

11 Midland Bldg., Legal

May 24, 1979

R. E. Bielek

Corp. Risk Management 14 TT 2686

REDACTED

Our File No: 76-2737DC
(deceased)
Our File No: 77-3937

This will confirm our conversation of May 23, with respect to the law suits which have been filed in the New Jersey courts by the above former employees at Gibbsboro. As you know, our former Workers' Compensation Insurance Carrier, Liberty Mutual Insurance Company, is also a party defendant in the suit (s) filed on behalf of the subject plaintiffs. It occurred to us, that these suits were not filed in the usual fashion as workers' compensation claims under the New Jersey Act. Plaintiff's attorney evidently believes that he has a cause of action outside the workers' compensation statute.

In checking with Liberty Mutual, and their local Claims Manager, Stan Barton, we were advised that Liberty Mutual would defend us under the Employer's Liability coverage of our policy. Therefore, it will not be necessary for you to employ counsel at this time. However, I would like to have the benefit of your good counsel in these cases as they continue. Therefore, I will keep close contact with Mr. Barton on these cases with respect to further developments, and I would like to keep you advised as to the current status of each case.

You may wish to confirm with your own local counsel a comment which Mr. Barton made respecting lack of notice on these suits. Although he was unable to provide an explanation for this, he indicated that it was not fatal to the plaintiffs intended action, as notice could be given at anytime into the future. It is interesting to note that, while had a workers' compensation claim filed against us sometime ago, the deceased never brought any claim against Sherwin-Williams under the act. Also, Mr. Newport's survivors have not brought any such claim since his death.

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J. D. KULL, Jr.
Corporate Director of Risk Management

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