

ORIGINAL

\$317⁰⁶

Def. - Bullard

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

THEODORE HARRIS

VS.

H. B. REED & COMPANY,
ET AL

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* NO. B-82-405-CA
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This is the videotape deposition of
EDWIN C. HYATT,
a Witness in the above-styled cause.

The testimony was taken on August 27, 1984,
in the Kiva Room, Los Alamos Inn, Los Alamos,
New Mexico, pursuant to attached Notice.

Those persons present were as follows:

HON. M. DIANE DWIGHT, of the Law Firm of
Provost, Umphrey, McPherson & Swearingen
4000 Twin City Highway
Groves, Texas 77619

AND

HON. HERSCHEL HOBSON
Attorney-at-Law
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3m

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TELECOPIER COVER LETTER

DATE: 11-5-96

TIME: _____

NAME: Todd Hoeffner
FIRM: Hoeffner, Bilek & Eidman
RE: Ed Hyatt Deposition Testimony
TELECOPIER NO.: (713) 227-9404

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FROM: Steve Bryant

We are transmitting 6 pages (including this cover letter). If transmission is not complete, please call 713/864-0990.

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STEVE A. BRYANT & ASSOCIATES, P.C.

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November 5, 1996

213-526-7474

Via Facsimile Transmission

Mr. Todd Hoeffner
Hoeffner, Bilek & Eidman, L.L.P.
440 Louisiana Street
720 Lyric Centre
Houston, Texas 77002

Dear Todd,

Enclosed please find copies of pp. 157, line 19 through 159, line 23 from the deposition of Edwin C. Hyatt taken in Theodore Harris v. H. B. Reed & Company, et al.

This is the dialogue we discussed last Monday at lunch.

If you have any questions, please feel free to call.

Very truly yours,

Steve Bryant/AH

Steve A. Bryant

SAB/ah

1 questions have mentioned or said something, as have
2 you, yourself, about sand being a toxic dust.

3 For the sake of the record, do you and
4 I agree that we are talking about it being toxic
5 only when it has been reduced to the size of these
6 respirable particles that you talked about earlier
7 in your deposition?

8 A Yeah. The preface to your question talked
9 about sand as being a toxic dust. I didn't. Somebody
10 may have mentioned that. But it is not a toxic dust.
11 It is not toxic. I'm talking about sand that has
12 been abraded, broken down, into the respirable dust
13 that basically gets into the alveoli, all less than
14 about 5 microns.

15 MR. BASHLINE: Thank you, sir.

16 I have no further questions.

17

18 RE-EXAMINATION BY MR. HOBSON:

19 Q Mr. Hyatt, do you know a gentleman named
20 Einer Horne?

21 A Yes, I have met Einer Horne.

22 Q Can you tell me who he is, please?

23 A Einer Horne when I knew him worked for
24 the 3M Company in the Health & Safety Product Division,
25 I think it's called.

1 Q Have you ever discussed with Mr. Horne
2 any misrepresentations made by 3M's sales force about
3 the ability of their respirators to perform as they
4 advertised them?

5 A Well, yes, I have, as I have with all
6 manufacturers. I think they are getting careless,
7 the way they are selling them and what they are letting
8 them be used for. I have talked to him and to other
9 manufacturers, too.

10 MR. BASHLINE: We're going
11 to object to the question and answer
12 as being outside the scope of Mr. Hyatt's
13 expertise. I don't believe he is
14 qualified with respect to marketing
15 or advertising and any expertise in
16 that respect. For that reason we
17 would object to the question and answer.

18 (By Mr. Hobson)

19 Q Could you describe your conversations with
20 Mr. Horne and where they took place and what took
21 place.

22 A My conversations with Einer Horne took
23 place in St. Paul, Minnesota, during discussion of
24 the use, for example, that had been observed of
25 respirators, including the 3M 8500 and, I think,

1 the 8710 at that time, for example, for protection
2 against pesticides. My concern was that people could
3 buy them, and they were using them. This was a question,
4 how do you police this thing. And I think there
5 could have been another case or two. I specifically
6 remember that, and the situation within the State
7 of Iowa where they used a lot of pesticides, and
8 they were using unapproved respirators.

9 Q What was Mr. Horne's response to your comments?

10 A Basically, it was a matter of they couldn't
11 police the use of the respirator that they had sold,
12 I believe, as I recall it.

13 Q Did Mr. Horne describe to you the facilities
14 he had at 3M to do his work and relate those facilities
15 to the sales of 3M products?

16 MR. WHITTENBURG: I object
17 to the question as being confusing.

18 A You are speaking of their Health & Safety
19 Division respirator research laboratories that I
20 had toured. He referred to that, yes. And he said
21 that it was mostly possible, based on the worldwide
22 sale of the 8500, that they could continue the research
23 and develop the other respirators that I had seen.

24 MR. HOBSON: Thank you,

25 Mr. Hyatt.