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August 20, 1979

Donald R. Ferry
Metropolitan Talc Company, Inc.
P. O. Box AM
18-22 Bank Street
Summit, New Jersey 07901

RE: Westfall, et al vs Whittaker, Clark & Daniels,
John Doe Corporation vs Metropolitan Talc Company, Inc.
and Pfizer, Inc.
Our File: 79-356

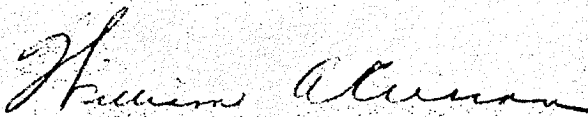
Dear Mr. Ferry:

Enclosed is a copy of the transcript of Dr. Dennis Baillargeon at the Worker's Compensation Commission. When I get Mr. Westfall's testimony, I will furnish you with a copy.

After our conversation, I called the State Medical Examiner and their office did not conduct an autopsy. This means that we will have to check with the hospitals to see which one did, if any.

I will await your investigation report before doing so.

Very truly yours,


William A. Curran

WAC:ner
Enclosure
CC: Howard Johanson

PLAINTIFF'S
EXHIBIT
CAM-394

STATE OF MISSISSIPPI AND PROVIDENCE PLANTATIONS
PROVIDENCE, INC.

GENERAL COMMISSIONER
COMMISSIONER

THOMAS M. STALL

VS

L.C.C. 78-2510

UNITROYAL, INC.

Heard Before COMMISSIONER KINGSLEY
On Friday, April 27, 1972

APPEARANCES:

STANLEY R. FORT, JR. FOR PETITIONER
ROBERT A. CRAWFORD, JR. FOR RESPONDENT

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FRIDAY, APRIL 27, 1979

COMMISSIONER: Thomas Westfall against
Unirexal, Inc., 78-2510. Heard in part, continued until
today.

DR. DENNIS BAILLARGEON, SWORN

COMMISSIONER: Do you have a speciality,
Doctor?

WITNESS: Yes, internal medicine and
lung diseases.

COMMISSIONER: And you are connected with
Rhode Island Group Health?

WITNESS: That's correct.

COMMISSIONER: All right. Qualifications
admitted, Mr. Argentieri?

MR. ARGENTIERI: Yes, your Honor.

COMMISSIONER: Proceed.

MR. RAPPOPORT: Your Honor, I'd like to
introduce into evidence report of Dr. Baillargeon.

COMMISSIONER: May be marked petitioner's
exhibit No. 1.

MR. RAPPOPORT: Progress notes from
R.I.G.H.A.

COMMISSIONER: Any objection?

MR. ARGENTIERI: No, your Honor.

COMMISSIONER: May be marked petitioner's
exhibit No. 2.

MR. RAPPOPORT: Pathology report from
Rhode Island Hospital.

COMMISSIONER: May be marked petitioner's exhibit No. 3.

MR. RAPPOPORT: And radiological reports of R.I.G.H.A.

COMMISSIONER: May be marked petitioner's exhibit No. 4.

MR. ARGENTIERI: Your Honor please----

COMMISSIONER: Yes.

MR. ARGENTIERI: I have a provisional objection to the doctor's reports which I may renew or withdraw upon completion of his testimony.

COMMISSIONER: All right.

DIRECT EXAMINATION
OF DR. BAILLARGEON
BY MR. RAPPOPORT

1 Q Doctor, in the course of your practice, did you have occasion to see a Thomas Westfall?

A Yes, I did.

2 Q And when did you first see him?

A I first saw him in September 1977.

3 Q And in September of 1977, Doctor, did you take a history from him?

COMMISSIONER: What date, Doctor?

WITNESS: Exactly September 20th, 1977.

4 Q And on that date, did you take a history from him?

A Yes, I did.

5 Q And could you briefly describe what was related to you?

A At that point I didn't take as detailed history as I did when I got the final diagnosis which was-- you want the

history I got at that time or---

6 Q When you first saw him in September of '77?

A Right.

7 Q You examined him, is that correct?

A I did, yes.

8 Q All right. Did you, in fact, review some prior chest X-rays that had been taken of him?

A Yes, I did.

9 Q And when you first saw him on September 20th, Doctor, did you have a diagnosis at that time?

A No, I did not.

10 Q All right. Did you, in fact, have to test him further to come to a conclusion as to his problem?

A Yes, I did.

11 Q Did you subsequently see him after September 20th, 1977?

A On several occasions, yes.

12 Q What type of testing did you have him undergo before reaching a diagnosis?

A He underwent a thoracentesis and removal of fluid from his lung cavity, his chest cavity and a plural biopsy.

13 Q Did you order these tests, Doctor?

A Yes, I did.

14 Q Did you interpret them yourself? In other words, did you not conduct the tests, of course, is that correct?

A I did the thoracentesis.

COMMISSIONER: I'm sorry, the---

WITNESS: T H O R A C E N T E S I S.

And the plural biopsy was interpreted by pathologist and reviewed by myself.

15 Q And the thoracentesis test, that was done by yourself, is that correct?

A That's correct.

16 Q How did you arrive at a diagnosis after these various tests were conducted?

A Yes, I did.

17 Q And what was that diagnosis?

A Plural mesothelioma.

COMMISSIONER: Wait a minute now, plural- and what was that last word, spell it, Doctor.

WITNESS: M E S O----

COMMISSIONER: Wait a minute.

WITNESS: M E S O T H E L I O M A.

18 Q And Doctor, when did you reach this diagnosis of plural mesothelioma?

A It would have been on September 30th, two days after the plural biopsy was done, September 30th, 1977.

19 Q Now Doctor, could you describe briefly what plural mesothelioma is?

A Yes. It is a highly aggressive malignancy of the lung-- of the lung.

20 Q All right. What, in this case, was the cause of that plural mesothelioma in your opinion?

A My opinion the cause of the mesothelioma was asbestos exposure which in this particular case, was due to industrial grade tale that the patient had worked with for 30 years.

21 Q Once you arrived at your diagnosis of plural mesothelioma, did you speak to your patient as to whether or not he was exposed to asbestos?

A I already knew that he worked at Uniroyal at that point and I got the diagnosis, the history that he worked with talc for 30 years at that point.

22 Q Doctor, assuming that, in fact, he worked for some 26, 27 years at Uniroyal; that he would be exposed to industrial grade talc on a daily basis, so much so that his hands, face and arms would be covered; that he also worked with mica and other types of powders at Uniroyal and that gradually after leaving work in '75 he got shortness of breath and subsequently felt a sharp pain under his rib cage; is this history consistent with the diagnosis you finally arrived at of plural mesothelioma?

MR. ARGENTIEMI: Objection.

COMMISSIONER: Overruled. You may answer, Doctor.

A Yes, it is.

MR. ARGENTIEMI: Exception, if your Honor please.

COMMISSIONER: Exception.

(MR. ARGENTIEMI'S EXCEPTION NOTED.)

23 Q Now Doctor, when you first saw him, excuse me, when you arrived at that diagnosis of mesothelioma on September 30, 1977 I believe, did you also have an opinion at that time as to Mr. Westfall's ability to work?

A He was absolutely unable to work.

24 Q Is, in fact, mesothelioma a progressively terminal disease?

A Yes, it is.

25 Q And in your opinion, would Mr. Westfall ever return to work?

A No, he will not.

26 Q Now, have you subsequently followed up Mr. Westfall's condition after September '77?

A Yes, I have.

27 Q Now, have you ordered various chest X-rays and other types of tests to be performed on him?

A He's had frequent chest X-rays on an average of every two months since then.

28 Q And do all the testing- does all the testing confirm your diagnosis of plural mesothelioma?

A The course of the illness is very much consistent with mesothelioma.

29 Q O.K. How did you arrive at your diagnosis independently of interpretations of the other doctors or did the other doctors play an important part in your diagnosis?

A The clinical courses could be nothing else but mesothelioma, but the pathology report is obviously important as well.

COMMISSIONER: That confirmed your diagnosis?

WITNESS: Yes, it confirmed my diagnosis.

30 Q So independently of the pathology report, your diagnosis remained the same, is that correct?

A Yes.

31 Q O.K. And Doctor, are you still seeing Mr. Westfall?

A Yes, I am.

32 Q When is the last time you saw him?

A April 6th, this year.

33 Q All right. And at that time, what was his condition with regard to mesothelioma?

A His mesothelioma is occupying the entire left side of his chest, his thoracic, and has extended out through the chest wall now and he's deteriorating from this condition.

34 Q And is it true, Doctor, that there is actually no cure for the disease, the only thing you can do is relieve the pain somehow?

A That is true.

35 Q And also there- is this the type of disease that is literally a time bomb that will take 20 or 30 years in order to develop and comes to the forefront in a patient?

MR. ARGENTIARI: Objection.

COMMISSIONER: Sustained.

36 Q Doctor, that is the usual course of mesothelioma, does it happen overnight?

A No. It takes 20, 30 year latent period of first exposure depending on the material, before the illness becomes clinically manifest.

37 Q O.K. And Doctor, do you have a fee for testifying today?

A Yes, I do.

38 Q And what is your fee?

A The standard fee.

39 Q Whatever the commission awards if we're successful?

A Yes.

CROSS EXAMINATION
OF DR. BAILLARGEON
BY MR. ARGENTI

40 Q Doctor, he saw you in September of 1977 and his symptoms at that time were left chest pain, is that correct?

A That's correct.

41 Q And on that date, Doctor, you take any kind of history at all?

A On that date, yes, I took a history.

42 Q What was the history you took on that date?

A I took a history that he worked for Uniroyal since he was about 26 years old and had been exposed to talc.

43 Q Anything else?

A I also took a history that he had been exposed to various other materials, solvents and so forth.

44 Q Do you have a list written there, Doctor?

A Yes, I do.

45 Q Will you just read it for us?

A From the beginning?

46 Q Yes, please, unless it's in the-- unless it's in your report. Is it in your report, the history?

A Not verbatim of that date, no.

- 47 Q I'd like to hear that you've got it if you don't mind.
- A "Patient is being seen for evaluation of the abnormal chest X-ray. He was in his usual state of health until six weeks ago when he developed left lower chest pain. He was seen one month after the onset of these symptoms and saw Dr. Baillargeon on September 1st, 1977. A chest X-ray was done which was interpreted as revealing pneumonia and he was treated with antibiotics with no relief of symptoms and he returned on September 15 with increase in the amount of density on the chest X-ray. At that time-- at that point I took an occupational history that he worked for Uniroyal since age 26 and was exposed to a great deal of talc. When Uniroyal closed two years ago, he went into his own business recovering printing rolls. There was exposure to solvents. Patient did not smoke cigarettes; patient's appetite is good; he has no fever; no hemoptysis, no sweats and at that point, I did a physical examination."
- 48 Q All right. Now Doctor, in your history, I notice your history there, says "he does not smoke cigarettes," is that significant?
- A It's not relevant to the condition, mesothelioma.
- 49 Q Whether he was a cigarette smoker or not, is immaterial?
- A Wouldn't make any difference.
- 50 Q Is there some reason why you noted he did not smoke cigarettes?
- A Well, at that point I did not have a diagnosis of mesothelioma, but I was entertaining a condition of bronchogenic carcinoma which is related to cigarette smoking

- 1 Q Now Doctor, you said you took a history that he was exposed to talc, do you have personal knowledge of the composition of talc?
- A Yes, I do.
- 52 Q And on what basis do you have this personal knowledge, Doctor?
- A The literature which states the contents of talc and industrial grade talc, especially in the nineteen forties and nineteen fifties in which there was a great deal of asbestos.
- 53 Q And what literature is that, Doctor?
- A Journal of Occupational Medicine, February 1973, Volume 15, No. 2.
- 54 Q Give me that again please.
- A The Journal of Occupational Medicine.
- 55 Q General?
- A Journal of Occupational Medicine.
- 56 Q Journal of Occupational--
- A February 1973, Volume 15, No. 2, Page 92.
- 57 Q Volume 15, Page 92 did you say?
- A Volume 15, No. 2, Page 92. The Department of Labor, Occupational Safety and Health Administration, Thursday, October 9, 1975, Federal Register. That is Federal Register, Volume 40, No. 197, Page 47,652. I think that's it for now.

58 Q And you based your opinion as to the contents in composition of talc on the information contained in those two articles, is that correct?

A Right.

59 Q Can you tell us who those articles were published by, I mean, who wrote them?

A The first one was written by Hector B L E J E R and Robert A R L O N. Do you want their credentials?

60 Q Are they doctors?

A Yes. The second one is a doctor of pharmacy, the first one is an M.D.

61 Q O.K.

A Do you want more credentials?

62 Q No. And the other one?

A I don't know who wrote the other one. It's part of the Federal Register Proposed Rules to be adopted by the Occupational Safety and Health Administration. I guess it must be part of the congressional record.

63 Q All right. So those are proposed rules, is that right?

A Right. But they give background on--

64 Q But you don't know the source of the background?

A No.

65 Q Doctor, you have never made an analysis of talc yourself?

A No, I haven't.

66 Q You never had one made yourself, is that correct?

A It would be impossible since it was talc that was used 20 years ago that's implicated.

67 Q I'm sorry.

A Twenty to thirty years ago.

68 Q And Doctor, would that be the sole cause?

A Yes, the sole cause.

69 Q Yeah. Well, let me put it to you a different way.

Is talc the only thing that will cause mesothelioma?

A Asbestos as far as is known, is the only thing that will cause mesothelioma.

70 Q And it's something which will never generate except over a long period of time?

A That's correct. It takes a long latent period to develop.

71 Q And it occurs without symptoms over a long period of time?

A That's correct.

72 Q And the onset is sudden?

A The onset may be sudden, yes with the development of chest pain as the first symptom.

73 Q Yeah. And that is the consistent pattern, it cannot happen in any other way?

A That is correct. Of diffuse malignancy, mesothelioma, that is the pattern, yes.

74 Q And that is what---

A -- This patient has.

75 Q -- claimant has.

A I have another reference on the composition of talc if you wish.

MR. ARGENTI: I'll take it in a moment, Doctor, if you don't mind.

- 76 Q O.K. What is it, Doctor?
- A Mineral Facts and Problems, 1965 Edition.
- 77 Q Mineral Facts?
- A And Problems.
- 78 Q And Problems.
- A U. S. Bureau of Mines. United States Government Printing Office, Pages 919 to 927. Authors are J. R. Wells and the name of the article is "Talc, Soapstone and PYROPHYLLITE."
- 79 Q -- L O I T E or Y L I ---?
- A L I T E.
- 80 Q And is J. K. Wells a physician of any kind, do you know?
- A I'm not sure.
- 81 Q Doctor, how much contact with talc was necessary in order to develop this?
- A That is highly variable, cannot answer that question. It can range from two months to twenty years.
- 82 Q Does it require a high degree of exposure?
- A Not necessarily, no. In fact, this condition has been reported in wives of workers just from handling the clothes.
- 83 Q So that minimal exposure on a very limited basis is the cause?
- A Capable of doing this, yes.
- 84 Q Doctor, you noted that the patient for approximately a year and half before the onset of these symptoms worked at his own business in which he was exposed to talc.
- A Right.

85 Q Would that period of exposure be sufficient to produce the condition which you diagnosed?

A It's not long enough latent period.

86 Q Not a long enough latent period.

MR. ARGENTIERI: You still want to object?

MR. RAPPOPORT: No.

WITNESS: The answer to that last question was "no."

87 Q Doctor, is there any significance to being exposed to solvents or mica?

A As far as I know, the condition has not been reported from exposure to mica and solvents, has absolutely no connection.

88 Q So that then, Doctor, there would be nothing inconsistent with perfectly normal X-rays a year prior to the onset of the symptoms?

A That's correct.

89 Q So that when the X-rays which he was getting at R.I.G.H.A. in 1976 and prior thereto showed normal chest X-rays, this would not be significant?

A That would not have any bearing.

90 Q Doctor, what's the significance of the fact that the findings with respect to the bronchoscope-- I can't pronounce--

A Bronchoscopy.

91 Q Yeah, on November 14th, 1977 indicated that there was no-- that there were no malignant-- no malignant cells identified?

A Mesothelioma is a condition of the lungs, of the lung, cannot

be diagnosed by bronchoscopy.

92 Q How does it have to be diagnosed, Doctor?

A By biopsy of the lung, of the lung which is done through the chest wall.

93 Q Yeah. Did you perform that, Doctor, that bron- that biopsy?

A Yes, I did.

94 Q And it was the result of that biopsy and the-- and the pathological report of the specimen that caused you to arrive at your diagnosis?

A It was contributory to making my diagnosis but the diagnosis was made with certainty by the clinical course of the illness.

95 Q Well, you say, Doctor, that the only way you can determine mesothelioma is by a biopsy, isn't that correct?

A Biopsy is contributory and helps to confirm the diagnosis but that's not the only way I know, even if I had no biopsy report available I would know what Mr. Postfall has.

96 Q So the biopsy confirmed it, that's all?

A Yes, it did.

MR. ARGENTIERRI: O.K. That's all, thank you.

MR. RAPPOPORT: Thank you, very much, Doctor.

COMMISSIONER: That's all, Doctor.

MR. RAPPOPORT: Your Honor, the petitioner rests.

COMMISSIONER: Petitioner rests.

Mr. Argentieri?

MR. ARGENTIERI: I have some witnesses,
your Honor.

COMMISSIONER: Medical?

MR. ARGENTIERI: Not yet.

COMMISSIONER: But presumably possibly.

MR. ARGENTIERI: Possibly.

(HEARING ADJOURNED.)

I hereby certify the foregoing
to be a true and accurate transcription
of the testimony presented, according to
my notes.

Patricia L. Meyer