

FILE NAME: Owens-Corning (OC)

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*OCF Consultants on their
science advisory board*

ORIGINAL

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL DISTRICT
COUNTY OF MC LEAN

DONALD VAN WINKLE and
LINDA VAN WINKLE,

Plaintiffs,

v.

OWENS-CORNING FIBERGLAS
CORPORATION and ILLINOIS
CENTRAL RAILROAD COMPANY,

Defendants.

Case No. 95 L 76

Deposition of JOEL R. BENDER, Ph.D., M.D., a
Witness herein, called by the Plaintiffs as upon
Cross Examination, pursuant to the Illinois
Supreme Court Rules, taken before Nicole D.
Blaker, Registered Professional Reporter, Notary
Public in and for the State of Ohio, at Connolly,
Soutar & Jackson, 405 Madison Avenue, Suite 1600,
Toledo, Ohio, on Thursday, August 31, 1999,
commencing at 10:15 a.m.

SEAGATE REPORTING SERVICE, INC.
405 Madison Avenue, Suite 900
Toledo, Ohio 43604
(419) 241-2070

SEP 14 1999

1 Q Can you spell Kushner?

2 A K-u-s-h-n-e-r.

3 Q Anyone else?

4 A Dr. Mort Corn.

5 MR. DAMES: Mort?

6 A Mort. Brooke Mossman, Gene McConnell. Gene
7 would be animal though, I'm sorry, not human. In
8 fact, both the individuals I just mentioned would
9 be more animal than human even though in the
10 context of some discussion it may have come up.

11 Q What has Rossiter done for OCF for which OCF has
12 compensated him?

13 A Dr. Rossiter is a very well-known epidemiologist
14 who is chairman of a joint European research
15 board that provides oversight of research in
16 synthetic vitreous fibers, and also this is the
17 group that provides funding through the
18 International Agency for Research on Cancer.
19 Dr. Rossiter through his contacts throughout
20 Europe and the world has also provided specific
21 services for us in other parts of the world with
22 respect to research, interpretation, and so
23 forth.

24 Q Research and interpretation of what?

25 A He does epidemiological studies, and he may

1 provide us with information about studies. For
2 example, his most recent one I recall was
3 refractory ceramic fibers he was studying.

4 Q Has Rossiter done any studies that involve
5 asbestos for OCF?

6 A Dr. Rossiter has not done studies for
7 Owens-Corning on asbestos.

8 Q For how long has there been a relationship
9 between Owens-Corning and Rossiter in which
10 Rossiter has been compensated by OCF, to your
11 knowledge?

12 A I have known Dr. Rossiter for the past eight
13 years, and his services are as needed.

14 Q Was it true when you started eight years ago that
15 Rossiter was providing services to OCF for which
16 he was compensated?

17 A No, not that I know of.

18 Q So it started since you've been with the company,
19 right?

20 A That's correct.

21 Q But has it basically been throughout the last
22 eight years that as needed Rossiter has provided
23 services to OCF for which OCF has compensated
24 him?

25 A That's correct.

1 Q Davis, what has he done for OCF?

2 A Dr. John Davis is a member of our science
3 advisory board.

4 Q What does that entail?

5 A We have an outside science advisory board that
6 basically provides us input on the interpretation
7 of ongoing studies, studies that are planned, or
8 the results of new research that may be coming
9 available, and basically provides us with
10 guidance on stewardship.

11 Q Where is Davis from?

12 A Dr. Davis is a former director of the Institute
13 of Occupational Medicine in Scotland.

14 Q For how long has Davis had a relationship with
15 OCF where he provided services for which OCF
16 compensates him?

17 A Again, I've known Dr. Davis for the entire time
18 I've been employed at Owens-Corning, and
19 Dr. Davis would have received remuneration
20 indirectly through research that we had conducted
21 at the Institute of Occupational Medicine and
22 most recently in an honorarium for our science
23 advisory board.

24 Q So his honorarium for the science advisory board
25 is direct compensation from OCF?

1 A That's correct.

2 Q Kushner, what has he done?

3 A Dr. Kushner, again, known him for the past eight
4 years of my employment with Owens-Corning, and he
5 is also a member of our science advisory board.

6 Q Any work he's done besides being a member of the
7 science advisory board for which he's gotten
8 direct compensation for OCF?

9 A I am not aware of it. He may have done work
10 prior to my coming to Owens-Corning.

11 Q Mort Corn, what has he done?

12 A He is also on our science advisory board.

13 Q Any other relationship between OCF and Corn?

14 A The only other relationship would be in terms of
15 a grant or contract that Johns Hopkins would have
16 received from the industry to conduct a very,
17 very large study for the industry, and whether or
18 not he is -- gets funds indirectly from that, I'm
19 not aware.

20 Q What has Brooke Mossman done?

21 A Brooke Mossman is part of the science advisory
22 board.

23 Q And the last one you named was Gene McConnell.

24 A Gene McConnell is former director of the National
25 Toxicology Program, and there may be some

1 specific projects we will have him do with
2 respect to design of animal studies,
3 interpretation of animal studies, and so forth.

4 Q The honorarium that these people get who are on
5 the science advisory board, how much is that
6 honorarium?

7 A As I recall, I think we've gone to about \$2,500
8 for the time that they may be with us during the
9 day plus their expenses.

10 Q As you recall, how many days per year are they
11 with you?

12 A We've been asked by the board to increase their
13 meetings to two per year, and they will be with
14 us directly one day during each of those time
15 frames, but we will continue to provide the
16 material any time during the year, or if we're
17 working on a specific item for the agenda, we
18 will send them a lot of material to review.

19 Q Have you ever met with the science advisory
20 board?

21 A Yes, I have. I instituted it.

22 Q Have you ever had any discussions with the
23 science advisory board about asbestos or its
24 effect on human health?

25 A No, we have not.

1 Q Have you ever provided any materials, written
2 materials to the science advisory board or
3 received any materials from any of those
4 individuals about asbestos and its effect on
5 human health?

6 A I would not have given or received any material
7 from them, only with respect to again the
8 incidental use of asbestos in controls and in the
9 epidemiology study.

10 Q When you say the epidemiology study, to what were
11 you referring?

12 A Studies such as Chiazze's work, such as Marsh's
13 work or some other study that may come up, for
14 example.

15 Q Have you had epidemiology studies come up
16 relating to asbestos other than the ones we've
17 already discussed?

18 A Not that I have -- not that we have reviewed at
19 the -- wait. Yes, there has been, and that's a
20 study conducted at a G.E. facility by Ray
21 Elburn.

22 Q Was that reviewed by yourself and the science
23 advisory board?

24 A It was brought to my attention by the board
25 because it had -- his study had been published in

1 the British Journal of Occupational Medicine, and
2 one of these individuals had seen it.

3 Q Which individual had seen it and brought it to
4 your attention or did the board bring it or one
5 member of the board bring it?

6 A One member of the board brought it to my
7 attention during a closing discussion, as I
8 recall, and they just wanted to make sure that I
9 was aware of it and had read that particular
10 study, and I indicated I was because I had
11 written a letter to the editor which was
12 subsequently published in that journal as well.

13 Q Which member of the board brought it to your
14 attention?

15 A I do not recall.

16 Q What is your recollection as to why it was
17 significant that it be brought to your attention,
18 as you're understanding?

19 A The specific topic of asbestos was not brought
20 up. It was in the context of the findings of
21 that particular study by Kaye Kilburn in which he
22 is alleged to have found a high prevalence of
23 small opacities and maybe some pulmonary
24 abnormalities in that particular work force. And
25 when I was asked to address that by this board

1 member, I indicated to them that Kaye Kilburn had
2 not been intellectually honest in reporting his
3 results, that I was aware of that fact and had
4 sent a letter to the editor that indicated that
5 in that G.E. facility the levels of asbestos were
6 ten times that of glass fibers.

7 Q And, therefore, any conclusion that anyone could
8 draw that glass fibers could cause the opacities
9 would be inaccurate because of the exposure to
10 asbestos as being the most likely cause of the
11 opacities?

12 A Any interpretation of his results would be cause
13 for question, not only because he failed to have
14 independent reviewers and readings of the chest
15 films and pulmonary functions, but also because
16 he did not acknowledge multiple exposures in that
17 particular research which could have confounded
18 those results.

19 Q Did you ever work with Doban when he was a
20 full-time employee?

21 A I worked for Dr. Doban. He was a former senior
22 vice-president of science and technology.

23 Q For how long was the relationship one where you
24 worked for him?

25 A I believe it was the first two years of my