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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

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MICHAEL O'LEARY,
Plaintiff,

vs.

ABEX CORPORATION, et al.,
Defendants.

No. 967547

035828

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DEPOSITION OF MICHAEL O'LEARY

VOLUME I

(Pages 1 to 232)

Taken before KIMBERLY L. AVERY

CSR No. 5074

May 22, 1996

Aiken & Welch, Inc.
Certified Shorthand Reporters
One Kaiser Plaza, Suite 505
Oakland, California 94612
(510) 451-1580

1 MICHAEL O'LEARY,

2 sworn as a witness,

3 testified as follows:

4 EXAMINATION BY MR. GILL

5 MR. GILL: Q. Good morning, sir. Could you
6 state your name and spell it for the record?

7 A. Michael O'Leary, M-i-c-h-a-e-l
8 O-L-e-a-r-y.

9 Q. Good morning, Mr. O'Leary. My name is
10 Ray Gill, and I represent a company called
11 ACandS. I'm going to be asking most of the
12 questions during the deposition. And the first
13 thing I want to do is go over some of the ground
14 rules.

15 First of all, you've just taken an oath, and
16 as a result of taking that oath all your testimony
17 has the same force and effect as if you were
18 testifying in a court of law.

19 Do you understand that?

20 A. I do.

21 Q. Secondly, it's important that we don't
22 speak at the same time. It makes it impossible
23 for the court reporter to take down our words.
24 Therefore, I will wait until you finish answering
25 the question before I ask the next question, and I
26 ask that you wait until I finish asking a question

1 A. Shorter. I know I was up there a year
2 with them, maybe a little over a year, but I don't
3 think I was that long with them.

4 Q. Did you ever work in the Dupont shop?

5 A. No.

6 Q. Where did you work for Dupont that you
7 can recall?

8 A. Dupont in Antioch.

9 Q. Anywhere else?

10 A. No.

11 Q. And what year do you recall working at
12 Dupont in Antioch?

13 A. '62 to '63.

14 I don't -- I don't know. In the '60s
15 between '62 and '66.

16 Q. Basically you don't recall?

17 A. I really don't.

18 Q. How long did you work at Dupont in
19 Antioch?

20 A. A little over a year. A year or a
21 little over.

22 Q. What were you doing there?

23 A. They were putting up a new part of the
24 plant.

25 Q. This is new addition work?

26 A. Yes, sir.

1 Q. Were you doing structural?

2 A. Yes, I was.

3 Q. Did you work with or around any type
4 of pipe insulation or other insulation materials
5 at this site?

6 A. I was around it, but I didn't work
7 with it.

8 Q. Would it be fair to say that to do the
9 structural steel work you worked only with iron
10 products?

11 A. My part, yeah, put up -- yeah. Yes.

12 Q. Do you recall working around other
13 trades?

14 A. Yes.

15 Q. Which trades?

16 A. Carpenters, truck drivers, fitters,
17 plumbers, insulators, laborers, most all the
18 building trades.

19 Q. What did the new addition you were
20 working on look like, how many stories was it?
21 How big was it?

22 A. It was a -- it wasn't huge, but it was
23 one big unit. Maybe six, seven, maybe eight
24 stories high, different elevations. Maybe the
25 size of a football field, maybe not quite as long
26 but wide.

1 poured?

2 A. It came in all premixed.

3 Q. Did you see what type of ceilings were
4 being installed in the structure that you were
5 working on?

6 A. No. Sheeted the roof with metal
7 sheets.

8 Q. It would be metal again, right?

9 A. Yes.

10 Q. Did you work around any boilers or
11 furnaces?

12 A. No.

13 Q. Did you see anyone applying any type
14 of spray-on materials on this job?

15 A. On all the columns -- after we were
16 through putting the building up there was a lot of
17 fireproofing going on, like any structural job.

18 Q. How long had you been on this jobsite
19 until you saw people applying some type of
20 spray-on materials?

21 A. Three, four months.

22 Q. And how long were the people on the
23 site?

24 A. Boy, I really don't know. I'm saying
25 three or four months. I'm guessing. I don't like
26 guessing.

1 Q. We don't want you to guess, sir. Can
2 you see in your mind's eye people spraying on
3 materials?

4 A. I can see it. I go by this job -- I
5 can't remember back that far. I'm just saying
6 three months is all I know, and I don't know if
7 that's...

8 Q. We're just after here what your
9 recollection is, sir, what you can actually
10 recall.

11 Again, just to remind you, if you don't
12 recall or you don't know, that's a perfectly fine
13 answer. We don't want you to testify about what
14 your general feeling is as to who may have been
15 there. I want to know what you can see in your
16 mind's eye going on in that site.

17 Can you see in your mind's eye people
18 applying spray-on on material?

19 A. Yes, I can, but I don't know when.

20 Q. Now, keeping with that recollection,
21 how long do you think they were on the jobsite
22 when you were also there?

23 A. Well, I know -- I can't remember -- I
24 don't know who was doing it, and then we went on
25 to another building and put up another building,
26 and they had to fireproof all that, so I -- I

1 don't know.

2 Q. Did you ever come within, say, 30 feet
3 of these people while they were doing their work?

4 A. I'm very sure I did. I don't
5 remember.

6 Q. Did you see how they were applying the
7 material? Were they using a hose?

8 A. Everything I've seen is hoses; so I'm
9 very sure that's the way they did it.

10 Q. But you don't recall?

11 A. I really don't remember.

12 Q. Did you ever have to handle or touch
13 or disturb any of the fireproofing material that
14 was being sprayed on?

15 A. Not that I know of.

16 Q. Where were they spraying the material
17 on to, if you recall?

18 A. All your vertical columns and all your
19 floor joints, all your intermediate beams.

20 Q. To the extent that you saw people
21 doing this type of work, what would you have been
22 doing?

23 A. What would I have been doing?

24 Q. Yes.

25 A. Oh, boy. Probably sheeting, could be
26 up on a roof sheeting a roof or side wall.

1 Q. Since you had already completed the
2 column work, you generally -- there wouldn't be
3 any reason for you to be on the same floor as
4 these people; would that be fair to say?

5 A. That's true.

6 Q. What did the material look like?

7 A. A white, white fireproofing.

8 Q. After it's sprayed on and it's sitting
9 on a beam, say, what is the texture, if you can
10 tell from an appearance standpoint?

11 A. A white cardboard look, you know.

12 Q. Do you know the brand name,
13 manufacturer, supplier of any of that fireproofing
14 material?

15 A. No, sir. No, sir.

16 Q. Do you know the name of the contractor
17 that was responsible for applying that material on
18 this job?

19 A. No, sir.

20 Q. Do you have any reason to believe that
21 you were in any way exposed to that fireproofing
22 material?

23 A. I don't know.

24 Q. You said also that you saw insulators
25 at this jobsite. What were they doing?

26 A. Ray, I just -- I can say covering

1 pipes, but...

2 Q. Again looking at your mind's eye, can
3 you specifically recall seeing people installing
4 pipe insulation or other type of insulation
5 materials on this jobsite?

6 A. Fireproofing they did.

7 Q. Other than the fireproofing.

8 A. I can't recall seeing them actually
9 doing it.

10 Q. Given the time period, you were not
11 wearing a mask; is that correct?

12 A. At that time, no.

13 Q. That is correct, you were not wearing
14 a mask?

15 A. I was not wearing a mask.

16 Q. Do you recall the names of any of your
17 co-workers?

18 A. Dick Zampa, his father Al Zampa.
19 Everyone I'm thinking about has passed away.

20 That's about the best I can do.

21 Q. Zampa is spelled Z-a-m-p-a?

22 A. Z-a-m-p-a.

23 Q. Do you know where either Dick or Al
24 live?

25 A. They are both in Crockett.

26 Q. Do you know the names of any of the