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DATE: March 23, 1983

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

LEXINGTON COUNTY SCHOOL DISTRICT FIVE, Plaintiff, vs. UNITED STATES GYPSUM COMPANY, et al., Defendants.	NO. 82-2072-0

The deposition of EDWARD CLARE BEUTHIN, taken on behalf of the Plaintiff, pursuant to the Federal Rules of Civil Procedure, before Jena Caron Veal, Certified Court Reporter and Notary Public, Delta Crown Room, Atlanta Airport, Atlanta, Georgia, on the 25th day of March, 1983, commencing at approximately 11:30 a.m.

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Julia S. Howard
Ann Kimmel
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Margaret M. Powers
Billy J. Stokes

- - -

This deposition is taken pursuant to the Federal Rules of Civil Procedure.

EDWARD CLARE BEUTHIN,

being first duly sworn, was deposed and testified as follows:

DIRECT EXAMINATION

BY MR. SPEIGHTS:

Q Would you state your full name, please, sir?

MR. LOWE: Excuse me. For the record, let me make a statement, please, on behalf

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Would you state your full

ease spell the last name,

nt address, Mr. Beuthin?

e, Los Vegas, Nevada,

Q How long have you been a resident of the State of Nevada?

A Seventeen years.

Q What is your date of birth, Mr. Beuthin?

A September 16, 1910.

Q What is your educational background?

A Elementary schools and high school in Saginaw, Michigan; two years of college -- Alma College, Michigan; three years of graduate work at Carnegie Institute of Technology in Pittsburgh.

Q Were you ever employed by United States Gypsum Company?

A Yes, I was.

Q During what period of time were you employed by United States Gypsum Company?

A 1936 to 1964.

Q Were you employed continuously by United States Gypsum Company during that period?

A Yes, I was.

Q Would you trace for us, please, sir, the positions that you held with United States Gypsum Company and the approximate dates you held each position.

A Starting in 1936 as a laborer at the Oakmont, Pennsylvania plant for that company as an hourly worker until 1940 when I became a foreman in the printing

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department. In 1944, I became a department superintendent. In 1947, I became general superintendent; and in 1949, works manager.

Q Were all those positions at the Oakmont plant?

A Yes, they were.

Q And was the work manager the same thing as a plant manager?

A Yes.

Q What products did the United States Gypsum Company manufacture at the Oakmont plant during the period you were there?

A It was a kraft paper mill, and we converted the paper that we manufactured into paper bags, multi-wall paper bags and wallboard, bundling tape, for use within the company.

Q How long did you serve as works manager at the Oakmont plant?

A Until 1954.

Q What was your next position with the company?

A I was transferred to the Chicago corporate headquarters as manager of safety.

Q How long did you serve as manager of safety?

A Eight years.

Q That would have been until 1962?

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A Yes.

Q And what was your next position?

(Discussion held off the record.)

A (Continuing) Consultant to the manufacturing department.

Q All right, sir. From 1954 until 1962 when you served as manager of safety, what were your general duties and responsibilities, Mr. Beuthin?

A To administer a safety program for the entire company.

Q All right, sir. Did you have any responsibility for potential occupational diseases of workers of United States Gypsum Company?

A I would think that would be part of the job, yes.

Q How would you carry out your duties and responsibilities during that period of time?

A We would travel through the various locations throughout the North American continent and counsel with the plant management and also with the employees of the various locations.

Q To how many locations approximately would you travel?

A At that time, I think there were 67 plants.

Q How much of your time was spent on the road?

A Seventy-five to 85 percent.

Q Was there a manager of safety before you, Mr. Beuthin?

A Not as such.

Q How was safety handled prior to your assuming the position in 1954?

A As I recall, it was either in the -- well, it was in the personnel department immediately prior to my assuming the job.

Q And how would it have been carried out during that period of time?

A Mostly administered from the headquarters office, some travelling but very minor, as I recall. In fact, I think one of the complaints was that there wasn't enough activity or contact.

Q Do you know why your position was established?

A Well, I was told that they needed someone of work manager status to deal with the very important problem of industrial safety and to travel to the locations and because the Oakmond plant had operated six and a half years without an accident, I was chosen for that position.

Q To whom did you report in that position of manager of safety?

A The vice president of manufacturing.

Q And what was his name?

A His name was C. W. Desgrey.

Q And to whom by position did he report?

A He reported to the vice president of operations.

Q And to whom by position did the vice president of operations report?

A To the president of the company.

Q All right, sir. What were your general duties and responsibilities from 1962 to 1964?

A It was actually safety function plus some additional duties mainly in connection with studies concerning plant and equipment maintenance, advisory -- taking the information or knowledge that I had obtained in my travels from one plant to the other and dealing with or discussing with the various plant managements.

Q In that position as consultant from 1962 until 1964, did you continue to have the safety responsibilities that you had from 1954 until 1962?

A Yes, I did.

Q What did you first do when you left the company in 1964?

A I put together a firm called Beuthin and Beuthin Management Consultants.

MR. YOUNG: Spell it, please.

THE WITNESS: B-e-u-t-h-i-n.

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MR. YOUNG: Your last name. I am sorry.

A And I had developed a program for industrial accident prevention, supervisory development mainly for small or medium-sized companies, one-plant companies that either could not afford or did not have that type of counsel at their disposal.

Q Who took your place as the manager of safety whether under that title or another title when you left United States Gypsum Company in 1964?

A I am not sure of the title, but I believe it was Gary Krug who was in the company insurance department at that time.

Q Mr. Beuthin, as the manager of safety and in your subsequent position as a consultant, did you represent United States Gypsum Company on any industry groups or associations?

A Yes, on most of the trade groups connected with the industry.

Q On what trade groups do you remember representing United States Gypsum Company?

A Gypsum Association, National Lime Association, Metal Lathe Association, Mineral Wool Association, Pulp and Paper Institute; that is all I can think of at the moment.

Q Were you on any committees at the Gypsum Association?

A Yes, I was a member and chairman of the safety committee at one period of time.

Q During what period of time were you the representative on the safety committee of the Gypsum Association?

A For the entire period that I was in the Chicago headquarters.

Q Do you recall the other members who had representatives on that safety committee?

A Particularly National Gypsum because the safety director from National was responsible for the establishment of that committee within the Association.

Q Do you recall his name or her name?

A Merrill Pollard.

Q Do you recall any other members who had representatives on that committee?

A You mean: companies?

Q Yes, sir.

A Yes. Celotex and Best Wall, Kaiser, was the ones that I can -- (Pause).

Q Do you recall whether or not Flintkote had a representative on the committee?

A I don't believe. I can't be sure.

Q Do you recall whether Certainteed had a representative on that committee?

A It seems to me they did, yes.

Q Did you serve on any committees of the Mineral Wool Association?

A Yes, as a member of the safety committee.

Q During what period of time did you serve on that committee?

A Well, it was later than the Gypsum Association. I would say in the area of late '50s.

Q Do you recall any other companies that had representatives on that committee?

A Well, American Rock Wool was the main member.

Q Do you know what the association was between United States Gypsum Company and American Rock Wool, if any?

A American Rock Wool was merged into United States Gypsum.

Q Did Johns-Manville have a representative on the Mineral Wool Association committee on which you served?

A Not to my knowledge.

Q Mr. Beuthin, prior to assuming your duties as manager of safety in 1954, did you have any

involvement with asbestos or asbestos products?

A No, I did not.

Q Prior to assuming your duties in 1954, were you aware of alleged health effects of the inhalation of asbestos dust?

A Not specifically, no.

Q What knowledge or information did you have before assuming your position as manager of safety?

A For asbestos?

Q Yes, sir.

A None whatever.

Q In your position as the manager of safety, did you ever represent United States Gypsum at any seminars or symposiums?

A Yes, I did.

Q What seminars or symposiums?

A It was Saranac Laboratories' seminar on industrial lung disorders.

Q Did you attend meetings at the Saranac Laboratories?

A Yes.

Q And how long would those meetings last?

A Two or three days, as I remember.

Q And would the meetings deal with lung disorders?

A Yes.

Q When did you attend those meetings at Saranac Labs?

A The first one was in 1955.

Q Did you attend any others?

A Yes, I believe there is another one I attended in -- I think they were an annual affair, and the next one was in '57, as I recall.

Q Do you remember any of the people who specifically conducted those seminars on lung disorders at Saranac?

A It was conducted by the Saranac Laboratory and most of the attendees were doctors, medical people.

Q All right, sir. Did you ever hear Doctor Schepers make any presentation at those two conferences?

A Well, Doctor Schepers was the director of the institute, and he was very much a part of it. But I don't recall any specific lectures or -- (Pause).

Q Did you have an occasion to meet Doctor Schepers back during that period of time?

A Yes, I did.

Q Did the presentations at Saranac Lab that you attended in 1955 and 1957 include presentations on alleged adverse health effects of asbestos?

A I am sure they did.

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Q Did the conferences on lung disorders discuss possible length with occupational dust and cancer?

MR. LOWE: I object to the form of the question.

Q I am going to rephrase the question, Mr. Beuthin. During the two conferences that you attended at Saranac Lab, was there any discussion of any alleged connection between cancer and occupational dust?

A I recall that some of the papers dealt specifically with carcinoma.

Q Mr. Beuthin, after attending these conferences, did you prepare any written reports?

A Yes, I did.

Q And what did you do with those written reports?

A My reports were always directed to my immediate superior: vice president of manufacturing.

Q Did you send copies of the reports to anyone else?

A I can't be sure, but it seems to me that we sent them to the insurance people.

Q And who would have been in charge of that office at that time?

A Paul Kipp was the manager of insurance.

Q Did you attend any other seminars or

symposiums on behalf of United States Gypsum Company?

A Yes, after the Saranac meetings, that type of seminar was moved to Toronto to the McIntyre Research Institute, and I attended at least one meeting there and I think possibly two.

Q The conferences at McIntyre dealt with what?

A Basically the same thing but -- and I may have missed this at Saranac, but one of the things at McIntyre was the introduction of the use of aluminum dust for therapeutic reasons.

Q Did you prepare any written reports following your either one or two attendances at the McIntyre Institute?

A Yes, I did.

Q And what did you do with those reports?

A To my immediate superior.

Q And did you forward copies of those reports to anyone?

A I am sure we sent them to the insurance people.

Q Mr. Beuthin, following these conferences, did you make any representations to persons at United States Gypsum Company with respect to the use of asbestos?

A No, I did not.

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Q Why not?

A It was -- I was not aware of any asbestos in the company products; and if I was, it was of a very minute nature. And I attended the meetings really to keep abreast of any developments that may have transpired or come up in recent years after a study had been made on gypsum dust.

Q Mr. Beuthin, were you familiar with the product Audiocote while you were with United States Gypsum Company?

A I can't recall that specific name.

Q Were you familiar with the product Hi-Lite?

A I can't recall that one either.

Q Were you familiar with the product Sabnite?

A Sabnite rings a bell because at the Oakmont plant, we printed bags with that particular name.

Q Mr. Beuthin, if United States Gypsum Company during that period of time had produced products that contained 5 percent to 10 percent asbestos, would you have been more concerned about the subject of asbestos and the potential diseases from it?

MR. LOWE: Objection. Go ahead.

Q Go ahead and answer it.

A I don't think so.

MR. LOWE: I withdraw the objection.

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Q Mr. Beuthin, I believe that we had an opportunity to meet and discuss this matter; is that correct, sir?

A Yes, we did.

Q And where did we meet previously to this week?

A In Las Vegas.

Q And where in Las Vegas did I meet with you?

A In my home.

Q On that occasion, did I take a sworn statement from you, Mr. Beuthin?

A Yes, you did.

Q And was the court reporter present?

A Yes.

Q Mr. Beuthin, in order for us to prevent any confusion, I am going to ask: Did you subsequently get a copy of that statement that you gave for the purpose of making corrections?

A Yes, I did.

Q And did you make corrections on it?

A Yes, I did.

Q And did you return it to the court reporter?

A I did.

Q Mr. Beuthin, I ask you whether or not on that occasion, being March 5, 1983, do you recall my

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asking you the following question and your giving me the following response, and I will give you this copy and let you review it after I ask the question for the record.

A All right.

Q "Now, if United States Gypsum Company during that period of time had produced products containing from 5 percent to 15 percent asbestos, would you have been more concerned about the subject of asbestos and potential diseases from it?" Answer: "I am sure I would have."

I will ask you to examine that, sir, and I will ask you whether that was your sworn statement on that statement.

MR. LOWE: At this point, I interpose an objection not only to both questions but to the entire line of questioning and the form of the questions.

MS. DALY: I adopt that on behalf of Raymark, too.

MR. SPEIGHTS: Would you state the basis of your objection, please, sir?

MR. LOWE: As an additional basis of objection, I will point out that I have pointed out on numerous occasions a

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continuing request to be provided with a copy of this particular statement. I was not provided with an opportunity to be present for the taking of the statement and neither have I been provided an opportunity to review that statement; and for those reasons, I additionally object to the question and continuing questions with relation to this particular statement.

Q (By Mr. Speight) He has noted his objections, Mr. Beuthin. My question is: Was that your statement on that occasion, sir?

A Yes, it was.

Q All right, sir. Mr. Beuthin, I hand you this document and ask, sir, if you can identify that.

A Yes, I can.

Q What is that, sir?

A It is the paper that was published by the Saranac Laboratories concerning the biological effects of calcined gypsum dust.

MR. LOWE: May I see that, please?

THE WITNESS: (Complying.)

Q What is that study, Mr. Beuthin?

A It is the publication of the study that was conducted at Saranac in the early '30s concerning the

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effects of calcined gypsum dust.

Q When did you first obtain a copy of that?

A It was at the '55 meeting at Saranac.

Q And do you presently have a copy of that?

A Yes, I do.

Q And have you maintained a copy of that since leaving United States Gypsum?

A Yes.

Q And is the copy I showed you the copy of the one you took when you left United States Gypsum?

A Yes.

MR. SPEIGHTS: I would ask that to be marked for identification purposes only as Plaintiff's Exhibit 1.

MR. LOWE: I will enter an objection on the basis of materiality.

MR. YOUNG: I assume that objection applies to all the Defendants.

(Plaintiff's Exhibit 1 was marked for identification.)

Q Mr. Beuthin, when you took over as manager of safety or assumed that position in 1954, did you have any records in your custody pertaining to this study?

A No, I did not.

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Q Do you know whether United States Gypsum Company participated in this study?

A Yes, they did.

Q What participation did United States Gypsum Company have in this?

A As far as I could tell from the records and conversations, that it was initiated by United States Gypsum.

Q And to what records are you referring, sir?

A Things that I inherited in the files and discussion with people who had been involved in that study.

Q Did you maintain custody of those files while you were manager of safety?

A Yes, I did.

Q And were they there when you left?

A Yes, they were.

Q Were those files kept in the normal course of your normal course of business?

A Yes.

(Discussion held off the record.)

Q Mr. Beuthin, that is all I have. Thank you very much, sir.

MR. SPEIGHTS: For the record, I will take the position, of course that any

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objections posed by Tennessee counsel for U.S. Gypsum in this case are ineffective for the South Carolina case by reasons of United States Gypsum's position that my questioning is inadmissible in the Tennessee case.

MR. LOWE: My response to that would be in fairness and justicy and equity dictates that likewise my objections if admissible in Tennessee are as admissible in the South Carolina case.

CROSS-EXAMINATION

BY MR. LOWE:

Q Mr. Beuthin, on behalf of United States Gypsum in both the Tennessee and the South Carolina case, I would like to ask you a few questions, and I will attempt to be as brief as possible.

MR. SPEIGHTS: Excuse me, sir. I think Ms. Kimmel would like to state a position in light of your objection.

MS. KIMMEL: Since this deposition was properly noticed in Tennessee, at this time, I would like either you to withdraw your objection to the taking of the Tennessee cases by Mr. Speights or I would

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like to take it myself in the Tennessee cases.

MR. LOWE: You are welcome to take it yourself, but I am not going to withdraw my objection based on the local rules as I stated previously.

MR. SPEIGHTS: Well, I think you should probably proceed with her examination or I will finish my deposition and she will continue with hers.

MR. LOWE: It is Cross-Examination.

MR. SPEIGHTS: Certainly. You are asking questions subject to my objection that you should not participate.

Q (By Mr. Lowe) Now that we have gotten that out of the way: During the time you were manager of safety, were you vitally interested in the health and safety of the United States Gypsum employees and plant workers, so on?

A Yes, I was.

Q Were you justifiably proud for the six and a half years without an accident at Oakmont?

A Yes, I was.

Q Was the company policy and philosophy at that time to be interested in safety and the health and

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safety of the employees of United States Gypsum?

A Yes, it was.

Q The Saranac seminars, would it be correct to describe the interest generally there of all respiratory type disorders or potential respiratory type disorders?

A Yes, it was.

Q Now, do you recall from the Saranac meetings that the aluminum therapy that was mentioned on direct examination was related solely to the ailment of silicosis? Do you recall that?

A The aluminum therapy was introduced, to my knowledge, for the first time in McIntyre in Toronto, and it was in connection with hard rock mining in Canada, and I don't recall the silicosis being mentioned specifically.

Q All right. Do you recall silicosis being mentioned at either the Saranac --

A Yes.

Q -- or the McIntyre, in either situation?

A Yes.

Q With respect to the questions you were asked about your previous meeting with Plaintiff's counsel in Las Vegas, were there any other attorneys at that meeting with you other than Mr. Speights and Ms. Kimmel?

A No, there were not.

Q No other attorneys from any of the attorneys in these cases were present at that time?

A No.

Q What was the financial arrangement that Mr. Speights and Ms. Kimmel made with you for giving that statement to a court reporter?

A My consulting fee -- consultant fee.

Q How much was that, sir?

A $60 an hour, a portion thereof.

Q Is the same financial arrangement being made with reference to your testimony here today in Atlanta?

A Yes, it is.

Q That is all I have.

REDIRECT EXAMINATION

BY MR. SPEIGHTS:

Q I have just a couple of more questions, Mr. Beuthin. Prior to my taking the statement from you, did you have an opportunity to meet with Ms. Kimmel?

A Yes, I did.

Q And did Ms. Kimmel interview you?

A Yes, she did.

Q And was I present during that interview?

A You were not.

Q And was she present when I later took the statement from you?

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A She was not.

Q How much time was there between the two? Can you recall, approximately?

A A month.

Q All right, sir. Did Ms. Kimmel prepare you a copy of the memorandum confirming her interview with you?

A Yes, she did.

Q Did she give you an opportunity to correct?

A Yes, she did.

Q And did you exercise that opportunity to make those corrections?

A I did.

Q Were the statements that you gave Ms. Kimmel during your interview consistent with the statements that you gave me during your sworn statement?

A I believe they were.

Q Thank you, sir. I believe that is all I have.

MR. LOWE: At this time, I would request that both the memorandum and the sworn statement under oath be introduced as the next two exhibits.

MR. SPEIGHTS: I will be happy to do that if you will withdraw your objection

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concerning the alleged failure of counsel to furnish them to you before. But if you are going to continue that objection, then I think it ought to be resolved with the Court.

MR. LOWE: We will not withdraw our previous objection. We will let the record stand as it is.

MR. SPEIGHTS: Thank you, sir. That is all I have.

MR. LOWE: Thank you, Mr. Beuthin.

I want you to show on both depositions that we are here as counsel for United States Gypsum in both cases subject to Mr. Speights' objection that he previously made.

MR. SPEIGHTS: I want to go back on the record for a moment on the first deposition, just a statement for the record. Without waiving any objections to Tennessee counsel being precluded from participating in this case and without waiving any rights that I might have in regard to any statement or brief that I was involved in in the sense of fairness to the Defendant, since we are all here and have not left, I will voluntarily

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allow you to examine this statement and make any copy of it that I took and which I questioned Mr. Beuthin about. If you would like to ask him anything about the statement while we are here, you are certainly -- I would have no objection to your doing so.

MR. LOWE: For the record, in response to that, Mr. Speights, I would point out that we are tightly scheduled here in Atlanta today, and most everybody here is away from home. We are scheduled to have started another deposition seven or eight minutes ago, and I am sure there is no time for all counsel to review that properly and conduct further examination of Mr. Beuthin as a result from having reviewed the statement. I would simply suggest this: You make the statement available to us for review at our leisure, and if we feel like it is necessary to do so and if we can do it at Mr. Beuthin's convenience at a later time and at an appropriate place, we would like the right to reserve the Cross-Examination further.

MR. ELLIS: We would like to reserve the right to cross-examine further.

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MR. SPEIGHTS: For the record, the other witness has not arrived yet. The statement is relatively short, and I would be glad to accommodate counsel, the only counsel who questioned Mr. Beuthin in my deposition, by allowing him to review the statement now even in lieu of the other deposition.

MR. LOWE: We would be happy to take a look at it, but it is my understanding that Mr. Krug is here.

MR. SPEIGHTS: Well, we will take a break and, if you like, it is certainly available for you to look at.

(A brief recess was had.)

MR. SPEIGHTS: Let the record reflect that it is now 1:30, and we are starting Mr. Krug. Counsel for U.S. Gypsum has been provided a copy of the statement and has looked at it or had it available to him for approximately 25 minutes. As I stated then, Mr. Beuthin would certainly be available for further questioning in light of the statement and if counsel found any inconsistencies or anything that he wished to clear up in

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light of that statement.

MR. LOWE: Again, I would state for the record that we had a very cursory examination of the report and do not waive our right to conduct further examination of Mr. Beuthin. And if we see fit, and if we can, do it at his convenience subject to his agreement.

(Deposition concluded.)

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C E R T I F I C A T E

G E O R G I A:

FULTON COUNTY:

I hereby certify that the foregoing deposition was taken down, as stated in the caption, and the questions and the answers thereto were reduced to typewriting under my direction; that the foregoing 31 pages represent a true and correct transcript of the evidence given by said witness upon said hearing; and I further certify that I am not of kin or counsel to the parties to the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 31st day of March, 1983.

Jena Caron Veal

Jena Caron Veal, Certified
Court Reporter, B-353