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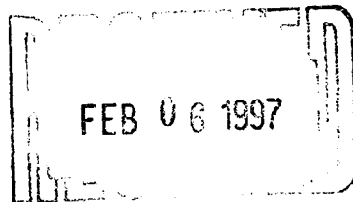
IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

IN RE: ASBESTOS PERSONAL INJURY CASES - ABRAMS LEAD
GROUP I PLAINTIFFS

NOS.

88-5422(2), 89-5121(2), 90-5247(2), 88-5420(2),
89-5252(2), 90-5069(2), 89-5153(2), 90-5352(2),
89-5268(2), 90-5045(2), 90-5274(2), 88-5181(2),
91-5187(2), 91-5098(2), 91-5000(2), 90-5387(2),
91-5119(2), 90-5369(2), 91-5135(2), AND 90-5178(2)

*** VOLUME I ***



THE FOLLOWING IS AN UNCERTIFIED AND UNPROOFREAD DAILY COPY
TRANSCRIPT OF THE PROCEEDINGS HAD IN THE ABOVE REFERENCED
CAUSE ON THURSDAY, JUNE 17, 1993, BEFORE HONORABLE KATHY
KING JACKSON, CIRCUIT JUDGE.

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1 based on scheduling problems with all the
2 defendants, I think that Hopeman will probably be
3 interspersed throughout.

4 BY THE COURT: I just want to explain that
5 to the jury, that there may be witnesses called
6 that' seem out of order, but they are here and we
7 need to get them on while we can. All right.

8 Doctor, if you would, step right up here and
9 if you will raise your right hand and face this
10 lady right here she will administer the oath.

11 DR. JOHN G. WELLS

12 upon being called as a witness for and on behalf of the
13 Defendant, and having been first duly sworn, testified as
14 follows:

15 BY MR. FORMAN: Dr. Wells, you can come sit
16 down right here if you will. May we proceed
17 then, Your Honor?

18 BY THE COURT: You may.

19 DIRECT EXAMINATION BY MR. FORMAN:

20 Q. Dr. Wells, would you tell the ladies and
21 gentlemen of the jury your name, please.

22 A. John G. Wells.

23 Q. And where do you live, Dr. Wells?

24 A. I live in Newnan, Georgia. That's near Atlanta.

25 Q. That's south of Atlanta?

1 A. That's south of Atlanta about forty miles.

2 Q. And are you hear today to talk about that period
3 of time when you acted as a medical consultant to U.S.
4 Rubber Company that's now known as Uniroyal?

5 A. Yes, sir.

6 Q. All right, sir. Have you ever, Dr. Wells,
7 testified in court like this in an asbestos case before?

8 A. I have not.

9 Q. Now, you told us you lived in Newnan and I
10 believe you moved there probably in the 1950s?

11 A. 1954.

12 Q. You've lived there ever since?

13 A. Lived there ever since.

14 Q. How old are you now, Dr. Wells?

15 A. Seventy-two years old.

16 Q. And are you retired now?

17 A. I've been retired for two years and three months
18 and two days.

19 Q. But who is counting?

20 A. Who is counting?

21 Q. And prior to the time you retired, did you
22 practice medicine there in Newnan?

23 A. I practiced medicine as an internist in Newnan
24 from 1954 to January 1991.

25 Q. Are you married Dr. Wells?

1 A. Yes, sir.

2 Q. And how long have you been married?

3 A. Mrs. Wells doesn't like me to say this, but I
4 will have been married fifty years this December.

5 Q. Do you have any children?

6 A. I have four children.

7 Q. Where did you go to college, Dr. Wells?

8 A. Went to Duke University in Durham, North
9 Carolina.

10 Q. And after that did you go to medical school?

11 A. After that, I serviced forty-two months in the
12 United States Navy during the World War II. Came out and
13 went to Johns Hopkins Medical School in Baltimore, Maryland.

14 Q. Now, you said you were in the Navy in World War
15 II. Where did you serve?

16 A. I served in the United States, in Alaska and the
17 Aleutians and in the Pacific.

18 Q. And what did you do?

19 A. I was a flier.

20 Q. A pilot?

21 A. A pilot.

22 Q. When you graduated from Johns Hopkins, when was
23 that now, from medical school?

24 A. Pardon me?

25 Q. When did you graduate from medical school?

1 A. I graduate in 1950.

2 Q. And after that, did you take any further
3 training?

4 A. Yes, sir.

5 Q. I went to Barnes Hospital which is in St. Louis
6 and a part of Washington University and served a year as
7 intern, in internal medicine. I then had a second year of
8 training in internal medicine as an assistant resident. I
9 then moved to Nashville, Tennessee to the Vanderbilt
10 University Medical Center where I was the senior assistant
11 resident for a year. In the fourth year, I was chief
12 medical resident in internal medicine.

13 Q. How did you happen to decide to come to Newnan,
14 Georgia to set up a medical practice?

15 A. Basically through mutual friends.

16 Q. And have you practiced your entire time, while
17 you did practice, there in Newnan?

18 A. Yes, sir.

19 Q. Were you a part of a medical group there or were
20 you a solo practitioner?

21 A. I was a solo practitioner with the exception of a
22 few years in which I did have an associate.

23 Q. We've heard the term during the course of the
24 trial, Dr. Well, of a doctor becoming board certified. And
25 I believe you indicated that you started your medical

1 practice about 1954?

2 A. That is correct.

3 Q. And did you ever obtain a board certification?

4 A. Yes, sir. I was certified or became what is
5 known as a diplomat in internal medicine by the American
6 College of Physicians in 1968.

7 Q. Now, that's some fourteen years after you started
8 your practice. Why did you wait that long to become board
9 certified?

10 A. I really don't know, but I decided that it would
11 be important that I become certified.

12 Q. All right, sir. You were a medical consultant,
13 you told us earlier, for U.S. Rubber Company beginning in
14 about about 1957?

15 A. In early 1957, yes, sir.

16 Q. And I believe a company had a plant in a nearby
17 town to Newnan, called Hogansville, Georgia; is that right??

18 A. That is correct.

19 Q. And was that about twenty miles away there?

20 A. It was about nineteen miles south of Newnan.

21 Q. All right, sir. Now, what sized town was Newnan
22 when you started your medical practice there in the
23 mid-1950s?

24 A. I was asked that question at a deposition a month
25 and a half earlier and have since verified the size of

1 Newnan. It was been ten and twelve thousand people.

2 Q. And what about Hogansville, what size is it?

3 A. Hogansville is between twenty-five hundred and
4 three thousand people.

5 Q. All right, sir. Now, when you were there acting
6 as a consultant to the U.S. Rubber plant, did you also have
7 your own private medical practice?

8 A. Yes, sir.

9 Q. And so were you ever an employee of the U.S.
10 Rubber Company?

11 A. I was not.

12 Q. And about what portion of your time did you
13 devote to this work at the U.S. Rubber plant?

14 A. I think I started the work two years after I
15 started my practice in Newnan. I still had a considerable
16 amount of time. And the answer to that is approximately
17 twenty-five percent.

18 Q. Now, in acting as a medical consultant for the
19 U.S. Rubber plant there, did you conduct medical exams of
20 the employees and give them chest x-rays?

21 A. I conducted medical exams, complete internist
22 type medical exams of the workers. And x-rays were
23 obtained. And I examined the x-rays.

24 Q. Dr. Wells, when you went to Newnan in 1954 and
25 then subsequently you started your consulting work there

1 with the plant in 1957, did you have any great depth or
2 knowledge about the literature on asbestos or asbestos
3 disease?

4 A. No, sir, I did not.

5 Q. And did you have to dig out what you learned in
6 going to the library and getting some articles and books and
7 learning on the job about it?

8 A. Yes, sir. I -- the standard textbooks that were
9 available to me and to most physicians contained about three
10 inches of information on asbestosis. And they basically
11 said asbestosis is due to inhalation of asbestos fibers and
12 the disease caused by inhalation of a sufficient amount of
13 asbestos fibers was called asbestosis. And that was the
14 extent of it. From then, I dug out the literature and
15 developed the program that did develop in Hogansville.

16 Q. All right, sir. Prior to the time that you came
17 there and started your work as a consultant in 1957, had the
18 company used some other consultants in a similar or related
19 capacity?

20 A. I don't think they had ever used consultants in a
21 similar capacity, but they had employed consultants,
22 practically from the initiation of the mill in 1942.

23 Q. All right, sir. Now we talked earlier in the
24 trial about some of the consultants and I don't want to go
25 into any detail about that now because we discussed it I

1 believe when Dr. Mancuso was here earlier. But in your work
2 that you did there at the plant when you started in 1957, I
3 assume you had a chance to go back and review some of the
4 historical information that had developed there.

5 A. I don't quite understand your --

6 Q. You had a chance to go back and read some of the
7 reports and so forth that had been done before you came
8 there in 1957.

9 A. Yes.

10 Q. And do you recall that they had consulted with an
11 industrial hygiene engineer known as a Mr. Hemian?

12 A. Yes, I do.

13 Q. And I believe he was with the Industrial Hygiene
14 Foundation?

15 A. Of Pittsburgh.

16 Q. And that was in the early 1950s?

17 A. 1950, right.

18 Q. And they also had consulted with Dr. Eugene
19 Pendergrass, I believe?

20 A. That is correct.

21 Q. And was he also a well-known authority in the
22 field of radiology or interpretation of chest x-rays?

23 A. Yes, he was.

24 Q. And particularly in the field of people who had
25 what we call a pneumoconiosis or dust disease of the lungs?

1 A That's correct.

2 Q. Had they also consulted with Dr. Kenneth Lynch?

3 A. Yes, sir.

4 Q. And was he a pathologist, I believe over in Mr.
5 Motley's home state of South Carolina?

6 A Yes, he was.

7 Q. And was he likewise --

8 BY MR. MOTLEY: Guilty.

9 BY MR. FORMAN: This is Mr. Motley right
10 here.

11 BY MR. MOTLEY: I'm guilty.

12 BY MR. FORMAN (continuing):

13 Q. In fact, just to digress a minute, I believe you
14 met Mr. McConnell of Mr. Motley's firm earlier, back a month
15 and a half ago?

16 BY MR. McCONNELL: Nice to see you again,
17 Doctor.

18 BY THE WITNESS: How do you do. Is this Mr.
19 Motley?

20 BY MR. MOTLEY: Yes, sir. How are you, sir.

21 BY THE WITNESS: I'm glad to meet you, sir.

22 BY MR. MOTLEY: Glad to meet you, sir.

23 BY MR. FORMAN (continuing):

24 Q. Now, we talked about Dr. Kenneth Lynch. He was a
25 pathologist, I believe?

1 A. That is correct.

2 Q. And he had consulted with the company as well in
3 the 1950s?

4 A. In the 19 -- early 1950s.

5 Q. And they also used Dr. A. J. Lanza of New York
6 University?

7 A. That is correct.

8 Q And all of these people had provided some advice
9 and consultation to the plant on its operation before you
10 got there in 1957?

11 A. That is correct.

12 Q. All right, sir. Now, after you became a
13 consultant there in 1957, I believe you later came to meet
14 and know a Dr. John Knox from England?

15 A. I did.

16 Q. And I believe he was a consultant for a company
17 over there known as Turner Brothers or something like that?

18 A. He was Medical Director of Turner Brother, Ltd.,
19 in Rockdale, England.

20 Q. And he had also published some information in the
21 literature on asbestos?

22 A. He had done that.

23 Q. All right. And, Dr. Wells, during the time that
24 you were there from 1957 -- and, incidentally I believe the
25 plant closed in 1976, didn't it?

1 A. That is correct. The asbestos producing plant.

2 Q. Yes, sir. They had another plant there, I
3 believe, that did not make any products that had asbestos in
4 them.

5 A. Right.

6 Q. All right. During the time that you were there,
7 I assume that you came to know some other consultants who
8 worked with other plants that made asbestos products during
9 the time, from '57 to '76?

10 A. Well, I came to know first of all Dr. Eugene
11 Pendergrass who came to Newnan and have gave me valuable
12 information on the interpretation, x-ray interpretation of
13 chest x-rays as regards asbestos disease. I came to know
14 Dr. John Knox who came over from England and had valuable
15 talks with him. I came to know Dr. Kenneth Smith who is a
16 physician, an industrial physician at Johns-Manville. You
17 want me to go on?

18 Q. No, sir. That's fine. You just came to meet
19 several of these people, I guess, at different companies
20 during the course of your time, didn't you?

21 A. Yes.

22 Q All right, sir. Now, during this period of time
23 from 1957 to 1976, were you aware of any other company that
24 had used as many of those well-known consultants in the
25 field of asbestos disease or chest disease as the U.S.

1 Rubber Company plant had used?

2 A. I was not.

3 Q. Earlier in the trial, before you came here, there
4 was a document --

5 BY MR. FORMAN: Lee, do you have that? The
6 1957 document

7 BY MR. FORMAN (continuing):

8 Q. Dr. Wells, I'm not sure if you can see that, so
9 I'm just going to see if I can find a copy for you here.
10 There was a document that was introduced that came from the
11 files of U.S. Rubber Company and it's dated, I believe -- is
12 it October 3rd, '57?

13 A. Yes, sir.

14 Q. And what is the title of that report?

15 A. The title is "1957 Asbestos Medical and X-ray
16 Survey, Summary of Findings."

17 Q. And, Dr. Wells, did you prepare that document?

18 A. No, sir. I have seen it only since I came to
19 know you. I think I saw it first a month or two ago.

20 Q. And in the upper, left-hand corner of it, it's
21 got the words "top secret" written in handwriting. Did you
22 see that?

23 A. I see that.

24 Q. And do you happen to know anything about how that
25 was put there or when it was put there?

1 A. I do not.

2 Q. Now, have you had a chance to review that
3 information that is contained on the document?

4 A. I have read this information, yes.

5 Q. Now, one of the categories that they talk about
6 on there, Dr. Wells, if I might just approach and look at
7 yours for a minute. They talk about people, a group of
8 seventeen people who had been exposed for five years or more
9 to dust of less than five million particles per cubic foot,
10 there in subsection A,2. Do you see that?

11 A. Yes, I do.

12 Q. All right, sir. And then if you go down toward
13 the bottom of the page there, they indicate that, of those
14 seventeen people, that six of them have suspicious signs or
15 suspicious symptoms, I believe, of early asbestosis. You
16 see that?

17 A. At C,3, yes, I see that.

18 Q. All right, sir. Now, you indicated you had
19 started your consulting work there at the plant in 1957?

20 A. Yes, sir.

21 Q. And I assume by this time -- I believe you
22 started the first part of the year?

23 A. Early 1957.

24 Q. So I assume by October of 1957 you had done some
25 of the exams and had done some of the chest x-rays on the

1 employees there?

2 A. I believe that the major part of the year's work
3 had been completed and the results sent to the U.S. Rubber
4 Company.

5 Q. All right, sir. Now, when you sent those results
6 in, did you ever see later what has been also marked as
7 Plaintiffs' Exhibit number 7306? And I'll hand you that and
8 see if you are familiar with that.

9 A. I was not familiar with this until recently.

10 Q. All right, sir. Now, that also, I believe we've
11 all agreed, came from the files of the company; do you
12 understand that?

13 A. I understand that.

14 Q. All right, sir. Now, let me go back for just a
15 minute to the first document where you talked about having
16 those cases, the six cases with suspicious symptoms of early
17 asbestosis.

18 BY MR. MOTLEY: Excuse me. I object to that
19 characterization. He had never seen that
20 document until a month ago, so he obviously
21 wasn't talking about that document.

22 BY MR. FORMAN: No. I'm going to ask him
23 about those cases on there that are listed like
24 that.

25 BY MR. MOTLEY: You weren't suggesting that

1 he authored that document?

2 BY MR. FORMAN: No. No, absolutely. Let's
3 just make that absolutely clear. I thought he
4 said he had never seen it before, before this
5 year.

6 BY THE COURT: I think the problem was the
7 question, the way you phrased it. You said the
8 six that you had on that document.

9 BY MR. FORMAN: I apologize, Your Honor.

10 BY MR. MOTLEY: I believe that Mr. McConnell
11 gave him that document.

12 BY MR. FORMAN: That's correct.

13 BY MR. FORMAN (continuing):

14 Q. Now, Dr. Wells, with that category there of the
15 six cases down there in the bottom of the page that you
16 talked about that had the suspicious symptoms of early
17 asbestosis, was that a diagnosis of asbestosis that you
18 made?

19 BY MR. MOTLEY: Excuse me one second. I'm
20 afraid I'm not understanding Mr. Forman.

21 BY MR. FORMAN (continuing):

22 Q. All right. When the term "suspicious symptoms of
23 early asbestosis," in your mind is that a diagnosis of
24 asbestosis?

25 A. No, it is not.

1 Q. Now, did you, when you -- let me ask you. The
2 Exhibit 7306 that I handed you just a moment ago, as you go
3 through that document, does it have the symbols -- and I
4 assume you didn't prepare that document either, did you?

5 A. No, I didn't.

6 Q. All right, sir. As you go through that document,
7 does it have the symbols for the various categories that are
8 described there, like early asbestosis or suspicious or
9 suspicious lung disease or moderately advanced asbestosis,
10 etc.?

11 A. Yes, it does.

12 Q. All right, sir. And at my request have you
13 looked at that document?

14 A. Yes, I have.

15 BY MR. MOTLEY: Excuse me, Mr. Forman. When
16 did you asked him to look at that document?

17 BY MR. FORMAN: He's looked at it recently.

18 BY MR. MOTLEY: Your Honor, may we approach
19 for a second?

20 (DISCUSSION AT THE BENCH WAS OFF THE
21 RECORD.)

22 BY MR. FORMAN (continuing):

23 Q. Dr. Wells, just to be brief about this, the
24 document 7306 that was introduced earlier has a list of a
25 number of people that were checked, were they not?

1 A. (Witness nodding yes.)

2 Q. You'll just need to answer.

3 A. Yes.

4 Q. And it has the various categories that the people
5 fell into as they were checked, in handwriting, out to the
6 side?

7 A. That's correct.

8 Q. And I believe there's a group of some six people
9 that have the designation S-EA for suspicious early
10 asbestosis?

11 A. That's correct.

12 Q. Now, my question to you is as you go down the
13 list of those people and you look at the exposures that they
14 had, were any of them -- well, let me ask you this. Were
15 each of them exposed for a period of time to a level of dust
16 in excess of five million particles per cubic foot and for a
17 period of time to levels of dust less than five million
18 particles per cubic foot?

19 A. Yes, sir. Every one that has S-EA after his or
20 her name has been exposed both greater than five million
21 particles per cubic foot year and less than.

22 Q. All right. So they would fall in both
23 categories?

24 A. They would fall within both categories.

25 Q. All right, sir. Now, I believe that you

1 continued your examinations into 1958?

2 A. That is correct.

3 Q. And after the end of the year or right about the
4 end of the year you prepared or started working on a report
5 to the company?

6 A. Yes, sir.

7 Q. That you submitted and I believe has been
8 introduced during the course of this trial. You are
9 familiar with the report that you made?

10 A. Yes, I am.

11 Q. Did anyone at Uniroyal ever request that you keep
12 the medical information that you developed there secret?

13 A. They did not at any time.

14 Q. When you did that report for the period of 1957
15 to 1958, did you attempt to determine a level of dust
16 exposure in terms of what you called million particles per
17 cubic foot years at which you would start to see cases of
18 asbestosis?

19 A. I found that to be the case, that that certain
20 level was present.

21 Q. And was that around the level of fifty to sixty
22 million particle per cubic foot years?

23 A. That is correct.

24 Q. And is that what you reported in the report that
25 you gave to the company?

1 A. Yes, sir.

2 Q. And did you derive that information by going back
3 to look at the dust count information the company had in
4 existence going back for a number of years and comparing
5 that to the medical findings that you observed when you
6 examined the patients there?

7 A. Yes, sir.

8 Q. So that you could determine how long they had
9 been there and how much dust exposure they had to a
10 reasonable approximation when those that developed
11 asbestosis did in fact develop it?

12 A. Yes.

13 Q. And now, did you, as a result of the work that
14 you did and in the report that you prepared there and
15 submitted to the company, did you recommend to them that
16 they revise radically downward the level of exposure below
17 five million particles per cubic foot?

18 A. I did.

19 Q. Was that based upon the result of the
20 examinations that you had done and correlating that to the
21 dust counts you had seen at the plant?

22 A. That was based upon the whole work that I had
23 done, yes, sir.

24 Q. And did the company attempt to comply with your
25 recommendations?

1 A. Yes, sir, both before and after.

2 Q. Did you have the right, Dr. Wells, when you did
3 this work for U.S. Rubber Company to publish your findings?

4 A. Yes, sir, I did.

5 Q. Was that from the beginning of the time that you
6 started your work there?

7 A. Yes, sir.

8 Q. Was there ever any restriction placed upon you in
9 terms of not publishing anything that you learned there
10 about your medical findings?

11 A. There was never any restriction imposed on me by
12 the company.

13 Q. Was there any request that you keep the
14 information secret and not tell anybody about it?

15 A. No, sir.

16 Q. Did you in fact ever publish specifically that
17 information in that report?

18 A. Not in a formal report, I did not.

19 Q. And, Dr. Wells, was it your intent to do it?

20 A. Yes, it was.

21 Q. And you just didn't get around to doing it, is
22 that a fair statement?

23 A. Well, that's a fair -- it's a fair statement,
24 yes, sir.

25 Q. And would you explain why it was that you didn't

1 publish it formally?

2 A. Basically, I didn't publish it because I was a
3 solo practitioner on call twenty-four hours a day basically
4 seven days a week. By the time that I felt that I could
5 publish, I was working fourteen to sixteen to eighteen
6 sometimes hours a day. I was just eaten up with my practice
7 and there was no time to publish.

8 Q. All right, sir. Even though you didn't formally
9 publish it, did the company give you assistance in trying to
10 accumulate the data so to speak?

11 A. They cooperate in every way that I ever asked
12 them to, yes, sir.

13 Q. And did they encourage you at the company to
14 advise other doctors when you would go to medical meetings
15 where there would be physicians of other companies, for
16 example, that made asbestos products to share your findings
17 with them?

18 BY MR. MOTLEY: Excuse me. May I have that
19 questions read back, please, ma'am.

20 BY THE COURT REPORTER: Did they encourage
21 you at the company to advise other doctors when
22 you would go to medical meetings where there
23 would be physicians of other companies, for
24 example, that made asbestos products to share
25 your findings with them?

1 BY MR. MOTLEY: Thank you. I just wanted to
2 make sure I heard a word.

3 BY MR. FORMAN (continuing):

4 Q. Go ahead, Dr. Wells.

5 A. I went to several meetings. First of all, Mr.
6 Forman, I spoke to the local medical society. I spoke to
7 the county or district medical society that included
8 virtually everybody within an eighty mile radius of
9 Hogansville which would have encompassed most of the doctors
10 who had seen the patients coming out of Hogansville. I
11 spoke to them. I spoke to several lay organizations in
12 Newnan, Kinkaid County, where I live. I was encouraged by
13 Uniroyal, U.S. Rubber Company, to go in the '60s to several
14 meetings held by the Asbestos Textile Institute of which
15 they were a member and at these places to speak with other
16 physicians, should they be there, about our findings, about
17 our work in Hogansville, and to attempt to learn what they
18 were doing at the same time. There was a specific time, I
19 think in 1962 -- I think in 1962 -- where I did meet with
20 the physicians of five or six other companies, including
21 Johns-Manville, to see what they were doing and compare
22 notes. In 1964, I attended a conference in New York City
23 and, while not an invited attendee, was invited to speak at
24 the particular time and did so, so that the entire
25 conference which, Mr. Forman, you may want to ask about

1 later on, was notified of the work that had been done in
2 Hogansville by me. There was no attempt anywhere along the
3 line to hide our light under a bushel or to hind the
4 findings that we had from anybody.

5 Q. Now you mentioned that you went to the Asbestos
6 Textile Institute and you discussed your findings there with
7 the doctors of the companies who were members of the
8 institute?

9 A. Yes, sir.

10 Q. And would you discuss with them how you made the
11 correlations, for example, of the dust counts to the medical
12 information and how you were finding asbestosis there?

13 A. I described our program to them, described what
14 we were doing in Hogansville at the U.S. Rubber Company, to
15 detect, as early as possible, any worker who might come down
16 with asbestos disease.

17 Q. Now, Dr. Wells, when you prepared that report
18 that we talked about just a minute ago, from the period of
19 1957 to 1958, you in fact did diagnose cases of asbestosis
20 at the plant there, didn't you?

21 A. Yes, sir, I did.

22 Q. And you had no hesitation in telling the company
23 that you found those cases, did you?

24 A. No, I did not.

25 Q. All right. Now you mentioned just a minute ago

1 attending a meeting in New York in 1964. And before you
2 arrived here to give your testimony today there's been some
3 prior testimony about that meeting of the New York Academy
4 of Science. I believe it was organized by Dr. Selikoff and
5 some people who assisted him in that regard.

6 A. That is correct.

7 Q. And is that the meeting that you went to? I
8 believe it was in October of 1964?

9 A. Yes, sir.

10 Q. And was this a large international conference on
11 asbestos disease that you attended at that time?

12 A. I considered it to be a convocation, a meeting of
13 all the physicians or hygienists and workers in the western
14 world who were interested in the problems brought about by
15 asbestos use.

16 Q. And did you go there at the request of U.S.
17 Rubber Company?

18 A. Yes, sir, I did.

19 Q. And I believe you mentioned that you were not on
20 the the invited program there to make a presentation?

21 A. I was not.

22 Q. But they had some question and answer sessions
23 there in which physicians could report on their experience
24 or make comments about the proceedings there?

25 A. One of the main -- one of the main organizers of

1 the conference, in addition to Dr. Selikoff, was a doctor
2 from England, taught at Wales, I think, named Dr. John
3 Gillson. And after a presentation, Dr. Gillson got up and I
4 guess -- I think he used a lamented effect that no ongoing
5 studies were being conducted anywhere to his knowledge of
6 the -- relating to the total picture of asbestos as it
7 developed in the work place. No effort had been made to
8 that point, according to Dr. Gillson, to correlate the
9 clinical findings; that is to say the signs and the symptoms
10 of workers who developed asbestos had, with the amount of
11 exposure to dust and with the x-rays findings and certain
12 physiological changes that lung testing could do. Inasmuch
13 as he lamented -- I use the word because I think he did --
14 that nobody was doing it, I felt it was important for me to
15 get up and tell them what we were doing. And I asked
16 permission of whoever it was. And they said you can get up
17 there, Doctor, for two or three minutes. And I couldn't
18 finish telling what I was doing in two or three minutes and
19 I talked for fifteen or twenty. It seemed to be well
20 received and it was later excerpted and published in the
21 minutes of the conference.

22 Q. And so, I believe you actually got a copy, and I
23 forgot to ask you to bring it with you, but you got a copy
24 of the official proceedings that have been shown several
25 times, I believe, in the courtroom, of the meeting in

1 October of 1964?

2 A. That's right.

3 Q. And a portion of your remarks were contained in
4 those official proceedings?

5 A. That is correct, sir.

6 Q. And you described the program that you had there
7 at Hogansville?

8 A. I did.

9 Q. And did you tell the people there that you were
10 finding cases of asbestosis, fifty to sixty million
11 particles per cubic foot years?

12 A. Yes.

13 Q. And in addition to that, did you tell the people
14 that there was no safe level of exposure to asbestos?

15 A. I made that statement.

16 Q. And that there's some risk at any level of
17 exposure?

18 A. I don't think I said at any level. I said there
19 was -- well, I guess I inferred that, yes, sir.

20 Q. All right. And you were encouraging -- and the
21 purpose of your remarks was to encourage people to get the
22 dust levels down?

23 A. Getting the dust level down as we were doing in
24 Hogansville.

25 Q. All right, sir. And you say you talked about

1 about fifteen minutes?

2 A. Fifteen or twenty. I don't know how long,
3 really.

4 Q. Did anybody, before you went there to the
5 conference, try to tell you what to say when you went there,
6 Dr. Wells?

7 A. No, they did not.

8 Q. Did you take any direction after you got there
9 from anybody on what to say?

10 A. No, I did not. The only direction I had was not
11 really direction, it was just encouragement by Dr. Jack
12 Wolfsie who is the chief medical consultant in charge of
13 medicine for the United States Rubber Company in New York,
14 encouragement by him to tell people what we are doing.

15 Q. All right. And were other companies doing the
16 kind of work that Uniroyal was doing?

17 A. Mr. Forman, if any other company was doing it, I
18 was then and am now unaware of it.

19 Q. At that time?

20 A. At that time.

21 Q. All right, sir. Following the conference, did
22 you prepare kind of a summary report of what your
23 impressions were of the conference?

24 A. I wrote a paper, a communication really, to Mr.

25 A. C. Link who was the plant manager in Hogansville, telling

1 him what I had found and heard and my impressions of the
2 conference.

3 BY THE COURT: Mr. Forman, before we go on,
4 let's take about fifteen minutes.

5 (WHEREUPON COURT TOOK A BRIEF RECESS.)
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1 BY THE COURT: Bring in the jury.

2 (Jury enters the courtroom).

3 BY THE COURT: Be seated. Go ahead, Mr.
4 Forman.

5 BY MR. FORMAN: Thank you, Your Honor.

6 BY MR. FORMAN:

7 Q. Dr. Wells, when we took our break just a moment
8 ago we were talking about your attendance at the meeting in
9 New York, at the New York Academy of Science, in October of
10 1964 and the remarks that you made that were reported and
11 recorded at the proceedings there.

12 And I believe you indicated that you reported
13 there, and it was recorded, that you were finding cases of
14 asbestosis at a level of exposure of some 50 to 60 million
15 particle per cubic foot years?

16 A. That's correct.

17 Q. Now, after the conference was over were you aware
18 that your remarks had been cited in the medical literature
19 and the scientific literature on asbestos by later
20 researchers?

21 A. I don't believe I was, Mr. Forman.

22 Q. Could I show you a couple of times where it was
23 cited?

24 A. Yes, sir.

25 Q. There's an article by Dr. Clark Cooper that

1 appeared in 1967 called, "Asbestos As A Hazard To Health."
2 And Dr. Cooper was a researcher in this field and I'd like
3 to show you what he reported.

4 He said that a large proportion of asbestos fibers
5 have diameters below the resolving power of the light
6 microscope and are not counted at all. Nevertheless, most
7 industrial hygienists have felt that impinger count is a
8 good indirect measure of your dust control. And that dust
9 counts averaging 5 million particles per cubic foot should
10 control asbestosis.

11 Evidence is beginning to develop that this is not
12 true. In 1965 Wells reported briefly on his observations
13 over thirty years in asbestos textiles. His view was that
14 multiplying average counts by years of exposure provided a
15 good rough guide. And that after 50 to 60 million particles
16 per cubic foot years workers began to show evidence of
17 asbestosis.

18 Did you also know that your work was cited by Dr.
19 Raymond Murphy in some of his studies?

20 A. I did not. But I did know that Dr. Murphy had
21 worked with a Dr. Ferris who did communicate with me saying
22 that they found approximately the same level of dust
23 exposure in patients who had come down and workers who had
24 come down with an asbestos disease in the shipyard in New
25 England.

1 Q. And did Dr. Farris I believe send you a letter
2 inquiring about your work and reporting on the fact that he
3 was aware of the fact that you had reported finding cases of
4 asbestosis at 50 to 60 million particle per cubic foot
5 years?

6 A. He did.

7 Q. And that's a letter from Dr. Benjamin Ferris to
8 you in 1966. Can you bring that in a little bit more, Lee.
9 All right, bring it back down a little bit.

10 And essentially did Dr. Ferris report that they
11 had done an investigation and they had reached similar
12 findings to those that you reported at the 1964 meeting of
13 the New York Academy of Science?

14 A. He did.

15 Q. All right, sir.

16 A. That's the letter that he wrote me, I believe.

17 Q. Doctor, the plant at Hogansville closed in 1976.
18 You're familiar with that?

19 A. The asbeston plant closed in 1976.

20 Q. Yes. And they shut down all the asbestos
21 operations?

22 A. Yes, sir.

23 Q. Even after the plant closed, did they continue,
24 through you, to provide the people who had worked there with
25 the opportunity to come in for medical examinations and let

1 you check them over?

2 A. They did.

3 Q. And did you continue to do that until you retired?

4 A. I did.

5 Q. In 1991?

6 A. Yes, sir.

7 BY MR. FORMAN: That's all I have,

8 Your Honor. Thank you.

9 BY THE COURT: Any other defendant have
10 questions of this witness?

11 Cross-examination.

12 - - -

13 CROSS-EXAMINATION

14 BY MR. MOTLEY:

15 Q. Dr. Wells, you shook my hand this morning for the
16 first time and I appreciate that. And I want you to know
17 it's an honor to meet you, sir.

18 A. Thank you, sir. It's an honor to meet you.

19 Q. I bet you're the kind of doctor who even used to
20 make house calls?

21 A. I did.

22 Q. Aren't many of those around anymore.

23 Dr. Wells, I want you to understand that the
24 questions I'm about to ask you, do not take in any way that
25 I am attacking you as a person or a doctor.

1 A. Okay.

2 Q. We have that agreement?

3 A. Got it.

4 Q. Now, Dr. Wells, you will agree, I think, that why
5 you said what you said in New York in 1964, the data itself,
6 and I believe you kept them on long window shades, and where
7 you took the people who were working there and calculated
8 how many years they were exposed and to what level and then
9 whether or not they were sick, correct?

10 A. That's approximately correct, yes, sir.

11 Q. You tabulated the information?

12 A. Yes.

13 Q. The data itself was never published in the
14 literature and that's what you've been telling us today?

15 A. I never published it.

16 Q. Never published it. Now, did Mr. Forman show you
17 the report that his expert witness, Professor Howard Ayer,
18 A-y-e-r, gave about the TLV for asbestos?

19 A. He did not.

20 Q. I would ask you to look at this for a second, to
21 read it to yourself, starting right here, to over here, and
22 then I'll ask you a question about it.

23 A. Start in here?

24 Q. Yes, sir.

25 A. (Witness complying).

1 You just want me to read that?

2 Q. Yes, sir, that part right there and let me ask you
3 a question about it.

4 A. All right.

5 Q. Now, this gentleman the jury may meet, may not,
6 but he was listed by several companies, his name is
7 Professor Howard Ayer and he was on the -- as he points out,
8 he was a member of the ACGIH. And would it be a fair
9 summary of what you just read, and I'm not asking you to
10 vouch for the truth of what he said, but I'm just going to
11 ask you about what he said, that one of the reasons they did
12 not lower the TLV for asbestos was because they didn't have
13 the data that compared dust counts over time with disease to
14 see if people were getting sick at less than 5 million
15 particles? Isn't that a fair summary of what he said?

16 A. That's what he said, but I take issue with it.

17 Q. I understand. He's an expert for Uniroyal, did
18 you know that?

19 A. I know.

20 Q. Okay. But that's what he said, correct?

21 A. Uh-huh (Indicating yes).

22 Q. Now, you were in Newnan, is it?

23 A. N-e-w-n-a-n, Newnan, n-a-n, Newnan.

24 Q. The plant was in Hogansville. How far is that
25 away?

1 A. That's 19 miles south of Newnan.

2 Q. The corporate headquarters was in New York City?

3 A. New York City.

4 Q. Now, I take it since you told us you were not
5 an employee --

6 A. And divisional headquarters was in Winnsboro.

7 Q. South Carolina?

8 A. South Carolina.

9 Q. Have you ever been there?

10 A. I've never been to Winnsboro but I've been to
11 South Carolina.

12 Q. Where about. Well, we'll talk about it after we
13 get done.

14 A. We'll talk about it later.

15 Q. You were not a full-time employee of Uniroyal,
16 correct?

17 A. I was not an employee, period.

18 Q. Period. When the company made policy for the
19 corporation they did it at the corporate level, didn't they?

20 A. I would assume they did.

21 Q. In New York City. You told us in your deposition
22 that you were very proud of this data, this research that
23 you did, correct?

24 A. I was asked by Mr. McConnell if I was proud.

25 Q. And are you?

1 A. And I told him that I had had no reason to
2 consider it in that light prior to that time but since he
3 asked me and I'd thought about it I said I was.

4 Q. Good. And you remain proud of it, don't you?

5 A. I have no reason not to be.

6 Q. Okay.

7 A. But I really don't caudal to the idea of
8 suggesting that I had my chest puffed out as a result of the
9 work. I did my work and it was for others to comment on.

10 Q. Now, you told us that the company prior to your
11 being hired had hired experts in the field, you mentioned
12 Lanza and others?

13 A. They had consulted experts in the field, that's
14 correct.

15 Q. So they knew where to find experts?

16 A. They knew where to find them.

17 Q. And you were a man who was treating people in your
18 community and trying to do the best you could by them during
19 this period of time from 1957 to 1970, right?

20 A. From 1954 to 1991.

21 Q. I didn't mean to say you weren't doing the best
22 you could throughout your career, I wanted to focus in, if I
23 can, from 1957 to 1970.

24 A. Okay. Yes, sir.

25 Q. You told us you were working fourteen, fifteen,

1 sixteen hours a day trying to attend to the health needs of
2 the people in your community, correct?

3 A. By 1970 I said.

4 Q. Okay. And when did the company hire Dr. Jack
5 Wolfsie?

6 A. I don't really know. But I met him in the early
7 1950s -- 1960s. So I would assume it was some time prior to
8 then, but exactly when I do not know.

9 Q. And where was he located?

10 A. He was located in New York City.

11 Q. He was up there with the people who were making
12 the policies?

13 A. He was the corporate medical director.

14 Q. Okay. Now, Doctor, you wrote a report when you
15 got back from that conference in New York in October of 1964
16 to the company about what went on there, didn't you?

17 A. Mr. Link, yes, I did.

18 Q. To Mr. Link. And who was Mr. Link?

19 A. Mr. Link was the plant manager at Hogansville.

20 Q. And you assumed he was going to pass your report
21 along to higher ups in the company, correct?

22 A. I assumed.

23 Q. That he would?

24 A. Right, that he would, yes.

25 Q. And in that report you said that this was a fine

1 event. I mean they had scientists from all over the world
2 who came and shared their information with one another.
3 Lots of people were there, right?

4 A. I think, Mr. Motley, I said that it was the first
5 time that people interested in this problem were convened
6 from all over the world to share experiences.

7 Q. Yes. It was an important conference, wasn't it?

8 A. Very -- it was a landmark conference, I would say.

9 Q. And you were somewhat glad that you had been given
10 an opportunity to go to that conference, right?

11 A. I was delighted.

12 Q. Dr. O'Neal testified for Mr. Forman and some of
13 the others earlier in the trial. And if you would take a
14 moment, I want to share with you what he told the jury.

15 It will come up here in a second. Okay? Up
16 please.

17 Dr. Selikoff, he said, is a grand old man of
18 asbestos. And he spoke highly -- Dr. O'Neal did, he's a
19 pathologist that used to teach at the University of
20 Mississippi, and he's testified in this case. And he went
21 on to say Dr. Selikoff had done great things in asbestos
22 research. And you agree with that, don't you?

23 A. I think Dr. Selikoff was very important in the
24 asbestos field.

25 Q. Have you ever seen the New York City corporate

1 document of Uniroyal where they discuss why they thought
2 that were sending you to New York City to the Selikoff
3 conference?

4 A. Mr. Motley, I'm not sure that I know what you're
5 talking about.

6 Q. Let me show it to you. This is Exhibit 3840
7 that's in evidence. And if you would bear with me and look
8 here. It says company private, 2-26-64. Who is Mr.
9 Herrington?

10 A. You're asking me?

11 Q. Yes, sir. Do you know?

12 A. I don't know what his title was but he was
13 somebody in Winnsboro, South Carolina, connected with the
14 textile division.

15 Q. And who was Mr. Peele?

16 A. Mr. Peele, again I think he was in New York but I
17 don't really know what his title was.

18 Q. Well, as we will see in a minute he was the
19 president, Ladies and Gentlemen, of the Asbestos Textile
20 Institute. Did you know that?

21 A. That year?

22 Q. Yes, sir.

23 A. No, I did not know that.

24 Q. I'll show you that in just a minute. Mr. Peele
25 with Uniroyal who was the president of the Asbestos Textile

1 Institute, here they're talking about this conference that
2 you went to, right?

3 A. Yes, they are.

4 Q. And they said the guiding force behind this
5 conference is being generated by Dr. Selikoff of Patterson,
6 New Jersey. This man is a self-styled expert who is after
7 publicity and trying to build a reputation in any field he
8 can. And to date he has been instrumental in receiving an
9 80 thousand dollar grant from the asbestos workers union in
10 New York.

11 Mr. Peele -- that's the Uniroyal man, states
12 further that in any event the whole industry will be
13 condemned by papers which Dr. Selikoff will present.

14 It was Dr Ken Smith's -- he's the guy from
15 Johns-Manville that you discussed -- recommendation that all
16 members of the textile industry plan to have their doctors
17 present for the conference in New York on October 19th
18 through the 22nd.

19 Since the question of cancer of the lung caused by
20 asbestosis has been raised in New Jersey and Pennsylvania, I
21 would recommend that we send Dr. Wells. That's you,
22 correct?

23 A. I would assume that's me.

24 Q. And notify him of this so that he can arrange the
25 plans for the meeting. I would also recommend that Mr.

1 Sands be present. Who is he, Doctor?

2 A. Mr. Sands was the corporate safety director, I
3 believe stationed in New York.

4 Q. New York City. Our program, I believe, is the
5 best in the industry.

6 And that's what you've told the jury here, right?
7 Your program at Hogansville. That's what he's talking
8 about.

9 And while we are still under pressure from Mr.
10 Peele to join in this federal survey and we are resisting
11 this pressure, I feel that the presence of Dr. Wells and Mr.
12 Sands from our company at this conference may be of great
13 help in combating any deleterious -- what does that word
14 mean? Harmful?

15 A. You said it.

16 Q. Harmful information. Now, had you seen that
17 document before I just showed it to you?

18 A. Yes, I have seen that document.

19 Q. When did you first see it, sir?

20 A. I can't tell you.

21 Q. You first saw it sometime in connection with Mr.
22 McConnel and Mr. Forman, correct?

23 A. I don't really know. I just honestly don't know.

24 Q. Well, you will agree with me that they didn't send
25 you a copy of that letter at the time?

1 A. I don't think they did.

2 Q. It didn't show a copy to you on there?

3 A. I don't think they did.

4 Q. Now, when you went to the conference in New York
5 in October you were not, I believe you told us you were not
6 on the agenda? In other words, you weren't invited to
7 present any -- a paper?

8 A. I was not an invited speaker.

9 Q. And right before the conference started -- give me
10 Exhibit 342. Have you ever -- in 1964 did you see this
11 document, the minutes of the Asbestos Textile Institute that
12 Mr. Peele of Uniroyal was the president of?

13 A. I have not this document at any time. I'd like a
14 copy of it for my own records though.

15 Q. I'll be glad to give you a copy of it. In fact,
16 I'll give a copy of everything I show you today and I'll
17 give it to you before we leave.

18 A. That would be great.

19 Q. Jack, will you take care of that.

20 Now, Doctor -- Page 2, please. Back up, please.
21 You see that Mr. Link was absent from this meeting. Okay?
22 He's US Rubber. Next page, please.

23 A. May I see that again?

24 Q. Yeah.

25 A. That last page.

1 Q. Sure. Turn back to the first page, please. Mr.
2 Link was absent?

3 A. Can you shoot it up a little bit?

4 Q. Sure. Why don't I give you a copy.

5 A. Mr. Crawley was also unable to attend.

6 Q. Oh, okay.

7 A. That's what I wanted to see.

8 Q. Oh, that's fine. But Mr. Austin of US Rubber was
9 there. Who was he?

10 A. Mr. Austin was the manager of the asbeston
11 division of Hogansville. That was the asbestos fabricating
12 plant.

13 Q. Okay. Up, please. Up some more. Up, please.
14 This is not -- okay.

15 Recent publications again point out the intent of
16 this conference headed by Dr. Selikoff.

17 Up a little bit, please. Since they are
18 linking -- you and I are having problems with up and down
19 today.

20 Since they are linking asbestos with cancer the
21 committee feels this conference will have an affect on the
22 entire industry and are concerned as how best the results of
23 the conference can be investigated and rebutted.

24 Next page, please. Down.

25 After considerable discussion it was suggested a

1 public relations man with our help would be the quickest way
2 to get accurate publicity to the public.

3 And it goes on to talk about news releases from
4 Dr. Selikoff and our concern for the industry and the
5 customer.

6 As to the influence it will have on the use of
7 asbestos.

8 Now, sir, also on October the 8th, 1964, there was
9 a meeting of the Board of Governors of the Asbestos Textile
10 Institute. Have you ever seen the minutes of that meeting?

11 A. I have not.

12 Q. Board of Governors. Okay. Now, do you see, sir,
13 that Mr. Peele of US Rubber Company was there? And again he
14 was in New York City, wasn't he, for the company?

15 A. That is correct.

16 Q. And they refer to him -- why is this television
17 acting up today?

18 They refer to him as President Peele. The meeting
19 was called to order by President Peele. Do you see that,
20 sir?

21 A. I see that.

22 Q. Okay. Now I want to you come down to the -- up a
23 little bit more -- up a little bit more -- I want to show 4.

24 President Peele of Uniroyal brought up the subject
25 of the coming conference of the biological effects of

1 asbestos. That's the conference you went to, correct?

2 A. (Witness nods affirmatively).

3 Q. He asked that further action, if any, should be --
4 he asked what further action, if any, should be taken in
5 respect to the position of the Institute towards this
6 conference as adopted at our last meeting, in view of the
7 publicity which appeared in many newspapers on October the
8 6th in which asbestos was cited as a possible cause of
9 cancer.

10 This adverse publicity released by Dr. Selikoff
11 and his associates is based on very limited background
12 information as compared to that of the asbestos industry.
13 But it is very harmful to the entire industry.

14 Up some more, please.

15 There was a lengthy discussion as to ways and
16 means of combating this unfavorable publicity. The question
17 was raised as to whether those who have issued the publicity
18 could be warned.

19 In other words, Dr. Selikoff warned. He's is the
20 guy that issued the publicity.

21 Of the gravity of their charges and it's
22 unfavorable effect on the entire asbestos industry, without
23 giving the impression that an attempt was being made to
24 suppress or intimidate the medical profession.

25 Legal counsel, lawyer, was subsequently asked to

1 draft a letter and it has been submitted to the members for
2 approval before being sent to Dr. Selikoff by Mr. Reycraft,
3 the lawyer.

4 Have you ever, sir, seen the letter that the
5 Asbestos Textile Institute wrote to Dr. Selikoff threatening
6 him?

7 A. Have I seen a letter or the letter?

8 Q. Either.

9 A. I have not seen either. Either a or the.

10 Q. So, what we have here is Selikoff, who Mr.
11 Forman's witness, Dr. O'Neal, called the grand old man of
12 asbestos, before the conference, the Asbestos Textile
13 Industry -- not you now, you understand I'm not talking
14 about you, I'm talking about the New York City people, get
15 together and say let's get a PR man and let's get a lawyer.

16 Now, do you know what happened after that meeting
17 as far as what the Asbestos Textile Institute did to Dr.
18 Selikoff?

19 A. What they did to him?

20 Q. What they tried to do.

21 A. I have no idea, sir.

22 Q. Let me show you. Give me 3839. Who is that?

23 A. Are you asking me?

24 Q. Yes, sir. That's Dr. Wolfsie, right?

25 A. That's Dr. Jack Wolfsie.

1 Q. He's the corporate medical director in New York
2 City of US Rubber, right?

3 A. That's correct.

4 Q. Dear Dr. Wolfsie, at the Board of Governors
5 meeting of the asbestos Textile Institute held in New York,
6 Thursday evening, October the 8th, it was suggested that we
7 ask Dr. Ken Smith of Johns-Manville to bring together the
8 efforts of the company doctors from the member companies of
9 the Asbestos Textile Institute so that a united front might
10 be presented at the symposium next week in the event that
11 such a stand became desirable.

12 We have learned -- and Dr. Smith is the medical
13 director of Johns-Manville, right?

14 A. That's correct.

15 Q. We have learned that Dr. Smith has willingly
16 agreed to get the various member company doctors together
17 for a discussion of the adverse publicity now circulating.
18 And if the doctors feel that they would like for him to act
19 as a spokesman he will do so.

20 Dr. Smith was quick to point out that he was not
21 trying to direct the position of the member company doctors
22 should take, but would try to coordinate their efforts.

23 Now, you told Mr. Forman that nobody stopped you
24 from standing up and making your presentation, did they?

25 A. That is correct.

1 Q. Do you know whether or not Dr. Wolfsie and Dr.
2 Smith and some of the other doctors got together before the
3 conference?

4 A. I can make a statement regarding the top of that
5 bit on the television screen.

6 Q. What that's, sir? I'm sorry.

7 A. Where Dr. Smith was asked to get the documents
8 together to coordinate their efforts.

9 Q. Did that happen?

10 A. To my knowledge it didn't happen.

11 Q. It didn't happen with you?

12 A. I was asked to meet Dr. Smith in some room at the
13 Waldorf-Astoria Hotel where this meeting was held. And my
14 recollection is that Dr. Smith breezed in and breezed out in
15 about a 30-second period. He didn't ask for any opinions,
16 he didn't give any opinions; he seemed to be busy. Dr.
17 Smith did know the Uniroyal position -- the Uniroyal
18 experience because I had shared it with him.

19 Q. Right. In '62?

20 A. In 1959 or '60, somewhere along the lines.

21 Q. Yes, sir. We have those minutes.

22 A. He also knows that we had a program in place that
23 was breaking grounds of work that seemed considerably ahead
24 of Johns-Manville.

25 Q. Okay.

1 A. He did not encourage me or -- representing
2 Uniroyal to show what we were doing at any meeting
3 subsequently and subsequent to that or antecedent to that.

4 Q. Do you know that Dr. Wolfsie met with Dr. Smith?

5 A. I do not know it but I wouldn't doubt it.

6 Q. Do you know what Dr. Smith said in his remarks at
7 this conference as a spokesman for the Asbestos Textile
8 Institute?

9 A. I read it but I would have to reread it to tell.

10 Q. He was essentially saying it ain't so, wasn't he?

11 A. I can't agree without reading it.

12 Q. Now, 6676, please. Along about the same time that
13 Dr. Smith, Dr. Wolfsie and others, were discussing what to
14 do -- have you seen this letter? Did you see this letter in
15 1964? Are you shown a copy on this letter?

16 A. This is what you were projecting on the screen?

17 Q. No. On the screen, please.

18 A. I'd like to see the first page of it.

19 Q. Yes, sir, right there. And when I ask you if
20 you're seen this letter I mean before you met Mr. Forman and
21 Mr. McConnell.

22 A. Mr. Motley, I have seen this letter. I cannot
23 tell when I first saw it.

24 Q. You would -- I believe in the deposition you told
25 us you didn't remember seeing this in the '60s, right?

1 A. I said I can't remember when I first saw it.

2 Q. Okay. Down, please. Down. You must have had a
3 bad night last night.

4 US Rubber Company, October 14th, 1964. This is
5 from Mr. Peele who we've identified who was the president of
6 the ATI to Mr. Link.

7 All right. Up, please.

8 Enclosed are copies of articles which appeared
9 last week in the New York Times and the Stanfield
10 Connecticut. I am sure you have a similar article in your
11 local newspaper. At the ATI meeting on Thursday we learned
12 this this press release went out to one thousand, seven
13 hundred and fifty daily newspapers. And in view of the news
14 worthiness of the subject matter, there's a great
15 possibility that the majority of the these papers published
16 the release in total or in part.

17 It was the consensus of the ATI that articles such
18 as this present a very grave hazard to our industry from
19 both a personal standpoint and the economic standpoint.

20 By the way, have you ever seen the constitution
21 and bylaws of the Asbestos Textile Institute?

22 A. The answer to that is yes.

23 Q. When?

24 A. I must answer, Mr. Motley, that I don't have as a
25 corporation, perhaps you do, a stamp that says when I

1 receive things, so I have a lot of difficulty in remembering
2 when I got various papers. I can't tell you when.

3 Q. Do you think you got it back before you met Mr.
4 Forman and Mr. McConnell?

5 A. I don't know.

6 Q. Well, do you remember that one of the purposes of
7 the Asbestos Textile Institute is to fight adverse publicity
8 about asbestos so they can continue to sell their products?

9 A. I don't know that it's expressed exactly that way,
10 but I would not be surprised. The Asbestos Textile
11 Institute would be -- however, it's one of its obligations
12 the purpose of presenting what they were doing in the best
13 possible way.

14 Q. Okay. Do you recall ever receiving these
15 newspaper articles where Dr. Selikoff talked about cancer in
16 people who used asbestos products including asbestos cloth?

17 A. Are you asking me?

18 Q. Yes, sir.

19 A. If I received the articles?

20 Q. Yes, sir.

21 A. No, I didn't receive the articles. But I read the
22 Atlanta Constitution and it had reprints. In essence, it
23 said what he was saying.

24 Q. Okay. After considerable discussion of the pros
25 and cons we arrived at the conclusion that it would be

1 unwise to attempt any denial of these articles inasmuch as
2 we have rather sketchy information to make such denials.

3 It was decided that each company would attempt to
4 play down the Selikoff report and await the outcome of
5 publicity from the conference in New York next week.

6 As a result of these articles Dr. Crawley of the
7 Public Health Service has prepared a paper for publication
8 in New York next week, which he told us on Friday appeared
9 most promising from the industry standpoint.

10 He further stated that his data was incomplete,
11 but data collected so far within the ATI would tend to
12 repute -- I guess that should have been refute.

13 A. That's the Asbestos Textile Industry, not the ATI.

14 Q. I'm sorry. Many of the statements made in the
15 press releases. As an example of the implication arrived
16 from such articles, talking about the newspaper articles
17 that Selikoff was cited in, we were advised on Thursday --
18 up please -- by General Textiles in New Jersey that they had
19 received 3 cancellations for ironing board covers that
20 morning as a result of people reading these articles.

21 Up some more, please.

22 I talked with Johns-Manville today and they are
23 being besieged with telephone calls asking for clarification
24 or explanations of the articles. The management and medical
25 department have taken the stand that the articles are

1 without foundation.

2 Now, let me stop right there.

3 When they say the medical department, they're not
4 talking about you, are they?

5 A. No, sir, they're not.

6 Q. They're talking about Dr. Wolfsie in New York,
7 aren't they?

8 A. I don't know who they're talking about.

9 Q. But it wasn't you?

10 A. It was not I.

11 Q. Then they go on to talk about Dr. Wells coming
12 back from New York and consulting with Dr. Wolfsie. We may
13 wish to alter our position of participating in the public
14 health survey. At the Board of Governors meeting of the ATI
15 it was unanimously voted that the ATI asked Dr. Ken Smith of
16 Johns-Manville to coordinate the doctors from our various
17 companies.

18 And in this connection it was suggested that all
19 of the doctors meet in New York with Dr. Smith sometime
20 Sunday afternoon or Sunday evening to determine the position
21 they will uphold in the forthcoming meetings. I'm sure Dr.
22 Wells will want to be a part of this group.

23 We will keep you advised of any developments
24 within our industry and particularly any positions which the
25 ATI may take on the matter.

1 A. Who wrote that, please, sir?

2 Q. Here, I'll show you, maybe you can tell me who
3 that is. Is that Mr. Stanton or Mr. -- I mean Mr. Peele or
4 is that --

5 A. It looks like Peele but I'm not sure.

6 Q. Mr. Peele, the president of the ATI.

7 A. I'm not sure.

8 Q. All right. Now, do you know what happened after
9 that? Do you know that -- you wrote a report -- this is
10 Exhibit Number 6677 and this is the report you wrote to Mr.
11 Link when you got back from New York, isn't it?

12 A. This is the report.

13 Q. Of John Wells, that's you?

14 A. That's correct.

15 Q. And you were reporting to the company your
16 impression and your recollection of what happened in New
17 York at that Selikoff conference, aren't you?

18 A. Yes, sir, I am.

19 Q. And you told the company in New York on November
20 the 30th, 1964, that there was -- you're got the wrong
21 exhibit.

22 Up, please. Up, please. Up, please.

23 All right. The seemingly striking increase in
24 incidents of bronchogenic carcinoma, that's lung cancer, and
25 mesothelioma of the pleura and the peritoneal. These

1 neoplastic diseases, that's cancer, have been found with
2 increasing frequency in individuals whose initial exposure
3 to asbestos dust has exceeded twenty years.

4 Rather impressive data to demonstrate this
5 development was presented by Selikoff, Smitther -- who was
6 Smitther? From England, wasn't he?

7 A. I think he was from South Africa.

8 Q. And Buchanan. Remember Buchanan said half the
9 people with asbestos are dying of lung cancer in Great
10 Britain. Do you remember that?

11 A. I don't recall that.

12 Q. However, no evidence was given which was of
13 correlative significance in regards to the type of asbestos
14 dust or to the nature, amount and conditions of initial and
15 subsequent exposure. You wrote that, correct?

16 A. I also wrote the next paragraph.

17 Q. Yes, sir. Of perhaps even greater significance in
18 this regard was the report of Dr. John Knox of Turner
19 Brothers who compared 2 groups of people with twenty years
20 or more exposure gained before and after 1933.

21 In the first group there was a significant
22 increase in the number of deaths from all causes, all
23 cancers. That's what that means, doesn't it?

24 A. Yes, sir.

25 Q. And cancer of the lung and pleura. And then on

1 the next page you go on to say in the more recent exposed
2 people there was not an increase in lung cancer, correct?

3 A. I was trying to say since 1933 when the dust
4 enclosure and protective devices had been instituted in
5 England, a 20-year follow-up, or 10- to 20-year follow-up on
6 the workers exposed to a markedly diminished amount of dust
7 had showed a markedly diminished incidents of asbestosis.
8 And it showed an incidence of carcinoma cancer that was less
9 than the general incidence in the country of Great Britain
10 and Wales. There was a significant effect.

11 Q. Right.

12 A. In other words, relating to the dust exposure.
13 And I might say here in regard to everything you're saying
14 about Dr. Selikoff's work, that he talked about a group of
15 people who were exposed to massive doses of asbestos dust.

16 Q. But the products users, they had no protection?

17 A. Right, they had no protection.

18 Q. Now, Doctor, then you go on to point out on Page
19 3, that there was a report of pleural disease in people who
20 lived in the neighborhood, they weren't even working in a
21 factory or working in a shipyard, who had as far as a half
22 kilometer from the mines and were exposed to asbestos dust,
23 had these pleural diseases.

24 And you expressed a concern of theoretical and
25 practical importance of dust control, not only for

1 immediately exposed workers, but for the community at large?

2 A. Correct.

3 Q. And then you point out down here -- up, please --
4 it was lamented -- up, please, a little more because it's
5 getting foggy on me -- by Dr. doctor Gilson. You mentioned
6 his name to Mr. Forman. That none of the studies made
7 significant correlations of clinical, radiologic,
8 physiologic and dust counting data.

9 In other words, the kind of information that you
10 had given US Rubber in 1958, correct?

11 A. Correct.

12 Q. And, in fact, Dr. Gilson, when this book was
13 published -- do you see?

14 A. I see.

15 Q. Referred to you, didn't he?

16 A. Yes.

17 Q. It says, John Wells in the discussion reported he
18 had information about attack rates of asbestosis related to
19 dust levels extending over several years. Let us hope these
20 and others will soon be published.

21 He called for it to be published, didn't he?

22 A. That's what he said.

23 BY MR. MOTLEY: Your Honor, is this an
24 appropriate time to take a break?

25 BY THE COURT: All right. Ladies and

1 Gentlemen, we'll take our lunch break. We'll
2 start back at 1:30.

3 (Off the record)

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Handwritten signature: James Perry

1 IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

2
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4
5 IN RE: ASBESTOS PERSONAL INJURY CASES - ABRAMS LEAD
6 GROUP I PLAINTIFFS

7 NOS.

8 88-5422(2), 89-5121(2), 90-5247(2), 88-5420(2),
9 89-5252(2), 90-5069(2), 89-5153(2), 90-5352(2),
10 89-5268(2), 90-5045(2), 90-5274(2), 88-5181(2),
11 91-5187(2), 91-5098(2), 91-5000(2), 90-5387(2),
12 91-5119(2), 90-5369(2), 91-5135(2), AND 90-5178(2)

13 *** VOLUME II ***
14
15
16
17

18 THE FOLLOWING IS AN UNCERTIFIED AND UNPROOFREAD DAILY COPY
19 TRANSCRIPT OF THE PROCEEDINGS HAD IN THE ABOVE REFERENCED
20 CAUSE ON THURSDAY, JUNE 17, 1993, BEFORE HONORABLE KATHY
21 KING JACKSON, CIRCUIT JUDGE.
22

23 **DAILY COPY**
24

25 UNDERLINED TEXT IS PHONETIC
THIS TRANSCRIPT HAS NOT BEEN PROOFREAD

1 BY THE COURT: Bring the jury in.

2 (JURY IN THE BOX)

3 BY THE COURT: Be seated. Go ahead,
4 Mr. Motley.

5 BY MR. MOTLEY: Yes, Your Honor.

6 CROSS-EXAMINATION BY MR. MOTLEY:

7 Q. Now, Doctor, before lunch we had shown the jury
8 that doctor -- not doctor, Mr. Peele, the president of the
9 ATI and a Uniroyal employee had urged that they hire a
10 public relations man to confront Selikoff and hire a lawyer
11 to threaten him with a letter.

12 Let me ask you this, sir: From 1964 to 1976 did
13 the Asbestos Textile Institute, as an organization, offer to
14 give you assistance to help you write up and publish your
15 information?

16 A. I never asked for assistance.

17 Q. I didn't ask you that.

18 A. They did not offer to give assistance.

19 Q. You made a presentation to them in 1962, didn't
20 you, to the ATI?

21 A. I'm not certain that I made a presentation to the
22 ATI. I met -- if that's the meeting I'm thinking about, I
23 met in a separate conference room with medical
24 representatives of five or six different companies and
25 presented to them what we are doing.

1 Q. Okay. Well, let me show you the report you did.
2 When they find it, I'll show you, okay?

3 A. Okay.

4 Q. Doctor, is this the -- do you have a copy -- oh,
5 you've got the original there. Okay. That's the
6 presentation you made to the Asbestos Textile Institute
7 meeting, correct?

8 A. No. That's approximately correct, but it's not
9 correct. It's the report that I gave U.S. Rubber Company
10 for Mr. Austin. And what he did with it, I do not know.

11 Q. Okay. In any event, some time in the early '60s
12 you presented a -- made a presentation to the Asbestos
13 Textile Institute company doctors about the program at
14 Hogsansville, correct?

15 A. Yes. I'm looking for that. But I did, that's
16 correct.

17 Q. You did. And in that volume, that notebook full
18 of documents you've got there, can you point to one where
19 the Asbestos Textile Institution or Institute, said, Dr.
20 Wells, this is so important we're going to lend you some
21 help and we're going to publish this information that
22 there's a question about the threshold limit value?

23 A. No.

24 Q. It doesn't exist, does it?

25 A. It doesn't exist.

1 Q. And, in fact, they did the opposite, didn't they?
2 Do you know that after you made your presentation the
3 Asbestos Textile Institute put out a booklet for the world
4 to see and didn't say one word in here about what you told
5 them that you had questions about the threshold limit value;
6 did you know that?

7 A. I don't know what --

8 Q. Have you ever seen this?

9 A. What's the date of this?

10 Q. 1963, sir. Published in 1964. Have you ever seen
11 that before?

12 A. I have not.

13 Q. U.S. Rubber Company, and the other members of the
14 Asbestos Textile Institute put out this pamphlet and never
15 said a word about what you told them about the TLV. You
16 didn't know that, did you? I'm going to mark that into
17 evidence, and I'll give it back to you.

18 A. What this says --

19 Q. Sir, I can assure you --

20 A. -- Mr. Motley, is determining asbestos dust
21 concentration.

22 Q. Well, if you want to debate it, sir, let me read
23 it to you. You've never seen this before, have you?

24 A. I've never seen it.

25 Q. Mr. Forman's met with you how many times?

1 A. Approximately seven.

2 Q. Seven times. And he's never pulled out of his
3 boxes over here this document that the Asbestos Textile
4 Institute published for the world to see about the TLVs,
5 correct?

6 A. I don't know what's in that.

7 Q. Well, it's already been testified to, sir, by Dr.
8 Mancuso what's in here.

9 A. If you say it's in there, I stipulate that. But I
10 don't know it for a fact.

11 BY MR. MOTLEY: Plaintiffs' Exhibit
12 758, moved into evidence, Your Honor.

13 BY THE COURT: Any objection?
14 Let it be marked.

15 BY MR. FORMAN: Your Honor, I haven't
16 seen it. I thought he said it had been
17 introduced. If it hadn't, I'd like to see it.

18 BY MR. MOTLEY: Sure.

19 MR. MILLS: We request to know who it
20 is being introduced against.

21 BY MR. MOTLEY: It's introduced against
22 Uniroyal. You weren't a member at the time, I
23 don't think. It was attached to the deposition of
24 Mr. Ayre and Doctor --

25 BY MR. FORMAN: If you say it's

1 authentic, that's fine.

2 BY MR. MOTLEY:

3 Q. Now, sir, so we got Mr. Peele of Uniroyal hiring a
4 PR man, hiring a lawyer. Uniroyal putting out a pamphlet
5 that doesn't report your findings. And you know what they
6 ultimately tried to do to Dr. Selikoff?

7 A. I have no idea, sir.

8 Q. Has Mr. Forman shown you where in 1970, '71 they
9 talked about putting pressure on the Mount Sinai Hospital
10 where he worked to stop him?

11 A. Who was this? I don't know of that. But who is
12 this, the ATI?

13 Q. Yes.

14 A. I do not know of that. I can tell you I was not
15 in the normal loop of being a recipient of their
16 information.

17 Q. You were out of the loop?

18 A. I was out of the loop.

19 Q. Now, sir, do you know how many millions of pounds
20 of asbestos cloth Uniroyal sold after 1958 when you told
21 them you had questions about the TLV?

22 BY MR. FORMAN: Excuse me, Your Honor.

23 I respectfully object. I don't believe he's
24 testified that he said he had questions about the
25 TLV.

1 BY MR. MOTLEY: You stood up at this
2 meeting and said the only level was zero, didn't
3 you? Is that a question about the TLV or not?

4 BY MR. FORMAN: He can answer the
5 question.

6 BY MR. MOTLEY:

7 Q. Didn't you tell --

8 A. I said that.

9 Q. And didn't you tell in your report, 1958, didn't
10 you tell the company you had reservations about the TLV and
11 they needed to keep it down as low as possible?

12 A. I don't think that I had any reservations. I
13 said -- I think I specifically said that they should direct
14 their efforts at reducing the dust counts.

15 Q. Did you say this, sir --

16 A. I don't know.

17 Q. -- revise drastically downward, in reference --

18 A. If I said "revised drastically down," I would say
19 that that was what I said. I would not say that there's a
20 question about the TLV. That's simply a statement that --
21 of what was accepted, what was -- that was a statement that
22 the Uniroyal plant should revise and reduce downward their
23 dust exposure.

24 Q. Well, sure could have fooled me. Let me show you
25 this, what you said. Who said this? Look on the screen,

1 please, sir. Do you know who said those words?

2 A. That looks like something from my report of 1958.

3 Q. Thank you, sir. Now, sir, do you know how many
4 millions of pounds of asbestos cloth Uniroyal sold in the
5 United States after you made those words to them in 1958?

6 A. I've seen a figure but I would hesitate to
7 speculate.

8 Q. What figure did you see, because I've been looking
9 for one myself?

10 A. I think I saw a figure that said something in the
11 neighborhood of eight hundred and eighty thousand pounds.

12 Q. And, sir, did you know --

13 A. I said I think I saw that.

14 Q. Yes, sir. That's okay. Did you know that the
15 jury has seen documents starting in 1969 where the Asbestos
16 Textile Institute adopted a policy of down playing the
17 hazards of asbestos to their customers?

18 A. Again, Mr. Motley, I was not in the ATI loop. I
19 was not party to their deliberations. I simply had nothing
20 to do with it.

21 Q. And Mr. Forman has not shown you those documents?

22 A. I don't believe that he has.

23 Q. Let's go on to -- and I don't mean to pick on Mr.
24 Forman. He's a gentleman.

25 A. Excuse me, just a second. I answered you

-

1 incorrectly. I think I did see a letter of somewhere around
2 '70, 1970 or thereabouts.

3 Q. Okay.

4 A. That said something to the effect of what you're
5 saying.

6 Q. Play down the hazards. Now, Dr. Wells, let's go
7 back in time to 1957 when you got hired, okay. I don't
8 believe you told the jury, though I may is missed it, how it
9 was that you came to the attention of Uniroyal, would you
10 tell us that?

11 A. Yes, sir. Excuse me. In late 1956 a patient came
12 to my office seeking help. He was given the same kind of
13 workup that I ultimately gave every worker-patient at
14 Uniroyal. That was a complete internist-type workup.
15 Wherein I took a complete history. It I took a complete
16 physical -- I did a complete physical examination, omitting
17 on males rectal exams. But in my office I did that. I did
18 a certain amount of laboratory work on him that included a
19 urinalysis, a complete blood count. A complete blood count
20 comprised of white blood count and differential. A red
21 blood count, what is called hematocrit and a hemoglobin. I
22 did a sedimentation rate. I had a chest x-ray done on him
23 for no reason at that time except for completeness because
24 he gave no symptoms, suggestive of lung disease. He
25 complained of indigestion.

1 In putting everything together that I had found, I
2 learned, especially on looking at the x-rays, that he had
3 what appeared to be an active process going on in the right
4 lower part of his lung, in the right lower lobe. I had told
5 him of it. I secured his consent and wrote a letter to Mr.
6 John Alexander at the U.S. Rubber Company in Hogansville
7 saying that I had seen this individual. Did you name him?

8 Q. No, sir, I didn't.

9 A. That I had seen this individual. That I thought
10 he had an active process going on in his lung. And I
11 recommended that he be removed from the dust atmosphere,
12 dust exposure, pending working out his problem. I
13 suspected, I must say, that I suspected that he had
14 asbestosis. Although I knew very very little about the
15 disease asbestosis at that time. I suspected he had it.
16 Number one, because he told me he was exposed to it and had
17 been since 1946. I suspected, number two, and perhaps a
18 little more forcefully in my consideration, that he had it
19 because his wife at that time had been diagnosed by a
20 colleague and friend of mine in Atlanta as having
21 asbestosis. I consulted -- I called, again with the
22 patient's permission, the colleague and confirmed that.

23 On that basis, I wrote the letter to the personnel
24 manager, industrial relations man at Uniroyal. In the
25 course of time they asked me to come down and talk to them.

1 And when I got there, they said that we have a problem. We
2 think we have a problem regarding dust exposure in
3 Hogansville. And we wonder if you have any
4 recommendations. And they proceeded to tell me that they
5 had accumulated dust data, dust counting data since 1942.
6 They told me that at that time they had a series of chest
7 x-rays on the workers that they had initially taken
8 biannually twice a year and subsequently they had taken them
9 once a year. They had a tremendous collection of x-rays of
10 asbestos workers, asbestos textile workers. They had the
11 dust count data, they had the x-ray.

12 At that point in time there had been no concerted
13 effort to bring all this information together and try to
14 make some sense out of it. I recommended to them on
15 thinking about it, I went back and thought about it. I
16 recommended to them or made the recommendation to them that
17 they initiate a program that would attempt using the same
18 kind of workup that I had given on the patient who had
19 initially come to me as a private patient, doing a complete
20 examination on each worker patient, man and woman, at
21 Uniroyal doing the same laboratory work. In addition, doing
22 skin tests for tuberculosis and histoplasmosis, which is a
23 fungus disease which is common in the southeast, doing a
24 vital capacity, by the numbers that we had at that time.
25 And attempt, getting all this information together, to

1 develop a picture of asbestos disease as it occurred in the
2 Uniroyal -- at U.S. Rubber Company plant in Hogansville.
3 And having developed that picture, having tried to learn how
4 earliest to diagnose the disease in order, by my thinking at
5 the time, that the patient worker could be diagnosed early,
6 removed from harm's way as it were, and perhaps into another
7 area of the mill. And thereby being -- enabled to work a
8 lifetime of normal work.

9 Q. And they --

10 A. That was the basis of my presentation, Mr.
11 Motley. That presentation was accepted by U.S. Rubber
12 Company.

13 Q. Right.

14 A. Having gone to Mr. Link and gone up and down the
15 chain. And they decided to go ahead with it.

16 Q. And that resulted in the report we've been talking
17 about, right?

18 A. Two years later that resulted in the report.

19 Q. So working as a private physician you found two --
20 learned of two cases of asbestosis, one was your own
21 patient, and one was the wife of that same person?

22 A. That's not quite right. I learned -- I omitted
23 that in the recital I just gave you. There was the wife of
24 my patient, who was one.

25 Q. You told us that.

1 A. And I told you that. And there was another
2 patient who had been diagnosed by another physician of
3 repute. And these were the first two patients that they had
4 awareness of who had asbestosis in Hogansville.

5 Q. Okay. Now, so, you've already told Mr. Forman --
6 let's talk about what you didn't get from the company. You
7 didn't get the document that's got "Top Secret" up at the
8 top of it, did you? You didn't get that until Mr. McConnell
9 took your deposition three or four months ago, right? You
10 had never seen that document. You told us under oath you
11 had never seen that document and you were shocked to see it?

12 A. Did I say I was shocked.

13 Q. You said you were surprised.

14 A. Well, that's surprised. I'm not shocked. But if
15 I didn't see it, I didn't see it. If I said that.

16 Q. All right. And you told Mr. McConnell -- Mr.
17 Forman here just a little while ago, you didn't see Exhibit
18 7306 either until you were shown it in the deposition; do
19 you remember that?

20 A. Not by the number 7306 there, but if that was one
21 that you showed me and I said that. Then I stipulate that
22 that's so.

23 Q. Well, we kind of talk in numbers here.

24 A. All right.

25 Q. Now give me the 1946 document. Here is another

1 one you were shocked or surprised you had never seen. Do
2 you remember when Mr. McConnell showed you this document?

3 A. Yes, I do.

4 Q. Were you shocked, surprised, astounded, displeased
5 or what, that you had never seen that document before?

6 A. I guess the proper word, sir, is that I was
7 surprised to see this information.

8 Q. And that is a study that was done by somebody of
9 people at the Hogansville plant in 1946, ten years or eleven
10 years before you communicated with them, correct?

11 A. This is what it purports.

12 Q. And that's Plaintiff's Exhibit Number -- now can I
13 have it back for a second. 7192.

14 A. It's also addressed to a Mr. Wells, who is no
15 relation of mine.

16 Q. Okay. I accept that.

17 A. Nor known to me.

18 Q. And you never got it either, did you?

19 A. No, I didn't.

20 Q. It talks about first stage asbestosis and it lists
21 a bunch of people. And some of these people you came to
22 know later in your association with Uniroyal, correct?

23 A. That is correct.

24 Q. And some of them we don't know what happened to
25 them, correct?

1 A. That is correct.

2 Q. Now, Doctor, you said something interesting a
3 minute ago. We've had a large number or a lot of doctors
4 come in here and use words like reprehensible, criminal,
5 inhumane in connection with a policy of a person having
6 asbestosis and not being told by the doctor that diagnosed
7 it.

8 Do you agree that if a man or a woman has
9 asbestosis that it would be reprehensible, criminal, and
10 inhumane for the doctor not to tell him or her?

11 A. I recognize -- I understand all three of those
12 words, sir. I recognize, particularly, the first word. I
13 believe that if a doctor thought that a patient or person
14 for whom he was responsible had, in fact, a specific
15 disease, it would be unethical and improper not to tell him
16 or her. But if he didn't have it, then I think it might be
17 improper to tell them that they did have it.

18 Q. Let me read you what you told us.

19 A. Please.

20 Q. Dr. Wells, it would be reprehensible to transfer a
21 sick employee with asbestosis back into the Asbeston dust
22 exposure?

23 A. Is that my letter to Mr. Link?

24 Q. No, sir. This is the testimony you gave in the
25 case of Miss Lois Hurt.

1 A. Okay. Okay.

2 Q. Those were your words, weren't they?

3 A. Yes, I remember the wording.

4 Q. And you think it's important if a person has
5 asbestosis that they be told and gotten out of the dust, as
6 you just told us, out of harm's way, don't you?

7 A. That's correct.

8 Q. Can you explain to us, sir, why Uniroyal allowed
9 Robert Todd to have asbestosis, be taken out of the plant
10 environment for six years, have stage three asbestosis and
11 then allowed to go back into the plant where there was
12 asbestos dust? It's reprehensible, isn't it?

13 A. No, sir. Because to my knowledge, he was not
14 allowed to go back into the asbestos dust.

15 Q. Would you like to see where he went back in?

16 A. I would -- I would not only debate the veracity of
17 that statement which you're going to show me, but I would
18 tell you why I'd debate it.

19 Q. Well, all we can go on is what Uniroyal gave us in
20 documents. You understand?

21 A. Yes, sir. Yes, sir.

22 Q. I mean I wasn't there in nineteen -- in the
23 1960s. And all I can go by is the documents that they
24 produced to us.

25 Now are you telling me that since we took your

1 deposition where it says they let him go back into the
2 Asbeston, you found out they really didn't do that?

3 A. I didn't say he went back. That's what the
4 document I think says.

5 Q. You agree that the document that Uniroyal gave us
6 shows a man who had asbestosis was let to go back into the
7 plant?

8 A. May I see the document?

9 Q. Yes. By the way, isn't that the man whose case
10 you first diagnosed of asbestosis?

11 A. That's correct.

12 Q. And that was in 1957?

13 A. 1956.

14 Q. And if those documents show he was allowed to go
15 back into the asbestos environment by that company, that
16 would be reprehensible, wouldn't it?

17 A. Yes, sir, it would be. It is possible that
18 whoever wrote this, it's not -- there's no attribution
19 here. So I don't know who wrote this. It is possible that
20 they made a mistake.

21 Q. Okay. Well, you understand we didn't write this?

22 A. I understand you didn't.

23 Q. And it came out of your company's files?

24 A. It came out but it's possible they made a mistake.

25 Q. Well, if they are putting --

1 A. As a matter of fact --

2 Q. In fact, they say here that they stopped him being
3 exposed to asbestos on October the 17th, 1966, ten years
4 after you diagnosed him, right? If that record is correct,
5 that's what it says, doesn't it?

6 A. That's what it says. I don't recognize the
7 handwriting.

8 Q. Now, Doctor --

9 A. But when that came up and after the deposition,
10 after, because I wanted to check on that. Because what that
11 statement said was absolutely contrary to what I understood
12 had been done with Mr. Todd. I went -- I called Mr. Todd,
13 who was still living and healthy and living in Hogansville,
14 and made an appointment to see him.

15 Q. Good.

16 A. And when he was there, I asked him, I called him
17 Robert. I've known him a long time. And I said, Robert,
18 when did you start working for Uniroyal, U.S. Rubber
19 Company? He said 1946. And do you remember coming to me in
20 1956? And he said he'd never forget it. And he remembers
21 also that he was removed from asbestos dust exposure in
22 1956. I asked him where he went next. I knew where he went
23 next. But I asked him where he went next. And he went to a
24 machine called a Duralock machine that dealt with, I think,
25 nylon or rayon. Nothing to do with asbestos. And he did

1 that for a number of years until mid -- early '60s until the
2 Duralock work that U.S. Rubber Company had ran out of gas.
3 They just ran out of work for him.

4 They had then to find a place. And he came to me,
5 he came to my office. And he had become a private patient
6 during this time and I saw him intermittently. We had
7 established a good rapport and a good friendship. And he
8 literally begged me, not on his knees, but he said, Dr.
9 Wells, please put me back in asbestos because I need to work
10 and I need to eat. And I said, Robert, we just can't do it.
11 Or words to that effect. I -- and I told him. And I
12 subsequently wrote Mr. Link a letter saying that we had
13 established a policy wherein I recommended if I diagnosed
14 asbestos disease and so told the company and told the
15 patient, which was the stipulation that if I diagnosed it,
16 the worker would be notified. He would be -- he would be
17 told. There wouldn't be any secrets kept. That he -- he or
18 she would be removed from the asbestos atmosphere. And that
19 there was no way that I thought as a medical consultant
20 giving medical advice, that that patient should come back
21 into the asbestos atmosphere.

22 I told Robert that. And I reiterated that, I
23 repeated that to Mr. Link in a letter. So with that in mind
24 I said, Robert, where did you go then? I said, what is C&S,
25 which that document you showed me shows.

1 Q. Yes. The one that Uniroyal gave us that says --

2 A. Mr. McConnell asked me if C&S didn't mean cutting
3 and spinning, which I kind of assumed it did.

4 Q. It say asbestos C&S, right?

5 A. C&S, cutting and spinning. I said, Mr. Robert,
6 have you ever been in cutting? He said, no. Have you ever
7 been in spinning? No. Did you ever do any work at all in
8 cutting or spinning? No, I was only a weaver. I was taken
9 in -- I'm nearly quoting but paraphrasing perhaps Mr. Robert
10 Todd. He said, I was taken under the wing of a master -- of
11 a supervisor named E.E. Caldwell. I took extra courses
12 elsewhere. I became a supervisor myself. I was encouraged
13 to promote -- to improve myself. He did become a supervisor
14 in weaving where he went. And from which he was
15 transferred. And where he got the asbestos disease. He did
16 become a supervisor. He worked the Duralock. And when he
17 went back, he went back as a supervisor in what is called
18 the finishing department. Finishing.

19 Q. Finishing?

20 A. F-i-n-i-s-h.

21 Q. Finishing of what?

22 A. In the finishing department, as I asked Mr. Todd,
23 I said, is Mr. Todd -- Mr. Robert, was the finishing
24 department an integral part of the asbestos plant? And he
25 said, no, it was separated from the asbestos plant.

1 Q. What did they finish?

2 A. What they basically did, and what he did, he
3 didn't finish anything. He told other people to do it.

4 Q. Well, what were the people he was --

5 A. What they did was wrap it.

6 Q. Wrap what?

7 A. The asbestos, the finished asbestos product.

8 Q. So he was in asbestos?

9 A. No, he wasn't.

10 Q. You mean --

11 A. Finished products. There's a difference.

12 Q. Sir, do you know how many people have gotten sick
13 and died from taking the asbestos out of the wrapping and
14 putting it around themselves and walking around a shipyard?

15 A. I have no idea.

16 Q. Do you know that John Dement, the chief industrial
17 hygienist for the United States government testified that
18 there is no such thing as a safe level of exposure to
19 asbestos, that when you unwrap asbestos products, dust flies
20 off of it; did you know that?

21 A. This, as I understood it, sir, dust, the asbestos
22 products had been coated with some other material, which
23 would understandably diminish the dust.

24 - - -

25

1 Q. Well, let me ask you --

2 A. But at any rate, I can also tell you -- And I
3 don't debate what Mr. Dement said or what I said, that
4 dusty counts were obtained in the finishing area, and they
5 were no higher -- the dust count, incidentally, was done by
6 the midget impinger, and if you ask me, I'll tell you
7 what --

8 Q. I know all about the midget impinger.

9 A. Probably more than I do. But at any rate, by
10 the midget impinger, the dust counts were taken in the
11 finishing area three hundred yards away at Mr. Lynx's
12 residence, two miles north of the Hogansville plant, the
13 golf course, and they were no different at any of the
14 locations.

15 Q. Well, what were they?

16 A. Very minimal.

17 Q. Well, now wait a minute. You mean to tell me
18 two miles away from your plant they were able to find
19 asbestos in the golf course?

20 A. No, no. If you knew all about asbestos counting
21 with the midget impinger, you would know that it counts all
22 dust --

23 Q. I see.

24 A. -- that comes into the impinger.

25 Q. Let me see this now. They hired a guy named Air

1 that is going to come in here and tell the jury that it
2 doesn't count all dust. Are you telling us that it does
3 count all dust?

4 A. It counts all the dust that comes into the
5 sample.

6 Q. And I want to get this straight, because I'm
7 bringing John Dement --

8 A. That's my understanding.

9 Q. I'm bringing John Dement back here to talk about
10 what you just said. I want to get it straight. You're
11 telling this jury that you think it's okay for your company
12 that you were consultant to, to find a man that has
13 asbestosis, bring him back put him over in the finishing
14 department where they finish asbestos products, and think
15 that's okay that there's no exposure? That's what you're
16 telling us?

17 A. It was my thinking there was no exposure.

18 Q. Okay.

19 A. At that time.

20 Q. Now, this piece of paper that your company gave
21 me, says -- it doesn't say finishing plant, it says
22 asbestos C & S, and then it says, three years later he was
23 transferred as a leading man to the finishing department,
24 and this is what they say his exposure to asbestos dust
25 stopped on October the 17th, 1966?

1 A. And that's when he went to the finishing, as I
2 understand it.

3 Q. Ten years later?

4 A. He had been in Duralock prior to that time.

5 Q. But he was in that finishing plant for a while,
6 wasn't he?

7 A. He was in the finishing plant. If I understand
8 what he told me, Mr. Motley, until he retired from the
9 plant.

10 Q. Okay. Well, we'll let Dr. Dement describe for
11 the jury whether or not that there was no dust in that
12 finishing plant. All right. I would like for you to come
13 take a look at this, please. By the way --

14 A. May I ask you a question?

15 Q. Yes, sir.

16 A. Did Dr. Dement see the finishing plant at
17 Uniroyal?

18 Q. Dr. Dement has studied every asbestos plant in
19 the United States that made textile products for the
20 government.

21 A. He did at Uniroyal?

22 Q. Yes, sir. He studied every one of them, sir.

23 A. Okay.

24 Q. You said you sold 880,000 pounds from 1958 to
25 the current -- The truth of the matter is, your company

1 sold 800,000 pounds a year, didn't they? Isn't that what
2 that says, pounds produced, 793, 898, 900, 847, 821?

3 A. Didn't I give you -- say that I thought I had
4 seen an estimate of figures somewhere around 880,000?

5 Q. You didn't say a year. I asked you from 1958 to
6 1976 how much they sold, and you said 880,000 pounds.

7 A. Oh, well, perhaps I misunderstood your question.
8 My thinking giving you the number was for a year, but I
9 didn't know which year.

10 Q. That's all right. Let's take 880,000 pounds of
11 asbestos per year. How many years is it from 1958 to 1976?
12 18?

13 A. That's what I would figure.

14 Q. Times 18 -- 000468 -- somebody help me.

15 BY MR. BENTON: Don't look over here at me
16 for this one.

17 BY MR. MOTLEY: Could somebody help me.

18 BY MR. BULLOCK: I have a calculator.

19 BY MR. MOTLEY: You've got one. How about
20 doing it for me. That will be the first thing
21 you've done for me in this trial. He's going to
22 calculate it for us.

23 BY MR. BOZEMAN: It would be 15,840,000.

24 BY MR. MOTLEY: Thank you, Mr. Bozeman.

25 You just sit down. We know you -- 15 million

1 what?

2 BY MR. BOZEMAN: 840,000.

3 BY MR. BENTON: I might not know how to
4 work the calculator either, but -- Let me sit
5 down over here and recalculate.

6 BY MR. MOTLEY: That's another jury issue.

7 BY MR. MOTLEY (continued):

8 Q. Doctor, whatever the number is --

9 A. It's approximately right.

10 Q. Whatever the number is, they sold that much
11 asbestos after you told them that the TLV ought to be
12 drastically reduced, and do you know that your company has
13 admitted that they never put a warning label on the first
14 roll of their asbestos cloth until the government made them
15 in 1972? Did you know that? Just a yes or no. Do you
16 know that?

17 A. If you say so, I understand that.

18 Q. Now, when you joined the company as a consultant
19 in 1957 or '56, they told you that they had only had two
20 cases of asbestosis up to that time, didn't they?

21 A. That is correct.

22 Q. And that ain't right, is it?

23 A. I think it is.

24 Q. Well, do you know about -- Did they tell you
25 about the man that -- the woman that died? The man that

1 died. They didn't tell you that, did they?

2 A. Can you tell me when he died?

3 Q. Would you like to see the death certificate?

4 A. Can you tell me who?

5 Q. Luan Green.

6 A. I knew Mrs. Luan -- Mr. Luan Green. I did not
7 know Luan Green.

8 Q. So you weren't told that, and you weren't even
9 told -- they didn't even tell you they had a plant up in
10 New Jersey in Passaic, New Jersey, did they, were they made
11 asbestos products, did they?

12 A. No.

13 Q. Do you know how many people -- I got a list of
14 people here from Passaic, New Jersey who got asbestosis and
15 lung cancer. Have you ever seen that list?

16 BY MR. FORMAN: Your Honor, we object to
17 that. It's not relevant to anything in these
18 proceedings. May we approach?

19 BY MR. MOTLEY: That's all right. I'll
20 raise it at another time. I'll withdraw it.

21 BY MR. MOTLEY (continued):

22 Q. Let me ask you this: If you didn't even know
23 they had a plant in Passaic, New Jersey, you sure didn't
24 know how many people had asbestosis out of that plant, did
25 you?

1 A. I had no idea. I don't know why I would have
2 been informed if they had a plant.

3 Q. Do you know how many cases of asbestosis they've
4 owned up to that's come out of that plant since 1958?

5 A. Which plant are you talking about now?

6 Q. Hogansville.

7 A. They've owned up to every plant that every
8 person who has been diagnosed by me as having it.

9 Q. Well, how many have you diagnosed since 1958
10 with asbestosis, sir?

11 A. This is an estimate, somewhere between 30 and 40
12 people.

13 Q. Have you ever had a patient that's died of
14 asbestosis, Doctor?

15 A. Yes, sir.

16 Q. Describe for the jury what the last six months
17 in someone's life who has asbestosis is like. How does it
18 make them feel?

19 A. There are a lot of different scenarios that one
20 could describe, but basically they all encompass the
21 situation of a dying human being. And that's not pleasant,
22 whether it be of asbestos disease or cancer of the kidney
23 or any other lethal field disease. It's a sad time. And
24 you're doing all you can for that individual to support him
25 or her. You're doing it with an individual who knows that

1 his or her time is up. You're trying to make them as
2 comfortable as you can, you're trying to give as much
3 supportive medicine as you can, and you're trying to make
4 their passage as easy as you can. To the degree that
5 you're successful, they die comfortably. To the degree
6 that you're not successful, it's difficult. That's about
7 as best as I can say.

8 Q. Well, Doctor, I would like for you -- you've
9 seen people die of asbestosis, describe for us how their
10 breathing gets in the end stages.

11 A. I would say in response to Mr. Motley's request,
12 that starting from the earliest time of asbestos disease,
13 going right through the completion of the course of that
14 disease, the breathing gets slowly more difficult. For a
15 long time the breathing is not difficult because the
16 patient basically refuses to recognize the shortness -- the
17 insidious progression -- at onset, the progression of the
18 shortness of breath. But as it becomes more difficult and
19 the patient is aware of it, he comes, in this instance, to
20 me for help.

21 It's rather frustrating, because just as
22 somebody with congestive heart failure due to
23 arteriosclerotic heart disease with nothing to do with
24 asbestos, you're dealing with a sinking ship, sinking human
25 being. And there's nothing you can do except to offer

1 everything that is available, and give as much support as
2 possible. But that patient is dying, and the things that
3 you go through after that are what I just said a moment
4 ago. You try to make the passage of the individual as
5 comfortable as you can, and support life as long as
6 possible.

7 Q. Have you seen them actually virtually suffocate
8 to death?

9 A. I wouldn't use the word "suffocate." I've seen
10 them -- I've seen many people, not only asbestotic
11 patients, but many people -- with increasing difficulty get
12 -- who have increasing difficulty, getting their breath.
13 If you want to use a layman's terms of suffocation, I
14 suppose it's legitimate.

15 Q. I have the death certificate here of Mrs. Lois
16 Jackson Hert, who died in February, 1981 from acute
17 respiratory failure, secondary to asbestosis. She had the
18 acute respiratory failure for ten days and had the
19 asbestosis for ten years. Did you know her and where she
20 worked?

21 A. I knew Ms. Hert.

22 Q. Sir?

23 A. I knew Ms. Hert.

24 Q. Did you know that the 1946 document, Exhibit
25 7192 -- she married a Mr. Hert, but her name was Lois

1 Jackson. I can show you her social security number. But
2 this is the document we were talking about earlier that the
3 company never gave you when they hired you. Do you see Ms.
4 Lois Jackson's name on there as early asbestosis, down at
5 the bottom?

6 A. Number 24.

7 Q. Number 24.

8 A. Suspected of beginning first stage.

9 Q. And then 1981, she died of asbestosis, didn't
10 she?

11 A. What's the date of that?

12 Q. 1946, sir.

13 A. Do you have the date that Ms. Jackson went to
14 work.

15 Q. I can -- I don't know whether we do or not, but
16 Mr. Forman may have it. May I have it back, please. Now,
17 sir, did you also have a case of a person who worked there
18 at Hogansville who died of mesothelioma?

19 A. Yes, sir.

20 Q. What was that patient's name?

21 A. I believe that patient's name was Mattie Green.

22 Q. Do you know how long she worked at that plant
23 before she got mesothelioma?

24 A. If I had known I was going to be asked, I would
25 have gotten the information.

1 Q. Can you approximate it for me?

2 A. I cannot even do that. I think she was a
3 long-time worker.

4 Q. Now, Doctor, you know that Uniroyal -- and I can
5 show you the document -- thank you, sir -- knew before they
6 even got in the asbestos business, about the disease
7 asbestosis, don't you?

8 A. Are you asking me if I knew Uniroyal knew?

9 Q. Before they made the first pound of cloth, do
10 you know whether they knew all about asbestosis?

11 A. Yes, sir. I know that they did not know all
12 about asbestosis, but I have surmised from statements they
13 have made, and through actions they have taken, that they
14 knew something about the hazards of asbestosis.

15 Q. Did you know that the company said that as early
16 as 1939 when the company first seriously considered
17 establishing a manufacturing unit at Hogansville for the
18 processing of asbestos yarns of fabrics, we were aware of
19 the occupational hazard involved?

20 A. I'm aware of that statement.

21 Q. Now, Doctor, did Mr. Forman show you the
22 documents indicating that your company, Uniroyal,
23 participated with the Asbestos Textile Institute in trying
24 to stop the government from lowering the TLV drastically
25 like you recommended back in 1958?

-

1 BY MR. FORMAN: Pardon me, Your Honor. We
2 respectfully object to that.

3 BY THE COURT: On what grounds?

4 BY MR. FORMAN: That I believe that the
5 documents did not show specific work by Uniroyal
6 in that regard.

7 BY MR. MOTLEY (continued):

8 Q. Well, let me rephrase it then. Uniroyal was a
9 card-carrying member of the Asbestos Textile Institute,
10 which testified in 1972 and 1976, and asked the U.S.
11 government not to drastically reduce the threshold for
12 asbestos like you had recommended in 1958, did you know
13 that?

14 A. I did not know that. I would like to say
15 something, however, Mr. Motley, if I may.

16 Q. Mr. Forman can ask you to expand on that, but
17 the point I'm just asking you, sir, is that was a corporate
18 policy decision in New York that you had nothing to do
19 with; is that correct?

20 A. I had nothing to do with it.

21 Q. Finally, sir, would you mind diagnosing this
22 case for me?

23 BY MR. FORMAN: Could I see that, please.
24 Could we approach, Your Honor.

25 (BENCH DISCUSSION. OFF THE RECORD.)

1 BY MR. MOTLEY (continued):

2 Q. Dr. Wells, could you come down here and look at
3 this x-ray for me and tell me what, if anything, you see.
4 This is a chest x-ray here. I'll let you stick it in
5 there, because I'm not sure I know how to do it.

6 BY MR. BENTON: I'll tell you what, if you
7 like, I'll set it up here so you and the jury
8 both can see it.

9 A. May I look at it first? This film is -- first
10 of all it's inadequate. The reason I state that it's
11 inadequate is I cannot see the costophrenic angles; the
12 angles where the diaphragm meet the lateral chest wall on
13 either side. I say that specifically because this is the
14 place that in my experience in Hogansville -- Let's put it
15 up here so I can see it.

16 BY THE COURT: Why don't y'all move that
17 table for the doctor. Gentleman, can y'all push
18 the table out of the way. -

19 BY MR. MOTLEY: Let me give you a pointer
20 here, okay.

21 BY THE WITNESS: Fine. Thank you.

22 BY MR. MOTLEY: And let me get over here so
23 I can see what we're doing. What's the next
24 number for identification, Madam Clerk?

25 BY THE CLERK: 692. -

1 BY MR. MOTLEY: What?

2 BY THE CLERK: P-692.

3 BY MR. MOTLEY (continued):

4 Q. P-692, for the record for identification.

5 A. For my purposes, I think that this x-ray is not
6 adequate because it does not show the costophrenic sinuses.
7 The costophrenic sinuses are the angles made by the
8 diaphragm and the lateral chest wall on both sides. I was
9 particularly interested in that angle, because people with
10 asbestos disease tended to get blunting and filling in of
11 that angle from pleurisy chronic change.

12 I don't think the film is properly exposed,
13 inasmuch as I can't see the three -- first four vessel or
14 chest vertebrae fairly clearly. And I make a point of that
15 because the vascular markings that come down in here, by my
16 criteria again that I developed in Hogansville, do tend to
17 become a little shaggy, a little furred, a little irregular
18 in outline, with underexposure. And with more adequate
19 exposure they tend to become clearer and more normal.

20 In the asbestos disease that I came to
21 recognize, the lower halves -- in many cases the lower
22 thirds of each lung field, or one or the other lung field,
23 had changes that I associated with asbestos disease. The
24 lower lung fields in this individual are fairly clear.

25 Q. They're clear.

1 A. The only thing that I do see is some lack of
2 clarity in the upper part of the left mid lungs -- the left
3 lower lung field. And I can't say the -- I don't know what
4 that is. I could not say that that is or is not
5 asbestosis, but if there were a series of films that I had
6 to examine, maybe I could, but on this one exam, I can't do
7 it.

8 Q. You wouldn't say he's got asbestosis?

9 A. I would not recognize it as such.

10 Q. Let me ask you a question. Has U.S. Rubber
11 Company had a policy of under diagnosing asbestosis? Do
12 you know what I mean by "under diagnosing"? In other
13 words, wait until the man is almost dead before they say
14 he's got asbestosis?

15 A. On the contrary, Mr. Motley, I don't believe
16 that was the policy.

17 Q. Let me ask you, sir, do you know -- are you a
18 B-Reader?

19 A. Am I --

20 Q. A B-Reader. Do you know what that is?

21 A. A reader of pneumoconiosis. I have a set put
22 out by the International Labor Organization, but I have
23 never taken their course.

24 Q. Will you tell us what this is. This is from
25 that set, selected by international experts on asbestos

1 disease. Would you tell the jury what that is.

2 A. Well, I need an x-ray.

3 Q. That's the same one, sir.

4 A. Well, I can't see it without the x-ray view box.

5 Q. No, no. What does it say on the bottom of it
6 that this is, sir? It says 1/1, doesn't it?

7 A. Uh-huh.

8 Q. Thank you, sir. No further questions. Mark
9 this, please, ma'am.

10 A. Is that the x-ray I was just looking at?

11 Q. Yes, sir.

12 BY THE COURT: Is that all you have?

13 BY MR. MOTLEY: That's all I have.

14 BY THE COURT: Any redirect?

15 BY MR. FORMAN: Yes, Your Honor.

16 BY THE WITNESS: I want a question on that
17 later on.

18 BY MR. MOTLEY: I -- Your Honor, we also
19 took a picture of the 1/1 that I'll mark at
20 692-A.

21 BY THE CLERK: For I.D.?

22 BY MR. MOTLEY: For I.D.

23 BY MR. FORMAN: May we proceed, Your Honor?

24 BY THE COURT: You may.

25 REDIRECT EXAMINATION BY MR. FORMAN:

1 Q. Dr. Wells, you had a question about the x-ray
2 there that you wanted to explain further about?

3 A. Yes. In response to Mr. Motley, I said that I
4 was not -- I'd like to say that I was not a B-Reader, which
5 is a reader of -- I think it was a man who had -- a person
6 who had taken a course, whose aim was to be able to
7 interpret x-rays according to the nomenclature of the
8 International Labor Organization.

9 I have looked through, at some time in the past,
10 a series of x-rays of which he showed me one sample. The
11 1/1 -- I would like to say to you that I'm not absolutely
12 certain about this, but I think that the 1/1 could relate
13 to any lung change that showed nodules or opacifications of
14 a certain size. It would not necessarily have to be
15 asbestos. It could be silicosis, it could be anything.
16 That was my understanding.

17 Q. All right. Did you know, Dr. Wells, from
18 someone who uses the ILO system of x-rays for --
19 interpretation purposes, that they have available to them
20 when they study the x-rays, the whole ILO set -- the whole
21 ILO set to use as a comparison to the x-ray they're looking
22 at?

23 A. Yes, I did.

24 Q. And you didn't have that, did you?

25 A. Yes, I did. I subsequently obtained it.

1 Q. I meant just then when you looked at that x-ray?

2 A. No, I did not have it.

3 Q. And you never have claimed to be a B-Reader,
4 have you?

5 A. I have never claimed that.

6 Q. And you have recognized the concept of -- Well,
7 let me ask you this. I believe you had an x-ray view box
8 in your office; is that right?

9 A. I had a view box that contained 12 screenings.
10 And may I -- Do you want me to expand on that?

11 Q. Well, let me just ask you about that. You had
12 12 screens, so you could put up 12 films at a time to
13 compare them one against the other, couldn't you?

14 A. That's right.

15 Q. Is that the way you like to do it when you grade
16 your films?

17 A. That's the way I did it.

18 Q. You didn't just pick one up in isolation, did
19 you?

20 A. No, I did not.

21 Q. Do you know how many experts have already
22 testified here in this case that Mr. Motley's called,
23 failed the B-Reader exam?

24 A. I have no idea.

25 BY MR. MOTLEY: Most of them.

1 BY THE WITNESS: How many?

2 BY MR. MOTLEY: Most of them.

3 BY MR. FORMAN (continued):

4 Q. Now, was -- When you were working there at
5 Hogansville, and you were interpreting these x-rays, were
6 you deliberately under diagnosing asbestosis?

7 A. I can answer that with one word or one paragraph
8 or a page. How would you like it?

9 Q. One word would be fine.

10 A. No.

11 Q. Dr. Wells, did you use your best clinical
12 judgment when you were involved in looking at a particular
13 case, to determine whether you thought the patient had
14 asbestosis?

15 A. Always.

16 Q. Was there ever a time in which anybody at the
17 company ever asked you to do otherwise?

18 A. No, sir.

19 BY THE COURT REPORTER: Mr. Forman, let me
20 stop you there.

21 --

22

23

24

25

1 Q. And, Dr. Wells, when you would make a diagnosis
2 on these patients, did you usually have the benefit of
3 having talked to the patient and conducted a physical
4 examination as well as looking at an x-ray?

5 A. I always had the benefit. I would say I couldn't
6 take an x-ray cold on patient "X" and have him come in off
7 the street and say, "you've got asbestosis and you are
8 stuck." My diagnosis of asbestosis was based upon an
9 evaluation of all the parameters that I brought to bear in
10 the study of asbestosis at Hogansville. The diagnosis --
11 the information that I presented to the U.S. Rubber Company
12 in 1958 and to our people subsequently was information based
13 upon my experience at Hogansville. I did not say to anybody
14 that it was meant to be a universal experience. It may well
15 be, but I did not know that because I didn't have experience
16 with other companies.

17 Q. Now, Doctor, when you started there at
18 Hogansville in 1957, you mentioned the name of Dr.
19 Pendergrass, I believe?

20 A. Yes, sir.

21 Q. He was, I believe, a well-known figure in the
22 field of radiology and the interpretation of x-rays?

23 A. That's right.

24 Q. And Dr. Pendergrass had definite opinions about
25 what kind of changes had to be present on the x-ray before

1

1 you could make a diagnosis of asbestosis that he imparted to
2 you, didn't he?

3 A. Dr. Pendergrass did. He came to Newnan, first of
4 all, to see me at the request of the United States Rubber
5 Company. We spent an entire day -- I at the masters's knee,
6 as it were, looking at x-rays and talking about his
7 philosophy of interpreting asbestosis on x-rays, what he
8 looked for when he examined x-rays for asbestosis, and to
9 what he attributed the disease. He said to me personally,
10 out loud as he wrote subsequently and had written previously
11 in Lanza's 1938 book and in his own book of 1958, that he
12 did not recognize asbestosis on the x-ray unless they were
13 moderately or far advanced. He did not recognize it as
14 asbestosis on the x-rays unless it were moderately or far
15 advanced because it was his claim -- and I must say, before
16 I say anything more about his claim, that he was the
17 professor of medicine -- a professor of radiology at the
18 University of Pennsylvania and, as such, was a nationally
19 and internationally recognized expert in this particular
20 field of x-ray interpretation of pneumoconiosis and
21 asbestosis. He and said that in the x-ray changes of
22 earlier disease that there were too many factors that
23 confuse the issue. One factor I mentioned when I was
24 looking at that. Under exposure of x-ray tended to make
25 changes appear that made one, in the context of asbestosis,

1 think there might be early asbestosis. Over exposure tended
2 to "burn" those changes out so that you didn't see anything.
3 Exposure needed to be proper. Muscular men with thick chest
4 wall muscles tended to make things difficult. Heavy chested
5 ladies tended to make the part that I was looking at,
6 particularly the lower parts of the lung fields, difficult
7 to interpret because the heavy breast shadows and the heavy
8 chest wall tissue tended to obscure. In order to throw a
9 little more light on that, I did, in Hogansville, ask them
10 to get a piece of equipment that was attached to the
11 cassette. That's the thing that held the x-ray film.
12 Attach to that a device that measured the dosage of
13 radiation from the x-ray machine. As the x-ray beams went
14 through the patient and onto the film, they went through
15 this little meter, dose meter, that was rigged to the x-ray
16 machine to turn it off when an adequate dosage had been
17 obtained. We tried to get better films that way. At any
18 rate, with that background, Mr. Pendergrass said he just
19 simply couldn't make, with confidence, a diagnosis,
20 radiologically, of early asbestosis. In subsequent
21 conversations with John Knox, Dr. John Knox who represented
22 a company that employed many, many hundreds of asbestos
23 workers or various kinds in England, John Knox told me that
24 they employed the same criteria. They didn't recognize
25 x-ray changes of asbestosis unless they were moderately or

2 1 A It was after the plant had closed.

2 Q. And you also told Mr. Motley that you diagnosed
3 some thirty to forty people with asbestosis while you were
4 acting as a medical consultant there for the plant?

5 A. Yes, I did.

6 Q. And I assume in all of those instances that you
7 used your best judgment in arriving at the facts after you
8 took everything into account that you needed to, to consider
9 whether the patient had asbestosis; is that correct?

10 A. I did.

11 Q. Did the plant ever question your diagnosis when
12 you made one and say, no, you are wrong, we won't accept it?

13 A. The plant never questioned what I was doing.
14 They encouraged me to do whatever I felt was right. They
15 never tried to put any brakes on my opinions. They never
16 tried to put any shapes on my opinions. They were straight
17 up and down with their dealings with me and I tried to be
18 straight up and down with them.

19 Q. You were asked about the progression issue, about
20 what happens to people with any stage asbestosis. Did some
21 of your patients progress who had asbestosis and others not?

22 A. That is correct.

23 Q. And was that your clinical experience?

24 A. Through the time period in which I observed them.

25 Q. Yes, sir. You were also asked about the case of

1 Mr. Robert Todd and you discussed at some length awhile ago.
2 Do you know how old Mr. Todd is now?

3 A. He's eighty year old and in apparently good mind.

4 Q. And he had asbestosis as far back as 1956?

5 A. He had it as far back as 1956, yes.

6 Q. And is he still active as far as you know?

7 A. Yes. He farm and he machines. When I called him
8 two or three days ago to see how he was, his wife had to go
9 down to the machine shop to get him.

10 Q. You were asked a question earlier about the
11 number of pounds of product that was sold there by Uniroyal
12 over the years. Do you know how many of those pounds were
13 sold to the shipyard here at Ingalls?

14 A. I have no idea.

15 Q. You were asked about your findings and your
16 comments that you made to various organizations with respect
17 to the findings that you made there at Hogansville. Were
18 you finding cases of asbestosis in persons who hadn't been
19 exposed to more than five million particles per cubic foot?

20 A. Never.

21 Q. You were asked about some action, I guess, that
22 took place around the time of the meeting of the New York
23 Academy of Science in 1964. And I want to ask you, sir,
24 apart from any position that the Asbestos Textile Institute
25 took, did anybody at Uniroyal from New York, Waynesboro,

1 Hogansville or any place try to direct what you were to say
2 at that meeting?

3 A. They never did, not at any time nor in any way.
4 I was a free person so far as any management, coercion,
5 pressure was concerned. They never asked me to do anything
6 that I did not feel was right. They never asked me to delay
7 any opinion. They never asked me to do anything that I
8 didn't think was an honorable thing. They were a good
9 outfit.

10 BY MR. MOTLEY: Excuse me. Could I have
11 that read back, please ma'am.

12 BY MR. FORMAN: Your Honor, we object to
13 that.

14 BY MR. MOTLEY: I want to hear what he said,
15 Your Honor, and I missed it and it may open an
16 avenue of inquiry.

17 BY MR. FORMAN: We object, Your Honor.

18 BY MR. MOTLEY: I'm entitled to hear what he
19 said on the record, Your Honor.

20 BY MR. FORMAN: May we continue?

21 BY THE COURT: What was the answer to the
22 last question? I believe the doctor could
23 probably say it again.

24 BY MR. FORMAN: I'm sorry, Your Honor?

25 BY THE COURT: Can the doctor remember what

3
1 he said?

2 BY MR. MOTLEY: Well, the court reporter
3 does, I hope. His last answer, please.

4 BY THE COURT REPORTER: Answer: They never
5 did, not at any time nor in any way. I was a
6 free person so far as any management, coercion,
7 pressure was concerned. They never asked me to
8 do anything that I did not feel was right. They
9 never asked me to delay any opinion. They never
10 asked me to do anything that I didn't think was
11 an honorable thing. They were a good outfit.

12 BY MR. MOTLEY: Thank you.

13 BY MR. FORMAN (continuing):

14 Q. In your report that you made of the 1964 meeting
15 of the New York Academy of Science in 1964. Mr. Motley read
16 you some excerpts from, I believe you prepared about a seven
17 or eight page report of your impressions of the meeting; do
18 you recall that?

19 A. Yes, sir, I do.

20 Q. And would it be fair to say, Dr. Wells, that in
21 that report that you prepared and submitted to the company
22 you didn't have a single word of criticism about Dr.
23 Selikoff, did you?

24 A. I do not recall any criticism of Dr. Selikoff.

25 Q. All right, sir. After you got back from the

3 1 meeting in New York that took place in October of 1964 --

2 A. Would you hold on just a minute?

3 Q. Yes, sir.

4 A. I can tell you what I said about Dr. Selikoff. I
5 think it was complimentary. Rather impressive data to
6 demonstrate his development were presented by Selikoff,
7 Smith or others. I think I said that about him.

8 Q. All right, sir.

9 A. There was nothing in here -- I know this for a
10 fact -- there was nothing in here that was derogatory.

11 Q. All right, sir. Now, you were asked again about
12 this area and about the corporate medical director, Mr.
13 Wolfsie, following the meeting when you got back to George
14 after the October 1964 meeting there, did Mr. Wolfsie or
15 anybody else at Uniroyal ask you to participate in any
16 campaign to discredit Dr. Selikoff?

17 A. No, sir.

18 Q. Are you aware of any effort undertaken by Dr.
19 Wolfsie to discredit Dr. Selikoff?

20 A. Never was.

21 Q. Or anybody else at Uniroyal?

22 A. I was unaware of any campaign.

23 Q. Were you ever told after you got back that you
24 should never consult with Dr. Selikoff if you had a question
25 you wanted to discuss with him about asbestos? -

3
1 A. No. As a matter of fact, I communicated with his
2 office.

3 Q. With Dr. Selikoff?

4 A. Sometime in the early '70s. 1971, I think. I
5 wanted an opinion on an individual. Wanted his opinion on
6 an individual.

7 Q. Did you have a question about the case and ask
8 his help on it?

9 A. I had a question that I wanted to know the -- I
10 wanted to have a more accurate assessment of the fiber
11 content of a lung, an asbestos fiber content in a patient's
12 lung.

13 Q. All right, let's take a quick look at that.

14 BY MR. MOTLEY: Can we mark that into
15 evidence, please, sir?

16 BY MR. FORMAN: Yes.

17 BY MR. MOTLEY: Thank you.

18 BY MR. FORMAN (continuing):

19 Q. Did you contact Dr. Selikoff in 1971 and say, I
20 talked this morning with Carl Berkeley regarding the study
21 of some lung tissues by electronic ashing of lung tissue
22 from a lady who was suspected of having died from asbestos
23 disease. Dr. Berkeley, with whom I talked at the conference
24 on the biological effects of asbestos, said he would be most
25 happy to perform but would prefer that I consult with you

1 initially. Now, let me stop at that point. Was Dr.
2 Berkeley someone who was at that conference in 1964?

3 A. I believe that he was.

4 Q. All right, sir. You said, I am enclosing a
5 single consultation on this lady and you will learn that at
6 the time I did not think her disability was due to asbestos
7 disease. She has since died. And, of course, what is of
8 greatest concern now is the medical truth, regardless of how
9 the chips fall. I will be most grateful to you for your
10 help in this matter and will be able to send appropriately
11 labeled sections of tissue from various locations of her
12 lungs. With all best wishes. By Dr. John Wells. Is
13 that --

14 A. That's my letter, yes, sir. That's a copy of my
15 letter.

16 Q. All right, sir. We'll have that marked as --

17 BY MR. MOTLEY: Do you have the response?

18 BY MR. FORMAN: I'll ask him about it.

19 BY MR. MCCORMICK: Rick, what's that number?

20 BY MR. FORMAN: She's going to tell me.

21 (WHEREUPON SAME WAS RECEIVED AND MARKED INTO
22 EVIDENCE.)

23 BY MR. FORMAN (continuing):

24 Q. Dr. Wells, did you subsequently hear from Dr.
25 Selikoff to confirm that in his opinion that was a case of

4

1 asbestosis?

2 A. Yes, I did.

3 Q. And so at any time were you ever asked to refrain
4 from contacting Dr. Selikoff for any help you may want?

5 A. No. The only person I asked permission of to
6 contact Dr. Selikoff on that, and probably didn't need it,
7 but I asked permission of the patient's husband.

8 Q. And I assume that --

9 A. It was granted.

10 Q. It was agreeable.

11 BY MR. FORMAN: Thank you, sir.

12 BY MR. MOTLEY: Your Honor, may I ask some
13 questions about the matter I approached the bench
14 about, in light of the doctor's comment?

15 BY THE COURT: No.

16 BY MR. FORMAN: Your Honor, we object.

17 BY THE COURT: No. No is my answer. Come
18 on up.

19 BY MR. MOTLEY: You want us to come up?

20 BY THE COURT: Yes.

21 BY MR. MOTLEY: Oh, I thought you said no.

22 BY THE COURT: I did say no. Then I said I
23 want y'all to come up here.

24 BY THE MOTLEY: Oh.

25 (DISCUSSION AT THE BENCH WAS OFF THE