

FILE NAME: Rogers Corporation (ROG)

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DOCUMENT DESCRIPTION: Letter from Attorney Meisenkothen to BC with Notes on Rogers Docs That He Provided

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ATTORNEYS AT LAW

**New York**

360 Lexington Avenue  
New York, NY 10017  
p: (212) 986-2233  
f: (212) 986-2255  
www.elslaw.com

**Connecticut**

One Century Tower  
11th Floor  
265 Church Street  
New Haven, CT 06510  
p: (203) 777-7799  
f: (203) 785-1671

**California**

3848 Carson Street  
Suite 103  
Torrance, CA 90503

**Illinois**

156 North Main Street  
Edwardsville, IL 62025

**Louisiana**

1615 Poydras Street  
Suite 900  
New Orleans, LA 70112

**Missouri**

1133 Pine Street  
St. Louis, MO 63101

**Florida**

37 N. Orange Avenue  
Suite 201  
Orlando, FL 32801

**District of Columbia**

20 F Street NW  
7th Floor  
Washington, DC 20001

**Rhode Island**

1 Richmond Square  
Providence, RI 02906

July 8, 2020

Barry I. Castleman, ScD  
PO Box 188  
Garrett Park, MD 20896

RE: Harold Dusto - mesothelioma

Dear Dr. Castleman:

I represent Harold Dusto in an asbestos case arising from his diagnosis with peritoneal mesothelioma and resulting death. Mr. Dusto worked at Rogers Corporation in Manchester, CT from 1970 to 2002, at which time Rogers sold the factory to Sumitomo Bakelite. Mr. Dusto continued working for Sumitomo in the same building until his retirement in 2015. I am hoping that you can review the enclosed information and then contact me to discuss your opinions about the case.

The defendants in the case are Rogers Corporation itself, along with a few of its old asbestos fiber suppliers: Union Carbide (chrysotile sold under the "Calidria" brand name), Seegott (a crude form of chrysotile from Canada sold under the "Hedmanite" and "Hedman Cationic Fiber" brand names), Special Electric (crocidolite from South Africa) and Strathmore Paper (crocidolite from South Africa). Other former fiber suppliers are bankrupt or out of business, including:

- Johns-Manville (chrysotile from Canada)
- North American Asbestos (crocidolite from South Africa)
- Bell Asbestos/Cassiar (chrysotile from Canada)
- Brinco (chrysotile from Canada)
- Carey Canadian Mines (chrysotile)
- plus a few others

Specifically with respect to the employer Rogers Corporation, we have sued them under one of the exceptions to the traditional "exclusivity provision" of the workers' compensation law, which normally prohibits an injured worker from directly suing his employer. As such, we have to prove one of the following two elements: **1)** Rogers intended both the act itself and the injurious consequences of the act; or **2)** Rogers intended the act and knew that the injury was substantially certain to occur from the act.

At its Manchester factory, Rogers Corporation manufactured asbestos-containing matrix board (using chrysotile asbestos) and asbestos-containing phenolic molding compounds (using chrysotile and crocidolite asbestos). These broad categories of products were produced in essentially four "departments" within the factory:

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- 1) Matrix or "the paper side" (chrysotile)
- 2) GLP or "the mill" (chrysotile)
- 3) Extrusion (crocidolite and chrysotile)
- 4) DAP (asserted to be non-asbestos, but there are indications in the documents that the DAP line used some chrysotile as well).

The factory used chrysotile from 1936 through approximately 1991. Crocidolite was used from the 1950s until 1980. Although his work took him throughout the factory at different times and for different reasons, Mr. Dusto worked in Extrusion during the first year-and-a-half, then spent the rest of his career in GLP and DAP.

I have enclosed the following **Documents** for your review:

1. Report of industrial hygienist, Christopher DePasquale, that summarizes the available industrial hygiene data from the plant, noting poor housekeeping and exposures as high as 700 f/cc.

Regarding the historical timeline of what Rogers Corporation knew and when they knew it, as well as what was happening in the State of Connecticut, there are several relevant guideposts:

2. 1929 – The annual report of the Connecticut Department of Health discussed the department's work on occupational diseases, including requests for advice or studies related to asbestos.
3. 1930 – Soper published "Pulmonary Asbestosis. Report of a case and review" in the Transactions of the American Clinical and Climatological Association. Soper's case arose from the New Haven, CT area.
4. 1930 – Annual Report of the Connecticut Department of Health
  - a. reported 2 cases of asbestosis
  - b. listed "Asbestos Good Mfg" as an industry with potential hazards
  - c. listed "Dust, Asbestos" as a potential hazard for occupational disease
  - d. listed "Dust, Asbestos" as one of the types of surveys or studies done by the Department for its hazard classification program
5. 1931 - Annual Report of the Connecticut Department of Health
  - a. reported 1 case of asbestosis
  - b. repeated previous listings for "Asbestos Good Mfg." and "Dust, Asbestos"
  - c. printed article, "Hazards in Dusty Occupations"

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- d. explained that "Dust is one of the causative factors in occupational disease"
  - e. mentioned asbestos as a pneumoconiosis-producing dust for which exposures should be kept below 10-20 mppcf
6. May 1934 – Connecticut Health Bulletin
- a. reported 1 case of asbestosis
  - b. printed article "Use of Filter Type Respirators"
  - c. explained that respirators should be used and maintained in dusty operations
  - d. noted: "The State Department of Health will give advice on the proper type of respirator to be used in any particular operation."
7. June 1934 – Connecticut Health Bulletin
- a. For the period January-June 1934, reported 4 cases of asbestosis and 96 cases of general dust hazards and related problems.
  - b. Regarding the Bureau of Occupational Diseases: "With the constant accumulation of evidence on the injurious effects of unhealthful working environment and the steadily increasing costs of compensation for occupational disease, it is realized that the only answer to the occupational disease problem is prevention."
  - c. noted that the asbestos industry was studied in the Annual Report of 1930 for Hazard Classification
  - d. printed article, "Asbestos Dust Hazards"
8. November 1934 – Connecticut Health Bulletin
- a. printed article, "Laboratory Methods in Occupational Disease Control"
  - b. discussed prevention of occupational disease by testing dust particles per cubic foot of air
  - c. "It is known that the inhalation of small particles of certain dusts may cause the development of pneumoconiosis, a fibrosis of the lungs due to dust."
  - d. regarding asbestos dust: "fibres of this mineral much longer than 10 microns have been found in the lungs."
  - e. "The cooperation of all those concerned in occupational disease prevention is essential to the solution of the problem. But only through properly interpreted laboratory findings can complete control of occupational disease be assured."
9. December 1934 – Connecticut Health Bulletin
- a. Reported 1 case of asbestosis
  - b. Printed article, "Approval of Respirators"

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- c. Discussed recent approval by US Bureau of Mines of various respirators for dusty industries

**10. April 1935 -- Connecticut Health Bulletin**

- a. Reported 1 case of asbestosis
- b. Printed article, "Filter Type Respirators Approved by United States Bureau of Mines"
- c. Mentioned asbestos as a pneumoconiosis-producing dust

**11. June 1935 -- Connecticut Health Bulletin**

- a. Printed article, "Review of Literature on Effects of Breathing Dusts"
- b. discussed Bureau of Mines "annotated bibliography of the most important references. . . . This publication is recommended to all those who are interested in the effects of breathing dusts." [The Bureau of Mines circular 6835 discussed asbestos hazards and asbestosis.]

**12. May 1936 -- Connecticut Health Bulletin**

- a. Printed article, "Spring House Cleaning an Occupational Disease Preventive"

**13. June 1936 -- Connecticut Health Bulletin**

- a. Listed various Health Radio Talks, including July and August "Industrial Ventilation"

**14. July 1936 -- Egbert and Geiger from the Yale University Pathology Department published "Pulmonary Asbestosis and Carcinoma" in the American Review of Tuberculosis**

**15. July 1936 - Connecticut Health Bulletin**

- a. Printed article, "Dust Control Equipment Requires Attention"
- b. "Provision of local exhaust to remove dust at its source is one of the most important factors in the protection of the health of those exposed to dusts."
- c. "For more detailed information relative to medical, chemical or ventilation factors pertaining to preventive measures in occupational disease control, communicate with the Bureau of Occupational Diseases"

**16. September 1936 -- Connecticut Health Bulletin**

- a. Printed article, "Harvard Symposium on the Environment and its Effect Upon Man"
- b. discussed "dusts and their control" and "The important subject of pneumoconiosis . . . was accorded an entire day"

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**17. December 1936 – Connecticut Health Bulletin**

- a. Printed article, “Control of Dust Exposures in Connecticut”
- b. discussed pneumoconiosis as “the most serious single occupational disease hazard in the state”
- c. noted asbestos fibers “even 300 microns in length penetrate into this portion of the lungs.”

**18. February 1937 – Connecticut Health Bulletin**

- a. Reported 1 case of asbestosis
- b. Printed article, “How Old is Occupational Disease”
- c. “The Bureau of Occupational Diseases of Connecticut is constantly alert to assist industry in avoiding hazardous conditions by watching for potential dangers of new processes and materials as well as to aid in maintaining safe use of old ones.”

**19. 1937 -- Annual Report of the State Department of Health**

- a. Discussed work on occupational disease, including requests received for advice or studies related to asbestos
- b. Reported 3 cases of asbestosis (2 reported by physicians, 1 compensated but not reported)
- c. repeated previous listings for “Asbestos Good Mfg.” and “Dust, Asbestos”

**20. March 1938 -- The Hartford Courant newspaper printed article, “Worker Disease Problem Grows More Difficult,” talked about difficulties in controlling occupational diseases: “Much is known about silicosis . . . and about asbestosis, produced by inhalation of asbestos dust.”**

**21. August 1938 -- Connecticut Health Bulletin**

- a. Printed article, “Good Housekeeping in Industry,” which noted that “inhalation of very small amounts of dusts produces serious pathological changes in the body.”

**22. April 1939 -- Connecticut Health Bulletin**

- a. Reported 1 case of pneumoconiosis
- b. Printed article, “Asbestosis,” which cited to Sayers and Dreessen (1939) article of the same name
- c. discussed the North Carolina asbestos textile industry, pulmonary asbestosis, and dust concentrations
- d. “Results of the engineering study showed that methods are already available for most of the processes in the industry for keeping dust concentrations below this limit.”

**23. September 1939 – Connecticut Health Bulletin**

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- a. Reported 1 case of asbestosis
- b. Printed article, "Approved Respiratory Protective Equipment," which mentioned asbestos as a type of pneumoconiosis-producing dust

**24. April 1940 – Connecticut Health Bulletin**

- a. Reported 2 cases of asbestosis
- b. Printed article, "Maintenance of Local Exhaust Ventilation Equipment," which discussed the need to maintain dust collectors and to do housekeeping

**25. 1940 – Annual Report of the State Department of Health for 1939**

- a. Reported 10 cases of asbestosis (5 cases reported by physicians, 5 cases compensated but not reported)
- b. Noted: "There are approximately 10,000 men in Connecticut exposed to silicosis, asbestosis and other pneumoconiosis-producing dusts."
- c. Recorded 13 asbestos-related industrial consultations by the Bureau of Occupational Diseases
- d. Noted 2 asbestos dust plant surveys (1 for carding, 1 for wire covering process)
- e. Noted educational activities of the Bureau, including the production of articles regarding asbestosis "for the monthly and weekly bulletins and general distribution to persons interested in the field of industrial hygiene"

**26. 1941 – Annual Report of the State Department of Health for 1940**

- a. Reported 11 cases of asbestosis (all 11 cases compensated but not reported by physicians)
- b. Recorded 1 asbestos "pathology or systemic effects" consultation by the Bureau of Occupational Diseases
- c. Recorded 3 asbestos "control" consultations
- d. Noted 2 asbestos dust plant surveys in "Asbestos Products Mfg."
- e. Noted 2 asbestos dust plant surveys in "Roofing Mfg."

**27. 1943 – Connecticut Department of Health printed the booklet "An Outline of Some of the Potentially Hazardous Industrial Operations in Connecticut Industry"**

- a. "Prepared expressly for Engineers and Inspectors to assist them in recognizing potentially hazardous conditions during the preliminary plant survey."
- b. Listed several asbestos operations as potential hazards:
  - i. Carding, Asbestos – discussed protective engineering controls, including enclosing operations, respirators, hoods, exhaust ventilation. "Compressed air blow off

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of machines should be avoided.” “Good housekeeping is essential and the use of vacuum cleaners is indicated.”

- ii. Dusting, Asbestos – see Carding
- iii. Opening, Asbestos – see Carding
- iv. Spinning, Asbestos – see Weaving – Asbestos
- v. Twisting, Asbestos – see Weaving – Asbestos
- vi. Weaving, Asbestos – discussed protective engineering controls, including wet weaving, enclosure, exhaust ventilation

**28. September 1945 – Connecticut Health Bulletin**

- a. Reported 1 case of asbestosis

**29. 1947 – Annual Report of the State Department of Health 1946-1947**

- a. Noted General Statutes “Section 872e provides for the reporting of occupational diseases and investigation concerning them.” [This was a law that required physicians to report occupational diseases to the State.]
- b. Discussed the various activities of the Bureau of Occupational Diseases, including plant surveys and consultations.
- c. Reported 1 case of asbestosis
- d. Reported 1 case of dermatitis arising from asbestos dust exposure

**30. December 1947 – Connecticut Health Bulletin**

- a. Reported 1 case of asbestosis

**31. April 1951 – Connecticut Health Bulletin**

- a. Printed article, “Occupational Disease Reporting,” which noted a list of reportable diseases, including asbestosis

**32. October 1952 – Connecticut Health Bulletin**

- a. Printed article, “The Value of the Periodic Health Examination in Industry,” which noted “there is the possibility of individual susceptibility and idiosyncrasy to toxic materials. One employee may react violently to small amounts of a compound which has given little or no trouble to other workers in the same area. . . . Beryllium and asbestos are other toxic materials which may produce changes in the lungs, and physical examination without chest x-ray may give little indication of pathological change.”

**33. 1953 – Connecticut Department of Health printed the booklet “Health Hazards in Industry”**

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- a. "This pamphlet is a revision of the 'Outline of Potentially Hazardous Industrial Operations' originally published in 1943. It is prepared and revised expressly for use by engineers, inspectors and industrial physicians to assist them in recognizing potential health hazards in industry."
- b. Listed several asbestos operations as potential hazards:
  - i. Beating, Asbestos – discussed engineering controls for opening bags of asbestos and adding to beaters, including exhaust ventilation, pneumatic conveying, water screen enclosure, respirators
  - ii. Braiding, Asbestos – see Weaving
  - iii. Carding, Asbestos – discussed engineering controls, including enclosure of all operations, respirators, hoods, exhaust ventilation. "Compressed air blowoff of machines should be avoided." "Good housekeeping is essential and the use of vacuum cleaners is indicated."
  - iv. Dusting, Asbestos - see Carding
  - v. Mixing and Blending, Asbestos and others – "All mixing operations involving toxic dusts and vapors should be controlled by enclosure and mechanical exhaust ventilation."
  - vi. Opening, Asbestos - see Carding
  - vii. Spinning Asbestos - see Weaving – Asbestos
  - viii. Twisting, Asbestos - see Weaving – Asbestos
  - ix. Weaving, Asbestos - wet weaving, enclosure, exhaust ventilation

- 34. January 1954 – Connecticut Department of Health sent Circular Letter #21 to dermatologists and industrial physicians reminding them to report occupational diseases and enclosing a sample notification card
- 35. August 1954 – Connecticut Department of Health sent Circular Letter #18 to dermatologists and industrial physicians reminding them to report occupational diseases and enclosing a sample notification card
- 36. In July of 1957 Rogers Corp. attended a meeting of the Society of the Plastics Industry (SPI) where the minutes record:

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It seemed to be the consensus of those at the meeting that there is a great need to set up some sort of system whereby the various committees in the asbestos field educate one another. For instance, there is technical data in the hands of raw material suppliers of asbestos. The fabricators, on the other hand, have certain information. This is true also of the Military. If the Committee could agree on a scope of activity which would bring all of this data together, it would be according to those present a good educational move.

Then, too, the Committee could keep itself apprised of the various specifications on asbestos, not only those which exist in the United States but those from abroad, such as Great Britain.

It seemed to be agreed that as a first undertaking it would be well to formulate plans to disseminate information and data to those interested in the subject of

asbestos. For instance, it was pointed out that in missile applications there is the problem of high temperatures and undoubtedly the Committee through a coordinated effort can collect existing data on this subject, and in so doing, place it in the hands of those faced with the problem of applying asbestos to missile design.

Decomposition studies might also be made.

It was agreed that close liaison should be maintained with Mr. H.A. Perry, Jr. who heads up a Committee in ASTM which is considering asbestos as used in the reinforced plastics industry.

37. By April of 1960, the SPI meeting minutes referred to an "Asbestos Committee" and record:

- a. "In the meantime, Mr. Rosato asked members of the Policy Committee to write him on any ideas they may have regarding the suggestion that the Asbestos Committee enlarge its scope of activities to include a study of other fibers.

Mr. Levanhagen also asked Mr. Rosato to submit as soon as possible the draft of the work which has been compiled on asbestos, in order that the Policy Committee may review this treatise."

38. The draft of the treatise on asbestos contained a section entitled "Health and Safety Factors":

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#### Health and Safety Factors -

With the development of the asbestos industry, contamination of the air with small asbestos fiber particles produced hygienic problems. Hygienic measures were not well advanced when the first mining operations were developed. Since the dry processing method is used in mining and milling asbestos, small fiber particles are picked up by air currents and distributed throughout the manufacturing plants and in the neighborhoods. The asbestos particles or dust which developed could become harmful to the people who were constantly exposed to it. Asbestosis is a special type of silicosis but does not occur nearly as often. Approximately 10 years is required for a person to develop asbestosis if he is constantly exposed to the dust. However, since protective measures are provided by the different manufacturing plants, it is extremely rare that a person develops asbestosis.

Chemical analysis can be made of dust in order to determine concentration of asbestos dust particles. Information is available as to what the maximum concentration of dust should be to eliminate any problems. Various safety measures are available such as well ventilated areas, special masks, and water sprinkler systems. Proper filtration techniques are available which will collect dust particles.

With proper precautions, there is no problem. Periodic medical examinations of workmen are performed in order to keep constant check on their health. Apparatus used in connection with the asbestos industry should be sealed off against outside air as much as possible and should work with a draft under negative pressure. The passage of the dust into lungs through the respiratory system is dangerous. It is important that proper precautions be taken by all companies which handle asbestos.

39. In November of 1960, the SPI (with Rogers Corp. attending) deleted the section on Health and Safety Factors from the final bulletin:

#### History

The Committee reviewed the section of the bulletin on history which includes reference to general features, origin, ore deposits, grading, classification of fibers, mining, milling, processing, etc. In general, it was agreed that perhaps the detailed information under the section on history is too voluminous and in many cases may not be meaningful to the designer or customer interested in applying asbestos as a reinforcement in a finished reinforced plastics product. It was agreed that consideration be given in redoing the section on history to incorporate a bibliography of reference works on asbestos in order to be able to delete some of the detailed information now found in the draft. This matter will be given careful study by the individuals assigned later in the meeting to begin revising the bulletin. (References to the classification of Russian asbestos fibers were deleted throughout the copy). (The Committee also deleted all references to health and safety factors.)

It was agreed that in redoing the section on history, a paragraph or paragraphs would be written on production figures, in order to illustrate the scope of the asbestos industry. This information might well lend itself to inclusion in a tonnage chart under the section entitled "Ore Deposits."

40. In December of 1968, Rogers Corp. received a letter from one of its asbestos fiber suppliers, Johns-Manville, which discussed dust control, respirators, ACGIH's new recommended threshold limit value of 2 mppcf or 12 f/cc, and enclosed a copy of Paul Brodeur's *New Yorker* article, "The Magic Mineral".
41. December 1968 - Rogers Corp. received a copy of Paul Brodeur's *New Yorker* article, "The Magic Mineral".

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42. In June of 1971, Johns-Manville again wrote to Rogers Corp., discussing asbestos emission standards, in-plant working conditions, the new OSHA legislation, the anticipated reduction of the TLV further to 5 f/cc, and the need for an industrial hygiene survey.

43. September 1971 -- Connecticut Department of Labor Monthly Bulletin

- a. Printed article about the new OSHA recordkeeping and reporting requirements for occupational diseases and illnesses.

44. January 1972 -- Rogers Corp. began asbestos air sampling. A Johns-Manville industrial hygienist did air sampling, noting many excesses, lack of adequate ventilation, lack of respirators, dusty conditions, empty asbestos bag disposal problems, and wrote: "In general, Rogers Corporation Manchester was a real mess. Their housekeeping and attitude of the foremen as well as the hourly people left a lot to be desired the area of environmental control."

*In general, Rogers Corporation Manchester was a real mess. Their housekeeping and attitude of the foremen as well as the hourly people left a lot to be desired the area of environmental control.*

The following description of the milling area (GLP department) is typical of the hygienist's notes:

"#1 Milling Area

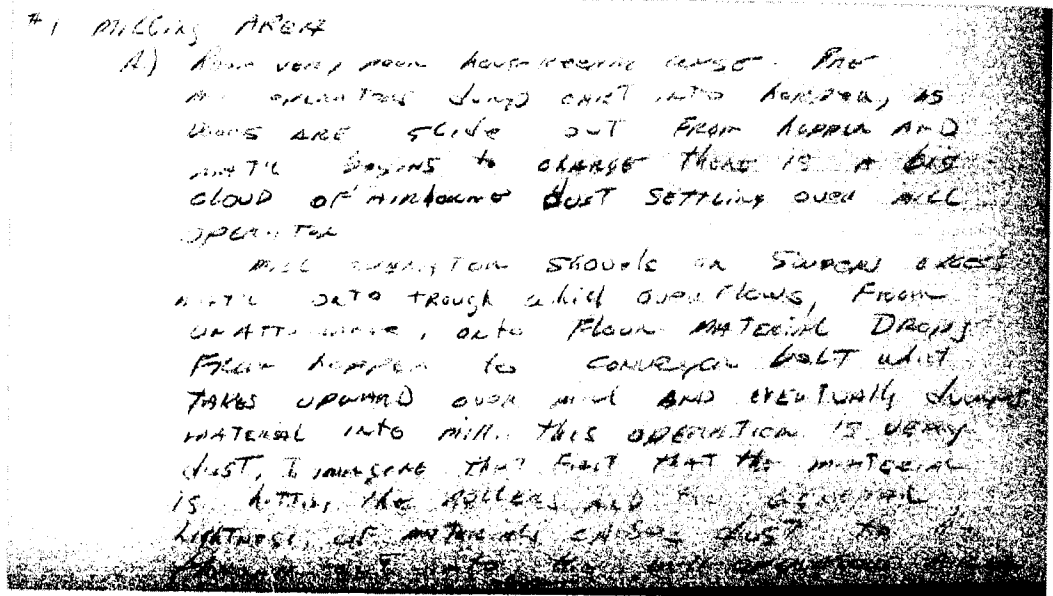
- A) Room very poor housekeeping [illegible]. Pre mix operators dump cart into hopper, as door are slide out from hopper and material begins to charge there is a big cloud of airborne dust settling over mill operator. Mill operator shovels or sweeps excess material onto trough which overflows, from unattendance, onto floor. Material drops from hopper to conveyor belt which takes upward over mill and eventually dumps material into mill. This operation is very dusty. I imagine the fact that the material is hitting the rollers and the general lightness of materials causes dust to be thrown out into the mill operators area."

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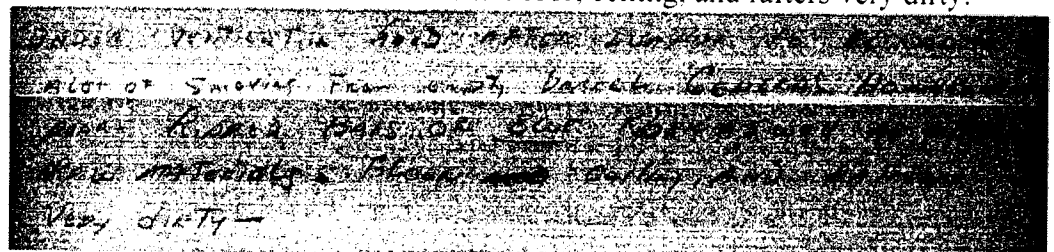
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Also the kneaders weigh station (Extrusion department):

"General housekeeping poor. Ripped bags of blue fiber as well as other raw materials. Floor, ceiling, and rafters very dirty."



45. Approx. 1974 – following EPA's NESHAPS, Connecticut proposed its own asbestos standard for emission of asbestos into the ambient air (these were never passed into law).
46. 1974 – Schoenberg and Mitchell published "Implementation of the Federal Asbestos Standard in Connecticut" published in the Journal of Occupational Medicine. The paper surveyed several Connecticut asbestos-using industries and looked at their implementation of the OSHA asbestos rules.
47. August 1974 – The Bridgeport Post newspaper printed an article about the upcoming State air monitoring surveys to be done by Bruckman and Rubino of the Connecticut Department of Environmental Protection.
48. December 1975 – Bruckman and Rubino published "Asbestos: rationale behind a proposed air quality standard" in the Journal of the Air Pollution Control Association. They wrote:

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- a. "It has been well known for nearly half a century that some persons subjected to asbestos dust during work developed a severely crippling and sometimes fatal lung disease, called asbestosis."
- b. "Asbestos has become one of the largest industrial causes of cancer in the world."
- c. "In 1965 Dr. Selikoff and his associates conclusively proved a causal link between asbestos fiber exposure and mesothelioma."
- d. "1 g of asbestos could contain up to 1,000,000,000 asbestos fibers and one inhaled asbestos fiber could potentiate a cancer."

49. March 11, 1976 -- Rogers Corp. wrote to union representative, Charles Reilly, informing him about actions that Rogers had taken with respect to asbestos control in the factory. Rogers noted specific air sampling from the Manchester plant on specific dates (all under the OSHA limit), but did not reveal air sampling from other contemporaneous tests that showed higher exposures and violations of the OSHA limits.

50. March 29, 1976 -- Rogers Corp. memo noted new requirement for asbestos purchases from supplier Bell/Cassiar where Rogers will be required to acknowledge asbestos hazards.

51. March 30, 1976 -- Rogers Corp. received a letter from asbestos fiber supplier, Cassiar, asking Rogers to amend their agreement and acknowledge that "The Buyer [Rogers] acknowledges that he is aware of the possible health hazards in dealing with asbestos fibre and undertakes and agrees to adequately warn its employees, agents and customers of the possible dangers..."

52. July 21, 1976 -- Rogers Corp. memo discussed talking points for field people when they are asked about asbestos and OSHA.

53. February 1977 -- Bruckman, Rubino and Christine published "Asbestos and Mesothelioma Incidence in Connecticut" in the Journal of the Air Pollution Control Association.

- a. "occupational exposure to asbestos has been shown to cause asbestosis (a debilitating scarring of the lungs), lung cancer, and cancer of the lining of the stomach and lung (mesothelioma)"

54. Spring 1977 -- Connecticut Health Bulletin

- a. Blurb: "Check Asbestos Exposures." noted that "Diseases related to inhalation of asbestos fibers or dust appears to be

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among the emerging group that will be known as the illnesses of the 1970's. Research has revealed a recognized occupational health hazard connected with excessive and prolonged inhalation of asbestos dust."

55. Summer 1977 – Connecticut Health Bulletin

- a. Blurb: "Investigations into Asbestos Problems," noted that "in response to the growing public awareness of the dangers to health posed by the widespread occupational and non-occupational use of asbestos in the state, Governor Ella T. Grasso appointed a special governor's task force to study the problem."

56. January 1978 – Rogers Corp. received a letter from Johns-Manville with an enclosure from the Asbestos Information Association, which discussed asbestos/health conferences, asbestos litigation, the CPSC's proposed ban on asbestos in patching compounds, and noted "no safe level" of exposure.

57. November 1978 – Bruckman published "A Study of Airborne Asbestos Fibers in Connecticut" in National Bureau of Standards Special Publication 506, Proceedings of a Workshop on Asbestos held at the National Bureau of Standards, Gaithersburg, Maryland, July 18-20, 1977.

58. December 1978 – Bruckman and Rubino published "Monitored Asbestos Concentrations in Connecticut," in the Journal of the Air Pollution Control Association. They sampled the ambient air outside four major users of asbestos in the state. Rogers Corp. in Manchester is "Source #4" in the paper.

- a. "Occupational asbestos fiber exposure has been known for some time to cause severe respiratory problems, including lung cancer and a relatively rare form of cancer of the lining of the lung and stomach, known as 'mesothelioma.'"

59. 1979 – Rogers Corp. wrote a Commentary on proposed asbestos air pollution standards (lobbying against the standards) and admitted:

- a. "To be sure, asbestos, and especially the variety crocidolite, has been factually associated with the development of human mesothelioma."
- b. "Granted, no threshold level has been found, below which asbestos does not create lung cancer; however, considerable documentation does exist showing a direct relationship between dose/response."

60. Winter 1979 – Connecticut Health Bulletin

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- a. Blurb: "Asbestos Monitoring Continues in Connecticut," noted "Increasing concern about hazardous substances in the environment has led to the expansion of testing for asbestos from schools, homes and industry."

Many of Rogers Corporation's historical asbestos air sampling reports still survive. Mr. DePasquale's report (**Tab 1**) summarizes some of the relevant data, but I have also enclosed the surviving reports from 1972 to give you a sense of what the factory was like at the dawn of the air sampling regimen:

**61. January/February 1972** (done by Johns-Manville; earliest air sampling):

- a. 27 membrane filter samples ranged from 0.4 to "40+" f/cc
  - i. 9 of the samples were above the 5 f/cc standard
  - ii. the average was 5.8 f/cc
- b. 26 midget impinger samples ranged from 1.9 to 46.9 mppcf
  - i. all but two of the samples were above the 2 mppcf standard
  - ii. the average was 9.2 mppcf

**62. May 1972:**

- a. Two personal samples measured 11.1 and 16.5 f/cc (average 13.8 f/cc)
- b. One area sample at 1 f/cc

**63. October 1972:**

- a. 24 personal samples ranged from 0.9 to 700 f/cc (average 79.4 f/cc)
- b. 8 area samples ranged from 0.9 to 208 f/cc (average 43.2 f/cc)

**64. December 1972:**

- a. 7 personal samples ranged from 1.4 to 210 f/cc (average 50.7 f/cc)
- b. One area sample at 10 f/cc

**65. December 1972:**

- a. 5 samples 0.4, 0.88 and 1.24, 129.3, and 24.09 f/cc (average 31.2 f/cc)

**66.** I have enclosed a (incomplete) synopsis from Rogers Corp's own records that covers various asbestos air sampling reports from May 1972 to May 1984. While the trend shows an improvement in dust levels over the course of time, you will still note several peak highs throughout the 1970s and into the early 1980s that are well in excess of OSHA's standards.

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67. The surviving air sampling also allows the collection of some data specific to crocidolite exposures in the factory. There are 78 identifiable crocidolite-related air samples between January 1972 and July 1979. Overall, they range from 0.03 to 210 f/cc (average 10.7 f/cc). The 72 personal samples range from 0.03 to 210 f/cc (average 9.1 f/cc). The 6 area samples range from 0.18 to 40 f/cc (average 10 f/cc).

Mr. Dusto himself is noted in 26 separate air samples between 1972 and 1988. His personal results are shown here:

| report date  | Personal or Area | worker                    | process                                                                                                         | product | result (f/cc) |
|--------------|------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------|---------|---------------|
| 12/12/1972   | P                | Harold Dusto              | breathing zone of blender operator while cleaning mill hopper and replacing it with another hopper of materials |         | 21            |
| 12/21/1972   | P                | Harold Dusto              | milled area                                                                                                     | RX 611  | 1.24          |
| 5/9/1973     | P                | Harold Dusto              | milled area - premix operator                                                                                   | RX 660  | 1.92          |
| 5/14/1974    | P                | Harold Dusto              | premix operator                                                                                                 | RX 611  | 0.61          |
|              |                  |                           |                                                                                                                 | Green   |               |
| 2/13/1975    | P                | Harold Dusto              | blender operator                                                                                                | RX 660  | 10.4          |
| 4/22/1975    | P                | Harold Dusto              | blender operator                                                                                                | RX 611  | 1.88          |
|              |                  |                           |                                                                                                                 | Green   |               |
| 6/16/1975    | P                | Harold Dusto              | mixer                                                                                                           | RX 1356 | 0.259         |
|              |                  |                           |                                                                                                                 | Blue    |               |
| 12/23/1975   | P                | Harold Dusto              | premix - milled area                                                                                            | RX 611  | 0.05          |
| 5/10/1977    | P                | Harold Dusto              | premix DAP                                                                                                      | RX 611  | 2.54          |
| 11/4/1977    | P                | Dusto (Harold Dusto)      | DAP premix                                                                                                      | RX 655  | 11.13         |
| 7/24/1980    | P                | Harold Dusto              | DAP - premix                                                                                                    | RX 660  | 1.32          |
| 7/24/1980    | P                | Harold Dusto              | DAP - premix                                                                                                    | RX 660  | 2.19          |
| 5/1/1987     | P                | Harold Dusto (and others) | premix operator                                                                                                 | RX 1983 | 0.42          |
| 5/1/1987     | P                | Harold Dusto (and others) | premix operator                                                                                                 | RX 1983 | 0.02          |
| 5/1/1987     | P                | Harold Dusto (and others) | mill operator                                                                                                   | RX 1983 | 0.1           |
| 5/1/1987     | P                | Harold Dusto (and others) | mill operator                                                                                                   | RX 1983 | 0.1           |
| 5/1/1987     | P                | Harold Dusto (and others) | grinder operator                                                                                                | RX 1983 | 0.18          |
| 5/1/1987     | P                | Harold Dusto (and others) | grinder operator                                                                                                | RX 1983 | 0.03          |
| 10/26/1987   | P                | Harold Dusto              | GLF #2 mill operator                                                                                            |         | 0.05 TWA      |
| 10/26/1987   | P                | Harold Dusto              | GLF #2 grinder operator                                                                                         |         | 0.06 TWA      |
| 10/26/1987   | P                | Harold Dusto              | GLF #2 premix operator                                                                                          |         | 0.1 TWA       |
| 8/3/1988     | P                | Harold Dusto              | GLF #2 premix                                                                                                   |         | 0.35          |
| 8/3/1988     | P                | Harold Dusto              | GLF #2 premix                                                                                                   |         | 0.062 <0.062  |
| 8/3/1988     | P                | Harold Dusto              | GLF blender operator                                                                                            |         | 0.017 TWA     |
| 8/3/1988     | P                | Harold Dusto              | GLF #2 grinder operator                                                                                         |         | 0.085 TWA     |
| 8/3/1988     | P                | Harold Dusto              | GLF #2 mill operator                                                                                            |         | 0.047 TWA     |
| Overall avg. |                  |                           |                                                                                                                 |         | 2.16          |
| 1970s avg.   |                  |                           |                                                                                                                 |         | 5.1029        |
| 1980s avg.   |                  |                           |                                                                                                                 |         | 0.3206875     |

Mr. Dusto testified that he cannot recall ever being notified by Rogers Corp. that he was exposed to asbestos in excess of the OSHA limits. His personnel file has been produced by Rogers Corp., and despite records in the file going back to his date-of-hire in 1970, there are no notifications of any kind indicating that he was exposed to asbestos over any OSHA limit. The first notification about asbestos air sampling in his file appears to be results from testing in early 1987, which were under the applicable OSHA limits at the time.

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Rogers Corp's answers to written discovery (**Tab 68**) are consistent with Mr. Dusto's testimony. For example:

3. Please produce complete color copies of any and all written notices provided to Harold Dusto pertaining to whether he had exposures to airborne asbestos in excess of 10 fiber/cc, as referenced in the preceding interrogatories.

**RESPONSE:** After a reasonable search, Rogers has found no responsive documents in its possession, custody, or control.

The Rogers Corp. air sampling records also appear to note several violations of various OSHA asbestos regulations, including:

- Exceedances of the PEL
- Exceedances of the Ceiling Limit
- Dry sweeping
- A lack of respirator training
- Inappropriate respirators
- Waste disposal problems
- Housekeeping problems
- Lack of local exhaust ventilation on air-powered tools

In a March 22, 1987 memo (**Tab 69**), with respect to the 1986 OSHA regulations, a Rogers Corp. noted, "We are not in compliance with any section of these regulations." Among the compliance dates they missed, they list exposure monitoring, employee notification and training, regulated areas, respiratory protection, and medical surveillance.

The Manchester factory cohort has, unfortunately, experienced a number of mesotheliomas, including the following known cases:

1. Harold Dusto – mesothelioma
2. Roland Spearin – mesothelioma
3. John Bassett – mesothelioma
4. Frank Bujaucius – mesothelioma
5. Doris Hand – mesothelioma (also worked at the Rogers, CT factory)

I am interested in your opinions on the following questions, to a reasonable degree of scientific and historical certainty:

1. From a public health and historical perspective, by 1970 when Mr. Dusto began work at the factory was information sufficiently available for Rogers Corp. to know, *to a substantial certainty*, that a predictable percentage of its chrysotile- and crocidolite-exposed workers would develop potentially fatal asbestos-related disease? *See, e.g.,*

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- a. Mancuso and Coulter (1963), *Methodology in Industrial Health Studies: The Cohort Approach, with Special Reference to an Asbestos Company*, reporting 4 mesothelioma deaths and 28 asbestosis deaths among 186 total deaths of brake lining factory workers (17.2%);
  - b. Selikoff et al. (1964), *Asbestos Exposure and Neoplasia*, reporting 3 mesothelioma deaths and 12 asbestosis deaths among 255 total deaths of mixed fiber insulation workers (5.9%) (one case of peritoneal mesothelioma was also reported but not counted);
  - c. Selikoff et al. (1965), *Relation between exposure to asbestos and mesothelioma*, reporting 10 mesothelioma deaths and 17 asbestosis deaths among 307 total deaths of mixed fiber insulation workers (8.8%).
2. How, if at all, did that information change or evolve during the 1970s?
  3. From a public health and historical perspective, when did Rogers know, or when should Rogers have known, about the health hazards of asbestos?

Please feel free to contact me if you have any questions or if you need additional material.

Yours very truly,  
Early, Lucarelli, Sweeney & Meisenkothen, LLC

Christopher Meisenkothen

Enclosures