

FILE NAME: Premix-Marbletite (PMM)

DATE: 1987 Dec 15

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DOCUMENT DESCRIPTION: Legal - Deposition of John Cowie

ORIGINAL

IN RE: Twenty-two (22) Asbestos Cases Listed on
Attached Schedule

VIDEO DEPOSITION OF JOHN COWIE

Reported by:
Christine Sammaro, RPR, CM
December 15, 1987



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EXHIBIT

1

tabbies

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I N D E X

<u>WITNESS</u>	<u>EXAMINATION</u>	<u>PAGE NO.</u>
----------------	--------------------	-----------------

Called by the Defendant:

JOHN COWIE.....	Direct (Newman).....	5
	Cross (Erickson).....	39
	Cross (Petrine).....	72
	Recross (Erickson).....	86
	Redirect (Newman).....	88
	Recross (House).....	88
	Recross cont'd. (Erickson).....	89
	Recross cont'd. (Petrine).....	90
	Recross cont'd. (Erickson).....	91

Signature Page..... 93

Notarial Certificate..... 94

Lawyer's Notes

INDEX TO EXHIBITS

DEFENDANT'S EXHIBITS NOS. 1-7 FOR ID.,

Tr. P. 33

(Documents)

(Photocopy attached)

DEFENDANT'S EXHIBITS NOS. 8 FOR ID.,

Tr. P. 79

(Document)

(Photocopy attached)

Computer Assisted Transcription



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3 IN RE: Twenty-two (22) Asbestos Cases Listed on
4 Attached Schedule
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11 VIDEO DEPOSITION OF JOHN COWIE
12

13 PURSUANT TO NOTICE for the taking of the
14 deposition of JOHN COWIE, upon oral examination in the
15 above-styled cause, at the instance of the Defendant,
16 for the purposes of discovery or use at trial or both,
17 pursuant to Florida Rules of Civil Procedure,
18 proceedings therefor were held before Christine
19 Sammaro, Registered Professional Reporter, Certificate
20 of Merit, and Notary Public in and for the State of
21 Florida at large, at Polk County Courthouse, Winter
22 Haven, Florida, on December 15, 1987, commencing at
23 1:00 p.m.

24 THEREUPON, the following proceedings were
25 had and taken:



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1 MR. NEWMAN: My name is Frank Newman. I
2 represent the defendant Premix-Marbletite
3 Manufacturing Company and I will be asking questions
4 of Mr. Cowie on direct examination.

5 MS. TABAS: My name is Carolyn Tabas. I'm
6 from the Knecht & Knecht law firm, and I'm here on
7 behalf of American Energy.

8 MR. PETRINE: My name is Alan Petrina. I'm
9 with the law firm of Colson, Hicks, and Eidson from
10 Miami, and I represent the Dade County plaintiffs.

11 MR. ERICKSON: My name is Charles Erickson.
12 I represent the twenty-two plaintiffs in this action.
13 I'm from the law firm of Motley, Loadholt, Richardson
14 and Poole in South Carolina, and I will be
15 cross-examining Mr. Cowie.

16 MR. SPENGLER: Kurt Spengler from Hannah,
17 Marsee, Beik & Voght for the Wellington defendants.

18 MR. MORLAN: I'm Hal Morlan of the firm of
19 Baker and Hostetler representing Basic, Inc.

20 JOHN COWIE, called as a
21 witness by the Defendant, having been first
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION
24 By Frank Newman, Esq.

25 Q. Mr. Cowie, if --



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1 A. I'm too old to say anything else.

2 Q. Mr. Cowie, give us your full name and tell
3 us where you live, please.

4 A. Okay. My name is John Martin Cowie. I live
5 at 112 Patterson Drive, Auburndale, Florida.

6 Q. That's in Polk County, Florida, right?

7 A. In Polk County,

8 Q. Could you tell us what your age is?

9 A. Yeah. Eighty.

10 Q. What type of work are you in these days?

11 A. These days?

12 Q. Yes.

13 A. I'm bringing up kids. I go to football
14 games and, you know --

15 Q. You're not -- you're not otherwise engaged
16 in --

17 A. No. I'm not engaged in any money-making
18 thing. I'm personally retired. They say it's
19 retired, but I don't believe it really. Anybody
20 that's got two kids is not retired really. I'm
21 sorry. I should be looking at you.

22 Q. That's all right. Eighty years old. Where
23 were you born?

24 A. Scotland.

25 Q. When did you come to the United States?

1 material they call it Emathelite. Emathelite.

2 E-m-a-t-h-e-l-i-t-e.

3 Q. Okay. What was the -- what product was --

4 A. That is a Fuller's Earth. And I don't know
5 if anybody's familiar with Fuller's Earth. It's a
6 product that's used all over Europe instead of talcum
7 powder on babies.

8 Q. What is it used for?

9 A. It's used as a -- for slip, for -- to
10 alleviate the material to go through a pump.

11 Q. And in what products was that Emathelite
12 added to?

13 A. It was added to anybody that wanted to use a
14 pump material, which would be -- I'm talking about
15 stucco now. We hadn't developed any other at that
16 time.

17 Q. Well, later on --

18 A. Later on.

19 Q. -- did you develop any other new products?

20 A. Well, in 1970.

21 Q. At Marbletite. Not Premix, Marbletite. We
22 made the Snowflake.

23 Q. How do you -- tell us what Snowflake was
24 first?

25 A. Well, Snowflake is a material for use on the

1 interior of ceilings to -- in other words, -- what
2 would we call it?

3 Q. First of all, is it a stucco?

4 A. No.

5 Q. Is it a --

6 A. No, it's a material that we -- the dry wall
7 people were coming into the business and our trade was
8 completely changing. And I made two materials but I
9 made for -- with asbestos, as you say it, about two
10 percent. Two percent.

11 Q. In the Snowflake product?

12 A. In the Snowflake products.

13 Q. How do you recall the year that the
14 Snowflake was --

15 A. Well, that's quite easy. We only had bought
16 the -- late '69 we bought Marbletite.

17 Q. Okay.

18 A. I mean Premix.

19 Q. Let me stop you right there.

20 A. Louie Ferry had bought Premix in the
21 meantime.

22 Q. Now, not all these people know the names --
23 are familiar with the names that you're talking
24 about.

25 A. Oh, they aren't.



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1 Q. The name of the company that you went to
2 work for --

3 A. Was Premix Products.

4 Q. -- was Premix Products.

5 A. Yeah.

6 Q. Did there come a time after you went to work
7 for them when Premix acquired a company called
8 Marbletite?

9 A. Sixty -- the late '69.

10 Q. And where -- at what facility was the
11 product Snowflake manufactured?

12 A. At Marbletite. A young chemist and I made
13 it so, you know, we developed it together. I'm not
14 any genius. I don't want to get the idea, you know,
15 that --

16 Q. You had some help?

17 A. I had some help.

18 Q. How was Snowflake applied and to what part
19 of a building would it be applied?

20 A. It would be applied on the ceilings and the
21 interior. It was developed for the reason that the --
22 it was cheaper.

23 Q. Did the Premix company provide any of the
24 equipment used, the guns used to apply this --

25 A. They bought the guns at that time.



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1 Q. That is Premix --

2 A. Right.

3 Q. -- acquired another company?

4 A. We acquired another company out of
5 California that made the Glover Guns.

6 Q. After the Premix product was -- the
7 Snowflake product was introduced to the market, what
8 became the top two or three products of Premix?

9 A. Would be still Marblecrete. We changed the
10 name of Marblecote to Marblatite, and Snowflake.

11 Q. Did these products make up the bulk of the
12 sales of the company?

13 A. Well, I don't know exactly, but I know it
14 added quite a bit -- the Snowflake went over quite
15 good in the first two years.

16 Q. Now, did any of the stucco products -- when
17 you went to work for Premix in 1968 did any of the
18 stucco products contain asbestos?

19 A. No. To explain the reason why I added the
20 Emathelite, I never saw the advantage of using a very
21 expensive material asbestos in a stucco material.
22 Emathelite, which I had used in Europe, was under that
23 name, the Fuller's Earth it was always called.

24 Q. And that is --

25 A. And that is the only thing you can use in



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1 stucco. And I also took it down to Miami University
2 to have -- to see if it would strengthen when I used
3 it. And I found out it did. We didn't have that
4 knowledge in England at that time.

5 Q. As a plasterer -- as a working plasterer
6 with the tools, and as a foreman or supervisor, did
7 you ever see -- during the course of your career did
8 you ever see plasterers adding asbestos to a stucco
9 product?

10 A. Oh, definitely. All plasterers make their
11 own idea of what a material should be. Everyone --
12 they definitely have an idea. Don't all use
13 asbestos. Lots of them put lime more than what they
14 should. You know, they all want to make it easy. You
15 know, it slips better with all that lime.

16 Q. Going back to the Snowflake product, now,
17 that had a percentage of asbestos in it, did it not?

18 A. Yeah. I changed it to.

19 Q. But initially --

20 A. Initially it had asbestos in the amount of
21 two percent, if it was that amount, but I think it
22 approximately came out that way. There's thirteen
23 other materials in the Snowflake.

24 Q. Did there come a time when you sought to
25 remove the asbestos from these products?

1 A. Well, in 1974 the article came up in the
2 stucco manufacturer's bulletin about asbestos. At
3 that time I was looking for a new material to
4 substitute. I eventually found it in that year, 1974.
5 I think. Yeah, because I refreshed my memory on
6 that. It's called Hedmen fiber. I can tell you
7 that. And it's approved -- I had it approved by OSHA
8 and a letter to that effect from a gentleman up in
9 Atlanta. Gentry I think his name is. I'm not sure.
10 I'm not good on names. I sort of forget.

11 Q. So you --

12 A. And I changed it and I put that in all the
13 spray materials that were used in the interior. Now.
14 we also had the material PVL. I forgot that we had
15 that when I first went to Premix. And that was a
16 spray material made for the plasterer only.

17 Q. Okay.

18 A. But that was a lime product so that --

19 Q. Did that have any asbestos in it?

20 A. No. There's no need to put -- lime is a
21 material that slides if you -- you know, slips
22 anywhere, so it's a -- most of it was lime and the
23 aggregate could be -- comes out of the ground.

24 Q. Gypsum?

25 A. No. no. Perlite. Perlite. It's a



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1 mineral. That's put in there not so much for anything
2 but to give you a texture on the ceiling, that
3 everybody likes a little something -- I'm sorry, I'm
4 looking around. The guy warned me.

5 Q. By what year were -- was asbestos removed
6 from --

7 A. Well, as I said, I developed another
8 material. You know, I had other chemists come into --
9 I'm not a chemist. But I had other chemists that came
10 in there and they changed a lot of products around
11 during that period. But in the meantime I had a
12 position where I was quite free of anybody and I
13 decided to investigate what I wanted to put in there.
14 So when I got all the chemists out and everything
15 there and that was 1974.

16 Q. At the time that you changed the formulas in
17 1974 can you tell me what kind of inventories the
18 company was carrying at that time? Do you happen
19 to --

20 A. Well, on those products we didn't Keri that
21 very much of a product. I was making it up in the
22 Orlando plant. And at that time I went up there to
23 change that plant all around because in our business
24 cement and plaster products in the air can have a
25 tendency to set up some of the other products and



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1 contaminate. So we changed everything that was in
2 cement and down to the Miami plant and brought
3 everything up to Orlando. And there we made Snowflake
4 and everything else, so we made a material that's
5 called One Coat Veneer. And that's a substitute for
6 dry wall. It's put on another type of dry wall board,
7 gives a thin coat of plaster, about an eighth --

8 Q. Did that product have any asbestos in it?

9 A. No. There's no reason to use asbestos.
10 It's not going to burn. It doesn't burn. That's
11 about all you can use asbestos for.

12 Q. Now, I came up and visited with you in
13 October of this year; is that correct?

14 A. Yes.

15 Q. And at that time I asked you to look for any
16 letters or files or anything you may have --

17 A. Uh-hum.

18 Q. -- relative to the subject of this asbestos
19 litigation and you did that for me.

20 A. Yeah. I gave you a few.

21 Q. Okay. I'm going to ask you simply to
22 identify each of these documents for that purpose.
23 identification only, and just tell us briefly what
24 they are and how they got in your files and how long
25 they've been there.



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