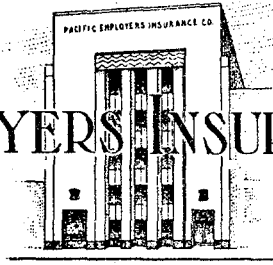


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PACIFIC EMPLOYERS INSURANCE COMPANY

THE VICTOR MONTGOMERY
UNDERWRITING



GENERAL AGENCY, INC.
MANAGERS

505 MONTGOMERY STREET • SAN FRANCISCO 11 • Y U K O N 6-2188

February 1, 1955

Dr. Robert A. Kehoe
Kettering Laboratory
College of Medicine - Eden Avenue
University of Cincinnati
Cincinnati 19, Ohio

Re: [REDACTED] v. Mohawk Petroleum
72-11482X

Dear Dr. Kehoe:

Thank you very much for your very thorough and complete letter of January 25th, under the above captioned. You have outlined just exactly the type of information that we wanted and from your letter, our attorney will be able to prepare questions to ask of you when your deposition is scheduled. We certainly appreciate your cooperation and will ask our attorneys to give you as much notice as possible in making the arrangements to take your deposition.

Yours very truly

W. P. Davenport
Branch Claims Supt.

WPD/cm

*SOME
BACK PAGES*

KE 0012349

January 25, 1955

Mr. W. P. Davenport
Branch Claims Superintendent
Pacific Employers Insurance Company
505 Montgomery Street
San Francisco 11, California

Re: [REDACTED] v. Mohawk Petroleum
72-11482X

Dear Mr. Davenport:

A reply to your further letter to my associate, Dr. K. V. Kitzmiller, has been delayed longer than I like by my preoccupation with a host of duties which awaited me on my return to my office. However, I assume, from the fact that we have not heard from you further, that the delay has not, thus far, been a matter of serious concern to you.

Satisfactory compliance with your request is not entirely possible at this time, for the reason that there is little published information which bears directly on the point at issue. That is to say, that the evidence, in terms of usual effects that have arisen actually or allegedly from contact with or exposure to leaded gasoline, is essentially negative and is also essentially private, being practically exclusively in our hands. It is wholly negative so far as effects on the nervous components of the visual apparatus are concerned. I shall have to review the literature carefully to see whether or not any physician at any time has reported a case of blindness or visual impairment which he believed to be due, possibly or probably, to the effects of the absorption of tetraethyl lead. But so far as our records are concerned, I can say flatly that no case of that type has been brought to our attention during the period of use of leaded gasoline. (It began experimentally in 1923, and expanded progressively into increasingly wider usage from 1926 on to the present, when almost all of the gasoline in the U. S. A. contains tetraethyl lead.) I can cite the numbers and types of cases of injury and illness (real and alleged) that have been reported to us (we have maintained a registry of all such cases and have investigated many of them) during that period, and can indicate the nature of our procedure for obtaining this type of information, in support of my opinion that no such disease as is described in this case can be attributed, reasonably, to the effects of leaded gasoline. In that connection, we have maintained an active communication with the people in the petroleum industry, whereby cases of suspected illness or injury have been brought to our attention for investigation at no expense (for our services) to them. This procedure has given us most of our recorded cases, since the large bulk of these had potential or actual medico-legal significance, in terms of industrial compensation for employees(handlers of gasoline) within the industry, or

KE 0012641

Mr. W. P. Davenport - (2) - January 25, 1955

of suits for damages, brought or threatened or possibly only suggested, by the users of gasoline who, in their opinion, suffered from harmful effects.

Now the survey of all of the above material in our files is a fairly elaborate procedure, and I cannot hope to provide it in any detail unless the situation requires it. I shall now proceed, however, to gather up the loose ends of it, as it has accumulated since I last had need of getting it together. I shall be able only to summarize it sketchily. My reason for being able, at this time, to tell you that it is negative evidence is that all of it goes over my desk at some time, and therefore I would undertake to remember and to record separately for easy access, only such items as have been significant, in the sense of requiring investigation, or as being of such a type as to require some alteration of our opinions. We have changed our minds, in response to evidence, on certain aspects of the situation, but not at all on the hazards of the handling or ordinary use of leaded gasoline, or on the hazard of ordinary contact with it. Thirty years is a long time over which to gather negative evidence, considering the hundreds of thousands of refinery and filling station handlers of leaded gasoline, and therefore I feel quite secure in the position I take.

The other side of the problem is that which derives from the experimental work which we have done in relation to the toxic hazards of tetraethyl lead and gasoline containing it. Unfortunately, the publications on this came out, for the most part, many years ago. Reprints of these are not available for distribution at this time. I have at least one copy of everything any of us has written or published on the subject, but some of them I am not prepared to lose sight of even in the form of a loan. Because of their voluminous character, many of the reports of investigations were never published. They were mimeographed or reproduced otherwise for distribution to health authorities and to other responsible people in all parts of the world, and these too are out of supply. The fact is that there have been practically no legal problems in association with the distribution of leaded gasoline for the past ten - nearly fifteen - years. Therefore, there has been no real need to have these reports and published articles reprinted, and most of them are no longer available for distribution or loan. In fact, I cannot supply you with any of the most pertinent reports and publications, although I shall bring some of them with me and show them to you.

In consequence of this situation, I shall have to testify to the program of experimental work on animals which we carried out to reveal the following things:

- (1) The toxicity, mode of absorption, and mode of action in the animal body,

Mr. W. P. Davenport - (3) - January 25, 1955

of tetraethyl lead. It is a toxic material, with certain very consistent and highly characteristic effects.

(2) The contrasting toxicity of leaded gasoline, in which tetraethyl lead is so highly diluted - never more than 1 part in 945 parts of gasoline by volume in aviation gasoline, and never more than 1 part in 1260 parts in automobile gasoline - as essentially to lose its toxic properties.

The high dilution of the lead compound in gasoline so interferes with its absorption through the skin or into any tissue of the body of an animal, as to eliminate, for all practical purposes, its injurious effects. Hence what happens, when leaded gasoline comes in contact with the skin or with a membrane such as the eye, is precisely what happens when the gasoline alone is involved in such contact. I shall be able to describe the experiments which provided the proof of this in simple language which will be understood by laymen, and can show them how it was that the decision was arrived at that the distribution and use of such gasoline involved no danger to handlers and users.

A third matter for testimony is that of the field investigation which we carried out to determine in practice, whether the behavior of man was the same, in effect, as that of experimental animals in these matters. For several years and then at longer intervals, we carried out careful clinical and laboratory investigation on some hundreds of the most exposed personnel in the industry - garage mechanics, refinery and filling station employees, etc. - in an effort to discover any evidences of illness or of absorption of lead among them in consequence of their work. These were widely distributed and carefully executed surveys, involving elaborate physical and laboratory examinations. They confirmed completely the conclusions arrived at by animal experimentation.

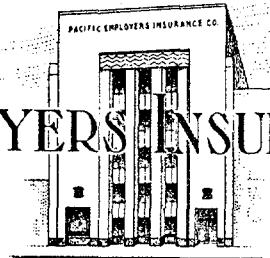
This completes, in principle, the account of the general subject matter of my testimony, based on experimental work and clinical work carried out by myself and my associates in this Laboratory under my personal direction. Because of the potentialities of lead absorption for causing widespread harm, this situation has been investigated more carefully and more consistently over a longer period of time than any other problem of public health which relates to a potential toxic hazard that has developed in the last half a century, and therefore it would be hard to convince any jury of reasonable persons that there is any virtue in the claim made in this case.

I trust that the contents of this long letter will give you what you require at present, but if further questions or needs arise, I trust you will let me know.

Very truly yours,

PACIFIC EMPLOYERS INSURANCE COMPANY

THE VICTOR MONTGOMERY
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GENERAL AGENCY, INC.
MANAGERS

505 MONTGOMERY STREET • SAN FRANCISCO 11 • Y U K O N 6-2188

December 27, 1954

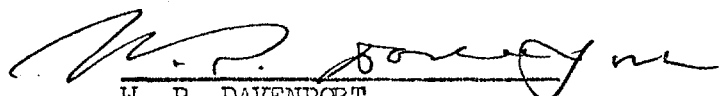
Dr. K. V. Kitzmiller
University of Cincinnati
The Kettering Laboratory
College of Medicine - Eden Avenue
Cincinnati 19, Ohio

Re: [REDACTED] v. Mohawk Petroleum
72-11482X

Dear Doctor:

Thank you very much for your letter of December 21st advising us that Dr. Kehoe is out of the city until January 1st. We have no way of telling just when this matter will be reached but we think we probably can wait until after the first of the year for any depositions. In the meantime, however, it would be extremely helpful to us if a review of the literature and documentary information from the files of the laboratory could be briefly summarized so that we can pass it along to our attorneys for their guidance in preparing to take a deposition. In other words, without a little background information as to what the literature and the documentary evidence reveals, our attorneys will be a little uncertain as to what questions should be asked in connection with any depositions that they may elect to arrange. Perhaps you would be good enough to forward this to us at your early convenience.

Yours very truly,


W. P. DAVENPORT
Branch Claims Supt.

WPD:vs

RE 0012644

December 21, 1954

Mr. W. P. Davenport
Branch Claims Supt.
Pacific Employers Insurance Company
505 Montgomery Street
San Francisco 11, California

Re: [REDACTED] vs. Mohawk Petroleum
72-11482X

Dear Mr. Davenport:

Dr. Robert Kehoe is out of the city and will not return before January 1, 1955.

If it is necessary to proceed in this case before he returns, I will attempt to review the literature in this field, collect documentary information from the files of the laboratory, and be prepared to give a deposition accordingly.

Please advise me if this proposal will be satisfactory in the event that it will be necessary to make arrangements without further delay.

Very truly yours,

KVK:vr

K. V. Kitzmiller, M.D.

December 21, 1954

Mr. W. P. Davenport
Branch Claims Supt.
Pacific Employers Insurance Company
505 Montgomery Street
San Francisco 11, California

Re [REDACTED] vs. Mohawk Petroleum
72-11482X

Dear Mr. Davenport:

Dr. Robert Kehoe is out of the city and will not return before January 1, 1955.

If it is necessary to proceed in this case before he returns, I will attempt to review the literature in this field, collect documentary information from the files of the laboratory, and be prepared to give a deposition accordingly.

Please advise me if this proposal will be satisfactory in the event that it will be necessary to make arrangements without further delay.

Very truly yours,

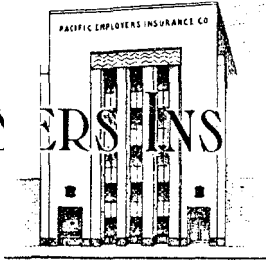
KVK:vr

K. V. Kitzmiller, M.D.

KE 0012646

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THE VICTOR MONTGOMERY
UNDERWRITING



GENERAL AGENCY, INC.
MANAGERS

505 MONTGOMERY STREET • SAN FRANCISCO 11 • Y U K O N 6-2188

December 9, 1954

Dr. Robert A. Kehoe
University of Cincinnati
Cincinnati, Ohio

Re: [REDACTED] vs. Mohawk Petroleum
11482X

Dear Dr. Kehoe:

You were very kind in replying to our communication on February 3, 1954, under the above caption, and the information contained in your letter was very helpful. Our investigation indicates that this case is without merit but a nominal settlement cannot be effected so we probably are not too far away from actual trial of the case. Our attorneys advise us that in properly defending the case, it will be helpful either to have the actual testimony of someone from your organization or perhaps it would suffice if we could arrange to take the deposition of someone who has reviewed all the literature on the subject and is qualified to express an expert opinion as to the effect of leaded gasoline on the eye. Assuming that the latter plan would be preferable as far as you are concerned, we are taking the liberty of requesting that you forward us some of the literature and perhaps some summarizing information that has resulted from your studies. You might also indicate from whom we should obtain a deposition to get an expert opinion on the points involved. We then would advise our attorneys as to what your expert would testify to, and he would make the necessary arrangements so that a deposition could be taken in your city at your convenience, or at the convenience of the person you designate as properly qualified.

It is of course unfortunate that cases of this sort that seem to be completely without merit have to be defended, but as they do, we are sure that you will agree that it is in behalf of the industry whom you are representing that a united front against claims without merit is the only logical answer.

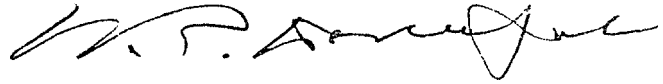
KE 0012647

Re: [REDACTED] vs. Mohawk Petroleum

- 2

Accordingly therefore, would you advise us whom we should arrange to take the deposition of, his preference as to time and place, and in brief, what he will be able to testify to. Following receipt of that information, we will make the necessary arrangements with our attorneys. If you do have any other ideas or suggestions, or questions, do not hesitate to advise us.

Yours very truly

A handwritten signature in cursive script, appearing to read 'W. P. Davenport', written in dark ink.

W. P. Davenport
Branch Claims Supt.

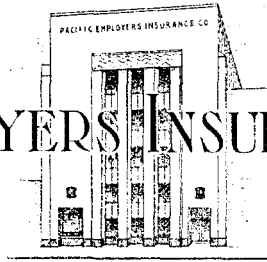
WPD/cm

RE 0012643

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GENERAL AGENCY, INC.
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505 MONTGOMERY STREET • SAN FRANCISCO 11 • Y U K O N 6-2188

March 11, 1954

Robert A. Kehoe, M. D.
University of Cincinnati
The Kettering Laboratory
College of Medicine--Eden Avenue
Cincinnati 19, Ohio

Re: 72-11482 [REDACTED] vs Mohawk
[REDACTED] Corporation

Dear Dr. Kehoe:

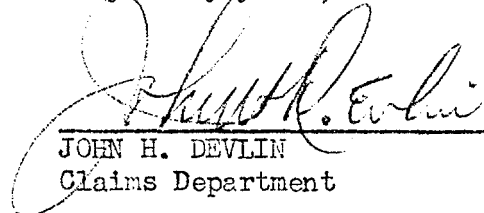
Thank you very much for your prompt reply to my request which we received in this office on February 8, 1954.

Your evaluation of this particular case has been extremely helpful and you can rest assured that you will be kept informed as to the progress of this case.

Should it be necessary for you or any of your associates to be involved in giving testimony, you will certainly be notified in ample time so as to plan accordingly and to also gather together any documentary information that may be needed.

Thank you for your excellent assistance in this matter.

Very truly yours,


JOHN H. DEVLIN
Claims Department

JHD:nsh

KE 0012649

February 3, 1954

Mr. John Delvin
Claims Department
Pacific Employers Insurance Company
505 Montgomery Street
San Francisco 11, California

Re: 72-11482 - [REDACTED] v. Mohawk
Petroleum Corporation

Dear Mr. Devlin:

I have examined the report of Dr. Hicks attached to your letter of January 25, concerning the legal action indicated above, and in my opinion such evidence as he provides should be sufficient, in itself, to dispose of the case, unless one were to find that evidence to controvert it is to be introduced.

I say this because there is not the slightest reason to believe that leaded gasoline would have any ^{greater} effect in a case of this sort than would ordinary gasoline, while any gasoline could be expected to have no more than a local irritating effect. If we were dealing here with persistent signs of irritation of the conjunctiva of the eyes and eyelids, or if there were a conjunctival or corneal ulcer, one might claim, with some but not very much reason, that the original irritation had initiated or contributed significantly to the present condition. The actual complaints, however, are absurd in this connection.

If it is necessary to do so, one of us could testify that the records of complaints of illness and injury which have come to us over the years from all sources, in connection with the distribution and use of leaded gasoline, fail to show any case of persistent injury of the type complained of. Many persons have had gasoline in their eyes, and have suffered pain (burning and stinging) for variable periods of time thereafter, but in only one or two instances have there been more than fleeting discomfort. The exceptions have occurred when the individual has rubbed the eye vigorously because of the pain, traumatizing the cornea and causing damage which resulted in an ulcer. Corneal ulcers from any cause are often slow in healing and sometimes they leave a scar which reduces vision. Such a case, regardless of the alleged nature of the injury involved, is difficult to deal with in litigation. The present case, in which the complaint has no apparent relationship to external injury, would seem to depend, for its background on some systemic or neural type of intoxication. This, considering the nature of the exposure, seems wholly unreasonable, and certainly it has no precedent in previous experience.

RE 0012650

Mr. John Delvin - (2) - February 3, 1954

You may well believe that we have no wish to spend much time participating in the litigation in such a seemingly absurd case as this, and if there is reason to believe that it can be handled satisfactorily without our help, we would hope to be spared. However, we shall be prepared to give such assistance as we can, to the extent that it appears to be needed. It has been one of our jobs, in this connection, to examine into all complaints that have come to our attention from all sources in relation to the possible harmful effects of the handling of leaded gasoline, since 1926. During and before this period, we have also investigated tetraethyl lead extensively, and we have been responsible for the clinical and toxicologic study of men exposed to this material in all parts of the industry. If, therefore, the alleged damage in this case is attributed to the effects of the minute quantity of tetraethyl lead involved, we could give testimony on this score in a comprehensive manner.

I should like to be kept informed as to the progress of this case, and if I or one of my associates is to be involved in giving testimony, I shall want ample notification in advance, so as to be able to plan accordingly and also to gather together the documentary information. We have an extensive file of the cases of complaints previously referred to, but there has been no occasion for some time to study them and to summarize the data contained therein. It has been a number of years since we have encountered any complaint, of an injury from the ordinary handling of leaded gasoline, that has concerned itself with anything more significant than a contact dermatitis.

Very truly yours,

Robert A. Kehoe, M. D.

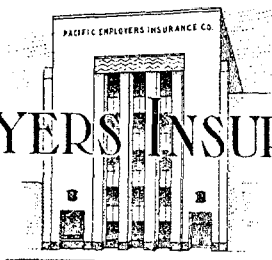
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RE 0012651

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PACIFIC EMPLOYERS INSURANCE COMPANY

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GENERAL AGENCY, INC.
MANAGERS

505 MONTGOMERY STREET • SAN FRANCISCO 11 • Y U K O N 6-2188

January 25, 1954

Dr. KeHoe
Kettering Laboratory
College of Medicine
Eden Avenue
Cincinnati 19, Ohio

Re: 72-11482 - [REDACTED] Mohawk Petroleum Corp.

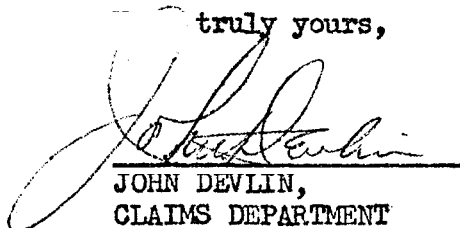
Dear Dr. KeHoe:

We are defending a claim on behalf of our insured, The Mohawk Petroleum Corporation, wherein it is alleged by the claimant, a Mrs. [REDACTED], that she has suffered an impairment to her vision as a result of having Ethyl Gasoline splashed into her face on July 7, 1953.

In the preparation of this defense, we have had Dr. Avery Hicks of San Francisco examine this patient relative to her alleged injury and disabilities resulting therefrom. Mr. W. A. Sievert, District Manager of the Ethyl Gasoline Corporation, has suggested that we turn to you for assistance in defending our lawsuit. He thought you would probably have some reports and statistics as a result of your research tending to show that Ethyl Gasoline getting into the eyes will not have a permanent deleterious effect.

We are attaching a copy of Dr. Hicks' report of examination of Mrs. [REDACTED] to give you the details of this particular occurrence. May we look forward to hearing from you promptly as to what evidence you can assist us in procuring regarding such a situation in general.

truly yours,


JOHN DEVLIN,
CLAIMS DEPARTMENT

JD:vs
Enc.

KE 0012652

AVERY MORLEY HICKS, M. D.
MEDICO-DENTAL BUILDING
FOUR NINETY POST STREET
SAN FRANCISCO

January 15, 1954

Pacific Employers Insurance Company
505 Montgomery Street
San Francisco, California

Attn: Mr. Devlin

re: Mrs. [REDACTED]

To Whom It May Concern:

I have completed my examination of the eyes of this patient.

She gave a history that approximately seven months ago ethyl gasoline was blown into her face and eyes. She stated that she attempted to wash out the gasoline immediately with water but became hysterical and was taken to the emergency hospital where the eyes and face were washed and grease was applied to her eyes and face. She called her physician, Dr. Robert Burwick, and when she continued to complain of difficulties with her eyes, she was referred to Dr. Selby Mohr, who has treated her since with drops, pills, and salves.

She first stated that she had never worn glasses, but after some questioning, she admitted she had obtained a pair of glasses for reading approximately one month before the alleged injury from a "Jewish" optician on Post Street between Kearny and Grant. She could not remember his name and stated that she had not used the glasses. She complained of severe photophobia and stated that she develops pains in her eyes and head whenever she is exposed to bright light or whenever she becomes upset or excited. She stated that she had been very nervous since the alleged injury; also, that prior to the injury she was able to read and see well for distance and that she found glasses unnecessary, but that since the injury she has not been able to read and glasses do not help her.

Examination: right eye vision less than 20/300, left eye vision 20/200. There was continuous closure of the eye lids and squinting which gave one the impression that it was an intentional blepharospasm. It was not consistent and became more marked when one talked to her. She complained of marked sensitivity to light but I was able to shine the bright light of the ophthalmoscope in her eyes at times and she did not object, while at other times she would insist that the light was so bright that she would forcibly close her eyes and prevent any examination of the interior of her eyes by even the small incandescent light of relatively low intensity. The lids, conjunctiva, corneas, anterior chambers, and irises were normal. The pupils reacted normally to direct and consensual stimulation. The lens and media were clear, and the fundi were normal. A study of the peripheral fields showed a marked, irregular constriction of the visual field of the right eye and a marked, spiral constriction of the field of the left eye. (Spiral constrictions of the fields of vision are usually either intentional or occur in hysterias.) No extraocular muscle imbalance could be made out. Refraction showed a moderate degree of myopia in the right eye and a

AVERY MORLEY HICKS, M. D.
MEDICO-DENTAL BUILDING
FOUR NINETY POST STREET
SAN FRANCISCO

page 2

re: Mrs. [REDACTED]

relatively low degree of myopic astigmatism in the left eye.

Opinion: I have been unable to make out any evidence of injury to this patient's eyes. There is no conjunctivitis, keratitis, or other external evidence of disease which could possibly account for a real organic photophobia. It is obvious in examining the patient that she is making no effort to try and read. The best vision obtainable in the right eye with a minus lens was 20/300 plus while the vision in the left eye could not be improved to better than 20/200 which she could read with or without glasses. The patient's history that she has never worn glasses and found glasses unnecessary is probably true because the right eye has about the right degree of near-sightedness so that one would be able to read with the greatest of ease without lenses with this eye, while the left eye is only very slightly near-sighted and would, under normal circumstances, give an individual almost normal distance vision. Patients with refractive errors such as found in this case very frequently use the essentially emmetropic eye for distance vision and the myopic eye for reading. T

The patient has a very fair complexion and it is fairly possible that she is an albino in which there has always been some moderate reduction in vision. But I feel definitely that she can read better than she would admit while in the office, and I am sure that her visual fields are larger than she would admit. The visual field of the right eye showed an erratic, concentric constriction, and it was rather obvious that she was making no effort to do her best. As far as the left field was concerned, it was a typical spiral field, getting smaller and smaller as one continued in a clockwise manner from meridian to meridian.

This patient is extremely nervous and is undoubtedly going to lay the cause of the nervousness to the injury. This part of the case should be carefully investigated. However, as far as her eyes are concerned, I feel definitely that she has not sustained any damage to her ocular apparatus as a result of the alleged injuries.

I have never seen any damage to the eyes as a result of gasoline, either plain or ethyl, being blown into them, and I feel definitely that if ethyl gasoline were detrimental to eyes one would see many examples of it as the wide use of gasoline of the ethyl type has resulted in this substance being splashed into many people's eyes. The patient complained bitterly of the fact that the gasoline which was on her skin produced severe burning, necessitating frequent applications of oil. I know from personal experience, having worked in an oil refinery with gasoline, that it does not burn the skin to any degree. And I have, while working at the refinery, had gasoline splashed in my face and eyes, and, although it does produce a mild conjunctivitis, it is certainly not disabling. It is, therefore, my feeling that this patient has not suffered any damage to her eyes as a result of her

KE 0012654

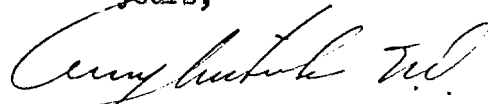
AVERY MORLEY HICKS, M. D.
MEDICO-DENTAL BUILDING
FOUR NINETY POST STREET
SAN FRANCISCO

page 3

re: Mrs. [REDACTED]

alleged injury.

Very yours,



Avery Morley Hicks, M.D.

AMH:jh

KE 0012655