PLAINTIFF'S EXHIBIT

AB-333

P:\USR\KARE1093\THOM1007.LTR

PAUL, REICH & MYERS, P.C.
ATTORNEYS AT LAW
1411 WALNUT STREET, SUITE 500
PHILADELPHIA, PENNSYLVANIA 19102
(215) 972-7090

ROBERT E. PAUL
ALAN I. REICH
RICHARD P. MYERS
ELIOT PRESENT

October 7, 1993

Clayton H. Thomas, Jr., Esquire
Bell Atlantic Building
1717 Arch Street, 38th Floor
Philadelphia, PA 19103-2793

Re: Bertoline v. Abex

Dear Mr. Thomas:

I have just received the annexed letters of November 12, 1948 and November 3, 1948 which were marked as exhibits in Daniel Ross, a case of Robert Sweeney's and with which Messrs. Smith and Abbott are well familiar. We will be introducing these letters in the negligence claim against Abex.

Very truly yours,

PAUL, REICH & MYERS, P.C.

BY:_____
ROBERT E. PAUL

REP/kjm

Attachments

PLAINTIFF'S EXHIBIT 3868

November 12, 1943

Mr. W. T. Kelly, Jr.,
Executive Vice-President,
American Brakeblok Division
of American Brake Shoe Company,
230 Park Avenue,
New York 17, N.Y.

Asbestos Dust Experiments

Dear Mr. Kelly:

The meeting to consider the Saranac report was held yesterday as scheduled, with all the interested companies represented except The Russell Manufacturing Co. I read to the meeting Dr. Conlin's memorandum of November 3rd and it was the consensus that his judgment was correct concerning the references to pneumonia among the experimental animals. Accordingly, we will not request that this be deleted but merely that it be modified somewhat with the view of placing more emphasis on the factors which made it doubtful whether the disease developed as a result of dust exposure.

It was the unanimous opinion, however, that the reference to cancer and tumors should be deleted and this is a point we will insist upon for the following reasons:

1. The experiments were not directed towards determining the incidence, if any, of cancer as a result of asbestos dust exposure.

2. Dr. Gardner indicated prior to his death that he believed this aspect should be made the subject of a separate study, which would take from two to three years.

3. Dr. Gardner also indicated that he believed the question of cancer susceptibility should be omitted from the report. This statement is contained in his letter to me of February 24, 1943 with which he enclosed his outline of a proposed monograph on asbestosis.

4. It also appears from Dr. Gardner's outline that certain strains of white mice develop tumors without apparent cause and that "such a strain of white mice was unintentionally used in three inhalation experiments with asbestos".

A considerable number of other changes in the report will be suggested to Geramac, but they relate to form and to emphasis rather than to substance, and I believe there is no necessity of detailing them in this report to you.

We have retrieved all of the copies of this tentative and confidential report except the one we sent you, which I note Dr. Zmalin would like to keep. I wish, however, you would prevail upon him to return it to us. Everyone felt it would be most unwise to have any copies of the draft report outstanding if the final report is to be different in any substantial respect. The feeling of the representatives of the various companies was very emphatic on this point.

I am enclosing an extra copy of this letter in case you wish to send it to Dr. Zmalin.

Sincerely,

Vandiver Brown,
Secretary

VBiy

Encl.

cc J.P.Woodard

PLAINTIFF'S EXHIBIT 3951 (3)

(November 1948)

American Brakeblok Division of
American Brake Shoe Company
230 Park Avenue
New York 17, N. Y.

W. T. Kelly, Jr.
Executive V-P

Carlisle Corporation
228 N. La Salle St.
Chicago 1, Ill.

Thomas L.Catke
President

Keasbey & Mattison Company
Ambler, Pennsylvania

Ernest Muehleck
President

Raybestos-Manhattan, Inc.
Passaic, New Jersey

J. F.D. Rohrbach
Chm. VP

The Russell Manufacturing Co.
Middletown, Conn.

T. M. Russell, Jr.
Vice-President

*Thermoid Company
Trenton, New Jersey

W. D. Pardoe
Vice-President

Union Asbestos & Rubber Company
6th Ave. & E. 11th St.
Paterson, New Jersey

Edward Schumen

Send copy to: Lewis J. Silverman, Executive V-P
Union Asbestos & Rubber Company
332 South Michigan Avenue
Chicago 4, Illinois

United States Gypsum Co.
300 West Adams Street
Chicago, Illinois

J. W. Butler

*Note: Southern Asbestos Company, Charlotte, N. C., now owned by Thermoid Company

PLAINTIFF'S EXHIBIT 3961

AMERICAN BRAKEBLOK

DIVISION OF

AMERICAN BRAKE SHOE COMPANY

230 PARK AVENUE
NEW YORK 17, N. Y.

November 16th, 1948.

Mr. Vandiver Brown
Secretary
Johns-Manville Corporation
22 East 40th Street
New York 16, N. Y.

NOTED
V. B

Dear Mr. Brown:

Thank you very much for your letter of the 12th concerning the meeting held to discuss the Saranac Report.

Since we have the only stray copy of the tentative report I am asking Dr. Hamlin to return it directly to you.

Very truly yours,

Executive Vice President
American Brakeblok Division

ATX:12

EXHIBIT
3952

AMERICAN BRAKEBLOK

AMERICAN BRAKE SHOE COMPANY

November 8th, 1948.

230 Park Avenue
New York 17, N.Y.

Mr. Vandiver Brown
Secretary and General Attorney
Johns-Manville Corporation
22 East 40th Street
New York 16, N.Y.

Dear Mr. Brown:

Thank you for your letter of October 27th, which has been reviewed by our Medical Department and while Dr. Hamlin would like very much to be in attendance at the meeting that you have scheduled for November 11th it is impossible for him to do so. We would, therefore, like to ask that you act for us in connection with any decisions that have to be made. We will, of course, be interested in receiving a copy of the minutes of the meeting recording any actions taken.

We would like very much to keep the report on permanent file in the Medical Department headquarters in Chicago and you may rest assured that the information contained therein will be treated as confidential.

I thought you would be interested in the remarks of our Medical Director, Dr. L. E. Hamlin, in connection with this report and I am therefore attaching a copy.

Very truly yours,

Executive Vice President
American Brakeblok Division.

WTX:LE
Enc.

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COPY

CONFIDENTIAL

Asbestos, Que.
March 19, 1949.

George K. Foster

Saranac Report NOTED V.B.

The report on experimental asbestosis has been reviewed. The experiments and resulting conclusions are summarized in the attached report, to which I have added my own comments and recommendations.

The recommendations are for the industry as a whole. Several points need further clarification; when these have been discussed with the Saranac people I shall submit another report.

Kenneth W. Smith, M.D.

KWS/h.n.

COPY

SUMMARY OF FINDINGS

A. Various forms of asbestos fibres produce typical fibrosis in the lungs of some animals.

B. Fibrosis is produced by the mechanical and not the chemical action of the fibre.

C. Fibrosis is produced by the long fibres (20-50 microns) and not by the short fibres (under 20 microns).

D. Asbestosis was produced in an atmosphere with a total dust count of 138 M.P.P.C.F. of which only 0.6% were 10 microns or longer.

E. As the concentration of long fibres in the air is increased, the fibrosis develops in a shorter time.

F. Fibrosis will not progress after removal from dust to normal air.

G. Asbestosis bodies are formed around fibres to prevent further irritation.

H. Aluminum therapy is useless in asbestosis.

I. Asbestos dust causes no significant change in the course of pulmonary tuberculosis.

COPY

COMMENTS

1. Tissue and amusal susceptibility was noted in the experiments. Individual susceptibility to the dust among our employees has been noted for many years.

2. We always have believed that the action of the dust was mechanical and not chemical. If there was an added chemical effect, I believe that we would see countless cases of asbestosis because we have had hundreds of men exposed to high concentrations of dust.

3. The theory of the action only by long fibres of 20-50 microns is, at first, hard to accept because:

   (a) I personally have heard the late Dr. Gardner say that probably the most dangerous lengths of fibre for the production of asbestosis are those of 5 to 15 microns in lengths.

   (b) In Dr. Gardner's letter to Mr. Sabourin of Feb.23,1944, he states: "I believe that the true hazard in asbestos plants is proportional to the amount of small, individual uncrushed fibres in the atmosphere. I suspect that the reason only one sees little or no typical asbestosis in the mines and mills is because there is probably too little such fibre in the air of these plants. Conversely the reason for the typical disease in the fabricating plants is the fact that the processes there open the bundles of asbestos fibres and tear them into lengths short enough to be inhaled in dangerous quantities".

   (c) In the U.S. Public Health Bulletin #241 entitled "A Study of Asbestosis in the Asbestos Textile Industry" it is stated that the medium length of fibres range from 7 to 16 microns in the plants studied. Dust counts around the mixing pickers and cards showed the lowest percentage of fibre and the shortest lengths of fibre and it was among these men (pickers and carders) that the greatest number of asbestosis cases occurred.

However, in spite of these three statements, I would prefer to believe in the action only of the long fibres and accept these recent Saranac findings because:

I - The dust counts in our mills show 65% - 80% of the fibres are 5 microns or less in length and rarely 1% are 20 microns or longer, and we have relatively few asbestosis cases.

II - The recent Saranac studies have shown that asbestosis will develop in an atmosphere of 138 M.P.P.C.F. total count of which only 0.6% were fibres longer than 10 microns. We have had many areas in our mills where such counts could have been found.

III - Saranac also has shown that, logically, as the concentration of long fibres is increased, more fibrosis develops. The fibre deposits in the Thetford area are of longer fibre than the Asbestos deposit. Although there is no data today, we might assume that the dust in the Thetford Mills has a higher percentage of the longer fibres than that in the Asbestos Mills. This might account in part for the greater number of asbestosis cases seen in the Thetford Plants.

IV - The relatively small number of asbestosis cases occurring in the asbestos mines and mills as compared with the textile plants might be due in part to the percentage of fibres in the industrial atmosphere. Dust counts in various textile plants show up to 26% fibre while counts in our mills show only 4%-5% fibre.

4. That the fibrosis of asbestosis will not progress after removal of the animal from dust to normal air can easily be believed. I have seen many men who, when transferred to non-dusty jobs, have improved physically and whose x-rays have shown no progression.

5. We always have believed that the asbestosis bodies are not evidence of disease, but simply the fact that fibre has been inhaled and the body has shown defensive action in an effort to neutralise the irritation.

6. I still believe that asbestos dust will not aggravate a pre-existing tuberculosis; also that the course of tuberculosis will not be altered in a man who has worked for several years in our mills as long as he has no x-ray evidence of asbestosis. However, at the moment I can neither accept nor deny the statement that asbestosis has no effect on superimposed tuberculosis.

The Saranac experiments have shown that asbestos is not an inert dust like gypsum, nor is it a very active dust like quarts. They have shown that concurrent asbestosis and tuberculosis produce more fibrosis than does either disease alone. Also it has been shown that tubercle bacilli have been found in the asbestotic fibrosis which is not the usual site for this infection. These experiments have shown that there may be some connection between non-tuberculous infection and asbestosis.

I believe that this is a fact for, although I do not think our mill workers have more respiratory complaints than the average man, I have seen several cases where pneumonia has developed on a pre-existing asbestosis. Such cases are extremely difficult to treat, show a very slow recovery and considerable fibrosis in the x-ray. The local doctors have stated that pneumonia in an employee who has worked for many years in the dust often has a fatal termination.

In view of the probable detrimental effect of asbestosis on superimposed pneumonia, I believe that the relationship of tuberculosis developing on a well-established asbestosis should have further study. Although this relationship has not been shown in the recent experiments, my opinions must be neutral until more cases of the disease among our employees have been studied.

COPY

Recommendations

I - The air in the Asbestos and Thetford plants should be sampled and studied for fibre lengths, and these findings correlated with the experimental and human studies at Saranac.

II - Asbestosis can be controlled if:-

(a) Every effort is made to lower the dust concentration in the working area of the employee, and
(b) transfers to non-dusty jobs are effected before any disability develops, probably as soon as there are significant x-ray changes.

III- Tuberculosis would not be a problem if:-

(a) Every active case is isolated and not allowed to work;
(b) non-dusty jobs are found for apparently arrested cases;
(c) routine case finding, examination of all contacts, etc. (an adequate tuberculous control program) was carried out.

IV - We should have an opinion from the Saranac Laboratory on the association of asbestosis and cancer. There is a world-wide effort to find the cause and cure for cancer. The medical literature is full of suggested causes and asbestos has been mentioned as a very definite possible cause. Although in actual practice we have seen no cases of cancer of the lung among our employees, asbestos is an irritant and as such might play some role in the development of carcinoma. An expert opinion on this relationship would be worth while.

PLAINTIFF'S EXHIBIT 3972

March [illegible], 195[illegible]

American Brakeblok Div. of A.B.J.&F.
Ca[illegible] Corporation
Keasbey & Mattison Company
Raybestos-Manhattan, Inc.
The Russell Mfg. Co.
Thermoid Company (Southern Asbestos)
Union Asbestos & Rubber Co.
United States Gypsum Co.

Saranac Laboratory
Asbestos Dust Experiments

In March, 1949, I sent you a revised manuscript of a proposed Saranac Laboratory report entitled "Asbestosis Pneumoconiosis". I informed you that Saranac proposed to arrange for its publication "as promptly as possible". After unsuccessful efforts on our part to hasten its publication date, it finally appeared in the January, 1951 issue of "A.M.A. Archives of Industrial Hygiene and Occupational Medicine" where it bears the title "EXPERIMENTAL STUDIES OF ASBESTOSIS". A reprint is enclosed. I have no additional copies but others can doubtless be obtained from the magazine.

I assume we can now write finis on the experimental program initiated as a joint project by the asbestos textile industry nearly fifteen years ago. Despite many delays and attendant disappointments, I believe we are entitled to conclude that the project was worth while.

Sincerely,

Vandiver Brown,
Secretary

Vlay

Encl.

bld cc: A. R. Fisher
L. C. Hart
J. P. Woodard

EXHIBIT
400 4

January 10, 1944.

Mr. W. A. Elume,
President,
American BrakeBlok Div. of
American Brake Shoe & Foundry Co.,
4600 Norritt Ave.,
Detroit, Michigan.

Re: Dr. Gardner's Asbestos
Dust Experiments.

Dear Mr. Elume:

Attached is copy of a letter from Dr. Gardner, dated January 6th, which will be self-explanatory.

Very truly yours,

Vandiver Brown,
Secretary.

VB:y

Enc.

THE SARANAC LABORATORY
FOR THE STUDY OF TUBERCULOSIS
OF THE EDWARD L. TRUDEAU FOUNDATION
SARANAC LAKE, N.Y.

January 6, 1944

Mr. Vandiver Brown
Johns-Manville Corporation
22 East 40th Street
New York, New York

Dear Mr. Brown:

When I was writing you the other day I forgot one important subject. I believe that it would be most desirable for me to include a section on X-ray appearance of films in asbestosis. In order to do justice to this subject I would like very much to review the Mankell cases. I have seen all of them with Tony Lanza and MacMahon-ell but have never taken the opportunity to write down my impressions and analyze the situation as completely as I should for the purpose in hand. Would it be possible for you to have submitted to me the complete series of films on your employees so that I might go over them with our X-ray people here?

Dr. Sampson is still away on sick leave, but I would like to have his understudy, who is now working with Dr. Pendergrass at the U. of P., come up for such a session. We would be ready to tackle the job during the latter part of February and if we could have the privilege of seeing the films for a week or so at that time, it would be extremely valuable to me.

With best regards,

Sincerely yours,

Leroy U. Gardner, M. D.
Director

LUG:ER





October 27, 1948

No. 1- American Brakeblok Div. of A.B.S.A.F.
No. 2- Celotex Corporation ×
No. 3- Keasbey & Mattison Company ×
No. 4- Raybestos-Manhattan, Inc. ×
No. 5- The Russell Mfg. Co. ×
No. 6- Thermoid Company (Southern Asbestos) ×
No. 7- Union Asbestos & Rubber Co.
No. 8- United States Gypsum Co. ×

Saranac Laboratory
Asbestos Dust Experiments

With the request that you treat it with the utmost confidence and make it available to no one outside your organization, I am enclosing what purports to be 'Part I' of a report by the Saranac Laboratory entitled 'Asbestos Pneumoconiosis'.

My own comments after a preliminary study of the report are contained in the attached memorandum, which will likewise refresh your recollection as to the origin of the experiments covered thereby.

Saranac will undoubtedly wish to publish the report either independently or in conjunction with the proposed report on 'Human Asbestosis', and it would likewise appear desirable from the point of view of the industry that the report be published provided some of the speculative comments are omitted.

As a preliminary to a discussion with representatives of Saranac, a meeting of representatives of the companies which financed the experiments is indicated. I am therefore inviting the companies to which this memorandum is addressed to be represented at a luncheon in the Johns-Manville Corporation Board Room on Thursday, November 11, at 12:30 p.m. During and following the luncheon the report can be reviewed. If you are unable to have a representative attend, it would be desirable for you to designate some representative of another company to act for you in connection with decisions that will have to be made.

Please advise me as promptly as possible whether you will be able to attend and give me the name of your representative.



In any event, please see that the draft of the report is returned to me on or before November 11 either by mail or by your representative. It is obviously undesirable that the report in its present form receive any distribution or publicity outside a limited number of people in our respective organizations.

Very truly yours,

Vanliver Brown,
Secretary and
General Attorney

VB:A
Enc.

bl cc A. R. Fisher
L. C. Hart
J. P. Woodard

PLAINTIFF'S EXHIBIT 3921

March 3, 1949

American Brakeblok Div. of A.B.S. & F.
Gatke Corporation
Keasbey & Mattison Company
Raybestos-Manhattan, Inc.
The Russell Mfg. Co.
Thermoid Company (Southern Asbestos)
Union Asbestos & Rubber Co.
United States Gypsum Co.

Saranac Laboratory
Asbestos Dust Experiments

We have now received from Saranac Laboratory a revised report (copy of which is enclosed) entitled "ASBESTOS PNEUMOCONIOSIS". I have examined this carefully and I believe it adopts the substance of all of the suggestions that were made by representatives of the underwriting group with respect to the report of September 30, 1948. You will recall that the earlier draft was reviewed at a meeting in New York on November 11, 1948. Minutes of this meeting, including a list of the recommended changes, were sent you by Mr. J. P. Woodard under date of November 30, 1948.

As the findings are generally favorable, we have renewed our request that Saranac Laboratory arrange for the publication of the report as promptly as possible, preferably in the Journal of Industrial Hygiene, and with an appropriate introduction by Dr. A. J. Lanza.

Very truly yours,

Vandiver Brown,
Secretary and General
Attorney.

VBry

Encl.

cc A. R. Fisher
L. C. Hart
J. P. Woodard

PLAINTIFF'S EXHIBIT 3868

November 12, 1943

Mr. W. T. Kelly, Jr.,
Executive Vice-President,
American Brakeblok Division
of American Brake Shoe Company,
230 Park Avenue,
New York 17, N.Y.

Asbestos Dust Experiments

Dear Mr. Kelly:

The meeting to consider the Saranac report was held yesterday as scheduled, with all the interested companies represented except The Russell Manufacturing Co. I read to the meeting Dr. Emlin's memorandum of November 3rd and it was the consensus that his judgment was correct concerning the references to pneumonia among the experimental animals. Accordingly, we will not request that this be deleted but merely that it be modified somewhat with the view of placing more emphasis on the factors which made it doubtful whether the disease developed as a result of dust exposure.

It was the unanimous opinion, however, that the reference to cancer and tumors should be deleted and this is a point we will insist upon for the following reasons:

1. The experiments were not directed towards determining the incidence, if any, of cancer as a result of asbestos dust exposure.

2. Dr. Gardner indicated prior to his death that he believed this aspect should be made the subject of a separate study, which would take from two to three years.

3. Dr. Gardner also indicated that he believed the question of cancer susceptibility should be omitted from the report. This statement is contained in his letter to us of February 24, 1943 with which he enclosed his outline of a proposed monograph on asbestosis.

4. It also appears from Dr. Gardner's outline that certain strains of white mice develop tumors without apparent cause and that "such a strain of white mice was unintentionally used in three inhalation experiments with asbestos".

A considerable number of other changes in the report will be suggested to Seranac, but they relate to form and to emphasis rather than to substance, and I believe there is no necessity of detailing them in this report to you.

We have retrieved all of the copies of this tentative and confidential report except the one we sent you, which I note Dr. Hamlin would like to keep. I wish, however, you would prevail upon him to return it to us. Everyone felt it would be most unwise to have any copies of the draft report outstanding if the final report is to be different in any substantial respect. The feeling of the representatives of the various companies was very emphatic on this point.

I am enclosing an extra copy of this letter in case you wish to send it to Dr. Hamlin.

Sincerely,

Vandiver Brown,
Secretary

VB:y

Encl.

cc J.P.Woodard

JOHNS-MANVILLE CORPORATION

TWENTY-TWO EAST FORTIETH STREET

NEW YORK, N.Y.

10

EXECUTIVE OFFICES

February 27, 1937

PLAINTIFF'S EXHIBIT 5 ALL-STATE LEGAL SUPPLY CO.



Mr. Sumner Simpson,
Raybestos-Manhattan, Inc.,
Bridgeport, Conn.

Re: Asbestos Dust Experiments - Dr. L. U. Gardner

Dear Mr. Simpson:

The United States Gypsum Company signed the Memorandum of Agreement relating to the underwriting of Dr. Gardner's experiments with asbestos dust, limiting its participation to the sum of $250 per annum, or a total of $750 for the three-year term of the experiments.

I believe that we have now fully canvassed the industry. The co-operation of the following companies has been obtained on a basis whereby their respective contributions are limited to $250 per annum:

(1) American Brake Block Corporation
(2) Gatke Corporation
(3) Union Asbestos & Rubber Company
(4) United States Gypsum Company.

The participation of the above named companies will provide $1,000 a year, leaving the sum of $4,000 per year to be pro-rated between the following companies who have not limited their participation in the enterprise:

(1) Asbestos Manufacturing Company
(2) Johns-Manville Corporation
(3) Keasbey & Mattison
(4) Raybestos-Manhattan, Incorporated
(5) Russell Manufacturing Company
(6) Thermoid Company and Southern Asbestos Company.

The six companies last above named will, therefore, be called upon to contribute the sum of $666.67 per year for the three-year period.

P-M221A-[illegible]

I am enclosing herewith, for your records, a photostatic copy of the Memorandum of Agreement and photostatic copies of my letter to Dr. Gardner of November 20, 1936 and his reply of November 23, 1936, which set forth the substance of the arrangement between Dr. Gardner and the group.

Copies of this letter, together with copies of the enclosed photostats, are being sent to each of the other participants.

Last December Johns-Manville Corporation sent Dr. Gardner its check for $1250, constituting advance payment for the first quarter of 1937 on account of his annual retainer. Your Company and others of the group will be billed shortly for your share of this payment under the terms of the Memorandum. Johns-Manville Corporation is willing to continue making these advances to Dr. Gardner at the commencement of each succeeding calendar quarter during 1937, unless you or others prefer the matter be handled differently. I believe, however, that Dr. Gardner will prefer, in the matter of payment, to deal with one member of the group and it is my opinion, in which I believe you concur, that this represents the most satisfactory procedure.

Johns-Manville Corporation has likewise provided Dr. Gardner with 1200 pounds of asbestos fibre which he considers satisfactory for his purposes, although it has been found necessary for him to subject it to a "ball milling" process in order to reduce it to the desired degree of fineness. He estimates that this quantity will be sufficient for the first year's experiments and we will be very glad, at our expense, to provide him with similar quantities for the other two years.

I have also sent Dr. Gardner a photostatic copy of the Memorandum of Agreement so that he is fully advised as to the identity of those companies whose support he is receiving. At the same time I advised Dr. Gardner that those concerns which had limited their contributions were to participate just as fully in the benefits resulting from his experiments as were the others.

Very truly yours,

Vandiver Brown

Vandiver Brown
General Attorney

VB:T
Enclosures