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Peterson v. UCC
(copy)

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October 16, 1989

VIA FEDERAL EXPRESS

Lee Reichman, M.D.
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RECEIVED
OCT 16 1989
J. P. I.

Re: Peterson v. Union Carbide Corporation

Dear Dr. Reichman:

This office represents defendant Union Carbide Corporation in the above-captioned action. On October 13, 1989, I spoke with your secretary, Jean, to schedule a physical examination and pulmonary function testing of the plaintiff, John Peterson, for October 26, 1989, at 8:30 a.m., at University Hospital, Pulmonary Division, I Level, Room 354.

As I informed Jean, this matter has an October 30, 1989 trial date and, for that reason, we requested that the examination be conducted as soon as possible. It is our feeling that the matter will be adjourned for a short period of time, but we cannot be certain.

Enclosed please find copies of the following materials for you to review in the preparation of your expert opinion in this case:

1. Plaintiffs John and Shirley Peterson's answers to Union Carbide's Interrogatories.
2. Plaintiffs John and Shirley Peterson's supplemental answers to Union Carbide's Interrogatories.
3. Plaintiff John Peterson's medical and hospital records, attached to the aforementioned answers to interrogatories.
4. Transcript of the deposition of John Peterson taken on November 16, 1988.

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5. Transcript of the deposition of Shirley Peterson taken on November 16, 1988.
6. Union Carbide's answers to plaintiffs' interrogatories.
7. Expert report of Dr. Velez on behalf of the plaintiffs.
8. Expert report of Dr. Epstein on behalf of the plaintiffs.
9. Expert report of Dr. Davidson on behalf of the plaintiffs.
10. Union Carbide's answers to the plaintiffs' supplemental interrogatories.

Briefly, in his amended complaint in this matter, Mr. Peterson contends that he was exposed to several chemicals that had been supplied to his employer, the OTD Corporation and its successor, the ATC Company, during his employment from 1966 to 1986. The specific chemicals that are listed in the amended complaint are as follows:

1. Polyvinyl Chloride (PVC),
2. Vinyl Chloride Monomer (VCM) that allegedly was given off by the PVC,
3. Polyethylene,
4. Polyurethane,
5. Polystyrene,
6. Isopropilidene Bisphenol Resins,
7. Phenols.

Plaintiff's employers, ODT and ATC, acted as repackaging facilities for Union Carbide products that were manufactured in Texas City, Texas and they were not manufacturing facilities for any product. Hence, the plaintiff was not exposed to Vinyl Chloride Monomer fumes that would be present in a manufacturing facility. Although the plaintiff does allege that he was exposed to VCM fumes emanating from the PVC resins, Union Carbide's witnesses will testify at trial that such exposure was minimal, at best, due to the dissipation of any such residual Vinyl Chloride Monomer during the time that it took for the PVC resins to reach the employer from Texas.

As a result of these exposures, the plaintiff alleges that he contracted laryngeal cancer. The expert reports of Dr. Davidson, Dr. Velez and Dr. Epstein do not inculcate all of these chemicals. Dr. Davidson's report concerns only PVC and VCM; Dr. Velez' report only discusses Vinyl Chloride (in terms of products supplied by Union Carbide); and Dr. Epstein's report only discusses VCM, PVC, Polystyrene and Isopropilidene Bisphenol Resins.

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Dr. Velez' report alleges that Mr. Peterson was exposed to asbestos and, as you can see, makes pulmonary findings relating to this alleged exposure. Union Carbide did not supply asbestos to any of the facilities at which plaintiff worked.

Upon your review of the materials that have been forwarded to you and your physical examination and testing of the plaintiff, I would appreciate receiving your opinion as to whether the plaintiff's injuries, specifically his laryngeal cancer and alleged pulmonary difficulties, were caused by (1) exposure to the Vinyl Chloride/Polyvinyl Chloride; Polystyrene; and Isopropilidene Bisphenol Resins; (2) exposure to some other material, including asbestos as set forth in Dr. Velez' report; or (3) other factors unrelated to exposure to any plastic, chemical or material.

Please call me upon your receipt of this letter.

Very truly yours,


MICHAEL K. TUZZIO

MKT:gab

cc: John Downey, Esq. - Union Carbide

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