



The Sherwin-Williams Company
101 Prospect Avenue, N.W.
Cleveland, Ohio 44115-1075

January 11, 1996

Mr. F.D. Balmert
Vorys, Sater, Seymour & Pease
2100 One Cleveland Center
1375 East Ninth Street
Cleveland, OH 44114-1724

REDACTED

Re:

BWC Claim : 95-352058
Case Number: 299419

Dear Dan:

I am forwarding all file materials relevant to the above captioned matter. [redacted] employed as a Valve Dropper at our Sprayon facility in Bedford Heights, OH.. On April 18, 1995 she filed an Application for Workers' Compensation Benefits alleging occupational asthma. She is represented by the law firm of Taubman & Nager, and on her behalf, they have filed the enclosed Notice of Appeal with the Cuyahoga County Court of Common Pleas. Please review the following information and enclosed materials and prepare a response on our behalf.

[redacted] was hired as a General Production worker on August 18, 1993 and became a Valve Dropper on October 18, 1993. On her OD-1, she alleges that as a Valve Dropper she must bend over cans filled with paint and inhale fumes for 8 - 12 hours per day. In my discussions with Rus Mahoney, Plant Manager, and Dr. Richard Lewis, the company physician who toured the plant in order to assess this claim, the Valve Dropper sits on a stool approximately 3 feet from the conveyor and watches to be sure that all cans have a valve placed in them by the machine. The cans are filled in a separate fill room and the opening in the cans at the time that they pass the Valve Dropper station is so small that only a minute amount of fumes could possibly escape into the air. You'll also note that all air sampling studies found chemical exposures to be far below the levels allowed by OSHA and the EPA.

On February 17, 1995 she was taken to Bedford Medical Center due to difficulty breathing. She gave a history of having asthma as a child, which she denied at ICO hearings. She was diagnosed with bronchitis, asthma by history and maxillary sinusitis by history. Chest x-rays were normal and she was given inhalers and released.

She returned to work for a period of time and then on March 27, 1995 she returned to the emergency room at Bedford Medical Center with the same complaints. Once again, it was noted that she had asthma as a child but outgrew it. She also reported a large paint spill and alleged that the fumes caused her exacerbation of asthma. She denied both the childhood asthma and the paint spill at the ICO hearings. Once again, she reported having cold like symptoms and was diagnosed with an exacerbation of asthma and mild upper respiratory infection.

She continued treatment with Dr. Lawrence Martin of Mt. Sinai Medical Center. According to the claimant, she was told to stop working at Sprayon. Her last day was April 11, 1995, she officially resigned on April 20, 1995.

Dr. Martin's reports also contain some incorrect/inconsistent information. In his report dated April 11, 1995, he states that she had a position change in January 1995 and that is when her breathing problems began. This

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is not true, she had been in the same job since October 1993. He did report, however, that her pulmonary function studies had inconsistent results due to suboptimal efforts. Dr. Martin evaluated her again on May 11, 1995. Again, the technician had difficulty eliciting good performance on the pulmonary function tests. It is his opinion that her condition has a psychological component to it and that there is a great deal of stress between her and her mother. It is interesting to note that she cried when he told her that her asthma was mild. He seemed to find that quite puzzling.

Ms. Spigner was examined by Dr. Richard Lewis, MD on June 26, 1995 on behalf of The Sherwin-Williams Company. Dr. Lewis reviewed all MSDS information, toured the plant and also had all air sampling studies available to him. He took a complete history from Ms. Spigner and reviewed the medical records from Bedford Medical Center and Dr. Martin. He found it interesting that she was able to work for 4 weeks between "asthma attacks" without any problems and that she continued to have these "attacks" more than 3 months after leaving Sprayon. He felt that she had mild asthma but that there is no evidence relating it to her work. He also states that her condition is stress induced.

Once her claim was disallowed by the District Hearing Officer, Elizabeth Burkhart, the claimant changed physicians (without authorization) to Dr. Meden. She saw him on August 7 and August 20, 1995. He also cannot relate her condition to work. A methacholine challenge test was performed which showed asthma with hyper-reactive airways disease. She also reported having episodes of shortness of breath in August due to extreme heat. Dr. Meden's reports were sent to Dr. Lewis for review and rebuttal and he felt that there was still no evidence that her symptoms or hyper-reactive airways disease are related to her work at Sprayon.

At the appeal hearing before Staff Hearing Officer Gregory Gibbons on September 11, 1995, I testified that she has had more than twenty (20) "asthma attacks" since she left Sprayon. She also failed to submit any new evidence to support her allegations at that time.

I have not collected additional information since the September 11, 1995 hearing. Copies of all evidence are enclosed for your review. This includes all medical reports from Bedford Medical Center, Dr. Martin, Dr. Lewis and Dr. Meden; all air sampling studies performed by our in house Environmental Health and Safety Department (Matthew Snyder) and analyzed by an outside laboratory; all MSDS information; all handwritten notes and other miscellaneous information related to this case.

Please feel free to contact me directly at 566-3064 if additional information or clarification is needed. Thank you for your time and attention to this matter.

Very truly yours,



Maria A. Mastrandrea
Administrator - Workers' Compensation

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spigner.vsp

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