

PIETRO MACALUSO

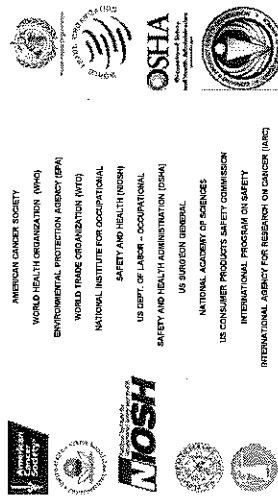
November 27, 1959-July 8, 2016



Asbestos Breathed In Cancer Death

It's That Simple.

Government Agencies ALL Recognize NO SAFE LEVEL OF EXPOSURE TO ANY FIBER TYPE

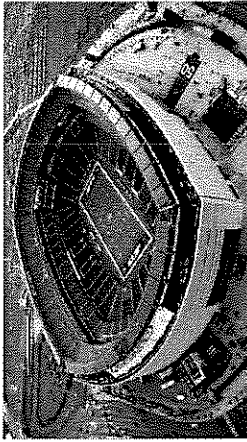


At OSHA's "P.E.L." 3
out of thousand
excess cancers
To a person that is
one out of those
three, it's the biggest
number in the world

The "significant risk" determination constitutes a finding that, absent the change in practices mandated by the standard, the workplaces in question would be "unsafe" in the sense that workers would be threatened with a significant risk of harm. *Id.* at 642. A

OSHA's risk assessment also showed that reducing exposures to 0.1 f/cc would reduce excess cancer risk to 3.4 per 1,000 workers and a 20 year exposure risk to 2.3 per 1,000 workers. OSHA concludes therefore that reducing the exposure limit to 0.1 f/cc will further reduce significant risk.

In a stadium that seats 82,566



280 Excess CANCERS-

that's not a "safe level," that's a crisis.

CHOICES

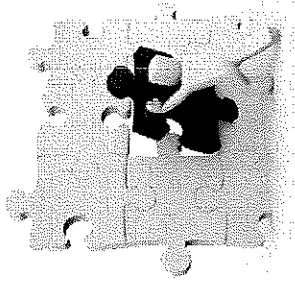


Burden of Proof

Plaintiff has the Burden of Proof.

Plaintiff has the burden to show that it was more likely than not that Pietro's cancer was caused in part by Brunham, Peerless and AO Smith's negligence

Evidence



Types of Evidence

1. Direct Evidence
2. Circumstantial Evidence

Direct Evidence

Evidence that is direct proof of a fact.

Direct Evidence

- Pietro's testimony is Direct Evidence that he regularly worked on Burnham, AO Smith and Peerless' boilers
- Pietro's testimony is Direct Evidence that he regularly scraped cement, ropes gaskets and insulation off these boilers, separated their sections with sledgehammers, crowbars and other tools

Direct Evidence

- Pietro's testimony is Direct Evidence that he regularly breathed **VISIBLE** asbestos dust coming from these Burnham, AO Smith and Peerless boilers
- Pietro's testimony is Direct Evidence that he regularly swept up after doing all this work to make everything clean, creating much more visible dust that he breathed.

Direct Evidence

- Pietro's testimony is Direct Evidence that others in his close proximity performed the same type of work
- Pietro's testimony is Direct Evidence that others cleaned the areas around him after this work, producing dust that he breathed

Direct Evidence- BURNHAM

- Burnham's documents are Direct Evidence that they specified the use of asbestos on their boilers until after the exposures of Pietro Macaluso
- Burnham's documents and testimony is Direct Evidence that they knew these boilers needed to be insulated
- Burnham's testimony is Direct Evidence that they knew the dangers of asbestos at the time Pietro was exposed.
- Burnham's documents and testimony is Direct Evidence that they did **NOTHING** about the dangers to protect Pietro

Direct Evidence- PEERLESS

- Peerless' documents and testimony are Direct Evidence that they specified the use of asbestos on their boilers until after the exposures of Pietro Macaluso
- Peerless' documents and testimony are Direct Evidence that they knew these boilers needed to be insulated
- Peerless' testimony is Direct Evidence that they knew the dangers of asbestos at the time Pietro was exposed.
- Peerless' documents and testimony is Direct Evidence that they did **NOTHING** about the dangers to protect Pietro

Direct Evidence- A.O. SMITH

- A.O. Smith's documents are Direct Evidence that they specified the use of asbestos on their boilers until after the exposures of Pietro Macaluso
- A.O. Smith's testimony is Direct Evidence that they knew the dangers of asbestos at the time Pietro was exposed.
- A.O. Smith's documents and testimony is Direct Evidence that they did NOTHING about the dangers to protect Pietro

Direct Evidence

For Example- Burnham's documents are Direct Evidence that they continued to purchase TONS OF ASBESTOS through at least part of Pietro's exposure period

All Defendant's documents are Direct Evidence that they were members of industry groups specifically discussing the hazards of asbestos DECADES before Pietro ever worked on their boilers

Workers compensation law on the books in states where defendants employed people are Direct Evidence that the defendants should have known and DID know the dangers of asbestos

Circumstantial Evidence

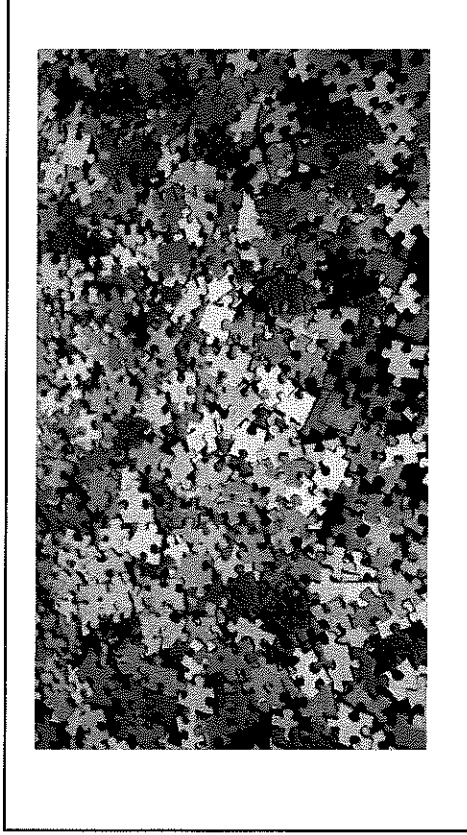
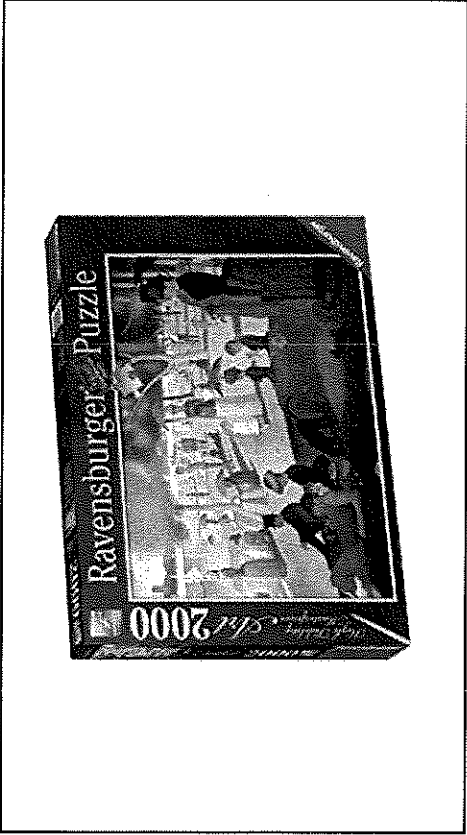
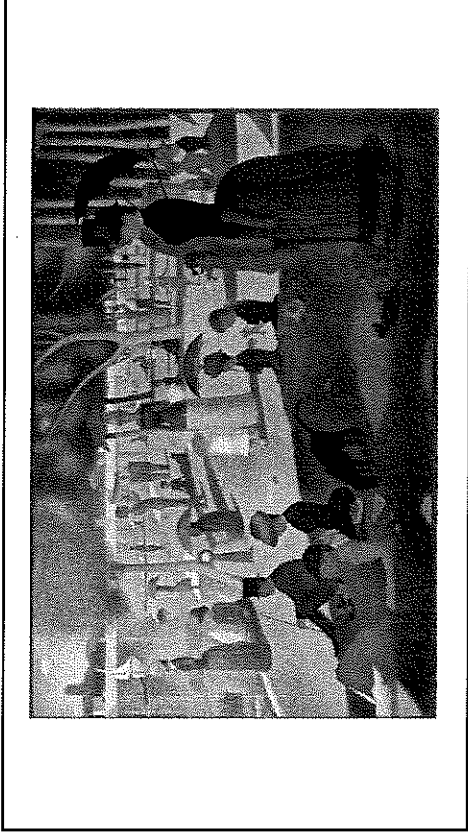
Evidence that presents a Reasonable Inference or Conclusion that a Certain Fact exists.

Circumstantial Evidence

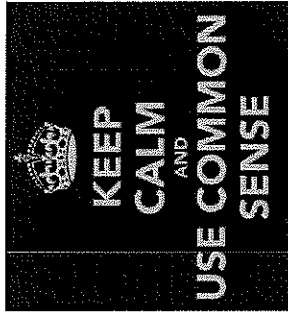
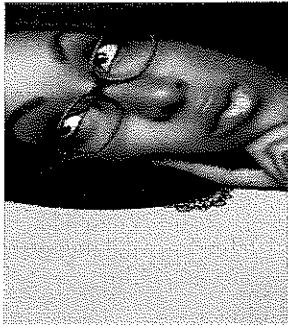
- Pietro's testimony combined with defendants' admissions
- American Gas Association specifications for asbestos insulation combined with AO Smith Documents
- JM Sales to the defendants
- Mr. Paskal's testimony that exposure to dust from asbestos-containing cement, insulation and rope/gasketing would have produced levels many times/ "orders of magnitude" higher than the OSHA PEL
- Defense expert Dr. Poole' admission that the boiler work described by Pietro would be more than twice the OSHA PEL and would overcome a LIFETIME dose to asbestos in 2 ½ DAYS

Circumstantial Evidence

- Dr. Steven Markowitz's testimony that exposure to asbestos-containing dust from the work Pietro described ALL substantially contributed to causing his disease
- Pietro suffered from a disease that EVERYONE AGREES is only caused by exposure to asbestos



Your Common Sense



So . . . Who is to Blame?
Who is At Fault?
Who is LIABLE?



Keep In Mind- More than One "CAUSE"

"There may be more than one cause of an injury. Where the independent and negligent acts or omissions of two or more parties cause injury to another, each of those negligent acts or omissions is regarded as a cause of that injury provided that it was a substantial factor in bringing about that injury."

Defense Counsel

- Vincent Palmiotto
- Leigh DeCotiz
- Andrew Bain
- Peter Dinunzio
- Nancy McDonald
- Philip O'Rourke
- Michelle Pope
- Nick Hurlzler
- David Katzenstein
- Michelle Grady
- Misha Shah



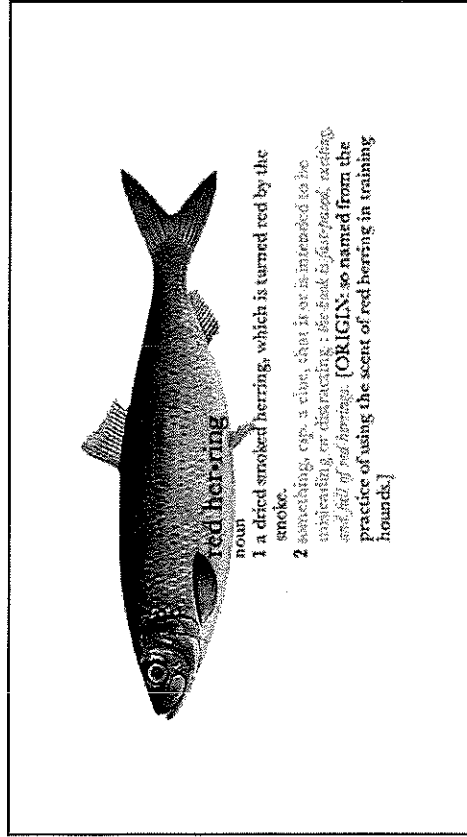
- Alan Dunst
- Monica Kostzewa
- Arthur Bromberg
- Benjamin Careathers
- Steven Clarence
- Jeff Coons
- Robert Cypher
- Gwen Frost
- Brad Gunning
- Beth Hughes
- Gloria Koo
- Dyan Kleinman
- Chauvron Leotaud
- Lorin Snyder
- Josh Sullivan

EBU



For instance: AO Smith vs "HB" Smith

- Why didn't they just say "I am," or
- "DON'T YOU MESS WITH ME!"
- "IF THERE WERE A MILLION OF YOU, I'd be a 'Pierleish'"... would you?"
- AO SMITH MADE IT WORSE! Burn them!
- If they are to blame, it's because they didn't use common sense.



red herring
noun


- 1 a dried smoked herring, which is turned red by the smoke.
- 2 something esp. a ruse, that is or is intended to be misleading or distracting. *See book by G. K. Chesterton, entitled 'The Man Who Knew Too Much'.* [ORIGIN: so named from the practice of using the scent of red herring in training hounds.]

Pietro Only worked for Bruno?????



"Question: Okay. How many -- how many contractors did you work for during this period, other than Bruno?"
 "Answer: There's two that come to mind."
 "Question: Okay. Were there only two or were there more than two others?"
 "Answer: I think there probably were more than two others. I can't remember. There were -- there were at least two that I remember working with -- more than one occasion with."
 "Question: Okay. So three including Bruno."
 "Answer: Three. Bruno would be one of the three, yes."
 "Question: And then, probably, some others that you just can't remember."
 "Answer: Perhaps one more, yeah. 553-6-553:21"

Pietro's Timeline – Evidence Social Security Records - as reported to Government by Permis/Caparotta



EMPLOYER NUMBER: 11-2382921
 PERMIS CONSTRUCTION CORP
 % JAMICE LANGELLA EXECUTRIX
 57 MADAL PL
 STATEN ISLAND NY 10314-3219

YEAR 1ST QTR 2ND QTR 3RD QTR 4TH QTR
 1976 1000.00


We will discuss how to reach \$1000 even at minimum wage later

TOTAL \$1,000.00

1959- born
 1976- move to USA
 C-1975-76
 1976- move to Brooklyn
 Bruno/Permis

1984, Moved out of Brooklyn

Pietro's Timeline – Evidence From Bruno



BRUNO says Pietro gets work from Bruno's company in 1977 Tr. P.490-4891

3445
 3447
 3451

We will return to why Bruno is a little off on years/amounts/type of work (a while too)

1959- born
 1969- move to USA
 C-1975-77
 1972- move to Brooklyn
 Bruno/Permis

1984, Moved out of Brooklyn

Pietro

Tr. P. 494

7 Q And how were you paid by Bruno Prustaci? Did you get --

8 A I remember him giving my a pay -- a pay stub.

9 Q Okay. So you were --

10 A But other than --

11 Q -- paid on the books?

12 A But I don't know whether he put me on the books or not."

Bruno- Burnham questions:

Tr. P. 3453

4 Q Can you tell us who handled paying the employees?

5 A My partner.

6 Q Do you have idea yourself, since you didn't handle it, how the employees were paid?

7 A No.

Pietro's Timeline- Bruno leaves Brooklyn Work in 1978

YOU HAD BETTER BE READY TO GET YOUR OWNHEAD WORKING UP NOW! PLEASE, CONTINUE??

19 1978- move to West Point

20 A. Yes, when I worked there, I

21 worked like I was working in Brooklyn with friends. I didn't

22 know what I was doing. I was just

23 following the lead of the other guys.

24 I was just following the lead of the other guys.

25 I was just following the lead of the other guys.

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100 I was just following the lead of the other guys.

1959- born

1972- move to West Point

c.1975-77 Bruno to West Point

1978- Bruno to West Point

1984 Moved out of Brooklyn

Pietro's Timeline- Bruno leaves Brooklyn Work in 1978

Bruno Can Not Say Anything that Happened in Brooklyn After 1978

17 Even if they had been, because you weren't actually in Brooklyn

18 then, correct?

19 A. Correct.

20 Q. Okay, but, your business partner, M.L. Chagnetta, he

21 was in Brooklyn, right?

22 A. Yes.

23 Q. And he was in Brooklyn during that time in Brooklyn

24 that you had mentioned to do with, right?

25 A. Correct.

1959- born

1972- move to West Point

c.1975-77 Bruno to West Point

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Pietro's Timeline- Bruno leaves Brooklyn Work in 1978

Bruno Can Not Say Anything that Happened in Brooklyn after 1978

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1978- Bruno to West Point

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ITENIZED STATEMENT OF EARNINGS FOR SSN XXX-XX-6340

EMPLOYER NUMBER: 11-2382921

PERMIS CONSTRUCTION CORP

% JANICE LANGELLA EXECUTRIX

57 NADAL PL

STATEN ISLAND NY 10314-3219

YEAR 1ST QTR 2ND QTR 3RD QTR 4TH QTR TOTAL

1978

Not paid hourly, or quarterly, and pay drops off SS records forever. Why?

\$1,184.00

The Verdict Sheet

Simple Questions. Simple Answers.

EVIDENCE

1. EXPOSURE TO ASBESTOS
2. FAILURE TO WARN
3. "SUBSTANTIAL FACTOR"
4. PERCENT OF FAULT
5. MESOTHELIOMA EFFECTS
6. RECKLESSNESS

147- EXPOSURE TO ASBESTOS

THE FOLLOWING INFORMATION IS AVAILABLE FROM THE RECORDS OF THE ASBESTOS ABUSE INVESTIGATION UNIT OF THE NEW YORK STATE DEPARTMENT OF LABOR AND INDUSTRY:

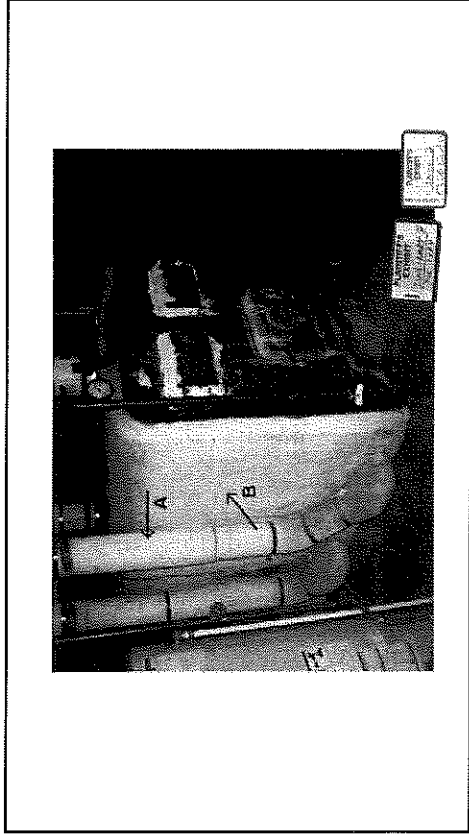
PEERLESS

NAME: PIETRO MACALUSO
 ADDRESS: 100-10 50th Avenue, Forest Hills, NY 11375
 PHONE: (718) 224-1111
 OCCUPATION: A.O. SMITH BOILERMAN

WAS PIETRO MACALUSO EXPOSED TO ASBESTOS USED IN CONNECTION WITH BURNHAM BOILERS?

Pietro
p. 503

6 Q And was -- did you have somebody else helping you do
 7 that?
 8 A Yeah. Generally, there was -- generally, because I
 9 was the -- I was the go-to guy. I had responsibility with
 10 cleaning up the wires, basically. So sometimes I was doing it
 11 by myself; other times there were other plumbers there doing it
 12 that still -- would jump in as soon as the old stuff was pulled
 13 out.
 14 Q And did you have somebody who helped you carry out
 15 this old stuff?
 16 A Yeah.
 17 Q And do you believe you came into contact with any
 18 asbestos products or materials in ripping out those old water?
 19 A Yes.
 20 Q And what do you believe you were exposed to?
 21 A What do I believe I was exposed to?
 22 Q Yes, sir.
 23 A Dust.
 24 Q And where did the dust come from?
 25 A From those wires. They were called in a white powder.



Pietro
P.502

16 Q Would these be two- or three-story buildings?
17 A So you'll have a whole string of houses, the same
18 house, all on the same block, and so the whole block would be
19 the same house. So you'll have two houses stuck together, and
20 each one of them is a two-family house.
21 Q So these are semi-detached two-families?
22 A Correct.
23 Q And what area of Brooklyn was this?
24 A Bensonhurst.

4 Q We are talking about BROOKLYN IS BROOKLYN that word.
5 HAYES, MIAMI BEACH, MANHATTAN, NEW YORK, CORRECT?
6 A Not really. One-family, two-family.
7 Q One- or two-family residential, correct?
8 A Okay, yeah. You know the houses in Brooklyn, some
9 family and some totally on top.
14 Q For the residential or smaller jobs, was there a
15 location where you did most of that work?
16 A Bensonhurst, Brooklyn.

Bruno
P.3448,3462

18 Q You hired laborers like Pietro to keep the workplace
19 clean, correct?
20 A Yes.
21 Q And you told the jury some of the things that Pietro
22 did on the job, but another thing he did was clean up, right?
23 A Yes, sometimes.
24 Q QUESTION: You'd clean it, and guys like Pietro
25 Macaluso would do that cleaning, right?
26 ANSWER: Yes.
27 Q QUESTION: You would make the subcontractor clean
28 it up?
29 ANSWER: No, we clean."

Tr.P.3464

Tr.P.3465

Bruno Talks About Pietro's Job and why he was doing it!
PIETRO'S JOB WAS SAFETY!

8 Q Why would it be important to keep a work area where
9 people were working clean?
10 A How you going to work, you know, if it is dirty or if
11 there is a brick in the middle of the way and somebody trips over
12 it and falls. You clean it up.
13 Q Because you don't want anyone tripping or falling in
14 the workplace, right?
15 A Right.
16 Q You want to make sure there are no injuries on the
17 worksite, right?
18 A Yes, correct.

Pietro's testimony. His exposures

501-502

25 Q What did you do to remove these old units?
26 A We would -- I'm going to call them smash them out of
27 there and take them out to the dumpster.
28 Q Okay. And how did you go about -- what tools or
29 materials did you --
30 A We used sledgehammers or hand held hammer, heavy
31 hammer, and crowbars.

Dr. Steven Markowitz



p. 536

3 Q In the times that you've reviewed these occupational
 4 histories in people who destroyed boilers, cleaned up boilers,
 5 what tools were used?

6 A Sledgehammers, crowbars, screwdrivers, scrapers.
 7 Q In studying literature in occupational histories of
 8 asbestos-containing boiler construction, removal, and subsequent
 9 cleanup, what kind of level of exposures do you find, based on
 10 your training and experience, without giving any specific
 11 numbers?
 12 A Without numbers?
 13 Q Without.
 14 A Oh, very substantial levels of exposure. Because of,
 15 of fairly substantial concentrations of asbestos in those
 16 products and the nature of the work in an enclosed space,
 17 usually a small space in a basement, with uncontrolled exposure
 18 because of the nature of the demolition, that produces high
 19 levels of exposure to asbestos.
 20
 21

Peerless Talks About Pietro's Exposures

3 Q So when a boiler's being dismantled in the field, it
 4 would take a certain degree of force to remove that boiler and
 5 take it apart into sections, right?
 6 A If you're going to take it apart, yes.

Each section of each Boiler is 45-60 pounds-at
 the lightest. If only TWO sections are
 together, we are talking about 90-120 pound
 hunks of cast iron. EVERY section has to be
 broken apart!

1042

Burnham Talks About Pietro's Exposures

17 Q But once a boiler is taken offline, the pipes removed,
 18 the gas lines or the fuel lines separated and the boiler is not
 19 in the middle of a basement, it would take an untrained laborer
 20 to break that boiler apart. Take off the asbestos cement, and
 21 carry it out, right?

22 A I can't -- yes, I'm not sure of their exact rules,
 23 but, yes.
 24 Q On ahead. You're not sure of the exact rules, but?
 25 A It's possible, yes.
 26 Q And it's reasonable to Burnham that people, including
 27 laborers, would break apart and remove Burnham boilers and the
 28 asbestos cement there on Burnham boilers, correct?
 29 A Yes.
 30 Q Okay. It's also foreseeable to Burnham that those
 31 same laborers may come back down to the basement and sweep up
 32 the asbestos-containing debris from the ground, correct?
 33 A Yes.

Tr. P.
2415-2417

Burnham Agrees that Pietro was RIGHT

20 Q You said, in your opinion, Mr. Macaluso didn't name
 21 Burnham correctly, right?

22 A I didn't say he didn't name Burnham correctly. I
 23 didn't say that.

24 Q Well, did he describe the size of Burnham Residential
 25 boilers correctly?

26 A Oh, you're speaking of what it looks like. Yes.

27 I -- he was very vague about that, yes.
 28 Q Well, let's look into that. Did he describe the size
 29 correctly?

30 A The size, it was within a range of that size, yes.

31 Q Okay. And he described the fuel sources correctly,
 32 right?
 33 A Yes.

Roger Pepper
Tr. P. 2546-2549

Burnham Agrees that Pietro was RIGHT

- 13 Q And the residential boilers are more commonly cast
- 14 iron than steel from Burnham sales, correct?
- 15 A Correct.
- 16 Q And what's the breakout of that; is it about 80/20, so
- 17 percent cast iron, 20 percent steel?
- 18 A At least that, yes.
- 19 Q Okay. Could be more, right?
- 20 A Correct.
- 21 Q How much more; 80/10 cast iron to steel?
- 22 A Probably, yes.
- 23 Q In your opinion, he was correct in describing the cast
- 24 iron nature of a majority of the Burnham residential boilers,
- 25 correct?
- 26 A He was correct in saying they were cast iron, yes.

Roger Pepper
Tr. P. 3569-2550

Burnham Agrees that Pietro was RIGHT

- 21 Q And he was correct where the asbestos was on the
- 22 boilers regarding Burnham boilers, right?
- 23 A If -- I believe so.
- 24 Q And in your opinion, he was correct on where most
- 25 residential boilers would be located, right? Most of them are
- 26 in the basements of residences, right?
- 27 A They would be, yes.
- 28 Q And he -- we talked about this on direct. He was
- 29 correct on the method of dismantling a boiler as he described,
- 30 in your opinion, right?
- 31 A Dismantling yes.
- 32 Q And the method of removal, considering the weightiness
- 33 of each section, carrying one section is possible because it's
- 34 45 pounds, right?
- 35 A Yes.
- 36 Q Carrying two, you're getting up closer to a hundred
- 37 pounds, that would be a lot more difficult to carry, right?
- 38 A That's true.

Roger Pepper
Tr. P. 3550-2551

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- 14 iron than steel from Burnham sales, correct?
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Roger Pepper
Tr. P. 3550-2551

DEFENDANT'S EXHIBIT 10 CONTAINS EVERYTHING ABOUT BOILERS BEING COVERED IN ASBESTOS

BUILDING LAWS OF
THE CITY OF NEW YORK
1938 BUILDING CODE
Enacted and Amended to December 6, 1938

Department of Buildings



ARTICLE 12
Heating Appliances, Combustion and Chimneys
Sub-articles 1
Heating Appliances

(11.1.1). § C24-690.0 Design and installation of heating apparatus.--The design, installation and repair of heating apparatus shall be as required by this title and the rules of the board.

2. Combustible material shall be at least six feet away from the front, four feet away from the top and three feet away from the sides of furnaces or boilers, including enclosures. These separations may be reduced on all the above mentioned surfaces if the combustibles are protected by fireproofing or other means approved by the board. The board shall be installed with clearances from combustible material in accordance with the approval of the board.

Nothing in the law says that they shouldn't warn!
Or don't have to warn!
Defendant's
BA

QUESTION #1:
Was PIETRO MACALUSO exposed to asbestos or asbestos containing components used in association with boilers manufactured by A. O. SMITH CORPORATION?

At least 5 Jurors must agree on the answer to this question.

YES _____ NO _____

A.O. Smith
HYDRONIC BOILERS • DOMESTIC HOT WATER BOILERS

A.O. Smith
HYDRONIC BOILERS • DOMESTIC HOT WATER BOILERS

A.O. Smith

A.O. Smith
HYDRONIC BOILERS • DOMESTIC HOT WATER BOILERS

It is important to A.O. Smith to make sure people get their name RIGHT!

Tr. P. 1723-

21 Q A.O. Smith would normally and typically mark its
22 boilers with a label with its name on it, correct?

23 A Yes.

24 Q Okay. And that's because it would be important to
25 A.O. Smith that the label on its own boilers actually
26 contain the company's actual name. Do you agree?

27 Q So let me put it this way: It would be important
28 to A.O. Smith that the labels on its own boilers actually
29 say "A.O. Smith," the name of the company.

30 A Yes.

31 Q And I agree with you, sir. It would have been
32 important to A.O. Smith, when branding its boilers, not to
33 deviate from customer base, the general public, true?

34 A Yes.

35 Q A.O. Smith, from a business perspective, would
36 have wanted to be identifying so that other people might buy
37 their boilers if they had that name.

38 A Yes.

It is important to A.O. Smith to make sure people get their name RIGHT for repeat business!

Tr. P. 1724-1725

25 Q And it would be important to A.O. Smith to get
26 repeat business based on a clear identification of the type
27 of boiler they were making.

28 A Well, you know, it's ... as long as it's not a
29 conflict between brand awareness and manufacturer
30 awareness. I mean, sometimes they want brand awareness.

31 Q Okay. Brand awareness is important to A.O. Smith.

32 A Yes.

33 Q Okay. In fact, getting repeat customers is
34 something that's important to A.O. Smith to this very day?


35 A Yes.


Tr. P. 1727

**A.O. SMITH OPENING STATEMENT/CLOSING-
"My case is: Yes or no, was it our product?"**

Tr. P. 1726-1727

21 Q Now Mr. Frank comes in, he'll tell you, A.O.
22 Smith didn't make one of those.

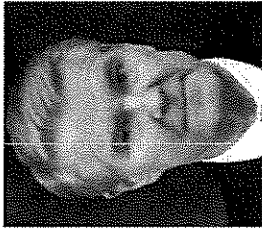
23 

24 

25 Q Mr. Macaluso said he was a boiler in Frank
26 Frank's business '72 to '73. By now, you would write
27 those notes. Okay? He was ... he said he was exposed and
28 he breathed that by removing the A.O. Smith boilers. That
29 he said was A.O. Smith boilers. He said it.

30 A.O. Smith's corporate representative Mr. Brad
31 Frank, who I mentioned to you during your life, will come.
32 He will tell you that that was not an A.O. Smith product.
33 Get into some section: fired by oil, not an A.O. Smith
34 product. He'll testify to it. He'll be cross-examined.


A.O. Smith Bradley Plank - Professional Witness



T: P.
1640

"Results Matter"


4 Q. Okay, but you've seen that the official transcript
5 might be your company is actually "results matter." Are you
6 aware of that?
7 A. I'm aware of that, yes.
8 Q. Now, A.O. Smith is actually paying the monetary
9 company for you to testify as a witness for A.O. Smith, okay?
10 Yes?
11 A. Yes.

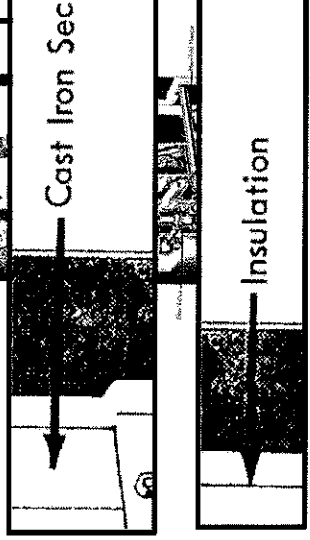


A.O. SMITH SECTIONAL CAST IRON BOILER

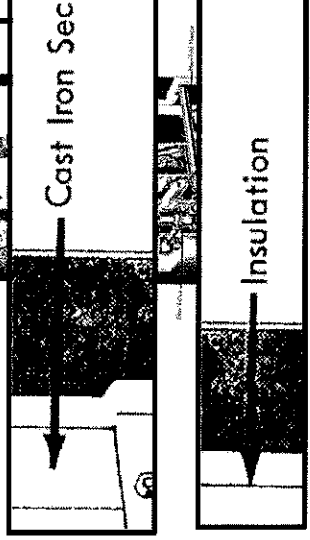
Cast Iron Section

The Emblem is not on the JACKET!
He would have taken Off the jacket!





Cast Iron Section



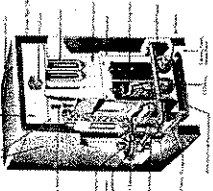
Insulation

FOR MORE INFORMATION VISIT US AT www.aosmith.com PAGE 33


Why would they tell you they did not make this product???????

Louvers

3 Q. Did A.O. Smith boilers need to be externally
4 insulated?
5 A. No.
6 Q. If you put insulation on the outside of an A.O.
7 Smith boiler, would it impair its proper function?
8 A. Yes. As we talked about earlier, you cannot
9 cover up those louvers, because that would interfere with
10 proper operation.
11 Q. On the side of the boiler.



A.O. SMITH SECTIONAL CAST IRON BOILER

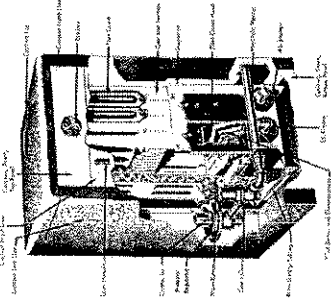


THERE ARE NO LOUVERS
ON THE A.O. SMITH
SECTIONAL CAST IRON
BOILER- THERE IS
INSULATION- TAKE A LOOK

WHY WOULD THEY TALK ABOUT LOUVERS IF THEY ARE NOT THERE?

Also note- This
could have been
their best seller!

A. O. SMITH SECTIONAL CAST IRON BOILER



Pietro Testimony Tr. P. 569

Q Regardless of whether there was anything holding them together, was there anything between the sections?

A There was insulation, like a rope-looking material, along with asbestos, that chalky material which I just explained.

VAN HANSELVILLE STYLE 14-28
3/8" ID BRAIDED ASBESTOS TUBING
OR EDGEM

FINISH SPEC.

Braided Asbestos
Tubing = Rope

TUBE - ASBESTOS
COIL TYPE COMPLY. GAS

DET. J. E. S. [unclear]

22 Q Okay. When you were prying these sections apart, did you have to do anything with that rope material?

23 A It would just disintegrate, come off, flake off, if you will, along with the powdered material. So it wasn't hard to get apart. It would just fall off along with scraper.

24 Q When it -- when this rope-type stuff flakes and disintegrates, were any conditions created?

25 A Oh, like I said, there was dust everywhere and it -- the rope didn't look like a rope. It looked like it would just fall apart.

26 Q Did you breathe in that dust --

27 A Oh, yeah.

28 Q -- and those flakes?

29 A Yeah, yeah.

30 Q How did you know you were breathing that material in?

31 A I just scratched it. It was on the scraper that I was just using. Is that what you want?

Removing "Braiding" or "Rope" = Exposure, regardless

22 Q Okay. When you were prying these sections apart, did you have to do anything with that rope material?

23 A It would just disintegrate, come off, flake off, if you will, along with the powdered material. So it wasn't hard to get apart. It would just fall off along with scraper.

24 Q When it -- when this rope-type stuff flakes and disintegrates, were any conditions created?

25 A Oh, like I said, there was dust everywhere and it -- the rope didn't look like a rope. It looked like it would just fall apart.

26 Q Did you breathe in that dust --

27 A Oh, yeah.

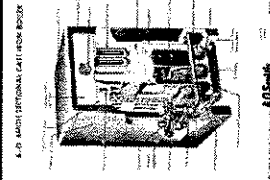
28 Q -- and those flakes?

29 A Yeah, yeah.

30 Q How did you know you were breathing that material in?

31 A I just scratched it. It was on the scraper that I was just using. Is that what you want?

Pietro Tr.
P. 569-570



instructions and guarantee

A.O. Smith
RESIDENTIAL
TYPE
HYDRONIC
BOILERS

A.O. SMITH Insulation is ASBESTOS

NOTE: It is recommended that the instructions as outlined in the latest publication of ANS booklet Z21.30 "Installation of Gas Appliances and Gas Piping" also be followed. This Manual can be purchased from the American Gas Association Laboratories, 8501 E. Pleasant Valley Rd., Cleveland, Ohio 44131.

Plank Tr. P. 1717-1718

American Standard
INSTALLATION OF GAS
APPLIANCES AND GAS PIPING
 1064
 APPROVED
 AMERICAN STANDARD ASSOCIATION
 INCORPORATED
 WASHINGTON 25, D.C.

AMERICAN GAS ASSOCIATION, INC.
 601 EAST BROADWAY
 NEW YORK 10, N.Y.

Tr. P. 1718-1719

Q And it was important enough for A.O. Smith to put in their foreword that they recommend to follow the instructions of the AMI booklet. They say that in the Foreword, right?

A In the absence of local codes, yes.

Q Okay. In the absence of local codes?

A Oh, I'm sorry.

Q Next, what. Let me just ask --

A That's what we did with most manuals. I'm sorry. It may be elsewhere on this one. Please go.

Q You say not here, because --

A Just to clarify the record, it's not that you may not -- be mistaken. There's no mention of local codes here indicating it's correct.

Q Where in the Foreword does it mention local codes, dear sir?

A You're correct. It doesn't say that on this one.

Tr. P. 1718-1719

Q And just to add contact, A.O. Smith says: "Unless otherwise stated, these instructions shall apply to all residential type boilers"; correct?

A Yes.

Q And this is the type of installation of Gas Appliances and Gas Piping guidelines as referred to by A.O. Smith in their own manual; correct?

A Correct.

Q Which is the same listing included in the A.O. Smith manual, "AMI Booklet 211.30"; correct?

A Yes.

Q Sir, you ready?

A Yes.

Q Okay, great.

If we could please turn, sir, to page 13 of the document...

American Standard
INSTALLATION OF GAS
APPLIANCES AND GAS PIPING
 1064
 APPROVED
 AMERICAN STANDARD ASSOCIATION
 INCORPORATED
 WASHINGTON 25, D.C.

AMERICAN GAS ASSOCIATION, INC.
 601 EAST BROADWAY
 NEW YORK 10, N.Y.

Tr. P. 1718-1719

Q And it says, sir, one-quarter-inch asbestos millboard spaced out. Two keys and then a cross. And that is also mentioned, being that, in 14, asbestos millboard, and then, in 16, asbestos millboard on heating appliances; correct?

A Yes, sir.

Q And it says, sir, one-quarter-inch asbestos millboard spaced out. Two keys and then a cross. And that is also mentioned, being that, in 14, asbestos millboard, and then, in 16, asbestos millboard on heating appliances; correct?

A Yes, sir.

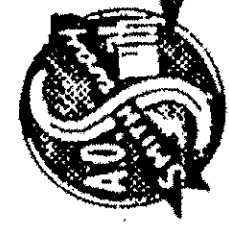
Q And it says, sir, one-quarter-inch asbestos millboard spaced out. Two keys and then a cross. And that is also mentioned, being that, in 14, asbestos millboard, and then, in 16, asbestos millboard on heating appliances; correct?

A Yes, sir.

Q And it says, sir, one-quarter-inch asbestos millboard spaced out. Two keys and then a cross. And that is also mentioned, being that, in 14, asbestos millboard, and then, in 16, asbestos millboard on heating appliances; correct?

A Yes, sir.

A.O. SMITH
Jacket?



A. O. SMITH SECTIONAL CAST IRON BOILER

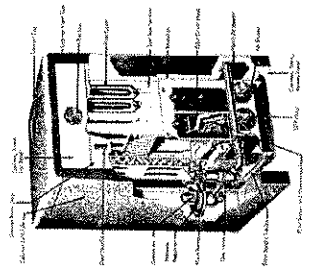
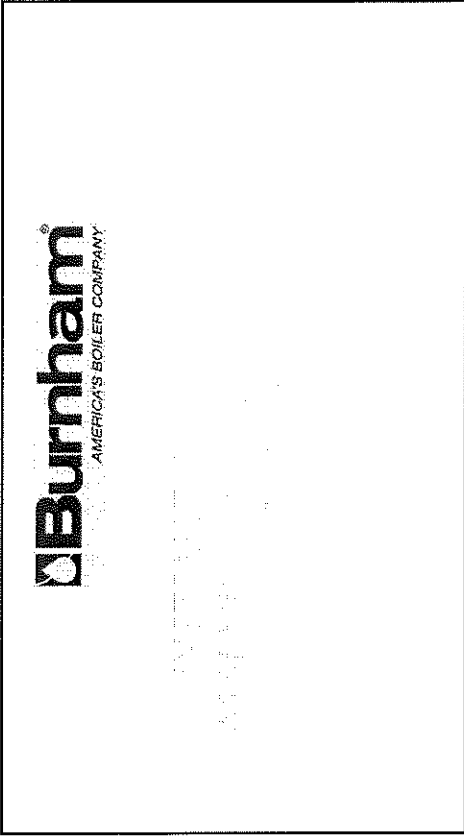


FIG. 17



QUESTION #1:
 Was PIETRO MACALUSO exposed to asbestos or asbestos containing components used in association with boilers manufactured by A. O. SMITH CORPORATION?
 At least 3 jurors must agree on the answer to this question.

YES NO

Place Asbestos Cement between double beads of section. Always apply the Cement before setting up subsequent section for proper sealing of Boiler. Improper sealing impairs the efficiency of the Boiler because of short circuiting the flue travel.

Seal space between section and base with Asbestos Cement.

Apply coat of Asbestos Cement on section after system is tried and found water tight.

*FIG. 1
 SECTION THROUGH A SINGLE BEAD OF SECTION*

Section Description:
 1. The boiler section shall be made of steel plate, 1/2" thick, with a minimum yield point of 35,000 psi.
 2. The boiler section shall be furnished with a double bead of section.
 3. The boiler section shall be furnished with a double bead of section.
 4. The boiler section shall be furnished with a double bead of section.
 5. The boiler section shall be furnished with a double bead of section.
 6. The boiler section shall be furnished with a double bead of section.
 7. The boiler section shall be furnished with a double bead of section.
 8. The boiler section shall be furnished with a double bead of section.
 9. The boiler section shall be furnished with a double bead of section.
 10. The boiler section shall be furnished with a double bead of section.

Descriptions: It is the intent and purpose of these specifications to provide for the installation of a complete low pressure heating apparatus.

General Terms: The entire installation shall be strictly in accordance with this specification.

The boiler shall be covered with asbestos cement applied on air cell paper to a total thickness of 1/2 inches - the finishing coat to be troweled to a smooth, even surface. All fittings must be covered with asbestos cement.

The Burnham
Boiler Specifications

ORDER OF SALE OF QUARTZ LUMPS IN CYRUS HILL
 45 280521 - 1P - 201 1 20000 2000

QUARTZ LUMPS
 1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

QUANTITY	DESCRIPTION	UNIT	PRICE	TOTAL
6	QUARTZ LUMPS	TON	1.00	6.00
9	QUARTZ LUMPS	TON	1.00	9.00
9	QUARTZ LUMPS	TON	1.00	9.00
12	QUARTZ LUMPS	TON	1.00	12.00
15	QUARTZ LUMPS	TON	1.00	15.00

Lbs. Asbestos Cement

6	9	9	12	15	15
---	---	---	----	----	----

1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

ORDER OF SALE OF QUARTZ LUMPS IN CYRUS HILL
 45 280521 - 1P - 201 1 20000 2000

QUARTZ LUMPS
 1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

QUANTITY	DESCRIPTION	UNIT	PRICE	TOTAL
24	QUARTZ LUMPS	TON	1.00	24.00
28	QUARTZ LUMPS	TON	1.00	28.00
32	QUARTZ LUMPS	TON	1.00	32.00
36	QUARTZ LUMPS	TON	1.00	36.00
40	QUARTZ LUMPS	TON	1.00	40.00
44	QUARTZ LUMPS	TON	1.00	44.00

Lbs. Asbestos Cement

24	28	32	36	40	44
----	----	----	----	----	----

1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

ORDER OF SALE OF QUARTZ LUMPS IN CYRUS HILL
 45 280521 - 1P - 201 1 20000 2000

QUARTZ LUMPS
 1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

QUANTITY	DESCRIPTION	UNIT	PRICE	TOTAL
30	QUARTZ LUMPS	TON	1.00	30.00
35	QUARTZ LUMPS	TON	1.00	35.00
40	QUARTZ LUMPS	TON	1.00	40.00
45	QUARTZ LUMPS	TON	1.00	45.00
50	QUARTZ LUMPS	TON	1.00	50.00
55	QUARTZ LUMPS	TON	1.00	55.00
60	QUARTZ LUMPS	TON	1.00	60.00

Lbs. Asbestos Cement

30	35	40	45	50	55	60
----	----	----	----	----	----	----

1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

ORDER OF SALE OF QUARTZ LUMPS IN CYRUS HILL
 45 280521 - 1P - 201 1 20000 2000

QUARTZ LUMPS
 1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

QUANTITY	DESCRIPTION	UNIT	PRICE	TOTAL
48	QUARTZ LUMPS	TON	1.00	48.00
56	QUARTZ LUMPS	TON	1.00	56.00
64	QUARTZ LUMPS	TON	1.00	64.00
72	QUARTZ LUMPS	TON	1.00	72.00
80	QUARTZ LUMPS	TON	1.00	80.00
88	QUARTZ LUMPS	TON	1.00	88.00
96	QUARTZ LUMPS	TON	1.00	96.00

Lbs. Asbestos Cement

48	56	64	72	80	88	96
----	----	----	----	----	----	----

1. QUARTZ LUMPS
 2. QUARTZ LUMPS
 3. QUARTZ LUMPS
 4. QUARTZ LUMPS

Burnham
AMERICA'S BOILER COMPANY

**BURNHAM SPECIFIED
and REQUIRED
ASBESTOS INSULATION
FOR USE ON BOILERS**

**ONLY SPECIFIED ASBESTOS
ON THE OUTSIDE OF THEIR BOILERS
OTHER THAN ASBESTOS- NOTHING ELSE**

Burnham Boiler Corporation
FOR
MORE THAN HALF A CENTURY

Burnham Boiler Corporation
Lynchburg, Va.

AMERICA'S BOILER COMPANY

Asbestos Required to Cover Burnham Boilers

STEAM		Asbestos Pounds
Boiler No.	Code Word	
1705-S	Lavish	96
1706-S	Latria	110
5012-S	Desmanthus	1400
5013-S	Delta	1500
5014-S	Dyno	1600

WATER		Asbestos Pounds
Boiler No.	Code Word	
5012-W	Desodis	1400
5013-W	Doax	1500
5014-W	Direct	1600

Quantity of Asbestos Required to cover boiler one and one-half inch thick.

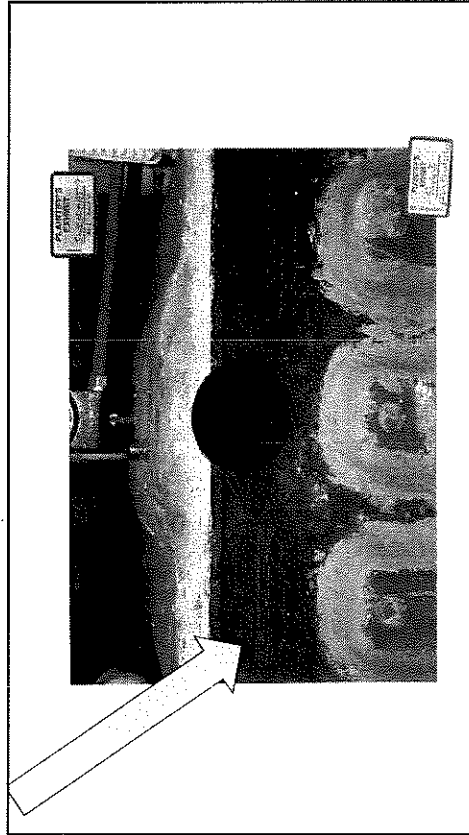
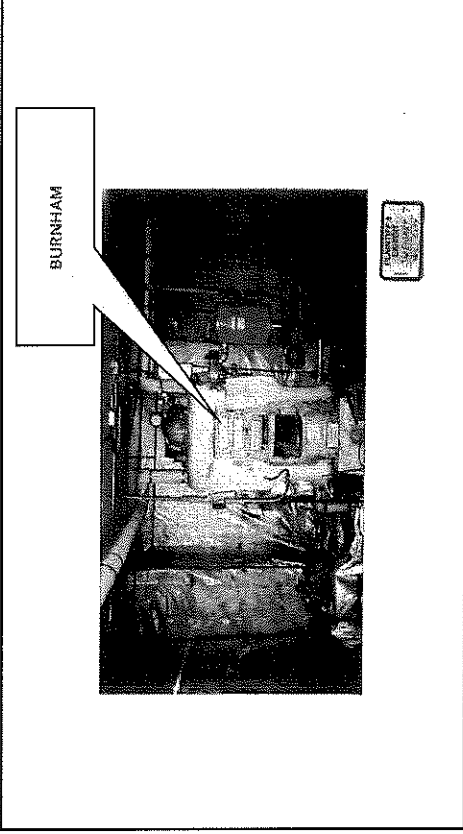
Quantity of Asbestos Required to cover boiler one and one-half inch thick.

3/4-INCH SMOKELESS		3/4-INCH STEAM		WATER	
No. of Boilers	No. of Pounds	No. of Boilers	No. of Pounds	No. of Boilers	No. of Pounds
684-S	440	618-W	440	606-W	440
734-S	498	718-W	498	707-W	498
814-S	556	818-W	556	807-W	556
914-S	614	918-W	614	907-W	614
1014-S	672	1018-W	672	1007-W	672
1114-S	730	1118-W	730	1107-W	730
1214-S	788	1218-W	788	1207-W	788
1314-S	846	1318-W	846	1307-W	846
1414-S	904	1418-W	904	1407-W	904
1514-S	962	1518-W	962	1507-W	962
1614-S	1020	1618-W	1020	1607-W	1020
1714-S	1078	1718-W	1078	1707-W	1078
1814-S	1136	1818-W	1136	1807-W	1136
1914-S	1194	1918-W	1194	1907-W	1194
2014-S	1252	2018-W	1252	2007-W	1252
2114-S	1310	2118-W	1310	2107-W	1310
2214-S	1368	2218-W	1368	2207-W	1368
2314-S	1426	2318-W	1426	2307-W	1426
2414-S	1484	2418-W	1484	2407-W	1484
2514-S	1542	2518-W	1542	2507-W	1542
2614-S	1600	2618-W	1600	2607-W	1600

BURNHAM KNEW THEIR BOILERS WOULD BE IN THE FIELD, WITH ASBESTOS ON THEM FOR DECADES AND DECADES



- 7 Q Okay. In fact, Burnham's own sales literature indicated that certain Burnham boilers lasted up to 25 years, right?
- 8 A Yes, that's what the literature said.
- 9 Q You would agree that an unjacketed boiler, properly installed in the late '40s, like is it that you have in front of you -- or a residential boiler, cast-iron sectional boiler, made by Burnham that's installed in the late '40s -- if properly maintained, could be in service to 1981, 1982, 1978, and even into the '80s. Is that possible?
- 10 A It's possible.
- 11 Q Okay. The idea that a good boiler, properly maintained, could last a really long time was good for business, right?
- 12 A It was, because they want to sell a product that's reliable.

2284



Burnham Boiler Corporation

Pipe Covering

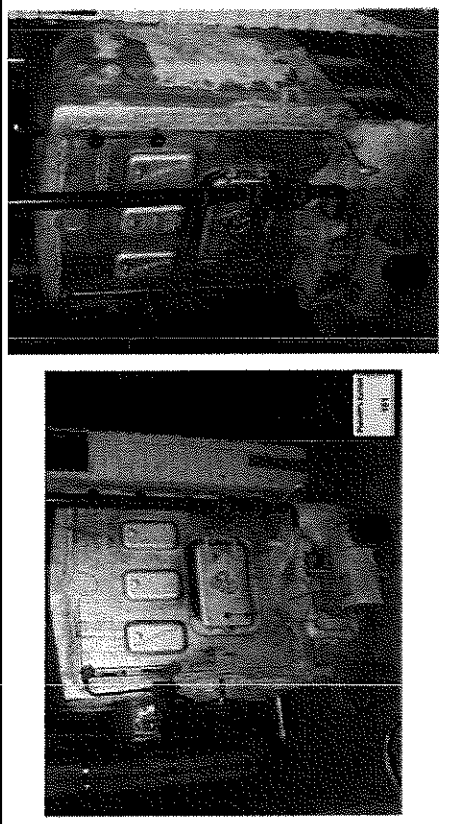
Insulated Pipe Covering

List below applies to all Sectional Pipe Covering, 85% asbestos, wool felt, asbestos moulded and asbestos air cell (subject to different discounts). These coverings are shipped in three foot sections furnished with curves jackets and supplied with bands.

Pipe Size		Total Prices		Covers	
Ins. Dia.	Length	Sheet	Tray	100-lb.	50-lb.
1 1/2	10	40.00	40.00	80.00	80.00
2	10	50.00	50.00	100.00	100.00
2 1/2	10	60.00	60.00	120.00	120.00
3	10	70.00	70.00	140.00	140.00
3 1/2	10	80.00	80.00	160.00	160.00
4	10	90.00	90.00	180.00	180.00
4 1/2	10	100.00	100.00	200.00	200.00
5	10	110.00	110.00	220.00	220.00
5 1/2	10	120.00	120.00	240.00	240.00
6	10	130.00	130.00	260.00	260.00
6 1/2	10	140.00	140.00	280.00	280.00
7	10	150.00	150.00	300.00	300.00
7 1/2	10	160.00	160.00	320.00	320.00
8	10	170.00	170.00	340.00	340.00
8 1/2	10	180.00	180.00	360.00	360.00
9	10	190.00	190.00	380.00	380.00
9 1/2	10	200.00	200.00	400.00	400.00
10	10	210.00	210.00	420.00	420.00
10 1/2	10	220.00	220.00	440.00	440.00
11	10	230.00	230.00	460.00	460.00
11 1/2	10	240.00	240.00	480.00	480.00
12	10	250.00	250.00	500.00	500.00

Asbestos Content: 85% in 1965, kept and reported. Follow us with a...

Asbestos Cement. Sold in 100-lb. bags and ton lots. Prices on application.



INSTRUCTIONS FOR ERECTING NO. 1 and 17" SERIES BOILERS

SETTING BASE

N#1 Series Boilers showing Sequence of Sections & Purpose of Tappings
Scale - 1/4" = 1'-0" - Plate No. 172

SEALING SECTIONS

As each section is set in place, fill the spaces between the heads of the sections with asbestos cement. The heads hold the sections in place. It is absolutely necessary to fill all these spaces between the sections to prevent the draft short-circuiting and thus impair the efficiency of the boiler.

Also, place asbestos cement in the spaces between sections and the base. Sufficient asbestos cement is sent with each boiler for these purposes.

INSTRUCTIONS FOR ERECTING NO. 2 AND 21" SERIES BOILERS

PACKED IN BOX

N#2 Series Boiler showing Sequence of Sections & Purpose of Tappings
Scale - 1/4" = 1'-0" - Plate No. 172

SEALING SECTIONS

As each section is set in place, fill the spaces between the heads of the sections with asbestos cement. The heads hold the sections in place. It is absolutely necessary to fill all these spaces between the sections to prevent the draft short-circuiting and thus impair the efficiency of the boiler.

Also, place asbestos cement in the spaces between the sections and the base. Sufficient asbestos cement is sent with each boiler for these purposes.

**2 lb. can Stove Putty
 Pounds Asbestos Cement
 Piece 2 x 4 Lumber**

INSTRUCTIONS FOR ERECTING
17" SERIES HIGH TEST HOT WATER
SUPPLY BOILERS

Form #881 - 2-51

5. Place Asbestos Cement between double beads of section. Always apply the Cement before setting up subsequent sections for proper sealing of Boiler. Improper sealing impairs the efficiency of the Boiler because of short circuiting the flue travel.

11. Seal gaps between sections and base with Asbestos Cement.

12. Apply coat of Asbestos Cement on sections after space is tiled and found water tight.

ALL DIMENSIONS

1. Flue door Complete
 2. Flue door Complete
 3. Flue door Complete
 4. Flue door Complete
 5. Flue door Complete
 6. Flue door Complete
 7. Flue door Complete
 8. Flue door Complete
 9. Flue door Complete
 10. Flue door Complete

Page 1

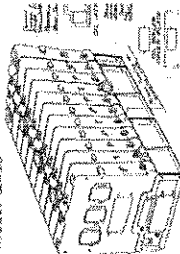
INSTRUCTIONS FOR ERECTING NO. 3 AND 27" SERIES BOILERS

ASBESTOS INSULATION ON BOILERS

PACKED IN BOX

As each section is set in place, fill the spaces between the heads of the bolts with asbestos cement. This is absolutely necessary to prevent the draft short-circuiting and thus impair the efficiency of the boiler. Also, place asbestos in the space between the sections and the base. To start asbestos cement is neat with each boiler for these purposes.

3-23-57
 " 0-3-49
 " 6-1-52
 " 12-1-53



Form SL/PL-PK-PB 1056 - 450

BURNHAM CORP. (BOILER DIV.) LIVINGSTON, NEW YORK

BOX

SHIPPING LIST & P.A.R.T.S/PACKING LIST FOR FACE-KING BOILER NO.450 - SERIES NO. 1

10 3/10" Hook Bolts with 5 Lbs. Asbestos Cement
 1 Erecting Directions
 1 Can Muffle Compound
 15 Feet Asbestos Wicking
 2 Wood Wedges
 2 Assembling Wabers for Pulling up Sections
 8 Assembling Dogs for Pulling up Sections
 3 Assembling Blanks for Pulling up Sections
 1 Lbs. Sinker
 1 Lbs. Sinker
 1 Can Muffle Compound

10-8-56

**BURNHAM
 KNEW
 ASBESTOS INSULATION
 ON BOILERS
 WOULD BE REMOVED
 BY PEOPLE LIKE PIETRO**

Q... Once a boiler is taken offline, the pipes removed, the gas lines or the fuel lines separated and the boiler is now in the middle of a basement, it would take an untrained laborer to break that boiler apart, take off the asbestos cement, and carry it out, right?
 A I can't -- yes. I'm not sure of their exact rules, but, yes.

Q And Burnham understood that this work that we're talking about was going on out in the field, removing Burnham boilers built in the '30s, '40s, '50s, and '60s by trades people, including laborers, correct?
 A Yes.

Roger Pepper of BURNHAM 2415:17-2415:4

**BURNHAM
KNEW
ASBESTOS INSULATION
ON BOILERS
WOULD BE REMOVED
BY PEOPLE LIKE PIETRO**

Burnham knew people like Pietro would be cleaning up asbestos debris from their boilers

Q And it's foreseeable to Burnham that people, including laborers, would break apart and remove Burnham boilers and the asbestos cement there on Burnham boilers, correct?

A Yes.

Q Okay. It's also foreseeable to Burnham that those same laborers may come back down to the basement and sweep up the asbestos-containing debris from the ground, correct?

A Yes.

p. 247

**BURNHAM ALWAYS
KNEW THIS WAS HAPPENING**
Q The work including the removal of Burnham boilers, Burnham knew that at all times before 1971 and at all times from '72 until '82 that that type of removal work that we've just been discussing would be done in the field, correct?

A Yes. 2418:22-2418:26

**BURNHAM ADMITS THAT PIETRO'S ASBESTOS
WORK ON THEIR BOILERS WAS DUSTY - DESPITE
WHAT THEIR EXPERTS MAY HAVE SAID**

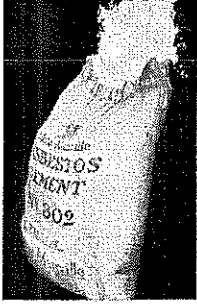
Q Okay. Burnham doesn't dispute that when somebody removes, strips off, chips away asbestos-containing insulation on the outside of a boiler to remove it from someone's basement, that that person doing so is exposed potentially to asbestos fibers, right?

A We don't dispute that, no.

Q Okay. You agree that it would be foreseeable that that would happen, right?

A Yes. 2418:2-2418:11

ASBESTOS CEMENT



Burnham ONLY Specified Asbestos and knew asbestos would be used always

- Sold Unjacketed Cast Iron Sectional Boilers until 1968
- Specified asbestos cement until at least 1968
- Bought asbestos cement BY THE TON until at least 1975
- Did they keep buying afterwards? We don't know because they don't have the requisition cards anymore!

Exhibit 134 - ~~1974~~ and ~~1975~~ Requisition Card for

27,250 POUNDS ASBESTO

DATE	AMOUNT	REMARKS
11-19-68	500 LBS	ASBESTOS
1-12-69	500 LBS	ASBESTOS
2-15-69	500 LBS	ASBESTOS
3-12-69	500 LBS	ASBESTOS
4-11-69	500 LBS	ASBESTOS
5-10-69	500 LBS	ASBESTOS
6-8-69	500 LBS	ASBESTOS
7-7-69	500 LBS	ASBESTOS
8-5-69	500 LBS	ASBESTOS
9-3-69	500 LBS	ASBESTOS
10-1-69	500 LBS	ASBESTOS
11-30-69	500 LBS	ASBESTOS
1-28-70	500 LBS	ASBESTOS
2-26-70	500 LBS	ASBESTOS
3-26-70	500 LBS	ASBESTOS
4-24-70	500 LBS	ASBESTOS
5-21-70	500 LBS	ASBESTOS
6-19-70	500 LBS	ASBESTOS
7-17-70	500 LBS	ASBESTOS
8-15-70	500 LBS	ASBESTOS
9-12-70	500 LBS	ASBESTOS
10-10-70	500 LBS	ASBESTOS
11-7-70	500 LBS	ASBESTOS
12-5-70	500 LBS	ASBESTOS

ASBESTOS CEMENT
DESCRIPTION

QUESTION #4:
Was PIETRO MACALUSO exposed to asbestos or asbestos containing components used in association with boilers manufactured by defendant BURNHAM LLC?

At least 5 jurors must agree on the answer to this question.

YES NO

1040-1041

PEERLESS- since 1908 (985:26)

13 Q It would be apparent what someone was working on if

14 they saw the name on that product, right?

15 A Yes.

16 Q And in this situation that something is Peerless.

17 A Yes.

18 Q Okay. So it's important from Peerless' marketing

19 standpoint that people who use Peerless boilers know

20 they're using a Peerless boiler, correct?

21 A Yes.

22 Q Okay. Peerless would want its customers to remember

23 the brand name Peerless, right?

24 A Yes.


25 Q Brand recognition is important, correct?

26 A Yes.

27 Q So when somebody remembers seeing that name, you want

28 that person to remember that name, right?

29 A Yes.



Q There came a time in the '80s -- we'll just leave it in the '80s for purposes of this case -- that Peerless stopped using asbestos rope, right?

A Yes.

Q And that was because they lost the ability to buy it, right?

A Yes.

Q And at no time ever in the history of the company did Peerless ever warn about the dangers of asbestos in conjunction with their boilers, correct?

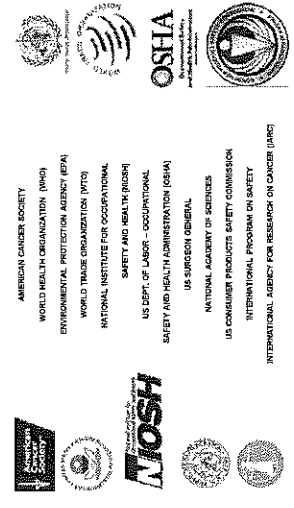
A Prior to that time, yes.

PEERLESS CANNOT STATE WITH ANY KNOWLEDGE OR PROOF THAT THEIR BOILERS CONTAINED CHRYSOTILE, AMOSITE, OR A MIXTURE OF BOTH

SEE PAGE 1074 AND 1017

Regardless, Everyone (Except some defense experts) agree:

NO SAFE LEVEL OF EXPOSURE TO ANY FIBER TYPE



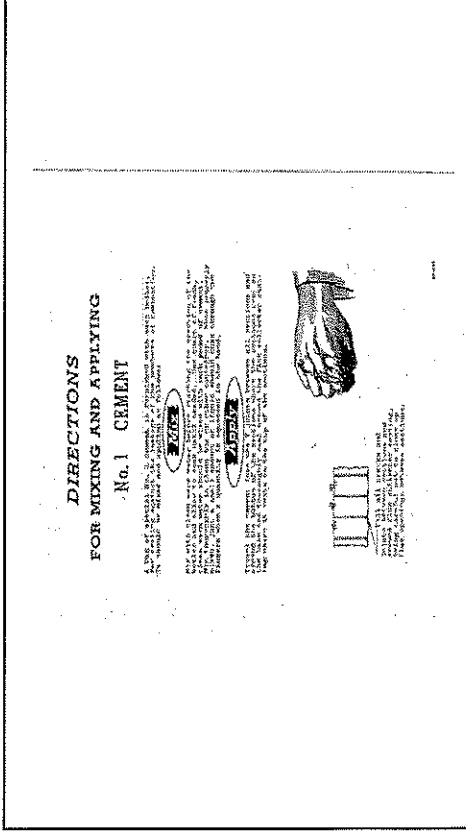
AMERICAN CANCER SOCIETY
WORLD HEALTH ORGANIZATION (WHO)
ENVIRONMENTAL PROTECTION AGENCY (EPA)
WORLD TRADE ORGANIZATION (WTO)
NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (NIOSH)
US DEPT. OF LABOR - OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)
US SURGEON GENERAL
NATIONAL ACADEMY OF SCIENCES
US CONSUMER PRODUCTS SAFETY COMMISSION
INTERNATIONAL PROGRAM ON SAFETY
INTERNATIONAL AGENCY FOR RESEARCH ON CANCER (IARC)

112

PEERLESS BOILERS CONTAINED:

- asbestos rope
- asbestos gaskets
- asbestos cement

PEERLESS sent even more asbestos cement and asbestos rope with their boilers to purchaser to install on site with **DIRECTIONS** to:



Carbon Monoxide?

8 Q Okay.

9 A However, also the potential of carbon monoxide, which

10 is lethal, if the boiler was not put together and fired.

11 Q One of the things that makes carbon monoxide lethal,

12 Mr. Bloom, is that you can't see it or smell it when it's

13 invading your body, correct?

14 A That's my understanding, yes.

15 Q So what makes it so dangerous? The carbon monoxide, is

16 that it has no other properties. Fair enough?

17 A No what?

18 Q It has no what we call an odor properties? It

19 doesn't make your eyes water, your -- you can't smell it? It

20 has none of those properties and that's why it's --

21 A Right.

22 Q -- so dangerous?

23 A Yes.

994-995

Carbon Monoxide? Protecting against an Immediate Killer with a Latent Killer- NEVER WITH A WARNING

17 Q Add the butter and spray for a cast iron boiler

18 manufactured by Peerless, in between those sections is asbestos

19 rope and at times asbestos cement, correct?

20 A Over the asbestos rope we put plastic asbestos cement

21 over the rope. It was like wearing a hat and suspenders to

22 help stop any carbon monoxide leaks.

23 Q Okay. And the ones that were being checked in

24 Boyertown also contained asbestos, right?

25 A Asbestos rope between the sections, and that's --

26 Q That's not enough?

27 A -- plastic asbestos cement over the rope areas.

28 Q And that plastic asbestos cement where you were

29 manufacturing that for the residential boilers, you were mixing

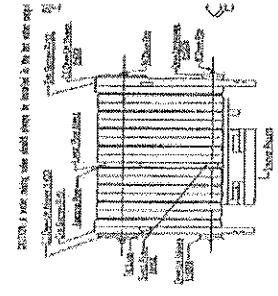
30 that cement up in Boyertown?

31 A Yes.

1000-1001

**PEERLESS
PRECISION GROUND
SPACING PADS**

All Peerless water tube sections, when assembled, are evenly spaced with spacing pads. These special pads are a component part of each section, precision ground, so as to fit evenly (one section to another) when the boiler is completely assembled. The spacing of the sections eliminates long iron-to-iron contact and permits Peerless sections to maintain their natural (air-cast) skin for maximum corrosion resistance and long life. Spaces between sections are sealed with asbestos rope to assure a sealed enclosure for the hot gases.



REPAIR PARTS SERIES 61 GAS BOILERS

FROM THE MANUFACTURER'S LIST OF PARTS TO BE ORDERED TO REPAIR OR REPLACE PARTS OF THE FOLLOWING SERIES 61 GAS BOILERS:

GENERAL PARTS:

- 8000 Shell and Stay Assembly
- 8010 Stay Assembly
- 8020 Section Assembly
- 8030 Section Assembly
- 8040 Section Assembly
- 8050 Section Assembly
- 8060 Section Assembly
- 8070 Section Assembly
- 8080 Section Assembly
- 8090 Section Assembly
- 8100 Section Assembly
- 8110 Section Assembly
- 8120 Section Assembly
- 8130 Section Assembly
- 8140 Section Assembly
- 8150 Section Assembly
- 8160 Section Assembly
- 8170 Section Assembly
- 8180 Section Assembly
- 8190 Section Assembly
- 8200 Section Assembly
- 8210 Section Assembly
- 8220 Section Assembly
- 8230 Section Assembly
- 8240 Section Assembly
- 8250 Section Assembly
- 8260 Section Assembly
- 8270 Section Assembly
- 8280 Section Assembly
- 8290 Section Assembly
- 8300 Section Assembly
- 8310 Section Assembly
- 8320 Section Assembly
- 8330 Section Assembly
- 8340 Section Assembly
- 8350 Section Assembly
- 8360 Section Assembly
- 8370 Section Assembly
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- 8390 Section Assembly
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- 9980 Section Assembly
- 9990 Section Assembly
- 10000 Section Assembly

4 You were in the sections when they were cutting cable?

5 And what rope at that contact?

6 Yes. Quite a bit of it.

7 Why were they cutting the asbestos rope for use with the Peerless boiler?

8 For use between the sections at the boiler press for residential boilers. All of the residential boilers were blocked and we cut it to specific lengths and placed it between the sections.

9 Okay. And you were present in the area where they were cutting the rope, right?

10 Yes. It's sorry. Cutting the rope for those sections.

11 Yes.

12 And there were fibers where these were cut, correct?

13 Yes. The rope was fibrous.

14 And when it was cut, there were fibers, correct?

15 Yes.

16 Q And from your personal recollection of seeing this actually occur when the asbestos rope was cut and fibers were cut, and the fibers were released, the fibers were visible, right?

17 Yes.

PEERLESS

SERIES 61 GAS BOILERS

MANUFACTURED BY THE PEERLESS BOILER WORKS, INC.

30000 150th Street, Everett, WA 98203

PH: 425-771-1234

FAX: 425-771-1235

WWW: www.peerless-boiler.com

1980

PEERLESS

SERIES 61 GAS BOILERS

MANUFACTURED BY THE PEERLESS BOILER WORKS, INC.

30000 150th Street, Everett, WA 98203

PH: 425-771-1234

FAX: 425-771-1235

WWW: www.peerless-boiler.com

1980

16 Q When did there come a time that you stopped using
 17 rope and plastic asbestos cement in the cast-iron
 18 residential sectional boilers?
 19 A Never.
 20 A We stopped using the asbestos rope in the '80s.


1013

10 Q And Peerless sold asbestos cement separate and
 11 apart from residential boilers; correct?
 12 A "Sold"? I would not say sold. I would say it
 13 was shipped with commercial units, if you want to call
 14 that being "sold."
 1014-
 1015
 24 People would -- you would sell cement with
 25 the boilers, right?
 26 A Yeah, we would ship some .. whatever was on the
 27
 28
 29 Pecking ship -- pecking sheet -- and part of the boiler
 30 bill of materials, we would ship it with a boiler.
 31 Q Okay. And that cement and rope was sold to you by
 32 other companies, right?
 33 A Yes.

14 Q Johns-Manville?
 15 A Yeah I recall that name.
 16 Q Johns-Manville sold you insulation, cement and
 17 rope, right?
 18 A I know they sold us rope --
 19
 20 Q All right. When you put asbestos products into
 21 your residential boilers, those came in packaging that
 22 didn't go to the customer, correct?
 23 A Correct.
 24 Q And that rope and cement came from Johns-Manville
 25 and others, right?
 26 A Correct.

We will come back to why this is so significant that
 JM sold them rope over the years

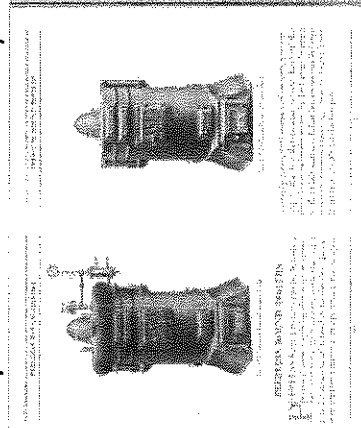
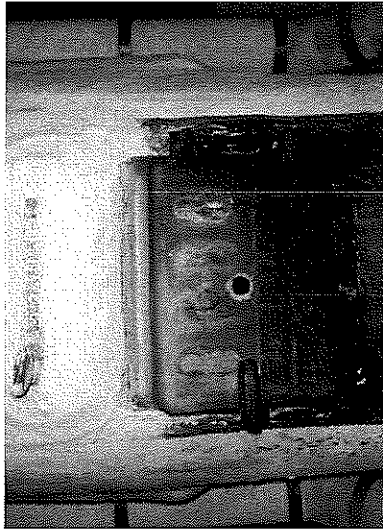
1015, 1018



INSTALLATION INSTRUCTIONS
 HANG THESE INSTRUCTIONS IN VICINITY OF BOILER

External Insulation- Asbestos Cement

Peerless Complained in closing that he named round and Squared boilers. They MADE BOTH!



PEERLESS:

"We furnish with sectional boilers enough asbestos plastic cement to fill in all joints. On account of the increased efficiency and greater economy we recommend that all boilers be properly covered with asbestos plastic cement to a thickness of not less than 1 1/2 inches"



What was on Both?
External asbestos insulation cement


OF THE BOILERS, EXCEPT A COMPLETENESS, AND APPROXIMATELY TO ABOUT 1/2 INCHES THICK.
We furnish with sectional boilers enough asbestos plastic cement to fill in all joints. On account of the increased efficiency and greater economy we recommend that all boilers be properly covered with asbestos plastic cement to a thickness of not less than 1 1/2 inches.
Ratings are also based upon the waterproofing that sufficient radiation be installed to heat

Activities of Peerless Corporation Registered in Delaware, Pennsylvania, Michigan, Florida & Wisconsin 2017

State	Number of Shares	Percentage	Market Value	Number of Shares	Percentage	Market Value
Delaware	1,000,000	100%	\$10,000,000	1,000,000	100%	\$10,000,000
Pennsylvania	1,000,000	100%	\$10,000,000	1,000,000	100%	\$10,000,000
Michigan	1,000,000	100%	\$10,000,000	1,000,000	100%	\$10,000,000
Florida	1,000,000	100%	\$10,000,000	1,000,000	100%	\$10,000,000
Wisconsin	1,000,000	100%	\$10,000,000	1,000,000	100%	\$10,000,000

STATE OF DELAWARE
 REGISTERED OFFICERS:
 Secretary: [Name]
 Treasurer: [Name]

Unjacketed Peerless Boilers could have been in production until the late 1960's



20 Q Okay. All right. So there came a time that Peerless
 21 stopped recommending that their boilers be covered entirely in
 22 asbestos cement. You just testified that to the jury, correct?
 23 A Yes.
 24 Q Do you know when that was?
 25 A I know it was prior to '68 because that's all we had,
 26 was jackets when I started there. And I --

27 Q Okay.
 28 A I don't know how many years prior to that.
 29 Q Okay. So you don't know whether they stopped making
 30 these unjacketed boilers that were covered in asbestos cement,
 31 you don't know whether that was in '67 or '66 or '47 or '46 for
 32 that matter, correct?
 33 A Correct.
 34 Q Okay. Do you know why Peerless made the decision to
 35 start selling exclusively jacketed boilers?
 36 A No, I do not.

1044-3045

Regardless... What About Peerless Jacketed boilers? also asbestos insulation!

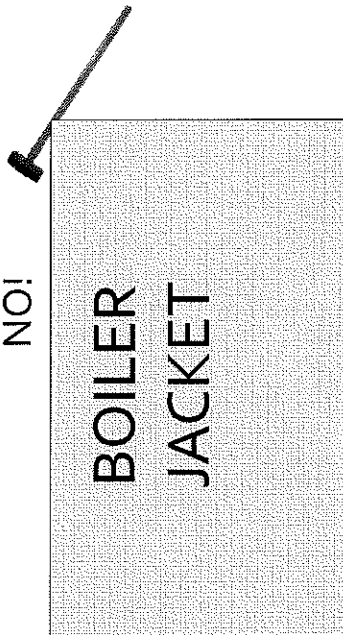


PEERLESS
 AUTOMATIC GAS BOILER

INSULATION. Boiler is completely encased with heavy Asbestoscell and Super-Fire Felt, insuring minimum heat loss.

THE EASTERN PEERLESS COMPANY
 1000 MARKET STREET
 PHILADELPHIA, PENNSYLVANIA

Are Jacketed Boilers at issue? YES! Does it matter if there was a jacket or not? NO!



**BOILER
 JACKET**

Pietro was a kid from Italy with no Boiler Experience

2 Q Okay. Do you know what a jacketed boiler is?

3 A Jacketed?

4 Q Yeah.

5 A I think the jacket was the insulation on the outside,

6 but I can't be sure. I don't know."

21 "Question: Do you know if they were

22 jacketed?

23 "Answer: I'm just going to call the

24 jacketing the insulation. Is that what ..

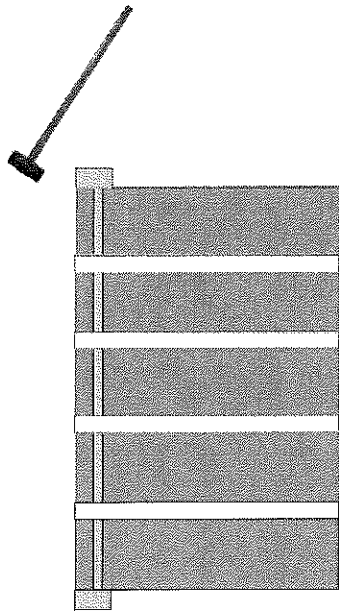
25 not - jacketing (overstatement)

26 I would call 'jacketing,' but I don't know the

27 technical or the legal term for what a jacket is.

Tr. P. 1989;
2001

Compression Rods?



EXPOSURES

3 Q So when a boiler's being dismantled in the field, it

4 would take a certain degree of force to remove that boiler and

5 take it apart into sections, right?

6 A In your going to take it apart, yes.

7 A First of all, we're using plastic adhesion cement the

8 term, rather than plastic cement.

9 Q Right.

10 A And how is dry? Yes. How much does it crack? I do

11 not know. I have no experience in that.

12 Q Because you never removed any boilers or removed that

13 substance plastic adhesion cement, right?

14 A Right.

15 Q And the rope also dries out over time, correct?

16 A Um, it's not wet in begin with. Oh, so does it dry

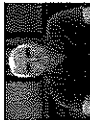
17 out? No.

18 Q You already testified when that rope is cut it

19 releases fibers, correct?

20 A Yes.

PEERLESS



Peerless Never tested for the Dangers of Removal

11 Q You didn't do any testing, before 1982, to warn

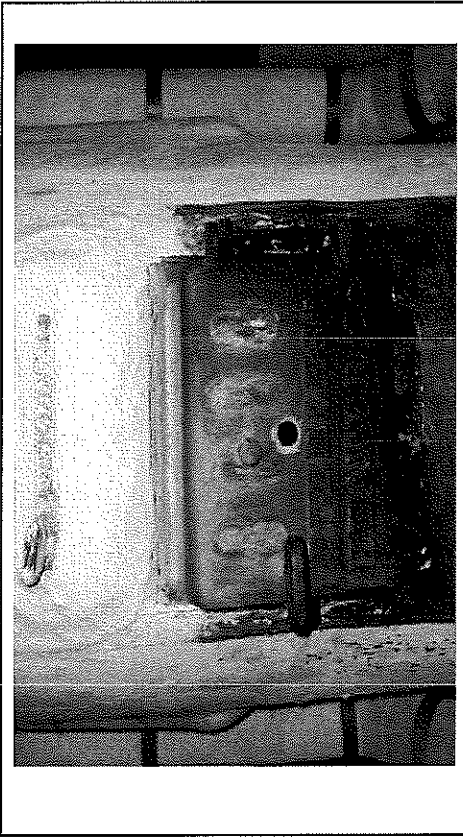
12 people that would dismantle your boilers, like my client

13 Pietro Manalupo, correct?

14 A We did not do testing to disassemble a boiler,

15 that is correct.







QUESTION #2:
 Was PIETRO MACALUSO exposed to asbestos or asbestos containing components used in association with boilers manufactured by defendant PEERLESS INDUSTRIES, INC.?

At least 5 jurors must agree on the answer to this question.

YES NO




Q So you know that Burnham has a lot of competitors out there, right?
 A They do.


Q And those competitors in the '70s, '60s, '50s, and '80s are very numerous, right?
 A In the earlier years, even more so.


Q Even more numerous than there are -- then they are now, right?
 A Yes. 22647-226415


Q But you had competitors that I will represent to you Mr. Macaluso did not name, and they included the ones that we just discussed... right?
 A Yes.


Q So, over the course of his testimony, he identified ten boilers, names ten boilers; one of them was Burnham. We can move on from that. You agree, right?
 A Yes. 2272



LAARS
Manufacturing Solutions



faber
of torn


Clayton

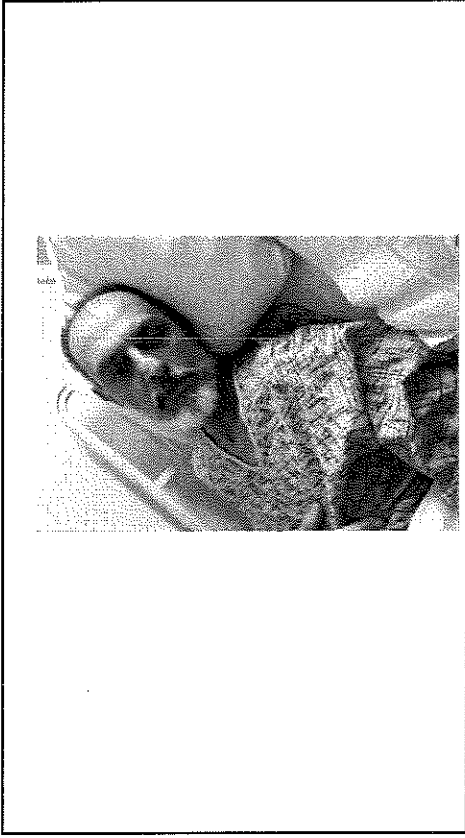

ABMA
AMERICAN BOILER MANUFACTURERS ASSOCIATION


AUTOFLAME


ERIE


New Yorker
INTERNATIONAL

WEBBASSAIA BOILER



"Use of Interrogatories"

THE COURT: Before we proceed with the examination of the witness, I just want to say that the attorneys for the plaintiff prepared interrogatories based on information that they obtained from the plaintiff. Based on information that they obtained from the plaintiff, they then prepared, or answered, those interrogatories. Page 2470



CASH OR CHECK? SOCIAL SECURITY RECORDS

Question: Okay. You also indicated that when you did work for Bruno, that he paid you with a check at the end of the week and you didn't know if it was on the books or not.

Answer: Yeah. There might have been occasions where I didn't get a check. I mean, I'm almost sure that -- a couple times. But -- maybe he did give me cash, but I don't -- like I said before, I don't know whether he put me on - whether that was on the books or not.

Question: What do you mean by 'on the books'?

Answer: Like, he was taking taxes out and it would show on my Social Security. 553:24-554:12



CASH OR CHECK? SOCIAL SECURITY RECORDS

"generally, for the contractors other than Bruno, did they pay you on the books and take taxes out or did they pay you under the table?"

"Answer: Probably not. They would -- we were being paid under the table with these other two guys because I only worked with them rarely."

Pietro Never even SAW his Social Security Income Statement- Defendants Exhibit

YOUR SUMMARY 107-46-6342 JULY 28, 2015
Your Information was received on July 28, 2015 at 8:20:16 PM.

Supplemental Information Received outside the US: No
Securities worked outside the US: No
Agree with earnings history as shown on Social Security Statement: Not sure or I do not have a statement.
Fertilizer sprayed by contact employees: if necessary: Yes



Pietro Never even SAW his Social Security Income Statement- Defendants Read you this Testimony

Tr. P. 1981-1982

1981-1982
1 Q Are you and to see any doctors? How they ask you to
2 any doctor to be seen for that disability claim?
3 A No. They just wanted to know, you know, how I know
4 that I was not and where I was working overseas, and I told
5 them it was KASER.

6 *Question: Are you familiar with a document
7 created by the Social Security Administration, called a
8 statement of earnings?

9 *Answer: No.

10 *Question: Have you seen a document that's
11 been prepared by the Social Security Administration
12 that lists your employers during your career, provides
13 earnings that you generate during your employment?

14 *Answer: No. I've seen another document

15 that lists, like, how much I made a year ..

16 *Question: Okay.

17 *Answer: ... from Social Security, but
18 nothing more than that.

Tr. P. 2098



EVIDENCE

1. EXPOSURE TO ASBESTOS

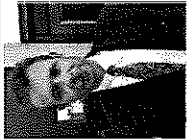
2. FAILURE TO WARN

3. "SUBSTANTIAL FACTOR"

4. PERCENT OF FAULT

5. MESOTHELIOMA EFFECTS

6. RECKLESSNESS



Steven Paskal, CIH

- "[People] have to know the quality of the risk, so they can make a decision whether they want to take it at all. Because, again, with cancer it gets -- it has a special place. . . . (1148)"
- Q What would be the consequence of not warning of the specific injury to [sic] asbestos, based on what you've told us before?
- A Well, there can be many. I mean, the one -- the main one that we deal with, ethically, in my profession and it's kind of the -- the driver -- is the -- you depriving a person of the right to make an informed decision on their own risk. . . . but you're depriving, essentially, the individual who's incurring that risk of that opportunity to take the action that they -- they deem appropriate (1202)

Warnings: The Ability To Make An Informed Decision . . . CHOICES

Keep in Mind:

- A manufacturer or seller must keep abreast of developments in the state of the art of the effect of its product through research, accident, or other reports, scientific literature, and other available methods. The manufacturer or seller is required to possess the skill and knowledge of an expert in the field. In addition, a manufacturer or seller is under a duty to fully test and inspect its products to uncover all dangers that are reasonably scientifically discoverable.
- A manufacturer or seller must take such steps that are reasonably necessary to bring that knowledge to the attention of foreseeable users. The greater the potential hazard of the product, the more extensive must be the distributor, manufacturer's or seller's efforts to make the hazard known to foreseeable users.

Keep in Mind- Duty to Warn

A manufacturer or seller of a product which is reasonably certain to be dangerous, if used in a way which the manufacturer or seller should reasonably foresee it would be used, is under a duty to use reasonable care to give adequate warnings of any dangers known to it or which in the use of reasonable care, it should have known and which the user of the product ordinarily would not discover.

Why did the Defendants show you Building Codes and Congressional Acts?

That is not the Law

NEVER WARNED

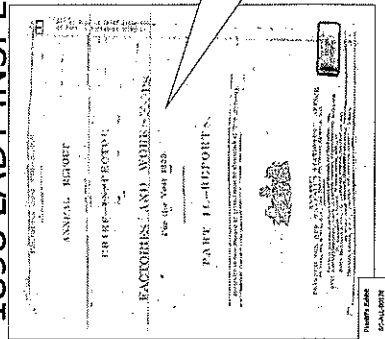


The term "should have known" means that a distributor, manufacturer or seller is held to that level of knowledge which an expert in the defendant's particular industry had or could reasonably have obtained, in view of the scientific knowledge and technology in general at the time the product was marketed. This has been referred to during trial as the "state of the art."

What was in the record up to the 60's?

- 1895 Lady Inspector
 - 1900 Montague Murray
 - 1900 Aurbait
 - 1915 U.S. Dept. of Labor
 - 1924 Cooke
 - 1928 IAMA Editorial
 - 1940 Merewether & Price
 - 1951 Schuster
 - 1952 Howell
 - 1952 Diller
 - 1954 Int'l Labour Office
 - 1955 Lynch/Smith
 - 1956 California Regs.
 - 1955 Egbert
 - 1955 UK Inspectorate
 - 1960 Chrysler
- 1948 Good & Peinsky
 - 1948 Gaffner Man. LH
 - 1948 Wedler/Wyers
 - 1948 U.S. Dept. of Labor
 - 1948 U.S. Dept. of Labor
 - 1948 Bernal
 - 1949 Merewether
 - 1950 Monsanto
 - 1952 Enc. Britannica
 - 1953 Wells
 - 1953 Smith
 - 1953 Diller
 - 1953 Diller
 - 1954 Van der Schoot
 - 1955 Wagner
 - 1960 Madam Occ. Med.
 - 1962 Thomson
 - 1963 Thompson
 - 1963 NBC

1898 LADY INSPECTORS



ANNUAL REPORT OF THE CHIEF INSPECTORS OF FACTORIES AND WORKSHOPS For the Year 1898

Miss Dean reports on the abundant evidence she has had on the evil effects of dust:

The evil effects of asbestos dust have also attracted my attention, a microscopic examination ... revealed the sharp, glass-like, jagged nature of the particles and where they are allowed to rise and remain suspended in the air of a room, in any quantity, the effects have been found to be injurious, as might have been expected.

U. S. DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
OFFICE OF THE SUPERVISOR IN CHARGE, BUREAU 231
WASHINGTON, D. C.

**MORTALITY FROM RESPIRATORY
DISEASES IN DUSTY TRADES**
INDUSTRIAL SURVEY

BY **ROBERT HOFFMAN**


U. S. GOVERNMENT PRINTING OFFICE
1918

LETTER
RECORDED
INDEXED

U. S. DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
WASHINGTON, D. C.

1918

**HOFFMAN - 1918 -
BYSTANDERS AT RISK**




137


ASHVE

138

**The
1920's:**

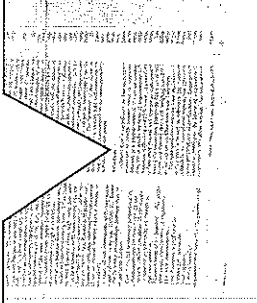


Peerless (Eastern Foundry)
Members and Advertisers ASHVE
1923
Burnham – members and
Advertisers ASHVE beginning 1923



Asbestosis

Asbestos dust is second only to free silica in the magnitude of health hazard which it represents.



1930 MEREWETHER & PRICE

REPORT ON ASBESTOS DUST
EFFECTS ON THE LUNGS
AND SUPPRESSION IN THE
ASBESTOS INDUSTRY

REPORT ON EFFECTS OF ASBESTOS DUST ON THE
LUNGS AND DUST SUPPRESSION IN THE ASBESTOS
INDUSTRY

15.

1930 MEREWETHER & PRICE

RESULTS OF THE
INQUIRY

It is helpful to visualize fibrosis of the lungs as it
occurs in asbestos workers as the slow growth of
fibrous tissue (scar tissue). This fibrous tissue is not
only useless as a substitute for air cells, but with
continued inhalation.....it gradually and literally
strangles the essential tissues of the lungs.

16.

1930 MEREWETHER & PRICE

SEPARATION OF
PROCESSES

In many works several processes are carried on in the
same room. In the absence of effective means of
preventing escape of dust into the air, many workers are
subjected to a risk from which they would otherwise be
immune, or to a greater risk than that arising from their
own work.

16.

1930 MEREWETHER & PRICE

SUMMARY AND
RECOMMENDATIONS

The principal
methods for control
of dust are:-

-Exhaust draft
-Enclose
-Wet down

16.

1930 MEREWETHER & PRICE

PREVENTIVE MEASURES

The necessary preventive measures ...also include the education of the individual, as in other dangerous trades, to a **sane appreciation of the risk....**

165

1930'S ILLINOIS MANUFACTURERS ASSOCIATION - BURNHAM MEMBER

INDUSTRIAL REVIEW

Special Educational Campaign
 For the Year 1930-1931
 December 9, 1931

Every Eighth Annual Report - "Standards"

Corporation, Centrala
 P. J. E. Wood, Warner Electric
 Brake Mfg. Co., South Beloit
 M. C. Wright, Lord and Burnham
 Co., Des Moines
 Walter G. Zimmermann, American
 Bridge Company

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INDUSTRIAL REVIEW

ILLINOIS MANUFACTURERS ASSOCIATION

FEBRUARY 1936

The Bill further provides that the no compensation shall be payable for occupational diseases unless disablement occurs within one year... except in cases

Q What that means, basically, Burnham would agree:

A that if you fall off a ladder at work, you break your leg right then; but it might take longer for injury to happen from the breathing of dangerous dusts. Correct?

A Correct.

Roger Pepper 2428

INDUSTRIAL COMMISSION OF WISCONSIN-1932

A.O. SMITH MEMBER

INDUSTRIAL COMMISSION OF WISCONSIN
 EFFECTS OF DUSTS UPON THE RESPIRATORY SYSTEM

Members of the Industrial Commission:

Chairman: Liberty Mutual Ins. Co.
 A. O. Smith Corp.
 Pillsbury, Dr. D. C. Ironwood, Mich. Co.
 Richard M. Anderson, Hurley, Wis.

168

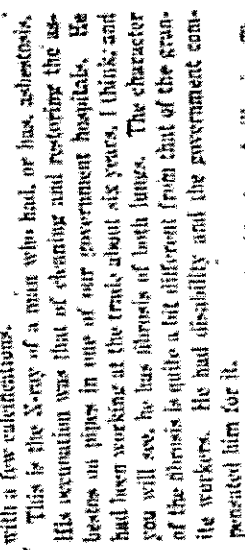
Parrish, L.J. Milwaukee, Wis.

A. O. Smith Corp.

a lot of smokers in the area... with a few calculations.

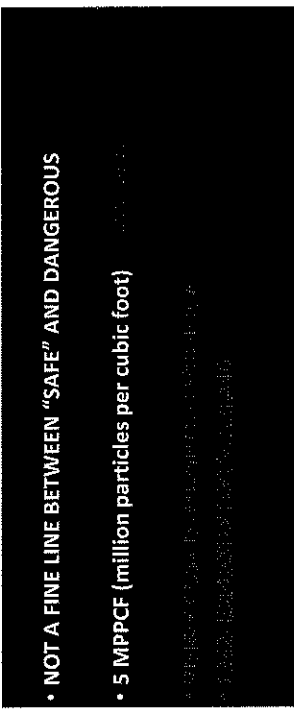
This is the X-ray of a man who had, or had, asbestosis. His occupation was that of cleaning and restoring the asbestos on pipes in one of our government hospitals. He had been working at the trade about six years, I think, and you will see, he has silicosis of both lungs. The character of the silicosis is quite a bit different from that of the granite workers. He had disability and the government compensated him for it.

This is a woman showing classification of silicosis. The



1938 DREESEN : THRESHOLD LIMIT VALUE

- NOT A FINE LINE BETWEEN "SAFE" AND DANGEROUS
- 5 MPPCF (million particles per cubic foot)



THOMPSON
REGULATIONS

1938 DREESEN : THRESHOLD LIMIT VALUE- not a "Safe Level!"

- LANZA - 50% OF THE PEOPLE EXPOSED AT THE TLV GET ASBESTOSIS! IT'S A COIN FLIP AT THOSE LEVELS
- NOT IN CONTENTION BY ANY EXPERT:
- IT TAKES A LOT MORE EXPOSURE TO CAUSE ASBESTOSIS SCARRING THAN CANCER, ESPECIALLY MESOTHELIOMA!

ASME

EVERYONE IS CONGRATULATING THEMSELVES ABOUT BUILDING THEIR BOILERS TO ASME CODE. MEANAING THEY DON'T BLOW UP ON USE AND THEY DO NOT KILL EVERYONE IN THE HOUSE IMMEDIATELY WITH CARBON MONOXIDE POISONING. DUTY DOESN'T STOP THERE. ASME AGREED, AND DEFENDANTS HAD NOTICE AND IGNORED IT.

ASME Article February 1933

DUST IN INDUSTRY
Big Men and Apparat Efforts in Creating This Danger
 by HERBERT H. HARRIS

It is a well-known fact that dust is a serious hazard in industry. The danger is not only to the health of the workers, but also to the machinery. Dust can clog filters, block valves, and cause fires and explosions. It is therefore essential that all industrial plants be equipped with adequate dust collection and removal systems. This article discusses the various types of dust and the methods used to control them.



Workmen having to do with bag filling, loading and unloading of pulverized sand, asbestos,..... should receive special care..

ASME Article February 1933

At the present time there is a need for the inclusion of pneumoconiosis (a general term covering fibrotic lung conditions due to mineral dusts) in the workmen compensation laws of all states in which it does not now appear or is not clearly covered by implication.

ASME Article April 1933

MECHANICAL ENGINEERING
 Published by the American Society of Mechanical Engineers

DUST IN INDUSTRY
The Dangers and Remedies of Industrial Dust
 by HERBERT H. HARRIS

NATURES OF DUST

Research on the problem of industrial-dust inhalation has demonstrated that so far as their fibrosis-producing qualities are concerned, dusts may be divided into three groups: (1) those composed completely of combined silica, that is, silicates, such as pure asbestos;

ASME 1934

MEMBERSHIP LIST

MEMBERS

ALAN, Peter R. (A.S.M.E. 1910), M. E., A. C. Smith Corp., and for mail, 5524
 BURNETT, Louis T. (A.S.M.E. 1910), M. E., 3815 13th St., Wash., D. C.
 BURTON, John W. (A.S.M.E. 1910), Const. Insp., A. C. Smith Corp., and for mail, 688
 BURRILL, John A. (A.S.M.E. 1910), Pres. Mgr., Wm. Gray Iron Ebg. Co., 40th & Duane
 BRYZIN, Paul E. (A.S.M.E. 1910), M. E., A. C. Smith Corp., and for mail, 1070 47th
 CABELL, Chas. A. (A.S.M.E. 1910), Const. Engr., Cahill & Douglas, 217 W. Water St., and
 GALLON, Thos. J. (A.S.M.E. 1910), Sew. Mill Dept., Appraisal, Carbon Appraisal Co.,
 and for mail, 525 10th St., Wash., D. C.

ASME Articles February 1935

OCCUPATIONAL DISEASES

The Influence of Four Inorganic Poisons on Health

The preponderance of medical opinion is that, of the inorganic dusts constantly generated in industry, only dust of free silica (silicon dioxide), and perhaps asbestos dust, and these dusts only when in minute particles are harmful, that is, harmful in the sense and to the extent of causing specific disabling diseases of the lungs.

Paper 94-1091D
FURNITE ENGINE
SC-ASME-4235

ASME Articles February 1935

The Administration of OCCUPATIONAL DISEASE CONTROL

By HARVEY L. FINE

Why design a rock-crushing machine without proper dust-collecting devices, a degreasing machine which permits toxic quantities of vapors to escape, or an asbestos carding machine that subjects operators to 35 million particles of dust per cubic foot of air, when, after installation, these equipments will require additional devices to protect the worker, more expensive and less satisfactory than if the equipment had been originally designed properly to protect the operator?

Paper 94-1093J
FURNITE ENGINE
SC-ASME-4235

ASME Articles February 1935

ASBESTOS AND ASBESTOS-GOODS MANUFACTURING

Any mining operations and quarry operations are exposures, as previously discussed. In the manufacture of asbestos goods, particularly dusty atmospheres are created in the break-out, opener, and picking operations. The crushing and grinding of the fiber, as well as all spinning and weaving operations, have a tendency to throw asbestos fiber into the air and create a source of dust contamination. Crushing and grinding asbestos products generates dust.

Page 94-1091D
FURNITE ENGINE
SC-ASME-4235

ASME Article April 1935

The simplest form of respiratory-protection device is the respirator. Respirators consist of a face piece covering the nose and mouth, with a filter medium to restrain dust or mist on inhalation. A special valve is provided to facilitate expiration. Respirators are used for protection against injurious dusts, such as silica, asbestos, lead, and cadmium oxides.

Page 94-1093I
FURNITE ENGINE
SC-ASME-4235

ASME Article May, 1939

TLV is not a safe level- 33 years before Pietro ever gets a construction job!

SILICOSIS AND ASBESTOSIS, by various authors, edited by A. J. Lanza. Oxford University Press, London and New York, 1938. Cloth, 6 X 9 in., 439 pp., illus., tables, \$4.25. A comprehensive presentation of the medical and public-health aspects of these industrial dust diseases is provided in this work, to which several physicians have contributed. The history of the diseases, their symptoms and diagnosis, their pathology, and their prevalence in various occupations are discussed, as well as methods of prevention and control. Each section has a bibliography.

PROPERTY OF THE
SCOTTSDALE

ASHVE 1944

Asbestosis

Asbestos dust is second only to free silica in the magnitude of health hazard which it represents.

PROPERTY OF THE
SCOTTSDALE

ASHVE Article 1944

Dust as Industrial Health Hazard

Permanence of the form, is inevitable. The consideration of the problem which it represents is based largely on a study of their reactions and control and it is the responsibility of the engineer to provide the necessary medical knowledge and engineering information to such a point that recognition of hazardous conditions and availability of methods for correcting them will now permit a simple, practical and economical solution of the problem.

The dust diseases are almost invariably of long duration and frequently are not discovered until many years after exposure has ceased.

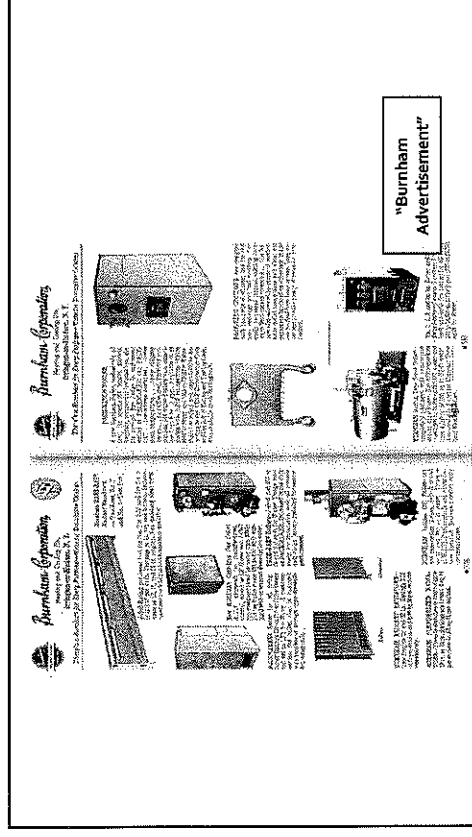
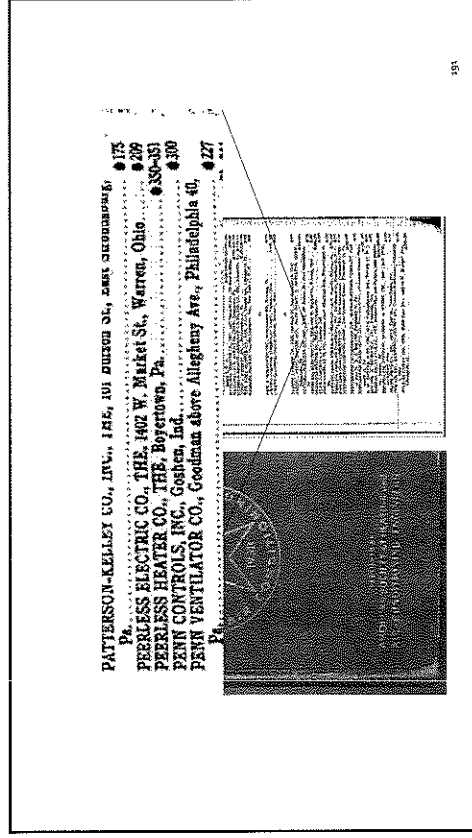
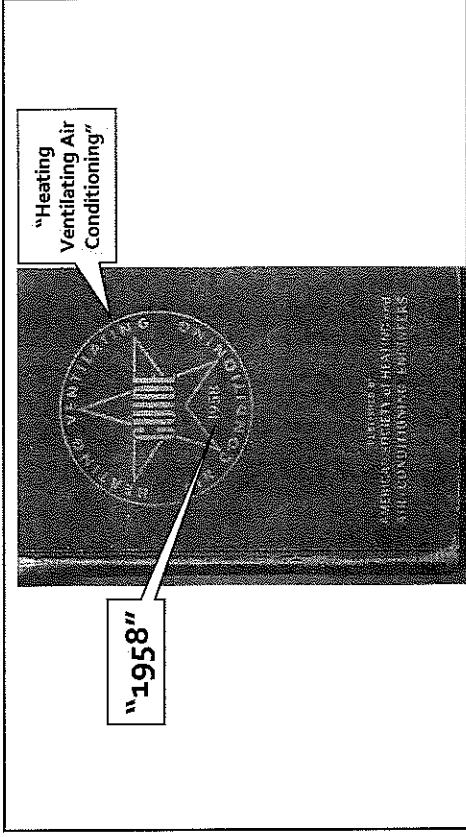
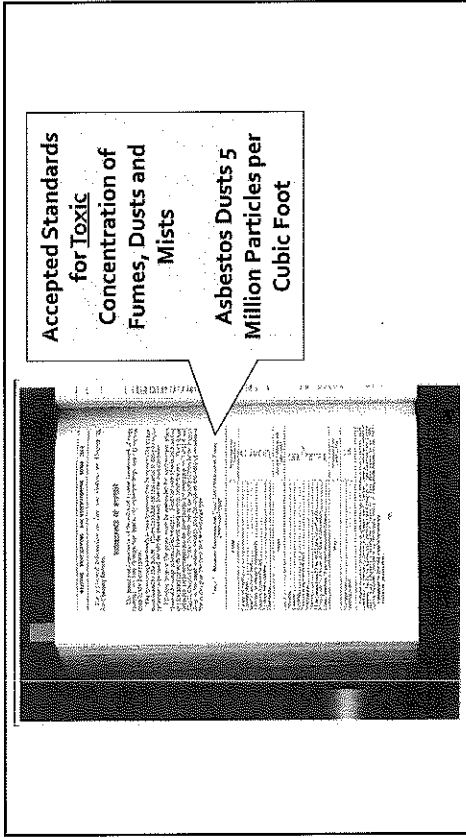
Most well-intentioned employers may be said to have used 'reasonable care' in past years and—considering their lack of knowledge—this is now their best defense in damage suits. However, from now on, with the spread of... available knowledge... only 'special care' will safeguard the interests of employer and workman alike.

Recent interest in dust diseases has built up an extensive literature; theories have been confirmed with experimental evidence and innumerable case histories of individuals and of entire groups are available. In contrast to the widespread ignorance of ten years ago, it would probably be difficult to the present time to find a worker in the heavy industries who has not at least heard of silicosis, or an employer who is unaware of the crippling damage which dust will face him if his employer, through fault on his part to take the necessary preventive measures, contract the disease.

PROPERTY OF THE
SCOTTSDALE

Hastings, Addison (M 1942)
Asst. Secy. - Sales Eng'g.,
Burnham-Boiler Corp., and
Lewis Rd., Irvington, N.Y.

King, Thomas E. (M 1943) Vice-
Pres., Lord & BURNHAM LLC, 2
Main St., Irvington, N.Y., and 47
Jane Ave., Hartsdale, N.Y.



CHAPTER A

TABLE 5. LIMITS FOR MINERAL DUSTS

Dust	Limit (mppcf)
Asbestos	5
Mineral dusts (total)	1556

"Table 5. Limits for Mineral Dusts"

"Asbestos...5 mppcf"

"Threshold Limit Values A.C.G.I.H. 1956 mppcf"

A.O. Smith – American Ceramics Society

AVAILABLE SOURCE:
"Ceramic Abstracts"; published by the ACS

A.O. Smith – American Ceramics Society

Bulletin of the American Ceramics Society

Volume 14, No. 1, 1948

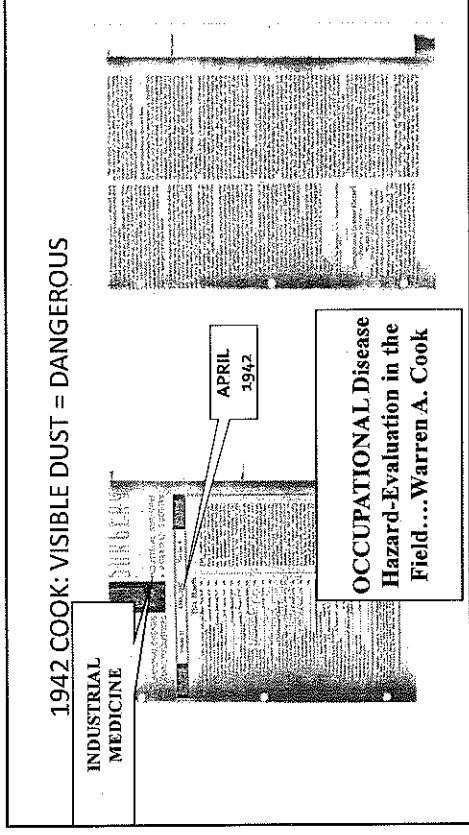
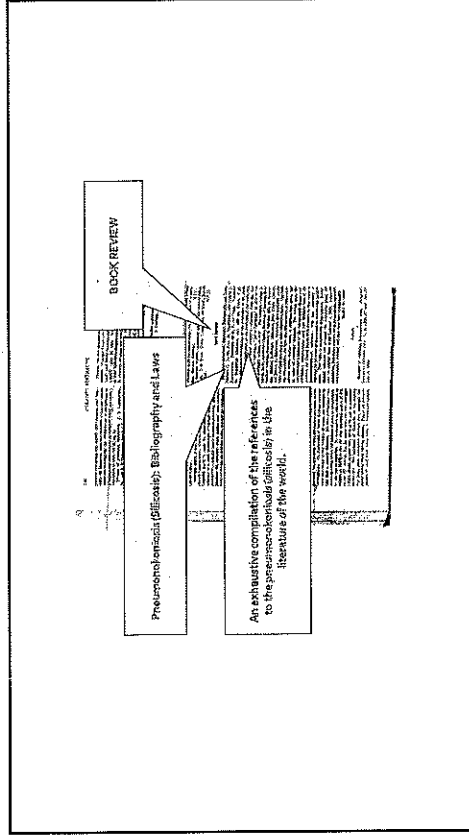
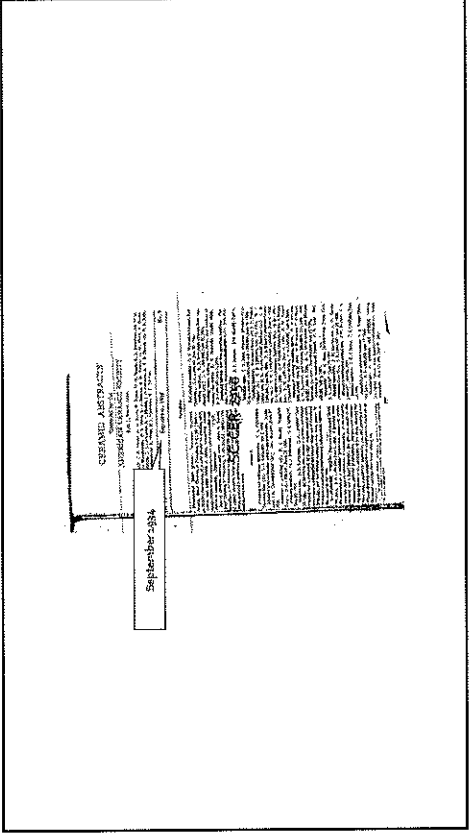
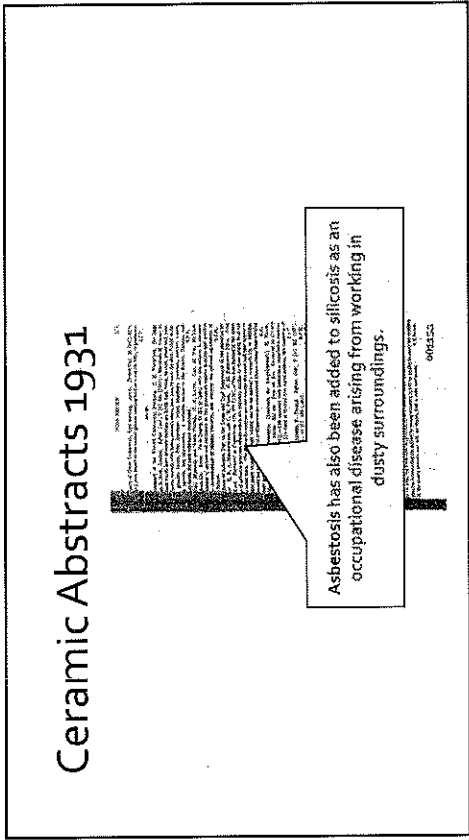
Harry L. Everett, 721 Birchmont Ave., Memphis, W. Va.; Charles, Sr. Glass Co., J. Sperry, Biloxi & Wilson Co., Ludlow, Ill.; Almeta Co., Inc., Military Supply, 1000 Mount Terrace, Jacksonville, Fla.; Deakin, Edgar & Co., 1000 Mount Terrace, Jacksonville, Fla.; A. O. Smith Corp., Edward D. Tomball, 930 Park Ave., Syracuse, N.Y.; Chemical Engineer, Eastern Le Co., Cape Fear, 681 Park Ave., Washington Park, C.H.; Ceramic Engineer, Flint Corp., 120 August, C.H.

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Ceramic Abstracts 1931

CERAMIC ABSTRACTS
IN MONTHLY SUPPLEMENT

EFFECTS OF ASBESTOS DUST ON THE LUNGS AND DUST SUPPRESSION IN THE ASBESTOS INDUSTRY, E.R.A. BREWMETHER AND C.W. PRICE



A.O. Smith-AIHA-1958

AMERICAN
 Industrial Hygiene
 ASSOCIATION

MemberShip Booklet
 1958-1959

Hansen, Arthur C., M.D.
 A.O. Smith Corporation
 P. O. Box 186
 Milwaukee 1, Wis.

HARDY, GEORGE A., M.D.
 Medical Dept.
 (Gen. Eastman Kodak Co.

**DOCTOR Hansen I
 presume?**

205

AIHA-1958

ASBESTOS

1. Hygienic Standards
 A. RECOMMENDED MAXIMUM AT-
 MOSPHERIC CONCENTRATION (8
 hour) of any single asbestos
 fiber: 5 million particles per cubic
 foot of air (MPPCF)
 (2) fiber in asbestos dusts, by weight,
 more than 1 percent shall be amphibole
 and asbestos.

C. RECOMMENDED CONTROL PRO-
 cedures: Prevention of asbestos
 exposure to concentrations of dust which
 are high to produce the characteristic
 reaction. Enclosure or local exhaust
 ventilation are the principal means of
 dust control. U. S. Bureau of Mines ap-
 proved dust respirators may be worn as
 protection for some operations.

206

23 Q Okay. And you agree that information has been out
 24 there in the world for Burnham to discover regarding the
 25 asbestos dangers before and during the time my client was
 26 working around boilers, correct?


5 A There, there was documentation around, yes.

ROGER BURPERON
 BURNHAM

Workers Compensation Laws

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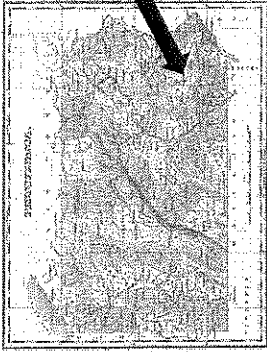
PEERLESS
OF BOYERTOWN, PENNSYLVANIA
INCORPORATED




15 Q Before we get into that, would you agree with me
16 that a company has the responsibility to customers to test
17 for the safety of its products?
18 A Yes.
19 Q Would you agree with me that a way to protect a
20 customer from the potential harm of a product would be to
21 warn about that product?
22 A If there was a problem, yes.
23 Q Would you agree with me that if a product is
24 unreasonably dangerous, it would be responsible of that
25 company to warn the end users of that product?
26 A If it was not --
27 If it was -- whatever term you used --
28 Unreasonably dangerous.
29 Q -- unreasonably dangerous, it should not be said.
30 A --

3054-15-
10557

PEERLESS
OF BOYERTOWN, PENNSYLVANIA
INCORPORATED



Boyertown, PA, Peerless
Headquarters and
Manufacturing Facility




PEERLESS
OF BOYERTOWN, PENNSYLVANIA
INCORPORATED

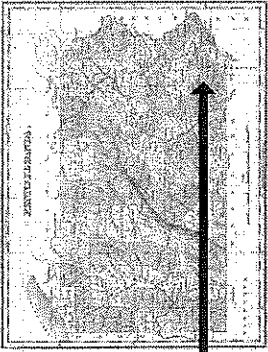

PEERLESS = RECKLESS

Tr. P. 1059

4 Q Do you know if Peerless was paying attention to
5 the public health law in its home state?
6 A No, I do not.
7
8
9
10
11
12 Q And you would agree, it would be responsible for a
13 company employing workers in its home state to pay
14 attention to its own state's public health laws, would you?
15 A The answer to that would be, if it was important,
16 Yes.
17 Q You think human life is important?
18 A Most definitely.



Burnham
AMERICA'S BOILER COMPANY

111

The Pennsylvania Occupational Disease Act 1939

The term "occupational disease," as used in this act, shall mean only the following diseases:

(L) Asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of asbestos.

The Pennsylvania Occupational Disease Act 1956

"The term "occupation disease," as used in this act, shall mean only the following diseases:"

"Asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of asbestos."

LEGAL REQUIREMENTS FOR THE PREVENTION AND CONTROL OF INDUSTRIAL PUBLIC HEALTH HAZARDS

Adopted by the MAIN PUBLIC HEALTH COUNCIL February 15, 1946. Filed with the SECRETARY of State March 3, 1946. Effective January 1, 1947.

Regulation 244. (Amendment of Regulation 1. These regulations shall apply to every class of employees and particularly to those classes of employees whose work or processes is carried on by asbestos dusts, meso, chrys, amorph, asbest or other fibrous silicates of a harmful nature and produced or generated, or used, independently of the work or process, which may be inhaled or absorbed or in any other manner enter the body in quantities or concentrations that constitute harmful exposure as hereinafter defined.

MINERAL DUSTS	CONCENTRATION million particles per cubic foot
Asbestos	5
Silica, free or uncombined. Over 40%	5
20 to 40%	10
10 to 20%	20

AO Smith and
Burnham in OHIO
3 decades before
Pietro Exposed

New York- two decades before Pietro Exposed

DEPARTMENT OF LABOR

C. Mineral Dusts

Substance	Million Particles per Cubic Foot
Alundum	50
Asbestos	5
Carborundum (silicon carbide)	50
Dust (nonsiliceous, no free silica)	50

12.16. Protective clothing. All employees exposed to air containing asbestos dusts shall wear protective clothing which shall be changed or replaced when necessary. Protective clothing shall be so constructed as to prevent the clothing from becoming contaminated with asbestos dusts. Protective clothing shall be so constructed as to prevent the clothing from becoming contaminated with asbestos dusts. Protective clothing shall be so constructed as to prevent the clothing from becoming contaminated with asbestos dusts.

12.17. Breathing Apparatus. Proper facilities for flushing the skin and body shall be provided for employees exposed to asbestos dusts.

12.18. Requirements for exhaust systems.

CHAPTER 88, LAWS OF 1944

CHAPTER 88

Act establishing an elective system of compensation for the occupational diseases known as silicosis and asbestosis, and regulating procedure for the determination of liability and compensation thereunder, and amending

(b) "Asbestosis" means a disease of the lungs, due to breathing air containing asbestos dust, characterized anatomically by generalized fibrotic changes in the lungs, demonstrable by X-ray examination or by autopsy, resulting from any process or occupation involving the inhalation of asbestos dust.

NEW JERSEY-1944-
3 Decades Before
Pietro Exposed-
Burnham under law

ASBESTOS HAZARDS
OF EMPLOYERS FOR MANY YEARS

WORKMEN'S OCCUPATIONAL DISEASES ACT (1937)
MORRIS METAL PRODUCTS CO. v. INDUSTRIAL COMMISSION, et al., 370 Ill. 292, 18 N.E.2d 493 (1938)

1938 - Supreme Court of Illinois
Interprets Workmen's Occupational
Disease Act of 1937

Recognizes
Asbestosis as Occupational
Disease

Workmen's
Occupational
Disease Act (1937),
Section 6.
... means a
...ing out
... the course
... of the
... employment....if
... there is
... apparent... a direct
... occupational disease.

AO
Smith
and
Burnham
in IL
under
law

P. 2588

BURNHAM
INTERROGATORIES

"B23. Did defendant or its agents or employees ever make any effort to keep abreast of medical literature concerning potential health hazards posed by the use of and or exposure to asbestos? Indicate the name, addresses, and job positions of all your company -- your company's employees who reviewed this literature.

"ANSWER: No. Burnham relied upon material data provided by its suppliers."

JOHNS MANVILLE- NOT ON
THE VERDICT SHEET
Asbestos Parts and fiber
supplier to
A.O. Smith,
Peerless and
Burnham

Johns Manville- Burnham

Roger
Pepper
Tr. P. 2307;
2309; 2312

1 Q So these documents, sir, show sales to Burnham
2 from a company named "Johns-Manville." Do you see that,
3 sir?
4 A Yes.
5 Q This reads, "Canadian Johns-Manville, Jersey,
6 New Jersey." Right? "Asbestos fibre filtration, Monthly
7 Customer Report, Domestic", right?
8 A Yes.
9 Q Okay. Then, at the bottom -- about two-thirds of
10 the way down, it reads "Customer No. 442 377 23. BACO
11 Inc., The Braham Corp., Lancaster, Pennsylvania." correct?
12 A Yes.
13 Q I'll ask again, yes or no. Did you ask anybody
14 that was at Burnham, after OSHA in 1976 (indicating),
15 whether anyone ever inquired of Johns-Manville and other
16 fiber suppliers about the potential hazards of the asbestos
17 fiber they were buying?
18 A I did not ask.

Johns Manville- A.O. Smith

Bradley Plank
Tr. P. 1671-1675

21 Q.O. Smith bought its asbestos-containing
22 products from a number of suppliers, including Braid,
23 K-4-S-I-S, is that correct?
24 A That was on one of the drawings, yes.
25 Q And also Johns-Manville.
26 A Right.
27 Q Going back to the document, Mr. Plank, we're on
28 page 2 and it notes the name "Manville." toward the top,
29 and notes that in the date that says "4/17/67", correctly?
30 A That's what the document says, yes.
31 Q And then, if you go down to midway through it,
32 there is a line that says, "2025 Taper? Do you see that,
33 sir, about midway into the page?
34 A Yes, sir.
35 Q Right below that, it says, "10 pounds" and then
36 "10 rolls", right?
37 A Yes.

Johns Manville- Peerless

Stanley Bloom
Tr. P. 1018-1019

9 Q All right. When you put asbestos products into
10 your residential boilers, those came in packaging that
11 didn't go to the customer, correct?
12 A Correct.
13 Q And that rope and cement came from Johns-Manville
14 and others, right?
15 A Correct.
16 And just so we're clear, to use my pancake
17 analogy again, if I'm making pancakes for my kids, I take
18 the box of Bisquick, I dump the mix in, I mix it up, I cook
19 the pancakes, and I throw out the box of Bisquick, right?
20 A Yes.
21 Q Okay. And Peerless was doing the same type of
22 thing, but with a very different product.
23 A Correct.

**Johns Manville Warnings on Packages to
Peerless, Burnham and A.O. Smith**

• **1964 to 1970: "This product contains asbestos fiber.
Inhalation of asbestos in excessive quantities over long
periods of time may be harmful. If dust is created when
this product is handled, avoid breathing the dust. If
adequate ventilation control is not possible, wear
respirators approved by the U.S. Bureau of Mines..."**

"Product warning labels."

Never passed on to boiler customers by A.O. Smith, Burnham or Peerless

Johns Manville Warnings on Packages to Peerless, Burnham and A.O. Smith

"Product warning labels."

- 1970 to 1972: "This product contains asbestos fiber. Avoid breathing the dust. Inhalation of asbestos in excessive quantities over long periods of time may be harmful. If dust is created when this product is handled, use proper protection. If proper dust control cannot be provided, respirators approved by the U.S. Bureau of Mines for protection against the pneumoconiosis-producing dusts should be worn."

Never passed on to boiler customers by A.O. Smith, Burnham or Peerless

Johns Manville Warnings on Packages to Peerless, Burnham and A.O. Smith

"Product warning labels."

1972-1978: "Caution. Contains asbestos fibers. Avoid creating dust. Breathing asbestos dust may cause serious bodily harm."

Never passed on to boiler customers by A.O. Smith, Burnham or Peerless


Johns Manville Warnings on Packages to Peerless, Burnham and A.O. Smith

"Product warning labels."

1978-1985: "Caution. Contains asbestos fibers. Avoid breathing dust. Breathing dust may cause serious bodily harm. Smoking greatly increases the risk of serious bodily harm."

Never passed on to boiler customers by A.O. Smith, Burnham or Peerless

NO SAFE LEVEL- NATIONAL INSTITUTE OF OCCUPATIONAL SAFETY AND HEALTH



- "The recommended standard is designed primarily to prevent asbestosis."
- "For other diseases associated with asbestos, there is insufficient information to establish a standard to prevent such diseases including asbestos-induced neoplasms by any all-inclusive limit other than one of zero."
- No safe level OF ANY FIBER TYPE

18

All About OSHA

Occupational Safety and Health Administration

(4) Label specifications. The caution labels required by subsection (1) of this paragraph shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

Caution
 Contains Asbestos Fibers
 Avoid Creating Dust
 Breathing Asbestos Dust May Cause Serious Bodily Harm

229

OSHA 1972

"Caution Labels"

"1. Labeling. Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris and other products containing asbestos fibers or to their containers except that no label is required where asbestos fibers have been modified by a bonding agent, setting, binder or other material, so that during any reasonably foreseeable use, handling, storage, disposal, processing or transportation, no airborne concentration of asbestos fibers in excess of the exposure limits prescribed in paragraph B of this section will be released."

- There is UNCONTROLLED evidence from the Defendant's Corporate representatives that there were NO bonding agents in their Boilers' asbestos products
- Not a SHRED of evidence that they ever looked into the second part of the law. They never tested for safety

All About OSHA

Occupational Safety and Health Administration

(4) Label specifications. The caution labels required by subsection (1) of this paragraph shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

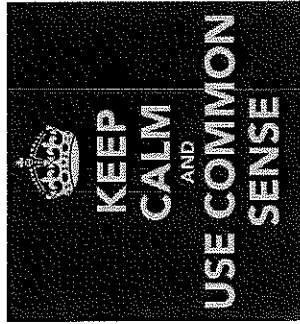
Caution
 Contains Asbestos Fibers
 Avoid Creating Dust
 Breathing Asbestos Dust May Cause Serious Bodily Harm

229

PEERLESS PROTECTING THEIR OWN WORKERS BUT NOT WARNING CUSTOMERS

14	Q	But there was some monitoring that was done in the Plant at Peerless, in the '70s, regarding asbestos dust levels; right?
15	A	Yes. However, that was just when we had everything tested; all dust; in the foundry, in the machine shop, in the assembly area.
16	Q	And that included silica and asbestos and other --
17	A	Yes, in the foundry.
18	Q	In the foundry.

PEERLESS CLAIMS THAT THEY TESTED FOR ASBESTOS BUT DID NOT KNOW ASBESTOS WAS DANGEROUS!!!!



PEERLESS = RECKLESS

17 Q You testified that you didn't read -- that you
 18 don't know of anybody that read -- OSHA at Peerless, right?
 19 A Right.
 20 Q Do you think it's responsible that no one read a
 21 regulation that was passed down federally?
 22 A Yes.
 23 Q You believe that it was responsible to not read
 24 the Occupational Safety and Health Act while you were
 25 manufacturing boilers in 1972; is that right?

2 A Yes.

1051-1052

1976- Peerless Tests to Protect their own workers, and finds unsafe levels

PREPARED BY: SYSTEM ENGINEERING LABORATORY LOCATION: Exton, Pennsylvania
 AIR CONTAMINANT: ASBESTOS SURVEYING COMPLETED BY: Richard L. Beck


Worker's Name	Job Location & Description	Date(s)	Sampling Time	Air Flow Rate (lpm)	Air Flow Rate (cfm)	Vol. In Filter	Asbestos Fibers/CC	Fibers/CC (1000)
Benjamin Day	Block Assembler	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
Tom O'Connell	Block Assembler	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
Tom O'Connell	Block Assembler	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17

1979- Peerless Tests Boiler Assembly for asbestos, and finds unsafe levels

Limited asbestos monitoring was conducted in the boiler assembly plant in 1976 at the asbestos rope cutting operation where fiber levels of less than one (1) fiber per cc. were found in all cases.

Worker's Name	Job Location	Date(s)	Sampling Time	Air Flow Rate (lpm)	Air Flow Rate (cfm)	Vol. In Filter	Asbestos Fibers/CC	Fibers/CC (1000)
21	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
22	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
23	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
24	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
25	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
26	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
27	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
28	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17
29	Asbestos	5/16/76	8:15-8:45	7	0.28	0.0017	0.017	17

Tr. P. 1066




3 Q Because you guys were doing a great job within your plant of protecting your people, correct?

4 A No, we wanted to protect our people.

5 Q Right. But you never warned any of your customers, after your products left the plant, about any potential danger to your -- from your boilers, right?

7 A That is correct.

1985





1 Bloom - By Plaintiff - Direct/Bloomin

2 "Concantly."

3 Q We were concerned with our people. We made sure

PEERLESS PROVIDED RESPIRATORS TO ITS OWN EMPLOYEES BUT NEVER WARNED CONSUMERS

15 Q There came a time in the '80s -- we'll just leave it in the '80s for purposes of this case -- that Peerless stopped using asbestos rope, right?

16 A Yes.

17 Q And that was because they lost the ability to buy it, right?

18 A Yes.

19 Q And at no time ever in the history of the company did Peerless ever warn about the dangers of asbestos in conjunction with their boilers, correct?

20 A Prior to that time, yes.

Trat 986

Burnham
AMERICA'S BOILER COMPANY

Tr. P. 2548

8 Q Did Burnham ever dismantle any boilers within its factory after OSHA, to test for dust release?

9 A It's not aware of that, no.

10 Q You had major exhaust systems throughout the foundry plant, correct?

11 A Yes.

12 Q And Burnham certainly didn't smash boiler cement with siegeshammers in their factories, correct?

13 A No.

Follow OSHA in their own plant. But never tracked employees? They were safe in their own plant protect their own people, but not the customers or Pietro... No workers comp claims through 1982- of course not- they gave their people a CHOICE

Burnham
AMERICA'S BOILER COMPANY

Q All right. So I'll ask again. Up until 1982, did Burnham ever place a warning regarding the dangers of asbestos on any of its boilers?

A They have not, no.

Q Okay. And -- but they were able to place warnings about the dangers of asbestos on those boilers; they had that ability, correct?

A They would have had that ability.

Q Okay. And that wouldn't have impinged upon the functionality of a boiler, right?

A No.

2168

AOSmith.

Q Okay. A.O. Smith never warned its customers about the hazards of asbestos at any point, correct?

A With respect to asbestos, we did not warn.

QUESTION: Do you recall any discussion at A.O. Smith regarding the possibility of issuing a recall for parts that A.O. Smith knew contained asbestos?

ANSWER: No.


QUESTION: It was never a subject of discussion?

ANSWER: Well, I think it's because of the product, the way it was built, the way it was meant to be maintained, such a small chance of exposure to asbestos, that it wasn't an issue.

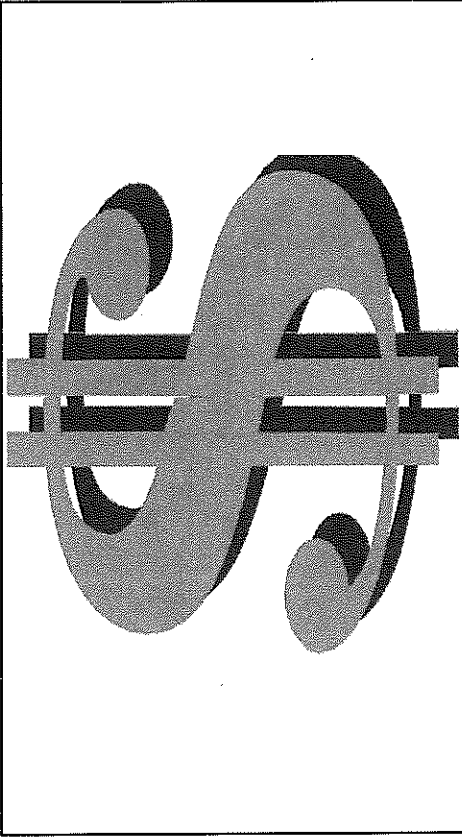
Plank
Tr. P.
1678-1735

AOSmith.

“With such exposure to issue”
- Bradley P. 1735



Why take care in the factory but not add a warning about asbestos on the boilers or take other precautions?



FAILURE TO WARN

QUESTION 28
 Did defendant A.O. SMITH CORPORATION, fail to exercise reasonable care by not providing an adequate warning to PIETRO MACALLESO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant A.O. SMITH CORPORATION'S "Baskets"?
 At least 5 jurors must agree on the answer to this question.

YES _____ NO _____

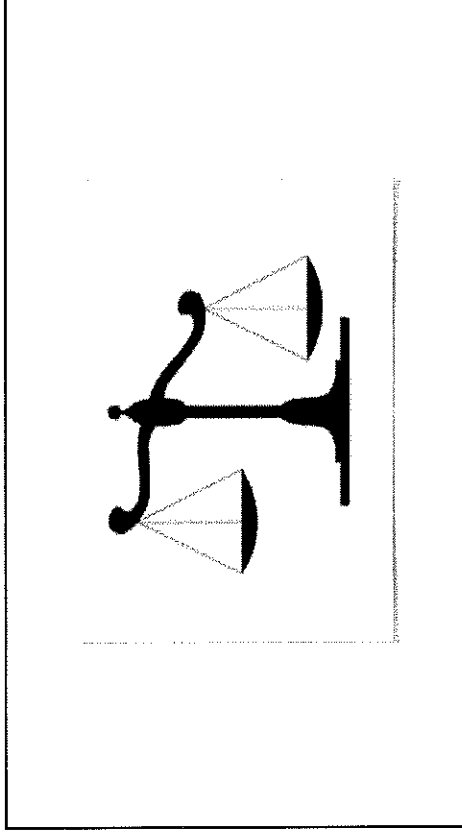
QUESTION 29
 Did defendant BURKHANT LLC, fail to exercise reasonable care by not providing an adequate warning to PIETRO MACALLESO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant BURKHANT LLC'S baskets?
 At least 5 jurors must agree on the answer to this question.

YES _____ NO _____

QUESTION 30
 Did defendant PEERLESS, fail to exercise reasonable care by not providing an adequate warning to PIETRO MACALLESO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant PEERLESS INDUSTRIES INC.'S baskets?
 At least 5 jurors must agree on the answer to this question.

YES _____ NO _____

nothing



FAILURE TO WARN

QUESTION 4A
 Did defendant A.O. SMITH CORPORATION, fail to exercise reasonable care by not providing an adequate warning to PIETRO MACALUSO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant A.O. SMITH CORPORATION'S "holders?"
 At least 5 jurors must agree on the answer to this question.

YES NO

QUESTION 4B
 Did defendant TURNHAM LLC, fail to exercise reasonable care by not providing an adequate warning to PIETRO MACALUSO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant TURNHAM LLC'S "holders?"
 At least 5 jurors must agree on the answer to this question.

YES NO

QUESTION 4C
 Did defendant PEERLESS, fail to exercise reasonable care by not providing an adequate warning to PIETRO MACALUSO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant PEERLESS (INDUSTRIES INC.) "holders?"
 At least 5 jurors must agree on the answer to this question.

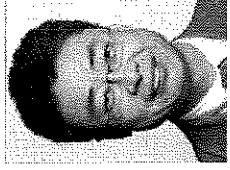
YES NO

EVIDENCE

1. EXPOSURE TO ASBESTOS
2. FAILURE TO WARN
3. "SUBSTANTIAL FACTOR"
4. PERCENT OF FAULT
5. MESOTHELIOMA EFFECTS
6. RECKLESSNESS

Keep In Mind- "Substantial Contributing Factor"

An act or omission is regarded as a cause of an injury if it was a substantial factor in bringing about the injury, that is, if it had such an effect in producing the injury that reasonable people would regard it as a cause of the injury.



Dr. Zhang: 4 Questions to Determine Causation

1. Does the Patient have a diagnosis?
2. What Causes that Disease?
3. Is the Duration, Frequency and Intensity exposure to that cause sufficient to cause?
4. Can we rule out Other Causes?

1. Does the Patient have a diagnosis?

Answer: It is not disputed by any parties that Pietro suffered and Died From Mesothelioma

2. What Causes that Disease?

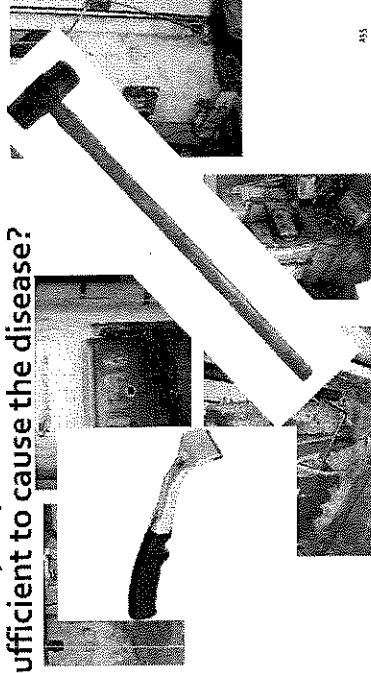
Asbestos & Mesothelioma

=

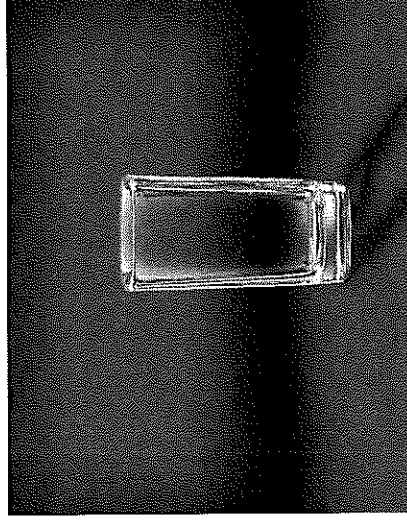
Only Accepted Cause in U.S.

“Signal Tumor”

3. Is the Duration, Frequency and Intensity exposure to that cause sufficient to cause the disease?



455

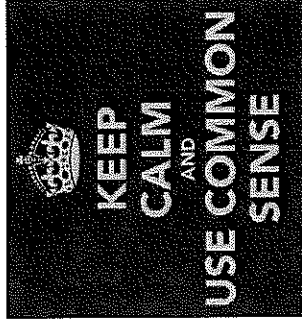


Can we rule out Other Causes?

[REDACTED]

- There is NO EVIDENCE of any other causes other than asbestos exposure.
- Boilers and joint compound all contributed to the cumulative dose that caused his disease
- Why do the defendants first say that they did not cause, and then say that everyone else DID cause?????????

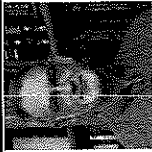
EBU




Pietro was exposed To Dust From Defendants' Asbestos-Containing Boilers- in and on the boilers

Defendants Never Warned Tom About The Asbestos In and on their Boilers


This Asbestos Substantially Contributed To His Mesothelioma



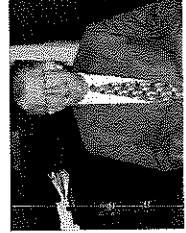
Dr. S. Markowitz




Dr. Zhang





Mr. Paskal, C.I.H.




Dr. Brody



Asbestos

1. A mineral
2. Indestructible
3. Invisible
4. Aerodynamic
5. Poison – no safe level

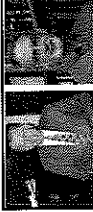



ALL TYPES of Asbestos Cause Meso



The predominant fiber type found in the pleura, that area where the mesothelial cells are -- the predominant fiber type is chrysotile.

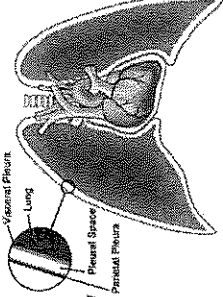
- 1 Q And where does mesothelial cancer occur, against
- 2 A At the pleural surfaces.
- 3 So it's those fibers that are not cleared
- 4 rapidly up the airways that reach the pleural surfaces *





T: at

ALL TYPES of Asbestos Cause Meso



DR. STEVEN MARKOWITZ



Medical doctor and Professor:
Occupational and environmental medicine
Editor-in-Chief, *American Journal of Industrial
Medicine*
Associate Editor: *Environmental and Occupational
Medicine*
Board certified: Internal
medicine and Preventive Medicine/Occupational
medicine
Member: Collegium Ramazzini (only 180 elected
members world-wide)
Epidemiologist
Successor to Irving Selikoff as Mt. Sinai
Written major publications on asbestos and
asbestos related disease.
Speaks internationally on the subject
World renowned expert in Occupational
medicine

25 A Well, it tells me that if, if they're using an
26 asbestos-containing product that say contain more than one
27 percent asbestos -- but I should say that historically that
28 when products contained asbestos, for them to be effective at
29 what they were put there to do, we're talking about products
30 that usually contained 10, 20, or 50% asbestos; so it's usually
31 a substantial concentration of asbestos in the product.
32 If that product is either deteriorating and becomes
33 airborne just by simple manipulation or is sawn, cut, sanded,
34 or otherwise disturbed in a manner that produces airborne dust,
35 that the asbestos fibers in that product will get into the air
36 and produce a substantial level of asbestos exposure.
37 Q Does the dust actually have to be visible?
38 A Well, if we're talking about visible dust, the answer
39 is yes, it has to be visible. But many of the asbestos fibers
40 are not visible individually because they're very small, but
41 they accompany the dust that is visible.

Tr at 658-639

Dr. S. Markowitz

ALL Mesotheliomas Caused By Asbestos
ALL Fiber Types Cause Meso, Even At LOW LEVELS



17 Q So as a physician in occupational medicine and based
18 on your experience evaluating and examining individuals with
19 asbestos-related diseases and based on your knowledge of the
20 medical and scientific literature, if somebody reports seeing
21 visible dust coming from an asbestos-containing product, what,
22 if anything, does that tell you about the level of exposure
23 that particular worker had to asbestos?

21 Can you explain to the jury what role, if any,
22 cumulative exposure to an asbestos-containing product has in
23 the development of an asbestos-related disease?
24 A Well, it's the accumulated exposure of the person,
25 usually worker, to all the periods that they were exposed to
26 asbestos, to all the different products that they had, it's
27 that cumulative exposure over time that creates the risk of
28 their developing an asbestos-related disease.
29 Q And what is -- how does that relate to dose response?
30 A Well, they -- the, the more the exposure accumulated,
31 the higher the level of risk for the disease.



Tr at 628-629

World Health Organization

IARC
International Agency for Research on Cancer

ATSDR
Agency for Toxic Substances and Disease Registry

National Toxicology Program
Department of Health and Human Services

OSHA
Occupational Safety and Health Administration

ACGIH
American Conference of Governmental Industrial Hygienists

World Health Organization

National Institute for Occupational Safety and Health
NIOSH

American Cancer Society

ALL AGREE WITH PLAINTIFF'S EXPERTS

World Health Organization

NIOSH
National Institute for Occupational Safety and Health

OSHA
Occupational Safety and Health Administration

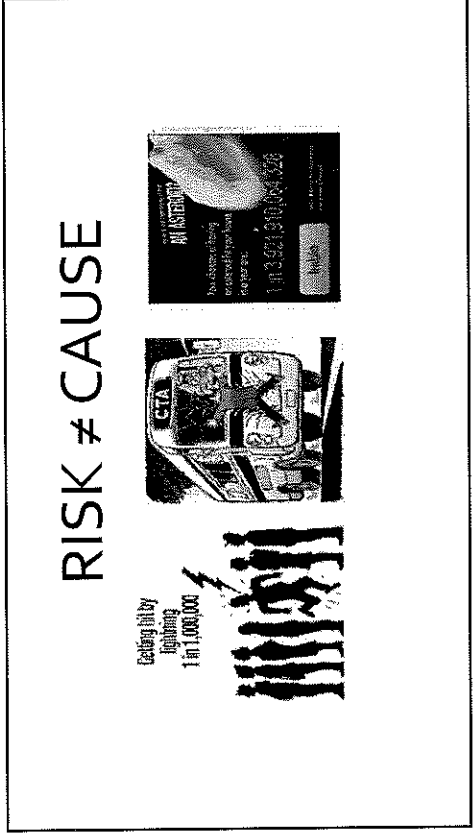
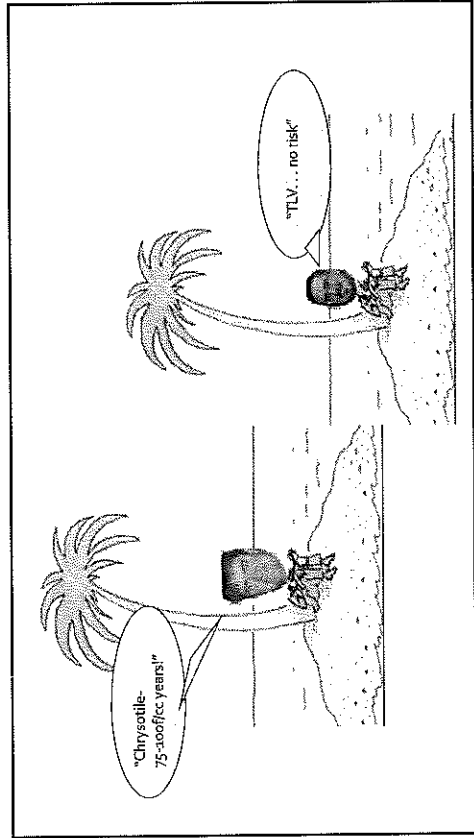
ACGIH
American Conference of Governmental Industrial Hygienists


ATSDR
Agency for Toxic Substances and Disease Registry

World Health Organization

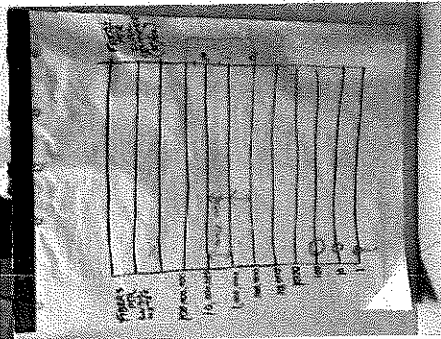
United States Department of Health and Human Services

WHO AGREES WITH THE DEFENDANT'S EXPERTS???????????

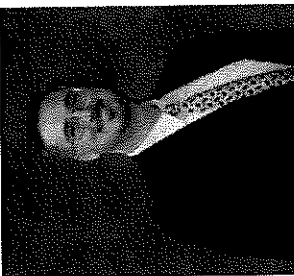




Intensity of Exposure-range of 100,000 to 10,000,000 f/cc Observed in work like Pietro did

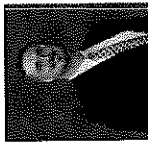


Who ALSO Agrees That Pietro's Exposures Were Well Above Background?

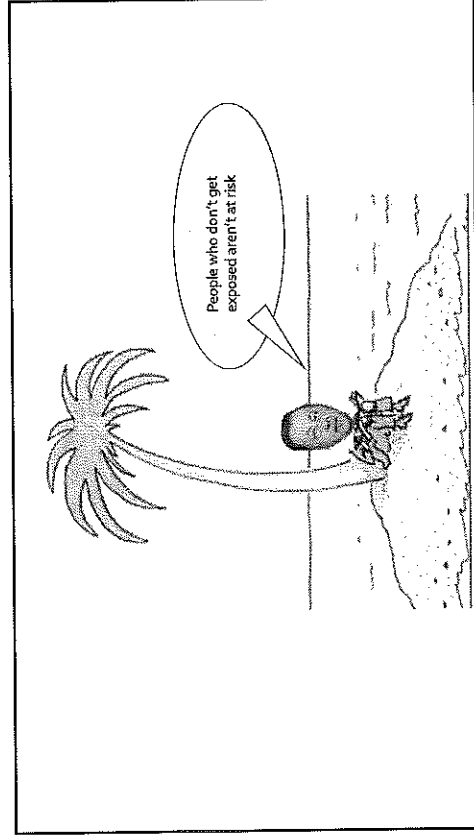


Dr James Poole-Defense Expert for Burnham

Dr. James Poole Defendant's Expert




- .25 f/cc time weighted average range on the LOW END of exposure levels, which is
- 2.5X OSHA P.E.L. where excess cancers still occur
- Under the defense expert's own reasoning and math, Pietro's exposures to boiler rip outs and cleaning would be larger than a LIFETIME'S dose in TWO AND ONE HALF DAYS!!!!
- Risk for a person who died of meso is 100% regardless= crossing the street



EXPOSURES- Peerless Agrees with Pietro!

PEERLESS



Q So when a boiler's being dismantled in the field, it would take a certain degree of force to remove that boiler and take it apart into sections, right?

A If you're going to take it apart, yes.

Q Pietro of all, we're using pneumatic substation cement, the even, rather than pneumatic cement, right?

A And does it dry? Yes, how much does it crack? I do not know, I have no experience in that.

Q Because you never removed any boilers of removed that asbestos plastic substation cement, right?

A Right.

Q And the rope also dries out over time, correct?


A Uh, it's not wet to begin with. So, so does it dry over?

Q You already testified when that rope is cut it collapses right, correct?

A Yes.

Pietro Macaluso Exposures- DUST

PIETRO



Q ... WHO REMOVED A.O. SMITH BOILERS AS YOU'RE DESCRIBED WITH OTHER BOILERS?

A Yes.

Q DID YOU WARN OF THE HAZARD THAT CAME FROM THE REMOVAL OF BOILERS IN THE PIPE SYSTEM ON THESE A.O. SMITH BOILERS?

A Yes.

Q WAS THAT WARNABLE DUST?

A Yes.

Q WHEN YOU REMOVED THE NUMBER BOILERS, DID YOU OFFER TO SHOW THEM ANY PRACTICES AS YOU'VE BEEN TALKING ABOUT?

A Yes.

Q WHEN YOU REMOVED THE REMOVED LEGS BOILERS, DID YOU PROVIDE IN THE MANUAL THAT FROM THE FEDERAL REGULATION AND THE MANUAL?

A Yes, I did.

Q WAS THAT WARNABLE DUST?

A Yes, it was.

Q DID YOU RECEIVE ANY WARNINGS REGARDING THE DUSTS ASSOCIATED WITH REMOVAL FROM BURNHAM?

A I did not.

Q DID YOU RECEIVE ANY OTHER ANY WARNINGS FROM THE BURNHAM BOILER MANUFACTURER REGARDING THE DUSTS ASSOCIATED WITH REMOVAL?

A Yes.

QUESTION #3:
 Was Defendant A.O. SMITH CORPORATIONS' failure to provide an adequate warning to PIETRO MACALUSO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant A.O. SMITH CORPORATION'S boilers a substantial contributing factor in causing PIETRO MACALUSO'S Mesothelioma?

At least 5 jurors must agree on the answer to this question.

YES NO

QUESTION #6:
 Was Defendant BURNHAM LLC'S failure to provide an adequate warning to PIETRO MACALUSO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant BURNHAM LLC'S boilers a substantial contributing factor in causing PIETRO MACALUSO'S Mesothelioma?

At least 5 jurors must agree on the answer to this question.

YES NO

QUESTION #9:
 Was Defendant PEERLESS INDUSTRIES INC.'s failure to provide an adequate warning to PIETRO MACALUSO about the hazards of exposure to asbestos or asbestos containing components used in association with Defendant PEERLESS INDUSTRIES INC.'s boilers a substantial contributing factor in causing PIETRO MACALUSO's Mesothelioma?
 At least 5 jurors must agree on the answer to this question.

YES NO

No Workers Compensation Claims?

- The Defendants never tracked their employees' compensation (or benefits) as required by OSHA.
- The Defendants had dust removal systems in their plant.
- The Defendants gave respiratory protection to workers.
- The Defendants protected workers IN HOUSE but never warned them about asbestos in boilers in their factories.

PEERLESS-CHRYSOTILE ONLY?

Q So Peerless cannot tell you that their boilers did not contain asbestos, correct?

A I don't know. I could you bring this up. I says fiber type ... chrysotile or ... amosite.

Burnham AMERICA'S BOILER COMPANY
 Trust Company

Chrysotile Only?

Q And to be clear, because there's some colloquy that has been stricken from the record whether the insulation was chrysotile, or some other material, was amosite, correct?

A I am not sure that's correct.

Q Okay. Any person who speaks for itself in this courtroom, right?

A That's correct.

KEEP CALM AND USE COMMON SENSE

Pepper testimony Tr. at 2:16:09-2:16:44