

PLAINTIFF'S
EXHIBIT

A-249

INTER-OFFICE COMMUNICATION

DICK
YOUNG
INTERESTED IN
THE
FUTURES

December 23, 1959

Armstrong

To J. Zeller, Lancaster

From J. S. Taylor, San Francisco

Notice of Findings & Order
Industrial Accident Commission of
the State of California
Robert F. Cuthbertson

Enclosed findings and order resulting from the claim of Robert F.
Cuthbertson vs. various local insulation contractors pertaining
to an Asbestosis claim.

You will recall earlier in the year we received from the Armstrong
Cork Company a detailed listing of employment of this applicant
with the request that we substantiate the products used by him
during his tenure of employment and report same to Mr. Richard
B. Beaudry, Insurance Adjuster.

I assume you will want to notify the Cork Company of this findings
and order.

Shelby Depo. Ex. No. 45
Date 12-22-59 by GTZ

PLAINTIFF'S
EXHIBIT

A-740

Ex #: AC-910

PLAINTIFF'S
EXHIBIT

11089.0

Before the Industrial Accident Commission
of the State of California

Case No. 58-047-1053

ROBERT F. CUTHBERTSON,

Applicant

PLANT ASBESTOS COMPANY, J. T. THORPE,
WESTERN ASBESTOS COMPANY, ARMSTRONG
CORP., TRAVELERS INSURANCE COMPANY,
PACIFIC EMPLOYERS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY, and
STATE COMPENSATION INSURANCE FUND,

Defendant

Notice of Time
and Place of
Further Hearing

NOTICE TO ALL PARTIES

You are hereby notified that further hearing will be held in the above-entitled action at

ROOM 2022
455 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA
JUNE 6, 1960 -- 9:00 A. M.
GROSS EXAMINE DR. SKIMPAN
ON RECONSIDERATION GRANTED.

Dated at

San Francisco, Calif.
May 16, 1960

INDUSTRIAL ACCIDENT COMMISSION

NOTE: CONTINUANCES AND FURTHER HEARINGS ARE NOT FAVORED.

SERVICE UPON:

Robert F. Cuthbertson, 2438 Garvin Ave., Richmond, Calif.
Smith & Parrish, 501 Financial Center Bldg., Oakland, Calif.
Plant Asbestos, 1300 - 4th St., Emeryville, Calif.
J. T. Thorpe, 1351 Ocean Ave., Emeryville, Calif.
Western Asbestos, 675 Townsend St., San Francisco, Calif.
Armstrong Corp., 301 Shaw Road, San Francisco, Calif.
Travelers Insurance Co., 315 Montgomery St., San Francisco, Calif.
Pacific Employers Insurance Co., 244 Pine St., San Francisco, Calif.
State Compensation Insurance Fund, Personnel Service
Industrial Indemnity Co., 350 Sansome St., San Francisco 4, Calif.
Kenne & Prophy, 100 Bush St., San Francisco, Calif.
F. Lion & Filippi, 315 Montgomery St., San Francisco 4, Calif.
Standard Accident Insurance Co., 433 California St., S.F., Calif.

FILED AND SERVED: M. 12 1953
On all parties of
record--H. Greeley

BEFORE THE INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA

CLAIM NO. OAK 1023

ROBERT P. COTTERILLSON

Applicant

vs.

PLANT ASBESTOS COMPANY, J. T. THURPE,
WESTERN ASBESTOS COMPANY, LANSTRONG
CORP., TRAVELERS INSURANCE COMPANY,
INDUSTRIAL INDEMNITY COMPANY,
PACIFIC BOILERWORKS INSURANCE COMPANY,
STANDARD ACCIDENT INSURANCE COMPANY,
AND STATE COMPENSATION INSURANCE FUND

Defendants

PLACEMENT AND ORDER

The above entitled matter having been regularly submitted
before John E. Ansell, Referee, said Referee now makes his decision
as follows:

FINDINGS OF FACT

1. The applicant was employed by the various employers
above named from July, 1947 through December, 1953, and alleges
that he sustained an injury arising out of and occurring in the
course of his said employment, consisting of tetanus.

2. Applicant did not sustain any injury arising out of
or occurring in the course of his employment from July, 1947 through
December, 1953.

3. The disability of which applicant complains was not
proximately caused, or caused at all, by any injury arising out of
or occurring in the course of his employment, or by his employment.

ORDER

IT IS HEREBY ORDERED that applicant take nothing by
reason of his claim asserted in this proceeding.

JUL 1953
OAK 1023

JOHN E. ANSELL, REFEREE
INDUSTRIAL ACCIDENT COMMISSION

JOHN W. AMER, Referee
OAKLAND, AUGUST 13, 1959

INTERVIEW -- 59 OAK 1053
JANUARY: Asbestosis

REPORT OF REFERENCE

The employee, an insulator, born May 4, 1928, claims to have contracted asbestosis as a result of his employment. RETAINING has been paid.

ISSUES:

1. Injury.
2. Medical.
3. Statute of limitations.
4. Lack of notice and prejudice.
5. Jurisdiction -- maritime.

APPLICANT testified in substance as follows:

He obtained the employment records from the union and the employers.

In July of 1947 he started to work for the Flint Asbestos Company and worked through January of 1948. The period of employment was about seven months. He worked on ships for this employer, and cork was used for insulation.

He worked for J. T. Thorne from May to December, 1948, applying asbestos insulation on one job in Tracy and one at Hunter's Point, a power house at PCH. He set and fitted asbestos material and used wire and mud in the application. This work went through January of 1949. The places where he worked were enclosed and there would be dust there. Others work on the job.

He then worked for the Western Asbestos Company from January, 1949, to May of 1949. On that job there was also some insulation of asbestos material for PCH, and also for the DuPont Oil Company.

Then he worked again for J. T. Thorne from May 11th through August 10, 1949. This work included Fibreboard Products at Antioch. The work was all in an enclosed area. It was hot and dusty, and there was dust from asbestos material.

From August 11, 1949, through February, 1950, he worked for Plant Antioch and the work was at Fibreboard Products at Antioch. The work was the same and the conditions the same.

From March 13, 1950, to August 3, 1950, he worked for the Western Asbestos Company on a PCH power house at Moss Landing. This was the same type of asbestos insulation, and it was in enclosed and dusty places.

On August 20, 1950, to September 3, 1950, he again worked for Plant Antioch at Calland Laundry. This job was very hot and dusty.

From September 13, 1950, to July 17, 1954, he worked for the Armstrong Cork Company.

There were about nine months at the PCH plant in Antioch in 1950 and he worked at Travis Air Force Base most of the balance of the time. Also he worked in this period at Segal Pile for two months where they used cork insulation, and there were other smaller jobs during this interval. The PCH power house job was very hot, and

Outbursts - 2

He worked for Flint Asbestos Company which was all asbestos work at various schools, and he worked continually for Flint Asbestos through December, 1952, except he was off on account of a leg injury in 1951. The work was all asbestos work, mostly in boiler rooms and class quarters.

He saw Dr. Crenshaw on July 29, 1954, on reference from Dr. Lawrence, his family doctor. He had seen Dr. Lawrence two or three weeks before and he did have pneumonia in February, 1954. He had surgery at Richmond Hospital on August 3, 1954, and he was advised by Dr. Crenshaw following the surgery that his condition was due to his work. He had worked through August 10, 1952, and was off three months, and he returned to work at Flint Asbestos on November 6, 1953.

Before his surgery there were no masks worn on the job. He is doing the same type of insulation work now but wears a mask when on the job, continuously. He has slipped down physically and he hurts all the time.

He did not work on the Burgermeister Brewery for Armstrong but he did work at Hope State Hospital for Armstrong. That was asbestos insulation work and living quarters. All underneath the building. He did not use wool felt there.

He recalls working at the State Employment Building in San Francisco for about a week, insulating the storage tank.

He does not remember doing the job at Jordan's Dairy in Oakland but he could have been on that job.

He worked in a radio transmission station between Davis and Victor one day. He did not work on the Camp Seale job. He worked at a refinery in Redwood two weeks or so in tunnels under the highway, insulating.

The Travis Air Force Base job took nearly two years. There was some wool felt used on that job, but mostly asbestos.

He believes that McKeeney and Madison were the manufacturers of the asbestos pipe covering, and it is known as magnesia pipe covering, eighty-five per cent magnesia. They use some Fiberglas, and up to 1953 or 1954 he does not remember if they used any Johns-Manville products. On heating pipes they generally use asbestos pipe covering.

He has a twin brother named Jack and he worked with his brother at all times, and they were inseparable. He knew his brother and surgery is the hands of Dr. Crenshaw, and he had Dr. Thompson check him after his second operation in 1953. At that time Dr. Thompson had X-rays taken. He did go to Dr. Thompson to see if there was any danger about his having asbestosis. He went two or three times. He is not sure when the second X-rays were taken.

When he had pneumonia he changed to Dr. Brown. When he first saw Dr. Brown he had tightness of the chest and pain. He had X-rays taken at Richmond Hospital at that time for pneumonia. He informed Dr. Brown that his brother had lung trouble but he did not inform Dr. Brown of the previous check-ups he had at the hands of Dr. Thompson.

It was after he got out of the hospital from his own surgery that Dr. Crenshaw told him he had asbestosis.

Interview - 3

He informed the Plant Asbestos Company that he was going to the hospital. He believes that Blue Cross paid most of the medical bills and some of Mr. Crumshaw's bill. He paid about \$50. in hospital bills.

He drew unemployment disability benefits at \$50. a week all the time he was off, and he also received \$12. a day for hospitalization.

He knew that his brother Jack had a proceeding before the Industrial Accident Commission.

He understands that distemperous earth is the same as asbestos.

When he saw Mr. Thompson for a chest check-up he had no chest pains. At that time he was working for Armstrong Cork. Mr. Thompson told him everything looked all right.

In May or June, 1956, he began having chest complaints. He stopped smoking on the advice of Mr. Crumshaw. He was troubled with shortness of breath last year. He was off a week after he reported to work in November, 1956, and then he was off another week because of his chest.

The eighty-five per cent magnesian pipe covering that they used is manufactured by Fabes. They always use Fabes materials.

He did not lose any time before August of 1956 because of his chest.

He also worked in some old buildings for Plant Asbestos. He did not have pneumonia before February, 1958. He did refuse to work on a job recently because they did not have a blow fan.

He is still under Dr. Crumshaw's care. His present complaints are in effect that he has slowed down, he has some pain. He cannot sleep as well, and it is hard to work.

He has been a forerunner since 1956 on.

J. T. Thorpe was all black work and that/verne in respect to dust. This was eighty-five per cent magnesian pipe covering. It was made by Fabes.

He has covered all the casework for which he worked but he does not remember all the odd jobs.

He worked along with his brother from 1949 through all of 1950. He does not do home insulation.

Prior to 1947 he was an able-bodied seaman in the Merchant Marine, and he did not have a history of having a lot of colds. He perhaps would get one or two a year. In his bout with pneumonia he was in Richmond Hospital about three weeks and stayed home about six weeks. He felt fairly good after that.

He cannot pinpoint the time when his chest pain developed. It was either in May or June of 1956. He got so bad he saw a doctor in July.

It can be very dusty when they cut asbestos. They cut it on the job as they went along, and the pounding and fitting would always cause dust.

Colbertson - 4

OAKLAND
October 22, 1935.

RICHARD E. BRADY, called by the Defendants Travelers Insurance Company and Standard Accident, testified in substance as follows: He is an independent insurance adjuster. He reviewed the job records on which the applicant worked between 1930 and 1934 at the Armstrong Corp. office. He worked with J. S. Taylor, the plant manager. A tabulation was made in the home office in response to a letter of August 1, 1935 (Duffs, Ex. 5). The information under the column "Materials" was made as the result of his investigation of the obtainable contracts. The percentage in this column "Materials" stated the amount of material used on the job and not their content. The initials MPC stand for magnesium pipe covering, not for "fibreglass." Where there is a dash in the materials column, the contract could not be found. He made a special study on the job at Travis Air Force Base. These were marked as indicated by the 1's. This tabulation supposedly covers all of applicant's employment with Armstrong Corp.

VICTOR JACOB was called by the Defendants Travelers Insurance Company and Standard Accident, and testified in substance as follows: He is the president of the Jacobs Manufacturing Company. They manufacture pipe insulation, pump packings and the like. He has had 25 years of experience. He started in 1910 with the Viking Rubber & Sebestos Company, and worked with them until April 1, 1934, when their factory was bought by Jacobs Manufacturing Company. They manufacture wool felt insulation. They obtain their materials from other manufacturers. They use crepe wool felt, which is laminated, and then covered by sebestos paper. This is then covered with muslin and the muslin will overlap about one and one-half inches at one end of a 16 inch section. Wool felt is about 30% rag base, and 50 to 60% wood pulp of the kraft stock. Next to the pipe there is a water-proof tarpaper. The sebestos paper is a six pound sebestos paper, and is filled within the wool felt paper for a three inch thick wall. 15 to 16 layers of wool felt are used. This is the standard wall. They will have smaller and larger walls on the insulation. The sebestos paper is 40 to 50% sebestos fibre. The balance is wood pulp and kraft stock. There are fillers and sizing to give the stiffness. In the manufacture of air cell insulation, they use a six pound sebestos, which is corrugated, and then four layers are laminated to build up a six inch wall. Sebestos used is silicate of soda, sometimes known as water glass. This is also wrapped with a muslin and put out in 16 inch lengths with an inch and a half muslin overlap. The wool felt insulation is generally used on cold lines. The air cell insulation is used on hot water lines. The insulation material is cut with knives, table saws or hand saws. The joints are probably attached with sebestos cement. He did not know because he does not install any covering. Gimbettes is made of amosite sebestos fibre, with bundles of cotton silicate. Asbestos is a long sebestos fibre that is mined in South Africa. These fibres are as long as five and six inches. White sebestos or chrysotile is mined in greater quantities in Canada. These fibres are about 1/16th inches in length. He is familiar with the 555 magnesium pipe covering.

Cuthbertson - 5

PAUL WINTO, called by Defendant Industrial Indemnity Company, testified in substance as follows: He is vice president of Plant Industries. He has been with them for 12 years. He knows Cuthbertson, and has known him for the last six years. He is familiar with the over-all materials used by the company. They use 555 magnesium pipe covering, fibreglass and wool felt. They also use foam glass, cork, and air cell covering. He does not know the breakdown or content of 555 magnesium pipe covering, but there is a certain amount of asbestos material. The asbestos materials could be asbestos and cement. The last two years they primarily would be fibreglass materials. Five or six years ago Cuthbertson worked under his direct supervision. He then had no lung complaints. He had heard that Jack Cuthbertson, the applicant's brother, had lung trouble, and that the applicant was troubled and worried. They do not manufacture the pipe covering but they buy most of it from Fibco. They use 555 magnesium powder cement, which they mixed with water in the work.

ERNEST CROUCH, M.D., testified in behalf of the applicant in substance as follows: He is duly licensed to practice medicine in the State of California. His specialty is diseases of the chest. He testified to the applicant's disability as it caused an improper ventral drainage. A piece of lung taken out at the laboratory indicated the presence of asbestos fibers. The applicant was still under his care. His various symptoms were the only places where he could have gotten asbestos in his lungs, and he will have observation for some period of time.

He first saw the applicant July 29, 1954. He never took a complete work history but he had a history of recurrent attacks of pneumonia previously last year. There were X-rays taken in October 1953, November 1954 and March 1956. He can not tell if he had all those X-rays but he attempted to get them. He does not remember if he reviewed the reports at Harbor Hospital. The X-rays taken at the Richmond Hospital on August 25, 1956. A bronchoscopy was made on August 13, 1956. He certainly saw an X-ray report before the operation. The X-rays show an infiltration but they did not demonstrate what the infiltration was. He submitted the lung tissue to the pathologist at the Richmond Hospital and received a report as indicated in the hospital record. A specimen was then sent to the laboratory of the State Department of Health. He never received a written report from the State laboratory but he received an oral report from Dr. Stigman, a pathologist.

Dr. Crouch was recalled in the afternoon, and testified further in substance as follows: The applicant returned to work roughly two months after the surgery. He generally sees him once a month unless he is suffering from respiratory infection. He must be properly treated. He gives him prednisone breathing and antibiotics. Antibiotics were prescribed on February 16, 1959 because there was a respiratory infection and a sore throat. Also treated him February 20, 1959. At that time he felt he was getting over the infection. In June of 1959 he had a 100 degree temperature and further antibiotics were prescribed.

This is the third asbestos case that he has had in his experience. Others were that of applicant's brother and a Mr. Thurston. Their employment records are similar to that of Cuthbertson, in fact, Cuthbertson's work history was identical.

Cuthbertson - 6

The biopsy was major surgery, and was diagnostic. He did not feel that fibrosis had a great effect. Second surgery indicates that it should be avoided. He told the applicant that he had asbestos right after the surgery. Asbestos within the lung impairs the function of the lung. The fibrosis of the lung are affected.

DAVID SIMON, M.D., called by the Defendant Travelers Insurance and Standard Accident, testified in substance as follows: He is duly licensed to practice medicine in the State of California. His specialty is pathology. He does the pathology at Richmond Hospital. He received the specimens indicated by the hospital report. He does not know the exact number of actual specimens. He submitted specimens to the State Department of Health on December 8, 1954 at the request of Dr. Crenshaw. He brought them up to the Department of Health himself. He also received the report of S.J. Davis, a doctor of veterinary medicine. He was then called to Sacramento, where they had special X-ray diffraction apparatus, and the quantity of forced asbestos was even demonstrated in the tissue, as indicated by the report of the State Department of Health. It follows therefore, that there was asbestos in the lungs but not enough to show in ordinary X-ray techniques. He can not tell from the report as to the quantities of materials found. He called Dr. Crenshaw when he received the report, but he can not recall if he sent copies of the state report to Dr. Crenshaw but he usually does.

If Dr. Crenshaw did not get a written copy of the report the fault was that of the witness. He, himself, did not see any abnormality of the bronchus if it is not in his report. Dr. Crenshaw was uneasy with his first pathological report because Dr. Crenshaw had expected to find asbestos, and therefore, suggested that it be sent to the State. Fibrosis is usually found in asbestos cases so it is usual in silicosis cases and generally, the particles can be seen. Most of the diseases agents that affect the lung will cause fibrosis.

ROBERT CUTHBERTSON, recalled, and testified in his own behalf as follows: He did not work at the Pacific Coast Portland Cement plant on May 11, 1952, nor on the Walnut Creek School on June 29, 1952, nor at Camp Seale on May 3, 1953. It was the practice of the company to shift the payroll records to another job when there was a loss on a job from which the payroll report was submitted. He recalls all the jobs in the revelation except the three he mentioned. He is not a very keen man so he does not use too much care. He believes that he just used care for about a week in his employment with Armstrong.

DISCUSSION AND DECISION:

On December 3, 1954 the report of Cabot Brown, M.D., the agreed medical examiner, was served and filed.

It would appear that the report of Dr. Brown received any apparent medical conflict heretofore existing in this case. Dr. Brown concluded that the applicant does not have asbestosis. Therefore, a denial must issue.

JOHN W. ARKELL, Referee

THAIA/4/5/54

INTER/
OFFICE COMMUNICATION

DICK
You'll be
INTERESTED IN
THE ATTACHED

December 23, 1959 Armstrong

To J. Zeller, Lancaster
From J. S. Taylor, San Francisco
Subject Notice of Findings & Order
Industrial Accident Commission of
the State of California
Robert F. Cuthbertson

Enclosed findings and order resulting from the claim of Robert F. Cuthbertson vs. various local insulation contractors pertaining to an Asbestosis claim.

You will recall earlier in the year we received from the Armstrong Cork Company a detailed listing of employment of this applicant with the request that we substantiate the products used by him during his tenure of employment and report same to Mr. Richard E. Beaudry, Insurance Adjustor.

I assume you will want to notify the Cork Company of this findings and order.

6/60
Wrt
DJM

JS T