FILE NAME: Mahoning Valley Supply (MVS)

DATE: 2004 Apr 30

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DOCUMENT DESCRIPTION: Legal – Deposition of EG Matuscak

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

- - -

Edward Matuscak,)
)
Plaintiffs,)
)
vs.) Case No. CV 475289
)
A-Best Products Co., et al.,) Judge Hanna
)
Defendants.)

- - -

Videotape deposition of Edward G. Matuscak, a Plaintiff herein, taken by the Plaintiff as upon direct examination and pursuant to the Ohio Rules of Civil Procedure and Notice as to time and place and stipulations hereinafter set forth, at the Best Western Motel, 870 N. Canfield-Niles Road, Austintown, Ohio, on Friday, April 30, 2004, at 9:30 a.m., before George J. Staiduhar, a Notary Public within and for the State of Ohio.

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ARANCES CONTINUED:

For the Defendant, Owens-Illinois:

Barbara Machin, Esq.
of
Bunda, Stutz & DeWitt PLL
One SeaGate, Suite 650
Toledo, OH 43604

For the Defendant, Fidelity Builders:
Jennifer Riester, Esq.
of
Weston, Hurd, Fallon, Paisley & Howley
2500 Terminal Tower
Cleveland, OH 44113

For the Defendant, Welding Industry:

Henry Billingsley, Esq.
of
Tucker Ellis & West, LLP
925 Euclid Avenue
Eleventh Floor
Cleveland, OH 44115

For the Defendant, The Will-Burt Company:
Lorraine Debose, Esq.
of
Buckley King & Bluso
1400 Bank One Center
Cleveland, OH 44114

STIPULATIONS

It is stipulated by and between counsel for the respective parties that the deposition of Edward G. Matuscak,, a Plaintiff herein, called as upon direct examination by the Plaintiff may be taken at this time and place pursuant to the Ohio Rules of Civil Procedure and Notice and agreement of counsel as to time and place of taking said deposition; and to be filed in the trial of this cause; that the deposition was recorded in stenotype by the court reporter, George J. Staiduhar, and transcribed out of the presence of the witness; and that said deposition and is not to be submitted to the witness for his examination and signature.

THE VIDEOGRAPHER: We are on the record.

MR. MONEY: First of all, I want to put some stipulations on the record. I believe all defense counsel have agreed to these stipulations. First stipulation is that the video camera will be focused on the witness' face and upper torso. Attorneys are not to be videoed.

Second stipulation: The audio level is to be kept at a constant volume.

Third, an objection by one defense counsel will be deemed an objection by all defense counsel present.

Fourth, all objections are reserved except as to the form of the question and responsiveness of the answer.

Fifth, the possession of the video tape will remain with the court reporter.

And then, finally, we will abide by all standard stenographic stipulations.

MR. KADLEC: Excuse me. Objections for all should be for all Defendants present as opposed to attorneys so somebody can't raise a concern if we were at trial that that attorney was not here, but that the Defendant reserves all the objections.

MR. MONEY: All Defendants that are represented here by an attorney which is present. All right? Kevin, is that all right.

MR. KADLEC: Yes.

MR. MONEY: Are you ready, Mr. Matuscak?

MR. MATUSCAK: Yes witness sworn.

EDWARD G. MATUSCAK

of lawful age, being first duly sworn, as hereinafter certified, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MONEY:

Q Good morning, Mr. Matuscak.

A Good morning.

Q As you know, my name is Carl Money. I am one of the attorneys who is representing you in your claim against various manufacturers, suppliers, distributors, and installers of asbestos-containing products. I would like to ask you some questions today about your background, your work history, and your medical condition.

Are you ready to begin?

A Yes.

Q Sir, could you please introduce yourself to the jury?

A My name is Edward George Matuscak.
Q Sir, as the jury sees you today, they are going to see you giving a video tape deposition.
Can you tell the jury why we are making a video tape of your testimony?
MR. KADLEC: Objection.
A We are making this video tape in case I become ill or happen to die before you go to trial.
Q Do you have an asbestos-related disease that might prevent you from appearing at trial.
(Chorus of objections by several counsel.)
A True, yes.
Q What asbestos-related disease do you have?
A Lung cancer.
Q Do you also have asbestosis?
(Chorus of objections by several counsel.)
A Yes.
Q What is your date of birth?
A 9-7-32.
Q And how old are you today?

A 71.
Q Where do you live presently?
A Austintown, Ohio.
Q What address is that?
A 207 Parkade Avenue.
Q And the zip?
A 44515.
Q Sir, where were you born?
A Youngstown, Ohio.
Q And how long did you live there?
A About 34 years.
Q And where did you live next?
A Austintown, Ohio.
Q At your present address?
A Yes.
Q Is anyone living with you presently?
A Yes.
Q Who is that?
A My wife and my son.
Q So you are married. What is your wife's name?
A Betsy.
Q When did you get married to Betsy?
A February of 1967.
Q How many years have you been married to Betsy?
A 37 years.
Q How did you meet your wife?
A At a dance hall.
Q Here in Austintown or Youngstown?
A Actually, it was in Girard, a little town outside of Youngstown.
Q Have you ever been separated or divorced?
A No.
Q Have you ever had any prior marriages?
A No.
Q Does your wife work outside the home?
A No.
Q Sir, you said you had a son. What is his name?
A David.
Q When was David born?
A 1968.
Q And how old is he today?
A 35.
Q And he lives with you, correct?
A Yes.

Q Did you graduate from high school?
A Yes.
Q When did you graduate from high school?
A 1950.
Q And where did you go to school?
A Youngstown, Ohio.
Q Which high school was that in Youngstown?
A Cheney High School.
Q Since high school, have you had any vocational training, apprenticeships, certifications, or post high school education of any sort?
A I had a boilermaker apprenticeship.
Q Did you serve in the military?
A Yes.
Q What branch of the military did you serve?
A United States Army.
Q When did you serve in the United States Army?
A From 1953 till 1955.
Q And where did you serve in the United States Army?
A Korea.

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Q What were your duties in the United States Army?
A I was a cook and a mess sergeant.
Q And how many years did you serve?
A Two years.
Q Did you sustain any injuries when you were in the Army?
A No.
Q Did you receive any medals or honors when you were in the United States Army?
A Good conduct metal, overseas metal, Korean metal.
Q What was your highest rank in the U.S. Army?
A E-5, sergeant.
Q And were you honorably discharged?
A Yes.
Q Sir, please tell the jury all the jobs you've had where you think you were exposed to asbestos-containing products.
A US Steel.
Q And which US Steel facility was this?
A It was in Youngstown, Ohio.

Q Is this the Ohio Works facility?
A Yes, US Steel.
Q When did you first work at US Steel?
A 1950.
Q When did you last work at US Steel?
A 1980.
Q Except for your time in the United States Army, did you work there continuously throughout that time frame?
A Yes.
Q Where did you work at within the plant?
A I worked plant wide.
Q Can you list some of the locations for the jury?
A Open hearth, blast furnace, 40-inch rolling mill, 43-inch rolling mill, cinder plant, boiler house, power house, machine shop, carpenter shop.
Q When you worked at US Steel, did you work around other tradesmen?
A Yes.
Q Which trades did you work around?
A Almost all of them, bricklayers, millwrights, pipefitters, machinists, first helper,

second helper, third helper, cranemen, laborers.
Q How often did you work around these other tradesmen?
A At least once a month.
Q And how close did you work to these other tradesmen?
MR. KADLEC: Objection.
A Within a couple feet.
Q Did you work with or around any asbestos-containing products while you were working at US Steel?
A Yes.
MS. JAMES: Objection.
Q What types of asbestos-containing products did you work with or around at US Steel?
MS. JAMES: Objection.
A Pipe insulation, block insulation, patch material, and spray-on material.
Q What was the brand name or manufacturer's name of the pipe insulation you worked with or around at US Steel?
A Kaylo and Johns Manville.
Q What was the brand name or manufacturer's name of the block insulation you worked with or around at US Steel?

A Kaylo and Johns Manville.
Q What was the brand name or manufacturer's name of the spray-on material you worked with or around at US Steel?
A Narcolite.
Q What was the brand name or manufacturer's name of the patch material you worked with or around at US Steel?
A KN.
Q Sir, how do you associate the name Kaylo with pipe insulation?
A I seen the name written on a box in the work area.
Q Did you work with or around Kaylo pipe insulation?
MS. JAMES: Objection.
A Both.
Q Both?
A Yes.
Q When did you work with or around Kaylo pipe insulation?
A Between 1950 and the '70s.
Q Where did you work with or around Kaylo pipe insulation?
A Plant wide.

Q How often did you work with or around Kaylo pipe insulation?
A Once a week.
Q And how close were you working around Kaylo pipe insulation?
MS. MACHIN: Objection.
A Within a couple feet.
Q Can you describe Kaylo pipe insulation?
A Well, it was round, came in two halves, had a hole down the center of it. It was sort of off white in color. It was about three foot long.
Q Can you describe how Kaylo pipe insulation was installed?
A Yes. They would have the two halves, put it on a pipe, and they would wire the two halves together with wire.
Q And which tradesmen installed Kaylo pipe insulation?
A Pipefitters and millwrights.
Q Did Kaylo pipe insulation have to be cut to be installed?
MS. MACHIN: Objection.
A Yes.
Q What did the air look like when

Kaylo pipe insulation was cut?
A Dusty.
Q Did you work close enough to breathe the Kaylo pipe insulation dust?
MR. KADLEC: Objection.
A Yes.
Q Your answer, sir?
A Yes.
Q Did you breathe the Kaylo pipe insulation dust?
MS. MACHIN: Objection.
A Yes.
Q Did you try to get away from the Kaylo pipe insulation dust?
MS. MACHIN: Objection.
A No.
Q Did you get the Kaylo pipe insulation dust on you?
A Yes.
MS. MACHIN: Objection.
Q How did you get the Kaylo pipe insulation dust off you?
A I brushed it off with my hand.
Q Did you ever see a warning on the boxes of Kaylo pipe insulation indicating that it could

be hazardous to your health?
A No.
Q Did you ever see a warning, or were you ever told that you should wear a mask or respirator when working with or around Kaylo pipe insulation?
A No.
Q How do you associate the name Johns Manville with pipe insulation?
A I seen the name on the box in the work area.
Q Did you work with or around Johns Manville pipe insulation?
A Yes.
Q Both?
A Yes.
Q When did you work with or around Johns Manville pipe insulation?
A From 1950s to the '70s.
Q Is that from 1950?
A Yes.
Q Where did you work with or around Johns Manville pipe insulation?
A Plant wide.
Q And how often did you work with or around Johns Manville pipe insulation?

A About once a week.
Q And how close did you work around Johns Manville pipe insulation?
A Within two or three feet.
Q Can you describe Johns Manville pipe insulation for the jury?
A It was round. It came in two halves. It had a hole down the center length wise, and it was sort of off white in color.
Q And how long was the Johns Manville pipe insulation?
A About three foot long.
Q Can you describe how Johns Manville pipe insulation was installed?
A They would take two halves, put it around the pipe, and they would get a piece of wire and wire it together, fasten it to hold it on a pipe.
Q And which trades installed Johns Manville pipe insulation?
A The pipefitters and the millwrights.
Q Did Johns Manville pipe insulation have to be cut to be installed?
A Yes.
Q What did the air look like when Johns Manville pipe insulation was cut?

A Dusty.
Q Did you work close enough to breathe the Johns Manville pipe insulation dust?
MS. MACHIN: Objection.
MR. KADLEC: Objection.
A Yes.
Q Did you breathe the Johns Manville pipe insulation dust?
MS. MACHIN: Objection.
MR. KADLEC: Objection.
A Yes.
Q Did you try to get away from the Johns Manville pipe insulation dust?
A No.
Q Did you get the Johns Manville pipe insulation dust on you?
A Yes.
Q How did you get the Johns Manville pipe insulation dust off you?
A I brushed it off with my hand.
Q Did you ever see a warning on the boxes of Johns Manville pipe insulation indicating that it could be hazardous to your health?
A No.
Q Did you ever see a warning, or were

you ever told that you should wear a mask or respirator when working with or around Johns Manville pipe insulation?
A No.
Q Sir, how do you associate the name Kaylo with block insulation?
A I seen the letters on a box or name on a box.
Q The name Kaylo on a box?
A Yes.
Q Did you work with or around Kaylo block insulation?
A Yes.
Q Both?
A Both.
Q When did you work with or around Kaylo block insulation?
A About 1955 to the '70s.
Q Did you see Kaylo block insulation when you first started at the mill?
A Yes.
MS. JAMES: Objection.
Q So from 1950 through the '70s?
MS. JAMES: Objection.
MS. MACHIN: Objection.

A Yes.
Q Where did you work with or around Kaylo block insulation?
A In the open hearth.
Q How often did you work with or around Kaylo block insulation?
A Once a week.
Q And how close did you work around Kaylo block insulation?
A Within two or three feet.
Q Can you describe Kaylo block insulation for the jury?
A It was about two feet by three feet, inch and-a-half thick and off white in color.
Q Can you describe how Kaylo block insulation was installed?
MS. MACHIN: Objection.
A They had these flanges on the boilers with holes in them. They would fasten them with wire. They put the wire through the holes and fastened the block insulation on to the boilers.
Q How many boilers were in the open hearth?
A Fifteen.
Q And where on the boilers was the

Kaylo block insulation installed?
A On the outside.
Q Which trades installed Kaylo block insulation on the boilers?
A The pipefitters, millwrights.
Q Did Kaylo block insulation have to be cut to be installed?
MS. MACHIN: Objection.
A Yes.
Q Your answer, sir?
A Yes.
Q What did the air look like when Kaylo block insulation was cut?
A Dusty.
Q Did you work close enough to breathe the Kaylo block insulation dust?
MS. JAMES: Objection.
MS. MACHIN: Objection.
A Yes.
Q Did you breathe the Kaylo block insulation dust?
MS. MACHIN: Objection.
A Yes.
Q Did you try to get away from the Kaylo block insulation dust?

We had a plate underneath the brick, and we had to weld on this plate, and if it was in our way, we would knock it off with a hammer and brush it away with our hands, the material.

Q When you picked up these KN patching material cans and lids or knocked them out of your way, did that create any dust?

A Yes.

Q Did you work close enough to breathe the KN patching material dust from this activity?

A Yes.

MR. HENDERSON: Objection.

Q When you knocked off the KN patching material with the hammers and brushed it off with your hands, did that create any dust?

A Yes.

Q Did you work close enough to breathe the KN patching material dust that was created by this activity?

A Yes.

MS. MACHIN: Objection.

MR. HENDERSON: Objection.

Q Did you breathe the KN patching material dust created by removing the cans or kicking the cans or knocking off the can patching material with

a hammer?

MS. MACHIN: Objection.

A Yes.

MR. HENDERSON: Objection.

Q Your answer, sir?

A Yes.

Q Did you try to get away from the KN patch material dust?

A No.

Q Did you get the KN patch material dust on you?

A Yes.

Q How did you get the KN patch material off you?

A I brushed it off with my hand.

Q Did you ever see a warning on the cans of KN patch material indicating that it could be hazardous to your health?

A No.

Q Did you ever see a warning, or were you ever told that you should wear a mask or respirator when working with or around KN patch material?

A No.

Q Sir, did you work with or around welding rods when you worked at US Steel?

A Yes.

Q Did you work with or around metal encased brick when you worked at US Steel?

A Yes.

Q Did you work with or around hot tops --

A Yes.

Q -- when you worked at US Steel?

A Yes.

MR. KADLEC: Objection.

Q Your answer, sir?

A Yes.

Q Sir, what did your clothes look like at the end of the day when you worked at US Steel?

A They were filthy, dirty.

Q Were they dusty?

A Yes.

Q Was there any ventilation at US Steel to suck out the dust?

MR. KADLEC: Objection.

MS. MACHIN: Objection.

A No.

Q Sir, would you like to take a break?

A Yes.

THE VIDEOGRAPHER: One second,

please.

(Recess had.)

MR. MONEY: Everybody ready?

THE VIDEOGRAPHER: Back on the record.

BY MR. MONEY:

Q Sir, has anyone associated with any asbestos company, manufacturer, distributor, supplier, or contractor ever advised you that exposure to asbestos-containing products could be harmful to your health?

A No.

(Chorus of objections by several counsel.)

Q Has anyone associated with any asbestos company, manufacturer, distributor, supplier, or contractor ever advised you that exposure to asbestos-containing products could cause asbestosis?

(Chorus of objections by several counsel.)

A No.

Q Has anyone associated with any asbestos company, manufacturer, distributor, supplier, or contractor ever advised you that exposure to asbestos-containing products could cause lung cancer?

A Boilermaker.
Q Did you work with or around Mr. Chismar?
A Both.
Q How often did you work around Mr. Chismar?
A Couple times a month.
Q And how close did you work around Mr. Chismar?
A Right next to him or within a couple feet of him.
Q And Mr. Carfolo, what was his trade?
A Boilermaker.
Q Did you work with or around Mr. Carfolo?
A Both.
Q And how often did you work with or around Mr. Carfolo?
A Couple times a month.
Q And then how close did you work around Mr. Carfolo?
A Right next to him or within a couple feet of him.
Q Did you see any suppliers at US Steel?

A Yes.
Q Do you recall the names of any of these suppliers?
A Mahoning Valley Supply Company and American Refractories.
Q Refractories?
A Yes.
Q When did you see Mahoning Valley Supply Company at the mill?
A From the '50s to the '70s.
Q Did you see Mahoning Valley Supply when you started in 1950?
A Yes.
Q So from 1950 to the '70s?
A Right.
Q How often did you see Mahoning Valley Supply at the mill during that time frame?
A Couple times a month.
Q Where did you see Mahoning Valley Supply at the mill?
A Well, on the roadways leading to the storage area and at the storage area.
Q Which storage area is this?
A Lot of storage area behind the open hearth building.

Q How did you know Mahoning Valley Supply was at the mill?
A I saw their name on a door, on a truck.
Q What sort of trucks did Mahoning Valley Supply have at the mill?
A Flatbed.
Q Did you see Mahoning Valley Supply Company supplying asbestos-containing products to the mill?
A Yes.
MR. KADLEC: Objection.
Q Your answer, sir?
A Yes.
Q What types of products did you see Mahoning Valley Supply Company supplying to the mill?
A Pipe insulation and block insulation.
Q When did you see American Refractories at the mill?
A 1950s to the '70s.
Q Did you see American Refractories when you started at the mill in 1950?
A Yes.

Q So did you see them from 1950 to the '70s?
A Yes.
Q How often did you see American Refractories at the mill during that time frame?
A At least twice a month.
Q Where did you see American Refractories at the mill?
A In the storage area and on the roadways leading to the storage area.
Q Is this the open hearth area?
A Yes.
Q How did you know American Refractories was at the mill?
A They had their name written on the side of the doors.
Q Doors of what?
A Of their truck.
Q What sort of trucks did American Refractories have at the mill?
A Flatbeds.
Q Did you see American Refractories supplying asbestos-containing products to the mill?
A Yes.