

IN THE UNITED STATES DISTRICT COURT WITHIN
AND FOR THE EASTERN DIVISION OF THE
EASTERN JUDICIAL DISTRICT OF MISSOURI.

FILED

NOV 15 1952

John J. O'Leary
CLERK

FEE, JAMES,

Plaintiff,

vs.

THE RUBEROID CO.,
a corporation,

Defendant.

No. 8864 (2)

PLF. ☐ DEF. ☒

EXHIBIT NO. DL-27

DEPO OF: Wm. O'Leary

DATE: 3-30-82

DEFENDANT'S ANSWER.

For answer to plaintiff's petition defendant states:

I

1. Defendant admits the averments set forth in paragraph 1 of the petition.

2. Defendant admits that plaintiff was employed as a laborer in defendant's plant in the City of St. Louis, Missouri, from the early part of the year 1943 until the early part of the year 1952.

3. Defendant denies each and every allegation set forth in plaintiff's petition which is not hereinabove expressly admitted.

II

1. Defendant states that at all times mentioned in plaintiff's petition, and for a long time theretofore, defendant was a major employer under the terms of the Missouri Workmen's Compensation Law, Chapter 287, Sections 287.010 et seq., Missouri Revised Statutes, 1949, in that defendant at all said times had more than ten employees regularly employed; that defendant duly elected to accept the occupational disease section of said law, Section 287.020, M.R.S. 1949,

PLAINTIFF'S
EXHIBIT

tabbles WV-009126

PLAINTIFF'S
EXHIBIT

tabbles 01360.00

by filing with the Missouri Workmen's Compensation Commission, (now Division of Workmen's Compensation) created by said law, a written notice of its said election, and defendant posted in conspicuous places in its said plant and on its premises notices of said election furnished by said commission; and defendant states that it was at all said times a duly qualified self-insurer under said Missouri Workmen's Compensation Law.

2. Defendant states that the plaintiff at the time he filed this suit and at all times mentioned in his petition well knew that the defendant had elected to accept the occupational disease section of the Missouri Workmen's Compensation Law, and defendant states that plaintiff at no time filed with the Missouri Workmen's Compensation Commission or the Division of Workmen's Compensation any notice that he elected to reject the Missouri Workmen's Compensation Law or said occupational disease section thereof, and that both plaintiff and defendant were at all times mentioned in plaintiff's petition bound by the provisions of said law.

3. Defendant states that if the plaintiff contracted an occupational illness or disease as the result of his employment in defendant's plant, as he alleges, his sole and exclusive right of recovery therefor was and is by means of a claim before the Division of Workmen's Compensation, of the Department of Labor and Industrial Relations of Missouri, as in said law provided, and that he has no right to maintain this suit.

III

1. Defendant states that on or about the 21st day of May, 1952, plaintiff filed with the Division of Workmen's Compensation, Department of Labor and Industrial Relations

of Missouri, a claim wherein he asserted that he had contracted an occupational disease, namely silicosis and asbestosis, arising out of and in the course of his employment by defendant, and prayed compensation therefor.

2. That a true copy of said claim is attached to and is hereby made a part of this answer.

3. That the plaintiff thereby made an election to seek recovery for said alleged occupational disease under the Missouri Workmen's Compensation Law, and by the method of recovery in said law prescribed, by which election the plaintiff is bound, and defendant therefore states that plaintiff has no right to maintain this suit.

WHEREFORE, having fully answered, defendant prays to be hence dismissed with its costs.

John S. Marsalek
(John S. Marsalek)
MOSER, MARSALEK, CARPENTER, CLEARY & CARTER
Attorneys for defendant.
330 Pierce Building,
St. Louis 2, Missouri.
GARfield 5365.

The foregoing answer was served upon plaintiff this 14th day of November, 1952, by mailing a copy thereof to Milton R. Fox and Courtney S. Goodman, 722 Chestnut Street, St. Louis 1, Missouri, his attorneys of record.

John S. Marsalek
Attorney for defendant.



BEFORE THE RUBEROID CO
Division of Workmen's Compensation
Department of Labor and Industrial Relations
JEFFERSON CITY, MISSOURI

Injury No. _____
(DO NOT FILL IN)
Rec. Ack. Form _____
County _____
Place of Hearing _____
Checked by _____

Claim for Compensation

(To be sent to the Division at Jefferson City, Missouri, within one year after the date of death, or from the date of the last payment of compensation.)

NOTE: Send one copy for the Division and one copy for each employer and insurer.

Use only when employer or insurer finally refuses or neglects to pay compensation.

GIVE HOUSE NUMBER, STREET, CITY AND STATE IN ALL ADDRESSES

1. Claim is hereby made as follows for compensation as provided in the Missouri Workmen's Compensation Law, for personal injury (or death) the employee by accident arising out of and in the course of his employment, both employer and employee having elected to accept the law before and at the time of the accident.
2. Names and addresses of all claimants: Joe Jones

922 Cook Ave., East St. Louis, Illinois

3. Names and addresses of all employers: Ruberoid Company

9215 Riverview Drive, St. Louis, Missouri

4. Names and addresses of all insurers: Self

5. Injured employee's name: Joe Jones
6. Average weekly wage: \$60.00

7. Date of injury: about March, 1932
8. Date: _____

9. Place of accident: Riverview Drive St. Louis, Mo.

10. Did injury result in death? No If so, answer questions 24 and 25 on the reverse side hereof.

11. Parts of body injured: Chest, lungs, nose, bronchial tubes, and throat.

12. Weeks of temporary disability to date: _____
13. Weeks of probable future temporary disability: unknown

14. Exact nature of any permanent injury: To be determined.

15. How accident happened, cause, and work employee was doing for employer at the time:

While working as a bookman and stocker, claimant contracted
edema, and asbestosis.

16. Additional statements: (See reverse side hereof.)

17. Total compensation paid to date: \$1,000

18. Date: May 10, 1932

19. Claimant's name: Joe Jones
20. Attorney: John J. Jones

21. Agent: John J. Jones

22. Total value compensation claimed: \$10,000

23. Claimant's Signature: Joe Jones

24. By: _____

25. Date: _____

NOTE: LAW IS MUST BE SIGNED - NOT TYPED

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN
AND FOR THE EASTERN DIVISION OF THE EASTERN
JUDICIAL DISTRICT OF MISSOURI.

FEE JAMES,

Plaintiff,

-vs-

THE RUBBEROID COMPANY,
a corporation,

Defendant.

No. 8864.

FILED

MAR 12 1953

James F. O'Connor
CLERK

Deposition of FEE JAMES.

PLF. ☐ DEF. ☒ ☐
EXHIBIT NO. DL 6
(FOR ID)
DEPO OF: Mr. O'Leary
DATE: 3-30-82

GORE REPORTING CO.
220 N. FOURTH STREET
ST. LOUIS 2, MO.

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN
AND FOR THE EASTERN DIVISION OF THE EASTERN
JUDICIAL DISTRICT OF MISSOURI.

FEE JAMES,

Plaintiff,

-VS--

THE RUBEROID COMPANY,
a corporation,

Defendant.

No. 8864.

DEPOSITION OF WITNESS taken to be used in an action pending in the District Court of the United States within and for the Eastern Division of the Eastern Judicial District of Missouri, wherein Fee James is plaintiff and The Ruberoid Company, a corporation, is defendant, pursuant to agreement, under the provisions of the Rules of Civil Procedure, taken on the 11th day of February, A. D. 1953, at the law offices of Messrs. Moser, Marsalek, Carpenter, Cleary & Carter, Suite 330 Pierce Building, 112 North Fourth Street, in the City of St. Louis, State of Missouri, before Thomas T. Gore, a Notary Public within and for the County of St. Louis, State of Missouri.

The plaintiff, Fee James, appeared by his attorney, Courtney S. Goodman, Esq.

The defendant, The Ruberoid Company, a corporation, appeared by its attorneys, Messrs. Moser, Marsalek, Carpenter, Cleary & Carter, by John S. Marsalek, Esq., and Charles F. Luke, Esq.

FEE JAMES,

of lawful age, having been first duly sworn to testify the truth, the whole truth and nothing but the truth in the case aforesaid, deposes and says in reply to oral interrogatories propounded as follows, to-wit:

QUESTIONS BY MR. MARSALEX:

Q Will you state your full name, please, Mr. James?

A Fee James; F-e-e James, J-a-m-e-s; 928 Cook, East St. Louis, Illinois.

Q Your age? A Forty-eight.

Q Are you married or single? A Married.

Q What is your wife's name? A Queen E. James.

Q Are you living with Mrs. James at this time?

A Yes, sir.

Q Do you have any children, Mr. James?

A Yes, sir.

Q How many? A Well, you want the grown ones, them what is married?

Q How many altogether? A I got eight.

Q And are any of them grown and married and living by themselves? A Yes, sir, two of them is.

Q Are the other six living withyou?

A Yes, sir.

Q Would you mind giving me the names and ages of those children who are living withyou?

A Yes, sir; I can give you them.

Q What is it? A Zola, Z-o-l-a, James.

Q How old is she? A She is twenty.

Q And what is the next one? A Bertha James.

Q How old is she? A Sixteen.

Q Is she working? A No, she is in school.

Q What is the next one? A Eunistine,

E-u-n-i-s-t-i-n-e, James.

Q How old is she? A She is thirteen.

Q Also going to school? A Yes, sir.

Q What is the next one? A Laura M. James,

Laura Mae James.

Q How old is Laura? A She is twelve.

Q Is she going to school? A Yes, sir.

Q What is the next one? A Rose Marie.

Q And how old is she? A Nine.

Q Going to school? A Yes, sir.

Q What is the next one? A Shirley Ann.

Q How old is Shirley? A Seven.

Q And she is going to school, too?

A Yes, sir.

Q The other two are married and gone?

A My son, he is married, but my daughter, she is not married, but she is gone.

Q She is not living with you? A No.

Q Where were you born, Mr. James?

A Columbus, Mississippi.

Q Is Zola Working?

A She is not working, no.

Q How old were you when you left Columbus?

A I left in '43.

Q Maybe you can tell us what year it was you left.

A I left Columbus in January of 1943.

Q Before you left Columbus what work had you been doing down there?

A Well, I worked at the refuse oil mill.

Q What kind of work was that that you were doing?

A Well, I was a conveyor man.

Q What sort of oil is that?

A Well, they made cotton seed meal and oil, and cotton seed oil I guess is what it is, something like that.

Q Where else did you work down there around Mississippi?

A I worked for the G. M. & O.

Q What did you do for them?

A For the railroad.

Q What did you do for the G. M. & O.?

A On the section.

Q What else?

A Well, I worked a while on the -- I mean for the Columbus Flying Base, at the air base, and that was in '42.

Q What did you do at the air base?

A Well, I labored there; I was a laborer.

Q Were you ever in the Army? A No.

Q Or any of the other military service, Navy, or anything of that kind? A No.

Q Were you examined to go into the Army?

A No.

Q Never did call you? A No. They said I had too many kids.

Q I didn't hear you. A They told me I had too many kids, they didn't want me, I guess. That is what they said.

Q Then when you left Columbus did you come right up here to St. Louis? A Yes, sir.

Q And where did you go to work here in St. Louis?

A Industrial Bank, 901 Washington Avenue, Mr. Arthur Blumeyer.

Q What did you do there? A Janitor.

Q How long were you at the Industrial Bank?

A Well, I was there ^{from} January, when I started, until April, I went out to Ruberoid April 12th; until about April 10th, I think, something like that.

Q April 12th you went to Ruberoid?

A Yes, sir.

Q Before you ever went to Ruberoid were you ever treated by any doctor for anything, Fee?

A No.

Q Never had been treated by a doctor?

A Never had been treated by a doctor.

Q Were you ever examined by a doctor for anything before you went to Ruberoid? A No. I never was examined by a doctor before I went to Ruberoid.

Q Are your parents living? A My daddy.

Q When did your mother die? Do you know?

A She died in 1911, is what was told me.

Q Do you know what from? A Childbirth.

Q And your father is still living? A Yes, sir.

Q Is he in good health? A Yes.

Q Where does he live? A He lives in St.

Louis here.

Q In St. Louis where? A I don't know exactly the address. He gets a room and moves different places. Of course, I could pretty near get in touch with him soon and call back and tell you where he was.

Q Does he work? A No; he is on a pension.

Q Do you have any brothers, Fee? A Yes, sir.

Q How many? A I have two.

Q And are they in St. Louis? A One.

Q What is his name? A Calvin James.

Q What does he do? A He works at the Industrial Bank, 901 Washington.

Q What doing? A Janitor.

Q Is he in good health?

A Yes, sir.

Q What is the other brother's name?

A Allen James, Jr.

Q Where does he live?

A He lives in Columbus, Mississippi.

Q Do you know what he does?

A Well, he was farming the last time I was in contact with him, he was farming.

Q As far as you know, is he in good health?

A What?

Q As far as you know, is he in good health?

A As far as I know. My brother called me the other day and told me he got a letter from him and he was in good health. That was Sunday.

Q Do you have any sisters?

A Yes, sir.

Q How many?

A I had two.

Q Are either of them in St. Louis?

A No.

Q Where are they? Down in Columbus?

A One is dead and the other one is in Los Angeles, California.

Q The one who died, where did she die?

A She died here.

Q Was she married?

A Yes.

Q What was her married name?

A Well, I wasn't acquainted with her husband; I don't know.

Q What was her first name? A Callie James,
C-a-l-l-i-e.

Q Do you know what she died of?

A No, I don't.

Q Did she ever live with you? A Only when we
were kids, is all.

Q Callie, I mean. A Yes, sir, raised up to-
gether.

Q I mean since you come to St. Louis.

A No. I was down south when she died.

Q Oh, she came up here before you did?

A Yes, sir.

Q And died before you got here? A And died
before I came here, yes, sir. That has been quite a while
since I seen her.

Q Your sister in California, is she in good health?
Do you know? A Yes, sir.

Q What is her first name? A Sue Willie James.
She is married; her name is S-u-m-p-t-e-r.

Q Do you know whether she is in good health?

A She was the last time I heard from her.

Q What is the condition of your wife's health?

A Fine.

Q Has she ever been in a hospital? A Yes.

Q Since you married her? A Yes, sir.

Q What for? A Well, she had pneumonia.

Q Pneumonia? A Yes, sir, and then she was with a child; but, anyway, she didn't die from it, anyway, she didn't birth the child at the hospital, either, when she was there; they found she had pneumonia, and she was in St. Mary's.

Q What hospital was that? A St. Mary's Hospital.

Q Which one? A In St. Louis, Infirmary.

Q St. Mary's Infirmary? A Yes, sir.

Q And when was that? A I don't know whether it was in '43 or '44, to be frank; I don't know the years.

Q Do you know how long she was in there?

A I don't know whether seven or fourteen days; between that time.

Q Seven or fourteen days? A Yes, sir, between seven and fourteen days.

Q After she got out, how was she?

A She was in excellent health and give birth to two kids.

Q She has been in good health since then?

A Yes, sir, her health is excellent.

Q Is that the only time she was ever in the hospital?

A Yes, sir.

Q Has your wife ever had any lung disease?

A No.

Q Never has? A No.

Q Never treated for anything like that?

A No.

Q How about the children? A No.

Q Have any of the children had any lung disease of any kind? A No.

Q Have you ever lived with anybody who had a lung disease?

A No.

Q At any time, I mean. A No.

Q When you went to work for the Ruberoid Company, did you have a medical examination? A Yes, sir.

Q Do you know who that was that examined you?

A Well, a company doctor.

Q Then after that did you have any other, while you were working for Ruberoid, did you go to any doctor at any time for anything?

A Yes; when I was failing in health.

Q Who did you go to? A I went to Dr. Satterfield.

Q Anybody else? A And I went to Dr. Little.

Q Did you go to Dr. Little before you went to Dr. Satterfield? A Yes.

Q How did you come to go to Dr. Little?

A Well, I was just feeling awful bad and just felt tired, and I went to him.

Q Do you know when that was you went to Dr. Little?

A I wouldn't know exactly what year; somewhere around

about '45 or '46.

Q How long were you under his care?

A Well, I wasn't under it very long; I got a few treatments from him.

Q How is that?

A A few treatments from him.

Q And did he make any x-rays of you?

A No.

Q Did he send you anywhere for x-rays?

A No.

Q After this treatment by Dr. Little, then how long was it before you saw this Dr. Satterfield?

A Oh, I guess about a couple of years.

Q That would be maybe in '47 or '48 or '49?

A Probably '47 or '48, because I just couldn't tell you the exact year, but I didn't put it down, but what I am saying is true.

Q Why did you go to him?

A I was just -- I felt like I was all tired and I was having short breath, and I just was -- I just felt all out, just worn out.

Q All right.

A And also I was coughing.

Q And how long were you under Dr. Satterfield's care?

A Well, up until '48.

Q About how long altogether were you under his care?

A Well, I guess around about -- oh, well, I considered him my family doctor at that time, and I used him around about two years, I guess in there.

Q During that two years what did Dr. Satterfield do for you?

A Well, I felt fairly good, and then sometimes I didn't, and, however, he wrote me a strip to take to my employer, which was the Ruberoid Company, and I taken it but there and at that time I was on the beater floor, and that very same day I taken the strip out there they moved me off the beater floor down on the first floor in the manufacturing department.

Q Did Dr. Satterfield have any x-rays made?

A He had one.

Q Where was that made? At his office?

A He referred me to Dr. Teiber.

Q Dr. Teiber? A Teiber; that is at Compton and Washington. I am pretty sure that is where he is at. I could get it in the directory.

Q Compton and Washington? A Yes, sir.

Q Did Dr. Little tell you what the trouble was with you?

A No.

Q He didn't give you any idea what your difficulty was?

A No, he didn't.

Q Did Dr. Satterfield? A No, he didn't.

Q Did you ask them what was ailing you?

A No, I never asked them anything about what was ailing me, or nothing. I just tell him my condition and he would give me a physical examination and give me something, sent me for

an x-ray and after that he given me a paper to take to the company.

Q When he gave you that paper, did he tell you anything about your condition being caused by your work?

A No.

Q Why did he give you a paper to take to your boss?

Do you know?

A I wouldn't know why he give me a paper to take there. I guess maybe -- I wouldn't guess, because I don't know. He didn't tell me and so I just did what he told me to do, and I know what happened after I give them the paper, I know what happened after that.

Q Did you read that paper?

A I couldn't read it; I didn't know what was on there.

Q After that, after you were treated by this Dr. Satterfield, did you then go to some other doctor later?

A Well, I went out sometime to Phillips, out to the clinic, out at Homer Phillips.

Q Do you remember when you first went to Homer Phillips?

A I don't exactly know, no.

Q Was that after you left Dr. Satterfield?

A Well, that was sometime during the time, and I also had an operation for appendix.

Q Was that at Homer Phillips?

A Yes, sir, in

'47.

Q At that time did they make x-rays of you, too?

A At Phillips?

Q Yes.

A Yes, they did. I don't know exactly at the present time when I was operated for the appendix, but an x-ray has been taken of me out at the Phillips Hospital.

Q Did they tell you what was wrong with you?

A No, they did not.

Q Did you ever see your hospital record at Homer Phillips Hospital?

A No. I don't think they do anything like that, show a record like that to a patient.

Q Then after you had gone to Dr. Satterfield and to Homer Phillips, what is the next doctor or hospital you were at?

A The next doctor was Dr. -- let's see; fifteen hundred something ---

Q Well, where was the next doctor you saw? Here in St. Louis or in East St. Louis?

A In East St. Louis. It was Dr. ---

Q Dr. Gueno? A Gueno, yes.

Q When did you go to him, about? A March 1st.

Q What year? A '52.

Q Why did you go to Dr. Gueno? A Well, I was just all down, I couldn't go any further, I just was all washed up, sick and tired out, and short of wind, and I couldn't rest, and I couldn't climb a stair, I couldn't walk a block, and I would throw up, and nothing would stay on my stomach, and ---

Q When you couldn't walk a block, was that because you were weak?

A I were weak, and I was short -- my wind was short, it wouldn't allow me to, and I am still under treatment by Dr. Gueno. March 1, 1952, up until now.

Q Fee, has Dr. Gueno made any x-rays of you or had anybody else make x-rays?

A Yes, sir.

Q Who did he have make x-rays?

A Dr. Bihss, Francis E. Bihss.

Q Is that doctor in East St. Louis?

A Yes, sir, he is in East St. Louis.

Q Did this doctor make x-rays of you more than once?

A Yes, sir.

Q About how many times?

A He made it two times.

Q Have you seen any other doctors than Dr. Gueno and Dr. Bihss since you left the Ruberoid plant?

A Yes.

Q What other doctors?

A Dr. Murphy.

Q Dr. John C. Murphy?

A I guess that is his name.

Q He had an x-ray made of you?

A Yes, sir.

Q How did you come to go to Dr. Murphy?

A Through my lawyer.

Q By Mr. Goodman?

A Yes, sir.

Q Were you in the Barnard Skin and Cancer Hospital at one time?

A No, I wasn't in there. I went

there for -- I went there, however, but I wasn't in there.

They didn't keep me; they just looked me over and sent me home.

Q Did they make any x-rays of you there?

A No. You mean did they make an x-ray of me there?

Yes, they did. They did, yes.

Q Do you know what part of you they x-rayed?

A They x-rayed my chest and, however, I had my nose here was irritated and, however, my doctor referred me that dust was the cause of it, eating inside lining out of my nose, and that is what I went there for, to the skin and cancer hospital, and after I was there the doctor give me a close examination and then he referred me to get an x-ray. No one referred me to there for the x-ray, but I was referred there by the company doctor for my nose, he told me to go there.

Q Do you say the company told you that this irritation of your nose was due to the dust?

A ~~Yes~~. No. I had a little sore started in my nose and, however, I went in to the nurse for first aid and she looked at it and told me she would let the doctor look at one morning, he would be in there, and she told me to stop by one morning, and I stopped by and he looked at my head and looked at it and didn't do anything but told me to go out to the skin and cancer hospital, and that is what I did.

Q Did you make any complaint at the Ruberoid company that anything that you were working with, either dust or anything of

that kind was doing you any harm?

A Well, no, I didn't. I didn't make any kind of a complaint to them, but I was going to my family doctor and I just kept feeling bad, and I would ask him about giving me an examination. However, I asked my committeeman, when he went in, and asked them about giving me -- I mean an examination, and he went in and asked them.

Q Asked the company to have you examined?

A That is right, yes.

Q Why did you have your committeeman ask the company to have you examined?

A Because I had asked them, myself, and they had failed to do it. I was being sick and feeling awful bad, and just losing weight and shortness of breath, and I wanted them to know something about it. In fact, I wanted them to do something about it.

Q Did you think it was due or caused by your work?

A I did not know what it was, what was the cause.

Q Who was this committeeman you speak of?

A One was Roy Puertwanger.

Q Does he have something to do with the union?

A Yes, sir; he was our committeeman at that time.

Q Shop steward?

A Well, twelve men on a committee and shop -- well, he is shop steward and committeeman, and Joe Reed, that was another one, he was our president at the time.

Q Joe Reed?

A Yes.

Q You did go to the company clinic quite frequently, didn't you? A No.

Q Didn't you go to the company clinic and get medicine and ask them for medicine for one thing and another?

A Is that what you mean? Yes, I would go there sometimes and get -- they have a liniment, you know, if you had a little wound or something like that, or a -- just anything, kind of a sprain, I would get something for that.

Q Didn't you go there for a cough and tell them you had a cough and they would give you a cough medicine?

A Well, if I needed a cough syrup or a common cold, or probably sick, I would stop by the office and get some cough medicine.

Q You mean at the company clinic? A Yes, sir.

Q Did you ever see the doctor there at the company clinic?

A Oh, I never was examined there but once -- I mean twice or three times, at the highest, by the company, the whole time I was there.

Q Were you ever examined by any other doctor for the company while you worked there, other than at the clinic?

A Well, Dr. Westerman, when he was the company doctor, he was out, I don't know whether on a vacation or what, but they sent me, the company did, to a doctor which was a substitute in his place down on St. Louis Avenue. I don't know what number.

Q Did you see that doctor on St. Louis Avenue more than

once? A One time, once. That includes the times, what I mean the three times I was examined by the company.

Q What other doctor examined you for the company, other than this doctor on St. Louis Avenue?

A No other doctor examined me for the company, outside of the once Dr. Westerman, and I forget the one name when I first started.

Q Westerman? A Westerman.

Q Did he examine you for the company?

A Well, I say that fellow must have been substituting for him.

Q In other words, Dr. Westerman didn't examine you?

A He didn't.

Q Do you remember Dr. Yost? Did he examine you?

A I remember another doctor, but I couldn't give you his name. I don't know his name. Probably he may have been the man that examined me the second time. I knew Dr. Westerman and the first one they had, but I didn't know the last doctor, I didn't know him by name. I just only seen him, that is all.

Q Did they have a doctor at the clinic at these different times when you went there, when you say you would have a bruise or a scratch or an injury of some kind you would go to the clinic, would there be a doctor there?

A No. He has certain days, as far as I know, certain days ---

Q He would be there some days and not other days?

A Yes, sir. He wasn't there but just that one part time, when the nurse told me, consulting about my nose, when I had an irritation in my nose, and she told me what day to stop by and she would have him there to look at my nose, and which that was done.

Q Have you been confined to any hospital since you left the Ruberoid Company?

A No. While I was at the Ruberoid Company I was in the Phillips Hospital, operated on for appendix while I was there in the service, at the hospital, I was operated on for the appendix.

Q Is that the last hospital you were in?

A Yes, sir.

Q The Phillips Hospital, in 1947, for appendicitis?

A Yes, that is the first and last.

Q Do you remember how long you were in the Phillips Hospital that time?

A I don't know. Between nine and eleven days.

Q Have you done any work since you left the Ruberoid Company?

A No, sir.

Q Have you tried to work anywhere?

A My doctor,--I wasn't able to work as far as I know by my feeling. I wasn't able to work, and my doctor, I would ask him about it sometimes and what he thought about my working condition, and he said, "Mr. James," he says, "You are not

able to work and I am not going to release you."

Q What doctor is that?

A Dr. Gueno, 1228

Piggott.

Q And then I assume from that you haven't gone anywhere and applied for work anywhere, have you?

A No, sir.

Q Have you earned any money since you left Ruberoid?

A No money at all.

Q Could you tell us what work you did at Ruberoid?

A Yes.

Q What work did you do?

A Well, I first was a beater man.

Q How long were you a beater man?

A Well, about between three and four years, something like that.

Q And then what were you?

A Well, I was a stacker.

Q A stacker for the rest of the time you worked there?

A Well, they had different odd jobs, but it would be just like if they have to move up, you would be moved up and maybe released by a month, and maybe set back, the material they would have a lot on hand and laid off and bumped back on, and probably be a stacker.

Q You mean you would shift from one job to another?

A Yes, sir.

Q You didn't stay on the beater man job continuously,

you would work on that a while and work on something else a while?

A Yes, sir; but I was more constantly on that beater job for three or four years, I know constantly more on that than anything else.

Q For the first three or four years you worked there?

A Yes, sir.

Q Where does the beater man work in the plant?

A On the second floor.

Q And what work did you do as beater man?

A Well, I handled asbestos fiber and cement and limestone and something they call like scrap; but, however, that asbestos shingle, when they make it, they would have rejects and grind it up and blow it back up and a separate room they would have to go in and shovel it in carts. Also the fiber, we had to do that fiber that way.

Q You shoveled fiber in the cars?

A Yes, sir, in a room just about as big as this one, and they blowed it in from the wall up there and the room would be consumed with dust and we would have to go in there and take along something like a hoe, a long one, and from here to Goodman and put in the cart.

Q Was that a scoop, like, you used?

A Well, I used a sc oop; but I didn't get to that, yet. Anyway, I would throw it over and put it in the cart and when

it got too low to put in the cart, we would have to take a scoop and shovel it in there, in the cart. However, it was all dry dust.

Q How much of the time did you work in this scrap room you speak of?

A Well, in an eight-hour period you was in and out there eight hours, the scrap room, and also the fiber, that was our job, eight hours in and out.

Q You worked eight hours a day, but I mean how much of the time did you work in there? Were you in there every day, or every month, or every week?

A Every day.

Q How long did you work in that scrap room every day?

A Well, that was continued in the beater man's job.

Q When you were beater man, all your work was in the scrap room?

A Well, that is what all that had to go in the same mix/^{we}were mixing up to go in that beater, all of that was in the same job.

Q I thought you said this scrap was shoveled out and into a car.

A It was, IN A CART.

Q Well, then did that go into the beater?

A Yes.

Q It wasn't a car to take it away, then?

A How?

Q That wasn't a car to take it away; that was the car to take it to the beater?

A Yes; something like a wheelbarrow. It had two wheels on it and you would roll it and push it by hand, and it wasn't automatic.

Q It was a cart?
I said, yes.

A Yes, sir, that is what

Q I misunderstood.
A That is what we pushed our cement in to the beater at the time I was on the beater floor.

Q Did they have any fans in that room where you did this beater work?

A No, there was no fan in that room at all. The onliest air that penetrates in that room was when they blowed it in, just in a round old pipe about like that pipe, or the shade, and a hole about that size, and blowed it in from the top and fall down in the room until it was full, and there was no fan in that room.

Q Was that that you speak of a sort of a pipe in which air came through?

A Yes. They had a blower and they would blow it up, upstairs in that room, and the pipe would come up and ---

MR. GOODMAN: He means, Mr. Marsalek, not the air, if I understand it correct, the blowing of the material.

MR. MARSALEK: Q. Was that the material that came through that pipe?

A Yes, that is what I call it, material; material.

Q Now, then, what I am trying to find out is was there

any kind of a pipe through which air was brought into the room?

A No; no more than that is the onliest air I know of.

Q Were there windows that were open?

A No; they had the door barred and had it air tight, and blowed the fiber in, and all that dust would be in there, and you just couldn't hardly see yourself in there.

Q Were there any windows? A No, nothing but just the door.

Q And no kind of fans of any kind?

A Well, they had one fan ---

Q To take air in or out? A Not in that-room.

There was one, I would call it more of a heater than it was a fan, because it blowed hot air for winter; and in the summer, why, it would blow cold air. Just something like you may -- if you had a fan in here; but, anyway, it was more out of fix than it was anything else, and it didn't do any good, because---

Q Was that in this room that you speak of?

A No; just on that floor.

Q That was on that floor? A Yes, sir, just on the floor; it wasn't in the room at all.

Q How big is this scrap room, about?

A Just about -- it wasn't quite as large as this room; just about that high, I guess.

MR. GOODMAN: Let's have it described for the record, if you don't mind. Can you estimate it in feet?

A Well, I couldn't tell much about it. It wasn't any larger than this room; it wasn't as large as this room. I just compared it from me being here, and I would compare this room was just about near the same size that fiber room was, where the fiber was blown into it.

MR. GOODMAN: What would you say, Mr. Marsalek, for the record, the size of your office?

MR. MARSALEK: I never figured it out.

MR. GOODMAN: I would estimate it about fifteen, or ten by twelve feet long, and about eight feet wide.

MR. MARSALEK: It's wider than eight feet. I think this room is about eleven or twelve feet wide and about eighteen feet long.

MR. GOODMAN: That sounds about right. How high would you say your ceiling is?

A Well, that room was as high as this wall.

MR. MARSALEK: Ten feet.

A Around about eight feet.

MR. GOODMAN: You say eight feet?

A Yes, sir.

MR. GOODMAN: All right.

MR. MARSALEK: Q. Outside of this room you speak of, this scrap room, was there any dust on that second floor where the beater department was?

A Yes, sir.

Q What made dust outside of the scrap room?

A Well, they was blowing and they didn't have that walled in from the labor department, that dust would come in, and the windows on the side, what they did have walled in, all the window glass was broke out.

MR. GOODMAN: All the what?

A All the window glasses was broke out on the side, what they did have walled in, and dust just penetrated right out of the labor department where it was blowing right on up there and, however, sometimes that room would blow where they have it air tight, and blow out, and the dust would come right out.

MR. MARSALEK: Q. Did they give you a respirator to work with?

A Yes, sir.

Q Did you use that respirator when you were in the scrap room?

A Yes, sir.

Q Did you use the respirator when you were outside the beater scrap room but in this department?

A Yes; but in the eight hours the respirator was so uncomfortable you couldn't keep it on at all times and, however, if you did, that cement and all that dust would make sores around your mouth and your nostrils, and that is what the matter is with my nostrils today, the doctor said.

Q Did you always wear the respirator when you were working in the scrap room?

A When I go in the scrap room alone, yes, I would always

put it on.

Q You kept it on until you came out of the scrap room?

A Yes, sir.

Q And when you were out of the scrap room in the beater department, did you wear this respirator all the time you were working, or just part of the time?

A Well, it was so uncomfortable, I couldn't keep it on all the time. No way to keep it on.

Q Part of the time you wore it and part of the time you didn't?

A Yes.

Q Who gave you the respirators to use?

A Well, the company; they furnished the respirator.

Q Who did? A The company furnished the respirator.

Q Who was it, what man gave them to you?

A Well, our foreman.

Q You got the respirator from your foreman, and who was he?

A One was named Charlie Nichola.

Q Charles Nichola? A Charlie Nichola.

Q And any other foreman who gave you the respirator?

A Well, let's see, now -- well, Roy Meyers.

Q Did you have any other foremen during the time you worked for Ruberoid, any foreman other than this Charlie Nichola and Roy Meyers?

A Yes; we changed from shift to shift, whenever they had three shifts, and whenever you get bumped; we had plant-

wide seniority and when you were bumped on one shift and there was a job open on another shift, they would transfer you over.

Q You had different foremen on the different shifts?

A Yes, sir. One was Sam Hill, and Ollie DePaul.

Q Who was that, Sam who? A Sam Hill, Ollie

Depaul and Roy Meyers and John Podorski.

Q When you worked downstairs, you say they transferred you out of the beater department and put you downstairs?

A Yes.

Q And that is when you say this Dr. Satterfield sent the note to the company? A Yes, sir.

Q Then what work did you do downstairs?

A They moved me the same day. However, I stacked.

Q You were a stacker? A Yes, sir.

Q What do you do as a stacker? A Well, that is a wet sheet and it come down on a belt and, however, I would guide it, and they had different ways of stacking it, but the last stacking I did I would guide it down a belt and some fellows would pull it. The last stacking I did on that was with an air hoist, something flat like this table, and you let it down and then pick it up.

Q Well, you were a stacker and piling up the material that they made, weren't you?

A Piling up the material, yes.

Q And this roofing shingles, blocks and siding and things

of that kind?

A Yes, that stone wall siding.

I was piling them on a flat , and whenever we wasn't on that, I was stacking shingles, and I would sit down and catch shingles like this and stack them on a -- I would call it a small flat, something like that, and push them off to someone else.

Q There was no dust in that work, was there?

A Dust was throughout the plant, what I mean is ---

Q Did that work make any dust? A Well, the dust come -- that work didn't make any dust, no.

Q That is what I am asking. A There would be so much dust come through the plant, until it settled on us, and you couldn't tell what our clothing was.

Q You mean even on that job there was a lot of dust that came from other places in the plant?

A Yes, sir, from back in there and up on that beater floor, and it was wide open and just up over us, and something like ten or twelve feet, and that dust come right on out down there and also from the labor department.

Q Did you while you worked there, when you first went to work there, did you take particular note to see what signs they had around the plant, signs of any kind on the walls or on the bulletin board or things of that kind, did you check them?

A They didn't have any signs.

Q I say did you check them to see whether there were any

signs around anywhere?

A Well, I didn't necessarily check them, but I didn't see any signs.

Q You just didn't notice any? A Well, I looked ---

Q What were you looking for signs for?

A I didn't say I looked for any signs. All the way through the plant I never seen any signs.

Q You weren't looking for signs, were you?

A Well, no, I wasn't looking for any signs, but I guess just like a lot of things, you don't look for, probably you may see them.

Q You might see a sign even if you weren't looking for it, but you didn't particularly look for any?

A No.

Q Was there never any sign of any kind posted in that plant, during all the time you were there?

A What kind of signs?

Q Any kind of a sign or notice to the employees, or anything of that kind, did that ever happen while you were there?

A No.

Q It never did; you never saw a sign or notice to the employees, of any kind?

A No.

Q And if they did post any sign or notice of any kind, you didn't see it?

A That is right, I didn't see it.

Q And that is true for all the time you worked there?

A That is true for all the time; yes, sir, that is true for all the time I worked there.

Q But as you say, you weren't looking for any particular kind of signs, were you?

A No, because didn't anyone tell me about it.

Q You didn't know of any particular kind of signs to look for, did you?

A No.

Q No reason why you should look for them?

A No, nobody never deputized me to.

Q After you left the plant, you did file a claim before the Workmen's Compensation Commission, did you not?

A Yes, I filed a claim, yes.

Q That was a claim that you had gotten a disease, illness of your lungs resulting from your work?

A Yes, that is when I went to my doctor. It wasn't of my own doing, because I didn't know what was the matter with me.

Q You filed a claim, anyway?

A Yes, sir.

Q Through a lawyer?

A Yes, sir.

Q You had a lawyer file it for you?

A Yes, sir.

MR. MARSALEK: That is all.

QUESTIONS BY MR. GOODMAN:

Q You filed this claim with the Workmen's Compensation Commission and then I dismissed that claim, or your lawyers did,

Mr. Fox and I, on your behalf; is that right?

A Yes, sir.

Q And then this suit was brought?

A Yes, sir.

Q Now, Fee, after you filed that claim did you receive any workmen's compensation benefits from Ruberoid Company?

A No.

Q Before you filed that claim did you receive any workmen's compensation benefits from the Ruberoid Company?

A No.

Q When I say that I mean payments of any kind.

A Yes, I received from the insurance, I received thirty-five dollars a week for thirteen weeks, weekly benefits.

Q You mean under a group insurance policy?

A Yes, sir, group policy.

Q Did you receive any workmen's compensation benefits or payments aside from that insurance from Ruberoid Company?

A No.

Q Before the filing of the claim?

A Not before

and not after.

Q Nor afterwards, either; is that right?

A That is right.

Q Now, did the Ruberoid Company ever furnish you, either before or after filing the Workmen's compensation claim, any medical treatment?

A No.

Q Now, you were asked about any signs or notices. During ^{at} the time you worked there/the Ruberoid Company did you ever see any notice or sign posted in a prominent place in the plant or in that part of the plant where you worked, rather, that Ruberoid Company had accepted the Workmen's Compensation Law and that you were, as an employee were under that law?

A No.

Q You never saw any notice like that?

A No.

Q Now, the time that you worked there and in the departments where you personally worked, would you say that there was or was not any such notice posted in a prominent place in the departments of the plant where you worked advising you that you were under the Compensation Law of Missouri?

MR. MARSALEK: We will object to that as calling upon the witness for an opinion and conclusion.

MR. GOODMAN: You may answer.

A I would say no, there wasn't any. I didn't see any.

Q In the various parts of the plant where you worked, since you were employed there, from 1943, did you see any notices posted either in what you have called the scrap room or the warehouse where they had this asbestos fiber, or in the room next to it where the beater operations were carried on, or on the first floor where you did work as a stacker, in that room or any one of those places, did you ever see any sign on the

wall or notice telling you the dust was dangerous or how you should take care of yourself in any way with respect to that dust?

A No.

Q Would you say there was or was not any such notice of the type I have just mentioned, advising you how to take care of yourself around a dusty atmosphere there posted on the wall or not?

A There was not.

Q During the time you worked there in any of those places where you related you worked in that plant, did the Ruberoid Company furnish you with any work clothes?

A No.

Q Did the Ruberoid Company during the time you worked there in any of those parts of the plant or departments that you have mentioned give you any -- have their doctor or any doctor of their selection to examine you periodically, once each month?

A No.

Q In any part of the plant where you worked as you have related here, was any sweeping ever done around any part of the plant where you worked during the time you worked there?

A Yes.

Q When you say yes, in what part of the plant was sweeping carried on and when and under what circumstances was it

carried on? Can you tell us?

A Yes.

Q Go ahead.

A When I was working on the beater floor, whenever some other machine would break down or get out of operation, the employees on that machine, they would sweep until that machine was repaired enough to go back to work, and during my working hours we all had to clean up around where we worked and sweep up where we worked at. Down on the first floor where I always was working when I had to quit, they would use the employees whenever a machine would break down, they would use the employees to clean up around the machine, and throughout that plant, just sweeping, just consuming dust.

Q Was the sweeping you have described carried on during the working hours of the day while you were a beater man?

A Yes, sir. Every shift workman around his floor, as big around as this room, he had to clean up where he worked there.

Q So we don't have any misunderstanding, did they wait until the end of the day when the plant operations stopped in order to sweep, or did they sweep while the plant operations were going on?

A They swept while the plant operation was going on.

Q I see.

A If you was on day shift, when the three-thirty shift came in, why, you actually had to clean up and have your machine cleaned up around there before the other man takes over, whether you were a beater man or relief man or

wherever you were working at.

Q Is that true also with respect to sweeping when you worked on the first floor as a stacker, was sweeping done while the plant operations was going on?

A Yes. Our relief man and also the people, as I first said, whenever the machine would be broke down, they would be cleaning up and sweeping up all around where you were working. You had to move back out of the way for them to sweep up dust and stuff.

Q On the floor -- I don't mean in this room, now, we will come to that in a minute; I don't mean this room you have described about the size of this room, but in the room where you did feed these beater machines -- is that what they are called?

A Yes, sir.

Q In that particular room were there any blowers or suction fans of any sort, as exhaust fans to take off any of the dust in those rooms or in that room, while you were working there?

A No.

Q Now, in that particular room was this a beater -- describe for us how this beater machine was located. Was it even with the floor, above the floor, or how would you feed that machine with this asbestos fiber?

A Well, this beater was just like this floor here, and

they had an iron tank that was put in the floor, and also I don't know whether it was screwed or whether it was welded into the floor, but, anyway, it was dropped down something like about, I would guess about -- well, about seven feet, I guess, down between the two floors.

Q All right. Wait a minute, let me interrupt you here. This iron tank with a lid on it, how high above the floor was that? Was it even with the floor, or a foot above the floor, or what?

A No, it was -- it was right even with the floor, so you could roll a cart right up to it and dump it over in there, just like throwing it in a pit, just like a barbeque pit.

Q Did they have any exhaust fans or blower apparatus immediately over that iron lid or opening to that tank when you took the lid off, so dust wouldn't come out?

A No.

Q No blower or suction fan over these openings where you shoveled in asbestos fiber? A No. They automatically didn't have a lid. They automatically didn't have a lid to go over that beater.

Q There wasn't any lid over it?

A No.

Q Was it round or square?
square.

A Well, it was

Q And about how square was it?

A Well, I would

say around about -- about two by -- well, let's see; I would say around about four by six, or four by ---

Q Those four by six openings were even with the floor?

A That is right.

Q And as I understand it, you would go and get a little cart or a cart and load it with this asbestos fiber and come over and unload it into this opening?

A Yes, sir. The cart had a little door in front of it, and you would just unlatch that door and you push the cart. However, you would be standing over there and just push the cart and that would dump down in there, and the remains would fly up.

Q You say there was no lid over that?

A No lid over it at all, no.

Q That went down into this opening, into a metal tank?

A In an iron tank, yes.

Q In that iron tank? A Yes, sir.

Q Now, over this opening there was no exhaust fan or suction fans or blowers of any kind to keep the dust from coming out when you were working there, was there?

A There wasn't any.

Q How many of these beater opening tanks did they have on that floor?

A They had number one and -- let's see; number one and number four, number two and number six and number seven.

Q How many did you mention? About five?

A Let's see; number one, number two, number four, number six and number seven; about five.

Q How far apart were they on the floor, these openings?

A Oh, I guess it was something like about -- probably may have been about twelve feet, I guess.

Q Were the openings all alike?

A Well, no -- well, they were considered all alike, but, now, two of the openings was on the third floor, and three was on the -- three openings on the third floor and two was on the second floor.

Q I mean on the floor where you worked there were two?

A Yes, sir. I worked on the second floor, too; but, anyway, the main beater I worked at was on the second floor.

Q You had also done some work in the beater room on the third floor?

A Yes, sir.

Q But most of your time was spent, from '43 to '47 or '48, on the second floor?

A Yes, most of the time from '43 to the time I spent was mostly on the second floor.

Q And there were two of these openings on the second floor?

A Two on the second floor ---

Q They were identical in size, were they?

A Yes, they are all just about the same.

Q And there was no lid on either one of them?

A No lid.

Q And no suction fan or blower on either one, to carry

the dust off? A No.

Q That is correct, is it? A That is correct.

Q Now, this was called, I believe, a scrap room; what was in the scrap room; this asbestos fiber?

A No; those rejects which would be stone wall siding and all kinds of shingles and shingles that would be rejects, and they would send them from the trimming department and have to be transferred from the trimming department and, however, they call it the finishing department, but, anyway, they would be put in a hammer mill and have someone feed it in the hammer mill and blow it back upstairs on the beater floor where we was and into a room like this.

Q There were two rooms there, a fiber room and what you are calling a scrap room? A Yes, sir.

Q Were both rooms about the same size?

A Yes, sir.

Q You have already described the size of the room?

A Yes, sir, just about the same size.

Q Were they next to one another? A Yes. The scrap room was right next to the fiber room.

Q From the fiber room, you mean? A Yes, sir.

Q Is that what you are saying, fiber room?

A Yes, sir, right next -- the asbestos fiber.

Q Was it separated by a partition? A Yes, sir.

Q And did it have a ceiling over each of those rooms?

A Yes, they had a ceiling over that.

Q And both rooms, you say, were about the same size?

A Yes, sir, about the same size; yes, sir.

Q And into each room was a pipe,,if I understand it, where this -- in the scrap room there was a pipe that blew this reject stuff that was ground up into that room?

A Yes, just the ---

Q Just a minute. And was there another pipe that blew the fiber into the fiber room?

A Yes. Two different kinds of pipes.

Q The purpose of the pipe was to blow -- that is the way they would fill the room?

A Yes, sir, they would blow it in there.

Q When you went in those rooms you used the respirator?

A Yes, sir.

Q Was there any exhaust fans or suction fans of any kind in either one of those rooms?

A No.

Q In other words, the operation was to fill those rooms by these blowers that blew this stuff in?

A Yes, sir.

Q In each of those rooms?

A That is right; yes, sir.

Q And you would have to shovel that stuff out as the job would require into a cart?

A Yes, sir.

Q Is that right? A Shovel it out into a cart and then roll it over and dump it in the beater.

Q I see. Did they change --after you were taken down and transferred from the job as a beater man from the second floor to the job as a stacker on the first floor, were any changes made there in connection with the plant operations insofar as the asbestos fiber room was concerned, or the scrap room was concerned? Were any different equipment or arrangements made for that type of work, that you know about?

A Well, there was some change made, but I was off, they brought me off that floor and I went up there seldom, because I couldn't stand that dust, it was more severe than it was downstairs, and I couldn't stand it, and, however, as near as I can come at it, they did make a change in the beaters, but that was after I was gone.

Q What change did they make in the beater room after you were taken off the job as a beater man?

A Well, they later had a closed-in beather. I wouldn't know what they call it.

Q Describe it the best way you can.

A They called it a dry mix machine and, however, they would have those workers, they dump whatever they had, that fiber they had in sacks, and just dump it in there, and also they really put the cement in, and they would just pass by each beater. That was after I was off.

Q I understand that. After you were transferred from the second floor to the first floor, did they change these beater openings in any way, or put in machinery of any different kind?

A Well, as near as I can come at it, about two and a half years that they reorganized those beaters and they had a dry mix completely on the second floor, and they had something they call a worm conveyor and latch like a door, they pull it out, and that dry mix would come on through that better down into the tank where the water was, and from there on down to the machines and from there -- but I wasn't in that particular department when they ---

Q I understand that. I am ^{only} trying to show what changes were made, if any, from the time you left that beater operation on the second floor until the time you left the employ of the company.

A Yes.

Q Did they still have these openings, beater openings?

A Just on the particular one machine, that is number one.

Q And the rest they --- A They did away with them and put in -- I don't know whether they call it -- a million dollars worth of machinery. I don't know.

Q They put in a different kind of a closed-in machine?

A Yes, sir, called a dry mix.

Q Which they didn't have when you were there?

A They didn't when I was on that floor. Number one was the onliest machine when I left there February 29th of '52, that was the onliest machine that was underneath where they dump it down in that vat, like I was telling you all about, that is the only one that was on that operation at that time.

Q Now, this fiber room, you said it was about the size of this room, about the ^{same} size as the scrap room, and tell us about this fiber. Did it come in balls or sheets, or how? This asbestos fiber.

A Well, it was almost -- I guess you have seen spun cotton.

Q Looked like spun cotton. A It wouldn't be that large, but you could pick it up like that and seems like you would pick up a lump of -- well, it wasn't a lump; you would roll it in a lump, just fiber, just soft.

Q It was blown into this room when you worked there; is that right? A Yes, sir.

Q Or did you at any time have to empty it out of bags?

A No, I didn't ever have to do that.

Q All right. When you went in that room to get it, where was it? Right on the floor?

A On the floor, yes.

Q And then you would take a little cart in there with you?

A Well, I rolled the cart up to the door, yes. I would roll the cart up to the door and take a long shovel, a long

handled hoe, we called it a hoe, and throw it overthere and pull it in the box. But constantly it would get too low for that and we couldn't get it in like that, and we would have to shovel it, and I would push my cart inside the room and shovel it. We automatically have to clean out the rooms, and didn't have enough fiber, and would have to blow back in the same room, because we shoveled it out.

Q You used this thing you call a hoer and a shovel?

A Yes, sir, a shovel.

Q Did you use your hands anv in that work?

A No, I didn't use my hands, no more than I used the shovel, that is all.

Q And how high would this asbestos fiber be piled up in there usually when you went in there?

A We paled it up to the wall.

Q To the ceiling? A To the ceiling, practically, as much as they could get in there.

Q That was about eight feet high from the floor?

A Yes, sir, eight or nine feet, something like that.

Q How high would this scrap be piled up in the scrap room? A Just the same.

Q The same? A Yes, sir.

Q How would you load the cart? In the same way, with a hoe and shovel? A A hoe and a shovel, yes, sir, andpractically when you open those doors, whenever you go to

When that door, why, it would just be pressing against the door
and fall right out, and there would be a pool of dust, and
approximately something like twenty or thirty minutes before it
get
and so probably we could see one another.

Q Which room are you talking about?

A That is on that particular floor there.

Q You mean the second floor? A Yes, sir.

Q Where you worked as a beater man?

A Yes, sir.

How big a room was that? I mean outside, now, of the
room and outside of the fiber room, asbestos fiber room,
was the rest of that floor?

The whole main floor?

Where the beater man department was, where you worked
as a man, how big was that room where you would dump it
there?

Never, the beater was not in the room, and it was on
the floor and made in that ---

On that floor, I mean, Fee. A On that floor,

as wide as the plant. I couldn't say that.

room? A Well, the whole entire floor.

A As wide as the plant.

Where other operations carried on, besides work
on that second floor? What else was done on

They had a job they called a color room. +

were grinding color, and I worked in there.

Q What did that work consist of? A Consist of dry color grinders.

Q Was that done on the second floor?

A That was on the first floor, but that was a separate room and just about as large as this, or a little larger.

Q How long did you work as a color grinder?

A Well, that was in and out, just like I was when I was in the other job, just if I got bumped back and classified, I worked there. Sometimes it would be two or three months at a time, and sometimes longer, and sometimes the time would be shorter. Anyway, I was consumed with dust at all times. That was automatically worse than the ^{beater} ~~lower~~ floor, because you had different kinds of color. You had ---

Q You worked on that at different times, no special or regular job, is that it?

A Well, it was a regular job, yes, but off and on; if you had to move up or set back, and if you had a seniority to move up, you would get it, and you would have to move back. Probably two or three months and probably two weeks, or something like that, well, you would have a set back. If you got bumped back, you would go right back in the color room.

Q At the time you left this company, about March 1st of 1952, what were your average weekly earnings there?

A Oh, well, I think I got it here.

Q I don't mean that one slip; but what was your average?

A About fifty-five -- the gross pay was \$56.40.

Q \$56.40? A Yes, sir.

Q How long had you been earning that?

A For five days, working five days, that was \$56.40.

Q The average was \$56.40 per week? A Yes.

Q How long had you been earning that?

A Well, we run regular, I would say I would run around that for the last two and a half years; two and a half years, something like that. I am not counting last year. I wasn't there but just a short while.

Q Now, you testified that you had asked the company to examine you on several occasions?

A Yes. I went in and asked them.

Q When was that? A Well, that was around in '48, '49.

Q Who did you ask? A Well, I would consult with a friend of ours.

Q Who? A Frank Mollerus. He was the personnel man.

Q I didn't get that last name. A Frank Mollerus. I think that was his name.

Q Mollerus, or something like that?

A Mollerus, or something like that.

Q He was the personnel man? A He was at that

time.

Q This was about 1948 or '49?

A Yes.

Q And how did you come to go to him and ask that you be sent to a doctor?

A Well, I would just -- I had bad feelings and I was just going down, seems to me I wasn't doing any good, I was coughing and losing weight, and appetite.

Q Did he send you to any doctor?

A No, he didn't.

Q I see.

A He would always tell me he would see about it. He never would see about it, and then that is how come me to consult with my committeeman to do something about it.

Q I see.

A And I don't know exactly what time, but they did have a doctor look at me once, but whatever was said, I don't know. I remained on the same job that I was on.

Q Do you know Mr. William L. Nelson?

A Yes, I know him well.

Q And what is his position, if you know?

A Well, I don't know whether he is supervisor or superintendent, I don't know which one it is. He is the big shot there, that is all I could say.

Q Is this Mr. Mollerus, or whatever his name is, the personnel man, is he under Mr. William L. Nelson?

A Yes, he is under Nelson. I don't know exactly now

what he is, but at some particular times during that time he was personnel, but they have different personnels there now.

Q Is this personnel man, Mollerus, whatever his name is, is his boss, as far as you know, William L. Nelson?

A Yes.

Q Nelson is superintendent of the plant?

A He is the head man there. He signed those checks. As far as I know, he was superintendent, or he is the head of everything, running it. As far as I know, that is what they told me.

Q Did you ever unload any cement or asbestos from any of the freight cars on their spur?

A No.

Q Any doors or windows on that second floor where you feed these machines or hole in the floor as a beater man?

A You mean in the plant?

Q Yes. I mean on that second floor where you worked mainly for about three or four years, were there any windows on that floor?

A Yes.

Q Were they open at all times?

A No.

Q When did they open them and when did they close them?

A Well, according to the rules, they wasn't allowed to open them.

Q Why?

A That is something I wouldn't know.

They always told me they wasn't allowed to open them, because some of the fellows would open them, and, anyway, they wasn't allowed, that is what we was told.

Q Didn't they open them even in the summertime?

A Yes, sometimes. But when they did want to open them and they put fans on the floor, I was off the floor then.

Q When you worked up on that floor, the second floor, did they have any ventilating fans of any kind?

A The onliest fan they had was just what I told you all about, it stayed broke down most of the time, just one.

Q What kind of a fan was that? Describe it briefly.

A Well, it was just -- I would call it a heater, and then in the summer to blow air.

Q How big a fan was it? Is that the fan you said was about as big as this lamp, or larger?

A No, that was larger. It had three holes, one blowing this way and one straight out, and one to each side, and one straight out.

Q You mean this one fan? A Yes.

Q Where was it located? In the center of ^{the} floor, or next to the windows, or where?

A It was in the center of the floor.

Q How high was the fan? Did it stand on a pedestal?

A It was built up on ---

Q Was it built on a pedestal, or on a pipe, or how was

it placed? A It operated by a belt, and I don't know whether it was a galvanized bin, or what.

Q It was driven by a belt? A Yes, sir.

Q How big was this fan? A Well ---

Q About? A Well, it stood about seven feet high, and I guess ---

Q How big were the blades? A Well, that was something inside; I never seen the blades. That is pulled by a belt, and it was down in there, and blows up over, and it come out up there, up over me.

Q How big was the container in which the fan itself was placed? Give us some idea about the size of the fan.

A Something about like that table, but not as long as that.

Q Not as long as Mr. Marsalek's desk here, but about as wide? A About as wide, yes.

Q About four or five feet long, would you say?

A It wasn't quite that long; about three feet, three by -- it was just about like this.

Q Was that the only fan they had on that floor?

A When I was there.

Q When you worked there? A Yes, sir.

Q On the second floor? A Yes. Since I was off they practically put some electric fans practically at every beater, after I was off the floor. When I was on there,

that was the onliest fan they had, and it stayed broke down more than it run.

Q Did dust accumulate on the floor, on that second floor?

A You mean just the walls ---

Q On the walls and on the floor. A Yes, sure.

Q Was it covered by dust? A Covered by dust, yes.

Q Can you describe the dusty conditions that you said existed to some extent on the first floor, when you became a stacker?

A Well, that dust would come down so strong we would have-- we had a cap and it would get so thick on there you could write your name on it.

Q On what, now? A On your cap, and the dust, you could take your finger and write your name on it.

Q You mean when you were even a stacker?

A As a stacker on the first floor, yes. And we had some ladies that worked there and doing the same type of work as the stackers, they would have to tie their head up, and if they didn't tie it up, they would get it all in their hair, so much dirt and dust and it would be all in your mustache and nose, you could run your finger in your nose and get it out just like mud.

Q Was that the same sort of situation that existed on the second floor when you worked up there as a beater man, or was it worse or better?

A It was worse on the second floor than it was on the first floor.

Q I see.

A When we -- sometimes between times before we quit work, after our shift would go off, and we had an air hose that you turned over there, a little rubber hose, something about like this right here, about that size. I would say about an inch, and come down and ---

Q Like an inch or inch and a half pipe, hose, inch and a half hose?

A Just about an inch hose, a little small hose, a little bigger than your finger. You would have to turn it on and blow the dust out of your clothes to be kind of fit to get out there and put them on the next day.

Q You had to do that at the close of each day?

A Yes, sir; sometimes between times before the working hours was over.

Q Was that what that hose was for?

A Yes, for the beater men.

Q To blow the dust out of your clothes?

A Yes, sir, to blow the dust out of your clothes and off your cap.

Q And your cap. Did the company ever furnish you any gloves or cap or -- you said they never furnished you any work clothes?

A No, sir, no work clothes. When I first started to work there they didn't furnish any gloves, we had to buy them;

but later on they did furnish work gloves.

Q I see. As far as you know, what was the condition of your health before you went to work there at the Ruberoid Company?

A Well, as far as I know, it was excellent. I was in excellent condition. I taken a physical examination out there, and they was pretty tight, because we was -- some of the first colored they ever hired there, and I was amongst some of the first men they hired and they were awful particular about your health.

Q As far as you know you were in good condition, then?

A As far as I know I was in excellent condition.

Q As far as you know did you ever have any lung trouble at all before you went to work there?

A Well, I never remember of even going to a doctor before.

Q Now --- A Up until after I went to work for the Ruberoid Company.

Q You mentioned a Dr. Little here. Was he a company doctor?

A No. Dr. Henry Little, he is a -- his office is at 3100 on -- let's see, what is the name of that street -- I can't tell you now.

Q Was he your own doctor, or did the company send you to him?

A He was my family doctor for a while.

Q Before Satterfield became your family doctor?

A Yes, sir.

Q Is Dr. Satterfield still living?

A No, he is dead. He died a few months ago.

Q Who was the doctor that gave you the medical examination for the company before you went to work there?

A I don't know his name, I will be frank, I forgot his name. I once knowed his name. If you could call it, I could call it, but I can't think of it.

Q Was this Dr. Westerman with the company at that time?

A No; he come in afterwards.

Q When did he become the company doctor; to your knowledge?

A Well, I was examined so seldom, I didn't know the year.

Q You don't know? A No, because I didn't have very many ups and downs when I first started.

Q Where did this Dr. Westerman have his office?

A Well, as far as I know, they always examined the employees at the company there, out there.

Q In the office? A Yes.

Q Did they have -- Mr. Marsalek used the word "clinic"; did they have a company clinic or dispensary or first aid?

A Yes, they had a first aid.

Q What did they call it? A Just like if you got your hand hurt on some machines, you would go in and the lady would wash it in ---

Q What did they call it? First aid department, or dispensary or clinic?

A Well, I guess they did

have a clinic, because I seen some of the employees that would go in there.

Q They called it a clinic, as far as you know?

A Yes, sir.

Q Did they have a nurse in charge of it?

A Yes, sir.

Q Do you know her name?

A Well, they had one in there at the time, they called her Miss Flatbush and ---

Q They had no doctor there at all times; he would only come occasionally, is that it?

A Yes. Certain days he came in there, as far as I know, to consult the doctor being there.

Q The only company doctor whose name you can recall is this Dr. Westerman?

A Dr. Westerman. I don't -- I can't think of the man that give me the first physical examination when I was hired there. I can't think of his name; but I know if someone would call it ---

Q Fee, did Dr. John Murphy send you to any other doctor?

A Yes, sir, he sent me to ---

Q Who to?

A I don't know. He was in the same building.

Q An x-ray man?

A Yes, sir, the x-ray man.

Q Did he send you to any laboratories, doctors that run a laboratory?

A Yes, sir, he sent me there.

Q Do you know who they were?

A No, I don't know.

He just sent me there.

MR. GOODMAN: That is all.

A That was all I know.

QUESTIONS BY MR. MARSALEK:

Q Fee, after you left the Ruberoid Company there, the last day you worked and you left, did you ever go back?

A Go to Ruberoid?

Q Yes. A I been back out there once.

Q When was that? A I can't recall it, but I had that little group insurance and, however, that was in -- sometime in November, and they had on there when you are totally and permanently disabled, and I went out there and I was totally disabled to work at that time I think ten months; but, anyway, I consulted with my committeeman, Joe Reed. However, he was my president and committeeman. I consulted with him about it, because they hadn't paid me none of that money, and so I consulted with him and he went in to see about it, and then he sent me word that I would have to come out and talk with the personnel, and so I called out there, instead of going at that time, and they informed me I would have to get a strip from my doctor. So I went to Dr. Gueno and he give me a strip to take out there to them for total disabled, permanently disability.

Q Then you took that slip out there that the doctor gave you?

A Yes, sir.

Q Did you see the personnel man? A Yes, sir.

Q You didn't go around the plant at that time, did you?

A No; I just went in their office.

Q Just to see the personnel man? A Yes, sir.

Q You can read, can't you? A Yes, sir.

Q But you can't tell us any kind of sign you ever saw posted around that plant, or any kind of a notice?

A I didn't see one.

Q You can't tell us one? A No.

Q Any kind of a sign? A The signs you are asking concerned about, I never seen them. They posted a sign for the work or help. They had a schedule, they wanted you to come in on a Sunday to work, or if they had overtime, we looked for that sheet; but that wasn't the kind of a thing you asked me concerned about.

Q You did see signs, then, for -- relating to your work, when you were to come back to work or overtime or something like that?

A Work schedules, yes, from Monday through Friday, and I was supposed to look at that.

Q You were looking for those, weren't you?

A Yes, sir, because I was told to look for them.

Q You didn't look for any other kind?

A No, I didn't -- no one tell me about it, and I didn't look for no other kind, and I didn't see no other kind.

MR. MARSALEK: That is all.

MR. GOODMAN: That is all.

Fee James
Fee James.

Subscribed and sworn to before me this 26th day of
February A. D. 1953.

My commission expires September 19, 1956.

James J. Gore
Notary Public, within and for the
County of St. Louis, State of Missouri.

CERTIFICATE

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

I, Thomas T. Gore, a Notary Public within and for the
County of St. Louis, State of Missouri, duly commissioned,
qualified and authorized to administer oaths and to take and
certify to depositions, do hereby certify that pursuant to
agreement, in the civil cause now pending and undetermined in
the District Court of the United States within and for the
Eastern Division of the Eastern Judicial District of Missouri,
entitled Fee James, plaintiff, vs. The Ruberoid Company, a
corporation, defendant, to be used at the trial of said cause

in said court, I was attended at the law offices of Messrs. Moser, Marsalek, Carpenter, Cleary & Carter, Suite 330 Pierce Building, 112 North Fourth Street, in the City of St. Louis, State of Missouri, by Fee James, Courtney S. Goodman, Esq., John S. Marsalek, Esq., and Charles F. Luke, Esq., on the 11th day of February, A. D. 1953.

The said witness, Fee James, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me reported in shorthand and caused to be transcribed into typewriting, and that the foregoing 61 pages correctly set forth the testimony of the aforementioned witness, together with the questions propounded by counsel, and remarks and objections of counsel thereto, and is in all respects a full, true, correct and complete transcript of the questions propounded to and the answers given by said witness; that said testimony, so transcribed, was subscribed by him in my presence in the City of St. Louis, Missouri, on the 26th day of February 1953.

I further certify that I am not of counsel nor attorney for either of the parties to said suit, nor related to nor interested in any of the parties or their attorneys.

Witness my hand and notarial seal at St. Louis, Missouri,
this 26th day of February 1953.

My commission expires September 19, 1956.

GORE REPORTING CO. Notary Public.

GORE REPORTING CO.

~~INCORPORATED IN ILLINOIS~~

ST. LOUIS 2, MO.

120 N. FOURTH STREET

PLF. ☐ DEF. ☐ ☐
EXHIBIT NO. 114
DEPO OF: Mr. C. Lee
DATE: 3-30-53

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DIVISION OF THE EASTERN JUDICIAL
DISTRICT OF MISSOURI

FEE JAMES,
Plaintiff,
vs.
THE RUBEROID COMPANY,
a corporation,
Defendant.

Cause No. 8864
Court No. 2

FILED
APR -9 1953
CLERK

PLAINTIFF'S INTERROGATORIES PROPOUNDED TO
DEFENDANT, THE RUBEROID COMPANY, A CORPORATION

To the above-named defendant and Moser, Marsalek, Carpenter, Cleary & Carter, and John S. Marsalek, its Attorneys of Record:

Under and pursuant to the provisions of Rule 33 of the Federal Rules of Civil Procedure, you are hereby requested to answer separately and fully, to-wit:

INTERROGATORY NO. 1

When was the last time that your company filed an application seeking to be qualified as a self-insurer under The Workmen's Compensation Law of the State of Missouri? State the date of said application and the date of the filing thereof, and the name of the person or persons connected with your company who signed said application.

INTERROGATORY NO. 2

State whether the last time your company was licensed as a qualified self-insurer under The Workmen's Compensation Law of Missouri whether your license was issued by the Workmen's Compensation Commission, the Division of Workmen's Compensation, or by the Industrial Commission of Missouri; and give the exact date your company was so licensed.

INTERROGATORY NO. 3.

Did your company during the year 1945 or at any time thereafter file an application seeking to become a self-insurer under The Workmen's Compensation Law of Missouri with either the Division of Workmen's Compensation or with the Industrial Commission of Missouri? If so, state the date any such application was filed and with whom filed and whether or not any license was issued pursuant thereto, and the name of the official agency

that issued any such license.

INTERROGATORY NO. 4

Give the exact date your company last made application under The Workmen's Compensation Law of Missouri evidencing its intention to elect to bring itself within the provisions of said Law with respect to occupational disease; and state whether such application was filed prior to 1945 with The Workmen's Compensation Commission of Missouri, or since that date with the Division of Workmen's Compensation or with the Industrial Commission of Missouri.

INTERROGATORY NO. 5

State whether William L. Nelson is employed by your company as general superintendant, and if so, state how long he has been employed in that capacity.

INTERROGATORY NO. 6

State whether William L. Nelson is manager of your plant at 9215 Riverview Drive, in the City of St. Louis, Missouri. If so, state during what period of time he has been manager of said plant.

INTERROGATORY NO. 7

Do you admit that William L. Nelson was the plant manager or plant superintendant in said plant from the early part of the year 1943 until the early part of the year 1952?

INTERROGATORY NO. 8

Is it true that in said plant your company manufactures asbestos and cement building products?

INTERROGATORY NO. 9

Is it true that the principal ingredients of the products manufactured in said plant are asbestos and portland cement?

INTERROGATORY NO. 10

Do you admit that from the early part of the year 1943 until the early part of the year 1952 the plaintiff, Fee Jones, worked in said plant as a laborer where manufacturing processes were carried on in which asbestos and portland cement were the principal ingredients.

INTERROGATORY NO. 11

During the time that plaintiff, Fee Jones, worked in said plant as

a laborer, did your company furnish him with any work clothes? If so, give full particulars with respect to the nature and extent of the clothes so furnished.

INTERROGATORY NO. 12

During the period of time that plaintiff worked in said plant did your company furnish him with any work gloves? If so, state the nature of said gloves and the reason for furnishing same.

INTERROGATORY NO. 13

In addition to the asbestos and portland cement are any coloring matters used in the manufacturing processes there carried on? If so, state in detail what paints, pigments or other coloring matters are used, and the manner in which used.

INTERROGATORY NO. 14

Is it true that during a large period of plaintiff's employment he was employed as a beaterman? If so, state what work in particular he was required to do in that capacity.

INTERROGATORY NO. 15

Is any dust generated in connection with the work of a beaterman? If so, to what extent.

INTERROGATORY NO. 16

Is it true that the asbestos fibres used in the manufacturing processes carried on in said plant come in freight cars which are unloaded into a warehouse or a storage room in said plant?

INTERROGATORY NO. 17

If your answer to the next preceding interrogatory is in the affirmative, did plaintiff's work require him to shovel or load asbestos fibre in said warehouse or storage room and cart it into the manufacturing room for the purpose of placing it into a mixer; and state how often during the time of his employment he was required to do this particular type of work.

INTERROGATORY NO. 18

During the time plaintiff worked as a beaterman in said plant did he use a fork or shovel in an asbestos fibre storage room in order to place such fibre into a cart or truck for hauling to a mixing tank? If so, state how long he was engaged during the entire period of his employment doing that

type of work.

INTERROGATORY NO. 19

Are the atmospheric conditions in the manufacturing part of the plant any different from the atmospheric conditions in the asbestos fibre room, i. e., is more dust generated in the one room than the other. S

INTERROGATORY NO. 20

Did your company ever make a dust count in either the manufacturing part of said plant or in the asbestos fibre storage room, or in any other part of your said plant? If so, give full particulars as to any and all of such dust counts, state when they were made, by whom they were made, how they were made, including a description of the equipment or apparatus used in making such tests, and state in detail the findings and results of any and all such dust counts.

INTERROGATORY NO. 21

State whether there were any exhaust fans maintained and placed in operation during the period of plaintiff's employment with your company in either the manufacturing and processing part of your said plant or in the asbestos fibre storage room, or in any other part of your said plant. If so, give full particulars with respect to the type and character of any such fans maintained and placed in any of such sections of your said plant.

INTERROGATORY NO. 22

Aside and apart of any exhaust fans as mentioned in the next preceding interrogatory, did your company maintain any other type of exhaust or blower system to remove any noxious gases, fumes or dust from the manufacturing or processing part of your said plant or from the asbestos fibre storage room or from any other part of said plant? If so, state full particulars giving the type of exhaust equipment or apparatus so used.

INTERROGATORY NO. 23

Is the plant lay-out and working conditions in those sections of your said plant in which plaintiff worked during the entire period of his employment the same now as they were during the time plaintiff worked for your company? If there have been any changes, state full particulars in connection with any changes so made. O

INTERROGATORY NO. 24

State the number of windows in the manufacturing or processing department of said plant and the number of windows as contained in the asbestos fibre storage room or warehouse, and also state the dimensions of said windows and where located.

INTERROGATORY NO. 25

During the time that plaintiff worked for your company at or near the mixing tank or vat was there any hood or any other device over or about said mixing vat or tank which was used for drawing off any fumes, dusts, or gases? If so, give full particulars with respect thereto.

INTERROGATORY NO. 26

During the period of plaintiff's employment was he required to work around any cement bins? If so, state where such bins were located and whether the atmosphere around any such bins was dusty; and give the dimensions of such bins.

INTERROGATORY NO. 27

Did plaintiff ever work in your said plant mixing ground dry colors or pigments? If so, state how long he worked in such operation.

INTERROGATORY NO. 28

In connection with any of the jobs assigned to plaintiff during his period of employment with your company did your company ever furnish him with any respirator? If so, state when this was done and the nature of the plant operation where respirators were indicated or required.

INTERROGATORY NO. 29

Does a beaterman's job entail more exposure to dust than other types of employment in your said plant? S

INTERROGATORY NO. 30

Is a beaterman's job one of the dustiest jobs carried on in your said Plant? S

INTERROGATORY NO. 31

Has your company ever made a study of any kind with respect to the effect of asbestos or cement exposure or a combination of both, on the worker? If so, state the nature of any such study and the findings and results thereof. S

INTERROGATORY NO. 32

Except for the plaintiff, have any cases come to your attention where workers in your said plant have contracted asbestosis, silicosis or any other chest condition? If so, state the number of cases that have come to your attention and full details with respect thereto. *5 - pure position*

INTERROGATORY NO. 33

Was plaintiff given a pre-employment medical examination before he went to work for your company? If so, state whether you have a record of such examination and give the name and address of the examining physician.

INTERROGATORY NO. 34

After plaintiff was employed did your company give him a periodic monthly medical examination during the entire period of his employment? If so, state the dates that these examinations were made and the name and address of the physician or physicians who made them.

INTERROGATORY NO. 35

During the period of plaintiff's employment with your company did your company post, in a conspicuous and prominent place, a notice that it had elected to accept the occupational disease provisions of The Missouri Workmen's Compensation Law? If so, state how many of such notices were posted and where the same were posted; also state when same were posted and give the name and address of the person or persons who posted same.

INTERROGATORY NO. 36

During plaintiff's employment with your company did William L. Nelson have supervision of or jurisdiction over the administration of accidents, diseases or claims of workers arising under The Workmen's Compensation Law? ⁰ If so, state the extent of such jurisdiction or supervision. *He has*

INTERROGATORY NO. 37

During plaintiff's employment did William L. Nelson have jurisdiction of and supervision over the general housekeeping and health and safety measures in said plant?

INTERROGATORY NO. 38

During plaintiff's employment what health or safety measures were adopted to control the dust generated in said plant. *Sup*

INTERROGATORY NO. 39

During the period of plaintiff's employment how often would the floors of said plant in the departments in which plaintiff worked be cleaned and swept?

INTERROGATORY NO. 40

Would the cleaning and sweeping of the floors in said plant where plaintiff worked be carried on during working hours?

INTERROGATORY NO. 41

During the period of plaintiff's employment did your company post in any conspicuous place in any of the departments where plaintiff worked any notice which would warn plaintiff and other employees of any of the dust or fume hazards as may have been present in said plant? If so, state when and where such notices were posted and by whom.

INTERROGATORY NO. 42

Is it true that during the period of plaintiff's employment all reports of accidents and illnesses of employees which occurred during the operation of said plant, whether written or oral, would be brought to the attention of William L. Nelson? If so, state what Mr. Nelson would do with said reports. *opinion.*

INTERROGATORY NO. 43

Is it true that during plaintiff's employment William L. Nelson signed all reports as required by The Workmen's Compensation Law with respect to accidents and illnesses which may have occurred in the operation of said plant.

INTERROGATORY NO. 44

During the time of plaintiff's employment was your said plant ever inspected by factory inspectors of the State of Missouri? If so, state when such inspections were made and in what part of the plant same were made; also state the findings, conclusions and recommendations of said inspectors. *Oral & written.*

Respectfully submitted,

Milton R. Fox
Milton R. Fox
722 Chestnut Street
St. Louis 1, Missouri -(CH 5077)

Courtney S. Woodman
and
Courtney S. Woodman
722 Chestnut Street
St. Louis 1, Missouri -(CH 1990)
Attorneys for Plaintiff

Copy of the above Interrogatories mailed this *27th* day of April, 1953, to defendants attorneys, Moser, Marsalek, Carpenter, Cleary & Carter, and John S. Marsalek, 330 Pierce Bldg., St. Louis, Missouri

FILED

OCT 31 1952

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN JUDICIAL DISTRICT OF MISSOURI
EASTERN DIVISION.

John S. Marsalek
CLERK

FEE JAMES,

Plaintiff,

vs.

THE RUBEROID CO., a
corporation,

Defendant.

No.

8864 (2)

Court Room No. HULEN, J.

Circuit Court No. 59224

NOTICE OF FILING OF REMOVAL PETITION.

TO THE ABOVE NAMED PLAINTIFF OR MESSRS. MILTON R. FOX and
COURTNEY S. GOODMAN, his ATTORNEYS OF RECORD:

You are hereby notified that the defendant above
named has filed in the United States District Court for the Eastern
Judicial District of Missouri, Eastern Division, a petition and
bond for removal, copies of which are hereto attached.

MOSER, MARSALEK, CARPENTER, CLEARY & CARTER,

John S. Marsalek (John S. Marsalek)
Attorneys for Defendant.
Pierce Building
St. Louis 2, Missouri.
Garfield 5365.

Service of a copy of the above
notice and of the attached re-
moval petition and bond for
removal is acknowledged this

31st day of October, 1952

A copy of the above notice and
of the attached removal petition
and bond filed in the Circuit
Court of the City of

St. Louis, Missouri, this 31

day of Oct., 1952

Milton R. Fox
Attorney for Plaintiff.

PHILIP O'TOOLE

Clerk of said Circuit Court.

By At Greer
Deputy

Circuit Court for the City of St. Louis

State of Missouri

Fee James

Plaintiff

vs.

The Huberoid Company, a corp.

No. 59244 D

Div. 1

Defendant

SUMMONS

The State of Missouri to Defendant

The Huberoid Company, a corp.

You are hereby summoned to appear before the above-named court and to file your pleading to the petition, copy of which is attached hereto, and to serve a copy of your pleading upon

Milton R. Fox & Courtney S. Goodman

attorney for plaintiff

whose address is 722 Chestnut St.

all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition.

Dated Oct. 13, 1952

PHILIM O'TOOLE
Circuit Clerk.

By *A. Stanton*
Deputy Clerk.

(Seal of Circuit Court)

D.L. 1 for I.D.
3/29/82 Dm.

STATE OF MISSOURI)
CITY OF ST. LOUIS) SS.

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS,
STATE OF MISSOURI

Edw. James,

Plaintiff,

vs.

The Rubberoid Company,
a corporation,

Defendant.

Cause No. _____

Division No. _____

Petition for Damages

1. Plaintiff states that he is a resident of the City of East St. Louis, State of Illinois; that defendant, The Rubberoid Company, was at all times herein mentioned a corporation organized and existing under the laws of the State of New Jersey, and duly licensed to do business in the State of Missouri.

2. Plaintiff further states that from the early part of the year 1945 until the early part of the year 1952, he was employed as a common laborer at defendant's plant in the City of St. Louis, Missouri; that during all of said period of employment his time was principally employed in the manufacturing and processing departments, and in the asbestos room or warehouse at defendant's said plant; that in each manufacturing and processing department defendant used various grinding machines and other mill equipment; that throughout said period of employment plaintiff was required to work on numerous occasions and for great lengths of time at, or about, said machines and equipment; that these same in their operation generated great quantities of asbestos and cement dust; that from time to time during his said employment plaintiff was required to work in a dusty atmosphere in defendant's asbestos room or warehouse, and in freight cars located at defendant's loading dock, all of which contained large quantities of asbestos and cement dust; that as a result of said operations carried on in said plant and the work

37
such diseases or illnesses which plaintiff suffered as hereinafter alleged, and defendant did negligently and carelessly fail to adopt and provide approved and effective devices, means or methods for the prevention of such diseases or illnesses in violation of what is known as Section 122.300 of the Revised Statutes of Missouri of 1949, and also known as Section 100.11 of the Revised Statutes of Missouri of 1939, which are in full force and effect, and which provide that every employer of labor in this State engaged in carrying on any work, trade or process which may produce any illness or disease incident to such work, trade or process carried on or which subjects the employee for the danger of illness or disease incident to such work, trade or process for which employees are exposed, shall for the protection of all employees engaged in such work, trade or process, adopt and provide approved and effective devices, means or methods for the prevention of such industrial or occupational diseases as are incident to such work, trade or process.

(c) Plaintiff further states that during the time he was engaged in said work as aforesaid, defendant negligently and in violation of what is known as Section 122.300 of the Revised Statutes of Missouri of 1949, and also known as Section 100.11 of the Revised Statutes of Missouri of 1939, which are in full force and effect, caused to be supplied to be provided monthly, bi-monthly, and quarterly for the purpose of ascertaining the existence of any disease or illness incident to said work or any industrial or occupational disease due to the character of the work in which plaintiff was engaged and as a result of said failure plaintiff contracted the illness or disease hereinafter mentioned and presently suffers from it with the result of his condition.

(d) That defendant was in violation of what is known as Section 122.300 of the Revised Statutes of Missouri of 1949, and also known as Section 100.11 of the Revised Statutes of Missouri of 1939, which are in full

force and effect, but failed to provide and maintain adequate and efficient ventilation for carrying off all injurious dust and failed to prevent the retaining of dust, and contrary to said Statute engaged in sweeping during working hours without first dampening the floors in the said plant, and failed to sweep or cover the material which was handled and transported in said plant by plaintiff and other employees of defendant.

(6) That defendant was also negligent in that negligently and in violation of Sections 207.300 of the Revised Statutes of Missouri of 1942, and also Sections 100.00 of the Revised Statutes of Missouri of 1942, which was then in full force and effect, it failed to provide and maintain sufficient, adequate and efficient means or device, such as canvas bag or other device for collecting dust or for dampening said dust, or to provide and maintain any other efficient means for catching and collecting the dust and, preventing it from unnecessarily polluting or polluting the air in which plaintiff was obliged to work all such time when the said machines and mechanical equipment and apparatus were being cleaned or emptied, and as a result further failed, in violation of said Statute, to dampen or wet down or cover the dust generated in the work processes carried on during plaintiff's period of employment as a foreman, and to adopt every reasonable precaution to prevent the unnecessary or avoidable retaining of dust, and during said time failed to warn and inform the plaintiff of the dust, and during said working day and to warn and clear the plaintiff of the dust, and to employ in said work or process, and failed to employ in said work or process in a dust-free and under cover or some suitable and efficient dust or to remove the danger to the health of plaintiff and other employees, and as a result of the failure to comply with said Statute plaintiff suffered the conditions hereinafter mentioned, and said conditions grew increasingly worse.

(7) That defendant was also negligent in that negligently and in violation of said Statute, Sections

... and effective; failed to provide and maintain adequate and sufficient facilities for carrying off all injurious dust and failed to prevent the raising of dust; and contrary to said Statute engaged in sweeping during working hours without first dampening the floors in the said plant, and failed to adequately cover the material which was handled and transported in said plant by plaintiff and other employees of defendant.

(4) That defendant was also negligent in that negligently and in violation of Sections 292.220 of the Revised Statutes of Missouri of 1949, and also Section 10.20 of the Revised Statutes of Missouri of 1949, which state that in full force and effect, it failed to provide and maintain sufficient, adequate and efficient means or device, such as canvas bag or other device to collect dust or to dampen or put down the dust, or to provide and maintain any other efficient method for catching and collecting the dust and, preventing it from unnecessarily smoking or polluting the air in which plaintiff was obliged to work at such times when the said machine had been in full operation as aforesaid when being cleaned or emptied, and as defendant further failed in violation of said Statute, to cause its work to cover the dust generated in the work on process carried on during plaintiff's period of employment as aforesaid, and to adopt every reasonable precaution to prevent the necessary or common raising of dust throughout said time failed to wash and scrub the floors in said plant every working day and to wash and clean all removable interior surfaces, fixtures and tools employed in said work on process, and failed to carry on said work on process in separate rooms and under cover of some suitable and efficient device to remove the danger to the health of plaintiff and other employees, and, as a result of the failure to comply with said Statute, plaintiff got over the conditions involved as mentioned and said condition grew constantly worse.

(5) That defendant was also negligent in that negligently and in violation of said Statute, to cause

still suffers and will continue to suffer, great, almost total, and
amplified, sleeplessness, nervousness, restlessness, anxiety,
coughing, wheezing and shortness of breath, and that all of these
aforementioned conditions have caused, and will continue to permanently, impair
his earning capacity, and has prevented him from securing any usual
labors that might have been available to him, and since the
onset of his symptoms has been and in the future will be, permanent,
only a restricted labor and restricted, describing, plaintiff of
the results of his labor for the sum of \$40.00 per week, that plain-
tiff has incurred and will continue to incur in the amount of
approximately \$300.00, which has been expended in medical and
additional medical expenses, and plaintiff states that the con-
ditions of his health are chronic, permanent, disabling and
progressive.

Therefore, the plaintiff considered, plaintiff states
he has been damaged in the sum of thirty-five thousand dollars
(\$35,000.00) for which sum together with his costs and charges
heaver judgment against the defendant.

Walter R. Fife

Plaintiff's Attorney
1000 Commercial
Chicago, Illinois
Chicago, Illinois

Charles A. Conner

Defendant's Attorney
1000 Commercial
Chicago, Illinois
Chicago, Illinois

PLF. ☐ DEF. ☒ ☐
EXHIBIT NO. DL 3
DEPO OF: Mr. O. R. Lang
DATE: 7-31-82

FILED

APR 18 1953

John F. O'Connor
CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DIVISION OF THE EASTERN JUDICIAL
DISTRICT OF MISSOURI.

FKE JAMES,

Plaintiff,

vs.

THE RUBEROID COMPANY,
a corporation,

Defendant.

Cause No. 8864.

Court No. 2.

DEPENDANT'S OBJECTIONS TO PLAINTIFF'S INTERROGATORIES.

Pursuant to Rule 33, F.R.C.P., defendant, within ten days after service upon it of plaintiff's interrogatories, objects to certain of said interrogatories, herein set forth, for the reasons stated:

"INTERROGATORY NO. 15

"Is any dust generated in connection with the work of a beaterman? If so, to what extent."

Defendant objects that said interrogatory in calling for an answer as to the extent of the dust, seeks an opinion or conclusion, and not a statement of fact.

"INTERROGATORY NO. 19

"Are the atmospheric condition in the manufacturing part of the plant any different from the atmospheric conditions in the asbestos fibre room, i.e., is more dust generated in the one room than the other."

Defendant objects that said interrogatory calls for an opinion and comparison, and that the answer would not be relevant to the subject matter involved in the action.

"INTERROGATORY NO. 23

"Is the plant lay-out and working conditions in those sections of your said plant in which plaintiff worked during the entire period of his employment the same now as they were during

the time plaintiff worked for your company? If there have been any changes, state full particulars in connection with any changes so made."

Defendant objects that said interrogatory is too broad and general. That it calls for information not material or relevant to the subject matter; that it is vague and indefinite in its reference to "plant lay-out," "working conditions" and "changes."

"INTERROGATORY NO. 29

"Does a beaterman's job entail more exposure to dust than other types of employment in your said plant?"

"INTERROGATORY NO. 30

"Is a beaterman's job one of the dustiest jobs carried on in your said Plant?"

Defendant objects that said interrogatories call for a comparison and opinion, and for information not material or relevant to the subject matter of the action.

"INTERROGATORY NO. 31

"Has your company ever made a study of any kind with respect to the effect of asbestos or cement exposure or a combination of both, on the worker? If so, state the nature of any such study and the findings and results thereof."

Defendant objects that such interrogatory does not call for any fact which would be material or relevant to the subject matter of the action; that it calls for opinions and conclusions, and for the result of investigation, study and research on defendant's part; that plaintiff is not entitled to call for such information.

"INTERROGATORY NO. 32

"Except for the plaintiff, have any cases come to your attention where workers in your said plant have contracted asbestosis, silicosis or any other chest condition? If so, state the number of cases that have come to your attention and full details with respect thereto."

Defendant objects that said interrogatory is too broad and inclusive; that it calls for matters which would be collateral, immaterial and irrelevant to the subject matter of the action; that it would require defendant to express opinions whether other employees had sustained asbestosis, silicosis or other chest conditions.

"INTERROGATORY NO. 36

"During plaintiff's employment with your company did William L. Nelson have supervision of or jurisdiction over the administration of accidents, diseases or claims of workers arising under The Workmen's Compensation Law? If so, state the extent of such jurisdiction or supervision."

Defendant objects that said interrogatory calls for information which is immaterial and irrelevant to the subject matter of the action, and that it calls for a legal conclusion and opinion.

"INTERROGATORY NO. 38

"During plaintiff's employment what health or safety measures were adopted to control the dust generated in said plant."

Defendant objects that said interrogatory is vague and indefinite and too broad in its reference to "health or safety measures."

"INTERROGATORY NO. 42

"Is it true that during the period of plaintiff's employment all reports of accidents and illnesses of employees

which occurred during the operation of said plant, whether written or oral, would be brought to the attention of William L. Nelson? If so, state what Mr. Nelson would do with said reports."

"INTERROGATORY NO. 43

"Is it true that during plaintiff's employment William L. Nelson signed all reports as required by The Workmen's Compensation Law with respect to accidents and illnesses which may have occurred in the operation of said plant."

Defendant objects that said interrogatories are too broad, vague and indefinite, that they call for a conclusion and opinion and for information which is not relevant or material to the subject matter of the action.

"INTERROGATORY NO. 44

"During the time of plaintiff's employment was your said plant ever inspected by factory inspectors of the State of Missouri? If so, state when such inspections were made and in what part of the plant same were made; also state the findings, conclusions and recommendations of said inspectors."

Defendant objects that said interrogatory calls for information which is immaterial and irrelevant to the subject matter of the action; that it calls for the opinions and conclusions of the factory inspectors referred to, and not for facts.

WHEREFORE, defendant respectfully prays the judgment of this Court, whether it be required to answer said interrogatories.

Copy of above objections mailed to
Courtney S. Goodman, plaintiff's attorney,
this 17th day of April, 1953.

John S. Marsalek
John S. Marsalek,
MOSER, MARSALEK, CARPENTER, CLEARY & CARTER,
Attorneys for Defendant.
330 Pierce Building,
St. Louis 2, Missouri.
Garfield 5365.

IN THE UNITED STATES DISTRICT COURT WITHIN
AND FOR THE EASTERN DIVISION OF THE
EASTERN JUDICIAL DISTRICT OF MISSOURI.

FILED

NOV 15 1952

[Signature]
CLERK

FEE JAMES,

Plaintiff,

vs.

THE RUBEROID CO.,
a corporation,

Defendant.

No. 8864 (2)

PLF. ☐ DEF. ☒
EXHIBIT NO. DL-27
DEPO OF: W. O. Lane
DATE: 9-30-82

DEFENDANT'S ANSWER.

For answer to plaintiff's petition defendant states:

I

1. Defendant admits the averments set forth in paragraph 1 of the petition.
2. Defendant admits that plaintiff was employed as a laborer in defendant's plant in the City of St. Louis, Missouri, from the early part of the year 1943 until the early part of the year 1952.
3. Defendant denies each and every allegation set forth in plaintiff's petition which is not hereinabove expressly admitted.

II

1. Defendant states that at all times mentioned in plaintiff's petition, and for a long time theretofore, defendant was a major employer under the terms of the Missouri Workmen's Compensation Law, Chapter 287, Sections 287.010 et seq., Missouri Revised Statutes, 1949, in that defendant at all said times had more than ten employees regularly employed; that defendant duly elected to accept the occupational disease section of said law, Section 287.020, M.R.S. 1949,

by filing with the Missouri Workmen's Compensation Commission, (now Division of Workmen's Compensation) created by said law, a written notice of its said election, and defendant posted in conspicuous places in its said plant and on its premises notices of said election furnished by said commission; and defendant states that it was at all said times a duly qualified self-insurer under said Missouri Workmen's Compensation Law.

2. Defendant states that the plaintiff at the time he filed this suit and at all times mentioned in his petition well knew that the defendant had elected to accept the occupational disease section of the Missouri Workmen's Compensation Law, and defendant states that plaintiff at no time filed with the Missouri Workmen's Compensation Commission or the Division of Workmen's Compensation any notice that he elected to reject the Missouri Workmen's Compensation Law or said occupational disease section thereof, and that both plaintiff and defendant were at all times mentioned in plaintiff's petition bound by all the provisions of said law.

3. Defendant states that if the plaintiff contracted an occupational illness or disease as the result of his employment in defendant's plant, as he alleges, his sole and exclusive right of recovery therefor was and is by means of a claim before the Division of Workmen's Compensation, of the Department of Labor and Industrial Relations of Missouri, as in said law provided, and that he has no right to maintain this suit.

III

1. Defendant states that on or about the 21st day of May, 1952, plaintiff filed with the Division of Workmen's Compensation, Department of Labor and Industrial Relations

of Missouri, a claim wherein he asserted that he had contracted an occupational disease, namely silicosis and asbestosis, arising out of and in the course of his employment by defendant, and prayed compensation therefor.

2. That a true copy of said claim is attached to and is hereby made a part of this answer.

3. That the plaintiff thereby made an election to seek recovery for said alleged occupational disease under the Missouri Workmen's Compensation Law, and by the method of recovery in said law prescribed, by which election the plaintiff is bound, and defendant therefore states that plaintiff has no right to maintain this suit.

WHEREFORE, having fully answered, defendant prays to be hence dismissed with its costs.

John S. Marsalek
(John S. Marsalek)
MOSEY, MARSALEK, CARPENTER, CLEARY & CARTER
Attorneys for defendant.
330 Pierce Building,
St. Louis 2, Missouri.
GARfield 5365.

The foregoing answer was served upon plaintiff this 14th day of November, 1952, by mailing a copy thereof to Milton R. Fox and Courtney S. Goodman, 722 Chestnut Street, St. Louis 1, Missouri, his attorneys of record.

John S. Marsalek
Attorney for defendant.

and by DIVISION OF WORKMEN'S COMPENSATION



BEFORE THE RUBEROID CO. Injury No. _____
 Division of Workmen's Compensation
 Department of Labor and Industrial Relations
 JEFFERSON CITY, MISSOURI MAY 22 1952
 Claim for Compensation

(To be sent to the Division at Jefferson City, Missouri, with the fee for the claim, or death, or from the date of the last payment of compensation.)

NOTE: Send one copy for the Division and one copy for each employer and insurer.

Use only when employee or insurer finally returns or agrees to pay compensation.

GIVE HOUSE NUMBER, STREET, CITY AND STATE IN ALL ADDRESSES

1. Claim is hereby made as follows for compensation as provided in the Missouri Workmen's Compensation Law, for personal injury (or death) to the employee by accident arising out of and in the course of his employment, both employer and employee having elected to accept the law and at the time of the accident.

2. Name and address of all claimants: Paul Jones
628 Oak Ave., East St. Louis, Illinois

3. Name and address of all employers: Ruberoid Company
8115 Riverview Drive, St. Louis, Missouri

4. Name and address of all insurers: Self

5. Injured employee's name: Paul Jones 6. Average weekly wage: \$80.00
 7. Date of accident: March 1, 1952 8. How: Self
 9. Place of accident: Interview Drive St. Louis, Mo.

10. Did injury result in death? No If so, answer questions 11 and 12 on the reverse side hereof.
 11. Parts of body injured: Left hand, right hand, brooches, tubes, and throat.

12. Weeks of temporary disability to date: 11 13. Weeks of probable future temporary disability: 11
 14. Exact nature of any permanent injury: To be determined

15. How accident happened, cause, and work employee was doing for employer at the time:
While working as a bookkeeper and stocker, accident contracted
polio, and osteoarthritis.

16. Additional statements: (See reverse side hereof.)

17. Total compensation paid to date: \$0.00

18. Date: May 22, 1952

19. Claimant's Signature: Paul Jones

20. Attorney's Signature: John A. Jones

21. Employer's Signature: John A. Jones

22. Insurer's Signature: John A. Jones

23. Total value compensation claimed: \$80.00

24. Claimant's Signature: Paul Jones

25. Employer's Signature: John A. Jones

26. Insurer's Signature: John A. Jones

NOTE: This form must be signed - NOT TYPED

For James

vs.

The Autovoid Co.

No. 8864 (2)

United States District Court

Eastern Division of the Eastern Judicial
District of Missouri

Ct. No. 2.

April 28, 1953.

MEMORANDUM FOR CLERK

Re

Jury discharged by consent
Case passed for settlement.

Charles F. Luke

John S. Marsalek

Atty for deft

Ordnance of Ordinance
Atty for Pltff.

FILED

APR 28 1953

James F. O'Connor

CLERK
Attorney's for Plaintiff
Defendant

FD-100 (Rev. 4-22-50)

D.L. 2/10 = 0
5/10/53 Jm

PLF. ☐ DEF. ☒

EXHIBIT NO. D-5

DEPO OF: Mr. O'Leary

DATE: 3-30-52

FILED

APR 24 1953

James P. O'Connor
CLERK

IN THE UNITED STATES DISTRICT COURT WITHIN
AND FOR THE EASTERN DIVISION OF THE
EASTERN JUDICIAL DISTRICT OF MISSOURI.

FEE JAMES,

Plaintiff,

vs.

THE RUBEROID CO., a
corporation,

Defendant.

No. 8864

Room No. 2

DEFENDANT'S ANSWER TO PLAINTIFF'S INTERROGATORIES

Interrogatory
Number

Answer

1. Date of "Application for Authority to Self Insure" under Missouri Workmen's Compensation Law, December 10, 1935. Application filed December 13, 1935. Application signed by W. B. Harris.
2. The Missouri Workmen's Compensation Commission.
3. No, to the best of informant's knowledge.
4. Application filed August 30, 1933, with the Missouri Workmen's Compensation Commission.
5. Yes, since 1944 except for year 1948.
6. Yes, since 1944 except for year 1948.
7. No.
8. Yes.
9. Yes.
10. Fee James worked in said plant from April 12, 1943, to March 3, 1952, as a laborer, but was not always engaged directly in the manufacturing processes referred to.
11. No, gloves excepted.
12. He was furnished with rubber or canvas gloves, because during the war it was difficult or impossible for employes to purchase gloves, and on that account the defendant procured and furnished same and has continued to do so.

Interrogatory
Number

Answer

13. Coloring, in the nature of oxide, is mixed with cement in a pebble mill and later applied by a cylinder to the face of shingles as a veneer.
14. Plaintiff worked as a beaterman at intervals during his aforesaid employment. His aggregate time as beaterman was approximately 85 weeks. In said capacity, by means of a cart, he carried asbestos, and possibly cement also, to the mixing tank and dumped said material into the opening of the tank.
15. Some dust is generated on occasions by the work of a beaterman.
16. Asbestos fiber, in bags, is brought to the plant in freight cars, from which said bags are unloaded and placed in a warehouse.
17. No.
18. In part of his work as beaterman, plaintiff used a fork or shovel in the asbestos fiber room located on the second floor of the plant for the purpose of placing said fiber into a cart for hauling to the mixing tank. Defendant has no record showing how much of his time was devoted to said operation.
20. Informant has no record or recollection of any dust count ever having been made in any part of said plant.
21. (a) There was an exhaust flue extending from the asbestos scrap room on the second floor to a bag dust collector. Air was propelled through this flue by a fan located at the crusher in the finishing department.
- (b) The asbestos storage room on the second floor was equipped with a return flue through which the air conducted to said room by the carrier flue circulated back to the Kohler mill in the raw material department. The air was propelled by a fan located at the Kohler mill.
- (c) Both of said rooms were sealed shut

Interrogatory
Number

Answer

while the blower operation was in progress.

(d) Exhaust fans, 60 inch, 5 h.p. motor, 1140 r.p.m., capacity 54000 c.f.m.; were located as follows:

2 in asbestos storage warehouse.

2 on second floor, manufacturing department.

2 in roof of main floor, manufacturing department.

3 in roof of trimming department.

22.

Answered above.

23.

Plant lay-out is practically the same now as when plaintiff worked here. Some changes have been made on the beater floor (2nd floor), material formerly having been a wet mix, now all material is mixed dry. Stacking equipment has been changed from hand stacking to automatic stacking. Hydraulic pressing no longer followed.

24.

(a) Both the east and west sides of the main building of the plant are composed principally of glass panels. Some of the frames are swung on pivots so that they can be opened.

(b) There are no windows in the asbestos fiber room on the second floor.

(c) The warehouse which adjoins the main building is equipped with windows.

(d) The roof of the main building is of saw-tooth construction, with glass windows in the vertical faces.

(e) The size and number of the windows are as follows:

16 windows in Manufacturing Department,
East wall - 3 ft. high - 4 ft. wide.
3 windows in Manufacturing Department,
2nd floor - 3 ft. high - 4 ft. wide.
11 windows in Manufacturing Department,
West wall - 3 ft. high - 4 ft. wide.
5 windows in Manufacturing Department,
2nd floor - 3 ft. high - 4 ft. wide.
2 windows in Manufacturing Department,
2nd floor - 3 ft. high - 3 ft. wide.

12 windows 3 ft. wide x 3½ ft. high in
each of 7 saw tooth roof section,
Total of 84 windows.

Interrogatory
Number

Answer

1 door west side 8 ft. x 8 ft.
1 door west side 5 ft. x 8 ft.
1 door west side 4 ft. x 7 ft.
1 door west side 3½ ft. x 7 ft.
1 door west side 8 ft. x 7 ft.

6 windows in asbestos storage warehouse,
west side - 3 ft. x 3 ft.
6 windows 3 ft. x 3 ft. in each of 4
sections of saw tooth roof,
Total of 24 windows.

1 door east side 11 ft. wide - 7½ ft. high.
1 door east side 4 ft. wide - 7 ft. high.
1 door west side 11 ft. wide - 7½ ft. high.

25.

No.

26.

No.

27.

Yes, 8/19/43 to 8/23/43; 9/16/43 to
9/18/43; 9/21/43 to 9/25/43, 10/2/43 to
10/4/43; 10/9/43 to 10/10/43; 10/31/43
to 11/1/43; 10/14/44 to 2/20/45; 5/21/45
to 5/28/45; 1/14/46 to 1/28/46; 10/20/47
to 12/2/47.

28.

Defendant furnished plaintiff with a
respirator whenever he was engaged as
beaterman or color grinder.

31.

Not to the knowledge of the informant.

33.

Yes; defendant has the record referred
to. Examination was by Chas. Jost, M.D.,
6400 W. Florissant.

34.

No.

35.

The notices referred to were originally
posted in 1933, on the bulletin boards
located in the factory, in the office,
in the machine shop and in the employment
office. Later some of the bulletin boards
were moved and the signs went along with
the boards. Later, signs were posted near
the old boiler room, on the Kohler mill
platform, in the beater department on the
second floor, and in the pre-mix room on
the third floor. The posting of these
notices was first done under the super-
vision of P. O. Beeson, now deceased.
Later this matter was under the super-
vision of E. C. Kohl (present address
Baraboo, Wisconsin), D. E. Mosby, present
address unknown, and O. W. Dueringer,

Interrogatory
Number

Answer

- (St. Louis, street address unknown), and others. Walter B. Schaeffer, 7516 Chandler Avenue, St. Louis, did the work of installing some of the notices.
36. During the time Wm. L. Nelson was General Superintendent of the plant, as stated above, the matters inquired about were under the direct supervision of the personnel manager. Mr. Nelson was over the personnel manager, but had no direct duties in connection with said matters.
37. As general superintendent of the plant, Mr. Nelson exercised general supervision over the matters referred to.
39. The employes raked up trimmings or swept their working places as their work permitted. When not actively engaged in their regular operations they were required to clean and sweep about their machines or working places. The machines were cleaned and scraped about once a week and the floors were cleaned as part of the same operation. Defendant has no record showing more definitely than above how often the floors were cleaned and swept.
40. Yes.
41. No.
44. Yes.

THE RUBEROID CO.

By Francis J. Hollerus
(Francis J. Hollerus)
Personnel Manager.

John S. Marsalek
(John S. Marsalek)

MOSER, MARSALEK, CARPENTER, CLEARY & CARTER,
Attorneys for defendant.

STATE OF MISSOURI)
CITY OF ST. LOUIS) SS

Francis J. Hollerus, of lawful age, being duly sworn, on his oath states that the foregoing answers to interrogatories are true, to the best of his knowledge, information and belief.

Francis J. Hollerus
Francis J. Hollerus

Subscribed and sworn to before me this 24th day of

April, 1953.

My commission expires November 25, 1953

Freeman Dugard
Notary Public

Copy of the above answers mailed to
Courtney S. Goodman, 722 Chestnut
Street, St. Louis 1, Missouri,
plaintiff's attorney, this 24th
day of April, 1953.

PLF. ☐ DEF. ☐

EXHIBIT NO. 114

DEPO OF: W. C. Leary

DATE: 3-30-52

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN
DIVISION OF THE EASTERN JUDICIAL
DISTRICT OF MISSOURI

FEE JAMES,

Plaintiff,

vs.

THE RUBEROID COMPANY,
a corporation,

Defendant.

Cause No. 8864

Court No. 2

FILED

APR -9 1953

CLERK

PLAINTIFF'S INTERROGATORIES PROPOUNDED TO
DEFENDANT, THE RUBEROID COMPANY, A CORPORATION

To the above-named defendant and Moser, Marsalek, Carpenter, Cleary & Carter, and John S. Marsalek, its Attorneys of Record:

Under and pursuant to the provisions of Rule 33 of the Federal Rules of Civil Procedure, you are hereby requested to answer separately and fully, to-wit:

INTERROGATORY NO. 1

When was the last time that your company filed an application seeking to be qualified as a self-insurer under The Workmen's Compensation Law of the State of Missouri? State the date of said application and the date of the filing thereof, and the name of the person or persons connected with your company who signed said application.

INTERROGATORY NO. 2

State whether the last time your company was licensed as a qualified self-insurer under The Workmen's Compensation Law of Missouri whether your license was issued by the Workmen's Compensation Commission, the Division of Workmen's Compensation, or by the Industrial Commission of Missouri; and give the exact date your company was so licensed.

INTERROGATORY NO. 3.

Did your company during the year 1945 or at any time thereafter file an application seeking to become a self-insurer under The Workmen's Compensation Law of Missouri with either the Division of Workmen's Compensation or with the Industrial Commission of Missouri? If so, state the date any such application was filed and with whom filed and whether or not any license was issued pursuant thereto, and the name of the official agency

that issued any such license.

INTERROGATORY NO. 4

Give the exact date your company last made application under The Workmen's Compensation Law of Missouri evidencing its intention to elect to bring itself within the provisions of said Law with respect to occupational disease; and state whether such application was filed prior to 1945 with The Workmen's Compensation Commission of Missouri, or since that date with the Division of Workmen's Compensation or with the Industrial Commission of Missouri.

INTERROGATORY NO. 5

State whether William L. Nelson is employed by your company as general superintendant, and if so, state how long he has been employed in that capacity.

INTERROGATORY NO. 6

State whether William L. Nelson is manager of your plant at 9215 Riverview Drive, in the City of St. Louis, Missouri. If so, state during what period of time he has been manager of said plant.

INTERROGATORY NO. 7

Do you admit that William L. Nelson was the plant manager or plant superintendant in said plant from the early part of the year 1943 until the early part of the year 1952?

INTERROGATORY NO. 8

Is it true that in said plant your company manufactures asbestos and cement building products?

INTERROGATORY NO. 9

Is it true that the principal ingredients of the products manufactured in said plant are asbestos and portland cement?

INTERROGATORY NO. 10

Do you admit that from the early part of the year 1943 until the early part of the year 1952 the plaintiff, Fee James, worked in said plant as a laborer where manufacturing processes were carried on in which asbestos and portland cement were the principal ingredients.

INTERROGATORY NO. 11

During the time that plaintiff, Fee James, worked in said plant as

a laborer, did your company furnish him with any work clothes? If so, give full particulars with respect to the nature and extent of the clothes so furnished.

INTERROGATORY NO. 12

During the period of time that plaintiff worked in said plant did your company furnish him with any work gloves? If so, state the nature of said gloves and the reason for furnishing same.

INTERROGATORY NO. 13

In addition to the asbestos and portland cement are any coloring matters used in the manufacturing processes there carried on? If so, state in detail what paints, pigments or other coloring matters are used, and the manner in which used.

INTERROGATORY NO. 14

Is it true that during a large period of plaintiff's employment he was employed as a beaterman? If so, state what work in particular he was required to do in that capacity.

INTERROGATORY NO. 15

Is any dust generated in connection with the work of a beaterman? If so, to what extent. S

INTERROGATORY NO. 16

Is it true that the asbestos fibres used in the manufacturing processes carried on in said plant come in freight cars which are unloaded into a warehouse or a storage room in said plant?

INTERROGATORY NO. 17

If your answer to the next preceding interrogatory is in the affirmative, did plaintiff's work require him to shovel or load asbestos fibre in said warehouse or storage room and cart it into the manufacturing room for the purpose of placing it into a mixer; and state how often during the time of his employment he was required to do this particular type of work.

INTERROGATORY NO. 18

During the time plaintiff worked as a beaterman in said plant did he use a fork or shovel in an asbestos fibre storage room in order to place such fibre into a cart or truck for hauling to a mixing tank? If so, state how long he was engaged during the entire period of his employment doing that

type of work.

INTERROGATORY NO. 19

Are the atmospheric conditions in the manufacturing part of the plant any different from the atmospheric conditions in the asbestos fibre room, i. e., is more dust generated in the one room than the other. *S*

INTERROGATORY NO. 20

Did your company ever make a dust count in either the manufacturing part of said plant or in the asbestos fibre storage room, or in any other part of your said plant? If so, give full particulars as to any and all of such dust counts, state when they were made, by whom they were made, how they were made, including a description of the equipment or apparatus used in making such tests, and state in detail the findings and results of any and all such dust counts.

INTERROGATORY NO. 21

State whether there were any exhaust fans maintained and placed in operation during the period of plaintiff's employment with your company in either the manufacturing and processing part of your said plant or in the asbestos fibre storage room, or in any other part of your said plant. If so, give full particulars with respect to the type and character of any such fans maintained and placed in any of such sections of your said plant.

INTERROGATORY NO. 22

Aside and apart of any exhaust fans as mentioned in the preceding interrogatory, did your company maintain any other type of exhaust or blower system to remove any noxious gases, fumes or dust from the manufacturing or processing part of your said plant or from the asbestos fibre storage room or from any other part of said plant? If so, state full particulars giving the type of exhaust equipment or apparatus so used.

INTERROGATORY NO. 23

Is the plant lay-out and working conditions in those sections of your said plant in which plaintiff worked during the entire period of his employment the same now as they were during the time plaintiff worked for your company? If there have been any changes, state full particulars in connection with any changes so made. *O*

INTERROGATORY NO. 24

State the number of windows in the manufacturing or processing department of said plant and the number of windows as contained in the asbestos fibre storage room or warehouse, and also state the dimensions of said windows and where located.

INTERROGATORY NO. 25

During the time that plaintiff worked for your company at or near the mixing tank or vat was there any hood or any other device over or about said mixing vat or tank which was used for drawing off any fumes, dusts, or gases? If so, give full particulars with respect thereto.

INTERROGATORY NO. 26

During the period of plaintiff's employment was he required to work around any cement bins? If so, state where such bins were located and whether the atmosphere around any such bins was dusty; and give the dimensions of such bins.

INTERROGATORY NO. 27

Did plaintiff ever work in your said plant mixing ground dry colors or pigments? If so, state how long he worked in such operation.

INTERROGATORY NO. 28

In connection with any of the jobs assigned to plaintiff during his period of employment with your company did your company ever furnish him with any respirator? If so, state when this was done and the nature of the plant operation where respirators were indicated or required.

INTERROGATORY NO. 29

Does a beaterman's job entail more exposure to dust than other types of employment in your said plant? S

INTERROGATORY NO. 30

Is a beaterman's job one of the dustiest jobs carried on in your said Plant? S

INTERROGATORY NO. 31

Has your company ever made a study of any kind with respect to the effect of asbestos or cement exposure or a combination of both, on the worker? If so, state the nature of any such study and the findings and results thereof. S

INTERROGATORY NO. 32

Except for the plaintiff, have any cases come to your attention where workers in your said plant have contracted asbestosis, silicosis or any other chest condition? If so, state the number of cases that have come to your attention and full details with respect thereto. *S - same question*

INTERROGATORY NO. 33

Was plaintiff given a pre-employment medical examination before he went to work for your company? If so, state whether you have a record of such examination and give the name and address of the examining physician.

INTERROGATORY NO. 34

After plaintiff was employed did your company give him a periodic monthly medical examination during the entire period of his employment? If so, state the dates that these examinations were made and the name and address of the physician or physicians who made them.

INTERROGATORY NO. 35

During the period of plaintiff's employment with your company did your company post, in a conspicuous and prominent place, a notice that it had elected to accept the occupational disease provisions of The Missouri Workmen's Compensation Law? If so, state how many of such notices were posted and where the same were posted; also state when same were posted and give the name and address of the person or persons who posted same.

INTERROGATORY NO. 36

During plaintiff's employment with your company did William L. Nelson have supervision of or jurisdiction over the administration of accidents, diseases or claims of workers arising under The Workmen's Compensation Law? ⁰ If so, state the extent of such jurisdiction or supervision. *He has*

INTERROGATORY NO. 37

During plaintiff's employment did William L. Nelson have jurisdiction of and supervision over the general housekeeping and health and safety measures in said plant?

INTERROGATORY NO. 38

During plaintiff's employment what health or safety measures were adopted to control the dust generated in said plant. *S up*

INTERROGATORY NO. 39

During the period of plaintiff's employment how often would the floors of said plant in the departments in which plaintiff worked be cleaned and swept?

INTERROGATORY NO. 40

Would the cleaning and sweeping of the floors in said plant where plaintiff worked be carried on during working hours?

INTERROGATORY NO. 41

During the period of plaintiff's employment did your company post in any conspicuous place in any of the departments where plaintiff worked any notice which would warn plaintiff and other employees of any of the dust or fume hazards as may have been present in said plant? If so, state when and where such notices were posted and by whom.

INTERROGATORY NO. 42

Is it true that during the period of plaintiff's employment all reports of accidents and illnesses of employees which occurred during the operation of said plant, whether written or oral, would be brought to the attention of William L. Nelson? If so, state what Mr. Nelson would do with said reports. *Opinion.*

INTERROGATORY NO. 43

Is it true that during plaintiff's employment William L. Nelson signed all reports as required by The Workmen's Compensation Law with respect to accidents and illnesses which may have occurred in the operation of said plant.

INTERROGATORY NO. 44

During the time of plaintiff's employment was your said plant ever inspected by factory inspectors of the State of Missouri? If so, state when such inspections were made and in what part of the plant same were made; also state the findings, conclusions and recommendations of said inspectors. *Mail 4/10/53.*

Respectfully submitted,

Milton R. Fox
Milton R. Fox
722 Chestnut Street
St. Louis 1, Missouri -(CH 5077)

and
Courtney S. Goodman
Courtney S. Goodman
722 Chestnut Street
St. Louis 1, Missouri -(CH 1990)
Attorneys for Plaintiff

Copy of the above Interrogatories mailed this 27th day of April, 1953, to defendants attorneys, Moser, Marsalek, Carpenter, Cleary & Carter, and John S. Marsalek, 330 Pierce Bldg., St. Louis, Missouri

FILED

OCT 31 1952

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN JUDICIAL DISTRICT OF MISSOURI
EASTERN DIVISION.

James J. O'Connor
CLERK

FEE JAMES,

Plaintiff,

vs.

THE RUBEROID CO., a
corporation,

Defendant.

No.

8864 (2)

Court Room No. HULEN, J.

Circuit Court No. 59224

NOTICE OF FILING OF REMOVAL PETITION.

TO THE ABOVE NAMED PLAINTIFF OR MESSRS. MILTON R. FOX and
COURTNEY S. GOODMAN, his ATTORNEYS OF RECORD:

You are hereby notified that the defendant above
named has filed in the United States District Court for the Eastern
Judicial District of Missouri, Eastern Division, a petition and
bond for removal, copies of which are hereto attached.

MOSER, MARSALEK, CARPENTER, CLEARY & CARTER,

John S. Marsalek

(John S. Marsalek)
Attorneys for Defendant.
Pierce Building
St. Louis 2, Missouri.
Garfield 5365.

Service of a copy of the above
notice and of the attached re-
moval petition and bond for
removal is acknowledged this

31st day of October, 1952

A copy of the above notice and
of the attached removal petition
and bond filed in the Circuit
Court of the City of

St. Louis, Missouri, this 31

day of Oct., 1952

Milton R. Fox
Attorney for Plaintiff.

PHILIM OTOOLE

Clerk of said Circuit Court.

By At Greasy
Deputy

FILED

APR 18 1953

James J. O'Connor
CLERK

PLF. ☐ DEF. ☒
EXHIBIT NO. DL 3
DEPO OF: Mr. O'Leary
DATE: 3-31-82

U.S. DISTRICT COURT FOR THE EASTERN

Circuit Court for the City of St. Louis

State of Missouri

Fee James

Plaintiff

vs.

The Huberoid Company, a corp.

No. 59224 D

Div. 1

Defendant

SUMMONS

The State of Missouri to Defendant

The Huberoid Company, a corp.

You are hereby summoned to appear before the above-named court and to file your pleading to the petition, copy of which is attached hereto, and to serve a copy of your pleading upon

Milton R. Fox & Courtney S. Goodman

attorney for plaintiff

whose address is 722 Chestnut St.

all within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition.

Dated Oct. 13, 19 52

PHELIM O'TOOLE
Circuit Clerk

By *A. Stanton*
Deputy Clerk

(Seal of Circuit Court)

the time plaintiff worked for your company? If there have been any changes, state full particulars in connection with any changes so made."

Defendant objects that said interrogatory is too broad and general. That it calls for information not material or relevant to the subject matter; that it is vague and indefinite in its reference to "plant lay-out," "working conditions" and "changes."

"INTERROGATORY NO. 29

"Does a beaterman's job entail more exposure to dust than other types of employment in your said plant?"

"INTERROGATORY NO. 30

"Is a beaterman's job one of the dustiest jobs carried on in your said Plant?"

Defendant objects that said interrogatories call for a comparison and opinion, and for information not material or relevant to the subject matter of the action.

"INTERROGATORY NO. 31

"Has your company ever made a study of any kind with respect to the effect of asbestos or cement exposure or a combination of both, on the worker? If so, state the nature of any such study and the findings and results thereof."

Defendant objects that such interrogatory does not call for any fact which would be material or relevant to the subject matter of the action; that it calls for opinions and conclusions, and for the result of investigation, study and research on defendant's part; that plaintiff is not entitled to call for such information.

"INTERROGATORY NO. 32

"Except for the plaintiff, have any cases come to your attention where workers in your said plant have contacted asbestosis, silicosis or any other chest condition? If so, state the number of cases that have come to your attention and full details with respect thereto."

Defendant objects that said interrogatory is too broad and inclusive; that it calls for matters which would be collateral, immaterial and irrelevant to the subject matter of the action; that it would require defendant to express opinions whether other employees had sustained asbestosis, silicosis or other chest conditions.

"INTERROGATORY NO. 36

"During plaintiff's employment with your company did William L. Nelson have supervision of or jurisdiction over the administration of accidents, diseases or claims of workers arising under The Workmen's Compensation Law? If so, state the extent of such jurisdiction or supervision."

Defendant objects that said interrogatory calls for information which is immaterial and irrelevant to the subject matter of the action, and that it calls for a legal conclusion and opinion.

"INTERROGATORY NO. 38

"During plaintiff's employment what health or safety measures were adopted to control the dust generated in said plant."

Defendant objects that said interrogatory is vague and indefinite and too broad in its reference to "health or safety measures."

"INTERROGATORY NO. 42

"Is it true that during the period of plaintiff's employment all reports of accidents and illnesses of employees

which occurred during the operation of said plant, whether written or oral, would be brought to the attention of William L. Nelson? If so, state what Mr. Nelson would do with said reports."

"INTERROGATORY NO. 43

"Is it true that during plaintiff's employment William L. Nelson signed all reports as required by The Workmen's Compensation Law with respect to accidents and illnesses which may have occurred in the operation of said plant."

Defendant objects that said interrogatories are too broad, vague and indefinite, that they call for a conclusion and opinion and for information which is not relevant or material to the subject matter of the action.

"INTERROGATORY NO. 44

"During the time of plaintiff's employment was your said plant ever inspected by factory inspectors of the State of Missouri? If so, state when such inspections were made and in what part of the plant same were made; also state the findings, conclusions and recommendations of said inspectors."

Defendant objects that said interrogatory calls for information which is immaterial and irrelevant to the subject matter of the action; that it calls for the opinions and conclusions of the factory inspectors referred to, and not for facts.

WHEREFORE, defendant respectfully prays the judgment of this Court, whether it be required to answer said interrogatories.

Copy of above objections mailed to
Courtney S. Goodman, plaintiff's attorney,
this 17th day of April, 1953.

John S. Marsalek
John S. Marsalek,
MOSER, MARSALEK, CARPENTER, CLEARY & CARTER,
Attorneys for Defendant.
330 Pierce Building,
St. Louis 2, Missouri.
Garfield 5365.

PLF. ☐ DEF. ☒

EXHIBIT NO. DL-5

DEPO OF: Mr. O'Leary

DATE: 3-30-82

FILED

APR 24 1953

James J. O'Leary
CLERK

IN THE UNITED STATES DISTRICT COURT WITHIN
AND FOR THE EASTERN DIVISION OF THE
EASTERN JUDICIAL DISTRICT OF MISSOURI.

FEE JAMES,

Plaintiff,

vs.

THE RUBEROID CO., a
corporation,

Defendant.

No. 8864

Room No. 2

DEFENDANT'S ANSWER TO PLAINTIFF'S INTERROGATORIES

Interrogatory
Number

Answer

1. Date of "Application for Authority to Self Insure" under Missouri Workmen's Compensation Law, December 10, 1935. Application filed December 13, 1935. Application signed by W. B. Harris.
2. The Missouri Workmen's Compensation Commission.
3. No, to the best of informant's knowledge.
4. Application filed August 30, 1933, with the Missouri Workmen's Compensation Commission.
5. Yes, since 1944 except for year 1948.
6. Yes, since 1944 except for year 1948.
7. No.
8. Yes.
9. Yes.
10. Fee James worked in said plant from April 12, 1943, to March 3, 1952, as a laborer, but was not always engaged directly in the manufacturing processes referred to.
11. No, gloves excepted.
12. He was furnished with rubber or canvas gloves, because during the war it was difficult or impossible for employees to purchase gloves, and on that account the defendant procured and furnished same and has continued to do so.

Interrogatory
Number

Answer

13. Coloring, in the nature of oxide, is mixed with cement in a pebble mill and later applied by a cylinder to the face of shingles as a veneer.
14. Plaintiff worked as a beaterman at intervals during his aforesaid employment. His aggregate time as beaterman was approximately 85 weeks. In said capacity, by means of a cart, he carried asbestos, and possibly cement also, to the mixing tank and dumped said material into the opening of the tank.
15. Some dust is generated on occasions by the work of a beaterman.
16. Asbestos fiber, in bags, is brought to the plant in freight cars, from which said bags are unloaded and placed in a warehouse.
17. No.
18. In part of his work as beaterman, plaintiff used a fork or shovel in the asbestos fiber room located on the second floor of the plant for the purpose of placing said fiber into a cart for hauling to the mixing tank. Defendant has no record showing how much of his time was devoted to said operation.
20. Informant has no record or recollection of any dust count ever having been made in any part of said plant.
21. (a) There was an exhaust flue extending from the asbestos scrap room on the second floor to a bag dust collector. Air was propelled through this flue by a fan located at the crusher in the finishing department.
- (b) The asbestos storage room on the second floor was equipped with a return flue through which the air conducted to said room by the carrier flue circulated back to the Kohler mill in the raw material department. The air was propelled by a fan located at the Kohler mill.
- (c) Both of said rooms were sealed shut

Interrogatory
Number

Answer

while the blower operation was in progress.

(d) Exhaust fans, 60 inch, 5 h.p. motor, 1140 r.p.m., capacity 54000 c.f.m., were located as follows:

2 in asbestos storage warehouse.

2 on second floor, manufacturing department.

2 in roof of main floor, manufacturing department.

3 in roof of trimming department.

22. Answered above.

23. Plant lay-out is practically the same now as when plaintiff worked here. Some changes have been made on the beater floor (2nd floor), material formerly having been a wet mix, now all material is mixed dry. Stacking equipment has been changed from hand stacking to automatic stacking. Hydraulic pressing no longer followed.

24. (a) Both the east and west sides of the main building of the plant are composed principally of glass panels. Some of the frames are swung on pivots so that they can be opened.

(b) There are no windows in the asbestos fiber room on the second floor.

(c) The warehouse which adjoins the main building is equipped with windows.

(d) The roof of the main building is of saw-tooth construction, with glass windows in the vertical faces.

(e) The size and number of the windows are as follows:

16 windows in Manufacturing Department,
East wall - 3 ft. high - 4 ft. wide.
3 windows in Manufacturing Department,
2nd floor - 3 ft. high - 4 ft. wide.
11 windows in Manufacturing Department,
West wall - 3 ft. high - 4 ft. wide.
5 windows in Manufacturing Department,
2nd floor - 3 ft. high - 4 ft. wide.
2 windows in Manufacturing Department,
2nd floor - 3 ft. high - 3 ft. wide.

12 windows 3 ft. wide x 3½ ft. high in
each of 7 saw tooth roof section,
Total of 84 windows.

Interrogatory
Number

Answer

while the blower operation was in progress.

(d) Exhaust fans, 60 inch, 5 h.p. motor, 1140 r.p.m., capacity 54000 c.f.m., were located as follows:

2 in asbestos storage warehouse.

2 on second floor, manufacturing department.

2 in roof of main floor, manufacturing department.

3 in roof of trimming department.

22. Answered above.

23. Plant lay-out is practically the same now as when plaintiff worked here. Some changes have been made on the beater floor (2nd floor), material formerly having been a wet mix, now all material is mixed dry. Stacking equipment has been changed from hand stacking to automatic stacking. Hydraulic pressing no longer followed.

24. (a) Both the east and west sides of the main building of the plant are composed principally of glass panels. Some of the frames are swung on pivots so that they can be opened.

(b) There are no windows in the asbestos fiber room on the second floor.

(c) The warehouse which adjoins the main building is equipped with windows.

(d) The roof of the main building is of saw-tooth construction, with glass windows in the vertical faces.

(e) The size and number of the windows are as follows:

16 windows in Manufacturing Department,
East wall - 3 ft. high - 4 ft. wide.
3 windows in Manufacturing Department,
2nd floor - 3 ft. high - 4 ft. wide.
11 windows in Manufacturing Department,
West wall - 3 ft. high - 4 ft. wide.
5 windows in Manufacturing Department,
2nd floor - 3 ft. high - 4 ft. wide.
2 windows in Manufacturing Department,
2nd floor - 3 ft. high - 3 ft. wide.

12 windows 3 ft. wide x 3½ ft. high in
each of 7 saw tooth roof section,
Total of 84 windows.

Interrogatory
Number

Answer

1 door west side 8 ft. x 8 ft.
1 door west side 5 ft. x 8 ft.
1 door west side 4 ft. x 7 ft.
1 door west side 3 1/2 ft. x 7 ft.
1 door west side 8 ft. x 7 ft.

6 windows in asbestos storage warehouse,
west side - 3 ft. x 3 ft.
6 windows 3 ft. x 3 ft. in each of 4
sections of saw tooth roof,
Total of 24 windows.

1 door east side 11 ft. wide - 7 1/2 ft. high.
1 door east side 4 ft. wide - 7 ft. high.
1 door west side 11 ft. wide - 7 1/2 ft. high.

25. No.

26. No.

27. Yes, 8/19/43 to 8/23/43; 9/16/43 to
9/18/43; 9/21/43 to 9/25/43, 10/2/43 to
10/4/43; 10/9/43 to 10/10/43; 10/31/43
to 11/1/43; 10/14/44 to 2/20/45; 5/21/45
to 5/28/45; 1/14/46 to 1/28/46; 10/20/47
to 12/2/47.

28. Defendant furnished plaintiff with a
respirator whenever he was engaged as
beaterman or color grinder.

31. Not to the knowledge of the informant.

33. Yes; defendant has the record referred
to. Examination was by Chas. Jost, M.D.,
6400 W. Florissant.

34. No.

35. The notices referred to were originally
posted in 1933, on the bulletin boards
located in the factory, in the office,
in the machine shop and in the employment
office. Later some of the bulletin boards
were moved and the signs went along with
the boards. Later, signs were posted near
the old boiler room, on the Kohler mill
platform, in the beater department on the
second floor, and in the pre-mix room on
the third floor. The posting of these
notices was first done under the super-
vision of P. O. Beeson, now deceased.
Later this matter was under the super-
vision of E. C. Kohl (present address
Baraboo, Wisconsin), D. E. Mosby, present
address unknown, and O. W. Dueringer,

Interrogatory
Number

Answer

- (St. Louis, street address unknown),
and others. Walter B. Schaeffer,
7516 Chandler Avenue, St. Louis, did the
work of installing some of the notices.
36. During the time Wm. L. Nelson was
General Superintendent of the plant,
as stated above, the matters inquired
about were under the direct supervision
of the personnel manager. Mr. Nelson
was over the personnel manager, but had
no direct duties in connection with
said matters.
37. As general superintendent of the plant,
Mr. Nelson exercised general supervision
over the matters referred to.
39. The employes raked up trimmings or
swept their working places as their
work permitted. When not actively
engaged in their regular operations
they were required to clean and sweep
about their machines or working places.
The machines were cleaned and scraped
about once a week and the floors were
cleaned as part of the same operation.
Defendant has no record showing more
definitely than above how often the
floors were cleaned and swept.
40. Yes.
41. No.
44. Yes.

THE RUBEROID CO.

By Francis J. Mollerus
(Francis J. Mollerus)
Personnel Manager.

John S. Marsalek
(John S. Marsalek)

MOSER, MARSALEK, CARPENTER, CLEARY & CARTER,
Attorneys for defendant.

STATE OF MISSOURI)
CITY OF ST. LOUIS) SS

Francis J. Mollerus, of lawful age, being duly sworn,
on his oath states that the foregoing answers to interrogatories
are true, to the best of his knowledge, information and belief.

Francis J. Mollerus
Francis J. Mollerus

Subscribed and sworn to before me this 24th day of