

FILE NAME: DuPont (DUP)

DATE: 1987 Mar 11

DOC#: DUP178

DOCUMENT DESCRIPTION: Legal - Deposition of Vincent Gallagher

Vincent Gallagher
Deposition
5/21/92
Aldridge v. App. Power

Page Line
ALL

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION : CAMDEN COUNTY
DOCKET NO. L-27251-79
And Colsolidated Du Pont Asbestos Cases

WILLIAM B. MILLISON,
et. als.,

Plaintiffs,

vs.

DEPOSTIION OF:

VINCENT A. GALLAGHER, JR.

E. I. du PONT de NEMOURS
& COMPANY, et als.,

Defendants.

TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled action as taken
by and before JACQUELINE KASHMER, a Certified Shorthand
Reporter and Notary Public of the State of New Jersey,
at the offices of Tomar, Seliger, Simonoff, Adourian &
O'Brien, 41 South Haddon Avenue, Haddonfield, New
Jersey, on Wednesday, March 11, 1987, commencing at
10:15 a.m.

A P P E A R A N C E S:

TOMAR, SELIGER, SIMONOFF, ADOURIAN & O'BRIEN,
Attorneys for the Plaintiffs,
BY: JOSHUA M. SPIELBERG, ESQ.

CAPENTER, BENNETT & MORRISSEY,
Attorneys for the Defendant Du Pont,
BY: ROSEMARY ALITO, ESQ.,

MCCARTER & ENGLISH,
Attorneys for the Defendant Wellington,
BY: MICHAEL BENSON, ESQ.

COURT REPORTING SERVICES
799 Bloomfield Avenue
Verona, N.J. 07044
(201) 239-7997

I N D E X

WITNESS

DIRECT CROSS REDIRECT RECROSS

VINCENT A. GALLAGHER, JR.

By: Ms. Alito	2	71
Mr. Benson	57	

E X H I B I T S

IDENT.

D-Gallagher 1	Citation	9
D-Gallagher 2	Citation	9

1 V I N C E N T A. G A L L A G H E R, J R.,
2 called as a witness in behalf of the Defendants
3 Du Pont, Neeld, Reichwein and Smulkstys, having
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. ALITO:

7 Q Good morning, Mr. Gallagher.

8 A Good morning.

9 Q My name is Rosemary Alito and I'm an
10 attorney for E. I. du Pont de Nemours Company and three
11 of its plant physicians, Drs. Neeld, Reichwein and
12 Smulkstys. Have you ever been deposed before?

13 A Yes.

14 Q So, I will be very brief in my
15 instructions to you. I'm going to ask you a series of
16 questions which the court reporter will be taking down
17 and later on will be typed up in a transcript form.
18 Your testimony here today can be used for a variety of
19 purposes, including for some purposes at trial of these
20 cases.

21 If you don't understand a question that I ask
22 you, please let me know and I'll try and rephrase it
23 more clearly. If you want to take a break at any time,
24 let me know and we'll stop the proceedings and you can
25 take a break.

1 Are you presently employed?

2 A Yes, ma'am.

3 Q And by whom?

4 A Myself, I'm self-employed.

5 Q Now, I'm going to go through, hopefully
6 very briefly, your employment history. Are you a
7 college graduate?

8 A Yes, ma'am.

9 Q And when did you graduate from college?

10 A 1964.

11 Q And what was your degree in?

12 A Economics, B.A. in economics.

13 Q Any advanced degrees?

14 A I have an M.A. in occupational safety and health
15 from the Center for Safety at New York University.

16 Q Anything beyond that?

17 A I have continuing education credits but no other
18 degrees.

19 Q Any certifications in the area of
20 occupational health?

21 A I was certified in 1978 as a certified hazard
22 control manager, but that's the only certification.

23 Q Prior to being self-employed, by whom were
24 you employed?

25 A The U.S. Department of Labor, OSHA.

1 MS. ALITO: Could you mark this as exhibit
2 D-Gallagher 1.

3 (Exhibit D- Gallagher 1 is marked for
4 identification.)

5 Q Mr. Gallagher, I'm going to show you a
6 document that's been marked by the court reporter as
7 Exhibit D-Gallagher 1 and ask you if that is the
8 citation that you referred to?

9 A Yes, it is.

10 MS. ALITO: If you could mark this as
11 D-Gallagher 2.

12 (Exhibit D-Gallagher 2 is marked for
13 identification.)

14 Q Mr. Gallagher, this exhibit marked as
15 D-Gallagher 2 appears to be a separate citation during
16 the same time period and I'd ask you if you also
17 reviewed that in preparation for today's deposition?

18 A I don't think I did but I have just reviewed it
19 now. It brings back memories.

20 Q OK. Thank you. Mr. Gallagher, did there
21 come a time as a part of your job duties as a safety
22 specialist at OSHA that you came to take action with
23 respect to Du Pont?

24 A Yes, ma'am.

25 Q Can you tell me when that was?

1 Q And can you tell me what you did?

2 A We asked to meet with the highest management
3 representative and we asked to meet with the union
4 president to inform them that we were there to make a
5 complaint investigation or inspection.

6 Q And did you do that?

7 A Yes, ma'am.

8 Q Do you recall who it was that you met with
9 from management and the union?

10 A I don't remember the plant manager that we met
11 with.

12 Q Do you think it was the plant manager? I
13 know we're going back in time and one of the
14 instructions that I should have additionally given is
15 that I don't want you to guess, neither Mr. Spielberg,
16 nor I. Give us your best recollection, but if you
17 don't remember something, don't hesitate to let me
18 know. Do you think it was the plant manager that you
19 met with?

20 A I don't remember specifically who the gentleman
21 was.

22 Q OK. And from the union, do you recall who
23 that was?

24 A It was Dave Watson.

25 Q Was he the president of the union at that

1 A What I remember doing, if I remember correctly,
2 it was on a Friday afternoon we were there and I
3 remember that we did not do field evaluations that day.

4 Q And then you spoke to Mr. Watson who said
5 what?

6 A He said that we have a logger whose daughter is
7 a respiratory therapist, and she claimed that she could
8 hear crackles in his lung and she advised her father,
9 Clarence Schwebel, to see a pulmonary specialist. That
10 was after Mr. Schwebel was told -- that is according to
11 Mr. Watson -- Mr. Schwebel had been told by the company
12 doctor that his lung problem is not related to his job
13 or exposure to asbestos dust.

14 Q So, Mr. Watson told you what Mr. Schwebel
15 told him that one of the plant doctors at Du Pont told
16 Mr. Schwebel?

17 A Right. He also, as union president, was saying
18 that this was a question that OSHA should look into.

19 Q OK. Did you take any action in response
20 to that complaint from the union president?

21 A Nothing other than to consider it as a worker
22 complaint, and then it was decided to investigate it at
23 a further date.

24 Q How was the decision made to investigate a
25 worker complaint, whether or not to investigate it or

1 not? Do you make that decision?

2 A Yes, on occasions. At that time within the
3 policy of OSHA would be to consider expanding the scope
4 of the inspection to worker complaints, particularly
5 from the president of the union.

6 Q When did you make that decision, if you
7 remember?

8 MR. SPIELBERG: You're talking about the
9 decision to investigate this complaint --

10 MS. ALITO: Yes.

11 MR. SPIELBERG: -- related to Clarence
12 Schwebel?

13 MS. ALITO: Yes.

14 A I decided as soon as I heard Mr. Watson say
15 there was another question of causal relationship and
16 recording of injury or disease.

17 Q OK. And how did you proceed with that
18 investigation?

19 A We returned to the office and made plans for
20 further investigation.

21 Q OK. And what was the first step that you
22 took in that investigation?

23 A I forget exactly what the day-by-day events of
24 the investigation were. I know generally what we did.

25 Q Well, tell me as well as you can remember

1 how you proceeded chronologically in investigating this
2 complaint.

3 A I won't be able to tell you chronologically but
4 I know that we began, if I remember correctly, by
5 interviewing other ladders and either taking statements
6 or work histories from them; if I remember correctly,
7 approximately ten other ladders who had more than 20
8 years experience working as a ladder.

9 Q OK. And what types of questions would you
10 ask those men?

11 A One of the primary questions was, have you ever
12 used the wet method when you remove insulation which
13 contains asbestos?

14 Q Any other areas you covered with them
15 besides safety procedures or the lack thereof in the
16 performance of their job duties?

17 A I remember at one point there was a question of
18 whether ladders were able to determine whether they
19 were working with asbestos insulation or insulation
20 which didn't contain asbestos, and I investigated to
21 determine whether they were competent to tell the
22 difference between the two.

23 Q OK. How did you investigate that?

24 A We asked ladders to identify asbestos or --
25 excuse me -- insulation which contained asbestos and