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DOCUMENT DESCRIPTION: Legal - Deposition of Elise Comproni

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3 -----)
4 PETER AND ANGELA IERARDI,)
5 Plaintiffs,)

6 VS.)

C.A. NO: 90-7049

7 LORILLARD, INC., ET AL.,)
8 Defendants.)
9 -----)

10 DEPOSITION OF ELISE COMPRONI,
11 a witness called on behalf of the Plaintiffs,
12 taken pursuant to the provisions of the
13 Massachusetts Rules of Civil Procedure, before
14 Teresa Sciaba, a Notary Public and Registered
15 Professional Reporter in and for the Commonwealth
16 of Massachusetts, at the offices of Nutter,
17 McClennen & Fish, One International Place,
18 Boston, Massachusetts, on Tuesday, April 16,
19 1991, commencing at 10:25 a.m.

20
21
22 DORIS M. JONES & ASSOCIATES, INC.
23 Professional Shorthand Reporters
24 59 Temple Place
 Boston, Massachusetts 02111
 (617) 542-0039

EXHIBIT A

P R O C E E D I N G S

Elise Comproni, having first been duly sworn, testified as follows in answer to direct interrogatories by Mr. Johnson:

Q. Mr. Comproni, good morning.

A. Good morning.

Q. Mr. Comproni, we've met before. My name is Tom Johnson, I represent Peter and Angela Ierardi in the case that's pending in the Eastern District of Pennsylvania, the defendants being Lorillard and Hollingsworth & Vose. We're here to take your deposition.

Now, Mr. Comproni, could you please give me your full name and spell your last name for the record?

A. It's Elise Comproni, E-L-I-S-E, and the last name is C-O-M-P-R-O-N-I.

Q. And what is your business address?

A. It's 150 Tremont Street, Boston.

Q. And by whom are you employed?

A. By the Commonwealth of Massachusetts, the Department of Public Health.

Q. May I ask you, sir, how long have you been employed by the Commonwealth of

1 Massachusetts?

2 A. 39 years and approximately 6 months.

3 Q. What year did you start with the
4 Commonwealth of Mass.?

5 A. 1951 and the month of October.

6 Q. And what department were you in when you
7 first started with the Commonwealth of
8 Massachusetts?

9 A. My first job with the Commonwealth was in
10 the Department of Labor and Industries, the
11 Division of Occupational Hygiene.

12 Q. And how long were you with the Department
13 of Labor and Industries and Occupational Hygiene?

14 A. Until May of 1968, some 16 years.

15 Q. And what positions did you hold with the
16 Department of Occupational Hygiene?

17 A. I started as an engineering aid and
18 became an industrial hygienist and from there an
19 industrial hygiene engineer.

20 Q. And after you left Occupational Health,
21 what did you move onto at that point?

22 A. I left the Division of Occupational
23 Hygiene and went to the department --
24 Massachusetts Department of Public Health.

1 Q. What sort of work did you do for them?

2 A. I set up the air sampling network for the
3 Division of Air Pollution Control in the
4 Department of Public Health.

5 Q. And how long were you with the Department
6 of Public Health?

7 A. I worked for Public Health for
8 approximately four or five years until such time
9 as the Department of Environmental Protection was
10 formed, and being in the air division, that
11 division was moved into the Department of
12 Environmental Protection. So I worked in that
13 department for approximately ten years.

14 Q. And your work in that area was air
15 sampling and air pollution?

16 A. Yes, we set up the Division of Air
17 Pollution Control.

18 Q. And what was your next position with the
19 Commonwealth?

20 A. Well, I left DEP, came back to the
21 Department of Public Health in 1978 and I've been
22 employed in the Department of Public Health again
23 since that time.

24 Q. In what areas -- what were your areas of

1 concern?

2 A. My title was Chief of Environmental
3 Hygiene, Department of Public Health.

4 Q. And is that your current position?

5 A. Yes.

6 Q. May I ask what your date of birth is?

7 A. May 25th, 1927.

8 Q. Now, getting back to your first position
9 with Occupational Health, what training did you
10 have to qualify you for your initial position
11 with the Department of Occupational Health?

12 A. Well, I have a bachelor's degree in
13 education and math and science. When I came to
14 work for the department I spent approximately six
15 months in training in air sampling and in
16 ventilation control.

17 Q. And did you have an immediate supervisor
18 during your early years with the Department of
19 Occupational Health?

20 A. Yes, yes.

21 Q. Who was that?

22 A. I worked for a gentleman named Harold
23 Bavley who was the chief engineer.

24 Q. And directing your attention to the early

1 1950s, did you have occasion as part of your
2 duties in the Department of Occupational Health
3 to visit factories and other industrial sites?

4 A. Yes, that was our primary responsibility,
5 to evaluate health hazards in industrial plants.

6 Q. Did that responsibility cause you to
7 visit a plant known as H & V Specialties?

8 MR. BRAKE: Objection to the form.

9 A. Yes, it did.

10 Q. And did you make one visit or more than
11 one visit?

12 A. I made several visits to their plant in
13 West Groton, Massachusetts.

14 Q. Do you have in front of you certain
15 reports that emanated from your department during
16 those years?

17 A. Yes.

18 Q. Could you identify for the record the
19 dates of the reports that reflect your visits to
20 the Hollingsworth -- the H & V Specialties plant?

21 A. Well, the first visit was on October
22 27th, 1952 jointly with Harold Bavley. I also
23 went there on April 15th, 1953 with Harold
24 Bavley. I was there on June 11th, 1953 with

1 Harold Bavley. I was there on January 27th, 1954
2 with Harold Bavley, and also on May 21st, 1954
3 with Harold Bavley.

4 MR. BRAKE: Mr. Comproni, the
5 documents you've just looked at, are those
6 documents from your files or were they provided
7 to you by the plaintiffs in this case?

8 THE WITNESS: These documents were
9 from the files of the Division of Occupational
10 Hygiene. I also asked the legal firm of Johnson
11 & Childs to provide me with copies of my
12 documents as well, since they had copies made for
13 themselves.

14 MR. BRAKE: But did you separately
15 obtain documents from the division?

16 THE WITNESS: These particular ones
17 came from Johnson & Childs.

18 MR. McELANEY: Off the record.

19 (Off-the-record discussion.)

20 MR. JOHNSON: By the dates of the
21 visits I think you'll see, Andy, that there's a
22 date of a visit and there's a date of a report.
23 There's usually a day or two difference between
24 them. So I'll give you the dates of the visits.

1 Q. At that point in time back in the 1950s,
2 what diseases were you concerned about with
3 respect to asbestos exposure?

4 A. Asbestosis and lung cancer were known
5 effects from exposure to asbestos. Subsequently
6 I believe mesothelioma was considered -- the only
7 cause of mesothelioma was exposure to asbestos
8 dust.

9 MR. COFER: Objection. Move to
10 strike, non-responsive to the question and beyond
11 this witness's expertise.

12 Q. And in the course did you have the
13 knowledge -- how did you acquire your information
14 about asbestosis and lung cancer?

15 A. The Division of Occupational Hygiene has
16 reams of information and it was up to us to be
17 knowledgeable about these hazards when we went
18 out to make an evaluation, and my supervisor was
19 certain that I knew what the hazard was.

20 Q. And did you explain to the people at
21 Hollingsworth & Vose -- strike that question.
22 Did you explain to the people at H & V
23 Specialties about these hazards?

24 MR. BRAKE: Objection.

1 strike. It's apparent your success in working
2 with the witness, however I think you need to lay
3 a proper foundation first and you must not
4 dispense with those formalities.

5 I believe Mr. Comproni is not only
6 testifying about information knowledgeable to him
7 at the time, but information which he has learned
8 since. Certainly if he knew this knowledge at
9 the time I suspect his actions would have been
10 different.

11 MR. JOHNSON: That's a very
12 interesting little statement, counsel. I would
13 ask that since we've got two defendants here that
14 you decide whoever it is you want to object to my
15 questions rather than have all four of you chime
16 in.

17 Moreover, I would request that you state
18 your basis for the objection and allow the
19 witness to answer rather than interrupt him. I'm
20 sure that you can all keep track of whatever
21 objections you make and make them at the
22 conclusion of his answer to the question rather
23 than interrupt his answer.

24 Q. Mr. Comproni, I think my last -- I think

1 what I was about to ask you when I was
2 interrupted is what leads you to believe that
3 they were cognizant of the hazards of the
4 asbestos when you visited them in the 1950s?

5 MR. BRAKE: Objection.

6 A. We discussed that at the time we were
7 doing our sampling.

8 Q. You discussed it with whom?

9 A. With the plant manager and with
10 Mr. O'Malley, the foreman.

11 Q. What's your best recollection of the gist
12 of those discussions?

13 A. To merely explain to them that we were
14 here to evaluate their potentially hazardous
15 working condition and that our test results would
16 determine whether further controls were necessary
17 in the plant.

18 MR. BOOKSPAN: I'm sorry.

19 A. Pardon?

20 MR. BOOKSPAN: Continue. I thought
21 you were done.

22 A. I am, go ahead.

23 MR. BOOKSPAN: Can you read the
24 answer back, please?

1 MR. BRAKE: Objection.

2 A. Yes.

3 Q. What sort of companies come to mind that
4 would comply more quickly?

5 MR. BRAKE: Objection.

6 A. As a general rule we get compliance a lot
7 faster and more complete with large companies who
8 are quick to recognize hazards and are probably
9 more willing to avoid litigation than the smaller
10 companies who are not quite as well versed in
11 these matters.

12 The impact, of course, is greater on the
13 small -- economic impact is greater on the small
14 company than it is on a larger one. So you get
15 slower compliance in general.

16 MR. BRAKE: Motion to strike.

17 Q. In the course of your visits to H & V
18 Specialties that you've described, did you come
19 to understand what they were manufacturing?

20 A. Yes. They were manufacturing filter
21 media for cigarettes.

22 Q. Given your position with the Commonwealth
23 of Massachusetts at that point, how did you react
24 to the fact that they were putting cigarette --

1 asbestos in cigarette filters?

2 MR. COFER: Objection.

3 MR. BRAKE: Objection.

4 A. Well, we were appalled at this sort of
5 thing but it is beyond our power to do anything
6 about that. Our responsibility was to evaluate
7 worker exposure to asbestos. We worked for the
8 Department of Labor and Industries.

9 MR. COFER: Move to strike that
10 answer, but would you also please read the answer
11 back because I didn't catch the beginning of it.

12 (The reporter read back the
13 last question and answer.)

14 Q. Mr. Comproni, can you explain what you
15 mean when you say you were appalled?

16 MR. BRAKE: Objection.

17 MR. McELANEY: Objection.

18 MR. COFER: Objection.

19 MR. BOOKSPAN: Objection.

20 MR. FRAZIER: Objection.

21 A. Well, asbestos is a known carcinogen
22 causing asbestosis and lung cancer and to put it
23 in a product that you are actually breathing air
24 from is not in keeping with the best health

1 practices that -- period.

2 MR. COFER: Move to strike.

3 Q. Did you have occasion to discuss the use
4 of asbestos in a cigarette filter with the people
5 at H & V Specialties when you visited them?

6 A. Oh, yes.

7 Q. Tell us about that.

8 MR. BRAKE: Objection.

9 MR. COFER: Objection, hearsay.

10 A. Well, we were curious as to why they
11 would go to a toxic material like that for a
12 cigarette filter. And of course their answer was
13 it was a very good filter material. And it's
14 true, except that the use of it in that type of
15 product we questioned.

16 Q. And how did they respond when you
17 questioned it?

18 MR. BRAKE: Objection.

19 A. Well, they apparently felt that that was
20 a satisfactory use of asbestos.

21 MR. BRAKE: Motion to strike. The
22 question asked you what did they say.

23 MR. JOHNSON: Excuse me, counsel,
24 don't raise your voice, please.

1 MR. BRAKE: If you can recall.

2 A. Yeah, well, I don't recall the exact
3 words.

4 Q. What's the gist of what they said as best
5 you can?

6 MR. BRAKE: Objection.

7 A. The gist was that they felt it was a
8 satisfactory use of their product and they
9 continued to manufacture it.

10 Q. Do you know what particular cigarette
11 this product was being used in?

12 A. They told us it was used in the Kent
13 cigarettes.

14 MR. COFER: Objection. Move to
15 strike.

16 Q. Mr. Comproni, I'm going to read a
17 description of the cigarette product to you and
18 I'll ask you a couple of questions about it.

19 "And remember, KENT and only KENT has the
20 Micronite Filter, made of a pure, dust-free,
21 completely harmless material that is not only so
22 effective, but so safe that it actually is used
23 to help filter the air in operating rooms of
24 leading hospitals."

1 A. Yes.

2 Q. When did you first become aware of any
3 hazard associated with exposure to asbestos?

4 A. My job was to work for the chief
5 engineer. The engineer was responsible for dust,
6 physical hazards, and ventilation. So I was
7 given extensive training in calibrating sampling
8 instrumentation, measuring ventilation systems
9 and even designing hooding for local exhaust
10 systems.

11 Q. And in connection with that work, at some
12 point you became aware that asbestos could be
13 harmful if inhaled by human beings, is that
14 right?

15 A. Very definitely.

16 Q. As best you can recall, when was that?

17 A. 1951, late in 1951 when I was hired,
18 shortly thereafter I was hired.

19 Q. And I think you told us you were hired in
20 October of '51?

21 A. Yes.

22 Q. So in the first few months that you
23 worked at the Division of Industrial Hygiene, you
24 became aware that asbestos could be harmful, is

1 Q. Indeed, it was fully informed as of the
2 then existing state of scientific and technical
3 knowledge about the hazards of asbestos, correct?

4 A. Yes.

5 MR. JOHNSON: I think your question
6 is a bit leading, counsel, but I'm sure the
7 witness can answer it.

8 Q. Okay. Now --

9 A. Stokinger is the -- Herb Stokinger was
10 the expert in Cincinnati, Ohio.

11 Q. Who did the NIOSH work you were talking
12 about?

13 A. Yes.

14 Q. Now, as of 1951, were you a member of the
15 association -- of the American Conference,
16 rather, of Industrial Governmental Hygienists?

17 A. No, you had to work, as I recall it,
18 either one or two years in the field before you
19 could join. And I joined as soon as I was
20 eligible.

21 Q. You did join as soon as you were
22 eligible?

23 A. Both AIHA and ACGIH.

24 Q. Just so we're clear, the ACGIH is the