FILE NAME: Abex (ABX)

DATE: 0000

DOC#: ABX301

DOCUMENT DESCRIPTION: Notes to BC from Law Office

ABEX

Pneumo Abex, successor-in-interest to Abex, began its corporate existence as The American Brake Shoe and Foundry Company in 1902 in New Jersey.

In 1916 The American Brake Shoe and Foundry reincorporates in Delaware.

In 1937 American Brakeblok Corp was merged into the American Brake Shoe and Foundry company, and was thereafter operated as The American Brakeblok Division of that company.

In 1943 The American Brake Shoe and Foundry Co. Changed its name to The American Brake Shoe Co.

In 1966 The American Brake Shoe Co. Changed its name to the Abex Corporation.

In 1968 Abex is acquired by Illinois Central Industries, Inc (Whitman Corp.)

In 1986 Abex is merged with Pneumo Corp, to form Pneumo Abex Corp., a subsidiary of Illinois Central Industries, Inc. Abex Corp remained an affiliate company to Pneumo Abex Corp.

In 1988 Abex's Friction Products Division along with Pneumo Abex Corp. Were acquired by and became subsidiaries of the PA Holdings Corp., a company formed and indirectly owned by The Henley Group, Inc. And Wasserstein, Perella and Co. Holdings, Inc.

In 1992 Abex, Inc., formerly the Pneumo Corp. Unit of Henley Group was spun off.

In 1994 Cooper Industries, a diversified manufacturer based in Houston, acquires the Abex Friction Products Division of Abex, Inc. Abex, Inc was based in New Hampshire, but its Friction Products Division was based in Winchester, VA. Cooper planned to merge Abex Friction Products with its automotive products Division, which makes brake drums and calipers and automotive lighting components under the Wagner brand name.

Abex manufactured and sold asbestos containing friction products between 1926 and 1987. Abex states that although they manufactured asbestos containing products, they never actually mined asbestos.

Abex states that they are not exactly sure when they first became aware of the dangers associated with inhalation of asbestos fibers, but by the mid-1970s they were placing warnings on their asbestos containing products. This warning read..

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY CAUSE SERIOUS
BODILY HARM

To fully understand how and when Abex first became aware of the dangers associated with asbestos, and the related disease's, we have to go back to the 1930s

As documents will show, Abex not only became aware of the possible health effects associated with the inhalation of asbestos fibers in the 1930s, but was actually involved in the asbestos manufactures conspiracy to not only manipulate, but in fact to suppress the medical research literature/evidence in regards to the dangers associated with the inhalation of asbestos fibers.

Abex's involvement with the medical research regarding the effects of asbestos dust began in 1936 via its friction materials division, American Brake Block. In a letter from Vandiver Brown the attorney for Johns Manville, to Dr. LeRoy Gardner of the Saranac Institute dated 11/20//36, (SL-3), Mr. Brown talks about a meeting attended by certain brake lining manufacturers. At this meeting the topic of asbestos dust, and a related disease asbestosis were discussed at great length. As a result of this meeting, various brake lining manufactures including the American Brake Block Corporation signed a Memorandum of Agreement (SL-4), committing funds for the study of asbestos and related diseases in both humans and animals. Mr. Brown goes on to explain in his 11/20/36 letter that the goals of this research into the study of the effects of asbestos dust include "Weather exposure to asbestos dust will produce asbestosis without the existence of previous infection and whether the x-ray changes found in advanced human asbestosis can be reproduced in animals without infection." This research would be conducted by Dr. Gardner at the Saranac Laboratory, but as Mr. Brown also points out in his letter, "It is further understood that the results obtained will be considered the property of those who are advancing the required funds, who will determine whether, to what extent and in what manner they shall be made public." The 11/20/36 MOA committing funds for this research, under the above mentioned conditions, was signed by American Brake Block Corporation's Vice President Mr. W.A. Blume.

In a letter to Sumner Simpson (President of Raybestos Manhatten, and one of the main conspirators) dated 2/01/37, W.A. Blume Vice President American Brakeblok writes, " I am therefore signing this agreement with the notation made as you will note," this letter was on American Brakeblok Corporate letterhead, and was discovered during the September 1995, document production conducted at the offices of Abex's legal counsel Anderson, Kills, located in Manhatten New, York.

Also discovered during the September 1995, document production were three articles written by Dr. L.E. Hamlin, who served as American Brake Shoe's Medical Director between 1941 and 1961. The first article titled " Industrial Dust-the Pneumoconiosis." was reprinted from the Industrial Medicine magazine, dated March 1944. In this article Dr. Hamlin discusses the relationships between certain dusts, and related diseases of the lungs. " Pneumoconiosis includes such specific diseases as anthracosis, asbestosis, siderosis, silicosis, etc." Dr. Hamlin goes on to write " Of the dusts studied up to the present time, only silica and asbestos produce definite pulmonary fibrosis."

The second article written by L.E. Hamlin, was titled" Chest Conditions Simulating Silicosis". This article was presented at the meeting of the American Association of Industrial Physicians And Surgeons at Chicago, April 11, 1946. This article is significant as a result of the fact that it identifies Asbestos in relation to chest conditions whose x-rays simulate silicosis, and it identifies fibrosis due to asbestos fibers as an occupational disease.

Dr. Hamlin's third article was titled"Some Thoughts on Silicosis. This article was published in the February 1948 edition of the Industrial Hygiene Newsletter. In this article Dr. Hamlin again identifies asbestosis as a chest condition whose X-Rays simulate silicosis.

The following document

REVIEW OF HEALTH SURVEY X-RAYS
AMERICAN BRAKEBLOC DIVISION DETROIT MICHIGAN
1948

which was produced during the June 1995 production, indicates that the Abex medical department under Dr. Hamlin, was reviewing employee X-rays for a number of diseases including asbestosis as early as 1948. This document even lists asbestosis as an occupational condition.

Another document discovered during the September 1995, document production was a copy of a report from the American Brake Shoe Companies Plant Engineer's Conference which was held between September 27 and 29, 1948. This conference was designed to served as a venue to encourage exchange between the plant engineers, and the medical/ industrial hygiene, department. On September 27, Dr. Hamlin presented an article he authored, titled " Engineer's Place in Industrial Medicine". This article is important because in it Dr. Hamlin again discusses the disease asbestosis." Harmful dusts, fumes and vapors may give rise to such occupational diseases as silicosis, siderosis, asbestosis, and or poisoning from lead and other heavy metals."

Dr. Hamlin's presentation was followed by a question and answer session. One of the questions asked was, "How does asbestosis compare with silicosis?" To witch Dr. Hamlin answered, "The action of asbestos is a more or less mechanical plugging of the air sacs of the lungs by the longer fiber asbestos. In silicosis, the lung diseases is caused by the chemical reaction of free silica on the tissue. The x-ray picture of asbestosis is different from silicosis." Dr. Hamlin goes on to state " Asbestosis is not a problem in Brake Shoe but it could be if precautions are not taken." **Note,** we will see how Abex failed to take precautions to protect its workers from exposure to asbestos dust in the testing portion of this paper.

Also during this conference, various members of the medical department presented assessments of the different divisions from an industrial hygiene standpoint. Among these presentations, was one regarding the Brakeblok division.. Mr. Tayler representing the medical department, discussed concerns during the manufacturing process of friction material, specifically

dust created occupational diseases such as asbestosis from inhalation of asbestos, and lead poisoning from contact with lead compounds.

Dr. Gardner died on October 24, 1946 prior to finishing his report. However in August of 1947 Dr. Arthur Vorwald assumed the responsibility for the Saranac laboratory, and soon after took over efforts to put Dr. Gardner's materials into publishable form, and continue to work on the manuscript.

Finally on September 30, 1948 Dr. Vorwald sent 15 copies of the finished Sannac report regarding the study of the effects of exposure on animals to asbestos dust, to Johns Manville for review and input. Dr. Vorwald withheld the portion of the report dealing with human exposure at the insistence of Vandiver Brown the attorney for Johns Manville. A few days later Mr Brown invited executives from the following companies to meet at the Johns Manville Boardroom to discuss the Saranac report on November 11, 1948.

American BrakeBlok Div of American Brake Shoe & Foundry (A division of Abex)
Keasbey & Mattison Company
Raybestos Manhattan
Russell Manufacturing
Thermoid Company (Southern Asbestos)
Union Asbestos & Rubber Company
United States Gypsum Company

To each Brown sent a copy of the report including American BrakeBlok, who after all were one of the original sponsors. Accompanying the reports was a letter written by Mr. Brown asking that each addressee return his copy of the draft report by the time of the meeting. Mr. Brown's letter concluded " It is obviously undesirable that the report in its present form receive any distribution or publicity outside a limited number of people in our respective organizations."

Lloyd Hamlin reviewed the report and in an internal memo dated November 3, 1948, which was sent to W.T. Kelly American Brakeblok's Executive Vice President, stated that he saw nothing in the draft report that he thought warranted concern from a legal viewpoint writing " Similar reports are frequent in the literature not only from this country but also from abroad."

In response to Mr. Brown's invitation to the Johns Manville meeting to be held on November 11, 1948, W.T. Kelly writes in a letter to Mr. Brown dated November 8, 1948," while DR. Hamlin would like very much to be in attendance at the meeting that you have scheduled for November 11th it is impossible for him to do so. We would therefore like to ask that you act for us in connection with any decisions that have to be made," the letter goes on to read " I thought you would be interested in the remarks of our Medical Director Dr. L.E. Hamlin, in connection with this report and I am therefore attaching a copy."

The day after the November 11, 1948 meeting in a letter to Mr. Kelly, Mr. Brown outlined the decisions reached at the meeting. " It was the unanimous opinion that the reference to cancer and tumors should be deleted and this is a point we will insist upon." In relation to the

reports findings regarding pneumonia, Mr. Brown writes " We will not request that this be deleted but merely that it be modified somewhat with the view of placing more emphasis on the factors which made it doubtful whether the disease developed as a result of dust exposure." In regards to the copy of the draft report received by American Brakeblok, Mr. Brown writes all copies of the "tentative and confidential report" had been retrieved except the one held by Dr. Hamlin. " Everyone felt it would be most unwise to have any copies of the draft report outstanding if the final report is to be different in any substantial respect. The feeling of the representatives of the various companies was very emphatic on this point."

In 1952 Dr. L.E. Hamlin American Brake Shoes Medical Director attended the Seventh Saranac Symposium (SL-123). This is important, since the second day's session included a presentation by Dr. Merewether regarding asbestos and specifically addressing its relationship with lung cancer.

At this point in time I think its fairly evident that Abex was not only aware of the health hazards associated with exposure to asbestos fibers and its relationship to both asbestosis, and lung cancer, but was actively involved in the conspiracy to prevent this information from reaching the public.

In addition to establishing early knowledge, its important to determine how this knowledge was used. For example, knowing the dangers associated with the inhalation of asbestos fibers, did Abex test their products to ensure they were safe? Where the Brake linings releasing asbestos fibers during routine braking, and if so how much? How about during repair or maintaince? Abex knew that their manufacturing process entailed the use of bags of raw asbestos fibers, were the workers being exposed, and again if so, what were the levels of exposure?

TESTING

There are three types of tests that need to be addressed.

1. Tests conducted on the brake linings to determine the amount of asbestos fibers released as a result of routine use, and post use maintenance and repair.
2. Tests to analyze asbestos dust samples collected at various Abex facilities, usually during hygiene inspections to determine the level of exposure during the manufacturing process.
3. Tests to determine the amount of damage incurred by humans, as a result of exposure to asbestos fibers released from the brake linings, and or raw sabestos fibers used in the manufacturing process.

Abex in their answers to interrogatories state that they neither conducted tests, or studies to determine the asbestos dust content of their products during the manufacturing process, use, and or post use repair/maintaince. Abex states as a reason for not testing, the fact that the asbestos used in their friction material was resign bonded and encapsulated.

In an effort to determine the amount of asbestos dust contained in brake lining residue, and the amount of exposure resulting from routine maintenance and repair, the Environmental Sciences Laboratory at Mt. Sinai Hospital headed by Dr. Selikoff, conducted during the mid-1970s asbestos fiber counts during brake lining maintaince and repair. In addition to air samples being taken at auto repair shops, taxi fleet repair shops, and several municple truck repair shops, they were also taken in adjacent customer waiting areas, and automobile showrooms. These samples were taken in New York city. The standard techniques for filter processing and fiber counting which had been adopted by OSHA were used. The results indicate that during the process of blowing brake residue dust out of drum brakes, concentrations of asbestos fibers/ml ranged from 29.4 at a distance of 3-5 ft, to 0.4 at a distance of 10-20ft. In addition background sampling during the same operation shows that immediately after jet air blowing and for at least 14 minutes afterward, there were measurable concentrations of asbestos fibers present. These measurements were taken at varying distances from the operator (from 10 to 75 feet) and show that other people within the perimeter were being exposed to concentrations of asbestos fibers, including mechanics, shop management, salesmen and customers.

The results of this study were well known to Abex as the following document illustrates.

On March 11, 1976 Mr. Godly, Manager Industrial Hygiene and Environmental Control, wrote a letter to Mr. Feierabend Vice President Friction Products Group Winchester, discussing a meeting he had attended where the results of the New York asbestos dust samples, and related levels of exposure were addressed. Present at the meeting (in addition to Mr. Godly) were, representatives of the New York Transit Authority, New York Air Resources, and the Environmental Sciences Laboratory Mt.Sinai Hospital. Mr. Godly writes, "Their (Environmental Sciences Laboratory) most well known recent study was the determination of exposure during brake shoe relining activities in repair shops. In a side conversation with Mt. Sinai representatives, the reason for their strong interest in submicron brake shoe emissions became apparent. The Mt. Sinai representatives stated that they have regularly been finding street level concentrations of from 4 to 100 fibers per cubic centimeter. As a comparison, the tentative ambient air quality criteria proposed by the EPA is .04 fibers per cubic centimeter. They were emphatic in their assertions that braking systems which they have investigated to date do not readily convert all the asbestos through dehydroxylation to forsterite. They claim that micron and submicron particles are readily detectable both under laboratory and street conditions. This would suggest braking surface temperatures of around 500 C or below. This is counter to previous research which has revealed light braking temperatures of 800-900 C and Heavy braking temperatures of 1700-1800 C."

Even after the results of such tests/studies were made known in the mid-1970s, Abex continued its policy of not testing its asbestos containing products post use, stating it (Abex) did not have control over other people's job sites. However Abex in their answers to interrogatories state that in 1979, and 1982, they participated in the preparation and distribution of a pamphlet published by the Friction Materials Standards Institute, Inc. An excerpt from this pamphlet reads, " The amount of asbestos in the dust from brake lining wear is normally at an extremely low level because of chemical breakdown during use." This pamphlet goes on to recommend procedures to

minimize the dangers of exposure to asbestos dust during routine maintaince and repair.

When asked via interrogatories whether Abex conducted industrial hygiene surveys of their facilities, to among other things determine the levels of asbestos exposure during the manufacturing process, Abex claiming privledge refused to answer. However subsequently produced documents clearly indicate that a number of hygiene surveys were conducted at various Abex facilities, and that during these inspections dust samples were collected and analysed to determine the amounts of asbestos fiber concentrations.

Abex, to their credit tried to conduct at least one industrial hygiene inspection a year for each of their manufacturing facilities. These inspections were conducted by Abex medical department personal, insurance carriers, and indipendant industrial hygiene companies. These inspections were usually geared toward a number of different things. Such as, dust concentrations, exhaust and ventilation, material handling and preparation, illumination, plant layout, use of toxic and corrosive material, and overall cleanliness. A vast number of industrial hygiene inspection reports were produced during the September 1995 document production. However in the interest of time, I selected an Abex facility at random, and attempt to follow the flow of related inspections results, documenting discrepancies, and corrective actions taken.

The facility I choose was the American Brakeblok plant located in Lindsay, Ontario. A July 1955 industrial hygiene inspection report conducted at the Lindsay facility states that twenty-five dust samples were collected at various locations in the plant, to determine the concentration of lead, asbestos, and iron oxide in the air. As a result of the nature of this case, I will focus on the results pertaining to asbestos only. The report indicates that out of the twenty-five samples #s 5, 11 and 12 were over the suggested limit of 5 M.P.C.F. for asbestos dust. Sample 5 was taken during the emptying of second mix materials from mixer can to cardboard drums, a level of 6.7 fibers was recorded. Samples 11 and 12 were taken at the grinding stations. Levels of 7.9 and 12.1 were recorded respectively. The comment "quite dusty" followed both entries. In the case of the brake lining manufactures, manufacturing exposure was usually limited to asbestos fibers used in the manufacturing process, and pre-installation work such as grinding.

On October 20, 1964, the then medical director of Abex C.C. Blackwell, wrote a letter to Personnel Manager R.B. Parker. The letter was titled "Asbestos" and talked about the dangers related to asbestos. Referring to an article titled " Asbestos Exposure and Neoplasia", Mr. Blackwell writes, " On the basis of their study (Selikoff, Churg, and Hammond) it would appear that there is an added relationship between cancer of the lungs, pleura, stomach, colon and rectum in individuals who have been asbestos workers for 20 or more years." Mr. Blackwell goes on to write " I do not feel that there will be further and/or sufficient publicity on the basis of present studies on asbestos as it relates to human health to the point where it would affect the asbestos brake lining and exposure of the general populace."

On October 25, 1965, Mr. H.M. Nelson of the Industrial Hygiene Branch of the Ontario Dept of Health, wrote a letter to Mr. Netherton Personnel Manager Lindsay Ontario, discussing a recent inspection conducted by Mr. Nelson. In the letter Mr. Nelson talks about the results of the

inspection, and addresses recommendations to correct the discrepancies. Mr. Nelson writes " During my examination of the mixing department, it was my opinion the exhaust system at the asbestos dumping station and the large mixer were inadequate."

On May 25, 1966, Mr. H.M. King writes to Mr. Tayler. The subject of the letter is, Lindsay Dust Control. In the letter Mr. King discusses the citations Lindsay received from the Ontario Dept of Labour. The citations were in regards to a hood at the asbestos scale, the exhaust system at the rotocan mixer, and the dust collection system at the ID and OD grinders.

Another industrial hygiene survey was conducted on July 12 1967. This inspection as in the case with most of the inspections, was conducted by personnel from the Abex medical department, specifically Mr. Borcherding, and Mr. Hartin. During the survey dust samples were collected at nine different locations. Only dust sample Nine gave an indication of the presence of asbestos dust, which was considerably below the TLV.

On July 1972, C.H. Borcherding Mgr Ind. Hyg/Loss Prevention Abex, wrote a letter to Mr. P.C. Milner Works Manager Brakeblok-Lindsay. The subject of the letter was a lead and asbestos study conducted by the Ontario Dept. Of Health at the Lindsay facility. Mr. Borcherding writes " It appears from reviewing their report (Ontario Dept of Health) No. 15007 A, that we are only in non-compliance relative to lead in one location, however asbestos appears to exceed the TLV in all locations studied according to their data."

At this point its interesting to note, that when Abex conducts dust sample surveys for asbestos at their facility, only one sample in nine even indicates the presence of asbestos dust. However when the Ontario Dept of Health conducts dust surveys at the same facility, every single sample indicates asbestos dust in excess of the allowable TLV.

On February 10-14, 1975, the Ontario Ministry of Health conducted an Industrial Hygiene Survey at Lindsay. The inspection report indicates that during the survey a number of airborne dust samples were collected at various operations throughout the plant for lead and asbestos. As indicated in Appendix No1, sixteen of the asbestos samples exceeded the permissible limit of 2 fibers/mi.

The above inspection reports clearly indicates that Abex's Lindsay Ontario facility had a serious problem controlling and or preventing asbestos dust exposure in relation to its workers. Documentation of the problem began in 1955, and clearly continued at least through 1975 with no real effort to correct the problem.

Additional documents clearly indicate that Abex had this same asbestos dust problem at other facilities including Winchester. Abex was well aware of the fact that they had serious problems regarding asbestos dust exposure at various plants as early as 1955. Abex was also well aware of the dangers of human exposure to asbestos dust, probably as early as the 1940s. Yet

Abex failed to correct the problem, and protect its workers, why? Perhaps this next document will shed some light.

On July 2, 1981 Abex's Medical Director F.W. Knoch wrote a letter stamped PERSONAL & CONFIDENTIAL to Mr. Stephen Conway, Jr. the President of Abex. In his letter Mr. Knoch expresses frustration in the medical department's inability to correct discrepancies discovered during routine industrial hygiene inspections. Mr. Knoch writes, " What I am doing is strictly forbidden, at least I have been totally regimented into believing this, and it could cost me my job. In my relatively brief association with Abex, the Medical Department has always been told what it could and could not do. An acceptable excuse for not following suggested programs has been, "we can't spend that kind of money." Many cases and examples exist to document this statement and I will enumerate some of them. There is a plant which has an unacceptable exposure to a toxic substance of which they are aware. Repeated industrial hygiene surveys have shown no improvement in this exposure in spite of some measures taken to correct this. Facilities Engineering has proposed changes to correct the situation, but the answer has been "no way will top management approve this expenditure." I have been able to prevent intoxication of the employees, but by quasi devious "administrative" means. Recommendations for wearing equipment to protect the worker has been answered with "OK, but we will have to phase it in gradually-we can't afford to buy the equipment." Mr. Knoch goes on to write, "Training programs for employees concerning toxic substances have been watered down because implementing them fully would require admission that part of the program is not being followed by Abex, ie furnishing protective work clothing which must be left at the plant. I refused to tailor a program for presentation omitting certain parts because of cost to Abex."

Abex states that they did not conduct studies concerning the effects of the inhalation of asbestos dust or fibers on individuals using or being exposed to any of their asbestos containing friction products.

Abex's failure to conduct these types of studies is understandable. After all there were numerous studies regarding the effects of the inhalation of asbestos fibers, on both animals and human beings. The results of these studies as we have seen, were widely known, discussed, and written about.