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NO. 04-CI-01843

MILDRED LEE, INDIVIDUALLY AND AS EXECUTRIX
EXECUTRIX OF THE ESTATE OF DUEL LEE

v.

E.I. DUPONT DE NEMOURS & COMPANY, ET AL.

DEFENDANTS

* * * * *

AFFIDAVIT OF BARRY CASTLEMAN

Barry I. Castleman, after being duly sworn, now states the following upon his personal knowledge:

1. My name is Barry I. Castleman, Sc.D.
2. I am a chemical and environmental engineer who has spent a substantial portion of my career researching asbestos and the effects of it on the health of individuals exposed, as well as researching the historical knowledge of the asbestos industry regarding the health effects associated with exposure to asbestos.
3. Throughout my career, I have consulted with numerous governmental agencies, including the United States Council on Environmental Quality, The National Science Foundation, U.S. Federal Trade Commission, U.S. Congress Office of Technology Assessment, U.S. Consumer Product Safety Commission, U.S. Occupational Safety and Health Administration, U.S. Environmental Protection Agency, The National Academy of Sciences, and U.S. Department of Justice, as well as others.
4. After my doctoral dissertation research, I published a book entitled ASBESTOS: MEDICAL AND LEGAL ASPECTS which addresses numerous topics associated

with the asbestos industry, including the development of knowledge about asbestosis and cancer, various thresholds and standards, alternatives to asbestos insulation, company knowledge, and historical research on toxic substances. In addition, I have published numerous articles regarding the historical knowledge about asbestos disease which are detailed in my curriculum vitae attached as Exhibit "1."

5. During the course of my career, I consistently reviewed and kept abreast of scientific and medical literature published as it relates to asbestos and its health hazards. In addition, I kept abreast of OSHA, EPA and other governmental regulations applicable to workplace environments. I am intimately familiar with the scientific literature and governmental regulations regarding permissible exposure limits to asbestos, as well as the proper precautions which employers historically should have taken to prevent exposure to asbestos.

6. It is my understanding that the Plaintiff's decedent, Duell Lee, worked for Dupont Chemical Plant in Louisville, Kentucky as a maintenance mechanic beginning in the 1940's and retired in approximately 1984.

7. It is my further understanding the Mr. Lee was exposed to a variety of asbestos-containing products at Dupont, including pipe and block insulation. The pathology report Dr. Pohl confirms that Mr. Lee developed malignant mesothelioma.

8. Attached as Exhibit "2" to this affidavit is a summation of the scientific and medical literature which was written and published beginning in the late nineteenth century that addressed the hazards of exposure to asbestos.

9. The literature discussed in Exhibit "2" demonstrates the substantial body of knowledge which has existed since the 1930's establishing that asbestos was lethal material. By the late 1940's, it was widely accepted by people writing on the matter that asbestos

inhalation could also cause lung cancer. The risk of mesothelioma was known by the early 1960's especially in individuals with environmental, nonoccupational asbestos exposure.

10. Anyone who was interested in learning more information about asbestos and asbestos diseases could have found the scientific and medical literature at any medical library by using the Index Medicus, which has been published since 1879.

11. Dupont's had access to substantial medical and scientific literature which discussed the health risks associated with asbestos as far back as the 1930's, due to its participation in the National Safety Council. DuPont was one of the first chemical corporations to establish its own toxicological laboratories.

12. Dr. Wilhelm Hueper, whose articles and publications regarding asbestos and asbestos diseases are discussed in Exhibit "2", worked at DuPont's Haskell Laboratory for Toxicology from 1934-1938.

12. The text MODERN OCCUPATIONAL MEDICINE published in 1954, second edition 1960, was authored by Dupont scientists and doctors. It included a chapter (1960) on occupational chest diseases by GWH Schepers that discussed lung cancer and pleural mesothelioma as asbestos diseases and noted that people who worked during the war as pipecovers were developing asbestosis.

13. In 1964, Dr. Gordon Stopps, of Dupont's Haskell Laboratory, sent a report to all Dupont Plant physicians which was summation of a conference on the biological effects of asbestos which was held in October of 1964 by the New York Academy of Sciences. Stopps advised Dupont's plant physicians "that asbestosis and complications of asbestosis have now been found in persons who have not in the ordinary way come to mind as being exposed to asbestos; that is to say, they do not work in asbestos mines, asbestos mills, or asbestos textile factories."

14. Based upon all of the scientific and medical literature and internal Dupont documents, Dupont had timely knowledge of medical literature linking asbestos exposure to asbestosis, lung cancer and mesothelioma. During the time that Duell Lee worked at Dupont's facility in Louisville, Kentucky, Dupont knowingly exposed Mr. Lee to asbestos fibers which caused him to die from malignant mesothelioma.

I swear the foregoing is true under penalty of perjury.

BARRY CASTLEMAN, ScD

Signed in Garrett Park, Maryland on April 13, 2006