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IN THE SUPERIOR COURT OF THE STATE OF CALIFORVIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

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MARJORIE L. BAUMANN, as Administrator of the Estate of Earl Baumann, deceased,

Plaintiff,

-vs-

FISREBOARD PAPER PRODUCTS CORPORATION, et al.,

Defendants.

No. 688-553

ESMAEL P. VELASQUEZ,

Plaintiff,

-vs-

FIBREBOARD PAPER PRODUCTS CORPORATION, et al.,

Defendants.

No. 681-172

NEAL SPEER,

Plaintiff,

-vs-

FIBREBOARD PAPER PRODUCTS CORPORATION, et al.,

Defendants.

No. 695-157

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AIKEN & CISTARO
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OAKLAND, CALIFORNIA 94612
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L. P. HOLMES,

sworn as a witness by the Notary Public, testified as follows:

EXAMINATION BY MR. GILBERT

MR. GILBERT: Q. Mr. Holmes, my name is Peter Gilbert, and I am representing Phillip Carey Corporation. And I assume you have had a chance to talk to your attorney, and he has explained the nature and purpose of a deposition, has he not?

A. Yes.

Q. And would you please state who you are employed with?

A. Plant Insulation Company, Emeryville, California.

Q. What capacity are you employed by them?

A. President.

Q. How long have you been president?

A. Ten to fifteen years.

Q. What is the total length of time you have been employed by Plant Insulation Company?

A. Twenty-nine years.

Q. What were you before you became president?

A. Vice-president.

Q. Did you have a special area you were in charge of as vice-president, like vice-president in charge of finance or some other designation?

A. No.

Q. How many vice-presidents are there at Plant Insulation Company?

A. One.

Q. And before you were vice-president, you were what?

A. Estimator.

Q. What does the estimator do?

A. Bids jobs.

Q. Could you explain how that works? Is it like with a contracting company, you bid on a job or what?

A. You pick up a set of plans and specifications at the Builders Exchange, or a mechanical contractor's office, or the owner's office, and from the plans and specifications you prepare a bid in your particular field.

Q. What type of business is Plant Insulation Company in?

A. Industrial insulation contractor.

Q. Is Plant Insulation Company the representative of any particular insulation products manufacturer?

A. Yes.

Q. And who does Plant Insulation represent?

A. More than one.

Q. All right. We will start with them in alphabetical order then.

A. Fibreboard Corporation, Pittsburg Corning Corporation, Johns-Manville, Owens-Corning Fiberglas, Forty-Eight Insulations, Benjamin Foster, Childers Products and others.

Q. Exactly how does Plant Insulation represent these various manufacturers?

A. Sell, their products.

MR. TOLLEN: May we pause a moment so I can get a chair for the gentleman who just came in?

PIR. GILBERT: Q. Mr. Holmes, do you have any contractual relationships with the various manufacturers, other than selling their products? A. No.

Q. Are you the exclusive West Coast representative for Fibreboard Corporation? A. No.

is determined then by the individual contractor, whosever brand he normally handles. If the generic name is used, he bids on his, the brand that he had.

Q. Okay. And you are a contractor, is that correct?

A. I am a contractor. If we got in a specification that said calcium silicate, if we were handling Fibreboard's calcium silicate, we would normally bid on theirs. Does that explain?

Q. Yes, thank you. And I take it that applies to all the other manufacturers that you represented?

A. I can't say, but I assume so. You mean -- I see. I thought you meant other contractors. That's true, yes, other manufacturers we represent on different products where a generic name is used, we would, normally then bid on the products that we handle.

Q. This list that you gave me, Fibreboard, Pittsburg Coming, Johns-Manville, etcetera, does this include all of the manufacturers that Plant Asbestos Company or Plant Insulation Company has represented to your knowledge?

A. Well, I'm trying to give you as good an answer as I can, Mr. Gilbert, You understand this goes back a long way, and there has been insulation manufacturers come and go in the span of 30 years. These are the ones we represent now, In the past we may have merchandised products made by others. I really can't tell for sure. But these are the ones we represent now and have in the recent past.

Q. All Tight. Did Plant Insulation Company ever provide some type of respirator or facial mask for the workers to use

A. Yes.

Q. Is Plant Insulation Company a member of the Western Insulating Contractors Association? A. Yes.

Q. Mw long has it been a member of that organization?

A. For many years. The exact number, I can't tell you until I go look at the records.

Q. Has it been a member at least since you have been employed by Plant Insulation Company? A. No.

Q. Has it been a member since, say, the early 1960's?

A. Yes.

Q. Does the W.I.C.A. have a publication that they put out? A. Yes.

Q. What is the name of that publication?

A. I have forgotten, but I always call it the W.I.C.A. Newsletter.

Q. Do you regularly read that newsletter?

A. Yes.

Q. Have any warnings concerning the inherent dangers in working with asbestos-containing products ever appeared in that newsletter? A. Yes.

Q. When is the earliest such warning that you remember?

A. Hard to tell. Do you want a guess?

Q. Well, your best estimation.

X. Ten years.

Q. Did this publication regularly have articles on the dangers inherent in working with asbestos-containing products?

A. Yeah.

Q. And you kept yourself familiar with the publication's

reporting of these inherent dangers?

A. Uh-huh, yes.

Q. Did you have a regular program where you would convey the information contained in this publication to your workers concerning asbestos dangers? A. Yes.

Q. Was there one particular employee or officer who was in charge of a program of informing the workers of dangers inherent in asbestos products? A. No.

Q. Did you regularly do that as a normal practice?

A. Yes.

MR. BROWN: You personally?

THE WITNESS: I personally.

MR. GILBERT: Q. Was this done at the safety meetings?

A. Yes.

Q. How often would you have these meetings?

A. No regular schedule. They were called tailgate safety meetings.

Q. Does that mean you would go out to a job site and call them in together and inform them?

A. Not I, but their various supervisors or estimators when they were at the job site.

Q. Did Plant Insulation Company have a rule which required its workers to wear respirators or face masks while employed an jobs in which asbestos-containing products were used?

A. Yes, we did, but it was not always enforceable.

Q. When was this rule formulated?

A. In the sixties.

Q. Would this again be in the early 1960's?

Q. How long ago did they stop using asbestos-containing products? A. In the sixties.

Q. Well, is this a total cessation of using asbestos-containing products, or did it gradually taper off starting in the sixties?

A. It gradually tapered off.

Q. Why did Plant Insulation Company stop or slow down its use of asbestos-containing products in the sixties?

A. Because the manufacturers stopped using asbestos in their products, and Plant Insulation Company emphasized the use of products that did not contain asbestos.

Q. Why did Plant Insulation Company emphasize the use of non-asbestos products?

A. You asked a similar question a while back. Because of the growing knowledge that asbestos fiber has a hazardous substance when airborne.

Q. All right. Did Plant Insulation Company help fund a program which was done by Tabershaw-Cooper & Associates, a physical examination of various members of Local 16?

A. Yes.

Q. When did Plant Insulation Company first become involved in this program?

A. When it was initiated by the W.I.C.A. Exactly how many years back, I can't be sure.

Q. Why did Plant Insulation become involved in the Tabershaw-Cooper program?

MR. MILLER: May I have the question again?

(Record read by the Reporter)

THE WITNESS: Because we were interested in the program

MR. GILBERT: Q. What is it about the program that interested you?

A. To determine the condition of the workers and to participate in any program to insure safer working conditions.

Q. What was your understanding of the purpose of the Tabershaw-Cooper program?

A. To investigate the medical history of each member of Local 16; to advise them on how to guard their health in the future.

Q. Did Plant Insulation Company inform the members of Local 16 that this program was available if they desired to participate? A. Yes, we did.

Q. And how was that information conveyed, letter, orally --

A. Through the mail.

Q. Did you dictate the letter or did someone else at Plant Insulation Company actually dictate the letter?

A. I don't recall.

Q. Do you remember what the letter said?

A. No.

Q. Was more than one letter sent out informing the men of this program?

A. A letter was sent out to all the men.

Q. Was it done more than one time? A. No.

Q. Was knowledge of this Tabershaw-Cooper program conveyed to the men in any other manner, other than the letter?

A. This program was a joint endeavor between the union and the employers. And I am certain that the union conveyed

Q. Okay. How long have you represented those particular companies?

A. Well, it varies.

MR. ROBERT LYNCH: Why don't you take each one?

MR. J. KENNETH LYNCH: Q. How long have you been a representative of Fibreboard? A. Since 1948.

Q. Okay. And were those products sometimes sold as Pabco? A. Yes.

Q. Pittsburg Corning Corporation, how long have you represented them?

A. Started with them in the fifties somewhere, then we had a falling out and didn't represent them for a period of years. And not too many years ago, we resumed representing them again.

Q. How about Owens-Corning?

A. Owens-Coming, we began to represent them in the fifties.

Q. And Johns-Manville?

A. Johns-Manville, we just began to represent them in the last half dozen years.

Q. Now, sticking with Johns-Manville for a moment, when your company would bid a job and it didn't call for a particular brand name, you, I take it, would ordinarily use the product which you represented; that is, Fibreboard, Pittsburg Corning, or one of these that you have mentioned, correct? A. That's right.

Q. Okay. If due to a warehouse shortage or any other reason where you were slow on a particular product, would you then go to, say, another insulator or another distributor and

Asbestos conducted any tests or engaged or commissioned anyone to conduct any tests into the dangers of asbestos?

A. No.

Q. You mentioned that you, Plant, was a member of the Western Insulating Contractors Association. Were they also a member of the National Contractors Association -- National Insulating Contractors Association?

A. You are automatically a member of the National if you belong to the Western.

Q. Do you recall any warnings concerning asbestos in any other journals other than the Western Insulating Contractors Association that predated that newsletter you referred to of approximately ten years ago?

A. From time to time in the National publication they have things about the dangers of asbestos dust in the air. I can't recall the dates, no.

Q. Okay. Do you believe that is subsequent to this one you recall in the newsletter, or do you think it was prior to that time?

A. I really don't remember.

Q. Do you still have jobs where your current employees would go in and would tear out old asbestos insulation materials so that they complied with new fiberglass insulation materials? A. No.

Q. You have no jobs where they would have to tear out any old materials? A. No.

Q. You do industrial work? A. Yes.

Q. Is this entirely on new structures? A. No.

STATE OF CALIFORNIA)
) ss.
COUNTY OF CONTRA COSTA)

I, PATRICIA A. DANCER, a Notary Public in and for the County of Contra Costa, State of California, do hereby certify:

That L. P. HOLMES, in the foregoing deposition named, was present and by me sworn as a witness in the above-entitled action at the time and place therein specified;

That said deposition was taken before me as a Notary Public at said time and place, and was taken down in shorthand by me, a Certified Shorthand Reporter of the State of California, CSR License No. 1697, and was thereafter transcribed into typewriting, and that the foregoing transcript constitutes a full, true and correct report of said deposition and of the proceedings which took place;

That I am a disinterested person to the said action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed my official seal this 28th day of September, 1976.

Patricia A. Dancer

PATRICIA A. DANCER, Notary Public
In and for the County of Contra Costa
State of California



1970

A Labor-Management Occupational Health Service in a Construction Industry

Irving R. Tabershaw, MD; W. Clark Cooper, MD; and J. Leroy Balzer, MS, Berkeley, Calif

Insulating workers in the San Francisco Bay area exhibit asbestosis and an excess of deaths due to lung cancer and mesothelial tumors. To meet the challenges to health in this trade, where customary methods of organizing occupational health are not applicable, union and management have jointly developed a program of medical surveillance and industrial hygiene which now covers 13 western states. The development and activities of this unique service are described.

THE occupational health program to be described presents several unusual features: preventive service to members of a craft union in the construction industry, joint sponsorship by labor and management, and a commitment to an interdisciplinary approach which embraces medicine, industrial hygiene, and health education. Adequate medical surveillance and industrial hygiene have generally not been available in the construction industry for many reasons which make it difficult to organize and administer effective programs. These include irregularities in work schedules, scattered distribution of the work force, constantly changing work sites, the relatively short time that an individual worker is employed on a single project, and the multiplicity of employers in a single job. Furthermore, except for a few major firms, most construction in the United States is carried out by relatively small contractors, usually loosely organized in local and regional trade associations. A major cohesive force in the construction industry is the craft union, functioning on a local, regional, national, and international basis. The need for group health services for a group of construction workers, the insulators, became urgent as asbestosis, an increased incidence of lung cancer, and other work hazards were recognized by both labor and management. The program devised to answer this need may serve as a model for other construction trades.

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From Tabershaw-Cooper Associates, Berkeley, Calif.

Reprint requests to 2180 Milvia St, Berkeley, Calif 94704 (Dr. Tabershaw).

Organization of the Trade in the United States

Practically all insulating work in the United States is performed by members of the International Association of Heat and Frost Insulators and Asbestos Workers.

This international union has about 120 component local unions in the United States and Canada, grouped in eight regional conferences. The Western States Conference, covering 13 western states, is the labor sponsor of the Western Asbestos Health Plan (figure). In this area which comprises over 1.75 million square miles or nearly one half the area of the United States, there are about 2,200 insulating workers in 11 local unions whose membership is distributed as shown. Some of these are in the US Naval shipyards where insulating workers are civilian employees but where membership in the union is not obligatory.

Insulating contractors in a comparable area belong to a trade association known as the Associated Insulation Contractors of the Western States. However, it is not as rigidly structured as the unions nor do all major contractors belong to it.

The local unions bargain with local contractors in the establishment of wages, work hours, and benefits. Out of these negotiations have come local health and welfare programs and, more recently, support for preventive programs and agreement on a coordinated approach.

In the western area, there are five major health and welfare plans providing comprehensive medical care for members. These cover all workers in the west, other than those in Naval shipyards. Often, several small locals group together to support a single plan. Although liberally financed, these programs have provided little or no preventive activity. Medical care has been provided by private physicians of each worker's choice, often not trained in pulmonary disease and with little reference to work experience and the special demands of the insulating trade.

Industrial hygiene, insofar as providing proper equipment and a safe work place, has been, and still is, the responsibility of the contractors. The construction industry, however, places a severe burden upon the individual worker who works alone or in a small group, as dust control and safe work practices are highly dependent upon his attitude, knowledge, and cooperation. Limited industrial hygiene has been carried out in some areas on the basis of labor-management agreement, eg, respirators are supplied in some areas. Fitting and maintenance have been each man's responsibility. Few contractors employ enough insulators to develop specialized preventive programs. Although most insulators tend to work with an individual contractor for a considerable period of time, they inevitably shift from one employer to another and from one area to another according to job demand. The union is a focal point providing stability to the work force, but conventional occupational health practices have not proved workable in this context.



Distribution of asbestos workers within the Western States Conference, 1969.

Occupational health services would probably not have been developed for the insulating trade had it not been for a number of recent studies which demonstrated that this trade has special health problems. The asbestos minerals are the outstanding hazard. It has been known for more than 60 years that their inhalation could lead to asbestosis, and, more recently, that they lead to an unusually high incidence of bronchogenic carcinoma and other malignancies. Although

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Table 1.—*Analysis of Deaths in Study Group (Jan 1, 1946 Through Dec 31, 1965)*

Cause of Death*	Total Population of 594	In 250 Men With More Th 20 Years In Trade	
	Observed	Observed	Expecte
Malignant neoplasms (140-205)	18	16	2.54
Digestive system (150-159)	2	1	
Respiratory system (160-164)	14†	14†	1.78
Other & unspecified	2	1	
Major cardiovascular renal disease (330-334)	30‡	18‡	19.09
Violent deaths (800-889)	11	6	
All other causes	5	4	
Not known	8	5	
All deaths	72	49	35.13

* Classified according to: *International Classification of Diseases*, ed 7. Geneva, Switzerland, World H Organization, 1957. Numbers in parentheses are rubrics classification numbers.
† Includes two pleural mesotheliomata.
‡ Includes four cor pulmonale.

no quantitative studies of other hazards have been reported, these workers also have potentially harmful exposures to dust from other insulating materials, to solvents, and to noise.

Background and Extent of Health Problems

Asbestosis, resulting from exposure to asbestos mineral fibers in the mining and milling of the ore and in workers in asbestos textile mills, has been recognized since 1900; but it was a report by Leathart and Sanderson[1] in 1963, showing that laggers were the major occupational group in the United Kingdom contributing new cases of asbestosis, that pointed up the special hazard in the insulating trade. Selikoff and his co-workers in New York and New Jersey were at the same time demonstrating a similar problem in the United States. They reported both asbestosis and an unusual incidence of lung cancer and other tumors.[2,3] There have since been many confirmatory reports. Dunn and Weir[4] provided evidence for at least a threefold increased incidence of lung cancer in California insulating workers, and we have shown more recently that insulating workers in the San Francisco area with more than 20 years in the trade have approximately eight times as many lung cancer deaths as expected[5] (Table 1). One fourth of those examined in San Francisco show changes in chest x-ray films consistent with asbestosis, the incidence increasing with experience in the trade[5] (Table 2).

Nature of Occupational Exposures

The difficulty of describing quantitativ the environmental exposures of the insu ing worker has been made plain in sev reports on the subject, the first being tha Fleischer et al[6] in US Navy shipya (1946), and subsequent reports by Ma Leathart and Sanderson[1], and others. Ba and Cooper[8] have studied the work envi ment of the insulating worker in San Fr cisco. They work less than half their t with asbestos-containing materials. T work includes (1) commercial building op ations, covering pipes and duct systems office buildings, apartments, etc, (2) he industrial operations, insulating of turbu boilers, pipes, and duct systems in po plants and large factories, and (3) ma construction and repair, which involves r lation of turbines, boilers, pipes, and d systems in naval and private vessels. M serious exposures to asbestos ducts oc during tearing out of old insulation, saw and fabricating insulating materials, pou ing asbestos blocks into place, and mix muds for finishing. Marine construction refitting is especially hazardous. Des high dust count surges during some of th operations, the time-weighted average ex sures of most workers do not exceed le which had been regarded as safe, which to more complacency regarding insulat than was justified. We cannot accurat define past exposures, but most indicati are that trade practices in the past did

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Table 2.—*Analysis of Chest X-ray Films*

Period of Entering Trade	No. Available for X-ray Films	No. Having X-ray Film(s)	No. with Definite Changes Consistent with Asbestosis	
			No.	%
1906-1910	0	0	0	0
1911-1915	2	2	2	100
1916-1920	8	5	5	100
1921-1925	7	3	2	67
1926-1930	19	13	8	62
1931-1935	17	13	6	46
1936-1940	49	41	17	41
1941-1945	117	101	33	33
1946-1950	61	47	12	26
1951-1955	69	57	5	9
1956-1960	74	55	2	4
1961-1965	57	49	1	2
Total	480	386	93	24

produce more dust, even though more asbestos was used. The recommended levels should be lowered, should relate to fibrous asbestos and not to total dust, and should be directed toward preventing brief heavy exposures as well as average exposures.

The Program

When, in the mid sixties, it became apparent that asbestos-related disease was not only jeopardizing individual workers but also threatening the entire industry, steps were taken to develop a coordinated preventive program. In 1966, the Associated Insulation Contractors of the Western States and the Western States Conference of Asbestos Workers established a supplemental health and welfare fund for occupational health financed by a contribution of 2 cents an hour by labor and management. At first about half of the members of the Conference participated, but it now includes the whole area. Out of this was developed an occupational health program for the area which is now getting into operation.

The new occupational health program for western asbestos workers and contractors has three major areas: (1) medical surveillance, (2) industrial hygiene, and (3) education. Medical surveillance in the plan is directed towards introducing preventive practices into existing health and welfare plans and includes periodic physical examinations in each local area by a local physician or clinic approved by the medical advisor, using uniform records and diagnostic criteria. These clinics furnish chest x-ray films and abstracts of their findings to a central office. Participating physicians and clinics, including radiologists, are provided with current information on asbestos-related disease and the potential health problems of asbestos workers. Points of emphasis include criteria for diagnosis and for continued work in the trade and a campaign against smoking. The foregoing does not substitute for medical care by private physicians of the worker's own choosing, who are informed of significant findings and encouraged to refer questions to the plan.

In the area of industrial hygiene, the program works with local labor-management committees to develop guides to hygienic work practices, with particular reference to materials used, ventilation, house cleaning, respirator programs, and protective clothing. Training begins in the apprentive school. The program also utilizes local industrial hygiene resources, acquainting them with the special needs of the industry and interpreting their findings and recommendations to management and labor.

It is hoped that, eventually, a mobile industrial hygiene laboratory can be made available to visit work sites in various loca-

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tions. In the entire industrial hygiene program, it is projected that there will be prompt translation of the results of research and development in the technology of the trade to work practices.

As has been pointed out in both medicine and industrial hygiene, there are strong educational components. Individuals and groups of workers are counselled on health matters at union meetings, on the job, and at formal conferences. Information bulletins are distributed from time to time to contractors and workers.

Relation to Other Preventive Efforts

The program is designed to be complementary to and supportive of other governmental and private efforts. Standards for the work place are usually set and enforced by state agencies, but this has been extremely difficult in the construction industry. The recent passage of federal legislation regulating health and safety practices in federally financed construction throughout the United States will greatly reinforce efforts to improve construction practices, including those in the insulating trade. Research in the technology of the trade such as in prefabrication, better packaging and labelling, improved respirator design, and other factors fundamental to dust protection is being carried out by insulation manufacturers and in research organization financed by the industry and government. Our program is geared to translate such technologic changes to the individual contractor and workers.

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PLANTS BEGAN EVOLUTION

Not only is the chloroplast the overwhelmingly dominant mechanism whereby the light of the sun is transmuted into the substances supporting all life, the sugar and carbohydrates, but there are grounds for believing that it is from the exhalations of all plants in all time that an atmosphere with free oxygen has developed. Indeed, all food, all fossil fuels, fibres, all atmospheric oxygen, the stabilization of the earth's surface and its terrestrial water systems, the melioration of climate and microclimate have been accomplished by the plant: all animals and thus all men were plant parasites. It is the plant that colonized the land and thus permitted the evolution from the sea of amphibians, reptiles, mammals and man, and this dependence persists unchanged. Nor is this basic reliance negated by the fact that many animals perform essential services for plants.—McHarg IL: *Design With Nature*. Garden City, NY, Natural History Press, 1969, p 46.

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