18TH JUDICIAL DISTRICT COURT

PARISH OF IBERVILLE

STATE OF LOUISIANA

LORRAINE PEGGY WILLIAMS	
VS.	
	NO. 39,484
McCARTY CORP., ET AL	
	DIVISION "D"

TESTIMONY OF DR. JOHN T. LEONE

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Transcript of the above-entitled proceeding came on for hearing in Open Court at the Parish Courthouse located in Plaquemine, Iberville Parish, Louisiana, on the 15th day of January, 1992.

THE HONORABLE JACK T. MARIONNEAUX, JUDGE, PRESIDING.

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I N D E X

WITNESS	DIRECT	CROSS	RE-DIRECT	RE-CROSS
DR. JOHN T. LEONE	4	25	41	42

OFFICIAL PROCEEDINGS OF JANUARY 13, 1992

THE COURT: Next witness.

MR. LEDYARD: I call to the stand Dr. Leone.

DR. JOHN T. LEONE, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LEDYARD:

Qualifying:

Q Would you state your name and address for the jury, please?

A My name is Dr. John T. Leone. I currently reside in Austin, Texas. 6201 Mercedes Lane, Austin, Texas.

Q How old a man are you, doctor?

A My age is seventy-one.

Q What is your current position? Are you employed?

A Well, I would have to say I'm not employed, but I'm very active as a volunteer with the American Association of Retired Persons, the ARP, as the area vice-president for area seven, which is a five state area. I'm one of the lead volunteers with our volunteers --with our program looking after our people who are members of ARP.

Q So, you retired and then went to work?

A Yes. I have a pretty active, full-time volunteer

position, which I enjoy doing very much.

Q Let us go through your qualifications briefly and tell the jury first a little bit about your educational background.

A My educational background is I finished Stevenson High School in New York, a scientific program, entered Columbia College. Received a bachelor's degree in pre-med, then entered Long Island College of Medicine, which is now Long State University of New York for my medical degree, which is a M.D. degree. Later I qualified as a flight surgeon in the Air Force, having attended Randolph Air Force Base as a flight surgeon and qualified as a flight surgeon in the military.

Q What was your rank in the military?

A My rank in the military was colonel. I served two years of active duty during World War II. Then I stayed active with Air National Guard, having even served with the Louisiana National Guard later on and was recalled during the Korean War campaign for an additional two year period and completed over twenty-three years of either active or Air National Guard duty as a flight surgeon and hospital commander.

Q You have worked for many years for Exxon, have you not?

A Yes. I started a career working for Exxon in 1947 and then retired in 1985.

Q Are you certified in any particular subjects, Doctor?

A Yes. My certification is by the American Board of Specialization and the American Board of Preventive Medicine with a sub-specialty in occupational medicine.

Q So, preventive medicine and occupational medicine?

A Yes. The board is preventive medicine, American Board of Preventive Medicine, which has three sub-specialties, which are aviation medicine, public health and occupational medicine.

Q And in your employment with Exxon was there a particular area of medicine that you focused on and specialized in?

A Well, my specialization was occupational and environmental health.

Q Have you been involved with professional organizations as a physician?

A Yes. I continued in my --with my professional affiliations, not only the American Medical Association, but with the State Medical Association in the specialty field. I'm certified as a fellow in the American Occupation Medical Association, American Preventive Medicine, and American Academy of Occupation Medicine, which are three major organizations crediting individuals who specialize in occupation medicine.

Q Have you published articles in the fields of

preventive medicine and occupational environmental medicine?

A Yes. I've published at least a half of dozen articles in the field of occupational medicine, as well as spoken to groups on specialization and occupational medicine, including teachings both by appointments at Tulane School of Public Health and currently as an adjunct associate professor at the University of Texas School of Public Health in both Houston and San Antonio.

MR. LELYARD: Your Honor, we would tender Dr. Leone as an expert in the field -- selective fields of preventive medicine and occupational and environmental medicine.

MR. KLEINPETER: Yes, Your Honor, we'll stipulate to his expertise.

THE COURT: He'll be qualified.

(MR. LELYARD CONTINUES WITH DIRECT EXAMINATION)

Q Dr. Leone, you mentioned you started with Exxon in the late 1940's. What was your position initially with Exxon?

A Initially I started with the Standard Oil Company of

New Jersey at Bayway Refinery as a plant physician. I think you realized that the company underwent some mergers and name changes, but at that time it was S.O. Standard of New Jersey that I started with, which was the affiliate of the Standard Oil Company of New Jersey.

Q Did you have occasion in your employment to ultimately be transferred or transferred to the Baton Rouge Exxon Refinery?

A Yes. I received a promotion and was assigned to the Baton Rouge Refinery in 1957, at which time I was given a position as assistant medical director in the medical department at the Baton Rouge Refinery.

Q And how many years were you in Baton Rouge in that stretch of time?

A I left that assignment the early part of 1965 to go with the parent company in New York for an indoctrination, accepting a position as medical director for S.O. Libya before I went to Triple E Libya to set up an occupational health program at that time.

Q When you retired from the company what was your position with the company?

A When I retired from the company in December, 1985 I was medical director of Exxon Company, USA in the Houston office.

Q Now, let's go back and talk a little bit more about the years that you were a physician in the Baton

Rouge refinery for Exxon. I believe you stated it was from the years about 1957 to about 1961, is that right?

A That's correct.

Q During those years what was --what type of medicine were you focusing on or what were --what type of work were you specializing in?

A Well, my assignment at that time in the Baton Rouge refinery was to overlook the medical examination program, look after the emergency room. We had a disaster plan in the refinery. I was responsible for looking after disaster and special treatment of mass casualities because of my military background and look after the monitoring and examination of our employees as they came in for their health examinations.

Q You mentioned occupational medicine a moment ago and preventive medicine. Can you just tell the jury briefly what that encompasses?

A Well, the field of occupational medicine is a specialty and it's a branch of medicine which deals with looking after the health of an individual in relation to their work environment.

Q When you got to the Baton Rouge refinery did they already have a medical department set up and operating?

A Yes. There was a full staff of physicians, nurses, technicians. It was a full-time medical department

that was in operation and had been for many, many years, well established.

Q Do you know how many years that the Baton Rouge refinery has had it's own on-site medical staff?

A I believe the history would show at the inception of the refinery when it was built sometime after World War I period, perhaps 1917, 1918, somewhere in that time frame, they did establish a medical department with the start-up of the refinery. So, to my knowledge it was a continuous operation since the start-up.

Q Let's discuss a little bit how the --how the medical department was set up. I believe you said you were an assistant plant physician. Did you report to a plant physician?

A No. The position is assistant medical director. We had a medical director in the department, who was the department head and I reported to the department head who was the medical director.

Q And who would the medical director report to?

A The medical director reported to the manager of the refinery. As a department he reported to a manager.

Q Now, within the medical department was their also when you came in 1957 an established industrial hygiene department?

A Yes, there was an established industrial hygienist as a member of the medical department at that time.

Q Has the industrial hygiene department physically

housed with the medical department?

A Oh, yes. The industrial hygienist was part of the medical department and was in the entire complex of the medical department.

Q And who was --who was in charge of the industrial hygiene department?

A The industrial hygienist was Fred S. Venable.

Q All right. Now, would he also report to the medical director?

A Yes. The way the organization was established the industrial hygienist reported to the medical director.

Q So he reported to the same person you reported to?

A That's correct.

Q So, I take it the medical department and the industrial hygiene department worked closely together in those years?

A Yes. I would perhaps same a little differently. The industrial hygienist was on the staff and a member of the medical department. It was one in the same department.

Q All right. Did you have occasion to have close contact with the industrial hygienist?

A Oh, yes. I saw the industrial hygienist I would say almost on a daily basis in the department.

Q Now, in discussing the medical program one of the things you mentioned was --that fell under your responsibility was the physical and the medical

monitoring program, is that right?

A Yes. We had an ongoing program of physical examination of our employees on a regular scheduled basis that they were asked to come in --and, of course, it was a voluntary program, but we offered complete physical examinations to our employees on a regular basis.

Q There's been a reference to medical surveillance. What does medical surveillance mean?

A Well, medical surveillance means to evaluate the health of the individual in relationship to the work environment and overlook the general health and at the same time recognize any need for either change in personal habits or treatment for any particular early detection of any health problem.

Q When people came to the --when people first came to work for Exxon did they receive pre-employment physical?

A Yes. Our standard practice was do a complete pre-placement, as we called it, an examination to evaluate the physical condition and look at the type of job assignment they had to see that they were capable of performing from the physical standpoint the required tasks of the physician.

Q Would that pre-employment physical give you a base or a basis by which future examinations could be checked against to see if there was anything going on in the work environment?

A Yes, because the real value of a pre-placement examination is to start a complete history and physical as the basis for later adding to the history and physical findings, so you work developing a complete profile of the individual as far as their health condition is concerned.

Q You mentioned that one of the things you would do is evaluate the job characteristic that a person was going to be placed in. In other words, would you -- would it be noted if a person was going to be doing work with --involving noise or fumes or dust or any other kind of potential problem?

A I don't believe I understood your question. Please repeat it.

Q It's probably because I tend to --

A It's all right. Maybe I wasn't concentrating enough.

Q When people were hired and were going to be sent into different jobs throughout the refinery had those jobs been evaluated by the potential exposures or hazards with those jobs?

A Well, yes, the physical requirements to the jobs were known to the examining physician and we would then look at the physical capacities of the individuals to be able to perform what was required of them. In other words, it was a matching to see that they were physically capable of performing the job.

Q All right. Now, having done that if a person comes in for a regular physical would you make special note of the fact that if the person has worked in, say, a noisy job, or a job with fumes, or a job with dust, so that you could pay particular attention to that when doing the physical?

A Yes. At the time the individual came in for the periodic health examination one of the requirements on the form was to indicate any areas where they worked, so if it was a question of a potential exposure to noise or dust the examining physician would know and would call attention to that particular concern we might have to look after evaluating the health of that individual.

Q You may not know this if you don't find, do you have any idea of how many employees worked at the Exxon Refinery in those years that you were in charge of administering this medical surveillance program?

A Yes. In round numbers at the time I reported in 1957 in that position we had approximately seven thousand employees in the refinery and chemical plant which was all part of the same complex unit.

Q And this medical physical examination, medical surveillance program, was something you were in charge of?

A Yes, I was.

Q Now, did these physical include the regular taking of x-rays?

A Yes. It was routine to obtain a chest x-ray on these examinations.

Q Now, did you try or did you have people there at the refinery that read the x-rays and interpret it themselves or how was that handled?

A All of the x-rays were interpreted and a written report given by a certified radiologist, a specialist who was trained in radiology.

Q Would that be somebody that worked for Exxon or somebody that worked in Baton Rouge that would come in on a contract basis?

A It was on a contract basis. They were not employees of the company.

Q So, you got an outside radiologist to come in and read your x-rays?

A Yes.

Q And then if he reported anything suspicious or if he had a question what would be done?

A Every interpretation of the x-ray was dictated, typed up and was given as a report what the laboratory findings on that individual. The x-ray report was included and that went to the examining physician who then had the radiologist report of the findings on that x-ray.

Q If there was anything that felt needed to be checked out would then the industrial hygiene department get involved?

A Well, if we found anything abnormal on the x-ray and

it was called to the attention of the physician he immediately then would probably consult with the radiologist on that case, knowing the clinical findings and review that, and if there was any question, of course, the industrial hygienist was also brought into the discussion in view of the abnormal report.

Q You mentioned that in those years, '57 to '63, at any given time the work force involved approximately seven thousand?

A Yes, approximately that number.

Q In those years while you were in Baton Rouge did you ever find any evidence of asbestosis?

A No, I did not.

Q Did you ever find any evidence of lung cancer that was in any way associated in anyone's mind with occupational exposure?

A No, we did not during that period.

Q Were you aware of any incidence of mesothelioma?

A No. None had been reported all during that period.

Q Now, in the years that you were in Baton Rouge in '57 and '63 were you ever aware that asbestosis could cause mesothelioma?

A No, during that time frame you mentioned it was not --none.

Q Now, we mentioned --I mentioned asbestosis a moment ago. You indicated that there were no evidence of any asbestosis. In your experience is asbestosis

something you can get in one lung and have the other lung appear clear and normal on x-ray?

A I would never anticipate just the unilateral one lung involvment, because any breathing you go through the respiratory track you're talking about the main bronchus dividing in two and there's no way to separate any movement of the air from one side to the other, so I would have to say it would have to be -- it would have to involve both lobes of the lung.

Q Now, we've been talking about these physicals and the fact that they were set up for all of these thousands of Exxon employees. Did you attempt to try to do physicals, such as you were doing for the Exxon employees, for the independent contractors' employees who might come into the plant on occasion?

A No, we never did any physicals on contractor employees. We had no records on them. We had no base line studies and we didn't have access to them on a regular basis. We never did examine contractors.

Q Those people would not have been your employees, right?

A No, they were not. They were not on Exxon payroll and we were only responsible for the examinations of Exxon employees.

Q So, for someone that came on with the plant temporarily for a short construction job and then

left again, you wouldn't have any access to a physical that they may have received somewhere else per their employment with Exxon, right?

A No, we would have no medical records at all, no reports, no records.

Q And, the kind of worker that would come into the plant temporarily and do some job and then leave again, would have, from a practical standpoint, the ability to follow up on that employee at a later date?

A No. We wouldn't even know who the individual was. If they were in working with a contractor we wouldn't have this knowledge. The medical department would not have the information.

Q So, from a practical standpoint was it even feasible to try to do any kind of medical surveillance for contract employees?

A No, we'd have no information.

Q Now, was anything done or any program set up to try to evaluate the incidence of cancer?

A Yes. We had an ongoing program which was started by our parent company many years ago to register from death certificates all causes of death. And, because of some concerns that we had looking after the health of the employees we started a cancer registry which was also being done by many universities and some of the states were requiring identification of certain disease conditions.

Q Okay. Was this already in place when you got there in 1957?

A Oh, yes. We had an ongoing registry of all deaths and diagnoses. We used the international code for diagnosing all cases of death.

Q Do you know when that had been implemented?

A I would have to say we had started that early on when I took my first position with the company in 1947. So I would say we probably developed that program around 1946 --'45, early in my career.

Q So it was in place in Baton Rouge when you got there?

A It was in place by the medical department, the corporate organization, and in all of our medical departments throughout the organization.

Q Now, could you explain to the jury how that registry worked and what the purpose of the registry was?

A Well, the purpose of the registry was to look after the health of our employees and determine from that if there were any health problems and by doing that we needed to have the causes of death, diagnoses, heart disease, cancers, strokes, any of those conditions and we identified them by, as I said, an international code which all physicians use on death certificates.

Q And was the purpose to alert you if there was any uncommon incidents or unusual incidents or anything that would lead somebody to think there was a

problem?

A Well, again, this would be good sound medical practice to keep good records and be able to observe should there be anything that might appear to be abnormal you'd be aware of it by looking at your statistics.

Q Now, when you mention statistics does that involve the discipline of epidemiology?

A Yes, that's a speciality. Epidemiology, a term you use as specifically an individual who then carries out and looks at specific conditions and does a statistical evaluation.

Q I don't want to go into great details because I think the next witness is going to be --

A Is an epidemiologist.

Q --is an epidemiologist.

A And that isn't my speciality.

Q All right. But you are aware that epidemiological surveys and studies were done at the Baton Rouge plant?

A Oh, yes, definitely.

Q Now, in your role as the Assistant Medical Director would you have occasion to spend a good portion of your time out in the field?

A Yes. First of all, just out of interest to know what the work environment is so you can evaluate the health of individuals when you are examining them. It was important for me to have a feel for the type

of both the individual so when I did examine them and get the history I would know what was required. So, yes, getting out in the field and observing first hand I think was an important part of what I had to do.

Q Would you often accompany the industrial hygienist out into the field?

A Yes. That was not unusual for me to go out into the field with the industrial hygienist to look at an operation or look at a job or evaluate an individual who had a particular medical complaint.

Q At that time the industrial hygienist was Fred Venable, right?

A That was Fred Venable, correct.

Q Who's now deceased, right?

A That's correct.

Q Did you find him to be a conscientious and well respected industrial hygienst to the field?

A Oh, yes. I would say Fred was probably one of the most conscientious, sincere, hard-working, dedicated, a real credit to his profession, and very ethical. Yes, top notch.

Q Now, Dr. Leone, in going out into the field as you would, both with the industrial hygienst and sometimes on your own, would you have occasion to witness refinery operations, turn-arounds, construction, different phases of refinery activities?

A Yes. I, on a number occasions, if I left the medical department or had to go to different locations in the plant or go down to the dock sometimes, we had tankers to look after, seaman coming in, so it was not unusual to go through the various refineries or plant operations and have a chance to observe men at work and activities.

Q Did you have occasion to simply witness insulation activities?

A Yes. Often on turn-arounds or going out if there were accidents, and sometimes we went out on the ambulance, yes, we would have an opportunity to see activity of that type.

Q Would you have occasion to see contract employees working side by side, Exxon employees?

A Yes. They would be out there working in the same area.

Q Now, in your trips into the plant, and how frequently would you make these forays into the plant?

A Well, it wasn't a regular established schedule, but it wouldn't be unusual to get out once a month or every six weeks, not unusual.

Q And, in the periods of time over the years that you witnessed insulation activities did you ever see anything that from an occupational health standpoint you considered to be a problem?

A No. I would say no.

Q Did you ever see what you considered to be excessively dusty environments involved -- associated with these insulation activities?

A No, I didn't observe anything of that nature.

Q Did you witness or personally observe the process of using water to wet down areas to minimize dust?

A Yes, that was standard procedure in these operations. You would see them hosing down. Yes, that was the normal procedure.

Q Did you personally see Mr. Venable doing monitoring and air sampling during those years of work environments?

A Yes, I did see him on a number of occasions taking measurements, either in the area of noise with instruments or getting samples, air samples.

Q Now, we mentioned the medical department and the safe --and the industrial hygiene department. Has there also a safety department?

A Yes. The company has a very active safety department, but that is not in the medical department.

Q In addition, though, to the safety and in addition to the industrial hygiene and medical departments there was also safety department?

A That is correct. A safety department did exist.

Q And when you say they were --they were active, typically what kind of involvement would they have in operations?

A Well, the safety department has the responsibility of looking after safety and as far as the operations were concerned in teaching safety and they had programs directed at safe practices, and obviously coordinated with industrial hygiene and environmental health since there was some overlap of responsibility looking after the environment.

Q Now, in these years that you were in Baton Rouge were you ever aware of any problem associated with asbestos dust or clothing?

A No, I was not aware of any.

Q Did you ever perceive the need to take any special precautions with clothing of people who worked with insulation?

A No, not at all.

Q Were you ever aware of any potential hazard to families of insulation workers?

A No, none.

Q Were you aware, again, in the times you were in Baton Rouge of any literature suggesting such a possibility?

A No, not no literature.

Q Were you aware at any time during those years of any laws or regulations or standards that would have applied concerning a person's clothing?

A No, none.

Q Now, there has been mentioned a time or two during this trial to a Dr. Selikoff. Who is Dr.

Selikoffe?

A Well, Dr. Selikoffe is a professor at Mt. Sinai in New York and he's a specialist in lung disease.

Q Did he do a lot of work and research in the field of asbestos during the 1960's?

A I guess I really can't answer that since I haven't followed his career, but I know that he's published articles on that.

Q Okay. Well, did you ever have occasion to meet with Dr. Selikoffe?

A Yes, I did.

Q When was that?

A In the Spring of 1965 I was attending a seminar on chest disease which was given by the Mt. Sinai staff and Dr. Selikoffe participated in that as one of the presenters when he spoke to us and presented material about asbestos.

Q Okay. And what did you learn about asbestos at that meeting?

A Well, I learned at that time the relationship was asbestos to mesothelioma.

Q Did you --was there anything discussed at that program or put on by Mt. Sinai and Dr. Selikoffe concerning housewives or secondary exposures to other people?

A No, I heard no mention of that.

Q Now, at this meeting did you have occasion to discuss with Dr. Selikoffe the programs that Exxon

at that time had in place?

A. Yes. During the discussion --during the seminar medical surveillance programs were discussed. A program of our type, for example, was reviewed and comments were made that everything was being --

MR. ALLINGTON: Objection, your honor, to the hearsay.

MR. LILIAK: Well, your honor, I think he's an expert witness and he is entitled to rely on other experts in helping to form his opinions and conclusions.

MR. ALLINGTON: Yes, your honor, about maybe dealing with this program, about how his program operates, but I think he's getting ready to discuss an endorsement or somebody saying, "Well, aga boy", or I don't know what he's getting ready to say. I think he can talk about what other experts and he

discussed and what he thinks is a good program, but I believe it's hearsay to say what somebody who's not here in court said about your program. And, that's my objection.

THE COURT: Without knowing what he's going to say it's kind of tough.

MR. LEONARD: Well, let me -- let me just approach it a different way, Your Honor.

Q Did you have occasion --without saying what Dr. Selikoffe told you did you have occasion to explain to him the --Exxon's programs and efforts that you currently had in place?

A Well, I had referred to the medical surveillance and the x-rays that we were obtaining on our employees and to see if there were anything else that we could do to insure that the best techniques and knowledge was made available to our physicians looking after employees, any insulators or asbestos workers.

Q And did you come away from that meeting feeling that you have a good program and that you were doing all

you could do?

A. Yes. I was very comfortable after that discussion with the understanding that with the present knowledge we had we were taking everything available we could to our examining physicians on our program for medical surveillance.

MR. LELYAKH: Thank you, Doctor. No further questions.

THE COURT: One thing before we go any further. I just need to tell y'all about my time restraints and what I'm willing to do. But, I told y'all today I have to swear someone in in Fort Allen at 5:00.

MR. ALLMAYER: You'll need to leave when, Your Honor?

THE COURT: Probably in about fifteen or twenty minutes. Now, I'm willing to come back and finish this and go as long as y'all want to tonight. I don't have

no) problem with that.

MR. KLEINFELTER: No, sir, I'll finish up.

THE COURT: Okay.

CROSS EXAMINATION

BY MR. KLEINFELTER:

Q Let me just review my notes, Dr. Leduc. I didn't have the pleasure of deposing you and this is the first time we've met. Let me ask you, have you seen cost counts in the Baton Rouge refinery after 1951?

A No, I have not.

Q Now, as I appreciate it you became Assistant Medical Director in 1957, true?

A Correct.

Q Before that in 1947 you joined the Exxon group?

A That's right.

Q All right. I missed --where were you when you joined the group?

A I was at Bayonne Refinery in Bayonne, New Jersey, my first assignment.

Q Yes, sir. And your job there was what?

A I was plant physician at that refinery. That was the title then.

Q A plant physician?

A Plant physician.

Q Were you part of the --was that a S.O. Company --a

Standard Oil Company?

A That's right. It was S.O. Standard at that time.

Q Okay. Were you aware of dust producing operations, the article, the 'be page article of dust producing operations --

A No.

Q --when you joined the Exxon group in 1947?

A I guess I don't know the article you're referring to.

Q All right. It's been introduced as Plaintiff's-1. I'm just --have you ever reviewed this or seen this, "Dust Producing Operations?"

A (Witness views exhibit) No, I have not.

Q All right. And you haven't seen it at any time? Today is the first time you've seen this?

A I have never seen that. Apparently it's something dated 1937 I see on the cover sheet.

Q Yes, sir, 1937. Now, would it be correct that you don't know what dust counts were in the breathing zone of Baton Rouge refinery employees from 1937 to 1965?

A No. I did not handle dust samples.

Q And, not only that, but would it be correct that whatever dust counts there were are not known today and were not known then, and from 1937 to 1965 at the Baton Rouge refinery?

A Hell, I wouldn't have any knowledge. I think you're asking me would I know were there any dust counts.

I don't know.

Q All right, you don't know.

A Right.

Q And you wouldn't know any dust counts for contract workers or anybody, true? You were not aware of any dust counts at the refinery during that time?

A I would not have any knowledge of this, whether there were counts done or not.

Q All right. Now --

A Counts may have been done but I wouldn't know this.

Q All right. Well, let me ask you something. These have been previously introduced. They concern a loading operation in the lumber two store house. I'm going to show you Plaintiff's Exhibit-3, a October 25, 1951 document, which is --do you know Dr. Hanson?

A Yes, I know who Dr. Hanson is.

Q And Dr. Hanson was who?

A Dr. Hanson was the medical director there prior to my assignment. He had resigned before I went to Baton Rouge, but I knew who he was and I had met him. He was a practicing physician in Baton Rouge afterwards.

Q All right. He, according to this document, had to improve Mr. Venable's dust counts. Is that the right way to read that document?

A Apparently this is a letter that Fred Venable has written to a Mr. Moore in the storage department

about carrying out some studies of dust concentrations during an unshipped -- an unloading of shipment. That's the document you've given me.

Q Yes, sir. Now, I'm going to exhibit to you now in connection with this document Plaintiff's-21, which is -- has Fred Venable at the top, Gray -- Eugene Gray, Number two storage building, and it says, "X-ray of chest, suspicious of lung irritant." To "check on degree of asbestos or other toxic dust exposure." If you would review that so that I can ask you a question or two about it, sir.

(WITNESS REVIEWS DOCUMENT)

Have you reviewed that, sir?

A Yes.

Q Did you ever -- or did the medical department ever find out what was going on with Mr. Gray's lungs or do you know?

A I wouldn't know. This is 1951, the date, and I wasn't in the Baton Rouge refinery, so I have no knowledge of this.

Q I appreciate that. Did Fred Venable as the industrial hygienist in the medical department with you in 1957 to 1963 ever discuss the situation like Eugene Gray's with you?

A No. I never heard of Eugene Gray. Sorry, I don't know Eugene Gray.

Q All right. In 1947 you were with the Exxon group, correct?

A That's right.

Q You've testified to that. Sir, in 1947 did you have occasion to read the New England Journal of Medicine as a reference in 1947?

A I'd have to see what you're referring to.

Q Yes, sir. I've marked this as a publication --the --The New England Journal of Medicine. Are you familiar with the publication?

A Yes, I'm familiar with The New England Journal of Medicine.

Q And were you so familiar with The New England Journal of Medicine in 1947?

A I knew of The New England Journal of Medicine in 1947.

Q Yes, sir, certainly true your studies, true?

A Yes.

Q And you would agree it's certainly one of the premier publications in the United States?

A Oh, yes.

Q And, if you would, I direct your attention to the first sentence and read the first sentence under "Presentation of Case." Do you know what this article preserves?

A I've never seen this article before.

Q Would you read the first sentence under "Presentation of Case" for the jury right here?

A It refers to a case of a Swedish asbestos worker entering a hospital with cough and chest pains. So

apparently it's a case report I presume.

Q And the patient's -- where just this one sentence here, if you'd read it for the jury, right here.

A It refers to an operation cutting asbestos bodies.

Q All right. And if you would turn to, I believe it's page 412 or 411.

MR. LELYARD: Your Honor, excuse me, I'd like to lodge an objection. The Doctor has indicated he's never seen this before. Other than the fact he recognizes The New England Journal of Medicine as being a journal at the time, proper foundation hasn't been laid for this article through this witness and I would object to just having the Doctor read sentences here and there for something he's never seen.

MR. KILLINGER: Your Honor, notice to a company as vast as Exxon can

certainly --it's partly what this case is about. He's testified the publications --a premiere publication. He's testified he was aware of it in 1947. He worked for Exxon in 1947. I don't know how we can do much better than that. I planned --I'm going to ask him some follow-up questions concerning him too.

MR. LILYARD: Well, Your Honor, I'm aware of some textbooks too, but I haven't read them. He's indicated he's never seen this before.

MR. KLEINFELTER: Well, I going to direct some questions to that, Counsel.

MR. LILYARD: Your Honor, I object to --

THE COURT: I understand your objection and I'm going to see where it leads.

I'll let him ask the question for this time. If he gets far-field I will sustain it.

MR. KLEINFELD: Thank you, sir.

Q In 1947 what type of medical research department did Exxon have?

A I have no knowledge of the research department. I told you I was assigned as a plant physician in Baytown. Incidentially, you had given me an article here and in March of '47 I wasn't even with the company then. I was still on active duty with the U.S. Army.

Q All right. But in March of 1947 are you telling me you have no knowledge whatsoever of the ESSO research division or any of it's activities or what they did in reference to review of the literature?

A No, I have no knowledge of what the research division of Standard Oil Company of New Jersey was in March of 1947.

Q Are you familiar with the name of Robert Eckert?

A Yes. I did meet a Dr. Eckert who was with the S.O. Research as I recall, but that wasn't in 1947. That was later after I came with the company and I --it was several years after that.

Q All right. Do you know who was the medical director

of the E.C. Research in 1947?

A No, I don't know.

Q Do you think it's more likely than not that the E.C. Research Division received The New England Journal of Medicine regularly as a publication at it's research division?

A I don't know.

MR. LELYARD: Your Honor, I'm going to pose an objection. He's indicated he doesn't know what the research division was doing. He was with the AIHW and probably wasn't even thinking about Exxon at that period of time. To have him speculate --

THE COURT: That's exactly what it would be, it would be speculation.

MR. KLEINFELD: Your Honor, I am asking him if it's more likely than not that the department or someone at Exxon would have received this publication.

THE COURT: He's no more qualified to answer that than I am if he wasn't there. I could answer it for you if you want, but I mean it's --I think I heard him kind of groan the answer before the objection got out. He said he doesn't know. Am I correct, Doctor?

(WITNESS CONTINUES ANSWER)

A Yes. I have no knowledge of what was going on in March of 1947.

Q All right. Did you as a physician receive The New England Journal of Medicine in 1947 in March?

A No, I did not receive the publication.

Q Did public libraries receive in March of 1947 The New England Journal of Medicine?

A Well, I presume they could. It's available to anyone who wants to take the publication.

Q What type of people --you were a doctor in March of 1947, were you --you were, sir?

A Yes.

Q What type of people would be interested in receiving The New England Journal of Medicine in 1947?

A Well, I think anybody who is interested in the field

of Medicine might take a publication of a medical journal. There was the Journal American Medical Association or The New England Journal of Medicine. There are --and there are state publications. There are many, many medical journals available to physicians that can be read.

Q Did you do exams on the people who are involved in the medical surveillance program?

A Yes. I indicated I did in our department, to carry on medical examinations of our employees.

Q And do you know what --have you done any follow-up or supervise any follow-up studies of any asbestos workers at the Exxon Plant?

A No, I never did any specific asbestos case follow-up.

Q Mr. Gray, in plaintiff's exhibit 3, 4, 5, and I believe 21, he was a laborer, wasn't he?

A I have no knowledge of this man. You showed me a memo in '51. I don't know who he is.

Q Has anybody ever done a study of the asbestos workers that Exxon employeed in the '50's and '60's to your knowledge?

A To my knowledge we did not.

Q Do you know how long Exxon employee insulators?

A How long did they employee insulators?

Q Yes, sir.

A You mean when they first starting employing them?

Q Yes, sir.

A No, I don't know when they first started.

Q Do you know when they -- did they ever stop employing insulators?

A I have no idea of the employment.

Q Have you been informed of or had related to you the testimony of Mr. Boyle Lull in this case?

A Boyle Loggs?

Q No, sir, I'm sorry. Mr. Boyle Lull. Have you ever --

A No, I never heard the name.

Q The name doesn't mean anything to you. Are you -- have you ever seen Exxon insulators on the site at the plant in 1957 or any year subsequent thereto use patches while working out in the field on insulation --on old insulation?

A No, I never witnessed anything like that.

Q Have you ever seen an insulator issued an hatchet?

A No, I have not.

Q Have you ever seen them issued a mallet?

A No, I would not have any knowledge of that.

Q Have you ever seen any Exxon insulators wear respirators?

A Oh, yes, many times.

Q Would you agree the respirators are the absolute last line of defense from the environmental hygiene standpoint?

A Maybe if you will rephrase that. I don't understand that.

Q It's the last method chosen by an industrial hygienist or occupational medicine expert in order to prevent disease?

A Well, when you say last method, all I could say is, it is a method to provide a barrier so that people will not breathe in dust, and that's what a respirator is used for.

Q In 1973 do you know what position Robert Eckert had?

A In 1973?

Q Yes, sir?

A No, I have no knowledge of his position.

Q If he was Director of the Medical Research Division of Esso Research and Engineering Company, you wouldn't know?

A Well, I knew that was his position, but what he was doing in 1973, I don't know when he retired or what the dates were.

Q Might there be some other people like Mr. Gray whose lungs were abnormal, but you don't know about it, sir?

MR. LELYARD: Your Honor, I'm going to object.

THE COURT: Sustained.

MR. KLEINPETER: Your Honor, I don't have any further questions.

REDIRECT EXAMINATION

BY MR. LEBYARL:

Q Doctor, you mentioned you left Exxon Kenya by 1965 and then you had referenced a meeting with Dr. Selikoff in 1966. Where were you in the interim?

A During that interim period I was Medical Director with Esso in Libya. I was in Libia setting up an occupational health program for employees there.

Q Okay, and you mentioned in discussing, in answering my questions the fact that you saw Mr. Venable doing air sampling and dust studies, so I understand from your response to Mr. Kleinpeter that you simply today can't tell anybody exactly what the findings were, what the results were?

A Yes, I know samples were taken, but I have no reports. I didn't receive them, and I wouldn't have any knowledge of these findings.

MR. LEBYARL: Thank you.

RECROSS-EXAMINATION

BY MR. KLEINPETER:

Q And lastly, you don't know what he was sampling, do you Dr. Leone?

A I just know they were dust samples.

Q You know they were dust samples. Do you have any idea of where the depository of these dust sample results would be?

A No, I wouldn't know. All I know is that the samples were sent to a lab for analysis and reports were obtained, but I don't know where they were kept or I never received them.

Q What labs - labs on site at the Baton Rouge Refinery or labs off-site?

A We did not have a lab to analyze dust samples in Baton Rouge in the Refinery, not in the Medical Department.

Q Where would records of lab results of dust counts be kept?

A I really don't know the answer to that.

Q You, as Assistant Medical Director working with the Hygiene people, don't have any idea where the dust count results would be?

A No, because I had mentioned earlier, the Industrial Hygienist did not report to me. So, I didn't have reports from them, nor did I get results of any lab tests.

MR. KLEINFELTER: No further questions, thank you.

MR. LEEYARD: Thank you, Doctor.

THE COURT: Eight-thirty tomorrow morning.

(THEREUPON, COURT WAS ADJOURNED)

DR. JOHN T. LUCAS

STATE OF LOUISIANA
PARISH OF IBERVILLE

C E R T I F I C A T E

I, TONI LOURGEOIS, a certified General Reporter, in and for the Parish of Iberville, State of Louisiana, do hereby certify:

That the preceding matter was reported by me in shorthand complemented by magnetic tape recordings; thereafter reduced to typewriting by me; and that the foregoing pages 1 through 41 contain a thorough and correct transcript of the testimony given, under oath, in the preceding matter heard on the 15th day of JANUARY, 1992.

Plaquemine, Louisiana, this 9th day of August, 1993.

Toni Bourgeois

TONI LOURGEOIS, C.G.R.