

December 7, 1981

Mr. C. Hoover
Sherwin Williams Company
1801 South College
Fort Collins, Colorado 80525

REDACTED

Re: s. Sherwin Williams Company

Dear Mr. Hoover,

Enclosed you will please find a copy of a report which I recently made to Pattie Morton of The Aetna Casualty & Surety Company and a copy of a letter which I have written to referee Kubitschek.

We certainly appreciate your assistance and cooperation in this matter. Far too frequently, we are left to defend insureds who really have no interest in their cases and do not, therefore, give us their full cooperation. If all insureds took an interest in their cases as you have, our work would be much easier.

I am expecting shortly to be notified of a date for a medical hearing on this case. I will advise you of the date and time of that hearing and ask that you be present so that you may testify regarding the filing of the first report and your notification of this alleged injury if the referee deems such testimony necessary.

Again, thanks for your help.

Very truly yours,



Barclay L. Westerfeld

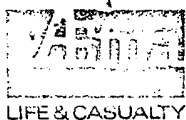
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Enclosures

N40350

0007-SWP-005805319

CONFIDENTIAL



INTEROFFICE COMMUNICATION

TO Pattie Morton - Claim Representative
FROM Barclay L. Westerfeld - Regional Counsel
DATE December 7, 1981
SUBJECT vs. Sherwin Williams

REDACTED

Pattie,

The lay hearing on this case was held as scheduled on December 3, 1981. What a donnybrook!

M. took the stand and testified that he had been hired on May 1, 1981 as a full time employee. You will recall that Mr. Hoover of Sherwin Williams had previously told us that as only a part time employee on a trial basis. testified that on May 7, 1981, he was instructed to mix some paint in a three sided building to the back of the Sherwin Williams paint store. He was told that it was against the law to mix the paint inside the building because of flammable fumes. He testified that he was not given any safety equipment or respirator of any kind. He worked on the job for about 3½ hours. About halfway through the mixing operation, his nose begin to bleed and he felt nauseous and dizzy. He did, however, complete the job and worked the balance of that day and also worked the next day, Friday, May 8th, and the next day, Saturday, May 9th. He testified that during both of those two days he suffered intermittent nose bleeds. The nose bleeds continued on Sunday and finally on Monday, May 11, 1981, he sought medical attention from Dr. Codd. He chose Dr. Codd because Codd had been the family physician. He said that on May 11, 1981, Codd cauterized his nose and about ten days later, he saw Codd again because the nose bleeds, nausea and dizziness were not subsiding. He testified that Codd at one time, he didn't know the date, suggested to him that he might return to some other form of work which did not involve the inhalation of fumes. He specifically denied that Codd had told him on May 18th, 1981, that he could return to work.

I began to cross-examine Mr. Codd and was stopped by referee Kubitschek. Kubitschek informed me that Linda Shank had filed an admission of liability on this case

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Pattie Morton
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admitting for medical bills only, no total temporary disability and no permanent partial disability. Kubitschek would not let me, therefore, ask any questions about the occurrence of the injury itself and ordered that I restrict my questions solely to the issues of total temporary disability and permanent partial disability.

Attorney Valentine who represents Mr. produced medical reports in the form of letters from Dr. Codd dated July 6, 1981 and October 16, 1981 which I attach hereto for your information.

Kubitschek also questioned me because there is an allegation by the claimant that the insured failed and refused to file an employer's first report of injury. I asked Mr. Hoover about that and he says that he did, in fact, file a report as of May 11, 1981 when he received a telephone call from Dr. Codd asking about the injury. Hoover denies that at any time did the claimant inform him of an alleged accidental injury and states vehemently the only way he found out about it was by way of a telephone call from Dr. Codd.

Because of the inconsistent return to work dates which have now been shown by Dr. Codd in his reports, I asked for an opportunity to cross-examine Dr. Codd. Kubitschek said that he would allow it but would require us to make arrangements for Codd's attendance and pay his bill for his testimony in light of the fact that we admitted on this case for medical benefits. He declared Codd to be an authorized treating physician.

I have also been ordered to file a first report of injury on this case within the next ten days, contact the docket clerk to arrange for a time for the medical testimony, and arrange for and pay Dr. Codd, not only for the medical services he has provided to date, but also for his testimony at the upcoming medical hearing.

I think our chances on this case are slim because we apparently filed some sort of an admission of liability and because