PLAINTIFF'S EXHIBIT
AL-362

MEDICAL RECORD | PROGRESS NOTES

DATE NOV 18 1981

B/P RT. ARM 138/96 LT. ARM

WT: 192

TPR: 98²-68-16

S C/o ↑ trouble c breathing, gradually getting worse. Describes as smothering sensation. Also having headaches. Mostly pt has some S.O.B. and frequent headaches

O/E: E.N.T. Fundi no abnormal findings. neck no bruit or thyromegaly

lungs clear by percuss & ausc.

Heart no murmurs gallops or rubs.

Abdomen no organomegaly or tenderness

no pedal edema

While he was in the hospital the following workup were done:

Sputum were reported neg for AFB by smears and culture

Sputum cytology neg for malignant cells. Bronchoscopy. Bronchial Biopsy neg for malignancy cells.

Asbestos body neg. A.B.G. normal.

(Continue on reverse side)

PATIENT'S IDENTIFICATION (For typed or written entries use: Name-last, first, middle, grade, rank, unit; hospital or med-cal facility)

MAYS ROBERT H C27187785
BOX 58 04
CHILTON TX 76632 AR

465328015 49 7 511
42 145 76632 4

REGISTER NO. 11 16 81

PROGRESS NOTES
STANDARD FORM 600 (Rev. 11-77)

CONFIDENTIAL

ARD 023076

PROGRESS NOTES

DATE	
11-18-81	pulmonary function test:
	some obstructive airway component
	on the basis of complete medical
	work-up and clinical findings
	A- 1- he may have
	Industrial asthma
	2- pulmonary fibro-
	nodular infiltrate
	present [illegible] [illegible]
	undetermined etiology.
	P- he should not work
	dusty industrial atmosphere
	to protect developed
	some probably asthmatic
	attack. However he should
	help social department
	to investigate some
	training programs
	to find out job for
	him. he is 31 y. old
	bronchodilator p.r.n.
	recheck 3 months with
infiltrate	tomography X Ray follow up [illegible]

GPO : 1977 O-VC—240-463(115)

STANDARD FORM 509 BACK (Rev. 11-77)

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PATIENT'S NAME	AGE	SEX	RACE	SOCIAL SECURITY NO.	CLAIM NO.	NAME OF HOSPITAL
MAYS, Robert H.	31	M	N	465 82 8015	c 271 87 785	VA Medical Center Mar

DIAGNOSES (List in numerical order, first, the established clinical diagnosis responsible for the major part of patient's stay; then, in order of clinical importance, other established diagnoses for which treatment was given. Place letter "N" before Diagnosis(es) responsible for Nursing Care placement. List Problem numbers after Diagnosis.)

ICDA CODE

ds

x 1. History of automobile accident with contusion of left side of face (2). — 720 E819

2. Occupational asthma (1). — V12.6 523

3. Calculus on teeth

PERTINENT CLINICAL DIAGNOSES NOTED BUT NOT TREATED (Include autopsy diagnoses not listed on clinical above)

None

OPERATIONS PROCEDURES PERFORMED AT THIS HOSPITAL DURING CURRENT ADMISSION	DATE	
Dental Debridement Crown, Prophylaxis		96.54

SUMMARY (Brief statement should include, if applicable, history, pertinent physical findings, course in hospital, treatment given, condition at release date, patient's capable of returning to full employment, period of convalescence, if required; recommendations for follow-up treatment, complications, autopsy findings and final clinical competency opinion when required, rehabilitation potential; and name of Nursing home, if known.)

This 31-year-old CM was admitted on 3-21-81 after having had an automobile accident. He came by himself as his left shoulder and left side of the face was hurting.

PROBLEM # 2- history of automobile accident with contusion, left side of face. As already mentioned, he was involved in an automobile accident over the week-end prior to hospitalization. He fell asleep and had an accident, rolled over, was picked up by the police at home as they thought he was drunk, and came here because of headache and pain in the left shoulder. He is employed at Alcoa Aluminum Plant at Rockdale but is on sick leave.

Physical examination showed an ambulatory, well nourished, well built black male with mild contusion on the left eyebrow and painful left shoulder with reduction in the range of movement, otherwise, physical was negative. Because of the history of automobile accident with complete wreckage of the automobile, he has had the following investigations done. EKG was reported as normal. Left shoulder and left knee and skull showed no evidence of fracture, dislocation or any other bone or joint abnormality. EMI scan was also done on 3-26-81 which was reported as normal computerized tomography. Since there was no fracture or dislocation or any intracranial lesions, he was treated symptomatically and remarkably improved and was ambulating freely at the time of discharge.

PROBLEM #1- occupational asthma.

Patient gave a history of having had shortness of breath and wheezing on and off, and has been evaluated on previous hospitalization here and by the pulmonary division at Temple and has been diagnosed to have had occupational asthma. He is on sick leave and has been followed by the Industrial physicians at Rockdale where he works. During his current hospitalization the CBC was reported as normal

(over)

ADMISSION DATE	DISCHARGE DATE	TYPE OF RELEASE	INPATIENT DAYS	LEAVE DAYS	WARD	CONCURRENCE OF REVIEW BY
3-21-81	4-9-81	REGULAR	17		4-N	R. V. KUTTAI, M. D.

10-1000 EXISTING STOCK OF VA FORM 10-1000 AUG 1971 WILL BE USED.

D: 4-10-81 T: 4-10-81

HOSPITAL SUMMARY

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ARD 023078

Blood gasses were also done which showed a PH of 7.46, PO2 of 75, PCO2 of 46, with oxygen saturation of 95%. Previous pulmonary function test was reported as normal. Fasting blood sugar was 101 mgs., blood urea nitrogen 10 mgs., normal electrolytes. X-ray of the chest showed a few stupored densities in the right middle aspect of the lung which were calcified. Clinically the patient was afebrile. There was no evidence of any infection, either clinically or laboratory wise. With a history of industrial asthma, being followed in the past at Temple VA Medical Center and also by the physicians at Alcoa Aluminum Plant at Rockdale, it was felt that this problem is stable and it should be followed by his physician.

It was felt that the patient has obtained maximum hospitalization benefits and he was discharged regular. Condition on discharge improved. Discharge medications Tylenol 650 mgs. Q 6 hrs. PRN. Condition on discharge improved. He is competent for VA purposes and can resume his prehospitalization activities.

R. M. KUTTAI, M. D.
DATE: 4-6-81

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Asbestosis

Robert Mays 30y/o 10-31-80

Went to work at Alcoa 1973. In pot room - Still working in pot room. On sick leave at this time. - Industrial Asthma since July 80 - Dr. Allen. Asbestos dust known in the pot. Cleaning up with dust, blow it out to air ducts. Air always smoky & asbestos dust.

3-4 years after working there he began to have SOB, left pain, coughing, couldn't get air, lot of wheezing, productive cough. Has had to drive to head out cdc because of SOB. Went to First Aid & there spells - was told it was due to detergent at home. Dr. Bob Temple VA Hosp. Lot worse in heavy asbestos areas. He did not know what it was until the x-ray. Had pleurisy - Dec 79 - hospitalized at Martin VA. No treatment. Black spatum or sputum - spots in lungs.

Would wake up at night gasping for air. Chest always felt tight. Quibron given. Breathing. Dec Codeine in cough. Hydrodiuril for BP

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O.H. - Has never smoked! To previous author
To F.H. of lung disease.
Lung Appreciation, U.K.A.
Once visited at retirement in 1972

V.L. - Unremarkable. On admission they
he cardiac reading is fabulous. Must be
work. Does cattle put cattle away, tractor
plant and all on that. Left SVD on
ejection. Has tried to get back in
shape by jogging but starts coughing
Left pulmonary circulation in his back,
still has spells of PND at night
still has productive cough - all
clears. Is much chest pain.
Has tried all the time, Needs
cause measurement. Lets SVD before
he is 60 also.

My Exam 4/5/80
NSR (Rad.) V Rate & general ht
rate & rhythm. No dynamic
Boundaries on the clubbing. No
abnormal murmurs

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ARD 023081

ALUMINUM COMPANY OF AMERICA
[illegible]
ROCKDALE TEXAS 76567
(512) 446-5011

ALCOA

5-21-81

To Whom It May Concern.
Re: Robert A. Mayo

Mr Mayo was evaluated today regarding his ability to return to work. A routine chest X ray was done and several densities were noted in the left lung. Additional lateral and oblique films confirm the presence of masses which were not present on the last routine X ray (25 Feb 79).

He was hospitalized 3-21 thru 4-9-81 at VA Medical Center Waco Tx and a few stippled densities in the right middle aspect of the lung were noted.

Please evaluate and compare the present X rays which the patient has in his possession with those taken previously. Because of the significant difference ...

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ARD 023082

our X-rays I am concerned that malignancy be ruled out.

Mr Mayo relates that a member of your staff strongly indicated that his problem was asbestosis. Such would indicate additional need for a biopsy diagnosis of the mass.

Please provide us with a complete summary when the problem has been resolved.

Thank you for your cooperation

Sincerely

Saint J. Sheller M.
Medical Director

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ARD 023083

NOTICE OF HEARING BEFORE THE BOARD AND AWARD RECOMMENDATION
THIS IS NOT THE AWARD OF THE BOARD.

Date of PHC_____ **Board No.**_____

Location_____ **Date of Formal Hearing**_____

Employee_____ **Represented by**_____

Carrier_____ **Represented by**_____

Employer_____

On or before the hearing date, the association and counsel, if any, for the claimant each shall file with the Board a written Formal Statement of Position, both factual and legal. Such Statement of Position shall reply to the recommendations of the Pre-Hearing Officer, and each party shall be required to admit, deny or qualify each point in the Pre-Hearing Officer's recommendations. Unrepresented claimants and agents for claimants are not required to comply with this section.

An injured employee or his attorney must give the Board and all parties seven (7) days written notice if they intend to be present for the formal hearing. (Board Rule 061.05.00.031).4

As a result of the Pre-Hearing Conference held on the above, the Pre-Hearing Officer recommends to the Board that an Award be entered based upon the following:

1. Above named carrier did/did not have compensation coverage on the above named employer on or about

_____
(DATE OF INJURY)

2. Named employee did/did not sustain an injury and/or disease on date while within the course of his employment.
3. Above named employee was/was not in the employment of the above named employer on the date of injury.
4. On the date of injury, the employee had an average weekly wage of $_____ which produced a compensation rate of $_____.
5. The employee sustained, or will sustain_____ weeks of total temporary disability.
6. The employee sustained:
   (.) a general injury. That the employee's present wage earning capacity is $_____, resulting in $_____ Loss of Wage Earning Capacity for 300 weeks of permanent partial disability, or _____ weeks of temporary partial disability.

   ( ) a specific injury to _____. That the employee has_____% permanent loss of or the loss of the use of that member, or_____% temporary loss for_____ weeks of partial disability.
7. Hardship will/will not exist if award is not entered in a lump sum payment.
8. An attorney's fee for the unpaid portion of this recommendation is_____%.

   (a) Attorney's expenses in the amount of $_____ are recommended.
9. Special Issues: (Beneficiaries, medical bills, etc.):

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ARD 023084

ATTACH A COPY OF THIS REPORT TO YOUR STATEMENT OF POSITION

LAW OFFICES
FLAHIVE & OGDEN
PROFESSIONAL CORPORATION
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C. C. GILLESPIE III
ROBERT M. SUMNERS
JIM WEAVER
KATIE FLAHIVE

*Board Certified-Personal Injury Trial Law
Texas Board of Legal Specialization

12/02/81

Mr. Jerry Thompson
COMMERCIAL UNION INSURANCE COMPANY
7718 WOODHOLLOW DRIVE
SUITE G68
AUSTIN TX 78731

RE CLAIM NO--
BOARD NO-- Y-163909-C2 #40
EMPLOYEE--ROBERT H MAYS
EMPLOYER--ALCOA
D / LOSS-- 7/01/80
D/PRE-HEARING--12/01/81 WACO

Dear Jerry:

The prehearing conference in this case was held in Waco on December 1, 1981. The claimant appeared with his attorney Mike Smith, and the prehearing officer was Dick Penn.

Mr. Smith brought new medical to the prehearing from a Dr. Fred Roberson, who is apparently involved in asbestosis litigation in the Marshall, Texas area. Mr. Smith indicated that Dr. Roberson is utilized by the law firm of Jones, Jones and Baldwin in Marshall to testify on asbestosis cases. Dr. Roberson's report states that the claimant has "significant asbestosis of the lungs". Mr. Smith also brought a report from the Veteran's Hospital which indicates that the claimant has 'occupational asthma". Mr. Smith also brought a report from the company doctor at Alcoa who confirmed the presence of masses in the claimant's chest. My interpretation of the Alcoa doctor's report is that asbestosis is a possibility. The claimant stated that the biopsy suggested by the Alcoa doctor has been performed and was equivocal. Apparently the doctors at the VA hospital were unable to determine with certainty that the claimant had a malignancy.

The claimant stated that he was unable to work at this time, and continues to experience shortness of breath. The claimant admitted that he had been treated for hypertension in January of 1980 and continues to take medication for hypertension at this time.

The claimant's attorney alleged that the claimant was totally and permanently disabled. I denied the claim entirely saying that the company doctor had not diagnosed asbestosis. I also indicated that we apparently have a late filing in this case because the Notice of Injury and Claim for Compensation was not filed until April of 1981, and the last exposure was on July 1, 1980. I offered to send the claimant to a pulmonary specialist for an independent medical exam, but the claimant attorney thought this would only delay matters. He therefore asked for the case to be awarded. A copy of the Award Recommendation is enclosed. It is for total and permanent disability. Please note that we apparently have a choice of venue in this case between Milam County and Falls County. I would suggest that Falls County would perhaps be more favorable to us, but you may want to discuss this with defense counsel. I will not place this case on Venue Alert unless I hear from you.

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ARD 023085

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12/02/81

Mr. Jerry Thompson
COMMERCIAL UNION INSURANCE COMPANY
7718 WOODHOLLOW DRIVE
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RE CLAIM NO--
BOARD NO-- Y-168909-C2 #40
EMPLOYEE--ROBERT H MAYS
EMPLOYER--ALCOA
D / LOSS-- 7/01/80
D/PRE-HEARING--12/01/81 WACO

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Although this case is difficult to analyze, there is certainly more exposure here than I thought initially. Mr. Smith claimed to have other asbestosis cases filed in Federal Court in Marshall.

The formal hearing in this case is set for December 18, 1981. We will represent your interest at that time.

Thank you for the assignment and enclosed is our invoice.

Very truly yours,

Robert M. Sumners

RMS/dw
Enclosures

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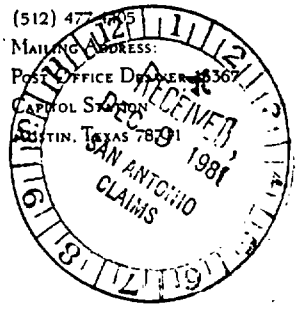
12/02/81



Mr. Jerry Thompson
COMMERCIAL UNION INSURANCE COMPANY
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RE CLAIM NO--
BOARD NO-- Y-168909-C2 #40
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D / LOSS-- 7/01/80
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ARD 023088

Claimant: Robert H. Hays

Although this case is difficult to analyze, there is certainly more exposure here than I thought initially. Mr. Smith claimed to have other asbestosis cases filed in Federal Court in Marshall.

The formal hearing in this case is set for December 18, 1981. We will represent your interest at that time.

Thank you for the assignment and enclosed is our invoice.

Very truly yours,

Robert M. Sumners

Robert M. Sumners

RMS/dw
Enclosures

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Family Medical Center

9330 Youree Drive
Shreveport, La 71115
(318) 797-8130

David T. Henry, M.D.
Diplomate
THE AMERICAN ACADEMY
OF FAMILY PRACTICE

James S. May, M.D.
Diplomate
THE AMERICAN ACADEMY
OF FAMILY PRACTICE

Fred M. Robinson, M.D.
Diplomate
THE AMERICAN ACADEMY
OF FAMILY PRACTICE

November 30, 1981

Mr. Blake C. Erskine
Attorney at Law
Post Office Box 3485
Longview, TX 75606

Dear Sir:

Mr. Robert Mays is a 31 year old black male, who was first evaluated by me on the 31st of October 1980. Mr. Mays informed me at that time that he went to work for Alcoa Aluminum in 1973. His initial employment was in an area known as the "pot room" where he was still working. He was on sick leave for "occupation asthma" at the time I saw him. This leave had been present since July of 1980. Mr. Mays described to me the heavy concentration of asbestos dust present in the "pot room". He states that this is an extremely hot area and in the cleaning-up process air hoses are used to blow the dust out of the room, which really creates an increased concentration in the air. He states that the air and space in the "pot room" is always cloudy with asbestos dust. Mr. Mays states that three to four years after beginning work in the "pot room" he began to notice shortness of breath, chest pain, choking sensation, the sensation that he could not get enough air, wheezing, and a productive cough. He states that he has often had to drive home from work with his head in the car window in order to get enough air. He states that he initially went to the first aid department of the plant with these spells and was told that it was due or secondary to a detergent being used at his home. He has also been seen by a physician at the V.A. Hospital in Temple, Texas. He states that he has noticed, himself that the

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symptoms get worse when the asbestos dust concentration is extremely heavy. He had an episode of pleurisy in December of 1979; he was hospitalized at the Marlin V.A. Hospital. He would cough up black sputum or lumps of yellow sputum.

He would wake up at night gasping for air. He also has chills at night. He is presently taking Quilnon and Brethine. While he was hospitalized he occassionally took Codeine for pain. He also takes Hydrodiuril for his blood pressure.

Past history consists of never having smoked, no asthma, or family history of lung disease. His only surgery has been an appendectomy. He has no known allergies. He previously worked in a cotton gin in 1972. He has less trouble breathing when he is away from the plant and taking his medication. Any exertion makes him short of breath. He had tried to get back into shape by jogging; however, he started coughing soon after he began to run. He still has a productive cough all the time. He states that his medication causes him to be nervous.

Physical examination revealed normal sinus rhythm with no rattles or wheezes. Blood pressure was 140/80. No abdominal masses found. Lungs revealed coarse breath sounds to auscultation and fine inspiratory wet rales in both bases, worse on the right. THere is also an increase in the AP diameter of the chest with a prolonged exspiratory phase. X-rays revealed fibronodular densities in both lung fields which have increased since 10-31-80, more noticeable in the right lung. The FEV is reduced approximately 20% with an arterial blood Ph of 7.37.

It is my opinion that Mr. Mays has significant asbestosis of the lungs. He is presently being evaluated and observed for possible carcinoma of the lung. I find him disabled from performing the usual task of a workman due to his pulmonary disease.

Sincerely yours,

Fred M. Roberson, M.D.
Family Medical Center

FMR/dr

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