

# Exhibit 28

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April 26, 2004

Scott A. Hooper  
Scott Hooper & Associates  
1414 West Clay Street  
Houston, TX 77019-4943

Re: Samuel Fontaine

D.O.B.: 9/21/42

Dear Attorney Hooper:

The following represents my preliminary report on Samuel Fontaine.

**My Background and Experience:**

I have worked as a medical doctor in the field of occupational and environmental health for more than 25 years. My work in occupational and environmental health has included education, research, clinical work, consulting, and program direction. I have much experience concerning a wide range of workplace hazards, including silica and other dusts, and their adverse health effects. I am Board-certified in Internal Medicine, Preventive Medicine, and Occupational Medicine. I am a physician licensed to practice in the states of Massachusetts and Connecticut. Further details of my background and experience are described in Appendix A.

**Methodology:**

I reviewed the plaintiff's work history, including jobs, employers, and starting and ending dates of employment, as well as a B-reading of the plaintiff's chest x-ray.

In addition, I reviewed the pertinent medical and scientific literature concerning silica exposure and its adverse health effects. I applied the Bradford Hill principles in reviewing this body of literature.

In coming to my opinions in this case concerning this individual, I considered alternative diagnoses and causes. I also considered latency.

**Case Summary:**

Mr. Fontaine was exposed to free crystalline silica from 1967 to 1995 as a teacher who worked around sandblasting for Rosedale Elementary Jr. High in Rosedale, Mississippi.

A B-reading of a chest x-ray performed on May 27, 2002, by James W. Ballard, M.D., demonstrated interstitial changes in all six lung zones, consisting of small rounded and irregular opacities of size and shape p/s, profusion 1/0. There were no pleural plaques, pleural thickenings, or pleural calcifications. These parenchymal changes were interpreted as being consistent with silicosis/asbestosis (mixed-dust) disease.

**Illustrative Pertinent Medical and Scientific Literature:**

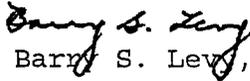
The publications in Appendix B: Silicosis represent illustrative pertinent publications in the peer-reviewed medical and scientific literature concerning silica exposure, which includes, but is not limited to, these publications.

**Opinion:**

Based on my examination of materials concerning this case, my review of the literature, and my extensive experience in occupational medicine, I believe, to a reasonable degree of medical probability, that Samuel Fontaine developed silicosis as a result of his occupational exposure to free crystalline silica at Rosedale Elementary Jr. High from 1967 to 1995.

I reserve the right to modify this report should further pertinent information become available.

Sincerely,



Barry S. Levy, M.D., M.P.H.

Case Name: Sebell Clark, et al -vs- Air Liquide America Corp.  
Case ID: 02-0019

**SILICA MDL**  
**PLAINTIFF'S SWORN FACT SHEET**

Name: Fontaine, Samuel

Street Address: 16 Toliver Lane

City: Cleveland State: MS

Date of Birth: 9/21/1942 Date of Death (if applicable):

Work History - See attached Exhibit A - Work History

Product Identification - See attached Exhibit A - Work History.

I am making a claim for the following injuries (diseases):

Silicosis: X

Known Complicating Diseases:

Lung Cancer:

Scleroderma:

Lupus:

Kidney Cancer:

Fear of Cancer: X

Other:

Rheumatoid Arthritis:

Pulmonary Massive Fibrosis:

Tuberculosis (TB) :

Enlarged Heart:

My medical providers are on the attached Exhibit B or will be provided in a supplemental disclosure. My medical testing is listed on attached Exhibit C.

Fontaine, Samuel

Gre-MS

MDL 1553  
HOOPER-007920

I have signed and attached the following authorizations:

1. Medical Authorization
2. Social Security Earnings History Authorization
3. Employment Authorization
4. IRS Authorization (if I am making a claim for lost wages)
5. Veterans Administration Authorization

### III. Claims

At this time, I am making the claims stated in Exhibit D.

I declare under penalty of perjury subject to 28 U.S.C. S 1746 that all of the information provided in this Fact Sheet is true and correct to the best of my present memory, knowledge, information and belief, that I have completed the List of Medical Providers and Work History appended hereto (or in a supplement), which are true and correct to the best of my knowledge, information and belief, and that I have provided the authorizations stated in Section II above. I reserve the right to modify or supplement the foregoing information during the discovery process of my case.

X Samuel Fontaine  
Fontaine, Samuel

### Exposure Work History

(Also list any other activity for which you claim silica exposure)

Employer and Exposure Site	Address	Dates of Exposure	Job Description	Types of Products (list all manufacturers of models you remember)
Rosedale Elementary Jr. High	Rosedale	1/1/1967 - 1/1/1995	Teacher (Worked around sandblasting--see file)	<input type="checkbox"/> Air Fed Hood <input type="checkbox"/> Air Sweeping Equip <input checked="" type="checkbox"/> Bag Sand <input type="checkbox"/> Bag-Bag Houses <input checked="" type="checkbox"/> Blast Equip <input checked="" type="checkbox"/> Brick Cutter <input type="checkbox"/> Bulk Sand <input type="checkbox"/> Cartridge Respirators <input type="checkbox"/> Ceramic Equip <input type="checkbox"/> Compress, Hoses, Nozzles <input checked="" type="checkbox"/> Cutting Saws, Cutting Equip <input type="checkbox"/> Disposable Dust Masks <input type="checkbox"/> Drills, Drill Bits <input type="checkbox"/> Grinders, Grinding Wheels/Equip <input checked="" type="checkbox"/> Jack Hammer <input checked="" type="checkbox"/> Masonry, Brick, Mortar <input type="checkbox"/> Mining Equip <input type="checkbox"/> Non Air Fed Hoods <input type="checkbox"/> Paint Products, Fillers <input type="checkbox"/> Pots <input type="checkbox"/> Quarry Equip <input type="checkbox"/> Refractory Products and Bricks <input type="checkbox"/> Rock Drilling Equip <input type="checkbox"/> Sanders <input type="checkbox"/> Sand Paper <input type="checkbox"/> Shake Out Equip <input type="checkbox"/> Sheetrock-Drywall <input type="checkbox"/> Silica Flour <input type="checkbox"/> Foundry Equipment Prod Descriptions:

Present? \* 0  
 \*Presently Employed--"0" = no,  
 \*"1" = yes

Exhibit B  
Medical Providers and Diagnosing Physicians

Please list the Diagnosing Physician, if any, and medical providers that you can remember seeing during the last 20 years. If you know, please provide the address, city, state and dates of treatment. Also, if you remember having a chest x-ray, please check the Chest x-ray box.

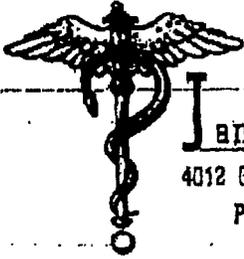
Doctor or other Health care provider	Address	Diagnosis	Date of Diagnosis or Treatment	Chest X-Ray
Dr. Nathaniel Brown				
Dr. Nathaniel Brown	4416 1/2 Ruby Street	Stomach ulcers Ulcers	1992	NO
Dr. Nathaniel Brown	Hwy 615 Ruby St	<del>Cancer</del> Chest Chest Ulcers the Common Cold	every 6 months	Several Scans

Exhibit C

Medical Testing

Please list the medical testing, if any. X-rays, other xerographs and PFT results, in Plaintiffs' custody or control are to be produced. Except documents that are subject to a claim of consulting expert privilege.

Type of Testing	Date Of Diagnosis
Silicosis/Asbestosis (Mixed Dust)	5/27/2002
Pulmonary Function Test	8/21/2003



James W. Ballard, M.D.

NIOSH Certified B-Reader

4012 Greystone Drive ● Birmingham, AL 35242

Licensed B-Reader in Alabama and Florida

P.O. Box 381088 ● Birmingham, AL 35238

#### X-RAY EVALUATION

May 27, 2002

Re: Fontaine, Samuel

Chest radiograph(s) dated 04/27/02 is reviewed for the presence of and classification of pneumoconiosis according to the ILO 80 classification.

Film quality is grade 2 due to slight underexposure and scapular overlay. Inspection of lung parenchyma demonstrates interstitial changes in all six lung zones, consisting of small rounded and irregular opacities of size and shape p/s, profusion 1/0.

There are no pleural plaques, pleural thickenings or pleural calcifications. No parenchymal infiltrates, nodules or masses are seen. The heart is of normal size and the mediastinal structures are unremarkable. Bullae are noted in the right upper lobe.

**CONCLUSION:** The above parenchymal changes are consistent with silicosis/asbestosis (mixed-dust) disease provided the subject's exposure history and period of latency are appropriate.

James W. Ballard, M.D.

Fontaine, Samuel

WORKER'S Social Security Number

TYPE OF READING

FACILITY IDENTIFICATION

[Redacted Social Security Number]

A  P

[Redacted Facility Identification]

1A. DATE OF X-RAY  
MONTH: 04 DAY: 27 YEAR: 02

1B. FILM QUALITY  
1  2  3  U/R  
If not Grade 1 Give Reason: *Slightly underexposed*

1C. IS FILM COMPLETELY NEGATIVE?  
YES  NO   
Proceed to Section 5 / Proceed to Section 2

2A. ANY PARENCHYMAL ABNORMALITIES CONSISTENT WITH PNEUMOCONIOSIS?  
YES  COMPLETE 2B and 2C NO  Proceed to Section 3

2B. SMALL OPACITIES  
a. SHAPE / SIZE  
PRIMARY: [p, s, q, t, r, u] SECONDARY: [p, s, q, t, r, u]  
b. ZONES: [Diagram of lung zones] R L  
c. PROFUSION: [Table of opacities]

2C. LARGE OPACITIES  
SIZE: [Diagram of large opacities] A B C  
Proceed to Section 3

3A. ANY PLEURAL ABNORMALITIES CONSISTENT WITH PNEUMOCONIOSIS?  
YES  COMPLETE 3B, 3C and 3D NO  Proceed to Section 4

3B. PLEURAL THICKENING  
a. DIAPHRAGM (plaque) SITE: [O, R, L]  
b. COSTOPHRENIC ANGLE SITE: [O, R, L]  
3C. PLEURAL THICKENING ... Chest Wall  
a. CIRCUMSCRIBED (plaque)  
i. WIDTH: [Table] ii. EXTENT FACE ON: [Table] iii. EXTENT: [Table]

b. DIFFUSE  
i. WIDTH: [Table] ii. EXTENT FACE ON: [Table] iii. EXTENT: [Table]

3D. PLEURAL CALCIFICATION  
a. DIAPHRAGM b. WALL c. OTHER SITES  
SITE: [O, R] EXTENT: [Table] (Left and Right sides)

4A. ANY OTHER ABNORMALITIES?  
YES  COMPLETE 4B and 4C NO  Proceed to Section 5

4B. OTHER SYMBOLS (OBLIGATORY)  
[Table of symbols: ax, ca, cn, co, cp, cv, ct, el, em, es, fr, hi, ho, id, ih, kl, pi, px, rp, tb]  
Report items which may be of present clinical significance in this section. [OD]  
Date Personal Physician notified? [Table]

4C. OTHER COMMENTS  
[Redacted]

SHOULD WORKER SEE PERSONAL PHYSICIAN BECAUSE OF COMMENTS IN SECTION 4C.  
YES  NO  Proceed to Section 5

5. FILM READER'S INITIALS: [JWB] PHYSICIAN'S SOCIAL SECURITY NUMBER: [Redacted] DATE OF READING: [05/27/02]

Complete if social security number is not furnished:  
NAME (LAST—FIRST—MIDDLE)  
STREET ADDRESS CITY STATE ZIP CODE

\*Furnishing your social security number is voluntary. Your refusal to provide this number will not affect your right to participate in this program.