

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2007-CP-14-00150

Diane C. Dingle, Claimant, ... Appellant,

v.

Federal Mogul Corporation, Employer, and
Travelers Property Casualty Company of America, Carrier, ... Respondents.

RECORD ON APPEAL
VOLUME II
Pages 444-771

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BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 9831715

Diane C. Dingle)
)
 Claimant,)
)
 Federal-Mogul Corporation)
)
 Employer, and)
)
 Travelers Insurance)
 Company,)
 Carrier,)
)
 Defendants)
 _____)

COPY

DEPOSITION OF DAVID C. GAINES, M.D.

Wednesday, November, 29, 2003

3:47 p.m. - 4:02 p.m.

The deposition of David C. Gaines, M.D., taken on behalf of the Claimant, at the offices of Manning Medicine, Cypress Center, Hospital Street, Manning, Manning, South Carolina, on the 19th day of November, 2003, before Doris W. Prescott, Notary Public in and for the State of South Carolina, pursuant to Notice of taking deposition.

PRESCOTT COURT REPORTING
1600 JFP Farm Road, Gable, S.C. 29051
(803) 495-3579

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ALSO PRESENT: None.

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OBJECTIONS

Ms. Blue: Pages 10 and 12.

TO BE PRODUCED

None.

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the South Carolina Rules of Civil Procedure and The Administrative Procedures Act.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby waived.

DAVID C. GAINES, M.D.

1 DAVID C. GAINES, M.D., having been duly sworn,
2 testifies as follows:

3 DR. GAINES - EXAMINATION BY MS. BLUE:

4 Q: Dr. Gaines, I'm Carolyn Blue and I represent Federal-Mogul
5 in the case Diane Dingle has filed against them in South
6 Carolina State Workers Compensation action and we're here
7 today to take your testimony. If, for any reason, I ask you
8 a question that you do not understand please let me know,
9 ask me to rephrase it and I will be glad to do that. If,
10 for any reason ... well, I'll cut off the rest of my little
11 speech, she's already done that. Did you have occasion
12 to treat Ms. Diane C. Dingle?

13 A: I did.

14 Q: All right. And you are the sole doctor at Manning
15 Medicine, is that correct?

16 A: At this time I am. There are two other mid-level
17 providers, a nurse practitioner and physician assistant.

18 Q: Do your records indicate that you are the medical provider
19 at Manning Medical that has seen Ms. Dingle?

20 A: I am the only provider that saw Ms. Dingle.

21 Q: Dr. Gaines, could you give me a little bit about your
22 medical background?

23 A: I've been a physician since 1993. I graduated from Mercer
24 University School of Medicine at that time. Completed my

DAVID C. GAINES, M.D.

1 residence in Macon, Georgia at the Medical Center of
2 Central Georgia in Family Medicine, completing that
3 residence in 1996. I'm board certified in family medicine.

4 Q: So you are board certified in family medicine?

5 A: Yes.

6 Q: And how long have you been practicing in Manning, South
7 Carolina?

8 A: I've been in Manning about three and a half years.

9 Q: When did you first see Ms. Dingle?

10 A: According to my notes, December ... excuse me, October 16th,
11 2000.

12 Q: Why did you see Ms. Dingle at that time?

13 A: This was a new case to me. She reported that this was a
14 Workers Comp evaluation and for that reason we evaluated
15 her.

16 Q: Did you refer her to any specialists?

17 A: At the initial visit we did not refer her ... or I did not
18 refer her to a specialist. I instituted medicine and
19 recommended a follow up in approximately one month.

20 Q: Did Ms. Dingle follow up with you in a month?

21 A: She did not follow up in a month, she followed up in a day.

22 Q: Why did she follow up so quickly?

23 A: We released her back to full duty at work and she stated
24 she went to work and could only work for an hour before she

DAVID C. GAINES, M.D.

1 had recurrent symptoms then sought care again in the office
2 to reevaluate.

3 Q: When she came to your office the second time, what did you
4 do?

5 A: Did repeat examination. At that point we contacted her
6 employer, questioning a little bit about the environment
7 that she was in and what other duties she might be able to
8 partake in while we continued our evaluation. I also
9 recommended that we send her to an allergist for further
10 treatment and my care ended at that point.

11 Q: Did you refer her to a specific allergy doctor?

12 A: I did.

13 Q: Would that doctor be Dr. Atkinson?

14 A: My notes dated 10/17/2000 don't list a specific allergist.
15 However, in the nursing notes it appears that a referral
16 was made to a Dr. Crouch, I believe, in Sumter. That's the
17 only documentation I have of the allergist that we referred
18 her to.

19 Q: Have you had an occasion to see Ms. Dingle since you
20 referred her to an allergist?

21 A: Have not had an opportunity to see her nor have I had any
22 information relayed from an allergist.

23 Q: So you have not been copied on any medical records or
24 evaluations by any other providers to Ms. Dingle?

DAVID C. GAINES, M.D.

1 A: That's correct.

2 Q: Doctor, would you defer diagnosis, whether this was a
3 Workers Compensation related illness to a specialist such
4 as an allergy specialist?

5 A: I would.

6 Q: And you would defer to a specialist in allergies for what
7 reason?

8 A: Based on her symptoms it sounded like they were allergies
9 since it was of an apparently prolonged nature and since
10 the patient reported it was debilitating, I felt like she
11 needed specialty evaluation.

12 Q: So you think an allergist could better determine whether
13 Ms. Dingle's symptoms were work related than a family
14 practitioner such as yourself.

15 A: I do.

16 Q: And would you concur if a doctor such as Dr. Atkinson who
17 is a board certified allergist said that she ... her
18 symptoms were not work related?

19 A: I would agree with his recommendations and evaluation based
20 on his special training.

21 Q: The symptoms that Ms. Dingle gave you at the time that you
22 saw here on October 16th, 2000, did they sound like familiar
23 symptoms for people suffering from allergies and sinus
24 infections?

DAVID C. GAINES, M.D.

1 A: Very much.

2 Q: Could you tell me what the symptoms were?

3 A: She reported, and again, this is based on my notes that she
4 experienced headaches and sinus congestion. She reported
5 throat discomfort and chronic hoarseness. I don't see any
6 other specific complaints reported at that time.

7 Q: And, in your opinion, as a medical doctor, are there any
8 number of factors that could cause the complaints and the
9 symptoms that Ms. Dingle complained of that day?

10 A: Numerous, numerous allergins are a constant threat to
11 people who suffer from allergies.

12 Q: Could you give me some examples, please?

13 A: A variety of pollens and mold spores, grasses, dust,
14 chemicals, a variety of agents that we all commonly
15 experience or come in contact with could elicit this kind
16 of reaction.

17 Q: Within a medical degree of certainty, could you contribute
18 Ms. Dingle's symptoms to her job at Federal-Mogul?

19 A: I can't clearly say that it's a definitive cause of her
20 symptoms, however, the way she reported the symptoms
21 occurred, it sounds like that that, the site of her work
22 was where her symptoms were most apparent.

23 Q: But you did not do any tests or anything to show that her
24 symptoms were causally related to her work, did you?

DAVID C. GAINES, M.D.

1 A: We did not.

2 Q: Did you obtain anything from Federal-Mogul concerning the
3 chemicals or the work that she did at Federal-Mogul?

4 A: I did obtain a copy of a ... and I'm not sure what this
5 sheet is called, I guess it's the Medical (sic)y Data
6 Sheet, from a chemical called Thixon 7500, and I reviewed
7 that material, a copy of which is in her chart.

8 MS. BLUE: I have no further questions.

9 MR. MOORE: Just one or two, doctor.

10 DR. GAINES: Yes, sir.

11 DR. GAINES - EXAMINATION BY MR. MOORE:

12 Q: Do know if chemicals can also cause this reaction?

13 A: I'm sorry, repeat the question.

14 Q: You gave a list of things that cause a reaction.

15 A: Yes, sir.

16 Q: Do you know if chemicals or chemicals could be one of the
17 things that could cause a reaction such as ...

18 A: Certainly, chemicals can cause allergic reactions.

19 Q: And you're familiar with the fact that Ms. Dingle works
20 around a lot of chemicals there at Federal-Mogul?

21 A: I'm aware that it is a plant where they do have various
22 chemicals for production.

23 Q: Based upon your notes she came in one day on October 16th,
24 2000 and then you referred her back to work.

DAVID C. GAINES, M.D.

1 A: Yes, sir.

2 Q: And she went work and came back the next day complaining of
3 still having problems.

4 A: Yes, sir.

5 Q: Were her problems the same as the day she was sent to you
6 on October 16th, 2000?

7 A: It appears that they were. On the ... on 10/17/2000, she
8 reported that she had experienced itching with associated
9 throat and chest discomfort. She stated that they started
10 shortly after returning to work.

11 Q: Did you ask her whether she had been exposed to any foreign
12 matters that would cause a reaction like she was having?

13 A: My records don't indicate that I asked about additional
14 exposure.

15 Q: So the only thing that you knew of that she had been
16 exposed of was simply going back to work?

17 A: Correct.

18 Q: Now, what are the chances of her having a reaction to these
19 foreign substances that would cause an allergic reaction or
20 cause a flair up in allergies in the month of October as
21 opposed to spring time?

22 MS. BLUE: Objection, calls for speculation.

23 MR. MOORE: You can answer it.

24 A: May I answer that question?

DAVID C. GAINES, M.D.

1 Q: Surely.

2 A: Repeat it one more time if you don't mind.

3 Q: What would be the difference ... I'll rephrase it, make it
4 a little clearer. She came to you in October of 2000.

5 A: Yes.

6 Q: Are people more susceptible to allergies in the spring as
7 opposed to October, the time of the year when ...

8 A: Actually, there is a term called seasonal allergies that
9 may include various seasons of the year. So we actually in
10 this area see allergies both times of the year.

11 Q: Okay. Could you tell from your treating her whether or not
12 she would have any reaction to allergies or the weather and
13 those kind of things that would cause a flair up?

14 A: I don't have a clear way to make that a distinguish ... or
15 distinguishable.

16 Q: So the only thing that you know of that she did differently
17 or was exposed to differently was the fact that she went to
18 work that day and came back to see you.

19 A: That's what she reported to me, yes, sir.

20 Q: Now, are you a doctor that sees persons from Federal-Mogul
21 on a constant basis?

22 A: As a Workers Comp physician?

23 Q: Yes.

24 A: I do see them periodically, yes.

DAVID C. GAINES, M.D.

1 Q: Is your experience that you see problems like this as far
2 as reaction to chemicals, those type of things ...

3 MS. BLUE: Objection, calls for facts not into
4 evidence.

5 MR. MOORE: You can answer.

6 A: To my recollection this is the only patient that I've had
7 like this from Federal-Mogul.

8 Q: Now, as far as your records are concerned, you have two
9 pages of documents?

10 A: That's correct, two dated visits, 10/16/2000 and
11 10/17/2000.

12 Q: Okay. And you also made reference to another document with
13 a list of chemicals or chemical?

14 A: Right. I have a Material Safety Data Sheet that provides a
15 description of a material known a Thixon, that's T-H-I-X-O-
16 N, 7500. It lists a variety of first aid measures,
17 composition, hazard identification, that type of
18 information.

19 Q: Did you request that document?

20 A: I did.

21 Q: Okay. And does it have reactions on that list ... on that
22 document to that chemical?

23 A: It does list that there are possible reactions to expose to
24 this chemical.

DAVID C. GAINES, M.D.

1 Q: Can you tell me what those reactions are?

2 A: Certainly. "Eye burns. Skin burns. Severe digestive
3 tract irritation. Inhalation may cause dizziness, headache
4 and incoordination. Ingestion can cause dizziness,
5 faintness, headache and incoordination. May cause
6 respiratory tract irritation. Ingestion may cause nausea,
7 vomiting, pain, upset stomach and diarrhea." They list
8 numerous other specific ...

9 Q: Were any of those symptoms that she complained of on that
10 list?

11 A: Yes, sir.

12 Q: Did you further inquire about the possibility of her
13 reaction ... or the reaction she was having to that
14 chemical?

15 A: Did not. I did make a phone call back to her place of
16 employment asking if there were areas in the plant where
17 she might have limited expose to any chemical fume and I
18 was advised that really was not a possibility there and, at
19 that point, I made the decision to refer her to an
20 allergist for specific testing.

21 Q: Do you recall who you spoke to at Federal-Mogul?

22 A: I did not record that.

23 Q: At this time I'd like to have marked, as an exhibit, the
24 two medical records as well as that document with the

DAVID C. GAINES, M.D.

1 chemical noted on it. Thixon. Thixon.

2 A: Thixon.

3 Q: Thixon. Doctor, if you could just make a copy we'll be
4 glad to return it to you.

5 (Claimant's Exhibit Number One was marked for identification
6 purposes.)

7 Q: Doctor, I think those are all of my questions.

8 DR. GAINES - RE-EXAMINATION BY MS. BLUE:

9 Q: Dr. Gaines, let me just follow up on a couple of things.
10 You said earlier that you would defer to a board certified
11 allergist. Dr. James Atkinson diagnosed Ms. Dingle after
12 the time as you saw her as having seasonal allergies. You
13 would concur with that?

14 A: Most like I would, yes.

15 Q: And you are basing in your records the fact ... you are
16 attributing things to her work place based on what she told
17 you, is that correct?

18 A: That's correct.

19 Q: So if she left out anything that she was exposed to ... to
20 allergies at home or fumes, you would not know that, would
21 you?

22 A: Correct.

23 Q: So your notes are based strictly on what the claimant told
24 you at that time.

DAVID C. GAINES, M.D.

1 A: Correct.

2 Q: Dr. Gaines, is it possible for someone to go to work like
3 Ms. Dingle and to have a allergic reaction to be at work
4 but it not be based on something that she's exposed to at
5 work?

6 A: It's possible.

7 Q: Is it possible that perhaps her house had been sprayed for
8 termites or she had driven through a field that fertilizer
9 or had been out doing yard work. Are there other
10 possibilities that she would exhibit these symptoms once
11 she gets to work?

12 A: That is possible.

13 Q: I have no further questions.

14 MR. MOORE: Nothing further.

15 MS. BLUE: That's it.

16 (There being no further questions, this deposition was concluded
17 at 4:02 p.m.)

18

19

20

21

22

23

Manning Medicine**Diane Dingle****#5703****10/16/00****Allergies: Claritin**

S: Ms. Dingle is a pleasant 36 YO here today for Worker's Comp eval. She has been employed at Federal Mogul now for the last 4 years. She reports that since June of '98 whenever she went to work she would experience headache and sinus congestion. She initially sought care from her private physician Dr. Keith who could not determine the cause he referred her on to Dr. Cassone he treated her for about a year and a half but could never pinpoint a cause. She also states she was referred to another Dr. again without obvious cause being noted. She states that a small nodule was found on one of her vocal cords. She now advises me whenever she goes to work she feels like her throat is closing up and remains sore. She has developed chronic hoarseness as a result. Finally today she tells me she has been out of work since July secondary to her complaints however this is the first time she has pursued Worker's Comp.

Past Medical Hx: Remarkable for allergies.

Current Medications: None.

Allergies: Claritin D apparently this caused her heart to race.

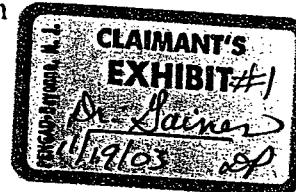
Surgical Hx: None.

Family Hx: Both parents are alive and well in their 50's. She has 5 sisters and one brother all in fairly good health with the exception of one sister who has HTN and diabetes. She has 2 sons and 2 daughters all in good health.

Social Hx: Negative for tobacco, alcohol or drugs. She is employed as a machine operator. She is divorced.

GYN Hx: Menarche was age 16. Her last period was October 1, 2000. Her periods are every 3 to 4 weeks. She is a G-5, P-4, A-1. She has not undergone hysterectomy. Last Pap smear was in January of this year. She has never had any abnormal Pap smears. She has undergone mammogram previously but does not remember when her last was.

O: Temp 96.8. BP 156/92. Heart rate 80. Respirations 16. Weight 138. General: This is a pleasant adult female in no distress. HEENT: Normocephalic, atraumatic. PERRL. Nares are patent with clear rhinorrhea noted. OP is non-erythematous, no unusual lesions are noted. TM's non-erythematous, non-bulging. Neck: Supple with minimal submandibular lymphadenopathy. Heart: RR&R without murmur. Lungs: CTA bilaterally. Abdomen: Soft and flat, positive bowel sounds, no organomegaly or masses are noted. Extremities: Warm and dry with brisk capillary refill. No unusual skin lesions identified.



(continued Diane Dingle)

A: Environmental allergies.

P: We'll let her try some Allegra 60 mg one bid for the next month. She is to return to regular duty as of today. We will need to request her previous record so we can see what previous work-up has been done. DCG/mre 10/19/00

6

P: I have contacted her employer they advise me that they have no light duty in the plant where she would not be exposed to fumes therefore I feel I have no other course but to continue to hold her out of work. We will refer her to a Worker's Comp allergist for further study. She should continue with Allegra bid in the interim. DCG/mre 10/22/00

[illegible]

CHEMICAL PRODUCT AND COMPANY INFORMATION

Product ID: Thixon 7500

Chemical Description: Mixture of silanes and curative in water

Product Use: Adhesive

For customer service/technical information, contact:

Morton Adhesives & Chemical Specialties

100 South Electric Street

Alexandria OH 45381

419-348-8846

HAZARD RATINGS

	HMIS	NFPA
Health	3	3
Fire	0	0
Reactivity	0	0
	* = Chronic	

SDS prepared by:

Toxicology and Regulated Substance Compliance

David Wienckowski, D.A.B.T.

100 N. Riverside Plaza

Chicago IL 60606

312-807-3422

Emergency

1-800-424-9300

COMPOSITION/INFORMATION ON INGREDIENTS

Component Name

CAS #

Approximate
% (w/w)

Organofunctional silane

Proprietary

5.3

Inert, non-hazardous and other ingredients

Proprietary

3.5

at low reportable levels

Proprietary

Balance

HAZARDS IDENTIFICATION

EMERGENCY OVERVIEW: CAUSES EYE BURNS. CAUSES SKIN BURNS. CAUSES SEVERE GASTROINTESTINAL IRRITATION. INHALATION MAY CAUSE DIZZINESS, HEADACHE AND COORDINATION. INGESTION CAN CAUSE DIZZINESS, FAINTNESS, HEADACHE AND COORDINATION. MAY BE HARMFUL IF SWALLOWED. MAY CAUSE RESPIRATORY TRACT IRRITATION. INGESTION MAY CAUSE NAUSEA, VOMITING, PAIN, UPSET STOMACH, DIARRHEA. See sections 3, 5, & 6.

PRIMARY ROUTES OF EXPOSURE: Eye. Skin. Inhalation (breathing).

EYE CONTACT: Causes burns. May cause corneal opacity (clouding of the eye surface). Can cause burning sensation, tearing, and redness.

SKIN CONTACT: Causes burns. May be harmful if absorbed through the skin.

INHALATION (Breathing): Irritating to the eyes, nose, and respiratory tract. Can cause dizziness, headaches, and incoordination. Can be harmful or fatal at high concentrations.

INGESTION (Swallowing): Severely irritating to the mouth, throat, and stomach. Can be fatal if swallowed. May cause nausea, vomiting, pain, and stomach upset (e.g., diarrhea). Can cause dizziness, faintness, headache, and



P. 463

Thixon 75

MSDS NO: 55051-1-5

Effective: 12/17/96

Supersedes: 11/04/96

Code: 00398328

Page 2

MATERIAL SAFETY DATA SHEET

incoordination.

TARGET ORGANS/CHRONIC EFFECTS: Liver. Kidneys. Lungs and respiratory system.
Eyes. Skin.

CONDITIONS AGGRAVATED BY EXPOSURE: Liver. Kidneys. Skin.

CARCINOGENICITY:

Organofunctional silane
Salt

ACGIH	IARC	NTP	OSHA
No	No	No	No
No	No	No	No

4. FIRST AID MEASURES

EYE CONTACT: Immediately flush eyes with plenty of water for at least 15 minutes. Get immediate medical attention.

SKIN CONTACT: Immediately flush with plenty of water for at least 15 minutes. For large exposures use an emergency shower. Remove contaminated clothing and shoes. Get immediate medical attention. Professionally wash clothing before re-use.

INHALATION (Breathing): Remove to fresh air. If symptoms develop, seek immediate medical attention. If not breathing, give artificial respiration.

INGESTION (Swallowing): Seek medical attention. Immediately induce vomiting, as directed by medical personnel. Never give anything by mouth to an unconscious person.

NOTES TO PHYSICIANS: Treatment should be directed at preventing absorption, administering to symptoms (if they occur), and providing supportive therapy. Though possibly corrosive to the mouth and gastrointestinal tract, this product contains a highly toxic ingredient. Emesis or lavage should be considered in instances where large quantities have been ingested.

5. FIRE FIGHTING METHODS

Flash Point....: Not Applicable Method.....: Not Applicable
Explosive Lmts: LEL(%) Not Applicable UEL(%) Not Applicable
Autoignition...: Not Applicable

HAZARDOUS COMBUSTION AND DECOMPOSITION PRODUCTS: Smoke, soot, and toxic/irritating fumes (i.e., carbon dioxide, carbon monoxide, etc.). Oxides of nitrogen. Hydrogen chloride. Phosphorous oxides. Phosphine.

FIRE AND EXPLOSION HAZARDS: High temperatures can cause sealed containers to rupture due to a build up of internal pressure. Cool with water. During a fire, irritating and highly toxic gases may be generated during combustion or decomposition.

EXTINGUISHING MEDIA: Water may be ineffective. SMALL FIRES: Dry chemical or carbon dioxide. LARGE FIRES: water spray, fog, or foam.

FIRE FIGHTING PROCEDURES/EQUIPMENT: Fire fighters and others who may be exposed to the products of combustion should be equipped with NIOSH-approved positive pressure self-contained breathing apparatus (SCBA) and full protective clothing.

6. ACCIDENTAL RELEASE MEASURES



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EVACUATION: Isolate hazard area. Keep unnecessary and unprotected personnel from entering. Corrosive to the eye and skin. Wear appropriate personal protective equipment, including respiratory protection.

CONTAINMENT: Safely stop discharge. Contain material, as necessary, with a dike or barrier. Stop material from contaminating soil, or from entering sewers or bodies of water.

CLEAN-UP/PERSONAL PROTECTION EQUIPMENT: Appropriate safety measures and protective equipment should be used.

COLLECTION AND DISPOSAL: Stop discharge, if safe to do so. Use proper protective equipment. Cover spills with absorbent clay or sawdust and place in closed chemical waste containers. Dispose of according to applicable local, state and federal regulations.

REPORTING: Spills of this material in excess of a component's RQ must be reported to the National Response Center (1-800-424-8802) and to the appropriate state and local emergency response organizations. No regulated ingredients.

7. HANDLING AND STORAGE

Storage Temperature < 100F 37.7C

STORAGE CONDITIONS: Store in cool, dry, well ventilated area away from heat, ignition sources, and direct sunlight. Keep containers tightly closed. Protect from freezing.

TRANSFER: No special precautions are needed. Follow good manufacturing and handling practices.

PERSONAL HYGIENE: Wash thoroughly after handling, especially before eating, drinking, smoking, and using restroom facilities. Wash contaminated goggles, faceshield, and gloves. Professionally launder contaminated clothing before re-use.

EMPTY CONTAINER PRECAUTIONS: Attention! This container can be hazardous when empty. Follow label warnings even after container is emptied since empty containers may retain product residues. Do not reuse empty container without professional cleaning for food, clothing, or products for human or animal consumption or where skin contact can occur.

3. EXPOSURE CONTROLS/PERSONAL PROTECTION

EXPOSURE GUIDELINES:

ACGIH - TLV - No regulated ingredients.

OSHA - PEL - No regulated ingredients.

ENGINEERING CONTROLS/VENTILATION: Local exhaust ventilation is recommended when vapors, mists, or dusts can be released.

EYE PROTECTION: Wear chemical splash goggles and a full-face shield. An eye wash facility should be readily available.

SKIN PROTECTION: Wear rubber boots and apron, protective clothing, and

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impervious gloves. Because a variety of protective gloves exist, consult glove manufacturer to determine the proper type for a specific operation. An emergency shower should be readily available. Cover as much of exposed skin as possible.

RESPIRATORY PROTECTION: Wear NIOSH/MSHA-approved equipment. Determine the appropriate type by consulting the respirator manufacturer. High airborne concentrations may necessitate the use of self-contained breathing apparatus (SCBA) or a supplied air respirator. Respiratory protection programs must be in compliance with 29 CFR 1910.134.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance.....: Water white	Odor.....: Odorless
Physical State: Liquid	Solubility.....: Completely soluble
pH.....: Not Applicable	Boiling Point.: Approximately 212F 100C
Vapor Pressure: Not Established	Vapor Density.: Not Established
Evaporation Rt: Not Applicable	VOC Material...: 215.7 g/L 1.8 lbs/gal
VOC Coating....: < 4 g/L 0.1 lbs/gal	Specific Grvty: 1.03
%Non-Vol(w/w)..: 10	

NOTE: The physical data presented above are typical values and should not be construed as a specification.

10. STABILITY AND REACTIVITY

CHEMICAL STABILITY: Stable under normal conditions of use.

HAZARDOUS POLYMERIZATION: Will not occur.

CONDITIONS TO AVOID: High temperatures.

INCOMPATIBILITY WITH OTHER MATERIALS: Oxidizers.

11. TOXICITY INFORMATION

COMPONENTS:

Organofunctional silane:

Causes severe eye and skin irritation. Prolonged and/or repeated exposure may cause corrosive chemical burns and permanent injury.

Salt:

Systemic toxicity of this product may effect the liver, kidneys, lungs and adrenal glands based on laboratory studies done on this chemical or very similar materials. Severe eye irritant; five of six animals died after application of chemical. Highly toxic if inhaled or ingested. Found to be non-irritating to laboratory animals' skin.

Oral LD50 Rat

Inhalation LC50 Rat

43 mg/kg
Approximately 130 mg/M3

12. ECOLOGICAL INFORMATION

No data are available on this product.

13. DISPOSAL CONSIDERATIONS

DISPOSAL: Dispose in accordance with all local, state, and federal regulations.



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GENERAL STATEMENTS: Federal regulations may apply to empty container. State and/or local regulations may be different.

GENERAL RECOMMENDATIONS: Of the methods of disposal currently available, it is recommended that an alternative be selected according to the following order of preference, based upon environmental acceptability: (1) recycle or rework, if feasible; (2) incinerate at an authorized facility; or (3) treat at an acceptable waste treatment facility.

SPECIAL INSTRUCTIONS: Be sure to contact the appropriate government environmental agencies if further guidance is required.

14. TRANSPORT INFORMATION

Weight (lb) Shipping Name
Non-regulated

49 CFR IATA IMO
Y Y Y

DOT Label.....: Not applicable
DOT Label No...: L136-3

UN/NA Id Num...: Not Applicable
WHMIS Label...: F136-3

15. REGULATORY INFORMATION

FEDERAL:

This product is considered hazardous under the OSHA Hazard Communication Standard (29 CFR 1910.1200).

SARA Title III - Section 311/312 - Hazard Categories:

- N- Fire Hazard
- N- Sudden Release of Pressure Hazard
- N- Reactivity Hazard
- Y- Immediate (acute) Health Hazard
- Y- Delayed (chronic) Health Hazard

Ozone-Depleting Chemicals - No regulated ingredients.

SARA Section 302 Extremely Hazardous Mat - No regulated ingredients.

SARA Section 313 Toxic Chemicals - No regulated ingredients.

CHEMICAL LISTING - Listed on the following Country's Chemical Inventories:

United States Toxic Substance Control Act
Chemical component(s) in this product are on the section 8(b) Chemical Substance Inventory List (40 CFR 710).

STATE RIGHT-TO-KNOW:

Pennsylvania - New Jersey R-T-K

Water	7732-18-5	89.8
Organofunctional silane	Proprietary	5.3
Salt	Proprietary	3.5
Non-hazardous trade secret ingredient(s)	Proprietary	Balance

California - California Proposition 65

Benzene	71-43-2	Trace *
Cancer Hazard.		

* Trace = present at less than 0.01 percent.



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NEG - No data available.

CANADA:

This is a "controlled product" under the Canadian Workplace Hazardous Materials Information System (WHMIS).

Class D Division 2 Sub-division B

CEPA - NPRI - No regulated ingredients.

16. OTHER INFORMATION

USERS RESPONSIBILITY: A bulletin such as this cannot be expected to cover all possible individual situations. As the user has the responsibility to provide a safe workplace, all aspects of an individual operation should be examined to determine if, or where, precautions - in addition to those described herein - are required. Any health hazard and safety information herein should be passed on to your customers or employees, as the case may be.

DISCLAIMER OF LIABILITY: The information contained herein is, to the best of our knowledge and belief, accurate. However, since the conditions of handling and use are beyond our control, we make no guarantee of results, and assume no liability for damages incurred by use of this material. All chemicals may present unknown health hazards and should be used with caution. Although certain hazards are described herein, we cannot guarantee that these are the only hazards which exist. Final determination of suitability of the chemical is the sole responsibility of the user. No representations or warranties, either expressed or implied, of merchantability, fitness for a particular purpose or any other nature are made hereunder with respect to the information contained herein or the chemical to which the information refers. It is the responsibility of the user to comply with all applicable federal, state and local laws and regulations.

End of Material Safety Data Sheet

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15
7
11 5.00

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 9831715

Diane Dingle,)
 Employee,)
 Claimant,)
 -vs-)
 Federal Mogul,)
 Employer,)
 and)
 Travelers,)
 Carrier,)
 Defendants.)

DEPOSITION

OF

DR. JAMES ATKISON

Given before Missy Graczyk, Court Reporter and
 Notary Public, at Sumter Asthma and Allergy Center, 208
 West Hampton Street, Sumter, South Carolina, on Thursday,
 September 27, 2001, commencing at 12:15 p.m.

COPY

REPORTED BY:

MISSY A. GRACZYK
 COURT REPORTER

Missy Graczyk, Court Reporter
 128 Laurel Branch Way, Columbia, South Carolina 29212
 (803) 749-9008 * courtreporter@sc.rr.com

APPEARANCES

1
2 For the Claimant: Moore Law Firm
3 By: Dwight Christopher Moore, Esq.
4 Post Office Box 1229
5 Sumter, South Carolina 29151
6
7 For the Defendants: Tally, Malone, Thompson,
8 & Gregory
9 By: Thomas McRoy Shelley, III, Esq.
10 1527 Blanding Street
11 Post Office Box 11288
12 Columbia, South Carolina 29211-1288
13
14 Reported By: Missy A. Graczyk, Court Reporter
15 128 Laurel Branch Way
16 Columbia, South Carolina 29212
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(NO EXHIBITS MARKED.)

* RECORDED TAPES RETAINED FOR TWELVE (12) MONTHS FROM
DATE OF CERTIFICATION.

STIPULATIONS

1
2
3 It was stipulated by and between counsel
4 for the parties that this deposition is taken
5 pursuant to notice and that all questions as
6 to notice are waived; that all objections,
7 save as to the form of the question, are
8 reserved until the time of trial; that the
9 deposition is taken pursuant to the Federal
10 Rules of Civil Procedure, for the purposes
11 allowed therein; and that the deponent was
12 explained his right to read and sign the
13 deposition and reserved that right.

14 (DR. JAMES ATKISON, being duly sworn,
15 testified as follows:)

DIRECT EXAMINATION BY MR. GREGORY:

16
17 Q Dr. Atkison, my name is Roy Shelley. I just
18 introduced myself. I'm the attorney for Travelers
19 Property Insurance Company and Federal Mogul
20 Corporation in connection with the Workers'
21 Compensation claim that's been filed by Ms.
22 Dingle. I need to ask you a couple of questions
23 about your treatment of her. First of all, I need
24 your background. What type of medicine do you
25 practice?

- 1 A Okay. It depends on how far back you want to go.
2 I started off as a pediatrician, board certified,
3 trained in San Francisco, did general pediatrics
4 for three years, then did a two-year allergy
5 fellowship at Walter Reed Army Medical Center
6 finishing there in 1990. Practiced in the Army
7 for two years. Practiced as a civilian in Oregon,
8 and then I've been practicing allergy here since
9 1994.
- 10 Q Okay. And are you licensed to practice medicine
11 in the State of South Carolina?
- 12 A Yes, I am.
- 13 Q I'm going to ask you some questions specifically
14 about your treatment of Mrs. Dingle.
- 15 A Okay.
- 16 Q According to my records, you first saw her in June
17 of 2000; is that correct?
- 18 A I first saw her for her initial visit June 13 of
19 2000.
- 20 Q Okay. Had you ever seen her for any reason prior
21 to that?
- 22 A No.
- 23 Q And the last record I have is September 1 of 2000;
24 is that correct?
- 25 A That is correct.

1 Q Now, in that September 1 of 2000, there was a
2 notation that she was going to go see an ENT in
3 connection with a vocal cord nodule and was to
4 follow up in three months; is that correct?

5 A That's correct. I requested that she follow up
6 here three months from that visit to see what was
7 going on, and I understood she was either going to
8 see or encouraged her to follow up with the ENT
9 doctor about the vocal cord nodule.

10 Q Okay. But to this date, there's been no follow
11 up?

12 A I don't know what's happened with the ENT doctor,
13 no.

14 Q Okay. But there's been no follow-up appointment
15 with you?

16 A No.

17 Q Okay. Now, Dr. Atkison, I'm not going to go
18 through all the medical reports, but I do want to
19 look at the first letter from June 13 of 2000 that
20 you wrote to Dr. Keith.

21 A Right.

22 Q I understand Dr. Keith had referred Mrs. Dingle to
23 you?

24 A Right.

25 Q Okay. In that letter, one diagnosis that you have

1 is seasonal allergies.

2 A Okay.

3 Q That would be the second paragraph you talk about
4 those.

5 A Oh, on the front page. We talked about chronic
6 nasal symptoms like headaches, congestion,
7 drainage, allergies/sinus type symptoms.

8 Q And they seem to be more prevalent in the spring
9 and the fall?

10 A Correct.

11 Q Is that consistent with seasonal allergies and
12 associated sinus infections, things of that
13 nature?

14 A The spring and the fall flare-ups would be
15 consistent with spring and fall pollen allergies.

16 Q Okay. And then the second page of that letter
17 from June 13, I want to look specifically at two
18 paragraphs. The first paragraph starts with, "The
19 pulmonary functions were within normal limits and
20 did not change after she used an inhaler."

21 A Uh-huh.

22 Q "The inspiratory loop showed a slight cut off
23 pattern which might be consistent with an upper
24 airway obstruction." Specifically, in that
25 statement, upper airway obstruction, are you

1 referring to a physical obstruction or an
2 irritation, swelling type of obstruction?

3 A I really couldn't tell from either what I wrote or
4 from what I saw at that time. We don't normally
5 do an inspiratory loop when we do pulmonary
6 functions to evaluate asthma.

7 Q Okay.

8 A However, we did that in her situation because, if
9 you notice a paragraph above that on the exam,
10 "Very hoarse and cracking whispery voice," and so
11 I did that to see if there was any blockage in her
12 neck, laryngeal area. And that kind of a cut off
13 pattern would suggest that.

14 Q Okay. Some sort of a physical blockage?

15 A We would assume some kind of a physical blockage.

16 Q And then going on, "She was instructed in the
17 proper use of an asthma inhaler. Following this,
18 however, her voice did not change."

19 A Right.

20 Q What did that tell you?

21 A Occasionally, there are reports of people with
22 asthma who present as hoarseness. She had also
23 complained about wheezing, chest tightness and
24 shortness of breath, which are typical asthma
25 symptoms. So, we had done the breathing test, we

1 tried the inhaler to see what would change, which
2 nothing did. And basically, what that tells me is
3 that I couldn't blame an asthma condition for the
4 hoarseness.

5 Q Okay, and then going on in the next paragraph,
6 "Mrs. Dingle has a problem with wheezing,
7 shortness of breath and hoarseness which might
8 sound like asthma or occupational asthma, although
9 I could prove none of that today." You said you
10 could not do any specific testing for chemicals at
11 work, because they were not recognized as
12 allergins.

13 A Right.

14 Q Did you have any information about what type of
15 products or chemicals she may be exposed to at
16 work?

17 A Ms. Dingle had told me, I believe it was on that
18 visit, that where she worked, she was exposed to
19 some type of oil seals, and fosicote (ph) was a
20 name that she, she told me, some kind of metal,
21 rubber, handles metal with rubber applied to it
22 with her bare hands. Did not wear a mask. Not
23 being much of an industrial person, I'm not sure
24 exactly what all she meant by that, and I was
25 going to ask her to get me a copy of the M.S.D.S.

- 1 on that, which we did get a copy.
- 2 Q Okay. And did you review the M.S.D.S. sheets on
- 3 that?
- 4 A Yes, I did.
- 5 Q Okay.
- 6 A And I have a copy of that in here somewhere. And
- 7 what we had on the M.S.D.S. is something called
- 8 organofunctional silane, S-I-L-A-N-E.
- 9 Q Okay. Is there any indication that's an allergen?
- 10 A No. Although, under the hazards identification
- 11 paragraph, it does say, "may cause respiratory
- 12 tract irritation," among other things.
- 13 Q Okay. So, the M.S.D.S. refers to the products she
- 14 was using as an irritant as opposed to an
- 15 allergen?
- 16 A That's how they listed it.
- 17 Q Okay, and are you aware of any type of studies or
- 18 any type of testing of Ms. Dingle's workplace in
- 19 regards to whether or not this product was used in
- 20 excess of the OSHA guidelines or any other type of
- 21 guidelines?
- 22 A I'm not aware that any such testing was done.
- 23 Q Okay.
- 24 A Not to my knowledge.
- 25 Q Okay. And going back to the letter, at that time,

1 you were, again, the letter to Dr. Keith, you
2 stated you would like to perform a rhinoscope exam
3 on her to evaluate her for sinus disease, and
4 especially her vocal cords. Made arrangements to
5 do that. You were going to have her try to use a
6 Proventil inhaler to see if this helps, but you
7 doubted that it would.

8 A Right.

9 Q And in reviewing your notes and what has happened
10 since then, the rhinoscope exam revealed that she
11 had a vocal cord polyp?

12 A Actually, a vocal cord nodule.

13 Q Nodule?

14 A It's a little bit different.

15 Q Okay. And that was the reason for the referral to
16 an ENT?

17 A That was the reason why I suggested she go back to
18 see an ENT if voice rest wasn't working out, which
19 is one of the first treatments you do for vocal
20 cord nodules.

21 Q What significance did finding the vocal cord
22 nodule have for you in connections with the
23 symptoms she was relating to you?

24 A It is one source of hoarseness, which I believe
25 was one of the big concerns or a concern that was

1 being held, and certainly she sounded very hoarse
2 on exams.

3 Q And I believe also, within the notes, the inhaler
4 was not helping, as it did not the day you saw
5 her?

6 A Right.

7 Q Another finding later in the notes is one of acid
8 reflux, and I believe both you and the record will
9 reflect Dr. Keith diagnosed her with acid reflux.
10 What significance does acid reflux have in
11 connection with the symptoms she was relating to
12 you?

13 A Actually, on two accounts, acid reflux can cause
14 wheezing on inspiration, wheezing breathing in, as
15 well as chest tightness, shortness of breath,
16 coughing. It's been known to cause asthma
17 symptoms, it's been cause to mimic asthma
18 symptoms. It is also a source of hoarseness.

19 Q Okay. And you referred specifically, at one point
20 in your notes, to something called silent reflux.

21 A Uh-huh.

22 Q What is that?

23 A Hard diagnosis to make, but there are patients who
24 will get certain symptoms like hoarseness or
25 unexplained cough or wheezy noises, wheezy

1 respiration, who don't recognize acid reflux,
2 heartburn, regurgitation, sour burps, bloating,
3 and they don't give you all the typical symptoms
4 of acid reflux, otherwise known as
5 gastroesophageal reflux disease. And these
6 patients, it's often worth giving a trial of a
7 good heartburn medicine to see if it changes.

8 Q Uh-huh.

9 A And we have had people who do respond to that.

10 Q Okay. Do you know whether or not Ms. Dingle went
11 through a trial of any type of heartburn
12 medication?

13 A My notes say that I gave her samples of a medicine
14 called Prevacid, and if I remember correctly,
15 apparently, that didn't seem to help the
16 hoarseness is what she had told me.

17 Q Okay. And there was one other notation regarding
18 mouth breathing and how that might affect -- how
19 would mouth breathing affect the symptoms she was
20 relating to you?

21 A Mainly, if a lot of mouth breathing would cause
22 dryness of the throat, that might cause some voice
23 cracking.

24 Q Okay.

25 A Probably, a lot of these things I was going

1 through, I'm just thinking of the various things
2 that might account for her symptoms so that they
3 can be treated.

4 Q Okay. Now, based upon the time that you did see
5 her and the tests and everything that you did run,
6 were you able to make any type of diagnosis as to
7 whether she suffers from occupational asthma?

8 A Not occupational asthma. I don't think I ever saw
9 any evidence based on my breathing tests or
10 response to inhalers that would suggest
11 occupational asthma.

12 Q Okay. In connection with the symptoms that she
13 was relating to you, and again, don't take this as
14 any sort of insinuation that you didn't perform
15 any tests you should have. I'm just asking
16 whether these tests were performed, were there any
17 sort of double blind tests or any other tests in
18 connection with the products that she was using at
19 work to determine whether there was an actual
20 physical reaction as opposed to something such as
21 a psychosomatic reaction?

22 A To my knowledge, no tests like that have been done
23 with Ms. Dingle.

24 Q Okay.

25 A We haven't done that.

1 Q Okay. Were there any other tests run -- well, let
2 me back up. The record will reflect that at some
3 point in the past, she has had a diagnosis of
4 anxiety from Dr. Keith. And then, in 1996,
5 Dr. Moore treated her for complaints of scalp and
6 ear pain, and I'm just going to read this. This
7 is part of the record. She has a sensation of
8 pain in the ear, some scalp pain and discomfort.
9 Patient appears to be histrionic in regards to the
10 amount of discomfort she is having, yet there is
11 no physical evidence. Were you aware of any of
12 those diagnoses before?

13 A No, I was not.

14 Q Okay. Did you perform any tests in connection
15 with whether or not there could be a psychosomatic
16 reaction to her being at work?

17 A No. I had wanted to do the rhinoscope exam
18 immediately after a work shift to see if I could
19 document any swelling in the vocal cord area that
20 might have been brought on by that, by work
21 exposure.

22 Q Okay.

23 A But other than that, no.

24 Q Okay. Are there, could there be certain
25 psychosomatic reactions to being at work that

1 would manifest themselves as physical symptoms
2 such as the anxiety leading to increased acid
3 production, or increased breathing leading to the
4 dryness of the throat, those types of
5 psychosomatic reactions leading to physical
6 manifestations?

7 A I would say it's possible a lot of stress or
8 anxiety could aggravate acid reflux.

9 Q Okay. All right. Are you able to say whether or
10 not that would have been a factor in Ms. Dingle's
11 complaints?

12 A I can't say that for sure, no.

13 Q Okay. All right. At the time, or the last time
14 you saw her September 1, was there any additional
15 treatment you were considering, other than the
16 referral to the ENT in connection with the vocal
17 cord nodule?

18 A The last visit, we talked mostly about treatment
19 for the allergic rhinitis. The year around and
20 seasonal allergy that had been, that had shown up
21 on allergy skin tests, I gave her some samples of
22 an antihistamine decongestant. We talked about
23 allergy control measures for dust mite allergy; we
24 talked about using allergy shots, and then we
25 talked about the hoarseness and the vocal cord

1 problem for which I would suggest she see the ENT
2 doctor.

3 Q Okay.

4 A Because, I didn't hold any hope that allergy
5 therapy would help that kind of a problem.

6 Q And in connection with the time you were seeing
7 her, and I note your last note, the last
8 paragraph, you state the best treatment for this
9 in the long run may be switching jobs, i.e.,
10 avoiding the exposure. In your opinion, within a
11 reasonable degree of medical certainty, would
12 there be -- would there be any problem with her
13 working a different job or a similar job, as long
14 as she was not exposed to whatever irritant was
15 causing her problems?

16 A I wouldn't think there would be a problem with
17 that.

18 Q And let me rephrase the question. Assuming there
19 was an actual irritant causing the problems that
20 we identified and eliminated, is there any type of
21 permanent impairment that would prevent her from
22 performing another job or a similar type of job?

23 A I don't believe there would be a permanent
24 impairment, if it was the Silane Fosicote (ph)
25 that's causing the problems, then I would assume

1 that getting away from that, there shouldn't be a
2 problem. I don't, I don't think there's any
3 permanent things that I was seeing with this.

4 Q Okay. So, during the time you were treating her,
5 the symptoms were episodic or situational, and had
6 not caused any type of permanent damage that you
7 saw?

8 A Actually, there was one or two visits I had seen
9 her where she hadn't been at work, or she had said
10 she hadn't been at work for a couple of days and
11 she was still having some voice problems.

12 Q Okay. And the voice problems of the vocal cord
13 nodule --

14 A That's what I was blaming it on.

15 Q Okay. All right. That's all I have. Thank you.

16 CROSS-EXAMINATION

17 BY MR. MOORE:

18 Q Just a few questions, Doctor. When Mrs. Dingle
19 presented to you on June 13 of 2000, she did so
20 with the hoarseness? Or how do you have her
21 presenting to you on that day?

22 A Okay. I have her down as a chief complaint of
23 respiratory problem. And we talked about a
24 variety of rhinitis symptoms, like runny nose,
25 itchy nose, congestion, drainage, headaches, some

1 of the medicines that she had used, whether she
2 had prior evaluations or skin testing for that.
3 And we talked about chest type symptoms such as
4 wheezing, which I have question marked
5 inspiratory. Usually asthma wheezing is made on
6 exhalatory, chest tightness, shortness of breath
7 and some difficulty breathing.

8 Q So, at some point during your evaluation, you
9 ruled out asthma as a cause for her condition?

10 A Going to the rest of what she had said, she
11 complained about her chest hurting, can't breathe,
12 someone else had done some pulmonary function
13 studies with her. She talked about seeing an ENT
14 doctor in Orangeburg, to be given several types of
15 medicines that didn't seem to work, but she
16 couldn't recall the medicines. Oh, had breathing
17 tests, something like asthma, question mark
18 whether it got better after the medicine. So,
19 with a lot of her symptoms, yes, we went ahead and
20 did some evaluation for asthma, breathing test,
21 trial of bronchodilator, in her case, Proventil.

22 Q Okay. So, did, due to the tests that were ran,
23 did you rule out asthma as a cause of her
24 condition?

25 A I saw no evidence for asthma.

1 Q I see. And were there any additional tests done
2 aside from the rhino test, I think it was, to
3 determine if there was some other definite cause
4 of this problem?

5 A The only tests that I had done, other than
6 histories and physical, were the Pulmonary
7 Functions Test, the rhinoscope exam, allergy skin
8 tests, and trials of medications.

9 Q Now, what did that tell you after those tests were
10 ran and those medications prescribed and they
11 didn't help her situation? Did you come to the
12 conclusion, medical conclusion, after those things
13 were done?

14 A Medical, I came to the conclusion that I saw no
15 evidence of asthma.

16 Q Okay. Did you eventually, if at all, decide what
17 caused the hoarseness?

18 A My understanding as of September 1, recurrent
19 hoarseness, wheezing, shortness of breath, has
20 vocal cord polyp -- and actually, I apologize, I
21 should have caught that error. It's actually
22 vocal cord nodule -- by rhinoscopy, maybe having
23 some degree of vocal cord dysfunction, not typical
24 of asthma, non-allergic. This may be irritant
25 affect from work. That's about as best as I could

1 come up with at that point, I believe.

2 Q If I were to tell you that today, Doctor, she
3 still suffers from this hoarseness, would that, in
4 and of itself, if we tied it to the occupation,
5 that is some irritant from her job, if she still
6 had the hoarseness and some effect from it, would
7 that give rise to some impairment if say, two
8 years later, she still suffered from the throat
9 problem?

10 A I'm not sure I could answer that. That kind of
11 goes beyond my expertise. I would suggest, if
12 there's that kind of a question, another exam of
13 her vocal cords be done to see if there is
14 anything that can be found around the vocal cords.

15 Q I see.

16 A I'm not aware, and I have looked at this, and
17 actually looked at it again this morning, about
18 whether exposure to such irritants would lead to a
19 vocal cord nodule, and I couldn't find any
20 information of what little literature I have.

21 Q Now, does the causation of a nodule in and of
22 itself the only reason that one would suffer long
23 term vocal cord damage?

24 A If it's a chronic nodule, it can cause some long
25 term voice complaints, hoarseness, dysphonia.

1 Q And irritants from chemicals; is that the only
2 affect of it? The causation of nodules? Or does
3 it cause any other problem not associated with
4 nodules itself?

5 A Okay. Again, I don't know if these kinds of
6 irritants would cause a nodule. I would suspect
7 that exposure to a strong respiratory irritant
8 might cause some redness or swelling amongst the
9 tissues, if we could look at that in the fresh
10 stage. I really don't know if that would cause
11 long term damage, scarring, something like that
12 around that area. I really can't answer that.

13 Q I see.

14 A Because I'm not an expert on all of those.

15 Q Does acid reflux, if it's been treated, and those
16 symptoms have subsided, does that cause, or
17 continue to cause hoarseness or throat irritation
18 even after it's been treated?

19 A If it's treated adequately, I wouldn't think it
20 would.

21 Q Okay. Have you seen cases where exposure to
22 irritants, even after the person had left that
23 environment, still causes long term affects with
24 the throat or vocal cords?

25 A I have not.

1 Q And it is your opinion that, absent any other
2 finding, that her condition is likely tied to the,
3 to her occupation, what she was doing at the time
4 as far as exposure to some chemical?

5 A I'm sorry, repeat that please.

6 Q Is it your opinion, then, that her exposure to
7 some chemical, smoke fume, that she was exposed to
8 at work, absent a finding of asthma, was likely to
9 have caused the throat irritation?

10 A It could very well, the exposure to fumes could
11 very well cause throat irritation. Again,
12 according to MSDS, the throat irritation could
13 cause a loss of voice. I really can't answer
14 whether that would be permanent, though, or long
15 lasting.

16 Q Okay. In your evaluation and your intake of her
17 as far as questions you asked in making your file,
18 was there anything else found in your evaluation
19 that could have caused this aside from the smoke
20 fumes or possible chemical exposure?

21 A Nothing else that I could come up with at the
22 beginning. She gave a history on the very first
23 visit. She's fine at home, no problems, but soon
24 as getting to work, after she starts work, working
25 with the products, her throat hurts, gets sore,

1 her tongue goes numb, it progressively gets worse
2 and affects her voice is what she said on the
3 first visit.

4 Q And did you find anything else aside from that
5 that could have caused, possibly, this irritation?

6 A No.

7 Q Okay. Thank you, sir.

8 REDIRECT EXAMINATION

9 BY MR. SHELLEY:

10 Q Just one follow-up, Doctor. I don't know if you
11 performed these tests, but in other allergy or
12 asthma type cases we've seen, I think the American
13 Lung Association has a long, detailed history
14 sheet that can be filled out that goes through
15 carpet cleaners and shampoo and all that, all
16 potential irritants. Have you ever used a sheet
17 like that before?

18 A No.

19 Q Okay. Are you aware of the test I'm talking
20 about? The detailed history test in regards to
21 the allergies or irritants?

22 A No. Not with American Lung Association. Is it
23 American Lung Association?

24 Q I believe it's American Lung Association. Maybe
25 National Institutes of Health. Are you aware of

1 something like that from some other organization?

2 A No. If anybody would, it would probably be the
3 American Thoracic Society, because they get
4 involved in a lot of disability stuff with asthma.

5 Q Okay. Well, did you go through any detailed
6 history in regards to a typical day and what sort
7 of chemicals or products she uses, or what sort of
8 products or chemicals she has in her house or
9 anything of that nature? Or were you mainly
10 concerned with the symptoms at that time?

11 A I didn't go through any detailed discussion about
12 other chemicals she'd be exposed to outside of the
13 workplace.

14 Q Okay.

15 A It really hadn't occurred to me to go over what
16 people have in their home. I guess you just kind
17 of assume they have the usual things.

18 Q Right. Okay. That's all I have. Thank you, sir.

19 (Deposition concluded at 12:39 p.m.)
20
21
22
23
24
25

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS COMPENSATION COMMISSION

Diane C. Dingle,)
Employee-Claimant,)
vs.) WCC 9831715
Federal-Mogul Corporation)
Employer,)
and)
Travelers Insurance Company,)
Carrier)
Defendants.)

COPY

DEPOSITION OF KELIS G. THACKER

Monday, January 13, 2003
4:05 p.m. - 4:40 p.m.

The deposition of Kelis G. Thacker, taken on behalf of the Plaintiff, at the law offices of Moore Law Firm, 26 North Main Street, Sumter, South Carolina, on the 13th day of January, 2003, before Doris W. Prescott Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and Agreement.

APPEARANCE

Dwight C. Moore, Esquire
 Moore Law Firm, LLC
 26 North Main Street
 Post Office Box 1229
 Sumter, South Carolina 29151-1229
 Attorney for the Claimant.

Harry B. Gregory, Esquire
 Tally and Gregory
 1527 Blanding Street
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 Columbia, South Carolina 29211-1288
 Attorney for the Defendants

Also Present: Diane C. Dingle

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EXHIBITS

There were no exhibits to this deposition.

TO BE PRODUCED

- 1) Manufacturer's name for phoscoat 11
- 2) Manufacturer's name for redicoat 16

OBJECTIONS

None.

STIPULATIONS

It is stipulated and agreed that this deposition is being taken pursuant to the South Carolina Rules of Civil Procedure and the Administrative Procedures Act.

It is stipulated by and between counsel and the witness that the reading and signing of the following deposition be, and the same are, hereby not waived.

1 KELIS G. THACKER, having been duly sworn,
2 testified and deposed as follows:

3 MR. THACKER - EXAMINATION BY MR. MOORE:

4 Q: Mr. Thacker?

5 A: Yes.

6 Q: My name is Dwight Moore. I'll be asking you a series
7 of questions pertaining to the employment of Ms. Diane
8 Dingle by Federal Mogul as well as getting an
9 understanding of what you ... your plant does and any
10 chemicals that it may use in its production process.
11 I'm going to ask you a series of questions. I would
12 ask that you wait until I finish speaking to answer,
13 that your answer be yes or no and then explain. If you
14 don't understand or I don't make a question clear for
15 you if you'll just ask me to repeat it and I'll be glad
16 to do so.

17 A: Okay.

18 Q: You've told the court reporter your name is Kelis
19 Thacker.

20 A: Correct.

21 Q: And you are the plant manager for Federal Mogul out of
22 Summerton.

23 A: Yes.

24 Q: And how long have you been the plant manager there?

25 A: Four years.

- 1 Q: And where do you come from in terms of employment prior
2 to coming or going to Federal Mogul?
- 3 A: Well, immediately prior I was in Chicago for Borg-
4 Warner Automotive.
- 5 Q: Is that ... does that have any affiliation at all with
6 Federal Mogul or it's two separate entities altogether?
- 7 A: Two different companies, yes.
- 8 Q: Now, what did you do for that company?
- 9 A: I managed two plants also.
- 10 Q: And what were the name of the plants?
- 11 A: Frankford, Illinois.
- 12 Q: What were the name of the plants?
- 13 A: Oh, Borg-Warner.
- 14 Q: Borg-Warner?
- 15 A: B-O-R-G W-A-R-N-E-R.
- 16 Q: Any the other?
- 17 A: They were both the same company. Two different site
18 facilities.
- 19 Q: Oh, I see, for Borg-Warner.
- 20 A: Correct.
- 21 Q: And they were located where?
- 22 A: In the Chicago area.
- 23 Q: And how long were you there?
- 24 A: Three years.
- 25 Q: Prior to going to Borg-Warner where were you?

- 1 A: I was at Federal Mogul in Vanwert, Ohio.
- 2 Q: And what did you do for them?
- 3 A: I was a product line manager for one of the product
- 4 lines.
- 5 Q: And prior to the product line manager job what did you
- 6 do?
- 7 A: I was in Summerton as a product line manager for the
- 8 gasket operation.
- 9 Q: Are you originally from here?
- 10 A: No. I've been here twice, though.
- 11 Q: Oh, okay. Second trip.
- 12 A: Yeah.
- 13 Q: And before that?
- 14 A: I was the HR manager at the Summerton plant.
- 15 Q: And before that?
- 16 A: I was in Detroit, Michigan at a steel company..
- 17 Q: And tell me where you were born and reared at.
- 18 A: Detroit.
- 19 Q: Home in Detroit.
- 20 A: Uh-huh (affirmative response).
- 21 Q: Do you have family here at all?
- 22 A: No, just my immediate family.
- 23 Q: Okay, wife and children?
- 24 A: Yes.
- 25 Q: And tell me what your duties entail as a plant manager

1 for the Federal Mogul plant here in Summerton.

2 A: I'm responsible for the entire operation, all the
3 product lines, all the ... all functions out at that
4 facility. Basically for the bottom line.

5 Q: Did you have the opportunity to review any materials
6 that relate to the employment of Ms. Diane Dingle?

7 A: No.

8 Q: Do you know her personally?

9 A: No.

10 Q: Do you know that she worked for your company for a
11 period of time?

12 A: I ... I do via ... via the discussions about coming
13 here today.

14 Q: Do you know what period of time she worked for Federal
15 Mogul? Do you know when she was terminated?

16 A: No.

17 MR. MOORE: Can we go off the record one minute,
18 please?

19 (Off the record)

20 Q: How do you procure chemicals that are used in your
21 plant? What's the process?

22 A: Most of it particularly productive supplies are just
23 set up on a ... on a pull system so they're ...

24 Q: And who manages that for you?

25 A: The purchasing.

KELIS THACKER

1 Q: Purchasing?

2 A: Purchasing does blanket orders and then generally we
3 pull on a ... on a kanban type of just in time system.

4 Q: I see. Your molding department, are you familiar with
5 that?

6 A: Uh-huh (affirmative response).

7 Q: Tell me what that is.

8 A: Well, we have ... we have a couple different molding
9 departments but the ... the one related oil seals is
10 compression molding where you ... where you insert
11 metals and ... and rubber ... rubber preps and the
12 product is molded together into ... into a part form.

13 Q: Okay, now, the parts that make up the mold itself and
14 the gasket, is it?

15 A: These are seals.

16 Q: Okay, I'm sorry, seals.

17 A: Uh-huh (affirmative response).

18 Q: Do you actually make the seal on site?

19 A: Well, that is the seal making process.

20 Q: That's the process.

21 A: Right.

22 Q: Explain to me what the ... the process is where you
23 take the ... explain to me what the process is again,
24 please.

25 A: Molding?

1 Q: Yes.

2 A: Okay. A ... a ... it's a hot mold, running about 350
3 degrees and inserted are our prepared metals and ...
4 and rubber preps and the mold comes down on tonnage and
5 with heat and it forms the ... it binds the rubber to
6 the metal and forms the rubber into a seal shape and
7 ... and that's the ... that's the essence of the
8 molding process.

9 Q: Do you make a metal at your plant?

10 A: We stamp the metal. We don't make steel.

11 Q: When you say stamp the metal what do you mean by that?

12 A: We purchase steel in coil form and we ... we run it
13 through stamping process and it stamps out the ... the
14 ... the metal portion of the oil seal.

15 Q: Now, the rubber, is that ... is that also perhaps not
16 manufactured but somehow manipulated there at your
17 plant?

18 A: It's processed a little bit, yeah. The rubber is
19 manufactured at a ... at a sister plant in Indiana and
20 ... and we purchase it in ... in what we call a slab
21 form and then we ... we warm it up on mills and extrude
22 it through an extruder and it creates these ... these
23 small rings that we call rubber preps that then go into
24 the mold process.

25 Q: And so you then need the combination of combining the

KELIS THACKER

1 metal and the rubber you come up with the seal.

2 A: Correct. Yes.

3 Q: What chemicals are used in that process?

4 A: The ... let me think here. In stamping no chemicals
5 other than ... other than there is a stamping oil
6 applied which is ... which is common. Then the ... the
7 metal is then prepared for molding where the oil is
8 removed. It's called out ionic line where the oil is
9 removed and ... and phoscoat is applied which is a
10 metal preparation material and then adhesive is
11 applied.

12 Q: That's a what kind of coat?'

13 A: Phoscoat.

14 Q: Spell it for me.

15 A: P-H-O-S-C-O-A-T.

16 Q: And I assume that's some liquid, some chemical that's
17 used ...

18 A: It's a ... it's a liquid bath, yes.

19 Q: Is there a name for the phoscoat, that chemical?

20 A: There ... there are chemical names but I ... I couldn't
21 tell you what they are offhand.

22 Q: It's called phoscoat, that's how you purchase it?

23 A: No, it has a manufacturer name. I just couldn't tell
24 you what it is off the top of my head.

25 Q: But ...

1 A: Phoscoat would be more our ... what I would call a
2 generic term for the ...

3 Q: Is that how you buy it though from your ... from your
4 supplier?

5 A: Yes.

6 Q: As a phoscoat?

7 A: Yes. All I'm saying is it has a manufacturer name.
8 I just ... don't know what it is off the top of my
9 head.

10 Q: Can you find out what that name is from your purchasing
11 department?

12 A: Yeah, I guess we can.

13 Q: That's something you can easily get.

14 A: Oh, yes, yes.

15 Q: Now, this ... this stamping oil, is there a chemical
16 name for it ... for that oil as well?

17 A: There is a manufacturer name, yes.

18 Q: A manufacturer's name?

19 A: Yes.

20 Q: Can you find out what that is for me and also provide
21 that information to me through your attorney?

22 A: Sure.

23 Q: Now, any other chemicals used in the actual stamping
24 process?

25 A: No.

KELIS THACKER

1 Q: Tell me about this oil, this rubber seal, the rubber
2 itself. What is used in the processing of that?

3 A: Nothing in ... in our factory. The ... the making of
4 that compound at in a different plant.

5 A: So, I guess you manipulate it, press it, cut it,
6 whatever.

7 Q: Warm it up and extrude it.

8 Q: Okay. And what temperatures do you use to warm it up
9 so that you can ...

10 A: Well, it ... it's warmed up through ... through a kind
11 of an interference fit between two large rolls so the
12 warming process is actually it getting pinched and
13 worked in between these rolls. It's not a ... it's not
14 a put it in the oven and, you know, heat it up.

15 Q: Like massaging

16 A: That's ...

17 Q: ... it's actually massaged?

18 A: ... correct. That's correct. And then it's ... then
19 it's placed into an extruder and the extruder pushes
20 it out through a die and cuts the preps.

21 Q: Now a person who would be inspecting this process, what
22 would that person do?

23 A: Inspecting ...

24 Q: Inspecting the ... what would they do in terms of
25 inspecting that product, the actual seal or gasket?

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- 1 A: We need to clarify. At the ... at the molding
2 operation?
- 3 Q: Yes, at the molding operation.
- 4 A: Well, at the molding operation the ... the inspection
5 on most parts the mold operator does a visual as best
6 they can. They're doing multiple seals at a time all
7 the way up to close to 100.
- 8 Q: What what's that process, looking at ...
- 9 A: It's a visual, yeah. It's a visual.
- 10 Q: Do you ... are there any warnings that you issue as a
11 ... as a ... as a company as far as use of a chemical
12 or ... or any precautions you take for employees who
13 may come in contact with these chemicals over extended
14 period of time?
- 15 A: There ... we do on a ... basically on a biannual basis
16 an air sampling in out plant and have done it for years
17 and ... and we ... we do exposure testing across the
18 plant, both ... both at chemical sensitive process
19 which would be this ionic process and the operators
20 that are ... that are in and around that. The
21 requirements ... it's an automated process so it's not
22 as though anyone's handling that ... that chemical, you
23 know, during ... you know, during the application
24 process. But, the ... anyone that has interaction with
25 ... with that process in the past there are respirator

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1 requirements, etcetera. Beyond that and in the general
2 molding and inspecting areas the PPE requirement,
3 personal protective equipment requirement is eyeglasses
4 and ear plugs.

5 Q: Have you come to know of any unique problems from any
6 reaction to any of the chemicals that are used in and
7 around your plant for production purposes that you may
8 come in of your knowledge of?

9 A: No. No, we've been ... we've been employing this
10 process at ... at Summerton for almost 30 years now and
11 at other like facilities such as the Ohio plant that's
12 been in operation since 1945.

13 Q: So, ... so the answer is you don't have any knowledge
14 of any persons who would have had any ... any allergic
15 reactions to any of the chemicals being used there?

16 A: No, not offhand.

17 Q: Would that come through you as the plant manager or
18 would it come through some other person who's
19 responsible for that?

20 A: If we have ... if we have any ... if we have any claims
21 it comes through Traveler's. Traveler's is the company
22 we contract, you know, to deal with worker's comp. type
23 of claims. If it ... if we were to have, you know, a
24 ... a reaction on the floor I have a ... I have a
25 chemical person ... I have two people, I have a

1 chemical engineer and ... and I have an environmental
2 coordinator and he actually deals with most of the ...
3 most of the activities related to environmental or
4 virtually all of them.

5 Q: You said activities, is he just responsible for any
6 questions about the use and ...

7 A: Oh, he's ...

8 Q: ... chemicals ...

9 A: Oh, he's fully responsible for all environmental
10 aspects. Environmental reporting, waste emissions,
11 air sampling, you know, etcetera, etcetera.

12 Q: Would he have any knowledge of any person who may have
13 had a reaction to any chemicals that may have been used
14 throughout the plant?

15 A: If there are any situations he would have knowledge,
16 yes.

17 Q: Do you yourself know of any claims, is that something
18 that your company keeps a ... a tally of the number of
19 claims that may have been filed for work related
20 chemical reactions from anything that you may have
21 used? Would you know?

22 A: No.

23 Q: You wouldn't know of any?

24 A: No.

25 Q: Would anybody at your company then in Summerton have

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1 any of that information available?

2 A: We get ... we get Traveler's reporting on worker's
3 comp. cases. Certainly my HR department does.

4 Q: And they would have the kind of cases and the ... and
5 that ... that have been filed or claims that have been
6 filed against the company ...

7 A: Yes, I don't know what their retention requirements are
8 but ...

9 Q: Other than the phoscoat and this stamping oil that you
10 told me about is there anything ... anything else used
11 chemical wise in this process of pressing and molding
12 a mold would have exposed to?

13 A: I'm trying to think through here. There is a ...
14 there's a redicoat, a paint application that's ... it's
15 actually subsequent to molding and assembly.

16 Q: Redicoat?

17 A: Yes.

18 Q: Again you have a manufacturer's name for this?

19 A: Yes.

20 Q: Okay. Anything else?

21 A: I'm trying to think through. We apply a ... a grease
22 before packing around the ID of the seal. I assume that
23 grease probably is chemical technically.

24 Q: Okay.

25 A: I think that's it. That's all. That's the only thing

1 that comes to mind.

2 Q: Basically there are four products that are used from
3 the time a person ... an operator assembles or assists
4 in the assembling of this gasket or seal until the time
5 it's packed?

6 A: That being a phoscoat, an adhesive, redicoat, and what
7 was the fourth?

8 Q: You mentioned an oil ... oil ...

9 A: Oh, stamping oil.

10 Q: Stamping oil.

11 A: Yes. That's not ... that's a processing aid, that's
12 not actually ... that doesn't come out as part of the
13 seal. These other ... these other products are
14 actually, you know, a part of the oil seal if they're
15 applied. And not all ... for example, not all oil
16 seals have redicoat application. They run through
17 various, you know, processes. And not all oil seals
18 are ... are greased either. But, the stamping oil
19 actually is ... is removed before it ever gets to
20 molding. It's ... it's to facilitate the ease of
21 stamping or lubrication and then when it goes into this
22 automated phosphate line one of the first processes,
23 one of the first baths it hits degreases it so ... so,
24 it is used in the process, it's ... it's not a part of
25 the oil seal.

1 Q: Other than the actual ... that you mentioned earlier
2 about your employees, some being required to wear
3 goggles and other ...

4 A: Those ... those that are in and around and handling the
5 ... the phosphate area which would ... which would be
6 basically three individuals out of ... out of seven
7 hundred and some.

8 Q: I see. In the molding area are there any precautions
9 that you require your employees to ... to take?

10 A: Not that I'm aware of other than ... other than, you
11 know, the basic, you know, safety wear..

12 Q: And what would be the basic safety wear of someone in
13 that area?

14 A: Safety glasses with side shields, ear plugs, we're I
15 believe are requiring now some arm guards because
16 there's ... there's the molds are hot, to protect the
17 ... protect the front forearm, I guess you'd call it.
18 Set up persons are required to wear steel toe safety
19 shoes. Some pretty ... pretty generic safety wear.

20 Q: I think I'm about through. Let me ask my client one
21 more question and I'll be back.

22 (A short break was taken)

23 Q: Mr. Thacker, I have just one or two more questions.

24 A: Okay.

25 Q: Tell me about any dusting or dust particles that may

KELIS THACKER

- 1 be active during the process of this cutting, or
2 manipulating this ... this rubber seal or gasket while
3 it's being cut. Is there any phoscoat that's is going
4 around or is airborne or anything like that?
- 5 A: You need to clarify. When you say while it's being cut
6 ...
- 7 Q: Or manipulated for lack of a better word.
- 8 A: Okay.
- 9 Q: Massaged.
- 10 A: Whatever.
- 11 Q: Whatever.
- 12 A: Well, the ... I'm trying to think through that one.
13 The ... the phoscoat is applied in liquid form in the
14 ... in the ionic area. When it ... when it ...
15 basically when it leaves that area it's dried. And ...
16 and I'm trying to think through what would create dust
17 and offhand I don't know.
- 18 Q: Do you know if after it leaves in the phoscoat is dried
19 ...
- 20 A: Okay.
- 21 Q: What is the process at that point?
- 22 A: Oh, it goes ... it goes from the phoscoater into a
23 queue, of course, waiting it's turn to be molded but
24 it goes from there into the mold press.
- 25 Q: Okay, when it comes out of the mold press what is it

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1 ... what then happens?

2 A: It ... it goes through a ... a variety of assembly
3 processes depending on, you know, what type of seal it
4 is.

5 Q: And what ...

6 A: The rubber gets trimmed out. The ... a spring gets
7 inserted. It may ... it ... it may get a redicoat
8 application or ... or a grease application. It gets
9 air checked. You know, those sorts of things.

10 Q: Who does the trimming? Is that done by some machine
11 or is it the operator itself?

12 A: The ... we have a variety of set ups. Some seals are
13 actually ... a few seals are ... are trimmed on ...
14 it's all trimmed by a machine. Some of them are
15 operator driven and some of them are semiautomatic
16 where they're ... where they're actually automatically
17 loaded. But, that's a ... that's an operation that in
18 some cases a few cases it's trimmed right after
19 mold, it'll come off of the mold press and go down to
20 a trimmer and some cases it's reserved for ... for a
21 trimming operation in the assembly area.

22 Q: That's done by an individual ... individuals?

23 A: It ... it is a variety of machinery technology types.
24 We do have a trim cell where, you know, they're older
25 trimmers and an operator does have to place, you know,

1 one seal at a time on, press ... press the buttons or
2 actually I think it's a foot pedal and the knife comes
3 ... it's spinning and the knife comes down and ... and
4 trims out the ID of this seal area. It's trimming
5 rubber. And then we have others that are automatically
6 loaded that aren't operator controlled. We have a
7 variety of technologies.

8 Q: Now, was this process in place from 1998 until 2000,
9 approximately, same process you just described?

10 A: Yes.

11 Q: And that ... isn't that an opportunity for an employee,
12 the operator or the person who's actually participating
13 in the process to be exposed by way of dust directly,
14 indirectly from any phoscoat or any other chemical that
15 might be used?

16 A: Not that I'm aware of. Again if those instances exist
17 my environmental person should be aware.

18 Q: So, you don't ... you don't know if your process in and
19 of itself allows for dust ... dusting from any phoscoat
20 process?

21 A: No, not that I'm aware of. I mean we produce 50
22 million units a year and if it were a dust creator we
23 would have a ... we would have a dusty plant. You can
24 walk through the facility on any given day and it's ...
25 it's pretty clean.

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1 Q: But as far ... as far ... perhaps let me use another
2 word for dusting. Is there an opportunity for any ...
3 inhaling ... can you smell the phoscoat?

4 A: I don't think so, no.

5 Q: Can you smell any of these chemicals?

6 A: You ... what you can ... what you can smell is ... is
7 rubber molding, you know, you can smell if ... if you
8 have familiarity, you know, you can ... you can smell
9 the, you know, the rubber.

10 Q: But you don't smell the phoscoat or you don't smell the
11 actual stamping oil?

12 A: No.

13 Q: Or the redicoat?

14 A: I've never smelled the redicoat. I mean obviously it's
15 a ... it's like a paint application but it has a ...
16 it has a huge ventilation hood right over it so it ...
17 it sucks it out. And I've never smelled the redicoat.

18 Q: All right. Let me go over a little bit one more time,
19 okay?

20 A: Sure.

21 Q: If you'll indulge me, I'm not ... I'm not ...

22 (A short break was taken at this time.)

23 Q: Mr. Thacker, I'm almost through. I appreciate your
24 indulgence. And you were telling me in one of the
25 questions I asked had the process changed since ...

KELIS THACKER

1 since 19 ... 1998 through the years 2000. You said
2 there had been very little change as far as you know?
3 As far as the process itself?

4 A: The ... the only change that I can ... that I can think
5 of is we ... we've added new, higher technology
6 equipment. But, the basic seal process is the same.

7 Q: Does the equipment take away ... make it easier to make
8 the product as far as operator involvement?

9 A: Yes. Yes. Most of it is semi to fully automated.

10 Q: Okay.

11 A: Correct.

12 Q: So, an operator wouldn't have the ... the exposure to
13 the product as they would ... would have then?

14 A: They ... they do not touch it as much. But there's
15 less labor involved.

16 Q: Do you recall when you actually bought or made these
17 changes?

18 A: Well, they've been ... they've been incremental. The
19 ... the ...

20 Q: Let's start with the benchmark year 2000. Do you
21 recall how much ... how many changes you've made since
22 the year 2000?

23 A: We purchased some additional newer technology trimmers
24 in 1999 and 2000 that are a higher speed, more
25 automated where the seals just fed onto a conveyor

KELIS THACKER

1 versus one at a time being, you know being put onto the
2 trim head. We've installed at least a couple of
3 semiautomated ...

4 MR. MOORE: Excuse me, let me close this door.
5 I've got some work being done in here.

6 Q: Go ahead.

7 A: We've installed at least a couple of semiautomated full
8 assembly cells where basically you ... you load the
9 molded seal in and it ... it does all of the rest of
10 the operations on a turnstile. It goes one station at
11 a time. It's ... it's pretty automated.

12 Q: And so prior to 2000 then there was more operator
13 involvement after handling the seals, putting on the
14 ... on the cutter ...

15 A: Trimmer.

16 Q: ... trimmer.

17 A: Uh-huh (affirmative response)...

18 Q: Putting on that belt, putting on that instrument that
19 actually ... actually did the trimming. And ...

20 A: Yes.

21 Q: And how do these seals get to the operator? Would it
22 come through a belt or come down a shoot or ... and
23 land in front of the operator? How would ... how would
24 it ... how did that occur prior to ...

25 A: At which ... at which process?

1 Q: The molding process.

2 A: Oh, at molding?

3 Q: Yes.

4 A: Well, the technology as I just told you, mine are all
5 actually subsequent to molding. The molding area they
6 come over in ... in bins, a large quantity of metals
7 and the rubber compound comes in totes which is a ...
8 which is a plastic container of rubber preps. And
9 that's still the same.

10 Q: Okay.

11 MR. MOORE: I appreciate it.

12 A: Thank you.

13 MR. GREGORY: No questions.

14 (There being no further questions, this deposition was
15 concluded at 4:40 p.m.)

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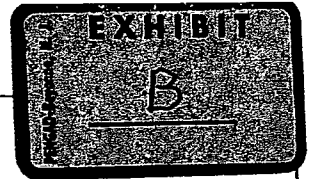
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STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)

COURT OF COMMON PLEAS
2005-CP-14-530

DIANE DINGLE,)
PLAINTIFF)
VS.)
FEDERAL MOGUL CORP.,)
DEFENDANT)

TRANSCRIPT OF RECORD

JUNE 14, 2006
MANNING, SOUTH CAROLINA

B E F O R E:

THE HONORABLE THOMAS W. COOPER, JR., JUDGE.

A P P E A R A N C E S:

DWIGHT C. MOORE, ESQUIRE
ATTORNEY FOR THE PLAINTIFF

BYRON P. ROBERTS, ESQUIRE
ATTORNEY FOR THE DEFENDANT

KATHLEEN RICHARDSON, RPR
OFFICIAL COURT REPORTER

EXHIBITS

(NO EXHIBITS MARKED.)

1 THE COURT: ALL RIGHT. MR. ROBERTS, THIS
2 APPEARS TO BE YOUR APPEAL, I BELIEVE. IS THAT RIGHT?

3 MR. ROBERTS: YES, SIR, IT IS.

4 THE COURT: I'LL BE GLAD TO HEAR FROM YOU.

5 MR. ROBERTS: THANK YOU, YOUR HONOR. MAY IT
6 PLEASE THE COURT. YOUR HONOR, IF I COULD APPROACH
7 THE--

8 THE COURT: SURE YOU CAN. THAT WILL BE FINE.

9 MR. ROBERTS: -- BAR, I THINK IT WILL MAKE YOU
10 AND MADAM COURT REPORTER MUCH HAPPIER. GOT RATTLED
11 BY MADAM CHIEF JUSTICE FIRST TIME UP THERE BECAUSE I
12 SPOKE SO SOFTLY.

13 THE COURT: ALL RIGHT.

14 MR. ROBERTS: BUT THANK YOU, YOUR HONOR. WE ARE
15 HERE THIS AFTERNOON -- I GUESS THIS AFTERNOON NOW ON
16 OUR APPEAL OF A DECISION OF THE WORKERS COMP
17 COMMISSION BY WHICH IT AWARDED BENEFITS IN THIS CASE.
18 THIS IS -- WITHOUT GOING INTO THE -- TOO DEEPLY INTO
19 THE FACTS OF THE CASE AND THE PROCEDURAL HISTORY.

20 THIS WAS A DENIED CLAIM BY WHICH MRS. DINGLE,
21 THE CLAIMANT, HAD ALLEGED VARIOUS INJURIES AND
22 MEDICAL CONDITIONS AS A RESULT OF AN ALLEGED EXPOSURE
23 TO CHEMICALS AT THE FEDERAL MOGUL PLANT THAT'S RIGHT
24 DOWN THE ROAD HERE IN SUMMERTON.

25 THIS PROCEEDED BEFORE THE SINGLE COMMISSIONER

1 BACK IN APRIL OF 2004. AND FOR VARIOUS REASONS THAT
2 ARE CERTAINLY, OF COURSE, ARE REFLECTED IN THE FILE,
3 I WON'T GO INTO AGAIN GREAT DETAIL, BUT SHE RENDERED
4 A DECISION IN THE EARLY PART OF 2005 AFTER WHICH WE
5 APPEALED TO THE FULL COMMISSION FOR MANY OF THE SAME
6 GROUNDS THAT WE'RE RAISING BEFORE YOU TODAY.

7 AND OF COURSE, THE FULL COMMISSION MADE A -- WE
8 SUBMIT, RESPECTFULLY, OF COURSE -- THAT AN --
9 INSUFFICIENT ATTEMPT TO RECTIFY WHAT THEY FELT WERE
10 SOME PROBLEMS WITH THE SINGLE COMMISSIONER'S ORDER.

11 WHAT WE HAVE HERE, YOUR HONOR, AND I HAVE HANDED
12 UP A MEMORANDUM IN SUPPORT OF OUR POSITION THAT I
13 UNDERSTAND -- I APOLOGIZE IT'S TODAY THAT I'M HANDING
14 IT TO YOU -- BUT THAT WILL FAIRLY OUTLINE OUR
15 POSITION IN THIS CASE.

16 BUT I WOULD, OF COURSE, LIKE TO GO INTO DETAIL
17 IN MY ARGUMENTS. BUT WHAT WE HAVE HERE IS AN ORDER
18 OF THE SINGLE COMMISSIONER THAT MAKES REFERENCE AT
19 THIS -- THIS IS AN ALLEGED OCCUPATIONAL DISEASE MADE
20 BY MRS. DINGLE, AND REALLY AS A RESULT OF EXPOSURE TO
21 VARIOUS AND RANDOM CHEMICALS, NONE OF WHICH WERE
22 NAMED SPECIFICALLY IN HER FORM 50.

23 I CERTAINLY UNDERSTAND THAT SHE WOULDN'T
24 NECESSARILY HAVE TO PLEAD THAT AT THE OUTSET.

25 HOWEVER, AT SOME POINT IT WOULD BE INCUMBENT UPON HER

1 TO ESTABLISH -- TO MEET HER BURDEN OF PROOF THAT THE
2 GREATER WEIGHT OF THE EVIDENCE WOULD SUPPORT THE
3 FINDING THAT AS A RESULT OF AN EXPOSURE TO CERTAIN
4 CHEMICALS THAT SHE DID SUSTAIN AN INJURY AND THAT
5 WERE AN OCCUPATIONAL DISEASE. AND COMMISSIONER
6 CHILDS DID MAKE A FINDING OR ACTUALLY SHE REFERENCED
7 IN THE STATEMENT OF THE CASE THAT THIS IS AFTERNOON
8 ALLEGED OCCUPATIONAL DISEASE.

9 THE PROBLEM REALLY BEGINS AND ENDS WITH THE
10 ORDER ITSELF. WE -- OUR FIRST GROUND FOR APPEAL IS
11 THAT THE ORDER IS NOT SUFFICIENT, IT DOESN'T
12 SUFFICIENTLY STATE FINDINGS OF FACT AND CONCLUSIONS
13 OF LAW, AND THIS IS THE COMMISSION'S ORDER AS WELL,
14 ITS AMENDED ORDER OF THE SINGLE COMMISSIONER'S
15 DECISION, THAT IT DOESN'T SUFFICIENTLY SET FORTH
16 FINDINGS OF FACT AND CONCLUSIONS OF LAW TO SUPPORT
17 ITS DECISION AND ITS AWARD NOR DOES IT -- DOES IT
18 ALLOW YOU THE OPPORTUNITY FOR ANY MEANINGFUL REVIEW
19 OF THAT DECISION.

20 AND I HAVE HANDED UP A COPY OF A CASE, IT'S THE
21 FOX VERSUS NEWBERRY COUNTY HOSPITAL -- OR NEWBERRY
22 COUNTY MEMORIAL HOSPITAL CASE. AND THIS PARTICULAR
23 SITUATION BEFORE YOU THIS AFTERNOON IS STRIKINGLY
24 SIMILAR TO THE FOX CASE.

25 THAT ALSO WAS AN OCCUPATIONAL DISEASE OR ALLEGED

1 OCCUPATIONAL DISEASE AND INVOLVED -- AND I DIDN'T
2 LOOK IT UP, A SCARY SOUNDING CONDITION, HERPETIC
3 WHITLOW -- AND THE COURT WAS VERY CLEAR IN THIS CASE.
4 THIS WAS A SUPREME COURT CASE, WHICH CITED ANOTHER
5 CASE, THE MOHASCO CASE, WHICH I'M SURE YOUR HONOR IS
6 VERY WELL AWARE OF.

7 AND THESE CASES CAUTION THE COMMISSION AND
8 EXPECT THE COMMISSION WHEN ISSUING AN ORDER, A
9 DECISION AND ORDER AWARDING BENEFITS FOR AN
10 OCCUPATIONAL DISEASE THAT IT SET FORTH THE ELEMENTS
11 THAT THE MOHASCO CASE AND THAT ARE INCLUDED IN THE
12 FOX CASE, AND I PUT THOSE MY BRIEF, SO I WON'T GO
13 INTO GREAT DETAIL.

14 AND ONE COMMENT FROM THE FOX CASE THAT STRUCK ME
15 LAST NIGHT WHEN I WAS PREPARING FOR THIS HEARING IS
16 THAT THE FOX COURT NOTED THAT THE COMMISSION DIDN'T
17 EVEN ACKNOWLEDGE THAT THERE WERE SIX ELEMENTS THAT
18 WERE REQUIRED TO BE ESTABLISHED FOR AN OCCUPATIONAL
19 DISEASE.

20 AND THAT IS THE SAME -- WE HAVE THAT SAME
21 SCENARIO HERE IN THIS PARTICULAR CASE. THE SINGLE
22 COMMISSIONER AND THE FULL COMMISSION, WHEN IT
23 AFFIRMED THE SINGLE COMMISSIONER, NEVER ACKNOWLEDGED
24 THE ELEMENTS REQUIRED TO ESTABLISH AN OCCUPATIONAL
25 DISEASE IN NEITHER OF THE ORDERS.

1 AND ALSO INTERESTINGLY -- AND I DID NOT INCLUDE
2 THIS IN MY BRIEF, AND I SHOULD HAVE -- THE SINGLE --
3 I MEAN, THE FULL COMMISSION'S ORDER BY WHICH THEY
4 AFFIRMED THE SINGLE COMMISSIONER DIDN'T EVEN CONTAIN
5 IN ITS -- AND ALL IT DID, YOUR HONOR, IS IT JUST
6 ADDED CERTAIN PROVISIONS FROM THE WORKERS COMP ACT.

7 IT JUST CITED SEVERAL SECTIONS TO THE EFFECT
8 THAT 42-1560 PERTAINS TO MEDICAL CARE AND TREATMENT.
9 42930 PERTAINS TO SPECIFIC DISABILITY AND SO FORTH.
10 AND YOUR HONOR WILL SEE THAT FROM THE ORDER. NEVER
11 MENTIONED SUBSECTION 160 WHICH DEFINES AN INJURY.
12 AND IT CERTAINLY NEVER REFERENCES CHAPTER 11 WHICH IS
13 THE OCCUPATIONAL DISEASE CHAPTER OF THE WORKERS COMP
14 ACT TITLE 42.

15 SO WE SUBMIT THAT THE FULL COMMISSION'S ORDER IN
16 ADDITION TO SINGLE COMMISSIONER'S ORDER IS CLEARLY
17 LACKING TO ESTABLISH THAT -- OR TO MEET THE
18 REQUISITES OF THE ADMINISTRATIVE PROCEDURES ACT AND
19 WORKERS COMP ACT WHICH REQUIRE SPECIFIC FINDINGS OF
20 FACT AND CONCLUSIONS OF LAW SUFFICIENTLY STATED TO
21 SUPPORT ITS DECISION IN THE ORDER.

22 IN ADDITION TO THE FINDINGS THAT ARE INCLUDED,
23 WE ALSO SUBMIT THAT THE SUBSTANTIAL EVIDENCE IN THE
24 RECORD DOES NOT SUPPORT THOSE FINDINGS, CONCLUSIONS,
25 AND THE AWARD IN THIS CASE.

1 WE HAVE ALSO -- AND I WILL GO INTO MORE DETAIL
2 ABOUT THE REVIEW OF THE EVIDENCE IN THE RECORD. WE
3 HAVE RAISED AN ISSUE WITH A STATUTE OF LIMITATIONS
4 PROBLEM, OR MORE IMPORTANTLY I GUESS IT WOULD BE THE
5 NOTICE PROVISIONS.

6 421520 REQUIRES THAT NOTICE BE PROVIDED TO THE
7 EMPLOYER FOR OBVIOUS REASONS SO THAT IT MAY CONDUCT
8 AN INVESTIGATION, IT MAY REMEDY THE PROBLEM, MAY
9 PROVIDE MEDICAL CARE AND TREATMENT TO MINIMIZE THE
10 RESULTING IMPAIRMENT AND DISABILITY.

11 AND ANOTHER PROBLEM WITH THE ORDER, AS YOUR
12 HONOR WILL SEE, IS THAT THERE IS ACTUALLY A
13 STIPULATION TO A DATE, AN ACCIDENT DATE OF JUNE 7TH
14 OF 1998. THIS WAS PLED IN THE CLAIMANT'S FORMS 50.
15 IT WAS STIPULATED TO BY THE PARTIES AT THE HEARING --
16 I BELIEVE ON PAGE THREE OF THE HEARING TRANSCRIPT. I
17 HAVE CITED THE SPECIFIC PAGE AND LINE IN MY
18 MEMORANDUM.

19 BUT THERE WAS A STIPULATION THAT THE PARTIES
20 ACKNOWLEDGE THAT SHE HAD HAD -- THROUGH DISCOVERY, I
21 BELIEVE, HAD ACKNOWLEDGED THAT SHE KNEW SHE WAS
22 HAVING PROBLEMS ASSOCIATED WITH HER WORK AS FAR BACK
23 AS JUNE OF 1998, SO SAID -- SHE PLED THAT IN HER
24 FORMS 50.

25 SHE ALSO PLED IN HER FORM 50 THAT SHE PROVIDED

1 NOTICE TO HER EMPLOYER, TO HER SUPERVISORS, IN A
2 MEETING IN DECEMBER 1999. THIS CLEARLY IS BEYOND THE
3 90 DAYS..

4 NOW, AT WHAT POINT IN TIME DID SHE KNOW THAT
5 THERE WERE SOME INDICATIONS IN THE MEDICAL RECORDS
6 FROM 1998 -- PARTICULARLY I BELIEVE DR. CASSONE, WHO
7 IS A -- AND I HOPE I'M PRONOUNCING THAT CORRECTLY --
8 BELIEVE HE'S AN EAR, NOSE, AND THROAT SPECIALIST --
9 THAT SHE THOUGHT SHE WAS HAVING SOME PROBLEMS WITH
10 HER WORK.

11 DR. CASSONE INDICATED THAT HE HAD REVIEWED IN
12 PARTICULAR A MATERIAL SAFETY DATA SHEET, SHE MADE NO
13 COMMENT ABOUT ANY EFFECTS THAT MAY HAVE RESULTED FROM
14 HER BEING IN THIS WORK ENVIRONMENT WITH THIS
15 PARTICULAR CHEMICAL.

16 AND OF COURSE, I WILL GO INTO A LITTLE MORE
17 DETAIL ABOUT THE MEDICAL OPINIONS WITH REGARD TO THAT
18 PARTICULAR CHEMICAL. BUT THAT ITSELF PRESENTS A
19 PROBLEM WITH A STIPULATED ACCIDENT DATE OF JUNE 1998,
20 A NOTICE DATE WHICH IS PLED AS DECEMBER OF 1999,
21 HOWEVER THERE'S NO FINDING IN THE ORDER OF THE SINGLE
22 COMMISSIONER OR THE FULL COMMISSION THAT SPECIFICALLY
23 SETS FORTH THE DATE THAT NOTICE WAS PROVIDED.

24 THE ORDER ITSELF AND THE FINDINGS ARE NOT
25 ENUMERATED WITHIN THE ORDER OF THE SINGLE

1 COMMISSIONER. BUT ONE OF HER FINDINGS OF FACT SIMPLY
2 STATES THAT -- I BELIEVE IT'S PAGE FOUR OF HER ORDER,
3 ABOUT THE MIDDLE OF THE PAGE.

4 IT SIMPLY STATES, CLAIMANT TIMELY NOTIFIED HER
5 SUPERVISORS OF HER MEDICAL PROBLEMS, CLAIMANT FILED
6 HER FORM 50 ON FEBRUARY 12TH, 2002, CLAIMANT MET THE
7 STATUTE OF LIMITATIONS. PROVIDES NO SPECIFIC FINDING
8 AS TO WHEN THIS NOTICE WAS PROVIDED, SIMPLY STATES
9 THAT NOTICE WAS PROVIDED.

10 AND AS -- IF YOU READ THE STIPULATION OF FINDING
11 THAT JUNE 7TH WAS THE ACCIDENT DATE, AND THAT'S ALSO
12 I BELIEVE THE FIRST FINDING OF FACT ON PAGE THREE OF
13 THE SINGLE COMMISSIONER'S ORDER, THAT THE DATE OF
14 ACCIDENT IS JUNE 7TH, 1998, THEN THERE ARE, AGAIN,
15 REAL QUESTIONS THAT AREN'T SUFFICIENTLY SET FORTH IN
16 THE ORDER BY WHICH THIS COURT CAN MAKE ANY MEANINGFUL
17 REVIEW OF THE COMMISSIONER'S DECISION AND HOW -- WE
18 DON'T -- THE ONLY THING WE KNOW IS THAT THE
19 COMMISSION HAS MADE A DECISION THAT THEY ARE GOING TO
20 AWARD BENEFITS.

21 WE DON'T KNOW WHERE THEY'RE COMING FROM WITH
22 REGARD TO HOW THEY GOT TO THAT POINT. AND THAT IS
23 REALLY THE BIGGEST PROBLEM WITH THIS RIGHT AT THIS
24 POINT NOW.

25 WE ALSO SUBMIT THAT THE SUBSTANTIAL EVIDENCE IN

1 THE RECORD THAT THE COMMISSIONER'S DECISION OR THE
2 COMMISSION'S DECISION IS NOT SUPPORTED BY THE
3 SUBSTANTIAL EVIDENCE IN THE RECORD.

4 AND SEVERAL DEPOSITIONS WERE TAKEN OF VARIOUS
5 PHYSICIANS WITH WHOM MRS. DINGLE TREATED OVER A
6 PERIOD OF THREE OR FOUR YEARS. AND I JUMPED AHEAD,
7 YOUR HONOR. I -- FORGIVE ME. I WANT TO JUMP BACK
8 REAL QUICK TO A -- AND I GUESS THIS WOULD TIE IN WITH
9 THE MEDICAL OPINIONS AND SOME OF THE FAILINGS OF THE
10 SINGLE COMMISSIONER AND THE FULL COMMISSION IN ITS
11 FINDINGS OF FACT.

12 BUT THE COMMISSION ALSO AWARDED TEMPORARY TOTAL
13 DISABILITY BENEFITS FOR 80 SOMETHING WEEKS -- GOING
14 TO LOOK BACK THROUGH HERE, IT'S AT THE TOP OF PAGE
15 FIVE -- BASED ON THE MEDICAL REPORTS OF DR. ATKINSON,
16 AND I WILL GO INTO LITTLE MORE DETAIL ABOUT HIS CARE
17 AND TREATMENT THAT HE PROVIDED FOR MRS. DINGLE AND
18 HIS OPINIONS WITH REGARD TO HER PROBLEMS AND HER WORK
19 ENVIRONMENT.

20 BUT IT SIMPLY MAKES A FINDING THAT SHE WAS
21 PLACED ON MEDICAL LEAVE OF ABSENCE ON APRIL 17TH,
22 2000 UNTIL DECEMBER 13TH, 2001 BASED ON THE MEDICAL
23 REPORTS OF DR. ATKINSON AND HER CONTINUED TREATMENT
24 FOR HER CONDITIONS BY OTHER PHYSICIANS.

25 THIS IS SIMPLY TOO VAGUE AND OVERBROAD TO

1 SUPPORT THAT FINDING AND AN ULTIMATE CONCLUSION THAT
2 SHE WOULD BE ENTITLED TO THAT PERIOD OF TEMPORARY
3 TOTAL DISABILITY BENEFITS.

4 AND SPECIFICALLY WITH DR. ATKINSON, HE ONLY SAW
5 HER ON JUST A HANDFUL OF OCCASIONS BETWEEN JUNE OF
6 2000 AND SEPTEMBER OF 2000. AND SPECIFICALLY THE
7 LAST TIME HE SAW HER WAS ON SEPTEMBER 1ST OF 2000.

8 AND AT THAT TIME HE INDICATED -- HE STATED IN
9 HIS REPORT, I BELIEVE, AND I DON'T WANT TO MISSTATE
10 MEDICAL RECORDS BECAUSE THEY, OF COURSE, DO SPEAK FOR
11 THEMSELVES, BUT SHE HAD BEEN AT WORK JUST TWO DAYS
12 BEFORE THAT.

13 AND HE ALSO STATED IN THAT REPORT THAT SHE WAS
14 TO SEEK FARTHER -- THAT THERE WAS A FOLLOW-UP
15 EVALUATION THAT NEEDED TO BE CARRIED OUT IN THREE
16 MONTHS. SHE NEVER DID FOLLOW UP WITH DR. ATKINSON.
17 THERE ARE NO -- NO RECORDS IN EVIDENCE THAT SHE EVER
18 FOLLOWED UP WITH DR. ATKINSON AFTER THAT THREE MONTH
19 PERIOD OF TIME.

20 NOW, DR. ATKINSON IS -- AND I BELIEVE HE IS A --
21 SPECIALIZES IN ALLERGY AND IMMUNOLOGY, AND HE DID SEE
22 HER ON JUST A HANDFUL OF OCCASIONS IN 2000. HIS
23 DEPOSITION WAS TAKEN AND IT WAS SUBMITTED INTO THE
24 RECORD.

25 AND JUST -- WE SUBMIT THAT HIS OPINION -- HE

1 STATES, OTHER THAN HER SELF-REPORTS THAT SHE WAS
2 HAVING PROBLEMS ASSOCIATED WITH HER WORK, HE HAD --
3 HE COULD NOT STATE TO ANY DEGREE OF MEDICAL CERTAINTY
4 THAT ANY OF HER PROBLEMS OF VOCAL CORD NODULE, ANY
5 PROBLEMS WITH HER LARYNX, LARYNX, ANY UPPER
6 RESPIRATORY PROBLEMS WERE RELATED TO HER WORK
7 ENVIRONMENT.

8 THIS IS ESSENTIALLY ANALOGOUS TO ME FALLING OUT
9 OF MY SON'S TREEHOUSE AND BREAKING MY ARM, AND
10 WHATEVER I TELL THE DOCTOR, THEY ARE GOING TO
11 DIAGNOSE AND TREAT ME, AND I CAN TELL THEM WHATEVER I
12 WANT, DOESN'T MATTER IF I FELL DOWN THE STAIRS AT
13 WORK, IF I FELL DOWN THE STAIRS AT MY HOUSE, OR I
14 FELL OUT OF MY SON'S TREEHOUSE.

15 SO SIMPLY TELLING THE DOCTOR IS NOT SUFFICIENT
16 TO MEET HER BURDEN OF PROVING HER CASE BY THE GREATER
17 WEIGHT OF THE EVIDENCE. AND DR. ATKINSON, HE DID
18 STATE THAT SHE HAD A HISTORY OF SEASONAL ALLERGIES,
19 SHE HAD SYMPTOMS OF ALLERGIC RHINITIS, AND THAT SHE
20 DID NOT HAVE ANY INDICATION OR ANY EVIDENCE IN HIS
21 OPINION THAT SHE HAD OCCUPATIONAL ASTHMA.

22 AND IN ADDITION, HE REVIEWED EXTENSIVE TESTING,
23 AIR QUALITY TESTING, OF MRS. DINGLE'S APARTMENT HOME
24 IN WHICH SHE HAD LIVED FOR SEVERAL YEARS, AND THE
25 RESULTS THAT THE TESTING -- THE RESULTS ARE IN

1 EVIDENCE AND THEY ARE IN THE FILE.

2 BUT IT WAS NOTED TO REVEAL -- AND BACKING UP,
3 SHE DID HAVE ALLERGIC REACTIONS TO COCKROACH,
4 ALLERGENS, DUST MITES, AMONG OTHER THINGS. A MOLD --
5 A SPECIES OF MOLD THAT IS A KNOWN IRRITANT AS WELL AS
6 AN ALLERGEN -- ASPERGILLUS WAS FOUND TO BE 40 TIMES
7 THE OUTDOOR LEVEL INSIDE HER APARTMENT AS OPPOSED TO
8 THE OUTDOOR AIR.

9 NOW, I UNDERSTAND THERE MAY BE SOME -- ONE
10 COMMENT FROM ONE OF THE PHYSICIANS WAS THAT THE
11 OUTDOOR AIR APPEARED TO BE CLEANER THAN HE WOULD HAVE
12 EXPECTED. HOWEVER, THAT DOESN'T CHANGE THE RESULTS
13 OF THE ASPERGILLUS, AND PARTICULARLY THE CONCLUSIONS
14 OF THE INDUSTRIAL HYGENIST, MR. RICHARD BENNETT, A
15 RISK TECH WHO PERFORMED THE STUDIES AND THEN RENDERED
16 HIS CONCLUSION AND IMPRESSIONS BASED ON THE RESULTS,
17 THAT THERE WAS SIGNIFICANT AMPLIFICATION OF MOLD,
18 WHICH IS NOT JUST MOLD BEING PRESENT, COMING IN,
19 BLOWING IN AND OUT, IT'S ACTUALLY GROWING THERE, IT'S
20 AMPLIFYING, IT WAS PROLIFERATING, AND AT SIGNIFICANT
21 LEVELS.

22 THERE WAS TWICE THE LEVELS OF COCKROACH
23 ALLERGENS AND THERE WAS ALSO A NOTABLE LEVEL OF DUST
24 MITES IN HER APARTMENT. AND IT'S IMPORTANT TO NOTE
25 THAT THE EVIDENCE IN THE RECORD BASED ON THE

1 TESTIMONY AND OTHER MEDICAL RECORDS ARE THAT HER
2 SYMPTOMS PERSISTED LONG AFTER SHE LEFT THE FACILITY,
3 WHICH WOULD CERTAINLY -- AND OUR POSITION IS THAT
4 THAT WOULD BE THE MOST PROBABLE CAUSE OF HER
5 SELF-REPORTED PERSISTENT SYMPTOMS, IF IN FACT THEY
6 DID PERSIST.

7 NOW, OF COURSE, THERE IS THE VOCAL CORD NODULE
8 THAT IS AN OBJECTIVE FINDING. DR. ATKINSON, HE
9 COULDN'T RELATE THE NODULE TO ANYTHING IN HER WORK
10 ENVIRONMENT; AND -- AS WELL AS A SPEECH PATHOLOGIST,
11 GWEN ENGLISH, WHO REVIEWED -- HAD AN OPPORTUNITY TO
12 REVIEW THE MATERIAL SAFETY DATA SHEETS AS WELL.

13 SHE SAID THERE WAS NO INDICATION THAT THE
14 CHEMICALS THAT SHE REVIEWED, PARTICULARLY ONE,
15 THIXON, WHICH I WILL ADDRESS IN A FEW MINUTES --
16 THIXON HAS BEEN NAMED AS THE ONLY CHEMICAL THAT WAS
17 LISTED IN THE COMMISSIONER'S ORDER, AND IT'S --
18 ESSENTIALLY THE FINGER'S POINTED AT THIXON AS BEING
19 THE CULPRIT IN THIS CASE.

20 BUT MISS -- I BELIEVE MS. ENGLISH WAS NOT
21 INVOLVED IN THE CASE AT THAT TIME -- INDICATED
22 SPECIFICALLY THAT SHE HAD NO INDICATIONS THAT THIXON
23 WOULD AFFECT THE VOCAL CORDS.

24 NOW BACKING UP, ANOTHER IMPORTANT PHYSICIAN WITH
25 WHOM MRS. DINGLE TREATED WAS A FELLOW NAMED DR.

1 SIMPSON. HE IS AN OCCUPATIONAL MEDICINE EXPERT OR
2 SPECIALIST AT THE MEDICAL UNIVERSITY IN CHARLESTON.

3 DR. SIMPSON TREATED HER FOR -- FOR A -- AND I
4 DON'T HAVE IT IN MY NOTES, BUT FOR AN EXTENDED PERIOD
5 OF TIME. DR. SIMPSON IS ACTUALLY THE DIRECTOR OF
6 THE -- OR AT THE TIME, AND I BELIEVE HE MAY STILL BE
7 THE DIRECTOR OF OCCUPATIONAL ENVIRONMENTAL MEDICINE
8 AT THE MEDICAL UNIVERSITY -- THAT MRS. DINGLE WAS
9 REFERRED TO DR. SIMPSON FOR FURTHER EVALUATION BY
10 ANOTHER PHYSICIAN WITH WHOM SHE TREATED.

11 AND DR. SIMPSON DID INITIALLY SUSPECT BASED ON
12 THE REPORTS OF THE CLAIMANT THAT SHE MAY HAVE SOME
13 DEGREE OF A CHEMICAL EXPOSURE THROUGH WORK. HOWEVER,
14 HE SINCE -- HE SUBSEQUENTLY RETRACTED THAT OPINION
15 BASED ON HIS FURTHER REVIEW AND RESEARCH INTO THE
16 INFORMATION THAT HE WAS PROVIDED.

17 HE DIDN'T HAVE ANY OF THE INFORMATION. HE
18 DIDN'T HAVE ANY OF THE MATERIAL SAFETY DATA SHEETS AT
19 THE TIME. HE WAS GOING STRICTLY ON WHAT SHE WAS
20 TOLD, AND HE TESTIFIED IN HIS DEPOSITION, HE
21 RENDERED -- HE ISSUED A LETTER ON MAY 14TH OF 2002
22 THAT -- AND HE -- ULTIMATELY, HE CAN'T RELATE ANY OF
23 HER HEALTH PROBLEMS TO ANY DEGREE OF MEDICAL
24 CERTAINTY TO ANYTHING AT HER WORK ENVIRONMENT.

25 AND WHAT WE HAVE GOT HERE IS THE BLOSSOMING OF A

1 CASE WHICH IS CAUSATION BY ASSOCIATION. THIS
2 FACILITY HAS HUNDREDS OF CHEMICALS, AND THEY'RE
3 REQUIRED TO KEEP MATERIAL SAFETY DATA SHEETS ON
4 EVERYTHING FROM HAND SOAP TO AIR TO WATER UP TO SOME
5 REALLY SCARY, NASTY STUFF, THAT COULD AND WOULD MAKE
6 ANY OF US SICK IF WE INGESTED IT, WHETHER IT'S
7 INHALATION OR -- NOT THAT ANYONE WOULD HAVE ANY CAUSE
8 TO DRINK ANY OF THAT STUFF.

9 BUT THEY KEEP MATERIAL SAFETY DATA SHEETS ON
10 EVERYTHING. SO YOU'RE TALKING ABOUT A FACILITY THAT
11 MANUFACTURES PARTS THAT REQUIRES THE USE OF NUMEROUS
12 CHEMICALS.

13 THE RECORD IS REplete WITH TESTING DONE AT THE
14 FACILITY OVER A NUMBER OF YEARS AND DIFFERENT AREAS
15 THAT -- THE LEVELS OF ANY OF THE CHEMICALS THAT ARE
16 TESTED OVER THERE ARE WELL BELOW THE OSHA STANDARDS.

17 THERE'S NEVER -- THE EVIDENCE -- THE ONLY
18 EVIDENCE IN THE RECORD UNCONTRADICTED IS THEY NEVER
19 HAD A WRITE-UP FROM OSHA, THEY NEVER HAD A REPORT
20 FROM OSHA THAT THEY'VE GOT A PROBLEM.

21 THERE'S SOME -- I BELIEVE SOME MENTION IN THE
22 ORDER AND AT THE HEARING, TESTIMONY OF THE CLAIMANT
23 THAT SHE WAS NOT REQUIRED DESPITE THE PRESENCE OF ALL
24 THESE CHEMICALS TO HAVE TO DON ANY PROTECTIVE GEAR.
25 WELL, THEY WEREN'T REQUIRED TO BECAUSE OF THE

1 MANUFACTURING PROCESS.

2 AND THE TESTIMONY OF DAVID BLAND IN PARTICULAR
3 AND THE OTHER WITNESSES FOR THE DEFENSE WAS THAT
4 THESE MACHINES AND THESE DIFFERENT AREAS WHERE THESE
5 CHEMICALS WERE USED WERE ALL OPERATED IN THE -- IN --
6 ACCORDING TO THE PROPER STANDARDS, PROPER SAFETY
7 STANDARDS, PROPER WORKING STANDARDS, HOWEVER --
8 HOWEVER YOU WANT TO -- IT CAN BE CHARACTERIZED.

9 THERE WAS NO -- NO -- THIS ISN'T JUST A -- A
10 FACILITY OF CHEMICALS JUST FLOATING AROUND, BLOWING
11 AROUND. AND THE TESTIMONY OF MR. BLAND, I DON'T WANT
12 TO MISSTATE WHAT HE TESTIFIED TO. THAT'S IN THE
13 RECORD.

14 AND THEN MR. BENNETT WENT IN AND TESTED IN
15 PARTICULAR FOR THINGS LIKE FORMALDEHYDE WHICH
16 CERTAINLY CAN CAUSE THESE PROBLEMS. WELL BELOW THE
17 OSHA LEVELS. AND THESE THINGS ARE ALL TESTED
18 PERIODICALLY AS REQUIRED BY OSHA AND WHATEVER STATE
19 AND FEDERAL REGULATIONS THE FACILITY MAINTAINS THE
20 RECORDS FOR THOSE, AND EVERYTHING -- THERE'S NEVER
21 BEEN A PROBLEM WITH THAT.

22 SO THIS WHOLE NOTION ABOUT WHETHER THERE WAS
23 SAFETY GEAR REQUIRED OR NOT, IT WASN'T REQUIRED AND
24 IT WASN'T NECESSARY BECAUSE OF THE PROCESS USED.

25 NOW, GETTING BACK TO THE DR. SIMPSON'S OPINIONS,

1 IN HIS LETTER SPECIFICALLY ON MAY 14TH, 2002, HE
2 INDICATED THAT THERE WAS NOTHING TO SUPPORT THAT -- A
3 CONCLUSION THAT HER PERSISTENT MUCUS MEMBRANE -- OR
4 THAT THE CHEMICALS THAT HE HAD REVIEWED AT THAT POINT
5 IN TIME WOULD CAUSE PERSISTENT MUCUS MEMBRANE
6 IRRITATION.

7 HE SAID THAT THEY COULD CAUSE TEMPORARY VOICE
8 ALTERCATIONS DESPITE ANY NEGATIVE ALLERGY TEST
9 RESULTS TO ANY OF THE PARTICULAR MOLDS OR OTHER
10 THINGS IN HER HOME. AND IT'S ALREADY DOCUMENTED THAT
11 SHE HAD COCKROACH ALLERGIES, DUST MITES AND SO
12 FORTH -- THAT MOLD SPORES AND COCKROACH ALLERGENS CAN
13 STILL HAVE AN IRRITANT EFFECT AND CAUSE THE SAME
14 SYMPTOMS. THEY CAN STILL ELICIT THE SAME SYMPTOMS.

15 AND HIS ULTIMATE -- ULTIMATE CONCLUSION IS THAT
16 THAT COULD PRESUMABLY BE ONE SOURCE, IF NOT THE ONLY
17 SOURCE OF HER SYMPTOMS, OR THAT THAT'S -- I GUESS I'M
18 SUBMITTING TO YOU -- I DON'T WANT TO MISSPEAK AGAIN
19 DR. SIMPSON'S OPINION -- HE STATES THAT SHE COULD
20 HAVE SHORT TERM EPISODIC SYMPTOMS, NOT CHRONIC
21 SYMPTOMS, AND THAT AGAIN, HE CANNOT STATE TO ANY
22 DEGREE OF MEDICAL CERTAINTY THAT THERE WAS ANYTHING
23 IN HER WORK PLACE THAT WAS CAUSING THESE PROBLEMS SHE
24 WAS COMPLAINING OF.

25 NOW, I UNDERSTAND THAT -- THAT THERE -- THE

1 TILLER CASE IN PARTICULAR DOES NOT REQUIRE A CLAIMANT
2 TO OBTAIN MEDICAL OPINIONS TO A DEGREE OF MEDICAL
3 CERTAINTY. WE SUBMIT THIS CASE WOULD REQUIRE IT
4 BECAUSE OF THE COMPLEXITY THAT THE -- THE NATURE OF
5 THE ALLEGED INJURIES, THE CHEMICALS INVOLVED, THAT IT
6 DOES REQUIRE A HIGHER STANDARD THAN JUST SIMPLY A
7 CAUTIOUS OPINION.

8 AND GETTING TO -- AND I'M GOING TO TRY TO WRAP
9 THIS UP QUICKLY, YOUR HONOR -- THIXON, THE CULPRIT IN
10 THIS CASE. IT'S THE ONLY CHEMICAL THAT'S MENTIONED
11 IN THE SINGLE COMMISSIONER'S ORDER.

12 AND I BELIEVE TO FIND THE PARTICULAR FINDING
13 HERE, THAT THE SINGLE COMMISSIONER MAKES MENTION THAT
14 AT A MINIMUM THE CLAIMANT WAS EXPOSED TO A RESIDUE
15 CEMENT THIXON 7500 THAT CAUSED A DUST TO BE EXPOSED
16 IN OTHER DEPARTMENTS.

17 I DON'T BELIEVE THERE IS ANY EVIDENCE IN THE
18 RECORD THAT THERE WAS A DUST IN OTHER DEPARTMENTS AS
19 A RESULT OF THE THIXON THAT -- VERY BRIEFLY, THIXON
20 IS A CHEMICAL THAT WAS APPLIED IN DIFFERENT PART OF
21 THE PLANT TO THE GASKET. IT'S A BONDING AGENT, A
22 SEALING AGENT.

23 AND FROM THERE THIS GASKET DRIED. IT'S NO
24 LIQUID, NO VAPORS. GOES TO ANOTHER PART OF THE PLANT
25 WHERE IT HAS BEEN PLACED IN A MACHINE THAT IS

1 COMPLETELY SEALED, VACUUM SEALED, HAS A DEDICATED
2 VACUUM SYSTEM, AND IT WON'T WORK OTHERWISE -- I
3 BELIEVE THAT'S THE TESTIMONY IN THE RECORD -- TO --
4 TO ADHERE THE RUBBER SEAL TO THE METAL GASKET. AND
5 THIXON IS SIMPLY JUST A BONDING CEMENT SPRAYED ON
6 THERE AND DRIED.

7 AND MR. BLAND PROVIDED THE MSDS FOR DR. CASSONE
8 IN PARTICULAR, I BELIEVE, IN SOMETIME IN THE SPRING
9 OF 2000. AND DR. CASSONE MAKES MENTION IN ONE OF HIS
10 NOTES, I BELIEVE IN A MARCH 13TH, 2000 NOTE, THAT HE
11 HAS REVIEWED WORK CHEMICALS AND NEVER RESTRICTED MRS.
12 DINGLE FROM HER WORK, NEVER CAUTIONED HER FROM
13 RETURNING TO HER WORK ENVIRONMENT.

14 AND IN FACT, SHE DID RETURN TO HER REGULAR FULL
15 DUTY WORK SUBSEQUENT TO DR. CASSONE'S REVIEW OF
16 THAT -- THAT PARTICULAR CHEMICAL. THE MENTION OF
17 THIXON COMES FROM MR. BRAND'S MEMO THAT WAS PROVIDED
18 TO DR. CASSONE ALONG WITH THE MATERIAL SAFETY DATA
19 SHEET, AND HE INDICATES IN THAT MEMO THAT -- THAT
20 LITTLE NOTE, THE FAXED COPY NOTE, I BELIEVE -- THAT
21 IT WOULD BE A -- ESSENTIALLY SHE WOULD BE COMING
22 TO -- CONTACT WITH HER HANDS AND WOULD -- COULD AT
23 MOST WOULD BE A DUST RESIDUE.

24 NOW, THERE'S ABSOLUTELY NO EVIDENCE IN THE
25 RECORD THAT MRS. DINGLE HAD ANY SKIN IRRITATION

1 ANYWHERE ON HER ARMS, NONE ON HER FACE, HER HANDS
2 DOWN -- I THINK THERE MAY BE SOME MEDICAL RECORDS
3 WHERE SHE MIGHT HAVE HAD A RASH PREVIOUSLY OR HIVES,
4 BUT THERE'S NO -- NOTHING IN THE RECORD THAT WOULD
5 INDICATE THAT SHE'S GOT REPEATED EXPOSURE TO
6 CERTAINLY INHALED FUMES MUCH LESS THIS DUST RESIDUE.

7 SHE DIDN'T HAVE SORES IN HER MOUTH, SHE DIDN'T
8 HAVE SORES ON HER LIPS, DIDN'T HAVE EYE IRRITATION,
9 NONE OF THE CLASSIC SIGNS OF A -- AN IRRITANT,
10 CERTAINLY NOT ANYTHING THAT OVER AN EXPENDED PERIOD
11 OF TIME WHICH WOULD INDICATE A CHRONIC EXPOSURE AND
12 CHRONIC REACTIONS.

13 AND THAT FINALLY BRINGS ME TO THE ONLY OPINION
14 IN THE RECORD THAT WOULD -- THAT STATES TO ANY DEGREE
15 OF MEDICAL CERTAINTY THAT MRS. DINGLE DID -- ANY OF
16 THESE CONDITIONS ARE RELATED TO HER JOB, AND THAT'S
17 DR. ALLEYNE WHO IS A PULMONOLOGIST IN ROCK HILL.

18 DR. ALLEYNE WAS RETAINED LATE IN THE CASE.
19 ACTUALLY I BELIEVE THE FIRST TIME HE SAW HER AGAIN --
20 I'M NOT GOING TO -- AGAIN, DON'T WANT TO MISSTATE THE
21 RECORDS -- BUT WAS SOMETIME RIGHT AROUND THE DATE OF
22 THE HEARING.

23 AND I BELIEVE, IF I'M NOT MISTAKEN, MIGHT HAVE
24 BEEN SUBSEQUENT TO THE HEARING. ANYWAY, HE WAS
25 RETAINED AT THE REQUEST OF THE COMMISSIONER

1 ESSENTIALLY TO REBUT MR. BENNETT WHO HAD BEEN -- WHO
2 HAD BEEN BROUGHT INTO THE CASE TO ADDRESS THE AIR
3 QUALITY ISSUES IN HER HOME AS WELL AS AT HER WORK
4 PLACE.

5 AND DR. ALLEYNE INTERESTINGLY IN HIS
6 DEPOSITION -- NEITHER DR. ALLEYNE NOR MRS. DINGLE'S
7 ATTORNEY EVER BROUGHT UP THE CHEMICAL THIXON, NEVER
8 ONCE.

9 THE ONLY TIME IT WAS MENTIONED I BELIEVE WAS ON
10 PAGE NINE OF DR. ALLEYNE'S DEPOSITION WHERE -- AND
11 THE ATTORNEY AT THE TIME THAT WAS HANDLING THE CASE,
12 THE DEFENSE OF THE CASE, MR. TOMMY EVANS --
13 ESSENTIALLY SAID, WELL, DR. ALLEYNE, WHAT ABOUT
14 THIXON? WELL, YEAH, THAT COULD CAUSE SOME PROBLEMS.
15 AND THAT WAS IT.

16 NO MENTION WHATSOEVER OF THIXON ANY POINT AFTER
17 THAT, NEVER BROUGHT UP ON CROSS-EXAMINATION BY MRS.
18 DINGLE'S ATTORNEY, NEVER ONCE BROUGHT UP WITH
19 MR. ALLEYNE ANY TIME SUBSEQUENT TO THAT QUESTION.

20 ALSO, DR. ALLEYNE MAKES A VAGUE MENTION OF A
21 NUMBER OF CHEMICALS THAT WOULD RAISE RED FLAGS YET
22 NEVER GOES INTO DETAIL ABOUT THOSE CHEMICALS, NOR WAS
23 HE CROSS-EXAMINED ABOUT AN ARRAY OF CHEMICALS THAT
24 RAISE RED FLAGS.

25 AND THERE WERE SOME OTHER CHEMICALS, SOME OILS

1 AND THINGS THAT WERE MENTIONED, BUT NONE OF THOSE --
2 HE DID NOT CONCLUSIVELY IDENTIFY ANY OF THESE
3 PARTICULAR CHEMICALS. HE SIMPLY STATES THAT, YEAH,
4 CHEMICALS AND CHEMICAL EXPOSURE CAN CAUSE THESE
5 CONDITIONS.

6 WELL, THAT'S SIMPLY TOO VAGUE, TOO BROAD, AND IS
7 NOT -- DOES NOT SUPPORT THE SINGLE COMMISSIONER NOR
8 THE FULL COMMISSIONER'S FINDINGS AND CONCLUSIONS IN
9 THIS CASE.

10 THE COURT: IS THAT THE REPORT THAT THE
11 COMMISSION RELIED UPON IN ITS ORDER IN SUPPORTING ITS
12 FINDINGS OR DID THEY SAY?

13 MR. ROBERTS: WELL, IT DOESN'T REALLY SAY. IT'S
14 VERY VAGUE BECAUSE THE SINGLE COMMISSIONER'S ORDER --
15 AND I WILL GO BACK -- IT SIMPLY STATES THAT -- IT
16 STATES THINGS SUCH AS A RESULT OF HER INJURY SHE WAS
17 DIAGNOSED WITH MEDICAL CONDITIONS INCLUDING
18 AGGRAVATION OF PREEXISTING SINUS CONDITION, VOCAL
19 CORD NODULE, AND SO ON, AND SO ON -- MAKES, AS I
20 STATED PREVIOUSLY, THE TEMPORARY TOTAL DISABILITY
21 BENEFITS WERE AWARDED BASED ON THE OPINIONS OF DR.
22 ATKINSON WITH WHOM SHE HAD NOT TREATED SINCE
23 SEPTEMBER 1ST OF 2000, STATES SIMPLY THAT CLAIMANT'S
24 TREATING PHYSICIAN, DR. SIMPSON, AND THE CLAIMANT'S
25 EXPERT, DR. ALLEYNE, ESTABLISH THAT HER ALLEGATIONS

1 WERE CONNECTED TO HER EMPLOYMENT YET DOES NOT
2 IDENTIFY ANY SPECIFIC REPORTS OR ANYTHING OF THAT
3 NATURE TO SUPPORT THAT -- THAT FINDING AND
4 CONCLUSION.

5 THE COURT: ALL RIGHT.

6 MR. ROBERTS: THANK YOU, YOUR HONOR.

7 THE COURT: THANK YOU, MR. ROBERTS. MR. MOORE?

8 MR. MOORE: MAY IT PLEASE THE COURT, YOUR HONOR.
9 BY WAY OF BRIEF INTRODUCTION OF THE -- MRS. DINGLE TO
10 THE COURT, SHE'S 40 YEARS OLD AT THE TIME THIS
11 HEARING WAS INITIALLY HAD. SHE'S THE MOTHER OF FOUR,
12 HIGH SCHOOL GRADUATE WITH SOME TECHNICAL SCHOOL,
13 NEVER SMOKED OR DRANK.

14 SHE WAS EMPLOYED AT FEDERAL MOGUL FROM 1996 TO
15 2000 AS A PRESS OPERATOR IN THE GASKET AND MOLD
16 DEPARTMENT. THIS DEPARTMENT IS WHERE THEY ACTUALLY,
17 YOUR HONOR, MADE GASKETS FOR CARS, SEALS AND GASKET.
18 PARTICIPATED IN THAT PROCESS IN TWO STATIONS, MAINLY
19 THE MOLD AND THE GASKET DEPARTMENT.

20 IN THIS AREA THERE ARE SOME 700 CHEMICALS THAT
21 ARE USED IN THE PROCESS. AND I WILL GET BACK TO THAT
22 LATER, BUT COUNSEL MADE MENTION OF THAT, AND I THINK
23 THAT'S IMPORTANT.

24 DESPITE THAT, THAT THESE SUBSTANCE, CHEMICALS
25 THAT ARE PRESENT, SHE WAS NOT MADE TO WEAR ANY

1 PROTECTIVE GEAR OR ANY PROTECTIVE CLOTHING. NOW, THE
2 ARGUMENT WAS MADE EARLIER THAT -- THAT SHE WAS -- IT
3 WAS NOT REQUIRED.

4 BUT WHEN THEY DID ASBESTOS MANY, MANY YEARS AGO,
5 AT THAT TIME IT WAS NOT REQUIRED BUT LATER FOUND OUT
6 JUST HOW DANGEROUS THAT STUFF WAS, AND I THINK THIS
7 IS THE CASE HERE.

8 HE ALSO MADE MENTION OF SEVERAL TESTS THAT WERE
9 DONE, RECORDS THAT WERE MADE. BUT IN THE RECORD,
10 THERE IS NOTHING THAT WAS PUT FORTH AT EITHER HEARING
11 TO SHOW THAT THERE WERE TESTS DONE AT THE TIME THAT
12 MRS. DINGLE WORKED AT FEDERAL MOGUL.

13 THESE WERE ALL THINGS THAT WERE ADVANCED AFTER
14 SHE LEFT. BUT DURING THE PERIOD OF TIME THAT SHE WAS
15 THERE, THERE WAS NOTHING TO SHOW THAT THAT -- THAT
16 THESE LEVELS OF CHEMICALS AND EXPOSURE WERE -- MET
17 ANY SPECIFIC GUIDELINES.

18 BECAUSE OF HER EMPLOY THERE, SHE HAD THE
19 FOLLOWING PROBLEMS. RESPIRATORY TRACT ISSUES, SINUS
20 CONGESTING -- CONGESTION, INTENSE HEADACHE, VOCAL
21 CORD NODULES, CHRONIC HOARSENESS, VERNITIS (SIC),
22 DYSPHONIA, REACT TO AIRWAYS DYSFUNCTION SYNDROME, AND
23 OTHER RESPIRATORY PROBLEMS.

24 NOW, THE ISSUE OF THE OCCUPATIONAL INJURY -- IF
25 YOU WILL LOOK AT THE FIRST APPEAL FROM THE SINGLE

1 COMMISSIONER'S DECISION, THAT ISSUE WAS NEVER RAISED.
2 FROM THE FIRST SINGLE COMMISSIONER'S APPEAL TO THE
3 PANEL, THAT THAT ISSUE WAS NEVER -- WAS NEVER RAISED.

4 NOW, MRS. DINGLE STARTED SEEING A FAMILY DOCTOR,
5 DR. KEITH ABOUT MID-1998. DR. KEITH TOOK HER OUT OF
6 WORK, OUT OF WORK SEVERAL -- TWO OR THREE TIMES. HER
7 PLANT SENT HER TO THE PLANT DOCTOR, DR. CASSONE. HE
8 ALSO TOOK HER OUT OF WORK SEVERAL TIMES.

9 AND FEDERAL MOGUL REACTED TO HER BEING TAKEN OUT
10 OF WORK BY MOVING HER FROM ONE POSITION OR AREA TO
11 ANOTHER IN ORDER TO ACCOMMODATE HER PROBLEM. SO THEY
12 HAD -- TO THE EXTENT THAT A NOTICE ISSUE WAS BROUGHT
13 OUT, THEY HAD NOTICE BECAUSE THEY -- THEY DID
14 SOMETHING TO ACCOMMODATE HER IN LIGHT OF THE FACT
15 THAT TWO DOCTORS HAD TAKEN HER OUT OF -- OUT OF WORK
16 AND HAD SAID THAT -- THAT THIS WAS A REACTION TO SOME
17 CHEMICAL THAT SHE WAS EXPOSED TO.

18 WE FOUND OUT LATER THIXON 7500 I BELIEVE IT WAS,
19 WAS TOLD TO DR. CASSONE THAT THAT MAY HAVE BEEN THE
20 CULPRIT.

21 WELL, THIS CASE STARTED IN 1998. IT'S NOW 2006,
22 EIGHT -- ALMOST EIGHT YEARS, AND FOUR ATTORNEYS
23 FROM -- FOUR OR FIVE ATTORNEYS FROM THE DEFENSE SIDE.
24 WE SUBPOENAED RECORDS OR A LIST OF ALL MATERIAL
25 SAFETY DATA SHEETS WHICH ARE MSDS'S THAT ARE

1 MENTIONED IN MY BRIEF AND THROUGHOUT THE RECORD.

2 THESE SHEETS CONTAIN INFORMATION ABOUT CHEMICALS
3 THAT CAUSE REACTIONS IF EXPOSED TO, SOME 700 OR MORE.
4 AT THE TIME THAT SHE WAS INITIALLY SEEN BY DR.
5 CASSONE AND DR. KEITH, THESE CHEMICALS WERE NOT IN
6 THEIR HANDS. THESE CHEMICALS ARE NOT COME -- OR NOT
7 COME TO US BY WAY OF A PRODUCTION UNTIL TWO YEARS
8 AFTER WE ISSUED THE SUBPOENA.

9 SO IN 2004 PRIOR TO THAT APRIL HEARING, THAT
10 HEARING WAS CONTINUED BECAUSE WE DIDN'T HAVE THOSE
11 SHEETS. WE HAD ONE MATERIAL SAFETY DATA SHEET AND
12 THAT WAS FOR THIXON.

13 BUT FOR ALL THE OTHER CHEMICALS THAT WERE USED
14 IN FEDERAL MOGUL, WE DIDN'T HAVE THOSE UNTIL -- SO
15 UNTIL WE GOT THOSE -- THOSE DOCUMENTS, IT IS THAT --
16 IT WAS NOT UNTIL THAT TIME THAT WE HAD AN OPPORTUNITY
17 TO FIND OUT WHAT REALLY CAUSED HER PROBLEMS.

18 AND SO AS TO THE NOTICE ISSUE, THE SINGLE
19 COMMISSIONER SAID THAT -- THAT THIS INJURY, AS SHE
20 UNDERSTOOD IT, WHEN SHE PRESENTED HERSELF TO HER
21 FAMILY DOCTOR STARTED ON OR ABOUT SUMMER APRIL, MAY
22 OF 1988.

23 WELL, SHE GAVE NOTICE WHEN SHE FOUND OUT THROUGH
24 DR. CASSONE THREE OR FOUR MONTHS LATER AND THROUGH
25 HER -- HER JOB TRYING TO ACCOMODATE HER SITUATION,

1 TWO OR THREE MONTHS LATER -- I'M TALKING ABOUT LATE
2 1998 -- THUS SHE GAVE NOTICE, FORMAL NOTICE, EVEN
3 THOUGH THEY HAD MADE SOME ACCOMMODATION TO HER
4 EARLIER, IN EARLY 1999.

5 NOW, BECAUSE THIS CLAIM WAS DENIED, FEDERAL
6 MOGUL NEVER FORMALLY SENT HER TO A DOCTOR. ALL THESE
7 DOCTORS WERE -- EXCEPT FOR CASSONE INITIALLY -- WERE
8 ONES THAT SHE SOUGHT OUT AND REFERRED TO EITHER
9 THROUGH DOCTOR -- FAMILY DOCTOR, DR. KEITH, OR FROM
10 OTHER DOCTORS WHO REFERRED HER ON.

11 BUT ALL THE PROBLEMS -- SHE HAD SOME EIGHT OR
12 NINE PROBLEMS THAT -- THAT WERE LISTED. NOW, AS SHE
13 LEFT WORK ON THESE WORK EXCUSES, SHE GOT BETTER.
14 WHEN SHE CAME BACK, SHE GOT WORSE. SHE LEFT, SHE GOT
15 BETTER. WHEN SHE CAME BACK, SHE GOT WORSE. AND THE
16 LIST OF SYMPTOMS GREW.

17 SHE FIRST STARTED OUT WITH HEADACHES AND EXTREME
18 SINUS. IT GOT TO THE POINT WHERE SHE COULD HARDLY
19 SPEAK. AND THIS WENT ON THROUGHOUT THE FOUR YEARS OR
20 TWO YEARS AFTER 1998 THAT SHE WAS IN THE EMPLOY OF
21 FEDERAL MOGUL.

22 AND SO IT WAS NOT UNTIL 2004 THAT WE GOT A
23 COMPLETE LIST OF RECORDS -- AT LEAST WE BELIEVE THEM
24 TO BE COMPLETE -- COMPLETE LIST OF MATERIAL SAFETY
25 DATA SHEETS THAT WE WERE THEN ABLE TO GET TO DOCTORS

1 TO LOOK AT AND DETERMINE WHETHER OR NOT IN FACT SHE
2 HAD A PROBLEM THAT RESULTED FROM EXPOSURE TO THESE
3 ACTUAL CHEMICALS.

4 IT WAS DETERMINED IN FACT THAT SHE WAS EXPOSED.
5 ALL OF THE DOCTORS THAT SHE WENT TO MADE MENTION THAT
6 THERE WAS SOME EXPOSURE, SHE -- THESE CAUSED HER
7 PROBLEMS AND SYMPTOMS.

8 NOW, THE EMPLOYER NEVER SENT HER INTO ANY DOCTOR
9 WHO SAID OTHERWISE. IN FACT, NO ONE EVER SAID THAT
10 HER PROBLEMS DID NOT COME FROM EXPOSURE FROM THESE --
11 TO THESE CHEMICALS.

12 AND SHE WENT TO SOME EIGHT, NINE DOCTORS, THINK
13 10 TOTAL, FOUR OR FIVE OF WHICH RECORDS BY WAY OF
14 DEPOSITION WERE MADE A PART OF THIS RECORD FOR THE
15 COMMISSION AND THE PANEL TO REVIEW AND THUS MAKE
16 THEIR DECISION.

17 THEY ADVANCED ONE PERSON, A MR. RICHARD BENNETT,
18 WHO WAS AN INDUSTRIAL HYGENIST WHO WENT TO HER HOME
19 AND DID SAMPLINGS OF DUST AND MOLD WHO SAID THAT DUST
20 AND MOLD FOUND IN HER HOME WERE SOMEWHAT EXCESSIVE.

21 BUT THE COMMISSIONER FOUND THAT NOT COMPELLING
22 FOR THIS ONE REASON. HER ENT PERSON, HER ALLERGIST,
23 HAD DETERMINED THAT SHE WAS NOT ALLERGIC TO ANYTHING,
24 MOLD OR THE MOLD VARIETY, THAT WAS FOUND IN HER HOME.

25 SO EVEN THOUGH THIS HYGENIST HAD GONE TO HER

1 HOME AND DONE THESE TESTS AND SAID THAT, WELL, THESE
2 ARE THE KINDS OF THINGS THAT PEOPLE HAVE THESE
3 REACTIONS TO OR GET SICK FROM, SHE HAD BEEN IN THE
4 HOME 10 YEARS, AND SO SHE -- AND NEVER HAD ANY
5 PROBLEMS UNTIL SHE STARTED WORKING FOR FEDERAL MOGUL.

6 SO THE COMMISSIONER DISCOUNTED THAT AND DID NOT
7 FIND THAT ARGUMENT COMPELLING ADVANCED BY FEDERAL
8 MOGUL IN TERMS OF MR. BENNETT'S TESTIMONY. ALL --
9 ALL THE OTHER DOCTORS EXCEPT FOR MR. BENNETT SAID
10 THAT THIS THING, THESE SYMPTOMS WERE DERIVED FROM HER
11 WORKING AT FEDERAL MOGUL.

12 DR. ALLEYNE, WHO WE WERE ABLE TO GET THESE
13 CHEMICALS TO, ALSO DID TESTS AND EXAMINED HER,
14 COMPLETE PHYSICAL, AND FOUND THAT THESE CHEMICALS
15 CAUSED HER HER PROBLEMS.

16 NOW, COUNSEL MENTIONED CROSS-EXAMINATION. IT'S
17 NOT OUR RESPONSIBILITY TO CROSS-EXAMINE HIM. HE PUT
18 THESE FACTS OUT FOR THE RECORD. IT'S THEIR
19 RESPONSIBILITY TO CROSS-EXAMINE HIM TO FIND THAT
20 THERE WERE ANY PROBLEMS OR ANYTHING THAT THEY THOUGHT
21 WAS CRUCIAL IN TERMS OF PUTTING IN THE RECORD.

22 HIS TESTIMONY BY WAY OF DEPOSITION IS IN THE
23 RECORD AND THE COMMISSIONER AND THE PANEL FELT THAT
24 THAT TESTIMONY AND THE TESTIMONY OF EVERYONE ELSE,
25 INCLUDING MRS. DINGLE, THE TESTIMONY OF MR. BENNETT,

1 WHO WAS THEIR EXPERT, THE TESTIMONY OF ALL THE
2 DOCTORS ALONG WITH THE SUBMISSIONS WERE SUBSTANTIAL
3 ENOUGH FOR THEM TO MAKE A DECISION.

4 NOW, AS I GROW OLD IN THE PRACTICE OF LAW, I
5 GAIN A GREATER APPRECIATION FOR THE STANDARD OF
6 REVIEW.. IN THIS CASE -- IN THIS CASE IT'S
7 SUBSTANTIAL EVIDENCE IN THE RECORD.

8 NOW, THE PANEL IN ITS ORDER GIVES THE STANDARD
9 THAT THEY HAVE TO GO BY. IN THAT ORDER IT WAS -- IT
10 WAS STATED AS SUCH. IN APPELLATE REVIEW, THE
11 APPELLATE PANEL SHOULD, PURSUANT TO SECTION 421750,
12 REVIEW THE AWARD, WEIGH THE EVIDENCE AS PRESENTED AT
13 THE INITIAL HEARING, AND IF GROUNDS BE SHOWN
14 THEREFORE, MAKE HIS OWN FINDINGS OF FACT AND REACH
15 HIS OWN CONCLUSION OF LAW CONSISTENT WITH OR
16 INCONSISTENT WITH THOSE OF THE HEARING COMMISSIONER.

17 THE FUNNY THING ABOUT THIS, THEY DID NOT CHANGE
18 ANY FACTS EXCEPT FOR CLERICAL ISSUES WHERE THEY
19 REQUIRED CODE SECTIONS TO BE INSERTED IN HER ORDER.
20 THAT'S ALL THEY DID. OTHER THAN THAT, THEY ACCEPTED
21 HER ENTIRE ORDER UNANIMOUSLY. UNANIMOUSLY.

22 AND SO THE ENTIRE PANEL, EXCEPT FOR THE
23 INSERTION OF CODE SECTION, ACCEPTED WHAT SHE DID AND
24 HER FINDINGS AS TO THIS CASE, A FINDING AS TO -- AS
25 TO AWARD AND HER FINDING AS TO THE FACTS. THE TOTAL

1 PANEL DID THAT.

2 AND THIS COURT, AS AN APPELLATE COURT, PURSUANT
3 TO SECTION 123380 MAY NOT SUBSTITUTE ITS JUDGMENT FOR
4 THAT OF THE COMMISSION AS TO THE WEIGHT OF THE
5 EVIDENCE, QUESTION -- OR QUESTIONS OF FACT, BUT MAY
6 REVERSE WHERE THE DECISION IS EFFECTED BY ERROR OF
7 LAW.

8 IN THIS CASE THERE IS NO ERROR OF LAW. WE HAVE
9 A COMMISSIONER WHO IN HER ORDER WAS AMPLE AND
10 PRECISE, WE HAVE THE PANEL REVIEWING THAT ORDER AND
11 ADOPTING IT -- ADOPTING IT AS ITS FINDINGS OF FACT
12 AND CONCLUSIONS OF LAW, SO WE ARE COMFORTABLE AND
13 BELIEVE THAT THE -- THE APPELLATE IS SIMPLY ASKING
14 YOU TO GO BACK AND RE-HASH HIS CASE WHEN I DON'T
15 THINK THE APPELLATE STANDARD AND TERMS OF REVIEW
16 ALLOWS THIS COURT TO DO THAT.

17 *THE COURT:* MR. MOORE, WHAT DO YOU SAY TO
18 MR. ROBERTS' CLAIM THAT THE ORDER OF EITHER THE
19 SINGLE COMMISSIONER OR THE FULL COMMISSION DID NOT
20 COMFORT WITH THE MOHASCO CASE AND THE CASE THAT
21 CITED -- THE FOX VERSUS NEWBERRY HOSPITAL CASE --
22 REGARDING THE SIX ELEMENTS THAT HAS TO BE PROVEN FOR
23 AN OCCUPATIONAL DISEASE CLAIM TO SUSTAIN -- BE
24 SUSTAINED, THE FACT THAT THE COURT ADMONISHED THE
25 COURT OF APPEALS FOR NOT REMANDING THE MATTER FOR A

1 MORE COMPLETE FINDING IN REGARD TO SOME OF THOSE
2 ELEMENTS.

3 THE COURT OF APPEALS CAUTIONED AND URGED THE
4 COMMISSIONERS TO STRUCTURE AND DRAFT ORDERS OF THIS
5 KIND IN COMPLETENESS OF ALL ELEMENTS INVOLVED TO
6 RESOLVE ANY DOUBT.

7 HOWEVER, WE FIND THAT THE COURT OF APPEALS ERRED
8 IN NOT REMANDING THE MATTER FOR FURTHER FINDINGS ON
9 THE FACT THAT THE ELEMENTS SET OUT IN MOHASCO. WHAT
10 DO YOU SAY TO THAT ARGUMENT?

11 MR. MOORE: I SAY TWO THINGS. ONE IS, AS I SAID
12 EARLIER, THAT ISSUE WASN'T RAISED BEFORE THE FIRST
13 PANEL. THE SECOND THING I SAY IS THIS, THAT THE
14 SINGLE COMMISSIONER FOUND IT TO BE AN INJURY BASED
15 UPON THE EVIDENCE IN THE RECORD.

16 AND TO THE EXTENT THAT SHE FOUND THIS TO BE AN
17 INJURY AND WAS NOT -- THAT WAS CONFIRMED BY THE
18 PANEL, THEN SHE SPEAKS TO THAT -- SPEAKS TO THAT IN
19 THE ORDER AND SPEAKS TO IT SUFFICIENTLY.

20 THE COURT: YOU SAY SHE FOUND AN INJURY AS
21 OPPOSED TO A DISEASE?

22 MR. MOORE: THAT'S HOW -- THAT'S HOW THE ORDER
23 IS WRITTEN.

24 THE COURT: RIGHT. OKAY. THANK YOU, MR. MOORE.
25 ALL RIGHT. MR. ROBERTS?

1 MR. ROBERTS: YES, SIR. VERY BRIEFLY, YOUR
2 HONOR. NUMBER ONE IS I FRANKLY DON'T UNDERSTAND WHY
3 DISCOVERY ISSUES ARE BEING RAISED AT THIS POINT WITH
4 REGARD TO THIS MSDS. THAT WAS ALL ADDRESSED YEARS
5 AGO. NEVER WAS BROUGHT UP AT THE FULL COMMISSION
6 LEVEL. I'M NOT SURE WHAT THAT HAS -- IF THAT HAS ANY
7 IMPACT ON THIS HEARING.

8 SECONDLY, MR. MOORE WAS ESSENTIALLY ARGUING THAT
9 THE BURDEN SHOULD BE SHIFTED TO THE DEFENDANTS IN
10 THIS CASE TO PROVE THE NEGATIVE BY PRODUCING A
11 MEDICAL OPINION THAT IT DOES STATE WHAT CAUSED IT, IF
12 WE IN FACT DENY THAT IT WAS CAUSED BY SOMETHING IN
13 HER WORK ENVIRONMENT.

14 THAT'S HER BURDEN TO PROVE THAT. SHE'S GOT TO
15 PROVE THAT BY THE GREATER WEIGHT OF THE EVIDENCE.

16 THE COURT: HE SAID THAT -- ARE YOU
17 ACKNOWLEDGING, ONE, THAT THERE WAS A DOCTOR WHO HAD
18 SEEMED TO INDICATE THAT, DR. ALLEYNE? IS THAT RIGHT?

19 MR. ROBERTS: THAT WAS SUBSEQUENT TO THE
20 HEARING, YOUR HONOR.

21 THE COURT: ALL RIGHT.

22 MR. ROBERTS: AND AS I STATED, PREVIOUSLY, DR.
23 CASSONE OR CASSONE OR CASSONE -- I'M NOT SURE HOW TO
24 PRONOUNCE THAT -- IN MARCH OF 2000 HE SAW THE MSDS
25 FOR THIXON. IT'S BEEN NO HIDING THE BALL HERE.

1 THIXON HAS BEEN -- BEEN BROUGHT OUT IN THE OPEN FROM
2 DAY ONE AND IT'S STILL BEING POINTED AT AS THE
3 CULPRIT, YET NONE OF THESE OTHER PHYSICIANS OR ANY OF
4 THESE OTHER PROVIDERS WITH WHOM MRS. DINGLE TREATED
5 HAS EVER POINTED AT THIXON.

6 THEY -- AND WE RESPECTFULLY SUBMIT THAT
7 THERE'S -- THE -- OTHER THAN DR. ALLEYNE, NO OTHER
8 PHYSICIAN HAS PROVIDED ANY OPINION THAT RELATES
9 CAUSATION, AND THAT'S SET FORTH IN THE DEPOSITIONS.
10 I WILL...

11 THE COURT: WELL NOW, IF THERE'S NO -- IF THERE
12 IS NO FINDING--

13 MR. ROBERTS: YES, SIR.

14 THE COURT: -- NO DOCTOR WHO SAYS THAT THIS LADY
15 RECEIVED THIS INJURY AS A RESULT OF HER OCCUPATION
16 AND IF DR. ALLEYNE DIDN'T COME IN UNTIL AFTER THE
17 COMMISSION HAD ALREADY ISSUED ITS FINDING, UPON WHAT
18 DID IT BASE ITS FINDING?

19 MR. ROBERTS: WELL, I -- AND I -- LET ME CLARIFY
20 THAT. DR. ALLEYNE CAME IN AFTER THE HEARING WHEN THE
21 RECORD WAS STILL OPEN.

22 THE COURT: RIGHT.

23 MR. ROBERTS: THE SINGLE COMMISSIONER
24 ESSENTIALLY ADJOURNED THE HEARING. THERE WAS ONLY
25 ONE HEARING AND IT WAS IN APRIL OF 2004. I THINK

1 THERE WERE SOME SUBSEQUENT TELEPHONE CONFERENCES
2 CONCERNING SOME OF THESE -- I GUESS A TRANSMITTAL
3 ORDER THAT WAS ESSENTIALLY A DISCOVERY ORDER,
4 SCHEDULING ORDER OF SOME SORT. AND THE RECORD
5 REMAINED OPEN UNTIL, GOSH, LATE FALL OF 2004.

6 THE COURT: RIGHT.

7 MR. ROBERTS: THE DECISION WAS ISSUED I WANT TO
8 SAY IN FEBRUARY, JANUARY, FEBRUARY OF 2005. BUT THE
9 ORDER DIDN'T COME OUT UNTIL APRIL, SO I -- SORRY IF
10 THERE WAS SOME CONFUSION.

11 WHAT I MEANT WAS DR. ALLEYNE REALLY WAS INVOLVED
12 IN THE CASE SUBSEQUENT TO THE HEARING BUT PRIOR TO
13 THE COMMISSIONER'S ORDER, HER FINDINGS AND SO FORTH,
14 THAT CAME OUT. NOW, MR. MOORE--

15 THE COURT: DID THE COMMISSIONER THEN RECITE DR.
16 ALLEYNE'S FINDINGS IN HIS ORDER?

17 MR. ROBERTS: NO, SIR. NO, SIR. ON PAGE FIVE,
18 THE ONLY -- AND I'M JUST GOING TO GO BACK REAL QUICK
19 HERE. THERE WAS A SUBSEQUENT MOTION TO SUPPRESS SOME
20 OF THE RECORDS OF DR. ALLEYNE THAT WERE MADE IN
21 SEPTEMBER, OCTOBER TIMEFRAME OF 2004. THAT'S ONE
22 MENTION OF DR. ALLEYNE.

23 AND THE ONLY OTHER MENTION OF DR. ALLEYNE IS
24 THAT -- AND, OF COURSE, THIS MISSTATES THE FACTS OF
25 THE CASE AND THE EVIDENCE IN THE RECORD IS THE

1 CLAIMANT'S TREATING PHYSICIAN, DR. WILLIAM M SIMPSON,
2 AND THE CLAIMANT'S EXPERT, DR. WILLIAM F ALLEYNE
3 ESTABLISHED THAT THE CLAIMANT'S ALLEGATIONS WERE
4 CONNECTED TO HER EMPLOYMENT.

5 THAT'S THE ONLY MENTION OF DR. ALLEYNE AND HIS
6 RECORDS AND HIS INVOLVEMENT IN THE CASE. OF COURSE,
7 HIS DEPOSITION WAS TAKEN AND IT WAS SUBMITTED INTO
8 EVIDENCE. BUT HE DIDN'T -- HE DIDN'T RENDER ANY
9 OPINION, ANYTHING SPECIFIC.

10 IT'S THAT ASSOCIATION AND CAUSATION PROBLEM THAT
11 150 CHEMICALS OR 350 CHEMICAL, ERGO HER ILLNESS IS
12 RELATED TO HER WORK ENVIRONMENT. AND NO ONE CAN --
13 CAN ESTABLISH THAT TO ANY DEGREE OF MEDICAL
14 CERTAINTY.

15 AS FAR AS THE ISSUE OF THE OCCUPATIONAL DISEASE,
16 THERE'S NO QUESTION THAT THE COMMISSIONER IN HER
17 ORDER, WHETHER IT'S A HINT OR STATED THAT THIS IS AN
18 OCCUPATIONAL DISEASE, BUT SHE SAYS SO ON PAGE THREE,
19 THAT ON FEBRUARY 12TH, 2002, CLAIMANT FILED FORM 50
20 SEEKING COMPENSATION FOR HER INJURIES UNDER THE ACT,
21 42310 -- CLAIMANTS FORM 50 ALLEGES THAT SHE INCURRED
22 AN OCCUPATIONAL DISEASE ARISING OUT OF HER EMPLOYMENT
23 WITH EMPLOYER THAT RESULTED IN INJURY TO HER LUNGS,
24 THROAT, UPPER RESPIRATORY TRACT, AND HEADACHES.
25 DEFENDANT DENIES ALLEGATIONS.

1 AT THAT POINT IT IS IMPERATIVE THAT THE
2 COMMISSION SET FORTH THE -- THE SPECIFICS AS FAR AS
3 OCCUPATIONAL DISEASE. WE CERTAINLY DID RAISE THIS AT
4 THE FULL COMMISSION -- TO THE FULL COMMISSION ON PAGE
5 NINE OF MY -- I'M SORRY. BACK UP FOR A MOMENT IN MY
6 BRIEF.

7 PAGES FOUR AND FIVE OF -- BOTTOM OF PAGE FOUR OF
8 MY BRIEF TO THE FULL COMMISSION, THE COMMISSIONER
9 MAKES A SPECIFIC FINDING OF FACT THAT THE DATE OF
10 ACCIDENT IS JUNE 7, 1998 AS ALLEGED, BUT FAILS TO
11 MAKE A FINDING WHETHER THE CLAIMANT SUSTAINED AN
12 INJURY BY ACCIDENT OR OCCUPATION DISEASE, YET SHE
13 STATES THAT IT APPEARS THAT SHE ALLEGED AN
14 OCCUPATIONAL DISEASE.

15 WE GO ON TO STATE, EVEN IF THE COMMISSIONER MADE
16 THE AWARD BASED ON A DETERMINATION OF AN OCCUPATIONAL
17 DISEASE, THE ORDER IS INSUFFICIENT TO SATISFY THE
18 REQUIREMENTS OF FOX VERSUS NEWBERRY COUNTY MEMORIAL
19 HOSPITAL, AND THEN AS SET FORTH IN THE MOHASCO CASE
20 AND APPLIED IN FOX, THAT THE CLAIMANT MUST PROVE THE
21 FOLLOWING SIX ELEMENTS.

22 SO WE CERTAINLY DID ARGUE THAT BEFORE THE FULL
23 COMMISSION. AND ALSO, AS YOUR HONOR WILL SEE FROM
24 THE COMMISSION FILE, THE CLAIMANT ESSENTIALLY ARGUED
25 THAT IT WAS A REPETITIVE TRAUMA CASE.

1 THAT WAS NEVER RAISED BY THE SINGLE COMMISSIONER
2 AND THAT WAS NOT RAISED AT THE HEARING, WAS NOT
3 APPEALED BY THE CLAIMANT, SO REALLY ESSENTIALLY THEY
4 COULDN'T ARGUE THAT EVEN THOUGH I BELIEVE THEY DID IN
5 THEIR BRIEF TO THE FULL COMMISSION THAT IT WAS A
6 REPETITIVE TRAUMA SCENARIO.

7 WELL, CERTAINLY THERE'S NOTHING TO SUPPORT A
8 REPETITIVE TRAUMA AS IT'S BEEN INTERPRETED AND
9 APPLIED BY THE COMMISSION, AND CERTAINLY THERE'S
10 NOTHING TO ESTABLISH THAT SHE SUSTAINED AN INJURY BY
11 ACCIDENT.

12 AND CERTAINLY IF SHE DID ON JUNE 7TH, 1998,
13 THERE'S NO INDICATION THAT THE PROPER NOTICE NOR THE
14 STATUTE OF LIMITATIONS WERE MET.

15 ONE OTHER THING I WOULD LIKE TO TOUCH ON REAL
16 QUICK IS THIS ALLERGY THING. AND DR. SIMPSON'S
17 OPINION SPECIFICALLY HE STATES AT THE BOTTOM OF PAGE
18 18, CARRYING OVER TO THE TOP OF PAGE 19 OF HIS
19 DEPOSITION, BEGINNING AT LINE 22, WELL, IT TAKES MOLD
20 ALLERGY OUT OF THE PROBLEM, THE PROBLEM IS THAT THERE
21 ARE TWO SORTS OF REACTIONS TO MOLD, ONE IS AN
22 ALLERGIC REACTION, AND ONE IS AN IRRITANT REACTION.

23 IRRITANT REACTIONS CAN OCCUR IN ANYBODY IF THEY
24 HAVE ENOUGH EXPOSURE TO A MOLD, SO IT DOESN'T REALLY
25 MATTER WHETHER YOU ARE ALLERGIC OR NOT. IF YOU --

1 ENOUGH EXPOSURE TO THE MOLD, YOU MAY HAVE SYMPTOMS.

2 AND IN THIS CASE THE OBJECTIVE RESULTS OF THE
3 AIR QUALITY STUDIES OF HER HOME WERE THAT THERE WERE
4 TWICE THE LEVEL IN THE OPINION OF MR. BENNETT, THE
5 DULY QUALIFIED INDUSTRIAL HYGENIST, OF COCKROACH
6 ALLERGENS, TO WHICH MRS. DINGLE IS ALLERGIC OR WAS AT
7 THE TIME, THERE WERE DUST MITES FOUND TO WHICH SHE
8 WAS ALLERGIC, AND THERE WERE APPROXIMATELY 40 TIMES
9 THE AMOUNT OF MOLD SPORES FOR ASPERGILLUS AS COMPARED
10 THE OUTDOOR AIR.

11 AND IN ADDITION TO THE FINDINGS OF THOSE
12 NUMBERS, IT WAS MR. BENNETT'S OPINION THAT THIS
13 ASPERGILLUS WAS PROLIFERATING, IT WAS AMPLIFYING, IT
14 WAS GROWING IN THERE FROM WHATEVER SOURCE IT WAS.

15 AND SO WE SUBMIT THAT REGARDLESS OF THE ALLERGY
16 TESTING, THERE IS -- THERE IS AN ABUNDANCE OF -- WELL
17 ABOVE THE SUBSTANTIAL EVIDENCE IN THE RECORD THAT THE
18 IRRITANT EFFECT OF THE ASPERGILLUS -- THE
19 COMMISSION'S GOING TO REQUIRE US TO PROVE SOMETHING,
20 THAT CERTAINLY WOULD SPEAK VOLUMES LOUDER THAN THIS
21 ALLEGED MENTION OF THIXON. THANK YOU.

22 THE COURT: THANK YOU.

23 MR. MOORE: YOUR HONOR, MIGHT I JUST ADDRESS ONE
24 THING AND THEN I WILL KEEP MY SEAT?

25 THE COURT: OKAY.

1 MR. MOORE: JUST BRIEFLY, YOUR HONOR. THE BRIEF
2 FROM THE PANEL DISPLAYS WHAT ISSUES WERE RAISED
3 BEFORE IT IN TERMS OF THEIR DECISION AND THE BRIEF
4 BEFORE THE PANEL, 16 ITEMS THAT WERE PRESENTED BEFORE
5 THEM FOR HEARING.

6 AND I WOULD ASK THE COURT SIMPLY TO LOOK AT
7 THAT, THOSE 16 ISSUES, AND SEE WHETHER OR NOT THAT
8 ISSUE WAS RAISED FOR THE PANEL'S DECISION AS RELATES
9 TO AN OCCUPATIONAL INJURY.

10 I WOULD RELY ON THAT -- ALSO RELY ON THE RECORD
11 AGAIN, AND YOUR HONOR, I WOULD REMIND THE COURT JUST
12 FOR THE RECORD, CERTAINLY I BELIEVE THE COURT
13 UNDERSTANDS WHAT THE STANDARD IS IN TERMS OF REVIEW,
14 OF COURSE, BECAUSE THIS CASE IS AS OLD AS IT IS, A
15 LOT HAS HAPPENED, THE COMMISSIONER HEARD IT, SAME
16 COMMISSIONER HEARD IT THE ENTIRE TIME, SHE WAS PRIVY
17 TO ALL DISCUSSION, ALL MOTIONS, AND I BELIEVE THE
18 RECORD SHOWS THAT SHE HAD A FAIR UNDERSTANDING OF THE
19 FACTS SUCH THAT SHE COULD RENDER AN AMPLE OPINION
20 WHICH WAS CONFIRMED BY THE PANEL AS WELL.

21 SHE ALSO MENTIONED DR. ALLEYNE IN HER ORDER IN
22 TERMS OF EVIDENCE IN THE RECORD THAT GIVES RISE BY
23 WAY OF THE STANDARD IN TERMS OF MEDICAL CERTAINTY
24 ABOUT THE PROBLEMS THAT SHE HAD AS A RESULT OF HER
25 BEING EMPLOYED THERE AT FEDERAL MOGUL. THANK YOU,

1 SIR.

2 THE COURT: ALL RIGHT. THANK YOU. MR. ROBERTS,
3 YOU'VE GOT THE LAST WORD BECAUSE YOU'RE THE MOVING
4 PARTY.

5 MR. ROBERTS: I DON'T BELIEVE I HAVE ANYTHING
6 FURTHER.

7 THE COURT: ALL RIGHT, FOLKS. IF YOU WILL GIVE
8 ME A FEW MINUTES. I HAVE BEEN ANNOUNCING TO OTHERS
9 IN SUMTER YESTERDAY WHERE I CONDUCTED NON-JURY COURT
10 THAT I DON'T HAVE THE LUXURY OF TIME TO TAKE THIS
11 MATTER UNDER ADVISEMENT AND TO COGITATE ON THIS FILE
12 WHICH IS IN FRONT OF ME, ABOUT 5 INCHES THICK IT
13 APPEARS, IN ADDITION TO THE VERY WELL WRITTEN BRIEFS,
14 ABOUT 25 PAGES EACH THAT HAVE BEEN PRESENTED TO ME
15 TODAY.

16 I'M RETIRING AT THE END OF SEPTEMBER. I WILL
17 LOSE JURISDICTION TO DEAL WITH ALL OF THESE MATTERS
18 AFTER THAT DATE. I HAVE ON MY DESK IN MY OFFICE
19 RIGHT NOW WAITING FOR ME PATIENTLY STACKS OF
20 INFORMATION, A SCHOOL ADEQUACY OF EDUCATION CASE THAT
21 NEEDS ATTENTION, A CHURCH CASE OUT OF CONWAY THAT HAS
22 BEEN TO THE COURT OF APPEALS AND BACK THAT NEEDS MY
23 ATTENTION, AND I SIMPLY DON'T HAVE THE LUXURY QUITE
24 FRANKLY OF REVIEWING THESE MATTERS IN THE DETAIL THAT
25 THEY -- THAT YOU HAVE ASKED ME TO TAKE THEM INTO

1 TODAY, AND SO I'M GOING TO RELY ON WHAT YOU TOLD ME,
2 I WILL RELY ON YOUR ARGUMENTS AND YOUR BRIEFS, AND
3 ORDER ACCORDINGLY ON THAT BASIS.

4 IT WILL TAKE ME A FEW MOMENTS IN THAT REGARD.
5 IF YOU WILL JUST BE PATIENT. THANK YOU.

6 MR. ROBERTS: THANK YOU, YOUR HONOR.

7 (WHEREUPON THERE WAS A PAUSE.)

8 THE COURT: THE ISSUE OF THE STATUTE OF
9 LIMITATIONS, WHICH IS THE THRESHOLD ISSUE IN THIS
10 REGARD, AND MY RULING THERE IS SOMEWHAT DETERMINATIVE
11 AS A SPRINGBOARD TO MY RULING OTHERWISE IN THIS CASE.

12 THE SINGLE COMMISSIONER'S ORDER OF MARCH THE
13 24TH, 2005, ACCORDING TO THE BRIEF OF THE PLAINTIFF,
14 INDICATES THAT THE DATE OF THE ACCIDENT IS JUNE THE
15 SEVENTH, 1998. AND THAT WAS AGREED UPON BY
16 STIPULATION AS I UNDERSTAND IT.

17 SHE STATES FURTHER AS A FINDING THAT THE
18 CLAIMANT FILED HER FORM 50 ON FEBRUARY THE 12TH,
19 2002. CLAIMANT TIMELY MET THE STATUTE OF LIMIT
20 STATIONS.

21 THERE'S NO WAY THAT THOSE TWO THINGS COULD IN MY
22 VIEW GO TOGETHER IN THE CASE OF AN OCCUPATIONAL
23 INJURY BECAUSE IT FAR EXCEEDS THE STATUTE OF
24 LIMITATIONS.

25 THE CLAIMANT CLAIMS IN HER BRIEF THAT THE

1 STATUTE OF LIMITATIONS HAS BEEN MET BECAUSE THIS IS A
2 CASE OF REPETITIVE TRAUMA, BUT THAT WAS NOT FOUND AND
3 APPARENTLY WAS NOT -- IT WAS NOT PROVEN.

4 HOWEVER, IN THE CASE OF AN OCCUPATIONAL DISEASE,
5 THE STATUTE OF LIMITATIONS MIGHT ALSO BE RELAXED TO
6 ALLOW THE STATE -- THE COMMISSIONER TO MAKE THAT
7 FINDING.

8 AND SO I FIND THAT IN ORDER FOR THE STATUTE OF
9 LIMITATIONS TO HAVE BEEN MET IN THIS CASE IN MY VIEW,
10 THERE WOULD HAVE TO HAVE BEEN A FINDING OF AN
11 OCCUPATIONAL DISEASE.

12 AND IN THAT REGARD, THE REQUIREMENTS SET OUT BY
13 OUR COURT OF APPEALS AND OUR SUPREME COURT, THE COURT
14 OF APPEALS IN MOHASCO, M-O-H-A-S-C-O, CORP VERSUS
15 RISING, CITED IN THE CASE OF FOX, F-O-X, VERSUS
16 NEWBERRY COUNTY MEMORIAL HOSPITAL, THAT'S FOUND AT
17 319 SOUTH CAROLINA 278, WHICH IS A SUPREME COURT
18 CASE, INDICATES THAT IN CASES OF OCCUPATIONAL
19 DISEASES, SPECIFIC FINDINGS ARE REQUIRED TO BE MET
20 AND SPECIFIED IN SOME DETAIL.

21 I NEED NOT SET OUT WHAT THOSE THINGS ARE. THE
22 CASE LAW IS UNCONTROVERTED IN THAT REGARD. SUFFICE
23 IT TO SAY THAT THE ORDER OF THE SINGLE COMMISSIONER
24 OR THE FULL COMMISSION DOES NOT MEET THE TEST OF
25 ADDRESSING THOSE SIX REQUIREMENTS.

1 AND FOR THAT REASON THIS MUST BE REMANDED TO THE
2 COMMISSIONER OR THE COMMISSIONERS, AS THE CASE MIGHT
3 BE, TO COMPLY WITH THE FINDINGS OF MOHASCO IN REGARD
4 TO THE OCCUPATIONAL DISEASE CLAIM.

5 IN THAT REGARD AS TO THE SECOND GROUND OF THE
6 APPEAL IN WHICH THE RESPONDENT -- EXCUSE ME -- THE
7 APPELLANT CLAIMS THE COMMISSIONER ERRED IN
8 DETERMINING THAT SHE TIMELY NOTIFIED HER EMPLOYER
9 BECAUSE THE RECORD IS DEVOID OF SUBSTANTIAL EVIDENCE
10 TO SUPPORT THAT, I HAVE RULED IN EFFECT THAT IN THE
11 CASE OF AN OCCUPATIONAL DISEASE THAT STANDARD WAS
12 MET. THAT CLAIM WAS DENIED.

13 THE REMAINING CLAIMS UNDER PARAGRAPH THREE OF
14 THE APPEAL WILL ALL BE ADDRESSED ON REMAND. THEY ARE
15 ALL, EACH IN MY VIEW, ONE OF THE SIX ISSUES WHICH
16 HAVE TO BE ADDRESSED ON REMAND BY THE COMPLIANCE WITH
17 THE ORDER AND THE -- EXCUSE ME -- THE COURT'S OPINION
18 IN MOHASCO AND IN FOX.

19 FOR THAT REASON THE CASE IS REMANDED FOR FURTHER
20 FINDINGS AND MORE COMPLETE FINDINGS IN THAT REGARD TO
21 COMPLY WITH THE REQUIREMENTS OF CASE LAW. AND THIS
22 MATTER WILL HAVE TO COME BACK UP SO THAT SOMEBODY
23 WILL HAVE A BETTER RECORD UPON WHICH TO DETERMINE THE
24 ISSUES THAT HAVE BEEN RAISED.

25 AS I HEARD COUNSEL FOR BOTH SIDES SET OUT YOUR

1 SPECIFIC POSITIONS HERE TODAY, I WAS FRANKLY ADD ODDS
2 TO UNDERSTAND WHETHER THE COMMISSIONER OR THE
3 COMMISSION HEARD THE SAME CASE THAT I WAS HEARING
4 TODAY.

5 THERE WAS SUCH WIDE DIVERGENCE OF WHETHER THE
6 STANDARD HAD BEEN MET, WHETHER THE CASE LAW HAD BEEN
7 APPLIED. AND FRANKLY, THE ORDER NEEDS TO BE MORE
8 COMPLETE IN ORDER FOR US TO BE SURE THAT THE
9 COMMISSION BELOW IS HEARING THE SAME CASE THAT WE'RE
10 HEARING ON APPEAL.

11 GENTLEMEN, THAT'S THE ORDER. IT'S IN THE RECORD
12 HERE IF ANY OF YOU WANT A MORE OF A COMPLETE ORDER
13 THAN THAT, YOU CAN CERTAINLY HAVE THE RIGHT TO
14 PREPARE ONE AND SEND IT TO OPPOSING COUNSEL AS THE
15 ORIGINAL IS SENT TO ME FOR SIGNING.

16 AND OTHER THAN THAT, THE ORDER THAT I PLACED IN
17 THE TRANSCRIPT TODAY IS THE ORDER OF THE COURT.
18 THANK YOU.

19 (END OF REQUESTED TRANSCRIPT OF RECORD.)
20
21
22
23
24
25

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #9831715

DIANE C. DINGLE	)	
	)	
CLAIMANT,	)	SC WORKERS' COMPENSATION COMMISSION
	)	
VS.	)	
	)	HEARING OF
FEDERAL-MOGUL CORP	)	
EMPLOYER,	)	DIANE C. DINGLE
	)	
AND	)	VS
	)	
TRAVELERS INS.	)	FEDERAL-MOGUL CORPORATION
<u>CARRIER.</u>	)	

This is the Transcript of the South Carolina Workers' Compensation Hearing of Diane C. Dingle versus Federal-Mogul Corporation, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 2:47 P.M., Thursday, May 22, 2008, at Sumter County Court House, 141 North Main Street, Sumter, South Carolina.

COPY

REPORTED

BY

GLORIA DAVIS

APPEARANCES

FOR THE CLAIMANT:

Dwight C. Moore, Esquire
The Moore Law Firm
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FOR THE EMPLOYER/CARRIER:

Byron P. Roberts, Esquire
Roberts Law Group 161 Chapin Road
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Chapin, SC 29036

ALSO PRESENT:

*Reporter's Note: -- Indicates incomplete thought or sentence, trailing off or interruption by speakers.

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STIPULATIONS

COMMISSIONER HUFFSTETLER: This is Workers' Compensation File Number 9831715. The case of the Claimant, Diane C. Dingle, versus the Employer, Federal-Mogul Corporation, and the Carrier is Traveler's Property and Casualty Company of America. The Claimant is present; she's represented by Attorney Dwight C. Moore. The Employer/Carrier is represented by Attorney Byron P. Roberts. The case is set on a remand from the Full Commission for a hearing de novo. The average weekly wage is three hundred sixty-three dollars, sixteen cents (\$363.16) with a compensation rate of two hundred forty-two dollars, twelve cents (\$242.12). The date of accident is July 7th, 1998. Are there any objections to those items, jurisdiction, venue or any of the APA submissions? Hearing none, then without objection the Commission file becomes a part of the record with the exception of self-serving declarations and unstipulated medical reports. I would note a previous order of Commissioner Childs from March 22nd, 2005, and a series of appeals and orders of the court, and most recently the order of the Full Commission of March 11th, 2008, which set the case for a hearing de novo taking place today. The Claimant takes the position she suffered injuries to her lungs

1 and throat. She seeks payment of all casually related
2 medical treatment received to date. She seeks an award
3 of compensation for temporary total disability from
4 August 19th, 2000, her last day worked, through the
5 present and continuing and she seeks continuing medical
6 treatment, and also an award of compensation of
7 permanent partial disability to the throat and lungs as
8 a whole person award. The Defense takes the position
9 the Claimant was not injured by accident arising out of
10 and in the course of her employment and that she has
11 not developed an occupational disease resulting from
12 her employment. They also cite Section 42-15-20 and
13 they would cite the case of Mohasco versus Rising. Is
14 that correct?

15 MR. MOORE: Yes, sir.

16 MR. ROBERTS: Yes, sir. I would just like to add
17 that according to the records of Dr. Keith the
18 Claimant was returned to work or at least he
19 stated that she could return to work as of August
20 31st and that subsequent to that she was written
21 out of work simply --

22 COMMISSIONER HUFFSTETLER: August 31st of what
23 year?

24 MR. ROBERTS: -- of 2000. And that after that --
25 subsequent to that return to work, she was written

1 out of work for allergies by Dr. Gaines in his
2 medical report. We would submit it would not be
3 casually related; it would not be an occupational
4 disease.

5 COMMISSIONER HUFFSTETLER: Okay. Ma'am, if you'd
6 raise your right hand.

7 WHEREUPON,

8 DIANE C. DINGLE, being duly sworn and cautioned to
9 speak the truth, the whole truth, and noting but the
10 truth testified as follows:

11 COMMISSIONER HUFFSTETLER: If you'd state your
12 name, please.

13 WITNESS: Diane Dingle.

14 COMMISSIONER HUFFSTETLER: Thank you. Go ahead,
15 sir.

16 DIRECT EXAMINATION

17 By Mr. Moore:

18 Q Ms. Dingle, you've given your name for the record as
19 Diane Dingle. Give us your birth date, please, ma'am.

20 A August 18, 1964.

21 Q And where were you born?

22 A In Manning, South Carolina.

23 Q Okay. Is that in Clarendon County?

24 A Yes.

25 Q Did you go to high school there?

- 1 A Yes.
- 2 Q Did you finish high school?
- 3 A Yes.
- 4 Q Did you have any further education other than high
5 school?
- 6 A No, just a little college at Sumter Tech.
- 7 Q Okay. Did you get a degree from there?
- 8 A No.
- 9 Q When did you first begin your employment with
10 Federal-Mogul?
- 11 A In November of '96.
- 12 Q Prior to that time had you ever been diagnosed with --
13 with -- with asthma?
- 14 A No.
- 15 Q Did you have any documented sinus problems prior to
16 that time?
- 17 A Just little sinuses.
- 18 Q Okay. Anything that required a prescription
19 medication?
- 20 A No, sir.
- 21 Q Did you have any other kind of respiratory problems
22 prior to your taking employment at Federal-Mogul --
- 23 A No.
- 24 Q -- in 1996? Okay. How did you come to -- to -- to
25 work at Federal-Mogul?

1 A I applied at Kelly's; it's a temporary service and they
2 placed me at Federal-Mogul.

3 Q Okay. And -- and so you were -- worked there in a
4 temporary capacity?

5 A Yes.

6 Q All right. When did you go full time for
7 Federal-Mogul?

8 A They hired me in a month and a half.

9 Q And so, would you say then by mid-December or early
10 January of 1997, you were working there full time?

11 A Yes.

12 Q Now, when you started as a temp in what capacity did
13 you work?

14 A I worked on a mold press.

15 Q Okay. And describe to the Commissioner what a mold
16 press is?

17 A A mold press is this big press with the heat of, I
18 guess, four hundred (400) and some degrees. And we're
19 standing in front of a -- a table and the -- the seals
20 is the one -- on one side and the -- and the rubber is
21 on the other side of my table. And I load the board
22 and as I load the board I -- after I load the board, I
23 place it into this big old machine, a heated machine,
24 and it processes the rubber to the -- to the oil seal.

25 Q Okay. Now, does -- does this thing open and close

1 manually or is it -- does it -- does it do it
2 automatically?

3 A Yes, after it -- after it processes then it opens up
4 itself.

5 Q Okay. How big is this -- this machine?

6 A I guess about the height of the -- the area that this
7 machine is placed in, I guess about six feet (6').

8 Q Does this machine --

9 A Yeah.

10 Q -- come up to the top --

11 Q And when it comes -- when the lever comes up, you know,
12 it gives enough room for the lever to come up off the
13 press.

14 Q -- that it's making -- like -- like from hinge upward?

15 A Yeah. It -- it comes up like that (demonstrating).

16 Q Okay. Now, when that door opens and swings upward what
17 comes from this press?

18 A Smoke comes out of it.

19 Q Okay. Is it steam or smoke or --

20 A -- smoke.

21 Q -- okay. Describe for the Commissioner what kind of
22 smoke this is?

23 A I guess it's from the -- the rubber or whatever because
24 that's what it smells like. The rubber and the
25 solution that they put on the oil seals, that they dip

1 the oil seals in. That's what it smells like when the
2 -- when the heat has mended the -- the -- the -- rubber
3 to the --

4 MR. ROBERTS: Commissioner, I'm going to object to
5 this. I don't think there's enough foundation
6 about what this stuff smells like.

7 A -- well, it smells like that.

8 COMMISSIONER HUFFSTETLER: I expect she knows what
9 she thinks it smells like.

10 MR. ROBERTS: I understand.

11 COMMISSIONER HUFFSTETLER: I mean, I'm going to
12 let her testify to that. You're not testifying as
13 an expert. Go ahead, ma'am.

14 A That's what it smells like

15 COMMISSIONER HUFFSTETLER: Okay.

16 Q What does -- what does it smell like?

17 A It -- it smells like the -- the solution that they put
18 on the metal and the -- and the rubber when it comes
19 up. All the smoke smells just like -- it's real
20 strong. It'll be like all in your clothes and in your
21 underwear and everywhere. When I was working there
22 that's how it was.

23 Q That -- that was your first job?

24 A Yes.

25 Q Okay. And how long did you work in that capacity?

1 A I worked there until I got hired. When I got hired
2 then they moved me into gasket.

3 Q Tell me what gasket is, that department and what it
4 does?

5 A Gasket is another press and it's bigger than the -- the
6 -- the oil seal press. And -- but the -- the gaskets
7 are flat when it comes out; it comes out kind of --
8 kind of flat around the -- the metal --

9 Q Now are you talking --

10 A -- the rubber.

11 Q -- are you talking about automobile gaskets?

12 A Automobile gaskets.

13 Q And who does Federal-Mogul making these gaskets for?

14 A For Chrysler, Honda, and Mercury.

15 Q Okay. And this was the department you were working in?

16 A Yes, sir.

17 Q And explain the process of this gasket -- explain the
18 gasket process again for me.

19 A Okay. The gasket, you stand up into this -- it's a
20 bigger -- it's a bigger press and you put the metal in
21 the -- and -- and when you mash the button it goes
22 closed and the process mends it together and the smoke,
23 you know, it comes up out of that, too.

24 Q Okay. Now, how long did you work in that department?

25 A For a year.

- 1 Q For one (1) year. And what -- what -- you said one (1)
2 year; is that was from January of 1997 until when?
- 3 A '98.
- 4 Q Okay. So, that would have been approximately January
5 1997 to January of 1998?
- 6 A Right.
- 7 Q Okay. And when you moved from that department where
8 did you go?
- 9 A I went back to molding.
- 10 Q Okay. Now, you've already explained what that process
11 is?
- 12 A Uh-huh.
- 13 Q How long did you work in molding?
- 14 A I worked in molding until I left.
- 15 Q Okay. Now, when did you start having problems from
16 this process?
- 17 A I started having problems July of '98, June, July of
18 '98. I started having real bad headaches and my
19 stomach hurt and like -- it was like bad sinuses or
20 whatever. Whatever it was affected my sinuses, I don't
21 know --
- 22 Q Okay. Now, who --
- 23 A -- during that time I didn't know.
- 24 Q -- and what doctor did you see?
- 25 A Dr. Keith.

1 Q Okay. And that's your family -- was that your family
2 doctor?

3 A Yes.

4 Q All right. Now, is Dr. Keith still in Manning?

5 A No.

6 Q Okay. And did Dr. Keith, during 1998, take you out of
7 work for any period of time?

8 A Yes.

9 Q Okay. Do you recall how many times you were taken out
10 of work?

11 A Several times, I can't recall how many times.

12 Q Okay. Would that have been during the year of 1998?

13 A Yes.

14 Q Now, did you continue to see Dr. Keith through 1999?

15 A I was -- Dr. Keith had sent me to Dr. Cassone --

16 Q Okay.

17 A -- because I was having these bad headaches. He gave
18 me -- he sent me for an MRI, a CAT scan because I was
19 having these bad headaches and stuff. So, he sent me
20 to Dr. Cassone, the ENT, because my ears and throat and
21 everything was hurting so bad.

22 Q Did -- and did you see any other doctor aside from Dr.
23 Cassone during this period of time in 1999?

24 A No. Huh-uh. Just Dr. Cassone and Dr. Keith; Dr. Keith
25 sent me to him.

1 Q Okay. Now, you continued to see Dr. Keith until 2000?

2 A Yeah, I continued to see Dr. Keith.

3 Q Okay. Now, how many times did this cause you to be out
4 of work during the year 1999?

5 A I can't recall how many times.

6 Q When -- when did it come to your knowledge that -- that
7 this was a job related problem as far as you were
8 concerned?

9 A It was January -- well, December of '99 and January of
10 2000.

11 Q Okay. And was that from your conversation with a
12 doctor?

13 A No, I knew that for myself.

14 Q Okay. When -- when did the doctor tell you that?

15 A The doctor told me that after, you know, going in --

16 MR. ROBERTS: I'm going to object to hearsay. The
17 medical reports will speak for themselves.

18 MR. MOORE: Okay.

19 Q When did you tell the supervisor of your concern that
20 this may be job related?

21 A January of 2000.

22 Q Okay. And who was that supervisor?

23 A Johnny Mitchell.

24 Q Okay. And tell me what -- where he is in terms of your
25 -- of the supervisor capacity?

1 A He is my super -- he was my supervisor but Laverne
2 Houston was my team leader.

3 Q Okay. And was both of those persons advised of your
4 condition --

5 A Yes.

6 Q -- of your condition?

7 A Yes.

8 Q Did they do anything about your concerns?

9 A Yes. They started moving me around from one area to
10 the -- to the other area to see whether I would be okay
11 there but I still was having problems.

12 Q Okay. Now, when you say from one area to another area,
13 was this in the mold press area of the plant or was it
14 outside of that workstation?

15 A They started moving me to assembly, packing, engine;
16 you know, they started moving me around.

17 Q Okay. Now, did your condition worsen --

18 COMMISSIONER HUFFSTETLER: Could I ask a question,
19 please?

20 MR. MOORE: Yes, sir.

21 COMMISSIONER HUFFSTETLER: What was the last day
22 you worked in the mold department?

23 A The mold, itself, was in August 2000.

24 COMMISSIONER HUFFSTETLER: Thank you.

25 Q Okay. Now, in August -- on or about August the 19th,

1 2000, that's when you actually left the plant; is that
2 correct?

3 A Right.

4 Q Now, did you leave the mold department prior to leaving
5 the plant?

6 A I -- when I left the plant that's when I left the mold
7 department.

8 Q Okay. Now, you also saw Dr. Gaines, who -- who is the
9 plant doctor; is that correct?

10 A Right.

11 Q Did he put you out of work at any time?

12 A Yes, he did.

13 Q Do you know if he had any correspondence with -- with
14 Federal-Mogul regarding your condition?

15 A No, he didn't. He didn't tell me that. He told me to
16 send that --

17 MR. ROBERTS: I'm going to object to hearsay,
18 Commissioner.

19 MR. MOORE: Okay.

20 Q You can't -- you can't talk about what -- what the
21 doctor said but do you know of your own personal
22 knowledge whether he had any correspondence with them
23 in writing or verbally?

24 A No, I don't.

25 Q Okay. Do you know if Dr. Keith had any correspondence

1 with Federal-Mogul regarding your condition verbally or
2 in writing?

3 A No, I don't.

4 Q Okay. Now, you -- describe how your condition changed,
5 if it did at all, from 2000 until the time you actually
6 left the plant?

7 A It had got worser because I was -- when they was --
8 while they was moving me around I started doing the
9 inspections in molding. And then -- and they had moved
10 me to the Wabash area. It's like different little
11 areas in Federal-Mogul and they moved me to the Wabash
12 area where -- on the end where the -- where they hook
13 up a trimmer. And these trimmers -- and these oil
14 seals -- the girls to the top, they runs the press
15 then, and they send the oil seals down the trimmer --
16 well, they put them in the little slot there where the
17 little trimmer -- where the thing comes through. And
18 they -- the little trimmers trims the -- the rubber off
19 of the top of your oil seals and all -- and as it's
20 doing this it's like knocking the dust off of the oil
21 seals onto my table. It's like it's coming from up
22 here, coming down to my table. This is my table with a
23 bunch of oil seals on them, like, a couple of hundreds,
24 you know, whatever on the side right there. And that's
25 like coming down and all the dust and stuff like that

1 is falling on my table and I'm like inhaling it from
2 that.

3 Q Okay. Now --

4 COMMISSIONER HUFFSTETLER: Which job -- I'm just
5 trying to understand your claim --

6 A Inspection. I was in molding -- I was in molding
7 working inspection.

8 COMMISSIONER HUFFSTETLER: -- if you'll let me
9 finish my question. Which job do you contend
10 caused your problem?

11 A It's the oil seals. It's not a specific job. It's the
12 oil seals themselves.

13 Q -- okay. Now, and the Commissioner needs to understand
14 what you're referring to when you say oil seals.
15 Describe the job that you did that -- which would
16 require you to come in contact with the oil seals,
17 themselves.

18 A The mold press.

19 Q Okay. So -- so, these oil seals are put into this mold
20 press and then --

21 A Yes.

22 Q -- and then taken out?

23 A Right.

24 Q Now, would you tell the Commissioner how many times
25 this press would open and close during a ten (10)

1 minute period of time?

2 A It depends on how fast I am or how fast a person is
3 that's running the press. But it can -- it can open
4 and close -- in ten (10) minutes you say?

5 Q Yes.

6 A I guess about five (5) times in ten (10) minutes. It
7 all depends on how fast you load the board, get it in
8 there; about five (5) times.

9 Q Okay.

10 COMMISSIONER HUFFSTETLER: But you're -- if I
11 understand your claim, you're saying you believe
12 your exposure while running the mold press has
13 caused your problem?

14 A I --

15 COMMISSIONER HUFFSTETLER: That's a question. I'm
16 not trying to tell you what it is. That's a
17 question.

18 A -- I -- I feel like this, I -- I -- it's the stuff
19 that's on those oil seals. All that stuff that was on
20 the oil -- oil seals. Those are the things that I know
21 that did it and that's without a doubt.

22 COMMISSIONER HUFFSTETLER: And you worked with the
23 oil seals at the mold press?

24 A Yes.

25 COMMISSIONER HUFFSTETLER: Okay.

1 Q Now, you testified earlier about when this -- this --
2 this press opened and when it closed. Was it -- again,
3 was there -- was there smoke or steam or heat that came
4 from this press?

5 A It -- it was smoke.

6 Q Okay. Was it -- was it hot smoke or cold smoke or just
7 normal temperature smoke?

8 A Hot smoke.

9 Q Okay. Any idea how -- how hot this -- this press was
10 in terms of what came from it?

11 A Four hundred (400) and something degrees.

12 Q And how long did you work in this area?

13 A For -- ever since '98 -- '99, I'm sorry.

14 Q And up until the time you left?

15 A Uh-huh.

16 COMMISSIONER HUFFSTETLER: Is that a yes.

17 A Yes.

18 COMMISSIONER HUFFSTETLER: We need -- we make a
19 record.

20 A I'm sorry. Yes.

21 COMMISSIONER HUFFSTETLER: We all have that habit
22 to say uh-huh but it doesn't make a good record.

23 A Yes.

24 Q Okay. And how many hours a -- a day did you work in
25 this area?

1 A Eight (8) hours.

2 Q Did you ever work overtime?

3 A Yes.

4 Q And how often did you work overtime?

5 A As often as they asked me. If they asked me I worked.

6 Q Can you recall it from the year 2000 until the time you
7 left; can you estimate how many times you may have
8 worked overtime?

9 A I can't remember.

10 Q Okay. Would that have been extra hours on a -- on a
11 week day or would it have been an extra day on the
12 weekend?

13 A Extra day on the weekend.

14 Q So, you went to work on Saturday, including the five
15 (5) days --

16 A Yes.

17 Q -- a week you would work normal hours?

18 A Yes.

19 Q Describe the symptoms that you got -- well, how did you
20 feel on a daily basis starting from, if you can, from
21 January of 2000 up until the time you left in August?

22 A You mean what kind of symptoms was I having?

23 Q Yes. After every day you left work if you had symptoms
24 what would those symptoms be like?

25 A I had itching around the mouth, headaches, my throat

1 was burning, my lungs felt like they was burning,
2 stomachache, my eyes was burning, my throat feel like a
3 knife cutting it.

4 Q Did you have problems breathing?

5 A Yes.

6 Q You did? You have answer that if you can.

7 A Can I be excused, please?

8 COMMISSIONER HUFFSTETLER: Let's go off the
9 record.

10 (Off the Record)

11 COMMISSIONER HUFFSTETLER: We're back on the
12 record. Go ahead, sir.

13 Q We were talking about what your -- what your symptoms
14 were on a daily basis and you were telling me about the
15 throat, issues with your mouth and your lungs. Was
16 there anything else that -- that -- that -- any
17 symptoms you experienced on a daily basis from 2000,
18 January, until the time you left, anything else?

19 A Yes, severe pains in my throat. My nose feel like it's
20 swollen up. I felt like I'm -- I'm going to throw up
21 because I feel faint and nausea.

22 Q Now, during the summer of -- of 2000, you were also
23 taken out of work; is that correct?

24 A Yes.

25 Q okay. Do you recall how long you were taken out of

1 work?

2 A The summer of 2000?

3 Q The summer of 2000, yes.

4 A I can't really recall. I think a week or something
5 like that.

6 Q Okay. Do you recall which doctor it was who did that;
7 was that Dr. Keith or someone else?

8 A It was Dr. Keith.

9 Q Now, since you've left Federal -- Federal-Mogul have
10 you had any additional problems as far as those things
11 you've just described for us in the record?

12 A Yes, sir. I have asthma, allergies, my throat hurts
13 every day all the time; that's just a part of me, I
14 guess, now and my breathing; I still -- I still have
15 problems breathing.

16 Q Okay. Are you on any kind of medications?

17 A Yes.

18 Q And -- and what are those medications?

19 A Buoned.

20 Q Can you spell it for us?

21 A It's, N -- It's B-U-O-N-E-D.

22 Q Anything else?

23 A And my high blood pressure medicine.

24 Q Okay. Are you on any type of asthma pump?

25 A Yes.

1 Q And -- and describe for the Commissioner what -- what
2 kind of pump you're on and what -- why you use it?

3 A when I -- I was doing that -- the big medicine that I
4 -- the medicine I put in -- the medicine in the little
5 cup and I breathe through it.

6 Q Do you have a mask that you use?

7 A Yes.

8 Q Okay. And how often do you use this piece of
9 equipment?

10 A About three (3) times a week. I use it more now than
11 what I used to use it because it helps me.

12 Q Has -- has the condition worsened in your mind in the
13 last year or so or is it about the same?

14 A About the same.

15 Q What -- what's your understanding of whether or not you
16 need future medications or medical treatment for your
17 condition?

18 A I'm going need some more medication.

19 COMMISSIONER HUFFSTETLER: I'm sorry, ma'am, I
20 can't hear you. You're soft spoken. I just need
21 to hear you.

22 A Yes. I -- I know I'm going to need some more
23 medication for my breathing and asthma.

24 Q Okay. And this medication you're currently using is
25 this something you're paying for?

1 A No. Huh-uh. I've got Medicaid.

2 Q Okay. Now, is -- is it your opinion that you've been
3 exposed to these fumes the entire time that you've been
4 working there at Federal-Mogul?

5 A Yes.

6 Q And can you tell us whether in your mind your exposure
7 to these fumes would they have been excessive or not?

8 A Excessive?

9 Q More than usual? More than --

10 MR. ROBERTS: I'm going to object to that
11 question, Commissioner. She doesn't --

12 COMMISSIONER HUFFSTETLER: I can't hear you.

13 MR. ROBERTS: -- I'm going to object to that
14 question; it calls for speculation.

15 COMMISSIONER HUFFSTETLER: Do you have a response?

16 MR. MOORE: I don't think it's -- she can say how
17 mild or whether she thinks it's excessive or not.

18 COMMISSIONER HUFFSTETLER: well, I think it would
19 be helpful if you'd detail it, excessive as
20 compared to what? I mean, I think what his
21 question goes to, and again, one of the specific
22 directions from the court when this case was
23 remanded dealt the Mohasco case and that deals
24 with issues like the exposure in the work. And
25 then in particular one of those elements is

1 whether -- whether the hazard is in excess of an
2 ordinary incident to employment. So, I don't know
3 if you're asking that question, which might call
4 for an expert to deal with employment or are you
5 asking for her job, did it change from one time to
6 another or was it always the same? I'm not sure
7 of your question.

8 MR. MOORE: Okay.

9 COMMISSIONER HUFFSTETLER: So, if you could help
10 me with that a little bit.

11 MR. MOORE: Let me ask it and then I'll come back
12 to that.

13 COMMISSIONER HUFFSTETLER: She certainly would
14 know on her job whether one day was worse than
15 another or was it always the same.

16 MR. MOORE: Okay.

17 Q Was -- was your exposure to these fumes consistently
18 the same everyday or -- or were there some days better
19 than others or worse than others?

20 A When it -- in 2000, it was getting worser and worser
21 because I couldn't talk, I could barely breathe.

22 COMMISSIONER HUFFSTETLER: Let me -- let me stop
23 you for a minute because his question is really
24 not your symptoms.

25 A Uh-huh.

1 COMMISSIONER HUFFSTETLER: It's the smoke, the
2 exposure. Was it constant always or --

3 A Oh, it's always been like that.

4 COMMISSIONER HUFFSTETLER: -- okay. So, it didn't
5 get better and worse?

6 A No, sir.

7 COMMISSIONER HUFFSTETLER: Okay.

8 A That's how the plant was run. That's how it worked.

9 COMMISSIONER HUFFSTETLER: And again, when I --
10 when I say something like whether it got better or
11 worse, I'm not suggesting it did; I'm just asking
12 a question.

13 A It did. That's an every day thing.

14 COMMISSIONER HUFFSTETLER: Okay.

15 MR. MOORE: I have no further questions,
16 Commissioner.

17 COMMISSIONER HUFFSTETLER: Mr. Roberts.

18 MR. ROBERTS: Thank you. May it please the
19 Commission.

20 CROSS-EXAMINATION

21 By Mr. Roberts:

22 Q Ms. Dingle, now I just want to kind of go back briefly
23 with your work history at Federal-Mogul. You started
24 there as a temporary employee in the fall of 1996; is
25 that correct?

1 A Yes.

2 Q Okay. And you worked there for about three (3) months
3 through Kelly's Temp Service; is that correct?

4 A Yes. Well, they hired me -- Federal-Mogul had hired me
5 but I jut had not went to my orientation. They hired
6 me within a month but I didn't go through my
7 orientation until February or March, something like
8 that.

9 Q And you spent those first three (3) months or so
10 working as a mold press operator?

11 A Yes.

12 Q Okay. Now the way that process works is that you put
13 the parts on a tray?

14 A Uh-huh. Yes.

15 Q The -- the metal seals are approximately this big
16 (demonstrating), is that right; they vary maybe a
17 couple of inches?

18 A Different -- different sizes.

19 Q And then you put a piece of rubber on top of that?

20 A Uh-huh. Yes.

21 Q And then you put the tray in the oven?

22 A Yes.

23 Q And then it's a -- it's actually a great big floor to
24 ceiling piece of equipment, right?

25 A Yes.

1 Q And the hood, it -- it's fully enclosed. It comes --
2 it -- it lowers down onto the -- the tray?

3 A Excuse me. You said to the ceiling to the floor?

4 Q Right. It's a great big machine?

5 A It's not to the ceiling.

6 Q Not to the ceiling but it's a great big machine?

7 A Yes.

8 Q It's taller than this ceiling?

9 A I'd say about six feet (6') maybe.

10 Q And it -- and it lowers this hood over the tray?

11 A Not this -- not tall as this ceiling.

12 Q The hood lowers onto the tray?

13 A Yes, onto the -- it clamps.

14 Q And -- and it forms a complete seal?

15 A Yes, it clamps.

16 Q And that's -- that ventilates itself; is that your
17 understanding?

18 A Ventilates what?

19 Q It sucks all the fumes out when it's -- when it's
20 baking?

21 A No, sir.

22 Q Nothing comes out while it's -- while it's being
23 pressed is that --

24 A You can see the smoke. You can see the smoke.

25 Q -- while it's being pressed?

1 A Yeah, you can see the smoke because it gets hot and --
2 and the rubber, when it hits the -- when -- when the
3 rubber --

4 COMMISSIONER HUFFSTETLER: I think his question is
5 whether any smoke comes out while the door is
6 closed?

7 A -- when the door is closed?

8 Q When the -- when the seal comes completely down?

9 A The door --

10 Q When it comes completely down.

11 A -- there is no door. You -- you can see the seals. I
12 mean, you can see the seals when you -- when -- when
13 the clamps come down you can see the seals.

14 COMMISSIONER HUFFSTETLER: Okay, I'm sorry. I
15 thought you said there was a door that slides up?

16 A This -- yeah, it's like a -- the press is like a metal
17 -- it's metal.

18 Q Okay.

19 A It's not a door. When you -- when you -- when you pull
20 the lever down -- when you pull the lever down, you can
21 see the seals while you're standing on the platform.

22 COMMISSIONER HUFFSTETLER: Okay.

23 A You can see the seals.

24 Q Okay. It's two (2) -- two (2) metal boxes, basically,
25 isn't it?

1 A That clamps together.

2 Q That clamps down over it. Is that -- is that the way
3 -- the way it works?

4 A It all depends on what -- what press are you talking
5 about.

6 Q Okay. So, you worked on different presses?

7 A In molding.

8 Q I'm sorry?

9 A In molding, yes sir.

10 Q Okay. And when -- when the press was actually engaged
11 the smoke didn't come out did it?

12 A You could still see the smoke coming from underneath
13 that. It's smoke. It's steam.

14 Q Before it opens?

15 A I mean, it's -- it's -- it's -- it's smoke because of
16 the -- because of the rubber. It -- it's not a gush of
17 smoke at that time. It's a gush of smoke when you open
18 it up.

19 Q But not while it's in the actual molding process,
20 smoke's not coming out?

21 A It -- well, you can see a little bit of smoke but it's
22 not gushing up like how when it comes -- when it comes
23 open.

24 Q So, you went -- when you left mold -- did -- did it
25 bother you at all when you first started there?

1 A When I first started there, no, because I'd only been
2 there for just those three (3) months and then they
3 moved me into gaskets.

4 Q So, those first three (3) months with that stuff just
5 like this performing the operation, it didn't bother
6 you at all; you didn't have any breathing problems?

7 A No, sir. No, not then.

8 Q Now, after that you went to work in the gasket area?

9 A Yes.

10 Q And you did that for, what, about a year?

11 A About a year.

12 Q And you didn't have any problems there?

13 A No.

14 Q Now, during this time between the time you started
15 there from the temp service and the time you say this
16 started coming on in 1998, you did have some sinus
17 problem; is that right?

18 A Yeah, I had some small sinus problems.

19 Q And is it fair to say that you have a history going
20 back to your childhood of allergies and asthma?

21 A Well, no.

22 Q Okay. Now, I'm going to show you something real quick
23 here.

24 MR. ROBERTS: It's page 33, Commissioner.

25 Q That's your signature right there, Ms. Dingle?

1 A Uh-huh. Yes. Uh-huh.

2 Q Okay. And this is a document from August of 2000, and
3 down here it says that as a young child you had asthma
4 and allergy problems; is that what that says?

5 A Well, whoever wrote that -- I -- I didn't wrote that.

6 Q And that's Dr. Keith's report; is that right?

7 A Dr. Keith didn't -- Doctor -- Dr. Keith didn't come to
8 Manning until in '80 something; so, he couldn't have
9 wrote that.

10 Q But this is dated May 8, 2000?

11 A Just like I said, Dr. Keith didn't see me when I was a
12 child; so, he couldn't have wrote that.

13 Q And that's Dr. Keith's report though?

14 A Well, just like I say, he didn't came to Manning until
15 in the '80 something.

16 Q And in -- in August of 2000, Dr. Keith did take you out
17 of work July -- the end of July of 2000; is that your
18 recollection?

19 A Yes.

20 Q And then he told you you could go back on August 31st
21 of 2000; is that correct?

22 A No, he didn't. I don't recall.

23 Q Well, if the records say that you wouldn't dispute
24 that?

25 A Just like I said; I don't recall.

1 MR. ROBERTS: Commissioner, I would just refer you
2 to page 32 of our APA submissions, Defendant's
3 APA.

4 Q It says right here that you can return to work without
5 restrictions on August 31st of 2000?

6 A Like I say; I couldn't recall.

7 Q And at this time you also -- you went to see an
8 allergist in this area, Dr. Atkison?

9 A Dr. Atkison? I saw Dr. Atkison before 2000.

10 Q And you saw him up until about the end of August of
11 2000; is that right?

12 A Yes, up to.

13 Q And do you recall being diagnosed with seasonal
14 allergies?

15 A No.

16 Q He didn't take you out of work did he?

17 A Yes, he did I think.

18 Q You don't -- do you recall?

19 A It was 2000.

20 Q And then you went to see Dr. Halstead?

21 A Dr. Halstead was before 2000.

22 Q And you saw Dr. Hawthorne?

23 A That was before 2000.

24 Q And then you went to see Dr. Gaines?

25 A Yes.

1 Q Do remember being diagnosed with minor allergies?

2 A No. He didn't tell me that.

3 Q Now, Ms. Dingle, you -- how did your -- going back to
4 your -- your time line in your work here. You -- you
5 started working in the mold area in 1998?

6 A I started working in the mold area in 1996.

7 Q Okay. But -- and you went back you started in 1998?

8 A Yes.

9 Q And you worked for there for how long until you started
10 having these problems?

11 A I worked there until 2000. They moved me around the
12 area but they took me right back to mold.

13 Q So, you started having problems with allergies and
14 sinus and that sort of thing?

15 A I start having problems with headaches. When I went
16 back I was still -- I was having headaches, itching
17 around the mouth, my lungs feel like it was closing up,
18 my throat started feeling like a knife cutting in it,
19 stomach pain, severe stomach pain.

20 Q And you discussed all that with Dr. Keith?

21 A Yes.

22 Q In 1998; is that right?

23 A Yes.

24 Q In 1998 you told him all about the lungs and --

25 A '98?

1 Q -- yes.

2 A That was in '90 -- the lungs was in 2000, when my lungs
3 start swelling up. '98 is when I had my bad headaches,
4 ear, nose, everything was hurting me.

5 Q So, you got better after you left the area; is that
6 right?

7 A I got that after I left out of mold.

8 Q Okay. But -- but after you saw Dr. Keith for a couple
9 of months there between April or May of 1998 and August
10 of 1998, did you -- did you get -- did your symptoms
11 improve?

12 A No, I had went to Dr. Halstead. All -- all of Dr.
13 Halstead's came after 2000.

14 Q Okay. But -- but after you saw Dr. Keith for this
15 episode in 1998, did you get better or did your
16 symptoms stay the same or did they get worse?

17 A In '98? I left -- when I left -- it got worse.

18 Q And you continued to go to the Doctor with worsening
19 symptoms?

20 A Yes.

21 Q Now, do you remember in 1999, going to Clarendon
22 Memorial Hospital?

23 A I can't recall.

24 Q Okay. You don't remember having a problem where you
25 had to go to the emergency room there?

1 A I can't recall.

2 Q Okay. By in December of 1999, were you getting worse?

3 A Yes.

4 Q Okay. And what -- what symptoms were you having?

5 A I can't recall going to the hospital; I don't know.

6 Q Okay. Were you having congestion?

7 A I can't recall going to the hospital. I --

8 Q Well, if there's a record of you going to the hospital
9 on December 14th of 1999, would you dispute that?

10 A -- if my hand -- if my handwriting is on it. I -- I
11 don't know what was written.

12 MR. ROBERTS: Commissioner, this is page 49 of
13 Defendant's APA.

14 Q I'm just going to call your attention to the history
15 right there. It says, history: cough and congestion
16 for five (5) days?

17 A I don't understand what you want me to say anything was
18 the reason. I -- I can't -- I can't justify to
19 something I don't understand.

20 Q So, if in December of -- if that report is correct, in
21 December 1999, you reported five (5) days with the
22 onset then, it had to have been getting worse at that
23 point; would that be fair to say?

24 A I can't read the handwriting. I don't know.

25 Q Because you wouldn't tell them that it had only started

1 five (5) days earlier if it had been going on for a
2 year and a half would you?

3 A I cannot remember it. I don't -- I don't know.

4 Q All right. You saw a Dr. Cassone, an ear and nose and
5 throat specialist?

6 A Yes, I did.

7 Q He didn't write you out of work did he?

8 A Yes, he did.

9 Q Okay. When was that?

10 A I don't remember.

11 Q Now, Ms. Dingle, just a couple of real quick -- I'm
12 going to wrap this up. You -- you're talking about
13 this smoke that you smelled?

14 A Uh-huh.

15 Q How did you know what the solutions smelled like?

16 A Because the whole plant smelled like it.

17 Q But you don't know what that smell was do you?

18 A Everything is open up. The whole plant is open up. I
19 was walking around the plant. I deal with the seals.
20 The seals is right there. Everything is right there.
21 You could smell whatever was coming off there because
22 the thing was so strong you could smell what was coming
23 off the -- off the parts.

24 Q Are you aware if different areas with these different
25 chemicals if they had their own ventilation systems

1 piping it out?

2 A They don't have ventilation system over in those areas.

3 Q You don't know or do you?

4 A I know they -- they -- not when I was there they
5 didn't.

6 Q Now, if that smell was not those chemicals, then you
7 weren't exposed to that chemical; is that -- would that
8 be fair to say?

9 A Just like I said, I could smell the stuff coming off of
10 this -- off of the -- off of the seals because it was
11 all in my mouth, all in my nose, all in my throat. I
12 know what I smelled.

13 Q But if that smell wasn't the chemicals, then you
14 weren't exposed to the chemicals; is that -- is that
15 fair to say?

16 A Are you trying to tell me that Federal-Mogul don't have
17 chemicals?

18 COMMISSIONER HUFFSTETLER: Ma'am, if you'd just
19 answer what he asks you?

20 A The only thing I can say is what I smelled and what was
21 in my mouth, what was -- what was on the part. I mean,
22 he didn't specifically say what chemical. I can't
23 pinpoint what chemical. The only thing I can say is
24 that what I smelled, what I taste; that's all I can
25 say.

1 Q And you said you smelled this whole smell throughout
2 the plant?

3 A The whole plant had smelled like that.

4 Q Okay. Even when you were in --

5 A It has a --

6 Q -- you were in gaskets --

7 A -- the whole --

8 Q -- even when you were in --

9 A -- the whole plant.

10 Q -- so, when you were in gasket you smelled this smell?

11 A Gasket have a different -- a different little odor
12 because it's like over there. But as soon as --
13 Federal-Mogul when I was there you could smell the
14 scent coming through the door, outside the door; you
15 could smell it. You could smell it from over -- from
16 the high school; that's how strong the odor was.

17 Q Did you get sick when you were in the parking lot?

18 A No, I did not unless I smelled the odor.

19 MR. ROBERTS: I don't have any further questions.

20 MR. MOORE: Commissioner, I would like to
21 recross-examine her -- redirect questions?

22 COMMISSIONER HUFFSTETLER: Yes, sir. Sure.

23 REDIRECT EXAMINATION

24 By Mr. Moore:

25 Q Now, you -- you were asked about your exposure. Were

1 you offered a mask when you came back off of your --
2 being taken out during the summer of 2000?

3 A No, I didn't.

4 Q So, when you were moved from spot to spot you weren't
5 offered a mask?

6 A No. No one had a mask on.

7 Q But were you offered one?

8 A No. Not -- even though I was sick they didn't.

9 Q From the time you worked there in 1996 until 2000, in
10 August was there a ventilation system in place?

11 A No.

12 MR. MOORE: Those are all my questions.

13 COMMISSIONER HUFFSTETLER: Ma'am, if I could ask.
14 You mentioned earlier that Medicaid was paying
15 medical bills. Is there anyone else who's paid
16 medical bill on your behalf?

17 A In the beginning I had Blue Cross-Blue Shield when I
18 was -- when they still had me employed but after they
19 had fired me after for being out for two (2) -- two (2)
20 years -- when they fired me after two (2) years, then I
21 had my Medicaid.

22 COMMISSIONER HUFFSTETLER: Okay. So, Blue
23 Cross-Blue Shield and Medicaid?

24 A Yes sir, in the beginning.

25 COMMISSIONER HUFFSTETLER: I -- I just need -- I

1 don't know the outcome of the case but, I mean, if
2 I were to award it I would need to order this
3 insurance carrier to repay everything they paid.
4 So --

5 A Yes, sir.

6 COMMISSIONER HUFFSTETLER: -- I need to know who
7 that is. Is there anything else?

8 MR. MOORE: I have one (1) or two (2) other
9 procedural matters, Mr. Commissioner, as soon as
10 he finishes, as far as the Form 50; if you don't
11 mind.

12 COMMISSIONER HUFFSTETLER: Any other witnesses?

13 MR. MOORE: Those are all my witnesses.

14 MR. ROBERTS: Okay. I have one (1) witness.

15 COMMISSIONER HUFFSTETLER: Sir, if you'd raise
16 your right hand.

17 WHEREUPON,

18 ROBBIE GALLIMORE, being duly sworn and cautioned to
19 speak the truth, the whole truth and nothing but the
20 truth, testified as follows:

21 COMMISSIONER HUFFSTETLER: If you'd state your
22 name, please.

23 WITNESS: Robbie Gallimore.

24 DIRECT EXAMINATION

25 By Mr. Roberts:

- 1 Q Mr. Gallimore, where are you presently employed?
- 2 A Federal-Mogul.
- 3 Q How long have you been with Federal-Mogul?
- 4 A Three (3) years.
- 5 Q Okay. Are you in the Summerton plant?
- 6 A Yes, sir.
- 7 Q And how long have you been in the Summerton plant?
- 8 A Three (3) years.
- 9 Q Okay. What's your position?
- 10 A Environmental Health\Safety Coordinator for the plant.
- 11 Q Okay. And what does that mean; what do you do?
- 12 A Basically, I have to oversee any safety issues,
- 13 environmental issues, and look out for the employees
- 14 and the plant concerning any of those.
- 15 Q Does that include the chemicals that are used in the
- 16 process?
- 17 A Yes, sir.
- 18 Q Now, what -- Federal-Mogul manufactures automobile
- 19 products; is that correct?
- 20 A Seals and gaskets.
- 21 Q Okay. And in part of that process there is a lot of
- 22 chemicals that are used in the plant?
- 23 A There's few, yes sir.
- 24 Q Okay. Now, these chemicals, where -- where are these
- 25 chemicals --

1 COMMISSIONER HUFFSTETLER: Let -- let me interrupt
2 you --

3 MR. ROBERTS: Yes, sir.

4 COMMISSIONER HUFFSTETLER: -- because really the
5 focus here is in what was present in 1998 and 1999
6 --

7 MR. ROBERTS: Yes, sir.

8 COMMISSIONER HUFFSTETLER: -- not in the last three
9 (3) years.

10 MR. ROBERTS: Yes sir, I understand that. And --
11 and I'm going to get to that in just a moment.

12 COMMISSIONER HUFFSTETLER: All right.

13 MR. ROBERTS: I'm going to ask him some questions
14 --

15 COMMISSIONER HUFFSTETLER: Okay. But I don't know
16 how he can testify to that if he wasn't there, but
17 go ahead.

18 MR. ROBERTS: -- well, he's -- he's familiar with
19 the parts, the areas where she was working.

20 MR. MOORE: And I -- I want --

21 COMMISSIONER HUFFSTETLER: He can only be familiar
22 with them in the last three (3) years; that's my
23 point but go ahead, ask your questions.

24 Q Has -- has the mold operations or the ionic operations
25 changed in the last eight (8) years --

1 A No, sir.

2 Q -- to your knowledge?

3 COMMISSIONER HUFFSTETLER: How -- how would he
4 know?

5 Q Is that part of your job to know that?

6 A Part of my job is to review it.

7 MR. MOORE: I would -- I would -- I would -- Mr.
8 Commissioner, I would like to note an objection
9 for the record. If this -- this is based upon
10 first hand knowledge and if he's not there during
11 the period of time Ms. Dingle was employed there,
12 he can't offer first hand knowledge of any
13 information pertinent to -- to this hearing.

14 COMMISSIONER HUFFSTETLER: Do you have a reply to
15 the objection.

16 MR. ROBERTS: No, sir. I don't have a reply.

17 COMMISSIONER HUFFSTETLER: Then I'll sustain it.

18 MR. ROBERTS: Thank you. I have no further
19 questions.

20 COMMISSIONER HUFFSTETLER: Do you have any
21 questions of this witness?

22 MR. MOORE: No, sir.

23 COMMISSIONER HUFFSTETLER: Thank you, sir.

24 WITNESS: Yes, sir.

25 COMMISSIONER HUFFSTETLER: Any other witnesses?

1 MR. ROBERTS: One other -- I -- I would like to
2 submit, as I noted on my pre-hearing brief, the
3 hearing testimony previously -- from the previous
4 hearing of David Glenn.

5 COMMISSIONER HUFFSTETLER: Is that part of the
6 record?

7 MR. ROBERTS: From the previous hearing, yes sir.

8 COMMISSIONER HUFFSTETLER: Well, it should be in
9 the file then.

10 MR. ROBERTS: Okay. That's fine.

11 COMMISSIONER HUFFSTETLER: I made the file a part
12 of the record.

13 MR. ROBERTS: Yes, sir. Okay.

14 COMMISSIONER HUFFSTETLER: But I will note that
15 particular testimony that you're interested in. I
16 also note some medical records that Claimant's
17 counsel has brought to my attention prior to going
18 on the record and these in particular deal with
19 the elements of the Mohasco case and I mention
20 Mohasco because the court mentioned Mohasco.

21 MR. ROBERTS: Yes, sir. Yes, sir.

22 COMMISSIONER HUFFSTETLER: And those are at APA
23 Number 11; page 2, APA Number 1; page 14, APA
24 Number 5; pages 1 and 2, as well as the testimony
25 at the hearing today. Is there anything else?

1 MR. MOORE: Yes, sir. I just wanted to thank this
2 Commissioner. Throughout the record -- I'm going
3 to just clear up something for the record. The
4 first Form 50 in this matter was filed on December
5 18th of 2000.

6 COMMISSIONER HUFFSTETLER: 2000, yes sir.

7 MR. MOORE: Yes, sir. I just -- I just wanted to
8 clear up -- clear up that for the record. I have
9 one (1) other motion of this Commission. And I
10 would ask the court to allow the record to remain
11 open for -- for at least thirty (30) days, I
12 suppose this would be to the Commissioner's
13 discretion. This -- this -- this -- this case has
14 been quite unusual; I think the court has taken
15 note of that. The Commissioner has taken note of
16 that when we first started the hearing.

17 COMMISSIONER HUFFSTETLER: I -- I don't know if
18 it's unusual; it's certainly long.

19 MR. MOORE: Long.

20 COMMISSIONER HUFFSTETLER: And it's been -- been
21 in court a number of times and back.

22 MR. MOORE: Yes, sir. It's unusual in -- in that
23 -- in that sense. Just looking at the history
24 here. There were chemicals that -- some three
25 hundred (300) or so chemicals.

1 COMMISSIONER HUFFSTETLER: I don't know. I only
2 have the evidence.

3 MR. MOORE: Okay.

4 COMMISSIONER HUFFSTETLER: I don't -- I'm not
5 trying to cut you short but -- but it -- it has to
6 be in the record.

7 MR. MOORE: Okay. That's --

8 COMMISSIONER HUFFSTETLER: Whatever is in the
9 record we have.

10 MR. MOORE: -- okay. It's --

11 COMMISSIONER HUFFSTETLER: If you have a motion on
12 the record open when did you file that motion? I
13 don't see it in the file.

14 MR. MOORE: I'm making a motion now -- prior to
15 today.

16 COMMISSIONER HUFFSTETLER: Okay. To hold the
17 record open for what purpose?

18 MR. MOORE: For -- for thirty (30) days. Because
19 of the number of chemicals that were involved in
20 this file. We just got notice of this case coming
21 back on remand and it was sent probably about a
22 month prior to the hearing date. One, that is
23 somewhat ample -- we had issues in terms of
24 getting Ms. Dingle back for -- for a re-look at
25 her -- her condition but did not have ample time

1 to do one other thing and that's regarding these
2 chemicals. And I would like the court to -- to
3 leave the record open for thirty (30) days.

4 COMMISSIONER HUFFSTETLER: For what? For what;
5 what is it going to do?

6 MR. MOORE: We -- we -- we have an expert. I
7 would like to have the report generated by an
8 expert and presented to -- to the Commission.

9 COMMISSIONER HUFFSTETLER: I -- I'm -- I don't
10 mean to act foolish except I'm not sure what
11 you're asking. You -- you want to get a report
12 from another expert?

13 MR. MOORE: Yes, sir. An industrial expert as it
14 relates to these elements.

15 COMMISSIONER HUFFSTETLER: Is there any objection?

16 MR. ROBERTS: I don't know what to say. I mean, I
17 don't know what kind of expert -- what type of
18 expert this is, what the scope of this expert's
19 evaluations are going to be.

20 COMMISSIONER HUFFSTETLER: Do you object?

21 MR. ROBERTS: Excuse me, Commissioner. I object,
22 Commissioner.

23 COURT REPORTER: I'm sorry, I didn't hear you.

24 MR. ROBERTS: Yes, we object to that request. I
25 don't understand.

1 COMMISSIONER HUFFSTETLER: And what is your
2 objection?

3 MR. ROBERTS: Well, I don't understand what
4 purpose it would serve at this point. I'm not
5 sure what type of expert. What -- what his
6 intentions are with regard to this expert. I'd
7 like a little more explanation but -- I'm not
8 making sense.

9 COMMISSIONER HUFFSTETLER: Do you have a response
10 to his objection?

11 MR. MOORE: Yes, sir. Prior -- prior to -- Mr.
12 Roberts coming on we had several issues with --
13 with the many chemicals that -- that are used in
14 this processing. There was some three hundred
15 (300) MSDS's that we were given notice of that --
16 that are used in the processing of this matter.
17 One of the main issues in this -- in this hearing,
18 Your Honor, Mr. Commission, is -- is -- is her
19 exposure, excess -- excessive exposure and -- and
20 clearly adding to her -- her disease as relates to
21 this -- this -- this work environment. We would
22 want to have these chemicals analyzed further and
23 have an industrial person to give testimony as to
24 his opinion as to what's excessive and what's not.

25 COMMISSIONER HUFFSTETLER: I think you noted that

1 the Form 50 in this case was filed December 18th,
2 2000? That is over seven (7) years ago --

3 MR. MOORE: Yes, sir.

4 COMMISSIONER HUFFSTETLER: -- almost seven and a
5 half (7 1/2) years ago. And the case -- I don't
6 think --

7 MR. MOORE: Well, my response to that would be
8 this. Even though the Doctor --

9 COMMISSIONER HUFFSTETLER: -- I haven't said
10 anything yet.

11 MR. MOORE: -- I beg your pardon?

12 COMMISSIONER HUFFSTETLER: Go ahead. Well, I
13 haven't said anything yet but go ahead.

14 MR. MOORE: Yes, sir. Several Doctors had asked
15 for this materials, Mr. Commissioner. It -- they
16 were not submitted. We had to do -- went as far
17 as to -- as far as to subpoena this -- this
18 information prior to Mr. Roberts taking -- coming
19 on board from Mrs. Bluke. We had great difficulty
20 getting the materials. Dr. Lein did have access
21 to it when he issued his opinion but, of course,
22 he's not an industrial expert. So, that -- that's
23 the basis for it. So, we didn't -- we didn't have
24 access to it when this Form 50 was filed; in fact,
25 we were told that it wasn't available to us.

1 COMMISSIONER HUFFSTETLER: I don't know what was
2 said or not said. The case is over seven (7)
3 years old. It has been no secret that the court
4 has raised the Mohasco issue more than once on
5 several occasions; that is not a new issue. The
6 hearing has been set for some time. The -- the
7 motion that you make now was not made ten (10)
8 days prior to the hearing; so, I think there's
9 been more than adequate time for people to marshal
10 the evidence and I'm going to deny your motion.
11 Is there anything else?

12 MR. ROBERTS: Not from the Defense, Commissioner.

13 COMMISSIONER HUFFSTETLER: If not, then that
14 concludes the hearing.

15 (THERE BEING NO FURTHER QUESTIONS, THE HEARING CONCLUDED AT
16 3:45 P.M.)

COURT OF COMMON PLEAS

PLAINTIFF,

TRANSCRIPT OF RECORD
C/A #: 2007-CP-14-00150

V.

FEDERAL MOGUL CORPORATION,
ET AL.,

DEFENDANTS.

NOVEMBER 22, 2010
CLARENDON COUNTY COURTHOUSE

HONORABLE R. FERRELL COTHRAN, PRESIDING JUDGE

Dwight C. Moore, Esquire
Attorney for Claimant

Byron P. Roberts, Esquire
Attorney for Defendant

TAKEN BY MELISSA R. SINGLETARY
CERTIFIED VERBATIM REPORTER

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EXHIBITS

(There were no exhibits marked at this hearing)

Diane C. Dingle vs. Federal Mogul Corporation, et al. 3

1 Mr. Moore: If it please the court, Your Honor. This
2 is an appeal from the single commissioners hearing. That
3 single commission was Commission Huffsteler, whereby he
4 issued an order denying the claimant Diane Dingle's
5 workman's comp claim. That Order was sent down from a
6 hearing that was held on May 22, 2008. This is an appeal
7 from that Order. This case, Your Honor, has a long
8 history. We have briefed it and so I want go through a
9 detailed chronological history of the case but will do
10 just enough I think will give the court a feel for our
11 position.

12 Ms. Dingle, at the time of this hearing initially,
13 was a forty (40) year old single mother who was employed
14 by Federal Mogul, who started her employment back in
15 1996. That employment ran to 2000. In 1998, she started
16 experiencing some headaches, some respiratory issues,
17 some throat issues and other health issues related to
18 what she believed to be exposure from chemicals at a
19 local industry, that being Federal Mogul.

20 When this case was initially heard, it was initially
21 heard by Commission Childs who awarded her pursuant to an
22 Order of Relief. That Order was appealed. It went to a
23 panel, the panel made some revision to the Order sent it
24 back, it was appealed again and then came back to Judge
25 Cooper. Judge Cooper heard it in a circuit court setting

1 and this is when, I believe, this case takes some unusual
2 turns. A statute of limitations was raised, that in my
3 mind was resolved at a later point, but the issue in
4 terms of how he characterized in his Order what he
5 thought to be the facts lead us down a road that I think
6 took the case in a different direction then we thought it
7 should have gone in. Because of this characterization,
8 this case took the flavor of occupational disease issue
9 because of the language he used in his Order. The
10 instructions that he gave when he sent it back for
11 further fact finding he raised the question how the
12 commission found that the claim was timely filed on the
13 day of the accident was stipulated as June 7, 1998 and
14 the Form 50 was filed on February 12, 2002. Clearly more
15 than two years. He goes on to say or his comments in the
16 transcripts which he uses to issue the verbal order.
17 When the actual day the form was filed, it appears the
18 case could have been considered an occupational disease
19 standpoint or a repetitive injury as a aggravation of
20 underlying condition. This bears in mind that Judge
21 Cooper did not make a finding of the occupational
22 disease. He says based upon the representation of the
23 Form 50, the only way it could meet 42-15-40, was that it
24 was an occupational disease. Well, the date was
25 incorrect, I think we resolved that issue. But that took

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1 the case and put it squarely in my mind as a occupational
2 disease issue instead of one of the other injuries. That
3 is an injury by accident or repetitive trauma. The
4 Mohasco issue then took effect and this case went up
5 again and came back and the panel decided it should be
6 sent back to the same commissioner de novo for a hearing
7 on those issues.

8 We believe that this case should have been, could
9 have been a repetitive trauma case or an aggravation of
10 underlying condition as a basis for a valid claim under
11 our worker's compensation laws. We believe though that
12 it still met occupational disease category even though
13 Commission Huffstetler in his Order found that there was
14 not substantial evidence in the record to show so. I
15 will tell you what that is. Now, he did find that there
16 was a disease. In a moment, I'll go into that, but
17 secondly the evidence was that a disease must arise out
18 of and the course of the claimant's employment. Dr.
19 Keith, one of the treating physicians wrote the claimant
20 out of work from May 7, 1998 until May 20, 1998 for
21 vertigo sinusitis and headaches. The claimant described
22 symptoms of allergies, stopped up nose and sinus to Dr.
23 DaShone related them all to her work at Federal Mogul.
24 Dr. DaShone being the doctor who works for Federal Mogul.
25 Dr. Atkison, Dr. James A. Atkison stated, that I think

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1 the best treatment for this, in the long run, may be
2 switching jobs, i.e. avoiding exposure. I cannot
3 directly desensitize her into exposure of smoke fumes and
4 chemicals that she states she has at work. Now, her
5 actual work duty was that of a mold press operator.
6 Federal Mogul makes gasket and seals for automobiles, so
7 it was her responsibility as she described it mold the
8 rubber to metal by way of a machine, a vac machine that
9 had a top on it and put those metals in this rubber in,
10 close the top, processes it, closed the top, takes it
11 out, a tray of gaskets, takes it out and passes it along
12 to the next person. This is what she did all day. The
13 testimony said that the temperature for the processing
14 was some 350 to 400 degrees Fahrenheit to facility the
15 process itself. So, this is what she's telling her doctor
16 she was exposed to and what she did as her job.

17 In the same letter, Dr. Simpson gave an opinion that
18 one or a number of the chemicals in question caused mucus
19 membrane irritation which he thought should have produced
20 temporary voice alteration although in Ms. Dingle's
21 case, the claimant, those were not temporary they last
22 for sometime. Here is Dr. Simpson's observation and his
23 letter of May 14th, 2004. It says that the chemical in
24 question caused mucus membrane irritation which produced
25 what should have been temporary voice alterations. His

1 deposition testimony that her condition remained
2 basically unchanged for the first visit in 2002 until the
3 last in 2004, two years later leads to the un-escapable
4 conclusion that the appellants medical condition are
5 connected to her employment. That's in the record. Dr.
6 Alean, who was an expert and practiced in the area of
7 pulmonary and critical care medicine states in his record
8 this way. With the awareness of the appellants medical
9 history and with the results of physical examination Dr.
10 Alean found that there was an impairment to her ability
11 to get oxygen out of the air into her lungs and into the
12 blood stream. He concluded that the appellant's symptoms
13 were a result of the active air ways dysfunction syndrome
14 RADS which involves a narrowing of the airways of
15 irritation of the airways as a result of an inhaled ---
16 RADS is closely related to the upper airway dysfunction
17 which involves upper airways specifically the nasal
18 passage and vocal cords commonly called the upper airway.
19 Given the fact that she had ongoing pain in her throat
20 and hoarseness, he also determined that she had a
21 component of RADS. Based upon the forth going, Dr. Alean
22 formed a medical opinion, within a reasonable degree of
23 medical certainty, that her condition was going to be
24 lifelong. The opinions of Dr. Simpson and Dr. Alean
25 established that the appellant's medical problems were

1 connected with her employment at the plant. Nonetheless,
2 they submit the medical testimony was not so relied on
3 but in addition to such medical testimony the
4 circumstance before and following the injury showed a
5 conclusion of a casual connection was not, was not
6 without confident evidentiary support and was not the
7 result of an injection and surmise. The third element
8 disease must be due to hazards in excess of those hazards
9 that were ordinarily incident to the employment. Dr.
10 Alean testified concerning the chemicals in use at
11 appellant's work place at the plant that caused him to be
12 concerned, mainly alcohol or formaldehyde or a methanol
13 hexameter, I'll spell this for the record H-e-x-a-m-e-t-e
14 and Lenetettramine, both of which were shown on the MSDS,
15 Material Safety Data Sheet. He stated that formaldehyde
16 raised a red flag to him because those were the known
17 causes of RADS.

18 Now, Your Honor, this is a plant that uses, as we
19 were told, up to some seven hundred different chemicals.
20 Each of them have a Material Safety Data Sheet that gives
21 a list of possible issues, health issues, if a person was
22 exposed to it. He bases his opinion, that in this
23 particular incidence the Thackston had the formaldehyde
24 that caused in his mind the RADS, the one that causes the
25 RADS. There is substantial evidence in the record

1 referring to appellant's chronic throat pain, persistent
2 hoarseness, difficulty speaking and swallowing along with
3 other problems attributing the pain to the laryngitis as
4 well as for RADS, all related to the appellant's
5 employment at the plant. Dr. Wynn, also a pathologist,
6 referenced chemicals in the appellants plant work site
7 and went on to say the environment of chemicals that had
8 been known to have a significant effect on the vocal
9 cords thus, i.e. one of the problems she was having.
10 However, the MSDS doesn't specifically mention the vocal
11 cords. It does have potential severe effects on the body
12 if ingested or prolonged contact with the skin.

13 Ms. Dingle testified at the end of the day she left
14 the plant with residue on her clothing, residue on her
15 skin, residue in her hair and also a suety red paste in
16 her mouth. So, she testifies as to her exposure to some
17 residue that caused her some difficulty. The fourth
18 element ...

19 The Court: Let me ask you something about that. In
20 her testimony, does she talk about what chemicals she was
21 exposed to or does she know?

22 Mr. Moore: She doesn't know. The only one that came
23 up was Thackston came up early on with Dr. Dashone who
24 actually mentioned the Thackston.

25 The Court: How did Dr. Dashone find out about this

1 particular chemical? Was this a chemical that just
2 happened to be used in the plant or was it used in the
3 machine she was operating?

4 Mr. Moore: It was used in the plant. The safety
5 person talked about this was put on the surface of one of
6 the processes that she was exposed to. It was used as
7 some type of sealant. It was put on to help seal, I
8 think the rubber to the actual metal. So, she was
9 exposed to it. I think she testified that she did know
10 of one particular chemical and that was Thackston,
11 mentioned earlier, it was not until several years later
12 that we were able to get a list of those chemicals used
13 but Thackston was one of the ones mentioned earlier. In
14 fact, the only one that was mentioned earlier.

15 The fourth element was the disease must be peculiar
16 to the occupation in which the claimant was engaged. She
17 worked as a press operator in the mold department. A
18 press operator in the gasket department and later resumed
19 work in the mold department. She actually started when
20 she first got there at Federal Mogul, Your Honor, as a
21 mold operator, went to the gasket department and then
22 back to the mold department. As a press operator using
23 the Thackston 750 part she was exposed to formaldehyde.
24 She inhaled fumes from rubber heated to 350 degrees as
25 I've just mentioned. Mr. Kelley Thacker, the plant

1 manager for Federal Mogul, testified in deposition about
2 her work environment. He stated that the molding process
3 is a hot mold, molding at about 350 degrees and asserted
4 are prepared metals in rubber preps and the mold comes
5 down on the tonnage with heat and it binds rubber to the
6 metal and forms rubber into a sealed shape. In coming up
7 with a seal stamping is applied, the metal is prepared
8 the molding on the line and a liquid chemical by the
9 common name of Vasco is applied as a metal preparation
10 metal of material and then adhesive is applied. So, he
11 explains the process in that department that she worked
12 in.

13 The fifth issue of Mohasco. The hazard cause and
14 disease must be one recognized peculiar to the particular
15 trade and process of an occupation employment. The smoke
16 fumes, residue, airborne chemical residue inhaled by the
17 appellant after they are released into the immediate area
18 of the appellant's work environment is peculiar to the
19 work process and plant operators. Appellant was
20 processing hot rubber at more than 350 degrees in the
21 application to form seals and gaskets. As a press
22 operator using the mold press Thackston chemical she was
23 exposed to formaldehyde release.

24 I refer back to Mr. Thacker's description of the
25 process. So we believe the fifth element is satisfied.

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1 Additionally, the appellant was exposed to other
2 chemicals used in the manufacturing process in the plant
3 that she inhaled and which attached itself to her outer
4 garments as she reported to Dr. Simpson. The smoke
5 fumes, residue that caused the appellant's disease and
6 her injury are peculiar to the plants manufacturing
7 process.

8 The sixth element, the disease must directly result
9 from the claimant's continuously exposure to the normal
10 working conditions of this particular trade process
11 occupational employment.

12 She first stated working in 1996 running the rubber
13 mold press for a month. And a press operator in the
14 gasket department for a year and then back to the mold
15 department. Appellant's medical condition deteriorate
16 over time and she was placed on medical leave April 17,
17 2000. She last worked for the employer in July of 2000.
18 Through out this period appellant saw physicians and
19 medical care providers named in the submissions and the
20 court would have those in the record. On September 14th,
21 1998, September 21, 1998, February 11, 2000, February
22 24th, 2000, March 13th, 2000, April 15th, 2000 and May 1,
23 appellant describes symptoms of allergies, stopped up
24 nose, sinus. Dr. Dashone related them to her work at
25 Federal Mogul. Also, those dates as far as what she was

1 being prescribed medically and the records of Dr.
2 Dashone. The record shows substantial evidence that the
3 employer was aware of appellant's medical problem and
4 attempted to medicate them by placing the appellant in
5 different work areas during the early stages of her
6 condition.

7 In fact, the record will also show, Your Honor, that
8 the employer at least acknowledged the exposure issue by
9 one moving her around and then offering her a mask even
10 though that wasn't required pursuant to OSHA standards at
11 the time. They recognized that she had a problem and
12 tried to move her around to get her from direct exposure
13 from these chemicals. Also, I would further add as to
14 the second component of Mohasco, page 8, line 11 of the
15 deposition of Dr. Keith, he writes a letter to the
16 employer. To whom it may concern. Ms. Dingle is
17 suffering from, he calls it, and I'm trying to pronounce
18 it, Your Honor, and I'll spell it for the court. P-h-a-
19 r-e-y-n-a-g-i-t-I-a laryngitis and tonsillitis associated
20 with exposure to fumes at work and she could not be
21 exposed to the irritating fumes under any circumstances.
22 That is in the deposition of Dr. Keith. He goes on to
23 say page 13, line 11, Ms. Dingle was offered a mask by a
24 supervisor in February 2002 as a possible bearing for
25 chemicals and smoke. Dr. Keith goes on page 18, line 15,

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1 my opinion is that constant exposure to chemical fumes in
2 a work environment is responsible for her present medical
3 problem relative to her vocal cords and her chronic
4 laryngitis.

5 She was taken out of work by Dr. Keith and Dr.
6 Dashone several times during the period 1990 to 2000. It
7 is our position that there is substantial evidence in the
8 record even though we don't admit there was not evidence
9 in the record to meet the Mohasco elements, we believe
10 that there is enough evidence in the record to show that
11 by her being taken out of work as many times as she were
12 from 1990 to 2000 there is an argument and evidence in
13 the record for repetitive injury claim in which we also
14 in our Form 50, I believe acknowledge that that was a
15 possible injury.

16 The Court: Now, based on what you just told me it is
17 your position that it don't just meet the claim of
18 occupational disease but this is a repetitive injury?

19 Mr. Moore: Yes, sir. I don't believe that we are
20 forced to elect one when we filed the Form 50. It is
21 from the record that we, that it can be determined
22 whether it is an occupational, an accident by injury or a
23 repetitive injury. It is my opinion that a person can be
24 injured multiple times by accident, by exposure. Now,
25 some of the evidence of occupational disease statute

1 probably transpose themselves into the repetitive injury
2 but nevertheless a person can be injured several times
3 and I think be injured separate and apart from an
4 occupational disease issue. And so we believe that it
5 can fall in either one of those categories.

6 The Court: And in this case you believe this falls
7 into both of those categories?

8 Mr. Moore: Yes, sir. I believe it can fall into
9 both of those categories and I believe there is ample
10 medical testimony along with testimony from the claimant
11 that would give rise to the evidence that it could be
12 either one of those. Now, certainly it meets the Mohasco
13 six elements. It could also be determined to be a
14 repetitive injury question.

15 Now, if you recall the first Commissioner,
16 Commission Childs found the compensability on this claim.
17 She didn't say which one it was and maybe that lead to
18 the confusion but she found it to be compensable. Not
19 only did she find it to be compensable two panels after
20 her found it to be compensable. It was not until it came
21 back that it was fit into this occupational disease
22 category. I think through the direction of Judge Cooper,
23 not intentionally, but because he raised the issue I
24 think it took that turn. The only real consideration
25 that was given was that of an occupational issue. So, we

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1 started out as this being a claim of compensable now to
2 not being compensable by another commissioner without a
3 true finding as to whether it could have been a
4 repetitive injury issue as opposed to an occupational
5 even though we feel that it fits in that category as
6 well.

7 The Court: Yes, sir.

8 Mr. Roberts: Thank you, Your Honor. If it please
9 the Court. I would, I'm not sure about all these
10 different directions we're going in out the theory of the
11 compensability in this claim with respect to whether it
12 was an occupational disease or injury by accident or
13 repetitive trauma injury. Looking at page 3 of the
14 original order of the single commissioner about when she
15 recited, this is a 2004-2005 order of Commissioner, now
16 Judge Childs, where it says that the claimant's Form 50
17 alleges that she incurred an occupational disease arising
18 out of her employment. So, it's after it got kicked
19 back, I don't know if it somehow is now a claim of injury
20 by accident, which I believe, Your Honor, is well aware
21 of the case law and the commissions regulations and the
22 Worker's Comp Act which essentially state that an
23 occupational disease is considered an injury by accident.
24 So, I don't believe there is any evidence in the record
25 and I believe the hearing commissioner, Commissioner

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1 Huffstetler in his 2007-2008 Order following that remand
2 hearing he found no evidence of what I believe the
3 claimant is trying to say a one time or something that
4 happened one time that caused this whole thing. I don't
5 believe there's any evidence in the record. I'm not sure
6 that would ...

7 The Court: That's my understanding, too. Is that
8 right Mr. Moore? You don't claim that it's one event
9 that caused this?

10 Mr. Moore: No, sir.

11 The Court: It's either an occupational disease or
12 repetitive trauma?

13 Mr. Moore: Right. Several events that caused this.

14 The Court: It's not, you know, something in fact
15 blew up or a piece of equipment fell on her, it's not a
16 one time issue?

17 Mr. Moore: No, sir.

18 The Court: Okay.

19 Mr. Moore: The --- and I don't know if repetitive
20 exposure cannot be a injury more than one time.

21 The Court: Right.

22 Mr. Roberts: I think there's only one case that's
23 ever found that Cascade case. I think it was Grayson vs.
24 Gulf Oil. At any rate, and again I'm not sure I can
25 reconcile how it could be a repetitive trauma claim but

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1 not an occupational disease particularly in light of the
2 evidence in the case. Up until 2000 and according to the
3 evidence that's the last time Ms. Dingle worked for
4 Federal Mogul was at some point in the summer of 2000.
5 She at the time, and according to the opinion of Dr.
6 Atkison, an allergist or immunologist in this area, he
7 actually carried out a pulmonary function study.
8 According to his interpretation and his opinion of the
9 results of that study it was normal and he saw no
10 indication of occupational asthma. Now, I will point out
11 and Dr. Alean concurred with the onset of an occupational
12 asthma he testified, I don't have the specific site of
13 his deposition testimony, but he stated in his testimony
14 that occupational asthma, one of the criteria for a
15 finding of occupational asthma is that its onset occurs
16 within, usually, within twenty-four (24) hours or
17 relatively soon after an exposure and then you've got the
18 disease. There is no evidence of any breathing problem
19 in 2000 when she last worked for Federal Mogul.

20 So, the finding Commission Huffstetler found on
21 remand or considering the case de novo on remand that she
22 did in deed have a disease and as I've noted in our memo
23 that I've handed up to the court in my footnote even
24 though, we've not appealed the finding of the disease,
25 she in fact was diagnosed in 2004 with a disease, whether

1 it's RADS, RUDS or a component of one or the other. She
2 has a disease. We've not appealed that but there is a
3 question of whether she actually had a disease or some
4 sort of affliction in 2000 when she last worked for
5 Federal Mogul. We submit that based on the testimony of
6 Dr. Atkison and his records that she didn't have a
7 disease in 2000 when she last worked for Federal Mogul.

8 Now, with regard to the opinion of Dr. Simpson, he's
9 the Medical Director of the Occupational and
10 Environmental Medicine Department at MUSC or at least he
11 was at the time that he was involved in this case. He
12 reviewed all of the MSDS in 2004. He testified and I
13 believe his opinion, his letter after reviewing these
14 records is that he didn't see anything that would have
15 caused the persistent problem that she had. He further
16 clarified that in his deposition and said that he didn't
17 see any of these chemicals, while some of the effects
18 sound horrible, he didn't see where any of those problems
19 that she has. Dr. Wynn-English, the Ph.D. the speech
20 pathologist that worked with Ms. Dingle with her vocal
21 cord which, again, I don't believe it was diagnosed until
22 well after she last worked there. She said that these
23 chemicals, she reviewed them, she said I don't see where
24 these would have caused the problems that she's having.
25 Dr. Simpson said that presumably the cause, if not the

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1 only cause of her problems was, and Dr. Atkison concurred
2 with this, he also testified to this, were the irritants
3 for the irritant effect of the condition of her home. I
4 understand she's testifying that she got sick like crazy
5 at work and she was fine at home. Well, that's why the
6 Commission excludes the testimony of that nature that is
7 essentially self serving. I understand she feels how she
8 does but this is a relatively medically complex case
9 because of the issues involved, the chemicals involved
10 and it doesn't come down to a second shift back room
11 lifting injury, I hurt my back when I was lifting this
12 thing. There is a lot more to this case. In fairness to
13 all that is involved to try to figure out what is wrong
14 with this lady. I think she did have a problem but the
15 question comes back to is there any evidence that would
16 support a finding or conclusion that she got sick because
17 of anything at work. Again, the opinion of Dr. Simpson
18 and Dr. Atkison support the Commissioner's decision that
19 there was not any evidence to conclude that she met two
20 through six, the elements two through six of Mohasco.
21 The element number two, the question whether it arose out
22 of her work. Well, Dr. Simpson has testified in his
23 deposition issued in his report that he didn't see
24 anything that would support the finding that her
25 condition arose out of her work. Taking a step back the

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1 MSDC are, of course, information about these different
2 chemicals that are used in the plant. Just because they
3 use four hundred or seven hundred chemicals doesn't make
4 this an exposure per se case. These sheets they range
5 from water, air, hand soap, anything that's in that
6 building they are required to maintain a MSDS. You read
7 those things and under the right circumstances those
8 things do sound pretty horrible. I mean these are
9 chemicals like gas, things we use everyday at home that
10 have these chemicals. But Dr. Simpson reviewed these and
11 he didn't see a problem that she would have had these
12 lingering problems four years after she last worked in
13 this plant. Dr. Atkison saw her at the time, he said
14 that he didn't see any disease or any problem. He didn't
15 write her out of work. Dr. Dashone, Dashone, the ENT in
16 this area that saw her, he was actually provided the
17 MSDS for this culprit that is being point at, Thackston
18 7500 or 7505. He didn't write her out of work. He
19 didn't restrict her from going back to work. Now, as far
20 as the plants operation itself, David Bland the safety
21 engineer who was responsible for overseeing all of this,
22 this operation, he testified at the hearing and he
23 testified that these machines are ventilated. That it
24 wasn't just a plant full of fumes. He testified that the
25 only expose that she could have had at the time would

1 have been touching these things because this Thackston is
2 part of a bonding agent that is applied to these little
3 seals. They are little rings about a couple of inches
4 across that are stamped out and these little metal pieces
5 are stamped out and this is applied to it, it's dried.
6 It's not even wet when it gets to the molding area. They
7 are then placed on a tray with pieces of rubber, they are
8 put in an oven, a hood comes down, it is sealed all the
9 way around. It can't even work, it shuts down if it is
10 not a complete seal around it. Each machines is
11 ventilated itself. It heats it up, the rubber bonds to
12 the metal. It sucks all the fumes out. The hood comes
13 up they take the tray out and do it again. Now, she's
14 testified, as Mr. Moore has pointed out, she has all this
15 stuff all over her. I don't believe there is any
16 evidence in the record that she had lesions on her skin,
17 that she had anything wrong with her nose or her, I don't
18 know that he had polyps in her nose, don't know that she
19 had sores in her mouth. I don't know that there is any
20 evidence that she had rashes on her face on a regular
21 basis, which reading these MSDS, I believe that if there
22 were some chemical that was causing these problems it
23 might have affected her in other ways. I don't want to
24 mistake what the medical records are but again it's not
25 necessarily what this case is about is did she have any

1 problem breathing because of the job that she was doing.

2 Now getting to Dr. Alean's opinion with regard to
3 the second element and the commissioner pointed this out
4 that Dr. Alean he ruled some things out contrary to the
5 opinions of the other doctors about the cock roach
6 allergens and the mold and the dust in her home but he
7 never testified yes to a reasonable degree of medical
8 certainty it is because of the plant. Now, he testified
9 that some of these chemicals raised a red flag but he
10 didn't even know which chemical she was using. These
11 were chemicals that could have been used in other areas.
12 I don't believe any of that was ever, that wasn't asked
13 by the attorney representing Federal Mogul at the time, I
14 don't believe counsel for the claimant asked him or
15 pointed out to him which specific chemicals and
16 interestingly this has kind of been a head scratcher for
17 me throughout this whole case since I've been involved in
18 it, Thackston, which has been some prominent in this
19 case, Dr. Alean didn't even say Hey, this one is a
20 problem for me. The defense attorney asked him well what
21 about Thackston he said yeah, I reviewed that and that
22 would raise a red flag for me, but he never brought it
23 up. Ms. Dingle's attorney didn't even go back and
24 revisit the question about Thackston. It was some of
25 these other chemicals that again there have been no

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1 connection that these were even chemicals that were used
2 in that area. Dr. Alean also, you know, again going back
3 to the second element Dr. Alean diagnoses her with this
4 RADS or RUDS, again that not what she had in 2000 with
5 Dr. Atkison saw her. He said she had a normal pulmonary
6 function study and didn't have any occupational asthma
7 that he could see.

8 As far as the third element, again, just because she
9 is using these chemicals and this work process involved
10 these chemicals there is no indication that there was any
11 exposure in excess of that which she would normally be
12 exposed to at work. Commissioner Huffstetler was correct
13 in making that finding as well. With regard to the
14 fourth, fifth and sixth elements, it's essentially the
15 same argument that these chemicals were there, she's
16 working in this process so she's met the Mohasco
17 requirements and we submit that there is just not sufficient
18 evidence in the record to go behind Commissioner Huffstetler's
19 decision. His decision is supported by reliable, probative and
20 substantial evidence in the record. Even if there is evidence
21 that she could point to, this court goes on to affirm the
22 decision since there is substantial reliable and probative
23 evidence to support his decision. And just again going back
24 to the other theories of compensability or liability for
25 Federal Mogul as far as a specific injury by accident, I

1 believe we've clarified that and then repetitive trauma as
2 well. She didn't have a disease in 2000 when she was working
3 there. I'm not sure that there was any indication she had an
4 injury back before 2004. And, I believe, the medical evidence
5 in the record documents that she had what Dr. Atkison said, I
6 believe, he stated in his report as well as his deposition
7 that she had seasonal allergies, allergic rhinitis, things of
8 that nature which were transient, they would come and go.
9 Again, with the reports of Richard Bennett, he did find
10 problems in her home which are more likely as Dr. Simpson and
11 Dr. Atkison stated to cause her persistent mucus membrane
12 irritation. Maybe it didn't cause her RADS or RUDS but she
13 didn't have RADS or RUDS or a combination of both in 2000 and
14 we would respectfully request or submit that the hearing
15 decision of the Commissioner and the full commissioner should
16 be affirmed.

17 The Court: Let me ask you. Your position is when she
18 left the employment in 2000 she wasn't sick, when did she
19 claim to be sick and why did she go to the doctor in 2000 if
20 she wasn't sick?

21 Mr. Roberts: Well, she did have this sinusitis and
22 rhinitis and that sort of thing. That's when Dr. Dashone, or
23 Dashone or whatever, he saw her. He reviewed the MSDS, he
24 didn't write her out of work, he didn't find any problems with
25 her work. He returned her to work without restriction.

1 The Court: How did she get to see Dr. Atkison? He's the
2 one that did the pulmonary study, right?

3 Mr. Roberts: Right. I'm not entirely sure about that,
4 the steps and the process about the referrals. He did see
5 her. I don't know if it was a referral from Dr. Keith or
6 whether it was she sought him out but he saw her, he took her
7 history. He then had the pulmonary function study and
8 determined that she didn't have occupational hazard and then
9 he testified and put all that in his deposition that she, that
10 he didn't feel that it was related to her work.

11 The Court: Do you know whether she was sent to Dr.
12 Atkison by her own physician or the Plaintiff.

13 Mr. Roberts: I don't know.

14 The Court: Dr. Atkison, who does he refer to, on behalf
15 of the employer or her?

16 Mr. Roberts: I don't believe, I don't want to mistake
17 what happened, but I don't believe the employer sent her.

18 Mr. Moore: Your Honor, I think I can answer that for you.
19 Dr. Keith was the one who actually referred her to Dr.
20 Atkison. In fact, she had seen Dr. Keith prior to 1998.
21 She had been taken out of work several times between 1998
22 and 1999. Ninety-nine is when she had the conversation
23 with her supervisor about ...

24 Mr. Roberts: Your Honor, I don't know --- where is
25 that in the record? I'm not sure ...

1 Mr. Moore: About '99?

2 Mr. Roberts: Yeah, where is that? Because I don't
3 remember that being in the memo.

4 Mr. Moore: It was in her memo.

5 Mr. Roberts: I don't know that her deposition was
6 submitted into the record.

7 Mr. Moore: Well, the entire record is supposed to be
8 part of the ...

9 Mr. Roberts: Yeah, but I don't know if her
10 deposition was actually submitted into the record.

11 Mr. Moore: That's why I asked earlier is the entire
12 file here.

13 The Court: No depos in this file.

14 Mr. Moore: Okay. That's why I asked earlier if the
15 entire workman's comp file was here.

16 The Court: No.

17 Mr. Moore: It is supposed to be.

18 The Court: It's supposed to be, but this is all
19 we've got. You all can look at it but there is no
20 depositions in this.

21 Mr. Moore: I thought ...

22 Mr. Roberts: I don't remember, I mean, I wasn't at
23 the original ...

24 Mr. Moore: Then I would ask that part of the entire
25 workman's comp file be made a part of the record because

1 I don't know how, if this de novo hearing was supposed to
2 encompass all the record, and all the record goes back to
3 2000, how the court will be able to do that without the
4 benefit of the entire record.

5 Mr. Roberts: Well, I don't see any reference to any
6 testimony to that effect in your memo.

7 Mr. Moore: Well ...

8 Mr. Roberts: I'm not saying you are confined
9 totally to what your memo says but ...

10 Mr. Moore: Well, the court asked the question as to
11 who --- the implication that was given, Your Honor, was
12 that she didn't see a doctor before 2000. In fact, she
13 did see Dr. Dashone and Dr. Keith before 2000. In fact,
14 before 1999 she was actually written out of work several
15 times before that, before she actually left in 2000.

16 The Court: Well, I was just going on the --- In
17 fact, Mr. Roberts said that basically she --- he admitted
18 now that she has a disease. As of 2004 the response was
19 issued and she was sick. Their position is though she
20 wasn't sick in 2000 when she worked for Federal Mogul. I
21 assume that's what he's...

22 Mr. Roberts: That's why Commissioner Huffstetler
23 found that she wasn't diagnosed with RADS or RUDS but he
24 then found that there is no evidence to support that she
25 had that condition in 2000 as a result of her work. I

1 think I've pointed that out in my footnote that we didn't
2 appeal that finding because there is that diagnosis but
3 there is Alean to take it back to 2000 is not there.
4 Particularly in regards to Dr. Atkison's opinion in
5 regard to that pulmonary function study. You've got a
6 normal study with no occupational asthma, no evidence of
7 RADS OR RUDS and then you've got Alean that says she got
8 it in '04.

9 The Court: So a four year gap. Your position is she
10 didn't have it in 2000, she got it in 2004.

11 Mr. Roberts: I think that's what the evidence shows.

12 The Court: I was just trying to figure out how she
13 got to Dr. Atkison in the first place ...

14 Mr. Moore: Your Honor, you do have as a part of your
15 medical records that I submitted which should be Exhibit
16 A, do you have those?

17 The Court: I've got this brief you submitted and
18 I've got a notebook.

19 Mr. Moore: In that notebook should have been the
20 medical records. If you don't have them I will pass them
21 up.

22 The Court: Oh A?

23 Mr. Moore: Yes, sir. In that exhibit you should
24 have the medical records from Dr. Keith, Dashone,
25 Atkison, Gaines.

1 The Court: Yeah, I've got those.

2 Mr. Moore: Those records should tell the court when
3 she started to see each one of those doctors and you will
4 note that she started seeing Dr. Keith prior to 2000.

5 The Court: Was she ever diagnosed by any doctor
6 prior to 2004 with a disease?

7 Mr. Moore: I think Dr. Keith said she had this sinus
8 issue and this laryngitis issue where she had problems
9 speaking and he took her out of work because of it. In
10 fact, he goes on to say he took her out of work several
11 times. I gave the dates earlier that he actually wrote
12 her work excuses for being out of work. I think the work
13 excuses should be in that file, in those medical records.

14 Mr. Roberts: And, Your Honor, I believe that would
15 also be consistent, that persistent mucus membrane
16 irritation would be consistent with the opinions of Dr.
17 Simpson and Atkison of the condition of her home. It
18 didn't cause any permanent damage and again she had the
19 pulmonary function study after that, I believe. I think
20 that was August or September when Dr. Atkison had that
21 pulmonary function study. It may be even later than
22 that.

23 The Court: So, she saw eleven doctors, is that
24 right?

25 Mr. Moore: Yes, sir.

1 The Court: She saw Dr. Keith, Dr. Dashone, Atkison,
2 Gaines, English, Halstead, Harris, Simpson and Alean, did
3 she see any more doctors? Are any of these doctors, were
4 these all her doctors or are any of them Federal Mogul or
5 insurance carriers?

6 Mr. Moore: The only doctor that she saw i.e. Federal
7 Mogul was Dr. Dashone.

8 The Court: Okay.

9 Mr. Moore: If I could address one or two issues
10 while Mr. Roberts is looking through his notes, Your
11 Honor.

12 Mr. Roberts: Oh, I'm just looking through. I would
13 note that Dr. Atkison found in August that she did have a
14 reaction to cock roach allergens.

15 The Court: To what?

16 Mr. Roberts: Cock roach allergens. So, I mean
17 that's ...

18 Mr. Moore: What is peculiar, Your Honor, is this.
19 Commissioner Huffstetler found the disease. He didn't
20 expound where it came from, what it was. He just said
21 there was a disease. I think that is correct that there
22 is a disease. At that point, it is our position to show
23 that the other five elements are met, which we think were
24 met. Now, the argument of the respondent in this
25 particular case seems to be that because she wasn't

1 diagnosed soon after the forms were filed that she didn't
2 have anything during that period of time. Well, I think
3 the court will recognize that just because the first
4 doctor doesn't find any probable diagnosis doesn't mean
5 that somebody else who comes behind who diagnosis the
6 problem is wrong. In this situation persons hit on it
7 but Dr. Alean came the closest to it after diagnosing an
8 identifiable problem. The other thing is those doctors
9 early on didn't have the benefit of the materials to know
10 which or what chemicals caused what because those
11 documents weren't gotten to them until late or not at
12 all. So they didn't have the information to help or to
13 assist with the diagnosis. I think the point has been
14 made already that she had a disease. He didn't say
15 whether or not it was caused in the work place. I think
16 you can defer that it was because he diagnosed her as
17 having it. He just did not give her credit, what I think
18 evidence is in the record to show, that it met the other
19 five elements of Mohasco. So, I think the argument is
20 such already that she has a disease, that's been admitted
21 that she has a disease and we thought that the disease
22 would have came from exposure at work. Our point is that
23 every time she went back she was re-exposed to making the
24 situation worse to the point that at the end that she was
25 finally taken out of work and she never went back.

1 The Court: You say she was taking out of work, how
2 was she taken out of work?

3 Mr. Moore: I think near the end of December of 2000
4 she was taken out of work by work excuse and she never
5 went back and I thought that note should be in those
6 medical records you have.

7 The Court: Okay. You said that Dr. Atkison or
8 Alean, who had, you said no other doctor had the record
9 of the chemicals. When were the chemicals, the list of
10 chemicals introduced ... see I've got a report here from
11 doctors '98 thru 2008.

12 Mr. Moore: I think Dr. Simpson was the first to have
13 access to this list. I think he subpoenaed or requested
14 the records and we also by subpoena from the attorney,
15 myself requested the records.

16 The Court: So, that was in 2002?

17 Mr. Moore: Yes, sir. It was after she had been
18 terminated thereabout 2002. That's when those documents
19 first started appearing. Dr. Simpson even in his letter
20 of May 2004 said that the chemicals in question caused
21 mucus membrane irritation which produced what should have
22 been a temporary voice alteration. So, he admits by his
23 seeing her that those chemicals caused temporary voice
24 altercations. He is willing to say that they remained
25 unchanged from 2002 to her last visit in 2004, almost two

1 years later. These --- it comes to the conclusion that
2 these are connected to her employment. He says that,
3 along with Dr. Alean. That's was in the deposition page
4 4, line 24.

5 The Court: Okay.

6 Mr. Moore: So, we had at least three doctors who
7 connect the actual injury to the job, i.e., exposure to
8 chemicals.

9 The Court: But you're telling me that Dr. Simpson
10 and Dr. Alean had the list of all the chemicals?

11 Mr. Moore: Dr. Simpson did. I think Dr. Alean had
12 at least some information regarding the Thackston 750.

13 The Court: But prior to that none of the other
14 doctors had a list of chemicals.

15 Mr. Moore, They didn't have the list of chemicals,
16 they had the one chemical Thackston. Dr. Keith, I don't
17 recall if he had the Thackston, but Dr. Dashone, the
18 plant doctor had the one copy of the Thackston and MSDS
19 or data sheet.

20 Mr. Roberts: And, again, Your Honor, she didn't have
21 the disease in 2000 according to Dr. Atkison. So, I'm
22 not sure that because she had RADS in 2004 would prove
23 her case if she developed that in 2000. Also, I don't
24 know when the MSDS was requested. I don't know where in
25 the whole pendency of this claim, I mean, of course, it

1 was filed in 2000. I don't know when those were
2 requested, I wasn't even involved at that point. But,
3 the doctors who were trying to figure this thing out were
4 provided those records, Dr. Simpson and Dr. Alean.
5 Again, Dr. Alean said yeah there were some things that
6 raised some red flag but there was no subsequent
7 relationship relating those particular chemicals that
8 raised a red flag to anything that she was doing. That
9 would have, you know, the Thackston was the one that I
10 think was acknowledged to be in that area but Dr. Alean
11 didn't even bring that one up. He was asked about it,
12 but he didn't bring it up and opposing counsel didn't
13 bring it up in his deposition. I don't know that he
14 noted it specifically in his reports either. Dr. Simpson
15 reviewed them all. He said he did not believe that her
16 condition was caused by those chemicals that were used in
17 her work and that's getting back to the fact that there
18 are chemicals at the plant and therefore she was exposed
19 to any one or all of them and that's why she got sick.
20 There's just got to be some element of proof that she had
21 this disease and it was because of exposure to these
22 chemicals that would have caused her to have the disease.
23 Dr. David Bland testified that she wouldn't have been
24 exposed to the fumes of these chemicals anyway because
25 she wasn't in that area and because of the way the

1 machines were designed. That she would have been
2 handling these parts but would not have been breathing
3 fumes from these parts.

4 Mr. Moore: Your Honor, I think that's why the
5 commissioners file is so important. Dr. Bland wasn't
6 there when Ms ...

7 Mr. Roberts: I'm going to take exception to that
8 because I went back through his testimony. I'm not sure
9 I saw anywhere where he said he wasn't there at the
10 plant. I don't see where he was asked about that.

11 Mr. Moore: I asked him the question and I will ask
12 the Court to refer to the file. The question I would
13 propose to look at the record because I think it shows,
14 as I recall the testimony, that he was not there at the
15 time that she was there.

16 The Court: Where would I find that?

17 Mr. Moore: That's in the commission file.

18 The Court: I don't have that.

19 Mr. Moore: Can we request that it be sent to you. I
20 thought we made that request to be honest with you. In
21 fact, we've had conversations about that file being part
22 of the record.

23 The Court: Mr. Roberts what is your position on
24 that?

25 Mr. Roberts: I, you know, the commission normally

1 sends that. I mean, I believe the medical evidence has
2 been presented and more than supports the commissioner's
3 decision in this case. I mean, the record is the record.
4 I don't, again, I may have missed it in here in the
5 testimony, but I don't see anywhere where he says he
6 wasn't there.

7 Mr. Moore: Your Honor, I think the hole that
8 Commissioner Huffstetler left in the record that he said
9 the word disease, but he didn't say where it came from.
10 I believe that in the context of the Mohasco elements
11 that the disease is impliedly as one that came from some
12 exposure of some type that meets the other five elements.

13 The Court: All right. They are not saying she
14 doesn't have a disease, they are just saying there is no
15 evidence that it came from work.

16 Mr. Moore: I refer the Court to Dr. Keith, Dr.
17 Simpson and Dr. Alean.

18 The Court: All right, but you're saying that Dr.
19 Simpson says that the disease came from work. Mr.
20 Roberts says Dr. Simpson says the disease didn't come
21 from work.

22 Mr. Moore: I just read from the transcript that's in
23 my brief that says where this actually came from in his
24 opinion. Deposition page 4, line 24, page 15, line. 18.

25 The Court: All right. Mr. Roberts what do you say.

1 Mr. Roberts: I'm sorry, what page is that?

2 Mr. Moore: In my brief. I reference he goes on to
3 say, in his letter dated May 14, 2004, that the chemicals
4 in question caused mucus membrane irritation which
5 produced what should have been basically unchanged or
6 condition remained basically unchanged from her visit in
7 2002 to her last visit in 2004, two years later leads to
8 an escapable conclusion that her medical condition are
9 connected to her employment.

10 Mr. Roberts: I don't believe that he says at least
11 the escapable conclusion. If he testified that they
12 would have caused a temporary mucus membrane irritation
13 but not persistent I still don't see how that proves that
14 she had a disease in 2000. Because what Dr. Simpson, I
15 believe what he's testifying to is based on his review of
16 these chemicals it wouldn't have caused the persistent
17 problems and that's where he then turns to the fact that
18 she's got these problems with her home. And those are,
19 as Dr. Atkison also testified to his deposition, that
20 those would have caused, an, had an irritant effect on
21 her.

22 The Court: Right. And he says it's a temporary ...

23 Mr. Roberts: Right. He ...

24 The Court: ... problem. These chemicals only caused
25 a temporary problem. So ...

1 Mr. Moore: Well, he said they should have caused a
2 temporary problem, but her condition could have been
3 something other than temporary. He's saying that
4 normally they cause a temporary condition.

5 The Court: What does he say could cause something
6 different in her?

7 Mr. Moore: Well, he doesn't say what caused
8 something different in her. I'm saying if the injury is
9 temporary or not temporary I don't think is the question.
10 The question is injury. He said there was a injury. All
11 be it he thought it should have been temporary but hers
12 is longer than temporary.

13 The Court: Well, let me ask you this. Did Dr.
14 Simpson say this chemical caused this symptom in her or
15 sometime that chemical could cause mucus irritation or
16 did he find that it in fact caused her irritation? Did
17 he connect her symptoms to any chemical.

18 Mr. Moore: I think the record will actually ---
19 again, I think that's why we need the deposition, Your
20 Honor. I think he said that it did cause hers but the
21 symptoms are normally temporary and hers in her case were
22 not.

23 The Court: Okay. So, from 2000, from '98 to 2004 or
24 2008, the only doctor who found the disease was Dr.
25 Alean? The rest of them all treated symptoms but found

1 she had been having diseases is that what you all are
2 telling me?

3 Mr. Roberts: I think that's a summary of the medical
4 record, yes sir. I mean, Dr. Atkison, like I said, he
5 testified about the pulmonary function study, he didn't
6 see occupational asthma.

7 Mr. Moore: Your Honor, I would refer, if you would
8 look in that medical exhibit page 30, you'll see a note
9 from Dr. Keith.

10 The Court: Okay.

11 Mr. Moore: It's a note that was written to Federal
12 Mogul. Ms. Dingle is suffering from recurrent sinusitis,
13 laryngitis ...

14 The Court: Tonsillitis.

15 Mr. Moore: ... associated with her exposure to fumes
16 at work. She cannot be exposed to irritated fumes under
17 any circumstances.

18 The Court: Yes.

19 Mr. Moore: This is a note that was sent after she
20 was taken out of work several times prior to the note
21 being sent. I think at the end of December when she was
22 finally, I'm trying to find a note, where she was taken
23 out of work and never went back. So she was diagnosed
24 with Dr. Keith, in effect from exposure from chemicals
25 back in mid 2000.

1 The Court: July the 21st of 2000.

2 Mr. Moore: Yes, sir.

3 The Court: Then Dr. Atkison didn't never see her,
4 from here, the first time September of 2000.

5 Mr. Moore: Yes, sir.

6 The Court: So, Dr. Atkison didn't get to diagnose
7 her with a pulmonary disease?

8 Mr. Roberts: He diagnosed her with seasonal
9 allergies and allergic rhinitis.

10 The Court: Okay. And no pulmonary disease. The
11 pulmonary study was negative.

12 Mr. Roberts: Right. It didn't show RADS or RUDS. He

13 ...

14 The Court: All right.

15 Mr. Roberts: ... said he didn't see any occupational

16 ...

17 The Court: All right.

18 Mr. Roberts: One other, I would refer you, Your
19 Honor, page 7 of the attachment to my memo. It's page 16
20 of Dr. Simpson's deposition testimony and the question
21 was asked of him, line 14, so you can't state with a
22 reasonable degree of medical certainty that any chemical
23 at Federal Mogul caused these problems since it could
24 possibly have come from the problem she had at home also.
25 He said, I can't, yes.

1 The Court: All right. Anything else?

2 Mr. Roberts: Nothing further from the Defendant.

3 The Court: Anything else?

4 Mr. Moore: Nothing further.

5 The Court: All right.

6 Mr. Moore: I want to make sure that we have, for the
7 Court's review, the full record that Commissioner
8 Huffstetler had at his hearing.

9 The Court: Okay. I'll see if I can't get it. Thank
10 you all. I will revisit this again.

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**FEDERAL-MOGUL SUMMERTON PLANT
PHYSICIAN'S INSTRUCTIONS - RETURN TO WORK STATEMENT
for Work-Related Injuries**

Employee Name: Deane Dingle Date of Injury: 6-98
Physician Name: David Gaines Date Treated: 10/16/00

Nature and Extent of Injury: 36 yo BF reports since June '98 she has experienced
headaches and sinus problems whenever she was exposed to a "chemical"
at work. she now reports chronic hoarseness and throat discomfort,
states her regular MD (Dr. Kettm) has already made several referrals
in her behalf.
Physician's Diagnosis: Environmental Allergies

Treatment Given: Allegra → one twice daily; We'll request
her previous records.

Return to Work Status and Restrictions (please note if follow-up visit(s) is needed):

☒ Return to Full Duty - No Restrictions

☐ Return to Light Duty

Restrictions: _____

☐ Cannot Return to Work At This Time

Return to Work Date 10/16/00

Reason: _____

☒ Follow-up Visit/s Required

Explanation: Follow-up one month.

David C. Gaines, MD
Physician's Signature

10/16/00
Date

* Pt advises me she's been away from work since July.

REPORT OF INDUSTRIAL HYGIENE SURVEY
CONDUCTED AT
FEDERAL MOGUL
SUMMERTON, SOUTH CAROLINA

BY

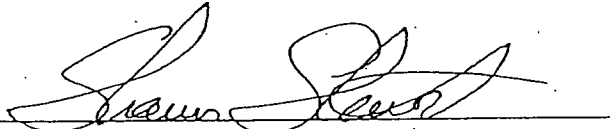
RISK TECH, LLC

Survey Date: February 23, 2004

Report Date: March 4, 2004

Risk Tech Project Number 04-1442-01

Prepared by:



Shawn Stewart, MA, IH
Project Manager

Reviewed by:



Richard Bennett, MSPH, CIH
Principal of Risk Tech, LLC

REPORT OF INDUSTRIAL HYGIENE SURVEY
WELLMAN INC

INTRODUCTION

Risk Tech, LLC conducted personal air sampling for Formaldehyde at the Federal Mogul Plant in Summerton, South Carolina on February 23, 2004. This monitoring was conducted at the request of Ms. Carolyn H. Blue. The purpose of this survey was to determine the potential formaldehyde exposure to mold press operators using the Mold Release Thixon 759 product.

This report is provided for the sole use Ms. Carolyn H. Blue and Tally, Roberts & Blue. Use of this report by any other parties will be at such party's sole risk and Risk Tech, LLC disclaims liability for any such use and reliance by third parties. The results presented in this report are indicative of conditions only during the time of the sampling period. This study does not purport to include every potential health hazard at this location and only those areas and exposures specifically mentioned were evaluated.

The Occupational Safety and Health Administration (OSHA), the American Conference of Governmental Industrial Hygienists (ACGIH), and the National Institute for Occupational Safety and Health (NIOSH) have established personal exposure standards for the agent as shown in Table 1.

METHODS

Air sampling was conducted using Advanced Chemical Sensor Passive monitor badges. The badges were placed on the employees' collar at the beginning of the shift and removed at the end of the employees shift. The date and start time were recorded for each sample. At the end of the sampling period, the badges were removed and a stop time was recorded. All results are blank corrected if applicable.

TABLE 1.
PERSONAL EXPOSURE STANDARDS

OSHA STANDARD	OSHA PEL-TWA	OSHA AL	OSHA STEL/C	ACGIH TLV	ACGIH STEL/C	NIOSH REL	NIOSH STEL/C
Formaldehyde	0.75 ppm	0.5 ppm	2 ppm	—	0.3 ppm	0.016 mg/m ³	0.1 ppm

DEFINITIONS:

NIOSH	National Institute for Occupational Safety and Health
OSHA	Occupational Safety and Health Administration
ACGIH	American Conference of Governmental Industrial Hygienists
PEL	(Permissible Exposure Limit) The 8-hour TWA, established by OSHA, which the employee should not exceed.
AL	(Action Level) An 8-hour Time Weighted Average (TWA) established by OSHA, usually one half of the Permissible Exposure Limit. The AL is the level at which the employer must take action (i.e. medical surveillance, personal protective equipment, periodic personnel monitoring) to reduce employee exposure.
REL	Recommended Exposure Limit. The 10-hour TWA, established by NIOSH, which the employee should not exceed.
STEL	(Short Term Exposure Limit) The concentration to which workers cannot be exposed continuously for 15-minutes.
TLV	(Threshold Limit Value) The 8-hour TWA, established by ACGIH, which the employee should not exceed.
C	(Ceiling Limit) The concentration that should not be exceeded during any part of the workday. The C is usually assessed by sampling over a fifteen-minute period.
ug/m ³	micrograms per cubic meter
ppm	parts of contaminant per million parts of air.
LFC	Lowest feasible concentration as specified in appendix A of the <u>NIOSH Pocket Guide to Chemical Hazards</u> .

RESULTS/DISCUSSION

Personal Monitoring

The formaldehyde air samples were collected using Advanced Chemical Sensor badges. The badges were placed on two mold press employees operating presses 445 and 447. Both presses used the Mold Release Thixon 759. The Mold release product is applied by compressed air gun every turn of the press. The press produces 400 tons of pressure and heats up to 350°F. Once the press is turned on it takes 120 seconds for the entire process to complete. After each run compressed air is used to blow out excess rubber gaskets that may not have been pressed. The total time for load, press, and unload is around five minutes. The press is sprayed with the Mold Release compound about every five minutes.

The sampling time started about 0720 on February 23, 2004 and ended around 1510 on the same day.

The sample results indicate airborne formaldehyde concentrations on the two press operators to be below the OSHA PEL and Action Level during the sampling period.

CONCLUSION

The results of the Industrial Hygiene Survey conducted at the Federal Mogul Plant in Summerton, South Carolina on February 23, 2004 indicate formaldehyde exposures to be below the OSHA PEL and Action Level for the two press operators using the Mold Release 759 on presses 445 and 447.

APPENDIX A

RESULTS SUMMARY TABLES / AIR SAMPLING DATA SHEETS

TABLE A-1
FEDERAL MOGUL
PERSONAL AIR SAMPLING

NAME	SAMPLE NO.	OPERATION EXPOSURE BASIS	SAMPLE DATE	SAMPLE START	SAMPLE STOP	CONTAMINANT	MEASURED CONCENTRATION	OSHA LIMIT
Lilly Pack	GP5775	Mold Press 447	2/23/04	0720	1510	Formaldehyde	<0.01 ppm	0.75 ppm
Rosanna Hammett	FA1437	Mold Press 445r	2/23/04	0720	1510	Formaldehyde	<0.01 ppm	0.75 ppm
Blank	GP5774	N/A	2/23/04	---	---	Formaldehyde	<0.01 ppm	0.75 ppm

Abbreviations:

mg/m³ milligrams per cubic meter;
 PEL permissible exposure limit; OSHA regulatory limit based on an 8-hour Time Weighted Average
 ug/m³ micrograms per cubic meter
 ug micrograms
 N/A Not Available
 mg/m³ milligrams per cubic meter;
 PEL permissible exposure limit; OSHA regulatory limit based on an 8-hour Time Weighted Average;
 ug/m³ micrograms per cubic meter
 ug micrograms
 N/A Not Applicable

EMPLOYEE NOTIFICATION LETTERS

EMPLOYEE NOTIFICATION LETTER

Company: Federal Mogul

Employee: Lilly Pack

Department: Mold Press Operator 447

The results of your exposure evaluation performed by Risk Tech, LLC on February 23, 2004 are listed below. The results indicate exposure below the respective OSHA Permissible Exposure Limit (PEL) for Formaldehyde. If you have any questions concerning your results, please contact your supervisor.

Contaminant	Measured Concentration	OSHA Standard	Type Standard	Agency	Method
Formaldehyde	<0.01 ppm	0.75 ppm	PEL	OSHA	OSHA Method 64

mg/m³ milligrams per cubic meter
 TWA Time weighted average
 OSHA Occupational Health Administration
 N NIOSH
 N/A Not Available

EMPLOYEE NOTIFICATION LETTER

Company: Federal Mogul
 Employee: Rosanna Hammett
 Department: Mold Press Operator 445

The results of your exposure evaluation performed by Risk Tech, LLC on February 23, 2004 are listed below. The results indicate exposure below the respective OSHA Permissible Exposure Limit (PEL) for Formaldehyde. If you have any questions concerning your results, please contact your supervisor.

Contaminant	Measured Concentration	OSHA Standard	Type Standard	Agency	Method
Formaldehyde	<0.01 ppm	0.75 ppm	PEL	OSHA	OSHA Method 64

mg/m³ milligrams per cubic meter
 TWA Time weighted average
 OSHA Occupational Health Administration
 N NIOSH
 N/A Not Available



ADVANCED CHEMICAL SENSOR INC.

3201 North Dixie Highway, Boca Raton, FL 33431
(561) 338-3116 • FAX: (561) 338-5737

P. 676



Reviewed by: Laurence D. Locker, Ph.D.
Laboratory Director

TO: Att: Shawn Stewart
RISK TECH, LLC
669 Marina Drive-Suite 224
Charleston SC 29492

DATE: 2/25/2004

FORMALDEHYDE VAPOR ANALYSIS REPORT

SAMPLE NO.	DATE	NAME	EXPOSURE TIME (hr)	CONCENTRATION (ppm)

Federal Mogul

GP5774 02/23/04 Blank

Basis 8.00 Less than 0.01

The OSHA permissible exposure limit is 0.75 ppm, based on personal exposure for an 8 hour period. There is also an "action level" of 0.5 ppm. The OSHA short-term exposure limit is 2.0 ppm, based on a 15 minute period.

Concentration is low compared to the OSHA permissible exposure limit and below the action level.

Method of Analysis: OSHA Method 64

Limit of Quantitation(8 hr Basis): 0.01 ppm

Date Received: 02/25/04

Date Analyzed: 02/25/04



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669 Marina Drive-Suite 224
Charleston SC 29492

DATE: 2/25/2004

FORMALDEHYDE VAPOR ANALYSIS REPORT

SAMPLE NO.	DATE	NAME	EXPOSURE TIME (hr)	CONCENTRATION (ppm)

Federal Mogul

GP5775 02/23/04 Lilly Pack
Mold Press Operator
Press 447

7:20 — 15:10 = 7.83

Less than 0.01

The OSHA permissible exposure limit is 0.75 ppm, based on personal exposure for an 8 hour period. There is also an "action level" of 0.5 ppm. The OSHA short-term exposure limit is 2.0 ppm, based on a 15 minute period.

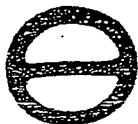
Concentration is low compared to the OSHA permissible exposure limit and below the action level.

Method of Analysis: OSHA Method 64

Limit of Quantitation (8 hr Basis): 0.01 ppm

Date Received: 02/25/04

Date Analyzed: 02/25/04



ADVANCED CHEMICAL SENSOR INC.

3201 North Dixie Highway, Boca Raton, FL 33431
(561) 338-3116 • FAX: (561) 338-5737



Reviewed by: _____
Laurence D. Locker, Ph.D.
Laboratory Director

TO: Att: Shawn Stewart
RISK TECH, LLC
669 Marina Drive-Suite 224
Charleston SC 29492

DATE: 2/25/2004

FORMALDEHYDE VAPOR ANALYSIS REPORT

SAMPLE NO.	DATE	NAME	EXPOSURE TIME (hr)	CONCENTRATION (ppm)

Federal Mogul

FA1437	02/23/04	Rosanna Hammett Mold Press Operator	7:20 — 15:10 = 7.83	Less than 0.01
		Press 445		

OSHA permissible exposure limit (PEL) is a time-weighted average of 0.75 ppm, based on personal exposure for an 8 hour period. There is also an "action level" of 0.5 ppm. OSHA short-term exposure limit (STEL) is 2.0 ppm, based on personal exposure for a 15 minute period.

The level measured is low compared to the OSHA permissible exposure limit and below the "action level" of 0.5ppm.

Method of Analysis: NIOSH Method 3500

Date Received: 02/25/04

Date Analyzed: 02/25/04

CHEMICAL LIST BY DEPARTMENT

DESCRIPTION	DEPARTMENT
✓ Amdex Grease No. 1 EP	Assembly
Chevron 8ri Grease 2	Assembly
Chevron Suprema 5W-30	Assembly
Citgo Premium Lithium EP-2 Grease	Assembly
Dexron III / ATF Mercon	Assembly
Frigid-Go MLT Grease Grade 2	Assembly
G&G Rust Proof A	Assembly
L-340 Lithium RB Grease	Assembly
Ryton Premium Moly Grease #2	Assembly
Shell Alvania 0 EP Grease 2	Assembly
UV Curable - Various	Assembly
Butyl Zimate	Barwell
Rubber Compounds - Various	Barwell
Silicone Compounds - Various	Barwell
Di-Cup 40KE Organic Peroxide	Barwell
Ethyl Zimate	Barwell
Hytamp NPC 25 or NPC-50	Barwell
Hytamp NS-70	Barwell
PFE (IC-1) - 57 (product name)	Barwell
Poly-Dispersion E(VC)D-40	Barwell
Preperslon PAC - 1966	Barwell
Varox DBPH-50	Barwell
Zinc Stearate	Barwell
Zinc Stearate & Detergents	Barwell
Zisnet F-PT	Barwell
✓ Ultramate 2400	Boot Cell
Mono-Coat 759W (1476W)	Boot Cell
Frigid-Go MLT Grease Grade 2	Boot Cell
Methyl Ethyl Ketone	FOG
Scotch-Seal 800 Ind. Sealant	FOG
✓ 02243 AW Hydraulic Oil 46	Gaskets
02353 Texaco Antifreeze/coolant	Gaskets
Aqualine R-120	Gaskets
Aero-Clean Plastic Blast Media	Gaskets
Chemlok TS1677-13	Gaskets
Compound, Rubber - Various	Gaskets
Compound, Silicone - Various	Gaskets
Frekote #1 EM	Gaskets
Methanol	Gaskets
Mobiltherm 603	Gaskets
P-80 Rubber Lubricant Emulsion	Gaskets
Radl-aze	Gaskets
SC-73 Liquid Aluminum Cleaner	Gaskets
SR 80 Regloplas System Cleaner	Gaskets
Thixon 7505	Gaskets
1020 (product name)	Ionic
1048-R4 (product name)	Ionic
748 Additive (product name)	Ionic
815 (product name)	Ionic
Chemlok 5150	Ionic
Chemlok 607	Ionic
Detrex 75	Ionic

Page 1 of 4

DESCRIPTION	DEPTAR	MENT
EC 382R (product name)	Ionic	
Methanol	Ionic	
Oakite 98	Ionic	
Phenolphthalein Solution - Various	Ionic	
Rexolene 48	Ionic	
Thixon 7021-B	Ionic	
Thixon 7500	Ionic	
Acetylene	Maintenance	
American Industrial Oil No. 32	Maintenance	
American Industrial Oil No. 68	Maintenance	
Ampco AW Oil No. 46	Maintenance	
Ampco M-P Gear Lube No. 90	Maintenance	
Amolth Grease No. 2	Maintenance	
Aquaworks @ MM-Dip Cleaning Solution	Maintenance	
Argon	Maintenance	
Atom Arc 7018	Maintenance	
Carbon Dioxide	Maintenance	
Chapco 8134 Spread-Thin V/A Adhesive	Maintenance	
Compressed Air	Maintenance	
Duraeze	Maintenance	
Exxon ATF	Maintenance	
Form-A-Thread 81668 & 81669	Maintenance	
Freon TF 690#	Maintenance	
Kerosene	Maintenance	
Loctite 242 Threadlock Remove	Maintenance	
Loctite 243 Threadlock Remove	Maintenance	
Loctite 290 Threadlocker	Maintenance	
Loctite 257 PST Pipe Seal / Teflon	Maintenance	
Loctite 609 Retaining Compound	Maintenance	
Loctite 660 Quick Metal Retaining	Maintenance	
Loctite 516 Gasket Eliminator	Maintenance	
Loctite 545 Pneu / Hydraul Sealant	Maintenance	
Meropa Oils	Maintenance	
Mobil Vactra Oil #1	Maintenance	
Multifac EP 0	Maintenance	
Multifac EP 2	Maintenance	
Multifac HD 00	Maintenance	
Natural Blue Cleaner and Degreaser	Maintenance	
NFP Jettacin	Maintenance	
Parks Paint Thinner	Maintenance	
Oxygen	Maintenance	
Oxygen, Refrigerated Liquid	Maintenance	
Parabond P-18 and P-28	Maintenance	
Propane	Maintenance	
Putty Hardener 0200	Maintenance	
Quick Metal Press Fit Repair	Maintenance	
Quick Patch (Part A)	Maintenance	
Quick Patch (Part B)	Maintenance	
Ridgid Dark Thread Cutting Oil	Maintenance	
Ridgid Nuclear Thread Cutting Oil	Maintenance	
Ronex MP	Maintenance	
Shell Tellus @ Oil 46	Maintenance	
TDH Oil	Maintenance	
Threadlock, 10ml 242	Maintenance	
Way Lubricant 88	Maintenance	
WD-40	Maintenance	
AW Hydraulic Oil 46	Mold	
Aqualine R-110	Mold	
Dilmor Premium Hydraulic Oil AW46	Mold	

DESCRIPTION	DEPARTMENT
Rubber Compounds - Various	Mold
Michem Emulsion 80535	Mold
Mono-Coat 759W (1476W)	Mold
EC 382R	Mold Crfb
Crown Draw 5005M	Punch Press
NFP Jettacin	Punch Press
SC-159	Punch Press
Spirit 126	Punch Press
Aqualure Gray Hub Sealer	Redicoat
Aqualure Red Hub Sealer	Redicoat
Aqualure Yellow Hub Sealer	Redicoat
Defoamer	Redicoat
Depress Plus	Redicoat
Filmite, H.S.	Redicoat
Filmite, W.B.	Redicoat
Liquid P B Buffer	Redicoat
Methyl Ethyl Ketone	Redicoat
Poly D-Tac 200	Redicoat
Acetic Acid, Glacial	Rubber Lab
Acetone	Rubber Lab
Ammonium Bifluoride	Rubber Lab
Barium chloride	Rubber Lab
Buffer Solution - Various	Rubber Lab
Brom Phenol Blue Test Indicator	Rubber Lab
Bromocresol Green, 0.04-0.1%	Rubber Lab
Chevron Supreme 5W-30	Rubber Lab
Chromium Trioxide	Rubber Lab
Copper (III) Sulfate Pentahydrate	Rubber Lab
Hydrochloric Acid Solutions - Various	Rubber Lab
Karl Fisher Reagent	Rubber Lab
L-Ascorbic Acid	Rubber Lab
Lubriseal	Rubber Lab
Mercury	Rubber Lab
Methyl Ethyl Ketone	Rubber Lab
Methyl Orange Solutions	Rubber Lab
Phenolphthalein Solution - Various	Rubber Lab
Potassium Chloride Solutions	Rubber Lab
Potassium Hydroxide	Rubber Lab
Potassium Iodide	Rubber Lab
Potassium Permanganate	Rubber Lab
Sodium Peroxide	Rubber Lab
Sodium Stearate (All Grades)	Rubber Lab
Sodium Thiosulfate Solutions	Rubber Lab
Starch Indicator Solution Stabilized	Rubber Lab
Sulfuric Acid Solutions	Rubber Lab
Tygon R-3803	Rubber Lab
Viscosity Standard 5-100,000	Rubber Lab
01815 Havoline Motor Oil SAE30	Samples Lab
01834 Texamatic Fluid 8570	Samples Lab
5315-W Coating Resin	Samples Lab
Biresin HM Hardener	Samples Lab
Biresin HM Resin	Samples Lab
Blend-A-Color Toner A60 W 1	Samples Lab
FR-540-A Hardener	Samples Lab
G-180B Rapidoprint Activator	Samples Lab
G-380B Rapidoprint Stabilizer	Samples Lab

DESCRIPTION	DEPTAR	MENT
GRC ATF, Dexron II	Samples Lab	
Havoline ATF+3	Samples Lab	
Hypoid Gear Lubricant	Samples Lab	
Hypoid Gear Oil	Samples Lab	
Mopar Dexron II ATF	Samples Lab	
Mopar Type F ATF	Samples Lab	
Motorcraft Premium 20W40	Samples Lab	
Penreco ASTM Reference Oil #2	Samples Lab	
Therminol 66 Heat Trans. Fluid	Samples Lab	
Unocal MPF Gear Lube	Samples Lab	
Aloxglass	Tool Room	
Aquaworks 6 MM-Dip Cleaning Solution	Tool Room	
Borotec 10009	Tool Room	
Cool Tool	Tool Room	
Cool Tool II	Tool Room	
Dymo S-325 Slurry	Tool Room	
Epoxy Bonded Abrasive Products	Tool Room	
Form-A-Thread 81658 & 81669	Tool Room	
Isopropyl Alcohol, 70%	Tool Room	
LPS Tapmatic #1 Cutting Fluid	Tool Room	
LPS Tapmatic #2 Cutting Fluid	Tool Room	
NFP Jettacin	Tool Room	
Nitrogen	Tool Room	
Plastic Steel Putty (A) - Resin	Tool Room	
Quenchol Oil 521	Tool Room	
Quick Metal Press Fit Repair	Tool Room	
Resin Bonded Abrasive Products	Tool Room	
Rubber Bonded Abrasive Products	Tool Room	
Rust-O-Lene Oil SAE 10	Tool Room	
Solcut 20	Tool Room	
Superior 100	Tool Room	
Syntio 9951	Tool Room	
Trip Tap Heavy	Tool Room	
Unichrome 314 Stop-Off Compound	Tool Room	
Unichrome 80 Strip Salt	Tool Room	
Unichrome CR-110 SRHS Compound	Tool Room	
Unichrome CR-130 Compound	Tool Room	
Unichrome CR-204	Tool Room	
Unichrome Strip Salt 80-X	Tool Room	
1020 (product name)	Wastewater Tr	atment
1048-R4 (product name)	Wastewater Tr	atment
748 Additive (product name)	Wastewater Tr	atment
815 (product name)	Wastewater Tr	atment
Acetylene	Wastewater Tr	atment
Buffer Solutions - Various	Wastewater Tr	atment
Calcium Chloride, Flake	Wastewater Tr	atment
Caustic Soda Liquid (All Grades)	Wastewater Tr	atment
Chromaver 3	Wastewater Tr	atment
Coagulte 300	Wastewater Tr	atment
Compressed Air	Wastewater Tr	atment
EC 382R (product name)	Wastewater Tr	atment
Floculte 551	Wastewater Tr	atment
Methanol	Wastewater Tr	atment
NFP Jettacin	Wastewater Tr	atment
Sodium Metabisulfite	Wastewater Tr	atment
Sulfuric Acid	Wastewater Tr	atment
Sulfuric Acid Solutions	Wastewater Tr	atment
Zinc Reference Solution	Wastewater Tr	atment

Indoor Environmental Survey

Holly Court Apartment 2-L
211 Dickson Street
Manning, South Carolina

by Risk Tech

Report Date: March 26, 2004

Investigation Date: March 12, 2004

Prepared By:



Mark Schweder, MSPH
Industrial Hygienist

Reviewed By:

Richard D. Bennett, MSPH, CIH
Principal, Risk Tech

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Environmental Survey

Holly Creek Apartment 2-L, Manning, South Carolina

Introduction and Background

This report is based on microbial, allergen and formaldehyde sampling results and investigation from the indoor environmental survey conducted March 12, 2004 at 211 Dickson Street, Apartment 2-L, in Manning, South Carolina. The purpose of the survey was to evaluate the presence of potential microbial reservoirs, allergens, and formaldehyde within the residence. Findings are based on microbial, allergen, and formaldehyde sampling results, and visual observations of the living space.

Each building at Holly Creek Apartments is comprised of three sections separated by a fire wall, with four apartments and two stories per section. The buildings have vinyl siding, with a pitched shingled roof and concrete slab floor. Apartment 2-L is on the second story, with approximately 1,100 square-feet of living space.

The scope of this study was limited to an investigation of the types and concentrations of fungi, allergens, and formaldehyde present in the air, dust, and surfaces at Holly Creek Apartment 2-L. Based on visual observations and microbial sampling results from the March 17 investigation, there is evidence of mold proliferation in the master bedroom, in addition to high concentrations of cockroach allergen collected from dust in the home.

Visual Observations

Approximately 10 square feet of ceiling sheetrock in the living room appeared to be removed and replaced. Discussions with onsite management revealed that the sheetrock had been removed in 1999 to access the air handling unit (AHU), which was located above ceiling. A new AHU was subsequently placed in a hallway closet.

The base of the AHU had a significant accumulation of dust.

There was some visible mold on supply diffusers in the home. In this case, occasional condensation on the cold diffuser surface resulted in mold growth.

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Heavy accumulation of dust was noted adjacent to the water heater closet

Environmental Sampling

Fungal Analysis

The indoor environmental survey was conducted to evaluate airborne and surface levels of fungi in the apartment. In total, nine viable and non-viable air samples were collected from four sites in the home and outdoors as a reference. All air samples were sent to Aerotech Laboratories (Phoenix, Arizona), and analyzed by the methods detailed in the following section. Aerotech is accredited by the American Industrial Hygiene Association (AIHA) Environmental Microbiology Laboratory Accreditation Program (EMLAP).

Viable Fungi Air Sampling

Viable fungal air samples are designed to identify the presence of airborne living fungal spores. Airborne viable fungal samples were collected with an Andersen® Single Stage Impactor sampler loaded with Malt Extract Agar (MEA) nutrient media. Prior to sampling, the flow rate of air entering the sampler was calibrated to 28.3 liters-per-minute (lpm) with a BIOS DC-1 DryCal® primary gas flow calibrator. To minimize the potential for cross-contamination, the interior and exterior of the sampler was cleaned between samples with KENDALL WEBCOL™ isopropyl alcohol wipes. All samples were collected at desk height for two minutes. The location, sample time, temperature, and relative humidity were recorded at each sample location.

Samples were sent to Aerotech Laboratory on March 12, 2004 via next day UPS delivery. Once received by the laboratory, sample media was placed in an incubator to induce germination and the production of colonies. The colonies were then counted and identified and sample results were expressed as colony-forming-units per cubic meter of air (CFUs/m³).

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Total spore air sampling

The spore trap method involves collecting spores onto a microscopic slide for direct microscopic analysis. In the case described in this survey, fungal spores were collected with the Air-O-Cell cassette sampler. This sampler collects all particles in room air, including fungal spores, dust, pollen, and both viable and nonviable fungi. Before initiation of the sampling event, the flow rate of air entering the sampling cassette was calibrated to 15 liters-per-minute (lpm).

All air sample media were attached via tygon tubing to the sampling pump and placed on a tripod approximately four feet above the floor in each of the locations tested. The location, temperature, and relative humidity were recorded for each location. Samples were sent to Aerotech Laboratory on March 12, 2004. Sample results were reported in spores per cubic-meter.

Bulk Dust Sampling for Allergens

Dust samples were collected from the vacuum cleaner, and from the base of the air handling unit directly adjacent to the filter. The samples were collected and placed in air tight plastic bags. For dust mite allergen analysis, the allergens Der p 1 and Der f 1 from mite species *Der matophagoides pteronyssinus* and *D. farinae*, were evaluated by Enzyme-Linked Immunosorbent Assay (ELISA). Cockroach allergen analysis was conducted by measurement of allergen Bla g 1, which is specific to the German Cockroach.

Bulk and Swab Sampling for Fungi

Fungal analysis was conducted by mixing dust samples with nutrient media in the laboratory. After an incubation period of seven days, colonies are counted and identified with sample results expressed in colony forming units per gram, or colony forming units per square-inch for materials or surfaces respectively.

Formaldehyde Air Sampling

Formaldehyde air samples were collected and analyzed per NIOSH Method 2539.

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Discussion

During the March 12, 2004 survey viable and non-viable air, bulk dust and surface samples were collected in the subject apartment and analyzed for fungal organisms. Bulk and dust samples were collected and analyzed for dust mite and German cockroach allergens. Air samples were collected and analyzed for formaldehyde.

Fungal Results

In general, airborne fungal concentrations indoors should be less than concentrations outdoors and exhibit a similar species balance. Sample results indicate high airborne fungal concentrations in the master bedroom of the subject apartment (see Table 1 and Table 8). The Table 1 Spore Trap Air Microbial Analysis indicates that the non-viable fungal airborne concentration in the master bedroom was over forty times the outdoor reference concentration. The type of mold predominating in the master bedroom was *Aspergillus/Penicillium*. The type of mold predominating in the outdoor reference was *Cladosporium*. *Aspergillus/Penicillium* fungal genera are potent allergy and asthma sensitizers and are indoor air quality problem indicator organisms. The *Cladosporium* genera found in the outdoor reference is a common environmental fungi in the Southeastern United States. The Table 8 culturable fungal air samples substantiated the Table 1 data. The bulk dust and surface fungal analyses were unremarkable. This leads one to surmise that the source of the high airborne fungal concentrations originate from a fungal reservoir in the wall and/or ceiling cavity. This can be substantiated by performing wall and/or ceiling cavity sampling or by performing test cuts.

Allergen Analysis

The carpet dust samples did not indicate the presence of dust mite allergens (see Table 3). The carpet dust sample did indicate high levels of German cockroach (GC) allergens. The GC allergen level in the carpet dust was over twice the concentration that studies have shown to elicit allergic reaction in sensitized individuals.

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Formaldehyde Analysis

The air samples collected for formaldehyde were below detectable limits (see Table 9).

Conclusion

Air samples collected in the subject apartment indicate a significantly high concentration of *Aspergillus/P. nicillium*. These levels pose a potentially significant health risk to the occupants. Further investigation is warranted to locate and remediate the fungal reservoir in this structure.

Bulk dust samples indicate a significant concentration of GC allergen. The interior of the unit should undergo remediation and pest control and maintenance practices should be evaluated to ensure the problem does not recur.

Continued occupancy of the subject apartment should be undertaken only after the information contained in this report is reviewed by physician knowledgeable in environmental medicine.

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Appendix A: Sample Results Summary

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Table 1: Sample Results Summary - Spore Trap Air Microbial Analysis

Lab Number	Sample ID and Location Sampled	Concentration (s/m ³)	Predominant Group
2	C-01 Living Room	100	Cladosporium
4	C-2 Kitchen	67	Cladosporium
6	C-3 Master Bedroom	8,447	Aspergillus/ Penicillium
8	C-4 Outdoor Reference	213	Cladosporium
28	C-5 Blank	<1	NA

Table 2: Sample Results Summary - Dust Microbial Analysis

Lab Number	Sample ID and Location Sampled	Concentration (s/g)	Predominant Group
11	F-5 Carpet Dust	2,222*	Curvularia
14	F-6 HVAC Dust	76,923	Ascospores

*Excessive debris. Reported results could be low.

Table 3: Sample Results Summary - Allergen Analysis - Bulk

Lab Number	Location Sampled	Concentration (ug/gram)	Allergen Type
9	D-5 Carpet Dust	<0.192	Dust Mite
12	D-6 Carpet Dust	<0.191	Dust Mite

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Table 4: Sample Results Summary - Allergen Analysis - Bulk

Lab Number	Location Sampled	Threshold Value (ug/gram)	Allergen Type
10	E-5 Carpet Dust	4.586	German Cockroach
13	E-6 HVAC Dust	<0.307	German Cockroach

Table 5: Sample Results Summary - Total Fungal Spore and Mycelia Counts - Surface

Lab Number	Location Sampled	Concentration (s/cm ²)	Predominant Genera
15	S-1 Kitchen	54	Basidiospores
16	S-2 Kitchen	14*	Cladosporium
17	S-3 Water Heater	14***	Ascospores
18	S-4 Stove	3	Basidiospores
19	S-5 Behind Fridge	52	Unclassified Conidia
20	S-6 Bath Light Fixture	9	Smuts/Myxomycetes/Periconia
21	S-7 Frnt Bdrm Supply Vent	3	Cladosporium
22	S-8 Back Bdrm Supply Vent	3	Cladosporium
23	S-9 Master Bedroom Supply Vent	6	Chaetomium
24	S-10 Blank	<3	NA

*Yeast observed on slide. ** Pollen observed.

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Table 6: Sample Results Summary - Culturable Fungi at 25°C - Surface

Lab Number	Location Sampled	Concentration (CFU / m ³)	Predominant Genera
15	S-1 Kitchen	25	Cladosporium
16	S-2 Kitchen	218	Yeast
17	S-3 Water Heater	6	Penicillium species Var. 1
18	S-4 Stove	16	Epicoccum
19	S-5 Behind Fridge	1,167	Penicillium species Var. 1
20	S-6 Bath Light Fixture	24	Epicoccum
21	S-7 Fmt Bdrm Supply Vent	27	Cladosporium
22	S-8 Back Bdrm Supply Vent	41	Cladosporium
23	S-9 Master Bdrm Supply Vent	49	Cladosporium
24	S-10 Blank	<1	NA

Table 7: Sample Results Summary - Culturable Fungi at 25°C - Dust

Lab Number	Sample ID and Location Sampled	Concentration (CFU/g)	Predominant Group
11	F-5 Carpet Dust	2,950	Aspergillus Niger/ Aspergillus species Var. 1
14	F-6 HVAC Dust	24,700	Cladosporium/Aspergillus species Var. 1

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Table 8: Sample Results Summary - Culturable Fungi at 25°C - Air

Lab Number	Sample ID and Location Sampled	Concentration (CFU/m ³)	Predominant Group
1	A-1 Living Room	130*	Cladosporium
1	B-1 Living Room	40*	Penicillium species Var. 1
3	A-2 Kitchen	137*	Cladosporium
3	B-2 Kitchen	40*	Cladosporium
5	A-3 Master Bedroom	1,010*	Cladosporium/Penicillium species Var. 1
5	B-3 Master Bedroom	870*	Cladosporium/Penicillium species Var. 1
7	A-4 Outdoor Ref	76*	Cladosporium
7	B-4 Outdoor Ref	44*	Penicillium species Var. 1
29	A-5 Blank	7**	Penicillium species Var. 1

*Culture media contained visible growth upon receipt. **Growth appears to originate from edge of Petri dish, indicating possible contamination.

Table 9: Sample Results Summary - Formaldehyde

Sample ID and Location Sampled	Concentration (ppm)
G-1 Living Room	<0.078
G-2 Outdoor Ref	<0.078
G-3 Blank	---

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Appendix B: Microbial Sample Data Sheet Chain of Custody

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Appendix C: Microbiological Sample Data Sheets from Aerotech

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References

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MATERIAL SAFETY DATA SHEET

Rohm and Haas Company

Y-68

#2669

1. CHEMICAL PRODUCT AND COMPANY INFORMATION

Thixon 7500

Product Code : 51614
KEY : 853444-6

MSDS Date : 10/26/99

COMPANY IDENTIFICATION

ROHM AND HAAS COMPANY
100 INDEPENDENCE MALL WEST
PHILADELPHIA, PA 19106-2399

EMERGENCY TELEPHONE NUMBERS

HEALTH EMERGENCY : 215-592-3000
SPILL EMERGENCY : 215-592-3000
CHEMTREC : 800-424-9300

2. COMPOSITION/INFORMATION ON INGREDIENTS

This product is considered hazardous under the OSHA Hazard Communication Standard (29 CFR 1910.1200).

No		CAS REG NO	WEIGHT (%)
1	Organofunctional silane	Proprietary	5.3
2	Salt	Proprietary	3.5
3	Non-hazardous and other ingredients	Not Applicable	Balance below reportable levels

3. HAZARDS IDENTIFICATION

Emergency Overview

CAUSES EYE BURNS. CAUSES SKIN BURNS. CAUSES SEVERE DIGESTIVE TRACT IRRITATION. INHALATION MAY CAUSE DIZZINESS, HEADACHE AND INCOORDINATION. INGESTION CAN CAUSE DIZZINESS, FAINTNESS, HEADACHE AND INCOORDINATION. MAY BE HARMFUL IF SWALLOWED. MAY CAUSE RESPIRATORY TRACT IRRITATION. INGESTION MAY CAUSE NAUSEA, VOMITING, PAIN, UPSET STOMACH, DIARRHEA. See sections 3, 5, & 6.

Primary Routes Of Exposure

Eye. Skin. Inhalation (breathing).

Eye Contact

Causes burns. May cause corneal opacity (clouding of the eye surface). Can cause burning sensation, tearing, and redness.

Skin Contact

Causes burns. May be harmful if absorbed through the skin.

Inhalation (Breathing)

Irritating to the eyes, nose, and respiratory tract. Can cause dizziness, headaches, and incoordination. Can be harmful or fatal at high concentrations.

Ingestion (Swallowing)

Severely irritating to the mouth, throat, and stomach. Can be fatal if swallowed. May cause nausea, vomiting, pain, and stomach upset (e.g., diarrhea). Can cause dizziness, faintness, headache, and incoordination.

Target Organs/Chronic Effects

Liver. Kidneys. Lungs and respiratory system. Eyes. Skin.

Conditions Aggravated By Exposure

Liver. Kidneys. Skin.

Carcinogenicity

	ACGIH	IARC	NTP	OSHA
Organofunctional silane	No	No	No	No
Salt	No	No	No	No

4. FIRST AID MEASURES

Eye Contact

Immediately flush eyes with plenty of water for at least 15 minutes. Get immediate medical attention.

Skin Contact

Immediately flush with plenty of water for at least 15 minutes. For large exposures use an emergency shower. Remove contaminated clothing and shoes. Get immediate medical attention. Professionally wash clothing before re-use.

Inhalation (Breathing)

Remove to fresh air. If symptoms develop, seek immediate medical attention. If not breathing, give artificial respiration.

Ingestion (Swallowing)

Seek medical attention. Immediately induce vomiting, as directed by medical personnel. Never give anything by mouth to an unconscious person.

Notes To Physicians

Treatment should be directed at preventing absorption, administering to symptoms (if they occur), and providing supportive therapy. Though possibly corrosive to the mouth and gastrointestinal tract, this product contains a highly toxic ingredient. Emesis or lavage should be considered in instances where large quantities have been ingested.

5. FIRE FIGHTING METHODS

Flash Point	Not Applicable	Not Applicable
Explosive Lmts	LEL(%) Not Applicable	UEL(%) Not Applicable

Autoignition Not Applicable

Hazardous Combustion And Decomposition Products

Smoke, soot, and toxic/irritating fumes (i.e., carbon dioxide, carbon monoxide, etc.). Oxides of nitrogen.
Hydrogen chloride. Phosphorous oxides. Phosphine.

Fire And Explosion Hazards

High temperatures can cause sealed containers to rupture due to a build up of internal pressure. Cool with water. During a fire, irritating and highly toxic gases may be generated during combustion or decomposition.

Extinguishing Media

Water may be ineffective. SMALL FIRES: Dry chemical or carbon dioxide. LARGE FIRES: water spray, fog, or foam.

Fire Fighting Procedures/Equipment

Fire fighters and others who may be exposed to the products of combustion should be equipped with NIOSH-approved positive pressure self-contained breathing apparatus (SCBA) and full protective clothing.

6. ACCIDENTAL RELEASE MEASURES

Evacuation

Isolate hazard area. Keep unnecessary and unprotected personnel from entering. Corrosive to the eye and skin. Wear appropriate personal protective equipment, including respiratory protection.

Containment

Safely stop discharge. Contain material, as necessary, with a dike or barrier. Stop material from contaminating soil, or from entering sewers or bodies of water.

Clean-Up/Personal Protection Equipment

Appropriate safety measures and protective equipment should be used.

Collection And Disposal

Stop discharge, if safe to do so. Use proper protective equipment. Cover spills with absorbent clay or sawdust and place in closed chemical waste containers. Dispose of according to applicable local, state and federal regulations.

Reporting

Spills of this material in excess of a component's RQ must be reported to the National Response Center (1-800-424-8802) and to the appropriate state and local emergency response organizations. No regulated ingredients.

7. HANDLING AND STORAGE

Storage Temperature < 100F 37.7C

Storage Conditions

Store in cool, dry, well ventilated area away from heat, ignition sources, and direct sunlight. Keep containers tightly closed. Protect from freezing.

Transfer

No special precautions are needed. Follow good manufacturing and handling practices.

Personal Hygiene

Wash thoroughly after handling, especially before eating, drinking, smoking, and using restroom facilities. Wash contaminated goggles, faceshield, and gloves. Professionally launder contaminated clothing before re-use.

Empty Container Precautions

Attention! This container can be hazardous when empty. Follow label warnings even after container is emptied since empty containers may retain product residues. Do not reuse empty container without professional cleaning for food, clothing, or products for human or animal consumption or where skin contact can occur.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Exposure Guidelines

ACGIH - TLV

No regulated ingredients.

OSHA - PEL

No regulated ingredients.

Engineering Controls/Ventilation

Local exhaust ventilation is recommended when vapors, mists, or dusts can be released.

Eye Protection

Wear chemical splash goggles and a full-face shield. An eye wash facility should be readily available.

Skin Protection

Wear rubber boots and apron, protective clothing, and impervious gloves. Because a variety of protective gloves exist, consult glove manufacturer to determine the proper type for a specific operation. An emergency shower should be readily available. Cover as much of exposed skin as possible.

Respiratory Protection

Wear NIOSH/MSHA-approved equipment. Determine the appropriate type by consulting the respirator manufacturer. High airborne concentrations may necessitate the use of self-contained breathing apparatus (SCBA) or a supplied air respirator. Respiratory protection programs must be in compliance with 29 CFR 1910.134.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance	Water white
Odor	Odorless
Physical State	Liquid
Solubility	Completely soluble
pH	Not Applicable
Boiling Point	Approximately 212F 1
Vapor Pressure	Not Established
Vapor Density	Not Established
Evaporation Rt	Not Applicable
VOC Material	215.7 g/L 1.8 lbs/ga
VOC Coating	< 4 g/L 0.1 lbs/gal
Specific Grvty	1.03
%Non-Vol(w/w)	10

NOTE: The physical data presented above are typical values and should not be construed as a specification.

10. STABILITY AND REACTIVITY

Chemical Stability

Stable under normal conditions of use.

Hazardous Polymerization

Will not occur.

Conditions To Avoid

High temperatures.

Incompatibility With Other Materials

Oxidizers.

11. TOXICITY INFORMATION

Components

Organofunctional silane:

Causes severe eye and skin irritation. Prolonged and/or repeated exposure may cause corrosive chemical burns and permanent injury.

Salt:

Systemic toxicity of this product may effect the liver, kidneys, lungs and adrenal glands based on laboratory studies done on this chemical or very similar materials. Severe eye irritant; five of six animals died after application of chemical. Highly toxic if inhaled or ingested. Found to be non-irritating to laboratory animals' skin.

Oral LD50
Inhalation LC50

Rat
Rat A

43 mg/kg
tely 130 mg/M3

12. ECOLOGICAL INFORMATION

No data are available on this product.

13. DISPOSAL CONSIDERATIONS

Disposal

Dispose in accordance with all local, state, and federal regulations.

General Statements

Federal regulations may apply to empty container. State and/or local regulations may be different.

General Recommendations

Of the methods of disposal currently available, it is recommended that an alternative be selected according to the following order of preference, based upon environmental acceptability: (1) recycle or rework, if feasible; (2) incinerate at an authorized facility; or (3) treat at an acceptable waste treatment facility.

Special Instructions

Be sure to contact the appropriate government environmental agencies if further guidance is required.

14. TRANSPORT INFORMATION

Weight (lb)	Shipping Name Non-regulated	49	CFR Y	IATA Y	IMO Y
DOT Label	Not applicable	UN/NA Id Num	Not Applicable		
DOT Label No	L136-3	WHMIS Label	F136-3		

15. REGULATORY INFORMATION

Federal

SARA Title III - Section 311/312 - Hazard Categories

N- Fire Hazard
N- Sudden Release of Pressure Hazard
N- Reactivity Hazard
Y- Immediate (acute) Health Hazard
Y- Delayed (chronic) Health Hazard

Ozone-Depleting Chemicals

No regulated ingredients.

SARA Section 302 Extremely Hazardous Mat

No regulated ingredients.

SARA Section 313 Toxic Chemicals

No regulated ingredients.

Chemical Listing

Listed on the following Country's Chemical Inventories:

United States Toxic Substance Control Act

Chemical component(s) in this product are on the section 8(b) Chemical
Substance Inventory List (40 CFR 710).

State Right-To-Know

Pennsylvania - New Jersey R-T-K

Water	7732-18-5	89.8
Organofunctional silane	Proprietary	5.3
Salt	Proprietary	3.5
Non-hazardous trade secret ingredient(s)	Proprietary	Balance

California - California Proposition 65

WARNING: This product emits a chemical(s) during processing known to the
State of California to cause cancer.

Benzene 71-43-2 Trace *

Cancer Hazard.

* Trace = present at less than 0.01 percent.

CONEG

No data available.

Canada

This is a "controlled product" under the Canadian Workplace Hazardous
Materials Information System (WHMIS).
Class D Division 2 Sub-division B

CEPA - NPRI

No regulated ingredients.

16. OTHER INFORMATION

Hazard Rating		
	HMIS	NFPA
Health	3	3
Fire	0	0
Reactivity	0	0

* = Chronic

ABBREVIATIONS:

ACGIH = American Conference of Governmental Industrial Hygienists
OSHA = Occupational Safety and Health Administration
TLV = Threshold Limit Value
PEL = Permissible Exposure Limit
TWA = Time Weighted Average
STEL = Short-Term Exposure Limit
BAc = Butyl acetate

The information contained herein relates only to the specific material identified. Rohm and Haas Company believes that such information is accurate and reliable as of the date of this material safety data sheet, but no representation, guarantee or warranty, expressed or implied, is made as to the accuracy, reliability, or completeness of the information. Rohm and Haas Company urges persons receiving this information to make their own determination as to the information's suitability and completeness for their particular application.

07.00991026

M2A - 000111181031



MATERIAL SAFETY DATA SHEET

Thixon 7500
P. 708 S NO: 55051-1
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#2669

HAZARD RATINGS		
	HMIS	NFPA
Health	3	3
Fire	0	0
Reactivity	0	0
	* = Chronic	

I. CHEMICAL PRODUCT AND COMPANY INFORMATION

Product ID: Thixon 7500
Generic Description: Mixture of silanes and curative in water
Product Use: Adhesive

For customer service/technical information, contact:
Morton Adhesives & Chemical Specialties
10 South Electric Street
West Alexandria OH 45381
300-348-8846

MSDS prepared by:
Toxicology and Regulated Substance Compliance
David Wienckowski, D.A.B.T.
100 N. Riverside Plaza
Chicago IL 60606
312-807-3422

ChemTrec Emergency
1-800-424-9300

II. COMPOSITION/INFORMATION ON INGREDIENTS

COMMON NAME

Organofunctional silane
Salt
Non-hazardous and other ingredients
Below reportable levels

CAS #	Approximate % (w/w)
Proprietary	5.3
Proprietary	3.5
Proprietary	Balance

III. HAZARDS IDENTIFICATION

EMERGENCY OVERVIEW: CAUSES EYE BURNS. CAUSES SKIN BURNS. CAUSES SEVERE DIGESTIVE TRACT IRRITATION. INHALATION MAY CAUSE DIZZINESS, HEADACHE AND INCOORDINATION. INGESTION CAN CAUSE DIZZINESS, FAINTNESS, HEADACHE AND INCOORDINATION. MAY BE HARMFUL IF SWALLOWED. MAY CAUSE RESPIRATORY TRACT IRRITATION. INGESTION MAY CAUSE NAUSEA, VOMITING, PAIN, UPSET STOMACH, DIARRHEA. See sections 3, 5, & 6.

PRIMARY ROUTES OF EXPOSURE: Eye. Skin. Inhalation (breathing).

EYE CONTACT: Causes burns. May cause corneal opacity (clouding of the eye surface). Can cause burning sensation, tearing, and redness.

SKIN CONTACT: Causes burns. May be harmful if absorbed through the skin.

INHALATION (Breathing): Irritating to the eyes, nose, and respiratory tract. Can cause dizziness, headaches, and incoordination. Can be harmful or fatal at high concentrations.

INGESTION (Swallowing): Severely irritating to the mouth, throat, and stomach. Can be fatal if swallowed. May cause nausea, vomiting, pain, and stomach upset (e.g., diarrhea). Can cause dizziness, faintness, headache, and



MATERIAL SAFETY DATA SHEET

Thixon 7500
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incoordination.

TARGET ORGANS/CHRONIC EFFECTS: Liver. Kidneys. Lungs and respiratory system. Eyes. Skin.

CONDITIONS AGGRAVATED BY EXPOSURE: Liver. Kidneys. Skin.

CARCINOGENICITY:

Organofunctional silane
Salt

ACGIH	IARC	NTP	OSHA
No	No	No	No
No	No	No	No

4. FIRST AID MEASURES

EYE CONTACT: Immediately flush eyes with plenty of water for at least 15 minutes. Get immediate medical attention.

SKIN CONTACT: Immediately flush with plenty of water for at least 15 minutes. For large exposures use an emergency shower. Remove contaminated clothing and shoes. Get immediate medical attention. Professionally wash clothing before re-use.

INHALATION (Breathing): Remove to fresh air. If symptoms develop, seek immediate medical attention. If not breathing, give artificial respiration.

INGESTION (Swallowing): Seek medical attention. Immediately induce vomiting as directed by medical personnel. Never give anything by mouth to an unconscious person.

NOTES TO PHYSICIANS: Treatment should be directed at preventing absorption, administering to symptoms (if they occur), and providing supportive therapy. Though possibly corrosive to the mouth and gastrointestinal tract, this product contains a highly toxic ingredient. Emesis or lavage should be considered in instances where large quantities have been ingested.

5. FIRE FIGHTING METHODS

Flash Point....: Not Applicable Method.....: Not Applicable
Explosive Lmts: LEL(%) Not Applicable UEL(%) Not Applicable
Autoignition...: Not Applicable

HAZARDOUS COMBUSTION AND DECOMPOSITION PRODUCTS: Smoke, soot, and toxic/irritating fumes (i.e., carbon dioxide, carbon monoxide, etc.). Oxides of nitrogen. Hydrogen chloride. Phosphorous oxides. Phosphine.

FIRE AND EXPLOSION HAZARDS: High temperatures can cause sealed containers to rupture due to a build up of internal pressure. Cool with water. During a fire, irritating and highly toxic gases may be generated during combustion or decomposition.

EXTINGUISHING MEDIA: Water may be ineffective. SMALL FIRES: Dry chemical or carbon dioxide. LARGE FIRES: water spray, fog, or foam.

FIRE FIGHTING PROCEDURES/EQUIPMENT: Fire fighters and others who may be exposed to the products of combustion should be equipped with NIOSH-approved positive pressure self-contained breathing apparatus (SCBA) and full protective clothing.

6. ACCIDENTAL RELEASE MEASURES

EVACUATION: Isolate hazard area. Keep unnecessary and unprotected personnel from entering. Corrosive to the eye and skin. Wear appropriate personal protective equipment, including respiratory protection.

CONTAINMENT: Safely stop discharge. Contain material, as necessary, with a dike or barrier. Stop material from contaminating soil, or from entering sewers or bodies of water.

CLEAN-UP/PERSONAL PROTECTION EQUIPMENT: Appropriate safety measures and protective equipment should be used.

COLLECTION AND DISPOSAL: Stop discharge, if safe to do so. Use proper protective equipment. Cover spills with absorbent clay or sawdust and place in closed chemical waste containers. Dispose of according to applicable local, state and federal regulations.

REPORTING: Spills of this material in excess of a component's RQ must be reported to the National Response Center (1-800-424-8802) and to the appropriate state and local emergency response organizations.
No regulated ingredients.

7. HANDLING AND STORAGE

Storage Temperature < 100F 37.7C

STORAGE CONDITIONS: Store in cool, dry, well ventilated area away from heat, ignition sources, and direct sunlight. Keep containers tightly closed. Protect from freezing.

TRANSFER: No special precautions are needed. Follow good manufacturing and handling practices.

PERSONAL HYGIENE: Wash thoroughly after handling, especially before eating, drinking, smoking, and using restroom facilities. Wash contaminated goggles, faceshield, and gloves. Professionally launder contaminated clothing before re-use.

EMPTY CONTAINER PRECAUTIONS: Attention! This container can be hazardous when empty. Follow label warnings even after container is emptied since empty containers may retain product residues. Do not reuse empty container without professional cleaning for food, clothing, or products for human or animal consumption or where skin contact can occur.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

EXPOSURE GUIDELINES:

ACGIH - TLV - No regulated ingredients.

OSHA - PEL - No regulated ingredients.

ENGINEERING CONTROLS/VENTILATION: Local exhaust ventilation is recommended when vapors, mists, or dusts can be released.

EYE PROTECTION: Wear chemical splash goggles and a full-face shield. An eye wash facility should be readily available.

SKIN PROTECTION: Wear rubber boots and apron, protective clothing, and



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impervious gloves. Because a variety of protective gloves exist, consult glove manufacturer to determine the proper type for a specific operation. An emergency shower should be readily available. Cover as much of exposed skin as possible.

RESPIRATORY PROTECTION: Wear NIOSH/MSHA-approved equipment. Determine the appropriate type by consulting the respirator manufacturer. High airborne concentrations may necessitate the use of self-contained breathing apparatus (SCBA) or a supplied air respirator. Respiratory protection programs must be in compliance with 29 CFR 1910.134.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance.....: Water white	Odor.....: Odorless
Physical State: Liquid	Solubility.....: Completely soluble
pH.....: Not Applicable	Boiling Point.: Approximately 212F 100
Vapor Pressure: Not Established	Vapor Density.: Not Established
Evaporation Rt: Not Applicable	VOC Material...: 215.7 g/L 1.8 lbs/gal
VOC Coating...: < 4 g/L 0.1 lbs/gal	Specific Grvty: 1.03
%Non-Vol(w/w) : 10	

NOTE: The physical data presented above are typical values and should not be construed as a specification.

10. STABILITY AND REACTIVITY

CHEMICAL STABILITY: Stable under normal conditions of use.

HAZARDOUS POLYMERIZATION: Will not occur.

CONDITIONS TO AVOID: High temperatures.

INCOMPATIBILITY WITH OTHER MATERIALS: Oxidizers.

11. TOXICITY INFORMATION

COMPONENTS:

Organofunctional silane:

Causes severe eye and skin irritation. Prolonged and/or repeated exposure may cause corrosive chemical burns and permanent injury.

Salt:

Systemic toxicity of this product may effect the liver, kidneys, lungs and adrenal glands based on laboratory studies done on this chemical or very similar materials. Severe eye irritant; five of six animals died after application of chemical. Highly toxic if inhaled or ingested. Found to be non-irritating to laboratory animals' skin.

Oral LD50

Rat

Inhalation LC50

Rat

43 mg/kg

Approximately 130 mg/M3

12. ECOLOGICAL INFORMATION

No data are available on this product.

13. DISPOSAL CONSIDERATIONS

DISPOSAL: Dispose in accordance with all local, state, and federal regulations.



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GENERAL STATEMENTS: Federal regulations may apply to empty container. State and/or local regulations may be different.

GENERAL RECOMMENDATIONS: Of the methods of disposal currently available, it is recommended that an alternative be selected according to the following order of preference, based upon environmental acceptability: (1) recycle or rework, if feasible; (2) incinerate at an authorized facility; or (3) treat at an acceptable waste treatment facility.

SPECIAL INSTRUCTIONS: Be sure to contact the appropriate government environmental agencies if further guidance is required.

14. TRANSPORT INFORMATION

Weight (lb) Shipping Name
Non-regulated

49 CFR IATA IMO
Y Y Y

DOT Label.....: Not applicable
DOT Label No...: L136-3

UN/NA Id Num...: Not Applicable
WHMIS Label....: F136-3

15. REGULATORY INFORMATION

FEDERAL:

This product is considered hazardous under the OSHA Hazard Communication Standard (29 CFR 1910.1200).

SARA Title III - Section 311/312 - Hazard Categories:

- N- Fire Hazard
- N- Sudden Release of Pressure Hazard
- N- Reactivity Hazard
- Y- Immediate (acute) Health Hazard
- Y- Delayed (chronic) Health Hazard

Ozone-Depleting Chemicals - No regulated ingredients.

SARA Section 302 Extremely Hazardous Mat - No regulated ingredients.

SARA Section 313 Toxic Chemicals - No regulated ingredients.

CHEMICAL LISTING - Listed on the following Country's Chemical Inventories:

United States Toxic Substance Control Act
Chemical component(s) in this product are on the section 8(b) Chemical Substance Inventory List (40 CFR 710).

STATE RIGHT-TO-KNOW:

Pennsylvania - New Jersey R-T-K

Water	7732-18-5	89.8
Organofunctional silane	Proprietary	5.3
Salt	Proprietary	3.5
Non-hazardous trade secret ingredient(s)	Proprietary	Balance

California - California Proposition 65

Benzene	71-43-2	Trace *
Cancer Hazard.		

* Trace = present at less than 0.01 percent.



P. 713 Thixon 7500

MSDS NO: 55051-1-5

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CONEG - No data available.

CANADA:

This is a "controlled product" under the Canadian Workplace Hazardous Materials Information System (WHMIS).

Class D Division 2 Sub-division B

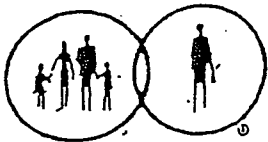
CEPA - NPRI - No regulated ingredients.

16. OTHER INFORMATION

USERS RESPONSIBILITY: A bulletin such as this cannot be expected to cover all possible individual situations. As the user has the responsibility to provide a safe workplace, all aspects of an individual operation should be examined to determine if, or where, precautions - in addition to those described herein - are required. Any health hazard and safety information herein should be passed on to your customers or employees, as the case may be.

DISCLAIMER OF LIABILITY: The information contained herein is, to the best of our knowledge and belief, accurate. However, since the conditions of handling and use are beyond our control, we make no guarantee of results, and assume no liability for damages incurred by use of this material. All chemicals may present unknown health hazards and should be used with caution. Although certain hazards are described herein, we cannot guarantee that these are the only hazards which exist. Final determination of suitability of the chemical is the sole responsibility of the user. No representations or warranties, either expressed or implied, of merchantability, fitness for a particular purpose or any other nature are made hereunder with respect to the information contained herein or the chemical to which the information refers. It is the responsibility of the user to comply with all applicable federal, state and local laws and regulations.

End of Material Safety Data Sheet



EDWARD P. WILKINSON, M.D.
FAMILY PHYSICIAN
15 E. Hospital St. • P.O. Box 280
1 Dogwood Medical Court
Manning, S.C. 29102
(803) 435-2529



RETURN TO WORK AUTHORIZATION

Name of Patient Heane Single Date 5-5-98

Unable to return to work 5-5-98, 5-6-98 May return to work 5-7-98

May return to work, light duty status _____

- Restrictions:
1. No lifting over _____ lbs.
 2. No repetitive bending _____, crawling _____, squatting _____, stooping _____
 3. No work involving use of _____ hand.
 4. No pushing/pulling _____
 5. Cannot reach above shoulder _____
 6. No climbing _____
 7. No prolonged walking _____
 8. Other: _____

May return to work with no restrictions on: _____

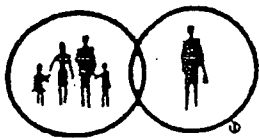
Comments: _____

Diagnosis: sinusitis, allergic rhinitis

Return appointment date : _____

[Signature], M.D.

P.716



EDWARD C. KEITH, M.D.

FAMILY PRACTICE
15 E. Hospital St. • P.O. Box 280
1 Dogwood Medical Court
Manning, S.C. 29102
(803) 435-2529



332

RETURN TO WORK AUTHORIZATION

Name of Patient Diane Dingle Date 5-7-98
Unable to return to work 5-7-98 May return to work 5-10-98
May return to work, light duty status _____

Restrictions: 1. No lifting over _____ lbs.
2. No repetitive bending _____, crawling _____, squatting _____, stooping _____
3. No work involving use of _____ hand.
4. No pushing/pulling _____
5. Cannot reach above shoulder _____
6. No climbing _____
7. No prolonged walking _____
8. Other: _____

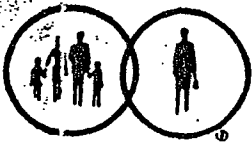
May return to work with no restrictions on: _____

Comments: _____

Diagnosis: _____

Return appointment date : _____

Ed Keith, M.D.



LAKE MARIC^{P. 717} MARY CARE

EDWARD C. KEITH, M.D.

FAMILY PRACTICE

15 E. Hospital St. • P. O. Drawer 280

1 Dogwood Medical Court

Manning, S.C. 29102

Phone (803) 435-2529

Fax (803) 435-4196



332

RETURN TO WORK AUTHORIZATION

Date: April 17 2000

Name of Patient Diane C. Dingle

Unable to return to work due to office visit

May return to work April 23 2000

May return to work, light duty status 1

RESTRICTIONS:

1. No lifting over _____ lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of _____ hand
4. No pushing/pulling
5. Cannot reach above shoulder
6. No climbing
7. No prolonged walking
8. Other: _____

May return to work with no restrictions on April 23 2000

Comments: _____

Diagnosis: _____

Edward C. Keith, M.D.

Edward C. Keith MD

EDWARD C. KEITH, M.D.
FAMILY PRACTICE
15 E. Hospital P. 718 Drawer 280
1 Dogwood Medical Court
Manning, S.C. 29102
Phone (803) 435-2529
Fax (803) 435-4196

332

RETURN TO WORK AUTHORIZATION

Date: May 12 2000
Name of Patient Diane Dingle
Unable to return to work due to office visit
May return to work May 16 2000
May return to work, light duty status _____

RESTRICTIONS:

1. No lifting over _____ lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of _____ hand
4. No pushing/pulling _____
5. Cannot reach above shoulder _____
6. No climbing _____
7. No prolonged walking _____
8. Other: _____

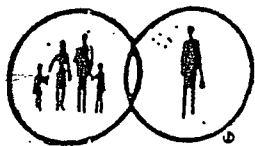
May return to work with no restrictions on May 16 2000

Comments: _____

Diagnosis: _____

Edward C. Keith, M.D.

Edward C. Keith MD



THE MARION PRIMARY CARE
P. 719
EDWARD C. KEITH, M.D.

FAMILY PRACTICE
15 E. Hospital St. • P. O. Drawer 280
1 Dogwood Medical Court
Manning, S.C. 29102

Phone (803) 435-2529
Fax (803) 435-4196

X 233



RETURN TO WORK AUTHORIZATION

Date: June 1 2000

Name of Patient Diane Angie

Unable to return to work due to office visit

May return to work June 5 2000

May return to work, light duty status _____

RESTRICTIONS:

1. No lifting over _____ lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of _____ hand
4. No pushing/pulling
5. Cannot reach above shoulder
6. No climbing
7. No prolonged walking
8. Other: _____

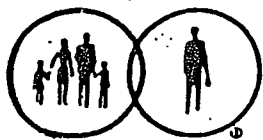
May return to work with no restrictions on June 5 2000

Comments: _____

Diagnosis: Allergies

Edward C. Keith, M.D.

Edward C. Keith MD



MARION PRIMARY CARE
EDWARD C. P. 720 M.D.

FAMILY PRACTICE
15 E. Hospital St. • P. O. Drawer 280
1 Dogwood Medical Court
Manning, S.C. 29102

Phone (803) 435-2529
Fax (803) 435-4196



RETURN TO WORK AUTHORIZATION

Date: 6-7-00

Name of Patient Diane Dingle

Unable to return to work ~~6-5-00~~ 6-5-00

May return to work 6-11-00

May return to work, light duty status ☒

RESTRICTIONS:

1. No lifting over _____ lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of _____ hand
4. No pushing/pulling _____
5. Cannot reach above shoulder _____
6. No climbing _____
7. No prolonged walking _____
8. Other: _____

May return to work with no restrictions on 6-11-00

Comments: _____

Diagnosis: allergies

Edward C. Keith, M.D.

FAMILY PRACTICE
5 E. Hospital St. • P. O. Drawer 200
1 Dogwood MP . 721url
Manning, S.C. 29102

Phone (803) 435-2529
Fax (803) 435-4196

232
RETURN TO WORK AUTHORIZATION

Date: July 16 2000
Name of Patient Diane Dingle
Unable to return to work due to office visit
May return to work July 16 2000
May return to work, light duty status _____

RESTRICTIONS:

1. No lifting over _____ lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of _____ hand
4. No pushing/pulling
5. Cannot reach above shoulder
6. No climbing
7. No prolonged walking
8. Other: _____

May return to work with no restrictions on July 16 2000

Comments: _____

Diagnosis: _____

Edward C. Keith, M.D.

Edward C. Keith MD

FAMILY PRACTICE
E. Hospital St. • P. O. Drawer 200
1 Dogwood Mip . 722nd
Manning, S.C. 29102

Phone (803) 435-2529
Fax (803) 435-4196

RETURN TO WORK AUTHORIZATION

Date:

July 12 2000

Name of Patient

Diane Dingle

Unable to return to work

due to office visit

May return to work

July 18 2000

May return to work, light duty status

RESTRICTIONS:

1. No lifting over lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of hand
4. No pushing/pulling
5. Cannot reach above shoulder
6. No climbing
7. No prolonged walking
8. Other:

May return to work with no restrictions on

July 18 2000

Comments:

Diagnosis:

Edward C. Keith, M.D.

Edward C. Keith MD

Handwritten: 7332

DEA # BK077044
 EDWARD C. REITH, M.D.
 VAKEMARION PRIMARY CARE, INC.
 1100 S. WILSON STREET
 HANNO, NC 28042
 (803) 435-2120 FAX 435-4196

Name: *Michael Dingle*
 Address: *11111*
 City: *W. Va.*
 State: *W. Va.*
 Zip: *26041*

SECURITY FEATURES ON REVERSE: *1/1/00*

Rx: *To Whom It May Concern*
Mr Dingle is suffering from
recurrent pharyngitis,
laryngitis & tonsillitis assoc.
with exposure to fumes at
work. He cannot be
exposed to irritating fumes
under any circumstances

☐ Label
 Refill _____ times PRN NR

V. Reith M.D.

Dispense as Written Substitution Permitted

10011430-03

Ed P. 725 Keith, M.D.

West Rigby Street, Manning, South Carolina 29102
(803) 435-2529

BKA

Patient No. _____

Date	Time	Problem	Notes
10-25-88		rash over body	temp 98 P88 R16 BP 104/60 LMP 10-19-88 24.5" wt. 114
			S: 24x0. M.I. who presents w/ recurrent rash x 2 days. Rash has resolved prior to Pt could identify precipitating cause.
			B: No rash at present Pt WNL
			D: Urhens
			P: Tumor 2-65 AM
			(? Death)

6-2-92

Dianne Dingle

0332

S: Pt is a 27 yo BF who presents with c/o backache. Backache has been present since the MVA 3-13-92. I am not exactly sure why it has taken her so long to get back in here. She did present on the 3-17 but this is my first evaluation for this particular problem. Pt is presently taking Ibuprofen? for the backache.

O: Findings pt has paravertebral muscle spasms and pain to palpation. Decreased ROM on forward bending and backward bending. Not so much on side to side bending or rotation at this time. Straight leg raising is positive at present. Otherwise PE is wnl.

A: # 1 Paravertebral muscle strain.

P: # 1 Fiorinal with Codeine one to two po q6h. # 2 Parafon Forte DSC qid. # 3 Heat qid. # 4 F/U in 3 weeks or prn.



P. 727
F. RENEE GATERS
ATTORNEY AT LAW
145 KING STREET, SUITE 227
P.O. BOX 1015
CHARLESTON, SOUTH CAROLINA 29402
(803) 722-8962 OR (803) 722-8963
FACSIMILE NUMBER (803) 853-8348

June 3, 1992

Edward C. Keith, M.D.
Keith Family Practice
W. Rigby Street
PO Box 368
Manning, SC 29102

RE: My Client:
Date/Loss:

Diane Coard Dingle
March 13, 1992

Dear Dr. Keith:

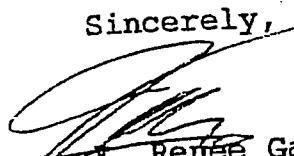
I have been retained by Ms. Diane Coard Dingle to represent her interests with respect to injuries she sustained in an automobile accident on March 13, 1992.

It is my understanding that you treated Ms. Dingle following the accident. I would, therefore, be most appreciative if you would provide me with a medical report summarizing your findings with respect to your examination, diagnosis, treatment, and prognosis. If any longterm or permanent aspects to her injuries are anticipated, I would appreciate your describing them in detail. I am enclosing a copy of a medical authorization which my client has executed permitting you to release this information. Your bill for the costs of providing these records should be directed to my office for payment.

Please provide me with a copy of your bill for services rendered. My client has authorized me to protect payment of her bill out of the proceeds of any settlement or judgment obtained in her behalf.

Thank you for your kind assistance in the care of my client.

Sincerely,


F. Renee Gaters
Attorney at Law

*mailed
6/17/92*

FRG:mld

Diane Dingle

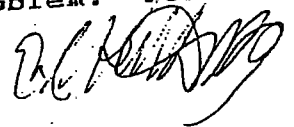
12/1/92.

S: The patient is a 28 year old black female who presents for follow up on back pain. The patient was involved in an automobile accident on 3/13/92. Due to problems with my scheduling I have not been able to see her on the 2 previous times she was here to see me. She still has a complaint of considerable pain in her back. She has continued to go to physical therapy intermittently but states she has no improvement in her back. She still complains of pain between the shoulder blades and up into the shoulders and some pain radiating into the upper mid back. The patient states that Fiorinal with codeine seems to help better than other pain medications. The patient states she is also doing her exercises. According to her she has reached a plateau as far as improvement is concerned.

O: The patient indicates that her pain is located in the rhomboids with radiation up into the lower portion of the trapezius between her shoulder blades. She also complains of pain in the lower thoracic upper lumbar region. The patient flinches and squirms during palpation of the muscles but I cannot detect any major spasm in these areas. The patient's degree of subjective pain seems much higher than the objective findings at this time. This would indicate a very low pain threshold. The patient does have reasonably good range of motion. She does complain of pain whenever movement of the shoulders is initiated against any kind of resistance. She has reasonably good shoulder strength on shrugging of the shoulders against resistance.

A: 1. Back pain since MVA. 2. Rhomboid spasm, sprain.

P: The patient is to be continued on present medications and admonished to use Fiorinal with codeine sparingly. The patient is to be referred to the pain clinic since I can offer her nothing else relative to the improvement in her problem. Follow up in 1 month or prn.



9-14-94

Diane Dingle

S: Pt is a 30 yo BF who states that for the past 2-3 weeks she has had severe pain beginning at the back of her jaws and radiating up into her temporal area behind her eyes that ends in a severe h/a. She is also having pain in her jaw on both sides when she chews and attempts to eat. She has tried various over the counter analgesics and nothing has helped. She is unsure of her LMP. She states that she recieved Depo-provera injections 2 mos ago and since that time has had extreme menstrual irregularities that she feels she is unable to tolerate. She request that she be placed again on oral contraceptives as she states she will not recieve another Depo-Provera injection. She also has been unable to gain weight as she feels that her appetite is significantly decreased. Although she has not had a significant weight loss she feels that she needs to gain at least another 10-15 lbs and would like to gain this amount of weight. She has been given medication here in the past by Dr. Keith for weight gain and states that she would like to have this medication once again.

O: Pt is a 30 yo WN WD BF in mild distress secondary to pain and h/a. TM's are wnl. There are no frontal or maxillary sinus tenderness. Tonsils and pharynx are grossly wnl. Eye exam: PERRLA. Cranial nerves 2-12 are intact. Attempts at manipulation of the mandible reveal a definite clicking sensation in both TMJ's with the right being worse than the left. Examination of the teeth reveals some significant wisdom teeth that prevent her from closing her mouth completely w/o causing pressure and pain on the TMJ. Pt is advised that this problem will only get worse w/o treatment and she is instructed to contact her dentist this week to make an appointment to have this evaluated. It is suggested that she may very well need to have her wisdom teeth removed. She is also informed that should these wisdom teeth also become infected that she would have a severe problem with pain and swelling in her gums extending into her jaw. She has no contraindications to oral contraceptive use "ACHES" is reviewed with the pt. She will be started on OC and is advised to begin these the first Sunday after her next menstrual period begins. She is also advised to use a backup form of protection. Truly refers to pill pak. She is also counselled as to risks of STD's as well as other contraceptive methods available, but she is adamant that she wants to return to using OC's.

A: #1 TMJ syndrom secondary to impacted wisdom teeth. #2 No contraindications to OC use. #3 Poor appetite. #4 Menstral irregularities secondary to Depo-provera use.

P: #1 Pt instructed to see her dentist ASAP. #2 Lortab 5 mg 1-2 po q 4 hours prn pain. #3 Ortho-cyclen 28's OC's. Pt instructed to begin these the first Sunday after her next menstrual cycle and to use a back up method of contraceptive through the first pill pak. #4 Periactin 4 mg 1 po bid prn appetite stimulation. F/U here will be as sched or prn.

(RSE) RSE/vas

PROGRESS NOTES

NAME Dianne Dingle AGE 30 CHART NO 332 PG 1
DATE 9-14-94 PROBLEM NO 1 SUBJECTIVE/OBJECTIVE LMP PLANS the same as DMPA
PROBLEM 9-14-94 AGE 30
DATE 9-14-94 COMPLAINTS: Pain in neck behind ears (burning) & in jaw
S: 2-3 weeks duration - Nerves going up - tried Tylenol since
O: medication - nothing has worked
FINDINGS: (note isolated)
(FP counsel)

LABS:

A: DX: TMJ syndrome, 2° to impacted wisdom, Tooth No C.I. to O.C.I.
Poor appetite, Menstrual irregularities 2° to DMPA

P: RX: (1) See Dentist ASAP
(2) Toradol 5mg. T-RT PO q4h PRN pain, #30 c 2RF
(3) Ortho-Cyclin 28's O.C.I. - Begin 1st Sunday to next menses
(4) Pericortin 4mg T-Bid PRN appetite, #60 c 3RF

F/U: as sched.

DATE 11-5-95 AGE 31 LMP: 2 weeks ago. No missed menses
S: COMPLAINTS: headache, light head, menses
stopped DMPA & C.I. is one year ago

O: FINDINGS: Bath T.M.'s c clear, fluid bulges. Frontal &
Maxillary sinus tenderness, faint, clear nasal d/c. Tonsils
pharynx w/lt. Sore clear. Heart c/w. abd. neg.
extremities w/lt. No r/r exam w/lt.

LABS: UCG -> Neg.

A: DX: S.A.A., Bilateral Paranasal Sinusitis, Anxiet

P: RX: (1) Continue current med. & diet
(2) Vioxx 120mg T-Bid PRN sinus congestion, #30
(3) Vicodin 50mg T-Bid PRN appetite, #30 c 3RF

F/U as sched.

NAME

Franc Dingle

SUBJECTIVE / OBJECT P. 731

PLANS

DATE
PROBLEM NO
PROBLEM

Date *1-6-97* Age

S: Complaints: *hives* *DS* *take as directed*

O: Findings: *Strep throat dose pack 12 day* *improve*
Elavil 50 mg tab i HS (30) *Dr. E.C. Keith / B. Thompson*

LABS: 5/6/97 *Swab D 100 mg i Bed #20*
Claritin D # 20 i Bed

A: Dx:

sinusitis
force fluids

Dr. E.C. Keith / ST

P: RX:

F/U:

Date Age

S: Complaints:

O: Findings:

Labs:

A: Dx:

P: RX:

F/U

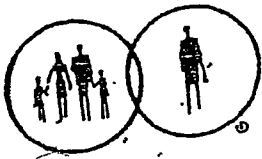
AUGMENTIN
amoxicillin/clavulanate potassium

For Lower Respiratory Tract Infections

• Destroys β -lactamase resistance
for clinical confidence*

*Indicated for infections
susceptible bacterial and
respiratory tract infection
sinusitis, skin and skin
and urinary tract infection
prescribing, please see
complete prescribing in
©SmithKline Beecham.

SB SmithKline
Pharmaceutical



EDV...
FAMILY PRACTICE
15 E. Hospital St. • P.O. Box 280
1 Dogwood P. 732 Court
Manning, S.C. 29102
(803) 435-2529

RETURN TO WORK AUTHORIZATION

Name of Patient Heane Tingle Date 5-5-98

Unable to return to work 5-5-98 5-6-98 May return to work 5-7-98

- Restrictions:
1. No lifting over lbs.
 2. No repetitive bending , crawling , squatting , stooping
 3. No work involving use of hand.
 4. No pushing/pulling
 5. Cannot reach above shoulder
 6. No climbing
 7. No prolonged walking
 8. Other:

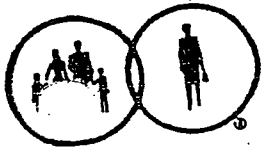
May return to work with no restrictions on:

Comments:

Diagnosis: Sinusitis, allergic rhinitis

Return appointment date:

[Signature], M.D.



EDWARD C. WITTE, M.D.
FAMILY PHYSICIAN
15 E. Hospital St. • P.O. Box 280
1 Dogwood Medical Court
Manning, S.C. 29102
(803) 435-2529



332

RETURN TO WORK AUTHORIZATION

Name of Patient Diane Dingle Date 5-7-98

Unable to return to work 5-7-98 May return to work 5-10-98

May return to work, light duty status _____

- Restrictions:
1. No lifting over _____ lbs.
 2. No repetitive bending _____, crawling _____, squatting _____, stooping _____
 3. No work involving use of _____ hand.
 4. No pushing/pulling _____
 5. Cannot reach above shoulder _____
 6. No climbing _____
 7. No prolonged walking _____
 8. Other: _____

May return to work with no restrictions on: _____

Comments: _____

Diagnosis: _____

Return appointment date : _____

Ed Witte

, M.D.

P. 734

KE MARION PRIMARY CARE
 JWARD C. KEITH, M.D.

Age: 33

Patients's Name: Diane Wingle

Allergies: NKA

Chief complaint: Congested, HA's, sinuses draining
 1 week known sinus / allergy problem,
 now worse

Medications (including OTC): Tylenol PRN

Review of Systems	W N L	N S C	Objective
1. General Appearance		X	Mild distress, A & O
2. HEENT		X	BILL FRONTAL TENDERNESS, MAXILLARY LESS
3. Neck	✓	✓	
4. Respiratory	✓	✓	
5. Cardiovascular	✓	✓	
6. Gastrointestinal	✓	✓	
7. Genitourinary		✓	
8. Musculoskeletal		✓	
Neurological		✓	
10. Skin			
11. Endocrine/metabolic			
12. Hematologic		✓	
13. Psychiatric			
14. Nutritional			
15. Gynecologic			
16. Lymphatic			

Administered Medications/Treatments:

Assessment: SINUSITIS EXACERBATION, ALLERGY

Plans: SEPTRA DS TID 20 DAYS
 VANCENASE NASAL SPRAY 2 puffs TID

Referrals:

Follow-up: PRN

Signature: [Signature]

P. 735

KE MARION PRIMARY CARE
 WARD C. KEITH, M.D.

Age: 33

Patients's Name: Diane Wingle

Allergies: N Septa

Chief complaint: continues to get HA frontal, temporal, 70 ear areas.

Medications (including OTC):

Cloxy D + BID
 Claritron D + BID
 Tylenol PRN

Review of Systems	W N L	N S C	Objective
1. General Appearance			
2. HEENT			
3. Neck			
4. Respiratory			
5. Cardiovascular			
6. Gastrointestinal			
7. Genitourinary			
8. Musculoskeletal			
Neurological			
10. Skin			
11. Endocrine/metabolic			
12. Hematologic			
13. Psychiatric			
14. Nutritional			
15. Gynecologic			
16. Lymphatic			

Administered Medications/Treatments:

Assessment: HHT Symmetric Vertigo

Plans:

1) Of course 700 mg BID KDD 2) Numb Vertigo
 (PRN) 3) Mark Epley's Maneuver

Referrals:

Signature: [Signature]

Follow-up:

2 weeks or so

822
P.736

CLARENDON MEMORIAL HOSPITAL
Manning, SC

Dictated: 5-13-98
Transcribed: 5-13-98

MEDICAL RECORDS
RADIOLOGY PROCEDURE

NAME	NUMBER	SEX	AGE	ADMIT	DISC.	MED.RECORD#	TYPE	ROOM#
DINGLE DIANE	722996	F	33			078876	E.R	
DATE OF BIRTH: 8/18/1964								
PHYSICIAN: 5500 KEITH EDWARD C.								
						PHYSICIAN		
						KEITH E C		

X-RAY #:89410

DATE:5-13-98

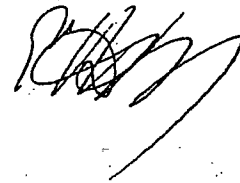
EXAM:HEAD CT WITH AND WITHOUT CONTRAST

HISTORY:ALTERED MENTAL STATUS. DIZZINESS

NO ACUTE INTRACRANIAL HEMORRHAGE. MIDLINE SHIFT, OR EPIDURAL/SUBDURAL HEMATOMA.
POST-CONTRAST IMAGES DEMONSTRATE NO AREAS OF ABNORMAL ENHANCEMENT OR MASS
LESION. THE VENTRICLES DEMONSTRATE NORMAL SIZE AND CONFIGURATION.

IMPRESSION: NORMAL HEAD CT.

MICHAEL E. FAULSTICH, MD, PHD/KJM
DIPLOMATE AMERICAN BOARD OF RADIOLOGY



SUPPLEMENTARY MEDICAL REPORT

GROUP HEALTH INSURANCE

EMPLOYER'S SUPPLEMENTARY STATEMENT: If employee has returned to work, or if disability ends for any other reason, please complete all questions on EMPLOYER'S SUPPLEMENTARY STATEMENT only. If employee does not return to work on or before the date disability is expected to end, please have the ATTENDING PHYSICIAN'S SUPPLEMENTARY STATEMENT completed as well.

EMPLOYEE'S NAME (PLEASE PRINT) <i>Diane Angle</i>	DATE EXPECTED TO RETURN TO WORK <i>5/14/98</i>	DATE RETURNED TO WORK	DATE INSURANCE TERMINATED
NAME OF EMPLOYER <i>Federal Mogul Corp.</i>	ADDRESS OF EMPLOYER <i>P.O. Box 385 Summerville, SC 29148</i>	CONTROL NUMBER	
NAME OF POLICYHOLDER	TITLE <i>H.R. Assistant</i>		
DATE <i>5/18/98</i>	BY <i>Karen Bryant</i>		

ATTENDING PHYSICIAN'S SUPPLEMENTARY STATEMENT
Dear Doctor: Please fill out and sign this form and return it to YOUR PATIENT'S EMPLOYER as soon as possible.

PATIENT'S NAME AND ADDRESS		DATE OF BIRTH	
AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the undersigned physician to release any information acquired in the course of my examination or treatment		SIGNED (PATIENT, OR PARENT IF MINOR) ☒ X	
DIAGNOSIS AND CONCURRENT CONDITIONS (IF DIAGNOSIS CODE OTHER THAN ICDA* USED, GIVE NAME):			
REPORT OF SERVICES (IF PREVIOUS FORM SUBMITTED TO THIS CARRIER, YOU NEED SHOW ONLY DATES AND SERVICES SINCE LAST REPORT)		PROCEDURE CODE - IF USED (IF CODE OTHER THAN CPT** USED, GIVE NAME)	
DATE OF SERVICE <i>5-18-98</i>	PLACE OF SERVICE <i>0</i>	DESCRIPTION OF SURGICAL OR MEDICAL SERVICES RENDERED	<i>99213</i>
O - DOCTOR'S OFFICE H - PATIENT'S HOME NH - NURSING HOME *ICDA - INTERNATIONAL CLASSIFICATION OF DISEASES		IH - INPATIENT HOSPITAL OH - OUTPATIENT HOSPITAL OL - OTHER LOCATIONS **CPT - CURRENT PROCEDURAL TERMINOLOGY (CURRENT EDITION)	
PATIENT WAS CONTINUOUSLY TOTALLY DISABLED (UNABLE TO WORK) FROM <i>5/17/98</i> THRU <i>5/20/98</i>		PATIENT STILL UNDER YOUR CARE FOR THIS CONDITION ☒ YES ☐ NO	
IF STILL DISABLED, DATE PATIENT SHOULD BE ABLE TO RETURN TO WORK. <i>5/21/98</i>		DOES PATIENT HAVE OTHER HEALTH COVERAGE IF YES, PLEASE IDENTIFY ☐ YES ☐ NO	
PHYSICIAN'S NAME (PLEASE PRINT) <i>E.C. Keith M.D.</i>		DATE <i>5/18/98</i>	
UNDER SECTION 6109 OF THE INTERNAL REVENUE CODE, RECIPIENTS OF MEDICAL AND HEALTH CARE PAYMENTS ARE REQUIRED TO FURNISH IDENTIFYING NUMBERS TO PAYERS WHO MUST REPORT SUCH PAYMENTS TO THE INTERNAL REVENUE SERVICE.		SOCIAL SECURITY NO. OF IF MEMBER OF MEDICAL GROUP, EMPLOYER'S IDENTIFICATION NO. <i>230-98-4291</i>	
PHYSICIAN'S SIGNATURE: <i>E.C. Keith M.D.</i>		STREET ADDRESS, CITY, TOWN, STATE OR PROVINCE, ZIP CODE, TELEPHONE: <i>15 E. Hospital St. Manning SC 29102</i>	
SPECIALTY: <i>Family Practice</i>			

*Fixed 40
Federal No.
5-20-98*

FEDERAL-MOGUL HEALTH CARE SYSTEM

FMHCS
P.O. BOX 1999
DETROIT, MI 48235

Telephone (800) 522-0041
Fax (810) 354-7553

ACCIDENT AND SICKNESS (A&S) FORM (Short-Term Disability)

EMPLOYEE STATEMENT

Employee - please complete the "Employee Statement", sign and date below. Take this form to your treating physician to complete and then return it to your Human Resources Representative.

Last Name		First Name	M.I.	Date of Birth	
Street Address		City	State	Zip Code	
Social Security Number		Home Phone Number			
Your Doctor's Name:		Telephone Number:			

Date of Disability: _____ Date you were first treated for this disability: _____

Type of Disability: ☐ Sickness ☒ Accident ☐ Injury ☐ Automobile ☐ Pregnancy ☐ Work Related

Date of Accident: _____

EMPLOYEE AUTHORIZATION

I understand and agree that if any benefits should not have been paid to me under the terms or conditions of the Plan, or should have been paid a lesser amount, any and all such payments may be recovered. I additionally agree that if I should receive a settlement or payments from any other source (i.e., Workers' Compensation, Automobile Policy or other source), I will reimburse Federal-Mogul for any payments made on my behalf. I authorize Federal-Mogul, my medical provider, or any other organization to release or to obtain information required to establish the validity of this claim. I hereby apply for Medical Leave of Absence and/or Accident & Sickness Benefits.

Employee Signature: _____ Date: _____

PHYSICIAN STATEMENT

Physician - please complete the "Physician Statement" in full and return to the above employee.

Diagnosis: Vertigo Sinusitis Headaches EDC: N/A

Date of most recent office visit: 5-11-98 Date first treated for this diagnosis: 5-5-98

Chief complaints: Dizziness congestion painful headaches

Diagnostic testing: N/A

Treatment plan (include specialist referrals): Medication - rest - move more slowly and caution

Surgical Procedure: N/A Date of procedure: N/A

Dates of hospitalization: N/A to N/A Name of facility: N/A

Date disability began: 5-5-98 Same or similar condition before? ☐ Yes ☒ No

If yes, please describe and indicate date of previous occurrence: _____

Is the member able to return to work? ☒ Yes - Date returned to work: 5-14-98
☐ No - Date of next office visit: _____

Physician's Name: Edward C. Keith MD Specialty: Family Practice Phone No.: 803-435-4
Physician's Address: 15 East Washington St Fax No.: 803-435-4
Physician's Signature: [Signature] Date: 5-13-98



**FEDERAL
MOGUL**

P. 739

Health Care System

332

SUPPLEMENTARY MEDICAL REPORT

GROUP HEALTH INSURANCE

EMPLOYER'S SUPPLEMENTARY STATEMENT: If employee has returned to work, or if disability ends for any other reason, please complete all questions on EMPLOYER'S SUPPLEMENTARY STATEMENT only. If employee does not return to work on or before the date disability is expected to end, please have the ATTENDING PHYSICIAN'S SUPPLEMENTARY STATEMENT completed as well.

EMPLOYEE'S NAME (PLEASE PRINT) <i>Diane Dingle</i>		DATE EXPECTED TO RETURN TO WORK	DATE RETURNED TO WORK	DATE INSURANCE TERMINATED
NAME OF EMPLOYER		ADDRESS OF EMPLOYER		
NAME OF POLICYHOLDER		CONTROL NUMBER		
DATE	BY	TITLE		

ATTENDING PHYSICIAN'S SUPPLEMENTARY STATEMENT

Dear Doctor: Please fill out and sign this form and return it to YOUR PATIENT'S EMPLOYER as soon as possible.

PATIENT'S NAME AND ADDRESS		DATE OF BIRTH	
AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the undersigned physician to release any information acquired in the course of my examination or treatment		SIGNED (PATIENT, OR PARENT IF MINOR) ☒	
DIAGNOSIS AND CONCURRENT CONDITIONS (IF DIAGNOSIS CODE OTHER THAN ICDA* USED, GIVE NAME): <i>Vertigo, Sinusitis, headaches</i>			
REPORT OF SERVICES (IF PREVIOUS FORM SUBMITTED TO THIS CARRIER, YOU NEED SHOW ONLY DATES AND SERVICES SINCE LAST REPORT)		PROCEDURE CODE - IF USED (IF CODE OTHER THAN CPT* USED, GIVE NAME)	
DATE OF SERVICE	PLACE OF SERVICE	DESCRIPTION OF SURGICAL OR MEDICAL SERVICES RENDERED	
<i>5-5-98</i>	<i>8</i>	<i>Evaluation</i>	
<i>5-11-98</i>	<i>8</i>	<i>Evaluation</i>	
O - DOCTOR'S OFFICE H - PATIENT'S HOME NH - NURSING HOME *ICDA - INTERNATIONAL CLASSIFICATION OF DISEASES		IH - INPATIENT HOSPITAL OH - OUTPATIENT HOSPITAL OL - OTHER LOCATIONS **CPT - CURRENT PROCEDURAL TERMINOLOGY (CURRENT EDITION)	
PATIENT WAS CONTINUOUSLY TOTALLY DISABLED (UNABLE TO WORK) FROM <i>5-5-98</i> THRU <i>5-13-98</i>		PATIENT STILL UNDER YOUR CARE FOR THIS CONDITION ☒ YES ☐ NO	
IF STILL DISABLED, DATE PATIENT SHOULD BE ABLE TO RETURN TO WORK. <i>5-13-98</i>		DOES PATIENT HAVE OTHER HEALTH COVERAGE IF YES, PLEASE IDENTIFY ☐ YES ☐ NO	
PHYSICIAN'S NAME (PLEASE PRINT) <i>Edward C. Keith MD</i>		DATE <i>5-12-98</i>	
UNDER SECTION 6109 OF THE INTERNAL REVENUE CODE, RECIPIENTS OF MEDICAL AND HEALTH CARE PAYMENTS ARE REQUIRED TO FURNISH IDENTIFYING NUMBERS TO PAYERS WHO MUST REPORT SUCH PAYMENTS TO THE INTERNAL REVENUE SERVICE.		SOCIAL SECURITY NO. OF IF MEMBER OF MEDICAL GROUP, EMPLOYER'S IDENTIFICATION NO. <i>250-98-4291</i>	
PHYSICIAN'S SIGNATURE: <i>[Signature]</i>		STREET ADDRESS, CITY, TOWN, STATE OR PROVINCE, ZIP CODE, TELEPHONE # <i>15 East Xosval St Manning SC 29102 SC 803-435-2524</i>	
SPECIALTY: <i>Family Practice</i>			



P. 740

Health Care System

332

SUPPLEMENTARY MEDICAL REPORT

EMPLOYER'S SUPPLEMENTARY STATEMENT: If employee has returned to work, or if disability ends for any other reason, please complete all questions on EMPLOYER'S SUPPLEMENTARY STATEMENT only. If employee does not return to work on or before the date disability is expected to end, please have the ATTENDING PHYSICIAN'S SUPPLEMENTARY STATEMENT completed as well.

EMPLOYEE'S NAME (PLEASE PRINT) <i>Diane Dingle</i>	DATE EXPECTED TO RETURN TO WORK	DATE RETURNED TO WORK	DATE INSURANCE TERMINATED
NAME OF EMPLOYER	ADDRESS OF EMPLOYER		
NAME OF POLICYHOLDER	CONTROL NUMBER		TITLE
DATE	BY		

ATTENDING PHYSICIAN'S SUPPLEMENTARY STATEMENT

Dear Doctor: Please fill out and sign this form and return it to YOUR PATIENT'S EMPLOYER as soon as possible.

PATIENT'S NAME AND ADDRESS

DATE OF BIRTH

AUTHORIZATION TO RELEASE INFORMATION: I hereby authorize the undersigned physician to release any information acquired in the course of my examination or treatment

SIGNED (PATIENT, OR PARENT IF MINOR) ☒

DIAGNOSIS AND CONCURRENT CONDITIONS (IF DIAGNOSIS CODE OTHER THAN ICDA* USED, GIVE NAME):

Vertigo, Sinusitis, headaches

REPORT OF SERVICES (IF PREVIOUS FORM SUBMITTED TO THIS CARRIER, YOU NEED SHOW ONLY DATES AND SERVICES SINCE LAST REPORT)

PROCEDURE CODE - IF USED (IF CODE OTHER THAN CPT* USED, GIVE NAME)

DATE OF SERVICE

PLACE OF SERVICE

DESCRIPTION OF SURGICAL OR MEDICAL SERVICES RENDERED

5-5-98
5-11-98

0
0

Evaluation
Examination

O - DOCTOR'S OFFICE
H - PATIENT'S HOME
NH - NURSING HOME
*ICDA - INTERNATIONAL CLASSIFICATION OF DISEASES

IH - INPATIENT HOSPITAL
OH - OUTPATIENT HOSPITAL
OL - OTHER LOCATIONS
**CPT - CURRENT PROCEDURAL TERMINOLOGY (CURRENT EDITION)

PATIENT WAS CONTINUOUSLY TOTALLY DISABLED (UNABLE TO WORK) FROM *5-5-98* THRU *5-13-98* DATE PATIENT SHOULD BE ABLE TO RETURN TO WORK. *5-14-98*

PATIENT STILL UNDER YOUR CARE FOR THIS CONDITION ☒

DOES PATIENT HAVE OTHER HEALTH COVERAGE IF YES, PLEASE IDENTIFY

YES ☐

PHYSICIAN'S NAME (PLEASE PRINT)

Edward C. Keith MD

DATE

5-12-98

UNDER SECTION 6109 OF THE INTERNAL REVENUE CODE, RECIPIENTS OF MEDICAL AND HEALTH CARE PAYMENTS ARE REQUIRED TO FURNISH IDENTIFYING NUMBERS TO PAYERS WHO MUST REPORT SUCH PAYMENTS TO THE INTERNAL REVENUE SERVICE.

SOCIAL SECURITY NO. OF IF MEMBER OF MEDICAL GROUP, EMPLOYER'S IDENTIFICATION NO.

250-98-4291

PHYSICIAN'S SIGNATURE:

SPECIALTY: *Family Practice*

STREET ADDRESS, CITY, TOWN, STATE OR PROVINCE, ZIP CODE, TELEPHONE

*15 East Main St
Manning SC 29102 803-435-25*

332

CLARENDON MEMORIAL HOSPITAL
Manning. SC

Dictated: 5-15-98
Transcribed: 5-15-98

MEDICAL RECORDS
RADIOLOGY PROCEDURE

NAME	NUMBER	SEX	AGE	ADMIT	DISC.	MED.RECORD#	TYPE	ROOM#
DINGLE DIANE	723424	F	33	5/15/98	5/15/98	078876	O/P	
DATE OF BIRTH: 8/18/1964							PHYSICIAN	
PHYSICIAN: 5500 KEITH EDWARD C							KEITH E C	

X-RAY #:89531

DATE:5-15-98

EXAM:MRI OF THE CERVICAL SPINE

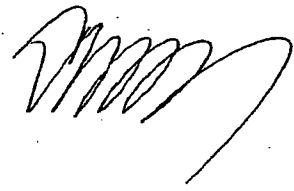
HISTORY:CERVICAL SPINE PAIN/DEGENERATIVE CHANGES

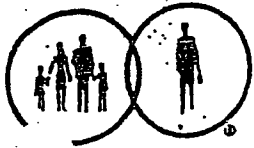
MRI OF THE CERVICAL SPINE WAS PERFORMED WITH MULTIPLE T1 AND T2 WEIGHTED SAGITTAL IMAGES, ALONG WITH AXIAL T2* WEIGHTED IMAGES.

NO CERVICAL DISC HERNIATION. SPINAL CANAL COMPROMISE. OR NEUROFORAMINAL NARROWING. NO ABNORMAL SIGNAL CHANGES ARE PRESENT WITHIN THE CERVICAL SPINAL CORD. CERVICAL VERTEBRAL BODIES DEMONSTRATE NORMAL ALIGNMENT. NO SUBLUXATION OR COMPRESSION FRACTURES.

IMPRESSION: NORMAL MRI OF THE CERVICAL SPINE.

MICHAEL E. FAULSTICH, MD. PHD/KJM
DIPLOMATE AMERICAN BOARD OF RADIOLOGY





LEE MARION PRIMARY CARE
EDWARD C. P. 742 M.D.

FAMILY PRACTICE
15 E. Hospital St. • P. O. Drawer 280
1 Dogwood Medical Court
Manning, S.C. 29102

Phone (803) 435-2529
Fax (803) 435-4196

RETURN TO WORK AUTHORIZATION

Date: 6-7-00

Name of Patient Diane Dingle

Unable to return to work ~~6-5-00~~ 6-5-00

May return to work 6-11-00

May return to work, light duty status ☒

RESTRICTIONS:

1. No lifting over _____ lbs
2. No repetitive bending, crawling, squatting, stooping
3. No work involving use of _____ hand
4. No pushing/pulling _____
5. Cannot reach above shoulder _____
6. No climbing _____
7. No prolonged walking _____
8. Other: _____

May return to work with no restrictions on 6-11-00

Comments: _____

Diagnosis: allergies

Edward C. Keith, M.D.

LABORATORY

STAGE 7 (DIAGNOSIS / IMPRESSION - RELATING TO TODAY'S VISIT)

DIAGNOSIS / IMPRESSION

P

C

- 1) Chronicity ☐ ☐
- 2) Xerosis ☐ ☐
- 3) Pruritus ☐ ☐

DIAGNOSIS / IMPRESSION

P

C

- 4) Allergy ☐ ☐
- 5) ☐ ☐
- 6) ☐ ☐

NOTE: "P" = PRIMARY "C" = CONTRIBUTING

STAGE 8 (TREATMENT PLAN)

- 1) Cont Allergy D. 120
- 2) Rec E/M 7 months
- 3)

STAGE 9 (REVIEW / FOLLOW-UP OF ORDERED PROCEDURES / REQUESTED CONSULTATIONS)

NOTE: SEE ATTACHED REPORTS

STAGE 10 (NURSING/PHYSICIAN NOTES)

STAGE 11 (AUTHORIZATION)

PHYSICIAN / PRACTITIONER

[Signature]

NOTE: THE PHYSICIAN / PRACTITIONER SIGNATURE ABOVE ATTESTS THAT HE / SHE HAS REVIEWED THE NOTATIONS DOCUMENTED ON VISIT FLOW SHEET AND AUTHORIZES THE PERFORMANCE OF ALL PROCEDURE AS MARKED

DATE OF VISIT: 1/1/1

NURSING NOTES

LAKE MARI ^{P. 744} PRIMARY CARE

01-0

RECORD OF OFFICE VISIT

DATE OF SERVICE 4/14/01

CHART # 332

PATIENT NAME Diane Wingle M ☒ F DOB 8/18/64 AGE 36 LAST VISIT 2/5/01
APPOINTMENT WITH: K. Smith TIME 10:30 AM ☒ PM WALK-IN YES ☒ NO

CONSTITUTIONAL EVALUATION

B/P 120/90 PULSE 84 RESP 20 TEMP 99.7 WEIGHT 140 HEIGHT 5-3
LMP 3-24-01 HYSTERECTOMY? YES ☒ NO ☒ DATE NA HRT? YES ☒ NO ☒ (MEDICATION LIS

PATIENT'S CHIEF COMPLAINT, PRESENTING SYMPTOMS, OR REASON FOR THIS OFFICE VISIT -

SYMPTOM	ICD-9 CODE	SYMPTOM	ICD-9 CODE
<u>hoarseness</u>	<u>784.49</u>		
<u>sore throat</u>	<u>462</u>		

IS PATIENT TAKING "OTC" MEDICATIONS? YES ☒ NO ☒ IF YES, LIST -

IS THE PATIENT HERE FOR DISEASE MANAGEMENT? YES ☒ NO ☒

DIABETES ☒ HYPERTENSION ☒ ARTHRITIS ☒ HYPERLIPIDEMIA ☒
IS THE PATIENT CURRENTLY ON MEDICATION(S) FOR CONDITION(S) MARKED? YES ☒ NO ☒ (MEDICATION LIST)

HISTORY OF PRESENT ILLNESS/SUBJECTIVE FINDINGS

Scheduled F/U on chronic laryngitis. Still hoarse. States
gets sore throat each time she catches a little cold. (not sore now) just
"scratchy"

RECORDED BY: CRGau

ST, FAMILY, SOCIAL HISTORY, GENERAL APPEARANCE

REVIEW OF SYSTEMS - MULTI SYSTEM REVIEW - OBJECTIVE FINDINGS

HEENT	DEFERRED
NECK	DEFERRED
RESPIRATORY	DEFERRED
CARDIOVASCULAR	DEFERRED
GASTROINTESTINAL	DEFERRED
GENITOURINARY	DEFERRED
MUSCULOSKELETAL	DEFERRED
NEUROLOGICAL	DEFERRED

Diane Dingle

#52094

09/14/98

HISTORY: She is seen for evaluation of difficulty with her nose and sinuses.

REVIEW OF SYSTEMS: Cardiac and respiratory status are stable. She has had a CT scan of her sinuses which we will review. She has been noted to have headache for a long period of time. She works around a press making oil seals. She is a nonsmoker and says that she is not around cigarette smoke that often. Pollen and dust do seem to aggravate it. Her headache is severe at times in the glabella area.

PHYSICAL EXAMINATION: On examination the head is normocephalic. Eyes are unremarkable. Ears show tympanic membranes are gray and mobile. Nose shows mild rhinitis. The turbinates are moderately swollen and there is minimal septal deviation. Oropharynx, neck and larynx are unremarkable.

RECOMMENDATIONS: We will review the CT scan of her sinuses and set up the allergy test for her.

Rocco D. Cassone, M.D., FACS
RDC: pwc

9-21-98 f n w v @

Diane Dingle

09/21/98

HISTORY: She is seen for evaluation of difficulty with allergies and stopped up nose. Her CT scan was reviewed and her report is not in the chart. She has significant blockage in her OMC and I believe paradoxical turbinates. These may need to be resected. She has significant problems at work and wonders if the problem is related to her press.

PHYSICAL EXAMINATION: The examination is unchanged from her last visit.

RECOMMENDATIONS: We will arrange for her to have allergy tests this coming Thursday. We may consider an endoscopic procedure and resection of turbinates.

Rocco D. Cassone, M.D., FACS
RDC: pwc

10-5-98 No show @

2-11-00 C/o hoarseness, tightness in chest & sinus congestion

Not sure if it's related (M)

2/11/00 Pannaz #40 1 po bid

2/11/00 Nasonex #1 2 sprays each nostril daily (Ck)

2/11/00 Eryc 250 mg #40 1 po QID (Ck)

3-13-00 Astelin #1 2p. 746 ays each nostril BID (CIC)
3-13-00 Medrol Dose Pack #1 use as directed (CIC)

Diane Dingle
#52094
03/13/00

HISTORY: Diane is seen for evaluation of difficulty with her throat, hoarseness and sinuses. She is having moderate difficulty with her sinuses. We did review her work chemicals.

REVIEW OF SYSTEMS: Cardiac and respiratory status are otherwise stable. ROS is otherwise unchanged.

SOCIAL HISTORY: Unchanged from previous visit.

FAMILY HISTORY: Unchanged from previous visit.

PHYSICAL EXAMINATION: On examination the head is normocephalic. Eyes, PERRLA, full EOM. Ears, tympanic membranes are gray and mobile. Nose shows mild to moderate rhinitis. Oropharynx, unremarkable. Neck, supple. IDL shows some erythema of the cords with small areas of nodularity.

RECOMMENDATIONS: We will still consider a micro DL. We are trying her on Astelin for the rhinitis and laryngitis and a short course of Cortisone using Medrol Dose Pack.

Rocco D. Cassone, M.D., FACS
RDC:jd

~~4-21-00 pt missed 3³⁰ appt @ Error~~

~~4/25/00 Missed Appt (CIC)~~

4-25-00 % ears hurting, A/A, sore throat (CIC)

4/25/00 Ceftin 250mg #20 1 po bid (CIC)

5/1/00
2:30
(CIC)

Diane Dingle
#52094
04/25/00

HISTORY: Diane is seen for evaluation of difficulty with hoarseness and sinus congestion. She had been doing fairly well, but again became hoarse over the past few days.

REVIEW OF SYSTEMS: The cardiac and respiratory status are otherwise stable. She came here on an urgent basis and could not wait until Monday as she did feel like she was ill. ROS otherwise unchanged.

PHYSICAL EXAMINATION: On examination the head is normocephalic. Eyes, PERRLA, full EOM. The ears show tympanic membranes are gray and mobile. The nose shows marked rhinitis. The oropharynx is unremarkable. Neck, supple. IDL shows very red cords with edema of the arytenoids that is mild. She does not think she can work with her voice being so bad and the inflammation she has.

IMPRESSION: Laryngitis, sinusitis.

RECOMMENDATIONS: She is placed on Ceftin and Entex. We will see her in Manning this coming Monday and decide at that time when she can return to work.

Rocco D. Cassone, M.D., FACS
RDC:12

5-1-W Entex UA #20 - PO BID (KD)

Diane Dingle
#52094
05/01/00

HISTORY: Diane is seen for evaluation of sinusitis and hoarseness. She is doing better at the present time. She is doing well at this point. Her voice is markedly improved. She does have some congestion.

REVIEW OF SYSTEMS: Cardiac and respiratory status are otherwise stable.

PHYSICAL EXAMINATION: On examination the head is normocephalic. Eyes, PERRLA, full EOM. Ears, tympanic membranes are gray and mobile. Nose shows moderate rhinitis. Oropharynx, unremarkable. Neck, supple.

RECOMMENDATIONS: We placed her on Entex for the rhinitis. We will see her back on a prn basis. She may return to work.

Rocco D. Cassone, M.D., FACS
RDC:jd

7/18/00 Sent copy of records to Clark Law Firm (SE)
10 & W notes to Moore Law Firm in

6/14/94 Diane Dingle

Pt. presents today and wants to have her tubes tied. She has suspicion that she may be pregnant even though her menstrual period of one day of spotting did occur the first of this month at the time interval in which her regular period should have occurred. Pt. had a pregnancy test performed and it was neg. Pt asked if she could have her tubes tied. Her tubal sterilization papers expired as of 15 days ago. Pt. will have the tubal sterilization planned for July 19. She will f/u in our office on July 15 for a pre-op and P.E. Pt. voiced her understanding of this and will get a Depo provera injection to prevent pregnancy in the meanwhile. DTM

7.15.94 DAKA

9/4/94 Pt. called stating she was having HA's and irregular bleeding since her Depo shot. She wanted Dr. Moore to see her this afternoon. I asked Dr. Moore about seeing her. Since she did not give us the courtesy of letting us know why she missed her pre-op visit for surgery + neglected to return our attempted phone messages, he said for me to schedule her an appt. When I asked her about the aforementioned things, she stated "Will he see me today or not!". I said no + she hung up. P.H.H.

2/20/96 wt. 128B/P $\frac{110}{62}$

CMP 11-8-95

HCG Pos

ACOG ANTEPARTUM RECORD

P. 749

NAME

Dingle

Diane

LAST

FIRST

MIDDLE

ID #

Progress Notes

I hereby grant permission, as part of my prenatal laboratory evaluation, to have an AIDS test (HIV antibody screen) performed.

Signed:

Diane Dingle

Date:

2/20/96

2/19/96 Diane Dingle

She is a new OB that presents today stating that she pregnant and because of confusing positive pregnancy that was performed as well as last menstrual dates she is uncertain how far along she is. She has a specific c/o N&V that does not subside. Pt was given some Emecheck.

A brief U/S was performed to verify or confirm gestation age. This U/S was limited and an abdominal circumference was not measured, cardiac motion was noted, four chamber visualization and spinal column was not visualized. We will need to repeat a complete U/S at a later date. Currently the estimated gestational age based on this U/S is approx 13 wks and 5 days. This correlates with her 14 wks and 6 days gestational age. We will not change her gestational age at this time. Pt will be scheduled to f/u next week for an initial OB appointment. DTM

5/24/96 wst prep - NEG

Also vulval lesion @ vestibule.

? Healing Trauma vs healing HSV.

HSV cult Done

(Pn)

6/19/96 Diane Dingle

She presents today stating that she has some scalp pain or discomfort. She also states that she has a sensation of pain in her ear. There is some evidence w/tugging of the L ear of pain or tenderness noted. There is full range of motion of the neck without pain at the top of her head. Pt appears to histrionic in regards to the amount of discomfort she is having yet there is no physical evidence. Pt when asked about taking medications indicates that she has been taking Tylenol every 4 hours but yet she said the last time she took a Tylenol was at 7:00 A.M. This makes very difficult to discern whether or not the pt is telling the truth or if she is actually taking over the counter medication for the discomfort. She was asked to f/u in 2 wks & she was given a IM inj of Toradol & was advised⁶¹ that she may use Advil or Motrin prn for discomfort. DTM

DINGLE, DIANE #3878

August 23, 2000

Patient in for skin tests and follow-up for rhinitis. Medicines are appetite pill, Periactin (patient told us about this after skin tests were applied and read); last took Prevacid August 19.

Patient's main complaint continues to be the feeling of burning or clogage in her throat, sore throat, cannot really get rid of it, like something is stuck in there, this is constant. Tried the Prevacid, did not seem to help it, actually felt like she had more heartburn, had her stomach checked by primary care doctor, told she had reflux, thinks Prevacid might have made this problem worse.

She is still hoarse, sore throat, sometimes hard to talk, she tried to do voice rest but this is not helping.

Nose has not been much of a problem lately, has occasionally sneezing, nose does not burn, she has no sinus headaches, etc.

Has not had too much problem with her chest, this seems to be better, when she does notice wheezing, it is on inspiration. Proventil has not helped this. If she is excited, she gets more wheezing.

Currently on medical leave, apparently getting Worker's Compensation eventually. Has not been back to work since August 6.

Patient also frequently wakes up at night, reason unclear, does not really think she is that much of an ^{anxious} average person, etc.

EXAM: Patient well developed, well nourished, alert, in no distress, somewhat hoarse. Ears with clear tympanic membranes and canal. Eyes are clear, no injection or discharge, lids okay. Nose showed moderate pink congestion with dry white discharge, no polyps, septum okay, not tender over sinuses. Oral clear, no post-nasal drip, teeth and gums okay. Neck, thyroid and lymph nodes okay. Lungs are clear with good air flow, no wheeze, no rales, no wheeze at the larynx.

Patient had skin testing done to inhalant allergens, had weak histamine control, only reacted to cockroach. Probably having some antihistamine interference. Felt, however, somewhat itchy on her arms and a little bit short of breath after the skin tests were done, this improved.

ASSESSMENT: (1) Chronic rhinitis with headaches by history, probably perennial allergy, medicine interfering with good skin tests, no evidence of chronic sinusitis. (2) Hoarseness, unrelated, probably related to vocal cord nodule, etc., that was found on rhinoscope exam, gets followed by ENT at this point.

PLAN: Will schedule for repeat skin tests. No medicines at this point. Would recommend further evaluation by ENT for the vocal cord nodule. Treatment for allergic rhinitis based on skin tests and other symptoms, etc.

FOLLOW-UP: For repeat skin tests off of antihistamines.

Results of a CT of the neck completed in September of 2000 indicated "scattered small lymph nodes in the neck with prominent, slightly asymmetric tissues in the posterior oral pharynx without evidence of any discrete laryngeal lesions."

Ms. Dingle states that since she has been out on medical leave, she has not had additional periods of her "throat closing up" or aphonia (complete loss of voice); she is still hoarse, however, and this is not abating.

EVALUATION OF VOICE

Voice Parameters: (1=mild, 2=moderate, 3=severe)

Pitch: too low: 2
 Monotone: 1
 Pitch breaks: 1
 Diplophonia: 2

Initially, achieved a fundamental frequency approaching 220 Fo, however, as the evaluation progressed, her pitch declined to a low of 170 Fo.

Phonatory-based Quality: breathy: 2
 Harsh: 2
 Hoarse: 2
 Weak voice: 2
 Loss of voice: 1
 Glottal Fry: 1

Nasal Resonance: NML

Oral Resonance: NML

Loudness: limited variation: 2
 Monoloudness: 2

Other: progressively-weakening voice: 2
 Hard glottal attacks: 2-3

Note: increased in all types of dysphonia by ~ 40% in the second 1/2 of the Grandfather Passage.

Clinical Impressions

This patient exhibits a moderate voice disorder with possibly a mixed etiology. She can vocalize in most of her S.L's, but with difficulty and with careful listening and a quiet environment necessary. It is difficult to say what part, if any, the environmental chemicals at her work-site played in the development and perpetuation of her voice disorder. Although she has been removed from that environment by being placed on medical leave (reportedly secondary to her response to the chemicals), she continues to experience hoarseness and burning in her throat. Environmental chemicals have been known to have a significant effect on the vocal cords (such as drying of the cords), however, information in the MSDS sheet on Thionyl Chloride (7500) doesn't specifically mention the vocal cords. This particular chemical does have a variety of potentially severe effects on the body if ingested or put in prolonged contact with the skin. A copy of the MSDS sheets is available in this chart for details along this line. If the voice problem is primarily a functional one, her voice should respond to improved vocal hygiene and modification of vocal behaviors through voice therapy at McLeod.

Plan of Care

We would like to have a trial period of voice therapy for 1 month, 2x/week (schedule 8 sessions, with at least 4 attended) to determine this patient's ability to learn control of her voice using the goals below. If at the end of this trial period we are unable to achieve an audible and measurable improvement in all target parameters, we will recommend the patient be referred for videostroboscopy to obtain more objective information on the movement and closure of the cords during various speech tasks. With videostroboscopy, data can be obtained on vocal cord movement, etc., primarily by way of a strobe which serves to slow the movement of the vocal cords for visual and audio analysis. Photos of the cords can also be obtained for comparison long-term.

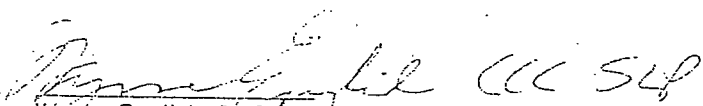
Short-term goals: (1 month)

1. Patient will produce /-h/ words in phrases with easy-onset of speech for 80% of trials on Visi-Pitch.
2. Patient will recognize hard glottal attack/diplophonia/ inappropriately-low pitch /breathiness/ in her recorded speech with 80% accuracy.
3. Patient will consistently drink 6-8 glasses of water qd and consider chewing sugarless gum to assist in the non-throat-clearing method of purging pharynx of sinus drainage.
4. Patient will appreciate at least a mild audible positive change in her voice quality in therapy, which may be reported as taking "less effort to talk." If this does not occur, this examiner will request from this patient's regular physician a referral to an ENT who conducts videostroboscopy.

Long-term goal: (6 months)

Ms. Dingle will present with a normal-to-mild voice disorder, with the patient able to function with minimal effort in all communication situations in her ADL's.

The goals above represent the patient's personal goal of having a normal voice again.


Wynne English, CCC-SLP
Speech Language Pathologist

1799 transcript
4-16-04

#6

1 BY MR. MOORE:

2 Q So, you started working for Kelly's late '96, there at
3 Federal-Mogul, and you became full-time?

4 A I was still in Federal-Mogul building, right.

5 Q Full-time hired in February 1997?

6 A Right, right.

7 Q And you left there August or September of 2000?

8 A 2000.

9 Q Now, tell the Commissioner what departments you worked
10 in while you were there at Federal-Mogul?

11 A Okay. When I started, in February of '97, I started
12 in gaskets, the gasket area. And I worked there until
13 January of '98. And when they transferred me to mold
14 department in January of '98, and that's where -- I
15 worked in mold department, and three years I worked in
16 assembly, packing, boot cell --

17 MS. BLUE: Objection. We didn't stipulate to
18 the departments where she had worked. I thought that
19 we have employment records that show she worked just
20 strictly in mold and gaskets.

21 COMMISSIONER: And what else?

22 MS. BLUE: Mold and gaskets.

23 WITNESS: Boot cell, assembly, engine --
24 because they was moving me around. I work in all
25 those areas.

1 Q Such as?

2 A Arm guards, because the presses are quite hot, so they
3 wear arm guards so they don't get burned. They wear
4 gloves when they take the cavity sets out and the
5 molds out, because we don't want them to burn their
6 hands. Safety glasses, of course, and ear plugs.

7 Q Do you require visitors to wear ear plugs and hard
8 hats when they go through the plant?

9 A Absolutely. Two required things for any visitors are
10 going to be safety glasses and ear plugs.

11 Q Do you require your employees to wear masks?

12 A No, we don't.

13 Q Why not?

14 A We don't foresee any problems there at the plant.

15 Q Does OSHA require you to make them -- to have them
16 wear masks?

17 A No, they don't.

18 Q If OSHA required that, would you?

19 A Of course.

20 Q You saw the drawing that Ms. Dingle made of the plant.
21 Do you feel that's an accurate drawing of the plant?

22 A The lanes are definitely not to spec at all. There's
23 definitely much more than a foot and a half between
24 mold and assembly.

25 Q Okay. And assembly is a separate department from

1 press before the press actually closes.

2 Q Your workers are not required to wear masks of any
3 sort?

4 A That is correct.

5 Q If OSHA required that, would you?

6 A Oh, of course.

7 Q Has OSHA ever fined the plant?

8 A No, they've not.

9 Q Have they ever suggested that you have your workers
10 wear masks?

11 A No.

12 Q But you do have to wear steel-toed boots?

13 A Yes, that's correct.

14 Q Why is that?

15 A Because we believe that there's a possibility that
16 something might go wrong and an individual get hurt,
17 so we protect them.

18 Q And why do they wear ear plugs?

19 A Noises of a certain level in the plant, that we feel
20 like it's better that they wear ear plugs to make sure
21 to protect their hearing.

22 Q Ms. Dingle testified in her deposition that the plant
23 was filled with smoke. Is it filled with smoke?

24 A No. As a matter-of-fact, most of the people who visit
25 our plant comment on how clean and neat it is.

1 MR. MOORE: Objection.

2 COMMISSIONER: Sustained.

3
4 BY MS. BLUE:

5 Q Do you have a ventilation system in the plant?

6 A Yes, we do.

7 Q How would you know about this?

8 A I know about it because of my facility engineering
9 job, but also as part of an environmental health and
10 safety aspect.

11 Q What kind of ventilation system do you have in place?

12 A We have exhaust fans, we have make-up fans, we have
13 air-conditioning systems. We also have vacuum
14 systems. The vacuum systems remove things from like
15 presses or other operations, and that that would be
16 exhausted out. We have make-up fans to make sure that
17 we're not pulling a vacuum in the plant, so we pull in
18 fresh air. The air conditioning filters air and it
19 also brings in fresh air. The dampers are set at
20 about thirty percent (30%), so as long as they are
21 running we get thirty percent (30%) fresh air.

22 Q Did you recently -- or, did you authorize testing to
23 make sure that these ventilation systems and all these
24 systems you have in place are correctly operating?

25 A Yes, we do. As a matter of fact, the maintenance

1 folks walk the roof every day to make sure the fans
2 are working.

3 Q And did you give to me to be placed into evidence a
4 testing of air sampling that you had done?

5 A Yes, we did.

6 Q Can you tell me the results of the air sampling?

7 A The air sampling came back very favorable. In no case
8 were we anywhere close to an exposure level that was
9 considered hazardous for an individual.

10 Q In fact, you were even below the reported standards
11 required by OSHA; is that correct?

12 A That is correct.

13 Q So, you were so far below the minimum for OSHA with
14 your ventilation systems, you didn't even get into the
15 medium range that OSHA warns people about?

16 A That's correct.

17 Q Do you believe, as an environmental and safety expert
18 -- and you have worked with this -- that Ms. Dingle
19 was exposed to chemicals in her job as a press
20 operator in gaskets or mold, that would lead her to
21 have breathing problems or throat irritation?

22 MR. MOORE: I object to that. He's not
23 qualified as an expert.

24 MS. BLUE: He's an engineer, and he deals with
25 safety and he is supposed to be aware of what goes on

1 Q Okay. Would Ms. Dingle have had to go to training
2 like that?

3 MR. MOORE: I object. He didn't know her.

4 BY MS. BLUE:

5 Q But you just stated all employees had to go?

6 A That's correct.

7 Q So, if she were employed, she would have had to go to
8 safety training?

9 A That's correct.

10 Q And do you also cover -- with the ventilation system
11 at the plant, do you keep safety records for that?

12 A Yes, we do.

13 Q And can you tell me, have you had any maintenance
14 problems or any safety-related issues with your
15 ventilation systems?

16 A No, we have not had any problems like that.

17 Q I believe you told me previously that you have
18 actually done more than OSHA requires with your
19 ventilation systems?

20 A Yes, we certainly have.

21 Q Why have you gone beyond the minimum that OSHA
22 requires?

23 A Well, I think it offers us an opportunity to provide a
24 good environment for our employees. It also prevents
25 us from creating a problem. So, as opposed to trying

1 to hedge the line, we want to make sure that we're
2 doing more than we need to do.

3 Q After Ms. Dingle filed this claim, as Safety
4 Coordinator, did you go and do additional air sampling
5 to make sure that people that work in the job that she
6 used to are not exposed to --

7 A Yes, we did.

8 Q Could you tell me the results of those tests?

9 A The results were very good. We did not find a reason
10 to believe that there was a problem.

11 Q And you sampled different employees?

12 A Yes, we did.

13 Q How did you do that?

14 A We bring a certified industrial hygienist in. We lay
15 out the MSDS for that individual, talk about the
16 process, we walk them through the process, and then we
17 get a couple of operators that are running that
18 particular process to come up. We put monitors on
19 them. We allow them then to run that process for the
20 day, bring them back at the end of the day, and take
21 the monitors off.

22 Q So, you don't personally do it.

23 A No, we --

24 Q You supervise outside people that are trained in this
25 sort of thing?

- 1 stays in the ionic operation; the steel goes then
2 through a drying process, and then is taken to mold.
- 3 Q And so a person would be exposed to the piece of metal
4 with Fix-on on it?
- 5 A It would not be exposed to Fix-on.
- 6 Q But the cement with the Fix-on?
- 7 A No, the cement that came from the Fix-on.
- 8 Q Okay. So, they'd be exposed to some residue or some
9 by-product of the Fix-on from the cement?
- 10 A It depends on how you define "exposed," because --
- 11 Q Handled?
- 12 A -- the individual has the opportunity to handle it,
13 but the --
- 14 Q So, that's exposure, is it not?
- 15 A But it's bonded to the steel.
- 16 Q Is that exposure? As a safety person, would that be
17 exposure?
- 18 A I don't think so. It depends on, are we talking
19 contact or are we talking respiratory?
- 20 Q Inhalation?
- 21 A No.
- 22 Q Handling it?
- 23 A Handling it?
- 24 Q Breathing it?
- 25 A Handling it, you could say yes.

1 don't touch the hydraulic oil. The coolant,
2 antifreeze, is inside the press. The operators do not
3 touch the coolant.

4 Q You don't have a chemical background, do you?

5 A Only what I have gained over a period of years of
6 experience with the Air Force, with my medical
7 training, and also with Federal-Mogul.

8 Q But you don't know what Fix-on actually does and how
9 people react to it, do you?

10 A I know, based on talking with the individuals --

11 Q Of your --

12 A -- that make this --

13 Q -- own knowledge.

14 A -- process for us --

15 Q Of your own knowledge. Who have you talked to that
16 says Fix-on won't cause a respiratory problem?

17 A Not that it won't cause. I'm talking about the
18 process that we have. If you -- if you put somebody
19 in the proper set of conditions and expose them in a
20 different way, then I could say that's possible. But
21 the process that we have and the operation that you're
22 specifically asking about, we have tested numerous
23 times, and the tests show there is no exposure.

24 Q Where is the tests that shows from 1997 until 2000,
25 that won't happen?

1 acceptable --

2 A That's why we do the test, to establish the exposure
3 level. The exposure level is well below any trigger
4 level that OSHA says is worth concerning. So, OSHA
5 and the industrial hygienist have established levels
6 that should be safe for individuals to work, so here
7 are the levels.

8 Q You're saying should be safe. Are there any
9 exceptions to that rule? Are you telling me that OSHA
10 sets these parameters so that no one with exposure to
11 these chemicals will have a reaction?

12 A I'm saying that, based on the tests that we have, we
13 are below any level that should cause a problem.

14 Q But that doesn't say Ms. Dingle could not or would not
15 have had a problem?

16 MS. BLUE: Objection. Asked and answered.

17 MR. MOORE: He hasn't answered that question.

18 COMMISSIONER: He hasn't. Just to the extent
19 you know. I understand what you mean.

20 WITNESS: I've said it several times. We do
21 the test to determine what level she's exposed to. We
22 compare that level to the level that OSHA says is a
23 level we need to be concerned about. We are so far
24 below the level, there's not a concern. Therefore,
25 based on that, I would say there is no chance that we

1 allergens Ms. Dingle would react to, and then we
2 established a sampling strategy that would look for
3 those things that were medically documented that she
4 had problems with.

5 Q And what did you find when you reviewed her medical
6 records that she had allergies to?

7 A We noticed in particular she has a mold allergy, and
8 she has what's called a cockroach antigen allergy.

9 Q When we say "mold" -- because she was a mold press
10 operator, I want to make sure we're talking apples and
11 apples, not apples and oranges. When you say "mold,"
12 you're talking about penicillin, fungus on bread,
13 stuff like that?

14 A That's exactly right. Mold and fungus are two
15 interchangeable terms.

16 Q So you reviewed extensive medical records provided to
17 you of Ms. Dingle's, and then you were at the test
18 site and you actually tested with someone on your
19 staff?

20 A That's correct. It was myself and a board-eligible
21 industrial hygienist was with me when we conducted the
22 test. The equipment that we use to do this testing is
23 calibrated prior to us conducting the test. The tests
24 are conducted and then the equipment is calibrated
25 again to make sure it is still accurate.

1 Q I'm going to cut to the bottom line. I know you and I
2 talked about a lot of things this morning. Tell me
3 the conclusion of your report.

4 A After the air sampling that we did in the unit, we
5 found extraordinarily high levels of aspergillus and
6 penicillium in the air in the master bedroom of the
7 unit. In the dust that we collected in the unit, we
8 found twice the level of cockroach allergen in the
9 collected dust sample as studies have shown that will
10 elicit allergic reaction in susceptible individuals.

11 The mold levels were at around forty times the
12 level of mold that we found in the outdoor air.
13 Usually, you become concerned about indoor
14 environments when they're seven to ten times outdoor
15 levels. Not only were the levels forty times the
16 outside, fresh-air levels on that day, but the types
17 of molds that we found were very different inside than
18 the types of molds that were present in outdoor air.

19 And that's another way that you look at the
20 data. The molds that predominated in the indoor air
21 were aspergillus and penicillium. The mold that
22 predominated in the outside air was called
23 cladosporium, which is a general environmental mold in
24 this area. And that leads one to conclude that there
25 is a significant fungal reservoir that exists in the

1 Q And did you review records that indicate that Ms.
2 Dingle had lived at this High Court apartment for some
3 time.

4 A I believe the record said eight years.

5 Q Is it unusual for you to state that "Continued
6 occupancy of this apartment should be undertaken only
7 after..." or is this just standard boilerplate
8 language you put in?

9 A No. No, it's not. We would look at, again, the
10 susceptibility of the occupants of a structure, and if
11 we have knowledge that the susceptibility of the
12 occupants is accentuated because of medical
13 conditions, then we always bring a physician in to
14 help make the decision whether that unit should
15 continue to be occupied or not.

16 Q What did you attribute -- I mean, is this something --
17 these high samples, is this because Ms. Dingle doesn't
18 keep a clean house or what did you attribute it to?

19 A No. No, we have found these kinds of mold levels in
20 homes that appear immaculate. Usually, the fungal
21 reservoir is because of water intrusion into the
22 structure. And that water intrusion can result from
23 rainwater coming in through a leaky roof, it could be
24 from condensate from the air-handling unit building up
25 and wetting surfaces. It could be from plumbing

1 leaks. There's a number of things. Household hygiene
2 does not necessarily play a part in this.

3 Q In your report, what did you attribute this high
4 sampling to, or in your opinion?

5 A The high mold levels were, in my opinion, attributable
6 to two possible sources: One would be a faulty roof,
7 causing water to intrude into the building envelope;
8 and/or condensate from the air-handling unit, that was
9 previously in the attic, causing building materials to
10 be wet.

11 If building materials are wet -- cellulose-
12 containing building materials are wet for more than
13 twenty-four to forty-eight hours, without drying, then
14 you will have mold to grow. So this type of mold
15 likes a cyclically wet and dry environment, so most
16 likely the materials were wet and then they dried, and
17 then they were wet and then they dried. Aspergillus
18 and penicillium like that cycle. And that's most
19 likely -- even though you don't have significant
20 visible surfaces covered with mold, these air samples
21 that we collected, being forty times the level of
22 outdoor air, indicate there's a significant reservoir,
23 probably above the ceiling and in the wall cavities of
24 the master bedroom.

25 Q And what did you find with your investigation? Did

1 air coming from the edge of the vent that's not sealed
2 to the wall, when that cool air meets the hot air, you
3 start forming condensate on the vent and on the
4 sheetrock in that area.

5 The sheetrock has a paper facing to it, which
6 is a nutrient source for the mold. And you can wind
7 up growing mold on the surface and in the wall cavity
8 in that situation.

9 Q Did you observe and take pictures and place in your
10 report copies of what appeared to be water damage in
11 the apartment?

12 A Yes, we did. There did appear to be some buckling of
13 ceilings and some delamination of sheetrock tape that
14 usually delaminates as a result of being wet.

15 Q When you spoke with the maintenance people and the
16 manager at the apartment complex, what did they tell
17 you?

18 MR. MOORE: I Object.

19 COMMISSIONER: How would he be able to get that
20 in?

21 MS. BLUE: Well, I'm trying --

22 COMMISSIONER: Are you talking about as to just
23 being able to get records? Or to tell them about
24 what?
25

1 A That's pretty much the conclusion. It's a management
2 issue and an issue of moisture intrusion into the
3 building envelope.

4 Q And were you successful in obtaining the records from
5 the apartment complex that you requested on heating
6 and air-conditioning condensation for your report?

7 A No, I was not.

8 Q Okay. And did you make more than one attempt?

9 A Yes.

10 MS. BLUE: I have no further questions at this
11 time.

12 CROSS EXAMINATION

13 BY MR. MOORE:

14 Q Mr. Bennett, you have to be allergic to something to
15 have a reaction to it; is that correct?

16 A Yes.

17 Q I'll show you the report of Dr. Atkinson. Do you see
18 the words highlighted where it says "mold"?

19 A Yes.

20 Q She's negative for any reaction to those ten or eleven
21 categories of mold, is she not?

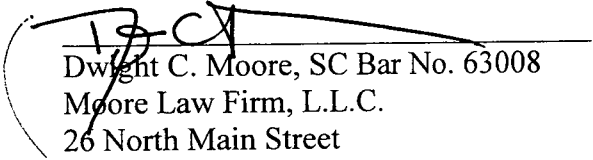
22 A It says so on this report. I actually saw the
23 notation of "allergy" in another of the physician's
24 reports.

25 Q But Dr. Atkinson, who is an allergist --

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

January 23, 2013


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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2007-CP-14-00150

Diane C. Dingle, Claimant, ... Appellant,
v.

Federal Mogul Corporation, Employer, and
Travelers Property Casualty Company of America, Carrier, ... Respondents.

PROOF OF SERVICE

I certify that I have served the documents named below upon the Respondents on January 25, 2013, by depositing a copy of the same in the United States Mail, postage prepaid, addressed to their attorneys of record as follows:

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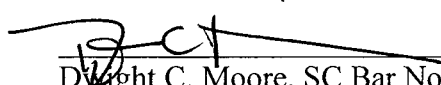
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JAN 25 2013

SC Court of Appeals

January 25, 2013


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