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CONDENSED TRANSCRIPT

of the Video Taped Oral Deposition

ROBERT BARGHINI

January 15, 1999

St. Paul, Minnesota

Cause No. 25743
Shannon Gilbert, et al vs. AS&S, et al
20th Judicial District Court
Milam County, Texas

1 VIDEOGRAPHER: This is the video deposition
2 of Robert Barghini, taken by the plaintiff, in the
3 matter of Gilbert versus AC and S, Incorporated, et
4 al., in the District Court of Milam County, Texas.
5 This deposition is being taken at King and Counsel, in
6 St. Paul, Minnesota, on the 15th of January, 1999.
7 The deposition is starting at 8:56, the time on the
8 screen.

9 Counsel would please make their verbal
10 appearances.

11 MR. GREENSTONE: David Greenstone, for the
12 plaintiff.

13 MR. DISIPIO: Bill Disipio, for 3M.

14 MS. RICE: Ann Rice, for Alcoa.

15 MR. TIERNEY: Pat Tierney, for Pittsburgh
16 Corning Corporation.

17 VIDEOGRAPHER: Would the court reporter
18 please swear the witness.

19
20 ROBERT J. BARGHINI, called as a witness,
21 after having been first duly sworn, was examined and
22 testified as follows:

23
24 MR. DISIPIO: Before we start, we're going to
25 want to read and sign the deposition transcript.

1 MR. GREENSTONE: Okay. And we will just --
2 we would also like an agreement that an objection made
3 by one is good for all present.

4 MR. GREENSTONE: That's fine.

5
6 CROSS-EXAMINATION

7 BY MR. GREENSTONE:

8 Q. Mr. Barghini -- is that the correct way to
9 pronounce your name?

10 A. Yes, it is.

11 Q. My name is David Greenstone, I represent --
12 one of the lawyers that represents the plaintiff in
13 this lawsuit. Would you please introduce yourself?

14 A. My name is Robert Barghini.

15 Q. And where do you currently live?

16 A. I live in St. Paul.

17 Q. And how long have you currently lived in St.
18 Paul?

19 A. All my life.

20 Q. How are you currently employed?

21 A. I'm retired.

22 Q. And how long have you been retired?

23 A. Pretty close to ten years. Excuse me, ten
24 years.

25 Q. So, was it 1988 when you...

1 A. I went out on June 1 of 1989.

2 Q. Could you go and just for a couple minutes
3 and describe for us your formal education? You don't
4 have to go as far back as elementary school, but...

5 A. I have a degree in chemistry from St. Thomas
6 College.

7 Q. And where is St. Thomas?

8 A. St. Thomas is in this area.

9 Q. Okay. When did you first start working for
10 Minnesota Mining and Manufacturing?

11 A. I believe it was the end of December of --
12 sometime in December of 1950.

13 Q. 1950? And could you describe for us briefly
14 the jobs that you held from the time you left college
15 until the time you started working for 3M?

16 A. Actually, I --

17 MR. DISIPIO: Objection to form.

18 BY MR. GREENSTONE:

19 Q. You can go ahead and answer.

20 A. Actually, I left college prior to my degree.

21 Q. Okay.

22 A. Period.

23 Q. What did -- when did you -- so did you start
24 at 3M before you were done with college?

25 A. Yes. Yes.

1 Q. Okay. And then, did you go back, then,
2 subsequently for your degree?

3 A. Yes. I went back, and it took me
4 approximately four years to pick up a two-year degree
5 -- or two years of work. At the time of graduation,
6 I guess my third child was just about ready to be
7 born.

8 Q. Did you have any other jobs? I guess --
9 where did you work before 3M? Let me start with this,
10 how old were you when you started working for 3M?

11 A. Goodness. My mathematics isn't that great,
12 but maybe 20, 30, 20, about 23 perhaps.

13 Q. And did you -- had you ever -- did you have
14 jobs before 3M?

15 A. Yes.

16 Q. And what types of jobs were they?

17 A. I worked at Western Electric after I got out
18 of the service.

19 Q. When were you in the service?

20 A. 1945 to about '47.

21 Q. And then you worked at Western Electric doing
22 what?

23 A. Made cables for telephone receivers, et
24 cetera.

25 Q. And did you -- after Western Electric, is

1 mask -- how long had 3M been involved in making these
 2 medical masks, the 1800?
 3 **A. As I said, approximately at the end, sometime**
 4 **in the late '50s.**
 5 Q. Okay. Well, the only -- the part that I'm
 6 confused about is, you said that the 8500, the
 7 development of that was sort of an outgrowth of the
 8 1800 medical mask project. Had the medical mask
 9 project been in existence before the 8500 project?
 10 **A. Yes.**
 11 Q. Okay. And do you know about how long it was
 12 in existence?
 13 **A. I'm not sure, but I think it was -- it's**
 14 **still in existence today.**
 15 Q. Yeah, I'm -- yeah. I'm not sure whether it
 16 is or not, I'm just trying to find out when it first
 17 started, if you know.
 18 **A. I think I've answered that three times**
 19 **already. It's about the --**
 20 Q. Okay. I'm sorry, I apologize.
 21 **A. -- late '50s.**
 22 Q. Okay. Now, what was the reason that the 8500
 23 was developed?
 24 **A. I'm sorry, I guess I'm having trouble**
 25 **understanding. Your question was what?**

1 was not a medical products division?
 2 **A. That's right.**
 3 Q. Okay. And so the 1800 was -- when did the
 4 medical -- I'm sorry. When did the medical products
 5 division come into existence?
 6 **A. I can't be specific. I don't remember when**
 7 **it became a division per se.**
 8 Q. Okay. But did the -- how long was -- how
 9 long did the gift wrap division manufacture the 1800
 10 for the medical products division?
 11 **A. Many years.**
 12 Q. For many years?
 13 **A. (Nodding head in the affirmative.).**
 14 Q. Okay. And once again, I want to go
 15 specifically to the 8500. Now, you said earlier that
 16 this was a product that had different uses than the
 17 1800.
 18 **A. That's right.**
 19 Q. Okay. And what were those uses? I'm sorry,
 20 scratch that.
 21 What was it developed for? The 8500, now.
 22 **A. The 8500 was developed to offer comfort to**
 23 **users in nuisance dust environments.**
 24 Q. So it was made to offer comfort to users?
 25 MR. DISIPIO: Object --

1 Q. Now I'm asking about the 8500.
 2 **A. All right.**
 3 Q. And this is a -- is this a different product
 4 than the 1800?
 5 **A. It had different purposes, yes.**
 6 Q. Okay. And so you said that the 8500, they
 7 began -- 3M began development of the 8500 in the late
 8 '50s and early '60s, around that time?
 9 **A. I would put a little later date on the 8500**
 10 **than late -- I wouldn't say the late '50s, early --**
 11 **early '60s.**
 12 Q. Early '60s. Okay. And how did that project
 13 get started?
 14 **A. Well, the medical mask was produced by the**
 15 **gift wrap division and the control of that product was**
 16 **not with the gift wrap division.**
 17 Q. Explain, what do you mean, the control of the
 18 product?
 19 **A. The gift wrap division manufactured the 1800**
 20 **for the to-be medical division, medical products**
 21 **people.**
 22 Q. Okay. Did you say the to-be medical
 23 division?
 24 **A. That's right.**
 25 Q. Okay. At that point in the late '50s, there

1 BY MR. GREENSTONE:
 2 Q. I'm just -- that -- was it -- was it made to
 3 protect the users from nuisance dust?
 4 MR. DISIPIO: Objection, form.
 5 Go ahead, sir.
 6 **A. Well, the product was offered as furnishing**
 7 **comfort to users in nuisance dust areas. Now, if you**
 8 **call that protection, then it protected them.**
 9 BY MR. GREENSTONE:
 10 Q. Okay. Was it -- can you explain to me the
 11 differences between the 1800 and the 8500?
 12 **A. Well, one was a medical product mask and it**
 13 **was designed to protect the environment from the**
 14 **wearer. And the nuisance dust mask was designed to**
 15 **offer comfort and protection to the wearer from the**
 16 **environment.**
 17 Q. Were they physically two different products?
 18 **A. Yes.**
 19 Q. Okay. Will you explain to me -- I'm just
 20 really concerned about the 8500 more than the 1800.
 21 What physically did it look like?
 22 MR. DISIPIO: Objection, form. Which?
 23 MR. GREENSTONE: The 8500.
 24 BY MR. GREENSTONE:
 25 Q. I mean, does it look --

1 when I was present.

2 Q. All right. So you're reporting on your trip
3 to National Safety Congress in what year?

4 A. In 1968.

5 Q. All right. Now, you left -- well, my
6 understanding from your testimony is you left the
7 products, the 8500 and the 8710 products, I think you
8 said around 1974; is that correct?

9 A. That's right.

10 Q. What is your knowledge of packaging after
11 1974 of either product?

12 A. I have none.

13 Q. Now, you also, sir, indicated that you were
14 talking about the respirators ceasing to function
15 properly with respect -- or you were asked some
16 questions about the respirator having a cake on it, do
17 you recall that?

18 A. Yes.

19 Q. What did you give the term of art that you
20 gave to that?

21 A. Filter cake.

22 Q. All right. Now, does the respirator cease to
23 function with respect to protection of the worker if
24 it collapses against the face because of loading by
25 the filter cake?

1 MR. GREENSTONE: Objection, form; objection,
2 leading.

3 A. As a filter cake builds up, it becomes more
4 difficult to breathe through, and as one uses it under
5 these conditions, you get a better fit. No, it
6 doesn't affect the function of the mask in terms of
7 fitting.

8 BY MR. DiSIPIO:

9 Q. What, if any, concerns were there with
10 collapse of the respirator on the worker?

11 A. Strictly comfort to the user.

12 Q. And lastly, sir, let me show you an exhibit
13 which was marked at yesterday's deposition as exhibit
14 number 98. Would you take a look at that, sir.

15 A. Yes.

16 Q. Would you look at -- first of all, what is
17 exhibit 98?

18 A. It describes the 8500 filter mask.

19 Q. All right. Now, do you recall some questions
20 today, several questions, about the filtration
21 efficiency of the 8500, and there was some questions
22 about whether it was below five microns or above five
23 microns, do you remember those questions?

24 A. Yes. Pardon me.

25 Q. Okay. Looking at this document, this exhibit

1 98, does this refresh your recollection as to whether
2 it's below -- larger than five microns or smaller than
3 five microns?

4 A. Yes, I can read it. It --

5 Q. Why don't you read it into the record, sir.

6 A. It says, "The filtration efficiency
7 determined on live subjects of various facial sizes
8 exposed to a controlled cloud of nuisance dust
9 particles of which 95.8 percent by count are below
10 five microns in size."

11 Q. All right. So, when you said -- several
12 times today you said below five microns, several times
13 you said above five microns. Does this refresh your
14 recollection that it's below five microns?

15 A. Yes, it does.

16 MR. DiSIPIO: That's all the questions I
17 have.

18 MR. GREENSTONE: I don't have any recross.

19 VIDEOGRAPHER: This concludes the deposition
20 of Mr. Barghini at 5:19.

(WHEREUPON, this matter was
adjourned at 5:19 p.m.)

1 STATE OF MINNESOTA)

2 COUNTY OF DAKOTA)

3 I, JOHN R. BRENNAN, C.S.R., a notary public in and
4 for the County of DAKOTA and State of MINNESOTA, do
5 hereby certify that ROBERT J. BARGHINI was by me first
6 duly sworn, to testify the truth, the whole truth, and
7 nothing but the truth, and that the above deposition
8 was recorded stenographically by me and reduced to
9 typewriting by me. I FURTHER CERTIFY that the
10 foregoing transcript of the said deposition is a true
11 and correct transcript of the testimony given by the
12 said witness at the time and place specified
13 hereinbefore; that the witness did not waive reading
14 and signing of said deposition. I FURTHER CERTIFY
15 that I am not a relative or employee or attorney or
16 counsel of any of the parties, nor a relative or
17 employee of such attorney or counsel, or financially
18 interested directly or indirectly in this action. IN
19 WITNESS WHEREOF, I have hereunto set my hand and seal
20 of office this 19th day of January, 1999.

21

22

23

24

25

JOHN R. BRENNAN

Certified Shorthand Reporter

My notary commission expires January 31, 2000.