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UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
NORTHEASTERN DIVISION

Vernon Puppe, deceased, by
Wanda Puppe, surviving spouse
and Candice Brouse and
Deborah Lynn Puppe, surviving
children,

Plaintiffs.

vs.

Civil No. A2-86-78

A C & S, Inc., a
Pennsylvania corporation,
et al,

Defendants.

DEPOSITION OF MICHAEL GREGORY, taken
pursuant to Notice of Taking Deposition, and
taken before Jeanne M. Gaughan a Notary Public in
and for the County of Hennepin, State of
Minnesota, on the 28th day of October 1987, at
4005 West 65th Street, Edina, Minnesota,
commencing at approximately 9:00 a.m.

* * * * *

1 APPEARANCES:

2 ROBERT G. GUBBE, P.A., By ROBERT G.
3 GUBBE, ESQ., 218 Cornelia Building, 4005 West
4 65th Street, Edina, Minnesota 55435, appeared on
5 behalf of the plaintiff.

6
7 LETNES, MARSHALL, FIEDLER & CLAPP, LTD.,
8 By JAY FIEDLER, ESQ., 202 First Bank Building,
9 P.O. Box 1950, Grand Forks, North Dakota 58206,
10 appeared on behalf of American Hoist and Derrick.

11
12 FAEGRE & BENSON, By KIRK O. KOLBO, ESQ.,
13 2300 Multifoods Tower, Minneapolis, Minnesota
14 55402-3694, appeared on behalf of U.S. Gypsum.

15
16 VOGEL, BRANTNER, KELLY, KNUTSON, WEIR &
17 BYE, LTD., By LORI J. BECK, ESQ., 502 1st Avenue
18 North, Box 1389, Fargo, North Dakota 58107,
19 appeared on behalf of Clark Equipment.

20
21 VAALER, GILLIG, WARCUP, WOUTAT, ZIMNEY &
22 FOSTER, (Chartered), By ALLEN J. FLATEN, ESQ.,
23 Fifth Floor, Metropolitan Building, 600 Demers
24 Avenue, Grand Forks, North Dakota 58206-1617,
25 appeared on behalf of S.K. Wellman.

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Mr. Kolbo 21

Mr. Beck 23

EXHIBITS PAGE

(No Exhibits Marked.)

1 MICHAEL GREGORY,
2 having been duly sworn, was examined and
3 testified as follows:

4
5 EXAMINATION

6 BY MR. GUBBE:

- 7 Q. Would you state your full name and spell your
8 last name, please?
- 9 A. Michael Gregory. That's G-r-e-g-o-r-y.
- 10 Q. And what is your present home address?
- 11 A. 165 Northland Avenue, Stillwater, Minnesota.
- 12 Q. And how long have you resided there, Mr. Gregory?
- 13 A. Eleven years.
- 14 Q. And are you currently married?
- 15 A. Yes.
- 16 Q. And your wife's name?
- 17 A. Marsha.
- 18 Q. And are you currently employed?
- 19 A. Yes, I am.
- 20 Q. And who are you employed with?
- 21 A. Barry Blower, Division of Snyder General
22 Corporation.
- 23 Q. And how long have you been employed there?
- 24 A. Eight years.
- 25 Q. In what capacity are you employed at Barry

1 Blower?

2 A. Purchasing manager.

3 Q. And have you been the purchasing manager
4 throughout your period of employment there?

5 A. Yes.

6 Q. And what is your education, Mr. Gregory?

7 A. I have three years of college.

8 Q. And where is that?

9 A. University of Minnesota.

10 Q. And prior to Barry Blower, where were you
11 employed?

12 A. For a short time at Hansman Industries in
13 Stillwater, Minnesota.

14 Q. And prior to that?

15 A. American Hoist and Derrick.

16 Q. And how long were you employed at American Hoist
17 and Derrick?

18 A. Almost ten years.

19 Q. And in what capacity were you employed at
20 American Hoist and Derrick?

21 A. As a buyer.

22 Q. Did you have employment prior to American Hoist
23 and Derrick?

24 A. Yes. With G T Sheldoff in Northfield, Minnesota.

25 Q. What kind of business is that?

- 1 A. Basically aerospace manufacturing.
- 2 Q. And in what position were you employed by them?
- 3 A. I was a buyer.
- 4 Q. As a buyer at American Hoist and Derrick, what
5 were your job duties?
- 6 A. I purchased several different commodities.
- 7 Q. And which commodities did you purchase?
- 8 A. Air brakes, brake linings, tools. There were a
9 number of them. I can't remember all of them
10 right now.
- 11 Q. With regards to the brake components, were you
12 the only person in charge of purchasing those
13 items?
- 14 A. For a period of time, yes.
- 15 Q. Was that for the -- from 1970 to when?
- 16 A. From 1970 to 1977, I think.
- 17 Q. And did anyone take your position or take over
18 purchasing of the brake friction products after
19 that?
- 20 A. Yes. A man by the name of Bud Koop, K-o-o-p.
- 21 Q. And is Mr. Koop currently still alive?
- 22 A. No.
- 23 Q. When you were purchasing for American Hoist and
24 Derrick, do you recall if there was any concern
25 expressed to you by anyone in the corporate

1 ladder as to any problem with air-borne asbestos
2 fibers?

3 A. As regards to brake lining material?

4 Q. Yes, sir.

5 A. Towards the end of the time that I purchased the
6 material with the OSHA regulations, we did get
7 letters -- we got some information from the brake
8 lining vendors. And they had started to look at
9 alternatives, some rubber-based friction
10 materials. But this -- as I say, I turned the
11 commodity over then, and I was no longer involved
12 in that type of thing.

13 Q. Okay. When you say you started to get literature
14 from the manufacturers, do you recall
15 specifically -- or do you recall any of the
16 literature specifically as to the possible health
17 hazards of the air-borne asbestos fibers?

18 A. I don't recall specific letters or memos, no.

19 Q. Do you recall if there was any effort made at
20 that time to find an alternative to brake linings
21 or clutch linings which contain asbestos fibers?

22 A. I don't remember exactly what was done.

23 Q. Okay. During the time that you were with
24 American Hoist and Derrick and purchasing the
25 brake components, what companies were you

1 purchasing from?

2 A. American Brake Block, Raybestos Manhattan, H. K.
3 Porter and John Mansville.

4 Q. Are there any other companies that you can recall
5 at this time that would -- that you may have
6 purchased from?

7 A. No. No.

8 Q. And can you tell me if your purchases from those
9 four companies would have been for both
10 manufacturing departments and service departments
11 at American Hoist?

12 A. They were for both.

13 Q. Was there any difference in purchasing from -- or
14 purchasing for either the manufacturing division
15 or the service division?

16 A. Generally service division -- parts that were
17 ordered for the service division were parts that
18 were no longer used in current production.

19 Q. Okay. When you would purchase, would you
20 purchase -- would there be extra purchases made
21 that would exceed just the production for
22 replacement parts or would those be purchased as
23 they were needed?

24 A. There were parts that were ordered for stock.
25 There's material that was ordered for service

1 stock or there were parts that were ordered per
2 requirement.

3 Q. When you would purchase, was there any type of
4 standard American Hoist purchase requirements
5 or -- that would be given to the manufacturers of
6 the components?

7 A. What do you mean by requirements?

8 Q. Okay. Were -- okay. Did you have different
9 types of asbestos-containing material that was
10 ordered?

11 A. There were different brand names or different
12 vendor part numbers that we would order.

13 Q. Did you have specific specifications which these
14 were ordered by?

15 A. As I said, we would order them generally by
16 vendor part number or if it was a molded brake
17 block, it would be ordered per an American Hoist
18 drawing showing the configuration, the whole
19 pattern of the block.

20 Q. All right. And this would be something that
21 would be supplied to the vendor.

22 A. Right.

23 Q. Did you also order -- I'm looking right here at
24 some invoices that were apparently sent to
25 Raybestos Manhattan. And can you just briefly --

1 I'm looking at one that's dated -- that appears
2 to be dated September 26th, 1976. Would you tell
3 me if that is the standard type of American Hoist
4 and Derrick purchase order?

5 A. Basically, yes.

6 Q. And does that contain your signature?

7 A. Yes, it does.

8 Q. And on that, what does that indicate it was
9 ordered?

10 A. It shows that it was ordered as a molded lining
11 per the American Hoist and Derrick drawing.

12 Q. Okay. And if you can help me -- how is that
13 identified or is that just identified with
14 American Hoist and Derrick's number?

15 A. The number listed here is an American Hoist and
16 Derrick drawing number.

17 Q. Is there any way to identify from that drawing
18 number what particular piece of equipment it
19 would go to? Or would we need to go to that
20 drawing to find out which piece of equipment it
21 would --

22 A. You would probably have to look on the drawing.
23 I would have no way of -- just by seeing that
24 number I would have no way of determining what
25 piece of equipment that went onto.

1 Q. Okay. When you were requested to order
2 particular parts, how did you get the information
3 as to what you were supposed to order?

4 A. By a purchase requisition.

5 Q. And would that come from either service or
6 manufacturing?

7 A. It would come from either one, service or
8 manufacturing.

9 MR. FIEDLER: Can I just take a look at
10 what you are reviewing?

11 (Mr. Fiedler is handed document
12 for review.)

13 BY MR. GUBBE:

14 Q. Did you also order fabric linings?

15 A. Yes. Woven fabric, yes.

16 Q. Can you tell from this purchase order whether
17 this was ordered as a replacement part or for
18 manufacturing?

19 A. It shows the delivery point of the material to be
20 the service department. It shows that it's to be
21 delivered to Building 5 which was service.

22 Q. And what was the code or designation for
23 manufacturing?

24 A. Manufacturing would have a numbered location,
25 generally. I can tell as I remember from the

1 account number and by the designation of where --
2 there was a numbered designation for the other
3 buildings or the other plant locations.

4 Q. Okay. I have some correspondence here addressed
5 to a Mr. J, period, Reagan, R-e-a-g-a-n. at
6 American Hoist and Derrick. And this is dated
7 April 13th, 1987 from a Robert D. Taylor with
8 Raybestos Manhattan. Can you tell me who
9 Mr. J. Reagan is?

10 A. He is or was an engineer at American Hoist.

11 Q. Do you know if he is still with American Hoist
12 and Derrick?

13 A. That I don't know.

14 Q. Did you have any dealings in your purchasing with
15 Mr. Reagan?

16 A. Yes, I did.

17 Q. Okay. In what regards?

18 A. I can't be specific. We purchasing people
19 interface with engineering people. It depends
20 upon what the particular situation was.

21 Q. Did you ever have an opportunity to see the
22 particular products come in which you were
23 ordering for the different divisions?

24 A. No.

25 Q. Do you have any knowledge as to -- if replacement

1 products were shipped out to various outlets, say
2 a crane service company in Fargo or Moorehead. if
3 they would be shipped in an Am-Hoist container or
4 if they would be shipped in a container supplied
5 with the logo of the manufacturer?

6 A. I really don't know.

7 Q. Who when you were there would have that
8 knowledge?

9 A. There's only one name that I can remember from
10 that area and he may not be the one, but there is
11 a man named Roger Urbanski in service.

12 Q. Do you know how that's spelled?

13 A. U-r-b-a-n-s-k-i.

14 Q. Now, this letter dated April 13th of 1976
15 indicates the -- some OSHA requirements relative
16 to the maximum allowable air-borne asbestos
17 fibers. Did you have knowledge before that time
18 of OSHA requirements?

19 A. I don't remember when I first became aware of
20 OSHA requirements.

21 Q. Was this one of your concerns in purchasing?

22 A. Not at the time, no.

23 Q. Were you ever given any instructions by
24 engineering or by -- I assume you had a safety
25 director or something with Am-Hoist, did you not?

- 1 A. Yes. I think we did.
- 2 Q. Do you recall the name of that person?
- 3 A. No.
- 4 Q. Were you ever given any instructions either by
5 anyone in engineering or in safety as to OSHA
6 requirements for your purchasing?
- 7 A. As it regards brake lining?
- 8 Q. Yes, sir.
- 9 A. Not that I can recall.
- 10 Q. Did you purchase or was there a difference in
11 purchasing the woven brake lining material as
12 opposed to the molded brake lining material?
- 13 A. What do you mean by difference?
- 14 Q. Was there one particular company that you would
15 purchase woven material from as opposed to molded
16 material?
- 17 A. Raybestos Manhattan was our major supplier of the
18 woven material.
- 19 Q. And was that for both replacement and
20 manufacturing or service and manufacturing
21 divisions?
- 22 A. In reviewing those past purchase orders it looks
23 like it was basically for after-market
24 replacement.
- 25 Q. And with regards to purchasing of the molded

1 brake blocks and that type of friction bearing --
2 friction material, was there any one particular
3 company that stands out in your mind who you
4 would purchase from?

5 MR. FIEDLER: Did you say molded?

6 MR. GUBBE: Right.

7 A. American Brake Block stands out as the major
8 source that I can remember.

9 Q. Was there any requirement when you purchased from
10 American Brake Block or one of the others when
11 you purchased the molded brake blocks or brake
12 linings? Was there any requirement that any
13 Am-Hoist logo or American Hoist and Derrick name
14 be applied to that brake item?

15 A. It seems to me we asked, on the molded blocks, to
16 have the American Hoist part number and their
17 compound number put on the blocks.

18 Q. Okay.

19 A. I think there is a statement on one of those
20 purchase orders to that effect.

21 Q. What about the woven material? Do you have any
22 recollection as to that?

23 A. I don't remember if it -- if he had any
24 requirements like that or not.

25 Q. The woven material it appears was ordered in the

1 hundred foot quantities or multiples of a hundred
2 feet. Does that -- do you recall that?

3 A. I would -- yeah. We ordered it -- that material
4 by the foot.

5 Q. So is that something that would then be cut to
6 size either at American Hoist and Derrick or in
7 your service department?

8 A. Well, it would be cut to size at some point in
9 time. Whether it was at the service department
10 or some other place, I don't know.

11 Q. Do you have any idea who was the purchasing -- or
12 the buyer for these items prior to your tenure at
13 American Hoist and Derrick?

14 A. I really don't. There was a number of buyers
15 when I started there but I don't remember who
16 turned over the -- who I got the commodity from
17 when I started there.

18 Q. When you started there were the people -- the
19 suppliers and manufacturers the same as when you
20 finished there?

21 A. They were basically the same as when I stopped
22 purchasing that item.

23 Q. I notice in the -- at least in the Raybestos
24 Manhattan documents -- at times they're concerned
25 about, evidently, delivery problems.

1 A. Yes. They were not very good when it came to
2 delivery.

3 Q. Did you have that problem with any of the other
4 suppliers?

5 A. Off and on.

6 Q. John Mansville was not that great and American
7 Brake Block had their bad moments also.

8 MR. GUBBE: I have no further questions
9 at this time.

10 MR. KOLBO: I have --

11 MR. FIEDLER: There --

12 MR. KOLBO: -- a few. Go ahead.

13

14 EXAMINATION

15 BY MR. FIEDLER:

16 Q. There was some questions regarding placement of a
17 logo on American Brake Block items. And you said
18 that it was requested that the Am-Hoist part
19 number and their compound be put on the blocks.
20 When you were saying "their compound," who were
21 you referring to?

22 A. The vendor's compound number. There is a
23 statement on one of the purchase orders to that
24 effect under the molded brake line.

25 Q. Can you readily find that? You're referring to

1 Purchase Order P67060.

2 A. Yeah. It says -- well, that's all strip
3 material. So plainly show -- okay. That isn't
4 the one I was looking at.

5 Q. And it is to show the manufacturer and the
6 compound or style number.

7 A. Right.

8 Q. Now, with respect to that particular purchase
9 order, is the manufacturer then Raybestos
10 Manhattan?

11 A. That's correct.

12 Q. And what is compound number? What does that
13 mean?

14 A. That would be the Raybestos Manhattan formulation
15 or formula that --

16 Q. All right. Referring you to the letter of April
17 13th, 1976. And before we get to that
18 specifically -- you told us that your tenure at
19 American Hoist and Derrick was from 1970 to 1977
20 and that towards the end --

21 A. No. I worked there until 1979.

22 Q. All right. What was 1977?

23 A. That's when -- as I remember, that is when I
24 stopped purchasing the brake line material.

25 Q. Why was that?

1 A. We got a new buyer in the department and the
2 commodities were divided up.

3 Q. The responsibility just shifted --

4 A. Right.

5 Q. -- from you to another individual.

6 A. That's right.

7 Q. Now, did I understand your testimony to be that
8 you did not become aware of any concern with
9 air-borne asbestos until the end of your time at
10 American Hoist?

11 A. As I remember.

12 Q. Now, when you were saying the end of your time,
13 were you referring to 1979 when you left Am-Hoist
14 or 1977 when you quit buying?

15 A. 1977 when I quit buying.

16 Q. Now, can you place it any more specifically than
17 that? For instance, the letter that was referred
18 to you during direct examination carries a date
19 of April 1976.

20 A. Uh-huh.

21 Q. Using that as a bench mark, can you be any more
22 specific as to when you became aware of any
23 concern regarding air-borne asbestos?

24 A. I cannot give a specific date on it, no. I know
25 that there was discussion on it about this period

1 of time.

2 Q. When you say this period of time, are you
3 referring to --

4 A. 1975, 1976 period of time.

5 Q. And prior to that period of time do you recall
6 any discussions about it?

7 A. No.

8 Q. Okay. And is it your recollection that the first
9 information you had regarding those concerns were
10 as a result of OSHA regulations and letters from
11 vendors?

12 A. To the best of my recollection, yes.

13 Q. Do you recall a specific recollection as to what
14 vendors those would have been?

15 A. Which vendors --

16 Q. Provided the correspondence we were just talking
17 about.

18 A. No. I see that there is a letter from Raybestos
19 Manhattan here. What other correspondence there
20 was, I don't remember.

21 Q. And that's the letter we talked about dated April
22 13, 1976?

23 A. Yes.

24 Q. As far as the mold replacement parts were
25 concerned, was that a situation where essentially

1 an item was ordered either by a part number or
2 according to a drawing; it was fabricated by the
3 supplier and then sent to American Hoist?

4 A. Yes.

5 Q. So in effect the Am-Hoist then was receiving a
6 completed good or a completed item. Completed
7 component would probably be a better term.

8 A. Yes.

9 Q. That's all I have.

10

11

EXAMINATION

12 BY MR. KOLBO:

13 Q. I have just a few questions. You mentioned H. K.
14 Porter as being one of the suppliers during the
15 time you were a buyer. Do you have a
16 recollection as to what kind of products that you
17 were purchasing from H. K. Porter?

18 A. Not right offhand. They were not a large
19 supplier of American Hoist.

20 Q. Okay.

21 A. Unless I were to see a purchase order that I had
22 placed with them -- I could probably identify
23 what the item was that I purchased from them
24 but --

25 Q. Okay. You sort of anticipated what my next

1 question -- can you give me some idea of the
2 suppliers you mentioned, what percentage of
3 products would have been supplied by H. K.
4 Porter?

5 A. I would say probably less -- less than 20
6 percent.

7 Q. Okay. Do you associate your purchases from
8 H. K. Porter with any particular period or year
9 between 1970 and 1977?

10 A. It was during that whole period of time. But as
11 I said, they were not a major vendor of ours.
12 They were just a small source for us.

13 Q. Okay. Were they a source you would purchase from
14 when you couldn't get somebody else or what would
15 be the circumstance?

16 A. There were some items that did specify
17 H. K. Porter as the vendor.

18 Q. Do you have any idea whether the H. K. Porter
19 products were asbestos containing?

20 A. I would assume that they were but I can't say for
21 sure what their compounds were.

22 Q. What was the policy of American Hoist at the time
23 you were there with regard to keeping copies of
24 purchasing orders or invoices? Did you retain
25 them?

1 A. For a period of time. I don't remember exactly
2 what it was, if it was three years or what it
3 was.

4 MR. KOLBO: I have no further
5 questions. Thank you.

6

7

EXAMINATION

8 BY MS. BECK:

9 Q. Mr. Gregory, my name is Lori Beck and I represent
10 Clark Equipment in this case. Is it true that
11 when Am-Hoist ordered replacement parts that were
12 fabricated by the supplier and sent to Am-Hoist,
13 Am-Hoist had no say in what materials went into
14 those parts? They just received the parts that
15 were fabricated by the supplier and didn't, you
16 know, say, "Put in so much of certain compounds"?

17 A. No. They -- to my recollection they never said,
18 you know, put in -- they never gave them a recipe
19 for it.

20 Q. Okay. Am I correct in understanding that you
21 have no knowledge as to whether these friction
22 materials put any dust into the air when they
23 were used in cranes, for example?

24 A. Never seen the operation or the usage of it. I
25 couldn't testify yes or no.

1 Q. You said 20 percent of the parts you ordered were
2 from H. K. Porter. Do you know the percentage of
3 parts that you got from the other suppliers.

4 MR. KOLBO: I will object to
5 mischaracterization of testimony.

6 BY MS. BECK:

7 Q. Less than 20 percent. Excuse me.

8 A. I couldn't give a percentage figure, you know, on
9 the other three.

10 Q. Now, these documents discussed by Mr. Gubbe, are
11 these documents that you've produced?

12 A. No.

13 Q. Do you know who produced these?

14 A. I have no idea.

15 MR. GUBBE: For the record, they're out
16 of Raybestos Manhattan's files in New Jersey.

17 MS. BECK: Can we have copies of
18 these?

19 MR. GUBBE: I suspect so.

20 MR. FIEDLER: Just while we're on that
21 point -- we can put this on the record for my own
22 recollection, we will formally be requesting
23 production of documents.

24 MS. BECK: Okay. I don't have anything
25 further.

1 MR. FLATEN: I have no questions.

2 MR. FIEDLER: No.

3 MR. GUBBE: Mr. Gregory, I guess we
4 have no further questions of you.

5 You have the right to read and sign and
6 have notice of the filing of your deposition with
7 the court. However, we would ask you if you
8 don't mind you can waive the reading and the
9 signing because the court reporter not only is
10 very accurate, she has a tape recording and is
11 taking everything verbatim.

12 THE WITNESS: That's fine.

13 MR. GUBBE: Do you say you waive the
14 reading and signing?

15 THE WITNESS: I waive the reading and
16 the signing.

17 (The deposition concluded at 9:32
18 a.m.)

19

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STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

Be it known that I, Jeanne M. Gaughan,
took the foregoing deposition of Michael Gregory
on the 28th day of November, 1987, at 9:00 a.m.

That I was then and there a Notary Public in and for the County of Hennepin, State of Minnesota, and that by virtue thereof, I was duly authorized to administer an oath;

That the witness before testifying was
by me first duly sworn to testify the whole truth
and nothing but the truth relative to said cause;

That the testimony of said witness was recorded by me and transcribed into typewriting under my direction; and that the deposition is a true record of the testimony given by the witness to the best of my ability; That I am not related to any of the parties hereto nor interested in the outcome of this action.

WITNESS MY HAND AND SEAL THIS 10th day
of November, 1987.

Jeanne M. Gaughan, Notary Public