

- ▼ 1 Rhodes Depo 94-10-12, USDC, ED PA, In Re: Asbestos Products Liability Litigation
 - Taken at Kelley, Drye & Warren, New York City
 - Deposition is taken in the Conwed litigation - 4
 - Prior depositions, -147
- ▼ 2 Prep for the Dep
 - Rhodes arrived in New York several days ahead of depo and reviewed a number of items including Langer's depo in the Conwed litigation. - 5, 55
 - He also, "on my own" reviewed various asbestos regulations [confirming that the other items he reviewed were at the request of Kelley Drye lawyers]. -6
 - Talks about how a lot of these events occurred 20 years ago so it would be hard to recall [like the plaintiffs]
- 3 Rhodes began with UC in 1957. After Columbia Univ he worked for Sun Oil, 1949 - 53. Then did research at Columbia, 1953 - 57. - 29/30. First dealing with Calidria asbestos operation was 1967. - 30/31
- ▼ 4 He retired from Metals Division in 1986 at the age of 63 - 7
 - ▼ At the time of retirement his job title was "manager of occupational health and product safety for the metals division."
 - 1981 is when he started that position - 12
 - Between 1985 and 1989 he worked for a consulting company called Versar, Inc.
 - Versar did oversight on asbestos abatement contracts.
 - Rhodes became a CIH after he went to work for Versar. - 9
- ▼ 5 With UC says he had 12 locations for which he was responsible so that he devoted approximately 1/12th of his time to Calidria. - 14
 - The Niagra Falls is of the sites for which Rhodes had responsibility although the lab there was being shut down about the time he moved to Niagra Falls in 1981. - 25
- 6 Rhodes has been designated as both a fact and an expert witness and his expertise is with respect to the Calidria operation. - 23
- 7 Rhodes has no recall of having made any distinction between different types of asbestos, at any of the locations at which he worked. - 24
- 8 UC counsel says, "we have provided the history of the corporation. If it will help you, we have a copy and we can provide it."
- ▼ 9 Asbestos experience
 - He had none until 1967 when he started with Calidria R & D in Niagra Falls. - 33. He was involved in developing new applications for Calidria asbestos. - 34
 - In about 1967 UC decided to create a full time senior position for the asbestos operation and Rhodes is the person selected to fill that position. -37
 - From 1967 to 1981 he says he was involved in developing new uses for UC asbestos, working on technical issues for existing uses and involved in some marketing, "everything that was involved with Calidria asbestos." -35
- 10 One of the uses of UC asbestos was in papermaking and that was "a major activity when I joined in 1967.
- ▼ 11 Involvement with industrial hygiene aspects of asbestos

- about the time Rhodes started with the asbestos work in 1967 Selikoff was publishing his research and the British too, so they got interested in fiber counting. Says he had no awareness about any asbestos concerns until then or thru any source other than Selikoff publicity etc. -38. So the fiber counting program was an outgrowth the the technical service application. -38
- ▼ 12 The fiber counting done for customers was not an industrial hygiene survey. They were limited spot checks, ceiling checks, to give the potential user some idea of what kind of exposures he might be creating if he began to use the material. -39
 - ▼ A person was trained as a technician to do this work, since the corporate industrial hygienist couldn't be doing everything. -39
 - The first technician was Ed Kleber. Also Blair Engels was trained. "I took the training myself, in 1973." -40
 - The first customer fiber counting according to Rhodes was late 1971, early 1972. -42
 - We talked to the law department about how to handle the reporting. -43
 - Rhodes claims that the UC asbestos fiber counting for customers was unrelated to OSHA going into effect at about the same time; he claims to have no knowledge if customers were using the UC fiber count info to comply with OSHA requirements; claims that UC's initiation of fiber counting was unrelated to any concern that if the levels were high, customers wouldn't buy because of OSHA concerns. -47/48
- ▼ 13 Paper industry was the biggest use of UC asbestos in 1967 when Rhodes started working with the UC asbestos operation. -48
 - Paper industry faded out in the early part of the time I was there. - 49 Vinyl tile more or less replaced paper as the product that kept the plant running. It was in the time frame of the mid-70s when the paper making industry faded out and vinyl flooring became more popular. 50
- ▼ 14 Conwed - 51
 - Rhodes not too aware of Conwed, may have heard that Conwed was a customer.
 - Conwed was previously known as Wood Conversion Company and changed its name around 1967
 - "Somewhere along the line I heard that they were putting it in, replacing amosite in order to make their sag and fire retardants."
 - Rhodes understanding of why Conwed replaced amosite with UC asbestos. -95, 96
 - The manufacture of ceiling tile is essentially a paper making process. -52
 - Rhodes saw just one report of UC air sampling at Conwed. October, 1972 -68
- ▼ 15 Call Reports - 54
 - Rhodes looked at reports of UC sales people making calls on Conwed.
- ▼ 16 Customer air monitoring data -55
 - 4 big cardboard boxes worth of data.
 - "whatever you requested to got." -56 [UC counsel to Conwed counsel]
- ▼ 17 OSHA excursion level or ceiling level -58
 - a level that cannot be exceeded at any time.
- ▼ 18 OSHA fiber type distinction - 60
 - Rhodes' understanding is that OSHA never differentiated based on asbestos fiber type.
- ▼ 19 AIA and AIA/NA - 61

- [There is a lot of questioning about Rhodes involvement in AIA - which was extensive - which makes me believe that the Conwed lawyer does not have all of the documents showing Rhodes extensive AIA connections]
- Rhodes claims that "decisions on what they would do in response to regulations and that sort of thing came out of the management people in the New York City office. We were not privy to those decisions." - 66 [helpful re; corporate knowledge - all of these decisions were made by management and not underlings without authority.]

▼ 20 Compliance - 66/67

- Rhodes claims that by the time OSHA came out both the King City mine and mill and the laboratory were "in compliance." -67
- Regarding the air sampling at customer's plants, which Rhodes calls "spot checks", he is aware that the air monitoring does not provide a comprehensive picture of any possible exposure at the plant. - 70/71

▼ 21 ACGIH, TLVs - 72

- ▼ no recollection when he first became aware of it. Thinks that he became aware of the asbestos TLV in the "70s somewhere."
 - Nor is Rhodes aware of how long the ACGIH asbestos TLV had been in existence.-73.
 - Sometime in the 1980s Rhodes had a collection of the ACGIH booklets.

▼ 22 Toxicology reports, medical department, conversations with doctors- 75

- Received UC medical dept toxicology reports he thinks in the mid 1960s.- 75. It was there when I got there (1967). -76
- Says he never had conversations with Dr. Durnhel. Syas after 1981 he had some conversations with Dr. Guy Fortney and also with Dr. Lewinsohn at that time. -77
- Before 1981 Rhodes thinks he had some conversation with the Johns Manville corp medical director (probably thinking of Ed Fenner, HS & E director). -78
- Other than the toxicology reports from Dr. Durnehl Rhodes got no other documents or literature or books or articles about asbestos and health from the Union Carbide Medical Department before 1981.

▼ 23 Animal experiments -79

- First time he saw any of these reports was the day before another deposition. Possibly before 1981. Whenever he first heard about he didn't actually see it until immediately prior to an earlier deposition.

▼ 24 Fiber type differences, Rhodes' understanding - 82

- Did you ever hear from anybody that there was any difference in health effects between the asbestos fiber mined in the three different mines, Union Carbide, the Johns Manville and the Atlas mine? Answer - NO
- Did you understand there were any different physical or chemical properties between the fibers mined in those three different mines? Answer - NO
- As far as you knew, they were basically the same deposits and the same type of fiber? Answer - YES.

▼ 25 Decision to pelletize the fiber. -82,83, 84

- Confirms the testimony in the Neal deposition in which it is explained in more detail. The pelletizing was in essence a necessary by-product of the wet process and not to control dust. [The dust control angle seems to have been an after thought - a marketing gimmick to help explain why the asbestos came in chunks that would have to be pulverized by the customer before use see, p. 85].

- The pelletizing decision was made "well before my time." -83
- Vague recollection that in around 1971 JM introduced a process at its California asbestos mine to produce asbestos in a briquette form. -86
- ▼ 26 Conwed ceiling tile manufacturing process described - 92, 93
 - After the pelletized asbestos was run thru the "hydropulper" in terms of dustiness potential it wouldn't make any difference in pelletized or loose fiber was used. -94
- ▼ 27 Electron microscope -100
 - Union carbide had one at Niagra Falls.
 - To Rhodes' knowledge it was never used to analyze asbestos from any source.
- 28 Customer air sampling all occurred after OSHA began. -101
- ▼ 29 Fiber length, - 109, 110
 - No sampling or checking for fibers less than 5 microns in length, to Rhodes' knowledge - 108. [But, note the UC document re: "fines" in which e.m. was done and found very high levels of "fines" shorter than 5 microns.]
 - "The number of fibers (of UC asbestos) smaller than five is considerably more than the number of fibers larger.
 - "there were a fairly substantial percentage by weight that were not only longer than five microns but much longer...a very substantial percentage were larger fibers."
- ▼ 30 Lab testing to determine relative dustiness of Calidria asbestos. -121
 - The only laboratory test before 1981 to determine the relative dustiness of Calidria asbestos was this day or so thing that you and Mr. Engels were playing around with.
 - Lab tests were also done in 1982. -121
- ▼ 31 Bill Thurber was the manager in New York City of the whole asbestos operation. -125, 142; 144
 - We were a very small group and we passed information around. -126;
- ▼ 32 Document authenticity, 134
 - UC lawyer agrees that documents produced in the case are authentic.
- ▼ 33 The main office of the Metals Division was in Grand Junction. -141
 - Jack Frost
 - Ernie Piersall, Corporate director of safety.
 - Ron Beethe
- ▼ 34 Rawlings, 153 [Senior Headquarters people]
 - He was a level up above Thurber. Thurber reported to him.
 - Kroft, was the president of the Metals Division.
 - Folkman, Division President, 154.
- ▼ 35 New owners of King City mine. 158
 - He has never consulted with them and they have never asked him to consult with them.
- 36 CPSC Tape joint compound ban proposal 164
- 37 UMETCO -168-69
- ▼ 38 Warning Label, - 168, 169
 - Part of letter of October 29, 1984
 - Label includes cancer and smoking info
 - Never used. -169, 171

- our document bates # 008766
 - At the time the memo was being drafted UC was already in the process of selling the business. The label was being prepared to be used on the Calidria bag under the new ownership-170
 - Rhodes thinks that the first label was used in 1968. Then changed in 1972 to OSHA label
- ▼ 39 Occurrence of ultra fines document. -173
- High fiber counts picked up by UC means that the fiber counts must have been of fibers greater than 5 microns in length (according the Rhodes' earlier testimony) -173
 - There were fibers longer than five microns that were also very fine. 174
 - Labeled "business confidential" because we wanted to limit the information until we decided what to about it." -176
- 40 Rhodes testimony to the CPSC re: patching compound baon. -176
- ▼ 41 Marks bill, California, spray ban. -176
- use of UC asbestos in wet coatings. Sand blast removal of coatings released only very low levels. -178
- 42 Exhibits used in the depo. -191