

DEPOSITION SUMMARY

Deposition of ROY WHITTAKER taken February 29, 1988

Fred Douglas and Margaret Douglas v. Armstrong World Industries, Inc., et al
United States District Court - S.D.N.Y.

Page	Summary
	EXAMINATION BY MR. KELLEY:
6-7	Garlock is producing Whittaker for purposes of identifying purchases made by Garlock during 1960-1970
7	Roy Whittaker. Resides at 790 W. Lake Road, Canandaigua, New York 14424. Currently employed by Garlock at 16666 Division Street, Palmyra, New York. Employed 34 years beginning in 1953.
7-10	EMPLOYMENT HISTORY WITH GARLOCK: Current position is director of engineering for industrial gaskets. Has been in that position about 1½ years. Prior to that was Director of engineering for industrial packing. Prior to that was Director of engineering which was also industrial packing at that time, but included quality control. Can't recall specific dates, but was in that position for about 3 years. Prior to that was manager of engineering for compression packings. In that position for two years. Prior to that was manager of quality control and was in that position about 3 years. Prior position was quality control engineer for approximately 2 years. Prior to that was foreman of quality control for about 5 years. Prior to that was hourly paid employee (for Garlock) for about 10 years. Worked in cut-gasket, department building, would pack dyes, as a mobile operator, which I learned all the jobs for cutting gaskets. And following that I worked in the warehouse; following that I worked as a quality control inspector. Covers all employment history with Garlock back to 1953.
11-12	Brought examples of documents. If documents are available, they are kept by a record custodian—Mr. Schaffer—in Palmyra, New York. Garlock's record retention normally lasts 5 years, 7 years, and in some cases, like if they are government documents. Did not consult with Mr. Schaffer in response to Plaintiff's Ex. 1 Subpoena. Consulted with Dick Watson, legal representative of Garlock in Palmyra.

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13	Watson is not an attorney but employed in the legal department. He assisted in gathering records brought today. Watson collected most of the documents at Mr. Manewitz's direction. Manewitz is legal counsel [for Garlock].
13-14	Pl. Ex. 2 is Garlock Purchases of Asbestos Fibre, 1965 through 1979. This document was formulated or kept by our purchasing department.
14	Q. And could you please, starting with the first entry, which I believe is AA and says, Asbestos fibre BL-TR, can you tell us what that means, what that entry means, the first entry? A. As Asbestos fibre and gives class designation. Q. And what is that, class designation mean? A. I don't know Q. What about the next one, AB, which is Blue Fibre?
15	A. ... all I know is just Blue Asbestos Fibre. That's a type of fibre purchased by Garlock. Q. And under the heading, 1965, there are various notations on the first page of Plaintiff's Ex. No. 2. What do those numbers reflect under 1965? A. Dollars purchased. Not aware of any documents demonstrating the tonnage of asbestos purchased as opposed to dollars purchased. Records maintained were in dollar purchase—not tonnage purchased.
16	These records are kept in the ordinary and usual course of business by Garlock. Plaintiff's Ex. 2 is two sheets of paper. Q. ... indicate to us the names of the asbestos miners... producers, that are listed Would you go right down the list of that first column? A. H.K. Porter North American Asbestos Corporation Lake Asbestos of Quebec Bell Asbestos Mines Limited Lake Asbestos of Quebec Bell Asbestos Mines Limited Asbestos Corporation Limited Lake Asbestos of Quebec National Gypsum Company Bell Asbestos Mines Limited Asbestos Corporation Limited Lake Asbestos of Quebec National Gypsum Company

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	Jaquay Mining Corporation Bell Asbestos Mines Limited,
17	Ruberoid Company Lake Asbestos of Quebec Johns-Manville Sales Corporation Westwood Chemical Company, Incorporated National Gypsum Company Jaquay Mining Corporation Asbestos Corporation Limited Lake Asbestos of Quebec Westwood Chemical Company, Incorporated Carey Canadian Mines Limited Lake Asbestos of Quebec Bell Asbestos Mines Limited Lake Asbestos of Quebec Carney Canadian Bell Asbestos Mines, Limited Lakes Asbestos of Quebec Bell Asbestos Mines Limited Ruberoid Company National Gypsum Company Johns-Manville Sales Corporation Lake Asbestos of Quebec Lake Asbestos of Quebec Canadian Johns-Manville Johns-Manville Sales Corporation Lake Asbestos of Quebec Lake Asbestos of Quebec Westwood Chemical Company Incorporated Bell Asbestos Mines Limited Lake Asbestos of Quebec Bell Asbestos Mines Limited Lake Asbestos of Quebec Canadian Johns-Manville Johns-Manville Sales Corporation Ruberoid Company
17-18	Plaintiff's Ex. #2 lists the various suppliers of asbestos to Garlock.
18	In each one of these there is a different grade or fibre type. As to that grade or fibre type purchased from a company, that company is then listed under that grade or fibre type. To the right of the fibre type and listing of the company are the years 1965 through 1979. Listed under each of those years is the various purchase of dollars.

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18-19	Cannot state this document reflects all of the purchase of asbestos fibre for Garlock between 1965 and 1979, but is not aware of any additional. Best recollection is this does reflect all the purchases.
19-21	Plaintiff's Ex. 3 is eight pages. It is a Material Purchase Specification for fibre. For each item Garlock purchases, we have a specification that tells the supplier what the material is supposed to be, as far as material makeup, and gives a composition of the material and also gives the qualified vendors. Document was found in Garlock record retention. Brought this document in response to subpoena for today. This document kept in ordinary usual course of business by Garlock. There are other similar documents in records retention department in Palmyra, New York, of Garlock. Cannot estimate the number of documents, but the purchase specifications would fill up a file cabinet. Doesn't know how far back they do. This one is dated 10/1/1968. Other similar documents are available for inspection.
21-22	Re documents listed on Plaintiff's Ex. 1, Appendix A, (starting with the first entry) purchase orders would be available for inspection at Palmyra, New York. Does not know if they're available. MR. MANEWITZ: ...at my direction, Mr. Watson looked for such documents and informed me on the telephone that he couldn't find any purchase orders between 1960 and 1970 as they had been destroyed under the records retention policy. He thought ... they had been destroyed.
23	"We will continue to look, and if we find some we will produce them." Second entry requested you bring contracts regarding purchase, delivery, supply, sale, and distribution concerning raw material suppliers of asbestos during 1960-1970. Did not personally search for those records, but believes Mr. Watson did. Does not know whether those records are available for inspection at Palmyra, New York, or not. Would have brought them today had they been readily available.
23-24	Next entry: Letters of agreement and credit re asbestos and asbestos-containing products concerning raw material suppliers during 1960-1970. ... if they were available, I would have brought an example.
24	Next: Product numbers, unit numbers, log numbers and batch numbers of asbestos purchased from raw material suppliers during the period 1960-1970. Do not believe they are available. Closest thing to that being available is Plaintiff's Ex. #2 produced today. Next: Jobbers regarding sales and purchases of raw asbestos for 1960-1970. Plaintiff's Ex. 2 is responsive to that request.
24-25	Next: Specifications that buyer supplied to seller regarding raw asbestos during 1960-1970. Material Purchase Specification, Plaintiff's Ex. 3, would satisfy that. If available, there are records available for inspection at Palmyra, New York, that deal with Material Purchase Specifications. What was brought today is a sample of those records. This record was dated 1968, so there are at least some records dating back to 1968.

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25-26	Next entry: Application notices regarding formulations, handling, usage, health instructions and precautions to take regarding raw asbestos and asbestos products during 1960-1970. Believes Mr. Watson did a search for those requests. He did not find anything.
26-27	Knows from personal experience/recollection that the purchases of raw asbestos fibres from the companies named on Plaintiff's Ex. 2 were received at Palmyra, New York; and that is the central point of Garlock for the receipt of asbestos fibres. All the asbestos fibres that are purchased, as reflected by Plaintiff's Ex. 2 are used at Palmyra, New York. They are not shipped out to any other facility. Palmyra is the main facility for Garlock in terms of the manufacture of asbestos containing products. No other facilities within the U.S. where Garlock manufactures asbestos-containing products.
	EXAMINATION BY MR. COOPER:
27-28	Witness did not prepare Plaintiff's Ex. 2. It was prepared by Mr. Ray Davis in the purchasing department. Mr. Davis is director of purchasing and has been with Garlock approximately 4 years in that position. Does not know if anyone assisted Davis in preparing this document. The document was prepared within the last 2 weeks. Was not present while Mr. Davis prepared this document. Did not assist him any way in preparing this document. Davis prepared the document from what files he has available.
29	The files would be the purchasing, purchased goods. Not sure whether Plaintiff's Ex. 2 comes from computer tapes or cardex type files. Cardex type files are in Palmyra, New York. Does not know if Mr. Davis looked elsewhere outside of Palmyra, New York, in preparing this document. Does not know if Davis looked anywhere besides the cardex or computer printout in preparing this document.
29-30	In various jobs at Garlock, was in a position to know what raw fibres were being purchased at Garlock.
30	Q. Which jobs were you working in when you were privy to that information? A. Quality control engineering. Q. Director of engineering for industrial packing and quality control? A. Packing, quality control and gasket. Q. Would those be the last three jobs you maintained at Garlock? A. That would be prior to that. Q. Presently you are director of engineering for gaskets. A. Correct. Q. Your position in that job is to know what raw asbestos fibres are purchased by Garlock? A. Yes. Q. Are you in a position to know what information as when you were director of engineering for industrial packing? A. Yes. Q. When you were director of engineering for industrial packing and quality control?

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31	A. Yes. Q. When you were ... manager of engineering for compression packings? A. Yes. Q. When you were manager of engineering services? A. No. Q. When you were manager of quality control? A. Yes. Q. When you were quality control engineering? A. No. Q. When you were foreman for quality control? A. No. Q. When you were an hourly paid employee were you privy to that information? A. No.
31-32	While manager for quality control, job responsibilities in relation to the raw fibre purchased by Garlock were receiving, inspection; checking the fibre to purchase specification, Material Purchase Specification, which is Ex. 3. I would or my people would see the fibre as soon as it arrived at the Garlock plant. While manager of quality control, did not generally inspect the fibres but by people who worked for [me]. Never checked fibre himself during any job positions.
32-33	Q. Besides checking the fibre for specification did you ever have any other job responsibilities related to the purchase of raw fibre? A. My responsibility as director of engineering for industrial gasket ... for the engineering uses of raw fibres ... for formulating products ... The compressed gasketing consists of fibres, fillers and several other ingredients in taking the asbestos fibre—whatever fibre is retired, and formulating it to get the right consistency, right dough, to make a right compressed gasket material. Q. You over saw that process? A. Yes.
33-34	Saw packages the raw fibre arrived in when doing that. Recalls names of the suppliers of that raw fibre read some of them . . . independently recalls seeing Lake Asbestos of Quebec, Lake Asbestos of Quebec . . . the main one. Looking at Plaintiff's Ex. 2 also recalls North American Asbestos Corporation when over process of formulating products.
34	Never actually purchased or requested purchase of any specific raw asbestos fibres during any years at Garlock.
34-35	Does not know if Plaintiff's Ex. 2 was prepared specifically for purposes of this deposition here today in response to the subpoena.
35	Q. Referring to . . . Plaintiff's 3, specifically the approved vendor list portion, could you describe . . . what an "approved vendor list" is at Garlock? A. Yes. It is where purchased ingredients or supplies are tried in a product Tried in a product, formulation, and if they process well and they give the finished product that Garlock wants, by then they can be put on the approved vendors' list That gives the purchasing department the right to purchase from whatever vendor they wish.

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35-36	Q. Does the appearance of a company's name on the approved vendor list necessarily mean that products were purchased from that particular supplier? A. In most cases they are purchased from that list.
36	The appearance of the name on the approved vendor list doesn't designate that specific products were purchased from a particular supplier. The only approved vendor list in Plaintiff's Ex. 3 is what appears on page 4. This is just an example of an approved vendors' list. There are others. To the extent there are others available, those would be maintained at Palmyra, New York.
36-37	Does not know whether or not Garlock maintains records that would indicate at what price particular raw Asbestos fibre products were purchased at a given time.
37	During years at Garlock, job responsibilities never included maintenance of Garlock records. Q. ... referring to the last entry on Plaintiff's Exhibit 2, what is the heading "miscellaneous and experimental" refer to, if you know? A. They might have been special grades of fibre that are used for engineering purposes. Q. What do you mean engineering purposes? A. To develop our product. Q. Product that wasn't presently being manufactured? A. Develop or revise.
38-40	Discussion by attorneys as to the scope of the deposition.
	MR. BEERS:
40	Was in quality control in 1965. Did not include asbestos containing products. Correction: it included the finished product. Those finished products were compressed. Was responsible for compressed gasketing, compressioned sheet gasketing that contained asbestos.
41	Was in quality control. Was the quality control foreman at that time. Started in 1953 as an hourly employee. Then in the course for about 10 years. So by 1969 would have gone up to foreman. Would have gone up to foreman by 1965. Was still a foreman beginning 1965 and 1970.
42	As a foreman, had most of the plant for quality control inspection. Didn't work in an office. About 25 total buildings in the Palmyra plant. Two buildings where asbestos-containing products were made. They were called compressed sheet development and cut-gasket. True from 1965 to 1970.
43	Worked in and responsible for both those buildings. Was responsible for all the buildings, plant-wide, for a while. The 25 buildings covered about 10 acres. The 2 buildings in which asbestos products were made were a few hundred feet apart.
44	Most buildings are adjoining one another. These 2 didn't adjoin one another. They did adjoin other buildings. Does not know Fred Douglas nor sure of where he worked. Doesn't remember who was head of personnel between 1965 and 1970.

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44-45	Q. Let's go back to purchasing fibre, who would have been involved in the decision to purchase fibre between 1965 and 1970? Do you have any recollection? First tell me by starting what types of people—rather than who had those jobs, where was the decision made?
45	A. Engineering, product engineer. Q. Product engineer. Is that a department? A. Yes ... at the main plant, Palmyra ... up front. Engineering department would not be in the 2 buildings where asbestos. There was some sort of main administrating building, but still connected. Doesn't remember who was in charge of that department between 1965 and 1970. Q. How would I go about finding that out? A. We can supply that to you.
45-46	There would be a number of people in the engineering department that made the decisions as to what kind of fibre you bought.
46	There was a separate purchasing department. They would actually place the orders for raw materials. From 1965 to 1970 Mr. Ed Hardy was in charge. Mr. Hardy is not still with the company. He is living in North Carolina, retired.
46-47	Mr. Fred Black in the purchasing department would have been familiar with the purchase of asbestos fibre between 1965 and 1970.
47	Mr. Black no longer with Garlock. He's deceased. Does not know whether Mr. Black had an assistant who would have known something about purchasing asbestos fibre. Q. ... can you think of anybody back in the '60s who would know about prices per ton of fibre purchased other than say Mr. Hardy? A. ... the purchasing department, Mr. Hardy's department. Q. Would anybody in engineering know about that? A. ... not likely unless ... revising a product or developing a new product. Q. And took the cost into account?
48-49	A. Right. Q. So we would have to ask people in engineering about that? A. Yes. Q. ... is it your understanding that except for the computer tapes of dollar purchase, that you think was used to make up the Ex. 2, the chart, that Garlock doesn't have any other records on specific purchases of fibre? A. This is the only one I'm aware of right now. Q. In the 2 buildings where they did manufacture asbestos containing products, are there types of positions where men or women would know what kind of fibre was being used? A. Yes. Q. What kind of positions ...? A. Supervisory position, like foreman or supervisor.

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49-50	Was referring to production foreman. Also production control clerks. That's something like planning and scheduling. They are salaried employees. To find out who filled those types of positions in the 1965 to 1970 groups, ask Mr. Watson or our personnel department. Mr. Watson would work in our personnel department. He's a paralegal. Can't think of anyone in any of those positions who goes back that far. They're all retired or deceased.
	EXAMINATION BY MR. CAMPBELL:
50	Does not know why Exhibit P2 starts with the date 1965. Earlier testified the Palmyra plant was the only yarn plant in the U.S. that used asbestos fibre.
51	It's the only plant we have in the U.S. that manufactures parts containing asbestos. Has been to the other plants. As Garlock existed between 1965 and 1979, it had 2 other plants: Camden, New Jersey and Gastoni[a], North Carolina. Gastonia, NC plant was sold. Aware of what types of products were made at each of the Garlock plants. Raw asbestos fiber was delivered to Palmyra plant by bails, in trailer truck load.
52	Bales, like bales of cotton. It did also come in bags. Describing the bales: it was like bulk fibre that would be contained by some straps or some twine or something like that. Most of it would be in, probably, be in bag form. All delivered in tractor trailer trucks. Non delivered in railroad boxcars to my knowledge. Last time actually saw arrival of raw asbestos fibre was about two weeks ago.
53	Doesn't recall first time saw raw asbestos fibre delivered. Not a period of employment where directly worked on a day-to-day or weekly basis with arrival of asbestos fibre. Never directly inspected the arriving shipments by counting bags, counting tonnage, making sure it arrived properly with no broken bags, but some people who worked for me did. That was a regular part of their duties. I supervised them on site as they did that. That was back in the late 1960s /early 1970s.
53-54	Recalls the grade of fiber and the supplier's name printed on the bags of asbestos fibre.
54	Doesn't recall any other information on the bags. Referring to Ex. P2, earlier read all the suppliers in the left-hand columns of the 2 pages. Sees Cassiar listed as the 6 th item down. It says Cassiar AC-45. It is a grade of fibre. The supplier listed under that is Bell Asbestos Mines.
55	Q. Am I correct in understanding this chart, that as being listed there, does not indicate that asbestos fibre was purchased? it appears to me by looking at this, if I understand the chart correctly, that is a grade of fibre, but it does not indicate directly that asbestos fibre was purchased. Am I correct or wrong in that interpretation? A. I believe that ... is the grade that was purchased. Q. Was it purchased from Cassiar? A. I can't say for sure. All I can say is what I see listed in this form. Q. ... I want to know ... your interpretation of the form. By looking at this form would you understand that asbestos fibre had been purchased or not or can't you

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	tell? A. I would understand that it would have been purchased by looking at this form. Looking at P2, Asbestos Corporation of America is listed there.
56	Not listed are Vermont Mines, Unarco, or GAF. Doesn't know of any company that is listed in the left-hand margin that is a successor or predecessor to GAF. Doesn't see Raybestos-Manhattan or Turner and Newall listed.
56-58	MR. CAMPBELL: Shows interrogatories propounded on and answered by Garlock in <i>Crosby, Sr. v. Combustion Engineering, Inc., et al.</i> in the United States District Court for the Southern District of Georgia Savannah Division, CV478-288. Question #36 asks from what source or sources, if any, did your company obtain mined asbestos since 1950. MR. CAMPBELL: Answer 36A says Garlock obtained mined asbestos from the following companies: North American Corp.; Asbestos Corporation of America, Inc.; Canadian Johns-Manville? WITNESS: Vermont mines; Johns-Manville Products Corp.; Unarco Industries, Inc.; GAF Corporation; Raybestos-Manhattan, Inc.; H. K. Porter; Turner and Newel, Ltd.; Bell Asbestos Mines, Ltd.; Cassiar Asbestos Corp. Ltd. MR. CAMPBELL: Date is 1979. Signed by Tommy T. Holland, attorney for Garlock, not in-house.
58	Q. Do you have any personal knowledge supplied by any of those companies to the Palmyra plant? A. No. No reason to believe the answer in 36A is incorrect. Q. Did Garlock purchase, for use at the Palmyra plant, asbestos containing products other than raw asbestos fibre? A. No.
58-59	Q. I refer you to question number 40 in the interrogatories in the <i>Crosby, Sr. v. Combustion</i> case, actually to start with question number 39: Has the defendant imported asbestos or asbestos materials since 1930? And what is Garlock's answer? A. "Yes." But that's referring to just asbestos period. Q. Correct. Has the defendant imported asbestos or asbestos material since 1930? And the answer is, yes. A. Which is asbestos. Q. Number 40: If the answer to the preceding interrogatory is answered in the affirmative, state which it was, from where the asbestos or asbestos materials was imported? A. Yes. Q. And several other questions.

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59-60	OBJECTION BY MR. MANEWITZ AND MS. GASTOR
60-61	Q. Can you read the answer to question 40 for the record, Mr. Whittaker? A. Bell Asbestos Corporation; Johnson Miles; all of Thedford Mines, Quebec; Lake Asbestos Corporation of Black Lake, Quebec; Johns-Manville Corporation of Asbestos, Quebec; Cassiar Asbestos has furnished fibre from Yucon, Canada; Blue Asbestos Fibre has come from North America Asbestos Corporation; Blue Yarn has come from Germany, Turner-Newall Company, England and Japan and Italy; The Blue Fibre has come mainly from Rhodesia, South Africa.
61	Knows that Blue Yarn is used for compression packing in asbestos contained products. Does not know the reason Blue Yarn was used at Palmyra plant. It is not still used. Was being used when arrived at the Palmyra plant.
62	<u>Ceased using Blue Asbestos in early 1980s, including Blue Yarn. So it was used during the 1960s.</u>
63	Garlock's ATI labeled as Ex. L-2. Has never heard of Tommy T. Holland. Has never heard of the lawsuit <i>Crosby, Sr. v. Combustion Engineering, Inc.</i> Had never seen these interrogatories before today.
63-64	Ex. P-3, the approved vendor list, contains Bell Asbestos Mines, Lake Asbestos of Quebec, and National Gypsum. Asterisks next to Lake Asbestos of Quebec and National Gypsum and note "Denotes change over prior issue" means those two were added at a later date. You will see at the top it says 10/1/68, supersedes 12/6/65. It's possible that indicates there was a Material Purchase Specification vendor list dated 12/6/65 and that Lake Asbestos of Quebec and National Gypsum were not on that list. Another possible reason for the asterisk is just showing they are approved.
65	That they were approved since 12/6/65. Doesn't recall the types of bags used to package the fine fibre between 1965 and 1970.
	EXAMINATION BY MR. COOPER:
65-67	Referring to the computer printout that was mentioned, does not know what information exactly is contained. Not sure what software system it came from. Is familiar with the cardex systems. Does not know what information is contained in it. Doesn't know when cardex system was created. Doesn't know when the computer printout system was created. Doesn't know for sure whether the computer system was in place for the last 10 years. Doesn't know if the cardex system was in place for the last 10 years.
67	At Garlock, the person responsible for maintaining the computer system is Mike Valbano. Mike's position is manager assistant. Doesn't know how long he's been manager assistant. This particular department would be in charge of maintaining the cardex system. Ray Davis is in charge of maintaining the cardex system. Responsibility for maintaining the computer system dealing with purchases is responsibility of Mr. Davis.

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68	One central computer at Garlock, but several other computer systems also. Purchasing Department has its own separate computer maintained in the purchase department building.
	EXAMINATION BY MR. HAGGERTY:
68-69	Recalled seeing certain packaged products during course of employment. Identified Lake Asbestos of Quebec and <u>North American Asbestos Corporation</u> . Saw those records, Lake Asbestos, as early as a few weeks ago. Cannot remember the date for the other one, but prior to the 1980s. Does not recall packaging of North American Asbestos product.