, Johns-Manville, Precision Insulation.
Q Precision Insulation?
A Yes. Seems there was another one, but I can't recall. Mondite Cork, they were Mondite Cork

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 25 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/25

at that time; since then they have been bought out by Baldwin-Ehret-Hill.

Q All right. Were you doing basically the same type insulation work at Dow that you were doing over at the DuPont Plant in Orange?

A Yes, basically.

Q How long did you stay at Freeport, on the Dow Chemical Company job?

A Stayed there until '51.

Q Okay. Now, did you work as a mechanic all this time or what?

A Yes. I was working as a mechanic.

Q Did you ever work --

A Foreman.

Q Did you work as a foreman?

A Yes. Part of the time I was working as a foreman.

Q Did you work as a foreman at any time on the DuPont job?

A Nothing, only shop foreman. I was in charge of the fabrication jobs.

Q While you worked as foreman on the DuPont job, did you ever instruct any of the insulation workers to wear a mask or respirator?

A No, sir. I don't ever recall instructing them.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 26 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/26

Q What years did you --
A Again, I'd say this was -- I became acutely aware of it in about the middle '50s.
Q '55 or '56?
A '55 or '56.
Q All right, sir. Now, of course, you were over at Dow Chemical in '47 to '51?
A Yes.
Q Were you or were you not acutely aware of it during that period of time?
A Not as acutely aware of it as I became later on. Of course, part of the time when I was down there, as I said, I was working in a foreman capacity, I was not actually running the equipment.
Q All right. The respirators were available in the shop on the Dow Chemical job?
A I made them available.
Q Why did you make them available?
A Because I felt that they should try to protect themselves as much as possible.
Q Did you suggest or request the insulators to wear them?
A I didn't request, but I did suggest that they wear them.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 27 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/27

Q Did you give them any reason?
A Nothing, only that from personal experience, that they shouldn't inhale that much, any more than possible, of the stuff.
Q From 19 -- where did you go after 1951?
A I went to Dana, Indiana on a job.
Q Dow Chemical job closed down I take it?
A Well, it didn't actually close down, but it slowed down. I went -- I moved to Illinois, and actually I went to work on a job in Dana, Indiana.
Q But you lived where?
A At Danville, Illinois.
Q All right. What job was that in Dana, Indiana?
A That was an A.E.C. Plant.
Q A.E.C., what do you mean?
A Well, Atomic Energy Commission Plant. The government was putting a plant in there.
Q How long did you work there?
A I stayed there about eight months, I guess, just estimating now.
Q All right. Worked as foreman or as mechanic?
A No. I worked as a mechanic.
Q That entire period of time?
A Yes.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 28 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/28

Q Did you transfer your union membership or work on a permit up there?
A No. I worked on a traveler -- we have the privilege of going into other areas as travelers and working.
Q All right. What kind of insulation work were you doing on that job?
A Well, basically the same as before. Of course, there was a lot of foamglass on this job. Of course, I had worked some foamglass on some other jobs, but there was a lot of it on that one, as well as some of the other materials that I mentioned.
Q Did you wear respirators or masks on the job up in Dana, Indiana?
A I did when -- part of this time I spent in the fabrication shop, when I was in the shop I did, yes.
Q How about when you were working outside the shop?
A No. I didn't wear a respirator.
Q Why not?
A Well, I never did like to wear one.
Q All right. Why?
A Well, I couldn't breathe.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 29 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/29

Q Freely?
A Freely with them, with respirators.
Q Was that the only objection?
A This was the biggest objection I had.
Q You could breathe, but not freely?
A That's right.
Q That was the primary objection?
A This is correct.
Q Now, after the eight-month period there where did you go?
A I went from there to Madison, Indiana, because they were reactivating a plant there.
Q Indiana, who did you work for on the Dana, Indiana job, what company?
A I don't recall the name of the company.
Q Madison, Indiana, who did you work for?
A This, again, these are foreign countries to me and I don't recall who the contractor was. It was insulation contracting, in both cases, though.
Q How long did you stay in Madison, Indiana?
A I stayed there about five months.
Q As mechanic or as foreman?
A Yes. I was working as mechanic there.
Q Did you use respirators and so forth on that

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 30 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/30

job?

A Again, when I worked, I worked part of the time in the fabricating shop, I did. When I was running a saw in the shop, I did wear a respirator, yes, sir.

Q From the Madison, Indiana job where did you go, Mr. Shrode?

A I came back to Texas.

Q That would be what year now, '52 or was it the latter part of '51?

A Well, this was -- this was probably in '53.

Q '53. Whereabouts did youreturn to in Texas?

A Well, I came back to this area.

Q Houston area?

A Yes. I hope the -- I hope the years that I give you are somewhere near correct. But that was when I came back to this area.

Q Pasadena?

A Well, I actually moved into Pasadena at that time, but I didn't -- I lived, I rented a house for a while, almost a year and then I bought my home.

Q What did you start doing when you returned to Texas in '53?

A Well, I was working on different jobs.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 31 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/31

Q As an insulator?
A As insulator.
Q Did you work on any job for any period of time?
A Yes.
Q What job?
A I can recall working on -- let's see, Petro-Tex job. I was there.
Q Petro-Tex?
A Yes.
Q Where is that?
A Out on the -- well, between here and Pasadena.
Q All right. How long were you on that job?
A I was there -- again I am estimating, I'd say right at a year.
Q What kind of insulation were you doing on that job?
A I was basically working, most of the time I was working as foreman.
Q All right. Did you all use respirators and masks on that job?
A No.
Q Why not?
A Again I can't answer that specifically, only the men, just -- just didn't want to wear them.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 32 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/32

They were available at that time.

Q They were available?

A Well, let's say this, they were available if they asked for them.

Q All right, sir. What was your next job?

A The next -- well, I went from there back to Freeport, Texas, on a job. And I was there for about eight months. And I ran the fabrication shop on that job.

Q What job was that?

A This was for Thorpe Insulation.

Q Thorpe?

A Thorpe Products. Best I can recall I was there about eight months on that job.

Q Respirators were available on that job?

A Yes, they were available in my part of the -- in the shop.

Q All right.

A Fabricating shop.

Q Okay. What about for the field workers, were they available for them?

A They were available if they wanted them, if they asked for them.

Q You continued to work as either a foreman or mechanic on up until what year?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 33 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/33

A In January, 1960.
Q All right. What did you start doing in 1960?
A I became business agent of Local 22.
Q All right, sir. Now, after the Thorpe job in Freeport, I take it you continued to work for various insulation contractors in this area up until 1960, when you were elected business agent. Is that right?
A Yes, sir. This is correct.
Q Did you work out of state at any time during that period of time?
A Yes. I am trying to recall when this was. Maybe I missed this one, I don't recall what year it was, but I made one job in Seattle, Washington. I might have missed that.
Q Who was that for?
A I don't recall the contractor -- yes, I do, too. This was for Fiberglass, Fiberglass, Inc., I believe, from the West Coast, out of Los Angeles.
Q All right.
A This was a refinery job, north of Seattle, Washington.
Q Did you use respirators and masks on that job?
A No, sir. I worked in the field on that one.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 34 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/34

Q Were they available for you, Mr. Shrode?
A Actually I can't answer that one, because I never did ask for one.
Q So you don't know?
A No.
Q Now, 1960 you were elected business agent for Local 22 and you remained as business agent how long?
A Until January of this year.
Q January of '68. And what happened January '68?
A I was appointed international organizer by the executive board and president.
Q Who is the president?
A International president, now?
Q Yes.
A Is Albert E. Hutcherson.
Q Mr. Hutcherson has been president for how long?
A Since September last year.
Q Of '67?
A Yes.
Q Now, as an international organizer are you over Local 22?
A Yes. I am at the present time, because it is under trusteeship.
Q All right. And you were appointed by the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 35 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/35

president as the -- to take over and run it?

A This is correct.

Q On behalf of the international union?

A Yes. However, this is very recent.

Q Yes, sir. All right. Now, as business agent from 1960 to 1968, did you have anything to do with the negotiation of the contracts?

A Yes.

Q All right. Now, who primarily would negotiate the contracts, would it be the --

A Well, of course, this was a committee appointed by the president of the local. Basically, it was usually the president, I mean -- yes, the president, the business agent, the secretary.

Q And --

A And anybody else that he wanted to put on.

Q And representatives of the contractor?

A Yes. This was -- also, I am speaking from our side. Now, he would appoint a committee to sit down and negotiate with a committee from the contractors.

Q Is that the trades --

A That's the association. Actually, the official name of it is Houston Insulation Contractors Association.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 36 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/36

Q That is the official name here?
A That is the people we negotiate our contracts with, yes.
Q During this period of time that you were business agent from '60 to '68, did you sit in each time on the negotiations with the contractors association?
A Yes.
Q At any of those meetings did the question of taking any safety precautions or anything ever come up during any of your discussions?
A Oh, yes.
Q Can you tell me when they were first brought up, what year?
A Well, they were brought up beginning the first time I ever sat down on the negotiating committee.
Q When would that be?
A Well, this was prior, actually to 1960, because I was president of the local.
Q For what period of time?
A I was elected president in '58. I believe it was '58, '57 or '58.
Q All right.
A And I served two terms as president.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 37 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/37

Q One year each?
A No. Two years.
Q You served a period of four years?
A Yes.
Q All right, sir.
A As president. And during that period of time I was also on the negotiating committee.
Q Have you held any other office in Local 22 prior to being elected president?
A Yes. I have held all the offices in the local except sergeant-at-arms and secretary.
Q When were you first elected an officer of Local 22?
A Boy, that was a good one. I don't know.
Q Approximately.
A Actually, I would say in the early '50s, I was elected to the executive board.
Q And being on a number of executive boards, you, of course, were aware of the various problems that the union had, and sat in on all the, I guess meetings and committee meetings and so forth?
A Yes. Of course, actually your executive board, the way our organization operates, the executive board has a monthly meeting.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 38 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/38

Q You would sit in on those?
A I would, yes.
Q And did from the early 1950s I believe?
A Pretty well all the time. There was a little gap here and yonder.
Q Mr. Shrode, let me ask you this, when did you all as a local or the executive board or committee of the union, become aware of the problem insofar as the dust was concerned?
A Well, I would say sometime in the middle '50s, when we became actually acutely aware of it.
Q Did you all start any discussions at that time?
A Yes. We had many discussions on it and even negotiated -- along about this time was when it was first negotiated into the agreement, that the contractor was required to furnish respirators or fans, ventilation equipment.
Q About what year would that be, '55 or --
A I'd say '55 or '56.
Q Did you all insert a provision in your contract about that period of time, requiring respirators and fans and blowers?
A Yes. We required that the contractor furnish these in our contract --
Q All right.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 39 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/39

A -- at that time.
Q Is that contained in your present contract?
A Yes.
Q Do you remember when your present contract was negotiated?
A Yes. It was just negotiated in July.
Q July of 1968?
A Yes.
Q Does it have such a provision in it?
A It has a provision, basically the one that was originally negotiated, has been in there ever since. And it is still more or less in the same form.
Q Do you recall, generally, what it says?
A Well, I can read it to you --
Q Good. Read it to us.
A -- better than I can recall.
Q Now, what are you reading from, so that the record will show?
A This is the memoranda -- agreement in effect at the present time between the Asbestos Local 22 and all of the contractors under our jurisdiction.
Q What is the date on it, sir?
A Effective July 1st through June 30th, '71.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 40 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/40

Q July 1st of what year, '68?

A '68, yes.

Q All right.

A Now, we have actually changed the wording a little bit in this safety clause, as we call it, which is Article 14 in this agreement.

And I am reading a part of it, I think the part that you want to hear is -- it says:

"Employer shall furnish gloves on foam-glass jobs and on jobs where metal lath backed insulation is used: Saws on foamglass jobs, and fans or blowers for ventilation in attics or skirts of towers or other locations when needed, such as fabricating shops where power equipment is being used."

Now, basically this is the only thing so far as safety equipment that it covers.

Q Now, that does not say --

A Yes, sir. There is. As I say, there is some other wording here that we feel is broad enough. And this is this part of it, "Safety rules and regulations of any plant or facility where employed, shall be complied with at all times. Adequate safety equipment must be furnished by the employer for employees'

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 41 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/41

protection and used as directed. Questionable safety measures shall be referred to the Joint Trade Board."

Q Anywhere in there cover the use or furnishing of respirators or masks?

A Yes. We claim this is the article that covers this.

Q Was respirators specifically mentioned during your contract negotiations?

A Yes, sir.

Q What was that discussion, do you recall?

A Well, yes. They agreed that they would furnish respirators to all of the men if they wanted them.

Q How long has that agreement been in effect?

A Well, of course, this one has been in effect a very short time.

Q I know it. But I am talking about the general agreement that they furnish adequate safety --

A I think this has been in here and again, I am just guesstimating, I would say that has been in there since -- at least since '58.

Q Since 1958?

A Yes.

Q And have all the jobs that you have come in

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 42 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/42

contact with since 1958, have they made respirators or masks available?

A Yes, they have. They have had them available of a sort, yes.

Q All right. Now, what do you mean there, "of a sort"?

A All right. Of course, there has never been any agreement, there has never been any agreement reached on the type of respirator that they would furnish. Basically, since we have had this clause they have made available for the men in the field, and this is basically what I am talking about now, a very simple face mask, a little flexible mask.

Q Little white deal?

A White flexible face mask that the men can use. However, in the fabricating shop now, they will furnish a respirator, which in my opinion is much better.

Q Describe it for me, will you?

A It is the type that I have already referred to with the removable filter.

Q Do you recall the name or manufacturer of any of --

A No. I don't know as I can recall the name of

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 43 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/43

any manufacturer.

Q Is that the one that looks sort of like a gas mask?

A Yes, sir. It's what it reminds me of. And it's just about as easy to breathe through as a gas mask.

Q But that pretty well takes care of the problem I take it, is that right?

A Well, let me say it this way: It takes care of a lot more dust than the little flexible dust mask does.

Q You would certainly recommend they use, an insulator use that one, would you not?

A I would highly recommend it.

Q Why would you highly recommend it?

A Due to the concrete knowledge that we now have.

Q And have had since when?

A Well, we have had actual real concrete evidence, I would say, since '60.

Q All right.

A Or '61.

Q But you were aware of the problem long before that?

A Yes, sir. I was aware of the problem, I

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 44 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/44

think many of us were, maybe not all of us, but many of our people were becoming more aware of it in the latter part of the '50s, due to some of our people dying with lung cancer.

Q Now, I have been referring to the insulators as field workers and fabricators, is that a pretty good breakdown or how do you classify them?

A Well, yes. This is -- basically you have, I would say a smaller percentage of men working in the fabricating shops.

Q The rest of them are what?

A Well, the rest of them are out in the field.

Q Is this a field worker, is that the correct way to refer to --

A Well, field worker would be all right I think, on the industrial jobs, because they are out in either a refinery or chemical plant.

Q Let me ask you this question, Mr. Shrode: It seems to me like that your primary problem starts when you start sawing these various materials, that is when your dust is created, is that right?

A Certainly this creates dust.

Q All right, sir. And the products themselves

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 45 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/45

are fine, except when you start to either breaking them or sawing them or cutting them to put them on the pipes or whatever you are installing them on?

A Well, I don't think they would be dangerous sitting still, no.

Q Now, that is my point, so long as you don't --

A So long as you don't pick them up and start beating on them, sawing them or cutting them.

Q If the product came to the job prefabricated, already fabricated to the correct length, size and bend and so forth, you wouldn't have to do any cutting, would you?

A Well, this is correct if this was possible, which it is not.

Q All right. Well, let's just suppose for a minute here that these materials could be prefabricated to various lengths, size and with the bends in them and so forth, to eliminate all this cutting out here in the field where you are bringing them, would that not eliminate about ninety-nine per cent of your dust right there?

A So far as applying them in the field, yes. But this still comes under the act of

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 46 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/46

prefabrication of raw materials.

Q Now, I am talking about field workers, so far as the field workers are concerned. If this was done before they were sent out in the field to be applied, you would eliminate your sawing and cutting out there in the field, wouldn't you?

A Well, again I say, that you would eliminate some of it, but I can't see that. This could be, possibly so.

Q Could you explain to me why it would not?

A Well, yes. There would be no way that you could prefabricate everything that goes on a job.

Q Could you not prefabricate much more than is at the present time?

A Well, I doubt this very seriously, because, any more, because we do fabricate everything that we can in the shop.

Q All right. Let me ask you this. Have the men refused to install materials which were prefabricated?

A Have they refused to?

Q Yes, sir.

A Yes, under certain circumstances.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 47 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/47

Q And why?
A Because we claim the fabrication of all materials to come under our jurisdiction. And in some cases -- we have had cases where materials were bought and sent to the job pre-fabricated and we have refused to apply.
Q All right, sir. Now, let's put that aside for just a second, I mean, but taking those prefabricated materials that already had your joints in them and bends in them and so forth, required no sawing or cutting, you have little, if any, dust problem involved in installing those, don't you?
A Well, you have some, because there is a certain amount of fitting and --
Q Sure, when you get --
A -- snubbing and beating on them to get them to fit together.
Q All right. Of course, when you come to a hanger or dog, you have to cut a notch out for the hanger?
A Yes.
Q But other than that you'd almost eliminate your cutting and sawing, wouldn't you?
A Well, I don't think you would ever eliminate

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 48 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/48

it, because again, as I say, I don't think there would be any way that you could pre-fabricate all your pipe covering, all of your blocks because of the irregularity of the different lengths of pipes and different sizes of conventional fittings and what-have-you.

Q Do you all instruct your union steward on the job to see that these men wear respirators or take any safety precautions whatsoever?

A We suggest.

Q Now, when you say "we," who do you mean "we"?

A Well, I strongly urge all of our people to take precautions.

Q Where do you do that, in a union meeting or what?

A Yes. In the union meetings and also through the steward and foremen.

Q Have you been telling them this for some period of time?

A Yes. I've been telling them this for quite a period of time.

Q Tell me approximately how many years.

A Well, about, specifically since I've been business agent, I felt I was in a position to tell them.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 49 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/49

Q Since 1960 --
A Yes.
Q -- you've been doing that. The business agent has more authority than the president does I take it?
A Well, this becomes a basic arguing point, but, yes, this is true. The business agent of your local union in our organization, this is the office.
Q Incidentally, did you attend the convention in Chicago in September, 1967?
A Yes, sir.
Q And did you hear the various speeches there by Dr. Silicoff and seeing some of the films?
A And slides of his investigation of lung problems among our people, who was, in 1962 --
Q Where was that?
A That was at the national convention that we held in Atlantic City.
Q Now, is he employed by you all's international or what are the facts?
A No. He is -- he has -- he is not employed by us, no.
Q Is he --
A He has done much research, not only for our

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 50 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/50

organization but for the public as well.

Q What did he tell you in 1962?

A At that time he really emphasized the danger of the materials that were being used in our business and the effect that they could have on our people.

Q What did he tell you to do, so far as safety precautions or safety measures were concerned?

A He told us to protect ourselves to any extent that we could.

Q How?

A By trying to get better ventilation where it was needed.

Q Wear respirators?

A Wear respirators at all times. He suggested that we --

Q At all times?

A -- that we try to emphasize that they should wear them.

Q Any other suggestions or recommendations?

A Well, of course, this was the basic theme. And he also cautioned us on many other things, that he felt were connected with this, as well as inhaling the dust.

Q Go ahead.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 51 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/51

A Well, this was when I -- of course, I had been aware of this as I said before, I had personally become acutely aware of the danger of inhaling so much of this dust. But I certainly became more acutely aware after seeing and hearing him and seeing the evidence that he had at the time, that had been created.

Q Then do you -- are you telling me, Mr. Shrode, that you worked -- in insulation from 1942 on up through 1962 before you really became acutely aware of the problem?

A I believe I stated earlier that I became aware, acutely aware of it in about the mid-'50s.

Q In about '55?

A Yes, sir. But I became more acutely aware of the danger after seeing the evidence that he had.

Q When did the file and rank of union members become aware of it?

A I don't know that they are all acutely aware of it yet. They are much more aware of it now than they have been.

Q You are trying to bring it home to them in your local meetings?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 52 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/52

A Yes, sir. Very much so. And other people all over have tried to make them become more and more aware of the danger.

Q How many members do you have in Local 22?

A Well, I am increasing it right now. I would say approximately six hundred.

Q Yes. And you have increased this weekly?

A Yes. I am increasing -- well, I have increased it.

Q How many?

A For the last three or four weeks.

Q How many have you increased it, sir?

A I'd say fifty in the last month.

Q Excuse me just a minute, Mr. Shrode.

I take it that a shop worker primarily cuts the materials to various lengths and sizes, is that correct, sir?

A Well, basically what he does is cut fittings. When I say fittings I am talking about tubing, turning, bending and beveling, lagging, to fit different types of vessels.

Q All right, sir. What does a field worker do?

A Well, he applies these --

Q Can you tell me --

A -- materials.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 53 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/53

Q Can you go into a little more detail so far as a field worker is concerned, what are some of the jobs that he does and so forth?

A Well, we can kind of break it down. When he is putting on pipe covers, covering the pipe, this usually comes in sections of three-foot lengths. Well, this varies in different types of material, but basically I would say the three-foot length, to fit the pipe size, whatever size pipe is used. And, of course, after you reach the larger sizes, why, then you have to -- they don't mold them, they come in sections, segments.

So he applies these segments or sections on the lines. And, of course, when he comes to the tee or --

Q How does he do that, Mr. Shrode?

A How does he apply it?

Q Yes.

A Well, basically, these materials, as I say, up to the larger size, these come in two halves.

Q All right.

A And he puts them face to face, either bands them, wires them or attaches them, a fastener on them --

Q All right, sir.
A -- to hold them in place. And when he comes to the different types of fittings, usually these are -- and I say usually now this is true, it didn't use to be but it is now, more and more becoming true, these are always made in two halves, the tube turner, bends and different types of fittings. Now, this is basically what he does on pipe covering.
Q Well, now, he does, really, very little sawing, doesn't he?
A He does quite a bit of sawing, because of the different lengths of pipe. He will -- again, he is still working from a three-foot section.
Q Is that the longest section that they come in?
A Oh, no. Some material will go up to eight feet, but it depends on the type of material.
Q All right. That is pipe covering. What else, what about boilers?
A Well, let's talk about vessels.
Q All right.
A Different types. Basically this is in either lagging, bevel lagging or curved segment. Again, these are basically three-foot length. And he puts these around the vessel. And, of

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 55 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/55

course, now what you are referring to is amount of cutting that he would have to do; any protrusion that comes out of vessels he'd have to fit around this, do the best that he can.

Q Again, you don't have any dust until you start cutting off the protrusions?

A Well, I wouldn't say you wouldn't have any, you'd get some dust.

Q Wouldn't be noticeable, would it?

A Yes, sir. I would say it would depend on where you were. Of course, if you were on up in the air, on a tall vessel, why, naturally you try to stay on the wind side of this stuff and try to stay out of it if you can, but sometimes this is hard to do. But you would get a certain amount of it taking it out of the cartons that they are put in.

And then once you get a ring complete circumference, around the vessel, usually these are held in place by strapping or bands. And when you put these around, then start to tighten with your banding machine, usually they are -- they beat this material to make it fit, to make it snug up. And there is quite a

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 56 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/56

bit of dust stirred up then.

Q Well, again, as I said a minute ago, that material or that product just sitting there, it wouldn't hurt anyone until you started jostling it around or beating on it or cutting it?

A Well, if it's sitting there and not being disturbed, I don't think it would hurt anybody.

Q Right. As it comes from the factory in the carton, as it comes from the factory, so long as it is left sitting there you are not going to have any dust from it, are you?

A No. If it's sitting still I don't think you'd have much.

Q It's when you start applying it that you create your dust?

A This is basically correct.

Q Now, we talked about pipe covering and we talked about vessels. What else does a field worker do?

A Well, there is certain irregular vessels on your regular surface, so that we have to use different type of cement, troweled in place. And, of course, this usually has to be mixed with water to make it a troweling consistency.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 57 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/57

Now, there is quite a bit of dust involved in that, in mixing this stuff. There wouldn't be any dust in applying it because it is wet.

Q All right, sir. Well now, where does your mixing take place?

A It usually takes place on the ground level.

Q Does the man that is doing this mixing wear a respirator or mask?

A I don't think I've ever saw one wear one, no.

Q Would you recommend that he wear one?

A I would recommend that he do, yes.

Q What other work does a field worker do?

A Well, after he gets all his insulating material on there, we have different types of finish, he applies this, and that is the finished product, either by putting a water-proof jacketing of some type over it or in the case of fittings, why, this is usually troweled on.

Q How many insulators do you have working together, one, two or three or what is the situation there?

A Well, this gang, it depends on what type of work they are doing. Basically on pipe

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 58 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/58

covering, usually there is two that work together on this. Up to -- well, basically this is right even on large lines.

Q If you can do it with two men there wouldn't be any point in having another one standing around, would there?

A Well, I don't think you'd have any standing around.

Q In other words, if they are working, start applying the material?

A Yes. However, sometimes this can get a little congested, even though there is two working on this line. There might be two more here and two more here. I mean, sometimes it depends on the area that you are working in.

Q What about on vessels?

A On vessels, then this again depends on size, if it's a pretty good sized vessel they usually have -- what they have, what they call ring crews. You might fit a good sized vessel, say twelve to sixteen feet in diameter, you usually use about four men around this vessel to keep from doing too much running around.

Q Have you ever seen any member of the other

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 59 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/59

crafts wearing respirators, where they were working in the area where the insulators were working?

A No, sir.

Q Any particular reason why they do not?

A I don't think there is any particular reason, only usually if it's pretty congested and pretty dusty, they just get the hell out of there.

Q An insulator, he certainly knows to put on a respirator?

A Well, again, I say he should put it on, but lots of them don't, not even today.

Q They just won't do it, is that it?

A I don't -- I would say this, many more of them wear them today.

Q How can you account for that, when they know today, don't they, that there is a -- they ought not to be breathing that dust?

A Well, they have been told on many occasions that they should.

Q Yes. They are just not protecting themselves?

A That's correct.

MR. PATE: I believe that's all at this time.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 60 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/60

Do you have one of those little books that I can be looking at?

THE WITNESS: Yes, sir.

EXAMINATION

By Mr. Reynolds

Q Mr. Shrode, let me just ask you a few questions, more or less of a definition type.

What is lagging?

A Lagging?

Q Yes, sir. I'm lost.

A Actually this is -- it's a curved segment or basically lagging is -- is a mitered piece of material, mitered on both sides to fit around a circumference, with an angle on each side of it. A series of these go around the vessel to fit the circumference.

Q It's a series of flat, flat pieces that go around --

A Yes.

Q -- around this surface or curved surface?

A Yes. In order to get these you have to set your saw at an angle and run it through the saw to get this angle, correct angle so that it will fit any circumference or vessel or

pipe.

Q Now, you were talking about the different work that the men do. And one of the things that you mentioned was cement work and cement mixing. Who on the job does this kind of work? Do they have one man that usually does it all?

A No. Basically this is done by our apprentices or -- and I say basically, because not in all cases. It would depend on the job. But ordinarily these are the people that do it, the improvers or apprentices that we have usually do this.

Q Now, who is an apprentice or improver?

A Well, basically, the word means the same thing. The boys that are learning the trade.

Q These are new men more or less in the union?

A Well, we have a four-year apprenticeship program. In other words, you can serve as an apprentice four years and then he takes an examination. If he passes the examination he becomes a journeyman. It is actually a training period for these boys.

Q And they are the ones that do the mixing of cement?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 62 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/62

A Basically, this is right.
Q Then they take the mixed cement to the mechanic, is that what you all call the man that is on the job, a mechanic?
A Yes. They carry it to him and he applies it by trowel.
Q Trowel. I see. So a man that has been in the profession say as long as you have, wouldn't ordinarily be mixing cement?
A Unless he was on a small job where he would be mixing his own material or carrying his own material. We have many cases where it is a one or two-man job, you wouldn't have an apprentice on the job.
Q I see.
A But large jobs is what I was referring to, basically, the people that do it.
Q Mr. Shrode, you mentioned once or twice that this particular problem of dust on the job came -- as being a problem, came to your attention, you thought somewhere in the mid-'50s. At one point was there some particular thing that brought this to your attention, did you have a problem yourself?
A Yes.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 63 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/63

Q What is that, please, sir?
A Along about that time I became acutely aware of it due to my coughing and the trouble with my breathing. And, of course, I immediately had chest X-rays and was told that I should get the hell out of it, so much of it anyway.
Q Out of the dust?
A Yes. Well, of course, I took this to mean get out of as much of it as I could, which I immediately did. I quit working fabrication jobs along about that time and started wearing a respirator, I might say.
Q All right. Nothing like a little personal involvement to get your interest up?
A This is correct. And, of course, I also at that time began to emphasize to anybody that would listen to me that they should take precautions due to my personal involvement.
Q You mentioned Dr. Silicoff was doing research for your international, is that right?
A Yes. Not necessarily for my international. Of course, he has a seminar, really is a school or a research laboratory that -- he is doing research, not only for our international, but basically this is the way it started.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 64 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/64

Q For the international?
A For the international. But he has expanded on an overall basis now, through grants and what-have-you.
Q Your union retained him to do these studies or work?
A They have on occasion helped finance the research, yes. There is also some other areas that are being investigated along the same line. One that I can recall is the San Francisco area, they also have some -- a program of research going on in that area.
Q This is a new field they are studying, is that what it amounts to?
A Well, actually it is, basically, new insofar as the investigating that they are doing. But the amazing thing that has been found out through their research, is the period of time that it takes for the evidence of this to show up.
Q The research has brought these things to the fore, and as I understand, the basic import of what you said, you became aware of the problem in approximately the mid-'50s, but you think it's probably the early '60s before it

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 65 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/65

came to be known about generally, in your union, is that right?

A Yes. I think that, the best I can recall, this was when it really was emphasized and became more or less a project with our international, to let all of the people know in our international the danger. I think that this is probably correct, that at that time we did try to get the message to all of our people and emphasized it ever since.

Q Starting back about the time Dr. Silicoff talked in 1962, at your convention?

A I'm not sure that I am correct in saying this is the first time he ever spoke --

Q I see.

A -- to our people. But this was the first time I ever heard him speak, this was the first time that I ever heard him.

Q The first time?

A That I was present when he presented this program.

Q I see.

A Showed the slides and the effects that it had on some of our people.

MR. REYNOLDS: That's all I have at

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 66 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/66

this time.

CROSS EXAMINATION

By Mr. Stephenson

Q Mr. Shrode, I am Ward Stephenson, I am an attorney from Orange and represent Claude J. Tomplait. Do you know Mr. Tomplait by any chance?

A Yes. I know Claude.

Q Mr. Shrode, we have filed a suit on behalf of Mr. Tomplait against various defendants, among these defendants are Combustion Engineering Corporation, R & I Refractory, Johns-Manville Products Corporation, Owens-Corning, Fiberglass Corporation, Pittsburgh Plate & Glass Corporation, Fiberboard Paper Products.

Now, I want to ask your opinion whether or not this group of defendants represent substantially the majority of the major manufacturers and distributors of asbestos insulating products?

A You say the major part?

Q Yes.

A Yes. I think they would, probably. This would probably be correct.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 67 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/67

Q An Insulator such as Mr. Tomplait working in the trade for a period of twenty or twenty-five years, would you say that, without any question, he would have come in contact, either by using himself or in an area where materials manufactured by these companies were used by other workers?

A Yes. He'd have to come in contact with them.

Q All right, sir. Now, Mr. Shrode, I believe you stated that your first knowledge or the first person you knew of died in the 1960s, early 1960s, from the disease of asbestosis?

A Well, this was the first one that -- that I know of, that a doctor diagnosed --

Q Okay.

A -- as having asbestosis.

Q Did you know this gentleman personally?

A Yes, sir.

Q Did you have occasion to see him in the final stages of his disease, before he finally died?

A Yes, sir.

Q Could you state for the benefit of the jury, whether or not this is a very painful and horrible type of death?

A Very much so.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 68 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/68

Q Mr. Shrode, the two attorneys before me have been questioning you about what the unions have done concerning asbestos fibers and asbestos dust. I will ask you whether or not the manufacturers that I have named have, within your knowledge, prior to the year 1966, even put any kind of notice of the dangerous nature of asbestos dust and fiber on the packages wherein their materials were shipped or contained?

A Prior to what year?

Q 1966.

A I don't think -- I think I can answer this in an affirmative yes. I don't recall seeing any kind of warning on the packing until about that time. I am not sure of that particular year--

Q That --

A -- there. It hasn't been very far back.

Q All right, sir. Now, in your experience as a worker and as an insulator, in your various capacities with the union, have you ever known or have you ever had a representative of any of the manufacturers that I have named or the defendants I have named in this suit come to you or in your presence or attempt to set up

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 69 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/69

some safety program of application of their product, which would prevent the inhalation of asbestos dust or fibers?

A No. I don't think -- I don't think I can recall any program that was ever initiated.

Q Now, if you may assume for the purpose of my question, that one or more of the manufacturers of these products had written medical articles dealing with the disease of asbestosis in 1955 and perhaps before, was there ever any notice to your union by the manufacturers which I have named to you previously that their product was dangerous and might cause death if inhaled over a prolonged period of time?

A They never have, nobody has ever personally given me any such warning.

Q All right, sir. Now, have you ever been connected with any of the companies manufacturing or distributing asbestos products?

A No, sir.

Q Do you know of anyone that would be in a better position to know of the dangerous nature of the products, than the companies who actually manufacture it?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 70 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/70

A Well, not unless it would be a man that would be affected by it.

Q All right, sir. Now, let's assume that the company Johns-Manville manufactured asbestos insulation. Do you know whether or not Johns-Manville or any of these other companies that I have named as defendants, had any medical studies, research programs, to try to see what could be done about the very dangerous nature of these products prior to, say, the year 1962, '63 or '64?

A No. I don't know that they did before then. I think they have since then.

Q Yes. Do you know how long these products had been manufactured, that is, do you know that asbestos products had been manufactured in excess of fifty years?

A Well, of course, I can answer that this way: Not in excess of fifty years, because I haven't been around that long, but I know they have been manufactured in excess of twenty-five years, because I have been using them for that long.

Q All right, sir. During this 25-year period has there ever been any seminar or any program

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 71 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/71

that you know of conducted by any of the defendants that I have named in an effort to try and educate or train the asbestos and insulation workers in a safe method of application of these products?

A I will answer that in this way. Not prior to-- not prior to 1962.

Q All right, sir. Now, I am speaking of the manufacturers -- I believe -- well, let me ask it this way. What, in 1962, what program, if any, did any of these manufacturers have in the way of a seminar or educational instruction or otherwise, given to the insulation workers as to a safe method or manner of the use of their products?

A Well, I can't say that we have ever done this. What I was referring to is the -- along about in the early '62s, '63s, '64s, along that area they did. When I say "they," I am talking about part of the manufacturers. It is my understanding, and again, this is just hearsay, I am not -- I can't basically say that this is true. They did at that time become cooperative in trying to create a joint program of informing our people of the danger.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 72 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/72

Q Now, that was the first time, then, so far as you know, that they made any effort?
A So far as I know, this is true.
Q All right, sir. Now, if you may assume for this question that the disease of asbestosis was written about as early as the late 1800s, certainly during the early 1900s, do you personally know of any reason why the manufacturers of asbestos products waited until the 1960s before they started any program of trying to work out some safe method of application of this product, which would not endanger the lives of the workers?
A No. I don't know of any reason why.
Q All right, sir. Now, Mr. Pate questioned you rather extensively about these filters or respirators, as they were called. If you may assume for my question, that Dr. Silicoff upon written interrogatories and upon giving his testimony in this case, has stated that at this time there is no known respirator which will prevent the inhalation of asbestos fibers --
A That is correct.
Q If you may assume that question, if you don't

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 73 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/73

know it, all right.

A This is correct.

Q Do you know of any method that any of these manufacturers have suggested whereby an insulation worker can go on his job knowing that there is some safe way to install these products without inhaling the dust and fibers?

A No. I don't know of any way.

Q Now then, speaking of these respirators, I believe it's clear, but let me go over it to be certain that it is.

The respirator that you are generally speaking about is nothing more than a little paper filter?

A This is correct.

Q And what happens to that paper filter when you stand there, let's say by the saw or sawing that, how long does it take before that paper filter becomes so clogged up that you can't even breathe through it?

A Not long.

Q All right, sir. And do you know whether or not -- you've been questioned on certain medical aspects of this, that it is about as dangerous for a man to have restriction on

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 74 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/74

inhalation and exhalation, that it is to have restriction on his breathing, that this in itself can be about as dangerous to his lungs as inhalation of foreign particles into the lungs itself?

A Well, of course, I am not an expert on medical or terms. I know that this is one of the reasons I wouldn't wear one due to the difficulty in breathing.

Q Now, when breathing, does that mean both inhalation and exhalation of air through your nose and mouth?

A Yes, sir.

Q Is it also true that -- let me ask you this. Has any of the manufacturers which I named ever come out and told the union of any form of respirator, inhalator or filter or otherwise, that could be effectively used to prevent the inhalation of asbestos dust and fibers?

A Not that I know of, no, sir.

Q All right, sir. Do you even know of any program, say since 1965 or before, where the manufacturers that I have named, have even worked on trying to develop a safe type of

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 75 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/75

breathing apparatus or facility which would insure the workers' safety from the inhalation of asbestos fibers?

A No. I know of no such program.

Q Now, Mr. Pate I think, one of the other attorneys, asked you about the fact that if the product comes on the job and is not moved, would there be dust. And your answer was, well, if it was just sitting there I assume not. That was general.

But let me ask you whether or not as a practical matter, not just one that is foolish in context, I am not trying to disparage him, but when asbestos products are sent to the job site, is it necessary that the boxes be opened before they can be used?

A Yes.

Q And when you in the simple operation of opening the box, am I true in saying that you generally get asbestos dust and fibers coming up into the air and which is frequently breathed by the workers opening the box?

A Yes, sir.

Q Is there any way that you know of to use this material in the form that it comes from the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 76 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/76

manufacturers, that is from the point of opening the box on to its final use, without breathing in some of the fibers and dust?

A No, sir. I don't know of any way.

Q Okay. Now, in working, for example, Mr. Tomplait, is it very likely that he could have in many situations have been working, we'll say, with fiberglass or some other form of material, but yet work be in the same area where sawing and using asbestos products would contaminate the air with asbestos dust and fibers?

A Yes, sir. This is very possible, more than possible.

Q Now, in this suit there has been some mention made that Mr. Tomplait could not identify each and every product that he used from the time he started insulating until the time they were questioning him about it. I will ask you to state whether or not it's true that many of the products manufactured by different ones of these defendants, are very similar, if not almost identical in appearance?

A Yes. They are almost identical.

Q And would it not be very difficult, if not

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 77 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/77

impossible, for a man, let's say working in the fields with someone else, opening these boxes, bringing him the material to readily identify the name of the manufacturer of each of these materials which he was using in the field?

A Well, in some instances. Now, I don't know in all instances.

Q Well, let me change my question then to some instances.

A All right. In some instances this is correct; in other instances there might be an identifying mark on the section or covering or what-have-you. And basically, I am referring to pipe covering now that would have a jacket of some type on it. It might have a stamp or name of the manufacturer on it. But many of these materials don't have a jacket. Once they come out of the box you wouldn't be able to identify who made it.

Q All right. Now, let's say in mixing asbestos cement, is there any way this has ever been shown to you or within your knowledge by the manufacturers of these products, that you can open that sack of asbestos and pour it into the water without getting a large dose of the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 78 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/78

asbestos dust and fibers in your face?

A I have never figured out a way.

Q Has any manufacturer ever come to you or to anyone you know of and said, "Boy, don't do it this way, do it this way, it's safe"?

A No.

Q Have you ever had any say it this way, from any of the manufacturers that I have named as defendants in this suit, on the local level, have any of them ever come to you, any of their representatives and said, "Now, here we've got a system of safely using this product, it's not going to kill your members, and if you will follow it out, why, this will eliminate or substantially reduce the deaths caused by the use of our products"?

A No. Nobody ever has.

Q Now, Dr. Silicoff, I take it you know personally and certainly by reputation?

A Yes.

Q Is he considered to be perhaps one of the most oustanding men in the use or perhaps the world, in the field of respiratory diseases caused by asbestos, and asbestosis and silicosis?

A Yes. He's recognized as an expert.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 79 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/79

Q Do you know as a matter of fact and, I believe he's testified that he's working presently with the United States Government, some of its agencies, in trying to devise a respirator or breathing apparatus which will effectively limit or reduce the inhalation of fibers, or fiber producing foreign particles, into the lungs?

A Yes, sir.

Q Do you know that as of this date, whether or not any of the manufacturers that I have named have joined in and even at this time working with him and the government, trying to work out some system such as I have described, as a satisfactory respirator or inhalator?

A Yes. I know of -- I know of one manufacturer that has agreed to help financially and through buying equipment to help detect the effects of the fibers.

Q I'm speaking not so much of how to detect it, but I am speaking of prevention.

Do you know whether or not any of the manufacturers, even as of this time, are working with the government or with Dr. Silicoff or with anyone that you know of,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 80 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/80

trying to derive some safe method to use that product?

A No.

Q Have any of these manufacturers ever come to you in your union capacity or in any of your international meetings or conventions and said, said in substance to you, "Yes, the use of our product over a long, prolonged period of time is injurious to you and may cause death or may cause asbestosis"?

A No.

Q Now, when you first started in the insulating business, isn't it true that the respirator that you were talking about, this paper filter thing, is still just about the same thing that is used today?

A Yes.

Q As a matter of fact, over this roughly twenty-five years, could I safely say that so far as we know, that the manufacturers of asbestos products haven't come up with any substantial change in the type of breathing device from that which you used when you first started in the trade?

A That is correct, so far as I know.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 81 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/81

Q Now, Mr. Pate mentioned to you about prefabrication of materials. I will ask you, Mr. Shrode, is it true that if materials were prefabricated, some human being would have to prefabricate them?

A Yes.

Q And that human being would be, as you say, as susceptible to the inhalation of asbestos dust and fibers if it was prefabricated in Portland, Oregon, as if it was prefabricated in Houston, Texas, wouldn't he?

A Yes, sir.

Q Now, we have talked about your contract here with the contractors. And the only thing that is in here is generally some type of safety, which you have already referred to and which I won't go back over again. At any of the contract meetings, were you -- and in your union capacity, have you ever heard any of the contractors say that any of the defendant manufacturers and distributors of these products, outlined a program of safe or proper use of asbestos insulating materials, that would reduce substantially or that would prevent the inhalation of asbestos fibers?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 82 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/82

A No, sir.

Q Do I understand that even as of this advanced day, as of today, in 1968, that so far as you know, the manufacturers of the products have not come forward with anything better than a paper filter as a form of prevention of the disease of asbestosis?

A So far as I know they haven't. Other than these other type of filters that we talked about, that I have mentioned before.

Q Well, I believe you said that wasn't even as good as the paper filter?

A Well, it might stop more particles, but it's harder to wear, harder to breathe with.

Q All right, sir. Now, in your studies and research or whatever you do at your conventions, do you have knowledge or do you know the approximately percentage of asbestos and insulator workers who have been in the business more than twenty years who have a lung disorder of some kind?

A I don't know offhand what this percentage is, but it's available.

Q I have it here. I just thought maybe you might know.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 83 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/83

Have any of the representatives or any of the personnel representing any of the defendants that I have named before ever come to you or so far as you know, to any member of your union and said -- or in substance, anything like this, "We know our product is dangerous. We want to work with you to help work out some system where it won't injure your insulating workers"?

A No, sir.

Q Now, some suggestion has been made that it is the fault of the workers for not wearing the respirators. But let me ask you to state, if I am not correct in saying, that when you wear the respirators, this little paper filter, that in addition to having difficulty breathing, it also is an extreme agitant to many people around the face and ears where this mask fits?

A Yes. This is true.

Q And it tends to cause a form of dermatitis or facial itching where the fibers try to penetrate around the edges of this because the little paper filter is so hard to get air through?

A Yes. I know of such cases.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 84 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/84

Q Now, would this, in your judgment, be one of the reasons why many of the workers don't even try to use this little paper filter?

A I think this might be the reason some of them don't, yes.

Q All right, sir. And are they in addition to this uncomfortable to wear?

A Yes. They are.

Q In addition to the difficulty in breathing?

A Yes.

Q Now, when you talk about blowers, let me ask you whether or not you are talking about blowers primarily for cooling effect on the workers, to keep them from being too hot when they work in confined areas?

A Well, in talking about blowers, yes. I think this is basically what they are used for, is for the cooling effect rather than the eliminating of the dust.

Q As a matter of fact, if you have a blower and there is someone cutting, the dust, in a confined area, it's just going to keep that dust agitated and won't settle as fast perhaps as if there weren't a blower?

A That is correct.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 85 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/85

Q Have you ever seen the labels that have recently started being put on some of the insulation products, generally warning that the product contains asbestos and its prolonged use may be injurious or may be harmful to your health, and use respirators provided by the U. S. Bureau of Mines?

A Yes, sir.

Q And am I correct in saying that it is something about four or five inches long, generally speaking, and two or three inches high, not in very large type?

A This is correct.

Q Do you know what respirators that is talking about that is approved by the United States Department of Mines, that would keep you from inhaling asbestos dust and fibers?

A Well, there is several respirators on the market that are approved by the Bureau of Mines. I say several, I don't know, maybe I should modify this. I know of two or three that is manufactured that are approved by the Bureau of Mines.

Q Okay. Now, my question was, that would keep you from inhaling asbestos dust and fibers.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 86 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/86

eliminate the dust in this particular factory.

Q Now, this is a factory itself, that you speak of?

A Yes.

Q What company, do you know?

A Well, actually this is just a fabricating -- it's where they make -- they don't actually make the product there.

Q I see.

A This is where they make pipe covering, fittings and so forth, out of different type of material.

Q Would you say that the conditions there are much less likely to cause lung contamination than the conditions normally experienced by the average worker?

A Yes. In this particular case I will say that.

Q So then can we assume that there is some way, if a manufacturer was so inclined to do so, that he could make recommendations for the use of products in the field that might at least approach or go towards the direction of safety, as he uses it in his own plant? If you see what I mean?

A Yes.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 87 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/87

Q Do you know of any system that any of these manufacturers have devised whereby they put into a room a different pressure differential from that that exists outside of the room, of the fabricating shop so to speak? In other words, let me use a clumsy example of it, such as, let's say an air chamber of some kind which would have a tendency to isolate the movement of the dust particles. Do you know of any such thing ever having been done?

A No.

Q Have you everhad occasion to go to any of these manufacturers and see the insulating materials actually being manufactured?

A Yes.

Q All right. Is this manufacturing done under controlled conditions which would differ then entirely from those existing in the field and in the fabricating shops?

A Yes. I would say that they would differ so far as ventilation, yes. The one I saw would.

Q Which one did you see, please?

A I went through the plant down at McQueeny where they manufacture fittings. And they have got a very good ventilation system to

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 88 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/88

A No, sir.
Q Okay. Are you familiar with, let's say magnesia 85 or am I using the common named product, 85 per cent magnesia?
A Yes. This is -- well, I say it's common, I don't know that it's common, but I have seen it many times.
Q What about K-Therm?
A K-Therm is a trade name.
Q Calcium silicate?
A That's calcium silicate materials, yes, sir.
Q And adhere to the chemicals commonly used in the trade?
A Yes, sir.
Q Seal Flash 3949 mastic?
A What number?
Q Seal 3949 mastic.
A It is.
Q Would you be able to give us your estimate as to the percentage of jobs that workers such as Mr. Tomplait go on where asbestos products in some form are used?
A The percentage?
Q Yes, sir.
A I would say it would be very high, 90 plus.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 89 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/89

MR. STEPHENSON: All right, sir. That's all I have, Mr. Shrode.

REDIRECT EXAMINATION

By Mr. Pate

Q I have one or two more questions.

Mr. Shrode, who told you in 1955 to get out of the insulating work?

A Well, he didn't actually tell me to get out of it.

Q I realize that, but who told you to stay away from it as much as possible?

A The doctor that took my X-rays.

Q All right. Who was that?

A This doctor is now deceased, but this was a Dr. Schroeder located in Pasadena.

Q Was he with a clinic there?

A He was just my family doctor.

Q All right, sir. In other words, he brought it home to you in 1955, is that correct, sir?

A He sure did.

Q And since that time you haven't hesitated at wearing any respirator, have you?

A Not when I was working in a fabrication job where it was all kinds of dust flying. I

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 90 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/90

didn't wear one all of the time out in the field.

Q Well, you wore one some of the time in the field?

A Yes, sir.

Q And you would recommend that a man wear one in the field if there is an appreciable amount of dust, wouldn't you?

A I would recommend it, yes.

Q And you would have since 1955, wouldn't you, Mr. Shrode?

A Yes. I would recommend it.

Q Yes. And you would think for his own protection, he should?

A Yes.

Q Right, sir. Now, Mr. Stephenson named off to you some seven different companies that manufacture insulating products containing asbestos. I want to ask you what other companies manufacture insulating products that are used in the area covered by Local 22?

Would you like for me to read those off to you again?

A Yes, sir.

Q Combustion Engineering, R & I Refractory,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 91 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/91

Johns-Manville Products Company, Owens-Corning and Fiberglass, Pittsburgh -- Fiberboard Products and Eagle Picher Industries. What other manufacturers manufacture insulating materials used in the area covered by your local?

A I would think of two offhand.

Q What are they?

A Philip Carey Manufacturing Company, for one.

Q All right.

A Baldwin-Ehret-Hill would be another one.

Q All right.

A And these are the two that I can think of right now.

Q All right. Now, let me ask you, is it not true that Philip Carey Manufacturing manufactures as much asbestos containing insulating material as any of the other seven in here?

A Well, this would be -- well, on my part, I don't know that they were manufacturing as much or more, but I do know that they manufacture this type of material.

Q And it is used by members of Local 22 in the area?

A Yes, sir.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 92 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/92

Q And has been for some years?
A Yes.
Q You used it in Freeport I believe, didn't you?
A Yes, sir.
Q All right, sir. And Baldwin-Ehret-Hill also manufactures asbestos containing insulating material, is that correct, sir?
A Yes, sir.
Q And their products are used in the area covered by your local?
A Yes.
Q And a considerable amount of them are used?
A Yes.
Q And have been since the '40s, I suppose, is that correct, Mr. Shrode?
A Yes. I would say so.
Q Now, what other manufacturers do you recall offhand, besides Philip Carey and Baldwin-Ehret-Hill?
A You already got Pittsburgh on there, haven't you?
Q Yes, sir.
A I can't recall any others right now. Of course, I'm sure there is others.
Q What about PABCO Products?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 93 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/93

A Yes. Yes. This is another manufacturer that we use their particular --

Q All right, sir. They manufacture asbestos containing insulating materials?

A Yes.

Q And they are used in the area covered by Local 22?

A Yes.

Q And have been since the early '40s or maybe longer?

A Well, I'm not sure about that now.

Q How long would you say?

A I'm trying to recall the first distributor that I can recall that used PABCO material, I would say it was in the '50s.

Q Who was that?

A This was Precision Insulation and had the distributorship here at that time. Now, I don't know -- I wouldn't say that maybe it hadn't been used before then, but that's the first time I recall seeing it.

Q How about Keeson & Mathiewson?

A Yes, sir. Been used for many years.

Q And they manufacture asbestos containing insulating material?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 94 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/94

A Yes, sir.
Q Are they one of the larger manufacturers?
A Yes.
Q How about Ruberoid?
A Ruberoid?
Q Yes.
A Yes.
Q They manufacture asbestos containing insulating material?
A Yes.
Q And which have been used in the areas covered by Local 22, for how long?
A Oh, several years.
Q What do you mean several years, in the '40s, since the '40s?
A Yes. I would say that far back.
Q Considerable amount?
A Yes.
Q Mondite Cork?
A Well, as I stated earlier, Mondite Cork was absorbed by Baldwin-Ehret-Hill.
Q That is one and the same?
A Yes.
Q All right. I want to clarify one point. You told me on direct examination that Ralph

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 95 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/95

Anderson died about '58 or '59?

A Well, I think I qualified that and told you I didn't remember the year, but I thought it was about then.

Q All right.

A I am not sure about that, but our records would show when he died.

Q All right, sir.

A If it needs to be verified.

Q Okay. Mr. Shrode, Mr. Stephenson asked you something about the fact that asbestos has been written about since the late 1800s or early 1900s. Now, you know, do you not, having worked as an insulator since 1942, there is a very important distinction between the insulator or insulating people who work in insulation and the men that mine asbestos, as opposed to the field workers who apply the product which contains smaller percentage of asbestos?

A Well, there is a difference in the workers, yes, sir.

Q And there is a difference in the exposure?

A Yes. I would say that.

Q Yes, sir. Have you ever been to any of the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 96 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/96

mines where asbestos is mined?

A No.

Q I see. You don't know what -- whether he was referring to miners or the applicators, do you?

A No, I don't know.

Q All right. Now, who is that manufacturer that you mentioned that has been contributing financially to the government by equipment and so forth?

A Well, this is very recent that I found this out. In fact, about three weeks ago I found out that Johns-Manville have agreed to purchase equipment.

Q How long have they been doing this, for some period of time?

A This I don't know.

Q You have no personal knowledge --

A I have no personal knowledge.

Q -- how long it's been going on?

A No, sir.

Q You cannot say whether they have or not?

A That is correct.

Q You don't know how long they have been contributing to this study, how long this has

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 97 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/97

been going on?

A This is the first that I know of.

Q The first time that you became aware of it?

A Yes. First time I became aware of it.

Q Okay. Now, this little warning that Mr. Stephenson mentioned over there a minute ago, that is some four inches long, I guess and two inches high, something like that; can you tell me how long you have been seeing that on cartons?

A Actually the first time I ever seen it was in the early '60s.

Q All right. Give me -- tell me about what year in the early '60s you first saw it.

A I would say '61, '62.

Q About 1961 or '62. Do you remember what company product it was on?

A Yes.

Q What was that?

A The first one I ever saw was from Fiberglass Products, I guess this was the Owens-Corning.

Q All right. Which other one, do you recall?

A Well, since then I have seen several.

Q Okay.

A But this has been more recent, I'd say in the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 98 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/98

last four or five years.

Q Now, you mentioned about the respirators being approved by the Bureau of Mines. Are you familiar with any of those?

A No. Only what I have been told and shown, different types that have been proven.

Q Have you been shown some MSA Confold?

A Yes.

Q What is that?

A MSA, now, this rings a bell. Now, I'm not sure of the rest of it.

Q That is the one with your interchangeable filter.

A Yes. It's got the interchangeable filter and two knobs out on the side.

Q You have seen those?

A Yes.

Q And it's one of the more highly recommended ones I believe?

A Yes.

Q In your opinion does it do the job as good as any that you have seen?

A I would say it would do the job as good as any I have seen, yes.

Q You have actually seen one of those and

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 99 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/99

inspected it, haven't you?

A Yes, sir.

Q It's about as good or if not the best on the market, isn't it?

A It's as good as I have seen, yes. So far as filtering dust, yes.

Q Yes, sir. Now, did you see any warning in the sales literature or any pamphlet, prior to seeing the warning on the cartons?

A About the danger of the material?

Q Yes, sir.

A No.

Q Or would you have had occasion to have been looking at the brochures or sales literature?

A Well, I doubt -- I doubt if I have had the occasion.

Q In your capacity you probably wouldn't have been looking, would you?

A No.

MR. PATE: I believe that's all.

REDIRECT EXAMINATION

By Mr. Reynolds

Q I've got one area I'd like some clarification on, if you would, Mr. Shrode.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 100 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/100

Does your union operate with a hiring hall or this kind of arrangement?

A No. Our union is, of course, you have what you call an exclusive hiring arrangement, where everybody is sent out through the union. You have what they refer to as non-referrable union, non-referrable union, where the union is a source of manpower, but not the only source. And this is the line that we follow, we don't have any exclusive hiring hall.

Q But if a contractor wants people to work, they get them through your union, is that it?

A Well, this is one source.

Q Is it the only or not the only source?

A Not the only source. Generally speaking, yes, they call us for people. But some of them don't, on all occasions. What I am saying, from the legal standpoint, they don't have to.

Q Well, the work forces, the work force is made up from the union hall for the contractor. When he calls you he asks for so many men or a certain number of men, is that right?

A This is correct. When I get an order.

Q He doesn't -- he doesn't specify, I want John Brown and Joe Smith and someone else, by name,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 101 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/101

does he?

A Sometimes.

Q Sometimes he does?

A If they are available he can ask for them. If they are available I will send them. He does not have to --

Q I see. This is not the way he usually does it?

A That's right. Usually he doesn't. He just calls and orders so many men.

Q And you send him the men?

A Yes.

Q Or your union does, someone in your union office?

A Somebody connected with the office.

Q And this could be different men on different jobs?

A Yes.

Q And it could be, it could change often, couldn't it?

A Yes.

Q It might not be the same man or the same group of men for the same company week after week?

A Probably wouldn't be.

Q It would be different men?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 102 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/102

A Yes.
Q More than likely?
A Yes.
Q You shift around, work for different companies at different times?
A Yes.
Q For how long a period would a man ordinarily be working for one company?
A This would depend on the amount of work that that company had.
Q Usually a shorter period of time?
A Well, this is a fluctuating thing. For a period of time one contractor will have a lot of work and then he can slack off and he won't have hardly any work, another contractor will have most of it. It's a very fluctuating thing.
Q Most of the employers are contractors, not only contracting the insulation work, but they contract other work as well, is that right?
A No. Basically speaking, our contractors are contractors that are basically in insulation work.
Q They have the contract and they are

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 103 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/103

responsible for doing the work?
A That is correct.
Q But you furnish the men that do the work?
A Basically speaking, yes.
Q Do foremen come from your union also, is that right?
A Yes. The foremen usually come from our union.
Q And the contractor is what you have called a specialty contractor. Now, these folks are different from the manufacturers Mr. Stephenson has been talking about and Mr. Pate read to you about and you discussed, is that right?
A What do you mean they're different?
Q They are different people, different group of people.
A Not necessarily. I would say that all these people, so far as I know, are not only manufacturers but are also contractors.
Q Well, now, you're sure about that?
A I'd say basically. I am not sure about all of them, but I would say that most of them are.
Q Are they contractors in this area?
A Some of them are, yes.
Q Well, now, I know Johns-Manville has several different companies and that they have a

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 104 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/104

contract group that does work, but that is not the Johns-Manville that is in this lawsuit, the manufacturer?

A It's not.

Q As I understand it it's not, it's Johns-Manville Production Corporation.

A Well, this is correct. Now, they do have different branches, but we do have a contract with Johns-Manville Sales.

Q That is a different group of people so far as you know, isn't it, from the manufacturers of the product? I mean, that company doesn't make the product that is installed here, do they?

A Well, I think this is probably true. It's a different branch of the company that does it.

Q Now, how about the first one, Combustion Engineering, Inc., do you contract with them here?

A Yes. We have a national agreement with them, Combustion, where we can furnish men anywhere.

Q Do they work in this area?

A Sometimes.

Q How about R & I Refractory Insulating Corporation?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 105 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/105

Corning Fiberglass Corporation, I'm not sure that is the name of -- we have a contract with Owens-Corning, but I am not sure it's Fiberglass Corporation. They may have, also have another branch or another name for the contract, I understand. But I don't think they do. I think this is who we have the contract with in this area. We do work for Combustion, we do work for R & I. I think the rest of them are probably in the category you are talking about, they are different. We don't contract -- I mean, they don't contract or at least they don't have one here.

Q Don't do any insulation work as contractors?

A Correct.

Q That would be true then of every one except Combustion and R & I, and Owens-Corning you are not sure about, is that right?

A Well, I'm fairly sure that we do have an agreement with them. I am not sure of the name, I don't know. May I show -- let's see, where is that little pamphlet there? Should have the names of the contractors.

Q Your union agreement contains the names of the contractors?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 106 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/106

A Yes. I think they also have an agreement.
Q Well, the fact that you may have a national contract with them, perhaps doesn't answer the question I am asking.

Let me ask it this way: I am interested in knowing about people that contract and do the installation of the insulation material in this area that your union operates in.
A Well, let me -- maybe this will clarify it for you. When I say we have a national agreement with a company, in essence what this means is that we can furnish them men direct or they have a prerogative and some cases do sub-contract various insulation work to a local contractor. They do this in some cases.
Q Let me ask you then, if these people I have named have local contracting work that they do in this area?
A Some of them do, yes.
Q And by some of them, could you pick them out of this list here, the ones -- can I show him these? The ones that you struck out have been taken out of the lawsuit.
A In looking at this I can only -- I can only see, and I am not sure about this on the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 107 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/107

A Yes. Owens-Corning and Fiberglass Supply is the name of this contracting firm.

Q I believe that is different. They have here Owens-Corning Fiberglass Corporation.

A As I say, this may be similar to the Johns-Manville Sales. Now, see, this is who we have our contract with, Johns-Manville Sales Corporation.

Q All right.

A See, this is a list of the members of the Houston Insulation Contractors Association that we signed that agreement with. But it does not necessarily mean that is all the people. That is just the people that belong to the association. We have some independent contractors and also people that have a national agreement, such as Combustion. Of course, we have national corporations, some of the big general contractors also, but they are not manufacturers of insulation material.

Q Considering the list that you do have a contract with, and the people that you know about and also the people that you know about from your own knowledge, that you do work for, am I correct in stating that the only three

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 108 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/108

that you do any contract work for in this area that are named in this lawsuit are the three that we have discussed, that we have already named, R & I, Combustion and Owens-Corning? Check the list carefully, I'd like to be sure about that.

A I think this is correct. That is the only three that I know of that we do actually apply materials for.

Q All right. Let the record show that the witness is examining page 1 of Plaintiff's Third Amended Complaint.

All right, sir. Now, these contractors are the ones that take care of the ventilation in your shop that you are talking about, isn't that right?

A Yes.

Q They have a -- what they call a fabricating shop, most of them do I take it?

A Most of them do, not all of them, but most of them do, yes. Many times -- let me clarify that to this extent, many times they set up a fabrication shop right out on the job site if the job is large enough to justify this, and fabricate the materials right there on

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 109 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/109

the job. Some would rather do it at their warehouse. Now, some of the contractors do have a fabricating shop at their facility, and they use that. But on big jobs where it's justifiable, they might set up a prefabricating shop right out on the job site.

Q I'd like to correct my last statement from the list here. I believe you did point out that the Owens-Corning Fiberglass Corporation is different from the people that you have a contract with?

A Well, at least it's different from what they -- what we signed the contract with.

Q Different name?

A Yes.

Q All right. Now, the contractors, let's call those people the contractors, so that they will be separate from the manufacturers.

A All right.

Q Now, the contractor is the one that makes available these masks that we have been talking about, respirators, is that right?

A Yes.

Q Does the union furnish any respirators?

A Not in that area, no.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 110 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/110

Q They are the ones that you look to for ventilation and other safety measures that you or your men need or desire on the job, is that right?

A This is correct.

Q They are the ones you look to for keeping the area as clean as it can be kept and doing the best that can be done to install the products safely, is that right?

A Well, they are the people we negotiate the contract with, and there are certain things they are supposed to live up to. And this is one of them, furnish safety equipment as it is stated in the agreement.

Q Let me ask you this, the installation that you are talking about that your union does the work on, it's for the most part big plant areas or perhaps done outdoors on some type of chemical plant, different kinds of piping, things of that nature, this is where your insulation is installed that we are talking about?

A Well, not necessarily. This is a big portion of it. We also have many people that work on buildings.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 111 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/111

Q Buildings?
A Yes.
Q What, industrial, commercial buildings of some sort?
A Commercial buildings. Of course, there is lots of insulation, there is a lot of insulation that goes into the air conditioning of a building.
Q What kind of building do you have in mind?
A This one we are in for instance.
Q This 13-story office building?
A Well, any type of building that is air conditioned, has an air-conditioning system.
Q Yes.
A The air-conditioning ducts, some of them -- there are different type of systems, some are water systems, some of them are individual unit systems and then we have the plumbing, lots of insulation that goes into a building on the plumbing. There is quite a bit of insulation done in air-conditioned buildings of any sort, two-story to fifty stories.
Q All right. Other than that, your work is industrial, in plants or outdoor chemical plants, piping, this kind of regimen?

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 112 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/112

A Yes. Much of our work is in this area.
Q You don't work in private homes or houses, house construction, do you?
A Yes. In some instances we do. And this again is only air conditioning and plumbing. In some residences we do. And this is the bigger ones, not many of them, though.
Q There is not much of that work, is there?
A Not very much. I have, for instance, the apartments, the high rise apartments areanother area that we do.

MR. REYNOLDS: All right. Thank you very much.

RECROSS EXAMINATION

By Mr. Stephenson

Q One more shot here, trying to straighten this out, Mr. Shrode. We don't know and lawyers haven't told you, and I don't know whether R & I Refractory Insulation Corporation are any different from R & I Insulation, Inc. or anything else. But let me ask you this, without playing on words or playing on corporate structure, or whether one is a holding company of another holding company or not,

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 113 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/113

does the company generally bearing the name Combustion Engineering do contracting work?

A I would say in most cases they don't.

Q But do they do any contracting in this area?

A I actually don't know, recently at least --

Q Well --

A -- of a job that they have done.

Q Neither do they do contracting?

A I don't know of a job where we have worked for them in this area.

Q R & I?

A No, not in this area.

Q Johns-Manville?

A Well, Johns-Manville as I say, of course, we have a contract with Johns-Manville Sales.

Q Right. But I am disregarding -- what I mean, eliminating the tail end of these, so that we can just identify what I might want to call the parent corporations or subsidiary corporations or what. But does a company, Johns-Manville something do insulating contract work?

A Yes, sir.

Q Does the company Owens-Corning?

A Yes, they do.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 114 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/114

Q Do contract work?
A Yes.
Q Does the company Pittsburgh Corning do contract work?
A Yes.
Q Does Combustion, PABCO do contract work?
A Yes. And this again, as distributor, basically.
Q Does Pittsburgh Plate & Glass do contracting?

MR. PATE: Excuse me. Do all your questions mean in that area?

MR. STEPHENSON: No, not particularly.

A Again, I am not sure about the contracting end. I would say -- I would answer it in this way: All of the companies that are named here that are producing or manufacturing different insulation materials have either got a contractor or a contracting branch or a distributor that does contracting work.
Q Okay. What about Fiberboard Paper Products?
A I have to answer it the same way. So far as I know we never had a contract with those people. They have a distributor that we do have a contract with.
Q Whether you have a contract or not is not the

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 115 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/115

point of my question. Do they do contracting work?

A Not in this area.

Q Eagle Picher?

A Again, no.

MR. STEPHENSON: Okay. Thank you. That's all.

The Tomplait v. Combustion Engineering Case File (1962-1969), Deposition of Joe Shrode
ACL Doc 10815 · Page 116 of 117
Published by AsbestosClaims.Law
asbestosclaims.law/library/10815/116

THE STATE OF TEXAS §

COUNTY OF HARRIS §

I, the undersigned notary public in and for Harris County, Texas, certify that the facts stated in the caption hereto are true; that at the time and place stated the witness named in the caption hereto personally appeared before me and, after being by me first carefully cautioned and sworn to tell the truth, was examined by counsel for the respective parties hereto; that the testimony of said witness was taken down in shorthand by me, later reduced to typewriting under my direction as a true and correct record of the testimony and, after being so reduced to typewriting, said deposition was returned to the District Clerk for filing herein pursuant to the terms of the stipulation of counsel under which said deposition was taken.

I further certify that I am neither attorney or counsel for, nor related to or 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 the action.

GIVEN under my hand and seal of office on this the 17th day of September, 1968.

Notary Public in and for
Harris County, T E X A S

My commission expires June 1, 1969