

FILE NAME: Reichhold (REI)

DATE: 2012 Feb 14

DOC#: REI009

DOCUMENT DESCRIPTION: Legal-Excerpts from Testimony of TR Madden

IN THE SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

IN RE: Asbestos Litigation

Limited to:	Case No:	09C-01-021
Raymond Attwood	Case No:	09C-2-063
Duane Weaver	Case No:	08C-04-087
Alyce Riess	Case No:	09C-07-303
Anna Hartgrave		

Videotaped Deposition of Thomas R. Madden
February 14, 2012
At 10:00 a.m.

Taken At:
Sheraton Charlotte Airport
Charlotte, North Carolina

Corbett Reporting - A Veritext Company
300 Delaware Avenue - Suite 815
Wilmington, DE 19801

Reported by LeShaunda Cass-Byrd, CSR, RPR

1 Q. Okay. Now, in fact, in Mr. Meacham in his
2 letter dated April 30, 1980, I think you've got it as
3 Exhibit 15?

4 A. Yes, I do. Do you want it?

5 Q. Okay. You have it in front of you.
6 Mr. Meacham in his letter dated April 30, 1980, says
7 Reichhold was going to stop selling asbestos phenolic
8 molding compounds by the end of 1980, right?

9 A. Correct.

10 Q. And in fact, you have testified today that
11 Reichhold ceased the manufacture of
12 asbestos-containing phenolic molding compounds in
13 1980, correct?

14 A. Yes.

15 Q. And you've testified to this jury that
16 Reichhold stopped selling asbestos phenolic molding
17 compounds in 1980, true?

18 A. To the best of my knowledge, yes.

19 Q. But that is not true, is it, sir?

20 MS. SPARDONE: Object to form.

21 THE WITNESS: Why wouldn't it be?

22 Q. (By Mr. Thompson) Let me show you a
23 document I'll mark as Exhibit 21.

24 (Plaintiff Exhibit 21 was marked for

1 identification.)

2 Q. (By Mr. Thompson) And that is RI 00272
3 through 284. And take a few minutes and look at it,
4 and we'll go off the tape.

5 THE VIDEOGRAPHER: The time is
6 2:53 p.m. We are off the record.

7 (A recess was taken.)

8 THE VIDEOGRAPHER: The time is
9 2:54 p.m. We are on the record.

10 Q. (By Mr. Thompson) Mr. Madden, have you
11 seen Exhibit 14 before?

12 MS. SPARDONE: 21, I believe it is.

13 Q. (By Mr. Thompson) Excuse me, 21.

14 A. I've seen them both. Yes, sir, I have
15 seen -- I have seen 21, yes, sir.

16 Q. Have you seen Exhibit 21 before, sir?

17 A. Yes, I have.

18 Q. And what is it?

19 A. It's a -- appears to be a copy of an
20 Industrial Hygiene Survey. That was done at the
21 Carteret -- Reichhold Carteret facility. The report
22 is dated August 18th, 1981, and it gives the results
23 of air sampling tests, etc., at the -- well, this
24 is -- this is just a summary of the report. It was

1 written by Warren Townsend. It's his report of what
2 he saw during the day or days of his visit.

3 Q. And the date of the report is August 18,
4 1981?

5 A. Yes, it is, sir.

6 Q. And the date of sampling at the Carteret,
7 New Jersey, Reichhold Chemicals plant was June 25,
8 1981, and June 26, 1981, right?

9 A. That is correct.

10 Q. And that is a document that was in
11 Reichhold's files, true?

12 A. Yes, at one time or another, yes.

13 Q. And the subject is Asbestos Sampling,
14 June 25, 1981, and June 26, 1981, correct?

15 A. Yes, it is.

16 Q. And it states under sampling comments,
17 No. 3, Only Line D was using asbestos.

18 A. Yes.

19 Q. Line A, B and C were not using asbestos.
20 "Line" means production line, right?

21 A. Correct.

22 Q. So there was still asbestos product
23 manufacturing of phenolic molding compounds going on
24 six months later on in late June of 1981, correct?

1 A. What Line D was doing, looking at the bag
2 size and the amount of asbestos, that was a cleanup
3 batch, whatever bags were still in inventory of the
4 warehouse, they were...

5 Q. They wanted to use it up?

6 A. Get rid of it.

7 Q. Get rid of it. I mean, they were producing
8 products?

9 A. And producing scrap product.

10 Q. Producing scrap product? You don't know
11 that.

12 MS. SPARDONE: Object to form,
13 argumentative.

14 Q. (By Mr. Thompson) Where does it say in
15 Exhibit 21 that they were producing scrap product six
16 months after you testified Reichhold stopped making
17 asbestos phenolic molding compound?

18 MS. SPARDONE: Object to form.

19 THE WITNESS: Okay. The document
20 itself doesn't say that, but if you look at
21 the batch sizes and the amount they are
22 using, they are just using up the last of
23 the material to get it to go to the
24 landfill and work they were doing with it.

1 THE WITNESS: We chose that method to
2 do it.

3 Q. (By Mr. Thompson) You chose that method,
4 and in fact, The Hartford Insurance Company came by
5 and actually did asbestos product -- asbestos fiber
6 release sampling on the workers who were doing this
7 work? And that is, again, RI 00272 through 284. It's
8 Exhibit --

9 A. The document -- yeah, the document says
10 what it says.

11 Q. It's Exhibit 14, right?

12 A. Yes.

13 Q. And in fact, these workers were being
14 exposed to asbestos during this process six months
15 after the fact, only for the purpose, apparently, of
16 disposing of the material?

17 A. Let me just read --

18 MS. SPARDONE: Object to form, asked
19 and answered.

20 Q. (By Mr. Thompson) Is that correct?

21 MS. SPARDONE: Same objection.

22 THE WITNESS: Let me just say what
23 the conclusion is, so that may clear the
24 record. It says, air sampling. I'm

1 looking at 0000273. Conclusion? Air
2 sampling, the data sheet summary indicates
3 that all TWAs were below the standard of
4 two fibers, longer than 5 millimeters per
5 cubic centimeter stated in the OSHA
6 standard.

7 So therefore, the individuals were
8 following standard procedure, which was at
9 all times that they were handling raw
10 asbestos, regardless of the atmosphere,
11 which was well below the OSHA standard,
12 that they were aware of respiratory
13 protection, and in fact, all of the samples
14 that he took that day, wherever he took
15 them, were below the TWA, so the workers
16 were not being exposed to asbestos fibers
17 in excess of what this standard allowed --

18 Q. (By Mr. Thompson) And I asked you --

19 A. -- if at all.

20 Q. I asked you if they were being exposed to
21 asbestos fibers, and the answer would be yes.

22 A. I just --

23 MS. SPARDONE: Object to form.

24 THE WITNESS: -- stated my answer.

1 Q. (By Mr. Thompson) Were they exposed to
2 asbestos fibers?

3 MS. SPARDONE: Object to form, asked
4 and answered.

5 THE WITNESS: The document speaks for
6 itself. That is my answer to it.

7 Q. (By Mr. Thompson) Is it a yes or a no?

8 MS. SPARDONE: Same objection,
9 argumentative.

10 THE WITNESS: No.

11 Q. (By Mr. Thompson) The workers were not
12 exposed to asbestos, and that's the conclusion in
13 Exhibit 21?

14 A. That's -- that is the way I understand it.

15 Q. You are talking about below certain levels?

16 A. Correct.

17 Q. They were exposed to asbestos?

18 A. We would have to go through each and every
19 one of these.

20 Q. We can do that.

21 A. And the fellows that were handling the
22 material were not, in fact, exposed because they were
23 wearing aspirators.

24 Q. They stated they were surprised -- in fact,

1 in the document, the investigator for Hartford
2 Insurance states that it was surprised to find
3 asbestos concentrations in all of the lines, even
4 though Reichhold represented that they weren't using
5 asbestos anymore, true?

6 MS. SPARDONE: Object to form.

7 THE WITNESS: Correct. That is the
8 statement, what he said.

9 Q. (By Mr. Thompson) Let's flip to Page 278
10 of the document. That is Bates stamp number 278.

11 A. (Witness complies.)

12 Q. The first sample is of an individual
13 working on Lines A and B, true?

14 A. Yes.

15 Q. Okay. Was molding operation location. Are
16 you seeing that?

17 A. Yes. I'm sorry.

18 Q. Now, molding Compounds, Building 406; do
19 you see that?

20 A. Yes.

21 Q. First half Man A and B, do you see that?

22 A. Yes.

23 Q. And the first sample they found 75,000
24 asbestos fibers. Do you see that?

1 A. Yes.

2 Q. The second sample of the same person on
3 Lines A and B they found 55,000 asbestos fibers. Do
4 you see that?

5 A. Yes, under that column. But I would point
6 out there is additional information contained on this
7 sheet.

8 Q. Well, the second sample of the same person
9 on Lines A and B -- and by the way, Lines A and B were
10 not actually the lines that were manufacturing the
11 asbestos phenolic molding compound material, it was
12 Line D, correct?

13 A. Correct.

14 Q. So they are finding 75,000 fibers on one
15 man on Line A and B, and the same guy they find 55,000
16 asbestos fibers, correct?

17 A. That is correct.

18 Q. And the third sample, the same individual
19 on Lines A and B, they find 43,000 asbestos fibers,
20 true?

21 A. Correct.

22 Q. The fourth sample on Lines A and B, they
23 find 22,000 asbestos fibers, right?

24 A. Correct.

1 Q. Flip to the next page, please, Mr. Madden,
2 Page C.

3 A. Is that 79 --

4 Q. 79, Line C, I'm sorry.

5 A. Yes.

6 Q. This is an individual working on Line C,
7 correct?

8 A. Correct.

9 Q. And this would have been on June 25, 26,
10 1981, right?

11 A. It's marked June 25th, 1981, yes.

12 Q. Okay. And the first sample test they found
13 40,000 asbestos fibers on that man?

14 A. Correct.

15 Q. And the second sample they found 42,000
16 asbestos fibers, right?

17 A. In the sample, yes.

18 Q. And the third sample they found 36,000
19 asbestos fibers on the man, correct?

20 A. Correct.

21 Q. And the fourth sample they found 32,000
22 asbestos samples, right?

23 A. Yes.

24 Q. And that is for a product line that was not

1 even manufacturing the asbestos phenolic molding,
2 correct?

3 MS. SPARDONE: Object to form, asked
4 and answered.

5 Q. (By Mr. Thompson) That is correct?

6 A. Correct.

7 Q. Let's look at the next page.

8 A. (Witness complies.)

9 Q. This is an individual who was on Line B,
10 which you've told us was not using asbestos, right?

11 A. Correct.

12 Q. The first sample found 61,000 asbestos
13 fibers, correct?

14 A. I'm sorry, the first one I read was 52.
15 What's the Bates number? I'm sorry.

16 Q. The Bates stamp would have been the next
17 page. I can --

18 MS. SPARDONE: 280.

19 MR. THOMPSON: 280.

20 THE WITNESS: Oh, 280. Okay. I'm
21 sorry. I missed a page. No, you're right.

22 Q. (By Mr. Thompson) No, that is all right.

23 So the first sample found 61,000 asbestos
24 fibers, correct?

