

FILE NAME: RT Vanderbilt (RTV)

DATE: 2006 Nov 2

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DOCUMENT DESCRIPTION: Legal - Transcript of Proceedings - Peter Hirsch vs. R.T. Vanderbilt Co.

1 SUPERIOR COURT OF NEW JERSEY
2 MIDDLESEX COUNTY, CIVIL PART
3 DOCKET NO. MID-L-2706-03
4 APP. DIV. NO. _____

5 PETER HIRSCH,

6 Plaintiff,

7 vs.

8 R.T. VANDERBILT COMPANY, INC.,
9 et al.,

10 Defendants.

11 TRANSCRIPT OF PROCEEDINGS

12 Place: Middlesex County Court
13 New Brunswick, N.J.

14 Date: November 2, 2006

15 BEFORE:

16 THE HONORABLE ANN G. MC CORMICK, J.S.C.

17 TRANSCRIPT ORDERED BY:

18 SYLVIA REIMERS, Legal Assistant (Early, Ludwick, Sweeney &
19 Strauss)

20 APPEARANCES:

21 MOSHE MAIMON, ESQ. (Levy, Phillips & Konigsberg)
22 CARMEN ST. GEORGE, ESQ.
23 Attorneys for Plaintiff.

24 LANE YOUNG, ESQ.
25 ELIZABETH O'NEIL, ESQ.
NORA J. GRIMBERGEN, ESQ. (Hoagland, Longo, Moran, Dunst
& Doukas)
Attorneys for Defendants.

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I N D E X

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WitnessCrossRedirectRecross

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Arthur Langer

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Colloquy

1 only stipulating for purposes of this case alone Mr.
2 Young is going to put the reservation to that on the
3 record. And that's how we're going to do it.

4 THE COURT: That's fine.

5 MR. MAIMON: We are stipulating by and
6 between the parties in this case and this case alone
7 that since 1990 at least five Gouverneur Talc R.T.
8 Vanderbilt former employees have been diagnosed with
9 mesothelioma with the following dates of birth, dates
10 of death and years worked at the Gouverneur Talc
11 Company mine or mill.

12 Number one, date of birth April 4th, 1925,
13 date of death June 4th, 1994. Years worked, 1949
14 through 1954.

15 Number two, date of birth December 31, 1923,
16 date of death June 10th, 1995. Years worked, 1954
17 through 1987.

18 Number three, date of birth February 14,
19 1931, date of death September 6th, 1995. Years worked,
20 1954 through 1994.

21 Number four, date of birth May 28, 1914 date
22 of death May 17, 2001. Years worked, 1956 through
23 1975.

24 And number five, date of birth September 8th,
25 1931, date of death November 10, 19 -- 2005. Years

Colloquy

1 worked, 1964 through 1997.

2 MR. YOUNG: Your Honor, I apologize for being
3 asleep at the switch this morning but I have not
4 focused on this, at least terminology when we were
5 making our agreement. I'm anticipating that Mr. Maimon
6 would indicate that and say, well, it's stipulated --
7 there must be a gazillion more and I -- I had not
8 contemplated agreeing to that. I'm uncomfortable at
9 least. I thought the agreement was simply talking
10 about --

11 MR. MAIMON: My -- my only point, Your Honor,
12 is this is from the records that we've received from
13 Vanderbilt. In addition, we've found another one which
14 was in a third-party case in Upstate New York. But we
15 don't -- this is only litigation that tells us about
16 this. We don't know one way or the other whether there
17 are more.

18 I'm not going to say that --

19 THE COURT: What -- what about the sixth case
20 you know about?

21 MR. MAIMON: This is the fifth case.

22 THE COURT: Oh, this is the fifth case?

23 MR. MAIMON: There are four in the Workers'
24 Comp. records that the Court ordered produced and there
25 was an additional one that I found on my own.

1 MR. YOUNG: Your Honor, I can't -- obviously
2 can't keep him from suggesting that more but the term
3 at least is a great implication that there are more and
4 -- and I -- I apologize, I just did not focus on that
5 until this very minute. So --

6 MR. MAIMON: I just don't know how -- I -- I
7 -- I'm not going to stipulate that that's all there
8 was.

9 THE COURT: Yes.

10 MR. YOUNG: Well, I'm not saying that he
11 should stipulate that that's all there was.

12 MR. MAIMON: Well, if I stipulate that there
13 were five --

14 THE COURT: Were these all Workers' Comp.
15 cases?

16 MR. MAIMON: Four out of the five were
17 Workers' Comp. and one was a third-party litigation.

18 I'm open to suggestions to resolve that
19 issue.

20 MR. YOUNG: Well, Your Honor, I mean, it
21 seems to me that if -- if we had the stipulation for
22 the five he can still argue that there are more. And
23 you know, I -- I just think that there's -- saying at
24 least implies that there are more and expands that
25 stipulation.

Colloquy

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1 THE COURT: Yes.

2 MR. MAIMON: Since 1990 it is known that five
3 Gouverneur Talc Company former employees have been
4 diagnosed with mesothelioma with the following dates of
5 birth, dates of death and years worked at the
6 Gouverneur Company mine or mill.

7 THE COURT: Is that acceptable?

8 MR. YOUNG: Yes, Your Honor.

9 THE COURT: All right. Okay.

10 MR. YOUNG: Your Honor, the record should
11 reflect the following with respect to this stipulation
12 on behalf of R.T. Vanderbilt. R.T. Vanderbilt makes
13 this stipulation for the purposes of the present case
14 only. R.T. Vanderbilt has in the past and continues to
15 dispute both the diagnosis of mesothelioma and these
16 talc miners and millers and the etiology of any such
17 person's claim that an asbestos related disease arising
18 from exposure to talc. R.T. Vanderbilt has maintained
19 in the past and continues to maintain that the
20 occupational and personal histories of any R.T.
21 Vanderbilt employee claiming to have been diagnosed
22 with an asbestos related disease or such disease, comma
23 -- sorry, if any, was the result of asbestos exposure
24 due to use of asbestos containing products and not the
25 result of exposure to talc. R.T. Vanderbilt reserves

Colloquy

1 its right to contest the diagnosis, etiology and
2 occupational attribution of any employee -- I'm sorry
3 -- of any past, present or future employee including
4 these five employees who has claimed or makes a future
5 claim to have an asbestos related disease. R.T.
6 Vanderbilt specifically reserves its right for these
7 claims and for all other claims of any type or
8 character of any person, entity or agency which may
9 have -- or which may be brought at any time in the
10 future before any administrative agency, regulatory
11 body or individual -- or entity empowered to receive or
12 view or adjudicate a claim on the same or similar
13 issues. It is the parties' express intention that the
14 stipulation be limited to use only in the case of
15 Parker vs. R.T. Vanderbilt, New Jersey Superior Court,
16 Law Division, Docket No. MID-L-2706-03 and not be used
17 in any other proceeding or matter.

18 MR. MAIMON: That's acceptable to the
19 plaintiffs, Your Honor.

20 THE COURT: Are we ready to proceed now?

21 MR. MAIMON: We are, Your Honor.

22 THE COURT: Great.

23 Jury? Are they on the floor, Louise?

24 A VOICE: No.

25 THE COURT: Okay.