

FILE NAME: RT Vanderbilt (RTV)

DATE: 2007 July 3

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DOCUMENT DESCRIPTION: Legal - Deposition of Thomas Rogers

THIS DOCUMENT RELATES TO THE FOLLOWING CASE:

JOHNNY FRANKLIN, INDIVIDUALLY,
And as Administrator of the
Estate of FLORA FRANKLIN,

ORIGINAL

Plaintiffs,

INDEX NO.

04-CI-00274

- against -

GENERAL MOTORS CORP., et al,

DEPOSITION
UNDER ORAL
EXAMINATION
OF

Defendants.

THOMAS ROGERS

1 Transcript of the videotaped
2 deposition of **THOMAS ROGERS**, called for Oral
3 Examination in the above-captioned matter, said
4 deposition being taken pursuant to Kentucky
5 Rules of Civil Procedure, by and before
6 Kimberly S. Plummer, Court Reporter and Notary
7 Public in and for the State of New York; taken
8 at the Best Western Carriage House, 300
9 Washington Street, Watertown, New York on
10 Tuesday, July 3, 2007 commencing at
11 approximately 9:30 in the forenoon.

12 Videographer is Joseph O'Brien from
13 Litigation Video Services.

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1 A P P E A R A N C E S: (Cont'd)

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19 ALSO PRESENT:

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Appearing with Atty. Young

20

21

Mrs. Rogers (Witness's spouse)

22

23

24

25

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1 VIDEOGRAPHER: This begins tape number one,
2 videotaped deposition of Thomas Rogers. Today's
3 date is July 3rd, 2007. We are on the record at
4 9:38.

5 (Deposition Exhibit Nos. 1 through 4,
6 inclusive marked for identification.)
7

8 **T H O M A S R O G E R S ,**

9 called as a witness,
10 having been first duly sworn,
11 testified as follows:
12

13 DIRECT EXAMINATION BY MR. SATTERLEY:
14

15 Q. Please introduce yourself to the ladies and
16 gentlemen of the jury.

17 A. Thomas Rogers.

18 Q. Mr. Rogers, where do you live?

19 A. In Harrisville, New York.

20 Q. And what is your date of birth?

21 A. July 29 -- July 7th, 1934.

22 Q. That makes you 72 years old today?

23 A. Yes.

24 Q. And you'll be 73 later this year -- later this
25 month?

1 A. Yes.

2 Q. And are you married?

3 A. Yes.

4 Q. And what is your wife's name?

5 A. Faith.

6 Q. And how long have you and Faith been married?

7 A. 53 years.

8 Q. And how many children do you and Faith have?

9 A. Two.

10 Q. Faith is present, too.

11 Where were you born and raised?

12 A. I was born in Theresa, New York. And I was raised
13 around Theresa and Hammond and Rosie.

14 Q. How far did you go in school?

15 A. Second year of high.

16 Q. Tenth grade?

17 A. Tenth grade.

18 Q. And did you leave school to go farming?

19 A. Well, I thought I was gonna go farming but then I
20 decided better ways to make a living so...

21 Q. Did there come a point in time that you went to
22 work for a company called Gouverneur Talc Company?

23 A. Yeah.

24 Q. When did you first go to work for them?

25 A. It was April of '63, I think.

1 Q. And what was your job title when you first went to
2 work for that company?

3 A. Laborer.

4 Q. And what type of company was this?

5 A. It was a talc company.

6 Q. And where was it located, what city or what state?

7 A. In Balmat.

8 Q. And how long did you continue to work for that
9 company?

10 A. I worked 26 years.

11 Q. And so approximately -- approximately when did you
12 leave the company?

13 A. Oh, November 19th, '88.

14 Q. Now, how long did you stay working as a laborer
15 for the Gouverneur Talc Company?

16 A. Oh, might have been about a year probably,
17 approximately a year.

18 Q. And did you -- when you were -- as a laborer did
19 you work in the talc mines themselves?

20 A. Yes.

21 Q. And after you -- or after you were a laborer what
22 was your next job assignment you got?

23 A. I -- well, I went to school, well into a
24 maintenance mechanic.

25 Q. And how long did you stay as a maintenance

1 mechanic?

2 A. Oh, probably about a year.

3 Q. And then after as a maintenance mechanic, what was
4 your next job?

5 A. Well, I already got off maintenance mechanic. I
6 signed on to underground stock clerk and driving truck on
7 the surface.

8 Q. And how long did you do the underground stock
9 clerk position?

10 A. Maybe three or four months; it wasn't too long.

11 Q. And then what was your next position with the
12 company?

13 A. I was a trammer.

14 Q. What is a trammer?

15 A. A trammer is -- they go into the stoker or
16 whatever they call them and then they bring the ore out and
17 dump it into a transfer and it goes down into 700 foot level
18 to the crusher.

19 Q. If you could, because you may be the first witness
20 to explain to the jury what the mining process is, explain
21 to the folks on the jury how this mine that you worked at
22 worked, as far as getting the ore and bringing it up?

23 A. Well, if you run on the cross cut with an Enco,
24 the driller would fire or drop it into like a raise
25 (phonetic) and you -- put that into a car and take it out

1 to the transfer and dump it down to 700-foot level or then
2 also you'd be a scraper man, which you would scrape it out
3 of these big stokes into the cars and do the same thing,
4 take it out and dump it down the transfer.

5 Q. You mentioned, was it Imco or Enco?

6 A. Enco.

7 Q. What is that?

8 A. That's a form of a front-end loader, only it's on
9 tracks. It's got a bucket on the front. You go in and pick
10 up the other and dump it into the car.

11 Q. And how long did you work as a trammer?

12 A. All the time except what you got on the start with
13 I worked trammer.

14 Q. So from about 1966 until about 1988, your job was
15 as a trammer?

16 A. Trammer, right.

17 Q. And what's the difference between a trammer and a
18 scraper man or are they the same thing?

19 A. They're one of the same. That's part of the
20 trammer is scraper man and running an Enco.

21 Q. Now, were you an hourly employee there at the
22 company?

23 A. Excuse me?

24 Q. Were you an hourly employee?

25 A. Yes.

1 Q. And did you get paid in addition to hourly rate of
2 pay, did you get paid a bonus depending on how much tonnage
3 of talc was dug up and I guess sold?

4 A. Right, yes.

5 Q. Did you work as a trammer below ground?

6 A. Yes.

7 Q. And you mentioned the 700 level. What are the
8 various levels below ground that you would have done work
9 on?

10 A. I worked on 3 and 5 and 7 and some on 11.

11 Q. And what does that mean? Is that three -- does
12 that 3, 5, 7, 11, does that in any way relate to the amount
13 of feet you're going below ground?

14 A. Right, that's what that is, yeah.

15 Q. So for example, 3 means 300 feet?

16 A. 300, 500, 700 and 1,100.

17 Q. Were there any other levels of work that people
18 would work on other than the 300 to 500 to 700 and 1,100 in
19 the mines that you worked in?

20 A. No, that's about as deep as it went.

21 Q. 1,100 feet?

22 A. 7, 11, yes, I think 1,100 feet.

23 Q. Now, could you describe for the folks on the jury
24 what the conditions were like with regards to working at
25 these various levels in the mines as it relates to dust?

1 A. Well, there was a lot of dust. You do a lot of
2 secondary blasting. There's a lot of dust in the air at all
3 the time. Of course the air currents never was right in
4 there. The air would just circle. You couldn't get away
5 from it, you know.

6 Q. When you worked back in the '60s and the '70s and
7 the '80s at this -- in this talc mine, did the company
8 provide you with any mask or respirators?

9 A. Yeah, they had throw-aways, which I used most of
10 the time. Then they had the canister type but the canister
11 type the only trouble with them is you had to wear glasses.
12 They was strict on glasses, of course that was safety. You
13 could not see wearing the canister mask.

14 Q. Why couldn't you see?

15 A. They wouldn't seal around your mouth, the air,
16 your breath would go up and they'd just fog up.

17 Q. The two types of respirators you would have been
18 provided would have been the throw-away paper ones?

19 A. Um-hmm.

20 Q. And the canister ones?

21 A. Right.

22 Q. Did you witness other workers wearing these type
23 of respirators?

24 A. Ed Terrio (phonetic) was pretty strict on that.
25 He wore them pretty steady.

1 Q. And what was his job there?

2 A. He was a trammer, too.

3 Q. So other workers would have been using these
4 respirators as well; correct?

5 A. Right.

6 Q. Now, with regards to going down into the mines as
7 a trammer, what was the temperature like down there?

8 A. Oh, it varied. In the summertime it was nice. In
9 the winter on 3 and 5 it was pretty cool. It was going to
10 freeze the pipe lines now and then.

11 Q. So when you're wearing the respirator down in this
12 cold area with the glasses, did you ever have problems with
13 steam on your glasses?

14 A. Right, yeah.

15 Q. Did that -- how did you -- what did you do when
16 you had a respirator that you were wearing and you had your
17 glasses on and you had the steam on your glasses?

18 A. Take the respirator off.

19 Q. Now, explain just a little bit more detail what
20 the crusher that you're referring to, the crusher that's
21 used at the 700-foot level, what did that look like?

22 A. Just a big rock crushing crusher and the ore come
23 down the transfer gates, two gates -- 3 and 500-foot gates
24 and if they drew the ore off the level and needed the
25 level, they'd raise the gates to let the ore down into the

1 crusher.

2 Q. Did the crusher -- was there a crusher up on the
3 surface as well?

4 A. Yes, secondary crusher up on the surface.

5 Q. So would the crusher up at the 700 level break the
6 ore down to different sizes?

7 A. Right.

8 Q. And then would the crusher on the surface break it
9 down to even smaller sizes?

10 A. Right, before they sent it to the mill.

11 Q. Now, in addition to being given a respirator or
12 throw-away paper mask, were you also, from time-to-time did
13 the company monitor -- put a monitor on you?

14 A. Yeah, we had monitor on. I don't know whether the
15 company did it or OSHA did it. Somebody put a monitor on.

16 Q. Okay. And were you, during your career, were you
17 given physical examinations every two years?

18 A. Yeah, just about that, yes.

19 Q. Now, I want to talk with you a little bit about a
20 few additional things. Did you know Bill Fuller?

21 A. Oh, yes.

22 Q. And how did you know Bill Fuller?

23 A. He worked with me quite a few years there. Bill
24 Fuller and I were partners on the trammer.

25 Q. And so he worked in the same mine you worked in?

1 A. Yes, right.

2 Q. And did he do the same type of task you did, as
3 far as a trammer?

4 A. Yup.

5 Q. Did he go down into the mines like you described
6 going to the 300 and 500 and 700 levels?

7 A. Yeah.

8 Q. I want to show you what I've marked as Exhibit 1
9 to your deposition. Do you recognize that document, sir?

10 A. It's Bill Fuller.

11 Q. Is that a photograph of Bill Fuller?

12 A. Yes.

13 Q. I would -- and does that fairly and accurately
14 represent Bill Fuller at least in recent times?

15 A. Yeah, last I see of him.

16 MR. SATTERLEY: I'd move into evidence
17 Exhibit 1, a photograph of Bill Fuller.

18 MR. YOUNG: We reserve our objection to
19 that.

20 Q. Was Bill Fuller present in the mines when you
21 worked there?

22 A. Yes.

23 Q. Okay. Do you know Charles, is it Minkler?

24 A. Minkler.

25 Q. Minkler?

1 A. Oh, yeah.

2 Q. And what was his job?

3 A. Trammer.

4 Q. Did he work there at the same time that you worked
5 there?

6 A. Yup.

7 Q. I'd like to show you what's been marked as Exhibit
8 2. Is that a photograph --

9 A. Oh, that's Charlie all right.

10 Q. Does that fairly and accurately represent Mr.
11 Minkler?

12 A. That's Charlie all right.

13 Q. Was he present with you when you worked as a
14 trammer down there in the mines?

15 A. Yes, yes.

16 Q. I want to show you another photograph, Exhibit 3
17 and ask if you could identify that fellow for me?

18 A. Herb Conklin.

19 Q. What is was Herb Conklin's job out there at the
20 mines?

21 A. He'd been top crusher most of the time.

22 Q. Did he work -- did he work at the same mine you
23 worked at?

24 A. Yup, number one.

25 Q. And Mr. Conklin, working as a crusher, would he

1 work on the same levels you described, the 300 level, the
2 500 level, the 700 level?

3 A. No, he was working on the surface crusher.

4 Q. Okay. So he would be the one that's working on
5 the crusher that would make the materials, the minerals that
6 came from the mine even smaller and smaller?

7 A. Right, smaller than what it was on the 700-foot
8 level.

9 Q. Okay. Now, I want to show you a document, sort of
10 a map and ask you if you recognize that, sir, as Exhibit 4?

11 A. Oh, yeah.

12 Q. Does this fairly and accurately represents the
13 mining towns adjacent to the St. Lawrence River and Upstate,
14 New York?

15 A. Right.

16 Q. And does it show on this Exhibit 3 the mine where
17 you worked?

18 A. Right.

19 Q. And if you could just point out and tell me the
20 mine where you worked?

21 A. Balmat (indicating).

22 Q. And did you work there the entire, I guess 25-plus
23 years you worked for the Gouverneur Talc Company?

24 A. Right, yup.

25 Q. And just on this map, we're today in Watertown,

1 New York; correct?

2 A. Right.

3 Q. And that's roughly what, 40 miles from the mines?

4 A. Approximately, yeah.

5 Q. Okay. I move into evidence Exhibits 1 through 4.

6 MR. YOUNG: We'll reserve our
7 objections.

8 Q. Now, I want to ask you some questions about a few
9 things relating to asbestos. Do you know, sir, whether
10 asbestos was included in the minerals in the mines that you
11 worked at?

12 MR. YOUNG: Object to the form of the
13 question.

14 MR. SATTERLEY: Go ahead, sir.

15 A. As I was told, yes.

16 Q. Were you told that by management folks of the
17 company?

18 A. Right.

19 Q. If you could, tell me the names of some of the
20 management folks -- well, let me ask you this question: Who
21 is Leon Typhair?

22 A. He was mine foreman there for quite a few years.
23 He was the mine foreman when I went there.

24 Q. And as a mine foreman of the company did he advise
25 you anything relating to whether there was asbestos in the

1 mines that you worked in?

2 A. Yeah, he showed me pressed forms of it between the
3 two rocks, called it mountain leather but then he told me it
4 was asbestos, but it was -- it wasn't broke down, you know,
5 it was just like a piece of leather actually.

6 Q. And did Mr. Typhair -- did he work in the same or
7 was he in the same mine that you were in?

8 A. Yes.

9 Q. Now, who -- do you know a personnel manager by the
10 name of Floyd?

11 A. Yes, I knew Floyd. I can't think of his last
12 name.

13 Q. Was he a management personnel from the company
14 there?

15 A. Right, he was personnel manager.

16 Q. Did Mr. -- or did Floyd, I don't know his last
17 name, did Floyd advise you anything with regards to whether
18 or not asbestos was included in the minerals in the mines
19 that you worked in?

20 MR. YOUNG: Same objection.

21 A. Yes.

22 Q. And did -- if you could just briefly tell the
23 folks on the jury what Floyd told you with regards to
24 asbestos in the minerals?

25 A. Floyd always, he confided in the men quite a bit

1 but he's always told us -- what he told us then he would
2 deny if we mentioned it to somebody else in there,
3 especially the management, you know, but he -- he said that
4 if he ever -- like when I was going out of there if I needed
5 him into court that he would -- he would testify. He would
6 not lie in court if they called him into court.

7 Q. And does Floyd, last you knew where did Floyd
8 live?

9 A. Around Moira, I think around Lake Champlain.

10 Q. And did you know a fellow named Mullin, George
11 Mullin?

12 A. Yes.

13 Q. Was he a foreman at the company?

14 A. He was a foreman, I think over in the mill is
15 where he was located.

16 Q. And did -- as the foreman for the company, did
17 just George Mullin tell you anything about whether or not
18 the minerals in the mines was asbestos?

19 A. He never told me minerals in there was asbestos
20 until I went out of there and I was trying to get court
21 settlement, compensation and he called me up there one day
22 and told me then that he knew there was asbestos in the mine
23 and he had a bag from when they first started. He said if I
24 needed it to produce that he would let me take that to court
25 that said R.T. Vanderbilt, the best asbestos in the world.

1 Q. And did Mr. Mullin show you that bag?

2 A. Yes, he did.

3 Q. And did that bag say R.T. Vanderbilt on it?

4 A. Yes.

5 Q. Did it have the words asbestos on it?

6 A. Oh, yes.

7 Q. And was it printed right on the bag itself?

8 A. Yeah.

9 Q. And what was his -- you said he was a foreman but
10 what type of foreman was George Mullin; was he in production
11 or --

12 A. I think he was in production over there; I'm
13 pretty sure he was.

14 Q. Now, are you familiar with some products out of
15 that -- the names of the products, the brand names that was
16 sold from that mine?

17 A. Oh, yes, talc, tremolite.

18 Q. Well let me ask you: Have you ever heard of a
19 products called Nytol 99?

20 A. I've heard them speak about it but I never --

21 Q. I take it it wasn't your job to put any type of
22 brand names on any of the products?

23 A. No, no.

24 Q. Okay. What about ceramic talc, do you know what
25 that is?

1 A. Ceramic tiles, ceramic tiles?

2 Q. Ceramic talc?

3 A. Oh, ceramic talc. They used that in tile.

4 Q. Do you know -- did you become familiar with some
5 of the customers of the Gouverneur Talc?

6 A. Mostly Florida Tile was the biggest one I know of,
7 that was their biggest customer.

8 Q. How did you know Florida Tile was the biggest
9 customer?

10 A. Management didn't deny it. They always admitted
11 that was the biggest customer.

12 Q. These people in management, do you know the names
13 of some of the folks that told you that Florida Tile was
14 there biggest customer?

15 A. Louie Zaluski told me that. Leon Typhair told me
16 that. I think George Erdman has even told me that.

17 Q. Did there come a point in time when in the late
18 '70s or early '80s when there was a strike at the mines
19 there?

20 A. Yes.

21 Q. And what occurred with regards to the strike in
22 the mines as it relates to Florida Tile, if you know?

23 A. Well, they lost the contract for Florida Tile
24 because they couldn't give them talc so they, Florida Tile
25 started getting their talc from Texas Talc and we lost the

1 contract probably for three, four years before they got it
2 back. George Erdman come right down and told -- told me
3 that it was our fault that they lost that contract because
4 we went on strike. But I told him if he'd have come across
5 what he did in the end anyway they wouldn't have lost that
6 contract.

7 Q. And eventually they got that contract back?

8 A. Right, they got the contract back.

9 ~~Q.~~ Now, with regards to -- with regards to the
10 working out there, did there come a point in time when one
11 of the executives from R.T. Vanderbilt came to the carpenter
12 shop?

13 A. Yeah.

14 Q. And tell me about that. Do you know the name of
15 that individual?

16 A. Hugh Vanderbilt. I think it was young Hugh.

17 Q. Was it Hugh Vanderbilt, Sr.?

18 A. Senior at that time.

19 Q. And when Hugh Vanderbilt, Sr. came to the
20 carpenter shop, approximately what time frame was this?

21 A. Late '70s, early '80s, somewhere in there.

22 Q. And tell the folks in the jury what occurred with
23 regards -- what did Hugh Vanderbilt tell you and the other
24 workmen at the carpenter shop?

25 A. Well, they was having quite a spell on whether

1 that was going to be called asbestos or not and, of course,
2 they had their own labs I guess and they was testing against
3 NYAS and he said that in the end if all else failed he
4 padded his back pocket he says, I got a senator right here.

5 Q. He said he had a senator and he padded his back
6 pocket?

7 A. Back pocket, yes.

8 Q. And did he mention anything to you and the other
9 workers about how much money he was going to spend to fight
10 the issue of asbestos there at the mines?

11 A. Oh, yeah, he didn't deny that. He had his own lab
12 and he said they just didn't come under the asbestos rule.

13 Q. And did he say that he would spend millions of
14 dollars on that issue?

15 MR. YOUNG: Object to the form of the
16 question.

17 A. He'd spend a lot of money on it, yes.

18 Q. And was Bill Fuller there that day also?

19 A. Yes.

20 Q. And were some of the other workmen that you --

21 A. Yes, Charlie Minkler was there and Herb Conklin
22 was there. There was a lot of them there. Pretty near all
23 the miners at that time were there.

24 Q. And was the meeting, was that in the carpenter
25 shop?

1 A. Right.

2 Q. And was Mr. Vanderbilt, was he dressed up in a
3 suit?

4 A. Oh, yeah.

5 Q. And did -- was there concern at the mines whether
6 or not the mines would be shut down if it was classified
7 asbestos as?

8 A. Right, that was what they was fighting for and
9 because if it was declared asbestos they'd have to close the
10 mine.

11 Q. And was Mr. Vanderbilt stating to the workers that
12 he was going to fight to make sure it wasn't asbestos?

13 A. Oh, yes.

14 Q. Now, with regards to the collection of samples for
15 analysis, were you ever involved in the collection of
16 samples in the mines for analysis by outside folks?

17 A. Oh, yeah.

18 Q. And tell the folks on the jury how that worked.

19 A. Well, NYAS, originally they were supposed to come
20 unbeknown; they were just supposed to stop in and go down
21 and get samples wherever in the mines they wanted to but
22 they never did. They had the men, me and probably some
23 other ones, they'd tell them where to go to collect these
24 certain samples and mark it on the bag where, whatever spot
25 you'd get them like 14, 16 or 18 stoke or whatever and go

1 down to the station and they'd come out and pick it up. But
2 they told us where to go get it.

3 Q. Management told you where to go get it?

4 A. Oh, yeah, where they wanted it taken out of.

5 Q. Did you know whether where you had to go get the
6 samples, whether that was the same place where the -- where
7 the asbestos was located?

8 MR. YOUNG: Object to the form of the
9 question.

10 A. It wasn't the same place. That was just lime --
11 high lime content where they sent us to get the samples.

12 Q. And so where you went to get the samples, was it
13 the same place where the normal production of the talc was
14 occurring at?

15 A. No, not entirely, no.

16 Q. Now, with regards to -- just so we're clear, you
17 weren't the only one that would go collect the sample of
18 this material in the mine?

19 A. No, I wasn't the only one, maybe just on the level
20 I was on.

21 Q. Other workers, other trammers like yourself would
22 do?

23 A. Right, other levels.

24 Q. Now, just so we understand how this -- how these
25 minerals get from the mines up to the -- on top of the earth

1 and distributed out to, I guess, customers, if you could
2 tell us were there.

3 Was there a location where the talc would be sent
4 to be shipped out on railcars?

5 A. Yeah, it was shipped over to the mill and then it
6 was ground up more to where it was just a fine -- real fine
7 and they would ship it out to railcars right behind the
8 mill.

9 Q. And just so I'm clear, you worked in the mine not
10 in the mill; correct?

11 A. Right, right.

12 Q. And the mill is the location where it would be put
13 into railcars to be shipped out to the customers like
14 Florida Talc?

15 A. Yeah.

16 Q. Now, I want to just briefly ask you some questions
17 about your own personal situation and I'm not going to go
18 into any detail with it. Have you been diagnosed with
19 asbestos?

20 MR. YOUNG: Object to the form of the
21 question.

22 A. Yes.

23 Q. And have you had a biopsy done?

24 A. Yes.

25 Q. And has the doctor, your doctor, given you the

1 personal medical information about yourself that you have
2 asbestosis?

3 MR. YOUNG: Same objection.

4 A. Right, yes.

5 Q. With regards to other workers out there, do you
6 know whether other workers like yourself has been diagnosed
7 with asbestosis?

8 MR. YOUNG: Same objection.

9 A. I'm not sure because a lot of them didn't go
10 through what I went through to find out.

11 Q. Do you know whether some of your co-workers have
12 developed cancer?

13 A. Yes.

14 MR. YOUNG: Same objection.

15 Q. Let me ask you some of the job classifications of
16 some of these workers, what they did. Do you know a fellow
17 named Robert Rise (phonetic)?

18 A. Yup.

19 Q. What was his job out there?

20 A. He was trammer.

21 Q. Did you work with Robert Rise?

22 A. Off and on. He was on a different level but I
23 used to work with him off and on.

24 Q. Mr. Evans, did you know, I think, is it George
25 Evans?

1 A. George Evans? I know Evans, but I don't remember
2 George Evans.

3 Q. What about Larry Malbouff (phonetic)?

4 A. Yes, I knew Larry Malbouff.

5 Q. What was his job out there?

6 A. He was in the lab across the road.

7 Q. In the mill?

8 A. In the mill, right. Well, separate building from
9 the mill.

10 Q. Now, let's go off video for just one second.

11 VIDEOGRAPHER: Off the record 10:07.

12 (Whereupon, there was an off-the-record
13 discussion.)

14 VIDEOGRAPHER: Back on the record 10:08.

15 Q. Now, sir, I'm just going to wrap it up with a few
16 final questions. Prior to this morning, have you ever met
17 with me?

18 A. Nope.

19 Q. And prior to last night when I -- well, I didn't
20 even speak with you last night, I spoke with your wife,
21 right?

22 A. Right.

23 Q. Prior to this morning, you've never spoken to me
24 at all; correct?

25 A. Nope.

1 Q. And with regards to this -- all the information
2 that you've conveyed to us today, has it all been truthful,
3 to the best of your knowledge?

4 A. Yes; except that picture of Bill Fuller. If I
5 didn't know him, I'd never have known him in that picture.

6 Q. Who's that?

7 A. Bill Fuller because he last, he was perfect health
8 until that picture. If I didn't know him, I would never
9 recognize him.

10 Q. Because he changed quite a bit?

11 A. Oh, I guess so.

12 Q. Has Mr. Fuller passed away now?

13 A. Yes.

14 Q. There's a fellow here that -- the attorney for
15 R.T. Vanderbilt brought to this deposition, named Fred
16 Cotten (sic)? Do you see him sitting here?

17 MR. YOUNG: Totten, I'm sorry.

18 Q. I'm sorry, Totten.

19 A. Yes.

20 Q. What was Mr. Totten's position out at the company,
21 if you know?

22 A. He's an engineer at the company.

23 Q. Okay. Final question, sir. Do you have any
24 evidence at all that R.T. Vanderbilt, when they shipped this
25 talc out to Florida Tile issued any type of warnings or

1 cautions to the workers out there?

2 A. Not that I never knew of.

3 MR. SATTERLEY: Thank you, sir. I
4 appreciate your time this morning. Those are all
5 the questions I'm going to have right now. Let's
6 go off the video. Some of these other attorneys
7 may have some questions for you.

8 VIDEOGRAPHER: Off the record, 10:10.

9 (Whereupon, there is an off-the-record
10 discussion.)

11 VIDEOGRAPHER: Back on the record, 10:10.

12

13 CROSS-EXAMINATION BY MR. YOUNG:

14

15 Q. Mr. Rogers, I'm Lane Young. I'm R.T. Vanderbilt's
16 lawyer and you and I also met for the first time this
17 morning; is that right?

18 A. Right.

19 Q. Okay. I do need to ask you some questions. And I
20 wanted to start with Hugh Vanderbilt coming to the mine; you
21 told Mr. Satterley about that. Do you remember that?

22 A. Vanderbilt coming to the mine.

23 Q. Yes?

24 A. Oh, yeah.

25 Q. And another lawyer a long time ago had asked you

1 about that; right? Do you remember that, way long time ago,
2 16 years ago?

3 A. Another lawyer?

4 Q. Yeah, Mr. Setright?

5 A. Setright; Longstreet and Setright.

6 Q. He was your lawyer, right?

7 A. Yup, one of my lawyers.

8 Q. Right. And you had made a claim against
9 R.T. Vanderbilt?

10 A. Right.

11 Q. Okay. And you had given a deposition like this in
12 a lawsuit that you filed against R.T. Vanderbilt?

13 A. Right.

14 Q. And a bunch of lawyers came and asked you
15 questions just like this?

16 A. Right.

17 Q. Pretty much all the same stuff?

18 A. Pretty well.

19 Q. Okay. Have you given any depositions between this
20 deposition in 1991 and today?

21 A. No.

22 Q. Okay. You told Mr. Setright, and I just want to
23 see if you still recall this, that when Mr. Vanderbilt came
24 to the mine that day and he was talking to everybody that
25 you felt like that he believed there wasn't any asbestos in

1 the talc; was that your impression?

2 A. Well, maybe he believed it.

3 Q. Right.

4 A. We didn't.

5 Q. But that's what he said, Mr. Vanderbilt?

6 A. Right, he said in his lab they showed they
7 weren't, just under -- kept under the specs being called
8 asbestos.

9 Q. Okay. And Mr. Vanderbilt was there that day to
10 tell you guys that he was fighting to prove that there
11 wasn't asbestos in the talc so that the mine wouldn't be
12 shut down and you guys could keep your jobs?

13 A. Right.

14 Q. And I assume that was something that you didn't
15 want the mine to shut down, did you?

16 A. No, didn't want the mine to shutdown but would
17 like to know for sure if it was asbestos.

18 Q. Okay. Did you ever go back and investigate and
19 talk to any of the folks at the lab that had looked at the
20 talc to see if it had asbestos in it, to see what they were
21 saying?

22 A. No.

23 Q. Do you know who was doing that?

24 A. Across the road, Larry Malbouff was one of them,
25 that's the main one. I knew him but I don't know about the

1 other ones.

2 Q. The fellow that Mr. Satterley asked you about, Mr.
3 Malbouff?

4 A. Malbouff, I knew him.

5 Q. And he worked over in the lab?

6 A. He worked in the lab.

7 Q. And he was looking at the talc to see if it had
8 asbestos in it?

9 A. Well, yeah, used it for whatever products they
10 were using it, too, make sure it was used for the products.

11 Q. All right, sir. And you never went and asked him:
12 Hey, Mr. Vanderbilt, is saying there is no asbestos in the
13 talc?

14 A. No.

15 Q. How about Slim Thompson, did you know him?

16 A. Excuse me, again.

17 Q. Slim Thompson, he was a mineralogist for R.T.
18 Vanderbilt back then?

19 A. No, not -- don't recognize his name.

20 Q. Anybody else that you remember that you think
21 might have been looking at the talc to see if it had
22 asbestos in it?

23 A. No.

24 Q. Okay. How many folks were at this meeting that
25 Mr. Vanderbilt talked to?

1 A. Must have been 50, 40, 50 anyway.

2 Q. And Mr. Totten was there?

3 A. I imagine Fred was there.

4 Q. Do you remember Mr. Totten told me this morning
5 that he recalled Mr. Vanderbilt saying that they were
6 talking to the government folks about whether or not there
7 was asbestos in the talc?

8 A. Oh, yes.

9 Q. Okay. And they were talking to the government
10 folks about R.T. Vanderbilt's position that they had not
11 found any asbestos in the talc; do you remember him saying
12 that?

13 MR. SATTERLEY: Object to the form of the
14 question.

15 A. Repeat that again, please.

16 Q. Okay. Well, Mr. Totten told me that Mr.
17 Vanderbilt said that they were talking to the government
18 folks about Vanderbilt's position that there was no asbestos
19 in the talc?

20 MR. SATTERLEY: Object to the form of the
21 question.

22 Q. Do you remember that?

23 A. I can remember similar something like that, yes,
24 but...

25 Q. So Mr. Vanderbilt was telling you guys that

1 Vanderbilt had tested the talc and not found any asbestos in
2 it?

3 A. Yes.

4 Q. And that's what they were talking to the
5 government about?

6 A. Yup.

7 Q. Okay. And I take it from what you told Mr.
8 Satterley a few minutes ago that was contrary to your
9 impression at the time?

10 A. Yeah, I guess.

11 Q. Did you ever go and ask anybody at R.T. Vanderbilt
12 after that, you know, why is Mr. Vanderbilt saying there's
13 no asbestos in the talc when I think there is?

14 A. No, I didn't go talk to nobody about it, no.

15 Q. Who was your foreman then?

16 A. Let's see Leon Typhair and Louie Zaluski.

17 Q. Louis Zaluski? Z-A-L-U-S-K-I?

18 A. Something like that, Pollock's name.

19 Q. Have you ever talked to him about the question of
20 whether there was asbestos in the talc?

21 A. Yeah, we mulled it over. I mean, you know, we all
22 knew it was there.

23 Q. Mr. Zaluski didn't think there was asbestos in the
24 talc, did he?

25 A. No, he wouldn't admit it.

1 Q. Well, he told you that he didn't think that there
2 was?

3 A. Yeah.

4 Q. Did you ask him why he believed that there was no
5 asbestos in the talc?

6 A. Because he was a company man.

7 Q. Do you -- how long has it been since you talked to
8 him?

9 A. Oh, I haven't talked to Louie in four, five years
10 I guess.

11 Q. He was with -- at this meeting with Mr.
12 Vanderbilt?

13 A. Yeah, he must have been there.

14 Q. Was he down there working in the mines?

15 A. He worked in -- as a trammer before he made
16 foreman.

17 Q. Okay. So he would have been exposed to the same
18 dust as you?

19 A. Yeah, for while he was there, right.

20 Q. Okay. So do you think that he would expose
21 himself to something he thought was asbestos just because he
22 was a company man?

23 MR. SATTERLEY: Object to the form of the
24 question.

25 A. That was before he was a company man so he --

1 yeah, he worked with a fellow they called Eli Shippee.

2 Louie was pretty clever. Eli did most of the work, you

3 know, he worked where it was bad.

4 Q. But the foremens actually went down in the mine
5 and did work, didn't they?

6 A. No, they just walked around. Foreman didn't work;
7 they just walked around.

8 Q. They were in the mines and around the dust?

9 A. They were in the mines, tell you what to do and
10 zip, they was gone.

11 Q. Since you were thinking that it was asbestos in
12 the talc, did you wear your mask or your respirator whenever
13 you were around it?

14 A. Where we could wear, it we would, yes.

15 Q. The gentleman that Mr. Satterley asked you about,
16 Mr. Fuller and Mr. Minkler and Mr. Conklin; do you remember
17 that?

18 A. Yeah, I remember all of them. I went down with
19 them, with two of them.

20 Q. Did those fellows smoke?

21 A. Which ones?

22 MR. SATTERLEY: Objection.

23 Q. Mr. Fuller, Mr. Minkler and Mr. Conklin?

24 A. Fuller, I think -- Bill is the only one I knew of
25 smoked. I don't know if Conklin did -- no, I think Fuller

1 was the only one. Minkler didn't either.

2 Q. Did Mr. Fuller smoke a lot or do you know?

3 A. No, not a lot but he did smoke.

4 MR. SATTERLEY: Object to the form of the
5 question.

6 Q. How long has it been since you talked to Mr.
7 Fuller?

8 A. He died two years ago; about three years ago I
9 think, just before he died I last talked to him.

10 Q. Okay.

11 A. If I'd have known him, I wouldn't have recognized
12 him then.

13 Q. Do you know how long he smoked?

14 MR. SATTERLEY: Objection.

15 A. No, because I only knew him while he worked there.

16 Q. But he smoked while he was working at the mine?

17 A. Yeah.

18 Q. And obviously you couldn't smoke and wear a mask
19 or a respirator; right?

20 MR. SATTERLEY: Objection.

21 A. No, time to smoke, you just stopped long enough to
22 smoke and then you went back to work.

23 Q. Did you ever see him taking the mask or respirator
24 off so he could smoke?

25 MR. SATTERLEY: Objection.

1 A. No, no I couldn't honestly say that.

2 Q. All right. Do you know where Mr. Typhair, is that
3 how you pronounce it?

4 A. Leon Typhair.

5 Q. Do you know where he is now?

6 A. Yeah, dead.

7 Q. And you said that he showed you a piece of
8 asbestos and it looked like a piece of leather?

9 A. Yeah, asbestos is compressed between rock, you can
10 -- it's like a sheet of, I don't know, leather it looked
11 like, leather when you took it out. And he took it out and
12 showed me and I said: What's that and he said mountain
13 leather and I said: What's mountain leather, and he said
14 raw form of asbestos. It's compressed together.

15 Q. And Mr. Typhair wasn't a scientist or anything,
16 was he?

17 A. No, not that I know of.

18 Q. So he wouldn't have been able to make any analysis
19 of that and say it was asbestos?

20 MR. SATTERLEY: Object to the form of the
21 question.

22 A. He wouldn't -- I don't know who could tell you
23 that.

24 Q. Well, Mr. Malbouff could, right?

25 A. Yeah, he could, Larry could have.

1 Q. Or did you ever take that piece of leather over
2 there and ask somebody to look at it and see if --

3 A. No.

4 Q. -- if it really was asbestos?

5 A. No.

6 Q. Okay. If we went out to the mine today, do you
7 think we could get us a piece of that mountain leather?

8 A. It would be probably unlikely because certain
9 spots that you could actually find it. I just happened to
10 be with him when he found it that day.

11 Q. So it wasn't all over the mine then, right?

12 A. No.

13 Q. Was it just in certain areas?

14 A. Well, that spot where he got was in a certain
15 spot, yeah. I had never seen it before until he pointed it
16 out to me.

17 Q. But that was something that was not prevalent all
18 over the mine, right?

19 A. No, not in that form.

20 Q. Mr. -- Floyd who's last name you can't remember,
21 how long has it been since you've seen him?

22 A. I haven't seen him since probably '88, since I got
23 done work. Fred might know his last name.

24 Q. Okay. Did he actually go to court and testify for
25 you?

1 A. No, he said he would if he had to. He would not
2 lie in court, he said.

3 Q. He wasn't a scientist either, was he?

4 A. I don't know. He was personnel manager.

5 Q. Okay. So you don't have any idea from where he
6 gathered the information that he thought there was asbestos
7 --

8 A. No.

9 Q. -- in the talc?

10 A. I have no idea.

11 Q. Was he talking about that piece of mountain
12 leather type material, too?

13 A. No.

14 Q. Just --

15 A. Just the foreman. Floyd didn't. He got around
16 underground but not like he was working there, you know.

17 Q. But he did go down in the mines and was exposed to
18 the dust?

19 A. Oh, he went down. He come around and talked to
20 the men and one day a week anyway.

21 Q. So he was being exposed to what he told you he
22 thought was asbestos?

23 A. Oh, yeah, he must have been.

24 Q. Did you ask him why he was breathing this dust
25 that he thought was asbestos?

1 A. No.

2 Q. Okay.

3 A. It was hard to believe because one tell you it
4 was, one tell you it wasn't, so...

5 Q. So there were other people at R.T. Vanderbilt
6 besides Mr. Vanderbilt that would tell you there wasn't
7 asbestos in the talc, right?

8 A. There were certain other people, company people.

9 Q. Who was that?

10 A. George Erdman, Chubby Bressette, Leon Typhair, I
11 guess that's his name, Chubby Bressette and Leon Typhair,
12 all the foreman, they wouldn't say it was asbestos, no.

13 Q. And then George Mullin, he's the fellow that
14 showed you the bag?

15 A. Right.

16 Q. Do you remember that? That bag that he showed you
17 that had asbestos written on it, did any bags actually get
18 sold like that that you know of?

19 A. Except what he told me, they shipped -- that's
20 what they used to ship it in when they first started the
21 mill and the mine up.

22 Q. So it had asbestos on it?

23 A. Yeah, inside.

24 Q. I'm sorry, go ahead.

25 A. Best asbestos in the world, it said right on it.

1 Q. So it's your recollection that R.T. Vanderbilt
2 actually sold some materials in a bag that said best
3 asbestos in the world?

4 A. Must have because the bag was -- it was on that
5 bag that they use, shipping bag, so it had to be.

6 Q. When was that, do you remember?

7 A. When he showed me that?

8 Q. No, when you think the best asbestos in the world
9 bag got sold?

10 A. Oh, that had to have been back in '48, '50,
11 somewhere in there the bag was -- according to Mullin,
12 George Mullin was telling it was back when the mine started,
13 you know, been going too long.

14 Q. So you weren't there in '48 and '50?

15 A. No.

16 Q. So you don't know of your own personal knowledge
17 what they were doing?

18 A. No.

19 Q. All right. Was Mr. Mullin any sort of scientist?

20 A. No, I don't think so, unless he -- he could have
21 been because he went to college an awful lot, so I couldn't
22 say.

23 Q. And you don't know if anybody ever analyzed what
24 was in that bag he showed you to say whether it was asbestos
25 or not?

1 A. No.

2 Q. And you never took that bag that said asbestos on
3 it to Mr. Setright, right?

4 A. No.

5 Q. Did Mr. Setright ask you about that?

6 MR. SATTERLEY: Let me place an objection.
7 Let's go off the video a second. Let's go off the
8 video.

9 VIDEOGRAPHER: Off the record, 10:27.

10 MR. SATTERLEY: You're going to now invade
11 into his attorney/client privilege with his own
12 personal attorney.

13 MR. YOUNG: It's not that important.

14 MR. SATTERLEY: I'm just going to advise
15 him that he was a right under the law, he may not
16 know that that attorney, conversations with your
17 attorney are privileged and he doesn't have a
18 right under the law to ask about that.

19 MR. YOUNG: It's not that important. Let's
20 just go back to something else.

21 MR. SATTERLEY: Let's go back on the video
22 then. Let me move to strike that last question.

23 VIDEOGRAPHER: Back on the record, 10:27.

24 BY MR. YOUNG:

25 Q. Mr. Rogers -- Mr. Satterley objected, so I'm going

1 to ask you another question.

2 In your lawsuit, as far as you know Mr. Typhair
3 and Mr. Mullin and Floyd who's last name you can't remember,
4 they weren't -- they didn't give any depositions or any
5 information to Mr. Setright?

6 A. No.

7 Q. In your lawsuit, one of the things you were
8 claiming was that you'd been exposed to asbestos from the
9 talc at the mine, right?

10 A. Right.

11 Q. And these fellows, at least in your opinion, had
12 information that was relevant to that?

13 A. Oh, yes, they had to know.

14 Q. But you didn't give their names to Mr. Setright?

15 MR. SATTERLEY: Objection. Once again --
16 once again let me advise -- you're trying to
17 invade his privileged communication with his
18 personal attorney. I think it's improper since
19 his attorney is not here. So I just -- you think
20 in all fairness to the witness, he should be
21 advised that conversations he's had with his
22 personal attorney is privileged, simply like I
23 can't invade upon the fact that Hugh Vanderbilt
24 what he talks about with this fellow, so you don't
25 have to answer that under the law.

1 Q. You didn't give those names to Mr. Setright?

2 A. No.

3 Q. Mr. Satterley asked you about a strike at the
4 mine?

5 A. Um-hmm.

6 Q. Exactly what year was that?

7 A. It was after that because I can't remember.

8 Q. Was there just one strike while you were working
9 there?

10 A. Yeah, I think just the one. I -- maybe went out
11 one day or something.

12 Q. Mr. Rogers, you don't know how many times NYAS or
13 the mines safety and health administration or OSHA came to
14 the mine to get samples of the talc to test it, do you?

15 A. How many times?

16 Q. Yes, sir.

17 A. Not exactly because once -- they was random,
18 whenever they decided they wanted a sample.

19 Q. And you wouldn't always be the one that would go
20 get the samples, would you?

21 A. No.

22 Q. So you don't know where all they took samples
23 from, do you?

24 A. Right, no, I don't.

25 Q. And you told Mr. Satterley that where you took the

1 samples from was not entirely where the talc was mined but
2 you did take samples from where the talc was mined
3 sometimes, didn't you?

4 A. Right. Depends on, there was cross cuts. We
5 mined it sooner or later you'd be mining it, but at times
6 they wanted the samples they'd tell you where to get them,
7 the stoke number or cross cut number, whatever.

8 Q. Do you know how many samples of R.T. Vanderbilt
9 talc had been analyzed to see if there was asbestos in it in
10 the last 40 years?

11 A. No.

12 Q. Okay. But you heard that it's been done a lot;
13 right?

14 A. A lot.

15 Q. And some people have said that there's asbestos in
16 it and some people said there's not?

17 A. Right.

18 Q. Okay. When you were working out there at the
19 mine, do you recall there was asbestos insulation in the
20 mine on the machines or the pipes or things like that?

21 A. No.

22 Q. Anybody ever tell you that?

23 A. No.

24 Q. Do you know whether or not there was
25 asbestos-containing insulation anywhere in the mines or the

1 mills while you were there?

2 A. I don't know about the mill site but the mines, no
3 we didn't have no insulation.

4 Q. Do you know what kind of brakes were on the
5 machines that were used out there at the mine; do you know
6 whether they had asbestos in them?

7 A. I'm not sure. They might have at one time but
8 then they changed over to something that wasn't asbestos,
9 different organic material.

10 Q. Tell me about that. Do you remember them changing
11 out the asbestos brakes or something else?

12 A. I can remember when they changed over. I cannot
13 tell you the date or nothing but...

14 Q. But you do remember a changeover?

15 A. Right, they went to organic mostly.

16 Q. I'm sorry, go ahead?

17 A. Organic band is what they're supposed to be. They
18 said that didn't contain asbestos.

19 Q. And before that they had been using asbestos
20 brakes, as you understood it?

21 A. Some of them, yeah.

22 Q. Okay. And all those machines out there had brakes
23 on them, didn't they?

24 A. No, there's been just scraper is the only thing,
25 big tuggers were the only things that had bands on them.

1 Q. They had big brakes, right?

2 A. Yeah, the band is probably 3 by whatever,
3 (indicating) 4, 4 feet round.

4 Q. And how did you stop the trammer?

5 A. The trammer, you're -- what are you referring to
6 as a trammer?

7 Q. Yes, sir.

8 A. The scraper, well, you shut the motor down, shut
9 the switch off.

10 Q. So it didn't have any brakes?

11 A. Well, it didn't what they call brakes anyhow.
12 They would engage the drums so that they wouldn't slip to
13 pull the other out with on the bucket. We didn't refer to
14 them as brakes but they were --

15 MR. YOUNG: Can we go off the video for
16 just a second?

17 VIDEOGRAPHER: Off the record 10:34.

18 (Whereupon, there was an off-the-record
19 discussion.)

20 VIDEOGRAPHER: Back on the record at 10:36.

21 MR. YOUNG: Mr. Rogers, a couple more
22 questions for you. And I appreciate your time
23 this morning.

24 Q. How long have you known Mr. Totten?

25 A. Oh, I've known Fred ever since he come into the

1 mines. I can't remember how long ago that was.

2 Q. Is he a pretty good fellow?

3 A. Yeah, always liked Fred.

4 Q. Do you have any idea what he thinks about whether
5 there's asbestos in the talc?

6 A. I have no idea, no. We never discussed anything
7 as far as that.

8 Q. Had Mr. Vanderbilt ever been to the mine before
9 that you recall, other than this meeting?

10 A. Oh, yes, yes. He used to come periodically, go
11 down to 700 foot level and back out. But he --

12 Q. He would actually go down in the mine?

13 A. He'd go down to 700 foot level. Do you know where
14 the crusher was, main station?

15 Q. And he would breathe the same dust that you guys
16 were breathing?

17 A. No. They kind of policed the area up when he was
18 coming.

19 Q. But there was still some dust?

20 A. There'd be some dust.

21 Q. Did you ever talk to him just one-on-one about
22 anything?

23 A. No.

24 Q. Okay. But he did seem to genuinely believe when
25 he was there that there wasn't any asbestos in the talc and

1 he was fighting to prove that?

2 MR. SATTERLEY: Objection. Calls for
3 speculation, what he genuinely believed but go
4 ahead if you understand the question.

5 A. He tried to make you believe that but every --
6 common knowledge in the mine of everybody there that he was
7 -- he was a lot of power, you know, and he could pretty
8 well, if they changed the spec he'd change his just enough
9 to stay under so they wouldn't be called asbestos.

10 Q. You said it was common knowledge in the mine. Did
11 anybody of these 50 people at the meeting raise their hand
12 and say to anybody: Well, you're saying there's no asbestos
13 in the talc but so and so says there is, what's the deal?

14 A. I can't remember if they did or not.

15 Q. Okay. And you never asked your foreman or anybody
16 about that?

17 MR. SATTERLEY: Objection; asked and
18 answered.

19 A. About the asbestos?

20 Q. Yes, sir.

21 A. Yeah, we talked. We talked to each other about
22 the asbestos if there's any in the mine, if they believed
23 there were.

24 Q. And they said no?

25 A. No, not always, not all of them.

1 Q. But some of them did?

2 A. Some of them said of course.

3 MR. YOUNG: That's all the questions I
4 have. Thank you, sir.

5

6 CROSS-EXAMINATION BY MR. VANCE:

7

8 Q. Mr. Rogers, my name is Gene Vance. I just have a
9 couple of questions for you today, sir.

10 First of all, I'm not sure this was clear from the
11 questioning earlier but you said you worked for Gouverneur
12 Talc Company; is that correct?

13 A. R.T. Vanderbilt.

14 Q. That's what I was going to ask you, if Gouverneur
15 talc was owned by R.T. Vanderbilt?

16 A. Yes.

17 Q. I just want to be clear on that. As I understand,
18 it the talc from the mines, a lot of it was shipped out in
19 railcars; is that right?

20 A. Right.

21 Q. And there would be a lot of railcars going out
22 every day?

23 A. At one time, there was a lot of them going out
24 every day.

25 Q. If you put all the brake pads on all the equipment

1 at that mine, took all of them, would that fill up even one
2 rail car?

3 A. No.

4 Q. Thank you, sir.

5

6 REDIRECT EXAMINATION BY MR. SATTERLEY:

7

8 Q. Joe Satterley again. A couple follow-up
9 questions. On that note, with regard to the brakes on the
10 machine, did you ever see any dust emitted from the brakes
11 on the machines that Mr. Young was representing?

12 A. Never seen any dust, smoke maybe.

13 Q. I mean if you compared the dust from the talc and
14 the minerals that you guys were mining to whatever dust was
15 around the brakes on machines, how did that compare?

16 A. It didn't compare actually, no.

17 Q. With regards to -- with regards to R.T.
18 Vanderbilt, did anybody from R.T. Vanderbilt or Gouverneur
19 Talc Company ever advise you how many people that worked in
20 the mines died of mesothelioma?

21 A. No, they never -- that name was never brought up
22 or whatever you call it.

23 Q. Counsel -- well, let me ask you: Did anybody from
24 R.T. Vanderbilt or Gouverneur Talc Mines ever tell you how
25 many people from the mines, the miners and the millers died

1 of lung cancer?

2 MR. YOUNG: Objection.

3 A. No, they never told us. We knew but they never
4 told us.

5 Q. How did you know?

6 A. We knew the people personally.

7 Q. And counsel asked questions about Mr. Fuller
8 smoking. Did anybody from R.T. Vanderbilt or Gouverneur
9 Talc ever warn the workers, the millers, the miners that if
10 you're exposed to the minerals in the mines and you also
11 smoked your chance of getting cancer is multiplied or
12 synergistic effect?

13 MR. YOUNG: Objection.

14 A. No.

15 MR. YOUNG: Object to the form.

16 Q. Counsel asked you some questions about who was a
17 scientist and who wasn't a scientist. My question to you
18 is: These people that told you that it was asbestos they
19 were various management personnel, correct?

20 MR. YOUNG: Object to the form of the
21 question.

22 A. Right.

23 Q. Including Mr. Mullin, you said Mr. Typhair and
24 others?

25 A. Typhair and Bressette. There's quite a few, yes.

1 MR. YOUNG: Object to the form of the
2 question.

3 A. But they --

4 Q. Did you trust your employer when you worked for
5 them as far as them telling you the truth?

6 A. That's what was we doing, was trusting them,
7 right.

8 Q. Okay. Counsel also asked you about scientists and
9 I want to ask you about Mr. Vanderbilt. Did he ever come
10 out and tell you how much money he spent to hire scientists
11 to say it wasn't asbestos?

12 MR. YOUNG: Same objection.

13 A. He said he spent a lot of money in his own
14 laboratories testing himself to come up that it wouldn't be
15 asbestos, keep it under the specs.

16 Q. But did he tell you the total amount, how many
17 thousands or millions of dollars he would have spent?

18 A. No, he just said he spent a lot of money.

19 Q. Eli Shippee, you mentioned that he was -- was he a
20 trammer also?

21 A. Right. Pretty sure he died of lung cancer, too.

22 Q. And he worked in the same areas of the mine that
23 you worked?

24 A. Right. We had two -- when you run two shifts, he
25 run the opposite shift.

1 Q. And counsel also asked you about you making a
2 claim against R.T. Vanderbilt. Did you only make a claim
3 against them with regards to your condition after you had a
4 biopsy, a lung biopsy done?

5 A. Yes.

6 Q. And did the lung biopsy prove in your mind or did
7 the doctor, your doctor tell you you had asbestosis?

8 MR. YOUNG: Same objection.

9 A. Yes.

10 Q. He asked you a lot of questions about you filing a
11 lawsuit. Was the basis of filing a lawsuit because you had
12 asbestos in your lungs?

13 A. Yes.

14 MR. YOUNG: Objection as to form.

15 A. The Occupational Center in Syracuse said it was,
16 too. The doctors sent the biopsies out. He knew what it
17 was but he said he'd send it out to be damn sure.

18 Q. And with regards to the claim that you made
19 against R.T. Vanderbilt, if they didn't cause you to develop
20 this lung disease would you have made a claim against them?

21 MR. YOUNG: Same objection.

22 A. No. I'm just the lucky one that's still alive.

23 Q. And finally, a couple questions, Larry Malbouff,
24 you said he worked in the lab. He would have never worked
25 around those brakes on the machines?

1 A. No, no, he was never to the mines.

2 Q. Okay.

3 MR. YOUNG: I'm sorry, he was never at the
4 mines?

5 A. Never come in to the mines that I know of.

6 Q. As far as you know, you never personally witnessed
7 him working around the machines?

8 A. Oh, no.

9 Q. The scraper the ---

10 A. No.

11 Q. And in addition to there being talc in the mines,
12 is it your understanding there was a product called
13 tremolite?

14 A. Oh, yes, tremolite was one of the main ingredients
15 in talc.

16 Q. And are you familiar with the product name called
17 anthophyllite?

18 A. Come again?

19 Q. Anthophyllite, do you know what that is?

20 A. No.

21 Q. Okay. Did anybody in management at R.T.
22 Vanderbilt or Gouverneur Talc tell you that anthophyllite
23 was included in the minerals in the mines?

24 A. No, not as far as I know of. Not that I remember
25 anyway.

1 Q. Counsel asked you questions about wearing a
2 respirator around asbestos. Back when you first started in
3 the '60s and the '70s, did you even know whether asbestos
4 could be harmful to you?

5 A. No.

6 Q. I mean was it -- when was the first time you
7 learned from the company that asbestos could cause you to
8 have lung disease?

9 MR. YOUNG: Object to the form of the
10 question.

11 Q. Was it after you were diagnosed?

12 A. Must have because nobody ever told me before I got
13 lung disease.

14 Q. So when counsel suggested that you or somebody
15 else may subject yourself to a danger, did you know in the
16 '60s and '70s and early '80s that even if they said it had
17 asbestos in it, did you know that it was dangerous?

18 MR. YOUNG: Object to the form of the
19 question.

20 A. No, no. They never said it was asbestos. They
21 said it weren't asbestos. They made you believe there
22 wasn't any there, that talc, yes, you knew you'd get dust
23 but...

24 Q. And final question with regards to Florida Tile.
25 Do you have any evidence that the same type of respirators

1 that the workers in the mines were given was people at
2 Florida Tile, whether they were told to wear respirators
3 like that?

4 MR. YOUNG: Object to the form of the
5 question.

6 A. No.

7 Q. You don't -- let me ask the question this way:
8 Along with the talc product that was sold out on the
9 railcars, did you see any warnings or caution statements
10 telling the end users that they should be wearing a
11 respirator like the miners use?

12 A. Repeat that again?

13 Q. Back when they shipped out the minerals in these
14 railcars to Florida Tile, did you see any warning labels
15 that would accompany that material that would have went to
16 Florida Tile to say to the Florida Tile people: Hey, you
17 should wear a respirator?

18 A. No, no.

19 MR. SATTERLEY: Thank you, sir, those are
20 all the questions I have for you.

21 MR. YOUNG: Mr. Rogers, sorry, a couple
22 more.

23 (Continued on Page 62.)
24
25

1 RECROSS-EXAMINATION BY MR. YOUNG:

2

3 Q. You weren't really in charge of what information
4 went from R.T. Vanderbilt to Florida Tile, were you?

5 A. No.

6 Q. Okay. And you don't know what was going on at the
7 Florida Tile plant; right?

8 A. Nope.

9 Q. Okay. Presumably that they would be following
10 appropriate safety practices in their plant?

11 MR. SATTERLEY: Object to the form of the
12 question.

13 A. No idea.

14 Q. Okay. And the claim that you had against R.T.
15 Vanderbilt, the lawsuit in which you gave the deposition, it
16 never went to court, did it?

17 A. No, I don't -- never went to court as far as I
18 know of. They just said we didn't have a claim, I guess.

19 MR. YOUNG: Thank you, sir. Appreciate you
20 coming to see us.

21 VIDEOGRAPHER: Conclude it or --

22

23 REDIRECT EXAMINATION BY MR. SATTERLEY:

24

25 Q. Let me just ask the question this way: You did,

1 with regards to your Workers' Compensation, you did get
2 compensated for your -- some compensation from the company,
3 though; correct?

4 MR. YOUNG: Object to the form of the
5 question.

6 A. Oh, I got compensation from the insurance carrier.

7 Q. The insurance carrier paid you benefits for your
8 lung disease?

9 A. Yeah, so much a week.

10 MR. YOUNG: Same objection.

11 MR. SATTERLEY: No further questions.

12 Anybody on the telephone have questions?

13 (No response.)

14 MR. SATTERLEY: With that, let's close the
15 deposition.

16 VIDEOGRAPHER: Testimony has concluded. We
17 are off the record at 10:49.

18 MR. SATTERLEY: We're off the video but the
19 witness just recalled Floyd's last name is
20 Mr. Robinson.

21

22

23

24

25

C E R T I F I C A T I O N

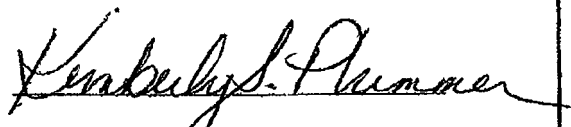
I, Kimberly S. Plummer, a Notary
Public for and within the State of New York, do
hereby certify that prior to the commencement
of the examination

THOMAS ROGERS

was sworn by me to testify to the truth, the
whole truth and nothing but truth.

I DO FURTHER CERTIFY that the
foregoing is a true and accurate transcript of
the testimony as taken stenographically by and
before me at the time, place and on the date
hereinbefore set forth.

I DO FURTHER CERTIFY that I am
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attorney, nor counsel for any of the parties to
this action and that I am neither a relative
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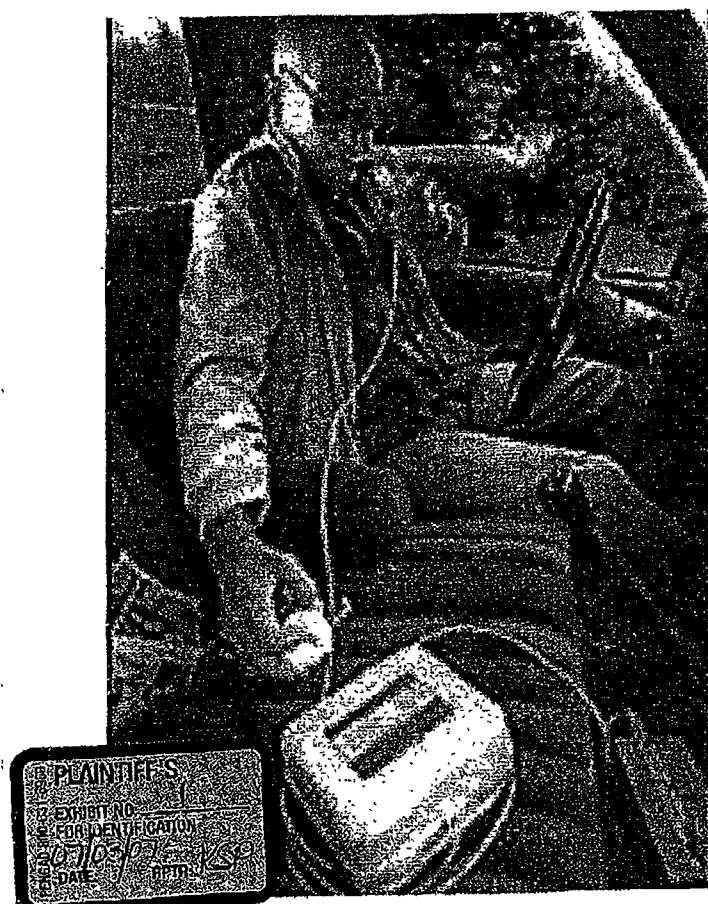
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3 accurate to the best of my knowledge and
4 belief.

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14 this _____ day
15 of _____, 2007.

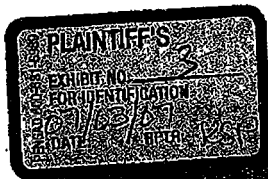
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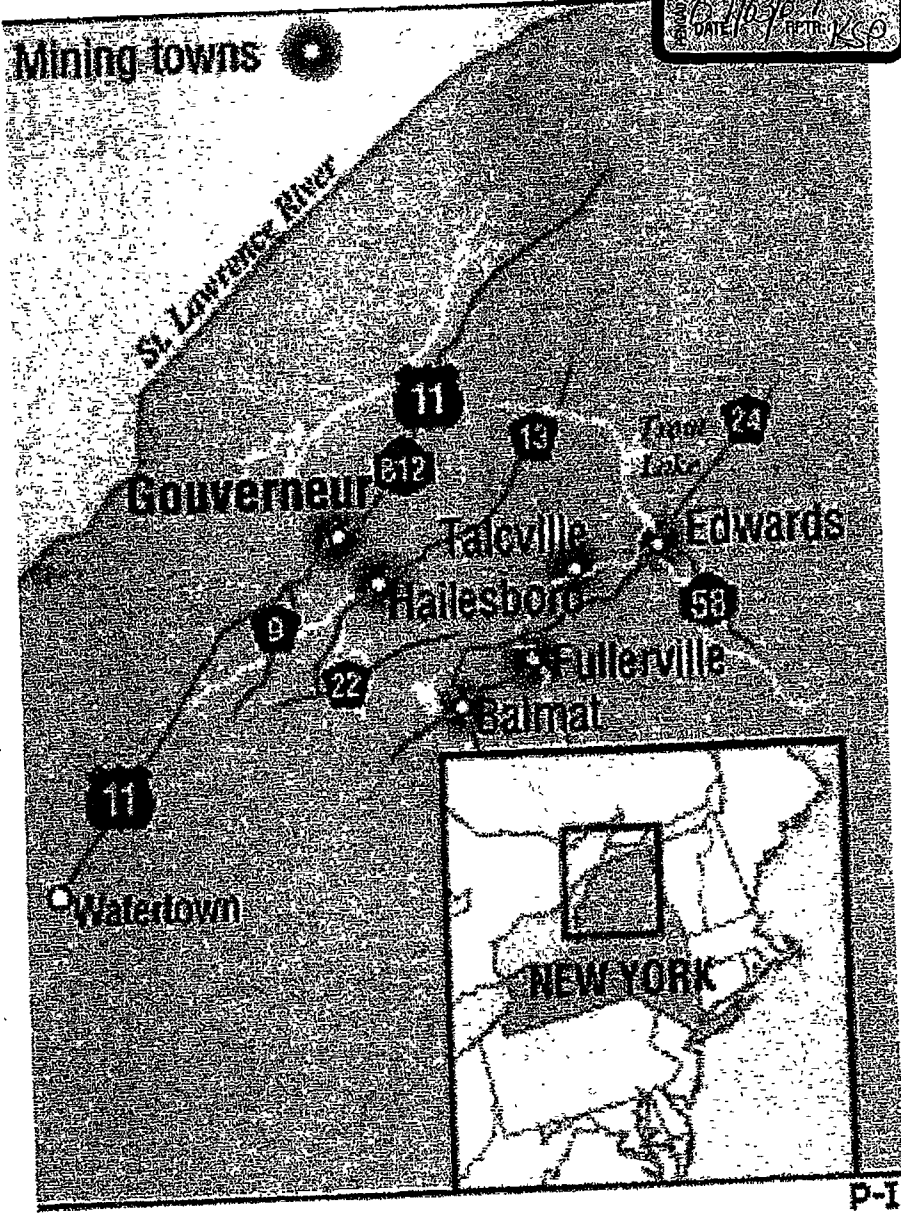


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